Attached Written Statement

Property Information:

Account Number:	1217100
Map Number:	29S1418-00-01600
Property Owner(s):	PEPERMILL LLC
	PO BOX 338
	DILLARD, OR 97432-0338
Acres:	24.40 Acres
Zoning:	FOREST (F)
Overlays and Development Considerations:	BANDON AIRPORT CONICAL ZONE (ABC)
	FOREST MIXED USE (MU)
	NATURAL HAZARD - TSUNAMI (NHTHO)
	NATURAL HAZARD - WILDFIRE (NHWF)

Account Number:	1217108
Map Number:	29S1418-00-01607
Property Owner(s):	PEPERMILL LLC
	PO BOX 338
	DILLARD, OR 97432-0338
Acres:	4.92 Acres
Zoning:	EXCLUSIVE FARM USE (EFU)
	FOREST (F)
Overlays and Development Considerations:	BANDON AIRPORT CONICAL ZONE (ABC)
	FLOODPLAIN (FP)
	FOREST MIXED USE (MU)
	NATIONAL WETLAND INVENTORY SITE (NWI)
	NATURAL HAZARD - TSUNAMI (NHTHO)
	NATURAL HAZARD - WILDFIRE (NHWF)

Account Number:	1217109
Map Number:	29S1418-00-01608
Property Owner(s):	PEPERMILL LLC
	PO BOX 338
	DILLARD, OR 97432-0338
Acres:	5.44 Acres
Zoning:	EXCLUSIVE FARM USE (EFU)
	FOREST (F)
Overlays and Development Considerations:	BANDON AIRPORT CONICAL ZONE (ABC)
	FLOODPLAIN (FP)
	FOREST MIXED USE (MU)
	NATIONAL WETLAND INVENTORY SITE (NWI)
	NATURAL HAZARD - TSUNAMI (NHTHO)
	NATURAL HAZARD - WILDFIRE (NHWF)

Account Number:	1217111
Map Number:	29S1418-00-01610
Property Owner(s):	PEPERMILL LLC
	PO BOX 338
	DILLARD, OR 97432-0338
Acres:	7.50 Acres
Zoning:	EXCLUSIVE FARM USE (EFU)
	FOREST (F)
Overlays and Development Considerations:	BANDON AIRPORT CONICAL ZONE (ABC)
	FLOODPLAIN (FP)
	FOREST MIXED USE (MU)
	NATIONAL WETLAND INVENTORY SITE (NWI)
	NATURAL HAZARD - TSUNAMI (NHTHO)

	NATURAL HAZARD - WILDFIRE (NHWF)
Account Number:	1217112
Map Number:	29S1418-00-01611
Property Owner(s):	PEPERMILL LLC
	PO BOX 338
	DILLARD, OR 97432-0338
Acres:	5.95 Acres
Zoning:	EXCLUSIVE FARM USE (EFU)
	FOREST (F)
Overlays and Development Considerations:	BANDON AIRPORT CONICAL ZONE (ABC)
	FLOODPLAIN (FP)
	FOREST MIXED USE (MU)
	NATIONAL WETLAND INVENTORY SITE (NWI)
	NATURAL HAZARD - TSUNAMI (NHTHO)
	NATURAL HAZARD - WILDFIRE (NHWF)
Account Number:	1217115
Map Number:	29S1418-00-01616
Property Owner(s):	PEPERMILL LLC
	PO BOX 338
	DILLARD, OR 97432-0338
Acres:	10.45 Acres
Zoning:	FOREST (F)
Overlays and Development Considerations:	BANDON AIRPORT CONICAL ZONE (ABC)
	FLOODPLAIN (FP)
	FOREST MIXED USE (MU)
	NATIONAL WETLAND INVENTORY SITE (NWI)

NATURAL HAZARD - TSUNAMI (NHTHO)

NATURAL HAZARD - WILDFIRE (NHWF)

Applicant Proposal:

The landowners (applicant) are seeking a review of an Amendment and Rezone application. This will lead to a Post Acknowledgement Plan Amendment in the Coos County Comprehensive Plan, changing the zoning of the subject properties from Forest with a Mixed Use overlay to Rural Residential and Commercial districts. The following findings demonstrate that the properties are irrevocably committed.

The legal description for the plan amendment/rezone area will match that of the forest zone section of the properties. It will be derived from the approved partitions P-07-25, P-07-26, and P-07-27. Based on Assessor tax lot data from these original partitions, the area is estimated to be around 48 acres.

The applicant/landowner(s) purchased the subject properties last year. They intend to develop these properties for residential homes and rural commercial development, not associated with Forest or Farming activities. An assessment of the property and surrounding areas reveals that the current zoning does not align with the area's characteristics. Therefore, the landowner requests the County amend the Comprehensive Plan to better reflect the property's existing use before proceeding with development plans.

Site and Community Overview:

The subject properties are located approximately 2.75 miles south of the City of Bandon. The City of Bandon is located at the mouth of the Coquille River and in the southwest portion of Coos County.

The subject properties are situated at the intersection of Highway 101 and Two Mile Lane, with access off Two Mile Lane. The initial 0.7 miles of Two Mile Lane are designated as a Major Collector according to the 2011 Coos County Transportation System Plan. This route continues east along Two Mile Lane, then turns north onto Rosa Road, leading to Filmore Ave SE within the City of Bandon.

This region is called the Two Mile area. Nearby geographic names include Beach Junction and Bradley Lake. Beach Junction refers to the commercial zone at the intersection of Beach Loop Road and Highway 101, about 0.75 miles north of Two Mile Lane. Aerial imagery and County Assessor data show this area features commercial buildings and RV parks. Access to Bradley Lake is across the highway from tax lot 1608. The Coos County Comprehensive Plan lists Bradley Lake as a recreational site for angling.

Beach Junction offers access to Bandon State Natural Area (BSNA) via Highway 101, with management by the State Parks Department. The BSNA features three main day-use areas, two

of which provide direct beach access. The state parks website reports about 27,000 annual day visitors to these sites. Furthermore, Beach Loop extends into Bandon, which includes more State Parks and City parks, and the applicant anticipates significantly higher daily visitation.

The next known public beach access point the applicant could locate is the BLM New River Nature Center at the end of Croft Lake Lane. Croft Lake Lane is 10 miles south of the City of Bandon. The BLM maintains this site, and aerial imagery indicates that a river would need to be crossed to reach the beach.

Other minor recreational uses in the area include an active golf course, Bandon Crossings, located approximately 1.25 miles south of the subject properties at the intersection of Hwy 101 and Dew Valley Lane. Coos County has approved another golf course, Ocean River LLC, approximately 1 mile southwest of the subject properties. The approval designates Boak Lane as the access point, directly across Hwy 101 from tax lot 1600.

Subject Property Land Use History and Current Conditions:

Select Land Use History

Property 1600, starting with the Minor Partition (MP-83-33), which was approved on July 5, 1983, establishing three parcels. Following this, two property line adjustments were approved on April 1, 1993, under ACU-93-04. On August 12, 1998, a permit (PE-98-12) was issued for a Template Dwelling in a Forest Zone. This file included a template map showing parcels and dwellings within the template parcel, a dwelling list, a soils analysis, cubic volume production, and an air photo (7-9-186).

The Zoning Compliance Letter (ZCL-02-582) issued on November 27, 2002, documented the construction of a farm building measuring 24' x 48' for the purpose of hay and farm equipment storage. An update on December 2, 2002, indicated a replacement dwelling and a 20' x 12' farm building on the site. Then, on October 4, 2004, an application was submitted for a Conditional Use (HBCU) to create a campground on a portion of the property.

An amendment and rezone (AM-05-02/RZ-05-01) was adopted on July 6, 2005, to rezone 50 acres from Forest to RR-5. This decision was appealed on July 25, 2005, and a request to withdraw the appeal was filed on August 12, 2005. The applicant formally withdrew the application on October 26, 2005. The Land Use Board of Appeals (LUBA-2005-111) also saw an appeal by Linda Anderson regarding the change from EFU & F to Q-RR-5, which was closed after the applicant withdrew on October 26, 2005.

Tax lot 1616 notes a property line adjustment (PLA-08-64), on October 27, 2008, between tax lots 1600 and 1616. An adjustment deed dated August 20, 2013, designated as deed #2013-8300, was received for the adjustment between tax lots 1600 and 1616. More recently, a property line adjustment (PLA-21-042) was processed on October 8, 2021, between the same properties.

Several units of land share a connected history, including tax lots 1600, 1607, 1608, 1610, 1611, 1615, and 1616. On March 7, 2007, a revised decision was communicated, with evidence submitted supporting four discrete parcels. Several partition approvals followed: Partition P-07-

25 was approved on December 13, 2007, for three parcels; Partition P-07-26 was likewise approved on the same date; and Partition P-07-27 was approved as well.

In addition, the road name (RN-08-08) for China Creek Road was adopted on May 28, 2008, under Order 08-05-052PL. Additional Property Line Adjustments were also made, including PLA-08-28 approved on July 14, 2008, and PLA-08-47. Furthermore, PLA-08-52 was approved on September 26, 2008, for an adjustment between tax lots 1610 and 1611.

Lastly, the history of tax lot 1610 includes floodplain authorization for a bridge and culverts situated within the floodplain.

Subject Properties Lawfully Created Parcel Status

Each of these units of land were created in compliance with all applicable planning, zoning, and subdivision or partition ordinances.

Land Configuration History Parent Parcel 1600

Minor Partition (MP-83-33) – Created North and South 1600 (Tract 1 Southern portion of 1600), 1602 (parcel #2), and 1603 (parcel #3)

ACU-93-04 - two property line adjustments between 1600, 1601, 1500, and 29S-14W-1B-1100.

In February 2007, a discrete parcel determination was submitted. It was determined that there were four

(4) discrete parcels (Tracts 1-4) within the ownership.

P-07-25 - #1 (tract 2), 3 parcel land division (eventual tax lots 1609, 1610, 1611)

P-07-26 - #2 (tract 3), 3 parcel land division (eventual tax lots 1614, 1615, 1616)

P-07-27 - #3 (tract 1), 3 parcel land division (eventual tax lots 1606, 1607, 1608)

PLA-08-28 – Between P-07-27 - Parcels 2 and 3 (1607 & 1608)

PLA-08-47 – Between P-07-25 Parcel 3 and the Southern area of 1600 (1610 & 1600) PLA-13-09 – Between 1600 & 1616

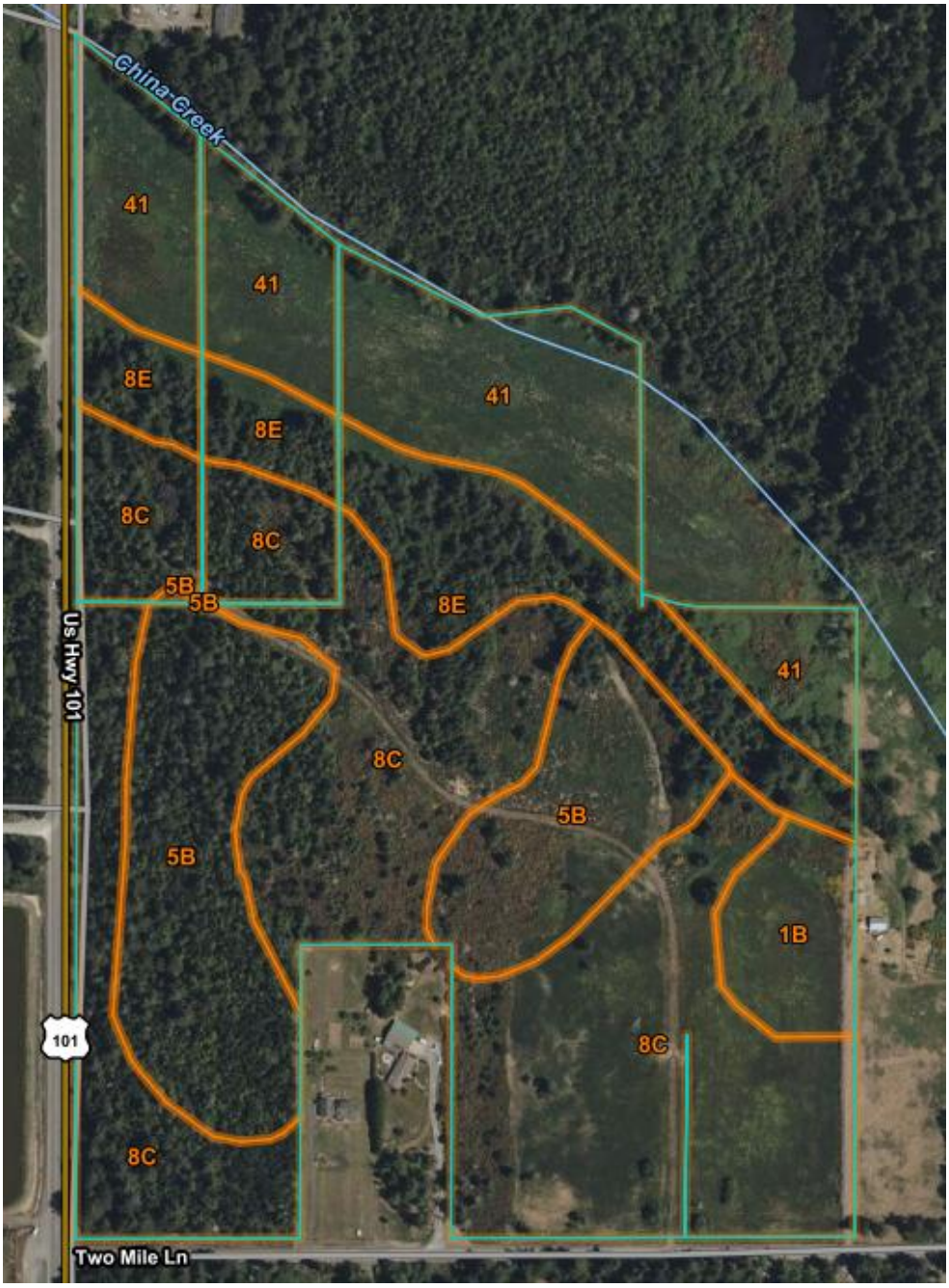
PLA-21-042 – Between 1600 & 1616

Current Conditions

The subject property is currently undeveloped. A roadway developed to residential standards runs throughout the properties. This roadway is developed to standards for Local Residential serving four or more dwellings. Based on measurements, the roadway is approximately 20 ft wide with an all-weather travel surface. This road has an adopted road name of China Creek Road. Electrical conduit and utility boxes follow the east and north ditch line of the roadway.

The coastal forest vegetation is typical of this portion of Coos County. The dominant tree species are Douglas-fir and Western Red Cedar. There are unmanaged grasses growing on the eastern side of the subject properties.

NRCS Soils



Source: NRCS Web Soil Map

Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1B	Bandon sandy loam, 0 to 7 percent slopes	2.3	3.8%
5B	Blacklock fine sandy loam, 3 to 7 percent slopes	11.9	19.9%
8C	Bullards sandy loam, 7 to 12 percent slopes	26.5	44.2%
8E	Bullards sandy loam, 30 to 50 percent slopes	7.5	12.4%
41	Nestucca silt loam	11.9	19.7%
Totals for Area of Interest		**60.1**	**100.0%**

This table summarizes forest productivity and agricultural classifications for selected soil map units in Coos County, Oregon, based on the NRCS Soil Survey. It includes site index and productivity estimates for common forest species, as well as farmland classifications (Prime Farmland, Farmland of Statewide Importance, or Not Prime Farmland).

Soil Phase	Slope	Forest Productivity	Agricultural Classification	Highest & Best Use
Bandon sandy loam (1B)	0–7%	Moderate–good (Douglas-fir SI 104 ft, 143 cu ft/ac/yr)	Farmland of Statewide Importance (if irrigated/drained)	Managed forest; limited agriculture if improved
Blacklock sandy loam (5B)	3–7%	Low–moderate (shallow, poorly drained)	Not Prime Farmland; cranberry potential	Wet-site forest, habitat, specialty ag (cranberries)
Bullards sandy loam (8B)	0–7%	Good–high (Douglas-fir SI 104 ft; Sitka spruce SI 157 ft, 229 cu ft/ac/yr)	Farmland of Statewide Importance (if irrigated)	Timber production; some irrigated agriculture
Bullards sandy loam (8C)	7–12 %	Good	Not Prime Farmland	Timber production

Bullards sandy loam (8E)	30–50%	Moderate (steep slope limits access)	Not Prime Farmland	Forestry, conservation, habitat
Nestucca silt loam (41)	0–3%	Moderate (~130 cu ft/ac/yr)	Prime Farmland if drained; otherwise Farmland of Statewide Importance	Agriculture if drained; wet-site forest or habitat

1B-Bandon sandy loam, 0 to 7 percent slopes.

This deep, well drained soil is on dissected marine terraces. It formed in sandy marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 25 to 300 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

Typically, the surface is covered with a mat of decomposed organic litter 1 inch thick. The surface layer is dark grayish brown sandy loam 5 inches thick. The upper 25 inches of the subsoil is dark reddish brown sandy loam and loam, and the lower 13 inches is pale brown, cemented, sandy material. The substratum to a depth of 60 inches or more is yellowish brown loam.

Included in this unit are areas of Blacklock and Bullards soils. Included areas make up about 20 percent of the total acreage.

Permeability of this Bandon soil is moderate above the cemented layer, very slow through it, and moderately rapid below it. Available water capacity is about 2 to 6 inches. Effective rooting depth is 18 to 36 inches. Runoff is slow, and the hazard of water erosion is slight. The hazard of soil blowing is severe.

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

This unit is suited to the production of Douglas fir. Among the other species that grow on this unit are Sitka spruce, western hemlock, red alder, and western redcedar. The understory vegetation is mainly salal, evergreen huckleberry, western brackenfern, and Pacific waxmyrtle.

On the basis of a 100-year site curve, the mean site index for Douglas fir is 137. At the culmination of the mean annual increment (CMAI), the production of 60-year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 140 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 105. High winds from the Pacific Ocean may seriously limit the growth of trees unless they are in a protected area.

The main limitations for the management of timber on this unit are the hazard of windthrow and plant competition. Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are

provided. Reforestation can be accomplished by planting Douglas fir, western hemlock, and Sitka spruce seedlings.

If this unit is used for homesite development, the main limitation is the very slow permeability, which limits use of septic tank absorption fields. Because of the very slow permeability of the cemented layer, onsite sewage disposal systems often fail or do not function properly during periods of high rainfall. The limitation of very slow permeability can be overcome by increasing the size of the absorption field.

If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production. Sprinkler irrigation is a suitable method of applying water. Use of this method permits the even, controlled application of water. Water should be applied in amounts sufficient to wet the root zone but small enough to minimize the leaching of plant nutrients. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs.

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

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

This map unit is in capability subclass Ille.

5B-Blacklock fine sandy loam, 3 to 7 percent slopes.

This deep, poorly drained soil is in depressional areas on marine terraces. It formed in sandy marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and sedges. Elevation is 25 to 350 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

Typically, the surface is covered with a mat of organic litter 1 inch thick. The surface layer is black and very dark gray fine sandy loam 9 inches thick. The subsurface layer is gray fine sandy loam 4 inches thick. The upper 2 inches of the subsoil is black mucky loam, and the lower 37 inches is mottled, strong brown to yellowish brown, cemented sand. The substratum to a depth of 75 inches or more is mottled, light olive brown sand.

Included in this unit are small areas of Bandon, Bullards, and Heceta soils. Included areas make up about 25 percent of the total acreage. The percentage varies from one area to another.

Permeability of this Blacklock soil is moderate above the cemented layer, very slow through it, and moderately rapid below it. Available water capacity is about 1.5 to 3.5 inches. Effective rooting

depth is 12 to 24 inches. Runoff is very slow, and the hazard of water erosion is slight. The water table fluctuates from 6 inches above the surface to 30 inches below the surface from October to May.

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

This unit is suited to the production of shore pine. Among the other species that grow on this unit are Sitka spruce, western hemlock, and Port Orford cedar. The understory vegetation is mainly salal, evergreen huckleberry, Pacific rhododendron, manzanita, and slough sedge.

On the basis of a 100-year site curve, the mean site index for shore pine is 90. At the culmination of the mean annual increment (CMAI), the production of 60-year-old shore pine trees 1.5 inches in diameter or more at breast height is 79 cubic feet per acre per year. High winds from the Pacific Ocean may seriously limit the growth of trees unless they are in a protected area.

The main limitations for the management of timber on this unit are seasonal wetness and the hazard of windthrow. The seasonal high water table limits the use of equipment to dry periods. Because roots are restricted by the cemented layer, trees commonly are subject to windthrow.

Reforestation can be accomplished by planting shore pine. Sitka spruce, and western hemlock seedlings. Tree seedlings have only a moderate rate of survival because of the seasonal high water table.

Irrigation and drainage are needed if the soil in this unit is intensively managed for cranberry production. Fields are prepared by removing the soil material above the cemented layer and replacing it with about 10 inches of sandy soil material. The top of the cemented layer should be graded toward the edge of the field to provide internal drainage. Open ditches and dikes are needed around the edge of fields to provide drainage and to control the water level; however, open ditches should not extend into the cemented layer.

Sprinkler irrigation is an efficient method of applying water during the dry period in summer. Sprinklers can also be used to control the temperature in summer, to prevent frost damage during winter, and to apply fertilizer, pesticides, and herbicides.

The very slow permeability of the cemented layer facilitates water management by preventing excessive seepage and reduces losses of fertilizer and soil amendments. Excessive seepage may occur in the sandy substratum. Yields vary greatly depending on management practices used. Because of the steepness of slope, deep cuts and fills may be necessary to provide level fields. Excessive seepage may occur if cuts are made below the cemented layer.

If this unit is used for recreational development, the main limitations are wetness and the very slow permeability. Water perched above the cemented layer may limit the use of recreational facilities to 3 or 4 months during the dry period. Drainage should be provided for paths and trails. Septic tank absorption fields do not function properly because of the seasonal high water table and the cemented layer. If sanitary facilities are constructed on this unit, holding tanks or effluent treatment systems should be used.

This map unit is in capability subclass Vlw.

8C-Bullards sandy loam, 7 to 12 percent slopes.

This deep, well drained soil is on dissected marine terraces. It formed in mixed eolian and marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50 to 600 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

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

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

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

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

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

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

The main limitations for the management of timber on this unit are the hazard of windthrow and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff.

Proper design of road drainage systems and care in the placement of culverts help to control erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit.

Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided.

Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings.

If this unit is used for homesite development, the main limitations are slope and droughtiness in summer. Absorption lines should be installed on the contour. In summer, irrigation is needed for lawn grasses, shrubs, vines, shade trees, and ornamental trees.

If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production. Sprinkler irrigation is a suitable method of applying water. Use of this method permits the even, controlled application of water. Water should be applied in amounts sufficient to wet the root zone but small enough to minimize the leaching of plant nutrients. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs.

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

If this unit is used for recreational development, the main limitation is steepness of slope. Slope may restrict some kinds of activities and increase the cost of constructing facilities.

This map unit is in capability subclass Ille.

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

This deep, well drained soil is on dissected marine terraces. It formed in mixed eolian and marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50 to 600 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

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

Included in this unit are small areas of Templeton soils. Included areas make up about 20 percent of the total acreage. The percentage varies from area to area.

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

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

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

On the basis of a 100-year site. curve, the mean site index for Douglas fir is 132. At the culmination of the mean annual increment (CMAI), the production of 60-year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 133 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 105. High winds from the Pacific Ocean may seriously limit the growth of trees unless they are in a protected area.

The main limitations for the management of timber on this unit are steepness of slope, the hazard of erosion, the hazard of windthrow, and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Highlead or other logging systems that fully or partially suspend logs damage the soil less and generally are less costly than tractor systems.

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

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

If this unit is used for recreational development, the main limitations are slope and the hazard of erosion. Slope limits the use of areas of this unit mainly to a few paths and trails, which should extend across the slope.

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

This map unit is in capability subclass Vle.

41-Nestucca silt loam.

This deep, somewhat poorly drained soil is on flood plains. It formed in alluvium. Slopes are 0 to 3 percent. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 10 to 40 feet. The average annual precipitation is 50 to 80 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

Typically, the surface layer is mottled, dark brown and very dark grayish brown silt loam 14 inches thick. The subsoil is mottled, dark grayish brown silty clay loam 26 inches thick. The substratum to a depth of 60 inches or more is mottled, olive brown silty clay.

Included in this unit are small areas of soils that are similar to this Nestucca soil but have a dark-colored surface layer less than 10 inches thick and Langlois, Coquille, and Chetco soils. Also included are small areas of Nehalem soils. Included areas make up about 20 percent of the total acreage.

Permeability of this Nestucca soil is moderately slow to a depth of 40 inches and slow below this depth. Available water capacity is about 4.0 to 8.5 inches. Effective rooting depth is 60 inches or more but is limited by the water table. The water table is 12 to 24 inches below the surface from December to April. Runoff is very slow, and the hazard of water erosion is slight. This soil is subject to frequent periods of flooding in winter.

This unit is used mainly for hay and pasture.

The vegetation in areas not cultivated is mainly western hemlock, western redcedar, Douglas fir, red alder, and black cottonwood. The understory vegetation is mainly evergreen huckleberry, western swordfern, hairy brackenfern, soft rush, and skunkcabbage.

If this unit is used for hay and pasture, the main limitations are the susceptibility of the surface layer to compaction, wetness, flooding, droughtiness in summer, and, for the curing of hay, high humidity. Grazing when the soil is moist results in compaction of the surface layer and poor tilth. Compaction limits the movement of air and water in the soil and restricts the growth of roots; it can seriously reduce the productivity of the soil. Grazing should be delayed until the soil has drained sufficiently and is firm enough to withstand trampling by livestock.

Drainage and irrigation are needed for maximum production of crops. Tile drainage can be used to lower the water table if a suitable outlet is available.

Frequent, brief periods of flooding restrict the use of this unit in winter. Protection from flooding is impractical.

Supplemental irrigation is needed in summer because of low rainfall. Sprinkler irrigation is a suitable method of applying water. Use of this method permits the even, controlled application of water. Water needs to be applied at a slow rate over a long period to ensure that the root zone is properly wetted. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs.

High humidity and frequent periods of rainfall late in spring prevent the production of high-quality hay. The quality of grass for hay can be maintained by increasing the stocking rate in spring. Excess forage in spring can be used as silage.

Fertilizer is needed to ensure optimum growth of grasses and legumes. Grasses respond to nitrogen, and legumes respond to sulfur and phosphorus. Proper stocking rates, pasture rotation, and restricted grazing during wet periods help to keep the pasture in good condition. Rotation

grazing increases the production of forage and helps to control weeds and brush. Periodic mowing and clipping help to maintain uniform growth, discourage selective grazing, and reduce clumpy growth.

This map unit is in capability subclass Illw.

ARTICLE 5.1 PLAN AMENDMENTS AND REZONES

SECTION 5.1.100 LEGISLATIVE AMENDMENT OF TEXT ONLY:

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

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

SECTION 5.1.110 WHO MAY SEEK CHANGE:

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

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

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

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

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

Applicant Response: This criterion is addressed by the Coos County Planning Director during the hearing body review process.

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 DLCD shall be provided 35 days prior to the initial hearing per ORS 197.610. Notice of adoption is subject to ORS 197.615. [OR 04 12 013PL 2/09/05]

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

SECTION 5.1.125 MINOR TEXT CORRECTIONS:

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

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

SECTION 5.1.130 NEED FOR STUDIES:

The Board of Commissioners, Hearings Body, or Citizen Advisory Committee may direct the Planning Director to make such studies as are necessary to determine the need for amending the text of the Plan and/or this Ordinance. When the amendment is initiated by application, such studies, justification and documentation are a burden of the initiator.

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

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

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

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

SECTION 5.1.200 REZONES:

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

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

SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:

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

Applicant Response: The Coos County Planning Director considers this criterion before the hearing body reviews the application. They might also want to include T29S-R14W-S18-TL1602 and T29S-R14W-S18-TL1603. These parcels are currently zoned Forest. These parcels were originally part of the subject properties and were partitioned in 1983 (MP-83-33) when the original parcel was zoned interim Rural Residential. These parcels have been developed with single family dwellings and associated development since the Comprehensive Plan was adopted.

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 nonfarm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.

Applicant Response: The subject properties are designated as Forest zone. A portion of these properties along the northern edge is zoned Exclusive Farm Use. The eastern and southern boundaries are classified as Rural Residential-2. The western side of the properties also falls under Exclusive Farm Use zoning, separated from the properties by the Hwy 101 right-of-way. Prior to this zoning, the subject properties were developed with an existing dwelling. This dwelling has been removed.

SECTION 5.1.220 PROCESS FOR REZONES:

1. Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.

2. The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.

3. The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.

4. The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.

5. The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.

6. A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.

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

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

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

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

SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:

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

1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:

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

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

c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

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

Chapter 660

Division 4

OAR 660-004-0000

Purpose

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

> *(a) Standards for a demonstration of reasons for sanitary sewer service to rural lands are provided in OAR 660-011-0060(9);*
>
> *(b) Standards for a demonstration of reasons for urban transportation improvements on rural land are provided in OAR 660-012-0070;*
>
> *(c) Standards to determine irrevocably committed exceptions pertaining to urban development on rural land are provided in OAR 660-014-0030, and standards for demonstration of reasons for urban development on rural land are provided in OAR 660-014-0040.*

Applicant Response: The applicant does not request sanitary sewer services for this property. They are aware that the closest sewer lines are in the City of Bandon, approximately over 2.75 miles away via existing rights-of-way along Hwy 101.

There is no request for urban transportation improvements at the subject property. There is no need to construct urban transportation improvements at the subject property.

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

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

with the approval standards for that type of use, should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal

Applicant Response: Counties must have a process for managing exceptions. Since Coos County adopted its comprehensive plan on January 1, 1986, there have been updates to State laws. Due to its population, Coos County is not required to periodically review the plan. There is no single correct method for justifying a new exception application. The applicant believes the review process should align with the standards used for classifying other zoning districts in the plan. The exception process for rural residential is detailed in Coos County Comprehensive Plan, Volume 1, Part 3, Section 5.1. The criteria for rural residential are outlined below.

> *RURAL HOUSING EXCEPTION STATEMENT*
>
> *EXCEPTION TO STATEWIDE PLANNING GOALS: # 3 (Agricultural Lands) & #4 (Forest Lands)*
>
> *5.1 INTRODUCTION*
>
> *5.1.1 Purpose:*
>
> *To justify the continued provision of rural housing opportunities in areas containing agricultural or forest soils but which are no longer suitable or otherwise available for agricultural and forest uses.*
>
> *5.1. 2 Exception Criteria:*
>
> *When a local government determines that there are reasons to use resource lands for uses not allowed by a specified goal or goals, the local government must provide justification for its determination by adopting an exception to the applicable goal(s) as part of its comprehensive plan.*
>
> *LCDC Goal #2, Part II(b) sets the following general standard for determining "irrevocable commitment":*
>
> > *The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable.*
>
> *OAR 660-04-028(2) interprets the referenced goal language to mean that the following factors must be addressed in the findings of fact for the goal exception:*
>
> > *o existing adjacent uses:*
> >
> > *o public facilities and services:*
> >
> > *o parcel size and ownership patterns of the exception area and adjacent lands:*
> >
> > *o neighborhood and regional characteristics:*

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

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

o other relevant factors.

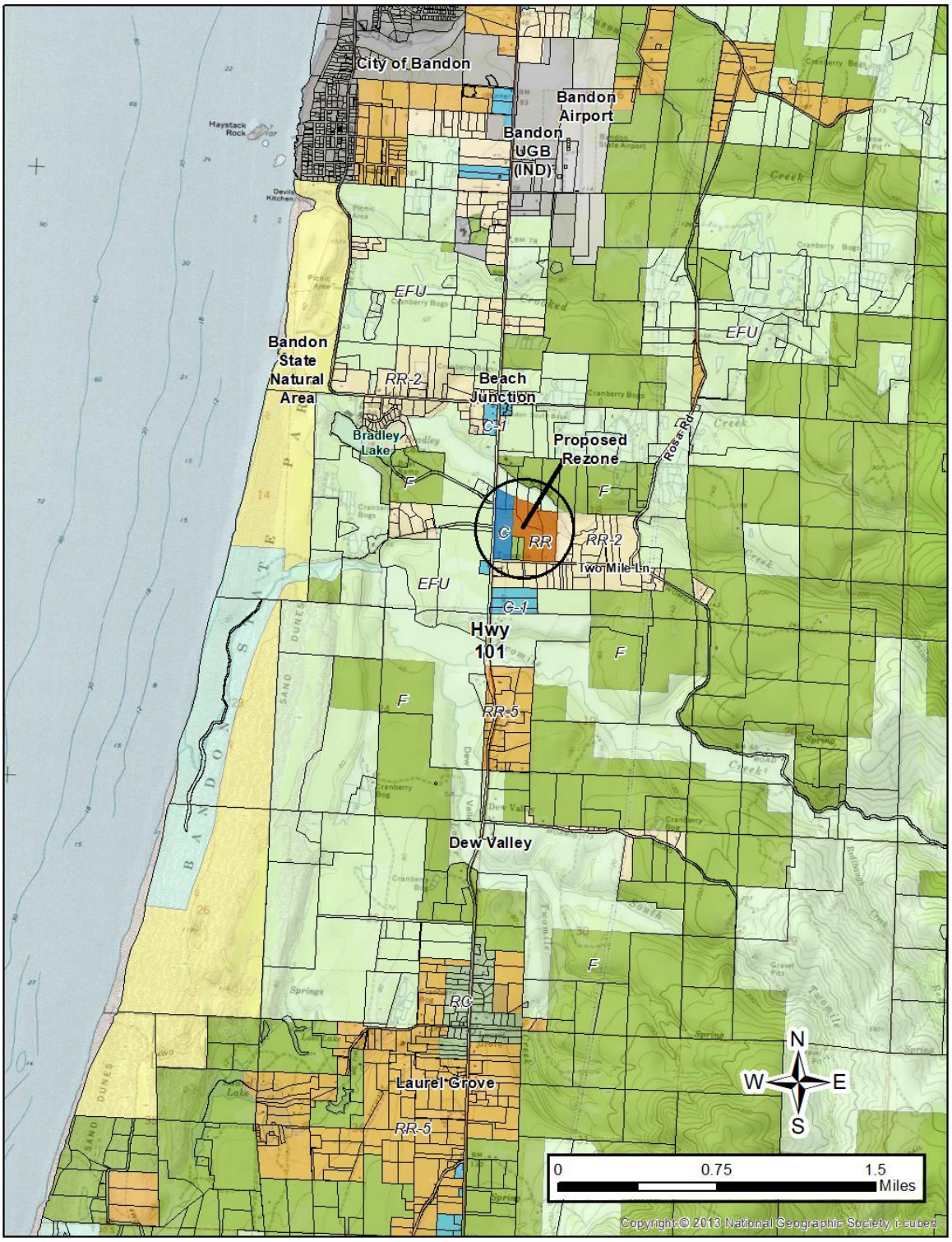
The following section contains the findings of fact and statement of reasons necessary to justify the taking of both an "irrevocably committed" exception to the Agricultural Lands and Forest Lands Goals to provide for rural housing in Coos County.

Applicant Response: The request seeks rezoning from Forest to Rural Residential and Commercial districts. Approval should be grounded in factual evidence. The applicant provides justification, arguing that neighboring uses render the property unsuitable for Goal 3 or Goal 4 uses. Relevant findings are outlined in 660-004-0028(3).

Existing Adjacent Uses:

The subject properties are roughly 2.75 miles south of Bandon, which is situated at the mouth of the Coquille River in the southwestern part of Coos County.

The properties are positioned at the intersection of Highway 101 and Two Mile Lane, with access via Two Mile Lane. The initial 0.7 miles of Two Mile Lane are designated as a Major Collector in the 2011 Coos County Transportation System Plan. This route continues east along Two Mile Lane, then turns north onto Rosa Road until it reaches Filmore Ave SE in Bandon.



Neighborhood Map

MP-83-33:

Initially, the subject properties were zoned as Rural Residential during the interim planning stage after Senate Bill 100 was adopted and prior to the County Comprehensive Plan's adoption in 1986. During this time, landowner Norman Christensen submitted a request for a minor partition, MP-83-33. This application was approved on July 5, 1983, for a partition creating a three-parcel partition.



County of Coos

PLANNING DEPARTMENT
COURTHOUSE ANNEX
COQUILLE, OREGON 97423
PH: 396-3121 EXT. 252

Bill Grile, AICP
Director

Norman J. Christensen
Rosa Road
Bandon, OR 97411

RE: Your (minor) partition located in Township 29S, Range 14WWM, Section 18, ; Tax Lot # 1600

Dear Mr. Christensen:

Please be advised that your above captioned partition was approved today, July 5, 1983.

There is an appeal period of 10 days from the date of this decision. This appeal period will expire on July 15, 1983, at which time the original tentative map must be filed by the Planning Department with the County Clerk's office.

The fee for filing your partition will be $20.00 payable to the County Clerk's office. Upon submitting said amount payable to our office or pre-payment arranged with the County Clerk said map will be filed.

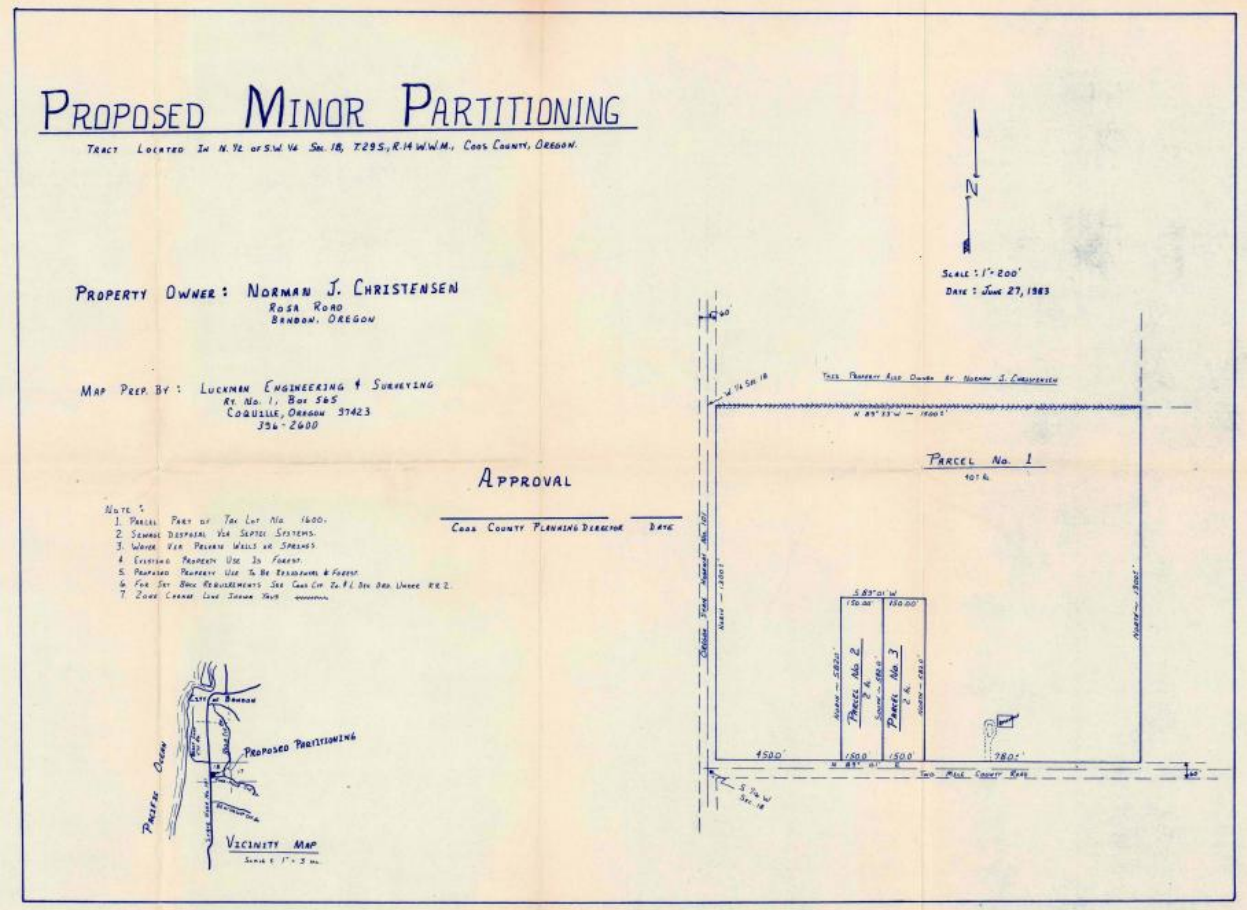
If we can be of further service to you please contact us.

Sincerely,
COOS COUNTY PLANNING DEPARTMENT

W. B. Meithof
Assistant Planning Director

WBM/cw
3/24/83

CC: Assessor's Office
File



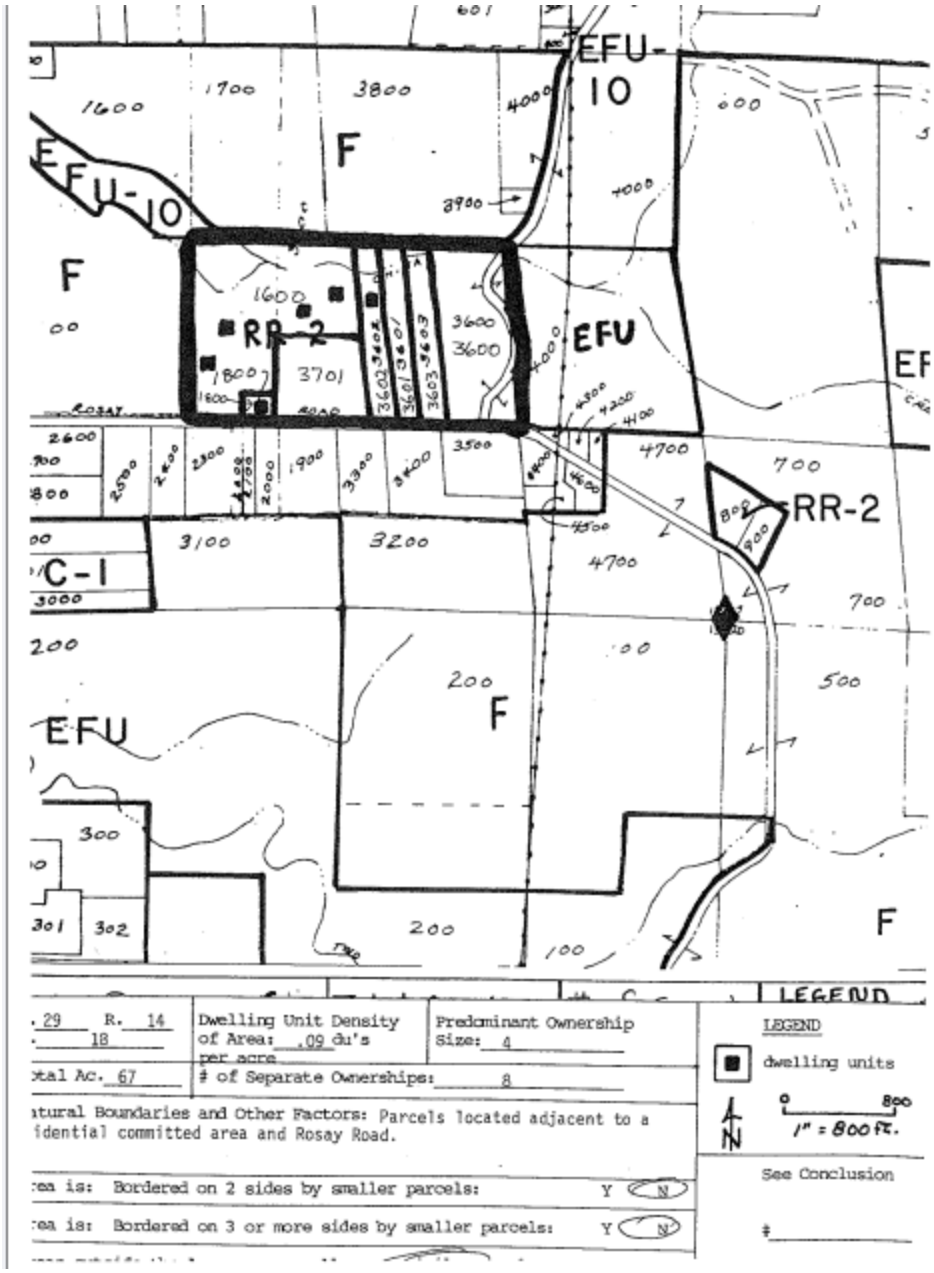
Source: MP-83-33 Plat

Once this partition received approval, parcels T29S-R14W-S18-TL1602 and T29S-R14W-S18-TL1603 were designated as the new parcels. Currently, these parcels are zoned as Forest, per the County's approved Comprehensive Plan.

These parcels have now been developed with dwellings. Each parcel is 2 acres in size, has an on-site well and septic system, and has direct access to Two Mile Lane.

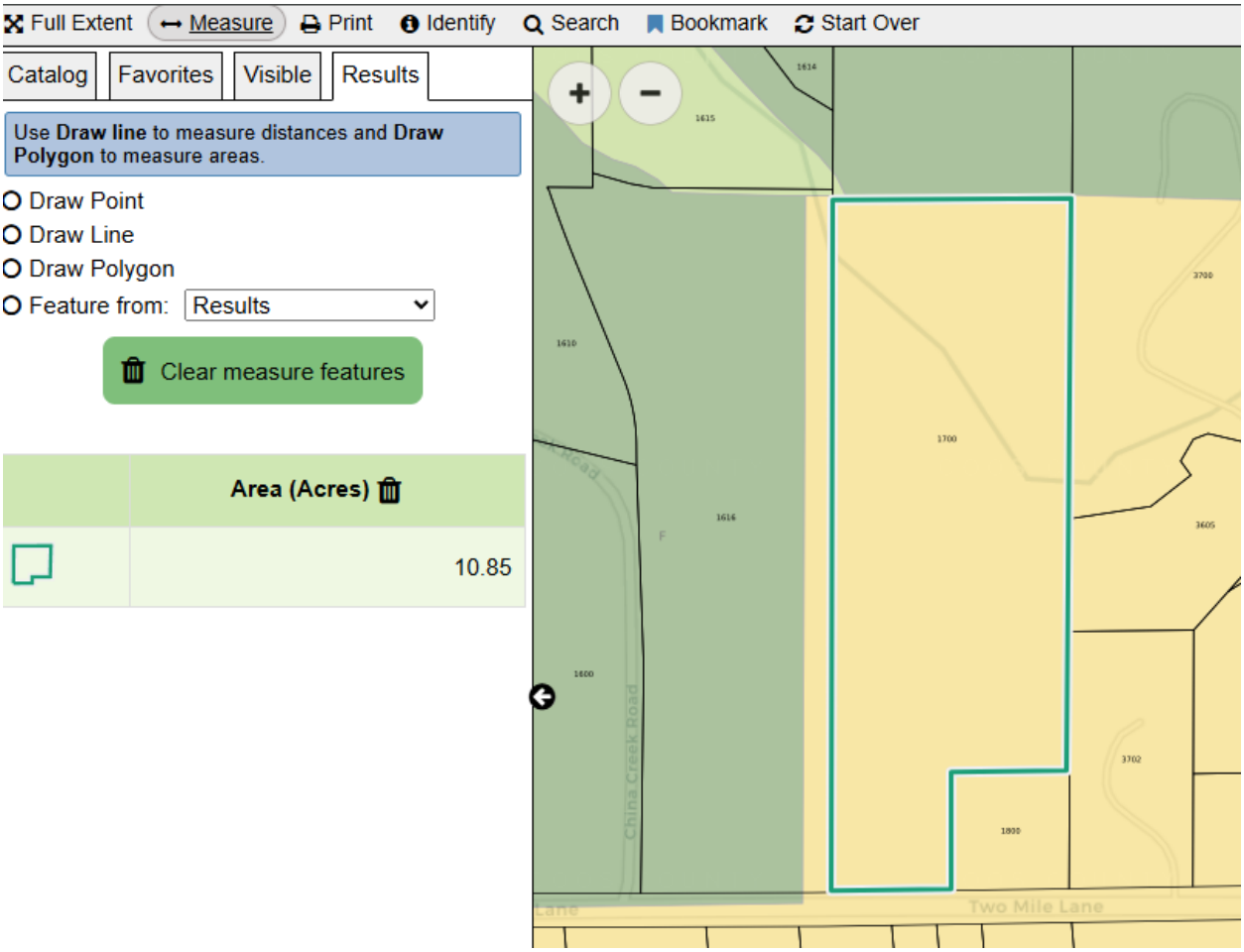
<u>Eastern Rural Residential-2 Zoning:</u>

Directly east of the subject properties are extensively developed Rural Residential-2 zones, mostly accessing Two Mile Lane. This region was identified as an irrevocably committed exception area during the planning process.



Source: Original Comprehensive Plan Exception Area Records

There is a developed partition situated 1200 feet east of the subject properties, accessible via Tatum Lynn Rd, a private road. The adjacent tax lot, T29S-R14W-S18-TL1700, borders directly on the east side of the properties and is split-zoned. Its southern half is designated as Rural Residential-2, while the northern half falls under Forest zoning. The County GIS map estimates roughly 10.85 acres of RR-2 zoned land.



Source: Coos County Zoning and Hazard Map

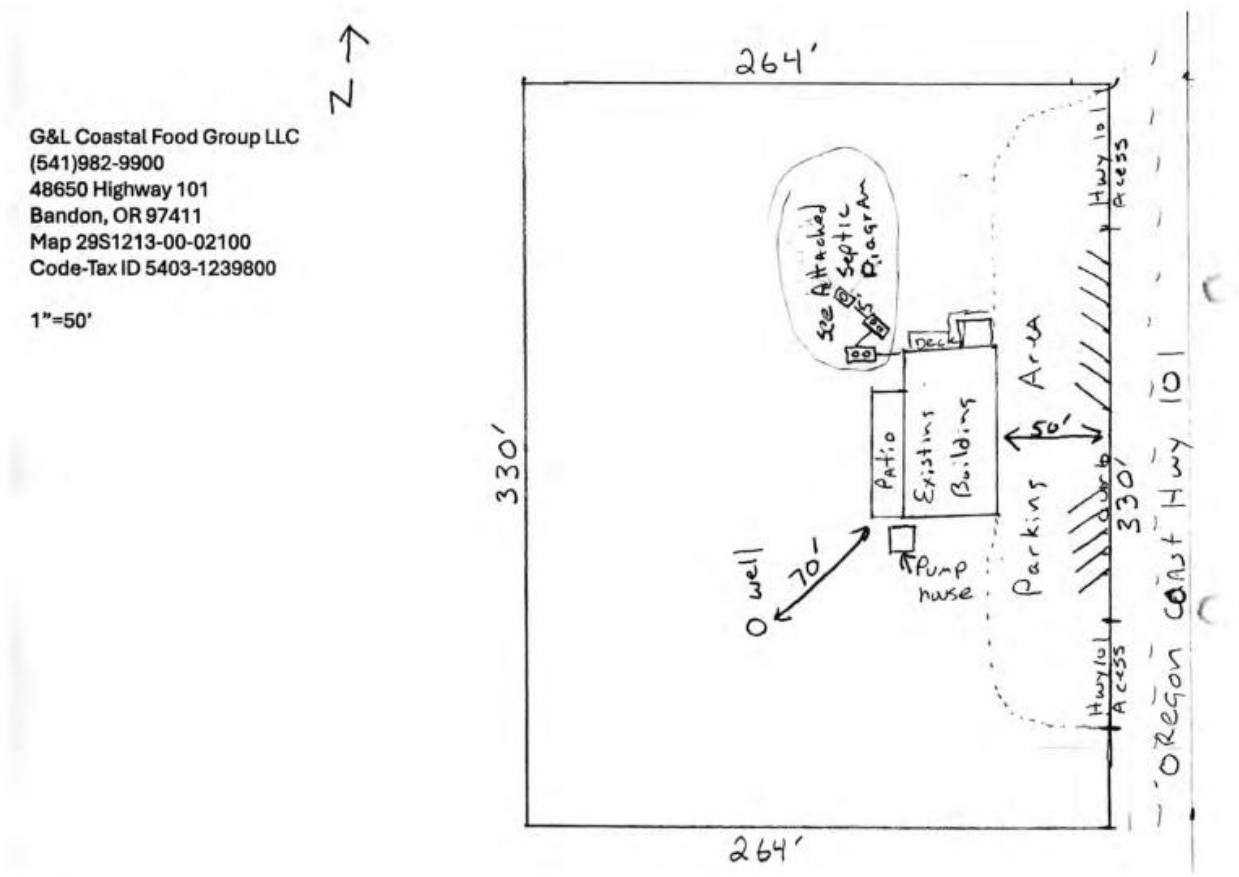
The potential future development of T29S-R14W-S18-TL1700 could create five new RR-2 zoned parcels, each permitting a Single Family Dwelling and an Accessory Dwelling Unit. Additionally, there might be one new Single Family Dwelling in the forest-zoned area of the property. Currently, there is an existing dwelling on the property, and this development could add up to 10 new dwellings along the eastern edge of tax lot 1616, part of the subject properties.

On the south side of Two Mile Lane, there are additional Rural Residential-2 parcels. Except for two parcels, S18-TL2700 and S18-TL2800, which access Hwy 101, all others have direct access to Two Mile Lane. Only two parcels, S18-TL2100 and S18-TL2200, are non-conforming and smaller than 2 acres. There is potential for land divisions on S18-TL3300, S18-TL3400, and S18-TL3500, which could create four more RR-2 parcels with access to Two Mile Lane. According to the Assessor GIS data, there are 17 parcels over 2 acres zoned RR-2 on the southern side of Two Mile Lane, each potentially supporting a Single Family Dwelling with an Accessory Dwelling Unit, plus two non-conforming parcels with single-family homes along this 0.7-mile section of Two Mile Lane, classified as the Major Collector.

Furthermore, C-1 properties are situated roughly 600 feet from the southwest edge of the subject properties along Hwy 101. Tax lot S18-TL2900 has recently been cleared, with a Conex container on-site indicating ongoing development. Tax lot S18-TL2901 remains underdeveloped, while tax lot S18-TL3000 has historically housed a mobile home park since the adoption of the Comp Plan before 1978, based on planning records. This mobile home park is now deemed a nonconforming use and was recently approved for expansion through ACU-18-003.

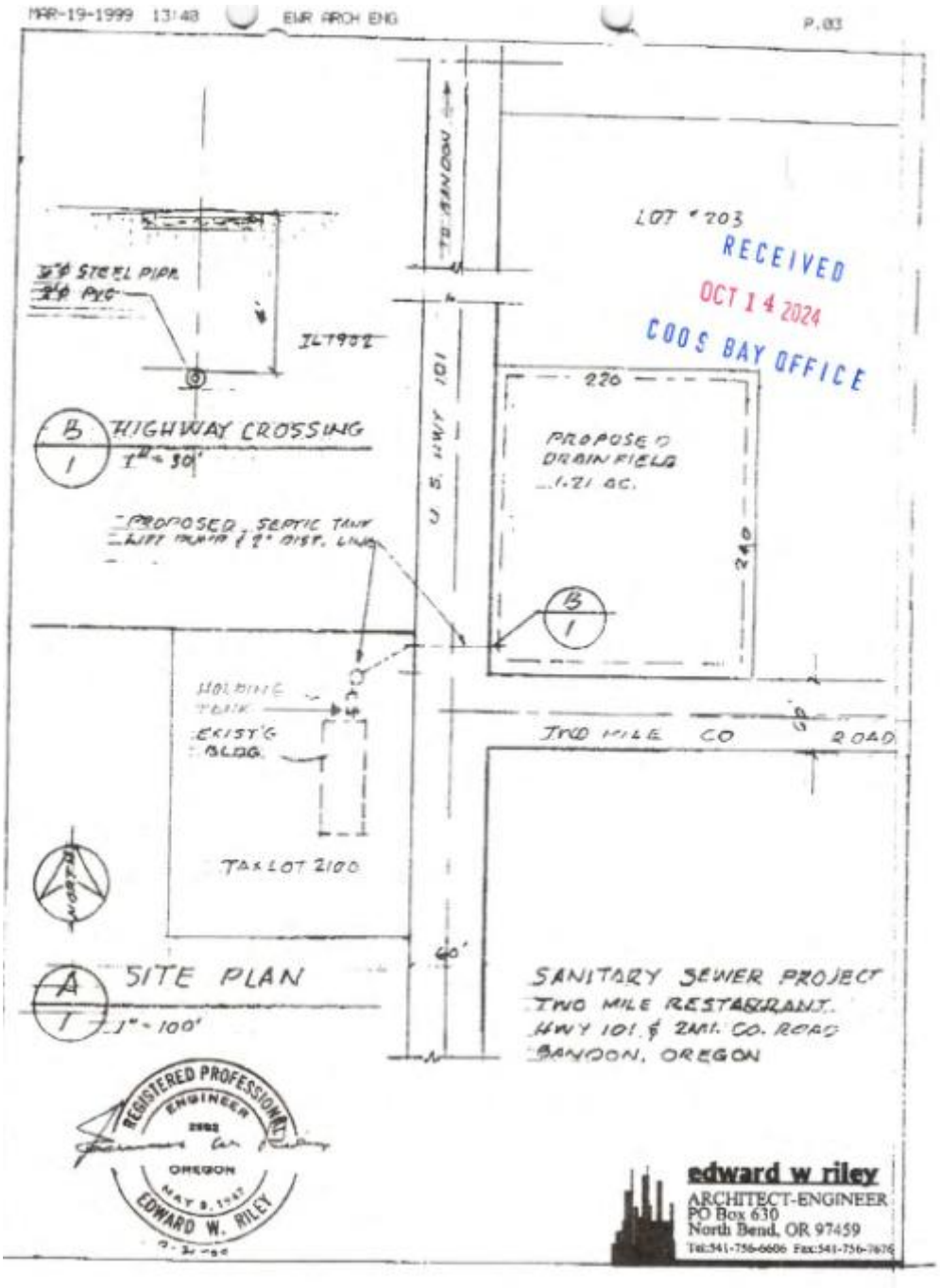
Located on the western side of Hwy 101 at the southwest corner of the subject properties, tax lot T29S-R15W-S13-TL2100 is accessible via the intersection of Hwy 101 and Two Mile Lane. Zoned C-1, this parcel has primarily served as a restaurant since zoning regulations were adopted. Per DEQ Septic Authorization Approval #246-24-000247-AUTH and Planning ZCL-24-271, it is approved for a 49-seat restaurant. Notably, the site plan associated with this approval does not include the southwest corner of the building, which was previously used as the restaurant's over-21 section, suggesting the possibility of additional seating. The applicant for the rezone has not confirmed whether a dwelling on the property is still in use. The parcel has previously been approved for other uses, such as school dormitories (ZCL-00-499) and a permitted single-family residence, which is contained within the same structure as the restaurant (ZCL-99-079).

It is noteworthy to mention that the plot plan attached to ZCL-24-271 shows the on-site septic repair system on tax lot 2100 (the parcel with the restaurant).



Source: ZCL-24-271 Plot Plat

It is also important to note that the plot plan attached to ZCL-24-200 indicates a 1.2-acre septic repair field on tax lot 1600 of the application, which was shown on the approval for septic repair/replacement for the restaurant on tax lot 2100.



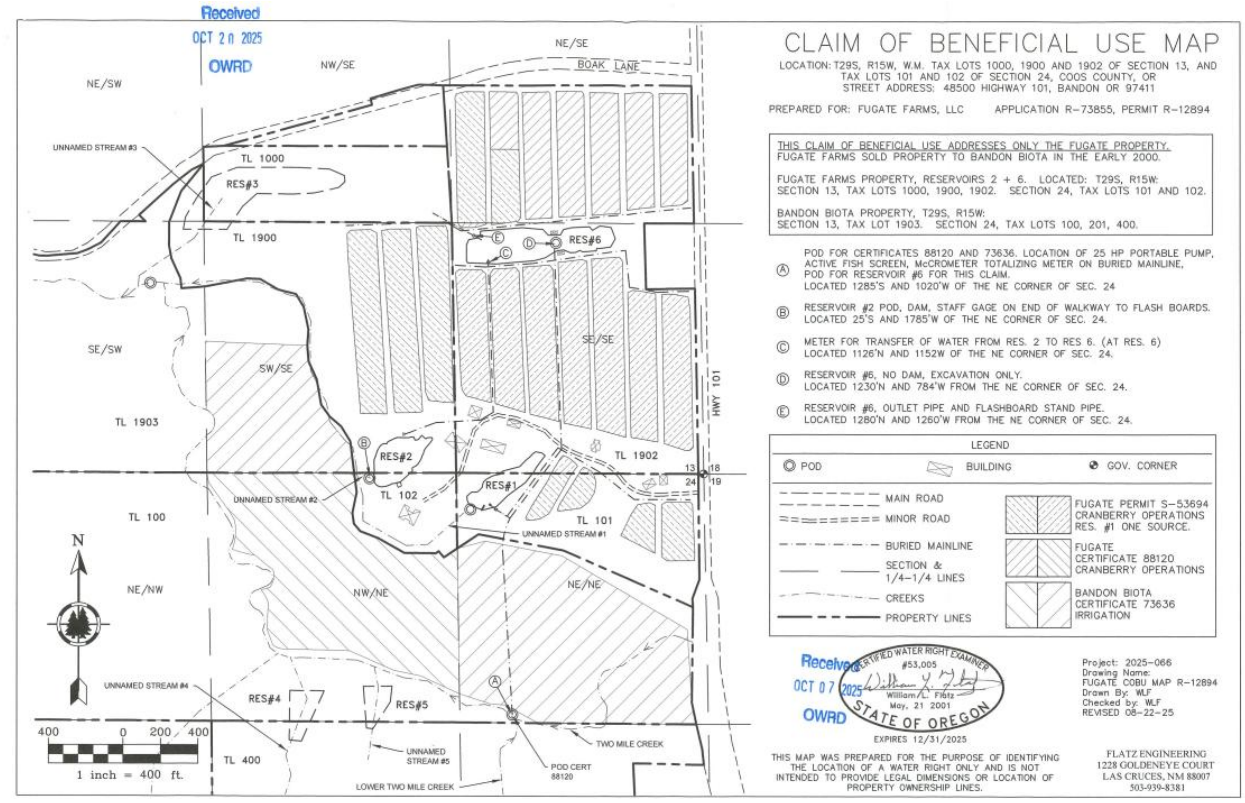
Source: ZCL-24-200 Plot Plan

<u>Adjacent active farm – Fugate Farm:</u>

Cranberry fields are situated to the west of the subject properties along the western side of Hwy 101. This farm is located within T29S-R15W-S13-TL1000 and T29S-R15W-S13-TL1902, both zoned for Exclusive Farm Use. According to Coos County's situs address, the farm's address is 87230 Boak Lane, with access roughly 0.5 miles down Boak Road. Boak Road leads directly to Hwy 101 about 0.15 miles north of the junction with Two Mile Lane.

The farm's access point on Boak Lane lies on the western edge of the RR-2 exception area. Additionally, a separate tax lot, T29S-R15W-S24-TL101, on the farm's southern edge is actively farmed. This lot is addressed as 48500 Hwy 101, about 0.25 miles south of Hwy 101 and Two Mile Lane intersection, under a different name similar to the main farm LLC. The farm buildings on the main cranberry farm seem to use this highway access point.

According to communications with the Oregon Water Resources Department and details on their website, the total water rights for Fugate Farm are designated as: *"only the development that was completed by October 1, 2015 may be perfected."*



Source: OWRD Records

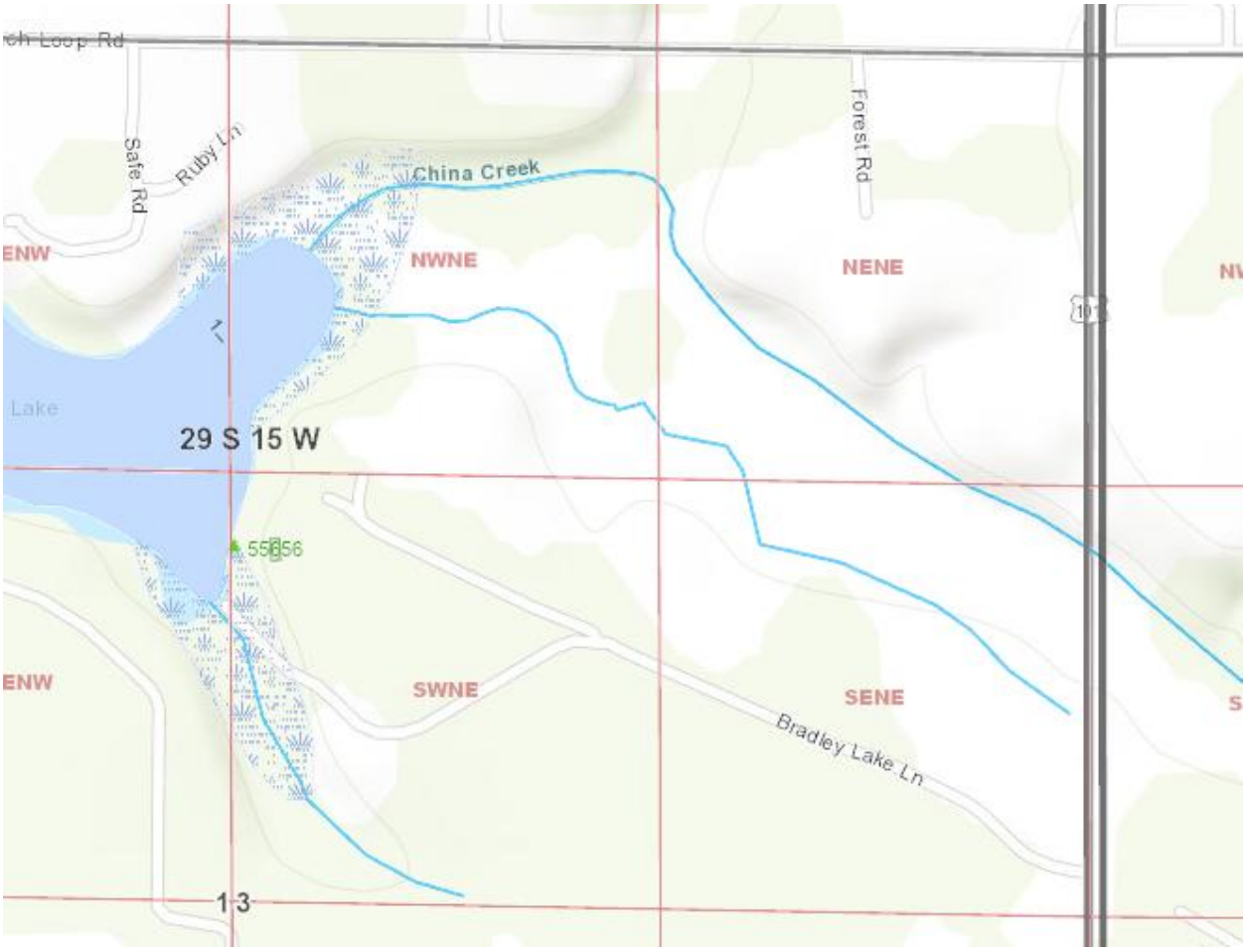
The map submitted to OWRD by Fugate Farm indicates that their water source is Two Mile Creek. Although the applicant's property is located off of Two Mile County Road, it's important to note that the drainage for Peppermill's properties land flows into China Creek. China Creek subsequently drains into Bradley Lake, which ultimately discharges into the Pacific Ocean at the entrance of China Creek within Bandon State Natural Area.

<u>Bradley Lake Boat Launch:</u>

Although tax lot T29S-R15W-S13A-TL1200 is densely forested, it is owned by the State of Oregon and serves as the Bradley Lake boat launch. The parcel's zoned for a combination of Forest and Exclusive Farm Use, not Recreation. Nonetheless, the applicant expects the

State to keep managing the parcel for public recreation instead of primarily farming or forestry.

<u>Highway 101 Farm LLC:</u>
Tax lot T29S-R15W-S13A-TL800, zoned for Exclusive Farm Use, is situated on the west side of Hwy 101, directly opposite the northwest corner of the subject properties. The Oregon Water Resource Department GIS map indicates that this parcel has no irrigation water rights.



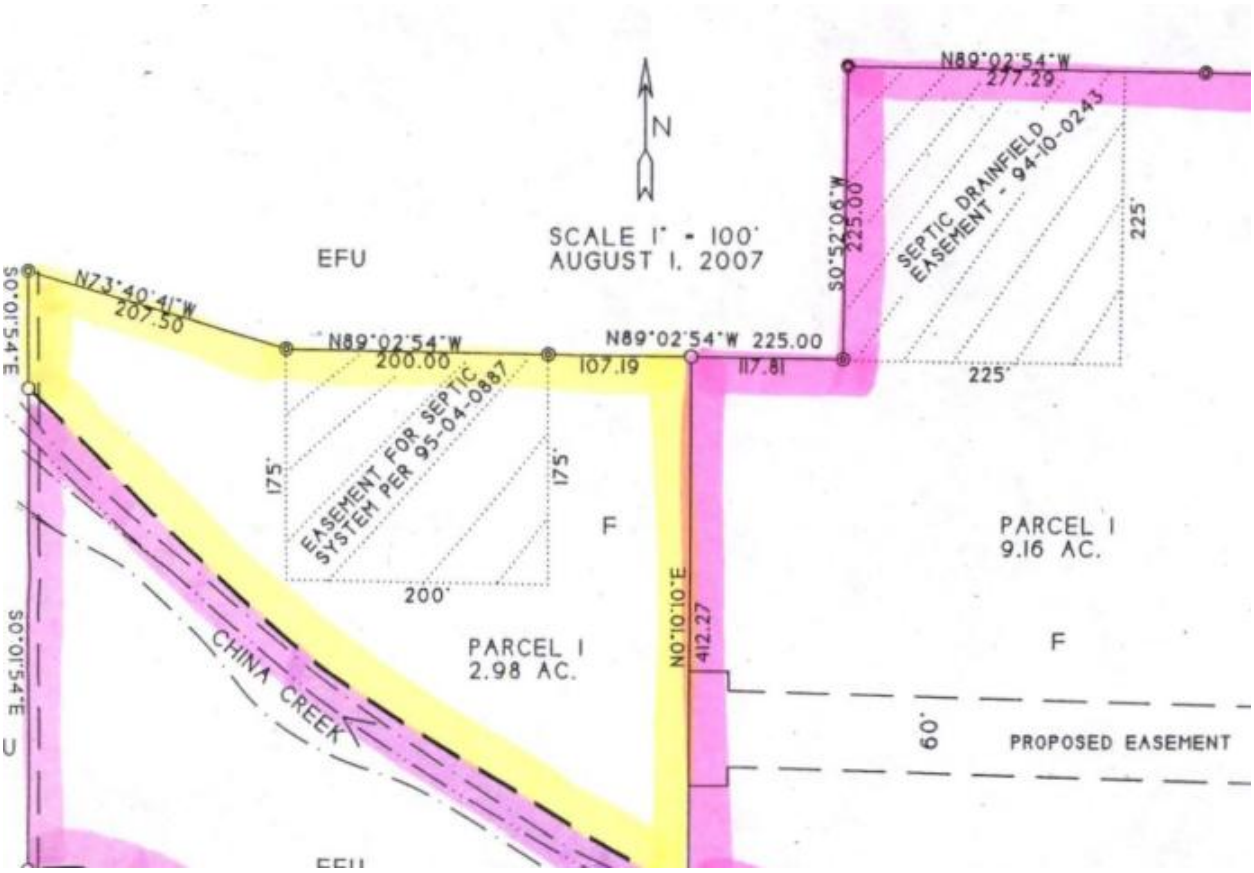
Source: OWRD Water Rights Mapping Tool

Therefore, it can be assumed that this parcel may continue to be used as non-irrigated pasture land.

<u>Pacific Community Church:</u>
Pacific Community Church is situated on T28S-R14W-S18-TL1500, between the northwest part of the subject properties and the Beach Junction commercial area. According to their

website, the church was established in 1965. Historically, it has also run a school at this site since the Coos County Comprehensive Plan was adopted.

The church directly connects to Hwy 101 at the southern end of the Beach Junction area. It is important to note that the church currently has two septic easements on the overall tract owned by the applicants. These zones are classified as Forest and are not included in the rezone application. This information is available in the County records for P-07-25.



Source: P-07-25

<u>East Beach Loop Lane and Blazer Lane:</u>
There are three separate cranberry farming operations approximately 800 feet from the northeast corner of the subject property. The northeast corner is within the Exclusive Farm Use (EFU) zoning portion of one of the subject properties (TL1610), and the EFU zone portion is not part of this rezone application.

There are multiple parcels and tax lots in this area; however, there are three distinct ownerships at this time.

The nearest ownership to the subject properties is held by the Ronald & Mary Puhl Trust, identified as tax lot T29S-R14W-S18-TL900. This property has legal access via East Beach Loop Lane, a county-owned public right-of-way. Aerial imagery suggests this parcel is fully used for cranberry farming. To the north, another parcel owned by the Puhl Trust, T29S-R14W-S07-TL2100, also appears nearly fully utilized for cranberry cultivation, with a nonconforming dwelling at its western end and two farm buildings nearby.

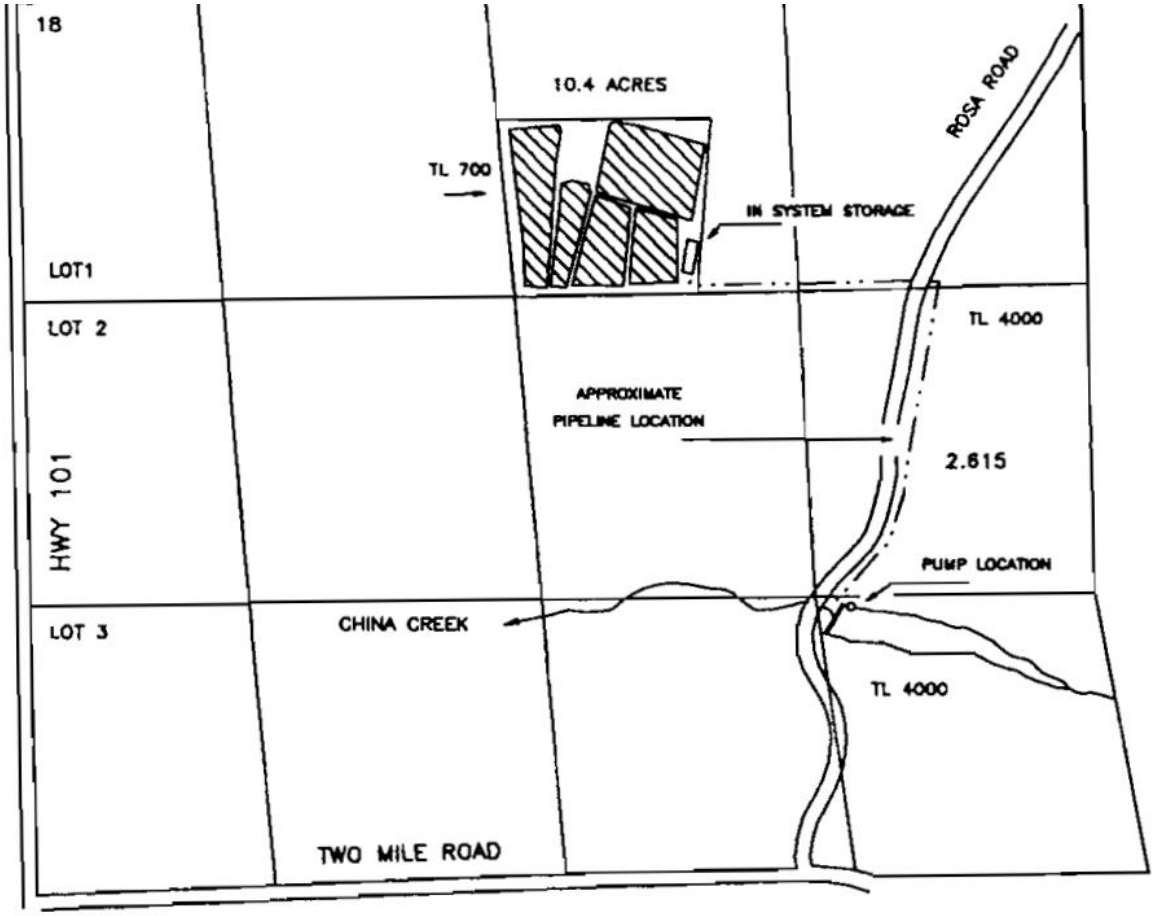
The Puhl Trust owns three parcels situated east of TL2100, identified as T29S-R14W-S07-TL2300, T29S-R14W-S07-TL2301, and T29S-R14W-S08-TL2201. Access to these parcels is likely via East Beach Loop Lane and Rosa Road. Aerial views indicate these landings are currently used for timber production, with the trees in the reprod growth stage. Crooked Creek flows east to northwest through the area, and a central reservoir functions as the diversion point for the Puhl and Black cranberry farms. Permits from the OWRD suggest there is potential for irrigating additional cranberry fields on these parcels. This irrigation will also be from Crooked Creek.

The remaining parcels owned by Puhl Trust are situated south of TL2300 and TL2301. These are combined into a single tax lot, T29S-R14W-S18-TL601. Aerial images indicate that most of these parcels are used for cranberry farming, although some fields are inactive. There are also two non-conforming dwellings on the property. Access to these parcels is via Blazer Lane, which connects to Rosa Road.

The next largest majority farm is owned by Joseph and Jonna Black. It is identified as T29S-R14W-S18-TL800. Most of this parcel is utilized for cranberry farming, although some fields are inactive, and it includes a dwelling and farm buildings. Irrigation is sourced from the diversion point in Crooked Creek, as previously mentioned. Access is via East Beach Loop Lane.

The third farm, owned by Dale Border and designated as T29S-R14W-S18-TL700, is situated between tax lot 601, owned by Puhls, and the Black parcel. The 'L'-shaped lot features cranberry farming on its northern section, along with a residence and farm buildings along the northern edge. The southern two-thirds are dedicated to timber production and likely include a sand source for farming. The farm connects to Rosa Road via Blazer Lane.

According to Oregon Water Resource Permit data, this farm is authorized to irrigate from December 1 to March 31, drawing a limited water amount for future cranberry cultivation. The reservoir is situated on the east side of Rosa Road, as indicated on the final map below.



Source: OWRD Records

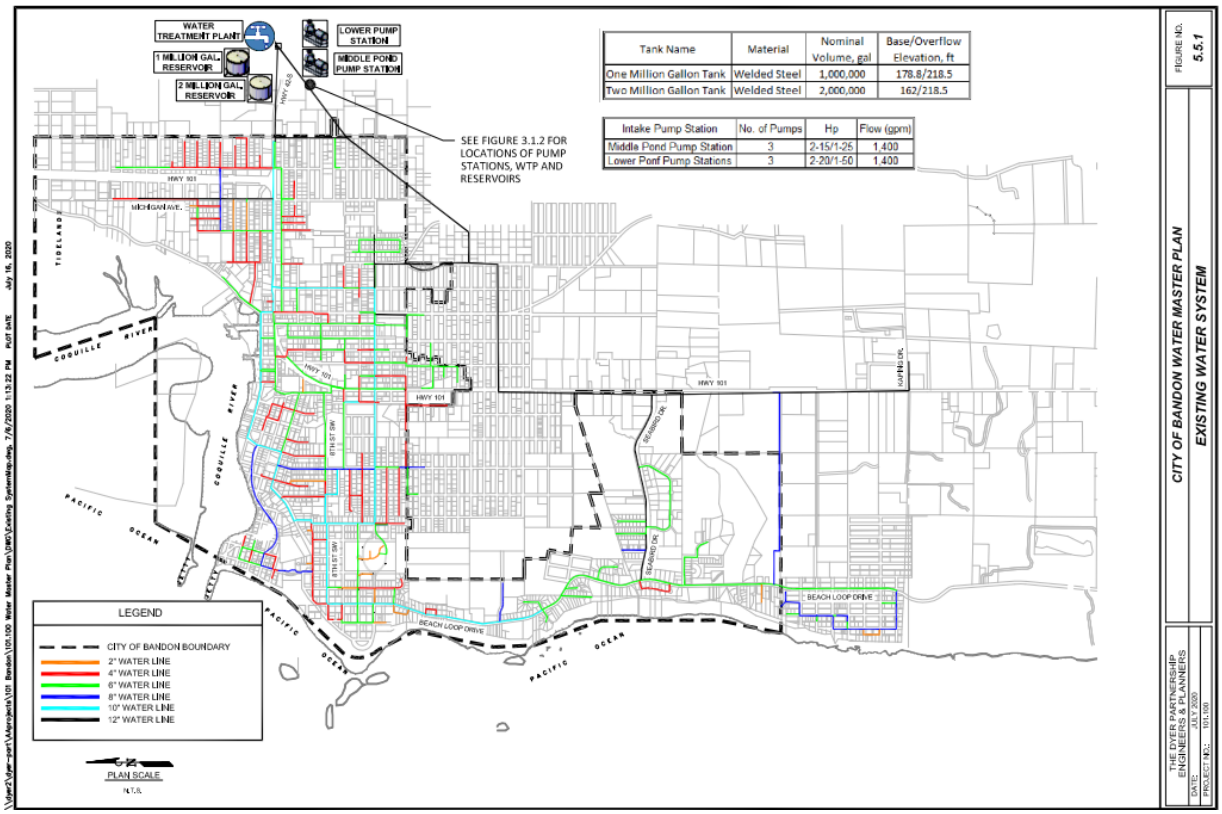
Public Facilities and Services:

The area is served by the Bandon Rural Fire District (RFD) for structural fire protection. It is within the Bandon School District. Modern communication services, including television, cellular phone service, and internet, are available. The area is served by the City of Bandon Electric Department. It is within the jurisdiction of the Coos County Sheriff Dept and is thereby covered. Properties access Two Mile Lane, a County-maintained public right-of-way. There are no public water or sewer facilities or services in this area.

The area north of the subject properties is known as Beach Junction and is zoned as Commercial (C-1).

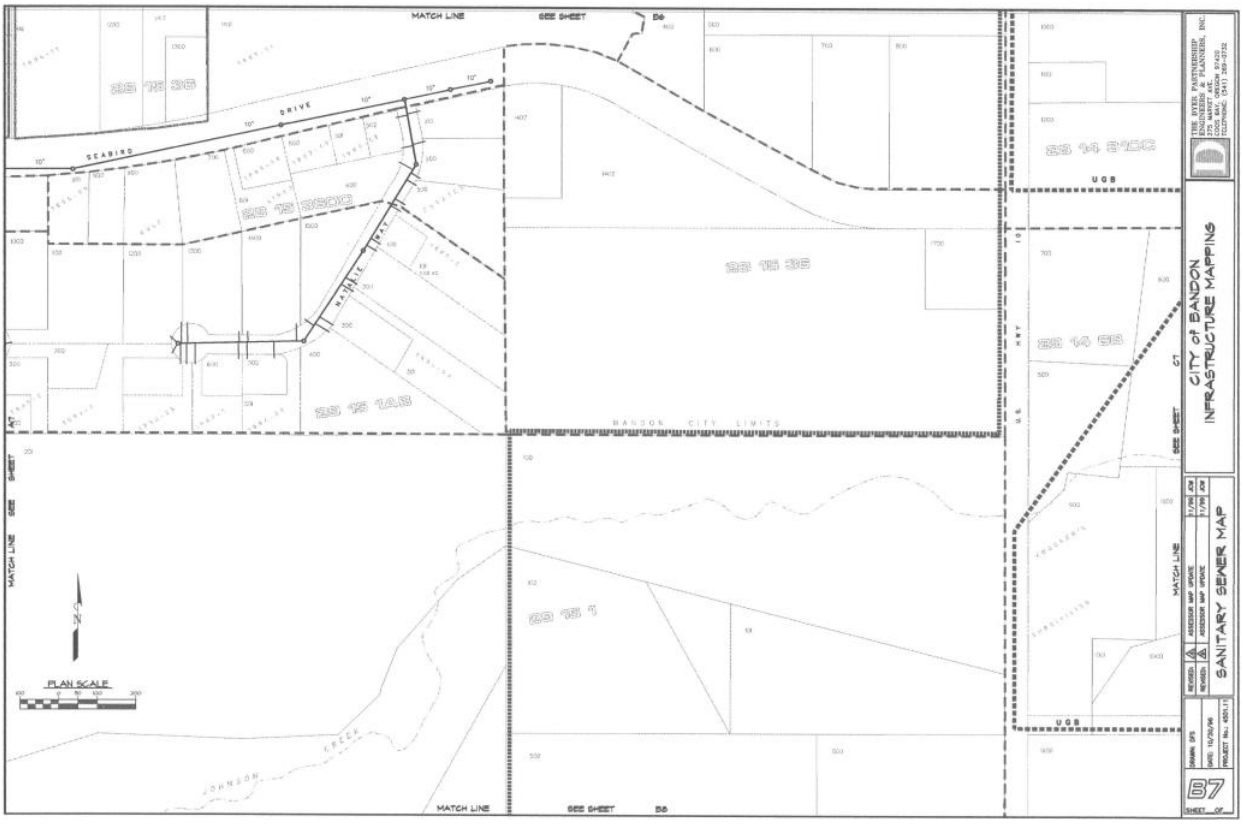
The subject properties are roughly 1.75 miles south of Bandon's southern Urban Growth Boundary, which ends at the industrial-zoned parcels along Kehl Lane on the south side of the County road. Kehl Lane offers access to Bandon State Airport, an industrial forestry mill, and a key local optics company.

Because of the airport and in accordance with the City's 2022 Water System Master Plan, the City has installed a 12" public water line along Kehl Lane. The Bandon RFD maintains a fire station at the airport. The City's map labels Kehl Lane as Kaping Dr. Municipal fire hydrants are installed along Kehl Lane.



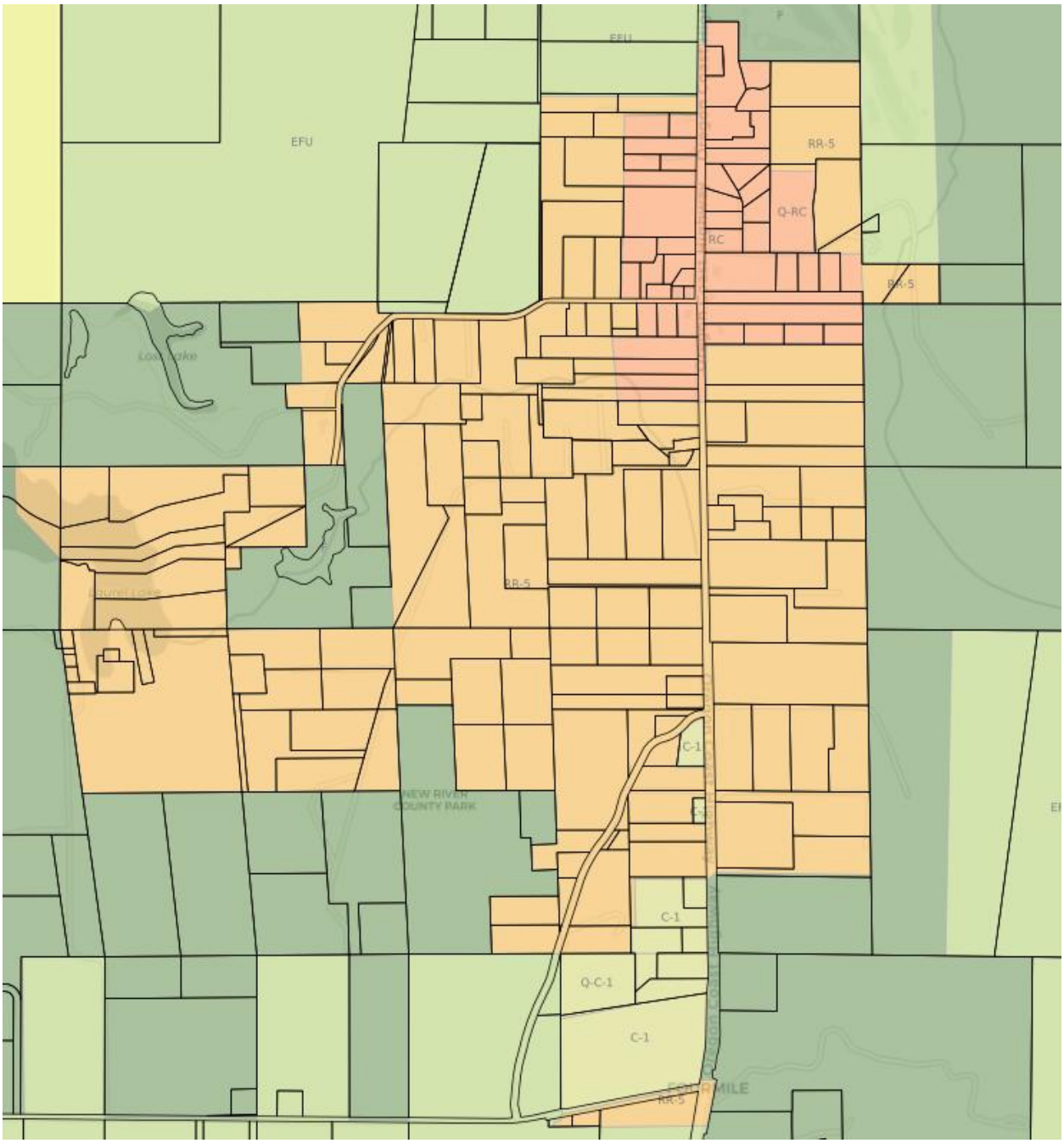
Source: Bandon Water Master Plan 2022

According to information from the City of Bandon, the nearest public sewer line is about 2.75 miles from the subject properties. The closest reference point is just west of the intersection of Seabird Dr SW and Hwy 101. The sewer line runs along Seabird Drive and then turns south onto Natalie Way. Currently, there is no public sewer service in the southern UGB.



Source: City of Bandon Sanitary Sewer Map

Laurel Grove is situated about 2.25 miles south of the subject properties. It is zoned as a Rural Center, with a substantial area of Rural Residential-5 zoning located south of the RC.



Source: Coos County Zoning and Hazard Map

Approximately 25-30 acres of C-1 and Q-C-1 zoning are located along Hwy 101, mainly near the intersection of Lower Four Mile Lane and Hwy 101. The West Coast Game Park, which resembles a private zoo, is situated within this C-1 zone and should be viewed as a tourist attraction. It has been closed for the past year due to issues outside the scope of a land use planning application.

As a zoning district, the Rural Center is described in Chapter 4 of the CCZLDO.

RURAL CENTER (RC)

The intent of the Rural Center Designation "committed" rural nodes is to provide residential, commercial, and public/semi-public uses.

The purpose of the "RC" is to provide for the development of rural commercial, tourist commercial, residential and services facilities, necessities, convenience and supplies ancillary to nearby agricultural, forestry, recreational and rural residential uses and activities and to conserve energy by providing for needed commercial outlets in rural areas already "committed" as residential/commercial nodes.

New commercial uses that are consistent with the objectives of the "RC" district are those uses which are needed for the convenient shopping needs of the nearby rural population.

Only one Primary Use can exist, and any other use must be subordinate in size and nature. Pursuant to OAR-660-022-003 Commercial building or buildings in a rural unincorporated community shall not exceed 4,000 square feet of floor space.

The Comprehensive Plan specifies criteria for initially identifying Rural Centers in Coos County. These can be found in Volume 1, Part 2, 4.5 Housing, 4 Rural Housing.

4.3.6 Rural Center Identification Procedure:

Rural Centers are theoretically goal conforming because they are at least "substantially committed" to non-resource uses. A definition of rural centers and criteria for their identification are set out below:

> *A rural community is characterized as an area where a concentration of small homesites has occurred around a recognizable central place which provides certain essential services. A rural community is defined as containing at a minimum a school, church or grange hall, plus at least one of the following facilities or services: grocery store, automobile service station, community water system, community sewer system. Rural communities are intended to provide for the continuance of a rural-residential life-style in the County.*
>
> *Existing unincorporated rural communities are intended for the continuation of growth with appropriate density residential dwellings and related subordinate commercial establishments that provide daily convenience goods and services to the surrounding rural area.*

This definition provides for a two-part test before rural communities can be designated. Not only should certain facilities and services be present to serve the surrounding community, but there should be a recognizable concentration of

development or "node". The intention is to encourage development where a named center has historically existed and where services exist and can be provided more economically and efficiently in the future.

Named historic population centers are cited in Table 23 which assesses their suitability for designation as rural centers based on the current provision of facilities and services.

Based on the criteria listed above, the following communities are identified as Rural Centers:

> *Allegany, Arago, Bridge, Broadbent, Cooston, Dora, Fairview, Glasgow, Greenacres, Hauser, and Sumner.*

In addition, the following communities are proposed for inclusion as Rural Centers even though they technically do not qualify:

> *1. Laurel Grove/Fourmile: Because a church and grange hall are nearby that would enable technical qualification, and because of its extensive linear tourist-commercial development along a major corridor (US 101).;*
>
> *2. Riverton: Because it has a community water system, it has experienced small scale industrial development and is located beside the rural highway connecting Bandon and Coquille (State Hwy. 42S).*

The communities that meet the requirements for rural centers have a wide range of physical characteristics. Some are densely clustered on a small scale (such as Arago or Riverton) or on a larger scale (such as Greenacres or Glasgow); some are essentially linear where the central area is simply a crossroads with little development concentration (such as Allegany or Fairview). Other areas exhibit some clustered development at a recognizable center that serves as a social and commercial focus for much larger population that is extensively linear with occasional clustering (such as Bridge).

The physical boundaries of Rural Centers can be delineated in two ways:

> *1. The area encompassed by the commercial service core and all contiguous land which is physically developed or substantially committed to rural residential uses, or*
>
> *2. Only the commercial/service core area, plus contiguous high-density residential areas (lots predominantly 2 acres or smaller).*

The more "restricted" definition of Rural Centers is intended to confine future service or commercial development to a locality which is already substantially committed to those uses. The "broader" definition would provide for service and commercial uses throughout the adjacent rural residential area.

Table 12. Potential Rural Communities; Facilities and Services Checklist[3]

Community	Service							
	School	Church	Store	Station	Grange	Water	Sewer	RFPD
Allegany	*	*	*					
Arago	*	*	*	w/ store				*
Bridge	*	*	*	*	*	*		*
Broadbent	*	*	*	*	*			
Coaledo								
Cooston		*	*					*
Dellwood	*							
Dora	*	*	*	w/ store	*	*		*
Fairview	*	*	*	*	*			*
Gaylord								
Shorewood/Glasgow	*		*			*		*
Gravelford								
Greenacres	*	*	*	*	*			*
Hauser	*	*	*	*				*
McKinley		*			*			
Norway								
Prosper								
Randolph								*
Remote			*					*
Riverton		*				*		*
Saunders Lake			*	w/store				*
Sitkum								
Sumner	*	*	*	w/store	*	*		*
Laurel Grove Fourmile			*	*				*

4.6 Public Facilities and Services

III. Major Issues

A. General Discussion

3. Services must not be used to misdirect growth. That is, they should not be extended to areas where they are not needed (such as areas that are not planned for development), or the plan would be internally inconsistent and could not be properly implemented.

The second major requirement is that urban services must be distinguished from rural services, so that urban services support urban uses and rural services support strictly rural uses.

This requirement can be thought of as an adjustment of the first requirement: service must not simply support development; they must also be separated into urban and rural categories to promote specific types of development.

Therefore:

1. "Public facilities and services in urban areas should be provided at levels necessary and suitable for urban uses." (Goal #11, Guideline A.3)

2. "Public facilities and services for rural areas should be provided at levels appropriate for rural use only and should not support urban uses." (Goal #11, Guideline A.2). These guidelines combine to form an even more specific statement:

3. Planned service extension to areas outside an Urban Growth Area (UGA) will require adequate findings to ensure that the service is necessary to support the level of rural development planned for the area.

The State Goals imply a sharp urban/rural difference, something akin perhaps to a walled fortress. The actual situation is one where transition is gradual (over a long distance) and fuzzy rather than sharp. Although the Urban Growth Boundaries (UGB's) are designed to define the limits of what will be urban by the year 2000, the UGB processes cannot justify inclusion of all partially developed areas. Some of the areas substantially committed to non-resource uses (generally residential and commercial) outside a UGA may eventually need more public services than currently provided. Part C analyses certain of these areas to determine where service extension or community owned services and facilities can be justified.

This problem is overcome partly by the required periodic plan review and update. If such areas need services, the plan could be revised such that the UGB is expanded outward to reflect changes in the area. On the other hand, certain situations may occur where services are necessary (such as when area-wide septic system failures occur) to support existing uses. In these situations, the goal would not be violated as long as the service extension does not affect the planned level (density) of development.

4. Coos County's 12 Rural Centers (see Rural Housing Inventory and Assessment) are planned for densities that in some cases may need additional public facilities and services not currently being provided, such as public water.

This suggests that the distinction between urban and rural public facilities and services must be further refined to account for the unique characteristics of rural centers. The County must then determine whether the planned densities are sufficient to justify a need for services not normally required for rural areas.

Part C explores the difference between urban and rural services to determine the normal levels appropriate for each.

The third major requirement is that service provisions must be coordinated among differing geographic areas and jurisdictions because public facilities are required to guide and support expected growth.

That is, service extension must be available (embodied in the plan) to a particular area earmarked for growth; the jurisdiction(s) should then be financially capable of actually extending the services when needed. Additionally, the plan should indicate the agency or service jurisdiction expected to provide the needed services and facilities.

B. Rural versus Urban Level Services

1. Discussion

As noted in the Introduction, goal #11 points to the need for distinguishing between the types and levels of facilities and services that are urban in nature and they types that are exclusively rural. The distinction is important since needs for urban and rural areas will be different and must be planned to allow the expected forms of urban and rural growth to occur in an orderly and efficient manner.

A standard planning argument against rural growth is that the haphazard manner in which it typically occurs requires unfair expenditures by the general public to provide for the necessary public services such growth demands. Historical trends in Coos County negate that argument. Most of the rural growth that occurs generates private rather than public costs. This occurs for several reasons:

a. Service provisions tend to be privately provided; septic systems and individual wells are used rather than public water and sewer systems.

b. The Board of Commissioners has consistently maintained a position that adoption of roads into the County road maintenance system should be severely restricted to prevent an unacceptable increase in tax levied. Thus, many public roads are privately maintained by the major users of the road, the adjacent residents.

c. School enrollments have generally remained steady or even declined since the postwar "baby Boom" children graduated. Thus, many schools serving rural areas continue to have excess classroom capacity to serve new rural residents. [Source: SocioEconomic Indicators, 1978]

d. Where occasional residential communities occurred in sufficient density, such as Bridge and Garden Valley, the residents formed their own community service provision (usually public water) at the group's private (rather than public) expense.

The justification for additional rural housing (see Rural Housing Element) is predicated, in part, on the assumption that such a lifestyle demands a non-urban density (between 2-10 acres), providing each property owner with a land area sufficient to ensure adequate area for a septic system and well or other private water supply, and, in some cases, for having a garden or small grazing area. At

these densities, public services are usually unnecessary and in most cases not financially feasible.

The following section more specifically considers the levels of public services that are appropriate for rural and urban areas.

2. Determination of Appropriate Service Levels

a. Rural

Preceding considerations suggest that the minimum level of public services necessary to support rural development are:

i. police (sheriff) protection

ii. public education (but not necessarily by a rural school facility).

An additional service that could be considered necessary is:

iii. fire protection.

Since some residential development in Coos County is adjacent to commercially valuable forest land, it is important to ensure that a minimum level of protection for both the dwelling and the adjacent forest land. The requirement for fire protection could take two forms:

i. New development could be required to be included within a Rural Fire Protection District (at the option of the RFPD), or

ii. New development could be required to provide some measure of its own fire protection by ensuring access of trucks to within 16 feet of any stored water source, and by creation of a firebreak of at least 30 feet around all dwellings. (The firebreak would permit ornamental shrubbery and single specimen trees) [Source: Northwest Interagency Fire Protection Group]

Other services can be considered optional in rural areas, such as:

electricity (the Uniform Building Code requires wiring to be roughed in)

telephone

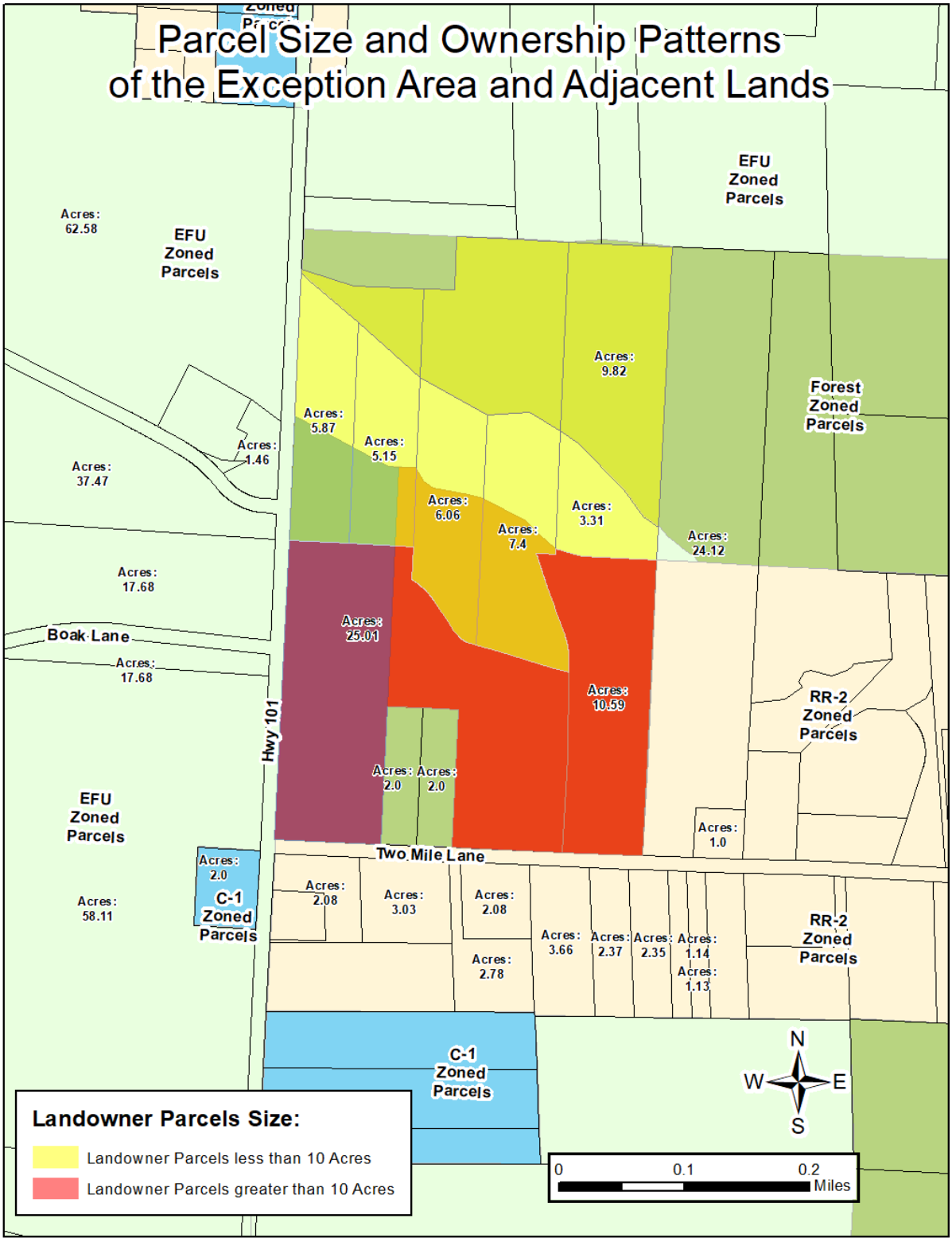
drainage district

school bus provision (extent of area served to be determined by school district)

Based on the factual background in the Coos County Comprehensive Plan, public services like community water and sewer have traditionally not been utilized in this area, even though it qualifies for several Goal 3, Goal 4, and Goal 14 exceptions. The grange hall referenced in the Plan is situated near the intersection of Dew Valley Lane and Hwy 101, about 1.25 miles south of the properties in question. The Plan does not clarify which church designates Laurel Grove as a Rural Center. The closest church is Pacific Community Church, located between the properties and Beach Junction.

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

The subject properties are bordered by Rural Residential-2 zones to the east and south, with parcels ranging from 1 to about 11 acres. Near the southern center, there are two previously partitioned parcels (MP-83-33), each about 2 acres and zoned Forest. To the west, across Hwy 101, lies a substantial cranberry farming operation. The attached map shows a sizable ranching parcel northwest of the subject properties, also on the west side of Hwy 101. The northern part of the property is zoned Exclusive Farm Use (EFU), situated in the bottomlands along China Creek. North of the property, the applicant owns Forest-zoned parcels, less than 10 acres each, used for rural purposes.

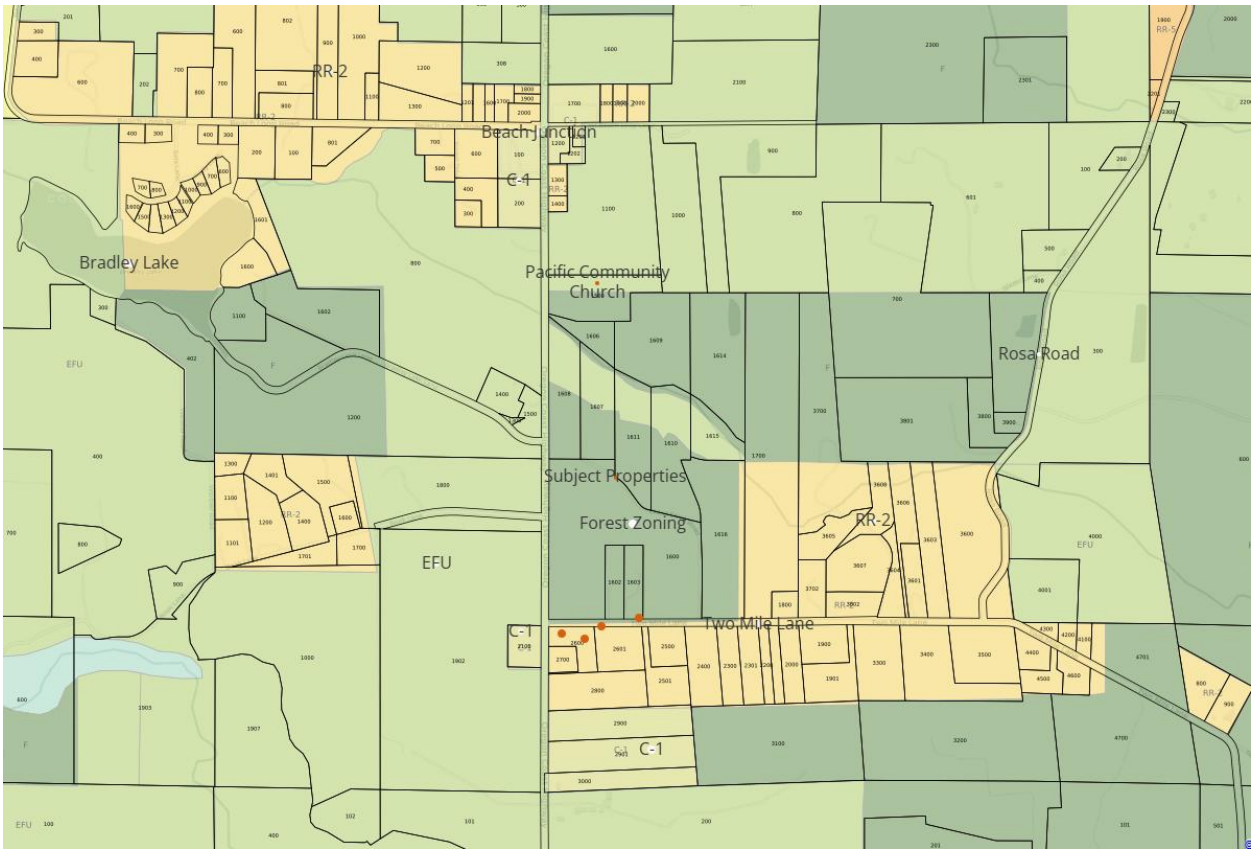


Parcel Size Map

Neighborhood and Regional Characteristics:

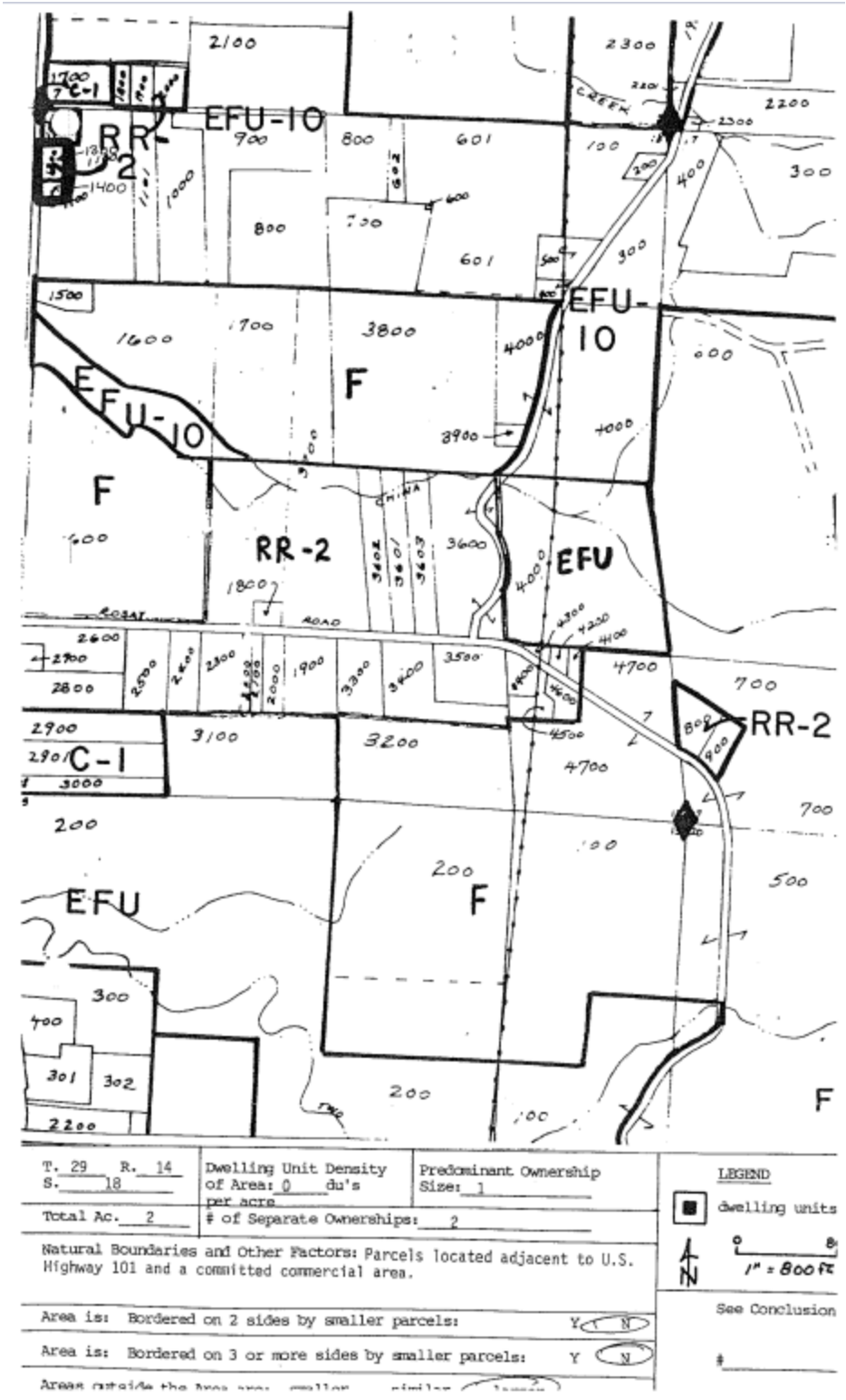
This area is called the Two Mile area. Nearby notable places include Beach Junction and Bradley Lake. Beach Junction refers to the commercial zone at the intersection of Beach Loop Road and Highway 101, about 0.75 miles north of the Two Mile Lane intersection. Aerial imagery and County Assessor records show this zone has commercial buildings and RV parks. The limited amount of Commercial zoning in Beach Junction area has been fully developed out. There is a mobile home park located on T29-R14W-S07-TL1700. The parcel (T29S-R14W-S18-TL1200) at the intersection of Hwy 101 and East Beach Loop Lane, has the former Beach Junction Market. There is a residential dwelling and associated structure located on T29S-14W-S18-TL1201 & TL1202. There is a convenience store and an RV park located on T29S-R15W-S13A-TL100. The northern part of T29S-R15W-S13A-TL200 has mini-storage units placed on the property, while the southern portion of the property is being utilized for residential use.

To reach Bradley Lake, cross the highway from tax lot 1608. The Coos County Comprehensive Plan lists Bradley Lake as a recreational area.

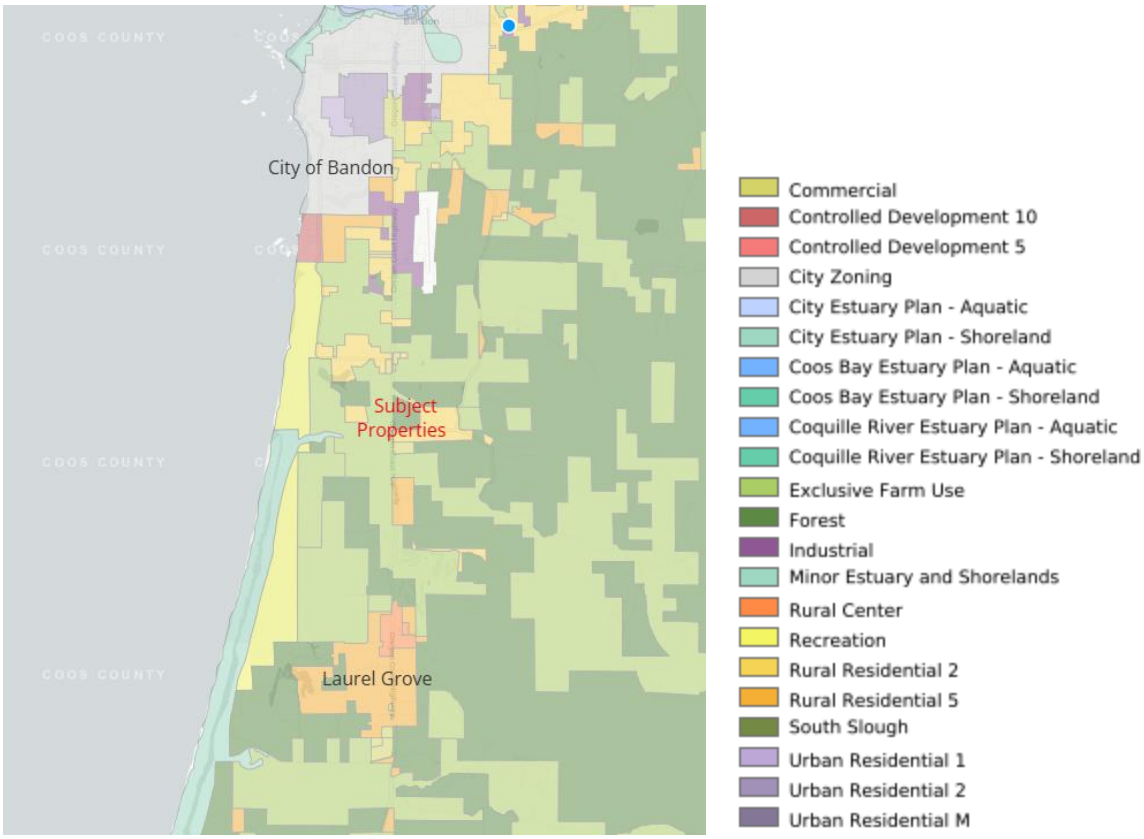


Source: Coos County Zoning and Hazard Map

There are Rural Residential-2 exception areas within the Beach Junction Market area.



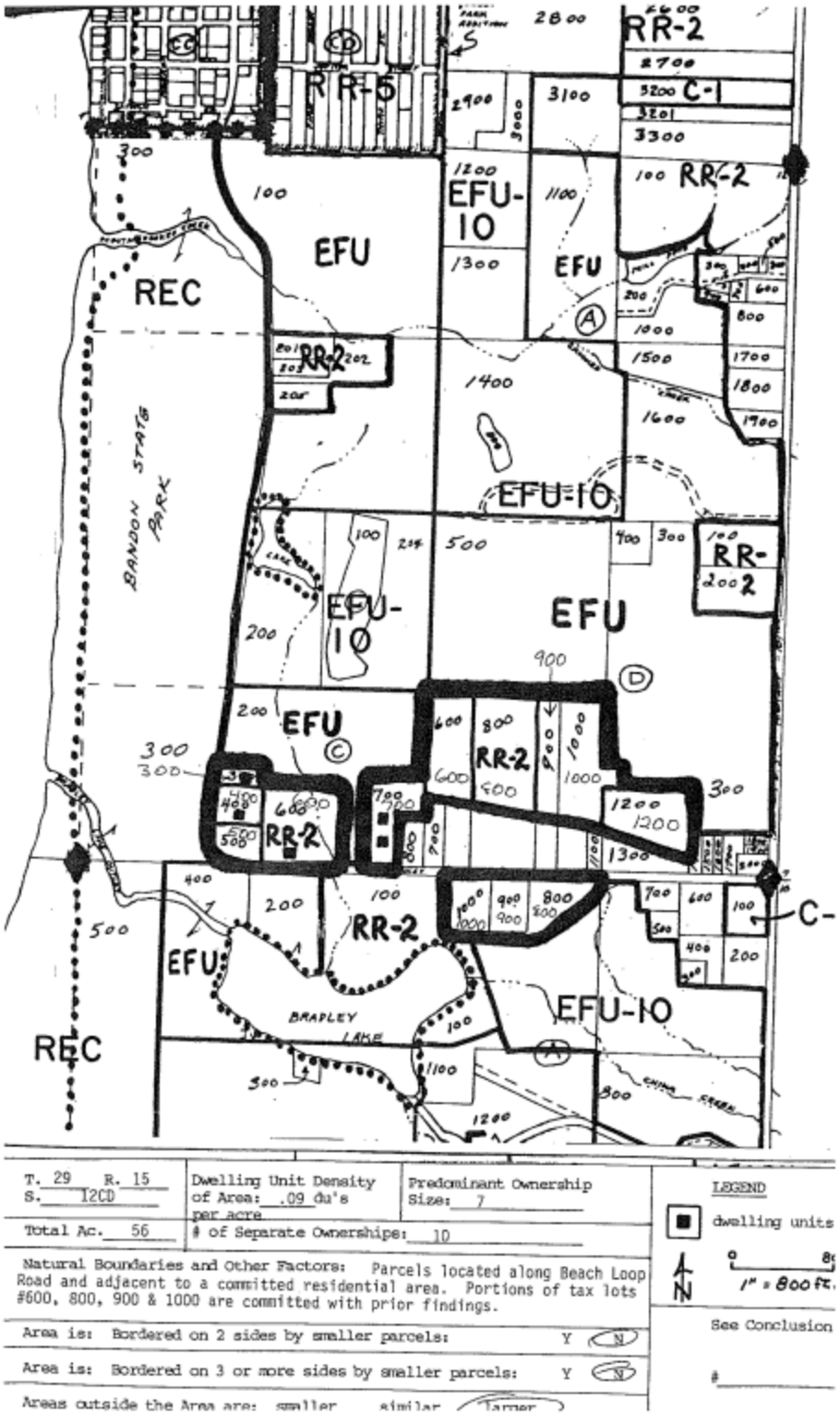
Source: Original Comprehensive Plan Exception Area Records



Source: Coos County Zoning and Hazard Map

Beach Junction offers access to Bandon State Natural Area (BSNA) via Highway 101, with the BSNA managed by the State Parks Department. The area features three main day-use sites, two of which provide direct beach access. As reported on the BSNA's official website, these sites attract around 27,000 day visitors annually. Furthermore, Beach Loop extends into Bandon, connecting to additional State Parks and City parks, with the applicant anticipating significantly higher daily visitation.

There has been historically residential development alongside Beach Loop Road. This resulted in multiple exception areas during the original planning process.



Source: Original Comprehensive Plan Exception Area Records

The next publicly accessible beach point identified by the applicant is the BLM New River Nature Center at the end of Croft Lake Lane, which is located 10 miles south of Bandon.

This site is maintained by the BLM, and aerial images show that reaching the beach involves crossing a river.

Other minor recreational uses in the area include an active golf course, Bandon Crossings, located approximately 1.25 miles south of the subject properties at the intersection of Hwy 101 and Dew Valley Lane. Coos County has approved another golf course, Ocean River LLC, approximately 1 mile southwest of the subject properties. The approval designates Boak Lane as the access point, directly across Hwy 101 from tax lot 1600.

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

The Fugate cranberry farm, situated immediately west of the proposed rezoning, is the closest and most notable resource activity near the subject properties. Recognized as high-value farmland, it lies directly adjacent to the west. However, Hwy 101 acts as a barrier between the subject properties and the farm, creating a linear separation that reduces any potential impact of nearby development on the farm.



Source: Coos County Zoning and Hazard Map

It is also important to note that the Fugate farm currently has 1) C-1 zoned property, including Two Mile Bistro, and an RR-2 zoned, developed subdivision off Boak Lane adjacent to the farm on the western side of Hwy 101. 2) There are also nonconforming RR-

2 and C-1 zoned parcels on the south side of Two Mile Lane that are zoned and developed. These parcels are separated from the farming operations by Hwy 101, as would be the applicant's subject properties.

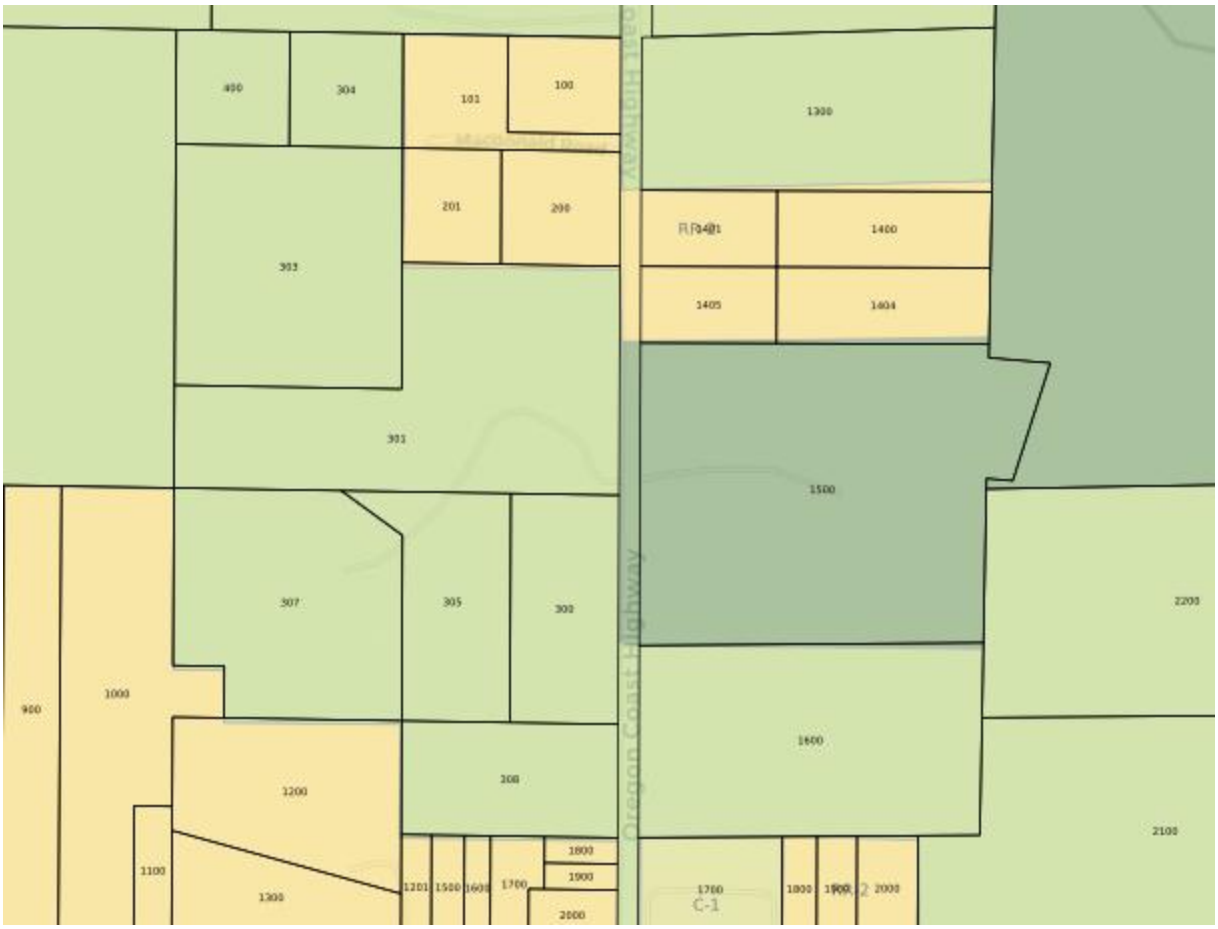


Source: Coos County Zoning and Hazard Map

Furthermore, the closest cranberry farms are along Hwy 101, half a mile north of the property, sharing similar development patterns. They are situated on tax lots T29S-R14W-S07-TL1500 and T29S-R15W-S12D-TL301.



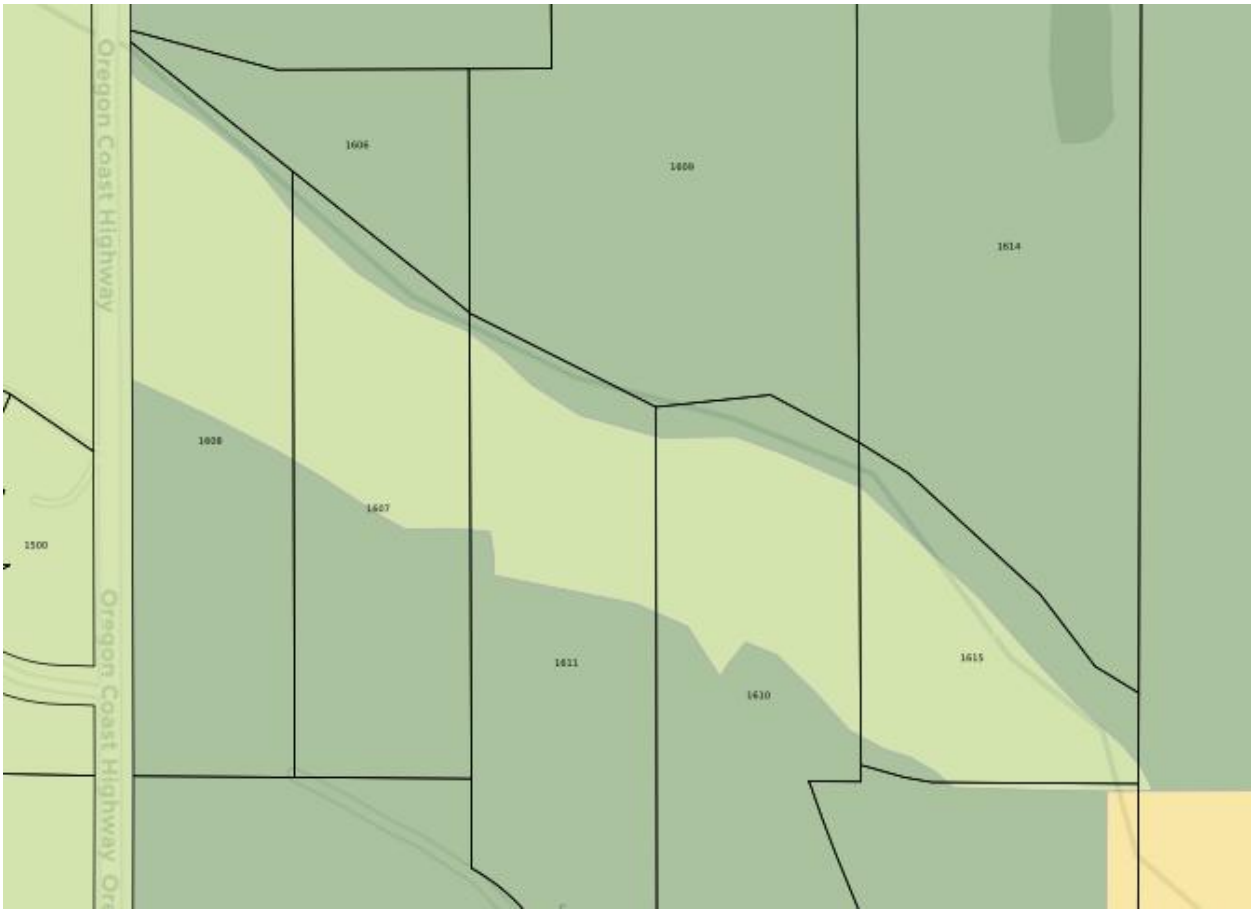
Source: Coos County Zoning and Hazard Map



Source: Coos County Zoning and Hazard Map

It's important to note that T29S-R15W-S12D-TL308 has been rezoned by Coos County, but the online map has not yet been updated to show this change.

Tax lots 1607, 1608, 1610, and 1611, the subject properties of the proposed rezoning, are zoned as a combination of Forest and Exclusive Farm Use. The Forest-zoned (southern half) portions of the properties are proposed to be rezoned to C-1 (on the western side) and RR (on the eastern side). The Exclusive Farm Use portions of the properties are not proposed to be rezoned. This will result in approximately 2-3 acres on each parcel zoned EFU. The limited amount of EFU, spread over 5 parcels (including tax lot 1615, which is not part of the application), will be difficult to lease to a rancher. The rancher will have to negotiate lease agreements with five different landowners for a total of only 15 acres. This will logically provide a buffer between the proposed rezone areas and the Forest zoned parcels to the north of these EFU lands on the subject properties.



Source: Coos County Zoning and Hazard Map

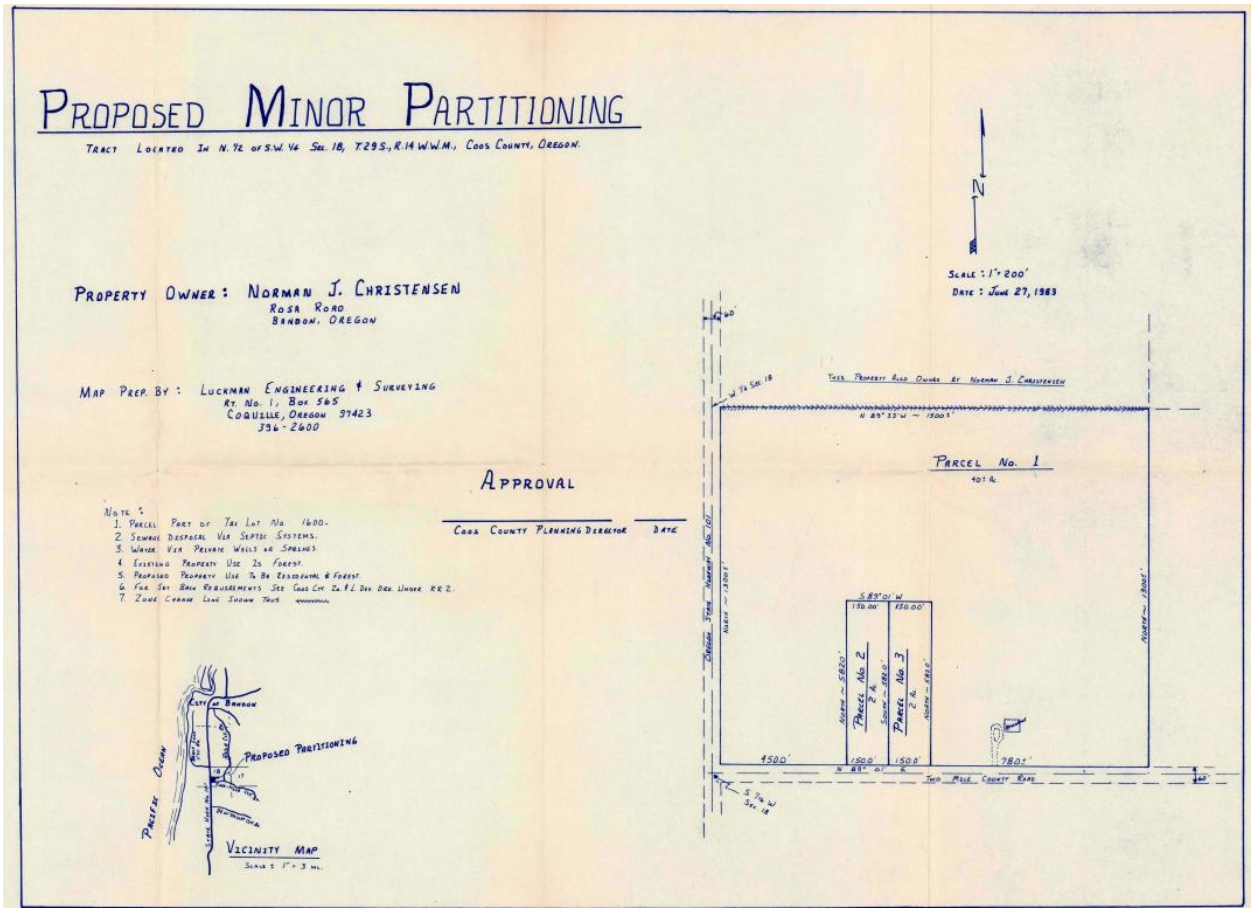
Physical Development according to OAR 660-04-025: and

The subject property is vacant and undeveloped. There is a former homesite on the property. Approximately 10 years ago, electric conduit was installed on the property, with junction boxes placed alongside the private roadway.

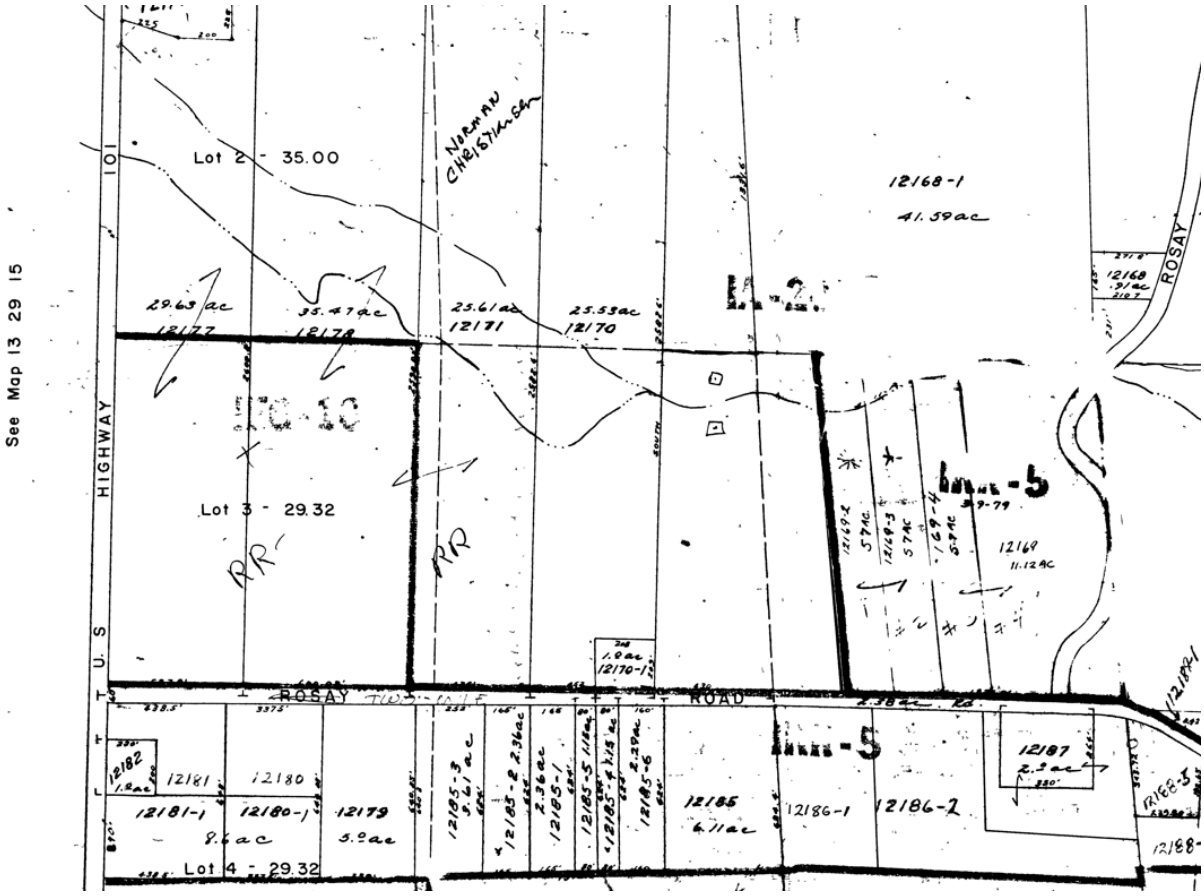
Other Relevant Factors

The key issue is that previous landowners' past partition and property line adjustments have rendered most parcels unsuitable for farming and forestry.

Starting in 1983, the subject properties were first partitioned under MP-83-33. Originally zoned as interim Rural Residential, the partition was approved on July 5, 1983, resulting in two additional new parcels, each approximately 2 acres.



Source: MP-83-33 Plat



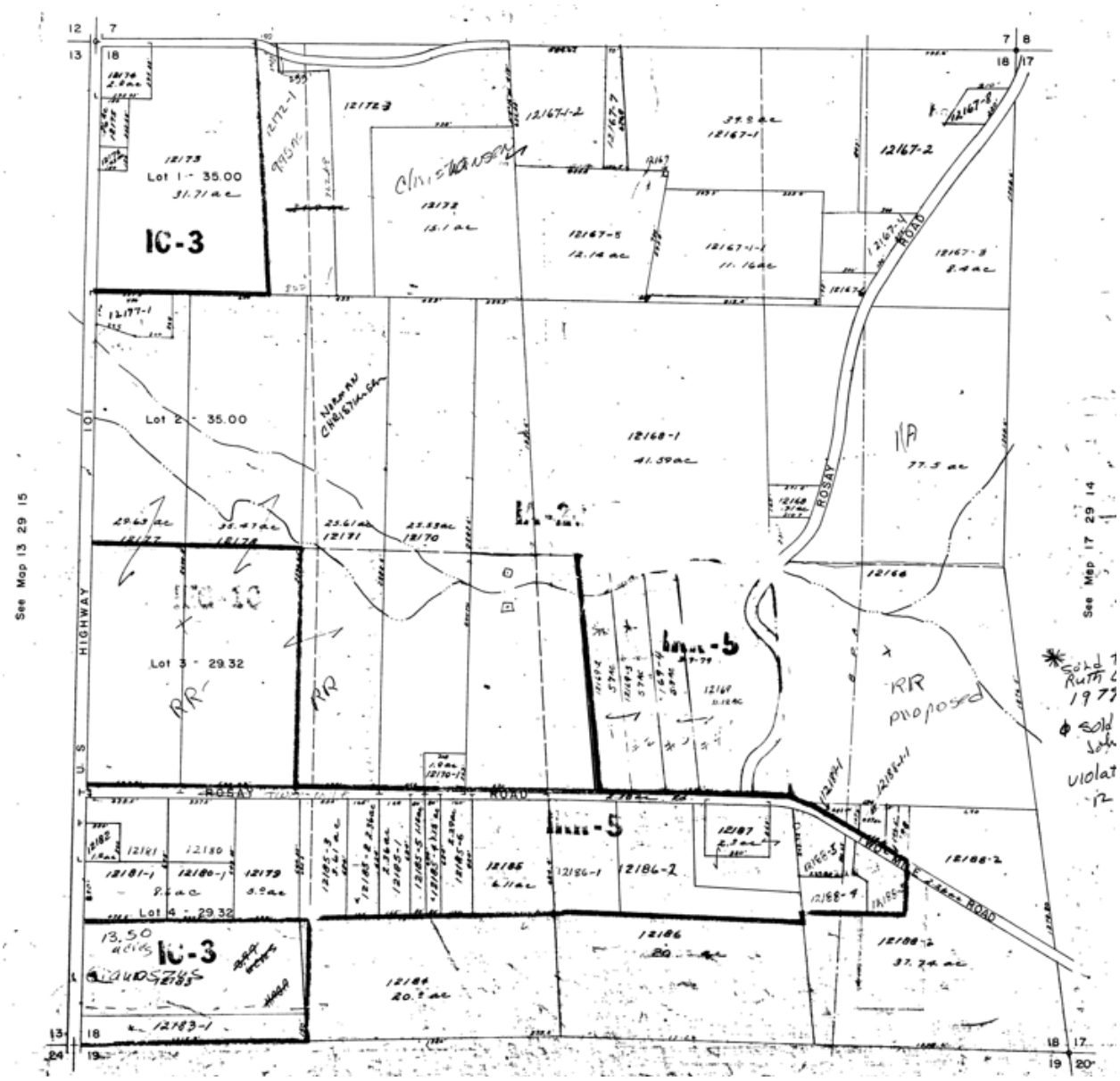
Source: Interim Comprehensive Plan Exception Area Records

In 2007, as documented in planning files P-07-25, P-07-26, and P-07-27, the landowner at the time divided the northern parcels along the zoning boundary to form new parcels.

These parcels have been further modified by two different landowners, at the time, using PLA-08-28, PLA-08-47, PLA-13-19, and PLA-21-042.

In 2005, a previous application (AM-05-02/RZ-05-01) was submitted by a prior landowner to rezone the land from Forest to Rural Residential-2. This application referenced a LUBA (LUBA-02-036) decision concerning a rural residential rezone approved by Klamath County and appealed by DLCD. The LUBA decision stated the following to consider for parcel sizes: *"Lot sizes of one acre or less are clearly urban, and lot sizes greater than 10 acres are clearly rural. Whether densities between, the urban or rural depends on the types on urban services to be provided and the proximity of the proposed development to urban growth boundaries*". During the 2005 rezone process, the DLCD South Representative indicated that the Klamath County case was not relevant to the property at that time. Since then, the property has been partitioned and boundary lines have been adjusted.

The subject properties currently include 10 parcels owned by the applicant, with only 2 exceeding 10 acres. These parcels are located on the southern half of the property against Two Mile Lane and were designated as Rural Residential during the interim zoning period.



Source: Interim Comprehensive Plan Exception Area Records

Also of greater relevance is the 10-acre figure used in the Coos County Comprehensive Plan as part of the Forest element.

> *3.2 FOREST LANDS*
>
> *1.2 Statewide Land Use Goal #4: Forest Lands*
>
> *The State has adopted the following Goal:*
>
> *GOAL: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient*

forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

Uses which may be allowed subject to standards set forth in this goal and administrative rule are: (1) uses related to and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (3) locationally dependent uses; (4) forest management dwellings that are necessary for, and accessory to, forest operations; and (5) other dwellings under prescribed conditions."

Commentary

2) Definition of forest lands. This definition encompasses not only existing and potential commercial forest lands but also non-commercial forest land supporting forest uses other than timber production, non- forest lands which require protection due to their fragility and forested lands in urban and agricultural areas. "Commercial forest land" is not defined in the Goal.

2.3 Forest Land Types

…In certain parts of the County, there are substantial acreages of forest land in smaller private ownerships (mostly under 160 acres) which are not managed in conjunction with farms. This type of land is found primarily in coastal areas north and south of Bandon and also in the Hauser area, on predominately low site class lands (as defined in 2.2 above). There are also similar smaller ownerships in higher site forest lands further inland, particularly close to urban areas, like the Isthmus Heights, Sumner area. Most of this land is still under forest cover, but is generally not being managed intensively by modern forestry techniques. This is in part due to a low productivity (at least in the Bandon and Hauser areas), and in part due to the intrusion of developed uses, particularly rural homesites on small acreages into many of these areas. Inevitably, the pressure is great to remove any merchantable timber from these lands and convert it to rural homesites of various acreages. ***The bulk of citizen requests for rural residential designation (as expressed through the citizen involvement program) have been in areas like north and south of Bandon, Isthmus Heights/Sumner and***

Hauser. The rural housing section and Exception Statement have stated that such areas might best accommodate the public need for future rural residential growth in the County, given the commitment of nearby land to residential use, and other favorable factors, as assessed in the Suitability Rating System. *The problem which remains is, how best to plan rural residential growth so that small-scale forest management remains a viable option on the remaining lands….*

4. Forest Management and Practices

4.1 Intensive Forest Management Techniques

Some degree of forest management, along with conservation of forest land, is necessary to ensure a continued harvest at levels equal to or greater than the present harvest. "Forest management" is a term used to denote a number of methods or tools aimed at increasing the useable timber harvest from a given piece of land.

"Forest management" refers to any or all of the following practices: (1) forest fire control; (2) insect or disease control; (3) vegetation control; (4) reforestation; (5) precommercial and commercial thinning; (6) fertilization; (7) genetic improvement of timber species; and (8) other measures, such as assistance to forest land-owners, forest research, etc."

Intensive forest management of commercial timberland assumes a management regime of:

> *A. Harvesting when stands are mature by financial formula commonly used in the area. In most cases in this area this is no greater than stand age 60, though other factors are also used to determine maturity.*
>
> *B. Investing in site preparation (if needed) and trees and planting as rapidly as possible following harvest, to secure an adequate stocking of the best commercial species as commonly used in the area for that forest growth site.*
>
> *C. Investing in pre-commercial thinning if necessary to maintain or enhance growth of selected crop trees for future commercial thinning and eventual clearcut.*
>
> *D. Investing in herbicide spray or hand clearing for site preparation or to secure release from competing overtopping vegetation if needed, keeping the conifers free to grow.*
>
> *E. Being prepared to do commercial thinning where, early harvest can be secured to maintain or enhance growth of remaining crop trees. More than*

one commercial thinning at 3 to 8 year intervals may have financial advantages;

F. Beginning the cycle again with clearcut harvest followed by site preparation and planting.

Increases in the level of forest management practices are necessary for all classes of forest land owners: public agencies, forestry industry and non-industrial private owners. There may be pressure from neighbors and local residents not to do many of the things necessary in forest management to obtain the desired standard where commercial lands abut farms or rural residences.

Intensive management using the above practices produces effects which may be objectionable to nearby residents. The use of fire in reducing slash hazard or site preparation will temporarily impact air quality. Management may involve aerial or ground application or herbicides for site preparation or release from competing vegetation. Harvesting operations will cause perceived reduction of aesthetic values for a few years at least. This might be objectionable to local residents for a certain period of time. Heavy truck hauling may cause temporary dust problems or potential extra hazard to school children and passenger car traffic where it passes through residential areas.

Forest management may involve operations close to 'class one streams' which includes streams used for domestic water supply, the protection of which may reduce the actual operable acreage of the tract in question. For reasons outlined above, there may -be pressure from adjacent property owners not to do many of the things necessary to forest management to desired standards, where commercial forest lands abut farms or rural residences.

Some forest industry companies and public timber agencies are experimenting with genetic improvement, specifically development of a larger and faster growing Douglas fir tree.

4.3 Problems for the Application of Intensive Forest Management Techniques on Small Tracts and Adjoining Lands

The problems discussed below apply especially to small forest-land tracts in the range of 10-40 acres. However, they also apply to larger farm-forest ownerships or even much larger corporate or agency lands where they abut farms or (especially) rural residential areas.

Most forest land tracts of under 10 acres are bought with the primary objective of securing a rural homesite. These areas are therefore classified in the Plan as "Rural Residential." Many owners in the 10- 40 acre range also have the objective of rural living. *However, few can justify the expense of a tract of this size without also intending to manage the land at some level for*

resource production, either purely for forest products or a mixture of forestry and grazing. Due to the varied objectives of owners of these small forest tracts, there has been in the past a tendency to practice a less intensive level of forest management than on the corporate agency and larger farm holdings.

Rural living involves establishment and protection of a domestic water supply, access of utilities, right-ofway access, privacy and aesthetics. Most residences involve at least one acre of homesite development. Water supply access can occupy an additional area, and in many instances may affect portions of surrounding ownerships. These influences may have an inhibiting or dampening effect on the practice of intensive forest management on their owner and adjacent forest lands.

Some of these inhibiting effects on intensive forest management can be:

> *(a) Restrictions on logging where it might destroy or damage domestic water supplies. Water rights for domestic use can be established in drainages originating on other ownerships, or the drainage providing water may originate on another ownership, even though the catch basin is on the owner's land.*
>
> *(b) The influence of the water supply and homesite situation extends to eliminating or reducing the possible use of herbicides as a management tool within the drainage area or a defined distance from the residence. Oregon State Field Guide to Oregon Forest Practices Rules, (1/10/80) - Rule 629-24-203 'Protection of Waterways, Areas of Open Water, and Dwellings When Spraying,' states; "Protect waterways and areas of open water such as swamps or impoundments from contamination when spraying by aircraft by leaving a buffer strip of at least one swath width untreated on each side of every Class I stream or area of open water.*
>
> *(c) Access for proper forest management, harvest or project work may be a problem. Where portions of the ownership are steep, the only practical way to harvest the timber may be highlead logging. Highlead logging requires access to proper location for setting landings which are dictated by the terrain. Access to these landings may require negotiation of rights-of-way across steep terrain through one or more adjacent owners. These adjacent owners may or may not be agreeable to temporary or permanent rights-of-way. Their timber may be at a different stage of growth, or newly planted reproduction which would not fit in with a combined harvest to make a more economic harvest setting boundary.*
>
> *These objections may hinder an owner from securing convenient access to efficiently manage his own lands. Access roads or roads within 10-40 acre tracts may have been built in the- past to much lower standards as to*

depth of gravel, width, and curve radius, than are public roads or logging roads. Use of these roads, which may not be dedicated public roads, may involve undue damage to thin rock surfaces and ditches.

Use of tract roads for commercial hauling will involve negotiating rights-of-way for commercial log hauling if not already a public road.

(d) For owners of small forest tracts (10-40 ac.), the objective of preserving aesthetic values may tend to deter the application of intensive forest management practices. (This is much more the case with tracts of less than 10 acres). *To some owners, the growth of hardwoods may be as pleasing to the eye as well stocked conifer stands, or even more so in the case of certain species like madrone or myrtle.*

An owner motivated toward aesthetics may be very reluctant to log by highlead clearcut due to the visual impacts, which persist until new growth has covered the residue from timber harvesting. However, logging by highlead may be the only practical method to remove merchantable volume from steep slopes.

(e) Many of the forest lands which are sold as small: tracts have had a history of repeated selective logging or clearcutting with no subsequent management, which has greatly reduced the value of the remaining stands. These practices tend to reduce the species composition of the stand toward less valuable species of conifer, and promote the predominance of hardwoods, through the removal of overstory conifers which allows smaller understory hardwood trees to increase growth. Even after they are logged, hardwoods can regrow and dominate a site to the exclusion of conifers if continuous efforts are not made to control their regrowth.

Small tracts are often purchased in a poor, unmanaged condition as to potential for forest productivity. With generally low prospects for income from commercial harvest from the existing cover, an owner may be faced with a need to invest money for a considerable period, at interest, before realizing any substantial net income from commercial conifer harvest. This period may be as much as 40 years in the case of site preparation and planting to establish reasonable conifer stocking.

(f) Many types of forest management practice will involve economies of scale. Small tracts mean very infrequent operation which produces rather small income and little incentive for an owner to invest in his own management or harvesting equipment. Letting site preparation operations on a contract basis will attract only high bids because of the cost of moving heavy equipment for a comparatively small project. Site

preparation either by tractor scarification, herbicide application, or burning, will have a gradually decreasing cost per acre as the size of the project increases, before lowering costs per acre begin to level off.

In spite of the problems detailed above, it is certainly feasible for intensive forest management to be practiced on tracts of forestland even as small as five acres. However, a set of conditions must exist which is not always found on these smaller tracts.

These conditions are:

1. Strong owner motivation toward forest management practices to produce income often involving part-time manual labor and careful financial and resource planning.

2. Terrain which lends itself to easier and cheaper operations. The best terrain would be gentle enough to allow tractor logging and/or tractor site preparation without damage to the environment (no slopes greater than 35%).

3. A good level of stocking with conifer species, or merchantable hardwood species, so that income could be secured from the first operations. The income from operations should be large enough that site preparation and replanting could be financed and still leave some net income as an incentive to conduct operations.

When one compares the ideal expressed above with the more usual circumstances discussed previously, it becomes evident that few small tracts under 10 acres will be operated under intensive forest management. However, tracts of 10-40 acres will benefit from the increased scale of operation to the point where highlead logging would become more feasible and other economies of scale would begin to be realized.

It is also beneficial to form local owners' cooperatives (either under State Forestry or private industry sponsorship), whereby a group of owners combine together to benefit from economies of scale. This has been successful in the past in the southern states. Federal cost share programs can also improve management of small tracts significantly.

Finally, there are substantial areas on the coastal plain, especially in the Bandon area, which possess reasonably good levels of stocking with coniferous species and have terrain level enough to permit tractor logging. Such areas are of relatively low site class, and are not attractive to the major companies, but may be ideal for small individual woodlots.

In short, investment costs and owner objectives do not usually combine for a favorable future for good forest management of small woodlot tracts. However,

given the right set of conditions as discussed above, and appropriate motivation and management by the owner, tracts of 10-40 acres can be as productive as any forest land of the same site class. A combination of planning and zoning measures, tax incentives and corporate agency programs (Dept. of Forestry, Cooperative Extension and forest industry) could give a boost to good forest practices on small woodlots and supplement the incomes of numerous households in the County.

5. Implementation Strategies

5.1 Proposed Forest Zone

The Planning Commission proposes to implement the Forest Lands Goal by establishing one forest zone. That zone is as follows:

F – "Forest"

Within the forest zone, the extent of preservation of forest lands primarily for forest uses will be established through implementation of the zoning ordinance. Specifically, standards within the ordinance are set to delineate those areas, or parcels, which have historically been managed as "mixed use" areas, including both farm and forest uses. Based on the June 24, 1983 DLCD Staff Report on Coos County, it is understood that uses in these "mixed use" areas are appropriately expanded to include additional nonforest uses that may not otherwise be allowed in a prime commercial forest zone. As stated in that report: "The Commission's decision in Allen v. Umatilla County (LUBA 83-076) supports the mixed use/predominant forest use concept and establishes separate requirements for authorizing certain nonforest uses in each forest area". (June 24, 1983 DLCD Staff Report, p. 106)

The zoning ordinance standards are used, ultimately, to determine the degree of productivity of the land for forest production vs. the productivity of the land for farm use. It is the intent of the Planning Commission to strictly preserve prime commercial timber areas in the county, while allowing for some justified non-forest uses in the areas established as "mixed-use" areas. These "mixed-use" areas are identified on the "Mixed Agriculture-Forest Use Areas" inventory map based on specific review criteria.

Standards for determining the degree of allowance for non-forest uses are based on such things as productivity of the land for forestry, historical land use (i.e. farm uses), terrain and surrounding uses. The review process will occur at the request of the applicant on a case by case basis

There are basically two different types of forest areas in Coos County. These are (i) prime forest areas, and (ii) mixed farm-forest areas. Certain non-farm uses not

allowed in the former may be allowed as conditional uses in the latter. The two types of forest land are described in greater detail, as follows:

> *(i) "Prime Forest Area". These areas or parcels are typically large contiguous blocks of undeveloped land which are managed exclusively for timber production with some ancillary forest uses. Intensive forest management is practiced within this classification. A parcel or area subject to this classification will be preserved primarily for forest uses.*
>
> ***(ii) "Mixed Farm-Forest Area". These areas include land which is currently or potentially in farmforest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.***

In certain areas of the County, these "mixed use" areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in "prime forest areas", and grazing is in many places a co-dominant use. There are typically a mixture of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.

The mixed use areas are identified at a scale of 1" = 2 miles on the "Mixed Agricultural-Forest Use Areas" Comprehensive Plan inventory map. A change in the boundary of the "mixed use" inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:

1) Mixed use areas are those areas with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agricultural uses.

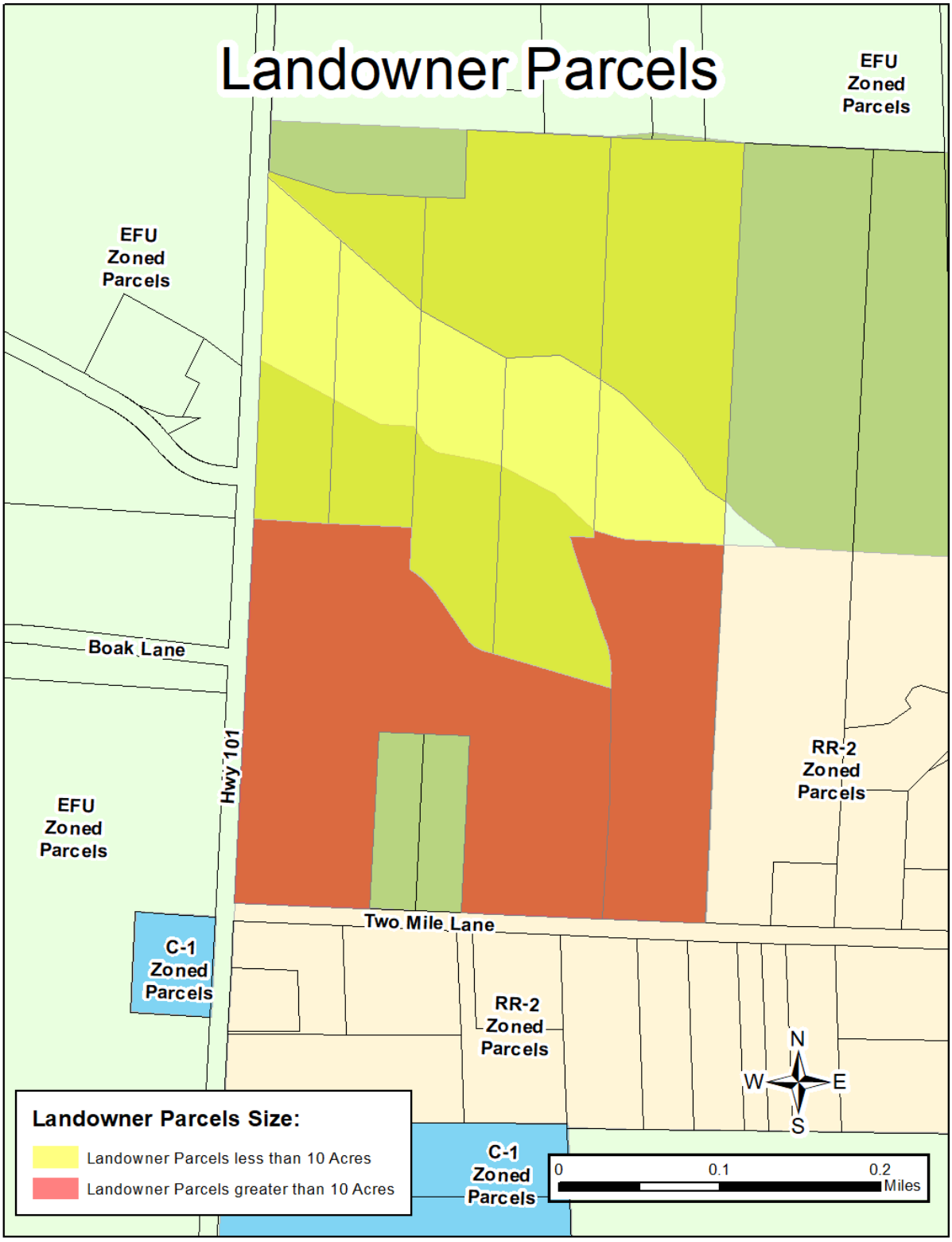
2) Mixed use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.

3) Mixed use areas are those areas predominantly co-managed for both farm and forest uses.

The properties in question are situated south of Bandon City and are accessible via Two Mile Lane. Initially divided in 1983, resulting in two additional parcels, these were subsequently sold and built upon after zoning regulations were enacted. Aside from the original parcels, the area along Two Mile Lane on both sides up to Rosa Road is designated as Rural Residential-2.

The subject properties were partitioned beginning in 2007 and subsequently had property line adjustments approved for these parcels. As a result, the northern parcels are now under ten acres each. According to the Coos County Comprehensive Plan and Oregon LUBA rulings, parcels smaller than 10 acres are considered non-resource parcels.

The remaining two southern parcels are along Two Mile Lane. Additionally, the parcels created by MP-83-33 essentially divide the larger parcel into an inverted 'U' or 'H' shape. This process fractures the larger parcel into two sections: forestry uses on the western side and grasslands on the other.



Landowner Parcels Size Map

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

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

Applicant Response: This pertains to executing the County's land use procedures. Coos County has met the implementation requirements outlined in Chapter 5 of the Coos County Zoning and Land Development Ordinance. The applicant acknowledges there will be at least two public hearings for this application.

(4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Applicant Response: This pertains to executing the County's land use procedures. Coos County has addressed these requirements through Chapter 5 of the Coos County Zoning and Landing Development Ordinance. The hearing process follows the procedures outlined by the County.

OAR 660-004-0005

Definitions

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

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

> *(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;*
>
> *(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and*
>
> *(c) Complies with ORS 197.732(2), the provisions of this division and, if applicable, the provisions of OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.*

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

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

Applicant Response: This pertains to executing the County's land use procedures. Coos County has fulfilled the implementation requirements in Chapter 5 of the Coos County Zoning and Land Development Ordinance. The County's hearing process procedures specify the steps involved.

OAR 660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

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

> *(a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses allowed in an exclusive farm use (EFU) zone under ORS chapter 215 and OAR chapter 660, division 33, "Agricultural Lands", except as provided under OAR 660-004-0022 regarding a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;*
>
> *(b) Goal 4 "Forest Lands"; however, an exception to Goal 4 "Forest Lands" is not required for any of the forest or nonforest uses allowed in a forest or mixed farm/forest zone under OAR chapter 660, division 6, "Forest Lands";*
>
> *(c) Goal 11 "Public Facilities and Services" as provided in OAR 660-011-0060(9);*
>
> *(d) Goal 14 "Urbanization" as provided for in the applicable paragraph (l)(c)(A), (B), (C) or (D) of this rule:*
>
> > *(A) An exception is not required for the establishment of an urban growth boundary around or including portions of an incorporated city;*
> >
> > *(B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one that has been acknowledged under ORS 197.251, 197.625 or 197.626. Findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with*

the seven factors of Goal 14 and demonstrate that the following standards are met:

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

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

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

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

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

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

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

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

(a) Goal 5 "Natural Resources, Scenic and Historic Areas, and Open Spaces";

(b) Goal 6 "Air, Water, and Land Resources Quality";

(c) Goal 7 "Areas Subject to Natural Hazards";

(d) Goal 8 "Recreational Needs":

(e) Goal 9 "Economic Development";

(f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";

(g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";

(h) Goal 13 "Energy Conservation";

(i) Goal 15 "Willamette River Greenway" except as provided for in OAR 660-004-0022(6); and

(j) Goal 19 "Ocean Resources."

Applicant Response: The request involves a general plan change and rezoning from Forest to Rural Residential designation. Although this is governed by State law as mentioned earlier, the application must also align with Coos County's land use planning and procedures. Typically, these goals are addressed through specific development considerations and overlay zones within Coos County. For instance, according to the County Planning Department's pre-application report, the properties are subject to a Tsunami hazard zone and a Floodplain overlay zone. Approval of the amendment and rezoning will not eliminate these existing restrictions or zones.

Goals like Goal 12 and Goal 13 are broader and are covered in a more comprehensive overview of the plan. Goals 15 and 19 fall outside the scope of the Coos County rezone process.

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

This application proposes that properties closest to Hwy 101 be zoned in the Commercial (C-1) district. During the planning process, the Coos County Comprehensive Plan designated various areas along Hwy 101 as C-1. The reasoning was to zone commercial areas near Hwy 101 while maintaining rural residential neighborhoods next to the existing RR-2 zoning along Two Mile Lane.

Coos County Comprehensive Plan Volume 1 Part 1

5.16 INDUSTRIAL & COMMERCIAL LANDS

Problem/Opportunity Statement

Coos County's economy is unstable. The County experiences long periods of unemployment where the rate of unemployment is markedly higher than state and national averages; the impact of this unemployment is increased because of the County's excessive dependence on the lumber and wood products industry. Diversified industrial development plays a key role in the health of Coos County's economy.

ISSUES

1. Commercial business activities are generally considered to be urban uses. However, some retail operations have traditionally been conducted in rural Coos County in order to serve the business needs of farmers (grain, supplies, etc.) as well as the convenience shopping needs of nearby rural residents (gas stations, groceries, taverns, etc.). Some of these rural, commercial uses are located with "rural centers", while others are "dispersed." What can the County do to ensure sufficient commercial sites appropriate for both urban and rural areas?

GOAL

Coos County shall strive to diversify and improve its regional economy.

PLAN IMPLEMENTATION STRATEGIES

1. Coos County shall continuously plan for and maintain an adequate supply of commercial and industrial land, recognizing that a readily available supply of such land is the basis for a sound economic development program.

5. ***Coos County shall: (l) permit limited expansion of commercial uses in Rural Centers****, (2) designate existing dispersed rural commercial businesses as uses permitted outright,* ***(3) allow neighborhood convenience stores as a conditional use in areas designated Rural Residential****, and* ***(4) shall permit rezoning of an appropriately sized parcel of land to "Rural Center" if it is contiguous with the existing center and findings made that there is no suitable vacant site within it for the proposed use****. Furthermore, upon an action to approve the rezone, the County shall amend the Comprehensive Plan map designation to correspond to the new zone. This strategy shall be realized through implementing zoning measures. The limited area extent of some of the existing dispersed rural commercial uses shall enjoy the benefits of a plan designation as commercial.*

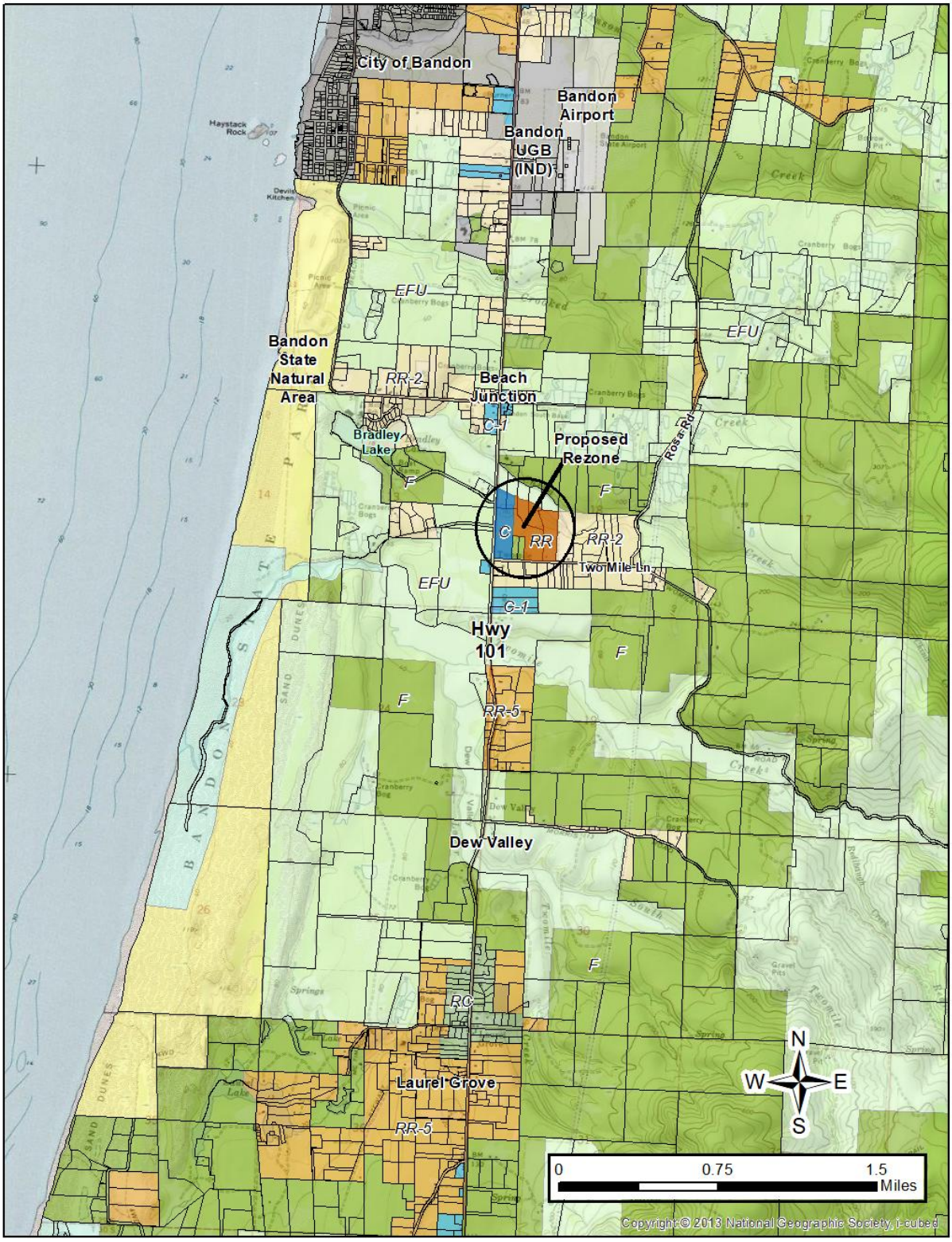
Implementation of (3) above shall include a public hearing for the purpose of considering proposed changes to the Comprehensive Plan map and zoning ordinance.

This strategy recognizes: (1) that commercial expansion within Rural Centers may be necessary to provide neighborhood shopping to the residents of rural centers and surrounding areas, as well as providing limited traveler services for tourists, (2) that a "commercial" designation rather than a "non-conforming use" designation (grandfathering) is necessary to ensure that the integrity of these existing dispersed rural commercial uses is given maximum protection, and (3) that rural centers may not contain suitable vacant land for proposed uses, and that expansion of rural center is appropriate in such cases.

The Laurel Grove area has zoned Rural Center within it. However, according to Coos County Comprehensive Plan mentioned earlier, the Laurel Grove rural center begins just

north of Lower Fourmile Lane (near the Bandon Rural Fire Dept substation) and extends to the Beach Junction market area (close to Pacific Community Church), following the Hwy 101 corridor.

This corridor analysis reveals few opportunities for expanding Rural Residential and Commercial zoning districts, as illustrated on the topographic map showing the current zoning.



Neighborhood Map

There is limited space for new expansion due to creek drainages, existing farm activities, and major highway access points. Beach Junction is already fully developed with commercial uses. The only parcel that might be considered for rezoning is 29-14-18-1100, which is currently zoned as Exclusive Farm Use and mainly used for timber production. This parcel has direct access to E Beach Loop Lane. However, its EFU zoning could pose challenges for rezoning.

A State-owned parcel (T29S-R15W-S13A-TL1200) on Bradley Lake Lane is currently zoned as Exclusive Farm Use on the eastern side near Hwy 101, and Forest on the western side adjacent to Bradley Lake. In the future, rezone proposals for this parcel would probably involve Recreation, considering it provides access to Bradley Lake and already includes a developed boat ramp.

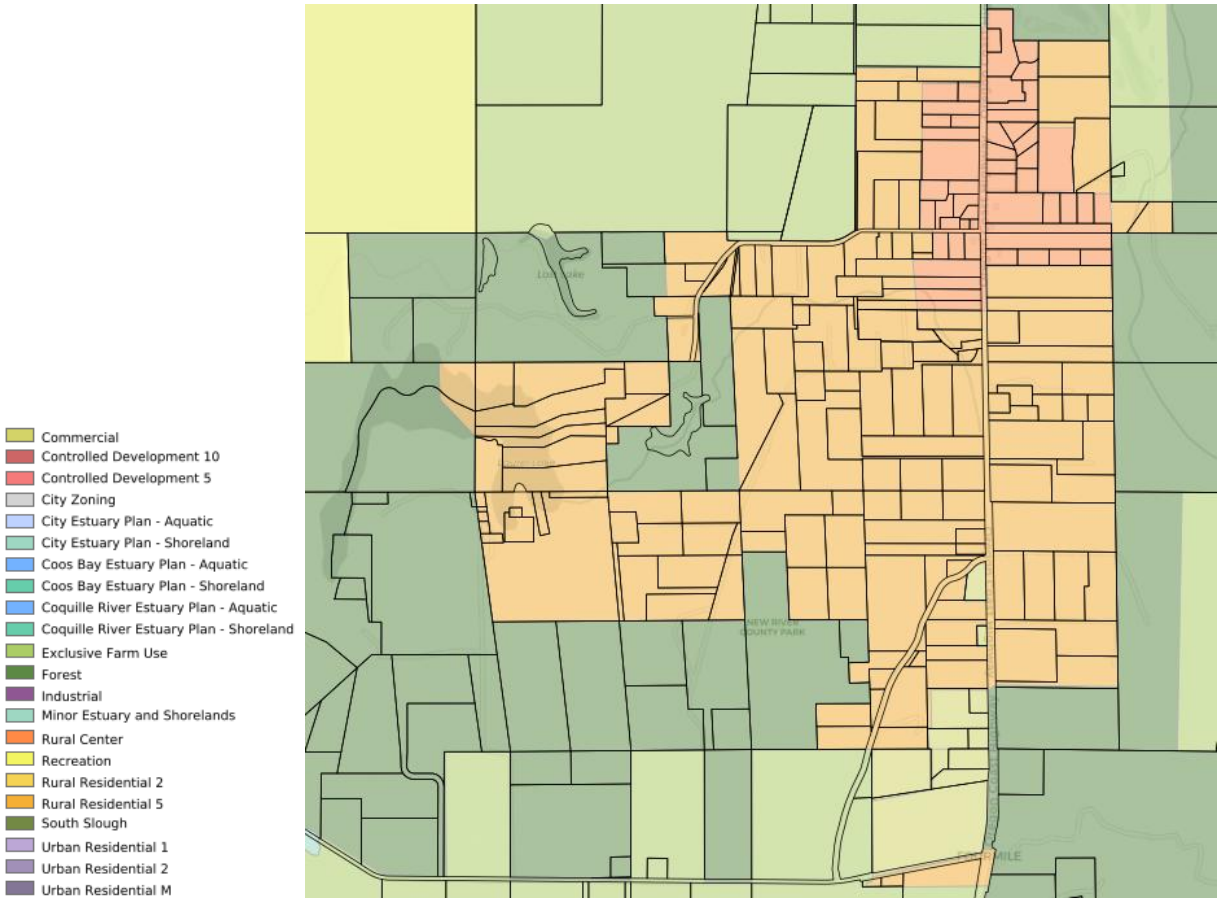
A large flat parcel (Nelson parcel) (T29S-R14W-S19-TL200) borders the southern edge of the mobile home park on T29S-14W-S18-TL3000. It is zoned for Exclusive Farm Use and hosts an active ranching operation along with a cranberry farm on its eastern part.

The next set of parcels, situated south of this area on a flat bench originally designated for Rural Residential-5, either have direct access to Hwy 101 or reach it via Boyd Lane and Badger Road.

Large flat parcels south of this area border Dew Valley Lane. These parcels are designated for Exclusive Farm Use and have been developed for EFU-compatible activities. Specifically, T29S-R14W-S19-TL1200 hosts Misty Meadows Jams, a local jam-making operation with onsite fruits and berries. Meanwhile, T29S-R14W-S30-TL1000 has been developed as a golf course adhering to EFU criteria. This golf course extends southward, ending at the northeastern corner of Laurel Grove.

It is important to note that Dew Valley Community Club is situated across from the intersection with Dew Valley Lane. It is found on T29S-R14W-S19-TL1100 and is the grange affiliated with Laurel Grove.

Laurel Grove is primarily zoned as a Rural Center at the community's northern end, with Rural Residential areas extending southward. Commercial properties are located on the north side of Lower Four Mile Lane.



Source: Coos County Zoning and Hazard Map

The Bandon Rural Fire Dept has a station at the southern end of this area on T30S-R15W-S01-TL100. The parcel, zoned as Commercial, has direct access to Hwy 101. It is owned by the State of Oregon and also hosts a private wildfire association.

Allowing C-1 rezoning of the properties will expand land for small-scale, low-intensity commercial developments that support local recreational activities, such as beach access points in Bandon State Natural Area, boat access at Bradley Lake, and existing and proposed golf courses at Dew Valley and Boak Lane. It will also provide more space to meet the increased demand for neighborhood convenience stores due to potential demand by future ADUs. These commercial areas will be accessed via Two Mile Lane, which offers a Hwy 101 frontage parcel without adding new highway access points.

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

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

INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

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

> *(a) A "committed exception" is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).*
>
> *(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.*
>
> *(c) An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*

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

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

> *(a) The characteristics of the exception area;*
>
> *(b) The characteristics of the adjacent lands;*
>
> *(c) The relationship between the exception area and the lands adjacent to it; and*
>
> *(d) The other relevant factors set forth in OAR 660-004-0028(6).*

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

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

For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

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

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

Applicant Response: The subject properties had been previously considered for amendment or rezone by an earlier landowner. In 2005, the then-current landowner applied for a rezone from Forest to Rural Residential-2, detailed in application AM-05-02/RZ005-01. At that time, the subject properties were one single tax lot.

At the time of this application process, the Planning Commission, comprising at least three foresters, determined that the property was unsuitable for forest practices and would be more appropriate for residential development.

HEARINGS BODY ACTION

Commissioner Gant moved (Commissioner Phillips second) to deny the request to leave the record open. The motion passed unanimously.

In deliberation Commissioners Gant, Phillips, Schad, Holman, Solomon, Smith agreed the property was not suitable for forest practices and would be better suited for residential use with the condition a R-PUD not be allowed on the property. Commissioner Taylor was reluctantly in favor of the proposal. He stated he did not like to see forestland mismanaged and not be replanted. Commissioner Waterman was opposed to the proposal. He believed the property could be used as a cranberry farm and through management; livestock could be placed on the property.

Commissioner Solomon moved (Commissioner Phillips second) to recommend approval to the Board of Commissioners for the application applied for by Michael Rupe to rezone a portion of T.29, R.14, S.18, TL# 1600 (50 acres) from Forest to Qualified-Rural Residential –5 (Q-RR-5), file number AM-05-02/RZ-05-01. The qualifier would be a ten-acre minimum lot size and a condition of not allowing an R-PUD on the property.

The motion passed with a spilt vote of seven to one with Commissioners Taylor, Solomon, Holmon, Smith, Schad, Phillips and Gant in favor of the recommendation and Commissioner Waterman opposed.

Since 2005, the subject properties have been subdivided and the property lines adjusted from a single tax lot into ten separate parcels. Additionally, the State of Oregon has implemented significant changes to forestry laws, and the Oregon Water Resources Department has updated the figures for irrigation water availability.

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

The subject properties are currently not utilized for farm use under this definition. While the definition of farm use is rather ambiguous. The applicant proposes a different way to

view the practicality of future farm use on the subject properties. The overall neighborhood (south Bandon area) has two primary farm uses: cranberry farming and livestock grazing/hay production.

Cranberry Farming:

Reviewing the steps involved in cranberry farming is essential to assess whether the subject property can practically support cranberry cultivation. Cranberries are cultivated in well-drained, sandy, artificial beds known as cranberry bogs. Nearby homesites generally have minimal impact on cranberry growth. Most cranberry farmers reside on their farms. Modern commercial cranberry farming mainly depends on water rights and transportation, with little direct connection to surrounding lands. The information below further supports the conclusion that cranberry farming is not practical on the subject property.

As described in Volume 1, Part 2 of the Comp Plan.

3.1 AGRICULTURAL LANDS - INVENTORY AND ASSESSMENT

1.5 (Criteria used to distinguish Agriculture and Forest Lands designations in Plan Map where overlap occurs.)

(ii) Where soils of the Blacklock Series (Class VIIw) occur

***These soils are naturally suited to cranberry bogs and are separately identified in the agricultural lands inventory. Such areas may or may not be currently used for cranberry bogs. This depends largely on three factors: (i) the availability of irrigation water**, (ii) the growth of the market for the product and (iii) availability of capital. Blacklock soils tend to be intermingled with other agricultural soils. However, entire areas within this soil association may be under forest cover. Cranberry bogs tend to occur in localized clusters, due to their heavy dependence upon surface water supplies and the need to protect operators from intrusion or conflicting uses.*

These localized areas are identified from air photographs and are designated as agricultural lands based on the following factors: irrigation potential, existing land use patterns, technological and energy inputs and accepted farming practices. The Plan recognizes the importance of cranberry growing to the local economy and that it is the predominant farming practice in certain local areas of the County. Other areas in the Blacklock soil series are placed in the forest land designation on the basis of their forest cover.

3.2.3 Cranberries and Other Specialty Crop

Cranberries are a unique feature of Coos County's agricultural economy and make a significant contribution to total earnings.

Cranberry bogs are found in localized clusters on the coastal plains and south of Bandon. ***The natural habitat of the wild cranberry on the east coast is the***

peat bog, and such naturally occurring bog soils (Blacklock soil series referred to above) were originally selected for berry culture. However, these soils are not necessarily the only ones suited to cranberry culture. Modern methods involve extensive modification of the native soil profile. *A "hardpan" layer beneath is necessary in sandy soils to maintain a "perched water-table." Most soils in the Bandon area are derived from old sand dune deposits. Blacklock and Bandon sandy loams possess a natural hard-pan layer. Man-made dikes allow most bogs to be flooded to permit the unique type of hand operation whereby the berries are beaten from the plants by machine, floated into a mass and removed from the bog. A reliable water supply is very important, and most bogs require sumps in which surface water can be stored. The coastal climate, with its mild winters and cooler temperatures provides an ideal environment for cranberry production very climatic and soil features which make cranberry culture possible and also tend to discourage other types of agricultural uses.*

Forest productivity on the immediate coast is also lower due to hard- pan soils and strong coastal winds. There has been some legitimate concern in some cranberry bog areas, especially just east of Bandon, that increased residential development on domestic wells in the immediate area may eventually lower the groundwater table, thus decreasing vital water supplies for cranberry growers. The coastal lakes and dune formations have been identified as potential sources of irrigation water for future increased cranberry culture.

About 811 acres were harvested by 90-100 growers in 1983 and produced an average of 80 barrels (8,000 lbs.) of cranberries per acre. In 1979, about 658 acres were harvested, producing an average of 129 barrels (12,900 lbs.) of cranberries per acre. The past few years a warming trend in the area has caused the drop in per acre production by increasing vegetative growth and inhibiting maximum bud initiation. The average area planted per operator was ten acres in 1983, with only about 20% of the growers being fulltime farmers. The rest work off the farm while some are retired. As of 1983, approximately 1200 acres of bogs have been established in both Coos and Curry Counties, with the maximum acreage in Coos County. This is a substantial increase in planted acres and is believed to be the result of new markets developing within the area. Newly planted bogs take up to five years to become fully productive. Presently, most locally produced cranberries are sold to Ocean Spray Cranberries, Inc., under a contract system, for marketing throughout the country. In the past, the buyer has controlled the factors of supply and demand to the extent that prices have been relatively stable, while few new operators have been able to go into production. Presently, the national demand for cranberries is increasing and specifically, the demand for cranberries grown in this area has increased due to the intensity of color obtained in products developed from the berries. Cranberry products from

berries grown locally do not require any artificial coloration as do products resulting from cranberries grown in other parts of the country. Suitable land for new bogs is available. The main limitations on expansion are the size of the market, water supplies, residential pressure, and the availability of capitol.

The average size of a cranberry farm is about 7-10 acres, though more land is needed for a home and outbuildings, and perhaps for buffering against neighboring uses. Single bogs range in size from 1/4 to 4 acres. The County Extension agent estimates that about 10 acres are probably the minimum needed for full-time commercial production.

Below is a simplified explanation for cranberry farming on the subject properties:

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

1) To create cranberry bogs, the land is first cleared and shaped. Although cranberry farming is an agricultural activity, establishing bogs in the Bandon area usually resembles large-scale commercial and residential developments more than traditional ranching clearings. This process involves heavy machinery to clear the land, burning slash, and then shaping the bogs into a relatively level surface with drainage ditches. Slash burning occurs only during bog creation and impacts nearby dwellings similarly to forest slash burning. Shaping the beds generates dust, as do other land-clearing activities.

Farmers must construct fields with an ideal slope pitch and sandy soil depth for wet harvesting and cultivation. However, cranberry farming requires specific onsite soil conditions to be feasible. Although the CCLDZO classifies soils 5B as high-value farmland, it does not necessarily mean that all properties with 5B soils can necessarily support cranberry crops.

2) Cranberry cultivation resembles other farming activities, with growers working throughout the year. Unlike traditional row crops, cranberries are grown in 1 to 3-acre bogs using specialized small equipment for fertilizing and harvesting—most of which is no larger than a small tractor. As an irrigated crop, fertilizers and chemicals are applied either through irrigation systems or with small, custom-powered tools smaller than a standard truck. Like all crops for human consumption, the use of chemicals is strictly regulated by federal and state authorities. The risk of pesticide drift off the farm is minimal, and there are no helicopter spraying applications involved. Overall, the impact on adjacent lands from cranberry farming is negligible.

As mentioned earlier, cranberries need irrigation for growth and are usually harvested in wet conditions. Although not included in the Coos County Comprehensive Plan, the County referenced data from AM-91-10/RZ-91-05 provided by the Oregon Cranberry Farmers

Alliance Water Committee. According to their letter, one acre of cranberry bogs consumes 12000 gallons of water daily.

OREGON CRANBERRY FARMERS' ALLIANCE
POST OFFICE 1737 • BANDON, OREGON 97411

November 3, 1991

Coos County Board of Commissioners
Coos County Courthouse
Couquille Oregon 97423

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

Dear Board of Commissioners;

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

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

1. Both parcels are without water necessary for cranberry use. In the case of the Lave application, both Spring Creek and Simpson Creek are closed to further water allocations and the parcel is surrounded by rural residential land. In the case of the Winn application, the available water is already allocated and used, and the parcel has two residential dwellings already sited, with adjacent lands physically developed for residential use.

2. The average residential dwelling uses 400 gallons of water per day. Water use for cranberry production is allowed 12,000 gallons per day per acre. The Lave application proposes to use approxamatley 2800 gallons of water per day (7 dwellings) as compared to 12,000 gallons per day for one acre of cranberry use. The Lave parcel is appropriate for rural residential use.

   The Winn application proposes an additional use of 800 gallons of water per day compared to 12,000 gallons of water per day per acre of cranberry use. The Winn parcel is appropriate for rural residential use.

We are confident that niether application for rezone to RR-5 will negatively impact on cranberry production and farm management practices of our growers.

Sincerely,

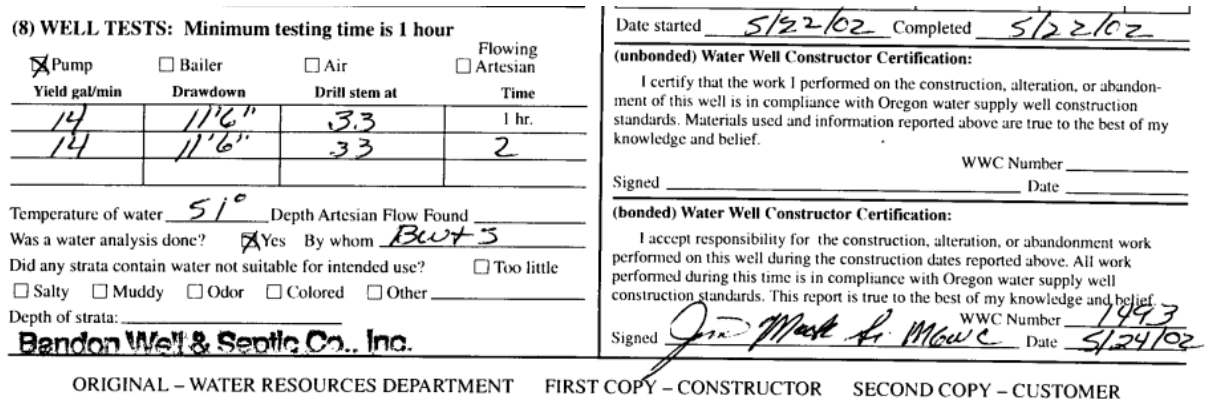
Barry K. Winters
Chairman
Oregon Cranberry Farmers Alliance Water Committee
P O Box 1737
Bandon Oregon 97411

Source: AM-91-10/RZ-91-05 File

The Coos County Comprehensive Plan mentions cranberry farms as being 7-10 acres in size. However, this is somewhat outdated, as current cranberry farms tend to be much

larger. The closest cranberry farm to the subject properties is the Fugate farm located just west of them. Aerial imagery indicates that this farm covers around 50 acres in production.

The subject properties were initially designated as Rural Residential and received a partition approval in 1983. Since then, both parcels have been developed with residential homes. The Oregon Water Resources Department provides at least one well log online for these parcels. The relevant well log, labeled Coos #52292, corresponds to tax lot 1603. According to this log, the well on this parcel has a capacity of 14 gallons per minute.



(8) WELL TESTS: Minimum testing time is 1 hour

☒ Pump ☐ Bailer ☐ Air ☐ Flowing Artesian

Yield gal/min	Drawdown	Drill stem at	Time
14	11'6"	33	1 hr.
14	11'6"	33	2

Temperature of water 51° Depth Artesian Flow Found

Was a water analysis done? ☒ Yes By whom Bud's

Did any strata contain water not suitable for intended use? ☐ Too little

☐ Salty ☐ Muddy ☐ Odor ☐ Colored ☐ Other

Depth of strata:

Bandon Well & Septic Co., Inc.

Date started 5/22/02 Completed 5/22/02

(unbonded) Water Well Constructor Certification:

I certify that the work I performed on the construction, alteration, or abandonment of this well is in compliance with Oregon water supply well construction standards. Materials used and information reported above are true to the best of my knowledge and belief.

WWC Number

Signed Date

(bonded) Water Well Constructor Certification:

I accept responsibility for the construction, alteration, or abandonment work performed on this well during the construction dates reported above. All work performed during this time is in compliance with Oregon water supply well construction standards. This report is true to the best of my knowledge and belief.

WWC Number 1993

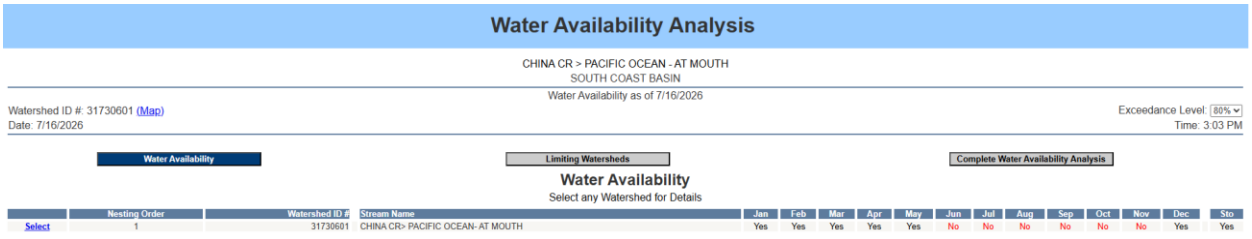
Signed Jon Mark Le Mowe Date 5/24/02

ORIGINAL – WATER RESOURCES DEPARTMENT FIRST COPY – CONSTRUCTOR SECOND COPY – CUSTOMER

Source: OWRD Well Construction Log Report

Assuming a well produces 14 gallons per minute, which totals 840 gallons per hour or 20,160 gallons daily. This volume is barely enough to irrigate two acres of cranberry fields. A secondary concern is that installing multiple wells to irrigate 7-10 acres could deplete the wells in a nearby residential neighborhood.

The Oregon Water Resource Department tends to indicate that there is no water available for non-exempt farm use in the China Creek drainage from June to November.



Water Availability Analysis

CHINA CR > PACIFIC OCEAN - AT MOUTH
SOUTH COAST BASIN
Water Availability as of 7/16/2026

Watershed ID #: 31730601 (Map)
Date: 7/16/2026

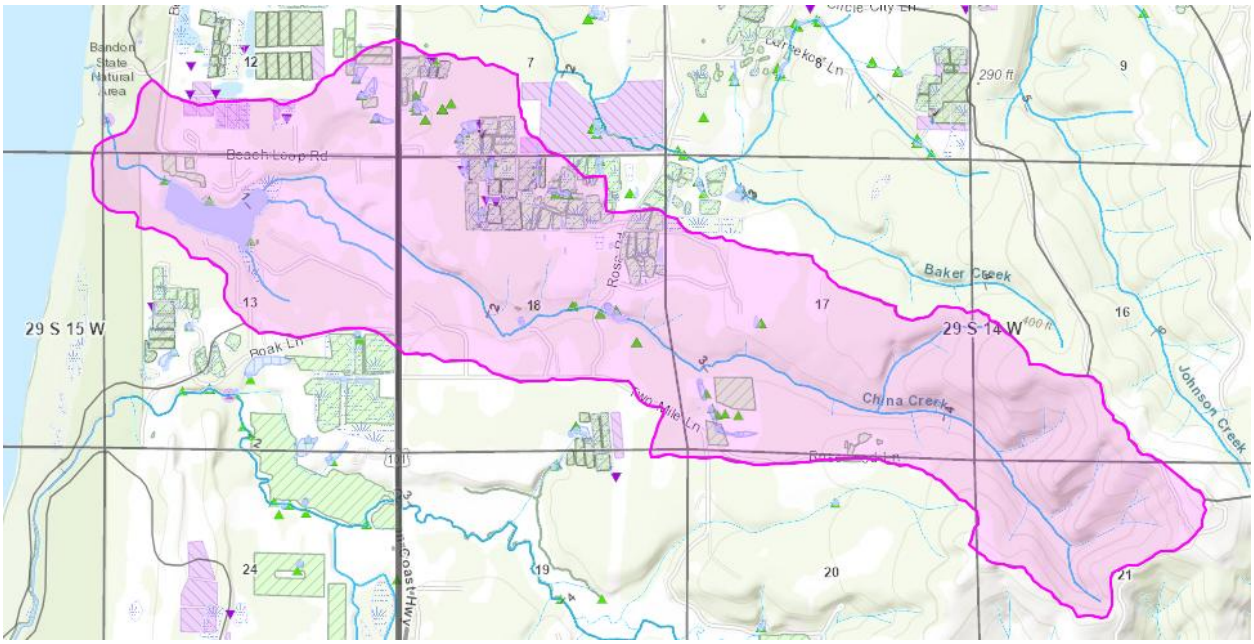
Exceedance Level: 80%
Time: 3:03 PM

Water Availability | Limiting Watersheds | Complete Water Availability Analysis

Water Availability
Select any Watershed for Details

	Nesting Order	Watershed ID #	Stream Name	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Sto
Select	1	31730601	CHINA CR> PACIFIC OCEAN- AT MOUTH	Yes	Yes	Yes	Yes	Yes	No	No	No	No	No	No	Yes	Yes

Watershed ID	Exceedance Level	Month	Limiting Watershed_ID	Stream Name	Water Available?	Net Water Available	Download Date
31730601	80	JAN	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	0.903	7/23/2026
31730601	80	FEB	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	2.87	7/23/2026
31730601	80	MAR	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	2.32	7/23/2026
31730601	80	APR	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	0.873	7/23/2026
31730601	80	MAY	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	0.378	7/23/2026
31730601	80	JUN	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	NO	-0.388	7/23/2026
31730601	80	JUL	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	NO	-0.347	7/23/2026
31730601	80	AUG	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	NO	-0.217	7/23/2026
31730601	80	SEP	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	NO	-0.177	7/23/2026
31730601	80	OCT	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	NO	-0.046	7/23/2026
31730601	80	NOV	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	NO	-0.167	7/23/2026
31730601	80	DEC	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	0.393	7/23/2026
31730601	80	ANN	31730601	CHINA CR > PACIFIC OCEAN - AT MOUTH	YES	1880	7/23/2026



Source: OWRD Water Availability Reporting System

The largest parcel (T29S-R14W-S18-TL1600) no longer directly borders China Creek. To transfer irrigation water from China Creek, a future easement will be required for a water pipeline and diversion point. Moreover, the landowner must possess valid water rights from China Creek for irrigation, harvest, and frost management. Although drilling water wells offers a possible solution, it does not address the core concern of water availability within the China Creek drainage.

Additionally based on communication with OWRD's Jeffery Pierceall, *"Water availability is determined at the time of an application, and is based on the Water Availability Analysis at that time. The Department will not provide a pre-determination of water availability without an application."* Therefore, it is not possible to prove the final water right certificate without first developing cranberries on the parcel. Even though the OWRD states there is not water availability in the drainage.

3) Cranberries can be harvested in two main ways: dry harvesting and wet harvesting. Dry harvesting uses a specialized machine similar to a push lawn mower, which is pushed

through the cranberry bogs to gather berries into burlap sacks. This labor-intensive process is now rarely employed on a large scale. Instead, neighboring farms usually use the wet-picking method, where fields are flooded, and 'beater' machines—small, custom-built devices no larger than a half-ton pickup—are used to loosen the berries. The berries are then collected with booms, funneled into a section of the bog, and loaded onto 14–20 ft flatbed trucks via cranberry elevators. Loading is quick and often faster than waiting for road work. The trucks transport the berries to one of at least five central cleaning facilities in the Bandon area and northern Curry County, where competition influences prices yearly. Aside from concerns about wet harvesting potentially drying nearby wells, there aren't significant issues associated with the harvest.

4) The pruning of cranberry vines occurs after the bogs are harvested, usually every year. The bogs essentially receive a light mowing of their vines. Excessive vines are typically burned. Because the vines have high moisture content, they produce a considerable amount of smoke relative to their volume. However, pruning itself produces only a relatively minor amount of material. The vines also burn relatively quickly outside of fire season. Therefore, pruning operations are unlikely to affect adjacent residential developments beyond the effects of a typical wildfire in the area.

<u>Former ownership of parcels by cranberry farmers:</u>
Although not specific to Coos County, similar arguments have been raised in other LUBA appeals and rezone applications across the state regarding resource parcels that are not currently used for farming. These often involve speculative theories about potential farming uses proposed by actual farmers.

Norman Christensen, a for-profit cranberry farmer in the same small drainage (China Creek), previously owned the parcel. According to Assessor tax lot records, he held ownership until 2004.

Account ID: 1217100

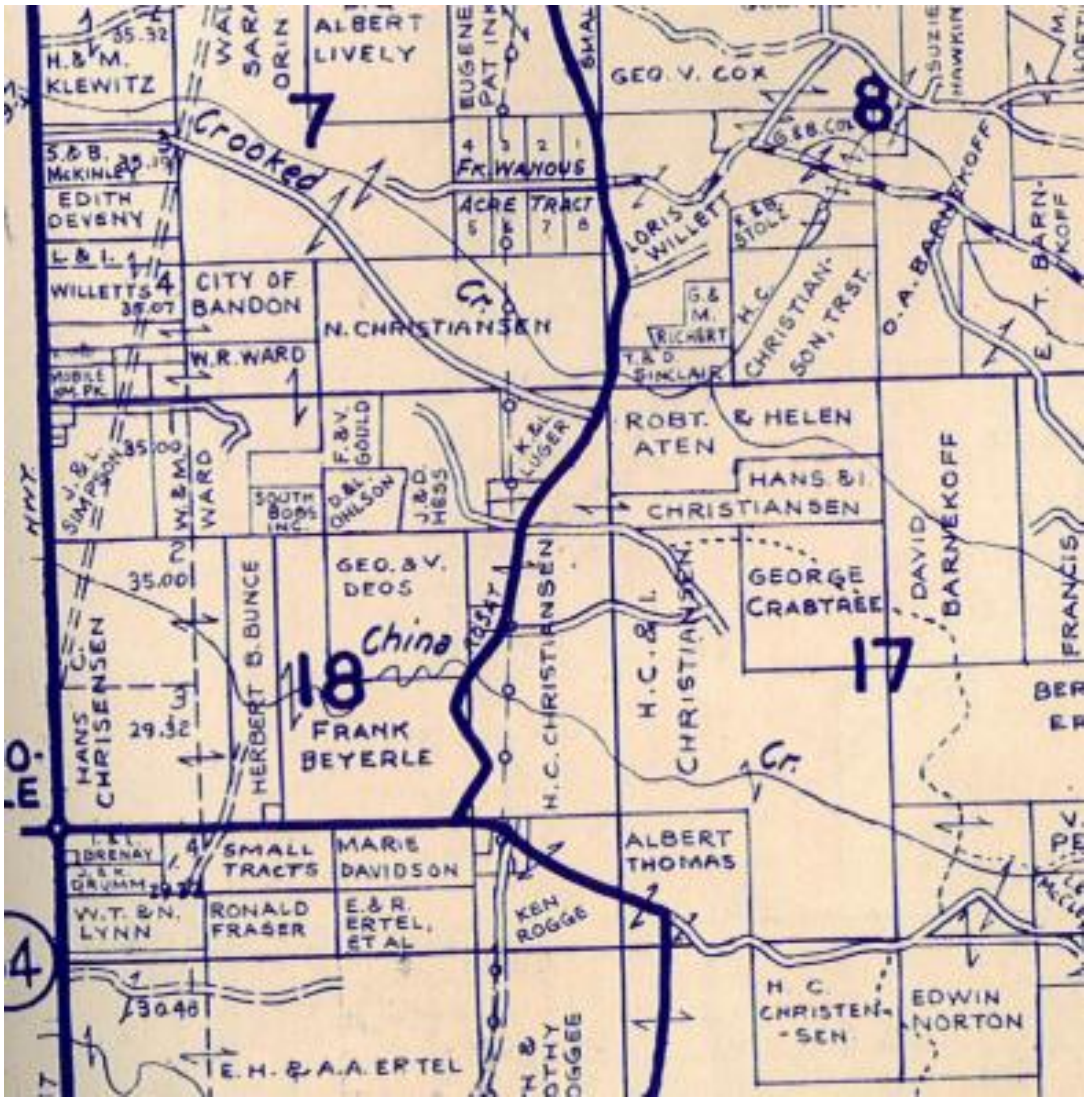
Sales Date	Year/Doc ID	Source ID	Doc Type	CD CO	Total Sales Price	Grantor	Grantee
27-Mar-2025	2025-1747		WD	22	$775,000	HIGHWAY 101 FARM, LLC.	PEPPERMILL LLC
13-Mar-2013	2013-2353		QC	02	$255,000		
06-May-2011	2011-3654		TRS	10	$538,252	RUPE, MICHAEL E. & ANGELA M.	CHETCO FEDERAL CREDIT UNION
11-Aug-2004	2004-36912	2004-11661	WD	42	$289,000	CHRISTENSEN, NORMAN J., TRUSTEE	RUPE PROPERTIES, LLC
11-Aug-1993	1993-103824	93-08-0636	WD	89	$0	CHRISTENSEN, NORMAN J.	CHRISTENSEN, NORMAN J., TRUSTEE

Source: Coos County Assessor Dept

It appears the County's current system for tracking tax lot records began around 1975 and indicated that Norman J. Christensen.

(Except Mineral Rights)	9-28-88	264	- 244	
CHRISTENSON, NORMAN J	6-25-79	25-12	1103	88.83

Mr. Christensen owned a parcel about 0.5 miles east, designated as T29S-R14W-S18-TL4000. These parcels originally belonged to Norman's father, Hans Christensen, as indicated on the 1970 Metsker map of the area.



Source: Metsker Map

Hans Christensen began developing cranberries on his parcel on the eastern side of Section 18. Hans Christensen had at least two sons, Hans and Hardie. Those brothers began moving property line (PLAs) in the late 1990s. Norm Christensen was actively farming a portion of this farm in the 1990s.

The Christensen farm is located on the eastern side of Rosa Road. There is a separate farm (Aten) located in the northeastern corner of the NWNW of Section 17.



Source: OWRD Water Right Mapping Tool

Cranberry prices in the 1990s were significantly higher than current market prices. According to ACU-96-012, they ranged from approximately $55 to $60 in the mid-1990s.

DEC 7'95 10:07 FR USC-IRS-TREASURY 508 946 7997 TO 9-15413479811 P.02

OCEAN SPRAY CRANBERRIES, INC.
CRANBERRY PAYMENT SCHEDULE

	1994 Pool		1995 Pool	
	Amount	Dates	Amount	Dates
Cash Payments				
Harvest Advance	$ 5.00	9/07-12/22/94	$5.00	9/06-12/??/95
January Advance	2.00	1/12/95	4.00	**1/10/96**
February Advance	6.50	2/09/95	6.50	**2/09/96**
Incentive Payments	2.52 avg.	3/09/95	2.00**avg.	**3/08/96**
April Advance	7.50	4/13/95	____	**4/10/96**
June Advance	7.00	6/08/95	____	**6/10/96**
August Advance	5.00	8/10/95	____	**8/09/96**
October Advance	5.00	10/10/95	____	**10/10/96**
December Advance	7.64	12/08/95	____	**12/10/96**
January Payment	0.00		____	1/10/97
Subtotal	$48.16		$50.27 - $53.27**	
Equity Transactions				
Non-Qualified AREs (N)	3.29	12/01/95	1.73**	**12/02/96**
Qualified Stock retain:				
Stock issued (N)	1.78 avg.	**5/02/96**	0.00	
Cash in lieu	2.22 avg.	**1/10/96**	0.00	
Total	$4.00		$0.00	
Dividends (Pfd. stock)	.08 avg.	6/15+12/15	.09 avg.	**6/15+12/15**
POOL PROCEEDS	$55.53		$52.00 - 55.00**	
Less Noncash (N)	(5.07)		(1.73)	
Cash Pool Payments:	$50.46		$50.27 - 53.27	
ARE Redemption	3.30 avg.	7/10/95	4.23**	**7/10/96**
Special Preferred Redemption	.57 avg.	5/04/95	0.40**avg.	**5/02/96**
Overquota and Other Redemptions	1.16 avg.	2/22/95	1.88**avg.	**2/15/96**
TOTAL CASH	**$55.49**		**$56.78 - $59.78**	

* projected - requires Board approval
** preliminary estimate/average grower
(dates highlighted denote payment in calendar 1996)

I:\advance\crichdec.95P

** TOTAL PAGE.002 **

Source: ACU-96-012 File

According to the Bureau of Labor Statistics CPI, $1 in 1995 has the same purchasing power as approximately $2.19 today, reflecting a $1.19 increase over 31 years. The dollar

experienced an average annual inflation rate of 2.56% from 1995 to the present, resulting in a total price rise of 119.13%.

$55 X 2.19 = $120.45/barrel

$60 X 2.19 = $131.40/barrel

Using a recent planning application, ACU-26-001, market prices for cranberry in 2023 and 2024 were the following: $32.51/barrel and $31.85/barrel

In the 1990s, cranberry prices were roughly four times higher. At that time, Norm Christensen was an active for-profit cranberry farmer. It is noteworthy to point out that he chose not to develop these properties with cranberry fields.Hence, the absence of water rights and the decision of former cranberry farmers not to cultivate cranberries on these properties render them unsuitable for cranberry farming.

<u>Livestock Grazing/Hay Production:</u>

The main farm at China Creek can alternate between grazing livestock and producing hay, due to the mostly flat, non-irrigated terrain. The proposed rezone is situated within the Forest zone section of the properties. This area is designated for the natural bottomlands above China Creek, situated along the natural bench beside Two Mile Road.



Source: OWRD Water Right Mapping Tool

Obtaining irrigation from China Creek on the larger subject properties will necessitate water rights for China Creek. This may lead to the same water availability challenges faced in cranberry farming. If water rights are secured, only about 10 to 12 acres will be usable for livestock grazing.

The custom NRCS soil report for the 48-acre rezone area indicates limited pasture resources: 15 AUM for irrigated lands or 8 AUM for non-irrigated lands.

Irrigated and Nonirrigated Yields by Map Unit Component–Coos County, Oregon												
Map symbol and soil name	Land capability		Blueberries		Cranberries		Grass hay		Grass-legume hay		Pasture	
	Irrigated	Nonirrigated	Irrigated	Nonirrigated	Irrigated	Nonirrigated	Irrigated	Nonirrigated	Irrigated	Nonirrigated	Irrigated	Nonirrigated
			Lbs		*Tons*				*Tons*		*AUM*	
1B—Bandon sandy loam, 0 to 7 percent slopes												
Bandon	3e	3e	—	—	8.00	—	—	—	—	—	10.0	3.0
5B—Blacklock fine sandy loam, 3 to 7 percent slopes												
Blacklock	4w	6w	7000	—	8.00	—	—	—	—	—	—	—
8C—Bullards sandy loam, 7 to 12 percent slopes												
Bullards	—	3e	—	—	8.00	—	—	—	4.00	2.00	10.0	4.0
8E—Bullards sandy loam, 30 to 50 percent slopes												
Bullards	—	6e	—	—	—	—	—	—	—	—	—	4.0
41—Nestucca silt loam												
Nestucca	3w	3w	—	—	—	—	—	—	6.00	3.00	15.0	8.0

Source: NRCS Web Soil Survey

Pasture yields are expressed in terms of animal unit months. An animal unit month (AUM) is the amount of forage required by one mature cow of approximately 1,000 pounds weight, with or without a calf, for 1 month.

This will likely yield only 2 to 4 AUM on tax lot 1600, depending on irrigation availability. Tax lot 1616 might support an additional 1 to 2 AUM, contingent on obtaining water rights for irrigation.

Forestry: The second issue concerns permitted forestry practices on these specific parcels. The listed criteria originate from three sections of the Oregon Administrative Rules that need to be considered.

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

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

660-033-0120: Uses Authorized on Agricultural Lands

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

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

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

(3) "" — The use is not allowed.*

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

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

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

660-006-0025: Uses Authorized in Forest Zone

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

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

Although this is a lengthy explanation, a simpler way to restate the criteria is that the basic growing and harvesting of forest products should be impractical but not impossible. The criteria outline the fundamental forestry practices that require attention.

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

The only commercially valuable timber is found on the western side of the subject properties along Hwy 101. Scattered mature Douglas-fir trees are present along Hwy 101, with Western Red Cedar shrubs underneath. Although Western Red Cedar is a commercial species, these trees on this parcel are small in diameter and cannot currently be sold.

During the 2005 amendment and rezone hearings, Planning Commission member Phillips, a retired State Forester from the Coos Bay District, mentioned that he visited the properties and observed that there was evidence of past timber on the eastern side of the subject properties.

The initial focus is reforestation, which involves planting trees in the ground. Digging a hole and planting a tree should not be a complicated task. It's now uncommon for trees to die due to poor planting techniques. However, that does not necessarily mean the trees will continue growing beyond planting. Most soils on the eastern side of the properties are classified as 8C. According to the NRCS soil survey, the 8C soil type states:

The main limitations for the management of timber on this unit are the hazard of windthrow and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff.

Proper design of road drainage systems and care in the placement of culverts help to control erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit.

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

The main challenge at the subject properties is growing trees that won't be prone to windthrow. Large Douglas-fir trees are present and will be discussed below. The stands have developed into dense thickets of small-diameter Western Red Cedar. Although commercially viable species can grow on-site, these trees are not suitable for sale due to their small size. There is no economic benefit in selling small-diameter Western Red Cedar.

The Oregon Forest Practices Act requires that the site be able to grow again after six years (OAR 629-610-0000). This means the trees must survive and genuinely regenerate, not merely endure the first year. Below are further details on chemical application and slash disposal, which render the property unsuitable for forest operations.

The second criterion concerns road construction and maintenance. The subject properties can be directly accessed via Two Mile Lane, which is part of the mapped easement along China Creek Road. China Creek Road seems to meet County standards for residential roads, established during the previous partition and PLA applications. The prior landowners appeared to develop these parcels for forest dwellings under ORS 215.750 criteria. However, there is no record of any application for template dwellings being submitted to Coos County. The landowner might only need permits to work within the right-of-way to enhance it to timber hauling standards and possibly an access permit, both common requirements across most Oregon counties. This access point serves the southern part of the property, located on the uplands terrace.

The third criterion, harvesting, involves cutting, processing, and transporting forest products. According to the Oregon Department of Forestry, one main restriction is that clearcutting must be limited to 120 acres. The properties in question have about one-fifth of this area in standing timber. As a result, most of the property is likely harvestable under the Oregon Forest Practices Act.

These Douglas-fir trees might not be suitable for commercial harvest. Hwy 101 is a scenic route protected under the Oregon Forest Practices Act. As per the Oregon Forest Resource Institute, "*a visually sensitive corridor is 150 feet, wide, and the adjacent stand provides 150 to 300 feet*". The guide specifies that landowner is required to *"leave at least 50 healthy trees with a DBH of 11 or larger on each acre."* It is noteworthy to mention that OFRI was established by the Oregon Legislature to educate the public about forestry practices and laws.

Based on site photos and topographic maps provided in the application, the rezoned portion of the property is relatively flat. Therefore, ground-based timber harvesting will be the preferred logging method for these parcels. This method involves cutting, delimbing, and bucking trees into logs, and it is designed for transportation on public roads using standard commercial trucks and lowboy trailers, despite their size. Unlike cable logging, ground-based methods are largely self-contained within the harvest area. Forest dwellings should stay at least 300 feet away from ground-based harvests and 500 feet from cable logging activities, according to ODF's Land Use Planning Notes 2 – Considerations for the Siting of Dwellings on Forest Lands. The proposed rezone is unlikely to significantly impact nearby ground-based harvest units, as the distances to the adjacent timber are greater than 300 feet.

Dwellings are located on T29S-R14W-S18-TL1602, T29S-R14W-S18-TL1603, and an existing one on T29S-R14W-S18-TL1700. Since TL1700 is zoned RR-2, it could potentially support about 10 more dwellings. Furthermore, it's reasonable to assume that timber felling near Hwy 101 will require extra safety measures, which could pose challenges to the feasibility of commercial harvesting on this parcel.

The fourth criterion involves the use of chemical(s). Chemical application is a component of integrated pesticide management necessary for establishing and developing forest stands. Currently, the rezone area lacks sufficient historical timber to assume aerial spraying will be employed. Ground-level hand spraying could have minimal impact on neighboring lands, depending on the herbicides used. Historically, gorse has covered parts of the property where timber has not grown.

The fifth and final criterion involves slash disposal. According to the NRCS soil survey for 8C, *"Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided."* The site must pile and burn leftover logging debris and brush to reduce competition that can interfere with reforestation efforts. This burning typically involves activities at wildfire levels, which is common and not unusual for the area.

Considering the historical timber land, the permitted harvest under Oregon FPA, the many existing and potential homes around the properties, and the challenges of growing commercially viable trees in 8C soil types, these properties are not suitable for timber production.

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

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

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

Applicant Response: The proposed exception area includes six individual parcels of land. The applicant also acknowledges that the County Planning Director might enlarge the exception area. These parcels, labeled T29S-R14W-S18-TL1602 and T29S-R14W-S18-TL1603, are zoned Forest and were originally part of the original tax lot 1600.

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

(a) Existing adjacent uses;

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

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

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

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

(d) Neighborhood and regional characteristics;

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

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

(g) Other relevant factors.

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

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

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

660-004-0040
Application of Goal 14 to Rural Residential Areas

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

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

> *(a) "Accessory dwelling unit" means a residential structure that is used in connection with or that is auxiliary to a single-family dwelling.*
>
> *(b) "Habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.213(1)(q) or ORS 215.283(1)(p), whichever is applicable.*
>
> *(c) "Historic home" means a single-family dwelling constructed between 1850 and 1945.*
>
> *(d) "Minimum lot size" means the minimum area for any new lot or parcel that is to be created in a rural residential area.*
>
> *(e) "New single-family dwelling" means that the dwelling being constructed did not previously exist in residential or nonresidential form. New single-family dwelling does not include the acquisition, alteration, renovation or remodeling of an existing structure.*

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

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

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

Applicant Response: These are definitions used within the section.

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

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

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

(A) Land inside an acknowledged urban growth boundary;

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

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

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

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

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

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

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

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

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

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in 1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County), and before October 4, 2000. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

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

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

Applicant Response: The subject properties lie outside an urban growth boundary. The closest boundary is that of Bandon, about 1.75 miles to the north. Approving this application will lead to exceptions for Goal 3, Goal 4, and Goal 14, and the properties will be designated for rural residential and commercial use.

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

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

Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.

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

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

Applicant Response: The request involves a comprehensive plan amendment and rezoning from Forest to Rural Residential zoning district. Coos County has two standard Rural Residential zones: RR-5 and RR-2, where the number reflects the minimum lot size in acres. This application seeks RR-2 designation, which the current district already satisfies in terms of lot size.

(8) (a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

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

(c) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed the minimum lot size that is already in effect.

(d) If, on October 4, 2000, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new single-family dwellings in a rural residential area only if all conditions set forth in paragraphs (A) through (H) are met:

(A) The number of new single-family dwellings to be clustered or developed as a PUD does not exceed 10;

(B) The number of new lots or parcels to be created for new single-family dwellings does not exceed 10;

(C) None of the new lots or parcels will be smaller than two acres;

(D) The development is not to be served by a new community sewer system;

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community;

(F) The overall density of the development will not exceed one single-family dwelling for each unit of acreage specified in the local government's land use regulations on October 4, 2000 as the minimum lot size for the area;

(G) Any group or cluster of two or more single-family dwellings will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there; and

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

Applicant Response: The applicant requests zoning designations for Rural Residential-2 and Commercial-1. The proposed amendment/rezone will occur after October 4, 2000. The Rural Residential-2 zone requires a minimum parcel size of 2 acres. The applicant is not seeking Planning Unit Developments for these properties.

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

a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

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

Applicant Response: The applicant is not seeking approval for a mobile home park or manufactured dwelling park on the properties. If approved, the County could place a qualifier on the zoning district to restrict these uses.

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

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

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

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

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

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

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

Applicant Response: The proposal involves a comprehensive plan amendment and rezoning from Forest to Rural Residential district. Coos County has two standard Rural Residential zones: RR-5 and RR-2, with the number indicating the minimum lot size in acres. This application seeks RR-2 designation, and the parcel already meets this minimum lot size. No request for Planned Unit Development is included. The applicant confirms that only one permanent single-family dwelling per parcel is permitted and clarifies that new mobile home parks may be considered urban use, with no request to establish one. Currently, there are no dwellings on the parcel.

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

660-004-0018
Planning and Zoning for Exception Areas

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

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

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

The land mainly features natural vegetation with no signs of industrial monoculture forestry practices on the property. As noted earlier in section OAR 660-004-0000 (2), most of the soils are unsuitable for farming or commercial forestry. Rezoning to Rural Residential-2 would enable more practical development that can help fund routine maintenance. This maintenance may involve spot spraying invasive species, manual removal of brush to create fuel breaks, and constructing gravel driveways with proper drainage to prevent erosion.

(b) That meet the following requirements:

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

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

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

Applicant Response: Allowing the subject property to be rezoned to Rural Residential-2 will still meet the "Rural Land" definition. The majority of adjacent lands are already zoned Rural Residential. The nearest lands (29S-15W-13-1902), currently used for commercial farming, are adjacent to the subject property; however, Hwy 101 separates the subject property from this farm. There are EFU zone lands on the northern portion of the subject property. However, these fields are only 2-3 acres per parcel. It is not economically practical to lease this area to a rancher for grazing. It should be noted that the subject property is situated between multiple Rural Residential-2 parcels that were found to be on lands irrevocably committed and Hwy 101. The nearest parcel, 29S15W00(33)-1300 (Moore Mill), that could be considered suitable for non-industrial forestry is located 5 miles east of the subject property at the end of Two Mile Lane. It should also be noted that between the subject property and this forestry use are Rural Residential-2 parcels that fall under the "physically developed" and "irrevocably committed" exceptions.

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

Applicant Response: The subject property is not within an unincorporated community. The nearest unincorporated community is Charleston, which is over 15 miles north of the subject property.

(d) For industrial development uses and accessory uses subordinate to the industrial development, the industrial uses may occur in buildings of any size and type provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

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

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

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

(4) "Reasons" Exceptions:

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

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

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

Applicant Response: The request is justified as "irrevocably committed." Please find that response above.

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

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

(A) Ashland;

(B) Central Point;

(C) Medford;

(D) Newberg;

(E) Sandy.

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

> *(A) Has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, division 21; or*
>
> *(B) Is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658.*

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

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

(e) Notwithstanding the provisions of section (8), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if Metro has not designated an urban reserve that contains at least a twenty-year reserve of land acknowledged to comply with either OAR chapter 660, division 21 or division 27, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

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

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

> *(A) The parcel to be divided has two or more permanent, habitable dwellings on it;*
>
> *(B) The permanent, habitable dwellings on the parcel to be divided were established there before October 4, 2000;*
>
> *(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;*
>
> *(D) The partition would not create any vacant parcels on which new dwellings could be established;*
>
> *(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel; and*
>
> *(F) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27, except as provided under OAR 660-027-0070.*

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

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

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

(a) The lot or parcel is not located in an area designated as an urban reserve;

(b) The lot or parcel is at least two acres in size;

(c) A historic home is sited on the lot or parcel;

(d) The owner converts the historic home to an accessory dwelling unit upon completion of the new single-family dwelling; and

(e) The accessory dwelling unit complies with all applicable laws and regulations relating to sanitation and wastewater disposal and treatment.

Applicant Response: This criterion is relevant for development. Only amendment/rezoning is requested with this application.

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

(a) Subdivide, partition or otherwise divide the lot or parcel so that the new single-family dwelling is situated on a different lot or parcel from the accessory dwelling unit.

(b) Alter, renovate or remodel the accessory dwelling unit so that the square footage of the accessory dwelling unit is more than 120 percent of the historic home's square footage at the time construction of the new single-family dwelling commenced.

(c) Rebuild the accessory dwelling unit if the structure is lost to fire.

(d) Construct an additional accessory dwelling unit on the same lot or parcel.

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

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

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

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

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

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

Applicant Response: The request seeks rezoning to a Rural Residential-2 and Commercial-1 district. RR-2 is already an established district under the Coos County Comprehensive Plan and aligns with Goal 14.

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

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

(A) A single manufactured dwelling;

(B) Use of an existing building or buildings;

(C) A single yurt;

(D) Up to three recreational vehicles; or

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

(b) Temporary campgrounds provided that:

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

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

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

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

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

(c) Temporary storage site for nonhazardous debris, construction materials and equipment, logs or other materials resulting from recovery efforts or otherwise associated with damage caused by a wildfire identified in an Executive Order

issued by the Governor in accordance with the Emergency Conflagration Act, ORS 476.510 through 476.610 subject to Department of Environmental Quality requirements and all other applicable provisions of law.

(d) Uses approved under this section:

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

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

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

SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:

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.

Applicant Response: These criteria are addressed by the Planning Commission during the hearing process. Therefore, the applicant cannot address the criteria until the hearing process. The applicant wishes to note that the Planning Commission may want to place a qualifier regarding limiting future Planned Unit Developments on the subject properties.

SECTION 5.1.230 STATUS OF HEARINGS BODY RECOMMENDATION OF APPROVAL:

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

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

SECTION 5.1.235 BOARD OF COMMISSIONERS ACTION ON HEARINGS BODY RECOMMENDATION:

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

1. adopt the Hearings Body recommendation for approval or approval with conditions;

2. reject the Hearings Body recommendation for approval or approval with conditions and dismiss the application;

3. accept the Hearings Body recommendation with such modifications as deemed appropriate by the Board of Commissioners; or

4. if an appeal has been filed pursuant to Article 5.8, the Hearings Body recommendation shall become a part of the appeal hearing record, and no further action is required to dispense with the Hearings Body recommendation.

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

SECTION 5.1.240 REQUIREMENTS FOR "Q" QUALIFIED CLASSIFICATION:

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

The applicant recognizes that distinctive zoning restrictions might be imposed on the property during the hearing, such as adding a condition to limit future Planned Unit Developments on the site.

SECTION 5.1.250 PERMITS AND APPLICATIONS MORATORIUM:

1. After a proposed rezoning has been set for public hearing, no building or sewage disposal system permits shall be issued until final action has been taken. Final action constitutes either:

a. Withdrawal of the application by the applicant;

b. Expiration of the County's appeal period without an appeal having been filed; or

c. Final order of Board of Commissioners upon hearing the appeal.

2. Following final action on the proposed rezoning, the issuance of a verification letter shall be in conformance with the application approval.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

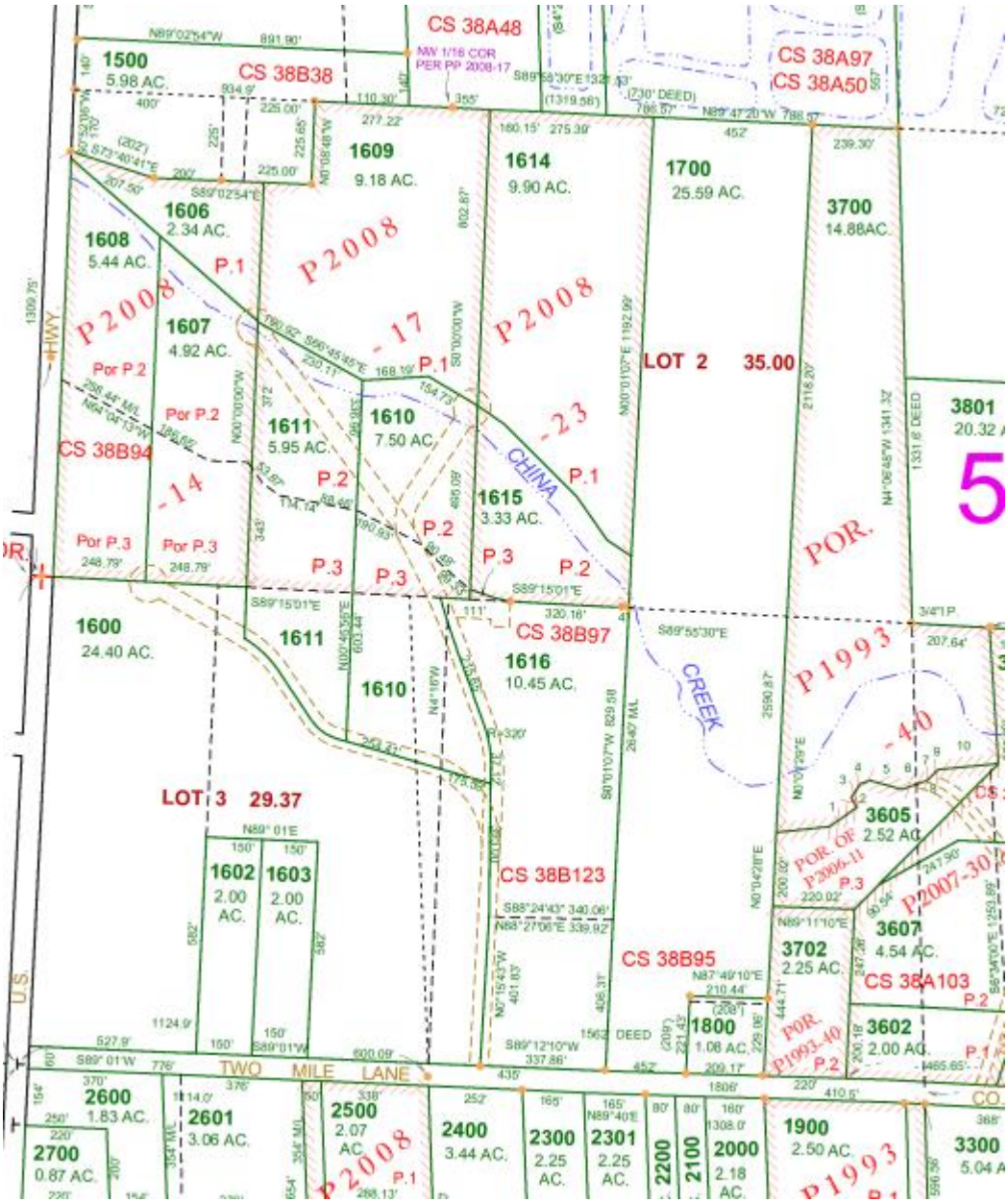
SECTION 7.1.250 MATERIALS REQUIRED FOR AN APPLICATION:

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

1. Traffic Plan - A parking/traffic plan shall be submitted to address all of the following:
a. Property boundaries;
b. Location of all structures on the subject property;

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

Applicant Response: The properties are accessed via Two Mile Lane, a Major Collector according to the Coos County Transportation System Plan. The boundaries of these properties are shown on the Coos County Assessor's plat map below.



Source: Coos County Assessor Dept

There is currently a residential roadway constructed on the subject properties. There are underground electrical conduit and a utility box along this route.

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

Applicant Response: The applicant commissioned a Traffic Study from an Oregon registered Professional Engineer. The report is attached to this application.