



STAFF REPORT

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

I. Agenda Item IV. A - ORDINANCE NUMBER 23-08-008PL In the Matter of Amending the Coos County Comprehensive Plan Designation and Zone Map from Agriculture to Rural Residential and the Official Zone Map from Exclusive Farm Use to Rural Residential-2 (RR-2). File Nos. AM-22-003/RZ-23-003 – Johnson, Ordinance No. 23-08-008PL

APPLICANT: Brett L. Johnson
49108 Highway 101
Bandon OR 97411

SUMMARY PROPOSAL: The proposal is for an Amendment/Rezone of a parcel of land from Exclusive Farm Use to Rural Residential

CONSULTANT: Robert S. Miller III, Attorney (with Mark Preslar, Attorney)

STAFF CONTACT(S): Jill Rolfe, Director
planning@co.coos.or.us

REVIEW CRITERIA: The applicant will need to comply with:

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

SUBJECT PROPERTY DETAILS:

Account Numbers 1237808
Map Numbers 29S1512D0-00308

Property Owners JOHNSON, BRETT L.
49108 HWY 101
BANDON, OR 97411-8231

Situs Addresses 49108 HIGHWAY 101 BANDON, OR 97411

Acreages 4.77 Acres

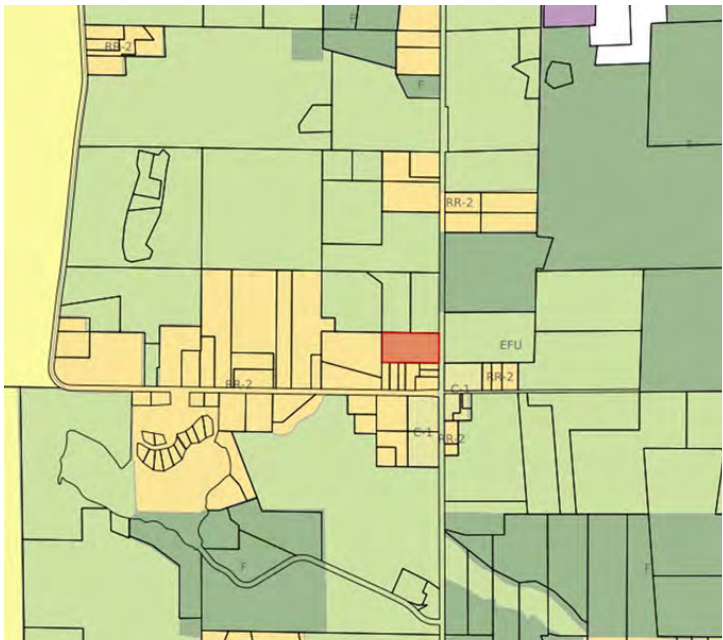
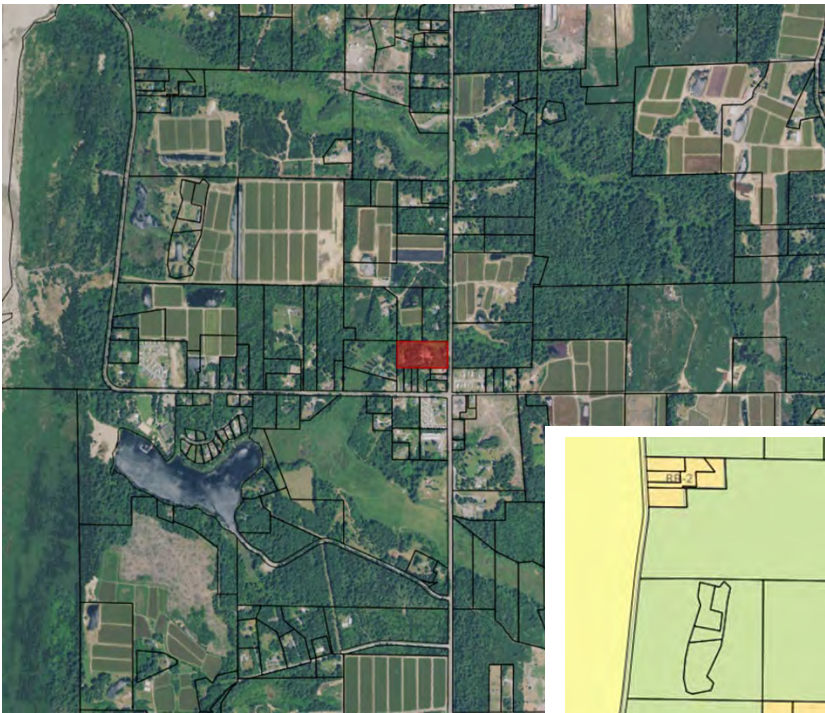
Zoning(s) EXCLUSIVE FARM USE (EFU)

Special Development ARCHAEOLOGICAL AREAS OF INTEREST (ARC)
Considerations and Overlays BANDON AIRPORT CONICAL ZONE (ABC)
BANDON AREA OF MUTUAL INTEREST (BMI)
NATIONAL WETLAND INVENTORY SITE (NWI)
NATURAL HAZARD - EARTHQUAKE - LIQUEFACTION

A. DETAILS AND BACKGROUND:

- i. **PROPOSAL:** According to the application, the applicant is proposing to amend the plan designation of the subject property from Agriculture to Rural Residential and rezone from Exclusive Farm Use (EFU) to Rural Residential (RR-2).

- ii. **LOCATION AND SURROUNDING USES:** The Subject Property is located just north of the intersection of Highway 101 and Beach Loop Drive south of the City of Bandon, Oregon. The property is accessed off of Highway 101. Property is zoned Exclusive Farm Use (EFU). Land South and West of the Property is zoned RR-2; land North of the Property is zoned EFU. The subject property (shown in red) is Exclusive Farm Use, and there is Exclusive Farm Use zoning to the north and east. The properties are zoned Rural Residential-2 to the south and west of the subject property.





COOS COUNTY PLANNING DEPARTMENT

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 Physical Address: 60 E. Second, Coquille Oregon
 Phone: (541) 396-7770
 TDD (800) 735-2900



File: AM-23-003/RZ-23-006
 Applicant/ Owner: Robert S. Miller, III/ Brett Johnson
 Date: October 12, 2023
 Location: Township 29S Range 15W Section 12D TL 308
 Proposal: Amendment/Rezone



Map is not to scale.

iii. PROPERTY HISTORY:

1. Lawfully created unit of land determination (no file number) issued on May 31, 1996. This represents the current configuration of the property.
2. Administrative Conditional Use (ACU-05-048) application for a non-farm dwelling was issued on October 13, 2005.
3. Zoning Compliance Letter (ZCL-05-650) was issued for a site evaluation only on September 27, 2005.
4. Zoning Compliance Letter (ZCL-05-278) was issued to site a single-family dwelling with a detached garage pursuant to ACU-05-048.
5. Administrative Conditional Use (ACU-15-047) application was filed for temporary commercial use of the dwelling. The temporary permit expires one year after approval and can renew throughout the ministerial process as long as the circumstances or the request have not changed.
6. Zoning Compliance Letter (ZCL-15-364) was issued for clearance to operate a vacation rental in the existing single-family dwelling, as approved through ACU-15-47. This authorization is not transferable and expires one year from the date of issuance. No development is authorized at this time.
7. Zoning Compliance Letter (ZCL-16-347) was issued for clearance to operate a vacation rental in the existing single-family dwelling, as approved through ACU-15-47. This authorization is not transferable and expires one year from the date of issuance. No development is authorized at this time.

iv. ZONING:

Current zoning is EFU and proposed is Rural Residential-2 (RR-2).

Exclusive Farm Use (EFU)

These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.

The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:

1. Committed rural residential areas and urban growth areas.
2. Proposed rural residential areas as per the Exception to Goals #3 and #4.
3. Proposed industrial/commercial sites.
4. Existing recreation areas (e.g., golf courses) [Recreation designation]
5. Isolated parcels of Class I-IV soils in upland areas, which are under forest cover. (Forestlands designation).
6. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].

The secondary criterion for establishing the “Agricultural Lands Inventory” was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

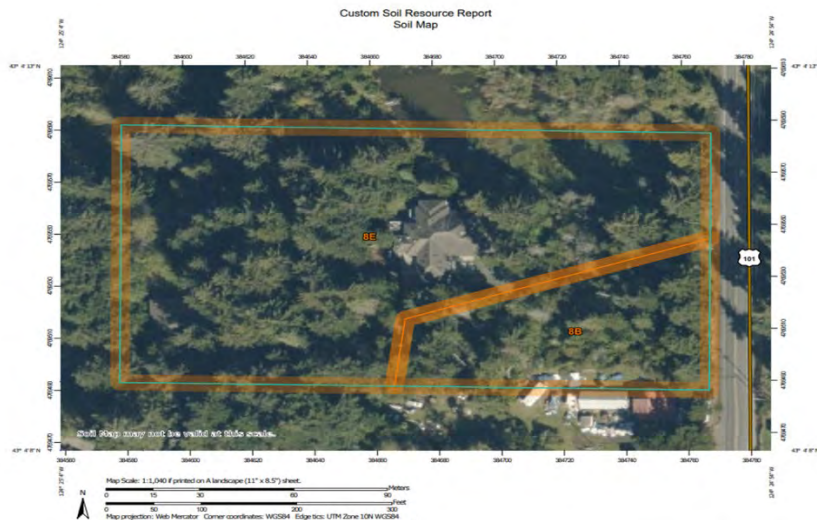
There are two RR zonings: Rural Residential-5 (RR-5) and Rural Residential-2 (RR-2). The intent of the Rural Residential Districts includes justified sites plus "committed" areas. The County's plan prescribes and allocates a finite number of rural dwelling/units/acreage. The zoning ordinance will specify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

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

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

v. Soils:

The property consists of two soil types, 8B-Bullards sandy loam, 0 to 7 percent slopes and 8E-Bullards sandy loam, 30 to 50 percent slopes.



8B-Bullards sandy loam and 8E-Bullards sandy loams are a deep, well-drained soil is on dissected marine terraces. It formed in mixed eolian and marine deposits. The native vegetation is mainly conifers, shrubs, forbs, and hardwoods. Elevation is 50 to 600 feet. The average annual precipitation is 55 to 75 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days. This map unit is in capability subclass IIIe.

Typically, the surface is covered with a mat of undecomposed organic matter 3 inches thick. The surface layer is very dark grayish brown sandy loam 7 inches thick. The subsoil is dark

reddish brown, dark brown, and strong brown gravelly sandy loam 34 inches thick. The substratum to a depth of 60 inches or more is yellowish brown sand.

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

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

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

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

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

The main limitations for the management of timber in the 8B unit is this unit are the hazard of windthrow and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Maintaining the understory is essential in controlling erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit. Windthrow is a hazard when the soil is wet and winds are strong. When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants reduce natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Douglas fir, Sitka spruce, and western hemlock seedlings. This map unit is in capability subclass IIIe.

The main limitations for the management of timber in the 8E unit are steepness of slope, the hazard of erosion, the hazard of windthrow, and plant competition. Careful use of wheeled and tracked equipment reduces the disturbance of the protective layer of duff. Highlead or other logging systems that fully or partially suspend logs damage the soil less and generally are less costly than tractor systems. Proper design of road drainage systems and care in the placement of culverts help to control erosion. Cut and fill areas are subject to erosion unless treated. Seeding, mulching, benching, and compacting the soil can reduce erosion. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gullying unless they are provided with adequate water bars or are protected by plant cover, or both. This map unit is in capability subclass VIe.

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

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

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

Based on the information staff agrees with the applicant's analysis¹ that the soil map units that are land use class VIe and VIIe, they are not considered prime farmland and are not statewide farmland of interest. The AOI ["Area of Interest"] Bullards sandy soil 30 to 50 slope and HAHT soil map units do not meet the definition primary farmland or statewide farmland of interest. The sample points in the 4.7 acre AOI show most of the soils are limiting because slope and effective soil depth. These soils are not suitable for agriculture or timber production (low timber harvest potential) due the steep slope and shallow rooting depth that make these soils a risk for erosion. The vegetation on the site is predominately trees and shrubs. There are fir, alder and spruce trees in the northwest part of the AOI with salal and rhododendrons throughout the parcel. The site steep soils have a low ability for producing crops due steep slope and low soil water holding capacity. The shallow soil profile and along with the gravelly sand soil texture has a low available water holding capacity to sustain plants during hot dry summer months. The 30 to 50 percent gravels in the soil profile matrix subtracts for the total available water holding capacity as the parent material gravels does not hold water that's available for plants. For land use on these soils without intensive and elaborate soil, nutrient and water management practices these soils are not suitable to commercial agriculture or timber production. In conclusion the soil investigated in the AOI is not suitable for commercial farm crops and livestock or merchantable tree species; Due to the erodible nature of the upland soils, which are shallow to parent material with low water holding capacity. Most of the AOI soils are classified as class VIIe and VIe. OSE revised parts of NRCS pervious soil survey map by adding Human Altered Human Transport in the AOI. OSE soil survey found a majority of the acreage in the AOI is not prime farmland and is not farmland of interest.

¹ Paul Kennedy, a registered professional soils scientist (Oregon #355840), advise on this proposed rezone from Exclusive Farm Use (EFU) to Rural Residential (RR-2). Mr. Kennedy does business as Oregon Soil & Environmental ("OSE"). Mr. Kennedy prepared an "Order 1" soil survey of the Property (the "Soils Assessment.") An Order 1 soil survey is the most intensive soil survey available, and is commissioned whenever we want "a detailed and very precise knowledge of the soils and their variability." (Soil Survey Manual by Soil Science Division Staff, United States Department of Agriculture Handbook No. 18, Issued March 2017, Minor Amendments February 2018.) The Oregon Department of Land Conservation and Development (DLCD) approved Mr. Kennedy's Soils Assessment as "complete" on March 20, 2023.

B. COMMENTS RECEIVED: There have been no comments received on this proposal as of the date of this report.

C. ADMINISTRATIVE PROCEDURES: ARTICLE 5.0 ADMINISTRATION AND APPLICATION REVIEW PROVISIONS

• **SECTION 5.0.100 PRE-APPLICATION CONFERENCE:**

The purpose of a pre-application conference is to familiarize the applicant with the provisions of this Ordinance and other land use laws and regulations applicable to the proposed development.

A pre-application is strongly recommended prior to submission of plan or ordinance amendment application or rezone application. For other types of applications an applicant may request a pre-application conference under this Ordinance.

A pre-application conference shall be requested by filing a written request along with the applicable fee to the Planning Department. The written request should identify the development proposal, provide a description of the character, location and magnitude of the proposed development and include any other supporting documents such as maps, drawings, or models.

The Planning Department will schedule a pre-application conference after receipt of a written request and the appropriate fee. The Planning Department will notify agencies and persons deemed appropriate to attend to discuss the proposal. Following the conference, the Planning Department will prepare a written summary of the discussion and send it to the applicant.

STAFF FINDINGS: A pre-application was held in regards to this property on September 1, 2023. The meeting laid out the options for rezone. The property was determined to be non-farm at the time the dwelling was approved in 2005. However, the non-resource rezone criteria requires that if the acres density proposed is less than ten (10) acres then an exception is required. The record does support that the property itself is non-resource but the exception to the statewide planning goals is required to be addressed.

• **SECTION 5.0.150 APPLICATION REQUIREMENTS:**

Applications for development or land use action shall be filed on forms prescribed by the County and shall include sufficient information and evidence necessary to demonstrate compliance with the applicable criteria and standards of this Ordinance and be accompanied by the appropriate fee. An application shall not be considered to have been filed until all application fees have been paid. All applications shall include the following:

- 1. Applications shall be submitted by the property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign.*
- 2. An application for a variance to the requirements of the Airport Surfaces Overlay zone may not be considered unless a copy of the application has been furnished to the airport owner for advice as to the aeronautical effects of the variance. If the airport owner does not respond to the application within twenty (20) days after receipt, the Planning Director may act to grant or deny said application.*
- 3. One original and one exact unbound copy of the application or an electronic copy shall be provided at the time of submittal for all applications.*

An application may be deemed incomplete for failure to comply with this section.

The burden of proof in showing that an application complies with all applicable criteria and standards lies with the applicant.

- **SECTION 5.0.300 FINDINGS REQUIRED [ORS 215.416(9)-(10)]:**

Approval or denial of an application shall be in writing, based upon compliance with the criteria and standards relevant to the decision, and include a statement of the findings of fact and conclusions related to the criteria relied upon in rendering the decision.

- **SECTION 5.0.350 CONDITIONS OF APPROVAL:**

1. *Conditions of approval may be imposed on any land use decision when deemed necessary to ensure compliance with the applicable provisions of this Ordinance, Comprehensive Plan, or other requirements of law. Any conditions attached to approvals shall be directly related to the impacts of the proposed use or development and shall be roughly proportional in both the extent and amount to the anticipated impacts of the proposed use or development.*
2. *An applicant who has received development approval is responsible for complying with all conditions of approval. Failure to comply with such conditions is a violation of this ordinance, and may result in revocation of the approval in accordance with the provisions of Section 1.3.300.*
3. *At an applicant's request, the County may modify or amend one or more conditions of approval for an application previously approved and final. Decisions to modify or amend final conditions of approval will be made by the review authority with the initial jurisdiction over the original application using the same type of review procedure in the original review.*

- **SECTION 5.0.900 NOTICE REQUIREMENTS (ORS 197.763):**

All applications that receive a notice shall follow this section except for land divisions within the urban growth boundary or lands designated as Regionally Significant Industrial Areas (RSIA). See Article 5.12 for processing and time tables.

1. *Notice Public Hearing :*

- a. *The Planning Department shall forward a copy of the application to any affected city or special district pursuant to applicable provisions of this Ordinance;*
- b. *The Planning Department shall mail a copy of the staff report to the city, special district, applicant and Hearings Body at least seven (7) days prior to the scheduled public hearing.*
- c. *Notice shall be mailed at least twenty days prior to the hearing, or ten before the first evidentiary hearing if there will be two or more hearings. Notice shall:*
 - i. *Describe the nature of the application and the proposed use or uses that could be authorized;*
 - ii. *Set forth the address or other easily understood geographical reference to the subject property;*
 - iii. *Include the name of the local government representative to contact and a telephone number where additional information may be obtained;*

- iv. *State that a copy of the application, all documents and evidence relied upon by the applicant, and applicable criteria are available for inspection at no cost, and will be provided at reasonable cost;*
 - v. *List the applicable criteria that apply to the application;*
 - vi. *State the date, time, and location of the hearing;*
 - vii. *State that failure of an issue to be raised, in person or in writing, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals based on that issue;*
 - viii. *State that a copy of the staff report will be available for inspection at no cost at least seven days prior to the hearing and will be provided at reasonable cost; and*
 - ix. *Include a general explanation of the requirements of submission of testimony and the procedure for the conduct of the hearings.*
 - 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:*
 - 1) *Within 100 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is wholly or in part within an urban growth boundary;*
 - 2) *Within 250 feet of the exterior boundaries of the contiguous property ownership which is the subject of the notice if the subject property is outside an urban growth boundary and not within a farm or forest zone;*
 - 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*
- d. *Notice of the decision shall be afforded to the applicant and those persons participating in the public hearing. ****

3. *Plan Map Amendment/Rezone*

- a. *If the application includes an exception to a goal, notice shall comply with ORS 197.732. The notice shall be published at least 20 days prior to the date of the hearing. All notice requirements in "1" of this Section shall apply.*
- b. *At least 35 days prior to the initial hearing, notice shall be provided as required by ORS 197.610. [OR 04 12 013PL 2/09/05]*
- c. *Notice of decision shall be afforded to the applicant and those participating in the process. Notice of the decision shall also be afforded to any witness participating in the public hearing and requesting such notification.*
- d. *Requirements for hearings on a rezone of property containing a mobile home park shall be provided pursuant to ORS 215.223(7).*
- e. *Special notice requirements for zone changes within the environs of public use airports shall be provided pursuant to ORS 215.223(4), (5), and (6).*

STAFF FINDINGS: This application is a Plan Map Amendment governed by CCZLDO Section 5.0.900. The notice of Post Acknowledge Plan Amendment notice was provided 35 days prior to the Planning Commission meeting to meet the requirements of ORS 197.610. The hearing notice was published in accordance with ORS 197.732. Notice of the hearing was given in accordance with the

relevant section. This pertains to a Plan Map Amendment/Rezone, but it does not include a new exception as part of the request. A 35-day notice was provided to the Department of Land Conservation and Development on November 2, 2023 (Coos County 006-23). Findings have been prepared in draft form as a part of the staff report. The required notice will be posted in The World Newspaper. Any notices are on file with the Department and can be viewed upon request during regular business hours. The applicant has submitted all necessary applications, and staff has prepared all the required notices to proceed with this proposal through the formal hearing process.

D. ARTICLE 5.1 REZONES

- **SECTION 5.1.100 LEGISLATIVE AMENDMENT OF TEXT ONLY:**

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

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

- **SECTION 5.1.110 WHO MAY SEEK CHANGE:**

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

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

STAFF FINDING: The application was submitted on behalf of the property owner and citizen, as permitted under Subsection 3.b. The necessary forms were properly filed, and this application does not require a Measure 56 notice to be issued.

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

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

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

- **SECTION 5.1.120 PROCEDURE FOR LEGISLATIVE AMENDMENT:**

The Board of Commissioners shall conduct one or more public hearings with 10 days advance published notice of each of the hearings. The public notice shall state the time and place of the hearing and contain a statement describing the general subject matter of the ordinance under consideration. (ORS 215.060 & ORS 215.223). Notice to DLCD shall be provided 35 days prior to the initial hearing per ORS 197.610. Notice of adoption is subject to ORS 197.615. [OR 04 12 013PL 2/09/05]

STAFF FINDING: Staff has fulfilled the requirement of publishing and mailing notices. All relevant documentation is on file with the Planning Department. The initial hearing will take place before the Planning Commission, who will provide a recommendation to the Board of Commissioners. The Board of Commissioners will review the matter on November 29, 2023, and will either make a final decision or schedule another hearing if needed. As a result, this matter has been duly addressed.

- **SECTION 5.1.125 MINOR TEXT CORRECTIONS:**

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

STAFF FINDING: This is not applicable to this request.

- **SECTION 5.1.130 NEED FOR STUDIES:**

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

STAFF FINDING: This is not a text amendment. Staff has prepared a comprehensive staff report that addresses all relevant criteria by utilizing information from the Coos County Comprehensive Plan, as well as evidence and written testimony provided by the applicant.

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

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

STAFF FINDING: At the public hearing scheduled for November 2, 2023 the Hearings Body (Planning Commission) will provide a recommendation to the Board of Commissioners. It's important to note that this recommendation does not have the authority to amend the ordinance, nor does it constitute a final decision regarding this matter.

- **SECTION 5.1.200 REZONES:**

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

STAFF FINDING: This proposal seeks to change the zoning from Exclusive Farm Use to Rural Residential-2 (RR-2) and amend the plan map from Agriculture to Rural Residential. The application applied for is a Post Acknowledgment Plan Amendment and if approved will change the permissible uses of the property.

- **SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:**

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

STAFF FINDING: The Planning Director has not recommended an expansion of the geographic limits set forth in the application. This change in zoning designation will change the designation to be consistent with the properties to the south.

- **SECTION 5.1.215 ZONING FOR APPROPRIATE NON-FARM USE:**

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

STAFF FINDING: This does not apply to this request because the property was not developed for non-farm uses prior to the establishment of the Exclusive Farm Use Zone.

- **SECTION 5.1.220 PROCESS FOR REZONES:**

1. *Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.*
2. *The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.*
3. *The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.*
4. *The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.*
5. *The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.*
6. *A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.*

STAFF FINDING: A valid application was filed and 35-day notice was provided to Department of Land Conservation and Development. The application was found to be valid for the purpose of a public hearing. This matter is scheduled before the Planning Commission (Hearings Body) on November 2, 2023, during which the Planning Commission will make a recommendation to the Board of Commissioners. The Board of Commissioners will review the record and take any testimony on November 29, 2023, before making a final decision. Once a final decision is made and reduced to writing, an appeal process will be available. Detailed information regarding the appeal process will be provided to all participants in this matter. After the appeal period has passed, without any appeals being received, the decision will become final, and staff will proceed with the required plan changes. Therefore, this section has been addressed.

- **SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:**

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

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

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

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

STAFF FINDING: This request requires the applicant to provide sufficient information for the Planning Commission to make findings to address the following:

- a. The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and**
- b. The rezoning will not seriously interfere with permitted uses on other nearby parcels; and**
- c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.**

The applicant is proposing to remove this property from the Agriculture Inventory and have it added to the Rural Residential Inventory. The Coos County Comprehensive Plan does not prohibit this type of request. The applicant has addressed the Statewide Planning Goals in a similar manner to how the Coos County Comprehensive Plan did at the time of acknowledgment. The studies include soils, surrounding uses, site development, property location, and size. The process the applicant has chosen to rezone, and the change in zoning, conforms with the Comprehensive Plan.

The subject property abuts Rural Residential-2 to the west and south, Exclusive Farm Use to the north and east. Additionally, there is commercially zoned property dedicated to a mobile home park to the southeast of the property. The properties to the south, west, and southeast are all developed for residential use.

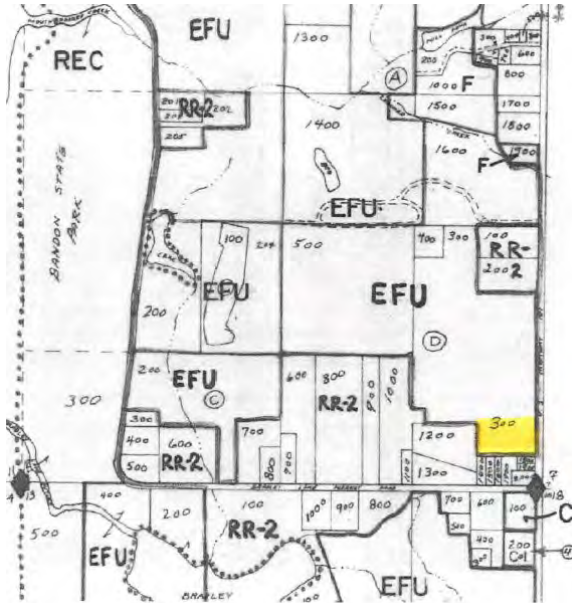


The aerial below shows a larger area to display the development surrounding the subject property. Tax lots 305 and 307 are the only properties that appear to be supporting an agricultural operation. The subject property is bordered by Hwy 101 on the eastern border, which provides a natural border for tax lots 1600 and 1500 that appear to have a cranberry operation



The Subject Property is currently developed with a non-farm, single-family, one-story dwelling of approximately 4,765 square feet. This dwelling received approval through an Administrative Conditional Use permit issued on October 13, 2005 (Coos County ACU-05-048) for a non-farm dwelling. The property also includes a maintenance and shop structure of approximately 1,710

square feet. This property was part of a larger tract of Exclusive Farm Use Zoned property but was found to be a lawfully created parcel in 1996. Below is Comprehensive Zone Map (1986).



At the time, the ACU had a requirement for an analysis of compatibility. The placement of the dwelling had to demonstrate that it would not significantly alter the overall pattern of the area or have cumulative impacts on non-farm dwellings in the surrounding lots or parcels. The findings concluded that treating this property as non-farm would have limited to no impacts on the surrounding properties (see file ACU-05-48). This property has not been utilized as farm and the prior approved development and size precludes any commercial farm operation.

There are no current policies that the Board of Commissioners has adopted or in the process of adopting that will cause an inconsistency. The Planning Commission may consider if conditions need to be added to ensure the rezone meets all of the criteria. Staff did make a recommendation for approval of this application with some possible conditions to consider under the recommendation section of this report.

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

STAFF FINDING: The applicant addressed Section 5.1.275, which is based on OAR 660-004-005. This rule defines 'Nonresource Land' as land not subject to any of the statewide goals listed in OAR 660-004-0010(1)(a) through (g), except subsections (c) and (d). It's important to note that these definitions do not imply that other goals, particularly Goal 5, do not apply to nonresource land.

- **660-004-0010 APPLICATION OF THE GOAL 2 EXCEPTION PROCESS TO CERTAIN GOALS**

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

(a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses allowed in an exclusive farm use (EFU) zone under

ORS chapter 215 and OAR chapter 660, division 33, "Agricultural Lands", except as provided under OAR 660-004-0022 regarding a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Goal 4 "Forest Lands"; however, an exception to Goal 4 "Forest Lands" is not required for any of the forest or nonforest uses allowed in a forest or mixed farm/forest zone under OAR chapter 660, division 6, "Forest Lands";

STAFF FINDING: Staff agrees with the proposed applicant's findings in this case. The Soils Assessment indicates that the Property does not meet the definition of agricultural land under Statewide Planning Goal 3 and does not meet the definition of forest land under Statewide Planning Goal 4. The soils are not predominantly Class 1-IV soils, and they are not capable of producing 5,000 cubic feet of commercial tree species. The Soils Assessment specifically concluded that the Property 'is not suitable for commercial farm crops, livestock, or merchantable tree species due to the erodible nature of the upland soils, which are shallow to parent material with low water-holding capacity.' The Property is objectively considered nonresource, and there is no credible evidence that it can be sold, leased, rented, or otherwise managed as part of a commercial farm, ranch, or other forestland. According to County Tax records, the Subject Property has not received a special tax assessment for farm use or designated forestland in the past five years.

As supported by the ACU-05-49 application, it was demonstrated that reclassifying the property as nonresource will not significantly alter the stability of the overall land use pattern in the area. The land to the South and West is already zoned as Rural Residential, and evidence from neighboring lands indicates that there will be no detriment to resource uses in the area. The Subject Property is being rezoned to Rural Residential - 2, consistent with the neighboring land to the South and West. The existing development complies with standards and this request is not for commercial or industrial.

While the property is in a notification area for a potential Goal 5 Resource, there is no current inventoried Goal 5 Resource mapped on this property. Therefore, the Subject Property is not an inventoried Statewide Planning Goal 5 site.

The evidence in the prior dwelling application and the information provided by the applicant supports this conclusion.

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

STAFF FINDINGS: This property is and will continued to be served by onsite septic systems and well. Therefore, an exception to Goal 11 to extend public facilities and services is not required.

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

(A) An exception is not required for the establishment of an urban growth boundary around or including portions of an incorporated city;

(B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one that has been acknowledged under ORS 197.251, 197.625 or 197.626. Findings and reasons in support of an amendment to an established urban growth boundary shall

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

- (i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);*
 - (ii) Areas that do not require a new exception cannot reasonably accommodate the use;*
 - (iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*
 - (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*
- (C) When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals;*
- (D) For an exception to Goal 14 to allow urban development on rural lands, a local government must follow the applicable requirements of OAR 660-014-0030 or 660-014-0040, in conjunction with applicable requirements of this division;*

STAFF FINDINGS: Goal 14 restricts urban development outside urban growth boundaries, and the corresponding rule for rural residential areas defines the level of development allowed by specifying minimum parcel sizes and limiting parcels to one dwelling.

For exception areas that existed before the rule went into effect (October 4, 2000), the minimum parcel size allowed is whatever the county designated prior to that date, which could have been two acres or larger. Currently, counties cannot allow the creation of new parcels smaller than two acres. For new exception areas, the minimum parcel size must be at least 10 acres, with clustering allowed. This only applies to new parcel creation; existing parcels are allowed one dwelling, regardless of size.

The rule for rural residential zoning, OAR 660-004-0040, defines "rural use" as one dwelling per 10 acres². To allow smaller densities, such as two acres, an exception to Goal 14 is required.

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.

(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.

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

² <https://www.oregon.gov/lcd/rp/pages/index.aspx>

(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.

STAFF FINDING: The County's plan allocates a finite number of rural dwelling units and acreage, and the zoning ordinance specifies permitted uses and minimum lot sizes. Residential districts are intended for small to medium-acreage dwelling sites outside Urban Growth Boundaries, suitable for moderate land development where urban services are not available or necessary. In this case, reclassifying to rural residential zoning is justified because the Subject Property is compatible with the proposed residential use, adjacent uses, and aligns with long-term land use planning. Zoning an 'exception' area must limit allowed uses to those demonstrating the justification for the exception.

The Subject Property is pre-existing and does not meet the ten-acre requirement, which means that an exception would be required to go less than one house every 10-acres. The property will be served by rural services and will not impact urban services. It has already been established as a non-farm dwelling parcel through prior applications and current findings, maintaining its rural

character and meeting the purpose of the Rural Residential Districts, which includes justified sites and 'committed' areas.

If the Planning Commission finds the exception criteria was not satisfied then a Qualifier should be applied to the property stating that the property cannot be divided further and only one dwelling is permitted subject to any overlays.

(e) Goal 16 "Estuarine Resources";

STAFF FINDING: The Subject Property is not within a Goal 16 Estuarine Resource and this Goal does not apply to the request.

(f) Goal 17 "Coastal Shorelands"; and

STAFF FINDING: The Subject Property is not within a Goal 17 Coastal Shorelands Boundary and this Goal does not apply to the request.

(g) Goal 18 "Beaches and Dunes."

STAFF FINDING: The Subject Property is not within a Goal 18 Beaches and Dunes area and this Goal does not apply to the request.

RECOMMENDATION: The rezone aligns with the Comprehensive Plan and is compatible with surrounding uses. This property qualifies as nonresource land and merits the requested rezone. Staff recommends that the applicant address the reasons exception for OAR 660-014-0040 regarding the establishment of new urban development on undeveloped rural lands.

If the Planning Commission finds that OAR 660-014-0040 has been sufficiently addressed, there is no need to add qualifiers (conditions) at this time. However, if the Planning Commission determines that OAR 660-014-0040 was not adequately addressed, it is advisable to add a qualifier limiting the property to one dwelling and a minimum lot size of 10 acres for land division.



COOS COUNTY PLANNING DEPARTMENT
60 E. SECOND ST. COQUILLE, OR 97423 (LOCATION)
250 N. BAXTER, COQUILLE (MAILING ADDRESS)
PHONE: 541-396-7770 / EMAIL: PLANNING@CO.COOS.OR.US

Amendment/Rezone Application

Date Received:

Receipt #:

Received by:

FILE NUMBERS: AM-23- _____

RZ-23- _____

This application shall be filled out electronically. If you need assistance please contact staff.

Please be aware if the fees are not included the application will not be processed.

(If payment is received on line a file number is required prior to submittal)

LAND INFORMATION

Land Owner(s) (print name):

Mailing address:

Phone:

Email:

Applicant(s) (print name):

Mailing address:

Phone:

Email:

Type of Ownership: Choose an item.

Type of Use Requested: Choose a Use

PROPERTY - If multiple properties are part of this review please check here and attach a separate sheet with property information.

Township: Range: Section: ¼ Section: 1/16 Section: Tax lot:

Township: Range: Section: ¼ Section: 1/16 Section: Tax lot:
choose

Tax Account Number(s):

Site Address: _____

Current Zone:

Acreage:

Proposed Zone

JUSTIFICATION:

- (1) The following questions will need to be answered with an explanation.
 - a. Will the rezone conform with the comprehensive plan?

 - b. Will the rezone seriously interfere with the permitted uses on other nearby parcels

 - c. Will the rezone comply with other adopted plan policies and ordinances?

- (2) If a Goal Exception is required please review and address this section.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The Coos County Comprehensive Plan (CCCP) and Implementing Zoning Land Development Ordinance (CCZLDO) was acknowledge¹ as having all necessary components of a comprehensive plan as defined in ORS 197.015(5) after the Coos County adopted the documents on April 4, 1985. The date of the effective plan and ordinance is January 1, 1986. Coos County did go through a periodic review exercise in the 1990's but due to lack of gain in population, economic growth and public request plan zones were not altered. Changes to the comprehensive plan and implementing ordinance have been done to ensure that any required statutory or rules requirements have been complied with. However, sometimes it is necessary for property owners or applicants to make a request to have certain properties or situations such as text amendments considered to reflect a current condition or conditions. These applications are reviewed on a case by case basis with the Board of Commissioners making a final determination. This type application and process is way to ensure that process is available to ensure changing needs are considered and met. The process for plan amendments and rezones are set out in CCZLDO [Article 5.1](#).

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general

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

- (a) The land subject to the exception is “physically developed” to the extent that it is no longer available for uses allowed by the applicable goal;

¹ “Acknowledgment” means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals. In Coos County’s case the commission refers to the Land Conservation and Development Commission.

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

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

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

REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

1. A legal description of the subject property (deed);
2. Covenants or deed restrictions on property, if any;
3. A general location map of the property;
4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 ½” x 11” paper. If proposed structures are not known then the plot plan will need to include only existing with a note that no new structures are proposed at this time;
5. If applicant is not the owner, documentation of consent of the owner, including:
 - a. A description of the property;
 - b. Date of consent
 - c. Signature of owner
 - d. Party to whom consent is given
6. The applicant must supply a minimum of 2 copies of the entire application or one paper copy and electronic copy (email is acceptable), including all exhibits and color photocopies, or as directed by the Planning Staff.

Authorization:

All areas must be initialed by all applicants, if this application pertains to a certain property all property owners² must either sign or provide consent for application unless otherwise allowed by Section 5.0.175 of the CCZLDO. As an applicant by initialing each statement I am accepting or agreeing to the statements next to each area designated for my initials and/or signature. All property owners shall sign and initial the designated areas of the application or

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

provide consent from another party to sign on their behalf. If another party is signing as part of a consent that does not release that party that gave consent from complying with requirements listed below or any conditions that may be placed on an application. In the case of a text amendment the procedures for set out in Section 5.1.110 WHO SEEK CHANGE applies and an applicant may not be a property owner.

RSMLL

RS

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

RSMLL

RS

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

RSMLL

RS

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

RSMLL

RS

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

RSMLL ROBERT S. MILLER III

Applicant(s) Original Signature

RS

Applicant(s) Original Signature

7/20/2023

Date

ATTACHMENT TO AMENDMENT/REZONE APPLICATION

Coos County Planning Department
Physical Location: 60 E. Second Street, Coquille OR 97423
Mailing Address: 250 N. Baxter, Coquille OR 9423
Telephone: (541) 396-7770
email: planning@co.coos.or.us

File Number: PA-22-003

Owner: Brett L. Johnson
49108 Highway 101, Bandon OR 97411

Applicant: Robert S. Miller III, Attorney (with Mark Preslar, Attorney)
Bandon Professional Center
1010 First Street S.E. Suite 210, Bandon OR 97411

Situs: *Common:* 49108 Highway 101, Bandon OR 97411
Account: 1237808
Map: 29S 15W 12D0 Tax Lot 308

Request: Rezone from EFU to RR-2

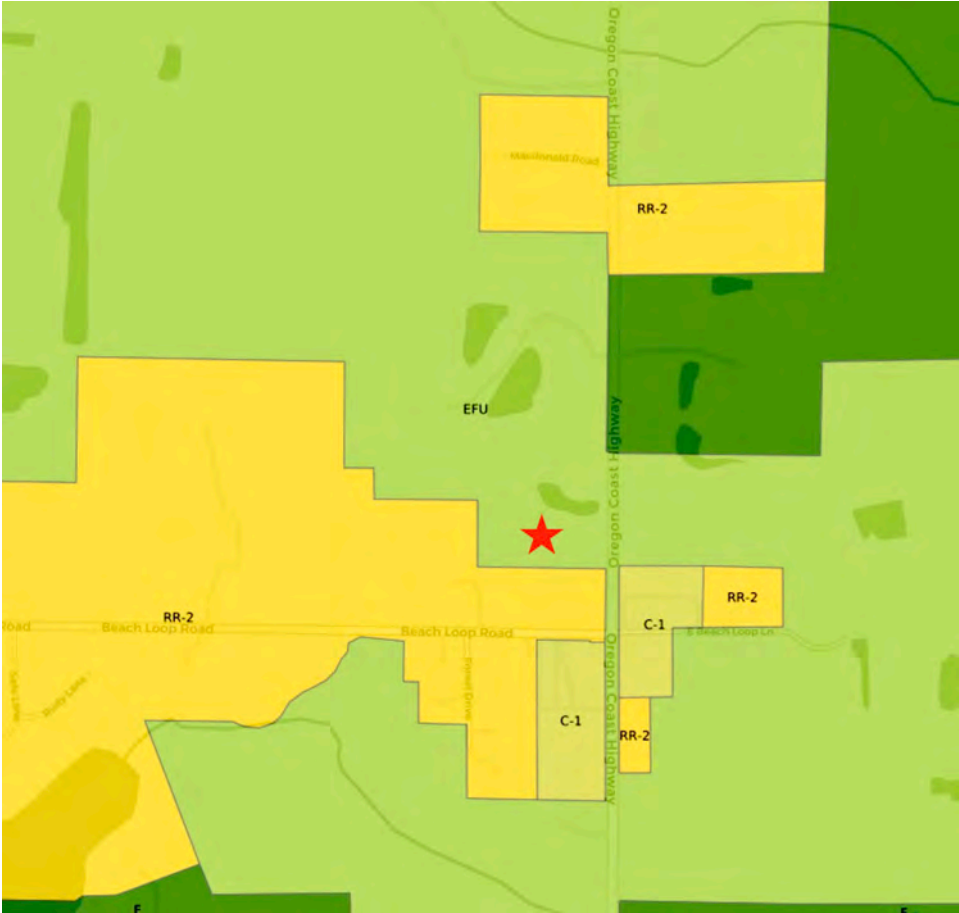
This is an application for a Rezone and a Coos County Comprehensive Plan Map Amendment.

The subject property (the “Property”) is a ~4.77 acre parcel located just north of the intersection of Highway 101 and Beach Loop Drive near Bandon, Oregon.

The owner of the property is Brett L. Johnson.

The Property is presently developed with a non-farm, single-family, one-story dwelling of approximately 4,765 square feet. This dwelling was approved through an Administrative Conditional Use permit issued on October 13, 2005 (Coos County ACU-05-048). The Property is also host to a maintenance and shop structure of approximately 1,710 square feet.

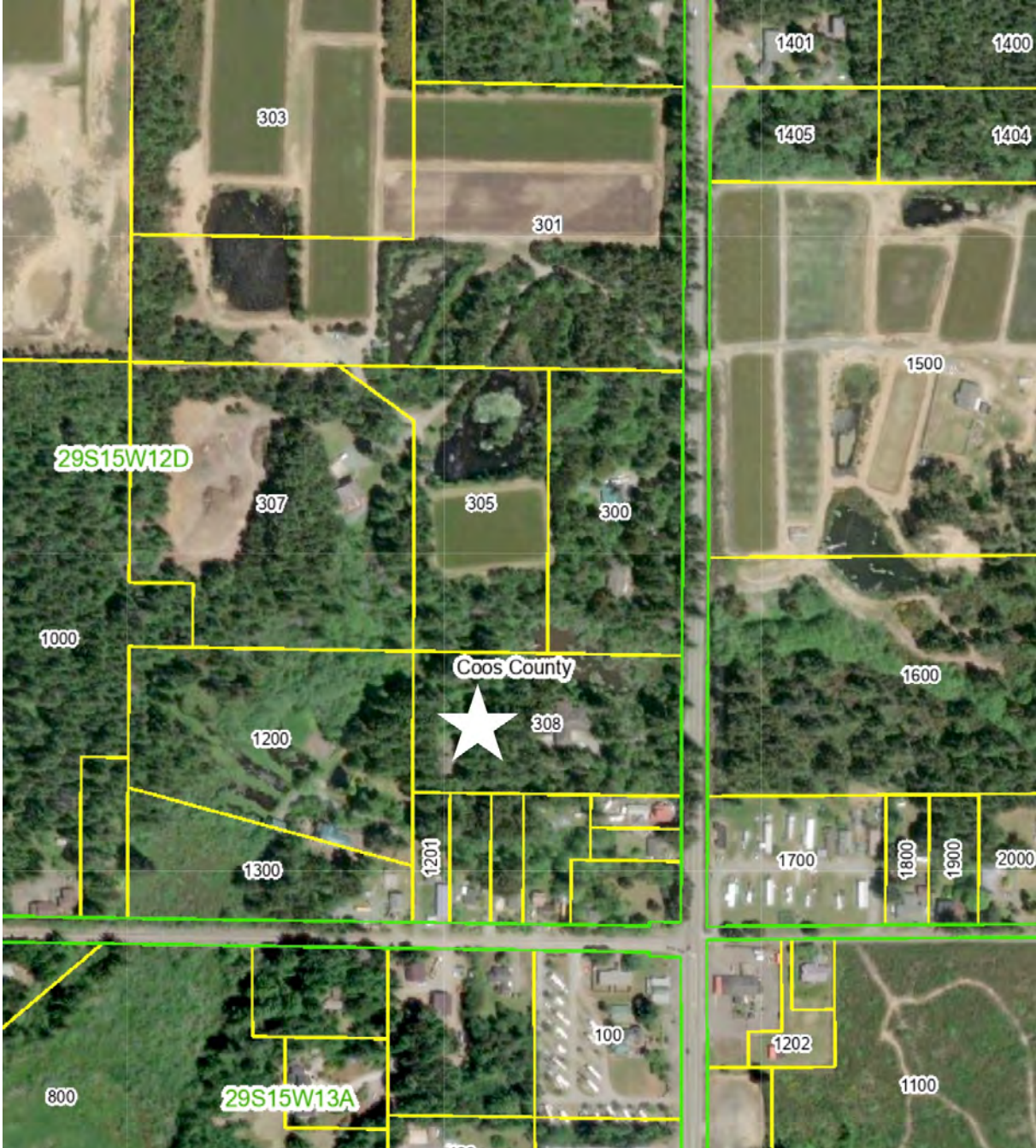
The Coos County Zoning Map is below. The star indicates the location of the Property.



The Property is presently zoned Exclusive Farm Use (EFU). The request is to rezone the Property to Rural Residential (RR-2).

Land South and West of the Property is zoned RR-2; land North of the Property is zoned EFU.

A tax lot map is below. The star indicates the location of the Property.



The applicant asked Paul Kennedy, a registered professional soils scientist (Oregon #355840), to advise on this proposed rezone from Exclusive Farm Use (EFU) to Rural Residential (RR-2).

Mr. Kennedy does business as Oregon Soil & Environmental (“OSE”).

Mr. Kennedy prepared an “Order 1” soil survey of the Property (the “Soils Assessment.”)

An Order 1 soil survey is the most intensive soil survey available, and is commissioned whenever we want “a detailed and very precise knowledge of the soils and their variability.” (*Soil Survey Manual* by Soil Science Division Staff, United States Department of Agriculture Handbook No. 18, Issued March 2017, Minor Amendments February 2018.)

The Oregon Department of Land Conservation and Development (DLCD) approved Mr. Kennedy’s Soils Assessment as “complete” on March 20, 2023.

The Soils Assessment concludes:

The soil map units that are land use class VIe and VIIe, they are not considered prime farmland and are not statewide farmland of interest. The AOI [“Area of Interest”] Bullards sandy soil 30 to 50 slope and HAHT soil map units do not meet the definition primary farmland or statewide farmland of interest.

The sample points in the 4.7 acre AOI show most of the soils are limiting because slope and effective soil depth. These soils are not suitable for agriculture or timber production (low timber harvest potential) due the steep slope and shallow rooting depth that make these soils a risk for erosion. The vegetation on the site is predominately trees and shrubs. There are fir, alder and spruce trees in the northwest part of the AOI with salal and rhododendrons throughout the parcel. The site steep soils have a low ability for producing crops due steep slope and low soil water holding capacity. The shallow soil profile and along with the gravelly sand soil texture has a low available water holding capacity to sustain plants during hot dry summer months. The 30 to 50 percent gravels in the soil profile matrix subtracts for the total available water holding capacity as the parent material gravels does not hold water that’s available for plants.

For land use on these soils without intensive and elaborate soil, nutrient and water management practices these soils are not suitable to commercial agriculture or timber production.

In conclusion the soil investigated in the AOI is not suitable for commercial farm crops and livestock or merchantable tree species; Due to the erodible nature of the upland soils, which are shallow to parent material with low water holding capacity. Most of the AOI soils are classified as class VIIe and VIe. OSE revised parts of NRCS pervious soil survey map by adding Human Altered Human Transport in the AOI. OSE soil survey found a majority of the acreage in the AOI is not prime farmland and is not farmland of interest.

The applicant asks the Coos County Planning Commission to recommend a rezone from EFU to RR-2 to the Coos County Board of Commissioners, because (a) the rezoning will conform with the Comprehensive Plan or Section 5.1.215 [of the Coos County Zoning and Land Development Ordinance (“CCZLDO”)]; and (b) the rezoning will not seriously interfere with permitted uses on other nearby parcels; and (c) the rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners. CCZLDO 5.1.225(1).

The principal review standard for allowing this rezone is Section 5.1.275 of the Coos County Zoning and Land Development Ordinance, which is as follows:

1. *The subject property does not meet the definition of Agricultural Land under Statewide Planning Goal 3 and /or Forest Land under Statewide Planning Goal 4. NOTE: If the subject property is predominantly Class 1-IV soils or if it predominantly consists of soils capable of producing 5000 cubic feet of commercial tree species it is not considered to be nonresource land.*
2. *The subject property does not contain any natural resources defined in Statewide Planning Goal 5 which are identified in the Coos County Comprehensive Plan.*
3. *The subject property has been proven to be generally unsuitable for production of farm crops and livestock or merchantable tree species, considering terrain adverse soil conditions, drainage and flooding, vegetation, location and size of the tract.*
4. *The subject property is not considered to be nonresource land simply because it is too small to be farmed or forest managed profitably by itself. If the subject property can be sold, leased, rented or otherwise managed as part of a commercial farm, ranch or other forestland it is not considered to be nonresource land.*
5. *The subject property is not considered to be nonresource land if it has been given a special tax assessment for farm use or as designated forestland at any time in the past five years.*
6. *If the subject property is found to meet all of the standards above to be considered nonresource land the county shall also determine that rezoning the property to a nonresource zone will not materially alter the stability of the overall land use pattern in the area and lead to the rezoning of other lands to nonresource use to the detriment of the resource uses in the area.*
7. *The subject property shall be at least 10 acre in area unless it is contiguous to an area that is zoned for nonresource use. Any proposal of at least 2 acres but less than 10 acres requires approval of a Goal 14 exception pursuant to OAR 660-00-0040.*
8. *Rezoning of land that is found to be nonresource land shall be to a “rural” zone that is appropriate for the type of land and its intended use. Rural commercial or industrial development must comply with standards for small-scale, low impact commercial and industrial use.*

These eight standards will be discussed synoptically, on pages following.

Following are the applicant's proposed findings for the eight elements of the principal review standard (CCZLDO 5.1.275):

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.*

Proposed Finding: This element is met. The Soils Assessment indicates that the Property does not meet the definition of agricultural land under Statewide Planning Goal 3 and does not meet the definition of forest land under Statewide Planning Goal 4. The soils are not predominantly Class 1-IV soils, and the soils are not capable of producing 5000 cubic feet of commercial tree species.

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.*

Proposed Finding: This element is met. The Property is not an inventoried Statewide Planning Goal 5 site.

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.*

Proposed Finding: This element is met. The Soils Assessment specifically concluded that the Property "is not suitable for commercial farm crops and livestock or merchantable tree species; Due to the erodible nature of the upland soils, which are shallow to parent material with low water holding capacity."

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.*

Proposed Finding: This element is met. The Property is not considered nonresource simply because of its size; it is objectively nonresource. There is no credible evidence that the Property can be sold, leased, rented or otherwise managed as part of a commercial farm, ranch or other forestland.

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.*

Proposed Finding: This element is met. The Property has not been given a special tax assessment for farm use or designated forestland at any time in the past five years.

6. *If the subject property is found to meet all of the standards above to be considered nonresource land the county shall also determine that rezoning the property to a nonresource zone will not*

materially alter the stability of the overall land use pattern in the area and lead to the rezoning of other lands to nonresource use to the detriment of the resource uses in the area.

Proposed Finding: The rezone to nonresource will not materially alter the stability of the overall land use pattern in the area. Land to the South and West is already Rural Residential, and evidence from neighboring lands indicate that there will be no detriment to resource uses in the area.

7. *The subject property shall be at least 10 acres 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.*

Proposed Finding: The Property is contiguous to land which is nonresource. This re-zone to Rural Residential-2 does not allow the creation of any new lots or parcels smaller than two acres. OAR 660-00-0040.

8. *Rezoning of land that is found to be nonresource land shall be to a "rural" zone that is appropriate for the type of land and its intended use. Rural commercial or industrial development must comply with standards for small-scale, low impact commercial and industrial use.*

Proposed Finding: The Property is being re-zoned to Rural Residential 2, identical to the neighboring land to the South and West. The existing development complies with standards for small-scale, low-impact commercial use, and future uses will be governed by regulation.

Sincerely,



Robert S. Miller III, Attorney (with Mark Preslar, Attorney)
for Brett L. Johnson, Property Owner

Brett Johnson
49108 Highway 101
Bandon, Oregon 97411-8231

Dear Mr. Johnson:

I am Brenda Andersch, owner of Coos County Oregon Map 29S-15W-12D Tax Lot 300.

I am your neighbor to the North.

I support your efforts to rezone your property from Exclusive Farm Use to Rural Residential- 2.

Your existing uses, and whatever uses might later be permitted under a Rural Residential-2 zoning, will not conflict with my farm and resource land uses.

I ask the Coos County Board of Commissioners to approve your rezone request.

Sincerely,

A handwritten signature in cursive script that reads "Brenda Andersch".

6/15/2023

Brenda Andersch



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD



Soil Assessment Completeness Review

In accordance with OAR 660-033-0045(6)(a), the Department of Land Conservation and Development (DLCD) finds that this soils assessment is complete. The county may make its own determination as to the accuracy and acceptability of the soils assessment.

DLCD has reviewed the soils assessment for completeness only. DLCD has not assessed whether the parcel qualifies as agricultural land as defined in OAR 660-033-0020(1) and 660-033-0030.

Hilary Foote
March 20, 2023

The department will consider soil assessments under OAR 660-033-0030 to be complete if they meet the following standards:

(1) General information, to include:

- (a) Title of the report; Brett Johnson Order 1 Soil Survey
- (b) Person making request for soils assessment; Robert S Miller III, 49108 Highway 101, Bandon, OR 97411
- (c) Names of soil scientist/classifier conducting the field work and preparer of the report, along with their certification numbers; Paul Kennedy CPSS#355840
- (d) Land use case file number (if available); n/a
- (e) County in which the assessment was conducted; Coos County
- (f) Location of the project site, including the township, range, section and tax lot numbers; Taxlot 308, Section 12, Township 29 South, Range 15 West, Coos County, OR.
- (g) Present zoning designation; EFU/AG
- (h) Current land use;
- (i) Parcel acreage; 4.77 acres, evaluated: 4.77 acres
- (j) A description of the purpose of the assessment. Zone Change

(2) Previous Mapping or Background: The soil scientist/classifier shall provide a copy of the applicable and most current National Cooperative Soil Survey map(s) provided by the Natural Resources Conservation Service (NRCS) on the Web Soil Survey, with

the area of investigation outlined on the map(s). The scale of the map(s) shall be identified and a list of the map units under investigation shall be listed. The applicable interpretations and minor components (inclusions) for the map units for which the investigation is being made shall also be provided. NRCS map provided in Figure 3, page 10 and NRCS unit tables provided as Tables 1 and 2, pages 12 and 13. NRCS mapped soils are Bullards sandy loam, 0 to 7 percent slope (capability class 3), Bullards sandy loam, 30 to 50 percent slope (capability class 6). Descriptions included on pages 11-12 include capability class information.

(3) Methods Used by Soil Scientist/Classifier: The soil scientist/classifier shall describe the methodologies used for the preparation of the report and shall include the following:

- (a) The level of order of survey used in the field survey, scale and type of maps used for field investigations, number of sample locations and observation points all confirming or disagreeing with the NRCS mapping units. The survey shall be one or more level of order higher than the NRCS survey as described in the NRCS Soil Survey Manual, 1993. Note that an Order 1 survey is more detailed than an Order 2 or greater survey. Order 1.
- (b) The date(s) of the field investigation; October 17, 2022
- (c) The methods used for observations (backhoe, auger, shovel, etc.) and methods used for documentation (for slope, color, pH, etc.); Methodology is described on page 14, and includes auger hole and test pit excavations, clinometer measurements, soil pH readings, soil texturing and use of Munsell color charts.
- (d) The number and location of borings either shown on an aerial photograph base map of the parcel or provided in a table with latitude and longitude coordinates. In conducting Order 1 soil surveys, the scale of the base maps used for the survey needs to be large enough to enable the identification of polygons of soil map units as consociation map units. Soil map units identified as a complex, association, or undifferentiated group should be avoided as this defeats the purpose of an Order 1 survey. If, however, the soils are so intermingled that they cannot be mapped at a reasonable scale so as to identify consociation map unit polygons, then there should be sufficient sampling and documentation of the complex to demonstrate this soil component distribution. A percentage of each member of the complex will be used in determining area of extent and the reported percentages will be based on this sampling and its documentation, including soil profile descriptions, boring locations and, where useful, photographs. Three augur holes as depicted in Appendix 4, page 26. Descriptions and coordinate locations are contained in Appendix 5, page 30.
- (e) Geomorphic and vegetation correlations supporting the interpretation of land capability classes of soils that differ from those in the official soil survey information; and Page 8.
- (f) A notation of any limitations encountered during the field investigation, such

as soil depth, drainage, slope or inaccessibility. No investigation limitations were noted

(4) Results, Findings, and Decisions: The soils report shall describe how the level of order of survey used in this investigation differs from that used by NRCS in the original soil survey. The soils report shall also include:

- (a) An overview of the geology or geologic setting, describing sources of parent material, bedrock and related factors; Page 6.
- (b) A description of the landforms and topography, confirming the relationship of landforms to soil mapping units; Page 7
- (c) A description of on-site and adjacent hydrology, including surface and subsurface features, intermittent versus perennial, floodplain and floodways and other related information; Pages 8
- (d) A description of the revised soil mapping units with their range of characteristics, explaining how and why they differ from NRCS soil mapping. The soils report shall include a summary of soil variability incorporating significance of preceding weather (above or below average), where known and crops and natural vegetation present; and Pages 14-15
- (e) A tabulation of all previous and revised soil mapping units complete with their acreages and land capability classification. Table 1 describes previously mapped soils. Table 2 describes revised soils.

(5) Summary or Conclusion: The soils report shall contain a section reiterating the purpose of the investigation, explaining the significance of the revised soil mapping and describing any other significant issues related to the report's purpose. See pages 17-18

(6) References: This section may list any manuals or publications utilized or referenced by the report. See Page 20

(7) Attachments: Other informational materials provided as attachments, such as maps, figures or appendices shall include the following and shall be printed on 8 ½ x 11" wherever possible:

- (a) Vicinity map at a scale of 1:48,000 or smaller showing the project location; Map has been provided (Appendix 2)
- (b) The NRCS soils map generated from Web Soil Survey at a scale of 1:20,000 or larger outlining the project site; Map has been provided (Figure 4, page 14)
- (c) Site condition map (aerial photo) at a scale of 1:5,000 or larger outlining the project site and showing the location of site investigations (borings) and other relevant features; Map has been provided (Appendix 4)
- (d) Topography map at a scale of 1:24,000 or larger outlining the project site;

Map has been provided (Appendix 3)

- (e) Assessor's map at a scale of 1:5,000 or larger outlining the project site; Map has been provided (Appendix 1)
- (f) Revised soils map of the project site at a scale of 1:5,000 or larger; Map has been provided (Appendix 6)
- (g) Soil profile descriptions and site observation notes; and Appendix 5
- (h) Representative soil profile descriptions of any soil type identified in the project area that is not described or identified in the published soil survey for the area mapped.

Brett Johnson
Order 1 Soil Survey

Bandon OR

November 27, 2022

Oregon Soil & Environmental
Paul Kennedy CPSS#355840



Picture of Area of Interest (AOI)

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OSE

Land Owner: Brett Johnson
Client: Brett Johnson
Address: 49108 Hwy 101 Bandon OR 97411
Contacts: Brett Johnson
(541) 347-6075

Robert Miller III, Attorney at Law
(541) 347-6075

Site Location: 49108 Hwy 101 Bandon OR 97411
4.7 acres

Map Tax Lot, Township, Range, Section:
Twp 28S R 14W Sec 17C tax lot 01000, 01001, 01002

Latitude and Longitude:
Lat. 43° 4.183'N, Long. 124° 21.919'W 75 ft ele.

General Information

Purpose of Soil Report: an order one soil assessment is required to determine if soil map units are on the proposed parcel qualifies for rezoning the parcel from exclusive farm use to rural residential -2 non-resource .

Be advised Coos Counting Planning has the statutory authority to make final land use decisions.

Present Zoning: EFU
Current Land Use: non resource dwelling
Assessor Map (**Appendix 1**)
Vicinity Map (**Appendix 2**)

Previous Mapping

Coos County Soil Survey:

The United States Department of Agriculture (USDA) along with the Natural Resource Conservation Service (NRCS) reissued the Soil Survey Coos County Area (SSCCA) in 1983 ⁽¹⁾.

Most of the Coos County soil survey is done at an Order 3 soil survey or a fractional map scale of 1:20,000 to 1:63,360.

Bandon Quadrangle, OR 1:24,000 scale. USGS 2000.
Topographic maps (**Appendix 3**)

Soil Survey Principles, Methods, Practices Used: contour and slope transect survey

The USDA provides the principles and practices for conducting soil surveys. Soil survey is the process of interpreting landscapes 3 dimensional bodies of soil by describing mapping and classifying soils. The USDA's March 2017 Soil Survey Manual ⁽²⁾ gives guidance on the principles methodologies, terminologies and practices for making and interpreting soils surveys. The National Cooperative Soil Survey (NCSS) performs soils surveys across the United States. Natural Resource Conservation Service (NRCS) Field Book for Describing and Sampling Soils ⁽³⁾ was followed when conducting this order I soil survey. Order 3 soil surveys are generated by aerial comparison, transaction descriptions and are general land classification and planning tool. Order 1 soil surveys are more refined and can be used for specific land use and farm management decisions.

Soil scientists classified and named the soils in the survey area; they compared the individual soils with similar soils in the same taxonomic class in other areas so that they could confirm data and assemble additional data based on experience and research. The objective of soil mapping is not to delineate pure map unit components; the objective is to separate the landscape into landforms or landform segments that have similar use and management requirements.

Each map unit is defined by a unique combination of soil components and/or miscellaneous areas in predictable proportions. Some components may be highly contrasting or similar to the other components of the map unit. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data. The delineation of such landforms and landform segments on the map provides sufficient information for the development of resource plans using an Order 3 soil survey.

If intensive use of small areas is planned, onsite investigation of Area of Interest (AOI) is needed to define and locate the soils and miscellaneous areas. Soil scientists make many field observations in the process of producing a soil survey map. The frequency of observation is dependent upon several factors, including scale of mapping, intensity of mapping, design of map units, complexity of the landscape, and experience of the soil scientist. Observations are made to test and refine the soil-landscape model and predictions and to verify the classification of the soils at specific locations.

Once the soil-landscape model is refined, a significantly smaller number of measurements of individual soil properties are made and recorded. These measurements may include field measurements, such as those for color, depth to bedrock, and texture, and laboratory measurements, such as those for content of sand, silt, clay, salt, and other components.

Properties of each soil typically vary from one point to another across AOI landscape. Observations for map unit components are aggregated to develop ranges of characteristics for the components. The aggregated values are presented. Direct measurements do not exist for every property presented for every map unit component. Values for some properties are estimated from combinations of other properties. While a soil survey is in progress, samples of some of the soils in the area generally are collected for laboratory analyses and for engineering tests. Soil scientists interpret the data from these analyses and tests as well as the field-observed characteristics and the soil properties to determine the expected behavior of the soils under different uses. Interpretations for all of the soils are field tested through observation of the soils in different uses and under different levels of management. Some interpretations are modified to fit local conditions, and some new interpretations are developed to meet local needs. Data are assembled from other sources, such as research information, production records, and field experience of specialists. For example, data on crop yields under defined levels of management are assembled from farm records and from field or plot experiments on the same kinds of soil. Predictions about soil behavior are based not only on soil properties but also on such variables as climate and biological activity. Soil conditions are predictable over long periods of time, but they are not predictable from year to year. For example, soil scientists can predict with a fairly high degree of accuracy that a given soil will have a high water table within certain depths in most years, but they cannot predict that a high water table will always be at a specific level in the soil on a specific date. After soil scientists located and identified the significant natural bodies of soil in the survey area, they draw the boundaries of these bodies on aerial photographs and Custom Soil Resource Report identified each as a specific map unit. Aerial photographs show trees, buildings, fields, roads, and rivers, all of which help in locating boundaries accurately ^(1,2,3). In conclusion as a certified professional soil scientist I have the authority to investigate, interpret and revise the soil survey area of interest. Findings in this report better refine soil map units based on anthropogenic activities, soil properties, landform and climate.

Findings

Geology

Coos County near Bandon is made up of marine terraces and interior valleys of the Coquille River to the north that are a physiographic division of the sandstone Tyee Formation. Bandon is famous for its knockers, big blocks of hard rock that stand out when the softer geologic matrix erodes away. Geologists call these hard rock blocks knockers, and the Bandon shoreline is lined with knockers⁽⁴⁾⁽⁵⁾.

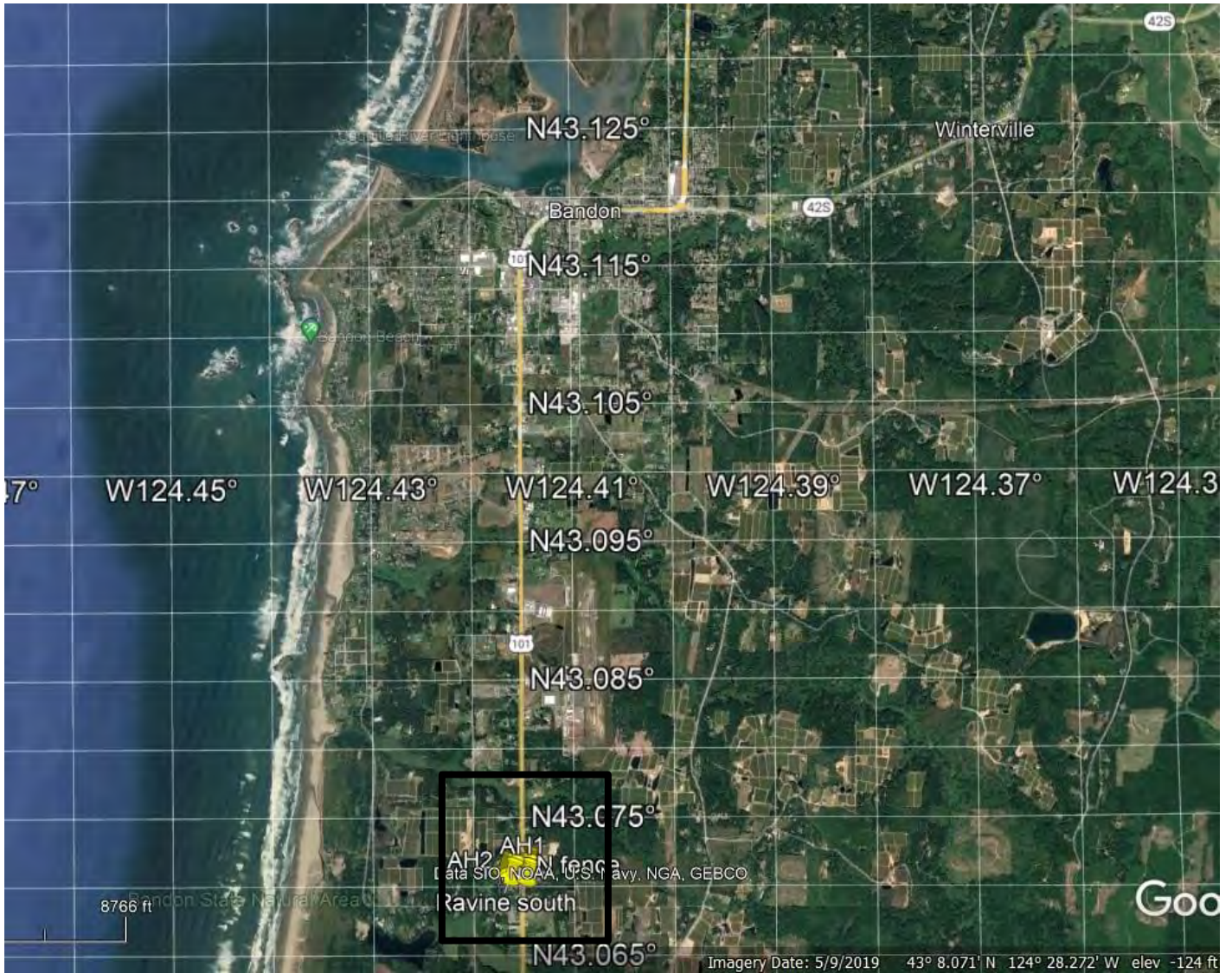


Figure 2. Location Map of Area of Interest

Landforms

Marine river terrace, backslopes, hillslopes and ridges.
slopes 0% to 70% slope.

Elevation 75 feet.

Climate and Hydrology

The area's climate is cool winters and warm summers the area has a mean annual precipitation of 59 inches and mean annual temperature 53F. The vegetation on the area of interest is currently spruce, alder, fir, cedar, grasses, gorse, scotch broom black berries.

For Coos County the typical soil moisture regime is mesic boarding on xeric, where normally the soils are dry 45 or more days in the 4 months following the summer solstice and are moist for 45 days or more in the 4 months following the winter solstice. The difference between the mean summer and winter soil temperature is more 6° C; the mean annual soil temperatures regime is 8° C or higher, but lower than 15° C which can be called a mesic soil temperature regime ^(1,6).

Geomorphic and vegetation correlations

The site is westside of Hwy 101 south of Bandon. The geomorphic surface is designated as weathered marine terrace^(1,4,5,6). Parent material is old sedimentary sandstone ^(1,4,5, 6). The soils are well drained that supports vegetation types like spruce, fir, incense cedar, alder, salal, grasses and forbs vegetation ⁽¹⁾.

Landform can be divided into physiography, relief and drainage. Physiographic would be the distinct geographic province such as the Coast and Coastal Range Mountains. The relief, drainage climate, geology, topography, soil and vegetative are site specific components. The land levelness or hilliness affected tectonic activity that effects soil formation by deposition and erosion of the landform. The AOI consists of a marine terrace that is part of the Coastal lowlands, a subset of the Coast Range Mountain province. With movement of the geologic Pacific plate along with a drop in ocean level and the deposition these alluvial marine terraces was formed. The Bandon area climate is cool marine air with wet winters and moisture summers. The Area of Interest is dissected to the north and south by seasonal drainages with slopes of 30 to 70 percent slope.

NRCS Soil Survey Coos County and Soil Map Units

USDA's Soil Survey Manual² list kinds of map unit components in a soil survey. The component of a map unit is that it can be delineated at some scale and that the components that make up a map unit can be identified on the ground and delineated separately at a sufficiently large scale. Map units used in soil survey are soil series, taxonomic, taxadjunts/variant, miscellaneous areas and phases of components. Soil series represents a three dimensional soil body of unique combination of properties that differ from neighboring series.

Soil taxonomic classes provide information that defines basic sets of soil properties. Taxon summarizes the significant soil properties and combination of properties. A soil map unit is unique and is distinguished from other map units in an area by name. Soil boundaries are seldom completely accurate on soil maps in that parts of adjacent polygons are included or excluded from mapping delineations. A soil component is an entity that can be delineated at some map scale for example a soil map unit or miscellaneous area. Soil map units can consist of up to three dominate and some minor components. Soil components are properties observed or measured as aggregate attributes or values for each soil map unit in a soil survey area. Major components are

included in the soil map name and can be a polypedons or part of several pedons. Phase is a term that may be part of unit component name to convey important information about that soil map unit or that differentiates it from other map units (e.g. frost hazard). Phases may only be part of a range of features characteristic of taxon in a map unit ⁽²⁾.

The map units delineated on a soil survey maps represent the soils or miscellaneous areas in the survey area. The map unit descriptions, along with the maps, can be used to determine the composition and properties of a unit. A map unit delineation on a soil map represents an area dominated by one or more major kinds of soil or miscellaneous areas. A map unit is identified and named according to the taxonomic classification of the dominant soils. Within a taxonomic class there are precisely defined limits for the properties of the soils.

Soils are natural phenomena, and they have the characteristic variability of all natural phenomena. Thus, the range of some observed properties may extend beyond the limits defined for a taxonomic class. An area of soil of a single taxonomic class is rare. Areas can be mapped without including small areas of other taxonomic classes. Consequently, every map unit is made up of the soils or miscellaneous areas for which it is named can have some minor components that belong to taxonomic class other than those of the area's major soils.

Most minor soils have properties similar to those of the dominant soil or soils in the map unit, and thus they do not affect use and management. These are called *noncontrasting*, or similar, components. They may or may not be mentioned in a particular map unit description. Other minor components, however, have properties and behavioral characteristics divergent enough to affect use or to require different management. These are called *contrasting*, or dissimilar, components. They generally are in small areas and could not be mapped separately because of the scale used. Some small areas of strongly contrasting soils or miscellaneous areas are identified by a special symbol on the maps, but may not be described. These small areas of minor components may not have been observed, and consequently they are not mentioned in the descriptions, especially where the pattern was so complex that it was impractical to make enough observations to identify all the soils and miscellaneous areas on the landscape. The presence of minor components in a map unit in no way diminishes the usefulness or accuracy of the data.

Map units are made up of *complexes*, *associations*, or *undifferentiated* groups. A *complex* consists of two or more soils or miscellaneous areas in an unpredictable intricate pattern and in such small areas that they cannot be shown separately on the maps. The pattern and proportion of the soils or miscellaneous areas are somewhat similar in all areas. An *association* is made up of two or more geographically associated soils or miscellaneous areas that are shown as one unit on the soil map. The pattern and relative proportion of the soils or miscellaneous areas are predictable and somewhat similar. An *undifferentiated group* is map units of dissimilar soils that are not consistently associated geographically and may not occur together in the same map delineation.

Some surveys include miscellaneous areas, *undifferentiated group* map units that are dissimilar to the soil and not consistent or mapped association geographically. The group features outside the soil would be flooding, stoniness or steepness. Such areas could have little or no soil material and support little or no vegetation such as rock outcrop.

Soils that have profiles that are almost alike in properties and characteristics are called soil *series*. Except for differences in texture of the surface layer, all the soils of a series have similar major horizons that are alike in composition, thickness, and arrangement. Soils of one series can differ in texture of the surface layer, slope, stoniness, salinity, degree of erosion, and other characteristics that affect their use. On the basis of these differences, a soil series is divided into soil *phases*. Most of the areas shown on a soil survey map are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management for example steep slope. Bullards sandy loam 0 to 7 percent slope (8B).



Figure 3. Area of Interest Map Units

NRCS Soil Survey Coos County Area Soil Map Units

The NRCS SSDCA mapped the AOI as complex of Bullards sandy loam 0 to 7 percent slope (8B) and Bullards sandy loam 30 to 50 percent slope (8E). The acreage of the AOI is approximately 4.7 acres (see Table 1).

Table 1 AOI NRCS soil map units acreages (1)

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
8B	Bullards sandy loam, 0 to 7 percent slopes	0.9	18.2%
8E	Bullards sandy loam, 30 to 50 percent slopes	3.8	81.8%
Totals for Area of Interest		4.7	100.0%

NRCS use of the Order 3 soil survey to interpret land use capabilities and land use decisions by taxon (soil series names) is not the intended use at this survey level.

The NRCS describes the AOI soil map units as follows:

8B—Bullards sandy loam, 0 to 7 percent slopes

Map Unit Setting

National map unit symbol: 21rc

Elevation: 30 to 600 feet

Mean annual precipitation: 55 to 75 inches

Mean annual air temperature: 52 to 54 degrees F

Frost-free period: 200 to 240 days

Farmland classification: Farmland of statewide importance

Map Unit Composition

*Bullards and similar soils:*75 percent

*Minor components:*9 percent

Estimates are based on observations, descriptions, and transects of the mapunit.

Description of Bullards

Setting

*Landform:*Marine terraces

*Landform position (three-dimensional):*Tread

*Down-slope shape:*Linear

*Across-slope shape:*Linear

*Parent material:*Mixed eolian and marine deposits

Typical profile

Oi - 0 to 3 inches: slightly decomposed plant material

H1 - 3 to 10 inches: sandy loam

H2 - 10 to 44 inches: gravelly sandy loam

H3 - 44 to 63 inches: sand

Properties and qualities

*Slope:*0 to 7 percent

*Depth to restrictive feature:*More than 80 inches

*Drainage class:*Well drained

*Capacity of the most limiting layer to transmit water (Ksat):*Moderately high to high (0.57 to 1.98 in/hr)

*Depth to water table:*More than 80 inches

*Frequency of flooding:*None

*Frequency of ponding:*None

Available water supply, 0 to 60 inches: Low (about 5.9 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 3e

Hydrologic Soil Group: B

Ecological site: F004AC410OR - Coastal Upland Warm Forest

Forage suitability group: Well Drained <15% Slopes (G004AY014OR)

Other vegetative classification: Well Drained <15% Slopes (G004AY014OR)

Hydric soil rating: No

Minor Components

Blacklock

Percent of map unit: 9 percent

Landform: Depressions on marine terraces

Landform position (three-dimensional): Tread

Down-slope shape: Linear

Across-slope shape: Linear

Hydric soil rating: Yes

8E—Bullards sandy loam, 30 to 50 percent slopes

Map Unit Setting

National map unit symbol: 21rg

Elevation: 50 to 600 feet

Mean annual precipitation: 55 to 75 inches

Mean annual air temperature: 52 to 54 degrees F

Frost-free period: 200 to 240 days

Farmland classification: Not prime farmland

Map Unit Composition

Bullards and similar soils: 80 percent

Estimates are based on observations, descriptions, and transects of the map unit.

Description of Bullards

Setting

Landform: Marine terraces

Landform position (three-dimensional): Riser

Down-slope shape: Linear

Across-slope shape: Linear

Parent material: Mixed eolian and marine deposits

Typical profile

O_i - 0 to 3 inches: slightly decomposed plant material

H₁ - 3 to 10 inches: sandy loam

H₂ - 10 to 44 inches: gravelly sandy loam

H₃ - 44 to 63 inches: sand

Properties and qualities

Slope: 30 to 50 percent

Depth to restrictive feature: More than 80 inches

Drainage class: Well drained

Capacity of the most limiting layer to transmit water (K_{sat}): Moderately high to high (0.57 to 1.98 in/hr)

Depth to water table: More than 80 inches

Frequency of flooding: None

Frequency of ponding: None

Available water supply, 0 to 60 inches: Low (about 5.9 inches)

Interpretive groups

Land capability classification (irrigated): None specified

Land capability classification (nonirrigated): 6e

Hydrologic Soil Group: B

Ecological site: F004AC410OR - Coastal Upland Warm Forest
Hydric soil rating: No

Concepts worth repeating:

First, it's important to understand on the landscape, soils are natural phenomena that are variable in characteristics and properties. This also can mean soil map units can change several times across a field. It's important to understand what information is in the Natural Resource Conservation Service Soil Survey for each County in Oregon. Again the NRCS typically does soil surveys at an order 3 level (typically map scale 1:24,000). This means the field investigation is based on aerial data and one or more field samples of an area about 40 acres in size. Remote sensing and traversing transects were used to identify soil of taxonomic classes in an area. The level of an order 3 soil survey (map scale) can be used to identify soil morphology and taxonomic features of area soils and may be used for land use decisions; but at this level of soil mapping is really too general to be useful for land management decisions like farming and irrigation.

Typically an order 1 soil survey (for example map scale 1:5000 and mapped on a scale of 5 acres or less) is needed to make useful land management decisions because this level of field investigation captures the six USDA taxonomic categories of a soil map unit, which are *order*, *suborder*, *great group*, *subgroup*, *family* and *series*. The first five are taxonomic categories are used to characterize features of a family and soil series.

The last two categories, *family* and *series* are most useful for farming and land use management decisions. Family categories detail soil chemical and physical properties that affect farm management and crop quality and yields. At the field level soil series (soil map unit) can have phase that are used for land used decisions.

As mentioned before soils phases in one series can be the difference in texture of the soil horizons or surface layer, slope, stoniness, salinity, degree of erosion, soil water holding capacity and other characteristics that affect their use. Typically the areas shown on the detailed soil map are phases of soil series. The name of a soil phase commonly indicates a feature that affects use or management such slope. A good example would be the Bullards sandy loam, 0 to 7 percent slopes map unit should be managed differently for tillage and erosion control (soil texture and slope) than say a Bullards sandy loam of 30 to 70 percent slope.

OSE AOI Soil Survey for the AOI Bandon, OR

Date of survey: Oregon Soil & Environmental (OSE) conducted a Soil Survey on October 17, 2022.

Oregon Soil & Environmental (OSE) established a soil mapping plan for the area of interest (AOI). The AOI perimeter was surveyed and OSE used a transect to map this parcel. Auger holes were used to describe soil polygon. OSE mapped the property at approximate 1:1,200 scale (1 inch: 100 feet). Note reproduction of this report may cause distortion in the map scale.

Method of soil survey:

Landform slopes were measured with a clinometer, soil pH sampled and measured with hand held pH meter, soil textures were determined by hand texturing, and soil colors (wet) described using Munsell soil color charts using NRCS field soil sampling guide lines ⁽³⁾.

The survey plan used auger holes and test pits placed on transects on contour across the AOI to establish the soil polygon. The auger holes were described and test pit soil horizon samples pulled for further analysis. OSE found the effective soil depth in most the soil map units was weathered parent material was found in the soil profile (where roots stop). For this soil survey this is called the effective soil depth (ESD) which is where the depth that's root is limiting or a depth of auger rejection at parent material. For the soil sample location (soil auger holes) descriptions see **Appendix 4**.

OSE Description of the AOI Soil Map units

Order 1 Soil Survey and Soil Report: Oregon Soil & Environmental OSE's Paul Kennedy, a Soil Science Society of America (SSSA) certified soils classifier and Certified Professional Soil Scientist (CPSS # 355840) preformed a soil survey of the AOI. Certified soil scientist - soil classifier can make adjustment to soil taxonomy, soil map unit and land capability classification determinations to best reflect findings of the onsite soil survey.

This survey reviewed the suitability for grazing animals, and crop and timber production. Again, the Order 1 Soil Survey is more comprehensive than an order 2 or 3 soil survey because it delineates AOI at a map scale of 1:1,000 (e.g. more soil profile descriptions per unit area).

It's important to understand a soil scientist looks at the nature of a soil and investigates maps, describes and classifies the soil in the AOI. Identifying soil series is not the object of mapping in soil survey in as much as the soil series serves as a bridge between real soil body properties and conceptual taxonomic classes. Land use classifications in a general way are categorizing and interpreting the real properties of soil limitations and suitability to grow a normal commercial timber harvest potential for the area without inordinate expensive and or intensive management. The expensive and intensive management would be measures that are beyond reasonable practices employed by regional foresters can employ to stay in business.

OSE canvassed and completed a detailed Order I survey of the AOI soil characteristics using SSDC guidelines and found soil mapping by NRCS for the site to be correct. The AOI soil sample points (Auger Hole) AH1-AH3, have soil effective soil depths (soil depth root limiting) that ranged from 32 inches to more than 60 inches in depth to parent material see **appendix 5**.

AOI Soil Taxonomy

For the predominant soil map unit in the AOI the taxonomic classification is Bullards sandy loam: which is a *coarse-loamy, isotic, isomesic Typic Haplorthod*. Breaking down the taxonomic name by nomenclature hierarchy:

Order: the ending *od*, meaning the taxonomic soil order is Spodosol, with epipedon that can range from 9 to 31 inches.

Suborder: *Hapl* meaning fits the concept of spodosol

Great group: *Haplo* meaning simple

Subgroup: isomesic

Family: coarse-loamy, isotic, (isotonic mineralogy class was added to the U.S. Soil Taxonomy. The isotonic mineralogy class includes those soils that have a colloidal fraction that is dominated by short-range order minerals or aluminum-humus complex. These soils do not meet all the criteria of the substitutes for particle size classes. Many soils with isotonic mineralogy are not formed from parent materials influenced by tephra or volcanic rocks (Soil Survey Horizons 45(2): 55-61 2004), isomesic (The isomesic soil temperature regime annual soil temperatures of 8 °C or more, but a difference between mean summer and mean winter soil temperatures is less than 5 °C at 50 cm below the surface).

Series Name: Bullards sandy loam 0 to 7 percent slope (8B)

Particle Size Control Section: 9.8 inches to 31 inches

Surface diagnostic horizon: Ochric 3 to 9 inches, too thin to be an Umbric horizon

Subsurface diagnostic horizon: Spodic 10 to 30 inches

OSE canvassed and completed a detailed soil survey of the Johnson parcel and the AOI using SSDC guidelines. OSE found soil mapping by NRCS to be mostly correct. OSE found a soil polygon across the AOI and mapped it as Bullards sandy loam (**See appendix 6a**).

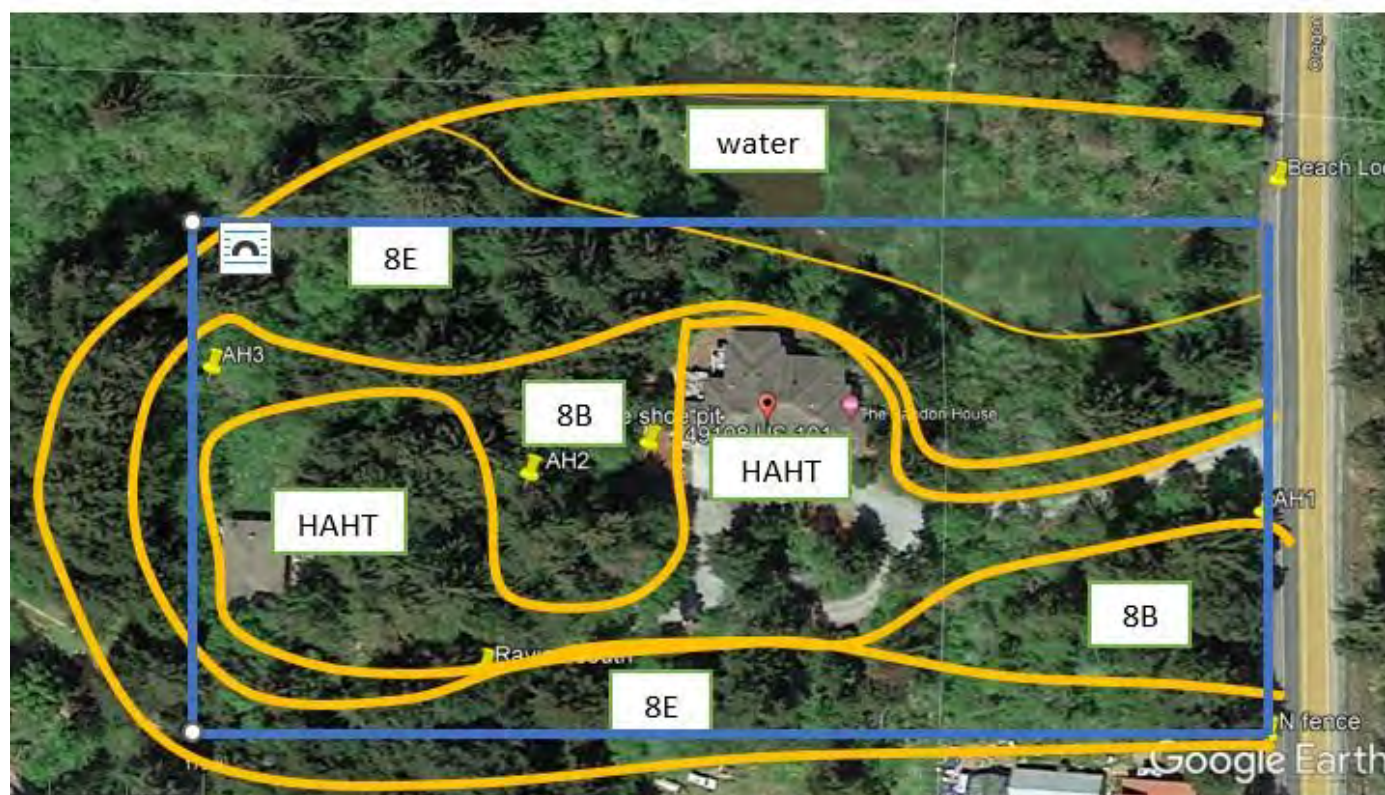
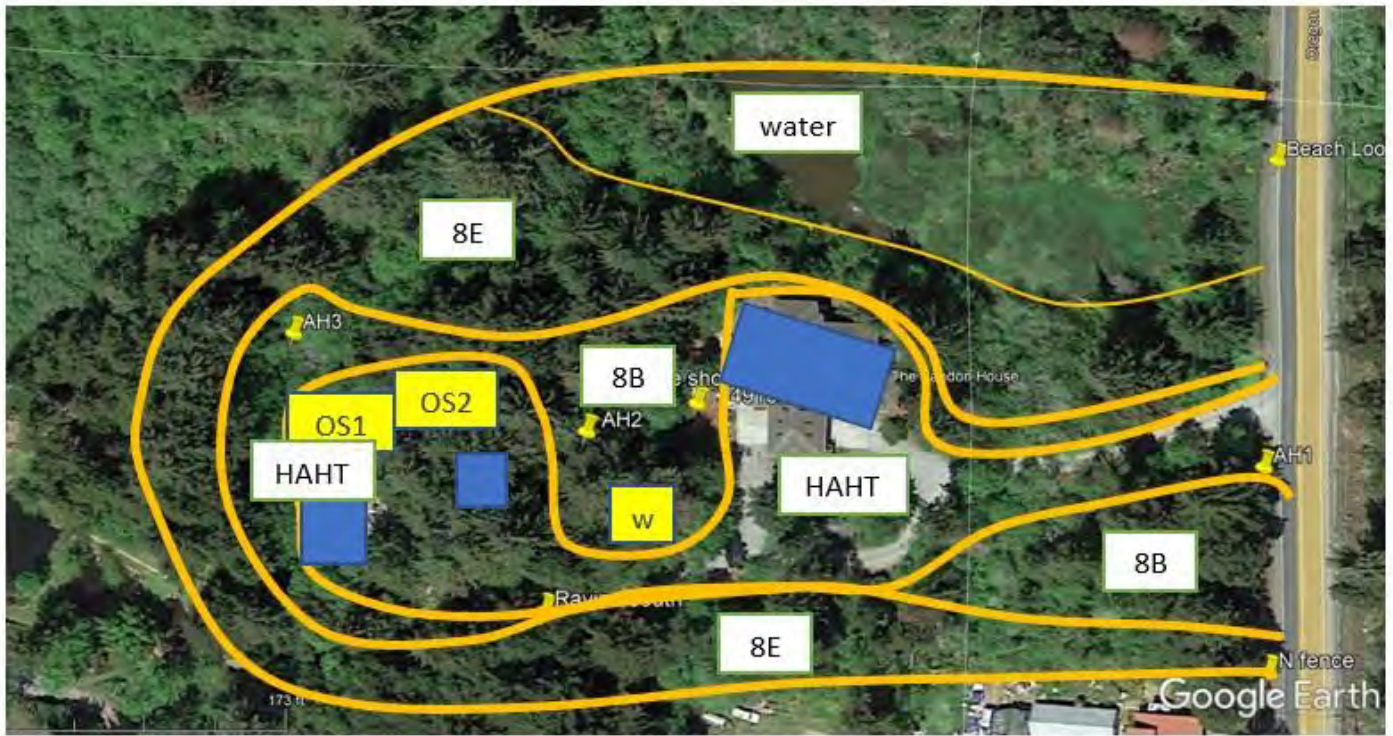


Figure 4. OSE Map Units on the parcel

Yellow approx. outlines the different soil map units,
 Blue approx. outlines the 4.7 acre parcel.



Building/Structures



Onsite system/ well



Note: map call outs are not to scale; the non-resource dwellings are larger than the blue rectangles, which they delineate. Also, the drive ways that dissect (compacted soil and cement) the ridge line are not delineated on the map, but are included in the HAHT designation (trees hide most of the areas).

Figure 5. Map Units on the parcel

Figure 5 shows several structures denoted in blue and the existing and replacement areas for the parcel onsite system as well as the drinking water source (well) denoted in yellow.

Table 2 Parcel soil map units and approximate acreages of 4.7 ac AOI⁽¹⁾

Map Unit Symbol	Map Unit Name	Land Use Classification	Acres in AOI	Percent of AOI
-----------------	---------------	-------------------------	--------------	----------------

HAHT	Human Altered Human Transport	7e not farmland of interest	1.7	35
8B	Bullards sandy loam 0 to 7 percent slope	3e farmland of interest	1	22
8E	Bullards sandy loam 30 to 50 percent slope	6e not farmland of interest	2	43
Total for Area of Interest			4.7	100%

OSE found on the parcel Human Altered Human Transport and mapped it as (HAHT). There are several structures, drive ways and parking areas on the parcel that have changed the original soil map unit; These areas are no longer viable for plant growth.

Summary

OSE conducted an Order 1 Soil Survey on this parcel located on Twp 29S R 15W Sec 12 parcel number 308. The order 1 soil survey area of interest (AOI) is outlined in blue in Figure 5. The site is 4.7 acres. The AOI is made up of Human Altered Human Transport, Bullards sandy loam 0 to 7 and 30 to 50 percent slopes soil map units.

The Order 1 survey was performed to find potential areas on the property suitable for a nonfarm dwelling. OSE refined parts of the NRCS' previous soil survey and remapped and adjusted soil map units and boundaries as shown in figure 5 above.

The NRCS defines "Prime Farmland" is defined under NSSH Part 622 622.03 Farmland Classification⁽⁵⁾ as follows: Prime farmland is defined as land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season, an acceptable level of acidity or alkalinity, an acceptable content of salt or sodium, and few or no rocks. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding. Users of the lists of prime farmland map units should recognize that soil properties are only one of several criteria that are necessary.

The soil map units that are land use class VIe and VIIe, they are not considered prime farmland and are not statewide farmland of interest. The AOI Bullards sandy soil 30 to 50 slope and HAHT soil map units do not meet the definition primary farmland or statewide farmland of interest.

The sample points in the 4.7 acre AOI show most of the soils are limiting because slope and effective soil depth. These soils are not suitable for agriculture or timber production (low

timber harvest potential) due the steep slope and shallow rooting depth that make these soils a risk for erosion. The vegetation on the site is predominately trees and shrubs. There are fir, alder and spruce trees in the northwest part of the AOI with salal and rhododendrons throughout the parcel. The site steep soils have a low ability for producing crops due steep slope and low soil water holding capacity. The shallow soil profile and along with the gravelly sand soil texture has a low available water holding capacity to sustain plants during hot dry summer months. The 30 to 50 percent gravels in the soil profile matrix subtracts for the total available water holding capacity as the parent material gravels does not hold water that's available for plants.

For land use on these soils without intensive and elaborate soil, nutrient and water management practices these soils are not suitable to commercial agriculture or timber production.

In conclusion the soil investigated in the AOI is not suitable for commercial farm crops and livestock or merchantable tree species; Due to the erodible nature of the upland soils, which are shallow to parent material with low water holding capacity. Most of the AOI soils are classified as class VIIe and VIe. OSE revised parts of NRCS pervious soil survey map by adding Human Altered Human Transport in the AOI. OSE soil survey found a majority of the acreage in the AOI is not prime farmland and is not farmland of interest.



Paul Kennedy Cert. Prof. Soil Scientist # 355840
Oregon Environmental Health Specialist # EH-587859
Oregon Level II Wastewater #11580
paul4kennedy@gmail.com



Be advised Coos Counting Planning has the statutory authority to make final land use decisions.

Coos County may require soils report submittal to DLCD for review

Oregon Department of Land Conservation and Development Hillary.foote@state.or.us

accompany by \$625 and a Soil assessment Submittal Form.

Payment is non-refundable administrative fee should be sent by check.

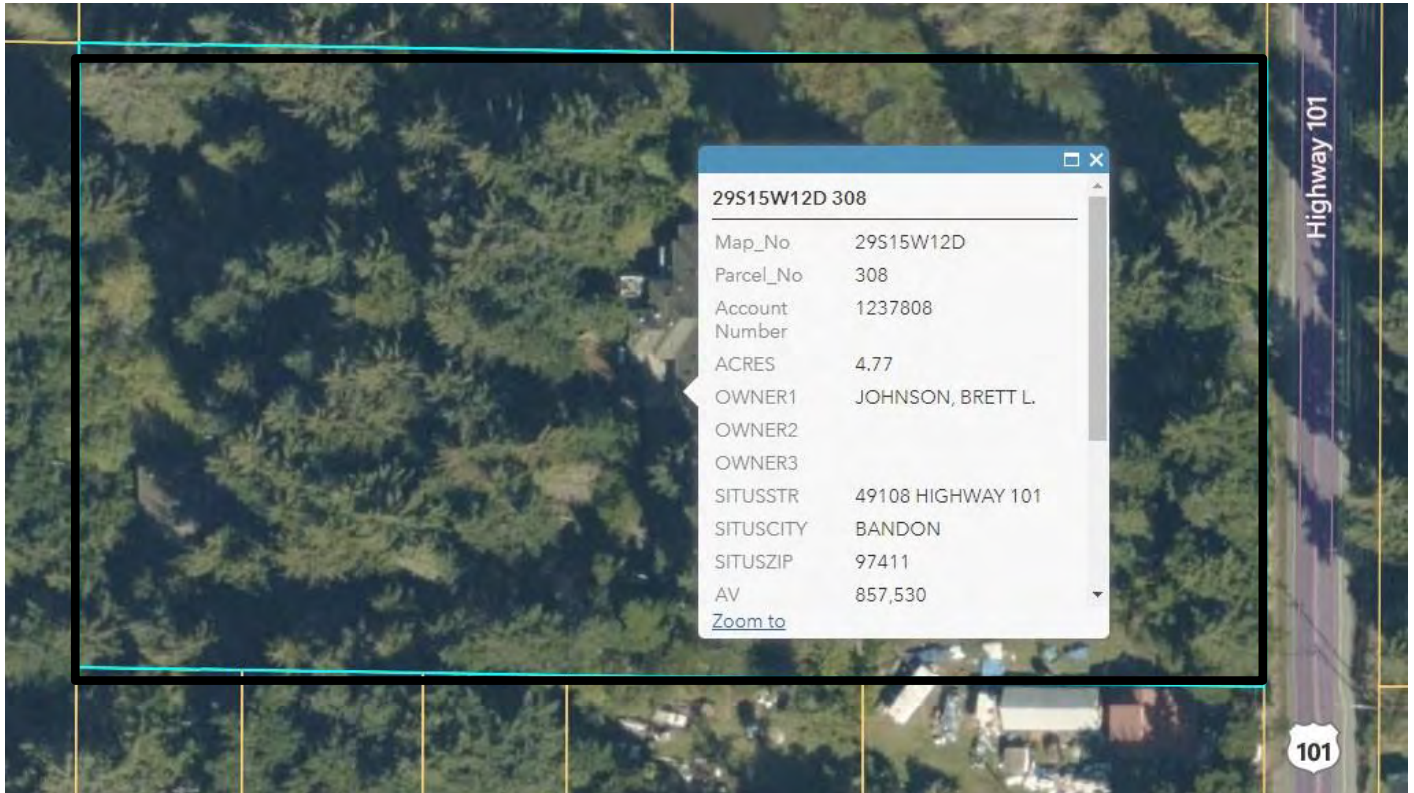
References:

- (1) USDA/NRCS Coos County Soil Survey, 1983.
- (2) USDA Soil Survey Manual Handbook No. 18, March 2017
- (3) USDA/NRCS Field Book for Describing and Sampling Soils ver. 3.0, Sept 2012
- (4) Roadside Geology of Oregon, Alt and Hyndman, 1978 Mountain Press Publ.
- (5) Geology of Oregon, Ewart M. Baldwin, 1976 Kendall/Hunt Publ.
- (6) USDA Keys to Soil Taxonomy Twelfth Edition, 2014

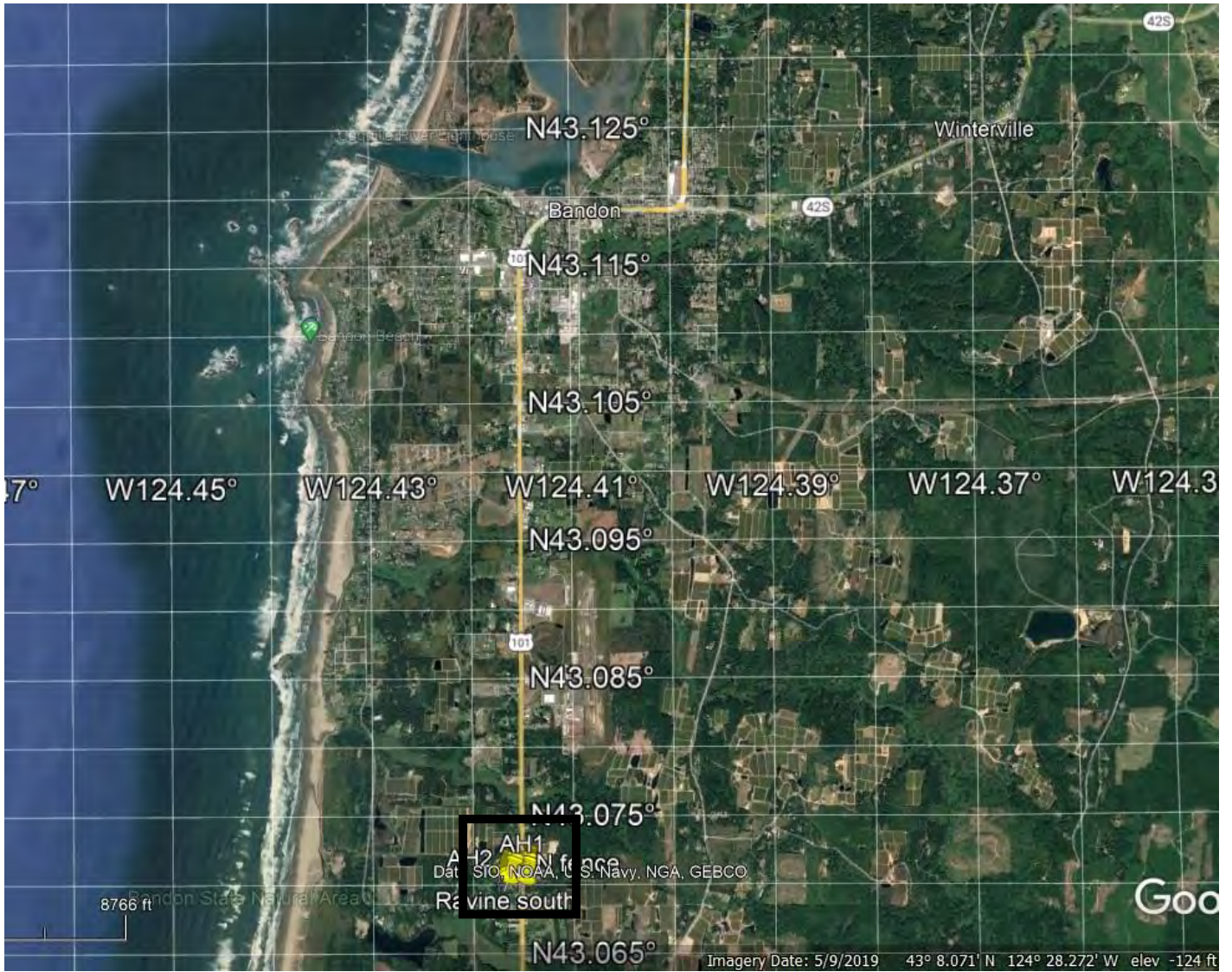
Appendices

- (1) Assessor Map
- (2) Vicinity Map
- (3) Topographic 1:24,000 1:62,000 scale
- (4) Soil Sample Plan
- (5) Auger hole descriptions
- (6) OSE soils map units for AOI

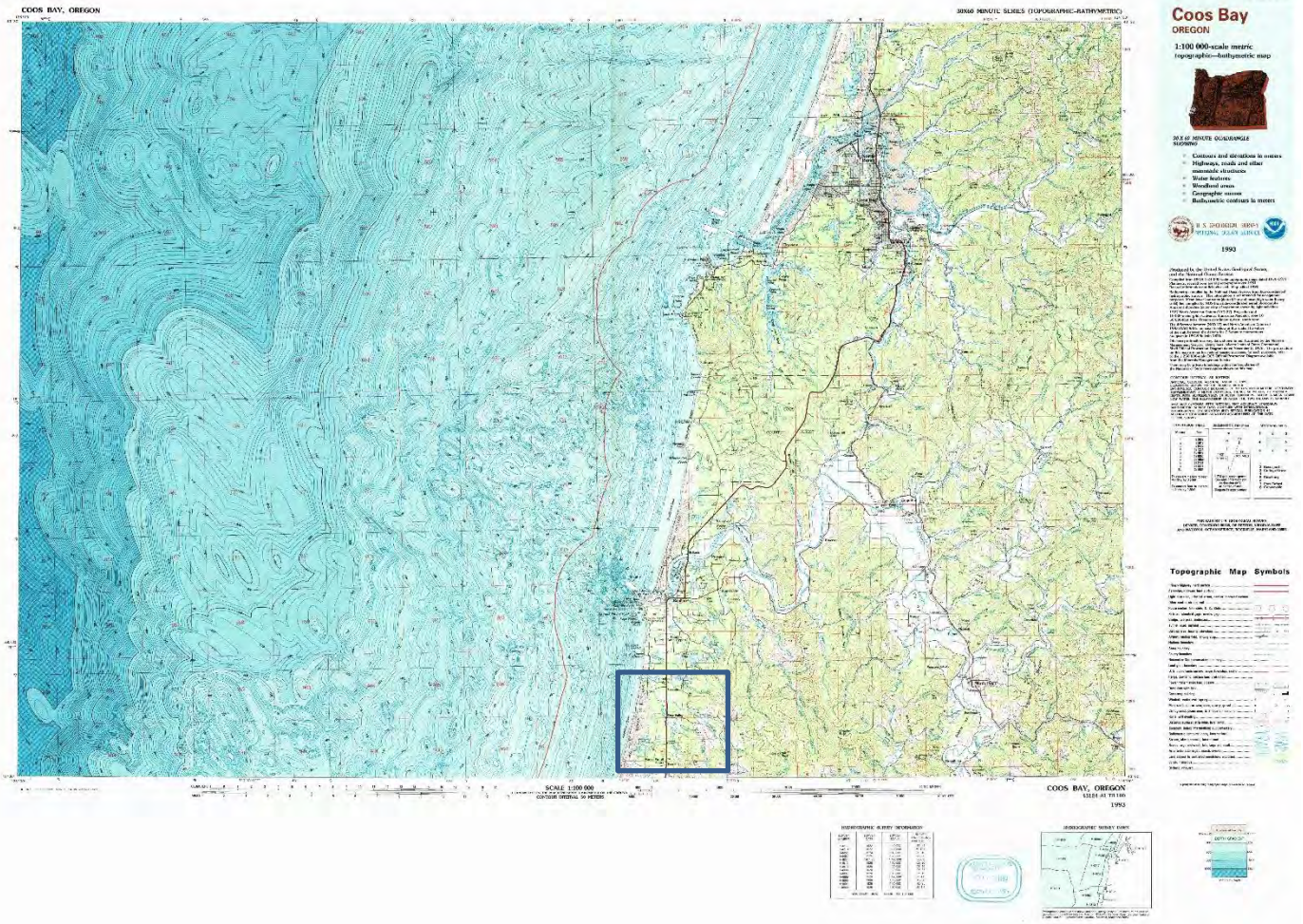
Appendix 1. Coos County Assessors Map and aerial map of AOI (black box)



Appendix 2. Vicinity Map Coos County



Appendix 3. Topographic Map of AOI

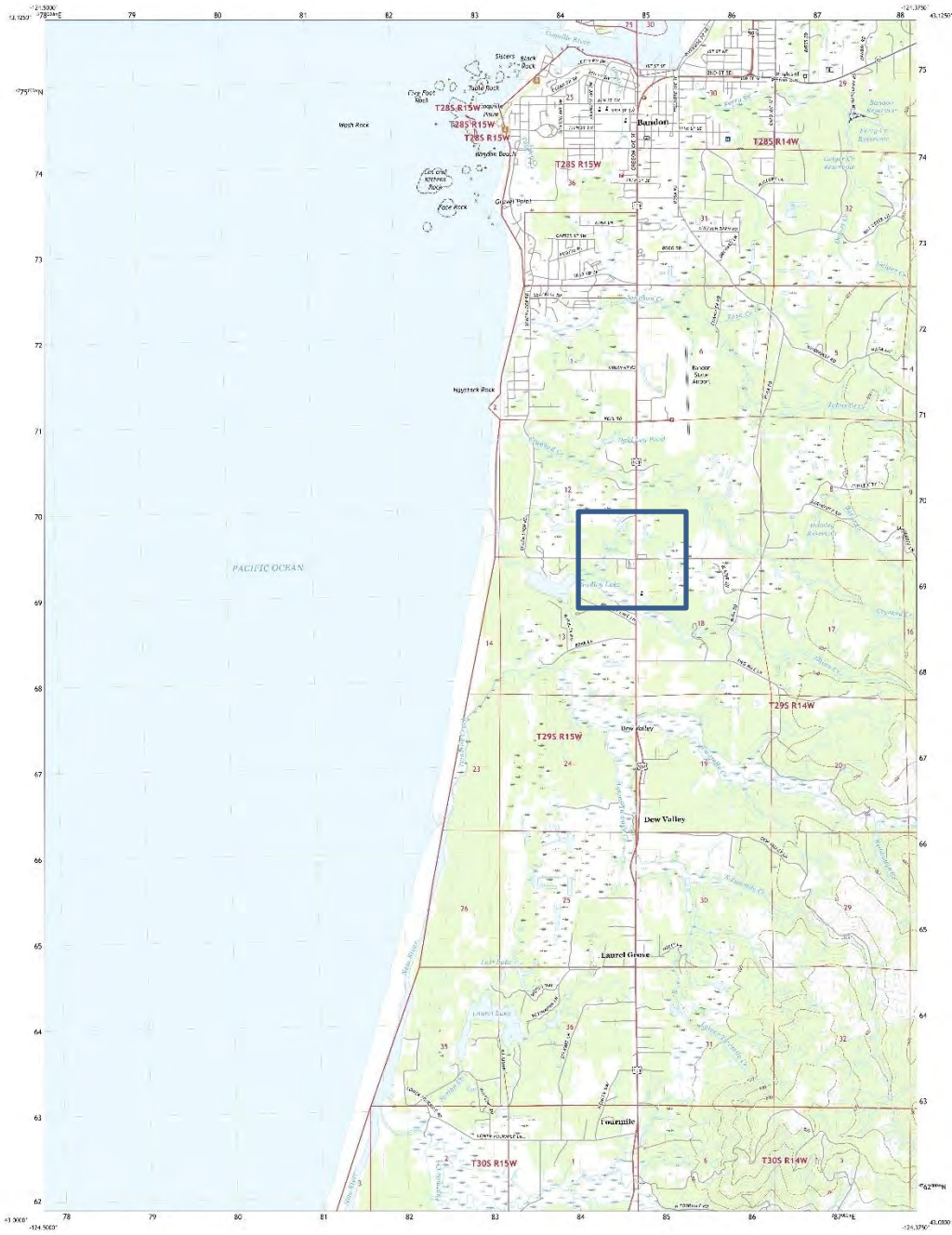




U.S. DEPARTMENT OF THE INTERIOR
U.S. GEOLOGICAL SURVEY



BANDON QUADRANGLE
OREGON - COOS COUNTY
7.5-MINUTE SERIES



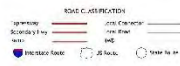
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SCALE 1:24 000



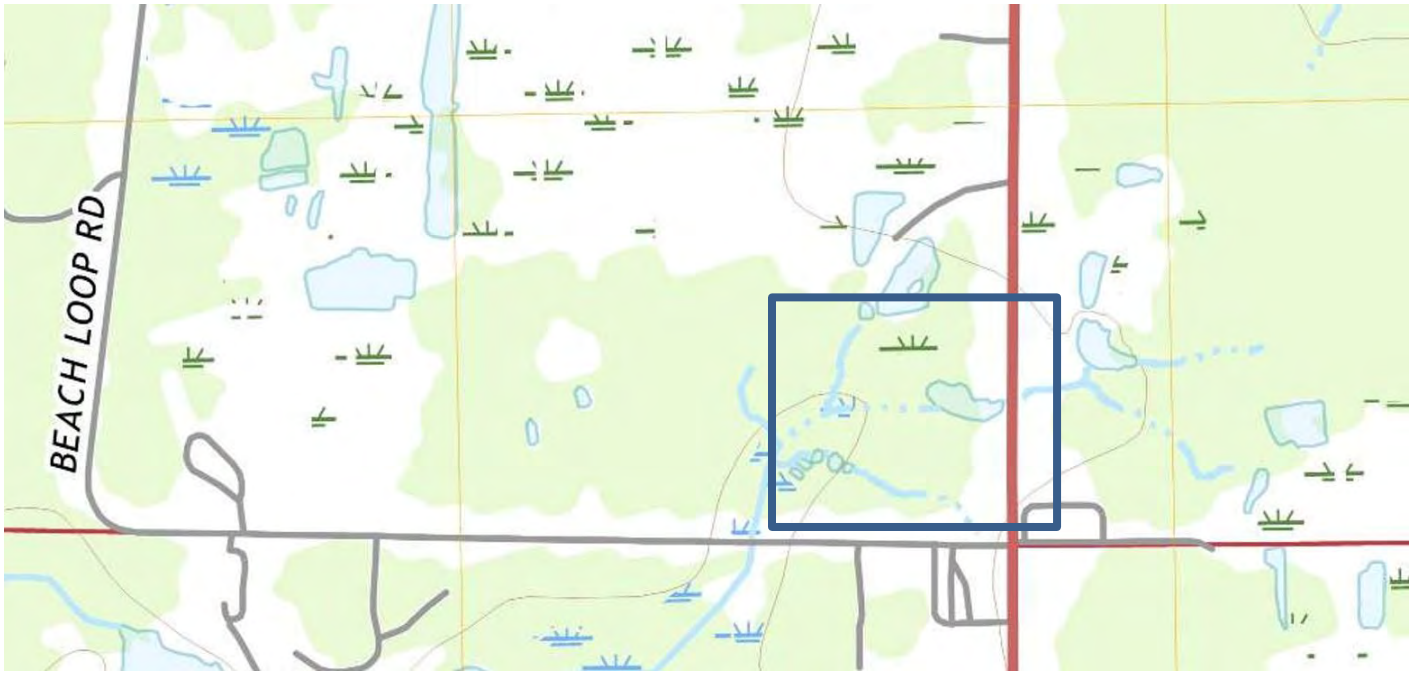
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BANDON, OR
2020



Topographic Map of AOI



Appendix 4. OSE Order 1 Soil Survey Sampling Plan.

The Area of Interest (AOI, outlined in black) along ridge line (approximately 4.7 acre AOI).

AOI Auger Hole sample points (AH1-AH3)



The area outlined in yellow is being consider for rezoning. The existing onsite treatment system (blue box) is on an upper marine terrace/ridge line that run east to west. The slopes of 30 to 70 percent backslopes to the north and south.

Appendix 5. Soil Descriptions AH1 - AH3,

Sample Point AH1

Depth inches	Soil Texture	Soil Structure	Matrix Color	Roots	Pores	pH	Comments
0-3-5	sl	gr 1msbk	10YR 3/3	3fmc	vf m irr		3-5 % slope
5-11	sl	2sbk	10YR 4/2	3fmc	f m irr		
11-15	gr-ls	2sbk	10YR 4/4	3f2m	vf irr		
15-24	gr-s	sg	10YR/7.5 YR 3/2	3f2m	vf irr		
24-32	gr-s	m-sg	7.5YR 5/4	3f			crossbedding sand dune parent material
32-60+	s	m-sg	10YR 5/3				



Sample Point AH2

Depth inches	Soil Texture	Soil Structure	Matrix Color	Roots	Pores	pH	Comments
0-3	l	gr 1msbk	10YR 3/2	3fmc	vf m irr		3-5 % slope
3-8	sl	2sbk	10YR 3/2	3fmc	f m irr		
8-12	sl	2sbk	10YR 3/3	3f2m	vf irr		
12-24	gr-sl	2sbk	10YR/7.5 YR 3/4	3f2m	vf irr		
24-34	gr-sl	sbk	7.5YR 4/3	2f			
34-36	s	m	7.5YR 4/6				
36-60	s	sg	7.5YR 4/3				Fe Mn coatings om sand grains
43-48+	s	sg	7.5YR 4/4				Fe Mn coatings



Sample Point AH3

Depth inches	Soil Texture	Soil Structure	Matrix Color	Roots	Pores	pH	Comments
0-4	lsl	gr 1msbk	10YR3/2	3fmc	vf m irr	4.8	3-5 % slope
4-9	sl	2sbk	10YR3/3	3fmc	f m irr		
9-15	gr-sl	2sbk	10YR4/2	3f2m	vf irr	4.4	
15-21	gr-sl	2sbk	10YR3/2 7.5YR3/2	3f2m	vf irr		
21-29	gr-sl	sbk	7.5YR 4/3	2f			Fe Mn coatings on gravels
29-35	s	sg	10YR 5/3				Fe Mn coatings on gravels
35-60	s	sg	10YR 6/2				



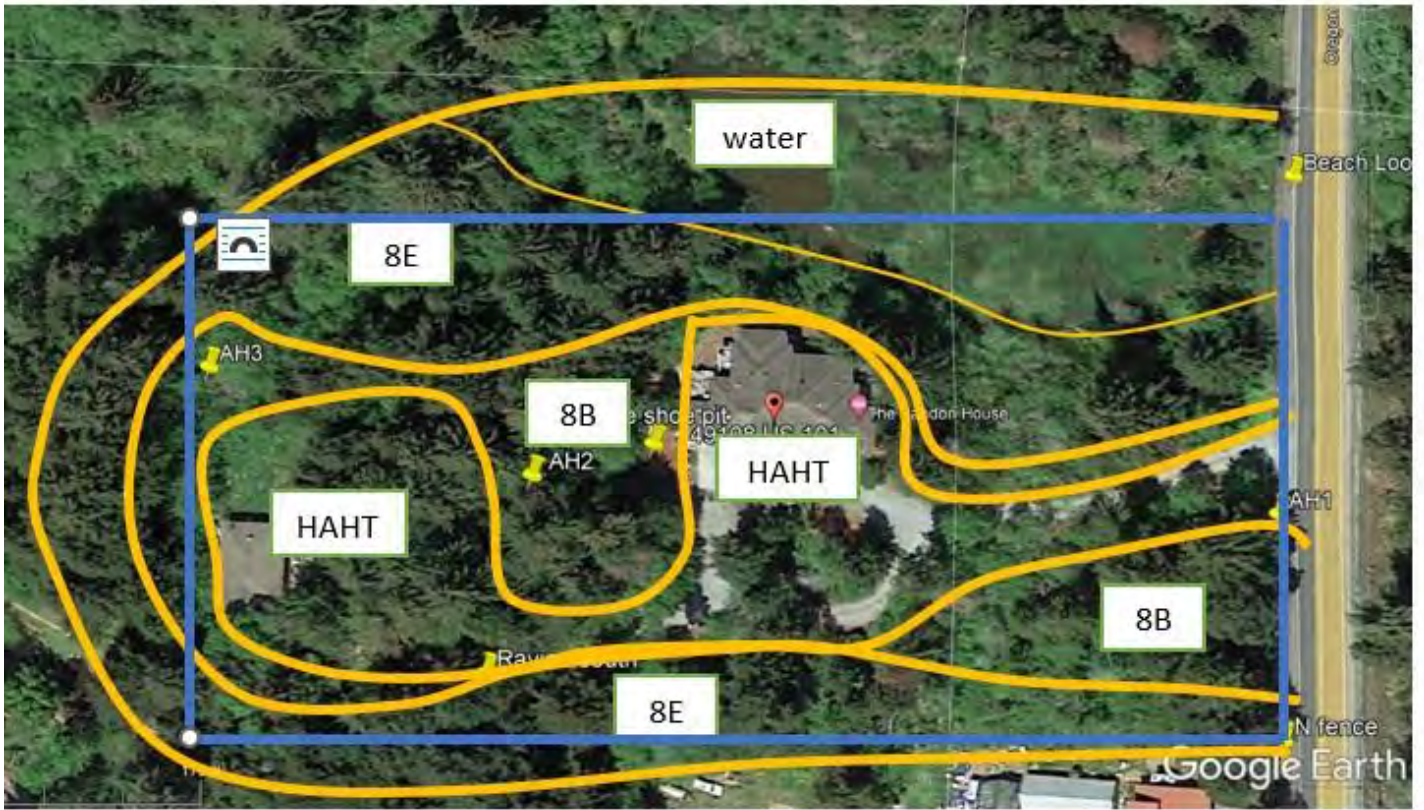


eastside Hwy 101 near AOI. This road cut is over 5 feet deep.

AOI AH 1-3, GIS coordinates and approximate elevation

Point	Lat	Long	Approx. elevation
AH1	43° 04.183'N	124° 24.919'W	74
AH2	43° 04.183'N	124° 25.015'W	75
AH3	43° 04.192'N	124° 25.058'W	58
Road cut Hwy 101	43° 04.184'N	124° 24.906'W	75

Appendix 6. Revised Soil Map for AOI





Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

DEPT

DEC 16 2022

LAND CONSERVATION
AND DEVELOPMENT

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD

Soils Assessment Submittal Form



Soils Professional Information

Soils professional*: Paul Kennedy Certification number: 355840

Property Information

Person who requested soils assessment: Robert S. Miller III Att. at Law Brett Johnson

Mailing address: 49108 Hwy 101 Bandon OR 97411

Email address: rsmiller@aol.com brett@thebandonhouse.com Telephone number: (541) 639-6075

Property owner (if different): Brett Johnson

Property address (if different): _____

County: Coos Township: 29S Range: 15W Section: 12

Tax lot(s): 308 Parcel Acreage: 4.77 Acres Evaluated: 4.77

Comprehensive Plan designation: AG Zone: EFU

Proposed land use action: rezone EFU to Rural Residential

The soils professional must submit an electronic copy of the soils assessment together with this form to Hilary Foote, Farm and Forest Lands Specialist, at the above address. The person requesting the soils assessment or the property owner must submit a check for a non-refundable administrative fee of \$625 made out to the Department of Land Conservation and Development, to Hilary Foote, at the same address.

Soils assessments must be consistent with the Soils Assessment Report Requirements and will be checked for completeness and be subject to audits as described in OAR 660-033-0030(9). Some soils assessments will additionally be subject to review and field checks by a DLCD-contracted soils professional as described in OAR 660-033-0030(9). Property owners and soils professionals will be notified of any negative reviews or field checks. Soils assessments will not be released to local governments without submittal of a signed release form by the property owner and person who requested the soils assessment; however, when released, any negative reviews or field checks will accompany the soils assessments.

The department and the Land Conservation and Development Commission will not be held liable for non-performance or information that is contained in soils assessments, or for negative reviews, field checks or audits of soils assessments. For the protection of the department and commission, we ask that you read and sign the following authorization and disclaimer:

I hereby expressly give my consent, should I be notified by the department that the submitted soils assessment for my property is selected for a review and field check, to authorize timely

access to my property by a DLCD-contracted soils professional to perform a field check to corroborate the information provided in the submitted soils assessment. I understand that failure to authorize access to the property may result in a negative review.

I hereby waive my right to pursue a claim for relief or cause of action alleging injury from the content of soils assessments or from any negative reviews, field checks or audits conducted by the department and any and all soils professionals used by the department under OAR 660-033-0030(5) and (9). I hold these entities harmless and release them from liability for any injury or damage that may occur in conjunction with the submitted soils assessment.

In exchange for the department's review of this submittal under the soils assessment program, I expressly agree to forever waive and give up all claims, suits, actions, proceedings, losses, damages, liabilities, awards and costs of every kind and description, including any and all federal and state claims, reasonable attorney's fees, and expenses at trial (collectively "claims") which I have or may have a right to bring against any agency, department, the state, or their agents, officials or employees arising out of or related to my participation and performance in the soil assessment program, including but not limited to claims for mistake or negligence of the department, the state of Oregon, and their officers, employees and agents. I further agree that the provisions of this Liability Waiver and Release from Federal and State Claims shall be effective and binding upon my heirs, executors, administrators, successors, assigns, beneficiaries, or delegates and shall inure to the benefit of the department, the State of Oregon, and their officers, employees and agents.

RSMLL
ROBERT S. MILLER III ATTORNEY FOR PROPERTY OWNER 11/29/2022
Person who requested soils assessment Date

BRETT JOHNSON by RSMLL 11/29/2022
Property owner (if different) Date

In addition to agreeing to the above, I hereby certify that the attached soils assessment that I performed for the property identified on this form is soundly and scientifically based and meets the reporting requirements established by the department.

Paul Kennedy 12/2/22
Soils professional Date

* Must be from the posted list of qualified soils professionals at:
<https://www.oregon.gov/lcd/FF/Pages/Soils-Assessment.aspx>



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2540

Phone: 503-373-0050

Fax: 503-378-5518

www.oregon.gov/LCD

Soils Assessment Release Form



Soils Professional Information

Soils professional*: Paul Kennedy Certification number: 355840

Date of submittal of soils assessment to department: _____

Property Information

Person who requested soils assessment: Robert S Miller III att. at Law Brett Johnson

Mailing address: 49108 Hwy 101 Bandon OR 97411

Email address: rsmiii@aol.com brett@thebandonhouse.com Telephone number: 541 639-6075

Property owner (if different): Brett Johnson

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County: Coos Township: 29S Range: 15W Section: 12

Tax lot(s): 308 Parcel Acreage: 4.77 Acres Evaluated: 4.77

Comprehensive Plan designation: AG Zone: EFU

Proposed land use action: rezone parcel from EFU to Rural Residential

If you would like the soils assessment for the subject property to be released to a County planning department for its consideration in a land use proceeding, please sign this form and send it to Hilary Foote at the above address, or email to: hilary.foote@state.or.us.

I hereby request that the Department of Land Conservation and Development release the soils assessment submitted to the department on the above date regarding the above-described property to the Coos County Planning Department, as well as any department notifications of deficiencies. I understand that any and all previous soils assessments applying to this property produced under this rule, as well as any department notifications of deficiencies in such soils assessments, will also be released to the local government.

BSMIII

Person who requested soils assessment

11/29/2022

Date

[Signature]

Property owner (if different)

11/28/2022

Date