



## Coos County Community Development

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DATE: October 22, 2024

TO: Board of Commissioners  
County Counsel

FROM: Jill Rolfe, Community Development Director

RE: Amendment/Rezone Application for Michael Chupka

Please find the staff report and ordinance for your consideration in the October 29, 2024 Hearing for a Plan Amendment and Rezone from Forest with a Mixed Use Overlay to a Q-RR-5.

The hearing will take place at 1:30 on the 29<sup>th</sup> of October in the Owen Building, Large Conference Room.

Please let me know if you have any questions.

1 BOARD OF COMMISSIONERS

2 COOS COUNTY

3 STATE OF OREGON

4 In the Matter of Amending the Coos County  
5 Comprehensive Plan Designation and Zone Map from  
6 Forest with a Mixed Use Overlay to Q Rural Residential

ORDINANCE No.: 24-08-006PL

7  
8 SECTION 1. TITLE

9 This Ordinance shall be known as the "Coos County Ordinance No. 24-08-006PL".

10 SECTION 2. AUTHORITY

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

12 SECTION 3. PURPOSE

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

17 SECTION 4. FINDINGS AND ORDER

18 WHEREAS the property owners Coos County applied on properties described as map number: Township  
19 28S, Range 14W, Section 16, Tax Lot 1600, Tax Account Number 954900. Tax lot is currently zoned Forest and  
20 designated as Forest with Mixed Use Overlay. The proposal is to amended the Coos County Comprehensive Plan  
21 (CCCP) CCCP designation and zoning from Forest with a Mixed Use Overlay to Q-Rural Residential-5 (RR-5) with  
22 a 10 acre minimum lot size, as presented by in the application found at Attachment A;

23 WHEREAS Staff reviewed the proposal and made findings in the September 26, 2024, staff  
24 report that the applicant met the required criteria and recommended that the Planning Commission (Hearings  
25 Body) find that the application complied with the Coos County Zoning and Land Development Ordinance  
26 (CCZLDO) Article 5.1 Plan Amendments and Rezones.

27 WHEREAS the Hearings Body held a public hearing on October 3, 2024, for the purpose of reviewing all  
28 the evidence and testimony in this matter. The Planning Commission made the recommendation to the County  
29 Board of Commissioners (BOC) that the plan amendment rezone would meet the criteria with a qualifier;

1 AND IT APPEARING to the Coos County Board of Commissioners that the Planning Commission did  
2 adequately review all of the testimony and evidence in the matter and held another public hearing on the matter  
3 to consider any additional testimony and evidence on October 29, 2024.

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

10 SECTION 5. SEVERANCE CLAUSE

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

16 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

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

20 SECTION 7. EMERGENCY CLAUSE

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

24 Adopted this Dated this 29<sup>th</sup> day of October 2024.

BOARD OF COMMISSIONERS

25 ATTEST

\_\_\_\_\_  
Chair

26 Recording Secretary  
Approved as to form:

\_\_\_\_\_  
Vice Chair

27  
28 Office of Legal Counsel

\_\_\_\_\_  
Commissioner

29 Planning Commission Reading: October 3, 2024  
Board of Commissioner Reading: October 29, 2024  
30 Effective Date of Adoption: October 29, 2024



## STAFF REPORT

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

**DATE OF REPORT:** October 22, 2024

**MEETING DATE:** October 29, 2024

**FILE NUMBERS:** AM-24-003/RZ-24-002

**APPLICANT:** Michael Chupka Sr., Michael Chupka Jr., Regan Chupka

**CONSULTANT:** Sheri McGrath

**STAFF CONTACT(S):** Jill Rolfe, Planning Director  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

**SUBJECT PROPERTY:**

**Account Number:** 954900

**Map Number:** 28S141600-01200

**Property Owner:** CHUPKA, MICHAEL J SR ET AL  
129 CASTLEWOOD CIR  
LITTLETON, NC 27850-7817

**Acres:** 26.10 Acres

**Zone:** FOREST (F)

**Special Development Considerations and Overlays:** BANDON AREA OF MUTUAL INTEREST (BMI)  
FOREST MIXED USE (MU)  
NATIONAL WETLAND INVENTORY (NWI)  
NH TSUNAMI (NHTHO)

**SUMMARY PROPOSAL:** The landowners (applicants) request a review of a Plan Amendment and Map Rezone application that will result in a Post-Acknowledgement Plan Amendment to the Coos County Comprehensive Plan, changing the subject property from a Forest zoning district and removing the Mixed-Use overlay to apply a Rural Residential zoning district. This request further request to apply the Rural Residential-5 zoning for consistency with other zoning districts that abut the subject property.

The subject property was purchased last year by the applicants/landowners. The applicants wishes to develop the subject property with a residential dwelling not associated with forest or farming practices. A review of the subject property and adjacent areas indicates that the current zoning status no longer reflects the characteristics of the area. The landowners are requesting that the County amend the Comprehensive Plan to accurately reflect the intended use of the property before proceeding with development.

The Planning Commission reviewed the matter and recommended approval to the Board of Commissioners.

**SUMMARY OF EXCEPTION PROCESS:** In Oregon land use, the term "irrevocable commitment" refers to an exception process used when property owners or developers seek to

change or alter land use in a way that is not typically permitted under statewide planning goals, particularly related to agricultural and forest lands. The irrevocable commitment exception process is most commonly associated with Goal 3 (Agricultural Lands) or Goal 4 (Forest Lands) and is a type of "Goal Exception."

#### Key Concepts:

1. Goal Exception: Oregon has 19 statewide land use planning goals, which provide guidelines and restrictions for how land can be used. In cases where a proposed use conflicts with one or more goals (e.g., converting agricultural land for urban development), a "goal exception" can be sought. This is essentially a request to make an exception to the standard land use policies.
2. Irrevocably Committed Lands: The concept of irrevocable commitment applies to lands that have been so extensively developed or altered that they are no longer suitable for their designated use under the state's land use goals. For example, if farmland is surrounded by non-farm uses (e.g., homes, commercial buildings), the land may be considered "irrevocably committed" to non-farm use.
3. Exception Process:
  - a. The exception process allows local governments to approve land use changes that would otherwise not comply with statewide goals.
  - b. To approve an irrevocable commitment exception, local governments must demonstrate that the land is no longer suitable for its designated use (e.g., farming or forestry), and that the proposed new use will not significantly conflict with nearby land uses or state planning goals.
  - c. The exception must be adopted as part of the local government's comprehensive plan. Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability; (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and (c) Complies with standards for an exception.
4. Approval Criteria:
  - a. To grant an irrevocable commitment exception, the applicant must provide evidence that:
    - i. The land is no longer suitable for its current zoning (e.g., for farming or forestry) due to surrounding uses.
    - ii. The new proposed use is the best option given the current state of the land.
    - iii. The proposed change won't create conflicts with existing uses or undermine
    - iv. local planning authority must review and approve the exception. The findings have to clearly show that 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. In this case Farm or Forest as it have been designated

In summary, the irrevocable commitment exception process allows for land that has been significantly altered or impacted by surrounding development to be reclassified or repurposed for a new use that wouldn't otherwise be allowed under Oregon's land use goals.

The second portion of this request is to have the Rural Residential-5 designation apply but with the understanding it would be a ten-acre minimum lot size. This would be a Qualified-Rural Residential-5 with the qualifier requiring the ten-acre minimum lot size.

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

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

**STAFF RECOMMENDATION:** After reviewing the application, it is clear that the applicant understands and has thoughtfully addressed the relevant criteria. The applicant demonstrates how the surrounding lands have transitioned, making the property unsuitable for its current zoning (e.g., farming or forestry) due to the nearby rural residential uses. The property is now surrounded by other rural residential zones, and the proposed new use is the most appropriate given the current conditions of the land.

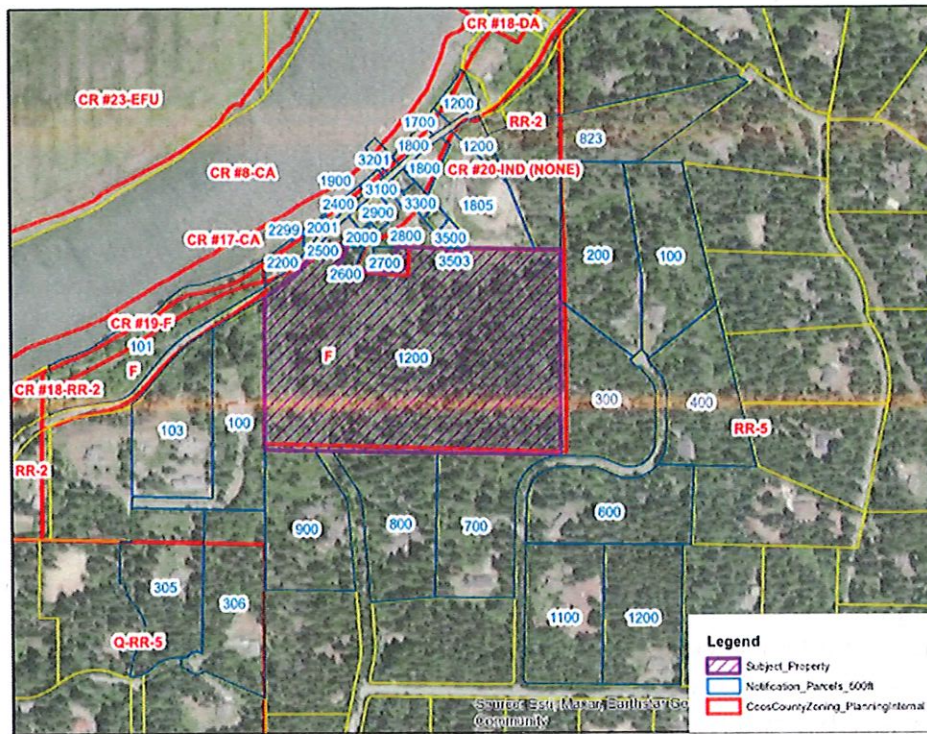
The proposed zoning change will not create conflicts with existing uses or undermine the land use goals of the area. While the irrevocable commitment exception process applies under Goals 3 and 4 to determine whether agricultural or forest land have been committed to non-resource uses, the applicant's request is consistent with these goals and focuses on compatibility with the Coos County Comprehensive Plan and other Statewide Planning Goals.

The applicant is not seeking an exception to Goal 14, but is instead aligning with the request for the 10-acre minimum lot size. This request is consistent with the Coos County Comprehensive Plan and is compatible with all applicable planning goals. The applicant has demonstrated that the proposed use meets the criteria for the zoning change, ensuring both consistency with the surrounding land uses and broader planning objectives, without needing a Goal 14 exception.

**LOCATION OF PROPOSAL:** The subject property is situated in a rural area near Bandon, Oregon, specifically in the Prosper and Parkersburg areas of Coos County. This region appears to be characterized by a mix of rural residential uses, agriculture, and small-scale forestry.

In considering the proposal, it is important to consider this property is approximately two miles northeast of the City of Bandon off of Prosper Junction Road. The area is a mix of rural residential homesites, agricultural activities such as cranberry farming and livestock/hay

production, and small woodlot forestlands. Despite being relatively close to the city, the area retains its rural character with limited development, agricultural uses, and some forestry.



#### PLAN BACKGROUND FOR RURAL RESIDENTIAL ZONING:

- The following information explains how the Rural Residential Zones were established under the Coos County Comprehensive Plan (CCCP). Rural Residential zoning was developed under the original Statewide Planning Goal 14. Staff has provided background information and explained the relevance of the amended Goal 14, which would apply if the applicant chooses to justify a minimum lot size smaller than 10 acres.

#### Section 4.1.2

#### Statutory Requirements: Relationship of Rural Housing to Resource Management

The process of planning for future rural housing growth is intimately related to the process of planning for resource management. This relationship stems from both practical and legal considerations.

Most land development and conservation actions arise as a response to pressure for change. The most common types of resource land, agricultural and forest land, have been viewed historically as the raw land base for residential, industrial and commercial development, and therefore, are the types of land most likely to experience the most severe pressures for change. From the practical standpoint, conserving and protecting this raw land base does two things: 1) it ensures the continuance of the agriculture and forestry economic sectors, and 2) it enables

the selection of more efficient rural development patterns.

Legal parameters are provided by the Statewide Agricultural Lands and Forest Lands Goals (#3 and #4, respectively) and by LCDC's Administrative Rules. The goals 1) require lands with soils in SCS classes I-IV (and other farmlands) to be preserved and placed in an "exclusive farm use" (EFU) zone, and 2) require the conservation of forest lands for forest uses. Whenever such lands are not conserved and protected, a governing body is required to prove through a goal exception procedure that such lands are either:

1. No longer available for resource production because they are either physically developed or built upon or irrevocably committed to urban or rural uses and cannot be reclaimed for forest or farm uses; or
2. Needed for non-resource uses. Coos County withdrew its previously adopted goal exception for category 2 (1985) above as applied to rural residential lands, based on a clear indication that LCDC will simply not accept any arguments for a goal exception based on need. Instead, Coos County has adopted a goal exception for "Committed Lands" as defined 1) in general in LCDC Administrative Rule #660-04-028 and 2) in more detail within this inventory document.

#### 4.3.1 Introduction

Although both LCDC Goal #2, "Exceptions", and the LCDC administrative rules for goal exceptions were revised to recognize the special circumstances involving areas that are "physically developed" or "irrevocably committed" to a non-resource use, neither the goal nor the rules define the two terms except to say that their meaning "will depend on the situation..." at the site and at adjacent areas. In a broad sense, the terms can be defined to mean that one or more of the following conditions exists:

1. There is actual physical coverage of the land with structures to the point that little open land remains ("physically developed");
2. The concentration of dwelling units present is substantial enough to interfere with standard commercial farming and forestry practices ("irrevocably committed");
3. The land has already been divided into such small parcel size that the consolidation or assemblage of parcels sized large enough to permit efficient resource production is no longer possible ("irrevocably committed").

The first step in the process of identifying areas that are "physically developed" and "irrevocably committed" to residential development (hereafter simply referred to as "committed areas") is to select precise practical criteria which define committed areas in terms of the three conditions listed above.

#### 4.3.2 Procedure for Identifying "Committed Areas"

In the County's first effort toward Plan acknowledgement (rejected selectively by LCDC), "Committed Areas" were identified by mapping the existing (1978) pattern of individual tax lots and superimposing the location of existing dwellings as determined by the Coos County Land Use Inventory (1978). This work was done at the scale of 1" = 800 feet, which enabled all tax lots and the location of dwellings to be identified

precisely. An initial assumption was made that a 10-acre parcel was the realistic minimum lot size upon which resource production (farming or forestry) could occur. (Although farm and forest uses can and do occur on smaller parcels, the resource use tends to be sporadic and indistinguishable from the use of the property as residential.) Thus, parcels that were generally less than 10 acres in size were equated with being lost to resource production and were therefore considered available for rural housing (see "Agricultural Lands" and "Forest Lands" chapter for rationale). Based on this guiding assumption, the following criteria were used to delineate the boundaries of potential "Committed areas".

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

Therefore, it is de facto a "committed area".

The rationale for including larger lots in committed areas, even when undeveloped, was that such are highly impractical to use for resource production due to close proximity to residential areas

As an additional check on the validity of each potential "committed area," data was developed for the following factors:

1. Gross residential density,
2. Percentage of coverage by residential uses.

The data was obtained as follows:

1. Gross Residential Density. This was calculated for each potential "committed area" by dividing the area's total acreage by the number of dwelling units (A/DU).
2. Percentage of Residential Coverage. This is the inverse of the gross density and was figured by dividing the number of dwelling units in the study area by the area's total acreage, and then multiplying the result by 100%. The resulting figure gives an indication of the actual physical coverage of land, assuming that each dwelling unit and accessory uses occupy one acre.

If the gross residential density was greater than one dwelling every 10 acres, or if the percentage of residential coverage was greater than 10%, an area qualified as a "committed use" See "Spatial Characteristic Matrix" below

Table 10. Spatial Characteristics Matrix

Gross Residential Density (Acres/DU)	% of Residential Coverage (du/ac x 100%)	Level of Commitment to Residential Use	Exception Required
<1.9	50-100%	"Physically Developed	Committed
2.0-9.9	10-49%	Irrevocably Committed	Committed
>10.0	0-9%	Available for resource production	Full Findings

Other Criteria

In order to identify these "committed areas", certain additional characteristics and patterns were also considered. They are as follows:

1. Types and availability of public services. If public water or sewer are available, the area is likely losing (or has lost) its resource related character and is a prime candidate for inclusion as a "committed area".
2. Clustering patterns. If the study area includes small existing subdivisions as well as a number of parcels each larger than 10 acres, so that the average parcel size is less than 10 acres, the clustered areas are separated out where practicable to avoid artificially large delineation of non-resource use commitment.
3. Existing farm/forest practices. If an area of parcels generally less than a 10-acre average size is nevertheless engaged in grazing or specialty crop production (such as cranberries or Christmas tree farming), the land is in fact available for resource production. The use of air photography and the Land Use Inventory enables the identification of certain exceptional areas where resource management is occurring on a small scale.

It was then possible to identify "committed areas" based on the tests outlined above.

4.3.3 Additional Committed Areas (1984)

Following LCDC's rejection of portions of the County's original rural housing goal exception, the Planning Commission relaxed its definition and criteria for defining committed areas so as to follow more closely the guidance given by LCDC staff. At the same time, however, the Planning Commission also made new detailed findings for all committed areas (using revised study-area acre boundaries) based on the factors required by OAR 660-04-028(2). Findings and conclusions based on these factors are included as Appendix D of this inventory.

The results are summarized below:

Acres	1984 Changes
16,911	Original committed area total from adopted plan
+3,339	Full exception acreage (from original exception) changed at DLCD suggestion to committed status
+726	Resource land reviewed at DLCD suggestion and subsequently changed to committed status <sup>2</sup>
+574	Subdivisions added to committed status
+618	Full exception acreage (from original exception) to committed status in response to citizen requests
-89	Cranberry bogs deleted from committed area status
22,082	Total committed areas as revised

### 1985 Committed Area Revisions

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

Volume I, Part 3 Exceptions, contains all of the residential exceptions for Rural Residential Zones that were adopted as part of the 1986 Comprehensive Plan. Rural Residential Exceptions were part of a broader housing discussion in the Comprehensive Plan. They were designed to provide for transitional lands, acting as a bridge from Farm and Forest to Urban, or to identify lands that were not viable for commercial farm or forest use and were already committed to other uses (in this case, residential). Rural Residential exception land is not viable for farm or forest use due to several factors, including adjacent uses, size, location, soils, commercial enterprise, and resource management. These properties are not included in a housing needs analysis, which focuses on urban and urbanizable lands. Therefore, a housing need does not justify rural residential zoning; rather, a non-resource rezone or commitment to other uses is the path for justification.

Again, it is very important to remember that Goal 14 was amended in 2000.

Definition from the 1975 original goals<sup>1</sup>:

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

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

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

The Coos County Comprehensive Plan Volume 1 Balance of County is the appropriate portion of the comprehensive plan that pertains to this property, as the property is not in one of the estuary plans. To determine compliance, the county will need to go through the same process that was used to determine the original zoning and like zoning.

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

5.1 INTRODUCTION

5.1.1 Purpose:

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

5.1. 2 Exception Criteria:

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

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

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

OAR 660-04-028(2) interprets the referenced goal language to mean that the following factors from OAR 660-04-028(6) shall be addressed in the findings of fact for the goal exception:

- o existing adjacent uses:
- o public facilities and services:
- o parcel size and ownership patterns of the exception area and adjacent lands:

- o neighborhood and regional characteristics:
- o natural boundaries or other buffers separating the exception area from adjacent resource land:
- o physical development according to OAR 660-04-025: and
- o other relevant factors.

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

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

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

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

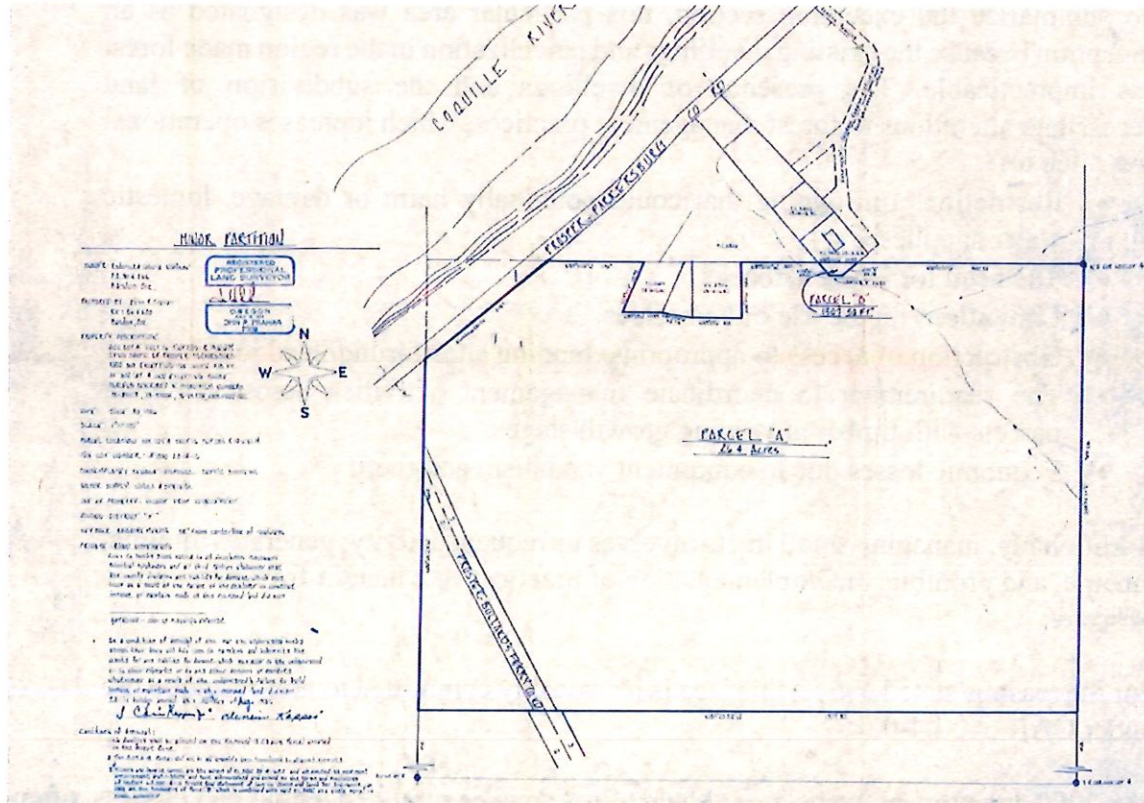
Prior to the 2000 amendment, some areas could allow smaller rural residential parcel sizes, often less than 10 acres, depending on the zoning and local land use rules. After the amendment, the minimum parcel size for rural residential land outside of UGBs was increased to 10 acres in many cases. This change was made to better control urban sprawl and preserve rural lands for agriculture, forestry, and other non-urban uses.

Because the 2000 amendment changed the rules, any rezone application or land use proposal that was subject to the guidelines prior to 2000 would follow the older standards. However, proposals made after the amendment must adhere to the updated guidelines, including the increased minimum parcel size requirement of 10 acres for rural residential developments outside UGBs.

This means that rezones involving smaller parcel sizes or those that might have been allowed before the 2000 amendment are no longer viable under the updated guidelines. Any new application for a rezone that attempts to reduce parcel sizes below the 10-acre minimum would not follow the current rules and would likely require an exception or a new justification based on the post-2000 standards.

**SUBJECT PROPERTY DETAILS AND BACKGROUND:**

In 1986 the subject property was approved for an Administrative Conditional Use (ACU-86-62) to allow a partition to divide off .03 acres, which was to be transferred to an adjacent property owner as they had been using the portion of property as a yard. A Minor Partition (MP-86-22) was approved giving the property its current configuration.



On April 9, 1990, a Conditional Use (ACU-90-13) was approved to allow a Forest Related Dwelling. It appears the dwelling was not constructed at the time, and the application is no longer valid.

On January 28, 2008, a pre-application was submitted to discuss the possibility of a rezone to residential. The pre-application conference was held on April 10, 2008, and a post-conference report was mailed on April 14, 2008. The applicant at the time wanted to rezone the property to Rural Residential, and the comments on the pre-application indicated that an exception process could be applied for, but the 10-acre minimum parcel size would apply. At that time, it was suggested that the irrevocable commitment exception process would be the appropriate path.

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

Another pre-application was requested, and a meeting was held in early 2024. During this meeting, options for a rezone were discussed and presented.

The first option is to pursue a non-resource rezone, wherein the property owner must demonstrate that the property is not predominantly Class I-IV soils or that it predominantly consists of soils incapable of producing 5,000 cubic feet of commercial tree species. This process requires addressing Section 5.1.275.

The second option, if the property does not meet the criteria for a non-resource rezone, is to undergo an exception process. Part II of Goal 2 allows local governments to take exceptions to land use goals under unique circumstances that justify local overrides for better outcomes. However, any changes to comprehensive plans must still comply with statewide planning goals, and further information on post-acknowledgement plan amendments is available.

If the applicant successfully rezones the property, a ten-acre minimum lot size would apply. The distinction between the two processes lies in the density allowed: a non-resource rezone permits one dwelling per 10 acres, while an exception could allow for the siting of a primary dwelling and an accessory dwelling unit. However, it's important to note that the accessory dwelling unit would need to be applied for and is not an outright use.

**PUBLIC HEARING:**

The time and place for the Coos County Board of Commissioners to review this matter in a public hearing is October 29, 2024, at 1:30 P.M. in the Owen Building, 201 N. Adams Street, Coquille Oregon

- i. **Notice Requirement:** This application is a Plan Map Amendment/Rezone governed by CCZLDO Section 5.0.900.3. The notice of Post Acknowledge Plan Amendment notice was provided 35 days prior to the Planning Commission meeting to meet the requirements of ORS 197.610. The hearing notice was published in accordance with ORS 197.732. Notice was mailed to property owners in compliance with CCZLDO Section 5.0.900.1 Notice of Public Hearings.
  
- ii. **REVIEW PERIOD:** This application was originally submitted on July 2, 2024. Pursuant to ORS 215.427 this application is not subject timelines as it is application for a zone change filed concurrently and considered jointly with a plan amendment.

**COMMENTS:** Comments were received during the pre-application meetings, but none have been received to date in response to the formal application. The Department of Land Conservation and Development (DLCD) clarified that the applicant would not qualify for a five-acre minimum parcel size. If rezoned, the property would be limited to a 10-acre minimum parcel size; however, the applicant could qualify for Accessory Dwelling Units (ADUs), which would provide the option for additional dwellings.

The Oregon Department of Transportation had no comments, as the property does not directly affect a state facility.

The County Road Department has not provided formal comments on the proposal but verbally indicated that they have no objections.

**I. PROPOSED FINDINGS**

**A. APPLICABLE IDENTIFIED REVIEW CRITERIA:**

- Coos County Zoning and Land Development Ordinance (CCZLDO)
  - Article 5.1 Plan Amendments and Rezones
- Coos County Comprehensive Plan Volume I
- Coos County Comprehensive Plan Maps #14 Zone Maps and #16 Mixed Use Maps
- Oregon’s Statewide Planning Goals & Guidelines Goals
  - 3 Agricultural Lands
  - 4 Forest Lands
  - 5 Natural Resources, Scenic and Historic Areas, and Open Spaces
  - 6 Air, Water and Land Resource Quality
  - 7 Areas Subject to Natural Hazards
  - 9 Economic Development
  - 10 Housing
  - 11 Public Facilities and Services
  - 12 Transportation
  - 13 Energy Conservation
  - 14 Urbanization
  - 15 Willamette River Greenway
  - 16 Estuarine Resources
  - 17 Coastal Resources
  - 18 Beaches and Dunes
  - 19 Ocean Resources

**B. SOIL – NRCS SOIL**

Soil Information:

Coos County, Oregon (OR011)			
Coos County, Oregon (OR011) <span style="float: right;">⊗</span>			
Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
1C	Bandon sandy loam, 7 to 12 percent slopes	9.6	39.4%
8D	Bullards sandy loam, 12 to 30 percent slopes	0.1	0.6%
8E	Bullards sandy loam, 30 to 50 percent slopes	14.6	59.9%
11	Clatsop mucky peat	0.0	0.1%
<b>Totals for Area of Interest</b>		<b>24.3</b>	<b>100.0%</b>



Map unit symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site Index	Volume of wood fiber Cu ft/ac/yr	
1C—Bandon sandy loam, 7 to 12 percent slopes				
Bandon	Douglas-fir	104	143.00	Douglas-fir, Sitka spruce, Western hemlock
	Pacific madrone	—	—	
	Port orford cedar	—	—	
	Red alder	—	—	
	Shore pine	94	86.00	
	Sitka spruce	142	200.00	
	Western hemlock	134	200.00	
	Western redcedar	—	—	
8D—Bullards sandy loam, 12 to 30 percent slopes				
Bullards	Douglas-fir	104	143.00	Douglas-fir, Sitka spruce, Western hemlock
	Pacific madrone	—	—	
	Red alder	—	—	
	Shore pine	—	—	
	Sitka spruce	157	229.00	
	Western hemlock	—	—	
	Western redcedar	—	—	
8E—Bullards sandy loam, 30 to 50 percent slopes				
Bullards	Douglas-fir	104	143.00	Douglas-fir, Sitka spruce, Western hemlock
	Pacific madrone	—	—	
	Red alder	—	—	
	Shore pine	—	—	
	Sitka spruce	157	229.00	
	Western hemlock	—	—	
	Western redcedar	—	—	

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

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

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

This unit is used mainly for timber production, wildlife habitat, and homesite development. It is also used for pasture and recreation. This unit is suited to the production of Douglas fir. Among the other species that grow on this unit are Sitka spruce, western hemlock, red alder, and western redcedar. The understory vegetation is mainly salal, evergreen huckleberry, western brackenfern, and Pacific wax myrtle. On the basis of a 100-year site curve, the mean site index for Douglas fir is 137. At the culmination of the mean annual increment (CMAI), the production of 60-year-old Douglas fir trees 1.5 inches in diameter or more at breast height is 140 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 105. High winds from the Pacific Ocean may seriously limit the growth of trees unless they are in a protected area. The main limitations for the management of timber on this unit are the hazard of windthrow and plant competition. Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, western hemlock, and Sitka spruce seedlings. If this unit is used for homesite development, the main limitations are the very slow permeability and the hazard of erosion. Use of septic tank absorption fields is limited by the very slow permeability. 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. Erosion is a hazard in the steeper areas of this unit. Only the part of the site that is used for construction should be disturbed. The risk of erosion is increased if the soil is left exposed during site development. Revegetating disturbed areas around construction sites as soon as possible helps to control erosion. Structures to divert runoff are needed if buildings and roads are constructed. If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production. Sprinkler irrigation is a suitable method of applying water. Use of this method permits the even, controlled application of water. Water should be applied in amounts sufficient to wet the root zone but in amounts small enough to minimize the leaching of plant nutrients. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs.

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

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

This map unit is in capability subclass IIIe.

### **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 gullyng unless they are provided with adequate water bars or are protected by plant cover, or both. Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings. If this unit is used for recreational development, the main limitations are slope and the hazard of erosion. Slope limits the use of areas of this unit mainly to a few paths and trails, which should extend across the slope.

The risk of erosion is increased if the soil is left exposed during site development. Revegetating disturbed areas around construction sites as soon as feasible helps to control erosion. This map unit is in capability subclass VIe.

Chapter 2 Definition:

*HIGH-VALUE FARMLAND: "High-value farmland" means land in a tract composed predominantly of soils that are:*

- A. Irrigated and classified prime, unique, Class I or Class II; or*
- B. Not irrigated and classified prime, unique, Class I or Class II.*

*A and B, above, include the following soils: 2C, 5A, 5B, 33, 17B, 25 and 36C.*

*In addition, high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.*

*Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40) and Coquille (12).*

**C. CRITERIA:**

Coos County Zoning and Land Development Ordinance (Ordinance)

- Article 5.1 Rezones

**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.*

**FINDING: This is a rezone request because it seeks to change the zoning classification of a specific property, applying an existing zone to allow for different land uses or development. Unlike original zoning or amendments to zoning regulations, which have broader applications, a rezone focuses solely on one property. The request meets the intent of zoning by adapting to changing conditions, addressing the property's needs, and ensuring consistency with broader planning goals.**

**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.*

**FINDING: The Planning Director does not recommend an expansion. Therefore, this has been addressed.**

***SECTION 5.1.215 Zoning for Appropriate Non-farm Use:***

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

**FINDING: This property is not an interior Exclusive Farm Use Zone and this criteria is not applicable.**

***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.*

**FINDING: This process has been followed currently and will continued to be followed.**

***SECTION 5.1.225 Decisions of the Hearings Body for a Rezone:***

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

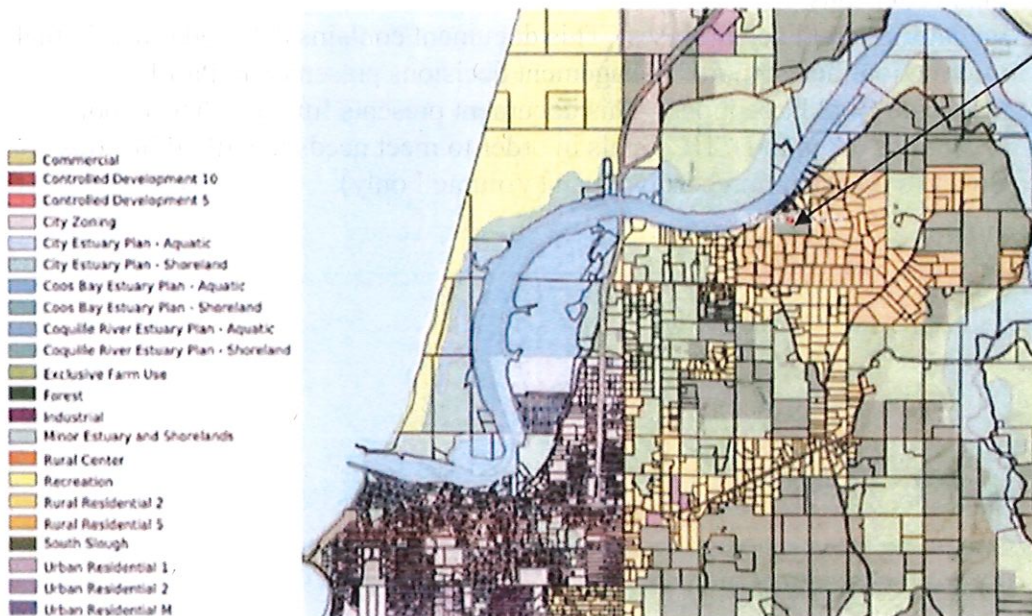
- 1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*
  - a. The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*
  - b. The rezoning will not seriously interfere with permitted uses on other nearby parcels; and*
  - c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.*
- 2. Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:*
  - a. The property may not be utilized for all the uses ordinarily permitted in a particular zone;*
  - b. The development of the site must conform to certain specified standards; or*

c. Any combination of the above.

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

- i. Such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood;
  - ii. Such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood;
  - iii. Such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or
  - iv. Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.
3. Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed.

**FINDING:** The request is for a rezone from the Forest zoning district to the Rural Residential zoning district. The subject property (indicated by the arrow on the map) is currently zoned as Forest but is surrounded on three sides by residential zoning, with the fourth side bordered by the road and the Coquille River Estuary.



The Planning Commission found that the proposed rezone from Forest to Rural Residential meets the criteria outlined in subsections 1.a through 1.c. It aligns with the Comprehensive Plan, relevant zoning regulations, and is compatible with surrounding land uses. The recommended the Board of Commissioners accept the finding. Additionally, it adheres to all applicable policies and ordinances. The rezone reflects the changing

**character of the area, supports residential development in accordance with established land use patterns, and does not interfere with the rights or permitted uses of neighboring properties.**

**However, in order to maintain compliance with Goal 14, a condition will be applied to ensure that the minimum lot size is upheld as a qualifier. Therefore, as outlined in subsection 2, it is recommended that the Board of Commissioners approve the rezone with the following condition: The development of the site must conform to specified standards, including the minimum lot size requirement.**

**The Coos County Comprehensive Plan Volume 1 Balance of County is the appropriate portion of the comprehensive plan that pertains to this property, as the property is not in one of the estuary plans. To determine compliance, the county will need to go through a similar process that was used to determine residential zoning but ensuring that the Statewide Planning Goals can be met and the rezone is consistent with the Coos County Comprehensive Plan Volume I.**

**➤ Coos County Comprehensive Plan Balance of County Volume I, Parts 1, 2 and 3.**

All request for Plan Amendments that result in a change to zoning are required to be consist with the Coos County Comprehensive Plan. In this case Volume I as the property is not zoned for estuary.

**Volume I is presented in three separate but related documents:**

Part 1: Plan Provisions

Part 2: Inventories and Factual Bases. This document contains data and other factual information that supports management decisions presented in Part I.

Part 3: Statewide Goal Exceptions. This document presents findings that support exceptions taken to LCDC Goals in order to meet needs identified in Coos County's local Comprehensive Plan (Volume I only).



The applicant has submitted the following information to justify the rezone request:

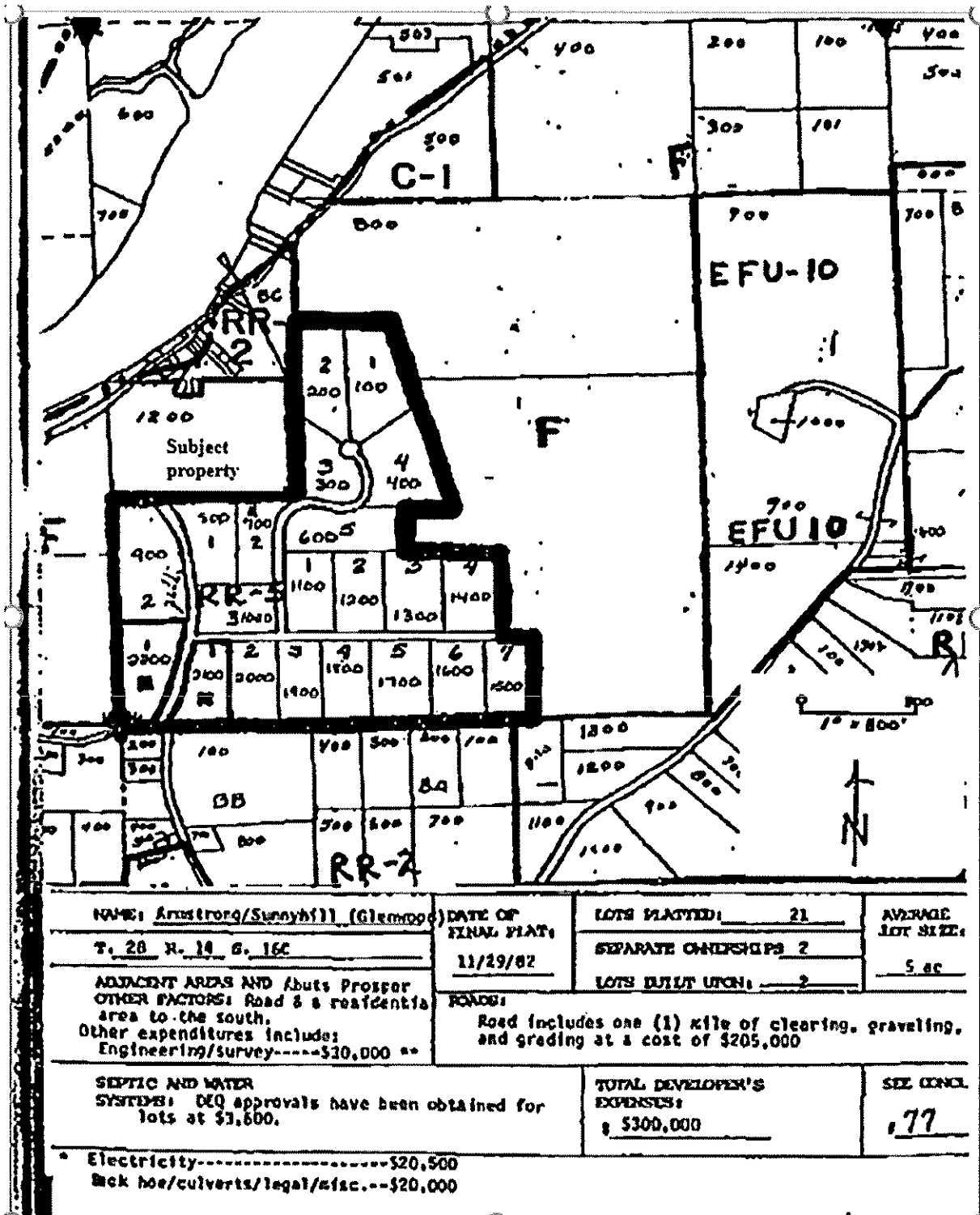
The subject property is located approximately 2 miles northeast of the City of Bandon. There is public right-of-way access to the property. From Highway 101, one travels east on Prosper Junction Road, then proceeds north on Bullards Ferry Road. The right-of-way ends at the subject property. This will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

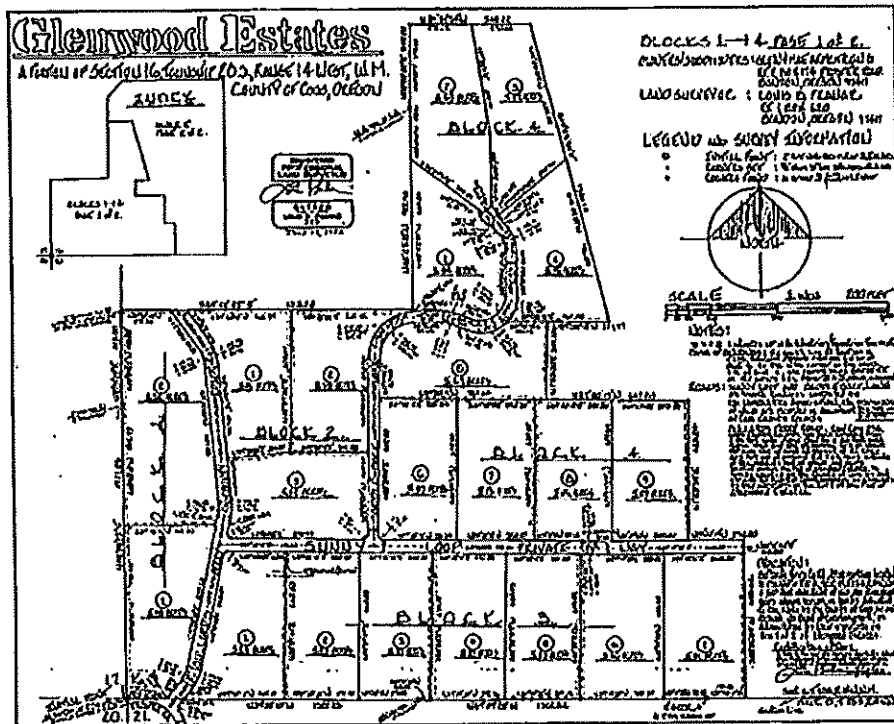
Based on the aerial imagery and County Assessor maps, the subject property is currently surrounded by small (less than 6-acre parcels) on the western, southern, and eastern sides. The subject property's southern and eastern property lines abut parcels located in the Glenwood Estates plat. This subdivision was originally platted in 1982, before the County Comprehensive Plan was adopted. The County identified this area as Area 77 in the rural housing exception area of the Coos County Comprehensive Plan.

North of the subject property is the historical community of Prosper. While a small historical area, prosper did not qualify as a Rural Center during the original comprehensive planning process. There are no urban services or community amenities in the area. Instead, the area was historically used for shipbuilding/repair, canning, and sawmilling. There is a specific exception for the Prosper Marina.

Based on the county assessor plat map, these parcels are relatively small. They range from 0.10 acre to 3.45 acre in size. Since the original zoning was approved, there have been three amendments/rezones adjacent to the subject property. At the time the Coos Comprehensive Plan was adopted the zoning pattern was a little different. Tax lot 1200 was not an isolated residentially zoned property. As shown below the property to the west was also zoned Forest.

The map below is from the original rural housing exception. The area in build was part of Exception 77.





**Area 77 Armstrong/Sunnyhill**

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

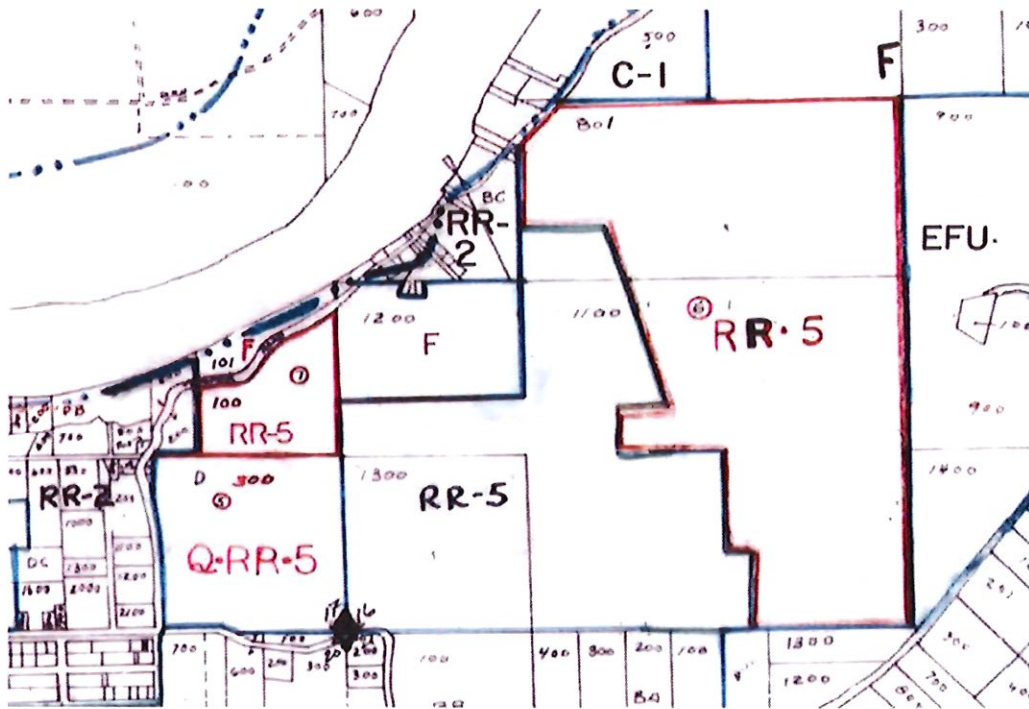
The area is predominantly Class I-IV agricultural soils. However, existing rural residential use to the north at Prosper, the two developed lots within the subdivision, the developed lots to the south and the road system and electrical service which extend throughout the property makes farm use of the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

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

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

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

The following zone map shows the change in the zoning since the original 1986 adoption.



There were three difference rezones surrounding the subject property:

- The first rezone (identified by #5 on the map) is located southwest of the subject property. The County assigned file number AM-91-10/RZ-91-05 to that application. This parcel was rezoned from Forest to Qualified-Rural Residential-5 and was adopted with Ordinance 91-08-015PL on December 11, 1991. Concerns were discussed during the public hearing, which resulted in a qualifier being added as part of the approval. The qualifiers required a screening buffer (an additional 75-foot vegetative setback) and limitations on ingress and egress along the southern property border.

There were existing RR-2 zoned parcels both to the west and south of the subject property. Most of the testimony in opposition to the application focused on the potential effects of additional residential development on water tables and concerns about new dwellings being placed near existing residences. Additional testimony from organizations outside the area raised procedural concerns related to planning goals. However, the county concluded that additional development on this parcel would not result in water table drawdowns.

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

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

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

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

- The second rezone (identified as #6 on the map) is located east and southeast of the subject property. The County assigned file number AM-92-11/RZ-92-04 to that application. This parcel was rezoned from Forest to Rural Residential-5 and was adopted on February 10, 1993, with Ordinance 92-11-016PL. The majority of the land in this rezone is located immediately east of Area 77, which is part of the rural housing exception.
- The third rezone (identified as #7 on the map) is located immediately west of the subject property. The County assigned file number AM-93-09/RZ-93-04 to that application. This parcel was rezoned from Forest to Rural Residential-5 and was adopted with Ordinance 93-08-14PL on November 3, 1993.

During the review, the County identified limitations regarding forest management on these parcels. According to Mike Groben, a Professional Forester, the merchantable timber on the subject property was small and had been recently harvested. Groben noted that significant limitations arise after harvesting, such as the need for intensive site preparation, slash disposal, and seedling management due to the dense understory of brush. These practices, including slash burning and aerial spraying, become hazardous and raise liability concerns due to the proximity of numerous dwellings and improvements on surrounding properties.

Groben emphasized that substituting these management practices with intensive manual labor is uneconomical and impractical, particularly on poorer soil sites (Class IV and V). The underbrush, combined with the dense branches on short, bushy trees, creates large slash accumulations, making burning necessary to clear the land for planting and reduce competition from brush. To prevent the regrowth of brush, aerial spraying is required to protect the slow-growing seedlings.

The County also found that while road construction on the subject tract would be simple and inexpensive, and the land is flat enough for logging equipment, windthrow caused by thinning or partial cuts is a serious problem due to the constant winds from the Pacific Ocean. Taking liability, poor site conditions, and low productivity into account, Groben concluded that forest management on the subject property does not appear to be a prudent consideration.

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

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

Additionally, there is an exception area located approximately 2,000 feet northeast of the subject property. This exception allows for the development of a marina. The concept behind the marina was to establish a facility with moorage, docks, lodging, and all necessary amenities to support recreational activities in the area. The justification for the zoning change was completed through a committed exception. Below is the text and a map that were adopted for the exception:

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

**Given the information from the surrounding properties the relevant criteria can be addressed as follows:**

**The Coos County Comprehensive Plan is designed to guide the orderly development of land within the county, ensuring that zoning changes are in line with broader planning goals such as protecting natural resources, managing growth, and maintaining the character of rural areas. The proposed rezone to rural residential aligns with the surrounding zoning changes that have occurred over the past forty years. Many properties to the west, south, and east have already been rezoned to rural residential, suggesting a shift in land use patterns toward low-density housing rather than resource-based activities like forestry or agriculture.**

**Additionally, Section 5.1.215 likely outlines specific criteria for rezoning decisions, such as ensuring consistency with existing land uses and maintaining the character of the surrounding area. The proposed rezone conforms to these standards, as it continues the pattern of rural residential development seen in nearby areas. By doing so, it supports the Comprehensive Plan's objectives, fostering responsible and compatible land use while balancing the needs of the growing residential population with the preservation of rural land.**

**The rezoning will not interfere with the existing or future uses of surrounding properties, as many of these parcels are already zoned for rural residential use. The shift from forest zoning to rural residential is consistent with the land uses on adjacent properties, where homesites have already been developed, many of which are serviced by on-site water and septic systems. Since the character of the area has already transitioned toward rural residential, the rezoning will blend seamlessly into the neighborhood without introducing incompatible uses or additional burdens on infrastructure.**

**Furthermore, permitted uses on nearby parcels, such as residential living and limited agricultural activities, will not be negatively impacted by the proposed zoning change. The proposed use under the rezone (rural residential development) is compatible with the surrounding properties and does not present any potential conflict with the established uses in the area. This demonstrates that the rezoning will not cause disruptions to neighboring landowners' rights or the continued functionality of their parcels.**

**The proposed rezone is expected to comply with all relevant local policies, ordinances, and future directives from the Board of Commissioners. This includes regulations related to lot sizes, land use density, and any applicable land use exceptions, such as those used in nearby areas like the Prosper marina. The Prosper marina, located just west of the subject property, was developed through a committed exception, showing that the Board has already allowed flexibility in zoning in this area for special circumstances.**

**Similarly, the proposed rezoning from forest to rural residential fits within the County's broader objectives of fostering compatible development and recognizing shifts in land use patterns, especially in areas like Prosper that have historically been more industrial but are transitioning to recreational and residential uses. The rezone request is consistent with**

policies promoting the balance of residential development with the preservation of rural character and natural resources.

Any specific requirements in local ordinances, such as those regulating minimum lot sizes, will be observed, with the applicant already acknowledging the 10-acre minimum lot size that applies in rural residential zones. In this way, the rezone request demonstrates clear compliance with the legal framework set forth by the Board of Commissioners and county planning authorities.

➤ **Statewide Planning Goals**

**A Summary of Oregon's Statewide Planning Goals and findings of Consistency.**

1. CITIZEN INVOLVEMENT

**FINDING: The County has a Citizen Involvement program and a single rezone is not required to address Goal 1 specifically. Anyone is able to comment on the proposed.**

2. LAND USE PLANNING Goal 2 outlines the basic procedures of Oregon's statewide planning program. It says that land use decisions are to be made in accordance with a comprehensive plan, and that suitable "implementation ordinances" to put the plan's policies into effect must be adopted. It requires that plans be based on "factual information"; that local plans and ordinances be coordinated with those of other jurisdictions and agencies; and that plans be reviewed periodically and amended as needed. Goal 2 also contains standards for taking exceptions to statewide goals. An exception may be taken when a statewide goal cannot or should not be applied to a particular area or situation.

OAR 660-004-0000

*Purpose*

- (1) *The purpose of this division is to interpret the requirements of Goal 2 and ORS 197.732 (Goal exceptions) 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 (Sewer Service to Rural Lands)(9);*
  - (b) *Standards for a demonstration of reasons for urban transportation improvements on rural land are provided in OAR 660-012-0070 (Exceptions for Transportation Improvements on Rural Land);*

- (c) *Standards to determine irrevocably committed exceptions pertaining to urban development on rural land are provided in OAR 660-014-0030 (Rural Lands Irrevocably Committed to Urban Levels of Development), and standards for demonstration of reasons for urban development on rural land are provided in OAR 660-014-0040 (Establishment of New Urban Development on Undeveloped Rural Lands).*
- (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.*
- (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.*
- (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.*

#### *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.

*OAR 660-004-0010 Application of the Goal 2 Exception Process to Certain Goals*

- (4) 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 (Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)) 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 (Sewer Service to Rural Lands)(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 (Compliance acknowledgment), 197.625 (Acknowledgment of comprehensive plan or land use regulation changes) or 197.626 (Submission of land use decisions that expand urban growth boundary or designate urban or rural reserves). 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 (Rural Lands Irrevocably Committed to Urban Levels of Development) or 660-014-0040 (Establishment of New Urban Development on Undeveloped Rural Lands), in conjunction with applicable requirements of this division;
- (e) Goal 16 "Estuarine Resources";
- (f) Goal 17 "Coastal Shorelands"; and
- (g) Goal 18 "Beaches and Dunes."
- (5) 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)), "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303 ("Needed housing" defined)(3)";
- (g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070 (Exceptions for Transportation Improvements on Rural Land), "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 (Reasons Necessary to Justify an Exception Under Goal 2, Part II(c))(6); and
- (j) Goal 19 "Ocean Resources."
- (6) 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.

**FINDING:** There are three different types of exception processes available. The applicant has applied for the “Irrevocably Committed” exception process. The concept of irrevocable commitment applies to lands that have been so extensively developed or altered that they are no longer suitable for their designated use under the state's land use goals.

The prior findings regarding the surrounding properties and the rezones that have taken place show that the current property has been irrevocably committed to a non-farm and forest uses.

Residential Exception Area 77, located near the subject property, was originally rezoned to Rural Residential under an irrevocably committed exception due to significant parcelization. The division of land into smaller lots in this area marked a shift away from resource land uses such as forestry, creating a dense rural residential community. This parcelization set a clear precedent for how the surrounding land could be used and developed, transforming the region’s land use character from resource-based to residential.

**Surrounding Rezones and Irrevocably Committed Exceptions:** Three surrounding parcels, identified as rezones #5, #6, and #7, were all rezoned through irrevocably committed exceptions from Forest to Rural Residential. These rezones were approved based on findings that the land was no longer viable for resource-based activities (such as forestry) due to changes in surrounding land uses, particularly the shift towards residential development. These parcels are located to the east, west, and south of the subject property, effectively isolating it from other resource-zoned land.

The surrounding residential development, combined with the infrastructure that supports these homesites, has altered the character of the area. These rezones demonstrate that the region has become irrevocably committed to non-resource uses, specifically low-density rural residential, and that forest management or resource-based activities are no longer feasible. The ongoing residential development in the area further supports the argument that the subject property is also no longer suitable for forest zoning.

Furthermore, the applicant identified the difficulty to conduct forest practices on surrounding properties as well as the subject property. The applicant further address the farm uses in the aera.

Furthermore, the other rezones provided justifications regarding the difficulty to use the property for Forest Use. The applicant further addressed the Farm Uses and why they are impactable on this property.

This shift from forest and agricultural uses to rural residential, further isolates the subject property. The subject property, now surrounded on three sides by residential zoning and by a road and the Coquille River Estuary on the other, no longer functions as part of a larger resource-based area. The zoning pattern in this neighborhood has shifted irreversibly toward residential uses.

## **Application of the Irrevocably Committed Exception Process:**

3. **AGRICULTURAL LANDS** Goal 3 defines "agricultural lands." It then requires counties to inventory such lands and to "preserve and maintain" them through farm zoning. Details on the uses allowed in farm zones are found in ORS Chapter 215 and in Oregon Administrative Rules, Chapter 660, Division 33.

**FINDING:** The applicant has identified agricultural operations in the area, with cranberry farming being the predominant use. However, the existing cranberry operations are located far from the subject property. The key question is whether a new agricultural operation, specifically cranberry farming or another type, could be established on the subject property.

### **Soil and Water Considerations:**

- **Soil:** Agriculture, particularly cranberry farming, is heavily dependent on soil quality. Cranberries require acidic, sandy, and well-drained soils to thrive. A soil analysis of the subject property would be essential to determine if the land is suitable for cranberry farming or other agricultural uses. If the soils are classified as poor for agricultural purposes (e.g., heavy clay or rocky soils), the likelihood of successfully establishing a new farming operation would be low. According to the soil report, the soil does not support agricultural crops, this would further justify a rezone to Rural Residential. It does support Forest but there are still limitation.
- **Water:** Adequate water supply is another critical factor. Cranberry farms or any agricultural operation, as agricultural operation would require a significant amount of water for irrigation, frost protection, and flooding for harvest. The subject property's access to reliable water sources, such as irrigation infrastructure or groundwater, would need to be assessed. If water access is limited or unreliable, it would be difficult to establish and sustain any type of farming operation, especially cranberries.

Cranberries require significant irrigation for both growing and wet harvesting. While this is not directly addressed in the Coos County Comprehensive Plan, the County has relied on data from the Oregon Cranberry Farmer Alliance Water Committee (see page 45 of the application) during the AM-91-10/RZ-91-05 rezone. According to the Alliance, one acre of cranberry bog requires 12,000 gallons of water daily. The Coos County Comprehensive Plan historically identifies cranberry farms as being 7-10 acres in size, though this assumption is outdated as modern cranberry farms tend to be much larger. Given the subject property's proximity to the saltwater portion of the Coquille River, water for irrigation would need to come from a well, as river water would be too saline for cranberry production.

Using data from the Oregon Water Resources Department's Well Report Mapping Tool, three known wells are located within the 1/16 section near the subject

property. Two of these wells produce 20 gallons per minute (gpm), while another produces 7.5 gpm, averaging 15 gpm, or 900 gallons per hour, equating to 21,600 gallons per day. This amount of water would barely be enough to irrigate two acres of cranberry fields, as the crop requires 12,000 gallons of water per acre per day. Given these figures, the available water is insufficient to support even a small cranberry operation, which would require a much larger supply of water.

Additionally, drawing this volume of groundwater for agricultural irrigation could pose a risk to the surrounding residential properties, potentially causing residential wells to dry up. This concern further complicates the feasibility of establishing a new cranberry farm on the subject property. In conclusion, the limited water resources and the potential negative impact on neighboring residential wells suggest that cranberry farming or any other significant agricultural use is not viable on the subject property. This supports the need for a rezone to Rural Residential, as the property is more suitable for residential development than for agricultural purposes.

**Current Operations Far from Subject Property:**

The fact that current agricultural operations are located far from the subject property suggests that the area around the subject land may not be as favorable for agricultural use. Proximity to other agricultural operations often indicates the presence of suitable conditions (soil, water, infrastructure), and the absence of farming nearby could point to limitations that make the subject property less viable for agricultural development.

**Conclusion:**

Given the dependency of agriculture on soil and water, the suitability of the subject property for establishing a new agricultural operation, particularly cranberry farming, would require further analysis. However, the absence of nearby agricultural activity and the potential limitations of soil and water availability suggest that the property may not be conducive to productive farming. These factors support the applicant's request for a rezone, as the property is more suited for residential development rather than agricultural use.



4. **FOREST LANDS** This goal defines forest lands and requires counties to inventory them and adopt policies and ordinances that will "conserve forest lands for forest uses."

**FINDING:** In response to why Goal 4 (Forest Lands) should not be applied, it's important to recognize that while the subject property is covered in forest vegetation, the criteria for managing forest products—such as growing and harvesting—must be impractical, even if not entirely impossible. The criteria include several key forestry practices that must be addressed, such as:

- Reforestation
- Road Construction/Maintenance
- Harvesting
- Application of Chemicals
- Slash Disposal
- Additional buffers from residential properties.

Reforestation involves planting trees and ensuring their survival and growth. While the act of planting trees may seem straightforward, the Oregon Forest Practices Act requires that

**newly planted trees not only survive the first year but also establish and grow over time. The site must be “free to grow” within six years (OAR 629-610-0000). The challenge lies not in the planting itself, but in the long-term success of reforestation, which could be hindered by environmental factors such as soil quality, competing vegetation, and the need for chemical treatments to control undergrowth. Additionally, the Oregon Private Forest Accord, which was established to balance forest management with environmental conservation, sets forth enhanced protections for water quality and wildlife habitats. Compliance with these protections could further complicate efforts to successfully reforest the subject property, making forest operations more difficult.**

**The subject property is directly accessed from a public right-of-way, Bullards Ferry Road, which reduces some logistical challenges. While the landowner might need to obtain permits to upgrade the right-of-way for logging truck access and hauling, these requirements are standard throughout Oregon. However, the Oregon Private Forest Accord introduces stricter regulations for road construction in forested areas, particularly where water quality and wildlife habitats are concerned. These regulations could make the process of building and maintaining roads more complicated and expensive, especially when considering factors like stormwater runoff and minimizing ecological impact. Still, road construction would not be an overwhelming challenge in this case, as the property shares similar characteristics with adjacent parcels that have already been successfully rezoned.**

**Harvesting operations, particularly clearcutting, are heavily regulated under the Oregon Private Forest Accord, which includes new rules for buffer zones around streams, steep slopes, and critical wildlife habitats. These regulations are designed to protect environmental resources but could limit the extent and efficiency of harvesting operations on the subject property. Given the additional challenges presented by these restrictions, particularly near the Coquille River Estuary, it would be impractical to conduct large-scale or efficient harvesting on this property.**

**The use of chemicals, such as herbicides, is another critical issue for forest management on the subject property. Under the Oregon Private Forest Accord, the application of chemicals is subject to new restrictions aimed at protecting water quality and wildlife. These restrictions could make chemical application more costly and logistically complex, particularly in areas close to residential zones or water bodies. On this property, the proximity to nearby residential areas and the Coquille River Estuary would significantly limit the use of herbicides, making it difficult to manage competing vegetation and increasing the cost of forest operations.**

**Slash disposal, the removal or management of leftover vegetation after harvesting, is another challenge. Under normal circumstances, slash can be burned or chipped, but the Oregon Private Forest Accord sets forth additional requirements to minimize air pollution and reduce wildfire risk. Given the dense vegetation and potential slash accumulation on the property, compliance with these additional regulations could further complicate operations. This increases both the labor and cost involved in forestry, making forest management less economically viable.**

**In summary, while basic forestry practices such as reforestation and road construction maybe possible, the cumulative impacts of new regulations under the Oregon Private Forest Accord, especially regarding chemical application, slash disposal, and harvesting restrictions, make forest management on the subject property impractical. The property shares similar topography, soils, and vegetation with nearby irrevocably committed exception areas, and these factors further support the conclusion that the subject property should not fall under Goal 4 forest land designation. Instead, the property is more suitable for rezoning to Rural Residential based on its current context and the impracticality of sustained forest operations under modern regulatory conditions.**

5. OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES  
Goal 5 covers more than a dozen natural and cultural resources such as wildlife habitats and wetlands. It establishes a process for each resource to be inventoried and evaluated. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of a balance between the resource and the uses that would conflict with it.

**FINDING: The proposal does not change any of the Goal 5 resources. The only resources that apply are wetlands. At the time of development a notice will be provided to Department of State Lands to avoid any impacts if there are wetlands on the property.**

6. AIR, WATER AND LAND RESOURCES QUALITY This goal requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as groundwater pollution.

**FINDING: The Coos County Comprehensive Plan has goals and policies that are consistent with state and federal air, water and land resource quality. The proposal will not impact or modify those policies.**

7. AREAS SUBJECT TO NATURAL DISASTERS AND HAZARDS Goal 7 deals with development in places subject to natural hazards such as floods or landslides. It requires that jurisdictions apply "appropriate safeguards" (floodplain zoning, for example) when planning for development there.

**FINDING: The only Goal 7 inventory is tsunami but that does not apply to rezones or single-family dwellings. Therefore, the proposal is complaint.**

8. RECREATION NEEDS This goal calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expedited siting of destination resorts.

**FINDING: The proposal is for a rezone to residential and has no impact on recreational needs.**

9. ECONOMY OF THE STATE Goal 9 calls for diversification and improvement of the economy. It asks communities to inventory commercial and industrial lands, project

future needs for such lands, and plan and zone enough land to meet those needs.

**FINDING: The proposal is for a rezone to residential and will have no impact on employment lands.**

10. HOUSING This goal specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs. It also prohibits local plans from discriminating against needed housing types.

**FINDING: The county completed a housing study in 2019 and rural housing was not part of that study as it is outside the Urban Growth Boundaries. Therefore, this rezone will have no impact on Goal 10.**

11. PUBLIC FACILITIES AND SERVICES Goal 11 calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection. The goal's central concept is that public services should to be planned in accordance with a community's needs and capacities rather than be forced to respond to development as it occurs.

**FINDING: There are rural public facilities and services already available to the site. The change in density will not have an impact. Therefore, Goal 11 has been addressed.**

12. TRANSPORTATION The goal aims to provide "a safe, convenient and economic transportation system." It asks for communities to address the needs of the "transportation disadvantaged."

**FINDING: The applicant has provided a traffic plan and information about the access and impacts. There will be limited impacts because of the change in density is not significant. During the development the applicant will be required to comply with access, driveway and parking standards. Therefore, this has been addressed.**

13. ENERGY Goal 13 declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

**FINDING: Again, the change in density is very small and will have no effect on Goal 13 resources and studies. Therefore, this has been addressed.**

14. URBANIZATION This goal requires cities to estimate future growth and needs for land and then plan and zone enough land to meet those needs. It calls for each city to establish an "urban growth boundary" (UGB) to "identify and separate urbanizable land from rural land." It specifies seven factors that must be considered in drawing up a UGB. It also lists four criteria to be applied when undeveloped land within a UGB is to be converted to urban uses.

**FINDING: As explained before, the applicant understands to maintain a rural density of 10-acre minimum lot size, showing compliance with Statewide Planning Goal 14. Therefore, this has been addressed.**

15. Not applicable to Coos County

16. ESTUARINE RESOURCES This goal requires local governments to classify Oregon's 22 major estuaries in four categories: natural, conservation, shallow-draft development, and deep-draft development. It then describes types of land uses and activities that are permissible in those "management units."

17. COASTAL SHORELANDS The goal defines a planning area bounded by the ocean beaches on the west and the coast highway (State Route 101 ) on the east. It specifies how certain types of land and resources there are to be managed: major marshes, for example, are to be protected. Sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water related" uses.

18. BEACHES AND DUNES Goal 18 sets planning standards for development on various types of dunes. It prohibits residential development on beaches and active foredunes, but allows some other types of development if they meet key criteria. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

19. OCEAN RESOURCES – Not regulated by Coos County

**FINDING: Goals 16 through 19 are not applicable to this property.**

***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.*

**FINDING: The Planning Commission recommendation did not amend the zoning maps. The recommendation with the findings will be provided to the Board of Commissioners to make the final decision.**

***SECTION 5.1.235 Board of Commissioners Action on Hearings Body Recommendation:***

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

- 1. adopt the Hearings Body recommendation for approval or approval with conditions;*
- 2. reject the Hearings Body recommendation for approval or approval with conditions and dismiss the application;*
- 3. accept the Hearings Body recommendation with such modifications as deemed appropriate by the Board of Commissioners; or*

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

**FINDING: The Planning Commission made a recommendation to the Board to approve the Q-RR-5 zoning. The qualifier a ten acre minimum lot size.**

***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).*

**FINDING: This will be Q RR-5 zone due to the 10 acre minimum lots size.**

***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.*

**FINDING: No other applications have been submitted.**

**➤ CHAPTER VII - TRANSPORTATION, ACCESS AND PARKING**

**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.
- 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.

**FINDING:** The applicant has requested the traffic impact study be waived. Staff does not find that an impact study was warranted give the low impact of the rezone. The Planning Commission agreed with Staff and recommended the Board waive items two through four.

**SUMMARY AND CONCLUSION:**

After reviewing the application, it is clear that the applicant understands and has thoughtfully addressed the relevant criteria. The applicant demonstrates how the surrounding lands have transitioned, making the property unsuitable for its current zoning (e.g., farming or forestry) due to the nearby rural residential uses. The property is now surrounded by other rural residential zones, and the proposed new use is the most appropriate given the current conditions of the land.

The proposed zoning change will not create conflicts with existing uses or undermine the land use goals of the area. While the irrevocable commitment exception process applies under Goals 3 and 4 to determine whether agricultural or forest land has been committed to non-resource uses, the applicant's request is consistent with these goals and focuses on compatibility with the Coos County Comprehensive Plan and other Statewide Planning Goals.

The applicant is not seeking an exception to Goal 14, but is instead aligning with the request for the 10-acre minimum lot size. This request is consistent with the Coos County Comprehensive Plan and is compatible with all applicable planning goals. The applicant has demonstrated that the proposed use meets the criteria for the zoning change, ensuring both consistency with the surrounding land uses and broader planning objectives, without needing a Goal 14 exception.

