NOTICE OF ADOPTED AMENDMENT

April 26, 2007

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

FROM: Mara U1loa, Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment
DLCD File Number 002-07

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

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Jurisdiction: Coos County
Local file number: AM-07-01/RZ-07-01
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 Agriculture/Exclusive Farm Use (EFU) to Forest plan and zone designations and to include the property in the “Mixed Agricultural-Forest Uses Areas” inventory of the Coos County Comprehensive Plan.

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

Plan Map Changed from: Exclusive Farm Use to: Forest
Zone Map Changed from: Exclusive Farm Use to: Forest
Location: T.24, R.13, S.11, Tax lot 1200
Acres Involved: 40
Specify Density: Previous: New:
Applicable statewide planning goals:

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
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-07-01/RZ-07-01, Warner

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 07-02-004PL.

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
IN THE MATTER OF AMENDING
THE COOS COUNTY COMPREHENSIVE
PLAN AND ZONING AND LAND
DEVELOPMENT ORDINANCE
(Expense Application)
ORDINANCE 07-02-004PL

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. 07-02-004PL”.

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to the provisions of ORS Chapters 197 and 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 rezone area.

Jason & Anna Warner, owners of the subject property, filed an application (AM-07-01/RZ-07-01) 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”. See

Ordinance 07-02-004PL
attached map at Map 1.

SECTION 4. FINDINGS

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

Ordinance 82-12-022L and amendments thereto adopting Volume I of the Coos County Comprehensive Plan, and the Plan’s map designation described in Section 3, above, are amended as necessary to change the Plan designation of the subject property to “Forest”. Also, Ordinance 82-12-022L and amendments thereto adopting Volume I of the Coos County 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.

SECTION 6. SEVERANCE CLAUSE

If any section, subsection, provision, clause, or paragraph of this Ordinance shall be adjudged or declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect the validity of the remaining portions of this Ordinance; and it is hereby expressly declared 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.
ADOPTED this 17th day of April, 2007

BOARD OF COMMISSIONERS

[Signatures]

Commissioner

[Signatures]

Commissioner

ATTEST:

[Signature]

Recording Secretary

APPROVED AS TO FORM:

[Signature]

Office of County Counsel

SIGNED this 17th day of April, 2007

Effective Date: April 17, 2007
FINDING OF FACTS AND CONCLUSIONS

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: According to the United States Natural Resource Conservation Service (NRCS) survey maps, there are four soil types existing on the subject property. The predominant soil unit is Bullards Sandy Loam with 12 to 30 percent slopes. The other three soil types consist of Bandon-Blacklock Complex with 0-to12 percent slopes (28%), Bullards Sandy Loam with 7 to 12 percent slopes (22%) and Bullards Sandy Loam with 30 to 50 percent slopes (20%). According to the NRCS survey, the Bullards Sandy Loam units are primarily used for timber production, wildlife habitat and home site development. They soil types are also utilized for pasture and recreation. The Bandon Blacklock Complex soil contains 60 percent Bandon Soil and 20 percent Blacklock soil.

On the basis of a 100-year site curve, the mean site index within the Bullards and Bandon Soils for Douglas Fir production is 132. However, based on a 50-year site curve, the mean site index is 105, which is comparable to some of the best timber growing soils in Coos County. On the basis of a 100-year site curve, the mean site index for the Blacklock soil is 90 for Shore Pine production. The Blacklock soil type is also utilized for the agricultural production of cranberries and is classified as a high value farm soil by the CCZLDO.

The adjacent land surrounding the subject property to the West, South and East is currently zoned Exclusive Farm Use (EFU). There are farm uses lying south of the subject property and it is assumed that the subject property was zoned for farm use in conjunction with those lands.

CONCLUSION

Based upon the forest use and characteristics of the subject property together with the agricultural soils types and uses existing on surrounding lands, a conclusion can be made that the area contains such a mixture of agriculture and forest 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 (F) zone." 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 no development or existing use occurring on the subject property that would become a non-conforming use when the zone district is changed from Exclusive Farm Use (EFU) to Forest (F).

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.

FINDINGS: Approximately 70 to 80 percent of the subject property consists of gentle Southerly slopes and bench areas while approximately 20 percent of the property in the Southwest corner contains 30 to 40% slopes.

According to the United States Natural Resource Conservation Service (NRCS) survey maps, there are four soil types existing on the subject property. The predominant soil unit is Bullards Sandy Loam with 12 to 30 percent slopes (30%). The other three soil types consist of Bandon-Blacklock Complex with 0-to12 percent slopes (28%), Bullards Sandy Loam with 7 to 12 percent slopes (22%) and Bullards Sandy Loam with and 30 to 50 percent slopes (20%). According to the NRCS survey, the Bullards Sandy Loam units are primarily used for timber production, wildlife habitat and home site development. These soil types are also utilized in some instances for pasture and recreation. The Bandon Blacklock Complex soil contains 60 percent Bandon Soil and 20 percent Blacklock soil.

On the basis of a 100-year site curve, the mean site index within the Bullards and Bandon Soils for Douglas Fir production is 132. However, based on a 50-year site curve, the mean site index is 105, which is comparable to some of the best timber growing soils in Coos County. On the basis of a 100-year site curve, the mean site index for the Blacklock soil is 90 for Shore Pine production. The Blacklock soil type is also utilized for the agricultural production of cranberries and is classified as a high value farm soil by the CCZLDO.

The Bandon-Blacklock Complex with 0 to12 percent slopes (28%) is identified as an agricultural capability class Ille. The Bullards Sandy Loam with 7 to 12...
percent slopes (22%) is identified as an agricultural capability class IIe. The Bullards Sandy Loam with 12 to 30 percent slopes is identified as an agricultural capability class IVe. Pursuant to Goal 3, agricultural land in Western Oregon is comprised of predominantly Class I, II, III, and IV soils. The subject property contains 80% class III and IV subclass soils.

The lands lying adjacent to and South of the subject property consists of uplands fronting bottomland along North Slough. These lands have historically and currently contain farm uses.

CONCLUSION

Based upon the soil aspects and topographic features and the fact that the surrounding area is predominantly co-managed for both farm and forest uses, 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.