



COOS COUNTY PLANNING DEPARTMENT
60 E. SECOND ST. COQUILLE, OR 97423 (LOCATION)
250 N. BAXTER, COQUILLE (MAILING ADDRESS)
PHONE: 541-396-7770 / EMAIL: PLANNING@CO.COOS.OR.US

Amendment/Rezone Application

Date Received: 7/2/24 Receipt #: 248135 Received by: C. Carr

FILE NUMBERS: AM-~~24~~-24-003 RZ-~~24~~-24-002

This application shall be filled out electronically. If you need assistance please contact staff.
Please be aware if the fees are not included the application will not be processed.
(If payment is received on line a file number is required prior to submittal)

LAND INFORMATION

Land Owner(s) (print name): Michael Chupka Sr, Michael Chupka Jr, Regan Chupka

Mailing address: 129 Castlewood Circle, Littleton, NC 27850

Phone: c/o Applicant Email: c/o Applicant

Applicant(s) (print name): Sheri McGrath

Mailing address: P.O. Box 1548, Bandon, OR 97411

Phone: 541-982-9531 Email: cooscurry@gmail.com

Type of Ownership: Multiple Owners - All owners signed applicaiton

Type of Use Requested: Other - Please explain Rezone from Forest to RR-5

PROPERTY - If multiple properties are part of this review please check here and attach a separate sheet with property information.

Township: 28S Range: 14W Section: 16 ¼ Section: 0 1/16 Section: 0 Tax lot: 1200

Township: Select Range: Select Section: Select ¼ Section: Select 1/16 Section: Select Tax lot: _____

Tax Account Number(s): 954900 Site Address: None

Current Zone: Forest (F) Acreage: 26.10 acres

Proposed Zone Rural Residential-5 (RR-5)

JUSTIFICATION:

(1) The following questions will need to be answered with an explanation.

a. Will the rezone conform with the comprehensive plan?

Yes, the request is for a rezone to a Rural Residential zoning district already existing in the Coos County Comprehensive Plan. The County Comprehensive Plan maps have been amended three times in the past on neighboring parcels to Rural Residential. Please see enclosed responses.

b. Will the rezone seriously interfere with the permitted uses on other nearby parcels

No, the nearby parcels are zoned for Rural Residential. Based on County Assessor assessment records, most of these parcels were developed with residential dwellings after the adoption of the Coos County Comprehensive Plan. Thereby, the rezone to Rural Residential will allow the development of uses more harmonious with permitted nearby parcels. Please see enclosed responses

c. Will the rezone comply with other adopted plan policies and ordinances?

Yes, the request is for a rezone to Rural Residential. The subject property is not currently developed. Future developments, such as residential dwellings, will be allowed subject to a Compliance Determination (Permitted with Standards) as outlined in Chapter 4 of the CCZLDO. Please see additional responses in the application attachments.

(2) If a Goal Exception is required please review and address this section.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The Coos County Comprehensive Plan (CCCP) and Implementing Zoning Land Development Ordinance (CCZLDO) was acknowledge¹ as having all necessary components of a comprehensive plan as defined in ORS 197.015(5) after the Coos County adopted the documents on April 4, 1985. The date of the effective plan and ordinance is January 1, 1986. Coos County did go through a periodic review exercise in the 1990's but due to lack of gain in population, economic growth and public request plan zones were not altered. Changes to the comprehensive plan and implementing ordinance have been done to ensure that any required statutory or rules requirements have been complied with. However, sometimes it is necessary for property owners or applicants to make a request to have certain properties or situations such as text amendments considered to reflect a current condition or conditions. These applications are reviewed on a case by case basis with the Board of Commissioners making a final determination. This type application and process is way to ensure that process is available to ensure changing needs are considered and met. The process for plan amendments and rezones are set out in CCZLDO [Article 5.1](#).

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general

A local government may adopt an exception to a goal when one of the following exception process is justified:

(a) The land subject to the exception is "physically developed" to the extent that it is no longer available for uses allowed by the applicable goal;

¹ "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals. In Coos County's case the commission refers to the Land Conservation and Development Commission.

- (b) The land subject to the exception is “irrevocably committed” to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- (c) A “reasons exception” addressing the following standards is met:
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the

Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met.

PART III -- USE OF GUIDELINES Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the

REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

1. A legal description of the subject property (deed);
2. Covenants or deed restrictions on property, if any;
3. A general location map of the property;
4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 ½” x 11” paper. If proposed structures are not known then the plot plan will need to include only existing with a note that no new structures are proposed at this time;
5. If applicant is not the owner, documentation of consent of the owner, including:
 - a. A description of the property;
 - b. Date of consent
 - c. Signature of owner
 - d. Party to whom consent is given
6. The applicant must supply a minimum of 2 copies of the entire application or one paper copy and electronic copy (email is acceptable), including all exhibits and color photocopies, or as directed by the Planning Staff.

Authorization:

All areas must be initialed by all applicants, if this application pertains to a certain property all property owners² must either sign or provide consent for application unless otherwise allowed by Section 5.0.175 of the CCZLDO. As an applicant by initializing each statement I am accepting or agreeing to the statements next to each area designated for my initials and/or signature. All property owners shall sign and initial the designated areas of the application or

² Property owner” means the owner of record, including a contract purchaser

provide consent from another party to sign on their behalf. If another party is signing as part of a consent that does not release that party that gave consent from complying with requirements listed below or any conditions that may be placed on an application. In the case of a text amendment the procedures for set out in Section 5.1.110 WHO SEEK CHANGE applies and an applicant may not be a property owner.

X

I hereby attest that I am authorized to make the application and the statements within this application are true and correct to the best of my knowledge. I affirm to the best of my knowledge that the property is in compliance with or will become in compliance with CCCP and CCZLDO. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

X

I understand it is the function of the planning staff to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree, as applicant I have the burden of proof. I understand that approval is not guaranteed and the applicant(s) has the burden of proof to demonstrate compliance with the applicable review criteria.

X

As the applicant(s) I acknowledge that is in my desire to submit this application of free will and staff has not encouraged or discouraged the submittal of this application.

X

I understand as applicant I am responsible for actual cost of that review if the Board of Commissioners appoints a hearings officer to hear the application I have submitted. As applicant I will be billed for actual time of planning services, materials and hearings officer cost and if not paid the application maybe become void.

Regan Chupin
Applicant(s) Original Signature

Michael Chupin
Applicant(s) Original Signature

MChupin

6/2/24
Date

Sheri McGrath, Inc
Coos Curry Consulting
P.O. Box 1548 * Bandon, Oregon 97411
cooscurry@gmail.com
541-982-9531

CONSENT FOR REPRESENTATION

I, Michael Chupka of 129 Castlewood Cir, Littleton, NC 27850 give permission to Coos Curry Consulting to represent me on all design, permit and consulting matters concerning the properties located on the Coos County Tax Assessor's Map 28-14-16 TL 1200. The tax account for this property is 954900. The situs address is not yet assigned.

Sheri McGrath is the direct contact for all permit application questions, plan review comments, concerns or questions, and any other information related to the above property.


Contact information for Sheri McGrath is:

Cell: 541-982-9531
E-mail: cooscurry@gmail.com
Mailing address: P.O. Box 1548, Bandon, OR 97411

This consent automatically expires 24 months from the date below, without requirement of notice.

DATED: December 14, 2023

COOS CURRY CONSULTING


By: SHERI MCGRATH

CLIENT


By: MICHAEL CHUPKA

RECORDING COVER SHEET (Please print or type)
 This cover sheet was prepared by the person presenting the instrument for recording. The information on this sheet is a reflection of the attached instrument and was added for the purpose of meeting first page recording requirements in the State of Oregon, and does NOT affect the instrument. ORS 205.234

*This space reserved for use by
 Recording Office*

AFTER RECORDING RETURN TO: ORS 205.234(1)(c)
 Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan
 J. Chupka
 129 Castlewood Circle
 Littleton, NC 27850

Coos County, Oregon **2024-00079**
\$106.00 Pgs=5 **01/04/2024 01:15 PM**
 eRecorded by: TICOR TITLE COOS BAY
 Julie A. Brecke, Coos County Clerk

1. TITLE(S) OF THE TRANSACTION(S)	ORS 205.234(1)(a)
Statutory Warranty Deed	
2. DIRECT PARTY(IES) / GRANTOR(S)	ORS 205.234(1)(b)
Lawrence E. Sherwood and Jerre L. Sherwood, as tenants by the entirety	
3. INDIRECT PARTY(IES) / GRANTEE(S)	ORS 205.234(1)(b)
Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan J. Chupka, not as tenants in common but with rights of survivorship	
4. TRUE and ACTUAL CONSIDERATION	5. SEND TAX STATEMENTS TO: ORS 205.234(1)(e)
Amount in dollars or other value/property ORS 205.234(1)(d)	Michael J. Chupka, Sr.
\$360,000.00 <input type="checkbox"/> Other Value <input checked="" type="checkbox"/> Other Property	129 Castlewood Circle
Other value/property is Whole <input type="checkbox"/> or Part <input type="checkbox"/> of the consideration	Littleton, NC 27850
6. SATISFACTION of ORDER or WARRANT	7. The amount of the monetary obligation imposed by the order or warrant: ORS 205.234(1)(f)
Check one if applicable: ORS 205.234(1)(f)	\$
<input type="checkbox"/> FULL <input type="checkbox"/> PARTIAL	
8. If this instrument is being Re-Recorded, complete the following statement:	
205.244(2) Re-recorded at the request	ORS of Title
to correct the grantees vesting to say "not as tenants in common but with rights of survivorship"	
Book/Volume and Page, or as Fee Number 2023-08766.	

RECORDING REQUESTED BY:



201 Central Avenue
Coos Bay, OR 97420-2206

Coos County, Oregon **2023-08766**
\$96.00 Pgs=3 12/26/2023 08:48 AM
eRecorded by: TICOR TITLE COOS BAY
Julie A. Brecke, Coos County Clerk

GRANTOR'S NAME:

Lawrence E. Sherwood and Jerre L. Sherwood

GRANTEE'S NAME:

Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan J. Chupka

AFTER RECORDING RETURN TO:

Order No.: 360623043469-VR
Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan J. Chupka, as tenants by the entirety
129 Castlewood Circle
Littleton, NC 27850

SEND TAX STATEMENTS TO:

Michael J. Chupka, Sr.
129 Castlewood Circle
Littleton, NC 27850

APN/Parcel ID(s): 954900
Tax/Map ID(s): 28S1416-00-01200
0 Bullards Ferry Road, Bandon, OR 97411

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Lawrence E. Sherwood and Jerre L. Sherwood, as tenants by the entirety, Grantor, conveys and warrants to Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan J. Chupka, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Coos, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS THREE HUNDRED SIXTY THOUSAND AND NO/100 DOLLARS (\$360,000.00). (See ORS 93.030).

Subject to:

The Land has been classified as Forest Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.

Rights of the public to any portion of the Land lying within the area commonly known as streets, roads and highways.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Coos County
Recording Date: July 20, 1955
Recording No.: Book 243, Page 678

Said easement was clarified by Quitclaim Deed recorded December 20, 1978, Microfilm Reel Number 78-7-6805, Records of Coos County, Oregon.

Terms and Provisions, as disclosed on Minor Partition,

Recording Date: December 11, 1986
Recording No.: 86-5-3721 Microfilm

Terms, provisions and conditions, including, but not limited to, maintenance provisions, and a covenant to share the costs of maintenance, contained in Easement

Recording Date: October 6, 1987
Recording No.: 87-5-6931 Microfilm

Amendment of Easement,

Recording Date: April 24, 1989
Recording No.: 89-04-1270 Microfilm

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

RECORDING REQUESTED BY:



201 Central Avenue
Coos Bay, OR 97420-2206

GRANTOR'S NAME:

Lawrence E. Sherwood and Jerre L. Sherwood

GRANTEE'S NAME:

Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan J. Chupka

AFTER RECORDING RETURN TO:

Order No.: 360623043469-VR
Michael J. Chupka, Sr. and Michael Chupka, Jr. and Regan J. Chupka, as tenants by the entirety
129 Castlewood Circle
Littleton, NC 27850

SEND TAX STATEMENTS TO:

Michael J. Chupka, Sr.
129 Castlewood Circle
Littleton, NC 27850

APN/Parcel ID(s): 954900
Tax/Map ID(s): 28S1416-00-01200
0 Bullards Ferry Road, Bandon, OR 97411

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Recording Date: October 6, 1987
Recording No.: 87-5-6931 Microfilm

Amendment of Easement,

STATUTORY WARRANTY DEED

(continued)

TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. 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 ESTABLISHED 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, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: December 14, 2023

Lawrence E. Sherwood
Lawrence E. Sherwood

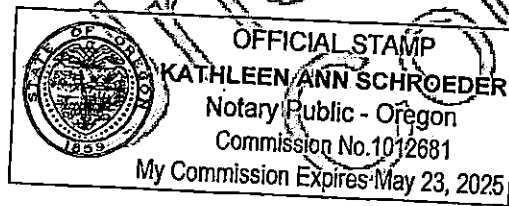
Jerre L. Sherwood
Jerre L. Sherwood

State of Oregon
County of Linn

This instrument was acknowledged before me on 12-14-2023 by Lawrence E. Sherwood and Jerre L. Sherwood.

Kathleen Ann Schroeder
Notary Public - State of Oregon

My Commission Expires: 5-23-2025



Official Copy

EXHIBIT "A"
Legal Description

Lot 4, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon.

EXCEPT the South 418 feet thereof.

ALSO EXCEPTING that portion described as follows: Beginning at a point on the South line of Government Lot 3, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, said point being North 89°21'21" West 440.50 feet from the 1-1/2 inch iron pipe set by J. La Flamme as the Southeast corner of said Government Lot 3; thence South 52° West 38.18 feet to a 1-1/2 inch iron pipe; thence South 84°25'36" West 26.50 feet to a 3 inch wide flat iron bar; thence North 38° West along an existing fence line 34.20 feet to said South line of Government Lot 3; thence South 89°21'21" East along said line 77.52 feet to the point of beginning.

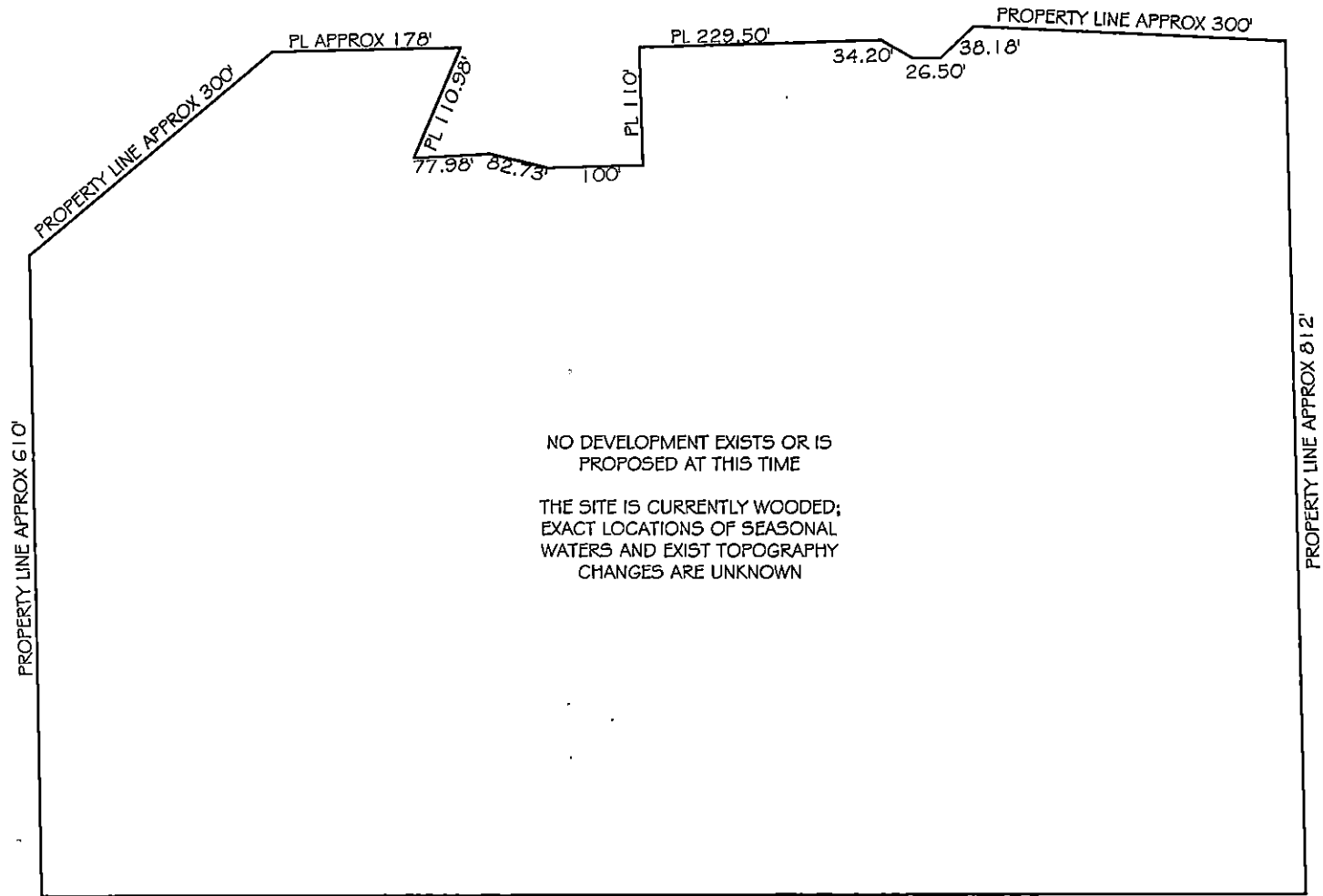
ALSO EXCEPTING a parcel of land in Government Lot 4, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon. Said parcel being more particularly described as follows: Beginning at a point on the North line of said Lot 4, said point being North 89°23' West 803.98 feet from the center West 1/16 corner of Section 16; thence South 24°37' West 110.98 feet; thence North 89°23' West 77.98 feet; thence North 24°37' East 110.98 feet; thence South 89°23' East 77.98 feet to the point of beginning.

ALSO EXCEPTING a parcel of land in Government Lot 4, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, said parcel being more particularly described as follows: Beginning at a point on the North line of said Lot 4, said point being North 89°23' West 686.98 feet from the center West 1/16 corner of Section 16; thence South 0°37' West 110.00 feet; thence North 89°23' West 100.00 feet; thence North 0°37' East 110.00 feet; thence South 89°23' East 100.00 feet to the point of beginning.

ALSO EXCEPTING a parcel of land in Government Lot 4, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, said parcel being more particularly described as follows: Beginning at the Northeast corner of that property described in Deed 73-5-85117, said point being on the North line of Government Lot 4 and North 89°23' West 803.98 feet from the center West 1/16 corner of Section 16; thence South 89°23' East 17.00 feet; thence South 0°37' West 110.00 feet; thence North 81°29'34" West 62.73 feet to the Southeast corner of that property described in Deed 73-5-85117; thence North 24°37' East 110.98 feet to the point of beginning.

ALSO EXCEPTING that portion described as follows: Beginning at the Southwest corner of Government Lot 3, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon, run thence South on a line parallel to the East line of Lot 4 to the North boundary of the County Road; thence run Northeasterly along the County Road to where it intersects the South boundary of Lot 3; run thence West along said South boundary of Lot 3 to the point of beginning, situated in Government Lot 4, Section 16, Township 28 South, Range 14 West of the Willamette Meridian, Coos County, Oregon.

ALSO EXCEPTING any portion lying North of the the South line of Prosper Road.



OWNER INFORMATION:
 CHUPKA FAMILY
 129 CASTLEWOOD CIRCLE
 LITTLETON, NC 27850

BULLARDS FERRY ROAD

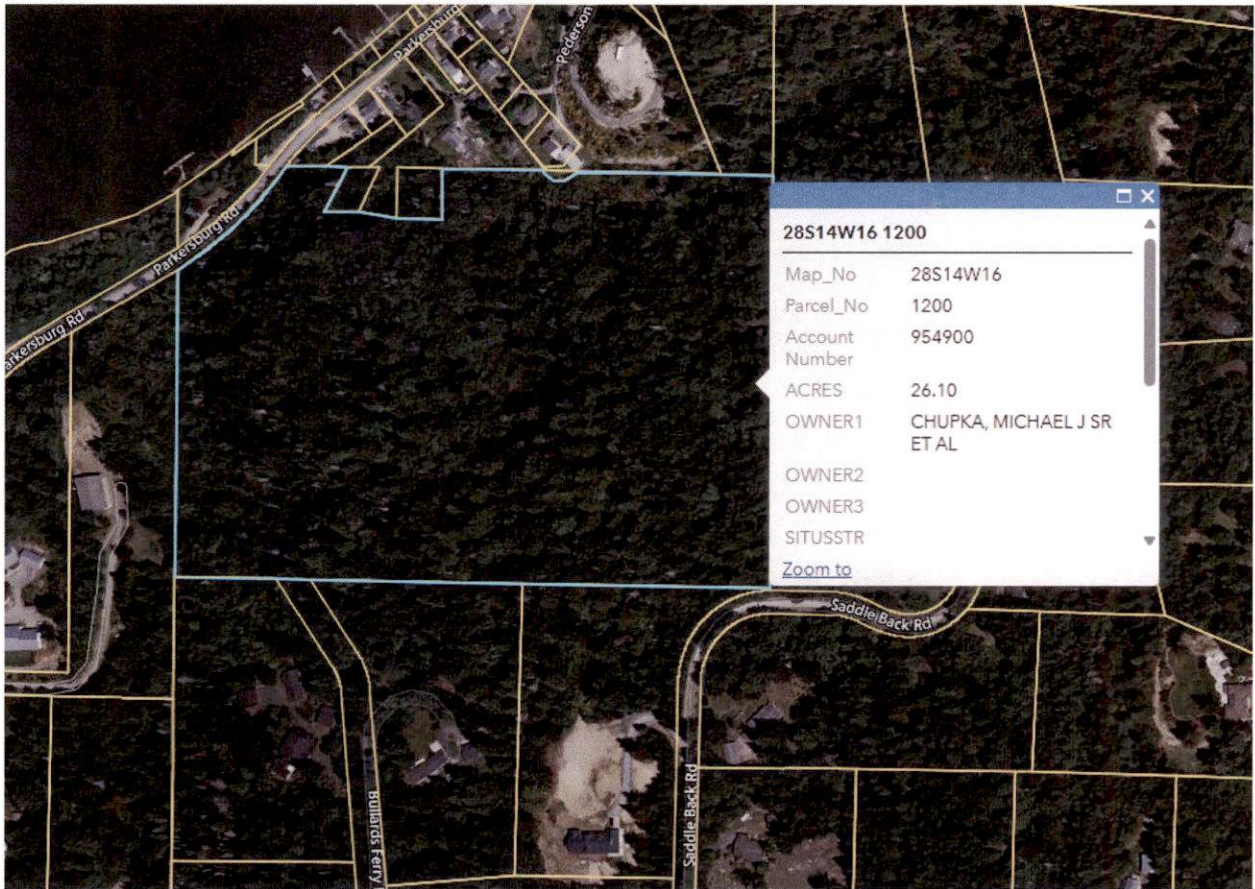
PROPERTY LINE 1200'

○ PLOT PLAN
 NTS ON LETTER SIZE PAPER



PROPERTY INFORMATION:
 0 BULLARDS FERRY ROAD
 BANDON, OR 97411
 28-14-16 TL 1200
 TAX ACCOUNT 954900
 FOREST ZONE 26.10 ACRES

VICINITY MAP



SECTION 16 T28S R14W W.M.
COOS COUNTY

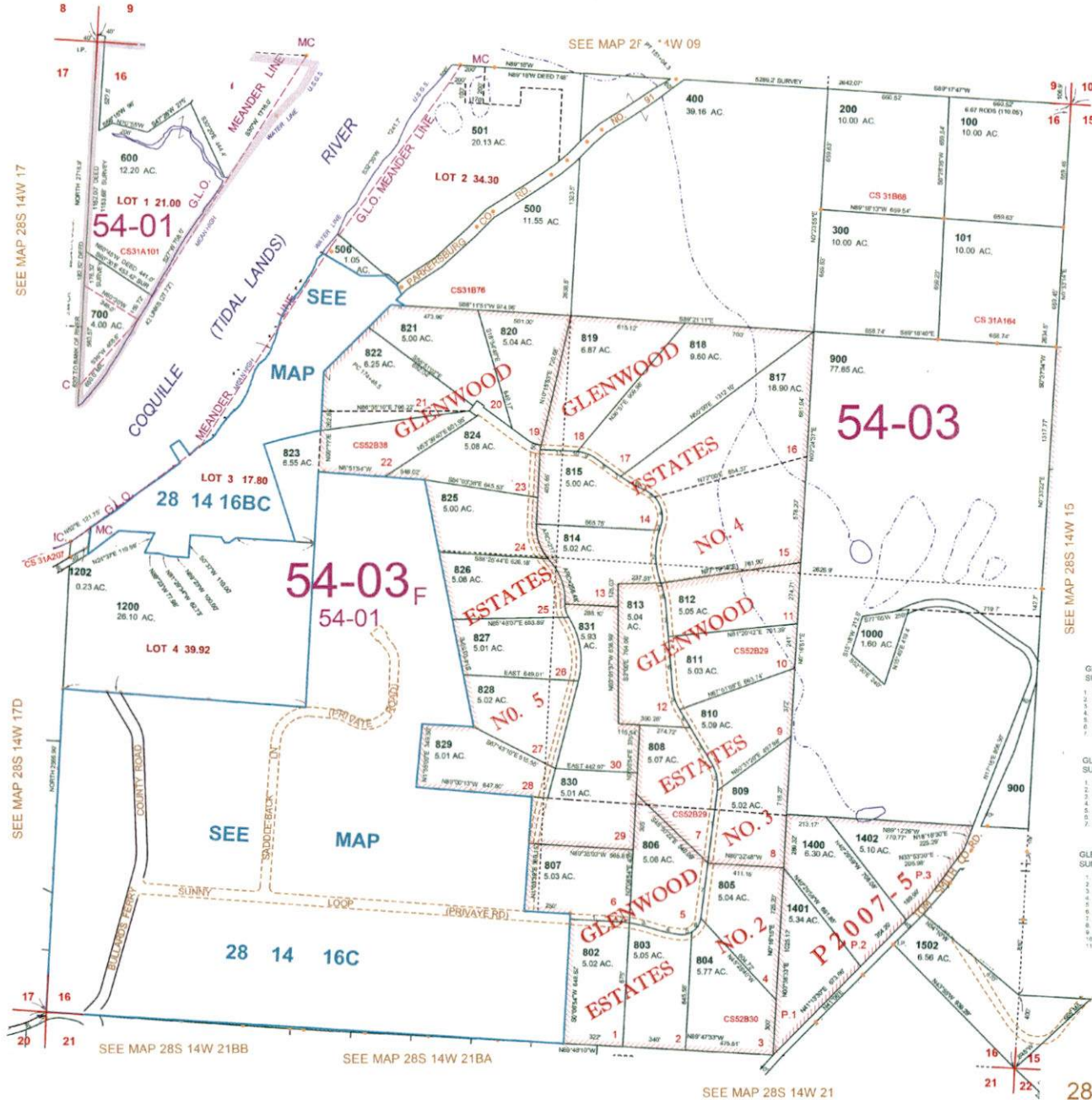
28S 14W 16
& INDEX

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY

1" = 400'

CANCELLED NO.

- 502
- 504
- 1500
- 1501
- 1600
- 800
- 1100
- 1300
- 503
- 1201
- 505
- 801
- 832
- 816



SEE MAP 28S 14W 15

- GLENWOOD ESTATES NO. 2
SUNNY LOOP (PRIVATE RD.)
- 1 N89°47'30"W 257.51'
 - 2 N1°16'30"E L146.85'
 - 3 N47°16'30"E L137.10'
 - 4 N43°22'30"E L147.73'
 - 5 N41°12'31" L483.51'
 - 6 N41°12'31" L482.32'
 - 7 S64°22'30" S44.87'
- GLENWOOD ESTATES NO. 3
SUNNY LOOP N (PRIVATE RD.)
- 1 N44°22'00"E 89.66'
 - 2 R+28° 73' L+188.30'
 - 3 S37°37'31"E 220.80'
 - 4 S23°37'32"E 114.36'
 - 5 N+28° 48' L+130.84'
 - 6 S07°38'11"E 275.35'
 - 7 S97°28'11" 176.57'
- GLENWOOD ESTATES NO. 4
SUNNY LOOP N (PRIVATE RD.)
- 1 R+42° 81' L+113.6'
 - 2 R+42° 52' L+291.85'
 - 3 N+103° 10' L+173.63'
 - 4 N+103° 10' L+165.10'
 - 5 R+78° 34' L+140.05'
 - 6 N+78° 34' L+15.88'
 - 7 N50°32'20"W 130.18'
 - 8 R+201° 04' L+108.30'
 - 9 R+201° 04' L+17.48'
 - 11 W+51° 195.62'

06-28-2021

28S 14W 16
& INDEX

The Chupka Family
58492 Garden Valley Road
Coquille, Oregon 97423

June 14, 2024

Coos County Planning Commission
60 E Second
Coquille, OR 97423

RE: Text Amendment and Rezone of Forest Zoned Property

Dear Planning Commission,

It is with great respect and honor that I write to you today about the property north of Bandon that my family purchased in 2023. My wife and I have been residents of Coos County for seventeen years now, starting in Bandon and then moving to Coquille in search of a home where we could begin growing our family. We take great pride in being locals, serving the community, and are looking forward to building a home on the subject property that will last into our retirement years.

After the passing of my Mother in 2023, my Father joined our efforts in securing land to develop. This is the reason for the North Carolina address on our property. He will be visiting us more often now that he is alone, and our desire is to have a property with room for our growing family and our relatives to explore and enjoy the natural environment this property has to offer.

Understanding that we can develop the site with a Forest Template Dwelling, we feel strongly that the site should be rezoned to RR-5 to reflect the development and zoning immediately adjacent to our property. Our desired outcome would be to have the "orderly development of rural land so as to encourage the continued existence of rural family life" as defined in the Coos County Zoning and Land Development Ordinance (CCZLDO) for the RR-5 zone. We feel strongly that this area is already "committed" to the RR-5 zoning district evidenced by several rezones previous to our request and the residential development surrounding our property on all sides.

In contrast, our property is zoned Forest/Mixed Use which the CCZLDO describes as lands with "soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean."

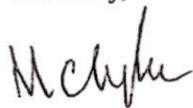
While we are considered "generally marginal in terms of forest productivity" we are not surrounded by or nearby large corporate and agency holdings. The periphery is strictly residential development. Additionally, the topography of our land is not suitable for farming or forestry practices to a scale that can

support an income for our family. The uses in the Forest Zone are Resource Oriented; however, in our particular case, we are being deprived of the same property rights and enjoyment as our neighbors, closeby and beyond. The closest large forest holding appears to be approximately 2 miles to the east with the Coquille River and several residential homesites separating us from them. I am including an aerial below to show the general area and the parcel represented herein.

We feel it is in our best interest to rezone the property to Rural Residential which is more consistent with the development trend and use of the general vicinity. When considering the uses provided in both zones, the RR-5 zoning district would allow the construction of a small Guest House for the occasional visit from our family in North Carolina while allowing us to build a conservative home that meets our growing family. Our family connection is extremely important to us, and we understand the need for a separate space for our guests- a silent retreat from our young family and pets when visiting our homestead.

Understanding that Oregon has land use goals in place for a reason, we respect the recommendation you will be making to the Board of Commissioners. Thank you in advance for taking the time to consider our Findings and the documentation presented to you for this Text Amendment and Rezone request.

Sincerely,



Michael Chupka, Jr.



Attached Written Statement

Property Information:

Account Number: 954900
Map Number: 28S141600-01200
Property Owner(s): CHUPKA, MICHAEL J SR ET AL
129 CASTLEWOOD CIR
LITTLETON NC 27850-7817
Acres: 26.10 Acres
Zoning: FOREST (F)
Overlays and Development Considerations: BANDON AREA OF MUTUAL INTEREST (BMI)
FLOODPLAIN (FP)
FOREST MIXED USE (MU)
NATIONAL WETLAND INVENTORY (NWI)
NH TSUNAMI (NHTHO)

Applicant Proposal:

The landowners (applicant) request a review of an Amendment and Rezone application that will result in a Post Acknowledgement Plan Amendment in the Coos County Comprehensive Plan, changing the subject property from a Forest zoning district with Mixed Use overlay to a Rural Residential zoning district. Below are Findings that support the subject property is irrevocably committed. The request is for a rezone to the Rural Residential-5 zoning district which is consistent with adjacent properties

The legal description for the area of plan amendment/rezone will be the same as the legal description of the subject property. Based on county assessor records, this is approximately 26.10 acres.

The subject property was purchased last year by the applicant/landowner(s). The applicant wishes to develop the subject property with a residential dwelling not associated with Forest or Farming practices. A review of the subject property and the adjacent areas will show the subject property's current zoning status no longer represents the characteristics of the area. The landowner is requesting the County to amend their Comprehensive Plan to reflect the use of the property accurately prior to requesting development.

Site and Community Overview:

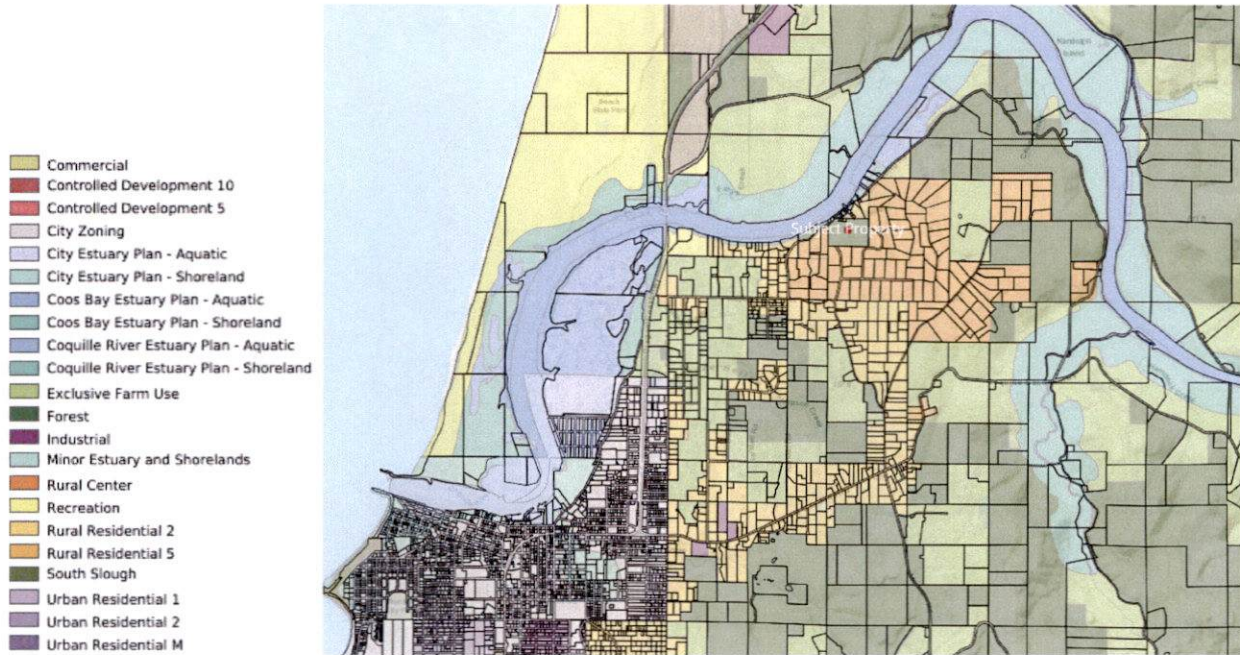
The subject property is located approximately 2 miles northeast of the City of Bandon. The City of Bandon is located at the mouth of the Coquille River and in the southwest portion of Coos County. The subject property is located at the end of Bullards Ferry Road. Bullards Ferry Road connects to Prosper Junction Road and Prosper Junction Road connects Hwy 42S to Hwy 101.

This is known in the Prosper and Parkersburg area of rural Bandon. This area has several rural residential homesites, limited cranberry farming, some livestock/hay production lands, and a small amount of small non-industrial woodlot forestlands.

The overall area has been developed since 1980 when land use planning was adopted, and the land use zoning districts fairly accurately represent the development on the ground with exception to some isolated Forest Zoned properties.

The subject property is currently surrounded by a Rural Residential zoning district, with a small, less than 5-acre portion of Forest zoning located northwest of the subject property separated by Parkersburg Road and at a lower top. There have been three separate irrevocable committed plan amendments/rezones within the vicinity of the subject property.





Subject Property Land Use History and Current Conditions:

Land Use History

A Minor Partition (MP-86-22) was approved on September 23, 1986, giving the property its current configuration.

October 13, 1986 a Conditional Use (ACU-86-62) was approved to allow a partition to divide off .03 acres, which was to be transferred to an adjacent property owner as they had been using the portion of property as a yard.

April 9, 1990 a Conditional Use (ACU-90-13) was approved to allow a Forest Related Dwelling.

On January 28, 2008 a pre application was submitted to discuss the possibility of a rezone to residential zone. The pre application conference was held on April 10, 2008, and a post report was mailed out on April 14, 2008.

September 18, 2023 a Research Request (R-23-010) was received to determine if the property could meet the template dwelling test requirements. Staff responded to the request on November 8, 2023.

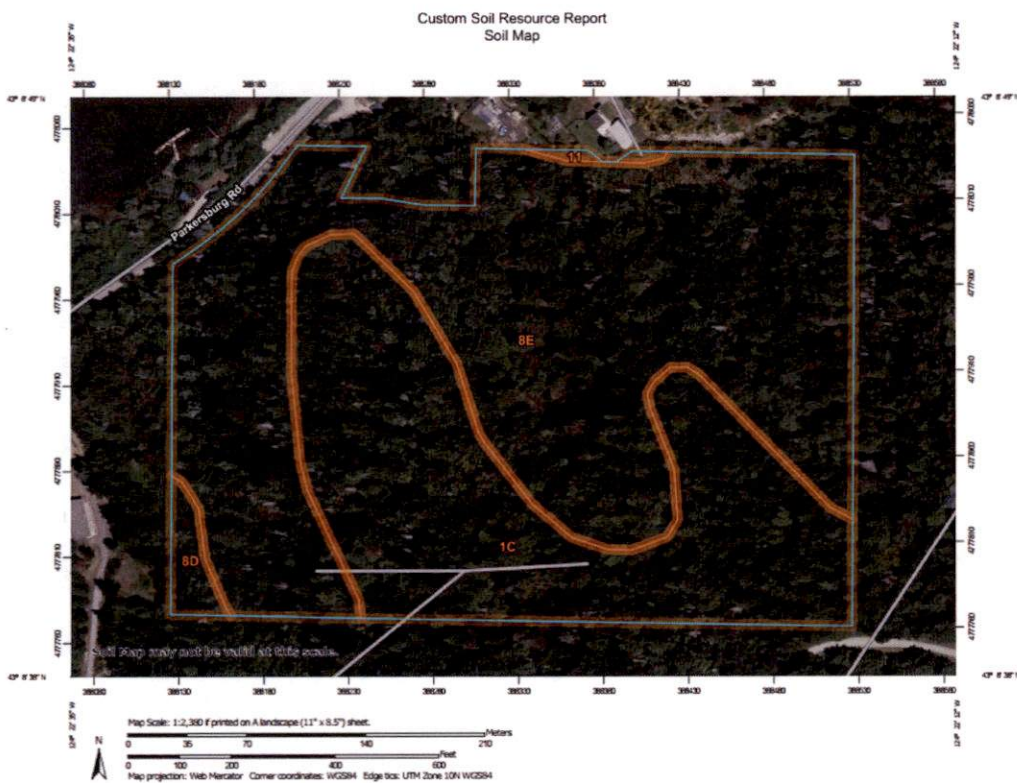
On November 8, 2023 a pre application was submitted to discuss the possibility of a rezone to Rural Residential 5. The pre application conference was held on December 19, 2023, and a post report was emailed on February 23, 2024.

Current Conditions

The subject property is currently undeveloped. The coastal forest vegetation is typical of this portion of Coos County. This consists of fir, alder, and spruce, which are the dominant tree species. There is also a dense underbrush of salal and rhododendrons.

The property is accessed directly off of a publicly dedicated right-of-way which Coos County has named Bullards Ferry Road as part of their addressing and e911 systems. The subject property is at the end of Bullards Ferry Road.

NRCS Soils



1C--Bandon sandy loam, 7 to 12 percent slopes.

This deep, well drained soil is on dissected marine terraces. It formed in sandy marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 25 to 300 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days. Typically, the surface is covered with a mat of decomposed organic litter 1 inch thick. The surface layer is dark grayish brown sandy loam 5 inches thick. The upper 25 inches of the subsoil is dark reddish brown sandy loam and loam, and the lower 13 inches is pale brown, cemented, sandy material. The substratum to a depth of 60 inches or more is yellowish brown loam. Included in this unit are small areas of Bullards and Blacklock soils. Included areas make up about 20 percent of the total acreage. Permeability of this Bandon soil is moderate above the cemented layer, very slow through it, and

moderately rapid below it. Available water capacity is about 2 to 6 inches. Effective rooting depth is 18 to 36 inches. Runoff is medium, and the hazard of water erosion is moderate. The hazard of soil blowing is severe.

This unit is used mainly for timber production, wildlife habitat, and homesite development. It is also used for pasture and recreation. This unit is suited to the production of Douglas fir. Among the other species that grow on this unit are Sitka spruce, western hemlock, red alder, and western redcedar. The understory vegetation is mainly salal, evergreen huckleberry, western bracken fern, and Pacific wax myrtle. On the basis of a 100-year site curve, the mean site index for Douglas fir is 137. At the culmination of the mean annual increment (CMAI), the production of 60-year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 140 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 105. High winds from the Pacific Ocean may seriously limit the growth of trees unless they are in a protected area. The main limitations for the management of timber on this unit are the hazard of windthrow and plant competition. Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, western hemlock, and Sitka spruce seedlings.

Erosion is a hazard in the steeper areas of this unit. Only the part of the site that is used for construction should be disturbed. The risk of erosion is increased if the soil is left exposed during site development. Revegetating disturbed areas around construction sites as soon as possible helps to control erosion. Structures to divert runoff are needed if buildings and roads are constructed. If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production. Sprinkler irrigation is a suitable method of applying water. Use of this method permits the even, controlled application of water. Water should be applied in amounts sufficient to wet the root zone but in amounts small enough to minimize the leaching of plant nutrients. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs.

Fertilizer is needed to ensure optimum growth of grasses and legumes. Grasses respond to nitrogen, and legumes respond to sulfur and phosphorus. Proper stocking rates and pasture rotation help to keep the pasture in good condition and to protect the soil from erosion. Periodic mowing and clipping help to maintain uniform growth, discourage selective grazing, and reduce clumpy growth.

If this unit is used for recreational development, the main limitation is the very slow permeability. The use of recreational facilities may be restricted during wet periods unless the cemented layer is ripped to permit more rapid internal drainage.

This map unit is in capability subclass Ille.

8D-Bullards sandy loam, 12 to 30 percent slopes.

This deep, well drained soil is on dissected marine terraces. It formed in mixed eolian and marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50

to 600 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

Typically, the surface is covered with a mat of undecomposed organic matter 3 inches thick. The surface layer is very dark grayish brown sandy loam 7 inches thick. The subsoil is dark reddish brown, dark brown, and strong brown gravelly sandy loam 34 inches thick. The substratum to a depth of 60 inches or more is yellowish brown sand (fig. 7).

Included in this unit are small areas of Bandon and Templeton soils. Also included are small areas of Blacklock soils in depressional areas. Included areas make up about 25 percent of the total acreage.

Permeability of this Bullards soil is moderate. Available water capacity is about 4.0 to 5.5 inches. Effective rooting depth is 60 inches or more. Runoff is medium, and the hazard of water erosion is moderate. The hazard of soil blowing is severe.

This unit is used mainly for timber production, wildlife habitat, and pasture. It is also used for recreation.

This unit is suited to the production of Douglas fir. Among the other species that grow on this unit are Sitka spruce, western hemlock, western redcedar, shore pine, and red alder. The understory vegetation is mainly evergreen huckleberry, creambush oceanspray, salal, Pacific rhododendron, cascara, and western sword fern.

On the basis of a 100-year site curve, the mean site index for Douglas fir is 132. At the culmination of the mean annual increment (CMAI), the production of 60-year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 105.

The main limitations for the management of timber on this unit are the hazard of erosion, the hazard of windthrow, and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gullyng unless they are provided with adequate water bars or are protected by plant cover, or both. Proper design of road drainage systems and care in the placement of culverts help to control erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit.

Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings.

If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production. Sprinkler irrigation can be used in the less sloping areas of the unit. Use of this method permits the even, controlled application of water, reduces

runoff, and minimizes the risk of erosion. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs. Fertilizer is needed to ensure optimum growth of grasses and legumes. Grasses respond to nitrogen, and legumes respond to sulfur and phosphorus. Proper stocking rates and pasture rotation help to keep the pasture in good condition and to protect the soil from erosion.

If this unit is used for recreational development, the main limitations are steepness of slope and the hazard of erosion. Slope limits the type of recreational facilities that are suited to the unit. The risk of erosion is increased if the soil is left exposed during site development. Erosion and sedimentation can be controlled and the beauty of the area enhanced by maintaining adequate plant cover.

This map unit is in capability subclass IVe.

8E-Bullards sandy loam, 30 to 50 percent slopes.

This deep, well-drained soil is on dissected marine terraces. It formed in mixed eolian and marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50 to 600 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days. Typically, the surface is covered with a mat of undecomposed organic matter 3 inches thick. The surface layer is very dark grayish brown sandy loam 7 inches thick. The subsoil is dark reddish brown, dark brown, and strong brown gravelly sandy loam 34 inches thick. The substratum to a depth of 60 inches or more is yellowish brown sand.

Included in this unit are small areas of Templeton soils. Included areas make up about 20 percent of the total acreage. The percentage varies from area to area. Permeability of this Bullards soil is moderate. Available water capacity is about 4.0 to 5.5 inches. Effective rooting depth is 60 inches or more. Runoff is rapid, and the hazard of water erosion is high. The hazard of soil blowing is severe.

This unit is used mainly for timber production and wildlife habitat. It is also used for recreation. This unit is suited to the production of Douglas fir. Among the other species that grow on this unit are Sitka spruce, western hemlock, western redcedar, shore pine, and red alder. The understory vegetation is mainly evergreen huckleberry, creambush, oceanspray, salal, Pacific rhododendron, cascara, and western sword fern. On the basis of a 100-year sitecurve, the mean site index for Douglas fir is 132. At the culmination of the mean annual increment (CMAI), the production of 60-year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 105. High winds from the Pacific Ocean may seriously limit the growth of trees unless they are in a protected area.

The main limitations for the management of timber on this unit are steepness of slope, the hazard of erosion, the hazard of windthrow, and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Highlead or other logging systems that fully or partially suspend logs damage the soil less and generally are less costly than tractor systems. Proper design of road drainage systems and care in the placement of culverts help to control erosion. Cut and fill areas are subject to erosion unless treated. Seeding,

mulching, benching, and compacting the soil can reduce erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gullyng unless they are provided with adequate water bars or are protected by plant cover, or both. Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings. If this unit is used for recreational development, the main limitations are slope and the hazard of erosion. Slope limits the use of areas of this unit mainly to a few paths and trails, which should extend across the slope.

The risk of erosion is increased if the soil is left exposed during site development. Revegetating disturbed areas around construction sites as soon as feasible helps to control erosion.

This map unit is in capability subclass VIe.

Subject Property Lawfully Created Parcel Status

Tax Lot 1200 is acknowledged as lawfully created pursuant to CCZLDO § 6.1.125.1.a “Through an approved or pre-ordinance plat” (MP-86-22).

ARTICLE 5.1 PLAN AMENDMENTS AND REZONES

SECTION 5.1.100 LEGISLATIVE AMENDMENT OF TEXT ONLY:

An amendment to the text of this ordinance or the comprehensive plan is a legislative act within the authority of the Board of Commissioners. [OR 04 12 013PL 2/09/05]

Applicant Response: This is related to the implementation of the County’s planning process.

SECTION 5.1.110 WHO MAY SEEK CHANGE:

Coos County shall consider the appropriateness of legislative plan text and map amendment proposals upon:

1. *A motion by the Board of Commissioners; or*
2. *A motion of the Planning Commission; or*
3. *The submission of formal request made by either:*
 - a. *The Citizen Advisory Committee; or*
 - b. *An application filed by a citizen or organization, accompanied by a prescribed filing fee. If a Measure 56 notice is required the applicant shall be responsible for the payment of all cost associated with that service.*

Applicant Response: The application for amendment of the comprehensive plan and rezoning is being submitted by the landowners. Therefore, this application complies with 3b of this rule.

SECTION 5.1.115 ALTERATION OF A RECOMMENDED AMENDMENT BY THE PLANNING DIRECTOR:

The Planning Director may recommend an alteration of a proposed amendment if, in the director's judgment, such an alteration would result in better conformity with any applicable criteria. The Planning Director shall submit such recommendations for an alteration to the Hearings Body prior to the scheduled public hearing for a determination whether the proposed amendment should be so altered.

Applicant Response: This criterion is addressed by the Coos County Planning Director during the hearing body review process. The applicant anticipates a recommendation to approve the rezone to RR-5 with a minimum lot size of 10 acres.

SECTION 5.1.120 PROCEDURE FOR LEGISLATIVE AMENDMENT:

The Board of Commissioners shall conduct one or more public hearings with 10 days advance published notice of each of the hearings. The public notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration. (ORS 215.060 & ORS 215.223). Notice to DLCDC shall be provided 35 days prior to the initial hearing per ORS 197.610. Notice of adoption is subject to ORS 197.615. [OR 04 12 013PL 2/09/05]

Applicant Response: This criterion is addressed by the Coos County Board of Commissioners as part of the hearing body review process.

SECTION 5.1.125 MINOR TEXT CORRECTIONS:

The Director may correct this ordinance or the Comprehensive Plan without prior notice or hearing, so long as the correction does not alter the sense, meaning, effect, or substance of any adopted ordinance. [OR 04 12 013PL 2/09/05]

Applicant Response: This is not applicable to this comprehensive plan and rezone request.

SECTION 5.1.130 NEED FOR STUDIES:

The Board of Commissioners, Hearings Body, or Citizen Advisory Committee may direct the Planning Director to make such studies as are necessary to determine the need for amending the

text of the Plan and/or this Ordinance. When the amendment is initiated by application, such studies, justification and documentation are a burden of the initiator.

Applicant Response: The applicant is including findings with this application to justify the comprehensive plan and rezone request.

SECTION 5.1.135 STATUS OF HEARINGS BODY RECOMMENDATIONS TO THE BOARD OF COMMISSIONERS:

A Hearings Body recommendation for approval or approval with conditions shall not in itself amend this Ordinance or constitute a final decision.

Applicant Response: The applicant acknowledges the process is the Coos County Planning Commission will issue a recommendation, and the Coos County Board of Commissioners will issue the final decision.

SECTION 5.1.200 REZONES:

Rezoning constitutes a change in the permissible use of a specific piece of property after it has been previously zoned. Rezoning is therefore distinguished from original zoning and amendments to the text of the Ordinance in that it entails the application of a pre-existing zone classification to a specific piece of property, whereas both original zoning and amendments to the text of the Ordinance are general in scope and apply more broadly.

Applicant Response: The applicant requests a comprehensive plan amendment and rezone with this application.

SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:

The Planning Director may recommend an expansion of the geographic limits set forth in the application if, in the Planning Director's judgment, such an expansion would result in better conformity with the criteria set forth in this Ordinance for the rezoning of property. The Planning Director shall submit a recommendation for expansion to the Hearings Body prior to the scheduled public hearing for a determination whether the application should be so extended.

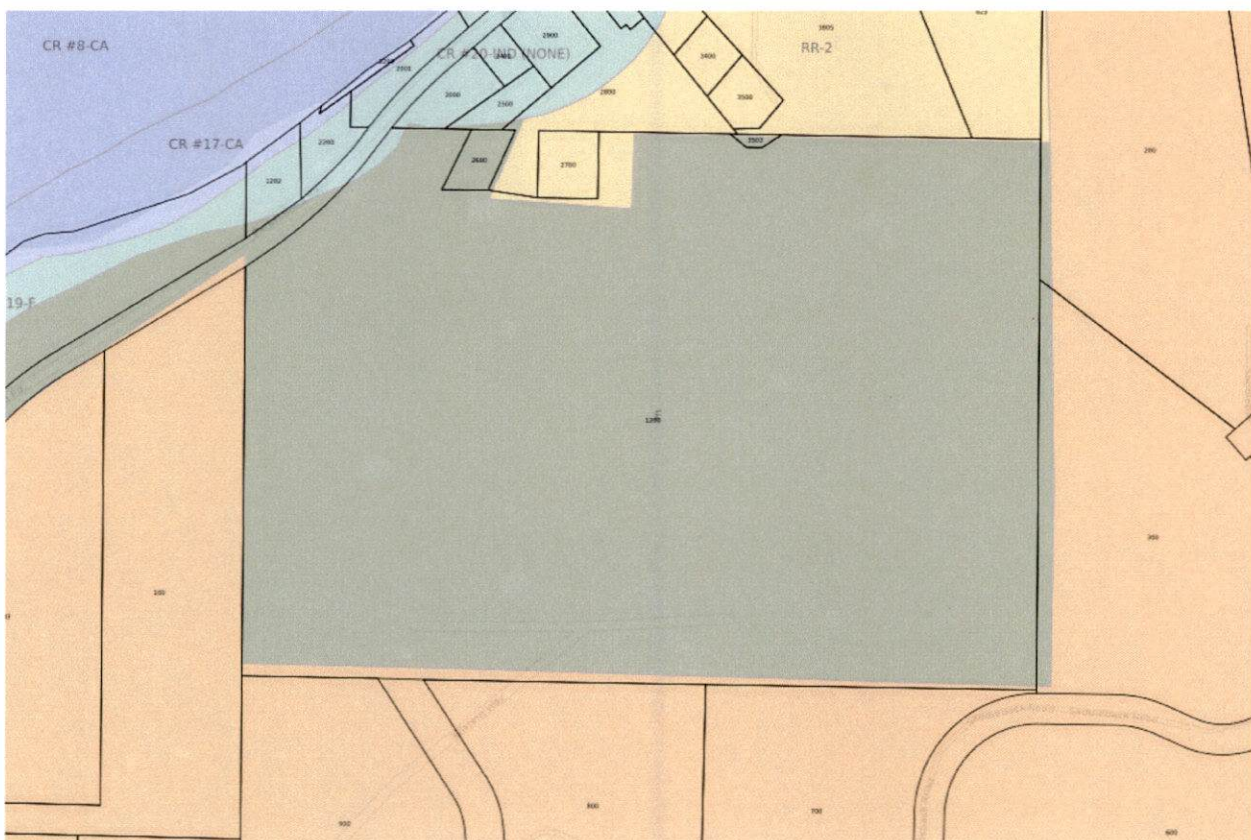
Applicant Response: The Coos County Planning Director addresses this criterion prior to the hearing body review process.

SECTION 5.1.215 ZONING FOR APPROPRIATE NON-FARM USE:

Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.

Applicant Response: The subject property (tax lot 1200) is currently zoned Forest with Mixed Use overlay. Rural Residential surrounds the parcel itself. The property is not zoned for Exclusive Farm Use.

Below is a screenshot of the Coos County Planning Zone Map (April 2024). The map identifies the zoning layer as dated 2022. The applicant is unaware of any zoning changes in this area over the past two years. The spatial accuracy of this map needs to be verified by the Coos County Planning Department's original Mylar zoning maps.



SECTION 5.1.220 PROCESS FOR REZONES:

- 1. Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.*
- 2. The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.*
- 3. The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.*

4. *The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.*
5. *The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.*
6. *A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.*

Applicant Response: The applicant acknowledges the first public hearing will be at least 35 days after the valid application is submitted.

The Planning Director is responsible for writing a staff report to the Planning Commission.

The applicant acknowledges the Planning Commission will hold a public hearing and issue a recommendation to the Board of Commissioners.

The applicant acknowledges that the Board of Commissioners will be required to hold a public hearing before making a decision.

SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:

The Hearings Body shall, after a public hearing on any rezone application, either:

1. *Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*
 - a. *The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*
 - b. *The rezoning will not seriously interfere with permitted uses on other nearby parcels; and*
 - c. *The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.*

Applicant Response: These criteria require the Planning Commission to issue factual findings based on the application or Planning Department staff report. The applicant is submitting the following responses to support the Rezone.

Chapter 660

Division 4

OAR 660-004-0000

Purpose

(1) The purpose of this division is to interpret the requirements of Goal 2 and ORS 197.732 regarding exceptions. This division explains the three types of exceptions set forth in Goal 2 "Land Use Planning, Part II, Exceptions." Rules in other divisions of OAR 660 provide substantive standards for some specific types of goal exceptions. Where this is the case, the specific substantive standards in the other divisions control over the more general standards of this division. However, the definitions, notice, and planning and zoning requirements of this division apply to all types of exceptions. The types of exceptions that are subject to specific standards in other divisions are:

(a) Standards for a demonstration of reasons for sanitary sewer service to rural lands are provided in OAR 660-011-0060(9);

(b) Standards for a demonstration of reasons for urban transportation improvements on rural land are provided in OAR 660-012-0070;

(c) Standards to determine irrevocably committed exceptions pertaining to urban development on rural land are provided in OAR 660-014-0030, and standards for demonstration of reasons for urban development on rural land are provided in OAR 660-014-0040.

Applicant Response: The applicant is not requesting sanitary sewer services for the subject property. The applicant understands that the nearest sewer services are either in the City of Bandon or the Bandon Dunes Resort zoning district. The City's lines are estimated to be over 2 miles away using existing rights-of-way.

There is no request for urban transportation improvements on the subject property. The nearest urban transportation improvements are located in the City of Bandon. There is no reason to construct urban transportation improvements on the subject property.

There is no pre-existing urban development located on the subject property.

(2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons that explains why the proposed use not allowed by the applicable goal, or a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use, should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.

Applicant Response: This criterion requires counties to have a process for handling exceptions. The exception process may be found in Coos County Comprehensive Plan Volume 1, Part 3, Section 5.1. Below are the criteria.

RURAL HOUSING EXCEPTION STATEMENT

EXCEPTION TO STATEWIDE PLANNING GOALS: # 3 (Agricultural Lands) & #4 (Forest Lands)

5.1 INTRODUCTION

5.1.1 Purpose:

To justify the continued provision of rural housing opportunities in areas containing agricultural or forest soils but which are no longer suitable or otherwise available for agricultural and forest uses.

5.1.2 Exception Criteria:

When a local government determines that there are reasons to use resource lands for uses not allowed by a specified goal or goals, the local government must provide justification for its determination by adopting an exception to the applicable goal(s) as part of its comprehensive plan.

LCDC Goal #2, Part II(b) sets the following general standard for determining "irrevocable commitment":

The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.

OAR 660-04-028(2) interprets the referenced goal language to mean that the following factors must be addressed in the findings of fact for the goal exception:

o existing adjacent uses:

o public facilities and services:

o parcel size and ownership patterns of the exception area and adjacent lands:

o neighborhood and regional characteristics:

o natural boundaries or other buffers separating the exception area from adjacent resource land:

o physical development according to OAR 660-04-025: and

o other relevant factors.

The following section contains the findings of fact and statement of reasons necessary to justify the taking of both an "irrevocably committed" exception to the Agricultural Lands and Forest Lands Goals to provide for rural housing in Coos County.

The request is for a rezone from the Forest to the Rural Residential zoning district. If approved, then the approval must be based on factual evidence. The applicant is submitting the following justification to support the request that the adjacent uses make

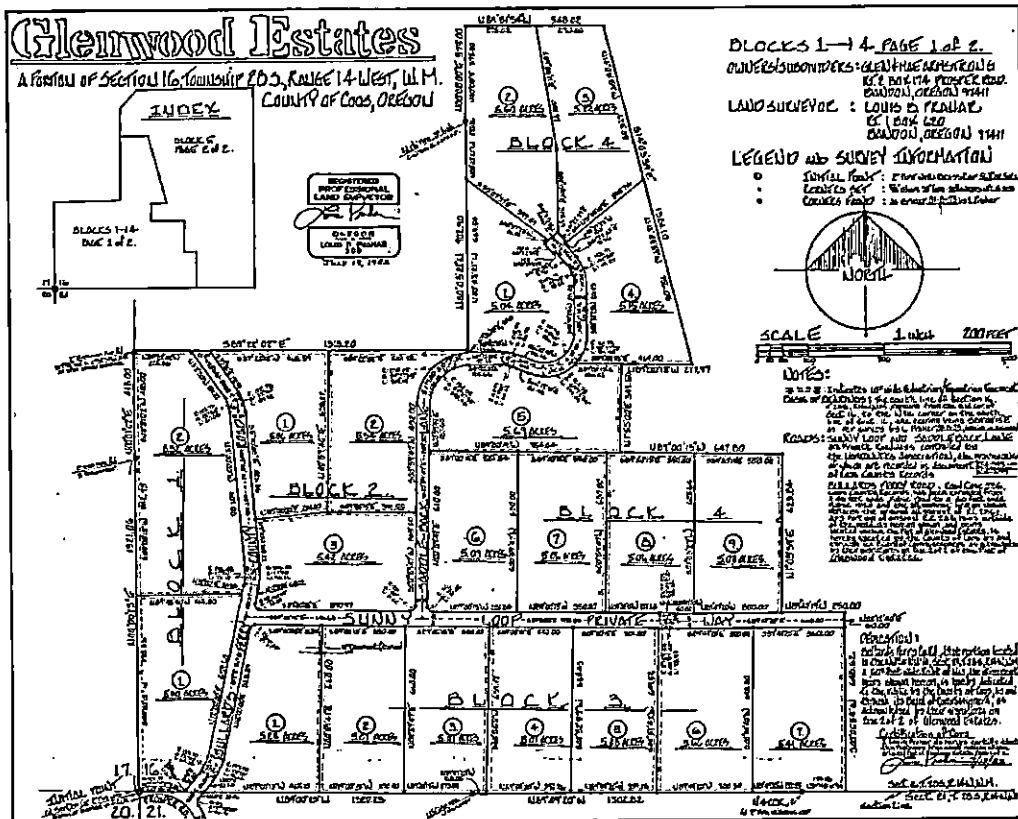
the subject property impractical for either Goal 3 or Goal 4 uses. Those findings may be found in 660-004-0028(3).

Existing Adjacent Uses:

The subject property is located approximately 2 miles northeast of the City of Bandon. There is public right-of-way access to the property. From Highway 101, one travels east on Prosper Junction Road, then proceeds north on Bullards Ferry Road. The right-of-way ends at the subject property. This will be the primary access to the subject property based on topography. The northwest side of the subject property abuts Parkersburg Road; However, this property line is located on a hill and would not be developed due to topographic site constraints.

Based on the aerial imagery and County Assessor maps, the subject property is currently surrounded by small (less than 6 acre parcels) on the western, southern, and eastern sides.

The subject property's southern and eastern property lines abut parcels located in the Glenwood Estates plat. This subdivision was originally platted in 1982, before the County Comprehensive Plan was adopted. The County identified this area as Area 77 in the rural housing exception area of the Coos County Comprehensive Plan.



Area 77 Armstrong/Sunnyhill

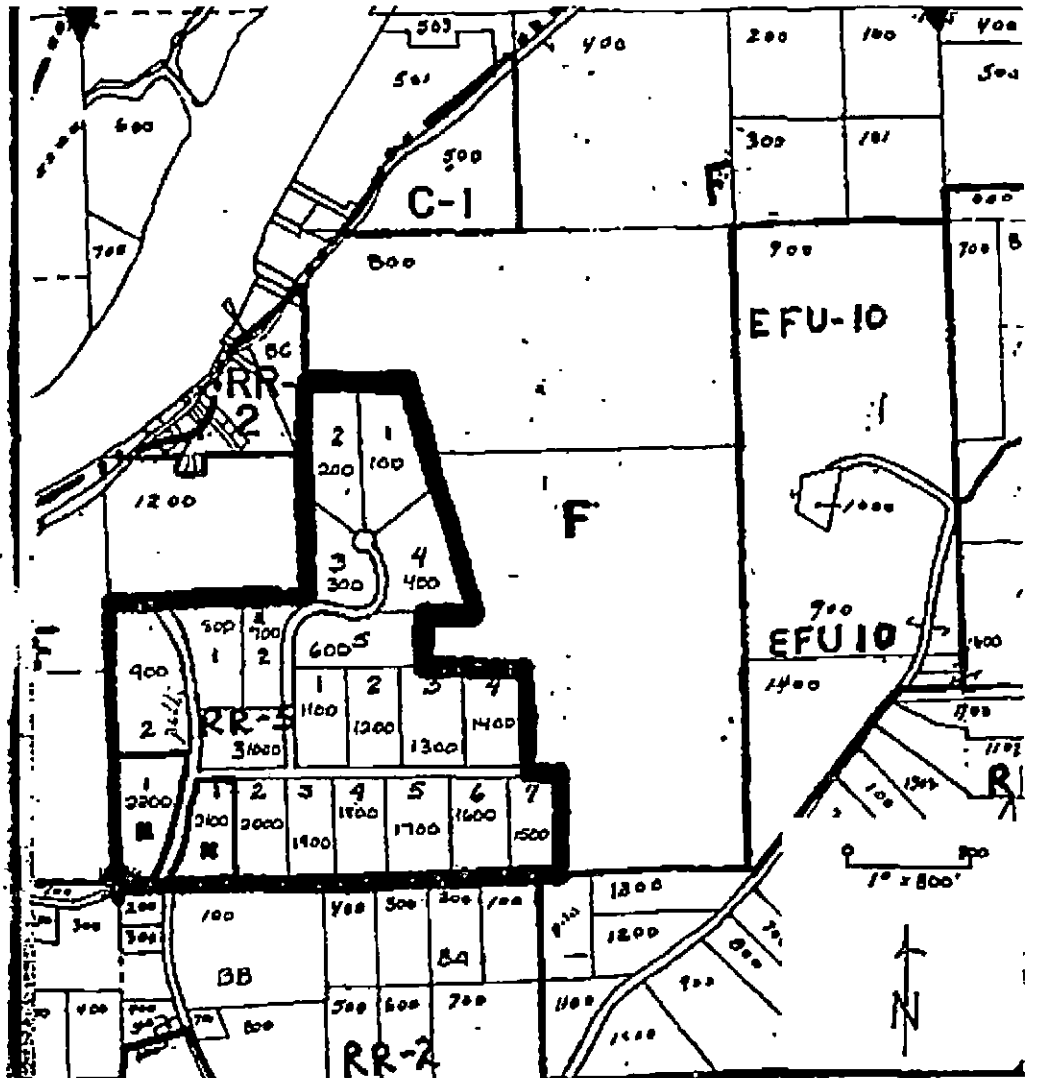
This area, located adjacent to Prosper on the Coquille River, consists of two lots developed with dwellings and 19 subdivision lots in a single ownership. Additional physical development includes one mile of road developed to County standards and underground electrical service. The final plat was approved by the County on November 29, 1982 and findings on the statewide planning goals were made. Adjacent uses are the Town of Prosper to the north, a large rural residential area to the south and forest lands to the east and west.

The area is predominantly Class I-IV agricultural soils. However, existing rural residential use to the north at Prosper, the two developed lots within the subdivision, the developed lots to the south and the road system and electrical service which extend throughout the property makes farm use of the property impracticable. Further, there are no existing farm uses on adjacent lands. The area does not have Class VII w soils and is, therefore, not suitable for cranberry production.

Because of the existing dwellings and parcelization in the area forest use would be impracticable. Dwellings and parcelization would cause forest management practices to be altered and increase the cost of operations because of restrictions on logging where it might destroy or damage domestic water supply, require greater setbacks or eliminating use of herbicides, block access to proper landing sites for highlead logging, require coordination of management activities on different parcels for timber at different stages of growth, and cause economic loss due to vandalism and theft of equipment (State Department of Forestry discussion paper (1980) by Dewery Juriewicz and Julian Miller, summarized in Plan Inventory, pp. 3.2-36 through 43). Small tracts require only infrequent management activity, produce little income, and do not permit the type of practices which involve economies of scale.

Investments in physical improvements for nonfarm or nonforest uses on this area are so large that they cannot be amortized through the types of accepted farm or forest practices that can reasonably be expected to be conducted on the proposed exception site or area.

For the reasons stated above, this area is irrevocably committed to nonresource use under OAR 660-04-028.



NAME: <u>Armstrong/Sunnyhill (Glenwood)</u>	DATE OF FINAL PLAT: <u>11/29/82</u>	LOTS PLATTED: <u>21</u>	AVERAGE LOT SIZE: <u>5 ac</u>
T. 28 R. 14 S. 16C		SEPARATE OWNERSHIPS <u>2</u>	
ADJACENT AREAS AND ADJUTS Prosper OTHER FACTORS: Road & a residential area to the south. Other expenditures include: Engineering/survey-----\$30,000 **	ROADS: Road includes one (1) mile of clearing, graveling, and grading at a cost of \$205,000	LOTS BUILT UPON: <u>2</u>	
SEPTIC AND WATER SYSTEMS: DEQ approvals have been obtained for lots at \$3,600.	TOTAL DEVELOPER'S EXPENSES: <u>\$ 3300,000</u>	SEE CONCL. <u>177</u>	
* Electricity-----\$20,500 Back hoe/culverts/legal/misc.--\$20,000			

According to the County's files for this application, the qualifiers were created based on the application, the testimony received, and the discussions during the hearings. It is difficult to tell from the available records why condition (a) was created. There were existing RR-2 zoned parcels both west and south of the subject property. Most of the adjacent testimony received in opposition to the application revolved around the potential effects of additional residential development on water tables and additional dwellings placed near current dwellings. There was some other testimony from organizations outside the area revolving around procedural aspects of planning goals. The county found that additional development on this parcel would not result in water table drawdowns.

The applicant would not be in favor of a buffering condition on the proposed rezone due to the topography of the subject site. There would be no reason or justification for required screening along these property lines, nor does such screening exist in some areas along the north side. Development along Parkersburg Road is at an elevation approximately 100' lower in elevation.

The second condition involved limiting access near the southeast corner of the subject property at the time. The record did not provide much information about the condition. However, the map shows that the southeast corner is on a sharp corner on Prosper Junction Road and within 200 feet of the only public access point into Glenwood Estates. Glenwood Estates is the original Area 77 and the AM-92-11/RZ-92-04.

The County also found that the Douglas fir on the application's property is *"marginally merchantable and shows a slow current growth rate. Improvement in growth rate would require commercial thinning. The area is subject to winter windstorms that are known to destroy thinned stands on hardpan soils near the coast. Port Orford Cedar makes up a third to half of the stocking. The cedar trees are smaller in diameter than the Douglas Fir and also badly infected with Phytophthora root rot which kills the tree. The existing inventory of cedar on the tract is expected to continue to decline as the disease spreads. Underbrush in the subject area is dense."*

"Due to the dense rhododendron and huckleberry brush and dense limbs on the timber, slash accumulations will be large. Brush piles provide habitat for rodents. Normal procedures for controlling slash accumulations and regrowth of competing brush include slash burning and aerial herbicide spraying. Both techniques produce large volumes of toxic and noxious fumes which are known to be hazardous to human health, safety and well-being. Alternatives to aerial spraying, such as hand control, are labor intensive and have higher associated costs than conventional practices."

The County based these findings on a forestry assessment report produced for the application's property by Stuntzner Engineering and Forestry. The subject property is similar in its forestry and soil characteristics to the AM-92-11/RZ-92-04. Therefore, a similar finding should be assumed on the subject property, which has the same low timber yield and management issues.

The second rezone (#6 on the map) is located east and southeast of the subject property. The County assigned file number AM-92-11/RZ-92-04 to that application. This parcel was

rezoned from Forest to Rural Residential-5 and adopted on February 10, 1993, with ORD. 92-11-016PL. The bulk of the land in this rezone is immediately east of Area 77 of the rural housing exception.

The third rezone (#7 on the map) is located immediately west of the subject property. The County assigned AM-93-09/RZ-93-04 to the application. This parcel was rezoned from Forest to Rural Residential-5 and adopted with ORD 93-08-14PL on November 3, 1993.

The County also found that “according to Mike Groben, Professional Forester, the merchantable timber on the subject property was small and has been recently cut and removed. Mr. Graben feels that limitations on this tract come after harvesting. Those forest management practices which are customarily practiced on forest lands (slash burning for site preparation and aerial spraying for seedling release) become a hazard and liability due to the numerous dwellings and improvements on properties surrounding and adjoining the subject property. Intensive hand labor to substitute in lieu of these management practices is uneconomical and impractical. in his professional opinion, when liability, poor site and low productivity of the area are taken in account, forest management on the subject property does not appear to be a prudent consideration.”

“Limitations for harvesting the timber on the subject tract are minimal. Road construction is simple and inexpensive. Most of the ground is flat and the timber can be yarded by skidder or tractor. Windthrow as a result of thinning or partial cuts can be a serious problem because of the constant buffeting by the winds from the Pacific Ocean.”

*“The real limitation on this tract come after harvesting. Slash disposal, seedling survival and seedling release require intensive (and expensive) site preparation, and continual surveillance and management until the trees outgrow and are taller than the competing brush. Those forest management practices which are customarily practiced on forest lands, slash burning for site preparation and aerial spraying for seedling release) become a hazard and liability due to the numerous dwellings and improvements on properties surrounding and adjoining the subject tract. Intensive hand labor to substitute in lieu of these management practices is uneconomical and impractical, especially on poor sites IV and V. Because there is such a dense understory of brush and the fact that the trees are short-bodied and bushy with lots of branches, the slash should be burned after logging so as to clear the land for planting and reduce the competition from the competing brush. * **

*** Likewise, the only way to prevent the regrowth of the brush which will compete and try to dominate the young seedlings several years after planting is to aerial spray before the vigorously growing brush crowds out the slow growing seedlings on this poor site. * * * **

Because most of the surrounding property is zoned Rural Residential and dwellings are numerous, liability becomes a significant factor in deciding whether or not to follow normal forest management procedures. When liability, poor site and low productivity of the area are taken into account, forest management on the subject tract does not appeal to be a prudent consideration.”

These adjacent areas (AM-91-10/RZ-91-05 and AM-93-09/RZ-93-04) are served by private easements directly connecting to Parkersburg Road. The adjacent areas are for Area 77 and AM-92-11/RZ-92-04, which are served by publicly dedicated right-of-ways.

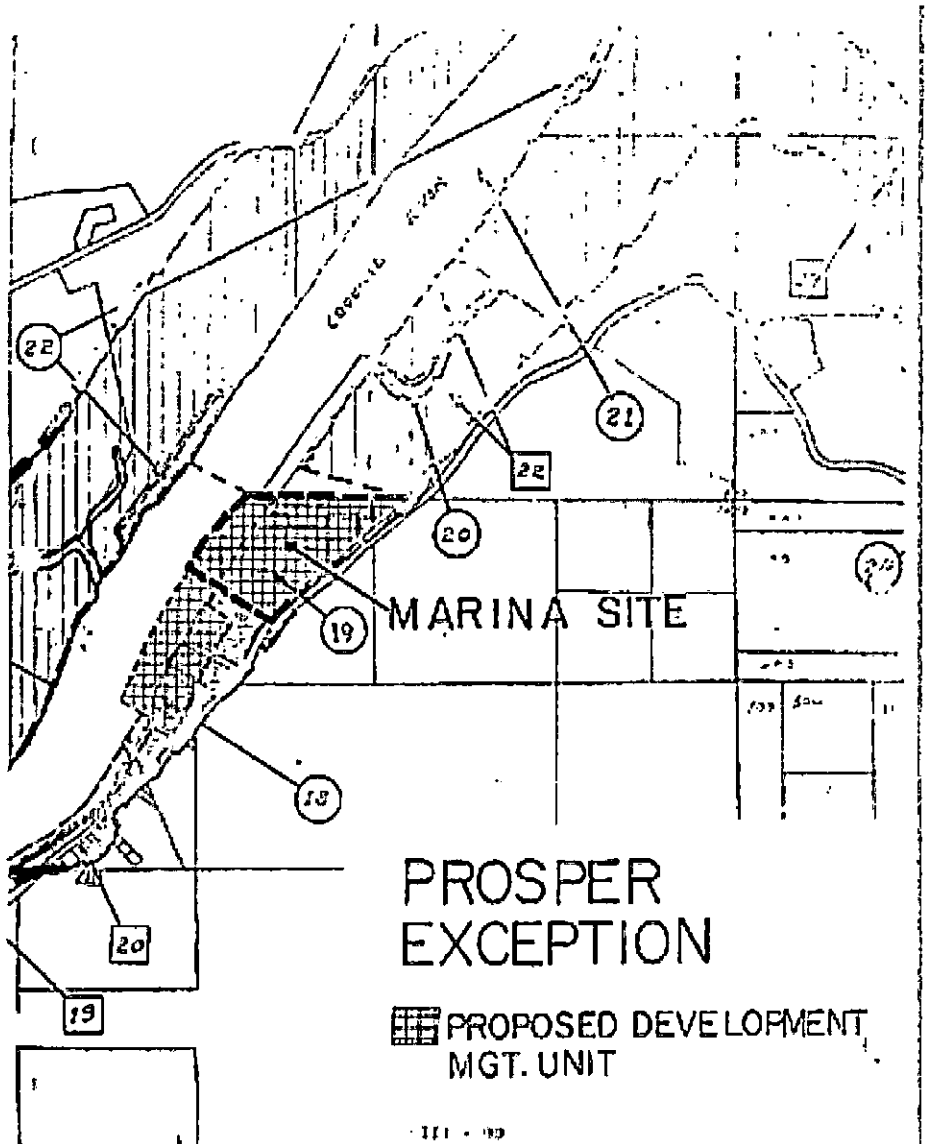
Public Facilities and Services:

The area is served by Bandon Rural Fire District for structural fire protection. There are no other public facilities or services in this area. The area north of the subject property is known as Prosper. Historically, it was a more robust industrial area (canning facilities and a sawmill). Prosper appears never to have had a public water or sewer system.

Over the past forty years, the areas west, south, and east of the subject property have been developed into rural residential-zoned homesites. These home sites are served by on-site water and septic systems.

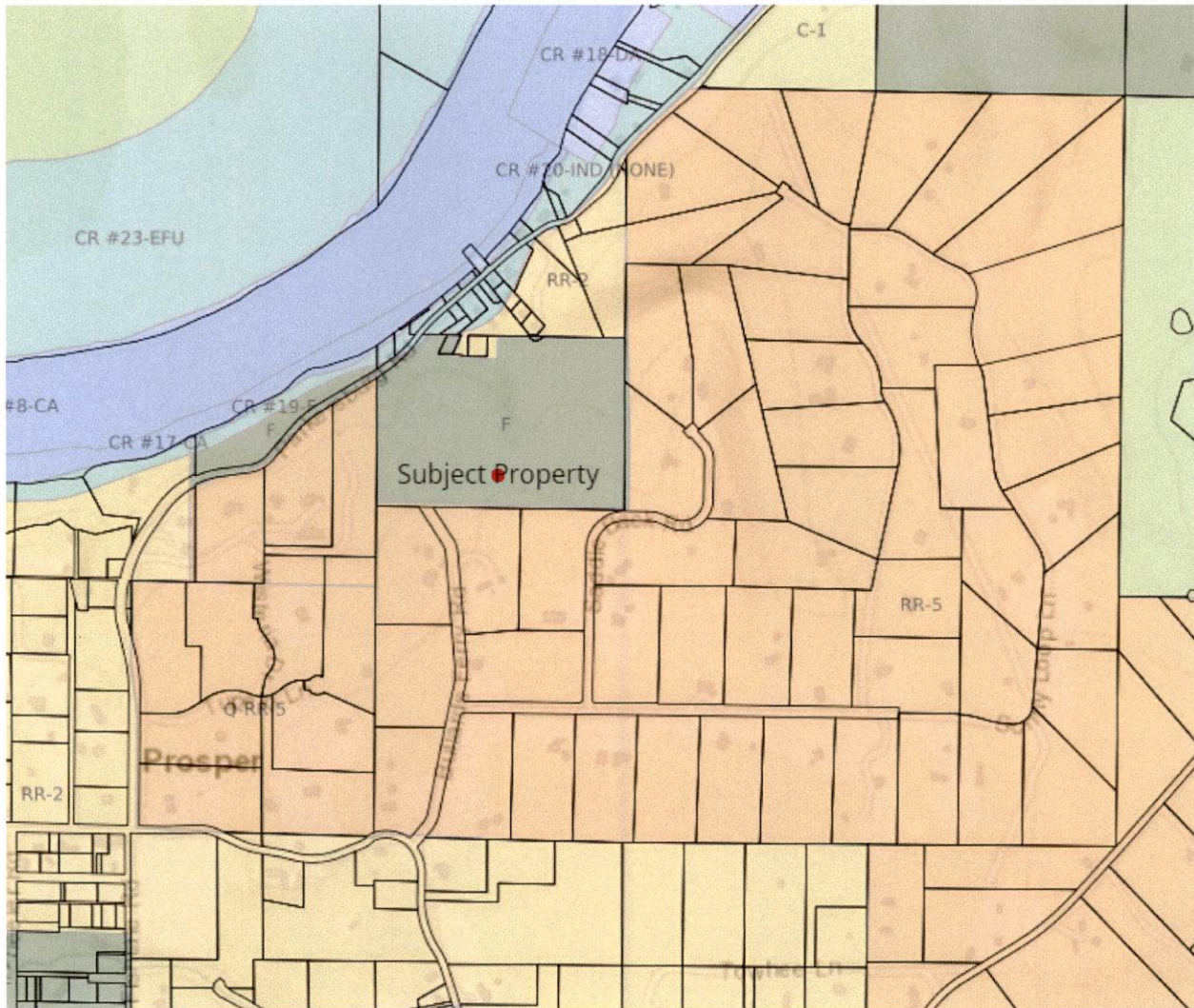
There is also an exception area located approximately 2000 feet northeast of the subject property. The exception is for the development of a marina. The concept was to establish a marina complete with moorage, docks, lodging, and all necessary facilities to support recreational activities in that area. The justification for the zoning was completed through a committed exception. Below is the text and a map that was adopted for the exception:

The proposed marina is intended to provide live-aboard moorage for yachts and other recreational craft. This service, together with the boat repair, yacht club, and lodge, will draw boatowners from a wide area specifically to visit Prosper. As a related note, the Overall Economic Development Plan (OEDP) specifically pointed out that there is insufficient existing moorage, launch, and parking facilities to satisfy projected recreational boating. Thus, the proposed uses will be a destination center for the marina users. Beyond satisfying the needs of the marina users, the lodge is intended to be large enough to provide a facility to attract other visitors (including large groups) to stay longer than the current average 1.6 days.



Parcel Size and Ownership Patterns of the Exception Area and Adjacent Lands:

Below is a zoning and parcel map from the County's coastal atlas.



Most of the parcels west, south, and east of the subject property are zoned Rural Residential-5. As described above, many of these areas have been rezoned from Forest to Rural Residential lands. As such, most of these areas have been subdivided into approximately 5-to-6-acre parcels in size. Based on available aerial imagery and county addressing data, most of these parcels have been developed as residential dwellings.

The area immediately north of the subject property is known as the historical area of Prosper. Prosper once had local industrial uses, such as canneries and a sawmill operation. These businesses have been closed for a long time. The applicant estimates these uses have been closed since at least the 1990's. This area is zoned for either Rural Residential-2 or is zoned under the Coquille River Estuary Management Plan (CREMP). Based on Assessor records, most of the RR-2 parcels are less than 2 acres and are considered non-conforming lots.

There is one additional Forest zoned property west of the subject property. This parcel is 4.82 acres in size and split-zoned between Forest and CREMP. The applicant estimates the Forest zoned portion is approximately 3 acres in size. This undeveloped tax lot is under the same ownership as an adjacent RR-2 tax lot with an established dwelling. These tax lots are located north of Parkersburg Road and south of the Coquille River.

Neighborhood and Regional Characteristics:

The subject property is located approximately 2 miles northeast of the City of Bandon. Based on a review of applicable LUBA opinions and, more importantly, the Coos County Comprehensive Plan, there is no specific formula for determining the extent of the neighborhood.

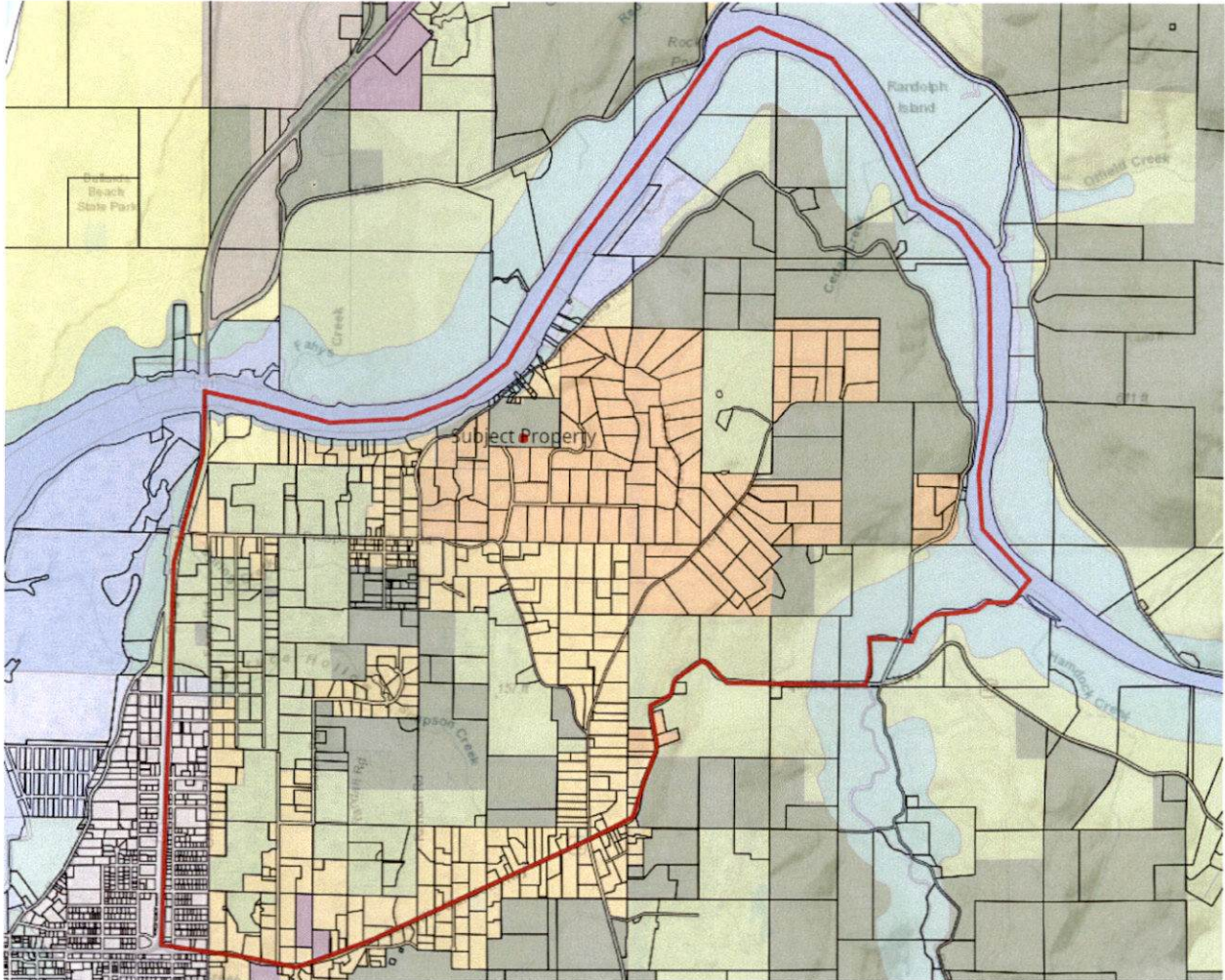
While there are LUBA cases that do specific distances, 1 mile radius in case *Scott v Crook County*, 56 OR LUBA 691 or 2000 feet in *Gordon v. Polk County*, 54 OR LUBA 351. Neither of these cases resulted in a fixed distance or specific formula for defining the neighborhood.

***Gordon v Polk County* was remanded back to the County because LUBA found the County's findings did not adequately address adjacent lands but more of a 2000-foot buffer around that subject property. LUBA appeared to have found that the County based its findings on distant lands elsewhere in the "vicinity". Basically, the County did not address the immediately adjacent lands, which are assumed to be resource lands, but instead used an average of the uses of lands within the 2000 feet buffer.**

***Scott v Crook County* is one of the few, if not the only, LUBA reviews that address "Neighbor and Regional Characteristics" as part of the opinion. In this case, the applicant chose to use a one-mile buffer to define the neighborhood. The County found that the dominant use within the one-mile buffer was rural residential, not agricultural in nature. The appellant seemed to argue this review area was limited. No evidence was provided to justify why the neighborhood area was too small. LUBA found that the County decision was justified. That does not necessarily mean a 1-mile buffer defines the neighborhood. This means it is the County's decision to define a neighborhood for analysis. Again, the criteria for irrevocable committed lands are the effect of 'adjacent' lands on the subject property, not the neighborhood boundary.**

It is also noteworthy to mention again that there are two irrevocably committed exception areas that directly touch the subject property and a third adjacent irrevocably committed exception area next to the subject property. The previous application findings generalize the neighborhood as Parkersburg/Proper roads.

Taking the adopted findings (the maps, the Planning Commission minutes, the text descriptions) from these three different applications. The applicant proposes the neighborhood review area is north of Highway 42 Spur to Bear Creek, then north downstream to the Coquille River, then west downstream to Bullards Bridge, then south down Highway 101 back to the junction with Hwy 101 and 42S. The review area is outlined in red.

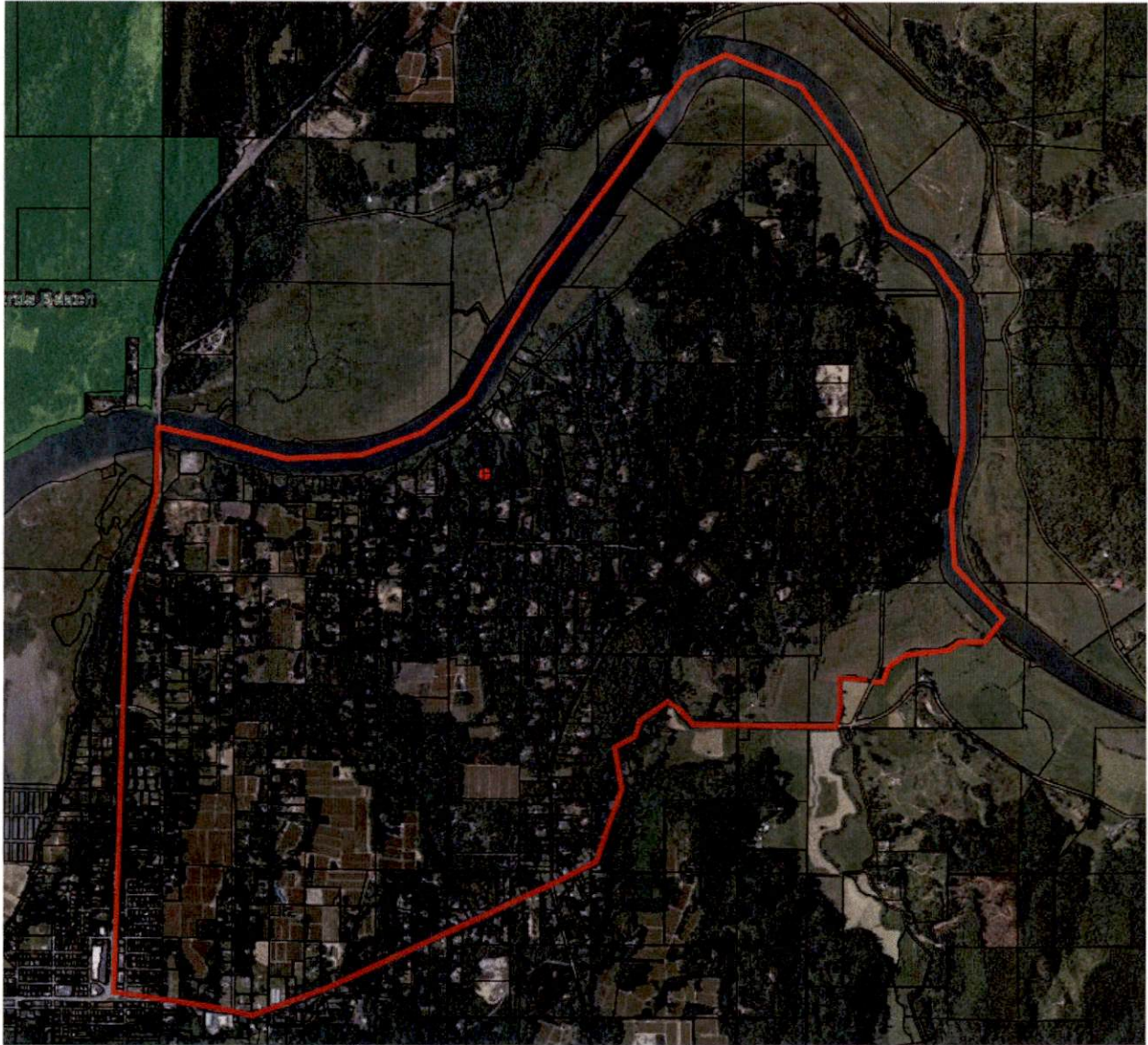


Most citizens familiar with the Bandon area would define this as the Prosper/Parkersburg area of Bandon. The vast majority of this area is predominately zoned for Rural Residential, Forest, and Exclusive Farm Use. Along the Coquille River is the Coquille River Estuary Management Plan. There are a few places with isolated zoning districts, such as Commercial, Qualified Recreation, and Industrial zoning.

Most of the existing land uses are closely aligned with the underlying zoning districts. There are predominantly four major land uses within this neighborhood. These would be rural residential homesites with less than 10 acres, cranberry farming, which is an agricultural use, lands under rotation of either livestock ranching or hay production, which is an agricultural use, and non-industrial (less than 5000 acres of ownership) woodlands owners.

The above zoning map identified rural residential lands as dark tan (RR-5) and light tan (RR-2). These lands are mostly located along Bates Road, Highway 42S, Proper Junction Road, Tom Smith Road, and near Prosper along Parkersburg Road. According to Coos County Assessor's records, most parcels have developed with single-family dwellings. The

majority of the dwellings flow into Prosper Junction Road, which is basically a loop that connects Hwy 42S to Hwy 101. Bates Road directly connects to Hwy 42S.



The next land use is cranberry farming, which is considered high-value farmland under ORS 215.710. Cranberries are one of four fruits that are truly native to North America. A limited area is suitable for growing cranberries in Oregon. The region of practical suitability for growing climate is a narrow strip from the north Bandon area down south to the northern Port Orford area. National crop yields vary each year, but Oregon production is generally agreed to be around 10% of national cranberry production.

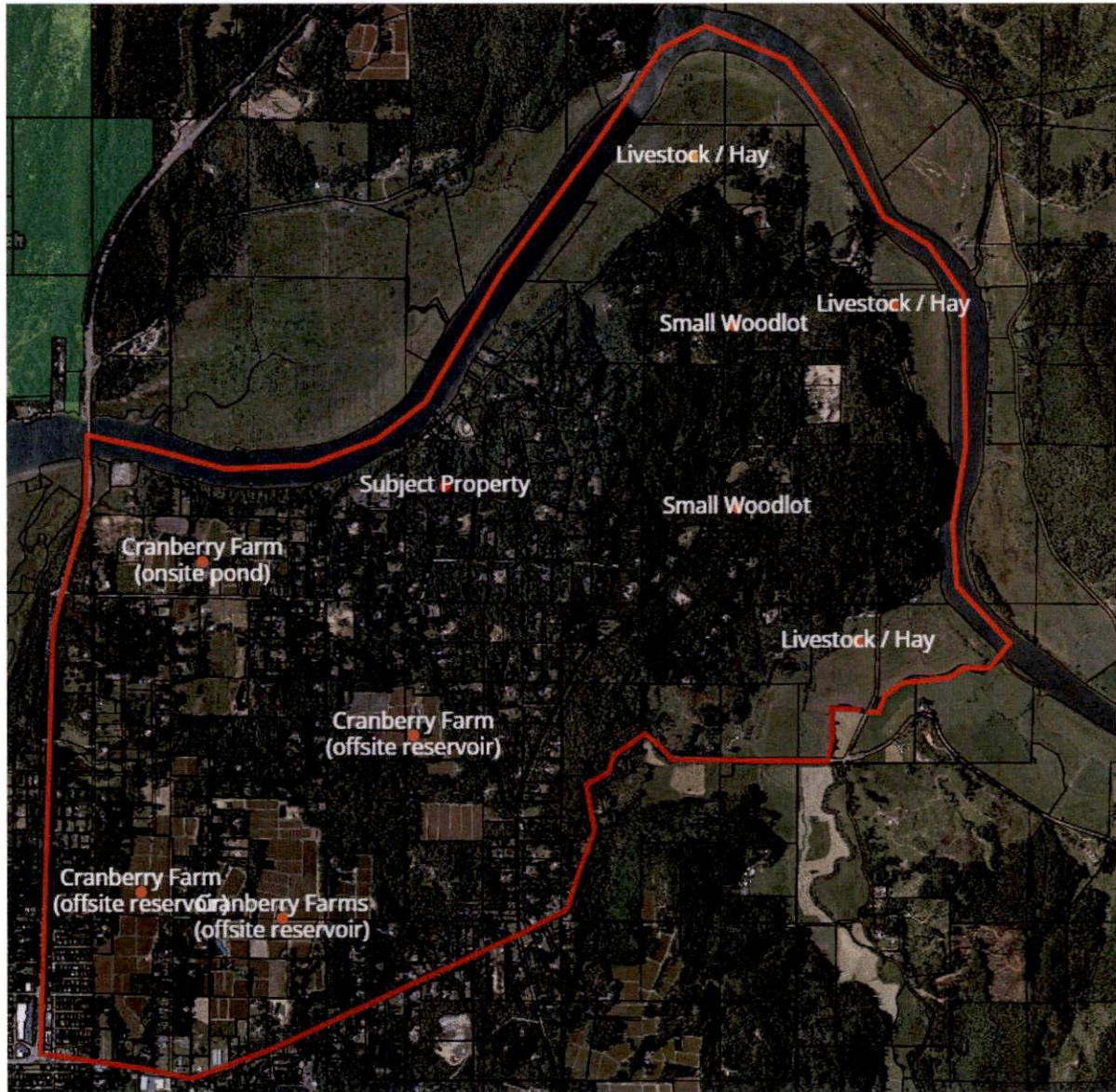
There are major misconceptions about cranberry growing. Cranberry growers call their fields “cranberry bogs”. People typically assume “bogs” are like flooded wetlands year-round. However, the opposite is true. Cranberries are grown in sandy soil, and sand is naturally well-drained. The other misconception is that cranberry bogs are flooded year-round. Cranberries are only flooded for a few days to a year to wet harvest. Wet

In the past, other cranberry farms were located north of the reservoir off Prosper Junction Road that also utilized water from the reservoir. Based on reviewing aerial imagery, cranberry production has ceased on these parcels for approximately a decade, and the control district has reallocated the water rights. While water is essential for growing cranberries, the reservoir water rights have been reallocated. It is logical to assume these lands could try to get onsite water rights using wells or creating diversion points directly off Simpson Creek.

Two active cranberry farms (17C-1400 & 17C-2101/17DC900) are located on the north side of Prosper Junction Road. Based on reviewing Oregon Water Resource Department permits, these farms utilize on-site reservoirs for water storage.

There are a few other cranberry farms of note in the area. Both Gant and Red Harvest Farms have farms off of Bates Road on a rural residential property. Most of the other cranberry farms are located on lands zoned either Exclusive Farm Use or Forest with Mixed Use overlay.

The third major land use in the area is livestock grazing/hay production. Based on reviewing aerial imagery, most of the bottomlands next to the Coquille River are utilized for livestock grazing and/or hay production. For long term planning, these lands seem to be able to interchange between livestock grazing or non irrigated hay production.



These lands abut Parkersburg Road, which connects Hwy 42S to Propser Junction Road. Based on the topographic map, it is logical to assume that ranchers would haul their livestock toward Hwy 42S over Prosper Junction Road. Accessing from Propser Junction Road is improbable since the ranchers would be hauling livestock or hay production towards Bandon through heavily trafficked rural residential neighborhoods instead of a low-use intensity road. This would allow ranchers to connect to a State highway directly. Hwy 42S has a mixture of residential, commercial, and natural resource-dependent traffic.

The fourth major land use would be non-industrial small woodland lots. Based on reviewing aerial imagery and Assessor plat maps. There are two dominant areas where forested parcels are suitable for commercial harvesting. The first is the upper reaches of Simpson Creek drainage. The applicant estimates there are only 100 to 150 acres of suitable stands. These parcels directly access private easements onto Hwy 42S. Reviewing aerial imagery, this area has approximately 500 to 700 acres of suitable stands. The second

area would be the northern portion of Tom Smith Road. This area would logically harvest mostly down Tom Smith Road, onto Prosper Junction Road, to access Hwy 42S. It is important to note that most Tom Smith Road and Prosper Junction Road are already developed with rural residential dwellings.

Natural Boundaries or Other Buffers Separating the Exception Area from Adjacent Resource Land:

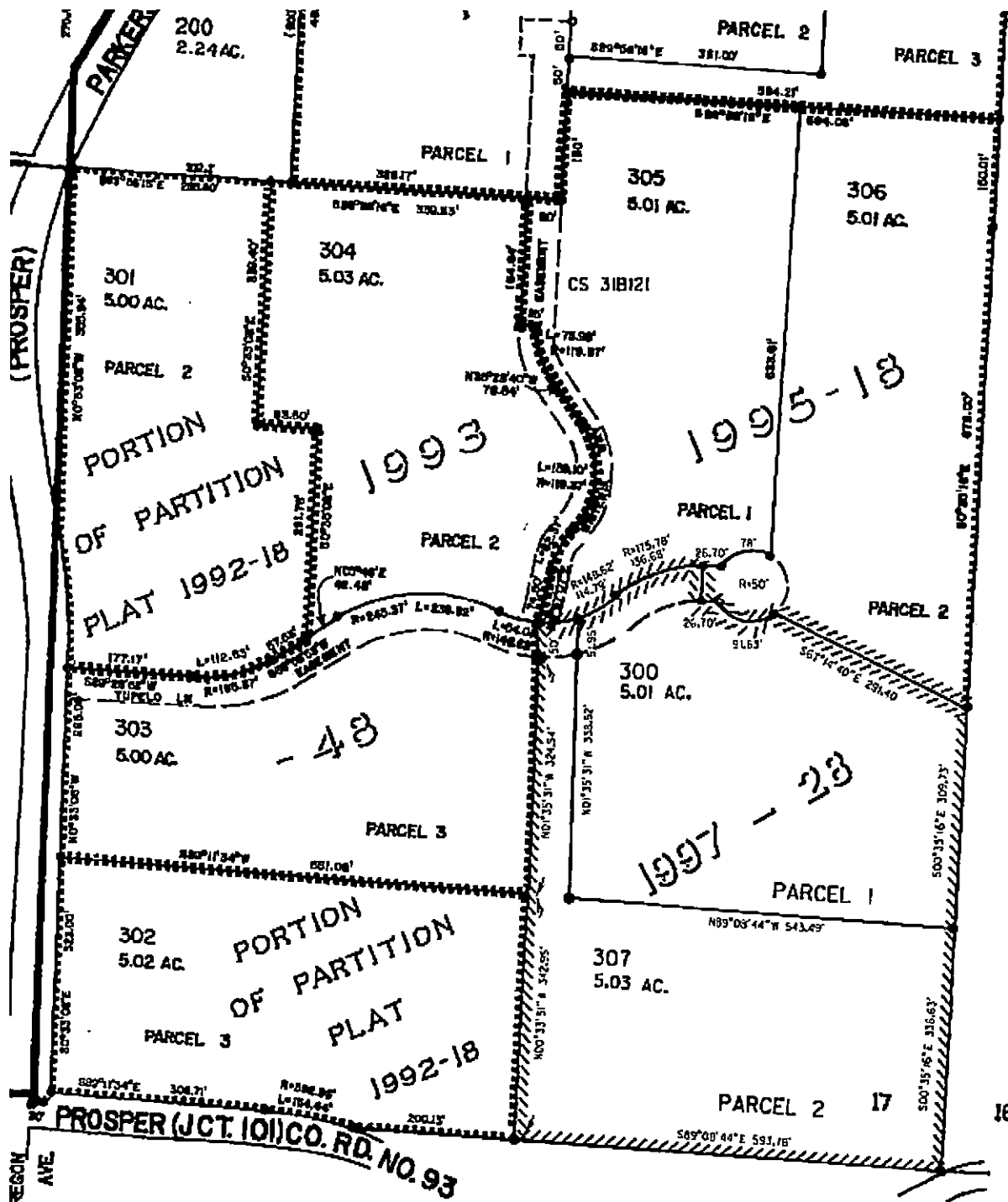
There are practically no resource use on the adjacent lands. A small 4.82 parcel is located immediately west of the subject property with Parkersburg Road separating the subject property and this parcel. This parcel is a narrow strip between Parkersburg Road and Coquille River approximately 100 feet in places, that could result in a couple of acres being legally available for harvesting. However, it is important to note that this would be a complex harvest since it abuts a residential neighborhood road and major rivers-protected riparian buffers.

Physical Development According to OAR 660-04-025: and

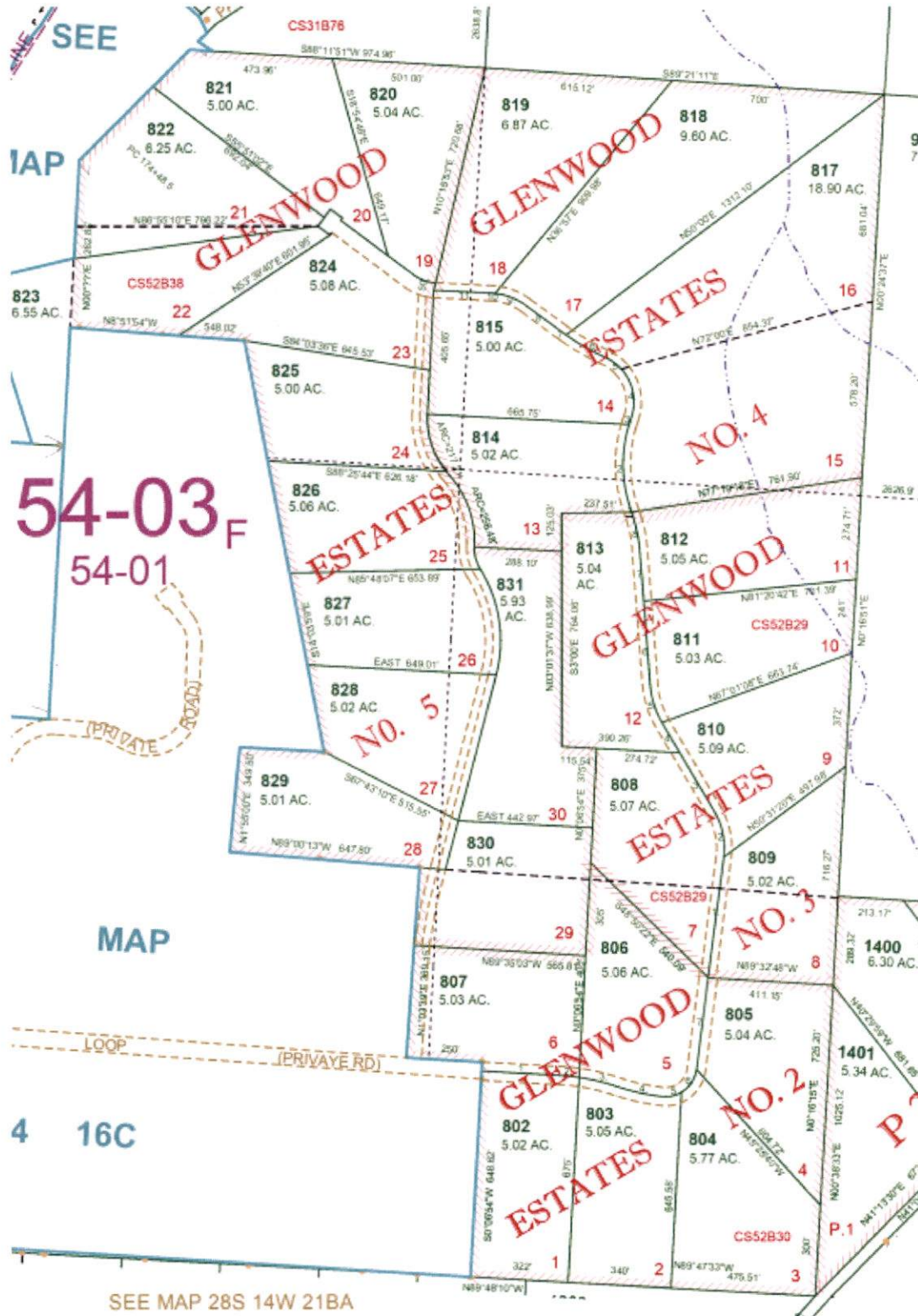
The subject property has no physical development as outlined in OAR 660-004-0025(2). These criteria are relevant if the application would be for a physically developed exception.

Other Relevant Factors.

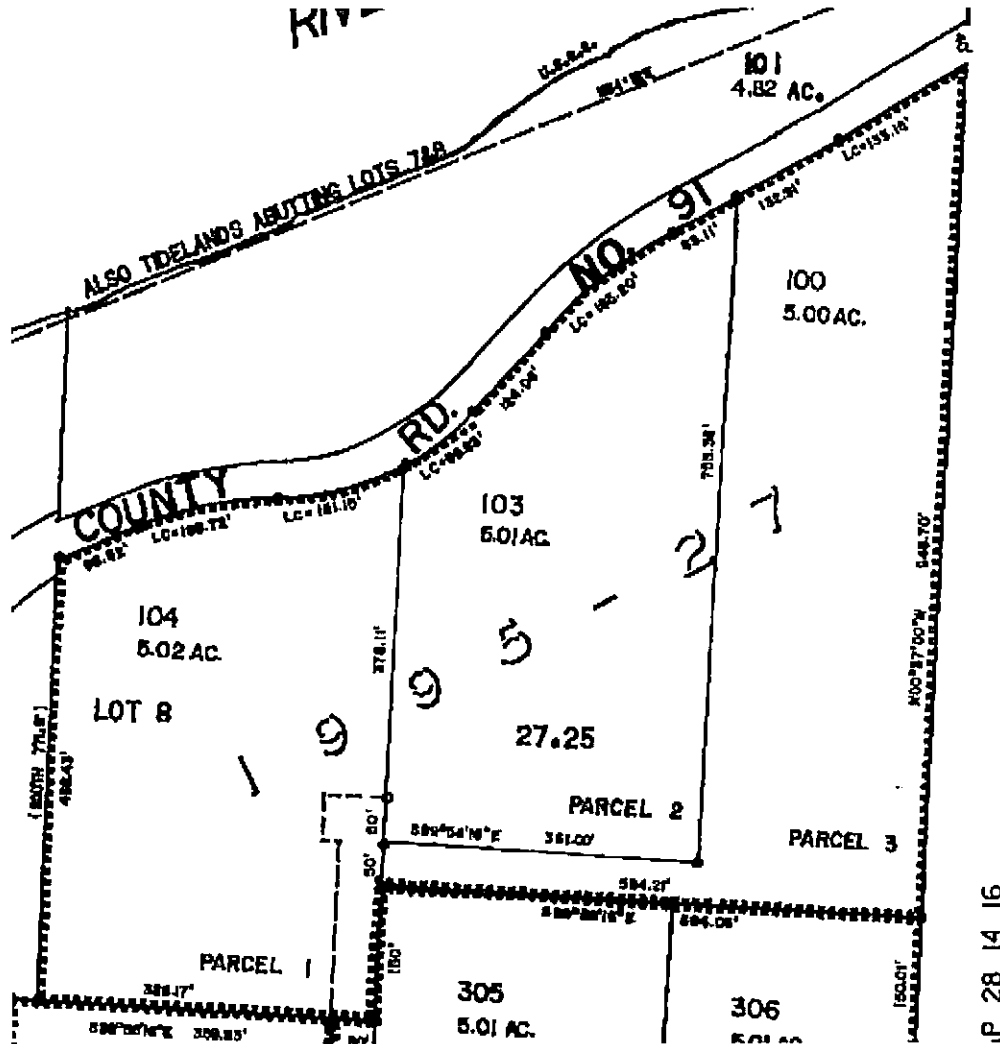
The most relevant other factor is that three others have irrevocably committed Forest to Rural Residential rezones adjacent to the subject property. The first rezone, identified on the map above as number 5, resulted in eight (8) parcels, approximately 5 acres in size.



SEE MAP 28 14 16



The third rezone, identified on the map above as number 7, resulted in three (3) parcels, the majority of which were approximately 5 acres in size.



(3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:

- (a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and
- (b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide goal.

Applicant Response: This relates to implementing the County's land use process. Coos County has addressed the requirements for implementation through Chapter 5 in the Coos County Zoning and Land Development Ordinance. The applicant acknowledges there will be a minimum of two public hearings regarding this application.

(4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or

properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Applicant Response: This relates to implementing the County's land use process. Coos County has addressed the requirements for implementation through Chapter 5 in the Coos County Zoning and Land Use Development Ordinance. The County's procedures for the hearing process dictate the process.

OAR 660-004-0005

Definitions

For the purpose of this division, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition, the following definitions shall apply:

(1) An "Exception" is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with ORS 197.732(2), the provisions of this division and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.

(2) "Resource Land" is land subject to one or more of the statewide goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d).

(3) "Nonresource Land" is land not subject to any of the statewide goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). Nothing in these definitions is meant to imply that other goals, particularly Goal 5, do not apply to nonresource land.

Applicant Response: This relates to implementing the County's land use process. Coos County has addressed the requirements for implementation through Chapter 5 in the Coos County Zoning and Land Use Development Ordinance. The County's procedures for the hearing process dictate the process.

OAR 660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals that prescribe or restrict certain uses of resource land, restrict urban uses on rural land, or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:

(a) Goal 3 "Agricultural Lands": however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses allowed in an exclusive farm use (EFU) zone under ORS chapter 215 and OAR chapter 660, division 33, "Agricultural Lands", except as provided under OAR 660-004-0022 regarding a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Goal 4 "Forest Lands": however, an exception to Goal 4 "Forest Lands" is not required for any of the forest or nonforest uses allowed in a forest or mixed farm/forest zone under OAR chapter 660, division 6, "Forest Lands";

(c) Goal 11 "Public Facilities and Services" as provided in OAR 660-011-0060(9);

(d) Goal 14 "Urbanization" as provided for in the applicable paragraph (1)(c)(A), (B), (C) or (D) of this rule:

(A) An exception is not required for the establishment of an urban growth boundary around or including portions of an incorporated city;

(B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one that has been acknowledged under ORS 197.251, 197.625 or 197.626. Findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas that do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

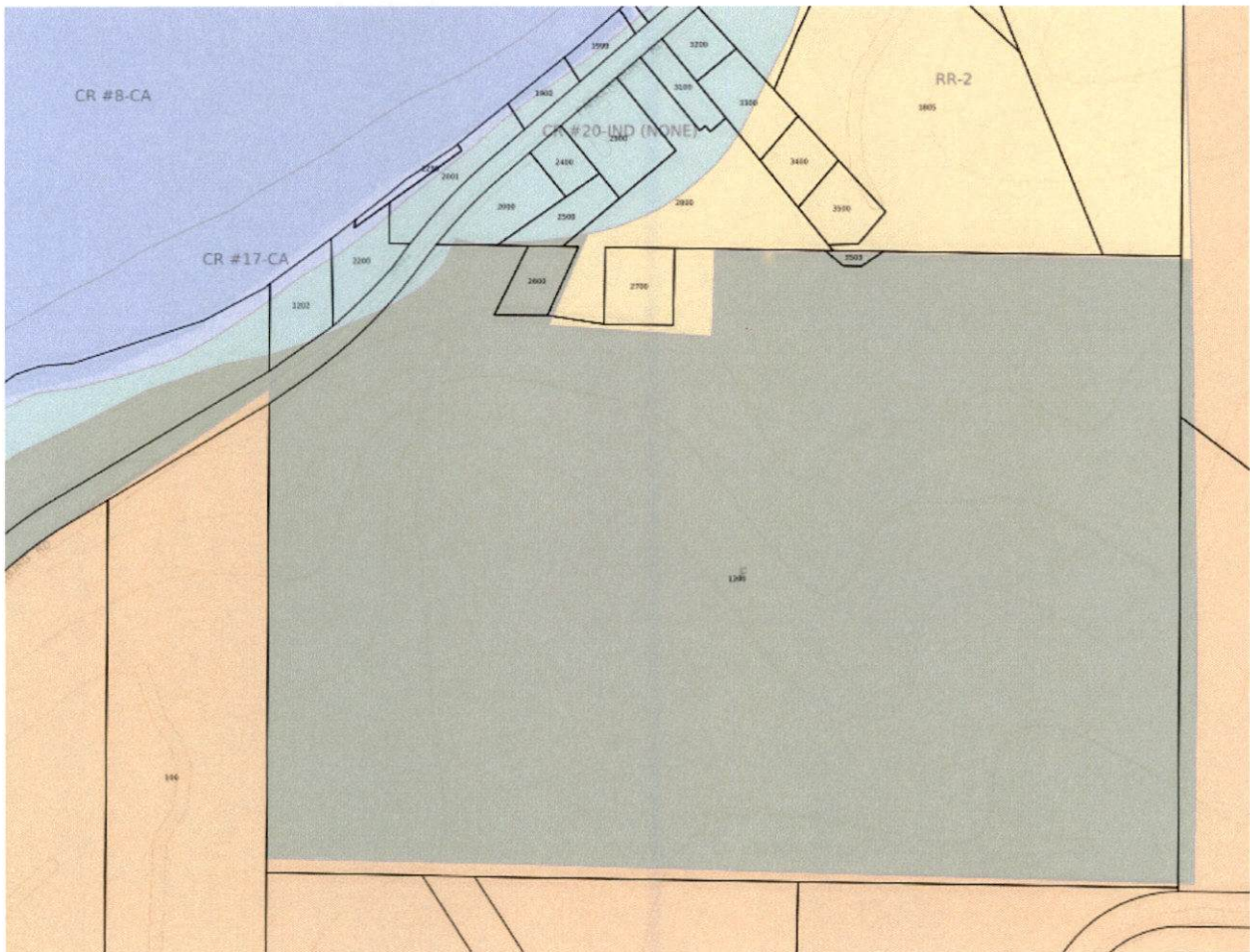
(C) When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals;

(D) For an exception to Goal 14 to allow urban development on rural lands, a local government must follow the applicable requirements of OAR 660-014-0030 or 660-014-0040, in conjunction with applicable requirements of this division;

Applicant Response: Please see the detailed responses above OAR 660-004-0000 (2) and 660-004-0028 (3).

(e) Goal 16 "Estuarine Resources";

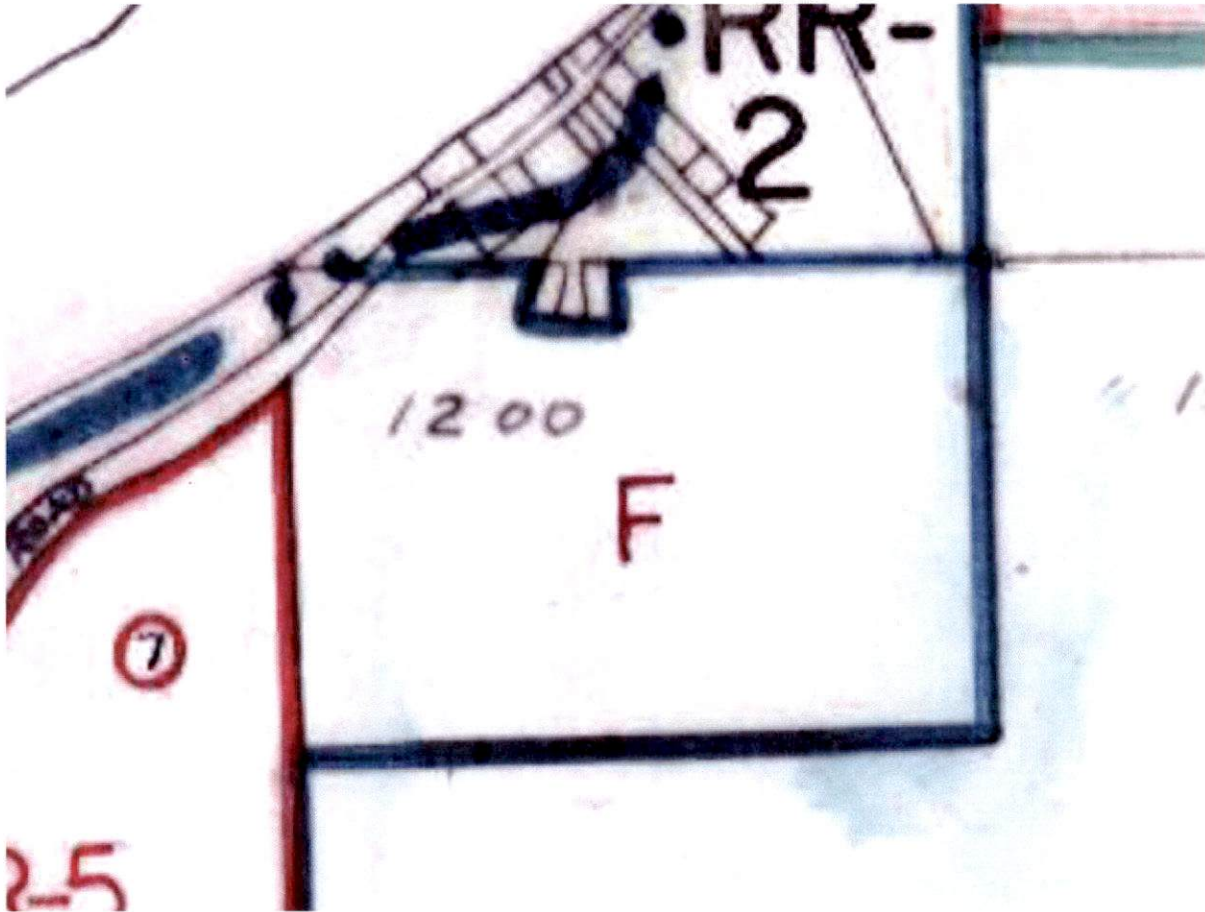
Applicant Response: Goal 16 estuarine resources are identified in Coos County in the Coos Bay Estuary Management Plan (CBEMP) and the Coquille River Estuary River Plan (CREMP). The subject property is located outside of Goal 16 areas as shown on the zoning map below.



(f) Goal 17 "Coastal Shorelands"; and

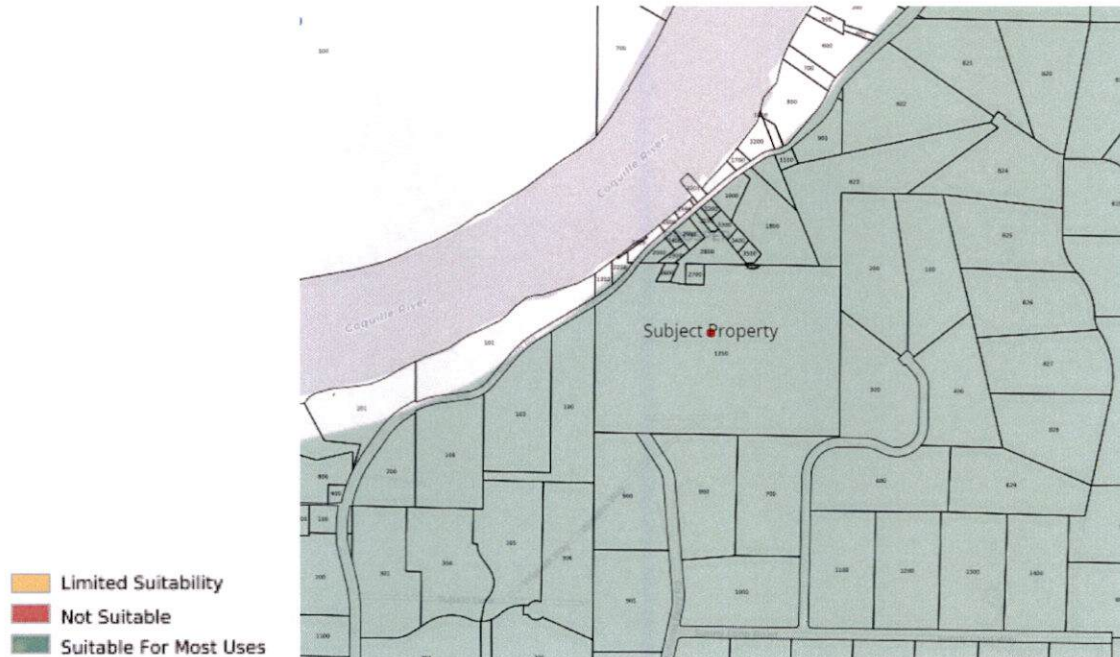
Applicant Response: The Coastal Shorelands are mapped out in two separate places in the Coos County Comprehensive Plan maps. One is located in Coastal Shoreland Inventory maps. The subject property is located in Township 28S, Range 14W. The nearest Coastal Shoreland Inventory maps are located in Township 28S, Range 15W.

The second is the outer boundary of the estuary management plans, the Coastal Shorelands Boundary. Below is a map of the zoning for the subject property, showing that it is covered by Forest zoning.



(g) Goal 18 "Beaches and Dunes."

Applicant Response: The subject property is mapped within the County's Goal 18 Beaches and Dunes area. The County has mapped the subject property and the adjacent area as 'Suitable for Most Uses'. A comprehensive plan amendment and rezone from Forest to Rural Residential will not affect the Goal 18 special development considerations zone.



(2) The exceptions process is generally not applicable to those statewide goals that provide general planning guidance or that include their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:

- (a) Goal 5 "Natural Resources, Scenic and Historic Areas, and Open Spaces";
- (b) Goal 6 "Air, Water, and Land Resources Quality";
- (c) Goal 7 "Areas Subject to Natural Hazards";
- (d) Goal 8 "Recreational Needs";
- (e) Goal 9 "Economic Development";
- (f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";
- (g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";
- (h) Goal 13 "Energy Conservation";
- (i) Goal 15 "Willamette River Greenway" except as provided for in OAR 660-004-0022(6); and
- (j) Goal 19 "Ocean Resources."

Applicant Response: The request is for a comprehensive plan amendment and rezone from Forest to Rural Residential zoning. While this is a State statute referenced above, the application must fit the practicality of Coos County land use planning and process. In Coos County, most of these specific goals are addressed through special development considerations and overlay zones. For example, based on the Coos County Planning Department pre-application report, there is a Tsunami natural hazard zone, a special development consideration, and a Floodplain, an overlay zone on the subject property. Approving the amendment and rezone will not remove these special considerations or overlay zones.

Some of these other goals, such as Goal 12 or Goal 13, are broader and are addressed as a more holistic overview of the plan. Goal 15 and Goal 19 are outside of the scope of the Coos County rezone process.

The request does not involve an exception for the needed housing type or particular price range described in OAR 660-008-0035.

(3) An exception to one goal or goal requirement does not ensure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

Applicant Response: The request is for exceptions to Goal 3, Goal 4, and Goal 14. The other goals are already in compliance or do not apply to the subject property.

INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.

(c) An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

Applicant Response: Please see the detailed responses above OAR 660-004-0000 (2).

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

(d) The other relevant factors set forth in OAR 660-004-0028(6).

Applicant Response: Please see the detailed responses above OAR 660-004-0000 (2).

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

Applicant Response (a): Farm use is defined as “the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof” by ORS 215.203.

The subject property is currently not utilized for farm use under this definition. While the definition of farm use is rather ambiguous. The applicant proposes a different way to view the practicality of future farm use on the subject. The overall neighborhood has two primary income sourcing farm uses: cranberry farming and livestock grazing/hay production which are addressed below. Due to the topography and access to the site, a small garden or the keeping of bees or poultry would be the only conducive farming uses for the site- neither of which generate an income that can support a family.

Cranberry Farming:

Reviewing the steps of cranberry farming is needed to analyze the practicality of the subject property’s ability to grow cranberries. Cranberries are grown in a well-drained, sandy, artificial bed called a cranberry bog. Scatter adjacent homesite development typically has little impact on the growth of cranberries. The majority of cranberry farmers live on-site at their farming operations. Modern commercial cranberry growing has little direct correlation with adjacent lands other than water rights and during crop

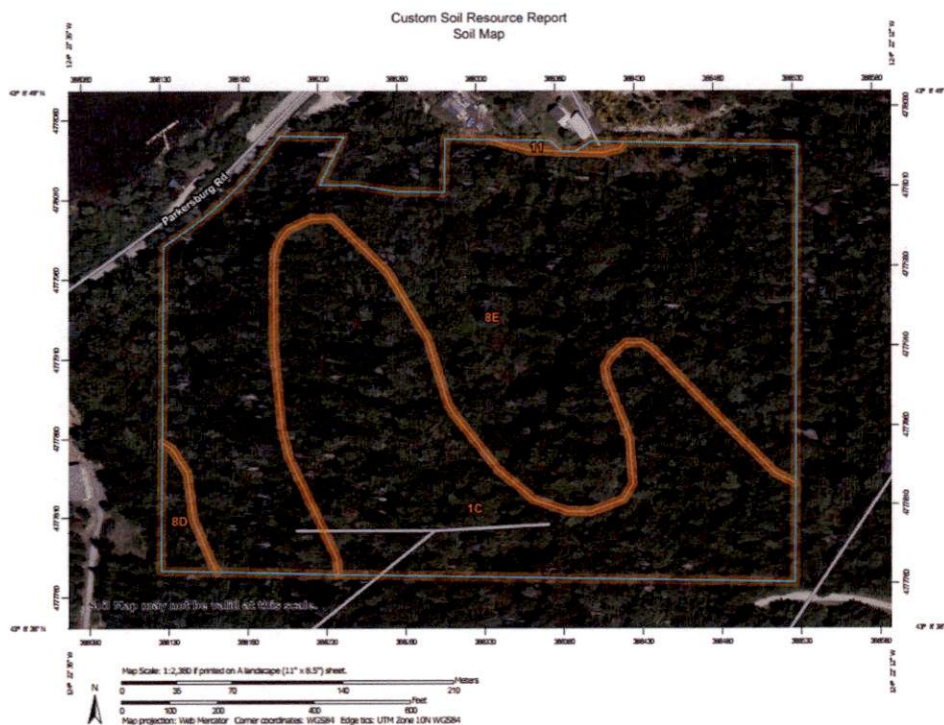
transportation. Additional information below supports the response that cranberry growing is not practical on the subject property.

1. Building & establishment
2. Growing
3. Harvesting
4. Pruning

1) To build cranberry bogs, the land is cleared and shaped. While cranberry growing is an agricultural activity, creating bogs in the Bandon area typically resembles large-scale commercial and residential developments compared to traditional clearing for ranching activities. This requires a sizable heavy machine clearing land, burning slash, and then shaping the bogs to a relatively level surface with drainage ditches. Slash burning only happens when the bogs are created and have the same effects on nearby dwellings as forest slash burning. The shaping of the beds does make dust, as does any land-clearing activities.

There is an ideal slope pitch and sandy soil depth that farmers must construct the fields for wet harvesting and growing. However, cranberries require a certain set of soils onsite to be practical for cranberry farming. Coos County has recognized this so much that it has adopted into its definition of “*High-Value Farmland*” to include soils “*2C, 5A, 5B, 33, 17B, 25 and 36C*” for cranberry growing.

Below is a custom NRCS soil map of the subject parcel. Note that the cranberry-growing soils are not present on the subject property.

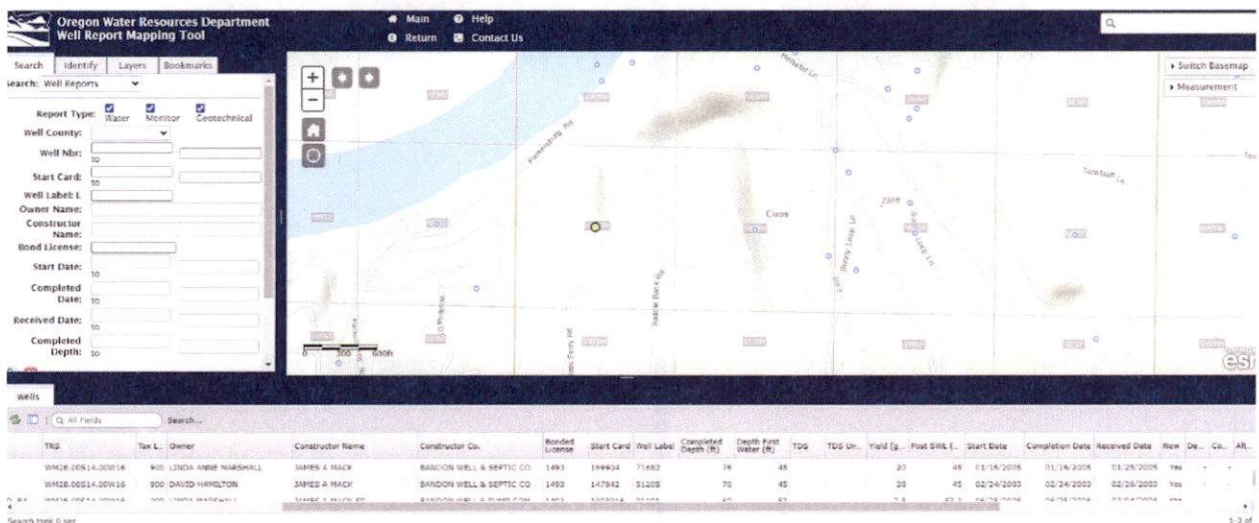


2) Cranberry growing is like any other typical farming operation, where the growers work daily throughout the year. Cranberries are unlike traditional row crops in terms of size and type of equipment. Cranberries are grown in 1 to 3-acre cranberry bogs. Once the land is cleared, the cranberry growers typically use various small equipment for fertilizing and harvesting. Most cranberry equipment is no larger than a small tractor. Cranberries are an irrigated crop, and thus fertilizers & chemicals are either applied through the irrigation system or small custom-powered equipment smaller than a standard-size truck. Like all other crops grown for human consumption, the use of chemicals is highly regulated by the Federal and State authorities. There is little potential for agricultural pesticide drift off of the farm when growing cranberries. There are no helicopter spraying applications involved in the growing of cranberries. The effects of growing cranberries on adjacent lands are minimal.

As described above, Cranberries require irrigation for growing and typically wet harvesting. While not adopted in the Coos County Comprehensive Plan, the County did rely on information present with AM-91-10/RZ-91-05 from the Oregon Cranberry Farmers Alliance Water Committee. The Alliance’s letter indicated that one acre of cranberry bogs requires 12000 gallons of daily water.

The Coos County Comprehensive Plan identifies cranberry farms as 7-10 acres in size. This is a fairly old assumption; modern cranberry farms are much larger. Given the proximity to the saltwater portion of the Coquille River, the water will need to come from a well.

There are three known wells in the 1/16 section, according to the Oregon Water Resource Department’s Well Report Mapping Tool as shown below. Two wells produce 20 gallons per minute, and another produces 7.5 gallons per minute. This is an average of 15 gallons per minute, or 900 per hour, or 21,600 gallons per day. This barely irrigates two acres of cranberry fields. A secondary concern is that this might also dry up the wells in a residential neighborhood.



**OREGON CRANBERRY FARMERS'
ALLIANCE**

POST OFFICE 1737 • Bandon, OREGON 97411

November 3, 1991

Coos County Board of Commissioners
Coos County Courthouse
Couquille Oregon 97423

Re: Planning Department File Numbers AM 91-10/RZ-Lave
AM 91-11/RZ-Winn

Dear Board of Commissioners;

As you know, the Oregon Cranberry Farmers Alliance is very concerned about any planning action which impacts on cranberry farming in a negative manner. Land that is appropriate for cranberry production, should ideally be used for cranberry production.

We are quite familiar with the two subject parcels (Lave and Winn) and can state that both parcels are inappropriate for cranberry production for the same reasons;

1. Both parcels are without water necessary for cranberry use. In the case of the Lave application, both Spring Creek and Simpson Creek are closed to further water allocations and the parcel is surrounded by rural residential land. In the case of the Winn application, the available water is already allocated and used, and the parcel has two residential dwellings already sited, with adjacent lands physically developed for residential use.
2. The average residential dwelling uses 400 gallons of water per day. Water use for cranberry production is allowed 12,000 gallons per day per acre. The Lave application proposes to use approximately 2800 gallons of water per day (7 dwellings) as compared to 12,000 gallons per day for one acre of cranberry use. The Lave parcel is appropriate for rural residential use.
The Winn application proposes an additional use of 800 gallons of water per day compared to 12,000 gallons of water per day per acre of cranberry use. The Winn parcel is appropriate for rural residential use.

We are confident that neither application for rezone to RR-5 will negatively impact on cranberry production and farm management practices of our growers.

Sincerely,



Barry K. Winters
Chairman
Oregon Cranberry Farmers Alliance Water Committee
P O Box 1737
Bandon Oregon 97411

3) There are two ways to harvest cranberries: dry harvesting or wet harvesting. Dry harvesting involves pushing a custom machine that resembles a push lawn mower through the cranberry bogs. The berries are collected in burlap sacks. This extremely labor-intensive method is rarely used on cranberry farms on a large scale anymore. The neighboring cranberry farms are harvested using the wet-picking method. This method involves flooding the fields and using custom-built picking equipment called 'beaters.' These machines are typically no larger than a half-ton pickup. The berries are then corralled using booms and brought into a portion of the bog to be loaded. The berries are loaded into 14 – 20 ft flatbed trucks using cranberry elevators. Loading trucks is reasonably quick and takes longer than a typical wait time for road construction projects. The trucks then take the berries to central cleaning facilities. At least five of these facilities are located throughout the Bandon area and northern Curry County. Like most other crops, these facilitate competition on prices each year. Other than the fact that wet harvesting might dry the neighboring residential wells, there should not be much of an issue with harvesting.

4) The pruning of cranberry vines happens after the bogs are harvested, usually every year. The bogs essentially receive a light mowing of their vines. These excessive vines are typically burned. The vines have a high moisture content and thus produce a considerable amount of smoke compared to their volume. However, pruning only produces a relatively minor amount of volume. The vines also burn relatively quickly outside of fire season. So, pruning operations from adjacent residential developments will not be affected.

Therefore, the lack of available water rights and the lack of available sand will make the subject property impractical for growing cranberries.

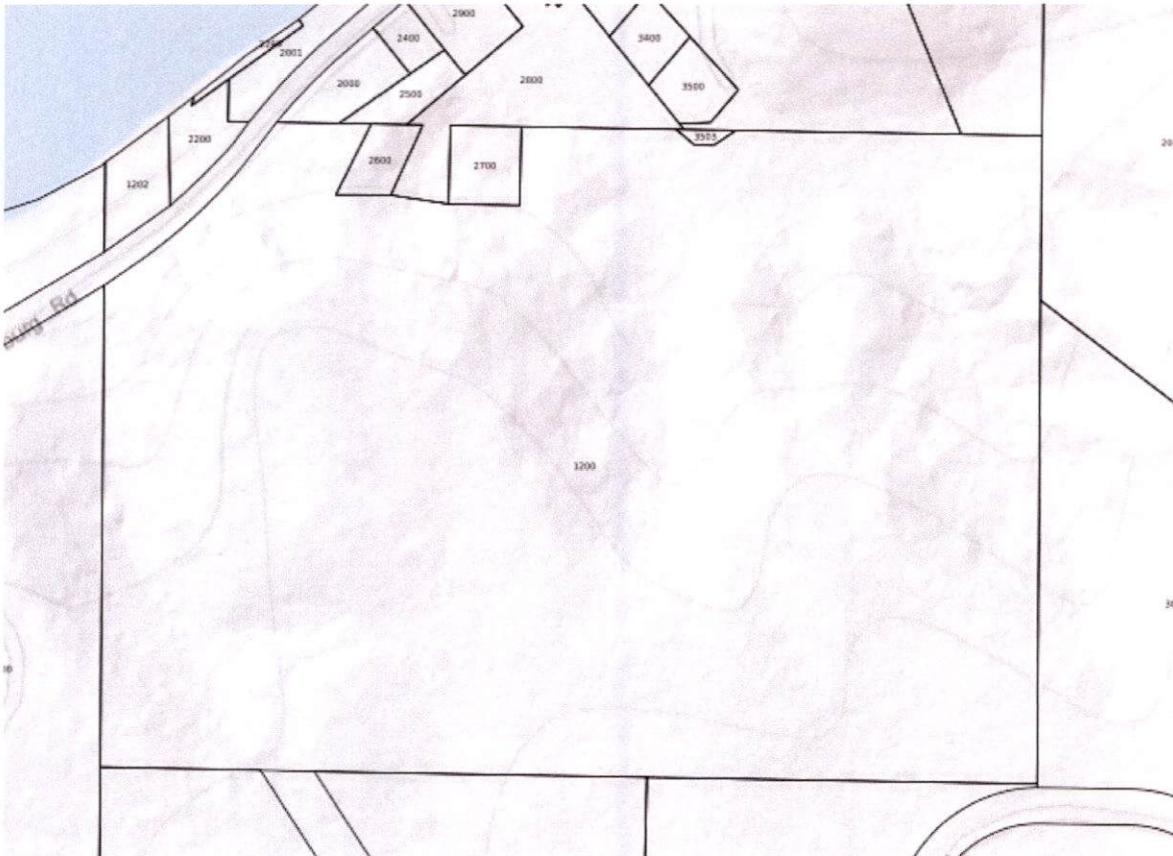
Livestock Grazing/Hay Production:

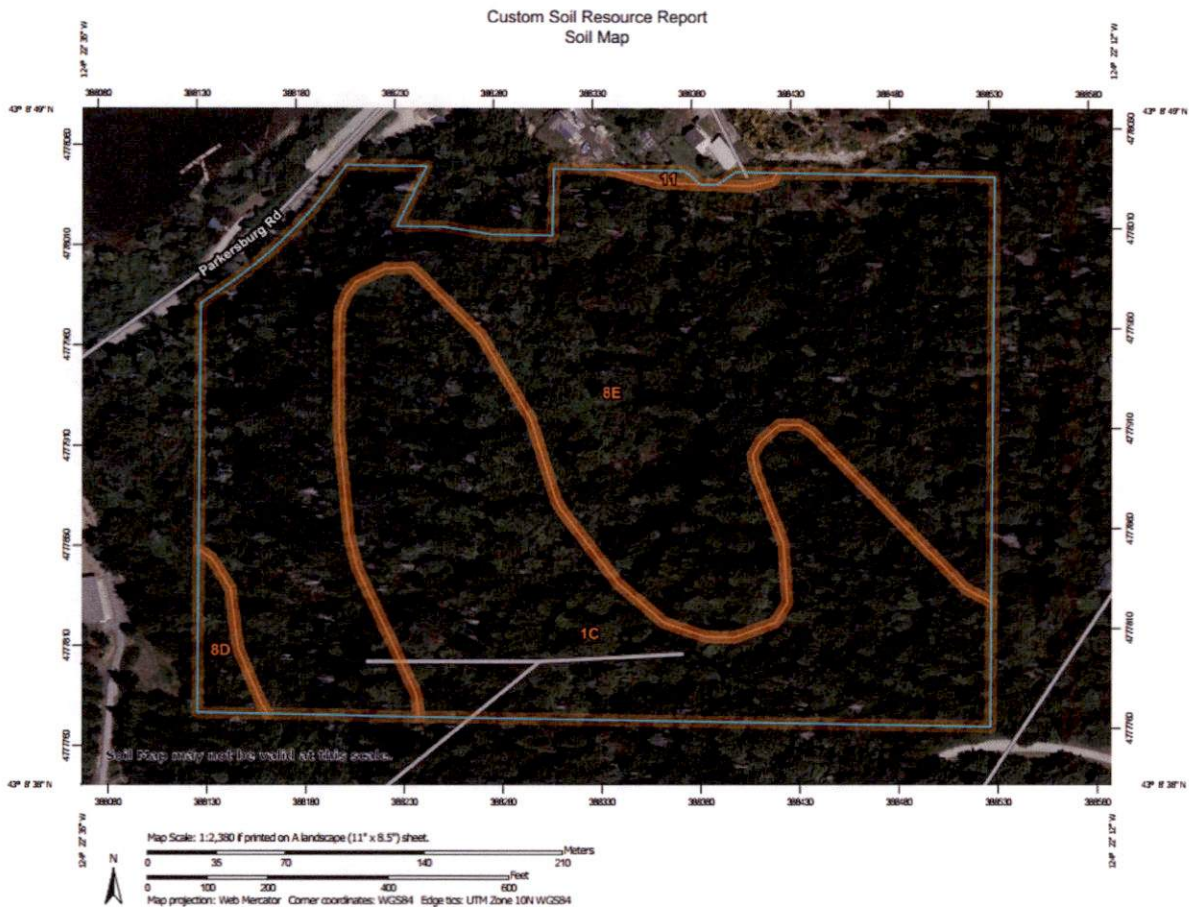
Most farms can switch between livestock grazing and hay production in the Coquille Valley. This is because most ground is relatively flat and has irrigation of some sort. There are two primary types of irrigation: pumped or natural/gravity-fed.

Based on reviewing the Oregon Water Resources Department's online Water Rights Mapping Tool. The livestock grazing farms used along the Coquille River are naturally irrigated, more than likely from subsurface irrigation.

The subject property is sitting on the uplands bench above the Coquille River. Getting the water from the Coquille River to flow upslope for natural irrigation is not physically practical. Additionally, the Coquille River is salt water in this area. So, the applicant could not just simply acquire easements and throw a pump in the river. Installing wells on the subject property for irrigation will result in the same issues as for cranberry farming described above.

The property has never appeared to have been used for farm use and is covered in diverse, non-homogeneous forest vegetation. As shown on the topographic map below, the is only flat on the southern 1/3 of the parcel. The applicant estimates this is the only area suitable for livestock grazing or mechanical harvesting of hay production. This area also closely aligns with the mapped as 1C on the custom NRCS web soils survey map.





Based on the lack of suitable water sources, the subject property soils, and the topography of the subject property. The subject property is improbable for use as lands primarily for commercial farm use.

Applicant Response (b) & (c): Below in italics are the applicable criteria the application must address. The criteria listed are from three sections of the Oregon Administrative Rules that must be addressed.

Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

660-033-0120: Uses Authorized on Agricultural Lands

The specific development and uses listed in the following table are allowed in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the table shall have the following meanings:

(1) "A" Use is allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130 and 660-033-0135. Counties may prescribe additional limitations and requirements to meet local concerns only to the extent authorized by law.

(2) "R" Use may be allowed, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-033-0130. Counties may prescribe additional limitations and requirements to meet local concerns.

(3) "*" — The use is not allowed.

(4) "#" — Numerical references for specific uses shown in the table refer to the corresponding section of OAR 660-033-0130. Where no numerical reference is noted for a use in the table, this rule does not establish criteria for the use.

HV Farmland	All Other	Uses
		Farm/Forest Resource
A	A	Farm use as defined in ORS 215.203.
A	A	Other buildings customarily provided in conjunction with farm use.
A	A	Propagation or harvesting of a forest product.
R5,6	R5,6	A facility for the primary processing of forest products.
A28	A28	A facility for the processing of farm products with a processing area of less than 2,500 square feet.
R28	R28	A facility for the processing of farm products with a processing area of at least 2,500 square feet but less than 10,000 square feet.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

660-006-0025: Uses Authorized in Forest Zone

(2) The following uses pursuant to the Forest Practices Act (ORS chapter 527) and Goal 4 shall be allowed in forest zones:

(a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;

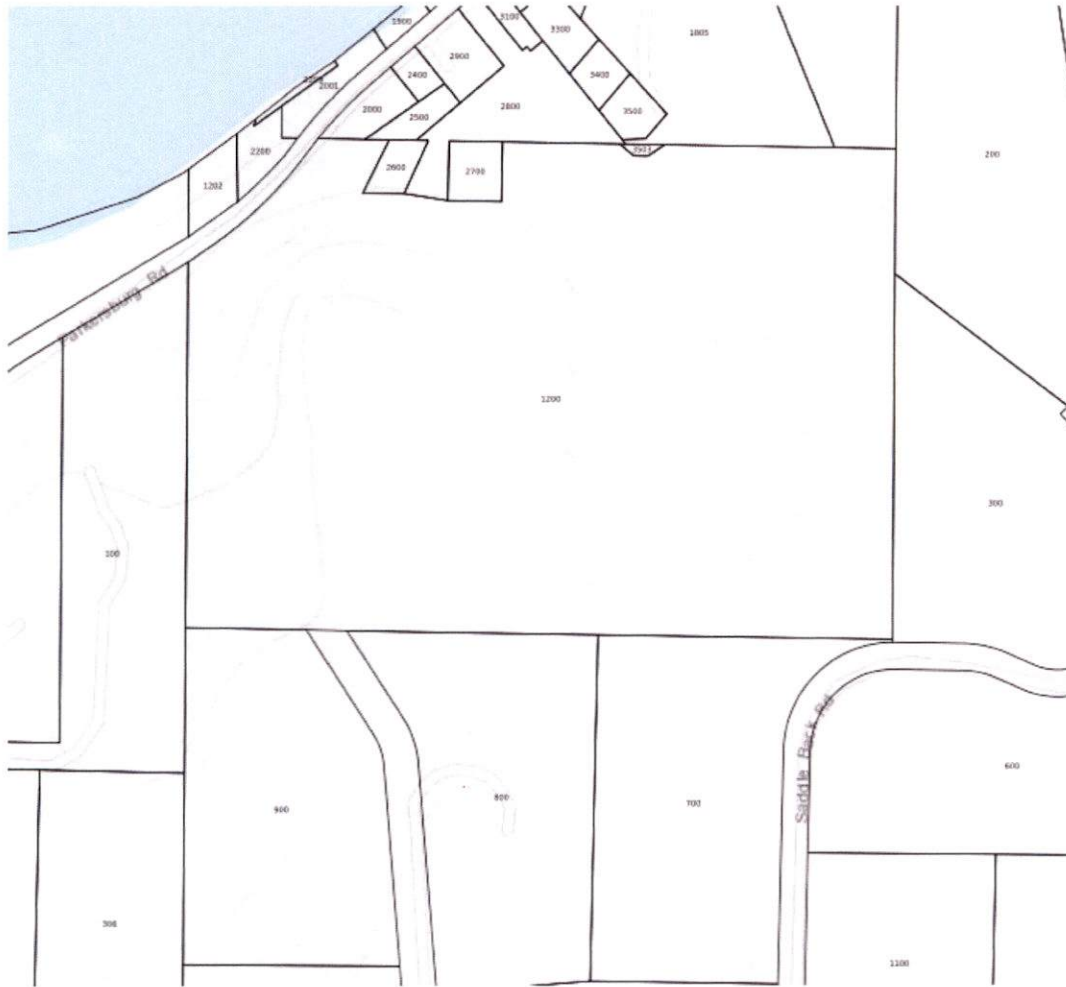
The subject property is currently covered in forest vegetation. While this is a lot of words, a simpler way of reframing the criteria is that basic growing and harvesting of forest products must be impractical but not impossible. The criteria do spell out the basic practices of forestry that need to be addressed.

- Reforestation
- Road Construction / Maintenance
- Harvesting
- Application of Chemical(s)
- Slash Disposal

The first criterion to be addressed is reforestation. Reforestation is the practice of planting trees in the ground. The practice of digging a hole and placing a tree inside should not result in a difficult task. It should be considered rare for trees to die from poor planting operations. The Oregon Forest Practices Act states the site must be free to grow after six years (OAR 629-610-0000). This means the trees need to survive and actually grow back, not just survive the initial year. Additional responses are presented below regarding chemical application and slash disposal considerations that make the subject property impractical for forest operations.

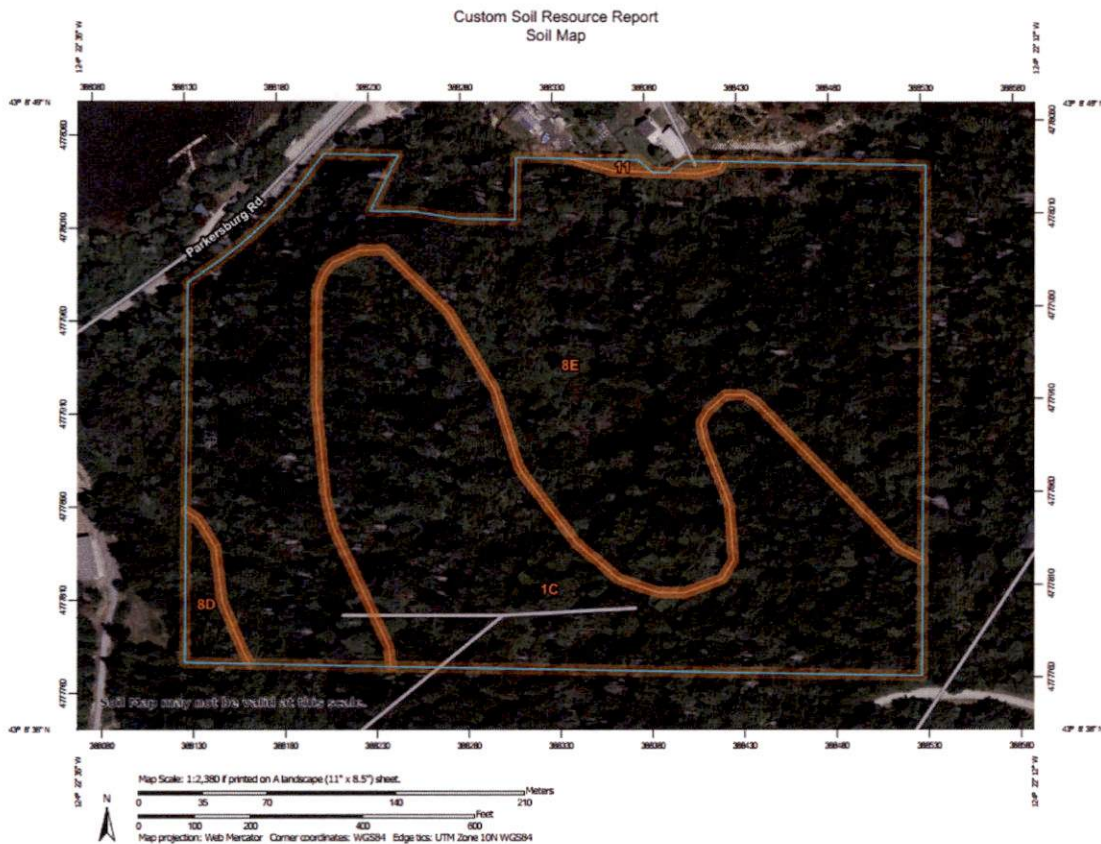
The second criterion is road construction and maintenance. The subject property is directly accessed off a public right-of-way, known as Bullards Ferry Road. At the most, the landowner may need to acquire a permit to work in the right-of-way to improve the existing right-of-way to hauling standards and possibly an access permit. These are standard requirements for most Counties throughout Oregon. This will access the southern portion of the property, which is part of the uplands terrace.

The subject property has the same topography, soils, vegetation, and geographical characteristics as the adjacent irrevocably committed exception areas. The property towards the west of the subject property was rezoned by AM-93-09/RZ-93-04. The findings adopted by Coos County indicated that road construction should not be an overwhelming challenge on a property similar to the subject property.



The third criterion is harvesting, which is the cutting, processing, and transportation of forest products. The Oregon Department of Forestry lists one key element of harvest restrictions: clearcutting must be limited to 120 acres. The subject property is approximately 1/5 of this size. Therefore, most of the property should be considered harvestable under the Oregon Forest Practices Act.

Other harvest considerations based on site-specific factors exist on the subject property. Based on NRCS soil data, most of the subject property is 8E-Bullards sandy loam with 30 to 50 percent slopes.



Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1C	Bandon sandy loam, 7 to 12 percent slopes	9.4	36.0%
8D	Bullards sandy loam, 12 to 30 percent slopes	0.4	1.5%
8E	Bullards sandy loam, 30 to 50 percent slopes	16.2	62.1%
11	Clatsop mucky peat	0.1	0.3%
Totals for Area of Interest		26.0	100.0%

The NRCS soil survey for 8E-Bullards sandy loam soil type states, *“The main limitations for the management of timber on this unit are steepness of slope, the hazard of erosion, the hazard of windthrow, and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Highlead or other logging systems that fully or partially suspend logs damage the soil less and generally are less costly than tractor systems. Proper design of road drainage systems and care in the placement of culverts help to*

control erosion. Cut and fill areas are subject to erosion unless treated. Seeding, mulching, benching, and compacting the soil can reduce erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gullyng unless they are provided with adequate water bars, protected by plant cover, or both.”

The fourth criterion is the application of chemical(s). Chemical use is a method of integrated pesticide management, which is needed to establish and grow forest stands. The NRCS soil survey for 8E-Bullards sandy loam soil type states, *“the main limitations for the management of timber on this unit are steepness of slope, the hazard of erosion, the hazard of windthrow, and plant competition.... Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings... The risk of erosion is increased if the soil is left exposed during site development. Revegetating disturbed areas around construction sites as soon as feasible helps to control erosion.”*

As the County has previously found in AM-91-10/RZ-91-05 and AM-93-09/RZ-92-04, the soil types on the subject property make the site improbable for commercial forest production. This is because the site will require intensive site preparation using hand-applied chemical applications to establish stands that are free to grow.

The fifth and final criterion is the use of slash disposal. The NRCS soil survey for 8E-Bullards sandy loam soil type states, *“the main limitations for the management of timber on this unit are steepness of slope, the hazard of erosion, the hazard of windthrow, and plant competition.... Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings... The risk of erosion is increased if the soil is left exposed during site development. Revegetating disturbed areas around construction sites as soon as feasible helps to control erosion.”*

The site must pile and burn residual logging waste and brushy plants to remove the competition affecting reforestation attempts. As the County has previously found in AM-91-10/RZ-91-05 and AM-93-09/RZ-92-04, the soil types on the subject property make the site improbable for commercial forest production.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

Applicant Response: This criterion requires that the applicable criterion of section (6) below be addressed by a statement of facts.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.

Applicant Response: There is only one parcel of land within the proposed exception area in this application.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

(b) Existing public facilities and services (water and sewer lines, etc.);

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created and uses approved pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;

(d) Neighborhood and regional characteristics;

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Applicant Response: Please see the findings above in section OAR 660-004-0000 (2). The criteria addressed in OAR 660-004-0000 (2) are based on the requirements identified in Coos County Comprehensive Plan.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map or aerial photograph that shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Applicant Response: The response includes aerial imagery, zoning maps, and other graphics for OAR 660-004-0000(2).

660-004-0040

Application of Goal 14 to Rural Residential Areas

(1) The purpose of this rule is to specify how Goal 14 "Urbanization" applies to rural lands in acknowledged exception areas planned for residential uses.

(2) For purposes of this rule, the definitions in ORS 197.015, the Statewide Planning Goals and OAR 660-004-0005 shall apply. In addition, the following definitions shall apply:

(a) "Accessory dwelling unit" means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.

(b) "Habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.213(1)(q) or ORS 215.283(1)(p), whichever is applicable.

(c) "Historic home" means a single-family dwelling constructed between 1850 and 1945.

(d) "Minimum lot size" means the minimum area for any new lot or parcel that is to be created in a rural residential area.

(e) "New single-family dwelling" means that the dwelling being constructed did not previously exist in residential or nonresidential form. New single-family dwelling does not include the acquisition, alteration, renovation or remodeling of an existing structure.

(f) "Rural residential areas" means lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Goal 3 "Agricultural Lands", Goal 4 "Forest Lands", or both has been taken.

(g) "Rural residential zone currently in effect" means a zone applied to a rural residential area that was in effect on October 4, 2000, and acknowledged to comply with the statewide planning goals.

(h) "Single-family dwelling" means a residential structure designed as a residence for one family and sharing no common wall with another residence of any type.

Applicant Response: These are definitions used within the section.

(3) *(a) This rule applies to rural residential areas.*

(b) Sections (1) to (9) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family dwelling on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before October 4, 2000.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

(A) Land inside an acknowledged urban growth boundary;

(B) Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 22;

(C) Land in an acknowledged urban reserve area established pursuant to OAR chapter 660, divisions 21 or 27;

(D) Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;

(E) Resource land, as defined in OAR 660-004-0005(2);

(F) Nonresource land, as defined in OAR 660-004-0005(3);

(G) Marginal land, as defined in former ORS 197.247 (1991 Edition); or

(H) Land planned and zoned primarily for rural industrial, commercial, or public use.

Applicant Response: These criteria identify the lands that are covered by this section.

(4) *(a) Sections (1), (3)-(9) and (13) of this rule took effect on October 4, 2000.*

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in 1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County), and before October 4, 2000. Nothing in this rule

shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

Applicant Response: This criterion identifies the timeframe for when the criteria in the section are applicable.

(5) The rural residential areas described in subsection (2)(f) of this rule are "rural lands". Division and development of such lands are subject to Goal 14, which prohibits urban use of rural lands.

Applicant Response: The subject property is not within an urban growth boundary. The nearest urban growth boundary is the City of Bandon, approximately 2 miles southwest of the subject property. Approval of this application will result in exceptions being taken for Goal 3 and Goal 4 on the subject property, and the subject property will have a rural residential zoning designation.

(6) (a) A rural residential zone in effect on October 4, 2000 shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres, except as required by section (8) of this rule.

(b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone's minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.

Applicant Response: The subject property was not zoned Rural Residential on October 4, 2000. Therefore, these criteria are not applicable to the subject property.

(7) After October 4, 2000, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR chapter 660, division 14, and applicable requirements of this division.

Applicant Response: The request is for a comprehensive plan amendment and rezone from the Forest to the Rural Residential zoning district. There are two standard Rural Residential zoning districts in Coos County. These would be RR-5 and RR-2. The number indicates the minimum lot size in acres. This application is requesting RR-5 designation. Therefore, the existing district does meet the minimum lot size.

- (8) *(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.*
- (b) Each local government must specify a minimum lot size for each rural residential area.*
- (c) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed the minimum lot size that is already in effect.*
- (d) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.*
- (e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new single-family dwellings in a rural residential area only if all conditions set forth in paragraphs (A) through (H) are met:*
- (A) The number of new single-family dwellings to be clustered or developed as a PUD does not exceed 10;*
- (B) The number of new lots or parcels to be created for new single-family dwellings does not exceed 10;*
- (C) None of the new lots or parcels will be smaller than two acres;*
- (D) The development is not to be served by a new community sewer system;*
- (E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community;*
- (F) The overall density of the development will not exceed one single-family dwelling for each unit of acreage specified in the local government's land use regulations on October 4, 2000 as the minimum lot size for the area;*
- (G) Any group or cluster of two or more single-family dwellings will not force a significant change in accepted farm or forest practices on nearby lands devoted to*

farm or forest use and will not significantly increase the cost of accepted farm or forest practices there; and

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section or section (10) of this rule, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new "mobile home park" or "manufactured dwelling park" as defined in ORS 446.003(22) and (28) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before October 4, 2000;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(i) For rural residential areas designated after October 4, 2000, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the applicable requirements for an exception to Goal 14 in OAR chapter 660, division 14. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

Applicant Response: The request is for a comprehensive plan amendment and rezone from the Forest to the Rural Residential zoning district. There are two standard Rural Residential zoning districts in Coos County. These would be RR-5 and RR-2. The number indicates the minimum lot size in acres. This application is requesting RR-5 designation. Therefore, the existing district does meet the minimum lot size. There is no request for a Planned Unit Development with this application. The applicant acknowledges that no more than one permanent single-family dwelling per parcel is allowed. The applicant acknowledges that new mobile home parks are considered urban use and is not requesting authorization for a mobile home park with this application. There are currently no dwellings on the parcel.

The request is for a rezone to the rural residential area after October 4, 2000. Therefore, the criteria for (h)(i)(B) are addressed below.

660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):

(a) That are the same as the existing land uses on the exception site;

Applicant Response: The existing land uses consist of natural vegetation. There is no indication of industrial monocultural forestry practices on the subject property. Based on the NRCS soils maps, the majority of the soils are not practical for farming or commercial

forestry practices. Rezoning to Rural Residential-5 will allow the property to be developed for a high-value use that can subsidize routine maintenance of the subject property. Routine property maintenance will need to be spot spraying of invasive species, low-intensity manual brush removal to create fuel breaks, and the creation of residential gravel driveways to reduce erosion.

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

Applicant Response: Allowing the subject property to be rezoned to Rural Residential-5 will still meet the "Rural Land" definition. The majority of adjacent lands are rural residential zoned already. The nearest lands (28S14W17DC-900) currently used for commercial farm use are approximately 2250 ft southwest of the subject property. It should be noted that there are multiple Rural Residential-5 parcels that were found to be on lands irrevocably committed between this farmland and the subject property. The nearest parcel(28S14W16-900) that could be considered suitable for non-industrial forestry is located 2500 ft east of the subject property. It should also be noted that the subject property and this forestry use are Rural Residential-5 parcels that are under "physically developed" and "irrevocably committed" exceptions.

(c) For uses in unincorporated communities, the uses are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if the county chooses to designate the community under the applicable provisions of OAR chapter 660, division 22;

Applicant Response: The subject property is not within an unincorporated community. The nearest unincorporated community is Charleston, which is over 12 miles north of the subject property.

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on

January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

Applicant Response: No industrial uses have been developed or proposed for the subject property.

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 or 660-014-0090 with regard to urban development on rural land.

Applicant Response: No public facilities are proposed with this application or are currently on the subject property.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, OAR 660-014-0040, or OAR 660-014-0090, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.

Applicant Response: The request is justified as "irrevocably committed." please find that response above. Therefore, subsection (4) criteria are not applicable.

(9) (a) Notwithstanding the provisions of section (8) of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in

paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (9)(b) and (9)(c).

(A) Ashland;

(B) Central Point;

(C) Medford;

(D) Newberg;

(E) Sandy.

(b) Any division of rural residential land in an urban reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan of a city or urban area listed in subsection (9)(a) that:

(A) Has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21; or

(B) Is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658.

(c) Notwithstanding the provisions of section (8) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in subsection (9)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, division 21, or is not part of an acknowledged regional growth plan as described in subsection (b), paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of section (8), if Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21 or division 27, any land division of rural residential land in that urban reserve shall be done in accordance with the applicable acknowledged comprehensive plan and zoning provisions adopted to implement the urban reserve.

(e) Notwithstanding the provisions of section (8), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if Metro has not designated an urban reserve that contains at least a twenty-year reserve of land acknowledged to

comply with either OAR chapter 660, division 21 or division 27, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of section (8) and subsection (9)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in subsection (9)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at densities of at least 10 units per net developable acre. In no case shall the minimum parcel area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (F) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before October 4, 2000;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established;

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel; and

(F) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27, except as provided under OAR 660-027-0070.

(h) Notwithstanding the provisions of subsection (g) of this section, a county may allow the creation of lots or parcels as small as two acres without an exception to Goal 14 in an existing rural residential exception area as a designated receiving area for the transfer of Measure 49 development interests, as provided in OAR 660-029-0080 and 660-029-0090.

Applicant Response: The subject property is located further than one mile from the City of Bandon Urban Growth Boundary.

(10) Notwithstanding any local zoning or local regulation or ordinance pertaining to the siting of accessory dwelling units in rural residential areas, a county may allow an owner of a lot or parcel within an area zoned for rural residential use to construct a new single-family dwelling on the lot or parcel, provided:

- (a) The lot or parcel is not located in an area designated as an urban reserve;*
- (b) The lot or parcel is at least two acres in size;*
- (c) A historic home is sited on the lot or parcel;*
- (d) The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling; and*
- (e) The accessory dwelling unit complies with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.*

Applicant Response: There is not a historic home located on the subject property.

(11) An owner that constructs a new single-family dwelling under section (10) of this rule may not:

- (a) Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling is situated on a different lot or parcel from the accessory dwelling unit.*
- (b) Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.*
- (c) Rebuild the accessory dwelling unit if the structure is lost to fire.*
- (d) Construct an additional accessory dwelling unit on the same lot or parcel.*

Applicant Response: Section (10) is not applicable to this application.

(12) For a new single-family dwelling approved under section (10) of this rule a county may:

- (a) Require that a new single-family dwelling be served by the same water supply source as the accessory dwelling unit.*

(b) Impose additional conditions of approval for construction of a new single-family dwelling or conversion of a historic home to an accessory dwelling unit.

Applicant Response: Section (10) is not applicable to this application.

(13) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Applicant Response: The request is for rezoning to a Rural Residential-5 zoning district. RR-5 is an existing district under the Coos County Comprehensive Plan and complies with Goal 14.

(14) A county may approve the uses listed in subsections (a), (b), and (c) without amendments to the county plan or land use regulations when a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county. and, furthermore, has resulted in an Executive Order issued by the Governor declaring an emergency for all or parts of Oregon pursuant to ORS 401.165, et seq. A county must process applications filed pursuant to this section in the manner identified at ORS 215.416(11).

(a) Temporary residential uses in conjunction with a dwelling that either existed or had received land use approval to be constructed on July 5, 2020, provided that such uses are located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible and are limited to:

(A) A single manufactured dwelling;

(B) Use of an existing building or buildings;

(C) A single yurt;

(D) Up to three recreational vehicles; or

(E) Up to three fabric structure, tents and similar accommodations.

(b) Temporary campgrounds provided that:

(A) A wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610, has destroyed homes or caused residential evacuations, or both within the county or an adjacent county.

(B) Commercial activities in temporary campgrounds shall be limited to small-scale, low-impact uses designed to provide basic food and grocery services for park occupants.

(C) Campsites in temporary campgrounds may be occupied by a tent, travel trailer, yurt, recreational vehicle or similar accommodations.

(D) Temporary campgrounds are located outside of flood, geological, or wildfire hazard areas identified in adopted comprehensive plans and land use regulations to the extent possible.

(E) A plan for removing or converting the temporary campground to an allowed use at the end of the time-frame specified in paragraph (14)(d)(B) shall be included in the application materials and, upon meeting the county's satisfaction, be attached to the decision as a condition of approval. A county may require that a removal plan developed pursuant to this paragraph include a specific financial agreement in the form of a performance bond, letter of credit or other assurance acceptable to the county that is furnished by the applicant in an amount necessary to ensure that there are adequate funds available for removal or conversion activities to be completed.

(c) Temporary storage site for nonhazardous debris, construction materials and equipment, logs or other materials resulting from recovery efforts or otherwise associated with damage caused by a wildfire identified in an Executive Order issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 subject to Department of Environmental Quality requirements and all other applicable provisions of law.

(d) Uses approved under this section:

(A) Shall be consistent with all applicable provisions of law including, but not limited to adopted comprehensive plan provisions and land use regulations adopted to protect people and property from flood, geologic, and wildfire hazards; and

(B) Are to be removed or converted to an allowed use within 36 months from the date of the Governor's emergency declaration. A county may grant two additional 12-month extensions upon a demonstration by the applicant that uses approved pursuant to subsections (a) and (b) remain necessary because permanent housing units replacing those lost to the natural hazard event are not available in sufficient quantities, or for uses approved pursuant to subsection (c), that the use remains necessary because debris removal or other recovery activities remain ongoing.

Applicant Response: There has not been a wildfire identified under an Executive Order on the subject property. Therefore, these criteria are not applicable.

2. *Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:*

- a. *The property may not be utilized for all the uses ordinarily permitted in a particular zone;*
- b. *The development of the site must conform to certain specified standards; or*
- c. *Any combination of the above.*

A qualified rezone shall be dependent on findings of fact including but not limited to the following:

- i. *Such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood;*
- ii. *Such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood;*
- iii. *Such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or*
- iv. *Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.*

Applicant Response: These criteria are addressed by the Planning Commission during the hearing process. Therefore, the applicant cannot address the criteria until the hearing process.

3. *Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed.*

Applicant Response: This criterion is addressed by the Board of Commissioners during their application review.

SECTION 5.1.230 STATUS OF HEARINGS BODY RECOMMENDATION OF APPROVAL:

The recommendation of the Hearings Body made pursuant to 5.1.225(1) or (2) shall not in itself amend the zoning maps.

Applicant Response: The applicant acknowledges that the Planning Commission will issue a recommendation, and the Board of Commissioners will issue the final decision.

SECTION 5.1.235 BOARD OF COMMISSIONERS ACTION ON HEARINGS BODY RECOMMENDATION:

Not earlier than 15 days following the mailing of written notice of the Hearings Body recommendation pursuant to Section 5.1. 225, the Board of Commissioners shall either:

- 1. adopt the Hearings Body recommendation for approval or approval with conditions;*
- 2. reject the Hearings Body recommendation for approval or approval with conditions and dismiss the application;*
- 3. accept the Hearings Body recommendation with such modifications as deemed appropriate by the Board of Commissioners; or*
- 4. if an appeal has been filed pursuant to Article 5.8, the Hearings Body recommendation shall become a part of the appeal hearing record, and no further action is required to dispense with the Hearings Body recommendation.*

Applicant Response: The applicant acknowledges that there would be a process for adopting a decision using the above mentioned process.

SECTION 5.1.240 REQUIREMENTS FOR "Q" QUALIFIED CLASSIFICATION:

Where limitations are deemed necessary, Board of Commissioners may place the property in a "Q" Qualified rezoning classification. Said "Q" Qualified Classification shall be indicated by the symbol "Q" preceding the proposed zoning designation (for example: Q C-1).

Applicant Response: The applicant acknowledges that unique zoning limitations may be placed on the subject property during the hearing process. An example is the Qualified – Rural Residential-5 zoning district southwest of the subject property. This zoning district has unique restrictions regarding access points onto public right-of-ways.

SECTION 5.1.250 PERMITS AND APPLICATIONS MORATORIUM:

- 1. After a proposed rezoning has been set for public hearing, no building or sewage disposal system permits shall be issued until final action has been taken. Final action constitutes either:
 - a. Withdrawal of the application by the applicant;*
 - b. Expiration of the County's appeal period without an appeal having been filed; or*
 - c. Final order of Board of Commissioners upon hearing the appeal.**
- 2. Following final action on the proposed rezoning, the issuance of a verification letter shall be in conformance with the application approval.*

Applicant Response: The applicants recognize that final action needs to be taken before a permit for building or sewage disposal system is issued.

SECTION 5.1.275 STANDARDS FOR COMPREHENSIVE PLAN AND REZONE FOR NONRESOURCE LAND:

1. *The subject property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 and /or Forest Land under Statewide Planning Goal 4.*

NOTE: If the subject property is predominantly Class 1-IV soils or if it predominantly consists of soils capable of producing 5000 cubic feet of commercial tree species it is not considered to be nonresource land.

2. *The subject property does not contain any natural resources defined in Statewide Planning Goal 5 which are identified in the Coos County Comprehensive Plan;*

3. *The subject property has been proven to be generally unsuitable for production of farm crops and livestock or merchantable tree species, considering terrain adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.*

4. *The subject property is not considered to be nonresource land simply because it is too small to be farmed or forest managed profitably by itself. If the subject property can be sold, leased, rented or otherwise managed as part of a commercial farm, ranch or other forestland it is not considered to be nonresource land.*

5. *The subject property is not considered to be nonresource land if it has been given a special tax assessment for farm use or as designated forestland at any time in the past five years.*

6. *If the subject property is found to meet all of the standards above to be considered nonresource land the county shall also determine that rezoning the property to a nonresource zone will not materially alter the stability of the overall land use pattern in the area and lead to the rezoning of other lands to nonresource use to the detriment of the resource uses in the area.*

7. *The subject property shall be at least 10 acre in area unless it is contiguous to an area that is zoned for nonresource use.*

Any proposal of at least 2 acres but less than 10 acres requires approval of a Goal 14 exception pursuant to OAR 660-00-0040.

8. *Rezoning of land that is found to be nonresource land shall be to a "rural" zone that is appropriate for the type of land and its intended use.*

Rural commercial or industrial development must comply with standards for small-scale, low impact commercial and industrial use.

Development of property rezoned from Forest or Forest Mixed use to a nonresource zone shall comply with the resource development and siting standards. (ORD NO. 04-01-001PL February 10, 2004)

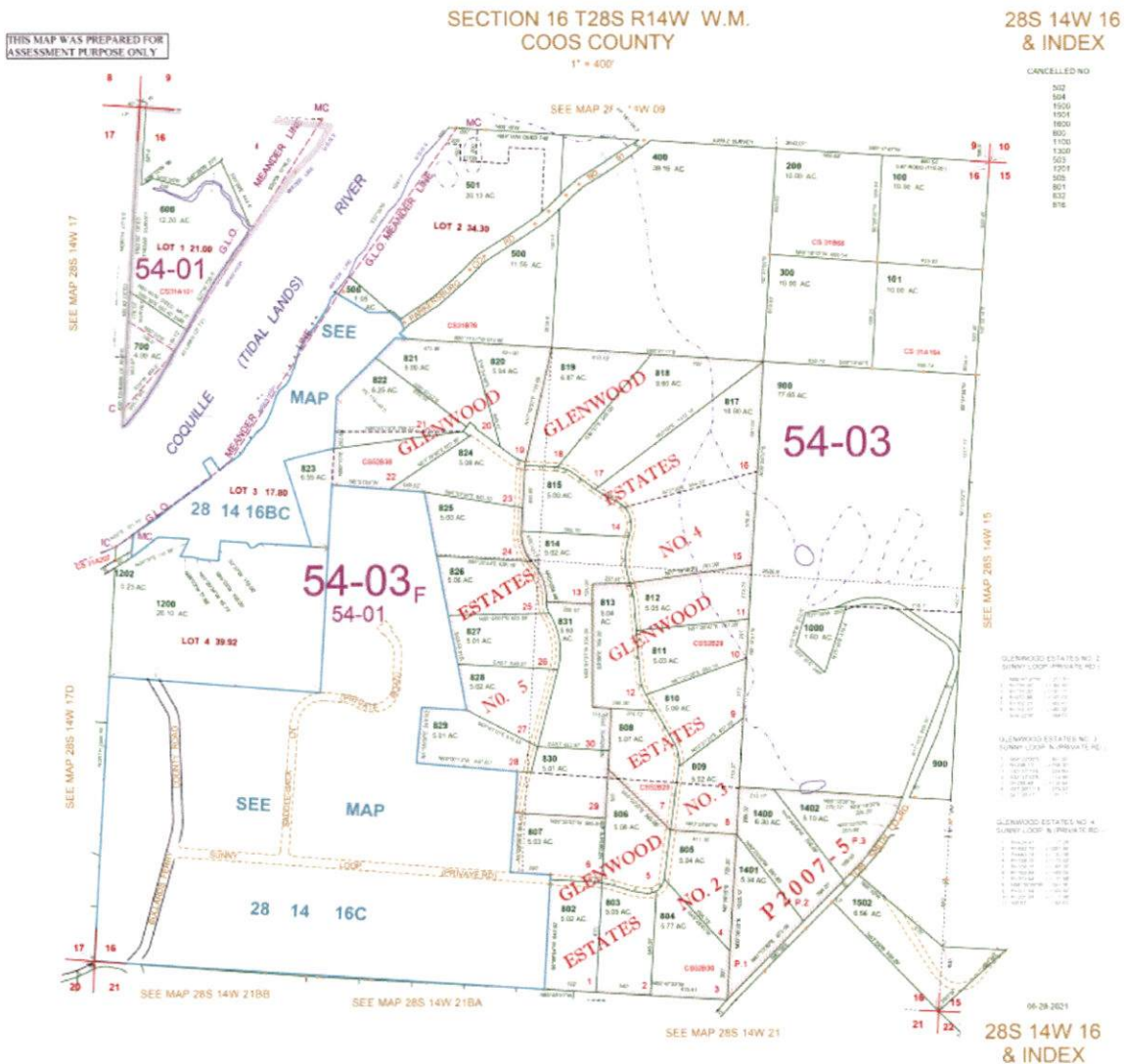
Applicant Response: The County adopted these criteria in order to provide provisions for allowing a rezone of nonresource lands without a Goal 2 "exception". The applicant requests an amendment/rezone based on the criteria for irrevocably committed lands per the exception process found in Coos County Comprehensive Plan Volume 1, Part 3, Section 5.1. There are additional responses above supporting this request.

SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION:

A traffic plan (item 1) will be required for all rezones, recreational vehicle parks, campgrounds, mobile home parks, land divisions, industrial developments, commercial developments and high intensity development plans. The Roadmaster in consultation with the Planning Director will have discretion to waive items 2 through 4 based on the findings that the increase in development is diminimus to the existing development.

- 1. Traffic Plan - A parking/traffic plan shall be submitted to address all of the following:
 - a. Property boundaries;*
 - b. Location of all structures on the subject property;*
 - c. Required parking spaces;*
 - d. Current utilities and proposed utilities;*
 - e. Roadmaster may require drawings and specs from the Oregon Standards Specification Manual (OSSC) (current edition);*
 - f. The location and design of bicycle and pedestrian facilities shall be indicated on the site plan if applicable;*
 - g. Pedestrian access and circulation will be required if applicable. Internal pedestrian circulation shall be provided in new commercial, office, and multi-family residential developments through the clustering of buildings, construction of walkways, landscaping, accessways, or similar techniques;*
 - h. All plans (industrial and commercial) shall clearly show how the internal pedestrian and bicycle facilities of the site connect with external existing or planned facilities or systems;*
 - i. Location of existing and proposed access point(s) on both sides of the road where applicable;*
 - j. Distances to neighboring constructed access points, median openings (where applicable), traffic signals (where applicable), intersections, and other transportation features on both sides of the property;*
 - k. Number and direction of lanes to be constructed on the road plus striping plans;*
 - l. All planned transportation features (such as sidewalks, bikeways, auxiliary lanes, signals, etc.); and*
 - m. Parking and internal circulation plans including walkways and bikeways, in UGB's and UUC's.**

Applicant Response: The subject property is accessed via Bullards Ferry County Road. The property boundaries are shown on the Coos County Assessor's plat map below.



There are no structures or utilities currently on the property, and the applicant is not proposing any development at this time.

2. Traffic Study completed by a registered traffic engineer.
3. Access Analysis completed by a registered traffic engineer
4. Sight Distance Certification from a registered traffic engineer.

Applicant Response:

The applicant requests the traffic study, access analysis, and sight distance certification be waived at this time due to the existing development. Currently, The Glenwood Estates subdivision uses Bullards Ferry Road to access the site; however, there are only three dwellings that have driveways off of Bullards Ferry Road. Any future development on this

road is specific to the subject site and limited in regard to development density. There is no justification for a traffic study for the proposed future dwelling(s).