



# Oregon

Theodore R. Kulongoski, Governor

## Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

### NOTICE OF ADOPTED AMENDMENT

September 18, 2006

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment  
DLCD File Number 004-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: September 29, 2006**

This amendment was submitted to DLCD for review 45 days 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 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.**

Cc: Doug White, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
Patty Evernden, Coos County

<paa> yal



**FORM 2**

DEPT OF

SEP 12 2006

LAND CONSERVATION  
AND DEVELOPMENT

**DLCD NOTICE OF ADOPTION**

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

(See reverse side for submittal requirements)

Jurisdiction: Coos County

Local File No.: AM-06-04/RZ-06-04  
(if no number, use none)

Date of Adoption: September 7, 2006  
(Must be filled in)

Date Mailed: September 8, 2006  
(Must be filled in)

Date the Notice of Proposed Amendment was mailed to DLCD: June 5, 2006

Comprehensive Plan Text Amendment       Comprehensive Plan Map Amendment

Land Use Regulation Amendment       Zoning Map Amendment

New Land Use Regulation      Other: \_\_\_\_\_  
(Please Specify Type of Action)

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

Amend the CCCP designation for the subject property from Agricultural to Forest and to change the zone designation of the implementing CCZLDO from Exclusive Farm Use (EFU) to Forest Mixed Use (FMU).

**Describe how the adopted amendment differs form the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A." No language changes to the Comprehensive Plan or Zoning and Land Development Ordinance. Map update only.**

Plan Map Changed from: EFU to F

Zone Map Changed from: EFU to F

Location: Township 28, Range 13, Section 11, Tax Lot 800, 900 Acres Involved: 10.70 acres

Specified Density: Previous: \_\_\_\_\_ New: \_\_\_\_\_

Applicable Statewide Planning Goals: 3 & 4

Was an Exception Adopted? Yes: \_\_\_\_\_ No: X

Did the Department of Land Conservation and Development receive a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: X No: \_\_\_\_\_

If no, do the Statewide Planning Goals apply. Yes: \_\_\_\_\_ No: \_\_\_\_\_

If no, did the Emergency Circumstances Require immediate adoption. Yes: \_\_\_\_\_ No: \_\_\_\_\_

Affected State or Federal Agencies, Local Governments or Special Districts: Coquille RFPD, ODA, DOF

Local Contact: Patty Evernden, Director Area Code + Phone Number: (541) 396-3121 ext. 210

Address: Coos County Planning Department, Coos County Courthouse

City: Coquille Zip Code + 4: 97423

DLCD File No.: 004-06 (15269)

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BOARD OF COMMISSIONERS  
COUNTY OF COOS  
STATE OF OREGON

IN THE MATTER OF AMENDING )  
THE COOS COUNTY COMPREHENSIVE )  
PLAN AND ZONING AND LAND ) ORDINANCE 06-05-005PL  
DEVELOPMENT ORDINANCE )  
(Leonard Application) )

The Board of Commissioners for the County of Coos ordains as follows:

SECTION 1. TITLE

This Ordinance shall be known as "Coos County Ordinance No. 06-05-005PL".

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to the provisions of ORS 203.035 and Chapter 215.

SECTION 3. PURPOSE

The purpose of this Ordinance is to amend Volume I of the acknowledged Coos County Comprehensive Plan; this Ordinance therefore amends Coos County Ordinance 82-12-022L, and amendments thereto, which adopts Volume I of the Coos County Comprehensive Plan. The purpose of this Ordinance is also to amend Coos County Ordinance 85-03-004L and amendments thereto, which is the Coos County Zoning and Land Development Ordinance (CCZLDO) that implements Volume I of the Coos County Comprehensive Plan; this Ordinance therefore amends Ordinance 85-03-004L.

These amendments are necessary to reflect the forest suitability and predominant characteristics, and the subordinate agricultural characteristics which exist on the subject properties.

Joe Leonard filed an application (AM-06-04/RZ-06-04) seeking re-designation of the subject property to "Forest" plan and zone designation from the existing "Exclusive Farm Use" and "Agriculture" plan and zone designations. The applicant proposes to add the subject property to the Comprehensive Plan inventory "Mixed Agricultural-Forest Use Areas".

1 SECTION 4. FINDINGS

2 The review criteria for the proposed action are set forth in Attachment A,  
3 attached hereto and incorporated herein by this reference, together with the  
4 findings of fact and conclusions that the criteria have been satisfied. The  
Board of Commissioners hereby adopts the findings and conclusions set forth  
in Attachment A.

5 SECTION 5. AMENDMENTS TO THE COOS COUNTY COMPREHENSIVE  
6 PLAN AND TO THE COOS COUNTY ZONING AND LAND  
7 DEVELOPMENT ORDINANCE

8 Ordinance 82-12-022L and amendments thereto adopting Volume I of the  
9 Coos County Comprehensive Plan, and the Plan's map designation described  
10 in Section 3, above, are amended as necessary to change the Plan  
11 designation of the subject property to "Forest". Also, Ordinance 82-12-022L  
12 and amendments thereto adopting Volume I of the Coos County  
13 Comprehensive Plan are amended to change the "Mixed Agricultural-Forest  
Use Areas" inventory map to include the rezone area. Ordinance 85-03-  
004L and amendments thereto implementing Volume I of the Coos County  
Comprehensive Plan are amended as necessary to change the official zoning  
map to reflect the rezone of the subject property to "Forest" Mixed Use.

14 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

15 Coos County Ordinance 82-12-022L and amendments thereto and Ordinance  
16 85-03-004L and amendments thereto are repealed to the extent that they  
17 conflict with this Ordinance. Said Ordinances shall remain in full force and  
effect in all other respects.

18 SECTION 7. SEVERANCE CLAUSE

19 If any section, subsection, provision, clause, or paragraph of this Ordinance  
20 shall be adjudged or declared by any court of competent jurisdiction to be  
21 unconstitutional or invalid, such judgment shall not affect the validity of the  
22 remaining portions of this Ordinance; and it is hereby expressly declared  
23 that every other section, subsection, provision, clause or paragraph this  
Ordinance enacted, irrespective of the enactment or validity of the portion  
thereof declared to be unconstitutional or invalid, is valid.


24 SECTION 8. EMERGENCY CLAUSE

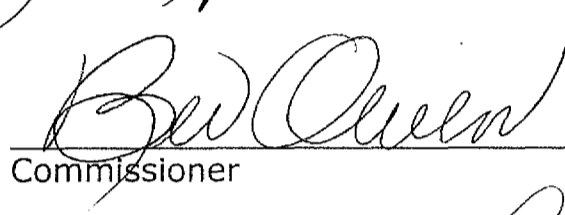
25 The Board of Commissioners for the County of Coos deems this Ordinance  
26 necessary for the immediate preservation and protection of the public peace,  
27 safety, health, and general welfare for Coos County and declares an  
emergency exists, and this Ordinance shall be in full force and effect upon its  
28 passage.

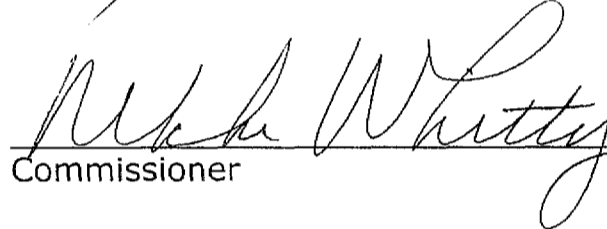
1 ADOPTED this 7<sup>TH</sup> day of SEPTEMBER, 2006.

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BOARD OF COMMISSIONERS

  
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Commissioner

  
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Commissioner

  
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Commissioner

ATTEST:

  
\_\_\_\_\_  
Recording Secretary

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Office of County Counsel

SIGNED this 7<sup>TH</sup> day of SEPTEMBER, 2006.

1<sup>st</sup> Reading: AUGUST 16, 2006

2<sup>nd</sup> Reading: SEPTEMBER 7, 2006

Emergency Adoption: SEPTEMBER 7, 2006

Effective Date: SEPTEMBER 7, 2006

## INTRODUCTION

The applicant is the owner of 10.9 acres of land consisting of two contiguous legal lots of record that contain 6.8 acres (Tax Lot 800) and 4.10 acres (Tax Lot 900). Tax Lot 800 currently contains a single-family dwelling. The parcels are generally located Southwest of the City of Coquille in the Fat Elk Creek area of Coos County. The subject property is currently zoned Exclusive Farm Use (EFU) and the applicant wishes to rezone the property to Forest (F) with a Mixed-Use (agricultural) overlay. Access to the property is provided directly from Elk Creek County Road approximately three miles West from its intersection with Highway 42S. The adjacent properties lying North, East and South of the subject property are zoned Exclusive Farm Use (EFU) and consists of an upland bench area that borders substantial bottomland extending to the North and East. The land lying directly adjacent to the east is zoned Forest (F). The lands surrounding the subject property contain a mixture of farm and forest uses. It is evident that the surrounding upland bench area was zoned for farm use in conjunction with farm uses that occur on the bottomland lying North and East. The development pattern of the area is intermingled with farm, forest and rural residential uses.

The subject property is a triangular parcel lying South of the county road and extending Northeasterly from the abutting hillside forestland. The parcel is entirely forested with a variety of conifers averaging from 50 to 70 years of age. According to the United States Natural Resource Conservation Service soil maps, the predominant soil type on the subject property is Wintley Silt Loam with 0 to 8 percent 15 to 30 percent slopes. On the basis of a 100-year site curve, the Wintley soil type is capable of a mean site index of 170 for Douglas Fir. The 170 mean site index indicates the property contains some of the best timber producing soils in Coos County.

While the property contains high-site forest type soils and is predominantly in forest use, the Wintley soils are also identified as subclass III and IVe agricultural soils. Oregon Statewide Planning Goal 3 (Agriculture) recognizes agricultural lands in Western Oregon as those lands containing agricultural subclass I, II, III, and IV soils. Therefore, with consideration given to the predominate forest use existing on the property together with the subordinate agricultural characteristics of the property and adjacent lands, an appropriate and more accurate zone designation for the subject property is Forest (F) with a mixed agricultural use overlay.

Therefore, pursuant to Appendix 1, Volume 1 Policy 5.4(8) of the Coos County Comprehensive Plan, Oregon Statewide Planning Goals 3 and 4, and the applicable Administrative Rules, the applicant is requesting a change in the zone designation from Exclusive Farm Use (EFU) to Forest (F) with a Mixed Use Overlay. The requested change will support the suitability and predominant (forest) characteristics of the subject

property while appropriately acknowledging the subordinate agricultural characteristics of the surrounding area.

### APPLICATION REQUEST

This request is to amend the Coos County Comprehensive Plan Designation for the subject property from Agriculture to Forest and to change the zone designation of the implementing Coos County Zoning and Land Development Ordinance from Exclusive Farm Use (EFU) to Forest (F) with a Mixed Use Overlay.

### APPLICATION SUPPLEMENTAL

#### **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 questions must be answered:

a) were the lots or parcels for which a rezone request is made physically developed for a non-farm use prior to February 16, 1983? Explain and provide documentation:

**FINDING: No.** The purpose of this rezone application is to change the resource zone designation of the subject property from Exclusive Farm Use (EFU) to Forest (F) with a mixed use overlay to reflect the suitability and predominant "forest" characteristics of the property and the subordinate Agricultural characteristic of the area. A physically developed or irrevocably committed exception pursuant to Goal 2 is not required for changes from one resource zone designation to another resource zone designation provided it can be documented that the requested zone designation satisfies the definitions prescribed by the pertaining Goal (see \*OAR 660-33-030(4) below). Furthermore, accepted farm practices are allowed outright in the Forest zone district.

*\*OAR 660-33-030(4) When inventoried land satisfies the definition requirements of both agricultural land and forestland, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.*

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? Explain:

**FINDING:** Yes. Evidence has been submitted addressing Appendix 1 CCCP Volume 1, Policy 5.4(8) which allows changes in zoning districts from Forestry to Agriculture and vice versa provided adequate findings are made supporting the request.

The plan policy recognizes "That agriculture and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest uses and activities."

b) will the rezone seriously interfere with permitted uses on other nearby parcels? Explain:

**FINDING:** No. Farm, forest and residential uses currently exist on adjacent and nearby parcels. This request is to rezone the subject property to reflect the existing forest use and predominant forest characteristics. Because the land surrounding the subject property is similar in use and (resource) characteristics, and because the uses allowed in both the Farm and Forest districts are generally the same or similar in nature, there is no reason to believe that a change from one resource zone designation to another resource zone designation will interfere with "resource uses" on adjacent or nearby properties.

2) will the rezone comply with other adopted plan policies and ordinances?

**FINDING:** Yes. The Coos County Comprehensive Plan and the Coos County Zoning and Land Development Ordinance are based upon Oregon Statute, Administrative Rules and the Oregon Statewide Planning Goals. The proposed rezone is intended to bring the subject property more into compliance with Goal 4 (Forestry), Goal 3 (Agriculture), and Oregon Statutes and Administrative Rules that regulate uses and activities occurring on resource lands. Because the subject property is forest land by both use and definition pursuant to Goal 4 as acknowledged by the Coos County Comprehensive Plan, changing the zone district from farm to forest to allow the continuation of forest uses is assumed to be in compliance with other portions of the adopted plan policies and ordinances.

The rezoning of property from Forestry to Agriculture and vice versa is recognized and allowed pursuant to Appendix 1 Volume 1 CCCP Policy 5.4(8) of the Coos County Zoning and Land Development Ordinance.



## FINDING DOCUMENT

### SMITH TRUST REZONE/PLAN AMENDMENT

#### OREGON ADMINISTRATIVE RULES

##### OAR 660-06-057 Rezoning Land to an Agricultural/Forest Zone

Any rezoning or plan amendment of lands from an acknowledged zone or plan designation to an Agriculture/Forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.

**FINDING:** The subject property consists of 10.9 acres of benched forestland. According to the United States Department of Agriculture Soil Conservation Service soil survey maps, the predominant soil type on the subject property is Wintley Silt Loam with 0 to 8 percent and 15 to 30 percent slopes. On the basis of a 100-year site curve, the Wintley soil type is capable of a mean site index of 170 for Douglas fir. The Wintley soils are also identified as subclass III and IVe agricultural soils. Goal 3 (Agriculture) recognizes agricultural lands in Western Oregon as those lands containing agricultural subclass I, II, III, and IV soils.

The land lying North, East and South of the subject property consists of upland bench and is surrounded to the North and East by agricultural bottomland that has historically been used for farming. Because the adjacent bottomland is subject to winter flooding, the adjacent uplands have historically been utilized as refuge for cattle and for development of barns and residences in conjunction with existing farm uses.

#### CONCLUSION

Based upon the predominant forest use and characteristics of the subject property together with a potential use for agriculture as is occurring on adjacent uplands, a conclusion can be made that the area being rezoned contains such a mixture of forest and agricultural uses that neither Goal 3 nor 4 can be applied alone.

## APPENDIX 1, COOS COUNTY COMPREHENSIVE PLAN, VOLUME 1

### POLICY 5.4 FORESTLANDS

5.4(8) Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice-versa, upon findings which establish:

- i. that the proposed rezone would be at least as effective at conserving the resource as the existing zone.

**FINDING:** The subject property is forestland by use and definition.

Appendix I CCCP Volume I Policy 5.4(1) states in part that, Coos County "shall conserve those resources designated as forestlands by regulating uses and activities in such areas through requirements stipulated in the Forest zone (F)." Furthermore, the policy goes on to state, "This strategy recognizes that Coos County's forestlands are an extremely valuable resource, and that the above-referenced zones are; (1) necessary and responsible to respond to the varying situational characteristics addressed in the inventory, and (2) adequate to conserve the county's forestlands for forest uses.

It is clear from the above referenced policy that the Forest (F) zone district has been established specifically for the purpose of conserving forest resources. Furthermore, the implementation of the Mixed Use overlay recognizes the existence of agricultural lands in conjunction with forestlands and assures the conservation and continuation of agricultural uses.

- ii. that the proposed rezone would not create a non-conforming use.

**FINDING:** There is currently a residential use on one of the subject parcels (Tax Lot 800) that are currently zoned EFU. However, the dwelling was sited prior to land use planning in Coos County, is considered a legal Grandfathered use, and was not sited in conjunction with a farm use. And, because a residential use is allowed as conditional uses in both the farm and forest districts, a non-conforming use will not be "created" when the district is changed from one resource district to another resource district. It should also be noted that based upon the development pattern of the area, it appears the property would qualify for a dwelling under current Forest regulations. Therefore, the proposed change to a Forest zone would in effect, bring the existing dwelling more into compliance with current regulations.

- iii. that the applicant for the proposed rezone has certified that he/she understands that the rezone, if granted, could have significant tax consequences.

**FINDING:** The applicant is aware that if granted the proposed rezone may have significant tax consequences.

### “MIXED AGRICULTURAL-FOREST USE AREAS”

#### COMPREHENSIVE PLAN VOLUME 1 PART 2, SETTING 3.2(5)

1. Mixed-use areas are those areas with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agricultural uses.
2. Mixed-use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.
3. Mixed use areas are those areas predominantly co-managed for both farm and forest uses.

**FINDING:** The subject property is located within the Coquille River Valley. The Coquille River is under tidal influence for approximately twenty-six (26) miles from its mouth at the Pacific Ocean (Bandon) through Riverton and Coquille to Myrtle Point. The land along the Coquille River generally consists of bottomland that has been reclaimed from tidal marshes through dikes, ditching and tidegates that control high tides and seasonal flooding. The bottomland has historically been used for the grazing of cattle and for grass/hay crops. The adjacent uplands consist predominantly of forestland with bench and hillside topography that contains a mixture of forest uses and upland pastureland for cattle grazing and refuge for cattle during seasonal flooding.

Although the subject property is entirely forested with 50 to 70 year old conifer and scattered hardwoods, the lands adjacent to subject property contain a mixture of upland grazing, forest and residential uses. According to the United States Department of Agriculture Soil Conservation Service, the predominant soil types on the subject property are Wintley Silt Loams with 0 to 8 percent and 15 to 30 percent slopes. Although these soil types are predominantly used for timber production, they are also suitable for livestock grazing and are identified as subclass III and IV agricultural soils.

Those forestlands throughout Coos County that are adjacent to existing agricultural uses have historically been zoned with a mixed use overlay to allow for both forestry and farm uses. The subject property consists of high site forest type soils and is predominantly forestland by use and definition. However, the historic use of uplands for farming in conjunction with the adjacent bottomlands, together with the identified agricultural soils types, demonstrates a mixture of farm and forest uses.

#### CONCLUSION

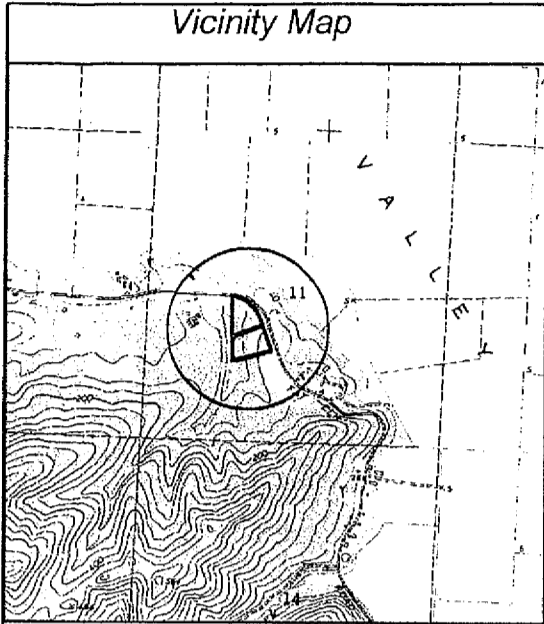
Based upon the existing uses, soil types and physical features associated with the subject property and the surrounding area, the application of a mixed-use overlay is appropriate pursuant to the Coos County Comprehensive Plan.

#### FINAL CONCLUSION

Based upon the submitted evidence addressing Appendix 1, Volume 1 Policy 5.4(8) and Volume 1, Part 2, Setting 3.2(5) of the Coos County Comprehensive Plan and the Oregon Statewide Planning Goals 3 and 4, a conclusion can be made that the applicable criteria has been satisfied and that a Forest (F) zone designation with a Mixed-use overlay is appropriate for the subject property. Therefore, the applicant respectfully requests a decision supporting the proposed zone change.

# COOS COUNTY PLANNING DEPARTMENT

Coos County Courthouse Annex, 290 N. Central  
Coquille, Oregon 97423  
(541) 396-3121 Ext. 210 Fax (541) 396-2690

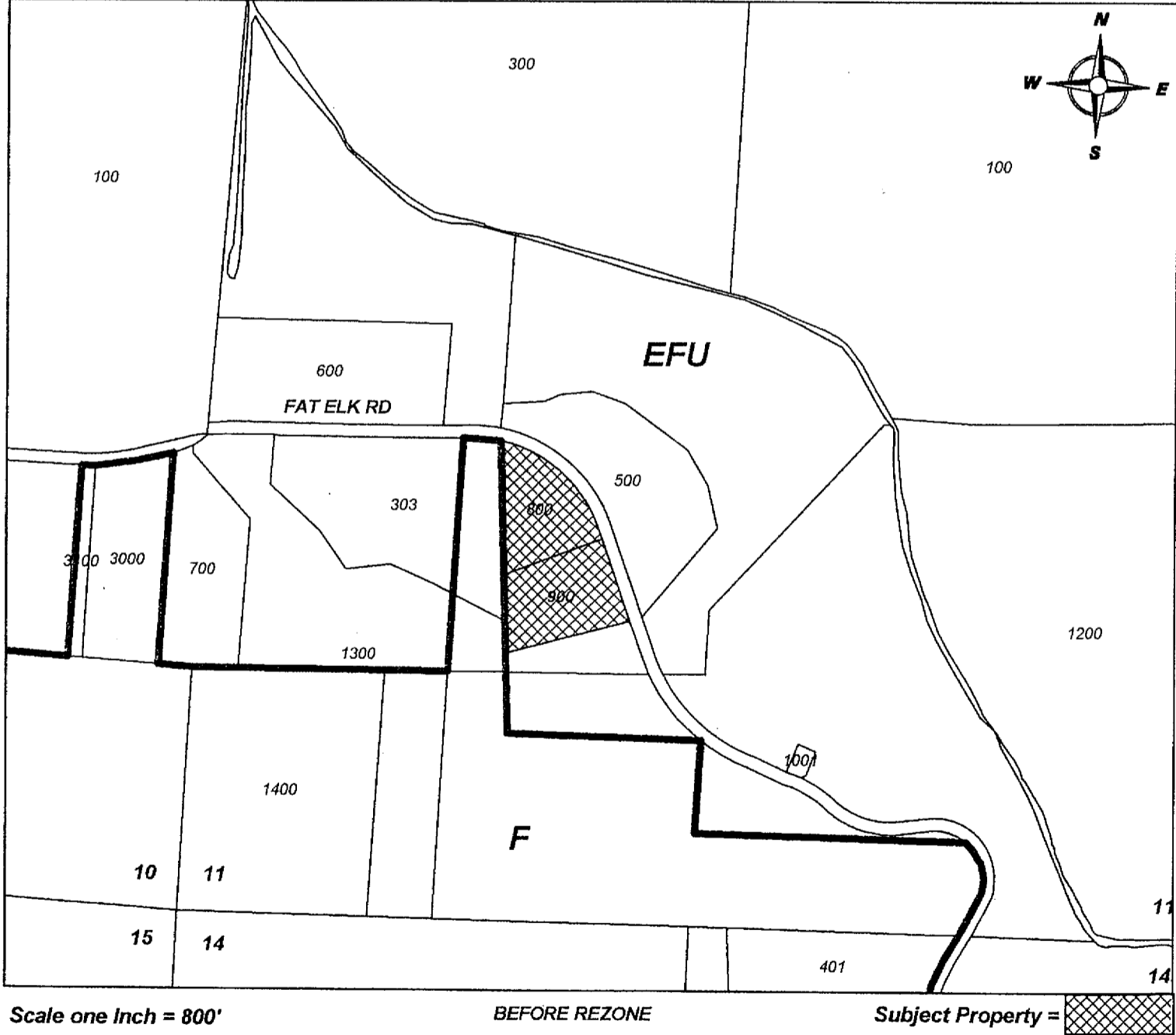


File Number: AM-06-04 / RZ-06-04

Applicant: Joe Leonard  
Owner: Philip Leonard 1999 Trust  
PO Box 217  
Shingle Springs, CA 95682

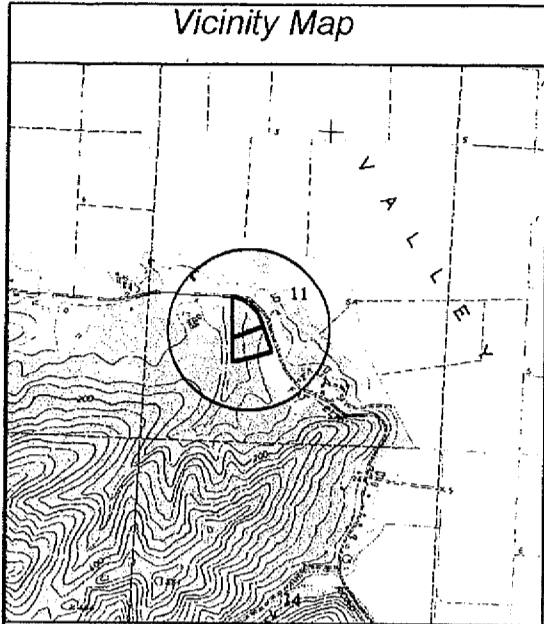
Location: T28 R13 Sec.11 TL 800, 900

Proposal: Rezone from EFU to F



# COOS COUNTY PLANNING DEPARTMENT

Coos County Courthouse Annex, 290 N. Central  
Coquille, Oregon 97423  
(541) 396-3121 Ext. 210 Fax (541) 396-2690

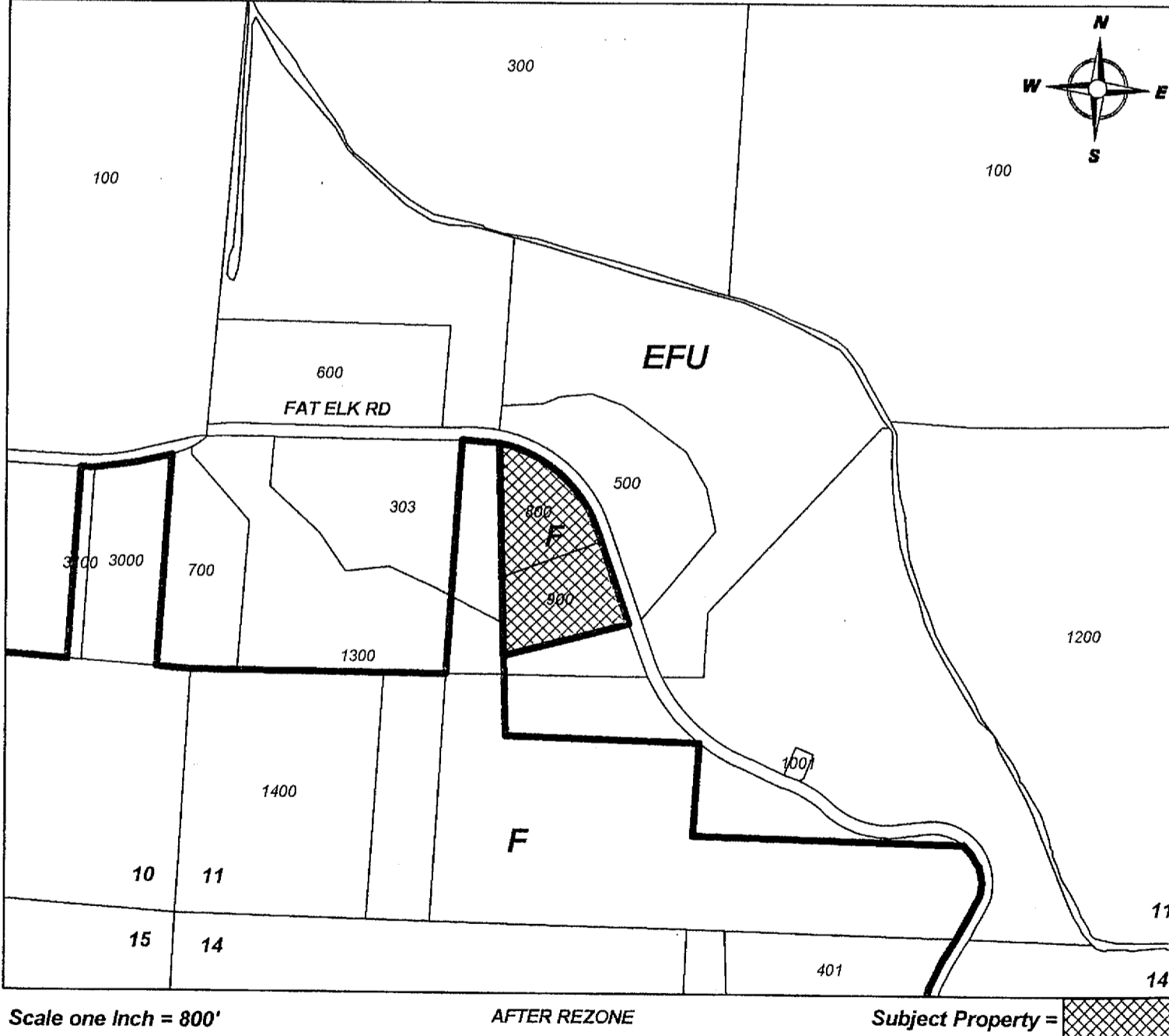


File Number: AM-06-04 / RZ-06-04

Applicant: Joe Leonard  
Owner: Philip Leonard 1999 Trust  
PO Box 217  
Shingle Springs, CA 95682

Location: T28 R13 Sec.11 TL 800, 900

Proposal: Rezone from EFU to F



THIS MAP WAS PREPARED FOR  
ASSESSMENT PURPOSE ONLY

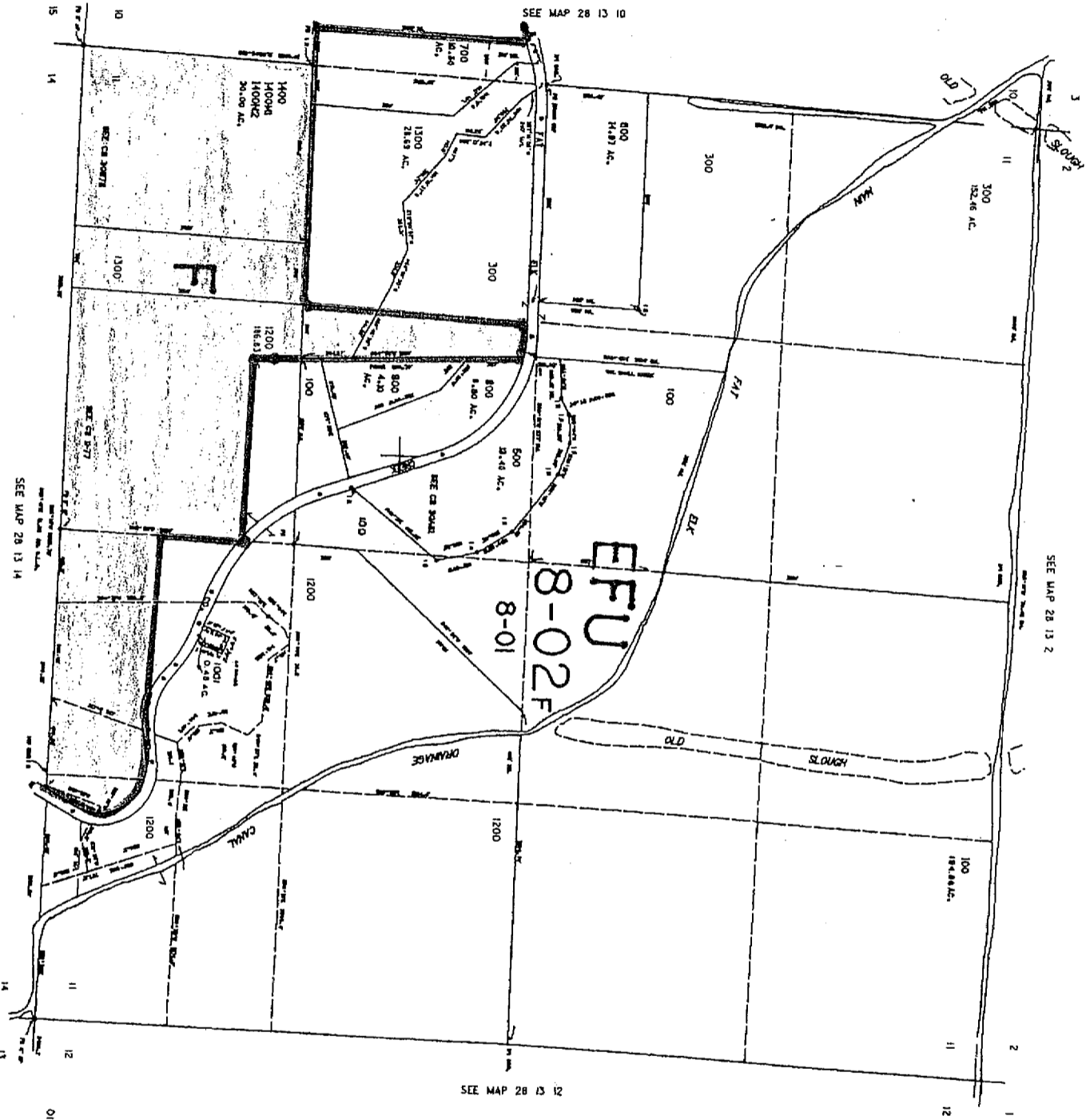
SECTION 11 T.28 N. 37W. W.M.  
COOS COUNTY

1" = 400'

SEE MAP 28 13 2

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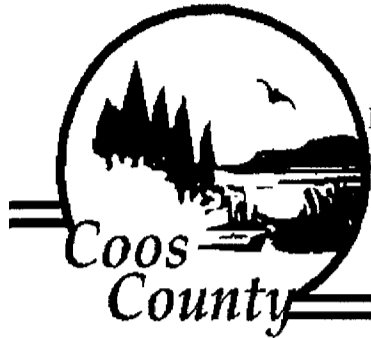


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01-MAR-2001

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DEPT OF

**Coos County Planning Department**

Coos County Courthouse Annex, Coquille, Oregon 97423

Mailing Address: Planning Department, Coos County Courthouse, Coquille, Oregon 97423

(541) 396-3121 Ext.210

FAX (541) 396-2690 / TDD (800) 735-2900

SEP 12 2007

LAND CONSERVATION  
AND DEVELOPMENT

**PATTY EVERNDEN**

**PLANNING DIRECTOR**

CERTIFIED MAIL 7000 1530 0006 2168 5848

September 8, 2006

Larry French  
Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol St. NE, Ste. 150  
Salem, Oregon 97301-2540

RE: Form 2, DLCDC Notice of Adoption for AM-06-04/RZ-06-04, Joe Leonard

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 06-05-005PL.

If you have any questions, or we can be of further service, please do not hesitate to phone the Department at (541) 396-3121, extension 210.

Sincerely,  
**COOS COUNTY PLANNING DEPARTMENT**

*Jan Mollé*

Jan Mollé, Planning Secretary

c: David Perry  
file