



Oregon  
Theodore R. Kulongoski, 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



## NOTICE OF ADOPTED AMENDMENT

08/05/2013

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

FROM: Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment  
DLCD File Number 002-13

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: Thursday, August 15, 2013

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. **NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.**

Cc: Jill Rolfe, Coos County  
Jon Jinings, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
Amanda Punton, DLCD Natural Resources Specialist

<paa> YA

# 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

DEPT OF

JUL 29 2013

LAND CONSERVATION  
 AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Coos County**

Local file number: **AM-13-02/RZ-13-02**

Date of Adoption: July 18, 2013

Date Mailed: July 23, 2013

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 5/28/13

☒ Comprehensive Plan Text Amendment

☒ Comprehensive Plan Map Amendment

☐ Land Use Regulation Amendment

☒ Zoning Map Amendment

☐ New Land Use Regulation

☐ Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Amend Volume II, Part1, Coos Bay Estuary Management Plan (CBEMP) text to change the management objective, uses, activities and special conditions of existing segment 16-Water Dependent Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS); Amend the CBEMP map to change the 16-WD designation to the proposed 16-RS and amend the designation from industrial to residential; and Amend the Coos County Comprehensive Land, Volume II, Plan Policy 16a to adjust the protected water-dependent acreage

Does the Adoption differ from proposal? **No**

Plan Map Changed from: **Water Dependent**

to: **Rural Shoreland**

Zone Map Changed from: **16-WD**

to: **16-RS**

Location: **25-13-13BD/13B/13CA/13C "Pierce Point"**

Acres Involved: **34**

Specify Density: Previous: **N/A**

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
<input 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"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Was an Exception Adopted? ☒ YES ☐ NO

Did DLCD receive a Notice of Proposed Amendment.

35-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



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**DLCD file No.** 003-13 (19866) [17561]

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

**Coquille Tribe, Confederated Tribes of Lower Umpqua and Siuslaw Indians, City of Coos Bay, City of North Bend, Port of Coos Bay and North Bay RFPD.**

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Local Contact: **Jill Rolfe, Planning Director**

Phone: (541) 396-7770 Extension:

Address: **250 N. Baxter,**

Fax Number: **541-396-1022**

City: **Coquille**

Zip: **97423**

E-mail Address: **planning@co.coos.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, or by emailing **[larry.french@state.or.us](mailto:larry.french@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 **[larry.french@state.or.us](mailto:larry.french@state.or.us)** - **Attention: Plan Amendment Specialist**.



## Coos County Planning Department

Coos County Courthouse Annex, Coquille, Oregon 97423

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423

Physical Address: 225 N. Adams, Coquille, Oregon

(541) 396-7770

FAX (541) 396-1022 / TDD (800) 735-2900

[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

Jill Rolfe, Planning Director

DEPT OF

JUL 29 2013

LAND CONSERVATION  
APR 11 2013

July 23, 2013

Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol Street NE Suite 150  
Salem, OR 97301-2540

RE: Adoption of Amendment/Rezone File# AM-13-02/RZ-13-02, Jerry White

Dear Plan Amendment Specialist:

Enclosed please find the DLCD Notice of Adoption with the applicant's submitted documentation. The proposal was submitted by Jerry White on properties identified as: Township 25S Range 13W Section 13BD Tax Lot 2700; Township 25S Range 13W Section 13B Tax Lot 600; Township 25S Range 13W Section 13CA Tax Lots 100, 400, 900; and Township 25S Range 13W Section 13C Tax Lot 100. The current zoning is Coos Bay Estuary Management Plan (CBEMP) Segment 16-Water Dependent Development Shorelands. The proposal is to amend Volume II, Part I, Coos Bay Estuary Management Plan (CBEMP) text to change the management objective, uses, activities and special conditions of existing estuary management unit 16-Water Dependent Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS); Amend the CBEMP map to change the 16-WD designation to the proposed 16-RS and amend the designation from industrial to residential; and Amend the Coos County Comprehensive Land, Volume II, Plan Policy 16a to adjust the protected water-dependent acreage.

The Board of Commissioner adopted the proposal as submitted.

If you have any questions please contact the Department by phone at 541-396-7770 or e-mail [planning@co.coos.or.us](mailto:planning@co.coos.or.us).

Sincerely,

*Jill Rolfe* Planning Director

COOS COUNTY PLANNING DEPARTMENT

ec: David Perry, DLCD

c: File

BOARD OF COMMISSIONERS  
COUNTY OF COOS  
STATE OF OREGON

IN THE MATTER OF AMENDING THE COOS  
COUNTY COMPREHENSIVE PLAN & COOS ) ORDINANCE 13-07-003PL  
COUNTY ZONING & LAND DEVELOPMENT )  
ORDINANCE (White Application) )

This matter came before the Coos County Board of Commissioners sitting for the transaction of business on July 18, 2013, concerning amendments to the Coos County Comprehensive Plan and Coos County Zoning & Land Development Ordinance. Specifically, the Board considered an application for a plan amendments and rezone of the subject properties described as: Township 25S Range 13W Section 13B Tax Lot 600; 25S Range 13W Section 13BD Tax Lot 2700; Township 25S Range 13W Section 13C Tax Lot 100; and Township 25S Range 13W Section 13CA Tax Lots 100, 400 & 900. The request is to amend Volume II, Part 1, Plan Provisions of the Coos Bay Estuary Management Plan (CBEMP) text to change the management objective, uses, activities and special conditions of the existing management unit 16-Water Dependent-Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS); Amend the CBEMP map to change the zoning and all support maps from 16-WD to 16-RS which rezones this property from industrial to residential; and Amend the Coos County Comprehensive Plan (CCCP), Volume II and the Coos County Zoning and Land Development Ordinance (LDO), Appendix 3, Plan Policy 16a to adjust the protected water-dependent acreage



1 available and zoned for water dependent use.

2 WHEREAS, the application was considered by the Planning  
3 Commission at a public hearing on July 3, 2013, and following  
4 deliberation, the Planning Commission recommended the Board of  
5 Commissioners approve the proposal. The Board of Commissioners  
6 reviewed the matter and pursuant to the Coos County Zoning and Land  
7 Development Ordinance Section 5.1.550 (C), the Board of Commissioners chose  
8 to accept the Hearings Body recommendation with such modifications as deemed  
9 appropriate. The modification was changing the minimum lot size from five  
10 acres to two (2) acres to be consistent with the area and taking into  
11 consideration the majority of the property had been platted into small lots;  
12 and



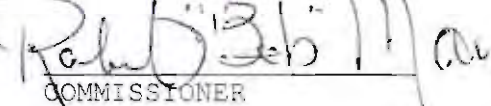
13 WHEREAS, the proposed rezoning complies with Coos County Zoning &  
14 Land Development Ordinance Section 5.1.400 criteria for rezones.

15 WHEREAS, all notices to interested property owners and interested  
16 parties have been provided pursuant to law;

17 NOW THEREFORE, THE BOARD OF COMMISSIONERS adopts the Findings and  
18 Conclusions in Attachments "A" and "B", incorporated herein by  
19 reference which includes the map of the rezone area.

20 ADOPTED this 18th day of July 2013.

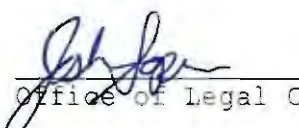
21 BOARD OF COMMISSIONERS

22     
23 COMMISSIONER COMMISSIONER COMMISSIONER

24 ATTEST:

APPROVED AS TO FORM:

25   
Recording Secretary

  
Office of Legal Counsel

**STAFF**

Jill Rolfe, Planning Director  
 Debby Darling, Planner II  
 Amy Dibble, Planning Aide



**FILE#:** AM-13-02\RZ-13-02  
**HEARING DATE:** July 3, 2013  
**REPORT DATE:** June 26, 2013

## STAFF REPORT FOR HEARINGS BODY REVIEW

**APPLICANT/****OWNER:**

Jerry White  
 64904 East Bay Lane  
 North Bend OR 97459

**REQUEST:**

Amend Volume II, Part 1, Plan Provisions of the Coos Bay Estuary Management Plan (CBEMP) text to change the management objective, uses, activities and special conditions of the existing management unit 16-Water Dependent-Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS); Amend the CBEMP map to change the zoning and all support maps from 16-WD to 16-RS which rezones this property from industrial to residential; and Amend the Coos County Comprehensive Plan (CCCP), Volume II and the Coos County Zoning and Land Development Ordinance (LDO), Appendix 3, Plan Policy 16a to adjust the protected water-dependent acreage available and zoned for water dependent use.

**STAFF CONTACT:** Jill Rolfe, Planning Director

**REVIEWING BODY:** Coos County Planning Commission

### MAP NUMBER(S) / LEGAL DESCRIPTION

**ASSESSOR'S MAPS:** Township 25S Range 13W Section 13B Tax Lot 600; 25S Range 13W Section 13BD Tax Lot 2700; Township 25S Range 13W Section 13C Tax Lot 100; and Township 25S Range 13W Section 13CA Tax Lots 100, 400 & 900.

### PROPERTY LOCATION

The property is located on the east side of the Coos Bay Estuary across the bay from the City of North Bend off of East Bay Road. The property is commonly known as Pierce Point. The specific boundary is described as the entire Pierce Point area west of East Bay Road, the northern boundary is East Bay Road at the bridge over Willanch Slough. The southern boundary is a line extending west from the L-turn of the East Bay Road south of the Pierce Point peninsula.

### APPLICABLE CRITERIA

**Coos County Zoning and Land Development Ordinance (LDO), Coos County Comprehensive Plan (CCCP), Oregon Administrative Rule (OAR)**

LDO	Article 5.1	Rezones
LDO	Appendix 3, Volume II	CBEMP, Policy #36
CCCP	Volume II, Part 1	CBEMP, Plan Provision 2.1
CCCP	Volume II, Part 3	CBEMP, Part 3, Linkage
OAR	660-004-0028	Exceptions Requirements for Lands Irrevocably Committed to Other Uses
OAR	660-037-0090	Goal 17 Water-Dependent Shorelands

## I. BASIC FINDINGS

A. **Lawfully Created Parcel:** The properties are lawfully created in accordance with LDO § 3.3.800. The properties are located within the 1906 Plat of the City of Coos Bay and are discrete.

B. **Zoning:** The property is currently zoned Coos Bay Estuary Management Plan (CBEMP) and the portion to be rezoned is 16-Water Dependent-Development Shorelands (16-WD)

### Current Applicable Zoning (16-WD)

This district, because of its location near the forest resource and the natural Cooston Navigation Channel, will be managed to protect its future utility as an industrial site particularly for log handling and storage and barging facilities.

### Proposed Zoning (16-RS)

This district shall be managed to maintain the present character of and uses in the area, which include low-intensity rural development having minimal association with the adjacent aquatic area. This area shall be consistent with objectives to maintain the riparian vegetation.

C. **SITE HISTORY AND DESCRIPTION:** The intent of 16-WD was based on the location near the forest resource and the natural Cooston Navigation Channel and it would be managed to protect its future utility as an industrial site particularly for log handling and storage and barging facilities. This segment was proposed as a future water-dependent industrial site for log storage and transport. The site was selected because of its unique locational characteristics. At the time of adoption the property was close to the owner's (Weyco) timber lands, reducing the distance necessary to haul the logs by road before transfer to the water. It was located close to a natural channel which was of sufficient depth to enable transport of the log rafts with minimal maintenance dredging or minor navigational improvements. The property was also located close to the Weyco Mill in North Bend via the Cooston Channel. An upland site was needed for this use because of the limited amount of subtidal area available for in-water log storage and restrictions on intertidal log storage. Future increased log storage was anticipated for the uplands. There was an alternative that was not practicable for this operation because it was a rural area. There were no sites in an urban/urbanizable area with the same favorable characteristics as this site contained. However, over time the timber market changed and due to downsizing Weyerhaeuser sold this property to Mr. White because it was no longer used as part of their operation.

D. **SPECIAL CONSIDERATIONS:** The property has special regulatory considerations prescribed by the CCCP. The property located within the Coastal Shorelands Boundary, area that may contain archeological sites and floodplain. Special regulatory considerations apply to the property in case of development. This application is not proposing any new development but all of the regulatory agencies have received notice as required.

## II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

LDO

§5.1.400

Decisions of the Hearings Body for a Rezone

**SECTION 5.1.400. Decisions of the Hearings Body for a Rezone. The Hearings Body shall, after a public hearing on any rezoning application, either:**

1. **Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted all the following criteria are found to exist:**
  - a. **The rezoning will conform with the Comprehensive Plan or Section 5.1.250; and**



- b. The rezoning will not seriously interfere with permitted uses on other nearby parcels; and
- c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

2. Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:
  - a. The property may not be utilized for all the uses ordinarily permitted in a particular zone; or
  - b. The development of the site must conform to certain specified standards; or
  - c. Any combination of the above.
 

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

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

**SECTION 5.1.450. Status of Hearings Body Recommendation of Approval.** The recommendation of the Hearings Body made pursuant to 5.1.400(1) or (2) shall not in itself amend the zoning maps.

**FINDING:** This proposal will conform with the CCCP as it will update this portion of the plan which is outdated. Currently the CCCP has a total of 1445.92 acres available for water dependent uses and is only required to maintain 592.85 acres, which is more than double the requirement. The removal of the proposed site will reduce the total by a little more than 34 acres (1406.46 total acres after reduction). Therefore, the reduction of water dependent uses acreage will still comply with the LDO and CCCP. After reviewing the area, it is surrounded by Rural Shorelands zoned property and it seems appropriate to apply that zoning on these properties as well. The zoning segment will remain 16 but the designation will change to Rural Shorelands which is consistent with the adjacent properties. This property is no longer viable for an industrial log storage area. There is no major highway, rail line or barging area. The property is currently restricted to water dependent uses. The applicant has established that it cannot be managed as an industrial site, particularly for log handling and storage and barging facilities; and therefore, it is in conflict with the management objective. Therefore, the County must look at alternatives for this site and design a management objective and zoning district that will be consistent with the current and future uses while protecting the adjacent zoning districts.

The current proposal will comply with the LDO and the CCCP and there are no pending policies to be adopted by the Board of Commissioners at this time.

The Planning Commission will be making a recommendation to the Board of Commissioners. Staff has reviewed the proposal in detail and has found no reasons to place qualifiers on this rezone as it will comply with the CCCP and LDO as presented. However, the Planning Commission does have the option to place qualifiers on the rezone if they find it is necessary to make it comply with the LDO, CCCP, ORS or OAR.

<b>LDO</b>	<b>Appendix 3, Volume II</b>	<b>CBEMP, Policy #36</b>
<b>CCCP</b>	<b>Volume II, Part 1</b>	<b>CBEMP, Plan Provision 2.1</b>

Coos County shall: a) conduct a formal review of this the Plan, including inventory and factual base and implementing measures to determine if any revision is needed; b) shall base its review upon re-examination of data, problems and issues; c) shall issue a public statement as to whether any revision is needed; d) shall coordinate with other jurisdictions which are included within the Coos Bay Estuary and its shorelands; and e) shall incorporate public input into its decision.

Coos County may rely on the formal "Periodic Review " process of this Plan to satisfy the requirements of this policy.

This strategy is based on the recognition that a formal periodic review is necessary to keep this Plan current with local situations and events which may change from time-to-time and reduce the Plan's ability to effectively and appropriately guide growth of the Coos Bay Estuary and its shorelands.

Coos County shall approve minor revisions/amendments to its Comprehensive Plan when justified. Minor revisions/amendments are smaller in scope than major revisions/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.

FINDING: This would be considered a minor amendment to the plan and not a formal periodic review because it is focused on one area that is inconsistent and has an impracticable management objective to comply with. The applicant has shown a need and justification for the rezone due to the fact there has been a change in the local economy that makes this particular area limited in development possibilities to the point it is hindering appropriate growth in this shorelands segment.

<b>CCCP</b>	<b>Volume II, Part 3</b>	<b>CBEMP, Part 3, Linkage</b>
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FINDING: The applicant has provided details from the CCCP, Volume II, Part 3, Linkage explaining the background on how this property was chosen for Water-Dependent Use. The language explains that the 16-WD complied with Statewide Planning Goals and this property was not found to be resource land<sup>1</sup>.

<b>OAR</b>	<b>660-004-0028</b>	<b>Exceptions Requirements for Lands Irrevocably Committed to Other Uses</b>
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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:

<sup>1</sup> See Applicant's submittal Attachment A

- (a) A "committed exception" is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).
  - (b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.
  - (c) An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.
- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:
- (a) The characteristics of the exception area;
  - (b) The characteristics of the adjacent lands;
  - (c) The relationship between the exception area and the lands adjacent to it; and
  - (d) The other relevant factors set forth in OAR 660-004-0028(6).
- (3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:
- (a) Farm use as defined in ORS 215.203;
  - (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and
  - (c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).
- (4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.
- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.
- (6) Findings of fact for a committed exception shall address the following factors:
- (a) Existing adjacent uses;
  - (b) Existing public facilities and services (water and sewer lines, etc.);
  - (c) Parcel size and ownership patterns of the exception area and adjacent lands:
    - (A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created and uses approved pursuant



to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.

- (B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;
- (d) Neighborhood and regional characteristics;
- (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;
- (f) Physical development according to OAR 660-004-0025; and
- (g) Other relevant factors.

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

FINDING: This is a platted subdivision and each lot is discrete and may be sold separately. There is no minimum lot size currently for this property. The Rural Shorelands has varied size requirements of two, five or ten acres according to the minimum lots size CBEMP map. The applicant has provided a 1969 photo to show this property contained nine dwellings prior Weyerhaeuser purchasing. At that time Weyerhaeuser purchased the property for a specific use and worked with the County Planning staff to ensure that was taken into consideration at the time the plan was acknowledged. If you calculate the density of the dwelling units at that time, the density would have been less than four acres per dwelling; however, in 1969 there were no density requirements for Coos County.

The dwelling units were removed in anticipation that Weyerhaeuser would be able to utilize the industrial site particularly for log handling and storage and barging facilities. Due to the changes in the local economy, environmental requirements for in water storage of logs and the lack of transportation Weyerhaeuser found that is property was no longer viable for an industrial operation and chose to sell the property.

This property is completely located within the Coos Bay Estuary Management Plan; therefore, under the current plan we are limited to the following shorelands zoning districts: Natural Shorelands; Conservation Shorelands; Rural Shorelands; Development Shorelands; Water-Dependent Development Shorelands; Urban Development Shorelands; Urban Water-Dependent; Non-Water-Dependent Shorelands; and Urban Development. These zoning districts were designed to comply with Oregon Statewide Planning Goal 16 and they do fall within one of three management units which are natural, conservation and development.

This area was designated by the CCCP to be a development area. Staff had to look at adjacent development zoning and decide the appropriate zoning. The urban management units were not considered because this property is not located within an urban growth boundary or an urban unincorporated area; therefore, the rural development shorelands units are Rural Shorelands, Development Shorelands, Water-Dependent Development Shorelands, and Non-Water-Dependent Shorelands. The adjacent zoning is Rural Shorelands and the applicant has provided findings, including statements and evidence to show the property is currently not viable for water development uses. Comparing the current zoning with the proposed zoning, shows the new zoning is more restrictive on overall allowed uses. Although a specific exception was not taken to this property for current zoning it was incorporated into a broad exception area and justified as an industrial water dependent use and adopted as part of the CCCP. Volume I of the CBEMP, Part 2 Section 4.3.1 provides details on irrevocably committed exceptions explaining that lands that have already been divided into such a small parcel size that the consolidation or assemblage of the parcels in sizes large enough to permit efficient resource production is no longer possible. This platted area is made up not only multiple lots but public streets as well, which would limit the amount of acreage that could be combined to create any type of resource area; therefore, it is already considered to be irrevocably committed. Below shows a portion of the property and how the streets and alleys are platted creating a non-resource property.



The applicant states in their narrative that grazing has happened in the past but that is only because the platted streets and alleys were not taken into consideration. Again each lot is discrete and could be sold off and if so the platted roads would become developed and that would limit the grazing area. Basically in order for this tract to become viable for farm or forest resource the plat and all of its components would have to be vacated; however, it was not the intent of the exception to take this into consideration. The rezone proposal is consistent with the CCCP.

OAR	660-037-0090	Goal 17 Water-Dependent Shorelands
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660-037-0090

**Rezoning of Qualifying Shorelands to Nonwater-Dependent Uses**

(1) Any amendment to an acknowledged comprehensive plan or land use regulation under this rule must comply with all applicable Statewide Planning Goals. For purposes of this division, such applicable Goals include but are not limited to the following: Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces (OAR 660-015-0000(5)); Goal 7, Natural Hazards (660-015-0000(7)); Goal 16, Estuarine Resources (660-015-0010(1)); and Goal 17, Coastal Shorelands (660-015-0010(2)). In Goal 16, the designation of estuarine management units is based in part on the uses of the adjacent shorelands. Consequently, any change to shoreland designations and allowed uses being proposed under this division must include consideration of affected estuarine management unit designations and allowed uses. This is particularly important in situations where the level of development designated in the adjacent estuarine management unit was acknowledged through a Goal 2 Exception; retaining that level of estuarine development would no longer be justified without taking a new Goal 2 Exception.

(2) Local governments that choose to rezone shoreland sites to nonwater-dependent uses as allowed under this division are encouraged to provide for water-related and water-oriented uses at such sites as much as possible.

FINDING: This property is already in compliance with the Statewide Planning Goals. It is inventoried as Coastal Shorelands Boundary, area that may contain archeological sites, wetlands and floodplain. The property will be required to comply with all of these special considerations and must comply with the applicable policies shown in the use table (found at attachment I of the applicant's submittal). As explained above this area was part of a broad brush exception at the time of acknowledgement and all of the Goals were considered at that time.

Coos County has a total of 1445.92 acres of available acreage available for water dependent uses and is only required to maintain 592.85 acres, which is more than double the requirement. The removal of the proposed site will reduce the total by a little more than 34 acres (1406.46 total acres after reduction). Therefore, this change in zone and plan amendment will comply with this OAR.

### III. NOTIFICATION/ COMMENTS

Notification was provided as consistent with LDO Section 5.7.300. Notification was also provided on June 13, 2013, to subject property owners, property owners within 250' feet from the subject property. The notice was also provided to the following: Board of Commissioners; Dave Perry, DLCD; North Bay RFPD; Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians; Coquille Tribe; City of North Bend; City of Coos Bay; and Oregon International Port of Coos Bay. This notice of hearing was published in *The World News Paper* on June 20, 2013 to comply with the notice requirements.

### IV. SUMMARY / CONCLUSIONS

If the Planning Commission recommends the application for approval as is or with qualifiers then the Board of Commissioners will review this matter on July 18, 2013 at 1:30 p.m. If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

Jill Rolfe, Planning Director

Attachments: Applicants Submittal

C: Applicant  
Confederated Tribes  
Coquille Tribe

EC: County Counsel  
Dave Perry, DLCD

C: w/o attachments:  
Special Districts





Coos County Planning Department  
Coos County Courthouse Annex, Coquille, Oregon 97423  
Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, OR 97423  
Physical Address: 225 N. Adams, Coquille, Oregon  
(541) 396-3121 Ext.210  
FAX (541) 396-1022 / TDD (800) 735-2900  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

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

AMENDMENT/REZONE APPLICATION  
(PLEASE SUBMIT 20 COMPLETE COPIES OF THIS APPLICATION)

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

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

PLEASE PRINT OR TYPE:

A. APPLICANT:

Name: Jerry W. White, Trustee Telephone: 541-266-0353 or 541-404-2899

Address: 64904 East Bay Drive, North Bend, OR 97459

As applicant, I am (check one):

☒ The owner of the property;

☐ The purchaser of the property under a duly executed written contract who has the written consent of the vendor to make such application;

☐ A lessee in possession of the property who has written consent of the owner to make such application;

☐ The agent of any of the foregoing who states on the application that he is the duly authorized agent and who submits evidence of being duly authorized in writing by his principal.

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

B. DESCRIPTION OF PROPERTY:

See map with property descriptions. Attachment E.

Zoning District: Subject property is regulated by the Coos Bay Estuary Management Plan, CBEMP. The Management Unit is 16-WD, a water-dependent industrial designation. See Application and Supplemental Information, Attachment A.

Existing Use: Subject property is vacant with remnants of residential use that formerly existed on the property. See Application and Supplemental Information, Attachment A.

C. STATE SPECIFIC ZONE DISTRICT REQUESTED:

This application is a consolidated application that includes text amendments to Volume II, Part 1. Plan Provisions of the CBEMP including the removal of the 16-WD management designation language and the application of proposed new 16-RS, rural shorelands designation language; a CBEMP map amendment to

change the zone designation, and: an amendment to Volume II, Plan Policy 16A to adjust the protected water-dependent acreage available and zone for water-dependent use. See Application and Supplemental Information, Attachment A.

D. JUSTIFICATION:

- (1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered:  
Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? N/A - Subject property is not adjacent to EFU zoned property.  
Explain and provide documentation: N/A
- (2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:
  - a. Will the rezone conform with the comprehensive plan? Yes.  
Explain: All of the analysis and findings are included within Application and Supplemental Information, Attachment A.
  - b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? No.  
Explain: The new zoning designation will be similar to uses on adjacent properties. The former use was a special allowance for water-dependent industrial use due to special circumstances that existed at the time of the CBEMP's acknowledgment. The proposed rezoning is actually "downzoning," and the new zone will be a better fit with adjacent properties as explained within the analysis and findings included within Application and Supplemental Information, Attachment A.
  - c. Will the rezone comply with other adopted plan policies and ordinances? Yes.  
Explain: The rezone already complies with the Comprehensive Plan in major aspects. Where compliance does not exist, the proposal is for amendments to the CBEMP. All of the findings of compliance are included within Application and Supplemental Information, Attachment A.
- (3) If a Goal Exception is required one of the following sets of criteria must be addressed. An applicant must demonstrate that all of the standards of I, II, or III have been met.

The exception for subject property was addressed at the time of the acknowledgment of the CBEMP. Subject property was included in all of the analysis for the "Irrevocably Committed Lands Exception: that was acknowledged for committed lands within Coos County. This is explained and documented within the Application and Supplemental Information, Attachment A.

This application provides the analysis and findings for the removal of the special water-dependent industrial lands designation that was allowed due to special circumstances that existed at the time. Facts that are presented within the CBEMP and presented within the supplemental information that accompanies this application support the conclusion that it is "impracticable" to apply the Goal, to support the findings to include subject property as part of the "Irrevocably Committed Lands Exception. When the water-dependent industrial designation is removed, subject property will revert to the "Irrevocably Committed Lands Exception" that is already documented within the balance of Coos County Plan. The standards of II, for an "Irrevocably Committed" Exception, have been met and acknowledged.

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

I. For a “Physically Developed” Exception, OAR 660-004-0025 applies:

- a. Findings must demonstrate that land is already physically developed to the extent that it is no longer available for uses allowed by the applicable Goal.
- b. Findings must show:
  - The exact nature and extent of the area;
  - Extent and location of existing physical development;
  - Uses allowed by a Goal to which an exception is being taken shall not be used to justify an exception as “physically developed”.

II. For an “Irrevocably Committed” Exception, OAR 660-004-0028 applies:

- a. An exception is justified under this category when “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 Goals impracticable.”
- b. Findings must address:
  - Existing adjacent uses;
  - Public facilities and services;
  - Parcel size and ownership patterns:
    - i) This must include an analysis of how existing parcel sizes came about. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment—the County must also show some other type of development to justify commitment.
    - ii) Parcels created under the Goals cannot be used to justify commitment.
    - iii) Differing contiguous parcels under one ownership must be considered as one parcel.
    - iv) Small parcels alone do not justify commitment—parcels must be clustered in a large group and at least partially developed to justify commitment.
  - Neighborhood and regional characteristics;
  - Natural boundaries or other buffers separating the exception area from adjacent resource land;
  - Other relevant factors; and
  - Facts must support a conclusion that it is “impracticable” to apply the Goal.

III. For a “Need” or “Reasons” Exception, OAR 660-004-0022 applies:

- a. Reasons must justify why the state policy embodied in the applicable Goals should not apply.
- b. It must be demonstrated that areas which do not require a new exception cannot reasonably accommodate the use.
- c. The economic, social, environmental and energy consequences resulting from the use must be shown to be not significantly more adverse than would result from the same proposal being located in another area requiring an exception.
- d. The proposed uses must be shown to be compatible with other adjacent uses or can be so



rendered.

- e. Reasons showing a need for rural residential land cannot be based on market demand; and a strong connection must exist between the subject area and "existing or planned rural industrial, commercial or other economic activity.

E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

- 1. A legal description of the subject property (deed); See Attachment M.
- 2. Covenants or deed restrictions on property, if any;
- 3. A general location map of the property;
- 4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 ½" x 11" paper;
- 5. If applicant is not the owner, documentation of consent of the owner, including:
  - a. A description of the property;
  - b. Date of consent
  - c. Signature of owner
  - d. Party to whom consent is given
- 6. The applicant must supply a minimum of 20 copies of the entire application, including all exhibits and color photocopies, or as directed by the Planning Staff.

G. Authorization:

All areas must be initialed by all applicant(s) prior to the Planning Department accepting any application.

JW

I hereby attest that I am authorized to make the application for a conditional use and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

JW

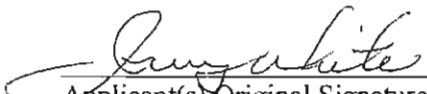
ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service. The Coos County Board of Commissioners adopt a schedule of fees which reflect the average review cost of processing and set forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are responsible to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may choose to revoke this permit or send this debt to a collection agency at your expense.

JW

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

JW

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

  
Applicant(s) Original Signature

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

May 1<sup>st</sup>, 2013  
Date

## Index of Attachments

<b>Attachment A</b>	Application and Supplemental Information
<b>Attachment B</b>	Vicinity Map
<b>Attachment C</b>	Jerry W. White, Trust Tract
<b>Attachment D</b>	Final Buyer's Settlement Statement T25S, R13W, Sec. 13CA, TL 900
<b>Attachment E</b>	Subject Property
<b>Attachment F</b>	CBEMP Zone Map with Proposed Rezone
<b>Attachment G</b>	1969 Aerial Photo of Subject Property Showing Residential Use
<b>Attachment H</b>	Soils
<b>Attachment I</b>	Current Shoreland Segment 16-WD
<b>Attachment J</b>	Proposed Shoreland Segment 16-RS
<b>Attachment K</b>	Special Considerations Map #22: "Schematic Land and Water Ownership Patterns"
<b>Attachment L</b>	Special Considerations Map #23: "Development Needs, Scenario #1, IATF Decisions (1980-81)"
<b>Attachment M</b>	<del>Deed and Exhibit</del> <i>not included</i>



## **Application and Supplemental Information Coos Bay Estuary Plan (CBEMP) and Map Amendments**

**Proposal:** This is a consolidated application for three post-acknowledgement plan amendments to the Coos Bay Estuary Management Plan (CBEMP) including two text amendments and one map Amendment:

- 1) Amend Volume II, Part I, Plan Provisions of the Coos Bay Estuary Management Plan text to change the management objective, uses, activities and special conditions of existing estuary management unit 16-Water-Dependent Development Shorelands (6-WD) to 16-Rural Shorelands (16-RS);
- 2) Amend the Coos Bay Estuary Management Plan map to change the 16-Water-Dependent Development Shorelands, 16-WD designation, to the proposed 16-Rural Shorelands, 16-RS designation. The amendment will change the permitted uses from industrial to residential;
- 3) Amend Coos County Comprehensive Plan, Volume II, Plan Policy 16a to adjust the protected water-dependent acreage available and zoned for water dependent use.

### ***Location and Property:***

The property proposed for the amendments will be referenced throughout this document as "subject property." Subject property is known as Pierce Point, lying on the east side of the Coos Bay Estuary, and primarily on the west side of East Bay Drive. Subject property lies to the east of the northern dredge spoils island within the Bay. The Mill Casino lies within the urbanized area on the west side of Coos Bay Estuary across the Bay from subject property.

Subject property includes discreet lots platted as the City of Coos Bay Subdivision in 1906, including approximately 34.04 acres of land.

### ***Property Owner and Applicant:***

Subject properties are included in the Jerry W. White Trust:  
Jerry W. White, Trustee  
64904 East Bay Drive  
North Bend, OR 97459

### ***Application Compiled by:***

Shoji Planning, LLC: Crystal Shoji, AICP, Planner  
P.O. Box 462  
Coos Bay, OR 97420  
Phone: 541-267-2491: [shoji@uci.net](mailto:shoji@uci.net)

**Submittal:** Coos County Planning Department, May 3, 2013

This report includes analysis to address the criteria found in Coos County ordinances and Oregon Administrative Rules. Words quoted directly from Coos County ordinances and/or Oregon laws are shown in *italics*; information provided by the applicant, including paraphrased language from Coos County ordinances and Oregon laws. Analysis and conclusions provided by the applicant are shown in regular font (not in italics).

## Subject Property

Subject property is a portion of the City of Coos Bay plat of 1906, which includes more than 3,600 discreet lots; Crawford Point Addition of 1907 lies to the south. The Coos County Zoning and Land Development Ordinance, describes lots and discreet lots in Chapter 2, Definitions:

*Lot: A unit of land created by a subdivision of land or a planned community. A lot lawfully created shall remain a discrete lot, unless the lot lines are changed or vacated or the lot is further divided as provided by this Ordinance.*

Section 3.3.800 of the ordinance provides further definition:

*Lawfully Created Lots and Parcels. The following lots or parcels shall remain discrete lots or parcels, unless individual lot or parcel lines are changed or vacated or the individual lot or parcel is further divided as provided by this Ordinance:*

*1. Lots or parcels created prior to January 1, 1986;*

**Findings:** Subject property is made up of a number of discreet lots that are visible on the City of Coos Bay Plat of 1906 in the same configuration that exists today.

The tract includes a number of lots that are within the waters of the Coos Bay Estuary and lands that are on the tableland above the Estuary. See Attachment B, vicinity map of Pierce Point, with Crawford Point to the south, and Cooston a short distance inland between Pierce and Crawford Points.

Copies of lots shown on the plats of The Townsite of Coos Bay and Crawford Point Addition to the City of Coos Bay are provided as exhibits to be included in the record.

The property that is proposed for this rezone does not include the entire tract that is owned by the applicant in that there is no request to amend the zoning for the lots that are wholly or partially within the tidelands of the Coos Bay Estuary. Some of the lots are partially within the tidelands, and partially within the shorelands. The purpose of the proposed amendments is to allow one residential use at this time on property that was zoned for a specific industrial use that is no longer anticipated. The amendments will provide an opportunity for several additional residential uses on discreet lots within the tract in the future, provided that there is compliance with all of the conditions that apply to residential use of the specific property. See Attachment C, Jerry W. White, Trust Tract.

Subject property is a point that projects into the Coos Bay Estuary, Pierce Point, located on east side of the Coos Bay Estuary, west of East Bay Drive. Subject property is identified on the Coos County Assessor's maps as follows:

- T25S, R13W, Section 13C, shoreland portions of Tax Lot 100, 10.98 acres including the eastern shoreland portion of Pierce Point that is west of Fourth Avenue. Subject property does not include the tideland areas;
- T25S, R13W, Section 13CA, shoreland portions of Tax Lot 100 – 14.17 acres including a number of platted lots lying east of Fourth Avenue and west of Seventh Avenue;
- T25S, R13W, Section 13BD, TL 2700 – 6.19 acres lying east of Fourth Avenue;
- T25S, R13W, Section 13CA, TL 400 – .40 acres, including shoreland portions of this lot;
- T25S, R13W, Section 13B, shoreland portions of Tax Lot 600 – including approximately 1.9 acres west of Fourth Avenue; T25S, R13W, 13B, Tax Lot 600 is divided by the designation that includes shoreland segment 16-WD on the east, and aquatic segment 15-NA on the west because the tax lot includes both tidelands and shorelands. Subject property does not include tideland areas.
- T25S, R13W, Section CA, TL 900 on the south line of subject property. otherwise surrounded by T25S, R13W, Section 13CA, Tax Lot 100, lying east of Fourth Avenue and west of Seventh Avenue, has been purchased by Jerry W. White Trust from Karen L. Freude this week. See Attachment D, Final Buyer's Settlement Statement. The deed will be presented prior to the hearing.

See Attachment E and F, Subject Property and CBEMP Zone Map with Proposed Rezone.

### **Driveway on Attachments E and F**

Attachments E and F show the parcels overlaid on the CBEMP Zone Map. In addition, the map shows current CBEMP zone designations for subject property and adjacent properties as they are overlaid on the CBEMP map. The map also shows the roads as they were platted in The Townsite of Coos Bay in 1906. The map depicts an additional drive that is not a platted street, but rather a constructed driveway that is addressed on Coos County Assessor's Map T25S, R13W, Sec. 13C with the following wording, "As Const. (PHOTO)." This drive also is depicted on Assessor's Map T25S, R13W, Sec. 13CA, with the wording, "AS Constructed." See Attached Map T25, R13, Sec. 13CA.

**Findings:** The applicant would like to clarify that the driveway that goes from the west to the southeast between Fourth Avenue and Sixth Avenue, intersecting "I" Street is not a platted road, and it is not an easement. It is important to clarify the status of this drive within this application because it is in the area of subject property where the applicant would like to build his own residence.

### **Background**

At the time of adoption of the Coos Bay Estuary Management Plan (CBEMP), subject property was zoned for industrial use, which was an envisioned as a future use due to the ownership and

the location of subject property. Subject property was close to Weyerhaeuser (Weyco) timberlands, and Weyco, the owner of the property, stated their intent to utilize the property for transferring logs to the water. With minimal maintenance dredging and minor navigational improvements the logs were to be moved on log rafts and transported to the Weyco Mill in North Bend via the Cooston Channel, a natural channel. This upland site was important for this use because of the limited amount of subtidal area available for in-water log storage and restrictions on intertidal log storage. Future increased log storage was anticipated for the uplands. Sites with such specific favorable characteristics for the use envisioned did not exist in urban/urbanizable areas. No site-specific exception was taken for the industrial use of this property.

More recently, Weyco sold this property; the anticipated industrial use opportunity that was envisioned would no longer be likely as a future use. Mr. White purchased subject property with the understanding that it was available for residential use, but at the time that he went to apply for a building permit, he was informed that a plan amendment would be required to allow for residential use. Mr. White would like to utilize subject property for his own residence. While subject property has not recently been utilized for residential use, a visit to the site reveals that there were previously homes on subject property as there are well sites, an apple orchard, old gravel roads throughout the property, and other remnants of domesticity. Subject property is fenced on the east side and bordered by the Bay on the west. The eastern boundary of subject property is on the east side of East Bay Drive. Rural residential use exists adjacent to subject property along the shoreline to the north and south.

A 1969 aerial shows that at least nine houses existed on subject property at the time of the photo. Timm Slater, who served as Weyco's land use manager in the 1970's notes that Weyco was not in the business of overseeing residential rentals, and that their anticipated future use was industrial. Over time, Weyco removed the residences and accessory structures. See Attachment G, the 1969 aerial photo showing nine residences.

### **Physical Features, Vegetation and Soils**

Subject property includes flat tableland that is 50 to 60 feet above the Bay, meadows that have been used for pasture, wetlands connecting to Willanch Slough, an old orchard, roads, and trails that go down to the Bay. The highest portion of the property is at the point of the property directly over the Bay. Vegetation on subject property includes fir, alder, cypress, spruce, Myrtle and wild cherry trees, wild huckleberry, salal, Scotch Broom, and more.

Soils on subject property include the following types:

- Soil type 23-Fluvaquents-Histosols complex runs along the tidelands adjacent to the Bay on the northwest side of the Pierce Point and winds around the north side of subject property into the wetland area of Willanch Slough on the east side of subject property. This soil includes salt-tolerant grasses, sedges, and rushes. The description states, "The unit is saturated with water that is high in content of soluble salts." Soils in this unit are used for clam digging, crabbing, and other seashore recreation and feeding and resting areas for shore birds. The map unit is capability subclass VIIIw.



- Approximately half of the soils on the northern portion of the point and inland on some of the discreet lots and blocks of the Coos Bay Plat of 1906 are soil type 10A-Chismore silt loam, 0 to 3 percent slopes. Permeability of Chismore soil is slow, and rooting depth is limited by the water table, which is 12 to 36 inches from November to March. Runoff is slow. The soil is used mostly for hay and pasture, with limitations due to susceptibility of the surface layer compaction, drought in summer, and high humidity. For homesite development, the main limitations are "severe wetness," slow permeability of the soil and wetness. The map unit is capability subclass IIIw. Class III soils have severe limitations that reduce the choice of plants and/or require special conservation practices; the "w" shows that water in or on the soil interferes with plant growth or cultivation.
- On the southwestern portion of the "point," the soil class is 54D-Templeton silt loam, 7 – 30 percent slope. ~~"This unit is used mainly for timber production and wildlife habitat,~~ grazing and homesite development. The unit is in capability subclass VIe. Class VI soils have severe limitations that make them generally unsuitable for cultivation; the "e" shows that the main limitation is risk of erosion unless close-growing plant cover is maintained.
- Other discreet lots and blocks are soil type 63B-Wintley silt loam, 0 to 8 percent slopes. This is deep, well drained soil on high terraces. Douglas Fir, western hemlock, western redcedar, red alder and Oregon myrtle grow on this unit. Erosion is a problem, and the soil is susceptible to compaction and droughtiness in summer. Larger absorption fields for homesites compensate for moderately slow permeability. The unit is capability subclass IIIe.

Soils are shown on Attachment H.

#### Access

Subject property is accessed by East Bay Drive, a paved County road, which is 50 to 60 feet wide, depending upon the specific location. The entrance into subject property is Pierce Point Road, a gravel road, shown as "H" street on the Assessor's map.

#### COOS BAY ESTUARY MANAGEMENT PLAN

The Coos Bay Estuary Management Plan consists of

- Volume II, Part 1, Plan Provisions.
- Volume II, Part 2, Inventories and Factual Base
- Volume II, Part 3, "Linkage" Cumulative Effects of Development and Statewide Goal Exceptions
- Appendix 3, Baywide Policies
- Appendix 4, Agricultural Use
- Appendix 5, Forest Use
- Maps and Charts depicting the characteristics and considerations that provide the basis for policies of the CBEMP entitled Special Considerations Maps and Goal 17 & 18 "Linkage Matrix"

## **Coos Bay Estuary Plan Zoning /Management Unit Designations**

Subject property is adjacent to the Coos Bay Estuary, lying within the coastal shorelands, as defined by the acknowledged adopted Coos Bay Estuary Management Plan (CBEMP), acknowledged by the Oregon Land Conservation and Development Commission. Uses and activities are governed by the CBEMP.

Chapter II, Definitions in the Coos County Land development Ordinance describe the Coastal Shoreland as those lands lying between the Coastal Shorelands Boundary and the line of nonaquatic vegetation, which is also known as the Section 404 Line. The western boundary of Shoreland Segment 16-WD is thus the line of nonaquatic vegetation. Regulations for aquatic segments and shoreland segments allow for various uses and activities; the segment boundaries defined by discreet geographic biophysical characteristics and features, are not always consistent with the tax lot designations.

The Coos County Zoning and Land Development Ordinance defines water-dependent use or activity as a use which can be carried out only on, in, or adjacent to water areas. Such uses require access to the water body for water-borne transportation, recreation, energy production, or source of water. Subject property is estuary management unit 16-Water-Dependent Development Shorelands, zoned 16-WD by the Coos Bay Estuary Management Plan. This is an industrial zone that does not allow for residential use. This zoning was applied during the planning process of the Coos Bay Estuary Management Plan. Shoreland Segment, Upper Bay, 16-WD (Water-Dependent Development Shorelands) with the current requirements, including: 1) the management objective for the unit, 2) uses and activities allowed, 3) conditions for permitted uses and activities, and 4) land development standards. See Attachment I.

## **Proposed Zoning/Management Unit Designations**

The proposal is to remove the 16-Water-Dependent Development Shorelands, 16-WD designation and amend the designation to become 16-Rural Shorelands, 16-RS, to allow a homesite at this time, with the possibility of several additional homesites on discreet lot lines in the future.

The proposed 16-RS is compatible with the existing 15-RS, Rural Shorelands segment that is adjacent to subject property on the east side of East Bay Drive and 17-RS, which is to the south; adjacent lands are zoned for rural residential with Coos County RR-2 and CBEMP 15-RS zoning.

Attachment J is the proposed new Shoreland Segment to replace the 16-WD designation. The new designation is proposed as Upper Bay 16-RS (Rural Shorelands) which describes: 1) the management objective for the unit, 2) uses and activities allowed, 3) conditions for permitted uses and activities, and 4) land development standards. The proposed designation is a downzone from the current industrial designation to a less intensive residential designation. The proposed designation allows the same uses and activities as adjacent properties, including the existing 17-RS, which exists on the Crawford Point Addition to the southeast.

## **Volume II. Coos Bay Estuary Management Plan, Part 3. "Linkage," Cumulative Effects of Development and Statewide Goal Exceptions**

### **2.0 Plan "Linkage Findings"**

#### **2.1 Introduction: The Concept of "Linkage"**

*Plan "Linkage" may be defined as the process of linking Plan decisions to the complex requirements of the Statewide Planning Goals to show whether the Plan conforms, and where Exceptions to the Goals are necessary. It results in a set of findings which demonstrate the consistency of the Plan both internally and when measured against the Goals.*

#### **2.2 The products of "Linkage"**

The "linkage" process resulted in charts (matrix) with findings that explain how conclusions were reached, which was often a "balancing act" that involved prioritizing the requirements of one goal against another.

**Findings:** The LCDC Goal #17 and #18 Linkage Matrix is applicable. The matrix documents findings that were made balance and prioritize the goal requirements that apply to specific sites along the Bay; the specific sites are addressed through the management segment designations of the CBEMP. The matrix summarizes findings that were made to support conclusions for cultural resources, agricultural and forestlands, residential development, water-dependent commercial/industrial uses, land divisions and more when the CBEMP was developed. The Goal #17 and #18 Linkage Matrix will be submitted with this application as an exhibit.

#### **2.3 Introduction: Site-Specific "Linkage" Findings**

The text states that the information in the "Linkage Matrices" is drawn from both factual materials in the mapped and written plan inventories, while other information represents conclusions drawn from additional findings provided in the "Linkage" narrative. The process is typical for developing findings in that it connects facts, criteria and inventory information to make conclusions as to how specific properties fit the Statewide Planning Goals, while addressing local needs.

### **2.7 Coastal Shorelands Goal (#17) "Linkage" Findings**

#### **2.7.1 Introduction**

*Goal #17 requires certain findings for most categories of uses in rural coastal shoreland areas. Specifically, water-dependent commercial and industrial uses and all water-related uses are only permitted upon a finding that these uses:*

*"satisfy a need which cannot be accommodated on shorelands in urban and urbanizable areas."*

**Findings:** The CBEMP designates subject property as water-dependent development shorelands because it was found at the time of the development of the Plan in the 1980's that there was a need for water-dependent industrial use, which could not be accommodated on shorelands in urban or urbanizable areas. This was the basis of the 16-WD, 16-Water-Dependent Development designation that is currently applicable to subject property. Subject property was

determined to be “suitable” for water-dependent development use, and this suitability is addressed within the Special Considerations maps as follows:

- Map #23, Development Needs Map, “Scenario #1 Development Needs: IATF Decisions (1980-81)\* See Attachment L.
- Map #29, Goal #17 and #18 “Linkage” Matrix.

The water-dependent development zone does not allow non-water-dependent/related residential use at this time.

### ***APPENDIX 3, VOLUME II – CBEMP, POLICIES***

#### ***#3. Use of “Coos Bay Estuary Special Considerations Map” as the Basis for Special Policies Implementation***

*Local governments shall use the “Coos Bay Estuary Special Considerations Map” as the basis for implementing the special protection.*

*I. The “Coos Bay Estuary Special Considerations Map” which is a series of color mylar overlays, shall delineate the general boundaries (plan inventory maps contain more precise boundary locations) of the following specific areas covered by the Coos Bay Estuary Management Plan:*

- a. Coos Bay Estuary Coastal Shorelands Boundary;*
- d. Agricultural Lands Designated for Exclusive Farm Use, and “Wet Meadow” Wetlands;*
- i. Forest Lands.*

*II. Specific Plan provisions set forth elsewhere as Policy and relating to the above listed considerations shall be used in conjunction with the “Special Considerations Map”; such Plan provisions include requirements set forth in “Unit Management Objectives”, “Allowed Uses and Activities in Management Units” . . .*

**Findings:** “Special Considerations” Maps provide documentation of the inventory, and record the conclusions and considerations of analysis applicable to the shorelands and waters of the Coos Bay Estuary. Subject property lies within the Coastal Shorelands Boundary. Special considerations maps designate agricultural lands and forestlands, if and where applicable. Special considerations maps address subject property and the water-dependent uses and activities that were allowed in management unit 16-WD.

**Maps #2, #8 and #9:** These maps show natural channels in the water west of Pierce Point. The maps find that these natural channels are suitable for use in moving logs, as envisioned in the current management unit 16-WD that was developed in the early 1980’s.

**Findings:** The natural channels contributed to the “suitability” of the site for the specific water-dependent industrial use that was envisioned – moving logs from the timberlands located east of the Coos Bay Estuary to the mill and adjacent highway and rail located on the west side of the Bay within the City of North Bend.



**Map # 6:** This map depicts estuarine wetlands at Willanch Inlet, on the east of subject property, and north of Willanch Slough. The area has been diked, and is also identified on Special Considerations Map 5.

**Findings:** The estuarine wetlands cover only a portion of subject property. Maintaining the wetlands and the required riparian setbacks will not prevent residential use of subject property; policies set forth in the proposed management unit, 16-RS includes provisions to protect and maintain the wetlands.

**Map #18:** This map shows that subject property is served by the North Bend School District and the North Bay Rural Fire District.

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**Map #22:** This map, "Schematic Land and Water Ownership Patterns," shows the general boundary of subject property within the ownership of "Lumber and Wood Products (Major Firms)," Attachment K.

**Findings:** The inventory document, Map #22 is incorrect at this time because the ownership of subject property has changed. Subject property is no longer within the ownership of a major firm, and lumber and wood products are not likely uses for the future.

**Map #23:** This map entitled, "Development Needs Map," provides "Scenario #1 Development Needs: IATF Decisions (1980-81):\*" The Legend provides uses that may be allowed, and subject property is marked for "Water-Dependent, Water-Related Only" (WD, WR) and "Special Development" (SD): "Not Necessarily available for Industrial Use."

\*Note that IATF refers to the Inter Agency Task Force that made the decisions that are the basis of the Coos Bay Estuary Plan.

**Findings:** Map #23 indicates that Pierce Point was never designated for general industrial development, but rather that it was a specific-purpose industrial site due to the ownership at the time that the CBEMP was developed, and the specific plans that Weyco had for use of the property. The industrial designation of subject property is no longer suitable for the specific use that was envisioned. Weyco sold subject property, and it is unlikely that the property would be utilized for in-water storage and transport now or in the future. See Attachment L.

In an interview with Scott Starkey, general manager of The Campbell Group / Menasha, North Bend on April 29, 2013, Mr. Starkey related that in-water storage of logs is no longer a viable option. He noted that in-water storage raised concerns about bark going into the water, and restrictions are now in effect. In addition, he stated that there are now more efficient ways to transport logs by trucks. He does not expect the in-water storage to come back as a viable option.

In an interview on April 3, 2013, Oregon's Industrial Lands Specialist, Sierra Gardiner indicated that industrial sites require three components: "road, river and rail." Pierce Point is not a suitable site for general industrial use because it is lacking in two of these components. Pierce

Point is not on a major highway, and there is no rail access; in addition, other industrial infrastructure does not exist on or adjacent to the site.

**Map #24:** “Tentative Goal #16 /Goal #17 Development Priority Areas” lists the following conditions for Goal #17 (Areas “Especially Suited for Water-Dependent Uses\*”) which was a more stringent designation than the water-dependent designation, 16-WD designation: The criteria is “deep water close to shore with supporting land transport facilities suitable for ship and barge facilities” and a map of Pierce Point is included, but the site is not designated as “especially suited” by the markings on the map.

**Findings:** This indicates that the site was considered as a “priority area - especially suited” but the designation was not made. This supports the special-use designation of Map #23, Attachment L. The special use that was envisioned for subject property is no longer an option due to changing log transport methods, change in ownership, and lack of land infrastructure and facilities at the site that make the site suitable for ship and barge facilities. At the time of the development of the CBEMP Weyco intended to develop the infrastructure to utilize log rafts on the shoreland mudflats, and transport logs to the urban side of the bay, but supporting land transport facilities were never developed.

**Map #29, Goal #17 and #18 “Linkage” Matrix:** The chart is a record of the decision-making for CBEMP management units. Management units pertinent to this application include:

- Shoreland segment 15-RS, Rural Shorelands, a portion of the Coos Bay Plat of 1906.
- Shoreland segment 17-RS, Rural Shorelands, Crawford Point Addition to the City of the Coos Bay, 1907 to the south of Pierce Point.
- Shoreland segment 16-WD, Water-dependent development Shorelands (subject property).

The chart provides topics that needed to be prioritized with questions and responses to address competing expectations of the Statewide Planning Goals. The following excerpts include questions and the responses that have been determined through analysis. In addition, the linkage matrix includes specific conditions that must be applied to assure that there is compliance with the goals. For example, the analysis may show compliance with the goals, but only when there is adherence to specific conditions when property is developed. The conditions are addressed with numbers referring to footnoted conditions that are found at the bottom of the matrix.

#### **Questions and Responses from Map #29, Goal #17 and #18 “Linkage” Matrix - For Segments Located Outside UGA’s Only . . .**

**Question:** *Re. agriculture and forest soils . . . Are these agricultural or forest lands?*

**Responses:** There are no clear responses to the question – only check marks and “X”s showing consideration of the question, as follows:

Shoreland Segment 15-RS: There are checkmarks for both agricultural and forestry.

Shoreland Segment 16-WD: There is an “X” for agriculture and a checkmark for forestry

Shoreland Segment 17-RS: There are checkmarks for both agricultural and forestry.

**Findings:** There is no explanation as to the meaning of the checkmarks and “X’s” in response to this and other specific review criteria, but from analysis of the entire matrix, the checkmarks and “X’s” appear to show acknowledgment and consideration of the specific topic. Then as the chart progresses with more specific questions, the responses become, “Yes,” “No,” or “NA” (NA means not applicable). Many of the responses include numbers that refer to footnotes on the matrix, which provide further guidance as to the requirements.

***Question: If so, then: Do the segment’s uses and activities comply with LCDC Goal 3 and 4 requirements for EFU and forest uses?***

**Responses:**

Shoreland Segment 15-RS: *Yes (11)*

Shoreland Segment 16-WD: *No*

Shoreland Segment 17-RS: *Yes (11)*

*(11) All uses on Agricultural / Forest Lands are subject to Policies #28 and #34, restricting uses to those allowed in Goals #3 and #4.*

**Findings:** The matrix finds that Shoreland segments 15-RS and 17-RS (including the management objectives and permitted uses) comply with Statewide Planning Goals #3 (agriculture) and #4 (forestry), subject to specific policies. The matrix finds that shoreland segment 16-WD does not comply with these same goals. The CBEMP “Coos Bay Estuary Special Considerations Maps” does not, however, designate subject property as “agricultural lands designated for Goal 3, Exclusive Farm Use (EFU)” or as Goal 4, “forestlands.” Further analysis, however, will show that there is no inconsistency because committed lands were not required to comply with the Goal 3 and 4 exceptions.

Analysis of questions and responses dealing with rural housing and committed areas provide the background information that explains why the exception was not required. This analysis shows that subject property was first determined to be “committed lands” and then designated for the more intensive specific industrial use, which could “trump” the committed lands designation without taking an exception because it satisfied a need which could not be accommodated on shorelands in urban and urbanizable areas.” The special considerations linkage document does not designate subject property as agricultural or forest lands.

**Question:** *Re. rural housing . . . Are rural dwellings normally allowed in this segment?*

**Responses:**

Shoreland Segment 15-RS: *Yes*

Shoreland Segment 16-WD: *No*

Shoreland Segment 17-RS: *Yes*

**Findings:** The rural housing findings address the agricultural and forest question further, showing that rural housing was determined to be appropriate within the adjacent rural shorelands segments. No rural dwellings are allowed within the 16-WD industrial segment.

**Question:** *If so then: Committed area?*

**Responses:**

Shoreland Segment 15-RS: *Yes*  
Shoreland Segment 16-WD: *NA*  
Shoreland Segment 17-RS: *Yes*

**Findings:** The matrix recognizes shoreland segments 15-RS and 17-RS as committed areas. At the time of the adoption of the CBEMP, committed areas were recognized by broad designations derived from analysis and information in the inventories. Goal #3 and #4 exceptions were required to exempt agricultural and forestlands from EFU provisions, but an exception was not required for shoreland segment 16-WD because the agricultural and forestlands designations were already deemed to be “nonapplicable.” Rural housing was already established on numerous existing lots within the “committed areas.” Thousands of discreet lots existed at the time, and continue to exist within the designated committed areas of 15-RS and 17-RS.

Volume 1 of the CBEMP, Part 2, Inventories and Factual Base, Section 4.3.1 provides an exception for “committed lands” as defined (1) in general in LCDC Administrative Rule #660-04-028 and (2) in more detail within this inventory document.

#### *4.3.1 Introduction*

*Although both LCDC Goal #2, “Exceptions,” and the LCDC administrative rules for goal exceptions were revised to recognize the special circumstances involving areas that are “physically developed” or “irrevocably committed” to a non-resource use, neither the goal nor the rules define the two terms except to say that their meaning “will depend on the situation . . .” at the site and at adjacent areas. In a broad sense, the terms can be defined to mean that one or more of the following conditions exists:*

*(iii) The land has already been divided into such small parcel size that the consolidation or assemblage of parcels in sizes large enough to permit efficient resource production is no longer possible. (“irrevocably committed”)*

**Findings:** The document explains Coos County’s efforts to identify committed areas, which included areas consisting of parcels less than 10 acres in size, analysis of larger developed parcels within their specific context, and the development and use of a spatial characteristics matrix for analysis, prioritization and decision-making. In addition, other criteria such as public services, clustering, and farm and forest practices were considered. Following this, LCDC staff provided guidance and findings and conclusions included additional factors and a reevaluation. Several attempts to provide committed area findings were submitted for acknowledgment; committed area findings of 1985 were determined to take precedence.

#### *4.3.5 Discussion: Characteristics of: “Committed Areas”*

*This category encompasses a variety of differing residential land uses in rural areas including scattered subdivisions, linear development along roads, small areas of clustered residences and expansive suburban neighborhoods. Some “committed areas” have official place names and possess commercial uses and other community facilities like schools, churches or water systems. These*



*communities function as a focus of activity in the surrounding area and are identified below as "Rural Centers." Other places retain their historic place names , but no longer possess the commercial uses and community facilities . . .*

**Findings:** Worksheets are included within the document that provides analysis of committed areas throughout Coos County, and specific worksheets characterize subject property and the surrounding area.

- Handwritten worksheets for T25, R13, Sections 12, 13 and 24, "Area consists of very small developed parcels many of which are portions of existing subdivisions. Area is adjacent to the City of Coos Bay and the tidelands of Coos Bay." An area of 500 acres was determined to be committed on the worksheets for T25, R13, Sections 12, 13 and 24.
- Handwritten worksheets for T25, R13, Section 13, "Area consists of developed subdivisions and a few adjacent small parcels which have for the most part been built upon." An area of 160 acres was determined to be committed on the worksheets for T 25, R13, Section 13.
- There are additional worksheets that describe additional adjacent areas and provide similar analysis.

Questions and answers are included within the analysis, and responses are identical on the worksheets for T25, R13, Sections 12, 13, and 24, and T25, R13, Section 13 as follows:

**Question:** *Do existing adjacent uses make uses allowed by LCDC Goal 3 and 4 impracticable?*

**Response:** *Yes*

**Findings:** The worksheet analysis indicates that applying the agricultural goal, Statewide Goal #3 and the forest goal, Statewide Goal #4 "impracticable" due to adjacent uses.

**Question:** *Is the subject area generally surrounded on three or more sides by:*

- i. *other "built or committed areas", or*
- ii. *"natural boundaries or other buffers separating the exception area from adjacent resource land"?*

**Response:** *Area is surrounded by the City of Coos Bay, tidelands of Coos Bay and adjacent committed area.*

**Findings:** The responses and others contribute to the determination that subject property is irrevocably committed to rural residential use. The rural residential zoning of properties adjacent to subject property was allowed by the committed lands exception.

Regarding the industrial designation of subject property, the questions and responses in the linkage document show that the WD area was exempted from the committed area as shown by the "NA" response rather than a "No" response. This is because it would not have been appropriate to include an industrial use within an area that was determined to be committed to residential use. The area designated for industrial use was removed from the rural residential/rural shorelands designation to allow for future industrial use.

Rural housing existed on Pierce Point prior to the time that the CBEMP was adopted, but there would have been reason not to designate Pierce Point (subject property) as a committed area because any further residential development of subject property would have conflicted with expected future industrial forest use of storing and moving logs. Weyco's removal of existing housing on Pierce Point supports this premise.

At this time it is appropriate to include subject property with the adjacent committed lands in that it is already justified within the analysis as follows:

**Question:** *If so then: Rural residential goal exception?*

**Responses:**

Shoreland Segment 15-RS: *Yes*

Shoreland Segment 16-WD: *NA*

Shoreland Segment 17-RS: *Yes*

**Findings:** The responses indicate that Coos County took a rural residential goal exception that included shoreland segments 15-RS and 17-RS to allow for rural housing. Revised Coos County Comprehensive Plan, Volume 1, Part 3: Statewide Goal Exceptions (5) Rural Housing Goal Exception is summarized:

*5.3 "Irrevocably Committed" Areas Exception Justification: Conclusion: 21,742 acres of land in the unincorporated County is irrevocably committed to rural residential uses not allowed by Goals #3 and #4 because existing adjacent uses and other relevant factors of OAR 660-04-028 (2) make impracticable the uses allowed by Goals #3 and #4.*

*This conclusion is supported by reasons, findings and conclusions made for each of the 103 study areas as shown in Appendix B of the Comprehensive Plan's Housing Inventory, as modified by the findings in Appendix C of the Housing Inventory. The individual findings and conclusions for each study area result from a careful analysis of factors (a) through (g) of OAR 660-04-028 (2).*

No exception was taken to allow water-dependent industrial use because the 16-WD site lies within the area of the exception that designated those rural lands that are irrevocably committed to rural residential use.

It is now time to remove the 16-WD site that was overlaid on lands that were designated as committed lands within the rural shorelands and redesignate subject property to the new proposed 16-RS, which will extend the uses and activities allowed on adjacent lots to subject property, and disallow industrial use.

While it would be appropriate to extend one of the RS management units that would require redefining the one or both of those sites, doing so would require a number of text changes that redefine the management units within the CBEMP. Therefore, it is more efficient to utilize management unit 16-WD as it currently exists, and apply new uses and activities as in the proposed new 16-RS, Attachment J.

Subject property was already determined to be available for rural housing prior to the water-dependent designation when it was included within the committed lands exception. This was because of the existing discreet lots and development pattern; any exception for water-dependent industrial use on committed lands, however, would not have been required. If the industrial use was to be designated on lands that were designated for agriculture or forestry, an exception would have been required. Exceptions allow for specific uses where it is not possible to apply the appropriate goal due to compelling reasons and facts showing why the goals cannot be applied. Committed lands are already an exemption from goal requirements due to specific circumstances. The process is outlined within this document.

The Coos County Comprehensive Plan Volume 1, part 1 also addresses “committed lands” and the reconciliation of such lands with the requirements of the agricultural goal, Goal #3, and the forest goal, Goal #4. Here is the discussion:

*Alternative 3 - The "Goal-balancing" Alternative*

*This alternative represents a conscious effort to reconcile the citizens' proposals (in Alternative 2, above) with the Statewide Planning Goals.*

*Part of future residential growth is proposed to occur in "committed areas." The balance of rural residential land is justified site-specifically on the basis of need and suitability for development, through an exception to Goals #3 and #4 (Agricultural and Forest Lands). Potential industrial sites are identified as stated in the "Industrial Land Needs" section, according to current industrial use, County Assessor's classification, and sites identified previously by Coos-Curry-Douglas Economic Improvement Association. These sites will be evaluated and selected on the basis of locational and site suitability criteria following completion of the Coos Bay and Coquille River Estuary Plans.*

*All lands not otherwise justified for residential, commercial, industrial, or recreational development or special resource protection are designated agricultural or forest lands. Agricultural lands are differentiated from Forestlands on the basis of the following criteria:*

*1. Main criterion: Agricultural Lands Inventory*

*Land identified on the agricultural lands inventory (as Class I-IV soils or "other lands" suitable for agricultural use) are designated as agricultural lands, with the following exceptions:*

- i. Committed rural residential areas and urban growth areas.*
- ii. Proposed rural residential areas as per the Exception to Goals #3 and #4.*
- iii. Proposed industrial/commercial sites.*

*2. Secondary criterion: Existing Land Use Inventory and Air Photos*

*All other areas are designated as forestlands: this includes certain areas of Class I-IV soils under forest cover, as specified in (v) and (vi) above. It is considered that resource values are equally well protected by designating these lands as forest lands, provided implementation requirements are consistent with the Agricultural Lands Goal, in accordance with the LCDC policy paper, "Agriculture/Forestry Inter-relationship."*

**Findings:** Subject property and adjacent rural shorelands were designated as committed rural residential areas by the CBEMP, and as such they are exempt from designations to protect agricultural lands and forestlands.

Coos County's Zoning and Land development Ordinance defines agricultural lands as those lands designated in the Coos County Comprehensive Plan, Volume I, "Balance of County" for inclusion in Exclusive Farm Use (EFU) Zones; subject property is not included. Forestlands are designated in the Coos County Comprehensive Plan (Volume I-"Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use. Subject property is not included as forestland.

**Question:** *For single-family dwellings on existing parcels: Are such compatible with adjacent coastal waters?*

**Responses:**

Shoreland Segment 15-RS: *Yes*

Shoreland Segment 16-WD: *NA*

Shoreland Segment 17-RS: *Yes*

**Findings:** Single-family dwellings are determined to be compatible with the adjacent coastal waters on existing parcels within shoreland segments 15-RS and 17-RS. There was no such determination for shoreland segment 16-WD because rural residential was not the highest and best use of segment 16-WD envisioned at the time. Shoreland segment 16-WD is, however, a continuation of upland landforms and discreet lots and properties that have been platted for residential for more than a century. Subject property was designated industrial because of a special use that was envisioned, but the opportunity no longer exists.

If updated, the response for segment 16-WD today would reflect the current opportunities for subject property, by modifying "NA" response. The modified response would be, "Yes," single-family dwellings on the existing parcels of subject property are compatible with adjacent coastal waters.

**Question:** *Re. water-dependent commercial & industrial uses & water-related uses . . . Does the segment allow these?*

**Responses:**

Shoreland Segment 15-RS: *No*

Shoreland Segment 16-WD: *Yes (10)*

Shoreland Segment 17-RS: *No*

*(10) These uses are only permitted subject to Policy 14: "General Policy on uses with Rural Coastal Shorelands." Goal requirements are satisfied by making necessary findings. See "General Conditions" for each segment.*

**Question:** *If so then: Are such necessary to satisfy a need which cannot be accommodated in cities and Urban Growth Areas?*

**Responses:**

Shoreland Segment 15-RS: *NA*

Shoreland Segment 16-WD: *Yes*

Shoreland Segment 17-RS: *NA*

**Findings:** Water-dependent use was allowed on subject property to satisfy an identified need for industrial land. Subject property was identified for a specific use, to allow activities that were commonly practiced in the forest industry at the time that the CBEMP was acknowledged in the early 1980's. The allowance of the forest industry use could now be likened to an earlier version of the current "super siting" provision that allows for needed employment lands. The forest use is no longer anticipated. The question and answer today should be amended as follows to accommodate the proposed 16-RS designation:

**Question:** Re. water-dependent commercial & industrial uses & water-related uses . . .

Does the segment allow these?

**Response:** Shoreland Segment 16-WD: No

**Question:** *If so then: Are such necessary to satisfy a need which cannot be accommodated in cities and Urban Growth Areas?*

**Response:** Shoreland Segment 16-WD: *NA*

II. *Specific Plan provisions set forth elsewhere as Policy and relating to the above-listed considerations shall be used in conjunction with the "Special Considerations Map"; such Plan provisions include requirements set forth in "Unit Management Objectives", "Allowed Uses and Activities in Management Units", and the following specific "Functional" Policies set forth below:*

#14 *General Policy on Uses within Rural Coastal Shorelands*

#16 *Protection of Sites Suitable for Water-Dependent Uses (within UGBs) and Special Allowance for New Non-water-Dependent Uses in "Urban Water-Dependent (UW)"*

#16a *Minimum Protected Acreage Required for County Estuarine Shorelands*

**#14 General Policy on Uses within Rural Coastal Shorelands**

*Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management segments of this Plan, except for areas where mandatory protection is prescribed by LCDC Goal #17 and CBEMP Policies #17 & #18:*

- a. *Farm use as provided in ORS 215.203;*
- b. *Propagation and harvesting of forest products;*
- e. *Water-dependent commercial and industrial uses, water-related uses, and other uses, only upon a finding by the Board of Commissioners or its designee that such uses satisfy a need which cannot otherwise be accommodated on shorelands in urban and urbanizable areas or in rural areas built upon or irrevocably committed to non-resource use.*



**Findings:** Subject property was not designated for farm or forest use because it was irrevocably committed to residential use. Subject property was designated for water-dependent industrial use based upon the findings that the use satisfied a need which could not otherwise be accommodated on shorelands in urban and urbanizable areas. This policy states that water-dependent industrial uses may be allowed on rural areas that are irrevocably committed to non-resource use. Subject property fit this rule, and CBEMP management unit 16-WD was so designated. Now that subject property no longer “satisfies the need” due to the special nature of the use that was anticipated, it is appropriate to remove the water-dependent industrial designation in order to free the property to be utilized for a more appropriate use. When the 16-WD designation is removed, it is appropriate for subject property to revert to the committed lands designation that is compatible with adjacent rural shoreland areas.

- f. Single family residences on lots, parcels, or units of land existing on January 1, 1977, when it is established that:*
- 2. The dwelling is in a documented “committed” area, or*
  - 3. The dwelling has been justified through a goal exception; and*
  - 4. Such uses do not conflict with the resource preservation and protection policies established elsewhere in this Plan;*

**Findings:** Subject property is made up of lots, parcels or units of land existing 70 to 71 years prior to January 1, 1977, and currently existing for more than 100 years. All of the analysis to assure that the committed area adjacent to Pierce Point is not in conflict with the resource preservation and protection policies established within the CBEMP is documented within the plan and the inventories. The linkage findings, special considerations maps, committed lands worksheets, and other inventory documents provide the basis for the policies and prioritizations of the plan.

At this time it is appropriate to recognize the tax lots on Pierce Point as “committed lands” and to remove the water-dependent designation to accommodate the specific industrial use that was formerly envisioned. Doing so will not change the findings in any way except as addressed within this document. The Goal 17 and 18 “Linkage Matrix” indicates that shoreland segment 16-WD does not comply with Goal #3 and #4 requirements for EFU and Forest Use, while adjacent segments 15-RS and 17-RS are found to comply, subject to conditions. Applying the “committed” lands designation and allowing residential use on the existing discreet parcels within the 15-RS and the 17-RS was found to comply at the time that the CBEMP was acknowledged, and the recognition of Pierce Point as “committed” lands constitutes a finding of compliance for the designation of 16-RS today.

Removing the special designation that allowed water-dependent industrial use recognizes that there is no longer a need for the forest use. Downzoning subject property recognizes the existing pattern of discreet lots and rural residential development that was addressed when the CBEMP was acknowledged, and respects the requirements of Statewide Planning Goals #3 and #4.

- g. Any other uses including non-farm uses and non-forest uses, provided that the Board of Commissioners or its designee determines that such uses satisfy a need which*

*cannot be accommodated at other upland locations or in urban or urbanizable areas. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.*

**Findings:** Lots within the Coos Bay Plat of 1906, and the Crawford Point Addition to the south, and other areas along the east side of the Coos Bay Estuary include thousands of discreet lots identified as "committed" areas when the CBEMP and balance of Coos County Plans were developed. Such uses were determined not to conflict with the resource preservation and protection policies established within the Coos County Comprehensive Plan in order to provide rural residential lands on tableland above the Coos Bay Estuary while allowing for the use of the discreet parcels and continuing a pattern of rural residential land use that had existed for decades.

#16 Protection of Sites Suitable for Water-Dependent Uses and Special Allowance for new Non-Water-Dependent Uses in "Urban Water-Dependent (UW) Units"

*Local government shall protect shorelands in the following areas that are suitable for water-dependent uses, for water-dependent commercial, recreational and industrial uses.*

- b. Rural areas built upon or irrevocably committed to non-resource use; and*

*This strategy is implemented through the Estuary Plan, which provides for water-dependent uses within areas that are designated as Urban Water-Dependent (UW) management units.*

- I. Minimum acreage. The minimum amount of shorelands to be protected shall be equivalent to the following combination of factors:*
  - a. Acreage of estuarine shorelands that are currently being used for water-dependent uses; and*
  - b. Acreage of estuarine shorelands that at any time were used for water-dependent uses and still possess structures or facilities that provide or provided water-dependent uses with access to the adjacent coastal water body. Examples of such structures or facilities include wharves, piers, docks, mooring piling, boat ramps, water intake or discharge structures and navigational aids.*

**Findings:** Subject property is designated for water-dependent use, but it has historically not been utilized for water-dependent use, so there are no facilities such as wharves, piers, docks, mooring piling, boat ramps water intake or discharge structures, or navigational aids to be considered.

- II. Suitability. The shoreland area within the estuary designated to provide the minimum amount of protected shorelands shall be suitable for water-dependent uses. At a minimum such water-dependent shoreland areas shall possess, or be capable of possessing, structures or facilities that provide water-dependent uses with physical access to the adjacent coastal water body. The designation of such areas shall comply with applicable Statewide Planning Goals.*

#16a Minimum Protected Acreage Required for County Estuarine Shorelands

Coos County designates as water-dependent shorelands any shorelands with the Coos Bay Estuary whose total acreage is equal to or greater than the minimum acreage of water-dependent shorelands calculated for the Coos Bay Estuary by combining the inventories of Coos County and the City of North Bend.

The following chart shows acreages that were available and zoned for water-dependent use and acreages that were required to be protected by DLCD for each jurisdiction on the Coos Bay Estuary.

<b><i>Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary</i></b>			
<b><i>Jurisdiction</i></b>	<b><i>Acreage Available and Zoned for Water-Dependent Use</i></b>	<b><i>Acreage to be Protected for Water-Dependent Use</i></b>	<b><i>Date of Data</i></b>
<i>Unincorporated Coos County</i>	<i>1440.50 acres</i>	<i>496.52 acres</i>	<i>January 1, 2000</i>
<i>City of North Bend</i>	<i>5.42 acres</i>	<i>96.33 acres</i>	<i>2006 data as amended</i>
<b><i>Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend</i></b>	<i>1445.92 acres</i>	<i>592.85 acres</i>	<i>September 27, 2006</i>
<i>*City of Coos Bay</i>	<i>106.89 acres</i>	<i>76.18 acres</i>	<i>January 1, 2000</i>

*\*City of Coos Bay chose not to participate in combining the City's water-dependent acreage*

Use of the acreage in the Combined Inventory for the Coos Bay Estuary on and Estuary-Wide Basis shown in the chart entitled, *Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary* will be coordinated by Coos County.

Any proposal to utilize unincorporated acreage to supply inventory for the City of North Bend from the unincorporated Coos County Acreage Available and Zoned for Water-Dependent Use in the chart entitled *Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary* will be subject to amendments of the Coos County Plan Inventory Document, Volume II, Part, 1 Plan Policy 16a.

**Findings:** Removing the water-dependent designation from subject property is subject to information within the chart entitled, "Acreage Available and Zoned for Water-Dependent Use" and "Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary." The chart

notes that the unincorporated area of Coos County is required to maintain 496.52 acres protected for water-dependent use, and this is shown in the middle column of the chart.

The proposal is to remove 34.04 acres from the water-dependent acreage that currently exists within the unincorporated portion of Coos County. There are currently 1440.50 acres available and zoned for water-dependent use within the unincorporated area of Coos County. When this application is approved, the remaining acreage available and zoned for water-dependent use is 1406.46 acres. This amount is reflected in the amended chart below, highlighted in gray.

When the 34.04 acres is removed from the unincorporated Coos County inventory, the “Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend” is revised to 1411.88 acres, which is reflected on the chart below.

When this application is approved, the middle column, “Acreage to be Protected for Water-Dependent Use” remains the same because the requirement will not change.

The applicant is unsure as to the information that is appropriate for the “Date of Data” column on the right, which may need to be amended; a question mark is inserted within this column.

Finally, the Date of Data for the Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis will need to be amended to reflect the date that this application is approved, as shown on the final column to the right at the end of the chart.

<i><b>Proposed Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary</b></i>			
<i><b>Jurisdiction</b></i>	<i><b>Acreage Available and Zoned for Water-Dependent Use</b></i>	<i><b>Acreage to be Protected for Water-Dependent Use</b></i>	<i><b>Date of Data</b></i>
<i>Unincorporated Coos County</i>	<del>1440.50 acres</del> 1406.46 acres	496.52 acres	January 1, 2000 ?
<i>City of North Bend</i>	5.42 acres	96.33 acres	2006 data as amended
<i>Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend</i>	<del>1445.92 acres</del> 1411.88 acres	592.85 acres	September 27, 2006 Date of approval of Amendment needs to be inserted.
<i>*City of Coos Bay</i>	106.89 acres	76.18 acres	January 1, 2000

Assuming that the chart is up to date for both Coos County and the City of North Bend at this time, unincorporated Coos County and City of North Bend combined inventory acreage available and zoned for water-dependent use on the Coos Bay Estuary will be 1411.88 acres when this application is approved.

The proposed rezoning of subject property is appropriate because the water-dependent use of subject property is not likely to occur for the forest industry use that was envisioned, and the amount of water-dependent acreage remaining that is available and zoned for water-dependent use in the combined inventory of the City of North Bend and unincorporated Coos County is 819.03 acres in excess of the amount that is required to be maintained by Policy 16a.

#### **OAR 660-037-0010**

##### ***Purpose Statement***

*The purpose of this division is to implement Coastal Shoreland Uses Requirement 2 of Goal 17 Coastal Shorelands (OAR 660-015-0010(2)) regarding water-dependent shorelands in estuaries. This division explains how to calculate the minimum amount of shorelands to be protected for water-dependent uses. This division also identifies the qualifications of shorelands suitable for water-dependent uses as well as suggested land use regulations for implementation.*

#### **660-037-0030**

##### ***Statement of Applicability***

*(1) This division applies to any post-acknowledgment plan amendment or periodic review work task that:*

- (a) Would directly affect a designated water-dependent shoreland site; and*
- (b) Is initiated on or after the effective date of this division.*

*(2) For purposes of this division, a designated water-dependent shoreland site is directly affected when any post-acknowledgment plan amendment or periodic review work task would:*

- (b) Allow or authorize a nonwater-dependent use or activity at a site, unless the use or activity is a "permissible nonwater-dependent use" as allowed by Goal 17 Coastal Shoreland Uses.*

#### **660-037-0040**

##### ***Definitions***

*For purposes of division 037, the definitions contained in ORS 197.015 and the Statewide Planning Goals (OAR chapter 660, division 015) apply. In addition, the following definitions apply:*

*(1) "Designated water-dependent shoreland site" means an estuarine shoreland area designated in a comprehensive plan and land use regulation to comply with Coastal Shoreland Uses Requirement 2 of Goal 17, Coastal Shorelands (OAR 660-015-0010(2)).*

*(4) "Post-acknowledgment plan amendment" means an action taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. The term does not include periodic review actions.*



**Findings:** Subject property is a water-dependent shoreland site, and the proposal is a post-acknowledgment plan amendment. The proposal will authorize a nonwater-dependent use or activity on subject property.

(6) *"Water-Dependent Use".*

(a) *The definition of "water-dependent" contained in the Statewide Planning Goals (OAR Chapter 660, Division 015) applies. In addition, the following definitions apply:*

(b) *Typical examples of water dependent uses include the following:*

(c) *For purposes of this division, examples of uses that are not "water dependent uses" include restaurants, hotels, motels, bed and breakfasts, residences, parking lots not associated with water-dependent uses, and boardwalks.*

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**Findings:** The proposed use, residential, is not a "water dependent use."

**660-037-0050**

***Minimum Water-Dependent Shoreland Protection Acreage***

(1) *Estuarine cities and counties shall protect for water-dependent industrial, commercial, and recreational uses a minimum amount of shorelands suitable for water-dependent uses.*

(2) *Estuarine cities and counties shall calculate the minimum amount of shorelands to be protected within their respective political boundaries based on the following combination of factors as they may exist:*

(a) *Current Water-Dependent Use -- Acreage of estuarine shorelands that are currently being used for water-dependent uses; and*

(b) *Former Water-Dependent Use -- Acreage of estuarine shorelands that at any time were used for water-dependent uses and still possess a structure or facility that provides water-dependent access.*

(c) *For purposes of this rule, the calculation of the minimum amount of shorelands to be protected shall include storage and other backup land that is, or in the case of former water-dependent uses was, in direct support of the water-dependent use at the site.*

(3) *The minimum amount of shorelands to be protected in each estuary as a whole shall be equivalent to the sum of the minimum acreage calculations for each city and the county in the estuary.*

(4) *To calculate the minimum water-dependent shoreland protection acreage required by this rule, local governments may:*

(a) *Rely on data from local assessor maps or from plat maps that were officially adopted as part of a locally approved development plan;*

(b) *Generate original acreage data from orthorectified aerial photography;*

(c) *For shoreland parcels with a mixture of water-dependent and nonwater-dependent uses, visually approximate the acreage after examining assessor maps or plat maps, or after making a physical reconnaissance of the mixed-use shoreland sites; or*

(d) *Any other valid source as appropriate.*

**Findings:** The acreage chart from the Coos County ordinance, Appendix 3, Volume II, CBEMP Policies has taken all of the requirements of 660-037-0050 Minimum Water-Dependent Shoreland Protection Acreage into account, and it is appropriate to utilize the calculations that

exist within the County plan, and amend them as proposed within this document in order to reduce the water-dependent shorelands and maintain the appropriate amount of acreage to be protected for water dependent use in the Coos Bay Estuary. The analysis for this has been previously presented within this document.

#### **660-037-0060**

##### ***Designate Water-Dependent Shorelands***

*(1) Estuarine city and county comprehensive plans shall designate as water-dependent shorelands a sufficient total acreage that is equal to or greater than the minimum water-dependent shorelands acreage calculated by OAR 660-037-0050 above. In addition, all shorelands designated in accordance with this rule shall satisfy the water-dependent access locational criteria of OAR 660-037-0070 below.*

*(2) Designation Options. Either Option A or Option B:*

*(a) Option A: An individual estuarine city or county may designate as water-dependent shorelands any shorelands within its planning jurisdiction the total acreage of which is equal to or greater than the minimum acreage of water-dependent shorelands calculated for protection in OAR 660-037-0050 above.*

*(3) Local governments are encouraged to designate and protect as water-dependent shorelands an amount that is greater than the minimum required to be protected by this division. This "excess capacity" may be beneficial to achieving local economic objectives over the long term.*

**Findings:** The proposal to maintain 819.03 acres in excess of the required Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend assures that there will be opportunities to utilize water-dependent acreage in the future, which may be beneficial to achieving local economic objectives over the long term.

#### **660-037-0070**

##### ***Water-Dependent Shoreland Locational and Suitability Criteria***

*(1) A proposal to designate lands as water-dependent shorelands in accordance with OAR 660-037-0060 above shall meet all of the following minimum locational and suitability criteria:*

*(a) The proposed shoreland site is within an urban or urbanizable area, or if in a rural area it is built upon or irrevocably committed to non-resource use or is designated in accordance with OAR Chapter 660, Division 022 Unincorporated Communities.*

**Findings:** Subject property is the continuation in the pattern of zoning that includes rural shorelands that were irrevocably committed to a non-resource use at the time that the CBEMP was acknowledged.

*(b) The designated water-dependent uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse effects.*

*(c) The proposed shoreland site and its designated uses and activities comply with all applicable Statewide Planning Goals, in particular with Goal 16 Estuarine Resources, and with the Goal 2 Exceptions process if applicable.*

**Findings:** The current water dependent zoning of subject property is not entirely compatible with the adjacent rural residential use on committed lands in 15-RS and 17-RS. The site was deemed compatible at the time of the acknowledgement of the CBEMP because the use that was envisioned was a single-purpose industrial use that involved moving logs from the site into the waters of the Coos Bay Estuary. No intense industrial facilities or infrastructure were developed to serve the industrial use. The envisioned use was compatible with rural residential use, but likely not all industrial uses would be compatible. The proposed residential use of subject property will be compatible with all adjacent properties.

*(A) Any water-dependent shoreland site acknowledged to comply with the Statewide Planning Goals without needing a Goal 2 Exception prior to the effective date of this division and that is selected to provide a jurisdiction's minimum shorelands acreage for water-dependent protection is deemed to comply with this rule provided there are no changes to the following:*

*(i) The size or shape of the site; or*

*(ii) The uses or activities allowed or authorized at the site, unless the use or activity is a "permissible nonwater-dependent use" as allowed by Goal 17 Coastal Shoreland Uses Requirement 2 (OAR 660-015-0010(2)).*

*(d) The proposed shoreland site possesses or is planned for land-based transportation and public utility services appropriate for the designated uses. Considerations should include the following: availability of public sewers, public water lines, and adequate power supply; and access to the area for truck and rail, if heavy industry is to be accommodated.*

**Findings:** While this application does not include proposals for designating any water-dependent shoreland site, it is appropriate to note that availability of public sewers, public water, and access to the area for truck and rail are important if a site is proposed for water-dependent use. Subject property does not have public sewers, public water, or rail access that would accommodate heavy industry, and as such, it would not likely be designated as an industrial water-dependent site today. This is another reason that it is appropriate to remove the water-dependent industrial designation at this time.

**660-037-0090**

***Rezoning of Qualifying Shorelands to Nonwater-Dependent Uses***

*(1) Any amendment to an acknowledged comprehensive plan or land use regulation under this rule must comply with all applicable Statewide Planning Goals. For purposes of this division, such applicable Goals include but are not limited to the following: Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces (OAR 660-015-0000(5)); Goal 7, Natural Hazards (660-015-0000(7)); Goal 16, Estuarine Resources (660-015-0010(1)); and Goal 17, Coastal Shorelands (660-015-0010(2)). In Goal 16, the designation of estuarine management units is based in part on the uses of the adjacent shorelands. Consequently, any change to shoreland designations and allowed uses being proposed under this division must include consideration of*

*affected estuarine management unit designations and allowed uses. This is particularly important in situations where the level of development designated in the adjacent estuarine management unit was acknowledged through a Goal 2 Exception; retaining that level of estuarine development would no longer be justified without taking a new Goal 2 Exception.*

**Findings:** The water-dependent zoning and envisioned development was not acknowledged through a Goal 2 Exception, although adjacent City of Coos Bay aquatic segments include 15-NA, Natural Aquatic and 16-CA, Conservation Aquatic. Some industrial uses would not have been compatible with adjacent Goal 16 aquatic designations, and would likely not be so today; subject property was not envisioned for more than one specific industrial use that is no longer available at the site. The proposed residential use of the site will be required to comply with conditions that address Goal 5 protections, Goal 7 natural hazards and Goal 17 coastal shorelands. Residential use will be a better fit for subject property in that it is less intense than the industrial water-dependent zoning, and more compatible with the adjacent aquatic designations.

*Volume II. Coos Bay Estuary Management Plan, Part 3. "Linkage," Cumulative Effects of Development and Statewide Goal Exceptions*

**2.7 Coastal Shorelands Goal #17 "Linkage Findings"**

**2.7.2 Site Specific Findings**

**Segment 16 WD**

*This segment is proposed as a future water-dependent industrial site for log storage and transport.*

*The site is selected because of its unique locational characteristics. It is:*

- (i) Close to the owner's (Weyco) timber lands, reducing the distance necessary to haul the logs by road before transfer to the water.*
- (ii) Located close to a natural channel which has sufficient depth to enable transport of log rafts with minimal maintenance dredging or minor navigational improvements.*
- (iii) Located close to Weyco Mill in North Bend via the Cooston Channel.*

*An upland site is needed for this use because of the limited amount of subtidal area available for in-water log storage and restrictions on intertidal log storage. Future expanded log storage therefore will need increasingly to go on land. The only other site on the Cooston Channel which would have suitable characteristics is Christianson Ranch, but this has great suitability for a larger space user. It is also in a rural area. There is no site in an urban/urbanizable area with the same favorable characteristics as this site.*

**Findings:** Segment 16-WD was designated as a water-dependent industrial site for log storage and transport because of locational characteristics that existed at the time. Subject property is no longer owned by Weyco; the site was no longer determined to be important for the future of their operations, and the company divested themselves of subject property. Findings that subject

property has favorable “locational” characteristics or that there is “proximity” to the owner’s timberlands are no longer factual.

In addition, the fact that subject property is close to a natural channel with sufficient depth to enable transport of log rafts with minimal maintenance dredging is not pertinent because log rafting is no longer a preferred method for log transport. This is because water changes the quality and desirability of the wood that is manufactured from the logs. Water logged and stained wood is not marketable, so water storage and transport is no longer a common practice. Finally, there is no Weyco Mill in North Bend at this time. The former mill property has been the site of the Mill Casino since the mid-1990’s. Characteristics of subject property are no longer favorable for the intended industrial use that is described in the CBEMP’s 2.7.2, site-specific findings for segment 16-WD. It is appropriate to designate subject property Management Unit 16-RS, Rural Shorelands.

### ***Coos County Zoning and Land Development Ordinance of 1985***

*Article 4.5 CBEMP Zoning Districts/Uses and Activities/Land Development Standards  
SECTION 4.5.100. Purpose. The purpose of this Article is to provide requirements pertaining to individual zoning districts in accordance with the Coos Bay Estuary Management Plan. Such requirements are intended to achieve the following objectives:  
(1) To encourage the most appropriate use of land and natural resources.  
(2) To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements.  
(3) To secure safety from flood or other natural hazard.  
The land development standards of Table 4.5 shall govern all development within the Coos Bay Estuary Shoreland Districts.*

**Findings:** The 16-RS designation encourages the most appropriate use of land and natural resources for subject property because it coordinates the use of subject property with the current development pattern adjacent to the site on both the north and south, and utilizes the committed lands exception that was established within the CBEMP when it was acknowledged. Subject property has been utilized for residential use in the past, and transportation is available to the site from East Bay Drive. Public water and sewer is not available to the site, and it will be necessary to consolidate existing lots that were platted in 1906 in order to allow for private facilities. Subject property is close to the communities of Coos Bay and North Bend, and to beaches, dunes, and other outdoor amenities. Subject property is within the North Bend School District and the North Bay Rural Fire District. All of the provisions for natural hazard protections and other goal requirements are set forth within the proposed 16-RS designation.

## **APPENDIX 3, VOLUME II – CBEMP, POLICIES**

### **#36 Plan Update**

*Coos County shall: a) conduct a formal review of this the Plan, including inventory and factual base and implementing measures to determine if any revision is needed; b) shall base its review*



*upon re-examination of data, problems and issues; c) shall issue a public statement as to whether any revision is needed; d) shall coordinate with other jurisdictions which are included within the Coos Bay Estuary and its shorelands; and e) shall incorporate public input into its decision.*

*Coos County may rely on the formal "Periodic Review" process of this Plan to satisfy the requirements of this policy.*

*This strategy is based on the recognition that a formal periodic review is necessary to keep this Plan current with local situations and events which may change from time-to-time and reduce the Plan's ability to effectively and appropriately guide growth of the Coos Bay Estuary and its shorelands.*

*Coos County shall approve minor revisions/amendments to its Comprehensive Plan when justified. Minor revisions/amendments are smaller in scope than major revisions/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.*

*The County shall undertake special studies and projects deemed beneficial and/or necessary to the community, to keep key inventories current which are the factual basis of this Plan. This policy shall be implemented through Planning efforts to keep a statistical data base on Coos County's changing socio-economic characteristics (including, but not limited to, population and housing data, employment statistics, traffic counts, agricultural production, etc). The County encourages agency cooperation in providing relevant new data as it is published.*

*This policy recognizes the necessity of keeping key planning information current, and further, that County efforts to do so would be largely limited to collecting and analyzing data compiled initially by other agencies. Further, the policy recognizes that special projects (i.e., neighborhood traffic studies) may be necessary to help resolve unanticipated small- scale community problems.*

*The policy recognizes: a. the Planning Department may conduct the necessary research or contract with a consultant (if dollars are available); b. the County may continue with a skeletal long-range planning staff necessary to provide technical support in efforts to maintain and update the Plan; and c. state funds might be available to help defray the local costs of such activities.*

**Findings:** This consolidated application justifies three post-acknowledgement plan amendments to the Coos Bay Estuary Management Plan (CBEMP) including two text amendments and one map Amendment:

- a. Amend the Coos Bay Estuary Management Plan map to change the 16-Water-Dependent Development Shorelands, 16-WD designation, to the proposed 16-Rural Shorelands, 16-RS designation.
- b. Amend Volume II, Part I, Plan Provisions of the Coos Bay Estuary Management Plan text to change the management objective, uses,

- activities and special conditions of existing estuary management unit 16-Water-Dependent Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS) Attachment J;
- c. Amend Coos County Comprehensive Plan, Volume II, Plan Policy 16a to adjust the protected water-dependent acreage available and zoned for water dependent use as presented within this document.

***Coos County Comprehensive Plan, Volume II. Coos Bay Estuary Management Plan, Part 1. Plan Provisions.***

***2.1 Plan Amendments/Revisions and Periodic Review***

- I. Coos County may rely on the formal "Periodic Review" process to satisfy the requirements of this policy.*

*Coos County shall conduct a formal review of the Plan, including inventory and factual base and implementing measures to determine if any revision is needed; base its review upon re-examination of data, problems, and issues; issue a public statement as to whether any revision is needed; coordinate with other jurisdictions which are included within the Coos Bay Estuary and its shorelands; and incorporate public input into its decision.*

*This strategy is based on the recognition that a formal periodic review is necessary to keep this Plan current with local situations and events which may change from time-to-time and reduce the Plan's ability to effectively and appropriately guide growth of the Coos Bay Estuary and its shorelands.*

*Coos County shall approve minor revisions/amendments to its Comprehensive Plan when justified. Minor revisions/amendments are smaller in scope than major revision/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.*

- II. The County shall undertake special studies and projects deemed beneficial and/or necessary to the community to keep current key inventories, which are the factual basis of this Plan.*

*This policy shall be implemented through on-going Planning efforts to keep a statistical data base on Coos County's changing socio-economic characteristics (including, but not limited to, population and housing data, employment statistics, traffic counts, agricultural production, etc.). The County welcomes agency cooperation in providing relevant new data as it is published.*

*This policy recognizes the necessity of keeping key planning information current and, further, that County efforts to do so would be largely limited to collecting and analyzing data compiled initially by other agencies. Further, the policy recognizes that special projects (i.e.,*

neighborhood traffic studies) may be necessary to help resolve unanticipated small-scale community problems.

- III. The policy recognizes:
- the Planning Department may conduct the necessary research or contract with a consultant (if dollars are available);*
  - a. *the County may continue with a skeletal long-range planning staff necessary to provide technical support in efforts to maintain and update the Plan; and*
  - b. *state funds might be available to help defray the local costs of such activities.*

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*Minor revisions/amendments are expected to occur when public needs and desires change and when development occurs at a different rate than contemplated by this Plan. Major revisions/amendments will include changes in the management objectives and classifications for management units and changes in bay-wide policies, while minor changes will include changes in uses and activities allowed and changes in standards and conditions. This is because the scope of those changes identified as "Major Revisions/ Amendments" is much greater than other plan changes because management objectives, unit classifications, and policies form the basis for each unit's uses and activities.*

*Each jurisdiction shall be responsible for complying with the notice requirements of ORS 197 for those amendments within its jurisdictional boundaries.*

**Findings:** The amendments that are proposed at this time are the result of changing issues and activities over time. The amendments are technically major amendments in that this application includes proposed changes to one management unit, including the objective, classification, activities and policies. In addition, there are proposed changes to the text of the ordinance to reflect the changes in the inventory of water-dependent lands.

The proposed changes are minor in the aspect that all of the proposed changes have previously been addressed within the inventories and analysis of the CBEMP. All of the proposed amendments are consistent with the Coos County Comprehensive Plan and its policies.

Approval of this consolidated application is an opportunity for Coos County to update the plan map and text to reflect changing conditions.

## **2.2 Major and Minor Revisions/Amendments**

*When major changes are proposed, issues, problems, and alternatives will be identified, taking into consideration social, economic, energy and environmental needs existing at the time of the proposed revision/amendment. The Statewide Planning goals and state statutes in effect at the time, along with documented changes in local conditions and/or circumstances, shall serve as the basis of any major Plan change.*

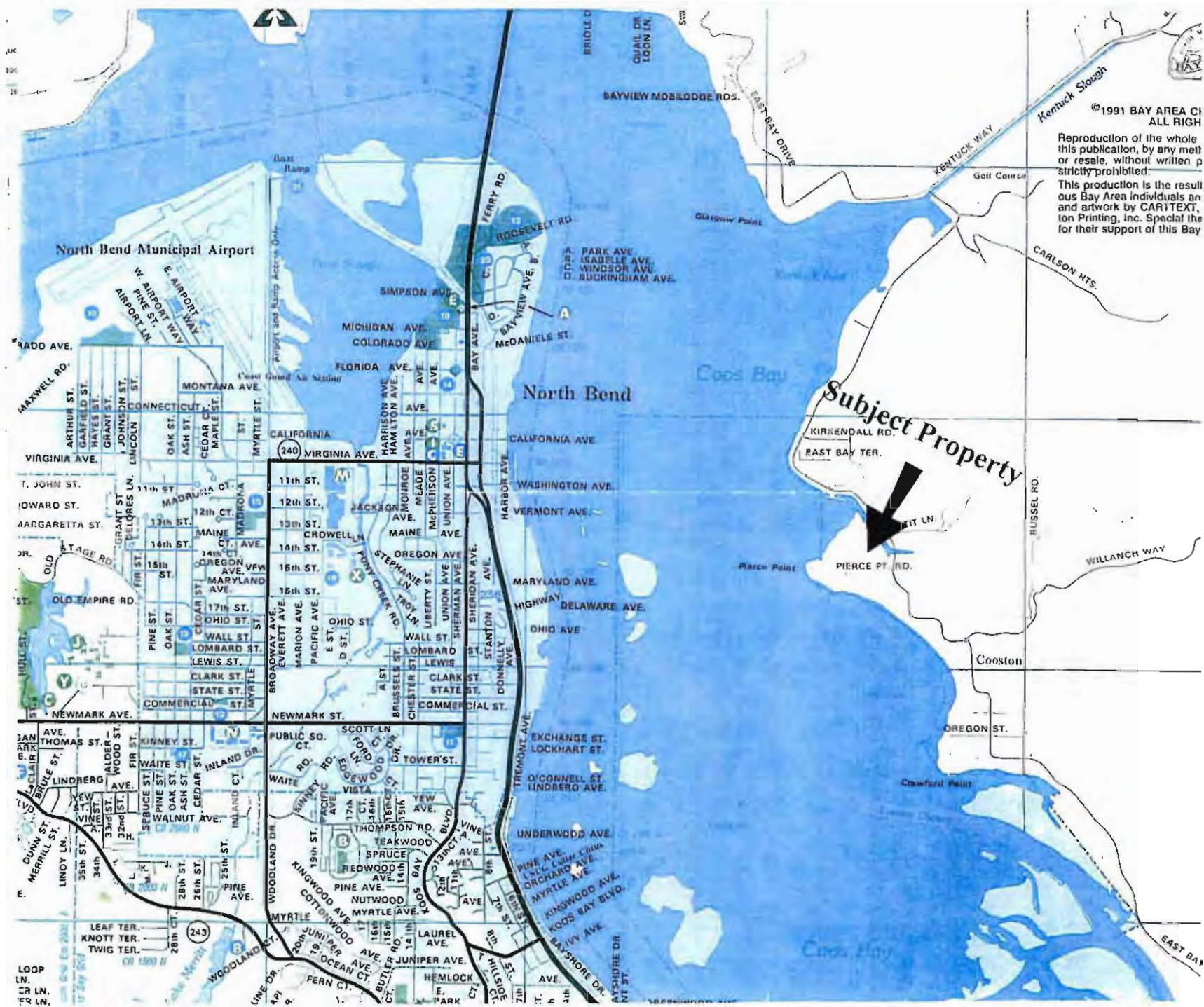
*If uses and activities allowed within various management units or the standards and conditions under which specific uses and activities are allowed are proposed to be changed, new or changed uses and activities will only be allowed when they are consistent with the LCDC Goals and statutes, compatible with adjacent uses and activities set forth in this Plan, and when they are in keeping with the designation and management objective of the management unit and otherwise coordinated with other policies and the inventoried needs set forth within the Plan.*

*Coos County citizens and affected governmental units shall have opportunities for review and comment during review and any subsequent major or minor revisions/amendments to this Plan.*

**Findings:** The changes that are proposed within this application are consistent with the LCDC goals and statutes.

- The changes in local conditions and circumstances are the basis of the map and text changes that are proposed.
- All of the applicable Statewide Planning Goals are addressed within this report, and coordinated with other policies and inventoried needs set forth within the CBEMP.
- The proposed management objective is for a less intensive use than the current uses allowed on subject property.
- The proposed uses and activities are consistent with adjacent designations and with the CBEMP as addressed within this report.
- The proposed uses and activities were already envisioned in the CBEMP inventories set forth within the Plan.
- The proposed general conditions that apply to all uses and activities provide conditions that protect riparian vegetation, comply with flood regulations, and all other requirements of the Statewide Planning goals.



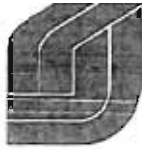


Attachment "B"

Attachment B







**Ticor Title Company**  
300 W. Anderson  
Coos Bay, OR 97420  
(541)269-5127 \* FAX (541)267-0990

Jerry W. White Trust, uta dated 09-29-2010  
64904 E Bay Road  
North Bend, OR 97429

DATE: April 24, 2013  
ESCROW NO.: 360613008139-TTCOO06  
PROPERTY ADDRESS:  
Tax Acct. 3766900, North Bend, OR 97459

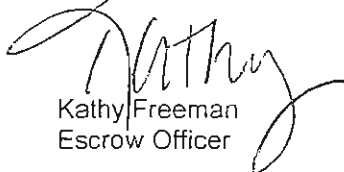
The above referenced escrow has closed as of this date. The following item(s) are enclosed for your records:

Final Settlement Statement

FUTURE PROPERTY TAXES ARE YOUR RESPONSIBILITY. The law does not require that property tax statements or notices be mailed, but it places the responsibility for payment entirely upon the owner after the close of escrow. Property taxes can be paid once the tax rolls have been certified by the county tax assessor. This generally happens in the latter half of October. The installment is due by November 15 and delinquent November 16. If you do not receive a property tax bill prior to delinquency, a written request, including the assessor's parcel number and legal description, must be made to the county tax collector. However, if yours is an impounded loan, property taxes will be paid by the Lender when due.

Recorded documents to which you are entitled will be mailed to you by the county recorder. We trust that this transaction has been handled to your satisfaction and look forward to the opportunity of seeing you again in the near future. Your policy of title insurance will follow under separate cover.

Sincerely,

  
Kathy Freeman  
Escrow Officer

enclosure(s)

Letter (Closing-Buyer)  
FDOR0085.rdw

Attachment "B"

Attachment D

**FINAL BUYER'S SETTLEMENT STATEMENT**

**Date:** April 24, 2013  
**Settlement Date:** April 24, 2013  
**Borrower:** Jerry W. White Trust  
64904 E Bay Road  
North Bend, OR 97429  
**Seller:** Karen L. Freude  
544 Quail Lane  
Roseburg, OR 97471  
**Property:** Tax Acct. 3766900  
North Bend, OR 97459

**Time:** 01:47 PM  
**Escrow No.:** 360613008139  
**Escrow Officer:** Kathy Freeman

	DEBIT	CREDIT
<b>Financial Consideration</b>		
Total Consideration	4,275.00	
White: deposit to close		5,035.79
<b>Prorations/Adjustments</b>		
County Taxes at \$43.14	8.04	
04/24/13 to 07/01/13		
<b>Escrow Charges</b>		
Escrow Fee	450.00	
Ticor Title Company		
<b>Title Charges</b>		
Title Insurance	200.00	
Chicago Title Insurance Company		
Owner's Standard		
<b>Recording Charges</b>		
Recording Fees	41.00	
Ticor Title Company		
Douglas County Recording Fee / Certification	61.75	
Ticor Title Douglas County		
<b>Subtotals</b>	5,035.79	5,035.79
<b>TOTALS</b>	5,035.79	5,035.79

Borrower

Jerry W. White Trust, uta dated 09-29-2010

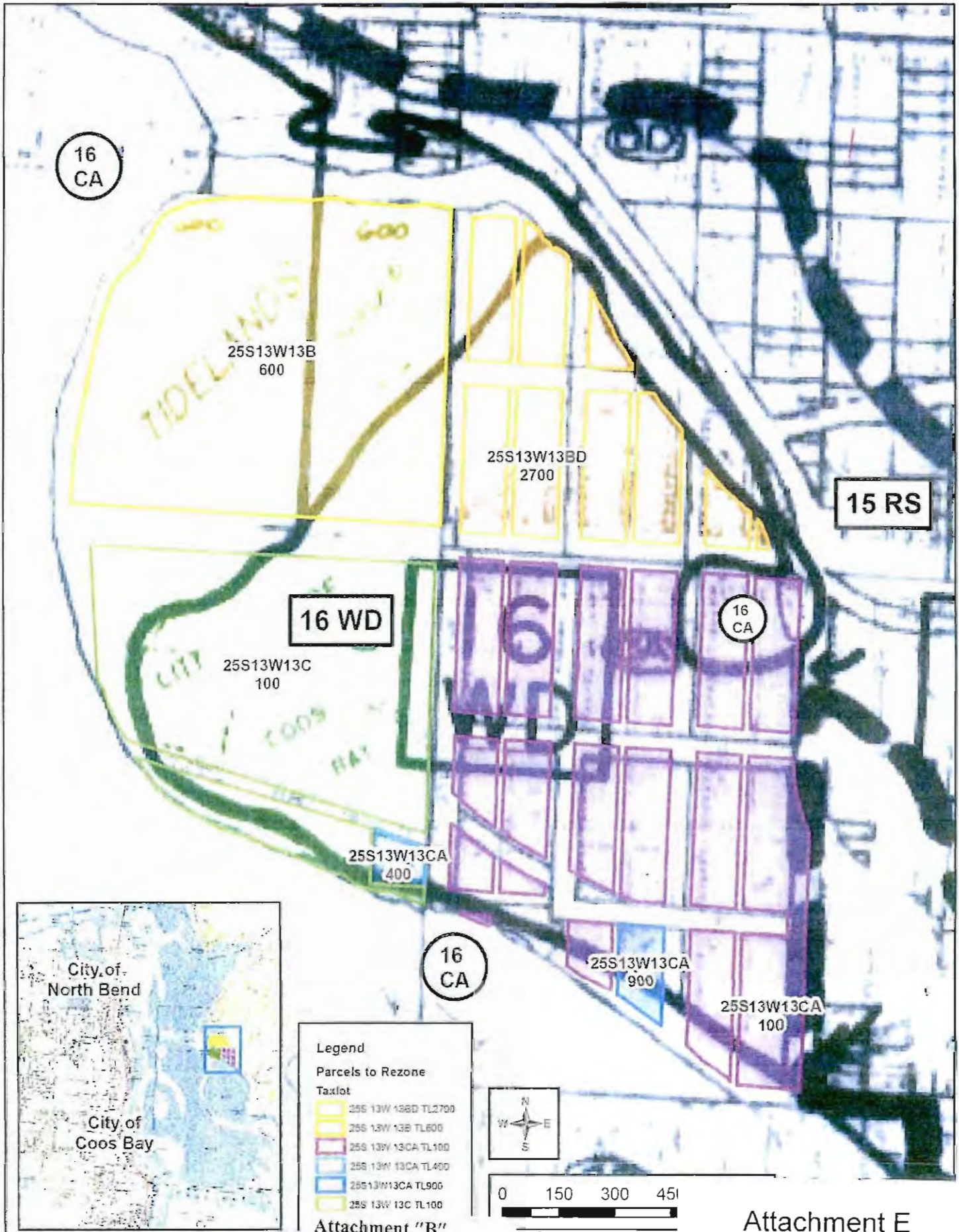
BY: \_\_\_\_\_  
Jerry W. White, Trustee

\_\_\_\_\_  
Ticor Title Company  
Settlement Agent

Attachment "B"

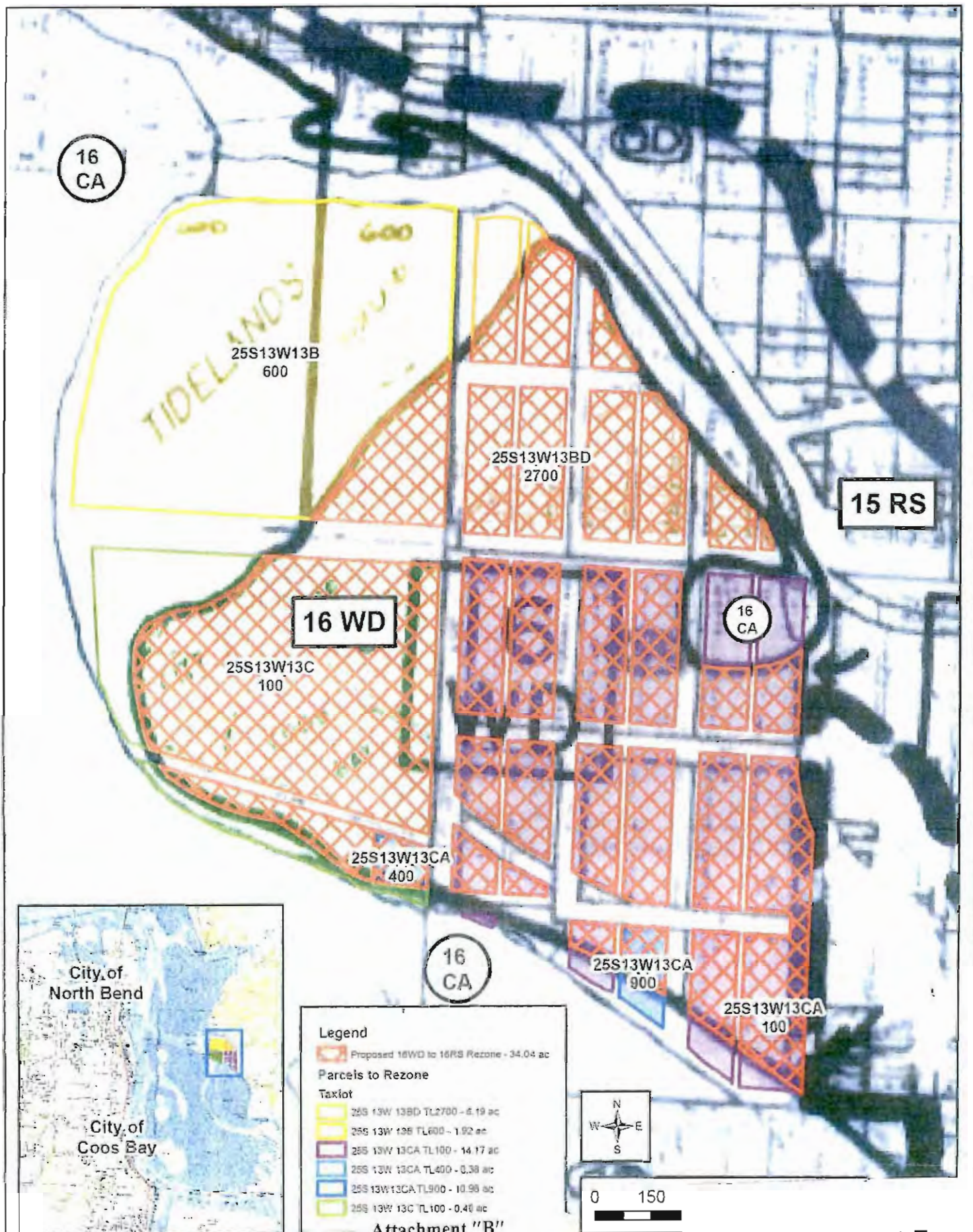


# Subject Property





# CBEMP Zone Map with Proposed Rezone







**1969 Aerial Photo of Subject Property Showing Residential Use**



SOIL SURVEY OF COOS COUNTY, OREGON -- SHEET NUMBER 20

R. 13 W. | R. 12 W.



Attachment "B"



Attachment H  
55

## Current Description

GENERAL LOCATION: UPPER BAY

ZONING DESIGNATION: 16-WD

ZONING DISTRICT: 16-WATER-DEPENDENT DEVELOPMENT SHORELANDS

SPECIFIC BOUNDARIES: This district is the entire Pierce Point area west of East Bay Drive  
Northern Boundary - East Bay Drive at the bridge over Willanch Slough. Southern  
Boundary - A line extending west from the L-turn of the East Bay Drive south of the  
Pierce Point peninsula.

---

**SECTION 4.5.460. Management Objective:** This district, because of its location near the forest resource and the natural Cooston Navigation Channel, will be managed to protect its future utility as an industrial site particularly for log handling and storage and barging facilities.

**SECTION 4.5.461. Uses, Activities and Special Conditions.** Table 16-WD sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 16-WD also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

A. Uses:

1.	Agriculture	P-G
2.	Airports	N
3.	Aquaculture	P-G
4.	Commercial	ACU-S, G
5.	Dryland moorage	P-G
6.	Industrial and Port facilities	ACU-S, G
7.	Land transportation facilities	P-G
8.	Log storage/sorting yard (land)	P-G
9.	Marinas	N
10.	Mining/mineral extraction	N
11.	Recreation facilities	
	a. Low-intensity	P-G
	b. High-intensity	P-G
12.	Residential	N
13.	Solid waste disposal	N
14.	Timber farming/harvesting	P-G
15.	Utilities	
	a. Low-intensity	P-G
	b. High-intensity	P-G
16.	Energy production	ACU-S,G
17.	Water-borne transportation	ACU-S,G

B. Activities:

1.	Stream alteration	N/A
2.	Dikes	
a.	New construction	N
b.	Maintenance/repair	P-G
3.	Dredge material disposal	ACU-S, G
4.	Excavation to create new water surface	N
5.	Fill	ACU-S, G
6.	Shoreline stabilization	
a.	Vegetative	P-G
b.	Riprap	ACU-S, G
c.	Retaining wall	ACU-S, G
7.	Navigation aids	P-G
8.	Mitigation	ACU-S, G
9.	Restoration	
a.	Active	ACU-S, G
b.	Passive	ACU-S, G
10.	Land divisions	
a.	Partition	ACU-S, G
b.	Subdivision	ACU-S, G
c.	Planned Unit Development	ACU-S, G
d.	Recreation PUD	N

GENERAL CONDITIONS:

1. All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.
2. Uses in this district are only permitted as stated in Policy #14, "General Policy on Uses Within Rural Coastal Shorelands"; except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this Policy.
3. In rural areas (outside of UGBs) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.
4. All uses and activities: Inventoried resources requiring mandatory protection in this unit are subject to Policies #17 and #18.

## SPECIAL CONDITIONS

### Uses:

4.,6.,16.,17. These uses are subject to review and approval when consistent with Policy #16.

- 4. Commercial uses will be allowed only when they are support services to existing or planned industrial developments and do not prevent utilization of water access.
- 6. The area is reserved for uses associated with the storage and transportation of forest products.

### Activities:

- 3,5. Dredged material disposal or filling are acceptable activities to prepare the site for future industrial use.
- 6b,6c. These activities are permitted subject to the general findings required by Policy #9, "Solutions to Erosion and Flooding Problems".
- 8,9a,9b. Mitigation/restoration activities are only permitted if they would not inhibit or preclude future industrial use of the site.
- 10. Land divisions are only permitted where they meet the conditions in Policy #15.

**SECTION 4.5.462. Land Development Standards.** The requirements set forth in Table 4.5 shall govern development in the 16-WD district.

## Proposed Description

GENERAL LOCATION: UPPER BAY

ZONING DESIGNATION: 16-RS

ZONING DISTRICT: 16-Rural Shoreland

**SPECIFIC BOUNDARIES:** This district is the entire Pierce Point area west of East Bay Drive  
Northern Boundary - East Bay Drive at the bridge over Willanch Slough. Southern  
Boundary - A line extending west from the L-turn of the East Bay Drive south of the  
Pierce Point peninsula.

---

**SECTION 4.5.460. - Management Objective:** This district shall be managed to continue the general low-intensity rural uses and character consistent with objectives to maintain the riparian vegetation.

**SECTION 4.5.461. Uses, Activities and Special Conditions.** Table 16-RS sets forth the uses and activities which are permitted, which may be permitted as conditional use(s), or which are prohibited in this zoning district. Table 16-RS also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

A. Uses:

1.	Agriculture	P-G
2.	Airports	N
3.	Aquaculture	N
4.	Commercial	N
5.	Dryland moorage	N
6.	Industrial and Port facilities	N
7.	Land transportation facilities	P-G
8.	Log storage/sorting yard (land)	N
9.	Marinas	N
10.	Mining/mineral extraction	N
11.	Recreation facilities	
	a. Low-intensity	P-G
	b. High-intensity	P-G
12.	Residential	P-G
13.	Solid waste disposal	N
14.	Timber farming/harvesting	P-G
15.	Utilities	
	a. Low-intensity	P-G
	b. High-intensity	N

B. Activities:

1.	Stream alteration	P-G
2.	Dikes	
	a. New construction	N
	b. Maintenance/repair	P-G
3.	Dredged material disposal	N
4.	Excavation to create new water surface	P-G
5.	Fill	ACU-S, G
6.	Shoreline stabilization	
	a. Vegetative	P-G
	b. Riprap	ACU-S, G
	c. Retaining wall	ACU-S, G
7.	Navigation aids	P-G
8.	Mitigation	P-G
9.	Restoration	
	a. Active	ACU-S, G
	b. Passive	P-G
10.	Land divisions	
	a. Partition	ACU-S, G
	b. Subdivision	ACU-S, G
	c. Planned Unit Development	ACU-S, G
	d. Recreation PUD	N

GENERAL CONDITIONS (the following conditions apply to all uses and activities):

1. Inventoried resources requiring mandatory protection in this district are subject to Policies #17 and #18.
2. All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.

The following conditions apply to all permitted uses.

3. Where "agricultural lands" or "forest lands" occur within this district, as identified in the "Special Considerations Map", uses in these areas shall be limited to those permitted in Policies #28 and #34.
4. Uses in this district are only permitted as stated in Policy #14, "General Policy on Uses within Rural Coastal Shorelands"; except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this Policy.
5. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.
6. On designated mitigation/restoration sites, all uses/activities shall only be permitted subject to the conditions in Policy #22.
7. In rural areas (outside of UGB's) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.



SPECIAL CONDITIONS:

Activities:







5. Fill shall not be allowed in areas of "wet meadow" wetland, as identified in the "Special Considerations Map", except as otherwise allowed in Policy #22.
- 6b,6c. These activities are permitted subject to the general findings required by Policy #9, "Solutions to Erosion and Flooding Problems".
- 9a. Active restoration shall be allowed only when consistent with Policy #22b.
- 10 Land divisions are only permitted where they meet the conditions in Policy #16.

**SECTION 4.5.472. Land Development Standards.** The requirements set forth in Table 4.5 shall govern development in the 16-RS district.





## SCHEMATIC LAND & WATER OWNERSHIP PATTERNS\*

### LEGEND:

#### LAND:

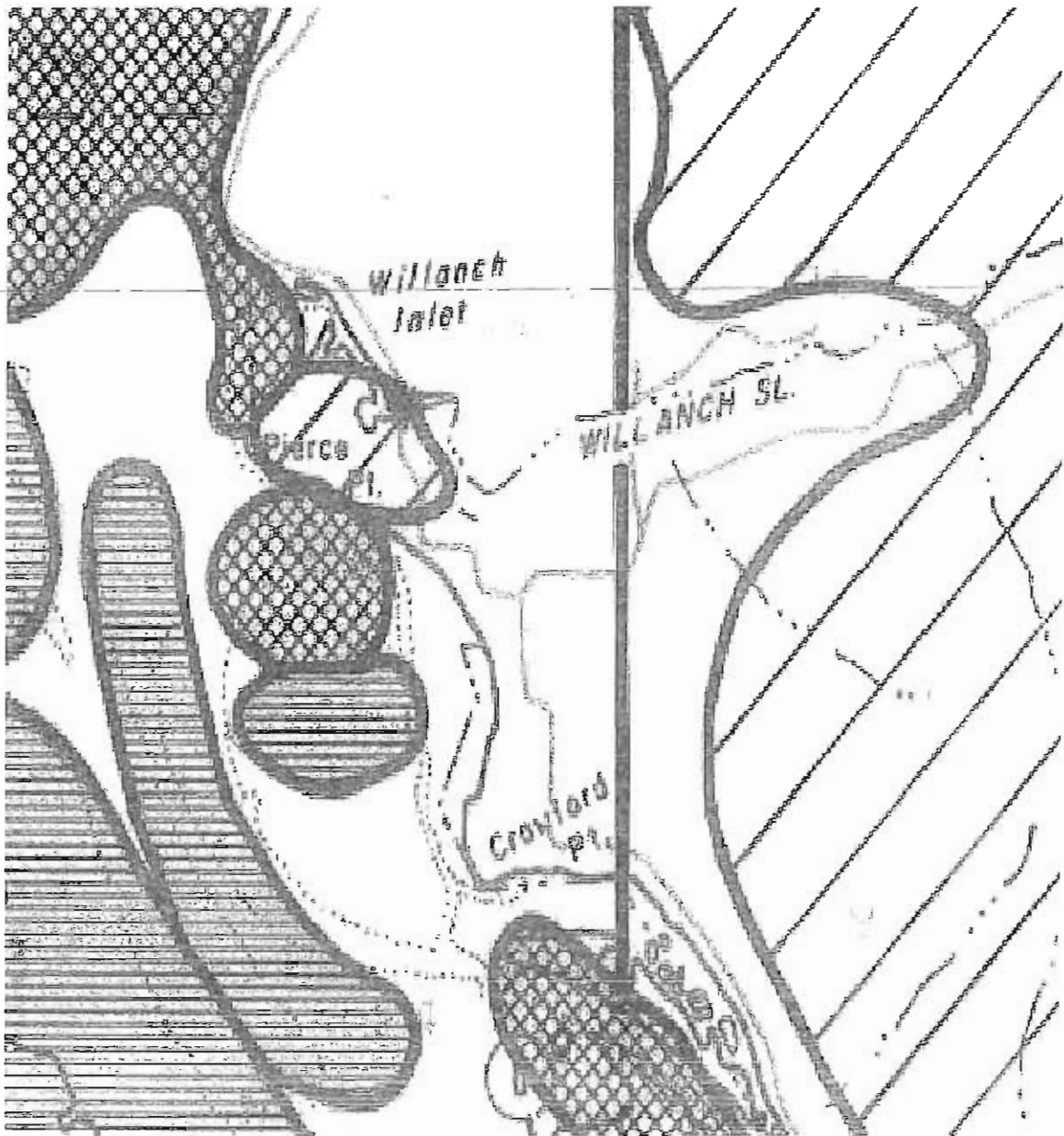
-  LUMBER & WOOD PRODUCTS (MAJOR FIRMS)
-  STATE OF OREGON
-  FEDERAL
-  CITY/COUNTY
-  PORT OF COOS BAY
-  MIXED OWNERSHIP, LARGELY PRIVATE

#### TIDELANDS: (SOURCE: DIVISION OF STATE LANDS)

-  STATE OF OREGON
-  PORT OF COOS BAY/CITY/COUNTY
-  PRIVATE (INCLUDES LUMBER & WOOD PRODUCTS FIRMS)
-  STATE OF OREGON

\* BOUNDARIES ARE GENERALIZED REPRESENTATION; ACTUAL OWNERSHIP LINES DO NOT COINCIDE EXACTLY WITH SCHEMATIC BOUNDARIES.

22 Schematic Land & Water Ownership Patterns Map



## SCENARIO #1 DEVELOPMENT NEEDS: IATF DECISIONS (1980-81)

### LEGEND:

#### USES THAT MAY BE ALLOWED



WATER-DEPENDENT, WATER-RELATED ONLY (WD, WR)



LIMITED WATER-DEPENDENT ONLY (WD)  
(Prescribes very limited specific uses in area)



NON-DEPENDENT, NON-RELATED (NDNR)



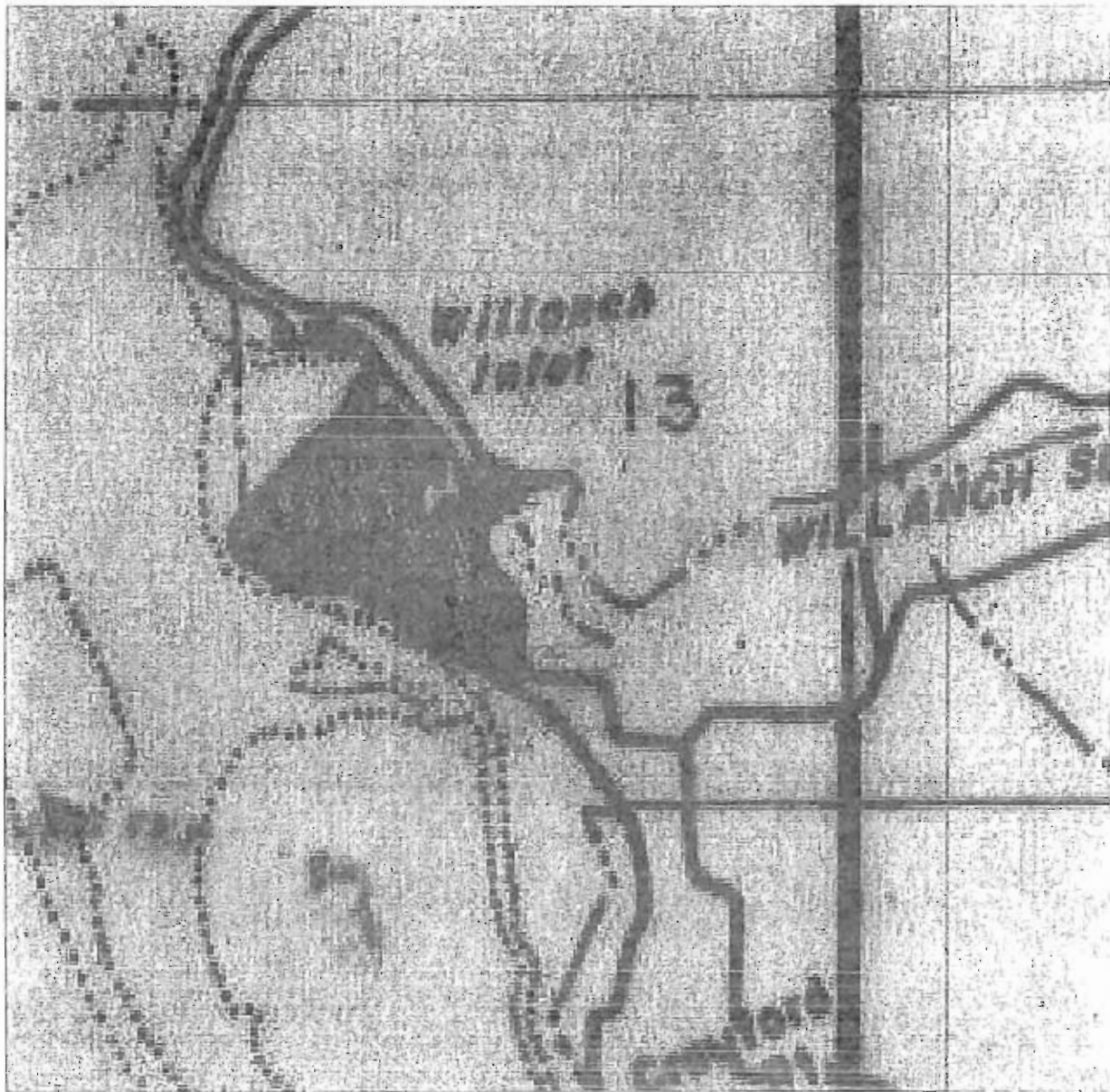
MIXED BUT NON-SPECIFIC: WD GENERALLY ALONG SHORELINE,  
NDNR TOWARD UPLANDS



"SPECIAL DEVELOPMENT" (SD): NOT NECESSARILY AVAILABLE  
FOR INDUSTRIAL USE



URBAN DEVELOPMENT, BUT INDUSTRIAL USE GENERALLY PROHIBITED



BOARD OF COMMISSIONERS  
COUNTY OF COOS  
STATE OF OREGON

IN THE MATTER OF AMENDING THE COOS )  
COUNTY COMPREHENSIVE PLAN & COOS ) ORDINANCE 13-07-003PL  
COUNTY ZONING & LAND DEVELOPMENT )  
ORDINANCE (White Application) )

This matter came before the Coos County Board of Commissioners sitting for the transaction of business on July 18, 2013, concerning amendments to the Coos County Comprehensive Plan and Coos County Zoning & Land Development Ordinance. Specifically, the Board considered an application for a plan amendments and rezone of the subject properties described as: Township 25S Range 13W Section 13B Tax Lot 600; 25S Range 13W Section 13BD Tax Lot 2700; Township 25S Range 13W Section 13C Tax Lot 100; and Township 25S Range 13W Section 13CA Tax Lots 100, 400 & 900. The request is to amend Volume II, Part 1, Plan Provisions of the Coos Bay Estuary Management Plan (CBEMP) text to change the management objective, uses, activities and special conditions of the existing management unit 16-Water Dependent-Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS); Amend the CBEMP map to change the zoning and all support maps from 16-WD to 16-RS which rezones this property from industrial to residential; and Amend the Coos County Comprehensive Plan (CCCP), Volume II and the Coos County Zoning and Land Development Ordinance (LDO), Appendix 3, Plan Policy 16a to adjust the protected water-dependent acreage



1 available and zoned for water dependent use.

2 WHEREAS, the application was considered by the Planning  
3 Commission at a public hearing on July 3, 2013, and following  
4 deliberation, the Planning Commission recommended the Board of  
5 Commissioners approve the proposal. The Board of Commissioners  
6 reviewed the matter and pursuant to the Coos County Zoning and Land  
7 Development Ordinance Section 5.1.550 (C), the Board of Commissioners chose  
8 to accept the Hearings Body recommendation with such modifications as deemed  
9 appropriate. The modification was changing the minimum lot size from five  
10 acres to two (2) acres to be consistent with the area and taking into  
11 consideration the majority of the property had been platted into small lots;  
12 and

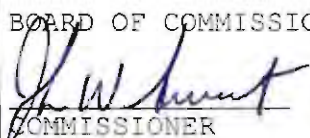
13 WHEREAS, the proposed rezoning complies with Coos County Zoning &  
14 Land Development Ordinance Section 5.1.400 criteria for rezones.


15 WHEREAS, all notices to interested property owners and interested  
16 parties have been provided pursuant to law;


17 NOW THEREFORE, THE BOARD OF COMMISSIONERS adopts the Findings and  
18 Conclusions in Attachments "A" and "B", incorporated herein by  
19 reference which includes the map of the rezone area.

20 ADOPTED this 18th day of July 2013.

21 BOARD OF COMMISSIONERS

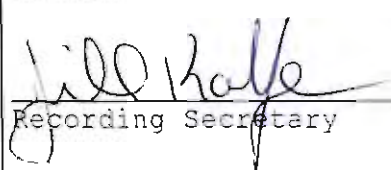
22   
COMMISSIONER

23   
COMMISSIONER

24   
COMMISSIONER

25 ATTEST:

APPROVED AS TO FORM:

  
Recording Secretary

  
Office of Legal Counsel

**STAFF**

Jill Rolfe, Planning Director  
 Debby Darling, Planner II  
 Amy Dibble, Planning Aide



FILE#: AM-13-02\RZ-13-02  
 HEARING DATE: July 3, 2013  
 REPORT DATE: June 26, 2013

### STAFF REPORT FOR HEARINGS BODY REVIEW

**APPLICANT/****OWNER:**

Jerry White  
 64904 East Bay Lane  
 North Bend OR 97459

**REQUEST:**

Amend Volume II, Part 1, Plan Provisions of the Coos Bay Estuary Management Plan (CBEMP) text to change the management objective, uses, activities and special conditions of the existing management unit 16-Water Dependent-Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS); Amend the CBEMP map to change the zoning and all support maps from 16-WD to 16-RS which rezones this property from industrial to residential; and Amend the Coos County Comprehensive Plan (CCCP), Volume II and the Coos County Zoning and Land Development Ordinance (LDO), Appendix 3, Plan Policy 16a to adjust the protected water-dependent acreage available and zoned for water dependent use.

STAFF CONTACT: Jill Rolfe, Planning Director

REVIEWING BODY: Coos County Planning Commission

### MAP NUMBER(S) / LEGAL DESCRIPTION

ASSESSOR'S MAPS: Township 25S Range 13W Section 13B Tax Lot 600; 25S Range 13W Section 13BD Tax Lot 2700; Township 25S Range 13W Section 13C Tax Lot 100; and Township 25S Range 13W Section 13CA Tax Lots 100, 400 & 900.

### PROPERTY LOCATION

The property is located on the east side of the Coos Bay Estuary across the bay from the City of North Bend off of East Bay Road. The property is commonly known as Pierce Point. The specific boundary is described as the entire Pierce Point area west of East Bay Road, the northern boundary is East Bay Road at the bridge over Willanch Slough. The southern boundary is a line extending west from the L-turn of the East Bay Road south of the Pierce Point peninsula.

### APPLICABLE CRITERIA

**Coos County Zoning and Land Development Ordinance (LDO), Coos County Comprehensive Plan (CCCP), Oregon Administrative Rule (OAR)**

LDO	Article 5.1	Rezones
LDO	Appendix 3, Volume II	CBEMP, Policy #36
CCCP	Volume II, Part 1	CBEMP, Plan Provision 2.1
CCCP	Volume II, Part 3	CBEMP, Part 3, Linkage
OAR	660-004-0028	Exceptions Requirements for Lands Irrevocably Committed to Other Uses
OAR	660-037-0090	Goal 17 Water-Dependent Shorelands

## I. BASIC FINDINGS

A. **Lawfully Created Parcel:** The properties are lawfully created in accordance with LDO § 3.3.800. The properties are located within the 1906 Plat of the City of Coos Bay and are discrete.

B. **Zoning:** The property is currently zoned Coos Bay Estuary Management Plan (CBEMP) and the portion to be rezoned is 16-Water Dependent-Development Shorelands (16-WD)

### Current Applicable Zoning (16-WD)

This district, because of its location near the forest resource and the natural Cooston Navigation Channel, will be managed to protect its future utility as an industrial site particularly for log handling and storage and barging facilities.

### Proposed Zoning (16-RS)

This district shall be managed to maintain the present character of and uses in the area, which include low-intensity rural development having minimal association with the adjacent aquatic area. This area shall be consistent with objectives to maintain the riparian vegetation.

C. **SITE HISTORY AND DESCRIPTION:** The intent of 16-WD was based on the location near the forest resource and the natural Cooston Navigation Channel and it would be managed to protect its future utility as an industrial site particularly for log handling and storage and barging facilities. This segment was proposed as a future water-dependent industrial site for log storage and transport. The site was selected because of its unique locational characteristics. At the time of adoption the property was close to the owner's (Weyco) timber lands, reducing the distance necessary to haul the logs by road before transfer to the water. It was located close to a natural channel which was of sufficient depth to enable transport of the log rafts with minimal maintenance dredging or minor navigational improvements. The property was also located close to the Weyco Mill in North Bend via the Cooston Channel. An upland site was needed for this use because of the limited amount of subtidal area available for in-water log storage and restrictions on intertidal log storage. Future increased log storage was anticipated for the uplands. There was an alternative that was not practicable for this operation because it was a rural area. There were no sites in an urban/urbanizable area with the same favorable characteristics as this site contained. However, over time the timber market changed and due to downsizing Weyerhaeuser sold this property to Mr. White because it was no longer used as part of their operation.

D. **SPECIAL CONSIDERATIONS:** The property has special regulatory considerations prescribed by the CCCP. The property located within the Coastal Shorelands Boundary, area that may contain archeological sites and floodplain. Special regulatory considerations apply to the property in case of development. This application is not proposing any new development but all of the regulatory agencies have received notice as required.

## II. FINDINGS TO THE APPLICABLE REVIEW CRITERIA

LDO

§5.1.400

Decisions of the Hearings Body for a Rezone

**SECTION 5.1.400. Decisions of the Hearings Body for a Rezone.** The Hearings Body shall, after a public hearing on any rezone application, either:

1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted all the following criteria are found to exist:
  - a. The rezoning will conform with the Comprehensive Plan or Section 5.1.250; and

- b. The rezoning will not seriously interfere with permitted uses on other nearby parcels; and
- c. The rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

2. Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:
  - a. The property may not be utilized for all the uses ordinarily permitted in a particular zone; or
  - b. The development of the site must conform to certain specified standards; or
  - c. Any combination of the above.

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

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

**SECTION 5.1.450. Status of Hearings Body Recommendation of Approval. The recommendation of the Hearings Body made pursuant to 5.1.400(1) or (2) shall not in itself amend the zoning maps.**

**FINDING:** This proposal will conform with the CCCP as it will update this portion of the plan which is outdated. Currently the CCCP has a total of 1445.92 acres available for water dependent uses and is only required to maintain 592.85 acres, which is more than double the requirement. The removal of the proposed site will reduce the total by a little more than 34 acres (1406.46 total acres after reduction). Therefore, the reduction of water dependent uses acreage will still comply with the LDO and CCCP. After reviewing the area, it is surrounded by Rural Shorelands zoned property and it seems appropriate to apply that zoning on these properties as well. The zoning segment will remain 16 but the designation will change to Rural Shorelands which is consistent with the adjacent properties. This property is no longer viable for an industrial log storage area. There is no major highway, rail line or barging area. The property is currently restricted to water dependent uses. The applicant has established that it cannot be managed as an industrial site, particularly for log handling and storage and barging facilities; and therefore, it is in conflict with the management objective. Therefore, the County must look at alternatives for this site and design a management objective and zoning district that will be consistent with the current and future uses while protecting the adjacent zoning districts.

The current proposal will comply with the LDO and the CCCP and there are no pending policies to be adopted by the Board of Commissioners at this time.

The Planning Commission will be making a recommendation to the Board of Commissioners. Staff has reviewed the proposal in detail and has found no reasons to place qualifiers on this rezone as it will comply with the CCCP and LDO as presented. However, the Planning Commission does have the option to place qualifiers on the rezone if they find it is necessary to make it comply with the LDO, CCCP, ORS or OAR.



<b>LDO</b>	<b>Appendix 3, Volume II</b>	<b>CBEMP, Policy #36</b>
<b>CCCP</b>	<b>Volume II, Part 1</b>	<b>CBEMP, Plan Provision 2.1</b>

Coos County shall: a) conduct a formal review of this the Plan, including inventory and factual base and implementing measures to determine if any revision is needed; b) shall base its review upon re-examination of data, problems and issues; c) shall issue a public statement as to whether any revision is needed; d) shall coordinate with other jurisdictions which are included within the Coos Bay Estuary and its shorelands; and e) shall incorporate public input into its decision.

Coos County may rely on the formal "Periodic Review " process of this Plan to satisfy the requirements of this policy.

This strategy is based on the recognition that a formal periodic review is necessary to keep this Plan current with local situations and events which may change from time-to-time and reduce the Plan's ability to effectively and appropriately guide growth of the Coos Bay Estuary and its shorelands.

Coos County shall approve minor revisions/amendments to its Comprehensive Plan when justified. Minor revisions/amendments are smaller in scope than major revisions/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.

FINDING: This would be considered a minor amendment to the plan and not a formal periodic review because it is focused on one area that is inconsistent and has an impracticable management objective to comply with. The applicant has shown a need and justification for the rezone due to the fact there has been a change in the local economy that makes this particular area limited in development possibilities to the point it is hindering appropriate growth in this shorelands segment.

<b>CCCP</b>	<b>Volume II, Part 3</b>	<b>CBEMP, Part 3, Linkage</b>
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FINDING: The applicant has provided details from the CCCP, Volume II, Part 3, Linkage explaining the background on how this property was chosen for Water-Dependent Use. The language explains that the 16-WD complied with Statewide Planning Goals and this property was not found to be resource land<sup>1</sup>.

<b>OAR</b>	<b>660-004-0028</b>	<b>Exceptions Requirements for Lands Irrevocably Committed to Other Uses</b>
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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:

<sup>1</sup> See Applicant's submittal Attachment A

- (a) A "committed exception" is an exception taken in accordance with ORS 197.732(2)(b), Goal 2, Part II(b), and with the provisions of this rule, except where other rules apply as described in OAR 660-004-0000(1).
  - (b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken.
  - (c) An "applicable goal," as used in this rule, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.
- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:
    - (a) The characteristics of the exception area;
    - (b) The characteristics of the adjacent lands;
    - (c) The relationship between the exception area and the lands adjacent to it; and
    - (d) The other relevant factors set forth in OAR 660-004-0028(6).
  - (3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(2)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule, except where other rules apply as described in OAR 660-004-0000(1). Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:
    - (a) Farm use as defined in ORS 215.203;
    - (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and
    - (c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).
  - (4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact that address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.
  - (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands that are found to be irrevocably committed under this rule may include physically developed lands.
  - (6) Findings of fact for a committed exception shall address the following factors:
    - (a) Existing adjacent uses;
    - (b) Existing public facilities and services (water and sewer lines, etc.);
    - (c) Parcel size and ownership patterns of the exception area and adjacent lands:
      - (A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision. Past land divisions made without application of the goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors makes unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created and uses approved pursuant



to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for the subject parcels or land adjoining those parcels.

- (B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations;
- (d) Neighborhood and regional characteristics;
- (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;
- (f) Physical development according to OAR 660-004-0025; and
- (g) Other relevant factors.

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

FINDING: This is a platted subdivision and each lot is discrete and may be sold separately. There is no minimum lot size currently for this property. The Rural Shorelands has varied size requirements of two, five or ten acres according to the minimum lots size CBEMP map. The applicant has provided a 1969 photo to show this property contained nine dwellings prior Weyerhaeuser purchasing. At that time Weyerhaeuser purchased the property for a specific use and worked with the County Planning staff to ensure that was taken into consideration at the time the plan was acknowledged. If you calculate the density of the dwelling units at that time, the density would have been less than four acres per dwelling; however, in 1969 there were no density requirements for Coos County.

The dwelling units were removed in anticipation that Weyerhaeuser would be able to utilize the industrial site particularly for log handling and storage and barging facilities. Due to the changes in the local economy, environmental requirements for in water storage of logs and the lack of transportation Weyerhaeuser found that is property was no longer viable for an industrial operation and chose to sell the property.

This property is completely located within the Coos Bay Estuary Management Plan; therefore, under the current plan we are limited to the following shorelands zoning districts: Natural Shorelands; Conservation Shorelands; Rural Shorelands; Development Shorelands; Water-Dependent Development Shorelands; Urban Development Shorelands; Urban Water-Dependent; Non-Water-Dependent Shorelands; and Urban Development. These zoning districts were designed to comply with Oregon Statewide Planning Goal 16 and they do fall within one of three management units which are natural, conservation and development.

This area was designated by the CCCP to be a development area. Staff had to look at adjacent development zoning and decide the appropriate zoning. The urban management units were not considered because this property is not located within an urban growth boundary or an urban unincorporated area; therefore, the rural development shorelands units are Rural Shorelands, Development Shorelands, Water-Dependent Development Shorelands, and Non-Water-Dependent Shorelands. The adjacent zoning is Rural Shorelands and the applicant has provided findings, including statements and evidence to show the property is currently not viable for water development uses. Comparing the current zoning with the proposed zoning, shows the new zoning is more restrictive on overall allowed uses. Although a specific exception was not taken to this property for current zoning it was incorporated into a broad exception area and justified as an industrial water dependent use and adopted as part of the CCCP. Volume I of the CBEMP, Part 2 Section 4.3.1 provides details on irrevocably committed exceptions explaining that lands that have already been divided into such a small parcel size that the consolidation or assemblage of the parcels in sizes large enough to permit efficient resource production is no longer possible. This platted area is made up not only multiple lots but public streets as well, which would limit the amount of acreage that could be combined to create any type of resource area; therefore, it is already considered to be irrevocably committed. Below shows a portion of the property and how the streets and alleys are platted creating a non-resource property.



The applicant states in their narrative that grazing has happened in the past but that is only because the platted streets and alleys were not taken into consideration. Again each lot is discrete and could be sold off and if so the platted roads would become developed and that would limit the grazing area. Basically in order for this tract to become viable for farm or forest resource the plat and all of its components would have to be vacated; however, it was not the intent of the exception to take this into consideration. The rezone proposal is consistent with the CCCP.

OAR	660-037-0090	Goal 17 Water-Dependent Shorelands
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660-037-0090

**Rezoning of Qualifying Shorelands to Nonwater-Dependent Uses**

(1) Any amendment to an acknowledged comprehensive plan or land use regulation under this rule must comply with all applicable Statewide Planning Goals. For purposes of this division, such applicable Goals include but are not limited to the following: Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces (OAR 660-015-0000(5)); Goal 7, Natural Hazards (660-015-0000(7)); Goal 16, Estuarine Resources (660-015-0010(1)); and Goal 17, Coastal Shorelands (660-015-0010(2)). In Goal 16, the designation of estuarine management units is based in part on the uses of the adjacent shorelands. Consequently, any change to shoreland designations and allowed uses being proposed under this division must include consideration of affected estuarine management unit designations and allowed uses. This is particularly important in situations where the level of development designated in the adjacent estuarine management unit was acknowledged through a Goal 2 Exception; retaining that level of estuarine development would no longer be justified without taking a new Goal 2 Exception.

(2) Local governments that choose to rezone shoreland sites to nonwater-dependent uses as allowed under this division are encouraged to provide for water-related and water-oriented uses at such sites as much as possible.

FINDING: This property is already in compliance with the Statewide Planning Goals. It is inventoried as Coastal Shorelands Boundary, area that may contain archeological sites, wetlands and floodplain. The property will be required to comply with all of these special considerations and must comply with the applicable policies shown in the use table (found at attachment I of the applicant's submittal). As explained above this area was part of a broad brush exception at the time of acknowledgement and all of the Goals were considered at that time.

Coos County has a total of 1445.92 acres of available acreage available for water dependent uses and is only required to maintain 592.85 acres, which is more than double the requirement. The removal of the proposed site will reduce the total by a little more than 34 acres (1406.46 total acres after reduction). Therefore, this change in zone and plan amendment will comply with this OAR.

### III. NOTIFICATION/ COMMENTS

Notification was provided as consistent with LDO Section 5.7.300. Notification was also provided on June 13, 2013, to subject property owners, property owners within 250' feet from the subject property. The notice was also provided to the following: Board of Commissioners; Dave Perry, DLCD; North Bay RFPD; Confederated Tribes of Coos, Lower Umpqua & Siuslaw Indians; Coquille Tribe; City of North Bend; City of Coos Bay; and Oregon International Port of Coos Bay. This notice of hearing was published in *The World News Paper* on June 20, 2013 to comply with the notice requirements.

### IV. SUMMARY / CONCLUSIONS

If the Planning Commission recommends the application for approval as is or with qualifiers then the Board of Commissioners will review this matter on July 18, 2013 at 1:30 p.m. If you have any questions please contact staff.

COOS COUNTY PLANNING DEPARTMENT

Jill Rolfe, Planning Director

Attachments: Applicants Submittal

C: Applicant  
Confederated Tribes  
Coquille Tribe

EC: County Counsel  
Dave Perry, DLCD

C: w/o attachments:  
Special Districts



Coos County Planning Department  
Coos County Courthouse Annex, Coquille, Oregon 97423  
Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, OR 97423  
Physical Address: 225 N. Adams, Coquille, Oregon  
(541) 396-3121 Ext.210  
FAX (541) 396-1022 / TDD (800) 735-2900  
[planning@co.coos.or.us](mailto:planning@co.coos.or.us)

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

AMENDMENT/REZONE APPLICATION  
(PLEASE SUBMIT 20 COMPLETE COPIES OF THIS APPLICATION)

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

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

PLEASE PRINT OR TYPE:

A. APPLICANT:

Name: Jerry W. White, Trustee Telephone: 541-266-0353 or 541-404-2899

Address: 64904 East Bay Drive, North Bend, OR 97459

As applicant, I am (check one):

- ☒ The owner of the property;
- ☐ The purchaser of the property under a duly executed written contract who has the written consent of the vendor to make such application;
- ☐ A lessee in possession of the property who has written consent of the owner to make such application;
- ☐ The agent of any of the foregoing who states on the application that he is the duly authorized agent and who submits evidence of being duly authorized in writing by his principal.

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

B. DESCRIPTION OF PROPERTY:

See map with property descriptions, Attachment E.

Zoning District: Subject property is regulated by the Coos Bay Estuary Management Plan, CBEMP. The Management Unit is 16-WD, a water-dependent industrial designation. See Application and Supplemental Information, Attachment A.

Existing Use: Subject property is vacant with remnants of residential use that formerly existed on the property. See Application and Supplemental Information, Attachment A.

C. STATE SPECIFIC ZONE DISTRICT REQUESTED:

This application is a consolidated application that includes text amendments to Volume II, Part 1, Plan Provisions of the CBEMP including the removal of the 16-WD management designation language and the application of proposed new 16-RS, rural shorelands designation language; a CBEMP map amendment to

change the zone designation, and; an amendment to Volume II, Plan Policy 16A to adjust the protected water-dependent acreage available and zone for water-dependent use. See Application and Supplemental Information, Attachment A.

D. JUSTIFICATION:

- (1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered:  
Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? N/A - Subject property is not adjacent to EFU zoned property.  
Explain and provide documentation: N/A
- (2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:
  - a. Will the rezone conform with the comprehensive plan? Yes.  
Explain: All of the analysis and findings are included within Application and Supplemental Information, Attachment A.
  - b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? No.  
Explain: The new zoning designation will be similar to uses on adjacent properties. The former use was a special allowance for water-dependent industrial use due to special circumstances that existed at the time of the CBEMP's acknowledgment. The proposed rezoning is actually "downzoning," and the new zone will be a better fit with adjacent properties as explained within the analysis and findings included within Application and Supplemental Information, Attachment A.
  - c. Will the rezone comply with other adopted plan policies and ordinances? Yes.  
Explain: The rezone already complies with the Comprehensive Plan in major aspects. Where compliance does not exist, the proposal is for amendments to the CBEMP. All of the findings of compliance are included within Application and Supplemental Information, Attachment A.
- (3) If a Goal Exception is required one of the following sets of criteria must be addressed. An applicant must demonstrate that all of the standards of I, II, or III have been met.

The exception for subject property was addressed at the time of the acknowledgment of the CBEMP. Subject property was included in all of the analysis for the "Irrevocably Committed Lands Exception: that was acknowledged for committed lands within Coos County. This is explained and documented within the Application and Supplemental Information, Attachment A.

This application provides the analysis and findings for the removal of the special water-dependent industrial lands designation that was allowed due to special circumstances that existed at the time. Facts that are presented within the CBEMP and presented within the supplemental information that accompanies this application support the conclusion that it is "impracticable" to apply the Goal, to support the findings to include subject property as part of the "Irrevocably Committed Lands Exception. When the water-dependent industrial designation is removed, subject property will revert to the "Irrevocably Committed Lands Exception" that is already documented within the balance of Coos County Plan. The standards of II, for an "Irrevocably Committed" Exception, have been met and acknowledged.



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

I. For a “Physically Developed” Exception, OAR 660-004-0025 applies:

- a. Findings must demonstrate that land is already physically developed to the extent that it is no longer available for uses allowed by the applicable Goal.
- b. Findings must show:
  - The exact nature and extent of the area;
  - Extent and location of existing physical development;
  - Uses allowed by a Goal to which an exception is being taken shall not be used to justify an exception as “physically developed”.

II. For an “Irrevocably Committed” Exception, OAR 660-004-0028 applies:

- a. An exception is justified under this category when “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 Goals impracticable.”
- b. Findings must address:
  - Existing adjacent uses;
  - Public facilities and services;
  - Parcel size and ownership patterns:
    - i) This must include an analysis of how existing parcel sizes came about. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment—the County must also show some other type of development to justify commitment.
    - ii) Parcels created under the Goals cannot be used to justify commitment.
    - iii) Differing contiguous parcels under one ownership must be considered as one parcel.
    - iv) Small parcels alone do not justify commitment—parcels must be clustered in a large group and at least partially developed to justify commitment.
  - Neighborhood and regional characteristics;
  - Natural boundaries or other buffers separating the exception area from adjacent resource land;
  - Other relevant factors; and
  - Facts must support a conclusion that it is “impracticable” to apply the Goal.

III. For a “Need” or “Reasons” Exception, OAR 660-004-0022 applies:

- a. Reasons must justify why the state policy embodied in the applicable Goals should not apply.
- b. It must be demonstrated that areas which do not require a new exception cannot reasonably accommodate the use.
- c. The economic, social, environmental and energy consequences resulting from the use must be shown to be not significantly more adverse than would result from the same proposal being located in another area requiring an exception.
- d. The proposed uses must be shown to be compatible with other adjacent uses or can be so



rendered

- e. Reasons showing a need for rural residential land cannot be based on market demand; and a strong connection must exist between the subject area and "existing or planned rural industrial, commercial or other economic activity.

E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

- 1. A legal description of the subject property (deed); **See Attachment M.**
- 2. Covenants or deed restrictions on property, if any;
- 3. A general location map of the property;
- 4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 ½" x 11" paper;
- 5. If applicant is not the owner, documentation of consent of the owner, including.
  - a. A description of the property;
  - b. Date of consent
  - c. Signature of owner
  - d. Party to whom consent is given
- 6. The applicant must supply a minimum of 20 copies of the entire application, including all exhibits and color photocopies, or as directed by the Planning Staff.

G. Authorization:

All areas must be initialed by all applicant(s) prior to the Planning Department accepting any application.

JW

I hereby attest that I am authorized to make the application for a conditional use and the statements within this application are true and correct to the best of my knowledge and belief. I affirm that this is a legally created tract, lot or parcel of land. I understand that I have the right to an attorney for verification as to the creation of the subject property. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued based upon false statements or misrepresentation.

JW

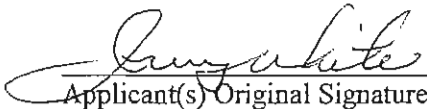
ORS 215.416 Permit application; fees; consolidated procedures; hearings; notice; approval criteria; decision without hearing. (1) When required or authorized by the ordinances, rules and regulations of a county, an owner of land may apply in writing to such persons as the governing body designates, for a permit, in the manner prescribed by the governing body. The governing body shall establish fees charged for processing permits at an amount no more than the actual or average cost of providing that service. The Coos County Board of Commissioners adopt a schedule of fees which reflect the average review cost of processing and set-forth that the Planning Department shall charge the actual cost of processing an application. Therefore, upon completion of review of your submitted application/permit a cost evaluation will be done and any balance owed will be billed to the applicant(s) and is due at that time. By signing this form you acknowledge that you are responsible to pay any debt caused by the processing of this application. Furthermore, the Coos County Planning Department reserves the right to determine the appropriate amount of time required to thoroughly complete any type of request and, by signing this page as the applicant and/or owner of the subject property, you agree to pay the amount owed as a result of this review. If the amount is not paid within 30 days of the invoice, or other arrangements have not been made, the Planning Department may choose to revoke this permit or send this debt to a collection agency at your expense.

JW

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

JW

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

  
Applicant(s) Original Signature

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

May 1<sup>st</sup>, 2013  
Date

## Index of Attachments

<b>Attachment A</b>	Application and Supplemental Information
<b>Attachment B</b>	Vicinity Map
<b>Attachment C</b>	Jerry W. White, Trust Tract
<b>Attachment D</b>	Final Buyer's Settlement Statement T25S, R13W, Sec. 13CA, TL 900
<b>Attachment E</b>	Subject Property
<b>Attachment F</b>	CBEMP Zone Map with Proposed Rezone
<b>Attachment G</b>	1969 Aerial Photo of Subject Property Showing Residential Use
<b>Attachment H</b>	Soils
<b>Attachment I</b>	Current Shoreland Segment 16-WD
<b>Attachment J</b>	Proposed Shoreland Segment 16-RS
<b>Attachment K</b>	Special Considerations Map #22: "Schematic Land and Water Ownership Patterns"
<b>Attachment L</b>	Special Considerations Map #23: "Development Needs, Scenario #1, IATF Decisions (1980-81)"
<b>Attachment M</b>	<del>Deed and Exhibit</del> <i>not included</i>

## **Application and Supplemental Information Coos Bay Estuary Plan (CBEMP) and Map Amendments**

***Proposal:*** This is a consolidated application for three post-acknowledgement plan amendments to the Coos Bay Estuary Management Plan (CBEMP) including two text amendments and one map Amendment:

- 1) Amend Volume II, Part 1, Plan Provisions of the Coos Bay Estuary Management Plan text to change the management objective, uses, activities and special conditions of existing estuary management unit 16-Water-Dependent Development Shorelands (6-WD) to 16-Rural Shorelands (16-RS);
- 2) Amend the Coos Bay Estuary Management Plan map to change the 16-Water-Dependent Development Shorelands, 16-WD designation, to the proposed 16-Rural Shorelands, 16-RS designation. The amendment will change the permitted uses from industrial to residential;
- 3) Amend Coos County Comprehensive Plan, Volume II, Plan Policy 16a to adjust the protected water-dependent acreage available and zoned for water dependent use.

### ***Location and Property:***

The property proposed for the amendments will be referenced throughout this document as "subject property." Subject property is known as Pierce Point, lying on the east side of the Coos Bay Estuary, and primarily on the west side of East Bay Drive. Subject property lies to the east of the northern dredge spoils island within the Bay. The Mill Casino lies within the urbanized area on the west side of Coos Bay Estuary across the Bay from subject property.

Subject property includes discreet lots platted as the City of Coos Bay Subdivision in 1906, including approximately 34.04 acres of land.

### ***Property Owner and Applicant:***

Subject properties are included in the Jerry W. White Trust:  
Jerry W. White, Trustee  
64904 East Bay Drive  
North Bend, OR 97459

### ***Application Compiled by:***

Shoji Planning, LLC: Crystal Shoji, AICP, Planner  
P.O. Box 462  
Coos Bay, OR 97420  
Phone: 541-267-2491: [shoji@uci.net](mailto:shoji@uci.net)

### ***Submittal:***

Coos County Planning Department, May 3, 2013



This report includes analysis to address the criteria found in Coos County ordinances and Oregon Administrative Rules. Words quoted directly from Coos County ordinances and/or Oregon laws are shown in *italics*; information provided by the applicant, including paraphrased language from Coos County ordinances and Oregon laws. Analysis and conclusions provided by the applicant are shown in regular font (not in italics).

## Subject Property

Subject property is a portion of the City of Coos Bay plat of 1906, which includes more than 3,600 discreet lots; Crawford Point Addition of 1907 lies to the south. The Coos County Zoning and Land Development Ordinance, describes lots and discreet lots in Chapter 2, Definitions:

*Lot: A unit of land created by a subdivision of land or a planned community. A lot lawfully created shall remain a discrete lot, unless the lot lines are changed or vacated or the lot is further divided as provided by this Ordinance.*

Section 3.3.800 of the ordinance provides further definition:

*Lawfully Created Lots and Parcels. The following lots or parcels shall remain discrete lots or parcels, unless individual lot or parcel lines are changed or vacated or the individual lot or parcel is further divided as provided by this Ordinance:*

- 1. Lots or parcels created prior to January 1, 1986;*

**Findings:** Subject property is made up of a number of discreet lots that are visible on the City of Coos Bay Plat of 1906 in the same configuration that exists today.

The tract includes a number of lots that are within the waters of the Coos Bay Estuary and lands that are on the tableland above the Estuary. See Attachment B, vicinity map of Pierce Point, with Crawford Point to the south, and Cooston a short distance inland between Pierce and Crawford Points.

Copies of lots shown on the plats of The Townsite of Coos Bay and Crawford Point Addition to the City of Coos Bay are provided as exhibits to be included in the record.

The property that is proposed for this rezone does not include the entire tract that is owned by the applicant in that there is no request to amend the zoning for the lots that are wholly or partially within the tidelands of the Coos Bay Estuary. Some of the lots are partially within the tidelands, and partially within the shorelands. The purpose of the proposed amendments is to allow one residential use at this time on property that was zoned for a specific industrial use that is no longer anticipated. The amendments will provide an opportunity for several additional residential uses on discreet lots within the tract in the future, provided that there is compliance with all of the conditions that apply to residential use of the specific property. See Attachment C, Jerry W. White, Trust Tract.

Subject property is a point that projects into the Coos Bay Estuary, Pierce Point, located on east side of the Coos Bay Estuary, west of East Bay Drive. Subject property is identified on the Coos County Assessor's maps as follows:

- T25S, R13W, Section 13C, shoreland portions of Tax Lot 100, 10.98 acres including the eastern shoreland portion of Pierce Point that is west of Fourth Avenue. Subject property does not include the tideland areas;
- T25S, R13W, Section 13CA, shoreland portions of Tax Lot 100 – 14.17 acres including a number of platted lots lying east of Fourth Avenue and west of Seventh Avenue;
- T25S, R13W, Section 13BD, TL 2700 – 6.19 acres lying east of Fourth Avenue;
- T25S, R13W, Section 13CA, TL 400 – .40 acres, including shoreland portions of this lot;
- T25S, R13W, Section 13B, shoreland portions of Tax Lot 600 – including approximately 1.9 acres west of Fourth Avenue; T25S, R13W, 13B, Tax Lot 600 is divided by the designation that includes shoreland segment 16-WD on the east, and aquatic segment 15-NA on the west because the tax lot includes both tidelands and shorelands. Subject property does not include tideland areas.
- T25S, R13W, Section CA, TL 900 on the south line of subject property. otherwise surrounded by T25S, R13W, Section 13CA, Tax Lot 100, lying east of Fourth Avenue and west of Seventh Avenue, has been purchased by Jerry W. White Trust from Karen L. Freude this week. See Attachment D, Final Buyer's Settlement Statement. The deed will be presented prior to the hearing.

See Attachment E and F, Subject Property and CBEMP Zone Map with Proposed Rezone.

#### **Driveway on Attachments E and F**

Attachments E and F show the parcels overlaid on the CBEMP Zone Map. In addition, the map shows current CBEMP zone designations for subject property and adjacent properties as they are overlaid on the CBEMP map. The map also shows the roads as they were platted in The Townsite of Coos Bay in 1906. The map depicts an additional drive that is not a platted street, but rather a constructed driveway that is addressed on Coos County Assessor's Map T25S, R13W, Sec. 13C with the following wording, "As Const. (PHOTO)." This drive also is depicted on Assessor's Map T25S, R13W, Sec. 13CA, with the wording, "AS Constructed." See Attached Map T25, R13, Sec. 13CA.

**Findings:** The applicant would like to clarify that the driveway that goes from the west to the southeast between Fourth Avenue and Sixth Avenue, intersecting "I" Street is not a platted road, and it is not an easement. It is important to clarify the status of this drive within this application because it is in the area of subject property where the applicant would like to build his own residence.

#### **Background**

At the time of adoption of the Coos Bay Estuary Management Plan (CBEMP), subject property was zoned for industrial use, which was an envisioned as a future use due to the ownership and



the location of subject property. Subject property was close to Weyerhaeuser (Weyco) timberlands, and Weyco, the owner of the property, stated their intent to utilize the property for transferring logs to the water. With minimal maintenance dredging and minor navigational improvements the logs were to be moved on log rafts and transported to the Weyco Mill in North Bend via the Cooston Channel, a natural channel. This upland site was important for this use because of the limited amount of subtidal area available for in-water log storage and restrictions on intertidal log storage. Future increased log storage was anticipated for the uplands. Sites with such specific favorable characteristics for the use envisioned did not exist in urban/urbanizable areas. No site-specific exception was taken for the industrial use of this property.

More recently, Weyco sold this property; the anticipated industrial use opportunity that was envisioned would no longer be likely as a future use. Mr. White purchased subject property with the understanding that it was available for residential use, but at the time that he went to apply for a building permit, he was informed that a plan amendment would be required to allow for residential use. Mr. White would like to utilize subject property for his own residence. While subject property has not recently been utilized for residential use, a visit to the site reveals that there were previously homes on subject property as there are well sites, an apple orchard, old gravel roads throughout the property, and other remnants of domesticity. Subject property is fenced on the east side and bordered by the Bay on the west. The eastern boundary of subject property is on the east side of East Bay Drive. Rural residential use exists adjacent to subject property along the shoreline to the north and south.

A 1969 aerial shows that at least nine houses existed on subject property at the time of the photo. Timm Slater, who served as Weyco's land use manager in the 1970's notes that Weyco was not in the business of overseeing residential rentals, and that their anticipated future use was industrial. Over time, Weyco removed the residences and accessory structures. See Attachment G, the 1969 aerial photo showing nine residences.

### **Physical Features, Vegetation and Soils**

Subject property includes flat tableland that is 50 to 60 feet above the Bay, meadows that have been used for pasture, wetlands connecting to Willanch Slough, an old orchard, roads, and trails that go down to the Bay. The highest portion of the property is at the point of the property directly over the Bay. Vegetation on subject property includes fir, alder, cypress, spruce, Myrtle and wild cherry trees, wild huckleberry, salal, Scotch Broom, and more.

Soils on subject property include the following types:

- Soil type 23-Fluvaquents-Histosols complex runs along the tidelands adjacent to the Bay on the northwest side of the Pierce Point and winds around the north side of subject property into the wetland area of Willanch Slough on the east side of subject property. This soil includes salt-tolerant grasses, sedges, and rushes. The description states, "The unit is saturated with water that is high in content of soluble salts." Soils in this unit are used for clam digging, crabbing, and other seashore recreation and feeding and resting areas for shore birds. The map unit is capability subclass VIIIw.

- Approximately half of the soils on the northern portion of the point and inland on some of the discreet lots and blocks of the Coos Bay Plat of 1906 are soil type 10A-Chismore silt loam, 0 to 3 percent slopes. Permeability of Chismore soil is slow, and rooting depth is limited by the water table, which is 12 to 36 inches from November to March. Runoff is slow. The soil is used mostly for hay and pasture, with limitations due to susceptibility of the surface layer compaction, drought in summer, and high humidity. For homesite development, the main limitations are “severe wetness,” slow permeability of the soil and wetness. The map unit is capability subclass IIIw. Class III soils have severe limitations that reduce the choice of plants and/or require special conservation practices; the “w” shows that water in or on the soil interferes with plant growth or cultivation.
- On the southwestern portion of the “point,” the soil class is 54D-Templeton silt loam, 7 – 30 percent slope. ~~“This unit is used mainly for timber production and wildlife habitat, –~~ grazing and homesite development. The unit is in capability subclass VIe. Class VI soils have severe limitations that make them generally unsuitable for cultivation; the “e” shows that the main limitation is risk of erosion unless close-growing plant cover is maintained.
- Other discreet lots and blocks are soil type 63B-Wintley silt loam, 0 to 8 percent slopes. This is deep, well drained soil on high terraces. Douglas Fir, western hemlock, western redcedar, red alder and Oregon myrtle grow on this unit. Erosion is a problem, and the soil is susceptible to compaction and droughtiness in summer. Larger absorption fields for homesites compensate for moderately slow permeability. The unit is capability subclass IIIe.

Soils are shown on Attachment H.

#### Access

Subject property is accessed by East Bay Drive, a paved County road, which is 50 to 60 feet wide, depending upon the specific location. The entrance into subject property is Pierce Point Road, a gravel road, shown as “H” street on the Assessor’s map.

#### COOS BAY ESTUARY MANAGEMENT PLAN

The Coos Bay Estuary Management Plan consists of

- Volume II, Part 1, Plan Provisions.
- Volume II, Part 2, Inventories and Factual Base
- Volume II, Part 3, “Linkage” Cumulative Effects of Development and Statewide Goal Exceptions
- Appendix 3, Baywide Policies
- Appendix 4, Agricultural Use
- Appendix 5, Forest Use
- Maps and Charts depicting the characteristics and considerations that provide the basis for policies of the CBEMP entitled Special Considerations Maps and Goal 17 & 18 “Linkage Matrix”

## **Coos Bay Estuary Plan Zoning /Management Unit Designations**

Subject property is adjacent to the Coos Bay Estuary, lying within the coastal shorelands, as defined by the acknowledged adopted Coos Bay Estuary Management Plan (CBEMP), acknowledged by the Oregon Land Conservation and Development Commission. Uses and activities are governed by the CBEMP.

Chapter II, Definitions in the Coos County Land development Ordinance describe the Coastal Shoreland as those lands lying between the Coastal Shorelands Boundary and the line of nonaquatic vegetation, which is also known as the Section 404 Line. The western boundary of Shoreland Segment 16-WD is thus the line of nonaquatic vegetation. Regulations for aquatic segments and shoreland segments allow for various uses and activities; the segment boundaries defined by discreet geographic biophysical characteristics and features, are not always consistent with the tax lot designations.

The Coos County Zoning and Land Development Ordinance defines water-dependent use or activity as a use which can be carried out only on, in, or adjacent to water areas. Such uses require access to the water body for water-borne transportation, recreation, energy production, or source of water. Subject property is estuary management unit 16-Water-Dependent Development Shorelands, zoned 16-WD by the Coos Bay Estuary Management Plan. This is an industrial zone that does not allow for residential use. This zoning was applied during the planning process of the Coos Bay Estuary Management Plan. Shoreland Segment, Upper Bay, 16-WD (Water-Dependent Development Shorelands) with the current requirements, including: 1) the management objective for the unit, 2) uses and activities allowed, 3) conditions for permitted uses and activities, and 4) land development standards. See Attachment I.

## **Proposed Zoning/Management Unit Designations**

The proposal is to remove the 16-Water-Dependent Development Shorelands, 16-WD designation and amend the designation to become 16-Rural Shorelands, 16-RS, to allow a homesite at this time, with the possibility of several additional homesites on discreet lot lines in the future.

The proposed 16-RS is compatible with the existing 15-RS, Rural Shorelands segment that is adjacent to subject property on the east side of East Bay Drive and 17-RS, which is to the south: adjacent lands are zoned for rural residential with Coos County RR-2 and CBEMP 15-RS zoning.

Attachment J is the proposed new Shoreland Segment to replace the 16-WD designation. The new designation is proposed as Upper Bay 16-RS (Rural Shorelands) which describes: 1) the management objective for the unit, 2) uses and activities allowed, 3) conditions for permitted uses and activities, and 4) land development standards. The proposed designation is a downzone from the current industrial designation to a less intensive residential designation. The proposed designation allows the same uses and activities as adjacent properties, including the existing 17-RS, which exists on the Crawford Point Addition to the southeast.

## **Volume II. Coos Bay Estuary Management Plan, Part 3. "Linkage," Cumulative Effects of Development and Statewide Goal Exceptions**

### **2.0 Plan "Linkage Findings"**

#### **2.1 Introduction: The Concept of "Linkage"**

*Plan "Linkage" may be defined as the process of linking Plan decisions to the complex requirements of the Statewide Planning Goals to show whether the Plan conforms, and where Exceptions to the Goals are necessary. It results in a set of findings which demonstrate the consistency of the Plan both internally and when measured against the Goals.*

#### **2.2 The products of "Linkage"**

The "linkage" process resulted in charts (matrix) with findings that explain how conclusions were reached, which was often a "balancing act" that involved prioritizing the requirements of one goal against another.

**Findings:** The LCDC Goal #17 and #18 Linkage Matrix is applicable. The matrix documents findings that were made balance and prioritize the goal requirements that apply to specific sites along the Bay; the specific sites are addressed through the management segment designations of the CBEMP. The matrix summarizes findings that were made to support conclusions for cultural resources, agricultural and forestlands, residential development, water-dependent commercial/industrial uses, land divisions and more when the CBEMP was developed. The Goal #17 and #18 Linkage Matrix will be submitted with this application as an exhibit.

#### **2.3 Introduction: Site-Specific "Linkage" Findings**

The text states that the information in the "Linkage Matrices" is drawn from both factual materials in the mapped and written plan inventories, while other information represents conclusions drawn from additional findings provided in the "Linkage" narrative. The process is typical for developing findings in that it connects facts, criteria and inventory information to make conclusions as to how specific properties fit the Statewide Planning Goals, while addressing local needs.

### **2.7. Coastal Shorelands Goal (#17) "Linkage" Findings**

#### **2.7.1 Introduction**

*Goal #17 requires certain findings for most categories of uses in rural coastal shoreland areas. Specifically, water-dependent commercial and industrial uses and all water-related uses are only permitted upon a finding that these uses:*

*"satisfy a need which cannot be accommodated on shorelands in urban and urbanizable areas."*

**Findings:** The CBEMP designates subject property as water-dependent development shorelands because it was found at the time of the development of the Plan in the 1980's that there was a need for water-dependent industrial use, which could not be accommodated on shorelands in urban or urbanizable areas. This was the basis of the 16-WD, 16-Water-Dependent Development designation that is currently applicable to subject property. Subject property was

determined to be "suitable" for water-dependent development use, and this suitability is addressed within the Special Considerations maps as follows:

- Map #23, Development Needs Map, "Scenario #1 Development Needs: IATF Decisions (1980-81)\* See Attachment L.
- Map #29, Goal #17 and #18 "Linkage" Matrix.

The water-dependent development zone does not allow non-water-dependent/related residential use at this time.

### **APPENDIX 3, VOLUME II – CBEMP, POLICIES**

#### **#3 — Use of "Coos Bay Estuary Special Considerations Map" as the Basis for Special Policies Implementation**

*Local governments shall use the "Coos Bay Estuary Special Considerations Map" as the basis for implementing the special protection.*

*I. The "Coos Bay Estuary Special Considerations Map" which is a series of color mylar overlays, shall delineate the general boundaries (plan inventory maps contain more precise boundary locations) of the following specific areas covered by the Coos Bay Estuary Management Plan:*

- a. Coos Bay Estuary Coastal Shorelands Boundary;*
- d. Agricultural Lands Designated for Exclusive Farm Use, and "Wet Meadow" Wetlands;*
- i. Forest Lands.*

*II. Specific Plan provisions set forth elsewhere as Policy and relating to the above listed considerations shall be used in conjunction with the "Special Considerations Map"; such Plan provisions include requirements set forth in "Unit Management Objectives", "Allowed Uses and Activities in Management Units" . . .*

**Findings:** "Special Considerations" Maps provide documentation of the inventory, and record the conclusions and considerations of analysis applicable to the shorelands and waters of the Coos Bay Estuary. Subject property lies within the Coastal Shorelands Boundary. Special considerations maps designate agricultural lands and forestlands, if and where applicable. Special considerations maps address subject property and the water-dependent uses and activities that were allowed in management unit 16-WD.

**Maps #2, #8 and #9:** These maps show natural channels in the water west of Pierce Point. The maps find that these natural channels are suitable for use in moving logs, as envisioned in the current management unit 16-WD that was developed in the early 1980's.

**Findings:** The natural channels contributed to the "suitability" of the site for the specific water-dependent industrial use that was envisioned – moving logs from the timberlands located east of the Coos Bay Estuary to the mill and adjacent highway and rail located on the west side of the Bay within the City of North Bend.



**Map # 6:** This map depicts estuarine wetlands at Willanch Inlet, on the east of subject property, and north of Willanch Slough. The area has been diked, and is also identified on Special Considerations Map 5.

**Findings:** The estuarine wetlands cover only a portion of subject property. Maintaining the wetlands and the required riparian setbacks will not prevent residential use of subject property; policies set forth in the proposed management unit, 16-RS includes provisions to protect and maintain the wetlands.

**Map #18:** This map shows that subject property is served by the North Bend School District and the North Bay Rural Fire District.

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**Map #22:** This map, "Schematic Land and Water Ownership Patterns," shows the general boundary of subject property within the ownership of "Lumber and Wood Products (Major Firms)," Attachment K.

**Findings:** The inventory document, Map #22 is incorrect at this time because the ownership of subject property has changed. Subject property is no longer within the ownership of a major firm, and lumber and wood products are not likely uses for the future.

**Map #23:** This map entitled, "Development Needs Map," provides "Scenario #1 Development Needs: IATF Decisions (1980-81):\*" The Legend provides uses that may be allowed, and subject property is marked for "Water-Dependent, Water-Related Only" (WD, WR) and "Special Development" (SD): "Not Necessarily available for Industrial Use."

\*Note that IATF refers to the Inter Agency Task Force that made the decisions that are the basis of the Coos Bay Estuary Plan.

**Findings:** Map #23 indicates that Pierce Point was never designated for general industrial development, but rather that it was a specific-purpose industrial site due to the ownership at the time that the CBEMP was developed, and the specific plans that Weyco had for use of the property. The industrial designation of subject property is no longer suitable for the specific use that was envisioned. Weyco sold subject property, and it is unlikely that the property would be utilized for in-water storage and transport now or in the future. See Attachment L.

In an interview with Scott Starkey, general manager of The Campbell Group / Menasha, North Bend on April 29, 2013, Mr. Starkey related that in-water storage of logs is no longer a viable option. He noted that in-water storage raised concerns about bark going into the water, and restrictions are now in effect. In addition, he stated that there are now more efficient ways to transport logs by trucks. He does not expect the in-water storage to come back as a viable option.

In an interview on April 3, 2013, Oregon's Industrial Lands Specialist, Sierra Gardiner indicated that industrial sites require three components: "road, river and rail." Pierce Point is not a suitable site for general industrial use because it is lacking in two of these components. Pierce

Point is not on a major highway, and there is no rail access; in addition, other industrial infrastructure does not exist on or adjacent to the site.

**Map #24:** “Tentative Goal #16 /Goal #17 Development Priority Areas” lists the following conditions for Goal #17 (Areas “Especially Suited for Water-Dependent Uses”) which was a more stringent designation than the water-dependent designation, 16-WD designation: The criteria is “deep water close to shore with supporting land transport facilities suitable for ship and barge facilities” and a map of Pierce Point is included, but the site is not designated as “especially suited” by the markings on the map.

**Findings:** This indicates that the site was considered as a “priority area - especially suited” but the designation was not made. This supports the special use designation of Map #23, Attachment L. The special use that was envisioned for subject property is no longer an option due to changing log transport methods, change in ownership, and lack of land infrastructure and facilities at the site that make the site suitable for ship and barge facilities. At the time of the development of the CBEMP Weyco intended to develop the infrastructure to utilize log rafts on the shoreland mudflats, and transport logs to the urban side of the bay, but supporting land transport facilities were never developed.

**Map #29, Goal #17 and #18 “Linkage” Matrix:** The chart is a record of the decision-making for CBEMP management units. Management units pertinent to this application include:

- Shoreland segment 15-RS, Rural Shorelands, a portion of the Coos Bay Plat of 1906.
- Shoreland segment 17-RS, Rural Shorelands, Crawford Point Addition to the City of the Coos Bay, 1907 to the south of Pierce Point.
- Shoreland segment 16-WD, Water-dependent development Shorelands (subject property).

The chart provides topics that needed to be prioritized with questions and responses to address competing expectations of the Statewide Planning Goals. The following excerpts include questions and the responses that have been determined through analysis. In addition, the linkage matrix includes specific conditions that must be applied to assure that there is compliance with the goals. For example, the analysis may show compliance with the goals, but only when there is adherence to specific conditions when property is developed. The conditions are addressed with numbers referring to footnoted conditions that are found at the bottom of the matrix.

#### **Questions and Responses from Map #29, Goal #17 and #18 “Linkage” Matrix - For Segments Located Outside UGA’s Only . . .**

**Question:** *Re. agriculture and forest soils . . . Are these agricultural or forest lands?*

**Responses:** There are no clear responses to the question – only check marks and “X”s showing consideration of the question, as follows:

Shoreland Segment 15-RS: There are checkmarks for both agricultural and forestry.

Shoreland Segment 16-WD: There is an “X” for agriculture and a checkmark for forestry

Shoreland Segment 17-RS: There are checkmarks for both agricultural and forestry.

**Findings:** There is no explanation as to the meaning of the checkmarks and “X’s” in response to this and other specific review criteria, but from analysis of the entire matrix, the checkmarks and “X’s” appear to show acknowledgment and consideration of the specific topic. Then as the chart progresses with more specific questions, the responses become, “Yes,” “No,” or “NA” (NA means not applicable). Many of the responses include numbers that refer to footnotes on the matrix, which provide further guidance as to the requirements.

***Question: If so, then: Do the segment’s uses and activities comply with LCDC Goal 3 and 4 requirements for EFU and forest uses?***

**Responses:**

Shoreland Segment 15-RS: *Yes (11)*

Shoreland Segment 16-WD: *No*

Shoreland Segment 17-RS: *Yes (11)*

*(11) All uses on Agricultural / Forest Lands are subject to Policies #28 and #34, restricting uses to those allowed in Goals #3 and #4.*

**Findings:** The matrix finds that Shoreland segments 15-RS and 17-RS (including the management objectives and permitted uses) comply with Statewide Planning Goals #3 (agriculture) and #4 (forestry), subject to specific policies. The matrix finds that shoreland segment 16-WD does not comply with these same goals. The CBEMP “Coos Bay Estuary Special Considerations Maps” does not, however, designate subject property as “agricultural lands designated for Goal 3, Exclusive Farm Use (EFU)” or as Goal 4, “forestlands.” Further analysis, however, will show that there is no inconsistency because committed lands were not required to comply with the Goal 3 and 4 exceptions.

Analysis of questions and responses dealing with rural housing and committed areas provide the background information that explains why the exception was not required. This analysis shows that subject property was first determined to be “committed lands” and then designated for the more intensive specific industrial use, which could “trump” the committed lands designation without taking an exception because it satisfied a need which could not be accommodated on shorelands in urban and urbanizable areas.” The special considerations linkage document does not designate subject property as agricultural or forest lands.

**Question:** *Re. rural housing . . . Are rural dwellings normally allowed in this segment?*

**Responses:**

Shoreland Segment 15-RS: *Yes*

Shoreland Segment 16-WD: *No*

Shoreland Segment 17-RS: *Yes*

**Findings:** The rural housing findings address the agricultural and forest question further, showing that rural housing was determined to be appropriate within the adjacent rural shorelands segments. No rural dwellings are allowed within the 16-WD industrial segment.

**Question:** *If so then: Committed area?*

**Responses:**

Shoreland Segment 15-RS: *Yes*  
Shoreland Segment 16-WD: *NA*  
Shoreland Segment 17-RS: *Yes*

**Findings:** The matrix recognizes shoreland segments 15-RS and 17-RS as committed areas. At the time of the adoption of the CBEMP, committed areas were recognized by broad designations derived from analysis and information in the inventories. Goal #3 and #4 exceptions were required to exempt agricultural and forestlands from EFU provisions, but an exception was not required for shoreland segment 16-WD because the agricultural and forestlands designations were already deemed to be “nonapplicable.” Rural housing was already established on numerous existing lots within the “committed areas.” Thousands of discreet lots existed at the time, and continue to exist within the designated committed areas of 15-RS and 17-RS.

Volume 1 of the CBEMP, Part 2, Inventories and Factual Base, Section 4.3.1 provides an exception for “committed lands” as defined (1) in general in LCDC Administrative Rule #660-04-028 and (2) in more detail within this inventory document.

#### *4.3.1 Introduction*

*Although both LCDC Goal #2, “Exceptions,” and the LCDC administrative rules for goal exceptions were revised to recognize the special circumstances involving areas that are “physically developed” or “irrevocably committed” to a non-resource use, neither the goal nor the rules define the two terms except to say that their meaning “will depend on the situation . . .” at the site and at adjacent areas. In a broad sense, the terms can be defined to mean that one or more of the following conditions exists:*

*(iii) The land has already been divided into such small parcel size that the consolidation or assemblage of parcels in sizes large enough to permit efficient resource production is no longer possible. (“irrevocably committed”)*

**Findings:** The document explains Coos County’s efforts to identify committed areas, which included areas consisting of parcels less than 10 acres in size, analysis of larger developed parcels within their specific context, and the development and use of a spatial characteristics matrix for analysis, prioritization and decision-making. In addition, other criteria such as public services, clustering, and farm and forest practices were considered. Following this, LCDC staff provided guidance and findings and conclusions included additional factors and a reevaluation. Several attempts to provide committed area findings were submitted for acknowledgment; committed area findings of 1985 were determined to take precedence.

#### *4.3.5 Discussion: Characteristics of: “Committed Areas”*

*This category encompasses a variety of differing residential land uses in rural areas including scattered subdivisions, linear development along roads, small areas of clustered residences and expansive suburban neighborhoods. Some “committed areas” have official place names and possess commercial uses and other community facilities like schools, churches or water systems. These*

*communities function as a focus of activity in the surrounding area and are identified below as "Rural Centers." Other places retain their historic place names, but no longer possess the commercial uses and community facilities . . .*

**Findings:** Worksheets are included within the document that provides analysis of committed areas throughout Coos County, and specific worksheets characterize subject property and the surrounding area.

- Handwritten worksheets for T25, R13, Sections 12, 13 and 24, "Area consists of very small developed parcels many of which are portions of existing subdivisions. Area is adjacent to the City of Coos Bay and the tidelands of Coos Bay." An area of 500 acres was determined to be committed on the worksheets for T25, R13, Sections 12, 13 and 24.
- Handwritten worksheets for T25, R13, Section 13, "Area consists of developed subdivisions and a few adjacent small parcels which have for the most part been built upon." An area of 160 acres was determined to be committed on the worksheets for T 25, R13, Section 13.
- There are additional worksheets that describe additional adjacent areas and provide similar analysis.

Questions and answers are included within the analysis, and responses are identical on the worksheets for T25, R13, Sections 12, 13, and 24, and T25, R13, Section 13 as follows:

**Question:** *Do existing adjacent uses make uses allowed by LCDC Goal 3 and 4 impracticable?*

**Response:** *Yes*

**Findings:** The worksheet analysis indicates that applying the agricultural goal, Statewide Goal #3 and the forest goal, Statewide Goal #4 "impracticable" due to adjacent uses.

**Question:** *Is the subject area generally surrounded on three or more sides by:*  
i. *other "built or committed areas", or*  
ii. *"natural boundaries or other buffers separating the exception area from adjacent resource land"?*

**Response:** *Area is surrounded by the City of Coos Bay, tidelands of Coos Bay and adjacent committed area.*

**Findings:** The responses and others contribute to the determination that subject property is irrevocably committed to rural residential use. The rural residential zoning of properties adjacent to subject property was allowed by the committed lands exception.

Regarding the industrial designation of subject property, the questions and responses in the linkage document show that the WD area was exempted from the committed area as shown by the "NA" response rather than a "No" response. This is because it would not have been appropriate to include an industrial use within an area that was determined to be committed to residential use. The area designated for industrial use was removed from the rural residential/rural shorelands designation to allow for future industrial use.



Rural housing existed on Pierce Point prior to the time that the CBEMP was adopted, but there would have been reason not to designate Pierce Point (subject property) as a committed area because any further residential development of subject property would have conflicted with expected future industrial forest use of storing and moving logs. Weyco's removal of existing housing on Pierce Point supports this premise.

At this time it is appropriate to include subject property with the adjacent committed lands in that it is already justified within the analysis as follows:

**Question: If so then: Rural residential goal exception?**

**Responses:**

Shoreland Segment 15-RS: Yes

Shoreland Segment 16-WD: NA

Shoreland Segment 17-RS: Yes

**Findings:** The responses indicate that Coos County took a rural residential goal exception that included shoreland segments 15-RS and 17-RS to allow for rural housing. Revised Coos County Comprehensive Plan, Volume 1, Part 3: Statewide Goal Exceptions (5) Rural Housing Goal Exception is summarized:

*5.3 "Irrevocably Committed" Areas Exception Justification: Conclusion: 21,742 acres of land in the unincorporated County is irrevocably committed to rural residential uses not allowed by Goals #3 and #4 because existing adjacent uses and other relevant factors of OAR 660-04-028 (2) make impracticable the uses allowed by Goals #3 and #4.*

*This conclusion is supported by reasons, findings and conclusions made for each of the 103 study areas as shown in Appendix B of the Comprehensive Plan's Housing Inventory, as modified by the findings in Appendix C of the Housing Inventory. The individual findings and conclusions for each study area result from a careful analysis of factors (a) through (g) of OAR 660-04-028 (2).*

No exception was taken to allow water-dependent industrial use because the 16-WD site lies within the area of the exception that designated those rural lands that are irrevocably committed to rural residential use.

It is now time to remove the 16-WD site that was overlaid on lands that were designated as committed lands within the rural shorelands and redesignate subject property to the new proposed 16-RS, which will extend the uses and activities allowed on adjacent lots to subject property, and disallow industrial use.

While it would be appropriate to extend one of the RS management units that would require redefining the one or both of those sites, doing so would require a number of text changes that redefine the management units within the CBEMP. Therefore, it is more efficient to utilize management unit 16-WD as it currently exists, and apply new uses and activities as in the proposed new 16-RS, Attachment J.

Subject property was already determined to be available for rural housing prior to the water-dependent designation when it was included within the committed lands exception. This was because of the existing discreet lots and development pattern; any exception for water-dependent industrial use on committed lands, however, would not have been required. If the industrial use was to be designated on lands that were designated for agriculture or forestry, an exception would have been required. Exceptions allow for specific uses where it is not possible to apply the appropriate goal due to compelling reasons and facts showing why the goals cannot be applied. Committed lands are already an exemption from goal requirements due to specific circumstances. The process is outlined within this document.

The Coos County Comprehensive Plan Volume 1, part 1 also addresses "committed lands" and the reconciliation of such lands with the requirements of the agricultural goal, Goal #3, and the forest goal, Goal #4. Here is the discussion:

*Alternative 3 - The "Goal-balancing" Alternative*

*This alternative represents a conscious effort to reconcile the citizens' proposals (in Alternative 2, above) with the Statewide Planning Goals.*

*Part of future residential growth is proposed to occur in "committed areas." The balance of rural residential land is justified site-specifically on the basis of need and suitability for development, through an exception to Goals #3 and #4 (Agricultural and Forest Lands). Potential industrial sites are identified as stated in the "Industrial Land Needs" section, according to current industrial use, County Assessor's classification, and sites identified previously by Coos-Curry-Douglas Economic Improvement Association. These sites will be evaluated and selected on the basis of locational and site suitability criteria following completion of the Coos Bay and Coquille River Estuary Plans.*

*All lands not otherwise justified for residential, commercial, industrial, or recreational development or special resource protection are designated agricultural or forest lands. Agricultural lands are differentiated from Forestlands on the basis of the following criteria:*

*1. Main criterion: Agricultural Lands Inventory*

*Land identified on the agricultural lands inventory (as Class I-IV soils or "other lands" suitable for agricultural use) are designated as agricultural lands, with the following exceptions:*

- i. Committed rural residential areas and urban growth areas.*
- ii. Proposed rural residential areas as per the Exception to Goals #3 and #4.*
- iii. Proposed industrial/commercial sites.*

*2. Secondary criterion: Existing Land Use Inventory and Air Photos*

*All other areas are designated as forestlands: this includes certain areas of Class I-IV soils under forest cover, as specified in (v) and (vi) above. It is considered that resource values are equally well protected by designating these lands as forest lands, provided implementation requirements are consistent with the Agricultural Lands Goal, in accordance with the LCDC policy paper, "Agriculture/Forestry Inter-relationship."*

**Findings:** Subject property and adjacent rural shorelands were designated as committed rural residential areas by the CBEMP, and as such they are exempt from designations to protect agricultural lands and forestlands.

Coos County's Zoning and Land development Ordinance defines agricultural lands as those lands designated in the Coos County Comprehensive Plan, Volume I, "Balance of County" for inclusion in Exclusive Farm Use (EFU) Zones; subject property is not included.

Forestlands are designated in the Coos County Comprehensive Plan (Volume I-"Balance of County") for inclusion in a Forest Lands zone. These areas include: (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses, (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation, (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use, and (4) other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use. Subject property is not included as forestland.

**Question:** *For single-family dwellings on existing parcels: Are such compatible with adjacent coastal waters?*

**Responses:**

Shoreland Segment 15-RS: *Yes*

Shoreland Segment 16-WD: *NA*

Shoreland Segment 17-RS: *Yes*

**Findings:** Single-family dwellings are determined to be compatible with the adjacent coastal waters on existing parcels within shoreland segments 15-RS and 17-RS. There was no such determination for shoreland segment 16-WD because rural residential was not the highest and best use of segment 16-WD envisioned at the time. Shoreland segment 16-WD is, however, a continuation of upland landforms and discreet lots and properties that have been platted for residential for more than a century. Subject property was designated industrial because of a special use that was envisioned, but the opportunity no longer exists.

If updated, the response for segment 16-WD today would reflect the current opportunities for subject property, by modifying "NA" response. The modified response would be, "Yes," single-family dwellings on the existing parcels of subject property are compatible with adjacent coastal waters.

**Question:** *Re. water-dependent commercial & industrial uses & water-related uses . . . Does the segment allow these?*

**Responses:**

Shoreland Segment 15-RS: *No*

Shoreland Segment 16-WD: *Yes (10)*

Shoreland Segment 17-RS: *No*

*(10) These uses are only permitted subject to Policy 14: "General Policy on uses with Rural Coastal Shorelands." Goal requirements are satisfied by making necessary findings. See "General Conditions" for each segment.*

**Question:** *If so then: Are such necessary to satisfy a need which cannot be accommodated in cities and Urban Growth Areas?*

**Responses:**

Shoreland Segment 15-RS: *NA*

Shoreland Segment 16-WD: *Yes*

Shoreland Segment 17-RS: *NA*

**Findings:** Water-dependent use was allowed on subject property to satisfy an identified need for industrial land. Subject property was identified for a specific use, to allow activities that were commonly practiced in the forest industry at the time that the CBEMP was acknowledged in the early 1980's. The allowance of the forest industry use could now be likened to an earlier version of the current "super-siting" provision that allows for needed employment lands. The forest use is no longer anticipated. The question and answer today should be amended as follows to accommodate the proposed 16-RS designation:

**Question:** Re. water-dependent commercial & industrial uses & water-related uses . . .

Does the segment allow these?

**Response:** Shoreland Segment 16-WD: No

**Question:** If so then: Are such necessary to satisfy a need which cannot be accommodated in cities and Urban Growth Areas?

**Response:** Shoreland Segment 16-WD: *NA*

II. *Specific Plan provisions set forth elsewhere as Policy and relating to the above-listed considerations shall be used in conjunction with the "Special Considerations Map"; such Plan provisions include requirements set forth in "Unit Management Objectives", "Allowed Uses and Activities in Management Units", and the following specific "Functional" Policies set forth below:*

#14 *General Policy on Uses within Rural Coastal Shorelands*

#16 *Protection of Sites Suitable for Water-Dependent Uses (within UGBs) and Special Allowance for New Non-water-Dependent Uses in "Urban Water-Dependent (UW)"*

#16a *Minimum Protected Acreage Required for County Estuarine Shorelands*

**#14 General Policy on Uses within Rural Coastal Shorelands**

*Coos County shall manage its rural areas within the "Coos Bay Coastal Shorelands Boundary" by allowing only the following uses in rural shoreland areas, as prescribed in the management segments of this Plan, except for areas where mandatory protection is prescribed by LCDC Goal #17 and CBEMP Policies #17 & #18:*

- a. *Farm use as provided in ORS 215.203;*
- b. *Propagation and harvesting of forest products;*
- e. *Water-dependent commercial and industrial uses, water-related uses, and other uses, only upon a finding by the Board of Commissioners or its designee that such uses satisfy a need which cannot otherwise be accommodated on shorelands in urban and urbanizable areas or in rural areas built upon or irrevocably committed to non-resource use.*

**Findings:** Subject property was not designated for farm or forest use because it was irrevocably committed to residential use. Subject property was designated for water-dependent industrial use based upon the findings that the use satisfied a need which could not otherwise be accommodated on shorelands in urban and urbanizable areas. This policy states that water-dependent industrial uses may be allowed on rural areas that are irrevocably committed to non-resource use. Subject property fit this rule, and CBEMP management unit 16-WD was so designated. Now that subject property no longer "satisfies the need" due to the special nature of the use that was anticipated, it is appropriate to remove the water-dependent industrial designation in order to free the property to be utilized for a more appropriate use. When the 16-WD designation is removed, it is appropriate for subject property to revert to the committed lands designation that is compatible with adjacent rural shoreland areas.

- f. Single family residences on lots, parcels, or units of land existing on January 1, 1977, when it is established that:*
- 2. The dwelling is in a documented "committed" area, or*
  - 3. The dwelling has been justified through a goal exception; and*
  - 4. Such uses do not conflict with the resource preservation and protection policies established elsewhere in this Plan;*

**Findings:** Subject property is made up of lots, parcels or units of land existing 70 to 71 years prior to January 1, 1977, and currently existing for more than 100 years. All of the analysis to assure that the committed area adjacent to Pierce Point is not in conflict with the resource preservation and protection policies established within the CBEMP is documented within the plan and the inventories. The linkage findings, special considerations maps, committed lands worksheets, and other inventory documents provide the basis for the policies and prioritizations of the plan.

At this time it is appropriate to recognize the tax lots on Pierce Point as "committed lands" and to remove the water-dependent designation to accommodate the specific industrial use that was formerly envisioned. Doing so will not change the findings in any way except as addressed within this document. The Goal 17 and 18 "Linkage Matrix" indicates that shoreland segment 16-WD does not comply with Goal #3 and #4 requirements for EFU and Forest Use, while adjacent segments 15-RS and 17-RS are found to comply, subject to conditions. Applying the "committed" lands designation and allowing residential use on the existing discreet parcels within the 15-RS and the 17-RS was found to comply at the time that the CBEMP was acknowledged, and the recognition of Pierce Point as "committed" lands constitutes a finding of compliance for the designation of 16-RS today.

Removing the special designation that allowed water-dependent industrial use recognizes that there is no longer a need for the forest use. Downzoning subject property recognizes the existing pattern of discreet lots and rural residential development that was addressed when the CBEMP was acknowledged, and respects the requirements of Statewide Planning Goals #3 and #4.

- g. Any other uses including non-farm uses and non-forest uses, provided that the Board of Commissioners or its designee determines that such uses satisfy a need which*



*cannot be accommodated at other upland locations or in urban or urbanizable areas. In addition, the above uses shall only be permitted upon a finding that such uses do not otherwise conflict with the resource preservation and protection policies established elsewhere in this plan.*

**Findings:** Lots within the Coos Bay Plat of 1906, and the Crawford Point Addition to the south, and other areas along the east side of the Coos Bay Estuary include thousands of discreet lots identified as “committed” areas when the CBEMP and balance of Coos County Plans were developed. Such uses were determined not to conflict with the resource preservation and protection policies established within the Coos County Comprehensive Plan in order to provide rural residential lands on tableland above the Coos Bay Estuary while allowing for the use of the discreet parcels and continuing a pattern of rural residential land use that had existed for decades.

#16 Protection of Sites Suitable for Water-Dependent Uses and Special Allowance for new Non-Water-Dependent Uses in “Urban Water-Dependent (UW) Units”

*Local government shall protect shorelands in the following areas that are suitable for water-dependent uses, for water-dependent commercial, recreational and industrial uses.*

b. *Rural areas built upon or irrevocably committed to non-resource use; and*

*This strategy is implemented through the Estuary Plan, which provides for water-dependent uses within areas that are designated as Urban Water-Dependent (UW) management units.*

I. *Minimum acreage. The minimum amount of shorelands to be protected shall be equivalent to the following combination of factors:*

- a. *Acreage of estuarine shorelands that are currently being used for water-dependent uses; and*
- b. *Acreage of estuarine shorelands that at any time were used for water-dependent uses and still possess structures or facilities that provide or provided water-dependent uses with access to the adjacent coastal water body. Examples of such structures or facilities include wharves, piers, docks, mooring piling, boat ramps, water intake or discharge structures and navigational aids.*

**Findings:** Subject property is designated for water-dependent use, but it has historically not been utilized for water-dependent use, so there are no facilities such as wharves, piers, docks, mooring piling, boat ramps water intake or discharge structures, or navigational aids to be considered.

II. *Suitability. The shoreland area within the estuary designated to provide the minimum amount of protected shorelands shall be suitable for water-dependent uses. At a minimum such water-dependent shoreland areas shall possess, or be capable of possessing, structures or facilities that provide water-dependent uses with physical access to the adjacent coastal water body. The designation of such areas shall comply with applicable Statewide Planning Goals.*

**#16a Minimum Protected Acreage Required for County Estuarine Shorelands**

Coos County designates as water-dependent shorelands any shorelands with the Coos Bay Estuary whose total acreage is equal to or greater than the minimum acreage of water-dependent shorelands calculated for the Coos Bay Estuary by combining the inventories of Coos County and the City of North Bend.

The following chart shows acreages that were available and zoned for water-dependent use and acreages that were required to be protected by DLCD for each jurisdiction on the Coos Bay Estuary.

<b><i>Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary</i></b>			
<b><i>Jurisdiction</i></b>	<b><i>Acreage Available and Zoned for Water-Dependent Use</i></b>	<b><i>Acreage to be Protected for Water-Dependent Use</i></b>	<b><i>Date of Data</i></b>
<i>Unincorporated Coos County</i>	<i>1440.50 acres</i>	<i>496.52 acres</i>	<i>January 1, 2000</i>
<i>City of North Bend</i>	<i>5.42 acres</i>	<i>96.33 acres</i>	<i>2006 data as amended</i>
<b><i>Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend</i></b>	<i>1445.92 acres</i>	<i>592.85 acres</i>	<i>September 27, 2006</i>
<i>*City of Coos Bay</i>	<i>106.89 acres</i>	<i>76.18 acres</i>	<i>January 1, 2000</i>

*\*City of Coos Bay chose not to participate in combining the City's water-dependent acreage*

Use of the acreage in the Combined Inventory for the Coos Bay Estuary on and Estuary-Wide Basis shown in the chart entitled, *Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary* will be coordinated by Coos County.

Any proposal to utilize unincorporated acreage to supply inventory for the City of North Bend from the unincorporated Coos County Acreage Available and Zoned for Water-Dependent Use in the chart entitled *Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary* will be subject to amendments of the Coos County Plan Inventory Document, Volume II, Part, 1 Plan Policy 16a.

**Findings:** Removing the water-dependent designation from subject property is subject to information within the chart entitled, "Acreage Available and Zoned for Water-Dependent Use" and "Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary." The chart

notes that the unincorporated area of Coos County is required to maintain 496.52 acres protected for water-dependent use, and this is shown in the middle column of the chart.

The proposal is to remove 34.04 acres from the water-dependent acreage that currently exists within the unincorporated portion of Coos County. There are currently 1440.50 acres available and zoned for water-dependent use within the unincorporated area of Coos County. When this application is approved, the remaining acreage available and zoned for water-dependent use is 1406.46 acres. This amount is reflected in the amended chart below, highlighted in gray.

When the 34.04 acres is removed from the unincorporated Coos County inventory, the “Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend” is revised to 1411.88 acres, which is reflected on the chart below.

When this application is approved, the middle column, “Acreage to be Protected for Water-Dependent Use” remains the same because the requirement will not change.

The applicant is unsure as to the information that is appropriate for the “Date of Data” column on the right, which may need to be amended; a question mark is inserted within this column.

Finally, the Date of Data for the Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis will need to be amended to reflect the date that this application is approved, as shown on the final column to the right at the end of the chart.

<i><b>Proposed Acreage Available and Zoned for Water-Dependent Use and Acreage to be Protected for Water-Dependent Use on the Coos Bay Estuary</b></i>			
<i><b>Jurisdiction</b></i>	<i><b>Acreage Available and Zoned for Water-Dependent Use</b></i>	<i><b>Acreage to be Protected for Water-Dependent Use</b></i>	<i><b>Date of Data</b></i>
<i>Unincorporated Coos County</i>	<del>1440.50 acres</del> 1406.46 acres	496.52 acres	January 1, 2000 ?
<i>City of North Bend</i>	5.42 acres	96.33 acres	2006 data as amended
<i><b>Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend</b></i>	<del>1445.92 acres</del> 1411.88 acres	592.85 acres	September 27, 2006 Date of approval of Amendment needs to be inserted.
<i>*City of Coos Bay</i>	106.89 acres	76.18 acres	January 1, 2000

Assuming that the chart is up to date for both Coos County and the City of North Bend at this time, unincorporated Coos County and City of North Bend combined inventory acreage available and zoned for water-dependent use on the Coos Bay Estuary will be 1411.88 acres when this application is approved.

The proposed rezoning of subject property is appropriate because the water-dependent use of subject property is not likely to occur for the forest industry use that was envisioned, and the amount of water-dependent acreage remaining that is available and zoned for water-dependent use in the combined inventory of the City of North Bend and unincorporated Coos County is 819.03 acres in excess of the amount that is required to be maintained by Policy 16a.

#### **OAR 660-037-0010**

##### ***Purpose Statement***

*The purpose of this division is to implement Coastal Shoreland Uses Requirement 2 of Goal 17 Coastal Shorelands (OAR 660-015-0010(2)) regarding water-dependent shorelands in estuaries. This division explains how to calculate the minimum amount of shorelands to be protected for water-dependent uses. This division also identifies the qualifications of shorelands suitable for water-dependent uses as well as suggested land use regulations for implementation.*

#### **660-037-0030**

##### ***Statement of Applicability***

*(1) This division applies to any post-acknowledgment plan amendment or periodic review work task that:*

- (a) Would directly affect a designated water-dependent shoreland site; and*
- (b) Is initiated on or after the effective date of this division.*

*(2) For purposes of this division, a designated water-dependent shoreland site is directly affected when any post-acknowledgment plan amendment or periodic review work task would:*

- (b) Allow or authorize a nonwater-dependent use or activity at a site, unless the use or activity is a "permissible nonwater-dependent use" as allowed by Goal 17 Coastal Shoreland Uses.*

#### **660-037-0040**

##### ***Definitions***

*For purposes of division 037, the definitions contained in ORS 197.015 and the Statewide Planning Goals (OAR chapter 660, division 015) apply. In addition, the following definitions apply:*

*(1) "Designated water-dependent shoreland site" means an estuarine shoreland area designated in a comprehensive plan and land use regulation to comply with Coastal Shoreland Uses Requirement 2 of Goal 17, Coastal Shorelands (OAR 660-015-0010(2)).*

*(4) "Post-acknowledgment plan amendment" means an action taken in accordance with ORS 197.610 through 197.625, including amendments to an acknowledged comprehensive plan or land use regulation and the adoption of any new plan or land use regulation. The term does not include periodic review actions.*

**Findings:** Subject property is a water-dependent shoreland site, and the proposal is a post-acknowledgment plan amendment. The proposal will authorize a nonwater-dependent use or activity on subject property.

*(6) "Water-Dependent Use".*

*(a) The definition of "water-dependent" contained in the Statewide Planning Goals (OAR Chapter 660, Division 015) applies. In addition, the following definitions apply:*

*(b) Typical examples of water dependent uses include the following:*

*(c) For purposes of this division, examples of uses that are not "water dependent uses" include restaurants, hotels, motels, bed and breakfasts, residences, parking lots not associated with water-dependent uses, and boardwalks.*

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**Findings:** The proposed use, residential, is not a "water dependent use."

**660-037-0050**

***Minimum Water-Dependent Shoreland Protection Acreage***

*(1) Estuarine cities and counties shall protect for water-dependent industrial, commercial, and recreational uses a minimum amount of shorelands suitable for water-dependent uses.*

*(2) Estuarine cities and counties shall calculate the minimum amount of shorelands to be protected within their respective political boundaries based on the following combination of factors as they may exist:*

*(a) Current Water-Dependent Use -- Acreage of estuarine shorelands that are currently being used for water-dependent uses; and*

*(b) Former Water-Dependent Use -- Acreage of estuarine shorelands that at any time were used for water-dependent uses and still possess a structure or facility that provides water-dependent access.*

*(c) For purposes of this rule, the calculation of the minimum amount of shorelands to be protected shall include storage and other backup land that is, or in the case of former water-dependent uses was, in direct support of the water-dependent use at the site.*

*(3) The minimum amount of shorelands to be protected in each estuary as a whole shall be equivalent to the sum of the minimum acreage calculations for each city and the county in the estuary.*

*(4) To calculate the minimum water-dependent shoreland protection acreage required by this rule, local governments may:*

*(a) Rely on data from local assessor maps or from plat maps that were officially adopted as part of a locally approved development plan;*

*(b) Generate original acreage data from orthorectified aerial photography;*

*(c) For shoreland parcels with a mixture of water-dependent and nonwater-dependent uses, visually approximate the acreage after examining assessor maps or plat maps, or after making a physical reconnaissance of the mixed-use shoreland sites; or*

*(d) Any other valid source as appropriate.*

**Findings:** The acreage chart from the Coos County ordinance, Appendix 3, Volume II, CBEMP Policies has taken all of the requirements of 660-037-0050 Minimum Water-Dependent Shoreland Protection Acreage into account, and it is appropriate to utilize the calculations that

exist within the County plan, and amend them as proposed within this document in order to reduce the water-dependent shorelands and maintain the appropriate amount of acreage to be protected for water dependent use in the Coos Bay Estuary. The analysis for this has been previously presented within this document.

#### **660-037-0060**

##### ***Designate Water-Dependent Shorelands***

*(1) Estuarine city and county comprehensive plans shall designate as water-dependent shorelands a sufficient total acreage that is equal to or greater than the minimum water-dependent shorelands acreage calculated by OAR 660-037-0050 above. In addition, all shorelands designated in accordance with this rule shall satisfy the water-dependent access locational criteria of OAR 660-037-0070 below.*

*(2) Designation Options. Either Option A or Option B:*

*(a) Option A: An individual estuarine city or county may designate as water-dependent shorelands any shorelands within its planning jurisdiction the total acreage of which is equal to or greater than the minimum acreage of water-dependent shorelands calculated for protection in OAR 660-037-0050 above.*

*(3) Local governments are encouraged to designate and protect as water-dependent shorelands an amount that is greater than the minimum required to be protected by this division. This "excess capacity" may be beneficial to achieving local economic objectives over the long term.*

**Findings:** The proposal to maintain 819.03 acres in excess of the required Combined Inventory for the Coos Bay Estuary on an Estuary-wide Basis for Unincorporated Coos County and the City of North Bend assures that there will be opportunities to utilize water-dependent acreage in the future, which may be beneficial to achieving local economic objectives over the long term.

#### **660-037-0070**

##### ***Water-Dependent Shoreland Locational and Suitability Criteria***

*(1) A proposal to designate lands as water-dependent shorelands in accordance with OAR 660-037-0060 above shall meet all of the following minimum locational and suitability criteria:*

*(a) The proposed shoreland site is within an urban or urbanizable area, or if in a rural area it is built upon or irrevocably committed to non-resource use or is designated in accordance with OAR Chapter 660, Division 022 Unincorporated Communities.*

**Findings:** Subject property is the continuation in the pattern of zoning that includes rural shorelands that were irrevocably committed to a non-resource use at the time that the CBEMP was acknowledged.

*(b) The designated water-dependent uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse effects.*



*(c) The proposed shoreland site and its designated uses and activities comply with all applicable Statewide Planning Goals, in particular with Goal 16 Estuarine Resources, and with the Goal 2 Exceptions process if applicable.*

**Findings:** The current water dependent zoning of subject property is not entirely compatible with the adjacent rural residential use on committed lands in 15-RS and 17-RS. The site was deemed compatible at the time of the acknowledgement of the CBEMP because the use that was envisioned was a single-purpose industrial use that involved moving logs from the site into the waters of the Coos Bay Estuary. No intense industrial facilities or infrastructure were developed to serve the industrial use. The envisioned use was compatible with rural residential use, but likely not all industrial uses would be compatible. The proposed residential use of subject property will be compatible with all adjacent properties.

*(A) Any water-dependent shoreland site acknowledged to comply with the Statewide Planning Goals without needing a Goal 2 Exception prior to the effective date of this division and that is selected to provide a jurisdiction's minimum shorelands acreage for water-dependent protection is deemed to comply with this rule provided there are no changes to the following:*

*(i) The size or shape of the site; or*

*(ii) The uses or activities allowed or authorized at the site, unless the use or activity is a "permissible nonwater-dependent use" as allowed by Goal 17 Coastal Shoreland Uses Requirement 2 (OAR 660-015-0010(2)).*

*(d) The proposed shoreland site possesses or is planned for land-based transportation and public utility services appropriate for the designated uses. Considerations should include the following: availability of public sewers, public water lines, and adequate power supply; and access to the area for truck and rail, if heavy industry is to be accommodated.*

**Findings:** While this application does not include proposals for designating any water-dependent shoreland site, it is appropriate to note that availability of public sewers, public water, and access to the area for truck and rail are important if a site is proposed for water-dependent use. Subject property does not have public sewers, public water, or rail access that would accommodate heavy industry, and as such, it would not likely be designated as an industrial water-dependent site today. This is another reason that it is appropriate to remove the water-dependent industrial designation at this time.

**660-037-0090**

***Rezoning of Qualifying Shorelands to Nonwater-Dependent Uses***

*(1) Any amendment to an acknowledged comprehensive plan or land use regulation under this rule must comply with all applicable Statewide Planning Goals. For purposes of this division, such applicable Goals include but are not limited to the following: Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces (OAR 660-015-0000(5)); Goal 7, Natural Hazards (660-015-0000(7)); Goal 16, Estuarine Resources (660-015-0010(1)); and Goal 17, Coastal Shorelands (660-015-0010(2)). In Goal 16, the designation of estuarine management units is based in part on the uses of the adjacent shorelands. Consequently, any change to shoreland designations and allowed uses being proposed under this division must include consideration of*

*affected estuarine management unit designations and allowed uses. This is particularly important in situations where the level of development designated in the adjacent estuarine management unit was acknowledged through a Goal 2 Exception; retaining that level of estuarine development would no longer be justified without taking a new Goal 2 Exception.*

**Findings:** The water-dependent zoning and envisioned development was not acknowledged through a Goal 2 Exception, although adjacent City of Coos Bay aquatic segments include 15-NA, Natural Aquatic and 16-CA, Conservation Aquatic. Some industrial uses would not have been compatible with adjacent Goal 16 aquatic designations, and would likely not be so today; subject property was not envisioned for more than one specific industrial use that is no longer available at the site. The proposed residential use of the site will be required to comply with conditions that address Goal 5 protections, Goal 7 natural hazards and Goal 17 coastal shorelands. Residential use will be a better fit for subject property in that it is less intense than the industrial water-dependent zoning, and more compatible with the adjacent aquatic designations.

## ***Volume II. Coos Bay Estuary Management Plan, Part 3. "Linkage," Cumulative Effects of Development and Statewide Goal Exceptions***

### ***2.7 Coastal Shorelands Goal #17 "Linkage Findings***

#### ***2.7.2 Site Specific Findings***

##### **Segment 16 WD**

*This segment is proposed as a future water-dependent industrial site for log storage and transport.*

*The site is selected because of its unique locational characteristics. It is:*

- (i) Close to the owner's (Weyco) timber lands, reducing the distance necessary to haul the logs by road before transfer to the water.*
- (ii) Located close to a natural channel which has sufficient depth to enable transport of log rafts with minimal maintenance dredging or minor navigational improvements.*
- (iii) Located close to Weyco Mill in North Bend via the Cooston Channel.*

*An upland site is needed for this use because of the limited amount of subtidal area available for in-water log storage and restrictions on intertidal log storage. Future expanded log storage therefore will need increasingly to go on land. The only other site on the Cooston Channel which would have suitable characteristics is Christianson Ranch, but this has great suitability for a larger space user. It is also in a rural area. There is no site in an urban/urbanizable area with the same favorable characteristics as this site.*

**Findings:** Segment 16-WD was designated as a water-dependent industrial site for log storage and transport because of locational characteristics that existed at the time. Subject property is no longer owned by Weyco; the site was no longer determined to be important for the future of their operations, and the company divested themselves of subject property. Findings that subject

property has favorable “locational” characteristics or that there is “proximity” to the owner’s timberlands are no longer factual.

In addition, the fact that subject property is close to a natural channel with sufficient depth to enable transport of log rafts with minimal maintenance dredging is not pertinent because log rafting is no longer a preferred method for log transport. This is because water changes the quality and desirability of the wood that is manufactured from the logs. Water logged and stained wood is not marketable, so water storage and transport is no longer a common practice. Finally, there is no Weyco Mill in North Bend at this time. The former mill property has been the site of the Mill Casino since the mid-1990’s. Characteristics of subject property are no longer favorable for the intended industrial use that is described in the CBEMP’s 2.7.2, site-specific findings for segment 16-WD. It is appropriate to designate subject property Management Unit 16-RS, Rural Shorelands.

### ***Coos County Zoning and Land Development Ordinance of 1985***

*Article 4.5 CBEMP Zoning Districts/Uses and Activities/Land Development Standards*  
*SECTION 4.5.100. Purpose. The purpose of this Article is to provide requirements pertaining to individual zoning districts in accordance with the Coos Bay Estuary Management Plan. Such requirements are intended to achieve the following objectives:*  
*(1) To encourage the most appropriate use of land and natural resources.*  
*(2) To facilitate the adequate and efficient provision of transportation, water, sewerage, schools, parks, and other public requirements.*  
*(3) To secure safety from flood or other natural hazard.*  
*The land development standards of Table 4.5 shall govern all development within the Coos Bay Estuary Shoreland Districts.*

**Findings:** The 16-RS designation encourages the most appropriate use of land and natural resources for subject property because it coordinates the use of subject property with the current development pattern adjacent to the site on both the north and south, and utilizes the committed lands exception that was established within the CBEMP when it was acknowledged. Subject property has been utilized for residential use in the past, and transportation is available to the site from East Bay Drive. Public water and sewer is not available to the site, and it will be necessary to consolidate existing lots that were platted in 1906 in order to allow for private facilities. Subject property is close to the communities of Coos Bay and North Bend, and to beaches, dunes, and other outdoor amenities. Subject property is within the North Bend School District and the North Bay Rural Fire District. All of the provisions for natural hazard protections and other goal requirements are set forth within the proposed 16-RS designation.

## **APPENDIX 3, VOLUME II – CBEMP, POLICIES**

### ***#36 Plan Update***

*Coos County shall: a) conduct a formal review of this the Plan, including inventory and factual base and implementing measures to determine if any revision is needed; b) shall base its review*

*upon re-examination of data, problems and issues; c) shall issue a public statement as to whether any revision is needed; d) shall coordinate with other jurisdictions which are included within the Coos Bay Estuary and its shorelands; and e) shall incorporate public input into its decision.*

*Coos County may rely on the formal "Periodic Review " process of this Plan to satisfy the requirements of this policy.*

*This strategy is based on the recognition that a formal periodic review is necessary to keep this Plan current with local situations and events which may change from time-to-time and reduce the Plan's ability to effectively and appropriately guide growth of the Coos Bay Estuary and its shorelands.*

*Coos County shall approve minor revisions/amendments to its Comprehensive Plan when justified. Minor revisions/amendments are smaller in scope than major revisions/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.*

*The County shall undertake special studies and projects deemed beneficial and/or necessary to the community, to keep key inventories current which are the factual basis of this Plan. This policy shall be implemented through Planning efforts to keep a statistical data base on Coos County's changing socio-economic characteristics (including, but not limited to, population and housing data, employment statistics, traffic counts, agricultural production, etc). The County encourages agency cooperation in providing relevant new data as it is published.*

*This policy recognizes the necessity of keeping key planning information current, and further, that County efforts to do so would be largely limited to collecting and analyzing data compiled initially by other agencies. Further, the policy recognizes that special projects (i.e., neighborhood traffic studies) may be necessary to help resolve unanticipated small- scale community problems.*

*The policy recognizes: a. the Planning Department may conduct the necessary research or contract with a consultant (if dollars are available); b. the County may continue with a skeletal long-range planning staff necessary to provide technical support in efforts to maintain and update the Plan; and c. state funds might be available to help defray the local costs of such activities.*

**Findings:** This consolidated application justifies three post-acknowledgement plan amendments to the Coos Bay Estuary Management Plan (CBEMP) including two text amendments and one map Amendment:

- a. Amend the Coos Bay Estuary Management Plan map to change the 16-Water-Dependent Development Shorelands, 16-WD designation, to the proposed 16-Rural Shorelands, 16-RS designation.
- b. Amend Volume II, Part I, Plan Provisions of the Coos Bay Estuary Management Plan text to change the management objective, uses,

- activities and special conditions of existing estuary management unit 16-Water-Dependent Development Shorelands (16-WD) to 16-Rural Shorelands (16-RS) Attachment J;
- c. Amend Coos County Comprehensive Plan, Volume II, Plan Policy 16a to adjust the protected water-dependent acreage available and zoned for water dependent use as presented within this document.

***Coos County Comprehensive Plan, Volume II. Coos Bay Estuary Management Plan, Part 1. Plan Provisions.***

***2.1 Plan Amendments/Revisions and Periodic Review***

- I. Coos County may rely on the formal "Periodic Review" process to satisfy the requirements of this policy.*

*Coos County shall conduct a formal review of the Plan, including inventory and factual base and implementing measures to determine if any revision is needed; base its review upon re-examination of data, problems, and issues; issue a public statement as to whether any revision is needed; coordinate with other jurisdictions which are included within the Coos Bay Estuary and its shorelands; and incorporate public input into its decision.*

*This strategy is based on the recognition that a formal periodic review is necessary to keep this Plan current with local situations and events which may change from time-to-time and reduce the Plan's ability to effectively and appropriately guide growth of the Coos Bay Estuary and its shorelands.*

*Coos County shall approve minor revisions/amendments to its Comprehensive Plan when justified. Minor revisions/amendments are smaller in scope than major revision/amendments, and generally include, but are not limited to changes in uses and activities allowed and changes in standards and conditions.*

- II. The County shall undertake special studies and projects deemed beneficial and/or necessary to the community to keep current key inventories, which are the factual basis of this Plan.*

*This policy shall be implemented through on-going Planning efforts to keep a statistical data base on Coos County's changing socio-economic characteristics (including, but not limited to, population and housing data, employment statistics, traffic counts, agricultural production, etc.). The County welcomes agency cooperation in providing relevant new data as it is published.*

*This policy recognizes the necessity of keeping key planning information current and, further, that County efforts to do so would be largely limited to collecting and analyzing data compiled initially by other agencies. Further, the policy recognizes that special projects (i.e.,*

neighborhood traffic studies) may be necessary to help resolve unanticipated small-scale community problems.

- III. The policy recognizes:
- the Planning Department may conduct the necessary research or contract with a consultant (if dollars are available);*
  - a. *the County may continue with a skeletal long-range planning staff necessary to provide technical support in efforts to maintain and update the Plan; and*
  - b. *state funds might be available to help defray the local costs of such activities.*

*Minor revisions/amendments are expected to occur when public needs and desires change and when development occurs at a different rate than contemplated by this Plan. Major revisions/amendments will include changes in the management objectives and classifications for management units and changes in bay-wide policies, while minor changes will include changes in uses and activities allowed and changes in standards and conditions. This is because the scope of those changes identified as "Major Revisions/ Amendments" is much greater than other plan changes because management objectives, unit classifications, and policies form the basis for each unit's uses and activities.*

*Each jurisdiction shall be responsible for complying with the notice requirements of ORS 197 for those amendments within its jurisdictional boundaries.*

**Findings:** The amendments that are proposed at this time are the result of changing issues and activities over time. The amendments are technically major amendments in that this application includes proposed changes to one management unit, including the objective, classification, activities and policies. In addition, there are proposed changes to the text of the ordinance to reflect the changes in the inventory of water-dependent lands.

The proposed changes are minor in the aspect that all of the proposed changes have previously been addressed within the inventories and analysis of the CBEMP. All of the proposed amendments are consistent with the Coos County Comprehensive Plan and its policies.

Approval of this consolidated application is an opportunity for Coos County to update the plan map and text to reflect changing conditions.

## **2.2 Major and Minor Revisions/Amendments**

*When major changes are proposed, issues, problems, and alternatives will be identified, taking into consideration social, economic, energy and environmental needs existing at the time of the proposed revision/amendment. The Statewide Planning goals and state statutes in effect at the time, along with documented changes in local conditions and/or circumstances, shall serve as the basis of any major Plan change.*



*If uses and activities allowed within various management units or the standards and conditions under which specific uses and activities are allowed are proposed to be changed, new or changed uses and activities will only be allowed when they are consistent with the LCDC Goals and statutes, compatible with adjacent uses and activities set forth in this Plan, and when they are in keeping with the designation and management objective of the management unit and otherwise coordinated with other policies and the inventoried needs set forth within the Plan.*

*Coos County citizens and affected governmental units shall have opportunities for review and comment during review and any subsequent major or minor revisions/amendments to this Plan.*

**Findings:** The changes that are proposed within this application are consistent with the LCDC goals and statutes.

- The changes in local conditions and circumstances are the basis of the map and text changes that are proposed.
- All of the applicable Statewide Planning Goals are addressed within this report, and coordinated with other policies and inventoried needs set forth within the CBEMP.
- The proposed management objective is for a less intensive use than the current uses allowed on subject property.
- The proposed uses and activities are consistent with adjacent designations and with the CBEMP as addressed within this report.
- The proposed uses and activities were already envisioned in the CBEMP inventories set forth within the Plan.
- The proposed general conditions that apply to all uses and activities provide conditions that protect riparian vegetation, comply with flood regulations, and all other requirements of the Statewide Planning goals.







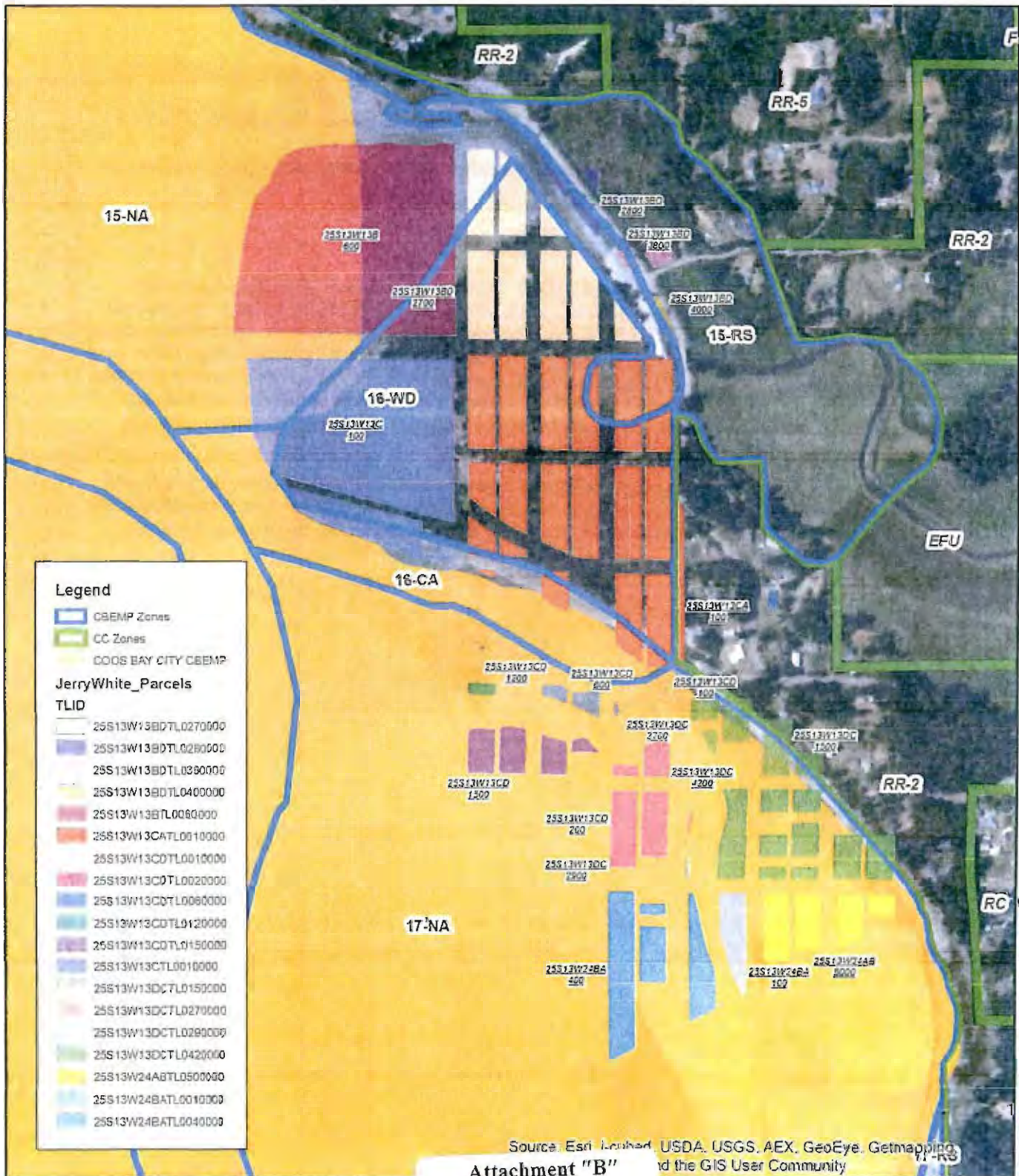
# COOS COUNTY PLANNING DEPARTMENT

Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423

Physical Address: 225 N. Adams, Coquille Oregon

Phone: (541) 396-7770

Fax: (541) 396-1022/TDD (800) 735-2900



Attachment "B"



**Ticor Title Company**  
300 W. Anderson  
Coos Bay, OR 97420  
(541)269-5127 \* FAX (541)267-0990

Jerry W. White Trust, uta dated 09-29-2010  
64904 E Bay Road  
North Bend, OR 97429

DATE: April 24, 2013  
ESCROW NO.: 360613008139-TTCOO06  
PROPERTY ADDRESS:  
Tax Acct. 3766900, North Bend, OR 97459

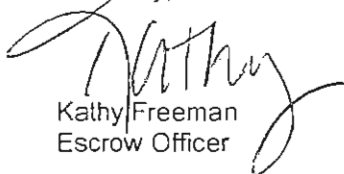
The above referenced escrow has closed as of this date. The following item(s) are enclosed for your records:

Final Settlement Statement

FUTURE PROPERTY TAXES ARE YOUR RESPONSIBILITY. The law does not require that property tax statements or notices be mailed, but it places the responsibility for payment entirely upon the owner after the close of escrow. Property taxes can be paid once the tax rolls have been certified by the county tax assessor. This generally happens in the latter half of October. The installment is due by November 15 and delinquent November 16. If you do not receive a property tax bill prior to delinquency, a written request, including the assessor's parcel number and legal description, must be made to the county tax collector. However, if yours is an impounded loan, property taxes will be paid by the Lender when due.

Recorded documents to which you are entitled will be mailed to you by the county recorder. We trust that this transaction has been handled to your satisfaction and look forward to the opportunity of seeing you again in the near future. Your policy of title insurance will follow under separate cover.

Sincerely,

  
Kathy Freeman  
Escrow Officer

enclosure(s)

Letter (Closing-Buyer)  
FDOR0085.rdw

Attachment "B"

Attachment D

**FINAL BUYER'S SETTLEMENT STATEMENT**

**Date:** April 24, 2013  
**Settlement Date:** April 24, 2013  
**Borrower:** Jerry W. White Trust  
64904 E Bay Road  
North Bend, OR 97429  
**Seller:** Karen L. Freude  
544 Quail Lane  
Roseburg, OR 97471  
**Property:** Tax Acct. 3766900  
North Bend, OR 97459

**Time:** 01:47 PM  
**Escrow No.:** 360613008139  
**Escrow Officer:** Kathy Freeman

	DEBIT	CREDIT
<b>Financial Consideration</b>		
Total Consideration	4,275.00	
White: deposit to close		5,035.79
<b>Prorations/Adjustments</b>		
County Taxes at \$43.14 04/24/13 to 07/01/13	8.04	
<b>Escrow Charges</b>		
Escrow Fee Ticor Title Company	450.00	
<b>Title Charges</b>		
Title Insurance Chicago Title Insurance Company Owner's Standard	200.00	
<b>Recording Charges</b>		
Recording Fees Ticor Title Company	41.00	
Douglas County Recording Fee / Certification Ticor Title Douglas County	61.75	
<b>Subtotals</b>	5,035.79	5,035.79
<b>TOTALS</b>	5,035.79	5,035.79

**Borrower**

Jerry W. White Trust, uta dated 09-29-2010

BY: \_\_\_\_\_

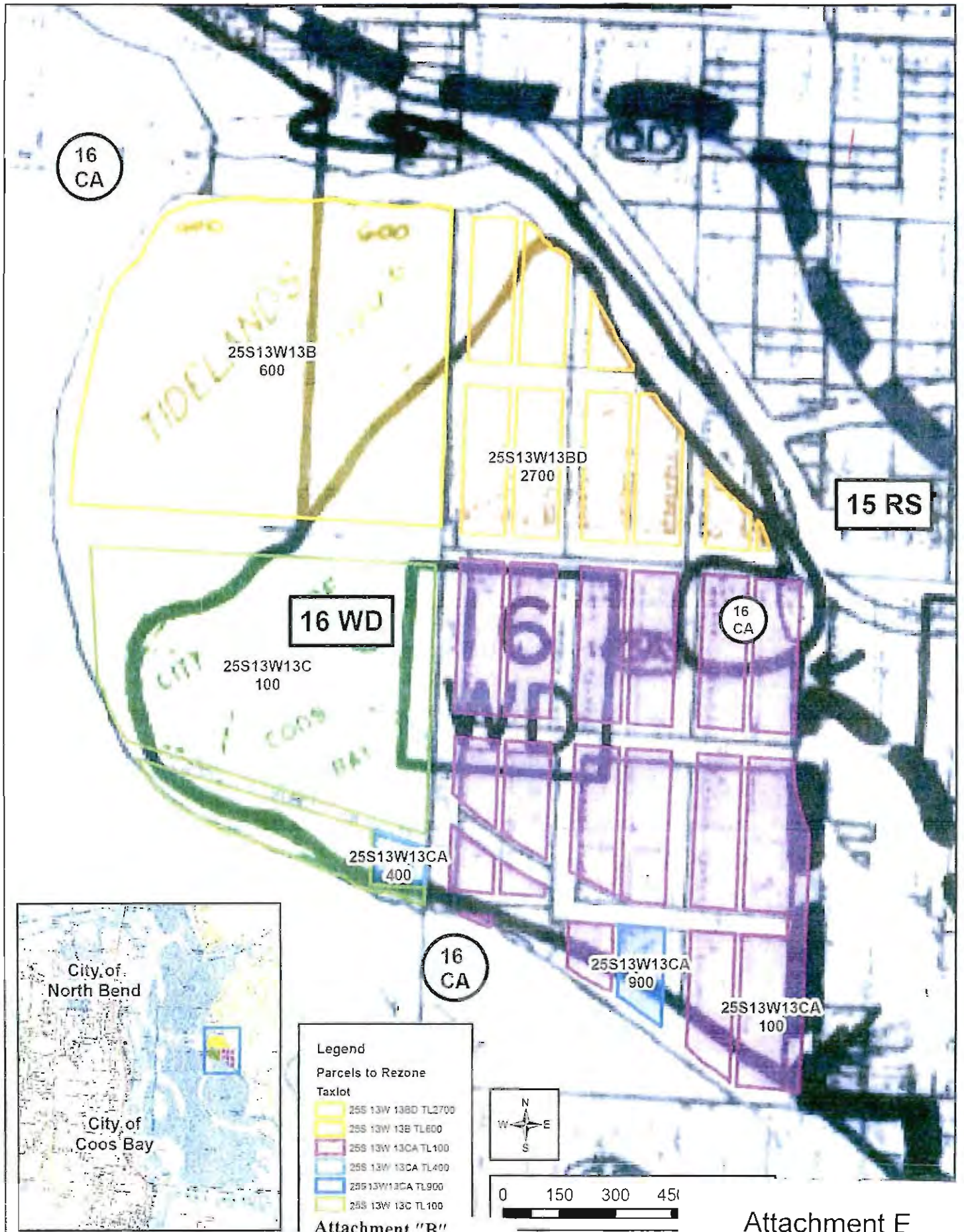
Jerry W. White, Trustee

Ticor Title Company  
Settlement Agent

Attachment "B"

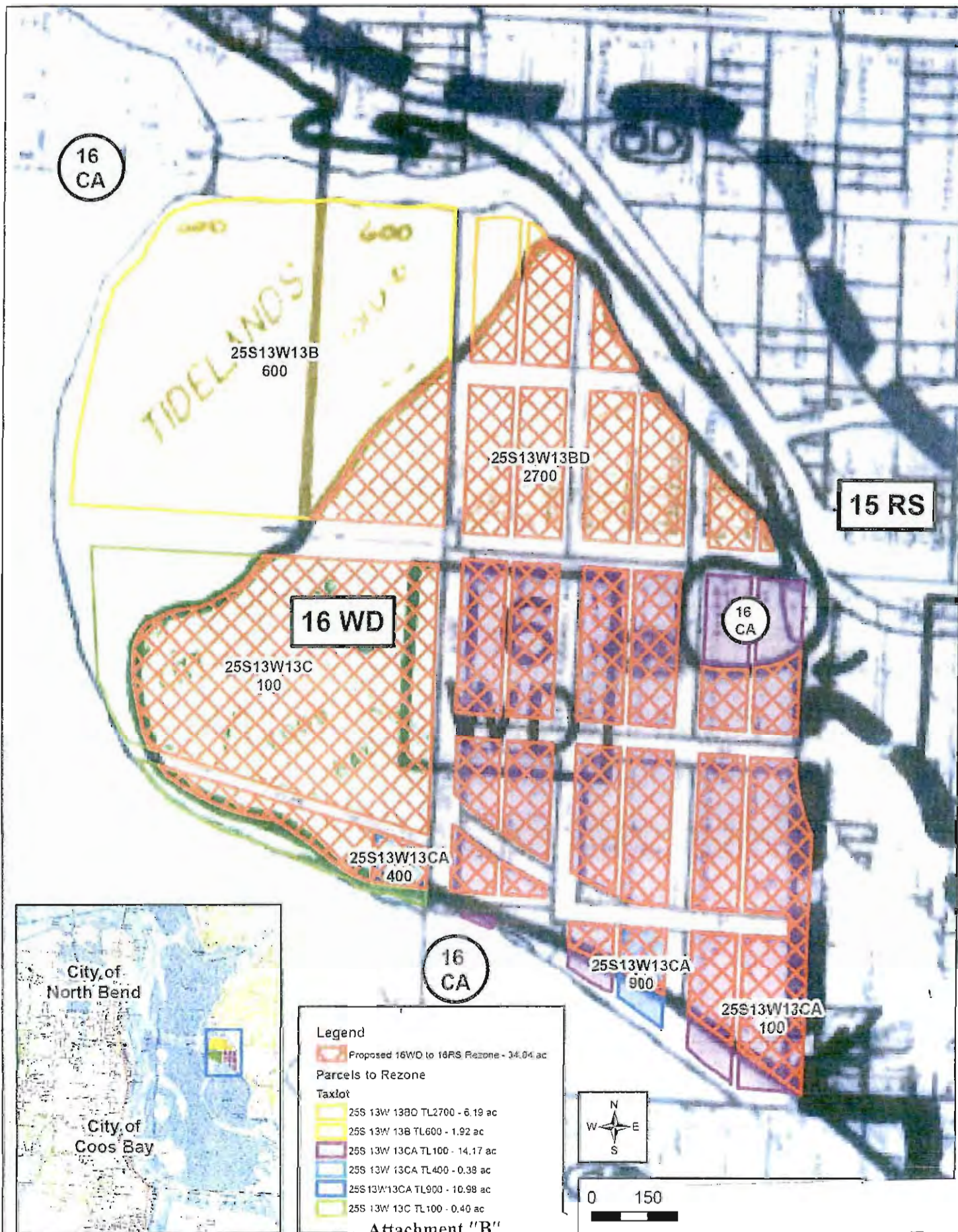


# Subject Property

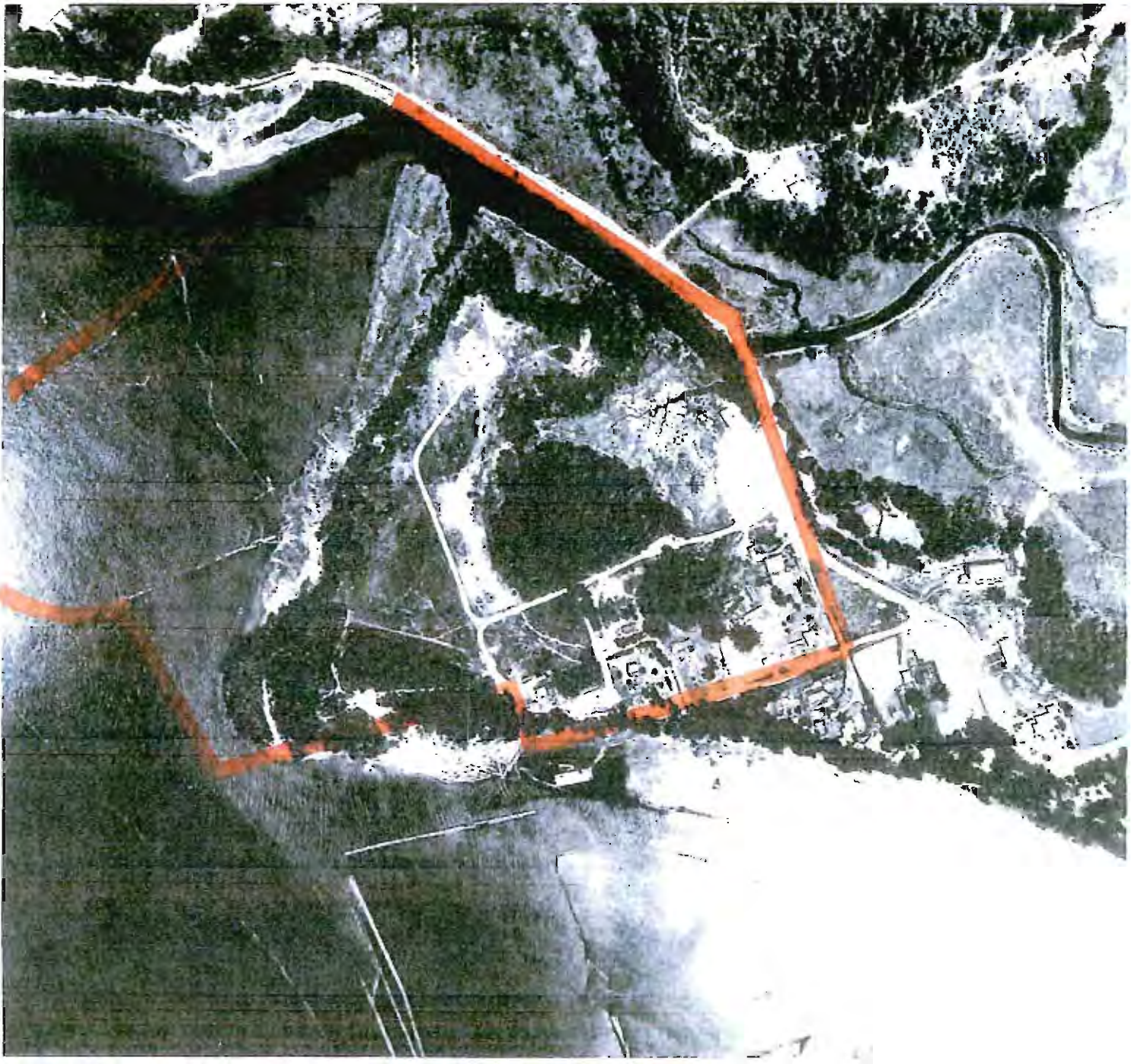




# CBEMP Zone Map with Proposed Rezone







**1969 Aerial Photo of Subject Property Showing Residential Use**

SOIL SURVEY OF COOS COUNTY, OREGON — SHEET NUMBER 20

R. 13 W. | R. 12 W.



Attachment "B"



Attachment H  
55

## Current Description

GENERAL LOCATION: UPPER BAY

ZONING DESIGNATION: 16-WD

ZONING DISTRICT: 16-WATER-DEPENDENT DEVELOPMENT SHORELANDS

SPECIFIC BOUNDARIES: This district is the entire Pierce Point area west of East Bay Drive  
Northern Boundary - East Bay Drive at the bridge over Willanch Slough. Southern  
Boundary - A line extending west from the L-turn of the East Bay Drive south of the  
Pierce Point peninsula.

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**SECTION 4.5.460. Management Objective:** This district, because of its location near the forest resource and the natural Cooston Navigation Channel, will be managed to protect its future utility as an industrial site particularly for log handling and storage and barging facilities.

**SECTION 4.5.461. Uses, Activities and Special Conditions.** Table 16-WD sets forth the uses and activities which are permitted, which may be permitted as conditional uses, or which are prohibited in this zoning district. Table 16-WD also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

### A. Uses:

1.	Agriculture	P-G
2.	Airports	N
3.	Aquaculture	P-G
4.	Commercial	ACU-S, G
5.	Dryland moorage	P-G
6.	Industrial and Port facilities	ACU-S, G
7.	Land transportation facilities	P-G
8.	Log storage/sorting yard (land)	P-G
9.	Marinas	N
10.	Mining/mineral extraction	N
11.	Recreation facilities	
	a. Low-intensity	P-G
	b. High-intensity	P-G
12.	Residential	N
13.	Solid waste disposal	N
14.	Timber farming/harvesting	P-G
15.	Utilities	
	a. Low-intensity	P-G
	b. High-intensity	P-G
16.	Energy production	ACU-S,G
17.	Water-borne transportation	ACU-S,G

B. Activities:

1.	Stream alteration	N-A
2.	Dikes	
	a. New construction	N
	b. Maintenance/repair	P-G
3.	Dredge material disposal	ACU-S, G
4.	Excavation to create new water surface	N
5.	Fill	ACU-S, G
6.	Shoreline stabilization	
	a. Vegetative	P-G
	b. Riprap	ACU-S, G
	c. Retaining wall	ACU-S, G
7.	Navigation aids	P-G
8.	Mitigation	ACU-S, G
9.	Restoration	
	a. Active	ACU-S, G
	b. Passive	ACU-S, G
10.	Land divisions	
	a. Partition	ACU-S, G
	b. Subdivision	ACU-S, G
	c. Planned Unit Development	ACU-S, G
	d. Recreation PUD	N

GENERAL CONDITIONS:

1. All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.
2. Uses in this district are only permitted as stated in Policy #14, "General Policy on Uses Within Rural Coastal Shorelands"; except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this Policy.
3. In rural areas (outside of UGBs) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.
4. All uses and activities: Inventoried resources requiring mandatory protection in this unit are subject to Policies #17 and #18.



## SPECIAL CONDITIONS

### Uses:

4.,6.,16.,17. These uses are subject to review and approval when consistent with Policy #16.

4. Commercial uses will be allowed only when they are support services to existing or planned industrial developments and do not prevent utilization of water access.
6. The area is reserved for uses associated with the storage and transportation of forest products.

### Activities:

- 3,5. Dredged material disposal or filling are acceptable activities to prepare the site for future industrial use.
- 6b,6c. These activities are permitted subject to the general findings required by Policy #9, "Solutions to Erosion and Flooding Problems".
- 8,9a,9b. Mitigation/restoration activities are only permitted if they would not inhibit or preclude future industrial use of the site.
10. Land divisions are only permitted where they meet the conditions in Policy #15.

**SECTION 4.5.462. Land Development Standards.** The requirements set forth in Table 4.5 shall govern development in the 16-WD district.

## Proposed Description

GENERAL LOCATION: UPPER BAY

ZONING DESIGNATION: 16-RS

ZONING DISTRICT: 16-Rural Shoreland

SPECIFIC BOUNDARIES: This district is the entire Pierce Point area west of East Bay Drive  
Northern Boundary - East Bay Drive at the bridge over Willanch Slough. Southern  
Boundary - A line extending west from the L-turn of the East Bay Drive south of the  
Pierce Point peninsula.

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**SECTION 4.5.460. Management Objective:** This district shall be managed to continue the general low-intensity rural uses and character consistent with objectives to maintain the riparian vegetation.

**SECTION 4.5.461. Uses, Activities and Special Conditions.** Table 16-RS sets forth the uses and activities which are permitted, which may be permitted as conditional use(s), or which are prohibited in this zoning district. Table 16-RS also sets forth special conditions which may restrict certain uses or activities, or modify the manner in which certain uses or activities may occur. Reference to "policy numbers" refers to Plan Policies set forth in the Coos Bay Estuary Management Plan.

A. Uses:

1.	Agriculture	P-G
2.	Airports	N
3.	Aquaculture	N
4.	Commercial	N
5.	Dryland moorage	N
6.	Industrial and Port facilities	N
7.	Land transportation facilities	P-G
8.	Log storage/sorting yard (land)	N
9.	Marinas	N
10.	Mining/mineral extraction	N
11.	Recreation facilities	
	a. Low-intensity	P-G
	b. High-intensity	P-G
12.	Residential	P-G
13.	Solid waste disposal	N
14.	Timber farming/harvesting	P-G
15.	Utilities	
	a. Low-intensity	P-G
	b. High-intensity	N

B. Activities:

1.	Stream alteration	P-G
2.	Dikes	
	a. New construction	N
	b. Maintenance/repair	P-G
3.	Dredged material disposal	N
4.	Excavation to create new water surface	P-G
5.	Fill	ACU-S, G
6.	Shoreline stabilization	
	a. Vegetative	P-G
	b. Riprap	ACU-S, G
	c. Retaining wall	ACU-S, G
7.	Navigation aids	P-G
8.	Mitigation	P-G
9.	Restoration	
	a. Active	ACU-S, G
	b. Passive	P-G
10.	Land divisions	
	a. Partition	ACU-S, G
	b. Subdivision	ACU-S, G
	c. Planned Unit Development	ACU-S, G
	d. Recreation PUD	N

GENERAL CONDITIONS (the following conditions apply to all uses and activities):

1. Inventoried resources requiring mandatory protection in this district are subject to Policies #17 and #18.
2. All permitted uses and activities shall be consistent with Policy #23 requiring protection of riparian vegetation.

The following conditions apply to all permitted uses.

3. Where "agricultural lands" or "forest lands" occur within this district, as identified in the "Special Considerations Map", uses in these areas shall be limited to those permitted in Policies #28 and #34.
4. Uses in this district are only permitted as stated in Policy #14, "General Policy on Uses within Rural Coastal Shorelands"; except as permitted outright, or where findings are made in this Plan, uses are only allowed subject to the findings in this Policy.
5. All permitted uses shall be consistent with the respective flood regulations of local governments, as required in Policy #27.
6. On designated mitigation/restoration sites, all uses/activities shall only be permitted subject to the conditions in Policy #22.
7. In rural areas (outside of UGB's) utilities, public facilities and services shall only be provided subject to Policies #49, #50, and #51.

## SPECIAL CONDITIONS

### Activities:







5. Fill shall not be allowed in areas of "wet meadow" wetland, as identified in the "Special Considerations Map", except as otherwise allowed in Policy #22.
- 6b,6c. These activities are permitted subject to the general findings required by Policy #9, "Solutions to Erosion and Flooding Problems".
- 9a. Active restoration shall be allowed only when consistent with Policy #22b.
10. Land divisions are only permitted where they meet the conditions in Policy #16.

**SECTION 4.5.472. Land Development Standards.** The requirements set forth in Table 4.5 shall govern development in the 16-RS district.





## SCHEMATIC LAND & WATER OWNERSHIP PATTERNS\*

### LEGEND:

#### LAND:

-  LUMBER & WOOD PRODUCTS (MAJOR FIRMS)
-  STATE OF OREGON
-  FEDERAL
-  CITY/COUNTY
-  PORT OF COOS BAY
-  MIXED OWNERSHIP, LARGELY PRIVATE

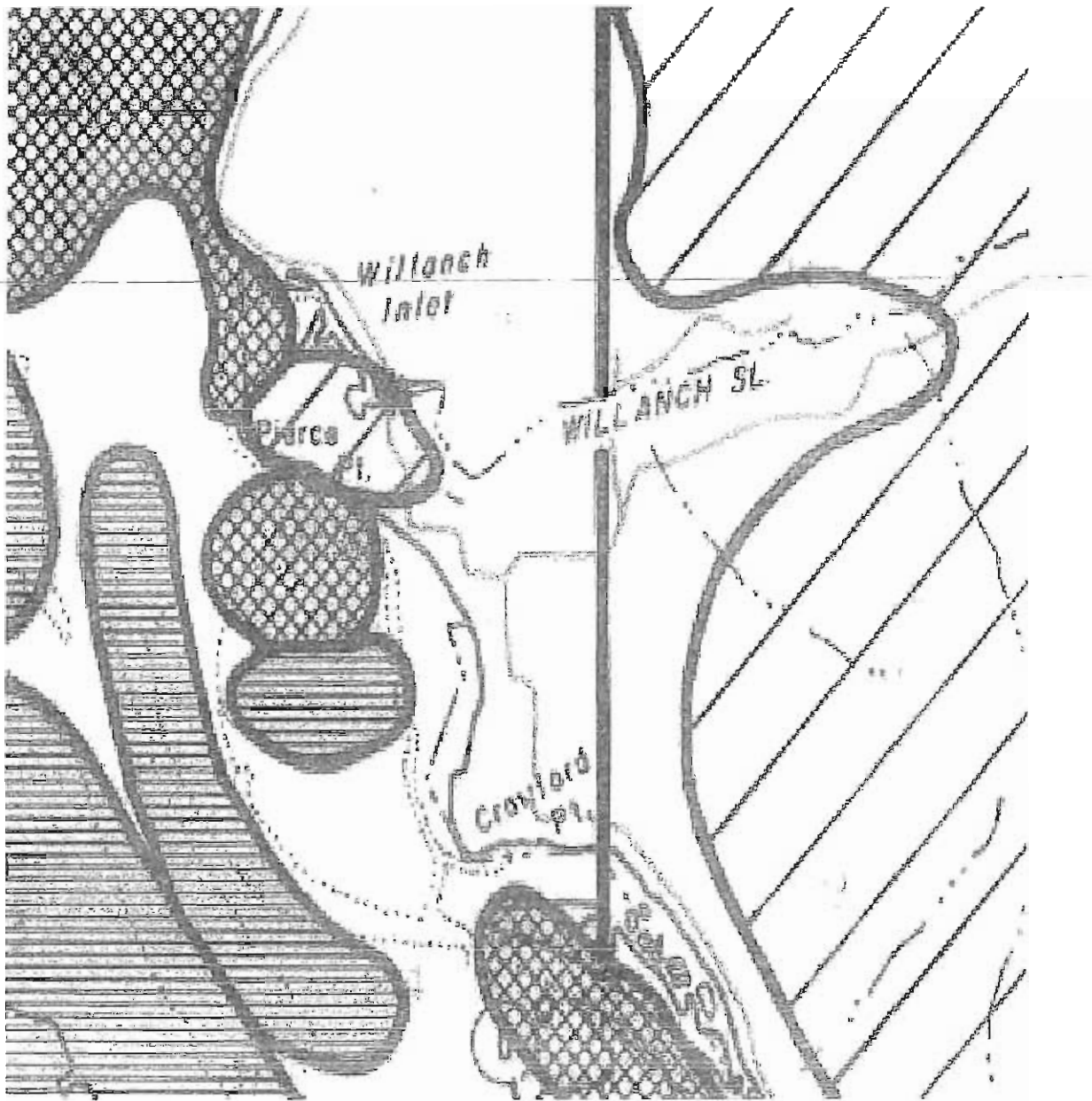
#### TIDELANDS: (SOURCE: DIVISION OF STATE LANDS)

-  STATE OF OREGON
-  PORT OF COOS BAY/CITY/COUNTY
-  PRIVATE (INCLUDES LUMBER & WOOD PRODUCTS FIRMS)
-  STATE OF OREGON

\* BOUNDARIES ARE GENERALIZED REPRESENTATION; ACTUAL OWNERSHIP LINES DO NOT COINCIDE EXACTLY WITH SCHEMATIC BOUNDARIES.



22 Schematic Land & Water Ownership Patterns Map



## SCENARIO #1 DEVELOPMENT NEEDS: IATF DECISIONS (1980-81)

### LEGEND:

#### USES THAT MAY BE ALLOWED:



WATER-DEPENDENT, WATER-RELATED ONLY (WD, WR)



LIMITED WATER-DEPENDENT ONLY (WD)  
(Prescribes very limited specific uses in area)



NON-DEPENDENT, NON-RELATED (NDNR)



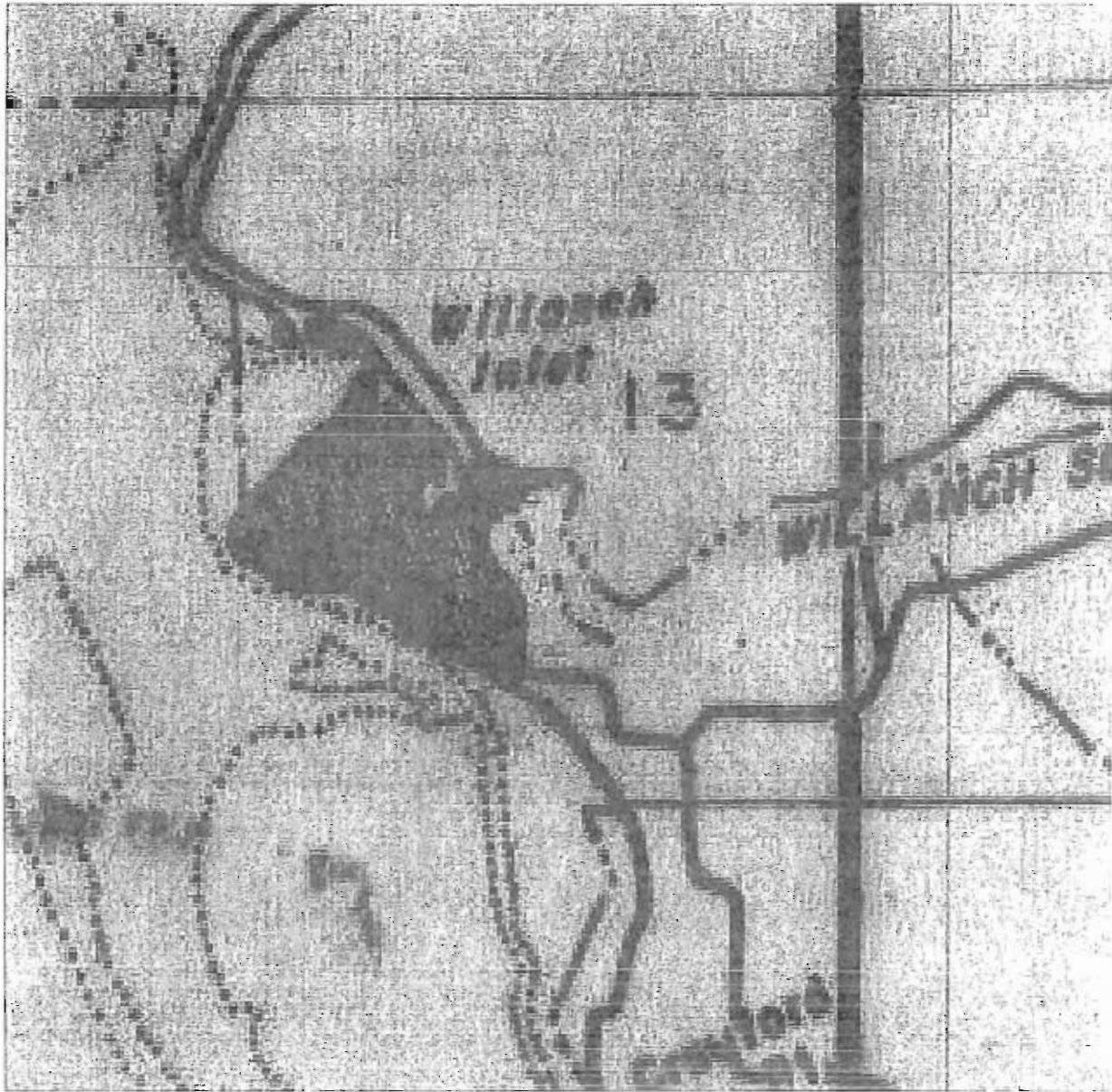
MIXED BUT NON-SPECIFIC: WD GENERALLY ALONG SHORELINE,  
NDNR TOWARD UPLANDS



"SPECIAL DEVELOPMENT" (SD): NOT NECESSARILY AVAILABLE  
FOR INDUSTRIAL USE



URBAN DEVELOPMENT, BUT INDUSTRIAL USE GENERALLY PROHIBITED



UNITED STATES POSTAGE  
EAGLE  
FIRST CLASS  
\$ 03.12<sup>0</sup>  
02 1R  
0006580781 JUL 25 2013  
MAILED FROM ZIP CODE 97423

JUL 29 2013

[illegible]

Plan Amendment Specialist  
Dept. Of Land Conservation & Development  
635 Capitol St NE Ste 150  
Salem, OR 97301-2564

