

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

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

Organization of This Application

Professional Planners Involved in the Preparing of this Application	
Thomas McIntosh 162 Vista Lake St. Oakland, OR 97462 Phone: (541) 391-1494	Crystal Shoji, AICP Shoji Planning, LLC P.O. Box 462 Coos Bay, OR 97420 Phone: (541)-267-2491 crystal@shojiplanning.com

This application will be required to be heard by the Coos County hearings bodies. The Coos County Planning Commission hearing will be the first evidentiary hearing; the Planning Commission will make a recommendation to the Coos County Board of Commissioners who will make the final decision. This application provides exhibits and evidence for the record to justify the requested amendment under the criteria of Oregon Revised Statutes, Oregon Administrative Rules, the Coos County Comprehensive Plan and the Coos County Zoning and Land Development Ordinance (CCZLDO).

PART I provides introductory information; PARTS II, III and IV include analysis and findings to address the criteria as shown in the Contents on the following page. The Conclusion on the final page includes responses to pertinent criteria that have been provided within the Coos County Application for an Amendment/Rezone pertaining to justification for rezoning lots or parcels in the interior of an exclusive farm use zone. This application is within a LCDC acknowledged exception area for rural residential zoning. An existing exception responds to adjacent properties that are within a resource zone. Exception analysis is provided throughout this document to reconfirm the exception that already applies to Subject Property, utilizing current criteria for analysis. Within the Conclusion the applicant responds to the Coos County Comprehensive Plan and CCZLDO Sections applying to rezones. The findings reinforce and provide focus for the justification of the exception that continues to apply to Subject Property.

See Legal description of Subject Property, Deed, Exhibit C
See General Location Map of Subject Property, Exhibit D.
See Detailed Parcel Assessor Maps, Exhibit E.

**CONTENTS
CRITERIA AND FINDINGS**

PART 1: INTRODUCTION, BACKGROUND & METHODOLOGY

PART II: EXCEPTIONS

- ✓ CCZLDO CHAPTER TWO – EXCEPTIONS PROCESS
- ✓ OAR 660-004-0020
- ✓ OAR 660-014-0030 Rural Lands Irrevocably Committed to Urban Levels of Development
- ✓ EXCEPTION TO GOAL 14: OAR 660-004-0040; OAR 660-0018- 004 Planning and Zoning for Exception Areas
- ✓ Excerpts in reference to OAR ORS 197.015, OAR 660-004-0005

PART III: STATEWIDE PLANNING GOALS - COOS COUNTY COMPREHENSIVE PLAN

Goal #1: Citizen Involvement	Goal #11: Public Facilities and Services
Goal #2: Land Use Planning	Goal #12: Transportation
Goal #3: Agricultural Lands	Goal #13: Energy Conservation
Goal #4: Forest Lands; <i>Coos County Comprehensive Plan, Volume 1, Part 3 5. Rural Housing Exception 5.6.2:</i>	Goal #14: Urbanization
Goal #5: Open Space, Scenic and Historic areas and Natural Resources	Goal # 15: Willamette River Greenway
Goal #6: Air, Water and Land Resources Quality	Goal # 16: Estuarine Resources
Goal #7: Areas Subject to Natural Disasters and Hazards	Goal #17: Shorelands
Goal # 8: Recreation	Goal #18: Beaches and Dunes
Goal #9: Economic Development	Goal # 19: Ocean Resources
Goal #10: Housing; Coos County Comprehensive Plan, Volume 1, Part 1, 5.17 Housing Issues	

PART IV: COMPLIANCE WITH CCZLDO CRITERIA FOR ZONE CHANGES

- ✓ SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE
- ✓ SECTION 5.1.275 STANDARDS FOR COMPREHENSIVE PLAN AND REZONE

CONCLUSION

**CONTENTS
LIST OF EXHIBITS**

- Exhibit A** Amendment/Rezone Coos County Application with Owner Signature(s)
- Exhibit B** Supplemental Application Document with Exhibits
- Exhibit C** Legal Description of Subject Property (Deed)
- Exhibit D** General Location Map of Subject Property
- Exhibit E** Detailed Assessor Parcel Maps of Subject Property and Adjacent Residential
- Exhibit F** Aerial of Subject Property and Adjacent Properties
- Exhibit G** 750-foot Study Area Map/Zoning
- Exhibit H** 750-foot Study Area Township, Range, Section and Tax Lot Identification
- Exhibit I** Rural Residential Exception Area 38 Map, Description and Context
- Exhibit J** Chart of Forest Uses/Forest Zoned Lands and Assessor Summaries within
750-foot Study Area

PART 1: INTRODUCTION, BACKGROUND & METHODOLOGY

This matter comes before the Coos County Hearings Body on application filed by Richard and Kathleen Randol, herein referred to as Applicant, which is owner of the Subject Property. The 13.60-acre property is located on the east side of Seven Devils Road approximately 6.3 miles north of the City of Bandon Urban Growth Boundary, and approximately 7 miles from Bandon City Center. The subject property is identified in the Coos County Assessor's records as Tax Lot 100, Section 28B, Township 27 South, Range 14 West, Property I.D. No. 767200.

Subject Property is flat and gently sloping to the east and north towards Seven mile Creek, which eventually drains to the Coquille River. More than a third of the site is dominated by shore pine with thick undergrowth including huckleberry, wax myrtle and rhododendron. The remainder of the site has mixed forest types including fir, spruce, cedar, and hemlock along with shore pine. Subject Property is vacant land with no structures. "Subject Property" refers to the 13.60 acre parcel owned by Richard and Kathleen B. Randol. See Assessor Parcel Map, Exhibit E with Subject Property.

The Applicant is excited about the uses within the vicinity of Subject Property. The Applicant would like to contribute to opportunities for additional rural housing options on their property. They believe that recreation including Bandon Dunes Destination Resort, recreational trails and the Pacific Ocean in close proximity provide a benefit to the public, and that such property that is already exempt from resource use should be utilized to capacity reflecting adjacent property to provide rural housing options. See General Location Map of Subject Property, Exhibit D showing uses within close proximity.

The Applicant is proposing a Comprehensive Plan Amendment from "Rural Residential 5-Acre" (RR-5) to "Rural Residential 2-Acre" (RR-2), together with a Goal 14 exception to expand RR-2 zoning that already exists within a rural residential committed land exception area designated by the Coos County Comprehensive Plan.

The requested RR-2 zone classification as set out in the Coos County Zoning and Land Development Ordinance (CCZLDO) is primarily intended to provide for home sites in a rural environment in order to encourage the continued existence of rural family life. The specific provisions of the RR-2 zone are set forth under CCZLDO, Chapter 4. A copy of the Coos County zoning map for properties in the vicinity is identified as Exhibit G within this document to generally identify the zoning and parcels in the area surrounding Subject Property.

The standards contained in the Statewide Planning Goals provide the most complete set of review standards which are discussed in detail under each respective Goal. Consequently, in the discussion of the criteria under the CCZLDO where there is overlap in review standards, reference is made back to the relevant goal discussion to avoid needless repetition. Exhibits provided at the end of this application are organized to follow the flow of the document.

Methodology

The Applicant has organized a 750-foot perimeter boundary for analysis applicable to the forest zone, Goal 4, and other Rural Residential Exception Area properties within the boundary. This document provides updated analysis, where a rural housing exception has been on Subject Property since the acknowledgement of the Coos County Comprehensive Plan and implementing ordinances. In order to address potential interference with permitted uses on adjacent forest zoned property and residential lot size consistency, the Applicant is utilizing this perimeter boundary to provide consistency for analysis. The boundary is based upon notice areas provided in Oregon law and incorporated into Coos County's zoning. The 750-foot boundary is greater than required notice areas required for public hearings for plan amendment/rezones that include exceptions, which is a stringent requirement. The 750-foot parameter is equal to those boundaries for notice of administrative decisions where the public can only be involved in the decision by requesting participation. This boundary provides for the broadest consideration of adjacent forest zoned lands. It provides for consideration of rezoning for higher density residential use, which will conform to adjacent rural residential properties within the existing exception area. The 750-foot boundary provides parameters for analysis of possible negative effects of creating higher density on Subject Property.

Notice requirements of ORS 197.763 incorporated into CCZLDO Chapter 5, Section 5.0.900 are summarized below:

Section 5.0.900 Notice Requirements (ORS 197.763)

1. Notice of Public Hearing (c) (x) The Planning Director shall cause notice of the hearing to be mailed to the applicant and to all neighborhood or community organizations recognized by the County and whose boundaries include the site and to the owners of record of property on the most recent property tax assessment roll where such property is located:

3) Within 500 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is within a farm or forest zone.

2. Notice of Administrative Decisions

ii. The owners of record of property as described in ORS 215.416 (11)(c) . . .

c. Within 750 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is within a farm or forest zone.

Throughout this document, the text of all relevant review criteria is set out in *italic* font, without quotation marks. All other narrative is in regular font. Findings are in regular **bold** font.

Finding: The 750-foot boundary is appropriate for analysis and findings to assure that forest practices can continue to be undertaken on adjacent or nearby forest zoned lands.

See 750-foot Study Area Map/Zoning, Exhibit G.

See 750-foot Study Area Map, Ownership/Assessor's Identification, Exhibit H.

PART II: EXCEPTIONS

CCZLDO CHAPTER TWO – EXCEPTIONS PROCESS

This chapter will help by showing how the Applicant proposal is justified according to Oregon Statewide Planning Standards for exceptions. The land is committed to residential uses and the four areas of the Goal 2 exceptions process will be addressed (OAR 660-004-0020).

I. DIVISION 4 – INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

- (1) *The purpose of this rule is to explain the three types of exceptions set forth in Goal 2 “Land Use Planning, Part II, Exceptions.” Except as provided for in OAR chapter 660, division 14, “Application of the Statewide Planning Goals to Newly Incorporated Cities and to Urban Development on Rural Lands” and OAR chapter 660, division 12, “Transportation Planning”, sections 0070, “Transportation Improvements on Rural Land”, this division interprets the exception process as it applies to statewide Goals 3 and 19.*

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 substantial evidence in the record of the local proceedings and by a statement of reasons which explains why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.

Finding: Documentation must fully demonstrate the evidence for the exception through the application materials concurrence and justification of the Goal 2 process.

Rural lands are important to the State since this is where very productive activities occur, such as farming and timber land harvesting. Subject Property was included in a rural residential committed lands exception at the time of acknowledgement of the Coos Comprehensive Plan and CCZLDO, which removed the exception area from resource land zoned as Exclusive Farm or Forest to future residential use. Residential uses historically have caused conflicts with resource land management. However, areas were designated as RR-2, RR-5 for Coos County when the State of Oregon acknowledged exceptions for ongoing rural residential use. Through this exception process, the County is then justified in creating more rural residential land through zone changes. This application is to permit higher density development where lands within the exception area do not have consistency throughout as to the

zoning. This application provides findings to demonstrate that a Zone Change on the Subject Property from RR-5 to RR-2 will not cause any conflicts with any protected Goal 4 forest-zoned land. The topic of conflicts with Goal 4 protected forest-zoned land will be further addressed within this document.

- (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 government units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed.*

Finding: The subject application is considered quasi-judicial and is required to be heard by two Coos County hearings bodies, the Coos County Planning Commission, and the Coos County Board of Commissioners. Coos County involves professionals and interested citizens in advisory groups and workshops when presenting new ideas and reorganizing components of the acknowledged Comprehensive Plan and CCDLZO. Public hearings and involvement of citizen work groups assure that citizens and government units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed. Coos County will comply with the requirements of Goal 1 in processing this application.

- (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 exception's proceedings. Information included by reference must be available to interested persons for their review prior to the last evidentiary hearing on the exception.*

Finding: The application materials will provide a full justification through compliance with Statewide Planning Goal criteria, Coos County Comprehensive Plan, and CCLDZO consistency, and presentation of analysis and findings. A rural residential exception currently exists on Subject Property; there is no reason to amend the exception, but rather the Applicant demonstrates that the proposed 2-acre minimum density is consistent with the Rural Residential Exception Area 38 that already exists.

OAR 660-014-0030

Rural Lands Irrevocably Committed to Urban Levels of Development

- (1) *A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standards (e.g., that it is not appropriate to apply Goal 14's requirements prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.*

Finding: Subject property does not have urban levels of development; an exception was taken by Coos County at the time of acknowledgment to designate Subject Property as rural residential. The existing exception continues to apply to Subject Property.

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

Finding: Subject Property is within an irrevocably committed lands exception which will be explained further in this document. It is not at urban densities and not irrevocably committed to urban levels of development. Subject Property is adjacent to RR-2 properties located directly to the north. The maps show developed RR-2 pre-existing lots located to the north and northwest of Subject Property, several being less than two acres in size. Adjacent lands are not irrevocably committed to urban development within the Coos County Comprehensive Plan description.

See acknowledged Rural Residential Exception Area 38 Map, Description and Context from the Coos County Comprehensive Plan, Exhibit I.

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

Finding: Tourism plays a significant role in the local and regional economy. Subject Property is in close proximity to Bandon Dunes Golf Resort, Oregon State Parks, Oregon Coast beaches, and hiking and biking activities at Whiskey Run. Such attractions provide an opportunity for residents who can live in close proximity where housing is available. There is a history of mining at Whiskey Run and the Pioneer and Eagle mines along Seven Devils Road. The Eagle mine is a resource for sand and gravel. Industrial Forest on County and private lands and small tract forest lands exist within this area. Some County lands are used for hiking and biking trails; Bandon Dunes draws visitors from around the region, the State, and the world. Forest production,

agriculture and tourism all contribute to the economy. There are no adjacent commercial or industrial uses. Rural Residential Exception Area 38 includes no commercial or industrial uses, and the zoning does not permit such uses.

b. Location, number and density of residential dwellings.

Finding: As previously discussed, the property is located in a pre-existing rural residential area. Subject Property is surrounded by rural residential zoning on all sides, except for property to the east which is zoned Forest (F). In the 750-foot notice area, there are currently thirty-two properties and twenty-eight of them are designated as residential. The remaining four currently have a forest designation. Twenty-four out the thirty-two properties currently have single family dwellings; one out of the four located in the forest zoned area to the east (Manning Family Trust, 24.28 acres, Tax ID 763601). In addition, approximately 1,200 feet to the southwest is a pre-existing fifty-six lot subdivision. All lots are currently one-acre in size, despite the zoning designation dictating a two-acre minimum. This subdivision is pre-existing and non-conforming to its minimum parcel size and was platted prior to Coos County's current Development code adoption. It further illustrates the historical residential nature of the area and the intensity of density within Rural Residential Exception Area 38.

See Chart of Forest Uses/Forest Zoned Lands within 750-foot Study Area providing acreage of small tract forest lands adjacent to the east of Subject Property, along with Assessor information about uses, Exhibit J.

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

Finding: Rural Residential Exception Area 38 including Subject Property is not located within an urban growth boundary or urban unincorporated area. It is not a rural center. Urban services and amenities including public water and sewer are not available. Subject Property, in addition to all other properties in the area will be expected to utilize onsite septic systems for sanitation systems approved by DEQ, and wells for domestic water that meet quality testing aspects of the Oregon Water Resources Department. Proximity to transportation corridors, employment opportunities, recreation trails, and beaches provide positive amenities in proximity to future housing where increased density is proposed. Urban levels and types of facilities and services do not exist within Rural Residential Exception Area 38.

d. Parcel sizes and ownership patterns.

Finding: Parcels within the 750-study area range from .45 acres to 37.33 acres in size. Directly to the north of the Subject Property is a pattern of properties

zoned Rural Residential, RR-2, but currently only eight lots meet the minimum parcel size; the rest are approximately one acre in size. There are sixteen properties within the study area that are currently zoned Rural Residential, RR-5. Only six are five acres or above in size but the remaining ten are below the five-acre minimum parcel size.

There are fourteen properties within the study area that are zoned Rural Residential RR-2; of those, five are below the two-acre size while the remaining nine are two acres or above. None of the properties that are zoned in this capacity are above four acres in size. These patterns clearly add relevance to a highly development residential area. The lot size analysis also gives credence to this request for increased density of Subject Property, which is larger than other properties within Rural Residential Exception Area 38.

Out of the thirty-two properties located in the study area there are two properties that are larger (Davidson, Assessor's Description T27S, R14W, Sec. 28, TL's 200 and 300). The Davidson properties are not within the area of Rural Residential Exception Area 38. Further information about these particular properties is provided in Exhibit J.

**See Aerial of Subject Property and Adjacent Properties, Exhibit F.
See Rural Residential Exception Area 38 Map, Description, and Context Exhibit I.**

EXCEPTION TO GOAL 14

Exception areas zoned for rural residential use through committed area exceptions are subject to specific rules depending upon whether there are urban or rural uses within the exception area. Goal 14 limits urban development outside urban growth boundaries. Goal 14 specifies the level of development a county may permit before an area is urbanized. Within the exception area, the level of development is regulated by the minimum parcel size for creation of new parcels and limiting parcels to one dwelling.

For exception areas that existed before the rule went into effect (October 4, 2000), the smallest minimum parcel size allowed by rule is whatever the county already allowed as long as it is two acres or larger. In this particular case, the Applicant is proposing two-acre minimum lot sizes. Counties are prohibited from allowing the creation of new parcels smaller than two acres in rural residential areas outside urban growth boundaries.

In new exception areas, the minimum parcel size now must be at least 10 acres, with allowance for clustering. This only applies to the creation of new parcels; existing parcels are allowed one dwelling regardless of size. While the rule for rural residential zoning, OAR 660-004-0040, establishes that, for residential zoning, "rural use" means one dwelling per 10 acres, the proposed use is within an exception area that already exists; no new exception area is proposed. Exceptions that are applicable are outlined with findings within this section.

660-004-0040

Application of Goal 14 to Rural Residential Areas

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

Finding: The criteria and findings within this section provide the Goal 14 exception pursuant to OAR 660, division 14 and applicable requirements.

OAR 660-004-0018

Planning and Zoning for Exception Areas

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

Finding: The rezoning proposal is for the purpose of amending a zone designation for rural residential density within the existing Rural Residential Exception Area 38. The application is necessary to permit a more intense rural residential zoning designation, but the proposed new zone to be applied is already included within the original Rural Residential Exception Area 38. The original housing exception did not include recognition or authorization for public facilities and services. No public facilities and services or additional activities other than those recognized and justified by the original exception are proposed as part of this application.

The original exception was an irrevocably committed exception under 660-004-0025, 600-004-0028, and 660-014-0030 intended to recognize and allow continuation of rural residential development within the exception area. The proposal is to amend and adopt the density of the Subject Property by applying the standards outlined within OAR 660-004-0018.

2. For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone

designations shall limit uses, density, and public facilities and services to those that satisfy (a) or (b) or (c) and, if applicable, (d):

Finding: The original exception is for “irrevocably committed” residential lands. The original zone designation did not authorize a single numeric minimum lot size. It is appropriate to amend the exception at this time to comply with the current requirements and authorize “a single numeric minimum lot size that includes Subject Property in the same zone as the bulk of the properties within Exception Area 38.

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

Finding: There are no community public facilities and services for water or wastewater within the exception area. Other public facilities and utilities such as fire, roads, and electricity are available within the exception area. These will be discussed elsewhere within this document. The proposed amendments will provide the same services to the Subject Property that currently exist within the Exception 38 area.

(b) That meet the following requirements:

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

Finding: The level of development is regulated by the minimum parcel size for the creation of new parcels and by limiting parcels to one dwelling. The rule for rural residential zoning, OAR 660-004-0040, establishes that, for residential zoning, "rural use" means one dwelling per 10 acres.

OAR 660-004-0040, Application of Goal 14 to Rural Residential Areas (2):

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

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

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

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

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

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

Finding: Subject property is within the definition provided above, in OAR 660-004-0040 (f) “Rural residential areas.” In addition, Subject Property is within the definition above in OAR 660-004-0040 (g) “Rural residential lands currently in effect.” No urban use of rural lands is proposed. The application complies with Goal 14, which prohibits urban use of rural lands.

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

Finding: Subject property is accessed via Seven Devils Road which has a functional classification of a minor collector in the CCZLDO. These roads are required to have a 60 foot right of way width. Seven Devils Road currently has a 60 foot right of way width where it fronts the Subject Property and will not require additional right of way to accommodate a potential of four additional lots. Subject Property’s uses will be consistent with other rural residential development land in the area that have onsite sanitation and wells.

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

Finding: The proposed rural uses, density, public facilities and services of the proposed zoning are compatible with the requirements. Compatibility with adjacent and nearby resources was addressed at the time that Rural Residential Exception Area 38 was adopted by the Coos County Board of Commissioners and acknowledged by DLCD (now LCDC). The language of the Coos County Comprehensive Plan confirms compatibility with adjacent or nearby resource use. In addition, analysis of adjacent resource use is provided within this document. Such analysis and findings are included within the Goal 4 Forestry findings of this document.

OAR 660-014-0040

Establishment of New Urban Development on Undeveloped Rural Lands

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

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

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

Finding: There is no proposal for urban levels of facilities and services.

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

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

(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

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

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

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

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

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

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

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

(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

Finding: The criteria included in OAR 660-014-0040 can be used to justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land, but this is not what the Applicant is proposing. The intent is to obtain a rezone that is consistent with established zoning densities within the existing Exception Area 38. There is no proposal for urban levels of facilities and services, and no pursuit of a new exception. The Applicant understands that rural services such as septic systems and wells will be necessary when Subject Property is partitioned or subdivided. Urban levels of facilities and services are not needed; there is no proposal for economic activity that is dependent upon an adjacent or nearby natural resource.

OAR 660-004-0040

Application of Goal 14 to Rural Residential Areas

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

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

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

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

Finding: This application is for zoning and Comprehensive map amendment to establish a minimum lot size for Subject Property which is the same as adjacent properties that already lie within Rural Residential Exception Area 38. The lots within the exception area include both 2-acre lots and 5-acre lots. Subject Property is currently a 5-acre lot, but analysis presented previously in this document shows that 5-acre lots are not consistent with the majority of the properties within the exception area.

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

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

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

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

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

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

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

(A) Land inside an acknowledged urban growth boundary;

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

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

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

Finding: Subject Property is not: (A) Land inside an acknowledged urban growth boundary; (B) Land inside an acknowledged unincorporated community boundary established pursuant to OAR chapter 660, division 22; (C) Land in an acknowledged urban reserve area established pursuant to OAR chapter 660; (D) Land in an acknowledged destination resort established pursuant to applicable land use statutes and goals.

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

OAR 660-004-0050(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).

Finding:

OAR 660-004-0010(1)(b) provides for Goal 4 “Forest Lands” exceptions which have been applied to Subject Property.

OAR 660-004-0010 Application of the Goal 2 Exception Process to Certain Goals, addresses the following:

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

OAR 660-011-0060(9) addresses sewer service to rural lands and requires an exception to Goal 11 for establishment of such service. There is no request to connect to an existing sewer line.

Goal 11 “Public Facilities and Services as provided in OAR 660-011-0060(9) is not applicable.

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

Findings within this section already address Goal 14 “Urbanization as provided for in the applicable paragraph (1) (c) (A), (B), (C) or (D) of this rule. The sections addressed within (d) Goal 14 “Urbanization” above are not applicable to Subject Property.

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

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

Finding: Subject Property does not include (G) Marginal land, as defined in former ORS 197.247 (1991 Edition); or (H) Land planned and zoned primarily for rural industrial, commercial, or public use.

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

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in 1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry

County), and before October 4, 2000. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

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

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

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

Finding: Subject Property will comply with Goal 14 through the proposed rezoning that will permit lots with a minimum density of two acres. Section (8) of this rule will be addressed with findings as we proceed through the requirements of OAR 660-004-0040 Application of Goal 14 to Rural Residential Areas in Section (8) which follows.

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

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

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

Finding: There is a proposal to amend the minimum lot or parcel size by confirming the exception that currently exists and how it applies to Subject Property and adjacent

property. This application addresses the criteria of a Goal 14 exception pursuant to OAR, division 14 and applicable requirements.

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

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

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

Finding: Rural Residential Exception Area 38 includes minimum lot sizes of both 5 and 2 acres. The Exception was acknowledged by LCDC (now DLCD).

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

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

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

PART III: STATEWIDE PLANNING GOALS – COOS COUNTY COMPREHENSIVE PLAN

The Coos County Comprehensive is acknowledged to comply with Oregon’s Statewide Planning Goals. A proposal to amend the Comprehensive Plan and Zone must comply with all applicable Statewide Planning Goals except where an exception to one or more of the goals is justified. There is no exception being proposed as part of this application, but there are findings to confirm the existing acknowledged Rural Residential Exception 38 as it applies to Subject Property. The Applicant and Coos County must make findings that Applicant’s proposal complies with each of the relevant goals. The following information regarding the Statewide Planning Goals with references to Coos County Comprehensive Plan language show how this request complies.

Goal No. 1 - Citizen Involvement

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

Finding: Coos County will provide written notice of the requested plan amendment and zone change to surrounding property owners within 250-feet of the Subject Property not less than twenty days prior to the scheduled date of the first public hearing and will cause public notice of Applicant’s request and the scheduled public hearing to be published in the local newspaper pursuant to the requirements of CCZLDO Chapter 5, Section 5.0.900. Notice will also be given to affected State and local agencies, and other individuals and organizations that are legally entitled to such notice. These various forms of individual and public notice assure that local citizens have an opportunity to become informed about, and participate in, the public hearing process. Coos County utilizes citizen committees and workshops where stakeholders are invited when they initiate amendments to the Comprehensive Plan and the CCLDZO. The requested plan amendment and zone change are being processed in a manner and context that assures full compliance with Statewide Goal No. 1.

Goal No. 2 - Land Use Planning

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

Finding: Coos County has established policies and procedures, which require a detailed evaluation of any proposal to amend its Comprehensive Plan. Specific criteria and standards have been set forth against which Applicant’s amendment request is evaluated in the light of relevant Findings of Fact. The County’s ultimate decision in this matter will be based on how those relevant findings address local and State criteria. As was noted in the introduction section of this document the proposed Plan Amendment and Zone Change involve the conversion of 13.60 acres of land from RR-5 to RR-2 residential use designation. The area proposed for amendment is already rural residential land. However, the Subject Property is not in a rural community. The proposed Plan Amendment and Zone Change must conform to the existing exception and include findings of compliance with Statewide Planning Goal 14, which was not required of Rural Residential Exception 38 at the time of acknowledgment of Rural Residential Exception Area 38.

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

Goal No. 3 - Agricultural Land

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

Finding: The land proposed for amendment is currently designated with Rural Residential (RR-5) zoning by the Coos County Comprehensive Plan through Rural Residential Exception 38 and is therefore not protected as a Goal 3 resource. This finding is validated by the fact that the site has been determined to be non-resource land suitable for rural residential development. It is included within the County inventory of rural residential lands as evidenced by the Coos County Comprehensive Plan and confirmed within this finding. The proposed Plan Amendment and zone change do not conflict with Statewide Goal No. 3. On the basis of these findings, Subject Property is not farmland as defined by Goal 3.

Goal No. 4 - Forest Lands

To preserve forest lands for forest use.

Finding: The land proposed for amendment is currently designated Rural Residential (RR-5) zoning by the Coos County Comprehensive Plan and is therefore not protected as a Goal 4 resource. This finding is validated by the fact that the site has been determined to be non-resource land suitable for rural residential use and subsequently included within the County inventory of rural residential lands site as evidenced by the Coos County Comprehensive Plan.

The Coos County Comprehensive Plan, Volume 1, Part 3, provides the following justification statements to support the “Irrevocably Committed” Areas Exception with justifications for rural housing where there is adjacent forestry within Exception Area 38. Subject Property is within this exception area and adjacent analysis of adjacent forest lands have been provided previously within this document.

See Rural Residential Exception Area 38, Map, Description and Context, Exhibit I.

Coos County Comprehensive Plan, Volume 1, Part 3

5. Rural Housing Exception

5.6.2: Coos County's “suitability rating system”, [sic] a unique method for analyzing and measuring constrains on development and opportunities for development (based on requirements of LCDC Goals #3, #4, #5, #7, #11, #12, #13 and #17) provides a convenient and almost site specific means for ranking candidate exception sites by extent of compatibility and long-term consequences. The suitability rating system compares

individual “analysis cells” according to 17 different weighted criteria, and then helps select those sites with the highest scores. Those sites having stronger impacts on a protected resource or more adverse consequences as regulated by a particular goal are thus the least likely sites of being selected for rural residential uses.

5.7 Conclusion: The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(iii) Forest practices in small woodlot areas are not expected to include burning and herbicide use, which will reduce conflicts between residential and small woodlot uses.

Finding: The Coos County Comprehensive Plan language responds to Goal 4 requirements in organizing Rural Residential Exception Area 38. Such housing exception analysis is applicable today where there is adjacent forest zoning and small tract forest land uses to the east of Subject Property. Exhibit I with the map and description that was approved were acknowledged based upon the analysis that is addressed in the Comprehensive Plan. The exception refers to rural residential areas and adjacent forest lands, stating that small tracts of forest land require only infrequent management activity, produce little income, and do not permit the type of practice which involves economies of scale. Conditions and justification utilized for the rural housing exception at the time of acknowledgement continue to be relevant today where there are forest zoned lands to the east. These are not major tracts utilized for commercial or industrial forestry. Further analysis is included within this document.

On the basis of these findings, Subject Property is not forestland as defined by Goal 4. Adjacent forest land is addressed within another section of this document, which provides site specific findings from Rural Residential Exception 38 that was approved when the Coos County Comprehensive Plan was acknowledged. Exception 38 and the text of the findings document describe the situation that continues to exist today regarding adjacent forest designated land to the east of Subject Property. Such forest land is deemed to be small tract forest use as described in the Assessor’s summary sheet. This is not commercial industrial forest use. The 2-acre lot minimum density that will permit up to four additional homesites, provided that wells and septic systems can be permitted by State agencies, will not affect harvesting that takes place with adjacent small tract forest use. The proposed Plan Amendment and Zone Change do not conflict with Statewide Goal No. 4.

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

To conserve open space and protect natural and scenic resources.

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

Goal 5 addresses the following resources:

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

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

1. Land Needed or Desirable for Open Space

The Subject Property is typical of the majority of the lands in the central area of Coos County and contains no identified topographic or vegetative features that warrant protection under Goal 5. There is a large amount of land, which shares these same general characteristics surrounding the Subject Property. Conversion of the site from its present 5-acre rural residential designation to a 2-acre rural residential designation would result in an insignificant impact on open space resources in the surrounding area due to the abundant supply of open space with similar natural features. The site has not previously been identified by either the Coos County Comprehensive Plan as being needed or desirable for open space.

2. Mineral and Aggregate Resources

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

3. Energy Sources

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

4. Fish and Wildlife Areas and Habitat

The Subject Property is not traversed by any existing creek or stream (riparian vegetation),

which has been classified by the Oregon Department of Fish and Wildlife (ODFW) as a “fish-bearing stream”.

5. Ecologically and Scientifically Significant Natural Areas

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

6. Outstanding Scenic Views and Sites

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

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

The Subject Property contains no water areas, watersheds or identified groundwater resources. Groundwater drawdown is minimized because of the large amount of incoming water, the redirection of runoff and used water into the aquifer through engineered drainage and subsurface disposal, and maintenance and enhancement of existing vegetation cover. No complaints concerning depletion of water resources in adjacent similar areas have occurred. In order for an area to meet the Army Corps of Engineers' and the Oregon Division of State Lands' definition of wetland, three elements must be present: 1) water, 2) hydric soils, and 3) wetland vegetation. Coos County has published a Significant Wetland Inventory, which shows that no significant wetlands have been identified on the Subject Property or on adjacent property. In addition, the U. S. Fish and Wildlife Service has completed mapping of wetlands in Coos County under the National Wetlands Inventory (NWI) program. The NWI mapping indicates that there are no areas of mapped wetlands on Subject Property. A copy of the NWI map is included in this document. The Federal Flood Insurance Rate Map for the area shows that the elevation of the property puts it well above the flood plain of any area streams.

8. Wilderness Areas

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

9. Historic Areas, Sites, Structures, and Objects

There are no identified or inventoried historic structures or objects on, or adjacent to, the Subject Property.

10. Cultural Areas

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

11. Potential and Approved Oregon Recreation Trails

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

12. Wild and Scenic Waterways

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

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

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

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

Finding: Statewide Goal 6 requires that air, land and water resources of the State be maintained and improved by assuring that future development, in conjunction with existing development, does not violate applicable State and federal environmental quality standards, and does not exceed the carrying capacity of local air sheds, degrade land resources or threaten the availability of such resources.

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

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

To protect life and property from natural disasters and hazards.

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

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

Goal No. 8 - Recreational Needs

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

Finding: Recreational needs for the general public have been provided for on numerous sites in the coastal area in the vicinity of Subject Property including Bandon Dunes Golf Course and the general areas of coastal features directly to the west. The Coos County Comprehensive Plan has not identified Subject Property on any inventory for recreational facilities or opportunities. The proposed amendment will not conflict with Statewide Goal No. 8.

Goal No. 9 - Economy of the State

To diversify and improve the economy of the state.

Finding: The Statewide Economic Development Goal requires that local land use plans "provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of industrial and commercial uses consistent with plan policies". Goal 9 is intended to be applied on a County-wide basis and requires that future economic growth be accommodated, in part, by ensuring that there is sufficient suitable land planned and zoned for commercial and industrial uses.

The proposed plan amendment and zone change do not involve, or otherwise impact, the County's inventory of lands needed for economic development. The amendment and zone change will not conflict with the Statewide Economic Development Goal.

Goal No. 10 – Housing

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

Finding: The primary purpose of Goal 10, within the context of amending the Comprehensive Plan, is to ensure that sufficient buildable land is available to allow for the full range of housing needs within the County to avoid creating shortages of residential land which would artificially restrict market choices in housing type, price range or location.

The acknowledged Coos County Comprehensive Plan provides policies for housing to comply with Statewide Planning Goal No 10. The following are applicable:

Coos County Comprehensive Plan, Volume 1, Part 1
5.17 HOUSING ISSUES

Coos County strongly desires to protect its valuable farm and forest lands, yet the County has conclusively established a legitimate need for acreage homesites.

- ✓ *What can the County do to achieve both objectives?*
- ✓ *Local citizens have expressed the concern that plans should provide for different types and densities of housing in a variety of urban and rural locations.*
- ✓ *What can the County do to respond to its citizens' concerns?*

GOAL: Coos County shall provide for the housing needs of its residents.

PLAN IMPLEMENTATION STRATEGIES

1. Coos County shall provide zoning for adequate buildable lands and shall encourage the availability of adequate numbers of housing units for future housing needs at price ranges and rent levels, which are commensurate with the financial capabilities of Coos County households.

2. Coos County shall encourage the availability of a wide variety of housing locations in urban and rural areas. For urban and urbanizable areas, this strategy shall be implemented through urban growth management agreements and appropriate coordinated land use designations. For rural areas this strategy shall be implemented through appropriate land use designations for acreage homesites as selected and justified in the County's rural housing exception.

Finding: In compliance with the criteria of applicable laws, Oregon Statewide Planning Goals, and the CCZLDO, Subject Property has been recognized as nonresource land by its zoning designation of rural residential through Rural Residential Area Exception 38. Statewide Planning Goal 10 addresses housing, and the Coos County Comprehensive Plan, Volume 1, Part 1 includes strategies for housing that are acknowledged to be in compliance with the Statewide Planning Goals. It is appropriate that the housing goals included within the Coos County Comprehensive Plan and zoning be recognized; OAR 660-004-0040 (8)(b), application of Goal 14 to rural residential areas recognizes that rural residential exception areas shall have a minimum lot size that will not exceed the minimum lot size already in effect. The proposed rezone will comply with this rule because RR-2 zoning already exists within the rural residential exception area. Subject Property will continue to provide a rural housing option consistent with the policy to encourage a variety of housing within Coos County and an opportunity to contribute to consistent zoning with the property to the north that is within Coos County's Rural Residential Area Exception 38. The application complies with Goal 10.

See Rural Residential zoning within Rural Residential Area Exception 38, Exhibit I.

Goal No. 11 - Public Facilities and Services

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

Finding: Statewide Goal No. 11 concerns the public facilities and services aspects of amending the density of zoning on rural residentially zoned land. This requires consideration of public facilities and services that will be necessary for the density and uses that will be permitted.

Applicant's property is situated in a rural area where public facilities and services are relatively limited, compared with the broad ranges of services that are available in urban areas. There are no public sanitary sewer systems within the vicinity of Subject Property; however, the relatively low density of development permitted by the proposed rural

residential designation and zoning on Subject Property and other surrounding rural residential properties is expected to accommodate the use of individual subsurface septic systems subject to standards enforced by the Oregon Department of Environmental Quality. There is no public water service in the vicinity of Subject Property, however, all of the existing residential properties in the surrounding area are provided domestic water services by individual onsite wells or springs. There is no known evidence of groundwater depletion as a result. Applicant intends to develop an onsite water sources for future development of the property. Fire protection in the area is provided by Bandon Rural Fire District and police protection is provided by the Coos County Sheriff’s Office.

The demand for other utilities and services, including electricity and communications, will be no greater than that resulting from the historic use of other adjoining and nearby properties. The proposed plan amendment and zone change will not adversely impact the present or future provision of public facilities and services in the surrounding area. This conclusion is based on consideration of the existing public service delivery systems and plans that are in effect within the surrounding area. The services that are available within Rural Residential Exception Area 38 include those listed in the table below.

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

Subject Property will be provided with the necessary public and private facilities and services that can be delivered in an orderly and efficient manner consistent with the purpose of Statewide Goal No. 11.

Goal No. 12 – Transportation

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

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

use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards... of the facility”.

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

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

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

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

(2) The Applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the County Transportation System Plan.

- (a) The Applicant shall cite the identified Comprehensive Plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the County Transportation System Plan.*

Access to Subject Property is directly from Seven Devils Road. The functional classifications of transportation facilities within Coos County, including Seven Devils Road, are identified in Table 3-3 of the Transportation Element of the CCZLDO. Seven Devils Road is classified as a “Minor Collector”. The Coos County Transportation System Plan states:

Generally serve lower traffic demands than major collectors. They generally branch off from highway, arterial or major collector roadways and provide access to agricultural, forest, recreational areas, and residential homes. Property access is generally a higher priority for minor collectors while through traffic movements are served as a lower priority.

Estimates of the average number of daily vehicle trips generated by a specific land use can be obtained from a number of reliable sources; however, the most commonly referenced source for such data is Trip Generation, published by the Institute of Transportation Engineers (ITE). Average daily trip generation rates published in the ITE’s Edition of Trip Generation are based primarily on field data obtained from direct observation of actual land use activities. Trip generation rates are reported as an average of the often wide-ranging vehicle counts taken at numerous sites having the same classification of land use. Trip generation rates are often broken down into 24-hour time frames and reported as

“Average Daily Trips (ADT)”. For most land use activities, including single-family rural dwellings, ITE defines an “average daily trip” as a one-way vehicular movement between a single origin and a single destination. For a single-family dwelling, trip generation rates are reported as a ratio of 9.5 vehicle trips per day per dwelling unit. Based on the maximum potential development density permitted by the requested rural residential change from five-acre to two acre zoning, Subject Property could reasonably accommodate a maximum of four additional single-family dwellings over time. Subject property could therefore generate up to 38 additional daily trips (ADT) over time.

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

The existing functional street classification that applies and the traffic counts that will be generated from the four additional residential units that could be added as a result of this rezone have been addressed. Approval of the Subject Property rezone to 2-acre density will be consistent with the function, capacity and performance standard establish for Seven Devils Road by Chapter 7 of the CCZLDO. Coos County’s Transportation System Plan has received acknowledgement of compliance with the Statewide Transportation Goal and the Transportation Planning Rule (OAR Chapter 660, Division 12) by DLCDC. There will be no conflict with the Coos County Transportation System Plan, Goal 12 , or the Transportation Planning Rule.

Goal No. 13 - Energy Conservation
To conserve energy.

Finding: The statewide energy conservation goal is intended to be applied on both a county-wide basis through the adoption of local energy conservation goals contained within the Comprehensive Plan, and on a site specific basis through the implementation of those Plan policies. Subject Property is located in an identified area dedicated to non-resource use.

Coos County Comprehensive Plan strategies within the CCZLDO, Section 5.2 Energy, speak to “implementing ordinances to promote the conservation of energy based upon sound economic principles, by considering . . . techniques as incentives:” Coos County will require their acknowledged development standards that include such incentives. The

Applicants believe that the site itself provides incentives. Proximity of Subject Property to employment and recreation options can provide energy savings in daily life of individuals who work within the vicinity. Subject Property is located in a rural area with destination resort activity and employment, and recreation. The proposed plan amendment and zone change may provide opportunities for short-distance auto trips to nearby employment for a few residential lots at a time when we are all experiencing rising gas prices. Development of additional density on Subject Property could contribute positive options for a few families to alleviate some daily automobile travel that contributes negatively to climate change and air quality. The rezone will not conflict with Statewide Goal No.13.

Goal No. 14 – Urbanization

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

Finding: Goal No. 14 requires local governments to establish urban growth boundaries that separate urban lands from rural lands. The proposed plan amendment and zone change involve the land that is identified as rural residential land, currently designated RR-5. The proposal to change to the designation to RR-2 requires an exception to Goal 14. The proposal does not involve an established urban growth boundary or utilization of urban amenities. This document includes an entire section of analysis and findings for Goal 14. The proposed change in density is in compliance with Goal 14.

Goal No. 15 – Willamette River Greenway

To protect, conserve, enhance, and maintain the natural, scenic, historical, agricultural, economic, and recreational qualities of lands along the Willamette River as the Willamette River Greenway.

Finding: The Willamette River Greenway goal is not applicable to this application; there is no Willamette River Greenway in Coos County. Goal 15 does not apply.

Goal No. 16 - Estuarine Resources

To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon’s estuaries.

Finding: There are no Estuarine Resources on or adjacent to Subject Property. Goal 16 is not applicable to this application for proposed amendments.

Goal No. 17 - Coastal Shorelands

To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality

and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Finding: The Shorelands have been mapped and identified by Coos County. They are not on Subject Property, or other properties within Rural Residential Exception 38 or adjacent properties. The Shorelands of the Pacific Ocean are within proximity where they can be enjoyed and valued by any future property owner of Subject Property for their recreational and aesthetic values.

Goal No. 18: Beaches and Dunes

To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-made induced actions associated with these areas.

Finding: There are no dune areas identified on Subject Property, within Rural Residential Exception Area 38, or on adjacent properties. Coastal beach areas provide recreational and aesthetic values to Subject Property due to proximity within the vicinity. Goal 18 does not apply directly to this application.

Goal No. 19: Ocean Resources

To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

Finding: The ocean resources goal is about respect for the ocean and its functions. While the Pacific Ocean is an imminent part of the landscape in the vicinity of Subject Property, there are no direct requirements that are not already applied through other Statewide Planning Goals. Goal 19 does not apply directly to this application.

PART IV COMPLIANCE WITH CCZLDO CRITERIA FOR ZONE CHANGES

Section 5.0.900

Section 5.0.900 requires plan amendments to be predicated on a demonstration that the amendment provides a reasonable opportunity to satisfy a local need for a different land use. It is the policy of the State of Oregon to preserve and maintain designated resource land for farm and forest use. This policy is also articulated in the Coos County Comprehensive Plan and is implemented with a variety of land regulations, which discourage or prohibit the establishment of additional nonresource-related development in rural areas of the County. At the same time, the Comprehensive Plan also recognizes that there is a public need to provide opportunities for nonresource-related residential uses in rural areas.

Both statewide planning policy, and local planning regulations, establish standards and procedures which enable the County to strike a reasonable balance between the policy of

preserving farm and forest land and the recognized need to provide opportunities residential rural living.

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

Finding: Section 5.1.215 states that Coos County may zone for appropriate non-farm use [sic] one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for such non-farm use prior to the establishment of the exclusive farm use zone. There is no evidence that Subject Property was in the interior of an exclusive farm use zone. However, there was a determination that Subject Property was committed to rural residential development at the time that the Coos County Comprehensive Plan and zoning were acknowledged. This application has provided the exception that was organized at that time, and also confirmed through current exception criteria and findings that the rural residential density proposed is appropriate.

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

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

There are four properties to the northeast, east and southeast that are designated for forest use and zoned Forested. Only two of them are receiving special assessment and/or forest deferral (Tax Lots 200 and 300 -Davidson). There are no identifiable commercial forest uses taking place currently on these particular properties. Historical information dictates there has been little, if any commercial harvesting activity on the small forest tract lots. The zoning that is proposed is similar to adjacent zoning to the north and is already within the rural residential exception area. The rezoning will not seriously interfere with permitted uses of other nearby properties.

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

SECTION 5.1.275 STANDARDS FOR COMPREHENSIVE PLAN AND REZONE FOR NONRESOURCE LAND

1. The subject property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 and /or Forest Land under Statewide Planning Goal 4. NOTE: If the subject property is predominantly Class I-IV soils or if it predominantly consists of soils capable of producing 5000 cubic feet of commercial tree species it is not considered to be nonresource land.

Finding: Criteria and analysis are presented throughout this document explaining that Subject Property is part of an acknowledged rural residential exception. Analysis shows that the Coos County Comprehensive plan and residential zoning applicable to Subject Property are appropriate and there is no proposal to amend Rural Residential Exception Area 38. The density change that is proposed for Subject Property is consistent with other surrounding properties. Subject Property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 or Forest Land under Statewide Planning Goal 4. The analysis that included Subject Property as part of the rural residential housing exception took farm and forest land into consideration at the time of acknowledgement as presented within this document. While destination resort activity, recreation, and rural residential have increased nearby, there is no indication that the forest-zoned land adjacent to Subject Property is providing high yield forest production.

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

Finding: The Goal 5 analysis for Subject Property concludes that there are no natural resources identified for specific attention or preservation in response to Statewide Planning Goal 5.

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

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

Finding: Subject Property has been determined to be suitable for rural residential use including gardening, berries, and other small scale crops that contribute to rural living and the economy. Farm animals such as chickens and horses and small tract forest use are appropriate. The Comprehensive Plan has designated Subject Property as rural residential, which is a choice that contributes to the housing options available. The proposal is to increase density, but there is no proposal to change the uses that are permitted.

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

Finding: Subject Property does not include special tax assessments for farm or forest use, and there is no evidence that such assessments were provided within the past five years.

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

Finding: The zoning is already nonresource. The stability of the overall land use pattern in the area will not be materially altered by the increase in density to permit 2-acre parcels instead of 5-acre parcels from the 13+ acre lot.

7. The subject property shall be at least 10 acre in area unless it is contiguous to an area that is zoned for nonresource use. Any proposal of at least 2 acres but less than 10 acres requires approval of a Goal 14 exception pursuant to OAR 660-00-0040.

Finding: There is no 10-acre zoning within this area designated for nonresource use by the Coos County Comprehensive Plan. The proposal is for a change from 5-acre to 2-acre minimum. A Goal 14 exception has been included within this document.

8. Rezoning of land that is found to be nonresource land shall be to a “rural” zone that is appropriate for the type of land and its intended use. Rural commercial or industrial development must comply with standards for small-scale, low impact commercial and industrial use. Development of property rezoned from Forest or Forest Mixed use to a nonresource zone shall comply with the resource development and siting standards. (ORD NO. 04-01- 001PL February 10, 2004)

Finding: Subject Property is within a rural residential zone. There is no rural commercial or industrial development adjacent. Property within the vicinity has a special designation for resort development. Small-scale forestry and small-scale farming take place on rural residential land. The rezone will be consistent with the use of forest zoned land that is adjacent to the east of Subject Property. The uses that exist today have existed side by side as addressed at the time of the acknowledgment of Comprehensive Plan. See language describing this within excerpts included as Exhibit I.

CONCLUSION:

The Applicants have addressed the relevant criteria from Oregon law and the Coos County Comprehensive Plan and CCZLDO.

Findings of compliance are provided throughout this document. All relevant Statewide Planning Goals have been addressed for consistency. Subject Property is not located in an area subject to specific overlays where additional findings would be required in order to address consistency. There are no identifiable landslide or geological hazards identified. There are no unique coastal features that merit specific analysis to prove residential development will not be detrimental.

The applicant will appreciate an opportunity to contribute to housing options within a dynamic rural area of Coos County. The change in density is justified based upon the existing Rural Residential Exception Area 38 which has been found to be applicable today as it was at the time of acknowledgment of the Coos County Comprehensive Plan.

The Applicants would like to express sincere appreciation to the Coos County Planning Staff, the Coos County Planning Commission and the Coos County Board of Commissioners for their efforts expended to assist with the preparation of this document. Thank you all for overseeing and carrying out complicated decision-making processes and procedures to comply with Oregon law.

Balancing citizen needs, wants and desires of citizens within the context of Oregon's planning program can often be a thankless effort.