

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 to Industrial and the Official Zone Map from
7 Forest with a Mixed-Use overlay (F/MU) to Industrial
8 (IND). File Nos. AM-21-003/RZ-21-003

ORDINANCE No.: 21-10-006PL

9 SECTION 1. TITLE

10 This Ordinance shall be known as the "Coos County Ordinance No. 21-10-006 PL".

11 SECTION 2. AUTHORITY

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

13 SECTION 3. PURPOSE

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

18 SECTION 4. FINDINGS AND ORDER

19 WHEREAS the property owners Jeffrey McElrath applied on property described as map number: Township
20 29S, Range 15W, Section 12A, Tax Lots 200 and 1500. The subject properties are located south of the City of
21 Bandon. The property is currently zoned Forest with a Mixed Use Overlay. The request is to amend the plan and
22 implementing zone on this property from Forest with a Mixed Use Overlay to Industrial as presented in the
23 application and proposed to found at Attachment A;

24 WHEREAS Staff reviewed the proposal and made findings in the September 30, 2021, staff
25 report that the applicant met the required criteria and recommended that the Planning Commission (Hearings
26 Body) find that the application complied with CCZLDO § 5.1.400.;

27 WHEREAS the Planning Commission took testimony at the October 7, 2021 hearing, there was no one else
28 besides the applicant's representative to present and no written testimony in the record on this proposed. The
29 Planning Commission found that the plan amendment and rezone would meet the criteria.;

1 AND IT APPEARING to the Board of Commissioners that given the definition of compatibility the
2 Board of Commissioners found that the rezone would be compatible without any qualifiers to limit the use of
3 the property. The application and staff findings along with the soil and slope information support the zone
4 change request.

5 The proposal was reviewed by the Department of Land Conservation and Development (DLCD) at
6 the pre-application meeting and no conflicts with the Statewide Planning Goals, Statues or Rules in regards to the
7 request.

8 NOW, THEREFORE, IT IS HEREBY ORDERED that the Coos County Board of Commissioners
9 reviewed the Hearings Body recommendations and found the proposal met the objectives of the comprehensive
10 plan. The evidence and testimony in the record supported the rezone to Industrial. The Board of
11 Commissioners took into consideration the evidence and determined that the proposal complied with other
12 polices and ordinances as may be adopted by the Board of Commissioners. The findings in this matter can be
13 found at Attachment B.

14 SECTION 5. SEVERANCE CLAUSE

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

20 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

21 Coos County Ordinances 85-12-020L, 85-03-004L and any subsequent amendments thereto are
22 repealed to the extent that they are in conflict with this ordinance. Coos County Ordinances 85-12-020L and
23 85-03-004L shall remain in full force and effect in all other respects.

24 SECTION 7. EMERGENCY CLAUSE

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

28 //

29 //

Adopted this Dated this 28th day of October, 2021.

BOARD OF COMMISSIONERS

ATTEST

Recording Secretary

Approved as to form:

Office of Legal Counsel

Planning Commission Reading: October 7, 2021
Board of Commissioner Reading: October 28, 2021
Effective Date of Adoption: October 28, 2021

Chair

Vice Chair

Commissioner



ATTACHMENT A
Coos County Planning Department
 Coos County Courthouse Annex, Coquille, Oregon 97423
 Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, OR 97423
 Physical Address: 225 N. Adams, Coquille, Oregon
 (541) 396-7770
 FAX (541) 396-1022 / TDD (800) 735-2900
planning@co.coos.or.us

Official Use Only
FEE: <u>\$3520</u>
Receipt No. <u>226346</u>
Check No./Cash <u>1212</u>
Date <u>9/12/21</u>
Received By _____
File No. <u>AM/RZ-21-003</u>

AMENDMENT/REZONE APPLICATION
PLEASE SUBMIT 2 COMPLETE UNBOUND COPIES OF THIS APPLICATION
OR 1 ELECTRONIC AND ONE UNBOUND COPY

The following questions are to be completed in full. An application **will not** be accepted for an Amendment/Rezone without this information. The applicant should contact the Planning Department prior to filing, in order to determine a valid basis for the request.

The Board of Commissioners and Hearings Body will use these answers in their analysis of the merits of the request.

PLEASE PRINT OR TYPE:

A. APPLICANT:

Name: Coos Curry Consulting Group Telephone: 541-982-9531
 Address: P.O. Box 1548, Bandon, OR 97411

As applicant, I am (check one):

- Property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign;
- A person or persons that have written consent of the property owner to make an application. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign. In the case of an attorney a statement of representation shall accompany the application;
- Transportation agency, utility or entity that meets the criteria in Section 5.0.175 of the Coos County Zoning and Land Use Development Ordinance (CCZLDO)

If other than the owner, please give the owner's name and address:

Jeffrey McElrath 20995 Alameda Del Monte, Wildomar, CA 92595

B. DESCRIPTION OF PROPERTY:

Township 29 Range 15 Section 12A Tax Lot 200 and 1500
 Account No. 1236025 and 1235801 Lot Size 11.18 acres Zoning District Forest
 Existing Use Abandoned Mill Site

C. STATE SPECIFIC ZONE DISTRICT REQUESTED: Industrial

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.

NOTE: This information outlines standards at OAR 660-004-0025, 660-004-0028 and 660-04-0022 for goal exceptions, but is NOT to be considered a substitute for specific language of the OARs. Consult the specific Oregon Administrative Rule for the detailed legal requirements.

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

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

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

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

E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

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

G. Authorization:

All areas must be initialed by all applicants, if this application pertains to a certain property all property owners² must either sign or provide consent for application unless otherwise allowed by Section 5.0.175 of the CCZLDO. As an applicant by initializing each statement I am accepting or agreeing to the statements next to each area designated for my initials and/or signature. All property owners shall sign and initial the designated areas of the application or provide consent from another party to sign on their behalf. If another party is signing as part of a consent that does not release that party that gave consent from complying with requirements listed below or any conditions that may be placed on an application. In the case of a text amendment the procedures for set out in Section 5.1.110 WHO SEEK CHANGE applies and an applicant may not be a property owner.

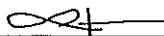
X SM I hereby attest that I am authorized to make the application and the statements within this application are true and correct to the best of my knowledge. I affirm to the best of my knowledge that the property is in compliance with or will become in compliance with CCCP and CCZLDO. I understand that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

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

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

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

Applicant(s) Original Signature

 Sheri McGrath

Applicant(s) Original Signature

8-11-21

Date

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

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

CONSENT FOR REPRESENTATION

I, Jeffrey McElrath of 20995 Alameda Del Monte, Wildomar, CA 92595
give permission to Coos Curry Consulting Group to represent me on all design, permit
and consulting matters concerning the property located on Coos County Tax Assessor's
Map 29-15-12A TL 200 and 1500. The property addresses are 49396 Hwy 101 and
87446 Rogge Lane. The tax accounts for these properties are 1236025 and 1235801.

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

Contact information for Sheri McGrath is:

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

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

DATED: April 20, 2021

COOS CURRY CONSULTING GROUP



By: SHERI MCGRATH

CLIENT



By: JEFFREY MCELRATH

ATTACHMENT A

AERIAL PLOT PLAN PREPARED FOR A REZONE REQUEST
CHANGING THE ZONING DISTRICT FROM FOREST TO INDUSTRIAL.
NO NEW STRUCTURES ARE PROPOSED AT THIS TIME.
AUGUST 11, 2021



JEFFREY MCELRATH
49396 HWY 101 AND 87446 ROGGE LANE
BANDON, OREGON 97411
29-15-12A TL 200 AND 1500
TAX ACCT #1236025 AND 1235801
11.18 ACRES IN SIZE

PLOT PLAN
SCALED TO FIT
DIMENSIONS BASED ON AERIAL IMAGERY



ATTACHMENT A

RECORDING REQUESTED BY:



1010 1st Street, Ste 215
Bandon, OR 97411

AFTER RECORDING RETURN TO:
Jeffrey A. McElrath
20995 Alameda Del Monte
Wildomar, CA 92595

COOS COUNTY, OREGON 2017-09974
\$66.00 10/16/2017 04:10:14 PM
DEBBIE HELLER, CEA, COOS COUNTY CLERK Pgs=5

AFTER RECORDING
RETURN TO
Ticor Title Company
300 West Anderson Ave. - Box 1075
Coos Bay, OR 97420-0233

SPACE ABOVE THIS LINE FOR RECORDER'S USE

TRUST DEED

THIS TRUST DEED, made on OCTOBER 16, 2017 between Jeffrey A. McElrath, an estate in fee simple, as Grantor, Ticor Title Company of Oregon, as Trustee and James D. Perry, an estate in fee simple, as Beneficiary,

WITNESSETH:

Grantor irrevocably grants, bargains, sells and conveys to trustee in trust, with power of sale, the property in Coos County, Oregon described as:

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

together with all and singular the tenements, hereditaments and appurtenances and all other rights belonging or in any way now or after appertaining, and the rents, issues and profits and all fixtures used in connection with the property.

FOR THE PURPOSE OF SECURING PERFORMANCE of each agreement of grantor and payment of the sum of Forty Thousand And No/100 Dollars (\$40,000.00) Dollars, with the interest according to the terms of a promissory note of even date, payable to beneficiary and made by grantor, the final payment of principal and interest, if not sooner paid, to be due and payable March 1, 2021.

The date of maturity of the debt secured by this instrument is the date, stated above, on which the final installment of the note becomes due and payable. In the event the within described property, or any interest therein is sold, agreed to be sold, conveyed, assigned or alienated by grantor without first having obtained the written consent or approval of the beneficiary, then at the beneficiary's option, all obligations secured by this instrument, irrespective of the maturity dates expressed, shall become immediately due and payable.

To protect the security of this trust deed, grantor agrees:

1. To protect, preserve and maintain the property in good condition and repair; not to remove or demolish any building or improvement; not to commit or permit any waste of the property.
2. To complete or restore promptly and in good and habitable conditions any building or improvement which now exists or may be constructed, and which is damaged or destroyed, and pay when due all costs incurred.
3. To comply with all laws, ordinances, regulations, covenants, conditions and restrictions affecting the property; if the beneficiary so requests, to join in executing such financing statements pursuant to the Uniform Commercial Code as the beneficiary may require and to pay for filing the same in the proper public office or offices, as well as the cost of all lien searches made by filing officers or searching agencies as may be deemed desirable by the beneficiary.
4. To provide and continuously maintain insurance on the buildings now or hereafter erected on the property against loss or damage by fire and such other hazards as the beneficiary may from time to time require, in an amount not less than the full insurable value, written in companies acceptable to the beneficiary, with loss payable to the latter; all policies of insurance shall be delivered to the beneficiary as soon as insured; if the grantor shall fail for any reason to procure any such insurance and to deliver the policies to the beneficiary at least fifteen (15) days prior to the expiration of any policy of insurance now or hereafter placed on the buildings, the beneficiary may procure the same at grantor's expense. The amount collected under any fire or other insurance policy may be applied by beneficiary upon any indebtedness secured and in such order as beneficiary may determine, or at the option of beneficiary the entire amount so collected, or any part, may be released to grantor. Such application or release shall not cure or waive any default or notice of default or invalidate any act done pursuant to such notice.
5. To keep the property free from construction liens and to pay all taxes, assessments and other charges assessed upon or against the property before any part of such taxes, assessments and other charges become past due or delinquent and promptly delivered receipts to beneficiary; should the grantor fail to make payment of any taxes, assessments, insurance premiums, liens or other charges payable by grantor, either by direct payment or by providing beneficiary with funds with which to make such payment, beneficiary may, at its option, make payment, and the amount so paid, with interest at the rate set forth in the note secured, together with the obligations described in paragraphs 6 and 7 of this trust deed, shall be added to and become a part of the debt secured by this trust deed, without waiver of any rights arising from breach of any of the covenants and for such payments, with interest as aforesaid, the property described, as well as the grantor, shall be bound to the same extent that they are bound for the payment of the obligation described, and all such payments shall be immediately due and payable without notice, and the nonpayable shall, at the option of the beneficiary, render all sums secured by this trust deed immediately due and payable and constitute a breach of this trust deed.

ATTACHMENT A

6. To pay all costs, fees and expenses of this trust including the cost of title search as well as other costs and expenses of the trustee incurred in connection with or in enforcing this obligation and trustee's fees and attorney's fees actually incurred.
7. To appear in and defend any action or proceeding purporting to affect the security rights or powers of beneficiary or trustee; and in any suit, action or proceeding in which the beneficiary or trustee may appear, including any suit for the foreclosure of this trust deed, to pay all costs and expenses, including evidence of title and the beneficiary's or trustee's attorney's fees; the amount of attorney's fees mentioned in this paragraph 7 in all cases shall be fixed by the trial court and in the event of any appeal from any judgment or decree of the trial court, grantor further agrees to pay such sum as the appellate court shall adjudge reasonable as the beneficiary's or trustee's attorney's fees on such appeal.

It is mutually agreed that:

8. In the event that any portion or all of the property shall be taken under the right of eminent domain or condemnation, beneficiary shall have the right, if it so elects, to require that all or any portion of the monies payable as compensation for such taking which are in excess of the amount required to pay all reasonable costs, expenses and attorney's fees necessarily paid by grantor in such proceedings, shall be paid to beneficiary and applied by it first upon any reasonable costs and expenses and attorney's fees, both in the trial and appellate courts, necessarily paid or incurred by beneficiary in such proceedings, and the balance applied upon the indebtedness secured; and grantor agrees, at its own expense, to take such actions and execute such instruments shall be necessary in obtaining such compensation, promptly upon beneficiary's request.
9. At any time and from time to time upon written request of beneficiary, payment of its fees and presentation of this deed and the note for endorsement (in case of full reconveyances, for cancellation), without affecting the liability of any person for the payment of the indebtedness, trustee may (a) consent to the making of any map or plat of the property; (b) join in granting any easement or creating any restriction; (c) join in any subordination or other agreement affecting this deed or the lien or charge; (d) reconvey, without warranty, all or any part of the property. The grantee in any reconveyance may be described as the "person or persons legally entitled thereto," and the recitals of any matters or facts shall be conclusive proof of their truthfulness.
10. Upon any default by grantor, beneficiary may at any time by receiver to be appointed by a court, and without regard to the adequacy of any security for the indebtedness secured, enter upon and take possession of the property or any part, in its own name sue or otherwise collect rents, issues and profits, including those past due and unpaid, and apply the same, less costs and expenses of operation and collection, including reasonable attorney's fees upon any indebtedness secured, and in such order as beneficiary may determine.
11. The entering upon and taking possession of the property, the collection of such rents, issues and profits, or the proceeds of fire and other insurance policies or compensation or awards for any taking or damage of the property, and the application or release, shall not cure or waive any default or invalidate any act done pursuant to such notice.
12. Upon default by grantor in payment of any indebtedness secured or in grantor's performance of any agreement, time being of the essence with respect to such payment and/or performance, the beneficiary may declare all sums secured immediately due and payable. In such an event the beneficiary may elect to proceed to foreclose this trust deed in equity as a mortgage or direct the trustee to foreclose this trust deed by advertisement and sale, or may direct the trustee to pursue any other right or remedy, either at law or in equity, which the beneficiary may have. In the event the beneficiary elects to foreclose by advertisement and sale, the beneficiary or the trustee shall execute and cause to be recorded a written notice of default and election to sell the property to satisfy the obligation secured and the trustee shall fix the time and place of sale, give notice as then required by law and proceed to foreclose this trust deed in the manner provided by law.
13. After the trustee has commenced foreclosure by advertisement and sale, and at any time prior to the time provided by law before the date the trustee conducts the sale, the grantor or any other person so privileged, may cure the default or defaults. If the default consists of a failure to pay, when due, sums secured by the trust deed, the default may be cured by paying the entire amount due at the time of the cure other than such portion as would not then be due had no default occurred. Any other default that is capable of being cured may be cured by tendering the performance required under the obligation or trust deed. In any case, in addition to curing the default or defaults, the person effecting the cure shall pay to the beneficiary all costs and expenses actually incurred in enforcing the obligation of the trust deed together with trustee's and attorney's fees not exceeding the amounts provided by law.
14. Otherwise, the sale shall be held on the date and at the time and place designated in the notice of sale or the time to which the sale may be postponed as provided by law. The trustee may sell the property either in one parcel or in separate parcels, and shall sell the parcel or parcels at auction to the highest bidder for cash, payable at the time of sale. Trustee shall deliver to the purchaser its deed in form as required by law conveying the property so sold, but without any covenant or warranty, express or implied. The recitals in the deed of any matters of fact shall be conclusive proof of their truthfulness. Any person, excluding the trustee, but including the grantor and beneficiary may purchase at the sale.
15. When trustee sells pursuant to the powers provided, trustee shall apply the proceeds of sale to payment of (1) the expenses of sale, including the compensation of the trustee and a reasonable charge by trustee's attorney, (2) to the obligation secured by the trust deed, (3) to all persons having recorded liens subsequent to the interest of the trustee in the trust deed as their interests may appear in the order of their priority and (4) the surplus, if any, to the grantor or to any successor in interest entitled to such surplus.
16. Beneficiary may from time to time appoint a successor or successors to any trustee named or to any successor trustee appointed. Upon such appointment, and without conveyance to the successor trustee, the latter shall be vested with all title, powers and duties conferred upon any trustee named or appointed. Each such appointment and substitution shall be made by written instrument executed by beneficiary, which, when

ATTACHMENT A

recorded in the records of the county or counties in which the property is situated, shall be conclusive proof of proper appointment of the successor trustee.

17. Trustee accepts this trust when this deed, duly executed and acknowledged, is made a public record as provided by law. Trustee is not obligated to notify any party of pending sale under any other deed of trust or of any action proceeding in which grantor, beneficiary or trustee shall be a party unless such action or proceeding is brought by trustee.

The grantor covenants and agrees to and with the beneficiary and the beneficiary's successor in interest that the grantor is lawfully seized in fee simple of the real property and has a valid, unencumbered title, excepting and subject to:

None

and that the grantor will warrant and forever defend the same against all persons.

The grantor warrants that the proceeds of the loan represented by the above described note and this trust deed are:

(a)* primarily for grantor's personal, family or household purposes (see Important Notice below),

(b) for an organization, or (even if grantor is a natural person) for business or commercial purposes.

This deed applies to, insures to the benefit of and binds all parties, their heirs, legatees, devisees, administrators, executors, personal representatives, successors and assigns. The term beneficiary shall mean the holder and owner, including pledges, of the contract secured, whether or not named as a beneficiary.

In construing this trust deed, it is understood that the Grantor or Beneficiary may be more than one person; that if the context so requires, the singular shall be taken to mean and include that plural, and that generally all grammatical changes shall be made, assumed and implied to make the provisions apply equally to corporations and to individuals.

Note: The Trust Deed Act provides that the trustee must be either an attorney, who is an active member of the Oregon State Bar, a bank, a trust company or savings and loan association authorized to do business under the laws of Oregon or the United States, a title insurance company authorized to insure title to real property of this state, its subsidiaries, affiliates, agents or branches, the United States or any agency thereof, or an escrow agent licensed under state law.

*IMPORTANT NOTICE: Delete, by lining out, whichever warranty (a) or (b) is not applicable; if warranty (a) is applicable and the beneficiary is a creditor as such word is defined in the Truth-in-Lending Act Regulation Z, the beneficiary MUST comply with the Act and Regulation by making required disclosure. If compliance with the Act is not required, disregard this notice.

WARNING

Unless you provide us with evidence of the insurance coverage as required by our contract or loan agreement, we may purchase insurance at your expense to protect our interest. This insurance may, but need not, also protect your interest. If the collateral becomes damaged, the coverage we purchase may not pay any claim you make or any claim made against you. You may later cancel this coverage by providing evidence that you have obtained property coverage elsewhere.

You are responsible for the cost of any insurance purchased by us. The cost of this insurance may be added to your contract or loan balance. If the cost is added to your contract or loan balance, the interest rate on the underlying contract or loan will apply to this added amount. The effective date of coverage may be the date your prior coverage lapsed or the date you failed to provide proof of coverage.

The coverage we purchase may be considerably more expensive than insurance you can obtain on your own and may not satisfy any need for property damage coverage or any mandatory liability insurance requirements imposed by applicable law.

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

Dated: 10-12-17

Jeffrey A. McElrath

State of OREGON
County of COOS

This instrument was acknowledged before me on October 12th, 2017 by Jeffrey A. McElrath.

Notary Public - State of OREGON
My Commission Expires: 9/20/20



ATTACHMENT A

REQUEST FOR FULL RECONVEYANCE

TICOR TITLE COMPANY OF OREGON, A OREGON CORPORATION, TRUSTEE:

The undersigned is the legal owner and holder of all indebtedness secured by the within Deed of Trust. All sums secured by the Deed of Trust have been fully paid and satisfied; and you are requested and directed, on payment to you of any sums owing you under the terms of the Deed of Trust, to cancel all evidences of indebtedness, secured by the Deed of Trust, delivered to you, together with the Deed of Trust, and to reconvey, without warranty, to the parties designated by the terms of the Deed of Trust, all the estate now held by you under the same.

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

James D. Perry

Date

Do not lose or destroy this Deed of Trust OR THE NOTE which it secures. Both original documents must be delivered to the Trustee for cancellation before reconveyance will be made.

UNRECORDED
CITY OF ASTORIA

EXHIBIT "A"
Legal Description

A parcel of land located in the North half of the Southeast quarter of the Northeast quarter, Section 12, Township 29 South, Range 15 West of the Willamette Meridian, Coos County, Oregon, more particularly described as follows:

Beginning at the Northwest corner of the Southeast quarter of the Northeast quarter of said Section 12; thence Southerly along the quarter quarter Section line a distance of 212.4 feet; thence South 75° 42' East a distance of 855.1 feet, more or less, to a point on the Westerly boundary of the property described in Deed Book 78, Page 409, Deed Records of Coos County, Oregon; thence North along said boundary to the quarter quarter Section line; thence Westerly to the point of beginning.

Unofficial
Copy

ATTACHMENT A

RECORDING REQUESTED BY:



1010 1st Street, Ste 215
Bandon, OR 97411

COOS COUNTY, OREGON 2017-09973
\$56.00 10/16/2017 04:10:14 PM
DEBBIE HELLER, CEA, COOS COUNTY CLERK Pgs=3

GRANTOR'S NAME:
James D. Perry

GRANTEE'S NAME:
Jeffrey A. McElrath

AFTER RECORDING RETURN TO:
Order No.: 360617021438-JF
Jeffrey A. McElrath
20995 Alameda Del Monte
Wildomar, CA 92595

AFTER RECORDING
RETURN TO
Ticor Title Company
300 West Anderson Ave. - Box 1075
Coos Bay, OR 97420-0233

SEND TAX STATEMENTS TO:
Jeffrey A. McElrath
20995 Alameda Del Monte
Wildomar, CA 92595

49394 Highway 101, Bandon, OR 97411

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

James D. Perry, Grantor, conveys and warrants to Jeffrey A. McElrath, an estate in fee simple, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Coos, State of Oregon:

A parcel of land located in the North half of the Southeast quarter of the Northeast quarter, Section 12, Township 29 South, Range 15 West of the Willamette Meridian, Coos County, Oregon, more particularly described as follows:

Beginning at the Northwest corner of the Southeast quarter of the Northeast quarter of said Section 12; thence Southerly along the quarter quarter Section line a distance of 212.4 feet; thence South 75° 42' East a distance of 855.1 feet, more or less, to a point on the Westerly boundary of the property described in Deed Book 78, Page 409, Deed Records of Coos County, Oregon; thence North along said boundary to the quarter quarter Section line; thence Westerly to the point of beginning.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS SEVENTY-FIVE THOUSAND AND NO/100 DOLLARS (\$75,000.00). (See ORS 93.030).

Subject to:

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

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED
(continued)

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

Dated: 10/12/17

James D. Perry
James D. Perry

State of OREGON
County of COOS

This instrument was acknowledged before me on October 12, 2017 by James D. Perry.

Jodi Fields
Notary Public - State of Oregon

My Commission Expires: 9/20/20



Notarized
Only

EXHIBIT "A"
Exceptions

Subject to:

1. Property taxes, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2017-2018.
2. Tax Identification No.: 1235801
Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Purpose: Right of way for all purposes
Recording Date: February 3, 1954
Recording No: Book: 232, Page 7
3. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Purpose: Right of Way
Recording Date: November 18, 1960
Recording No: Book: 282, Page: 104
4. Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Purpose: Right of Way
Recording Date: April 11, 1961
Recording No: Book: 284, Page : 427
5. Terms and provisions, appurtenant easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:
Granted to: James D. Perry
Purpose: Access and Utilities
Recording Date: September 2, 2010
Recording No: 2010-8026

UNRECORDED COPY

197.719 Industrial use of abandoned or diminished mill sites; amendment of comprehensive plans and land use regulations; sewer facilities.

(1) As used in this section, "abandoned or diminished mill site" means a mill, plant or other facility engaged in the processing or manufacturing of wood products, including sawmills and facilities for the production of plywood, veneer, hardboard, panel products, pulp and paper, that:

- (a) Is located outside of urban growth boundaries;
- (b) Was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and
- (c) Contains or contained permanent buildings used in the production or manufacturing of wood products.

(2) Notwithstanding statewide land use planning goals protecting agricultural lands or forestlands or administrative rules implementing those goals, the governing body of a county may amend the county's comprehensive plan and land use regulations to allow an abandoned or diminished mill site to be zoned for industrial use.

(3) Notwithstanding a statewide land use planning goal relating to urbanization or administrative rules implementing that goal, the governing body of a county may amend the county's comprehensive plan and land use regulations to allow an abandoned or diminished mill site to be zoned for any level of industrial use.

(4) Notwithstanding a statewide land use planning goal relating to public facilities and services or administrative rules implementing that goal, the governing body of a county or its designee may approve:

(a) The extension of sewer facilities to lands that on June 10, 2003, are zoned for industrial use and that contain an abandoned or diminished mill site. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.

(b) The extension of sewer facilities to an abandoned or diminished mill site that is rezoned for industrial use under this section only as necessary to serve industrial uses authorized for the mill site.

(c) The establishment of on-site sewer facilities to serve an area that on June 10, 2003, is zoned for industrial use and that contains an abandoned or diminished mill site or to serve an abandoned or diminished mill site that is rezoned for industrial use under this section. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.

(5) (a) A local government, as defined in ORS 174.116, may not authorize a connection to any portion of a sewer facility located between an urban growth boundary or the boundary of an unincorporated community and the boundary of the mill site or the industrial zone containing the mill site, except as provided under a statewide land use planning goal relating to public facilities and services or under ORS 197.732.

(b) Sewer facilities approved under subsection (4) of this section shall be limited in size to meet the needs of authorized industrial uses and may not provide service to retail, commercial or residential development, except as provided under a statewide land use planning goal relating to public facilities and services or under ORS 197.732. The presence of the sewer facilities may not

be used to justify an exception to statewide land use planning goals protecting agricultural lands or forestlands or relating to urbanization.

(6)(a) The governing body of a county or its designee shall determine the boundary of an abandoned or diminished mill site. For an abandoned or diminished mill site that is rezoned for industrial use under this section, land within the boundary of the mill site may include only those areas that were improved for the processing or manufacturing of wood products.

(b) For an abandoned or diminished mill site subject to subsection (2), (3) or (4) of this section, the governing body of a city or county or its designee may approve a permit, as defined in ORS 215.402 or 227.160, only for industrial development and accessory uses subordinate to such development on the mill site. The governing body or its designee may not approve a permit for retail, commercial or residential development on the mill site.

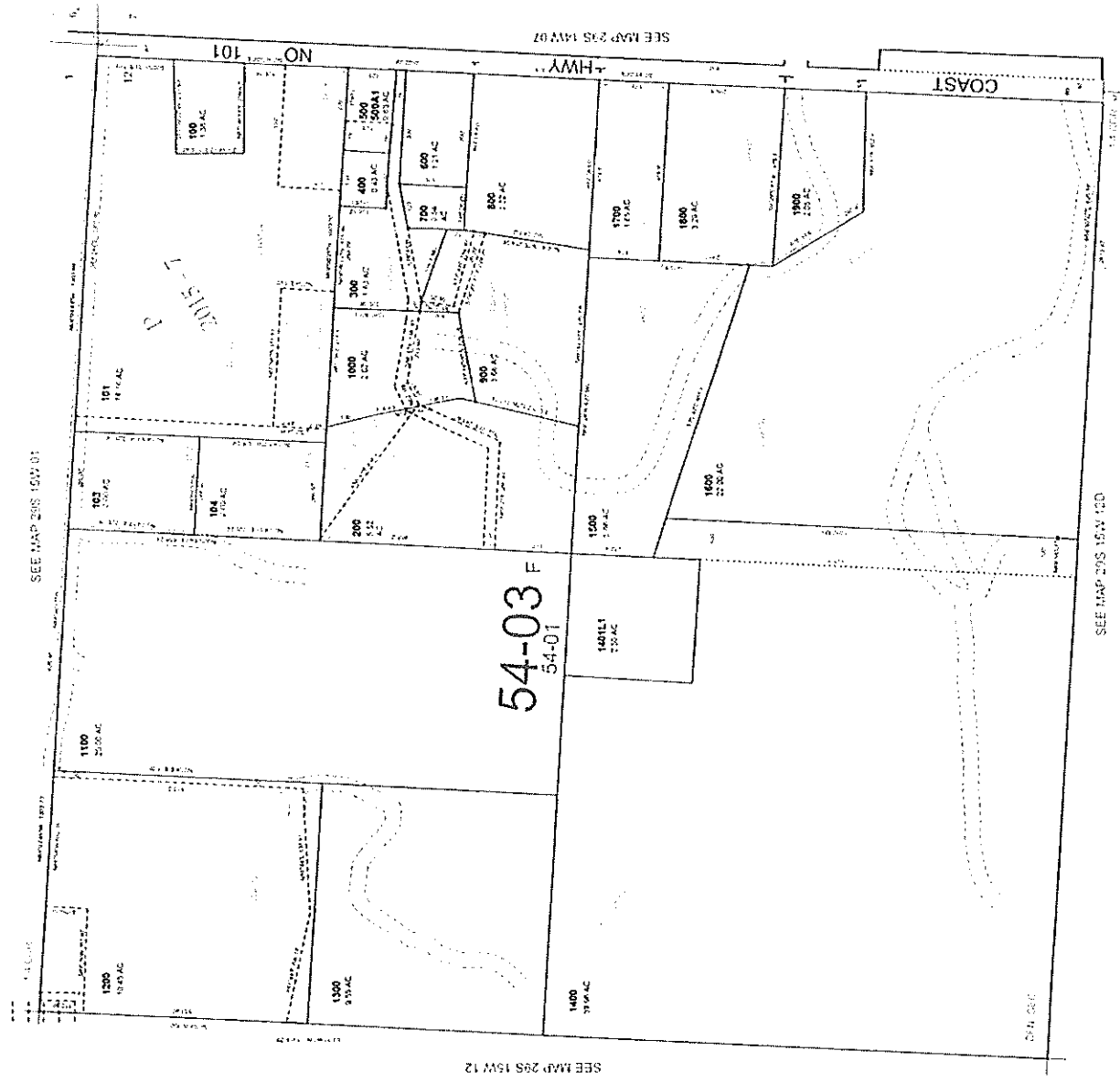
(7) For land that on June 10, 2003, is zoned under statewide land use planning goals protecting agricultural lands or forestlands and that is rezoned for industrial use under subsections (2) and (3) of this section, the governing body of the county or its designee may not later rezone the land for retail, commercial or other nonresource use, except as provided under the statewide land use planning goals or under ORS 197.732. [2003 c.252 §2; 2003 c.688 §3]

29S 15W 12A

CANCELLED NO.
301
301
1001
1002
102
1003

NE 1/4 SEC. 12 T29S R15W W.M.
COOS COUNTY

THIS MAP WAS PREPARED FOR
ASSESSMENT PURPOSE ONLY.



08-19-2015

29S 15W 12A

ORDINANCE 21-10-006PL
ATTACHMENT A PAGE 17 OF 17



ATTACHMENT B BOARD OF COMMISSIONERS FINDINGS OF FACT

FILE NUMBERS: AM-21-003/RZ-21-003

DATE: October 28, 2021

APPLICANT: Jeffrey McElrath
20995 Alameda Del Monte
Wildomar, CA 92595-8540

CONSULTANT: Sherri McGrath, Coos Curry Consulting Group
PO Box 1548
Bandon, OR 97411

STAFF CONTACT(S): Amy Dibble, Planner II adibble@co.coos.or.us Jill Rolfe, Planning Director jrolfe@co.coos.or.us

SUMMARY PROPOSAL: Amend the zoning designation as provided for by Oregon Revised Statute 197.719 Industrial use abandoned or diminished mill sites; amendment or comprehensive plans and land use regulations; sewer facilities.

LOCATION OF PROPOSAL: The Subject Properties are identified as Township 29S, Range 15W, Section 12A, Tax Lots 200 and 1500. These properties are located south of the City of Bandon off of Rogge Lane via Hwy 101.



**APPLICABLE IDENTIFIED
REVIEW CRITERIA:**

- Coos County Zoning and Land Development Ordinance (Ordinance)
- ORS 197.719 Industrial use of an abandoned or diminished mill site
 - Article 5.1 Rezones
 - Amendment of Zone Maps (14) and Mixed-Use Map (6).

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.

REVIEW PERIOD: This application was submitted on August 12, 2021 and not subject to the timelines of ORS 215.427 as the application for a zone change filed concurrently and considered jointly with a plan amendment.

COMMENTS:

- On August 25, 2021 - The Oregon Department of Aviation has reviewed the proposal and has prepared the following comment:

The proposal seeks approval to construct a storage facility west of the Bandon State Airport. For this reason, the proposal may require airspace review by the FAA and ODA subject to the standards in Code of Federal Regulations: Title 14, Aeronautics and Space: PART 77- Safe, Efficient Use, and Preservation of the Navigable Space.

All project elements are subject to compliance with FAA Part 77.9 Construction or alteration requiring notice (a-d), FAA Part 77.17 Obstruction standards (a-b) and Obstruction Standards of OAR 738-70-0100 if they exceed 200 feet in height or are within 20,000 feet of Bandon State Airport and exceed a 100:1 surface from any point on the runway. To make this determination, any structures more than 200 feet in height or within the distances provided above must undergo airspace review by the FAA and ODA through submittal of a completed FAA Form 7460-1.

At this time development is not requested but in future this will have to be addressed.

- August 17, 2001 comments from the Coquille Tribe
Thank you for the opportunity to comment on the proposal to rezone the property to industrial to construct a new storage facility at the above referenced location. The Coquille Indian Tribe THPO concurs with the anticipatory finding of no historic properties/cultural resources effected. **Extreme caution is recommended.** If any known or suspected cultural resources are encountered during the work, ground-disturbing activities should cease and the landowner or contractor should contact our office immediately.

Again, there is no development at this time but in the future, this will be addressed.

- September 8, 2021 comments for Oregon Department of State Lands
A state permit is not needed from DSL for a rezoning because it is an administrative action that does not impact the ground. When the site is developed, a site plan should be submitted for DSL comment. There are jurisdictional waters on the northern half of tax lot 200, and possibly others on the eastern part of TL 1500. This response looked at only those 2 tax lots.

There were no other comments received on this proposal. No one provided testimony at the Planning Commission or Board of Commissioner's meetings.

SUBJECT PROPERTY INFORMATION:

Account Number(s):	1236025 & 1235801
Map Number(s):	29S1512A0-00200 & 29S1512A0-01500
Property Owner:	MCELRATH, JEFFREY A 20995 ALAMEDA DEL MONTE WILDOMAR, CA 92595-8540

Situs Address: 87522 ROGGE LN BANDON, OR 97411
87446 ROGGE LN BANDON, OR 97411

Acreage: 5.52 Acres and 5.66 Acres

Zoning: FOREST (F)

Special Development Tax lot 200
Considerations and overlays: FARM POND, MILL POND & ETC. (PND)
NATIONAL WETLAND INVENTORY SITE (NWI)

Tax lot 200 and 1500
ARCHAEOLOGICAL AREAS OF INTEREST (ARC)
BANDON AIRPORT CONICAL ZONE (ABC)
BANDON AREA OF MUTUAL INTEREST (BMI)

KEY DEFINITIONS:

ZONING DISTRICT: *A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.*

FOREST LAND: *Those lands designated in the Coos County Comprehensive Plan (Volume I- "Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.*

ZONING: The proposal is to amend the plan maps from Forest with a Mixed Use Overlay to Industrial.

- **ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

- **FOREST (F)**

- The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.*

- The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the "F" zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.*

- **FOREST MIXED USE (FMU)**

- The purpose of the Forest Mixed Farm-Forest Areas ("MU" areas) is to include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these "mixed use" areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.*

If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.

If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.

○ **INDUSTRIAL (IND)**

The purpose of the “IND” district is to provide an adequate land base necessary to meet industrial growth needs and to encourage diversification of the area’s economy accordingly. The “IND” district may be located without respect to Urban Growth Boundaries, as consistent with the Comprehensive Plan. The “IND” designation is appropriate for industrial parcels that are needed for development, as consistent with the Comprehensive Plan.

SPECIAL DEVELOPMENT CONSIDERATIONS AND OVERLAYS:

SECTION 4.11.125 Special Development Considerations: The considerations are map overlays that show areas of concern such as hazards or protected sites. Each development consideration may further restrict a use. Development considerations play a very important role in determining where development should be allowed in the Balance of County zoning. The adopted plan maps and overlay maps have to be examined in order to determine how the inventory applies to the specific site

SECTION 4.11.200 Purpose: Overlay zones may be super-imposed over the primary zoning district and will either add further requirements or replace certain requirements of the underlying zoning district. The requirements of an overlay zone are fully described in the text of the overlay zone designations. An overlay zone is applicable to all Balance of County Zoning Districts and any zoning districts located within the Coos Bay Estuary Management Plans when the Estuary Policies directly reference this section.

This property does include inventoried Special Development Consideration and/or Overlay as follows:

- Bandon Area of Mutual Interest, which requires a notification of land use hearings be provided to the City of Bandon.
- Archaeological Areas of Interest, which requires a notice to the Coquille Tribe which was sent as part of the process. A representative also attending the pre-application meeting.
- Bandon Airport Conical Zone, which required a notice to the Oregon Department of Aviation. The notice was provided and a representative participated in the pre-application process.
- Local wetland Inventoried for a pond and in this case, it is the Mill Pond. There is no development proposed at this time; therefore, no relevant criteria or notices required. This only applies to tax lot 200.
- National Wetland Inventory Site which requires a notice to the Department of State Lands. Notice was provided by there is no development proposed as part of this propose.

LAWFULLY CREATED UNITS OF LAND:

Tax Lot 200 is acknowledged as lawfully created pursuant to CCZLDO § 6.1.125.1.b through a prior land use decision including a final decision from a higher court.as this property was determined to be lawful through a discrete parcel determination and the current configuration was made through a Property Line Adjustment (PLA-06-69).

Tax Lot 1500 is acknowledged as lawfully created pursuant to CCZLDO § 6.1.125.1.e By deed or land sales contract, if there were no applicable planning, zoning or subdivision or partition ordinances or regulations that prohibited the creation as this property was created through Deed Volume 284, Page 425.

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

Staff has reviewed the property history and the county files to determine at the time of this report this property is compliant. This does not mean that there is not additional information that was unavailable during this review that would make the properties non-complaint.

PROPERTY BACKGROUND/HISTORY:

- On May 20, 1987 an application was submitted requesting to rezone Tax Lots 200, 1000, 1500, 1900, and a portion of 1400 from Exclusive Farm Use (EFU and EFU-10) to Forest (F). At this time the property was the existing site of the Douglas Pacific Mill
 - On July 2, 1987 a public hearing was held before the Planning Commission where they moved and unanimously voted to recommend the Board of Commissioners approve the rezone and plan amendment with a condition that a 40 foot wide buffer of existing vegetation be maintained along the north border of TL 1400 which abuts tax Lot 1100.
 - On July 22, 1987 the Board of Commissioners held a hearing and approved the request to rezone the property and signed Ordinance No. 87-07-011L.
- On July 23, 1987 Zoning Compliance Letter VL-87-362 was issued providing clearance to determine location of structures for a sawmill. Tax Lots included 200, 1000, 1500, 1900, & 1400
- On April 25, 1988 Zoning Compliance Letter VL-88-177 was issued providing clearance to make repairs to the existing septic only. The improvements noted at this time where a sawmill, shop and office. Tax Lot included 200
- On August 16, 2006 staff received a Discrete Parcel Determination that was submitted and certified by Fidelity National Title
 - On August 31, 2006 Staff sent a response stating that they concurred with the certification and submitted findings which determined that Tax Lots 200 and 1000 are discrete parcels.
- On August 31, 2006 staff received an application requesting a Property Line Adjustment between Tax Lots 200 and 1000.
 - On August 31, 2006 staff sent a letter to the applicant stating that the map submitted with the application did not comply with the provisions and the application and fee was returned.
 - On September 7, 2006 the applicant resubmitted a request for a Property Line Adjustment.
 - On September 14, 2006 staff sent a response to the proposed Property Line Adjustment stating it satisfied the criteria.
 - On February 7, 2006 the Property Line Adjustment Deed was recorded.
- On June 14, 2016 an address application was submitted for Tax Lot 1500.
 - On June 22, 2016 address 49394 Hwy 101 S was assigned.
- On August 8, 2017 a request for a Road Name was submitted.
 - On November 21, 2017 the official name of Rogge Lane was adopted by the Board of Commissioners and Order No. 17-10-057PL was signed.
 - This road accesses Tax Lots 200, 900, 1000, 1500, & 1900.

PROPERTY SITE DESCRIPTION AND SURROUNDING USES:

Currently, the property is developed with a small saw mill, an office, shop and additional outbuildings not identified through Assessment records or Planning records but likely small enough they do not require permits or assessment. There is a building on the west boundary line is the only structure that Staff is unclear about. The applicant should confirm if that is a structure and what it is used for.

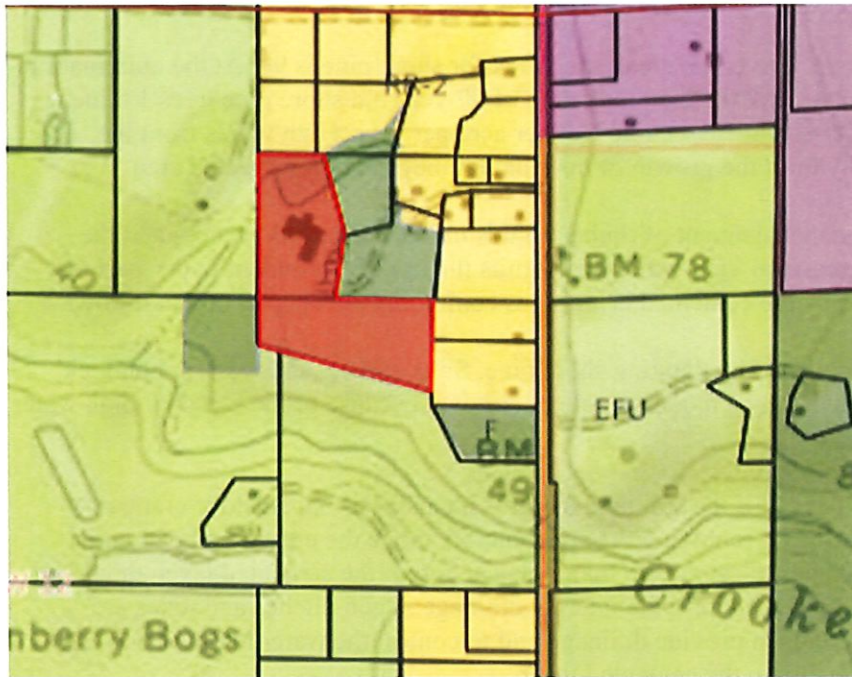
Staff's research shows that the mill was in operation until at least May 26, 1994, according to Google Earth imagery, shown below. Some of these structures are still in existence. The development is located on Tax Lot 200. The properties are not located within the Urban Growth Boundary or Urban Unincorporated Community.



The photos show the site has been impacted over the years by the mill and is no longer able to be utilized for Forest Uses. Most of the site is paved, graveled or harden compact surface with little vegetation around the border of the site. The pond is near the northern boundary of tax lot 200.

The subject property has Forest, Exclusive Farm Use and Rural Residential that surrounds it. It is close to Hwy 101 which makes it easy to ship goods if the property is zoned for industrial.

The abutting properties located to the east and north are developed with dwellings and the primary use is for residential. The property to the west of tax lot 200 appears to be used for Farm or Storage purposes. The property to the west of tax lot 1500 looks to have been a portion of the old mill site, and the rest of is zoned Exclusive Farm Use, with a farm operation and contains cranberry bogs. It appears a lot of the development was in existence at the time since 1994. The development to the north is newer.



SOILS: According to the USDA Soil Survey for Coos County Oregon the property is a mixture of different soils which are listed below:

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

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

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

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

Permeability of this Blacklock soil is moderate above the cemented layer, very slow through it, and moderately rapid below it. Available water capacity is about 1.5 to 3.5 inches. Effective rooting depth is 12 to 24 inches. Runoff is very slow, and the hazard of water erosion is slight. The water table fluctuates from 6 inches above the surface to 30 inches below the surface from October to May.

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

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

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

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

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

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

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

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

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

This map unit is in capability subclass VIw.

- **8B-Bullards sandy loam, 0 to 7 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 Blacklock and Bandon soils. Also included are small areas of Templeton soils. Included areas make up about 25 percent of the total acreage.

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

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

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

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

The main limitations for the management of timber on this unit are the hazard of windthrow and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Maintaining the understory is essential in controlling erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit.

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

If this unit is used for homesite development, the main limitation is droughtiness in summer. In summer, irrigation is needed for lawn grasses, shrubs, vines, shade trees, and ornamental trees.

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

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

This unit is well suited to recreational development. It has few limitations. This map unit is in capability subclass IIIe.

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

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

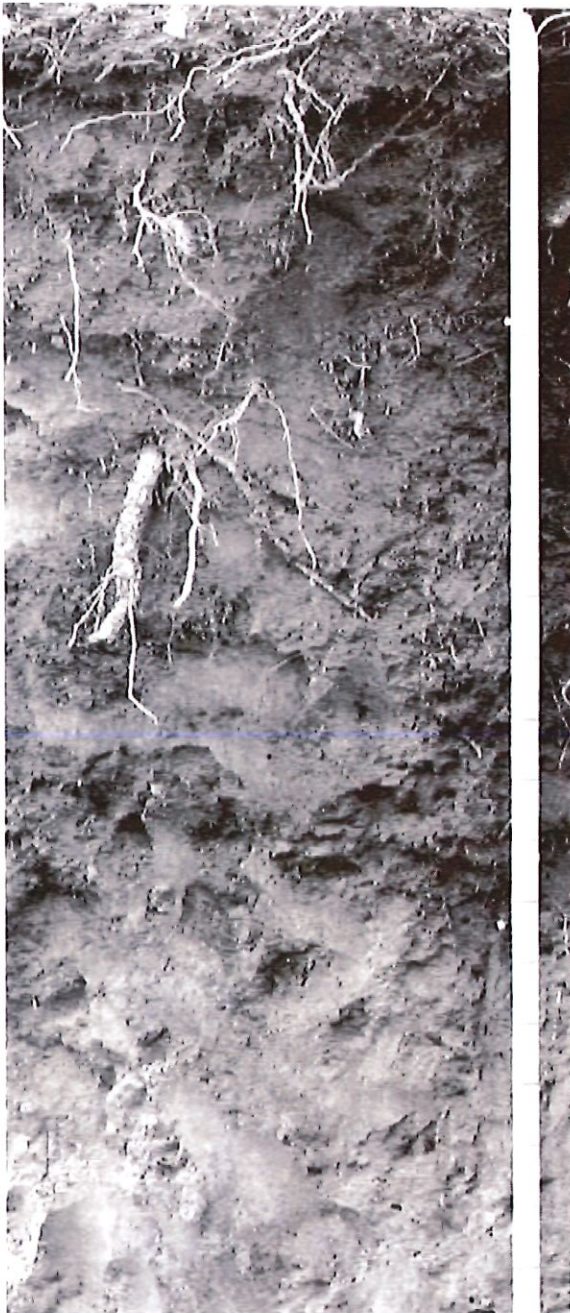


Figure 7. -Typical profile of Bullards sandy loam, 12 to 30 percent slopes, showing sand substratum. Tape is marked in 2.5-inch increments.

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

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

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

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

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

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

The main limitations for the management of timber on this unit are the hazard of erosion, the hazard of windthrow, and plant competition. Careful use of

wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gulying unless they are provided with adequate water bars or are protected by plant cover, or both. Proper design of road drainage systems and care in the placement of culverts help to control erosion. Logging roads require suitable surfacing for year-round use.

Rock for road construction is not readily available in this unit.

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

If this unit is used for pasture, the main limitation is droughtiness in summer. Supplemental irrigation is needed for maximum production. Sprinkler irrigation can be used in the less sloping areas of the unit. Use of this method permits the even, controlled application of water, reduces runoff, and minimizes the risk of erosion. Applications of water should be adjusted to the available water capacity, the water intake rate, and the crop needs. Fertilizer is needed to ensure optimum growth of grasses and legumes. Grasses respond to nitrogen, and legumes respond to sulfur and phosphorus. Proper stocking rates and pasture rotation help to keep the pasture in good condition and to protect the soil from erosion

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

This map unit is in capability subclass IVe.

The soils for the majority of this property are 8B Bullards sandy loam.



FINDINGS, CONCLUSIONS AND RECOMMENDATIONS:

i. APPLICABLE IDENTIFIED REVIEW CRITERIA:

Coos County Zoning and Land Development Ordinance (Ordinance)

- a. ORS 197.719 Industrial use of an abandoned or diminished mill site
- b. Article 5.1 Rezones
- c. Amendment of Zone Maps (14) and Mixed-Use Map (6).

ORS 197.719

Industrial use of abandoned or diminished mill sites

- (1) As used in this section, “abandoned or diminished mill site” means a mill, plant or other facility engaged in the processing or manufacturing of wood products, including sawmills and facilities for the production of plywood, veneer, hardboard, panel products, pulp and paper, that:
 - (a) Is located outside of urban growth boundaries;
 - (b) Was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and
 - (c) Contains or contained permanent buildings used in the production or manufacturing of wood products.
- (2) Notwithstanding statewide land use planning goals protecting agricultural lands or forestlands or administrative rules implementing those goals, the governing body of a county may amend the county’s comprehensive plan and land use regulations to allow an abandoned or diminished mill site to be zoned for industrial use.
- (3) Notwithstanding a statewide land use planning goal relating to urbanization or administrative rules implementing that goal, the governing body of a county may amend the county’s comprehensive plan and land use regulations to allow an abandoned or diminished mill site to be zoned for any level of industrial use.
- (4) Notwithstanding a statewide land use planning goal relating to public facilities and services or administrative rules implementing that goal, the governing body of a county or its designee may approve:
 - (a) The extension of sewer facilities to lands that on June 10, 2003, are zoned for industrial use and that contain an abandoned or diminished mill site. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.
 - (b) The extension of sewer facilities to an abandoned or diminished mill site that is rezoned for industrial use under this section only as necessary to serve industrial uses authorized for the mill site.
 - (c) The establishment of on-site sewer facilities to serve an area that on June 10, 2003, is zoned for industrial use and that contains an abandoned or diminished mill site or to serve an abandoned or diminished mill site that is rezoned for industrial use under this section. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.
- (5)(a) A local government, as defined in [ORS 174.116 \(“Local government” and “local service district” defined\)](#), may not authorize a connection to any portion of a sewer facility located between an urban growth boundary or the boundary of an unincorporated community and the boundary of the mill site or the industrial zone containing the mill site, except as provided under a statewide land use planning goal relating to public facilities and services or under [ORS 197.732 \(Goal exceptions\)](#).
 - (b) Sewer facilities approved under subsection (4) of this section shall be limited in size to meet the needs of authorized industrial uses and may not provide service to retail, commercial or

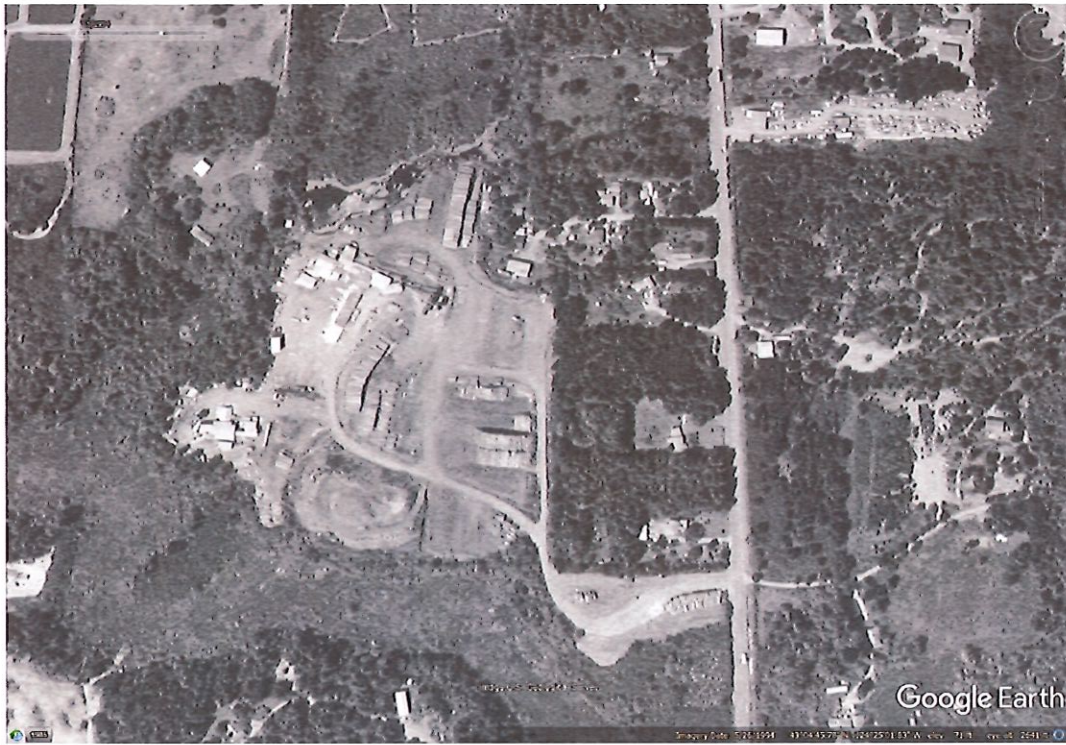
residential development, except as provided under a statewide land use planning goal relating to public facilities and services or under [ORS 197.732 \(Goal exceptions\)](#). The presence of the sewer facilities may not be used to justify an exception to statewide land use planning goals protecting agricultural lands or forestlands or relating to urbanization.

- (6) (a) The governing body of a county or its designee shall determine the boundary of an abandoned or diminished mill site. For an abandoned or diminished mill site that is rezoned for industrial use under this section, land within the boundary of the mill site may include only those areas that were improved for the processing or manufacturing of wood products.
- (b) For an abandoned or diminished mill site subject to subsection (2), (3) or (4) of this section, the governing body of a city or county or its designee may approve a permit, as defined in [ORS 215.402 \(Definitions for ORS 215.402 to 215.438 and 215.700 to 215.780\)](#) or [227.160 \(Definitions for ORS 227.160 to 227.186\)](#), only for industrial development and accessory uses subordinate to such development on the mill site. The governing body or its designee may not approve a permit for retail, commercial or residential development on the mill site.
- (7) For land that on June 10, 2003, is zoned under statewide land use planning goals protecting agricultural lands or forestlands and that is rezoned for industrial use under subsections (2) and (3) of this section, the governing body of the county or its designee may not later rezone the land for retail, commercial or other nonresource use, except as provided under the statewide land use planning goals or under [ORS 197.732 \(Goal exceptions\)](#). [2003 c.252 §2; 2003 c.688 §3]

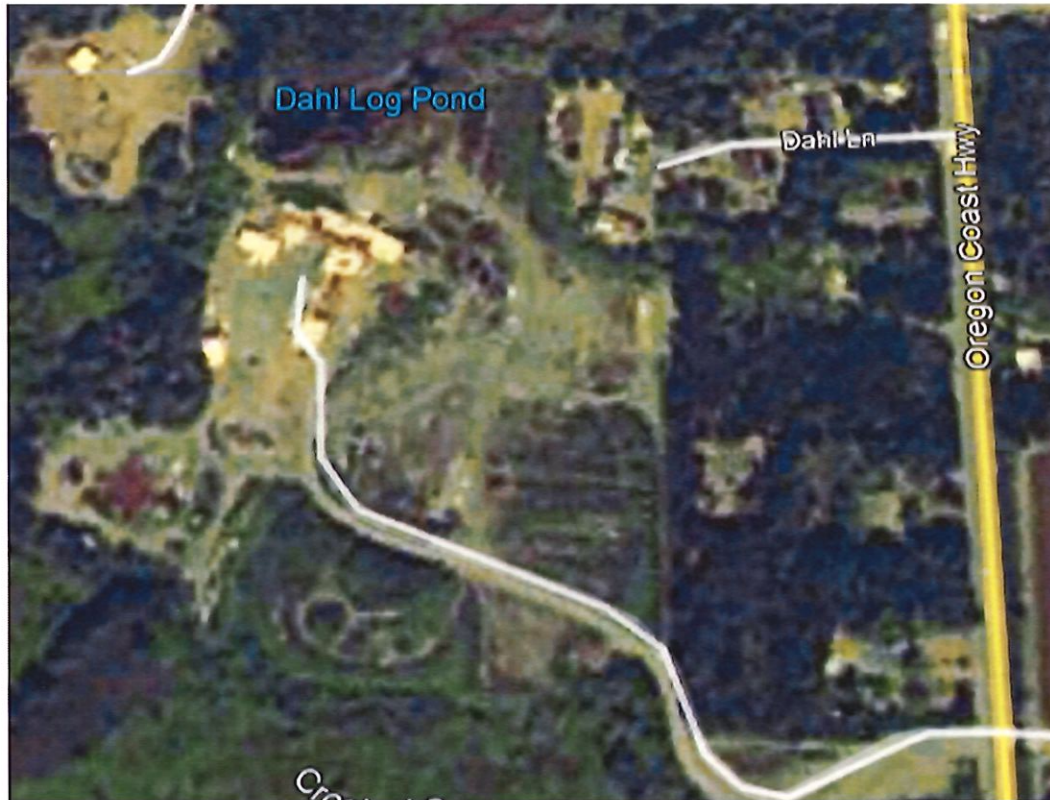
FINDINGS: According to prior applications and information available the mill was established prior to 1983. This is a photo from 1986/1987 (File AM-87-02/RZ-87-02) showing the mill at full compacity. The mill has been reduced over the years to what is left on site.



1994



2003



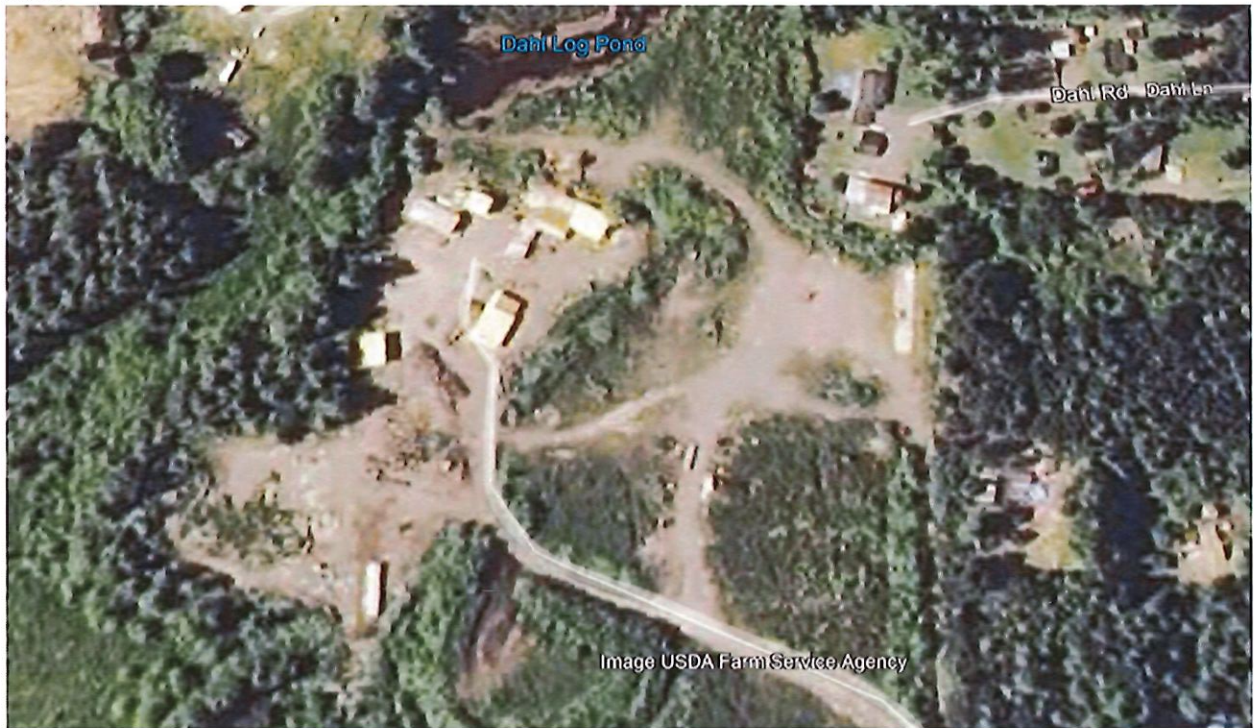
2004



2007



2011



2015





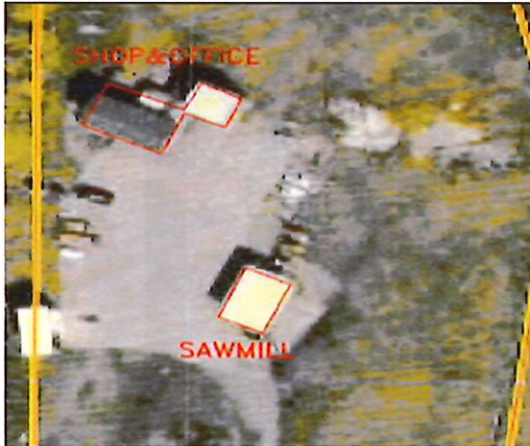
The development is located on Tax Lot 200. The properties are not located within the Urban Growth Boundary or Urban Unincorporated Community. The ORS 197.719 supports to rezoning abandoned mill sites for industrial use. The impacts from the prior use of the property make this property unlikely to be able to be restored to Forest or Farm use. Most of the surface is paved or graveled.

The applicant is requesting that the county allow the rezone from Forest to Industrial. This is allowed without a goal exception process under these strict criteria “notwithstanding a statewide land use planning goal relating to urbanization or administrative rules implementing that goal, the governing body of a county may amend the county’s comprehensive plan and land use regulations to allow an abandoned or diminished mill site to be zoned for any level of industrial use”.

The applicant is not requesting to be rezoned to an urban zone but rather a rural zone under Industrial. The applicant has not requested any type of extension to public water or sewer as part of this request. The current Industrial zone does not permit retail, commercial or other uses described in Subsection 7 in IND zones. Therefore, the application does comply.

The Planning Commission held the first public hearing on this matter on October 7, 2021 and agreed that the property qualified to be rezoned pursuant to ORS 197.719 with some qualifiers to ensure compliance. There is a possible structure located in the aerial images below that staff was unable to confirm if it was lawfully sited or if is really on this property. The Planning Commission conditioned the recommended approval on determining the legal status of the structure shown in the aerial below. This shall be completed prior to any future development.

Applicant's plot plan



The Planning Commission further added the qualifiers that the property shall only be used for the rural industrial consistent with ORS 197.719. ORS 197.719 does not allow for retail, commercial or other nonresource use. This rezone is limited to Industrial Uses only.

The last condition recommended is to carry forward the requirement that a 40 foot vegetative buffer be maintained along the northern property boundary for tax lot 200. This shouldn't be an issue because there will be no development to the northern boundary due to the location of the log pond.

The Board of Commissioners held the meeting to consider the recommendation on October 28, 2021. After review of the record and recommendation the Board of Commissioners agreed with the Planning Commission's recommendation.

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.

FINDINGS: This request is a rezone.

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.

FINDINGS: This request is based on ORS 197.719. Therefore, the Planning Director did not find it appropriate to expand the rezone request. ORS 197.719 limits this type of rezone to the boundary in which the mill was located. This includes two of the tax lots in which the mill was operating. The other tax lots are either developed with another use or not within the ownership of the applicant.

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.

FINDINGS: This is not applicable to the request.

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.

FINDINGS: This process was followed. There was no appeal as the decision was justified and no one provided testimony in this matter.

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.

FINDINGS: The Planning Commission made a recommendation to the Board of Commissioners to approve this request with some qualifiers. The rezoning will conform with the Comprehensive Plan for Industrial Lands. The Board of Commissioners found that the proposal does not conflict with the comprehensive plan. The industrial lands were based uses occurring and bare lands that could accommodate future uses. Both the Planning Commission and the Board of Commissioners considered Industrial Uses and determined that an industrial use is will not be as intense as the wood products mill that has been occurring over years. The property is impacted in such a way that is not viable forest land.

The rezoning will not seriously interfere with permitted uses on other nearby parcels. The property has been used for an intense wood process facility for years and has never received a complaint from any of the surrounding neighbors. There are buffers and the actual development on adjacent lands is far from any of the site that would be used in the current of future industrial uses.

The rezone will comply with other policies and ordinances as may be adopted by the Board of Commissioners. The Board of Commissioners did not find that there were any other policies or ordinances that would be a conflict to the current proposal. Therefore, the Board of Commissioners found the proposal consistent and recommends the Board of Commissioners approve the rezoning.

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 decision was a recommendation to the Board of Commissioners and was not a final decision that would amend the zone maps.

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 Board of Commissioners unanimously adopted the Hearings Body recommendations with the conditions as presented:

1. The property owner will need to clarify the status of the structure located on the western board (*see* page 18 of this document). Staff could not confirm if it was lawfully sited or if is really on this property;
2. The property shall only be used for the rural industrial consistent with ORS 197.719. ORS 197.719 does not allow for retail, commercial or other nonresource use. This rezone is limited to Industrial Uses only; and
3. The last condition recommended is to carry forward the requirement that a 40-foot vegetative buffer be maintained along the northern property boundary for tax lot 200.

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 is considered a Qualified Rezone Q IND due to the conditions of approval.

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.

FINDINGS: The applicant has not submitted any additional land use requests. The development plan will be required to go through the proper process and receive a compliance letter when completed.

The Board of Commissioners finds that the proposal meets the criteria for a rezone set out in ORS 197.719 based on the facts that this site is a “diminished mill site” meeting the definition of a mill, plant or other facility engaged in the processing or manufacturing of wood products that:

- (a) Is located outside of urban growth boundaries;
- (b) Was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and
- (c) Contains or contained permanent buildings used in the production or manufacturing of wood products.

The mill has been operating at a diminished compacity more than 25% of the capacity since January 1, 2003 as shown in the aerial photos. The site contains permanent buildings and site improvements. However, this approval should be based on the following qualifiers:

1. The northern vegetative buffer of 40 feet on tax lot 200 be maintained;
2. The structure be brought into compliance; and
3. The uses be limited to Industrial as consistent with ORS 197.719.

