



Coos County Community Development
Planning Department
60 E. Second
Coquille, OR 97423
<http://www.co.coos.or.us/>
Phone: 541-396-7770

STAFF REPORT

REPORT DATE: July 30, 2024
HEARING DATE: **August 6, 2024 at 1:30 pm**
FILE NUMBER: AM-22-004/RZ-22-003
APPLICANT: Richard and Kathleen Randol
STAFF CONTACT(S): Jill Rolfe, Coos County Community Development Director

SUMMARY PROPOSAL: The proposal is for a plan amendment to change the Comprehensive Plan Designation from Rural Residential-5 (RR-5) to Rural Residential-2 (RR-2). The zone map will be amended if approved from Rural Residential-5 to Rural Residential-2. The Subject Property is identified as Map Number Township 27S, Range 14W, Section 28B, Tax Lots 100, Tax Account Number 767200 and is located north of the City of Bandon off of Seven Devils Road. The property contains 13.60 acres.

VIRTUAL ATTENDANCE: <https://meet.goto.com/964495293>
You can also dial in using your phone.
Access Code: 964-495-293
United States: +1 (571) 317-3122

REVIEW CRITERIA: The applicant will need to comply with:

- Coos County Zoning and Land Development Ordinance (CCZLDO)
 - Article 5.1 Plan Amendments and Rezones
- Coos County Comprehensive Plan
 - Volume I, Part I, Section 5.17 Housing,
 - Volume I, Part II, Section 4.5 Housing
 - Volume I, Part III Exceptions for Rural Housing
- Coos County Comprehensive Plan Maps #14 Zone Maps
- Oregon's Statewide Planning Goals & Guidelines Goals
 - 3 Agricultural Lands
 - 4 Forest Lands
 - 5 Natural Resources, Scenic and Historic Areas, and Open Spaces
 - 6 Air, Water and Land Resource Quality
 - 7 Areas Subject to Natural Hazards
 - 8 Recreational Needs
 - 9 Economic Development
 - 10 Housing
 - 11 Public Facilities and Services
 - 12 Transportation
 - 13 Energy Conservation
 - 14 Urbanization

PROPERTY DETAILS:

Account Number: 767200
Map Number: 27S1428B0-00100

Property Owner: RANDOL, RICHARD A & KATHLEEN B

Situs Address: 58643 SEVEN DEVILS RD BANDON, OR 97411

Acreage: 13.60 Acres

Zoning: RURAL RESIDENTIAL - 5 (RR-5)

I.I STAFF REPORT – WITH RECOMMENDATIONS AND PROPOSED FINDINGS

A. NOTICE REQUIREMENT: This application is a Plan Amendment governed by CCZLDO Section 5.0.900. The Post-Acknowledgment Plan Amendment notice was provided 35 days prior to the Planning Commission meeting to meet the requirements of ORS 197.610. The hearing notice was published in accordance with ORS 197.732. This application has been continued multiple times based on the applicants’ requests to address additional information raised in the staff report and by the DLCD. The applicant submitted a supplemental report and requested to move forward with this hearing at the end of April 2024. An amended notice was provided to the DLCD, and amended hearing notices have been published, mailed, and posted as required.

B. DETAILS AND BACKGROUND:

PROPOSAL: The applicants have requested an amendment to the official zoning designation from Rural Residential-5 to Rural Residential-2. This requires a plan amendment and consistency with both the Coos County Comprehensive Plan and the Statewide Planning Goals.

COOS COUNTY COMPREHENSIVE PLAN BACKGROUND: The Comprehensive Land Use Plan Map, or Comprehensive Plan Map, is a 2" = 1 mile map of Coos County that sets forth, as a matter of official policy, general designations of land use categories for various geographic areas within the County. These designations are the basis for zoning designations set forth in the Zoning and Land Development Ordinance.

The Comprehensive Plan Map was developed through an extensive process that involved evaluating development potential and making selections. This process defined various land use categories on the Plan Map and eventually led to the adoption of the final map. The development of a rational land use plan was a crucial step in this process, which included considering various alternative courses of action and choosing a preferred alternative based on well-reasoned policy decisions.

This section provided the reasoning behind each of the proposed land use alternatives and included some analysis of the land use categories' acreage within each alternative. These decisions were closely related to the "ultimate policy choices" outlined in the Plan Policies section. These policy choices dictated which alternative or combination of land use alternatives would be selected as the Comprehensive Plan map.

During the County's planning process, four different land use maps were developed and considered. Each of these alternatives represented a distinct approach to conservation and development philosophy. They underwent thorough discussion and scrutiny within Coos County's citizen involvement process.

Public hearings were conducted early in the process to gather input from County citizens before proposing zoning maps.

This is a general description of the four alternatives:

- Alternative 1 – Status Quo: This option limited development to areas already developed.
- Alternative 2 – Citizens Proposal: This alternative maximized development.
- Alternative 3 – Goal Balancing: It aimed to balance the needs for growth in all zones while maintaining resource protection.
- Alternative 4 – Maximum Resource Protection: This option reduced development potential.

For more details, please refer to CCCP Volume 1 Part I.

The decision to select one of the alternatives was supported by findings of fact and conclusions of law. These findings were based on identifying issues and problems, evaluating alternative courses of action, and making ultimate policy choices while considering social, economic, energy, and environmental needs, as defined by Statewide Planning Goal #2, Land Use Planning.

Once the alternatives were completed the selection of the appropriate alternative against the following criteria:

- i. Best addresses citizen involvement and expressed citizen desires by attempting to legally satisfy citizens' requests through appropriate land use designations.
- ii. Best addresses the Statewide Land Use Goals and attempts to satisfy local needs and recognize local conditions, while remaining within the intent and spirit of State law.
- iii. Does not emphasize one Goal or set of familiar Goals to the detriment of another Goal or set of similar Goals.

The chosen alternative had to be the one that, in balance, best satisfied all three of the above criteria. The Board of Commissioners opted for Alternative #3, the "goal-balancing" alternative, as the most suitable option based on the criteria previously discussed. Since its adoption in January 1983, adjustments were made to the land use allocations by plan designations in response to both LCDC's initial review critique and input from citizens and agencies during the County's public hearings and comments process.

The following land use designations are those approved by the County Planning Commission for use in developing alternative plan maps for all unincorporated areas except the Coos Bay and Coquille Estuary study areas. ***

RURAL RESIDENTIAL - These are justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify permitted uses and minimum lot sizes. Two- and five-acre zones are the minimum lot sizes and are identified on the zoning map, adopted by the Comprehensive Plan.

Coos County went through an exception process to justify Rural Residential Zoning. This conclusion is supported by reasons, findings and conclusions made for each of 103 study areas as shown in Appendix B of the Comprehensive Plan's Housing Inventory, as modified by the findings in Appendix C of the Housing Inventory. The individual findings and conclusions for each study area result from a careful analysis of factors (a) through (g) of OAR 660-04-028(2)(d). The justification provided for 21,742 acres of Rural Residential Zoned property. OAR 660-04-028(2)(d) references OAR 660-004-0028(6) which where factor (a) through (g) are found. *See below*

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

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.

The study further explained in Volume 1 Part I of the Coos County Comprehensive Plan Section 5.5. There are three types of categories that were considered in the Rural Residential inventory. The three types of land categories in Coos County theoretically capable of providing physical space for the areas of rural residential housing without the taking of a new exception. The following lists each area and describes why the particular area cannot accommodate rural residential uses.

- (i.) Nonresource lands. These lands generally occur in a narrow strip of land paralleling the coastline, and are composed largely of active foredunes and conditionally stabilized dunes. These lands cannot physically accommodate rural residential housing primarily for three reasons: (1) such areas will often be either unsuitable or of limited suitability for development as regulated by Goal #18, and thus would require the taking of a different kind of exception; (2) the size of suitable areas is therefore expected to be extremely small; and (3) the areas are often either inaccessible or would require extensive and costly road construction across agricultural and forest lands to provide access. All other lands in Coos County are believed by the Department of Revenue to be capable of forest production (approximately 81% of Coos County, or 847,000 acres, is designated commercial forest land).
- (ii.) Irrevocably committed lands. Suitable vacant land within committed areas totals only 5300 acres, and has been considered as available to help reduce the amount of the total rural residential exception acreage. However, forcing remaining rural residential needs to occur within committed areas could require a very costly extension of public sewer and water to such areas because of the resulting "urban" density that would be forced on to the committed areas. This seems especially wasteful because individual septic systems are sufficient to handle the demand and, through regulation by the Department of Environmental Quality, are expected to continue to be sufficient during the planning period. Worse, the extension of such services would contravene the intent of the Plan to provide urban level services to urban areas. Instead, rural lands would be forced to become urban.
- (iii.) Cities and urban growth areas (UGAs). Cities are now proposed to have an increasing (rather than constant) share of total population growth. Also, UGAs have been earmarked for a greater percentage of unincorporated growth than in the previous acknowledgment effort. LCDC has acknowledged the County's cities and their UGAs based on the same coordinated population projections that show added (declining share) rural growth. Cities and UGA's by definition do not provide the rural living experience nor meet the reasons expressed in a previous section that justify not applying

This property was included in the original land inventory for Rural Residential and designated as Rural Residential-5 on the Zoning Plan Map. The request is to amend the Zoning Map from Rural Residential-5 to Rural Residential-2.

According to the Department of Land Conservation and Development: Oregon's statewide planning program conserves rural land for farming and forestry, protects natural resources and wildlife habitat, and allows development in appropriate places. The program discourages "sprawling" development that takes place outside an urban growth boundary. However, rural development is permitted under certain circumstances. A county decides where rural development should be allowed by following what is called the "exceptions process." Rural residential, recreational, commercial, and industrial zones (in "exception areas") allow development in certain rural areas. All rural development is overseen by the counties.

The term "rural" means different things to different people. However, in the Oregon's statewide planning program, "rural land" is, generally, land outside of an urban growth boundary. (Land inside of an urban

growth boundary is never considered "rural".) "Rural use" is harder to define; but the Land Conservation and Development Commission has listed allowed rural uses in its administrative rules.

Statewide Planning Goal 14, Urbanization, limits new urban uses outside of urban growth boundaries. Urban growth boundaries have been a key component of the planning program as they prevent sprawl of urban uses across the rural landscape. Statewide Planning Goal 11, Public Facilities and Services limits extension of urban services such as sewerage to areas outside of urban growth boundaries in order to lessen demand for urban development in rural areas.

Exception areas zoned for rural residential use are subject to their own rule. As introduced above, Goal 14 limits urban development outside urban growth boundaries, and the rule implementing Goal 14 for rural residential areas specifies the level of development a county may allow without the area becoming urbanized. The level of development is regulated by the minimum parcel size for creation of new parcels and limiting parcels to one dwelling.

For exception areas that existed before the rule went into effect on October 4, 2000, the smallest minimum parcel size allowed by rule was designated by local comprehensive plans, provided it was two acres or larger. Currently, counties are prohibited from allowing the creation of new parcels smaller than two acres outside of an urban designation, but this does not apply to existing parcels. For a new rural exception area, the minimum parcel size must be at least 10 acres, with an allowance for clustering. This rule only applies to the creation of new parcels; existing parcels are allowed one dwelling regardless of size. The argument in this case is that this is an existing exception area, and as long as the exception criteria are adequately addressed, the Board of Commissioners may approve the proposal.

OAR 660-004-0040, establishes for residential zoning, "rural use" equates to one dwelling per 10 acres.

The burden of proof lies with the applicant to demonstrate that the exception allows for lot sizes smaller than five (5) acres and that this specific property meets that justification.

On December 6, 2023 a letter was received from Department of Land Conservation and Development regarding the proposal.

Dear Director Rolfe,

Thank you for providing an opportunity to comment on the zone change proposal, assigned FILE # AM-22-004/RZ-22-003. Based on the provided materials, it is our understanding that the subject property consists of a single parcel of approximately 13.60 acres in size.

It is our understanding that the subject property is part of a rural residential exception area designated "Rural Residential" in the Coos County Comprehensive Plan. The effective zoning for the subject property is Rural Residential-5 (RR-5), which requires a minimum of five acres for new land divisions. The applicants are proposing to re-zone the subject property from RR-5 to RR-2, which requires a minimum of two acres for new land divisions. Thus, the zone change could result in future subdivision of the land into up to 6 two-acre lots.

The materials provided for our review address standards and criteria in the Coos County Comprehensive Plan and Zoning and Land Development Ordinance. These materials also address Statewide Planning Goal 14 (Urbanization) by describing local policies for designating minimum parcel sizes and offering why the applicants believe the property would remain rural under the proposed RR-2 zoning. The materials also assert that a Goal 14 exception is not necessary.

The department respectfully disagrees regarding the proper application of Goal 14. It is our position that a Goal 14 exception is necessary in this case. While the effective zoning of RR-5 is consistent with the provisions of OAR 660-004-0040(6) and is deemed compliant with Goal 14, changing the effective zoning to RR-2, which would amend the applicable requirements regarding minimum parcel size to allow a greater amount of development, triggers OAR 660-004-0040(7). Please see the referenced sections of OAR 660-004-0040 below:

- (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.*
- (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.*

Again, thank you for this opportunity to comment. It is our recommendation that the subject property retain the existing and effective RR-5 zoning at this time unless the applicant submits and the county approves an exception to Goal 14 as authorized by OAR 660-014.

This letter was provided to the applicant and on December 7, 2023 and the applicant requested additional time to address DLCD concerns. The supplemental response provide includes additional justification regarding Goal 14.

On July 11, 2024, the Planning Commission found that the applicant did meet the burden of proof and recommended that the Board of Commissioners approve the request. The Planning Commission also considered the new language for accessory dwelling units to ensure it did not cause an issue with the density requirements in this particular case.

LOCATION AND SURROUNDING USES: The subject property is located approximately six (6) miles northeast of the City of Bandon. The property is accessed directly off from Seven Devils Road, which is a county designated major collector. Seven Devils Road directly connects to Highway 101. The subject property is located approximately ¼ mile south of the intersection of Whiskey Run and Seven Devils Road, on the east side of the road.

Major geographic reference features in this part of the County are Bandon Dunes Golf Resort, located ½ mile west of the subject property, and approximately ½ mile east is the Coos County Forest. The Coos County Forest is a 15,000-acre tract of County owned forestland that is primarily used for commercial timber harvesting.

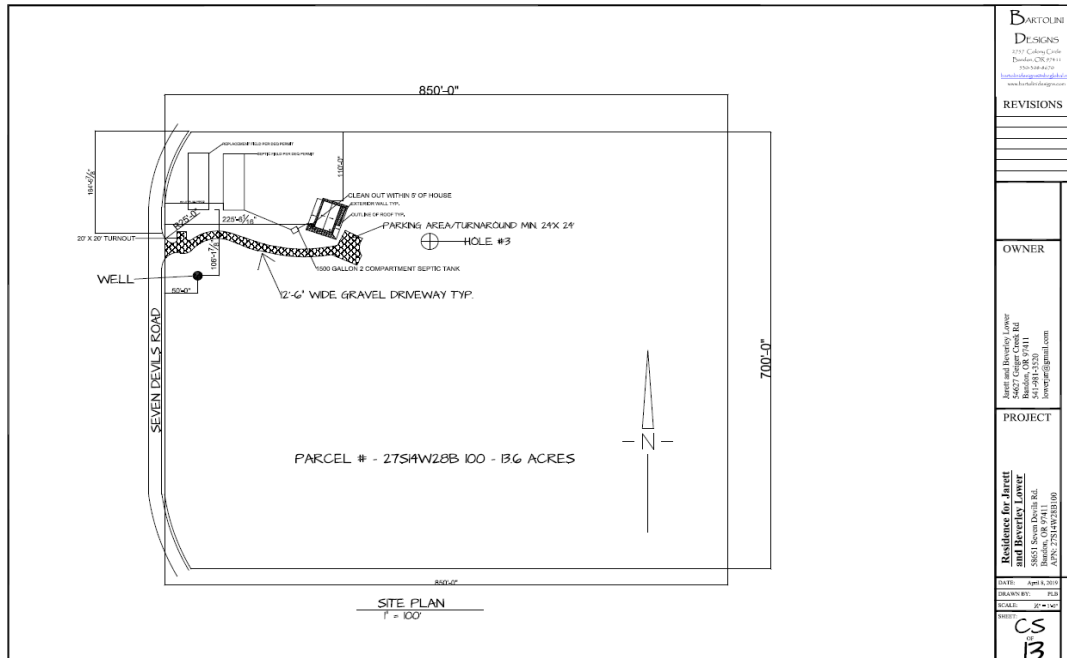
PROPERTY HISTORY: The subject property was approved for one dwelling.

On March 14, 2019, there was a Zoning Compliance Letter (ZCL-19-084) issued for septic site evaluation only. On October 22, 2019, there was a Zoning Compliance Letter (ZCL-19-343) issued for a

Single Family Dwelling and to request a DEQ permit for septic installation. A building permit was issued but this has expired without completion. The DEQ records are attached to this report (Attachment B).

On March 11, 2021 a pre-application meeting was held. The request was to change the zoning from Rural Residential-5 (RR-5) to Rural Residential (RR-2). During the meeting it was explained that in order to change the current zoning a new exception would be required to the Statewide Planning Goals similar to the original process the property went through to be zoned RR-5.

More details on the property zoning and exception process will be explained under the criteria for a rezone. The proposed development site plan (screenshot) was provided during the pre-application process:



ZONING: The subject property is currently zoned Rural Residential-5.

SECTION 4.2.100 RESIDENTIAL Rural Residential (RR)

There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify permitted uses and minimum lot sizes.

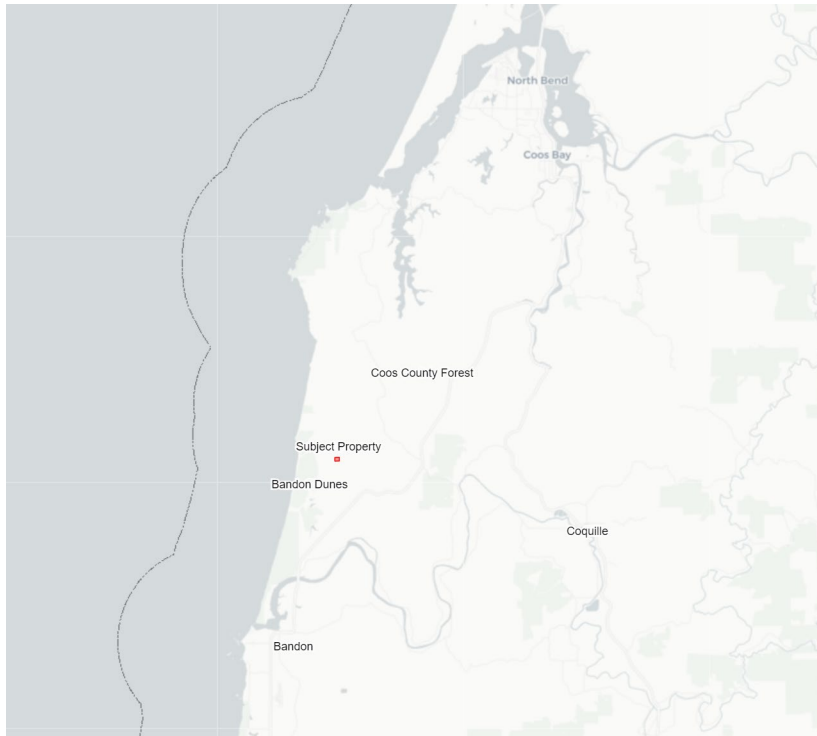
The purpose of the "RR-2" and "RR-5" districts are to provide for small to medium acreage dwelling sites outside of Urban Growth Boundaries, where a moderate intensity of land development is appropriate, but where urban services and facilities may not be available or necessary.

The "RR-2" district provides for continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural and forestry uses.

The “RR-5” district provides for the orderly development of rural land so as to encourage the continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural or forestry uses.

SITE DESCRIPTION: The subject property is a 13.60-acre parcel. The parcel is currently covered in forest vegetation with cleared areas in preparation for development. There is Forest zoned parcels located on the eastern side of the subject property. South and West of the subject property are Rural Residential-5 zoned parcels. There are Rural Residential-2 zoned parcels directly North of the subject property.

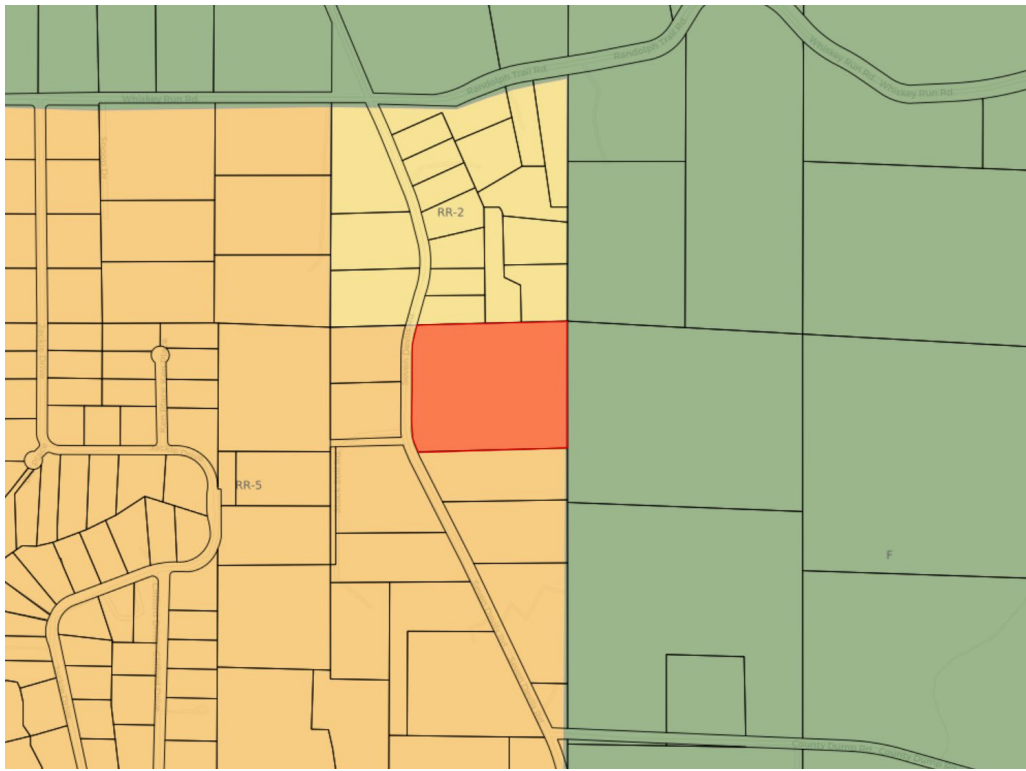
**MAPS NOT TO SCALE
OVERVIEW MAP**



SUBJECT PROPERTY MAPS



ZONE MAP





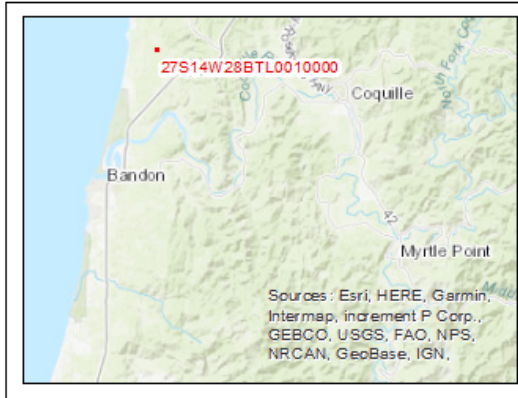
COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 225 N. Adams, Coquille, Oregon 97423

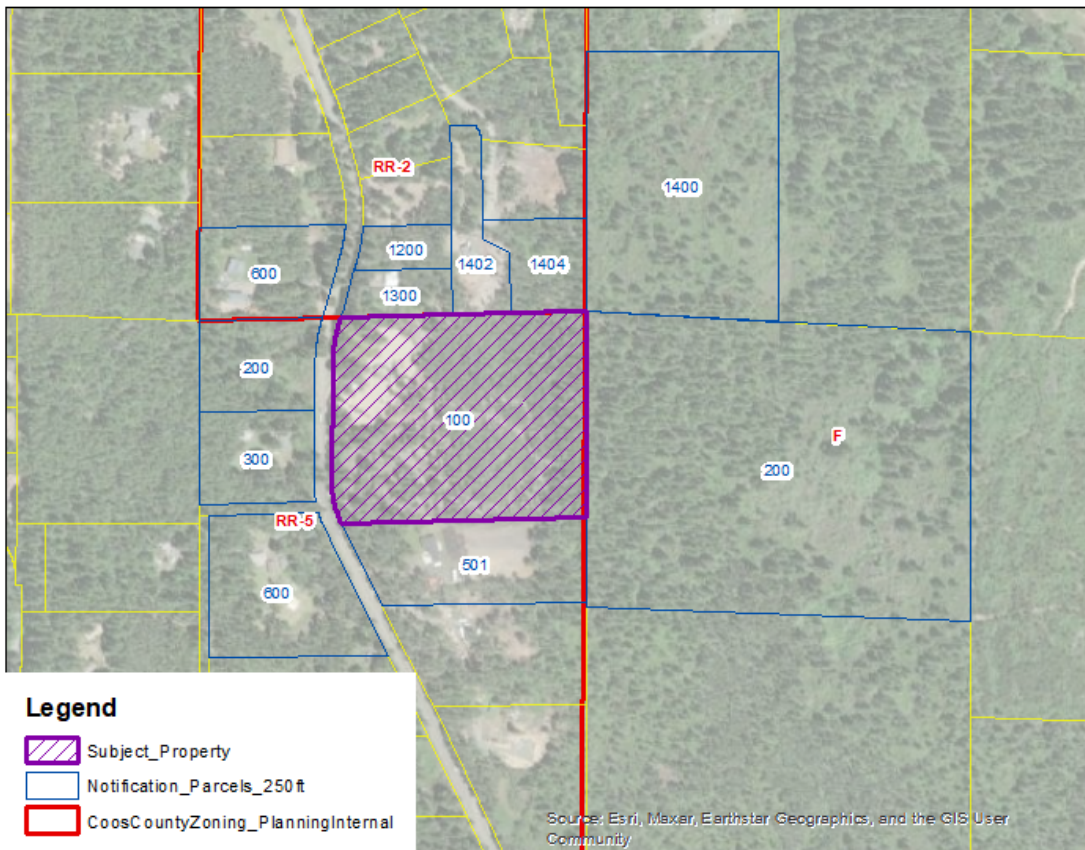
Physical Address: 60 E. Second, Coquille Oregon

Phone: (541) 396-7770

TDD (800) 735-2900



File: AM-22-004/RZ-22-003
Owner: Richard and Kathleen Randol
Date: February 8, 2023
Location: Township 27S Range 14W
Section 28B TL 100
Proposal: Amendment/Rezone



C. COMMENTS RECEIVED: A pre-application was held and the following comments were received during that process:

- i. **County Road Department:** Road standards will only be applied at the time of the land division to create lots.
- ii. **County Health Department:** The EH office has no prohibition regarding the proposed property zoning, but will advise:

There is importance for personal health in testing a private water source supplying a residence for at least the contaminants Total Coliforms (any present), Nitrates (10 mg/L) and Arsenic (0.010 mg/L). The values in parenthesis would represent levels of concern and immediate action for a public water system.

D. GENERAL PROPERTY AND APPLICATION COMPLIANCE:

1. **COMPLIANCE PURSUANT TO SECTION 1.1.300:** It shall be unlawful for any person, firm, or corporation to cause, develop, permit, erect, construct, alter or use any building, structure or parcel of land contrary to the provisions of the district in which it is located. No permit for construction or alteration of any structure shall be issued unless the plans, specifications, and intended use of any structure or land conform in all respects with the provisions of this Ordinance, unless approval has been granted by the Hearings Body.

FINDING: At this time the property has not completed the building process as applied for the building permit has expired. Compliance is unable to be determined at this time but that is a separate issue and can be addressed through a separate process.

2. SECTION 6.1.125 LAWFULLY CREATED LOTS OR PARCELS:

“Lawfully established unit of land” means:

1. The unit of land was created:

- a. *Through an approved or pre-ordinance plat;*
- b. *Through a prior land use decision including a final decision from a higher court. A higher court includes the Land Use Board of Appeals;*
- c. *In compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created.*
- d. *By a public dedicated road that was held in fee simple creating an interviewing ownership prior to January 1, 1986;*
- e. *By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation.*
- f. *By the claim of intervening state or federal ownership of navigable streams, meandered lakes or tidewaters. “Navigable-for-title” or “title-navigable” means that ownership of the waterway, including its bed, was passed from the federal government to the state at statehood. If a waterway is navigable-for-title, then it also is generally open to public use for navigation, commerce, recreation, and fisheries.*

STAFF FINDING: The unit of land was created pursuant to Section 6.1.125.1.e by deed or land sales contract, provided there were no applicable planning, zoning, subdivision, or partition ordinances or regulations that prohibited the creation. Therefore, staff concludes that the property is a lawfully created lot. The subject property was originally deeded out and created by County Clerk #77-12-20470.

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.*

STAFF FINDING: Staff notified the applicant that Section 7.1.250 was missing from the initial application. The applicant provided an email response on January 18, 2023. The Roadmaster has not directly responded but during the pre-application meeting the Roadmaster stated that given the size of the property and the potential increase it not enough of a change to require items 2 through 4. Therefore, the increase in development is de minimums to the existing development and will not change enough to cause an increase in traffic that would change the category of Seven Devils Road. Traffic impacts will be covered later in the report. Therefore, this has been addressed.

E. ARTICLE 5.1 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]

STAFF FINDING: The application is not for a text amendment. Therefore, this criterion is not applicable.

• **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.*

STAFF FINDING: The application was submitted by the landowners. Therefore, this application is being reviewed by 3b. This application does not trigger a Measure 56 notice. Therefore, this has been addressed.

• **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.

STAFF FINDING: The Planning Director does not request to amend the proposal.

• **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]

STAFF FINDING: Staff has published and mailed notices as required. The notices in ORS 197.610 requires the county to present the proposal for amendment with text to reasonable describe the proposed change. The proposed change is a map amendment. The findings provided from the applicants have changed but that does not require a new notice to DLCDC under ORS 197.610. see *Jody McCaffree v. Coos Cuntly LUBA No. 2018-132*. Therefore, this section has been complied with.

• **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]

STAFF FINDING: This is not applicable to this 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.

STAFF FINDING: This application was initiated by the applicants and it their responsibility to provide the studies, justification and documentation to meet the burden of proof. This section has been addressed.

- **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.

STAFF FINDING: The Hearings Body has made a recommendation for the Board of Commissioners to adopt the ordinance to apply the Rural Residential-2 (RR-2) zone to the property.

- b. 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.

STAFF FINDING: This will allow for changes to the uses that apply to the property. The change is in the density requirements of the development standards. Therefore, the proposal is considered a rezone and the section has been addressed.

- i. 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.

STAFF FINDING: The Planning Director does not recommend an expansion of the geographic limits set forth in the application. Therefore, this section has been addressed.

- ii. 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.

STAFF FINDING: This is not within the interior of the of the Exclusive Farm Zone. Therefore, this section is not applicable.

iii. 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.*

STAFF FINDING: The application was filed on December 8, 2022, and the 35-day notice was provided to DLCD on January 11, 2023. After several continuances, the applicant requested the proposal be placed on hold until additional information could be provided. The applicant submitted the additional information at the end of April 2024.

The Planning Director reviewed the application and supplemental information and has provided a staff report with findings. This request is not subject to a 150-day timeline and was able to be accommodated. The application, staff report, and any comments are provided to the Planning Commission seven days prior to the hearing. The Planning Commission heard the matter on July 11, 2024 and made a recommendation to approve the application in accordance with Section 5.1.225. The Board of Commissioners will review the recommendation in a subsequent hearing. Therefore, the process is being followed as required by Section 5.1.220.

iv. 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.*
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.*
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.*

STAFF FINDING: The application is required to conform to the Comprehensive Plan. To determine this, it is necessary to review how the property was originally zoned and the steps to zone a property as Rural Residential-2. The Planning Commission can recommend to the Board of Commissioners that the proposal either conforms to the Coos County Comprehensive Plan, conforms with conditions (qualifiers), or does not conform and should be denied.

For historical perspective, Rural Residential Exceptions were part of a broader housing discussion in the Comprehensive Plan. They were designed to provide for transitional lands, acting as a bridge from Farm and Forest to Urban, or to identify lands that were not viable for commercial farm or forest use and were already committed to other uses (in this case, residential). Rural Residential exception land is not viable for farm or forest use due to several factors, including adjacent uses, size, location, soils, commercial enterprise, and resource management. These properties are not included in a housing needs analysis, which focuses on urban and urbanizable lands. Therefore, a housing need does not justify rural residential zoning; rather, a non-resource rezone or commitment to other uses is the path for justification.

Definition from the 1975 original goals¹:

RURAL LAND: Rural lands are those which are outside the urban growth boundary and are:
 (a) Non-urban agricultural, forest or open space lands or,
 (b) Other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

Even though there have been some modifications over the years to goals and Land Use Board of Appeals (LUBA) cases (case law) that have changed the implementation of these goals, the process remains very similar. A justification is required through the exception process to change the density or zoning of a property.

The Coos County Comprehensive Plan Volume 1 Balance of County is the appropriate portion of the comprehensive plan that pertains to this property, as the property is not in one of the estuary plans.

¹ History of Land Use <https://www.oregon.gov/lcd/OP/Pages/History.aspx>

To determine compliance, the county will need to go through the same process that was used to determine the original zoning and like zoning.

The subject property was originally designated as Rural Residential and zoned Rural Residential-5 (RR-5). While in a pre-existing rural housing exception area, the property was analyzed at a density of one dwelling per five acres. The applicant is requesting a zone change from RR-5 to Rural Residential-2 (RR-2), which represents an increase in density by an average factor of 2.5. The property was already determined to be non-resource land and was included in the committed rural housing exception area.

The original criteria used in the exception process were based on OAR 660-004-025 and 660-004-028. Below is the language from the relevant OAR, followed by the factors used to determine compliance.

Exception Requirements for Land Physically Developed to Other Uses

(1) A local government may adopt an exception to a goal when 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. Other rules may also apply, as described in OAR 660-004-0000(1).

(2) Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

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.

(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).

(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).*

(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.

(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.

(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.*

(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.

➤ **Existing Exception Area and Background:**

It is important to remember that while the effective zoning of RR-5 is consistent with the provisions of OAR 660-004-0040(6) and is deemed compliant with Goal 14, changing the effective zoning to RR-2, which would amend the applicable requirements regarding minimum parcel size to allow a greater amount of development, triggers OAR 660-004-0040(7).

The subject property is part of a committed rural housing exception area. This exception is included in Volume 1, Part 3 of the Coos County Comprehensive Plan. Below is the text and map area of the exception.

Coos County Comprehensive Plan Volume 1 Part 3
Section 5 Rural Housing Exception Statement

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 from OAR 660-04-028(6) shall 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.*

To summarize the exception section, this particular area was designated as an exception because the existing dwellings and parcelization in the region made forest use impracticable. The presence of dwellings and the subdivision of land necessitate alterations to forest management practices, which increases operational costs due to:

- Restrictions on logging that could potentially harm or damage domestic water supplies.
- The need for larger setbacks.
- Limitations on the use of herbicides.
- Obstruction of access to appropriate landing sites for highlead logging.
- The requirement to coordinate management activities across different parcels with timber at varying growth stages.
- Economic losses due to equipment vandalism and theft.

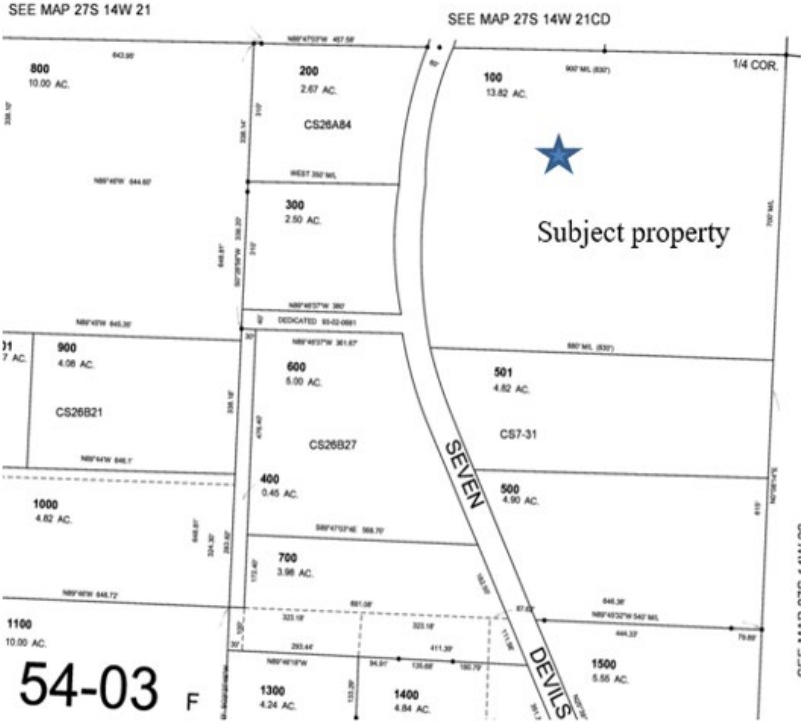
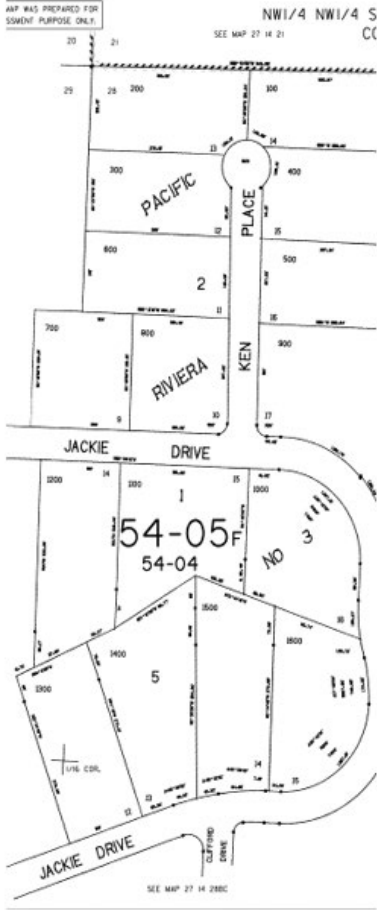
Additionally, managing small tracts involves infrequent activity, generates minimal income, and prohibits the implementation of practices that benefit from economies of scale.

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

The first map provides a current assessment to give a clearer picture of the property and surrounding properties. The second set of maps illustrates the exception areas, showing the pattern of zoning.

The current assessment map displays the subject property and the surrounding properties, providing an updated view of the area for better context. The exception area maps show the zoning pattern within the exception areas, highlighting the specific zoning designations and how they align with the exception criteria.

MAP WAS PREPARED FOR
SHEWENT PURPOSE ONLY.





- Existing adjacent uses:
- Parcel size and ownership patterns of the exception area and adjacent lands:
- Neighborhood and regional characteristics:

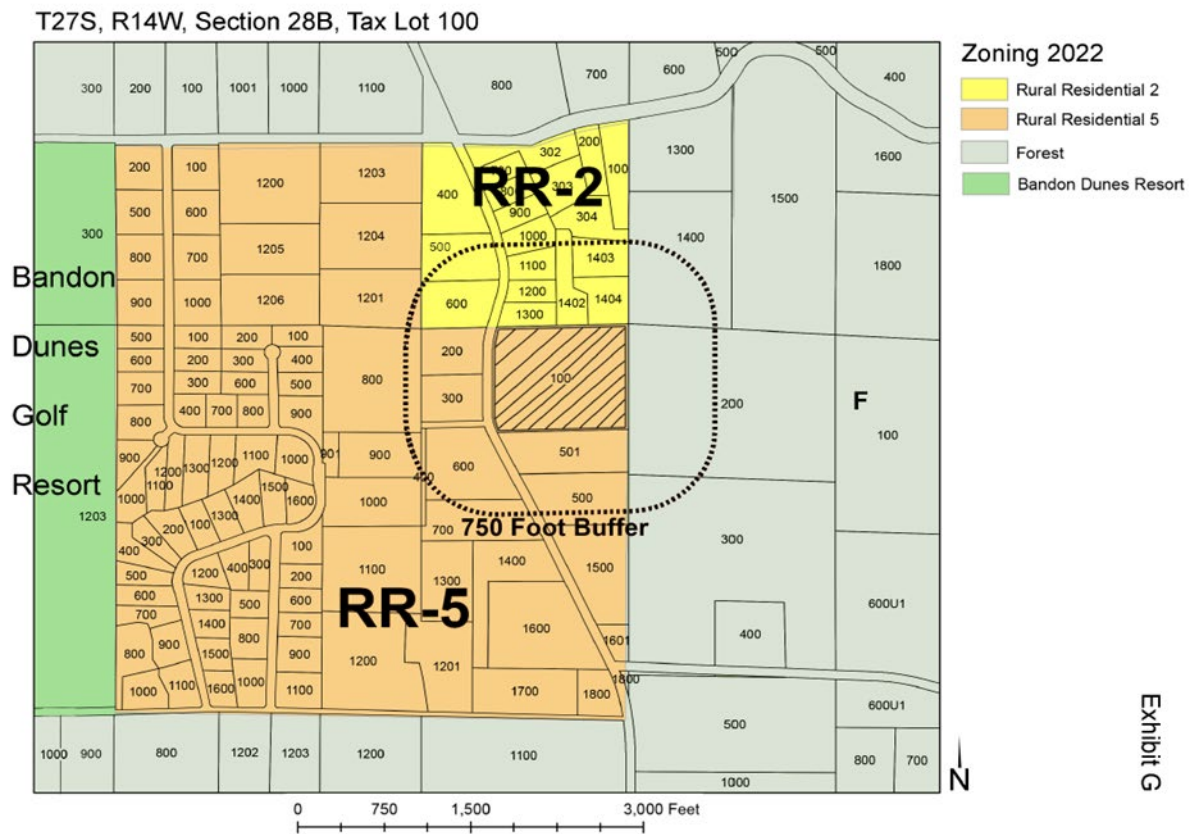


Exhibit G

The above map shows that the property to the east is in Forest Zoning, with tracts ranging in size from 13 acres to 70 acres. The properties to the south and west are zoned Rural Residential-5 and appear to be mostly developed with single-family dwellings, although there are some vacant parcels. The properties to the north are zoned Rural Residential-2 and are sparsely developed with residential dwellings. All properties are in private ownership. None of the properties to the north, south, or west are greater than 20 acres. This area, along with the rural residential area to the south, has developed over a period of years. The original exception statement remains valid, with some new development.

- Public facilities and services

The application included a list of public services available to the subject property, as detailed in their response to Goal 11. Rural properties are limited in services and require onsite water and septic systems to support development. The Comprehensive Plan prohibits the county from allowing the creation of undevelopable land. While this is usually addressed at the time of land division, it is important to understand the capacity of services in a rezone, as it indicates the potential for

developability.

Public Facilities (Existing)	
Facilities & Services	Provider
Water	Private Well
Sewer	Individual Septic System
Electric	Coos-Curry Electric CO-OP
Telephone	No public provider per Public Utility Commission
Solid Waste	Private
Police	Coos County Sheriff
Fire	Coos Rural Fire Protection District
Schools	Bandon School District
Road Access	Seven Devils Road (Minor Collector Road)

The subject property and the adjacent surrounding area are within the Bandon School District and the Bandon Rural Fire Protection District, with law enforcement provided by the Coos County Sheriff's Department. The applicant indicated that the subject property is served by the Coos Curry Electric Co-op for electricity and Ziplly Fiber for telephone service. Staff requested additional information from the applicant regarding adjacent wells and septic systems on neighboring properties. Water, sewer, and access are typically the major land use concerns for increases in rural density. Staff has addressed traffic, water, and onsite septic in the next section.

- Traffic

The property is accessed by Seven Devils County Road. This portion of Seven Devils is a two-lane paved road, currently classified as a Major Collector Road per the Coos County Transportation System Plan. The application included information in their Goal 12 response regarding daily traffic count increases. However, the applicant appears to have based their analysis on an incorrect assumption that Seven Devils is a minor collector. It is the gravel portion of Seven Devils Road that is classified as a minor collector but the majority of (and in this area) is a major collector.

Transportation System Plan Tables for Major and Minor Collectors:

Table 3-2. Major Collectors in Coos County

Alphabetical Listing (New 911 Names)	Length (miles)		Constructed Width (feet)		Right-of-Way Width (feet)	
	Paved	Gravel	Paved	Gravel	Paved	Gravel
Seven Devils Road	11.9	-	20-24	-	60	-

Table 3-3. Minor Collectors in Coos County

Alphabetical Listing (New 911 Names)	Length (miles)		Constructed Width (feet)		Right-of-Way Width (feet)	
	Paved	Gravel	Paved	Gravel	Paved	Gravel
Seven Devils Road	-	3.5	20-24	30	60	60

Google image to show paved road in front of the property.



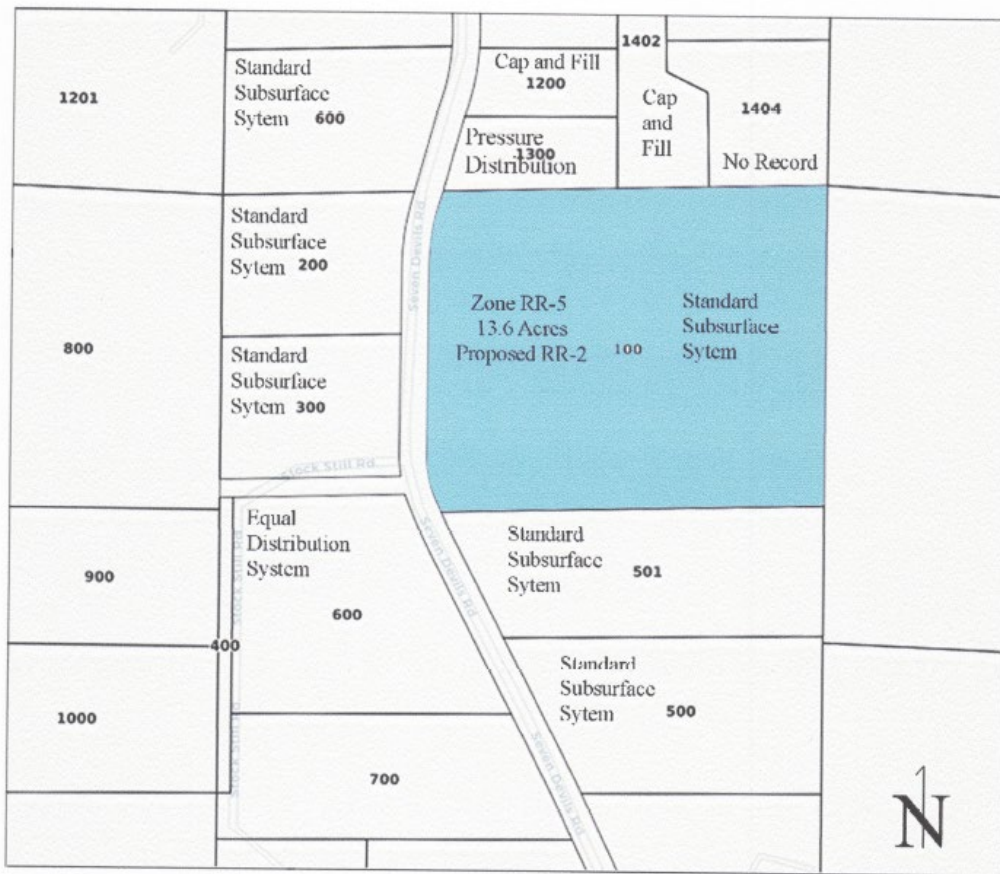
The transportation plan defines major collector roads as *“Major collectors generally serve higher traffic demands. They tie federal roads, minor collectors, and local roads to the arterial system. These roads also provide access to agricultural, forest, and recreational areas. As shown in Table 3-2, Coos County has 38 major collectors totaling approximately 217 miles of roadway. All of the major collectors are at least partially paved and 31 are paved their entire length. Most of the paved major collectors are between 17 and 25 feet wide which does not allow for much paved shoulder, thus any bicycles or pedestrians must share the travel lane with motorized vehicles”*.

There is currently the potential for a two-parcel partition on the subject property. Rezoning the area to an RR-2 zoning district may allow for a potential six-lot subdivision, depending on road and land improvements. Staff calculates that allowing an additional four residential parcels, with an average of 10 vehicle trips per day each, would only increase the traffic count by 40. This road is already classified to handle the additional 40 trips. Therefore, staff does not anticipate traffic to be a barrier to the change in zoning. At the time of development, the applicant will be required to create an internal road system, which will remove some developable area from the property.

- Onsite Septic Systems

The applicant provided a map of the onsite septic systems in the area along with some soil information to support the assertion that, if the density were modified and new lots or parcels were created, it would be consistent with the development potential. Additionally, information from DEQ regarding the type of system already approved for the property is attached. Typically, at least one acre is required to support onsite services, but this is dependent on many factors, including soil quality and the size of the development. The applicant provided the following soil information to address the onsite septic system potential.

Septic Systems on Adjacent and Subject Property



Soils 8B, 1B, and 1C, are the dominant soils on the subject parcel indicating suitable conditions for building development. These soils carry a limited 80-75 rating for septic tank absorption fields. The Department of Environmental Quality has approved the installation of a Standard subsurface system on site.

Soil 5B is less represented on site and can be limited by percolation and depth of soil to a cemented sandstone layer. These soils can have a limited suitability for subsurface systems due to lack of depth of the sandstone layer.

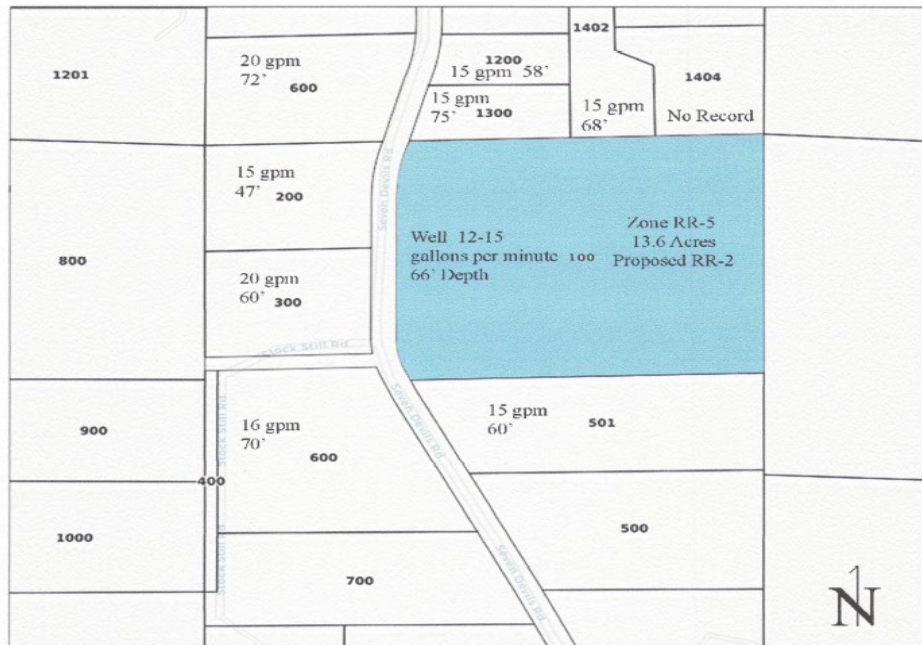
Standard system approval by DEQ on the subject parcel and adjacent parcels to the south and west indicate these soils will likely be suitable for Advanced Treatment Technology septic systems in the case of subsurface system is not approved. Parcels to the north show alternatives like sand filters and pressure distribution systems that can be used in areas where soil percolation is limited.

Environmentally ATT systems are advantageous as they often treat waste in a contaminant system, require little or no subsurface drain fields and treated wastewater contains minimal bacterium to be introduced into the soil or used as irrigation. Standard subsurface system approval by DEQ on site, use of standard systems in the area and site conditions such as suitable soils, good drainage and gentle topographic support the proposed Zone change on the subject parcel from RR-5 to RR-2, providing for increased rural residential living opportunities in the area.

Based on the fact that the subject property has an existing standard septic system, that the adjacent property (27-14-21CD-1300) has a pressure distribution system under DEQ permit #696-271, and that another adjacent property (27-14-21CD-1402) has a capping fill system under DEQ permit #246-20-00046, staff recommends finding that the subject property has a probable chance of additional septic drain field capacity.

- Water

The applicant provided the following information regarding the potential for onsite water potential.



Well Logs on Subject Property and Adjacent

Well data in the vicinity of the subject parcel is 12 - 20 gallons per minute. The subject parcel has a pH of 6.6 with 7 being neutral, a hardness of 1 with between 1-3 as optimal. Iron and Sediment levels are low and will require minimal filtration or alteration. It is typical in this area to use a UV process for bacteria treatment, fabric or micron filters for sediment and natural filtration and mineral treatment systems to alter iron levels.

The wells are commonly less than 100' deep and the compacted sandstone layer in the soil structure prevents surface contamination from seeping into the natural aquifer. Brown sandy clay 2' - 20' in depth is found to the Tax lot 300 to the West of the subject parcel. The sandy clay prevents most surface water from percolating into drinking water. Tax lot 600 has clay mixed with sand 30' -36' to the northwest. To the north tax lot 1300 has brown sand and clay 1'-30' and tax lot 501 to the south has compressed sandy clay from 2'-20' down.

These conditions indicate abundant water that will require minimal alteration and filtration to provide for the proposed increase in rural residential living.

The applicants had the water on Subject Property tested at Perry Electric/Plumbing in Coos Bay using the standard test for residential water use with no concerns raised. Information can be made available. (Well logs to support the maps at Attachment A)

The applicant has made a case that properties can be supported by onsite wells for primary residential uses.

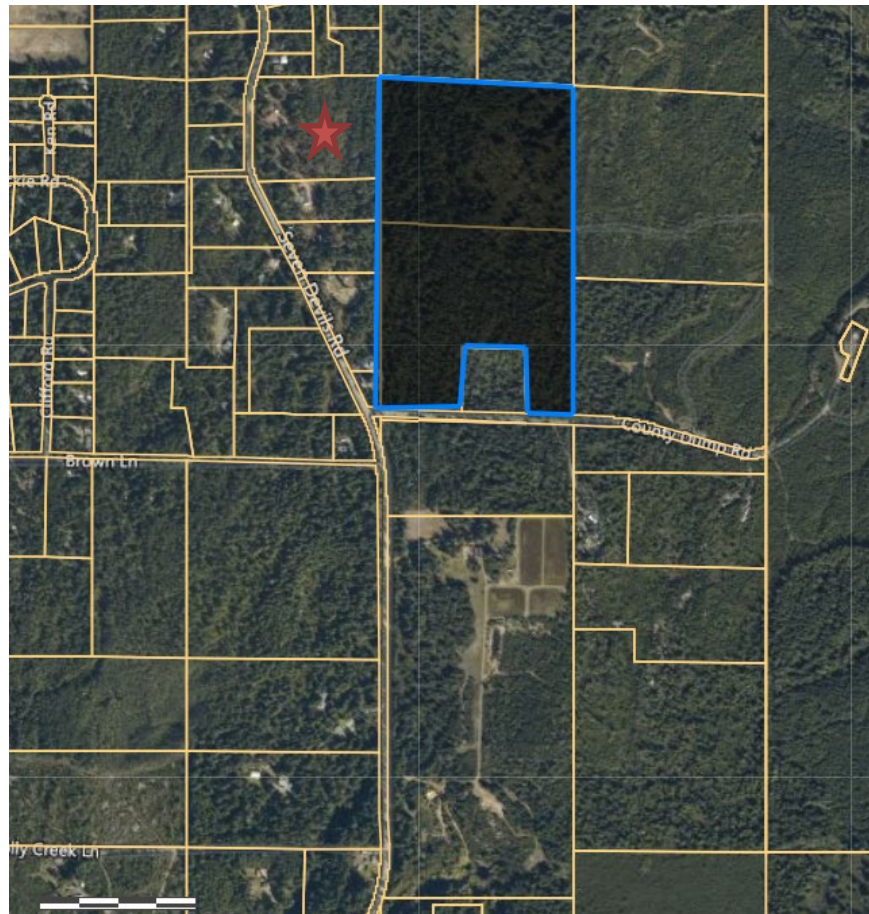
➤ **Adjacent property uses**

There is Rural Residential-2 (RR-2) zoned property to the north of the subject property. These parcels were originally zoned RR-2 during the initial comprehensive plan adoption under the rural housing exception. The RR-2 parcels along Seven Devils Road are approximately 1.1 to 1.4 acres in size and are already residentially developed. There are a few developed two-acre parcels located east of these properties with access to Whiskey Run Lane. The subject property is at the northeast corner of the Rural Residential-5 (RR-5) zoning district. There are pre-existing RR-5 zoned parcels located alongside Seven Devils Road. Other than the subject property, most of these parcels are under five acres in size and are considered non-conforming parcels.

The map on page 21 illustrates the overall exception area with the parcel sizes. Staff identified parcels under 5.0 acres in size as red, while parcels currently over 5 acres in size are identified in green. Approximately half of the Rural Residential-5 zoned area consists of pre-existing non-conforming lot sizes of less than 5 acres. About 50 lots were under the size of 2.0 acres at the time of zoning. There are a couple of pre-existing non-conforming lots across Seven Devils Road that are approximately two and a half acres in size. Directly southwest of the subject property is a 5-acre lot, and directly south of the subject property are non-conforming lots that are slightly under 5 acres in size.

The parcel size and ownership patterns of the exception area have already been discussed above. The areas adjacent to the Rural Housing Exception Area comprise forest-zoned parcels on the south, west, and north sides. On the western side, there is a Bandon Dunes Resort zoning district, established as an exception amendment/rezone during the 1990s, a decade after the analysis of the rural housing exception.

On the eastern side of the exception area, there are a couple of small timberland owners, generally classified as non-industrial timberland owners. It is crucial to highlight that the forest tract immediately east of the subject property, covering approximately 70 acres identified as tax lots 200 and 300, falls under a tract ownership outlined in blue below. Presently, if a residential property abuts forest zoning, a 30-foot setback is mandated for fire safety purposes. However, staff recommends considering a larger setback along the eastern border to minimize or eliminate any impact on forest practices.



When assessing the impact of increasing dwelling density on nearby forest practices, the pivotal question to address is whether the heightened density will necessitate a substantial escalation in accepted forest practices on the surrounding lands designated for forest use, or whether the proposal will not markedly increase the cost of accepted forest practices on the surrounding lands devoted to forest use.

The primary forest practices integral to common timberland management include harvesting, disposal of slash, site preparation, reforestation, pre-commercial thinning, stand maintenance, and road construction/maintenance.

The subject property shares a property line with tax lot 27-14-28-200. Tax lots 27-14-28-200, 27-14-28-300, and 27-14-28-400 are part of a forest-zoned tract spanning over 70 acres. Given the zoning and size of the property, it is likely that some type of forest practices will occur.

The Planning Commission discuss whether an additional development setback buffer is necessary along the subject property's eastern boundary. This measure aims to mitigate the effects of adjacent forest practices and ensure compatibility. The Planning Commission found the current setback was adequate and did not find an additional setback was necessary.

The nearest agricultural operation appears to be a small cranberry farm located on tax lot 27-14-28-1000. This parcel is approximately 76 acres in size, but the cranberry operation is limited to about 6 acres of cranberry bogs on the northeastern portion of the property. The parcel is located about 400 feet southeast of the exception area and approximately ½ mile southeast of the subject property under review. The Comprehensive Plan does not formally establish a specific buffer distance between the proposed use or increase in lot density and the agricultural use. Therefore, the Planning Commission found there was not a conflict in uses and additional conditions were not applied.

The property is currently zoned Rural Residential (RR-5) with a five-acre minimum parcel size. Given that the property is 13.60 acres, it currently qualifies for only one additional dwelling and one additional parcel of land. If the property were to be rezoned to a two-acre minimum parcel size (RR-2), theoretically, the property could be divided into six lots, with each lot qualifying for one dwelling.

Contrary to the applicant's statement², the current zoning on the property is RR-5, allowing for a total of two parcels and considering the five-acre minimum lot size and the density requirement of one dwelling per legal unit of land outlined in Chapter 4. The proposed RR-2 zoning equates to six lots and with one dwelling per legal unit of land. There may be future accessory dwelling units allowed but that change in density has not been approved.

The Statewide Planning Goals have been addressed further down in the report. There are really three main considerations in the review process:

Just as a reminder, the relevant criteria in this matter really is *if the rezoning, is justified based on evidence submitted that all the following criteria are found to exist:*

- a. *The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*

The proposal will comply with the Comprehensive Plan if the Board of Commissioners finds the exception to Goal 14 has been justified.

- b. *The rezoning will not seriously interfere with permitted uses on other nearby parcels; and*

The Planning Commission considered the impacts on Forest Use to the east. Additional considerations were factored into the recommendation for potential increase in water usage and the impact of additional septic systems. In address these concerns, the Planning Commission explored with the following criteria as guidance:

If the criteria above can be justified does the application warrant 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.*

² “The current zoning on the property is 5R which will allow nine dwelling units in total on the property.” The proposed RR-2 zoning will create the potential for the site to be subdivided to create four additional homesites. Page 14 of the applicant’s supplemental report

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.*

After careful consideration and a detailed review the Planning Commission did not find that qualifiers (conditions) would be required.

The Board of Commissioners did approve Rural Accessory Dwelling Units while this request was being considered but the that change to the plan and ordinance would prohibit this application.

The Planning Commission found the density change would not adversely impact adjoining properties and that the proposed findings justified the Goal 14 exception.

v. 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.

STAFF FINDING: Any recommendation will not amend the zoning map.

vi. 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.*

STAFF FINDING: This will be addressed by the Board of Commissioners.

vii. 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).

STAFF FINDING: The Planning Commission did not recommend a Qualified Rezone, but if the Board finds it necessary to address the compatibility issues, then one could be placed on the zone.

Given that the application indicates a need for additional housing, the Board of Commissioners may include a qualifier stating that any future residential development in the requested rezone area shall not be used as a vacation rental. However, since the needed housing section of the comprehensive plan is silent on vacation rental impacts, this qualifier would not be required to justify the application.

viii. 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.*

STAFF FINDING: There have been no request for additional permits on the property. Therefor; this criteria has been addressed.

ix. 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 I-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)

STAFF FINDING: The applicant has addressed Section 5.1.275, which is based on OAR 660-004-005. This rule defines "Non-resource Land" as land not subject to any of the statewide goals listed in OAR 660-004-0010(1)(a) through (g), except subsections (c) and (d). However, this definition does not apply to this request as the property is actually exception land and was already justified as non-resource in 1986.

The language for non-resource rezoning under current law (after October 4, 2000) mandates a minimum parcel size of ten (10) acres. The current zoning of RR-5 was established prior to the change in the law in 2000 and is essentially treated as nonconforming for the purposes of OAR 660-004-0010. Staff also notes that this language was not adopted into the ordinance until 2004, which is long after the adoption of the plan designating this as residential zoned property.

A. 660-014-0040 ESTABLISHMENT OF NEW URBAN DEVELOPMENT ON UNDEVELOPED RURAL LANDS

STAFF FINDING: Staff finds that the applicant miscopied the criteria regarding OAR 660-014-0040. The criteria set out on Page 23 of the supplemental application, listed as OAR 660-014-0040, appear to have been copied from OAR 660-004-0040. This provision specifies how Goal 14, "Urbanization," applies to rural lands in an acknowledged exception areas planned for residential uses.

As a reminder from the DLCDC comments, Goal 14 exception is necessary in this case. While the effective zoning of RR-5 is consistent with the provisions of OAR 660-004-0040(6) and is deemed compliant with Goal 14, changing the effective zoning to RR-2, which would amend the applicable requirements regarding minimum parcel size to allow a greater amount of development, triggers OAR 660-004-0040(7). Please see the referenced sections of OAR 660-004-0040 below:

- (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.

(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.

Staff was unclear in the applicant's submittal if the relevant criteria had been addressed. However, Staff believed there was still a pathway to move this forward. The applicant did provide additional testimony at the hearing to help clarify the findings and answer some important questions. The applicant explained that there had been different authors for the report which created some confusion in the findings.

OAR 660-14-0040 applies to "Undeveloped Rural Lands" where such lands include lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development. Subject property is in a rural lands exception, but not developed at urban density or committed to urban level development.

The criteria included in [660-014-0040](#) can be used to justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land, but this is not what the applicants are proposing. There is no proposal for urban levels of facilities and services. The applicants understand that rural services such as septic systems and wells will be necessary when the subject property is partitioned or subdivided. Urban levels of facilities and services are not needed as there is no proposal for economic activity that is dependent upon an adjacent or nearby natural resource.

Staff has tried to bring forth the relevant facts and added some findings to assist in complying with the Goal 14 exception process and to clarify a pathway for the county to approve this application. The County's plan allocates a finite number of rural dwelling units and acreage, with the zoning ordinance specifying permitted uses and minimum lot sizes. Residential districts are designed for small to medium-acreage dwelling sites outside Urban Growth Boundaries, suitable for moderate land development where urban services are not available or necessary. The subject property aligns with the proposed residential use, adjacent uses, and is consistent with long-term land use planning. Zoning in an "exception" area must limit allowed uses to those demonstrating justification for the exception. In this case, the justification was already established to zone the property as rural residential.

The subject property is pre-existing and already zoned Rural Residential. The exception process is necessary when aiming to exceed the density of one house every 10 acres when changing the existing density. While the property is considered an exception area, there is an argument that additional justification is required to reduce the density, addressing Goals 3, 4, 11, and 14. This is due to the nature of undeveloped residential land, including lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban-level development.

This argument can be approached in two ways. Firstly, the applicant could assert that the property is already committed to an urban level of development based on the zoning district (one house per five acres). Alternatively, the safer option would be to argue that, even though it may be reserved for urban development, it is undeveloped land and there are reasons to expand the density of the exception area. Therefore, justification of Goals 3, 4, 11, and 14 are required.

Staff has tried to add some additional facts to ensure the maximum legally defensible case for the Board of Commissioners to move forward with an approval. The burden of proof is always on the applicant, but CCZLDO Section 5.1.115 allows for the Planning Director to 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 criteria under OAR 660-014-0040 necessitates that the applicant elucidate how the development cannot be reasonably accommodated within or through the expansion of existing urban growth boundaries or by intensifying development in existing rural communities. Given that the property is not situated within an Urban Growth Boundary, it is not imperative to justify why the additional development cannot be located within the Urban Growth Boundary. This is because the property is located in an existing exception area, aligning with the apparent intent of the language. It appears that the applicable law is stating that if a property is within an exception area for rural residential use, it is preferable to intensify the use in that area rather than impact Farm or Forest Zoned property reserved for Farm and Forest practices.

The criteria states that a county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource. The property may play a crucial role in supporting an economic activity dependent on an adjacent or nearby natural resource. This necessity arises from the vital link between housing and resource-related jobs in coastal communities. These communities, characterized by their reliance on various natural resources, serve as economic hubs, generating employment across diverse fields.

In coastal areas, where industries such as fishing, aquaculture, forestry, and tourism thrive, the need for suitable housing becomes paramount. The availability of housing in close proximity to these resource-related jobs is essential for fostering a sustainable and vibrant local economy. Residents employed in resource-based industries contribute significantly to the economic fabric of these communities, creating a symbiotic relationship between housing development and economic activities.

In conclusion, acknowledging the intrinsic connection between housing and resource-related jobs is paramount for ensuring the sustained growth and prosperity of coastal communities. Coastal properties frequently grapple with challenges such as natural hazards, adverse soil conditions, and challenging slopes, factors that can impede development. Remarkably, the subject property stands out by not being encumbered by these hindrances, presenting a unique opportunity for development unhampered by the typical constraints faced by coastal real estate. This advantageous position positions the property as a valuable asset in contributing to both the housing needs and economic resilience of the coastal community.

While the last Coos County Housing Analysis did not cover rural housing needs and the overall impact on housing in Coos County, the City of Bandon's Housing Analysis³ covers the entire 97411 zip code, including this property. There is justification based on that document for needed additional dwelling units to support urban levels of facilities in the way of rural housing to support an economic activity that is dependent upon an adjacent or nearby natural resources including land and waterways in this area.

3

https://www.cityofbandon.org/sites/default/files/fileattachments/general/page/4691/bandon_housing_needs_assessment_final.pdf

Therefore, staff recommended supporting a finding that there is justification to support the urban level of facilities and services necessary for economic activity dependent on an adjacent or nearby natural resource. This support would be provided by increasing land available for rural housing in the 97411 zip code, based on the needs described in the City of Bandon's Housing Needs Analysis.

The Board of Commissioners should also support a finding that this area was reserved for Rural Residential and that it is appropriate to increase the density on this property rather than expanding the City of Bandon Urban Growth Boundary. The City of Bandon Urban Growth Boundary faces development challenges due to Goal 18 Beaches and Dunes, limited water and sewer availability, and/or necessary infrastructure improvements. Staff addressed the compatibility, water, and sewer availability starting on page 25 of this report.

Statewide Planning Goal 14 defines urban lands in more than one way. Urban lands can be found in Urban Growth Boundaries but may also be located outside of the Urban Growth Boundary when the density is less than one dwelling per ten (10) acres as explained in OAR 660-014-0040.

While Staff has had a difficult time following some of the arguments made in this application, there is a need for housing and the supplemental findings made in this report does provide for adequate justification.

B. CONCLUSION:

The applicant is requesting to change the density requirements to allow for more residential development. The Planning Commission found there were enough facts provided to move the proposal forward. The Planning Commission to not recommend any conditions or qualifiers but the Board of Commissioners may choose to add conditions to the property for compatibility reasons.

Some issues the Board of Commissioners may consider is the recently adopted Accessory Dwelling Units, which means the density of the dwelling units could potentially double on the property. This could cause issues with water, onsite septic systems, and fire hazards. The Planning Commission did consider this in their recommendation and did not find impacts that required conditions.

1 BOARD OF COMMISSIONERS

2 COOS COUNTY

3 STATE OF OREGON

4 In the Matter of Amending the Coos County
5 Comprehensive Plan Designation and Zone Map from
6 Rural Residential-5 to Rural Residential-2

ORDINANCE No.: 23-01-001PL

7
8 SECTION 1. TITLE

9 This Ordinance shall be known as the “Coos County Ordinance No. 23-01-001PL”.

10 SECTION 2. AUTHORITY

11 This ordinance is enacted pursuant to the provisions of ORS 203.035 and Chapter 215;

12 SECTION 3. PURPOSE

13 The purpose of this Ordinance is to amend Ordinance 85-12-020L that adopted Coos County
14 Comprehensive Plan Volume I (Balance of County) Plan Zone Map and Ordinance 85-03-004L that adopted
15 Coos County Zoning & Land Development Ordinance which implements Volume I of the Coos County
16 Comprehensive Plan;

17 SECTION 4. FINDINGS AND ORDER

18 WHEREAS the property owners Coos County applied on properties described as map number: Township
19 27S, Range 14W, Section 28B, Tax Lot 100. Tax lot 100 is currently zoned and designated as Rural Residential.
20 The proposal is to amended the Coos County Comprehensive Plan (CCCP) CCCP designation and zoning from
21 Rural Residential-5 (RR-5) to Rural Residential-2 (RR-2) as presented by in the application found at Attachment A;

22 WHEREAS Staff reviewed the proposal and made findings in the July 30, 2024, staff report
23 that the applicant met the required criteria and recommended that the Planning Commission (Hearings Body)
24 find that the application complied with the Coos County Zoning and Land Development Ordinance (CCZLDO)
25 Article 5.1 Plan Amendments and Rezones.

26 WHEREAS the Hearings Body held a public hearing on July 11, 2024, for the purpose of reviewing all the
27 evidence and testimony in this matter. The Planning Commission made the recommendation to the County Board of
28 Commissioners (BOC) that the plan amendment rezone would meet the criteria without conditions or qualifiers;

1 AND IT APPEARING to the Coos County Board of Commissioners that the Planning Commission did
2 adequately review all of the testimony and evidence in the matter and held another public hearing on the matter
3 to consider any additional testimony and evidence on August 6, 2024.

4 NOW, THEREFORE, IT IS HEREBY ORDERED that the Coos County Board of Commissioners has
5 reviewed the recommendations from the Hearings Body and found that the proposal meets the objectives of the
6 comprehensive plan. The evidence and testimony in the record support the rezone request. The Board of
7 Commissioners carefully considered the evidence and determined that the proposal is in compliance with other
8 policies and ordinances adopted by the Board of Commissioners. The findings regarding this matter can be
9 found in Attachment B.

10 SECTION 5. SEVERANCE CLAUSE

11 If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or
12 declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect
13 the validity of the remaining portions of this ordinance; and it is hereby expressly declared that every other
14 section, subsection, provision, clause or paragraph of this ordinance enacted, irrespective of the enactment or
15 validity of the portion thereof declared to be unconstitutional or invalid, is valid.

16 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

17 Coos County Ordinances 85-12-020L, 85-03-004L and any subsequent amendments thereto are
18 repealed to the extent that they are in conflict with this ordinance. Coos County Ordinances 85-12-020L and
19 85-03-004L shall remain in full force and effect in all other respects.

20 SECTION 7. EMERGENCY CLAUSE

21 The Board of Commissioners for the County of Coos deems this Ordinance necessary for the
22 immediate preservation and protection of the public peace, safety, health and general welfare for Coos County
23 and declares an emergency exists, and this Ordinance shall be in full force and effective upon its passage.

24 Adopted this Dated this 6th day of August 2024.

BOARD OF COMMISSIONERS

25 ATTEST

Chair

26 Recording Secretary
27 Approved as to form:

Vice Chair

28 Office of Legal Counsel

Commissioner

29 Planning Commission Reading: July 11, 2024
30 Board of Commissioner Reading: August 6, 2024
Effective Date of Adoption: August 6, 2024

**RICHARD & KATHLEEN RANDOL
PLAN AMENDMENT AND ZONE CHANGE
SUPPLEMENTAL APPLICATION DOCUMENT**

Table of Contents

**APPLICATION OF RICHARD & KATHLEEN RANDOL
FOR A COMPREHENSIVE PLAN MAP AMENDMENT
AND CONCURRENT ZONE CHANGE**

Organization of This Application

This application will be required to be heard by the Coos County hearings body. The hearing will be the first evidentiary hearing to review this application, exhibits and evidence submitted into the record to determine whether the requested amendment meets the applicable review criteria set forth in the Oregon Revised Statutes, Administrative Rules, Coos County Comprehensive Plan and Land Use and Development Ordinance (CCZLDO).

This application is organized and presented to the hearings body in accordance with the relevant review standards. Part 1 contains the introduction and background of this request. Part 2 addresses the Statewide Planning Goals. Part 3 addresses the standards for a plan amendment set out in the Coos County Land Use and Development Ordinance. Part 4 reviews the criteria for a zone change. The standards contained in the Statewide Planning Goals provide the most complete set of review standards which are discussed in detail under each respective Goal. Consequently, in the discussion of the criteria under the County Land Use and Development Ordinance, where there is overlap in review standards, reference is made back to the relevant goal discussion to avoid needless repetition. Applicant's exhibits and figures are contained at the end of this application document. These exhibits are arranged to follow the flow of the Statewide Planning Goals.

The text of all relevant review criteria are set out in **bold** font, without quotation marks. All other narrative in this application appears in regular font.

INTRODUCTION AND BACKGROUND	2
CONFORMANCE WITH CCLZO SECTION 5.1.275 (1 – 8).....	2
CONFORMANCE WITH CCLZO SECTION 5.1.215 (CRITERIA FOR REZONE)	
COMPLIANCE WITH STATEWIDE PLANNING GOALS	7
Goal 1: Citizen Involvement	7
Goal 2: Land Use Planning	9
Goal 3: Agricultural Lands	10
Goal 4: Forest Lands	12
Goal 5: Open Spaces, Scenic and Historic Areas, and Natural Resources	16
Goal 6: Air, water and Land Resources Quality	16
Goal 7: Areas Subject to Natural Disasters and Hazards	18
Goal 8: Recreational Needs	19
Goal 9: Economic Development	20
Goal 10: Housing	21
Goal 11: Public Facilities	23
Goal 12: Transportation	25
Goal 13: Energy Conservation	28
Goal 14: Urbanization	28
GOAL 2/GOAL 14 EXCEPTION.....	29
COMPREHENSIVE PLAN CONFORMANCE AND INTENT.....	35
RURAL RESIDENTIAL AREA ANALYSIS AND ZONING/LOT PATTERNS.....	38
AREAWIDE ANALYSIS.....	39
CONCLUSION	49

I. INTRODUCTION & BACKGROUND

This matter comes before the Coos County Hearings Body on application filed by Richard and Kathleen Randol, herein referred to as Applicant, which is owner of the subject property. The 13.60-acre property is located on the east side of Seven Devils Road approximately 4.6 miles north of the City of Bandon. The subject property is identified in the Coos County Assessor's records as Tax Lot 100, Section 28B, Township 27 South, Range 14 West, Property I.D. No. 767200.

Applicant is requesting a Comprehensive Plan Amendment from "Rural Residential 5 Acre" (RR5) to "Rural Residential 2 Acre" (RR2) to allow Rural Residential 2 Acre (RR) zoning within a rural residential committed land, as designated by Coos County Comprehensive Plan. The request also includes a zone change from Rural Residential – 5 Acre (RR5) to Rural Residential – 2 Acre (RR2).

The requested RR2 zone classification as set out in the Coos County Zoning and Land Development Ordinance (CCZLDO) is primarily intended provide for rural home sites in an open space environment in order to encourage the continued existence of rural family life. The specific provisions of the RR2 zone are set forth under CCZLDO Chapter 4.

A copy of the Coos County zoning map is included and identified as Figure 2 of this document to generally identify the zoning and land uses in the area surrounding the subject property.

CCZLDO CHAPTER TWO – EXCEPTIONS PROCESS

This chapter will help for showing how the Randol proposal is justified according to Oregon Statewide Planning Standards. The land is committed to residential uses and the four areas of the Goal 2 exceptions process will be addressed (OAR 660-014-0020).

II. CONFORMANCE WITH CCLZO SECTION 5.1.275 (1 – 8)

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.

FINDING: **Statewide Planning Goal 3 and 4 that define agricultural and forest land will be covered in more detail later in this report. The subject property has a Rural Residential – 5 Acre zoning designation and has been defined by Coos County to be nonrecourse and is currently located within a rural residential are that has an existing Goal 14 urbanization exemption. The**

underlying application is to allow existing rural residential land to transition to a more intense density (five to two acres in size) and therefore, agricultural and forest land provisions are not applicable.

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;

FINDING: Goal 5 addresses Open Space, Scenic and Historic Areas, and Natural Resources will be covered more in depth later in this report. The subject property has no detrimental overlay directed related to natural features. The property is not inundated in the floodplain or contains wetland or hydraulic protected features. There are no identifiable areas of the property that are otherwise encumbered by any elements of Goal 5.

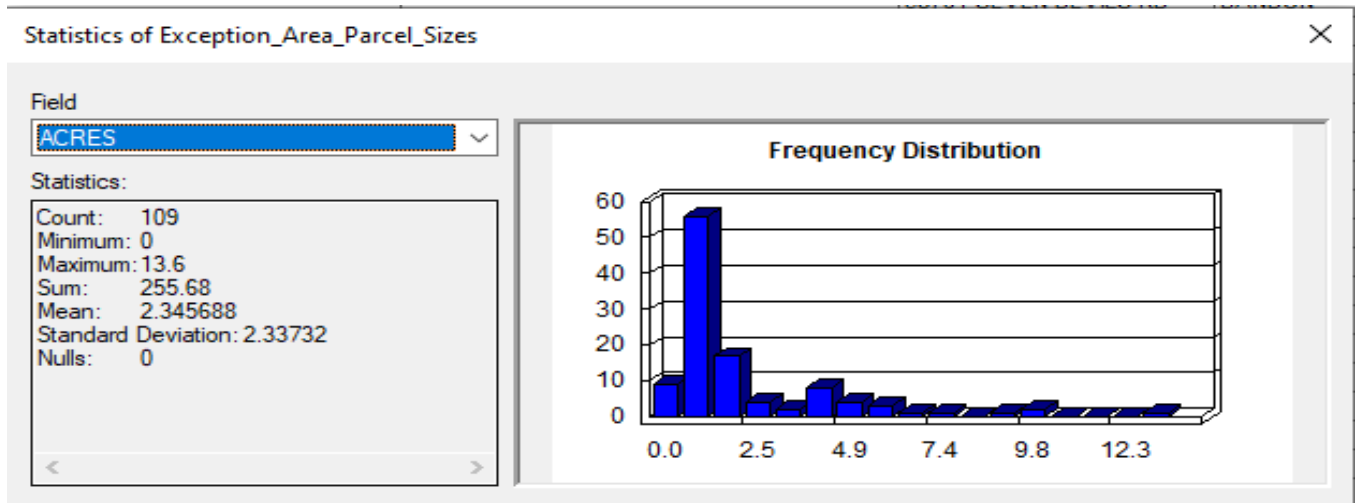
3. The subject property has been proven to be generally unsuitable for production of farm crops and livestock or merchantable tree species, considering terrain adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.

FINDING: The property has been proven to be generally unsuitable for production of farm crops and livestock or merchantable tree species by Coos County. The County jurisdiction went through a very extensive process in 1982 to identify rural residential areas that merit a goal 14 exemption and the findings are now housed in the Comprehensive Plan which dictates based on the land patterns surrounding and adjacent to the subject property and a large amount of area should be given rural residential zoning designations. The subject property should therefore be treated as rural residential in this application process with no agricultural or forest applicability.

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.

FINDING: The subject property is not considered to be nonresource land as determined by Coos County. The subject property has a rural residential – 5 Acre zoning designation as concluded by Coos County Comprehensive Plan and currently has a Goal 14

urbanization exemption. In addition, the structural and lotting pattern in the area is consistent with the rural residential zoning. The graph below outlines the entire rural residential area and includes all 109 properties that are currently either zoned RR5 or RR2. Although only 15 out of the 109 properties are zoned RR2, the average lot size is 2.34 acres, well below the 5 acres in size. The existing lotting pattern illustrates the rural residential area has essentially already transitioned to RR2. 97 out of 109 properties are less than 5 acres in size, which is 89% of the entire area leaving on 11% that is 5 acres or more. The entirety of the area is committed to 2 acre rural residential sizes.



Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document

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.

FINDING: The subject property has not been given a special tax assessment for farm or forest use within the past five years. The makeup of the land is conducive to residential type development and cannot viably be used for farm or forest production.

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.

FINDING: The subject property clearly meets all the standards above and has been considered nonresource land by the County since 1982. The application is not to rezone to resource to nonresource given the property and most of the surrounding properties are already zoned in a nonresource, rural residential capacity.

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.

FINDING: The provisions of Oregon Administrative Rule 660-04-0040 are addressed in more detail later in this report. The subject property is nonresource and considered exempt from agricultural or forest land requirements due to its rural residential designation. Please see section V for further clarification.

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) PA-19-006 Page 7 Oregon Statewide Planning Goals.

FINDING: The subject property has a current zoning designation of RR5, and the application is to allow it to transition to a more suitable designation of RR2, which is consistent with this provision. The full makeup of the area indicates there is a average acreage size of 2.34 acres in size. The application is fully appropriate due to all surrounding factors.

III. COMPLIANCE WITH THE STATEWIDE PLANNING GOALS

The Statewide Planning Goals have been acknowledged as being applicable to the Coos County Comprehensive Plan. A proposal to amend the Comprehensive Plan and Zone must comply with all applicable Statewide Planning Goals unless an exception to one or more of the goals is proposed. There is no exception being proposed as part of this application. Coos County must make findings that Applicant's proposal complies with each of the relevant goals. The following information regarding the Statewide Planning Goals shows how this request complies with them.

Goal No. 1 - Citizen Involvement

To ensure the opportunity for citizen involvement in all phases of the planning process.

Coos County will provide written notice of the requested plan amendment and zone change to surrounding property owners within 250 feet of the subject property not less than twenty days prior to the scheduled date of the first public hearing, and will cause public notice of Applicant's request and the scheduled public hearing to be published in the local newspaper pursuant to the requirements of CCZLDO Chapter 5, Section 5.0.900. Notice will also be given to affected state and local agencies, and other individuals and organizations that are legally entitled to such notice. These various forms of individual and public notice assure that local citizens have an opportunity to become informed about, and participate in, the public hearing process. The requested plan amendment and zone change are being processed in a manner that assures full compliance with Statewide Goal No. 1.

Goal No. 2 - Land Use Planning

To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions.

Coos County has established policies and procedures, which require a detailed evaluation of any proposal to amend its Comprehensive Plan. Specific criteria and standards have been set forth against which Applicant's amendment request must be evaluated in the light of relevant Findings of Fact. The County's ultimate decision in this matter will be based on the weight of those relevant Findings. As was noted in the introduction section of this document the proposed Plan Amendment and Zone Change involve the conversion of 13.60 acres of land from RR5 to RR2 residential use designation. The area proposed for amendment is already considered rural residential land, however, the subject property is not in a rural community; therefore, the

proposed Plan Amendment and Zone Change must include an exception to Statewide Planning Goal 14.

The requested Comprehensive Plan Amendment and Zone Change are being evaluated in a manner that assures full compliance with Statewide Goal No. 2.

Goal No. 3 - Agricultural Land

To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with the existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

The land proposed for amendment is currently designated Rural Residential 5 Acre land by the Coos County Comprehensive Plan and is therefore not protected as a Goal 3 resource. This finding is validated by the fact that the site has been determined to be non-resource land suitable for rural residential use and subsequently included within the County inventory of rural residential lands site as evidenced by the Coos County Comprehensive Plan. The proposed Plan Amendment and Zone Change do not conflict with Statewide Goal No. 3.

On the basis of these findings, the subject property is not farmland as defined by Goal 3. Conversion of the subject site to an industrial use will not conflict with the statewide policy contained in Goal 3 and an exception to Goal No. 3 is not required.

Goal 4 - Forest Lands

To preserve forest lands for forest use.

The land proposed for amendment is currently designated Rural Residential 5 Acre land by the Coos County Comprehensive Plan and is therefore not protected as a Goal 4 resource. This finding is validated by the fact that the site has been determined to be non-resource land suitable for rural residential use and subsequently included within the County inventory of rural residential lands site as evidenced by the Coos County Comprehensive Plan. The proposed Plan Amendment and Zone Change do not conflict with Statewide Goal No. 4.

On the basis of these findings, the subject property is not forestland as defined by Goal 4.

Goal No. 5 - Open Space, Scenic and Historic Areas, and Natural Resources

To conserve open space and protect natural and scenic resources.

Goal 5 addresses a variety of resources not specifically covered in other goals and sets out a process requiring inventory and evaluation. Steps in the process require that the level of significance of resources is determined, and if an identified resource appears to be significant, further evaluation is required. Such evaluation may lead to alternative courses of action, including fully protecting the identified resource.

Goal 5 addresses the following resources:

1. Open space.
2. Mineral and aggregate resources.
3. Energy resources.
4. Fish and wildlife areas and habitats.
5. Ecologically and scientifically significant resources.
6. Outstanding scenic views and sites.
7. Water areas, wetlands, watersheds and groundwater resources.
8. Wilderness areas.
9. Historic areas, sites, structures and objects.
10. Cultural areas.
11. Oregon recreational trails.
12. Wild and scenic waterways.

All of Coos County, including Applicant's property, has previously been subjected to extensive surveys and analyses intended to inventory and evaluate the Goal 5 resources listed above. These inventories, which are incorporated into the Coos County Comprehensive Plan, have previously received acknowledgment of compliance with Statewide Goal 5. Nevertheless Applicant has conducted an independent evaluation of the potential impact of the proposed plan amendment on Goal 5 resources and proposes the following findings:

1. Land Needed or Desirable for Open Space

The subject property is typical of the majority of the lands in the central area of Coos County and contains no identified topographic or vegetative features that warrant protection under Goal 5. There is a large amount of land, which shares these same general characteristics surrounding the subject property. Conversion of the site from its present five acre rural residential designation to a two acre rural residential designation would result in an insignificant impact on open space resources in the surrounding area due to the abundant supply of open space with similar natural features. The site has not previously been identified by either the Coos County Comprehensive

Plan as being needed or desirable for open space.

2. Mineral and Aggregate Resources

No mineral or aggregate resources requiring Goal 5 protection have been identified on or in the vicinity of the subject site.

3. Energy Sources

Goal 5 energy resources refers to sites and resources for the generation of energy (i.e. natural gas, oil, coal, hydroelectric, geothermal, uranium, and solar). No known energy sources have been identified on or in the vicinity of the property. The property does have solar access, but no more so than most other land in Coos County.

4. Fish and Wildlife Areas and Habitat

The subject property is not traversed by any existing creek or stream (riparian vegetation), which has been classified by the Oregon Department of Fish and Wildlife (ODFW) as a “fish-bearing stream”.

5. Ecologically and Scientifically Significant Natural Areas

No identified ecologically or scientifically significant natural areas are present on or in the vicinity of the subject site.

6. Outstanding Scenic Views and Sites

No identified scenic views or sites exist on the subject property. As noted under Open Space, above, the site has so much in common with many other locations in the general area that its scenic value is not considered unique or significant. The property possesses no prominent topographic features or vegetation, which would otherwise give it scenic significance.

7. Water Areas, Wetlands, Watersheds, and Groundwater Resources

The subject property contains no water areas, watersheds or identified groundwater resources. Groundwater drawdown is minimized because of the large amount of incoming water, the redirection of runoff and used water into the aquifer through engineered drainage and subsurface disposal, and maintenance and enhancement of existing vegetation cover. No complaints concerning depletion of water resources in adjacent similar areas have occurred. In order for an area to meet the Army Corps of Engineers' and the Oregon Division of State Lands' definition of wetland, three elements must be present: 1) water, 2) hydric soils, and 3) wetland vegetation.

Coos County has published a Significant Wetland Inventory, which shows that no significant wetlands have been identified on the subject property or on adjacent property. In addition, the U. S. Fish and Wildlife Service has completed mapping of wetlands in Coos County under the National Wetlands Inventory (NWI) program. The NWI mapping indicates that there are no areas of mapped wetlands on the subject property. A copy of the NWI map is included in this document. The Federal Flood Insurance Rate Map for the area shows that the elevation of the property puts it well above the flood plain of any area streams.

8. Wilderness Areas

The subject site is not within, adjacent to, or part of, a designated wilderness area.

9. Historic Areas, Sites, Structures, and Objects

There are no identified or inventoried historic structures or objects on, or adjacent to, the subject property.

10. Cultural Areas

There are no identified or inventoried archaeological or cultural resources on the subject site.

11. Potential and Approved Oregon Recreation Trails

There are no designated or planned recreational trails on or adjacent to the subject site.

12. Wild and Scenic Waterways

The site is not within any designated or planned wild and scenic waterway, nor has such a designation been given to other lands or resources in the general vicinity of the subject property.

Based on the foregoing findings, there is no Goal 5 resource present requiring preservation action. The requested plan amendment and zone change will not conflict with any identified Goal 5 resources. The subject property has not been included in any inventory of needed open space or scenic areas, nor has it been identified in the Comprehensive Plan as having any historic, cultural or significant natural resources which need to be preserved and/or protected.

Goal No. 6 - Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the state.

Statewide Goal 6 requires that air, land and water resources of the State be maintained and

improved by assuring that future development, in conjunction with existing development, does not violate applicable state and federal environmental quality standards, and does not exceed the carrying capacity of local air sheds, degrade land resources or threaten the availability of such resources.

Any future land use activities on the property will be required to comply with all local, state and federal environmental regulations, thus assuring that the proposed plan amendment and zone change will not adversely impact the carrying capacity of local air sheds, degrade land and water resources or threaten the availability of such resources. Although the proposed rural residential land use designation on the property may result in at least some potential for environmental impacts if not properly monitored and regulated, both Coos County and the State of Oregon have sufficient regulatory measures in place so as to ensure that subsequent development will not produce any unanticipated impacts. The proposed plan amendment and zone change have been evaluated in a manner that assures full compliance with Statewide Goal No. 6.

Goal No. 7 - Areas Subject to Natural Disasters and Hazards

To protect life and property from natural disasters and hazards.

The subject property has not been identified as being within any identified floodplain area. The elevation of the site puts it well above the flood plain and any danger of flooding from local creeks and rivers.

The developed portion of the subject property is generally flat to rolling and contains no steep slopes that might otherwise create concern about the geologic stability of the site. The subject property is not inconsistent with the precedent located in the surrounding areas as it relates to terrain. There is no landslide susceptibility based on the soil composition or geological hazard.

Goal No. 8 - Recreational Needs

To satisfy the recreational needs of the citizens of the state.

Recreational needs for the general public have been provided for on numerous sites in the coastal area surrounding the subject property including Bandon Dunes Golf Course and the general areas of coastal features directly to the west. The Coos County Comprehensive Plan has not identified

the subject property on any inventory for recreational facilities or opportunities. The proposed amendment will not conflict with Statewide Goal No. 8.

Goal No. 9 - Economy of the State

To diversify and improve the economy of the state.

The Statewide Economic Development Goal requires that local land use plans "*provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies*". Goal 9 is intended to be applied on a County-wide basis and requires that future economic growth be accommodated, in part, by ensuring that there is sufficient suitable land planned and zoned for commercial and industrial uses. The proposed plan amendment and zone change do not involve, or otherwise impact, the county's inventory of lands needed for economic development. The amendment and zone change will not conflict with the Statewide Economic Development Goal.

Goal No. 10 - Housing

To provide for the housing needs of the citizens of the state.

The primary purpose of Goal 10, within the context of amending the Comprehensive Plan, is to ensure that sufficient buildable land is available to allow for the full range of housing needs within the County to avoid creating shortages of residential land which would artificially restrict market choices in housing type, price range or location. The Coos County Comprehensive Plan requires that population growth be monitored and assessed for impacts on previous estimates of needed housing and the availability of sufficient land for residential use. As previously noted, the subject 13.60 acre site is presently vacant. No existing housing will be displaced as a consequence of the proposed Plan Amendment and Zone Change. The current zoning on the property is 5R which will allow nine dwelling units in total on the property. The proposed RR-2 zoning will create the potential for the site to be subdivided to create four additional homesites.

The proposed plan amendment and zone change will have some positive affect on the rural residential housing stock in Coos County, but will not directly result in population growth or increase the demand for housing beyond previous projections, or otherwise result in a conflict with the purpose and requirements of Goal 10.

Goal No. 11 - Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.

Statewide Goal No. 11 concerns the public facilities and services aspects of amending the Comprehensive Plan designation on the subject property from farm use to rural commercial use, and requires consideration of a system or plan that ensures the proper coordination of the types, locations and delivery of public facilities and services that best support existing and proposed land uses.

Applicant's property is situated in a rural area where public facilities and services are relatively limited, compared with the broad ranges of services that are available in urban areas. There are no public sanitary sewers in the vicinity of the property; however, the relatively low density of development permitted by the proposed rural residential designation and zoning on both the subject property and other surrounding rural residential properties facilitates the use of individual subsurface septic systems subject to standards enforced by the Oregon Department of Environmental Quality. There is no public water service in the vicinity of subject property, however, all of the existing residential properties in the surrounding area are provided domestic water services by individual onsite wells or springs and there is no evidence of groundwater depletion as a result. Applicant intends to develop an onsite water source for future development of the property. Fire protection in the area is provided by Bandon Rural Fire District and police protection is provided by the Coos County Sheriff's Office.

The demand for other utilities and services, including electricity and communications, will be no greater than that resulting from the historic use of other adjoining and nearby properties. The proposed plan amendment and zone change will not adversely impact the present or future provision of public facilities and services in the surrounding area. This conclusion is based on consideration of the existing public service delivery systems and plans that are in effect within the surrounding area, and which are intended to ensure proper coordination of the types, locations and delivery of the public facilities and services necessary to support existing and proposed land uses in the area. The services that are available, or are proposed, to the subject property include those listed in the table below.

Table A Public Facilities (Existing)	
Public Facility	Provider
Water	Private Well
Sewer	Individual Septic System
Electric	Coos-Curry Electric CO-OP
Telephone	No public provider per Public Utility Commission
Solid Waste	Private
Police	Coos County Sheriff
Fire	Coos Rural Fire District
Schools	School District No.
Road Access	Seven Devils Road (Minor Collector Road)

On the basis of the foregoing analysis, the subject property will be provided with an adequate level of public facilities and services, and such facilities and services will be delivered in a timely, orderly and efficient manner consistent with the purpose of Statewide Goal No. 11.

Goal No. 12 - Transportation

To provide and encourage a safe, convenient and economic transportation system.

The statewide transportation goal is intended to be applied on a countywide basis. Specific transportation-related policies and development standards are included within Coos County’s Comprehensive Plan and land use ordinances to assure that the intent of the statewide transportation goal is implemented through the application of both state and local policies and standards at the time of development. The intent of Goal 12 is also implemented by the State Transportation Planning Rule (OAR 660, Division 12). OAR 660-12-060(1) requires that *"amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards... of the facility"*.

Four questions must be addressed to determine whether or not the proposed residential development will significantly affect a transportation facility as outlined in OAR 660-12-060(2):

A plan or land use regulation amendment significantly affects a transportation facility if it:

- (a) Changes the functional classification of an existing or planned transportation facility;**
- (b) Changes standards implementing a functional classification system;**
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or**
- (d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.**

In order to ensure that a proposed land use change complies with the requirements of the Transportation Planning Rule, Coos County has adopted the following standard for plan amendment applications:

- (2) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the County Transportation System Plan.**
 - (a) The applicant shall cite the identified Comprehensive Plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the County Transportation System Plan.**

Access to the subject property is directly from Seven Devils Road. The functional classifications of transportation facilities within Coos County, including Seven Devils Road, are identified in Table 3-3 of the Transportation Element of the CCZLDO. Seven Devils Road is classified as a “Minor Collector”. The Coos County Transportation System Plan states that “*Generally serve lower traffic demands than major collectors. They generally branch off from highway, arterial or major collector roadways and provide access to agricultural, forest, recreational areas, and residential homes. Property access is generally a higher priority for minor collectors while through traffic movements are served as a lower priority.*”

Estimates of the average number of daily vehicle trips generated by a specific land use can be obtained from a number of reliable sources; however, the most commonly referenced source for such data is Trip Generation, published by the Institute of Transportation Engineers (ITE). Average daily trip generation rates published in the ITE’s Edition of Trip Generation are based primarily on field data obtained from direct observation of actual land use activities. Trip

Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document

generation rates are reported as an average of the often wide-ranging vehicle counts taken at numerous sites having the same classification of land use. Trip generation rates are often broken down into 24-hour time frames, and reported as “Average Daily Trips (ADT)”. For most land use activities, including single-family rural dwellings, ITE defines an “average daily trip” as a one-way vehicular movement between a single origin and a single destination. For a single-family dwelling, trip generation rates are reported as a ratio of 9.5 vehicle trips per day per dwelling unit. Based on the maximum potential development density permitted by the requested rural residential two acre zoning, the subject property could reasonably accommodate up to four additional single-family dwellings. The subject property can therefore be expected to generate an additional 57 ADT, which represents about one percent of functional reserve capacity for Seven Devils Road.

New developments generating fewer than 300 ADTs are generally considered to have no significant impact on local transportation facilities that serve a development site. Seven Devils Road is designated as a minor collector road which is constructed and maintained to a standard sufficient to handle higher volumes of traffic. Current traffic volumes on Seven Devils Road are well below the facility’s design capacity. Other public roads in the area are also adequate to accommodate both existing and potential future traffic volumes likely to be generated as a consequence of the requested plan amendment and zone change. Due to the very low volume of additional traffic associated with the requested amendment, no special traffic controls or other mitigation measures will be required. Any new residential lots created as a consequence of the proposed plan amendment and zone change will be accessed by a privately maintained interior road system that will intersect with Seven Devils Road on the western property line.

On the basis of the foregoing, the proposed rural residential two acre land use designation, when taking into consideration the densities or design standards prescribed for uses permitted in the requested RR zone, is consistent with the function, capacity and performance standard established for Seven Devils Road by Chapter 7 of the CCZLDO. Furthermore, the County’s Transportation System Plan has received acknowledgement of compliance with the Statewide Transportation Goal and the Transportation Planning Rule (OAR Chapter 660, Division 12) by the Land Conservation and Development Commission, and therefore concludes that the facts set out above demonstrating compliance with the Transportation System Plan are sufficient to also demonstrate that the proposed amendment is consistent with both Goal 12 and the Transportation Planning

Rule.

Goal No. 13 - Energy Conservation

To conserve energy.

The statewide energy conservation goal is intended to be applied on both a county-wide basis through the adoption of local energy conservation goals contained within the Comprehensive Plan, and on a site specific basis through the implementation of those Plan policies via property development standards intended to require land and uses developed on land to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principals.

The subject property is located in an area dedicated primarily to non-resource uses and is approximately two miles south of the Bandon area boundary which is an established Goal 14 exception area. Consequently, existing and future development of this property has and will promote the efficient energy-related use of existing and planned public facilities and services. The site is in general proximity to an identified urban area and is free of any significant physical constraints that would otherwise require more energy to develop and use the property than would other property in the general area. Furthermore, specific energy conservation policies and development standards are included within the Coos County Comprehensive Plan, as well as in the County's land use ordinances, to ensure that the statewide energy conservation goal is implemented on a site-specific basis at the time of property development. The proposed plan amendment and zone change will not conflict with Statewide Goal No.13.

Goal No. 14 - Urbanization

To provide for an orderly and efficient transition from rural to urban land use.

Goal No. 14 requires local governments to establish urban growth boundaries that separate urban lands from rural lands. The proposed plan amendment and zone change involves allowing the property to realize the vision of the county for rural living but transitioning the zoning from RR5 to RR2 that is outside an identified rural community and is currently designated RR5. The proposal does not involve an established urban growth boundary.

The applicant/property owner is requesting an exemption under Division 14 of the Oregon Administrative Rules, Section 30 “irrevocably committed lands” and Section 40 “reasons exceptions”. The findings for these requested exceptions can be found in the next section.

IV. GOAL 2/GOAL 14 EXCEPTION

Findings: **The level of development is regulated by the minimum parcel size for the creation of new parcels and by limiting parcels to one dwelling. The rule for rural residential zoning, [OAR 660-014-0040](#), establishes that, for residential zoning, "rural use" means one dwelling per 10 acres.**

OAR 660-014-0040, Application of Goal 14 to Rural Residential Areas (2):

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

(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 statewide planning goals.

The rural residential zone on subject property is a Rural Residential zone currently in effect because the zone was applied to the rural residential area prior to October 4, 2000 under an exception to Goal 4 “Forest Lands.” Volume I Part 3 of the Coos County Comprehensive Plan includes the names of the Coos County Board of Commissioners dated March 1985 when they approved the Plan.

OAR 660-014-0040, Application of Goal 14 to Rural Residential Areas

(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.

Subject property is within the definition provided above, in OAR 660-01400040 (f) “Rural residential areas” In addition, Subject Property is within the definition above in OAR 660-014-0040 (g) “Rural residential lands currently in effect.” No urban use of rural lands is proposed. The application complies with Goal 14, which prohibits urban use of rural lands.

(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 660-014-0028; and

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

Findings: The proposed rural uses, density and public facilities and services of the proposed zoning are compatible with the requirements. Compatibility with adjacent and nearby resources was addressed at the time that the Exception was adopted by the Coos County Board of Commissioners and acknowledged by DLCDC (now LCDC). The language of the Coos County Comprehensive Plan confirms compatibility with adjacent or nearby resource use. In addition, analysis of adjacent resource use is provided within this document. Such analysis and findings are included within the Goal 4 Forestry findings of this document.

The subject property is irrevocably committed to rural residential uses. Properties in all directions are committed to residential type zoning designation and use, with the exception of the property to the east. This particular property has no active harvesting operation and does not appear to be in the ownership of a timber corporation. The growth of the existing timber illustrate no replanting efforts which further indicates no historical harvesting has been taking place. In addition, there is a natural terrain buffer located to the east of the subject property that constitutes a significant incline based on contour data.

In conclusion and based on the aforementioned findings it would be impossible for the plan amendment and zone change with the concurrent additional housing that would become available with the change to commit adjacent or nearby resources land to uses not allowed by the applicable goal in OAR 660-014-028 if the existing adjacent and nearby uses already reflect rural residential type uses.

OAR [660-014-0040](#)

Establishment of New Urban Development on Undeveloped Rural Lands

As used in this rule, "undeveloped rural land" includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.

Findings: This rule applies to “Undeveloped Rural Lands” where such lands include lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development. Subject property is in a rural lands exception, but not developed at urban density or committed to urban level development.

(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.

Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document

(3) To approve an exception under section (2) of this rule, a county must also show:

(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development 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 on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.

(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and

(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.

(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were 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.

Findings: **The criteria included in [660-014-0040](#) can be used to justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land, but this is not what the applicants are proposing. There is no proposal for urban levels of facilities and services. The applicants understand that rural services such as septic systems and wells will be necessary when the subject property is partitioned or subdivided. Urban levels of facilities**

and services are not needed as there is no proposal for economic activity that is dependent upon an adjacent or nearby natural resource.

OAR 660-014-0040

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.

Findings: Subject property and properties lying to the south, north and west are made up of rural lands that exist as an acknowledged exception area planned for residential use.

(2) For purposes of this rule, the definitions in ORS 197.015, the Statewide Planning Goals and OAR 660-014-0005 shall apply. In addition, the following definitions shall apply:

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

Findings: This application is for zoning and Comprehensive map amendment to establish a minimum lot size for subject property that lies within a rural residential area. The lots within the exception area include both 2-acre lots and 5-acre lots. The subject property is currently 13.60 acres in size.

(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.

Findings: Subject property is planned and zoned primarily for rural residential uses. It is not within an urban growth boundary. It An exception to Goal 3 “Agricultural Lands” or Goal 4 “Forest Lands” (or both) was taken and acknowledged for compliance by the Land Conservation and Development Commission (now DLCD) along with other Coos County’s planning documents. These planning documents continue to serve as the basis of Coos County planning and zoning. The rural residential zone in was in effect prior to October 4, 2000.

(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.

Findings: This section of the OAR is applicable to the rural residential area exception that includes Subject Property. There is no creation of a lot or parcel or development of a single-family dwelling where the application for a partition or subdivision was filed with Coos County and deemed to be complete in accordance with ORS 215.427(3) before October 4, 2000.

(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.

Findings: Subject property has not been acknowledged to comply with Goal 14 by DLCD through periodic review or post-acknowledgment plan amendment proceedings. Subject property is rural land described in subsection (2)(f) of this rule. There is no proposal to develop urban use or utilize urban services. Findings confirming this statement are included within this section.

(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.

Findings: Subject property will comply with Goal 14 through the proposed rezoning that will permit lots with a minimum density of two acres. Section (8) of this rule will be addressed findings as we proceed through the requirements of OAR 660-014-0040 Application of Goal 14 to Rural Residential Areas in Section (8) which follows.

(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.

Finding: Subject Property is within a rural residential zone which does not have lots or parcels smaller than two acres. The proposed rezone is to apply a 2-acre minimum lot size that currently is included on parcels within the existing exception area. The proposal complies with Goal 14 regarding lot and parcel size.

(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.

Findings: There is a proposal to amend the minimum lot or parcel size by confirming the exception that currently exists and how it applies to subject property and adjacent property. This application addresses the criteria of a Goal 14 exception pursuant to OAR, division 14 and applicable requirements.

(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.

Findings: **There is no proposal for a lot or parcel smaller than two acres; there is no proposed urban use. The applicants have included findings of compliance for all of the provisions of this rule.**

(b) Each local government must specify a minimum lot size for each rural residential area.

Findings: **The rural residential exception area has minimum lot sizes of both 5 and 2 acres.**

(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.

Findings: There is no minimum lot size smaller than 2 acres, and no proposal for such density. The Coos County Comprehensive Plan provides the language and map for Exception Area #38, which does not allow the creation of any new lots or parcels smaller than two acres. The proposed rezone and Comprehensive Plan amp amendments are to change a parcel from RR-5 zoning to RR-2, which is a two acre minimum lot size. This rural residential exception area and the proposed rezoning comply with Goal 14. No urban use is proposed. The applicant intends to comply with all the provisions of the rule. The findings explaining such compliance are included herein.

1. *What is the full potential for development of the property after the zone change (e.g. subdivision of 13.6 acre tract into six lots and construction of six subsequent dwellings) and the type of infrastructure that will be needed to serve the potential development.*

Finding: **The subject property has division potential, and it is the intent of the property owner to maximum the underlying potential in order to offer necessary dwelling units back to the community. Upon execution of the plan amendment and zone change a subdivision application can be entertained by the Coos County Planning Department and will be filed in accordance with the CCZLDO. Six lots or parcels can potentially be yielded upon completion of the aforementioned application.**

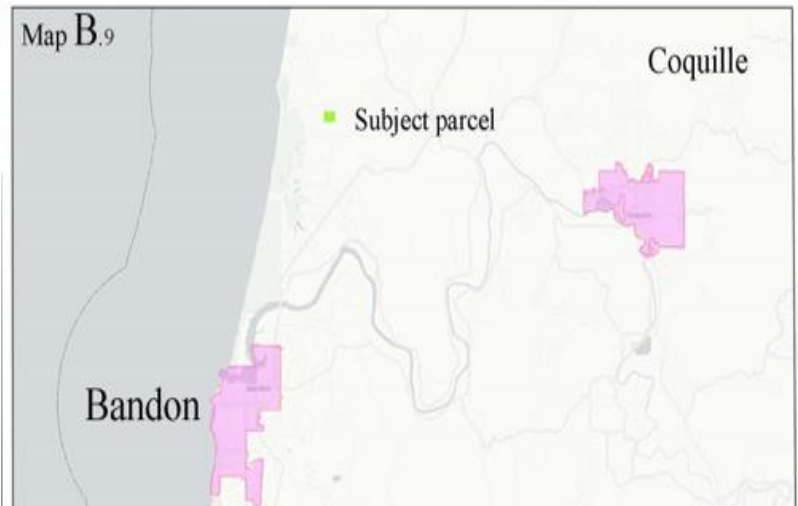
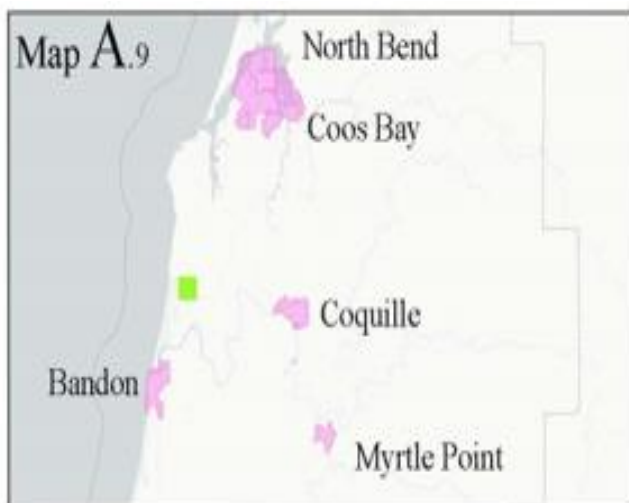
2. *What is the nature of the surrounding land use pattern (lot sizes, types of land use)?*

Finding: As previously stated, there are thirty-two properties within the notice area, twenty-eight are currently zoned Rural Residential – 2/5 Acre, which constitutes 87.5 percent of the total 750 notice area being residential in nature. Lot sizes ranges from .45 acres to 37.33 acres. There are four properties that are zoned Forested, but none of them meet the minimum parcel size nor is there an existing forested operation taking place. It can be determined that surrounding land use patterns are residential.

There are four properties to the northeast, east and southeast that are designated for forest use and zoned Forested. Only two of them are receiving special assessment and/or forest deferral (Tax Lot 200 and 300 (Davidson)). There are no identifiable forest uses taking place currently on these particular properties. Historical information dictates there have been no harvesting activities in the past fifteen years.

3. *What is the distance of the property from the nearest urban growth boundary?*

Finding: The subject property is six miles from the Urban Growth Boundary (UGB) of the town of Bandon. The distances to the UGB for the surrounding communities are nine miles to Coquille UGB, twenty miles to Coos Bay UGB and twenty-four miles to both North Bend and Myrtle Point UGB's. The subject property is located in close proximity to all of the aforementioned urban areas which further adds evidence to its underlying urban nature.



4. *What are the public facilities that currently serve the property? (roads, water, sewer, etc.)*

Finding: Oregon Highways 101 and 42 provide access to paved county roads such as North Bank Road, Beaverhill Lane, Seven Devils Road and Whiskey Run Lane intersect near the subject parcel providing access to employment and recreation in the area. Water and septic systems will be provided on each parcel in accordance with DEQ. The facilitation of power, telephone and internet services are existing along Seven Devils Road (utilities will be further explained in the goal section of this application below).

5. *Will the proposed zone change result in the potential need for urban services such as municipal sewer?*

Finding: There is no sewer system available in the area. The subject property as well as the entire rural residential area are served by individual septic systems. Any change in the zoning designation will not require the facilitation of a municipal sewer system.

6. *Will the rural exception area where the parcel is located be significantly altered (e.g. will existing infrastructure need to be enlarged or upgraded as a result of the new development that would be facilitated by the proposed zoning amendment).*

Finding: The area should remain in its rural residential condition essentially unaltered. The subject property is accessed via Seven Devils Road which has a functional classification of a minor collector in the CCZLDO. These roads are required to have a 60 foot right of way width. Seven Devils Road currently has a 60 foot right of way width where it fronts the subject property and will not require additional right of way in order to allow to be a conforming roadway. In addition to the adequate access, the subject property upon division will be consistent with other rural residential development land in the area with onsite sanitation and well systems.

7. *Will the proposed zoning amendment allow land uses that will significantly change the character or public service requirements of the rural exception area?*

Finding: As previously stated, the subject property is part of a pre-existing rural committed land site that has been in existence since prior to the current CCZLDO was adopted. The subject property is located in an area that is identical to an accepted Rural Center, which are rural residential areas accepted by the Coos County Comprehensive Plan directly pertaining areas that have an existing exception for urban type uses. The existing land has demonstrated for some time that its not committed to resource type operations.

660-014-0030

Rural Lands Irrevocably Committed to Urban Levels of Development

- (1) *A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standards (e.g., that it is not appropriate to apply Goal 14's requirements prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-014-0020(2) need not be addressed.*

Finding: The Coos County hearings body will deliver a determination based on the findings of fact and supportive evidence produced by the application. Goal 2 requires the relevant areas supporting an rural residential committed land site to be addressed.

- (2) *A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.*

Finding: The specific site indicates a level of urban development that can be considered a pre-existing situation. The maps below show there is a large, committed land site and the subject property is included in this particular area. The property essentially acts as an extension of the RR-2 properties that reside directly to the north and is consistent with the RR-5 patch of land surrounding the property (with the exception of the property directly to the east). In addition the maps will show developed RR-2 pre-existing substandard lots located to the north and northwest of the subject property, several being less than two acres in size.

- a. Size and extent of commercial and industrial uses.

Finding: Tourism plays a significant role in the local and regional economy. Map A.6 shows proximity of the subject parcel with Bandon Dunes Golf Resort Oregon's State Parks, coast beaches, hiking and biking at Whiskey Run Trials. Interest in those attractions drives a need for housing to support those who live, work and travel to the area. There is a history of mining at Whiskey Run and the Pioneer and Eagle mines along Seven Devils Road. The Eagle mine is a resource for sand and gravel. Industrial Forest on County and Private land exists in this area. Some County lands are used for hiking and biking trails becoming a use for resource and recreation drawing

residents from around the state and regional areas. Forest production, agriculture and tourism all contribute to an economy that requires a variety of residential living to support a workforce. There are no immediate adjacent commercial or industrial uses taking place or properties that are zoned appropriately for that particular use.

- b. Location, number and density of residential dwellings.

Finding: As previously discussed, the subject property is located in a pre-existing rural residential area and is surrounded by rural residential zoning on all sides apart from the property to the east (Forested). In the 750-foot notice there are currently thirty two properties and twenty eight of them are designated as residential. The remaining four currently have a forested designation. Twenty-four out the thirty-two properties currently have single family dwellings which includes one out of the four located in the forested zoned area to the east (Manning Family Trust, 24.28 acres, Tax ID 763601). In addition, approximately 1,200 feet to the southwest is a pre-existing fifty-six lot subdivision. All lots of currently one-acre in size in this particular subdivision despite the zoning designation dictating a two-acre minimum. This subdivision is pre-existing and non-conforming to its minimum parcel size and was platted prior to Coos County's current Development code adoption, however it further illustrates the residential nature of the area and the intensity of density.

- c. Location of urban levels of facilities and services, including at least public water, and sewer facilities.

Finding: The subject property or the area is not located within an urban growth boundary or urban unincorporated area of any kind. Urban services and amenities are not available. The property in addition to all other properties in the area are required to utilize onsite septic systems for sanitation systems and wells for domestic water.

- d. Parcel sizes and ownership patterns.

Finding: Parcels within the 750 notice area range from .45 acres to 37.33 acres in size. Directly to the north of the subject property is a pattern of properties zoned Rural Residential – 2 Acre but currently only has eight lots that meet the minimum parcel size the rest are approximately one acre in size. There are sixteen properties within the notice area that are currently zoned Rural Residential – 5 Acre, only six are five acres or above in size but the remaining ten are below the five-acre minimum parcel size. There are fourteen properties within the notice area that are

zoned Rural Residential – 2 Acre, out those five are below the two-acre size while the remaining nine are two acres or above. None of the properties that are zoned in this capacity are above four acres in size. These patterns clearly add relevance to a highly development residential area. Out of the thirty-two properties located in the notice area there are only two properties that are similar (Davidson, Tax ID 766900 and 767000).

FINDING: The applicant/property owner declare the subject property meets the requirements for an exception under OAR 660-014-0030 and OAR 660-014-0040 and admonish the Coos County Planning Commission to allow this property to transition to a 2-acre minimum allow it to be consistent with the rural residential parcel sizes in the area.

COMPREHENSIVE PLAN COMFORMANCE AND INTENT

CCZLDO Section 5.0.900 requires plan amendments to be predicated on a demonstration that the amendment provides a reasonable opportunity to satisfy a local need for a different land use.

It is the policy of the State of Oregon to preserve and maintain designated resource land for farm and forest use. This policy is also articulated in the Coos County Comprehensive Plan and is implemented with a variety of land regulations, which discourage or prohibit the establishment of additional nonresource-related development in rural areas of the county. At the same time, the Comprehensive Plan also recognizes that there is a public need to provide opportunities for nonresource-related residential uses in rural areas. Both statewide planning policy, and local planning regulations, establish standards and procedures which enable the County to strike a reasonable balance between the policy of preserving farm and forest land and the recognized need to provide opportunities for commercial uses in rural areas.

The Coos County Comprehensive Plan has a procedure for identifying “Committed Areas” and the analysis explains the following:

In the County’s first effort toward Plan acknowledgement (rejected selectively by LCDC), “Committed Areas” were identified by mapping the existing (1978) pattern of individual tax lots and superimposing the location of existing dwellings as determined by the Coos County Land Use Inventory (1978). This work was done at the scale of 1" = 800 feet, which enabled all tax lots and the location of dwellings to be identified precisely. An initial assumption was made that a 10-acre parcel was the realistic minimum lot size upon which resource production (farming or forestry) could occur. (Although farm and forest uses can and do occur on smaller parcels, the resource use tends to be sporadic and indistinguishable from the use of the property as residential.) Thus, parcels that were

Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document

generally less than 10 acres in size were equated with being lost to resource production and were therefore considered available for rural housing (see "Agricultural Lands" and "Forest Lands" chapter for rationale). Based on this guiding assumption, the following criteria were used to delineate the boundaries of potential "committed areas".

- 1. Generally, potentially "committed areas" consist of parcels less than 10 acres.*
- 2. However, developed parcels of 10-20 acres were included if they bordered on at least two sides smaller developed parcels.*
- 3. Undeveloped parcels of 10-20 acres were included only if they bordered on at least three sides smaller developed parcels.*
- 4. In general, the amount of vacant land within a potential "committed area" averages about 25% of the total area. Vacant land substantially exceeds 25% only where there is a developed, legally established subdivision in which many lots remain unimproved. According to State law (ORS 92.205-245), the sale of a single lot is a sufficient criterium to consider the subdivision developed. Therefore, it is de facto a "committed area".*

The Coos County Comprehensive Plan, in addition to describing committed areas, also has a mechanism for revisions (Section 4.3.4), which is explained by the following:

Following LCDC's selective rejection of Coos County's second attempt at acknowledgement, the County again reevaluated certain areas to determine their "committedness". Areas reviewed included not only parcels that had previously been determined to be committed, but also parcels that had earlier been justified through adoption of a goal exception based on need. (As explained in Section 2.1, the County has withdrawn that goal exception at LCDC's insistence.) Additionally, in accordance with Goal #1, "Citizen Involvement", the County reviewed written requests for designation of specific parcels as committed.

To provide the basis for an acceptable goal exception for land physically or irrevocably committed to other uses, the County developed an analysis matrix incorporating relevant factors and criteria from LCDC Administrative Rule #660-04-028. The completed matrices, which include conclusions of committedness for qualifying parcels, are attached as Appendix C. In accordance with an understanding with DLCD staff, the matrices display only those earlier rejected parcels that have been determined to qualify as committed areas. Other areas formerly designated as "Rural Residential" are now designated in accordance with the most appropriate resource designation, generally "Agriculture" or "Forest".

Finding: **The subject property has a clear path and precedent with Section 4.3.4 of the Coos County Comprehensive Plan and is a good candidate for a revision. Appendix B and Appendix C. The subject property is part of a larger area that was previously rejected as being defined as resource land and has been determined to qualify as a committed area. The property along with the committed land site surrounding has, by definition, an existing exception to Goals 3 and 4 and stands consistent with Goal 14. It has also been fully demonstrated why a new exception under the appropriate Oregon Administrative Rules is fully justified. The table below illustrated the fully**

Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document

committed area directly off Seven Devils Road in the same proximity. The RR2 area directly to the north is essentially an extension of the subject property and remains consistent with the same uses and rural residential makeup.

Location Township Range Section Tax Lots	Parcel Size, Ownership Pattern, Physical Development						Adjacent Areas			Conclusions: Parcel/area is committed, based on factors from column #'s	
	#1	#2	#3	#4	#5		#6	#7	#8		#9
	Total acreage	# of D.U's	# of owner ships	Predominate owner ship size	Public facilities	water	sewer	Natural Boundaries & other factors	Parcel bordered on 2 sides by smaller developed parcels (yes/no)		parcel bordered on 3 or more sides by smaller developed parcels (yes/no)
27-14-17	187	6	24	6	-----					-----	
27-14-21	13	2	2	6	-----	-----	Seven Devils Road	yes	no	larger	1-4,6,7
27-14-34	8	0	1	8	-----	-----	Medohill Ranchettes	yes	no	smaller & larger	1,3,4,6,7

Approval of the requested Plan Amendment and Zone Change on the subject property, as compared with other properties in rural areas, will mitigate future public need to convert other higher value resource land to non-resource use through the introduction of Rural Residential zoning and the subsequent increase in the amount of non-resource residential uses in resource areas. Based on the facts set forth in this document, conversion of this property to a rural residential designation will provide a reasonable opportunity to satisfy a local need for the requested and use.

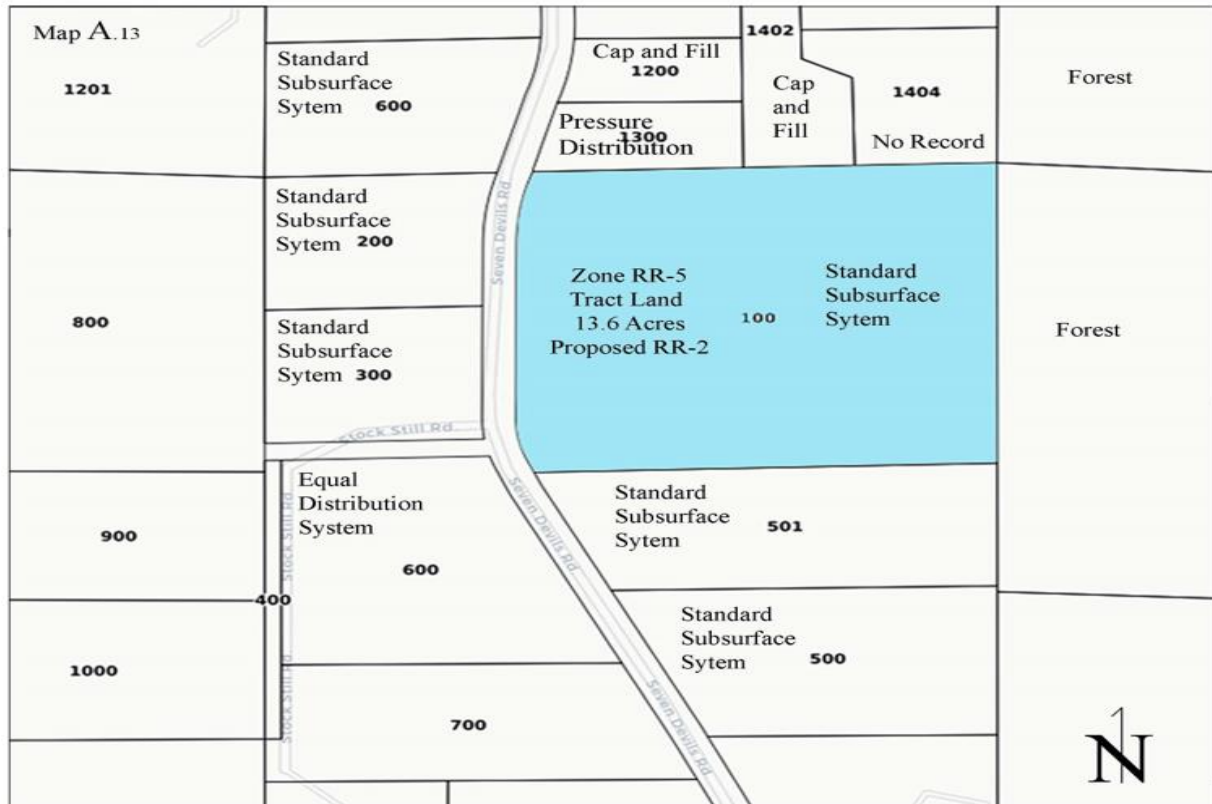
B. Reasons must justify why the state policy embodied in the applicable goals should not apply.

Finding: The current zoning of the subject parcel is RR-5 and is 13.60 acre property with a current potential of two dwelling units. The application materials has established the proximity of commercial, industrial, recreational and residential land uses in the vicinity. The plan amendment and zone change on the subject property will create the potential for buildable lands providing necessary dwelling units. In the last two years there has been identifiable growth and expansion along Seven Devils Road. The addition of a 6th gold course, the expansion of hotel capacity and hosting of the 2020 US Amateur golf tournament at Bandon Dunes Resort and the Whiskey Run Trials have increased the need for rural residential dwelling units in the area. Goal 10, 12, 13 and 14 are all covered about in the statewide planning goal section of the application materials. In addition, soil classifications and conflicts are discussed above as well. The underlying soil for the property is consistent with the rest of the rural residential committed land site adjacent to Seven Devils Road.

Soils 8B, 1B, 1C are the dominant soils on the subject property shown above, indicating suitable conditions for building and development. These soils carry a limited 80-75 rating for Septic Tank absorption fields. DEQ has approved the installation of a Stand Subsurface system on site. Soil 5B is less represented on site and can have limited percolation and depth of soil to a cemented sandstone layer. Standard system approval by DEQ on the subject parcel and adjacent properties to the south and west indicate these soils will likely be suitable for Advanced Treatment Technology septic systems in the case a subsurface system is not approved. Properties to the north show alternatives like sand filter and pressure distribution systems that can be used in areas where soil percolation is limited.

Environmentally ATT systems are advantageous as they often treat waste in a containment system, require little or no subsurface drain field and treated wastewater contains minimal bacterium to be introduced into the soil or used as irrigation.

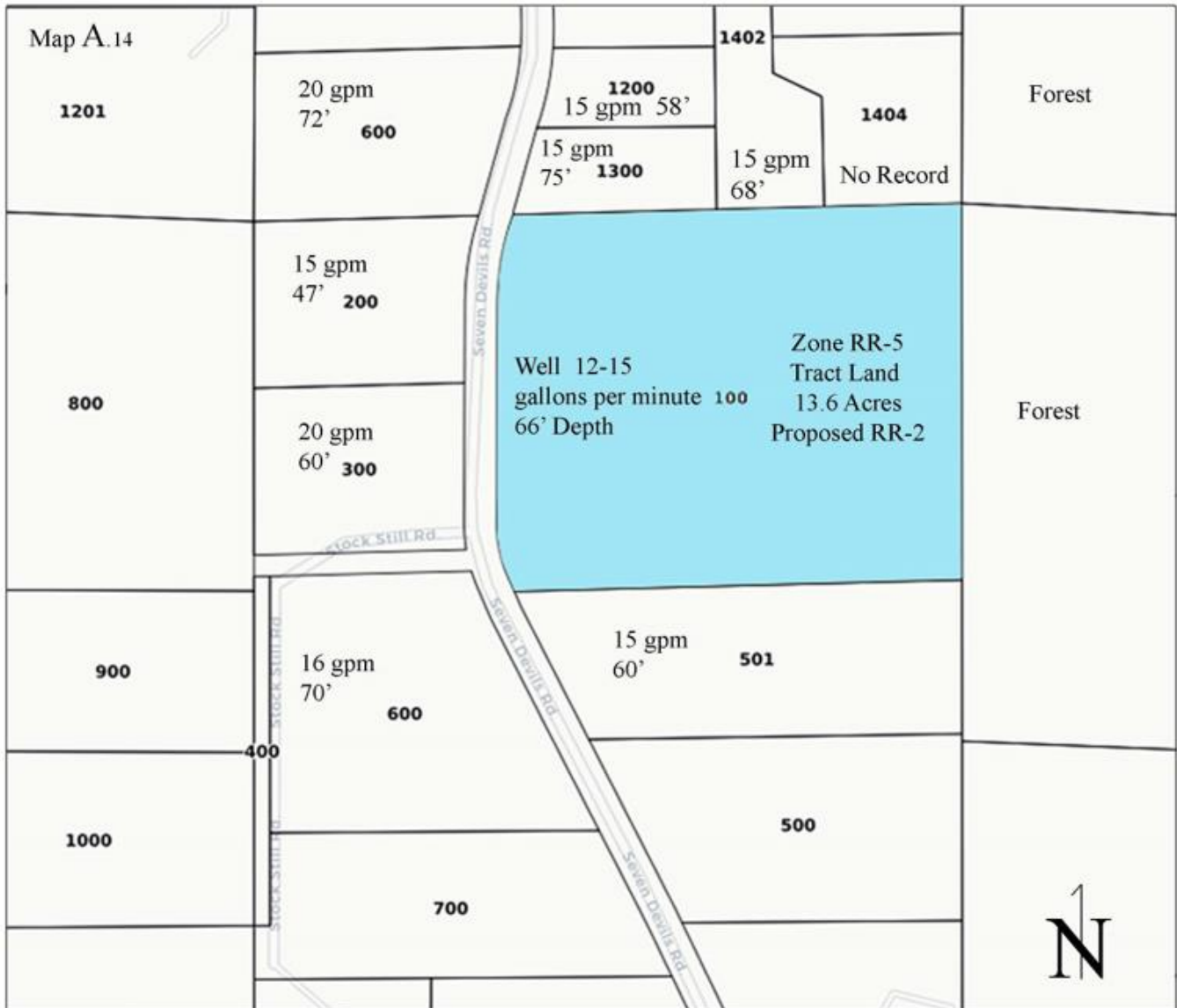
Standard subsurface system approval by DEQ on site, use of standard systems in the area and site conditions such as suitable soils, good drainage and gentle topography support the proposed zone change and the subject property from RR-5 to RR-2, providing for increased rural residential living opportunities in the area.



Map A below indicate well data in the vicinity of the subject property is determined to be 12-20 gallons per minute of clean water from of bacterium and adequate levels of sedimentation, minerals and hardness. The subject parcel has a pH of 6.6 with 7 being neutral, a hardness of 1 with between 1-3 as optimal and .01 milligrams/Liter of iron present. Typically .3 m/L would be a rate to require treatment. It is typical in this area to use a UV process for bacteria treatment, fabric or micron filters for sediment and natural filtration or mineral treatment system to alter iron levels.

The wells are commonly less than 100' deep and the compacted sandstone layer in the soil structure prevents surface contaminants from seeping into the natural aquifer. Brown sand clay 2' – 20' in depth is found on tax lot 300 to the west of the subject property. The sand clay prevents most surface water from percolating into drinking water. Tax lot 600 has clay mixed with sand 30' – 36'. To the northwest. Tax lot 1300 has brown sand and clay 1' – 30' and tax lot 50 to the south comprising sandy clay from 2' – 20' down. These conditions indicate safe and abundant water that will require minimal alterations and filtration to provide the proposed increase in dwelling units.

**Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document**



C. *It must be demonstrated that the areas which do not require a new exception cannot reasonably accommodate the use.*

Finding: Map A below represents Coos County being defined by each municipality from North Bend, Coos Bay to Charleston, Coquille, Myrtle Point and Bandon. A break down into sub-areas like Prosper, Bullards, Parkersburg and Randolph which identify a specific place near larger municipalities. It is within these areas that we have rural residential communities. In early settlement these areas were defined and created because they meet the underlying definition of a rural committed land site. The area offers ease of transportation, access to goods and services and employment are all major factors in determining where residents desire to live. Map B shows there are a high concentration of RR-2 lands south and east of Bandon with less RR-2 lands north of the Coquille River. In the area of the subject property the continued growth and opportunities for work, recreation and its proximity to

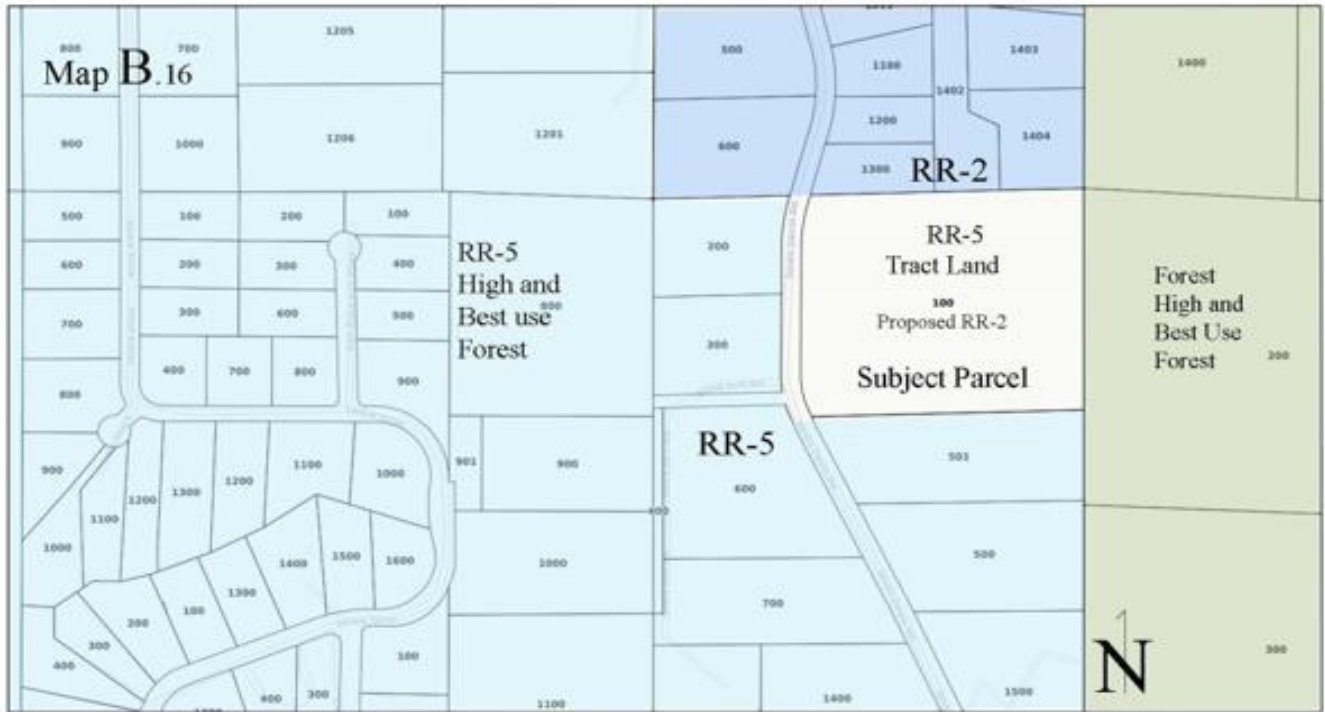
multiple area communities make a clear demonstration of the need for additional dwelling units.

D. *The economic, social, environmental and energy consequences resulting from the new use must be shown to be not significantly more adverse than would result from the same proposal being located in another area requiring an exception.*

Finding: Map A below shows single family dwelling residential parcels under current development according to the Coos County records. This trend demonstrates a need for additional rural residential dwelling units and land. The infrastructure to handle future growth, site conditions such as gentle slopes, parcel size and shape and land use designation indicate the subject property has a unique opportunity to meet a local need for residential growth.



Rural residential growth opportunities in other areas are available but the proximity for employment and infrastructure already in place along the Seven Devils Road and Whiskey Run Lane corridors meet a need for this rural community. Map B below shows the subject property land use RR5 and classified as a committed land site by the county, which indicates a property is not resource in nature. Previous developmental impacts by logging, mining soil tests, and brush cutting have left much of the subject property with vegetation and growth allowing full opportunity for rural residential type development.



Large properties in Coos County (above 10 acres in size) are considered resource by the Comprehensive Plan. Map B above represents the immediate proximity of large parcels near the subject property. To the east are forest designated areas and to the west RR-5 properties that have a rural residential exception acting as a committed land site. Directly on all sides except to the east are properties that have a rural residential type exception and are committed to residential uses. In addition, the RR-2 area to the north also has forested zoned areas to the east. The subject property essentially acts as an extension to this RR2 type precedent.

V. COMPLIANCE WITH CCZLDO CRITERIA FOR ZONE CHANGES

In addition to the criteria to be addressed when proposing an amendment to the Comprehensive Plan, the Coos County Zoning and Land Use and Development Ordinance (CCZLDO) also establishes criteria that must be considered when a change in zoning is proposed. The criteria for a zone change found in CCZLDO at Section 5.1.215 require the Planning Commission to find that:

- 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.

A. Conformance with the applicable sections of the Comprehensive Plan

The requested zone change conforms with the Coos County Comprehensive Plan which can be fully demonstrated with the illustrations below. The maps in criteria b show established residential property patterns with 1-2 acre lots, 5 acre lots and lots above 10 acres near adjacent to the subject property. Rural residential land located in the vicinity of Bandon and areas around Coos County general buildable site conditions. We will examine the subject parcels site conditions such as hydrology, topography, geology/soils, shrub/forest value and potential hazards or advantages that would impact rural residential living. These conditions can impact the availability and development of rural residential lands. The comprehensive plan clearly states the requirement of State and Local agencies to make available buildable land in rural communities. In addition, section 4.3.4 of the Comprehensive Plan outlines areas of the County that are considered committed rural residential land sites.

In the County's first effort toward Plan acknowledgement (rejected selectively by LCDC), "Committed Areas" were identified by mapping the existing (1978) pattern of individual tax lots and superimposing the location of existing dwellings as determined by the Coos County Land Use Inventory (1978). This work was done at the scale of 1" = 800 feet, which enabled all tax lots and the location of dwellings to be identified precisely. An initial assumption was made that a 10-acre parcel was the realistic minimum lot size upon which resource production (farming or forestry) could occur. (Although farm and forest uses can and do occur on smaller parcels, the resource use tends to be sporadic and indistinguishable from the use of the property as residential.) Thus, parcels that were generally less than 10 acres in size were equated with being lost to resource production and were therefore considered available for rural housing (see "Agricultural Lands" and "Forest Lands" chapter for rationale). Based on this guiding assumption, the following criteria were used to delineate the boundaries of potential "committed areas".

1. *Generally, potentially "committed areas" consist of parcels less than 10 acres.*
2. *However, developed parcels of 10-20 acres were included if they bordered on at least two sides smaller developed parcels.*
3. *Undeveloped parcels of 10-20 acres were included only if they bordered on at least three sides smaller developed parcels.*
4. *In general, the amount of vacant land within a potential "committed area" averages about 25% of the total area. Vacant land substantially exceeds 25% only where there is a developed, legally established subdivision in which many lots remain unimproved. According to State law (ORS 92.205-245), the sale of a single lot is a sufficient criterium to consider the subdivision developed. Therefore, it is de facto a "committed area".*

This clearly demonstrates the property falls under the definition of an area that has and should have

an existing exception. The transition from RR-5 to RR-2 is consistent with the Comprehensive Plan.

B. Suitability of the Site to the Proposed Zone

The maps below should fully illustrate that the change will create no conflict with permitted uses on other nearby parcels. Maps A and B will show the subject property is adjacent to existing RR-2 properties to the north and northwest and existing RR-5 parcels to the west and south. Maps B and C indicate property sizes in the area that are predominantly under the minimum parcel size and not being used in any type of resource capacity. The property located to the east is not being commercially forested and essentially is not being utilized in any regard.

C. Compliance with other adopted plan policies and ordinances.

Compliance with other plan policies is fully demonstrated through findings identified previously in the application materials. All relevant Statewide Planning Goals have been adequately and fully addressed and it can be determined the application is consistent with the intent of the Goals. The subject property is not located in an area subject to specific overlays where additional findings would be required in order to address consistency. There is no identifiable landslide or geological hazards identified. There are no unique coastal features that merits a specific analysis to prove residential development will cause a detriment. The subject property maintains full rural residential intent providing full justification for the application.

VI. RURAL RESIDENTIAL AREA ANALYSIS AND ZONING/LOT PATTERNS

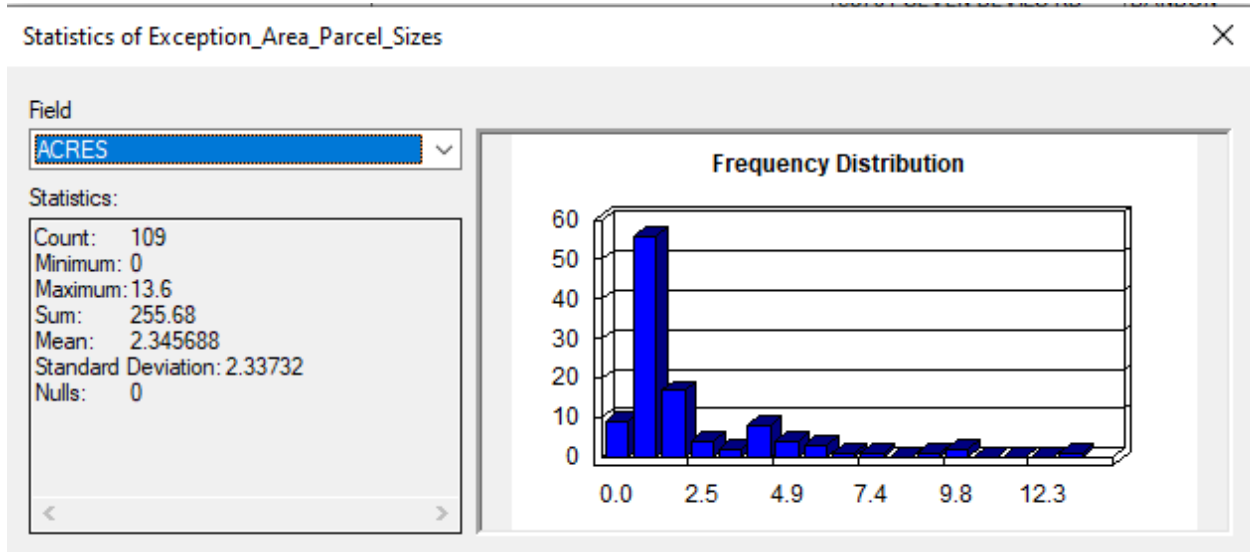
The subject property was designated rural residential – five acres along with the surrounding areas due to the existing residential development that was prevalent when the Comprehensive Plan was adopted in mid-1980’s. The area has clear indications of ample residential development. Below is a map illustrating structural development surrounding the subject property:

**Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document**



Structural development in the area appears to be extremely prevalent. Out of the 109 properties a total of 94 have dwelling units, which constitutes 86% of the total area. Its conclusive to surmise that the plan amendment and zone change to RR2, which will allow the division of four additional lots along with dwelling units, will not intensify the use of the surrounding area due to the considerable number of residential uses that are already taking place.

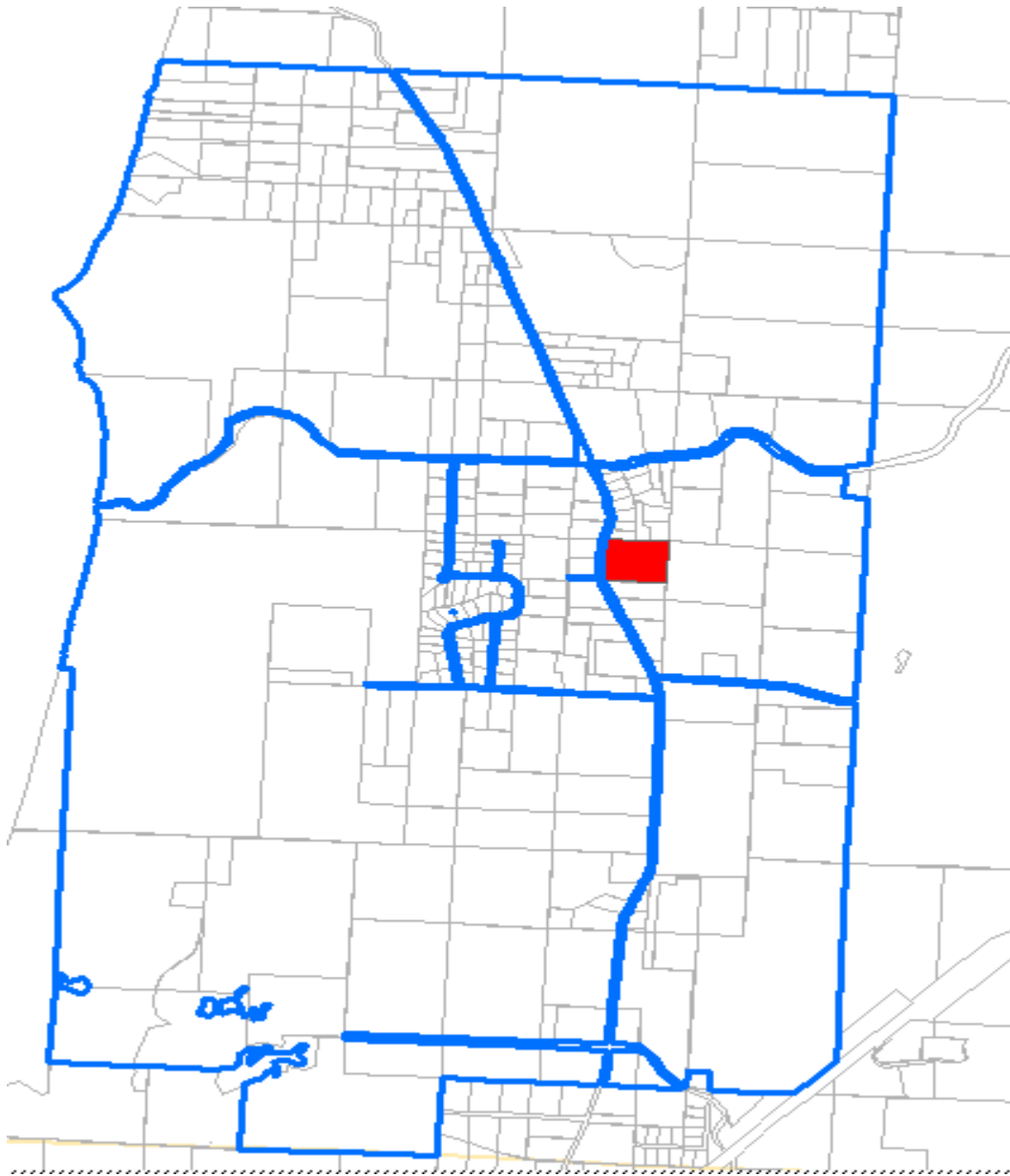
In addition and as previously stated, the rural residential area where the subject property is located has significantly transitioned to being utilized in more of a RR2 capacity. Consider the group below that average all 109 properties with the existing area. The average parcel and lot size is 2.34 acres in size and only 11 lots or parcels are five acres or more, which constitutes only 11% of the entirety of the area. This essentially means the whole area in questions including the subject property is already being utilized in a two acre capacity.



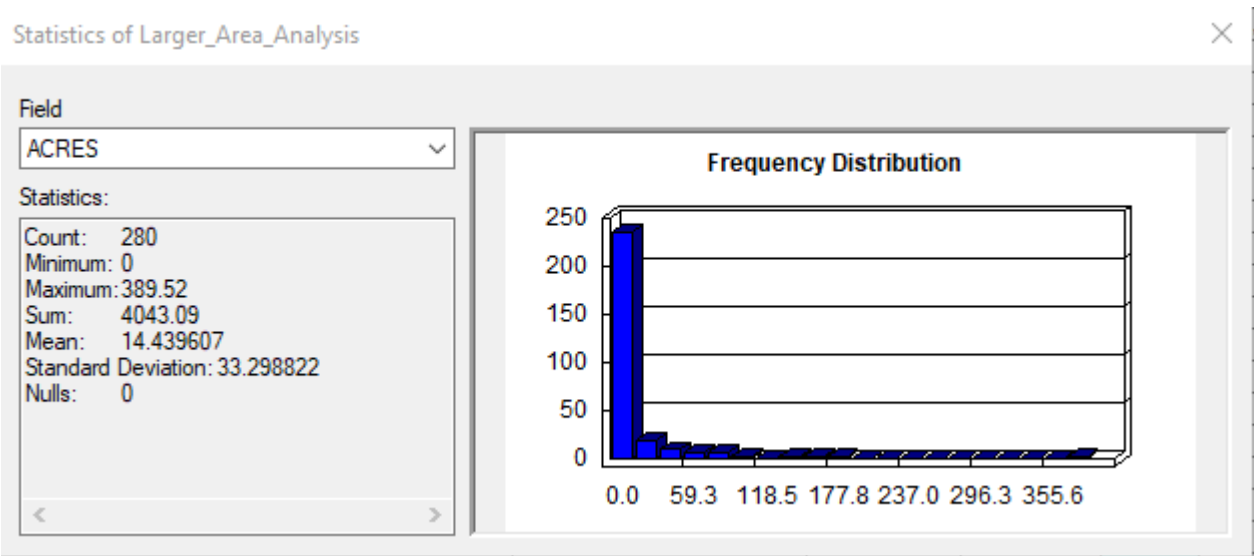
VII. AREAWIDE ANALYSIS

The applicant/property owners have constructed a large areawide analysis to fully understand the condition of the area in a large capacity. A total of 4043.09 acres was analyzed to evaluate zoning patterns and acreage sizes, with 230 total properties. There are several considerations when evaluating this particular area, the largest being the Bandon Dunes which is positioned directly to the southwest of the subject property. This is considered a significant resort type operation where a multitude of employee and guest housing exists. This area cannot be determined to be another other than a high intensity use. The study area includes properties with a wide variety of zoning designations including Forested, Rural Residential 5 Acres, Rural Residential 2 Acres and a specialized zoning set aside for the Bandon Dunes Resort (BDR). There are 88 properties within the study area that are zoned Forested, which only constitutes 38% of the whole area. The remaining lots and parcels are either RR2 or RR5, which excluding the Bandon Dunes Resort. This indicates the area is more than amply dedicated to residential uses in the tune of 62%. Below is the area outlined in blue that is currently being studied, the subject property highlighted in red:

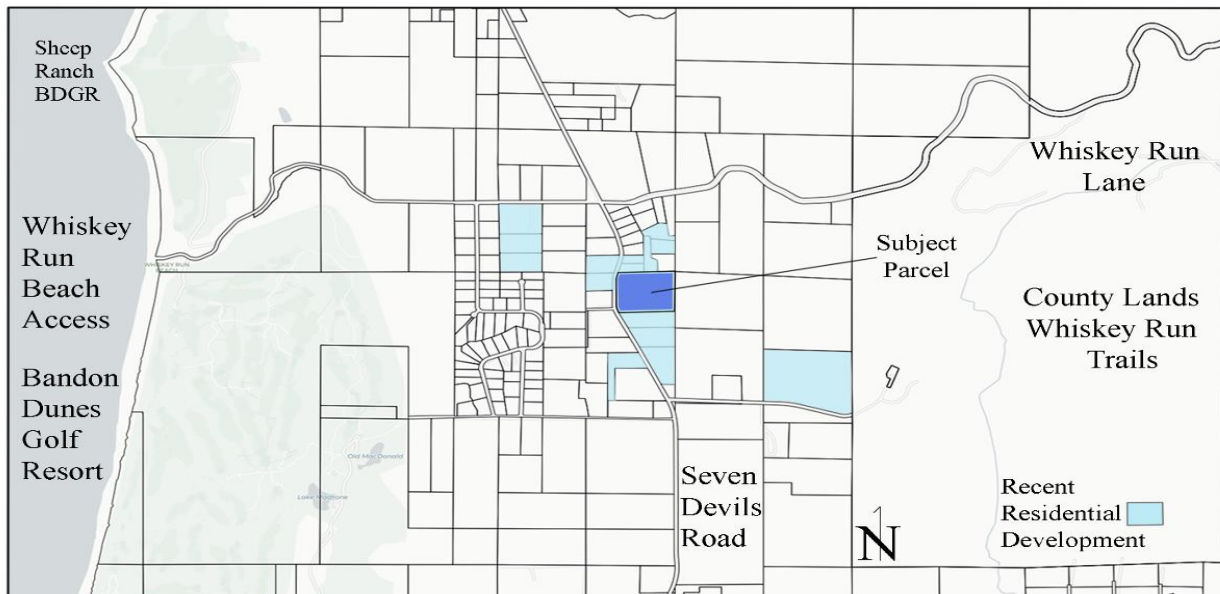
**Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change
Supplemental Application Document**



The Forested zone has a minimum parcel size of 80 acres and as previously stated, only 38% of the study area are properties that have this particular zoning designation. The analysis shown below indicates the average property size is 14.44 acres. This falls significantly below the minimum parcel size for any resourced type land , showing a clear precedent.



In addition to taking a large area into consideration, and the highly residential makeup therein, the Bandon Dunes Resort should be considered in a significant regard. The Coos County Comprehensive Plan gives full credence to the historical relevance directly related to residential development in connection to the Bandon Dunes Resort. Beginning on Page 780 of Volume 1 of the Comprehensive Plan, there is a fully expansion plan for the Bandon Resort fully factored in. The plan includes several areas that will be fully residential in nature. This plan clearly identifies as “Bandon Dunes Resort Exceptions”. This area is located less than a mile from the subject property.



**Richard & Kathleen Randol
Comprehensive Plan Amendment
Zone Change**

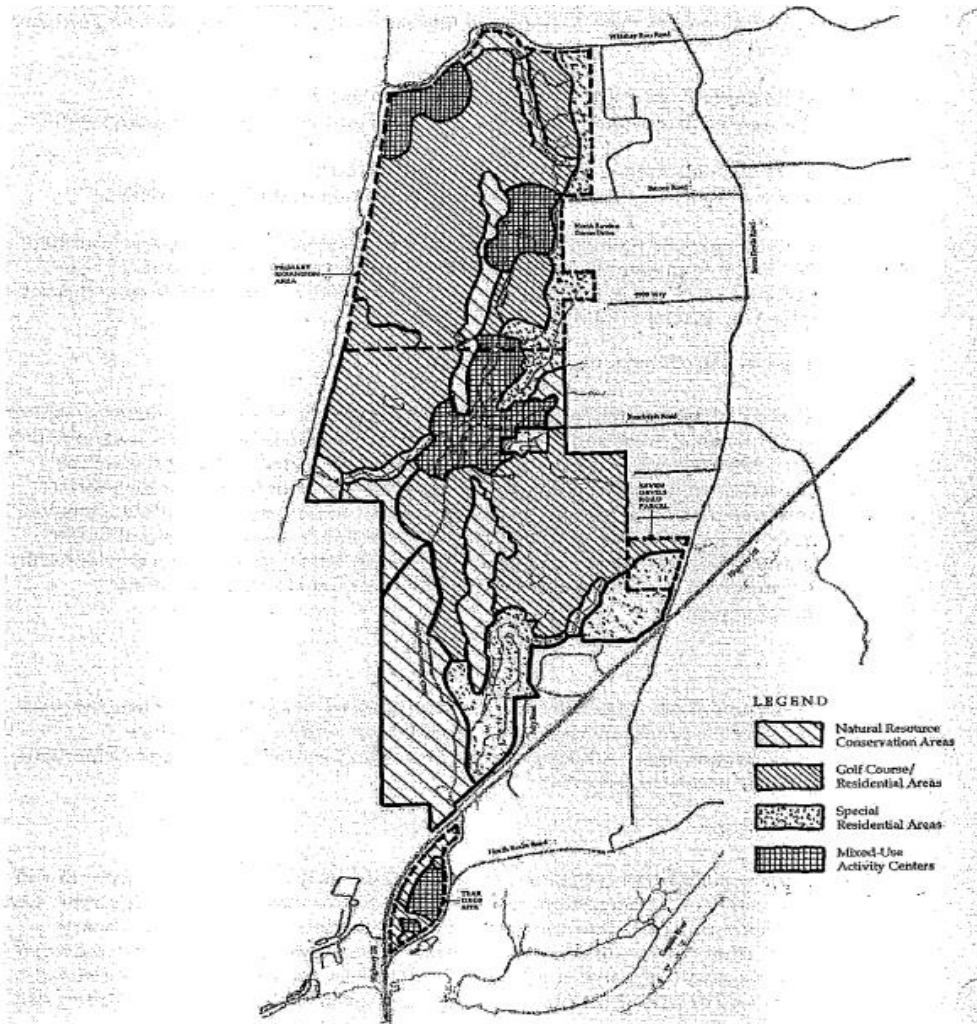
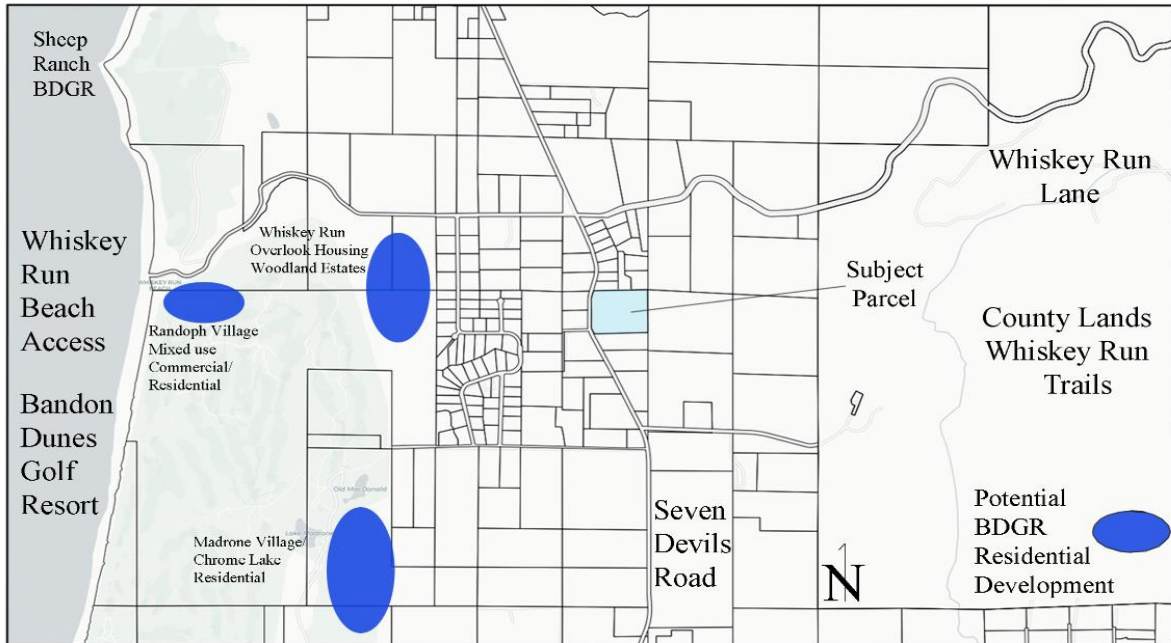


Fig. 3: Primary Use Areas

VIII. CONCLUSION

There is a strong connection between the rural residential type uses in the area and the purpose and intent of the subject application. When the subject property is compared to other RR-2 lands, all features appear to be consistent. The property shows a high correlation with the Comprehensive Plans analysis for rural residential committed lands and given the surrounding areas and their uses it meets the definition for areas that have an existing exception from resource type uses. The property meets the County's analysis matrix incorporating relevant factors and criteria from LCDC Administrative Rule #660-04-028 and qualifies as a committed land. The applicant has also demonstrated in a significant regard why a Goal 14 Irrevocably committed and reasons exception is justified. Therefore, showing full justification the subject property should have the ability to transition from RR-5 to RR-2 in the same fashion as the property directly to the north.