



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

AMENDED NOTICE OF ADOPTED AMENDMENT

October 16, 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 006-07

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: October 30, 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.**

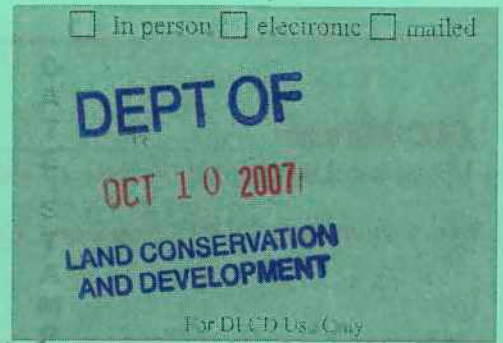
Cc: Doug White, DLCD Community Services Specialist
Dave Perry, DLCD Regional Representative
Patty Evernden, Coos County

<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-07-05/RZ-07-05**

Date of Adoption: **10/2/2007**

Date Mailed: **10/9/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/26/2007

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".

- 1) An amendment/rezone request to rezone the subject property from Rural Center (RC) to Exclusive Farm Use (EFU), and to amend the Coos County Comprehensive Plan Designation from Rural Center to Agriculture.
- 2) A Comprehensive Plan Text and Map Amendment to remove the subject property from the boundary of the Rural Unincorporated Community of Broadbent.

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

Plan Map Changed from: **Rural Center**

to: **Agriculture**

Zone Map Changed from: **Rural Center**

to: **Exclusive Farm Use**

Location: **T.29, R.12, S.32D, Tax lots 700, 800**

Acres Involved: **0.22**

Specify Density: Previous:

New:

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input type="checkbox"/>	<input 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 # 006-07 (16261)

DLCD file No. _____

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

Tom Guevara - ODOT Roseburg, Coquille Indian Tribe, Myrtle Point RFPD

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**

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.

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 07-05-007PL
7 COUNTY ZONING & LAND)
8 DEVELOPMENT ORDINANCE)
(Bowman rezone and)
map amendment))

9
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. 07-05-007PL".
13

14 SECTION 2. AUTHORITY

15 This Ordinance is enacted pursuant to the provisions of ORS Chapter 215.
16

17 SECTION 3. PURPOSE

18 The purpose of this Ordinance is to amend Volume I of the acknowledged Coos
19 County Comprehensive Plan; this Ordinance therefore amends Coos County
20 Ordinance 82-12-022L, and amendments thereto, which adopts Volume I of
21 the Coos County Comprehensive Plan. The purpose of this Ordinance is also to
22 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 and amendments thereto.

23 This amendment is necessary to rezone a Rural Center (RC) property to
24 Exclusive Farm Use (EFU) to allow for a replacement dwelling on the abutting
tax lot 700. The subject property is described as Township 29, Range 12,
Section 32D, Tax Lot 800 in the County of Coos.

25 SECTION 4. FINDINGS

26 The review criteria for the proposed action are set forth in Attachment A,
27 attached hereto and incorporated herein by this reference, together with the
28 findings of fact and conclusions that the criteria have been satisfied. The

1 Board of Commissioners hereby adopts the findings and conclusions set forth
2 in Attachment A.

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

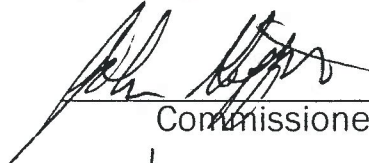
6 Ordinance 82-12-022L and amendments thereto adopting Volume I of the
7 Coos County Comprehensive Plan, and the Plan's map designation described
8 in Section 3, above, are amended as necessary to change the Plan designation
9 of the subject property to Exclusive Farm Use (EFU) and to remove the property
10 from the Rural Unincorporated Community Boundary of Broadbent. Ordinance
11 85-03-004L and amendments thereto implementing Volume I of the Coos
12 County Comprehensive Plan are amended as necessary to change the official
13 zoning map to reflect the rezone of the subject property to Exclusive Farm Use
14 and to remove the subject property from the Rural Unincorporated Community
15 Boundary of Broadbent.

16 SECTION 6. SEVERANCE CLAUSE

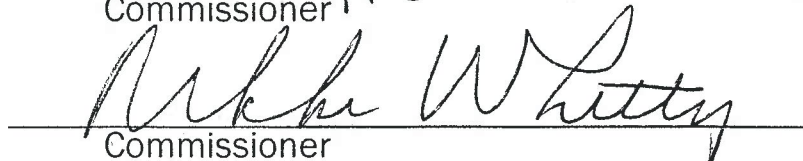
17 If any section, subsection, provision, clause or paragraph of this Ordinance
18 shall be adjudged or declared by any court of competent jurisdiction to be
19 unconstitutional or invalid, such judgment shall not affect the validity of the
20 remaining portions of this Ordinance; and it is hereby expressly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

24 ADOPTED this 2nd day of October, 2007.

25 BOARD OF COMMISSIONERS

26 
27 Commissioner

28 
Commissioner

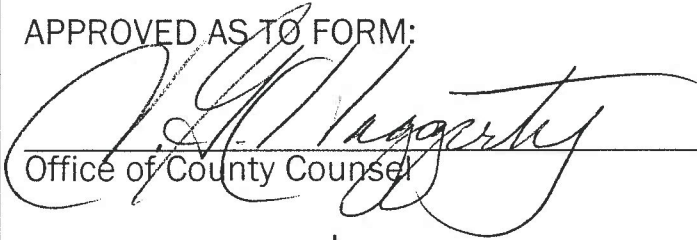

Commissioner

ATTEST:


Recording Secretary

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APPROVED AS TO FORM:


Office of County Counsel

SIGNED this 2nd day of October, 2007.

Effective Date: October 2, 2007

Attachment "A"

FINDINGS AND CONCLUSIONS

I. Part 1 (Plan Map Amendment)

1.. Coos County Zoning and Land Development Ordinance (CCZLDO)

a. Section 2.1.200 Specific Definitions

- i. *Rural Community: An unincorporated community which consists primarily of permanent residential dwellings but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post office) to the community, the surrounding rural area, or to persons traveling through the area.*

FINDING: Tax lot 800 has been included into the acknowledged Rural Unincorporated Community (RUC) of Broadbent. The Land Conservation and Development Commission (LCDC) adopted rules for unincorporated communities initially in 1994 and revised in 1997. The purpose of the rule is to establish a statewide policy for the planning and zoning of unincorporated communities that recognizes the importance of communities in rural Oregon. The rule is intended to expedite the planning process for counties by reducing the need to take exceptions to Statewide Planning Goals when planning and zoning unincorporated communities. An exception was done for tax lot 800 to be zoned RC. This area was reviewed during Coos County's periodic review and tax lot 800 was included into the RUC of Broadbent. Tax Lot 800 consisted of a single family dwelling. Tax lot 700 was not included and was zoned EFU.

- ii. *Rural Lands: Those which are outside the urban growth boundary and are: (1) non-urban agricultural, forest or open space lands; or (2) other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.*

FINDING: The subject property is located outside the urban growth boundary for the City of Myrtle Point; however, tax lot 800 is within the boundary of the Rural Unincorporated Community of Broadbent. The subject tract is located in the vicinity of larger tract farms to the north and residential development to the south.

- iii. *Unincorporated Community: a settlement with all of the following characteristics: (a) it is made up primarily of lands subject to an exception to Statewide Planning goal 3, goal 4 or both; (b) it was either identified in a county's acknowledged comprehensive plan as a "rural community", "service center", "rural center", "resort community", or similar term before this division was adopted (October 28, 1994), or it is listed in the Department of Land Conservation and Development's January 30, 1997 "Survey of Oregon's Unincorporated Communities"; (c) it lies outside the urban growth boundary of any city; (d) it is not incorporated as a city; and (e) it met the definition of one of the four types of unincorporated communities in Sections (6) through (9) of OAR 660-022-0010, and includes the uses described in those definitions, prior to the adoption of OAR 660-022 (October 28, 1994).*

FINDING: Tax lot 800 is an exception area and was included into the RUC boundary and zoned accordingly. However, if the property is rezoned to EFU it would not meet the definition of OAR 660-022-0020(4)(b) and should not remain within the unincorporated community boundary of Broadbent.

- iv. *High-Value Farmland: "High-value farmland" means land in a tract composed predominantly of soils that are:*
- A. *Irrigated and classified prime, unique Class I or Class II; or*
 - B. *Not irrigated and classified prime, unique Class I or Class II.*

A and B, above, include the following soils: 2C, 5A, 5B, 33, 17B, 25 and 36C. In addition, high-value farmland includes tract growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.

Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40) and Coquille (12).

FINDING: The soil information from the Soil Survey of Coos County, Oregon identifies tax lot 800 is composed of Gauldy Variet Loam which is a soil symbol of 25 and a site class of IV. Therefore, meeting the definition of what is high-value farm land. If the property is rezoned it would be consistent with the soils and the RUC boundary should be amended on the CCCP map to remove this property.

1. *Coos County Comprehensive Plan (CCCP)*

- a. *Volume I, Part 2, Section 5.5, – Broadbent...Boundary Determination – The community boundary includes only those lands currently zoned Rural Center (RC). The adjacent RR-2 zoned land is primarily vacant with the exception of Tax Lots 1500, 1600 and 1800, which are not contiguous.*

FINDING: The soils identified in the Soil Survey of Coos County, Oregon identify the soil on the property is Gauldy Variet Loam (symbol 25) with a site class of IV. The established soils on the property support EFU zoning. The boundary and definition does not allow the EFU zone within the rural community of Broadbent. In order to rezone the property to EFU as proposed in part 2 of this report the applicants must amend the established RUC boundary.

3. *Oregon Administrative Rule (OAR)*

- a. *OAR 660-022-0020 Designation of Community Areas...*

(Subsection 4). Community boundaries may include land that is designated for farm or forest use pursuant to Goal 3 and 4 if all the following criteria is met:...

- b. *The land was occupied on the date of this division (October 28, 1994) by one or more of the following uses considered to be part of the community: Church, cemetery, school, park,*

playground, community center, fire station, museum, golf course, or utility facility.

FINDING: The subject property to be rezoned (tax lot 800) has an existing dwelling. The soil information from the Soil Survey of Coos County, Oregon establishes the soils characteristics to be high-value farmland (symbol 25) with a site class if IV. The rural community boundary does not allow EFU zoned parcels pursuant to OAR 600-022-0020. The proposal is to amend the boundary to remove tax lot 800 from the rural community and rezone the parcel from RC to EFU. This will allow the tract (tax lot 700 and 800) to be zoned EFU and after consolidation of the parcels it will allow the dwelling on tax lot 800 to be replaced on tax lot 700.

- c. *Only the portion of the lot or parcel that is occupied by the use(s) in subsection (b) of this section is included within the boundary; and*

FINDING: Tax lot 800 is occupied by a residential structure which was on the property at the time the property was included in the RUC boundary. However, the soils on this property are Goal 3 soils and support the rezone request.

II. *Part 2 (Amendment/Rezone)*

1. CCZLDO

a. Section 1.1.900 Statements about Required Downzoning

1. *The Board of Commissioners declares that some of the downzoning produced by the establishment of zoning districts set forth in this Ordinance is the sole result of confiscatory conservation mandates imposed on Coos County by the Oregon Land Conservation and Development Commission (LCDC).*
2. *Required downzoning will, in some cases, result in undesirable adverse consequences on the Coos County tax base; the Board of Commissioners is philosophically opposed to these adverse consequences.*
3. *Recognizing the severe restrictions imposed on the use of some private property by this Ordinance*

because of LCDC mandates, the Board of Commissioners declares that the State of Oregon should bear the financial burden of defending any taking suits stemming from this Ordinance; further, the State should pay any judgements resulting from such suits.

Finding: This criteria does not apply to the rezone because an individual property owner is requesting the downzoning not LCDC. The property owner is trying to come into compliance with the CCZLDO and the CCCP. There is supporting documentation in the application to warrant the downzoning.

- b. Section 5.1.400(1) Decisions of the Hearings Body for a Rezone. The Hearings Body shall, after a public hearing on any rezone application, either;*
 - 1. Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*
 - a. the rezoning will conform with the Comprehensive Plan or Section 5.1.250; and*

FINDING: Section 5.1.250 allows for the rezoning of lots in the interior of an EFU zone if physically developed. Tax lot 800 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: The rezoning will not affect the rural character of the area and permitted uses on nearby parcels will not be affected. The area is a mix of rural residential development and resource practices.

The proposed zoning is EFU and is consistent with Comprehensive Plan provisions. Any future development will be subject to provisions set forth at Article 4.9 of the CCZLDO.

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

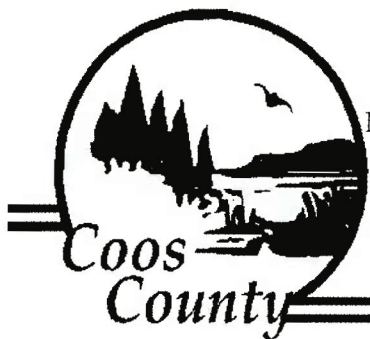
FINDING: Because the Board of Commissioners has adopted no other policies or ordinances applicable to the rezoning of the area, (c) is inapplicable.

2. *Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that...*

FINDING: The criteria listed in this provision are not relevant because the applicant can meet the criteria listed in subsection 1 of this section.

3. *Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioner unless appealed.*

Finding: The application meets the criteria set forth in Subsection 1 of this section.



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 2120

October 9, 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-07-05/RZ-07-05, Bowman

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 07-05-007PL.

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
Jan Mollé, Planning Secretary

c: David Perry, DLCD
file