



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

Official Use Only
FEE: _____
Receipt No. _____
Check No./Cash _____
Date _____
Received By _____
File No. _____

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

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

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

PLEASE PRINT OR TYPE:

**A. APPLICANT:**

Name: Coos Curry Consulting c/o Sheri McGrath Telephone: 541-982-9531  
 Address: P.O. Box 1548, Bandon, OR 97411

As applicant, I am (check one):

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

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

Ewing Family Trust c/o Elizabeth and Gerald Ewing 97312 Pottlatch Rd, Lakeside, OR 97449

**B. DESCRIPTION OF PROPERTY:**

Township 23 Range 12 Section 08 Tax Lot 700 and 800  
 Account No. 7593800 and 7593900 Lot Size 11.44 acres total Zoning District Forest  
 Existing Use Residential

**C. STATE SPECIFIC ZONE DISTRICT REQUESTED:** Recreation

D. JUSTIFICATION:

(1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered:  
Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? The rezone request is not for EFU, so this section is not applicable  
Explain and provide documentation: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:

- a. Will the rezone conform with the comprehensive plan? Yes  
Explain: 5.1.275 outlines the rezone criteria and the applicant addresses this in the attached findings. Comprehensive Plan and the Zoning & Land Development Ordinance, Recreation zoning fits into the open space definition under Section 4.2.400. Vol 1 Part 1 of the Plan states "A recreational designation is proposed for established recreation areas and other lands with special recreational potential, where no conflict with agricultural lands goal exists.
- b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? No  
Explain: Surrounding parcels are developed as Residential properties with single family dwellings. A number of existing homes are operated as Vacation Rental Dwellings.
- c. Will the rezone comply with other adopted plan policies and ordinances? Yes  
Explain: The attached findings outline compliance with the CCZLDO, OAR, Comprehensive Plan and other related documents.

(3) 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 acknowledge<sup>1</sup> 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

<sup>1</sup> "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.

applicability; (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and (c) Complies with standards for an exception.

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

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

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

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

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

**E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:**

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

G. Authorization:

All areas must be initialed by all applicants, if this application pertains to a certain property all property owners<sup>2</sup> must either sign or provide consistent for application unless otherwise allowed by Section 5.0.175 of the CCZLDO. As an applicant by initializing each statement I am accepting or agreeing to the statements next to each area designated for my initials and/or signature. All property owners shall sign and initial the designated areas of the application or provide consent from another party to sign on their behalf. If another party is signing as part of a consent that does not release that party that gave consent from complying with requirements listed below or any conditions that may be placed on an application. In the case of a text amendment the procedures for set out in Section 5.1.110 WHO SEEK CHANGE applies and an applicant may not be a property owner.

SM

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

SM

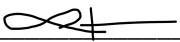
I understand it is the function of the planning staff to impartially review my application and to address all issues affecting it regardless of whether the issues promote or hinder the approval of my application. In the event a public hearing is required to consider my application, I agree, as applicant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

SM

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

SM

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

  
\_\_\_\_\_  
Applicant(s) Original Signature

\_\_\_\_\_  
Applicant(s) Original Signature

5-10-22  
\_\_\_\_\_  
Date

<sup>2</sup> Property owner” means the owner of record, including a contract purchaser

Coos Curry Consulting Group  
P.O. Box 1548 • Bandon, Oregon 97411  
[cooscurry@gmail.com](mailto:cooscurry@gmail.com)  
541-982-9531

CONSENT FOR REPRESENTATION

I, Gerald and/or Elizabeth Ewing of 72317 Potlatch Rd, Lakeside, OR 97449  
give permission to Coos Curry Consulting Group to represent me on all design, permit  
and consulting matters concerning the property located on Coos County Tax Assessor's  
Map 23-12-08 TL 700 and 800. The tax accounts for these properties are 7593800 and  
7593900.

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

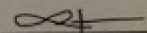
Contact information for Sheri McGrath is:

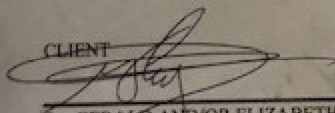
Cell: 541-982-9531  
E-mail: [cooscurry@gmail.com](mailto:cooscurry@gmail.com)  
Mailing address: P.O. Box 1548, Bandon, OR 97411

This consent automatically expires 36 months from the date below, without  
requirement of notice.

DATED: September 16, 2021

COOS CURRY CONSULTING GROUP

  
By: SHERI MCGRATH

CLIENT  
  
By: GERALD AND/OR ELIZABETH EWING

Kenneth & Julie Robbers  
541-982-9829  
72317 Potlatch Road  
LAKESIDE, OR 97449  
23S120800-00700

↑ LAKE  
property 300'  
line



16'  
Setback  
From  
Slope

LAKE Property line 200'

POTLATCH ROAD

DRIVE WAY  
14%  
Grade

proposed  
House

30 x 60

Existing  
Green  
House  
32 x 16

YARD

← WATER TANK - Existing

SHED  
8x10  
Existing

Existing  
Out Building  
40 x 50

PARKING  
Lot

→  
Property  
line  
200'

← WATER TANK - Existing

12'

Sloped leech Field

EXISTING  
NOOD  
SHED  
3'x12' open

Septic  
1300 GA.

14%  
GRADE

DRIVE WAY

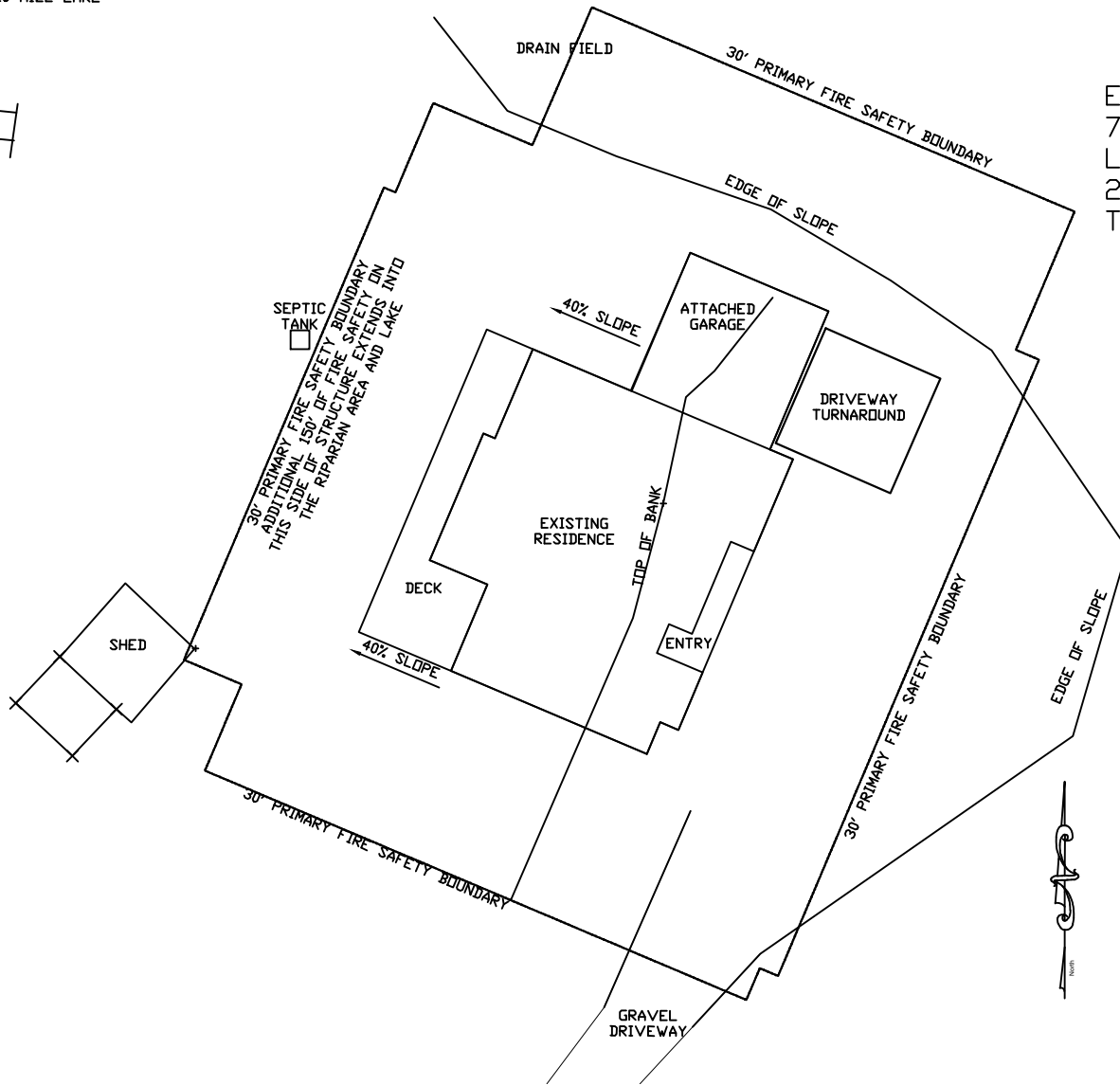
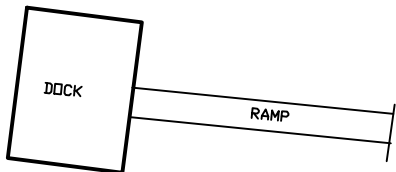
property  
line  
100'

Property line  
300'

property line  
300'

200'

10 MILE LAKE



EWING FAMILY TRUST  
72312 POTLATCH ROAD  
LAKESIDE, OREGON 97449  
23-12-08 TL 800  
TAX ACCOUNT 7593900



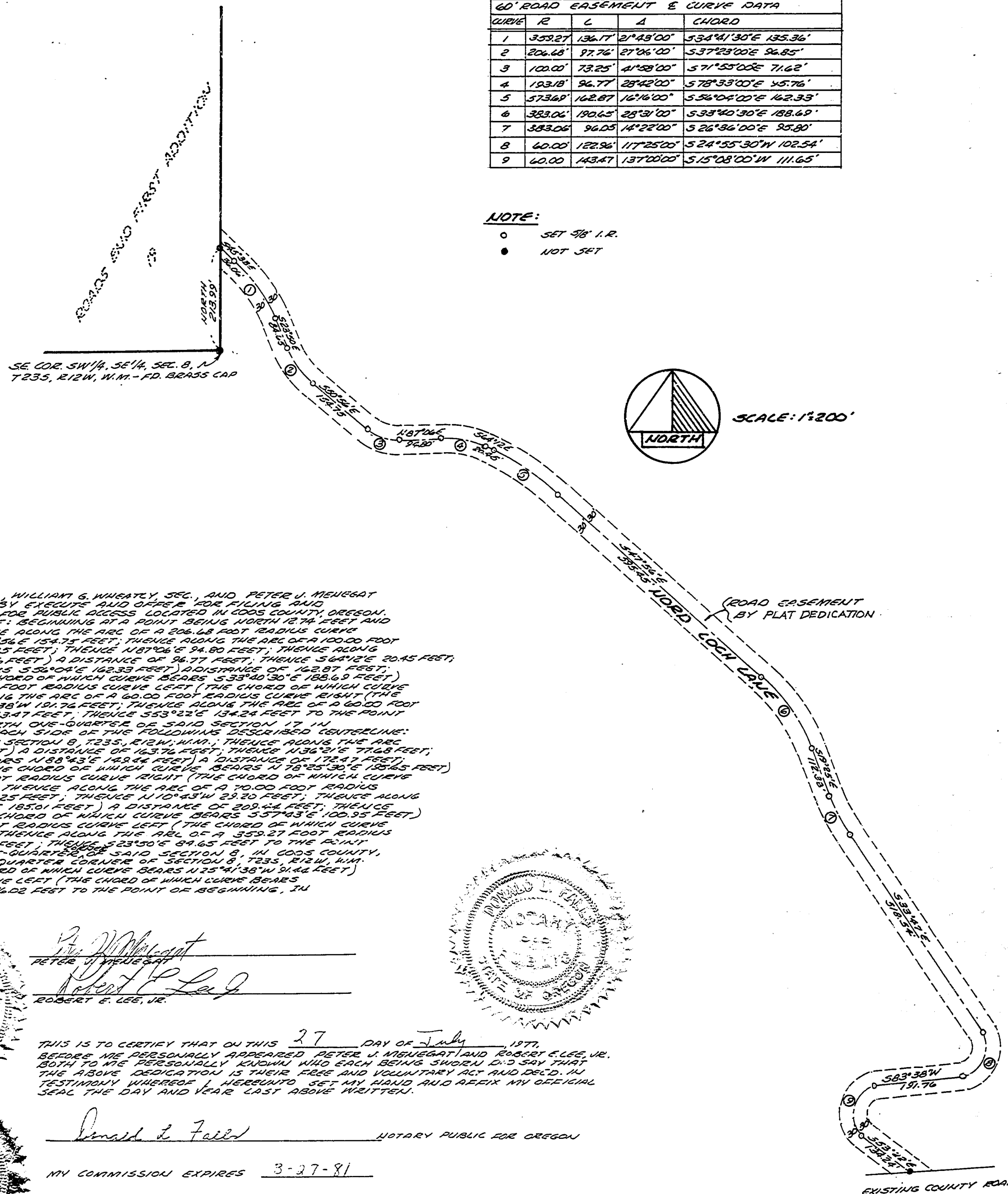
# ROADS END FIRST ADDITION

SECTIONS 8, 17 & 16, T.23S, R.12W, W.M.  
COOS COUNTY, OREGON

**NOTES:**

- ALL THE LOTS WITHIN THE ROADS END FIRST ADDITION SUBDIVISION ARE SUBJECT TO THE FOLLOWING EASEMENTS:  
 (A) AN EASEMENT TO THE CENTRAL LINCOLN PEAKS UTILITY DISTRICT, RECORDED OCTOBER 20, 1966, BEARING MICROFILM REEL NO. 66-10-13095, RECORDS OF COOS COUNTY, OREGON.  
 (B) RIGHT OF WAY, INCLUDING THE TERMS AND PROVISIONS THEREOF, CONVEYED TO GENERAL TELEPHONE COMPANY OF THE NORTHWEST, INC., RECORDED AUGUST 13, 1971, BEARING MICROFILM NO. 71-8-62098, RECORDS OF COOS COUNTY, OREGON.
- THE DEEDS TO LOTS 18 AND 19 WILL BE SUBJECT TO THE FOLLOWING RESTRICTION:  
 "GRANTEE COVENANTS NOT TO CHISEL AND SELL A PORT OF THIS REALTY WITHOUT THE WRITTEN APPROVAL OF THE COOS COUNTY PLANNING COMMISSION. THE SALE OF THE ENTIRE PARCEL IS NOT RESTRICTED BY THIS PROVISION."
- THE DEED TO LOT 14, ROADS END FIRST ADDITION, WILL BE SUBJECT TO THE FOLLOWING EASEMENT:  
 "GRANTOR RESERVES AN EASEMENT FOR ACCESS OVER A 60-FOOT STRIP OF LAND, BEING 30 FEET ON EACH SIDE OF A LINE COMMENCING AT A POINT 128°07'N 268.82 FEET FROM THE MOST WESTERLY CORNER OF LOT 14, THENCE NORTH 90.00 FEET; THENCE N53°00'E 213.54 FEET TO THE EAST BOUNDARY OF SAID LOT 14. SAID EASEMENT SHALL RUN WITH THE LAND, AND SHALL INURE TO THE BENEFIT OF SUBSEQUENT HEIRS AND ASSIGNS OF LOT 15, ROADS END FIRST ADDITION, SUBDIVISION."
- THE DEED TO LOT 17, ROADS END FIRST ADDITION, WILL BE SUBJECT TO THE FOLLOWING EASEMENT:  
 "GRANTOR RESERVES AN EASEMENT FOR ACCESS OVER A 60-FOOT STRIP OF LAND, BEING 30 FEET ON EACH SIDE OF A LINE COMMENCING AT A POINT N42°24'W 148.10 FEET FROM THE SOUTHWEST CORNER OF LOT 16, ROADS END FIRST ADDITION, THENCE S55°00'W 312.38 FEET TO THE EASTERLY MARGIN OF A 60-FOOT EASEMENT FOR EACH LOT. SAID EASEMENT SHALL RUN WITH THE LAND AND SHALL INURE TO THE BENEFIT OF SUBSEQUENT HEIRS AND ASSIGNS OF SAID LOT 16."
- ALL DEEDS TO THE PURCHASERS OF THE ROADS END FIRST ADDITION LOTS WILL CONTAIN THE FOLLOWING COVENANT:  
 "GRANTEE AGREES TO PARTICIPATE ON A PER LOT PER DATA BASIS WITH THE OTHER USERS OF SAID ROAD IN THE REASONABLE MAINTENANCE AND IMPROVEMENT OF THE ROAD."

CURVE	R	L	A	CHORD
1	359.27	136.17	21°49'00"	534'41'30"E 135.36'
2	206.60	97.76	27°06'00"	537'23'00"E 96.85'
3	100.00	73.25	41°59'00"	571°53'00"E 71.62'
4	193.18	96.77	28°42'00"	578°33'00"E 95.76'
5	573.69	162.87	16°14'00"	556°06'00"E 142.33'
6	383.06	190.65	28°31'00"	533°40'30"E 188.60'
7	383.06	96.05	14°22'00"	526°06'00"E 95.90'
8	60.00	122.96	117°25'00"	524°55'30"W 102.54'
9	60.00	143.47	137°00'00"	515°08'00"W 111.65'



**NOTE:**  
 ○ SET 5/8" I.R.  
 ● NOT SET

**ROAD EASEMENT DEDICATION** STATE OF OREGON S.S.  
 COUNTY OF COOS

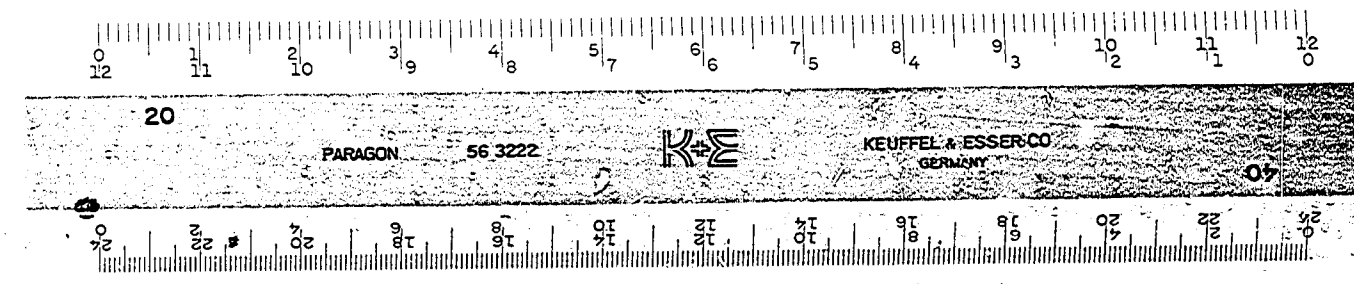
KNOW ALL MEN BY THESE PRESENTS THAT WESTERN LEISURE, INC. JOHN E. JAGUA, PRES., WILLIAM G. WHEATLEY, SEC., AND PETER J. MENEGAT AND ROBERT E. LEE, JR., ARE OWNERS OF THE BECOM DESCRIBED TRACTS OF LAND, TO-WIT: 50.00 ACRES, MORE OR LESS, BEING A PUBLIC ACCESS LOCATED IN COOS COUNTY, OREGON, RECORDED IN THE COUNTY OF COOS COUNTY THE FOLLOWING ROAD EASEMENT FOR PUBLIC ACCESS LOCATED IN COOS COUNTY, OREGON, BEGINNING AT A POINT BEING NORTH 12°14' EAST 1432.18 FEET FROM THE NORTH ONE-QUARTER CORNER OF SECTION 17, T.23S, R.12W, W.M.; THENCE ALONG THE ARC OF A 206.60 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 57°23' E 96.85 FEET) A DISTANCE OF 97.76 FEET; THENCE ALONG THE ARC OF A 100.00 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 71°03' E 71.62 FEET) A DISTANCE OF 73.25 FEET; THENCE ALONG THE ARC OF A 193.18 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 28°42' E 95.76 FEET) A DISTANCE OF 96.77 FEET; THENCE ALONG THE ARC OF A 573.69 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 16°14' E 142.33 FEET) A DISTANCE OF 162.87 FEET; THENCE ALONG THE ARC OF A 383.06 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 28°31' E 188.60 FEET) A DISTANCE OF 190.65 FEET; THENCE ALONG THE ARC OF A 383.06 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 14°22' E 95.90 FEET) A DISTANCE OF 96.05 FEET; THENCE ALONG THE ARC OF A 60.00 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 24°55'30" W 102.54 FEET) A DISTANCE OF 122.96 FEET; THENCE ALONG THE ARC OF A 60.00 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS S 25°08'00" W 111.65 FEET) A DISTANCE OF 143.47 FEET TO THE POINT OF BEGINNING, IN COOS COUNTY, OREGON.

WESTERN LEISURE, INC.  
 \_\_\_\_\_ PRESIDENT  
 JOHN E. JAGUA  
 \_\_\_\_\_ SECRETARY  
 WILLIAM G. WHEATLEY

\_\_\_\_\_ PETER J. MENEGAT  
 \_\_\_\_\_ ROBERT E. LEE, JR.

THIS IS TO CERTIFY THAT ON THIS 12 DAY OF July, 1977, BEFORE ME PERSONALLY APPEARED JOHN E. JAGUA AND WILLIAM G. WHEATLEY, BOTH TO ME PERSONALLY KNOWN WHO EACH BEING SWORN DID SAY THAT THE ABOVE DEDICATION IS THEIR FREE AND VOLUNTARY ACT AND DEED. IN TESTIMONY WHEREOF I HEREBY SET MY HAND AND AFFIX MY OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.  
 \_\_\_\_\_ NOTARY PUBLIC FOR OREGON  
 MY COMMISSION EXPIRES 12-5-80

THIS IS TO CERTIFY THAT ON THIS 27 DAY OF July, 1977, BEFORE ME PERSONALLY APPEARED PETER J. MENEGAT AND ROBERT E. LEE, JR., BOTH TO ME PERSONALLY KNOWN WHO EACH BEING SWORN DID SAY THAT THE ABOVE DEDICATION IS THEIR FREE AND VOLUNTARY ACT AND DEED. IN TESTIMONY WHEREOF I HEREBY SET MY HAND AND AFFIX MY OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.  
 \_\_\_\_\_ NOTARY PUBLIC FOR OREGON  
 MY COMMISSION EXPIRES 3-27-81





# ROADS END FIRST ADDITION

SECTION 8 T.23S, R.12W W.M.  
COOS COUNTY, OREGON

**DEDICATION** STATE OF OREGON SS  
COUNTY OF COOS

KNOW ALL MEN BY THESE PRESENTS, THAT WESTERN LEISURE, INC.; JOHN E. JAQUA, PRES.; WILLIAM G. WHEATLEY, SECRETARY, ARE THE OWNERS OF THE BELOW DESCRIBED TRACT OF LAND, DO HEREBY EXECUTE AND OFFER FOR FILING AND RECORD IN THE OFFICE OF THE COUNTY CLERK OF COOS COUNTY THE FOLLOWING PLAT OF ROADS END FIRST ADDITION LOCATED IN COOS COUNTY, OREGON, BEGINNING AT THE INITIAL POINT BEING THE SOUTH ONE-QUARTER CORNER OF SECTION 8, T.23S, R.12W, W.M.; THENCE ALONG THE SOUTH LINE OF SAID SECTION 8, 5.89<sup>34</sup>00' W 158.52 FEET; THENCE LEAVING SAID SOUTH LINE N.34<sup>00</sup>' W 243.85 FEET; THENCE ALONG THE ARC OF A 204.63 FOOT RADIUS CURVE RIGHT (THE CHORD OF WHICH CURVE BEARS N.25<sup>41</sup>'38" W 227.77 FEET) A DISTANCE OF 230.6 FEET TO THE SOUTHEAST BOUNDARY OF ROADS END AS PLATTED AND RECORDED IN COOS COUNTY OREGON PLAT RECORDS; THENCE ALONG THE EAST AND NORTH BOUNDARY OF SAID PLAT THE FOLLOWING COURSES AND DISTANCES: ALONG THE ARC OF A 204.63 FOOT CURVE RIGHT (THE CHORD OF WHICH CURVE BEARS N.6<sup>09</sup>'32" E 163.50 FEET) A DISTANCE OF 163.50 FEET; ALONG THE ARC OF A 102.32 FOOT RADIUS CURVE RIGHT (THE CHORD OF WHICH CURVE BEARS N.49<sup>48</sup>'40" E 102.32 FEET) A DISTANCE OF 71.81 FEET; ALONG THE ARC OF A 420.74 FOOT RADIUS CURVE LEFT (THE CHORD OF WHICH CURVE BEARS N.47<sup>09</sup>'32" E 163.50 FEET) A DISTANCE OF 346.28 FEET; ALONG THE ARC OF A 381.07 FOOT RADIUS CURVE RIGHT (THE CHORD OF WHICH CURVE BEARS N.34<sup>26</sup>' E 166.52 FEET) A DISTANCE OF 17.11 FEET; N.43<sup>50</sup>' E 142.36 FEET; ALONG THE ARC OF A 136.42 FOOT CURVE LEFT (THE CHORD OF WHICH CURVE BEARS N.27<sup>12</sup>'50" W 241.77 FEET) A DISTANCE OF 348.49 FEET; ALONG THE ARC OF A 272.84 FOOT RADIUS CURVE RIGHT (THE CHORD OF WHICH CURVE BEARS U.89<sup>38</sup>'20" W 120.48 FEET) A DISTANCE OF 124.84 FEET; ALONG THE ARC OF A 136.42 FOOT RADIUS CURVE RIGHT (THE CHORD OF WHICH CURVE BEARS N.38<sup>26</sup>'30" W 132.83 FEET) A DISTANCE OF 124.84 FEET; NORTH 59.01 FEET; N.85<sup>07</sup>' W 248.82 FEET TO THE NORTHWEST CORNER OF SAID PLAT; THENCE LEAVING SAID PLAT N.15<sup>00</sup>' E 436.54 FEET; THENCE N.28<sup>00</sup>' E 273.62 FEET; THENCE U.65<sup>00</sup>' E 250.90 FEET; THENCE ALONG THE SHORELINE OF NORTH TENMILE LAKE THE FOLLOWING COURSES AND DISTANCES: 5.55<sup>00</sup>' E 54.81 FEET, 5.47<sup>48</sup>' E 80.47 FEET, 5.36<sup>57</sup>' E 318.32 FEET, 5.64<sup>00</sup>' E 67.00 FEET, 5.88<sup>00</sup>' E 75.00 FEET, 5.79<sup>00</sup>' E 40.00 FEET, 5.56<sup>00</sup>' E 37.00 FEET, 5.42<sup>00</sup>' E 86.00 FEET, 5.25<sup>40</sup>' E 178.00 FEET, 5.22<sup>14</sup>' E 184.00 FEET, 5.35<sup>34</sup>'30" E 140.92 FEET, 5.50<sup>46</sup>' E 252.02 FEET, 5.60<sup>32</sup>'00" E 115.00', 5.76<sup>02</sup>' E 209.97 FEET; THENCE LEAVING SAID SHORELINE SOUTH 93.07 E 20.76 FEET TO A POINT ON THE SOUTH LINE OF SAID SECTION 8; THENCE ALONG SAID SOUTH LINE 5.89<sup>34</sup>' W 1225.26 FEET TO THE INITIAL POINT OF BEGINNING IN COOS COUNTY, OREGON

John E. Jaqua PRESIDENT  
William G. Wheatley SECRETARY

THIS IS TO CERTIFY THAT ON THIS 25<sup>th</sup> DAY OF May, 1977, BEFORE ME PERSONALLY APPEARED JOHN E. JAQUA AND WILLIAM G. WHEATLEY, BOTH TO ME PERSONALLY KNOWN WHO EACH BEING SINGLY, DID SAY THAT THE ABOVE DEDICATION IS THEIR FREE AND VOLUNTARY ACT AND DEED. IN TESTIMONY WHEREOF I HEREBY SET MY HAND AND AFFIX MY OFFICIAL SEAL THE DAY AND YEAR LAST ABOVE WRITTEN.

Jackie S. Kern NOTARY PUBLIC FOR OREGON MY COMMISSION EXPIRES 2/10/79

**CONDITIONS AND RESTRICTIONS**

EACH SEWAGE AND WATER SYSTEM SHALL BE DESIGNED, LOCATED AND CONSTRUCTED IN ACCORDANCE WITH THE REQUIREMENTS, STANDARDS AND RECOMMENDATIONS OF THE COOS COUNTY HEALTH DEPARTMENT BEFORE ANY CONSTRUCTION BEGINS.

**SURVEYORS AFFIDAVIT** STATE OF OREGON SS  
COUNTY OF COOS

I, LEE C. PLANTS OF EUGENE, OREGON, BEING DULY SWORN UPON OATH DO SAY THAT I HAVE CORRECTLY SURVEYED THE HERETO DESCRIBED PARCELS OF LAND DESIGNATED ROADS END FIRST ADDITION AND DIVIDED THE SAME INTO LOTS, THAT THE INITIAL POINT IS MARKED WITH A BRASS CAP; THAT THIS MAP IS DRAWN TO SCALE AND THE FIGURES THEREON ARE THE ACTUAL DIMENSIONS INTENDED.

Lee C. Plants  
LEE C. PLANTS, P.E.

SUBSCRIBED AND SWORN TO BEFORE ME THIS 25<sup>th</sup> DAY OF May, 1977.  
Jackie S. Kern NOTARY PUBLIC FOR OREGON MY COMMISSION EXPIRES 2/10/79

**COUNTY CLERK** STATE OF OREGON SS  
COUNTY OF COOS

I, Mary Ann Wilson, COUNTY CLERK IN AND FOR THE SAID COUNTY AND STATE DO HEREBY CERTIFY THAT THE WITHIN PLAT OF ROADS END FIRST ADDITION WAS DULY RECORDED BY ME IN VOLUME 2, PAGE 49 OF THE COOS COUNTY RECORDS OF TOWN PLATS, THIS 14<sup>th</sup> DAY OF November, 1977, AT 2:30 P.M.

C. Stacey Chief Deputy  
COUNTY CLERK

**COUNTY COURT**

Irene Johnson COMMISSIONER  
COMMISSIONER

Woodrow Robinson COMMISSIONER

Russell F. Zahak 14 NOV 77 SURVEYOR

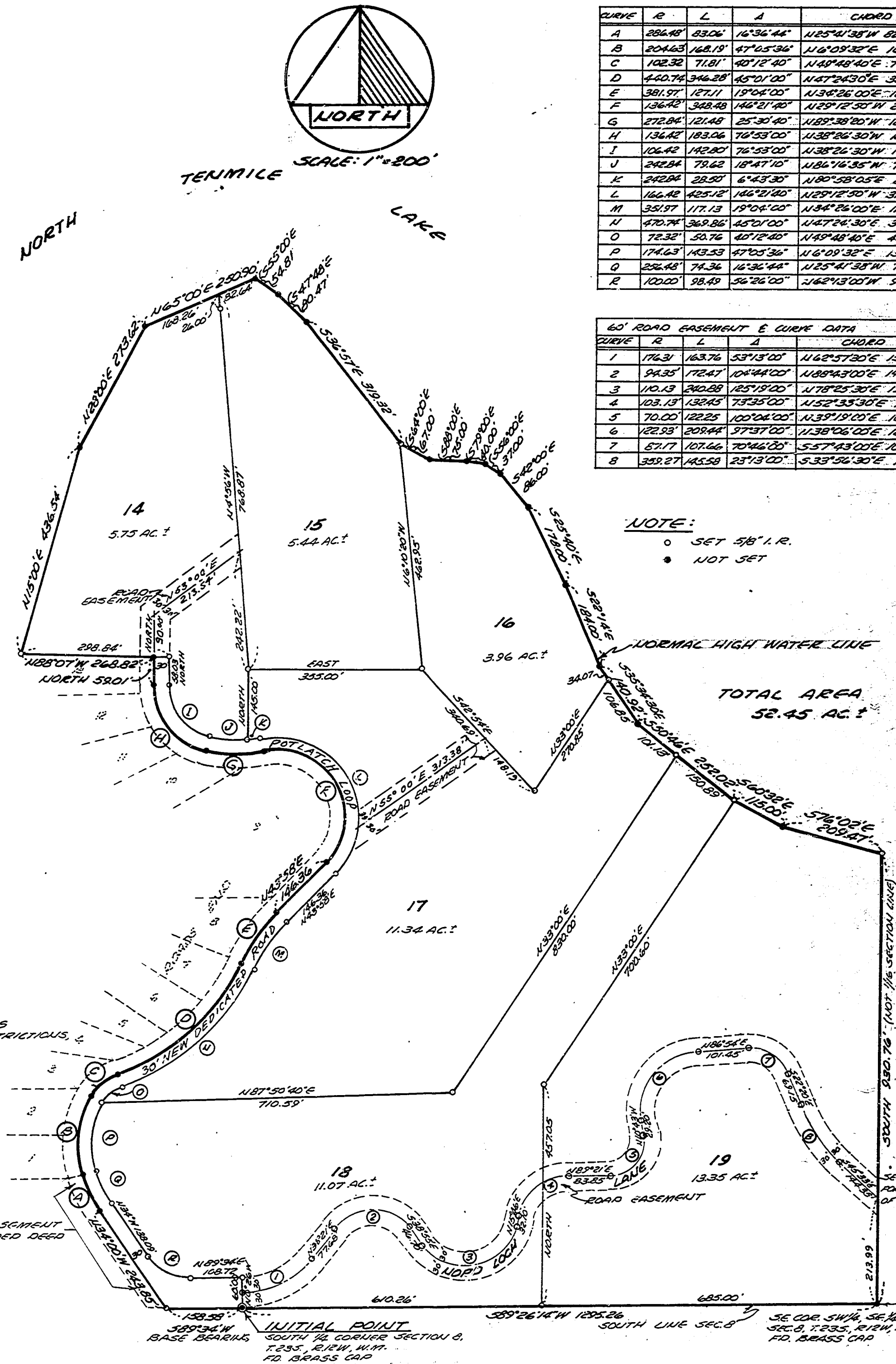
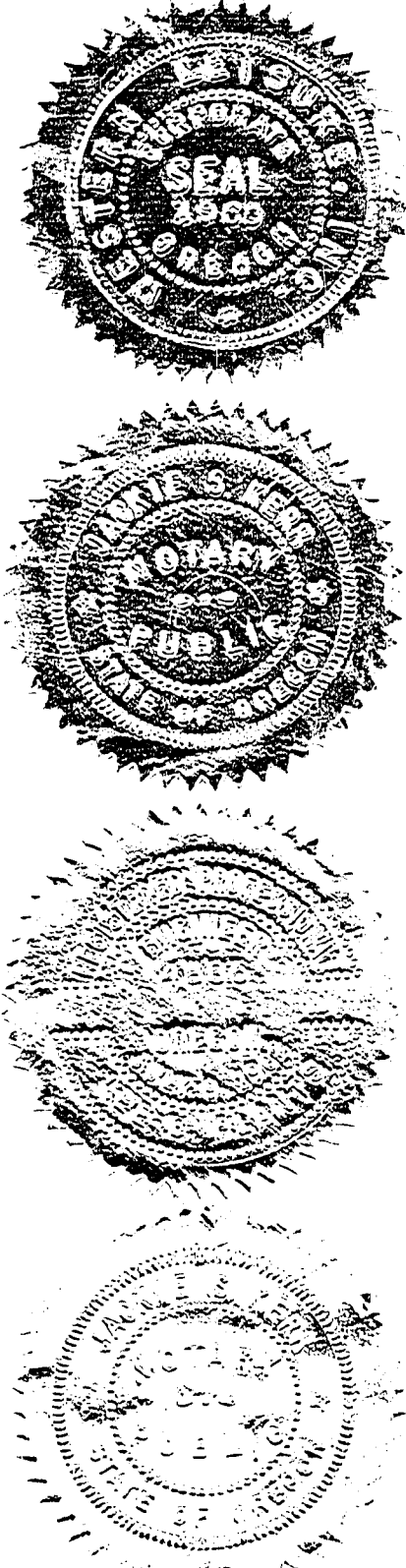
Roy T. Duncan ASSESSOR

Leslie R. Lusk COUNTY ENGINEER

**PLANNING COMMISSION**

EXAMINED AND APPROVED BY THE COOS COUNTY PLANNING COMMISSION THIS 3 DAY OF NOV, 1977.

ATTEST: Roy Peters PRESIDENT  
W. B. M. ... SECRETARY



CURVE	R	L	A	CHORD
A	204.63	83.06	163.50	N25°41'38" W 227.77
B	204.63	163.50	47°05'36"	N16°09'32" E 163.50
C	102.32	71.81	40°12'40"	N49°48'40" E 102.32
D	420.74	346.28	45°01'00"	N47°09'32" E 163.50
E	381.07	17.11	17°04'00"	N34°26' E 166.52
F	136.42	348.49	142°31'40"	N27°12'50" W 241.77
G	272.84	124.84	25°30'40"	N38°26'30" W 132.83
H	136.42	124.84	76°53'00"	N38°26'30" W 132.83
I	102.32	142.36	76°53'00"	N38°26'30" W 132.83
J	242.84	71.81	18°47'10"	N34°26' E 166.52
K	242.84	23.52	6°43'30"	N27°12'50" W 241.77
L	166.42	425.12	144°21'40"	N27°12'50" W 241.77
M	381.07	17.11	17°04'00"	N34°26'00" E 166.52
N	470.74	369.86	45°01'00"	N47°09'32" E 163.50
O	72.32	50.76	40°12'40"	N49°48'40" E 102.32
P	174.63	143.53	47°05'36"	N16°09'32" E 163.50
Q	226.48	74.36	16°36'44"	N25°41'38" W 227.77
R	100.00	98.49	56°26'00"	N62°13'00" W 94.56

CURVE	R	L	A	CHORD
1	176.31	163.76	53°13'00"	N62°57'30" E 157.93
2	94.35	176.47	104°44'00"	N88°43'00" E 143.44
3	110.13	240.59	125°19'00"	N78°25'30" E 125.65
4	103.13	132.43	75°35'00"	N52°13'30" E 123.53
5	70.00	122.25	100°04'00"	N39°19'00" E 107.30
6	122.25	209.44	57°37'00"	N38°06'00" E 125.01
7	57.17	107.64	70°46'00"	55°43'00" E 100.35
8	339.27	145.59	23°13'00"	53°56'30" E 144.58

NOTE:  
○ SET 5/8" I.R.  
● NOT SET

TOTAL AREA  
52.45 AC. ±

NOTE:  
SEE NOTES PAGE 2 OF 2, ROADS END FIRST ADDITION, FOR RESTRICTIONS, EASEMENTS & COVENANTS





## EXHIBIT A

### Parcel 1

Lot 15, Roads End First Addition, Coos County, Oregon

### Parcel 2

Beginning at a 5/8 inch iron rod set per CS 57B41 survey records of Coos County, Oregon, on the platted East line of Lot 15, Roads End First Addition, in the SE 1/4 of Section 8, Township 23 South, Range 12 West of the Willamette Meridian, Coos County, Oregon, from which the Southeast corner of Lot 15 of said Roads End First Addition lies South 06°10'20" East 195.47 feet; and running thence North 33°22'54" East along the hereby adjusted line 164.87 feet to a 5/8 inch iron rod; thence North 58°29'01" East 95.80 feet to a 5/8 inch iron rod; thence continuing North 58°29'01" East 15.16 feet; thence leaving the adjusted line and running North 42°00' West 13.38 feet; thence North 56°00' West 37.00 feet; thence North 79°00' West 40.00 feet; thence North 88°00' West 75.00 feet; thence North 64°00' West 67.00 feet; thence South 06°10'20" East 267.48 feet, more or less, to the point of beginning.

Note: This Legal Description was created prior to January 1, 2008.

When recorded, return to:  
Umpqua Bank  
Attn: Post Closing  
6610 SW Cardinal Lane, 1st Floor  
Tigard, OR 97224

Coos County, Oregon **2021-05056**  
**\$191.00 Pgs=22 05/05/2021 01:13 PM**  
eRecorded by: TICOR TITLE COOS BAY  
Debbie Heller, CCC, Coos County Clerk

Title Order No.: 360621035510  
Escrow No.: 360621035510  
LOAN #: 8501497468

[Space Below This Line For Acknowledgment]

Fixture Filing  
**DEED OF TRUST**

**DEFINITIONS**

Words used in multiple sections of this document are defined below and other words are defined in Sections 3, 11, 13, 18, 20 and 21. Certain rules regarding the usage of words used in this document are also provided in Section 16.

(A) "Security Instrument" means this document, which is dated **April 30, 2021**, together with all Riders to this document.

(B) "Borrower" is **Elizabeth B Ewing and Gerald L Ewing, Trustees of the Ewing Family Trust dated October 31, 2013.**

Borrower is the trustor under this Security Instrument.

(C) "Lender" is **Umpqua Bank.**

Lender is a **State Chartered Bank, Oregon,**  
300, Tigard, OR 97224.

organized and existing under the laws of  
Lender's address is **6610 SW Cardinal Lane, Suite**

Lender is the beneficiary under this Security Instrument.

(D) "Trustee" is **Ticor Title Company.**

(E) "Note" means the promissory note signed by Borrower and dated **April 30, 2021.** The Note states that Borrower owes Lender **SEVEN HUNDRED FORTY ONE THOUSAND FIVE HUNDRED AND NO/100\* \*\*\***  
\*\*\*\*\* Dollars (U.S. **\$741,500.00**)

plus interest. Borrower has promised to pay this debt in regular Periodic Payments and to pay the debt in full not later than **June 1, 2052.**

(F) "Property" means the property that is described below under the heading "Transfer of Rights in the Property."

(G) "Loan" means the debt evidenced by the Note, plus interest, any prepayment charges and late charges due under the Note, and all sums due under this Security Instrument, plus interest.



(H) "Riders" means all Riders to this Security Instrument that are executed by Borrower. The following Riders are to be executed by Borrower [check box as applicable]:

- Adjustable Rate Rider
- Balloon Rider
- 1-4 Family Rider
- V.A. Rider
- Condominium Rider
- Planned Unit Development Rider
- Biweekly Payment Rider
- Second Home Rider
- Other(s) [specify]  
**Inter Vivos Trust Rider,  
Construction Loan Rider**

(I) "Applicable Law" means all controlling applicable federal, state and local statutes, regulations, ordinances and administrative rules and orders (that have the effect of law) as well as all applicable final, non-appealable judicial opinions.

(J) "Community Association Dues, Fees, and Assessments" means all dues, fees, assessments and other charges that are imposed on Borrower or the Property by a condominium association, homeowners association or similar organization.

(K) "Electronic Funds Transfer" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, computer, or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account. Such term includes, but is not limited to, point-of-sale transfers, automated teller machine transactions, transfers initiated by telephone, wire transfers, and automated clearinghouse transfers.

(L) "Escrow Items" means those items that are described in Section 3.

(M) "Miscellaneous Proceeds" means any compensation, settlement, award of damages, or proceeds paid by any third party (other than insurance proceeds paid under the coverages described in Section 5) for: (i) damage to, or destruction of, the Property; (ii) condemnation or other taking of all or any part of the Property; (iii) conveyance in lieu of condemnation; or (iv) misrepresentations of, or omissions as to, the value and/or condition of the Property.

(N) "Mortgage Insurance" means insurance protecting Lender against the nonpayment of, or default on, the Loan.

(O) "Periodic Payment" means the regularly scheduled amount due for (i) principal and interest under the Note, plus (ii) any amounts under Section 3 of this Security Instrument.

(P) "RESPA" means the Real Estate Settlement Procedures Act (12 U.S.C. §2601 et seq.) and its implementing regulation, Regulation X (12 C.F.R. Part 1024), as they might be amended from time to time, or any additional or successor legislation or regulation that governs the same subject matter. As used in this Security Instrument, "RESPA" refers to all requirements and restrictions that are imposed in regard to a "federally related mortgage loan" even if the Loan does not qualify as a "federally related mortgage loan" under RESPA.

(Q) "Successor in Interest of Borrower" means any party that has taken title to the Property, whether or not that party has assumed Borrower's obligations under the Note and/or this Security Instrument.

TRANSFER OF RIGHTS IN THE PROPERTY

This Security Instrument secures to Lender: (i) the repayment of the Loan, and all renewals, extensions and modifications of the Note; and (ii) the performance of Borrower's covenants and agreements under this Security Instrument and the Note. For this purpose, Borrower irrevocably grants and conveys to Trustee, in trust, with power of sale, the following described property located in the County [Type of Recording Jurisdiction] of Coos [Name of Recording Jurisdiction]:

SEE LEGAL DESCRIPTION ATTACHED HERETO AND MADE A PART HEREOF AS "EXHIBIT A".  
APN #: 7593900

which currently has the address of 72312 Pottlatch Rd, Lakeside, Oregon 97449 ("Property Address") [Street] [City] [Zip Code]

TOGETHER WITH all the improvements now or hereafter erected on the property, and all easements, appurtenances, and fixtures now or hereafter a part of the property. All replacements and additions shall also be covered by this Security Instrument. All of the foregoing is referred to in this Security Instrument as the "Property."

BORROWER COVENANTS that Borrower is lawfully seized of the estate hereby conveyed and has the right to grant and convey the Property and that the Property is unencumbered, except for encumbrances of record. Borrower warrants and will defend generally the title to the Property against all claims and demands, subject to any encumbrances of record.

THIS SECURITY INSTRUMENT combines uniform covenants for national use and non-uniform covenants with limited variations by jurisdiction to constitute a uniform security instrument covering real property.

UNIFORM COVENANTS. Borrower and Lender covenant and agree as follows:

1. **Payment of Principal, Interest, Escrow Items, Prepayment Charges, and Late Charges.** Borrower shall pay when due the principal of, and interest on, the debt evidenced by the Note and any prepayment charges and late charges due under the Note. Borrower shall also pay funds for Escrow Items pursuant to Section 3. Payments due under the Note and this Security Instrument shall be made in U.S. currency. However, if any check or other instrument received by Lender as payment under the Note or this Security Instrument is returned to Lender unpaid, Lender may require that any or all subsequent payments due under the Note and this Security Instrument be made in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality, or entity; or (d) Electronic Funds Transfer.



Payments are deemed received by Lender when received at the location designated in the Note or at such other location as may be designated by Lender in accordance with the notice provisions in Section 15. Lender may return any payment or partial payment if the payment or partial payments are insufficient to bring the Loan current. Lender may accept any payment or partial payment insufficient to bring the Loan current, without waiver of any rights hereunder or prejudice to its rights to refuse such payment or partial payments in the future, but Lender is not obligated to apply such payments at the time such payments are accepted. If each Periodic Payment is applied as of its scheduled due date, then Lender need not pay interest on unapplied funds. Lender may hold such unapplied funds until Borrower makes payment to bring the Loan current. If Borrower does not do so within a reasonable period of time, Lender shall either apply such funds or return them to Borrower. If not applied earlier, such funds will be applied to the outstanding principal balance under the Note immediately prior to foreclosure. No offset or claim which Borrower might have now or in the future against Lender shall relieve Borrower from making payments due under the Note and this Security Instrument or performing the covenants and agreements secured by this Security Instrument.

**2. Application of Payments or Proceeds.** Except as otherwise described in this Section 2, all payments accepted and applied by Lender shall be applied in the following order of priority: (a) interest due under the Note; (b) principal due under the Note; (c) amounts due under Section 3. Such payments shall be applied to each Periodic Payment in the order in which it became due. Any remaining amounts shall be applied first to late charges, second to any other amounts due under this Security Instrument, and then to reduce the principal balance of the Note.

If Lender receives a payment from Borrower for a delinquent Periodic Payment which includes a sufficient amount to pay any late charge due, the payment may be applied to the delinquent payment and the late charge. If more than one Periodic Payment is outstanding, Lender may apply any payment received from Borrower to the repayment of the Periodic Payments if, and to the extent that, each payment can be paid in full. To the extent that any excess exists after the payment is applied to the full payment of one or more Periodic Payments, such excess may be applied to any late charges due. Voluntary prepayments shall be applied first to any prepayment charges and then as described in the Note.

Any application of payments, insurance proceeds, or Miscellaneous Proceeds to principal due under the Note shall not extend or postpone the due date, or change the amount, of the Periodic Payments.

**3. Funds for Escrow Items.** Borrower shall pay to Lender on the day Periodic Payments are due under the Note, until the Note is paid in full, a sum (the "Funds") to provide for payment of amounts due for: (a) taxes and assessments and other items which can attain priority over this Security Instrument as a lien or encumbrance on the Property; (b) leasehold payments or ground rents on the Property, if any; (c) premiums for any and all insurance required by Lender under Section 5; and (d) Mortgage Insurance premiums, if any, or any sums payable by Borrower to Lender in lieu of the payment of Mortgage Insurance premiums in accordance with the provisions of Section 10. These items are called "Escrow Items." At origination or at any time during the term of the Loan, Lender may require that Community Association Dues, Fees, and Assessments, if any, be escrowed by Borrower, and such dues, fees and assessments shall be an Escrow Item. Borrower shall promptly furnish to Lender all notices of amounts to be paid under this Section. Borrower shall pay Lender the Funds for Escrow Items unless Lender waives Borrower's obligation to pay the Funds for any or all Escrow Items. Lender may waive Borrower's obligation to pay to Lender Funds for any or all Escrow Items at any time. Any such waiver may only be in writing. In the event of such waiver, Borrower shall pay directly, when and where payable, the amounts due for any Escrow Items for which payment of Funds has been waived by Lender and, if Lender requires, shall furnish to Lender receipts evidencing such payment within such time period as Lender may require. Borrower's obligation to make such payments and to provide receipts shall for all purposes be deemed to be a covenant and agreement contained in this Security Instrument, as the phrase "covenant and agreement" is used in Section 9. If Borrower is obligated to pay Escrow Items directly, pursuant to a waiver, and Borrower fails to pay the amount due for an Escrow Item, Lender may exercise its rights under Section 9 and pay such amount and Borrower shall then be obligated under Section 9 to repay to Lender any such amount. Lender may revoke the waiver as to any or all Escrow Items at any time by a notice given in accordance with Section 15 and, upon such revocation, Borrower shall pay to Lender all Funds, and in such amounts, that are then required under this Section 3.

Lender may, at any time, collect and hold Funds in an amount (a) sufficient to permit Lender to apply the Funds at the time specified under RESPA, and (b) not to exceed the maximum amount a lender can require under RESPA. Lender shall estimate the amount of Funds due on the basis of current data and reasonable estimates of expenditures of future Escrow Items or otherwise in accordance with Applicable Law.

The Funds shall be held in an institution whose deposits are insured by a federal agency, instrumentality, or entity (including Lender, if Lender is an institution whose deposits are so insured) or in any Federal Home Loan Bank. Lender shall apply the Funds to pay the Escrow Items no later than the time specified under RESPA. Lender shall not charge Borrower for holding and applying the Funds, annually analyzing the escrow account, or verifying the Escrow Items, unless Lender pays Borrower interest on the Funds and Applicable Law permits Lender to make such a charge. Unless an agreement is made in writing or Applicable Law requires interest to be paid on the Funds, Lender shall not be required to pay Borrower any interest or earnings on the Funds. Borrower and Lender can agree in writing, however, that interest shall be paid on the Funds. Lender shall give to Borrower, without charge, an annual accounting of the Funds as required by RESPA.

If there is a surplus of Funds held in escrow, as defined under RESPA, Lender shall account to Borrower for the excess funds in accordance with RESPA. If there is a shortage of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the shortage in accordance with RESPA, but in no more than 12 monthly payments. If there is a deficiency of Funds held in escrow, as defined under RESPA, Lender shall notify Borrower as required by RESPA, and Borrower shall pay to Lender the amount necessary to make up the deficiency in accordance with RESPA, but in no more than 12 monthly payments.

Upon payment in full of all sums secured by this Security Instrument, Lender shall promptly refund to Borrower any Funds held by Lender.

**4. Charges; Liens.** Borrower shall pay all taxes, assessments, charges, fines, and impositions attributable to the Property which can attain priority over this Security Instrument, leasehold payments or ground rents on the Property, if any, and Community Association Dues, Fees, and Assessments, if any. To the extent that these items are Escrow Items, Borrower shall pay them in the manner provided in Section 3.

Borrower shall promptly discharge any lien which has priority over this Security Instrument unless Borrower: (a) agrees in writing to the payment of the obligation secured by the lien in a manner acceptable to Lender, but only so long as Borrower is performing such agreement; (b) contests the lien in good faith by, or defends against enforcement of the lien in, legal proceedings which in Lender's opinion operate to prevent the enforcement of the lien while those



proceedings are pending, but only until such proceedings are concluded; or (c) secures from the holder of the lien an agreement satisfactory to Lender subordinating the lien to this Security Instrument. If Lender determines that any part of the Property is subject to a lien which can attain priority over this Security Instrument, Lender may give Borrower a notice identifying the lien. Within 10 days of the date on which that notice is given, Borrower shall satisfy the lien or take one or more of the actions set forth above in this Section 4.

Lender may require Borrower to pay a one-time charge for a real estate tax verification and/or reporting service used by Lender in connection with this Loan.

**5. Property Insurance.** Borrower shall keep the improvements now existing or hereafter erected on the Property insured against loss by fire, hazards included within the term "extended coverage," and any other hazards including, but not limited to, earthquakes and floods, for which Lender requires insurance. This insurance shall be maintained in the amounts (including deductible levels) and for the periods that Lender requires. What Lender requires pursuant to the preceding sentences can change during the term of the Loan. The insurance carrier providing the insurance shall be chosen by Borrower subject to Lender's right to disapprove Borrower's choice, which right shall not be exercised unreasonably. Lender may require Borrower to pay, in connection with this Loan, either: (a) a one-time charge for flood zone determination, certification and tracking services; or (b) a one-time charge for flood zone determination and certification services and subsequent charges each time remappings or similar changes occur which reasonably might affect such determination or certification. Borrower shall also be responsible for the payment of any fees imposed by the Federal Emergency Management Agency in connection with the review of any flood zone determination resulting from an objection by Borrower.

If Borrower fails to maintain any of the coverages described above, Lender may obtain insurance coverage, at Lender's option and Borrower's expense. Lender is under no obligation to purchase any particular type or amount of coverage. Therefore, such coverage shall cover Lender, but might or might not protect Borrower, Borrower's equity in the Property, or the contents of the Property, against any risk, hazard or liability and might provide greater or lesser coverage than was previously in effect. Borrower acknowledges that the cost of the insurance coverage so obtained might significantly exceed the cost of insurance that Borrower could have obtained. Any amounts disbursed by Lender under this Section 5 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

All insurance policies required by Lender and renewals of such policies shall be subject to Lender's right to disapprove such policies, shall include a standard mortgage clause, and shall name Lender as mortgagee and/or as an additional loss payee. Lender shall have the right to hold the policies and renewal certificates. If Lender requires, Borrower shall promptly give to Lender all receipts of paid premiums and renewal notices. If Borrower obtains any form of insurance coverage, not otherwise required by Lender, for damage to, or destruction of, the Property, such policy shall include a standard mortgage clause and shall name Lender as mortgagee and/or as an additional loss payee.

In the event of loss, Borrower shall give prompt notice to the insurance carrier and Lender. Lender may make proof of loss if not made promptly by Borrower. Unless Lender and Borrower otherwise agree in writing, any insurance proceeds, whether or not the underlying insurance was required by Lender, shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such insurance proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such insurance proceeds, Lender shall not be required to pay Borrower any interest or earnings on such proceeds. Fees for public adjusters, or other third parties, retained by Borrower shall not be paid out of the insurance proceeds and shall be the sole obligation of Borrower. If the restoration or repair is not economically feasible or Lender's security would be lessened, the insurance proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such insurance proceeds shall be applied in the order provided for in Section 2.

If Borrower abandons the Property, Lender may file, negotiate and settle any available insurance claim and related matters. If Borrower does not respond within 30 days to a notice from Lender that the insurance carrier has offered to settle a claim, then Lender may negotiate and settle the claim. The 30-day period will begin when the notice is given. In either event, or if Lender acquires the Property under Section 22 or otherwise, Borrower hereby assigns to Lender (a) Borrower's rights to any insurance proceeds in an amount not to exceed the amounts unpaid under the Note or this Security Instrument, and (b) any other of Borrower's rights (other than the right to any refund of unearned premiums paid by Borrower) under all insurance policies covering the Property, insofar as such rights are applicable to the coverage of the Property. Lender may use the insurance proceeds either to repair or restore the Property or to pay amounts unpaid under the Note or this Security Instrument, whether or not then due.

**6. Occupancy.** Borrower shall occupy, establish, and use the Property as Borrower's principal residence within 60 days after the execution of this Security Instrument and shall continue to occupy the Property as Borrower's principal residence for at least one year after the date of occupancy, unless Lender otherwise agrees in writing, which consent shall not be unreasonably withheld, or unless extenuating circumstances exist which are beyond Borrower's control.

**7. Preservation, Maintenance and Protection of the Property; Inspections.** Borrower shall not destroy, damage or impair the Property, allow the Property to deteriorate or commit waste on the Property. Whether or not Borrower is residing in the Property, Borrower shall maintain the Property in order to prevent the Property from deteriorating or decreasing in value due to its condition. Unless it is determined pursuant to Section 5 that repair or restoration is not economically feasible, Borrower shall promptly repair the Property if damaged to avoid further deterioration or damage. If insurance or condemnation proceeds are paid in connection with damage to, or the taking of, the Property, Borrower shall be responsible for repairing or restoring the Property only if Lender has released proceeds for such purposes. Lender may disburse proceeds for the repairs and restoration in a single payment or in a series of progress payments as the work is completed. If the insurance or condemnation proceeds are not sufficient to repair or restore the Property, Borrower is not relieved of Borrower's obligation for the completion of such repair or restoration.

Lender or its agent may make reasonable entries upon and inspections of the Property. If it has reasonable cause, Lender may inspect the interior of the improvements on the Property. Lender shall give Borrower notice at the time of or prior to such an interior inspection specifying such reasonable cause.



**8. Borrower's Loan Application.** Borrower shall be in default if, during the Loan application process, Borrower or any persons or entities acting at the direction of Borrower or with Borrower's knowledge or consent gave materially false, misleading, or inaccurate information or statements to Lender (or failed to provide Lender with material information) in connection with the Loan. Material representations include, but are not limited to, representations concerning Borrower's occupancy of the Property as Borrower's principal residence.

**9. Protection of Lender's Interest in the Property and Rights Under this Security Instrument.** If (a) Borrower fails to perform the covenants and agreements contained in this Security Instrument, (b) there is a legal proceeding that might significantly affect Lender's interest in the Property and/or rights under this Security Instrument (such as a proceeding in bankruptcy, probate, for condemnation or forfeiture, for enforcement of a lien which may attain priority over this Security Instrument or to enforce laws or regulations), or (c) Borrower has abandoned the Property, then Lender may do and pay for whatever is reasonable or appropriate to protect Lender's interest in the Property and rights under this Security Instrument, including protecting and/or assessing the value of the Property, and securing and/or repairing the Property. Lender's actions can include, but are not limited to: (a) paying any sums secured by a lien which has priority over this Security Instrument; (b) appearing in court; and (c) paying reasonable attorneys' fees to protect its interest in the Property and/or rights under this Security Instrument, including its secured position in a bankruptcy proceeding. Securing the Property includes, but is not limited to, entering the Property to make repairs, change locks, replace or board up doors and windows, drain water from pipes, eliminate building or other code violations or dangerous conditions, and have utilities turned on or off. Although Lender may take action under this Section 9, Lender does not have to do so and is not under any duty or obligation to do so. It is agreed that Lender incurs no liability for not taking any or all actions authorized under this Section 9.

Any amounts disbursed by Lender under this Section 9 shall become additional debt of Borrower secured by this Security Instrument. These amounts shall bear interest at the Note rate from the date of disbursement and shall be payable, with such interest, upon notice from Lender to Borrower requesting payment.

If this Security Instrument is on a leasehold, Borrower shall comply with all the provisions of the lease. Borrower shall not surrender the leasehold estate and interests herein conveyed or terminate or cancel the ground lease. Borrower shall not, without the express written consent of Lender, alter or amend the ground lease. If Borrower acquires fee title to the Property, the leasehold and the fee title shall not merge unless Lender agrees to the merger in writing.

**10. Mortgage Insurance.** If Lender required Mortgage Insurance as a condition of making the Loan, Borrower shall pay the premiums required to maintain the Mortgage Insurance in effect. If, for any reason, the Mortgage Insurance coverage required by Lender ceases to be available from the mortgage insurer that previously provided such insurance and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to obtain coverage substantially equivalent to the Mortgage Insurance previously in effect, at a cost substantially equivalent to the cost to Borrower of the Mortgage Insurance previously in effect, from an alternate mortgage insurer selected by Lender. If substantially equivalent Mortgage Insurance coverage is not available, Borrower shall continue to pay to Lender the amount of the separately designated payments that were due when the insurance coverage ceased to be in effect. Lender will accept, use and retain these payments as a non-refundable loss reserve in lieu of Mortgage Insurance. Such loss reserve shall be non-refundable, notwithstanding the fact that the Loan is ultimately paid in full, and Lender shall not be required to pay Borrower any interest or earnings on such loss reserve. Lender can no longer require loss reserve payments if Mortgage Insurance coverage (in the amount and for the period that Lender requires) provided by an insurer selected by Lender again becomes available, is obtained, and Lender requires separately designated payments toward the premiums for Mortgage Insurance. If Lender required Mortgage Insurance as a condition of making the Loan and Borrower was required to make separately designated payments toward the premiums for Mortgage Insurance, Borrower shall pay the premiums required to maintain Mortgage Insurance in effect, or to provide a non-refundable loss reserve, until Lender's requirement for Mortgage Insurance ends in accordance with any written agreement between Borrower and Lender providing for such termination or until termination is required by Applicable Law. Nothing in this Section 10 affects Borrower's obligation to pay interest at the rate provided in the Note.

Mortgage Insurance reimburses Lender (or any entity that purchases the Note) for certain losses it may incur if Borrower does not repay the Loan as agreed. Borrower is not a party to the Mortgage Insurance.

Mortgage insurers evaluate their total risk on all such insurance in force from time to time, and may enter into agreements with other parties that share or modify their risk, or reduce losses. These agreements are on terms and conditions that are satisfactory to the mortgage insurer and the other party (or parties) to these agreements. These agreements may require the mortgage insurer to make payments using any source of funds that the mortgage insurer may have available (which may include funds obtained from Mortgage Insurance premiums).

As a result of these agreements, Lender, any purchaser of the Note, another insurer, any reinsurer, any other entity, or any affiliate of any of the foregoing, may receive (directly or indirectly) amounts that derive from (or might be characterized as) a portion of Borrower's payments for Mortgage Insurance, in exchange for sharing or modifying the mortgage insurer's risk, or reducing losses. If such agreement provides that an affiliate of Lender takes a share of the insurer's risk in exchange for a share of the premiums paid to the insurer, the arrangement is often termed "captive reinsurance." Further:

**(a) Any such agreements will not affect the amounts that Borrower has agreed to pay for Mortgage Insurance, or any other terms of the Loan. Such agreements will not increase the amount Borrower will owe for Mortgage Insurance, and they will not entitle Borrower to any refund.**

**(b) Any such agreements will not affect the rights Borrower has - if any - with respect to the Mortgage Insurance under the Homeowners Protection Act of 1998 or any other law. These rights may include the right to receive certain disclosures, to request and obtain cancellation of the Mortgage Insurance, to have the Mortgage Insurance terminated automatically, and/or to receive a refund of any Mortgage Insurance premiums that were unearned at the time of such cancellation or termination.**

**11. Assignment of Miscellaneous Proceeds; Forfeiture.** All Miscellaneous Proceeds are hereby assigned to and shall be paid to Lender.

If the Property is damaged, such Miscellaneous Proceeds shall be applied to restoration or repair of the Property, if the restoration or repair is economically feasible and Lender's security is not lessened. During such repair and restoration period, Lender shall have the right to hold such Miscellaneous Proceeds until Lender has had an opportunity to inspect such Property to ensure the work has been completed to Lender's satisfaction, provided that such inspection shall be undertaken promptly. Lender may pay for the repairs and restoration in a single disbursement or in a series of progress payments as the work is





completed. Unless an agreement is made in writing or Applicable Law requires interest to be paid on such Miscellaneous Proceeds, Lender shall not be required to pay Borrower any interest or earnings on such Miscellaneous Proceeds. If the restoration or repair is not economically feasible or Lender's security would be lessened, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower. Such Miscellaneous Proceeds shall be applied in the order provided for in Section 2.

In the event of a total taking, destruction, or loss in value of the Property, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument, whether or not then due, with the excess, if any, paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is equal to or greater than the amount of the sums secured by this Security Instrument immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the sums secured by this Security Instrument shall be reduced by the amount of the Miscellaneous Proceeds multiplied by the following fraction: (a) the total amount of the sums secured immediately before the partial taking, destruction, or loss in value divided by (b) the fair market value of the Property immediately before the partial taking, destruction, or loss in value. Any balance shall be paid to Borrower.

In the event of a partial taking, destruction, or loss in value of the Property in which the fair market value of the Property immediately before the partial taking, destruction, or loss in value is less than the amount of the sums secured immediately before the partial taking, destruction, or loss in value, unless Borrower and Lender otherwise agree in writing, the Miscellaneous Proceeds shall be applied to the sums secured by this Security Instrument whether or not the sums are then due.

If the Property is abandoned by Borrower, or if, after notice by Lender to Borrower that the Opposing Party (as defined in the next sentence) offers to make an award to settle a claim for damages, Borrower fails to respond to Lender within 30 days after the date the notice is given, Lender is authorized to collect and apply the Miscellaneous Proceeds either to restoration or repair of the Property or to the sums secured by this Security Instrument, whether or not then due. "Opposing Party" means the third party that owes Borrower Miscellaneous Proceeds or the party against whom Borrower has a right of action in regard to Miscellaneous Proceeds.

Borrower shall be in default if any action or proceeding, whether civil or criminal, is begun that, in Lender's judgment, could result in forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. Borrower can cure such a default and, if acceleration has occurred, reinstate as provided in Section 19, by causing the action or proceeding to be dismissed with a ruling that, in Lender's judgment, precludes forfeiture of the Property or other material impairment of Lender's interest in the Property or rights under this Security Instrument. The proceeds of any award or claim for damages that are attributable to the impairment of Lender's interest in the Property are hereby assigned and shall be paid to Lender.

All Miscellaneous Proceeds that are not applied to restoration or repair of the Property shall be applied in the order provided for in Section 2.

**12. Borrower Not Released; Forbearance By Lender Not a Waiver.** Extension of the time for payment or modification of amortization of the sums secured by this Security Instrument granted by Lender to Borrower or any Successor in Interest of Borrower shall not operate to release the liability of Borrower or any Successors in Interest of Borrower. Lender shall not be required to commence proceedings against any Successor in Interest of Borrower or to refuse to extend time for payment or otherwise modify amortization of the sums secured by this Security Instrument by reason of any demand made by the original Borrower or any Successors in Interest of Borrower. Any forbearance by Lender in exercising any right or remedy including, without limitation, Lender's acceptance of payments from third persons, entities or Successors in Interest of Borrower or in amounts less than the amount then due, shall not be a waiver of or preclude the exercise of any right or remedy.

**13. Joint and Several Liability; Co-signers; Successors and Assigns Bound.** Borrower covenants and agrees that Borrower's obligations and liability shall be joint and several. However, any Borrower who co-signs this Security Instrument but does not execute the Note (a "co-signer"): (a) is co-signing this Security Instrument only to mortgage, grant and convey the co-signer's interest in the Property under the terms of this Security Instrument; (b) is not personally obligated to pay the sums secured by this Security Instrument; and (c) agrees that Lender and any other Borrower can agree to extend, modify, forbear or make any accommodations with regard to the terms of this Security Instrument or the Note without the co-signer's consent.

Subject to the provisions of Section 18, any Successor in Interest of Borrower who assumes Borrower's obligations under this Security Instrument in writing, and is approved by Lender, shall obtain all of Borrower's rights and benefits under this Security Instrument. Borrower shall not be released from Borrower's obligations and liability under this Security Instrument unless Lender agrees to such release in writing. The covenants and agreements of this Security Instrument shall bind (except as provided in Section 20) and benefit the successors and assigns of Lender.

**14. Loan Charges.** Lender may charge Borrower fees for services performed in connection with Borrower's default, for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument, including, but not limited to, attorneys' fees, property inspection and valuation fees. In regard to any other fees, the absence of express authority in this Security Instrument to charge a specific fee to Borrower shall not be construed as a prohibition on the charging of such fee. Lender may not charge fees that are expressly prohibited by this Security Instrument or by Applicable Law.

If the Loan is subject to a law which sets maximum loan charges, and that law is finally interpreted so that the interest or other loan charges collected or to be collected in connection with the Loan exceed the permitted limits, then: (a) any such loan charge shall be reduced by the amount necessary to reduce the charge to the permitted limit; and (b) any sums already collected from Borrower which exceeded permitted limits will be refunded to Borrower. Lender may choose to make this refund by reducing the principal owed under the Note or by making a direct payment to Borrower. If a refund reduces principal, the reduction will be treated as a partial prepayment without any prepayment charge (whether or not a prepayment charge is provided for under the Note). Borrower's acceptance of any such refund made by direct payment to Borrower will constitute a waiver of any right of action Borrower might have arising out of such overcharge.

**15. Notices.** All notices given by Borrower or Lender in connection with this Security Instrument must be in writing. Any notice to Borrower in connection with this Security Instrument shall be deemed to have been given to Borrower when mailed by first class mail or when actually delivered to Borrower's notice address if sent by other means. Notice to any one Borrower shall constitute notice to all Borrowers unless Applicable Law expressly requires otherwise. The notice address shall be the Property Address unless Borrower has designated a substitute notice address by notice to Lender. Borrower shall promptly notify Lender of Borrower's change of address. If Lender specifies a procedure for reporting Borrower's change of address,



*[Handwritten signature]*

then Borrower shall only report a change of address through that specified procedure. There may be only one designated notice address under this Security Instrument at any one time. Any notice to Lender shall be given by delivering it or by mailing it by first class mail to Lender's address stated herein unless Lender has designated another address by notice to Borrower. Any notice in connection with this Security Instrument shall not be deemed to have been given to Lender until actually received by Lender. If any notice required by this Security Instrument is also required under Applicable Law, the Applicable Law requirement will satisfy the corresponding requirement under this Security Instrument.

**16. Governing Law; Severability; Rules of Construction.** This Security Instrument shall be governed by federal law and the law of the jurisdiction in which the Property is located. All rights and obligations contained in this Security Instrument are subject to any requirements and limitations of Applicable Law. Applicable Law might explicitly or implicitly allow the parties to agree by contract or it might be silent, but such silence shall not be construed as a prohibition against agreement by contract. In the event that any provision or clause of this Security Instrument or the Note conflicts with Applicable Law, such conflict shall not affect other provisions of this Security Instrument or the Note which can be given effect without the conflicting provision.

As used in this Security Instrument: (a) words of the masculine gender shall mean and include corresponding neuter words or words of the feminine gender; (b) words in the singular shall mean and include the plural and vice versa; and (c) the word "may" gives sole discretion without any obligation to take any action.

**17. Borrower's Copy.** Borrower shall be given one copy of the Note and of this Security Instrument.

**18. Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.

**19. Borrower's Right to Reinstate After Acceleration.** If Borrower meets certain conditions, Borrower shall have the right to have enforcement of this Security Instrument discontinued at any time prior to the earliest of: (a) five days before sale of the Property pursuant to any power of sale contained in this Security Instrument; (b) such other period as Applicable Law might specify for the termination of Borrower's right to reinstate; or (c) entry of a judgment enforcing this Security Instrument. Those conditions are that Borrower: (a) pays Lender all sums which then would be due under this Security Instrument and the Note as if no acceleration had occurred; (b) cures any default of any other covenants or agreements; (c) pays all expenses incurred in enforcing this Security Instrument, including, but not limited to, reasonable attorneys' fees, property inspection and valuation fees, and other fees incurred for the purpose of protecting Lender's interest in the Property and rights under this Security Instrument; and (d) takes such action as Lender may reasonably require to assure that Lender's interest in the Property and rights under this Security Instrument, and Borrower's obligation to pay the sums secured by this Security Instrument, shall continue unchanged. Lender may require that Borrower pay such reinstatement sums and expenses in one or more of the following forms, as selected by Lender: (a) cash; (b) money order; (c) certified check, bank check, treasurer's check or cashier's check, provided any such check is drawn upon an institution whose deposits are insured by a federal agency, instrumentality or entity; or (d) Electronic Funds Transfer. Upon reinstatement by Borrower, this Security Instrument and obligations secured hereby shall remain fully effective as if no acceleration had occurred. However, this right to reinstate shall not apply in the case of acceleration under Section 18.

**20. Sale of Note; Change of Loan Servicer; Notice of Grievance.** The Note or a partial interest in the Note (together with this Security Instrument) can be sold one or more times without prior notice to Borrower. A sale might result in a change in the entity (known as the "Loan Servicer") that collects Periodic Payments due under the Note and this Security Instrument and performs other mortgage loan servicing obligations under the Note, this Security Instrument, and Applicable Law. There also might be one or more changes of the Loan Servicer unrelated to a sale of the Note. If there is a change of the Loan Servicer, Borrower will be given written notice of the change which will state the name and address of the new Loan Servicer, the address to which payments should be made and any other information RESPA requires in connection with a notice of transfer of servicing. If the Note is sold and thereafter the Loan is serviced by a Loan Servicer other than the purchaser of the Note, the mortgage loan servicing obligations to Borrower will remain with the Loan Servicer or be transferred to a successor Loan Servicer and are not assumed by the Note purchaser unless otherwise provided by the Note purchaser.

Neither Borrower nor Lender may commence, join, or be joined to any judicial action (as either an individual litigant or the member of a class) that arises from the other party's actions pursuant to this Security Instrument or that alleges that the other party has breached any provision of, or any duty owed by reason of, this Security Instrument, until such Borrower or Lender has notified the other party (with such notice given in compliance with the requirements of Section 15) of such alleged breach and afforded the other party hereto a reasonable period after the giving of such notice to take corrective action. If Applicable Law provides a time period which must elapse before certain action can be taken, that time period will be deemed to be reasonable for purposes of this paragraph. The notice of acceleration and opportunity to cure given to Borrower pursuant to Section 22 and the notice of acceleration given to Borrower pursuant to Section 18 shall be deemed to satisfy the notice and opportunity to take corrective action provisions of this Section 20.

**21. Hazardous Substances.** As used in this Section 21: (a) "Hazardous Substances" are those substances defined as toxic or hazardous substances, pollutants, or wastes by Environmental Law and the following substances: gasoline, kerosene, other flammable or toxic petroleum products, toxic pesticides and herbicides, volatile solvents, materials containing asbestos or formaldehyde, and radioactive materials; (b) "Environmental Law" means federal laws and laws of the jurisdiction where the Property is located that relate to health, safety or environmental protection; (c) "Environmental Cleanup" includes any response action, remedial action, or removal action, as defined in Environmental Law; and (d) an "Environmental Condition" means a condition that can cause, contribute to, or otherwise trigger an Environmental Cleanup.



*[Handwritten signature]*

Borrower shall not cause or permit the presence, use, disposal, storage, or release of any Hazardous Substances, or threaten to release any Hazardous Substances, on or in the Property. Borrower shall not do, nor allow anyone else to do, anything affecting the Property (a) that is in violation of any Environmental Law, (b) which creates an Environmental Condition, or (c) which, due to the presence, use, or release of a Hazardous Substance, creates a condition that adversely affects the value of the Property. The preceding two sentences shall not apply to the presence, use, or storage on the Property of small quantities of Hazardous Substances that are generally recognized to be appropriate to normal residential uses and to maintenance of the Property (including, but not limited to, hazardous substances in consumer products).

Borrower shall promptly give Lender written notice of (a) any investigation, claim, demand, lawsuit or other action by any governmental or regulatory agency or private party involving the Property and any Hazardous Substance or Environmental Law of which Borrower has actual knowledge, (b) any Environmental Condition, including but not limited to, any spilling, leaking, discharge, release or threat of release of any Hazardous Substance, and (c) any condition caused by the presence, use or release of a Hazardous Substance which adversely affects the value of the Property. If Borrower learns, or is notified by any governmental or regulatory authority, or any private party, that any removal or other remediation of any Hazardous Substance affecting the Property is necessary, Borrower shall promptly take all necessary remedial actions in accordance with Environmental Law. Nothing herein shall create any obligation on Lender for an Environmental Cleanup.

NON-UNIFORM COVENANTS. Borrower and Lender further covenant and agree as follows:

**22. Acceleration; Remedies.** Lender shall give notice to Borrower prior to acceleration following Borrower's breach of any covenant or agreement in this Security Instrument (but not prior to acceleration under Section 18 unless Applicable Law provides otherwise). The notice shall specify: (a) the default; (b) the action required to cure the default; (c) a date, not less than 30 days from the date the notice is given to Borrower, by which the default must be cured; and (d) that failure to cure the default on or before the date specified in the notice may result in acceleration of the sums secured by this Security Instrument and sale of the Property. The notice shall further inform Borrower of the right to reinstate after acceleration and the right to bring a court action to assert the non-existence of a default or any other defense of Borrower to acceleration and sale. If the default is not cured on or before the date specified in the notice, Lender at its option may require immediate payment in full of all sums secured by this Security Instrument without further demand and may invoke the power of sale and any other remedies permitted by Applicable Law. Lender shall be entitled to collect all expenses incurred in pursuing the remedies provided in this Section 22, including, but not limited to, reasonable attorneys' fees and costs of title evidence.

If Lender invokes the power of sale, Lender shall execute or cause Trustee to execute a written notice of the occurrence of an event of default and of Lender's election to cause the Property to be sold and shall cause such notice to be recorded in each county in which any part of the Property is located. Lender or Trustee shall give notice of sale in the manner prescribed by Applicable Law to Borrower and to other persons prescribed by Applicable Law. After the time required by Applicable Law, Trustee, without demand on Borrower, shall sell the Property at public auction to the highest bidder at the time and place and under the terms designated in the notice of sale in one or more parcels and in any order Trustee determines. Trustee may postpone sale of all or any parcel of the Property by public announcement at the time and place of any previously scheduled sale. Lender or its designee may purchase the Property at any sale.

Trustee shall deliver to the purchaser Trustee's deed conveying the Property without any covenant or warranty, expressed or implied. The recitals in the Trustee's deed shall be prima facie evidence of the truth of the statements made therein. Trustee shall apply the proceeds of the sale in the following order: (a) to all expenses of the sale, including, but not limited to, reasonable Trustee's and attorneys' fees; (b) to all sums secured by this Security Instrument; and (c) any excess to the person or persons legally entitled to it.

**23. Reconveyance.** Upon payment of all sums secured by this Security Instrument, Lender shall request Trustee to reconvey the Property and shall surrender this Security Instrument and all notes evidencing debt secured by this Security Instrument to Trustee. Trustee shall reconvey the Property without warranty to the person or persons legally entitled to it. Such person or persons shall pay any recordation costs. Lender may charge such person or persons a fee for reconveying the Property, but only if the fee is paid to a third party (such as the Trustee) for services rendered and the charging of the fee is permitted under Applicable Law.

**24. Substitute Trustee.** Lender may from time to time remove Trustee and appoint a successor trustee to any Trustee appointed hereunder. Without conveyance of the Property, the successor trustee shall succeed to all the title, power and duties conferred upon Trustee herein and by Applicable Law.

**25. Attorneys' Fees.** As used in this Security Instrument and in the Note, attorneys' fees shall include those awarded by an appellate court.

**26. Protective Advances.** This Security Instrument secures any advances Lender, at its discretion, may make under Section 9 of this Security Instrument to protect Lender's interest in the Property and rights under this Security Instrument.

**27. Required Evidence of Property Insurance.**

**WARNING**

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

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


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



*[Handwritten signature]*

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Security Instrument and in any Rider executed by Borrower and recorded with it.

  
GERALD LEWING, AS TRUSTEE OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013 (Seal) DATE

  
ELIZABETH B EWING, AS TRUSTEE OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013 (Seal) DATE

BY SIGNING BELOW, the undersigned, Settlor(s) of The Ewing Family Trust under trust instrument dated 10/31/2013, acknowledges all of the terms and covenants contained in this Security Instrument and any rider(s) thereto and agrees to be bound thereby.

  
GERALD L EWING (SEAL) TRUST SETTLOR

State of Oregon

County of COOS

This instrument was acknowledged before me on 4<sup>th</sup> May 2021 by GERALD L EWING AND ELIZABETH B EWING, AS TRUSTEES OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013.

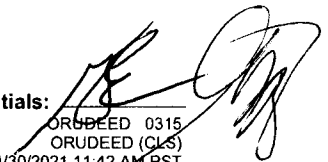


  
Signature of Notarial Officer

Notary Oregon  
Title (and Rank)

My commission expires: 03.28.2023

Lender: Umpqua Bank  
NMLS ID: 401867  
Loan Originator: Laura Ann Craig  
NMLS ID: 501043

Initials:   
ORUDEED 0315  
ORUDEED (CLS)  
04/30/2021 11:42 AM PST





LOAN #: 8501497468

**FIXED/ADJUSTABLE RATE RIDER**  
**(30-day Average SOFR Index (As Published in the Federal Reserve Bank of New York) – Rate Caps)**

THIS FIXED/ADJUSTABLE RATE RIDER is made this **30th** day of **April, 2021**, and is incorporated into and will be deemed to amend and supplement the Mortgage, Mortgage Deed, Deed of Trust, or Security Deed (the "Security Instrument") of the same date given by the undersigned (the "Borrower") to secure Borrower's Note (the "Note") to **Umpqua Bank, a State Chartered Bank**

(the "Lender") of the same date and covering the property described in the Security Instrument and located at:  
**72312 Potlatch Rd, Lakeside, OR 97449**

**THE NOTE CONTAINS PROVISIONS ALLOWING FOR A CHANGE IN BORROWER'S FIXED INTEREST RATE TO AN ADJUSTABLE INTEREST RATE. THE NOTE LIMITS THE AMOUNT THE BORROWER'S ADJUSTABLE INTEREST RATE CAN CHANGE AT ANY ONE TIME AND THE MINIMUM AND MAXIMUM RATES THE BORROWER MUST PAY.**

**ADDITIONAL COVENANTS.** In addition to the representations, warranties, covenants and agreements made in the Security Instrument, Borrower and Lender further covenant and agree as follows:

**A. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

The Note provides for monthly payments of principal and interest ("Monthly Payment") and an initial fixed interest rate of **3.250 %**. The Note also provides for a change in the initial fixed interest rate to an adjustable interest rate, as follows:

**4. INTEREST RATE AND MONTHLY PAYMENT CHANGES**

**(A) Change Dates**

If the Note is extended pursuant to Section 3(B)(2) of the Note, the initial fixed interest rate I will pay will change to an adjustable interest rate on the first day of **June, 2031**, and the adjustable interest rate I will pay may change on the



LOAN #: 8501497468

first day of the month every 6th month thereafter. Each date on which my adjustable interest rate could change is called a "Change Date."

**(B) The Index**

Beginning with the first Change Date, my interest rate will be based on an Index that is calculated and provided to the general public by an administrator (the "Administrator"). The "Index" is a benchmark, known as the 30-day Average SOFR index. The Index is currently published by the Federal Reserve Bank of New York. The most recent Index value available as of the date 45 days before each Change Date is called the "Current Index," provided that if the Current Index is less than zero, then the Current Index will be deemed to be zero for purposes of calculating my interest rate.

If the Index is no longer available, it will be replaced in accordance with Section 4(G) below.

**(C) Calculation of Changes**

Before each Change Date, the Note Holder will calculate my new interest rate by adding **TWO AND THREE-FOURTHS** percentage points (**2.750 %**) (the "Margin") to the Current Index. The Margin may change if the Index is replaced by the Note Holder in accordance with Section 4(G)(2) below. The Note Holder will then round the result of the Margin plus the Current Index to the nearest one-eighth of one percentage point (0.125%). Subject to the limits stated in Section 4(D) below, this rounded amount will be my new interest rate until the next succeeding Change Date.

The Note Holder will then determine the amount of the Monthly Payment that would be sufficient to repay the unpaid Principal that I am expected to owe at the next Change Date in full on the Maturity Date, as extended, at my new interest rate in substantially equal payments. The result of this calculation will be the new amount of my Monthly Payment.

**(D) Limits on Interest Rate Changes**

The interest rate I am required to pay at the first Change Date will not be greater than **8.250 %** or less than **2.750 %**. Thereafter, my interest rate will never be increased or decreased on any single Change Date by more than **ONE** percentage points (**1.000 %**) from the rate of interest I have been paying for the immediately preceding **6** months. My interest rate will never be greater than **8.250 % or less than the Margin**.

**(E) Effective Date of Changes**

My new interest rate will become effective on each Change Date. I will pay the amount of my new Monthly Payment beginning on the first Monthly Payment date after the Change Date until the amount of my Monthly Payment changes again.

**(F) Notice of Changes**

The Note Holder will deliver or mail to me a notice of any changes in my initial fixed interest rate to an adjustable interest rate and of any changes in my adjustable interest rate before the effective date of any change. The notice will include the amount of my Monthly Payment, any information required by law to be given to me and also the title and telephone number of a person who will answer any question I may have regarding the notice.

**(G) Replacement Index and Replacement Margin**

The Index is deemed to be no longer available and will be replaced if any of the following events (each, a "Replacement Event") occur: (i) the Administrator has permanently or indefinitely stopped providing the Index to the general public; or (ii) the Administrator or its regulator issues an official public statement that the Index is no longer reliable or representative.



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If a Replacement Event occurs, the Note Holder will select a new index (the "Replacement Index") and may also select a new margin (the "Replacement Margin"), as follows:

- (1) If a replacement index has been selected or recommended for use in consumer products, including residential adjustable-rate mortgages, by the Board of Governors of the Federal Reserve System, the Federal Reserve Bank of New York, or a committee endorsed or convened by the Board of Governors of the Federal Reserve System or the Federal Reserve Bank of New York at the time of a Replacement Event, the Note Holder will select that index as the Replacement Index.
- (2) If a replacement index has not been selected or recommended for use in consumer products under Section (G)(1) at the time of a Replacement Event, the Note Holder will make a reasonable, good faith effort to select a Replacement Index and a Replacement Margin that, when added together, the Note Holder reasonably expects will minimize any change in the cost of the loan, taking into account the historical performance of the Index and the Replacement Index.

The Replacement Index and Replacement Margin, if any, will be operative immediately upon a Replacement Event and will be used to determine my interest rate and Monthly Payments on Change Dates that are more than 45 days after a Replacement Event. The Index and Margin could be replaced more than once during the term of my Note, but only if another Replacement Event occurs. After a Replacement Event, all references to the "Index" and "Margin" will be deemed to be references to the "Replacement Index" and "Replacement Margin."

The Note Holder will also give me notice of my Replacement Index and Replacement Margin, if any, and such other information required by applicable law and regulation.

**B. TRANSFER OF THE PROPERTY OR A BENEFICIAL INTEREST IN BORROWER**

The Note is a uniform instrument with limited variations in some jurisdictions. In addition to the protections given to the Note Holder under the Note, the Security Instrument protects the Note Holder from possible losses that might result if I do not keep the promises that I make in the Note. The Security Instrument also describes how and under what conditions I may be required to make immediate payment of all amounts I owe under the Note. Some of those conditions are described as follows:

**Transfer of the Property or a Beneficial Interest in Borrower.** As used in this Section 18 of the Security Instrument, "Interest in the Property" means any legal or beneficial interest in the Property, including, but not limited to, those beneficial interests transferred in a bond for deed, contract for deed, installment sales contract or escrow agreement, the intent of which is the transfer of title by Borrower at a future date to a purchaser.

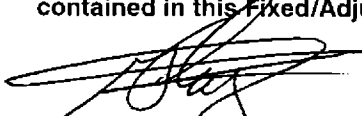
If all or any part of the Property or any Interest in the Property is sold or transferred (or if Borrower is not a natural person and a beneficial interest in Borrower is sold or transferred) without Lender's prior written consent, Lender may require immediate payment in full of all sums secured by this Security Instrument. However, this option shall not be exercised by Lender if such exercise is prohibited by Applicable Law.

If Lender exercises this option, Lender shall give Borrower notice of acceleration. The notice shall provide a period of not less than 30 days from the date the notice is given in accordance with Section 15 within which Borrower must pay all sums secured by this Security Instrument. If Borrower fails to pay these sums prior to the expiration of this period, Lender may invoke any remedies permitted by this Security Instrument without further notice or demand on Borrower.



LOAN #: 8501497468

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Fixed/Adjustable Rate Rider.



5-4-21 (Seal)

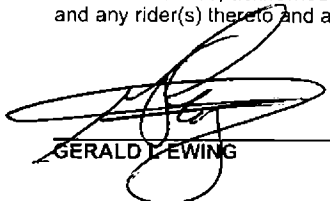
GERALD L EWING, AS TRUSTEE OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013 DATE



5/4/21 (Seal)

ELIZABETH B EWING, AS TRUSTEE OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013 DATE

BY SIGNING BELOW, the undersigned, Settlor(s) of The Ewing Family Trust under trust instrument dated 10/31/2013, acknowledges all of the terms and covenants contained in this Security Instrument and any rider(s) thereto and agrees to be bound thereby.



(SEAL) TRUST SETTLOR

GERALD L EWING

Unofficial Copy





**INTER VIVOS REVOCABLE TRUST RIDER**

**DEFINITIONS USED IN THIS RIDER**

(A) "Revocable Trust" means **The Ewing Family Trust**

created under trust instrument dated **October 31, 2013**

(B) "Revocable Trust Trustee(s)" means **Gerald L Ewing AND Elizabeth B Ewing**

trustee(s) of the Revocable Trust.

(C) "Revocable Trust Settlor(s)" means **Gerald L Ewing**

settlor(s) of the Revocable Trust.

(D) "Lender" means **Umpqua Bank, a State Chartered Bank**

(E) "Security Instrument" means the Deed of Trust, Mortgage, or Security Deed, and any riders thereto of the same date as this Rider given to secure the Note to the Lender of the same date and covering the Property (as defined below).

(F) "Property" means the property described in the Security Instrument and located at: **72312 Potlatch Rd  
Lakeside, OR 97449**

**THIS INTER VIVOS REVOCABLE TRUST RIDER** is made this **30th** day of **April, 2021** and is incorporated into and shall be deemed to amend and supplement the Security Instrument.

**ADDITIONAL COVENANTS.** In addition to the covenants and agreements made in the Security Instrument, the Revocable Trust Trustee(s), the Revocable Trust Settlor(s) and the Lender further covenant and agree as follows:

**A. ADDITIONAL BORROWER(S)**


The term "Borrower" when used in the Security Instrument shall refer to the Revocable Trust Trustee(s), the Revocable Trust Settlor(s), and the Revocable Trust, jointly and severally. Each party signing this Rider below (whether by accepting and agreeing to the terms and covenants contained herein and agreeing to be bound thereby, or both) covenants and agrees that, whether or not such party is named as "Borrower" on the first page of the Security Instrument, each covenant and agreement and undertaking of the "Borrower" in the Security Instrument shall be such party's covenant and agreement and undertaking as "Borrower" and shall be enforceable by the Lender as if such party were named as "Borrower" in the Security Instrument.



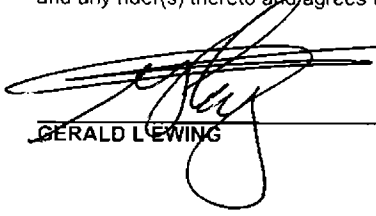
LOAN #: 8501497468

BY SIGNING BELOW, the Revocable Trust Trustee(s) accepts and agrees to the terms and covenants contained in this Inter Vivos Revocable Trust Rider.

  
GERALD L EWING, AS TRUSTEE OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013 5-4-21 (Seal) DATE

  
ELIZABETH EWING, AS TRUSTEE OF THE EWING FAMILY TRUST UNDER TRUST INSTRUMENT DATED 10/31/2013 5/12/21 (Seal) DATE

BY SIGNING BELOW, the undersigned, Settlor(s) of The Ewing Family Trust under trust instrument dated 10/31/2013, acknowledges all of the terms and covenants contained in this Security Instrument and any rider(s) thereto and agrees to be bound thereby.

  
GERALD L EWING (SEAL) TRUST SETTLOR

Unofficial Copy





**CONSTRUCTION LOAN RIDER TO SECURITY INSTRUMENT  
(INCLUDING SECURITY AGREEMENT)  
(To Be Recorded With The Security Instrument)**

**LENDER: Umpqua Bank, it's Successors and/or Assigns**

**LOAN NUMBER: 8501497468**

**BORROWER(S): Gerald L Ewing**

**PROPERTY: 72312 Potlatch Rd  
Lakeside, OR 97449**

**THIS CONSTRUCTION LOAN RIDER TO SECURITY INSTRUMENT** (the "Rider") shall be deemed to amend and supplement the Mortgage, Open-End Mortgage, Deed of Trust, Credit Line Deed of Trust, and any and all riders or amendments thereto (the "Security Instrument") of the same date, to which this Rider is attached, given by the undersigned (the "Borrower") to secure Borrower's Promissory Note to Lender of the same date (the "Note") and covering the property (the "property") described in this Security Instrument. All terms defined in the Note and elsewhere in this Security Instrument shall have the same meaning in this Rider.



**AMEND AND ADDITIONAL COVENANTS.** In addition to the covenants and agreements made in this Security Instrument, Borrower and Lender further covenant and agree as follows:

- 1. Construction Loan Agreement.** Borrower's Note evidences Borrower's promise to pay Lender the aggregate amount of all advances made and distributed by Lender under the terms and conditions of a Construction Loan Agreement between Lender and Borrower dated the same date as the Note (the "Loan Agreement"). The Loan Agreement provides for construction of certain improvements (the "improvements") on the Property. Borrower agrees to comply with the covenants and conditions of the Loan Agreement. This Security Instrument secures to Lender (a) the repayment of the debt evidenced by the Note, including the aggregate amount of all advances made by Lender from time to time under the terms of the Loan Agreement, with interest at the Construction Phase Note Rate, and all renewals, extensions, and modifications of the Note, (b) the performance of all of Borrower's covenants and agreements under the Note, this Security Instrument, and the Loan Agreement (the "Loan Documents"), and (c) the payment of all other sums, with interest at the Note Rate, advanced by Lender to protect the security of this Security Instrument, or to perform any of Borrower's obligations under the Loan Documents. Upon the failure of Borrower to keep and perform all the covenants, conditions and agreements of the Loan Agreement, the Principal and all interest and other charges provided for in the Loan Documents and secured hereby shall, at the option of the Lender, become immediately due and payable in full.
- 2. Future Advances.** During the construction of the Improvements (the "Construction Phase"), interest will accrue on the outstanding Principal according to the terms set forth in the Note. Provided there has been no default as defined in the Note, the Loan Agreement, or this Security Instrument, Lender is legally obligated to make advances of principal upon application therefore by the Borrower in accordance with the provisions of the Note and Loan Agreement up to a maximum Principal amount (including present and future obligations), which is equal to the amount of the Note as set forth in the Security Instrument. Such advances shall be evidenced by the Note, made under the terms of the Loan Agreement and secured by this Security Instrument and may occur for a period up to the end of the Construction Phase, but in no event after 18 month(s) from the date of this Rider.



3. **Assignment of Rights or Claims.** From time to time as Lender deems necessary to protect Lender's interest, Borrower shall, upon request of Lender, execute, acknowledge before a notary, and deliver to Lender, assignments of any and all rights or claims which relate to the construction on the Property.
4. **Breach by Borrower.** In case of breach by Borrower of the covenants and conditions of the Loan Agreement, subject to any right of Borrower to cure Borrower's default, Lender, at Lender's option, with or without entry upon the Property (a) may invoke any of the rights or remedies provided in the Loan Agreement, (b) may accelerate the sums secured by this Security Instrument and invoke any of the remedies provided in this Security Instrument, or (c) may do both. Lender's failure to exercise any of its rights and remedies at any one time shall not constitute a waiver by the Lender of its right to exercise that right or remedy, or any other right or remedy, in the future.
5. **Security Agreement and Financing Statement.** The property covered by this Security Instrument includes the Property previously described or referred to in this Security Instrument, together with the following, all of which are referred to as the "Property". The portion of the Property that constitutes real property is sometimes referred to as the "Real Property". The portion of the Property which constitutes personal property is sometimes referred to as the "Personal Property", and is described as follows: (i) Borrower's right to possession of the Property; (ii) any and all fixtures, machinery, equipment, building materials, appliances, and goods of every nature whatsoever now hereafter located in, or on, or used, or intended to be used in connection with the Property or the Improvements, and all replacements of and accessions to those goods; and (iii) proceeds and products of the Personal Property. Despite any other provision of this Rider or any other Loan Document, however, Lender is not granted, and will not have, a non-purchase money security interest in household goods, to the extent that such a security interest would be prohibited by applicable law.

This Security Instrument is and shall be a security agreement granting Lender a first and prior security interest in all of Borrower's right, title and interest in and to the Personal Property, under and within the meaning of applicable state laws, as well as a document granting a lien upon and against the Real Property. In the event of any foreclosure sale, whether made by Trustee, or under judgement of a court, all of the Real Property and Personal Property may, at the option of the Lender, be sold as a whole or in parcels. It shall not be necessary to have present at the place



of such sale the Personal Property or any part thereof. Lender, as well as Trustee on Lender's behalf, shall have all the rights, remedies and recourse with respect to the Personal Property afforded to a "Secured Party" by applicable state laws in addition to and not in limitation of the other rights and remedies afforded Lender and/or Trustee under this Security Instrument. Borrower shall, upon demand, pay to Lender the amount of any and all expenses, including the fees and disbursements of Lender's legal counsel and of any experts and agents, which Lender may incur in connection with: (i) the making and/or administration of this Security Instrument; (ii) the custody, preservation, use or operation of, or the sale of, collection from, or other realization upon any Property, real and/or personal, described in this Security Instrument; (iii) the exercise or enforcement of any of the rights of Lender under this Security Instrument; or (iv) the failure by Borrower to perform or observe any of the provisions or covenants in this Security Instrument.

Lender may, at its election, at any time after delivery of this Security Instrument, sign one or more copies of this Security Instrument in order that such copies may be used as a financing statement under applicable state laws. Lender's signature need not be acknowledged, and is not necessary to the effectiveness hereof as a deed of trust, a security agreement, or (unless otherwise required by applicable law) a financing statement.

Borrower also authorizes Lender to sign and file, without Borrower's signature, such financing and continuation statements, amendments, and supplements thereto, and other documents that Lender may from time to time deem necessary to perfect, preserve and protect Lender's interest in the Property, Borrower agrees to sign these documents whenever Lender asks. Borrower also gives Lender permission to sign these documents for Borrower.

- 6. Invalid Provisions.** If any provision of this Security Instrument is declared invalid, illegal, or unenforceable by a court of competent jurisdiction, then such invalid, illegal or unenforceable provision shall be severed from this Security Instrument and the remainder enforced as if such invalid, illegal or unenforceable provision is not a part of this Security Instrument.



**7. Addresses.**

The address of the Borrower is: **72312 Potlatch Rd, Lakeside, OR 97449**

The name and address of the Lender/Secured Party is:  
Umpqua Bank  
6610 SW Cardinal Lane, Suite 300  
Tigard, OR 97224

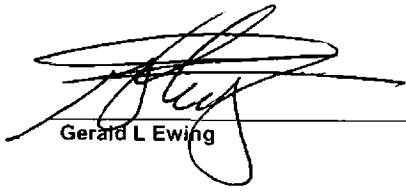
**8. Relation to Loan Agreement.** This Security Instrument is subject to all of the applicable terms and conditions contained in the Loan Agreement. The Loan Agreement is to be filed in the County Clerk's Office in the County where the Property is located at the same time this Security Instrument is recorded. If Borrower fails to keep any of the promises Borrower makes in the Loan Agreement, Lender may require that the entire balance of Borrower's debt to Lender be paid immediately. The terms and conditions of this Rider shall survive the termination of the Loan Agreement and the repayment of the Loan.

**9. Optional Renewal and Extension of Maturity Date.** Under the Loan Documents, Borrower has the option to renew the Construction Phase for an additional six (6) month period. If Borrower exercises such renewal option, then the Maturity Date under the Security Instrument shall be extended for a period of six (6) months.

BY SIGNING BELOW, Borrower accepts and agrees to the terms and covenants contained in this Rider.

Dated this 4<sup>th</sup> day of MAY 2021





Gerald L. Ewing

Borrower

Borrower

Borrower

Borrower

Borrower

Borrower

Borrower

Borrower

**ATTENTION COUNTY CLERK.** This instrument covers goods that are or are to become fixtures on the Property described herein and is to be filed for record in the records where Security Instruments on real estate are recorded. Additionally, this instrument should be appropriately indexed, not only as a Security Instrument but also as a financing statement covering goods that are or are to become fixtures on the Property described herein. The mailing address of the Borrower (Debtor) and Lender (Secured Party) are set forth in this Security Instrument.

Unofficial  
Copy





## EXHIBIT A

Order No.: 360621035510

Lot 14, ROADS END FIRST ADDITION, Coos County, Oregon.

EXCEPTING THEREFROM: Beginning at the Northeastern corner of Lot 13, Roads End Subdivision, thence North a distance of 50.00 feet, thence West to the normal high water line of North Tenmile Lake; thence along said high water line to the Northwestern corner of said Lot 13, thence South  $88^{\circ} 7'$  West a distance of 268.82 feet to the point of beginning.

ALSO EXCEPTING THEREFROM:

Beginning at the Northeast corner of Lot 13, Roads End Subdivision, thence North 50.00 feet; thence West 60.00 feet to the true point of beginning; thence North 15 feet; thence West 50.00 feet; thence South 15.00 feet; thence East 50.00 feet, to the true point of beginning.



# COOS County Assessor's Summary Report

## Real Property Assessment Report

FOR ASSESSMENT YEAR 2021

NOT OFFICIAL VALUE

August 3, 2021 9:28:41 am

Account #	7593800	Tax Status	ASSESSABLE
Map #	23S12080000700	Acct Status	ACTIVE
Code - Tax #	1304-7593800	Subtype	NORMAL

Legal Descr See Record

Mailing Name	ROBBERS, KENNETH V & JULIE A	Deed Reference #	2021-8034
Agent	EWING FAMILY TRUST BUYER	Sales Date/Price	07-07-2021 / \$500,000.00
In Care Of		Appraiser	SUSAN VINEYARD
Mailing Address	72312 POTLATCH RD LAKESIDE, OR 97449-4010		

Prop Class	801	MA	SA	NH	Unit
RMV Class	801	01	06	LKF	43791-1

Situs Address(s)	Situs City
ID# 72317 POTLATCH RD	LAKESIDE

Code Area	RMV	MAV	Value Summary AV	SAV	MSAV	RMV Exception	CPR %
1304 Land	177,660					Land	0
Impr.	83,950					Impr.	0
<b>Code Area Total</b>	<b>261,610</b>	<b>206,400</b>	<b>206,400</b>	<b>0</b>	<b>0</b>		<b>0</b>
<b>Grand Total</b>	<b>261,610</b>	<b>206,400</b>	<b>206,400</b>	<b>0</b>	<b>0</b>		<b>0</b>

Code Area	ID#	RFPD	Ex	Plan Zone	Value Source	TD%	LS	Size	Land Class	LUC	Trended RMV
1304	10	<input checked="" type="checkbox"/>		F	Market	100	A	0.56	MISC	003	59,060
1304	10	<input checked="" type="checkbox"/>		F	Market	100	A	5.44	MV	003	118,600
<b>Grand Total</b>								<b>6.00</b>			<b>177,660</b>

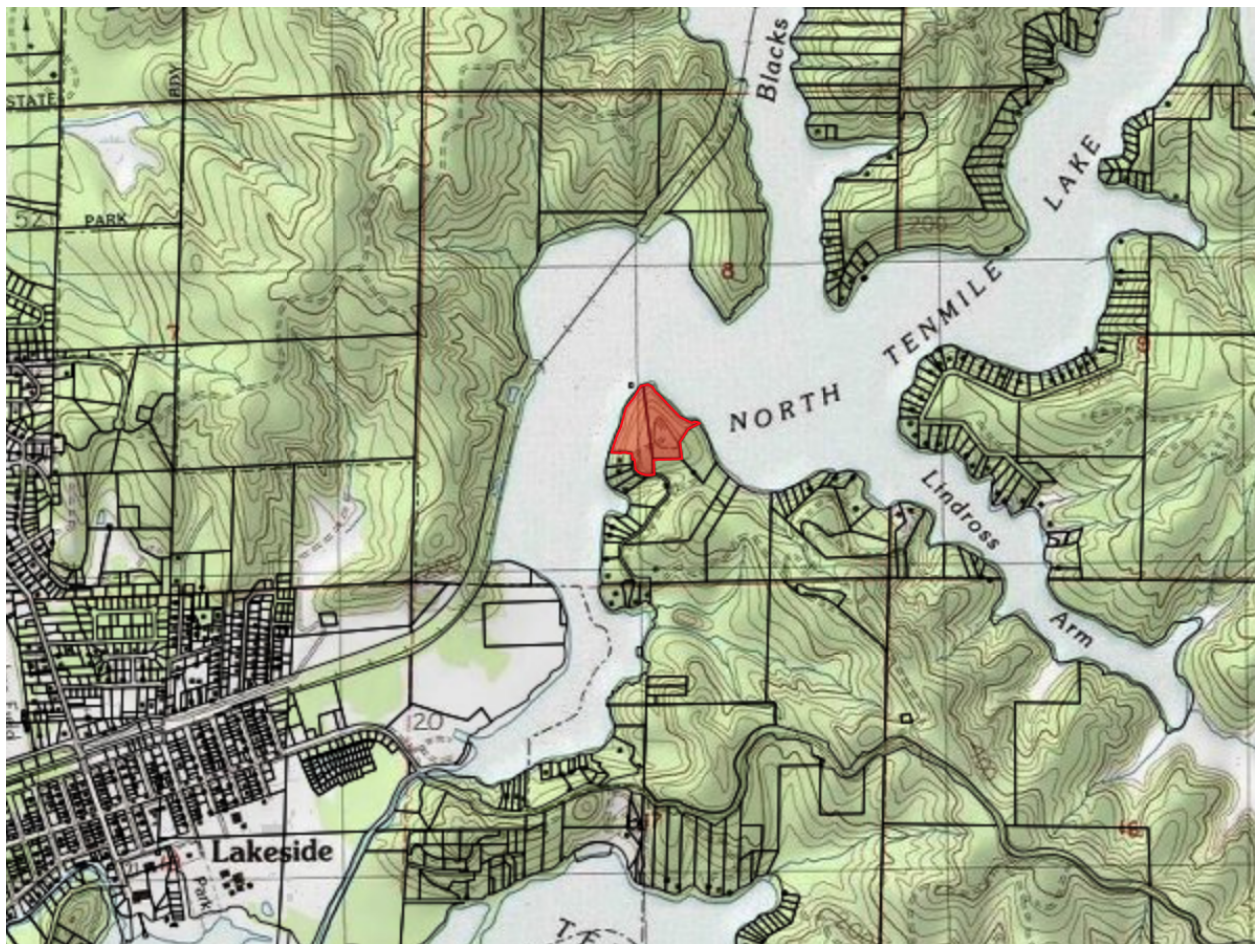
Code Area	ID#	Yr Built	Stat Class	Description	TD%	Total Sq. Ft.	Ex% MS Acct #	Trended RMV
1304	2	2016	110	Residential Other Improvements	100	0		7,620
1304	3	0	194	Dock	100	0		23,430
1304	1	2016	303	General Purpose Building	100	2,000		52,900
<b>Grand Total</b>							<b>2,000</b>	<b>83,950</b>

Code Area	Type	Exemptions/Special Assessments/Potential Liability			
1304		FIRE PATROL:			
		■ FIRE PATROL SURCHARGE	Amount	47.50	Year 2021
		■ FIRE PATROL TIMBER	Amount	18.75 Acres	6 Year 2021

Appr Maint: 2021 - NEW CONSTRUCTION - RESIDENTIAL (SINGLE FAMILY DWELLING)

## Applicant Proposal and Site Overview

The applicant is requesting to rezone two parcels, tax lot 700 and 800, from Forest to Recreation. The applicant is requesting the rezone in order to continue the recreational activity that the properties have been used for historically, and to provide tourist accommodations as described in the Comprehensive Plan . The subject properties have direct access to North Tenmile Lake, but also have vehicle access from Potlatch Road. This development will consider short-term rentals in single family dwellings similar to those allowed on the adjacent Rural Residential zoning districts.



Tenmile Lake has historically been used for local recreational uses, such as boating and fishing, for the past 75 years. The subject properties have been used for low impact recreation throughout the years, evidenced by existing docks and an inhabitable cabin for picnic and recreational purposes.

There are no major destination style developments on the Tenmile Lakes. Historically, the lakes have been used by families staying in the multiple single-family dwellings located around the arms of the lakes. These are identified in the County's comprehensive plan as 'Individual

Activity Participation'. Outside of guided fishing or the few local golf courses, there are few opportunities for formally organized recreation activities in Coos County under 4.8.

**TABLE R-5**  
**COMPARISON OF FAVORITE ACTIVITY WITH ACTIVITY**  
**MOST FREQUENTLY ENGAGED IN: (STATEWIDE - 1970)**

MOST FREQUENT ACTIVITY	PERCENT	ACTIVITY	PERCENT
1. Pleasure Driving	14.56	Fishing	19.28
2. Bicycling	11.61	Swimming	15.11
3. Walking	11.49	Camping	11.57
4. Outdoor Games	11.31	Hunting	8.94
5. Swimming	10.05	Pleasure Driving	8.32
6. Picnicking	6.49	Walking	6.7
7. Beach Activities	5.60	Picnicking	5.26
8. Fishing	5.53	Beach Activities	5.26
9. Camping	4.57	Golfing	4.38
10. Sporting Events	3.59	Outdoor Games	4.09
11. Horse Riding	3.21	Snow Activities	3.08
12. Boating	2.67	Boating	2.95
13. Golfing	2.55	Horseback Riding	2.00
14. Hunting	2.00	Sporting Permits	1.11
15. Snow Activities	<u>1.88</u>	Cultural Events	<u>0.2</u>
	100.00%		100.00%

**SOURCE:** Oregon Outdoor Recreation: Supplements and Revisions, (1972)

Tourism has always been identified in the County's comprehensive plan as a source of economic importance. Goal 5 requires the protection of scenic resources. Coos County is implementing protection of these resources through the Goal 5 overlay zones, while additionally through Goal 17 and Goal 18 policies. There are Goal 17 identified lands on the subject property. There is no request to change, or alter, the requirements for Goal 17.

Allowing the zoning to a lower intensity Recreation zoning district will allow the public greater opportunities for fishing, swimming, and boating around the Tenmile lake area. The applicant also wishes to point out to the Commission, there are also opportunities for hunting in the adjacent Elliot State Forest. The Oregon Dunes National Recreation Area is also nearby which provides additional recreation opportunities.

The Recreation zoning district is a resource land zoning designation in Coos County. The proposed use will meet the criteria of resource use, and continue the use of providing wildlife habitat on the subject properties.

**Lawfully Created Parcel:**

Tax Lot 700 is acknowledged as a lawfully created parcel pursuant to § 6.1.125.1.c in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created (Roads End Subdivision 1st addition Lot 15). The current configuration was achieved through a Property Line Adjustment in 1995 (application number ACU-95-85).

Tax Lot 800 is acknowledged as a lawfully created parcel pursuant to § 6.1.125.1.c in compliance with all applicable planning, zoning and subdivision or partition ordinances and regulations at the time it was created (Roads End Subdivision 1st addition Lot 14).

**Existing Development:**

Currently, Tax Lot 700 has a large shop built in 2016 within the cleared area along with an approved dock, a septic system, electrical service and a well.

The current development on Tax Lot 800 consists of a shop structure, septic system, electrical service, a well, driveway, a dock and an old recreational cabin storing boating and fishing supplies. Construction for a single family dwelling is currently underway. This property is split zoned Forest Mixed Use and Rural Residential-2.

**Soils**

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

- **39F-Millicoma-Templeton complex**, 50 to 75 percent slopes. This map unit is on side slopes and ridge tops of mountains. The native vegetation is mainly conifers, shrubs, forbes, and hardwoods. Elevation is 50 to 800 feet. The average annual precipitation is 60 to 80 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

This unit is 55 percent Millicoma gravelly loam and 25 percent Templeton silt loam. The Millicoma soil is on narrow ridge tops and steeper side slopes, and the Templeton soil is on broad ridge tops and less sloping side slopes. The components of this unit are so intricately intermingled that it was not practical to map them separately at the scale used.

Included in this unit are small areas of Salander soils. Also included are small areas of deep soils that have a clay loam subsoil and moderately deep soils that average less than 35 percent rock fragments. Included areas make up about 20 percent of the total acreage. The percentage varies from one area to another.

The Millicoma soil is moderately deep and well drained. It formed in colluvium derived dominantly from sandstone. Typically, the surface is covered with a mat of undecomposed needles, leaves, and twigs 3 inches thick. The surface layer is very dark brown and very dark grayish brown gravelly loam 18 inches thick. The subsoil is dark brown and very gravelly loam 17 inches thick. Partially weathered sandstone is at a depth of 35 inches.

Permeability of the Millicoma soil is moderately rapid. Available water capacity is about 3 to 6 inches. Effective rooting depth is 20 to 40 inches. Runoff is rapid, and the hazard of water erosion is high.

The Templeton soil is deep and well drained. It formed in colluvium derived dominantly from sedimentary rock. Typically, the surface layer is very dark brown and dark brown silt loam 16 inches thick. The subsoil is reddish brown, yellowish red, and strong brown silty clay loam 26 inches thick. Soft, weathered, fractured siltstone is at a depth of 42 inches.

Permeability of the Templeton soil is moderate. Available water capacity is about 8.0 to 17.5 inches. Effective rooting depth is 40 to 60 inches. Runoff is rapid, and the hazard of water erosion is high. This unit is used for timber production and wildlife habitat.

This unit is suited to the production of Sitka spruce and Douglas fir. Among the other species that grow on the unit are western hemlock, western redcedar, and red alder. The understory vegetation is mainly salal, salmonberry, cascade Oregon grape, western sword fern, and vine maple.

On the basis of a 100-year site curve, the mean site index for Douglas fir is 170 on the Millicoma soil. 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 184 cubic feet per acre per year. On the basis of a 50-year site curve, the mean site index for Douglas fir is 120. On the basis of a 100-year site curve, the mean site index for Sitka spruce is 180 on the Templeton soil. At the culmination of the mean annual increment (CMAI), the production of 50-year-old Sitka spruce trees 1.5 inches in diameter or more at breast height is 270 cubic feet per acre per year.

The main limitations for the management of timber on this unit are the susceptibility of the surface layer of the Templeton soil to compaction, steepness of slope, the hazards of erosion and windthrow, and plant competition. Highlead or other cable logging systems are most suitable.

Proper design of road drainage systems and care in the placement of culverts help to control erosion. Cuts and fills are subject to erosion unless treated. Seeding, mulching, benching, and compacting the soil can reduce erosion. Unsurfaced roads and skid trails are slippery when wet or moist, and they may be impassable during rainy periods. 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. Locating roads on mid slopes results in large cuts and fills and thus removes land from production. Material cast to the side when building roads can damage vegetation. It is also a potential source of sedimentation. End hauling of waste material minimizes damage to the vegetation downslope and reduces the potential for sedimentation. Sitka spruce, a shallow rooted tree, commonly is subject to windthrow.

When openings are made in the canopy, invading brushy plants can delay natural reforestation. Undesirable plants prevent adequate natural or artificial reforestation unless intensive site preparation and maintenance are provided. Reforestation can be accomplished by planting Sitka spruce, Douglas fir, and western hemlock seedlings.

This map unit is in capability subclass VIIe.

- **52D-Salander silt loam**, 2 to 30 percent slopes. This deep, well drained soil is on the side slopes of mountains. It formed in colluvium derived dominantly from sedimentary rock. The native vegetation is mainly conifers, shrubs, forbes, and hardwoods. Elevation is 50 to 800 feet. The average annual precipitation is 60 to 80 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

Typically, the surface layer is dark reddish brown silt loam 26 inches thick. The upper 14 inches of the subsoil is dark reddish brown silt loam, and the lower 25 inches is dark reddish brown and reddish brown silty clay loam. In some areas the dark-colored surface layer is less than 20 inches thick. Included in this unit are small areas of Millicoma and Templeton soils.

Included areas make up about 20 percent of the total acreage.

Permeability of this Salander soil is moderate. Available water capacity is about 15.5 to 21.0 inches. Effective rooting depth is 60 inches or more. Runoff is medium, and the hazard of water erosion is moderate.

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

This unit is well suited to the production of Sitka spruce (fig. 13). Among the other species that grow on this unit are Douglas fir, western hemlock, and western redcedar. The understory vegetation is mainly western sword fern, evergreen huckleberry, salmonberry, thimbleberry, and vine maple.



On the basis of a 100-year site curve, the mean site index for Sitka spruce is 180. At the culmination of the mean annual increment (CMAI), the production of 70-year-old Sitka spruce trees 1.5 inches in diameter or more at breast height is 271 cubic feet per acre per year.

The main limitations for the management of timber on this unit are the susceptibility of the surface layer to compaction, the hazard of erosion, and plant competition. Using standard wheeled and tracked equipment when the soil is moist causes rutting and compaction. Displacement of the surface layer occurs most readily when the soil is dry. Puddling can occur when the soil is wet. Using low-pressure ground equipment damages the soil less and helps to maintain productivity.

Proper design of road drainage systems and care in the placement of culverts help to control erosion. Cuts and fills are subject to erosion unless treated. Seeding, mulching, benching, and compacting the soil can reduce erosion. Steep yarding paths, skid trails, and firebreaks are subject to rilling and gulying unless they are provided with adequate water bars or are protected by plant cover, or both. Unsurfaced roads and skid trails are soft when wet or moist, and they may be impassable during rainy periods. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit.

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 Vie

- **52E-Salander silt loam**, 30 to 50 percent slopes. This deep, well drained soil is on the side slopes of mountains. It formed in colluvium derived dominantly from sedimentary rock. The native vegetation is mainly conifers, shrubs, forbes, and hardwoods. Elevation is 50 to 800 feet. The average annual precipitation is 60 to 80 inches, the average annual air temperature is 51 to 53 degrees F, and the average frost-free period is 200 to 240 days.

Typically, the surface layer is dark reddish brown silt loam 26 inches thick. The upper 14 inches of the subsoil is dark reddish brown silt loam, and the lower 25 inches is dark reddish brown and reddish brown silty clay loam. In some areas the dark-colored surface layer is less than 20 inches thick.

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

Permeability of this Salander soil is moderate. Available water capacity is about 15.5 to 21.0 inches. Effective rooting depth is 60 inches or more. Runoff is rapid, and the hazard of water erosion is high.

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

This unit is well suited to the production of Douglas fir. Among the other species that grow on this unit are Sitka spruce, western hemlock, and western redcedar. The understory vegetation is mainly western sword fern, evergreen huckleberry, salmonberry, thimbleberry, and vine maple.

On the basis of a 100-year site curve, the mean site index for Sitka spruce is 180. At the culmination of the mean annual increment (CMAI), the production of 70-year-old Sitka spruce trees 1.5 inches in diameter or more at breast height is 271 cubic feet per acre per year. The main limitations for the management of timber on this unit are the susceptibility of the surface layer to compaction, steepness of slope, the hazard of erosion, and plant competition.

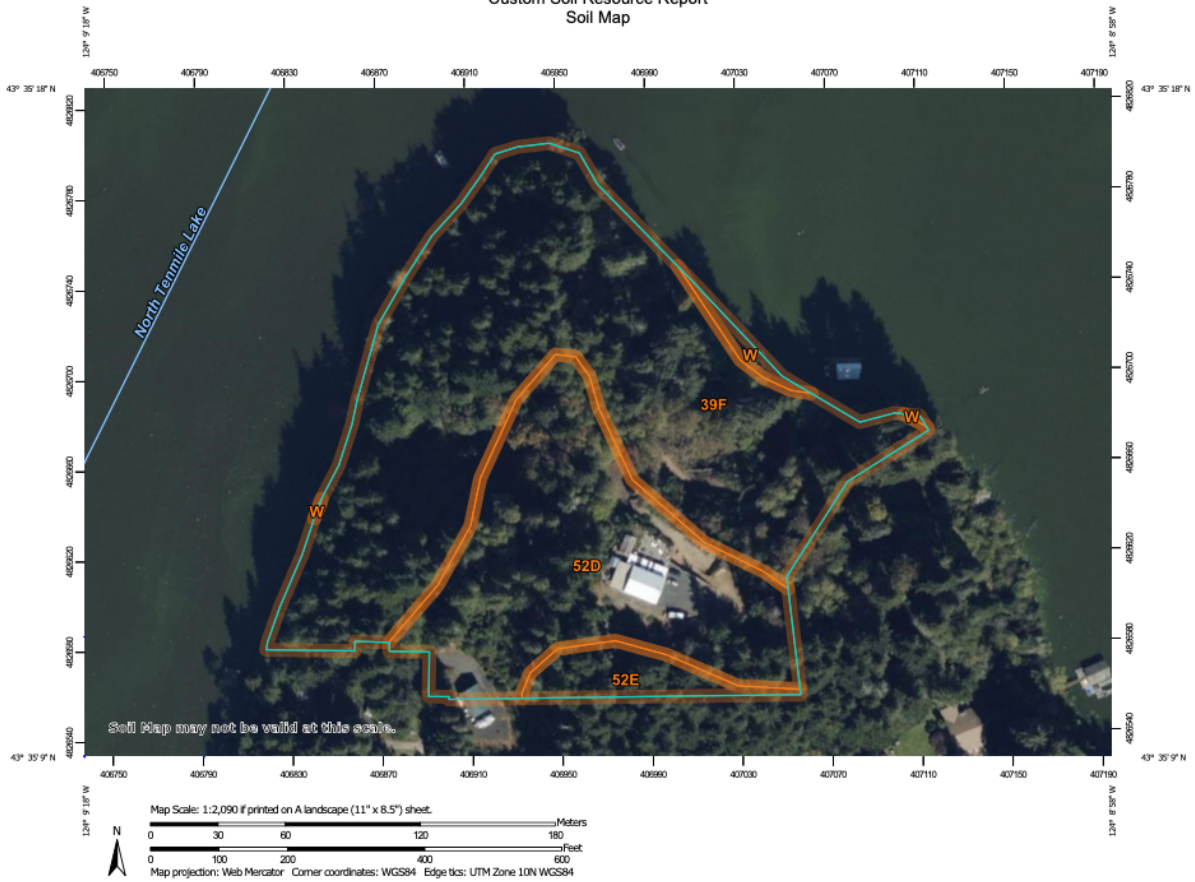
The main limitation for the harvesting of timber is steepness of slope. Using standard wheeled and tracked equipment when the soil is moist causes rutting and compaction. Displacement of topsoil occurs most readily when the soil is dry. Puddling can occur when the soil is wet. Cable yarding systems are safer, damage the soil less, and help to maintain productivity.

Proper design of road drainage systems and care in the placement of culverts help to control erosion. Cuts and fills are subject to erosion unless treated. Seeding, mulching, benching, and compacting the soil can reduce erosion. 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. Unsurfaced roads and skid trails are soft when wet or moist, and they may be impassable during rainy periods. Logging roads require suitable surfacing for year-round use. Rock for road construction is not readily available in this unit. Road location and maintenance costs are greater in the more steeply sloping areas.

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 VIe.

Custom Soil Resource Report  
Soil Map



## Map Unit Legend

Map Unit Symbol	Map Unit Name	Acres in AOI	Percent of AOI
39F	Millicoma-Templeton complex, 50 to 75 percent slopes	6.6	62.5%
52D	Salander silt loam, 2 to 30 percent slopes	3.4	32.4%
52E	Salander silt loam, 30 to 50 percent slopes	0.4	4.2%
W	Water	0.1	0.9%
<b>Totals for Area of Interest</b>		<b>10.5</b>	<b>100.0%</b>

## Custom Soil Resource Report

Prime and other Important Farmlands—Coos County, Oregon		
Map Symbol	Map Unit Name	Farmland Classification
39F	Millicoma-Templeton complex, 50 to 75 percent slopes	Not prime farmland
52D	Salander silt loam, 2 to 30 percent slopes	Not prime farmland
52E	Salander silt loam, 30 to 50 percent slopes	Not prime farmland
W	Water	Not prime farmland

### Report—Forestland Productivity

Forestland Productivity—Coos County, Oregon				
Map unit symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site Index	Volume of wood fiber <i>Cu ft/ac/yr</i>	
39F—Millicoma-Templeton complex, 50 to 75 percent slopes				
Millicoma	Douglas-fir	119	172.00	Douglas-fir, Sitka spruce, Western hemlock
	Red alder	—	—	
	Sitka spruce	—	—	
	Tanoak	—	—	
	Western hemlock	—	—	
Templeton	Douglas-fir	125	186.00	Douglas-fir, Sitka spruce, Western hemlock
	Red alder	—	—	
	Sitka spruce	169	257.00	
	Western hemlock	161	257.00	
	Western redcedar	—	—	
52D—Salander silt loam, 2 to 30 percent slopes				
Salander	Douglas-fir	125	186.00	Douglas-fir, Sitka spruce, Western hemlock
	Sitka spruce	177	272.00	
	Western hemlock	162	257.00	
	Western redcedar	—	—	
52E—Salander silt loam, 30 to 50 percent slopes				
Salander	Douglas-fir	125	186.00	Douglas-fir, Sitka spruce, Western hemlock
	Sitka spruce	177	272.00	
	Western hemlock	162	257.00	
	Western redcedar	—	—	
W—Water				
Water	—	—	—	—

## Property Background:

### Tax Lot 700

- On January 11, 1996 an Administrative Conditional Use (ACU-95-85) was approved to allow a property line adjustment with tax lot 600. It appears there was an incorrect property line adjustment deed filed with the Coos County Clerk's office, which created an illegal land division. This matter has been resolved as the two tax lots have been consolidated to one legal parcel.
- In 2002 information was received from Oregon Department of State Lands that a dock was sited on the property without permits, which created a violation of the Coos County Zoning and Land Use Ordinance (CCZLDO). The property owners at the time resolved the issue by obtaining an after the fact Zoning Clearance Letter (ZCL-02-203). The violation was removed and the dock was registered with the State.
- In 2005 a pre-eligibility application was submitted on the subject property and met the template requirements but the pre-eligibility was denied because the Property Line Adjustment that was approved in 1996 was recorded incorrectly and divided the property rather than adjusting it. This matter has been resolved as the two tax lots have been consolidated to one legal parcel. In 2008 a Conditional Use application (ACU-08-20) for a Forest Template Dwelling was submitted. Staff approved the request on June 27, 2008.
- On July 24, 2008 staff received a request from the applicants for a Reconsideration of the Conditional Use to adjust the Dwelling location because the Coos County Road Department determined that the driveway would be too steep for the initial location.
- On July 11, 2008 a Reconsideration of ACU-08-20 was approved to allow the dwelling site to be altered due to sloping issues.
- On September 4, 2008 a Variance to the Coos County Road Standards (V-08-05) was approved to waive the 12% grade requirement.
- On May 23, 2012 a request for an extension and modification to the conditions of approval in V- 08-05 was received.
- On June 7, 2012 staff approved the extension and explained that the applicant could contact the Coos County Road Department regarding the modifications of the road requirements. Staff did find a letter from June 11, 2011 from John Rowe, Coos County Roadmaster that stated "due to the topography of the proposed driveway a paved 11 foot surface and a 12 foot wide rock base as quoted by Knife River Materials.
- On July 16, 2014 an Extension was approved, which extended the approval within ACU-08-20 until July 16, 2016.

- On December 3, 2015 a Zoning Clearance Letter (ZCL-15-340) was issued giving clearance to site a single family dwelling, accessory structure and install septic. The Zoning Clearance Letter stated that the administrative conditional use expires on July 11, 2016 and if the dwelling is not sited before this date then an extension must be submitted. The dwelling was not sited within the timeframe, but it appears they were able to build the accessory structure.
- Staff did not receive an extension request prior to the expiration of the Conditional Use (ACU-08-20) by the deadline, (July 16, 2016) and therefore the property owners submitted a new Conditional Use application to request a Forest Template Dwelling.
- On February 21, 2019 an Administrative Conditional Use (ACU-19-009) application was submitted for a Forest Template Dwelling. On May 9, 2019 the Notice of Decision and Staff Report was mailed. No appeals were received; therefore the decision was deemed final on May 24, 2019. All conditions of approval were satisfied and Zoning Compliance Letter ZCL-19-190 was issued providing land use authorization to site a single family dwelling (forest template dwelling) and installation of septic.

#### **Tax Lot 800**

- On July 3, 2001 - A Zoning Compliance Letter was issued (ZCL-01-260) granting authorization for a site evaluation to be completed and power connected to an existing shed.
- On October 4, 2001 - An Administrative Conditional Use Permit for a Forest Template Dwelling (ACU-01-33) was approved with conditions and a Zoning Compliance Letter ZCL-01-260 is updated to grant authorization to install a septic system and single family dwelling, pursuant to ACU-01-33.
- On October 11, 2001 - A copy of a “Waiver of Right to Object Forest and Farm Practices Management Covenant” is received in an attempt to fulfill Requirement of Approval #1 of ACU-01-33. On October 18, 2001 - Driveway Confirmation #199 is received from the Coos County Road Department, fulfilling Requirement of Approval #3 of ACU-01-33.
- On June 23, 2003 - A request to extend the expiration date of ACU-01-33 was received from James E. Micinski and Dolores M. Taggart, stating they had recently purchased the property.
- On June 23, 2003 - Zoning Compliance Letter ZCL-01-260 was updated to authorize a single family dwelling and accessory building (shop), pursuant to ACU-01-33.
- On July 2, 2003 - The extension request was approved and the expiration date of the Conditional Use Permit was moved to October 19, 2004.
- On August 23, 2004 - A request to extend the expiration date of ACU-01-33 was received from James Micinski, stating construction is expected to begin the following spring.

- On August 30, 2004 - The extension request was approved, and the expiration date of the Conditional Use Permit was moved to October 19, 2005.
- On October 8, 2004 - A Zoning Compliance Letter was issued (ZCL-04-578) granting after-the-fact authorization to site a dock on the property.
- On October 11, 2005 - A request to extend the expiration date of ACU-01-33 was received from James Micinski, stating he had been unable to begin construction.
- On October 13, 2005 - The extension request was approved and the expiration date of the Conditional Use Permit was moved to October 19, 2007.
- On September 18, 2006 - A Zoning Compliance Letter was issued (ZCL-06-548) granting authorization to site a pole building on the property for use during construction of the dwelling approved under ACU-01-33.
- On October 5, 2007 - A request to extend the expiration date of ACU-01-33 was received from James E. Micinski and Dolores M. Taggart, stating they had made some progress on construction on the property.
- On October 9, 2007 - The extension request was approved and the expiration date of the Conditional Use Permit was moved to October 19, 2009.
- On July 13, 2009 - A request to extend the expiration date of ACU-01-33 was received from Dolores M. Taggart, stating financial hardship had prevented construction from occurring. On July 16, 2009 - The extension request was approved and the expiration date of the Conditional Use Permit was moved to October 19, 2011.
- On September 30, 2011 - A request to extend the expiration date of ACU-01-33 was received from Dolores M. Taggart, stating financial hardship had prevented construction from occurring.
- On October 7, 2011 - The extension request was approved and the expiration date of the Conditional Use Permit was moved to October 19, 2013.
- On September 20, 2013 - A request to extend the expiration date of ACU-01-33 was received from Jim Lake. On November 15, 2013 - The extension request was approved and the expiration date of the Conditional Use Permit was moved to October 19, 2015.
- On October 14, 2015 – An extension request (ACU-15-37) was received stating financial hardship had prevented construction from occurring.
- On November 03, 2015 a decision to approve the extension request was rendered. No appeals were received regarding the appeal and the decision was rendered final making the expiration date October 19, 2017.

- On August 22, 2019 an Administrative Conditional Use Application was submitted for a Forest Template Dwelling. On February 21, 2019 the Notice of Decision and Staff Report was mailed. No appeals were received making this decision final on March 9, 2020.
- On July 24, 2020 Zoning Compliance Letter ZCL-20-205 was issued providing land use authorization for after-the-fact approval for accessory structures (small storage structure and 35x45 shop) and approval for a single family dwelling (template dwelling) and installation of septic.

**Definitions:  
Chapter 2**

RECREATION: Any experience voluntarily engaged in largely during leisure (discretionary time) from which the individual derives satisfaction:

- (1) Coastal Recreation: occurs in offshore ocean waters, estuaries, and streams, along beaches and bluffs, and in adjacent shorelands. It includes a variety of activities from swimming, scuba diving, boating, fishing, hunting, and use of dune buggies, shell collecting, painting, wildlife observation, and sightseeing, to coastal resorts and water-oriented restaurants;
- (2) Low-Intensity Recreation: does not require developed facilities and can be accommodated without change to the area or resource. For example, boating hunting, hiking, wildlife photography, and beach or shore activities can be low-intensity recreation;
- (3) High-Intensity Recreation: uses specially built facilities, or occurs in such density or form that it requires or results in a modification of the area or resource. Campgrounds, golf courses, public beaches, and marinas are examples of high-intensity recreation.

RURAL LAND: Those which are outside the urban growth boundary and are: (1) non-urban agricultural, forest or open space lands; or (2) other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

**SECTION 4.2.500 RESOURCE ZONES**

**Forest (F)**

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



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

### **Forest Mixed Use (FMU)**

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

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

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

## **SECTION 4.2.400 OPEN SPACE AND NATURAL RESOURCE ZONING DISTRICTS**

Open Space and Natural Resource Districts are intended for especially sensitive areas where wildlife habitat or special scenic values have been identified or where natural hazards totally preclude any development.

### **Recreation (REC)**

The intent of the Recreation District is to designate recreation areas. The purpose of the “REC” district is to accommodate recreational uses of areas with high recreational or open space value. The district applies solely to areas designated as “Recreation” in the Comprehensive Plan, which include state, county and other municipal parks, the Oregon Dunes National Recreation Area, as well as private lands currently developed as golf courses.

New recreational developments in this district shall be oriented to the open space nature of the land. The type and intensity of recreational developments in this district must be conditioned by environmental considerations set forth in the County’s Coastal Shoreland/Dune Lands Comprehensive Plan policies where such developments are allowed in these coastal resource areas.

## **ARTICLE 5.1 PLAN AMENDMENTS AND REZONES**

### **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 costs associated with that service.

**Applicant Response: The applicant is filing this zone change under the option 3b. The applicant included all landowner signatures for the lands being proposed to change from Forest to Recreation.**

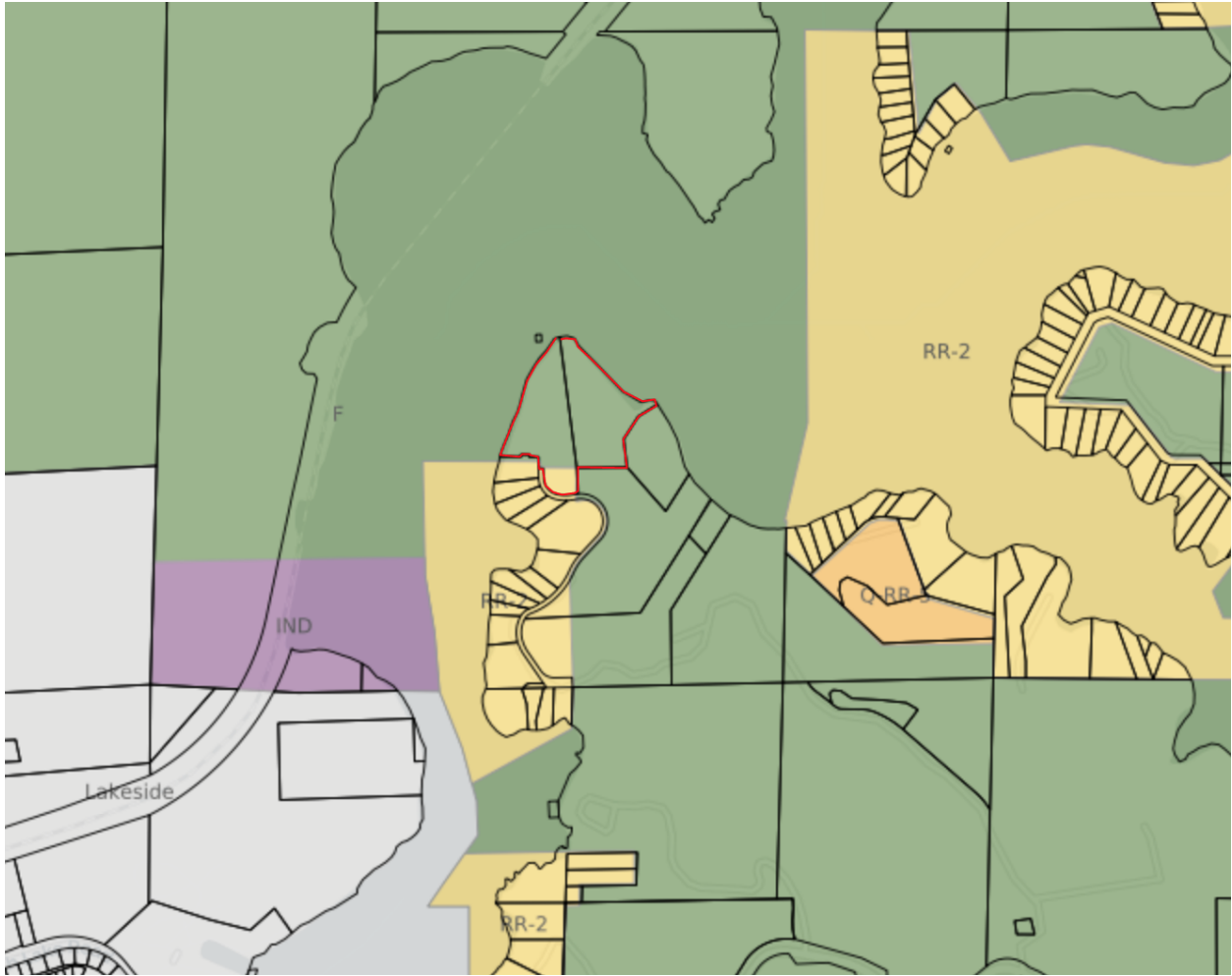
#### **SECTION 5.1.200 REZONES:**

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.

#### **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.

**Applicant Response: Based on the zoning map, the applicant believes this criterion is not applicable to the request and subject properties. There are no EFU zoned lands in the vicinity.**



**SECTION 5.1.275 STANDARDS FOR COMPREHENSIVE PLAN AND REZONE FOR NON RESOURCE LAND:**

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

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

(5) The subject property is not considered to be non resource 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 non resource land the county shall also determine that rezoning the property to a non resource 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 non resource 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 non resource 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 non resource land shall be to a “rural” zone that is appropriate for the type of land and its intended use.

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

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

**Applicant Response: The applicant is requesting the subject property be rezoned from Forest to Recreation zoning designation. First, there is no clear definition that the Recreation zoning district is considered non resource lands. While unclear at first, when looking at the Comprehensive Plan and the Zoning & Land Development Ordinance, Recreation zoning fits into the open space definition under Section 4.2.400. Under Chapter 2 definition of Rural Land, Recreation fits best under the group “(1) non-urban agricultural, forest or open space lands; or ...”.**

**Page 29 of the Comprehensive Plan Volume 1 Part 1 states, “A recreational designation is proposed for established recreation areas and other lands with special recreational potential, where no conflict with agricultural lands goal exists.”**

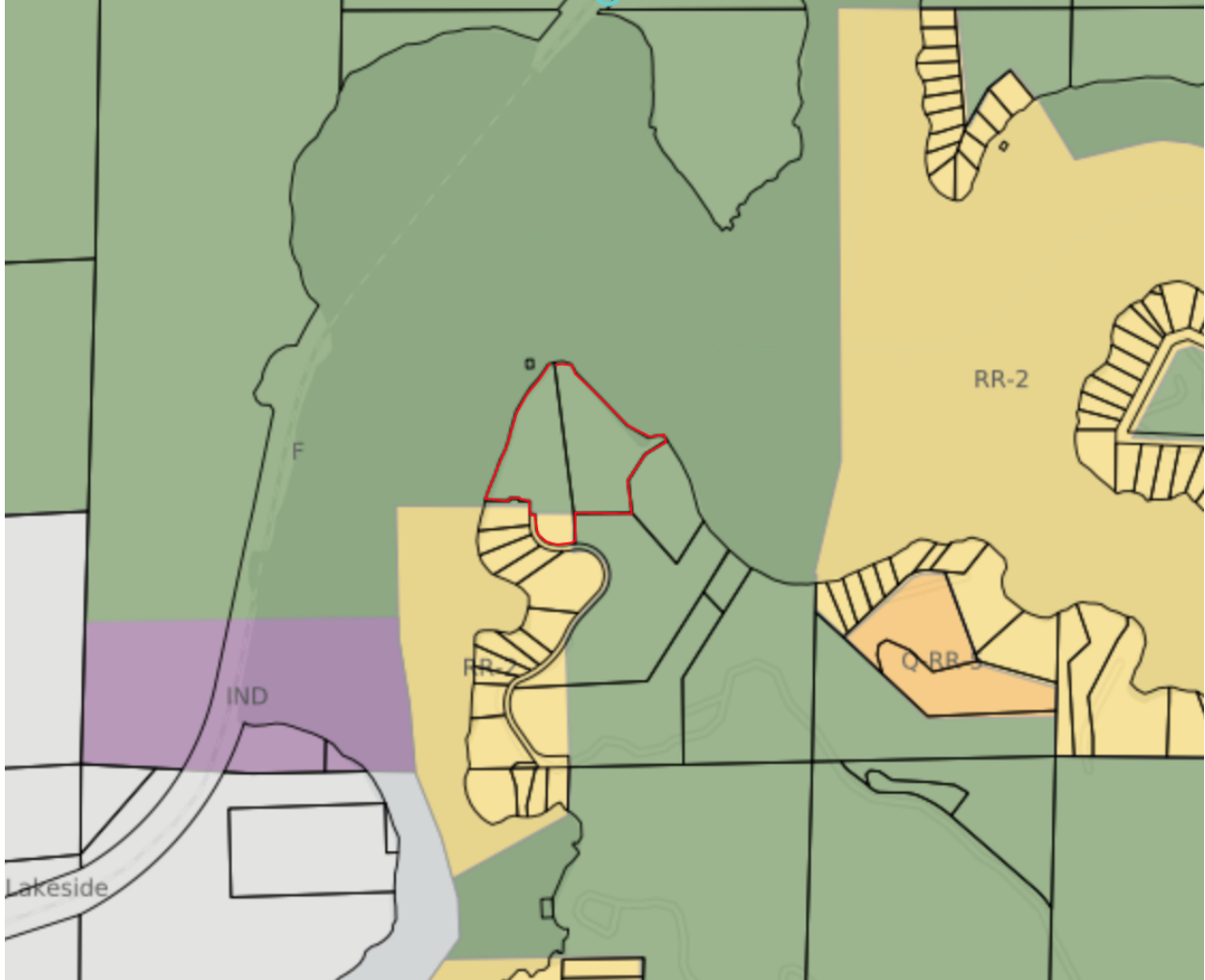
**The applicant will address why the subject properties do not meet the definition of Goal 3 or 4 below. The subject properties are capable of producing a commercial tree species,**

however there is concern that only a limited area is considered operable on the subject properties. Based on the Oregon Department of Forestry land use planning notes, the applicants wish to point out that the subject properties may be too dangerous for commercial forest harvesting and would be better suited for open space. The applicants are not arguing the subject properties are non resource lands, just under a different aspect of rural lands.

The applicant did reach out to adjacent neighbors about leasing the subject property for farming and forestry practices. Candice Dickstein, who is located at 72304 Potlach Rd, indicated through electronic mail on April 14, 2022, that she had no interest in leasing the subject properties for forestry or farming practices.

The applicant asserts the changing of the zoning designation from Forest to Recreation will not change a resource zone to non resource zone. There is Goal 17 Coastal Shorelands Boundary applied to the subject properties. Goal 17 is defined as resource lands under OAR 660-004-0010 (1)(f). Secondly, the overall land use pattern will be better suitable with the zone change. There are no large (greater than 80 acres) Forest zone parcels near the subject property. There are smaller 2 to 4 acre Rural Residential zoned parcels located southwest of the subject properties.





**The applicant is not requesting a zone change to non-resource lands, so tax deferral status is considered irrelevant. When combined, the subject properties are over 10 acres in size. The subject properties also touch RR-2 zone lands, as shown on the zoning map. The subject properties are not being requested to be a non-resource district.**

**Oregon Administrative Rules**

**Goal 4 Forest Lands**

**Rule 660-006-0000**

**Purpose**

(1) The purpose of this division is to conserve forest lands as defined by Goal 4 and to define standards for compliance with implementing statutes at ORS 215.700 (Resource land dwelling policy) through 215.799 (Location of dwellings on wildlife habitat land).

(2) To accomplish the purpose of conserving forest lands, the governing body shall:

- (a) Designate forest lands on the comprehensive plan map as forest lands consistent with Goal 4 and OAR chapter 660, division 6;
  - (b) Zone forest lands for uses allowed pursuant to OAR chapter 660, division 6 on designated forest lands; and
  - (c) Adopt plan policies consistent with OAR chapter 660, division 6.
- (3) This rule provides for a balance between the application of Goal 3 “Agricultural Lands” and Goal 4 “Forest Lands,” because of the extent of lands that may be designated as either agricultural or forest land.

### **Rule 660-006-0005**

#### **Definitions**

For the purpose of this division, the following definitions apply:

- (1) Definitions contained in ORS 197.015 (Definitions for ORS chapters 195, 196, 197 and ORS 197A.300 to 197A.325) and the Statewide Planning Goals.
- (2) “Commercial Tree Species” means trees recognized for commercial production under rules adopted by the State Board of Forestry pursuant to ORS 527.715 (Rules to establish standards and procedures).
- (3) “Cubic Foot Per Acre” means the average annual increase in cubic foot volume of wood fiber per acre for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.
- (4) “Cubic Foot Per Tract Per Year” means the average annual increase in cubic foot volume of wood fiber per tract for fully stocked stands at the culmination of mean annual increment as reported by the USDA Natural Resource Conservation Service (NRCS) soil survey.
- (5) “Date of Creation and Existence.” When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel, or tract.
- (6) “Eastern Oregon” means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.
- (7) “Forest lands” as defined in Goal 4 are those lands acknowledged as forest lands, or, in the case of a plan amendment, forest lands shall include:

- (a) Lands that are suitable for commercial forest uses, including adjacent or nearby lands which are necessary to permit forest operations or practices; and
- (b) Other forested lands that maintain soil, air, water and fish and wildlife resources.
- (8) “Forest Operation” means any commercial activity relating to the growing or harvesting or any forest tree species as defined in ORS 527.620 (Definitions for ORS 527.610 to 527.770)(6).
- (9) “Governing Body” means a city council, county board of commissioners, or county court or its designate, including planning director, hearings officer, planning commission or as provided by Oregon law.
- (10) “Lot” means a single unit of land that is created by a subdivision of land as provided in ORS 92.010 (Definitions for ORS 92.010 to 92.192).
- (11) “Parcel” means a single unit of land that is created by a partition of land and as further defined in ORS 215.010 (Definitions)(1).
- (12) “Primary processing of forest products” means the initial treatments of logs or other forest plant or fungi materials to prepare them for shipment for further processing or to market, including, but not limited to, debarking, peeling, drying, cleaning, sorting, chipping, grinding, sawing, shaping, notching, biofuels conversion, or other similar methods of initial treatments.
- (13) “Storage structures for emergency supplies” means structures to accommodate those goods, materials and equipment required to meet the essential and immediate needs of an affected population in a disaster. Such supplies include food, clothing, temporary shelter materials, durable medical goods and pharmaceuticals, electric generators, water purification gear, communication equipment, tools and other similar emergency supplies.
- (14) “Tract” means one or more contiguous lots or parcels in the same ownership as provided in ORS 215.010 (Definitions)(2).
- (15) “Western Oregon” means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

**Rule 660-006-0010**  
**Identifying Forest Land**

- (1) Governing bodies shall identify “forest lands” as defined by Goal 4 in the comprehensive plan. Lands inventoried as Goal 3 agricultural lands, lands for which an exception to Goal 4 is justified pursuant to ORS 197.732 (Goal exceptions) and taken,



and lands inside urban growth boundaries are not required to be planned and zoned as forest lands.

(2) Where a plan amendment is proposed:

(a) Lands suitable for commercial forest uses shall be identified using a mapping of average annual wood production capability by cubic foot per acre (cf/ac) as reported by the USDA Natural Resources Conservation Service. Where NRCS data are not available or are shown to be inaccurate, other site productivity data may be used to identify forest land, in the following order of priority:

(A) Oregon Department of Revenue western Oregon site class maps;

(B) USDA Forest Service plant association guides; or

(C) Other information determined by the State Forester to be of comparable quality.

(b) Where data of comparable quality under paragraphs (2)(a)(A) through (C) are not available or are shown to be inaccurate, an alternative method for determining productivity may be used as described in the Oregon Department of Forestry's Technical Bulletin entitled "Land Use Planning Notes, Number 3 April 1998, Updated for Clarity April 2010."

(c) Counties shall identify forest lands that maintain soil air, water and fish and wildlife resources.

**Applicant Response:** The subject properties are currently zoned Forest with Mixed Use overlay zone. Based on the NRCS soils report, the land is suitable for growing commercial species. However, based on the Anderson vs. Coos County, 62 Or LUBA 28 (2010), LUBA found that *"because OAR 660-006-0010 and 660-006-0005(2) require that local governments collect information about the cf/ac/year wood fiber productivity of land, it is appropriate to infer that the Land Conservation and Development Commission intended that that information actually be used in determining whether land qualifies as land that is suitable for commercial forest use. But it is not appropriate to infer that those rules require that only the required information may be considered in deciding whether land is suitable for commercial forest uses"*.

However, based on the size and location of the subject properties, the subject properties are not suitable for the management and harvesting of commercial tree species. The applicant submits that based on Oregon Department of Forestry Land Use Planning Note #2 that the subject property is not ideal, nor safe, for timber harvesting. Land Use Planning Note #2 relates to siting a dwelling on forest land, however, the reverse can be derived as well. Based on the County's adopted zoning map, the subject properties are adjacent to Rural Residential-2 zoning district. These properties are fully developed with existing residential

structures. The applicant also wishes to note the adjacent forest lands are also developed with dwellings. This land use note cites the standards for considering whether the forest land is to be considered harvestable using groundside or cable harvesting methods. The note cites 35% slope as the threshold. If over 35%, then cable harvesting would be the suitable method. If under 35%, then groundside harvesting methods would be used.

Based on the topographic map indicating the subject properties are over 35% in slope; it is to be assumed that the subject properties would be harvested using cable harvesting methods. The note also states the safe setback distance of dwellings to cable harvesting units is at least 500 ft. Considering there are RR-2 developed against the subject properties, it is safe to assume that the forest operator will need to reduce the harvest area to protect these dwellings. Additionally, there is not 500' clearance on either of the subject properties from slope to structures.

When factored in when the Oregon Forest Practices Act which requires half of the trees with a 100 ft riparian management area to left. The applicant is attaching the County's Coastal Shoreland Boundary overlay map, since this zone is 100 ft wide on Tenmile Lake. This dramatically reduces the amount of land available for commercial forest uses on the subject properties.

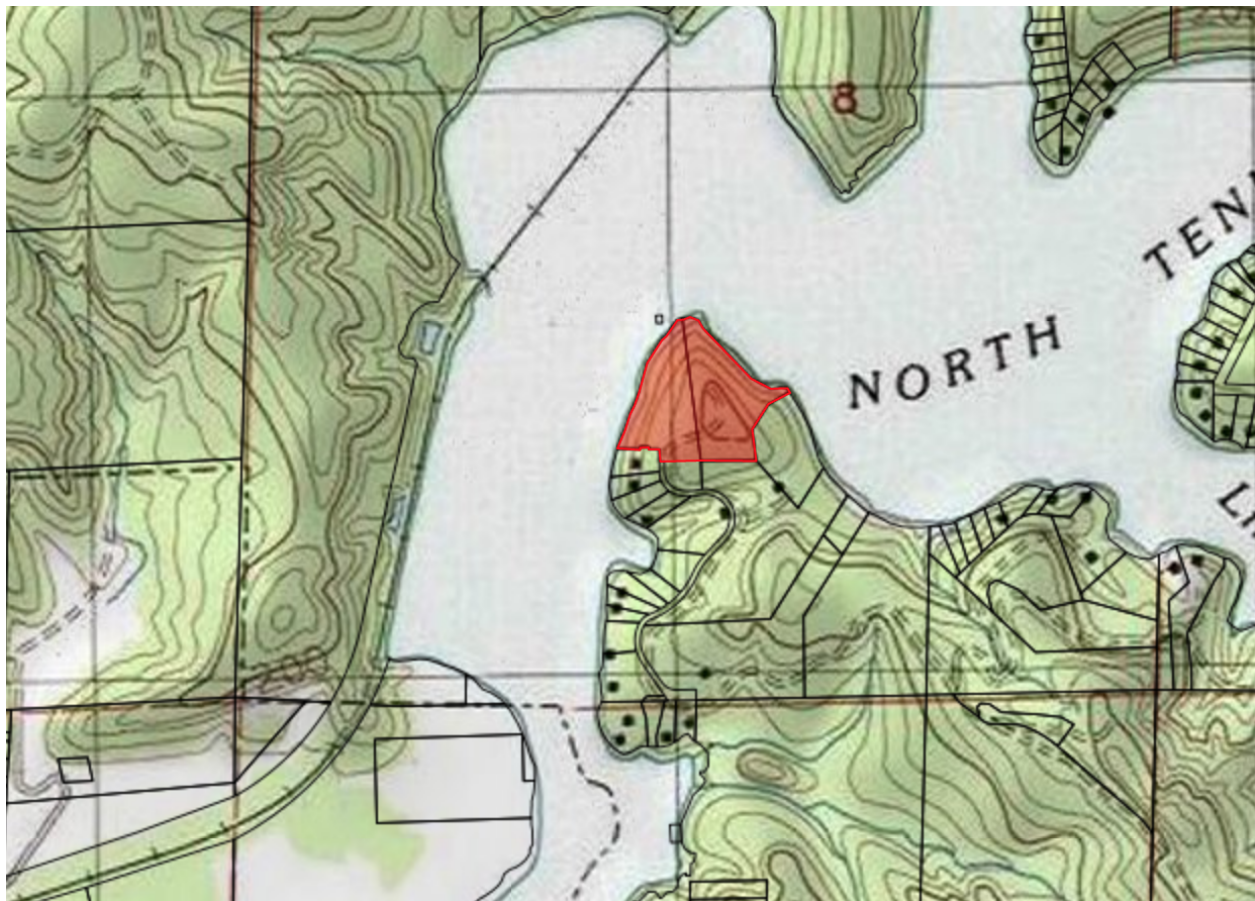
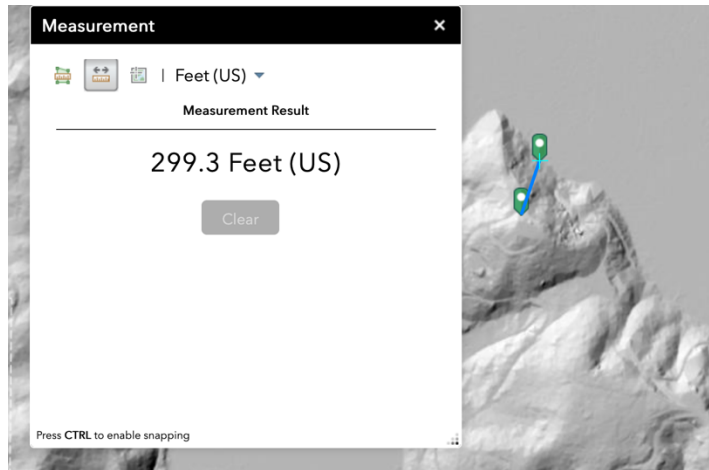
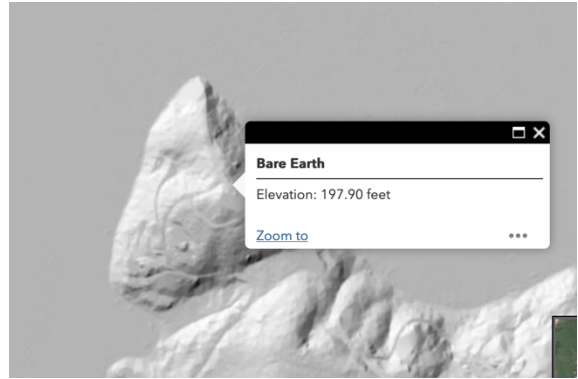
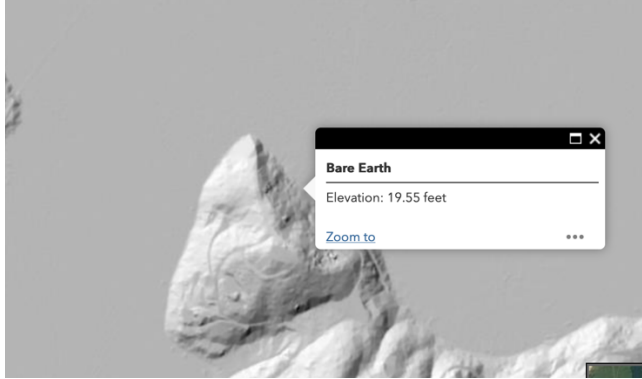


Figure 1: Topographic Map of Subject Properties



**There is approximately 180 feet in elevation change over 300 feet distance on the subject properties. This relates to approximately 60 feet change in elevation of 100 feet distance.**

**60 feet rise / 100 feet run = 60% approximate slope on the subject property.**

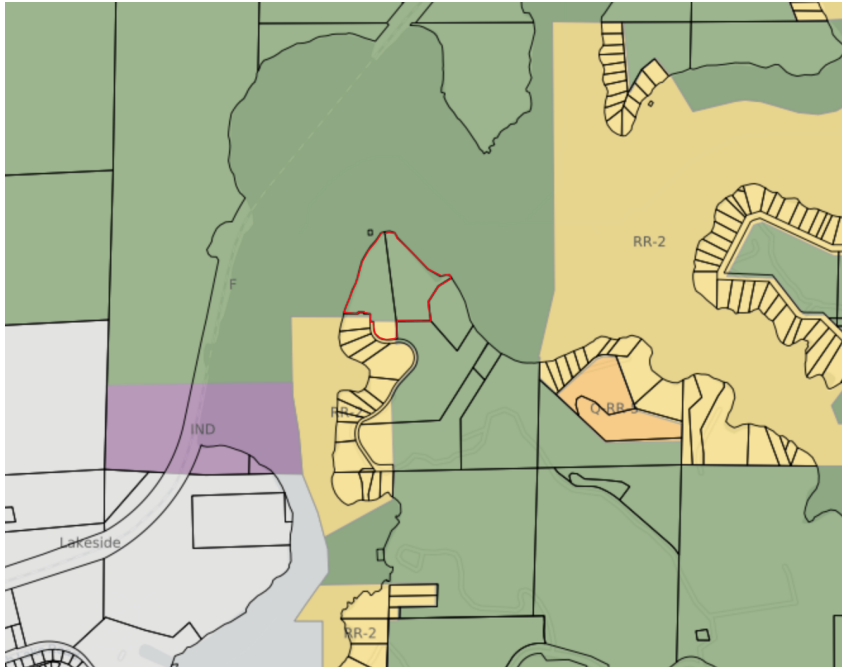


Figure 2: Zoning Map of Subject Properties



Figure 3: Aerial Imagery of Subject Properties

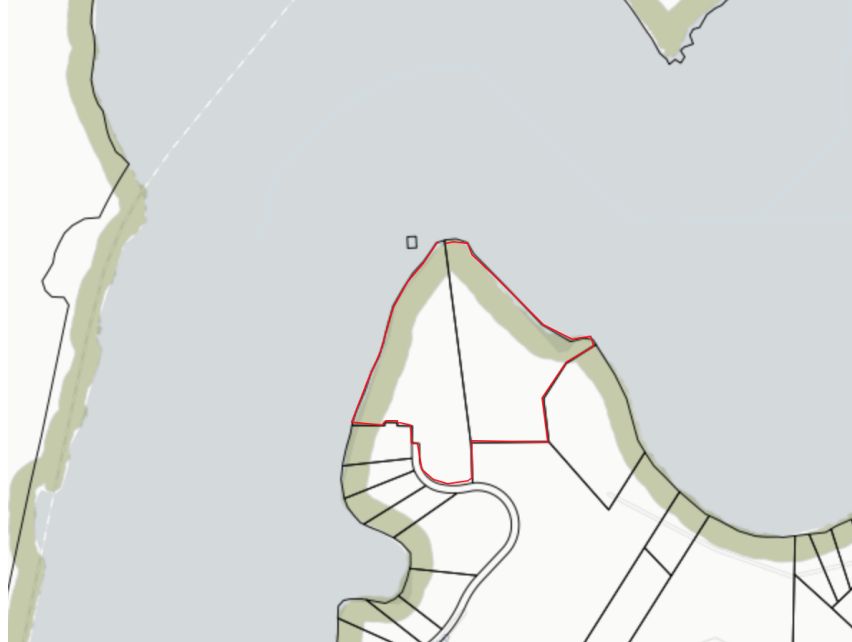


Figure 4: Coastal Shoreland Boundary zone of Subject Properties

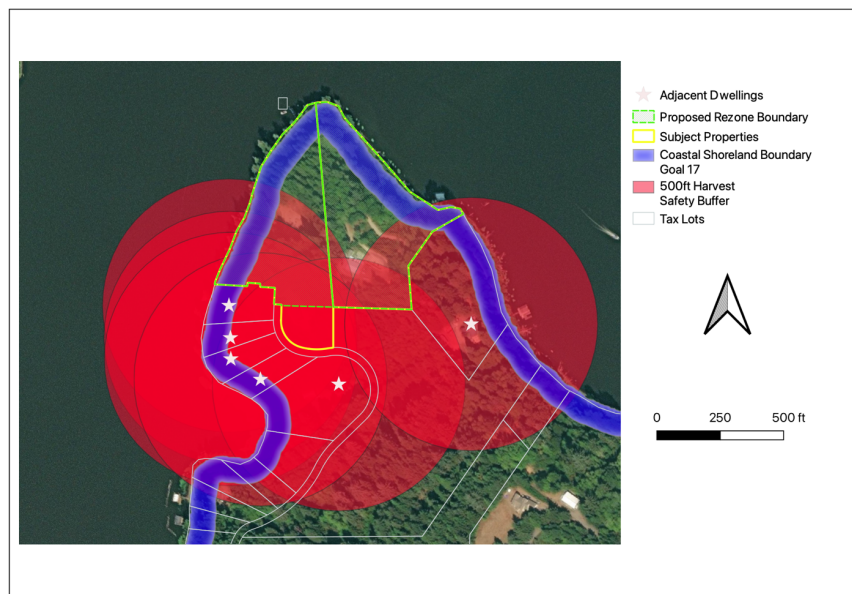


Figure 5: Proposed Harvest Impact with Safety Zone

**Therefore, the applicant is requesting that Coos County rezone the subject properties from Forest with Mixed Use overlay (Resource Zone) to Recreation (Open Space and Natural Resource Zone). The Coos County Zoning and Land Development Ordinances (CCZLDO) states “the purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the “F” zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses”. While the CCZLDO states that “the**

*purpose of the “REC” district is to accommodate recreational uses of areas with high recreational or open space value”.*

**This will allow for better utilization of the subject property given the resource constraints of this specific area.**

### **Goal 3 Agricultural Land**

#### **Rule 660-033-0010**

##### **Purpose**

The purpose of this division is to preserve and maintain agricultural lands as defined by Goal 3 for farm use, and to implement ORS 215.203 (Zoning ordinances establishing exclusive farm use zones) through 215.327 (Divisions of marginal land) and 215.438 (Transmission towers) through 215.459 (Private campground in forest zones and mixed farm and forest zones) and 215.700 (Resource land dwelling policy) through 215.799 (Location of dwellings on wildlife habitat land).

#### **Rule 660-033-0020**

##### **Definitions**

For purposes of this division, the definitions in ORS 197.015 (Definitions for ORS chapters 195, 196, 197 and ORS 197A.300 to 197A.325), the Statewide Planning Goals, and OAR chapter 660 shall apply. In addition, the following definitions shall apply:

(1)

(a) “Agricultural Land” as defined in Goal 3 includes:

(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203 (Zoning ordinances establishing exclusive farm use zones)(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

(b) Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

(c) “Agricultural Land” does not include land within acknowledged urban growth boundaries or land within acknowledged exception areas for Goal 3 or 4.

(2)

(a) “Commercial Agricultural Enterprise” consists of farm operations that will:

(A) Contribute in a substantial way to the area’s existing agricultural economy; and

(B) Help maintain agricultural processors and established farm markets.

(b) When determining whether a farm is part of the commercial agricultural enterprise, not only what is produced, but how much and how it is marketed shall be considered. These are important factors because of the intent of Goal 3 to maintain the agricultural economy of the state.

(3) “Contiguous” means connected in such a manner as to form a single block of land.

(4) “Date of Creation and Existence”. When a lot, parcel or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot, parcel or tract.

(5) “Eastern Oregon” means that portion of the state lying east of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(6) “Exception Area” means an area no longer subject to the requirements of Goal 3 or 4 because the area is the subject of a site specific exception acknowledged pursuant to ORS 197.732 (Goal exceptions) and OAR chapter 660, division 4.

(7)

(a) “Farm Use” as that term is used in ORS chapter 215 and this division means “farm use” as defined in ORS 215.203 (Zoning ordinances establishing exclusive farm use zones).

(b) As used in the definition of “farm use” in ORS 215.203 (Zoning ordinances establishing exclusive farm use zones) and in this division:

(A) “Preparation” of products or by-products includes but is not limited to the cleaning, treatment, sorting, or packaging of the products or by-products; and

(B) “Products or by-products raised on such land” means that those products or by-products are raised on the farm operation where the

preparation occurs or on other farm land provided the preparation is occurring only on land being used for the primary purpose of obtaining a profit in money from the farm use of the land.

(8)

(a) “High-Value Farmland” means land in a tract composed predominantly of soils that are:

(A) Irrigated and classified prime, unique, Class I or II; or

(B) Not irrigated and classified prime, unique, Class I or II.

(b) In addition to that land described in subsection (a) of this section, high-value farmland, if outside the Willamette Valley, includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the U.S. Department of Agriculture taken prior to November 4, 1993. “Specified perennials” means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees, or vineyards, but not including seed crops, hay, pasture or alfalfa;

(c) In addition to that land described in subsection (a) of this section, high-value farmland, if in the Willamette Valley, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Bellpine, Bornstedt, Burlington, Briedwell, Carlton, Cascade, Chehalem, Cornelius Variant, Cornelius and Kinton, Helvetia, Hillsboro, Hult, Jory, Kinton, Latourell, Laurelwood, Melbourne, Multnomah, Nekia, Powell, Price, Quatama, Salkum, Santiam, Saum, Sawtell, Silverton, Veneta, Willakenzie, Woodburn and Yamhill;

(B) Subclassification IIIw, specifically, Concord, Conser, Cornelius Variant, Dayton (thick surface) and Sifton (occasionally flooded);

(C) Subclassification IVe, specifically, Bellpine Silty Clay Loam, Carlton, Cornelius, Jory, Kinton, Latourell, Laurelwood, Powell, Quatama, Springwater, Willakenzie and Yamhill; and

(D) Subclassification IVw, specifically, Awbrig, Bashaw, Courtney, Dayton, Natroy, Noti and Whiteson.

(d) In addition to that land described in subsection (a) of this section, high-value farmland, if west of the summit of the Coast Range and used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of



the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIe, specifically, Astoria, Hembre, Knappa, Meda, Quillayutte and Winema;

(B) Subclassification IIIw, specifically, Brenner and Chitwood;

(C) Subclassification IVe, specifically, Astoria, Hembre, Meda, Nehalem, Neskowin and Winema; and

(D) Subclassification IVw, specifically, Coquille.

(e) In addition to that land described in subsection (a) of this section, high-value farmland includes tracts located west of U.S. Highway 101 composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in subsection (a) of this section and the following soils:

(A) Subclassification IIIw, specifically, Ettersburg Silt Loam and Crofland Silty Clay Loam;

(B) Subclassification IIIe, specifically, Klooqueh Silty Clay Loam and Winchuck Silt Loam; and

(C) Subclassification IVw, specifically, Huffling Silty Clay Loam.

(f) Lands designated as “marginal lands” according to the marginal lands provisions adopted before January 1, 1993, and according to the criteria in former ORS 215.247 (Transport of biosolids to tract of land for application) (1991), are excepted from this definition of “high-value farmlands”;

(9) “Irrigated” means watered by artificial or controlled means, such as sprinklers, furrows, ditches, or spreader dikes. An area or tract is “irrigated” if it is currently watered, or has established rights to use water for irrigation, including such tracts that receive water for irrigation from a water or irrigation district or other provider. For the purposes of this division, an area or tract within a water or irrigation district that was once irrigated shall continue to be considered “irrigated” even if the irrigation water was removed or transferred to another tract.

(10) “Lot” shall have the meaning set forth in ORS 92.010 (Definitions for ORS 92.010 to 92.192).

(11) “Manufactured dwelling” and “manufactured home” shall have the meaning set forth in ORS 446.003 (Definitions for ORS 446.003 to 446.200 and 446.225 to 446.285 and ORS chapters 195, 196, 197, 215 and 227)(26).

(12) “NRCS Web Soil Survey” means the official source of certified soils data available online that identifies agricultural land capability classes, developed and maintained by the Natural Resources Conservation Service as of January 1, 2016, for agricultural soils that are not high-value, and as of December 6, 2007, for high-value agricultural soils.

(13) “Parcel” shall have the meaning set forth in ORS 215.010 (Definitions).

(14) “Tract” means one or more contiguous lots or parcels under the same ownership.

(15) “Western Oregon” means that portion of the state lying west of a line beginning at the intersection of the northern boundary of the State of Oregon and the western boundary of Wasco County, then south along the western boundaries of the Counties of Wasco, Jefferson, Deschutes and Klamath to the southern boundary of the State of Oregon.

(16) “Willamette Valley” is Clackamas, Linn, Marion, Multnomah, Polk, Washington and Yamhill Counties and that portion of Benton and Lane Counties lying east of the summit of the Coast Range.

### **Rule 660-033-0030**

#### **Identifying Agricultural Land**

(1) All land defined as “agricultural land” in OAR 660-033-0020 (Definitions)(1) shall be inventoried as agricultural land.

(2) When a jurisdiction determines the predominant soil capability classification of a lot or parcel it need only look to the land within the lot or parcel being inventoried. However, whether land is “suitable for farm use” requires an inquiry into factors beyond the mere identification of scientific soil classifications. The factors are listed in the definition of agricultural land set forth at OAR 660-033-0020 (Definitions)(1)(a)(B). This inquiry requires the consideration of conditions existing outside the lot or parcel being inventoried. Even if a lot or parcel is not predominantly Class I-IV soils or suitable for farm use, Goal 3 nonetheless defines as agricultural “Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands.” A determination that a lot or parcel is not agricultural land requires findings supported by substantial evidence that addresses each of the factors set forth in 660-033-0020 (Definitions)(1).

(3) Goal 3 attaches no significance to the ownership of a lot or parcel when determining whether it is agricultural land. Nearby or adjacent land, regardless of ownership, shall be examined to the extent that a lot or parcel is either “suitable for farm use” or “necessary

to permit farm practices to be undertaken on adjacent or nearby lands” outside the lot or parcel.

(4) When inventoried land satisfies the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

(5)

(a) More detailed data on soil capability than is contained in the USDA Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land. However, the more detailed soils data shall be related to the NRCS land capability classification system.

(b) If a person concludes that more detailed soils information than that contained in the Web Soil Survey operated by the NRCS, would assist a county to make a better determination of whether land qualifies as agricultural land, the person must request that the department arrange for an assessment of the capability of the land by a professional soil classifier who is chosen by the person, using the process described in OAR 660-033-0045 (Soils Assessments by Professional Soil Classifiers).

(c) This section and OAR 660-033-0045 (Soils Assessments by Professional Soil Classifiers) apply to:

(A) A change to the designation of a lot or parcel planned and zoned for exclusive farm use, forest use or mixed farm-forest use to a non-resource plan designation and zone on the basis that such land is not agricultural land; and

(B) Excepting land use decisions under section (7) of this rule, any other proposed land use decision in which more detailed data is used to demonstrate that a lot or parcel planned and zoned for exclusive farm use does not meet the definition of agricultural land under OAR 660-033-0020 (Definitions)(1)(a)(A).

(d) This section and OAR 660-033-0045 (Soils Assessments by Professional Soil Classifiers) implement ORS 215.211 (Agricultural land), effective on October 1, 2011. After this date, only those soils assessments certified by the department under section (9) of this rule may be considered by local governments in land use proceedings described in subsection (c) of this section. However, a local government may consider soils assessments that have been completed and submitted prior to October 1, 2011.

(e) This section and OAR 660-033-0045 (Soils Assessments by Professional Soil Classifiers) authorize a person to obtain additional information for use in the

determination of whether a lot or parcel qualifies as agricultural land, but do not otherwise affect the process by which a county determines whether land qualifies as agricultural land as defined by Goal 3 and OAR 660-033-0020 (Definitions).

(6) Any county that adopted marginal lands provisions before January 1, 1993, may continue to designate lands as “marginal lands” according to those provisions and criteria in former ORS 197.247 (1991), as long as the county has not applied the provisions of ORS 215.705 (Dwellings in farm or forest zone) to 215.750 (Alternative forestland dwelling) to lands zoned for exclusive farm use.

(7)

(a) For the purposes of approving a land use application on high-value farmland under ORS 215.705 (Dwellings in farm or forest zone), the county may change the soil class, soil rating or other soil designation of a specific lot or parcel if the property owner:

(A) Submits a statement of agreement from the NRCS that the soil class, soil rating or other soil designation should be adjusted based on new information; or

(B) Submits a report from a soils scientist whose credentials are acceptable to the Oregon Department of Agriculture that the soil class, soil rating or other soil designation should be changed; and

(C) Submits a statement from the Oregon Department of Agriculture that the Director of Agriculture or the director’s designee has reviewed the report described in paragraph (a)(B) of this section and finds the analysis in the report to be soundly and scientifically based.

(b) Soil classes, soil ratings or other soil designations used in or made pursuant to this section are those of the NRCS Web Soil Survey for that class, rating or designation, except for changes made pursuant to subsection (a) of this section.

(8) For the purposes of approving a land use application on high-value farmland under OAR 660-033-0090 (Uses on High-Value and Non High-Value Farmland), 660-033-0120 (Uses Authorized on Agricultural Lands), 660-033-0130 (Minimum Standards Applicable to the Schedule of Permitted and Conditional Uses) and 660-033-0135 (Dwellings in Conjunction with Farm Use), soil classes, soil ratings or other soil designations used in or made pursuant to this definition are those of the NRCS Web Soil Survey for that class, rating or designation.

**Rule 660-033-0080**  
**Designation of High-Value Farmland**

(1) The commission may review comprehensive plan and land use regulations related to the identification and designation of high-value farmland under procedures set forth in ORS 197.251 (Compliance acknowledgment) or 197.628 (Periodic review) through 197.644 (Modification of work program).

(2) Counties shall submit maps of high-value farmland described in OAR 660-033-0020 (Definitions)(8) and such amendments of their plans and land use regulations as are necessary to implement the requirements of this division to the commission for review. Counties shall submit high-value farmland maps no later than the time of the first periodic review after December 31, 1994. The submittal shall include the notice required by OAR chapter 660, division 18 or 25, whichever applies.

**Applicant Response: Based on reviews of aerial imagery, there is no farm use or commercial agricultural enterprise on the subject properties or nearby lands. The subject properties and nearby lands are treed, however, they are considered unsuitable for commercial forest uses.**



*Figure 6: Aerial Imagery of Subject Properties*

**The NRCS soil survey identifies prime farmland using the online web survey. A custom report was acquired for the subject properties. The report indicated that no prime farmland is on the subject properties.**

Custom Soil Resource Report

Prime and other Important Farmlands—Coos County, Oregon		
Map Symbol	Map Unit Name	Farmland Classification
39F	Millicoma-Templeton complex, 50 to 75 percent slopes	Not prime farmland
52D	Salander silt loam, 2 to 30 percent slopes	Not prime farmland
52E	Salander silt loam, 30 to 50 percent slopes	Not prime farmland
W	Water	Not prime farmland

Figure 7: Custom Soil Report - Prime Farmlands

While this provides valuable data regarding NRCS soils and the subject properties availability to be farmed. The County’s Comprehensive Plan also provides guidance for agricultural uses throughout Coos County. The County’s Agricultural Lands – Inventory and Assessment is found in Volume 1 – Part 2 (Page 23).

The Comprehensive Plan identifies farming practices as raising, harvesting and selling crops or by feeding, breeding, management and sale of, or the produce of livestock, poultry, fur-bearing animals or honey bees or for dairying and the sale of dairy products or any other agricultural or horticultural use for husbandry or any combination thereof.

While this provides a plethora of farm uses, there are only limited types of farming in Coos County. The first is cranberry farming; this is limited commercially to the Bandon area. There are no row crops such as corn or wheat that are farmed in Coos County. Ranching, both sheep and cattle, is widespread throughout Coos County. While those markets greatly fluctuate depending on the nationwide markets. There are many multi-generational ranching operations still located throughout Coos County. However, these ranching operations tend to be sited on bottom lands. These ranching operations tend not to utilize steep terrain or lands directly next to rural residential lands. Any steeper lands being used for upland grazing have already been classified as EFU lands. These lands tended to have less suitable soils for commercial tree production and were originally mapped using aerial photos during the development of the Comprehensive Plan.

Based on the NRCS soil report, the soils are best suitable for timber production and wildlife habitat. There is additional response above in Goal 4 regarding why the land is not suitable strictly under Goal 4 and better protect as open space providing wildlife habitat that remains consistent with Goal 5.

**Interpretation of Goal 2 Excepting Process**

**660-004-0005**

**Definitions**

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

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

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with ORS 197.732(2), the provisions of this division and, if applicable, the provisions of OAR 660- 011-0060, 660-012-0070, 660-014-0030 or 660-014-0040.

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

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

**Applicant Response: The subject properties have been adopted into the County's Goal 17 inventory, which will not be changed by this rezone application. While Goal 8 lands are often considered to be non resource lands throughout Oregon. Coos County has adopted recreation zoned lands as open space resource lands. These properties will continue as resource land considered under Goal 17. Therefore, these subject properties do not require any goal exceptions.**

#### **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 non forest uses allowed in a forest or mixed farm/forest zone under OAR chapter 660, division 6, "Forest Lands";

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

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

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

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

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

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

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

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

(C) When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is



not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals;

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

(e) Goal 16 "Estuarine Resources"; (f) Goal 17 "Coastal Shorelands"; and (g) Goal 18 "Beaches and Dunes."

**Applicant Response: The subject properties are not zoned Exclusive Farm Use (EFU) under the County's existing zoning designation. There are responses above of why the subject properties are not under Goal 3.**

The subject properties are considered Forest lands based on the definition of Goal 4 forestlands. Goal 4 mandates that *"forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources"*. As described extensively above, the subject properties are not suitable for commercial forest uses. The County's Zoning and Land Development Ordinance Section 4.2.400 definition description for the Recreation zoning district states that *"The type and intensity of recreational developments in this district must be conditioned by environmental considerations set forth in the County's Coastal Shoreland/Dune Lands Comprehensive Plan policies where such developments are allowed in these coastal resource areas"*.

The applicant acknowledges that the subject property is under Goal 17. Goal 17 shorelands provide for protection of soil, water, and wildlife habitat values. It is also noteworthy to mention that under Volume 1 Part 1, 5.10 Dunes, and Ocean and Coastal Lakes Shorelands. Plan Implementation Strategies 7 states that *"Coos County shall manage its rural areas within the "Coastal Shorelands Boundary" of the ocean, coastal lakes, and minor estuaries through implementing ordinance measures that allow the following uses: IV. aquaculture;"*.

The applicant is not asking for a Goal 14 exception. An example of a Goal 14 exception would be requesting a Commercial or Industrial zoning district. The request is for a rezone to Recreation, which is an 'open space' resource designation under Coos County Zoning and Land Development Ordinance. Oregon Administrative Rules (OAR) treats Goal 8 as a non-resource zoning district; however, Coos County appears to have adopted a stricter definition than the State of Oregon.

Goal 16 is an important Statewide land use goal. However, the subject properties are located at least 5 air miles away from the Coos Bay Estuary Management Plan.

**The subject property is located closer to Goal 18 lands. But those lands are located closer to Hwy 101 which is at least 1.5 miles from the subject properties.**

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

- (a) Goal 5 "Natural Resources, Scenic and Historic Areas, and Open Spaces";
- (b) Goal 6 "Air, Water, and Land Resources Quality";
- (c) Goal 7 "Areas Subject to Natural Hazards";
- (d) Goal 8 "Recreational Needs";
- (e) Goal 9 "Economic Development";
- (f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception Pursuant to ORS 197.303(3)";
- (g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";
- (h) Goal 13 "Energy Conservation";
- (i) Goal 15 "Willamette River Greenway" except as provided for in OAR 660-004-0022(6); and (j) Goal 19 "Ocean Resources."

**Applicant Response: The applicant is not asking for Goal exceptions to Goal 5, Goal 6, Goal 7, Goal 8, Goal 9, Goal 10, Goal 12, Goal 13, or Goal 15.**

**Goal 5 is implemented through 5.7 Historical, Cultural, and Archeological Resources, Natural Areas and Wilderness; and the applicant is not requesting any overlay map changes.**

**Goal 6 is implemented through 5.12 Air, Land, & Water Quality; this Goal implements Coos County's solid waste plans. The proposal is a rezone to Recreation lands, there are no Goal 6 implementation strategies with this proposal.**

**Goal 7 is implemented through 5.11 Natural Hazards, and the applicant is not requesting any overlay map changes.**

**Goal 8 is not exactly implemented solely in Coos County as non-resource lands. Recreation is implemented in Coos County as a combination of resources with allowed non-resource**

levels of development on them. Coos County implements recreation thru 5.20 Recreation. The plan implementation strategies include “(5) *structuring implementing ordinance measures to permit a variety of small-scale recreational developments*”. The applicant’s proposal is to rezone Forest to Recreation lands, which is a resource to resource zone change.

Goal 9 is implemented through 5.16 Industrial & Commercial Lands, and the applicant is not requesting a zone change into Industrial or Commercial zoning district. The applicant is requesting a zone change from Forest to Recreation. This is resource to resource zone change, so there is not a reason for Goal 9 exception.

Goal 10 is implemented through 5.17 Housing. While housing is allowed in multiple zoning districts. This goal relates a little more to Rural Residential zoned lands. The applicant is requesting a zone change from Forest to Recreation. This is resource to resource zone change, so there is not a reason for Goal 10 exception.

Goal 11 is implemented through 5.19 Transportation. Other than implementation strategies involving the local airport, most of the County’s strategies for implementing Goal 11 is through road standards. The applicant is requesting a resource to resource rezone on the subject property. Any proposed development or change in use will have to meet County road standards during the approval process.

Goal 13 is implemented through 5.21 Energy. This goal implements actual energy production at significant levels, such as gas production, coal mining, or biomass co-gen. The applicant does not believe any of these elements would be allowed in the rezone. The subject properties are rather small. Even if the applicant places future solar panels on any existing or new buildings. This would be far short of the objectives of Goal 13.

Goal 15 is the Willamette Greenway. This proposal is in Coos County. Therefore, this Goal is not applicable.

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

**Applicant Response:** The proposal is a resource to resource rezone under the Coos County Comprehensive Plan. There is no request for a Goal exception, but rather that the subject properties are better as a Recreation zoning district than Forest (Goal 4) or Exclusive Farm Use (Goal 3).

**660-004-0018**  
**Planning and Zoning for Exception Areas**

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

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

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

(b) That meet the following requirements:

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

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

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

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

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

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

660-014-0030 or 660-014-0040 or 660- 014-0090 with regard to urban development on rural land.

(4) "Reasons" Exceptions:

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

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

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

**Applicant Response: The applicant understands the proposed rezone from Forest to Recreation zoning district will comply with this rule. Coos County Zoning and Land Development Ordinance has classified the Recreation zoning district as “open space”. The definition of Rural Land in Coos County classifies “non-urban agricultural, forest or open space lands” as rural resource lands, while rural non-resource lands as classified as “other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use”. Therefore, the applicant is not requesting an exception.**

**660-004-0020**

**Goal 2, Part II(c), Exception Requirements**

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on non resource land that would not require an exception, including increasing the density of uses on non resource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to non resource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more

reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

(c) "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." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site 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. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) For the expansion of an unincorporated community described under OAR 660-022-0010, including an urban unincorporated community pursuant to OAR 660-022-0040(2), the reasons exception requirements necessary to address standards 2 through 4 of Goal 2, Part II(c), as described in of subsections (2)(b), (c) and (d) of this rule, are modified to also include the following:

(a) Prioritize land for expansion: First priority goes to exceptional lands in proximity to an unincorporated community boundary. Second priority goes to land designated as marginal land. Third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority is given to land of lower capability site class for agricultural land, or lower cubic foot site class for forest land; and

(b) Land of lower priority described in subsection (a) of this section may be included if land of higher priority is inadequate to accommodate the use for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land;

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land uses with the unincorporated community requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

**Applicant Response: The applicant is not requesting an exception to any of these requirements.**

#### **660-004-0022**

#### **Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)**

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014- 0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040. Reasons that may justify the establishment of temporary natural disaster related housing on undeveloped rural lands are provided in OAR 660-014-0090.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are



not limited to the following: There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either:

(a) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(b) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

(3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:

(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;

(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or

(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision.

(4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10) the requirements of subsections (a) through (c) of this section apply:

(a) Appropriate reasons and facts may include findings that there is a demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:

(A) The use requires a location near a resource located on rural land; or

(B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including:

(i) For industrial use, it would have a significant comparative advantage due to its location such as, for example, that it must be near a rural energy facility, or near products available from other activities only in the surrounding area, or that it is reliant on an existing work force in an existing unincorporated community;

(ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or urban growth boundary, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions.

(b) The findings of need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and urban growth boundaries in the area. For purposes of this subsection, “area” includes those communities, exception areas, and urban growth boundaries that may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors.

(c) Expansion of the unincorporated community boundary requires a demonstrated ability to serve both the expanded area and any remaining infill development potential in the community, at the time of development, with the level of facilities determined to be appropriate for the existing unincorporated community.

(5) Expansion of Urban Unincorporated Communities: In addition to the requirements of section (4) of this rule, the expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.

(6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses that are neither water-dependent nor water-related within the setback line required by section C.3.k of Goal 15 may be approved where reasons demonstrate the following:

- (a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;
- (b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;
- (c) The use will provide a significant public benefit; and
- (d) The use is consistent with the legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by the commission under ORS 390.322.

(7) Goal 16 — Water-Dependent Development: To allow water-dependent industrial, commercial, or recreational uses that require an exception in development and conservation estuaries, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period, considering the following:

- (a) Goal 9 or, for recreational uses, the Goal 8 Recreation Planning provisions;
- (b) The generally predicted level of market demand for the proposed use;
- (c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements;
- (d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use; and
- (e) The economic analysis must be based on the Goal 9 element of the County Comprehensive Plan and must consider and respond to all economic needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the type of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.

(8) Goal 16 – Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water-dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS chapter 196, in any of the circumstances specified in subsections (a) through (e) of this section:

(a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material, including adjacent upland soils or stockpiling of material from approved dredging projects, cannot reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;

(b) Dredging to maintain adequate depth to permit continuation of the present level of navigation in the area to be dredged;

(c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel;

(d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;

(e) Dredge or fill or other alteration for expansion of an existing public non-water-dependent use or a non-substantial fill for a private non-water-dependent use (as provided for in ORS 196.825) where:

(A) A Countywide Economic Analysis based on Goal 9 demonstrates that additional land is required to accommodate the proposed use;

(B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and

(C) The size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.

(f) In each of the situations set forth in subsections (a) to (e) of this section, the exception must demonstrate that the proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner that minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

(9) Goal 17 — Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas consistent with subsections (a) through (e) of this section, where applicable:

(a) For purposes of this section, “Coastal Shoreland Areas” include:

(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites;

(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and shorelands in unincorporated communities pursuant to OAR chapter 660, division 22 (Unincorporated Communities) that are suitable for water-dependent uses;

(C) Designated dredged material disposal sites; and

(D) Designated mitigation sites.

(b) To allow a use that is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule, the exception must demonstrate:

(A) A need, based on Goal 9, for additional land to accommodate the proposed use;

(B) Why the proposed use or activity needs to be located on the protected site, considering the unique characteristics of the use or the site that require use of the protected site; and

(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and, where applicable, consistent with protection of natural values.

(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area.

(d) Uses that would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible and be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site.

(e) Exceptions to designate and protect, for water-dependent uses, an amount of shorelands less than that amount required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate that:

(A) Based on the Recreation Planning requirements of Goal 8 and the requirements of Goal 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary

and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority, if any, and be consistent with the Goal 8 Recreation Planning elements and Goal 9 elements of the comprehensive plans of those jurisdictions; and

(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.

(10) Goal 18 — Foredune Breaching: A foredune may be breached when the exception demonstrates that an existing dwelling located on the foredune is experiencing sand inundation and the sand grading or removal:

- (a) Does not remove any sand below the grade of the dwelling;
- (b) Is limited to the immediate area in which the dwelling is located;
- (c) Retains all graded or removed sand within the dune system by placing it on the beach in front of the dwelling; and
- (d) Is consistent with the requirements of Goal 18 “Beaches and Dunes” Implementation Requirement 1.

(11) Goal 18 — Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", Implementation Requirement. Reasons that justify why this state policy embodied in Goal 18 should not apply shall demonstrate that:

- (a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or the use is of minimal value;
- (b) The use is designed to minimize adverse environmental effects; and
- (c) The exceptions requirements of OAR 660-004-0020 are met.

**Applicant Response: The applicant is not requesting an exception under Goal 2. There are no Goal 11 transportation components of the requested rezone. The applicant is not requesting any urban development, rural residential development, rural industrial, UUC, and the Willamette Greenway is not within Coos County. The subject properties are located on north Tenmile lake, which has no Goal 16 resources. The closest Goal 16 resources are under the Coos Bay Estuary Management Plan zoning. The nearest Goal 18 resources are a couple miles west of the subject properties.**

**There are protected Goal 17 resources on the subject properties. However, Coos County implements Goal 17 as an overlay zone. The request is to change the underlying zone**

**district from Forest to Recreation zoning district. There is no requested amendment or zone change to the Goal 17 overlay zone.**

#### **660-004-0025**

##### **Exception Requirements for Land Physically Developed to Other Uses**

(1) A local government may adopt an exception to a goal when 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. Other rules may also apply, as described in OAR 660-004-0000(1).

(2) Whether land has been physically developed with uses not allowed by an applicable goal will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

**Applicant Response: The applicant is not requesting a goal exception.**

#### **660-004-0028**

##### **Exception Requirements for Land Irrevocably Committed to Other Uses**

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

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.

(c) An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

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

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

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

- (a) Farm use as defined in ORS 215.203;
- (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and
- (c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

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

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

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

- (a) Existing adjacent uses;
- (b) Existing public facilities and services (water and sewer lines, etc.);
- (c) Parcel size and ownership patterns of the exception area and adjacent lands:



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

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

(d) Neighborhood and regional characteristics;

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

(f) Physical development according to OAR 660-004-0025; and (g) Other relevant factors.

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

**Applicant Response: The applicant is not requesting a commitment exception. The request is for zone change from Forest to Recreation, which is resource to resource zone change.**