



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

03/03/2009

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 003-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. 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: Tuesday, March 17, 2009

This amendment was submitted to DLCD for review prior to adoption with less than the required 45-day notice. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Michael Weston, Clatsop County
Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative

<pa> Y

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: **2009020013, 20080386**

Date of Adoption: **2/17/2009**

Date Mailed: **2/24/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 6/24/2008

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: **Exception Goal 3**

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
The amendment rezones a parcel of land approximately 5 acres in size from EFU to RA-2. The site was originally thought to be Cranberry bogs, but soils on the site are elevated and non-conductive to cranberry harvesting.

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

Plan Map Changed from: **Rural Agricultural Lands** to: **Rural Lands**

Zone Map Changed from: **Exclusive Farm Use** to: **Residential Agriculture 2**

Location: **T7N, R10W, Section 27, TL 201 & 202**

Acres Involved: **5**

Specify Density: Previous: **1:80**

New: **1:2**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. 003-08 (17043)

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

Clatsop County, DLCD, ODA, Gearhart RFPD

Local Contact: **Michael Weston II, MPA**

Phone: **(503) 325-8611** Extension: **1702**

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

Fax Number: **503-338-3666**

City: **Astoria**

Zip: **97103-**

E-mail Address: **mweston@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.

BEFORE THE BOARD OF COMMISSIONERS

Clatsop County

In The Matter of

AN ORDINANCE AMENDING THE
CLATSOP COUNTY COMPREHENSIVE
PLAN / ZONING MAP AND ADOPTING A
GOAL EXCEPTION TO STATEWIDE
PLANNING GOAL 3

ORDINANCE # 08-11

DOC # 2009020013
Date of Mailing: **Feb. 24, 2009**



**Transportation and
Development Services**
800 Exchange Street
Suite 100
Astoria, Oregon 97103

TO: All persons who participated in the proceedings leading to the final decision in the above captioned matter.

Pursuant to ORS 197.615(2)(a) and ORS 215, notice is hereby given by mail to all persons who participated in the proceedings culminating in the Clatsop County Board of Commissioners' final decision made at a public meeting held February 11, 2009, to adopt an Ordinance Amending the Clatsop County Comprehensive Plan Zoning Map and Text and associated Goal Exceptions.

The Board of Commissioners' action occurred at its meeting of February 11, 2009 and the Board of Commissioners signed the **ORDINANCE**, adopting the "Findings of Fact and Conclusions of Law" on the 17th day of February, 2009.

The Ordinance together with the "Findings of Fact and Conclusions of Law" adopted thereby may be reviewed during normal business hours at the Clatsop County Department of Community Development, which is located at 800 Exchange Street, Suite 100, Astoria, Oregon; in addition a scanned version of this Ordinance and accompanying Findings will be made available on the County's Land Use Web Page¹ (**See Footnote for Web Address**). This office is open from 8:00 a.m. to 5:00 p.m., Monday through Friday.

The requirements for appeal of this decision are set forth in ORS 197.830 to 197.845. In general, the requirements for appeal require a "Notice of Intent to Appeal" the decision, to be filed with the Oregon Land Use Board of Appeals, in Salem, Oregon. The Notice of Intent to Appeal the Decision shall be so filed no later than 21 days after the date the decision sought to be reviewed became final with this, February 24, 2009 Mailed Notice. There are specific and detailed requirements for the filing of the Notice of Appeal, which are set forth at ORS 197.830 to 197.845. Any party wishing to appeal this action is advised to seek qualified legal assistance.

Dated this 24th, day of February 2009.

Sincerely

A handwritten signature in blue ink, appearing to read "Michael Weston", written over a horizontal line.

Michael Weston, Planner
Department of Transportation & Development Services,
Clatsop County

Land Use Planning
Telephone (503) 325-8611
Fax (503) 338-3666

www.co.clatsop.or.us

¹ <http://www.co.clatsop.or.us/default.asp?pageid=616&deptid=12>

**BEFORE THE BOARD OF COMMISSIONERS
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE AMENDING THE
CLATSOP COUNTY COMPREHENSIVE
PLAN / ZONING MAP AND ADOPTING A
GOAL EXCEPTION TO STATEWIDE
PLANNING GOAL 3



Doc # 2009020013

Recording Date: 2-17-09

ORDINANCE NO. 08-11

RECITALS

WHEREAS, on June 24, 2008 Betty Sandy & Lois Moon 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 T7N, R10W, Sec. 27, Tax Lots 201 & 202 from Conservation Agricultural Lands to Rural Lands and amend the zoning from EFU {Exclusive Farm Use} to RA-2 {Residential Agricultural 2}. Furthermore in order to satisfy the criteria the applicant is requesting a Goal Exception to Statewide Planning Goal 3.

WHEREAS, the application was considered by the Planning Commission at a public hearing on September 9, 2008 and October 8, 2008 the Commission unanimously recommended approval, which 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 197.732, 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; 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 the attached Maps.

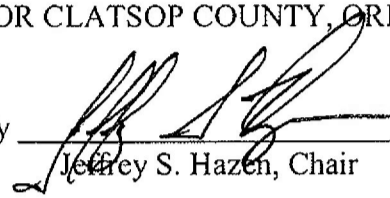
SECTION 2. The Board of Commissioners hereby approves the application and findings of fact contained in the Exhibit "PC" Planning Commission recommendation.

SECTION 3. In support of this ordinance, the Board adopts the September 2, 2008 Staff Report and recommendation as Exhibit "A" and appended to Exhibit "PC".

SO ORDERED this 11th day of February, 2009

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By _____



Jeffrey S. Hazen, Chair

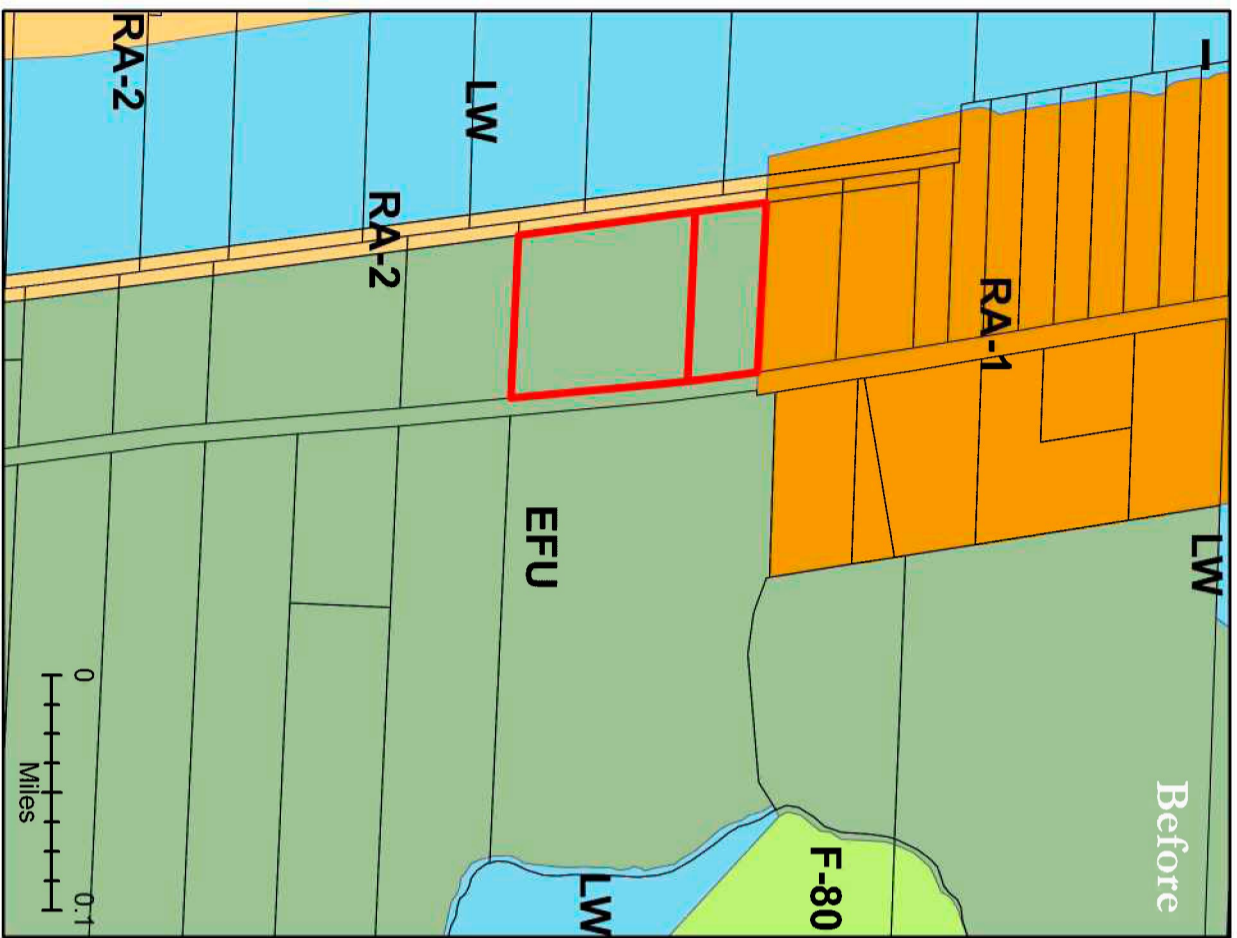
Enclosures:

- Map 1: Indicating Proposed Zone Change
- Map 2: Vicinity Map
- Map 3: Current Zoning Map

Exhibits:

- PC: Resolution & Order 081007 Planning Commission Recommendation
 - A: Staff Report and Findings w/ Associated Exhibits
-

Betty Sandy Zone Change



 Subject Property

MAP "1" Proposed Zone Change

Prepared By:
Clatsop County
Transportation & Development Services
800 Exchange Street, Ste 100
Astoria, OR 97103
October 17, 2008

This map was produced using Clatsop County GIS data. This data is maintained by Clatsop County to support its governmental activities. Clatsop County is not responsible for any map errors, possible misuse, or misinterpretation.

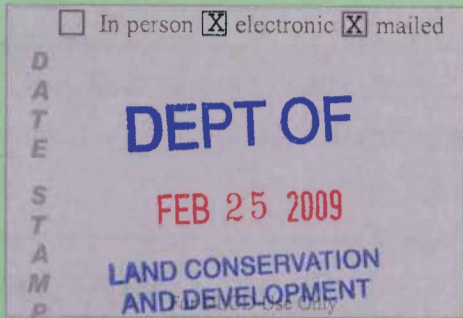


FORM 2

DLCD

Notice of Adoption

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WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Clatsop County**

Local file number: **2009020013, 20080386**

Date of Adoption: **2/17/2009**

Date Mailed: **2/24/2009**

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- | | |
|---|--|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input checked="" type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment | <input checked="" type="checkbox"/> Zoning Map Amendment |
| <input type="checkbox"/> New Land Use Regulation | <input checked="" type="checkbox"/> Other: Exception Goal 3 |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".
The amendment rezones a parcel of land approximately 5 acres in size from EFU to RA-2. The site was originally thought to be Cranberry bogs, but soils on the site are elevated and non-conductive to cranberry harvesting.

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

Plan Map Changed from: **Rural Agricultural Lands** to: **Rural Lands**

Zone Map Changed from: **Exclusive Farm Use** to: **Residential Agriculture 2**

Location: **T7N, R10W, Section 27, TL 201 & 202**

Acres Involved: **5**

Specify Density: Previous: **1:80**

New: **1:2**

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing? Yes No

If no, do the statewide planning goals apply? Yes No

If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD file No. _____

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

Clatsop County, DLCD, ODA, Gearhart RFPD

DLCD #003-08(17043)

Local Contact: **Michael Weston II, MPA**

Phone: **(503) 325-8611** Extension: **1702**

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

Fax Number: **503-338-3666**

City: **Astoria**

Zip: **97103-**

E-mail Address: **mweston@co.clatsop.or.us**

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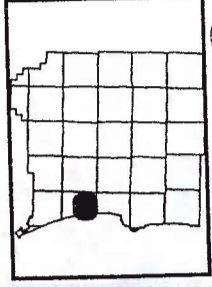
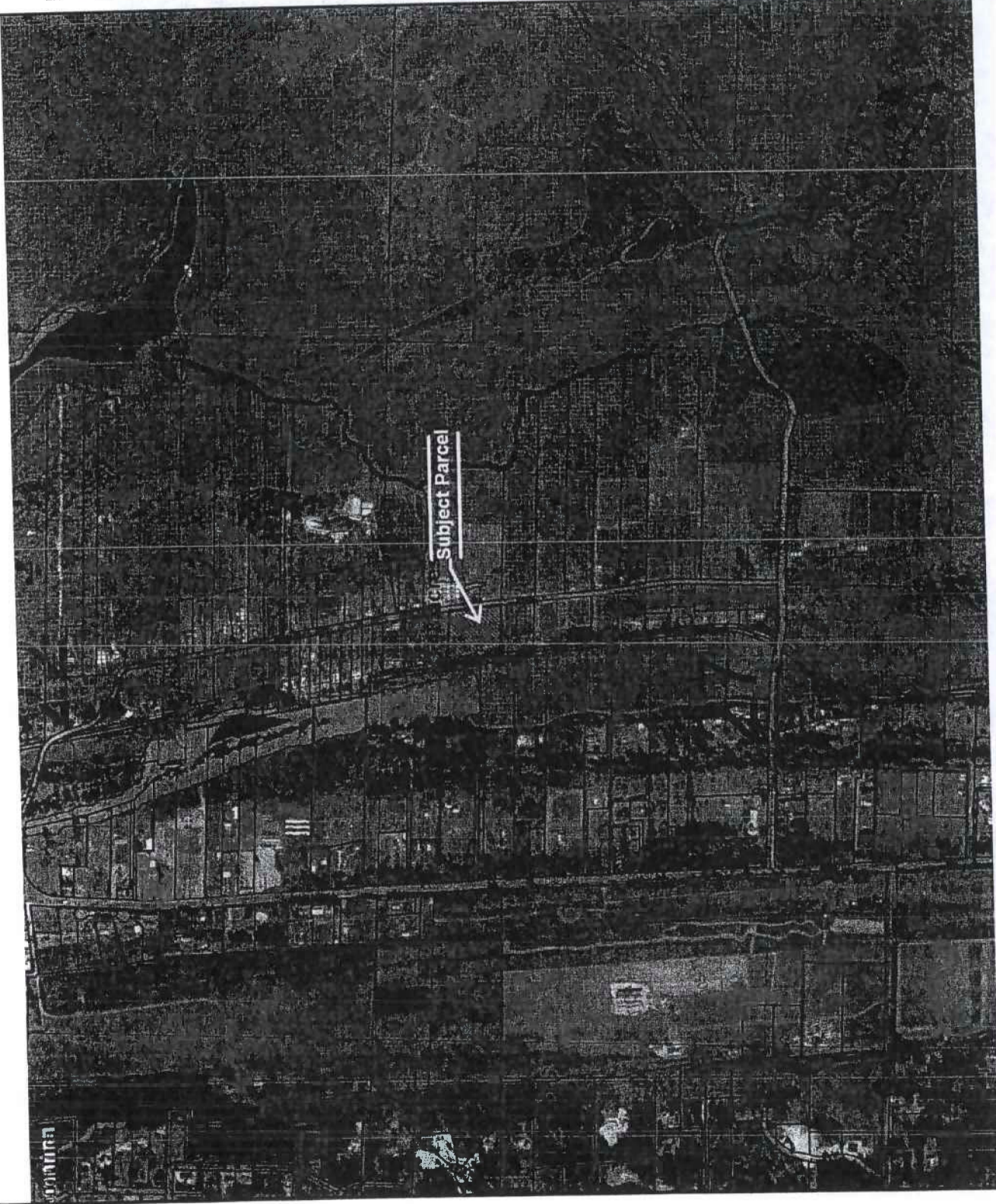
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SALEM, OREGON 97301-2540**

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Clatsop County Map

- Geological Hazards
- PLS
- PLS Townships
- Subdivision
- Tax Lot Arrows
- Tax Map
- Water Body
- Creek
- Parcel Boundary
- Supplemental Boundary
- 34
- DLC
- Road R-O-W



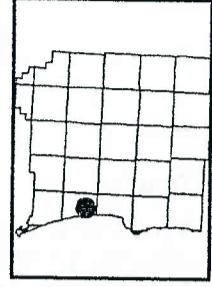
8/21/2008

1 in. = 1062 ft.

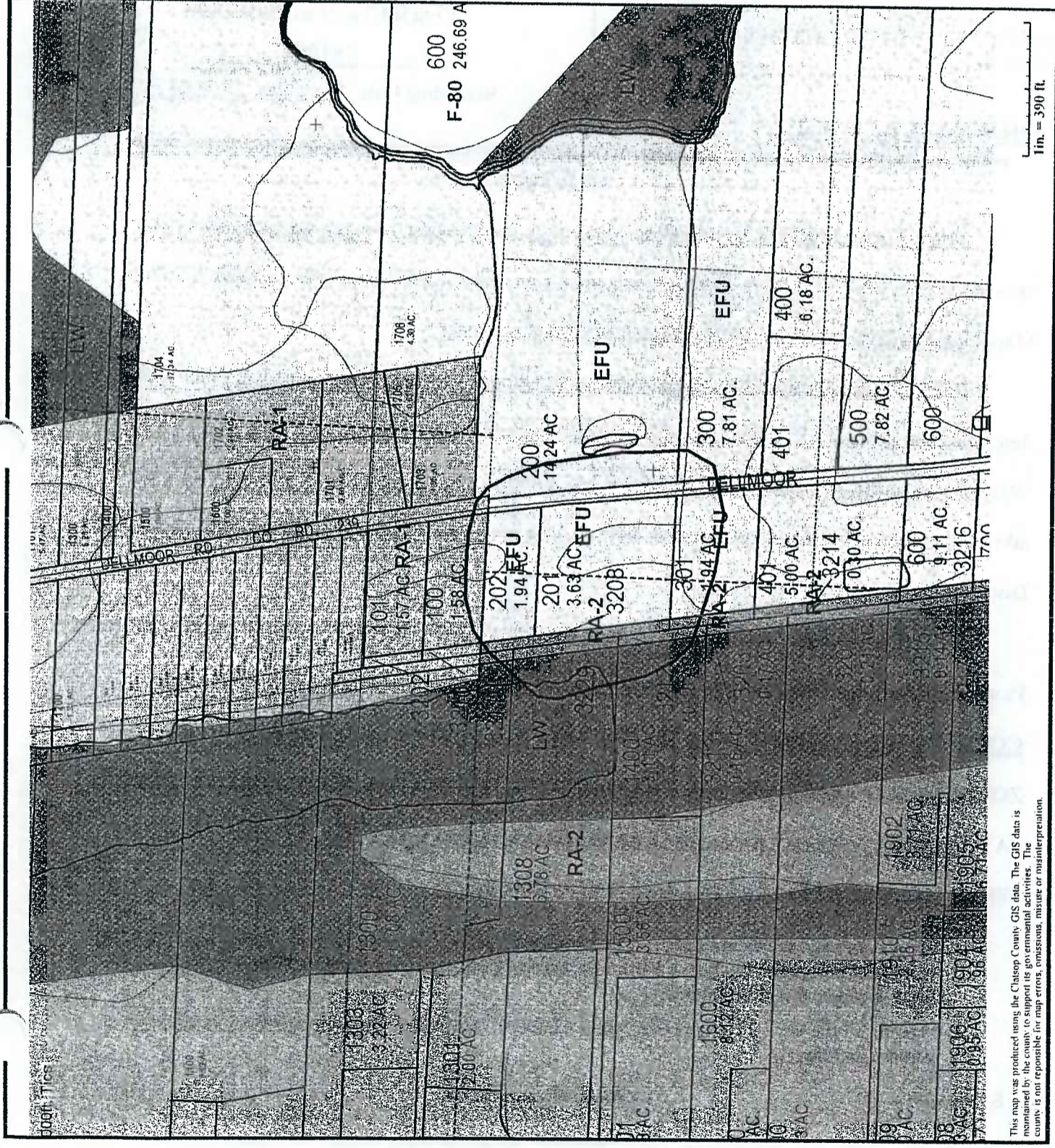
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Clatsop County Map

- National Wetlands Inv.
- PLS
- PLS Townships
- Roads
 - Local Road
 - Local Road (Gravel)
 - Private or Undefined R.
 - Tax Lot Arrows
 - Tax Map
 - Water Body
 - Creek
 - Parcel Boundary
 - Supplemental Boundary
 - DLC
 - Road R-O-W
- Zoning
 - EFU
 - F-80
 - LW
 - RA-1
 - RA-2



4/7/2008



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**BEFORE THE PLANNING COMMISSION
FOR THE COUNTY OF CLATSOP**

In the Matter of:

AN ORDINANCE AMENDING THE
CLATSOP COUNTY COMPREHENSIVE
PLAN / ZONING MAP AND ADOPTING AN
EXCEPTION TO STATEWIDE PLANNING
GOAL 3



RESOLUTION AND ORDER

081007

Recording Date: November 3rd, 2008

ORDINANCE # 08-11

RECITALS

THE ABOVE ENTITLED MATTER came before the Planning Commission at its meeting of October 14th, of the year 2008, for public hearing and consideration of a Comprehensive Plan / Zoning Map Amendment and Goal Exception to Statewide Planning Goal 3.

The Planning Commission after reviewing the findings of fact in Exhibit "A" (*Staff Report*) has determined the proposed zone change is consistent with the criteria as depicted in Clatsop County's Land Water Development and Use Ordinance Section 5.412, and where appropriate an exception has been taken to Statewide Planning Goal 3 in accordance with the exception criteria defined in OAR Chapter 660 Division 4.

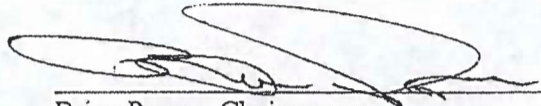
THE PLANNING COMMISSION considering all evidence and public testimony provided by the Planning Department Staff and the Applicant at the public hearing, hereby **RECOMMEND THE** **CONDITIONAL APPROVAL** OF THE PROPOSED REQUEST FOR COMPREHENSIVE PLAN / ZONING MAP AMENDMENT & COINCIDING GOAL EXCEPTION AS DESCRIBED IN EXHIBIT "A" *Staff Report*, attached hereto and by this reference made part hereof.

WHEREFORE, the Planning Commission finds and resolves:

1. To recommend the Board modify Clatsop County's Comprehensive Plan / Zoning map to reflect the change from the Exclusive Farm Use zone to Residential Agriculture 2 zone as depicted on Map 1 attached to this document.
2. To amend the Goal 3 element of Clatsop County's Comprehensive plan to reflect the change as shown on Map 1.

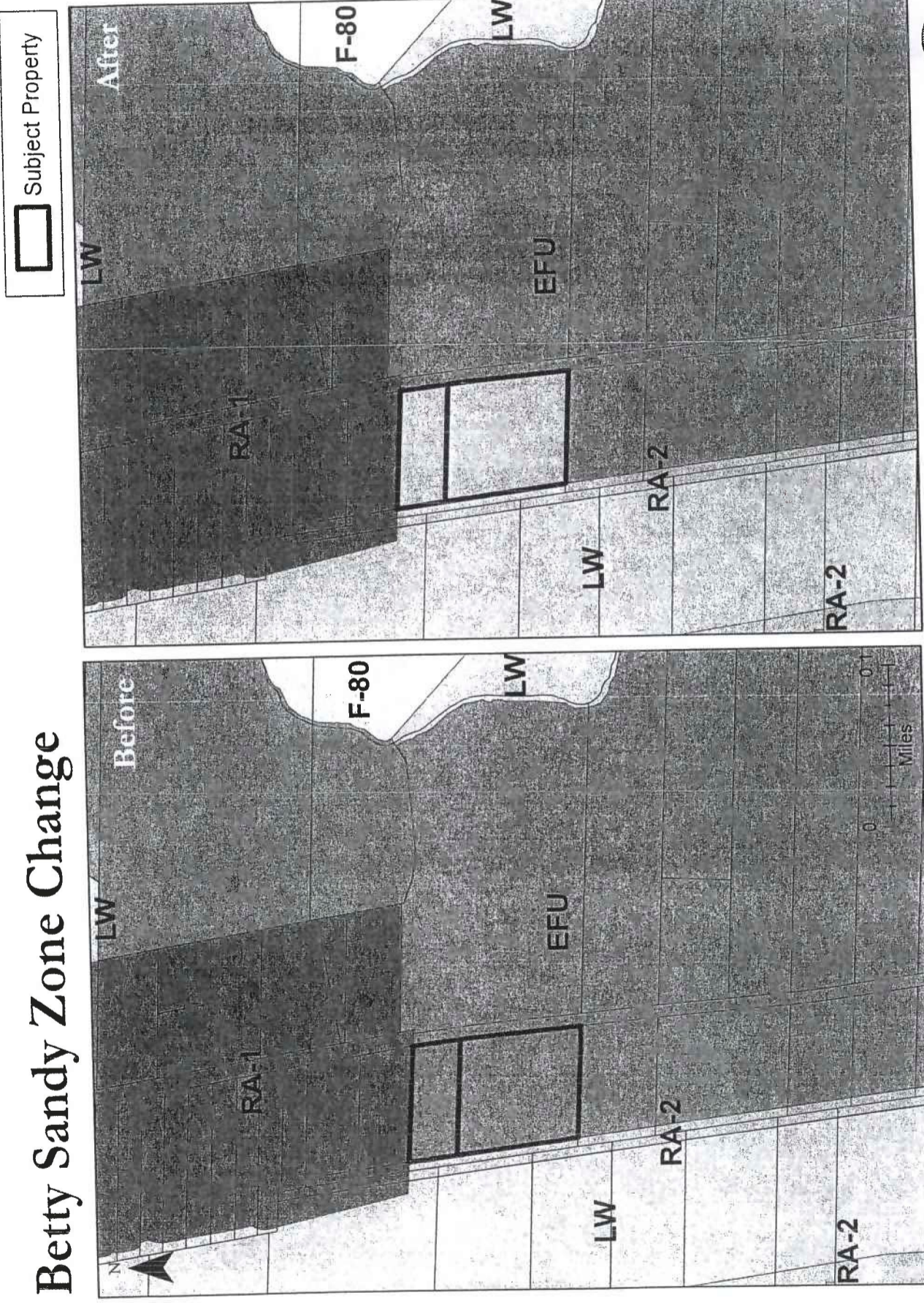
SO ORDERED this 3rd day of November, 2008

THE PLANNING COMMISSION FOR
CLATSOP COUNTY



Brian Pogue, Chairperson
Clatsop County Planning Commission

Betty Sandy Zone Change



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Prepared By:
Clatsop County
Transportation & Development Services
800 Exchange Street, Ste 100
Astoria, OR 97103

October 17, 2008

Clatsop County

Transportation & Development Services
Land Use Planning Division
800 Exchange Street, Suite 100
Astoria, OR 97103

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



Staff Report

- OWNER:** Betty Sandy
89224 Dellmoor Loop Rd
Warrenton, OR 97146
- REQUEST:** The Applicants request a zone change from Exclusive Farm Use (80 acre minimum) to Residential Agriculture-2 Zone, and a Goal Exception to Statewide Planning Goal 3.
- PROPERTY:** Twp. 7N, Rng. 10W, Sec. 27, Tax Lots 201 & 202
- SIZE:** 5.57 acres
- LOCATION:** The Property is located to the west of Dellmoor Loop Road and north of the Cranberry Bogs currently in operation at the corner of Dellmoor Lp. and Lounsberry Ln.
- ZONING:** Exclusive Farm Use
- STAFF RECOMMENDATION:** **Continue Hearing to produce Goal 7 findings.**
- EXHIBITS:**
 - 1: Comments
 - 2: Public Notices
 - 3: Zone Change Application Materials
 - 4: Goal Exception Application Materials
 - 5: OAR 660 Div 4
 - 6: ORS 197.732

I. BACKGROUND

On June 24, 2008 Betty Sandy , submitted to the Clatsop County Transportation and Development Department applications for a comprehensive plan / zoning map amendment and an associated goal exception for 5 1/2 -acres of land located west of Dellmoor Loop (See maps below). The applicant proposes changing the property's zoning from Exclusive Farm Use, [80 acre minimum] to Residential Agriculture-2 [two-acre minimum lot size]. The applicant also seeks an exception to Statewide Planning Goal 3 (Agricultural Lands) pursuant to Oregon Administrative Rule (OAR) Chapter 660 Division 4 and Oregon Revised Statute (ORS) 197.732.

II. PROPERTY STATUS AND CONDITIONS

Lot of Record Status

The subject property is comprised of two contiguous parcels described as T7N, R10W, Section 27 TLs 201 & 202. The parcels were created prior to the conception of Clatsop County's Zoning Ordinance but were not in separate ownership at the time the EFU zoning was adopted. A lot of Record determination was submitted verifying the status of the two lots. The determination was issues in August of 2007, declaring that both tax lots {201 & 202} are considered one buildable lot with a maximum of one building site on the subject parcel.

III. SUMMARY OF STAFF CONCLUSIONS

This report is lengthy and complex. It contains a variety of staff analyses and findings, maps, technical information, policies, approval criteria, and many exhibits. The following table lists the main criteria that apply to the request, a summary of staff's conclusions pertaining to each criterion, and a reference to the page numbers of this report where the pertinent staff analysis can be found.

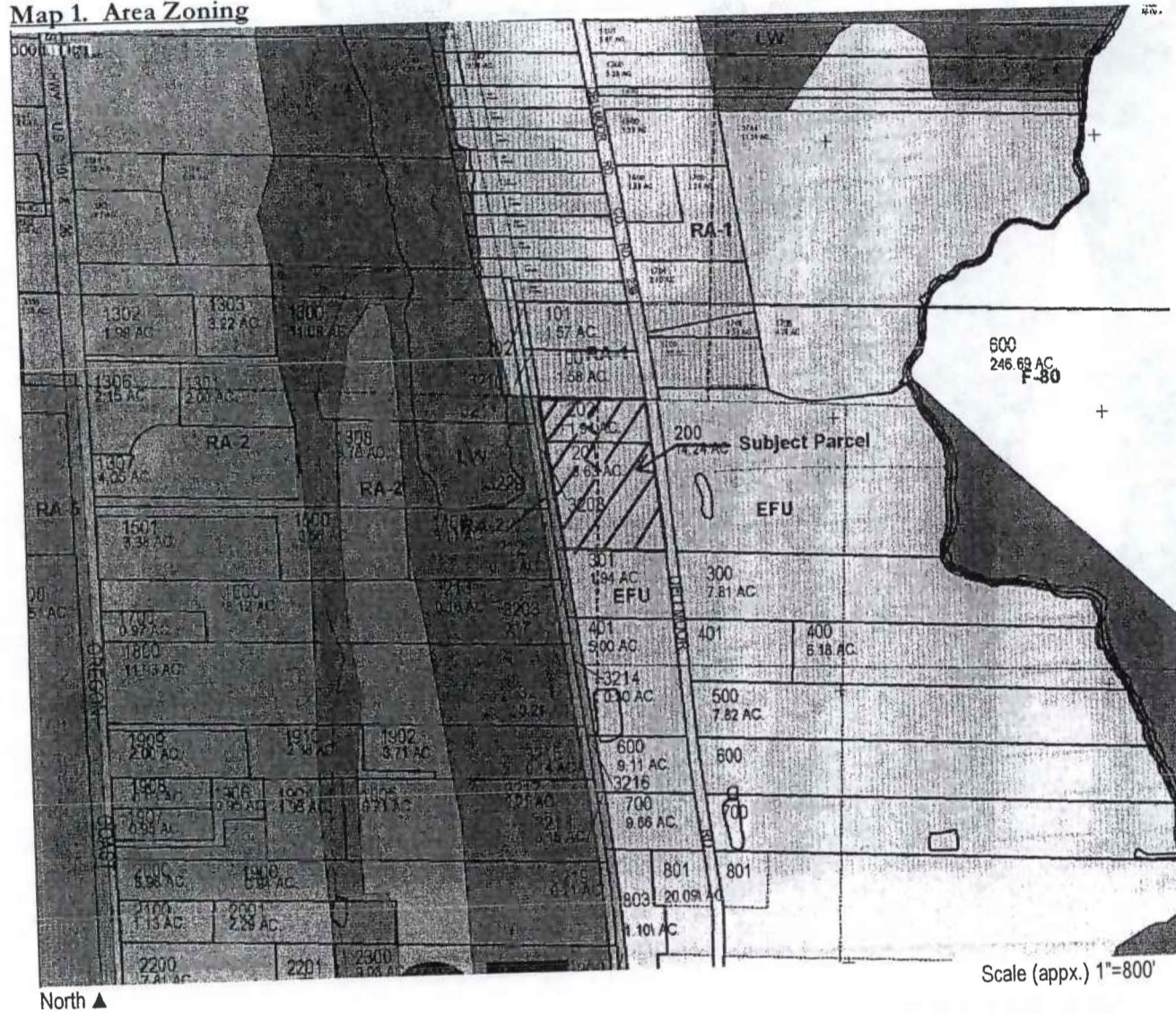
Criterion	Conclusions	Page(s)
Zone Change Criterion No. 1 – Consistency with Comprehensive Plan	Satisfied.	5-22
Goal 1 Element – Citizen Involvement	Satisfied.	5
Goal 2 Element – Land Use Planning	Satisfied	5-8
Goal 3 Elements – Agriculture Lands	Satisfied With Conditions of Approval	8-10
Goal 4 Elements – Forest Lands	Satisfied.	10
Goal 5 Element – Open Spaces, Scenic, Historic & Natural Resources	Satisfied. With Condition of Approval.	10
Goal 6 Element – Air, Water & Land	Satisfied.	10
Goal 7 Element – Natural Hazards	Not Satisfied.	11
Goal 8 Element - Recreation	Satisfied.	11
Goal 9 Element - Economy	Not Satisfied.	11
Goal 10 Element – Population and Housing	Satisfied.	14-19
Goal 11 Element – Public Facilities	Shall be satisfied by complying with LWDUO 80-14	19-20
Goal 12 Element - Transportation	Satisfied.	20
Goal 13 Element - Energy	Satisfied.	20
Goal 14 Element - Urbanization	Satisfied.	20
Goal 16 & 17 Elements – Shorelands	Satisfied.	21
Goal 18 Element – Beach and Dunes	Satisfied.	21
Clatsop Plains Community Plan Element	Satisfied	21-21
Zone Change Criterion No. 2 – Consistency with Statewide Plan Goals	Satisfied. Refer to Goal 3 element for a relevant condition of approval.	21
Zone Change Criterion No. 3 – Adequacy of Public Facilities and Services	Satisfied.	21
Zone Ch. Criterion No. 4 - Transportation	Satisfied.	22
Zone Ch. Criterion No. 5 - Compatibility	Satisfied with condition. See analyses for Goal 2, Goal 3, Goal 7, Goal 9 and Clatsop Plains Community Plan	22
Zone Ch. Criterion No. 6 - Suitability	Satisfied.	22
Zone Ch. Criterion No. 7 - Appropriate	Satisfied.	22
Zone Ch. Criterion No. 8 - Health/Welfare	Satisfied.	22
Goal Exception Criteria	Satisfied.	23-25

IV. NEIGHBORHOOD CONDITIONS

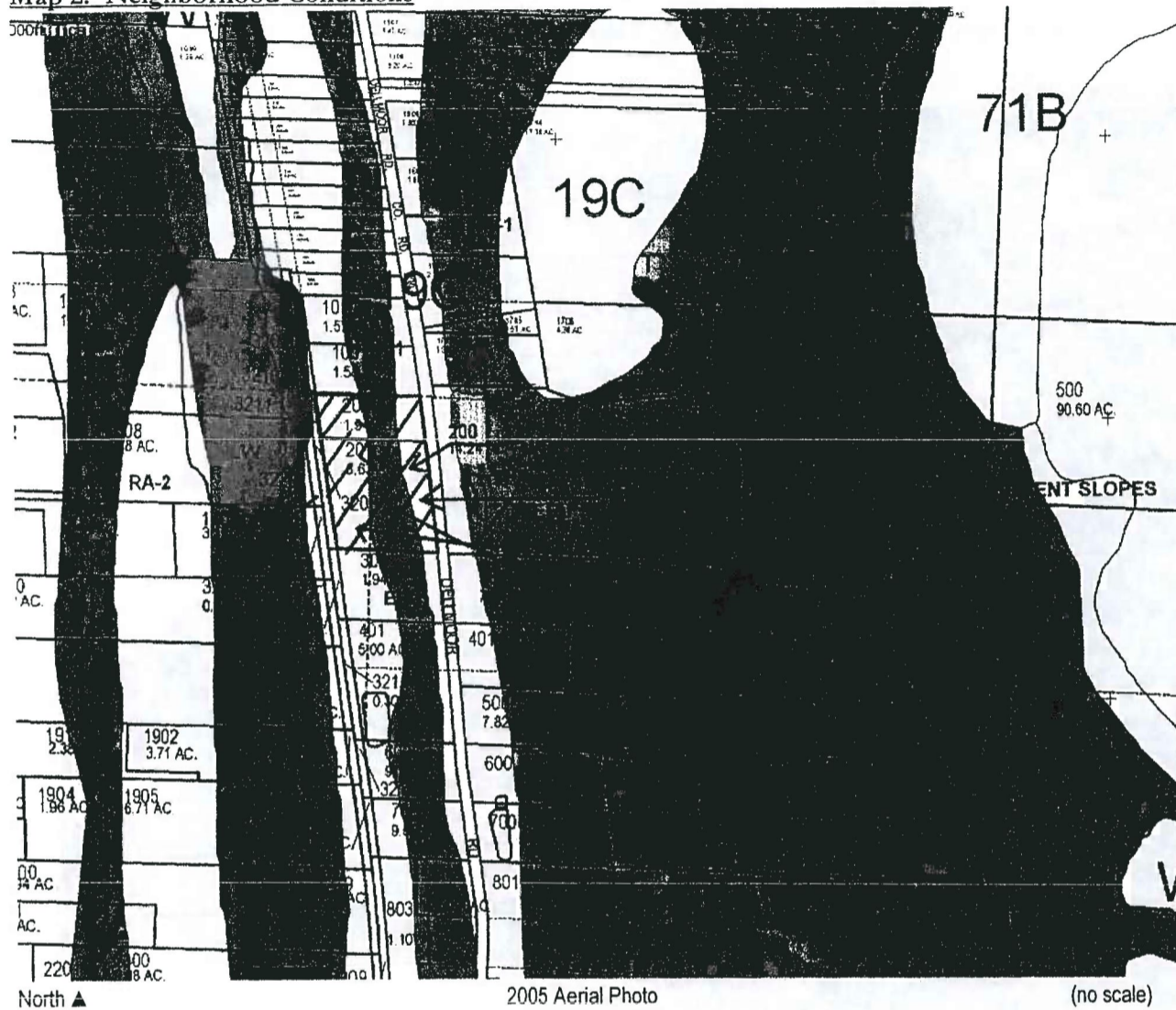
The neighborhood is comprised primarily of single-family residences on rural lots outside the urban growth boundary of Gearhart. The cranberry bogs that have a long history in Clatsop County as a commercial agricultural product characterize the area. Access to the parcel is provided via Dellmoor Loop and the area is

surrounded on two sides by Residential Agriculture 2 Zone (2 acre minimum) and on two sides by Exclusive Farm Use. See aerial photograph ([Map 2. Neighborhood Conditions](#)) on following page.

Map 1. Area Zoning



Map 2. Neighborhood Conditions



V. 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 relating to the applicant's request for Clatsop County to adopt an exception to Statewide Planning Goals 4 (Forestry) & 14 (Urbanization) are contained in Oregon Administrative Rule Chapter 660 Division 4 (attached; Exhibit 5) and Oregon Revised Statute 197.732 (attached; Exhibit 6).

VI. EVALUATION OF APPLICATION

As part of its land use application (attached, Exhibit 3), the applicant evaluates the application against the applicable criteria of LWDUO § 5.412 and offers findings of fact for the county's consideration. In the following sections, staff examines the application versus the eight applicable criteria of LWDUO § 5.412 (1)-(8) and proposes findings of fact for the Planning Commission's review and consideration. Proposed findings pertaining to the Goal Exception aspect of this application begin on page 23 of this report.

Zone Change Criterion No. 1: LWDUO §5.412(1) - Consistency with Comprehensive Plan

Comprehensive Plan, Goal 1 element – Citizen Involvement Analysis:

The Goal one element of the comprehensive plan is satisfied through the implementation of the planning processes as dictated by the County's ratified Comprehensive Plan. The Plan designates that the Planning Commission as the Committee for citizen involvement. The proposed amendments do not conflict with requirements of Goal 1 which will be satisfied through the proceedings leading up to an eventual approval or denial of the application and request.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable citizen involvement policies of the Goal 1 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 1 Element.

Comprehensive Plan, Goal 2 element – Land Use Planning Analysis:

The County's Comprehensive Plan implements Statewide Planning Goal 2, in addition Statewide Planning Goal 2 establishes the process for taking exceptions to Goals 3 & 14, which is required when processing this request. The exception to Goals 3 is necessary to change the zoning from Exclusive Farm Use and allow non-farm uses and change the comprehensive plan from Agricultural Lands to "Rural Lands"(see below for "Rural Lands" description). The exception to Goal 14 is required in accordance with the new interpretations of the Goal 2 Exception Process as Amended by LCDC in January of 2008. The interpretation is contained in Exhibit 5 and stated for reference below.

(i) For rural residential areas designated after the effective date of this rule (January 2008), the affected county shall either:

- (A) Require that any new lot or parcel have an area of at least ten acres, or*
- (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, Ddivision 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."*

The following excerpts from the Goal 2 element of the comprehensive plan apply to this request:

- 2. Rural Agricultural Lands

*Agricultural lands are those lands that are to be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space.**

*In land use changes involving a change from Conservation Forest Lands or Rural Agricultural Lands to Rural Lands or Development designations an Exception to the Agricultural Lands or Forest Lands Goals must be taken.**

*Conservation areas provide important resource or ecosystem support functions but because of their value for low-intensity recreation or sustained yield resource (e.g. forestry), or because of their unsuitability for development (e.g. hazard areas) should be designated for nonconsumptive uses. Nonconsumptive uses are those uses which can utilize resources on a sustained yield basis while minimally reducing opportunities for other future uses of the area's resources.**

In accordance with the requirements of the County's Comprehensive Plan the applicant is requesting a goal exception to Statewide Planning Goal 3; furthermore the applicant is requesting a Goal Exception to Statewide Planning Goal 14 in accordance with recent interpretations of the exception requirements as detailed above and in Statewide Planning Goal 2.

6. Rural Lands

Rural Lands are those that are outside the urban growth boundary, outside of rural community boundaries, and are not agricultural lands or forestlands. Rural lands includes 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.

The site includes two parcels totaling 5 1/2 acres in size each is suitable for sparse settlement as described in the preceding paragraph.

Rural Lands in Clatsop County

A diversity of housing options ranging from high density urban environments to low density farm-forest home sites has been a recognized need in Clatsop County since the County's first Comprehensive Plan was adopted in 1969. While developing the present Comprehensive Plan, citizens and elected and appointed officials stressed the economic and cultural importance of providing for the demand for recreational and year round rural homesites.

Because of the rural character of the County along with its geographic proximity to the northern Willamette Valley population centers, there has been a steady demand for second homes and rural homesites located on small rural tracts (see Housing Element and Background Report). The demand for rural tracts is expected to continue. In order to continue to meet the demand for affordable rural homesites the County has looked to those which are "built upon and/or irrevocably committed" rural areas which generally have:

- (a) *Some level of public facilities and services, especially surfaced public roads, fire protection, and piped water;*
- (b) *A pattern of parcel sizes generally smaller than 15 acres;*
- (c) *Existing residential development at a density generally higher than 1 dwelling unit per 10 acres; and*
- (d) *Natural boundaries, such as creeks and roads, separating the exception area from adjacent resource lands.*

Areas generally falling under the above set of criteria are designated Rural Lands throughout the Comprehensive Plan. Rural Lands are those lands, which are outside the urban growth boundary and are not agricultural lands or forestlands. Rural Lands include 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. Most of these lands contain agricultural site class II-IV and forest site class FA-FD.

Residential Agricultural 2 zoning surrounds the site on two sides, the other two sides are surrounded by EFU Zoning. To the south is a lot consisting primarily of wetlands not suitable for the development of a homesite, and further south Cranberry bogs are harvested for commercial purposes. The 5 acres in question is separated from the rest of the farm by Dellmoor Loop it is not large enough to provide an equitable return from farm operations. Furthermore topographic constraints on the subject property would limit development from extending beyond the natural borders established by the creek traversing the parcel along the western edge of 201 & 202 and the wetlands to the south of the subject property. The site contains many of the characteristics of "Rural Lands" as described above.

The Coastal Shorelands Goal #17 requires that shorelands in rural areas other than those in major marshes, significant wildlife habitat areas etc. be used for appropriate:

- f. Subdivisions, major and minor partitions and other uses only upon a finding by the governing body of the county that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas and are compatible with the objectives of this goal to protect riparian vegetation and wildlife habitat; and*
- g. A single family residence on existing lots, parcels or units of land when compatible with the objectives and implementation standards of this goal."*

These are areas of coastal shorelands which are "built upon or are irrevocably committed" to development and cannot be used for agricultural or forest use.

In developing the data base and criteria used to identify exception areas the County planning staff relied heavily on information provided by the six CACs, individual land owners, realtors and builders as well as the opinions of appointed and elected officials. Most of the information used to substantiate commitment of those lands was gathered over a 5-year period through the public hearings process, which resulted in the current Comprehensive Plan. In addition, the various needs of each subarea were examined and weighed against the goals. After completion of each subarea plan, each plan's specific goals and objectives and recommended land use allocations were compared against the County as a whole.

Generally, lands which fall under the general criteria enumerated in this Exception Process and Committed Lands Identification section are designated Rural throughout the Comprehensive Plan. Characteristically, these lands have scattered residences on parcel one-half to 15 acres in size and are clustered along roads throughout the unincorporated County.

The subject parcels are not identified as Coastal Shorelands and satisfy the general criteria for an exception under the Committed Lands criteria.

Designation of Rural Lands Policy:

Generally parcels less than 15 acres and that are "built upon or irrevocably committed" to a non-resource use is to be placed in a residential, industrial or commercial zone.

Residential

Residential densities are generally designated through the following additional criteria:

- a. *Where subdivisions or partitioning or both have occurred in a one-acre pattern of development the area will be placed in one of the one-acre zones;*
- b. *In areas with a development pattern of two to five acre parcels (some smaller and some larger), the areas will be placed in a two-acre zone;*
- c. *In areas adjacent to resource (forest, agriculture, wetlands, estuary areas) lands, or Camp Rilea, the areas will be placed in a five-acre zone;*
- d. *In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five-acre zone;*
- e. *In addition to criteria a through d, minimum lot sizes increase with increasing distance from the following areas:*
 - 1. *all urban growth boundaries*
 - 2. *Svensen center*
 - 3. *Knappa center*

Since approximately 90% of the total County land area is forest land, it is not surprising that most of the lands identified as Rural in the Plan contains forest land class FA-FC and/or agricultural site class soils II-IV (see Forestry and Agricultural Background Report).

Ideally the County's Comprehensive plan would call these sites to be designated as RA-5 in accordance with criteria "c" above; however the subject parcels only constitute 5 1/2 acres together; furthermore the site abuts RA-2 zones on two sides. It is not logical to zone this area as RA-5, because the parcels would essentially create island zoning. Therefore staff finds the applicable criteria are satisfied.

Finding of Fact:

Based on the analyses above, the application is consistent with the applicable "Rural Agricultural Lands" and "Rural Lands" policies of the Goal 2 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 2 Element.

Comprehensive Plan, Goal 3 element – Agricultural Lands

Staff concurs with the applicant's assertions on page 5 of Exhibit 3 that the Goal 3 element of the comprehensive plan does not apply to this request.

Finding of Fact:

Based on the analysis above, the Goal 3 element of the Clatsop County Comprehensive Plan does not apply to the request. LWDUO § 5.412(1) – Goal 3.

Goal 3 - Agricultural Lands

Goal

To preserve and maintain agricultural lands.

Policies

1. The County shall provide areas for the continued practice of agriculture and permit the establishment of only those new uses, which are compatible with agriculture activities.

The proposed use does not impact the agricultural uses of the area. Cranberry Bogs are identified as the agricultural use of the area with some minor uses for grazing lands. The County provides a wide variety of agricultural lands throughout the county. The site in question is used primarily as an alternate summer pasture for horses it is not considered a primary agricultural site.

2. Existing farming communities which constitute the mainstay of the agricultural economy in the County shall be preserved by Exclusive Farm Use (EFU) zoning.

This proposal will not affect existing farming communities.

3. The County shall encourage the consolidation of EFU land into large efficient farm units.

The consolidation of these lands would only result in a five acre agricultural plot that has a single family dwelling on the site; furthermore the site can not be used for the primary purpose of the zoning in this area because it is not equipped with the right conditions for the cultivation and harvesting cranberries which are highly water dependent. This site consists primarily of sand loams and uplands areas as depicted in the map above.

4. All divisions of EFU land shall be reviewed by the County for compatibility with the Agricultural Goals of the State and County policies.

This will not be applicable upon the adoption of the proposed goal exception and map amendment.

5. Non-farm uses permitted on EFU land shall be minimized to allow for maximum agricultural productivity.

This will not be applicable upon the adoption of the proposed goal exception and map amendment.

6. Agricultural land, which also meets the criteria for forest land, and which is primarily utilized for livestock grazing or forestry in sufficient parcel size, shall be conserved for forest uses.

This subject parcel is not substantial in size and would not satisfy the description above; therefore this criterion is not applicable.

7. The County shall encourage the division of underutilized agriculture land into small tracts to maximize the potential for part-time hobby farms where large farms are impractical or where the area is determined to be committed to other uses.

In approving the zone change the county is satisfying the intent of this criteria.

8. The County recognizes that there is an increasing problem with elk herds on agricultural lands. In order to continue the productivity of the County's agricultural lands, the County will do the following:

- a. Wildlife refuges and game management areas shall be limited. New proposals shall require a zone change and an assessment of public need and impacts of establishing additional wildlife refuges or game management areas adjacent to agricultural activities.
- b. The State Wildlife Commission shall be officially requested to resolve the existing adverse impacts on agricultural lands associated with elk, including but not limited to, one or more of the following measures:
 1. revision of hunting laws to sustained management levels.
 2. reduce the elk population in Clatsop County.
 3. indemnify the owners for damage on their property resulting from elk.
 4. pay for and install adequate fencing.

***** The following requirements will need to be met in order to assess compliance with this criterion. ***
These will be attached as a condition of approval to the request.**

Riparian Setbacks:

All riparian, greenbelt, and waterway setbacks shall be maintained. ODFW recommends the proposed development be designed around these setbacks (i.e. do not waive setbacks to allow development within).

Stream-Road Crossings:

Any stream-road crossings (including utilities) are to comply with fish passage requirements. Laws regarding fish passage may be found in ORS 509.580 through 910, and in OAR 635, Division 412. ODFW shall approve in advance any instream structure (Ron Rehn 503 842-2741).

Wildlife Damage Exclusion:

Wording to be included into a covenant to the deed of each lot:

This property is in an area of known big game and furbearer animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife, Clatsop County, or any other governmental agency for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.

This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife & Clatsop County.

Sensitive Resources:

No sensitive resources exist within 1 mile of the project area. (i.e. eagle nest, Heron rookery, etc.)

Comprehensive Plan, Goal 4 Element – Forest Lands

Staff concurs with the applicant's assertions on page 5 of Exhibit 3 that the Goal 4 element of the comprehensive plan does not apply to this request.

Finding of Fact:

Based on the analysis above, the Goal 4 element of the Clatsop County Comprehensive Plan does not apply to the request. LWDUO § 5.412(1) – Goal 3.

Comprehensive Plan, Goal 5 element – Open Spaces, Scenic & Historic areas and Natural Resources:

Finding of Fact:

Staff finds that the analysis provided on page 5 of Exhibit 3, satisfactorily address the criteria and policies of Goal 5. The site is identified as a Peripheral Big Game Range and as such, any and all present and future owners of this property agree to indemnify and hold harmless the County, Oregon Department of Fish and Wildlife, and any other Governmental agency involved in the granting of this request, for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.

The County has coordinated efforts with the Oregon Department of Fish and Wildlife and has confirmed that the site is otherwise not identified as a significant Goal 5 resource. In addition conditions have been applied to this recommendation {see above}, which will ensure the satisfactory compliance with the provisions of Goal 5.

Comprehensive Plan, Goal 6 element – Air, Water, and Land Quality:

The applicant evaluates the application against the applicable plan policies of the Goal 6 element of the comprehensive plan in pages 5 of Exhibit 3. Staff concurs with the applicant that the proposal does not conflict with the applicable plan policies of Goal 6. The Clatsop County Land and Water Development and Use Ordinance (LWDUO) contains multiple development standards that would apply to the future development of the subject property to assure the protection of air, water, and land quality standards in accordance with Goal 6.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 6 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 6 Element.

Comprehensive Plan, Goal 7 element – Natural Hazards

The applicant's analyses contained in page 6 of Exhibit 3 are insufficient to address the criteria. Furthermore the site is in and identified natural hazard zone. Findings addressing the Natural Hazard criteria need to be satisfied before the application can proceed.

Finding of Fact:

Based on the analysis above, the application does not satisfy the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 7 Element.

Comprehensive Plan, Goal 8 element – Recreational Lands

The subject property is not an identified recreational resource. The proposal does not conflict with the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 8 Element.

Comprehensive Plan, Goal 9 element – Economy

The applicant's analyses contained on page 6 of Exhibit 3 does not demonstrate that the application conforms to the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan. The applicant needs to address findings of economic significance and potential impacts the effect of reducing the amount of Farm land through in the county may have upon the commercial farming and cooperative farming in the region. This has not been satisfactorily addressed in the application.

Finding of Fact:

Based on the analysis above, the application does not satisfy the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 9 Element.

Comprehensive Plan, Goal 10 element – Population and Housing

Population Policies

1. Community plans should provide for orderly growth, which reduces the cost of essential services while preserving the basic elements of the environment.

Implemented through the County's Clatsop Plains Community Plan

2. Promote population to locate in established service areas.

The area is located in an established service area. Development in this area is consistent with the establishment of rural residences near established communities and public services.

3. Promote the accommodation of growth within areas where it will have minimal negative impacts on the County's environment and natural resources.

This proposal should have little to no Negative impacts on the County's Environment and Natural Resources.

4. Utilize current vacant land found between developments or within committed lands.

The development of these two sites adjacent to Dellmoor Loop fits the description of lands that are to be considered committed lands.

5. Direct new urban growth within Clatsop County to existing urban growth boundary or rural service areas where under utilized public or semi-public facilities exist or utility and/or investments have already been made.

The subject site in a rural area outside of Gearhart urban growth boundaries. The site meets the general description for rural lands as depicted previously. The subject parcel is ideally suited for infill development and does not encourage sprawling development along throughout the area. This site has adequate access to transportation facilities and public services and provides rural residential housing.

6. Encourage development of land with less resource value.

The parcel cannot feasibly be used for commercial farm use; therefore encouraging development of the subject land is consistent with the spirit of this policy.

7. Coordinate planning efforts of local governments and special districts to maximize efficiency of public facilities, and have land use actions reflect the goals and policies of the Plan.

Housing Policies

Residential Development

1. Clatsop County shall encourage residential development only in those areas where necessary public facilities and services can be provided and where conflicts with forest and agricultural uses are minimized.

As a condition of approval the applicant shall record a disclaimer on their deed indicating the applicant, owner and successors shall not indemnify farming operations on surrounding parcels.

Staff concurs that this request is consistent with this policy.

2. Clatsop County shall assist in planning for the availability of adequate numbers of housing units at price ranges and rent levels commensurate with the financial capabilities of County residents.

Staff concurs in part with the applicant's findings. This may help meet the County's Housing needs but this request is not significant enough to really have a substantial impact.

3. Clatsop County shall encourage planned developments and subdivisions to cluster dwelling units. The clustering of dwellings in small numbers and the provision of common open space assures good utilization of the land, increased environmental amenities, and may be used as an open space buffer between the residential use and adjacent agricultural or forest uses.

The applicant will only be able to partition the lots into what previously existed before the zoning came into effect. This zone change will have little to no negative impacts on surrounding areas and will not encourage sprawl in the area.

4. Clatsop County shall permit residential development in those designated areas when and where it can be demonstrated that:
 - a. Water is available which meets state and federal standards;
 - b. Each housing unit will have either an approved site for a sewage disposal system, which meets the standards of the County and the Department of Environmental Quality or ready access to a community system;
 - c. The setback requirements for the development of wells and septic systems on adjacent parcels have been observed;
 - d. Development of residential units will not result in the loss of lands zoned or designated for agriculture or forestry and will not interfere with surrounding agricultural or forestry activities.

In accordance with Clatsop County's LWDUO # 80-14 these criteria shall be required to be met prior to the issuance of a development permit on the subject site.

5. Clatsop County shall permit temporary siting of mobile homes in specified locations in the event of an emergency.

Not Applicable.

6. Clatsop County shall encourage multi-family housing and mobile home park developments to develop within the various urban growth boundaries.

Not Applicable.

7. Clatsop County shall encourage the development of passed over lots that already have services such as water and roads to be preferred for development over tracts requiring an extension of services.

This site serves as a perfect example of lots that were passed over for development that the County should encourage for development. Staff agrees with the applicants findings on page 6 of exhibit 3.

8. Clatsop County shall make provisions for housing in areas designated for Rural, Urban Growth Boundaries, and Rural Service Areas which provide variety in location, type, density and cost where compatible with development on surrounding lands.

Staff Concurs with the applicant's analysis on page 6 of Exhibit 3.

Governmental Cooperation and Coordination

9. Clatsop County shall cooperate with governmental agencies and Clatsop County Housing Authority in promoting unified housing policies and in ensuring an equitable distribution of assisted housing throughout the County.

Not Applicable.

10. Clatsop County shall encourage state and federal agencies to develop programs and funding sources to increase the level of support for the maintenance and rehabilitation of existing housing and for the development of additional housing.

Not Applicable.

Housing Rehabilitation

11. Clatsop County shall develop and maintain an inventory of the type and condition of the current housing stock. The rural housing needs should be reexamined every two years to reflect the market changes and new information.

Not Applicable.

12. Clatsop County shall encourage the retention of the current housing stock and, where necessary and feasible, will assist in the rehabilitation of substandard housing units.

Assisted Housing

13. Clatsop County shall set aside tracts of lands which it owns within the cities and their urban growth boundaries which can be used for low cost housing. The lands should be inventoried and a program developed through the Northwest Oregon Housing Association to release those lands for this purpose. Clustering techniques, common wall and townhouse construction, both for sale and for rent, could be employed in the development of these lands.

Not Applicable.

14. Clatsop County shall activate support programs, which serve to improve housing conditions of those homeowners who are physically or financially unable to make improvements on their own.

Not Applicable.

Urban Growth Boundary Population Projections

Clatsop County cities in cooperation with the County have developed population projections for the six Urban Growth Boundary areas (see Table 8, 8-1, 8-2, 8-3 and Chart 8, 8-1, 8-2). The information contained in

these tables and charts are based on the 2000 U. S. Census and historical growth figures compiled by the Center for Population Research and Census, Portland State University. The forecasted growth is based largely on historical data and information received from the cities. For the most part, the cities forecasts include both the city limit boundary and portions of the urban growth boundary, and in some cases the Census Tract may extend beyond both. The growth forecast to year 2030 does not take into account the

JURISDICTION	ACTUAL ¹		% OF COUNTY POPULATION		FORECASTS			
	1990	2000	1990	2000	2020 Urban Area Totals ²	2030 Urban Area Totals ²	% of County Population ⁴	Average Annual Growth Rate 2000-2030
Astoria	10,069	9,813	30.24%	27.54%	11,826	12,953	28.30%	0.94%
Cannon Beach ⁵	1,221	1,588	3.67%	4.46%	1,859	2,037	4.45%	0.79%
Gearhart	1,027	995	3.08%	2.79%	1,254	1,373	3.00%	1.16%
Seaside	5,359	5,900	16.09%	16.56%	7,337	8,037	17.56%	1.10%
Warrenton ³ Hammond	2,681 589	4,096 -	9.82%	11.50%	5,741	6,289	13.74%	1.70%
CITY TOTAL	20,946	22,392	62.90%	62.85%	28,017	30,689	67.05%	1.13%
UNINCORPORATED TOTAL	12,944	13,238	38.87%	37.15%	13,771	15,082	32.95%	0.20%
COUNTY TOTAL	33,301	35,630	-	-	41,788	45,771	-	0.80%

vacation or seasonal population of rentals or secondary homes and the impacts they may have on water, sewer, transportation or other public facilities and services. The growth forecast is an estimate based on historical information and may not accurately reflect changing conditions.

Using the methodology employed by the City of Cannon Beach in projecting its population to the year 2025 (refer to City of Cannon Beach Ordinance No. 06-09 and Clatsop County Ordinance No. 07-05 for more details), Clatsop County revised Population Table 8-1, Chart 8, and Chart 8-1 to reflect population projections for all cities and the unincorporated areas to the year 2030 (the population projections previously ended at the year 2020). In establishing the year 2025 and year 2030 population projections, the county held constant the forecasted year 2020 percentage of population allocated to each city and the unincorporated areas through to the year 2030 (see Chart 8-1).

In recognition of the City of Cannon Beach's need for coordinated population projections to the year 2025, and in recognition of similar work currently being undertaken by the City of Seaside that requires population projections to the year 2030, Clatsop County adopted, as an interim measure, the year 2025 and year 2030 population projections contained in this section until such time that officials from all cities and the county can meet to discuss new shifts in area demographics or conditions (i.e., recent annexations by the City of Gearhart, new home construction as a result of Measure 37/49 claims, etc.) that may compel adjustment to these figures.

Population Policy:

Review of the forecast should occur every three to five years.

TABLE 8: Clatsop County Population Projections

JURISDICTION	2000 (actual)	2005	2010	2015	2020	2025	2030
Clatsop County ¹	35,630	36,919	38,376	40,018	41,788	43,727	45,771
Incorporated Cities: ²							
Astoria	9,813	10,152	10,649	11,205	11,826	12,375	12,953
Cannon Beach	1,588	1,642	1,707	1,780	1,859	1,946	2,037
Gearhart	995	1,107	1,151	1,200	1,254	1,312	1,373
Seaside	5,900	6,206	6,546	6,927	7,337	7,678	8,037

Warrenton	4,096	4,426	4,813	5,278	5,741	6,008	6,289
Unincorporated	13,238	13,386	13,510	13,628	13,771	14,408	15,082

1. Center for Population Research and Census, Portland State University; United States Census.

JURISDICTION	1900	1910	1920	1930	1940	1950	1960	1970	1980	1990	2000
Clatsop County	12,765	16,106	23,030	21,124	24,697	30,776	27,380	28,473	32,489	33,301	35,630
Astoria	8,381	9,599	14,027	10,349	10,389	12,331	11,239	10,244	9,998	10,069	9,813
Cannon Beach	n/a	n/a	n/a	n/a	n/a	n/a	495	778	1,187	1,221	1,588
Gearhart	n/a	n/a	127	125	319	568	725	829	967	1,027	995
Seaside	191	1,270	1,802	1,565	2,902	3,886	3,877	4,402	5,193	5,359	5,900
Warrenton	n/a	339	730	683	1,365	1,896	1,713	1,825	2,493	2,681	4,096
Hammond	n/a	957	547	244	422	522	480	500	516	589	-

2. City totals projected based on previous percentages of county population and percent growth.
3. Warrenton annexed Hammond in 1999, thus the substantial change in population.
4. Based on the previous growth rates and percentage of county population.
5. County projection from the Office of Economic Analysis, Department of Administrative Services, State of Oregon.
6. Cannon Beach numbers reflect the City's assumption that their existing percentage of County population will be maintained.

TABLE 8-1: Clatsop County Population Projections 2000 – 2030

1. County projection from the Office of Economic Analysis, Department of Administrative Services, State of Oregon.
2. City totals projected based on previous percentages of county population (see above), growth and county projection.

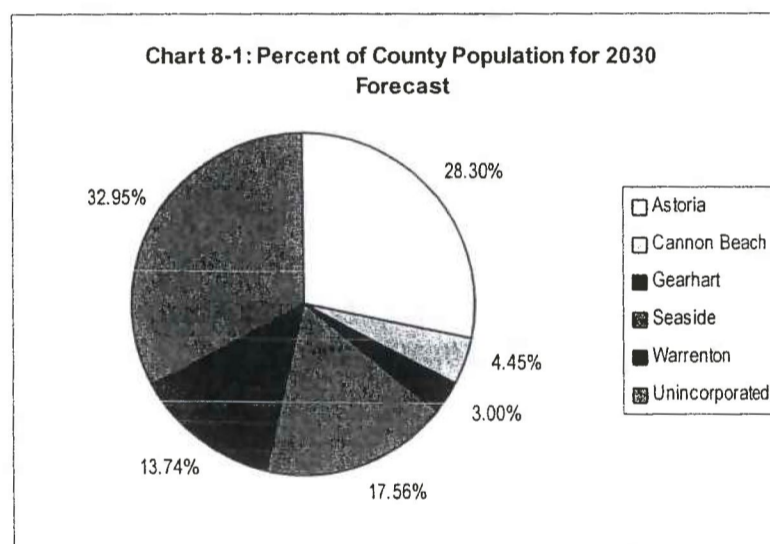
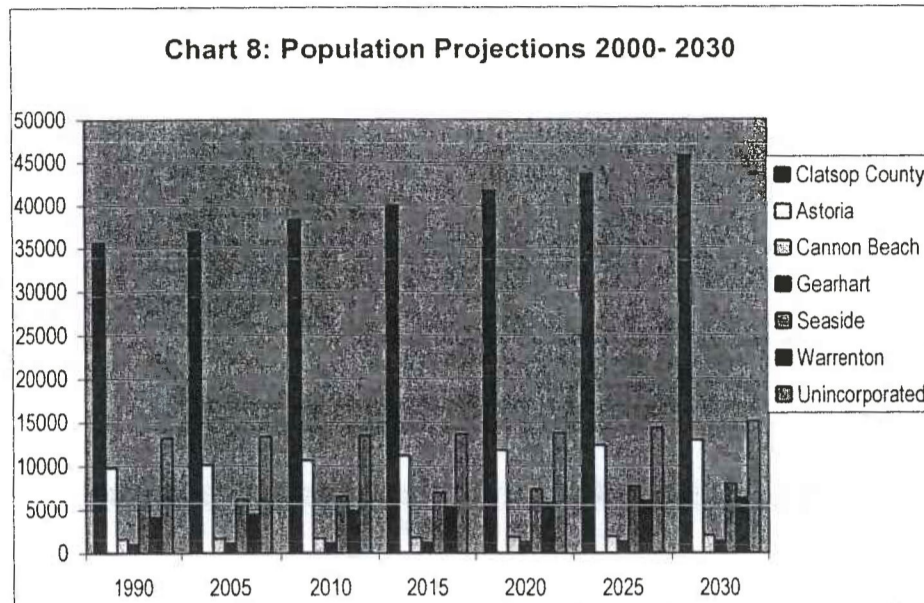
TABLE 8-2: Previous Population Projections for Clatsop County

	1970	1980	1985	1990	1995
High	28,473	32,500	35,000	38,000	41,200
Medium	28,473	32,000	34,000	36,400	38,800
Low	28,473	31,700	32,500	33,500	34,300
ACTUAL	28,473	32,489	32,452	33,301	34,300

Sources: Projections: Clatsop County Comprehensive Plan; Actual - U.S. Census

TABLE 8-3: Clatsop County Historic Population

Source: Population Research Center, Portland State University
n/a = not applicable because they were not incorporated as cities yet



Finding of Fact:

Based on the analysis above and that provided by the applicant in Exhibit 3 page 6, the application satisfies the Population plan policies #1 - #7 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Population).

Based on the analysis above, the application satisfies the housing plan policies #1 and #8 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Housing).

Comprehensive Plan, Goal 11 element – Public Facilities and Services Analysis.

The following excerpted Overall Policy Regarding Appropriate Levels of Public Facilities in the Rural Lands Plan designation applies to the request:

Rural Lands - Most of the areas built upon or committed to non-resource use in the County are in this Plan designation. Much of the area is currently served by community water systems.

Clatsop County is concerned that development not outstrip the capacity of the service area districts. Clatsop County requires that a proof of an adequate source of water be available before any development permit (e.g. residential, commercial or industrial), excluding land divisions, is approved.

Public water supply is an appropriate public facilities in this Plan designation, but is not essential for development.

Rural fire protection districts are present in many of the areas in this Plan designation. This is often a desired rural service and is appropriate in this Plan designation but is not a prerequisite for RA zoning. Some rural residents are more willing to pay high fire insurance premiums than taxes to maintain a local fire district. Development is scattered enough in this Plan designation, as compared with RSAs or cities, that fire protection is not a requirement for development.

Community sewage systems are not appropriate in this Plan designation.

Partition and subdivision proposals in this Plan designation will be referred to the local school district for comment.

The following Goal 11 plan policies also apply to the request:

General Public Facilities Policies

1. Clatsop County recognizes the level of public facilities and services described in the section "Overall Policy Regarding Appropriate Levels of Public Facilities in the County" above, as that which is reasonable and appropriate for development in different Plan designations in the County. Development of facilities and services in excess of those levels and types shall not be approved by the County.
9. When a Comprehensive Plan or Zone Change or both are requested that would result in a higher residential density, commercial or industrial development it shall be demonstrated and findings made that the appropriate public facilities and services (especially water, sanitation (septic feasibility or sewage) and schools) are available to the area being changed without adversely impacting the remainder of the public facility or utility service area.

Water Supply Systems Policies

4. Clatsop County shall encourage existing community water supply systems to be improved and maintained at a level sufficient to:
 - a. provide adequate fire flow and storage capacity to meet the service area requirements,
 - b. meet the anticipated long-range maximum daily use and emergency needs of the service area, and
 - c. provide adequate pressure to ensure the efficient operation of the water distribution system.

The applicant has provided evidence that water is available to the site from the City of Warrenton Water district, this evidence conforms to the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan.

In addition appropriate mechanisms are in place in the LWDUO to ensure that prior to land use approvals and before development permits are issued for new development on the subject property, appropriate public services and facilities will be in place to service the property.

Finding of Fact:

Based on the analysis above, the proposal satisfies the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan, the application must demonstrate a suitable source of water prior to the issuance of a development permit. In addition the application has not addressed impact to the Gearhart and Seaside school district. Regardless the proposal only calls for two sites (One addition) the impact from one

more homesite should not be sufficient to cause inefficiencies in the school district. Staff finds that this alteration will cause no more impact and the Goal 11 element of LWDUO § 5.412(1) – is satisfied.

Comprehensive Plan, Goal 12 element – Transportation

Analysis:

The proposal will have little impact on the access roads. The addition of 10 average daily trips is allocated in the County's Transportation system plan for that area. The only point of contention is the utilization of the 101 corridor, which is already substantially overburdened in summer months. Regardless the impacts from one additional homesite in the Dellmoor loop area will be insubstantial.

Finding of Fact:

Based on the analysis above, consistency with the Goal 12 Transportation element of the Comprehensive Plan is satisfied. LWDUO § 5.412(1) – Goal 12 Element.

Comprehensive Plan, Goal 13 element – Energy Conservation

Analysis:

The application and zone change will have minor unsubstantial consequences to energy conservation. The addition of one home and the effects on energy consumption that home may have are inconsequential to the area as a whole. The application satisfactorily demonstrates that the application conforms to the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 13 Element.

Comprehensive Plan, Goal 14 element – Urbanization

Analysis:

The application does not involve lands located within or adjacent to an urban growth boundary. The applicant does not propose amending any urban growth boundary. The Goal 14 policies of the comprehensive plan speak to urban growth management agreements, district agreements, rural communities, and other urbanization matters that do not apply to the application. The applicant's proposed exception to Statewide Planning Goal 14 (Oregon Administrative Rule Chapter 660 Divisions 4 and 14) that is required as a function of the request to reduce parcel sizes and increase densities on the subject property is addressed under the Goal 14 exception criteria.

Upon the adoption of the Goal Exception and Comprehensive Plan Amendment the proposal will satisfy the requirements for compliance with the Goal 14 element of the County's Comprehensive Plan.

Findings Of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 14 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412 – Goal 14 Element. The applicant's proposed exception to Statewide Planning Goal 14 is addressed later in this report.

Comprehensive Plan, Goal 16 and 17 elements – Estuarine Resources and Coastal Shorelands

Analysis:

The applicant's findings on pages 6 of Exhibit 3 satisfactorily address the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 16 & 17 Elements.

Comprehensive Plan, Goal 18 element – Beaches and Dunes

Finding of Fact:

The area is in an identified Beaches and Dune overlay. The site most suitable for development of a single family residence is the area located on the top of the old railroad grade. This site is a stabilized dune with no wetlands in the impact area; however wetlands do exist within the immediate vicinity approximately 50-100 feet to the west of this area. It is unlikely that the development of a homesite on the established dune will cause any more impact that what has already transpired in the area.

Comprehensive Plan, Clatsop Plains Community Plan element

The applicable goals and policies of the Clatsop Plains Community Plan are contained in the following section. Staff analyses are interjected throughout the section.

Southwest Coastal Community Plan

Consistency with the Elements of the Clatsop Plains Community Plan are assessed through compliance with the Comprehensive plan elements previously discussed. Staff finds the applicant has not adequately addressed these criteria through out the proposed findings provided in pages 1-8 of Exhibit 3 LWDUO § 5.412(1) – Clatsop Plains Community Plan Element.

Zone Change Criterion No. 2: LWDUO §5.412(2) - Consistency with Statewide Planning Goals

Clatsop County has a ratified comprehensive plan. Consistency with Statewide Planning Goals is determined through the consistency with the County's Comprehensive Plan. Staff finds that all applicable Statewide Planning goals can adequately be addressed; however insufficient findings at this time require the applicant to address these issues before progressing.

Finding of Fact:

Based on the analysis above, the application has not satisfied Zone Change Criterion No. 2. LWDUO § 5.412(2).

Zone Change Criterion No. 3: LWDUO §5.412(3) - Adequacy of Public Facilities and Services

Staff concurs with the applicant that adequate public facilities and services exist to be provided to the subject property.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate public facilities and services will be installed.

Finding of Fact:

The application satisfies Zone Change Criterion No. 3. LWDUO § 5.412(3).

Zone Change Criterion No. 4: LWDUO §5.412(4) - Adequacy of Transportation Facilities

Analysis:

Staff concurs with the applicant that adequate transportation facilities exist for the proposal. Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate transportation facilities will be in place.

Finding of Fact:

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

Zone Change Criterion No. 5: LWDUO §5.412(5) – Compatibility with Area

Through the analysis provided by the applicant and the conditions provided herein compatibility with the area can be ensured.

Finding of Fact:

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

Zone Change Criterion No. 6: LWDUO §5.412(6) - Peculiar Suitability of Site for Particular Uses

Analysis:

The site is well suited for rural residential site development. The area is restricted from further development by the geologic feature of a Creek to the west and wetlands to the south sides of the subject parcel. The site is not suitable for commercial farm use and is best suited as an acreage homesite.

Finding of Fact:

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

Zone Change Criterion No. 7: LWDUO §5.412(7) - Zone Change Promotes Appropriate Use of Land in County

Analysis:

Surrounding areas are zoned residential agriculture 2. Lands to the east and south are zoned Exclusive Farm Use, natural barriers prevent the continued development of the area to these sites. In particular natural wetlands constitute 90% of the parcel to the south, making development of these sites virtually non-economical. The areas to the east are held in contiguous ownership and result in a large tract of land zoned Exclusive Farm use and compatible to commercial farm uses. Rezoning this 5 acre section of EFU is appropriate when considering that this plot was originally designated EFU for the purposes of Cranberry cultivation ; however the site is not suitable for cranberry cultivation because of a natural lack of substantial wetlands on the parcel.

Finding of Fact:

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

Zone Change Criterion No. 8: LWDUO §5.412(8) - Health, Safety, and General Welfare

Analysis:

The application does not hinder the health or safety of Clatsop County. Analyses and findings in this report

Finding of Fact:

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

Goal Exception

The applicant is proposing to take a goal exception to Statewide Planning Goals 3 & 14 in order to process the application for a Zone Change. In order to satisfy the goal exception criteria the applicant chose the committed route declaring the parcel was irrevocably committed to residential use. In doing so a number of criteria need to be satisfied and addressed. In reviewing the applicants goal exception criteria and in an effort to avoid redundancy Staff has found the applicant's findings to satisfactorily address the criteria. This is addressed throughout Exhibit 4 pages 1 to 13. In summation of the findings provided by the applicant the following are the criteria addressed by the applicant and the Staff's Assessment for analysis:

- (a) **Characteristics of the exception area:**
 - Predominately pasture but not substantial enough to warrant commercial farming operations. Developed Rural residential lands to the North and west in favor of an exception. Addressed on pages 14-15 of the applicant's findings, Exhibit 4.
- (b) **Characteristics of adjacent lands:**
 - Adjacent lands consist of Farm and Conservation lands on a large scale and in separate ownership. The fact that the lands only constitute 5 ½ acres in size and were previously independent lots weigh in favor of a goal exception. See Applicants findings page 14 Exhibit 4.
- (c) **Relationship between the exception areas and adjacent lands:**
 - Staff agrees with the applicant, this area is far better suited as rural residential homesites than farm lands. The reasoning is that the site is only 5 ½ acres in size, this is hardly suitable or sustainable for commercial farm operations. See Applicants Findings Page 14-15, Exhibit 4
- (d) **Existing adjacent uses:**
 - Agricultural Lands and Rural Lands surround the site. See Applicant's Findings Page 14-15 of Exhibit 4.
- (e) **Existing public facilities and services:**
 - Existing city services are located at the access to Dellmoor Loop including City water service.
- (f) **Parcel size and ownership patterns:**
 - This site is relatively small in size. Across the street large acreage farmlands suitable for commercial farm uses exist. To the south EFU Lands are used in conjunction with a co-op to produce cranberries for commercial sale on the market.
- (g) **Neighborhood and regional characteristics:**
 - The surrounding neighborhood conditions are conducive to a development of this type and nature. The regional characteristics are one of increasing demand for parcels of this type. Rural Residential Homesites provide a variety of housing options for low moderate and high income residents. The Characteristics of the region are one of growing demands and rural settings, the area is especially desirable due to the proximity of the site to the ocean and attractions that come with that type of activity.
- (h) **Features separating the exception from adjacent resource land.**
 - West Lake traverses the westerly boundary of the site and wetlands cover 90% of the property to the south, Dellmoor Loop is located to the immediate east and serves as a border to the proposed zone change, these topographical feature act as a natural barrier between the Farm lands to the east and the lands better suited for residential development to the North.
- (i) **Physical Development**
 - Currently there exist a single family residence on the site which would lead toward a claim that the area is physically developed; however the site is 5+ acres in size and the other parcel really does not have physical development on the site that would lend any relevance to a goal exception to statewide planning goal 3. This aspect would weigh against a goal exception; however the criteria does not require that a structure be built on the site only that the site itself has been committed to a use other than what is currently permitted. In that sense the site is restricted in size and neighborhood characteristics and therefore satisfies the criteria for a goal exception.
- (j) **Other relevant factors**
 - See applicant's findings page 14-15 exhibit 4.

In accordance with OAR 660-014-0030 the applicant's conclusion is supported by the reasons and facts indicating the land is irrevocably committed. This conclusion also justifies an exception under the policies of Goal 2 to allow development in excess of 1 home site per 10 acres as mentioned

earlier. Furthermore the conclusion and findings provided by the applicant on pages 14 - 15 of Exhibit 4 reasonably indicate that the land is committed to urban levels of development.

At this time however Staff recommends the Planning Commission continue the hearing, allowing the applicant an opportunity to address the Goal 7, and Goal 9 issues addressed by Staff in it earlier analyses.

IX. EXHIBITS

Immediately follow.

Respectfully submitted,

Michael Weston II, MPA
Planner, Transportation & Development

*****Conditions*****

Riparian Setbacks:

All riparian, greenbelt, and waterway setbacks shall be maintained. ODFW recommends the proposed development be designed around these setbacks (i.e. do not waive setbacks to allow development within.

Stream-Road Crossings:

Any stream-road crossings (including utilities) are to comply with fish passage requirements. Laws regarding fish passage may be found in ORS 509.580 through 910, and in OAR 635, Division 412. ODFW shall approve in advance any instream structure (Ron Rehn 503 842-2741).

Wildlife Damage Exclusion:

Wording to be included into a covenant to the deed of each lot:

This property is in an area of known big game and furbearer animal use. Any and all present and future owners of this property agree to indemnify and hold harmless the Oregon Department of Fish and Wildlife, Clatsop County, or any other governmental agency for any damage and/or inconvenience caused by these animals to persons, real property, and/or personal property.

This agreement shall inure in perpetuity to all successors, assignors, and heirs. This agreement cannot be deleted or altered without prior contact and agreement by the Oregon Department of Fish and Wildlife & Clatsop County.

Land Uses and Practices - *Purchaser recognizes that lands in the adjacent area may be managed for commercial farm use. Purchaser acknowledges that adjacent land owners have the right to conduct such commercial farm management activities which are regulated by state farm practice rules and regulations, and will not attempt to impose additional restrictions on these activities.*

All development shall occur consistent with Clatsop County's Land Water Development and Use Ordinance and all State and Federal Laws regarding the development of the proposed site.

EXHIBIT 1

From: "Rodney Blacker" <rambytesrb@gmail.com>
To: "Mike Weston" <MWESTON@co.clatsop.or.us>
Date: 8/29/2008 5:08 PM
Subject: Re: Betty Sandy's rezoning request

I agree that the zoning doesn't make sense for the amount of acres. However, many people with horses feed hay and don't use pastures year round. You can't have a horse in the city. And if you look at the north end of Dellmoor Loop, you will find on the west side of the road several 1 acre plots that have 3 or more structures on them. And they are all located on the railroad bed since the lower ground near Dellmoor Loop is too wet to build on without filling in the wetlands. I just don't want to see a small city with houses against each other on railroad bed.

I would say, because of the unique environmental features of these lots (much wetland with little high ground), the zoning rules should treat them as maybe quarter acre building lots on 1 to 4 acre plots. A quarter acre would be roughly 50' x 200'. Since the railroad bed averages maybe 50' wide, no lot should be less than 200 feet wide in order to get a quarter acre building site. So if Betty has 400 feet of railroad bed she should have to sell 200 feet of it at least along with however much of the lower pasture she wants in order to have a second buildable lot on the railroad bed for an additional house. Or have a rule of at least 100 feet between adjoining houses which would make it hard to place 2 on a one or two acre plot. What I'm saying is the lower acreage doesn't matter, the railroad acreage does. The density of houses on the railroad bed will determine how congested the area becomes and how much it feels like living in the country compared to suburbia.

I also wonder how much the tax will change if the zoning changes. Lower taxes are another reason I picked this area to live in. I feel I paid in essence additional taxes to install the water hydrant for the city of Warrenton. If you change the zoning and my taxes increase with no additional benefits, I won't be happy with the new zoning. And I doubt if you would change the zoning to reduce taxes.

I'm not trying to tell you or her what she can or can't do with her land. I don't know what she wants to do. Hopefully it won't affect me at all. I'm just letting you know my concerns for the whole area. Thank you kindly for considering my concerns.

Respectfully,

Rod Blacker

On Fri, Aug 29, 2008 at 3:57 PM, Mike Weston <MWESTON@co.clatsop.or.us> wrote:

> H Rod,
> I have received your email and I will enter your concerns in the record. As
> for the outcome I have no idea at this point which way it will go. That
> decision is essentially up to the Planning Commission and the Board of
> County Commissioners. However, I do write the recommendations and I will
> consider the issues you have presented to me in this letter when drafting a
> recommendation to the Planning Commission. Before I get to that point
> though, is there any conditions to this zone change on the two acres that
> might ease your concerns? I want to preserve the rural nature of the
> property but the parcel does not appear to be suitable for cranberry
> cultivation and two acres is not very much land to pasture horses on

> indefinitely. It really doesn't make sense to make the parcel into a hay
> field either as it would be lucky to produce even a couple tons of hay which
> is hardly economically viable. With that in mind the applicants at this
> point do have a decent claim, but again perhaps there are conditions that we
> can impose that might limit the effect a single family dwelling would have
> on the site.
> Just a thought,
> Mike W
>
>
> Michael J. Weston II, MPA
> Planner, Trans & Dvlpmt.
> Clatsop County
> (503) 325-8611 ext.1702
>
> "This message has been prepared on resources owned by Clatsop County,
> Oregon. It is subject to the internet and online services use policy and
> procedures of Clatsop County."
>
>
> >>> "Rodney Blacker" <rambytesrb@gmail.com> 8/29/2008 1:07 PM >>>
> I am adjacent to south boundary of Betty's property. I understand she is
> not
> wanting to change the zoning for her own use, but to develop the property
> for additional housing for profit. To me this is a commercial operation,
> not
> a private one. The property is designated as mostly wetlands. The only area
> not wetlands would be the old railroad bed where her house is located. To
> place another house on the property would mean it would have to go on the
> railroad bed closer to me unless she would fill in the wetlands where the
> pasture is now.
>
> In 2006 I had a nice double wide trailer (1536 sq. ft.) on my 2 acres. I
> wanted to build a new house and retain the trailer for guests. Because of
> the wetland issue, I had to give my double wide away and build the new
> house
> on the exact same site. I was glad to do it to preserve the wetlands even
> though I had to pay \$5611 to install a water hydrant because I was
> considered a developer since I had to build a new foundation for my
> replacement house. I think an additional house on Betty's property would
> impact the wetlands with more roads and expansion of the high ground on the
> railroad bed to accommodate the new house. They have already impacted the
> area with the new gate built on the wetlands and the bulldozed access road
> from the railroad bed to the pasture (wetlands).
>
> Personally I did not move here in 2004 to have a lot of nearby neighbors. I
> wanted a house in an agricultural area so there would not be a lot of next
> door neighbors. If I wanted to live in a residential area, I had plenty of
> opportunities elsewhere. Dellmoor Loop is nice, at least on the south end,
> because houses are not packed close together. I chose my property because
> of
> the location and the existing zoning. If you capriciously change the zoning
> of an area, you are messing with the personal values and investments of the
> neighbors who chose to live there for the very reasons you are now
> eliminating.
>

> I would not be against Betty building another house for her own use, but I
> am against developing the rural setting and bringing in more people to
> populate it. It just changes everything...the atmosphere will go from rural
> to suburbia, quiet to noisy, peaceful to busy. I am very happy with all my
> other neighbors.

>
> I was not initially happy to have to pay for a water hydrant which should
> have been put in 25 years ago. But that just cost me money. This change
> will
> cost me my lifestyle. I will be very unhappy if you change the zoning to
> lower the quality of life I invested in when I bought my present property.

>
> Sincerely yours,

>
> Rod Blacker
> 89164 Dellmoor Loop
> 503-717-0377

>
> This message has been prepared on resources owned by Clatsop County,
> Oregon. It is subject to the Internet and Online Services Use Policy and
> Procedures of Clatsop County.

>

From: "Rodney Blacker" <rambytesrb@gmail.com>
To: <mweston@co.clatsop.or.us>
Date: 8/29/2008 1:07 PM
Subject: Betty Sandy's rezoning request

I am adjacent to south boundary of Betty's property. I understand she is not wanting to change the zoning for her own use, but to develop the property for additional housing for profit. To me this is a commercial operation, not a private one. The property is designated as mostly wetlands. The only area not wetlands would be the old railroad bed where her house is located. To place another house on the property would mean it would have to go on the railroad bed closer to me unless she would fill in the wetlands where the pasture is now.

In 2006 I had a nice double wide trailer (1536 sq. ft.) on my 2 acres. I wanted to build a new house and retain the trailer for guests. Because of the wetland issue, I had to give my double wide away and build the new house on the exact same site. I was glad to do it to preserve the wetlands even though I had to pay \$5611 to install a water hydrant because I was considered a developer since I had to build a new foundation for my replacement house. I think an additional house on Betty's property would impact the wetlands with more roads and expansion of the high ground on the railroad bed to accommodate the new house. They have already impacted the area with the new gate built on the wetlands and the bulldozed access road from the railroad bed to the pasture (wetlands).

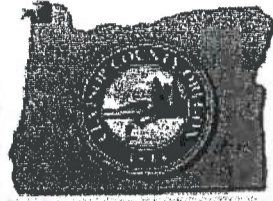
Personally I did not move here in 2004 to have a lot of nearby neighbors. I wanted a house in an agricultural area so there would not be a lot of next door neighbors. If I wanted to live in a residential area, I had plenty of opportunities elsewhere. Dellmoor Loop is nice, at least on the south end, because houses are not packed close together. I chose my property because of the location and the existing zoning. If you capriciously change the zoning of an area, you are messing with the personal values and investments of the neighbors who chose to live there for the very reasons you are now eliminating.

I would not be against Betty building another house for her own use, but I am against developing the rural setting and bringing in more people to populate it. It just changes everything...the atmosphere will go from rural to suburbia, quiet to noisy, peaceful to busy. I am very happy with all my other neighbors.

I was not initially happy to have to pay for a water hydrant which should have been put in 25 years ago. But that just cost me money. This change will cost me my lifestyle. I will be very unhappy if you change the zoning to lower the quality of life I invested in when I bought my present property.

Sincerely yours,

Rod Blacker
89164 Dellmoor Loop
503-717-0377



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EXHIBIT 2

Clatsop County
Transportation & Development, Planning Div.
800 Exchange Street, Suite 100,
Astoria, OR 97103

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



NOTICE OF PUBLIC HEARING BEFORE THE CLATSOP COUNTY PLANNING COMMISSION

In The Matter of Ordinance 08-XX, an Ordinance Amending the Comprehensive Plan/Zoning Map. The proposed zone change will rezone approximately 3.5 acres of Exclusive Farm Use to Residential Agriculture 2. The Property is located to the west of Delmore Loop Road north of the Cranberry Bogs currently in operation at the corner of Dellmoor Lp. and Lounsberry Ln. and identified by address as 89224 Dellmoor Loop Rd. The legal description for the property is identified as: T7N, R10W, Section 27 TL 201.

For more information see description on top of Page 2.

DATE OF HEARING: September 9, 2008
TIME: 1:00 pm
LOCATION: Judge Guy Boyington Building, 857 Commercial Street,
Astoria, Oregon 97103
CONTACT PERSON: Michael Weston II, Clatsop County Planner

You are receiving this notice because you either own property within 750 feet of the property that serves as the subject of the land use application described in this letter, or you are considered to be an affected state or federal agency, local government, or special district. A vicinity map for the subject property is attached.

NOTICE IS HEREBY GIVEN that the Planning Division of Clatsop County's Department of Transportation and Development has scheduled a public hearing on this matter before the Planning Commission at 11:00 AM on Tuesday, September 9th, 2008 at the Judge Guy Boyington Building, 857 Commercial St, Astoria, OR 97103.

Interested persons are invited to testify in person by attending the hearing, or they may submit testimony in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to [503-338-3666](tel:503-338-3666) or via email to comdev@co.clatsop.or.us. Written comments must be received in this office no later than **5PM on Monday, September 8th, 2008** in order to be presented by Staff for submittal at the September 9th, 2008 public hearing.

NOTE: Failure of an issue to be raised in a hearing, in person, or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

Notice to Mortgagee, Lien Holder, Vendor or Seller: ORS Chapter 215 requires that if you receive this notice it must promptly be forwarded to the purchaser

****THE LAND USE APPLICATION DESCRIBED****

The applicant (Betty Sandy) is requesting to rezone approximately 3.5 acres of Exclusive Farm Use (EFU) zoned property to Residential Agriculture 2 for the purposes of developing a home site. The applicant claims that the parcel was improperly zoned at the conception of the ordinance for cranberry harvesting. The site has since not been used for the cultivation of cranberries but rather for grazing livestock. There are little to no wetlands on the subject parcel that would foster the cranberry cultivation and the applicant request is limited to the area west of Dellmoor Loop, south of the current farmhouse.

The following criteria from Clatsop County Land and Water Development and Use Ordinance (LWDUO) apply to the request: §2.035 (Type IV Procedures for Land Use Applications), §2.105-§2.125 (Notice Requirements for Public Hearings), §2.300 (Legislation), § 3.200 (Residential Agriculture 2 acre), §3.560 (Exclusive Farm Use 80 Acre), §4.050 (Beaches and Dunes Overlay), §5.400 (Zone Changes), & §5.350 (Transportation System Impact Review).

In addition the following elements of Clatsop County's Standards Document apply to the request: Chapters 1-3 (Site Oriented Development), Chapter 4 (Environmental Protection), Chapter 5 (Vehicle Access Control and Circulation).

In addition, the following elements of the Clatsop County Comprehensive Plan apply to the request: Goal 1 (Citizen Involvement), Goal 2 (Land Use Planning), Goal 3 (Agricultural Lands), Goal 4 (Forest Lands), Goal 5 (Natural Resources, Scenic and Historic Areas and Open Spaces), Goal 6 (Air, Water, and Land Quality), Goal 7 (Natural Hazards) Goal 8 (Recreational Needs), Goal 9 (Economic Development), Goal 10 (Housing), Goal 11 (Public Facilities & Services), Goal 12 (Transportation), Goal 13 (Energy Conservation), Goal 14 (Urbanization) and the Clatsop Plains Community Plan.

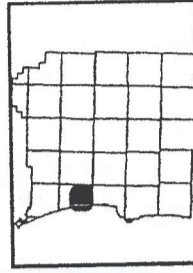
These documents are available for review at the Clatsop County Planning Office, 800 Exchange Street, Suite 100, Astoria, Oregon and on-line at the county's website, www.co.clatsop.or.us.

A copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at the Planning Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the Clatsop County Planning office at no cost at least seven days prior to the hearing and will be provided at a reasonable cost.

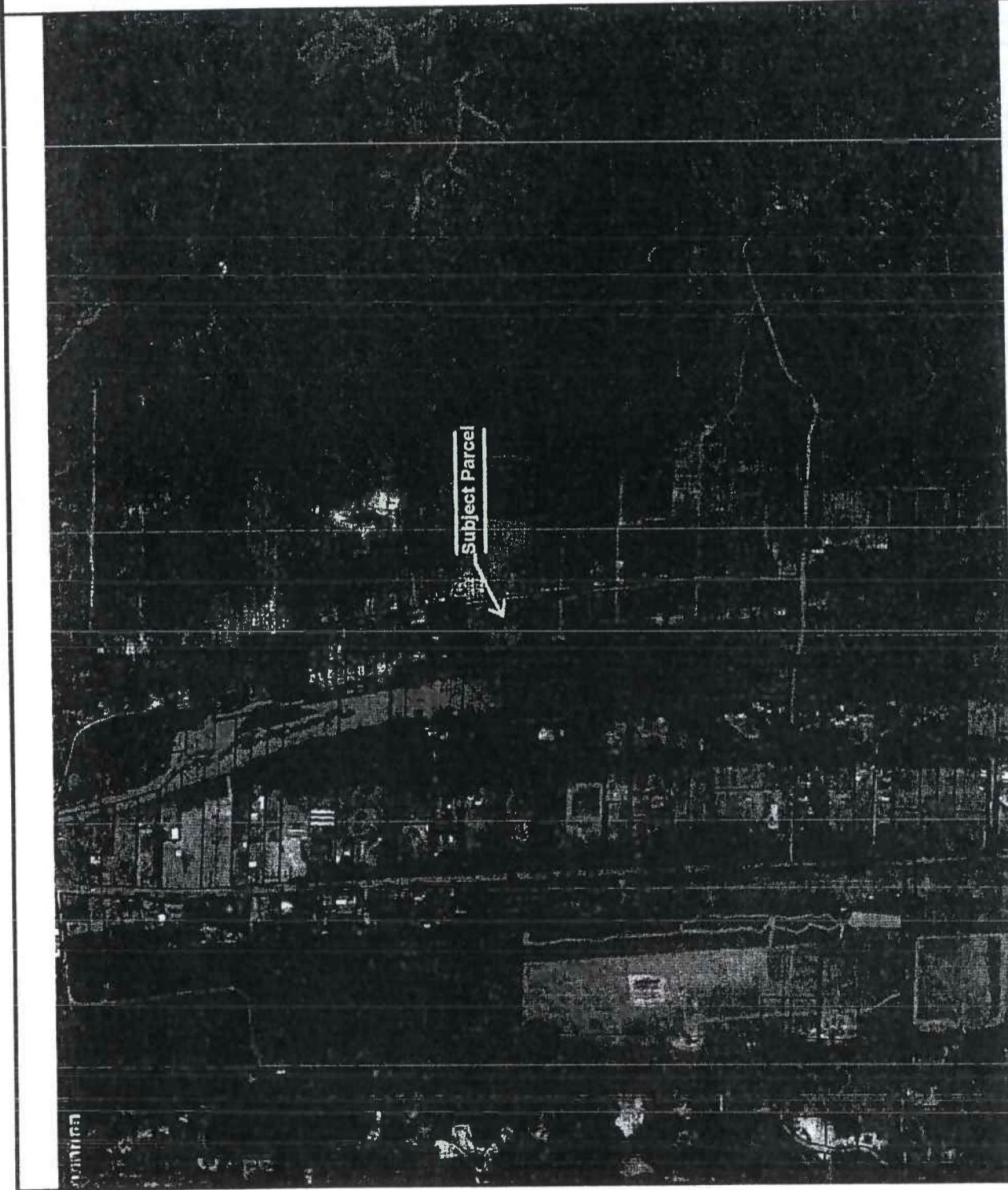
If you have questions about this land use matter or need more information, please contact Michael Weston II, Clatsop County Planner, at (503) 325-8611 or via email at mweston@co.clatsop.or.us.

Clatsop County Map

- Geological Hazards
- PLS
- PLS Townships
- Subdivisions
- Tax Lot Arrows
- Tax Map
- Water Body
- Creek
- Parcel Boundary
- Supplemental Boundary
- J4
- DLC
- Road R-Q-W



8/21/2008



1 in. = 1062 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.

TaxlotKey	Account	Owner_line	Owner Address	City	State	Zip Code
710270001400	17778	Ryan Joan V Major John	1165 Avenue A	Seaside	OR	97138
710270003213	17847	E/Danny Thompson Phillip	1807 Grindmore St	Las Vegas	NV	89135
71022D001703	17699	A Bresko Barbara/Jacob	2657 Hwy 101 N #15	Seaside	OR	97138
710270000300	17747	Brown Hazen	3217 SE Yelm Ave #26	Olympia	WA	98501
710270003229	53891	Roy/Carolyn	33571 Wild Daffodil Ln	Warrenton	OR	97146
710270000400	17750	Ausland Susan Tr	582 Granite Hill Rd	Pass	OR	97526
71022C001100	17631	Clatsop County Dev Train Ctr Kaino Ronald	65 N Hwy 101 #205	Warrenton	OR	97146
710270000401	17751	E/Lois A Taylor Marvis	89111 Dellmoor Lp	Warrenton	OR	97146
710270000500	17752	A/Marjory	89123 Dellmoor Lp	Warrenton	OR	97146
710270000301	17749	Blacker Rodney A/ Elizabeth E	89164 Dellmoor Lp	Warrenton	OR	97146
710270000200	51889	Sandy Betty/Lois Moon Johnston- Finucane Cheryl	89224 Dellmoor Loop Rd	Warrenton	OR	97146
710270000100	17741	A Klemp Dennis	89248 Dellmoor Loop Rd	Warrenton	OR	97146
710270003215	17849	M/Melodi G Carlson Roy A	89253 Hwy 101	Warrenton	OR	97146
710270003202	17836	Jr/Kathy J	89276 Dellmoor Lp	Warrenton	OR	97146
71022DC00800	17712	Mork Constance I	89300 Dellmoor Lp	Warrenton	OR	97146
71022D001702	17698	Monfelt Gary Dean/Kathy Jean	89307 Dellmoor Lp	Warrenton	OR	97146
71022DC00700	17711	Macomb Walter E/Kathleen D	89308 Dellmoor Lp	Warrenton	OR	97146
71022D001701	17697	Smith Delores J Trenholm	92036 Spirit Place Rd	Warrenton	OR	97146
710270003211	53892	Marilyn/Wilford Newhall	Po Box 2039	Gearhart	OR	97138- 2039
71022D001704	17700	John/Nancy DLCD - Oregon	PO Box 2593	Gearhart	OR	97138
Laren Wooley Clatsop Soil & Water Conservation		Coast	2226 Coast Highway, Bx 320 Newport		OR	97365
			750 Commercial St, #207	Astoria	OR	97103

CREST		750 Commercial St, #205	Astoria	OR	97103
Christine	Bridgens	1255 SW 9 th Street	Warrenton	OR	97146
Marcia	Harper-Vellutini	P.O. Box 697	Warrenton	OR	97146
Clarke W.	Powers	89975 Surf Pines Landing Road	Warrenton	OR	97146
Mike	Autio	93750 Autio Loop	Astoria	OR	97103
Cary	Johnson	37751 Hwy 30	Astoria	OR	97103
Brian	Pogue	35103 Hwy 26	Seaside	OR	97138

EXHIBIT 3



Development Permit

Clatsop County Planning and Development
800 Exchange St Ste 100
Astoria, OR 97103

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

For Department Use Only

Permit #: 20080387
Permit Type: Type IV
Entry Date: 6/24/2008
Entered By: Michael Weston
Assigned To: Michael Weston
Permit Status: Pending

Permit Timeline

User	Status	Date
Michael Weston	Entered	06/24/2008
Michael Weston	Assigned	06/24/2008

Proposed Use

Proposed Use: **Zone Change**

Zone: **EFU** Description: Zone Change EFU to RA-2
Overlay District: **BDO**

Project Location

Address: TaxLot Desc. I R S Q S Qq S Taxlot
City: State: OREGON 7 10 27 0 0 00201
Directions:

Applicant/Owner/Agent

Applicant:

Owner:	Name: Sandy Betty Lena Tr & Sandy Betty L Trust	Ph. #: () -
	Address: 89224 Dellmoor Loop Rd	Cell: () -
	City, State, Zip: Warrenton, OR 97146	Fax: () -
Agent:	Name/Type:	Ph. #: () -
	Address:	Cell: () -
	City, State, Zip:	Fax: () -

Fees

Fee Type:	Permit Fee Total:
Planning/Development	\$2,175.00
	Total: \$2,175.00

Receipt

Payor Name:	Pymnt Type	Check #	Pymnt Date	Pymnt Amount:
Sandy Betty Lena Tr	Credit Card		06/24/2008	\$2,175.00
	Balance Due:			\$0.00

Signatures

1. For Commercial and industrial uses, include parking and loading plan, sign plan and erosion control plan.
2. For residential and other uses, include an erosion control plan.
3. Review attached applicant's statement and sign below.

I have read and understand the attached APPLICANT'S STATEMENT and agree to abide by the terms thereof.

Applicant Signature: _____ Date: _____
 Owner Signature: _____ Date: _____
 Agent Signature: _____ Date: _____



Development Permit	For Department Use Only
Clatsop County Planning and Development 800 Exchange St Ste 100 Astoria, OR 97103 Ph (503) 325 - 8611 Fax (503) 338 - 3666	Permit #: 20080387

Zoning District Requirements

Property Access Info.

Access to Property:
County Permit Required?
State Permit Required?

	Setbacks	
	Direction	Req. Actual
F:		
S1:		
S2:		
R:		

Property Information

Compliance/Conditions of Approval

Clatsop County Compliance

Except as noted, the Clatsop County Community Development Department finds the proposed use(s)/action(s) in compliance with the Clatsop County Land & Water Development and Use Ordinance and with the Clatsop County Comprehensive Plan.

The evaluation of the land parcels outlined above is based on the information presented at this time, standards provided in the Clatsop County Land & Water Development & Use Ordinance, and policies of the Comprehensive plan, and the Zoning/ Comprehensive Plan Map.

The applicant or property owner must comply with the conditions noted below and on the attached applicants statement. This permit is not valid unless the conditions are met.

Entered by: Michael Weston
Entered Date: 06/24/2008

Applicants Signature: _____ Date: _____

Clatsop County Authorization: Michael Weston Date: _____



Development Permit
Applicant's Statement

1. *Pertaining to the subject property described, I hereby declare that I am the legal owner of record, or an agent having the consent of the legal owner of record, and am authorized to make the application for a Development Permit/Action so as to obtain the following permits: Building, Sanitation, U.S. Army Corps of Engineers, Oregon Division of State Lands, Oregon Department of Transportation, Oregon Department of Parks and Recreation, or a Clatsop County Road Approach. I shall obtain any and all necessary permits before I do any of the proposed uses or activities. The statements within this application are true and correct to the best of my knowledge and belief. I understand that if the permit authorized was based on false statements, or it is determined that I have failed to fully comply with all conditions attached to and made a part of this permit, this permit approval is hereby revoked and null and void.*
2. *It is expressly made a condition of this permit that I at all times fully abide by all State, Federal, and local laws, rules, and regulations governing my activities conducted or planned pursuant to this permit.*
3. *As a condition for issuing this Development Permit/Action, the undersigned agrees that he/she will hold Clatsop County harmless from and indemnify the County for any and all liabilities to the undersigned, his/her property or any other person or property, that might arise from any and all claims, damages, actions, causes of action or suits of any kind or nature whatsoever, which might result from the undersign's failure to build, improve or maintain roads which serve as access to the subject property or from the undersign's failure to fully abide by any of the conditions included in or attached to this permit.*
4. **WAIVER OF VESTED RIGHTS DURING APPEAL PERIOD FOR ZONING AUTHORIZATIONS.**
I have been advised that this Land and Water Development Permit/Action by the Clatsop County Community Development Director may be appealed within twelve (12) calendar days of the date of permit issuance and authorization (note: if the twelfth day is a Saturday, Sunday or legal holiday, the appeal period lasts until the end of the next day which is not a Saturday, Sunday or legal holiday). I understand that if the approval authorized by the County and referenced above is reversed on appeal, then the authorization granted prior to the end of the appeal period will be null and void. I further understand and consent to the fact that any actions taken by me in reliance upon the authorization granted during the appeal period shall be at my own risk, and that I hereby agree not to attempt to hold Clatsop County responsible for consequences or damages in the event that removal of improvements constructed during the appeal period is ordered because an appeal is sustained.
5. *I am aware that failure to abide by applicable Clatsop County Land and Water Development and Use Ordinance 80-14, as amended and Standards Document regulations may result in revocation of this permit or enforcement action by the County to resolve a violation and that enforcement action may result in levying of a fine.*
6. *I understand that a change in use, no matter how insignificant, may not be authorized under this permit and may require a new Development Permit/Action (check first, with the Clatsop County Community Development Department).*
7. *I understand that this Development Permit/Action expires 180 days from the date of issuance unless substantial construction or action pursuant to the permit has taken place. Upon expiration, a new development permit must be obtained.*

Betty L. Sandy

The following documents are submitted by Betty L. Sandy of 89224 Dellmoor Loop Rd., Warrenton, Oregon to support a zone change and show that a zone change from EFU to RA2 is consistent with all requirements as outlined below.

A zone change and goal exception may be permitted if the following requirements are met:

- 1) It is consistent with the Clatsop County Comprehensive Plan Elements 1-18.
- 2) It is consistent with the applicable Community Plan, (Clatsop Plains) and complies with Section 5.412 of the Clatsop County Land and Water Development and Use Ordinance #80-14.
- 3) The zone change meets certain goal exception criteria as set forth in ORS 197.732 Goal Exception; criteria, rules; review

The documents are submitted in the following order.

Section 1: Application for Zone Change, Ownership and Property details pages 2-4

- 1) Application
- 2) Owner/Applicant -- Betty L. Sandy
- 3) Property Detail

Section 2: Clatsop Plains Community Plan Elements (Goals 1-18) pages 5-7

Section 3: Clatsop County Land and Water Development and Use Ordinance

Section 5.412 page 8

Section 4: Exception to Goal 3; Application, criteria, and findings to support a goal exception. pages 9-15

Section 5: Exhibits pages 16-35

Section 6: Sources page 36



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

PROPOSED USE: Residential

	<u>Zoning</u>	<u>Comprehensive Plan Designation</u>
Current:	<u>EFU</u>	<u>Rural Agricultural Lands</u>
Proposed:	<u>RAI</u>	<u>Rural Lands</u>

LEGAL DESCRIPTION OF PROPERTY:

T: 7 R: 10 S: 27 TL: 201 ACRES: 3.63

OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:

T: 7 R: 10 S: 27 TL: ~~202~~ ACRES: 5.991.94

T: 7 T: 10 S: 27 TL: 1006 ACRES: 1.42

APPLICANT 1: (Mandatory)

Name: Betty L. Sandy Phone # (Day): 503 738 5239

Mailing Address: 89224 Dellmoor loop FAX #: _____

City/State/Zip: Wassenaar, OR 97146 Signature: Betty L. Sandy

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: _____ Phone # (Day): _____

Mailing Address: _____ FAX #: _____

City/State/Zip: _____ Signature: _____

Community Development Department
 800 Exchange, Suite 100 * Astoria Oregon 97103 * (503) 325-8611 * FAX 503-338-3666

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 not be detrimental to the health, safety, and general welfare of Clatsop County.

3. The property in the affected area must be presently provided with adequate public facilities, services and transportation networks to support the use; or the governing body by condition requires their provision by condition attached to any approval of use.

OFFICE USE ONLY: date received : _____ application #: _____
date complete: _____ R&O/Ord#: _____

Betty L. Sandy

SECTION 2: County wide elements for land use for the proposed re-zoning of Betty L. Sandy property; tax lots 201, 202 and 1006 located on Dellmoor Loop Rd., Warrenton, Oregon.

Goal 1: Citizen Involvement.

Citizens will be provided the opportunity to be involved consistent with policies set forth in the goals and guidelines for Land Use Planning in Clatsop County as stated in the Clatsop County Comprehensive Plan codified May 29, 2007.

Goal 2: Land Use Planning.

The Clatsop County Comprehensive Plan recognizes the increased demand for rural housing in Clatsop County. The proposed zone change from EFU to RA2 will help meet this goal. The proposed zoning change will allow for more County property available for residential use in an area that has; public facilities, services, roads, fire protection, and city water. Also, the property is less than 15 acres. In general the area is primarily residential and falls within a residential development pattern of 2 to 5 acre parcels. Re-zoning is consistent with the existing development patterns in the Dellmoor Loop area. There will be little or no impact on stated goals for land use in Clatsop County with regard to forest lands, natural areas or rural agricultural lands.

Goal 3: Agricultural Lands.

The zone change to RA2 will not change existing agriculture. Currently, South of tax lot 201, cranberries are the primary agricultural product. However, residences are located immediately South, East, and North of tax lot 201. The lot size prohibits its use for a profitable agricultural venture, thus its highest and best use is residential with no impact on existing agricultural operations. The requested zone change is consistent with goals for agricultural lands that are committed to other uses, specifically for RA2. (See detailed reasons submitted with Goal 3 Exception application).

Goal 4: Forest Lands.

There will be no impact on forest lands.

Goal 5: Open Spaces, Scenic and Historic Areas and Natural Resources.

The zoning change requested will have no impact on stated goals; to conserve open space, and to protect natural and scenic resources.

The wildlife present is primarily elk, deer, coyote, and water fowl that use West Lake. The proposed zoning change will not effect these as the area is a well developed residential area co-existing with wildlife that is present.

Goal 6: Air, Water and Land Quality.

There will be no impact on air, water, and land quality as Warrenton water is provided on Dellmoor Loop Rd. and sand filters or septic systems are utilized by existing residents.

Betty L. Sandy

Goal 7: Natural Hazards.

There are no natural hazards on the property for which the zone change is requested.

Goal 8: Recreational.

There are no public recreation areas on the property and there will be no impact on existing recreation in the area, i.e. Cullaby Lake, Cullaby Creek, West Lake or Horse Arena (Whiterail Acres).

Goal 9: Economy.

The primary potential effect on the economy of the State or Clatsop County for the proposed change to RA2 are; the potential impacts associated with cost of site preparation and building of a residence, other property improvements, increased taxes, and greater use of recreational facilities in the area.

Goal 10: Population and Housing.

The proposed zone change to RA2 will help meet the housing needs of Clatsop County citizens as stated in the Clatsop County Comprehensive Plan.

The public facilities and services required for a zone change exists on Dellmoor Loop Rd. A single family residence will not significantly impact population growth projections for the area.

Goal 11: Public Facilities and Services.

There will be no significant impact on public facilities and services as these are currently provided to residences on Dellmoor Loop Rd. The impact would be that necessary to "hook up" necessary utilities for a residence.

Goal 12: Transportation.

No direct access to Hwy. 101 is proposed as Dellmoor Loop Rd provides access to Hwy. 101 North and South of the property.

Goal 13: Energy Conservation.

Any buildings, (residence, etc.) that may be built will comply with all building codes required by Clatsop County for Warrenton, Clatsop Plains, and the State of Oregon.

Goal 14: Urbanization.

The property lies outside any existing Urban Growth Boundaries.

Goal 15: Not applicable.

Goal 16 and 17: Estuarine and Coastal Shore Lands.

No impact on existing estuaries or coastal shore lands.

Betty L. Sandy

Goal 18: Beaches and Dunes.

The property is a non-beach, stabilized old dune area; therefore, no impact on stated goals and policies for protection, conservation, and restoration of coastal beach and dune areas.

Betty L. Sandy

SECTION 3: Clatsop Plains Elements for Land Use Plan for the proposed zone change for Tax Lots 201, 202, and 1006.

The land is predominantly flat and the old stabilized sand dune provides an excellent residential building site. The zone change requested is consistent with the existing residential development of the area. Further, a zone change would not diminish any forest, dunes, open space, views, wildlife habitat, recreation, scenic, or historic area of Clatsop Plains.

The Clatsop Plains aquifer policy will be complied with as zone changes are subject to review by the Planning Commission and Department of Planning and Development.

A zone change to RA2 provides the opportunity to meet stated housing goals for Clatsop Plains; without requiring additional public facilities, fire protection, or access roads.

In summary, the requested zone change from EFU to RA2 is compatible with the predominant characteristics of a primarily residential development in the Clatsop Plains. Further, the requested zone change is consistent with Section 5.412. Zone change criteria as stated in the Clatsop County Land and Water Development Land Plan.

Betty L. Sandy

SECTION 4:

- 1) Application-----pages 9-12
- 2) Exception Criteria-----page 13
- 3) Findings-----pages 13 - 14



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EXHIBIT 4



Development Permit

Clatsop County Planning and Development
800 Exchange St Ste 100
Astoria, OR 97103

Ph. (503) 325 - 8611 Fax (503) 338 - 3666

For Department Use Only

Permit #: 20080386
Permit Type: Type IV
Entry Date: 6/24/2008
Entered By: Michael Weston
Assigned To: Michael Weston
Permit Status: Pending

Permit Timeline

User	Status	Date
Michael Weston	Entered	06/24/2008
Michael Weston	Assigned	06/24/2008

Proposed Use

Proposed Use: **Goal Exception**

Zone: **EFU** Description: Goal Exception
Overlay District: **BDO**

Project Location

Address: TaxLot Desc: **I R S Q S Qq S Taxlot**
City: State: OREGON **7 10 27 0 0 00201**
Directions:

Applicant/Owner/Agent

Applicant:

Owner:	Name: Sandy Betty Lena Tr & Sandy Betty L Trust	Ph. #: () -
	Address: 89224 Dellmoor Loop Rd	Cell: () -
	City, State, Zip: Warrenton, OR 97146	Fax: () -
Agent:	Name/Type:	Ph. #: () -
	Address:	Cell: () -
	City, State, Zip:	Fax: () -

Fees

Fee Type:	Permit Fee Total:
Planning/Development	\$2,481.00
	Total: \$2,481.00

Receipt

<u>Payor Name:</u>	<u>Pymnt Type</u>	<u>Check #</u>	<u>Pymnt Date</u>	<u>Pymnt Amount:</u>
Sandy Betty Lena Tr	Credit Card		06/24/2008	\$2,481.00
			Balance Due:	\$0.00

Signatures

1. For Commercial and industrial uses, include parking and loading plan, sign plan and erosion control plan.
2. For residential and other uses, include an erosion control plan.
3. Review attached applicant's statement and sign below.

I have read and understand the attached APPLICANT'S STATEMENT and agree to abide by the terms thereof.

Applicant Signature: _____ Date: _____
 Owner Signature: _____ Date: _____
 Agent Signature: _____ Date: _____



Development Permit	For Department Use Only
Clatsop County Planning and Development 800 Exchange St Ste 100 Astoria, OR 97103 Ph. (503) 325 - 8611 Fax (503) 338 - 3666	Permit #: 20080386

Zoning District Requirements

Property Access Info.

Access to Property:
County Permit Required?
State Permit Required?

Direction	Setbacks	
	Req.	Actual
F:		
S1:		
S2:		
R:		

Property Information

Compliance/Conditions of Approval

Clatsop County Compliance

Except as noted, the Clatsop County Community Development Department finds the proposed use(s)/action(s) in compliance with the Clatsop County Land & Water Development and Use Ordinance and with the Clatsop County Comprehensive Plan.

The evaluation of the land parcels outlined above is based on the information presented at this time, standards provided in the Clatsop County Land & Water Development & Use Ordinance, and policies of the Comprehensive plan, and the Zoning/ Comprehensive Plan Map.

The applicant or property owner must comply with the conditions noted below and on the attached applicants statement. This permit is not valid unless the conditions are met.

Entered by: Michael Weston

Entered Date: 06/24/2008

Applicants Signature: _____

Date: _____

Clatsop County Authorization: _____

Date: _____



Development Permit

Applicant's Statement

1. *Pertaining to the subject property described, I hereby declare that I am the legal owner of record, or an agent having the consent of the legal owner of record, and am authorized to make the application for a Development Permit/Action so as to obtain the following permits: Building, Sanitation, U.S. Army Corps of Engineers, Oregon Division of State Lands, Oregon Department of Transportation, Oregon Department of Parks and Recreation, or a Clatsop County Road Approach. I shall obtain any and all necessary permits before I do any of the proposed uses or activities. The statements within this application are true and correct to the best of my knowledge and belief. I understand that if the permit authorized was based on false statements, or it is determined that I have failed to fully comply with all conditions attached to and made a part of this permit, this permit approval is hereby revoked and null and void.*
2. *It is expressly made a condition of this permit that I at all times fully abide by all State, Federal, and local laws, rules, and regulations governing my activities conducted or planned pursuant to this permit.*
3. *As a condition for issuing this Development Permit/Action, the undersigned agrees that he/she will hold Clatsop County harmless from and indemnify the County for any and all liabilities to the undersigned, his/her property or any other person or property, that might arise from any and all claims, damages, actions, causes of action or suits of any kind or nature whatsoever, which might result from the undersign's failure to build, improve or maintain roads which serve as access to the subject property or from the undersign's failure to fully abide by any of the conditions included in or attached to this permit.*
4. **WAIVER OF VESTED RIGHTS DURING APPEAL PERIOD FOR ZONING AUTHORIZATIONS.**
I have been advised that this Land and Water Development Permit/Action by the Clatsop County Community Development Director may be appealed within twelve (12) calendar days of the date of permit issuance and authorization (note: if the twelfth day is a Saturday, Sunday or legal holiday, the appeal period lasts until the end of the next day which is not a Saturday, Sunday or legal holiday). I understand that if the approval authorized by the County and referenced above is reversed on appeal, then the authorization granted prior to the end of the appeal period will be null and void. I further understand and consent to the fact that any actions taken by me in reliance upon the authorization granted during the appeal period shall be at my own risk, and that I hereby agree not to attempt to hold Clatsop County responsible for consequences or damages in the event that removal of improvements constructed during the appeal period is ordered because an appeal is sustained.
5. *I am aware that failure to abide by applicable Clatsop County Land and Water Development and Use Ordinance 80-14, as amended and Standards Document regulations may result in revocation of this permit or enforcement action by the County to resolve a violation and that enforcement action may result in levying of a fine.*
6. *I understand that a change in use, no matter how insignificant, may not be authorized under this permit and may require a new Development Permit/Action (check first, with the Clatsop County Community Development Department).*
7. *I understand that this Development Permit/Action expires 180 days from the date of issuance unless substantial construction or action pursuant to the permit has taken place. Upon expiration, a new development permit must be obtained.*



**APPLICATION FOR
GOAL EXCEPTION**
Fee: \$2.481 (Required with application)

PROPOSED USE: Residential

ZONE: ERU

EXCEPTION TO GOAL 3 4 10 12 14
 16 17 18 other: _____ amend existing exception

LEGAL DESCRIPTION OF PROPERTY:
T: 7 R: 10 S: 27 TL: 201 ACRES: 3.63

OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:
T: 7 R: 10 S: 27 TL: 3208 ACRES: .47
T: 7 R: 10 S: 27 TL: 202 ACRES: 1.94

APPLICANT 1: (mandatory)
Name: Betty L. Sandy Phone # (Day): 503 738 5239
Mailing Address: 89224 Dellwood Loop Fax#: _____
City/State/Zip: Warrenton, Or. 97146 Signature: Betty L. Sandy

PROPERTY OWNER: (mandatory if different than applicant)
Name: _____ Phone # (Day): _____
Mailing Address: _____ Fax#: _____
City/State/Zip: _____ Signature: _____

ARCHITECT/ENGINEER/SURVEYOR/CONSULTANT: (optional)
Name: _____ Phone # (Day): _____
Mailing Address: _____ Fax #: _____
City/State/Zip: _____ Signature: _____

Community Development Department
800 Exchange, Suite 100 * Astoria, Oregon 97103 * (503) 325-8611 * FAX 503-338-3666

10

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. An exception is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
 - a. is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
 - b. does not comply with some or all goal requirements applicable to the subject properties or situations; and
 - c. complies with standards for an exception.

2. There are three kinds of goal exceptions :

- a. The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.
- b. The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because factors make uses allowed by the applicable goal impracticable.
- c. The following four-part test is met (a reasons exception):
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site;
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Requirements for exception "a" are described under paragraph 3, below. Requirements for exception "b" are found in paragraph 4. Requirements for exception "c" are in paragraph 5.

3. The county may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal. Whether land has been physically developed with uses not allowed by the applicable goal

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

4. The county may adopt an exception to a goal when land is irrevocably committed to uses not allowed by the applicable goal because factors make uses allowed by the goal impracticable. Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception must address:

- a. characteristics of the exception area;
- b. characteristics of adjacent lands;
- c. the relationship between the exception area and adjacent lands;
- d. adjacent uses;
- e. existing public facilities and services;
- f. parcel size and ownership patterns on the exception area and on adjacent lands;
- g. neighborhood and regional characteristics;
- h. natural or man-made features or other impediments separating the exception area from adjacent resource land;
- i. physical development;
- j. other relevant factors.

5. The county may adopt an exception to a goal if all four of the following standards are met:

- a. Reasons justify why the state policy embodied in the applicable goals should not apply;
- b. Areas which do not require a new exception cannot reasonably accommodate the use;
- c. The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site;

- d. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Oregon Administrative Rules Chapter 660, Division 4, provide a great deal of information about the exception requirements for this type of exception. County Community Development department staff can provide a copy of these rules, or they can be obtained from the Oregon Department of Land Conservation and Development.

OFFICE USE ONLY: date received: _____ application #: _____
 date complete: _____ R&O/Ord#: _____

Betty L. Sandy

Goal Exception Criteria used as being applicable to the request for an exception to Goal 3 as follows:

“The land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because factors make uses allowed by the applicable goal impracticable.” (ORS 197.732)

The 5.99 acres of the subject property is of insufficient size to support a viable agricultural use and properties in the general area are irrevocably committed to residential uses and are zoned RA2, not EFU. (Exhibit A; p 17-18)

Goal 3: (Agricultural Lands) of the Clatsop County Comprehensive Plan
states: To Preserve and maintain agricultural lands.

Policies: Among the stated policies the primary emphasis is on; preserving existing farming communities, encourage consolidation of EFU land into large efficient farm units, conserve agricultural land meeting criteria for forest land in sufficient parcel size for forest uses, and encourage division of underutilized agricultural land into small tracts for part-time hobby farming where large farms are impractical or where the area is determined to be committed to other uses.

The above policy is relevant to the subject property consisting of 5.99 acres. The properties to the North are zoned RA2, with established residences. There are residences to the South and East of the subject property. Immediately adjacent to the West is RA2 property and West Lake.

Agricultural uses of other properties located on Dellmoor Loop Rd are the cranberry bogs to the South. A public stable is located to the East. However, the subject property is in an area primarily committed to residential uses.

The size of the property prohibits the economic feasibility of agricultural uses for 5.99 acres. The findings to support this are:

Findings:

1) The Clatsop County Soil Survey of 1984 indicates the major soil to be of Gearhart type primarily suitable for cropland, homesites and wildlife habitat. The primary crops are berries, grasses, and legumes; all requiring adequate fertilization of nitrogen, phosphorus, potassium, and lime. Also, the Soil Survey states that to maximize production it is necessary to prevent wind erosion, rotate crops and/or grazing, control weeds, and fertilize annually. Irrigation would slightly increase the crop yield per acre. Also, there is some Bergsvik type soil that is not suitable to agricultural uses according to the Soil Survey Study. (Exhibit B ; pages 19 - 23, 25)

Betty L. Sandy

2) The primary agricultural operation in the area is the growing of cranberries. According to local cranberry growers on Dellmoor Loop Road, Warrenton, the subject property may provide for about 3 acres of cranberry bogs. To begin land preparation for cranberry bogs one must secure the appropriate permits from various agencies such as; the Corp of Engineers, Soil Conservation, Wildlife and Environmental Protection. This is a lengthy, costly process and a difficult if not impossible task to accomplish. Estimated costs, after permits, to prepare 3 acres for cranberry bogs is \$62,000.00 plus the costs of a pond, irrigation system, pump, equipment for maintenance of bogs and harvesting of fruit produced. Irrigation and maintenance requires a source for water and sand which is not readily available to the property.

It takes 4-5 years for a bog to start producing an estimated 50 barrels / acre on the Dellmoor Loop bogs. The market price for cranberries in 2007 was \$52.00 / barrel. Thus, a 3 acre bog would provide for about \$8500.00 gross revenue per year. According to a Washington State grower a really "good" grower could make a meager living on \$62,500.00 gross revenue per year. Market price is federally regulated and is set each year based on a growers sales history. Local Oregon growers market the cranberries through the Western Growers Alliance. (Local Growers - 4) The payback period for land preparation exceeds 7 years and annual revenue of \$8,500.00 would not provide for annual maintenance costs, as well as, provide sufficient profit to make growing of cranberries on 3 acres an economically feasible undertaking. Generally, a cranberry farm averages 15 - 20 acres. (Oregon Cranberries - 5)

3) The use of the land for grazing is not economically feasible. The available pasture land could support two horses at \$50.00 per month per horse or approximately \$600.00 per year. According to the Soil Survey good management practices requires rotation on grazing land, fertilizing, etc. Thus grazing is not economically feasible for the property with approximately 3 acres available for grazing. (Exhibit B; page 21, and Suppliers/owners - 6)

4) The use of 3 or 4 acres for the growing of hay is not economically feasible either. The available acreage could provide about 3 tons per acre without irrigation and about 4 tons per acre with irrigation. A yield of about 9 tons of hay at a market price of \$260.00 per ton provides a gross annual revenue of \$2,200.00 for a non irrigated crop and an additional \$260.00 for an irrigated crop. (Exhibit B; page 26 and Suppliers - 6)

The use of the land as a homesite is the most economically viable use of the land and is consistent with the overall use of the surrounding land zoned RA2 and meets the conditions for the soil as set forth by the Soil Survey of 1984. (Exhibit B; page 20)

Given the most likely agricultural uses of 5.99 acres and approximately 3-4 acres available for cropland and/or grazing the acreage can not sustain a profitable agricultural undertaking. The use of the land as a homesite is the most economically viable undertaking and is consistent with the current usage of adjacent lands. Also, this use of the subject property meets the conditions for the soil type as set forth by the Soil Survey.

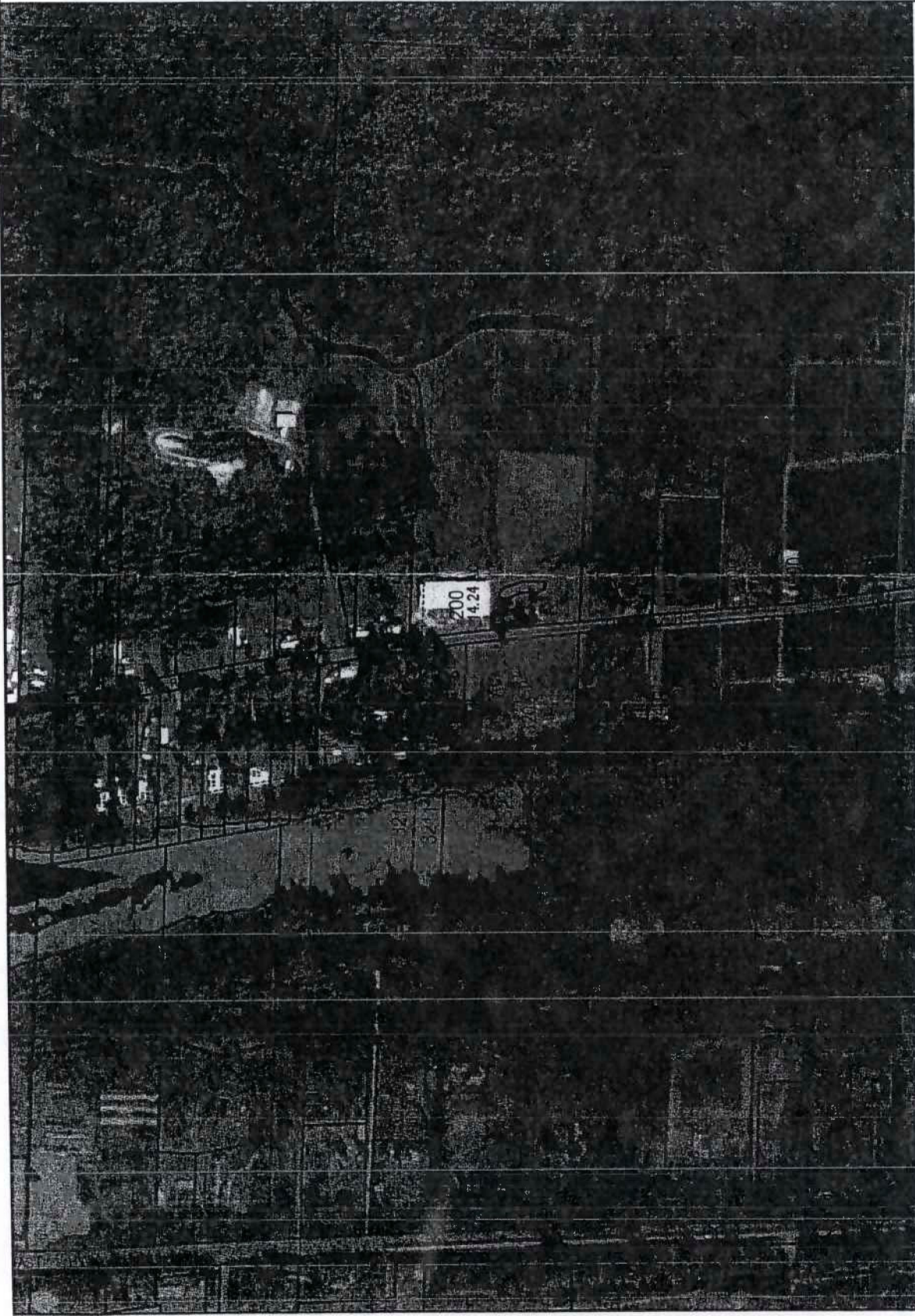
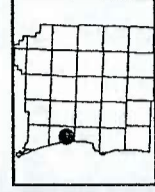
SECTION 5: Exhibits

A Clatsop County Site Map. (1 and 2)-----pages 16 - 18
B Soil Survey Map-----page 19
C Soil Survey type - Gearhart-----pages 20 - 22
D Soil Survey type - Bergsvik-----pages 23 - 25
E Land Capability - Gearhart soil-----page 26
F Land Capability - Bergsvik soil-----page 27
G Plat Map of Tax Lots 201, 202, and adjacent lands-----page 28
H Photos of Tax Lot 201. (1 - 5)-----pages 29 - 33
I City of Warrenton Water availability statement.-----page 34
J Letter from Gearhart Volunteer Fire Dept.-----page 35

Bethy L. Saady

Clatsop County Map

- PLS
- PLS Township
- PLS Section
- Water Body
- Contour
- Parcel Boundary
- Supplemental Boundary
- DLC
- Road R-DW



1 in. = 311 ft.

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This map was produced using the Clatsop County GIS. The data was last updated in 2008. The County is not responsible for any errors, omissions, or misrepresentations.

1:140,000 FEET

Betty L. SANDY



Betty L. Sandy

Install culverts to carry seasonal runoff where roads cross natural drainageways.
Seed road cuts and fills to permanent vegetation.

19C—Gearhart fine sandy loam, 3 to 15 percent slopes.

Composition

Gearhart soil and similar inclusions - 85 percent
Contrasting inclusions - 15 percent

Gearhart Soil

Position on landscape: Stabilized dunes
Slope range: 3 to 15 percent
Elevation: 15 to 70 feet
Native plants: Shore pine, Sitka spruce, grasses, Scotch-broom, salal, strawberries, western swordfern
Organic mat on surface: Moss, needles, and twigs 1 inch thick
Typical profile:
0 to 11 inches - black fine sandy loam
11 to 16 inches - dark brown loamy fine sand
16 to 45 inches - dark gray fine sand
45 to 60 inches - gray sand
Depth class: Very deep (60 inches or more)
Drainage class: Somewhat excessively drained
Permeability: Rapid
Available water capacity: 4 to 7 inches
Potential rooting depth: 60 inches or more
Runoff: Slow
Hazard of erosion: By water - slight; by wind - moderate

Included Areas

Soils that have slopes of more than 15 percent
Soils that are wet
Soils that have a layer of iron accumulation in the profile

Major Uses

Cropland, homesites, wildlife habitat

Major Management Factors

Soil-related factors: Erosion by wind, permeability, hazard of seepage
Climatic factors (mean annual):
Precipitation - 70 to 100 inches
Soil temperature - 49 to 53 degrees F (varies less than 9 degrees from summer to winter)
Frost-free period - 210 to 245 days

Cropland

General management considerations:
Most climatically adapted crops can be grown.

Suitable crops for planting are grasses and legumes. Grasses and legumes grow well if they are adequately fertilized.
Most crops respond to nitrogen, phosphorus, potassium, and lime.
Legumes respond to phosphorus and lime. Addition of potassium may also be needed.
The high content of sand reduces the amount of moisture available to plants.

Suitable management practices:

Irrigate during the dry period in summer.
Apply enough water to wet the root zone but not so much that it leaches plant nutrients.
Reduce the risk of wind erosion by maintaining a plant cover and using minimum tillage.
Maintain the quality and quantity of forage by rotating grazing, mowing and clipping, controlling weeds, and applying fertilizer annually.

Building Site Development

General management considerations:

Excavation for roads can expose material that is highly susceptible to wind erosion.
Cutbanks are not stable and therefore are subject to slumping.
Onsite sewage disposal systems may not be suitable because of the risk of polluting the ground water.
If the density of housing is moderate to high, a community sewage system may be needed.

Suitable management practices:

Revegetate disturbed areas at construction sites as soon as possible to reduce the risk of wind erosion.
Design buildings and roads to offset the limited ability of the soil to support a load.
Seed road cuts and fills to permanent vegetation.

19D—Gearhart fine sandy loam, 15 to 30 percent slopes.

Composition

Gearhart soil and similar inclusions - 85 percent
Contrasting inclusions - 15 percent

Gearhart Soil

Position on landscape: Dunes
Slope range: 15 to 30 percent
Elevation: 25 to 70 feet
Native plants: Shore pine, Sitka spruce, grasses, Scotch-broom, salal, strawberries, western swordfern
Organic mat on surface: Moss, needles, and twigs 1 inch thick

CEC 1000

Typical profile:

- 0 to 11 inches - black fine sandy loam
- 11 to 16 inches - dark brown loamy fine sand
- 16 to 45 inches - dark gray fine sand
- 45 to 60 inches - gray sand

Depth class: Very deep (60 inches or more)

Drainage class: Somewhat excessively drained

Permeability: Rapid

Available water capacity: 4 to 7 inches

Potential rooting depth: 60 inches or more

Runoff: Slow

Hazard of erosion: By water - slight; by
wind - moderate

Included Areas

Soils that have slopes of less than 15 percent

Major Uses

Wildlife habitat, cropland, homesites

Major Management Factors

Soil-related factors: Erosion by wind in some areas,
permeability, hazard of seepage

Climatic factors (mean annual):

Precipitation - 70 to 100 inches

Soil temperature - 49 to 53 degrees F (varies less
than 9 degrees from summer to winter)

Frost-free period - 210 to 245 days

Cropland

General management considerations:

Most climatically adapted crops can be grown.
Suitable crops for planting are grasses and legumes.
Grasses and legumes grow well if they are
adequately fertilized.

Most crops respond to nitrogen, phosphorus,
potassium, and lime.

Legumes respond to phosphorus and lime. Additions
of potassium may also be needed.

The high content of sand reduces the amount of
moisture available to plants.

Suitable management practices:

Maintain or improve fertility by using a cropping
system that includes grasses, legumes, or grass-
legume mixtures and by using minimum tillage.

Reduce the risk of erosion by using minimum tillage
and seeding disturbed areas to native or tame
pasture plants.

Reduce the risk of wind erosion by maintaining a
plant cover and using minimum tillage.

Maintain the quality and quantity of forage by
adjusting stocking, especially on the steeper
slopes; rotating grazing; discouraging selective
grazing; controlling weeds; and applying fertilizer
annually.

Clatsop County, Oregon

4 when moist or dry. The content of clay is 22 to 30 percent.

The BC horizon has hue of 10YR or 7.5YR, value of 4 or 5 when moist and 5 or 6 when dry, and chroma of 4 or 6 when dry. The content of clay is 18 to 27 percent.

Gearhart Series

The Gearhart series consists of very deep, somewhat excessively drained soils on stabilized sand dunes. These soils formed in eolian sand. Slope is 3 to 30 percent. The mean annual precipitation is 70 to 100 inches. The mean annual air temperature is 48 to 52 degrees F.

Typical pedon of Gearhart fine sandy loam, 3 to 15 percent slopes (fig. 14), in an area of native vegetation; on a stabilized dune 20 feet south of Camp Kiwanilong Road and about 500 feet southwest of its junction with the Fort Stevens Road; in the NW1/4SE1/4 of sec. 20, T. 8 N., R. 10 W., Willamette Meridian:

- 0 to 1 inch to 0; leaves, needles, moss, and twigs.
- 0 to 11 inches; black (10YR 2/1) fine sandy loam, very dark gray (10YR 3/1) dry; weak medium granular structure; soft, very friable, nonsticky and nonplastic; many fine and very fine roots; many very fine irregular pores; very strongly acid; abrupt smooth boundary.
- 11 to 16 inches; dark brown (7.5YR 3/3) loamy fine sand, brown (7.5YR 5/4) dry; weak fine subangular blocky structure parting to single grain; loose, nonsticky and nonplastic; common very fine roots; many very fine irregular pores; common reddish brown (2.5YR 4/4) streaks; very strongly acid; gradual irregular boundary.
- 16 to 45 inches; dark gray (10YR 4/1) fine sand, light gray (10YR 6/1) dry; single grain; loose, nonsticky and nonplastic; many very fine irregular pores; few reddish brown (2.5YR 4/4) streaks; very strongly acid; diffuse wavy boundary.
- 45 to 60 inches; gray (10YR 5/1) sand, light gray (10YR 6/1) dry; single grain; loose, nonsticky and nonplastic; many very fine irregular pores; very strongly acid.

The mean annual soil temperature is 49 to 53 degrees. The difference between the mean summer and mean winter soil temperature is less than 9 degrees. The depth of the epipedon is 10 to 20 inches thick.

A horizon has hue of 10YR or 7.5YR, value of 2 or 3 when moist and 3 or 4 when dry, and chroma of 1 or 2 when moist or dry. The content of clay is 10 to 15 percent.

Bw horizon has hue of 5YR, 7.5YR, or 10YR, value of 3 or 4 when moist and 5 or 6 when dry, and chroma of 3 or 4 when moist or dry. The content of clay is 18 to 27 percent. In some pedons a few iron stains that have a hue of 2.5YR are on the peds.

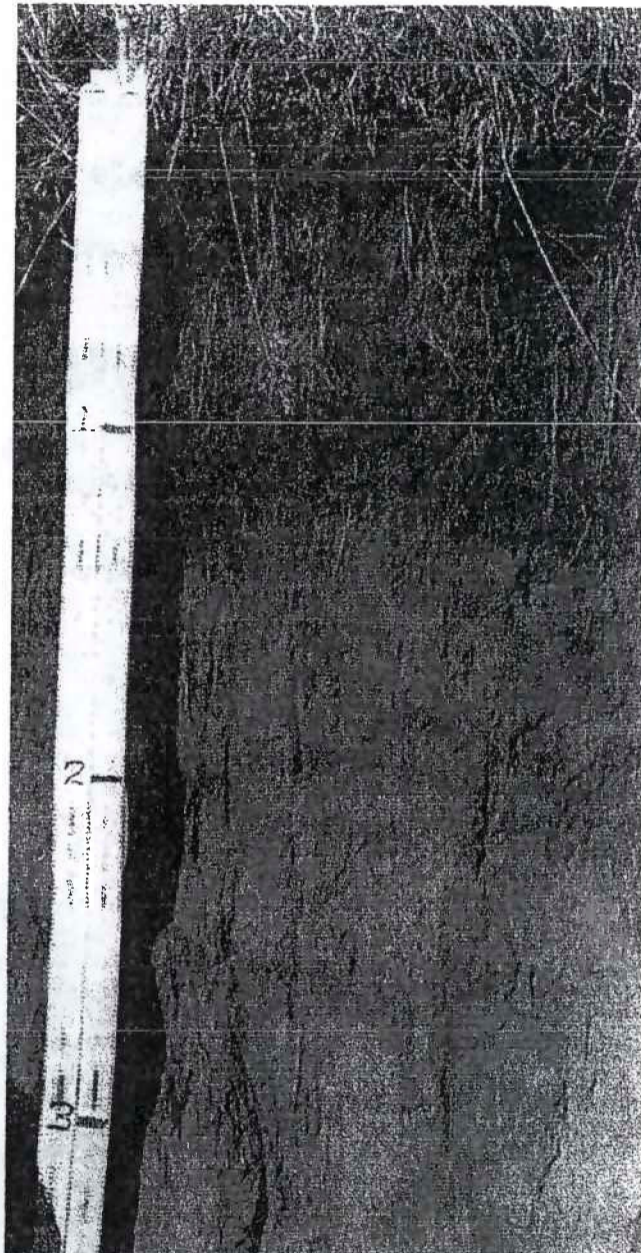


Figure 14.—Profile of Gearhart fine sandy loam, 3 to 15 percent slopes.

The C horizon has hue of 10YR, 2.5Y, or 5Y, value of 4 or 5 when moist and 6 or 7 when dry, and chroma of 1 to 4 when moist or dry. The content of clay is 3 to 5 percent.

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Gearhart

Gearhart Series 1961

Gearhart Series

Manage regeneration carefully to reduce the competition of less desirable plants and provide shade for seedlings.
 Improve stands by thinning before trees reach commercial size and by selective cutting of mature trees.

4—Beaches.

Kind of material: Sand and coarse fragments (fig. 2)

Slope range: 0 to 3 percent

Use: Recreation

Effect of waves and wind: Periodic deposition and removal of material

Special features: Some pockets of quicksand in winter and early in spring

Major management factors: Erosion by wind; erosion by water; gravel, cobbles, and stones in some areas; load supporting capacity

5A—Bergsvik mucky peat, 0 to 1 percent slopes.

Composition

Bergsvik soil and similar inclusions - 90 percent

Contrasting inclusions - 10 percent

Bergsvik Soil

Position on landscape: Depressional areas

Slope range: 0 to 1 percent

Elevation: 5 to 20 feet

Native plants: Sitka spruce, western hemlock, western redcedar, willow, salmonberry, skunkcabbage, sedges, rushes, Douglas spirea

Typical profile:

0 to 36 inches - dark reddish brown, black, and very dark grayish brown mucky peat

36 to 60 inches - very dark brown and very dark grayish brown fine sand

Depth class: Very deep (more than 60 inches)

Drainage class: Very poorly drained

Permeability: In the organic layer - moderate; in the sandy layer - moderately rapid

Available water capacity: 16 to 22 inches

Potential rooting depth: 60 inches or more for water tolerant plants

Runoff: Pondered

Hazard of erosion by water: None

Depth to water table: 12 inches above the surface to 36 inches below the surface throughout the year



Figure 2.—Area of Beaches at low tide.

Betty L. Sandy

Clatsop County, Oregon

BARASVILLE

Frequency of flooding by slow-moving water: Occasional in December through April

Included Areas

Soils that are sandy throughout the profile
Soils that are organic material throughout the profile
Soils that are sandy in the upper 3 to 12 inches

Major Uses

Wetland wildlife habitat, cropland

Major Management Factors

Soil-related factors: Wetness, inadequate drainage outlets in some areas, load supporting capacity, subsidence

Climatic factors (average annual):

Precipitation - 70 to 100 inches
Soil temperature - 49 to 52 degrees F (varies less than 9 degrees from summer to winter)
Frost-free period - 180 to 220 days

Cropland

General management considerations:

Water tolerant plants can be grown.
Suitable crops for planting are cranberries, blueberries, and cole crops.
Seasonal ponding limits the production and harvesting of crops.
Providing drainage is difficult because most areas have poor outlets and are seasonally flooded.
Drainage should be maintained throughout the growing season.
The low load supporting capacity of the soil limits the harvesting of most crops.

Suitable management practices:

Select plants that tolerate wetness or provide drainage.
Use open ditches or tile drains to remove water on or near the surface.
Consider the low load supporting capacity of the soil when selecting equipment.

County, Oregon

Series

Ascar series consists of moderately deep, well drained soils in mountainous areas. These soils formed in colluvium. Slopes are 30 to 90 percent. The mean annual precipitation is 70 to 100 inches. The mean annual air temperature is 45 to 50 degrees F.

Typical pedon of an Ascar extremely gravelly loam in the Ascar-Rock outcrop complex, 60 to 90 feet on steep slopes; 8 miles southeast of Seaside, about 200 feet north of a logging road in the SE1/4NW1/4NE1/4 of sec. 15, T. 5 N., R. 9 W., Willamette Meridian:

0 to 2 inches; leaves, twigs, roots, and woody material.

2 to 12 inches; dark reddish brown (5YR 3/2) extremely gravelly loam, dark brown (7.5YR 4/4) dry; moderate very fine granular structure; slightly hard, friable, slightly sticky and slightly plastic; many very fine roots; many very fine irregular pores; 65 percent gravel and 10 percent cobbles; very strongly acid; gradual wavy boundary.

12 to 35 inches; dark reddish brown (5YR 3/4) extremely gravelly loam, brown (7.5YR 5/4) dry; moderate very fine subangular blocky structure; slightly hard, friable, slightly sticky and slightly plastic; many very fine roots; common very fine irregular pores; about 50 percent gravel and 15 percent cobbles; very strongly acid; abrupt smooth boundary.

35 inches; basalt breccia.

The mean annual soil temperature is 47 to 52 degrees F. The difference between the mean summer and mean winter soil temperature is less than 9 degrees. The diagnostic epipedon is 10 to 15 inches thick. Depth to basalt is 0 to 40 inches.

The A horizon has hue of 5YR or 7.5YR, value of 2 or 3 when moist and 3 or 4 when dry, and chroma of 2 or 3 when moist and 2 to 4 when dry. It is 55 to 70 percent gravel and 5 to 15 percent cobbles. The content of clay is 0 to 15 percent.

The Bw horizon has hue of 5YR or 7.5YR, value of 3 or 4 when moist and 4 or 5 when dry, and chroma of 4 or 5 when moist or dry. It is 40 to 60 percent gravel and 5 to 20 percent cobbles. The content of clay is 12 to 18 percent.

Bergsvik Series

The Bergsvik series consists of very deep, very poorly drained organic soils in depression areas between coastal dunes and between the dunes and the adjacent flats. These soils formed in partially decomposed wood and herbaceous plant material underlain by sand. Slopes are 0 to 1 percent. The mean annual precipitation is 70 to 100 inches, and the mean annual air temperature is 45 to 51 degrees F.

Typical pedon of Bergsvik mucky peat, 0 to 1 percent slopes, 0.3 mile south on Hawkins Road from its intersection with Cullaby Lake Road, about 75 feet west of road in the NE1/4SE1/4NW1/4 of sec. 15, T. 7 N., R. 10 W., Willamette Meridian:

O—2 inches to 0; leaves, twigs, moss, roots, and other woody material.

Oe1—0 to 4 inches; dark reddish brown (5YR 3/2, broken) mucky peat, dark reddish brown (5YR 2/2, rubbed and pressed); about 45 percent fibers, 20 percent rubbed; many very fine and fine roots; extremely acid; clear smooth boundary.

Oe2—4 to 15 inches; black (5YR 2/1, broken or rubbed and pressed) mucky peat; about 85 percent fibers, 40 percent rubbed; many very fine and fine roots; extremely acid; gradual smooth boundary.

Oe3—15 to 32 inches; very dark grayish brown (10YR 3/2, broken) mucky peat, black (10YR 2/1, rubbed and pressed); black (10YR 2/1) coatings; about 80 percent fibers, 40 percent rubbed; common very fine and fine roots; few wood fragments 1 to 2 inches in diameter; extremely acid; clear smooth boundary.

Oe4—32 to 36 inches; black (10YR 2/1 broken or rubbed and pressed) mucky peat; about 50 percent fibers, 30 percent rubbed; 40 percent mineral material; massive; slightly sticky and slightly plastic; common very fine roots; extremely acid; abrupt smooth boundary.

2C1—36 to 43 inches; very dark brown (7.5YR 2/2) fine sand, dark brown (7.5YR 3/2) dry; single grain; loose, nonsticky and nonplastic; few fine roots; very strongly acid; gradual smooth boundary.

2C2—43 to 60 inches; very dark grayish brown (2.5Y 3/2) fine sand, grayish brown (2.5Y 5/2) dry; single grain; loose, nonsticky and nonplastic; very strongly acid.

The mean annual soil temperature is 49 to 52 degrees F. The difference between the mean summer and mean winter soil temperature is less than 9 degrees. Depth to the underlying sand is 18 to 51 inches.

The surface tier has hue of 5YR or 10YR, value of 2 or 3, and chroma of 1 to 3 when moist. Fiber content ranges from 35 to 85 percent unrubbed and 15 to 40 percent rubbed. A mantle of sand 3 to 12 inches thick overlies the organic material in some areas.

The subsurface tier has hue of 5YR, 7.5YR, or 10YR, value of 2 or 3 when moist, and chroma of 1 to 3 when moist. Fiber content ranges from 40 to 80 percent unrubbed and 20 to 50 percent rubbed. The lower part is 0 to 45 percent mineral material.

The 2C horizon has hue of 7.5YR or 2.5Y, value of 2 to 4 when moist and 3 to 6 when dry, and chroma of 1 or 2 when moist or dry.

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Isop County, Oregon

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TABLE 5.--LAND CAPABILITY CLASSES AND YIELDS PER ACRE OF CROPS AND PASTURE--Continued

Soil name and map symbol	Land capability		Pasture		Grass-legume hay		Green chop	
	N	I	N	I	N	I	N	I
			AUM*	AUM*	Tons	Tons	Tons	Tons
ola-Templeton	VIIe	---	---	---	---	---	---	---
lertsen	IIc	IIe	15.0	19.5	5.0	6.5	15.0	19.5
ble	IIc	IIe	15.0	---	5.0	---	15.0	---
ble	IIIe	IIIe	15.0	---	5.0	---	15.0	---
arhart	IVe	IVe	7.5	12.0	3.0	4.0	---	---
arhart	VIe	---	5.0	---	---	---	---	---
andbrook	IIIe	IIIe	12.0	18.0	4.0	4.5	6.0	---
andbrook	IVe	---	13.5	---	4.5	---	---	---
andbrook	IVe	---	9.0	---	---	---	---	---
low-Kilchis	VIIIs	---	---	---	---	---	---	---
o	IVw	IVw	8.0	---	2.5	---	8.0	---
eta-Waldport	IVw	---	---	---	---	---	---	---
ross	VIe	---	---	---	---	---	---	---
ross-Klistan	VIe	---	---	---	---	---	---	---
tropepts	VIe	---	---	---	---	---	---	---
tropepts	VIe	---	---	---	---	---	---	---
roquepts	VIw	---	---	---	---	---	---	---
his-Rock outcrop	VIIIs	---	---	---	---	---	---	---
ndall	IIIw	IIIw	15.0	18.0	5.0	6.0	15.0	19.5
tan-Harslow	VIe	---	---	---	---	---	---	---
tan-Harslow	VIIe	---	---	---	---	---	---	---
stchie	VIe	---	---	---	---	---	---	---

See footnotes at end of table.

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P 198 & 19
Revised & G

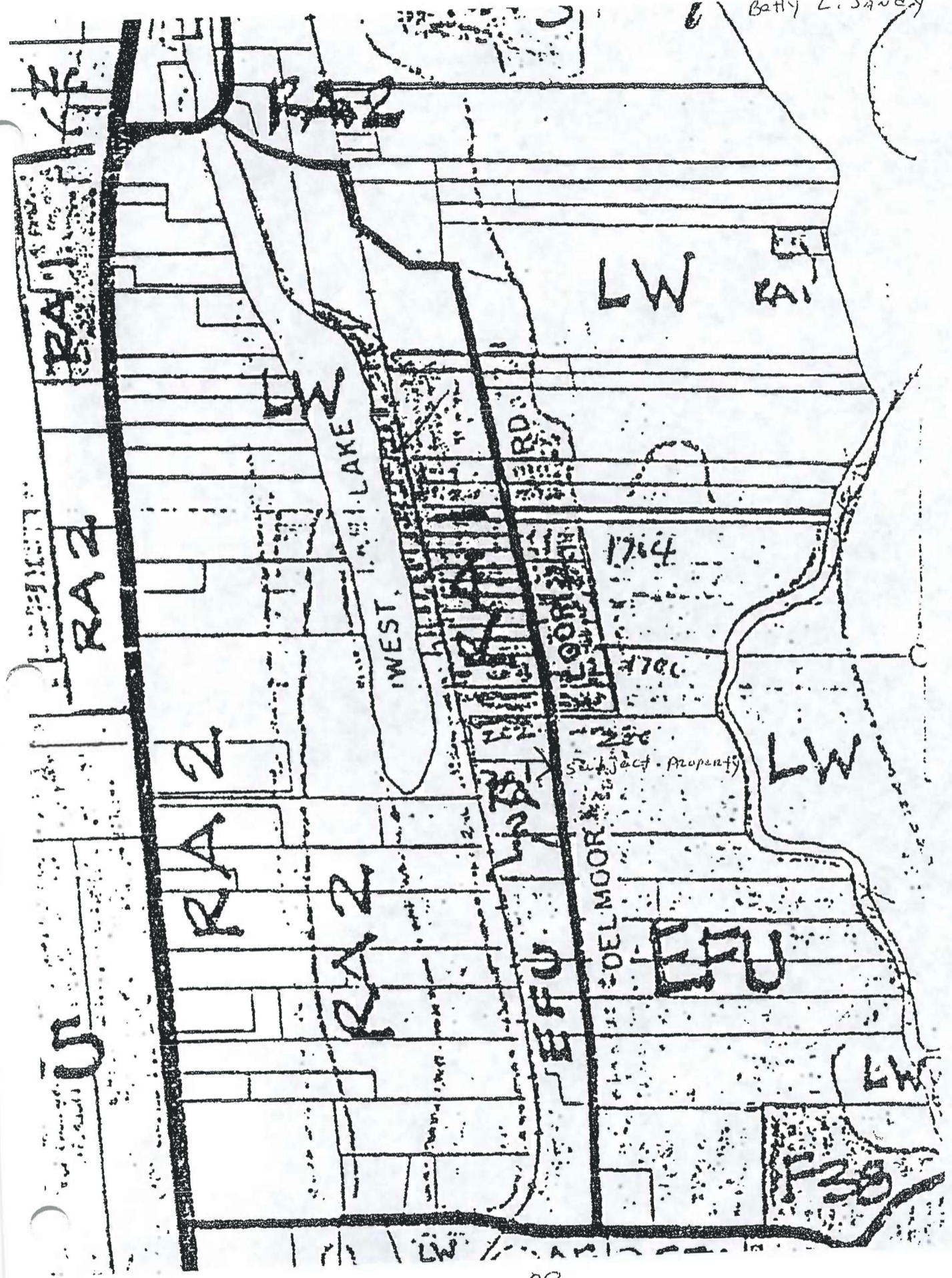
TABLE 5.--LAND CAPABILITY CLASSES AND YIELDS PER ACRE OF CROPS AND PASTURE

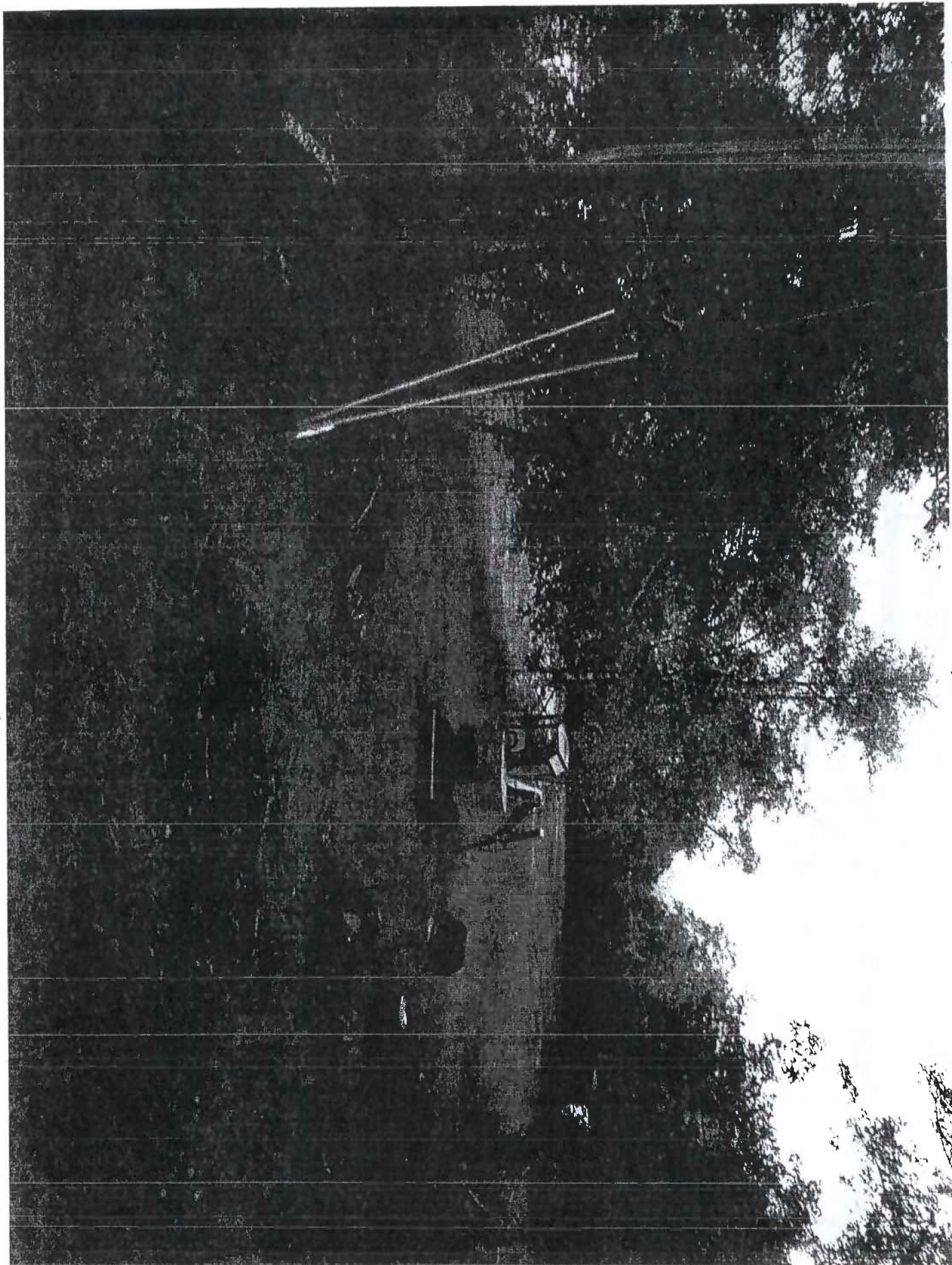
[Yields in the N columns are for nonirrigated soils; those in the I columns are for irrigated soils. Yields are those that can be expected under a high level of management. Absence of a yield indicates that soil is not suited to the crop or the crop generally is not grown on the soil]

Soil name and map symbol	Land capability		Pasture		Grass-legume hay		Green chop	
	N	I	N	I	N	I	N	I
			AUM*	AUM*	Tons	Tons	Tons	Tons
1D, 1E----- Alstony	VIe	---	---	---	---	---	---	---
1F----- Alstony	VIIe	---	---	---	---	---	---	---
2D----- Anunde	VIe	---	---	---	---	---	---	---
3F----- Ascar-Rock outcrop	VIIIs	---	---	---	---	---	---	---
4**----- Beaches	VIIIw	---	---	---	---	---	---	---
5A----- Bergsvik	Vw	---	---	---	---	---	---	---
6A----- Brallier	Vw	---	---	---	---	---	---	---
7D----- Braun-Scaponia	VIe	---	---	---	---	---	---	---
7F----- Braun-Scaponia	VIIe	---	---	---	---	---	---	---
8A----- Brenner	IIIw	---	8.0	---	2.7	---	8.0	---
9D, 9E----- Caterl-Laderly	VIe	---	---	---	---	---	---	---
10B----- Chitwood	IIIe	IIIe	10.0	15.0	3.3	5.0	10.0	---
10C----- Chitwood	IVe	IVe	8.0	---	3.3	---	10.0	---
11A----- Coquille-Clatsop	VIw	VIw	---	---	---	---	---	---
12A----- Coquille-Clatsop	IVw	IVw	15.0	19.5	5.0	6.5	15.0	---
13A----- Coquille Variant	IIIw	IIIw	15.0	19.5	5.0	6.5	15.0	---
14A----- Croquib	IVw	IVw	8.0	9.5	2.5	3.0	8.0	---
15**----- Dune land	VIIIe	---	---	---	---	---	---	---
16D----- Ecola	VIe	---	---	---	---	---	---	---

See footnotes at end of table.

Betty L. Jandy



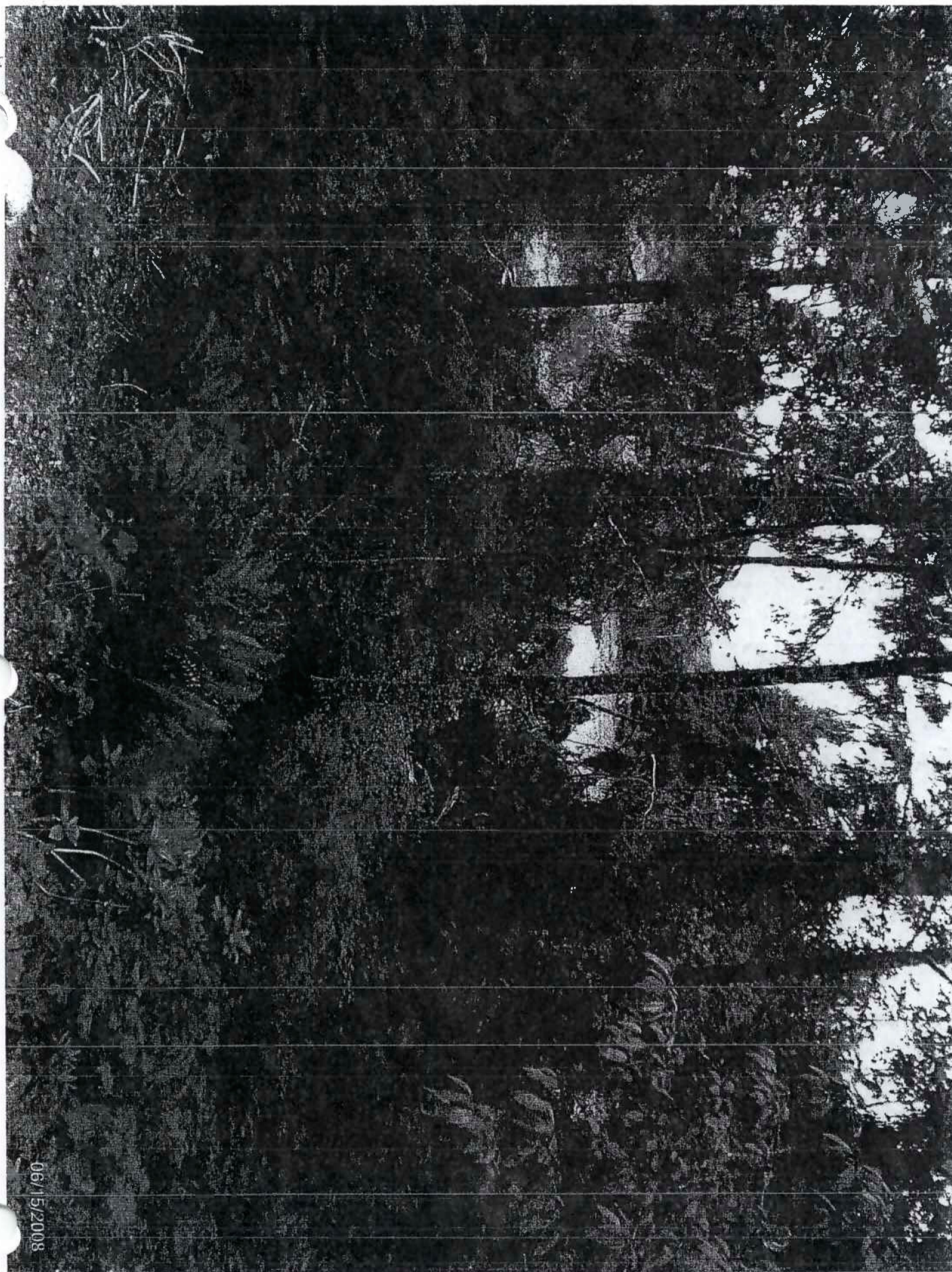


Betty L. Nady

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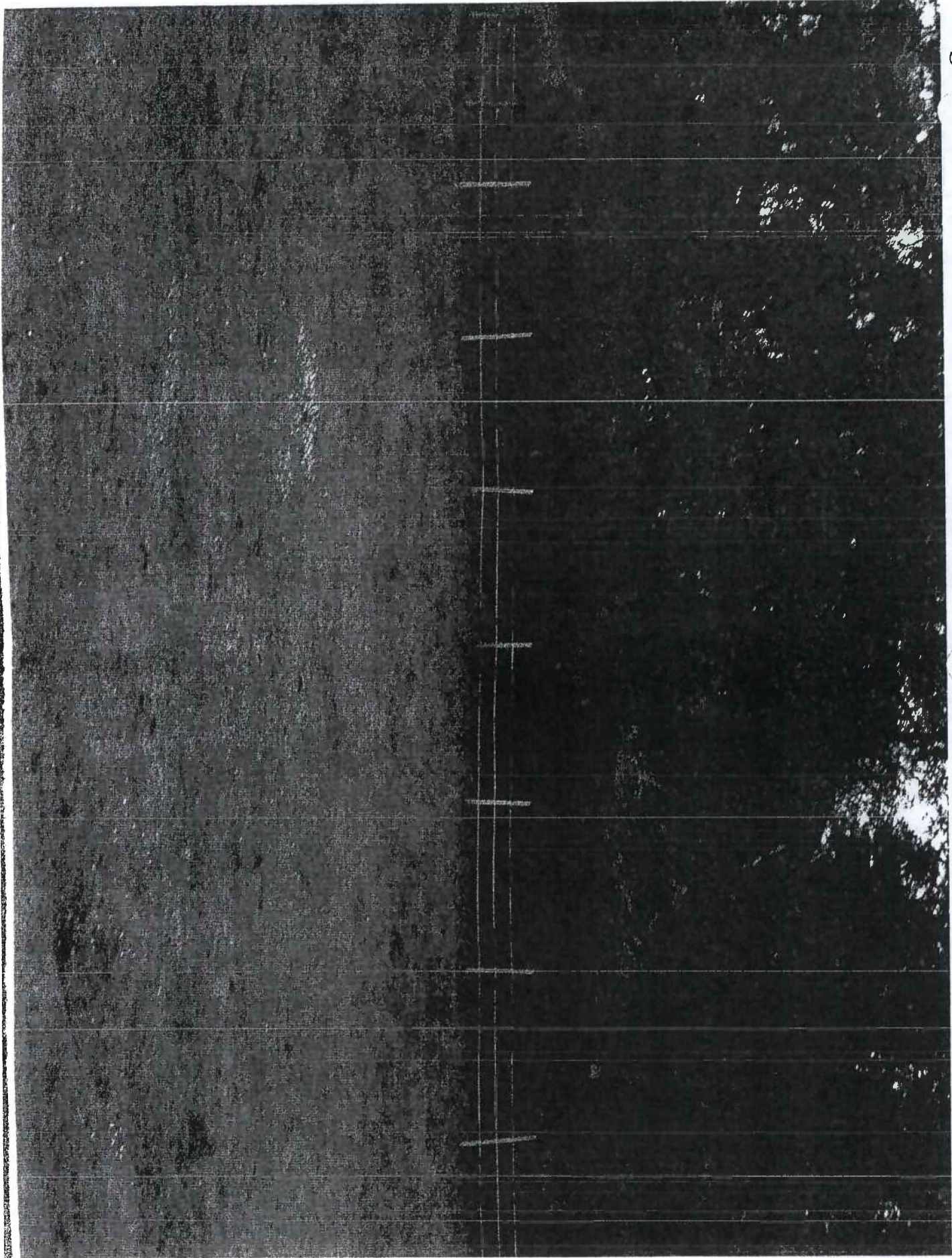


BATHY L. SANDY

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06/15/2008

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Bath - Sandy

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Betty & Sandy

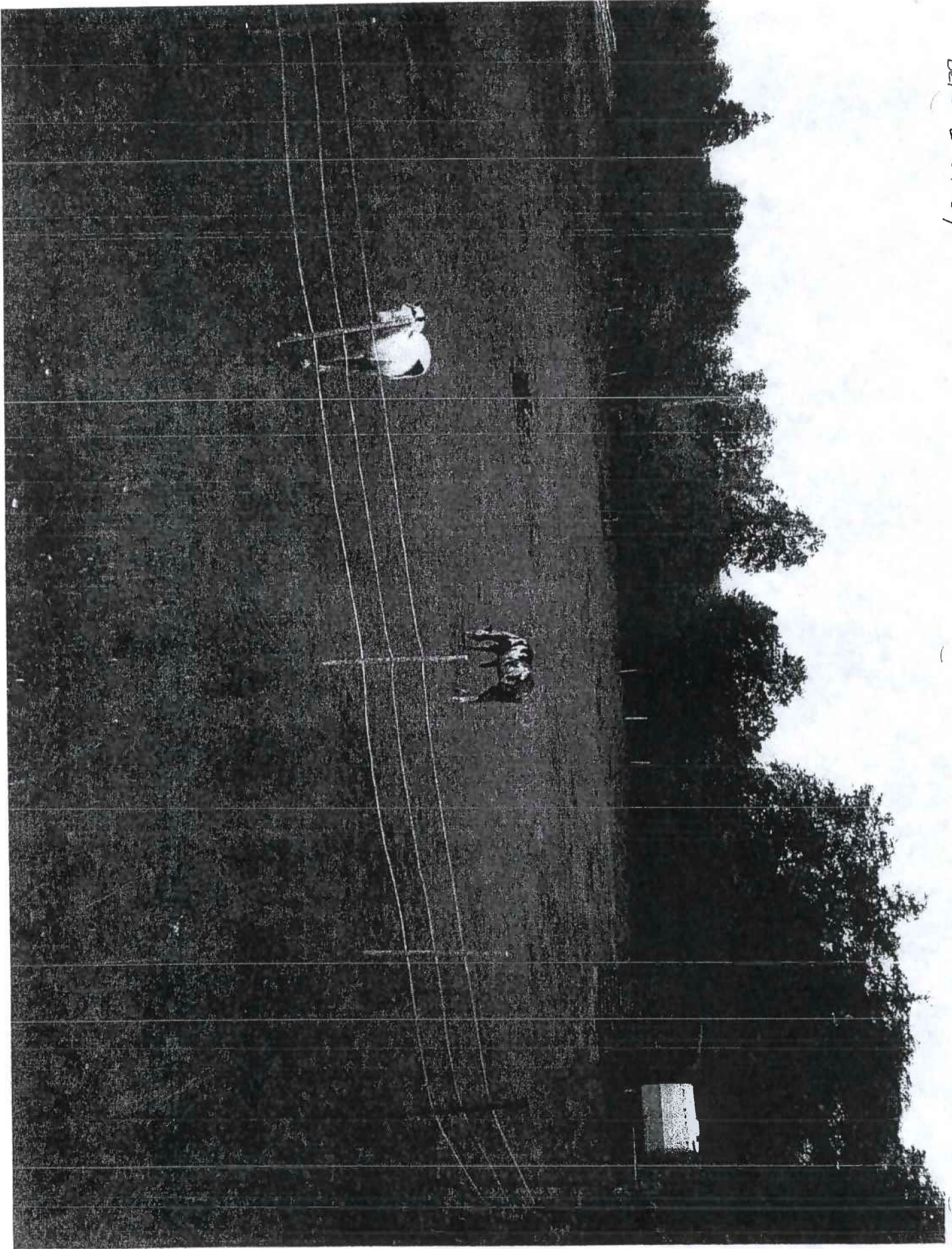
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Bet L Snuffy



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Contact Phone number 503-738-5239

"Making a difference through excellence of service"



CITY OF WARRENTON WATER AND/OR SEWER AVAILABILITY STATEMENT

REQUESTED BY: Betty Saindy DATE: 5/15/08

To Whom It May Concern:

SEWER IS AVAILABLE: _____ WATER IS AVAILABLE: X

SEWER IS NOT AVAILABLE: X WATER IS NOT AVAILABLE: _____

TO THE PROPERTY OR BUILDING LOCATED AT:

ADDRESS: _____

MAP & TAX LOT NO: 71027

LOT NO: 201

BLOCK NO: _____

REMARKS: Terry says the water is available on Dellmar Ln

WATER COST: \$1,300.00

[Signature] 5-24-08
(signature) (Date)
PUBLIC WORKS OFFICIAL

SEWER COST: N/A.

This form is for one single family residence water & sewer availability including a 1/4 inch meter unless otherwise noted.

WARRENTON UTILITY DEPARTMENT WORK ORDER for Water and/or Sewer Connection

Date: _____

(Applicant)

(Service Address)

(Applicant Signature)

Meter Only/Admin \$ _____

Complete Service.. \$ _____

Sewer Admin \$ _____

Full Service Sewer \$ _____

Ref. Number _____

Meter Size _____

Meter No. _____

Install Date _____

For office use only - please initial & date

B&P _____ Cashier _____ PW _____ UB _____

Map + Tax Lot 71027 # 201



Volunteer Fire Department

P.O. Box 2530 • Gearhart, OR 97138
503-738-7838 / 503-738-9385 (fax)

May 28, 2008

Betty L. Sandy
89224 Dellmoor Loop Road
Warrenton, Oregon 97146

RE: Zone Change; EFU to RA2
Tax Lot 201

Ms Sandy,

The proposed zone change you are requesting will not place a burden on the Fire Department. The building of a single family residence shall meet the current Oregon Fire Code and Application Guide for Access & Water Supply. Access & Water Supply requirements shall be determined when applying for a building permit and completing the Clatsop County Agency Review & Approval Form. I acknowledge there is currently a hydrant located at the southeast corner of tax lot 201.

If you should have any questions please feel free to contact me.

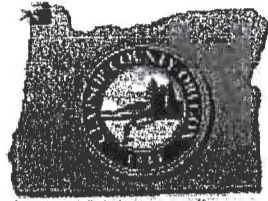
Thank you,

Bill H. Eddy
Fire Chief
Gearhart Fire

cc: File

SECTION 6: Sources

- 1) Clatsop County Comprehensive Plan Goals and Policies, Codified May 29, 2007
- 2) Clatsop County Land and Water Development Land Use Ordinances dated August 23, 2007. p5-325
- 3) Soil Survey of Clatsop County, Oregon; National Cooperative Survey, 1984.
- 4) Telephone conversations with Oregon and Washington State Cranberry Growers; Steve Kelley (Wa.), L & R Kaino (Or.), Bob Whannell (Or.) May and June, 2008
- 5) Oregon Cranberry History, Oregon Cranberry Network, <http://www.oregoncranberry.net>, 2004.
- 6) Consultations with hay suppliers and stable owners.
- 7) Oregon State University, Clatsop County Extension Service Master Gardeners; May, 2008
- 8) AGMRC, Arthur Cooper Cooperative Center Case Study Series No. 03 - 01 Ocean Spray at the crossroads, 2003, <http://www.agmac.org>.
- 9) Cranberries: the most intriguing native North American Fruit, Feature Article November, 2000. <http://www.apsnet.org>



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EXHIBIT 5

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 4
INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

(As Amended by LCDC January 24, 2008; no amendments to other rules in this division)

660-004-0040

Application of Goal 14 (Urbanization) to Rural Residential Areas

(NOTE: no amendments to sections (1) through (6) of this rule.)

(7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

(c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

(d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

(A) The parcel to be divided has two or more permanent habitable dwellings on it;

(B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;

(C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and

(D) The partition would not create any vacant parcels on which a new dwelling could be established.

(E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(1)(A)-(D).

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR chapter 660, ~~D~~division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

- (A) Ashland;
- (B) Central Point;
- (C) Medford;
- (D) Newberg;
- (E) Sandy.

(b) If a city or urban area listed in sSubsection (8)(a):

(A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, ~~D~~division 021; or

(B) is part of a regional growth plan that contains at least a twenty-year regional urban reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinances or acknowledged regional growth plan.

(c) Notwithstanding the provisions of Ssection (7) of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Ssubsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR chapter 660, ~~D~~division 021, or is not part of an acknowledged regional growth plan as described in Ssubsection (b), Pparagraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of Ssection (7), if [~~the Portland metropolitan service district~~] Metro has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR chapter 660, ~~D~~division 21 or division 27, any land division of rural residential land in that urban reserve [~~area~~] shall be done in accordance with the applicable acknowledged [~~urban reserve ordinance~~] comprehensive plan and zoning provisions adopted to implement the urban reserve.

(e) Notwithstanding the provisions of Ssection (7), if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan

area and is in a rural residential area, and if the [~~Portland metropolitan area does not have~~] **Metro has not designated** an urban reserve [area] that contains at least a twenty-year reserve of land [~~and that has been~~] acknowledged to comply with **either** OAR 660, ~~D~~division 021 **or OAR 660, division 27**, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of ~~S~~section (7), and ~~S~~subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in ~~S~~subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at [~~the~~] densities **of at least 10 units per net developable acre** [~~set forth in the Metro 2040 plan~~]. In no case shall the minimum **parcel** area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through ~~(E)-(G)~~ of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(~~ts~~)(A) - (D), **and,**

(G) The parcel is not in an area designated as rural reserve under OAR chapter 660, division 27.

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Stat. Auth.: ORS ~~183 & 197~~; ORS 197.040; **Chapter 141**

Stats. Implemented: ORS 197.175 & 197.732; ORS 195.145; **ORS 195.141**

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04

Exhibit 5

Oregon Administrative Rules
(filed through December 14, 2007)

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 4 INTERPRETATION OF GOAL 2 EXCEPTION PROCESS 660-004-0000

Purpose

- (1) The purpose of this rule is to explain the three types of exceptions set forth in Goal 2 "Land Use Planning, Part II, Exceptions." Except as provided for in OAR chapter 660, division 14, "Application of the Statewide Planning Goals to Newly Incorporated Cities and to Urban Development on Rural Lands" and OAR chapter 660, division 12, "Transportation Planning", section 0070, "Exceptions for Transportation Improvements on Rural Land", this division interprets the exception process as it applies to statewide Goals 3 to 19.
- (2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons which explain why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.
- (3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:
 - (a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and
 - (b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide Goal.
- (4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-004-0005

Definitions

For the purpose of this Division, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition the following definitions shall apply:

- (1) An "Exception" is a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
 - (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
 - (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
 - (c) Complies with the provisions of this Division.
- (2) "Resource Land" is land subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d).
- (3) "Nonresource Land" is land not subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). Nothing in these definitions is meant to imply that other goals, particularly Goal 5, do not apply to nonresource land.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.015 & 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

(1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals which prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:

(a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm use (EFU) zone under ORS Chapter 215 and OAR chapter 660 division 033, "Agricultural Lands" ;

(b) Goal 4 "Forest Lands"; however, an exception to Goal 4 "Forest lands" is not required for any of the forest or nonforest uses permitted in a forest or mixed farm/forest zone under OAR chapter 660, division 006, "Forest Lands";

(c) Goal 14 "Urbanization" except as provided for in OAR chapter 660, division 014 and the applicable paragraph (1)(c)(A), (B) or (C) of this rule:

(A) An exception is not required for the establishment of an urban growth boundary around or including portions of an incorporated city;

(B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one which has been acknowledged by the Commission under ORS 197.251, 197.625 or 197.626. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:

(i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);

(ii) Areas which do not require a new exception cannot reasonably accommodate the use;

(iii) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(C) When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals;

(d) Goal 11 "Public Facilities and Services";

(e) Goal 16 "Estuarine Resources";

(f) Goal 17 "Coastal Shorelands"; and

(g) Goal 18 "Beaches and Dunes."

(2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards that do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services, because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:

(a) Goal 5 "Natural Resources";

(b) Goal 6 "Air, Water, and Land Resources Quality";

(c) Goal 7 "Natural Disasters and Hazards";

(d) Goal 8 "Recreational Needs";

(e) Goal 9 "Economy of the State";

(f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception pursuant to ORS 197.303(3);

(g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";

(h) Goal 13 "Energy Conservation";

(i) Goal 15 "Willamette Greenway" except as provided for in OAR 660-004-0022(6); and

(j) Goal 19 "Ocean Resources."

(3) An exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 2-1987, f. & ef. 11-10-87; LCDC 3-1988(Temp), f. & cert. ef. 8-5-88; LCDC 6-1988, f. & cert. ef. 9-29-88; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2005, f. & cert. ef. 6-28-05

660-004-0015

Inclusion as Part of the Plan

(1) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons which demonstrate that the standards for an exception have been met. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met.

(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons which demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028, and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or

(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1986, f. & ef. 3-20-86; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 8-2005, f. & cert. ef. 12-13-05; LCDD 7-2006, f. 10-13-06, cert. ef. 10-23-06

660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas which do not require a new exception cannot reasonably accommodate the use":

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A

detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

(c) The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

(a) Prioritize land for expansion: First priority goes to exceptions lands in proximity to an unincorporated community boundary. Second priority goes to land designated as marginal land. Third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority is given to land of lower capability site class for agricultural land, or lower cubic foot site class for forest land;

(b) Land of lower priority described in subsection (a) of this section may be included if land of higher priority is inadequate to accommodate the use for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land; or

(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land uses with the unincorporated community requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83, LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

- (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either
 - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
 - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.
- (2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.
- (3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:
- (a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or
 - (b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or
 - (c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.
- (4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:
- (a) A demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:
 - (A) The use requires a location near a resource located on rural land; or
 - (B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including:
 - (i) For industrial use, it would have a significant comparative advantage due to its location (i.e., near a rural energy facility, or near products available from other activities only in the surrounding area; or it is reliant on an existing work force in an existing unincorporated community);
 - (ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or UGB, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions.
 - (b) Need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and UGBs in the area. Area encompasses those communities, exception areas, and UGBs which may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors;
 - (c) Expansion requires demonstrated ability to serve both the expanded area and any remaining infill development potential in the community at time of development with the level of facilities determined to be appropriate for the existing unincorporated community.

- (5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.
- (6) Willamette Greenway: Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C 3.k of the Goal may be approved where reasons demonstrate the following:
- (a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;
 - (b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;
 - (c) The use will provide a significant public benefit; and
 - (d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322.
- (7) Goal 16 X Water Dependent Development: To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:
- (a) Factors of Goal 9 or for recreational uses the factors of Goal 8;
 - (b) The generally predicted level of market demand for the proposed use;
 - (c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements; and
 - (d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use;
 - (e) The economic analysis must be based on Goal 9 element of the County Comprehensive Plan and consider and respond to all economic needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the type of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.
- (8) Goal 16 -- Other Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or degradations of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:
- (a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material including adjacent upland soils or stockpiling of material from approved dredging projects can not reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;
 - (b) Dredging to maintain adequate depth to permit continuation of present level of navigation in the area to be dredged;
 - (c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel;
 - (d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;
 - (e) Dredge or fill or other alteration for expansion of an existing public non-water-dependent use or a nonsubstantial fill for a private nonwater-dependent use (as provided for in ORS 541.625) where:
 - (A) A Countywide Economic Analysis based on the factors in Goal 9 demonstrates that additional land is required to accommodate the proposed use; and
 - (B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and
 - (C) That the size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.
 - (f) In each of the situations set forth in subsections (7)(a) to (e) of this rule, the exception must demonstrate that proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner which minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

(9) Goal 17 -- Incompatible Uses in Coastal Shoreland Areas: Exceptions are required to allow certain uses in Coastal Shoreland areas:

(a) These Coastal Shoreland Areas include:

(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites;

(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and in unincorporated communities pursuant to OAR chapter 660, division 022 (Unincorporated Communities) that are suitable for water dependent uses;

(C) Designated dredged material disposal sites;

(D) Designated mitigation sites.

(b) To allow a use which is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule the exception must demonstrate:

(A) A need, based on the factors in Goal 9, for additional land to accommodate the proposed use;

(B) Why the proposed use or activity needs to be located on the protected site considering the unique characteristics of the use or the site which require use of the protected site; and

(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and where applicable consistent with protection of natural values.

(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area;

(d) Uses which would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible, be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site.

(e) Exceptions to designate and protect for water-dependent uses an amount of shorelands less than is required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate compliance with the following:

(A) Based on the factors of Goals 8 and 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority if any, and be consistent with the Goal 8 and Goal 9 elements of the comprehensive plans of those jurisdictions.

(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.

(10) Goal 18 -- Foredune Breaching: A foredune may be breached when the exception demonstrates an existing dwelling located on the foredune is experiencing sand inundation and the grading or removal of sand is:

(a) Only to the grade of the dwelling;

(b) Limited to the immediate area in which the dwelling is located;

(c) Sand is retained in the dune system by placement on the beach in front of the dwelling; and

(d) The provisions of Goal 18 Implementation Requirement 1 are met.

(11) Goal 18 -- Foredune Development: An exception may be taken to the foredune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or is of minimal value; and

(b) The use is designed to minimize adverse environmental effects;

(c) The provisions of OAR 660-004-0020 shall also be met.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, and 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 4-1985, f. & ef. 8-8-85; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-

2004, f. & cert. ef. 5-7-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06; LCDD 9-2006, f. & cert. ef. 11-15-06

660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

- (1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.
- (2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

- (1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:
 - (a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;
 - (b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;
 - (c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.
- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:
 - (a) The characteristics of the exception area;
 - (b) The characteristics of the adjacent lands;
 - (c) The relationship between the exception area and the lands adjacent to it, and
 - (d) The other relevant factors set forth in OAR 660-004-0028(6).
- (3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:
 - (a) Farm use as defined in ORS 215.203,
 - (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and
 - (c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).
- (4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.
- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.
- (6) Findings of fact for a committed exception shall address the following factors:
 - (a) Existing adjacent uses;

- (b) Existing public facilities and services (water and sewer lines, etc.);
 - (c) Parcel size and ownership patterns of the exception area and adjacent lands:
 - (A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;
 - (B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.
 - (d) Neighborhood and regional characteristics;
 - (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;
 - (f) Physical development according to OAR 660-004-0025; and
 - (g) Other relevant factors.
- (7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.
- (8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:
- (a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and
 - (b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.
- Stat. Auth.: ORS 183 & ORS 197
 Stats. Implemented: ORS 197.732 & ORS 197.736
 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 5-1985, f. & ef. 11-15-85; LCDC 4-1996, f. & cert. ef. 12-23-96

660-004-0030

Notice and Adoption of an Exception

- (1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.
 - (2) A planning exception takes effect when the comprehensive plan or plan amendment is adopted by the city or county governing body. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.
- Stat. Auth.: ORS 197
 Stats. Implemented ORS 197.610 - ORS 197.625, ORS 197.628 - ORS 197.646 & ORS 197.732
 Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0035

Appeal of an Exception

(1) Prior to acknowledgment, an exception, or the failure to take a required exception, may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.830, or to the Commission as an objection to the local government's request for acknowledgment, pursuant to ORS 197.251 and OAR 660-003-0000.

(2) After acknowledgment, an exception taken

as part of a plan amendment, or the failure to take a required exception when amending a plan, may be appealed to the Board, pursuant to ORS 197.620 and OAR chapter 660, division 18.

(3) After acknowledgment, an exception taken as part of a periodic review work task submitted under OAR 660-025-0130, or failure to take a required exception when amending a plan, may be appealed to the Commission pursuant to ORS 197.633 and OAR 660-025-0150 and 0160.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.610 - 197.625, 197.732 & 197.830

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0040

Application of Goal 14 (Urbanization) to Rural Residential Areas

(1) The purpose of this rule is to specify how Statewide Planning Goal 14, *Urbanization*, applies to rural lands in acknowledged exception areas planned for residential uses.

(2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (*Agricultural Lands*), Goal 4 (*Forest Lands*), or both has been taken. Such lands are referred to in this rule as *rural residential areas*.

(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before the effective date of Sections (1) to (8) of this rule.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

(A) land inside an acknowledged urban growth boundary;

(B) land inside an acknowledged unincorporated community boundary established pursuant to OAR Chapter 660, Division 022;

(C) land in an acknowledged urban reserve area established pursuant to OAR Chapter 660, Division 021;

(D) land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;

(E) resource land, as defined in OAR 660-004-0005(2);

(F) nonresource land, as defined in OAR 660-004-0005(3);

(G) marginal land, as defined in ORS 197.247, 1991 Edition;

(H) land planned and zoned primarily for rural industrial, commercial, or public use.

(3)(a) This rule shall take effect on the effective date of an amendment to Goal 14 to provide for development of all lawfully created lots and parcels created in rural residential areas prior to the effective date of the amendment to Goal 14.

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in *1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County)*, and before the effective date of this rule. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

(4) The rural residential areas described in Subsection (2)(a) of this rule are rural lands. Division and development of such lands are subject to Statewide Planning Goal 14, *Urbanization*, which prohibits urban use of rural lands.

(5)(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.

(b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone's minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.

(c) For purposes of this section, "rural residential zone currently in effect" means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.

(6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.

(7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

(c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

(d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

(e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:

(A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.

(B) The number of new lots or parcels to be created does not exceed 10.

(C) None of the new lots or parcels will be smaller than two acres.

(D) The development is not to be served by a new community sewer system.

(E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.

(F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.

(G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.

(H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.

(f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.

(g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

- (A) The parcel to be divided has two or more permanent habitable dwellings on it;
- (B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;
- (C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it; and
- (D) The partition would not create any vacant parcels on which a new dwelling could be established.
- (E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(t)(A)-(t)(D).
- (i) For rural residential areas designated after the effective date of this rule, the affected county shall either:
 - (A) Require that any new lot or parcel have an area of at least ten acres, or
 - (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."
- (8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).
 - (A) Ashland;
 - (B) Central Point;
 - (C) Medford;
 - (D) Newberg;
 - (E) Sandy.
- (b) If a city or urban area listed in Subsection (8)(a):
 - (A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021; or
 - (B) is part of a regional growth plan that contains at least a twenty-year regional reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658; then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan.
- (c) Notwithstanding the provisions of Section 7 of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR 660, Division 021, or is not part of an acknowledged regional growth plan as described in Subsection (b), Paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.
- (d) Notwithstanding the provisions of Section 7, if the Portland metropolitan service district has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance.
- (e) Notwithstanding the provisions of Section 7, if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if the Portland metropolitan area does not have an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.
- (f) Notwithstanding the provisions of Section 7 and Subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in Subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at the densities set forth in the Metro 2040 plan. In no case shall the minimum area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (E) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(t)(A) - (D).

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws. Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.175 & 197.732

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04



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EXHIBIT 6

Exhibit 6

Oregon Revised Statutes

Chapter 197 — Comprehensive Land Use Planning Coordination

2005 EDITION

197.732 Goal exceptions; criteria; rules; review. (1) A local government may adopt an exception to a goal if:

(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;

(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas which do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(2) "Compatible," as used in subsection (1)(c) of this section, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) The commission shall adopt rules establishing:

(a) That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (1)(c)(A) of this section; and

(c) Which uses allowed by the applicable goal must be found impracticable under subsection (1) of this section.

(4) A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards of subsection (1) of this section have or have not been met.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(6) Upon review of a decision approving or denying an exception:

(a) The board or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (1) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards of subsection (1) of this section have or have not

been met.

(7) The commission shall by rule establish the standards required to justify an exception to the definition of "needed housing" authorized by ORS 197.303 (3).

(8) As used in this section, "exception" means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:

(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards under subsection (1) of this section.

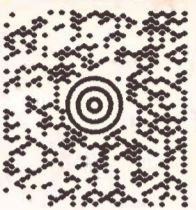
(9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, continues to be valid and is not be subject to this section. [1983 c.827 §19a; 1995 c.521 §3; 2005 c.67 §1]

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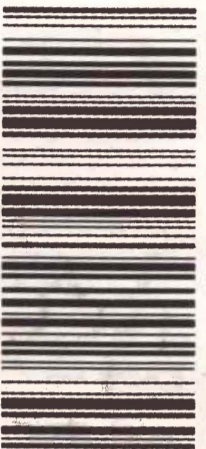


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Land Use Planning

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