



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

NOTICE OF ADOPTED AMENDMENT

February 6, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clatsop 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: February 20, 2008

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
Laren Woolley, DLCD Regional Representative
Patrick Wingard, Clatsop County

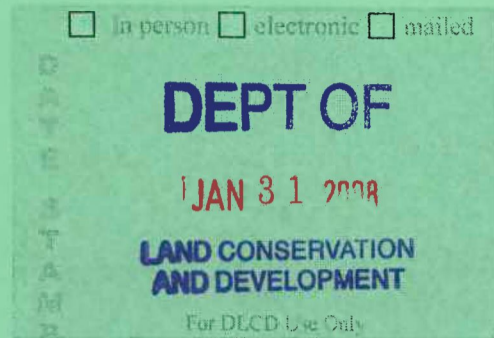
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FORM 2

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: **Clatsop County**

Local file number: **Ordinance No. 08-02**

Date of Adoption: **1/23/2008**

Date Mailed: **January 30, 2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/28/2007

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".

Amend the Clatsop County Comprehensive Plan Map / Zoning Map by changing the zoning on 6.42 acres from Residential Agriculture - 2 (RA-2) to Natural Uplands (NU) and changing the comprehensive plan designation from Rural Lands to Natural. The purpose of the rezone is to allow future transfer of three development rights from the subject property to another property in the unincorporated Clatsop Plains area of Clatsop County.

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

Plan Map Changed from: **Rural Lands**

to: **Natural**

Zone Map Changed from: **Residential Agriculture-2** to: **Natural Uplands**

Location: **West side of Hwy 101 south of the City of Seaside**

Acres Involved: **6**

Specify Density: Previous: **1 d.u./2 acres**

New: **0**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" 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 (16431)

DLCD file No. _____

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

Clatsop County, DLCD, ODOT

Local Contact: **Patrick Wingard**

Phone: (503) 325-8611 Extension: 1705

Address: **800 Exchange Street, Suite 100**

Fax Number: **503-338-3664**

City: **Astoria**

Zip: **97103-**

E-mail Address: **pwingard@co.clatsop.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.

RECORDED

JAN 24 2008

Doc # 2008010027

IN THE BOARD OF COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

RECEIVED
JAN 28 2008
Community
Development
CLATSOP COUNTY

AN ORDINANCE AMENDING THE)
CLATSOP COUNTY COMPREHENSIVE)
PLAN / ZONING MAP)

ORDINANCE NO. 08-02

WHEREAS, on September 21, 2007 Russ Earl filed an application for an amendment to the Clatsop County Comprehensive Plan / Zoning Map to amend the comprehensive plan designation of property in Clatsop County (the "property") described as T6N, R10W, Sec. 33, TL 1402 from Rural Lands to Natural and amend the zoning from RA-2, Residential Agriculture – 2, to NU, Natural Uplands.

WHEREAS, the application was considered by the Planning Commission at a public hearing on November 13, 2007 and the Commission unanimously recommended approval, which recommendation is attached as Exhibit "PC"; and

WHEREAS, consideration for this ordinance complies with the Post Acknowledgement rules of the Oregon Land Conservation and Development Commission and the Clatsop County Planning Commission has sought review and comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050 and 215.060, and the Board of Commissioners received and considered the Planning Commission's recommendations on this request and held a public hearing on this ordinance pursuant to law on January 9, 2008; and

WHEREAS, public notice has been provided pursuant to law; now therefore,

THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAIN AS FOLLOWS:

SECTION 1. The Clatsop County Comprehensive Plan / Zoning Map is hereby amended as shown in attached Exhibit A.

SECTION 2. The Board of Commissioners hereby approves the application and findings of fact contained in the Exhibit "PC" Planning Commission recommendation.

SECTION 3. In support of this ordinance, the Board adopts the November 5, 2007 Staff Report and recommendation attached as Exhibit "PC".

Approved this 23rd day of January, 2008

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By


Patricia Roberts, Chair

By


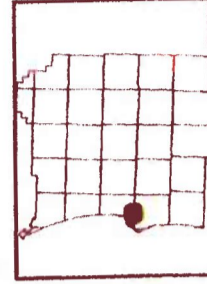

Recording Secretary

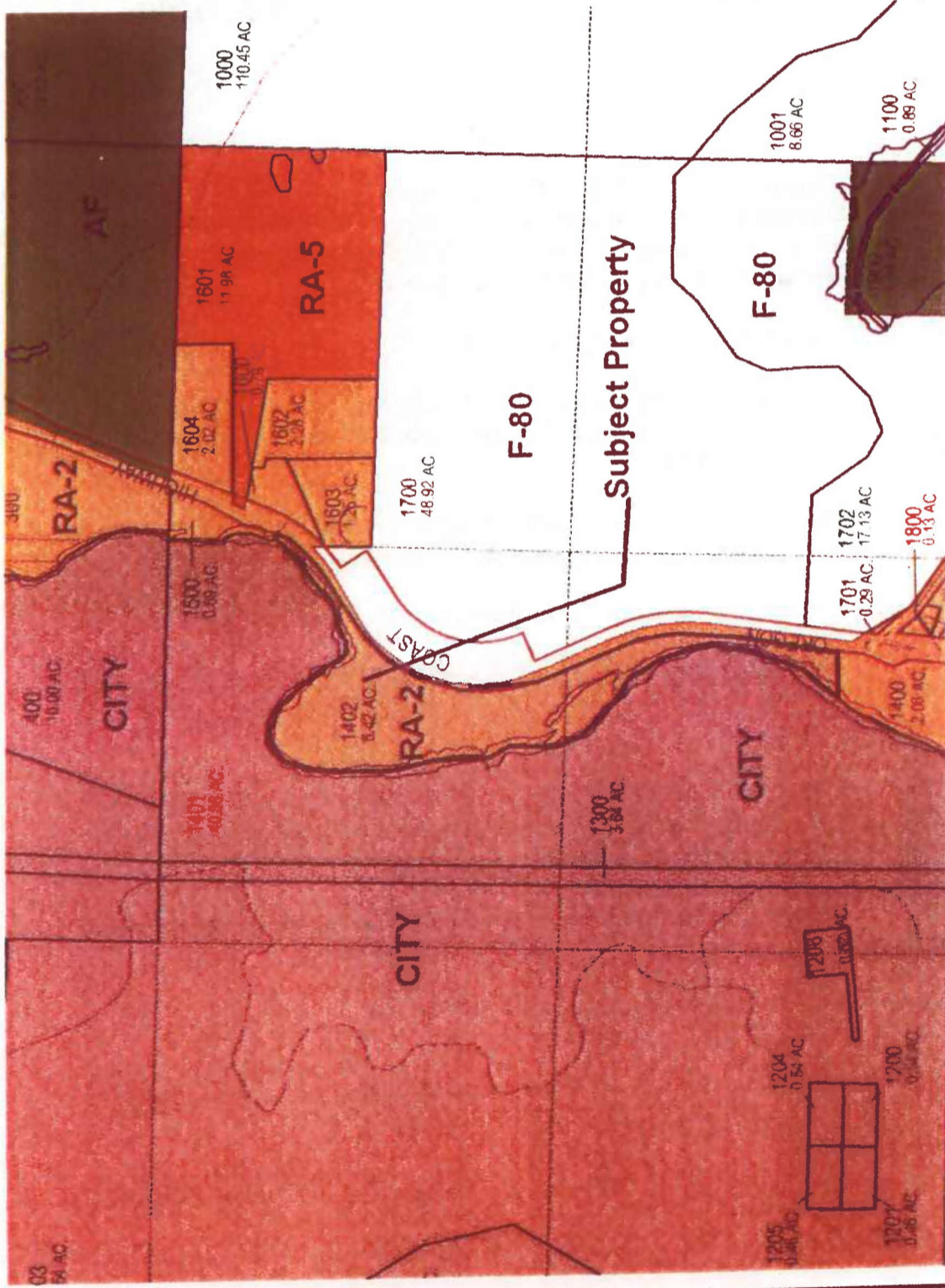
EXHIBIT A, Ord. No. 08-02

Earl
Zone Change Map

Tax Lot Arrows
Tax Map
 Water Body
 River
 Creek
 Parcel Boundary
 Supplemental Boundary
 Road R-O-W
Zoning
 AF
 CITY
 EFU
 F-80
 RA-2
 RA-5



9/27/2007



Zoning	Existing	Proposed
RA-2	Residential Agriculture - 2	NC: Natural Uplands
	Rural Lands	Natural

1 in. = 500 ft.

This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuses or misinterpretation.

EXHIBIT "PC"

BEFORE THE PLANNING COMMISSION
FOR CLATSOP COUNTY, OREGON

In the matter of an amendment to the
Clatsop County Comprehensive Plan /
Zoning Map by Russell Earl

RESOLUTION AND ORDER

07-11-05

RECITALS

A. Pursuant to Article 2 of the Clatsop County Land and Water Use Development Ordinance, Russell Earl applied for a comprehensive plan/zoning map amendment (Exhibit 1 of the attached Exhibit A Staff Report) on September 21, 2007 regarding property in Clatsop County (the "Property") described as:

T6N, R10W, Section 33, Tax Lot 1402

B. Pursuant to County Procedures for Land Use Applications, staff examined the application and submitted a report dated November 5, 2007 regarding the request. The Staff Report is attached as Exhibit A.

C. Pursuant to County procedures, a hearing was held on the Exhibit A matter on November 13, 2007 for which appropriate notice was provided.

WHEREFORE, the Planning Commission finds and resolves:

1. That the applicant shall remit adequate findings of fact to the Community Development Department to address consistency with the applicable goals and policies of the comprehensive plan.
2. That upon receipt of the findings referenced above, the Community Development Department will present the Planning Commission's recommendation to approve the request to the Board of Commissioners for their consideration.
3. That the Exhibit A Staff Report is adopted by reference in support of this recommendation.

SO ORDERED this 26th day of November 2007.

PLANNING COMMISSION FOR
CLATSOP COUNTY, OREGON



Bruce Francis, Commission Chair

EXHIBIT A



Clatsop County Community Development Department
800 Exchange Street, Suite 100, Astoria, OR 97103
www.co.clatsop.or.us

ph: 503-325-8611
fx: 503-338-3666
em: comdev@co.clatsop.or.us

STAFF REPORT

STAFF REPORT DATE: November 5, 2007¹

HEARING DATE: November 13, 2007

HEARING BODY: Planning Commission

REQUEST: The applicant proposes a comprehensive plan map / zoning map amendment (zone change) for the subject property.

Current Zone: Residential Agriculture-2 (RA-2)
Proposed Zone: Natural Uplands (NU)

Current Plan Designation: Rural Lands
Proposed Plan Designation: Natural

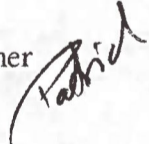
APPLICANT/AGENT: Parker Consulting – Butch Parker
PO Box 397
Warrenton, OR 97146

PROPERTY OWNER: Russell Earl
86058 Wahanna Rd.
Seaside, OR 97138

PROPERTY DESCRIPTION: T6N, R10W, Sec. 33, TL 1402

PROPERTY LOCATION: East of Hwy 101 and west of the Necanicum River south of the City of Seaside in the southerly extent of the unincorporated Clatsop Plains area of Clatsop County

PROPERTY SIZE: 6.42 acres

COUNTY STAFF REVIEWER: Patrick Wingard, AICP, Principal Planner 

PLANNING COMMISSION ACTION: Approve with condition

¹ Amended on December 26, 2007 in recognition of the applicant's findings of fact to address consistency with the applicable goals and policies of the comprehensive plan.

EXHIBITS:

- 1 – Comprehensive Plan / Zoning Map Amendment application
- 2 – Applicant’s Findings of Fact to Address Consistency with the applicable Goals and Policies of the Comprehensive Plan

SUMMARY

On September 21, 2007 Parker Consulting, on behalf of Russell Earl, submitted to the Clatsop County Community Development Department an application for a comprehensive plan / zoning map amendment for a 6.42-acre parcel property located between Hwy 101 and the Necanicum River south of the City of Seaside in the unincorporated Clatsop Plains area of Clatsop County. See maps below. The applicant proposes changing the property’s zoning from RA-2, Residential Agriculture-2 to NU, Natural Uplands. The applicant also proposes changing the property’s comprehensive plan designation from Rural Lands to Natural. The purpose of the zone change is to enable the applicant to transfer three development rights from the property to another parcel in Clatsop Plains.

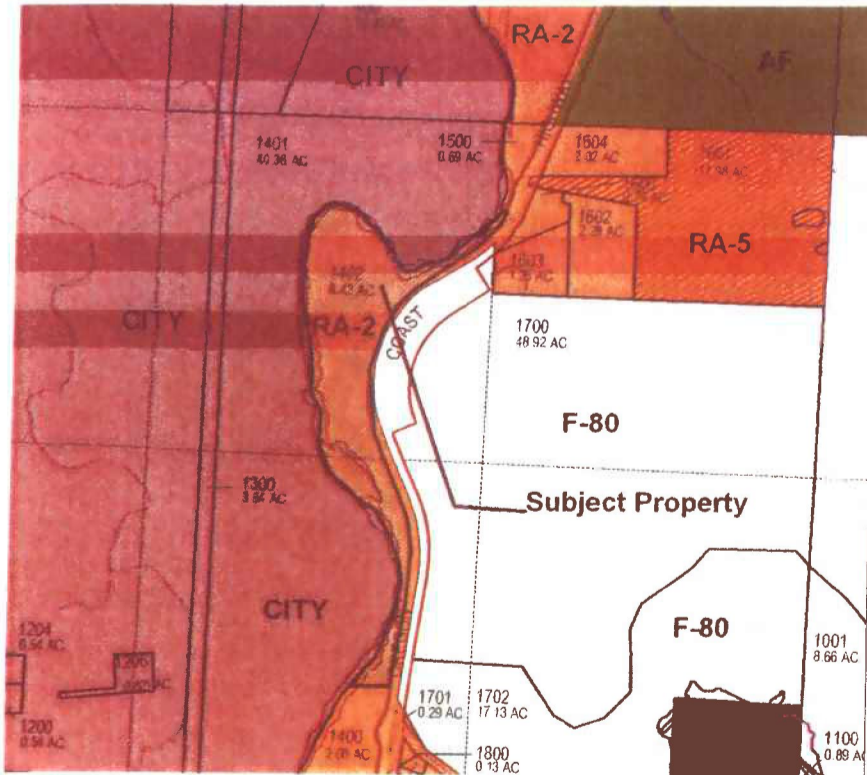
PROPERTY STATUS

The subject property (T6N, R10W, Sec. 33, TL 1402) was created by recording of a bargain and sale deed with the Clatsop County Clerk’s Office on February 9, 1981 (Clatsop County Deed Records Volume 545, Pages 570-572). The current property owner acquired the parcel on October 1, 2001. The county confirmed the property’s status as a legal lot of record on October 10, 1983.

PROPERTY CONDITIONS

The subject property is irregularly shaped and bound by Hwy 101 along its eastern boundary and the Necanicum River along its western boundary. The site is covered with trees and shrubs and gently slopes towards the river. The bulk of the property is in a mapped 100-year flood zone. The westerly one-third of the property (along the river) is in a designated floodway. The property is currently unimproved.

AREA ZONING MAP



NEIGHBORHOOD CONDITIONS



2005 Aerial Photo

Prominent neighborhood features include Hwy 101 and the Necanicum River. A handful of single-family residences are located to the north and south of the subject property. Other area developments and land use activities include the City of Seaside municipal water facilities, forestry operations, and rock quarries. Pasturelands lying within the corporate boundaries of the City of Seaside are located directly across the Necanicum River from the subject property.

APPLICABLE CRITERIA

The applicable criteria for this land use application is contained in LWDUO Section 5.412 which reads:

Section 5.412. Zone Change Criteria.

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:

- (1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
- (2) The proposed change is consistent with the statewide planning goals (ORS 197).
- (3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
 - (A) Parks, schools and recreational facilities
 - (B) Police and fire protection and emergency medical service
 - (C) Solid waste collection
 - (D) Water and wastewater facilities

- (4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
- (5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
- (6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.
- (7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.
- (8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

Additional criteria is contained in LWDUO Section S3.161 which reads:

S3.161. Density Transfer Standards for the Clatsop Plains Planning Area.

- (1) Transfer of residential development rights between sites in the Clatsop Plains Planning Area is allowed as follows:
 - (A) The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted, and b. Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Counsel, that prohibits any further development beyond that envisioned in the approved density transfer until such time as the entire area within the density transfer approval has been included within an urban growth boundary; and
 - (B) The Community Development Director shall demarcate the approved restrictions on the official Zoning Map, and
 - (C) No parcel of land shall be involved in more than one (1) density transfer transaction, and
 - (D) Density transfer goes with the property - not the owner; and
 - (E) Minimum lot size shall be one (1) acre for the receiving site but in no case may any lot be less than one-half (½) acre in size. Approval of lots less than one (1) acre in size shall meet the applicable standards set forth in S3.150-S3.161.
- (2) ESEE consequences are the same as those found in Appendix C of the Clatsop Plains Community Plan.

ASSESSMENT OF APPLICATION VERSUS APPLICABLE CRITERIA

In the following section, staff examines the application versus the eight applicable criteria of LWDUO § 5.412. Proposed findings of fact are provided for the Planning Commission's consideration.

(1) Consistency with Comprehensive Plan

Analysis:

As part of its land use application (attached, Exhibit 1), the applicant evaluates the application against the applicable criteria of LWDUO § 5.412. With regard to Criterion No. 1, Consistency with Comprehensive Plan, the applicant explains, "The Clatsop County Comprehensive Plan policies are ones that insure the County has orderly and reasonable development while protecting the County's natural resources. The requested rezone is not one involving development but instead helps protect the County's resources. The proposal is consistent with the Clatsop County Comprehensive Plan".

While staff generally agrees with the applicant in its assessment of the purpose and intent of the policies of the Clatsop County Comprehensive Plan, the applicant fails to substantiate its claim that the proposed request is consistent with the applicable policies of the comprehensive plan. The applicant's statement that, "The requested rezone is not one involving development but instead helps protect the County's resources" does not adequately address how the proposed plan map / zoning map amendment upholds the applicable policies of the Clatsop County Comprehensive Plan.**

**Update: On November 27, 2007 the applicant remitted adequate findings of fact to the Community Development Department in response to the Planning Commission's imposed condition of approval. The pertinent Staff Report Finding of Fact (below) has been amended to reflect this action.

All requirements pertaining to the public notices (LWDUO § 2.105 - § 2.125) for the land use matter have been met.

Finding of Fact:

Based on the analysis above, the application ~~does not satisfy~~ **satisfies** Zone Change Criterion No. 1. LWDUO § 5.412(1). ~~The application lacks findings of consistency with the applicable policies of the Clatsop County Comprehensive Plan.~~

(2) **Consistency with Statewide Planning Goals**

Analysis:

In its application, the applicant evaluates the proposal for consistency with the applicable statewide planning goals. Staff concurs with the applicant in its assessment of the application against Goals 1-6, 9-11, 13, 15, 16, 18, and 19. Staff offers the following additional analyses to supplement the applicant's findings of consistency with the applicable statewide planning goals:

Goal 7. Natural Disasters and Hazards: The majority of the subject property is located in a designated flood hazard area. Development in flood zones must be designed to reduce flood damage and loss of life. One-third of the property is in a designated floodway. Floodways are extremely dangerous areas as the velocity of floodwaters carry debris, potential projectiles, and erosion potential. The applicant's proposal to rezone the property from Residential Agriculture-2 (RA-2) to Natural Uplands (NU) and subsequently transfer the development rights to another (non-floodplain) property in Clatsop Plains, would prevent the development of three potential homesites within the Necanicum River floodplain and/or floodway. If approved, the proposal would reduce risk to people and property in accordance with Statewide Planning Goal 7.

Goal 8. Recreational Needs: In its findings, the applicant explains that, "The rezone will protect the Necanicum River at this location. It could provide more access to the river for recreational uses". It is unclear how the proposal could result in additional access to the river for recreational uses. Staff does not find evidence of a public access easement in the property's deeds and the applicant is not proposing such an agreement. Regardless, the property is not identified as an existing or planned recreational site in the county. Thus, the proposal complies with Statewide Planning Goal 8.

Goal 12. Transportation: The subject property has direct frontage onto Hwy 101. Development of the property would result in the construction of one to three new driveway approaches to the state highway. The proposal would facilitate the reduction of between one to three new potential vehicular access points to Hwy 101. The proposal would preserve the function of the state highway system in accordance with Statewide Planning Goal 12.

Goal 14. Urbanization: The proposal and subsequent transfer of development rights promotes efficient use of land by redirecting development from a flood-prone area with direct highway access to a non-flood-prone area without direct highway access. The proposal is consistent with Statewide Planning Goal 14.

Goal 17. Coastal Shorelands: A portion of the subject property is located within the coastal shoreland boundary. The proposal and subsequent transfer of development rights would help to preserve riparian vegetation along the Necanicum River in accordance with Statewide Planning Goal 17.

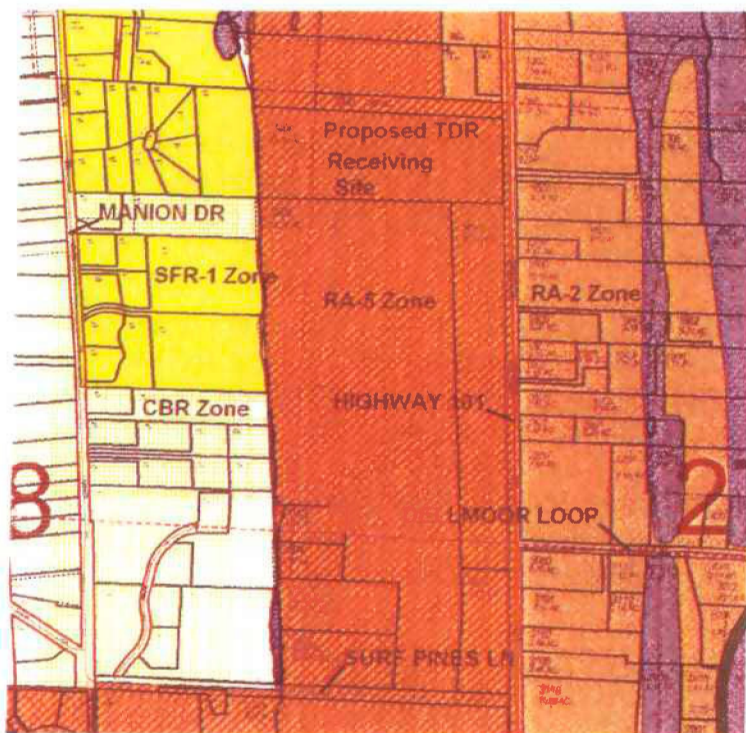
Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 2. LWDUO § 5.412(2).

(3) Adequacy of Public Facilities and Services

Analysis:

The applicant requests rezoning the property from RA-2 to NU to facilitate a future transfer of three development rights. The applicant proposes Tax Lot 3400 of Twp. 7N, R10W, Sec. 27 to be the receiving site for the transferred development rights (TDRs). See map below.



The proposed TDR receiving site is comparable to the TDR sending site (subject property) with respect to adequacy of public facilities and services. Parks, schools, police, fire, emergency services, solid waste collection, and water facilities are available at both locations.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 3. LWDUO § 5.412(3).

(4) Adequacy of Transportation Facilities

Analysis:

The subject property has direct frontage on Hwy 101. The proposed zone change would eliminate the potential for up to three new driveway approaches to the state highway thereby promoting a safe and efficient highway system in the area.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 4. LWDUO § 5.412(4).

(5) Compatibility with Area

Analysis:

The proposed zone change gives reasonable consideration to the character of the area and is compatible with the overall zoning pattern of the area. The proposal would conserve riparian resources along the Necanicum River and not result in over-intensification use of the land.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 5. LWDUO § 5.412(5).

(6) Peculiar Suitability of Site for Particular Uses

Analysis:

The subject property's immediacy to the Necanicum River and Hwy 101 makes it particularly well suited for a downzone from RA-2 to NU. The proposal would redirect residential development from an active floodplain to a non-floodplain area and eliminate the potential for up to three new driveway approaches to Hwy 101.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 6. LWDUO § 5.412(6).

(7) Zone Change Promotes Appropriate Use of Land in County

Analysis:

The proposal promotes appropriate use of land in the county by redirecting residential development away from a floodplain and floodway and eliminating the potential for up to three new driveway approaches to Hwy 101.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 7. LWDUO § 5.412(7).

(8) Health, Safety, and General Welfare

Analysis:

The application promotes the health, safety, and general welfare for Clatsop County residents and visitors by reducing impacts in the Necanicum River floodplain/floodway and on the state highway system.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 8. LWDUO § 5.412 (8).

In this section, staff examines the application versus the applicable density transfer standards of LWDUO § S3.161. Proposed findings of fact are provided for the Planning Commission's consideration.

(1)(A) Zoning of Sending Site to be OPR, NU, CS, or NS.

Analysis:

The applicant has proposed an appropriate zoning, NU, Natural Uplands, for the property in conjunction with its request to transfer three development right from the property to another property in the Clatsop Plains.

Finding of Fact:

Based on the analysis above, the application satisfies Density Transfer Standard No. 1A. LWDUO § S3.161(1)(A).

(1)(B) Updates to Zoning Map

Analysis:

Upon approval of the proposed comprehensive plan / zoning map amendment, the Community Development Director will update the county zoning map accordingly.

Finding of Fact:

Based on the analysis above, the application satisfies Density Transfer Standard No. 1B. LWDUO § S3.161(1)(B).

(1)(C) One Density Transfer Transaction per Parcel

Analysis:

The subject property has not been the subject of a previous density transfer transaction and upon approval of the zone change would be eligible to transfer the three development rights to another property in the Clatsop Plains.

Finding of Fact:

Based on the analysis above, the application satisfies Density Transfer Standard No. 1C. LWDUO § S3.161(1)(C).

(1)(D) Density Transfer Carries with the Land not the Owner

Analysis:

Upon approval of the proposed comprehensive plan / zoning map amendment, the Community Development Director will annotate the subject property on the zoning map to illustrate the availability of transferring three development rights to another property in the Clatsop Plains.

Finding of Fact:

Based on the analysis above, the application satisfies Density Transfer Standard No. 1D. LWDUO § S3.161(1)(D).

(1)(E) Receiving Site shall be One (1) Acre Minimum

Analysis:

The applicant proposes T7N, R10W, Sec. 27, TL 3400 as the receiving property for the transferred development rights. This parcel is 17.32 acres in size.

Finding of Fact:

Based on the analysis above, the application satisfies Density Transfer Standard No. 1E. LWDUO § S3.161(1)(E).

(2) ESEE Consequences Comparable to Appendix C of the Clatsop Plains Community Plan

Clatsop Plains Community Plan Appendix C reads as follows:

APPENDIX C
BEACHES AND DUNES EXCEPTION

Exception - Surf Pines

Clatsop County takes an exception to the State of Oregon's Beaches and Dunes Goal (#18) for those properties in the Surf Pines area (see Map on Page . . .) that are considered to be active dunes.

Findings for the Exception for the Surf Pines area include the information within the section entitled Critical Hazard Areas, Wind and Shoreline Erosion (Beaches and Dunes), Appendix A comprised of subsections on (1) geology, (2) dune formation, accretion, erosion and migration, (3) dune classification and limitations, (4) vegetation and wildlife, (5) groundwater and hydrology, (6) existing land use, and (7) beach access and management of dunes and the following summary of committed and developed lands:

1. According to the HUD Flood Insurance Study, the existing development is not within the velocity zone of the 100 year flood.
2. There are (as of 1978) 93 vacant lots located on active dunes in Surf Pines. They are interspersed among existing development, consisting of about 26 dwellings. These lots have been platted and partitioned since about 1950. The average developed lot size is approximately 2 acres for this area. The oceanfront lots are generally 120' x 300' to 600'.
3. The 93 vacant lots range in size from one (1) to 17 acres. Lots two (2) acres or larger would be eligible for partitioning or subdividing subject to Clatsop County standards.
4. Surf Pines residents receive pumped water from the Surf Pines Association. The two well fields utilized for the water supply are located outside of the active dune area. Paved roads in the area are maintained by the Surf Pines Association. The water and road facilities are adequate to accommodate the one acre development pattern of the area and are available to each lot.
5. Electricity (Pacific Power and Light), natural gas (Northwest Natural Gas) and cable television are available to each lot in the Surf Pines area.
6. These are among the last platted oceanfront parcels in Clatsop County. The current market value for oceanfront lots with improvements in 1977 is between \$12,000 and \$15,000. Most of the active dune to the north is in public ownership or unplatted. The active dune from Surf Pines south to Gearhart is in private ownership and unplatted.

7. Construction in this area would be single family only, similar to the existing development and, therefore, compatible. There would be no adverse social impact.
8. There is a minimum of 3000 acres of developable land in the Clatsop Plains (unincorporated areas) excluding active dune areas.
9. Access to the beach for residents of Surf Pines would be maintained through existing private rights of way that were platted during the original platting.

III - 56

Analysis:

The proposal would result in economic, social, environmental, and energy (ESEE) consequences comparable to those referenced in Appendix C (above) for development in the Surf Pines area. In addition to complying with the standards of the underlying zoning district (i.e., RA-2, RA-5, CBR, etc.), development of the three transferred development rights would be subject to the Clatsop Plains cluster development standards of LWDUO § S3.150.

Finding of Fact:

Based on the analysis above, the application satisfies Density Transfer Standard No. 2. LWDUO § S3.161(2).

Overall Conclusion

Based on the findings above, the application satisfies the applicable approval criteria, ~~with the following exception: The applicant has omitted findings of fact that demonstrate that the proposed zone change is consistent with the applicable comprehensive plan policies.~~

~~Staff recommends continuing the hearing to December 11, 2007 to allow the applicant time to remit satisfactory findings to the Planning Commission for its review and consideration.~~

EXHIBIT 1



COMPREHENSIVE PLAN/ZONING
MAP AMENDMENT
Fee: \$977.00 (required with application)
\$2175.00 (required with application)

PROPOSED USE: Natural Upland

	<u>Zoning</u>	<u>Comprehensive Plan Designation</u>
Current:	<u>Rural Residential RA-2</u>	<u>Rural Residential</u>
Proposed:	<u>Natural Upland</u>	<u>Natural</u>

LEGAL DESCRIPTION OF PROPERTY:

T: 6N R: 10W S: 33 TL: A02 ACRES: 6.42

OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:

T: _____ R: _____ S: _____ TL: _____ ACRES: _____

T: _____ T: _____ S: _____ TL: _____ ACRES: _____

APPLICANT 1: (Mandatory)

Name: Russell R. Earl Phone # (Day): 503-738-6281

Mailing Address: 86058 Wahanna Rd FAX #: russellr@theoregonshore.com

City/State/Zip: Seaside, Ore, 97138-4701 Signature: [Signature]

PROPERTY OWNER: (Mandatory if different than applicant)

Name: _____ Phone # (Day): _____

Mailing Address: _____ FAX #: _____

City/State/Zip: _____ Signature: _____

PROPERTY OWNER #2 / SURVEYOR / AGENT / CONSULTANT / ATTORNEY: (optional)

Name: Parker Consulting - Butch Parker Phone # (Day): 541-777-0736

Mailing Address: PO Box 397 FAX #: _____

City/State/Zip: Warrenton, Oregon 97146 Signature: [Signature]

Each of the following criteria and standards must be addressed by the applicant. The information needed to address these criteria should be submitted on separate 8.5" by 11" sheets of paper, typed.

1. The map change must be consistent with the Comprehensive Plan. The Comprehensive Plan includes the following elements:

- Goal 1 – Citizen Involvement
- Goal 2 – Land Use Planning
- Goal 3 – Agricultural Lands
- Goal 4 – Forest Lands
- Goal 5 – Open Space
- Goal 6 – Air, Water and Land Resources Quality
- Goal 7 – Natural Hazards
- Goal 8 – Recreational Needs
- Goal 9 – The Economy
- Goal 10 – Housing
- Goal 11 – Public Facilities and Services
- Goal 12 – Transportation
- Goal 13 – Energy Conservation
- Goal 14 – Urbanization
- Goal 16 – Estuarine Resources
- Goal 17 – Coastal Shorelands
- Goal 18 – Beaches and Dunes
- Southwest Coastal Community Plan
- Northeast Community Plan
- Elsie/Jewell Community Plan
- Seaside Rural Community Plan
- Lewis and Clark/Olney/Walluski Community Plan
- Clatsop Plains Community Plan

Some of these elements of the Comprehensive Plan are not applicable to the proposed map amendment. County staff will help identify applicable plan elements and policies.

2. **Also address the following from Section 5.412. Zone Change Criteria of the Clatsop County Land and Water Development and Use Ordinance #80-14.**

1. The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
2. The proposed change is consistent with the statewide planning goals (ORS 197)
3. The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
 1. Parks, schools and recreational facilities
 2. Police and fire protection and emergency medical service
 3. Solid waste collection
 4. Water and wastewater facilities
4. The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
5. The proposed change will not result in over-extensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
6. The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses
7. The proposed change will encourage the most appropriate use of land throughout Clatsop County
8. The proposed change will be detrimental to the health, safety, and general welfare of Clatsop County.

Exhibit E
Request for Density Transfer

This request is to transfer density from a 6.42 acre parcel of Rural Residential property zoned RA-2 (1 dwelling per 2 acres) to other Rural Residential property in the Clatsop Plains Planning Area. The subject parcel is tax lot 1402 located in Section 33, T6N, R10W, as described on Clatsop County's tax assessor's map. The receiving parcel is Rural Residential property, tax lot 3400 located in Section 27, T7N, R10W, which has an area of 17.32 acres. This Request for Density Transfer is part of a rezone application for the receiving parcel that would change the zoning from 5 acre minimum Rural Residential to 2 acre minimum Rural Residential.

Clatsop County requirements for Density Transfer for the Clatsop Plains Planning Area are as follows:

Transfer of residential development rights between sites in the Clatsop Plains Planning Area is as follows:

(A) The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation Zone or Natural Uplands Zone or Conservation Shorelands Zone or Natural Shorelands Zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted, and b. Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Council, that prohibits any further development beyond that envisioned in the approved density transfer approval until such time as the entire area within the density transfer approval has been included within an urban growth boundary, and

Finding:

The rezone request is to rezone the entire parcel of 6.42 acres to Natural Uplands Zone. A deed restriction will be filed with the County upon approval of this request.

(B) The community Development Director shall demarcate the approval restrictions on the official Zoning Map, and

(C) No parcel of land shall be involved in more one (1) density transfer transaction and

Finding:

This property has not been involved in any prior density transfer transactions. The entire property is being rezoned to the Natural Uplands Zone so this property will be involved in only one density transfer transaction.

*(D) Density transfer goes with the property-not the owner; and
(E) Minimum lot size shall be one (1) acre for the receiving site but in no means may any lot be less than one-half (1/2) acre in size. Approval of lots less than one (1) acre in size shall meet the applicable standards set forth in S3.150-S3.161.*

Finding:

The proposed transfer is development allowed on a minimum of 2 acres. This request complies with this requirement.

ESEE consequences are the same as those found in [Appendix C](#) of the Clatsop Plains Community Plan.

Findings:

These consequences will be addressed in the justification for the rezone involved with this request.

Exhibit F
Findings for Density Transfer Rezone Request

Request: Zone map amendment from Rural Residential R A-2 to Natural Uplands for tax lot 6-10-33-1402.

Background: The subject property is located on the west side of Highway 101 and east of the Necanicum River. It is at the south city limits of Seaside. The proposed zoning would not allow any development on the subject property. The property abuts Highway 101 to the east and abuts the Necanicum River to the west. The property is located in a flood plain. The property east of the Necanicum River is within the city limits of Seaside and is zoned Agriculture. Property to the east across Highway 101 is zoned Forest.

Criteria: Approval of the proposed zone change is subject to requirements in sections 1.040 and 5.400 of the County's Land and Water Development and Use Ordinance. Section 5.412 lists the specific criteria:

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:

(1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.

Finding:

The Clatsop County Comprehensive Plan policies are ones that insure the County has orderly and reasonable development while protecting the County's natural resources. The requested rezone is not one involving development but instead helps protect the County's resources. The proposal is consistent with the Clatsop County Comprehensive Plan.

(2) The proposed change is consistent with the statewide planning goals (ORS 197).

Finding:

The 19 State Wide Planning Goals are addressed in Exhibit G

(3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:

(A) Parks, schools and recreational facilities

(B) Police and fire protection and emergency medical service

(C) Solid waste collection

(D) Water and wastewater facilities

Finding:

Section (3) is not applicable to this request.

(4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.

Finding:

The proposal will not impact the transportation network.

(5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.

Finding:

The proposed Natural Upland zone is compatible with the adjacent resource zones to the east, west and north.

(6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.

Finding:

The subject property is an island between Highway 101 and the Necanicum River. The property is located in a flood plain and abuts a sharp curve on Highway 101. Development of this property would be very difficult.

(7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.

Finding:

The location of this property (see 6 above) would encourage the property be rezoned to a resource zone.

(8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

Finding:

The change will not be detrimental to the health, safety and general welfare of Clatsop County as no development will occur on the subject property.

Section 1.040 reads as follows:

Scope and Compliance.

The provisions of this Ordinance shall apply to all unincorporated areas of Clatsop County, Oregon which are not within the urban growth boundary of an incorporated city or town. The procedural provisions of this ordinance will continue to be utilized for unincorporated areas within urban growth boundaries. A parcel of land or water area may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise only as this Ordinance permits. In addition to complying with the criteria and other provisions within this Ordinance, each development shall comply with the applicable standards set forth in County Development and Use Standards Document. The requirements of this Ordinance apply to the person undertaking a development or the user of a development and to the person's successors in interest.

Finding:

Section 1.040 is not applicable to this rezone request as the property will not be developed.

Exhibit G
State Wide Planning Goals

Following are the State Wide Planning Goals related to this Density Transfer Rezone.

Goal 1: Citizen Involvement: To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Finding:

The public hearings conducted by the Clatsop County Planning Commission and the Clatsop County Board of Commissioners serves as an opportunity for citizens to be involved in the planning process. This process has been approved and acknowledged by the State of Oregon Land Conservation and Development Commission.

Goal 2: Land Use Planning: To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Finding:

The state Land Conservation and Development Committee acknowledged the Clatsop County's Comprehensive Plan and Development Ordinance on May 31, 1984. Following the process outlined in these documents complies with Goal 2.

Goal 3: Agricultural Lands: To preserve and maintain agricultural lands.

Finding:

This rezone does not involve Agricultural Lands.

Goal 4: Forest Lands: To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Finding

This rezone does not involve Forest Lands

Goal 5: Natural Resources, Scenic and Historic Areas, and Open Spaces: To protect natural resources and conserve scenic and historic areas and open spaces.

Finding:

This rezone complies with Goal 5 as it prohibits development and creates 6+ acres of Conservation lands.

Goal 6: Air, Water and Land Resources of the State: **To Maintain and improve the quality of the air, water, and land resources of the state.**

Finding:

This rezone will maintain the present quality of the air, water, and land as it prevent development of this property

Goal 7: Areas Subject to Natural Disasters and Hazards: **To protect life and property from natural disasters and hazards.**

Finding:

Goal 7 is not applicable to this application.

Goal 8: Recreational Needs: **To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.**

Finding:

This rezone will protect the Necanicum River at this location. It could provide more access to the river for recreational uses.

Goal 9: Economic Development: **To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.**

Goal 10: Housing: **To provide for the housing needs of citizens of the state.**

Goal 11: Public Facilities and Services: **To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.**

Goal 12: Transportation: **To provide and encourage a safe, convenient and economic transportation system.**

Goal 13: Energy Conservation: **To conserve energy.**

Goal 14: Urbanization: **To provide for an orderly and efficient transition from rural to urban land use.**

Goal 15: Willamette River Greenway:

Goal 16: Estuarine Resources: **To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and To protect, maintain, and where appropriate develop, and where appropriate develop, and where a appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.**

Goal 17: Coastal Shorelands: **To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.**

Goal 18: Beaches and Dunes: **To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.**

Goal 19: Ocean Resources:

Finding:

Goal 9 through 20 are not applicable to this application.

Conclusion: This property is in compliance with the State Wide Planning Goals.

**Russ Earl Rezone
ADDITIONAL INFORMATION
Clatsop County Comprehensive Plan**



Citizen Involvement Element-Goal 1

The Citizen Involvement Element of the County's Comprehensive Plan requires public review of proposals amending the plan. These policies are implemented in the County's zoning ordinance by notice requirements, and by Planning Commission and County Commission review at public hearings. The Citizen Involvement Element contains nine policies. Policy 1 identifies the planning commission as the Committee for Citizen Involvement. Policies 2 through 9 describe the duties of the Planning Commission, County Commission, and Citizen Advisory Committees with respect to citizen input on planning matters. These policies do not establish approval criteria applicable to this proposal. The proposed amendments do not conflict with these procedural policies.

Finding: This application complies with this goal by going through the established County process.

Land use Planning-Goal 2

Finding: The state Land Conservation and Development Committee acknowledged the Clatsop County's Comprehensive Plan and Development Ordinance on May 31, 1984. Following the process outlined in these documents complies with Goal 2.

Agricultural Lands Element-Goal 3

Finding: The subject property is not agricultural land subject to the requirements of the plan's Agricultural Lands Element. The County adopted findings in 1982 showing that several hundred acres in the Clatsop Plains Planning Area, including the subject property, were not suitable for farming. For this reason, policies in the plan's Agricultural Lands Element are not applicable to this proposal.

Forest Lands Element-Goal 4

Finding: The subject property is not forest land subject to the plan's Forest Lands Element. Findings were adopted by the County in 1982 demonstrating that several hundred acres in the Clatsop Plains Planning Area, including this site, were not suitable for forestry. Policies in the Forest Lands plan element are not applicable to this proposal.

Open Spaces & Historic Areas and Naural Resources-Goal 5

To conserve open space and protect natural and scenic resources.

Finding: This application complies with this goal as it does not allow development.

Air, Water and Land Quality-Goal 6

To maintain and improve the quality of the air, water and land resources of the state.

Finding: This application prevents development. It will not effect air, water and land resources of the County.

Natural Hazards-Goal 7

To protect life and property from natural hazards and disasters

Finding: This property is located in a flood plain. Allowing no development will comply with this goal.

Recreational Lands-Goal 8

Finding: Clatsop County's Comprehensive Plan policies for Goal 8 address parks and trails. This request does not involve any park land or trails.

Economy-Goal 9

To diversify and improve the economy of the state and Clatsop County

Finding: This request for rezone will not effect the economy of Clatsop County.

Population and Housing-Goal 10

To provide for the housing needs of citizens of the state.

Finding: This application will not effect the Population and Housing of Clatsop County,

Public Facilities and Services-Goal 11

Finding: Public facilities are not involved in this application.

Transportation-Goal 12

Finding: This rezone will not effect the Transportation systems of Clatsop County.

Energy Conservation-Goal 13

To conserve Energy

Finding: Energy Conservation is not effected by this rezone

Urbanization-Goal 14

To provide for an orderly and efficient transition from rural to urban land use.

Finding: This property is not in an urban growth boundary and is not effected by the Urbanization policies.

Estuarine Resources-Goal 16

Finding: This property is not located in an estuary.

Coastal Shorelands-Goal 17

Finding: This application allows no development. The Coastal Shorelands will not be effected.

Beaches and Dunes-Goal 18

Finding: This property is not located in a Beaches and Dunes Overlay.

Clatsop Plains Community Plan

Overall Goal

The Clatsop Plains Community Plan shall provide for planned and orderly growth of the Clatsop Plains planning area which is in keeping with a majority of its citizens and without unduly depriving landowners and /or residents use of their land. The Plan shall:

1. protect and maintain the natural resources, natural environment and ecosystems,

Finding: Rezoning Rural Residential property to Natural Upland Conservation will help protect and maintain the natural resources, natural environment and ecosystems.

2. respect the natural processes,

Finding: This rezone respects the natural processes

3. strive for well designed and well placed development, and

Finding: Not allowing development in a flood zone and on a sharp curve on 101 complies with Goal 3 above

4. preserve the semi-rural, agricultural, open space and marine characteristics of the area.

Finding: This rezone application helps preserve the semi-rural, agricultural, open space and marine characteristics of the area.

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Transportation and Development Services
Land Use Planning

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