



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

### NOTICE OF ADOPTED AMENDMENT

April 26, 2007

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 001-07



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: May 11, 2007**

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> ya

FORM 2

# DLCD

## Notice of Adoption



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

Jurisdiction: **Coos County**

Local file number: **AM-06-11/RZ-06-08**

Date of Adoption: **4/17/2007**

Date Mailed: **4/20/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **2/12/2007**

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".

Amendment/rezone to rezone the subject property from Exclusive Farm Use (EFU) to Rural Residential-2 (RR-2).

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

Plan Map Changed from: **Exclusive Farm Use**

to: **Rural Residential-2**

Zone Map Changed from: **Exclusive Farm Use**

to: **Rural residential-2**

Location: **T.29, R.14, S.05, Tax lot 2200**

Acres Involved: **5**

Specify Density: Previous:

New:

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

*DLCD # 001-07 (15874)*



**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

**PATTY EVERNDEN**

**PLANNING DIRECTOR**

CERTIFIED MAIL 7000 1530 0006 2168 1987

April 20, 2007

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

RE: Form 2, DLCD Notice of Adoption for AM-06-11/RZ-06-08, Underdown

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 07-01-002PL.

If you have any questions, please do not hesitate to phone the Department at (541) 396-3121, extension 210.

Sincerely,

**COOS COUNTY PLANNING DEPARTMENT**

Jan Mollé, Planning Secretary

c: David Perry  
file

1 BOARD OF COMMISSIONERS  
2 COUNTY OF COOS  
3 STATE OF OREGON

4 IN THE MATTER OF AMENDING )  
5 THE COOS COUNTY )  
6 COMPREHENSIVE PLAN & COOS ) ORDINANCE 07-01-002PL  
7 COUNTY ZONING & LAND )  
8 DEVELOPMENT ORDINANCE )  
9 (Underdown rezone) )

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

11 SECTION 1. TITLE

12 This Ordinance shall be known as "Coos County Ordinance No. 07-01-002PL".

13 SECTION 2. AUTHORITY

14 This Ordinance is enacted pursuant to the provisions of ORS Chapters 197 and 215.

15 SECTION 3. PURPOSE

16 The purpose of this Ordinance is to amend Volume I of the acknowledged Coos  
17 County Comprehensive Plan; this Ordinance therefore amends Coos County  
18 Ordinance 82-12-022L, and amendments thereto, which adopts Volume I of  
19 the Coos County Comprehensive Plan. The purpose of this Ordinance is also to  
20 amend Coos County Ordinance 85-03-004L and amendments thereto, which is  
21 the Coos County Zoning and Land Development Ordinance that implements  
22 Volume I of the Coos County Comprehensive Plan; this Ordinance therefore  
23 amends Ordinance 85-03-004L.

24 This amendment is necessary to rezone approximately 5 acres from Exclusive  
25 Farm Use to Rural Residential-2 to allow rural level residential development of  
26 property described as T.29, R.14, S.05 tax lot 2200.

27 SECTION 4. FINDINGS

28 The review criteria for the proposed action are set forth in Attachment A,  
attached hereto and incorporated herein by this reference, together with the  
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.

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

1 Ordinance 82-12-022L and amendments thereto adopting Volume I of the  
2 Coos County Comprehensive Plan, and the Plan's map designation described  
3 in Section 3, above, are amended as necessary to change the Plan designation  
4 of the subject property to Rural Residential-2. Ordinance 85-03-004L and  
5 amendments thereto implementing Volume I of the Coos County  
6 Comprehensive Plan are amended as necessary to change the official zoning  
7 map to reflect the rezone of the subject property to Rural Residential-5.

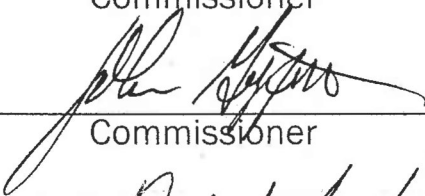
8 SECTION 6. SEVERANCE CLAUSE

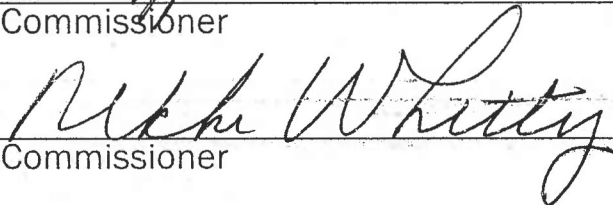
9 If any section, subsection, provision, clause or paragraph of this Ordinance  
10 shall be adjudged or declared by any court of competent jurisdiction to be  
11 unconstitutional or invalid, such judgment shall not affect the validity of the  
12 remaining portions of this Ordinance; and it is hereby expressly declared that  
13 every other section, subsection, provision, clause or paragraph this Ordinance  
14 enacted, irrespective of the enactment or validity of the portion thereof  
15 declared to be unconstitutional or invalid, is valid.

16 ADOPTED this 17TH day of APRIL 2007.


17 BOARD OF COMMISSIONERS

18   
19 Commissioner

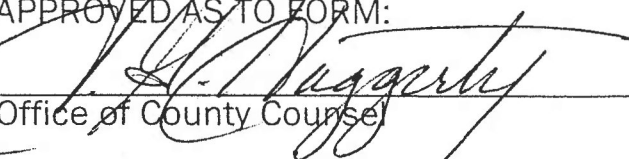
20   
21 Commissioner

22   
23 Commissioner

24 ATTEST:

25   
26 Recording Secretary

27 APPROVED AS TO FORM:

28   
Office of County Counsel

SIGNED this 17TH day of APRIL, 2007.

Effective Date: APRIL 17, 2007

## ATTACHMENT "A"

### I. Summary of Application

The applicants request a comprehensive plan map amendment for 5 acres of property from the current designation of Exclusive Farm Use to Rural Residential. The applicant also requests a zone map amendment for the same property to the residential zone of Rural Residential-2 (RR-2).

The applicants do not require an exception to Statewide Planning Goals 3 or 4, because the property does not meet the definition of farm or forest land. The applicant has demonstrated, based on the analysis of an independent soil scientist, that the property is not resource land protected by Goals 3 and 4.

### II. Site Description

The property contains approximately 5 acres and is located near the intersection of Rosa Road and Windhurst Lane, near the City of Bandon. The property is developed with a single-family dwelling, 20' x26' garage, 24' x 24' garage and accessory structures. The existing development is located in the northeast portion of the property off of Windhurst Lane. The undeveloped area of the property is covered with tree vegetation.

Surrounding land is a mix of rural residential and farm zoning. Adjacent property lying west of Rosa Road is receiving special assessment for growing trees of marketable species. This includes RR-5 zoned tax lots 2300, 802 and 2500.

### III. Existing Map Designations

The property is currently under an Agriculture plan designation and Exclusive Farm Use (EFU) implementing zone.

### IV. Approval Criteria

As addressed in the findings set forth below, the proposed plan amendment and zone change are in compliance with: (1) applicable CCZLDO provisions, (2) applicable provisions of Oregon Administrative Rules, and (3) applicable Statewide Planning Goals.

#### A. CCZLDO 2.1.200

## Section 2.1.200 Specific Definitions

Farm Use: Farming practices, as defined by ORS 215.203

ORS 215.203 Zoning ordinances establishing exclusive farm use zones; definitions  
(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

FINDING: The property was zoned Interim Residential-5 (IR-5) on July 1, 1975. Residential development was authorized on the subject property when the property had a rural residential designation. There is no evidence of farm use occurring on the property.

### B. Section 5.1.400(1).

a. the rezoning will conform with the Comprehensive Plan or Section 5.1.250; and

FINDING: Section 5.1.250 allows for the rezoning of lots in the interior of an EFU zone if physically developed. The subject property does not lie within the interior of the EFU zoned area. Therefore, this Section does not apply.

b. the rezoning will not seriously interfere with permitted uses on other nearby parcels; and

FINDING: Adjacent and nearby parcels are zoned RR-5 and EFU. The area is a mix of rural residential development and farm/forest practices. The owners of adjacent property directly south and east of the subject property have stated the subject property is not needed to support EFU practices on their property. These property owners have also stated their support for the rezone.

The rezoning will not affect the rural character of the area and permitted uses on nearby parcels will not be affected.

c. the rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

FINDING: The proposed zoning is RR-2 and is consistent with Comprehensive Plan provisions, and future development will be subject to provisions set forth at Section 4.2.400 (uses in rural residential) and 4.4.400 (General Development Standards) of the CCZLDO.

Because the Board of Commissioners has adopted no other policies or ordinances applicable to the rezoning of the area, (c) is inapplicable.

#### C. OAR 660-033-0020 Definitions

(1)(a) "Agricultural Land" as defined in Goal 3 includes:

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

FINDING: NRCS<sup>1</sup> maps identify the predominant soil on the subject property is 8C, Bullards sandy loam, 7 to 12 percent slopes. The Capability Class is IIIe. Therefore, the predominate soil based on NRCS is "Agricultural Land" based on the Goal 3 definition and this Rule.

The applicants submitted a report prepared by soil scientist, Robert T. Meurisse, Ph.D. The report is based on a field investigation conducted on June 26, 2006.

Based on the site investigation, it was concluded this area has significant soil displacement and compaction that restricts sustainable farm use. In a supplemental report dated August 24, 2006, Dr. Meurisse identifies the predominant soils within the subject property are Class VI.

---

<sup>1</sup> The Natural Resources Conservation Service (agency of the United States Department of Agriculture)



(B) Other suitable lands – lands in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, and accepted farming practices (profitability or gross farm income shall not be considered);

FINDING: Based on the soil scientist's report, the soils have severe limitations to support farm practices and the predominant soil does not meet the definition of "Agricultural Land" for Western Oregon.

(C) Land needed to permit farming practices on adjacent/nearby agricultural lands.

FINDING: The applicants submitted written statements from adjacent property owners to the south (Caswell/Keller) and east (Ertel) stating the subject property is not needed for farm practices on their properties.

#### D. Oregon Statewide Planning Goals

##### Goal 3

FINDING: Goal 3 Agricultural Lands applies to this review because the property is currently zoned EFU. The applicants are not requesting an exception to the Goal under the Goal 2 exception process. The applicants are attempting to demonstrate the rezone area does not meet the criteria found in Goal 3 or in CCZLDO Article 2.1.100 that define "Agricultural Lands."

Section 2.1.200 defines agricultural lands as:

"Those lands designated in the Coos County Comprehensive Plan (Volume 1 "Balance of County") for inclusion in Exclusive Farm Use (EFU) Zones. These lands include Soil Capability Class I, II, III, and IV lands as defined by the United States Soil Conservation Service in the Soil Capability Classification system and other lands suitable for farm use."

As stated above, an on-site investigation has revealed the predominant soils for the property are Class VI which are not considered to be farm soils.

##### Goal 4

FINDING: Section 2.1.200 defines Forest Land as:

“Those lands 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 habitat, livestock habitat, scenic corridors and recreational use.

Goal 4 also defines forest lands as those acknowledged as such upon amendment of the Goal. Goal 4 also states:

“Where...a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent and nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air water and fish and wildlife resources”.

The subject property is not zoned “Forest”, however, the NRCS soil data identifies that the majority of the soils on the site have a Forest Site Index of 104 for Douglas Fir.

Dr. Meurisse has concluded that significant soil displacement and compaction restricts the use of the property for forestry. The primary limitations are shallow rooting depth, low fertility, and relatively low soil moisture holding capacity. Past activities removed much of the nutrient rich surface horizon and the resultant shallow depth to a cemented layer or shallow depth to massive (lacking soil structure) soil materials.

Goal 11 Public Facilities and Services

FINDING: The subject property is not within a UGB and municipal services are not provided to this area. Future development will be served by on-site septic and water, and will not rely on the extension of municipal sewer or water.

## Goal 14 Urbanization

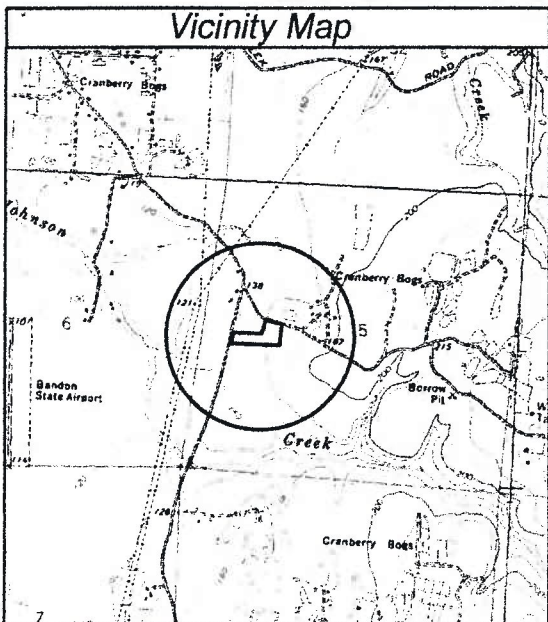
FINDING: Goal 14 "Urbanization" is not applicable. The applicants propose rural residential zoning be applied to the property by demonstrating the property is nonresource land. Because the application does not include an "exception" the County is not required to impose a 10-acre minimum lot size.

## V. Conclusion

Based on the findings set forth above, the Board of Commissioners concludes that all applicable approval criteria are satisfied, and the applications for amendments to the comprehensive plan and zoning maps are therefore approved.

# COOS COUNTY PLANNING DEPARTMENT

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

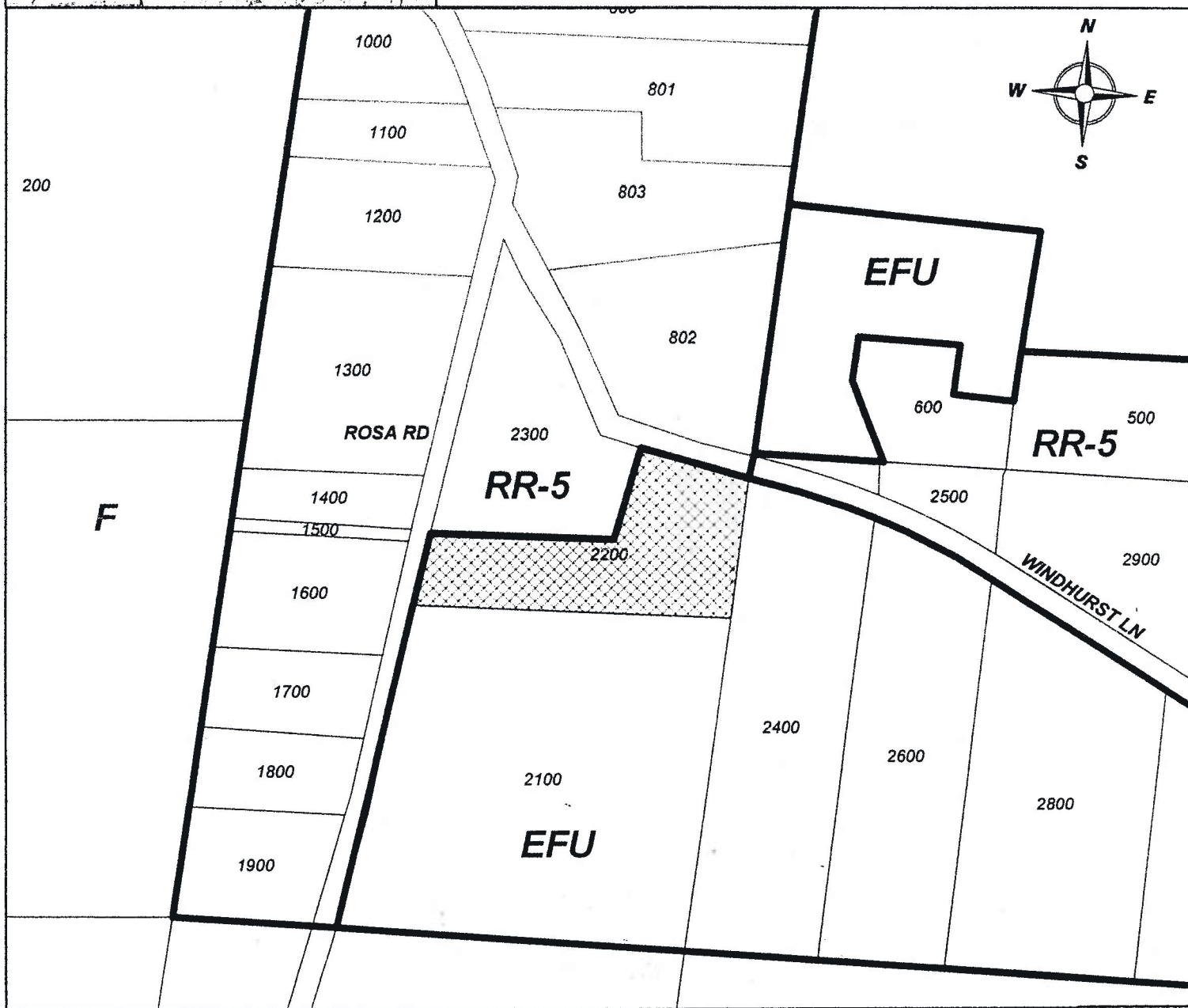


File Number: AM-06-11/RZ-06-08

Applicant: Stephen & Catherine Underdown  
PO Box 895  
Bandon, OR 97411

Location: T29 R14 Sec.05 TL 2200

Proposal: Rezone from EFU to RR-2



Scale one Inch = 400'

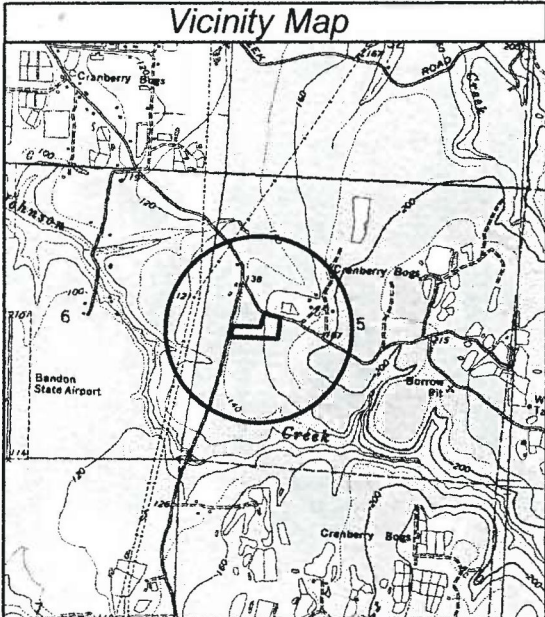
BEFORE REZONE

Subject Property =



# COOS COUNTY PLANNING DEPARTMENT

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

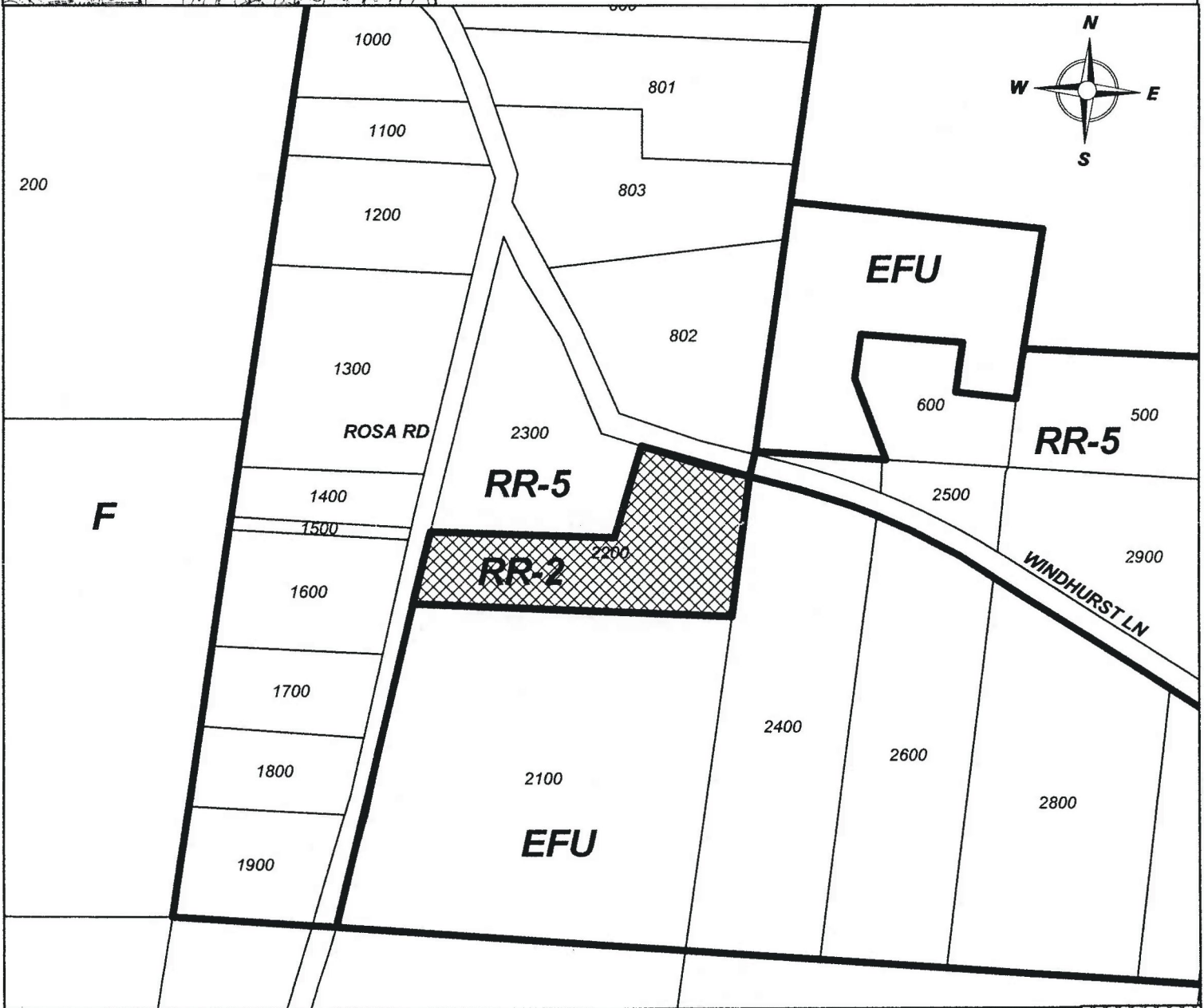


File Number: AM-06-11/RZ-06-08

Applicant: Stephen & Catherine Underdown  
PO Box 895  
Bandon, OR 97411

Location: T29 R14 Sec.05 TL 2200

Proposal: Rezone from EFU to RR-2



Scale one Inch = 400'

AFTER REZONE

Subject Property =

