



# 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

August 10, 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 004-07



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. Copies of the adopted plan amendment are available for review at DLCD offices in Salem, the applicable field office, and at the local government office.

Appeal Procedures\*

### **DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: August 23, 2007**

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. 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 DATE SPECIFIED ABOVE.**

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

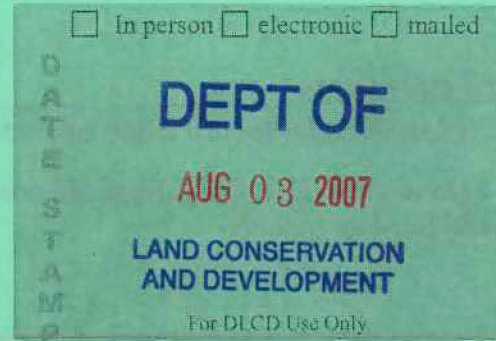
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FORM 2

# 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-07-03/RZ-07-02**

Date of Adoption: **7/31/2007**

Date Mailed: **8/2/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **5/25/2007**

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".

An amendment/rezone request to rezone approximately 25 acres of the subject property from Exclusive Farm Use (EFU) to Qualified-Rural Residential-5 (Q-RR-5) with a the qualification of a 10-acre minimum lot size, - and to amend the Coos County Comprehensive Plan Designation

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

Plan Map Changed from: **Agriculture**

to: **Residential**

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

to: **Qualified-Rural Residential-5**

Location: **T.27, R.11, S.7, Tax lot 1203**

Acres Involved: **28.69**

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>
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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 # 004-07 (16130)**



**DLCD file No.** \_\_\_\_\_

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

Fairview RFPD, ODOT, Dept of Forestry, Dept of Agriculture, Confederated Tribes of Lower Coos, Umpqua and Siuslaw Indians

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Local Contact: **Patty Evernden, Planning Director** Phone: (541) 396-3121 Extension: 210  
Address: **Coos County Courthouse** Fax Number: 541-396-2690  
City: **Coquille, OR** Zip: 97423- E-mail Address: **pevernden@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, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.



**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 2090

August 2, 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-07-03/RZ-07-02, Rowe

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 07-05-005PL.

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



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BOARD OF COMMISSIONERS  
COUNTY OF COOS  
STATE OF OREGON

IN THE MATTER OF AMENDING )  
THE COOS COUNTY )  
COMPREHENSIVE PLAN & COOS ) ORDINANCE 07-05-005PL  
COUNTY ZONING & LAND )  
DEVELOPMENT ORDINANCE )  
(Richard Rowe, Rae Russell, )  
Thomas and Susan Rowe rezone) )

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. 07-05-005PL".

SECTION 2. AUTHORITY

This Ordinance is enacted pursuant to the provisions of ORS 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 that implements Volume I of the Coos County Comprehensive Plan; this Ordinance therefore amends Ordinance 85-03-004L.

This amendment is necessary to rezone the Exclusive Farm Use portion of the property to Qualified-Rural Residential-5 to allow rural level residential development of property described as Township 27, Range 11, Section 07, Tax Lot 1203 in the County of Coos. The Qualifier is a ten acre minimum lot size.

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

1 findings of fact and conclusions that the criteria have been satisfied. The  
2 Board of Commissioners hereby adopts the findings and conclusions set forth  
in Attachment A.

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


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

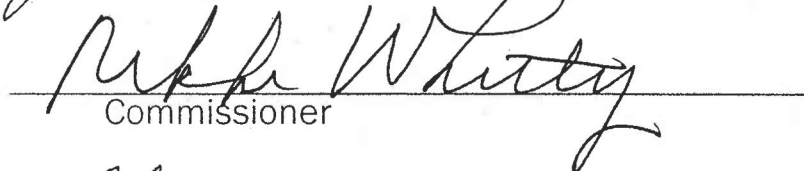
10 SECTION 6. SEVERANCE CLAUSE


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

16 ADOPTED this 31 day of JULY, 2007.


17 BOARD OF COMMISSIONERS

18   
19 Commissioner

20   
21 Commissioner

22   
23 Commissioner

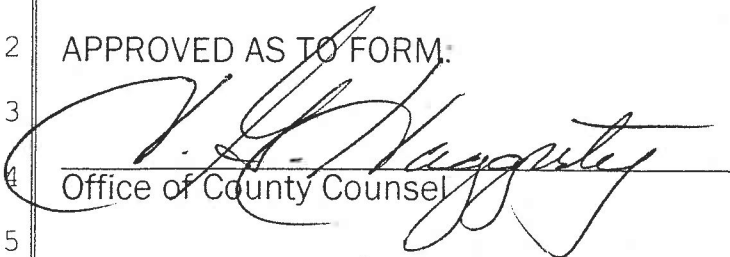
24 ATTEST:

25   
26 Recording Secretary



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APPROVED AS TO FORM:

  
Office of County Counsel

SIGNED this 31 day of JULY, 2007.

Effective Date: JULY 31, 2007



**ROWE EFU TO RR-5 REZONE**  
**COMPREHENSIVE PLAN AMENDMENT**

LOCATED IN T.27, R.11, S.07 TL. 1203

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**SOILS REPORT**  
**DEED**

**PREPARED FOR**

RICHARD AND RAE ROWE AND THOMAS AND SUSAN ROWE  
3127 KEATS STREET  
SAN DIEGO, CALIFORNIA 92106

**PREPARED BY**

STUNTZNER ENGINEERING & FORESTRY, L.L.C.  
PO BOX 118/705 S. 4<sup>TH</sup> STREET  
COOS BAY, OREGON 97420

Attachment A



## APPLICATION

Coos County Planning Department  
Mail: COURTHOUSE, COQUILLE, OREGON 97423  
Located at: 290 North Central, Coquille, Oregon 97423  
(541) 396-3121 ext. 210, FAX (541) 396-2690

AMENDMENT/REZONE 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: **RICHARD ROWE & THOMAS & SUSAN ROWE** Telephone: **619-221-0987**  
Address: **3127 KEATS STREET, SAN DIEGO, CA 92106**

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:

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B. DESCRIPTION OF PROPERTY:

Township **27** Range **11** Section **07** Tax Lot **1203**  
Account No. **R6274.35, R6274.85 / M81097** Lot Size **28.69 ACRES** Zoning District **EFU-RR5**  
Existing Use **RESIDENTIAL**

C. STATE SPECIFIC ZONE DISTRICT REQUESTED: **RR-5**



D. JUSTIFICATION: **SEE APPLICATION SUPPLEMENTAL ENCLOSED**

- (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? \_\_\_\_\_  
Explain and provide documentation: \_\_\_\_\_  
\_\_\_\_\_
- (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: \_\_\_\_\_  
\_\_\_\_\_
- b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? \_\_\_\_\_  
Explain: \_\_\_\_\_  
\_\_\_\_\_
- c. Will the rezone comply with other adopted plan policies and ordinances? \_\_\_\_\_  
Explain: \_\_\_\_\_  
\_\_\_\_\_
- (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.

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);
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:

I hereby verify that I am authorized to make the application for a rezone and/or amendment and the statements within this application are true and correct to the best of my knowledge and belief. I understand that any action authorized by Coos County may be revoked if it is determined that the action was issued on account of false statements or misrepresentation.

**PURSUANT TO ORS 215.416(1), THE FOLLOWING FEE REPRESENTS THE AVERAGE COST FOR PROCESSING EACH PERMIT APPLICATION. IF THE ACTUAL COST OF PROCESSING A PERMIT EXCEEDS THE AMOUNT OF THE FEE BY MORE THAN 20%, THE APPLICANT SHALL BE RESPONSIBLE FOR PAYING THE FULL AMOUNT OF THE ACTUAL COST.**

Thomas R. Rowe Susan O. Rowe Applicant's Signature  
 \_\_\_\_\_ Date

<u>Application Check List (for departmental use only)</u>			
Date Received: _____	Receipt number: _____	Fee: _____	
Application accepted by: _____	File number assigned: _____		
Planner assigned: _____	Date deemed complete: _____		
Scheduled PC hearing date: _____	Scheduled BC hearing dates: _____		
Ordinance # _____			
Date notice mailed to DLCD: _____	Date adoption mailed to DLCD: _____		
Other applications included: _____	Plan Map Amendment _____	Plan Text Amendment _____	
	Code Text amendment _____	Other _____	
_____ Proposal is located within:			
UGB/UCB _____	Planning area _____		
Fire District _____	A.O./Airport notification area _____		
Floodplain _____	Hazard Area _____	Wetland _____	
Wildlife Habitat _____	Riparian Habitat _____		
Historic/Arc _____			
Accurate maps and site plans _____	# of copies received _____		



- c. Signature of owner
- d. Party to whom consent is given

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Richard C. Rowe See a. above Applicant's Signature  
 \_\_\_\_\_ Date

<u>Application Check List (for departmental use only)</u>			
Date Received: _____	Receipt number: _____	Fee: _____	
Application accepted by: _____	File number assigned: _____		
Planner assigned: _____	Date deemed complete: _____		
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	Code Text amendment _____	Other _____	
_____ Proposal is located within:			
UGB/UCB _____	Planning area _____		
Fire District _____	A.O./Airport notification area _____		
Floodplain _____	Hazard Area _____	Wetland _____	
Wildlife Habitat _____	Riparian Habitat _____		
Historic/Arc _____			
Accurate maps and site plans _____	# of copies received _____		

## FINDING OF FACTS

# ROWE EFU TO RR-5 PLAN AMENDMENT AND REZONE

## INTRODUCTION

### Location, Zoning and Access

The applicant is the owner of a 28.69-acre parcel of land that is generally located in the Fairview area of Coos County. The majority of the property, approximately 25 acres, is zoned Exclusive Farm Use (EFU) (exception area) while approximately 3.5 acres that extends the entire length of the southerly boundary (railroad right-of-way) is zoned Rural Residential (RR-5) (see zoning map). Access to the property is provided directly from Laverne Park North County Road where it fronts the parcels easterly boundary.

### Surrounding Lands

The land surrounding the subject property to the South and East and a portion of the land to the North is zoned Rural Residential (RR-5). The land to the South and East contains numerous privately owned two to five acre residential lots that are situated between the subject property and the North Fork of the Coquille River. The adjacent land to the Northwest and West is zoned Exclusive Farm Use (EFU). Aerial photographs indicated that there are farm uses existing on that land.

### Land Topography and Soil Types

The subject property is generally flat. There are two soil types identified by the U.S. Department of Agriculture Soil Conservation Service inventories as existing on the site. The soils information report provided by the Coos Soil and Water Conservation District shows that 69% of the property contains Chismore Silt Loam soil with 0 to 3 percent slopes, and that 14% of the property contains Pyburn Silty Clay soil with 0 to 8 percent slopes.

The agricultural capability class for the Chismore Silt Loam is 3w and the agricultural capability class for the Pyburn Silty Clay is 4e. Pursuant to Goal 3, Agricultural land in Western Oregon is land of predominantly Class I, II, III and IV soils as identified by the soil capability classification system of the U.S. Soil Conservation Service. The letters w and e listed after the agricultural capability class, identify the limitations of the particular soil type. The letter "W" indicates that water in or on the soil interferes with plant growth or cultivation. The letter "e" indicates that the main hazard is the risk of erosion unless close-growing plant cover is maintained. Neither soil type is identified as suitable for commercial forest use.



The Soils Report also shows that 17% of the property is covered with water, however, a computer generated survey from aerial photographs shows that water covers 6.9 acres or approximately 24 percent of the property. Based upon information gathered from Bureau of Land Management (BLM) aerial photographs generated between 1950 and 1964, it is clear that the pond is man-made and was created for log storage in conjunction with a log yard and railroad loading facility. Although the actual water body covers approximately 27 percent of the property, the impoundment area consisting of dikes and roadways that surround the pond, impact approximately 10.4 acres or 36 percent of the entire ownership.

Note: The agricultural or EFU zoned portion of the ownership contains approximately 25 acres. Therefore, approximately 41 percent of the "Exception Area" is impacted by the water body and impoundment.

It is believed that the dike or impoundment was constructed from material excavated during construction of the pond. There is a 12 to 16 foot roadbed along the entire top of the dike surrounding the pond that was maintained with gravel and utilized in conjunction with log yard activities. The dike descends North into adjacent pastureland and contains 50 to 60 percent slopes that are heavily vegetated with brush and willows. The portion of the dike along the interior of the property is more gradually graded to blend with the adjacent portions of the log yard.

#### **Historic Use of the Property**

The subject property was historically utilized as a log yard (pond) and railroad loading facility. It is unclear as to the exact date the facility began operations, however aerial photographs from the early 1950's show that log loading activities originally occurred from a smaller pond located on the property. Sometime in the mid 1950's the pond was increased in size as reflected on the 1959 aerial photograph. It is clear that the intensity of the use increased over that ten-year period, as did the physical impact to the site. As the size of the pond increased, the road systems and the upland areas utilized in conjunction with the operation also increased. It is clear from the 1959 aerial photograph that there were very few areas on the property that were not impacted by the use.

The main road utilized for ingress and egress was paved with asphalt and covered approximately 1.7 acres. The westerly end of the roadway contained a facility for unloading trucks and dumping logs into the pond. The gravel road system traversing the property, not including the road system along the pond dike, also impacted over an acre of land.

The industrial use appeared to have ended sometime between 1964 and 1966 when the railroad was removed.

### **Current Use of the Property**

Current use of the property is residential with no commercial resource use of any kind existing. There is currently a dwelling sited in the easterly, EFU zoned portion of the property. The land surrounding the dwelling to the East (approximately 15 to 20% of the exception area) appears to be the only area of the property that was not heavily impacted by the log yard activities. The area currently contains dense vegetation with a variety of hardwood and evergreen tree species sparsely scatter across the land.

The portion of the property (approximately 40%) that does not contain the pond and its impoundment is inundated with blackberry, willow, dogwood and other dense vegetation. There is a limited mix of alder and various evergreens scattered across the property. The alder that has naturally regenerated on site tends to survive for ten to fifteen years at which time it rots and dies. The exact reason is unknown, however, it is suspected that the cause is soil related.

There is a man-made drainage (creek) extending across the entire length of the westerly most portion of the property. The drainage replaced a natural drainage that was filled in conjunction with the excavation and development of the pond. The drainage provides an outflow for the adjacent wetlands lying North of the subject property. That portion of the property is inundated with blackberry on the uplands and willow along the drainage.

### **Current Condition of the Exception Area**

During the winter months the majority of the pond area continues to hold water. Portions of the pond have silted in and act as wetlands that contain willow and various wetland plant species. The dikes contain evidence of the old gravel roadways and are inundated with gravel and compacted to a cemented surface.

The area between the pond and the railroad containing approximately 40 percent of the exception area, appears to have been used to store road rock, gravel, and miscellaneous equipment. To this day, the property is littered with remnants and debris from the prior operations. The asphalt roadbed remains and the gravel road system is compacted to a cemented surface. Remnants of the loading and unloading facilities still exist and although not fully operational, the concrete spillway for the pond is in place.

Attempts to clear brush on the property have been hampered by the existence of partially buried steel cables and various metal objects. The soils are inundated with chunks of concrete and various sizes of rock and gravel. The topsoil has been severely altered or removed in conjunction with road construction and heavy equipment operations.



## APPLICATION REQUEST

This request is to amend the Coos County Comprehensive Plan Designation for the subject property from Agriculture to Rural Residential and to change the zone designation of the implementing Coos County Zoning and Land Development Ordinance from Exclusive Farm Use (EFU) to Rural Residential-Five (RR-5) with a ten (10) acre minimum lot size qualification.

## 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: Yes. The subject property was historically utilized as an industrial log storage and railroad loading facility from the late 1940's to around 1964. A log pond was developed across 40 percent of the exception area. Another 40 percent of the property was developed with a series of both asphalt and gravel roadways that were utilized in conjunction with the log yard activities. Aerial photographs have been provided that clearly document the prior use of the exception site.***

- 2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:

***FINDING: This rezone request is for a built and committed exception based upon an industrial use that existed on the property from the late 1940's to around 1964 and the substantial and irreparable impacts associated with that industrial use.***



## FINDING OF FACTS AND CONCLUSIONS

660-004-0025

### Exception Requirements for Land Physically Developed to Other Uses

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

***FINDING: The subject property is currently zoned Exclusive Farm Use, therefore, Goal 3 is the applicable goal. Evidence has been submitted under #2 below and throughout this document that the subject property is physically developed and contains irreparable impacts associated with a prior industrial use.***

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

***FINDING: The nature and extent of the physical development on the exception site have been set forth in the evidence throughout this application and in the findings below:***

- 1) The subject ownership consists of 28.69 acres. Approximately 25 acres is zoned Exclusive Farm Use (EFU) (exception area) while approximately 3.5 acres that extends the entire length of the southerly boundary (railroad right-of-way) is zoned Rural Residential (RR-5) (see zoning map).***
- 2) The land surrounding the subject ownership to the South, East and a portion of land to the North is zoned Rural Residential (RR-5). The land to the South and East contain numerous privately owned two to five acre residential lots that are situated between the subject property and the North Fork of the Coquille River. The majority of the lots contain residential uses.***
- 3. The soils identified as existing on the property are agricultural, Goal 3 soil types (Chismore Silt Loam and Pyburn Silty Clay). However, evidence acquired from aerial photographs, on site inspections and the institutional***

*knowledge associated with impacts from industrial forestry activities (log yard and loading facilities), make it clear that the soil composition has changed, been removed or altered to the extent that the identified soil types no longer exist.*

- 4. Neither the Chismore or Pyburn soil type is identified as suitable for commercial forest use.*
- 5. The subject property was utilized as a log yard (pond) and railroad loading facility. In the early 1950's, railroad log loading activities were occurring from a smaller log pond. In the mid 1950's, the pond was increased in size as reflected on the 1959 aerial photograph.*
- 6. As the pond size increased the intensity of the use and physical impact to the site also increased.*
- 7. The main road utilized for ingress and egress was paved with asphalt and covers 1.7 acres. The westerly end of the roadway contained a facility for unloading trucks and dumping logs into the pond.*
- 8. The gravel road system traversing the property, not including the road system along the pond dike, impacted over an acre of land.*
- 9. Approximately 41 percent of the "Exception Area" is covered with water (pond) and the associated impoundment area.*
- 10. The dike or impoundment was constructed from material excavated during construction of the pond. There is a 12 to 16 foot roadbed atop the dike that was maintained with gravel and utilized in conjunction with log yard activities. The dikes are inundated with gravel and compacted to a cemented surface.*
- 11. The current use of the property is residential with no commercial resource use of any kind existing. There is currently a dwelling sited in the easterly, EFU zoned portion of the property.*
- 12. The land surrounding the dwelling to the East (approximately 15 to 20% of the exception area) appears to be the only portion of the property that was not heavily impacted by log yard activities.*
- 13. The area between the pond and the railroad containing approximately 40 percent of the exception area, appears to have been used to store road rock,*



*gravel, and miscellaneous equipment. To this day the property is littered with remnants and debris from the prior operations.*

- 14. The asphalt roadbed remains and the gravel road system is compacted to a cemented surface.*
- 15. Remnants of the loading and unloading facilities still exist. The concrete spillway while not fully functional is still in place.*
- 16. Attempts to clear brush on the property have been hampered by the existence of partially buried steel cables and various metal objects. The soils are inundated with chunks of concrete and various sizes of rock and gravel.*
- 17. The topsoil has been severely altered or removed in conjunction with road construction and heavy equipment operations.*
- 18. There is a limited mix of alder and various evergreens scattered across the property. The alder on the site rots and dies at ten to fifteen years of age.*
- 19. There is a man-made drainage (creek) extending the entire length of the westerly portion of the property.*
- 20. During the winter months the majority of the pond area continues to hold water. Portions of the pond have silted and some areas are acting as wetlands that contain willow and various wetland vegetation.*

***FINDING: The subject criteria states: "Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception."***

***This exception is based upon an industrial use that occurred prior to the Oregon Statewide Goals and Guidelines and land use planning in Coos County. Therefore, the use was not implemented in conjunction with the goals. The subject property was zoned Exclusive Farm Use following the closure the industrial use, based upon the identified soil types in the area and existing adjacent farm uses to the North. The soil types associated with the site are not identified as suitable for commercial forest use and industrial forest activities are not allowed in the Exclusive Farm Use Zone.***

**CONCLUSION**

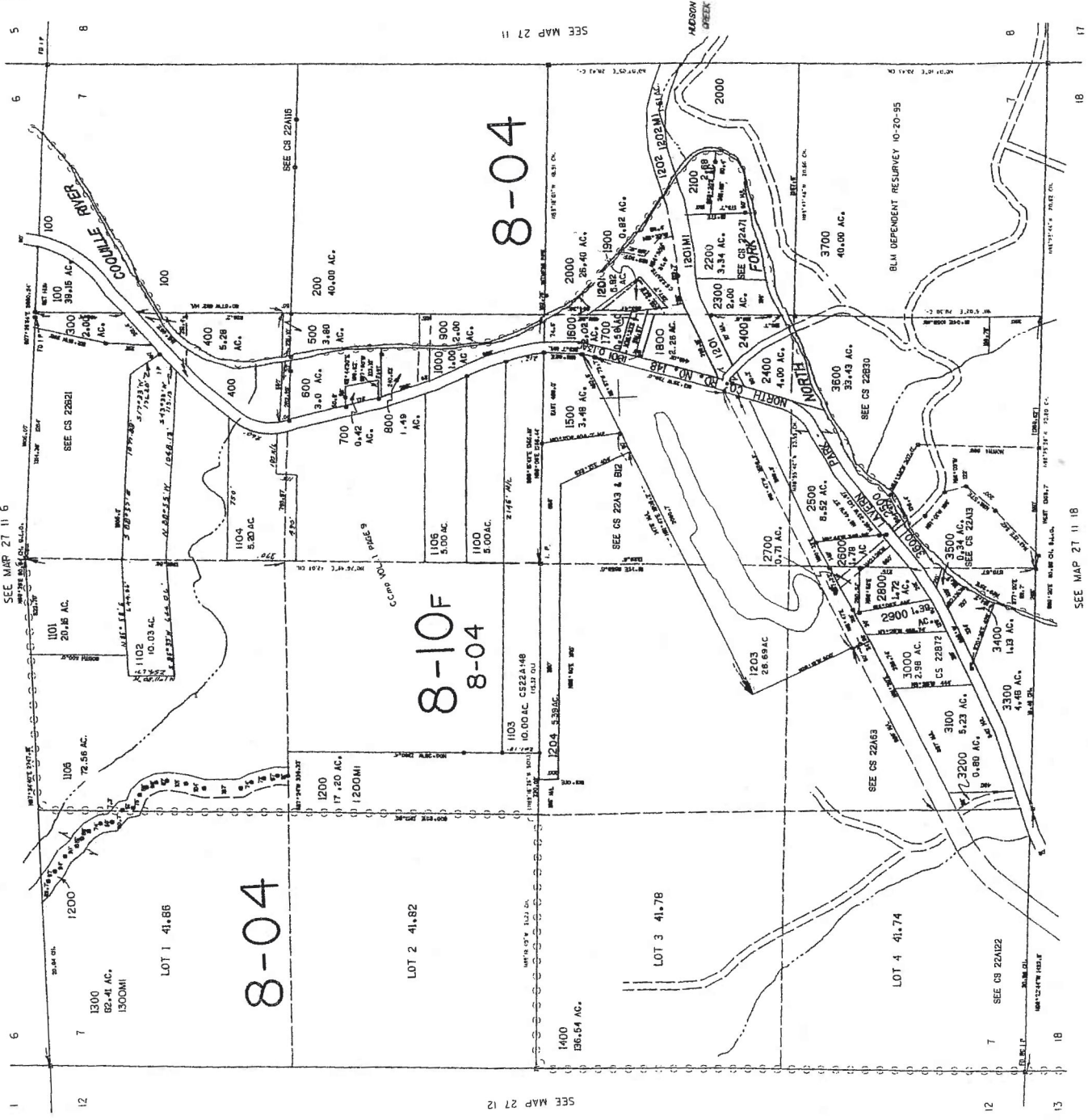
***Substantial evidence has been submitted that demonstrates the “exception site” contained a prior Industrial that caused irreparably impacts to the soils and natural characteristics of the land, to the extent that it is no longer available for resource use. And, that the exception site currently contains physical development or remnants of the prior development to the extent that it is no longer available for uses allowed by the applicable goal.***



**MISCELLANEOUS MAPS**

# GENERAL LOCATION MAP

CANCELLED  
601  
1205  
1206  
1601  
1901  
1902  
1701  
1207

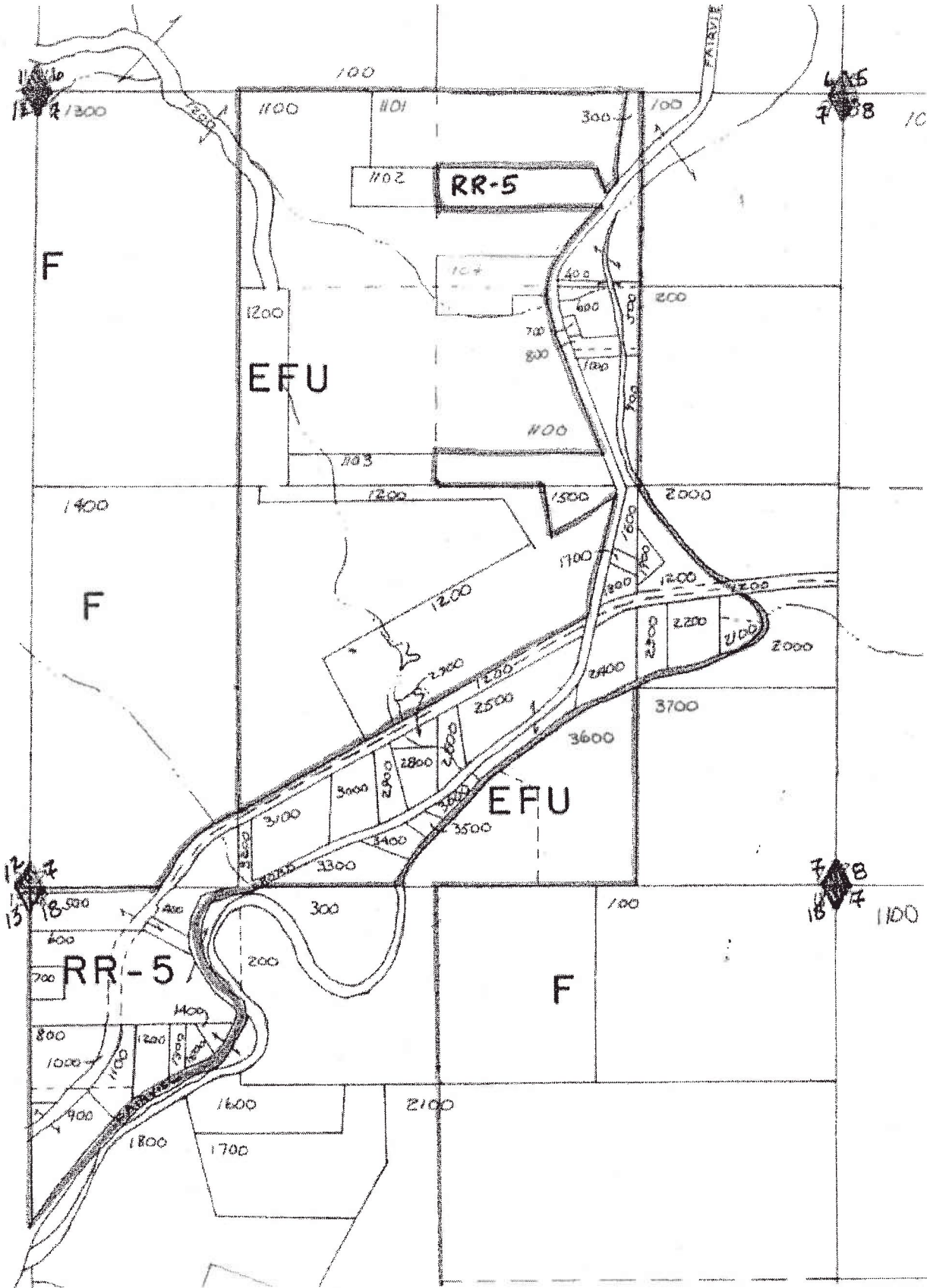


DATES

27 11 7



ZONING MAP



ZONING MAP

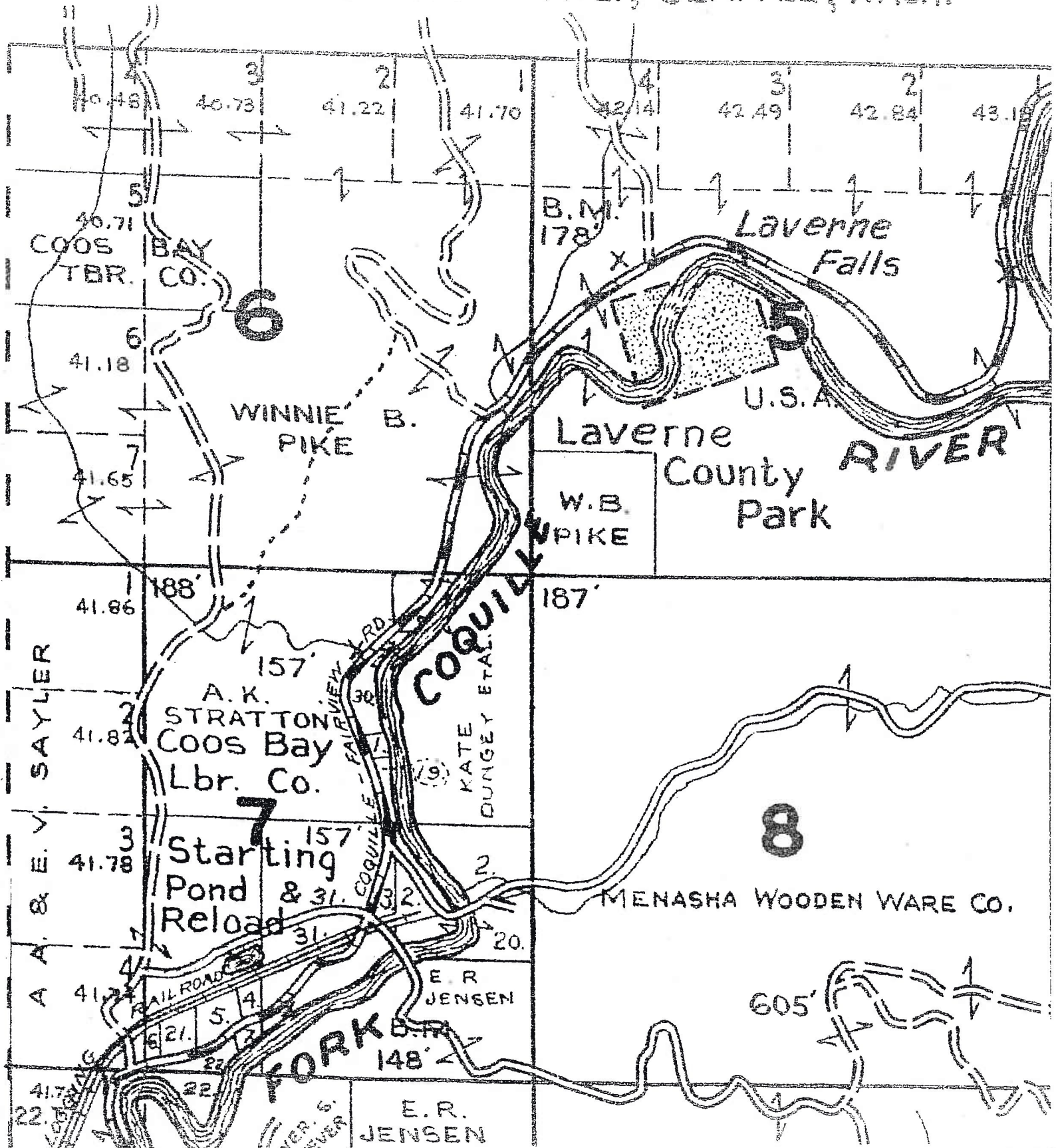
SCALE 2 IN. = 1 MILE

FOR SALE BY

# METSKER MAPS

OCT. 1958

111 SO. TENTH ST., TACOMA, WASH.  
1020 THIRD AVE., SEATTLE, WASH.





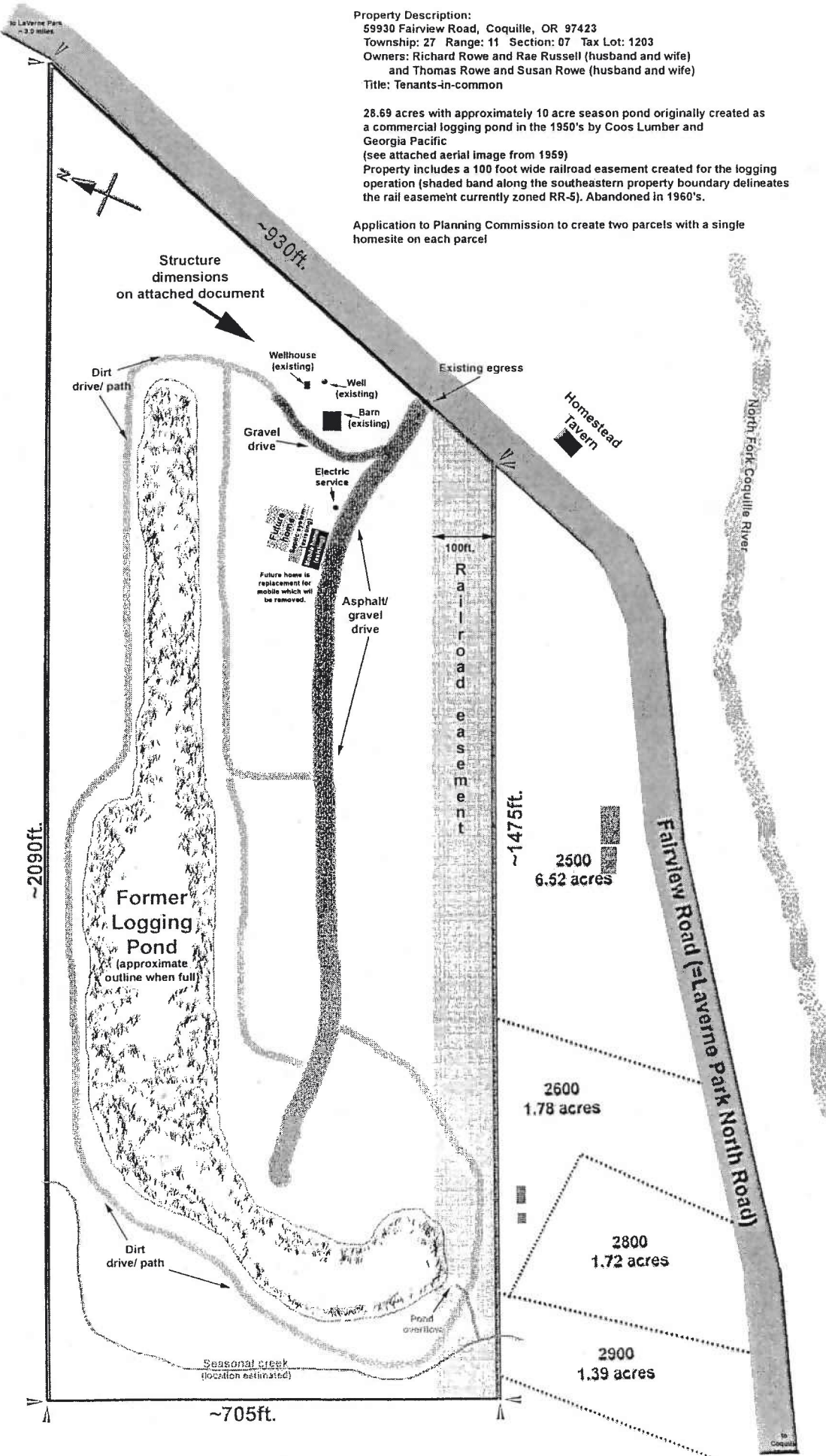
## SITE PLANS

**Site Plan - Fairview - Current Status**  
(15 July 2006)

Property Description:  
59930 Fairview Road, Coquille, OR 97423  
Township: 27 Range: 11 Section: 07 Tax Lot: 1203  
Owners: Richard Rowe and Rae Russell (husband and wife)  
and Thomas Rowe and Susan Rowe (husband and wife)  
Title: Tenants-in-common

28.69 acres with approximately 10 acre season pond originally created as a commercial logging pond in the 1950's by Coos Lumber and Georgia Pacific  
(see attached aerial image from 1959)  
Property includes a 100 foot wide railroad easement created for the logging operation (shaded band along the southeastern property boundary delineates the rail easement currently zoned RR-5). Abandoned in 1960's.

Application to Planning Commission to create two parcels with a single homesite on each parcel



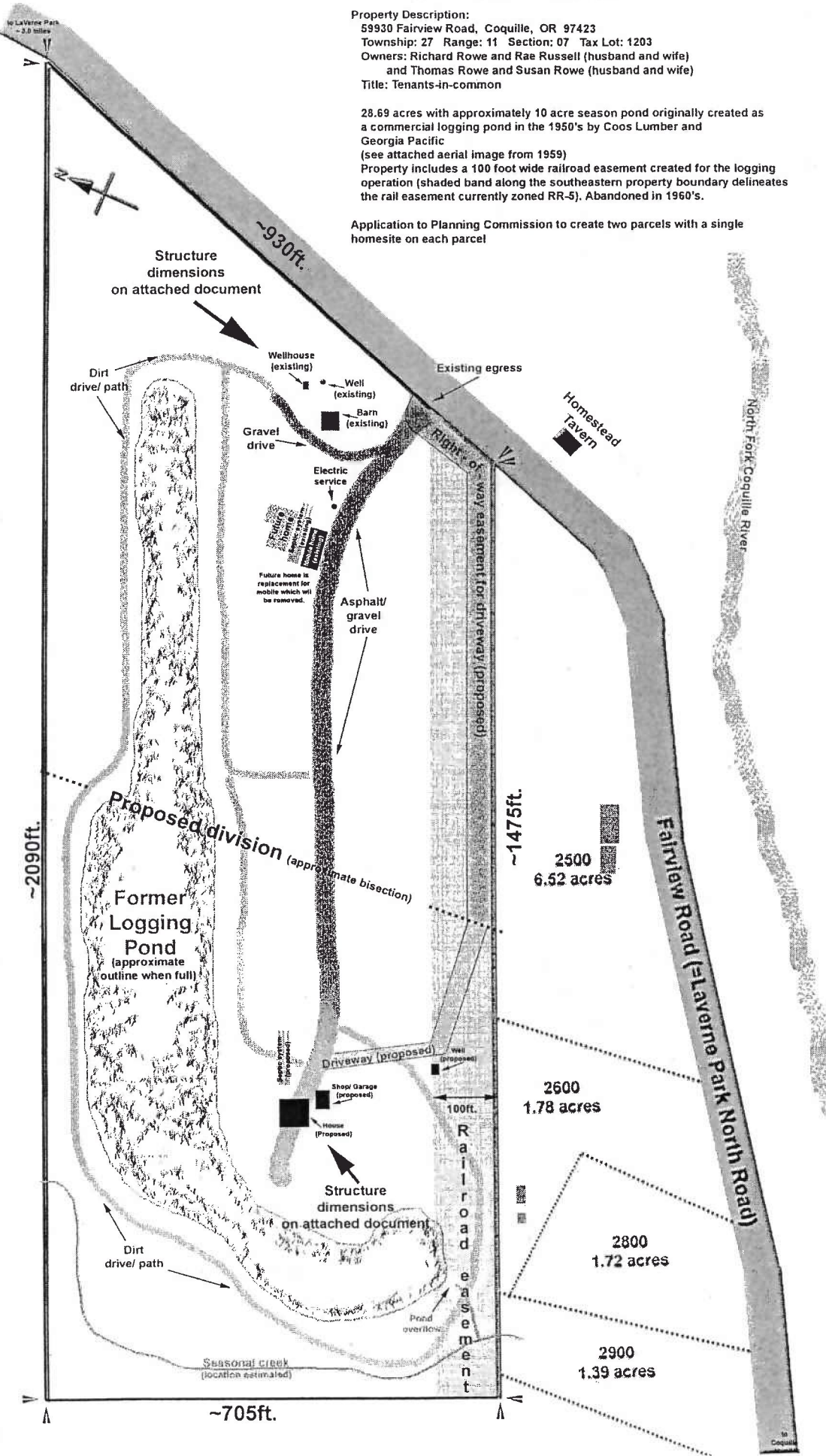


**Site Plan - Fairview - Proposed Land Division  
and property development on newly created parcel**

Property Description:  
59930 Fairview Road, Coquille, OR 97423  
Township: 27 Range: 11 Section: 07 Tax Lot: 1203  
Owners: Richard Rowe and Rae Russell (husband and wife)  
and Thomas Rowe and Susan Rowe (husband and wife)  
Title: Tenants-in-common

28.69 acres with approximately 10 acre season pond originally created as a commercial logging pond in the 1950's by Coos Lumber and Georgia Pacific  
(see attached aerial image from 1959)  
Property includes a 100 foot wide railroad easement created for the logging operation (shaded band along the southeastern property boundary delineates the rail easement currently zoned RR-5). Abandoned in 1960's.

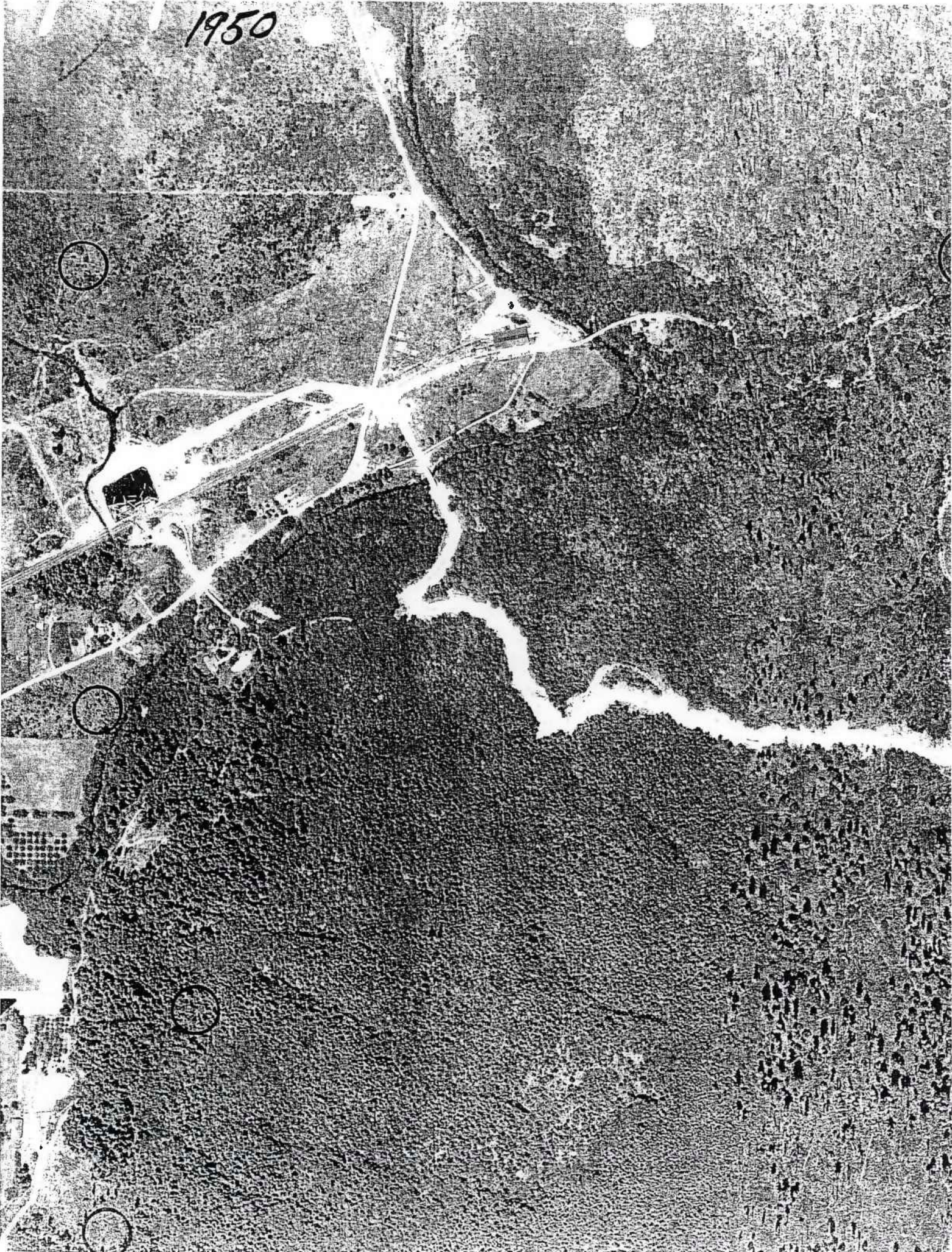
Application to Planning Commission to create two parcels with a single homesite on each parcel



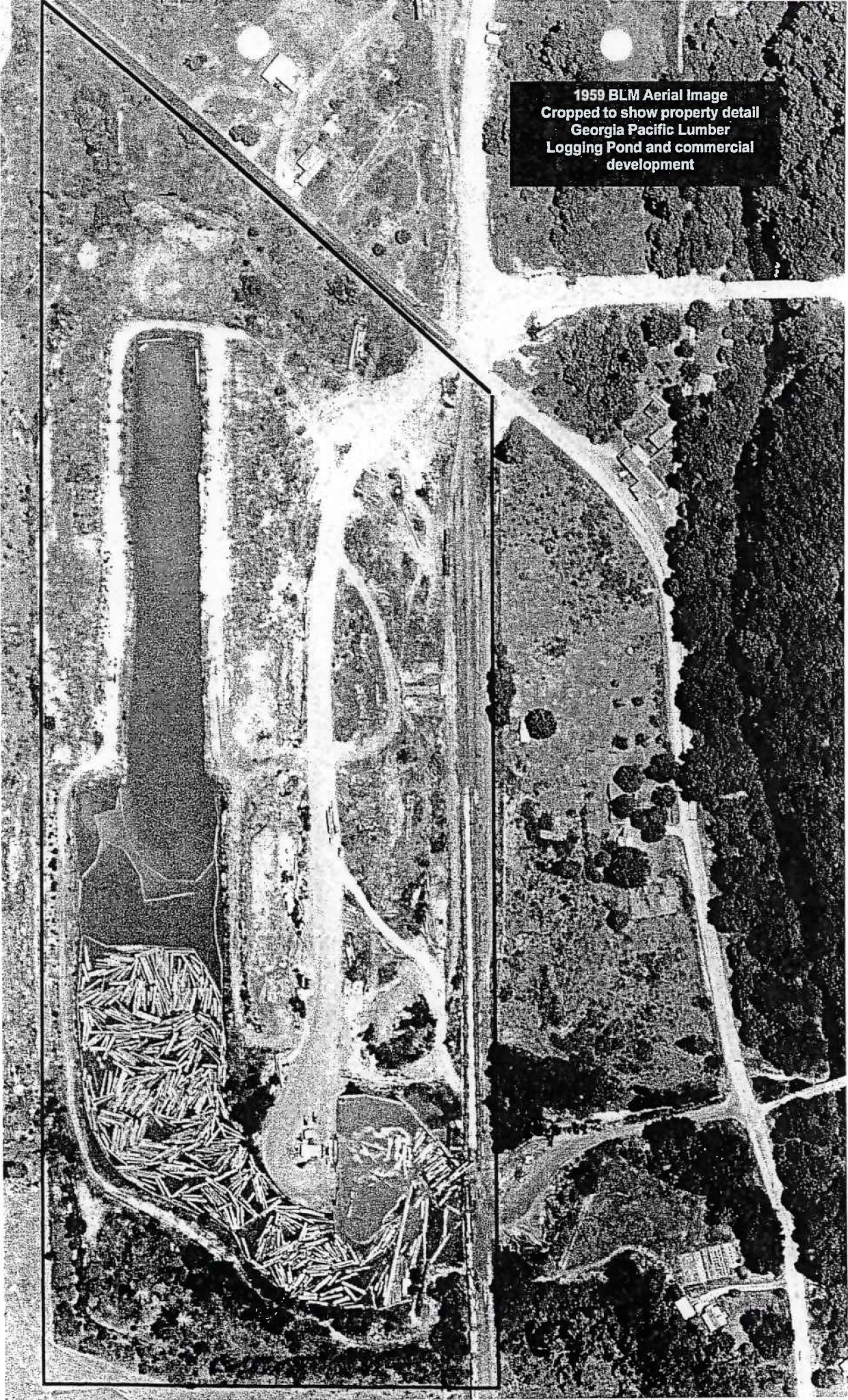
**AERIAL PHOTOGRAPHS**



1950



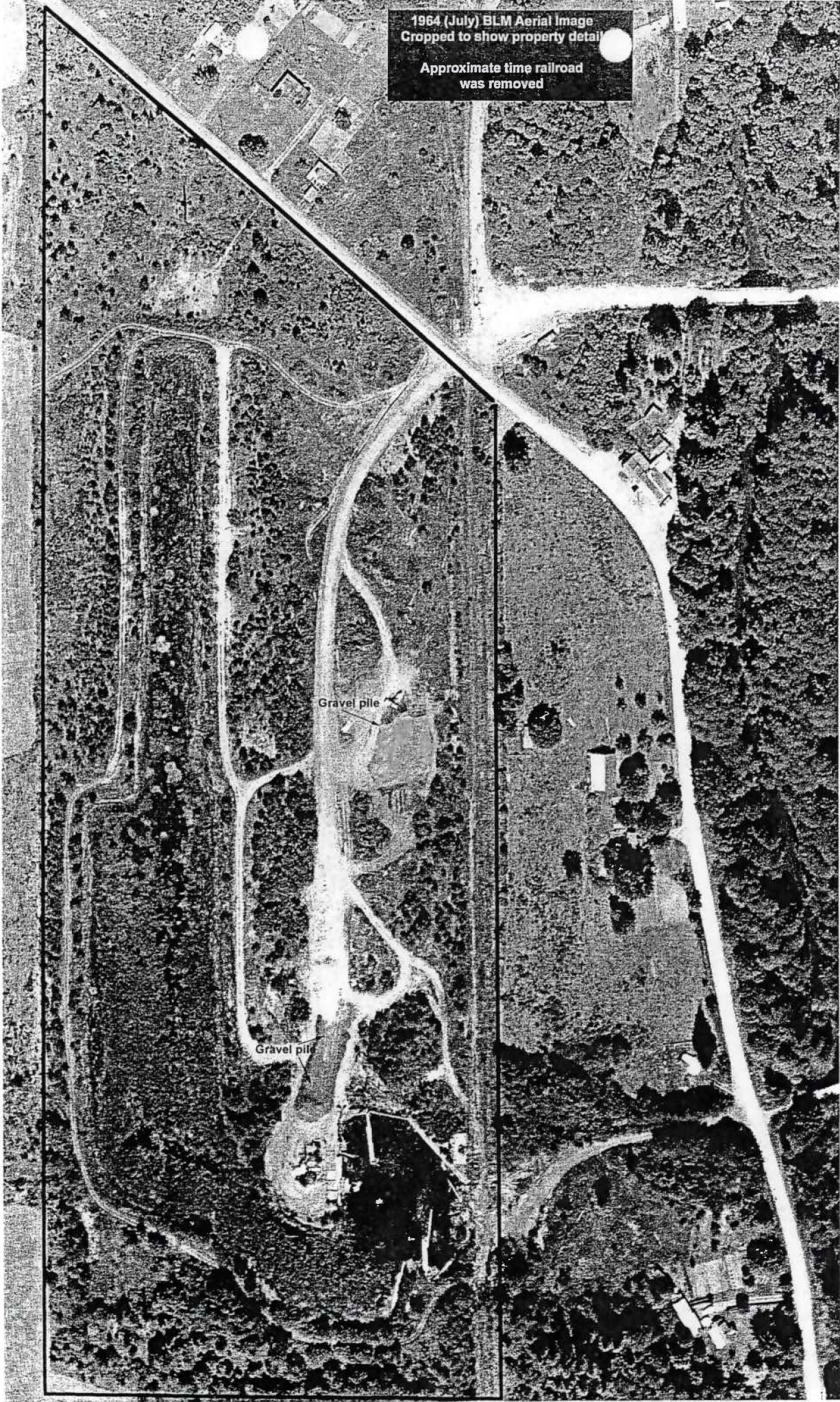




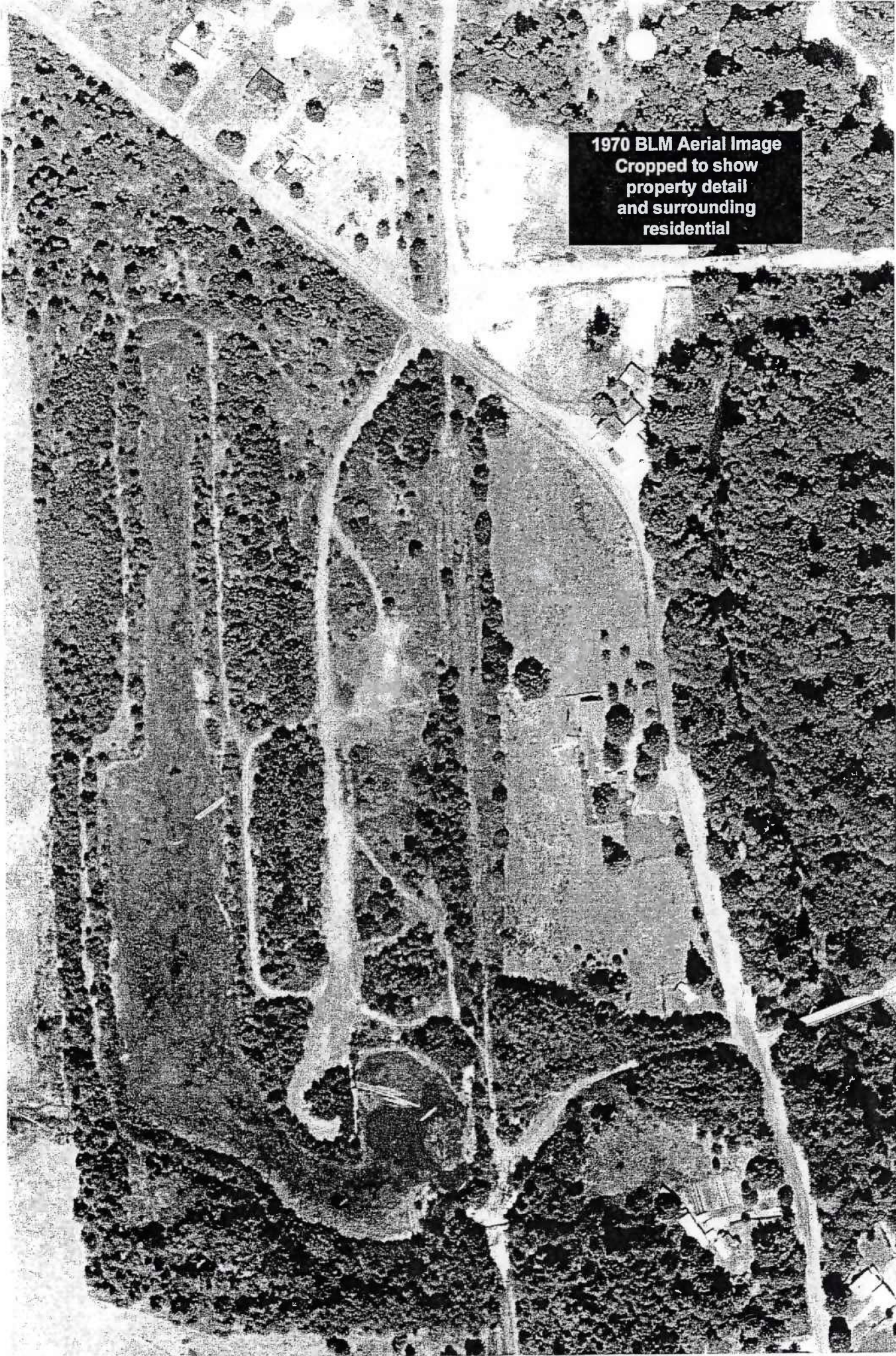
1959 BLM Aerial Image  
Cropped to show property detail  
Georgia Pacific Lumber  
Logging Pond and commercial  
development



1964 (July) BLM Aerial Image  
Cropped to show property detail  
Approximate time railroad  
was removed







1970 BLM Aerial Image  
Cropped to show  
property detail  
and surrounding  
residential





TerraServer Satellite Image (August 2001)  
59930 Fairview Road

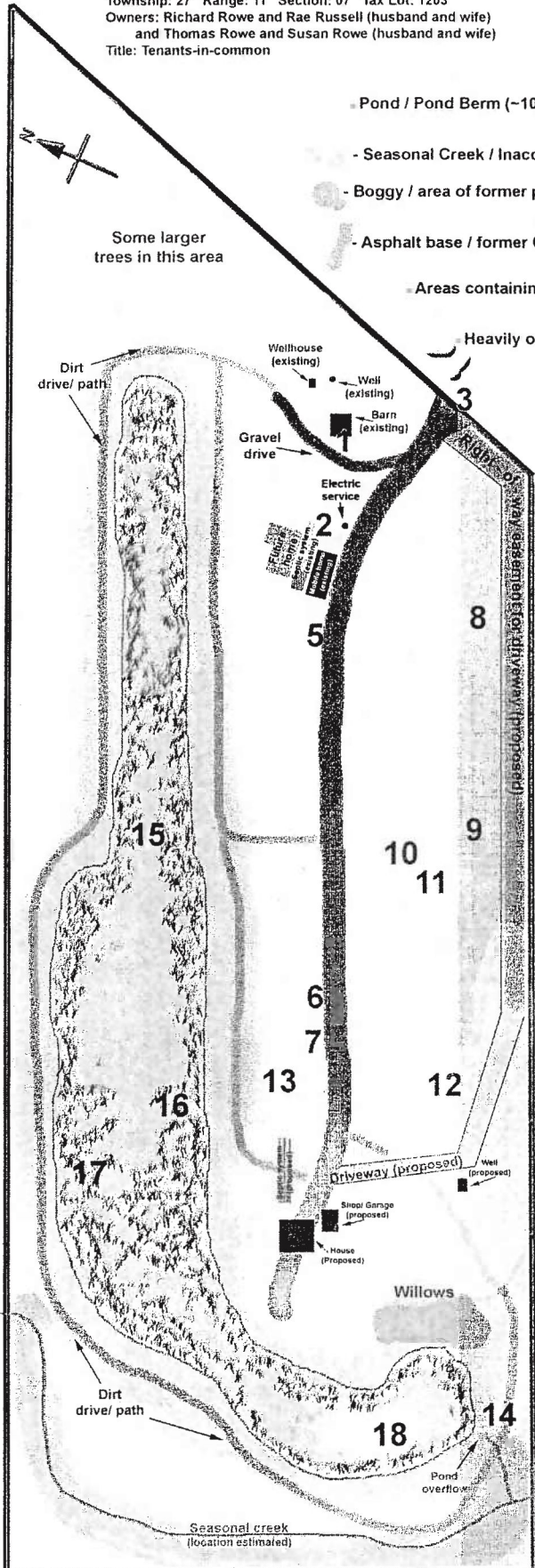
USGS



## PROPERTY IMPACTS EVIDENCE

**Previously Impacted Property**  
(primarily by large, commercial logging and lumber company)

Property Description:  
59930 Fairview Road, Coquille, OR 97423  
Township: 27 Range: 11 Section: 07 Tax Lot: 1203  
Owners: Richard Rowe and Rae Russell (husband and wife)  
and Thomas Rowe and Susan Rowe (husband and wife)  
Title: Tenants-in-common



- Pond / Pond Berm (~10 tall)
- Seasonal Creek / Inaccessible adjacent area
- Boggy / area of former pond / ?seasonally flooded
- Asphalt base / former Commercial roadway
- Areas containing gravel soils / surface & buried cables

Heavily overgrown area (primarily blackberries) not evaluated

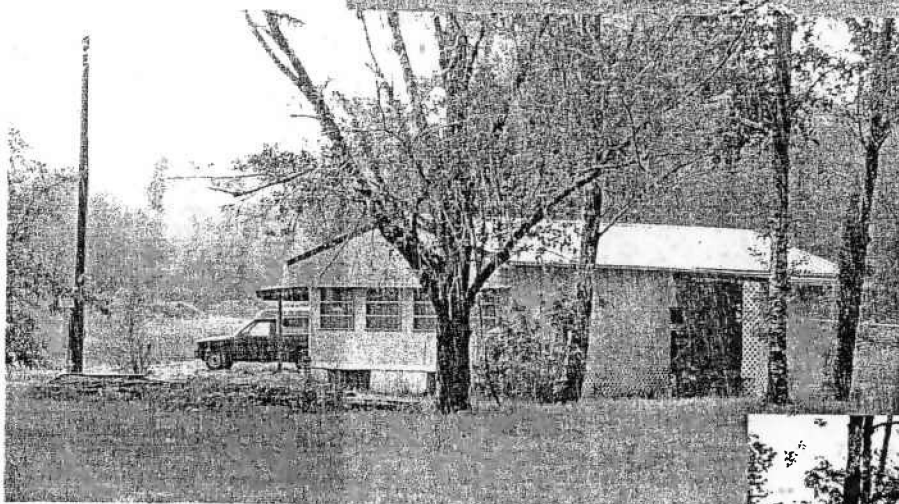
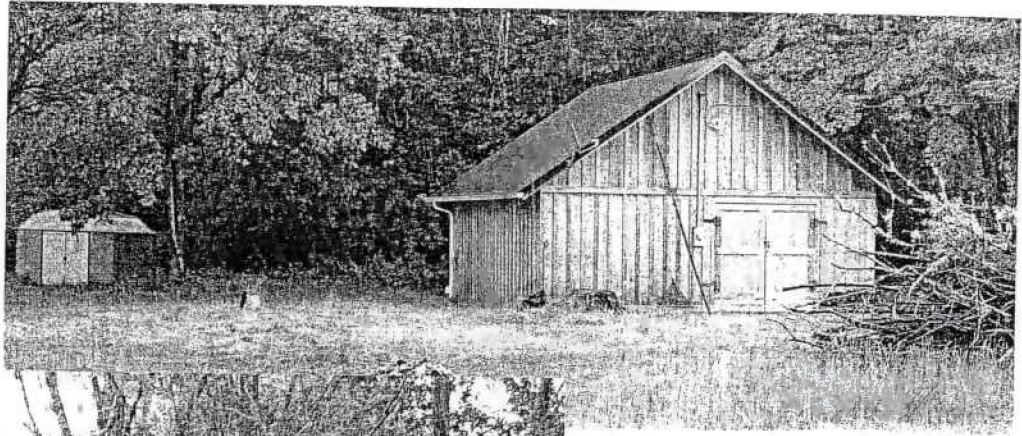
4

**Image Legend**  
(see pages of images)

- 1- Barn & wellhouse (existing)
- 2- Mobile (existing)
- 3- Entrance driveway (existing)
- 4- Homestead Tavern from property entrance
- 5- Asphalt road (facing SW)
- 6- Asphalt road (facing NE)
- 7- Asphalt road (detail)
- 8- Gravel soil
- 9- Gravel soil
- 10- Retarded growth of grass (even blackberries)
- 11- Closeup of gravel soil surface (from area of image 10)
- 12- Cable protruding from soil
- 13- Large cable protruding
- 14- Old culvert and cable
- 15- Pond in May (empty by Aug last year)
- 16- Pond in May
- 17- Pond in May
- 18- Pond in May



Barn and wellhouse **1**  
(facing northeast)



**2** Mobile Home

Driveway at  
Fairview Road **3**  
property entrance



Homestead Tavern across  
**4** Fairview Road from  
property entrance



**5** Asphalt driveway  
(near mobile facing  
southwest)

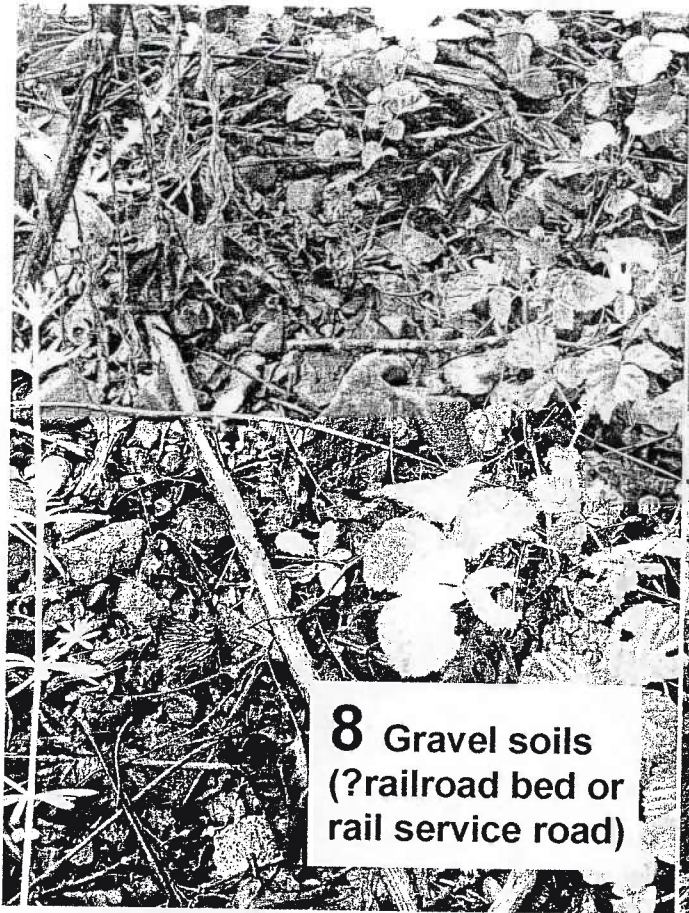


**6** Asphalt driveway  
(facing back toward  
property entrance - Northeast)  
width near 30 feet



**7** Asphalt road detail  
(apparently road constructed  
for heavy equipment before 1959)





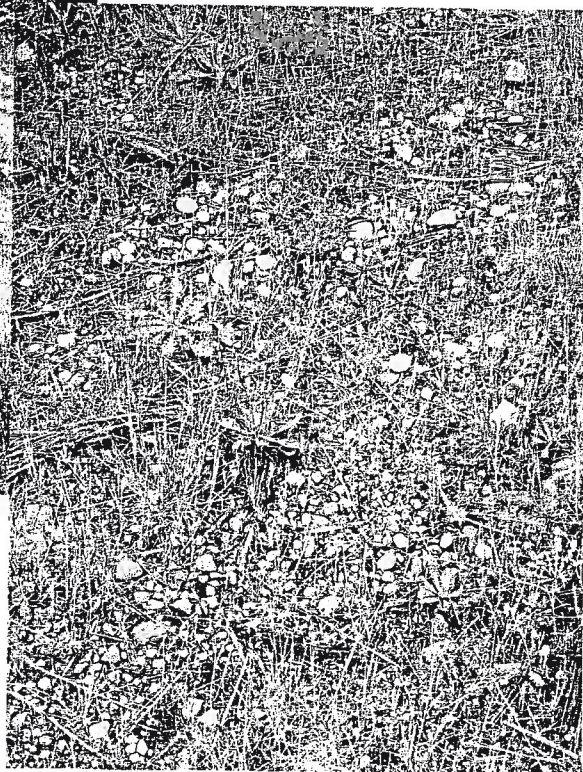
**8** Gravel soils  
(?railroad bed or  
rail service road)



**9** Gravel soils



**10** Site of logging and  
railroad operation gravel  
pile (see 1964 aerial image)



Closeup **11**  
of area shown  
in image 10





**12** Old cable



Buried 1"  
cable **13**

The neighbor who owns the adjacent property, (lots 2600 & 2800) along the southwest boundary, built his home and barn approximately 30 years ago. He owns and operates a tractor with backhoe and has excavated for water and power lines on his property. He warned us that he encountered many cables and other metal debris very regularly when digging. In casual walks around the property we have found many braided cables up to 1.5" in diameter protruding from the soil.



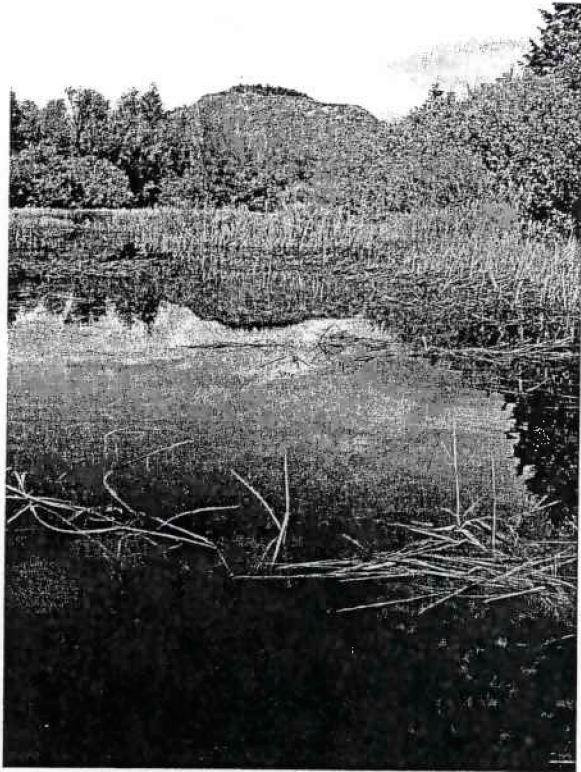
Culvert and  
buried cable **14**



**15** View southwest

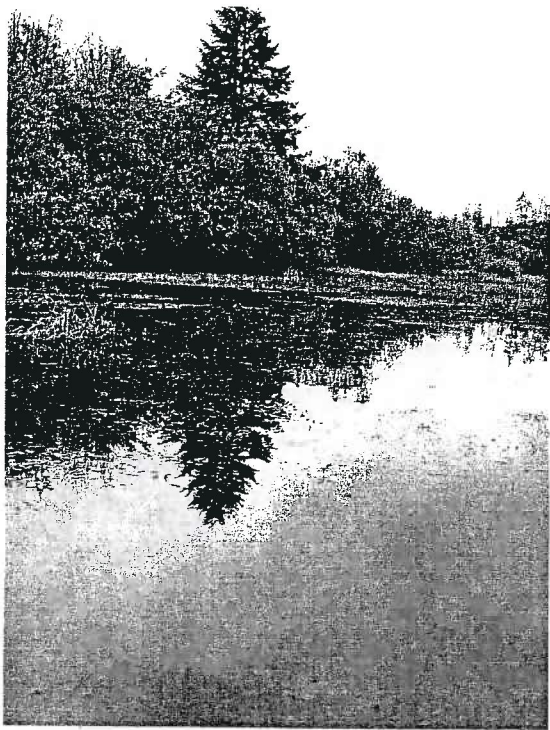


These pictures are from May 2005. The pond was 90%+ dried by late August



View east **16**

**17** View northeast

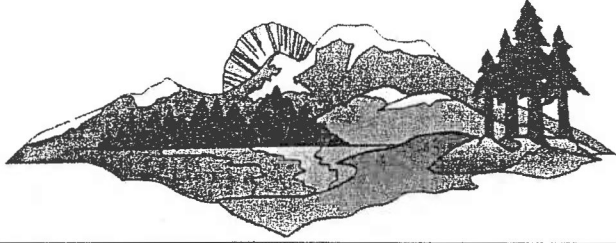


View west **18**





## SOILS REPORT



Coos Soil & Water Conservation District  
 382 North Central Boulevard  
 Coquille, Oregon 97423-1244  
 (541) 396-6879 Fax (541) 396-5106

## SOIL INFORMATION REPORT

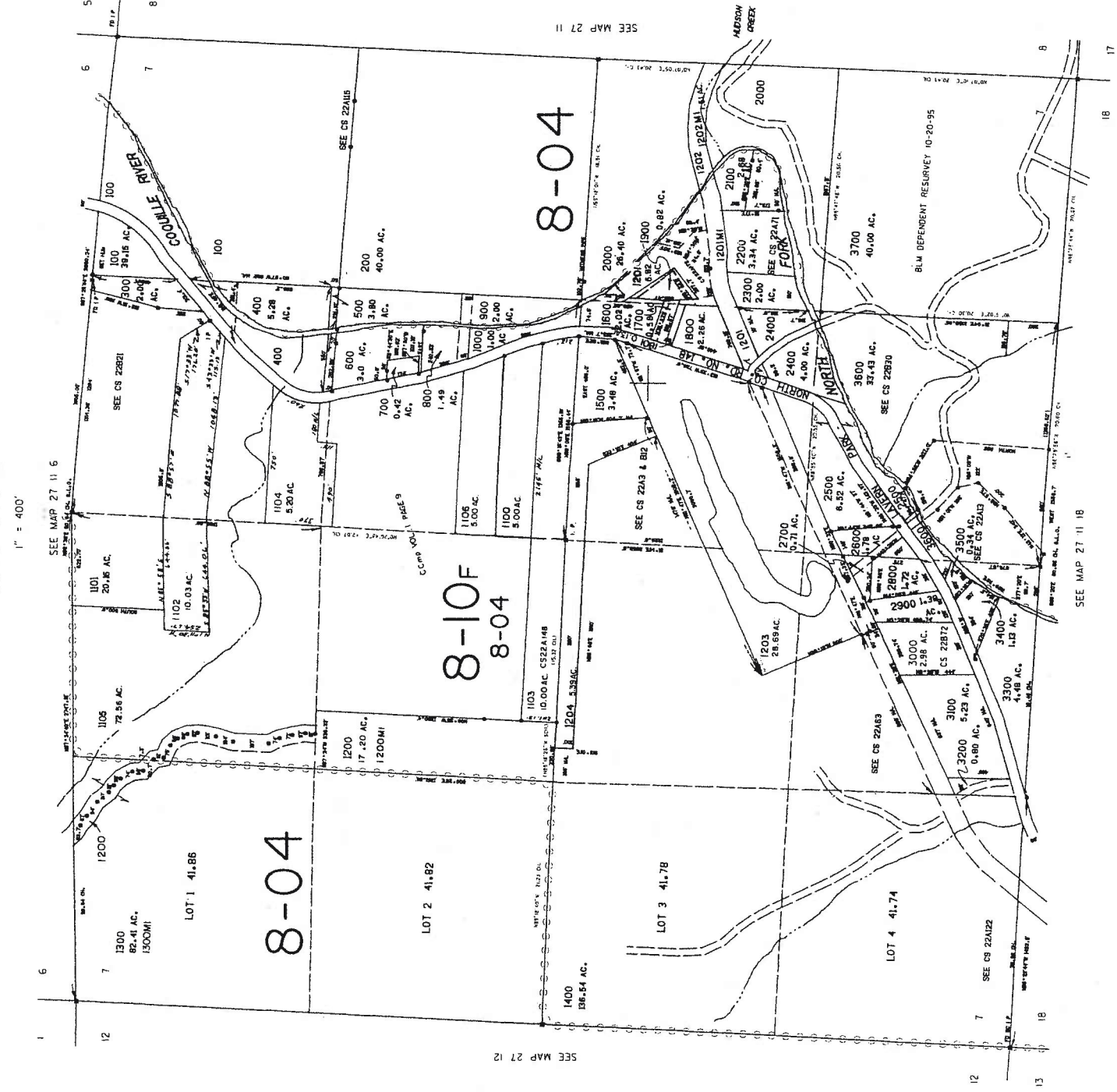
Date: September 22, 2006  
 Prepared By: Pat Jones, Coos SWCD

APPLICANT INFORMATION				
NAME	Richard Rowe C/O Stuntzner Engineering & Forestry, LLC			
ADDRESS	PO Box 118			
CITY	Coos Bay			
STATE, ZIP	Oregon 97420			
PHONE	267-2872			
PROPERTY INFORMATION				
TOWNSHIP	T27S			
RANGE	R11W			
SECTION	7			
TAX LOT	TL# 1203			
MAP NUMBER	27 11 7			
SOIL INFORMATION				
SOIL SURVEY MAP SHEET NUMBER 41				
Soil Symbol	Soil Name	Capability Class	Forest Site Index	Percent of Parcel
10A	Chismore silt loam, 0 to 3 percent slopes	3w	-	69
47B	Pyburn silty clay, 0 to 8 percent slopes	4e	-	14
W	Water	-	-	17

This report is based on the maps and information contained in the *Soil Survey Report of Coos County, Oregon*, issued July 1989. Coos SWCD has made every effort to make sure the information contained in this report is correct. However, in the event that any information is incorrect, Coos SWCD assumes no liability for damages incurred directly or indirectly as a result of incomplete, incorrect or omitted information. If you do find any information that is incorrect, please notify us immediately.



CANCELLED  
 601  
 605  
 1206  
 1601  
 1901  
 1902  
 1701  
 1207



\$DATE\$

27 11 7



# SOILS

Field Office: COQUILLE SERVICE CENTER

District: COOS SOIL & WATER CONSERVATION DISTRICT

Approximate Acres: 20.69



Assisted By: Pat Jones

Date: 9/22/2006

Legal Description: T27S R11W Sec 7  
TL #1203



## Legend

-  10A, Chismore silt loam, 0 to 3 percent slopes
-  47B, Pyburn silty clay, 0 to 8 percent slopes





## Brief Map Unit Description

Coos County, Oregon

[Only those map units that have entries for the selected description categories are included in this report]

**Map unit:** 10A - Chismore silt loam, 0 to 3 percent slopes

**Description category:** SOI

*The Chismore soil is over 60 inches deep to bedrock. It is clayey, moderately well drained and occurs on terraces. Permeability is slow. A water table is present during late fall, winter and early spring. Water erosion is a potential hazard.*

**Map unit:** 47B - Pyburn silty clay, 0 to 8 percent slopes

**Description category:** SOI

*The Pyburn soil is over 60 inches deep to bedrock. It is clayey, poorly drained and occurs on terraces. Permeability is very slow. A water table is present during fall, winter and spring. This is a hydric soil.*

## Irrigated and Nonirrigated Yields by Map Unit Component

Coos County, Oregon

[Yields in the "N" columns are for nonirrigated areas; those in the "I" column are for irrigated areas. Yields are those that can be expected under a high level of management. Absence of a yield indicates that the soil is not suited to the crop or the crop generally is not grown on the soil. This report shows only the major soils in each map unit]

Map symbol and soil name	Land capability		Grass-legume hay		Pasture			
	N	I	N	I	N	I		
			<i>Tons</i>	<i>Tons</i>	<i>AUM</i>	<i>AUM</i>		
10A: Chismore	3w	3w	2.50	4.50	6.0	12.0		
47B: Pyburn	4w	4w	---	---	1.5	3.0		



## Forestland Productivity with Site Index Base Age (OR)

Coos County, Oregon

Map Symbol and Soil Name	Potential Productivity				Trees to Manage
	Common Trees	Site Index (ft)	Site Index Base Age (yrs)	Volume of Wood Fiber (CMAI)	
				Cu Ft/Acre/Yr	
10A: Chismore	---	---	---	---	---
47B: Pyburn	---	---	---	---	---

---

## Soils Report

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### Capability Class – Definition

Land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations that show suitability and limitations of groups of soils for rangeland, for woodland, and for engineering purposes.

In the capability system, soils are generally grouped at three levels -- capability class, subclass, and unit. Only class and subclass are included in this dataset.

Capability classes, the broadest groups, are designated by numerals I through VIII. The numerals indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

Class I soils have few limitations that restrict their use.

Class II soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class III soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.

Class IV soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.

Class V soils are not likely to erode but have other limitations, impractical to remove, that limit their use.

Class VI soils have severe limitations that make them generally unsuitable for cultivation.

Class VII soils have very severe limitations that make them unsuitable for cultivation.

Class VIII soils and miscellaneous areas have limitations that nearly preclude their use for commercial crop production.



**DEED**



**After Recording Return To:**  
Fidelity National Title Company  
215 Curtis Ave.  
PO Box 355  
Coos Bay OR 97420-0037

AFTER RECORDING RETURN TO  
FIDELITY NATIONAL TITLE COMPANY

**Send Tax Statements To:**  
Richard C Rowe  
Rae A Russell  
3127 Keats St  
San Diego CA 92106

Title Order No. 24-94402  
Escrow No. 24-94402 *LR*  
Tax Account No. T27R11S7 1203  
A#6274.35, T27R11S7 1203  
A#6274.85, X-81097

**WARRANTY DEED**  
(ORS 93.850)

**Mariah S Grami, an estate in fee simple Emily Grami, an estate in fee simple, Grantor, conveys and warrants to Richard C Rowe and Rae A Russell, as tenants by the entirety, as to an undivided 1/2 interest and Thomas R Rowe and Susan O Rowe, as tenants by the entirety, as to an undivided 1/2 interest, Grantee, the following described real property free of encumbrances except as specifically set forth herein:**

See Exhibit 'A' attached hereto and by reference made a part hereof.

**THIS INSTRUMENT WILL NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY APPROVED USES AND TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES AS DEFINED IN ORS 30.930.**

The true consideration for this conveyance is \$298,000.00.

Dated this 9 day of August, 2005.

Mariah S Grami  
Mariah S Grami

Emily Grami  
Emily Grami

State of OR, County of Coos )ss.

This instrument was acknowledged before me on August 9, 2005  
by Mariah S Grami.

Linda Rochek  
Notary Public

My commission expires: 1-3-07



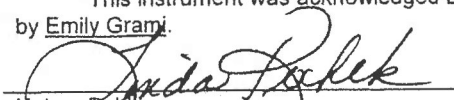


COOS COUNTY CLERK, OREGON TOTAL \$41.00  
TERRI L. TURI, CCC, COUNTY CLERK

08/15/2005 #2005-12226  
09:42AM 2 OF 4

State of OR, County of Coos )ss.

This instrument was acknowledged before me on August 9, 2005  
by Emily Grami.

  
\_\_\_\_\_  
Notary Public

My commission expires: 1-3-07



Title No. 24-94402 Escrow No. 24-94402

**EXHIBIT 'A'**

Legal Description:

Beginning at a point on the North boundary line of the Coos Bay Timber Co. railroad right of way, which point is 982.46 feet North and 463.20 feet West of the one-quarter corner between Section 7 and Section 18, Township 27 South, Range 11 West of the Willamette Meridian, Coos County, Oregon; thence North 28° 13' West a distance of 600.0 feet; thence North 61° 47' East a distance of 2090.7 feet to a point on the West right of way boundary line of the County Road; thence South 11° 57' West along the West boundary line of the County Road a distance of 73.7 feet; thence South 13° 23' West along the West boundary line of the County Road right of way a distance of 862.73 feet at which point the West boundary line of the County Road right of way intersects the South boundary line of the Coos Bay Timber Co. railroad right of way; thence South 61° 47' West along the South boundary line of the Coos Bay Timber Co. railroad right of way, a distance of 1469.72 feet; thence North 28° 13' West a distance of 100 feet to the point of beginning, being in Section 7, Township 27 South, Range 11 West of the Willamette Meridian, Coos County, Oregon.

Subject to:

Taxes for the fiscal year 2005-2006, a lien in an amount to be determined, but not yet payable.

The following matters are excluded from the coverage of the policy based on the proximity of the property to unnamed creek and lake.

- a. Rights of the public and governmental bodies (including claims of ownership) to that portion of the premises lying below the high water mark of unnamed creek and lake.
- b. Any adverse claim based on the assertion that:
  - i. Some portion of said land has been created by artificial means, or has accreted to such portion so created.
  - ii. Some portion of said land has been brought within the boundaries thereof by an avulsive movement of unnamed creek and lake or has been formed by accretion to such portion.

The rights of the public in and to that portion of the premises herein described lying within the limits of public roads, streets and highways.

Terms and provisions of Deed from George A. Stevenson, et ux, to Coos Bay Lumber Co., recorded June 4, 1937, in Book 129, Page 60, Deed Records of Coos County, Oregon.

An Easement created by instrument, including the terms and provisions thereof,

In favor of: Coos Bay Lumber Co.  
For: Construct, maintain, the use of trucking roads  
Dated: June 4, 1937  
Recorded: June 4, 1937  
Book: 129 Page: 61  
in Coos County, Oregon.

An Easement created by instrument, including the terms and provisions thereof,

In favor of: Coos Bay Lumber Company  
For: Right of way  
Dated: May 13, 1952  
Recorded: November 20, 1952  
Book: 223 Page: 77  
in Coos County, Oregon.

An Easement created by instrument, including the terms and provisions thereof,

In favor of: Georgia- Pacific Corporation, Coos Bay Timber Company  
For: Right of way and road use agreement  
Dated: August 14, 1961  
Recorded: August 22, 1961  
Book: 287 Page: 380  
in Coos County, Oregon.



COOS COUNTY CLERK, OREGON      TOTAL    .1.00  
TERRI L. TURI, CCC, COUNTY CLERK

08/15/2005 #200 7226  
09:42AM      JF 4

Title No. 24-94402      Escrow No. 24-94402  
An Easement created by instrument, including the terms and provisions thereof,  
In favor of:      Coos-Curry Electric Cooperative, Inc.  
For:      Overhead system and underground system  
Dated:      June 6, 2003  
Recorded:      September 8, 2003  
Microfilm No.:      2003-13696  
in Coos County, Oregon.