



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED AMENDMENT

March 19, 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 010-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: April 5, 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

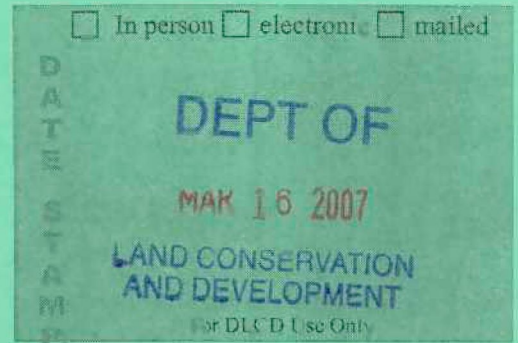
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FORM 2

DLCD

Notice of Adoption

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



Jurisdiction: **Coos County**

Local file number: **AM-06-09/RZ-06-07**

Date of Adoption: **3/13/2007**

Date Mailed: **3/15/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 12/5/2006

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 an approximate 4-acre portion of the subject property from Exclusive Farm Use (EFU) to Forest Mixed Use (FMU).

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.12, S.07, Tax lot 1000**

Acres Involved: **37.15**

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

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

010-06(15746)

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

4 IN THE MATTER OF AMENDING)
5 THE COOS COUNTY COMPREHENSIVE)
6 PLAN AND ZONING AND LAND) ORDINANCE 06-11-009PL
7 DEVELOPMENT ORDINANCE)
8 (Reeves Application))

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

10 SECTION 1. TITLE

11 This Ordinance shall be known as "Coos County Ordinance No. 06-11-009PL".

12 SECTION 2. AUTHORITY

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

14 SECTION 3. PURPOSE

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

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

24 Jared Reeves filed an application (AM-06-09/RZ-06-07) seeking re-
25 designation of a portion of the subject property to "Forest" plan and zone
26 designation from the existing "Exclusive Farm Use" and "Agriculture" plan
27 and zone designations. Along with rezoning, the subject property will be
28 added to the Comprehensive Plan inventory "Mixed Agricultural-Forest Use
Areas". See attached map at Map 1.

1 SECTION 4. FINDINGS

2 The supporting documentation for the proposed action are set-forth in
3 Exhibit A, attached hereto and incorporated herein by this reference.

4 The Board of Commissioners Find:

5 1. The subject property is located north of the City of North Bend off of
6 North Way Lane. Coos County Assessor's map No. 24-12-7 identifies the
7 property as tax lot 1000. Tax lot 1000 is assessed as 37.150 acres, the
 rezone area is approximately 4 acres.

8 2. The property is a legal lot of record because it was created through
9 partition approval in 1992.

10 3. The property currently has a Comprehensive Plan designation of
11 Agriculture and Forest and implementing zones of Exclusive Farm Use and
12 Forest. The rezone area pertains to a portion of the Exclusive Farm Use
 portion of the subject property.

13 4. The subject property is developed with a single-family dwelling and
 outbuildings.

14 5. Pursuant to USDA Natural Resources Conservation Service data the
15 rezone area has a Forest Site Index of 125 (Douglas Fir) which is the
16 approximate height of a dominate tree at age 100 years.

17 6. Coos Soil and Water Conservation District identifies the soils for the
 subject property as:

- 18 1. 41 Nestucca silt loam – Class 3w (66%)
19 2. 52E Salander silt loam, 30 - 60% slopes – Class 6e soils (35%)

20 7. Goal 3 defines "agricultural land" in western Oregon as predominantly
21 Class I, II, III and IV soils.

22 8. OAR 660-006-0057 requires that each area being rezoned or replanned
23 contain a mixture of agriculture and forest uses such that neither Goal 3 nor
24 Goal 4 can be applied alone. The above findings and the applicants'
 submitted evidence demonstrate compliance with this Rule.

25 9. Coos County Zoning and Land Development Ordinance 5.1.400(1)
 establishes the following three criteria for approval of a rezoning:

- 26 (a) The rezoning will conform with the Comprehensive Plan.

27 Compliance with the relevant portions of the Comprehensive Plan is
28 addressed below.

1 (b) The rezoning will not seriously interfere with permitted uses on
2 other nearby parcels.

3 Nearby parcels are currently in a resource designation and will remain in a
4 resource designation. Agriculture will remain as an outright permitted use.
5 The rezone will reflect the predominate forest characteristics of the rezone
6 area.

7 (c) The rezoning will comply with other policies and ordinances as
8 may be adopted by the Board of Commissioners.

9 The Board of Commissioners has adopted no other policies or ordinances
10 applicable to the rezoning of the subject property.

11 10. Coos County Comprehensive Plan Volume I, Part 1, Plan Implementation
12 Strategy 5.4(8) requires consideration and approval of justified changes
13 from one resource designation to another and establishes the following 3
14 criteria:

15 (a) The rezoning would be at least as effective at conserving the
16 resource as the existing zone.

17 (b) The rezoning would not create a non-conforming use.

18 (c) The applicants certify the understanding that, if granted, the
19 rezone could have significant tax consequences.

20 The proposed zoning will be as effective at conserving the resource as the
21 existing zone. The current agriculture designation does not reflect the
22 predominate characteristics of the site. Rezoning would not create any
23 nonconforming uses and the applicants have certified their understanding
24 that rezoning could have significant tax consequences.

25 11. Coos County Comprehensive Plan Volume I, Part 2, 3.2 Forest Lands (5)
26 Implementation Strategies identifies "Mixed Farm-Forest" areas as those
27 areas that include land currently or potentially in farm-forest use. Typically
28 such lands are those with soil, aspect, topographic features and present
ground cover that are best suited to a combination of forest and agricultural
uses.

Oregon Statewide Planning Goal 3 defines agricultural land in Western
Oregon as land predominantly Class I through Class IV soils. The NRCS soils
data identifies the soils on the rezone site to be Class VI. The Forest Site
Index for the property is 125.

12. Oregon Administrative Rule 660-006-0057 Rezoning land to an
Agriculture/Forest zone requires a demonstration that each area contains
such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can
be applied alone. The submitted evidence demonstrates compliance with the
Rule.

1
2 SECTION 5. AMENDMENTS TO THE COOS COUNTY COMPREHENSIVE
3 PLAN AND TO THE COOS COUNTY ZONING AND LAND
4 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
8 designation of the subject property to "Forest". Also, Ordinance 82-12-022L
9 and amendments thereto adopting Volume I of the Coos County
10 Comprehensive Plan are amended to change the "Mixed Agricultural-Forest
11 Use Areas" inventory map to include the rezone area. Ordinance 85-03-
12 004L and amendments thereto implementing Volume I of the Coos County
13 Comprehensive Plan are amended as necessary to change the official zoning
14 map to reflect the rezone of the subject property to "Forest" Mixed Use.

15 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

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

20 SECTION 7. SEVERANCE CLAUSE

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

28 SECTION 8. EMERGENCY CLAUSE

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

ADOPTED this 13 day of March, 2007.

BOARD OF COMMISSIONERS

John Ruffo
Commissioner

Robert W. White
Commissioner

Kim Duffin
Commissioner

ATTEST:

Janin Stolle
Recording Secretary

APPROVED AS TO FORM:

V. J. Stagg
Office of County Counsel

SIGNED this 13TH day of MARCH, 2007.

Reading: MARCH 13, 2007

Emergency Adoption: MARCH 13, 2007

Effective Date: MARCH 13, 2007

EXHIBIT A

COOS COUNTY PUBLIC HEARING
FOR ZONING ADMINISTRATION
PLANNING DEPARTMENT CONFERENCE ROOM
FEBRUARY 1, 2007
7 P.M.

TO : Coos County Planning Commission

FROM : Coos County Planning Department

DATE : January 25, 2007

PROPOSAL : Plan amendment /rezone a portion of the subject property from Agriculture /Exclusive Farm Use to Forest plan and zone designation. Also proposed is the inclusion of the rezone area into the "Mixed Agricultural-Forest Use Areas" inventory of the Comprehensive Plan.

OWNER : Jeff & Colleen Reeves
94790 North Way Lane
North Bend, Oregon 97459

APPLICANT : Jared Reeves
94790 North Way Lane
North Bend, Oregon 97459

FILE NO. : AM-06-09/RZ-06-07

I. APPLICABLE STANDARDS AND CRITERIA

- A. Coos County Zoning and Land Development Ordinance -
Section 5.1.400(1) Decisions of the Hearings Body for a Rezone
Section 4.8.525(B)
- B. Coos County Comprehensive Plan
 - a. Volume I, Part 1, Policy 5.4(8)
 - b. Volume I, Part 2, 3.2 Forest Lands (5) Implementation Strategies
- C. Oregon Administrative Rule 660-006-0057

II. BASIC FINDINGS

- A. **LOCATION:** The subject property is located north of the City of North Bend and accessed off of North Way Lane. Coos County Assessor's map No. 24-12-07 identifies the property as tax lot 1000.
- B. **LOT OF RECORD:** Tax lot 1000 is a lawfully created parcel through a partition approval in 1992.
- C. **ZONING:** The subject property is zoned Exclusive Farm Use and Forest mixed use.
- D. **SITE DESCRIPTION:** Based on soil types approximately 34% of tax lot 1000 is treed and covered in forest vegetation. The majority of the property is bottomland. Development on the property includes a single-family dwelling and outbuildings.
- E. **SPECIAL CONSIDERATIONS:** 100-year floodplain
- F. **SOILS:** Nestucca silt loam, Capability Class 3w, Forest Site Index 99RA – 66%
Salander silt loam, Capability Class 6e, Forest Site Index 125DF – 34%
- G. **SURROUNDING LAND USE:** The area is primarily resource land. Menasha owns tax lot 1001 directly south of the subject property. Tax lots within the notification area range in size from 1.200 acres to 202.750 acres.
- H. **AGENCY COMMENTS:** The Planning Department mailed notice of the proposal to agencies and special districts on January 12, 2007.

The following agencies and districts either had no comment or did not respond to the notice: Oregon Dept. of Forestry, Oregon Dept. of Agriculture, Hauser RFPD, Oregon International Port of Coos Bay, Coos Bay/North Bend Water Board.

DLCD was provided notice of the initial hearing on December 5, 2006, to comply with the 45-day notice deadline set-forth in ORS 197.610.

- I. **PUBLIC NOTICE:** The Planning Department mailed individual written notice of the proposal and the public hearing to the owners of record of all property located within 500 feet of the subject property on January 12, 2007. Notice of the hearing was posted at the Coos County Courthouse, Coquille Annex, North Bend Annex and the County's website on January 12, 2006.

III. FINDINGS & CONCLUSIONS

A. REZONE

CCZLDO Section 5.1.400(1).

- a. the rezoning will conform with the Comprehensive Plan or Section 5.1.250; and
- b. the rezoning will not seriously interfere with permitted uses on other nearby parcels; and
- c. the rezoning will comply with other policies and ordinances as may be adopted by the Board of Commissioners.

FINDING: The proposed zoning is consistent with Comprehensive Plan provisions and future development will be subject to provisions set forth at Article 4.8 of the CCZLDO.

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

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

B. Comprehensive Plan Amendment

- a. Volume I, Part 1, Policy 5.4 PLAN IMPLEMENTATION STRATEGIES (8) states:

This Plan Policy requires the County to consider and approve where appropriately justified, changes from agriculture to forestry upon findings, which establish:

- I. That the proposed rezone would be at least as effective at conserving the resource as the existing zone,
- II. That the proposed rezone would not create a nonconforming use,
- III. That the applicant for the proposed rezone has certified that they understand that the rezone, if granted, could have significant tax consequences.

FINDING: The rezone area would remain in a resource zoning district that would accurately reflect the resource on the site. The area is undeveloped, therefore, rezoning would not create a nonconforming use.

The applicant has not commented on the potential tax consequences if the site is rezoned.

- b. Volume 1, Part 2, 3.2 Forest Lands (5) Implementation Strategies

FINDING: This Plan Implementation Strategy identifies “Mixed Farm-Forest” areas as those areas that include land currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agricultural uses.

The soils information provided with the application identify the subject property qualifies for inclusion in the “Mixed Farm-Forest” designation.

C. Oregon Administrative Rule 660-006-0057

Rezoning Land to an Agriculture/Forest Zone

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

FINDING: The soil data demonstrates that the area contains a mixture of agriculture/forest uses that neither Goal 3 nor 4 can be applied alone.

STAFF ANALYSIS

The application contains supporting evidence to demonstrate the soils are such that neither Goal 3 nor Goal 4 can be applied alone; therefore, inclusion in the County’s “mixed use” overlay would be appropriate.

Staff believes the proposal is appropriate for the site and recommends the Hearings Body recommend approval of the proposed rezone to the Board of Commissioners.

Please call if you have questions prior to the hearing.

Sincerely,
COOS COUNTY PLANNING DEPARTMENT


Patty Evernden, Director

ATTACHED: Applicant’s supporting evidence
Before & After zoning maps

*c: Office of County Counsel
David Perry, DLCD
Special Districts
File

*w/o attachments



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 1932

March 15, 2007

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

RE: Form 2, DLCD Notice of Adoption for AM-06-09/RZ-06-07, Jared Reeves

Dear Mr. French:

Enclosed please find the Form 2 Green sheet with two (2) copies of the adopted Ordinance 06-11-009PL.

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

Sincerely,

COOS COUNTY PLANNING DEPARTMENT

Jan Mollé, Planning Secretary

c: David Perry
file