



# Oregon

Theodore R. Kubongski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

[www.lcd.state.or.us](http://www.lcd.state.or.us)



## NOTICE OF ADOPTED AMENDMENT

01/30/2009

TO: Subscribers to Notice of Adopted Plan  
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clatsop County Plan Amendment  
DLCD File Number 001-09

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

### Appeal Procedures\*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Tuesday, February 17, 2009

This amendment was not submitted to DLCD for review prior to adoption Pursuant to OAR 660-18-060, the Director or any person is eligible to appeal this action to LUBA under ORS 197.830 to 197.845.

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Planning Director, Clatsop County  
Doug White, DLCD Community Services Specialist

<paa>

Notice of Adoption

In person  electronic  mailed

DATE STAMP



THIS FORM MUST BE MAILED TO DLCD WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION

PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

Jurisdiction: Clatsop County

Local file number: 2009010028, 20080386 & 7

Date of Adoption: 1/23/2009

Date Mailed: 1/26/2009

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? Yes Date: 6/27/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: Exception to Goals 4 & 14

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached". Changes the Zoning on two parcels approximately 5 acres in size designated Forest Lands (80 acre minimums) adjacent to Cannon Beach, to Residential Agriculture 2 (2 acre minimums)

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: Conservation Forest

to: Rural Lands

Zone Map Changed from: Forest 80

to: Residential Agriculture 2

Location: T5N, R10W,

Acres Involved: 5

Specify Density: Previous: 80 acres

New: 2 acres

Applicable statewide planning goals:

- 1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD file No. 001-09 (NOA)

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Clatsop County, Cannon Beach, ODF, DLCD, ODFW, Cannon Beach RFPD

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Local Contact: **Michael Weston**

Phone: (503) 325-8611 Extension: 1702

Address: **800 Exchange Street, Suite 100**

Fax Number: 503-338-3666

City: **Astoria**

Zip: **97103-**

E-mail Address: **mweston@co.clatsop.or.us**

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## **ADOPTION SUBMITTAL REQUIREMENTS**

This form **must be mailed** to DLCD **within 5 working days after the final decision**  
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:  

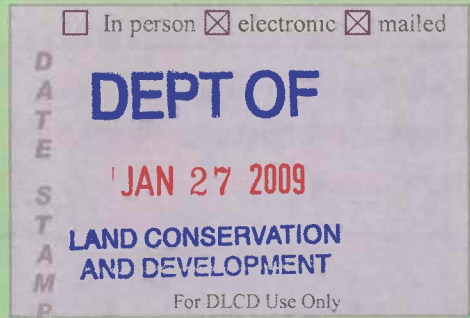
**ATTENTION: PLAN AMENDMENT SPECIALIST**  
**DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT**  
**635 CAPITOL STREET NE, SUITE 150**  
**SALEM, OREGON 97301-2540**
2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: [webserver.lcd.state.or.us](http://webserver.lcd.state.or.us). To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us).
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to [mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us) - ATTENTION: PLAN AMENDMENT SPECIALIST.

FORM 2

DLCD

# Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Clatsop County**

Local file number: **2009010028, 20080386-8-7**

Date of Adoption: **1/23/2009**

Date Mailed: **1/26/2009** 397-9

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 6/27/2008

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment            |
| <input type="checkbox"/> Land Use Regulation Amendment                | <input checked="" type="checkbox"/> Zoning Map Amendment                        |
| <input type="checkbox"/> New Land Use Regulation                      | <input checked="" type="checkbox"/> Other: <b>Exception to Goals 4 &amp; 14</b> |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".  
Changes the Zoning on two parcels approximately 5 acres in size designated Forest Lands (80 acre minimums) adjacent to Cannon Beach, to Residential Agriculture 2 (2 acre minimums)

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **Conservation Forest** to: **Rural Lands**  
 Zone Map Changed from: **Forest 80** to: **Residential Agriculture 2**  
 Location: **T5N, R10W,** Acres Involved: **5**  
 Specify Density: Previous: **80 acres** New: **2 acres**

Applicable statewide planning goals:

- |                                     |                                     |                          |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                                     |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                 | <b>4</b>                            | <b>5</b>                            | <b>6</b>                            | <b>7</b>                            | <b>8</b>                            | <b>9</b>                            | <b>10</b>                           | <b>11</b>                           | <b>12</b>                           | <b>13</b>                           | <b>14</b>                           | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

- |  |   |                             |
|--|---|-----------------------------|
| 45-days prior to first evidentiary hearing?                    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If no, do the statewide planning goals apply?                  | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| If no, did Emergency Circumstances require immediate adoption? | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |

DLCD file No. 001-09(NOA) (003-08) (17043) [15417]

Please list all affected State or Federal Agencies, Local Governments or Special Districts:  
 Clatsop County, Cannon Beach, ODF, DLCD, ODFW, Cannon Beach RFPD

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per ORS 197.610, OAR Chapter 660 - Division 18.

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**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **[webserver.lcd.state.or.us](http://webserver.lcd.state.or.us)**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **[mara.ulloa@state.or.us](mailto:mara.ulloa@state.or.us)**.
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BEFORE THE BOARD OF COMMISSIONERS

In The Matter of

AN ORDINANCE AMENDING THE CLATSOP COUNTY COMPREHENSIVE PLAN / ZONING MAP AND ADOPTING A GOAL EXCEPTION TO STATEWIDE PLANNING GOALS 4 & 14

ORDINANCE # 08-10

DOC # 2009010028  
Date of Mailing: Jan. 26, 2009

Transportation and Development Services  
800 Exchange Street  
Suite 100  
Astoria, Oregon 97103

TO: All persons who participated in the proceedings leading to the final decision in the above captioned matter.

Pursuant to ORS 197.615(2)(a) and ORS 215, notice is hereby given by mail to all persons who participated in the proceedings culminating in the Clatsop County Board of Commissioners' final decision made at a public meeting held January 14, 2009, to adopt an Ordinance Amending the Clatsop County Comprehensive Plan Zoning Map and Text and associated Goal Exceptions.

The Board of Commissioners' action occurred at its meeting of January 14, 2009 and the Board of Commissioners signed the ORDINANCE, adopting the "Findings of Fact and Conclusions of Law" on the 23<sup>rd</sup> day of January, 2009.

The Ordinance together with the "Findings of Fact and Conclusions of Law" adopted thereby may be reviewed during normal business hours at the Clatsop County Department of Community Development, which is located at 800 Exchange Street, Suite 100, Astoria, Oregon; in addition a scanned version of this Ordinance and accompanying Findings will be made available on the County's Land Use Web Page<sup>1</sup> (\*\*See Footnote for Web Address\*\*). This office is open from 8:00 a.m. to 5:00 p.m., Monday through Friday.

The requirements for appeal of this decision are set forth in ORS 197.830 to 197.845. In general, the requirements for appeal require a "Notice of Intent to Appeal" the decision, to be filed with the Oregon Land Use Board of Appeals, in Salem, Oregon. The Notice of Intent to Appeal the Decision shall be so filed no later than 21 days after the date the decision sought to be reviewed became final with this, January 26, 2009 Mailed Notice. There are specific and detailed requirements for the filing of the Notice of Appeal, which are set forth at ORS 197.830 to 197.845. Any party wishing to appeal this action is advised to seek qualified legal assistance.

Dated this 26<sup>th</sup>, day of January 2009.

Sincerely

Michael Weston, Planner  
Department of Transportation & Development Services,  
Clatsop County

Land Use Planning  
Telephone (503) 325-8611  
Fax (503) 338-3666

www.co.clatsop.or.us

<sup>1</sup> <http://www.co.clatsop.or.us/default.asp?pageid=616&deptid=12>

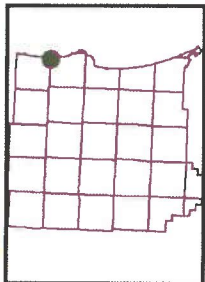


Proposed Access Way

Owners:

Anderson Vernon P/Jill  
Covington Graham Lee/Laurie

- PLS
- PLS Townships
- Tax Lot Arrows
- Tax Map
- Creek
- Parcel Boundary
- Supplemental Boundary
- Road R-O-W



11/21/2008



This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county, to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.



**BEFORE THE PLANNING COMMISSION  
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE AMENDING THE  
CLATSOP COUNTY COMPREHENSIVE  
PLAN / ZONING MAP AND ADOPTING  
EXCEPTIONS TO GOALS 4 & 14



RESOLUTION AND ORDER

# 080908

Recording Date: September 29, 2008

**ORDINANCE #08-10**

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**RECITALS**

THE ABOVE ENTITLED MATTER came before the Planning Commission at its meeting of September 9th, of the year 2008, for public hearing and consideration of a Comprehensive Plan / Zoning Map Amendment and Goal Exceptions to Statewide Planning Goals 4 & 14.

The Planning Commission after reviewing the findings of fact in Exhibit "A" (*Staff Report*) has determined the proposed zone change is consistent with the criteria as depicted in Clatsop County's Land Water Development and Use Ordinance Section 5.412, and where appropriate an exception has been taken to Statewide Planning Goals 4 & 14 in accordance with the exception criteria defined in OAR Chapter 660 Division 4.

THE PLANNING COMMISSION considering all evidence and public testimony provided by the Planning Department Staff and the Applicant at the public hearing, hereby **RECOMMEND THE APPROVAL** OF THE PROPOSED REQUEST FOR COMPREHENSIVE PLAN / ZONING MAP AMENDMENT AS DESCRIBED IN EXHIBIT "A" *Staff Report*, attached hereto and by this reference made part hereof.

**WHEREFORE, the Planning Commission finds and resolves:**

1. To recommend the Board modify Clatsop County's Comprehensive Plan / Zoning map to reflect the change from the Forest 80 zone to Residential Agriculture 2 zone as depicted on Map 1 attached to this document.
2. To amend the Goal 4 element of Clatsop County's Comprehensive plan to reflect the change as shown on Map 1.



3. To amend the Goal 14 element of Clatsop County's Comprehensive plan to reflect the change as shown on Map 1.

SO ORDERED this 29<sup>th</sup> day of September 2008

THE PLANNING COMMISSION FOR  
CLATSOP COUNTY

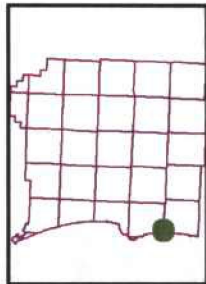


Cary Johnson, Chairman Clatsop County  
Planning Commission

# Clatsop County Map

## MAP 1 ZONE CHANGE

- National Wetlands Inv.
- PLS
- PLS Townships
- Tax Lot Arrows
- Tax Lots Multi
- Tax Map
- Creek
- Parcel Boundary
- Supplemental Boundary
- Road R-Q-W
- Tax Map Boundaries
- Tsunami (County)
- Zoning
- CITY
- F-80
- RA-2
- UGB



4/18/2008













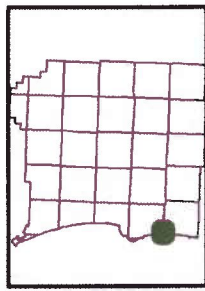
1 in. = 497 ft.

This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

# Clatsop County Map

## MAP 2 GEO-HAZARDS

-  Geological Hazards
-  PLS
-  PLS Townships
-  Subdivision
-  Tax Lot Arrows
-  Water Body
-  Creek
-  Parcel Boundary
-  Supplemental Boundary
-  3-4
-  Road R-O-W



8/21/2008



1 in. = 845 ft.

This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

## Clatsop County

Transportation & Development Services  
Land Use Planning Division  
800 Exchange Street, Suite 100  
Astoria, OR 97103

ph: 503-325-8611  
fx: 503-338-3666  
em: [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us)  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)



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### Staff Report

**OWNER:** Pete & Lynn Anderson, Graham & Lori Covington  
Pete Anderson, et. al.  
2596 SW Arden Rd.  
Portland, OR 97103

**APPLICANT:** Mike Morgan  
PO Box 132  
Cannon Beach, OR 97201

**REQUEST:** The Applicants request a zone change from Forest 80 to Residential Agriculture-2 Zone, and a Goal Exception to Statewide Planning Goals 4 & 14.

**PROPERTY:** Twp. 5N, Rng. 10W, Sec. 34B, Tax Lots 4400 & 4500

**SIZE:** 5 acres

**LOCATION:** The subject property is located less than ½ a mile to the southeast of the Tolovana State Park exit from highway 101 and east of East Chinook Avenue, located in the Haystack Heights subdivision in Cannon Beach.

**ZONING:** Forest 80 (F-80)

**STAFF RECOMMENDATION:** **Conditionally Approve the applicant's request.**

**EXHIBITS:**

- 1: Comments
- 2: Public Notices
- 3: Zone Change Application Materials
- 4: Goal Exception Application Materials
- 5: OAR 660 Div 4
- 6: ORS 197.732

#### I. BACKGROUND

On June 27, 2008 Mike Morgan, on behalf of Pete & Lynn Anderson, and Graham & Lori Covington, submitted to the Clatsop County Transportation and Development Department applications for a comprehensive plan / zoning map amendment and an associated goal exception for 5-acres of land located east of Hwy 101 and behind Haystack Heights Subdivision (See maps below). The applicant proposes changing the property's zoning from Forest-80, [80 acre minimum] to Residential Agriculture-2 [two-acre minimum lot size]. The applicant also seeks an exception to Statewide Planning Goals 4 (Forestry) & 14 (Urbanization) pursuant to Oregon Administrative Rule (OAR) Chapter 660 Division 4 and Oregon Revised Statute (ORS) 197.732.

#### II. PROPERTY STATUS AND CONDITIONS

##### Lot of Record Status

The subject property is comprised of two contiguous parcels described as T5N, R10W, TL 4400 & 4500. The parcels were created prior to the conception of Clatsop County's Zoning Ordinance and in separate ownership at the time the Forest 80 zoning was adopted. A lot of Record determination was submitted verifying the status of the two lots. The determination was issued in September of 1999, declaring both lots as separate lots of record.

### III. SUMMARY OF STAFF CONCLUSIONS

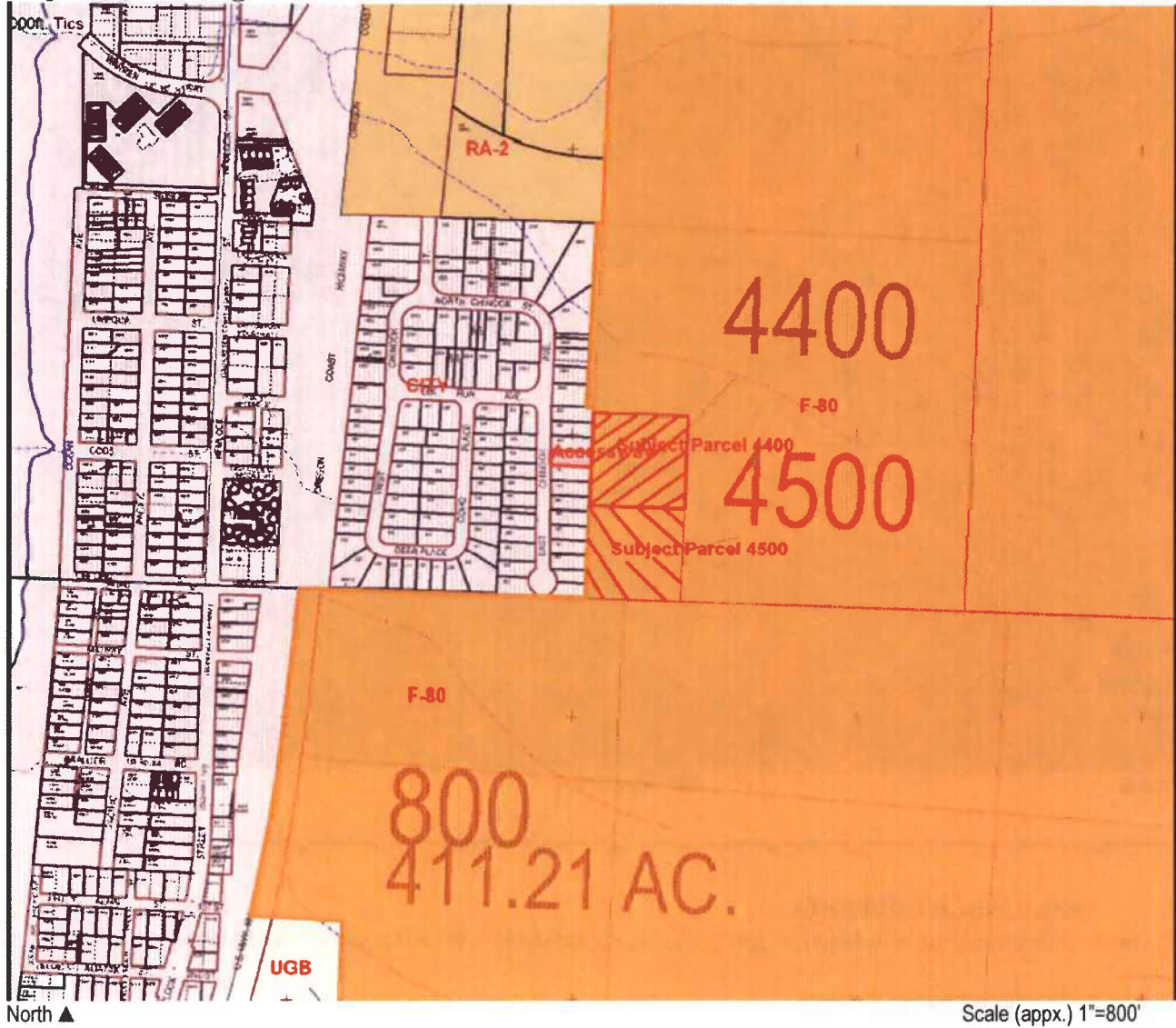
This report is lengthy and complex. It contains a variety of staff analyses and findings, maps, technical information, policies, approval criteria, and many exhibits. The following table lists the main criteria that apply to the request, a summary of staff's conclusions pertaining to each criterion, and a reference to the page numbers of this report where the pertinent staff analysis can be found.

<b>Criterion</b>	<b>Conclusions</b>	<b>Page(s)</b>
Zone Change Criterion No. 1 – Consistency with Comprehensive Plan	Satisfied.	5-25
Goal 1 Element – Citizen Involvement	Satisfied.	5
Goal 2 Element – Land Use Planning	Satisfied	5-8
Goal 3 Elements – Agriculture Lands	Satisfied	8
Goal 4 Elements – Forest Lands	Satisfied. With Conditions of Approval.	9-12
Goal 5 Element – Open Spaces, Scenic, Historic & Natural Resources	Satisfied. With Condition of Approval.	12
Goal 6 Element – Air, Water & Land	Satisfied	12-13
Goal 7 Element – Natural Hazards	Satisfied.	14
Goal 8 Element - Recreation	Satisfied.	14
Goal 9 Element - Economy	Satisfied.	14
Goal 10 Element – Population and Housing	Satisfied.	14-19
Goal 11 Element – Public Facilities	Shall be satisfied by complying with LWDUO 80-14 .	19-20
Goal 12 Element - Transportation	Satisfied.	20
Goal 13 Element - Energy	Satisfied.	20
Goal 14 Element - Urbanization	Satisfied.	20
Goal 16 & 17 Elements – Shorelands	Satisfied.	21
Goal 18 Element – Beach and Dunes	Satisfied.	21
Southwest Community Plan Element	Satisfied	21-21
Zone Change Criterion No. 2 – Consistency with Statewide Plan Goals	Satisfied. Refer to Goal 5 element for a relevant condition of approval.	21
Zone Change Criterion No. 3 – Adequacy of Public Facilities and Services	Shall be Satisfied before development can occur. Documentation needed on schools and water availability.	21
Zone Ch. Criterion No. 4 - Transportation	Satisfied.	22
Zone Ch. Criterion No. 5 - Compatibility	Satisfied with condition. See analyses for Goal 2, Goal 4, Goal 5 and Southwest Community Plan	22
Zone Ch. Criterion No. 6 - Suitability	Satisfied.	22
Zone Ch. Criterion No. 7 - Appropriate	Satisfied.	22
Zone Ch. Criterion No. 8 - Health/Welfare	Satisfied.	22
Goal Exception Criteria	Satisfied.	23-25

#### IV. NEIGHBORHOOD CONDITIONS

The neighborhood is comprised primarily of single-family residences on urban lots within the City limits of Cannon Beach. The area is characterized by dense forests and sloping hills with a ravine traversing the parcel in a southwesterly direction. Access to the parcel is provided through the ownership of an adjacent parcel located in the Haystack Heights Subdivision to the west. See aerial photograph ([Map 2. Neighborhood Conditions](#)) on following page.

**Map 1. Area Zoning**



## Map 2. Neighborhood Conditions



### V. APPLICABLE CRITERIA

The applicable criteria for this land use application is contained in LWDUO Section 5.412 which reads:

#### Section 5.412. Zone Change Criteria.

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:

- (1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
- (2) The proposed change is consistent with the statewide planning goals (ORS 197).
- (3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
  - (A) Parks, schools and recreational facilities
  - (B) Police and fire protection and emergency medical service
  - (C) Solid waste collection

- (D) Water and wastewater facilities
- (4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
  - (5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
  - (6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.
  - (7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.
  - (8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

Additional criteria relating to the applicant's request for Clatsop County to adopt an exception to Statewide Planning Goals 4 (Forestry) & 14 (Urbanization) are contained in Oregon Administrative Rule Chapter 660 Division 4 (attached; Exhibit 5) and Oregon Revised Statute 197.732 (attached; Exhibit 6).

## VI. EVALUATION OF APPLICATION

As part of its land use application (attached, Exhibit 3), the applicant evaluates the application against the applicable criteria of LWDUO § 5.412 and offers findings of fact for the county's consideration. In the following sections, staff examines the application versus the eight applicable criteria of LWDUO § 5.412 (1)-(8) and proposes findings of fact for the Planning Commission's review and consideration. Proposed findings pertaining to the Goal Exception aspect of this application begin on page 23 of this report.

### Zone Change Criterion No. 1: LWDUO §5.412(1) - Consistency with Comprehensive Plan

#### Comprehensive Plan, Goal 1 element – Citizen Involvement Analysis:

In its application (attached, Exhibit 3), the applicant explains that the procedures used by the county to review the land use application satisfy the applicable citizen involvement policies of the comprehensive plan. Staff concurs with the applicant and adds that all requirements pertaining to the public notices (LWDUO § 2.105 - § 2.125) for this land use matter have been met.

#### Finding of Fact:

Based on the analysis above, the application satisfies the applicable citizen involvement policies of the Goal 1 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 1 Element.

#### Comprehensive Plan, Goal 2 element – Land Use Planning Analysis:

The County's Comprehensive Plan implements Statewide Planning Goal 2, in addition Statewide Planning Goal 2 establishes the process for taking exceptions to Goals 4 and 14, which are required when processing this request. The exception to Goals 4 is necessary to change the zoning from F-80 and allow non-forest uses or change the comprehensive plan to "Rural Lands"(see below for "Rural Lands" description). The exception to Goal 14 is required in accordance with the new interpretations of the Goal 2 Exception Process as Amended by LCDC in January of 2008. The interpretation is contained in Exhibit 5 and stated for reference below.

*(i) For rural residential areas designated after the effective date of this rule (January 2008), the affected County shall either:*

- (A) Require that any new lot or parcel have an area of at least ten acres, or*
- (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."*

The following excerpts from the Goal 2 element of the comprehensive plan apply to this request:

#### 3. Conservation Forest Lands\*



Forestlands are those lands that are to be retained for the production of wood fiber and other forest uses.\*

In land use changes involving a change from Conservation Forest Lands or Rural Agricultural Lands to Rural Lands or Development designations an Exception to the Agricultural Lands or Forest Lands Goals must be taken.

In accordance with the requirements of the County's Comprehensive Plan the applicant is requesting a goal exception to Statewide Planning Goal 4; furthermore the applicant is requesting a Goal Exception to Statewide Planning Goal 14 in accordance with recent interpretations of the exception requirements as detailed above and in Statewide Planning Goal 2.

#### 6. Rural Lands

Rural Lands are those that are outside the urban growth boundary, outside of rural community boundaries, and are not agricultural lands or forestlands. Rural lands include lands suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

The site includes two parcels 2 ½ acres in size each is suitable for sparse settlement as described in the preceding paragraph.

#### Rural Lands in Clatsop County

A diversity of housing options ranging from high density urban environments to low density farm-forest home sites has been a recognized need in Clatsop County since the County's first Comprehensive Plan was adopted in 1969. While developing the present Comprehensive Plan, citizens and elected and appointed officials stressed the economic and cultural importance of providing for the demand for recreational and year round rural home sites.

Because of the rural character of the County along with its geographic proximity to the northern Willamette Valley population centers, there has been a steady demand for second homes and rural home sites located on small rural tracts (see Housing Element and Background Report). The demand for rural tracts is expected to continue. In order to continue to meet the demand for affordable rural home sites the County has looked to those which are "built upon and/or irrevocably committed" rural areas which generally have:

- (a) *Some level of public facilities and services, especially surfaced public roads, fire protection, and piped water;*
- (b) *A pattern of parcel sizes generally smaller than 15 acres;*
- (c) *Existing residential development at a density generally higher than 1 dwelling unit per 10 acres; and*
- (d) *Natural boundaries, such as creeks and roads, separating the exception area from adjacent resource lands.*

Areas generally falling under the above set of criteria are designated Rural Lands throughout the Comprehensive Plan. Rural Lands are those lands, which are outside the urban growth boundary and are not agricultural lands or forestlands. Rural Lands include lands suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services, and which are not suitable, necessary or intended for urban use. Most of these lands contain agricultural site class II-IV and forest site class FA-FD.

The site is surrounded on three sides by Weyerhaeuser property used for the primary purposes of forest operations. The 5 acres in question is held in separate ownership and is not large enough to provide an equitable return from forest operations. Furthermore topographic constraints on the subject property would limit development from extending beyond the natural borders established by the creek traversing the parcel along the eastern edge of 4400 and through the southeastern portion of parcel 4500. The site contains many of the characteristics of "Rural Lands" as described above.

The Coastal Shorelands Goal #17 requires that shorelands in rural areas other than those in major marshes, significant wildlife habitat areas etc. be used for appropriate:

- f. Subdivisions, major and minor partitions and other uses only upon a finding by the governing body of the county that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or unrealizable areas and are compatible with the objectives of this goal to protect riparian vegetation and wildlife habitat; and*
- g. A single family residence on existing lots, parcels or units of land when compatible with the objectives and implementation standards of this goal."*

These are areas of coastal shorelands which are "built upon or are irrevocably committed" to development and cannot be used for agricultural or forest use.

In developing the data base and criteria used to identify exception areas the County planning staff relied heavily on information provided by the six CACs, individual land owners, realtors and builders as well as the opinions of appointed and elected officials. Most of the information used to substantiate commitment of those lands was gathered over a 5-year period through the public hearings process, which resulted in the current Comprehensive Plan. In addition, the various needs of each sub area were examined and weighed against the goals. After completion of each sub area plan, each plan's specific goals and objectives and recommended land use allocations were compared against the County as a whole.

Generally, lands which fall under the general criteria enumerated in this Exception Process and Committed Lands Identification section are designated Rural throughout the Comprehensive Plan. Characteristically, these lands have scattered residences on parcel one-half to 15 acres in size and are clustered along roads throughout the unincorporated County.

The subject parcels are not identified as Coastal Shorelands and satisfy the general criteria for an exception under the Committed Lands criteria.

Designation of Rural Lands Policy:

Generally parcels less than 15 acres and that are "built upon or irrevocably committed" to a non-resource use is to be placed in a residential, industrial or commercial zone.

Residential

Residential densities are generally designated through the following additional criteria:

- a. *Where subdivisions or partitioning or both have occurred in a one-acre pattern of development the area will be placed in one of the one-acre zones;*
- b. *In areas with a development pattern of two to five acre parcels (some smaller and some larger), the areas will be placed in a two-acre zone;*
- c. *In areas adjacent to resource (forest, agriculture, wetlands, estuary areas) lands, or Camp Rilea, the areas will be placed in a five-acre zone;*
- d. *In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five-acre zone;*
- e. *In addition to criteria a through d, minimum lot sizes increase with increasing distance from the following areas:*
  1. *all urban growth boundaries*
  2. *Svensen center*
  3. *Knappa center*

Since approximately 90% of the total County land area is forest land, it is not surprising that most of the lands identified as Rural in the Plan contains forest land class FA-FC and/or agricultural site class soils II-IV (see Forestry and Agricultural Background Report).

Ideally the County's Comprehensive plan would call these sites to be designated as RA-5 in accordance with criteria "c" above; however the subject parcels only constitute 5 acres together, and they are both individual lots of record 2 1/2 acres in size. Furthermore the site abuts city limits with neighboring parcels as small as 5000 square feet in size. It is not logical to zone this area as RA-5, because the parcels would be substandard in size upon the inception of the Zone Change. Therefore staff agrees with the applicants findings provided on Page 5 of Exhibit 3.

Finding of Fact:

Based on the analyses above, the application is consistent with the applicable “Conservation Forest Lands” and “Rural Lands” policies of the Goal 2 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 2 Element.

Comprehensive Plan, Goal 3 element – Agricultural Lands

Staff concurs with the applicant’s assertions on page 5 of Exhibit 3 that the Goal 3 element of the comprehensive plan does not apply to this request.

Finding of Fact:

Based on the analysis above, the Goal 3 element of the Clatsop County Comprehensive Plan does not apply to the request. LWDUO § 5.412(1) – Goal 3.

Comprehensive Plan, Goal 4 element – Forest Lands

The land is currently designated Forest lands therefore the following elements of the Clatsop County’s Comprehensive plan apply to this request:

1. Forest lands shall be conserved for forest uses, including the production of trees and the processing of forest products, open space, buffers from noise, visual separation from conflicting uses, watershed protection, wildlife and fisheries habitat, soils protection from wind and water, maintenance of clean air and water, outdoor recreational activities compatible with these uses, and grazing land for livestock.

Applicant is requesting a goal exception to this criterion in order to process the zone change. Consistency with this criterion is irrelevant upon the adoption of the proposed Goal Exception.

2. Forest Lands shall be designated Conservation-Forest in the County's Comprehensive Plan. When considering a zone change to a forest zone, the Planning Commission or other reviewing body shall review the proposal against the acreage, management, and other approval criteria in County-wide Forest Lands Policies #19, #20 and #21.\*

The applicant is not proposing to rezone this property as AF-20 or F-38; furthermore the acreage of the site does not lend itself to the acreage requirements depicted in Policies 19, 20 & 21. The applicant is requesting to rezone the area to RA-2 and therefore this policy is not applicable to the request. Staff concurs with the applicant’s findings on Page 6 § (9) of Exhibit 3.

3. Forest practices on lands designated Conservation-Forest shall conform to the Oregon Forest Practices Act and Oregon Forest Practice Rules, as revised.

The applicant claims they will comply with the requirements of the Forest Practices Act as applicable to this situation. Staff finds no reason why this criterion cannot reasonable be satisfied.

4. Division of forestlands will be permitted only upon a finding that the proposed division meets the following criteria:
  - a. the proposed division will not diminish the potential for timber production, watershed protection and fish and wildlife habitat, and
  - b. the creation of new parcels will not materially alter the overall stability of the area's land use pattern.

Staff concurs with the applicant’s findings on Page 7 - Exhibit 3 § (11). The properties were previously partitioned and in separate ownership at the date of inception to the county’s comprehensive plan. A “Lot of Record Determination” was conducted in January of 1999 indicating the parcels are two independent “Lots of Record” substandard in size. Furthermore the applicant is not proposing to partition the property further nor will the proposed zone change permit the applicant to partition the property further.

5. The clustering of non-forest residences on forestlands may be permitted in the AF-20 and F-38 zones, subject to non-forest use siting standards. This non-forest development is permitted conditionally because, properly designed and sited, it does not result in the loss of forest lands nor does it diminish or interfere with forest uses.

Staff concurs with the applicant's findings this criterion is not applicable to this request.

6. The designation of new park and recreation areas (campgrounds, etc.) on forestlands shall require an assessment of public need for these facilities and their potential impact on adjacent forestlands. The productive capacity of the land shall be evaluated and considered when siting these developments. These developments, if allowed, shall be sited and designed so as not to preclude forest management wherever possible.

No Parks are proposed with this application; this criterion is not applicable.

7. The County will do the following in order to minimize conflicts between the use of forestland for elk habitat and for commercial timber production.
  - a. Wildlife refuges:

Existing wildlife refuges, which are owned/leased and managed by the Oregon Department of Fish and Wildlife (ODFW) or by the United States Fish and Wildlife Service (USFWS), shall be designated Conservation-Other Resource and zoned Open Space, Parks and Recreation (OPR).

Proposed wildlife management areas, which are managed, and either owned or leased by the Oregon Department of Fish and Wildlife (ODFW) located in areas designated Conservation Forest or in other lowland areas under any plan designation shall be reviewed by the County for compliance with the approval standards listed below. Such hearings shall be conducted according to a Type IV procedure at a time and place convenient to residents of the affected planning area. ODFW shall provide an evaluation of the economic, social, environmental and energy consequences of the proposal and\*\* information sufficient to support findings with respect to the following approval criteria:

1. Identification of the need for the proposed new wildlife management area. "Need" means specific problems or conflicts that will be resolved or specific ODFW objectives that will be achieved by establishing the proposed area.
2. Alternative lands and management actions available to the ODFW, and an analysis of why those alternatives or management actions will not resolve identified problems or achieve objectives.

No Wild Life refuges exist on the parcels nor are any proposed. "Not Applicable"

8. The State Fish and Wildlife Commission shall be officially requested to resolve the existing adverse impacts on forestland resulting from elk browse. The following measures are suggested:
  - revision of hunting laws.
  - reduce the elk population in Clatsop County to sustained management levels.
  - compensate landowners for damage to forest crops resulting from elk.
  - where appropriate, provide technical and financial assistance to forestland owners for the installation of fencing.

See Requirements Under § 9 below.

9. The County shall take the necessary action through the State Legislative Assembly to revise the laws governing the action of the State Fish and Wildlife Commission for the provision of acceptable methods of relief to property owners from damage due to elk.

**\*\*\* The following requirements will need to be met in order to assess compliance with this criterion. \*\*\***  
**These will be attached as a condition of approval to the request.**

**Riparian Setbacks:**

All riparian, greenbelt, and waterway setbacks shall be maintained. ODFW recommends the proposed development be designed around these setbacks (i.e. do not waive setbacks to allow development within).

*Stream-Road Crossings:*

*Any stream-road crossings (including utilities) are to comply with fish passage requirements. Laws regarding fish passage may be found in ORS 509.580 through 910, and in OAR 635, Division 412. ODFW shall approve in advance any instream structure (Ron Rehn 503 842-2741).*

**Wildlife Damage Exclusion:**

Wording to be included into a covenant to the deed of each lot:

*This property is in an area of known big game and furbearer animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.*

*This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife.*

**Sensitive Resources:**

No sensitive resources exist within 1 mile of the project area. (i.e. eagle nest, Heron rookery, etc.).

10. Forestry activities within watersheds in areas designated Conservation-Forest in the Comprehensive Plan will be conducted in accordance with the Oregon Forest Practices Act and the Oregon Forest Practice Rules, as revised. Additional protective measures negotiated between forest landowners and water users are encouraged.

No Forestry activities, with the exception of minor site development for a Single Family dwelling are proposed at this time. This policy is not applicable to the request. Staff concurs with analysis on page 9 of Exhibit 3.

11. The productive capacity of the land will be considered before land designated Conservation-Forest is changed to another plan designation. The impact of the proposed new use on adjacent lands shall also be evaluated and considered before such a plan change is made.

Staff Concurs with the applicants findings detailed on Page 10 of the Exhibit 3, in which the applicant states: ' the productive capacity of 5 acres is not suitable for commercial forestry operations. In addition the 20 vehicle trips per day do not pose any potential traffic problems. In order to alleviate any potential problems with surrounding forest operations the County is requiring the following statement be recorded with the Deed as a condition of approval:

"Purchaser recognizes that lands in the adjacent area may be managed for commercial forestry which include activities such as; logging, slash burning, other fire control, silvicultural site preparation, construction of forest roads, aerial and ground application of forest chemicals, and other silvicultural practices which often create noise, dust, visual impacts and other alterations of the forest environment. Purchaser acknowledges that adjacent land owners have the right to conduct such commercial forest management activities which are regulated by state forest practice rules and regulations, and will not attempt to impose additional restrictions on these activities."

12. Off-road vehicles (ORVs) shall be strictly confined to established rock roads in order to prevent erosion, stream degradation, damage to young trees and seedlings, and disturbance of wildlife and its habitat.

No off road activities are planned for the subject site. This policy is not applicable to the request.

13. Existing utility right-of-ways shall be utilized to the maximum extent possible before new right-of-ways are created.

The applicants propose to use an access created through an adjoining parcel owned by the applicants and abutting East Chinook Street. No new utility right of ways are proposed. Upon application for a Single Family dwelling on the sites, the applicant will be responsible for ensuring that an approved access to the properties is obtained through the County's public works department

14. Roads in forest areas shall be limited to the minimum width necessary for traffic management and safety.

Upon the satisfactory completion of a Goal Exception and Zone change the applicants will be required to meet applicable County Standards for developing an access road to the proposed home sites; however at this time no road is proposed.

15. Forest landowners shall be encouraged to actively pursue methods of complete utilization of wood fiber left on the ground after harvesting.

No Harvesting of Forest products is proposed except that necessary for the development of two home sites. Regardless Staff concurs with the applicant this is not an applicable criteria for this proposal.

16. Where forestlands of suitable management size occur in the interior of rural residential areas, or are completely surrounded by residential development, small woodland management and farming is encouraged. Over time these areas may be needed for housing and in future comprehensive plan updates shall be considered ideally situated for conversion to residential uses prior to conversion of other forestlands.

The subject property is not suitable for forest management as detailed previously. The parcel is also adjacent to the city limits of Cannon Beach. The policy is not applicable to this request.

17. Expansion of existing non-forest developments and uses in forest zones may be permitted under a Type II procedure only when such expansion is substantially confined to the existing site.

The proposal does not include the expansion of an existing non-forest development. This policy is not applicable to this request.

18. Partitioning of forest lands under the provisions of Clatsop County's forest zones which serve to increase forest management efficiency by allowing one or more forest owners to consolidate their land holdings is encouraged.

The applicant is not proposing to partition nor consolidate their holdings. Therefore the criterion is not applicable to this request.

19. Clatsop County will rely on the following acreage criteria when reviewing a proposed zone change to a forest zone:

AF-20: Lands in the AF-20 zone shall be comprised predominantly of ownerships smaller than 40 acres. Ownerships 40 acres and larger may also be placed in an AF-20 zone if they are generally surrounded by ownerships smaller than 40 acres.

F-38: Lands in the F-38 zone shall be comprised predominantly of ownerships smaller than 76 acres. Ownerships 76 acres and larger may also be placed in an F-38 zone if they are generally surrounded by ownerships smaller than 76 acres.

F-80: Lands in the F-80 zone shall be comprised predominantly of ownerships 76 acres and larger.\*

This proposal involves a zone change to Residential Agriculture-2 zone which is not designated a forest zone; therefore the provisions of this policy are not applicable to the request.

20. Clatsop County will rely on the following management criteria when reviewing a proposed zone change to a forest zone:

AF-20 and F-38: Lands in these forest zones are characterized by both agricultural and forestland uses. Management of these lands is often done on a low-intensity, part-time basis.

F-80: Forestlands in the F-80 zone include areas where timber production is the primary land use. These lands are often intensively managed by full time professional foresters.\*

Not applicable - See 21 Below

21. A zone change from the F-80 zone to any other zone, including the AF-20 or F-38 zone, shall require a plan amendment. The purpose for such a plan change is to assure that primary forest lands in the F-80 zone are not converted to mixed use forest lands in the F-38 or AF-20 zones, or to any other plan designation without appropriate review by the County.\*

The applicant is proposing to rezone the area RA-2, Rural Lands from F-80 Conservation Forest Lands. The site meets the general requirements as described under the Goal 2 requirement for "Rural Lands," The site does not meet nor can it satisfy the intention of the Forest 80 Zone, due in part to the small nature of the parcels. At only five acres these lands are not suitable for commercial harvesting and are better suited as rural residential home sites. Furthermore these lands are owned in separate ownership than the much larger surrounding forestry tracks owned by Weyerhaeuser. These Parcels are not conducive nor could they support a full time professional forester. Therefore Staff finds that the parcels are irrevocably committed to rural residential and satisfy the criteria for a zone change to reflect the suitability of these sites for that intent and purpose.

22. Partitioning of land in the AF-20 zone and F-38 zone shall be approved only upon a finding that such newly created parcels shall be used only for forest uses. This policy does not apply to the small lots resulting from a cluster partition.\*

The applicant is not proposing to partition the property to smaller lots at this time; furthermore under the RA-2 zoning it is not feasible for the applicant to drop below the 2-acre minimum unless they were successfully incorporated into the City Limits of Cannon Beach. Cannon Beach may at some point in the future designate this area as a potential expansion site to their urban growth boundary; however that is not a part of this proposal and hence is irrelevant to this request.

23. In land use changes involving a change from Conservation-Forest Lands or Rural Agricultural Lands to Rural Lands or Development designations an Exception to the Agricultural Lands or Forest Lands Goals must be taken.\*

The applicant is proposing to take an exception to the requirements of Goal 4 and 14 as mentioned above and described later in this report. (See Pages 23-25)

Findings of Fact:

Upon the adoption of the Goal Exception and Comprehensive Plan Amendment the proposal will satisfy the requirements for compliance with the Goal 4 element of the County's Comprehensive Plan.

Comprehensive Plan, Goal 5 element – Open Spaces, Scenic & Historic areas and Natural Resources:

Finding of Fact:

Staff finds that the analysis provided on pages 14 -15 of Exhibit 3, satisfactorily address the criteria and policies of Goal 5. The site is identified as a Peripheral Big Game Range and as such, any and all present and future owners of this property agree to indemnify and hold harmless the County, Oregon Department of Fish and Wildlife, and any other Governmental agency involved in the granting of this request, for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.

The County has coordinated efforts with the Oregon Department of Fish and Wildlife and has confirmed that the site is otherwise not identified as a significant Goal 5 resource. In addition conditions have been applied to this recommendation, which will ensure the satisfactory compliance with the provisions of Goal 5.

Comprehensive Plan, Goal 6 element – Air, Water, and Land Quality:

The applicant evaluates the application against the applicable plan policies of the Goal 6 element of the comprehensive plan in pages 16-21 of Exhibit 3. Staff concurs with the applicant that the proposal does not conflict with the applicable plan policies of Goal 6. The Clatsop County Land and Water Development and Use Ordinance (LWDUO) contains multiple development standards that would apply to the future development of the subject property to assure the protection of air, water, and land quality standards in accordance with Goal 6.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 6 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 6 Element.

Comprehensive Plan, Goal 7 element – Natural Hazards

The applicant's analyses contained in pages 21-25 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan. In addition compliance with Clatsop County's Land Water Development and Use ordinance should ensure compliance with standards designed to protect future development from potential natural hazards identified on the site in particular stream bank erosion, which has been identified as a potential hazard. Regardless steps have been adopted to ensure this zone change will not affect those areas in a negative fashion. Furthermore the language adopted as a condition of approval should ensure the protection of the Stream bank located on the subject property.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 7 Element.

Comprehensive Plan, Goal 8 element – Recreational Lands

The subject property is not an identified recreational resource. The proposal does not conflict with the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 8 Element.

Comprehensive Plan, Goal 9 element – Economy

The applicant's analyses contained on page 26-29 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 9 Element.

Comprehensive Plan, Goal 10 element – Population and Housing

Population Policies

1. Community plans should provide for orderly growth, which reduces the cost of essential services while preserving the basic elements of the environment.

Implemented through the County's Southwest County Community Plan

2. Promote population to locate in established service areas.



The area is located in an established service area. Development in this area is consistent with the establishment of rural residences near established communities and public services.

3. Promote the accommodation of growth within areas where it will have minimal negative impacts on the County's environment and natural resources.

The county concurs with the applicant's assessment on page 29 of Exhibit 3. This proposal should have little to no Negative impacts on the County's Environment and Natural Resources.

4. Utilize current vacant land found between developments or within committed lands.

The development of these two sites adjacent to the City of Cannon Beach fits the description of lands that are to be considered committed lands.

5. Direct new urban growth within Clatsop County to existing urban growth boundary or rural service areas where under utilized public or semi-public facilities exist or utility and/or investments have already been made.

The subject site is located adjacent to the city of Cannon Beach. The city may at some point in the future wish to expand their city limits to incorporate this area. In order to do so the City must satisfy the Goal 14 requirements at that time. Regardless the subject parcel is ideally suited for infill development and does not encourage sprawling development along the I-101 corridor like so many other developments. This site has adequate access to transportation facilities and public services and provides rural residential housing.

6. Encourage development of land with less resource value.

The parcel cannot feasibly be used as commercial forestry; therefore encouraging development of the subject land is consistent with the spirit of this policy.

7. Coordinate planning efforts of local governments and special districts to maximize efficiency of public facilities, and have land use actions reflect the goals and policies of the Plan.

#### Housing Policies

#### Residential Development

1. Clatsop County shall encourage residential development only in those areas where necessary public facilities and services can be provided and where conflicts with forest and agricultural uses are minimized.

As a condition of approval the applicant shall record a disclaimer on their deed indicating the applicant, owner and successors shall not indemnify forestry operations on surrounding parcels.

Staff concurs that this request is consistent with this policy as described in the applicant's findings addressing this criterion, located on page 32, Exhibit 3.

2. Clatsop County shall assist in planning for the availability of adequate numbers of housing units at price ranges and rent levels commensurate with the financial capabilities of County residents.

Staff concurs in part with the applicant's findings. Clatsop County does have a shortage of affordable housing; however it is not likely that these parcels will offer any relief from that dilemma. In addition sufficient buildable lands have been identified throughout the county to adequately satisfy any requirements regarding housing stock. Despite these factors the County has trouble providing moderate to low income housing due in part to the unique geographical location and features of the area. Regardless Staff agrees that this is not applicable to the applications ability to meet the criteria; hence this proposal does not violate policy two of the housing element, and is therefore satisfied.

3. Clatsop County shall encourage planned developments and subdivisions to cluster dwelling units. The clustering of dwellings in small numbers and the provision of common open space assures good utilization of the land, increased environmental amenities, and may be used as an open space buffer between the residential use and adjacent agricultural or forest uses.

The applicant is not proposing to subdivide the property at this time. If at some point in the future the applicant is incorporated into the urban growth boundary of Cannon Beach it is presumed the City will require the applicant to cluster any development at that time.

4. Clatsop County shall permit residential development in those designated areas when and where it can be demonstrated that:
  - a. Water is available which meets state and federal standards;
  - b. Each housing unit will have either an approved site for a sewage disposal system, which meets the standards of the County and the Department of Environmental Quality or ready access to a community system;
  - c. The setback requirements for the development of wells and septic systems on adjacent parcels have been observed;
  - d. Development of residential units will not result in the loss of lands zoned or designated for agriculture or forestry and will not interfere with surrounding agricultural or forestry activities.

In accordance with Clatsop County's LWDUO # 80-14 these criteria shall be required to be met prior to the issuance of a development permit on the subject site.

5. Clatsop County shall permit temporary siting of mobile homes in specified locations in the event of an emergency.

Not Applicable.

6. Clatsop County shall encourage multi-family housing and mobile home park developments to develop within the various urban growth boundaries.

Not Applicable.

7. Clatsop County shall encourage the development of passed over lots that already have services such as water and roads to be preferred for development over tracts requiring an extension of services.

This site serves as a perfect example of lots that were passed over for development that the County should encourage for development. Staff agrees with the applicant's findings on page 34 of exhibit 3.

8. Clatsop County shall make provisions for housing in areas designated for Rural, Urban Growth Boundaries, and Rural Service Areas which provide variety in location, type, density and cost where compatible with development on surrounding lands.

Staff Concurs with the applicant's analysis on page 34 of Exhibit 3.

#### Governmental Cooperation and Coordination

9. Clatsop County shall cooperate with governmental agencies and Clatsop County Housing Authority in promoting unified housing policies and in ensuring an equitable distribution of assisted housing throughout the County.

Not Applicable.

10. Clatsop County shall encourage state and federal agencies to develop programs and funding sources to increase the level of support for the maintenance and rehabilitation of existing housing and for the development of additional housing.

Not Applicable.

Housing Rehabilitation

11. Clatsop County shall develop and maintain an inventory of the type and condition of the current housing stock. The rural housing needs should be reexamined every two years to reflect the market changes and new information.

Not Applicable.

12. Clatsop County shall encourage the retention of the current housing stock and, where necessary and feasible, will assist in the rehabilitation of substandard housing units.

Assisted Housing

13. Clatsop County shall set aside tracts of lands which it owns within the cities and their urban growth boundaries which can be used for low cost housing. The lands should be inventoried and a program developed through the Northwest Oregon Housing Association to release those lands for this purpose. Clustering techniques, common wall and townhouse construction, both for sale and for rent, could be employed in the development of these lands.

Not Applicable.

14. Clatsop County shall activate support programs, which serve to improve housing conditions of those homeowners who are physically or financially unable to make improvements on their own.

Not Applicable.

## **Urban Growth Boundary Population Projections**

Clatsop County cities in cooperation with the County have developed population projections for the six Urban Growth Boundary areas (see Table 8, 8-1, 8-2, 8-3 and Chart 8, 8-1, 8-2). The information contained in these tables and charts are based on the 2000 U. S. Census and historical growth figures compiled by the Center for Population Research and Census, Portland State University. The forecasted growth is based largely on historical data and information received from the cities. For the most part, the cities forecasts include both the city limit boundary and portions of the urban growth boundary, and in some cases the Census Tract may extend beyond both. The growth forecast to year 2030 does not take into account the vacation or seasonal population of rentals or secondary homes and the impacts they may have on water, sewer, transportation or other public facilities and services. The growth forecast is an estimate based on historical information and may not accurately reflect changing conditions.

Using the methodology employed by the City of Cannon Beach in projecting its population to the year 2025 (refer to City of Cannon Beach Ordinance No. 06-09 and Clatsop County Ordinance No. 07-05 for more details), Clatsop County revised Population Table 8-1, Chart 8, and Chart 8-1 to reflect population projections for all cities and the unincorporated areas to the year 2030 (the population projections previously ended at the year 2020). In establishing the year 2025 and year 2030 population projections, the county held constant the forecasted year 2020 percentage of population allocated to each city and the unincorporated areas through to the year 2030 (see Chart 8-1).

In recognition of the City of Cannon Beach's need for coordinated population projections to the year 2025, and in recognition of similar work currently being undertaken by the City of Seaside that requires population projections to the year 2030, Clatsop County adopted, as an interim measure, the year 2025 and year 2030 population projections contained in this section until such time that officials from all cities and the county can meet to discuss new shifts in area demographics or conditions (i.e., recent annexations by the City of

Gearhart, new home construction as a result of Measure 37/49 claims, etc.) that may compel adjustment to these figures.

### Population Policy:

JURISDICTION	ACTUAL <sup>1</sup>		% OF COUNTY POPULATION		FORECASTS			
	1990	2000	1990	2000	2020 Urban Area Totals <sup>2</sup>	2030 Urban Area Totals <sup>2</sup>	% of County Population <sup>4</sup>	Average Annual Growth Rate 2000-2030
Astoria	10,069	9,813	30.24%	27.54%	11,826	12,953	28.30%	0.94%
Cannon Beach <sup>5</sup>	1,221	1,588	3.67%	4.46%	1,859	2,037	4.45%	0.79%
Gearhart	1,027	995	3.08%	2.79%	1,254	1,373	3.00%	1.16%
Seaside	5,359	5,900	16.09%	16.56%	7,337	8,037	17.56%	1.10%
Warrenton <sup>3</sup>	2,681	4,096						
Hammond	589		9.82%	11.50%	5,741	6,289	13.74%	1.70%
CITY TOTAL	20,946	22,392	62.90%	62.85%	28,017	30,689	67.05%	1.13%
UNINCORPORATED TOTAL	12,944	13,238	38.87%	37.15%	13,771	15,082	32.95%	0.20%
COUNTY TOTAL	33,301	35,630	-	-	41,788	45,771	-	0.80%

Review of the forecast should occur every three to five years.

**TABLE 8: Clatsop County Population Projections**

JURISDICTION	2000 (actual)	2005	2010	2015	2020	2025	2030
Clatsop County <sup>1</sup>	35,630	36,919	38,376	40,018	41,788	43,727	45,771
Incorporated Cities: <sup>2</sup>							
Astoria	9,813	10,152	10,649	11,205	11,826	12,375	12,953
Cannon Beach	1,588	1,642	1,707	1,780	1,859	1,946	2,037
Gearhart	995	1,107	1,151	1,200	1,254	1,312	1,373
Seaside	5,900	6,206	6,546	6,927	7,337	7,678	8,037
Warrenton	4,096	4,426	4,813	5,278	5,741	6,008	6,289
Unincorporated	13,238	13,386	13,510	13,628	13,771	14,408	15,082

- Center for Population Research and Census, Portland State University; United States Census.
- City totals projected based on previous percentages of county population and percent growth.
- Warrenton annexed Hammond in 1999, thus the substantial change in population.
- Based on the previous growth rates and percentage of county population.
- County projection from the Office of Economic Analysis, Department of Administrative Services, State of Oregon.
- Cannon Beach numbers reflect the City's assumption that their existing percentage of County population will be maintained.

**TABLE 8-1: Clatsop County Population Projections 2000 – 2030**

- County projection from the Office of Economic Analysis, Department of Administrative Services, State of Oregon.
- City totals projected based on previous percentages of county population (see above), growth and county projection.

**TABLE 8-2: Previous Population Projections for Clatsop County**

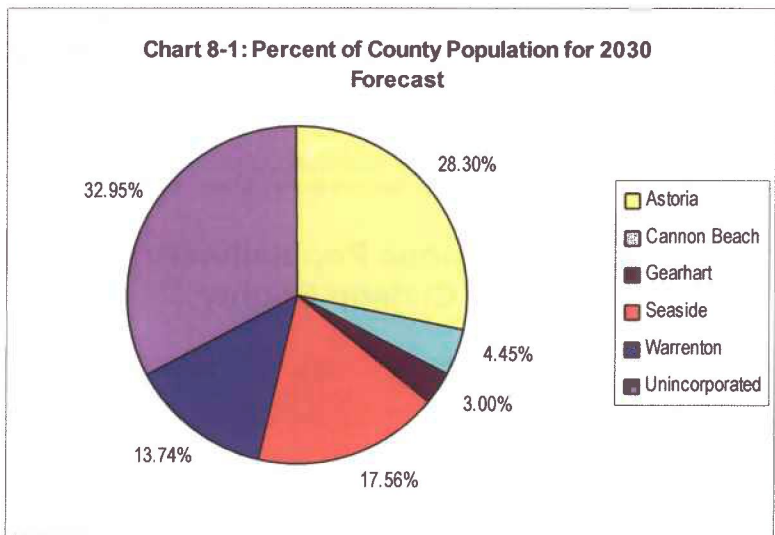
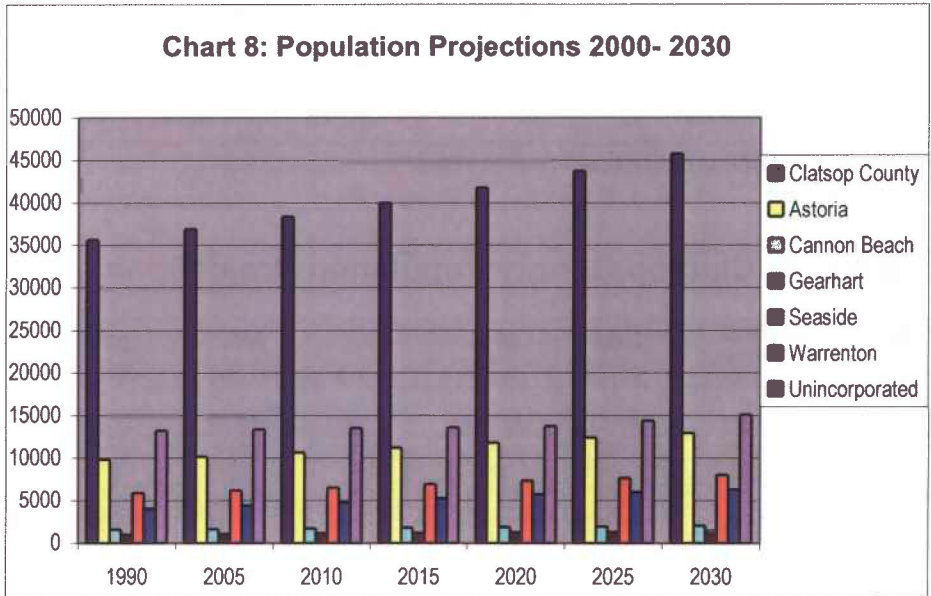
	1970	1980	1985	1990	1995
High	28,473	32,500	35,000	38,000	41,200
Medium	28,473	32,000	34,000	36,400	38,800
Low	28,473	31,700	32,500	33,500	34,300
ACTUAL	28,473	32,489	32,452	33,301	34,300

Sources: Projections: Clatsop County Comprehensive Plan; Actual - U.S. Census

**TABLE 8-3: Clatsop County Historic Population**

JURISDICTION	1900	1910	1920	1930	1940	1950	1960	1970	1980	1990	2000
Clatsop County	12,765	16,106	23,030	21,124	24,697	30,776	27,380	28,473	32,489	33,301	35,630
Astoria	8,381	9,599	14,027	10,349	10,389	12,331	11,239	10,244	9,998	10,069	9,813
Cannon Beach	n/a	n/a	n/a	n/a	n/a	n/a	495	778	1,187	1,221	1,588
Gearhart	n/a	n/a	127	125	319	568	725	829	967	1,027	995
Seaside	191	1,270	1,802	1,565	2,902	3,886	3,877	4,402	5,193	5,359	5,900
Warrenton	n/a	339	730	683	1,365	1,896	1,713	1,825	2,493	2,681	4,096
Hammond	n/a	957	547	244	422	522	480	500	516	589	-

Source: Population Research Center, Portland State University  
 n/a = not applicable because they were not incorporated as cities yet



Finding of Fact:

Based on the analysis above and that provided by the applicant in Exhibit 3 pages 29-34, the application satisfies the Population plan policies #1 - #7 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Population).

Based on the analysis above, the application satisfies the housing plan policies #1 and #8 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Housing).

Comprehensive Plan, Goal 11 element – Public Facilities and Services

Analysis:

The following excerpted Overall Policy Regarding Appropriate Levels of Public Facilities in the Rural Lands Plan designation applies to the request:

Rural Lands - Most of the areas built upon or committed to non-resource use in the County are in this Plan designation. Much of the area is currently served by community water systems.

Clatsop County is concerned that development not outstrip the capacity of the service area districts. Clatsop County requires that a proof of an adequate source of water be available before any development permit (e.g. residential, commercial or industrial), excluding land divisions, is approved.

Public water supply is an appropriate public facility in this Plan designation, but is not essential for development.

Rural fire protection districts are present in many of the areas in this Plan designation. This is often a desired rural service and is appropriate in this Plan designation but is not a prerequisite for RA zoning. Some rural residents are more willing to pay high fire insurance premiums than taxes to maintain a local fire district. Development is scattered enough in this Plan designation, as compared with RSAs or cities, that fire protection is not a requirement for development.

Community sewage systems are not appropriate in this Plan designation.

Partition and subdivision proposals in this Plan designation will be referred to the local school district for comment.

The following Goal 11 plan policies also apply to the request:

General Public Facilities Policies

1. Clatsop County recognizes the level of public facilities and services described in the section "Overall Policy Regarding Appropriate Levels of Public Facilities in the County" above, as that which is reasonable and appropriate for development in different Plan designations in the County. The County shall not approve development of facilities and services in excess of those levels and types.
9. When a Comprehensive Plan or Zone Change or both are requested that would result in a higher residential density, commercial or industrial development it shall be demonstrated and findings made that the appropriate public facilities and services (especially water, sanitation (septic feasibility or sewage) and schools) are available to the area being changed without adversely impacting the remainder of the public facility or utility service area.

Water Supply Systems Policies

4. Clatsop County shall encourage existing community water supply systems to be improved and maintained at a level sufficient to:
  - a. provide adequate fire flow and storage capacity to meet the service area requirements,
  - b. meet the anticipated long-range maximum daily use and emergency needs of the service area, and
  - c. provide adequate pressure to ensure the efficient operation of the water distribution system.

The applicant's analyses contained on pages 34-37 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan

with the exception that the applicant does not demonstrate that a suitable water system to serve the site is in place. Alternatively, if the applicant were to provide water for future development on the property by a system of wells, pumps, and reservoirs, it should remit documentation that the water system will not adversely affect area wells or other area water facilities that rely on the aquifer.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to land use approvals and before development permits are issued for new development on the subject property, appropriate public services and facilities will be in place to service the property.

Finding of Fact:

Based on the analysis above, the proposal satisfies the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan, the application must demonstrate a suitable source of water prior to the issuance of a development permit. In addition it is the application has not addressed impact to the Seaside school district. Regardless the proposal only calls for two sites the two sites could be developed in Forest 80 under a Conditional Use permit; therefore Staff finds that this alteration will cause no more impact and the Goal 11 element of LWDUO § 5.412(1) – is satisfied.

Comprehensive Plan, Goal 12 element – Transportation

Analysis:

The applicant's analyses on pages 37 - 38 in Exhibit 3 adequately address Clatsop County Transportation System Plan (Ordinance No. 03-09).

Finding of Fact:

Based on the analysis above, consistency with the Goal 12 Transportation element of the Comprehensive Plan is satisfied. LWDUO § 5.412(1) – Goal 12 Element.

Comprehensive Plan, Goal 13 element – Energy Conservation

Analysis:

The applicant's findings on pages 38-39 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 13 Element.

Comprehensive Plan, Goal 14 element – Urbanization

Analysis:

The application does not involve lands located within or adjacent to an urban growth boundary (It is adjacent to the City Limits of Cannon Beach). The applicant does not propose amending any urban growth boundary. The Goal 14 policies of the comprehensive plan speak to urban growth management agreements, district agreements, rural communities, and other urbanization matters that do not apply to the application. The applicant's proposed exception to Statewide Planning Goal 14 (Oregon Administrative Rule Chapter 660 Divisions 4 and 14) that is required as a function of the request to reduce parcel sizes and increase densities on the subject property is addressed under the Goal 14 exception criteria.

Upon the adoption of the Goal Exception and Comprehensive Plan Amendment the proposal will satisfy the requirements for compliance with the Goal 14 element of the County's Comprehensive Plan.

Findings Of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 14 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412 – Goal 14 Element. The applicant's proposed exception to Statewide Planning Goal 14 is addressed later in this report.

Comprehensive Plan, Goal 16 and 17 elements – Estuarine Resources and Coastal Shorelands

Analysis:

The applicant's findings on pages 39 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 16 & 17 Elements.

Comprehensive Plan, Goal 18 element – Beaches and Dunes

Finding of Fact:

Not Applicable.

Comprehensive Plan, Southwest Community Plan element

The applicable goals and policies of the Clatsop Plains Community Plan are contained in the following section. Staff analyses are interjected throughout the section.

Southwest Coastal Community Plan

Consistency with the Elements of the Southwest Community Plan is assessed through compliance with the Comprehensive plan elements previously discussed. Staff finds the applicant has adequately addressed these criteria through out the proposed findings provided in pages 1-39 of Exhibit 3 LWDUO § 5.412(1) – Southwest Coastal Community Plan Element.

**Zone Change Criterion No. 2: LWDUO §5.412(2) - Consistency with Statewide Planning Goals**

Clatsop County has a ratified comprehensive plan. Consistency with Statewide Planning Goals is determined through the consistency with the County's Comprehensive Plan. Staff finds that all applicable Statewide Planning goals are adequately addressed in the findings provided previously.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 2. LWDUO § 5.412(2).

**Zone Change Criterion No. 3: LWDUO §5.412(3) - Adequacy of Public Facilities and Services**

Staff concurs with the applicant that adequate public facilities and services exist to be provided to the subject property with two exceptions: There is no proof that an adequate water supply can be provided and the applicant has not provided evidence from the Seaside School District that it can service the site adequately. See pages 19-20 of this report for more details.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate public facilities and services will be installed.



Finding of Fact:

Based on the analysis above, the applicant shall demonstrate that adequate water is available to serve the property and that the Seaside School District has adequate capacity to serve the additional students prior to the issuance of a development permit. The application satisfies Zone Change Criterion No. 3. LWDUO § 5.412(3).

**Zone Change Criterion No. 4: LWDUO §5.412(4) - Adequacy of Transportation Facilities**

Analysis:

Staff concurs with the applicant that adequate transportation facilities exist for the proposal. Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate transportation facilities will be in place.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 4. LWDUO § 5.412(4).

**Zone Change Criterion No. 5: LWDUO §5.412(5) – Compatibility with Area**

Through the analysis provided by the applicant and the conditions provided herein compatibility with the area can be ensured.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 5. LWDUO § 5.412(5).

**Zone Change Criterion No. 6: LWDUO §5.412(6) - Peculiar Suitability of Site for Particular Uses**

Analysis:

The site is well suited for rural residential site development. The area is restricted from further development by the geologic feature of a Creek to the east and south sides of the subject parcel. The area borders the city limits on the west side and is surrounded on three sides by Weyerhaeuser parcels very large in nature. The site is not suitable for commercial forestry and is best suited as an acreage home site.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 6. LWDUO § 5.412(6).

**Zone Change Criterion No. 7: LWDUO §5.412(7) - Zone Change Promotes Appropriate Use of Land in County**

Analysis:

Well assessing this proposal it is important to realize that although the parcel is zoned F-80 it is only 5 acres in size. The parcels were created prior to 1957 and in separate ownership at the inception of the ordinance. The existing owners could potentially develop the site as two home sites in its current state. This Zone change will essentially have little to no impact on the surrounding lands as the proposed use could be accomplished under current zoning.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 7. LWDUO § 5.412(7).

**Zone Change Criterion No. 8: LWDUO §5.412(8) - Health, Safety, and General Welfare**

Analysis:

The application does not hinder the health or safety of Clatsop County. Analyses and findings in this report

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 8. LWDUO § 5.412 (8).

## Goal Exception

The applicant is proposing to take a goal exception to Statewide Planning Goals 4 & 14 in order to process the application for a Zone Change. In order to satisfy the goal exception criteria the applicant chose the committed route declaring the parcel was irrevocably committed to residential use. In doing so a number of criteria need to be satisfied and addressed. In reviewing the applicant's goal exception criteria and in an effort to avoid redundancy Staff has found the applicant's findings to satisfactorily address the criteria. This is addressed throughout Exhibit 4 pages 1 to 13. In summation of the findings provided by the applicant the following are the criteria addressed by the applicant and the Staff's Assessment for analysis:

(a) **Characteristics of the exception area:**

- Predominately forested but not substantial enough to warrant commercial operations. Subdivision to the west weighs in favor of an exception. Addressed on pages 4 -7 of the applicant's findings, Exhibit 4.

(b) **Characteristics of adjacent lands:**

- Adjacent lands consist of Forest lands on a very large scale and in separate ownership and Haystack heights subdivision with lots averaging 5000 square feet. The fact that the lands only constitute 5 acres in size and are independent lots of record weigh in favor of a goal exception. See Applicants findings page 6 Exhibit 4.

(c) **Relationship between the exception areas and adjacent lands:**

- Staff agrees with the applicant, this area is far better suited as rural residential home sites than forest lands. The reasoning is that the sites are only 2 ½ acres in size. The two combined total 5 acres, this is hardly suitable or sustainable for commercial forestry operations. See Applicants Findings Page 7, Exhibit 4

(d) **Existing adjacent uses:**

- Forest Lands and City R-1 lots surround the site. See Applicant's Findings Page 7-8 of Exhibit 4.

(e) **Existing public facilities and services:**

- Existing city services are located less than 200 feet from the property boundary line. In addition the applicant has secured a parcel to the west in order to retain access to the site. While it may be some time before the City of Cannon Beach is ready to incorporate this area into the Urban Growth Boundary it is logical to consider that adequate public facilities can be provided to service the subject parcels. See applicant's findings page 8 exhibit 4.

(f) **Parcel size and ownership patterns:**

- In essence this is the outlying factor that determines this site as being suitable for a goal exception to goal 4 and 14. The site has been determined to be a lot of record, indicating that the site is already suitable for a forest template test dwelling. In addition the relative small size of the lots when compared to the surrounding Weyerhaeuser holdings is significant when justifying a goal exception. See applicant's findings page 8 exhibit 4.

(g) **Neighborhood and regional characteristics:**

- The surrounding neighborhood conditions are conducive to a development of this type and nature. The regional characteristics are one of increasing demand for parcels of this type. Cannon Beach recently conducted a housing study as depicted in the population projections under the Goal 10 analysis. In the analysis and study the City of Cannon Beach has designated areas for potential growth and is expected to select other areas for incorporation into the urban growth boundary. Regardless the City of Cannon Beach has begun an easterly assent and this area is well suited as a potential area for limited development or rural residences. See applicant's findings page 9 exhibit 4.

(h) **Features separating the exception from adjacent resource land.**

- A small creek traverses the easterly and southern boundaries of the subject site it is not without reason to consider this topographical feature as a natural barrier between the forest lands to the east and the lands better suited for residential development to the west. See applicant's findings on page 9 of exhibit 4.

(i) **Physical Development**

- There is really no physical development on the site that would lend any relevance to a goal exception to statewide planning goal 4. This aspect would weigh against a goal exception; however the criteria does not require that a structure be built on the site only that the site itself has been committed to a use other than what is currently permitted. In that sense the site is restricted in size and neighborhood characteristics and therefore satisfies the criteria for a goal exception. See page 9 of exhibit 4.

(j) **Other relevant factors**

- See applicant's findings page 9 exhibit 4.

**In accordance with OAR 660-014-0030 the applicant's conclusion is supported by the reasons and facts indicating the land is irrevocably committed. This conclusion also justifies an exception under the policies of Goal 2 to allow development in excess of 1 home site per 10 acres as mentioned earlier. Furthermore the conclusion and findings provided by the applicant on pages 10 - 13 of Exhibit 4 reasonably indicate that the land is committed to urban levels of development.**

**Staff recommends the Planning Commission recommend to the Board of Commissioners the conditional Approval of a Zone Change From Forest 80 to Residential Agriculture 2 acre Minimum and adopt the applicants findings contained herein with the conditions proposed by staff.**

## **IX. EXHIBITS**

Immediately follow.

Respectfully submitted,

Michael Weston II, MPA  
Planner, Transportation & Development

### **\*\*\*Conditions\*\*\***

#### **Riparian Setbacks:**

All riparian, greenbelt, and waterway setbacks shall be maintained. ODFW recommends the proposed development be designed around these setbacks (i.e. do not waive setbacks to allow development within.

*Stream-Road Crossings:*

*Any stream-road crossings (including utilities) are to comply with fish passage requirements. Laws regarding fish passage may be found in ORS 509.580 through 910, and in O.A.R 635, Division 412. ODFW shall approve in advance any instream structure (Ron Rehn 503 842-2741).*

#### **Wildlife Damage Exclusion:**

Wording to be included into a covenant to the deed of each lot:

*This property is in an area of known big game and furbearer animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife, Clatsop County, or any other governmental agency for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.*

*This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife & Clatsop County.*

**Land Uses and Practices** - *Purchaser recognizes that lands in the adjacent area may be managed for commercial forestry which include activities such as; logging, slash burning, other fire control, silvicultural site preparation, construction of forest roads, aerial and ground application of forest chemicals, and other silvicultural practices which often create noise, dust, visual impacts and other alterations of the forest environment. Purchaser acknowledges that adjacent land owners have the right to conduct such commercial forest management activities, which are regulated by state forest practice rules and regulations, and will not attempt to impose additional restrictions on these activities*

All development shall occur consistent with Clatsop County's Land Water Development and Use Ordinance and all State and Federal Laws regarding the development of the proposed site.

CLATSOP COUNTY BOARD OF COMMISSIONERS

AGENDA MATERIAL

 FILE COPY

For Agenda: October 22, 2008

Submitted By: Michael Weston II

<input checked="" type="checkbox"/>	ORS/OAR: <u>215.503</u>
<input type="checkbox"/>	CCO Section: _____
<input checked="" type="checkbox"/>	Land Use Ordinance: <u>#80-14</u>
<input type="checkbox"/>	Board Policy: _____
<input type="checkbox"/>	Other: _____

Brief Description of Material:

Planning Commission's recommendation of approval and appended staff report and findings regarding a Comprehensive Plan / Zoning Map Amendment and Goal Exception to statewide planning goals 4 & 14 .

Recommended Action:

Staff Recommends the Board of County Commissioners **conduct the first reading**, on a request submitted by the applicants for a Comprehensive Plan / Zoning Map Amendment and associated Goal Exception to Statewide Planning Goals 4 & 14. Staff recommends the Board affirm the Planning Commission's recommendation attached as exhibit 1 to the *Proposed Resolution and Order*.

**Conduct First Reading of Ordinance 08-10**

<b>DOCUMENT REVIEW (Ordinances, Resolutions, Deeds, Etc.)</b>	
▶	Ordinance 08-10

Prepared By: <u>Michael Weston</u>	
Reviewed By: _____	
Approved By: _____	
Dept Head: <u>Ed Wegner</u>	Date: _____
County Counsel: _____	Date: _____
Central Services: _____	Date: _____
County Administrator: _____	Date: _____

A. Proposed Cost	\$ <u>0</u>
B. Amount Budgeted	\$ <u>0</u>
C. Attach Explanation if "A" exceeds "B"	

**Board of Commissioners**  
**Clatsop County**  
**AGENDA ITEM SUMMARY**

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**Issue/Agenda Title:** A Quasi-Judicial hearing in the matter of a Comprehensive Plan Zoning / Map Amendment and Goal Exception to Statewide Planning Goals 4 & 14 submitted by Mike Morgan on behalf of Pete Anderson et al..

**Category:** Public Hearing    **Meeting Date:** October 22, 2008

**Prepared By:** Michael Weston II    **Department Head OK:**    **CA OK:**

**To Be Presented By:** Michael Weston II, Planner, Department of Transportation & Development

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**Issue Before the Commission:**

1. Ask Staff to conduct first reading of Ordinance 08-10.

**Informational Summary:**

On June 27, 2008 Mike Morgan, on behalf of Pete & Lynn Anderson, and Graham & Lori Covington, submitted to the Clatsop County Transportation and Development Department applications for a comprehensive plan / zoning map amendment and an associated goal exception for 5-acres of land located east of Hwy 101 and behind the Haystack Heights Subdivision (See maps attached to the proposed ordinance 08-10). The applicant proposes changing the property's zoning from Forest-80, [80 acre minimum] to Residential Agriculture-2 [two-acre minimum lot size]. The applicant also seeks an exception to Statewide Planning Goals 4 (Forestry) & 14 (Urbanization) pursuant to Oregon Administrative Rule (OAR) Chapter 660 Division 4 and Oregon Revised Statute (ORS) 197.732

**Alternatives to Consider:**

- A. Deny
- B. Modify
- C. ~~Repeal~~ Remand

**Fiscal Notes:** No fiscal impact.

**County's mission:** To provide the opportunity for citizens to be involved in all phases of the planning and development process. Neighbor to Neighbor serving Clatsop County with integrity, honesty, and respect.

**Exhibit List:** Ordinance 08-10, Exhibit (1) Planning Commission Resolution and Order, Recommending Approval. (A) Staff Report & Exhibits

**Staff Recommendation:**

**Staff recommends the Board of County Commissioners uphold the Planning Commission's recommendation and conduct the first reading of Ordinance # 08-10 attached herein.**

**BEFORE THE BOARD OF COMMISSIONERS  
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE AMENDING THE  
CLATSOP COUNTY COMPREHENSIVE  
PLAN / ZONING MAP AND ADOPTING A  
GOAL EXCEPTION TO STATEWIDE  
PLANNING GOALS 4 & 14

**ORDINANCE NO. 08-10**



RESOLUTION AND ORDER

Doc # \_\_\_\_\_

Recording Date: \_\_\_\_\_

---

**RECITALS**

WHEREAS, on June 27, 2008 Mike Morgan on behalf of Pete & Lynn Anderson, and Graham & Lori Covington filed an application for an amendment to the Clatsop County Comprehensive Plan / Zoning Map to amend the comprehensive plan designation of property in Clatsop County (the "property") described as T5N, R10W, Sec. 34B, TLs 4400, & 4500 from Conservation Forest to Rural Lands and amend the zoning from F-80, Forest 80, RA-2, Residential Agricultural 2. Furthermore in order to satisfy the criteria the applicant is requesting a Goal Exception to Statewide Planning Goals 4 & 14.

WHEREAS, the application was considered by the Planning Commission at a public hearing on September 9, 2008 and the Commission unanimously recommended approval, which is attached as Exhibit "PC"; and

WHEREAS, consideration for this ordinance complies with the Post Acknowledgement rules of the Oregon Land Conservation and Development Commission and the Clatsop County Planning Commission has sought review and comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050 and 215.060, and the Board of Commissioners received and considered the Planning Commission's recommendations on this request and held a public hearing on this ordinance pursuant to law on; and

WHEREAS, public notice has been provided pursuant to law; now therefore,

**THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAIN AS FOLLOWS:**

SECTION 1. The Clatsop County Comprehensive Plan / Zoning Map is hereby amended as shown in the attached Maps.

SECTION 2. The Board of Commissioners hereby approves the application and findings of fact contained in the Exhibit "PC" Planning Commission recommendation.

SECTION 3. In support of this ordinance, the Board adopts the September 2, 2008 Staff Report and recommendation attached to Exhibit "PC".

Approved this \_\_\_\_ day of November, 2008

THE BOARD OF COUNTY COMMISSIONERS  
FOR CLATSOP COUNTY, OREGON

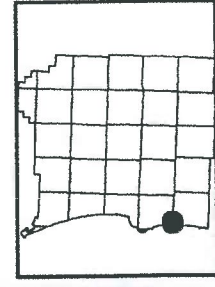
By \_\_\_\_\_  
Patricia Roberts, Chair



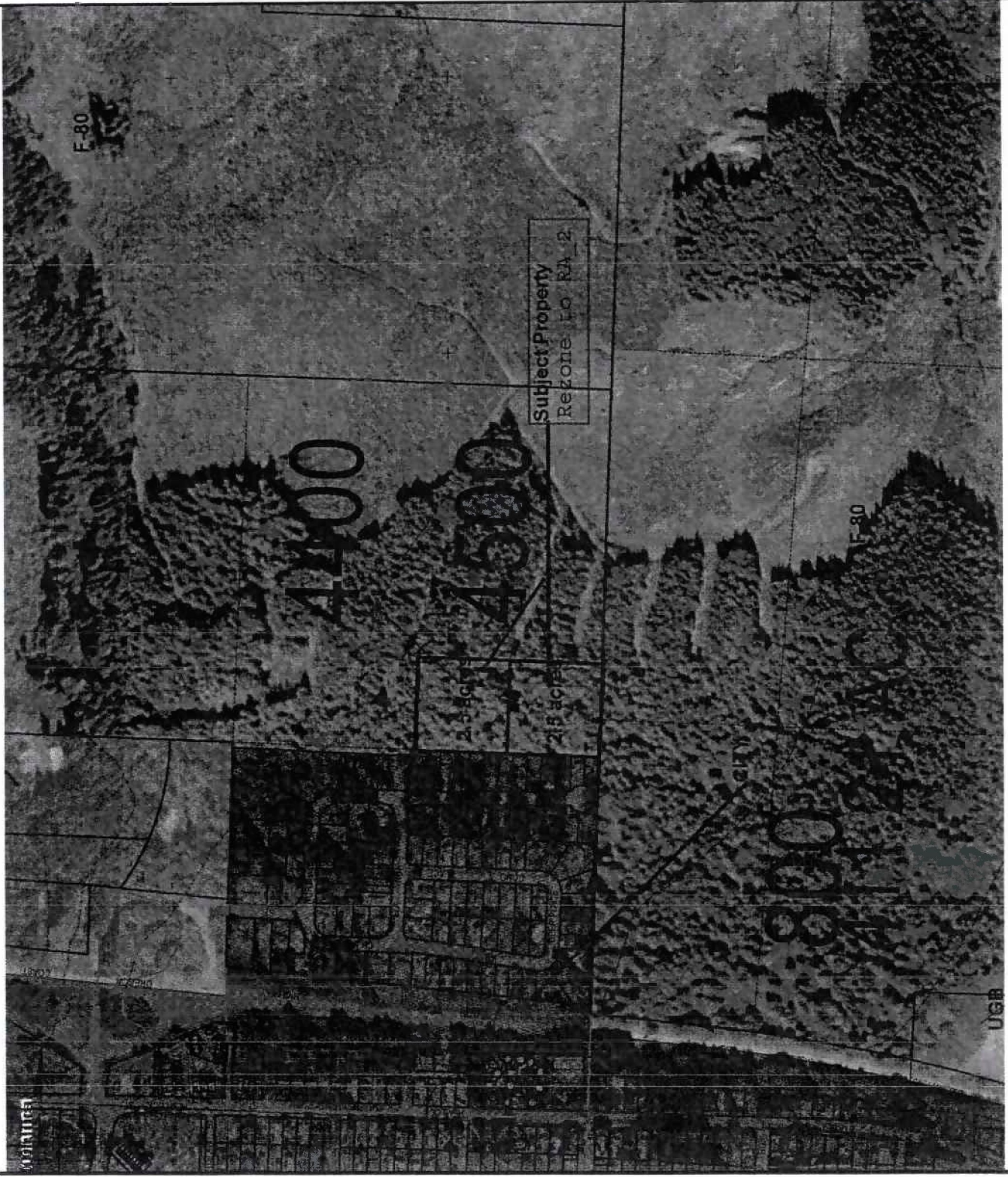
# Clatsop County Map

## MAP 1 ZONE CHANGE

- National Wetlands Inv
- PLS
- PLS
- PLS Townships
- Tax Lot Arrows
- Tax Lots Mtlth
- Tax Map
- Creek
- Parcel Boundary
- Supplemental Boundary
- Road R-O-W
- Tax Map Boundaries
- Tsunami(County)
- Zoning
- CITY
- F-80
- RA-2
- UGB



4/18/2008



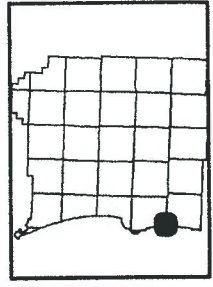
1 in. = 497 ft

This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

# Clatsop County Map

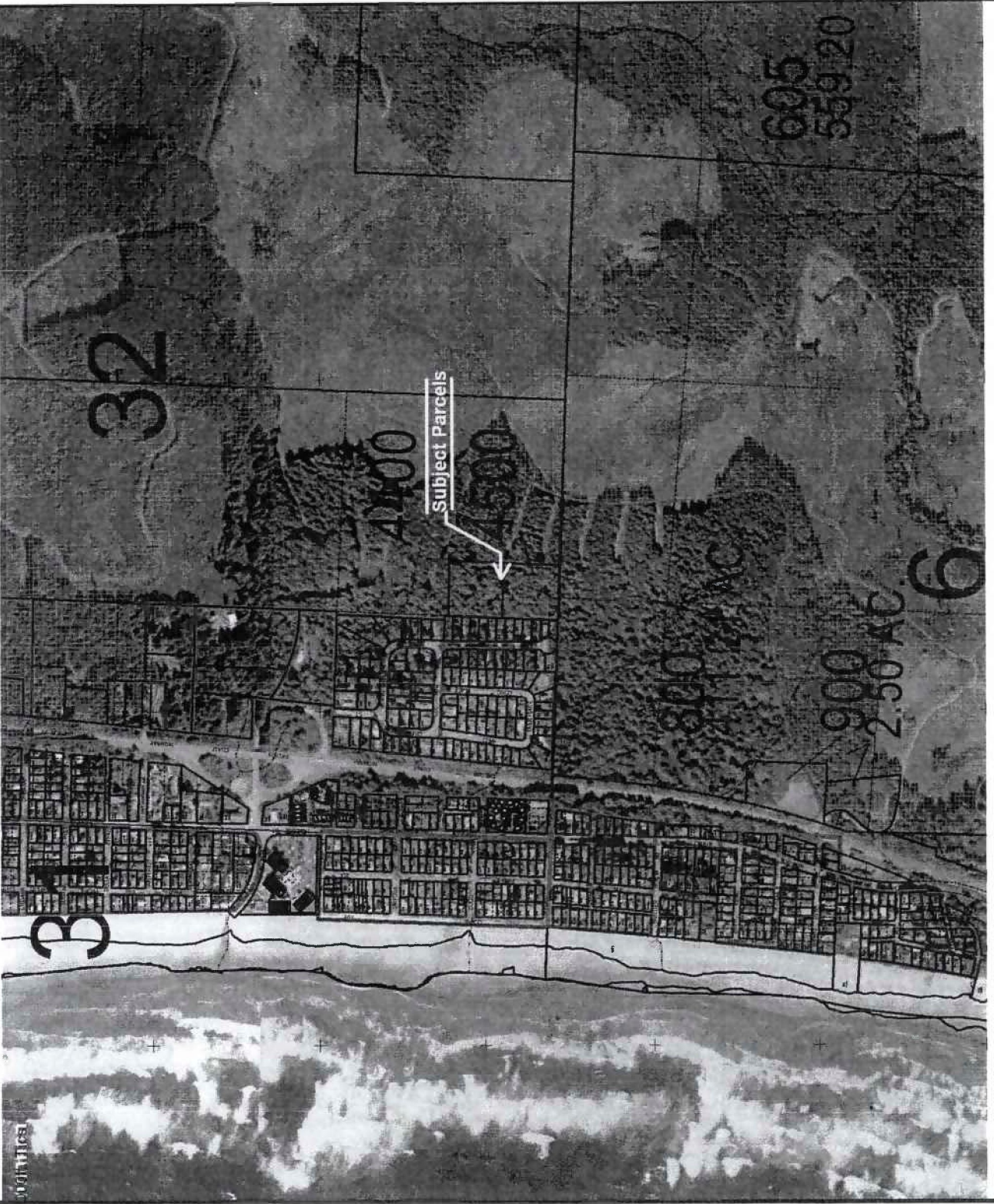
## MAP 2 GEO-HAZARDS

- Geological Hazards
- PLS
- PLS Townships
- Subdivision
- Tax Lot Arrows
- Tax Map
- Water Body
- Creek
- Parcel Boundary
- Supplemental Boundary
- 34
- Road R-O-W



8/21/2008

Page IV



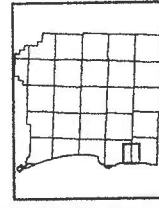
This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

Anderson '08

Resolution & Order

# Clatsop County Map

- National Wetlands, Inc.  
 PLS  
 PLS Township  
 PLS Lot Owners  
 PLS Lake State  
 PLS County  
 PLS  
 CITY  
 CR  
 F-80  
 LA  
 OPP  
 RA-2  
 RA  
 SB-3  
 CUB



1 in = 1503 ft

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**BEFORE THE PLANNING COMMISSION  
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE AMENDING THE  
CLATSOP COUNTY COMPREHENSIVE  
PLAN / ZONING MAP AND ADOPTING  
EXCEPTIONS TO GOALS 4 & 14



RESOLUTION AND ORDER

# 080908

Recording Date: September 29, 2008

**ORDINANCE #08-10**

**RECITALS**

THE ABOVE ENTITLED MATTER came before the Planning Commission at its meeting of September 9th, of the year 2008, for public hearing and consideration of a Comprehensive Plan / Zoning Map Amendment and Goal Exceptions to Statewide Planning Goals 4 & 14.

The Planning Commission after reviewing the findings of fact in Exhibit "A" (*Staff Report*) has determined the proposed zone change is consistent with the criteria as depicted in Clatsop County's Land Water Development and Use Ordinance Section 5.412, and where appropriate an exception has been taken to Statewide Planning Goals 4 & 14 in accordance with the exception criteria defined in OAR Chapter 660 Division 4.

THE PLANNING COMMISSION considering all evidence and public testimony provided by the Planning Department Staff and the Applicant at the public hearing, hereby **RECOMMEND THE APPROVAL** OF THE PROPOSED REQUEST FOR COMPREHENSIVE PLAN / ZONING MAP AMENDMENT AS DESCRIBED IN EXHIBIT "A" *Staff Report*, attached hereto and by this reference made part hereof.

**WHEREFORE, the Planning Commission finds and resolves:**

1. To recommend the Board modify Clatsop County's Comprehensive Plan / Zoning map to reflect the change from the Forest 80 zone to Residential Agriculture 2 zone as depicted on Map 1 attached to this document.
2. To amend the Goal 4 element of Clatsop County's Comprehensive plan to reflect the change as shown on Map 1.

3. To amend the Goal 14 element of Clatsop County's Comprehensive plan to reflect the change as shown on Map 1.

SO ORDERED this 29<sup>th</sup> day of September 2008

THE PLANNING COMMISSION FOR  
CLATSOP COUNTY



Cary Johnson, Chairman Clatsop County  
Planning Commission

# Clatsop County Map

## MAP 1 ZONE CHANGE

National Wetlands Inv

PLS

PLS

PLS Townships

Tax Lot Arrows

Tax Lots Multi

Tax Map

Creek

Parcel Boundary

Supplemental Boundary

Road R-O-W

Tax Map Boundaries

Township(County)

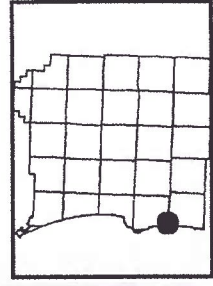
Zoning

CITY

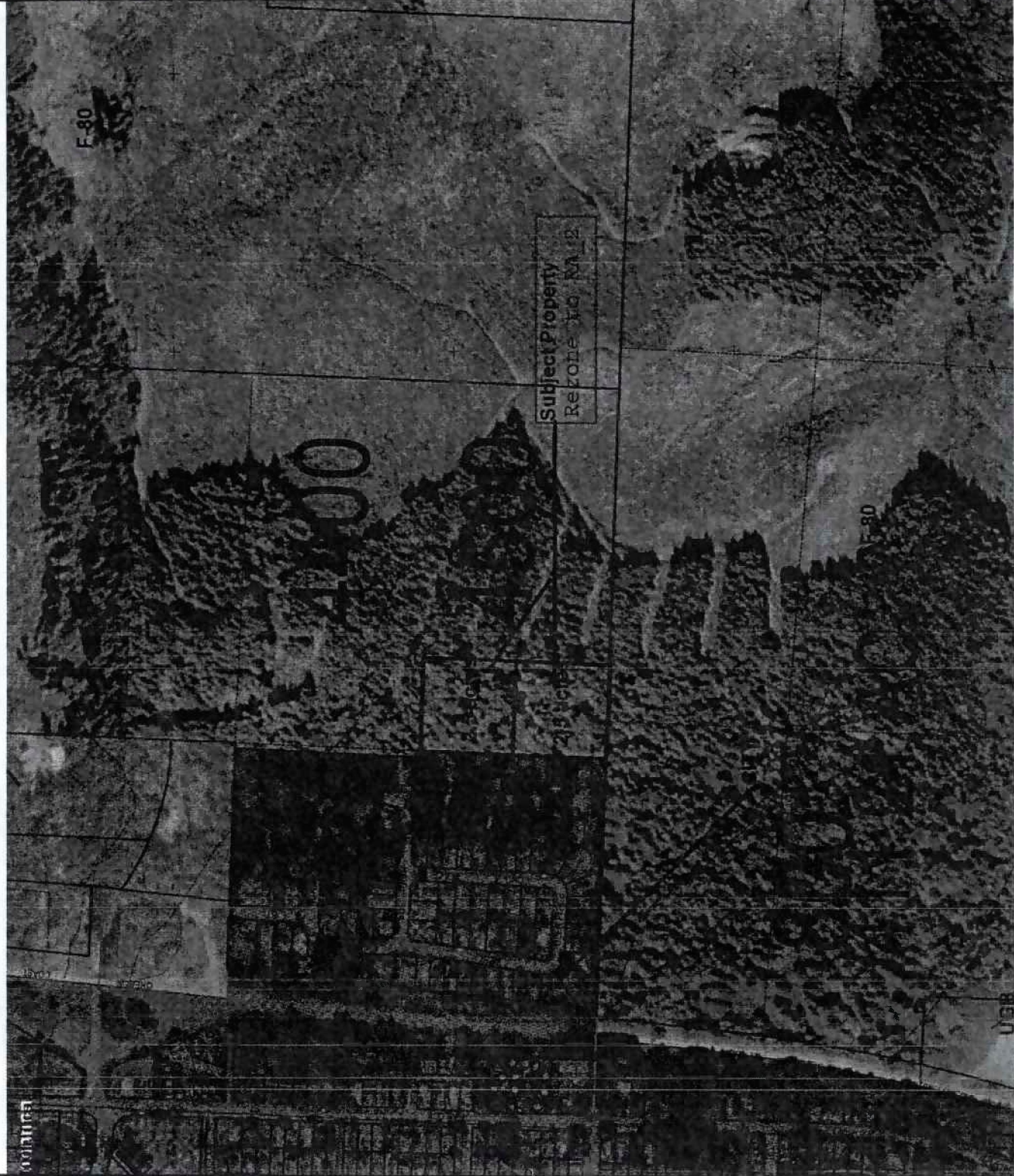
F-80

RA-2

UGB



4/18/2008



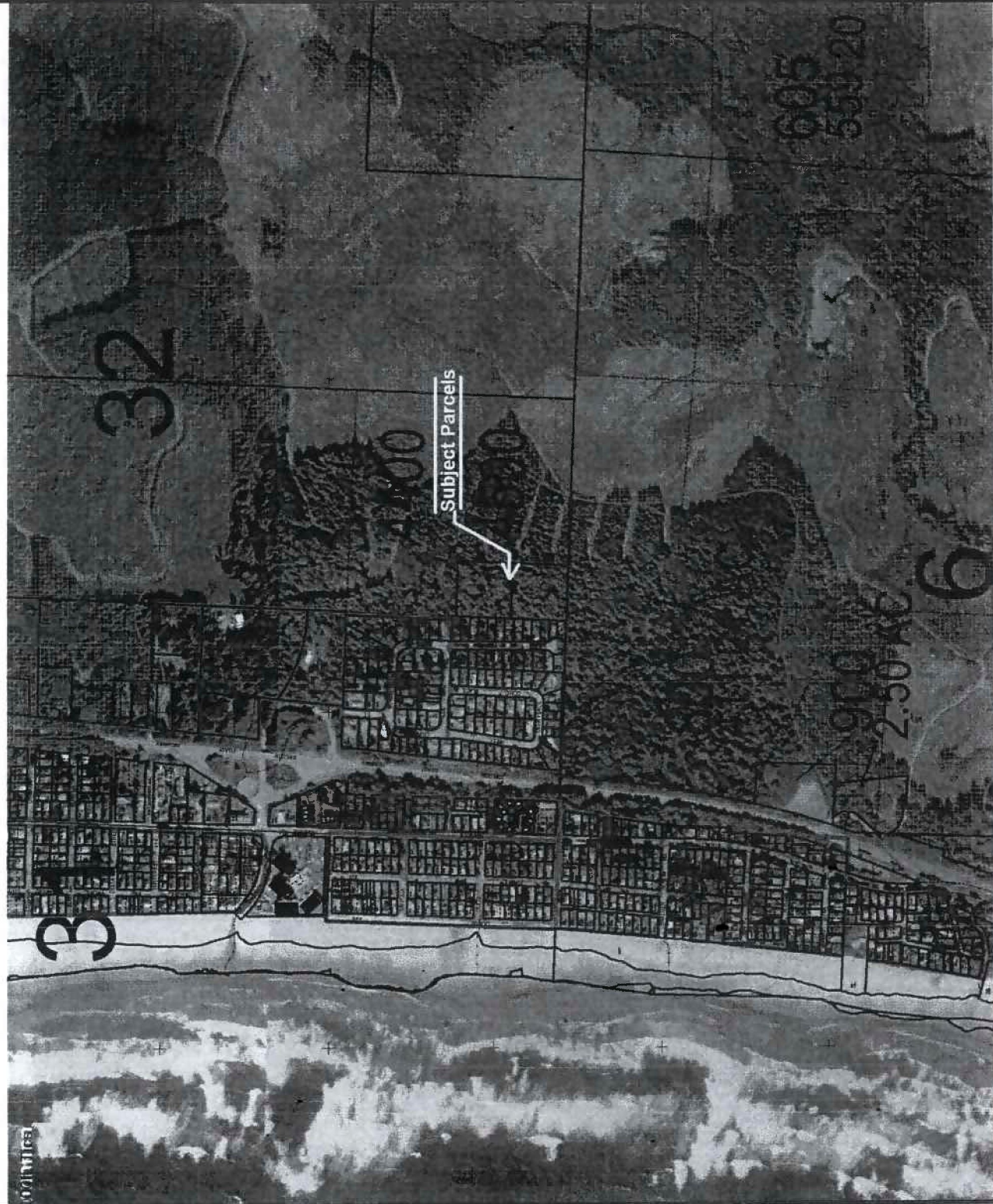
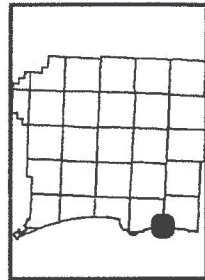
1 in. = 497 ft

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# Clatsop County Map

## MAP 2 GEO-HAZARDS

- Geological Hazards
- PLS
- PLS Townships
- Subdivision
- Tax Lot Arrows
- Tax Map
- Water Body
- Creek
- Parcel Boundary
- Supplemental Boundary
- 34
- Road R-O-W



This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, mistakes or misinterpretation.

## Clatsop County

Transportation & Development Services  
Land Use Planning Division  
800 Exchange Street, Suite 100  
Astoria, OR 97103

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fx: 503-338-3666  
em: [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us)  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)



### Staff Report

**OWNER:** Pete & Lynn Anderson, Graham & Lori Covington  
Pete Anderson, et. al.  
2596 SW Arden Rd.  
Portland, OR 97103

**APPLICANT:** Mike Morgan  
PO Box 132  
Cannon Beach, OR 97201

**REQUEST:** The Applicants request a zone change from Forest 80 to Residential Agriculture-2 Zone, and a Goal Exception to Statewide Planning Goals 4 & 14.

**PROPERTY:** Twp. 5N, Rng. 10W, Sec. 34B, Tax Lots 4400 & 4500

**SIZE:** 5 acres

**LOCATION:** The subject property is located less than 1/2 a mile to the southeast of the Tolovana State Park exit from highway 101 and east of East Chinook Avenue, located in the Haystack Heights subdivision in Cannon Beach.

**ZONING:** Forest 80 (F-80)

**STAFF RECOMMENDATION:** Conditionally Approve the applicant's request.

**EXHIBITS:**

- 1: Comments
- 2: Public Notices
- 3: Zone Change Application Materials
- 4: Goal Exception Application Materials
- 5: OAR 660 Div 4
- 6: ORS 197.732

#### I. BACKGROUND

On June 27, 2008 Mike Morgan, on behalf of Pete & Lynn Anderson, and Graham & Lori Covington, submitted to the Clatsop County Transportation and Development Department applications for a comprehensive plan / zoning map amendment and an associated goal exception for 5-acres of land located east of Hwy 101 and behind Haystack Heights Subdivision (See maps below). The applicant proposes changing the property's zoning from Forest-80, [80 acre minimum] to Residential Agriculture-2 [two-acre minimum lot size]. The applicant also seeks an exception to Statewide Planning Goals 4 (Forestry) & 14 (Urbanization) pursuant to Oregon Administrative Rule (OAR) Chapter 660 Division 4 and Oregon Revised Statute (ORS) 197.732.

#### II. PROPERTY STATUS AND CONDITIONS

##### Lot of Record Status

The subject property is comprised of two contiguous parcels described as T5N, R10W, TL 4400 & 4500. The parcels were created prior to the conception of Clatsop County's Zoning Ordinance and in separate ownership at the time the Forest 80 zoning was adopted. A lot of Record determination was submitted verifying the status of the two lots. The determination was issued in September of 1999, declaring both lots as separate lots of record.



### III. SUMMARY OF STAFF CONCLUSIONS

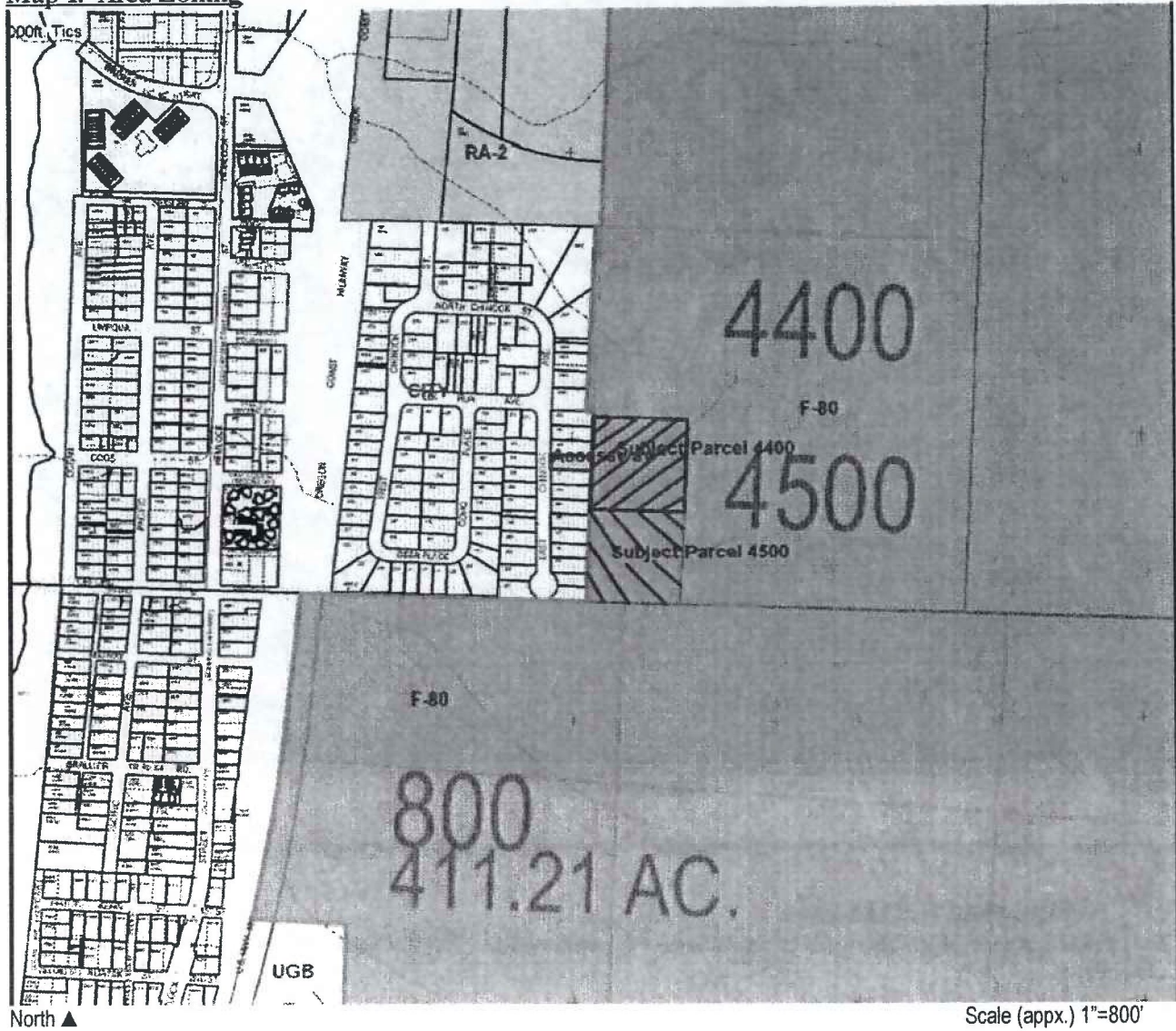
This report is lengthy and complex. It contains a variety of staff analyses and findings, maps, technical information, policies, approval criteria, and many exhibits. The following table lists the main criteria that apply to the request, a summary of staff's conclusions pertaining to each criterion, and a reference to the page numbers of this report where the pertinent staff analysis can be found.

<b>Criterion</b>	<b>Conclusions</b>	<b>Page(s)</b>
Zone Change Criterion No. 1 – Consistency with Comprehensive Plan	Satisfied.	5-25
Goal 1 Element – Citizen Involvement	Satisfied.	5
Goal 2 Element – Land Use Planning	Satisfied	5-8
Goal 3 Elements – Agriculture Lands	Satisfied	8
Goal 4 Elements – Forest Lands	Satisfied. With Conditions of Approval.	9-12
Goal 5 Element – Open Spaces, Scenic, Historic & Natural Resources	Satisfied. With Condition of Approval.	12
Goal 6 Element – Air, Water & Land	Satisfied.	12-13
Goal 7 Element – Natural Hazards	Satisfied.	14
Goal 8 Element - Recreation	Satisfied.	14
Goal 9 Element - Economy	Satisfied.	14
Goal 10 Element – Population and Housing	Satisfied.	14-19
Goal 11 Element – Public Facilities	Shall be satisfied by complying with LWDUO 80-14.	19-20
Goal 12 Element - Transportation	Satisfied.	20
Goal 13 Element - Energy	Satisfied.	20
Goal 14 Element - Urbanization	Satisfied.	20
Goal 16 & 17 Elements – Shorelands	Satisfied.	21
Goal 18 Element – Beach and Dunes	Satisfied.	21
Southwest Community Plan Element	Satisfied	21-21
Zone Change Criterion No. 2 – Consistency with Statewide Plan Goals	Satisfied. Refer to Goal 5 element for a relevant condition of approval.	21
Zone Change Criterion No. 3 – Adequacy of Public Facilities and Services	Shall be Satisfied before development can occur. Documentation needed on schools and water availability.	21
Zone Ch. Criterion No. 4 - Transportation	Satisfied.	22
Zone Ch. Criterion No. 5 - Compatibility	Satisfied with condition. See analyses for Goal 2, Goal 4, Goal 5 and Southwest Community Plan	22
Zone Ch. Criterion No. 6 - Suitability	Satisfied.	22
Zone Ch. Criterion No. 7 - Appropriate	Satisfied.	22
Zone Ch. Criterion No. 8 - Health/Welfare	Satisfied.	22
Goal Exception Criteria	Satisfied.	23-25

#### IV. NEIGHBORHOOD CONDITIONS

The neighborhood is comprised primarily of single-family residences on urban lots within the City limits of Cannon Beach. The area is characterized by dense forests and sloping hills with a ravine traversing the parcel in a southwesterly direction. Access to the parcel is provided through the ownership of an adjacent parcel located in the Haystack Heights Subdivision to the west. See aerial photograph (Map 2. Neighborhood Conditions) on following page.

**Map 1. Area Zoning**



## Map 2. Neighborhood Conditions



North ▲

2005 Aerial Photo

(no scale)

### V. APPLICABLE CRITERIA

The applicable criteria for this land use application is contained in LWDUO Section 5.412 which reads:

#### Section 5.412. Zone Change Criteria.

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:

- (1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
- (2) The proposed change is consistent with the statewide planning goals (ORS 197).
- (3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
  - (A) Parks, schools and recreational facilities
  - (B) Police and fire protection and emergency medical service
  - (C) Solid waste collection

- (D) Water and wastewater facilities
- (4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
  - (5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
  - (6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.
  - (7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.
  - (8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

Additional criteria relating to the applicant's request for Clatsop County to adopt an exception to Statewide Planning Goals 4 (Forestry) & 14 (Urbanization) are contained in Oregon Administrative Rule Chapter 660 Division 4 (attached; Exhibit 5) and Oregon Revised Statute 197.732 (attached; Exhibit 6).

## VI. EVALUATION OF APPLICATION

As part of its land use application (attached, Exhibit 3), the applicant evaluates the application against the applicable criteria of LWDUO § 5.412 and offers findings of fact for the county's consideration. In the following sections, staff examines the application versus the eight applicable criteria of LWDUO § 5.412 (1)-(8) and proposes findings of fact for the Planning Commission's review and consideration. Proposed findings pertaining to the Goal Exception aspect of this application begin on page 23 of this report.

### Zone Change Criterion No. 1: LWDUO §5.412(1) - Consistency with Comprehensive Plan

#### Comprehensive Plan, Goal 1 element – Citizen Involvement Analysis:

In its application (attached, Exhibit 3), the applicant explains that the procedures used by the county to review the land use application satisfy the applicable citizen involvement policies of the comprehensive plan. Staff concurs with the applicant and adds that all requirements pertaining to the public notices (LWDUO § 2.105 - § 2.125) for this land use matter have been met.

#### Finding of Fact:

Based on the analysis above, the application satisfies the applicable citizen involvement policies of the Goal 1 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 1 Element.

#### Comprehensive Plan, Goal 2 element – Land Use Planning Analysis:

The County's Comprehensive Plan implements Statewide Planning Goal 2, in addition Statewide Planning Goal 2 establishes the process for taking exceptions to Goals 4 and 14, which are required when processing this request. The exception to Goals 4 is necessary to change the zoning from F-80 and allow non-forest uses or change the comprehensive plan to "Rural Lands"(see below for "Rural Lands" description). The exception to Goal 14 is required in accordance with the new interpretations of the Goal 2 Exception Process as Amended by LCDC in January of 2008. The interpretation is contained in Exhibit 5 and stated for reference below.

*(i) For rural residential areas designated after the effective date of this rule (January 2008), the affected County shall either:*

- (A) Require that any new lot or parcel have an area of at least ten acres, or*
- (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."*

The following excerpts from the Goal 2 element of the comprehensive plan apply to this request:

- 3. Conservation Forest Lands\*

Forestlands are those lands that are to be retained for the production of wood fiber and other forest uses.\*

In land use changes involving a change from Conservation Forest Lands or Rural Agricultural Lands to Rural Lands or Development designations an Exception to the Agricultural Lands or Forest Lands Goals must be taken.

In accordance with the requirements of the County's Comprehensive Plan the applicant is requesting a goal exception to Statewide Planning Goal 4; furthermore the applicant is requesting a Goal Exception to Statewide Planning Goal 14 in accordance with recent interpretations of the exception requirements as detailed above and in Statewide Planning Goal 2.

#### 6. Rural Lands

Rural Lands are those that are outside the urban growth boundary, outside of rural community boundaries, and are not agricultural lands or forestlands. Rural lands include lands suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

The site includes two parcels 2 ½ acres in size each is suitable for sparse settlement as described in the preceding paragraph.

#### Rural Lands in Clatsop County

A diversity of housing options ranging from high density urban environments to low density farm-forest home sites has been a recognized need in Clatsop County since the County's first Comprehensive Plan was adopted in 1969. While developing the present Comprehensive Plan, citizens and elected and appointed officials stressed the economic and cultural importance of providing for the demand for recreational and year round rural home sites.

Because of the rural character of the County along with its geographic proximity to the northern Willamette Valley population centers, there has been a steady demand for second homes and rural home sites located on small rural tracts (see Housing Element and Background Report). The demand for rural tracts is expected to continue. In order to continue to meet the demand for affordable rural home sites the County has looked to those which are "built upon and/or irrevocably committed" rural areas which generally have:

- (a) *Some level of public facilities and services, especially surfaced public roads, fire protection, and piped water;*
- (b) *A pattern of parcel sizes generally smaller than 15 acres;*
- (c) *Existing residential development at a density generally higher than 1 dwelling unit per 10 acres; and*
- (d) *Natural boundaries, such as creeks and roads, separating the exception area from adjacent resource lands.*

Areas generally falling under the above set of criteria are designated Rural Lands throughout the Comprehensive Plan. Rural Lands are those lands, which are outside the urban growth boundary and are not agricultural lands or forestlands. Rural Lands include lands suitable for sparse settlement, small farms or acreage home sites with no or hardly any public services, and which are not suitable, necessary or intended for urban use. Most of these lands contain agricultural site class II-IV and forest site class FA-FD.

The site is surrounded on three sides by Weyerhaeuser property used for the primary purposes of forest operations. The 5 acres in question is held in separate ownership and is not large enough to provide an equitable return from forest operations. Furthermore topographic constraints on the subject property would limit development from extending beyond the natural borders established by the creek traversing the parcel along the eastern edge of 4400 and through the southeastern portion of parcel 4500. The site contains many of the characteristics of "Rural Lands" as described above.

The Coastal Shorelands Goal #17 requires that shorelands in rural areas other than those in major marshes, significant wildlife habitat areas etc. be used for appropriate:

- f. Subdivisions, major and minor partitions and other uses only upon a finding by the governing body of the county that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or unrealizable areas and are compatible with the objectives of this goal to protect riparian vegetation and wildlife habitat; and*
- g. A single family residence on existing lots, parcels or units of land when compatible with the objectives and implementation standards of this goal."*

These are areas of coastal shorelands which are "built upon or are irrevocably committed" to development and cannot be used for agricultural or forest use.

In developing the data base and criteria used to identify exception areas the County planning staff relied heavily on information provided by the six CACs, individual land owners, realtors and builders as well as the opinions of appointed and elected officials. Most of the information used to substantiate commitment of those lands was gathered over a 5-year period through the public hearings process, which resulted in the current Comprehensive Plan. In addition, the various needs of each sub area were examined and weighed against the goals. After completion of each sub area plan, each plan's specific goals and objectives and recommended land use allocations were compared against the County as a whole.

Generally, lands which fall under the general criteria enumerated in this Exception Process and Committed Lands Identification section are designated Rural throughout the Comprehensive Plan. Characteristically, these lands have scattered residences on parcel one-half to 15 acres in size and are clustered along roads throughout the unincorporated County.

The subject parcels are not identified as Coastal Shorelands and satisfy the general criteria for an exception under the Committed Lands criteria.

Designation of Rural Lands Policy:

Generally parcels less than 15 acres and that are "built upon or irrevocably committed" to a non-resource use is to be placed in a residential, industrial or commercial zone.

Residential

Residential densities are generally designated through the following additional criteria:

- a. *Where subdivisions or partitioning or both have occurred in a one-acre pattern of development the area will be placed in one of the one-acre zones;*
- b. *In areas with a development pattern of two to five acre parcels (some smaller and some larger), the areas will be placed in a two-acre zone;*
- c. *In areas adjacent to resource (forest, agriculture, wetlands, estuary areas) lands, or Camp Rilea, the areas will be placed in a five-acre zone;*
- d. *In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five-acre zone;*
- e. *In addition to criteria a through d, minimum lot sizes increase with increasing distance from the following areas:*
  1. *all urban growth boundaries*
  2. *Svensen center*
  3. *Knappa center*

Since approximately 90% of the total County land area is forest land, it is not surprising that most of the lands identified as Rural in the Plan contains forest land class FA-FC and/or agricultural site class soils II-IV (see Forestry and Agricultural Background Report).

Ideally the County's Comprehensive plan would call these sites to be designated as RA-5 in accordance with criteria "c" above; however the subject parcels only constitute 5 acres together, and they are both individual lots of record 2 1/2 acres in size. Furthermore the site abuts city limits with neighboring parcels as small as 5000 square feet in size. It is not logical to zone this area as RA-5, because the parcels would be substandard in size upon the inception of the Zone Change. Therefore staff agrees with the applicants findings provided on Page 5 of Exhibit 3.

Finding of Fact:

Based on the analyses above, the application is consistent with the applicable "Conservation Forest Lands" and "Rural Lands" policies of the Goal 2 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 2 Element.

Comprehensive Plan, Goal 3 element – Agricultural Lands

Staff concurs with the applicant's assertions on page 5 of Exhibit 3 that the Goal 3 element of the comprehensive plan does not apply to this request.

Finding of Fact:

Based on the analysis above, the Goal 3 element of the Clatsop County Comprehensive Plan does not apply to the request. LWDUO § 5.412(1) – Goal 3.

Comprehensive Plan, Goal 4 element – Forest Lands

The land is currently designated Forest lands therefore the following elements of the Clatsop County's Comprehensive plan apply to this request:

1. Forest lands shall be conserved for forest uses, including the production of trees and the processing of forest products, open space, buffers from noise, visual separation from conflicting uses, watershed protection, wildlife and fisheries habitat, soils protection from wind and water, maintenance of clean air and water, outdoor recreational activities compatible with these uses, and grazing land for livestock.

Applicant is requesting a goal exception to this criterion in order to process the zone change. Consistency with this criterion is irrelevant upon the adoption of the proposed Goal Exception.

2. Forest Lands shall be designated Conservation-Forest in the County's Comprehensive Plan. When considering a zone change to a forest zone, the Planning Commission or other reviewing body shall review the proposal against the acreage, management, and other approval criteria in County-wide Forest Lands Policies #19, #20 and #21.\*

The applicant is not proposing to rezone this property as AF-20 or F-38; furthermore the acreage of the site does not lend itself to the acreage requirements depicted in Policies 19, 20 & 21. The applicant is requesting to rezone the area to RA-2 and therefore this policy is not applicable to the request. Staff concurs with the applicant's findings on Page 6 § (9) of Exhibit 3.

3. Forest practices on lands designated Conservation-Forest shall conform to the Oregon Forest Practices Act and Oregon Forest Practice Rules, as revised.

The applicant claims they will comply with the requirements of the Forest Practices Act as applicable to this situation. Staff finds no reason why this criterion cannot reasonable be satisfied.

4. Division of forestlands will be permitted only upon a finding that the proposed division meets the following criteria:
  - a. the proposed division will not diminish the potential for timber production, watershed protection and fish and wildlife habitat, and
  - b. the creation of new parcels will not materially alter the overall stability of the area's land use pattern.

Staff concurs with the applicant's findings on Page 7 - Exhibit 3 § (11). The properties were previously partitioned and in separate ownership at the date of inception to the county's comprehensive plan. A "Lot of Record Determination" was conducted in January of 1999 indicating the parcels are two independent "Lots of Record" substandard in size. Furthermore the applicant is not proposing to partition the property further nor will the proposed zone change permit the applicant to partition the property further.

5. The clustering of non-forest residences on forestlands may be permitted in the AF-20 and F-38 zones, subject to non-forest use siting standards. This non-forest development is permitted conditionally because, properly designed and sited, it does not result in the loss of forest lands nor does it diminish or interfere with forest uses.

Staff concurs with the applicant's findings this criterion is not applicable to this request.

6. The designation of new park and recreation areas (campgrounds, etc.) on forestlands shall require an assessment of public need for these facilities and their potential impact on adjacent forestlands. The productive capacity of the land shall be evaluated and considered when siting these developments. These developments, if allowed, shall be sited and designed so as not to preclude forest management wherever possible.

No Parks are proposed with this application; this criterion is not applicable.

7. The County will do the following in order to minimize conflicts between the use of forestland for elk habitat and for commercial timber production.

a. Wildlife refuges:

Existing wildlife refuges, which are owned/leased and managed by the Oregon Department of Fish and Wildlife (ODFW) or by the United States Fish and Wildlife Service (USFWS), shall be designated Conservation-Other Resource and zoned Open Space, Parks and Recreation (OPR).

Proposed wildlife management areas, which are managed, and either owned or leased by the Oregon Department of Fish and Wildlife (ODFW) located in areas designated Conservation Forest or in other lowland areas under any plan designation shall be reviewed by the County for compliance with the approval standards listed below. Such hearings shall be conducted according to a Type IV procedure at a time and place convenient to residents of the affected planning area. ODFW shall provide an evaluation of the economic, social, environmental and energy consequences of the proposal and\*\* information sufficient to support findings with respect to the following approval criteria:

1. Identification of the need for the proposed new wildlife management area. "Need" means specific problems or conflicts that will be resolved or specific ODFW objectives that will be achieved by establishing the proposed area.
2. Alternative lands and management actions available to the ODFW, and an analysis of why those alternatives or management actions will not resolve identified problems or achieve objectives.

No Wild Life refuges exist on the parcels nor are any proposed. "Not Applicable"

8. The State Fish and Wildlife Commission shall be officially requested to resolve the existing adverse impacts on forestland resulting from elk browse. The following measures are suggested:

- revision of hunting laws.
- reduce the elk population in Clatsop County to sustained management levels.
- compensate landowners for damage to forest crops resulting from elk.
- where appropriate, provide technical and financial assistance to forestland owners for the installation of fencing.

See Requirements Under § 9 below.



9. The County shall take the necessary action through the State Legislative Assembly to revise the laws governing the action of the State Fish and Wildlife Commission for the provision of acceptable methods of relief to property owners from damage due to elk.

**\*\*\* The following requirements will need to be met in order to assess compliance with this criterion. \*\*\*  
These will be attached as a condition of approval to the request.**

**Riparian Setbacks:**

All riparian, greenbelt, and waterway setbacks shall be maintained. ODFW recommends the proposed development be designed around these setbacks (i.e. do not waive setbacks to allow development within.

*Stream-Road Crossings:*

*Any stream-road crossings (including utilities) are to comply with fish passage requirements. Laws regarding fish passage may be found in ORS 509.580 through 910, and in OAR 635, Division 412. ODFW shall approve in advance any instream structure (Ron Rehn 503 842-2741).*

**Wildlife Damage Exclusion:**

Wording to be included into a covenant to the deed of each lot:

*This property is in an area of known big game and furbearer animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.*

*This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife.*

**Sensitive Resources:**

No sensitive resources exists within 1 mile of the project area. (i.e. eagle nest, Heron rookery, etc.).

10. Forestry activities within watersheds in areas designated Conservation-Forest in the Comprehensive Plan will be conducted in accordance with the Oregon Forest Practices Act and the Oregon Forest Practice Rules, as revised. Additional protective measures negotiated between forest landowners and water users are encouraged.

No Forestry activities, with the exception of minor site development for a Single Family dwelling are proposed at this time. This policy is not applicable to the request. Staff concurs with analysis on page 9 of Exhibit 3

11. The productive capacity of the land will be considered before land designated Conservation-Forest is changed to another plan designation. The impact of the proposed new use on adjacent lands shall also be evaluated and considered before such a plan change is made.

Staff Concurs with the applicants findings detailed on Page 10 of the Exhibit 3, in which the applicant states: ' the productive capacity of 5 acres is not suitable for commercial forestry operations. In addition the 20 vehicle trips per day do not pose any potential traffic problems. In order to alleviate any potential problems with surrounding forest operations the County is requiring the following statement be recorded with the Deed as a condition of approval:

"Purchaser recognizes that lands in the adjacent area may be managed for commercial forestry which include activities such as; logging, slash burning, other fire control, silvicultural site preparation, construction of forest roads, aerial and ground application of forest chemicals, and other silvicultural practices which often create noise, dust, visual impacts and other alterations of the forest environment. Purchaser acknowledges that adjacent land owners have the right to conduct such commercial forest management activities which are regulated by state forest practice rules and regulations, and will not attempt to impose additional restrictions on these activities."

12. Off-road vehicles (ORVs) shall be strictly confined to established rock roads in order to prevent erosion, stream degradation, damage to young trees and seedlings, and disturbance of wildlife and its habitat.

No off road activities are planned for the subject site. This policy is not applicable to the request.

13. Existing utility right-of-ways shall be utilized to the maximum extent possible before new right-of-ways are created.

The applicants propose to use an access created through an adjoining parcel owned by the applicants and abutting East Chinook Street. No new utility right of ways are proposed. Upon application for a Single Family dwelling on the sites, the applicant will be responsible for ensuring that an approved access to the properties is obtained through the County's public works department

14. Roads in forest areas shall be limited to the minimum width necessary for traffic management and safety.

Upon the satisfactory completion of a Goal Exception and Zone change the applicants will be required to meet applicable County Standards for developing an access road to the proposed home sites; however at this time no road is proposed.

15. Forest landowners shall be encouraged to actively pursue methods of complete utilization of wood fiber left on the ground after harvesting.

No Harvesting of Forest products is proposed except that necessary for the development of two home sites. Regardless Staff concurs with the applicant this is not an applicable criteria for this proposal.

16. Where forestlands of suitable management size occur in the interior of rural residential areas, or are completely surrounded by residential development, small woodland management and farming is encouraged. Over time these areas may be needed for housing and in future comprehensive plan updates shall be considered ideally situated for conversion to residential uses prior to conversion of other forestlands.

The subject property is not suitable for forest management as detailed previously. The parcel is also adjacent to the city limits of Cannon Beach. The policy is not applicable to this request.

17. Expansion of existing non-forest developments and uses in forest zones may be permitted under a Type II procedure only when such expansion is substantially confined to the existing site.

The proposal does not include the expansion of an existing non-forest development. This policy is not applicable to this request.

18. Partitioning of forest lands under the provisions of Clatsop County's forest zones which serve to increase forest management efficiency by allowing one or more forest owners to consolidate their land holdings is encouraged.

The applicant is not proposing to partition nor consolidate their holdings. Therefore the criterion is not applicable to this request.

19. Clatsop County will rely on the following acreage criteria when reviewing a proposed zone change to a forest zone:

AF-20: Lands in the AF-20 zone shall be comprised predominantly of ownerships smaller than 40 acres. Ownerships 40 acres and larger may also be placed in an AF-20 zone if they are generally surrounded by ownerships smaller than 40 acres.

F-38: Lands in the F-38 zone shall be comprised predominantly of ownerships smaller than 76 acres. Ownerships 76 acres and larger may also be placed in an F-38 zone if they are generally surrounded by ownerships smaller than 76 acres.

F-80: Lands in the F-80 zone shall be comprised predominantly of ownerships 76 acres and larger.\*

This proposal involves a zone change to Residential Agriculture-2 zone which is not designated a forest zone; therefore the provisions of this policy are not applicable to the request.

20. Clatsop County will rely on the following management criteria when reviewing a proposed zone change to a forest zone:

AF-20 and F-38: Lands in these forest zones are characterized by both agricultural and forestland uses. Management of these lands is often done on a low-intensity, part-time basis.

F-80: Forestlands in the F-80 zone include areas where timber production is the primary land use. These lands are often intensively managed by full time professional foresters.\*

Not applicable - See 21 Below

21. A zone change from the F-80 zone to any other zone, including the AF-20 or F-38 zone, shall require a plan amendment. The purpose for such a plan change is to assure that primary forest lands in the F-80 zone are not converted to mixed use forest lands in the F-38 or AF-20 zones, or to any other plan designation without appropriate review by the County.\*

The applicant is proposing to rezone the area RA-2, Rural Lands from F-80 Conservation Forest Lands. The site meets the general requirements as described under the Goal 2 requirement for "Rural Lands," The site does not meet nor can it satisfy the intention of the Forest 80 Zone, due in part to the small nature of the parcels. At only five acres these lots are not suitable for commercial harvesting and are better suited as rural residential home sites. Furthermore these lands are owned in separate ownership than the much larger surrounding forestry tracks owned by Weyerhaeuser. These Parcels are not conducive nor could they support a full time professional forester. Therefore Staff finds that the parcels are irrevocably committed to rural residential and satisfy the criteria for a zone change to reflect the suitability of these sites for that intent and purpose.

22. Partitioning of land in the AF-20 zone and F-38 zone shall be approved only upon a finding that such newly created parcels shall be used only for forest uses. This policy does not apply to the small lots resulting from a cluster partition.\*

The applicant is not proposing to partition the property to smaller lots at this time; furthermore under the RA-2 zoning it is not feasible for the applicant to drop below the 2-acre minimum unless they were successfully incorporated into the City Limits of Cannon Beach. Cannon Beach may at some point in the future designate this area as a potential expansion site to their urban growth boundary; however that is not a part of this proposal and hence is irrelevant to this request.

23. In land use changes involving a change from Conservation-Forest Lands or Rural Agricultural Lands to Rural Lands or Development designations an Exception to the Agricultural Lands or Forest Lands Goals must be taken.\*

The applicant is proposing to take an exception to the requirements of Goal 4 and 14 as mentioned above and described later in this report. (See Pages 23-25)

Findings of Fact:

Upon the adoption of the Goal Exception and Comprehensive Plan Amendment the proposal will satisfy the requirements for compliance with the Goal 4 element of the County's Comprehensive Plan.

Comprehensive Plan, Goal 5 element – Open Spaces, Scenic & Historic areas and Natural Resources:

Finding of Fact:

Staff finds that the analysis provided on pages 14 -15 of Exhibit 3, satisfactorily address the criteria and policies of Goal 5. The site is identified as a Peripheral Big Game Range and as such, any and all present and future owners of this property agree to indemnify and hold harmless the County, Oregon Department of Fish and Wildlife, and any other Governmental agency involved in the granting of this request, for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.

The County has coordinated efforts with the Oregon Department of Fish and Wildlife and has confirmed that the site is otherwise not identified as a significant Goal 5 resource. In addition conditions have been applied to this recommendation, which will ensure the satisfactory compliance with the provisions of Goal 5.

Comprehensive Plan, Goal 6 element – Air, Water, and Land Quality:

The applicant evaluates the application against the applicable plan policies of the Goal 6 element of the comprehensive plan in pages 16-21 of Exhibit 3. Staff concurs with the applicant that the proposal does not conflict with the applicable plan policies of Goal 6. The Clatsop County Land and Water Development and Use Ordinance (LWDUO) contains multiple development standards that would apply to the future development of the subject property to assure the protection of air, water, and land quality standards in accordance with Goal 6.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 6 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 6 Element.

Comprehensive Plan, Goal 7 element – Natural Hazards

The applicant's analyses contained in pages 21-25 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan. In addition compliance with Clatsop County's Land Water Development and Use ordinance should ensure compliance with standards designed to protect future development from potential natural hazards identified on the site in particular stream bank erosion, which has been identified as a potential hazard. Regardless steps have been adopted to ensure this zone change will not affect those areas in a negative fashion. Furthermore the language adopted as a condition of approval should ensure the protection of the Stream bank located on the subject property.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 7 Element.

Comprehensive Plan, Goal 8 element – Recreational Lands

The subject property is not an identified recreational resource. The proposal does not conflict with the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 8 Element.

Comprehensive Plan, Goal 9 element – Economy

The applicant's analyses contained on page 26-29 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 9 Element.

Comprehensive Plan, Goal 10 element – Population and Housing

Population Policies

1. Community plans should provide for orderly growth, which reduces the cost of essential services while preserving the basic elements of the environment.

Implemented through the County's Southwest County Community Plan

2. Promote population to locate in established service areas.

The area is located in an established service area. Development in this area is consistent with the establishment of rural residences near established communities and public services.

3. Promote the accommodation of growth within areas where it will have minimal negative impacts on the County's environment and natural resources.

The county concurs with the applicant's assessment on page 29 of Exhibit 3. This proposal should have little to no Negative impacts on the County's Environment and Natural Resources.

4. Utilize current vacant land found between developments or within committed lands.

The development of these two sites adjacent to the City of Cannon Beach fits the description of lands that are to be considered committed lands.

5. Direct new urban growth within Clatsop County to existing urban growth boundary or rural service areas where under utilized public or semi-public facilities exist or utility and/or investments have already been made.

The subject site is located adjacent to the city of Cannon Beach. The city may at some point in the future wish to expand their city limits to incorporate this area. In order to do so the City must satisfy the Goal 14 requirements at that time. Regardless the subject parcel is ideally suited for infill development and does not encourage sprawling development along the I-101 corridor like so many other developments. This site has adequate access to transportation facilities and public services and provides rural residential housing.

6. Encourage development of land with less resource value.

The parcel cannot feasibly be used as commercial forestry; therefore encouraging development of the subject land is consistent with the spirit of this policy.

7. Coordinate planning efforts of local governments and special districts to maximize efficiency of public facilities, and have land use actions reflect the goals and policies of the Plan.

#### Housing Policies

#### Residential Development

1. Clatsop County shall encourage residential development only in those areas where necessary public facilities and services can be provided and where conflicts with forest and agricultural uses are minimized.

As a condition of approval the applicant shall record a disclaimer on their deed indicating the applicant, owner and successors shall not indemnify forestry operations on surrounding parcels.

Staff concurs that this request is consistent with this policy as described in the applicant's findings addressing this criterion, located on page 32, Exhibit 3.

2. Clatsop County shall assist in planning for the availability of adequate numbers of housing units at price ranges and rent levels commensurate with the financial capabilities of County residents.

Staff concurs in part with the applicant's findings. Clatsop County does have a shortage of affordable housing; however it is not likely that these parcels will offer any relief from that dilemma. In addition sufficient buildable lands have been identified throughout the county to adequately satisfy any requirements regarding housing stock. Despite these factors the County has trouble providing moderate to low income housing due in part to the unique geographical location and features of the area. Regardless Staff agrees that this is not applicable to the applications ability to meet the criteria; hence this proposal does not violate policy two of the housing element, and is therefore satisfied.

3. Clatsop County shall encourage planned developments and subdivisions to cluster dwelling units. The clustering of dwellings in small numbers and the provision of common open space assures good utilization of the land, increased environmental amenities, and may be used as an open space buffer between the residential use and adjacent agricultural or forest uses.

The applicant is not proposing to subdivide the property at this time. If at some point in the future the applicant is incorporated into the urban growth boundary of Cannon Beach it is presumed the City will require the applicant to cluster any development at that time.

4. Clatsop County shall permit residential development in those designated areas when and where it can be demonstrated that:
  - a. Water is available which meets state and federal standards;
  - b. Each housing unit will have either an approved site for a sewage disposal system, which meets the standards of the County and the Department of Environmental Quality or ready access to a community system;
  - c. The setback requirements for the development of wells and septic systems on adjacent parcels have been observed;
  - d. Development of residential units will not result in the loss of lands zoned or designated for agriculture or forestry and will not interfere with surrounding agricultural or forestry activities.

In accordance with Clatsop County's LWDUO # 80-14 these criteria shall be required to be met prior to the issuance of a development permit on the subject site.

5. Clatsop County shall permit temporary siting of mobile homes in specified locations in the event of an emergency.

Not Applicable.

6. Clatsop County shall encourage multi-family housing and mobile home park developments to develop within the various urban growth boundaries.

Not Applicable.

7. Clatsop County shall encourage the development of passed over lots that already have services such as water and roads to be preferred for development over tracts requiring an extension of services.

This site serves as a perfect example of lots that were passed over for development that the County should encourage for development. Staff agrees with the applicant's findings on page 34 of exhibit 3.

8. Clatsop County shall make provisions for housing in areas designated for Rural, Urban Growth Boundaries, and Rural Service Areas which provide variety in location, type, density and cost where compatible with development on surrounding lands.

Staff Concurs with the applicant's analysis on page 34 of Exhibit 3.

Governmental Cooperation and Coordination

9. Clatsop County shall cooperate with governmental agencies and Clatsop County Housing Authority in promoting unified housing policies and in ensuring an equitable distribution of assisted housing throughout the County.

Not Applicable.

10. Clatsop County shall encourage state and federal agencies to develop programs and funding sources to increase the level of support for the maintenance and rehabilitation of existing housing and for the development of additional housing.

Not Applicable.

Housing Rehabilitation

11. Clatsop County shall develop and maintain an inventory of the type and condition of the current housing stock. The rural housing needs should be reexamined every two years to reflect the market changes and new information.

Not Applicable.

12. Clatsop County shall encourage the retention of the current housing stock and, where necessary and feasible, will assist in the rehabilitation of substandard housing units.

Assisted Housing

13. Clatsop County shall set aside tracts of lands which it owns within the cities and their urban growth boundaries which can be used for low cost housing. The lands should be inventoried and a program developed through the Northwest Oregon Housing Association to release those lands for this purpose. Clustering techniques, common wall and townhouse construction, both for sale and for rent, could be employed in the development of these lands.

Not Applicable.

14. Clatsop County shall activate support programs, which serve to improve housing conditions of those homeowners who are physically or financially unable to make improvements on their own.

Not Applicable.

## Urban Growth Boundary Population Projections

Clatsop County cities in cooperation with the County have developed population projections for the six Urban Growth Boundary areas (see Table 8, 8-1, 8-2, 8-3 and Chart 8, 8-1, 8-2). The information contained in these tables and charts are based on the 2000 U. S. Census and historical growth figures compiled by the Center for Population Research and Census, Portland State University. The forecasted growth is based largely on historical data and information received from the cities. For the most part, the cities forecasts include both the city limit boundary and portions of the urban growth boundary, and in some cases the Census Tract may extend beyond both. The growth forecast to year 2030 does not take into account the vacation or seasonal population of rentals or secondary homes and the impacts they may have on water, sewer, transportation or other public facilities and services. The growth forecast is an estimate based on historical information and may not accurately reflect changing conditions.

Using the methodology employed by the City of Cannon Beach in projecting its population to the year 2025 (refer to City of Cannon Beach Ordinance No. 06-09 and Clatsop County Ordinance No. 07-05 for more details), Clatsop County revised Population Table 8-1, Chart 8, and Chart 8-1 to reflect population projections for all cities and the unincorporated areas to the year 2030 (the population projections previously ended at the year 2020). In establishing the year 2025 and year 2030 population projections, the county held constant the forecasted year 2020 percentage of population allocated to each city and the unincorporated areas through to the year 2030 (see Chart 8-1).

In recognition of the City of Cannon Beach's need for coordinated population projections to the year 2025, and in recognition of similar work currently being undertaken by the City of Seaside that requires population projections to the year 2030, Clatsop County adopted, as an interim measure, the year 2025 and year 2030 population projections contained in this section until such time that officials from all cities and the county can meet to discuss new shifts in area demographics or conditions (i.e., recent annexations by the City of

Gearhart, new home construction as a result of Measure 37/49 claims, etc.) that may compel adjustment to these figures.

### Population Policy:

JURISDICTION	ACTUAL <sup>1</sup>		% OF COUNTY POPULATION		FORECASTS			
	1990	2000	1990	2000	2020 Urban Area Totals <sup>2</sup>	2030 Urban Area Totals <sup>2</sup>	% of County Population <sup>4</sup>	Average Annual Growth Rate 2000-2030
Astoria	10,069	9,813	30.24%	27.54%	11,826	12,953	28.30%	0.94%
Cannon Beach <sup>5</sup>	1,221	1,588	3.67%	4.46%	1,859	2,037	4.45%	0.79%
Gearhart	1,027	995	3.08%	2.79%	1,254	1,373	3.00%	1.16%
Seaside	5,359	5,900	16.09%	16.56%	7,337	8,037	17.56%	1.10%
Warrenton <sup>3</sup> Hammond	2,681 589	4,096	9.82%	11.50%	5,741	6,289	13.74%	1.70%
CITY TOTAL	20,946	22,392	62.90%	62.85%	28,017	30,689	67.05%	1.13%
UNINCORPORATED TOTAL	12,944	13,238	38.87%	37.15%	13,771	15,082	32.95%	0.20%
COUNTY TOTAL	33,301	35,630	-	-	41,788	45,771	-	0.80%

Review of the forecast should occur every three to five years.

**TABLE 8: Clatsop County Population Projections**

JURISDICTION	2000 (actual)	2005	2010	2015	2020	2025	2030
Clatsop County <sup>1</sup>	35,630	36,919	38,376	40,018	41,788	43,727	45,771
Incorporated Cities: <sup>2</sup>							
Astoria	9,813	10,152	10,649	11,205	11,826	12,375	12,953
Cannon Beach	1,588	1,642	1,707	1,780	1,859	1,946	2,037
Gearhart	995	1,107	1,151	1,200	1,254	1,312	1,373
Seaside	5,900	6,206	6,546	6,927	7,337	7,678	8,037
Warrenton	4,096	4,426	4,813	5,278	5,741	6,008	6,289
Unincorporated	13,238	13,386	13,510	13,628	13,771	14,408	15,082

- Center for Population Research and Census, Portland State University; United States Census.
- City totals projected based on previous percentages of county population and percent growth.
- Warrenton annexed Hammond in 1999, thus the substantial change in population.
- Based on the previous growth rates and percentage of county population.
- County projection from the Office of Economic Analysis, Department of Administrative Services, State of Oregon.
- Cannon Beach numbers reflect the City's assumption that their existing percentage of County population will be maintained.

**TABLE 8-1: Clatsop County Population Projections 2000 – 2030**

- County projection from the Office of Economic Analysis, Department of Administrative Services, State of Oregon.
- City totals projected based on previous percentages of county population (see above), growth and county projection.

**TABLE 8-2: Previous Population Projections for Clatsop County**

	1970	1980	1985	1990	1995
High	28,473	32,500	35,000	38,000	41,200
Medium	28,473	32,000	34,000	36,400	38,800
Low	28,473	31,700	32,500	33,500	34,300
ACTUAL	28,473	32,489	32,452	33,301	34,300

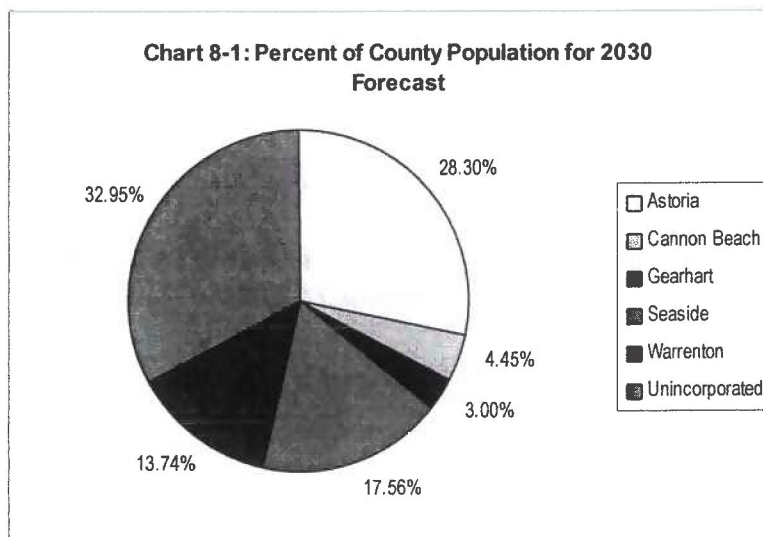
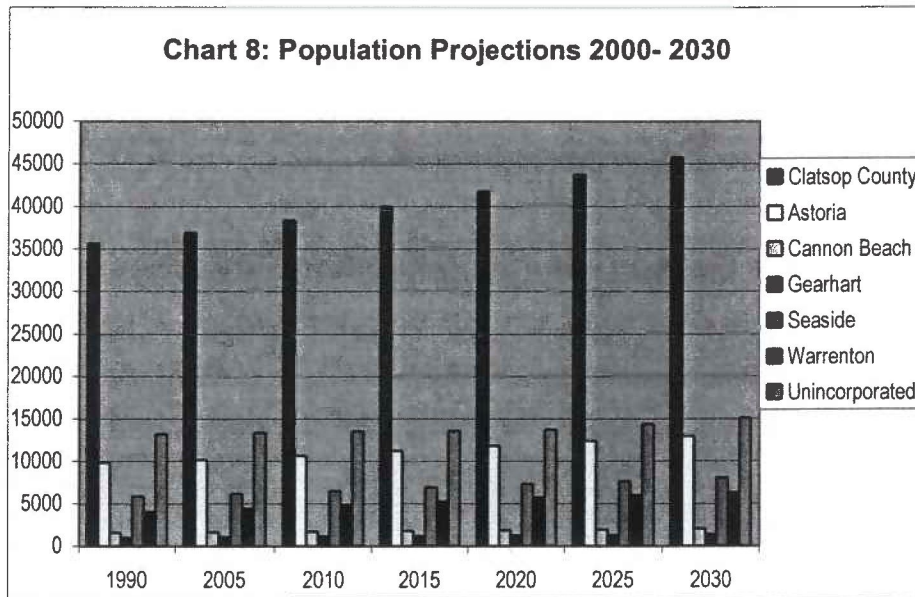
Sources: Projections: Clatsop County Comprehensive Plan; Actual - U.S. Census



**TABLE 8-3: Clatsop County Historic Population**

JURISDICTION	1900	1910	1920	1930	1940	1950	1960	1970	1980	1990	2000
Clatsop County	12,765	16,106	23,030	21,124	24,697	30,776	27,380	28,473	32,489	33,301	35,630
Astoria	8,381	9,599	14,027	10,349	10,389	12,331	11,239	10,244	9,998	10,069	9,813
Cannon Beach	n/a	n/a	n/a	n/a	n/a	n/a	495	778	1,187	1,221	1,588
Gearhart	n/a	n/a	127	125	319	568	725	829	967	1,027	995
Seaside	191	1,270	1,802	1,565	2,902	3,886	3,877	4,402	5,193	5,359	5,900
Warrenton	n/a	339	730	683	1,365	1,896	1,713	1,825	2,493	2,681	4,096
Hammond	n/a	957	547	244	422	522	480	500	516	589	-

Source: Population Research Center, Portland State University  
 n/a = not applicable because they were not incorporated as cities yet



Finding of Fact:

Based on the analysis above and that provided by the applicant in Exhibit 3 pages 29-34, the application satisfies the Population plan policies #1 - #7 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Population).

Based on the analysis above, the application satisfies the housing plan policies #1 and #8 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Housing).

Comprehensive Plan, Goal 11 element – Public Facilities and Services

Analysis:

The following excerpted Overall Policy Regarding Appropriate Levels of Public Facilities in the Rural Lands Plan designation applies to the request:

Rural Lands - Most of the areas built upon or committed to non-resource use in the County are in this Plan designation. Much of the area is currently served by community water systems.

Clatsop County is concerned that development not outstrip the capacity of the service area districts. Clatsop County requires that a proof of an adequate source of water be available before any development permit (e.g. residential, commercial or industrial), excluding land divisions, is approved.

Public water supply is an appropriate public facility in this Plan designation, but is not essential for development.

Rural fire protection districts are present in many of the areas in this Plan designation. This is often a desired rural service and is appropriate in this Plan designation but is not a prerequisite for RA zoning. Some rural residents are more willing to pay high fire insurance premiums than taxes to maintain a local fire district. Development is scattered enough in this Plan designation, as compared with RSAs or cities, that fire protection is not a requirement for development.

Community sewage systems are not appropriate in this Plan designation.

Partition and subdivision proposals in this Plan designation will be referred to the local school district for comment.

The following Goal 11 plan policies also apply to the request:

General Public Facilities Policies

1. Clatsop County recognizes the level of public facilities and services described in the section "Overall Policy Regarding Appropriate Levels of Public Facilities in the County" above, as that which is reasonable and appropriate for development in different Plan designations in the County. The County shall not approve development of facilities and services in excess of those levels and types.
9. When a Comprehensive Plan or Zone Change or both are requested that would result in a higher residential density, commercial or industrial development it shall be demonstrated and findings made that the appropriate public facilities and services (especially water, sanitation (septic feasibility or sewage) and schools) are available to the area being changed without adversely impacting the remainder of the public facility or utility service area.

Water Supply Systems Policies

4. Clatsop County shall encourage existing community water supply systems to be improved and maintained at a level sufficient to:
  - a. provide adequate fire flow and storage capacity to meet the service area requirements,
  - b. meet the anticipated long-range maximum daily use and emergency needs of the service area, and
  - c. provide adequate pressure to ensure the efficient operation of the water distribution system.

The applicant's analyses contained on pages 34-37 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan

with the exception that the applicant does not demonstrate that a suitable water system to serve the site is in place. Alternatively, if the applicant were to provide water for future development on the property by a system of wells, pumps, and reservoirs, it should remit documentation that the water system will not adversely affect area wells or other area water facilities that rely on the aquifer.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to land use approvals and before development permits are issued for new development on the subject property, appropriate public services and facilities will be in place to service the property.

Finding of Fact:

Based on the analysis above, the proposal satisfies the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan, the application must demonstrate a suitable source of water prior to the issuance of a development permit. In addition it is the application has not addressed impact to the Seaside school district. Regardless the proposal only calls for two sites the two sites could be developed in Forest 80 under a Conditional Use permit; therefore Staff finds that this alteration will cause no more impact and the Goal 11 element of LWDUO § 5.412(1) – is satisfied.

Comprehensive Plan, Goal 12 element – Transportation

Analysis:

The applicant's analyses on pages 37 - 38 in Exhibit 3 adequately address Clatsop County Transportation System Plan (Ordinance No. 03-09).

Finding of Fact:

Based on the analysis above, consistency with the Goal 12 Transportation element of the Comprehensive Plan is satisfied. LWDUO § 5.412(1) – Goal 12 Element.

Comprehensive Plan, Goal 13 element – Energy Conservation

Analysis:

The applicant's findings on pages 38-39 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 13 Element.

Comprehensive Plan, Goal 14 element – Urbanization

Analysis:

The application does not involve lands located within or adjacent to an urban growth boundary (It is adjacent to the City Limits of Cannon Beach). The applicant does not propose amending any urban growth boundary. The Goal 14 policies of the comprehensive plan speak to urban growth management agreements, district agreements, rural communities, and other urbanization matters that do not apply to the application. The applicant's proposed exception to Statewide Planning Goal 14 (Oregon Administrative Rule Chapter 660 Divisions 4 and 14) that is required as a function of the request to reduce parcel sizes and increase densities on the subject property is addressed under the Goal 14 exception criteria.

Upon the adoption of the Goal Exception and Comprehensive Plan Amendment the proposal will satisfy the requirements for compliance with the Goal 14 element of the County's Comprehensive Plan.

Findings Of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 14 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412 – Goal 14 Element. The applicant's proposed exception to Statewide Planning Goal 14 is addressed later in this report.

Comprehensive Plan, Goal 16 and 17 elements – Estuarine Resources and Coastal Shorelands

Analysis:

The applicant's findings on pages 39 of Exhibit 3 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 16 & 17 Elements.

Comprehensive Plan, Goal 18 element – Beaches and Dunes

Finding of Fact:

Not Applicable.

Comprehensive Plan, Southwest Community Plan element

The applicable goals and policies of the Clatsop Plains Community Plan are contained in the following section. Staff analyses are interjected throughout the section.

Southwest Coastal Community Plan

Consistency with the Elements of the Southwest Community Plan is assessed through compliance with the Comprehensive plan elements previously discussed. Staff finds the applicant has adequately addressed these criteria through out the proposed findings provided in pages 1-39 of Exhibit 3 LWDUO § 5.412(1) – Southwest Coastal Community Plan Element.

**Zone Change Criterion No. 2: LWDUO §5.412(2) - Consistency with Statewide Planning Goals**

Clatsop County has a ratified comprehensive plan. Consistency with Statewide Planning Goals is determined through the consistency with the County's Comprehensive Plan. Staff finds that all applicable Statewide Planning goals are adequately addressed in the findings provided previously.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 2. LWDUO § 5.412(2).

**Zone Change Criterion No. 3: LWDUO §5.412(3) - Adequacy of Public Facilities and Services**

Staff concurs with the applicant that adequate public facilities and services exist to be provided to the subject property with two exceptions: There is no proof that an adequate water supply can be provided and the applicant has not provided evidence from the Seaside School District that it can service the site adequately. See pages 19-20 of this report for more details.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate public facilities and services will be installed.

Finding of Fact:

Based on the analysis above, the applicant shall demonstrate that adequate water is available to serve the property and that the Seaside School District has adequate capacity to serve the additional students prior to the issuance of a development permit. The application satisfies Zone Change Criterion No. 3. LWDUO § 5.412(3).

**Zone Change Criterion No. 4: LWDUO §5.412(4) - Adequacy of Transportation Facilities**

Analysis:

Staff concurs with the applicant that adequate transportation facilities exist for the proposal. Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate transportation facilities will be in place.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 4. LWDUO § 5.412(4).

**Zone Change Criterion No. 5: LWDUO §5.412(5) – Compatibility with Area**

Through the analysis provided by the applicant and the conditions provided herein compatibility with the area can be ensured.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 5. LWDUO § 5.412(5).

**Zone Change Criterion No. 6: LWDUO §5.412(6) - Peculiar Suitability of Site for Particular Uses**

Analysis:

The site is well suited for rural residential site development. The area is restricted from further development by the geologic feature of a Creek to the east and south sides of the subject parcel. The area borders the city limits on the west side and is surrounded on three sides by Weyerhaeuser parcels very large in nature. The site is not suitable for commercial forestry and is best suited as an acreage home site.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 6. LWDUO § 5.412(6).

**Zone Change Criterion No. 7: LWDUO §5.412(7) - Zone Change Promotes Appropriate Use of Land in County**

Analysis:

Well assessing this proposal it is important to realize that although the parcel is zoned F-80 it is only 5 acres in size. The parcels were created prior to 1957 and in separate ownership at the inception of the ordinance. The existing owners could potentially develop the site as two home sites in its current state. This Zone change will essentially have little to no impact on the surrounding lands as the proposed use could be accomplished under current zoning.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 7. LWDUO § 5.412(7).

**Zone Change Criterion No. 8: LWDUO §5.412(8) - Health, Safety, and General Welfare**

Analysis:

The application does not hinder the health or safety of Clatsop County. Analyses and findings in this report

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 8. LWDUO § 5.412 (8).

## Goal Exception

The applicant is proposing to take a goal exception to Statewide Planning Goals 4 & 14 in order to process the application for a Zone Change. In order to satisfy the goal exception criteria the applicant chose the committed route declaring the parcel was irrevocably committed to residential use. In doing so a number of criteria need to be satisfied and addressed. In reviewing the applicant's goal exception criteria and in an effort to avoid redundancy Staff has found the applicant's findings to satisfactorily address the criteria. This is addressed throughout Exhibit 4 pages 1 to 13. In summation of the findings provided by the applicant the following are the criteria addressed by the applicant and the Staff's Assessment for analysis:

(a) **Characteristics of the exception area:**

- Predominately forested but not substantial enough to warrant commercial operations. Subdivision to the west weighs in favor of an exception. Addressed on pages 4 -7 of the applicant's findings, Exhibit 4.

(b) **Characteristics of adjacent lands:**

- Adjacent lands consist of Forest lands on a very large scale and in separate ownership and Haystack heights subdivision with lots averaging 5000 square feet. The fact that the lands only constitute 5 acres in size and are independent lots of record weigh in favor of a goal exception. See Applicants findings page 6 Exhibit 4.

(c) **Relationship between the exception areas and adjacent lands:**

- Staff agrees with the applicant, this area is far better suited as rural residential home sites than forest lands. The reasoning is that the sites are only 2 ½ acres in size. The two combined total 5 acres, this is hardly suitable or sustainable for commercial forestry operations. See Applicants Findings Page 7, Exhibit 4

(d) **Existing adjacent uses:**

- Forest Lands and City R-1 lots surround the site. See Applicant's Findings Page 7-8 of Exhibit 4.

(e) **Existing public facilities and services:**

- Existing city services are located less than 200 feet from the property boundary line. In addition the applicant has secured a parcel to the west in order to retain access to the site. While it may be some time before the City of Cannon Beach is ready to incorporate this area into the Urban Growth Boundary it is logical to consider that adequate public facilities can be provided to service the subject parcels. See applicant's findings page 8 exhibit 4.

(f) **Parcel size and ownership patterns:**

- In essence this is the outlying factor that determines this site as being suitable for a goal exception to goal 4 and 14. The site has been determined to be a lot of record, indicating that the site is already suitable for a forest template test dwelling. In addition the relative small size of the lots when compared to the surrounding Weyerhaeuser holdings is significant when justifying a goal exception. See applicant's findings page 8 exhibit 4.

(g) **Neighborhood and regional characteristics:**

- The surrounding neighborhood conditions are conducive to a development of this type and nature. The regional characteristics are one of increasing demand for parcels of this type. Cannon Beach recently conducted a housing study as depicted in the population projections under the Goal 10 analysis. In the analysis and study the City of Cannon Beach has designated areas for potential growth and is expected to select other areas for incorporation into the urban growth boundary. Regardless the City of Cannon Beach has begun an easterly assent and this area is well suited as a potential area for limited development or rural residences. See applicant's findings page 9 exhibit 4.

(h) **Features separating the exception from adjacent resource land.**

- A small creek traverses the easterly and southern boundaries of the subject site it is not without reason to consider this topographical feature as a natural barrier between the forest lands to the east and the lands better suited for residential development to the west. See applicant's findings on page 9 of exhibit 4.

(i) **Physical Development**

- There is really no physical development on the site that would lend any relevance to a goal exception to statewide planning goal 4. This aspect would weigh against a goal exception; however the criteria does not require that a structure be built on the site only that the site itself has been committed to a use other than what is currently permitted. In that sense the site is restricted in size and neighborhood characteristics and therefore satisfies the criteria for a goal exception. See page 9 of exhibit 4.

(j) **Other relevant factors**

- See applicant's findings page 9 exhibit 4.

In accordance with OAR 660-014-0030 the applicant's conclusion is supported by the reasons and facts indicating the land is irrevocably committed. This conclusion also justifies an exception under the policies of Goal 2 to allow development in excess of 1 home site per 10 acres as mentioned earlier. Furthermore the conclusion and findings provided by the applicant on pages 10 - 13 of Exhibit 4 reasonably indicate that the land is committed to urban levels of development.

Staff recommends the Planning Commission recommend to the Board of Commissioners the conditional Approval of a Zone Change From Forest 80 to Residential Agriculture 2 acre Minimum and adopt the applicants findings contained herein with the conditions proposed by staff.

## IX. EXHIBITS

Immediately follow

Respectfully submitted,

Michael Weston II, MPA  
Planner, Transportation & Development

### **\*\*\*Conditions\*\*\***

#### **Riparian Setbacks:**

All riparian, greenbelt, and waterway setbacks shall be maintained. ODFW recommends the proposed development be designed around these setbacks (i.e. do not waive setbacks to allow development within).

##### *Stream-Road Crossings:*

*Any stream-road crossings (including utilities) are to comply with fish passage requirements. Laws regarding fish passage may be found in ORS 509.580 through 910, and in OAR 635, Division 412. ODFW shall approve in advance any instream structure (Ron Rehn 503 842-2741).*

#### **Wildlife Damage Exclusion:**

Wording to be included into a covenant to the deed of each lot:

*This property is in an area of known big game and furbearer animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife, Clatsop County, or any other governmental agency for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.*

*This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife & Clatsop County.*

***Land Uses and Practices** - Purchaser recognizes that lands in the adjacent area may be managed for commercial forestry which include activities such as; logging, slash burning, other fire control, silvicultural site preparation, construction of forest roads, aerial and ground application of forest chemicals, and other silvicultural practices which often create noise, dust, visual impacts and other alterations of the forest environment. Purchaser acknowledges that adjacent land owners have the right to conduct such commercial forest management activities, which are regulated by state forest practice rules and regulations, and will not attempt to impose additional restrictions on these activities*

All development shall occur consistent with Clatsop County's Land Water Development and Use Ordinance and all State and Federal Laws regarding the development of the proposed site.



**EXHIBIT 1**

**From:** "Marc Bates" <cheeseguy@charter.net>  
**To:** <mweston@co.clatsop.or.us>  
**Date:** 9/2/2008 7:46 AM  
**Subject:** Hearing on Ordinance 08-xx, Sept 9, 08

Dear Mr Weston,  
I have been notified of the subject hearing as I live adjacent to the subject parcel. Can you send me an electronic copy of the complete application such that I might prepare a statement for the hearing. Also I could receive it by fax at 509-472-9650. Thank you.

Regards,  
Marc

Marc Bates  
Bates Consulting  
Office/cell 509-595-8652  
Fax 509-472-9650  
cheeseguy@charter.net  
P.O. Box 1423  
Cannon Beach, OR 97110

**From:** "Marc Bates" <cheeseguy@charter.net>  
**To:** "Mike Weston" <MWESTON@co.clatsop.or.us>  
**Date:** 9/2/2008 8:44 AM  
**Subject:** Re: Hearing on Ordinance 08-xx, Sept 9, 08

Mike,  
Thanks. If it goes on line tomorrow you can just send me the link. I had looked for it on-line and not found it.

Regards,  
Marc

----- Original Message -----

From: "Mike Weston" <MWESTON@co.clatsop.or.us>  
To: "Marc Bates" <cheeseguy@charter.net>  
Sent: Tuesday, September 02, 2008 8:37 AM  
Subject: Re: Hearing on Ordinance 08-xx, Sept 9, 08

Hi Marc,  
I will try to get that to you tomorrow. It should also be available online by tomorrow as well. Sorry for the delay, the Holiday set us back a bit.  
Cheers,  
Mike W

Michael J. Weston II, MPA  
Planner, Trans. & Dvlpmt.  
Clatsop County  
(503) 325-8611 ext.1702

"This message has been prepared on resources owned by Clatsop County, Oregon. It is subject to the internet and online services use policy and procedures of Clatsop County."

>>> "Marc Bates" <cheeseguy@charter.net> 9/2/2008 7:44 AM >>>  
Dear Mr Weston,

I have been notified of the subject hearing as I live adjacent to the subject parcel. Can you send me an electronic copy of the complete application such that I might prepare a statement for the hearing. Also I could receive it by fax at 509-472-9650. Thank you.

Regards,  
Marc

Marc Bates  
Bates Consulting  
Office/cell 509-595-8652  
Fax 509-472-9650  
cheeseguy@charter.net  
P.O. Box 1423  
Cannon Beach, OR 97110

This message has been prepared on resources owned by Clatsop County, Oregon. It is subject to the Internet and Online Services Use Policy and Procedures of Clatsop County.

**From:** Clatsop Development  
**To:** Mike  
**Date:** 9/2/2008 3:50 PM  
**Subject:** Fwd: Proposed Zone Change

>>> "Merril Lynn Taylor" <[mltmlt@pacifier.com](mailto:mltmlt@pacifier.com)> 2:31 PM 9/2/2008 >>>  
TO: Planning Division of Clatsop County Department of Transportation and Development  
Re: Ordinance 08-XX  
Properties identified as: Parcel 1 and 2 respectively: T5N, R10W, TL 4400 & 4500

As a resident of Haystack Heights I would be interested in attending the hearing Sept. 9, 2008 regarding the above zone change. However, I will be out of town. The notice of the zone change is unclear about the extent of the development ("a couple of houses"), and does not address issues like access. I assume information about these kinds of issues will be available for discussion beyond the meeting.

Thank you.  
Merril Lynn Taylor  
P.O. Box 158  
Tolovana Park, OR 97145

Donald L. Alderton  
14025 SW 150th Ave.  
Tigard, OR 97224  
(503) 579-6415

Clatsop County Planning Comm.  
800 Exchange St. Ste. 100  
Astoria, OR 97103  
(503) 325-8611  
FAX: (503)338-3666  
Attn. Michael Weston II  
Clatsop County Planner

Sept. 2, 2008

Dear Mr. Weston:

RE: Mike Morgan for Anderson/Covington;  
Requested zone change: Parcels 1 & 2  
T5N, R10W, TL 4400 & 4500:

I am writing as the Trustee of the Donald L. Alderton Trust of 3/1/06 which is owner of adjoining land known as 352 Chinook Way and legally described as:

The North 1/2 of Lot 5, Block 5, HAYSTACK HEIGHTS, in City of Cannon Beach, Clatsop County, Oregon; TOGETHER WITH that portion of Lot 6, Block 5, HAYSTACK HEIGHTS described as follows:

Beginning at the Northeast corner of Lot 5, Block 5  
thence North 89 deg. 02' East 40 feet;  
thence South 65.55 feet;  
thence South 89 deg. 02' West 40 feet;  
thence North along the East line of Lot 5, Block 5,  
65.55 feet to the point of beginning.

ALSO TOGETHER WITH a strip 10 feet wide East and West by 65.55 feet North and South being immediately West and adjoining the North 65.55 feet of Lot 5, Block 5 Haystack Heights.

The map furnished with the notice is of such a small scale it is difficult to know boundaries which may render some of the data mentioned here inaccurate.

I object to the petition on the following grounds:

1. It would create two parcels which would be without access to outlet roads. If granted, the order must provide that access be provided.

2. No building permit could be issued for the two dwellings contemplated without proper access.

3. Without access, petitioner could then ask for a "way of necessity". He would have no standing to do so because he would be deemed to have created the lack of access. Thus the doctrine of "equitable estoppel" would apply.

4. Petitioner's vendee apparently would not be bound by such estoppel. This would put such vendee in a position to ask for a "way of necessity" which would mean the adjoining lands would have to provide such.

5. Petitioner should not reap the benefits of the requested change and not have to take the burdens also--namely providing access.

6. Petitioner is now in a position to provide access from his lands which abut North Chinook and East Chinook where he now accesses his home.

7. There is no valid reason why adjoining owners should be burdened with the certain request for a "way of necessity" when that burden should only be on petitioner.

Respectfully,

  
Donald L. Alderton, Trustee.

DLA:me

VIA: Certified mail with return card #7007 3020 0002 1560 9491  
Also via FAX: (503) 338-3666.

PS: If you try to communicate with me via FAX, it is the same as my phone number, but you must call first so I can turn the fax machine on.

c:\wp51\11\cabin\sonach.1tz

**EXHIBIT 2**

**NOTICE OF PUBLIC HEARINGS  
CLATSOP COUNTY PLANNING COMMISSION**

Notice is hereby given that the Clatsop County Planning Commission will conduct public hearings starting at 9:00 AM on Tuesday, September 9, 2008, at the Judge Guy Boyington Building located at 857 Commercial St, Astoria, Oregon 97103 to consider the following requests:

9:00 Continuation of a Variance hearing regarding Ocean Front Setbacks for John & Tracey Donohue on property in the Surf Pines area. Staff Representative: Jennifer Bunch.

10:00 The Applicants, Vaughn & Teri Allen, request variance to the 50-foot Resource Setback on a parcel of land located in the rural Seaside area. The property is identified as 85477 Highway 101, Seaside. T6N, R10W, Sec33, TL1604. Staff Representative: Jennifer Bunch

The Applicants, Doug & Cathy Holly, request variance to the 50-foot Right-of-Way requirement, for a distance of 40-feet, on a parcel of land located in the Svensen area. The property is identified as 92374 Svensen Market Road, Astoria. T8N, R08W, Sec22C, TL1800. Staff Representative: Jennifer Bunch.

11:00 The Applicant, Mike Morgan, on Behalf of Pete Anderson et al., is requesting to amend the Comprehensive Plan/Zoning Map. The proposed zone change will rezone approximately 5 acres of Forest 80 to Residential Agriculture 2. The Properties are located less than ½ a mile to the southeast of the Tolovana State Park exit from highway 101 and east of East Chinook Avenue. The properties are identified as: Parcel 1 & 2 respectively: T5N, R10W, TL 4400 & 4500. Staff Representative: Mike Weston.

1:00 Quasi-Judicial (Map) amendments to the Clatsop County Comprehensive Plan Zoning Map proposed by Clatsop County and associated property owners. The County is proposing to rezone approximately 17 acres of Residential Agriculture 2 & 5 (RA-2 & RA-5) Zone to Lake and Wetland Zone (LW), & rezoning approximately 15 acres of LW Zone to RA-2 & RA-5 Zones. Staff Representative: Mike Weston.

2:00 The Applicant Betty Sandy is requesting to amend the Comprehensive Plan/Zoning Map. The proposed zone change will rezone approximately 3.5 acres of Exclusive Farm Use to Residential Agriculture 2. The Property is located to the west of Delmoor Loop Road north of the Cranberry Bogs currently in operation at the corner of Delmoor Lp. and Lounsberry Ln. and identified by address as 89224 Dellmoor Loop Rd. The legal description for the property is identified as: T7N, R10W, Section 27 TL 201. Staff Representative: Mike Weston.





CERTIFICATE OF MAILING

I hereby certify that I served a copy of the attached Public Notice for an amendment to the Comprehensive Plan/Zoning map, submitted by Mike Morgan on behalf of Anderson/Covington, to those listed on the attached page with postage paid and deposited in the U.S. Post Office, Astoria Branch, at Astoria, Oregon, on said day.

Date: August 21, 2008

Clatsop County, Oregon

---

Julia Decker  
Staff Assistant

Clatsop County  
Transportation & Development, Planning Div.  
800 Exchange Street, Suite 100,  
Astoria, OR 97103

ph: 503-325-8611  
fx: 503-338-3666  
em: [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us)  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)



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## NOTICE OF PUBLIC HEARING BEFORE THE CLATSOP COUNTY PLANNING COMMISSION

In The Matter of Ordinance 08-XX, an Ordinance Amending the Comprehensive Plan/Zoning Map. The proposed zone change will rezone approximately 5 acres of Forest 80 to Residential Agriculture 2. The Properties are located less than ½ a mile to the southeast of the Tolovana State Park exit from highway 101 and east of East Chinook Avenue. The properties are identified as: Parcel 1 & 2 respectively: T5N, R10W, TL 4400 & 4500.

For more information see description on top of Page 2.

---

DATE OF HEARING: September 9, 2008  
TIME: 11:00 am  
LOCATION: Judge Guy Boyington Building, 857 Commercial Street,  
Astoria, Oregon 97103  
CONTACT PERSON: Michael Weston II, Clatsop County Planner

---

You are receiving this notice because you either own property within 750 feet of the property that serves as the subject of the land use application described in this letter, or you are considered to be an affected state or federal agency, local government, or special district. A vicinity map for the subject property is attached.

NOTICE IS HEREBY GIVEN that the Planning Division of Clatsop County's Department of Transportation and Development has scheduled a public hearing on this matter before the Planning Commission at 11:00 AM on Tuesday, September 9<sup>th</sup>, 2008 at the Judge Guy Boyington Building, 857 Commercial St, Astoria, OR 97103.

Interested persons are invited to testify in person by attending the hearing, or they may submit testimony in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to 503-338-3666 or via email to [comdev@co.clatsop.or.us](mailto:comdev@co.clatsop.or.us). Written comments must be received in this office no later than **5PM on Monday, September 8<sup>th</sup>, 2008** in order to be presented by Staff for submittal at the September 9<sup>th</sup>, 2008 public hearing.

NOTE: Failure of an issue to be raised in a hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

**Notice to Mortgagee, Lien Holder, Vendor or Seller:** ORS Chapter 215 requires that if you receive this notice it must promptly be forwarded to the purchaser

TaxlotKey	Owner_line	Owner Address	City	State	Zip Code
51032CC04100	Kingwell James M	PO Box 382	Cannon Beach	OR	97110
51032CC02500	Bernt Joseph/Phyllis	10685 Peach Ridge Rd	Athens	OH	45701
51032CC02800	Bernt Joseph/Phyllis	10685 Peach Ridge Rd	Athens	OH	45701
51032CC00371	Lilley James G W/Heather G	10760 SW Wakefield	Portland	OR	97225 97224-
51032CC00307	Bronder King Living Trust	10969 SW Chateau Ln	Tigard	OR	4472
51032CC00341	Bray Douglas M/Christine	12103 Orchard Hill Way	Lake Oswego	OR	97035
51032CC04003	Cator Edward W R	12443 SE Deerfield Pl	Happy Valley	OR	97236
51032CC00316	Dethloff Heidi	14672 NW Dawnwood Dr	Portland	OR	97229
51032CC00356	Sullivan William LJ	1651 Beach St	San Francisco	CA	94123
51032CC00352	Friddell Stephen D/Susan Sund	168 Capella Ct #NW	Issaquah	WA	98027
51032CC00319	Seller Thomas R/ Maureen C	16965 SW Spellman Dr	Beaverton	OR	97007
51032CC00347	Mauldin Thomas M/ Catherine M	175 N Tamarack St	Sisters	OR	97759- 5025
51032CC00344	Nevan Francis D Living Tr	18670 River Woods Dr	Bend	OR	97702
51032CC00359	Colton Jared	19020 S Mattoon Rd	Estacada	OR	97023
51032CC00355	Martinson Philip/Regine Living Trust	21385 Parkview Terrace	West Linn	OR	97068
51032CC00310	Edblom Beryl A	21935 SW LeBeau Rd	Sherwood	OR	97140 98168-
51032CC02101	Doering David L/Marcia L	2438 S 116th St	Seattle	WA	1214
510000004400	Covington G L/Anderson P	2596 SW Arden Rd	Portland	OR	97201
51032CC04001	Fischer Karen M	2611 N Terrace	Mesa	AZ	85203
51032CC04101	Azumano James F/Lois C	2845 SE Foxhaven Dr 2868 NE Jackson School	Salem	ID	97306
51032CC04200	Davais George J/Sharon K	Rd	Hillsboro	OR	97124
51032CC00317	Rose Vance E	30101 SW Grabel Rd	Hillsboro	OR	97123
51032CC00314	Polak Travers Hill	3133 SW Fairmont Blvd	Portland	OR	97239
51032CC00334	Piscitelli Jenny C	315 Deer Pl	Cannon Beach	OR	97110
51032CC00340	Molan Jack A	3795 Coho Pl	Cannon Beach	OR	97110
51032CC00357	Mah Kenneth W	4040 SW 22nd Dr 4311 NW Tam-O Shanter	Gresham	OR	97080
51032CC00345	Young Frederic S/June R	Way	Portland	OR	97229
51032CC00346	Krolak James D/Ann D	4428 Seahurst Ave	Everett	WA	98203

51032CC02201	Rhea Hal H Tr Beaudoin Raymond	4811 SE 35th Ave	Portland	OR	97202
51032CC00354	A/Christine L	5120 E Mason Lake Dr W	Grapeview	WA	98546
51032CC00323	Wierum Ann R	5210 39th Ave NE	Seattle	WA	98105
51032CC00370	Dilbeck Richard/Patricia	56500 Cascade View Ln	Warren	OR	97053
51032CC03100	Higgins Brian R/ Cathy A	6007 N Sheridan Rd #19D	Chicago	IL	60660
51032CC00333	Willis Victor W/Sandra K	6124 N Mississippi	Portland	OR	97217
51032CC00368	Fawcett Allen/Jill	621 Cedar Ave	Renton	WA	98055
51032CC00351	Capitano Anthony/Joan S Tr	6485 SW 181st Pl	Aloha	OR	97007
51032CC00367	Dewey Craig	689 Terrace Dr	Lake Oswego	OR	97034
51032CC00373	Bates Mark P	705 SW Fountain St	Pullman	WA	99163- 2128
51032CC00309	Wigdahl Matt/Pamela J	7231 S Echo Village Dr	Larkspur	CO	80118
51032CC00366	Boring Glen R	7517 SE Sunnyside Dr	Milwaukie	OR	97222
51032CC02601	Marion Nolan R/Mary Janice	756 NE Floral Pl	Portland	OR	97200
51032CC00374	Fitzgerald Robert Britain	7691 Chickaree Ct	Littleton	CO	80125
51032CC00360	Butler Karen TR	PO Box 112	Tolovana Park	OR	97145
51032CC00322	Ortwig Samuel B/Karen M	PO Box 113	Tolovana Park	OR	97145
51032CC00335	Murray Lynn S/Janis G	PO Box 1145	Cannon Beach	OR	97110
51032CC00343	Beckman Jay M/Cynthia S	PO Box 1159	Cannon Beach	OR	97110
51032CC00325	Graceffo James	PO Box 123	Cannon Beach	OR	97110
51032CC03300	Lalich Margo D Rev Liv Trust	PO Box 1282	Cannon Beach	OR	97110
51032CC00326	Bryant Lenore M/Andrew F	PO Box 1286	Sherwood	OR	97140
51032CC00315	Wells Stuart L/Diane J Tr	PO Box 1304	Cannon Beach	OR	97110- 1304
51032CC02900	Morgan Michael/Holland Beth	PO Box 132	Cannon Beach	OR	97110
51032CC00308	Chadwell Kathleen M	PO Box 134	Cannon Beach	OR	97110
51032CC00313	Klimke Gary Paul/Sandra Lynn	PO Box 1353	Cannon Beach	OR	97110- 1353
51032CC01900	Saucedo Benjamin P/ Linda B	PO Box 1393	Cannon Beach	OR	97110

51032CC00350	Myers Pamela	PO Box 1427	Cannon Beach	OR	97110
51032CC02501	Walker Darryl	PO Box 155	Cannon Beach	OR	97110
51032CC03401	Taylor Merril Lynn	PO Box 158	Tolovana Park	OR	97145
51032CC03903	Kelly Michael M/Kathy R	PO Box 173	Tolovana Park	OR	97145
51032CC00363	Beckman Chris/Elizabeth	PO Box 174	Tolovana Park	OR	97145
51032CC00353	Holtzclaw Reid	PO Box 1793	Sandy	OR	97055 97145-
51032CC02200	Hickman Raymond/Anita	PO Box 203	Tolovana Park	OR	0203
51032CC00339	Rouse David S/Patricia N	PO Box 206	Cannon Beach	OR	97110 97269-
51032CC00324	Matile David D/Beth M	PO Box 22128	Milwaukie	OR	2128 97281-
51032CC03801	Alderton Donald L Trustee	PO Box 231117	Tigard	OR	1117
51032CC00369	Campbell Kenneth	PO Box 271	Cannon Beach	OR	97110
51032CC03101	Devey William J/Nancy L	PO Box 284	Cannon Beach	OR	97110
51032CC00358	Cannon Beach City Of Wallace Prentice L/Donna	PO Box 368	Cannon Beach	OR	97110
51032CC00336	J	PO Box 383	Cannon Beach	OR	97110
51032CC04201	Nagle Howard C/Eileen C	PO Box 429	Longview	WA	98632
51032CC02300	Nagle Eric T/Sarah L	PO Box 456	Tolovana Park	OR	97145
51032CC00311	Cooper Kerry D/Nannette	PO Box 490	Cannon Beach	OR	97110
51032CC02901	Roy Allen R	PO Box 5253	Helena	MT	59604
51032CC00302	Lovegreen Richard L	PO Box 624	Cannon Beach	OR	97110
51032CC03000	Ryan Valerie J	PO Box 634	Cannon Beach	OR	97110
51032CC02000	Skjei Lynn T	PO Box 672	Tolovana Park	OR	97145
51032CC00364	Crowe Carolyn	PO Box 715	Cannon Beach	OR	97110
51032CC00320	Schade Barbara L	PO Box 730	Cannon Beach	OR	97110
51032CC01902	New Chad	PO Box 732	Tolovana Park	OR	97145
51032CC02801	Fulwiler Kathleen D Schulz Robert W/ Kristan	PO Box 76	Cannon Beach	OR	97110
51032CC00321	R	PO Box 802	Cannon Beach	OR	97110

51032CC02100	Moon Ernest W Smith William Boyd/Linda	PO Box 86	Tolovana Park	OR	97145 98687-
51032CC00375	Lee	PO Box 871266	Vancouver	WA	1266
51032CC02301	Payne Sherry K	PO Box 89	Tolovana Park	OR	97145
51032CC03200	Carlisen Jeffrey L/Alice J	PO Box 908	Cannon Beach	OR	97110
51032CC00348	Kuhn Justin J Tr Johnson Duane N/Cheryl L	PO Box 922	Cannon Beach	OR	97110
51032CC02400	Tr	PO Box 924	Cannon Beach	OR	97110
51032CC00306	Woolley William/Helen L	PO Box 96	Tolovana Park	OR	97145
51032CC00312	Clafin William E/Marsha J	PO Box 966	Cannon Beach	OR	97110 98063-
510000003900	Weyerhaeuser Company	PO Box 9777	Federal Way	WA	9777
51032CC00342	Simmons Antoine/Rocio	PO Box 998	Cannon Beach	OR	97110
410000000800	Weyerhaeuser Company	PO Box 998	Seaside	OR	97138
Laren Wooley Clatsop Soil & Water Conservation CREST Christine Marcia Clarke W.	DLCD - Oregon Coast	2226 Coast Highway, Bx	Newport	OR	97365
		750 Commercial St, #207	Astoria	OR	97103
		750 Commercial St, #205	Astoria	OR	97103
	Bridgens	1255 SW 9 <sup>th</sup> Street	Warrenton	OR	97146
	Harper-Vellutini	P.O. Box 697	Warrenton	OR	97146
	Powers	89975 Surf Pines Landing Road	Warrenton	OR	97146
Mike	Autio	93750 Autio Loop	Astoria	OR	97103
Cary	Johnson	37751 Hwy 30	Astoria	OR	97103
Brian	Pogue	35103 Hwy 26	Seaside	OR	97138

**EXHIBIT 3**



**Receipt**

This is not a Permit

Clatsop County Planning and Development  
800 Exchange St Ste 100  
Astoria, OR 97103

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

**For Department Use Only**

Permit #: **20080397**  
Permit Type: **Type IV**  
Entry Date: **6/27/2008**  
Entered By: **Michael Weston**  
Assigned To:  
Permit Status: **Entered**

**Permit Timeline**

User	Status	Date
Michael Weston	Entered	06/27/2008

**Proposed Use**

Proposed Use: **Comp Plan/Zone Map Amendment**

Zone: **AF F - 80**

Description: Zone Change F-80 to RA-2

**Project Location**

Address:	TaxLot Desc:	T	R	S	Q	S	Qq	S	Taxlot
City:	State: OREGON	5	10	00	0	0	04400		
Directions:							<b>4500</b>		

**Applicant/Owner/Agent**

<b>Applicant:</b>	Name: Mike Morgan	Ph. #: (503) 436-1061
	Address: PO Box 132	Cell: ( ) -
	City, State, Zip: Cannon Beach, OR 97110	Fax: (503) 739-0102

<b>Owner:</b>	Name: Covington G L/Anderson P & Anderson Stanford I	Ph. #: ( ) -
	Address: 2596 SW Arden Rd	Cell: ( ) -
	City, State, Zip: Portland, OR 97201	Fax: ( ) -

<b>Agent:</b>	Name/Type:	Ph. #: ( ) -
	Address:	Cell: ( ) -
	City, State, Zip:	Fax: ( ) -

**Fees**

<u>Fee Type:</u>	<u>Permit Fee Total:</u>
Planning/Development	\$2,175.00
<b>Total:</b>	<b>\$2,175.00</b>

**Receipt**

<u>Payor Name:</u>	<u>Pymnt Type</u>	<u>Check #</u>	<u>Pymnt Date</u>	<u>Pymnt Amount:</u>
Covington G L/Anderson P	Check	7837	06/27/2008	\$2,175.00

Balance Due: \$0.00

**Signatures**

1. For Commercial and industrial uses, include parking and loading plan, sign plan and erosion control plan.
2. For residential and other uses, include an erosion control plan.
3. Review attached applicant's statement and sign below.

I have read and understand the attached APPLICANT'S STATEMENT and agree to abide by the terms thereof.

Applicant Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Owner Signature: \_\_\_\_\_ Date: \_\_\_\_\_

Agent Signature: \_\_\_\_\_ Date: \_\_\_\_\_





**Receipt**

**For Department Use Only**

Clatsop County Planning and Development  
800 Exchange St Ste 100  
Astoria, OR 97103

Permit #: 20080397

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

**Zoning District Requirements**

Property Access Info.

Access to Property:

County Permit Required?

State Permit Required?

Direction	Setbacks	
	Req.	Actual
F:		
S1:		
S2:		
R:		

**Property Information**

**Compliance/Conditions of Approval**

**Clatsop County Compliance**

Except as noted, the Clatsop County Community Development Department finds the proposed use(s)/action(s) in compliance with the Clatsop County Land & Water Development and Use Ordinance and with the Clatsop County Comprehensive Plan.

The evaluation of the land parcels outlined above is based on the information presented at this time, standards provided in the Clatsop County Land & Water Development & Use Ordinance, and policies of the Comprehensive plan, and the Zoning/ Comprehensive Plan Map.

The applicant or property owner must comply with the conditions noted below and on the attached applicants statement.  
This permit is not valid unless the conditions are met.

Entered by: Michael Weston

Entered Date: 06/27/2008

Applicants Signature: *[Signature]*

Date: 6-27-08

Clatsop County Authorization: *[Signature]*

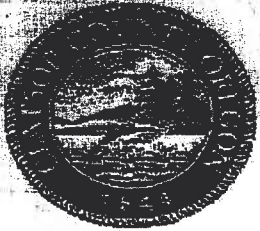
Date: \_\_\_\_\_



## Receipt

### Applicant's Statement

1. *Pertaining to the subject property described, I hereby declare that I am the legal owner of record, or an agent having the consent of the legal owner of record, and am authorized to make the application for a Development Permit/Action so as to obtain the following permits: Building, Sanitation, U.S. Army Corps of Engineers, Oregon Division of State Lands, Oregon Department of Transportation, Oregon Department of Parks and Recreation, or a Clatsop County Road Approach. I shall obtain any and all necessary permits before I do any of the proposed uses or activities. The statements within this application are true and correct to the best of my knowledge and belief. I understand that if the permit authorized was based on false statements, or it is determined that I have failed to fully comply with all conditions attached to and made a part of this permit, this permit approval is hereby revoked and null and void.*
2. *It is expressly made a condition of this permit that I at all times fully abide by all State, Federal, and local laws, rules, and regulations governing my activities conducted or planned pursuant to this permit.*
3. *As a condition for issuing this Development Permit/Action, the undersigned agrees that he/she will hold Clatsop County harmless from and indemnify the County for any and all liabilities to the undersigned, his/her property or any other person or property, that might arise from any and all claims, damages, actions, causes of action or suits of any kind or nature whatsoever, which might result from the undersign's failure to build, improve or maintain roads which serve as access to the subject property or from the undersign's failure to fully abide by any of the conditions included in or attached to this permit.*
4. **WAIVER OF VESTED RIGHTS DURING APPEAL PERIOD FOR ZONING AUTHORIZATIONS.**  
*I have been advised that this Land and Water Development Permit/Action by the Clatsop County Community Development Director may be appealed within twelve (12) calendar days of the date of permit issuance and authorization (note: if the twelfth day is a Saturday, Sunday or legal holiday, the appeal period lasts until the end of the next day which is not a Saturday, Sunday or legal holiday). I understand that if the approval authorized by the County and referenced above is reversed on appeal, then the authorization granted prior to the end of the appeal period will be null and void. I further understand and consent to the fact that any actions taken by me in reliance upon the authorization granted during the appeal period shall be at my own risk, and that I hereby agree not to attempt to hold Clatsop County responsible for consequences or damages in the event that removal of improvements constructed during the appeal period is ordered because an appeal is sustained.*
5. *I am aware that failure to abide by applicable Clatsop County Land and Water Development and Use Ordinance 80-14, as amended and Standards Document regulations may result in revocation of this permit or enforcement action by the County to resolve a violation and that enforcement action may result in levying of a fine.*
6. *I understand that a change in use, no matter how insignificant, may not be authorized under this permit and may require a new Development Permit/Action (check first, with the Clatsop County Community Development Department).*
7. *I understand that this Development Permit/Action expires 180 days from the date of issuance unless substantial construction or action pursuant to the permit has taken place. Upon expiration, a new development permit must be obtained.*



**COMPREHENSIVE PLAN/ZONING  
MAP AMENDMENT**

Fee: \$977.00 (required with application)  
\$2175.00 (required with application)

PROPOSED USE: \_\_\_\_\_

	<u>Zoning</u>	<u>Comprehensive Plan Designation</u>
Current:	<u>F-80</u>	<u>FOREST CONSERVATION</u>
Proposed:	<u>RA-2</u>	<u>RURAL RESIDENTIAL</u>

**LEGAL DESCRIPTION OF PROPERTY:**

T: 5N R: 10W S: 32 TL: 4400 4500 ACRES: 5

**OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:**

T: \_\_\_\_\_ R: \_\_\_\_\_ S: \_\_\_\_\_ TL: \_\_\_\_\_ ACRES: \_\_\_\_\_

T: \_\_\_\_\_ T: \_\_\_\_\_ S: \_\_\_\_\_ TL: \_\_\_\_\_ ACRES: \_\_\_\_\_

**APPLICANT 1: (Mandatory)**

Name: PETER A. ANDERSON Phone # (Day): 503 481 5271

Mailing Address: 2590 SW ARDEN RD. FAX #: \_\_\_\_\_

City/State/Zip: PORTLAND, OR. 97201 Signature: Peter A. Anderson

**PROPERTY OWNER: (Mandatory if different than applicant)**

Name: \_\_\_\_\_ Phone # (Day): \_\_\_\_\_

Mailing Address: \_\_\_\_\_ FAX #: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_ Signature: \_\_\_\_\_

**PROPERTY OWNER #2 / SURVEYOR / AGENT / CONSULTANT / ATTORNEY: (optional)**

Name: MIKE MORGAN HMINCO PACIFIER.COM Phone # (Day): 503 436 1061

Mailing Address: P O BOX 132 FAX #: 503 436 1061

City/State/Zip: CANNON BEACH, OR 97110 Signature: Mike Morgan

Community Development Department  
800 Exchange, Suite 100 \* Astoria Oregon 97103 \* (503) 325-8611 \* FAX 503-338-3666



**ANDERSON PROPERTY PLAN MAP, TEXT AND ZONING AMENDMENT  
PROPOSED FINDINGS OF FACT**

Comprehensive Plan Map Amendment (Conservation-Forest Resources to Rural Lands);

Comprehensive Plan Text Amendment (Goal 4 Exception).

Zoning Map Amendment (F80 to RA2);

**Introduction:**

This proposal consists of one amendment request for two parcels owned by the Anderson family, consisting of the following tax lots:

T5N R10W Sec. 32 Tax lot 4400: 2.5 acres  
T5N R10W Sec. 32 Tax lot 4500: 2.5 acres

The amendment requests are:

- a zone map amendment, from conservation forestry zone (The F80 zone) to the RA-2 zone;
- a comprehensive plan map amendment, from Conservation-Forest Resources to Rural Lands; and
- a comprehensive plan text amendment, adopting an exception to Statewide Planning Goal 4, the Forest Lands Goal.

The findings contained herein apply to all of these amendments. Attachment 1 shows the current zoning on these parcels, and on surrounding lands.

**Background:**

The proposed amendment to the County's zoning map, Comprehensive Plan map, and Comprehensive Plan involves the 2 tax lots listed above, covering approximately 5 acres.

The site is currently in the F80 zone. The proposed zone map amendment would change the zoning on these parcels to RA2. The proposed zoning map is Attachment 2.

The F80 zone corresponds to the Conservation-Forest Resources comprehensive plan designation. The RA2 zone is in the Rural Lands plan designation. Because of this, the proposed comprehensive plan map amendment follows the same alignment as the proposed zone map amendment.

The County zoned most of the area east of Cannon Beach under Statewide Planning Goal 4 in 1978 for about 12,000 acres in the Ecola Creek Watershed. The Anderson property was designated as F80 at the same time along with the industrial timber lands owned at that time by Crown Zellerbach Corporation, despite the fact that the two, 2.5 acre parcels had been owned by the Anderson family for over 80 years.

The amendments are requested to allow rural residential development on the property. The maximum density allowed under this proposal would be lower than currently allowed on adjacent property.

Clatsop County's Land and Water Development and Use Ordinance (LWDUO) establishes criteria for a zone change in section 5.412:

*The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:*

- 1. The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.*
- 2. The proposed change is consistent with the statewide planning goals (ORS 197).*
- 3. The property in the affected area will be provided with adequate public facilities and services including, but not limited to:*
  - 1. Parks, schools and recreational facilities*
  - 2. Police and fire protection and emergency medical service*
  - 3. Solid waste collection*
  - 4. Water and wastewater facilities*
- 4. The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.*
- 5. The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.*
- 6. The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.*
- 7. The proposed change will encourage the most appropriate use of land*

*throughout Clatsop County.*

*8. The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.*

The rest of this document provides findings addressing these criteria.

Findings:

1. LWDUO section 5.412, listing criteria for a zone change, states that the County must find the zone change in compliance with LWDUO section 1.040. LWDUO section 1.040 reads as follows:

*Scope and Compliance. The provisions of this Ordinance shall apply to all unincorporated areas of Clatsop County, Oregon which are not within the urban growth boundary of an incorporated city or town. The procedural provisions of this ordinance will continue to be utilized for unincorporated areas within urban growth boundaries. A parcel of land or water area may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise only as this Ordinance permits. In addition to complying with the criteria and other provisions within this Ordinance, each development shall comply with the applicable standards set forth in County Development and Use Standards Document. The requirements of this Ordinance apply to the person undertaking a development or the user of a development and to the person's successors in interest.*

The proposed amendment would not relieve the applicants or their successors from the obligation to conform development on this land to the County's land use regulations. The applicants are aware of and understand this obligation. The County should find that the proposal is consistent with LWDUO section 1.040.

2. LWDUO section 5.412(1) establishes the first of eight criteria for an amendment:

*The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.*

The proposed amendment is described in the introduction to these findings. Several Comprehensive Plan policies are applicable. They are cited below, followed by findings.

3. The County Comprehensive Plan's Citizen Involvement Element requires public review of proposals amending the Comprehensive Plan and Zoning Map. These policies are implemented in the zoning ordinance by notice requirements, and by Planning Commission and County Commission review at public hearings. Nine policies are included in the County-wide Element. Policy 1 identifies the County Planning Commission as the Committee for Citizen Involvement. Policies 2 through 9 describe the duties of the Planning Commission, County Commission and Citizen Advisory Committees with respect to citizen input on land use matters. The proposed amendments, and future rural residential development, do not conflict with these mostly procedural policies because each policy is or will be addressed during the progression of this application through the County Land Use hearings process.

4. The County Comprehensive Plan's Land Use Planning Element implements Statewide Planning Goal 2, which requires coordinated land use plans, and establishes a process for taking exceptions to one or more of the Statewide Land Use Goals. An exception to Goal 4 is part of this proposal. The exception is needed to change the zoning on the site to one that allows non-forest uses. The proposed exception is attached to these findings. No other goal exceptions are proposed or needed.

5. A County-wide Rural Lands policy in the County's Comprehensive Plan is:

*a. Where subdivision or partitioning or both have occurred in a one-acre pattern of development the area will be placed in one of the one-acre zones;*

*b. In areas with a pattern of two to five acre parcels (some smaller and some larger), the area will be placed in a two-acre zone;*

*c. In areas adjacent to resource lands (forest, agriculture, wetlands, estuary areas), or Camp Rilea, the areas will be placed in a five-acre zone;*

*d. In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five-acre zone;*

*e. In addition to criteria a through d, minimum lot sizes increase with*



*increasing distance from the following areas:*

1. *all urban growth boundaries*

The County has considered these five criteria together when making residential density decisions in the context of a zone map amendment.

There is a clear pattern of lot sizes within the area. The City of Cannon Beach to the west is zoned for residential uses, with single family dwellings on lots ranging from one acre to 5,000 square feet. There are over one hundred separate parcels and 70 homes within a 750 foot radius of the subject property. The Weyerhauser property surrounding the Anderson property on three sides consists of approximately 12,000 acres of land in the Ecola Creek Watershed. All of this property is zoned F80. There are a few small parcels of land zoned RA2 to the north of the property, east of Cannon Beach. The subject property appears to be an anomaly in that it is the only small parcel zoned F80 in the vicinity.

Based on this information, the County should find that the subject property meets the criteria for two-acre residential zoning contained in this policy.

6. An additional Rural Lands policy in the Clatsop County Comprehensive Plan is:

*Rural lands are those lands which are outside the Urban Growth Boundary and are not agricultural lands or forest lands. Rural lands include 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.*

The subject property is currently designated Conservation - Forest Resources. This proposal would change the comprehensive plan designation from Conservation - Forest Resources to Rural Lands. This policy is applicable because it describes the characteristics of lands in the Rural Lands plan designation. The subject property belongs in the Rural Lands plan designation because these parcels are outside of any Urban Growth Boundary; because the proposed exception will remove them from a forest lands designation; because the land is suitable for sparse settlement; because it lacks some of the public services found in urban areas (sewer service, storm water drainage, public streets and sidewalks); and because it is not suitable for urban uses. The City of Cannon Beach recently amended its Urban Growth Boundary and did not include this property in the City. The next opportunity for consideration of inclusion in the UGB is 3-5 years from now, according to City staff.

7. The policies in the County-wide Agricultural Lands Element or Statewide Planning Goal 3 are not applicable to the subject property because it is not inventoried or designated

as farmland.

8. The property is currently forest land subject to the requirements of the County-wide Forest Lands Element and Statewide Planning Goal 4. This proposal includes an exception to Goal 4. Several county-wide forest lands policies are applicable to forest lands and forest activities. Forest Lands Policy 1 is:

*Forest lands shall be conserved for forest uses, including the production of trees and the processing of forest products, open space, buffers from noise, visual separation from conflicting uses, watershed protection, wildlife and fisheries habitat, soils protection from wind and water, maintenance of clean air and water, outdoor recreational activities compatible with these uses, and grazing land for livestock.*

This policy echoes Statewide Planning Goal 4. This proposal includes an exception to the Goal and to the requirements of this policy because the subject property is committed to non-forest uses. These tax lots are currently considered forest land, but the proposed map amendment will change this designation to Rural Lands, and this policy will no longer apply.

9. County-wide Forest Lands Policy 2 is:

*Forest Lands shall be designated Conservation-Forest in the County's Comprehensive Plan. When considering a zone change to a forest zone, the Planning Commission or other reviewing body shall review the proposal against the acreage, management, and other approval criteria in County-wide Forest Lands Policies #19, #20 and #21.*

This policy is applicable when the County considers a "zone change to a forest zone". This proposal involves a change in the zoning to a residential zone, the RA2 zone. For this reason, the policy is not applicable. County-wide policies 19, 20 and 21 are addressed elsewhere in these findings.

10. County-wide Forest Lands Policy 3 is *Forest practices on lands designated Conservation - Forest shall conform to the Oregon Forest Practices Act and Oregon Forest*

*Practice Rules, as revised.* No forest uses subject to the Forest Practices Act are planned for the subject property, other than clearing for homesites and driveways. These activities will be conducted in a manner that complies with the Forest Practices Act and with Forest Practice Rules.

11. County-wide Forest Lands Policy 4 is:

*Division of forest lands will be permitted only upon a finding that the proposed division meets the following criteria:*

*a. the proposed division will not diminish the potential for timber production, watershed protection and fish and wildlife habitat, and*

*b. the creation of new parcels will not materially alter the overall stability of the area's land use pattern.*

No land division is proposed. The two 2.5 acre parcels have been in existence for several decades. The property has been in the ownership of the Anderson family since the late 19<sup>th</sup> Century. For this reason, this policy is not applicable to the proposal.

12. County-wide Forest Lands Policy 5 is:

*The clustering of non-forest residences on forest lands may be permitted in the AF and F38 zones, subject to non-forest use siting standards. This non-forest development is permitted conditionally because, properly designed and sited, it does not result in the loss of forest lands nor does it diminish or interfere with forest uses.*

Clustering is not proposed, so this policy is not applicable.

13. County-wide Forest Lands Policy 6 is:

*The designation of new park and recreation areas (campgrounds, etc.) on forest lands shall require an assessment of public need for these facilities and their potential impact on adjacent forest lands. The productive capacity of the land*

*shall be evaluated and considered when siting these developments. These developments, if allowed, shall be sited and designed so as not to preclude forest management wherever possible.*

No new park or recreation facilities are planned or proposed for the subject property, so this policy is not applicable.

14. County-wide Forest Lands Policy 7 is:

*The County will do the following in order to minimize conflicts between the use of forest land for elk habitat and for commercial timber production.*

*a. Wildlife refuges: Existing wildlife refuges which are owned/leased and managed by the Oregon Department of Fish and Wildlife (ODFW) or by the United States Fish and Wildlife Service (USFWS) shall be designated Conservation-Other Resource and zoned Open Space, Parks and Recreation (OPR). Proposed wildlife management areas which are managed and either owned or leased by the Oregon Department of Fish and Wildlife (ODFW) located in areas designated Conservation Forest or in other lowland areas under any plan designation shall be reviewed by the County for compliance with the approval standards listed below. Such hearings shall be conducted according to a Type IV procedure at a time and place convenient to residents of the affected planning area. ODFW shall provide an evaluation of the economic, social, environmental and energy consequences of the proposal and information sufficient to support findings with respect to the following approval criteria:*

*1. Identification of the need for the proposed new wildlife management area. "Need" means specific problems or conflicts that will be resolved or specific ODFW objectives that will be achieved by establishing the proposed area.*

*2. Alternative lands and management actions available to the ODFW, and an analysis of why those alternatives or management actions will not resolve identified problems or achieve objectives.*

*b. The State Fish and Wildlife Commission shall be officially requested to resolve the existing adverse impacts on forest land resulting from elk browse. The following measures are suggested:*

- revision of hunting laws.*

- *reduce the elk population in Clatsop County to sustained management levels.*
- *compensate land owners for damage to forest crops resulting from elk.*
- *where appropriate, provide technical and financial assistance to forest land owners for the installation of fencing.*

*c. The County shall take the necessary action through the State Legislative Assembly to revise the laws governing the action of the State Fish and Wildlife Commission for the provision of acceptable methods of relief to property owners from damage due to elk.*

These policies all address fish and wildlife issues unrelated to the proposal or to the subject property. For this reason, they are not applicable.

15. Due to an apparent numbering error, there are no County-wide Forest Lands Policies numbered 8 or 9. County-wide Forest Lands Policy 10 is:

*Forestry activities within watersheds in areas designated Conservation - Forest in the Comprehensive Plan will be conducted in accordance with the Oregon Forest Practices Act and the Oregon Forest Practice Rules, as revised. Additional protective measures negotiated between forest landowners and water users are encouraged.*

No forest uses subject to the Forest Practices Act are planned for the subject property, other than clearing for homesites and driveways. These activities will be conducted so as to comply with the Forest Practices Act and with Forest Practice Rules.

16. County-wide Forest Lands Policy 11 is:

*The productive capacity of the land will be considered before land designated Conservation-Forest is changed to another plan designation. The impact of the proposed new use on adjacent lands shall also be evaluated and considered before such a plan change is made.*

This policy is applicable because the proposal involves changing the current Conservation -

Forest Lands plan designation to Rural Lands. The productive capacity of these parcels, which cover about 5 acres, can be estimated from soil characteristics. The subject property includes two soil types:

Skipanon Gravelly Silt Loam (58D)  
Kloutchie-Necanicum Complex (33E)

Both of these soils have relatively high soils ratings (252 cubic feet per year per acre and 235 cubic feet per year per acre, respectively). However, the small size of these parcels make them unusable for commercial timber production.

The proposed RA2 zoning would allow a maximum of 2 single family homes on this site. Two dwellings generate 10 vehicle trips per day, according to traffic engineering standards.

Considering the productive capacity of the land and the likely impacts of the proposed zone change on adjacent lands, the County should find that the proposed text and map amendments comply with forest lands policy 11.

17. County-wide Forest Lands Policy 12 is:

*Off-road vehicles (ORVs) shall be strictly confined to established rock roads in order to prevent erosion, stream degradation, damage to young trees and seedlings, and disturbance of wildlife and its habitat.*

No off-road vehicle use of the subject property is planned, so this policy is not applicable to the proposal.

18. County-wide Forest Lands Policy 13 is: *Existing utility right-of-ways shall be utilized to the maximum extent possible before new right-of-ways are created.*

No new right-of-ways are proposed or needed for this zone change. The parcels would be accessed via an easement through a lot extending from East Chinook Street to the subject property. An easement would be constructed to meet Fire District Standards.

19. County-wide Forest Lands Policy 14 is: *Roads in forest areas shall be limited to the minimum width necessary for traffic management and safety.* No new roads are proposed as a part of this zone change. Any new roads needed to develop the property under RA2 zoning will meet applicable County standards.

20. County-wide Forest Lands Policy 15 is: *Forest land owners shall be encouraged to actively pursue methods of complete utilization of wood fiber left on the ground after harvesting.* Full utilization of all wood fiber will be sought if any commercial timber harvesting occurs on the site. This policy does not create a mandatory approval criterion applicable to this proposal.

21. County-wide Forest Lands Policy 16 is:

*Where forest lands of suitable management size occur in the interior of rural residential areas, or are completely surrounded by residential development, small woodland management and farming is encouraged. Over time these areas may be needed for housing and in future comprehensive plan updates shall be considered ideally situated for conversion to residential uses prior to conversion of other forest lands.*

The subject property is on the fringe of an urban growth boundary and city limits. It is not of suitable management size for forestry purposes or even small woodland management or farming. Therefore, this policy does not apply.

22. County-wide Forest Lands Policy 17. *Expansion of existing non-forest developments and uses in forest zones may be permitted under a Type II procedure only when such expansion is substantially confined to the existing site.* This policy is not applicable because the proposal does not involve the expansion of an existing non-forest development or use.

23. County-wide Forest Lands Policy 18 is:

*Partitioning of forest lands under the provisions of Clatsop County's forest zones which serve to increase forest management efficiency by allowing one or more forest owners to consolidate their land holdings is encouraged.*

This proposal does not involve forest land partitioning nor the consolidation of forest land holdings.

24. County-wide Forest Lands Policy 19 is:

*Clatsop County will rely on the following acreage criteria when reviewing a proposed zone change to a forest zone:*

*AF: Lands in the AF zone shall be comprised predominantly of ownerships smaller than 40 acres. Ownerships 40 acres and larger may also be placed in an AF zone if they are generally surrounded by ownerships smaller than 40 acres.*

*F-38: Lands in the F-38 zone shall be comprised predominantly of ownerships smaller than 76 acres. Ownerships 76 acres and larger may also be placed in an F-38 zone if they are generally surrounded by ownerships smaller than 76 acres.*

*F-80: Lands in the F-80 zone shall be comprised predominantly of ownerships 76 acres and larger.*

The proposal includes a zone change to a residential zone (the RA2 zone), not a forest zone. This policy does not apply to this proposal.

25. County-wide Forest Lands Policy 20 is:

*Clatsop County will rely on the following management criteria when reviewing a proposed zone change to a forest zone:*

*AF and F-38: lands in these forest zones are characterized by both agricultural and forest land uses. Management of these lands is often done on a low-intensity, part-time basis.*

*F-80: Forest lands in the F-80 zone include areas where timber production is the primary land use. These lands are often intensively managed by full time professional foresters.*



The proposal includes a zone change to a residential zone (the RA2 zone), not to a forest zone. This policy does not apply to this proposal.

26. County-wide Forest Lands Policy 21 is:

*A zone change from the F-80 zone to any other zone, including the AF or F-38 zone, shall require a plan amendment. The purpose for such a plan change is to assure that primary forest lands in the F-80 zone are not converted to mixed use forest lands in the F-38 or AF zones, or to any other plan designation without appropriate review by the County.*

The subject property is in the F80 zone. The proposal would change the zoning on this tax lot from F80 to RA2, so the policy is applicable. A plan amendment has been requested, and must be approved before a zone change would take effect. The County should find that the proposed plan amendment, and the public review process required for a plan amendment, meets the requirements of this policy.

27. County-wide Forest Lands Policy 22 is:

*Partitioning of land in the AF zone and F-38 zone shall be approved only upon a finding that such newly created parcels shall be used only for forest uses. This policy does not apply to the small lots resulting from a cluster partition.*

This proposal does not involve partitioning of land at this time, so the finding required by this policy does not need to be made. Any partitioning of the subject property in the future will comply with applicable County requirements.

28. County-wide Forest Lands Policy 23 is:

*In land use changes involving a change from Conservation-Forest Lands or Rural Agricultural Lands to Rural Lands or Development designations an Exception to the Agricultural Lands or Forest Lands Goals must be taken.*

This policy is applicable to the proposal because a plan amendment from Conservation Forest Lands to Rural Lands is part of the proposal. An exception to the forest lands goal is included in this proposal. The County should find that this policy has been met.

29. The County-wide Goal 5 Element identifies several Goal 5 resources occurring on or near the subject property. This proposal does not require any changes to the Goal 5 inventory or protection measures currently in place. Goal 5 resources, and the measures adopted by the County to protect them, are briefly described in the following paragraphs.

Open space is a Goal 5 resource. The County-wide Goal 5 Element identifies three kinds of open space: general open space (farms, forests, estuaries, the ocean and ocean beaches); site-specific open space (parks, wildlife refuges, wetlands, and specific scenic areas); and areas provided in conjunction with a specific development (dedicated open space in a subdivision). General open space (forests) is north east, and south of the subject property. There is no site specific open space in the vicinity of the property. No changes to the general open space inventory or protection measures are needed for this proposal.

Mineral and aggregate resources are Goal 5 resources. The County-wide element does not identify any commercial mineral or aggregate resources on the site.

Fish and wildlife habitat is a Goal 5 resource. The site is inventoried as Peripheral Big Game Range in the Goal 5 County-wide Element. No change to this designation is sought or needed. Elk are found on or near the site. Upland game birds (grouse, quail, pigeons) are known to roost or feed on or near the site. No waterfowl habitat exists on these tax lots. The County-wide Goal 5 Element discusses habitat for "Furbearers and Hunted Non-game Wildlife", including beaver, muskrat, nutria, mink, river otter, skunk, bobcat, raccoon, rabbits, and coyotes. Some of these may live on the site. The County-wide Goal 5 Element does not include any measures for protection of fur-bearing or hunted non-game wildlife habitat.

Northern bald eagles, osprey, herons and snowy plovers are identified as important non-game species. These animals are not known to use the site, although it is possible that eagles may roost occasionally in the area. No changes to the County's fish habitat protection measures are proposed or needed.

Ecologically and scientifically significant natural areas are Goal 5 Resources. None of the 23 sites listed in the County-wide Goal 5 Element are on or near the subject property.

Outstanding scenic views and sites are Goal 5 resources. Twelve sites are listed in the County's final inventory of scenic sites. None are on or near the subject property.

Water areas, watersheds, and groundwater are Goal 5 resources. No changes are required as

a result of this proposal to the County's inventories or protection measures for these resources. The proposal and subsequent rural residential development are consistent with the County's implementation measures for protection of these resources.

Wetlands are a Goal 5 resource. The National Wetlands Inventory, conducted by the US Fish and Wildlife Service, does not identify any wetlands on the subject property. (Cannon Beach 15 minute quad sheet). There is a small seasonal drainage at the south side of the property that will remain undeveloped.

Wilderness areas are Goal 5 resources. There are no wilderness areas nearby. Historic sites are Goal 5 resources. The subject property does not include any sites or buildings listed in the County's preliminary or final inventory of historic sites. Cultural areas are Goal 5 resources. No archaeological sites have been identified on or near the subject property. Statutory requirements will be followed if cultural artifacts are found during construction. Oregon recreation trails and wild and scenic waterways are Goal 5 Resources. They are addressed in the County's Recreational Needs Element. No recreational trails or wild or scenic waterways are present on the subject property.

30. County-wide Goal 5 Fish and Wildlife Policy 2 is:

*To ensure that future development does not unduly conflict with Peripheral Big Game Range, the County shall:*

- a. Require that review and conditional uses in the AF zone be allowed only if they are found to be consistent with the maintenance of big game range;*
- b. Require that review of conditional uses in the AF zone be subject to clustering and siting criteria;*
- c. Submit proposed review and conditional use applications to the Oregon Department of Fish and Wildlife for their comments on consistency with Peripheral Big Game Range and recommendations on appropriate siting criteria to minimize any conflict; and*
- d. Submit all proposed plan and zone changes of land zoned AF to the Oregon Department of Fish and Wildlife for a determination of possible conflicts with big game habitat requirements. If the Department identifies conflicts, the County will consider recommendations for resolving these conflicts.*

Only part "d" of this policy is relevant. This policy places an obligation on the County to

notify ODFW of the proposed zone change. This procedural requirement does not create any substantive approval criterion applicable to the proposal or to the subject property.

31. County-wide Air, Water and Land Resources policy 1 is:

*The County shall encourage the maintenance of high quality of air, water and land through the following actions:*

*(a) encouraging concentration of urban development inside Urban Growth Boundaries,*

*(b) encourage maintenance and improvement of pollution control facilities,*

*(c) cooperation with the State Highway Department to provide an efficient transportation system. Methods to reduce congestion and air pollution on Marine Drive/Commercial Street should be explored.*

*(d) encourage indigenous, clean industries such as fishing, boat building, tourism, and forest products utilizations, and*

*(e) encourage development of resource recovery mechanisms such as recycling centers and wood waste processing.*

The proposal is consistent with policy 1. Urban development (such as high-density residential or commercial uses) is not proposed on this site, so part (a) is not applicable. Parts (b), (c), (d), and (e) refer to activities that are not relevant to the subject property or to this proposal.

32. County-wide Air, Water and Land Resources policy 2 reads as follows:

*The County Planning Department shall work with the Department of Environmental Quality (DEQ) to monitor and keep its environmental data base current including information on air quality, surface and groundwater quality, and land quality including waste disposal and erosion problems.*

The proposed zone change does not conflict with the goals of monitoring environmental parameters and keeping environmental databases current.

33. County-wide Air, Water and Land Resources policy 3 is:

*The cumulative effect of development on the County's environment should be monitored and, where appropriate, regulated. When evaluating proposals that would affect the quality of the air, water or land in the County, consideration should be given to the impact on other resources important to the County's economy such as marine resource habitat and recreational and aesthetic resources important to the tourist industry.*

The proposed amendments should have no measurable impact on air, water or land quality in Clatsop County. Subsequent development of single family homes in an area already developed with similar residences should have negligible environmental consequences. There is no evidence that the relatively large number of exiting residences in this area have had any measurable impact on the County's environment. The applicant is not aware of any program for monitoring the cumulative environmental impacts of this project and similar proposals. Impacts on marine resource habitat (such as ocean fisheries) are not expected. Potential impacts on recreational and aesthetic resources used by the tourist industry are not likely as a result of this proposal. The project will not change the appearance of any sites or areas used by the tourism industry.

34. County-wide Air, Water and Land Resources Element policy 4 is *The County shall continue its efforts to find an acceptable regional solid waste disposal site or an acceptable alternative (i.e., recycling, electricity generation).* This proposal and subsequent rural residential development at the site do not conflict with efforts to implement this policy. Due to the surrounding uses and the presence of aquatic habitat on the site, the subject property is not suitable for a solid waste disposal facility.

35. County-wide Air, Water and Land Resources Element policy 5 is *Recovery of wood wastes, rather than slash burning, shall be encouraged as a means of reducing air and water pollution, improving the economy, and for producing energy.* The proposal and subsequent rural residential development at the subject property do not conflict with efforts to implement this policy. These tax lots are currently considered forest land, but the proposed map amendment will change this designation to Rural Lands, and this policy will no longer apply.

36. County-wide Air, Water and Land Resources Element policy 6 is related to the Clatsop Plains aquifer, and is not applicable to this project.

37. County-wide Air, Water and Land Resource Element policy 7:

*The County shall work to maintain the quality of its estuarine waters through participation in the regional Columbia River estuary planning process. This policy is not applicable to the subject property or to the proposal.*

38. County-wide Air, Water and Land Resources policy 8 is *The County shall cooperate with DEQ, State Forestry Department, State Transportation Department and other agencies in implementing best management practices to reduce non-point pollution. This policy has no bearing on the proposal or on planned rural residential development. The policy does not establish mandatory approval criterion applicable to the proposal.*

39. County-wide Air, Water and Land Resources policy 9 is *The County shall recommend that state agencies regulate the issuance of water rights so as to insure that the total water rights of a stream bed do not exceed the minimum stream flow. This policy has no bearing on the current proposal. No new surface water rights are sought for this property at this time.*

40. County-wide Air, Water and Land Resources policy 10 is *Subdivisions adjacent to major arterials shall address the reduction of noise impacts in their site plans. The subject property is approximately one half mile from major arterial (US Highway 101), but a subdivision is not proposed as a part of this zone change, so this policy is not applicable.*

41. County-wide Air, Water and Land Resources policy 11 is *Performance standards for noise will be considered for inclusion as standards in the County's industrial-commercial zones. No industrial or commercial zoning is involved in this proposal, so this policy is not applicable.*

42. County-wide Air, Water and Land Resources policy 12 reads as follows:

*The District Conservationist shall be used for technical evaluation of all development activities (including subdivisions and major partitions) that could create erosion and sedimentation problems with his/her recommendations incorporated into planning approvals.*

This policy is implemented in the County's Soil Development Standards, beginning at section S4.300. These standards apply to construction activity. This proposed zone change does not trigger these requirements, so the policy is not applicable to this proposal. Site development will be conducted in accordance with these standards.

43. County-wide Goal 6 Policy 13 is:

*Any development of land, or change in designation of use of land, shall not occur until it is assured that such change or development complies with applicable state and federal environmental standards.*

This policy is applicable to the proposed zone change because the proposal is a "change in designation of use of land". The policy requires findings that the proposal complies with applicable state and federal environmental standards. The proposed goal exception, plan amendment and zone change are in compliance with applicable state and federal environmental standards because:

- The National Environmental Policy Act (NEPA) is a federal environmental law that is not applicable to the proposed zone change because NEPA applies only to Federal actions and activities. NEPA does not establish any environmental standards applicable to the proposed zone change. The proposal is not a federal activity, nor does it require federal action.
- The Resource Conservation and Recovery Act (RCRA) is a federal environmental law that deals primarily with toxic and hazardous wastes, and with soil and groundwater contamination. There is no evidence of RCRA-related contamination on the site or in the vicinity. RCRA does not establish any environmental standards applicable to the proposed zone change.
- The Federal Insecticide, Fungicide and Rodenticide Act (FIFRA) is a federal environmental law that regulates use of certain pesticides. FIFRA does not establish any environmental standards applicable to the proposal.
- The Coastal Zone Management Act (CZMA) is a federal environmental law implemented in Oregon through the Statewide Planning Goals. Findings elsewhere in this document demonstrate compliance with all of the Goals, including the coastal goals. This is the full extent of CZMA applicability to the proposal. CZMA does not establish any environmental standards applicable to the proposal.
- The Clean Water Act (CWA) and its amendments are federal environmental laws that protect surface water quality. The proposed zone change does not require water quality certification, an NPDES permit, or any other kind of permit approval under CWA or its amendments. CWA does not establish any environmental standards applicable to the proposal.
- Several federal statutes regulate air quality and discharges to the air. The proposed zone change does not require approval or certification under any of these regulatory programs. There are no federal environmental standards related to air quality that are applicable to this proposal.

- The federal Fish and Wildlife Coordination Act directs federal agency activities with respect to fish and wildlife resources. The proposed zone change does not trigger application of this federal environmental law. The Fish and Wildlife Coordination Act does not establish environmental standards applicable to the proposal.
- The federal Migratory Bird Treaty Act protects migratory birds from direct threats, such as killing the birds, destroying nests, or removing nest trees. The act does not establish environmental standards applicable to the proposal.
- The federal Endangered Species Act (ESA) directs federal efforts to protect threatened and endangered plant and animal species by regulating potentially harmful activities. No species listed or being considered for listing under ESA are known to be present on the site. Endangered, threatened, and at-risk species issues are addressed elsewhere in these findings. The proposal does not require federal action under ESA. There are no environmental standards established under ESA that are applicable to the proposal.
- The Federal Rivers and Harbors Act can be considered an environmental law because it has some applicability to water pollution in federal waters. The proposal is not an action requiring review under the Rivers and Harbors Act, nor are there any environmental standards established under this Act that are applicable to the proposal.
- The federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) deals with contaminated sites. The subject property is not known to be subject to CERCLA jurisdiction. CERCLA does not establish any environmental standards applicable to the proposal.
- The Federal Wild and Scenic Rivers Act and Oregon's Scenic Waterways System both address activities on or affecting certain designated waterways. Big Creek and Little Creek, which flow past the site, are not designated under either of these laws, so the proposal does not require review or approval under either the federal or state program. Environmental standards applicable to the proposal are not established under either the state or the federal program.
- The Federal Wilderness Act addresses activities on or affecting designated wilderness areas. There are no federally-designated wilderness areas on or adjacent to the subject property. This federal law does not establish any environmental standards applicable to the proposal.
- Oregon's Fill and Removal legislation is a State-level environmental law implemented by a permit program through the Division of State Lands. The proposal



does not involve any activities covered under the Fill and Removal program. The state's fill and removal program does not establish any environmental standards applicable to the proposal.

- Oregon's Forest Practices Act (FPA) and its administrative rules might be considered environmental laws. The proposed zone change does not require approval under the FPA. The FPA does not establish any environmental standards applicable to the proposal.
- Parts of Oregon's Statewide Planning Goals are environmental standards. Findings elsewhere in this document demonstrate compliance with the Statewide Planning Goals. An exception to Statewide Planning Goal 4 is included because the proposal is not otherwise consistent with Goal 4.
- Oregon's Threatened or Endangered Wildlife Species legislation (ORS 496.172 through 496.192) and the statutes pertaining to Threatened or Endangered Plants (ORS 564.100 through 564.994) direct state efforts to protect threatened and endangered plant and animal species by regulating potentially harmful activities. Endangered, threatened, and at-risk species issues are addressed at some length elsewhere in these findings. The proposal does not require state action under these programs, nor do they establish any environmental standards applicable to the proposal.
- Oregon's brownfields redevelopment program addresses sites contaminated with toxic waste. "Brownfields" is a term used to describe vacant former industrial sites and buildings. The state's brownfields program is an environmental program because it regulates redevelopment on sites contaminated with toxic or hazardous wastes. The subject property is not known to be contaminated. Oregon's brownfields program does not establish any environmental standards applicable to the proposal.

There may be other state or federal environmental standards not addressed here. This information demonstrates that the proposed exception, plan amendment and zone change comply with applicable state and federal environmental standards. It is not necessary at this time to test any of the potential uses of this site against this policy for two reasons. First, specific uses can be evaluated at a later date, when a specific development proposal comes to the County for approval. Second, this policy is implemented with respect to specific developments through the County's Land & Water Development & Use Ordinance by way of a provision in the RA2 zone (section 3.212) requiring compliance with all applicable federal and state requirements.

44. The County-wide Natural Disasters and Hazards Element contains 11 flood hazard

policies. No portion of this property is within the 100-year flood plain, so these policies are not applicable. The adjacent subdivision (Haystack Heights Division Three) is a designated tsunami evacuation area for the City of Cannon Beach. This property is even higher, and therefore outside of any flood or tsunami threat.

45. County-wide flood hazard policy 1 is:

*Clatsop County recognizes the value of an integrated flood hazard management program in order to protect human life and property and shall continue participation in the Federal Flood Insurance Program.*

This policy is not applicable.

46. County-wide flood hazard policy 2 is *Flood hazard engineering works are not the final answer to deter potential flooding; a sound land use program must precede them.* No flood hazard engineering works are proposed for this project. The County has a sound land use program. This proposal is consistent with that program.

47. County-wide flood hazard policy 3 is:

*A floodplain ordinance shall be adopted which sets forth development standards for the floodway and areas of special flood hazard. Structures for human habitation shall be prohibited from the floodway. Structures in the floodway fringe shall be floodproofed or required to have their first floor elevated at least one foot above the 100 year flood level.*

This policy is not applicable.

48. County-wide flood hazard policy 4 is:

*The County shall strive to make flood hazard information available to the public to insure that owners and potential buyers of flood prone land are aware of the hazard.*

The County has met this policy by making flood hazard information available to the public.

49. County-wide flood hazard policy 5 is:

*Maintenance and repair of existing flood control works shall be encouraged. Where development occurs or is planned on existing diked lands, the dikes shall be improved and maintained. Construction of new dikes for establishing future development in floodplain areas shall be discouraged.*

No flood control works exist on the site now, nor are any planned or necessary for future construction. This policy is not applicable to the proposal.

50. County-wide flood hazard policy 6 is:

*All future river or stream crossings shall be designed to provide adequate waterway openings and bridge clearance above flood flows. Existing roads and bridges that are subject to being undermined or washed out will be identified on maps for reference during emergency situations.*

Any bridges or stream crossing built to accommodate development on the subject property will be designed and built to comply with this policy.

51. County-wide flood hazard policy 7 is *Agriculture, forestry, open space and recreation shall be preferred uses of flood prone areas.* The flood-prone portion of the subject property will likely be used as open space.

52. County-wide flood hazard policy 8 is *Community structures such as hospitals, public schools, nursing homes, etc. will not be built in areas identified as flood prone.* No community structures such as those addressed in this policy are planned for the subject property.

53. County-wide flood hazard policy 9 is *Subdivisions occurring within floodplain areas shall be encouraged to cluster land uses outside of the floodplain area leaving the floodplain in open space.* The stream corridor will be left in open space if a subdivision is ever proposed. At this time the policy is not applicable.

54. County-wide flood hazard policy 10 is *Filling and construction within designated floodways shall be prohibited if it presents a danger of raising future flood levels.* No filling or construction within a floodway is proposed, so this policy is not applicable.

55. County-wide flood hazard policy 11 is:

*Transportation systems constructed in floodplains shall be designed so as to cause the least adverse hydraulic effect considering expected flood flows and debris loads.*

If roads or driveways are needed to cross the drainage area, this policy will be met.

56. The County-wide Natural Disasters and Hazards Element contains several soil development policies. The soil types on the property are not listed in the County-wide Element or the *Soil Survey* as prone to mass movement. The seven general mass movement policies in the County-wide Element are not applicable. Five policies in the County-wide Element are directed toward areas with high groundwater or compressible soils. Site soils are not described in the County-wide Element or in the *Soil Survey of Clatsop County, Oregon* as compressible, or associated with high groundwater.

57. Seven policies in the County-wide Natural Disasters and Hazards Element are directed at streambank erosion. There are streambanks on the site, so these policies are potentially applicable. County-wide streambank erosion policy 1 is *The outside faces of dikes shall be stabilized to prevent erosion as part of the regular maintenance of existing dikes.* There are no dikes on the subject property, nor are any planned. This policy is not applicable to the proposal.

58. County-wide streambank erosion policy 2 is *A buffer of riparian vegetation along streams and rivers should be encouraged in order to protect and stabilize the banks.* The County's riparian vegetation protection requirements will be followed during all phases of construction and use on the subject property.

59. County-wide streambank erosion policy 3 is *Property owners shall be notified of areas of streambank erosion so they can take this information into account when placing structures.* This policy places an obligation on the County which can be met when issuing building permits. No findings against this policy are required at this time for this proposal.

60. County-wide streambank erosion policy 4 is *The DEQ's best management practices for agricultural areas shall be supported to reduce erosion and sedimentation of streams.* The subject property is not currently in an agricultural area, nor is it proposed to be in an agricultural area. This policy is not applicable to the proposal or to these tax lots.

61. County-wide streambank erosion policy 5 is:

*Appropriate agencies should work to obtain speed limits and enforcement of these speed limits for boats in areas where dikes are affected by wave erosion.*

This policy is not applicable.

62. County-wide streambank erosion policy 6 is *The Forest Practices Act shall be strictly enforced to reduce sedimentation of streams.* The Forest Practices Act and forest practice rules will be followed if commercial timber harvest occurs on the subject property. However, such use is not anticipated for the site.

63. County-wide streambank erosion policy 7 reads as follows:

*Problems from natural erosion or the creation of situations where erosion would be increased due to actions on or adjacent to the river banks shall be avoided by carefully reviewing state and federal permits for shoreline stabilization to minimize impacts on adjacent land.*

This policy is not applicable to the proposal.

64. The County-wide Recreation Element contains 16 policies. Policies 1 through 4 address County parks. The subject property is not a County park, nor is it under consideration for purchase or inclusion into the County park system. Policies 1 through 4 are not applicable to this proposal.

65. County-wide Recreation Element Policy 5 is:

*Clatsop County shall attempt to protect and expand public access to the streams,*

*river and lakes in the County. The County shall attempt to secure long-term use agreements for private boat ramp properties it maintains and develop new ramp sites as funding allows. The County shall retain existing County-owned stream-front properties identified as needed for public access and make efforts to acquire additional fishing access stream frontage.*

The subject property is not a "private boat ramp" property, nor is it County-owned stream-front property, nor has it been identified as needed for public access, so this policy is not applicable.

66. County-wide Recreation Element Policies 6 through 16 address County-owned lands and related County duties and obligations. These policies are not applicable to the proposal or to planned rural residential development on these privately tax lots.

67. The County-wide Economy Element lists several policies addressing the forest products industry. The first of these is *Forestation and reforestation of the County's forest lands is encouraged*. The subject property partially forested. The proposed exception will remove these tax lots from the County's inventory of forest lands, and make this policy inapplicable. The policy does not establish any mandatory approval criterion applicable to this proposal or to the subject property.

68. The second county-wide economy policy addressing the forest products industry is:

*The County shall encourage the continuation of the long-term supply of raw products necessary to provide material for County mills by the following:*

*a. Sustained yields of forest products should be promoted through educational programs provided by service foresters, extension service personnel and continuing educational courses.*

*b. Information should be disseminated to owners of small woodlots to help them direct their forest management practices toward a sustained yield of forest products.*

*c. Small woodlot owners should be provided financial incentives for maintaining forest land use and effective management practices. Both public and private sectors (especially local forest products industries) should examine long-range*

*payment and contractual agreements with small woodlot owners to level existing tax inequities and diminish long-range cash flow problems. (Such contracts could include reseeding agreements and cost sharing proposals).*

*d. State and federal representatives should be asked to explore legislation to provide assistance and incentives to small woodlot owners to insure participation in effective management programs.*

*e. Public works (such as CETA or an EDA program) and other labor intensive techniques should be employed to accelerate seeding and replanting efforts on small woodlots. In addition, labor intensive brush clearing and seeding preparations should take precedence where feasible over non-labor intensive techniques, especially if cleared fiber could be utilized for other purposes (energy generation).*

*f. Reforestation of special species should be encouraged by public incentives, especially for long maturation species such as cedar.*

Policies 2a through 2f are all express the County's desire for continuing prosperity and public subsidies in the forest products sector. The policy does not establish any mandatory approval criteria applicable to the subject property or to this proposal. No findings under these policies are required for this proposal.

69. County-wide economy policy 3, dealing with the forest products industry, is

*The County will work with private industry, the Port of Astoria, the Clatsop County Economic Development Committee and other economic organizations in their attempts to improve forest industry employment opportunities by:*

*a. Providing technical assistance and business management training to help establishment of small businesses involved in timber salvage, precommercial thinning, tree planting, pole and post cutting, etc.*

*b. Working with groups such as the Economic Development Administration to encourage the location of small businesses in the County which provide season long employment in the forest industry. Small businesses which would more totally process wood products from currently wasted material should be especially encouraged.*

*c. Utilizing local education facilities and personnel to provide training in*

*forestry-related skills through cooperation with and knowledge of industry needs.*

*d. Supporting public actions (such as revenue bonding) which:*

*1) encourage research and development of wood-waste fueled energy generation,*

*2) develop technology and products made primarily from non-commercial and under utilized tree species (especially alder), and*

*3) assist small scale equipment development (i.e. chippers, portable specialty saw mills, etc.).*

*e. Considering all measures to encourage expanded local processing of locally grown wood fibre to minimize current dollar leakages, including low interest loans, CETA grants, small business assistance programs, and maximum use of the community reinvestment act.*

*f. Providing adequate industrial lands, an efficient permit approval procedure and adequate public facilities for forestry-related businesses.*

Of these, only sub-policy f addresses the land use planning process as it might relate to the subject property. These tax lots are not currently used for industrial forestry, nor are the owners aware of any interest in its use as such. Due to the size, configuration, and surrounding residential uses, the property it is not suitable for the commercial production of timber on a commercially viable basis.

70. The County-wide Economy Element contains policies addressing marine resources. The subject property does not provide effective access to any of these resources, nor is it suitable for marine-related industrial development. These policies are not applicable.

71. Five polices addressing the tourist industry are listed in the County-wide Economy Element. The policies direct the County to take various actions in support of the visitor-related industries. None of them affect these tax lots or this proposal.

72. Policies in the County-wide Economy Element address human resources. These policies are not applicable to the subject property or to this proposal.



73. Policies addressing community resources appear in the County-wide Economy Element. Policies 1 and 2 address the Economic Development Council, and are not applicable to the proposal. Policy 3 addresses cottage industries. No cottage industries are proposed. Policies 4, 5 and 6 address the Port of Astoria. These tax lots are within the County-wide port district, but these policies are not applicable to the property or to this proposal. Policy 7 addresses commercial and industrial uses. None of these types of uses are proposed. Policies 8, 9 and 10 address destination resorts. The subject property is not under consideration for development as a destination resort, so these policies are not applicable. Policy 11 deals with County, State and Federal recreation planning generally, and is not applicable to this proposal.

74. The County-wide Housing Element is based largely on data from the 1970 federal census, so it is somewhat out-of-date. It includes seven population policies and fourteen housing policies. Population policy 1 addresses community plans, and is implemented with respect to the subject property through the Southwest County Community Plan.

75. Policy 2 from the County-wide Housing Element is: *Promote population to locate in established service areas*. These tax lots are within an established service area. The subject property is served by public fire suppression, schools, ambulance service, and law enforcement. Private utilities provide electricity, cable television and telephone service. The subject property is within 150 feet of a City street. Development of these tax lots for rural residences is consistent with a policy of locating residential development in established communities.

76. Population policy 3 from the County-wide Housing Element is: *Promote the accommodation of growth within areas where it will have minimal negative impacts on the County's environment and natural resources*. The environmental and natural resources addressed by this policy are those identified and protected by Statewide Planning Goals 3, 4, 5, 6, 16, 17 and 18, and by County land use regulations designed to implement these goals. The proposal is intended to accommodate growth in an area where negative impacts on environmental and natural resources will be minimal. This conclusion is justified by the following factors:

- Farm and forest lands are natural resources in Clatsop County. The subject property is not in an agricultural area, but it is in an area currently designated as forest lands. The exception included as part of this proposal demonstrates that forest uses on these tax lots are impractical due to the property's commitment to rural residential uses, a relatively small parcel size, and potential conflicts between commercial forest uses and an established residential neighborhood in the City.

- Open space is a natural resource in Clatsop County. No changes to the County's open space inventory or protection measures are proposed.
- Mineral and aggregate deposits are natural resources. No commercial mineral or aggregate resources have been identified on these tax lots.
- Fish and wildlife and their habitat are natural resources in Clatsop County. Habitat will be diminished, but will not be adversely affected due to the low density nature of the development.
- Ecologically and scientifically significant natural areas are natural resources in Clatsop County. There are no designated ecologically or scientifically significant natural areas on or near the subject property.
- Outstanding scenic views and sites are natural resources. None of the outstanding scenic views or sites inventoried in the County's Goal 5 Element is on or near these tax lots.
- Water areas, watersheds, and groundwater are natural resources. No changes will be made to the intermittent stream on the property.
- Wetlands are a natural resource in Clatsop County. There are no wetlands on these tax lots, apart from the stream corridor which will be protected.
- Wilderness areas are natural resources in Clatsop County. There are no wilderness areas on or adjacent to the subject property.
- Clean air is a natural resource in Clatsop County. Air-polluting activities that might occur on the subject property or in conjunction with planned residential development are subject to statewide regulatory programs administered by the Oregon Department of Environmental Quality (DEQ). There is no evidence that rural residential development has significant air quality impacts on Clatsop County. The subject property is not currently in an air-quality non-attainment area. This proposal and subsequent rural residential development will have minimal negative impacts on air quality in Clatsop County or Cannon Beach.
- Estuaries are natural resources in Clatsop County. The subject property is not in or adjacent to any of the County's estuarine areas.
- The ocean beaches are natural resources in Clatsop County. These tax lots are not near the ocean beach.

- Dune areas are natural resources in Clatsop County. The subject property is not in or near a dune area.

Based on this information, the County should conclude that accommodating rural residential growth on the subject property will have minimal negative impacts on the County's environment and natural resource base.

77. Population policy 4 from the County-wide Housing Element is: *Utilize current vacant land found between developments or within committed lands.* These tax lots meet this infilling requirement. Land zoned for rural residential development is east and west of the subject property. This is shown on the attached maps. Development of these tax lots for rural residences is consistent with this policy.

78. Population policy 5 from the County-wide Housing Element is:

*Direct new urban growth within Clatsop County to existing urban growth boundary or rural service areas where under-utilized public or semi-public facilities exist or utility and/or investments have already been made.*

This policy addresses urban growth. Neither the current nor the proposed zoning configuration allows urban densities or uses on this site. Planned residential development will be only that allowed under the RA2 zone, which allows only rural uses at rural densities. The difference between **urban** and **rural** development densities is central to an interpretation of this policy. Clatsop County has consistently found that one dwelling unit per two acres is a **rural** density.

79. Population policy 6 from the County-wide Housing Element is *Encourage development of land with less resource value.* These tax lots have less resource value than many other sites in the Northeast County Planning Area. It has soils with relatively low forest and agricultural productivity, and no public recreational value. The site is not inventoried as having scenic or historic resource value. There are no known archaeological resources on the site that might contribute to its cultural or heritage value.

80. Population policy 7 from the County-wide Housing Element deals with intergovernmental coordination, and is not applicable to the proposal.

81. Housing policy 1 from the County-wide Housing Element is:

*Clatsop County shall encourage residential development only in those areas where necessary public facilities and services can be provided and where conflicts with forest and agricultural uses are minimized.*

Residential development on the subject property is consistent with this policy because the site has all necessary facilities and services for rural residential development: electricity, telephone, water, roads, and public fire suppression. Wastewater disposal will be handled on-site with individual DEQ-approved subsurface disposal systems, which the Comprehensive Plan identifies as the appropriate method of handling wastewater in rural areas. Conflicts between planned rural residential development and forest or forest uses are not expected because these potentially conflicting uses are adequately buffered from each other. A sixty-foot public road right-of-way separates the subject property from agricultural and forest uses to the west and northwest. A 180-foot highway right-of-way separates these tax lots from mixed farm and forest uses to the south. Based on this, the County should conclude that the proposed amendments are consistent with this policy.

82. Housing Policy 2 from the County-wide Housing Element is:

*Clatsop County shall assist in planning for the availability of adequate numbers of housing units at price ranges and rent levels commensurate with the financial capabilities of County residents.*

A shortage of affordable housing has been recognized by the County (through its agency the Clatsop Economic Development Council) as a barrier to economic development in Clatsop County. Efforts to directly address this problem include providing additional subsidized housing units. This problem can be indirectly addressed by providing more housing units at all market levels. Rural residences to be developed on these tax lots are unlikely to be subsidized units, but the potential additional housing units will add to the County's housing stock, and help implement this policy. The County should conclude that this proposal does not violate this policy.

83. Housing policy 3 from the County-wide Housing Element encourages clustering. The clustering provisions in the County's ordinance may be used when and if the subject property is divided. The proposal does not conflict with this policy.

84. Housing policy 4 from the County-wide Housing Element is

*Clatsop County shall permit residential development in those designated areas when and where it can be demonstrated that:*

*a. Water is available which meets state and federal standards;*

*b. Each housing unit will have either an approved site for a sewage disposal system which meets the standards of the County and the Department of Environmental Quality or ready access to a community system;*

*c. The setback requirements for development of wells and septic systems on adjacent parcels have been observed;*

*d. Development of residential units will not result in the loss of lands zoned or designated for agriculture or forestry and will not interfere with surrounding agricultural or forestry activities.*

Water for homesite development on these tax lots will be obtained from wells. Clatsop County will apply its relevant ordinance requirements at the time a building permit is sought. Other low density rural properties in the area have been developed with wells or surface water.

Both homes on these tax lots will rely on a DEQ-approved subsurface wastewater disposal system. Site evaluations will be conducted prior to construction. Adjacent developed property has soils similar to those found on the subject property. Septic systems are a feasible approach to wastewater disposal at this site.

Well and septic system setbacks will be observed. Nearby forestry activities are on lands north, east, and south of the property. The houses will be well separated from the forestry activities nearby. For these reasons, the County should find that the proposed zone change meets the requirements of policy 4.

85. Housing policy 5 from the County-wide Housing Element addresses the temporary emergency use of a manufactured dwelling. This policy does not conflict with the proposal.

86. Housing policy 6 from the County-wide Housing Element encourages multifamily developments and mobile home parks within Urban Growth Boundaries. The subject property is not within a UGB. Multifamily housing is not proposed, nor is a mobile home

park. These uses are already regulated under the RA2 zone; the applicants are not proposing any changes to the regulation of multi-family housing, or manufactured home or mobile home parks under the RA2 zone.

87. Housing policy 7 from the County-wide Housing Element encourages infilling. Infilling is proposed. Land already zoned for residential development exists to the west of these tax lots. This site is located in an area recognized by the County as appropriate for rural residential development. The proposed zone change is consistent with this policy.

88. Housing policy 8 from the County-wide Housing Element is:

*Clatsop County shall make provisions for housing in areas designated for rural, urban growth boundaries, and rural service areas which provide variety in location, type, density and cost where compatible with development on surrounding lands.*

This policy is directed at the County's land use strategy as a whole, and does not call for or require a variety of housing types on a single site. Rural residential development on these tax lots is consistent with this policy because it will help provide one of several housing types found in the County and mentioned in this policy. Rural residential development would be compatible with development on nearby lands, which consists mostly of single family residences on quarter-acre or smaller lots.

89. Housing policies 9 and 10 from the County-wide Housing Element deal with the County Housing Authority and with State and Federal housing agencies. Housing policies 11 and 12 address housing rehabilitation. Housing policies 13 and 14 address assisted housing. None of these policies is applicable to the proposal or to residential development on the subject property.

90. The County-wide Public Facilities and Services Element has an "Overall policy regarding appropriate levels of public facilities in the County". The policy for Rural Lands states that *Public water supply is an appropriate public facility in this plan designation, but is not essential for development.* The policy goes on to state that *fire protection is not a requirement for development.* The site is served by the Cannon Beach Rural Fire Protection District. The policy states that *Community sewage facilities are not appropriate in this plan designation.* No community sewage facilities presently serve the site, nor are any planned or needed for rural residential development at this site.

91. The County-wide Public Facilities and Service Element contains nine general public facilities policies, beginning on page 7. Policy 1 refers back to the overall policy addressed in the preceding paragraph (finding #90). Policy 2 refers to service levels in UGB areas, and is not applicable to the site or the proposal. Policy 3 refers to facility requirements at the time a development permit is issued. It says:

*Development permits (excluding land divisions) shall be allowed only if the public facilities (water and sanitation, septic feasibility or sewage capacity) are capable of supporting increased loads. The County shall consider prior subdivision approvals within the facilities service area when reviewing the capabilities of districts.*

The current proposal is not a development permit. The requirements of policy 3 will be met when a development permit is sought. Nearby rural homes are served by individual subsurface wastewater disposal systems. There is no history of widespread failing septic systems or of sites failing to qualify for an individual septic system in this area. This is evidence of the feasibility of using DEQ-approved wastewater disposal system on these tax lots.

92. County-wide Public Facilities and Service Element Policy 4 deals with the creation of new community water systems. No new community water systems are proposed, so this policy is not applicable. Policy 5 deals with water and sewer district boundary changes, and is not applicable to the proposal. Policy 6 requires underground utilities in certain instances. The subject property can be developed in a manner consistent with this policy. Telephone service and electric power service will be placed underground on these tax lots. Policies 7 and 8 deal with new utility corridor locations. No new utility corridors will be needed for residential development at the subject property.

93. General public facility policy number 9 in the County-wide Public Facilities and Services Element is:

*When a Comprehensive Plan and/or zone change are requested that would result in either a higher residential density or a commercial or industrial development, it shall be demonstrated and findings shall be made that appropriate public facilities and services especially water, schools, and sanitation (septic feasibility or sewage) are available to the area without adverse impact to the remainder of the public facility or utility service area.*

This policy is applicable to the proposal. The Seaside School District has not been contacted regarding this proposal. However, it is likely that one or both of these lots will be vacation or second homes, which have no impact on the local school system. It is estimated that 60%-

70% of homes in Cannon Beach are vacation or second homes which do not contribute students to local schools. The school district has an obligation to serve all new students regardless of the district's resources. However, the local public schools are not at capacity at this time. No sewer service is available at the site, nor is it appropriate for rural development levels. Wastewater will be discharged into individual subsurface wastewater disposal systems. Although a final determination can not be made until preliminary development plans are reviewed by DEQ, septic systems are a feasible means of wastewater disposal in the area generally. DEQ approval will be obtained prior to development of the sites. Nearby developed property with similar soil conditions is adequately served by individual subsurface wastewater disposal systems

94. The County-wide Public Facilities and Services Element contains a diking and drainage district policy on page 8. This policy is not applicable to the proposal.

95. The County-wide Public Facilities and Services Element contains seven water system supply policies. Policy 1 requires proof of a year-round source of potable water. A water system has not yet been developed on these tax lots. Proof of potable water can be provided at the time a development permit is requested, pursuant to Section S2.400 of the County's Land & Water Development & Use Ordinance.

Water supply policy 2 is *If water supply for building permits is from a surface source, including a spring, proof of water rights from the State must be presented.* This policy will be met when a development permit is sought.

Water supply policy 3 is:

*When water supply to a subdivision or planned development is to be from a source other than a community water system, the developer shall provide evidence of a proven source of supply and guarantee availability of water to all parcels of land within the proposed development.*

Even though this policy is not applicable because neither a subdivision nor planned development is sought or contemplated this policy will be met when each individual site development permit is sought.

Water supply policy 4 encourages community water system maintenance and improvement and therefore not applicable.

Policy 5 relates to city-County cooperation for regional water planning and therefore not applicable.

96. The County-wide Public Facilities and Services Element contains five waste disposal policies.



Policy 1 indicates that sewer services are only appropriate in RSA and UGB areas. The property is not within an RSA or UGB, nor is a sewer system proposed or planned for this area.

Waste disposal policy 2 encourages city-County cooperation with respect to expansion of city services. Policy 2 is not applicable to this proposal because city services will not be extended to serve this property at this time.

Waste disposal policy 3 encourages alternative sewage disposal methods. The two tax lots will probably be developed with conventional subsurface wastewater disposal systems. Alternative methods are not required by policy 3, only encouraged.

Policy 4 refers to the 1982 Solid Waste Reduction Plan, which has no direct bearing on this proposal or on the site.

97. The County-wide Public Facilities and Services Element contains eight "governmental structure and other public facilities policies". All deal with intergovernmental coordination and the expansion of services in rural areas. They are not applicable to this proposal.

98. Sixteen transportation policies are included in the County-wide Transportation Element. Policy 1 requires city-County cooperation in matters pertaining to the airports. Policy 2 lists impacts to be considered when making decisions on transportation projects. This proposal is not a transportation project, so policy 2 is not applicable. Policy 3 addresses State-County cooperation with respect to transportation projects. Policies 4 and 6 concern maintenance of County roads. Roads serving tax lot 1001 are not County roads. Policy 5 establishes requirements for new access points onto major arterials. Highway 26 is a major arterial. Tax lot 1001 relies on an existing access point onto Highway 26 via an easement. Policy 7 urges use of unneeded right-of-ways for greenbelts, walking trails or bike paths. There are no unneeded right-of-ways associated with this proposal or with tax lot 1001. Policies 1 through 7 are not germane to the proposal or to the site.

99. County-wide Transportation Element policy 8 is *Streets in new developments shall be designed to minimize disturbance of the land in following contour lines and avoiding cut and fill techniques*. The easement needed to serve development on the tax lots will be designed to comply with this policy.

100. County-wide Transportation Element policy 9 is

*The development of unopened, dedicated public roads should be reviewed by Clatsop County for their consistency with the land use policies. When opening the road is appropriate, adequate roadway development standards shall be required.*

An existing easement needed to serve residential development may require improvement for full development of this site. No new roads will be opened as a result of this proposal.

101. County-wide Transportation Element policy 10 is intended to guide development of County road standards. Policy 11 addresses cooperation between Astoria, the County and ODOT with respect to highway improvements. Policies 12, 13 and 14 address the needs of the transportation disadvantaged. Policy 15 encourages establishment of commuter bus service along Highway 101 and Highway 30. None of these policies is germane to these tax lots, nor are any findings against these policies required for approval of the proposal.

102. County-wide Transportation Element policy 16 establishes nine maintenance, design and construction standards for County roads. These are implemented through the County road standards in the County's Standards Document. The proposed use does not involve a county road.

103. Four energy policies are included in the County-wide Energy Conservation Element.

Policy 1 deals with a County-wide energy conservation program. Findings against policy 1 are not required for approval of this proposal.

Policy 2 establishes two land use policies. The first encourages clustering of shopping, cultural, medical, educational and other public facilities in UGB areas. The property is not in an appropriate location for any of these services, and none is proposed on the site. The second part of policy 2 establishes solar access goals for partitions and subdivisions. Solar access goals have never been implemented through the County *Land & Water Development & Use Ordinance*. Planned lot sizes are large enough to allow a southern exposure on each lot, thus maximizing solar gain.

Energy policy 3 encourages renewable and alternative energy sources. Findings are not required for this proposal.

104. Energy policy 4 from the County-wide Energy Conservation Element requires consideration of energy conservation in the designation of Rural Lands. Energy conservation factors germane to the designation of Rural Lands include transportation efficiency, residential energy consumption, and infrastructure efficiency. The property is centrally located with respect to employment, entertainment, education, health care, government, and shopping facilities in Seaside, Cannon Beach and the Portland

metropolitan area. An existing road network is used to reach an easement leading to the site. No new roads will be needed. A large component of residential energy consumption is space heating. Natural gas is available to the property. The site is served by existing infrastructure. Development of residences on the property will result in more efficient use of this infrastructure, avoiding the energy costs associated with building new infrastructure.

105. There is no County-wide Urbanization Element. Instead, the County has adopted each of the cities' Comprehensive Plans and Zoning Ordinances for administering land uses in the unincorporated UGB areas. These tax lots are not in an Urban Growth Boundary area, so the UGB plans and ordinances are not applicable.

106. The site is not in or adjacent to an estuary. Policies in the County-wide Estuarine Resources Element are not applicable to the proposal.

107. Tax lot 1001 is not within or adjacent to the Coastal Shorelands planning area, so policies in the County's Coastal Shorelands Element are not applicable.

108. Five beach policies and 22 dune policies are established in the County-wide Beaches and Dunes Element. Tax lot 1001 is not in a beach or dune area, so these policies are not applicable.

109. Section 5.412(2) of the County *Land & Water Development & Use Ordinance* establishes the second of two criteria for amendments:

*The property in the affected area is presently provided with adequate public facilities, services and transportation networks to support the use, or the governing body by condition, requires their provision by condition attached to any approval of the use.*

Electricity, natural gas, law enforcement, schools, telephone service, public highways, and fire suppression are all available at or near the site. Proof of potable water and a legal means of wastewater disposal are required by the County prior to issuance of a building permit. Use of adjacent properties demonstrated proof of potable water and a legal means of waste water disposal.

Conclusion:

The proposal for the Anderson Family property meets the requirements of the Clatsop County Comprehensive Plan and development requirements. It is request that the Planning Commission recommend approval of the amendment from F-80 to RA2 to the Board of County Commissioners.

**EXHIBIT 4**



**Receipt**

This is not a Permit

Clatsop County Planning and Development  
800 Exchange St Ste 100  
Astoria, OR 97103

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

**For Department Use Only**

Permit #: 20080399  
Permit Type: Type IV  
Entry Date: 6/27/2008  
Entered By: Michael Weston  
Assigned To:  
Permit Status: Entered

**Permit Timeline**

User	Status	Date
Michael Weston	Entered	06/27/2008

**Proposed Use**

Proposed Use: **Goal Exception**

Zone: **F-80** Description: Goal Exception

**Project Location**

Address: TaxLot Desc: I R S Q S Qq S Taxlot  
City: State: OREGON 5 10 00 0 0 04500  
Directions:

**Applicant/Owner/Agent**

**Applicant:** Name: Mike Morgan Ph. #: (503) 436-1061  
Address: PO Box 132 Cell: ( ) -  
City, State, Zip: Cannon Beach, OR 97110 Fax: (503) 739-0102

**Owner:** Name: **Anderson V P/ Anderson L C & Anderson S/Ander** Ph. #: ( ) -  
Address: 2596 SW Arden Rd Cell: ( ) -  
City, State, Zip: Portland, OR 97201 Fax: ( ) -

**Agent:** Name/Type: Ph. #: ( ) -  
Address: Cell: ( ) -  
City, State, Zip: Fax: ( ) -

**Fees**

<u>Fee Type:</u>	<u>Permit Fee Total:</u>
Planning/Development	\$2,481.00
	Total: <u>\$2,481.00</u>

**Receipt**

<u>Payor Name:</u>	<u>Pymnt Type</u>	<u>Check #</u>	<u>Pymnt Date</u>	<u>Pymnt Amount:</u>
Anderson V P/ Anderson L C	Check	7838	06/27/2008	\$2,481.00

**Balance Due:** \$0.00

**Signatures**

1. For Commercial and industrial uses, include parking and loading plan, sign plan and erosion control plan.
2. For residential and other uses, include an erosion control plan.
3. Review attached applicant's statement and sign below.

I have read and understand the attached APPLICANT'S STATEMENT and agree to abide by the terms thereof.

**Applicant Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Owner Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_

**Agent Signature:** \_\_\_\_\_ **Date:** \_\_\_\_\_



**Receipt**

**For Department Use Only**

Clatsop County Planning and Development  
800 Exchange St Ste 100  
Astoria, OR 97103

Permit #: 20080399

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

**Zoning District Requirements**

Property Access Info.

Access to Property:  
County Permit Required?  
State Permit Required?

Direction	Setbacks	
	Req.	Actual
F:		
S1:		
S2:		
R:		

**Property Information**

**Compliance/Conditions of Approval**

**Clatsop County Compliance**

Except as noted, the Clatsop County Community Development Department finds the proposed use(s)/action(s) in compliance with the Clatsop County Land & Water Development and Use Ordinance and with the Clatsop County Comprehensive Plan.

The evaluation of the land parcels outlined above is based on the information presented at this time, standards provided in the Clatsop County Land & Water Development & Use Ordinance, and policies of the Comprehensive plan, and the Zoning/ Comprehensive Plan Map.

The applicant or property owner must comply with the conditions noted below and on the attached applicants statement.  
This permit is not valid unless the conditions are met.

Entered by: Michael Weston

Entered Date: 06/27/2008

Applicants Signature:

Date: 6-27-08

Clatsop County Authorization:

Date: \_\_\_\_\_



## Receipt

### Applicant's Statement

1. Pertaining to the subject property described, I hereby declare that I am the legal owner of record, or an agent having the consent of the legal owner of record, and am authorized to make the application for a Development Permit/Action so as to obtain the following permits: Building, Sanitation, U.S. Army Corps of Engineers, Oregon Division of State Lands, Oregon Department of Transportation, Oregon Department of Parks and Recreation, or a Clatsop County Road Approach. I shall obtain any and all necessary permits before I do any of the proposed uses or activities. The statements within this application are true and correct to the best of my knowledge and belief. I understand that if the permit authorized was based on false statements, or it is determined that I have failed to fully comply with all conditions attached to and made a part of this permit, this permit approval is hereby revoked and null and void.
2. It is expressly made a condition of this permit that I at all times fully abide by all State, Federal, and local laws, rules, and regulations governing my activities conducted or planned pursuant to this permit.
3. As a condition for issuing this Development Permit/Action, the undersigned agrees that he/she will hold Clatsop County harmless from and indemnify the County for any and all liabilities to the undersigned, his/her property or any other person or property, that might arise from any and all claims, damages, actions, causes of action or suits of any kind or nature whatsoever, which might result from the undersign's failure to build, improve or maintain roads which serve as access to the subject property or from the undersign's failure to fully abide by any of the conditions included in or attached to this permit.
4. **WAIVER OF VESTED RIGHTS DURING APPEAL PERIOD FOR ZONING AUTHORIZATIONS.** --  
I have been advised that this Land and Water Development Permit/Action by the Clatsop County Community Development Director may be appealed within twelve (12) calendar days of the date of permit issuance and authorization (note: if the twelfth day is a Saturday, Sunday or legal holiday, the appeal period lasts until the end of the next day which is not a Saturday, Sunday or legal holiday). I understand that if the approval authorized by the County and referenced above is reversed on appeal, then the authorization granted prior to the end of the appeal period will be null and void. I further understand and consent to the fact that any actions taken by me in reliance upon the authorization granted during the appeal period shall be at my own risk, and that I hereby agree not to attempt to hold Clatsop County responsible for consequences or damages in the event that removal of improvements constructed during the appeal period is ordered because an appeal is sustained.
5. I am aware that failure to abide by applicable Clatsop County Land and Water Development and Use Ordinance 80-14, as amended and Standards Document regulations may result in revocation of this permit or enforcement action by the County to resolve a violation and that enforcement action may result in levying of a fine.
6. I understand that a change in use, no matter how insignificant, may not be authorized under this permit and may require a new Development Permit/Action (check first, with the Clatsop County Community Development Department).
- .. I understand that this Development Permit/Action expires 180 days from the date of issuance unless substantial construction or action pursuant to the permit has taken place. Upon expiration, a new development permit must be obtained.



APPLICATION FOR GOAL EXCEPTION
Fee: \$2,481 (Required with application)

PROPOSED USE: RURAL RESIDENTIAL

ZONE: F-80 TO RA-2

EXCEPTION TO GOAL [ ] 3 [X] 4 [ ] 10 [ ] 12 [X] 14
[ ] 16 [ ] 17 [ ] 18 [ ] other: [ ] amend existing exception

LEGAL DESCRIPTION OF PROPERTY:

T: 5N R: 10W S: 32 TL: 4400/4500 ACRES: 5

OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:

T: R: S: TL: ACRES:

T: R: S: TL: ACRES:

APPLICANT 1: (mandatory)

Name: PETER A. ANDERSON Phone # (Day):

Mailing Address: 2590 SW ARDEN RD Fax#:

City/State/Zip: PORTLAND, OR 97201 Signature: Peter A. Anderson

PROPERTY OWNER: (mandatory if different than applicant)

Name: Phone # (Day):

Mailing Address: Fax#:

City/State/Zip: Signature:

ARCHITECT/ENGINEER/SURVEYOR/CONSULTANT: (optional)

Name: MIKE MORGAN Phone # (Day): 503 436 1061 CELL: 503 739 0102

Mailing Address: P O BOX 132 Fax #: 503 436 1061

City/State/Zip: CANNON BEACH, OR 97110 Signature: Mike Morgan

Community Development Department
800 Exchange, Suite 100 \* Astoria, Oregon 97103 \* (503) 325-8611 \* FAX 503-338-3666

Table with columns: Post-it Fax Note, To, From, Date, # of pages. Contains handwritten entries: To: Mike Morgan, From: T. Allen, Date: 6-3, # of pages: 7, Courtept: 503-436-7061, Co: Clatsop Planning



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

Oregon Administrative Rules Chapter 660, Division 4, provide a great deal of information about the exception requirements for this type of exception. County Community Development department staff can provide a copy of these rules, or they can be obtained from the Oregon Department of Land Conservation and Development.

**OFFICE USE ONLY:**

date received: \_\_\_\_\_  
 date complete: \_\_\_\_\_

application #: \_\_\_\_\_  
 R&O/Ord#: \_\_\_\_\_

**ANDERSON FAMILY PROPERTY  
EXCEPTION TO STATEWIDE PLANNING GOALS 4 AND 14**

**Background**

The Anderson family owns five acres of land in the F-80 Forest Conservation zone immediately east of the Cannon Beach subdivision of Haystack Heights Division Three. This committed lands exception is taken for two 2.5 acre parcels located just outside the City's Urban Growth Boundary and City Limits. The exception area is in Clatsop County's Southwest Community planning area, and is within the Cannon Beach Rural Fire Protection District. The property is adjacent to an existing subdivision within the City of Cannon Beach, which contains eight single family dwellings along the east side of East Chinook Street, and six on the west side.

The exception area and surrounding lands are shown on the attached map, labeled Attachment 1.

This exception is taken to the restrictions on rural non-forest residences in Goal 4. These restrictions are implemented through comprehensive plan policies, the Agriculture-Forest (AF) zone, the Forest 80-acre (F80) zone, and related development standards.

Forest land was inventoried by the County in 1978. The subject property was inventoried as forest land, and is bordered on the north, east and south by Weyerhaeuser Company lands. Within the Ecola Creek Watershed area, Weyerhaeuser owns and manages approximately 12,000 acres of forest land.

An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals, Goal 4 in this case. Proposed zoning for this new exception area is RA2.

None of the proposed exception area is subject to flooding, and it is considered to be above the Tsunami Hazard area of the City. The property does not contain known geologic hazards, although there are steep slopes near the seasonal drainage area in the southern portion of the property

The principal documents relied upon for this exception are:

Clatsop County Comprehensive Plan;

Southwest County Community Plan;

Clatsop County Land & Water Development & Use Ordinance (Ordinance 80-14 as amended);

The Statewide Planning Goals and Guidelines;

The City of Cannon Beach Comprehensive Plan, and other data.

Oregon Administrative Rules governing exceptions (OAR 660-004) and forest lands (OAR 660-006);

The report *Soil Survey of Clatsop County, Oregon* (1988, US Soil Conservation Service);

The report *Land Evaluation of Forest Soils, Clatsop County, Oregon* (1990, US Soil Conservation Service);

USDA Technical Bulletin 201, *The Yield of Douglas Fir in the Pacific Northwest* (1961);

USDA Technical Bulletin 1273, *Yield of Even-Aged Stands of Western Hemlock* (1962); and

Real property records from the Clatsop County Assessment and Taxation Department.

### **Exception Criteria**

This exception is a “committed lands” exception, permitted under OAR 660-04-028, “Exception Requirements for Land Irrevocably Committed to Other Uses”. Criteria for a committed lands exception are described in OAR 660-004-0028(2):

*(2) Whether the land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for the 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 land adjacent to it; and*

*(d) The other relevant factors set forth in OAR 660-04-028(6).*

The “other relevant factors” under criterion (2)(d) above are listed in OAR 660-04-028(6):

*(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 make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created 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 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 ownership 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 660-04-025; and

(g) Other relevant factors.

“Physical development” as used in criterion (6)(f) above is defined in OAR 660-04-025(2):

(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.*

These criteria are addressed in the following findings.

## **Findings**

### **A. Characteristics of the exception area (OAR 660-004-0028(2)(a))**

1. This exception includes the following tax lots, covering a total of 5 acres:  
  
T5N R10W Sec. 32 Tax lot 4400: 2.5 acres  
T5N R10W Sec. 32 Tax lot 4500: 2.5 acres
  
2. The subject property was inventoried as forest land by the County in 1978. The property is currently in the Forest Conservation zone ( F80). The property has been owned by the Anderson family for several generations. An Anderson ancestor homesteaded the property in the late 19th Century, and remnants of the cabin remain on the property.
  
3. The subject property is served by rural fire protection (Cannon Beach Rural Fire Protection District), electricity (Pacific Power), natural gas (NW Natural) and telephone service (Qwest, various cell phone carriers). Water and sewer service are within the Cannon Beach city limits. However, it is probable that the two dwellings could be served by wells and subsurface sewage treatment, as is the case with other rural properties east of Cannon Beach.
  
4. The subject property is accessed by a City Street, East Chinook, via a lot owned by the Anderson family that is part of the Haystack Heights Division Three subdivision, Lot 372, Block 6. Highway 101 is the nearest arterial road, approximately one half mile away.
  
5. None of the subject property is in a Flood Hazard Overlay (FHO) zone. It is also above the Tsunami Hazard Zone established by the City and the State of Oregon. The adjacent neighborhood below the property has been designated as an evacuation area in the event of a tsunami. There is a seasonal drainage channel on the south side of the property that would remain undeveloped and designated open space.

6. Soils on the subject property are mapped in the report *Soil Survey of Clatsop County, Oregon* (1988) as shown on the attached map, Attachment 2. Two soil types are present, Skipanon Gravelly Silt Loam (58D) is the predominant soil type. This type has a forest soils rating of 252 cubic feet per year per acre, which is considered high. The other soil type is Klootchie-Necanicum complex (33E), which has a rating of 235 cubic feet per acre per year, also considered high. The existing stand of trees is second growth Sitka spruce and Western red hemlock, with a scattering of Red alder. It is estimated that the trees are 60-80 years old. A number of large trees were blown down in the December, 2007 storm. Because of the parcel size and location near existing homes, the property is not considered suitable for commercial timber harvest. The small parcel size and difficulty of logging makes it unlikely that forest management would be profitable on this property. Objections from the property owners adjacent to the property would be likely, despite the fact that harvesting of timber is a permitted use and there are no issues such as threatened or endangered species, wetlands or stream corridors.

It is likely that the majority of the trees will be retained by the new owners, since less than 3% of each lot would be utilized for dwellings, outbuildings, access driveways, lawns, gardens and so forth. (Each lot is 108,900 square feet, and 3% would be a footprint of 3,267 square feet.). Although no construction plans have been prepared for the two dwellings on the property, 2,500 – 3,500 square feet is the approximate average footprint of the single family dwellings in the adjacent subdivision.

7. The subject property is not suitable for commercial agricultural uses because of the size of the parcel, slopes, soils and adjacent residential uses.

8. There are no inventoried Goal 5 resources on the site. There is a seasonal or intermittent drainage channel on the south end of the property, which would probably not be disturbed as part of a development. There are several large trees which could be used for roosting by Bald eagles, but no nests have been identified there, according to Oregon Department of Forestry. The property is used by elk and deer, but is not considered critical habitat. The County's comprehensive plan and development ordinance contain protection measures intended to avoid impacts on these resources. The proposed exception and zone change will allow potentially incompatible uses on these tax lots, but the County's Goal 5 element and its implementing measures address and effectively prevent adverse impacts. With respect to peripheral big game range, no changes are sought to the County's designation or protection of peripheral big game range this property. No additional protection measure or Goal 5 analysis is needed as a result of this amendment. Other Goal 5 resources have been inventoried in Clatsop County, and are not present on the subject property.

9. Current zoning on the exception site is F80. The F80 zone is a forest zone, and is in the Conservation Forest Lands comprehensive plan designation. A map amendment

linked to this exception will change this zoning to Residential-Agriculture Two-Acre (RA2). Land in the RA2 zone is in the County's Rural Lands plan designation.

10. Vegetation on the exception site consists of trees ( Sitka spruce, western hemlock, red alder); shrubs (salmonberry, elderberry, deciduous huckleberry, red huckleberry), and herbs (foxglove, swordfern).

11. The exception site contains moderate to steep slopes, 15% - 25%, with some relatively level areas. There are steeper slopes adjacent to the seasonal drainage at the south end of the property, which would likely remain undeveloped.

**B. Characteristics of adjacent lands (OAR 660-004-0028(2)(b))**

1. Land adjacent to the exception site is shown on attachment 3.

2.. Adjacent land is in two zones. Land to the west is within the City of Cannon Beach, and is zoned R-1, Low Density Residential (single family residences, 5,000 square foot minimum lot size). Adjacent forest land to the north, east and south is in the F80 zone, and consists of approximately 12,000 acres owned exclusively by the Weyerhaeuser Company. Approximately 1,000 feet north is property zoned RA-2 (Holland, Frailey).

3. The property is served by East Chinook Road in Cannon Beach, and US Highway 101. A 14 foot wide access easement would provide access to the two dwellings through lot 4, block 6, Haystack Heights Division Three. (TL 372, Map 32CC)

**C. Relationship between the exception area and adjacent lands (OAR 660-004-0028(2)(c))**

1. The exception area has more in common with adjacent lands in the City of Cannon Beach than it does with adjacent resource lands:

- Adjacent forest lands are being managed for commercial timber production; the subject property is not currently managed for commercial timber production.
- Adjacent forest lands are owned entirely by the Weyerhaeuser Company, in large tracts of several hundred acres, totaling approximately 12,000 acres in the Ecola Creek Watershed. The Oregon Department of Forestry controls approximately 800 acres in the watershed. The subject property is broken into two small tracts of 2.5 acres each for a total of 5 acres. It is economically impossible to manage five acres of land for timber production or any other forest use.
- Although the subject property and adjacent forest lands have soils with a relatively high woodland productivity index, the subject property is not suited for commercial timber production because of its size and proximity to an existing neighborhood.
- The subject property can be easily developed with access from a public street, (East Chinook), and is in a fire protection district. The Anderson family owns a 54 foot wide lot (372) that would provide access between East Chinook Street and the property.

**D. Existing adjacent uses (OAR 660-004-0028(6)(a)):**

1. Lands within 750 feet of the subject property are predominantly in low density residential uses. The following table lists the number of residential dwelling units and non-residential buildings by zone on land within 750 feet of the exception area. This information comes from Clatsop County Planning Department records, April 2008.

**Zoning and Residences Within 750 feet of the Exception Area**

current zoning	number of residences	number of non-residential buildings
F80	0	0
R-1 (City)	71	0
RA2	0	0



The average density of these residences is about four dwelling units per acre.

**E. Existing public facilities and services (OAR 660-004-0028(6)(b)):**

1. The subject property is adjacent to the City of Cannon Beach, but is not eligible for public facilities and services until it is within the City Limits. The City recently revised its Urban Growth Boundary and City Limits to accommodate growth, but did not include this property in the amendments. According to the City Planner, the City will consider revisions to the UGB in 3 to 5 years. At such time the City may consider inclusion of the Anderson property if it is designated Rural Residential. Conservation Forest lands are not eligible for inclusion in the UGB.

2. As mentioned previously, the subject property is served by rural fire protection (Cannon Beach Rural Fire Protection District), electricity (Pacific Power), natural gas (NW Natural) and telephone service (Qwest, various cell phone carriers). Water and sewer service are within the Cannon Beach city limits. However, it is probable that the two dwellings could be served by wells and subsurface sewage treatment, as is the case with other rural properties east of Cannon Beach.

**F. Parcel size and ownership patterns (OAR 660-004-0028(6)(c))**

1. Lands within 750 feet of the subject property are in a wide range of parcel sizes. The table on the following page lists the zones, approximate acreage, number of tax lots, and average lot size of houses within each of these zones on lands within 750 feet of the exception site.

**Lot Sizes Within 750 feet of the Exception Area**

current zoning	acreage (approximate)	number of tax lots	average lot size
R-1 (City)	40	110	7000 sq.ft.
F80	200	1	200 (1 parcel)

The average tax lot size of residential uses in the Haystack Heights subdivision is 7000 square feet. The density of development is low, approximately 3-4 units per acre. The F80 resource land owned by Weyerhaeuser Company is in contiguous ownership throughout the Ecola Creek watershed which surrounds Cannon Beach, with individual blocks of land consisting of 600 acres or more.

**G. Neighborhood and regional characteristics (OAR 660-004-0028(6)(d))**

1. The adjacent neighborhood is a mixture of vacation homes and permanent residences. All of the dwellings are detached single family residences, ranging from approximately 1,000 square feet to 5,000 square feet. The entire Cannon Beach lies in a narrow strip of privately owned land positioned between the Pacific Ocean and industrial timber lands. Along the eastern edge of the City are small holdings of unincorporated land, generally in two to eight acre parcels that are on individual septic systems and wells. Cannon Beach has recently added acreage on the east side of US 101 for future development, approximately one half mile north of the subject property (Sroufe, Harbison), and on the north end of the City (Grant, Lang). Cannon Beach is a highly desirable destination with high property values. With the proximity to the Portland metro area, it is likely that there will continue to be demand for residential properties.

**H. Features separating the exception area from adjacent resource land (OAR 660-004-0028(6)(e))**

1. The Anderson property is a small extension of privately owned land, surrounded by Weyerhaeuser property on three sides. There are over 70 single family dwellings within 750 feet of the two parcels in the Haystack Heights subdivision. Two additional homes would be unobtrusive, given the level of development in the adjacent City neighborhood.

2. The single family dwellings would be positioned so that they would not conflict with adjacent logging activities or intensive forest management. There would be access for fire trucks in the event of a fire in accordance with the Oregon Fire Code.

**I. Physical development (OAR 660-004-0028(6)(f))**

1. There was a homestead on the subject property owned by the Anderson family which was built in the early 20<sup>th</sup> century which is no longer there. There is no other structure on the property.

**J. Other relevant factors (OAR 660-004-0028(6)(g))**

1. The subject property is not in forest tax deferral.

2. The site is challenging from the point of view of commercial timber harvest because the site is relatively small in comparison to the amount of land protected under these regulations.

## **660-014-0030 Rural Lands Irrevocably Committed to Urban Levels of Development**

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

### **Finding:**

As previously discussed, the Anderson property is on the eastern edge of Cannon Beach city limits, and is adjacent to a neighborhood with eight single family homes. There are more than 70 single family homes within 750 feet of the property. Several of the homes are on large lots, of one acre or more. The Anderson family has owned the property for over a century, and occupied a small cabin on the southern end between 1890 and 1920. Although the cabin is no longer there, the land has remained in the Anderson family since that time.

When the County rezoned the rural area surrounding Cannon Beach in the 1970s and early 1980s, the Anderson family was not aware that the two 2.5 acre parcels were being zoned Forest Conservation F-80. If they had known at the time, they would have made it clear to the County that they had no intention of managing these lots for forestry or timber production, and that it was obvious that the property was better suited for rural residential.

At that time Haystack Heights subdivision was developed nearby and sewer, water and other utilities were available within 200 feet of the property boundary. When the City of Cannon Beach permitted the adjacent subdivision (Haystack Heights III) in the 1980s, no provision was made for access, despite a request from the owners. The owners were forced to purchase a lot in Haystack Heights III in order to ensure future access to the five acres.

In 2007, the owners approached the City of Cannon Beach requesting inclusion in the City Limits but were told that the property cannot be annexed or brought into the UGB unless it is designated other than a resource zone. According to State law and the DLCD Field Representative, an exception would not be required if the property were to be zoned 10 acre minimum. Unfortunately, there is no 10 acre rural residential zone in Clatsop County.

The owners have also explored the possibility of a "template test" in order to place a dwelling on each tax lot, and have been told by County staff that the property meets the criteria because of its proximity to many other houses. However, the long term goal of the Anderson family is to be included in the City in 3-5 years, and to be able to develop 8-10 lots on the 5 acres. This rezoning request from F-80 to RA-2 is the first step in accomplishing that goal. There is no assurance that the City will agree to include the

property in the UGB or City Limits at that time. Therefore, the Anderson family has determined the best course of action is to take the first step, recognizing that the two tax lots could be used for two single family residences.

At present, the property can be readily serviced with underground power, phone, cable and natural gas. An easement of approximately 100' can be extended from East Chinook Street to the property and to the southern 2.5 acre parcel. The property is moderately sloped, (15-20%), similar to the adjacent subdivision. There appear to be no geologic hazards or wetlands on the property, other than the seasonal drainage at the south end. The property is surrounded on three sides by Weyerhaeuser forest lands. There are over 12,000 acres of industrial forest land in the Ecola Creek watershed. A relatively small amount of land is in private hands like the Anderson property, east of Cannon Beach (estimated at less than 100 acres).

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

**Finding:**

The map (attachment 1) shows the Anderson property and the adjacent subdivision of Haystack Heights. There are approximately 70 single family dwellings within a 750 foot radius of the property. An additional 25 lots are undeveloped but available for construction. The values of the dwellings in the vicinity are high, ranging from \$350,000 to over a million dollars. The subdivision is fully serviced with sewer, water, power, natural gas, phone and cable. All of these services are within 200 feet of the subject property. The property owners in the vicinity would likely oppose intensive forest management on the Anderson property, but would likely not object to two dwellings on five acres, or even a low density subdivision. The average lot size in the Haystack Heights neighborhood is 7,000 – 8,000 square feet. A new subdivision on the subject property would have lots in the range of 20,000 to 25,000 square feet.

(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:

(a) Size and extent of commercial and industrial uses;

**Finding:** There are no commercial or industrial uses in the vicinity of the proposed exception.

(b) Location, number and density of residential dwellings;

**Finding:** As discussed above, there are over 70 dwellings within a 750 foot radius of the property. These dwellings are on lots ranging from 5,700 square feet to over two acres. Most of these dwellings are in the 7,000 –8,000 square foot range. There are eight dwellings immediately adjacent to the subject property along East Chinook Street.

(c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and

**Finding:** All urban services, including water, sewer, electricity, telephone, natural gas and cable television, are within 142 feet of the Anderson property line. City water and sewer would only be available if the property were to be annexed in 3-5 years. All other services could be extended to the two 2.5 acre parcels at any time. Both of these parcels could utilize private wells or springs, and subsurface sewer systems.

(d) Parcel sizes and ownership patterns.

**Finding:** The proposed parcel size is 2.5 acres. The adjacent subdivision, as discussed above, is considerably denser, with 7,000-8,000 square foot lots (5-6 units per acre). The Weyerhauser property is in large parcels, 600 acres or more, for a total of approximately 12,000 acres. The Haystack Heights subdivision is in small individual ownerships.

(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.

**Finding:** The City of Cannon Beach is growing rapidly, and there is need to find land to accommodate future growth, particularly above the tsunami inundation zone. It is likely that the Anderson family will apply to the City for inclusion in the City Limits in 3-5 years. There are very few privately owned small parcels available for development east of the City, and Weyerhauser has not indicated an interest in selling its industrial timber lands. The subject property can be developed using the template test. Therefore, a rural level of development is already possible on the site. Given the adjacent subdivision and the lack of available private parcels, it is clear that the property is irrevocably committed to urban development.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

**Finding:** The land is not currently built upon at urban densities. If the plan/zone change is approved, five acres of land zoned F-80 will be rezoned to RA-2. Each 2.5 acre tract will be available for development for a single family dwelling. These two dwellings will be compatible with the adjacent neighborhood, which is clearly committed to urban development. If the City of Cannon Beach agrees to include the property into the UGB in 3-5 years, the property will be developed at urban density, with 8-10 lots on five acres. All urban services from the City of Cannon Beach will be extended at that time should the property be developed. The elimination of the five acres from the timber base will be minimal. Five acres represents approximately .0005% of the forest lands in the Ecola Creek Watershed. It is the contention of the Anderson family that the property was erroneously designated as Forest Conservation when the County revised its comprehensive plan and development ordinance to comply with the Statewide Goals.

Attachment 1: Proposed Plan/Zone change and surrounding area.

Attachment 2: Soils map.

Attachment 3: Lands adjacent to proposal.

**ANDERSON FAMILY COMPREHENSIVE PLAN/ZONING MAP AMENDMENT  
AND EXCEPTION REQUEST**

**ATTACHMENTS**

- 1. PHOTOGRAPH OF ANDERSON CABIN, CIRCA 1890.**
- 2. SITE MAP**
- 3. AERIAL PHOTO OF TAX LOTS AND ADJACENT URBAN AREA**
- 4. ECOLA CREEK WATERSHED AERIAL PHOTO.**
- 5. SOILS MAP**
- 6. SURVEY**
- 7. LETTER FROM BILL ARMOLD, JUNE 24, 2002.**
- 8. LOT OF RECORD DETERMINATION, SEPTEMBER 15, 1999.**
- 9. EMAIL FROM ASHLEY LERTORA, ODF FORESTER.**
- 10. EMAIL FROM MIKE GRAHAM, CANNON BEACH FIRE DEPT.**
- 11. EMAIL FROM CHRIS ANTILLA, WEYERHAUSER CO.**
- 12. SIGNATURES FROM ANDERSON FAMILY MEMBERS.**

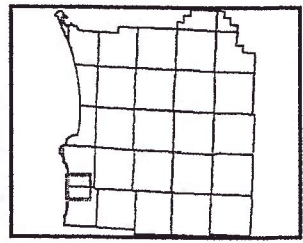




# Clatsop County Map



- National Wetlands Inv.
- PLS
- PLS Townships
- Tax Lot Arrows
- Tax Lots Multi
- Tunnah (County)
- Zoning
  - AF
  - CITY
  - CR
  - F-80
  - LW
  - OPR
  - RA-2
  - RM
  - SFR-1
  - UGB



This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

1 in. = 1563 ft.



4/18/2008

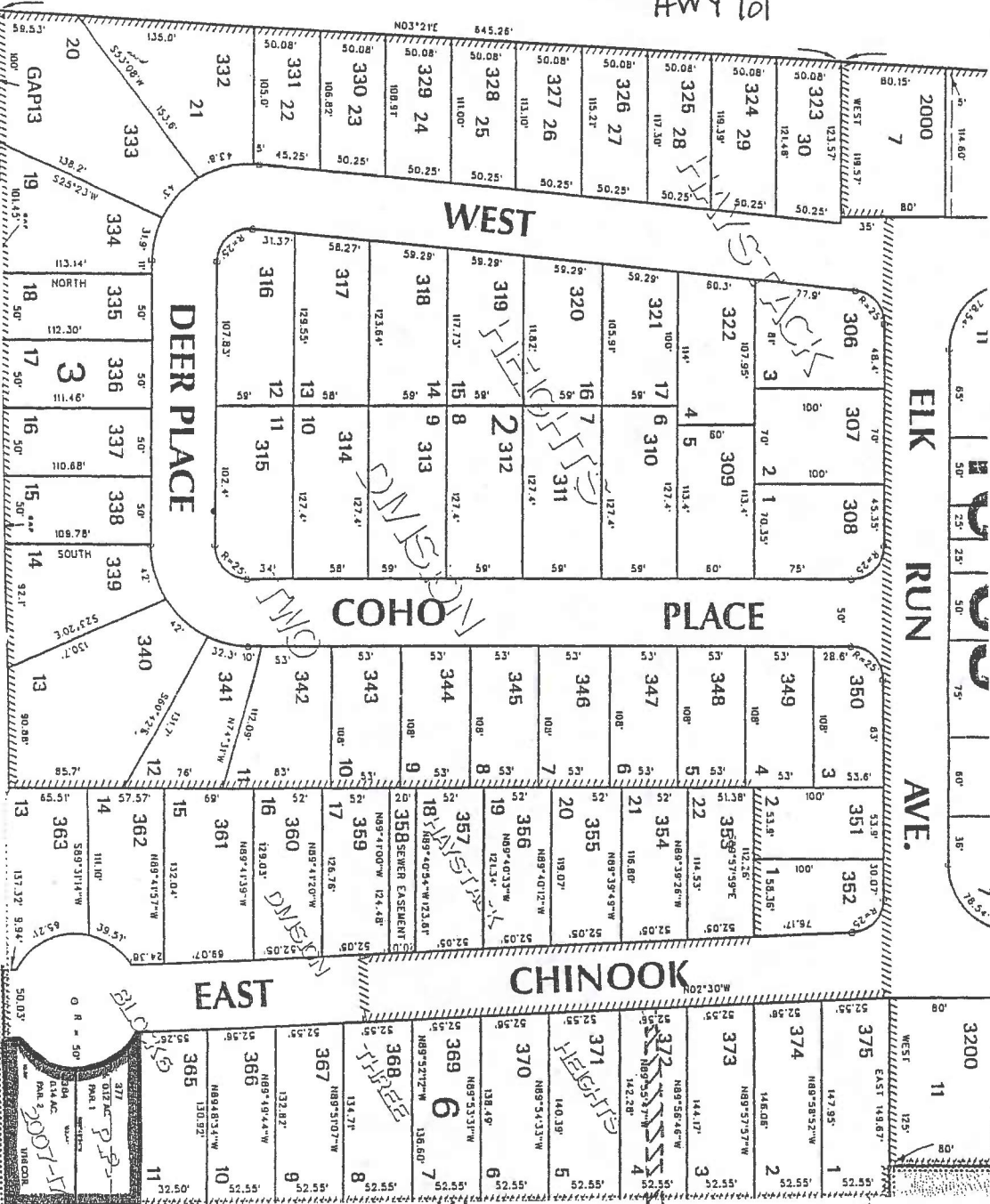


OREGON

HWY 101



ATTACHMENT 2



ANDERSON EXCEPTION AND

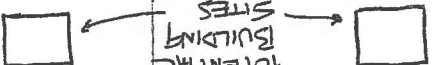
DEPARTMENT OF TRANSPORTATION

SCALE 1" = 100'

Lot 4500

Lot 4400

POTENTIAL BUILDING SITES



Access Easement

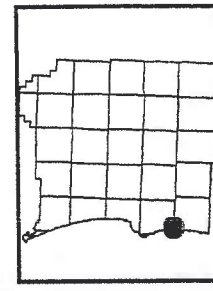
330 feet

330 feet

332 feet

# Clatsop County Map

- National Wetlands Inv.
- PLS
- PLS Townships
- Tax Lot Arrows
- Tax Lots Mails
- Tax Map
- Creek
- Parcel Boundary
- Supplemental Boundary
- Road R-O-W
- Tax Map Boundaries
- Township (County)
- Zoning
- CITY
- F-80
- RA-2
- UGB



4/18/2008



1 in. = 497 ft.

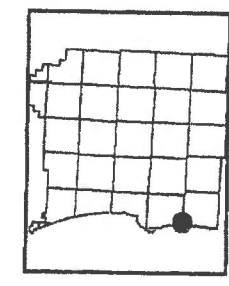
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**Clatsop County**  
Assessment & Taxation

- PLS
- PLS Townships
- Soils
- Tax Lot Arrows
- Tax Map
- 22
- 24
- 26
- 32
- 33
- 34
- 47
- Road R-O-W
- 14

FOREST SOILS RATING  
ZSB C.F.Y./AC

ZSS C.F./AC Y.



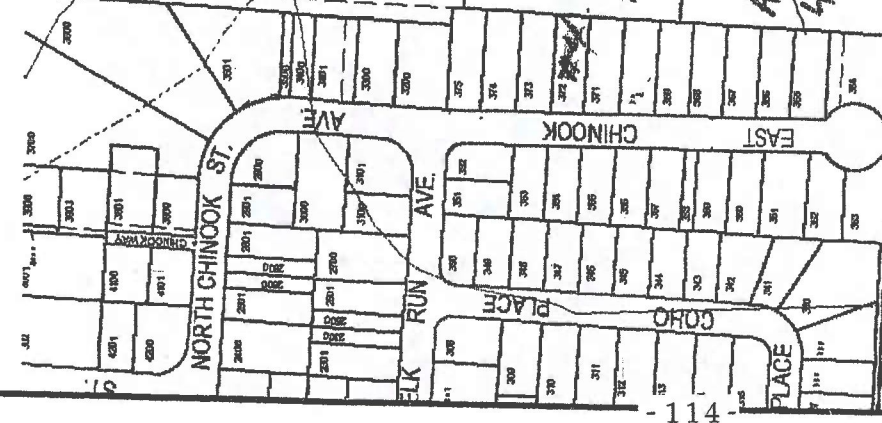
**4400**  
**58D**

SKIPANON GRAVELLY SILT LOAM, 3 TO 30 PERCENT SLOPES

**4500**

KLOOTCHIE-NECANICUM COMPLEX, 30 TO 60 PERCENT SLOPES  
33E

SKIPANON  
58D  
4400  
ACCT. ID  
4486  
4500  
ACCT. ID  
4487



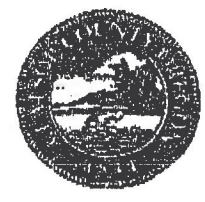
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1 in. = 275 ft.



TO: <b>Pete Anderson</b>	FROM: <b>Bill Arnold</b>	DATE: <b>6/28/02</b>	REPS 14850
FAX # <b>503-320-3548</b>	FAX #:	PAGES INCLUDING THIS PAGE: <b>1</b>	
PROGRAM #:			

# Clatsop County



June 24, 2002

Tracy Gardner  
 North Coast Realty, Inc.  
 3537 Hwy. 101N  
 Gearhart, OR 97138

Department of  
 Planning and Development

Re: Property at 5-10-32CC Taxlot 372 and 5-10-4400 and 5-10-4500

Dear Tracy:

You asked if access could be taken through 5-10-32CC Taxlot 372 for the two 2.5 acre parcels (5-10-4400 and 4500) located within the County's jurisdiction. First, Taxlots 4400 and 4500 are located within the County's F-80 (Forest 80) zone. Any single family dwelling placed on these lots would have to pursue a Conditional Use Permit for a Forest Dwelling. Taxlot 372 is located within the jurisdiction of the City of Cannon Beach. Discussion with Rainmar Bartl, City Planner, indicates he can see no problem with allowing access through this lot for the two 2.5 acre parcels. Because this lot was developed through the Subdivision process, the Conditions, Covenants and Restrictions (CCR's) were also checked to see if there may be a prohibition of using any of the lots in this subdivision as access. It appears not. Also, the CCR's seemed to have a sunset period of 1990.

Planning and Development  
 800 Exchange, Suite 10  
 Astoria, Oregon 97103

Phone (503) 325-8611  
 Fax (503) 338-3888

Building Codes Div  
 85 N. Hwy. 101, Suite  
 Warrenton, Oregon 9

Phone (503) 861-714  
 Fax (503) 861-7324

I hope this answers your questions about the above lots and access. Should you have further questions, please don't hesitate to contact this office.

Respectfully,

Bill Arnold, Planning Director  
 Department of Planning and Development

cc: Rainmar Bartl, City of Cannon Beach

# STAFF REPORT

Lot of Record Determination  
September 15, 1999

Clatsop County



**Applicant:** Peter A. Anderson  
**Property Owner:** Peter A. Anderson, et al  
**Legal Description of Subject Property:** T5N, R10W, Tax Lot 4400 and 4500  
**Lot Size:** 4400: 2.50 acres  
4500: 2.50 acres  
**Zoning Designation:** F-80; *Forestry, 80-acre minimum lot size*  
**Existing Structures:** The County Tax Assessor's records do not show any buildings on either property.

800 Exchange Street,  
Suite 100  
Astoria, Oregon 97103

## Lot of Record Background

There are two-steps to a lot of record determination. The first is to determine whether or not the subject property was created legally. If the property meets the "lot" definition under section 1.030, LWDUO #80-14, then it is considered a "lot of record." Receiving this designation does not allow the owner to build on the property. In order for the property to be legally built, the lot must also be considered a "land use lot of record." For this designation, the owner of the subject property cannot have owned any contiguous substandard sized lots on September 30, 1980 (the effective date of Ord. #80-14).

Once these two criteria are met, the current owner of the subject property will receive approval from the County Planning Department to begin the process of obtaining a development permit. For lots in some zones, there may be more steps to take before a development permit is issued. If you have any questions regarding this determination, or any other land use issues, please do not hesitate to contact the Planning Department at (503) 325-8611.

Department of  
Planning and Development

Phone (503) 325-8611  
Fax (503) 338-3666

ATTACHMENT 8

The following determination by Clatsop County Department of Planning and Development is based in part on the following: Information provided by the applicant; Clatsop County deed and land use contract records; Clatsop County Land and Water Development and Use Ordinance #80-14 (LWDUO) and Kishpaugh vs. Clackamas County.

1. **Lot of Record Status** is based on the following provision in Ordinance #80-14, Section 1.030, Definitions, "Lot-of-Record", which reads: "Any lot or parcel lawfully created by a subdivision or partition plat of record in the County Clerk's Office, or lawfully created by deed or land sales contract prior to the land use partitioning requirements, and of record in the deed records of Clatsop County."

✓ Both subject properties were created prior to 1957, before the County's partitioning requirements came into effect (See book 131, page 12 and book 128, page 433). Therefore, *both parcels are considered lots of record*.

2. **Land Use Lot of Record Status** is governed by Paragraph One of Standards Section S1.030, includes the following definition: "If, at the time of adoption of the zone for the subject property, a lot has an area or dimension which does not meet the minimum lot size requirements of the zone, and the lot was not in the same ownership as any contiguous lot or lots which do not meet the minimum lot area requirements, the lot may be developed as allowed by the zone and applicable development requirements."

✓ The subject properties are *considered land use lots of record*. Tax lot 4400 was owned by Nathan Grimm on September 30, 1980, the effective date of LWDUO #80-14. Tax lot 4500 was owned by Carl and Ruth Anderson on that date. The adjoining Tax lots (5-10-3900 and 4-10-800) are both over the minimum lot size of 80 acres for the F-80 zone and therefore are exempt from the ownership restrictions listed above. County Counsel has determined that lots within a city boundary do not fall under the above restrictions, therefore the lots bounding the subject properties on the west side do not fall under the standards applied.



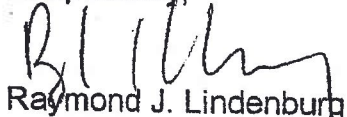
**3. Conclusion**

Tax lots 5-10-4400 and 5-10-4500 *meet the both criteria of the Lot of Record Determination. Therefore, they are considered two separate, buildable lots.*

This determination is a Type 1 procedure, as defined in Section 2.110, Type 1 Procedure. Pursuant to Ordinance #80-14, Section 2.230, Request for Review/Appeal, this determination may be appealed within ten (10) days of this decision. The deadline for filing an appeal is 4:00 PM on September 27<sup>th</sup>, 1999.

If you have any questions regarding this determination, please contact me at (503) 325-8611.

Respectfully,

  
Raymond J. Lindenburg  
Planner

cc: Bill Arnold- Planning Director, file

**Mike Morgan and Beth Holland**

---

**From:** "LERTORA Ashley M" <Ashley.M.Lertora@state.or.us>  
**To:** "Mike Morgan and Beth Holland" <hminc@pacifier.com>  
**Sent:** Wednesday, May 14, 2008 11:17 AM  
**Subject:** RE: Pete Anderson Property

While it is one of Oregon Department of Forestry goals is to promote the sustainability of Oregon's forests; the Forest Practices Act (FPA) in ORS 527.730 states "Nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use". Regardless of zoning designation, the FPA applies whenever a landowner conducts a commercial forest operation. Landowners are required under the FPA Division 605 to submit a Notification of Operation form to ODF and usually a plan for an alternate practice to be exempt from reforestation requirements to another use of the land. Stewardship foresters are available to assist landowners in understanding and complying with the FPA.

On this particular parcel, there are no known Threatened or Endangered species that would require special protection under the FPA. If this property is included inside the Urban Growth Boundary of Cannon Beach, the FPA would not apply since Cannon Beach has its own tree protection ordinances.

Ashley M. Lertora  
 Stewardship Forester  
 ODF- Astoria District  
 92219 Hwy 202  
 Astoria, OR 97103  
 503-325-5451  
 alertora@odf.state.or.us

---

**From:** Mike Morgan and Beth Holland [mailto:hminc@pacifier.com]  
**Sent:** Tuesday, May 13, 2008 8:46 AM  
**To:** LERTORA Ashley M  
**Subject:** Pete Anderson Property

Hello Ashley:

As we discussed on the phone, I would appreciate a comment from the Oregon Department of Forestry regarding the Pete Anderson property at T5NR10W Sec. 32, tax lots 4400 and 4500. We propose to rezone the two, 2.5 acre lots to RA-2 in order to make them available for two homesites at this time. Your input would be appreciated.

Sincerely,

Mike Morgan  
 Planning Consultant  
 PO Box 132  
 Cannon Beach, Oregon 97110  
 503 436 1061 phone and fax  
 503 739 0102 cell  
[hminc@pacifier.com](mailto:hminc@pacifier.com)

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No virus found in this incoming message.

Checked by AVG.

Version: 7.5.524 / Virus Database: 269.23.16/1432 - Release Date: 5/14/2008 7:49 AM

ATTACHMENT 9

5/14/2008

**Mike Morgan and Beth Holland**

---

**From:** "Mike Graham, Fire Marshal" <mike@cbfire.com>  
**To:** <hminc@pacifier.com>  
**Sent:** Monday, May 12, 2008 1:10 PM  
**Subject:** Access to Lot 4500

Hi Mike,

As we discussed on the phone, required access to less than two house can be with a 14' wide driveway. More than two houses would require the standard 20' unobstructed road width. Access of more than 150' into the lot will also need a turnaround. I will mail you a copy of the Oregon Fire Code Applications Guide for your review.

Thank you,

Mike Graham

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No virus found in this incoming message.

Checked by AVG

Version: 7.5.524 / Virus Database: 269.23.16/1428 - Release Date: 5/12/2008 7:44 AM

ATTACHMENT 10

5/12/2008

**Mike Morgan and Beth Holland**

---

**From:** "Antilla, Chris" <chris.antilla@weyerhaeuser.com>  
**To:** <hminc@pacifier.com>  
**Sent:** Tuesday, May 13, 2008 10:55 AM  
**Attach:** Good Neighbor Clause 4\_07.doc  
**Subject:** Good Neighbor Clause

Mike,  
Our typical comment is that the attached paragraph be included in the terms, conditions, future deeds, in such a way that the party involved has to acknowledge the statement.

*Chris Antilla*  
Land Use Forester  
North Coast Forest Area  
Weyerhaeuser Company  
P O. Box 998, Seaside OR 97138  
Tel (503) 738-6351 ext.114  
Fax (503) 738-9253  
chris.antilla@weyerhaeuser.com

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ATTACHMENT II

5/13/2008

**Land Uses and Practices** - Purchaser recognizes that lands in the adjacent area may be managed for commercial forestry which include activities such as; logging, slash burning, other fire control, silvicultural site preparation, construction of forest roads, aerial and ground application of forest chemicals, and other silvicultural practices which often create noise, dust, visual impacts and other alterations of the forest environment. Purchaser acknowledges that adjacent land owners have the right to conduct such commercial forest management activities which are regulated by state forest practice rules and regulations, and will not attempt to impose additional restrictions on these activities.

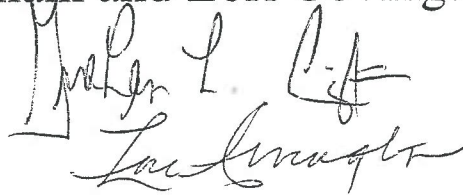
TO WHOM IT MAY CONCERN

As a one fourth owner in the property known as Tax Lot 4400 and 4500, Map No. 5 10, Cannon Beach, Oregon, I give Peter Anderson permission to sign all documents on my behalf submitted to Clatsop County, related to the application for a zone change on the above parcels.

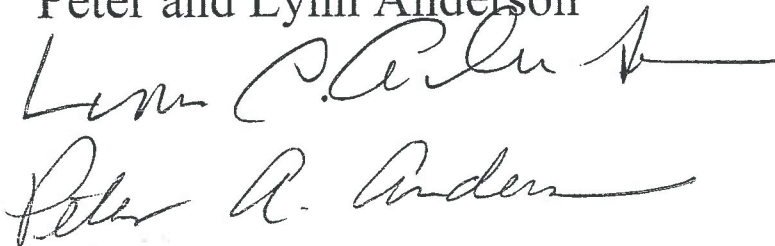
Vernon and Barbara Anderson

Marlys Anderson

Graham and Lori Covington



Peter and Lynn Anderson



ATTACHMENT 12

TO WHOM IT MAY CONCERN

As a one fourth owner in the property known as Tax Lot 4400 and 4500, Map No. 5 10, Cannon Beach, Oregon, I give Peter Anderson permission to sign all documents on my behalf submitted to Clatsop County, related to the application for a zone change on the above parcels.

Vernon and Barbara Anderson

*Vernon Anderson* 4-23-08  
*Barbara Anderson* 4/23/08  
Marlys Anderson

Graham and Lori Covington

Peter and Lynn Anderson

TO WHOM IT MAY CONCERN

As a one fourth owner in the property known as Tax Lot 4400 and 4500, Map No. 5 10, Cannon Beach, Oregon, I give Peter Anderson permission to sign all documents on my behalf submitted to Clatsop County, related to the application for a zone change on the above parcels.

Vernon and Barbara Anderson

Marlys Anderson

A handwritten signature in cursive script that reads "Marlys Anderson".

Graham and Lori Covington

Peter and Lynn Anderson



**EXHIBIT 5**

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 4  
INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

*(As Amended by LCDC January 24, 2008; no amendments to other rules in this division)*

**660-004-0040**

**Application of Goal 14 (Urbanization) to Rural Residential Areas**

*(NOTE: no amendments to sections (1) through (6) of this rule.)*

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

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

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

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

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(1)(A)-(D).

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, ~~D~~division 14. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

(A) Ashland;

(B) Central Point;

(C) Medford;

(D) Newberg;

(E) Sandy.

(b) If a city or urban area listed in sSubsection (8)(a):

(A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, ~~D~~division 21; or

(B) is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinances or acknowledged regional growth plan.

(c) Notwithstanding the provisions of Ssection (7) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Ssubsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, ~~D~~division 21, or is not part of an acknowledged regional growth plan as described in Ssubsection (b), Pparagraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of Ssection (7), if [~~the Portland metropolitan service district~~] Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, ~~D~~division 21 or division 27, any land division of rural residential land in that urban reserve [area] shall be done in accordance with the applicable acknowledged [~~urban reserve ordinance~~] comprehensive plan and zoning provisions adopted to implement the urban reserve.

(e) Notwithstanding the provisions of Ssection (7), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan

area and is in a rural residential area, and if the [~~Portland metropolitan area does not have~~] **Metro has not designated** an urban reserve [area] that contains at least a twenty-year reserve of land [~~and that has been~~] acknowledged to comply with **either** OAR 660, ~~D~~**division 021 or OAR 660, division 27**, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of ~~S~~**section (7)**, and ~~S~~**subsection (8)(e)**, a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in ~~S~~**subsection (8)(e)**. The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at [~~the~~] densities **of at least 10 units per net developable acre** [~~set forth in the Metro 2040 plan~~]. In no case shall the minimum **parcel** area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through ~~(E)~~ **(G)** of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(~~ts~~)(A) - (D), **and**,

**(G) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27.**

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Stat. Auth.: ORS ~~183 & 197~~; ORS 197.040; **Chapter 141**

Stats. Implemented: ORS 197.175 & 197.732; ORS 195.145; **ORS 195.141**

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01;

LCDD 3-2004, f. & cert. ef. 5-7-04

Oregon Administrative Rules  
(filed through December 14, 2007)

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

**DIVISION 4  
INTERPRETATION OF GOAL 2 EXCEPTION PROCESS**

**660-004-0000**

**Purpose**

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

(2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons which explain why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.

(3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:

(a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and

(b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide Goal.

(4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

**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 the provisions of this Division.

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

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.015 & 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82, LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

#### 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 which prescribe or restrict certain uses of resource 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 permitted in an exclusive farm use (EFU) zone under ORS Chapter 215 and OAR chapter 660 division 033, "Agricultural Lands" ;

(b) Goal 4 "Forest Lands"; however, an exception to Goal 4 "Forest lands" is not required for any of the forest or nonforest uses permitted in a forest or mixed farm/forest zone under OAR chapter 660, division 006, "Forest Lands";

(c) Goal 14 "Urbanization" except as provided for in OAR chapter 660, division 014 and the applicable paragraph (I)(c)(A), (B) or (C) 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 which has been acknowledged by the Commission under ORS 197.251, 197.625 or 197.626. Revised 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 which 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) Goal 11 "Public Facilities and Services";

(e) Goal 16 "Estuarine Resources";

(f) Goal 17 "Coastal Shorelands"; and

(g) Goal 18 "Beaches and Dunes."

(2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards that do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services, because these goals contain general planning guidance or 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";

(b) Goal 6 "Air, Water, and Land Resources Quality";

(c) Goal 7 "Natural Disasters and Hazards";

(d) Goal 8 "Recreational Needs";

(e) Goal 9 "Economy of the State";

- (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 Greenway" except as provided for in OAR 660-004-0022(6); and
- (j) Goal 19 "Ocean Resources."

(3) An exception to one goal or goal requirement does not assure 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.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 2-1987, f. & ef. 11-10-87; LCDC 3-1988(Temp), f. & cert. ef. 8-5-88; LCDC 6-1988, f. & cert. ef. 9-29-88; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2005, f. & cert. ef. 6-28-05

### **660-004-0015**

#### **Inclusion as Part of the Plan**

(1) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons which demonstrate that the standards for an exception have been met. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met.

(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons which demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

### **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 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:

(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; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined 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 which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or



(d) That are industrial development uses, and accessory uses subordinate to the industrial development, 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 only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

(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, 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, which ever is more stringent.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1986, f. & ef. 3-20-86; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 8-2005, f. & cert. ef. 12-13-05; LCDD 7-2006, f. 10-13-06, cert. ef. 10-23-06

## **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.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(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 which do not require a new exception cannot reasonably accommodate the use":

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which 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 which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

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

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, 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) This alternative areas standard can 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 can describe why there are 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 other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for 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, 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 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 defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements 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 exceptions 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;
- (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; or
  - (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.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 3-2004, f. & cert. ef. 5-7-04

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

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

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). 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:

(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, 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:

(a) 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

(b) 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 subsection 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

(c) 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 which 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 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; or

(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 which support the decision.

(4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:

(a) 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 (i.e., near a rural energy facility, or near products available from other activities only in the surrounding area; or 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 UGB, 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) Need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and UGBs in the area. Area encompasses those communities, exception areas, and UGBs which may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors;

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

- (5) Expansion of Urban Unincorporated Communities: 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 which are neither water-dependent nor water-related within the setback line required by Section C.3.k of the Goal 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 LCDC under ORS 390.322.
- (7) Goal 16 X Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, 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) Factors of Goal 9 or for recreational uses the factors of Goal 8;
  - (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; and
  - (d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use;
  - (e) The economic analysis must be based on Goal 9 element of the County Comprehensive Plan and 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 541, in any of the following circumstances:
- (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 can not 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 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 nonsubstantial fill for a private nonwater-dependent use (as provided for in ORS 541.625) where:
    - (A) A Countywide Economic Analysis based on the factors in Goal 9 demonstrates that additional land is required to accommodate the proposed use; and
    - (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) That 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 (7)(a) to (e) of this rule, the exception must demonstrate that proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner which 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:

(a) These 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 in unincorporated communities pursuant to OAR chapter 660, division 022 (Unincorporated Communities) that are suitable for water dependent uses;

(C) Designated dredged material disposal sites;

(D) Designated mitigation sites.

(b) To allow a use which 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 the factors in 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 which 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 which 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, 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 is required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate compliance with the following:

(A) Based on the factors of Goals 8 and 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 and Goal 9 elements of the comprehensive plans of those jurisdictions.

(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 an existing dwelling located on the foredune is experiencing sand inundation and the grading or removal of sand is:

(a) Only to the grade of the dwelling;

(b) Limited to the immediate area in which the dwelling is located;

(c) Sand is retained in the dune system by placement on the beach in front of the dwelling; and

(d) The provisions of Goal 18 Implementation Requirement 1 are met.

(11) Goal 18 -- Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or is of minimal value; and

(b) The use is designed to minimize adverse environmental effects;

(c) The provisions of OAR 660-004-0020 shall also be met.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, and 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 4-1985, f. & ef. 8-8-85; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-

2004, f. & cert. ef. 5-7-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06; LCDD 9-2006, f. & cert. ef. 11-15-06

#### **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.
- (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.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

#### **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(1)(b), Goal 2, Part II(b), and with the provisions of this rule;
  - (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 section, 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(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. 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 which 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 which 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 make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created 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 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 which 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.
- (8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:
- (a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and
  - (b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.
- Stat. Auth.: ORS 183 & ORS 197  
 Stats. Implemented: ORS 197.732 & ORS 197.736  
 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83, LCDC 5-1985, f. & ef. 11-15-85; LCDC 4-1996, f. & cert. ef. 12-23-96

**660-004-0030**

**Notice and Adoption of an Exception**

- (1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.
- (2) A planning exception takes effect when the comprehensive plan or plan amendment is adopted by the city or county governing body. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

Stat. Auth.: ORS 197  
 Stats. Implemented ORS 197.610 - ORS 197.625, ORS 197.628 - ORS 197.646 & ORS 197.732  
 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

## 660-004-0035

### Appeal of an Exception

(1) Prior to acknowledgment, an exception, or the failure to take a required exception, may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.830, or to the Commission as an objection to the local government's request for acknowledgment, pursuant to ORS 197.251 and OAR 660-003-0000.

(2) After acknowledgment, an exception taken

as part of a plan amendment, or the failure to take a required exception when amending a plan, may be appealed to the Board, pursuant to ORS 197.620 and OAR chapter 660, division 18.

(3) After acknowledgment, an exception taken as part of a periodic review work task submitted under OAR 660-025-0130, or failure to take a required exception when amending a plan, may be appealed to the Commission pursuant to ORS 197.633 and OAR 660-025-0150 and 0160.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.610 - 197.625, 197.732 & 197.830

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

## 660-004-0040

### Application of Goal 14 (Urbanization) to Rural Residential Areas

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

(2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (*Agricultural Lands*), Goal 4 (*Forest Lands*), or both has been taken. Such lands are referred to in this rule as *rural residential areas*.

(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before the effective date of Sections (1) to (8) of this rule.

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

(A) land inside an acknowledged urban growth boundary;

(B) land inside an acknowledged unincorporated community boundary established pursuant to OAR Chapter 660, Division 022;

(C) land in an acknowledged urban reserve area established pursuant to OAR Chapter 660, Division 021;

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

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

(F) nonresource land, as defined in OAR 660-004-0005(3);

(G) marginal land, as defined in ORS 197.247, 1991 Edition;

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

(3)(a) This rule shall take effect on the effective date of an amendment to Goal 14 to provide for development of all lawfully created lots and parcels created in rural residential areas prior to the effective date of the amendment to Goal 14.

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in *1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County)*, and before the effective date of this rule. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

(4) The rural residential areas described in Subsection (2)(a) of this rule are rural lands. Division and development of such lands are subject to Statewide Planning Goal 14, *Urbanization*, which prohibits urban use of rural lands.

(5)(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.



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

(c) For purposes of this section, "rural residential zone currently in effect" means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.

(6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.

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

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

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

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

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

- (A) The parcel to be divided has two or more permanent habitable dwellings on it;
- (B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;
- (C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and
- (D) The partition would not create any vacant parcels on which a new dwelling could be established.
- (E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(t)(A)-(t)(D).
- (i) For rural residential areas designated after the effective date of this rule, the affected county shall either:
  - (A) Require that any new lot or parcel have an area of at least ten acres, or
  - (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."
- (8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).
  - (A) Ashland;
  - (B) Central Point;
  - (C) Medford;
  - (D) Newberg;
  - (E) Sandy.
- (b) If a city or urban area listed in Subsection (8)(a):
  - (A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021; or
  - (B) is part of a regional growth plan that contains at least a twenty-year regional reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan.
- (c) Notwithstanding the provisions of Section 7 of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR 660, Division 021, or is not part of an acknowledged regional growth plan as described in Subsection (b), Paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.
- (d) Notwithstanding the provisions of Section 7, if the Portland metropolitan service district has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance.
- (e) Notwithstanding the provisions of Section 7, if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if the Portland metropolitan area does not have an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.
- (f) Notwithstanding the provisions of Section 7 and Subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in Subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at the densities set forth in the Metro 2040 plan. In no case shall the minimum area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (E) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(t)(A) - (D).

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws. Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.175 & 197.732

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04

**EXHIBIT 6**

## Oregon Revised Statutes

## Chapter 197 — Comprehensive Land Use Planning Coordination

## 2005 EDITION

**197.732 Goal exceptions; criteria; rules; review.** (1) A local government may adopt an exception to a goal if:

(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 as described by Land Conservation and Development Commission rule 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) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas which do not require a new exception cannot reasonably accommodate the use;

(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; and

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

(2) "Compatible," as used in subsection (1)(c) of this section, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) The commission shall adopt rules establishing:

(a) That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (1)(c)(A) of this section; and

(c) Which uses allowed by the applicable goal must be found impracticable under subsection (1) of this section.

(4) 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 of subsection (1) of this section have or have not been met.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(6) Upon review of a decision approving or denying an exception:

(a) The board or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (1) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards of subsection (1) of this section have or have not

been met.

(7) The commission shall by rule establish the standards required to justify an exception to the definition of "needed housing" authorized by ORS 197.303 (3).

(8) As used in this section, "exception" means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

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

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

(c) Complies with standards under subsection (1) of this section.

(9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, continues to be valid and is not be subject to this section. [1983 c.827 §19a; 1995 c.521 §3; 2005 c.67 §1]

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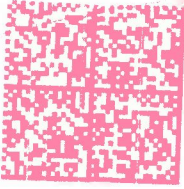
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**PRIORITY**

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**FIRST CLASS MAIL**