



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

12/22/2009

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

FROM: Plan Amendment Program Specialist

SUBJECT: Clatsop County Plan Amendment  
DLCD File Number 003-09

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: Monday, January 04, 2010

This amendment was submitted to DLCD for review prior to adoption pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

**\*NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE 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  
Gloria Gardiner, DLCD Urban Planning Specialist

<paa> YA

FORM 2

# DLCD

## Notice of Adoption

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

In person  electronic  mailed

**DEPT OF**

**DEC 15 2009**

**LAND CONSERVATION AND DEVELOPMENT**  
For DLCD Use Only

Jurisdiction: **Clatsop County**

Local file number: **2009120006**

Date of Adoption: **12/9/2009**

Date Mailed: **12/13/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 4/2/2009

- |   |  |
|---|--|
| <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 type="checkbox"/> Other:                                      |

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

Ordinance 09-05 down zones property near sunset beach and transfers the density rights from the sending site to an alternate location near surf pines. The density credits from the sending site are necessary to satisfy density provisions at the receiving site. This application rezones the sending site and records a density table and language for future proposals in the County Standards Document Section 3.161. This proposal is accompanied by a subdivision application located on designated open space in the Pinehurst Subdivision.

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

Plan Map Changed from: **Rural Lands**

to: **Conservation Other Resources**

Zone Map Changed from: **RA-5 & RA-2**

to: **OPR**

Location: **Receiving T7, R10, S28DA / Sending T7, R10, S9CD**

Acres Involved: **5523**

Specify Density: Previous: **1:5 & 1:2**

New: **Not specified**

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No OO

**DLCD file No.** 003-09 (17654) [15901]

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

ODPR, DLCD, Clatsop County, Gearhart RFPD, OWRD

---

Local Contact: **Michael Weston, County Planner**

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](mailto: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, or by emailing [larry.french@state.or.us](mailto:larry.french@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 [larry.french@state.or.us](mailto:larry.french@state.or.us) - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009

**RECORDED**

DEC - 9 2009

Dec # 2009120006

**Before the Board of Commissioners  
For Clatsop County, Oregon**

In the Matter of

AN ORDINANCE APPROVING THE PRELIMINARY  
PLAT AMENDING THE CLATSOP COUNTY  
COMPREHENSIVE PLAN/ZONING MAP AND TEXT AS  
ADOPTED BY THE BOARD OF COMMISSIONERS  
ADOPTING CERTAIN FINDINGS WITH CONDITIONS  
AND RESCINDING INCONSISTENT PROVISIONS



ORDINANCE # 09-05

Recording Date: December 9, 2009

---

The Board of Commissioners of Clatsop County, Oregon ordains as follows:

**SECTION 1. SHORT TITLE.**

This ordinance shall be known as *Ordinance 09-05 Manion Pines, West Lake, & ODPR Zone Change, Density Transfer, & Subdivision.*

**SECTION 2. RECITALS**

The Board of County Commissioners of Clatsop County, Oregon recognizes the need to revise and amend the Clatsop County Comprehensive Plan Zoning Map and Text. In the interest of the health, safety and welfare of the citizens of Clatsop County and Pursuant to State law, the Board of Commissioners hereby determines the necessity of amending the said Clatsop County Comprehensive Plan/Zoning Map and Land and Water Development and Use Ordinance # 80-14 as amended.

The Board of County Commissioners determines and takes notice that the adoption procedure for this ordinance complies with the Post Acknowledgement rules of the Land Conservation and Development Commission. The County Planning Commission has sought review and comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050 and 215.060. The Planning Commission held a public hearing on the matter on September 8, 2009 and the recommendation was rendered on September 29, 2009. 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 November 9<sup>th</sup>, 2009.

**SECTION 3. CONFORMITY WITH THE LAW.**

This ordinance shall not substitute for nor eliminate the necessity for conformity with any and all laws or rules of the State of Oregon, or its agencies, or any ordinance, rule or regulation of Clatsop County.

SECTION 4. INCONSISTENT PROVISIONS.

This ordinance shall supersede, control and repeal any inconsistent provision of the Clatsop County Land Water Development and Use Ordinance, as amended, or any other ordinance or regulation made by Clatsop County.

SECTION 5. SEPARABILITY.

If any section, subsection, sentence, clause, phrase, or any other portion of this ordinance is for any reason held invalid or unconstitutional by a court of competent jurisdiction, such portion shall be deemed as a separate distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

SECTION 6. EFFECTIVE DATE.

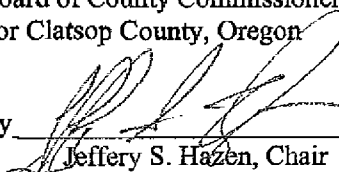
This ordinance shall be in full force and effective 30 days following adoption of this ordinance.

SECTION 7. ADOPTION CLAUSE.

The Board of Commissioners hereby adopts the Manion Pines, West Lake, & ODPR Comprehensive Plan Zoning Map and Text Amendment with conditions as set forth in Exhibit I "Adoption Packet" recommended for approval by the Planning Commission and attached hereto and by this reference made a part herein of this ordinance in its entirety.

ADOPTED this 9<sup>th</sup> day of November 2009.

Board of County Commissioners  
For Clatsop County, Oregon

By   
Jeffery S. Hazen, Chair

Approved as to Form: \_\_\_\_\_  
Clatsop County Counsel

## Adopted Conditions of Approval

Ordinance # 09-05



The following CONDITIONS OF APPROVAL shall apply to this land use decision:

1. All utilities shall be placed underground. *Surf Pines Rules (SPR)*
2. The applicant shall record a road maintenance agreement in the records of Clatsop County along with the final subdivision plat and include substantially the following language: "(1) The agreement for maintenance shall be enforceable by a majority of persons served by the road; and, (2) The owners of land served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula". The easement over the road(s) for ingress and egress, including the right of maintenance, shall be conveyed to the properties served by the road(s). *(SPR)*
3. The Restrictive Covenants to govern certain aspects of future development of the property shall be recorded prior to recording deeds for each of the lots within the subdivision. The CC&R's shall be reflected in each of the deeds. For areas which will be jointly owned or used by the various owners in the subdivision (i.e., common greenbelt preserve), a covenant document is mandatory as part of the final plat. The Community Development Director or the County's legal counsel shall review any restrictive covenants prior to recording the final subdivision plat. *Plat label & Deed Restrict*
4. Prior to application for final subdivision plat approval, the applicant shall provide documentation authorizing the access and use of Surf Pine and Stellar Lane.
5. Prior to application for final subdivision plat approval, the applicant shall document that the County Engineer has inspected and approved the A-22 paved road (or roads, if there are two) and roadside ditches.
- ✓ 6. Clear vision area are required at the intersection of Surf Pines Lane and Stellar Lane: No plantings, fences, walls, etc. shall exceed 2.5 feet in height for a minimum distance of 30 feet along Surf Pines Lane.
7. Approval of this preliminary subdivision plat includes the allowance to record easement(s), as necessary, to meet DEQ requirements for installation of individual septic systems.
8. As a function of the final subdivision plat application, a licensed and registered civil engineer in the State of Oregon shall document the steps that have been taken to ensure that stormwater runoff as a result of the present, and anticipated future, development of the property (7 homesites, driveways, etc.), will not adversely affect any of the proposed homesites, adjacent properties, or upstream or downstream drainage facilities. The engineer must confirm that adequate provisions have been made to prevent backup or ponding of water on adjacent properties as well as within the proposed development.
9. Prior to requesting final subdivision plat approval, the applicant shall provide documentation from the Department of Environmental Quality (DEQ) that addresses erosion controls and practices on the property and storm water discharges from the property.
10. Prior to application for final subdivision plat approval, the applicant shall document that the water line has been reviewed and approved by the Oregon Department of Human Services Drinking Water Program.
11. The minimum available fire flow for single-family dwellings shall be 1000 gallons per minute. Fire hydrants shall be installed at locations approved by the jurisdictional Fire Chief and in accordance with the Oregon Fire Code (OFC). If the structure(s) is (are) 3600 square feet or larger, the required fire flows shall be determined according to OFC Appendix B. If 1000 gallons per minute flows cannot be obtained then approved sprinkler systems for residences must be provided. Prior to application for final plat approval, the applicant shall provide complete fire flow test forms NFPA 13 and NFPA 24 (forms available from the

Community Development Department Building Codes Division) to the Community Development Department.

12. Prior to application for final subdivision plat approval, the applicant shall document that the local Fire Chief has inspected and approved the subdivision roadways, turnarounds, and fire hydrants.
13. The Planning staff shall review each phase prior to recording to make sure the phase, as recorded, is in accordance with the preliminary approval given by the Planning Commission. Any submitted phase, which does not coincide with the approval as given by the Planning Commission shall be referred to the Planning Commission for a hearing. At such hearing, the Commission shall have the authority to revoke, revise, amend or alter the prior approval. Notice shall be sent subject to the County Land Use Ordinance Sections 2.110-2.120.
14. Minor amendments, such as slight alteration in lot lines, to an approved preliminary plat may be approved by the Community Development Director if the amendments concur with the preliminary plat conditions of approval. Such amendments will only be valid for the twelve-month period following their approval and will become invalid if not implemented within that time.
15. Prior to application for final subdivision plat approval, the applicant shall provide appropriate documentation from applicable local, state, and federal agencies that all subdivision improvements have been completed in accordance with applicable rules and regulations.
14. Notations indicating any limitations on rights-of-access to or from street and lots shall be noted on the face of the final subdivision plat.
15. Prior to application for final subdivision plat approval, the applicant shall provide a quotation from the Clatsop County Assessor that indicates that all taxes on the subject property are paid and current.
16. Deed restrictions shall be filed in the Clatsop County Deed Records, in a form approved by County Counsel. 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. Additionally the deed restriction shall prohibit additional parcelization of the approved development or vacation of any permanent open space until such time as the entire area within the development is included within an urban growth boundary.
17. Prior to application for final subdivision the applicant shall designate Lot 8 as permanent common open space for the purposes of habitat preservation for the Oregon Silver Spot Butterfly. The final plat shall indicate an alphabetic numeration for Lot 8 and identify the intended purpose of this space as OSB habitat.
18. The preliminary plat approval is binding on the County and the subdivider for purposes of preparing the final subdivision plat, provided that there are no changes of the plan of the subdivision, and that it complies with all conditions of approval set forth in the preliminary plat decision.
19. The preliminary plat approval shall be valid for two (2) years from the date of the preliminary plat approval. The Community Development Director can authorize an extension of up to 12 months.
20. Within two (2) years of approval of the preliminary plat, the subdivider shall cause the subdivision to be surveyed and a plat prepared in accord with the preliminary plat. The final plat shall conform to the requirements of Sections 5.234-5.250 of the Clatsop County Land and Water Development and Use Ordinance (LWDUO).

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

In the Matter of:

A DENSITY TRANSFER OF 15 UNITS AND  
AN ORDINANCE AMENDING THE  
CLATSOP COUNTY COMPREHENSIVE  
PLAN ZONING MAP / TEXT

**ORDINANCE #09-05**



RESOLUTION AND ORDER

# 09-09-05

Recording Date: Sept 29, 2009

---

RECITALS

THE ABOVE ENTITLED MATTER came before the Planning Commission at its meeting of August 25<sup>th</sup>, of the year 2009, for public hearing and consideration of 15 residential density transfers, a Comprehensive Plan Zoning Map / Text Amendment and Preliminary Plat approval for a 7 Lot Subdivision in the former Pinehurst subdivision. The matter was continued to the September 8, 2009 public hearing where the Planning Commission after considering all public testimony and reviewing the Staff Report and Findings closed the public hearing for deliberation.

The Planning Commission after reviewing the findings of fact in Exhibit "A" (*Staff Report*) & the appended "*Applicant's Findings*" 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, the Comprehensive Text Amendment is in conformance with the 19 statewide planning goals and the intent of the ordinance which permits "*Density Transfers*" on the Clatsop Plains, and the Preliminary Plat for Manion Pines satisfies the requirements in accordance with Clatsop County's Land Use Ordinance and Standards.

THE PLANNING COMMISSION considering all evidence and public testimony provided by the Planning Department Staff and the Applicant at the public hearing, hereby **RECOMMENDS THE** **CONDITIONAL APPROVAL** OF THE PROPOSED REQUEST FOR A COMPREHENSIVE PLAN / ZONING MAP



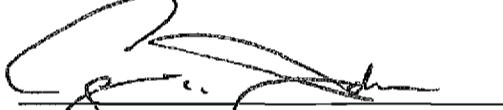
AMENDMENT, DENSITY TRANSFERS, AND PRELIMINARY PLAT AS DESCRIBED IN EXHIBIT "A" *Staff Report*,  
& "Findings", provided by the Applicant, attached hereto and by this reference made a part hereof.

**WHEREFORE, the Planning Commission finds and resolves:**

1. To recommend the Board of County Commissioners modify Clatsop County's Comprehensive Plan / Zoning map to reflect the change from the Residential Agriculture 2 and Residential Agriculture 5 to Open Space, Parks and Recreation as depicted on Map 1 attached to this document.
2. To recommend the Board of County Commissioners amend the Clatsop Plains Community Plan as illustrated in Section VII of Exhibit "A" Staff Report, transferring the 15 density units from the sending site to the receiving sites identified in the "Density Table."
3. To recommend the conditional approval of the Preliminary Plat for "Manion Pines" subdivision with the modifications identified in the Staff Report, Exhibit "A" and described in the conditions of approval.

SO ORDERED this 29<sup>th</sup> day of September, 2009

THE PLANNING COMMISSION FOR  
CLATSOP COUNTY



Cary Johnson, Chairperson  
Clatsop County Planning Commission

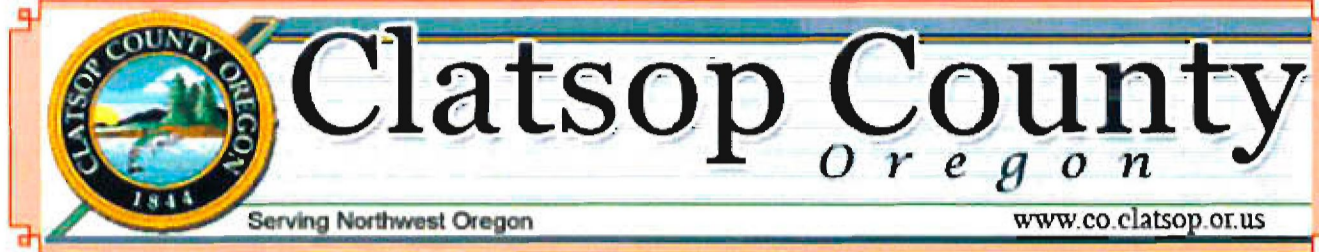


Exhibit A

**STAFF REPORT TYPE IV- ACTION**

**DOWN ZONE SUNSET BEACH  
TEXT AMENDMENT CLATSOP PLAINS COMMUNITY PLAN  
*MANION PINES SUBDIVISION***

Owners: Richard Schroeder, Rick Charlton, Oregon Parks & Recreation Department  
Applicant: Mark Barnes

Prepared By:  
Michael J Weston II, Planner Community Development

August 18, 2009

## TABLE OF CONTENTS

<b>STAFF REPORT .....</b>	<b>3</b>
I. BACKGROUND.....	3
II. PROPERTY STATUS AND CONDITIONS.....	4
III. SUMMARY ANALYSIS:.....	4
IV. LOCATION AND VICINITY MAP.....	5
V. APPLICABLE CRITERIA .....	6
VI. ASSESSMENT OF APPLICATION JUXTAPOSED WITH APPLICABLE CRITERIA .....	7
Section 3.240 Coastal Beach Residential Zone.....	7
Section 4.050 Beaches and Dunes Overlay District .....	9
Section 5.200 Subdivision, Partitions and Property Line Adjustments .....	14
Section 5.300 Site Plan Review.....	19
Section 5.350 Transportation System Impact Review.....	19
Section 5.400 Zone Changes.....	20
Chapter 1. Site Orientation.....	22
Chapter 3: Structure Siting and Development (Particularly S3.150 - "Cluster Development & Density Transfer" .....	22
Chapter 5. Vehicle Access Control and Circulation.....	26
Chapter 6. Road Standard Specifications for Design and Construction.....	35
VII. COMPREHENSIVE PLAN TEXT AMENDMENT TABLE 1. ....	42
VIII. CONCLUSION AND RECOMMENDATION .....	42
CONDITIONS OF APPROVAL .....	44
<b>EXHIBIT 1 – COMMENTS.....</b>	<b>45</b>
<b>EXHIBIT 2 – PUBLIC NOTICE.....</b>	<b>61</b>
<b>EXHIBIT 3 – APPLICATION.....</b>	<b>67</b>
<b>EXHIBIT 4 – PRELIMINARY PLAT.....</b>	<b>159</b>

CLATSOP COUNTY  
Transportation & Development Svcs  
800 Exchange St, Suite 100  
Astoria, OR 97103

[www.co.clatsop.or.us](http://www.co.clatsop.or.us)  
ph: 503-325-8611  
fx: 503-338-3666  
em: comdev@co.clatsop.or.us



---

**STAFF REPORT**  
*Consolidated Application*

August 13, 2009

**OWNER/APPLICANT:** Charlton/Schroeder/NCLC                      Mark Barnes  
3840 SW 75<sup>th</sup> Avenue    PO Box 569  
Portland, OR 97225    Astoria, OR 97103

**REQUEST:**    The applicants' request a downzone of the sending site, those properties located in the Sunset Beach Area, a comprehensive plan text amendment illustrating density transfers from the sending site to the receiving site, and a 7 lot subdivision located in the previously platted Pinehurst subdivision.

**PROPERTY:**    Multiple Properties, See Text Amendment (Table 1) for full list.

**SIZE:**    Sending site ≈ 68 Acres being rezoned to OPR; 2 Receiving sites: 1<sup>st</sup> ≈ 100+ Acres (Proposed site of the West Lake Ranch Subdivision), & 2<sup>nd</sup> ≈ 22 Acres (Proposed site of Manion Pines Subdivision).

**LOCATION:**    The Properties are located to the west of Highway 101 between Sunset Beach Road and Surf Pines Lane

**ZONING:**    Residential Agriculture 5; Residential Agriculture 2; Lake & Wetlands.  
Overlays:    Beaches & Dunes Overlay {BDO}

**EXHIBITS:**    (1) Comments  
(2) Public Notices  
(3) Application  
(4) Preliminary Plat

**STAFF RECOMMENDATION:**    **CONDITIONAL APPROVAL**

---

**I. BACKGROUND**

In December of 2004 the applicants entered into a sales agreement with Oregon's Parks and Recreation Department. The details of that agreement can be found in "Exhibit 3A" on page 6. The applicants essentially acquired the rights to downzone the property and transfer the density credits to another location. The applicants have chosen to transfer those density credits equaling 15 in sum to the following sites: 7 Credits will be transferred to the Manion Pines receiving site, 8 Credits will be transferred to the West Lake Ranch receiving site. A table will be appended to the Clatsop Plains Community Plan illustrating the following: the sending sites and their permanent zoning, the receiving sites and their zoning. The aforementioned table will serve as the Text Amendment component of the density transfer, it can be found on page 40 of this report.

The third component of this application is the Manion Pines subdivision. The subdivision is located within the formerly platted Pinehurst Subdivision. The area was originally designated open space as a function of the subdivision provisions; however, Staff believes this was a protective measure to preserve the

Oregon Silverspot Butterfly (OSB). A statement from the Department of the Interior, Fish and Wildlife Service explains that there are no violets on the site previously set aside for preservation. Furthermore the Department has no interest in the site proposed for development. In lieu of this habitat the department would rather see the area surrounding Sunset Beach preserved, as there is actual habitat present in that area. Additionally the 13.47-acre parcel in the eastern portion of the proposed Manion Pines subdivision will continue to be designated open space and the property transferred to the North Coast Land Conservancy (NCLC). Lot 8, as it is designated in the preliminary plat is known to have violets present, therefore the area will be used as a habitat preservation site.

## **II. PROPERTY STATUS AND CONDITIONS**

The sending site includes 57 acres of RA-5, not including roads, and 7.5 acres of RA-2, not including roads. The vacation of the roads in the RA-2 portion will increase the available land to 8.6 acres. Current density in the RA-2 zone is 1 unit per 2 acres; current density in the RA-5 zone is one unit per 5 acres. Mathematically the results indicate that 11 units can be transferred from the RA-5 and 4 units can be transferred from the RA-2. If the applicants are able to vacate more roads down the line there may be up to 4 more potential units. However at this time those units are not available.

The West Lake Ranch receiving site is approximately 200 acres in size. Staff's understanding of the proposal, still in the developmental phase, is that the southern half of the site will be the designated open space and the northern quadrant used as the development area. However, that subdivision request is not part of this consolidated application and does not require review at this time. The eight (8) density credits being transferred to the site will need to be considered when that proposal is before the department staff and the planning commission.

The Pinehurst receiving site consists of approximately 22 acres, and makes up previously platted tracks K, L, M, & N. These areas were designated open space as a function of the Pinehurst Subdivision approval. Upon investigation by staff tracks K & L were designated open space primarily because Pinehurst had exhausted all potential density on the site. The primary zoning for Pinehurst is RA-5; the subdivision currently consists of 51 lots including the 4 lots illustrated in the preliminary plat for Manion Pines. "Exhibit 3D" page 3 contains a table and staff calculations illustrating the satisfactory compliance with the 30% open space requirement for subdivisions in the Clatsop Plains. In accordance with this provision the new subdivision will also need to meet this requirement. Lot 8 contains 13.47 acres that will be preserved as open space. The 13.47 acres will satisfy the 7-acre (30%) open space requirement; in addition the area represented as Lot 8 and Tract N are known to have blue violets (*Viola adunca*), which the OSB use as a food plant throughout their life cycle. According to information provided by the NCLC the violets are limited to the east side of the property along Neacoxie Creek. Therefore the only habitat for the butterfly is located on Lot 8 or proposed Tracks M & N.

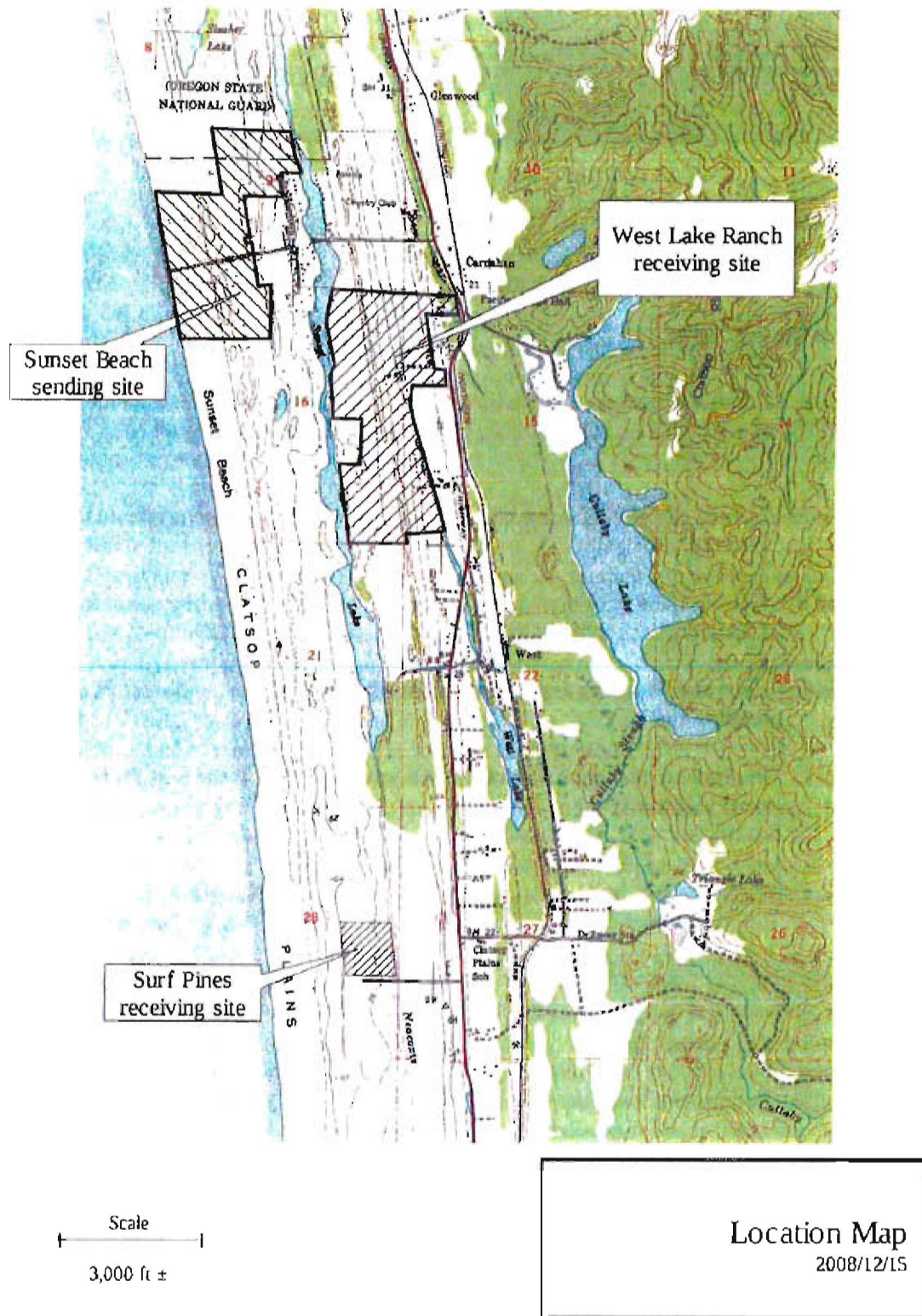
## **III. SUMMARY ANALYSIS:**

The three-tier proposal appears to satisfy all County requirements. The applicant's findings adhere to the requirements of the ordinance and are appropriate for adoption by the Planning Commission and Board of Commissioners. Conditions of approval will be necessary to ensure compliance with County Requirements. Those conditions can be found appended to this report; this application is a type IV consolidated application under section 2.060§2.

Some concerns may arise surrounding compatibility with Goal 14 as discussed on page 19 of this report, regardless staff believes this application is consistent with Statewide Planning Goals and Policies. Furthermore the application is consistent with Clatsop County's Comprehensive Plan. As a function of this application a table will be appended to the Clatsop Plains Community Plan ensuring future accountability for density transfers on the Plains.

Staff recommends the Planning Commission and Board of Commissioners adopt the applicant's findings and staff report as the evidentiary findings of consistency for approval of this consolidated application.

IV. LOCATION AND VICINITY MAP



## V. APPLICABLE CRITERIA

The applicable criteria for this land use application is contained in LWDUO -- Ordinance 80-14 and the Clatsop County Standards Document:

### A. Clatsop County Land and Water Development and Use Ordinance (Ord. No. 80-14):

Section 1.010-1.050	Definitions
Section 2.035	Type IV procedures
Section 2.060	Procedures for Processing Development Permits
Section 2.115-2.120	Procedures for Mailed Notice
Section 2.230-2.260	Request for Review/Appeal et al
Section 2.315	Legislative Hearing Notice
Section 3.010	Establishment of Zones
Section 3.030	Special Purpose Districts
Section 3.056	Updating the Land and Water Development Map
Section 3.200	Residential Agriculture 2 Zone
Section 3.220	Residential Agriculture 5 Zone
Section 3.240	Coastal Beach Residential Zone
Section 3.580	Open Space, Parks, and Recreation Zone
Section 3.610	Lake and Wetland Zone
Section 4.050	Beaches and Dunes Overlay District
Section 5.200	Subdivision, Partitions and Property Line Adjustments
Section 5.300	Site Plan Review
Section 5.350	Transportation System Impact Review
Section 5.400	Zone Changes
Article 6	General Provisions

### B. Clatsop County Standards Document (Ord. No. 80-14):

Chapter 1:	Site Orientation
Chapter 2:	Site Oriented Improvements
Chapter 3:	Structure Siting and Development (Particularly S3.150 - "Cluster Development & Density Transfer")
Chapter 4:	Environmental Protection
Chapter 5:	Vehicle Access Control and Circulation
Chapter 6:	Road Standard Specifications for Design and Construction
Chapter 7:	State and Federal Requirements Section

### C. Comprehensive Plan Policies and Goals:

1 – Citizen Involvement
2 – Land Use Planning
5 – Scenic, Historic, & Natural Resources
6 – Air, Water, & Land Quality
8 – Recreation Needs
9 – Economy
10 - Housing
11 – Public Facilities and Services
12 – Transportation
13 – Energy Conservation
14 – Urbanization
18 – Beaches and Dunes
Clatsop Plains Community Plan

*For Purposes of Efficiency this Staff Report will focus on the Highlighted Criteria Above.*

**VI. ASSESSMENT OF APPLICATION JUXTAPOSED WITH APPLICABLE CRITERIA  
CRITERIA AS DETAILED IN CLATSOP COUNTY ZONING ORDINANCE:**

The applicable criteria for this land use application is contained in the following sections of the Clatsop County LWDUO which reads:

**SECTION 3.240 COASTAL BEACH RESIDENTIAL ZONE**

***Section 3.242. Purpose.***

The CBR zone is intended to accommodate the immediate foreseeable demand for low density residential development in the area commonly known as Surf Pines. Surf Pines covers an area of approximately 1-1/2 square miles and is located south of the community of Sunset Beach and west of Neacoxie Lake and Creek. Surf Pines is an area committed to low density rural residential development. This zone is a Goal 14 exceptions area.

***Section 3.244. Development and Use Permitted.***

The following uses and their accessory uses are permitted under a permit procedure subject to the applicable development standards.

- (1) One family dwelling.
- (2) Accessory uses as follows:
  - (A) In conjunction with, or following the permitting or lawful establishment of the primary use on the same lot or parcel to include, but not limited to detached garages, storage buildings, or other non-agricultural farm uses.
- (3) Limited home occupation.
- (4) Public or private neighborhood park or playground.
- (5) Utilities, maximum utilization of existing easements and rights-of-way shall be made.
- (6) No sign except for:
  - (A) Temporary "for sale" signs not larger than 260 square inches subject to the provision of Clatsop County Standards Document, Section S2.300.
  - (B) Political signs subject to the provisions of Clatsop County Standards Document, Section S2.300.
  - (C) Name places subject to the provisions of Clatsop County Standards Document, Section S2.300.
- (7) Handicapped housing facility.
- (8) Cluster development subject to the provisions of Clatsop County Standards Document, Section S3.150-S3.161.**
- (9) Low intensity recreation.
- (10) Property line adjustment subject to provisions Section 5.200 – 5.208 and the following:
  - (A) Provided the existing parcel is not reduced below the minimum lot size; and
  - (B) Provided the lot line adjustment is within the same zone.
- (11) Partition subject to provisions of Section 5.200 –5.208, and provided the existing parcel and new parcel(s) meet the minimum lot size and dimensions.
- (12) Land transportation facilities as specified in Section 3.035.



**Section 3.246. Conditional Development and Use.**

None.

**Section 3.248. Development and Use Standards.**

The following standards are applicable to permitted uses in this zone:

**(1) Lot size**

- (A) for residential uses: one (1) acre except for the following parcels which are not exceptions areas and therefore, require two (2) acres: T.7N., R.10W., Section 16C, Tax Lot 300 and 301.
- (B) Cluster development subject to the provisions of Section S3.150-S3.161.
- (C) Lots outside the exceptions area, two (2) acre in size.
- (D) Other permitted development as required to meet State sanitation requirements and local setback and ordinance requirements.

**(2) Minimum lot width: 100 feet.**

**(3) Lot width/depth dimension shall not exceed 1:3 ratio.**

(4) Required front yard: 20 feet.

(5) Required side yard:

- (A) Minimum side yard 10 feet, except on a corner lot, the minimum street side yard shall be 20 feet.
- (B) For lots of record created prior to September 30, 1980 that are less than the minimum lot size, required side yards shall be 5 feet.
- (C) When the side yard abuts a resource zone, the minimum side yard shall be 50 feet.

(6) Required rear yard: 20 feet, exception on a corner lot: 10 feet.

(7) For lots abutting the oceanshore, the ocean yard shall be determined by the oceanfront setback line established by Section S3.015 Oceanfront Setback.

(8) An accessory structure separated from the main building may be located in the required rear and side yard except in the required street side of a corner lot provided that it is no closer than five (5) feet to a property line.

(9) Maximum building height: 26 feet, except for ocean front lots which shall be: 18 feet.

(A) The height of a structure is measured from the average grade of the undisturbed ground at the four principal corners of the proposed structure.

(B) To determine height:

- 1) Construction/building plans submitted for uses permitted in this zone shall show the elevations of the undisturbed ground prior to construction as measured at the four principal corners of the proposed structure on a plot plan. A control point shall be established outside of the building's footprint.
- 2) Photographs of the undisturbed site shall be required. Photographs need not be professional or aerial photographs, but can be taken using a Polaroid or other camera.
- 3) To verify the height, a survey by a registered surveyor may be required by the Community Development Director.

(10) All new development shall indicate on the building permit how storm water is to be drained from the property. The Community Development Director may require the installation of culverts, dry wells or retention facilities in cases where a development has major storm drainage impacts.

- (11) All standards as set forth in the Clatsop County Development Standards Document 80-14, as amended.
- (12) The setback for all structures shall be 35 feet from the line of non-aquatic vegetation.
- (13) Utility lines shall be placed underground.**
- (14) Fence, wall, hedge, or coping not higher than 8 feet.
- (15) Livestock: none.

**Section 3.250. State and Federal Permits.**

If any state or federal permit is required for a development or use, an applicant, prior to issuance of a development permit or action, shall submit to the Planning Department a copy of the state or federal permit.

FINDING: Preliminary analysis indicates the preliminary plat as proposed by the applicants is permissible and adheres to the development and use standards highlighted in this section.

**SECTION 4.050 BEACHES AND DUNES OVERLAY DISTRICT**

**Section 4.051. Purpose.**

The intent of the beach and dune overlay is to regulate uses and activities in the affected areas in order to: ensure that development is consistent with the natural limitations of the oceanshore; ensure that identified recreational, aesthetic, wildlife habitat and other resources are protected; conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of beach and dune areas; and to reduce the hazards to property and human life resulting from both natural events and development activities.

**Section 4.052. Applicability.**

The beach and dune overlay (BDO) includes the following beach and dune areas:

- (1) The beach, which extends from extreme low tide landward to the Statutory Vegetation Line established and described in ORS 390.770, or the line of established upland shore vegetation, whichever is further inland;
- (2) The dune hazard area, which extends From the Statutory Vegetation Line established and described by ORS 390.770 or the line of established upland shore vegetation, which ever is further inland, landward to the construction setback line. The construction setback line is established as follows:
  - (A) A line 570 feet landward of the Statutory Vegetation Line established and described by ORS 390.770 for the area north of Surf Pines to the Columbia River south jetty.
  - (B) The Pinchurst construction setback line, established and described in Ordinance 92-90; and
  - (C) The Surf Pines construction setback line, established and described in Ordinance 83-17 and extended north to include T7N, R10W, Section 16C, Tax Lot 300.
- (3) The dune construction area, which extends from the construction setback line as defined in the section above, landward to the eastern limit of Highway 101.**

**Section 4.053. Relationship to the Underlying Zone.**

Uses and activities permitted in the Beach and Dune Overlay zone (BDO) are subject to the provisions and standards of the underlying zone and this chapter. Where the provisions of this district and the underlying zone conflict, the provisions of this district shall apply.

**Section 4.054 State Parks and Recreation Department Regulated Uses.**

Uses and activities permitted on the beach, as defined in Section 4.052(1) are those permitted subject to review and approval by the Oregon Parks and recreation Department consistent with ORS 390.605-390.725 and OAR Divisions 20-30.

**Section 4.055. Permitted Development and Uses.**

The following developments and uses are permitted under a Type I procedure subject to specific development standards.

- (1) In the dune hazard area as defined in Section 4.052(2),
  - (A) Maintenance and repair of existing structures, including roads and subsurface disposal systems.
  - (B) Land transportation facilities as specified in Section 3.035.
  - (C) Drainage improvements, including storm water outfall.
  - (D) Foredune breaching, where:
    - 1) The breaching is required to replenish sand supply in interdune areas, or is undertaken on a temporary basis for emergency purposes such as fire control or the alleviation of a flood hazard.
    - 2) There are no other reasonable alternatives to alleviate the emergency.
    - 3) The breaching does not endanger existing development.
    - 4) The area affected by the breaching is restored according to an approved restoration plan prepared by a registered professional geologist or certified engineering geologist, where the restoration plan shall include appropriate revegetation; and
    - 5) At a minimum, foredunes shall be restored to a dune profile which provides flood protection equivalent to that prior to breaching.
  - (E) Remedial grading, in the following cases:
    - 1) Clearing of sand, which is inundating houses or commercial buildings and their associated improvements. Sand may be graded up to thirty-five feet from a building's foundation subject to the following conditions:
      - (a) The area to be graded constitutes open sand dunes or the back slope of a foredune,
      - (b) There is no modification to the crest of a foredune,
      - (c) At a minimum, the area graded shall maintain the one hundred year flood elevation as established by the county's Flood Insurance Rate Map (FIRM), and
      - (d) No grading shall occur seaward of the Statutory Vegetation Line, except for placement of material removed from the structure in question;
    - 2) Excavation necessary for the purpose of placing a beachfront protective structure;
    - 3) Clearing of sand, which is inundating a public street and is interfering with vehicular or pedestrian traffic, including clearing of sand from a public beach access parking lot.
    - 4) Excavation of sand necessary to alleviate storm water buildup;
    - 5) Minor reshaping of the forward portion of a dune necessary to provide an even slope for the planting of stabilizing vegetation; and
    - 6) Where feasible, all graded sand shall be placed on the beach or foreslope portion of the adjoining dune. Where not feasible, then sand shall be placed at a location approved by the county. In no event shall sand be removed from the beach and dune system.
  - (F) Maintenance of existing riparian vegetation, including the planting of additional riparian vegetation.
- (2) In the dune construction area defined in Section 4.052(3), any permitted uses allowed in the underlying zone subject to the applicable standards of that zone and the applicable general standards of Section 4.059.

**Section 4.056 Development and Uses Permitted with Review.**

The following developments and uses are permitted under a Type II procedure, Sections 5.040 to 5.050, subject to the applicable general standards of Section 4.059.

- (1) Beachfront protective structures seaward of the Statutory Vegetation Line established and described by ORS 390.770 or the line established upland shore vegetation, whichever is further inland require a permit from the Oregon Parks and Recreation Department and the County. The County's review of beachfront protective structures shall be coordinated with the Oregon Parks and Recreation Department.
- (2) The emergency placement of riprap on the beach, as defined above and in Section 4.052(1) requires a permit from the Oregon Parks and Recreation Department (OPRD).
- (3) No construction is permitted prior to the issuance of an OPRD permit.
- (4) On the beach, as defined in Section 4.052(1), and in the dune hazard area as defined in section 4.052(2), and in the dune construction area as defined in section 4.052(3):
  - (1) Pedestrian and Equestrian Trail.
    - 1) To minimize the loss of vegetation, fencing adjacent to the trail may be required in order to restrict traffic to the designated trail, and
    - 2) Subdivisions or other developments of ten or more dwelling units shall provide public trails to the beach.
  - (2) Structural shoreline stabilization.
    - 1) The priorities for beachfront protection, from highest to lowest, are:
      - (a) Proper maintenance of existing vegetation.
      - (b) Planting of riparian vegetation.
      - (c) Rip-rap.
      - (d) Bulkhead or seawall.
  - (A) Proposals for rip-rap, bulkheads, or seawalls shall demonstrate that:
    - (a) The beachfront protective structure is located in an area where the county has identified that development existed on or before January 1, 1977.
    - (b) The development is being threatened by erosion hazard.
    - (c) Non-structural means of shoreline stabilization cannot provide adequate erosion protection.
    - (d) The structure is the minimum necessary to provide for the level of protection that has been identified.
    - (e) The structure is placed as far landward as is practical, consistent with maintaining existing riparian vegetation.
    - (f) Potential adverse impacts on adjacent property are minimized.
    - (g) Existing public access is preserved. The county may require that the shoreline stabilization incorporate steps or other improvements to enhance public access to the beach.
    - (h) Visual impacts are minimized.
    - (i) Any rip-rap shall be covered with sand and revegetated with beach grass, willow or other appropriate vegetation.
  - (3) Sand stabilization program
    - 1) The program shall be prepared by a qualified individual approved by the County.
    - 2) The program shall be based on an analysis of the area subject to accretion or erosion. The area selected for management shall be found, based on the analysis, to be of sufficient size to successfully achieve the program objectives.

- 3) The program shall include specifications on how identified activities are to be undertaken. The specifications should address such elements as: the proposed type of vegetation to be planted or removed; the distribution, required fertilization and maintenance of vegetation to be planted; the location of any sand fences; and the timing of the elements of the proposed program.
- 4) Fire-resistant species are the preferred stabilizing vegetation within twentyfive feet of existing dwellings or structures. Fire resistant vegetation should only be planted when the foreslope and crest of the dune are adequately stabilized to prevent significant accumulation of windblown sand.
- 5) Where the placement of sand fences is proposed, evidence shall be provided that the planting of vegetation alone will not achieve the stated purpose of the sand stabilization program. Fencing may be permitted on a temporary basis to protect vegetation that is being planted as part of the program, or to control the effects of pedestrian beach access on adjacent areas.

**(5) In the dune construction area as defined in section 4.052 (3), any permitted uses allowed in the underlying zone subject to the applicable standards of that zone and the applicable standards of Section 4.059.**

***Section 4.057. Conditional Development and Use.***

The following developments and uses may be permitted under a Type IIa procedure Sections 5.010 to 5.025, subject to the applicable general of Section 4.059.

- (1) On the beach, as defined in section 4.052(1), and in the dune hazard area as defined in section 4.052(2):

(A) Foredune Grading

Foredune grading for view enhancement or to prevent sand inundation may be allowed only in foredune areas that were committed to development on or before January 1, 1977 and where an overall plan for foredune grading is prepared.

- 1) A foredune grading plan shall be prepared by a qualified expert approved by the County.
- 2) A foredune grading plan shall be based on an consideration of factors affecting the stability of the shoreline to be managed including sources of sand, ocean flooding, and patterns of accretion and erosion (including wind erosion), and the effects of beachfront protective structures and jetties.
- 3) The foredune grading plan shall:
  - (a) Cover an entire beach and foredune area subject to an accretion problem, including adjacent areas potentially affected by changes in flooding, erosion or accretion as a result of dune grading;
  - (b) Specify minimum dune height and width requirements to be maintained for protection from flooding and erosion. The minimum height for flood protection is four feet above the one hundred year flood elevation established by the FEMA flood insurance studies;
  - (c) Identify and set priorities for low and narrow dune areas which need to be built up;
  - (d) Prescribe standards for redistribution of sand and temporary and permanent stabilization measures including the timing of these activities; and
  - (e) Prohibit removal of sand from the beach-foredune system.

**(2) In the dune construction area as defined in section 4.052(3), any conditional uses allowed in the underlying zone subject to applicable standards of that zone and the applicable general standards of Section 4.059.**

**Section 4.058 Prohibited Activities.**

The following activities are prohibited in all areas within the beach and dune overlay (BDO) as defined in Section 4.052:

- (1) Removal of sand from the beach or dune system.
- (2) Removal of stabilizing vegetation, except in conjunction with a permitted development or use.

**Section 4.059. General Development and Use Criteria.**

The following criteria are applicable to developments and uses in the BDO, in addition to those specific standards identified in Sections 4.054 through 4.057.

- (1) For development located in all areas in the BDO as defined by Section 4.052, other than older stabilized dunes, findings shall address the following:
  - (A) The adverse effects the proposed development might have on the site and adjacent areas;
  - (B) Temporary and permanent stabilization proposed and the planned maintenance of new and existing vegetation;
  - (C) Methods for protecting the surrounding area from any adverse effects of the development;
  - (D) Hazards to life, public and private property, and the natural environment, which may be caused by the proposed use.
  - (E) How the proposed development will not result in the draw down of the groundwater supply in a manner that would lead to:
    - (A) The loss of stabilizing vegetation;
    - (B) The loss of water quality;
    - (C) Salt water intrusion into the water supply; or
    - (D) Significant lowering of interdune water level. Building permits for single-family dwellings are exempt from this requirement if appropriate findings are provided at the time of subdivision approval.
- (2) For development on the beach, as defined in section 4.052(1), and in the dune hazard area as defined in section 4.052(2) a geotechnical report in conformance with Section 4.044, shall be required by the Planning Director prior to the issuance of a development permit.
- (3) For development in the dune hazard area as defined in section 4.052 (2) and in the dune construction area as defined in section 4.052(3) a wind erosion control plan shall be required by the Planning Director prior to the issuance of a development permit. The purpose of the wind erosion control plan is to maintain the stability of the site during periods when the vegetative cover is removed and to ensure that adjacent properties are not adversely affected. The plan shall:
  - (A) Identify areas where vegetation is to be removed and the type of vegetation to be removed;
  - (B) Describe any temporary sand stabilization measures to be used during construction;
  - (C) The proposed type of vegetation to be planted to stabilize the site after construction, including the density of planting, proposed fertilization, method of maintenance, and timing of the planting;
  - (D) The removal of vegetation shall be kept to a minimum during site preparation and construction; and
  - (E) No site clearing is permitted prior to the issuance of the development permit for the proposed development or use. Site clearing shall occur no sooner than is necessary prior to construction. The permanent revegetation of the site shall be started as soon as is practical, but in no event later than six months after the completion of construction.

**FINDING:** The majority of the development and use criteria described in this section are addressed later in this report. In order to avoid duplicity staff will not address them at this stage.

**SECTION 5.200 SUBDIVISION, PARTITIONS AND PROPERTY LINE ADJUSTMENTS**

**Section 5.226. Preliminary Plat Information.**

The Preliminary Plat of the proposed subdivision shall include the following information:

- (1) Proposed name of subdivision. Subdivision plat names shall be subject to the approval of the County Surveyor or, in the case where there is no County Surveyor, the County Assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing the name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last files. On or after January 1, 1992, any subdivision submitted for final approval shall not use block number or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name that has previously used block numbers or letters.

**FINDING:** The applicant proposes use of the name, "Manion Pines" for the pending subdivision. The preliminary plat indicates this in the description. County Surveyor has tentatively reviewed the proposed name. These criteria have been satisfied.

- (2) North point, scale and date of the completed drawing, approximate acreage, and boundary lines.

**FINDING:** This information is provided on the preliminary plat. This standard has been met.

- (3) Appropriate identification clearly stating the map is a Preliminary Plat.

**FINDING:** This identifying information is noted on the preliminary plat as submitted by the applicant. This standard has been met.

- (4) Location of the subdivision by section, township, range, tax lot or lots and donation land claim sufficient to define the location and boundaries of the proposed subdivision.

**FINDING:** Township, Range, Section, and Tax Lot numbers shown on the preliminary plat are sufficient to locate the boundaries of the proposed subdivision. This standard has been met.

- (5) Names, addresses and zip codes of all owners, subdividers, and engineers or surveyors responsible for laying out the subdivision.

**FINDING:** The respective names, addresses and zip codes of the property owner and land surveyor (Karl Foeste) are included on the face of the preliminary subdivision plat. This standard has been met.

- (6) Existing locations, widths, names of both opened and unopened streets within or adjacent to the subdivision, together with easements, or rights-of-way and other important features, such as section lines, corners, city boundary lines and monuments.

**FINDING:** The submitted preliminary plat identifies the proposed road names in conjunction with other easements and right-of-ways. This criterion has been satisfied.

- (7) A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets, and sewer and water services, within one-quarter (1/4) mile of the exterior boundaries of the proposed development.

**FINDING:** The applicant submitted preliminary plat maps indicating a suitable vicinity map. The vicinity maps will be included appended to this document. A suitable vicinity map is provided; this criterion is satisfied.

(8) Location of at least one (1) temporary benchmark within the plat boundaries.

FINDING: Benchmarks are noted on the preliminary plat. This standard has been met.

(9) Contour lines related to the temporary bench mark or other datum approved by the County Surveyor and having contour intervals together with the calculated degrees of slope as follows: (a) for slopes not in excess of 10 percent; two-foot contours; (b) for slopes over 10 percent; five-foot contours.

FINDING: Two-foot contour intervals are shown on the supplemental preliminary plat included in Exhibit 4. These criteria are satisfied.

(10) Location of significant natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees.

FINDING: The locations of significant features have been identified on the Preliminary Plat. The criterion is satisfied.

(11) Location of any rare threatened and endangered species (plant or animal) located on or within 1,000 feet of the proposed subdivision.

FINDING: The proposed subdivision is in an area that was previously established as open space to preserve OSB habitat; however, Fish and Wildlife as well as the NCLC agree that the presence of the early blue violets, which are associated with the larval & caterpillar stage of the Silverspot butterfly's life cycle, is focused around Neacoxie Creek to the east of the proposed subdivision. Furthermore no Butterflies have been discovered in recent surveys of the area and it is unlikely the butterflies will utilize the existing habitat near Neacoxie Creek; therefore it is unlikely that this proposal will have any effect upon the OSB population or habitat. The criterion is satisfied.

(12) Location and direction of all watercourses and/or bodies and the location of all areas subject to flooding.

FINDING: This information is located on the Preliminary Plat. The criterion is satisfied.

(13) Existing uses on the property, including location of all existing structures.

FINDING: The existing uses are shown on the preliminary plat. This standard has been met.

(14) Location, width, name, approximate grade, and radii of curves of all proposed streets, their relationship of such streets to any projected or existing streets adjoining the proposed subdivision. The subdivider shall submit documented preliminary approval, from the County Roadmaster, of his road design.

FINDING: The applicants are proposing to use the pre-existing private road called "Stellar Lane". Improvement to the road will be necessary as a function of preliminary plat approval. Limited road details are provided on the preliminary plat. The subdivider has not provided documented preliminary approval from the County Roadmaster of their road design. This Criterion has not been satisfied.

(15) Location, width, and purpose of proposed easements and private roads for private use, where permitted, and all reservations or restrictions relating to such easements and private roads.

FINDING: This information is addressed on the preliminary plat. This standard has been met.



(16) Proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling is proposed, the drainage plan must demonstrate that adequate provisions have been made for the prevention of backup or ponding of surface water on adjacent properties as well as within the proposed development.

FINDING: The applicant has addressed this criterion in their proposed findings. See Exhibit D page 9 & 19. An appropriate condition will be appended to this report to ensure the drainage plan is in accordance with county, state and federal requirements. This criterion is satisfied

(17) Location, acreage and dimensions of lots and the proposed lot numbers.

FINDING: This information is provided on the preliminary plat. This standard has been met.

(18) Site, if any, allocated for a purpose other than single-family dwellings.

FINDING: Single-family lots, easements, and dedicated ways are depicted on the preliminary plat. This standard has been met.

(19) Location, acreage and dimensions of areas proposed for public use.

FINDING: The applicant does not propose any areas for public use.

(20) Location, acreage and dimensions of areas proposed for common open space (30% in the Rural designation of the Clatsop Plains planning area.)

FINDING: This criterion is addressed on page 2 of this report and Exhibit D page 9. Criterion is satisfied.

(21) Any subdivision may be platted in as many as three (3) phases. All phases must be submitted on the Preliminary Plat with proposed time limitations for the recording of the various phases. However, phasing must meet the following time limitations:

- (A) Phase I - shall be recorded within twelve (12) months of preliminary approval.
- (B) Phase II - shall be recorded within thirty-six (36) months of preliminary approval.
- (C) Phase III - shall be recorded within sixty (60) months of preliminary approval.

The Planning staff shall review each phase prior to recording to make sure the phase, as recorded, is in accordance with the preliminary approval given by the Planning Commission. Any submitted phase, which does not coincide with the approval as given by the Planning Commission shall be referred to the Planning Commission for a hearing. At such hearing, the Commission shall have the authority to revoke, revise, amend or alter the prior approval. Notice shall be sent subject to Sections 2.110-2.120.

For any subdivision which has an approved phasing plan as granted by the Commission under the Preliminary Plat approval, all parts of the subdivision shall fall under control of the various Ordinances in effect at the time of preliminary approval, unless state or local law shall determine that newer or current Ordinances or laws are to be followed.

If any time limitation is exceeded, preliminary approval for the subdivision or any phase of the subdivision shall be void. The subdivider shall submit any future proposals for development of the property to the Commission for approval.

Agreement for improvements for each phase shall comply with this Ordinance prior to the Final Plat approval of such phase. If a bond is required, such bond shall be for a sum determined by the County Engineer to be sufficient to cover costs of construction for that phase.

FINDING: The applicant is not proposing phase development for Manion Pines subdivision; therefore they will have two years from the date of approval to meet the required conditions, an additional 12 months can be granted by the planning director upon written request. In order to satisfactorily comply with these criteria an appropriate condition of approval will be appended to this document.

(22) Technical documentation shall be supplied to the Commission by the subdivider at the time of submittal of the Preliminary Plat, addressing the following:

- (A) An acceptable and approved method of sewage disposal for each proposed lot which meets the rules and regulations of the Environmental Quality Commission (EQC) of the State of Oregon as administered by the Department of Environmental Quality (DEQ) or its contract agent.
- (B) An acceptable and approved method of water supply.

FINDING: The applicant states water is available from the city of Warrenton but has not provided evidence-demonstrating means availability; regardless approval letters from the City of Warrenton and the Department of Environmental Quality will be required as a function of subdivision approval. These criteria will be addressed through an appropriate condition of approval.

(C) The nature and type of improvements proposed for the subdivision, and a timetable for their installation.

FINDING: The applicant is proposing an enlarged turn around. Despite this proposal the applicant is responsible for improvements to the subdivision including improvements to the access road, interior subdivision roads, and the installation of all utilities. Clatsop County Standards requires that Subdivisions over 10 lots meet the County's A-22 standard. Manion Pines is a 7-lot subdivision; however 4 other homes access Stellar Lane, which brings the total to 11. In accordance with the standards document Chapter 6 Section S6.050 the applicant's are required to meet the County's A-22 Standards. This will be addressed in more detail later in this report and an appropriate condition of approval will be appended to satisfy this requirement. This standard shall be met. See Conditions.

(D) A description of community facilities, which would serve the subdivision, and a timetable for the completion or installation of the facilities.

FINDING: No community facilities are being installed to serve the subdivision. This standard has been met.

(E) Where a surface or subsurface water problem may exist, as determined by the Department of Environmental Quality, County Sanitarian, or other qualified specialist, a complete report by an independent, qualified hydrologist or hydro-geologist or other qualified specialist shall be required prior to any hearing on the Preliminary Plat by the Commission. The fee for such study shall be paid by the subdivider.

FINDING: No such problems are known to exist at this time. The standard has been met.

(F) Subdividers shall provide a list of any restrictive covenants, are not provided as a function of this application.

FINDING: The applicants state on page 10 of Exhibit D that restrictive covenants will be recorded. An appropriate condition of approval will be appended to ensure this criterion is satisfied.

(G) A demonstration that lot size and use are in compliance with the applicable zone.

FINDING: As illustrated previously on page 6 & 7 of this report the application appears to satisfy the lot size and dimension requirements of the Coastal Beach Residential Zone. In addition the cluster requirements & density transfers allow lower density than permitted in the base zone. This criterion is satisfied.

(23) Compliance with the Clatsop County Comprehensive Plan and Land and Water Development and Use Ordinance, and ORS 92 and 215.

FINDING: Findings of compliance with applicable provisions of the Comprehensive Plan, Land and Water Development and Use Ordinance, and ORS 92 and 215 are covered in other sections of this report.

(24) Lots not intended for sale shall be designated by alphabetic symbol, which indicates the intended usage. The acreage for each dedicated lot, if any, is to be shown.

FINDING: Lot 8 on the preliminary plat is intended for OSB habitat preservation, and is set to be transferred to the NCLC upon final plat. In order to satisfy this criterion the plat will need to illustrate a letter or symbol in accordance with this requirement. This criterion is not satisfied.

(25) Notations indicating any limitations on rights-of-access to or from streets and lots or other parcels of land proposed by the developer or established by the Board.

FINDING: Currently the applicant has proposed access to the subject parcel from Surf Pines Lane & Stellar Lane. At this time there is no reason to believe the applicants will not be able to use these roads for access. This criterion is satisfied.

(26) A quotation from the Clatsop County Assessor on taxes to be paid on a proposed subdivision before final platting shall take place in accordance with ORS 92.095.

FINDING: The applicant is responsible for paying applicable taxes to the Clatsop County Assessor prior to the recording of the final subdivision plat. The applicant states they will satisfy this requirement prior to final plat. This standard will be met. See Conditions.

(27) If any federal or state permit is required to carry out the preliminary plat approval, approval shall be subject to a condition requiring the subdivision to comply with any applicable federal and state laws.

FINDING: If any state or federal permits are needed, the applicant is responsible for obtaining the requisite permits as a function of carrying out the preliminary plat approval. The applicant states they will satisfy the requisite obligations discussed above. This standard has been met or will be met, as applicable.

(28) In areas subject to the geologic hazard overlay zone, a grading plan in conformance with Section 4.040 is required.

FINDING: No geologic hazard is known to exist on the subject property. Criterion is satisfied.

**Section 5.242. Agreement for Improvements.**

The subdivider shall improve or agree to improve lands dedicated for streets, alleys, pedestrian ways, drainage channels, easements and other rights-of-way to County Standards as a condition preceding the acceptance and approval of the Final Plat.

Before the Commission approval is certified on the Final Plat, the subdivider shall either install required improvements and repair existing streets and other public facilities damaged in the development of the subdivision; or he/she shall execute and file with the Board an agreement between himself and the County specifying the period within which required improvements and repairs shall be completed. The agreement shall provide that if the work is not completed within the period specified, the County may complete the work and recover the full cost and expense thereof from the subdivider.

A performance bond, as provided in Section 5.244 of this Ordinance, shall be required with such agreement. Provisions for the construction of the improvements in phases and for an extension of time under specified conditions may be made upon prior agreement by, or application to, the Commission or Board.

**Section 5.244. Performance Bond.**

(1) The subdivider shall file with the agreement to assure full and faithful performance thereof, one of the following:

- (A) A surety bond executed by a surety company authorized to transfer business in the State of Oregon on a form approved by the District Attorney.
- (B) In lieu of a surety bond, (a) the subdivider may deposit with the County Treasurer cash money in an amount fixed by the County Engineer, or (b) file certification by a bank or other reputable lending institution that money is being held to cover the costs of the improvements and incidental expenses. Said money will only be released upon authorization of the County Engineer.

(2) Such assurance of full and faithful performance shall be for a sum determined by the County Engineer as sufficient to cover the cost of the improvements and repairs that may be required prior to acceptance including related engineering, and may include an additional percentage as determined by the County Engineer to cover any inflationary costs which may be incurred during the construction period to the full and final completion of the project.

(3) If the subdivider fails to carry out provisions of the agreement and the County has unreimbursed costs of expenses resulting from failure, the County shall call on the bond or cash deposit for reimbursement. If the amount of the bond or cash deposit exceeds the cost and expense incurred, the remainder shall be released. If the amount of the bond or cash deposit is less than the cost and expense incurred, the subdivider shall be liable to the County for the difference.

(4) If subdivision extensions are granted, the bond may need to be revised.

FINDING: The applicant will be responsible for posting the requisite performance bond, if needed. This standard will be met. See Conditions.

**SECTION 5.300 SITE PLAN REVIEW**

**Section 5.302. Site Plan Review Requirements.**

Before a permit can be issued for development in a special purpose district or for a conditional development and use or a development and use permitted with review, a site plan for the total parcel and development must be approved by the Community Development Director or Planning Commission. Information on the proposed development shall include sketches or other explanatory information the Director may require or the applicant may offer that present facts and evidence sufficient to establish compliance with Sections 1.040, 1.050 and the requirements of this Section.

FINDING: This criterion is addressed as a function of a development permit and will be appended as a condition of approval. This criterion is satisfied.

**SECTION 5.350 TRANSPORTATION SYSTEM IMPACT REVIEW**

The following section incorporates requirements for developments that have the potential to impact the county's transportation system.

**Section 5.352 Traffic Impact Study**

**(1) Purpose.**

The purpose of this section of the code is to implement Section 660-012-0045(2)(e) of the State Transportation Planning Rule that requires the County to adopt a process to apply conditions to development proposals in order to minimize adverse impacts to and protect transportation facilities. This section establishes the standards for when a proposal must be reviewed for potential traffic impacts; when a Traffic Impact Study must be submitted with a development application in order to determine whether conditions are needed to minimize impacts to and protect transportation facilities; what must be in a Traffic Impact Study; and who is qualified to prepare the Study.

**(2) When Required.**

A Traffic Impact Study may be required to be submitted to the County with a land use application, when the following conditions apply:

**(A) The development application involves one or more of the following actions:**

- 1) A change in zoning or a plan amendment designation; or**
- 2) Any proposed development or land use action that ODOT states may have operational or safety concerns along a state highway; and**
- 3) The development shall cause one or more of the following effects, which can be determined by field counts, site observation, traffic impact analysis or study, field measurements, or crash history. The Institute of Transportation Engineers Trip Generation manual shall be used for determining vehicle trip generation:
  - (a) An increase in site traffic volume generation by 500 Average Daily Trips (ADT) or more (or as required by the County Engineer); or**
  - (b) An increase in ADT hour volume of a particular movement to and from the State highway by 20 percent or more; or**
  - (c) An increase in use of adjacent streets by vehicles exceeding the 20,000 pound gross vehicle weights by 10 vehicles or more per day; or**
  - (d) The location of the access driveway does not meet minimum site distance requirements, or is located where vehicles entering or leaving the property are restricted, or such vehicles queue or hesitate on the State highway, creating a safety hazard; or**
  - (e) A change in internal traffic patterns that may cause safety problems, such as back up onto the highway or traffic crashes in the approach area.****

**FINDING:** This proposal does not require a traffic impact study. This criterion is satisfied.

**SECTION 5.400 ZONE CHANGES**

**Section 5.410. Purpose.**

This section provides the criteria for amending the boundaries of any base zone or overlay district delineated on the official Clatsop County "Comprehensive Plan/Zoning Map". A change in a base zone or overlay district may be made according to the criteria set forth in Section 5.412. The process for changing a zone designation shall be a Type IV procedure initiated by the governing body, Planning Commission, or by petition of a majority of property owners in the area proposed for change. Mailed notice of the hearing shall include the owners of property within (250) feet of the area proposed for change. If the change involves a Goal 5 resource, a Plan amendment must also be requested and the Goal 5 Administrative Rule used to justify the decision.

**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.

**FINDING:** For the purpose of efficiency and to avoid duplicity staff is satisfied with the applicant's proposed findings, which satisfy this criterion; see "Exhibit 3C" pages 3-16 for evidentiary findings.

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

**FINDING:** In general the applicants' responses satisfy the provisions required for consistency with the 19 statewide planning goals. Additionally Staff would add, that the receiving site is in a goal 14 exception area and is therefore not subject to the 2 acre requirement on rural lands established with ORS 197 / OAR 660-004-0040 (7a).

- (3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
  - (A) Parks, schools and recreational facilities
  - (B) Police and fire protection and emergency medical service
  - (C) Solid waste collection
  - (D) Water and wastewater facilities

**FINDING:** The proposal downzones a portion of land currently zoned for residential purposes to a conservation zone. The effect will preserve OSB habitat, and expand parklands in the area. Police Fire and emergency services are available to the area and provided by local municipalities and Rural Fire Protection Districts. The Department of Environmental Quality and State Parks and Recreation Department presently monitor solid waste collection within the park boundary. These criteria are addressed in the applicant's proposed findings "Exhibit 3C" page 25. This criterion has been satisfied.

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

**FINDING:** The applicant addresses this criterion adequately in the proposed findings "Exhibit 3C" page 25.

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

**FINDING:** This criterion is adequately addressed in the applicant's proposed findings. See # 4 above

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

**FINDING:** The applicant suitably addresses this criterion in Exhibit 3C pages 25 & 26.

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

**FINDING:** The applicant adequately addresses this criterion on Page 26 of "Exhibit 3C".

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

**FINDING:** See # 7 above.

**CHAPTER 1. SITE ORIENTATION.**

**Section S1.010. Basis Characteristics of a Residential Site**

Except as otherwise provided by S1.030, a lot or parcel to be developed for residential use shall comply with the following:

- (1) In a location that will not be served by a public sewer, a lot or parcel shall have sufficient size to permit compliance with the requirements of the Department of Environmental Quality for sewage disposal by septic tank and drain field or other alternative system and permit continued reliance on that method of sewage disposal. If the location will not be served by a community water system, a lot or parcel shall have sufficient additional size to permit an on-site water supply for each lot or parcel without conflict between water supply and sewage disposal facilities.
- (2) In a location that will be served by public or private sewer, the standards of each zone shall apply.

**FINDING:** The submittal of requisite information in the form of DEQ site evaluations and a contour map of the entire parcel submitted with the Preliminary Plat would verify adherence to this standard. The lots proposed appear to meet the criteria described in the above Standard §1.010, but no site evaluations have been submitted. In lieu of site evaluations the applicants use adjacent parcels as evidence to satisfy this criterion.

**CHAPTER 3: STRUCTURE SITING AND DEVELOPMENT (PARTICULARLY S3.150 - "CLUSTER DEVELOPMENT & DENSITY TRANSFER"**

**S3.150. Cluster Development and Density Transfer**

**S3.151. Purpose.**

The intent of these standards is to preserve large contiguous forest and agricultural lands, other resource lands, and lands suitable for open space by providing an alternative to the division of forest, agricultural and resource lands into the minimum sized lots allowed in the appropriate zones, and to apply standards to rural residential lands consistent with state administrative rules governing cluster developments.

**S3.152. Procedures for Cluster Development.**

A cluster development shall comply with the procedures and standards in this section.

- (1) The applicant shall discuss the proposed cluster development with the staff of the Clatsop County Department of Community Development in a pre-application conference pursuant to Section 2.020.
- (2) An applicant for a cluster development must submit a development plan and receive approval of the plan prior to development.
- (3) As soon as plan approval is given, the plan and any conditions of approval shall be recorded in the Office of the County Clerk by book and page and shall constitute an agreement not to divide the property as long as it remains in its present zoning.
- (4)
  - (A) As a condition to the approval that may be given for partitioning under this section, the applicant shall provide all deeds or contracts affecting the original farm use parcel to assure that the maximum density will not be exceeded.
  - (B) For each partition application under this Standard the Community Development Director or designate shall determine and include with the approved plan map a statement including:
    1. The number of homesite lots allowable on the original parcel,

2. A legal description of the original parcel,
  3. The number of homesite lots that will result from the proposed partition, and
  4. The number of homesite lots, if any, that could be allowed in the future on the original parcel.
- (5) For purposes of calculating density for cluster developments or planned unit developments, the density allowed under the base zone designation shall be utilized regardless of overlay zone designations.

**S3.158. Residential Cluster Development Standards.**

- (1) The tract of land to be developed shall not be less than 4 contiguous acres in size, provided that land divided by a road shall be deemed to be contiguous.
- (2) The development may have a density not to exceed the equivalent of the number of dwelling units allowed per acre in the zone or zones.
- (3) The cluster development shall not contain commercial or industrial developments.
- (4) The minimum percentage of common open space shall be 30% excluding roads and property under water (MHHW).
- (5) Attached residences are permitted provided the density allowed per acre in the zone is not exceeded (this does not apply in the Clatsop Plains planning area).
- (6) The prescribed common open space may be used to buffer adjacent forest, farm, hazard areas or other resource lands such as but not limited to archeological and historical sites, water bodies, etc.
- (7) Land in the same ownership or under a single development application that is divided by a road can be used in calculating the acreage that can be used in the clustering option.
- (8) For lands zoned primarily for rural residential uses located outside urban growth boundaries, unincorporated community boundaries, and located outside non-resource lands as defined in OAR660-004-000(5)(3), the following additional conditions must be met.
  - (A) The number of new dwellings units to be clustered does not exceed 10;
  - (B) None of the new lots or parcels created will be smaller than two acres;
  - (C) The development is not served by a new community sewer system or by any extension of a sewer system from within an urban growth boundary or from within an unincorporated community, unless the new service or extension is authorized consistent with OAR 660-011-0060;
  - (D) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the base zone designations effective on October 4, 2000 as the minimum lot size for the area;
  - (E) 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 uses and will not significantly increase the cost of accepted farm or forest practices there; and
  - (F) For any open space or common area provided as part of the cluster development under this subsection (8), the owner shall submit proof of non-revocable 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.

FINDING: The applicants are not proposing to develop more than 10 lots; furthermore the area is in an identified exception area, which allows lots smaller than the 2-acre minimum. Appropriate deed restrictions will be required as a function of approval.



**S3.159. Purpose and Intent of Rural Residential Development in the Clatsop Plains Planning Area.**

It is the purpose and intent of Clatsop County to maintain the rural character of residential land outside urban growth boundaries within the Clatsop Plains planning area by preserving and protecting concentrated open space and natural resources, and minimizing the impact of rural residential development on essential services, while also allowing low density residential development.

The County recognizes that achieving the density permitted in rural residential zones through clustered development better promotes the County's purpose and intent of maintaining the rural character of an area than does the traditional grid pattern of development where lots are not clustered and are created to directly correspond to the density permitted in the base zone. Through clustering development where the density permitted in the base zone is satisfied by combining smaller individual lots with larger expanses of open space, the County is able to retain the greatest concentration of permanent open space with the least impact on essential services. Conversely, large lots developed in a grid pattern extending over an entire subdivision or planned development site, negatively impact the rural character of an area by minimizing the amount of permanent open space and attendance resource protection, while increasing the public facility infrastructure necessary to service development covering a large expansion area.

Therefore, it is the County's purpose and intent that all residential planned developments and subdivisions in the Clatsop Plains planning area shall be clustered which will ensure that the rural character is maintained.

**S3.160. Additional Residential Cluster Development Standards for the Clatsop Plains Planning Area.**

- (1) All planned developments and subdivisions shall designate and retain areas as permanent common open space.
- (2) The minimum percentage of common open space shall be 30% excluding roads.
- (3) Permanent common open space shall include, whenever possible, steep dunes which would require substantial alterations for building, buffers along streams, water bodies, deflation plains, and farm and forest lands.
- (4) Buffers (screening) shall be provided in all subdivisions and planned developments along all property lines adjacent to arterials and/or collectors.
- (5) Permanent common open space as part of subdivisions or planned developments adjoining one another shall be interrelated and continuous whenever possible. This could mean that the common open space could continuously follow ridge tops, deflation plains or shorelands. The Clatsop County Department of Community Development shall prepare a map of potential systems of common open space to be used as a guide for developers.
- (6) Streams and drainages which form a system of common open space shall be preserved.
- (7) Standards to be evaluated to achieve purpose and intent.
  - (A) The minimum parcel size for cluster developments in the Rural Lands plan designation may be less than one (1) acre, but in no case may they be less than one-half (1/2) acre provided the following criteria are met.  
The County has determined that satisfaction of the following criteria will achieve the County's purpose and intent to preserve the rural character of rural residential development:

1. Total amount and percentage of permanent common open space. All permanent common open space shall constitute not less than 30% of the entire development site, excluding roads and land under water.
2. Total number of lots in an individual residential cluster. No individual cluster, which consists of two (2) or more building lots, may contain more than twenty (20) building lots.
3. Distance between individual clusters within a proposed subdivision or planned development. Each individual cluster shall be separated from any other cluster within the proposed development by no less than 100 feet as measured from lot boundaries. For purposes of this standard a road connecting two or more clusters is not considered a part of the cluster in determining the required separation.
4. Distance between proposed residential clusters and pre-existing adjacent residential development. Each proposed cluster shall be separated from any existing adjacent residential development by no less than 100 feet as measured from lot boundaries. For purposes of this standard a road connecting the proposed cluster(s) and existing residential development is not considered a part of the cluster in determining the required separation.
5. Access roads. Access roads other than those connecting cluster(s) with pre-existing adjacent residential development and roads connecting clusters shall not be permitted in areas separating cluster development and pre-existing adjacent residential development.
6. Total overall density of development. The overall density of the entire development, including both open space and clustered development shall not exceed that density allowed in the base zone.
7. Individual lot size. The proposed lot size shall satisfy applicable Oregon Department of Environmental Quality rules regarding wastewater treatment systems and local setback requirements but in no case may a lot be less than one-half (½) acre in size. No lots in the Coastal Beach Residential zone may be less than one (1) acre in size.
8. Unique or significant resources on site. Any identified Goal 5 or Goal 17 resource will be preserved and protected as required by the Comprehensive Plan and designed as a part of the permanent common open space areas of the development.
9. Types and levels of public facilities. Only those types and levels of public facilities permitted by the Comprehensive Plan shall be allowed.
10. Distance between proposed residential clusters and the Urban Growth Boundary. Each proposed individual cluster shall be separated from the Urban Growth Boundary by no less than 200 feet as measured from lot boundaries, excluding any connecting roads between the proposed cluster and the Urban Growth Boundary.
11. Review Standards and Conditions:
  - (A) In order for the County to conclude that a proposed planned development or subdivision in a rural residential zone maintains the rural character of the area, the County shall make findings, based upon substantial evidence in the whole record, which establishes that the criteria have been satisfied.
  - (B) Upon approval of a rural residential planned development or subdivision, the County shall require, as a condition of approval, that deed restrictions shall be filed in the Clatsop County Deed Records, in a form approved by County Counsel, that prohibits additional parcelization of the approved development or vacation of any permanent open space until such time as the entire area within the development is included within an urban growth boundary.

FINDINGS: As mentioned previously the applicant satisfies the 30% open space requirement by dedicating lot 8 as common open space. Furthermore no lot in the subdivision is less than 1 acre in size, hence satisfying # 7 above. In accordance with 11B above an appropriate condition of approval will be appended to the decision

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

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

FINDING: These criteria are addressed throughout this report and indicate that the proposal is in compliance with the requirements mention in section 3.161.

**CHAPTER 5. VEHICLE ACCESS CONTROL AND CIRCULATION.**

**Section S5.033. Access Control Standards.**

- (1) Traffic Impact Study

FINDING: No Study is required at this time. It is likely that a TIS will be required at the preliminary plat stage for west lake ranch.

- (2) Consolidation of Access Points, other Transportation Mitigation

FINDING: The applicants are proposing access to the site from Surf Pines Lane by way of Stellar Lane. The access from Stellar Lane to Surf Pines Lane will service 11 lots in total; this requires the applicants to meet the A-22 standards as explained by S6.160 & S6.050 of the standards document. The applicant is responsible for making any necessary improvements to the approach road as directed by the County Engineer or its designee. This standard will be met. See Conditions.

- (3) Access Options

FINDING: Access is from a private road (Surf Pines Lane); the applicant's will need to adhere to the requirements of the Surf Pines Homeowners association for use of the road. Furthermore the applicants have not provided proof of access as to date. An appropriate condition of approval will be appended to this decision.

- (4) Subdivision Fronting onto an Arterial Street

FINDING: Not applicable

- (5) Double-Frontage Lots

**FINDINGS:** No double frontage lots are proposed. Track N extends along the western portion providing a narrow strip to prevent double-frontage. This standard has been met.

**(6) Reverse Frontage Lots**

**FINDINGS:** No reverse frontage lots are proposed. This standard has been met.

**(7) Access Spacing**

**FINDING:** Minimum spacing standards for driveways to each lot do not apply along the local roads. This standard has been met.

**(8) Number of Access Points**

**FINDING:** One street access point per lot is permitted except that corner lots may have two access points (not more than one access point per street). The proposed subdivision layout is conducive for compliance with this standard. This standard has been met and will be assured as a function of the subsequent development permit reviews for each lot.

**(9) Shared Driveways**

**FINDING:** Shared driveways are often encouraged; however no shared driveways are proposed at this time. This standard does not apply to the request.

**(10) Street Connectivity and Formation of Blocks Required**

In order to promote efficient vehicular and pedestrian circulation throughout the county, land divisions and large site developments, as determined by the Community Development Director, shall produce complete blocks bounded by a connecting network of public and/or private streets, in accordance with the following standards:

- (A) **Block Length and Perimeter.** No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street. The recommended minimum length of blocks along an arterial street is 1,800 feet. An exception to the above standard may be granted, as part of the applicable review process, when blocks are divided by one or more pathway(s); pathways shall be located to minimize out-of-direction travel by pedestrians and may be designed to accommodate bicycles; or where the site's topography or the location of adjoining streets makes it impractical to meet the standard.
- (B) **Street Standards.** Public and private streets shall also conform to Sections S6.000 – Transportation Improvements and Road Standard Specifications for Design and Construction and Section S5.040 - Pedestrian and Bicycle Access and Circulation, and applicable Americans With Disabilities Act (ADA) of 1990 design standards.
- (C) **Driveway Openings.** Driveway openings or curb cuts shall be the minimum width necessary to provide the required number of vehicle travel lanes (12 feet for each travel lane). The following standards (i.e., as measured where the front property line meets the sidewalk or right-of-way) are required to provide adequate site access, minimize surface water runoff, and avoid conflicts between vehicles and pedestrians:
  - 1) Single family, two-family, and three-family uses shall have a minimum driveway width of 10 feet, and a maximum width of 24 feet.
  - 2) Multiple family uses with between 4 and 7 dwelling units shall have a minimum driveway width of 20 feet, and a maximum width of 24 feet.

- 3) Multiple family uses with more than 8 dwelling units, and off-street parking areas with 16 or more parking spaces, shall have a minimum driveway width of 24 feet, and a maximum width of 30 feet. These dimensions may be increased if the Community Development Director determines that more than two lanes are required based on the number of trips generated or the need for turning lanes.
- 4) Access widths for all other uses shall be based on 12 feet of width for every travel lane, except that driveways providing direct access to parking spaces shall conform to the parking area standards in Sections S6.000 – Transportation Improvements and Road Standard Specifications for Design and Construction.
- 5) Driveway Aprons. Driveway aprons (when required) shall be constructed of concrete or asphalt and shall be installed between the street right-of-way and the private drive, as shown above. Driveway aprons shall conform to ADA standards for sidewalks and pathways, which require a continuous route of travel that is a minimum of 3 feet in width, with a cross slope not exceeding 2 percent.

(D) Block Length and Perimeter

FINDING: The Applicants are proposing to use a pre-existing private road that satisfies the aforementioned criteria.

(E) Street Standards

FINDING: The proposed roads' conformance with LWDUO § S5.040 and § S6.000 is assessed later in this report.

(F) Driveway Openings

FINDING: Clatsop County will assure that each subdivision lot is provided with a suitable driveway opening at the time building permit applications are made for the future development of the individual lots. The engineered storm drainage plan for the subdivision must account for future driveway openings for the individual lots, as appropriate. This standard will be met.

(11) Fire Access and Parking Area Turnarounds

A fire equipment access drive shall be provided for any portion of an exterior wall of the first story of a building that is located more than 150 feet from an existing public street or approved fire equipment access drive, or an alternative acceptable to the local Fire District and Public Works Director. Parking areas shall provide adequate aisles or turn-around areas for service and delivery vehicles so that all vehicles may enter the street in a forward manner. For requirements related to cul-de-sacs, please refer to Section S5.102.10 - Cul-de-Sac.

FINDING: The Oregon Fire Code Applications Guide (used by local Fire Chiefs and Clatsop County to assist in the application of the fire code for site development) reads, "Dead end fire apparatus access roads in excess of 500 feet in length shall have a driving surface width of not less than 26 feet". The County finds that an access road constructed to the County's A-22 standard, together with the improved turnaround as proposed by the applicants, are sufficient for purposes of determining compliance with this standard. Lots that will have driveways in excess of 150 feet in length will need to provide suitable fire access turnarounds in conjunction with development of these lots. This standard has been met and will be further implemented at the building permit stage for the applicable lots.

(12) Vertical Clearance

FINDING: The access roads will need to provide a minimum vertical clearance of 13'-6". This standard will be met.

(13) Vision Clearance

**FINDING:** Clear vision areas that meet the standards of LWDUO § S2.012 must be provided at all street intersections. This standard will be met.

**(14) Construction**

**FINDING:** Paving surfaces and provisions for surface water management for the subdivision roads shall be subject to review and approval by the Public Works Director or its designee. This standard will be met.

**Section S5.100. Subdivision Design Standards.**

**S5.101. Principles of Acceptability.**

A subdivision shall conform to the current Comprehensive Plan and shall take into consideration preliminary plans made in anticipation thereof. A subdivision shall conform to the requirements of state law and the standards established by this Ordinance.

**FINDING:** The proposed subdivision appears to adhere to all county and state standards. These criteria are satisfied.

**S5.102. Streets.**

- (1) General. The location, width, and grade of streets shall be considered in their relation to existing and planned streets, to topographical conditions, to public convenience and safety, and to the proposed use of the land to be served by the streets. Where location is not shown in a comprehensive development plan, the arrangement of streets in a subdivision shall either:
- (A) Provide for the continuation or appropriate projection of existing principal streets in surrounding areas; or
  - (B) Conform to a plan for the neighborhood approved or adopted by the Planning Commission to meet a particular situation where topographical or other conditions make continuance or conformance to existing streets impractical.

**FINDING:** The preliminary proposal appears to satisfy this criterion.

- (2) Minimum right-of-way and roadway widths. The width of streets and roadways shall be adequate to fulfill County specifications as provided in Section S6.000 of this Ordinance.

**FINDING:** Stellar Lane is currently located within a 50-foot wide right of way tract used to house the road. The County's road standards §6.050/Table 1 requires that subdivisions of 10 lots or more require the applicant to meet the A-22 standard. A-22 standards require a 60-foot right-of-way; however staff sees no reason the 50-foot right of way currently in existence would not be sufficient to house the necessary road improvements. An appropriate condition of approval will be attached. Criterion will be satisfied. See Conditions.

- (3) Where existing conditions, such as the topography or the size or shape of land parcels, make it otherwise impractical to provide buildable lots, the Planning Commission may accept a narrower right-of-way. If necessary, special slope easements may be required.

**FINDING:** See finding for # 2 above.

- (4) Reserve strips. Reserve strips or street plugs controlling access to streets will not be approved unless necessary for the protection of the public welfare or of substantial property rights and in these cases they may be required. The control and disposal of the land comprising such strips shall be placed within the jurisdiction of the County under conditions approved by the Planning Commission.

FINDING: Reserve strips or street plugs are not needed and are not proposed for the subdivision. This standard has been met.

- (5) Alignment. As far as practical, streets other than minor streets shall be in alignment with existing streets by continuations of the center lines thereof. Staggered street alignment resulting in "T" intersections shall wherever practical leave a minimum distance of 200 feet between the center lines of streets having approximately the same direction and otherwise shall not be less than 125 feet.

FINDING: The proposed subdivision road is aligned appropriately with a minimum distance of at least 200 feet between any intersections. This standard has been met.

- (6) Future extension of streets. Where necessary to give access to or permit a satisfactory future subdivision or adjoining land, streets shall be extended to the boundary of the subdivision and the resulting dead-end streets may be approved without a turnaround. Reserve strips and street plugs may be required to preserve the objectives of street extensions.

FINDING: The proposed subdivision road does not extend to the boundary of the subdivision. Review of surrounding areas indicates that the Subdivision to the north was required has access from Primrose and does not require access from this parcel. This standard has been met

- (7) Intersection angles. Streets shall be laid out to intersect at angles as near to right angles as practical except where topography requires a lesser angle, but in no case shall the acute angle be less than 60 degrees unless there is a special intersection design. The intersection of an arterial or collector street with another street shall have at least 100 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Other streets, except alleys, shall have at least 50 feet of tangent adjacent to the intersection unless topography requires a lesser distance. Intersections which contain an acute angle of less than 80 degrees or which include an arterial street shall have a minimum corner radius sufficient to allow for roadway radius of 20 feet and maintain a uniform width between the roadway and the right-of-way line.

FINDING: The proposed streets adhere to this standard. This standard has been met.

- (8) Existing streets. Whenever existing streets adjacent to or within a tract are of inadequate width, additional right-of-way shall be provided at the time of subdivision.

FINDING: No right of way dedications are needed for existing streets, see # 2 above. Existing streets are not sufficient to provide access to the parcels on the western side of Stellar Lane, improvements are required as a function of this ordinance. This standard will be met as a condition of approval.

- (9) Half streets. Half streets, while generally not acceptable, may be approved where essential to the reasonable development of the subdivision, when in conformity with the other requirements of these regulations, and when the Planning Commission finds it will be practical to require the dedication of the other half when the adjoining property is subdivided. Whenever a half street is adjacent to a tract to be subdivided, the other half of the street shall be platted within such tract. Reserve strips and street plugs may be required to preserve the objectives of half strips.

FINDING: Half streets are not proposed. This standard has been met.

- (10) Cul-de-sacs. A cul-de-sac shall be as short as possible and shall terminate with a turnaround.

FINDING: The applicants are proposing to improve the existing turnaround apparatus to satisfy fire codes. Staff is satisfied with the proposed improvements described on the Preliminary Plat and in the applicant's findings. Criterion will be satisfied with adherence to conditions.

- (11) Street names. Except for extensions of existing streets, no street shall be used which will duplicate or be confused with the names of existing streets. Street names and numbers shall conform to the established pattern in the surrounding area and, if near a city, to the pattern in the city, and shall be subject to the approval of the Planning Commission.

FINDING: The street in question has a pre-existing street name, this criterion is satisfied.

- (12) Grades and curves. Grades shall not exceed 6 percent on arterials, 10 percent on collector streets, 12 percent on any other street. Center line radii of curves shall not be less than 300 feet on major arterials, 200 feet on secondary arterials, or 100 feet on other streets, and shall be to an even 10 feet. Where existing conditions, particularly topography, make it otherwise impractical to provide buildable lots, the Planning Commission may accept steeper grades and sharper curves.

FINDING: All roads will be designed and constructed to meet County A-22 road standards. This standard will be met.

- (13) Streets adjacent to railroad right-of-way. Wherever the proposed subdivision contains or is adjacent to a railroad right-of-way, provision may be required for a street approximately parallel to and on each side of such right-of-way at a distance suitable for the appropriate use of the land between the streets and the railroad. The distance shall be determined with due consideration at cross streets of the minimum distance required for approach grades to a future grade separation and to provide sufficient depth to allow screen planting along the railroad right-of-way.

FINDING: This standard does not apply to the subdivision application.

- (14) Marginal access streets. Where a subdivision abuts or contains an existing or proposed arterial street, the Planning Commission may require marginal access streets, reverse frontage lots with suitable depth, screen planting contained in a non-access reservation along the rear or side property line, or other treatment necessary for adequate protection of residential properties and to afford separation of through and local traffic.

FINDING: This standard does not apply to the subdivision application.

- (15) Alleys. Alleys shall be provided in commercial and industrial districts, unless other permanent provisions for access to off-street parking and loading facilities are approved by the Planning Commission.

FINDING: Alleys are not required and are not proposal this standard has been met.

**S5.104. Blocks.**

- (1) General. The length, width, and shape of blocks shall take into account the need for adequate lot size and street width and shall recognize the limitations of the topography.

FINDING: The subdivision has only one road with no blocks this standard does not apply.

- (2) Size. No block shall be more than 1,000 feet in length between street corner lines unless it is adjacent to an arterial street or unless the topography or the location of adjoining street justifies an exception. The recommended minimum length of blocks along an arterial street is 1,800 feet.

FINDING: Finding was previously addressed in this report. This standard has been met.

- (3) Easements.



- (A) Utility lines. Easements for sewers, water mains, electric lines, or other public utilities shall be dedicated whenever necessary. The easements shall be at least 12 feet wide and centered on lot lines where possible, except for utility pole tieback easements which may be reduced to six feet in width.
- (B) Water courses. If a subdivision is traversed by a water course such as a drainage way, channel, or stream, there shall be provided a storm water easement or drainage right-of-way conforming substantially with the lines of the water course, and such further width as will be adequate for the purpose. Streets or parkways parallel to major water courses may be required.
- (C) Pedestrian ways. When desirable for public convenience, pedestrian pathways shall be required to connect to cul-de-sacs or to pass through unusually long or oddly shaped blocks in accordance with Section S5.040.

**FINDING:** As necessary, easements for utility lines, water courses, and pedestrian ways, shall be dedicated in accordance with the provisions of this standard. This standard will be met. See Conditions.

**S5.106. Lots.**

- (1) Size and shape, lot size, width, shape, and orientation shall be appropriate for the location of the subdivision and for the type of use contemplated. An interior lot shall have a minimum average width of 50 feet and a corner lot a minimum average width of 60 feet. A lot shall have a minimum average of 100 feet, and the depth shall not ordinarily exceed two times the average width. These minimum standards shall apply with the following exceptions:
  - (A) In areas that will not be served by a public water supply or a sewer, minimum lot sizes shall conform to the requirements of the County Health Department and shall take into consideration requirements for water supply and sewage disposal, as specified in Section 34. The depth of such lots shall not ordinarily exceed two times the average width.
  - (B) Where property is zoned, lot sizes shall conform to the zoning requirement. Depth and width of properties reserved or laid out for commercial and industrial purposes shall be adequate to provide for the off-street parking and service facilities required by the type of use contemplated.

**FINDING:** The proposed subdivision lots appear to have appropriate size, width, shape, and orientation given the type of use contemplated (single-family residences). The minimum size proposed for each lot considers provisions for water supply and sewage disposal. This standard has been met.

- (2) Access. Each lot shall abut upon a street other than an alley for a width of at least 25 feet.

**FINDING:** All lots except abut a dedicated road for a minimum distance of 25 feet this standard has been met.

- (3) Through lots. Through lots shall be avoided except where they are essential to provide separation of residential development from traffic arteries or adjacent non-residential activities or to overcome specific disadvantages of topography and orientation. A planting screen easement at least 10 feet wide and across, which there shall be no right of access may be required along the line of lots abutting such a traffic artery or other incompatible use.

**FINDING:** No through lots are proposed. This standard has been met.

- (4) Lot side lines. The side lines of lots, as far as practicable, shall run at right angles to the street upon which the lots face.

**FINDING:** The majority of side lot lines in the proposed subdivision run at right angles to their respective frontage road. This standard has been met.

**S5.110. Building Lines.**

If special building lines are to be established in the subdivision, they shall be shown on the subdivision plat or included in the deed restriction.

**FINDING:** No special building lines are known or anticipated at this time. This standard has been met.

**S5.112. Large Lot Subdivision.**

If subdividing tracts into large lots which at some future time are likely to be resubdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building size restrictions as will provide for extension and opening of street at intervals which will permit a subsequent division of any parcel onto lots of smaller size.

**FINDING:** No large lots are proposed. This standard has been met.

**Section S5.115. Subdivision Improvements.**

**S5.116. Improvement Procedures.**

In addition to other requirements, improvements shall conform to the requirements of this ordinance and improvement standards or specifications adopted by the County and shall be installed in accordance with the following procedure:

- (1) Work shall not be commenced until plans have been reviewed for adequacy and approved by the County. To the extent necessary for evaluation of the subdivision proposal, the plans may be required before approval of the final map. All plans shall be prepared on tracing cloth in accordance with requirements of the County.
- (2) Work shall not be commenced until the County has been notified in advance, and if work has been discontinued for any reason it shall not be resumed until the County has been notified.
- (3) Required improvements shall be inspected by and constructed to the satisfaction of the County. The County may require changes in typical sections and details if unusual conditions arising during construction warrant such change in the public interest.
- (4) Underground utilities, sanitary sewers, and storm drains installed in streets by the subdivider shall be constructed prior to the surfacing of the streets. Stubs for service connections for underground utilities and sanitary sewers shall be placed to lengths that will avoid the need to disturb street improvements when service connections are made.
- (5) A map showing public improvements as built shall be filed with the County Engineer upon completion of the improvements.

**FINDING:** Required subdivision improvements must be designed, constructed, and inspected to the satisfaction of Clatsop County in accordance with these standards and relevant sections of the Clatsop County Land and Water Development and Use Ordinance and Standards Document. This standard will be met.

**S5.118. Specifications for Improvements.**

The County Engineer shall prepare and submit to the Board of County Commissioners specifications to supplement the standards of this ordinance based on engineering standards appropriate for the improvements concerned. Specifications shall be prepared for the construction of the following:

- (1) Streets including related improvements such as curbs, shoulders, median strips and sidewalks, and including suitable provisions for necessary slope easements.
- (2) Drainage facilities.
- (3) Sidewalks in pedestrian ways.
- (4) Sewers and sewage disposal facilities.

(5) Public water supplies and water distribution systems.

FINDING: As necessary, the County Engineer will remit supplemental engineering specifications to the Board of County Commissioners. This standard will be met.

**S5.120. Improvement Requirements.**

The following improvements shall be installed at the expense of the subdivider:

- (1) Water supply. Lots within a subdivision shall either be served by a public domestic water supply system conforming to state or County specifications or the lot size shall be increased to provide such separation of water sources and sewage disposal facilities as the County Sanitarian considers adequate for soil and water conditions.

FINDING: The applicant plans to provide water to the subdivision lots via the City of Warrenton Water lines located along Stellar Lane. With the use of public water source there is sufficient lot size sizes to provide necessary separation between water sources and individual sewage disposal systems. The applicant's have not however provided proof that the water is available from the City of Warrenton. Sufficient evidence of water availability will be required as a function of this approval. This standard will be met.

- (2) Sewage. Lots within a subdivision either shall be served by a public sewage disposal system conforming to state or County specifications or the lot size shall be increased to provide sufficient area for a septic tank disposal system approved by the County Sanitarian as being adequate for soil and water conditions considering the nature of the water supply.

FINDING: The proposed lot sizes appear adequate to provide necessary separation between water sources (City of Warrenton Water lines) and individual sewage disposal systems. This criterion has been satisfied.

- (3) Drainage. Such grading shall be performed and drainage facilities installed conforming to County specifications as necessary to provide proper drainage within the subdivision and other affected areas in order to secure healthful, convenient conditions for the residents of the subdivision and for the general public. Drainage facilities in the subdivision shall be connected to drainage ways or storm sewers outside the subdivision. Dikes and pumping systems shall be installed if necessary to protect the subdivision against flooding or other inundation.

FINDING: The applicant has provided a drainage plan with their application. The proposed drainage plan & system is required to assures post-construction runoff rates at or below pre-construction runoff rates in compliance with county and state guidelines. This standard will be met.

- (4) Streets. Where streets are to be accepted into the County road system, the subdivider shall grade and improve streets in the subdivision and the extension of such streets to the paving line of existing streets with which such streets intersect in conformance with County specifications. Street improvements shall include related improvements such as curbs, shoulders, sidewalks and median strips to the extent these are required. All other streets shall be improved in accordance with minimum road standards as set forth in S6.000.

FINDING: The access roads for the subdivision will be improved to the County's A-22 design standard, as mentioned previously. This standard will be met.

- (5) Pedestrian ways. A sidewalk in conformance with the standards of Section [S5.040] shall be installed in the center of pedestrian ways.

FINDING: Pedestrian access ways are not indicated on the preliminary plat. If the Planning Commission determines that pedestrian pathways are required for the subdivision then the standards of S5.040 would apply. This standard will be met.

- (6) Underground utilities. Underground utilities shall be required.

**FINDING:** All utilities shall be installed underground. An appropriate condition of approval shall be attached to assure compliance with the standard. See Conditions.

**CHAPTER 6. ROAD STANDARD SPECIFICATIONS FOR DESIGN AND CONSTRUCTION.**

**Section 6.000. Transportation Improvements and Road Standard Specifications for Design and Constructions.**

**S6.005. General Road and Access Policies.**

- (1) **Purpose.** The establishment of the criteria to be used in Clatsop County for evaluating the appropriateness of proposed roads, which are intended to provide access to lots or parcels. These criteria shall form the basis for determining what requirements are necessary to ensure that there will be adequate provisions available now, and in the future, to provide for the transportation needs of lots, parcels, or developments.
- The Clatsop County Road Standards are the intended to provide access to new development in a manner which reduces construction cost, makes efficient use of land, allows emergency vehicle access while discouraging inappropriate traffic volumes and speeds, and which accommodates convenient pedestrian and bicycle circulation. The standards apply to County roads, dedicated roads and private roads.
- The Road Standards to be applied are based on the density of the zone in which it will be built and shall be constructed to that standard. The Clatsop County Department of Community Development, Planning Commission or Board of County Commissioners will on a case-by-case basis consider possible future parcelization and whether or not the road being built should be private or dedicated.
- Where a partition is proposed in Major or Peripheral Big Game Range areas, the road shall be located to minimize its impact on big game range.

**FINDING:** Application of Clatsop County Road Standards are intended to provide access to new development in a manner which reduces construction cost, makes efficient use of land, allow emergency vehicles access, discourages inappropriate traffic volumes and speeds, and conveniently accommodates pedestrian and bicycle circulation. When Clatsop County evaluates the appropriateness of proposed roads it considers what requirements are necessary to assure that adequate provisions are available now, and in the future, to provide for the transportation needs of lots, parcels, and developments. For reasons discussed elsewhere in this report, the proposed subdivision road does not currently meet the general road and access policy of § S6.005. (Particularly road width) Improvements will be required as a function of this approval.

- (2) **Conditions of Development Approval.** No development may occur unless required transportation facilities are in place or guaranteed, in conformance with the provisions of this document. Improvements required as a condition of development approval, when not voluntarily accepted by the applicant, shall be roughly proportional to the impact of development on public facilities and services. Findings in the development approval shall indicate how the required improvements are roughly proportional to the impact.

**FINDING:** Findings in this report indicate how the required transportation improvements are roughly proportional to the impact of development on public facilities and services. This standard will be met.

- (3) **Criteria.** Roads in Clatsop County shall be designed, constructed, and maintained to:
- (A) Be capable of ensuring unrestricted travel to and from a property.

FINDING: Travel to and from the site is provided via a private road (Surf Pines Lane). Currently the applicant has provided no proof that they have permission to use Surf Pines Road. In order to satisfy this and other conditions proof must be provided prior to final plat approval.

(B) Provide adequate, safe, and legal access with minimum public cost.

FINDING: For reasons expressed elsewhere in this report, the proposed subdivision roads are inadequate to provide safe access in accordance with county standards. An appropriate condition of approval is appended to this document.

(C) Place the burden of the costs on the benefited person(s).

FINDING: The developer/property owner is responsible for bearing the cost of subdivision improvements. This standard will be met.

(D) Provide access for fire protection, ambulance, police, mail, school bus, public transit, and garbage services.

FINDING: The subject property is located within the Gearhart Fire District. Notice of the public hearing was mailed to the Gearhart Rural Fire Protection District office.

(E) Provide for drainage ways and utility services.

FINDING: The applicant will provide an storm drainage plan for the development of the property and install utilities in accordance with applicable rules and regulations. This standard will be met.

(F) Be compatible with adjoining land use.

FINDING: The subject property abuts Residential Developments & Silver Spot Butterfly Habitat. The applicant is encouraged to work with Clatsop County and the Department of Fish and Wildlife to mitigate any impacts from the development of the subdivision.

- (G) Minimize, with the constraints of reasonable engineering practices and costs, the creation of roads within lands designated for Exclusive Farm Use, Forest Resource, Open Space Reserve, Rural and Rural Service Areas designated by the Clatsop County Comprehensive Plan.
- (H) Ensure that the new road will minimize interference with forest management or harvesting practices.
- (I) Minimize within the constraints of reasonable engineering practices and costs the loss of productive agricultural or forest land, and be located on that portion of such land that is least suitable for timber or agricultural production, taking into consideration, but not limited to, the following: topography, soil capability or classification, erosion potential, and the size and resultant configuration of the affected tracts.
- (J) Minimize the loss of important wildlife habitat, such as sensitive deer and elk range, identified natural areas, and other significant natural features.

FINDING: Roads created for the residential development will minimize impacts on the adjoining conservation lands and wildlife habitat, will be mitigated as practicable. This standard will be met.

(K) Facilitate safe and convenient pedestrian and bicycle trips to meet local travel needs in developed areas.

FINDING: The proposed road is not designed to facilitate pedestrian and bicycle traffic; therefore it does not satisfy this criteria. The planning commission, if it feels so obligated could require such facilities as a

function of approval. Staff notes that the applicant's are being required to construct an A-22 road that will likely have minimal traffic for the lifespan of the road. It is unlikely that the current plan would create any hazardous areas despite the lack of pedestrian facilities.

- (L) Streets within or adjacent to a development shall be improved in accordance with the Transportation System Plan and the provisions of this Section.

FINDING: The Street within the development will be improved to the County's A-22 road standard in accordance with this Section and the TSP, as appropriate. This standard will be met.

(4) Standards, Generally:

- (A) The following are a variety of types or forms of access used to gain ingress and egress to property within Clatsop County:
1. County roads
  2. Federal roads
  3. State highways
  4. Dedicated ways
  5. Flag lots
  6. Ways of necessity
  7. Public roads
  8. Private roads
  9. Prescriptive roads

FINDING: The applicant proposes previously dedicated ways to gain ingress and egress to the subdivision. This standard has been met.

- (B) Publicly dedicated and maintained roads provide superior access.

FINDING: The applicant has identified a 50-foot wide easement for the private road and indicated the road will be privately maintained through provisions within the CC&R's of the subdivision. This standard will be met.

- (C) Flag lots may provide access, but can hinder future development of the surrounding area.

FINDING: There are no Flag Lots proposed in the subdivision. The Standard has been satisfied.

- (D) Private roads function best if they are designed to serve a predetermined, limited amount of development.

FINDING: The private road currently is designed to service the 4 homes that currently exist on the site. Upgrades to the road will be necessary to meet county design standards. An appropriate condition has been appended to this report to insure compliance with this criterion.

- (E) Paved roads are safer, less of a nuisance, and more economical to maintain than gravel roads.

FINDING: As mentioned previously Clatsop County's Standards Document requires that subdivisions over 10 lots meet the county's A-22 standard as described previously. The applicant has not proposed any improvements in order to meet the criteria. This standard includes asphalt pavement. This standard shall be met. See Conditions.

- (F) Road requirements should support a complete transportation network, and not inhibit new land development innovations and concepts.

FINDING: The proposed access and circulation plan for the subdivision supports a minimal transportation network; this standard has not been satisfied.

- (G) Dedicated ways or County roads shall be the ordinary standard recommended for subdivisions, except as may be dictated by natural hazards, topography, or other special circumstances.

FINDING: Dedicated ways were previously established as a function of the prior subdivision. This standard has been met.

(5) Standards, Specifically:

- (A) As far as is feasible, roads shall be in alignment with existing or appropriate projections of existing roads by continuation of their centerline.

FINDING: It is not feasible to connect this road with others in the area. This criterion is not applicable.

- (B) When necessary to give access to, or permit a satisfactory future division of adjoining lands, rights-of-way or easements shall be extended to the boundary of a major partition, subdivision, or development. The County may also require the improvement of such rights-of-way or easements in a Class "a" division. A temporary turnaround may be required for the resulting dead end road.

FINDING: The county will require road improvements and an improvement to the turnaround at the end of the road, this criterion is satisfied.

- (C) Frontage roads, or double frontage parcels or lots may be required by the County when a proposed parcel or lot would otherwise abut an arterial or collector road in order to effect separation of through and local traffic. In addition, screening or other treatments may be required along arterials and collectors in order to provide adequate noise and visual protection to adjacent properties.

FINDING: This is addressed previously in this report.

- (D) Whenever a proposed division or development is intended to abut a public road, the County shall restrict or limit as to location and number, vehicular access points unless specifically exempted in any approval thereof.

FINDING: This subdivision does not abut a private road. This standard is met.

- (E) Where a cut or fill road slope is outside the normal right-of-way, a slope easement shall be required of sufficient width to permit maintenance of the cut or fill and drainage structure.

FINDING: The applicant will obtain slope easements, as necessary.

**S6.010. Improvement Plans.**

FINDING: The applicant has not submitted improvement plans other than the turnaround at the end of Stellar Lane. Appropriate improvement plans will need to be submitted and reviewed by the county engineer as a condition of approval.

**S6.150. Public and County Road Standards.**

FINDING: Not Applicable.

**S6.160. Private Road Minimum Requirements.**

Table 2 and the following minimum requirements shall apply for any action relating to the approval of a private road:

- (1) Private roads shall provide access to no more than ten (10) abutting lots or parcels. A private road may serve more than ten (10) lots or parcels when the parcels are within a planned development or subdivision and when such road is constructed to the standards for a public road, and is approved as a part of the planned development or subdivision. Under no circumstances shall a private road serve other roads or areas.

Surf Pines and The Highlands at Gearhart are exempt from this requirement. These two areas are served by private roads and already exceed the 10-lot standard.

- (2) Private roads shall not be approved if the road is presently needed, or is likely to be needed, for development of adjacent property, or to be utilized for public road purposes in the normal development of the area, or if the private road is intended to serve commercial, or industrial district uses. Private roads shall not be approved for commercial or industrial land divisions.
- (3) The minimum easement for a private road shall be 25 feet, except where the natural slope of the land within the easement (cross-slope) is greater than 21 percent, in which case the easement width shall be 50 feet. The minimum right-of-way width shall accommodate required cut and fill slopes, ditches, turnouts and cul-de-sacs.
- (4) A lot or parcel abutting a railroad or limited access road right-of-way may require special consideration with respect to its access requirements.
- (5) Guardrail is required on all bridges and for a distance of 40 feet along the approaches to all bridges. Guardrail is also required along any fill slope or natural ground slope below the road that is steeper than 1:1, over 10 feet high, and is within 10 feet horizontally of the edge of the traveled road surface. The guardrail materials must be approved as conforming to Oregon State Highway Standard Specifications.
- (6) The County may require that the private road being considered be established as a dedicated way or County road and improved to the applicable standards, if it is determined by the County that the access and transportation needs of the public would be better served by such a change.  
The determination made by the County will include the following:
- (A) Proximity of other roads being used for the same purpose,
  - (B) Topography of the parcel and contiguous parcels,
  - (C) Potential development as determined by the existing zoning or proposed zoning if the request involves a zone change,
  - (D) Safety factors such as visibility, frequency or road access points.
- (7) All private roads that are dead-end roads shall have a cul-de-sac or other suitable turnaround.
- (8) A private road shall directly connect only to a public, county or state road.
- (9) The travel surface of the private road shall be constructed so as to ensure egress and ingress for the parcels served during normal climatic conditions:
- (A) Twelve (12) inches of pit run base course or equivalent. The grade of rock shall be approved by the County Road Department prior to construction. As an alternate, the depth of the base course containing 4 or 6-inch minus or jaw run may be less than 12 inches as determined on a case-by-case basis by the County Road Department.
  - (B) Two inches of 3/4-inch minus top course.
- (10) The County shall require that a maintenance agreement be recorded in the records of Clatsop County along with any map or plat creating a private road, and include the following terms:
- (A) That the agreement for maintenance shall be enforceable by a majority of persons served by the road.



- (B) That the owners of land served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula.
- (11) The County shall require that an easement over the private road for ingress and egress, including the right of maintenance, be conveyed to the properties served by the road.

FINDING: County is required to apply the A-22 Standard described in Table 1 S6.050, because the private road will service 11 lots, which is beyond the 10 lot threshold for a private road. Appropriate conditions will be appended to this decision to ensure the development meets county standards.

**S6.170. Minimum Construction Standards for Private Roads.**

- (1) Twelve (12) foot wide improved travel surface (see a-12 standard cross-section).
- (2) Turnouts shall be required at 800 feet maximum spacing, or at distances which ensure continuous visual contact between turnouts, and constructed to the following dimensional standards: 50 feet in length and seven (7) feet in width, with 25 foot tapers on each end back from its point of connection with the County or public road.
- (3) Cut and fill slope requirements, and ditch lines as detailed on the a-12 standard cross section. The grade of the ditch slopes parallel to centerline shall be no less than 1% to provide for adequate drainage. The developer shall be required to provide all erosion control measures necessary to maintain the standard cross section and to eliminate any increase in any stream turbidity.
- (4) The width of the road approach at its intersection with the County road, or other public road, shall equal 18 feet, and taper over a distance of 50 feet to the travel surface width back from its point of connection with the County or public road.
- (5) The finished grade within 20 feet of the traveled portion of the roadway shall not exceed +3 percent. Elsewhere the finished grade shall not exceed 18 percent. Any finished grade in excess of 14% shall be paved.
- (6) A 30 foot radius cul-de-sac, or other suitable turnaround, at the terminus of the private road or within 200 feet of its terminus.
- (7) All culverts, bridges and other waterway crossings serving two (2) or more parcels shall be constructed and maintained to carry American Association of State Highway and Transportation Officials (AASHTO) HS-20 loading. a typical acceptable type is 16 gauge, galvanized CMP for small cross drains and drainageway crossings. Twelve inch diameter culverts are the absolute minimum. Bridges and other large waterway crossings shall be certified by a professional registered engineer.
- (8) All private road points of access to public roads shall include a landing area to extend 20 feet minimum beyond the shoulder of the public road on which the profile grade shall not exceed three (3) percent. A greater landing area may be required to allow for future road improvements.

Functional Road Class	A.D.T	Design Standard Typical	Travel Width	R-O-W Width	Surface Type	Design Speed MPH	Max. % Grade	Min. Curve Radius	Street Signs
Arterial	>1000	A - 32	24	80	A.C.	45	12	750	(1)
Collector	300 – 1000	A - 28	24***	60	A.C.	40	12	500	(1)
Local	60 – 300	A - 24	22	60	A.C./Oil	35	12	350	(1)
Subdivision (10+ lots)	>60	A - 22	20	50	A.C. <sup>(5)</sup>	25	12	250	(1)
Subdivision (4-9 lots)	30 – 60	A - 20	18	50	A.C. <sup>(5)</sup>	20	12**	150	(1)
Partition (> 3 ***)	<60	A - 20	18	50	Gravel	20	12**	150	(1)
Partition (1-3 lots)	<30	A - 12 <sup>(4)</sup>	12	25	Gravel	15	16*	50	(1)

\* If unavoidable conditions exist a grade of 2% greater than that shown may be allowed with A.C. paving.  
\*\* If unavoidable conditions exist a grade of 4% greater than that shown may be allowed with A.C. paving.  
\*\*\* May be reduced to 22 feet as specified in AASHTO if approved by the County Engineer.  
(1) One (1) approved street sign will be provided at each intersection for each named street.  
(2) All dead-end streets will be terminated with a cul-de-sac or approved turnaround. See Design Standard Typical Cul-de-sac for details.  
(3) Drainage/slope easements may be required if roadway slopes extend beyond the right-of-way.  
(4) A-12 roads require turn-outs at a maximum distance of 250 feet, or at a lesser interval that will maintain a continuous visual contact between each successive turn-out.  
(5) Minimum A.C. thickness is 3" nominally compacted ODOT Class C, or approved equal.

(Amended 11/1/2004)

Revision Class	Maximum # of Parcels to be Served	Maximum Grade	Lane Width	Minimum Lanes Required	Recommended Easement Width	Design Speed	Top Course	Base Course
A <sup>(4)</sup>	Private Roads are not allowed within Class "A" Division except as noted							
B	10	18% <sup>(3)</sup>	10	1 <sup>(2)</sup>	25	--	--	--
C	10	18% <sup>(3)</sup>	10	1 <sup>(2)</sup>	25	--	--	--

(1) "A" - Within an Urban Growth Boundary or Rural Service Area Boundary.  
"B" - Zoned for 5 acres or smaller, excluding Class "a" divisions.  
"C" - Zoned for larger than 5 acres in size.  
(2) Turnouts shall be provided intervisibly or at 800 foot intervals, whichever is less.  
(3) Grades greater than 14% shall be paved.  
(4) A private road is not permitted in an Urban Growth Boundary or Rural Service Area except that it may be permitted outside UGB's or RSA's.

Note: See Sections S6.160 and S6.170 for complete standards.

**FINDING:** The subdivision requires roads meet the "A-22" standard in accordance with the applicable road standards of Chapter 6 of the Clatsop County Standards Document including Table 1 depicted above. This standard will be met through appropriate conditions appended to this decision.

**VII. COMPREHENSIVE PLAN TEXT AMENDMENT TABLE 1.**

The following table will be appended to the Clatsop Plains Community Plan. The intent of the table is to ensure accountability for future generation and to keep a record of Density transfers on the Clatsop Plains. All future density transfers on the Clatsop Plains will be recorded on the following table. The following language explaining this requirement will be included in section 3.161 as §(3):

- (3) All sending and receiving parcels shall be recorded and the appropriate sections of the “Density Table” filled out completely prior to approval. Staff will review the requisite comprehensive plan text amendment for conformity with the down zone & density transfer requirements.

Sending Sites	Existing Zoning	New Zoning	Applicable Acreage	Density Units	Remaining Density	Receiving Site/s	Receiving Zone	Density Credits
710090000902	RA5, RA1, & LW	OPR & LW	RA1 = 3.32 ac RA5 = 27.34 ac	1.66 5.47	0	71028DA00500 71028DA00800	CBR	7 units
710090000801	RA5 & LW	OPR & LW	RA5 = 4.45 ac	0.89	0	710160000200	RA-5	7 units
71009CA00100	RA5	OPR	0.59	0.12				
71009CA01100	RA5	OPR	2.3	0.46				
71009CA01200	RA5	OPR	2.07	0.41				
71009CB00100	RA5 & LW	OPR & LW	RA5 = 0.18	0.04				
71009CB00500	RA5 & LW	OPR & LW	RA5 = 0.44	0.09				
71009CB00600	RA5 & LW	OPR & LW	RA5 = 1.83	0.36				
71009CB00700	RA5 & LW	OPR & LW	RA5 = 2.26	0.45				
71009CB00800	RA5 & LW	OPR & LW	RA5 = 2.22	0.44				
71009CD00100	RA5	OPR	1.84	0.37				
71009CD00200	RA5 & LW	OPR & LW	RA5 = .76	0.15				
71009CD00300	RA5 & LW	OPR & LW	RA5 = .99	0.2				
71009CD00400	RA5	OPR	0.12	0.02				
71009CD00600	RA5 & LW	OPR & LW	RA5 = .37	0.07				
71009CD00700	RA5 & LW	OPR & LW	RA5 = 1.14	0.23				
71009CD00800	RA5	OPR	1.33	0.27				
71009CD00900	RA1	OPR	1.87	0.94				
71009CD01000	RA1	OPR	0.7	0.35				
71009CD01100	RA1	OPR	0.92	0.46				
71009CD01200	RA5	OPR	0.92	0.18				
71009CD01300	RA5	OPR	0.7	0.14				
71009CD01400	RA5	OPR	0.92	0.18				
71009CD01500	RA5	OPR	0.92	0.18				
71009CD01600	RA5 & LW	OPR & LW	RA5 = .28	0.06				
71009CD02000	RA5	OPR	0.34	0.07				
71009CD02100	RA5	OPR	0.45	0.09				
71009CD02200	RA5	OPR	0.45	0.09				
71009CD02300	RA1	OPR	0.45	0.23				
Street Vacations Between Lots listed Above	RA5	OPR	5.12	1.024	0	710160000200	RA-5	1 Unit

Density Table Clatsop Plains

**VIII. CONCLUSION AND RECOMMENDATION**

For the most part the applicant’s findings adhere to the requirements of the ordinance and are appropriate for adoption by the Planning Commission and Board of Commissioners. Conditions of approval will be necessary to ensure compliance with County Requirements. Those conditions can be found appended to this report; this application is a type IV consolidated application under section 2.060§2 and requires approval by the Board of Commissioners.

Staff believes this application is consistent with Statewide Planning Goals and Policies. Furthermore the application is consistent with Clatsop County’s Comprehensive Plan. As a function of this application the table above will be appended to the Clatsop Plains Community Plan ensuring future accountability for density transfers on the Plains.

Staff recommends the Planning Commission and Board of Commissioners adopt the applicant's findings and staff report as the evidentiary findings of consistency for approval of this consolidated application.

Staff recommends the application be **conditionally approved** using standard best management practices to be applied at the development stage. Additionally the conditions Listed on the following page are conditions necessary to ensure compliance with the criteria defined in this report.

## CONDITIONS OF APPROVAL

---

The following CONDITIONS OF APPROVAL shall apply to this land use decision:

1. All utilities shall be placed underground.
2. The applicant shall record a road maintenance agreement in the records of Clatsop County along with the final subdivision plat and include substantially the following language: "(1) The agreement for maintenance shall be enforceable by a majority of persons served by the road; and, (2) The owners of land served by the road, their successors, or assigns, shall maintain the road, either equally or in accordance with a specific formula". The easement over the road(s) for ingress and egress, including the right of maintenance, shall be conveyed to the properties served by the road(s).
3. The Restrictive Covenants to govern certain aspects of future development of the property shall be recorded prior to recording deeds for each of the lots within the subdivision. The CC&R's shall be reflected in each of the deeds. For areas which will be jointly owned or used by the various owners in the subdivision (i.e., common greenbelt preserve), a covenant document is mandatory as part of the final plat. The Community Development Director or the County's legal counsel shall review any restrictive covenants prior to recording the final subdivision plat.
4. Prior to application for final subdivision plat approval, the applicant shall provide documentation authorizing the access and use of Surf Pines and Stellar Lane.
5. Prior to application for final subdivision plat approval, the applicant shall document that the County Engineer has inspected and approved the A-22 paved road (or roads, if there are two) and roadside ditches.
6. Clear vision area are required at the intersection of Surf Pines Lane and Stellar Lane: No plantings, fences, walls, etc. shall exceed 2.5 feet in height for a minimum distance of 30 feet along Surf Pines Lane.
7. Approval of this preliminary subdivision plat includes the allowance to record easement(s), as necessary, to meet DEQ requirements for installation of individual septic systems.
8. As a function of the final subdivision plat application, a licensed and registered civil engineer in the State of Oregon shall document the steps that have been taken to ensure that stormwater runoff as a result of the present, and anticipated future, development of the property (7 homesites, driveways, etc.), will not adversely affect any of the proposed homesites, adjacent properties, or upstream or downstream drainage facilities. The engineer must confirm that adequate provisions have been made to prevent backup or ponding of water on adjacent properties as well as within the proposed development.
9. Prior to requesting final subdivision plat approval, the applicant shall provide documentation from the Department of Environmental Quality (DEQ) that addresses erosion controls and practices on the property and storm water discharges from the property.
10. Prior to application for final subdivision plat approval, the applicant shall document that the water line has been reviewed and approved by the Oregon Department of Human Services Drinking Water Program.
11. The minimum available fire flow for single-family dwellings shall be 1000 gallons per minute. Fire hydrants shall be installed at locations approved by the jurisdictional Fire Chief and in accordance with the Oregon Fire Code (OFC). If the structure(s) is (are) 3600 square feet or larger, the required fire flows shall be determined according to OFC Appendix B. If 1000 gallons per minute flows cannot be obtained then approved sprinkler systems for residences must be provided. Prior to application for final plat approval, the applicant shall provide complete fire flow test forms NFPA 13 and NFPA 24 (forms available from the Community Development Department Building Codes Division) to the Community Development Department.
12. Prior to application for final subdivision plat approval, the applicant shall document that the local Fire Chief has inspected and approved the subdivision roadways, turnarounds, and fire hydrants.

13. The Planning staff shall review each phase prior to recording to make sure the phase, as recorded, is in accordance with the preliminary approval given by the Planning Commission. Any submitted phase, which does not coincide with the approval as given by the Planning Commission shall be referred to the Planning Commission for a hearing. At such hearing, the Commission shall have the authority to revoke, revise, amend or alter the prior approval. Notice shall be sent subject to the County Land Use Ordinance Sections 2.110-2.120.
14. Minor amendments, such as slight alteration in lot lines, to an approved preliminary plat may be approved by the Community Development Director if the amendments concur with the preliminary plat conditions of approval. Such amendments will only be valid for the twelve-month period following their approval and will become invalid if not implemented within that time.
15. Prior to application for final subdivision plat approval, the applicant shall provide appropriate documentation from applicable local, state, and federal agencies that all subdivision improvements have been completed in accordance with applicable rules and regulations.
14. Notations indicating any limitations on rights-of-access to or from street and lots shall be noted on the face of the final subdivision plat.
15. Prior to application for final subdivision plat approval, the applicant shall provide a quotation from the Clatsop County Assessor that indicates that all taxes on the subject property are paid and current.
16. Deed restrictions shall be filed in the Clatsop County Deed Records, in a form approved by County Counsel. 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. Additionally the deed restriction shall prohibit additional parcelization of the approved development or vacation of any permanent open space until such time as the entire area within the development is included within an urban growth boundary.
17. Prior to application for final subdivision the applicant shall designate Lot 8 as permanent common open space for the purposes of habitat preservation for the Oregon Silver Spot Butterfly. The final plat shall indicate an alphabetic numeration for Lot 8 and identify the intended purpose of this space as OSB habitat.
18. The preliminary plat approval is binding on the County and the subdivider for purposes of preparing the final subdivision plat, provided that there are no changes of the plan of the subdivision, and that it complies with all conditions of approval set forth in the preliminary plat decision.
19. The preliminary plat approval shall be valid for two (2) years from the date of the preliminary plat approval.
20. Within two (2) years of approval of the preliminary plat, the subdivider shall cause the subdivision to be surveyed and a plat prepared in accord with the preliminary plat. The final plat shall conform to the requirements of Sections 5.234-5.250 of the Clatsop County Land and Water Development and Use Ordinance (LWDUO). This approval is valid for a period of 2 years from the date of approval. The Community Development Director can authorize an extension of up to 12 months. This application is void after 2 years from the date of approval unless substantial construction has begun.

Respectfully submitted,

Michael J Weston II, MPA  
 Planner, Transportation & Development



**This Page Left Blank Intentionally**

**Exhibit I.**

**Comments**



P R McCurdy  
P O Box 941  
Warrenton, OR 97146



August 17, 2009

Mr Michael Weston II  
Clatsop County Planner  
800 Exchange St, Suite 100  
Astoria, OR 97103

Re: Ordinance: 09-XX

Dear Mr Weston,

Attached is a copy of the *Oregon Fish and Wildlife* fact sheet for the Oregon Silverspot Butterfly.

This document states that the reason for habitat decline is due to the past elimination of suitable habitat, i.e. ("good habitat has steadily been used for residential and business establishments")

This document further states that the ideal habitat is "stabilized dunes as found in....Clatsop Plains" that are grass covered in Red Fescue, California Aster, Indian Thistle, Tansy Wagwirt, Yarrow, False Dandelion and several species of Violets.

The current conservation strategy requires the maintenance of grasslands, by mowing, burning, wildlife grazing, and planting of native plants.

We ask the hearing authority to require Oregon Fish and Wildlife to review the subject parcel (West Lake Ranch Receiving Site), as being suitable for residential development by determining if this is a critical Silver Spotted Butterfly habitat.

Respectfully submitted,

A handwritten signature in cursive that reads "Philip R. McCurdy".

Philip R McCurdy

Kenneth K. Wehn  
89783 Sea Breeze Dr.  
Warrenton, Or 97146



U.S. Fish & Wildlife Service

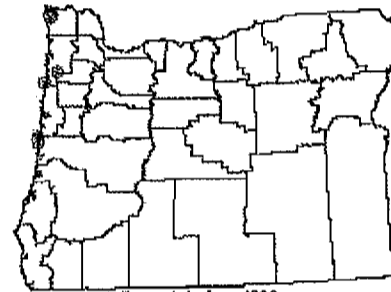
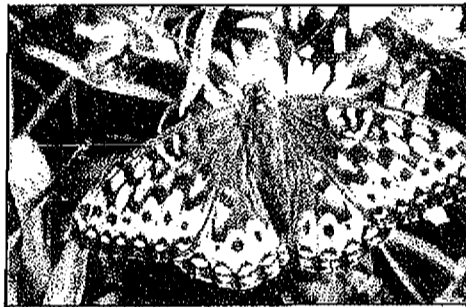
## Oregon Fish & Wildlife Office

Pacific Region

Species Fact Sheet

### Oregon silverspot butterfly

*Speyeria zerene hippolyta*



Records before 1890  
 ● Records 1990 to Present

**STATUS: THREATENED**  
**CRITICAL HABITAT: DESIGNATED**

Oregon silverspot butterfly potentially occurs in these Oregon counties:  
**Clatsop, Lane, Lincoln, Tillamook, Yamhill**  
 (Map may reflect historical as well as recent sightings)

Oregon silverspot butterfly was listed as a threatened species with critical habitat in October 1980. A revised recovery plan was published in 2001.

#### Historical Status and Current Trends

The historical range of this subspecies extends from the Long Beach Peninsula, Pacific County, Washington, south to Del Norte County, California. All of these populations were restricted to the immediate coast, centered around salt-spray meadows, or within a few miles of the coastline in similar meadow-type habitat. At the time of listing, the only viable population known was on the Siuslaw National Forest in Tillamook County, Oregon. Additional populations have since been discovered at Cascade Head, Bray Point, and Clatsop Plains in Oregon, on the Long Beach Peninsula in Washington, and in Del Norte County in California.

#### Description and Life History

The Oregon silverspot is a medium-sized, orange and brown butterfly with black veins and spots on the dorsal (upper) wing surface, and a yellowish submarginal band and bright metallic silver spots on the ventral (under-side) wing surface. This subspecies is distinguished from other subspecies of silverspot butterflies by a somewhat smaller size and darker coloration at the base of the wings. These are morphological adaptations for survival in a persistently windy and foggy environment. The forewing length averages about 27 millimeters (1 inch) for males and 29 millimeters (1.1 inch) for females. *Hydaspe fritillary* (*Speyeria hydaspe*), a related species found in adjacent habitats can be distinguished by the cream, rather than silver, colored spots of the ventral wing surface.

The life history of the Oregon silverspot revolves around its obligatory host plant, the early blue violet (*Viola adunca*). Females oviposit up to 200+ eggs singly amongst the salt-spray meadow vegetation near the violet host plant, usually in late August and early September. Sites with good sun exposure are favored. The eggs hatch in approximately 16 days and the newly hatched larvae wander short distances to find a suitable site for diapause (suspended growth for overwintering). The larvae end diapause sometime in early spring and begin to feed on the violet leaves. As the larvae grow, they pass through five molts (shed outer covering) before they enter the intermediate stage between larval and adult forms (pupate). Approximately two or more weeks later, the butterflies emerge from their pupal case (eclose). Adult emergence starts in July and extends into September. Shortly thereafter, their wings and other body parts harden and they escape the windy, cool meadows for nearby forests or brush lands.

Mating occurs through August and September. Those individuals (male and female) which are most efficient at basking and maintaining proper body temperature will be able to operate longer and deeper in the windy meadow zone, thus improving their opportunities for successful reproduction.

### Habitat

The Oregon silverspot occupies three types of grassland habitat. One type consists of marine terrace and coastal headland salt-spray meadows (e.g., Cascade Head, Bray Point Rock Creek-Big Creek and portions of Del Norte sites). The second consists of stabilized dunes as found at the Long Beach Peninsula, Clatsop Plains, and the remainder of Del Norte. Both of these habitats are strongly influenced by proximity to the ocean, mild temperatures, high rainfall, and persistent fog. The third habitat type consists of montane grasslands found on Mount Hebo and Fairview Mountains. Conditions at these sites include colder temperatures, significant snow accumulations, less coastal fog, and no salt spray.

The most important feature of the habitat of the Oregon silverspot is the presence of the early blue violet. This plant is normally the only species on which the Oregon silverspot can successfully feed and develop as larva. However, in the laboratory the butterflies will accept other species of violets, and there is evidence that some individuals on Mount Hebo are using another species of violet. This plant is part of the salt-spray meadow vegetation and is an obligatory component of the butterfly's habitat. Other features of optimum habitat include moderate grass cover, including red fescue (*Festuca rubra*) used as a shelter for larvae, and a mixture of herbaceous plants such as California aster (*Aster chilensis*) used for nectaring by adults. Apparently the more inland meadow sites occupied by related subspecies of silverspots are not accessible to Oregon silverspots. The habitat is similar on Mount Hebo with *Viola adunca* as the key component. The distribution and composition of the flora may differ slightly, but the habitat functions similarly to the salt-spray meadow. The shallow soil apparently helps to keep this area in the meadow stage.

Although the salt-spray meadow is the nursery area for the butterfly and a key element of this species' habitat, it is a rather harsh environment for the adults. Upon eclosion (metamorphosis of the pupa into the adult butterfly), the adults generally move out of the meadows into the fringe of conifers or brush where there is shelter for more efficient heat conservation and nectaring flights. The forest shelter may also be used for courtship and mating. Where such sheltered conditions exist, the adults will use various nectar sources, including native and exotic plants, particularly composites such as the native California aster, yarrow (*Achillea millefolium*), and Indian thistle (*Cirsium edule*) and some exotics such as false dandelion (*Hypochaeris radicata*) and tansy ragwort (*Senecio jacobaea*).

### Reasons for Decline

The major limiting factors affecting this species are related primarily to the limitation of suitable habitat. The highly specialized salt-spray meadow habitat within the geographical range for the Oregon silverspot was never common. This early seral community has always had a patchy distribution, occurring only where fire, salt-laden winds, or other natural or man-related occurrences (e.g., grazing, controlled burning) have maintained an open meadow. Evidence suggests that such habitat was more extensive in the past than it is today. Historical accounts show the butterfly and its habitat as locally common within its range. However, good habitat has steadily been used for residential and business establishments, public parkland development, and parking areas or lawns. Excessive use of the salt-spray meadows by grazing animals or off-road vehicles has directly eliminated habitat. Secondary impacts of people's activities, introduction of exotic plants, and fire suppression with subsequent succession of meadows to brush and stunted woodland have also contributed to a

reduction in suitable habitat.

Habitat destruction is unquestionably the reason for the threatened status of this butterfly today. It should be noted, however, that as colony size is reduced by habitat loss, restricted genetic variability and/or catastrophic events can ultimately cause the extinction of these small populations.

### Conservation Measures

The coastal prairie habitat on which the Oregon silverspot butterfly is dependent will quickly become scrub, brush, or forest land if left unmanaged. Natural processes such as wildfires and wildlife grazing likely functioned to maintain open grasslands in the past. Today the habitat must be actively managed to maintain a grassland structure. Mowing, burning, and the planting of native plants are current habitat management strategies.

An Oregon silverspot butterfly captive-rearing program began in 1999 to raise caterpillars for release into declining population. The Oregon Zoo in Portland, Oregon and the Woodland Park Zoo in Seattle, Washington receive a small number of wild female Oregon silverspot butterflies each year. Each of these females may lay hundreds of eggs which quickly hatch into tiny first instar caterpillars. The zoos care for the caterpillars throughout their development, overwintering them in their diapause state in cool refrigerators, and feeding them violets during the spring and summer until they become pupae. The pupae are then released into the declining populations. These population augmentations or reintroductions are a last resort to prevent further population extinctions. Multiple years of releases are needed to successfully stabilize the declining populations but the augmentation appears to be a promising species recovery tool.

### References

U.S. Fish and Wildlife Service. 2001. Oregon silverspot butterfly (*Speyeria zerene hippolyta*) revised recovery plan. U.S. Fish and Wildlife Service, Portland, Oregon. 113 pp.

Last updated: Tuesday, June 17, 2008



Photo Credits: Photos courtesy of  
USFWS.



August 17, 2009

To: Clatsop County Planning Commission  
Att. Michael Weston, Clatsop County Planner  
800 Exchange St, Suite 100  
Astoria, Oregon 97103

From: Lee Stromquist  
90446 Sunset Lake Rd.  
Warrenton, Oregon 97146

To Whom it may concern.

I own property that is next to the proposed development, to be considered on August 25th. I own lots #13, #13, #14, #15, and #16. I built my home in the early 1970's, on property that was at that time zoned RA1, and ten years later was rezoned to RA5. The land that is under consideration, was part of a 270 acre sheep ranch. My subdivision Sunset Terrace, at that time had three homes with year around residents, and three vacation homes. This is what attracted me to this area. As nearly forty years have past, several homes have been added, on one acre lots. To add far denser housing next door, reduces the tranquility, and therefore the value of my property.

Other considerations include, my drinking water well, is very close to the property line, and would likely become contaminated, by septic tanks in close proximity. Lots # 15 and #16, also adjoin the proposed development. At present, there is no development on either lot. I paid the county a little over a year ago to determine if they would be considered buildable lots, under the grandfather provision. After the study was completed, I was notified that the two lots combined, were over an acre, but I could only build one house. What logic allows the development next to my lots, have something like four houses to an acre, but my adjoining property, can only have one house per acre. In conclusion, I would like to mention, that it is almost impossible to get onto the highway, next to the country club, much of the year. There are already several traffic accidents each year. All these additional homes, will just make safe and timely entrance to highway 101, nearly impossible.

Sincerely,

Lee Stromquist

**Clatsop Development - Fw: Public Hearing Comment for 8/25/09**

*Received  
Aug 13  
#*

**From:** Paula July King <paulajulyking@yahoo.com>  
**To:** <comdev@co.clatsop.or.us>  
**Date:** 8/13/2009 11:31 AM  
**Subject:** Fw: Public Hearing Comment for 8/25/09

--- On **Thu, 8/13/09, Paula July King** <paulajulyking@yahoo.com> wrote:

From: Paula July King <paulajulyking@yahoo.com>  
Subject: Public Hearing Comment for 8/25/09  
To: comdev@co.clatsop.or.us  
Date: Thursday, August 13, 2009, 9:37 AM

To whom it concerns:

I am submitting my comment for public record and reading at the forthcoming 8/25/09 public hearing on Part 1: Ordinance 09-XX, and, Part 2: 8 lot subdivision.

I am a resident of Sunset Beach. I am concerned about the following:

- a. The impact of the new subdivision on additional traffic and access to Highway 101 and the potential increase of motor vehicle accidents when trying to left turn on Sunset Beach Road or north bound turn from Sunset Beach Road on to Hwy 101.
- b. The additional traffic on Sunset Beach Road and Sunset Lake Road. Neither of these roads are suitable to sustain an additional 3000-5000 residents daily.
- c. Impact of the additional septic systems on Clatsop Plains and Neocoxie Lake(Sunset Lake). How many septic tanks will there be? (rumored to be 100--if so, then 3-5 persons per home would be up to 3,000-5,000 residents)
- d. How many homesites are being built on the West Lake Ranch site , will this be a gated community or will there be an additional road allowing other residents to access the exit at the weigh station?
- e. What about the overall environmental impact on the lake from increase residents, from the construction of the subdivision?
- f. What about the impact on the local elk herd? The subdivision is slated to be built on a major corridor for them. At any given time one can see elk bedded in the area that houses will soon be standing.
- g. Will Lewis Road have signage to notify the increased residents that there is no outlet? Both directions end in gated communities and are essentially dead end.

Thank you for submitting my comments. I am working and will not be able to attend in person. In the end, I am quite concerned of the impact that this new subdivision will bring to Hwy 101, the Sunset Lake, Sunset Beach, and the Sunset Beach neighborhood. Please consider the impact on the present as well as the future in your decision making.

Paula King  
90679 Lewis Road  
Warrenton, OR 97146  
503 791 9801

**P R McCurdy  
P O Box 941  
60416 Clark Rd  
Warrenton, OR 97146  
503-861-9842**



August 7, 2009

Mr Michael Weston II  
Clatsop County Planner  
800 Exchange St, Suite 100  
Astoria, OR 97103

Re: Ordinance 09-XX

Dear Mr Weston,

Per the subject Notice of Public Hearing, the following itemizes concerns regarding the West Lake Ranch receiving site and development.

Item #1: The proposed re-zoning of the subject parcel allows for greater development density. The application does not quantify the effect of the development on public facilities, public services, or how the applicant plans to minimize the impact of the development on the public at large, local neighborhood, and nearby private property owners.

Item #2: The subject property includes a large game (elk) migration route. The elk swim across Neacoxie Lake at specific locations. We ask the hearing authority to include a requirement for the applicant to maintain this route.

Item #3: Safe public street access should be maintained. We ask the hearing authority to include access/egress management reviews for safe vehicular conditions by meeting adequate stacking needs, sight distance, deceleration standards, emergency vehicle access, as set by ODOT and Clatsop county.

Item #4: The proposed development should protect the shallow dunal aquifers within the Clatsop Plains basin (3 ft to 33 ft deep). These aquifers are sensitive to contamination. (F.J. Frank, 1970 study), estimated that 80% of the precipitation infiltrates through the sandy soils. The dunal lake (Neacoxie) is filled by ground water base flow. He further states that "the two-way communication between ground water and surface water, contaminants introduced into surface water impacts the ground water, and vice versa".

We ask the Hearing Authority to include a requirement protecting the aquifers and dunal lakes from the subject development.



Respectfully submitted.  
 Sunset Beach neighbors and friends,

Name	Address	Signature
PHIL MCCURDY	WARRENTON 97146 90416 CLARK RD.	Phil McCurdy
SAUL HERSHBERGER	WARRENTON 97146 90514 LEWIS RD	Saul Hershberger
CHARLES E. TANTZ	WARRENTON 97146 90331 LEWIS RD	Charles E. Tantz
Wayne C. Johnson	33212 97146 SUNSET BEACH IN	Wayne C. Johnson
GEN SWIFT	9060 LAKE VIEW RD WARRENTON OR	Gen Swift
Tom Wenzler	90445 Clark RD	Tom Wenzler
Judith Mulvey	90466 Lewis Rd	Judith Mulvey
TOM MULVEY	90408 Lewis Rd	Tom Mulvey
BRIANT BIEDERDORF	90404 Lewis Rd. Warrenton, OR	Briant Biederdorf
Debra J. Betteridge	90360 Clark Rd	Debra J. Betteridge
PATRICK M. BETTERIDGE	90360 CLARK RD	Patrick M. Betteridge
Shirley H. McCurdy	90416 Clark Rd Warrenton	Shirley H. McCurdy
Clara Hunt	90479 Clark Rd. Warrenton	Clara Hunt
KEVIN POOLE	90481 CLARK RD	Kevin Poole
Ben Marshall	88023 Chubby Lake	Ben Marshall
Devin A. Cushman	90468 Lewis Rd	Devin A. Cushman
Jim Poetsch	90390 Clark Rd. Warrenton or 911 11 <sup>th</sup> Ave. Seaside, OR	Jim Poetsch
KEVIN K. WELBY	89783 SEASIDE WARRENTON, OR 97146	Kevin K. Welby

0  
0  
0



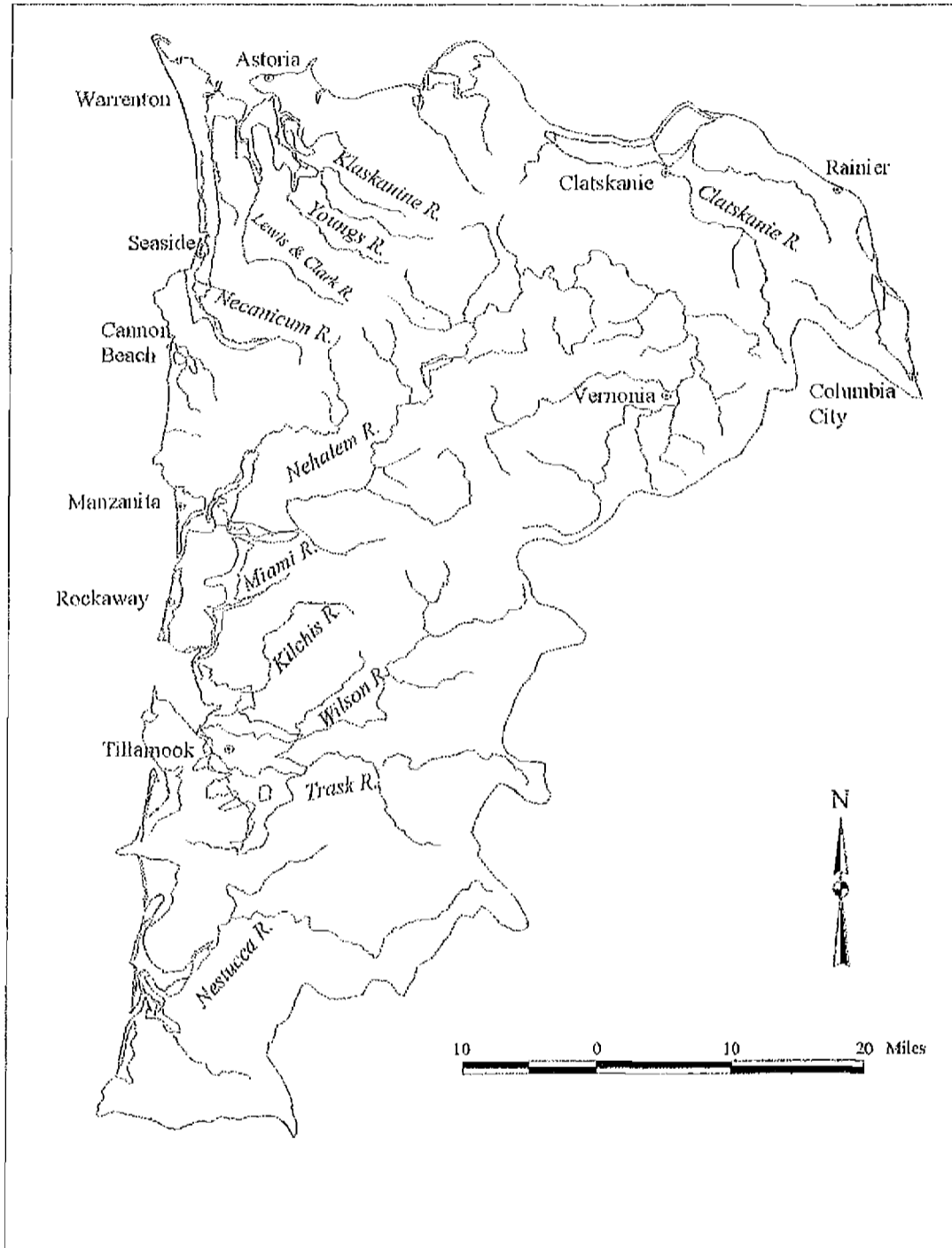


Figure 6. Sensitive Aquifers, North Coast Basin, Oregon.

August 10, 2009

*Email  
Comment  
Received  
Aug 10 2009*

RECEIVED  
AUG 11 2009  
Community  
Development  
CLATSOP COUNTY

To Clatsop County Planning Commission and Michael Weston II, Clatsop County Planner:

This letter is in response to the Notice of Public Hearing that is scheduled for August 25, 2009, at 10 a.m. regarding the 7 lot subdivision off Stellar Lane. We own Pinehurst Lot 51, which is located at the end of Stellar Lane and abuts the proposed Lot 7. We, along with the other 3 Pinehurst property owners on Stellar Lane (Lots 48, 49 and 50), are party to a road maintenance agreement with the Weed Family LLC, dated October 7, 2004, instrument no. 2004121018 in Clatsop County Oregon. We understand that the proposed 7 lot subdivision will require the seven property owners to use Stellar Lane. If so, then we want to make sure those property owners are also required to contribute to the maintenance of Stellar Lane by contributing their proportionate share of all maintenance and repair costs. Therefore, we will object to this subdivision unless those seven property owners are required to become parties to the same road maintenance agreement. Thank you for considering our comments.

Sincerely,

*Melvyn R. Souvenir  
Annette Souvenir*

Melvyn and Annette Souvenir  
89150 Stellar Lane  
Warrenton, OR 97146  
503-738-0200

**Clatsop Development - Public Hearing August 25, 2009- Density transfers/proposed subdivisions**

**From:** C GEARIN <gearin80@msn.com>  
**To:** <comdev@co.clatsop.or.us>  
**Date:** 8/10/2009 3:27 PM  
**Subject:** Public Hearing August 25, 2009- Density transfers/proposed subdivisions

**PLEASE READ INTO PUBLIC TESTIMONY**

NAME: CAROL GEARIN  
90686 LEWIS RD  
WARRENTON, OR 97146

CONCERNS REGARDING PROPOSED "WEST LAKE RANCH" SUBDIVISION AND "MANION PINES" SUBDIVISION:

1. It is my understanding from the Planning Dept that these two subdivisions will add +/- 107 septic systems - I have concerns of the impact of this large additional number of systems on the Clatsop Plains Aquifers/ Water Table and a possible contamination of the water table.
2. We can expect additional traffic, particularly from the West Lake Subdivision, on Sunset Beach Rd (which will be one access to the subdivision) - as well as additional traffic on Hwy 101. Currently, left turn access to Hwy 101 from Sunset Beach Rd, is difficult on most days until late evening - this intersection is a deadly accident waiting to happen. As Costco, Staples, Big 5, and possibly Walmart get up and running, more traffic from south county will occur. As a Condition of Approval, could a stoplight be provided for this intersection?
3. What impacts will the West Lake Ranch subdivision have on Sunset Lake.
4. From which jurisdiction will this subdivision get water service? If Gearhart, - is the City planning to take water from wells on the Clatsop Plains?
5. Will West Lake Ranch subdivision be a "gated" community? Highway 101 in this area is frequently the scene of an accident which, when they occur, backs up traffic for miles and an unreasonable amount of time. A way to bypass accidents and keep traffic moving on Highway 101 is needed. If this community is allowed to be gated, could a condition of approval be allowing the diversion of traffic from Hwy 101 to by pass an accident on the highway?
6. It would seem that the needed infrastructure, particularly as relates to traffic, needed to support these additional residences should be in place prior to any approval to build.



## United States Department of the Interior



FISH AND WILDLIFE SERVICE  
Newport Field Office  
2127 SE Marine Science Drive  
Newport, Oregon 97365  
Phone: (541) 867-4558 FAX: (541) 867-4551

RECEIVED

JUN 24 2009  
Community  
Development  
CLATSOP COUNTY

File Name: NCLC Property Conveyance  
TS Number: 09-1377  
TAILS: 13420-2009-TA-0119  
File No.: 8330.TA0119(09)

June 22, 2009

Michael Weston, Clatsop County Planning  
800 Exchange Street, Suite 100  
Astoria, Oregon 97103

Subject: Property Conveyance to North Coast Land Conservancy

Dear Mr. Weston,

This correspondence is in response to a request from the North Coast Land Conservancy (NCLC) for U.S. Fish and Wildlife Service (Service) input on the transfer of ownership of a property from Richard T. Schroeder and Richard T. Charlton to the NCLC, in Clatsop County, Oregon. The property had been included in an informal habitat conservation plan for the benefit of the Oregon silverspot butterfly (butterfly) (*Speyeria zerene hippolyta*), a Federally threatened species under the Endangered Species Act of 1973 (Act), as amended.

The butterfly is currently known to occur at just few localities in Oregon and one population in northern California. The status of the OSB population on the Clatsop Plains is not known, but may be at a level below which is detectable with current survey methods in Clatsop County, Oregon. The butterfly is dependent upon coastal prairie habitat which contains the caterpillar food plant Early blue violets (*Viola adunca*), and adult butterfly nectar plants for support through its life cycle (USDI 1980; 45 FR 44935). Threats to the butterfly include loss of habitat from development, succession of prairie habitat to brush and trees, as well as habitat degradation from invasive species such as Scotch broom which displaces and degrades habitat quality, and increases habitat fragmentation.

In August of 1995, Richard T. Schroeder and Richard T. Carlton entered into a voluntary agreement called the Oregon Silverspot Butterfly Habitat Conservation Plan. The plan describes how areas containing violets would be avoided during the construction of the Pinehurst Estates housing development. The plan also states that a portion of what was once identified as tax lots 1000 and 1100 would be transferred to an appropriate party for the long term benefit of the butterfly. The property was called T7N, R10W, Sec 28 TL 1000 and 1100 on the 1995 tax lot maps (or areas F and G on Pinehurst development map) and is now called T7N, R10W, Sec 28DA TL 800, Tract L and K on the current tax lot map. Within Tract L and K are four 1-acre lots which are excluded from the agreement.


Printed on 100 percent chlorine free/60 percent post-consumer content paper.

TAKE PRIDE  
IN AMERICA

The NCLC has been identified as the appropriate party to receive the property titles which contain butterfly habitat. Based on information provided by the NCLC, the current condition of Tracts L and K indicate the butterfly habitat to be limited to the east side of the properties adjacent to Neacoxie Creek. Butterfly habitat elsewhere on the Clatsop Plains is consistently limited to areas near or adjacent to Neacoxie Creek. The western portion of Tracts L and K along Marion Drive, do not have habitat characteristics which would benefit the butterfly currently or likely in the long term. The NCLC wishes to accept only the portion of Tracts L and K which can be effectively managed for the butterfly and have conservation value.

We strongly support NCLC as an appropriate recipient of the property transfer based on NCLC's substantial conservation work on the Clatsop Plains, particularly in regards to the butterfly and other wildlife conservation efforts. We also support the NCLC's decision to limit their ownership and conservation efforts to the east side of Tracts L and K where habitat improvements will likely be successful. If you have further questions regarding this letter, please contact Laura Todd or Anne Walker at (541) 867-4558.

Sincerely,

A handwritten signature in cursive script that reads "Anne Walker (for Laura Todd)". The signature is written in dark ink and is positioned to the right of the word "Sincerely,".

Laura L. Todd  
Field Supervisor

**Exhibit II.**

**Public Notice**

Page 63 of 156





**This Page Left Blank Intentionally**

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](mailto:comdev@co.clatsop.or.us)  
[www.co.clatsop.or.us](http://www.co.clatsop.or.us)



---

## NOTICE OF PUBLIC HEARING BEFORE THE CLATSOP COUNTY PLANNING COMMISSION

In The Matter of a 2 part application:

Part 1.

Ordinance 09-XX is an Ordinance Amending the Comprehensive Plan/Zoning Map & Text it involves: A Density Transfer of 11 RA-5 Sites and 4 RA-1 Sites for a total of 15 Density Credits; and, a Text Amendment to the Clatsop Plains Community Plan.

Part 2.

Is an 8 lot subdivision off Stellar Lane platted within the previously platted Pinehurst subdivision.

For property details, location and applicable criteria see Page 2 (reverse side) and the attached maps on Pages 3 & 4 illustrating the proposal.

---

DATE OF HEARING:	August 25, 2009
TIME:	10:00 am
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 250 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 map illustrating the effected areas is attached on page 3.

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 10:00 AM on Tuesday, August 25, 2009 at the Judge Guy Boyington Building, 857 Commercial St, Astoria, OR 97103.

Interested persons are invited to submit testimony in writing or in person by attending the hearing. Alternately, interested persons may submit testimony in writing for Staff to present 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](mailto:comdev@co.clatsop.or.us). Written comments must be received in this office no later than **5PM on Friday August 17, 2009** in order to be presented by Staff for submittal at the August 25, 2009 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 proposed zone change will rezone approximately 55 acres of Residential Agricultural 5 {RA5} and 8½ acres of Residential Agriculture 2 {RA2} to Open Space Parks and Recreation. The approximate 63 acres has 15 density credits. 7 Density Credits are being transferred to the Pinehurst Receiving Site to allow the proposed 8 lot subdivision called “Manion Pines”. Lot 8 of the *Manion Pines* subdivision is proposed to be sold to the North Coast Land Conservancy and maintained as permanent open space. The remaining 7 density Credits are being allocated to the West Lake Ranch Receiving Site. The text amendment will add a table to the Clatsop Plains Planning area illustrating the Areas involved.

A vicinity map illustrating the sending & receiving sites is located on page 3 of this notice. An image of the Preliminary Plat is attached on page 4 of this notice.

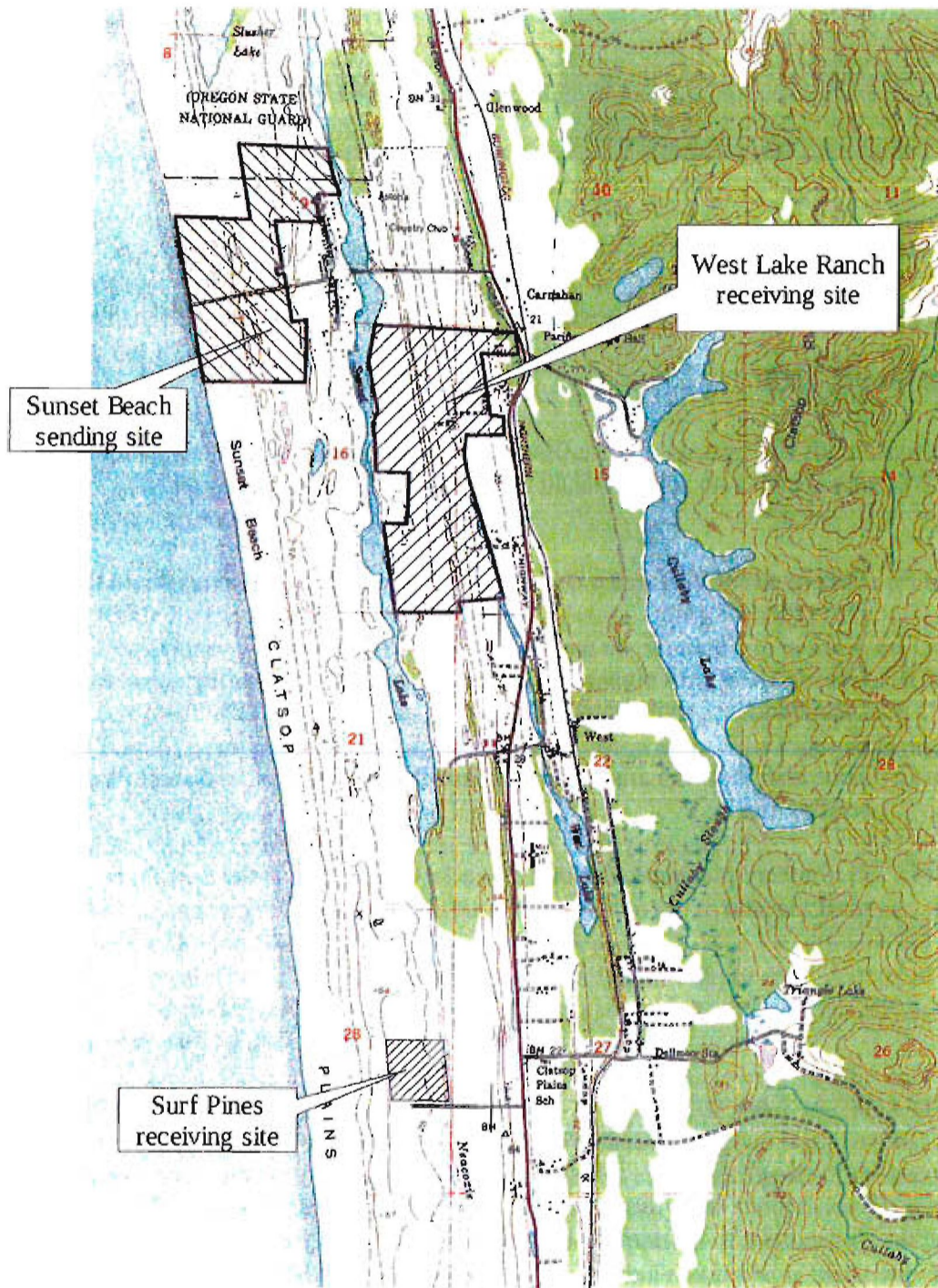
The following criteria from Clatsop County Land and Water Development and Use Ordinance (LWDUO) apply to the request: § 1.030 (Definitions), §2.030 (Type III Procedures), §2.035 (Type IV Procedures), §2.105-§2.125 (Notice Requirements for Public Hearings), §2.300 (Legislation), §3.200 (Residential Agriculture 2 acre), §3.220 (Residential Agriculture 5 acre), §3.580 (Open Space Parks and Recreation Zone), §5.200 (Subdivisions, Partitions, & Property Lines Adjustments), 5.350 (Transportation System Impact Review), & §5.400 (Zone Changes).

In addition the following elements of Clatsop County’s Standards Document apply to the request: Chapters 1-3 (Site Oriented Development) particularly Chapter 3 Section S3.150 – S3.161 (Cluster Development and Density Transfer), Chapter 4 (Environmental Protection), Chapter 5 (Vehicle Access Control and Circulation), and Chapter 6 (Road Standard Specifications for Design and Construction).

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 5 (Natural Resources, Scenic and Historic Areas and Open Spaces), Goal 6 (Air, Water, and Land Quality), 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), Goal 18 (Beaches and Dunes) and the Clatsop Plains Community Plan.

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](mailto:mweston@co.clatsop.or.us).



Scale  
 3,000 ft ±

Exhibit 1  
 Location Map  
 2008/12/15





## SUBMITTAL REQUIREMENTS

**This form must be received by DLCD at least 45 days prior to the first evidentiary hearing per ORS [197.610](#) and OAR Chapter 660, Division 18**

1. This form must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this form on light **green paper**.
3. **Text:** Submittal of a proposed amendment to the text of a comprehensive plan or land use regulation must **include the text** of the amendment and any other information the local government believes is necessary to advise DLCD of the effect of the proposal. "Text" means the specific language being added to or deleted from the acknowledged plan or land use regulations. A general description of the proposal is not adequate. **Do not submit this form without supporting documentation.**
4. **Maps:** Submittal of a proposed map amendment must also include a map of the affected area showing existing and proposed plan and zone designations. The map should be legible and on 8½ x 11 inch paper. Please provide the specific location of property, such as an address and/or tax lot number. Include text regarding background and/or the justification for the change, such as the application accepted by the local government.
5. **Exceptions:** Submittal of proposed amendments that involve a goal exception must include the proposed language of the exception.
6. Unless exempt by [ORS 197.610\(2\)](#), proposed amendments must be received at the DLCD's Salem office at least 45 days before the first evidentiary hearing on the proposal. (The clock begins on the day DLCD receives your proposal.) The first evidentiary hearing is usually the first public hearing held by the jurisdiction's planning commission on the proposal.
7. If you have an electronic copy of the proposal, we would like you to submit one electronic copy [email, CD, or upload to DLCD (for submittal instructions, see # 4)] and **ONE PAPER COPY** of the proposed amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST  
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT  
635 CAPITOL STREET NE, SUITE 150  
SALEM, OREGON 97301-2540**

8. **Electronic Submittals:** One hard copy must be sent by mail or in person, by either email to [larry.french@state.or.us](mailto:larry.french@state.or.us). On the same day, please mail [1] hard copy to our office.
9. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print forms 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 [larry.french@state.or.us](mailto:larry.french@state.or.us).

<http://www.lcd.state.or.us/LCD/forms.shtml>

Updated March 16, 2009

**Exhibit III.**

**Application**

Page 71 of 156



**Mark R. Barnes, AICP**

P.O. Box 569  
Astoria, Oregon 97103  
503/325-4356

16 March 2009

Clatsop County Planning & Development Department  
800 Exchange St., Room 100  
Astoria, OR 97103

This letter summarizes the attached proposal by Richard Schroeder and Rick Charlton. I discussed this project at a meeting with County planning staff on 17 November 2008. This request includes the following components:

- Density transfer approval for seven units from the sending site to the Surf Pines receiving site (Exhibit A);
- Density transfer approval for eight units from the sending site to the West Lake Ranch receiving site (Exhibit B);
- Approval of a down-zone, from RA5 to OPR, for the sending site (Exhibit C);
- Tentative plat approval for a seven-lot subdivision at the Surf Pines receiving site (Exhibit D).

The map attached to this letter shows the location of these sites.

The density sending site is described in Exhibit A. It is in the RA5 and LW zones. It is owned by the Oregon State Parks and Recreation Department. The Department has entered into an agreement to sell the residential density to the applicants. A copy of this agreement is included in Exhibit A. The density transfer affects only the land in the RA5 zone; land in the LW zone has no density assigned to it.

The Surf Pines receiving site consists of tax lots 7-10-28DA-800 and 7-10-28DA-500, shown on a map included in Exhibit A. The Surf Pines receiving site is in the CBR zone, with a small portion along the east side in the LW zone. This site is part of the second phase of the Pinehurst Estates subdivision (more specifically, the subdivision "Pinehurst Estates Lots 25-51"). The proposal involves vacating a portion of the existing subdivision, and re-platting with the transferred density. The new subdivision plat is tentatively named Manion Pines.

The West Lake Ranch receiving site is described in Exhibit B. The site is in the RA5 zone. It is owned by the applicants. A cluster subdivision or planed unit development is contemplated for this site, but not immediately. The applicants wish to transfer density to

16 March 2009  
page 2

this site, but not proceed with a tentative plat proposal at this time.

Thanks in advance for your help and cooperation on this project.

Respectfully,



Mark R. Barnes, AICP

Exhibit A: Density transfer of seven units from the Sunset Beach sending site to the Surf Pines receiving site

Exhibit B: Density transfer of eight units from the Sunset Beach sending site to the West Lake Ranch receiving site

Exhibit C: Zone and Plan map amendment, from RA5 to OPR, for the Sunset Beach sending site

Exhibit D: Preliminary plat approval for a seven-lot subdivision at the Surf Pines receiving site



## Exhibit A:

### Density Transfer From The Sunset Beach Sending Site To The Surf Pines Receiving Site

This document and the attachments describe the proposed transfer of seven residential density units from the Sunset Beach sending site to the Surf Pines receiving site. A separate document (Exhibit C) describes and justifies the sending site down-zoning, which is an essential part of this proposal. Another document (Exhibit D) is the proposed preliminary plat for the Surf Pines receiving site.

This document is organized as follows:

Project description	Page 1
Applicable requirements	2
Proposed findings	3
Agreement between Applicants and OPRD	6
Map of the Sunset Beach sending site	8
Map of the Surf Pines receiving site	
Clatsop Plains Community Plan, Appendix C	10

#### **Project Description**

This request is for the transfer of eight units of residential density from property in the Sunset Beach area owned by Oregon Parks and Recreation Department (the sending site) to property in Surf Pines owned by Richard Schroeder (the receiving site). A copy of the agreement between OPRD and the applicants allowing the purchase of density begins at page 6. The purpose of this proposal is to develop eight single-family residential building site on vacant property owned by the applicant in Surf Pines.

The sending site is in the RA2, RA5 and LW zones. A copy of a portion of the County's zoning map showing the sending site is at page 8 of this document. Land in the RA5 zone contributes one residential unit, rounded down to the nearest whole unit, per five acres. Land in the RA2 zone contributes one unit per two acres. Land in the LW zone has no residential density associated with it. A total of 15 residential density units are potentially

available from the sending site. This is summarized in the following table.

Zone	Acres	Residential density units
RA5	59.5	11
RA2	8.6	4

### Applicable Requirements

Density transfer is subject to the standards beginning at section S3.150 of the Clatsop County Development Standards Document of 1980, as amended. More specifically, applicable criteria for approval of a density transfer include the following sections:

*S3.161(1) Transfer of residential development rights between sites in the Clatsop Plains Planning Area is allowed as follows:*

*(A) The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted, and*

*(B) Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Counsel, that prohibits any further development beyond that envisioned in the approved density transfer until such time as the entire area within the density transfer approval has been included within an urban growth boundary; and*

*(C) The Community Development Director shall demarcate the approved restrictions on the official Zoning Map, and*

*(D) No parcel of land shall be involved in more than one (1) density transfer transaction, and*

*(E) Density transfer goes with the property - not the owner; and*

*(F) Minimum lot size shall be one (1) acre for the receiving*

*site but in no case may any lot be less than one-half (1/2) acre in size. Approval of lots less than one (1) acre in size shall meet the applicable standards set forth in S3.150-S3.161.*

*(2) ESEE consequences are the same as those found in Appendix C of the Clatsop Plains Community Plan.*

### **Proposed Findings**

S3.161(1)(A) of the County's Development Standards Document reads as follows:

*The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted.*

The sending site consists of land owned by the Oregon Parks and Recreation Department in the Sunset Beach area. This is shown on the map on page 8 of these findings. It includes land in the RA2, RA5, LW, and OPR zones. The sending site includes only those areas in the RA5 and RA2 zones; the LW and OPR-zoned lands do not have any residential density associated with them.

The proposed sending site lands are to be downzoned from RA5 and RA2 to the OPR zone. The OPR zone is an appropriate zone for land owned by the Oregon Parks and Recreation Department and managed as a park. The OPR zone is in the Conservation Other Resources plan designation. The proposed map amendment – from RA5/Rural Lands and RA2/Rural Lands to OPR/Conservation Other Resources is included in this request as Exhibit C.

Section S3.161(1)(B) reads as follows:

*Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Counsel, that prohibits any further development beyond that envisioned in the approved density transfer until such time as the entire area within the density transfer approval has been included within an urban growth boundary.*

OPRD staff have been made aware of the deed restriction described in this section. This requirement can be made a condition of approval.

Section S3.161(1)(C) reads as follows:

*The Community Development Director shall demarcate the approved restrictions on the official Zoning Map.*

This requirement can be made a condition of approval.

Section S3.161(1)(D) reads as follows:

*No parcel of land shall be involved in more than one (1) density transfer transaction.*

It is not clear whether this section refers to the sending site or the receiving site or, possibly, both. This is the only transfer of residential density involving the Surf Pines receiving site. The receiving site was involved in a cluster subdivision (Pinchurst Estates), but not in any previous density transfers. The proposal involves two destinations for sending site density: the Surf Pines site (seven units), and the West Lake Ranch site (eight units). If subsection (D) refers to the sending site, then it can be broken into two parcels for purposes of complying with this requirement. A partition, if needed, can be made a condition of approval.

Section S3.161(1)(E) reads as follows:

*Density transfer goes with the property - not the owner.*

The applicants understand and agree to this requirement. Residential density units transferred under this proposal will be assigned to the Surf Pines receiving site, and not to the applicants personally.

Section S3.161(1)(F) reads as follows:

*Minimum lot size shall be one (1) acre for the receiving site but in no case may any lot be less than one-half (1/2) acre in size. Approval of lots less than one (1) acre in size shall meet the applicable standards set forth in S3.150-S3.161.*

The applicants propose one-acre lots for the receiving site: see the proposed preliminary plat in Exhibit D.

Section S3.161(2) reads as follows:

*ESEE consequences are the same as those found in Appendix C of the Clatsop Plains Community Plan.*

A copy of *Clatsop Plains Community Plan Appendix C* is attached beginning on page 10 of this document. Appendix C is the tax and map for an exception taken by the County to the restrictions on new dwellings in active dune areas. The exception area map shows that the Surf Pines receiving site is outside of both the exception area and the active dune area. The sending site is not included in the exception. The western portion of the sending site, in the OPR zone, is within the active dune area, but this part of the sending site does not contribute any density to the proposed density transfer. Based on this, the County can conclude that the proposal does not conflict with the exception in Appendix C.



Agreement Between Applicants and OPRD

Oregon Parks & Recreation Department

**BID FORM AND INTERIM SALES AGREEMENT**

DIRECT SALE  PUBLIC AUCTION BY SEALED BID

MINIMUM ACCEPTABLE BID	AMOUNT OF BID	COUNTY <b>CLATSOP</b>
<u>\$250,000</u>	\$ <u>275,000</u>	TRANSFERABLE DENSITY RIGHTS 19
	LESS DEPOSIT \$ <u>27,500</u>	
	<b>TOTAL BALANCE DUE \$ <u>247,500</u></b>	

CONDITIONS OF SALE:

- Buyer to rezone the Sending Parcel as Open Space, Parks and Recreation with Clatsop County and complete a comprehensive plan map amendment if required by the county.
- Buyer is to file appropriate deed restrictions with Clatsop County.
- Buyer is to be responsible for all costs associated with the preparation and processing of the density transfer application before Clatsop County and any other required entity, whether private or public.
- Buyer will forfeit the 10% deposit amount in the event the density transfer application is not successful.

The undersigned as bidder, hereinafter referred to as "Purchaser" agrees to the terms set forth in this Bid Form, including the "Terms of Sale" (together, the "Agreement"), and agrees to pay the STATE OF OREGON, by and through its Parks and Recreation Department, hereinafter referred to as "State" the sum indicated above as the "Amount of Bid", for 19 Transferable Density Rights in the Clatsop Plains Planning Area of Clatsop County, Oregon.

Accompanying the bid is a check payable to the Oregon Parks and Recreation Department, in the amount of at least 10% of the total bid price. Property to be purchased on a (cash contract) basis. Balance of (purchase price down payment) to be in the form of a Cashier's Check to be paid within thirty (30) days of the successful receipt of regulatory approvals to utilize the Transferable Density Rights.

The deposit shall be applied to the bid for the Transferable Density Rights on which the undersigned is the successful Purchaser. In the event Purchaser fails to pay the balance due in the time specified, or fails to satisfy any other obligation of this Agreement when performance is due, all rights of the Purchaser in the Transferable Density Rights shall cease and all such right, title and interest shall continue to remain vested in the State, free of any claim or equity in the undersigned Purchaser or those claiming through the Purchaser, and the State shall retain all payments or deposits as liquidated damages for failure of Purchaser to complete the purchase or meet the conditions of the Agreement.

**PLEASE READ THE FOLLOWING BEFORE SIGNING REAL PROPERTY TERMS OF SALE**

CASH SALE: Cash or check in the amount stated in the sale advertisement at time of bid, balance to be paid as described above. Bidder acquires no right, title, interest or equity in or to the Transferable Density Rights until full purchase price has been paid.  
 CONTRACT SALE: not applicable to the sale of these Transferable Density Rights.  
 UNPAID BALANCE: Purchaser may pay all or any part of the balance due at any time prior to the time specified and required above.  
 TAXES AND ASSESSMENTS: Purchaser will pay any and all real property taxes assessed with the sale of the Transferable Density Rights, as said real property taxes become due, or in advance of the due date thereof and add said taxes to the principal balance due on the purchase price. Purchaser agrees to regularly and occasionally pay all other taxes, assessments and charges, including local improvement assessments, which are or may be hereafter lawfully imposed or which constitute or will constitute liens or encumbrances against the property right transferred between the parties.  
 ASSIGNMENT: Purchaser shall not sell, assign, or transfer its rights under this Interim Sale Agreement without the prior written consent of State. As a condition to such consent, State may collect a transfer fee.  
 DEFAULTS: This and the prompt and punctual payment of all sums payable hereunder, and the exact performance and observance of each and all of the agreements and provisions herein contained, are in each and every case of the essence of this Agreement. If Purchaser fails to pay, when the same becomes due as herein provided, the balance of the purchase price, or becomes delinquent in the payment of any assessments levied or assessed or becoming payable against the property, or fails to keep property free from liens and encumbrances accruing after this date, or otherwise fails to keep and perform the agreements herein, State may take any one or more of the following steps: (a) Terminate this Agreement by giving Purchaser a 30-day notice in writing of its intention to do so, and upon the expiration of said 30-day period and the continued default in any covenant or condition by Purchaser during such period, then State may, without tender of performance or suit or notice, declare this Agreement null and void, and all the rights of Purchaser in the Agreement and all their estate, equity interest or right of possession in the Transferable Density Rights shall cease and terminate, and all payments made by Purchaser to State, whether principal or interest, or for taxes, fees or assessments, shall be forfeited to State, the same being considered liquidated damages for the nonperformance of this Agreement without the necessity of court action; (b) Elect to continue this Agreement existing, and, in case of a continued default by Purchaser for a period of 30 days after notice to Purchaser or failing attention to such default, State may declare the whole of the unpaid balance due on this Agreement, together with all accrued interest, immediately due and payable; (c) Foreclose this Agreement by a suit in equity; and/or (d) Specifically enforce the terms of this Agreement by a suit in equity.  
 In the event any suit or action is brought by State to enforce the collection of the balance due on this Agreement and interest, Purchaser agrees to pay such reasonable attorney's fees and other costs as the court may allow the State.

REPRESENTATIONS: Purchaser accepts the Transferable Density Rights in their present condition, without any representations or warranties, expressed or implied, unless they are expressly set forth in this Agreement or are in writing signed by State. Purchaser agrees that Purchaser has ascertained, from sources other than State, the applicable zoning, building, health, and other regulatory ordinances and laws as they may affect the present use or any intended future use of the Transferable Density Rights, and State has made no representations with respect to such laws or ordinances.

Purchaser understands and agrees that Purchaser acquires no right, title, interest or equity in or to the Transferable Density Rights until the full payment has been paid.

GENERAL: All payments must be made in cash or check payable to the Oregon Parks and Recreation Department. In the event Purchaser fails to pay the balance due in the time specified, or meet other terms of this Agreement when due, all rights of the Purchaser in the Transferable Density Rights shall cease and all such right, title and interest shall continue to remain vested in the State, free of any claim or equity in the undersigned Purchaser or those claiming through Purchaser, and the State shall retain all payments or deposits as liquidated damages for failure of Purchaser to complete the purchase or meet the conditions of the Agreement.

The State shall convey only such right, title and interest in the Transferable Density Rights as is now vested in State. Unless specifically provided for herein, State will not provide title insurance. The State reserves the right to reject any or all bids at any time. In the event a bid is withdrawn by State after bid, all monies deposited shall be returned without payment of interest.

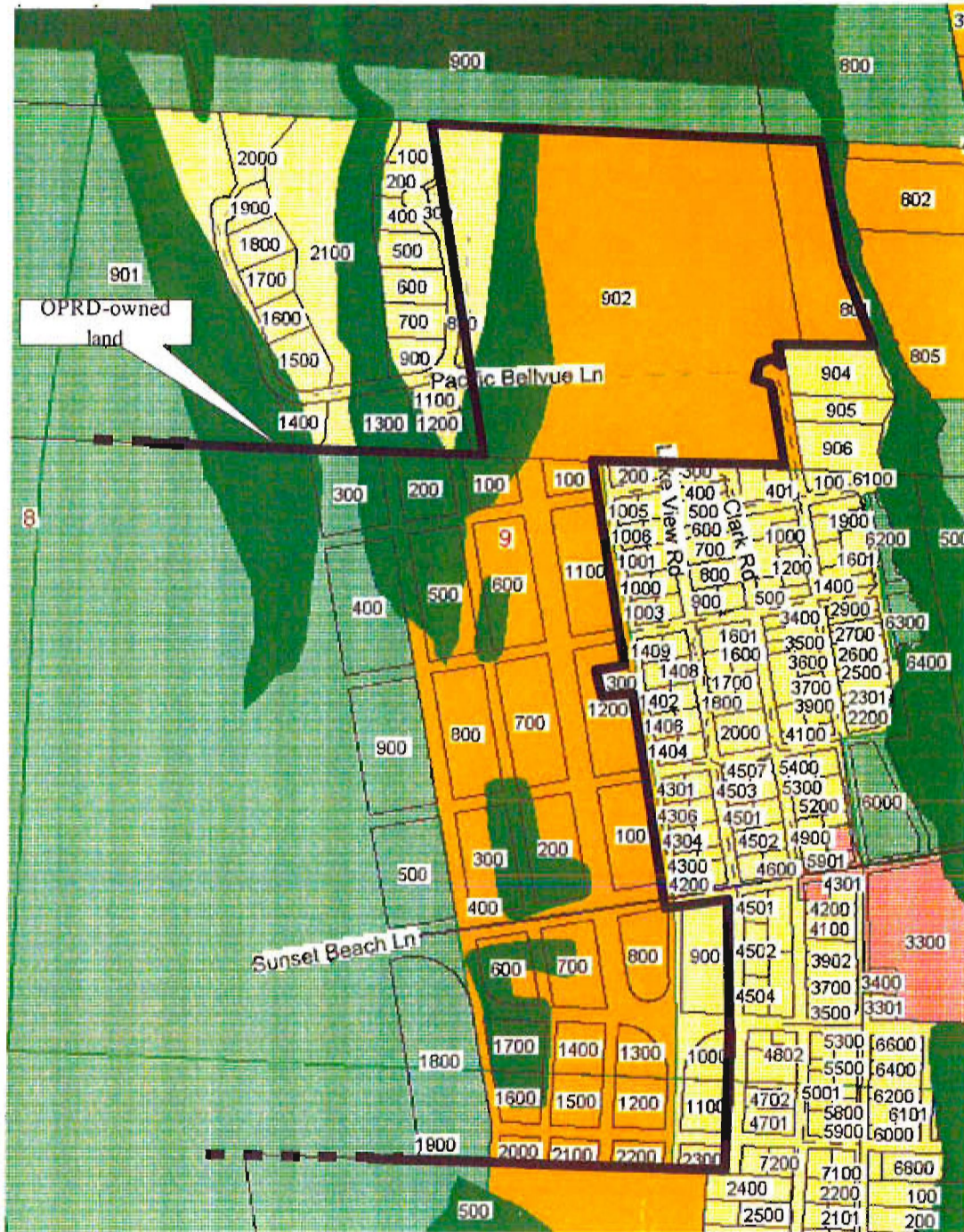
By signing this Bid, Bidder agrees to be bound by all terms and conditions contained in this Bid Form and, if selected by State as the successful Bid, Bidder agrees to enter into a Purchase and Sale Agreement incorporating the foregoing terms and conditions.

APPROVED BY: Jim Wood 12/17/04 Richard T. Schroeder 12.2.04  
 RPM Manager DATE PURCHASER DATE  
Mike Selway 12/10/04 Westlake Ranch LLC  
 Real Estate Specialist DATE PURCHASER DATE

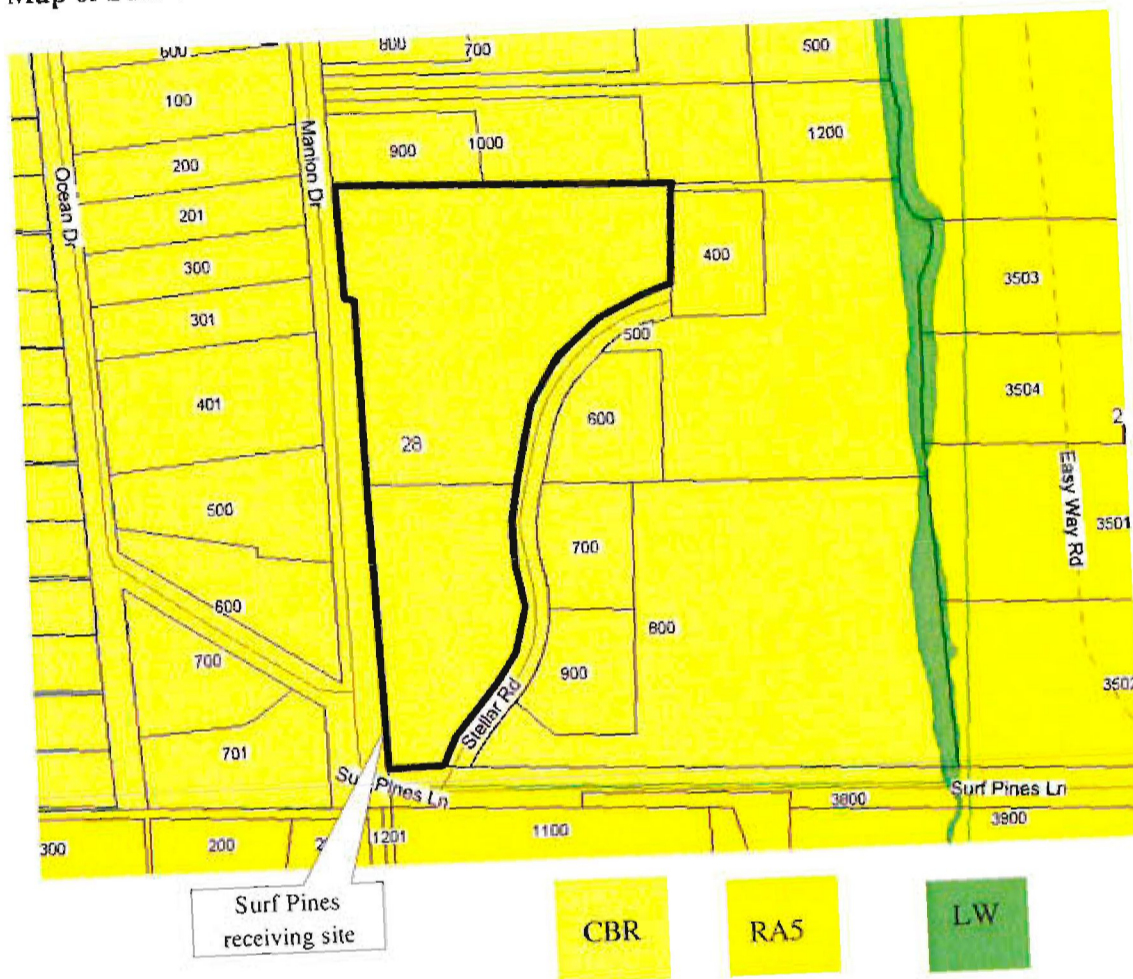
MAILING ADDRESS
855 SW Spring Lane
CITY STATE AND ZIP CODE
Portland, OR 97225
TELEPHONE NUMBER
503 224-8163

NOTE: STATE OF OREGON PARKS AND RECREATION DEPARTMENT RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS AT ANY TIME.

Map of Sunset Beach Sending Site



Map of Surf Pines Receiving Site



**Appendix C from the Clatsop Plains Community Plan**

APPENDIX C  
BEACHES AND DUNES EXCEPTION

515 473

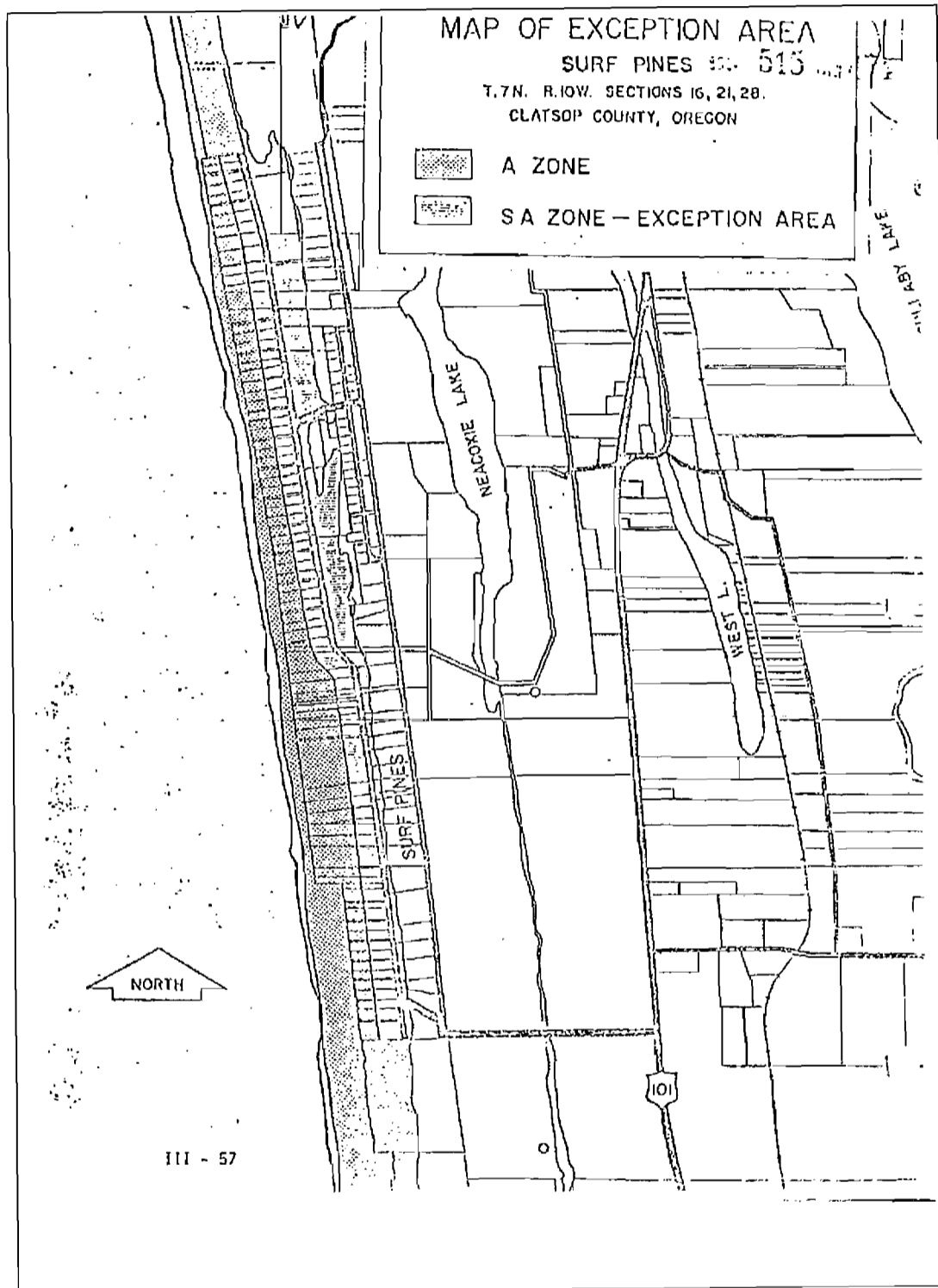
Exception - Surf Pines

Clatsop County takes an exception to the State of Oregon's Beaches and Dunes Goal (#10) for those properties in the Surf Pines area (see Map on Page ) that are considered to be active dunes.

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

1. According to the HUD Flood Insurance Study, the existing development is not within the velocity zone of the 100 year flood.
2. There are (as of 1978) 93 vacant lots located on active dunes in Surf Pines. They are interspersed among existing development, consisting of about 26 dwellings. These lots have been platted and partitioned since about 1950. The average developed lot size is approximately 2 acres for this area. The oceanfront lots are generally 120' x 300' to 600'.
3. The 93 vacant lots range in size from one (1) to 17 acres. Lots two (2) acres or larger would be eligible for partitioning or subdividing subject to Clatsop County standards.
4. Surf Pines residents receive pumped water from the Surf Pines Association. The two well fields utilized for the water supply are located outside of the active dune area. Paved roads in the area are maintained by the Surf Pines Association. The water and road facilities are adequate to accommodate the one acre development pattern of the area and are available to each lot.
5. Electricity (Pacific Power and Light), natural gas (Northwest Natural Gas) and cable television are available to each lot in the Surf Pines area.
6. These are among the last platted oceanfront parcels in Clatsop County. The current market value for oceanfront lots with improvements in 1977 is between \$12,000 and \$15,000. Most of the active dune to the north is in public ownership or unplatted. The active dune from Surf Pines south to Gearhart is in private ownership and unplatted.
7. Construction in this area would be single family only, similar to the existing development and, therefore, compatible. There would be no adverse social impact.
8. There is a minimum of 3000 acres of developable land in the Clatsop Plains (unincorporated areas) excluding active dune areas.
9. Access to the beach for residents of Surf Pines would be maintained through existing private rights of way that were platted during the original platting.

111 - 56





**Tab**

## Exhibit B:

### Density Transfer From The Sunset Beach Sending Site To The West Lake Ranch Receiving Site

This document and the attachments describe the proposed transfer of seven residential density units from the Sunset Beach sending site to the West Lake Ranch receiving site. A separate document (Exhibit C) describes and justifies the sending site down-zoning, which is an essential part of this proposal.

This document is organized as follows:

Project description	Page 1
Applicable requirements	2
Proposed findings	3
Agreement between Applicants and OPRD	6
Map of the Sunset Beach sending site	8
Map of the West Lake Ranch receiving site	
Clatsop Plains Community Plan, Appendix C	10

#### **Project Description**

This request is for the transfer of seven units of residential density from property in the Sunset Beach area owned by Oregon Parks and Recreation Department (the sending site) to property owned by Richard Schroeder and Rick Charlton (the receiving site) located between Sunset Lake and Highway 101. A copy of the agreement between OPRD and the applicants allowing the purchase of density begins at page 6. The applicants plan to develop the receiving site using existing density on the site plus these transferred residential units. A specific development plan is not proposed at this time.

The sending site is in the RA2, RA5 and LW zones. A copy of a portion of the County's zoning map showing the sending site is at page 8 of this document. Land in the RA5 zone contributes one residential unit, rounded down to the nearest whole unit, per five acres. Land in the RA2 zone contributes one unit per two acres. Land in the LW zone has no residential density associated with it. A total of 15 residential density units are potentially



available from the sending site. This is summarized in the following table.

Zone	Acres	Residential density units
RA5	59.5	11
RA2	8.6	4

### **Applicable Requirements**

Density transfer is subject to the standards beginning at section S3.150 of the Clatsop County Development Standards Document of 1980, as amended. More specifically, applicable criteria for approval of a density transfer include the following sections:

*S3.161(1) Transfer of residential development rights between sites in the Clatsop Plains Planning Area is allowed as follows:*

*(A) The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted, and*

*(B) Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Counsel, that prohibits any further development beyond that envisioned in the approved density transfer until such time as the entire area within the density transfer approval has been included within an urban growth boundary; and*

*(C) The Community Development Director shall demarcate the approved restrictions on the official Zoning Map, and*

*(D) No parcel of land shall be involved in more than one (1) density transfer transaction, and*

*(E) Density transfer goes with the property - not the owner; and*

*(F) Minimum lot size shall be one (1) acre for the receiving*

*site but in no case may any lot be less than one-half (1/2) acre in size. Approval of lots less than one (1) acre in size shall meet the applicable standards set forth in S3.150-S3.161.*

*(2) ESEE consequences are the same as those found in Appendix C of the Clatsop Plains Community Plan.*

### **Proposed Findings**

S3.161(1)(A) of the County's Development Standards Document reads as follows:

*The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted.*

The sending site consists of land owned by the Oregon Parks and Recreation Department in the Sunset Beach area. This is shown on the map on page 8 of these findings. It includes land in the RA2, RA5, LW, and OPR zones. The sending site includes only those areas in the RA5 and RA2 zones; the LW and OPR-zoned lands do not have any residential density associated with them.

The proposed sending site lands are to be downzoned from RA5 and RA2 to the OPR zone. The OPR zone is an appropriate zone for land owned by the Oregon Parks and Recreation Department and managed as a park. The OPR zone is in the Conservation Other Resources plan designation. The proposed map amendment – from RA5/Rural Lands and RA2/Rural Lands to OPR/Conservation Other Resources is included in this request as Exhibit C.

Section S3.161(1)(B) reads as follows:

*Prior to final approval of a density transfer the County shall require that deed restrictions be filed in the Clatsop County Deed Records in a form approved by County Counsel, that prohibits any further development beyond that envisioned in the approved density transfer until such time as the entire area within the density transfer approval has been included within an urban growth boundary.*

OPRD staff have been made aware of the deed restriction described in this section. This requirement can be made a condition of approval.

Section S3.161(1)(C) reads as follows:

*The Community Development Director shall demarcate the approved restrictions on the official Zoning Map.*

This requirement can be made a condition of approval.

Section S3.161(1)(D) reads as follows:

*No parcel of land shall be involved in more than one (1) density transfer transaction.*

It is not clear whether this section refers to the sending site or the receiving site or, possibly, both. This is the only transfer if residential density involving the West Lake Ranch receiving site. The proposal involves two destinations for sending site density: the Surf Pines site (seven units), and the West Lake Ranch site (eight units). If subsection (D) refers to the sending site, then it can be broken into two parcels for purposes of complying with this requirement. A partition, if needed, can be made a condition of approval.

Section S3.161(1)(E) reads as follows:

*Density transfer goes with the property - not the owner.*

The applicants understand and agree to this requirement. Residential density units transferred under this proposal will be assigned to the West Lake Ranch receiving site, and not to the applicants personally.

Section S3.161(1)(F) reads as follows:

*Minimum lot size shall be one (1) acre for the receiving site but in no case may any lot be less than one-half (1/2) acre in size. Approval of lots less than one (1) acre in size shall meet the applicable standards set forth in S3.150-S3.161.*

The applicants will develop the West Lake Ranch site in compliance with this requirement.

Section S3.161(2) reads as follows:

*ESEE consequences are the same as those found in Appendix C of the Clatsop Plains Community Plan.*

A copy of *Clatsop Plains Community Plan Appendix C* is attached beginning on page 10 of this document. Appendix C is the tax and map for an exception taken by the County to the restrictions on new dwellings in active dune areas. The exception area map shows that the Surf Pines receiving site is outside of both the exception area and the active dune area. The sending site is not included in the exception. The western portion of the sending site, in the OPR zone, is within the active dune area, but this part of the sending site does not contribute any density to the proposed density transfer. Based on this, the County can conclude that the proposal does not conflict with the exception in Appendix C.

Agreement Between Applicants and OPRD

Oregon Parks & Recreation Department

**BID FORM AND INTERIM SALES AGREEMENT**

DIRECT SALE  PUBLIC AUCTION BY SEALED BID

MINIMUM ACCEPTABLE BID	AMOUNT OF BID	COUNTY <b>CLATSOP</b> TRANSFERABLE DENSITY RIGHTS 19
<u>\$250,000</u>	\$ <u>275,000</u>	
	LESS DEPOSIT \$ <u>27,500</u>	
	TOTAL BALANCE DUE \$ <u>247,500</u>	

CONDITIONS OF SALE:

- Buyer to rezone the Sending Parcel as Open Space, Parks and Recreation with Clatsop County and complete a comprehensive plan map amendment if required by the county.
- Buyer is to file appropriate deed restrictions with Clatsop County.
- Buyer is to be responsible for all costs associated with the preparation and processing of the density transfer application before Clatsop County and any other required entity, whether private or public.
- Buyer will forfeit the 10% deposit amount in the event the density transfer application is not successful.

The undersigned as bidder, hereinafter referred to as "Purchaser" agrees to the terms set forth in this Bid Form, including the "Terms of Sale" (together, the "Agreement"), and agrees to pay the STATE OF OREGON, by and through its Parks and Recreation Department, hereinafter referred to as "State" the sum indicated above as the "Amount of Bid", for 19 Transferable Density Rights in the Clatsop Plains Planning Area of Clatsop County, Oregon.

Accompanying the bid is a check payable to the Oregon Parks and Recreation Department, in the amount of at least 10% of the total bid price. Property to be purchased on a (cash contract) basis. Balance of (purchase price down payment) to be in the form of a Cashier's Check to be paid within thirty (30) days of the successful receipt of regulatory approvals to utilize the Transferable Density Rights.

The deposit shall be applied to the bid for the Transferable Density Rights on which the undersigned is the successful Purchaser. In the event Purchaser fails to pay the balance due in the time specified, or fails to satisfy any other obligation of this Agreement when performance is due, all rights of the Purchaser in the Transferable Density Rights shall cease and all such right, title and interest shall continue to remain vested in the State, free of any claim or equity in the undersigned Purchaser or those claiming through the Purchaser, and the State shall retain all payments or deposits as liquidated damages for failure of Purchaser to complete the purchase or meet the conditions of the Agreement.

**REAL PROPERTY TERMS OF SALE**

PLEASE READ THE FOLLOWING BEFORE SIGNING

CASH SALE: Cash or check in the amount stated in the sale advertisement at time of bid, balance to be paid as described above. Bidder acquires no right, title, interest or equity in or to the Transferable Density Rights until full purchase price has been paid.  
 CONTRACT SALE: not applicable to the sale of these Transferable Density Rights.  
 UNPAID BALANCE: Purchaser may pay all or any part of the balance due at any time prior to the time specified and required above.  
 TAXES AND ASSESSMENTS: Purchaser will pay any and all real property taxes as assessed with the sale of the Transferable Density Rights, as said real property taxes become due, or in advance of the due date thereof and add said taxes to the principal balance due on the purchase price. Purchaser agrees to regularly and seasonally pay all other taxes, assessments and charges, including local improvement assessments, which are or may be hereinafter lawfully imposed or which constitute or will constitute taxes or assessments against the property rights transferred between the parties.  
 ASSIGNMENT: Purchaser shall not sell, assign, or transfer its rights under this Interim Sales Agreement without the prior written consent of State. As a condition to such consent, State may collect a transfer fee.  
 DEFAULTS: Time and the principal and potential payment of all sums payable hereunder, and the exact performance and observance of each and all of the agreements and provisions herein contained, are in each and every case of the essence of this Agreement. If Purchaser fails to pay, when the same becomes due as herein provided, the balance of the purchase price, or becomes delinquent in the payment of any assessments levied or assessed or becoming payable against the property, or fails to keep property free from liens and encumbrances existing after this date, or otherwise fails to keep and perform the agreements herein, State may take any one or more of the following steps: (a) Terminate this Agreement by giving Purchaser a 30-day notice in writing of its intention to do so, and upon the expiration of said 30-day period and the continued default in any covenant or condition by Purchaser during such period, then State may, without tender of performance or suit or action, declare this Agreement null and void, and all the rights of Purchaser in the Agreement and all their estate, equity interest or right of possession in the Transferable Density Rights shall cease and terminate, and all payments made by Purchaser to State, whether principal or interest or for taxes, fees or assessments, shall be forfeited to State, the same being considered liquidated damages for the nonperformance of this Agreement without the necessity of court action; (b) Elect to consider this Agreement existing, and, in case of a continued default by Purchaser for a period of 30 days after notice to Purchaser calling attention to such default, State may declare the whole of the unpaid balance due on this Agreement, together with all accrued interest, immediately due and payable; (c) Foreclose this Agreement by a suit in equity; and/or (d) Specifically enforce the terms of this Agreement by a suit in equity.  
 In the event any suit or action is brought by State to enforce the collection of the balance due on this Agreement and interest, Purchaser agrees to pay such reasonable attorney's fees and other costs as the court may allow the State.

REPRESENTATIONS: Purchaser accepts the Transferable Density Rights in their present condition, without any representations or warranties, expressed or implied, unless they are expressly set forth in this Agreement or are in writing signed by State. Purchaser agrees that Purchaser has ascertained, from sources other than State, the applicable zoning, building, housing, and other regulatory ordinances and laws as they may affect the present use or any intended future use of the Transferable Density Rights, and State has made no representations with respect to such laws or ordinances.

Purchaser understands and agrees that Purchaser acquires no right, title, interest or equity in or to the Transferable Density Rights until the full payment has been paid.  
GENERAL: All payments must be made in cash or check payable to the Oregon Parks and Recreation Department. In the event Purchaser fails to pay the balance due in the time specified, or meet other terms of this Agreement when due, all rights of the Purchaser in the Transferable Density Rights shall cease and all such right, title and interest that continue to remain vested in the State, free of any claim or equity in the undersigned Purchaser or those claiming through Purchaser, and the State shall retain all payments or deposits as liquidated damages for failure of Purchaser to complete the purchase or meet the conditions of the Agreement.

The State shall convey only such right, title and interest in the Transferable Density Rights as is now vested in State. Unless specifically provided for herein, State will not provide title insurance. The State reserves the right to reject any or all bids at any time. In the event sale is withdrawn by State after bid, all monies deposited shall be returned without payment of interest.

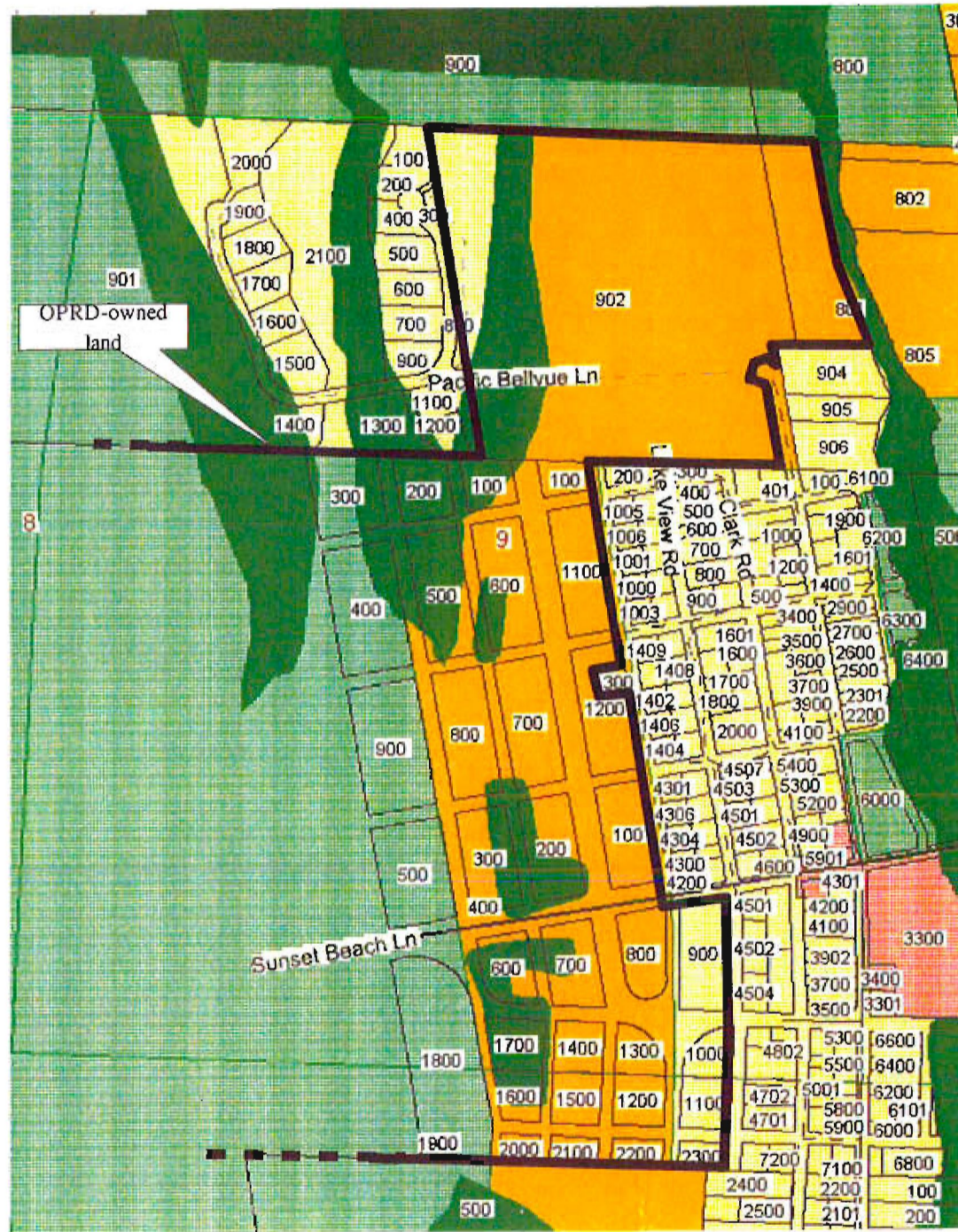
By signing this Bid, Bidder agrees to be bound by all terms and conditions contained in this Bid Form and, if selected by State as the successful Bid, Bidder agrees to enter into a Purchase and Sale Agreement incorporating the foregoing terms and conditions.

APPROVED BY: Jim Wood 12/13/04 Richard T. Schroeder 12-2-04  
RPM Manager DATE PURCHASER DATE  
Mike Zebny 12/10/04 Westlake Ranch LLC  
Real Estate Specialist DATE PURCHASER DATE

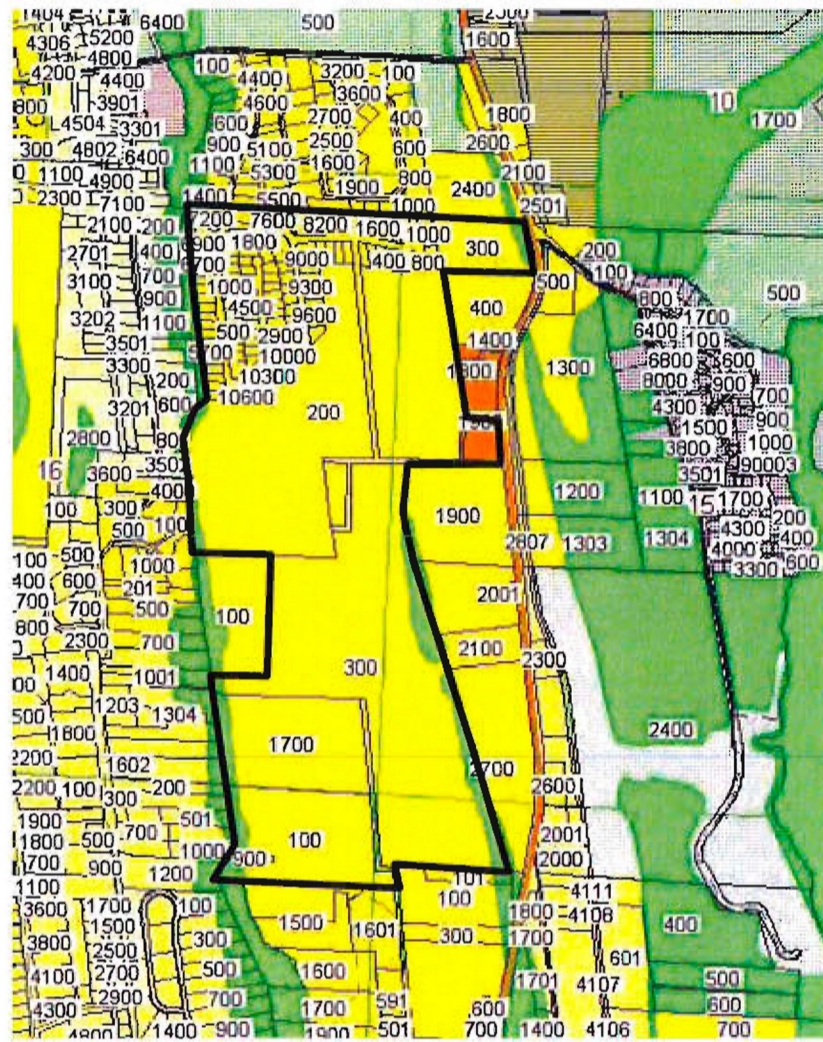
MAILING ADDRESS
857 SW Spring Lane
CITY STATE AND ZIP CODE
Portland, OR 97225
TELEPHONE NUMBER
503 224-8163

NOTE: STATE OF OREGON PARKS AND RECREATION DEPARTMENT RESERVES THE RIGHT TO REJECT ANY OR ALL BIDS AT ANY TIME.

Map of Sunset Beach Sending Site



Map of West Lake Ranch Receiving Site





Appendix C from the Clatsop Plains Community Plan

APPENDIX C  
BEACHES AND DUNES EXCEPTION

515 473

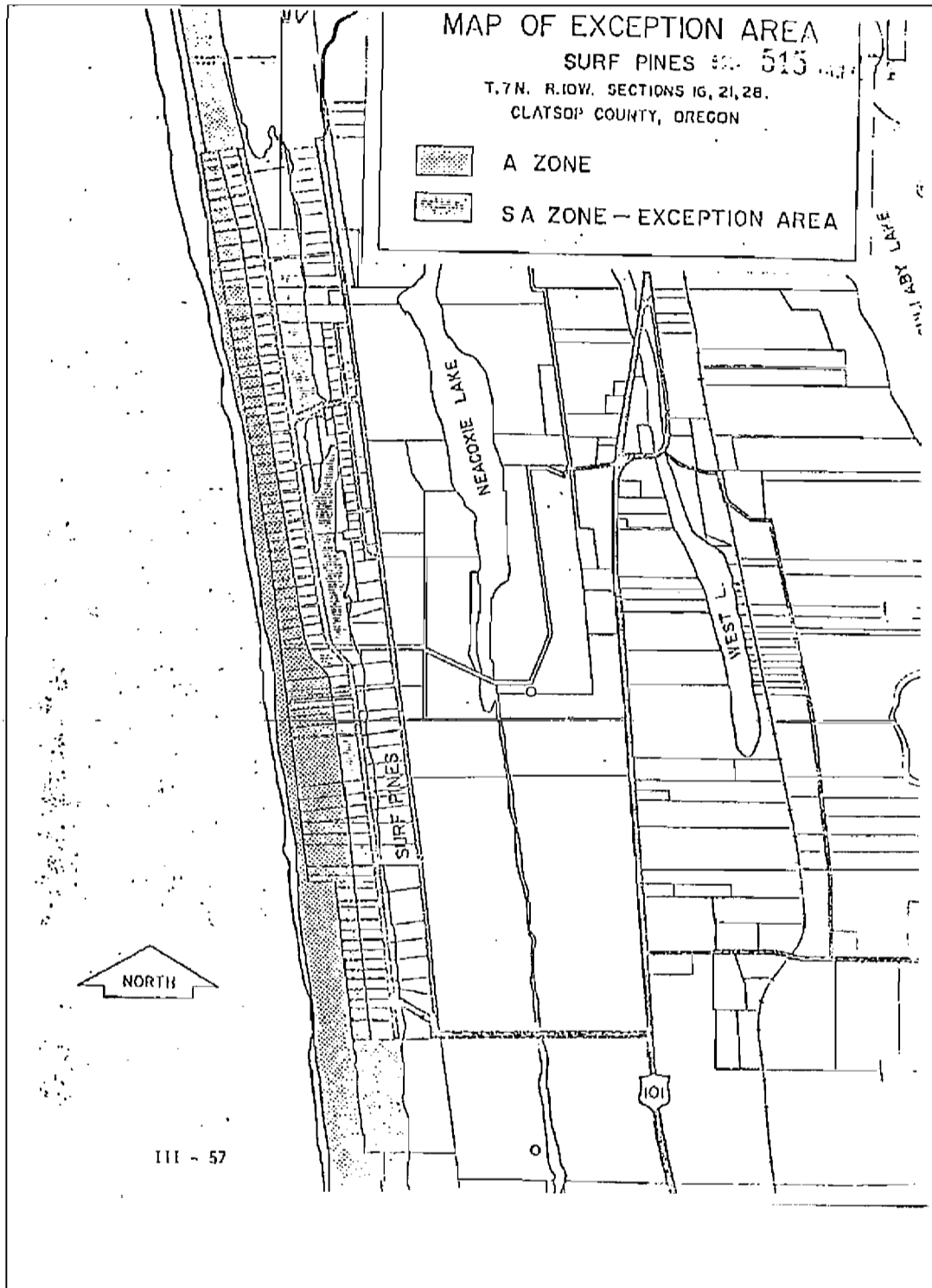
Exception - Surf Pines

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

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

1. According to the HUD Flood Insurance Study, the existing development is not within the velocity zone of the 100 year flood.
2. There are (as of 1978) 93 vacant lots located on active dunes in Surf Pines. They are interspersed among existing development, consisting of about 26 dwellings. These lots have been platted and partitioned since about 1950. The average developed lot size is approximately 2 acres for this area. The oceanfront lots are generally 120' x 300' to 600'.
3. The 93 vacant lots range in size from one (1) to 17 acres. Lots two (2) acres or larger would be eligible for partitioning or subdividing subject to Clatsop County standards.
4. Surf Pines residents receive pumped water from the Surf Pines Association. The two well fields utilized for the water supply are located outside of the active dune area. Paved roads in the area are maintained by the Surf Pines Association. The water and road facilities are adequate to accommodate the one acre development pattern of the area and are available to each lot.
5. Electricity (Pacific Power and Light), natural gas (Northwest Natural Gas) and cable television are available to each lot in the Surf Pines area.
6. These are among the last platted oceanfront parcels in Clatsop County. The current market value for oceanfront lots with improvements in 1977 is between \$12,000 and \$15,000. Most of the active dune to the north is in public ownership or unplatted. The active dune from Surf Pines south to Gearhart is in private ownership and unplatted.
7. Construction in this area would be single family only, similar to the existing development and, therefore, compatible. There would be no adverse social impact.
8. There is a minimum of 3000 acres of developable land in the Clatsop Plains (unincorporated areas) excluding active dune areas.
9. Access to the beach for residents of Surf Pines would be maintained through existing private rights of way that were platted during the original platting.

111 - 56





**Tab**

## Exhibit C:

### Zone Map Change/Comprehensive Plan Map Amendment For The Sunset Beach Sending Site

This document and the attachments describe the downzoning for the Sunset Beach sending site. Proposed downzoning covers about 68.1 acres from the RA5 and RA2 zones to the Open Space, Parks and Recreation (OPR) zone. The corresponding comprehensive plan map amendment is from Rural Lands to Conservation Other Resources. This document is organized as follows:

Project description	Page 1
Applicable requirements	2
Proposed findings:	
Section 5.412(1)	3
Section 5.412(2)	17
Section 5.412(3)	25
Section 5.412(4)	25
Section 5.412(5)	25
Section 5.412(6)	25
Section 5.412(7)	26
Section 5.412(8)	26
Existing Zoning Map	27
Proposed Zoning Map	28
List of Tax Lots	29

#### **Project Description**

A density transfer request, if approved, requires the downzoning of the sending site. A total of fifteen residential density units are proposed for transfer from the Sunset Beach sending site to receiving sites in Surf Pines and at West Lake Ranch. A copy of the agreement between OPRD and the applicants allowing the purchase of density is in Exhibit A. The Sunset Beach sending site is in the RA2, RA5 and LW zones. A copy of a portion of the County's current zoning map showing the sending site is at page 27 of this

document. Land in the LW zone is unaffected by this proposed amendment. A total of 15 residential density units are potentially available from the sending site. Based on this the proposed downzoning map amendments are as follows:

- RA5 to OPR for about 59.5 acres;
- RA2 to OPR for about 8.6 acres;
- Rural Lands comprehensive plan designation to Conservation Other Resources comprehensive plan designation for about 68.1 acres,

Acreage estimates here are from the GIS software and shapefiles for the sending site installed on the publicly-accessible part of the Clatsop County's computer system. Acreage figures provided here are believed to be accurate to the nearest 0.1 acre.

#### **Applicable Requirements**

Density transfer is subject to the standards beginning at section S3.150 of the Clatsop County Development Standards Document of 1980, as amended. More specifically, the first of seven applicable criteria for approval of a density transfer reads as follows:

*S3.161(1) Transfer of residential development rights between sites in the Clatsop Plains Planning Area is allowed as follows:*

*(A) The remaining parcel of the sending site shall be rezoned to either the Open Space Parks and Recreation zone or Natural Uplands zone or Conservation Shorelands zone or Natural Shorelands zone. The applicant shall file the rezone request at the same time as the density transfer request is submitted.*

The substantive requirements for a zone change are in section 5.412:

*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.*

These criteria are addressed in the following paragraphs.

### **Proposed Findings**

**Consistency with the Comprehensive Plan:** The proposed zone change must be consistent with the Comprehensive Plan (section 5.412(1)). The County's Comprehensive Plan consists of several separate documents: a County-wide element, and five sub-area plans. The subject property is in the Clatsop Plains sub-area.

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

*Land Use Planning* -- The subject property is currently in a Rural Lands plan designation. The plan's Rural Lands policy reads as follows:

*a. Where subdivision 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 pattern of two to five acre parcels (some smaller and some larger), the area will be placed in a two-acre zone;*

*c. In areas adjacent to resource lands (forest, agriculture, wetlands, estuary areas), 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.*

This policy establishes criteria for choosing between residential density, expressed as a minimum lot size, offered in the different residential zones: one, two and five-acre. The proposed Comprehensive Plan map amendment – from Rural Lands to Conservation Other Resources -- allows no residential development on the subject property.

A second Rural Lands policy reads as follows:

*Rural Lands are those lands which are outside the Urban Growth Boundary and are not agricultural lands or forest lands. 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.*

Proposed amendments place the subject property in a “Conservation-Other Resources” comprehensive plan designation, and remove the “Rural Lands” plan designation. The amendment is consistent with the second rural lands policy because the deed restrictions needed to implement the proposed density transfer make the property no longer suitable for rural residential development.

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

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

*Goal 5* -- The comprehensive plan's Goal 5 component identifies several natural resources covered under statewide planning goal 5 that may be present on or near the subject property. This proposal does not require any changes to the county's adopted and acknowledged goal 5 inventory or protection measures. Inventoried resources, and the measures adopted by Clatsop County to protect them, are briefly described in the following paragraphs.

**Open space:** The Plan identifies three kinds of open space: general open space (farms, forests, estuaries, the ocean and ocean beaches); site-specific open space (parks, wildlife refuges, wetlands, and specific scenic areas); and areas provided in conjunction with a specific development (such as dedicated open space in a subdivision). The subject property is owned by the State Parks and Recreation Department. The proposed downzoning is requested in conjunction with a specific development (the proposed West Lake Ranch and Manion Pines subdivisions). The subject property could be added to the County's inventory of open space, but amendment of the comprehensive plan's Goal 5 element is not required. The ESEE analysis of open space in the County's Goal 5 element is not altered by the proposed addition of open space at the subject property.

**Mineral and aggregate resources:** The comprehensive plan's Goal 5 inventory does not identify any commercial mineral or aggregate resources on or near the subject property. A market exists for sand, which could be mined from the site, but commercial sand removal is not contemplated under this proposal. These amendments would not permit sand mining on the subject property or on any adjoining property.

**Fish and wildlife habitat:** Several different kinds of habitat are identified, inventoried and protected in the County's Goal 5 Element:

- The subject property is not included in either Major Big Game Range or Peripheral Big Game Range. The proposed amendment has no impact on Big Game Range.
- Columbia whitetail deer are not found on or near the site.
- Upland game birds (grouse, quail, pigeons) are not identified in the Goal 5 plan element as requiring protection on this site or on adjacent lands.
- Waterfowl habitat exists in the area, notably in Sunset Lake (east of the site), and in some small interdunal wetlands distributed throughout the subject property. These areas are in the LW zone. The proposed downzoning does not directly affect the LW-zoned areas. In general, the proposed OPR zone is at least as consistent with the protection of waterfowl habitat as the current RA2 and RA5 zoning.
- The plan discusses habitat for "Furbearers and Hunted Non-game Wildlife", including beaver, muskrat, nutria, mink, river otter, skunk, bobcat, raccoon, rabbits, and coyotes. Some of these non-game species may use the subject property from time to time. The comprehensive plan does not identify this site as providing habitat for these animals, nor does it include any habitat protection measures.
- Bald eagles, osprey, herons and snowy plovers are identified as important non-game



birds. Of these, only snowy plovers would make use of the habitat available near this site. Snowy plovers have not been observed on Clatsop County beaches since about 1988. This proposal does not affect plover nesting habitat, which may exist on the ocean side of the foredune, to the west of the subject property.

- No fish habitat exists on the subject property. Fish habitat may exist in LW-zone waters adjoining the subject property. The proposed OPR zone is at least as protective of fish habitat as the existing RA2 and RA5 zone.
- Ecologically and scientifically significant natural areas: none of the 23 sites listed in the plan is on or near the subject property.
- Outstanding scenic views and sites: twelve sites are listed in the County's final inventory. None of the listed sites is on or near the subject property.
- Water areas, watersheds, and groundwater: the Clatsop Plains aquifer is identified as a Goal 5 resource. The County adopted inventory information, a conflicting use analysis, and protection measures recommended in reports prepared in the early 1980s. These protection measures are incorporated into Clatsop County's land use regulations, and into the Oregon Department of Environmental Quality's (DEQ) subsurface wastewater disposal regulations. This proposed downzoning does not conflict with these regulations, or with protection of the Clatsop Plains aquifer, because it does not increase the likelihood of aquifer-contaminating activities on the Clatsop Plains.
- Wetlands: the County relies on a wetland inventory prepared by Duncan Thomas in 1980. The Thomas inventory identifies wetlands in the Sunset Beach area. The County has placed these wetlands in its Lake and Wetlands zone (LW). The proposed zone change does not affect areas already in the LW zone.
- Wilderness areas: the Oregon Islands Wilderness Area, which does not include the subject property, is identified as the only goal 5 wilderness area in Clatsop County.
- Historic sites: the subject property is not included in the County's preliminary or final inventory of historic sites.
- Cultural areas: the comprehensive plan does not identify any archaeological sites or other cultural resources on the subject property.
- Oregon wild and scenic waterways: these Goal 5 resources are addressed in the "Recreational Needs" plan element. No wild or scenic waterways are present on the subject property.
- Recreational trails: these goal 5 resources are covered under the County's "Recreational Needs" plan element. No inventoried recreational trails are present on the subject property.

There are no inventoried, protected Goal 5 resources on the subject property. The County should find the proposed amendment in compliance with policies in the plan's Goal 5 Element.

*Air, Water and Land Resources* -- Policies in the County Comprehensive Plan's Goal 6 element do not establish any mandatory approval criteria applicable to this proposal or to

the subject property.

*County-wide Natural Disasters and Hazards* – This element of the County's comprehensive plan contains 11 flood hazard policies. The FEMA flood hazard map for this area (Community Panel Number 4 10027 0020 A) shows all of the land subject to this proposal to be in an “area of minimal flooding”, so these policies are not applicable. The Natural Disasters and Hazards plan element contains several soil development policies. Site soils are classified as dune land soils, Heceta-Waldport fine sand, and Waldport fine sand. They are not listed in the Comprehensive Plan or in the *Soil Survey of Clatsop County, Oregon* as prone to mass movement. The seven general mass movement policies are not applicable to this proposal. Five policies in the Natural Disasters and Hazards comprehensive plan element are directed toward areas with high groundwater or compressible soils. Site soils are not described in the comprehensive plan or in the *Soil Survey of Clatsop County, Oregon* as compressible, or associated with high groundwater. Because of this, these five policies are not applicable to this proposal. Seven policies in the County comprehensive plan's Natural Disasters and Hazards element are directed at streambank erosion. There are no streambanks on the site, so these policies are not applicable.

*Recreation* -- The subject property is owned by the Oregon Parks and Recreation Department. Policies in this plan element are not applicable to the proposed density transfer, or to the proposed downzoning on the subject property. The proposed OPR zoning is generally consistent with the Oregon Parks and Recreation Department's ownership and intended use of the subject property.

*Economy* -- The County's Goal 9 element does not have any policies establishing mandatory approval criteria applicable to this proposal or to the subject property. The site is not included in the County's inventory of buildable industrial or commercial lands.

*Housing* -- The comprehensive plan's Housing Element is based largely on data from the 1970 federal census. Most policies in this section are not applicable to the proposal or to the subject property. The County's inventory of buildable residential lands would decrease slightly as a result of the proposed amendments; however, the transfer of residential development rights to the Surf Pines and West Lake Ranch receiving sites would assure that the proposal is neutral with respect to housing needs.

Population policy 2 is *Promote population to locate in established service areas*. The subject property is in the Sunset Beach area. Services at the property are limited. Water service is available to the east from the City of Warrenton, but it is not known whether water service could be extended to the subject property.

Housing policy 8 is:

*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.*

Policy 8 is directed at the County's land use strategy as a whole, and does establish mandatory approval criteria applicable to this proposal. The proposed amendment does not conflict with this policy.

*Public Facilities and Services* – This element of the County's comprehensive plan has an “Overall policy regarding appropriate levels of public facilities in the County”. The policy states that public water supply is an appropriate public facility in the Rural Lands plan designation, but is not essential for development. The site is not presently served by water. The proposed amendment removes the Rural Lands plan designation from the subject property.

General public facility policy 9, from the *Public Facilities and Services* element of the County's Comprehensive Plan, reads as follows:

*When a Comprehensive Plan and/or zone change are requested that would result in either a higher residential density or a commercial or industrial development, it shall be demonstrated and findings shall be made that appropriate public facilities and services especially water, schools, and sanitation (septic feasibility or sewage) are available to the area without adverse impact to the remainder of the public facility or utility service area.*

The proposed zone change will lower the potential development density on the subject property, so policy 9 is not applicable.

*Transportation* -- Clatsop County's Comprehensive plan contains sixteen transportation policies. The County's *Transportation System Plan* (TSP) includes Goals and Objectives which are written in policy language.

TSP Goal 1 is: *Mobility. Develop a multimodal transportation system that serves the travel needs of Clatsop County residents, businesses, visitors, and freight transport.* Eleven mobility objectives are established in the TSP:

- Provide a network of arterials and collectors that are interconnected, appropriately spaced, and reasonably direct.
- Balance the simultaneous needs to accommodate local traffic and through-travel.

- Minimize travel distances and vehicle-miles traveled.
- Safely, efficiently, and economically move motor vehicles, pedestrians, bicyclists, transit, trucks, and trains to and through the County.
- Use appropriate, adopted Clatsop County road standards during development of new roadways.
- Encourage development patterns that offer connectivity and mobility options for members of the community.
- Work to enhance the connection of the Port of Astoria and the Warrenton Harbor to the surrounding communities.
- Coordinate with rail and shipping entities to promote intermodal linkages for passengers and goods.
- Recognize and balance freight needs with needs for local circulation, safety, and access.
- Provide an interconnected system of roads, pedestrian and bicycle facilities, and other forms of transportation that will link communities.
- Promote intercity connectivity between major population areas, including linkages to the Portland metropolitan area.

These objectives are not mandatory approval criteria applicable to the proposed downzone amendment or to the subject property.

TSP Goal 2 reads as follows: *Livability. Provide a transportation system that balances transportation system needs with the desire to maintain pleasant, economically viable communities.* Four Livability objectives are established in the TSP:

- Minimize adverse social, economic, and environmental impacts created by the transportation system, including balancing the need for road connectivity and the need to minimize neighborhood cut-through traffic.
- Preserve and protect the County's significant natural features and historic sites.
- Promote a transportation system that is adequate to handle the truck, transit, and automobile traffic in such a way to encourage successful implementation of County economic goals and the preservation of existing residential neighborhoods.
- Work with local and State governments to develop alternate transportation facilities that will allow development without major disruption of existing neighborhoods or downtown areas.

The TSP's livability objectives do not establish mandatory approval criteria applicable to the proposed amendments or to the subject property.

TSP Goal 3 reads as follows: *Coordination. Maintain a transportation system plan that is consistent with the goals and objectives of local communities, the County, and the State.* These Coordination objectives are included in the County's TSP:

- Provide a County transportation system that is consistent with other elements and

- objectives of the Clatsop County Comprehensive Plan.
- Provide a County transportation system that coordinates with other local transportation system plans and rural community plans.
  - Coordinate land use and transportation decisions to efficiently use public infrastructure investments to: Maintain the mobility and safety of the roadway system; Foster compact development patterns in incorporated and rural communities; Encourage the availability and use of transportation alternatives; and Enhance livability and economic competitiveness.
  - Cooperate with local jurisdictions and rural communities in establishing and maintaining zoning standards that will prevent the development of incompatible or hazardous uses around airports.
  - Work to protect airspace corridors and airport approaches.

The TSP's coordination objectives do not establish mandatory approval criteria or development standards applicable to the proposed downzoning or to the subject property.

TSP Goal 4 addresses public transportation:

*Work to improve cost-effective and safe public transportation throughout Clatsop County. Four public transportation objectives are established in the TSP:*

- *Coordinate with the Sunset Empire Transportation District (SETD) to encourage commuter bus service to serve communities throughout Clatsop County.*
- *Encourage a carpooling program for County employees and others to increase vehicle occupancy and minimize energy consumption.*
- *Work with SETD to develop transit systems and stations and related facilities in convenient and appropriate locations that adequately and efficiently serve resident and employee needs.*
- *Work to improve the signage and amenities at transit stops and stations.*

The subject property is within the Sunset Empire Transportation District. Bus service is available in the Sunset Beach area generally. The proposed amendments do not change the public transportation situation in the Subset Beach area, or on the subject property.

County TSP Goal 5 reads as follows: *Pedestrian and Bicycle Facilities Provide for an interconnected system of pedestrian and bicycle facilities throughout Clatsop County to serve commuters and recreational users.* The TSP establishes these bike and pedestrian objectives:

- Coordinate with the goals and objectives and recommended improvements set forth in the Clatsop County Bicycle Master Plan.
- Use unused rights-of-way for greenbelts, walking trails, or bike paths where

appropriate.

- Develop and periodically update inventory information on existing bicycle routes and support facilities.
- Promote multimodal connections where appropriate.
- Promote increased bicycle awareness and support safety education and enforcement programs.
- Develop safe and convenient pedestrian and bicycle systems that link all land uses, provide connections to transit facilities, and provide access to publicly owned land intended for general public use, such as the beach.
- Promote development standards that support pedestrian and bicycle access to commercial and industrial development, including, but not limited to, direct pathway connections, bicycle racks and lockers, and signage where appropriate.
- Protect and expand public access via pedestrian ways, bikeways, and trails for recreational purposes.
- Provide Americans with Disabilities Act (ADA) access to public fishing areas.

The improved road in the area, Sunset Beach Road, provides shared pedestrian-bicycle-automobile lanes. The TSP's pedestrian and bicycle facilities goal and objectives do not create mandatory approval criteria applicable to the proposed amendments.

TSP Goal 6 addresses accessibility: *Provide a transportation system that serves the needs of all members of the community.* TSP goal 6 is followed by three objectives:

- Coordinate with SETD to encourage programs that serve the needs of the transportation disadvantaged.
- Provide for the transportation disadvantaged by complying with State and Federal regulations and cooperating with local, County and State agencies to provide transportation services for the disadvantaged.
- Upgrade existing transportation facilities and work with public transportation providers to provide services that improve access for all users.

The TSP's accessibility goal and objectives do not establish mandatory approval criteria applicable to the proposal.

Goal 7 of the TSP reads as follows: *Environment. Provide a transportation system that balances transportation services with the need to protect the environment and significant natural features.* Five objectives are included in the TSP under the Environment goal:

- Provide a transportation system that encourages energy conservation, in terms of efficiency of the roadway network and the standards developed for road improvements.
- Encourage use of alternative modes of transportation and encourage development that minimizes reliance on the automobile.
- Work to balance transportation needs with the preservation of significant natural

- features and viewsheds.
- Work to minimize transportation impacts on beach/dune areas.
  - Minimize transportation impacts on wetlands and wildlife habitat.

The proposed amendment does not conflict with these objectives.

County TSP Goal 8 reads as follows: *System Preservation. Work to ensure that development does not preclude the construction of identified future transportation improvements, and that development mitigates the transportation impacts it generates.* The System Preservation Goal is followed by two objectives:

- Require developers to aid in the development of the transportation system by dedicating or reserving needed rights-of-way by constructing half- or full-road improvements needed to serve new development, and by constructing off-road pedestrian, bicycle, and transit facilities when appropriate.
- Consider transportation impacts when making land use decisions, and consider land use impacts (in terms of land use patterns, densities, and designated uses) when making transportation-related decisions.

The proposed amendments do not preclude any needed road improvements identified in the TSP. Transportation impacts of the proposed amendments and of residential development are evaluated under section 5.354 of the County's land use ordinance, and addressed elsewhere in these findings.

TSP Goal 9 addresses system capacity: *Provide a transportation system that has sufficient capacity to serve the needs of all users.* Five objectives are listed under the Capacity goal in the TSP:

- Protect capacity on existing and improved roads to provide acceptable service levels to accommodate anticipated demand.
- Limit access points on highways and major arterials, and use alternative access points when possible to protect existing capacity.
- Provide frontage setback requirements from the public right-of-way for all designated arterials within the County adjacent to commercial and industrial development.
- Minimize direct access points onto arterial rights-of-way by encouraging common driveways or frontage roads.
- Update and maintain County access management standards to preserve the safe and efficient operation of County roadways, consistent with functional classification.

These objectives do not establish mandatory approval criteria applicable to the proposed amendments or to the subject property.

TSP Goal 10 addresses transportation funding. It reads as follows: *Provide reasonable and*

*effective funding mechanisms for countywide transportation improvements identified in the TSP.* Two funding objectives are included in the TSP:

- Develop a Capital Improvements Program that establishes transportation priorities and identifies funding mechanisms for implementation.
- Identify funding opportunities for a range of projects, and coordinate with local, State, and Federal agencies.

The proposed amendments do not conflict with the County TSP's funding goal or objectives. No mandatory approval criteria with respect to transportation funding are established in this part of the TSP.

Goal 11 of the County's TSP concerns safety: *Provide a transportation system that maintains adequate levels of safety for all users.* Three safety objectives are included in the TSP:

- Undertake, as needed, special traffic studies in problem areas, especially around schools, to determine appropriate traffic controls to effectively and safely manage automobile and pedestrian traffic.
- Work to improve the safety of rail, bicycle, and pedestrian routes and crossings.
- Coordinate lifeline and tsunami evacuation routes with local, State, and private entities.

These goals and objectives do not establish mandatory approval criteria applicable to the proposal.

*Energy Conservation* -- Policy 1 reads as follows:

*The County recognizes the need for energy conservation through support of a County-wide conservation program in which the County government will play a leading role.*

This policy and the implementing measures that follow it do not establish mandatory approval criteria applicable to this proposal.

Energy Policy 2 addresses new subdivisions, and does not apply to the proposed zone change.

Energy Policy 3 reads as follows:

*The County shall promote the application of renewable and alternative energy sources, by encouraging the use of total energy systems where, for example, electricity is generated and the waste heat is utilized for space heating and cooling*



*purposes.*

Policy 3 does not establish mandatory approval criteria applicable to the proposal.

Energy policy 4 reads as follows:

*The County shall consider energy conservation in the designation of RURAL LANDS and DEVELOPMENT lands.*

This proposal involves removal of the subject property from the Rural Lands comprehensive plan designation, so policy 4 is not applicable.

*Coastal Shorelands* -- The subject property is in the Coastal Shorelands planning area, but most of the policies are not applicable, or do not establish approval criteria for amendments. A "shoreland development policy" references flood insurance program requirements; establishes riparian vegetation setbacks; establishes a preference for non-structural shoreline stabilization methods; and recognizes existing state and federal authority in the area of water quality regulation. The proposed amendment is consistent with this policy: flood insurance does not come into play because no development is planned; riparian vegetation will not be disturbed; no shoreline stabilization measures are planned; and wastewater disposal, if it is needed on the property, will comply with applicable state requirements.

A "scenic views and public areas" policy page 27 of the Coastal Shorelands Element reads as follows:

*New shoreland development, expansion, maintenance or restoration of existing development and restoration of historic sites shall be designed to promote visual attractiveness and scenic views and provide, where appropriate, visitor facilities, public viewpoints and public access to the water. Existing public access to publicly owned shorelands shall be maintained.*

The proposed density transfer and downzoning are consistent with the County's scenic views and public areas policy because the project promotes visual attractiveness and scenic views, and because it helps maintain public access to public shorelines.

A multiple use policy is established in the County's Coastal Shorelands comprehensive plan element:

*4. Multiple Use of Shorelands Policy: Multiple use of shorelands shall be encouraged when the integration of compatible uses and activities is feasible and is consistent with the intent of other Comprehensive Plan policies contained in this Plan element.*

As the term is normally used, "multiple use" (such as a mixed commercial-residential development) is not contemplated for the subject property. This policy does not establish mandatory approval criteria applicable to the proposed zone change.

A planned development policy is established on page 28 of the Coastal Shorelands Element. It requires residential clustering in the Clatsop Plains planning area; prohibits industrial development; and requires that development densities be compatible with significant shoreland resources. The policy's clustering provision is indirectly implemented by this zone change because it is part of a larger proposal for a cluster subdivision located to the east of the subject property. Industrial development is not planned for this site. The proposed amendments reduce residential development density along Sunset Beach Road west of Sunset Lake. The proposed OPR zoning helps conserve significant shoreland resources, to the extent they are present on the subject property. For these reasons the proposed amendment is consistent with this planned development policy.

Two policies for the protection of natural values of significant shoreland resources are on page 33 of the County's Coastal Shorelands Comprehensive Plan Element. The first (policy a) reads as follows:

*Shoreland development shall be sited and designed to be consistent with the protection of natural values or identified major marshes, significant wild life habitat, riparian vegetation, coastal head lands, exceptional aesthetic resources and significant historic and archaeological sites within the shorelands planning boundary identified in the Clatsop County Comprehensive Plan.*

Proposed OPR zoning is consistent with this policy because the resources listed in this policy are protected by the OPR zoning.

Coastal Shorelands implementation policy 5 is:

*Use of major marshes and significant wild life habitat in the coastal shorelands will be consistent with the protection of their natural values. Riparian vegetation will be maintained.*

Major marshes and significant wildlife habitat in the Sunset Beach area are in the County's LW zone. The proposed rezone from RA5 to OPR is consistent with this policy because the OPR zone protects natural values, including major marshes, in these areas.

Other policies in the County-wide Coastal Shorelands plan element are not applicable to the proposal, nor do they establish mandatory approval criteria applicable to this proposal.

*Beaches and Dunes* -- Dune policy 1, on page 17 of the Beaches and Dunes Element,

reads as follows:

*Local governments and state and federal agencies shall base decisions on plans, ordinances and land use actions in beach and dune areas, other than older stabilized dunes, on specific findings that shall include at least:*

- a. the type of use proposed and the adverse effects it might have on the site and adjacent areas;*
- b. temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;*
- c. methods for protecting the surrounding area from any adverse effects of the development; and*
- d. hazards to life, public and private property, and the natural environment which may be caused by the proposed use.*

Proposed amendments do not pose any adverse effects on the site or on adjacent areas with respect to dune stability because no development is proposed.

Dune policy 9, on page 19 of the Beaches and Dunes Element, reads as follows:

*Any areas or combination of areas larger than 2,000 square feet in active, conditionally stable and interdune (deflation plain) areas to be cleared of vegetation shall have a stabilization plan approved by the Clatsop County Department of Planning and Development prior to the work. The Department of Planning and Development shall monitor the stabilization program regularly and prescribe additional conditions if it becomes apparent that the stabilization program is not effective. The developer shall inform the Planning Director upon major completion.*

No vegetation clearing is planned or likely as a result of this proposed zone change from RA5 and RA2 to OPR. This policy does not establish mandatory approval criteria applicable to this proposal.

Other County-wide dune policies are either not applicable to the proposal, or do not establish mandatory approval criteria applicable to this amendment.

Clatsop Plains Community Plan Dunes policy 1 on page 16 of the Clatsop Plains Community Plan concerns height restrictions:

*No filling shall be permitted which would raise the grade level of any structure and subvert the intent of the height restriction along beach front lots.*

This policy is not applicable to the proposed zone changes.

Dunes policy 4 on page 17 on the Clatsop Plains Community Plan concerns open space:

*Cluster developments designed to maximize open space toward the beach should be promoted and given preference over subdivisions with sprawling uniformly sized lots.*

The proposed zone change implements this policy. It will create additional zoned open space near the beach on the subject property, while facilitating a cluster subdivision on a site to the east, away from the beach.

**Consistency with the Statewide Planning Goals:** The proposed zone change must be consistent with Oregon's statewide planning goals (section 5.412(2)). The 19 planning goals are addressed in the following paragraphs.

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

Clatsop County's Comprehensive Plan and implementing ordinances complied with Goal 1 when the plan was acknowledged by LCDC in 1982. This proposed post-acknowledgment plan amendment does not change any of the Goal 1-related provisions of the County's Plan or ordinances. The County can comply with goal 1 by following applicable procedures in its ordinance when reviewing this amendment. Based on this, the County should find the proposed downzoning consistent with statewide planning goal 1.

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

Clatsop County's Comprehensive Plan and implementing ordinances complied with goal 2 when the plan was acknowledged by LCDC in 1982. This proposed post-acknowledgment plan amendment does not change any of the goal 2-related provisions of the County's Plan or ordinances; nor does it change the basic goal 2 policy framework, or its use as a basis for all land use decisions and actions. Application material includes an adequate factual base to support the County's decision on this matter. The proposal does not require a new or amended goal exception. Based on this, the County should find the proposal in compliance with statewide planning goal 2.

Goal 3 - Agricultural Lands: *To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.*

The subject property is not agricultural land subject to the requirements of goal 3. Clatsop County adopted findings in 1982 demonstrating that several hundred acres in the Clatsop Plains Planning Area, including this site, were not suitable for farming; a decision that was acknowledged by LCDC in 1982. There is no farm land adjoining or near the subject property. Statewide planning goal 3 is not applicable to the property or to this amendment.

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

The subject property is not forest land subject to the requirements of goal 4. The County adopted findings in 1982 demonstrating that several hundred acres in the Clatsop Plains Planning Area, including this site, were not suitable for forestry and should instead be designated Rural lands. LCDC acknowledged this decision in 1982. There is no forest land on or adjoining the subject property.

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

Open space is a goal 5 resource. The comprehensive plan identifies three kinds of open space: general open space (farms, forests, estuaries, the ocean and ocean beaches); site-specific open space (parks, wildlife refuges, wetlands, and specific scenic areas); and areas provided in conjunction with a specific development (dedicated open space in a subdivision). General open space (the ocean and ocean beaches) is west of the subject property. Changes to the general open space inventory or protection measures are not needed for this proposal. The subject property is not inventoried as open space in the county's goal 5 inventory. The subject property is site-specific open space in that it is linked to a proposed cluster subdivision, West Lake Ranch, located on the east side of Sunset Lake. The proposed OPR zoning is consistent with the County's approach to open space.

Mineral and aggregate deposits are goal 5 resources. The County's inventory of mineral and aggregate resources does not identify any mineral or aggregate resources on or near the site. Sand could be mined from the subject property, but commercial sand removal is not contemplated under this proposal.

Wild life habitat is a goal 5 resource. The site is not included in the county's inventory of goal 5 wildlife habitat. The County has identified northern bald eagles, osprey, herons and snowy plovers as important non-game birds. Of these, only snowy plovers can make use of the habitat available near this site. There have been no documented observations of snowy plovers on Clatsop County beaches since about 1988. This proposal does not affect plover nesting habitat, which may exist west of the foredune. Plover nesting habitat is protected under the County's Sensitive Bird Habitat Overlay District. The proposed amendments do not change the extent of the overlay district, or any of the overlay district's specific protection measures. Other wildlife species may have been observed on the site, but the subject property has not been inventoried as a habitat site for any of these species.

Fish habitat is a goal 5 resource. No fish habitat exists on the site because there is no surface water on the subject property. Surface water in this area is in the County's Lake and Wetland zone (LW), and is not apart of this proposed zone change.

Ecologically and scientifically significant natural areas are goal 5 Resources. None of the 23 sites listed in the County's inventory is on or near the subject property.

Outstanding scenic views and sites are goal 5 resources. Twelve sites are listed in the County's final inventory. None of these final inventory sites is on or near the subject property.

Water areas, watersheds, and groundwater are Goal 5 resources. The Clatsop Plains Aquifer is inventoried as a goal 5 resource. The County adopted the inventory information, conflicting use analysis, and protection measures recommended in reports prepared by R.W. Beck and Associates in 1982 and by Sweet, Edwards and Associates in 1981. The protection measures are incorporated into Clatsop County's land use regulations, and into the Oregon Department of Environmental Quality's (DEQ) subsurface wastewater disposal regulations. The proposed amendments do not conflict with the inventory, analysis, protection decision or implementation measures adopted by the County for the Clatsop Plains Aquifer. The goal 5 inventory does not identify any other water areas or watersheds on the subject property.

Wetlands are a goal 5 resource. The County's goal 5 wetland inventory was completed Duncan Thomas in 1980. The Thomas inventory does not identify any wetlands on the subject property, though it does identify wetlands on adjoining property. The County has placed these wetlands in the LW zone. The proposed zone change does not affect wetlands in the LW zone.

Wilderness areas are goal 5 resources. The Oregon Islands Wilderness Area, which does not include this property, is identified in the county's goal 5 wilderness area inventory.

Historic sites are goal 5 resources. The subject property is not included in the County's

inventory of historic sites.

Cultural areas are goal 5 resources. No archaeological sites or other cultural resources have been inventoried on or near the subject property.

Oregon recreation trails and wild and scenic waterways are goal 5 resources. Clatsop County addresses these resources under goal 8. No inventoried recreational trails or wild or scenic waterways are present on the subject property. A new recreational trail from Fort Clatsop to the Ocean Beach crosses the site. This trail is not included in the County's goal 5 inventory. The proposed OPR zoning is consistent with this trail: see LWDUO sections 3.584(4), 3.584(12), and 3.586(4).

Protected goal 5 resources are not present on the subject property. Potential nearby goal 5 resources include wetlands, open space, and nesting habitat for the snowy plover. These resources are protected under existing County regulations. Proposed amendments do not threaten these resources, alter the analysis used by the County to meet goal 5, or undermine the County's protection measures for these resources.

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

Clatsop County relies on a number of plan policies and ordinance requirements to meet this goal. The County also relies on the programs of various state and federal agencies, especially the US Environmental Protection Agency and the Oregon Department of Environmental Quality (DEQ), to help meet goal 6.

Proposed amendments do not approve any development on the subject property. The applicant does not seek any changes to the County's goal 6 element or implementing measures. Based on this, the County should find the proposed amendments consistent with statewide planning goal 6.

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

The specific hazards addressed by goal 7 are areas subject to stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils, and other hazards. The proposed amendment does not alter any of the goal 7 protections in the County's comprehensive plan or implementing ordinances. No development is planned for the subject property. Based on this information, the County should find that the proposal is consistent with statewide planning goal 7.

Goal 8 - Recreational Needs, and OAR 660-034: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

OAR 660-34 is related to goal 8 and addresses state and local park planning:

*(1) The purpose of this rule is to establish policies and procedures for the planning and zoning of state and local parks in order to address the recreational needs of the citizens of the state. This division is intended to interpret and carry out requirements of Statewide Planning Goal 8 and ORS 195.120 through 195.125.*

*(2) In general, this division directs local government planning and zoning activities regarding state park master plans. OAR Chapter 736, Division 018, directs the Oregon Parks and Recreation Department (OPRD) with respect to state park master planning, and does not apply to local governments except where specified by this division.*

The subject property is not inventoried in the County's Goal 8 element as an existing or potential state or local park site. However, the site was acquired by the Oregon Parks and Recreation Department for recreational use. The proposed OPR zoning is consistent with OPRD's ownership and intended use of the subject property.

The site is not inventoried as a potential destination resort site. The applicant is not proposing to build a destination resort.

Proposed amendments do not change the goal 8 inventory or undermine in any way the County's ability to meet its goal 8 obligations. The County should find the proposal consistent with statewide planning goal 8.

Goal 9 - Economy of the State, and OAR 660-009: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

The purpose of the goal 9 administrative rule, OAR 660-009, is:

*The purpose of this division is to aid in achieving the requirements of Goal 9, Economy of the State (OAR 660-015-0000(9)), by implementing the requirements of ORS 197.712(2)(a) - (d). The rule responds to legislative direction to assure that comprehensive plans and land use regulations are updated to provide adequate opportunities for a variety of economic activities throughout the state (ORS 197.712(1)) and to assure that plans are based on available information about state and national economic trends.*



Goal 9 is concerned with commercial and industrial land uses. The proposed amendments neither add to nor subtract from the inventory of developable commercial or industrial land in Clatsop County. This amendment does not seek or require any amendments to the policies or implementing measures adopted by the County to meet goal 9. The site is not presently zoned or used for commercial or industrial activities. The proposal would not allow commercial or industrial use of the subject property. The nearest commercially zoned land is at the intersection of Sunset Beach Road and Lewis Avenue, located to the east of the subject property. Based on this, the County should find the proposal consistent with statewide planning goal 9.

Goal 10 - Housing, and OAR 660-008: *To provide for the housing needs of citizens of the state.*

The purpose of the goal 10 administrative rule, from OAR 660-008-000(1), reads as follows:

*The purpose of this rule is to assure opportunity for the provision of adequate numbers of needed housing units, the efficient use of buildable land within urban growth boundaries, and to provide greater certainty in the development process so as to reduce housing costs. This rule is intended to define standards for compliance with Goal 10 "Housing" and to implement ORS 197.303 through 197.307.*

Proposed amendments do not add to or subtract from the inventory of buildable land that can be used to meet housing needs because the proposed zone change is linked to a transfer of residential density to the proposed West Lake Ranch and Manion Pines subdivisions. Because of this, the proposed zone change is neutral with respect to buildable land for housing. The proposal does not seek amendment of the goal 10 element; nor does it undermine the County's compliance with goal 10. Based on this, the County should find that the proposal is consistent with statewide planning goal 10.

Goal 11 - Public Facilities and Services, and OAR 660-011: *To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The purpose of the goal 11 administrative rule, OAR 660-011-000(1), is:

*The purpose of this division is to aid in achieving the requirements of Goal 11, Public Facilities and Services, OAR 660-015-0000(11), interpret Goal 11 requirements regarding public facilities and services on rural lands, and implement ORS 197.712(2)(e), which requires that a city or county shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. The purpose of the plan is to help assure*

*that urban development in such urban growth boundaries is guided and supported by types and levels of urban facilities and services appropriate for the needs and requirements of the urban areas to be serviced, and that those facilities and services are provided in a timely, orderly and efficient arrangement, as required by Goal 11. The division contains definitions relating to a public facility plan, procedures and standards for developing, adopting, and amending such a plan, the date for submittal of the plan to the Commission and standards for Department review of the plan.*

Services for residential development are not available at the subject property. In particular, water service is not present on the western end of Sunset Beach Road. The street system serving the subject property is only partially developed. Sunset Beach Road is improved, but other platted streets in the area are undeveloped. The proposed downzoning of the subject property from RA5 and RA2 to OPR is consistent with the overall level of services in this area, and with statewide planning goal 11. The proposal does not require amendment of the County's goal 11 element, or undermine the County's compliance with goal 11. Based on this, the County should find the proposal consistent with statewide planning goal 11.

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

Clatsop County has an adopted Transportation System Plan, addressed elsewhere in these findings. The TSP implements Goal 12. The project complies with the TSP, and is thus consistent with Goal 12. No amendments to the TSP are needed for this proposal.

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

Statewide planning goal 13 also includes the following language:

*Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles.*

This proposal does not require any amendment to the County's Goal 13 element, nor does it undermine compliance with goal 13. Proposed downzoning is neutral with respect to energy consumption: dwellings that could have been built on the sending site will instead be built at the receiving sites under the proposed density transfer. Based on this, the County should find the proposal consistent with statewide planning goal 13.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to*

*urban land use.*

The goal goes on to address urban growth boundaries. This proposed amendment does not involve an existing or proposed urban growth boundary. Existing UGBs are more than two miles to the south (Gearhart), and more than four miles to the north (Warrenton). Development on the proposed receiving sites does not violate goal 14 because it does not include urban levels or types of development.

Goal 16 - Estuarine Resources: Statewide planning goal 16 is not applicable to the proposed amendment because it does not affect estuarine waters or estuarine shorelands.

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

The subject property is in the coastal shorelands planning area. The proposal does not alter any of the County's goal 17 implementing measures. The OPR zone is consistent with goal 17. Based on this, the County should find the proposed amendment consistent with statewide planning goal 17.

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

The proposal does not alter the County's implementation of beach and dune area protections. The Beach and Dune overlay district is not affected by the proposed amendments.

Goal 19 Ocean Resources: The proposed amendment is not subject to the Ocean Resources goal, nor does it require any changes to the Oregon Ocean Resources Management Plan.

**Public Facilities and Services:** The subject property must be adequately served (section 5.412(3)). Subsection 3 requires that the subject property be served by adequate public facilities and services. The following facilities and services are specifically mentioned: parks, schools, recreational facilities, police, fire protection, emergency medical service, solid waste collection, water, and wastewater facilities. These are addressed in the following paragraphs.

Services for residential development are not available at the subject property. In particular, water service is not present on the western end of Sunset Beach Road. The street system serving the subject property is only partially developed. Sunset Beach Road is improved, but other platted streets in the area are undeveloped. The proposed downzoning of the subject property from RA5 and RA2 to OPR is consistent with the overall level of services in this area. Uses allowed under the proposed OPR zoning do not need the same level of service as uses allowed in the RA5 and RA2 zones. Because of this, the County can conclude that public facilities in the Sunset Beach area are adequate to meet the needs of the subject property.

**Transportation:** The subject property must be served by transportation facilities adequate to support the planned uses (section 5.412(4)).

An adequate and safe transportation network exists to support open space uses in the Sunset Beach area. Sunset Beach County Road is an improved east-west street. The proposal will remove 15 potential residential dwelling units, and the traffic they would generate on Sunset Beach County Road. West Lake Ranch and Surf Pines are the receiving sites for these dwelling units.

**Compatibility:** The proposed change must not result in over-intensive use of the land; and must give reasonable consideration to the character of the area; and must be compatible with the overall zoning pattern (section 5.412(5)).

The proposed downzoning does not result in over-intensive use of the land. The proposal decreases residential density on the subject property from 15 dwelling units to zero. The overall character of the Sunset Beach area can be described as rural residential. Some non-residential uses are present near the subject property, including a small store, and an RV park. The proposed downzoning will prevent the expansion of low density rural residential development onto the subject property, preserving the current look and feel of this area.

**Suitability:** The proposed change in use must give reasonable consideration to peculiar suitability of the property for particular uses (section 5.412(6)).

The subject property is suitable for outdoor recreation and open space uses allowed in the

OPR zone for the following reasons:

- The site is owned by the Oregon Parks and Recreation Department.
- The subject property is large enough (68 acres) to be efficiently managed for open space uses.
- The site adjoins open space on the ocean beaches.
- Beach access via Sunset Beach County Road is a complimentary use.

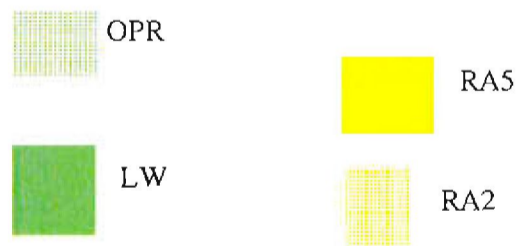
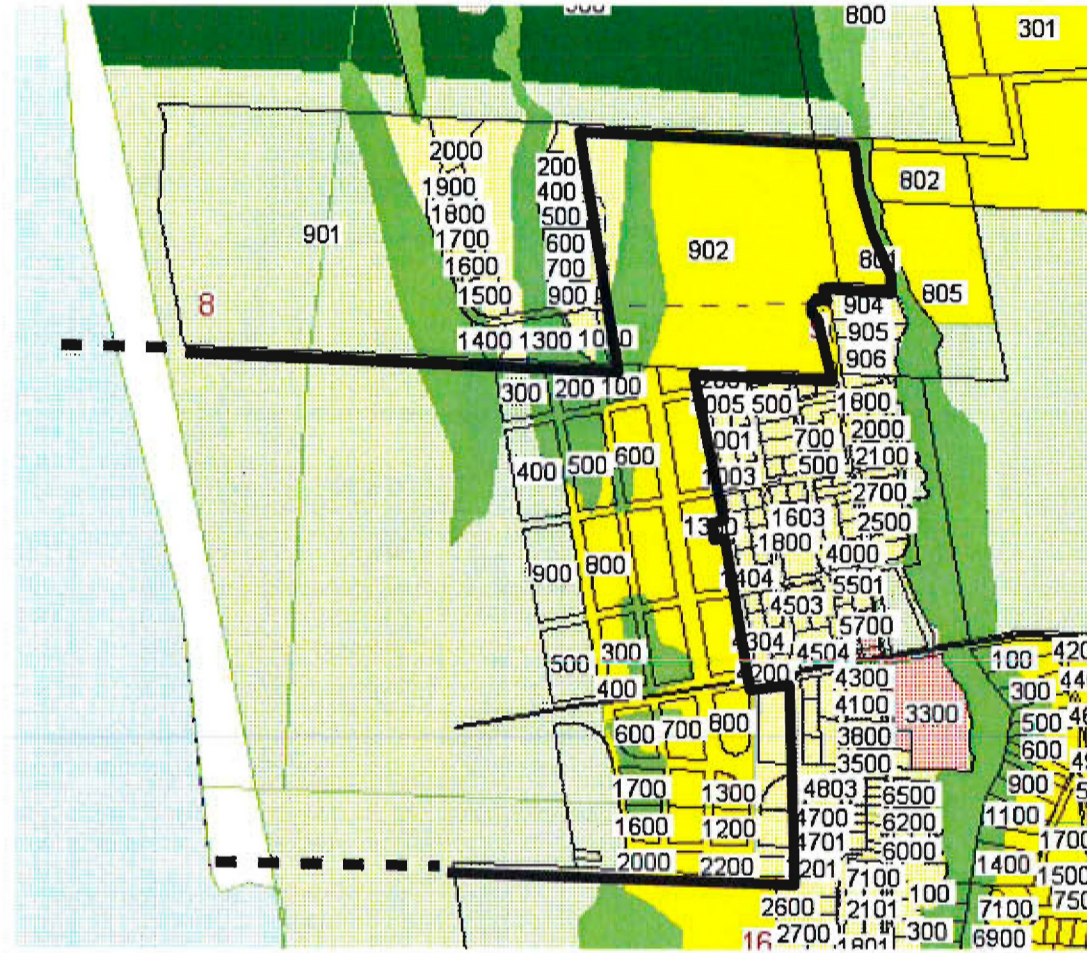
Based on this, the County can find that proposed zone change gives reasonable consideration to the site's suitability for open space uses allowed under the OPR zone.

**Appropriate Land Use:** The proposed downzoning must "...encourage the most appropriate use of land throughout Clatsop County" (section 5.412(7)). The County determined that park use was an appropriate use of the sending site when it rejected a proposal for residential development and instead sold the land to the Oregon Parks and Recreation Department. The proposed downzoning facilitates a density transfer from the sending site to receiving sites in Surf Pines and at West Lake Ranch. Both receiving sites are zoned for, and are appropriate for, rural residential development.

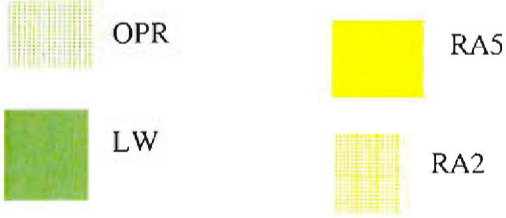
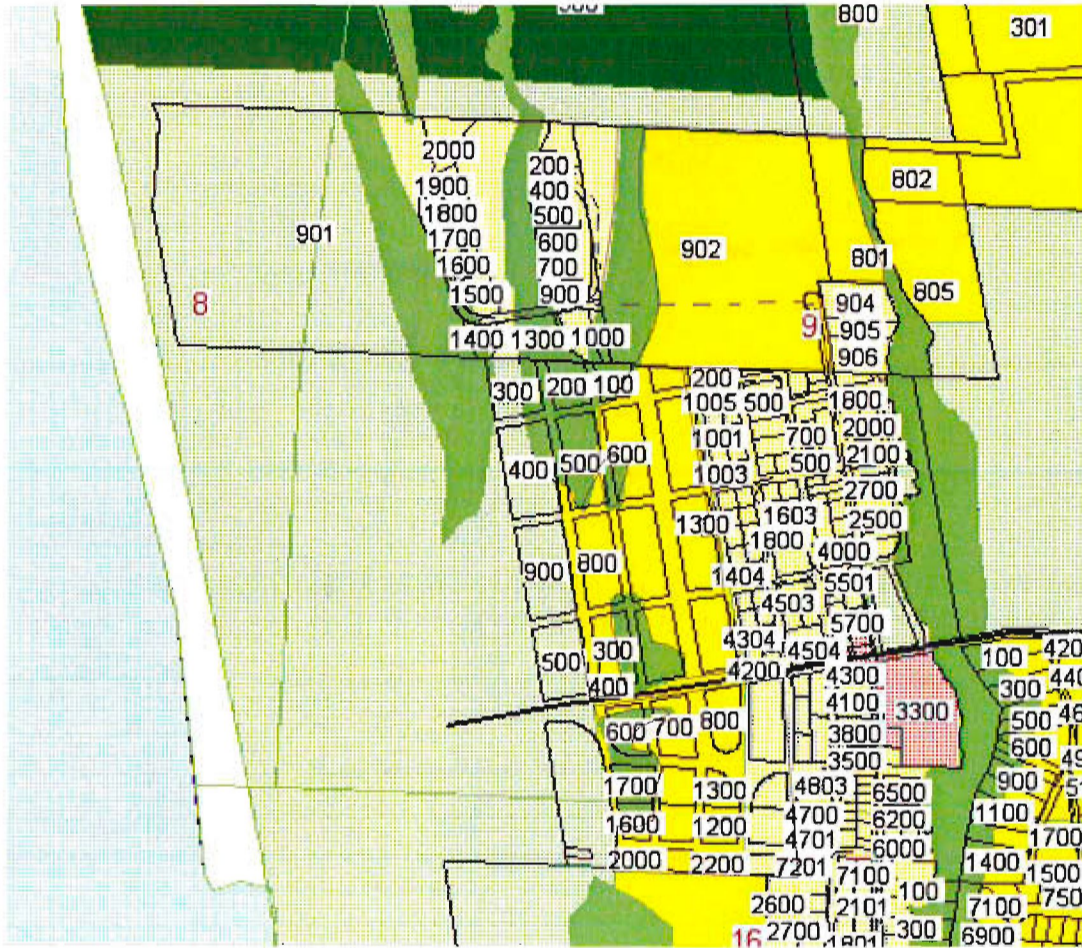
**Health, Safety, and Welfare:** The proposed downzoning must not be detrimental to the health, safety and general welfare of Clatsop County (section 5.412(8)). Potential health and safety impacts of open space uses on the subject property can be mitigated through enforcement of existing rules and regulations governing waste disposal, motor vehicle operation, open burning, camping, and the like.

"General welfare" is not defined in the County's land use documents. With respect to land use decisions, general welfare may include economic factors. The proposed downzone is part of a larger proposal to transfer density to two residential areas: Surf Pines and West Lake Ranch. Oregon Park and Recreation Department will receive money from the developer in exchange for the residential development rights. A copy of the agreement between the applicants and OPRD is in Exhibit A.

Map of Sunset Beach Sending Site – Existing Zoning



Map of Sunset Beach Sending Site – Proposed Zoning



**List of Tax Lots**

710090000801 State of Oregon Parks & Rec Dept  
710090000902 Oregon State Parks & Rec Dept  
71009CA00100 State of Oregon Parks & Rec Dept  
71009CA01100 State of Oregon Parks & Rec Dept  
71009CA01200 State of Oregon Parks & Rec Dept  
71009CB00100 State of Oregon Parks & Rec Dept  
71009CB00200 State of Oregon Parks & Rec Dept  
71009CB00300 State of Oregon Parks & Rec Dept  
71009CB00400 State of Oregon Parks & Rec Dept  
71009CB00500 State of Oregon Parks & Rec Dept  
71009CB00600 State of Oregon Parks & Rec Dept  
71009CB00700 State of Oregon Parks & Rec Dept  
71009CB00800 State of Oregon Parks & Rec Dept  
71009CB00900 State of Oregon Parks & Rec Dept  
71009CD00100 State of Oregon Parks & Rec Dept  
71009CD00200 State of Oregon Parks & Rec Dept  
71009CD00300 State of Oregon Parks & Rec Dept  
71009CD00500 State of Oregon Parks & Rec Dept  
71009CD00600 State of Oregon Parks & Rec Dept  
71009CD00700 State of Oregon Parks & Rec Dept  
71009CD00800 State of Oregon Parks & Rec Dept  
71009CD00900 State of Oregon Parks & Rec Dept  
71009CD01000 State of Oregon Parks & Rec Dept  
71009CD01100 State of Oregon Parks & Rec Dept  
71009CD01200 State of Oregon Parks & Rec Dept  
71009CD01300 State of Oregon Parks & Rec Dept  
71009CD01400 State of Oregon Parks & Rec Dept  
71009CD01500 State of Oregon Parks & Rec Dept  
71009CD01600 State of Oregon Parks & Rec Dept  
71009CD01700 State of Oregon Parks & Rec Dept  
71009CD01800 State of Oregon Parks & Rec Dept  
71009CD01900 State of Oregon Parks & Rec Dept  
71009CD02000 State of Oregon Parks & Rec Dept  
71009CD02100 State of Oregon Parks & Rec Dept  
71009CD02200 State of Oregon Parks & Rec Dept  
71009CD02300 State of Oregon Parks & Rec Dept





**Tab**

## Exhibit D:

### Preliminary Plat Approval for an Eight Lot Subdivision at the Surf Pines Receiving Site

This document and the attachments describe a proposed eight-lot residential subdivision in Surf Pines on tax lots 7-10-28DA-500 and 800. The proposed subdivision plan is shown on page 15. Manion Pines is the proposed name for the subdivision. It is located within the gated community of Surf Pines. This document is organized as follows:

Page 1 Project description

Relationship between Manion Pines and

2 Pinehurst Estates

Relationship between Manion Pines and Surf

3 Pines

3 Applicable requirements

4 Proposed findings

15 Proposed subdivision plan

16 Tax lot map

17 Location map

18 Flood map

19 Drainage plan

#### **Project Description**

This request is for preliminary plat approval of an eight-lot subdivision on vacant property owned by the applicant in Surf Pines. The subject property is tax lots 500 and 800, map 7-10-28DA. A reduced image of this map is on page 16 of this document. The subdivision's general location is shown on an aerial photograph on page 17. Tax lots 500 and 800 are in the Coastal Beach Residential (CBR) and the Lake and Wetlands (LW) zones. LW zoning affects a relatively small strip along the east side, associated with Neacoxie Creek. Residential lots 1 through 7 of the proposed Manion Pines subdivision site are entirely in the CBR zone. Non-residential lot 8 is in the CBR and LW zones. Residential units for this subdivision are the result of a density transfer from property in the

Sunset Beach area. This density transfer is described in Exhibit A. The proposed Manion Pines site is located in part of the second phase of the Pinehurst Estates subdivision (or more precisely, the subdivision "Pinehurst Estates Lots 25-51"). This proposal involves vacating a portion of the existing Pinehurst Estates subdivision, and re-platting as Manion Pines with the transferred density.

#### **Relationship Between Manion Pines and Pinehurst Estates**

Pinehurst Estates Lots 25-51 is the second phase of a 51-lot subdivision that includes all of tax lots 500 and 800. Tax map 7-10-28DA shows four of the 51 lots in Pinehurst Estates. Remaining Pinehurst Estates lots are to the southwest. The subject property is identified as tracts K and L on the Pinehurst Estates plat.

Pinehurst Estates was approved by the County as a cluster subdivision. Tax lots 500 and 800 were (and are) part of that cluster subdivision. When Pinehurst Estates was proposed, tax lots 500 and 800 covered about 28 acres in the CBR zone. The CBR zone residential minimum lot size at that time was one acre, so tax lots 500 and 800 carried 28 units of residential density. Twenty-four of those units were clustered to the main body of Pinehurst Estates, to the south of tax lots 500 and 800. The four remaining units were platted on tax lots 500 and 800. These appear on the tax map on page 16 as lots 48, 49, 50, and 51 (tax lots 7-10-28DA-400, 600, 700, and 900). One result of the Pinehurst Estates approval is that the subject property – shown as Tract K and Tract L on the tax map and on the Pinehurst Estates subdivision plat -- has no remaining undeveloped residential density associated with it.

Tracts K and L were not counted toward the open space requirements for Pinehurst Estates. Open space requirements were met on the main body of Pinehurst Estates, to the southwest of the subject property. Pinehurst open space is summarized in table 1, on the following page.

The east half of tracts K and L, about 13.6 acres, contains habitat for the threatened Oregon silverspot butterfly. This is protected by Pinehurst Estates approval conditions, and cannot be developed. This property, shown as lot 8 on the proposed subdivision plan (page 15), will be transferred to the North Coast Land Conservancy for long-term protection and management.

*Table 1: Pinehurst open space*

<i>tax lot</i>	<i>tract</i>	<i>acres</i>
7-10-33A-105	Tract A	22.53
7-10-28DC-400	Tract A	18.97
7-10-28DC-1000	Tract B	2.12
7-10-33A-104	Tract B	3.98
7-10-33A-100	Tract C	25.80
7-10-33A-108	Tract E	5.41
7-10-33A-106	Tract H	30.85
7-10-28CD-100	Tract H	17.58
	<i>Total:</i>	127.24

The west half of tracts K and L – that is, those parts of tax lots 500 and 800 to the west of Stellar Road and Pinehurst Lot 51 (7-10-28DA-400) – does not include butterfly habitat. It was not developed into lots as part of Pinehurst Estates because all of the remaining Pinehurst Estates density was used on the main body of the subdivision, to the southwest of the subject property.

**Relationship Between Manion Pines and Surf Pines**

The proposed Manion Pines subdivision will be entirely within Surf Pines. Surf Pines is not a subdivision; it is a gated community that includes several subdivisions and individual lots. Local roads in Surf Pines are privately owned and maintained. A homeowners association manages the common features of Surf Pines. The applicants will require Manion Pines lot-owners to join the Surf Pines Homeowners Association; this can be accomplished through deed restrictions, plat restrictions, or subdivision CC&Rs.

**Applicable Requirements**

Subdivision approvals are subject to the following approval criteria and design standards from the County's Land and Water Development and Use Ordinance (LWDUO) and Development Standards Document (DSD):

LWDUO Section 3.240 – Coastal Beach Residential Zone

LWDUO Section 5.200 – Subdivisions, Partitions, and Property Line Adjustments

DSD Section 5.100 – Subdivision Design Standards

These requirements are addressed in the following section.

**Proposed Findings**

*LWDUO section 3.240:* The subject property is in the Coastal Beach Residential (CBR) zone. The CBR zone allows single family residential dwellings as an outright use (LWDUO section 3.244(1)). Proposed subdivision lots 1 through 7 are intended for single family residences. Table 2 summarizes the proposed dimensions and lot sizes, and compares them to the CBR zone's minimum standards.

	Lot 1	Lot 2	Lot 3	Lot 4	Lot 5	Lot 6	Lot 7
Minimum lot size: 1 acre (3.248(1)(a))	1.10 acres	1.05 acres	1.05 acres	1.35 acres	1.99 acres	1.53 acres	1.05 acres
Minimum lot width: 100 feet (3.248(2))	254 feet	172 feet	170 feet	102 feet	131 feet	116 feet	130 feet
Maximum width to depth ratio: 1:3 (3.248(3))	1:0.7	1:1.5	1:1.6	1:1.8	1:2.6	1:1.9	1:1.2

Proposed lot 8 is not intended for residential use. It meets or exceeds applicable lot size and dimension standards.

*LWDUO section 5.220(1):* This section establishes the first of several requirements for subdivisions:

*(1) No one subdivision, contiguous group of subdivisions or planned development shall create greater than thirty (30) lots within the same calendar year, (January 1-December 31), in the Rural designation in the Clatsop Plains planning area.*

Manion Pines is planned as an eight lot subdivision. It is contiguous to Pinehurst Estates,

which was final-platted in 1999. The County should conclude that the proposed Manion Pines preliminary subdivision plat complies with LWDUO section 5.220(1).

*LWDUO section 5.220(2):* This section requires compliance with a policy from the Clatsop Plains Community Plan:

*(2) The applicant when applying for a subdivision or planned development in the Clatsop Plains Rural designation, shall show how the request addresses the NEED issue of the Clatsop Plains Community Plan below:*

*“6. Clatsop County intends to encourage a majority of the County's housing needs to occur within the various cities' urban growth boundaries. Approval of subdivisions and planned developments shall relate to the needs for rural housing. Through the County's Housing Study, the County has determined the Clatsop Plains rural housing needs to be approximately 900 dwelling units for both seasonal and permanent by the year 2000.”*

Most new residential growth is occurring in the cities and their UGBs, rather than in rural areas. This is due to a combination of zoning restrictions on rural development; facility and utility cost differentials that favor of urban sites; personal preferences for urban amenities and conveniences; and market preferences for urban housing. Development of rural housing sites in the Clatsop Plains is not contrary to this policy. This is especially true for the proposed subdivision, which is an infill project in a largely developed area, and has access to existing streets and utilities. Residential zoning on the subject property, and on the density sending site, was not established as a result of a housing need analysis. The County has not updated this policy to address post-2000 conditions; nor have housing or buildable lands inventories been updated. Clatsop County has approved several amendments that have altered the supply of buildable residential lots on the Clatsop Plains without violating policy 6. The proposed seven-lot subdivision can also be approved without conflicting with the policy.

*LWDUO section 5.222:* This section describes the preliminary plat, the first step of a two-step subdivision approval process:

*An applicant for a subdivision shall submit nine (9) copies of the Preliminary Plat, together with improvement plans and other supplementary information required by this Ordinance to indicate the design and objectives of the subdivision.*

Nine copies of the proposed preliminary plat are attached to this application.

*LWDUO section 5.224:* This section of the County's code establishes form and scale requirements for the preliminary plat:

*The Preliminary Plat shall be clearly and legibly drawn. It shall show all pertinent information to scale so that the Commission may have an adequate understanding of what is proposed during the review process. Under ordinary circumstances, the scale of the drawing is to be one (1) inch equals fifty (50) feet or one-hundred (100) feet, or for areas over one-hundred (100) acres; one (1) inch equals two-hundred (200) feet.*

The proposed preliminary plat for Manion Pines is drawn at a scale of one inch equals 100 feet, in compliance with this requirement.

*LWDUO section 5.226(1)* addresses the name of the proposed subdivision:

*Proposed name of subdivision. Subdivision plat names shall be subject to the approval of the County Surveyor or, in the case where there is no County Surveyor, the County Assessor. No tentative subdivision plan or subdivision plat of a subdivision shall be approved which bears a name similar to or pronounced the same as the name of any other subdivision in the same county, unless the land platted is contiguous to and platted by the same party that platted the subdivision bearing that name or unless the party files and records the consent of the party that platted the contiguous subdivision bearing that name. All subdivision plats must continue the lot numbers and, if used, the block numbers of the subdivision plat of the same name last filed. On or after January 1, 1992, any subdivision submitted for final approval shall not use block number or letters unless such subdivision is a continued phase of a previously recorded subdivision, bearing the same name, that has previously used block numbers or letters.*

The proposed name "Manion Pines" has been tentatively reviewed by the County Surveyor.

*LWDUO sections 5.226(2) through (20)* are basic informational requirements for a preliminary plat drawing. They are excerpted below, followed by proposed findings to the extent necessary:

*Northpoint, scale, and date of the completed drawing, approximate acreage, and boundary lines (5.226(2))*

*Appropriate identification clearly stating the map is a Preliminary Plat (5.226(3))*

*Location of the subdivision by section, township, range, tax lot or lots and donation land claim sufficient to define the location and boundaries of the proposed subdivision. (5.226(4))*

*Names, addresses and zip codes of all owners, subdividers, and engineers or surveyors responsible for laying out the subdivision. (5.226(5))*

*Existing locations, widths, names of both opened and unopened streets within or adjacent to the subdivision, together with easements, or rights-of-way and other important features, such as section lines, corners, city boundary lines and monuments. (5.226(6))*

*A vicinity map showing the relationship of the proposed subdivision to surrounding development, streets, and sewer and water services, within one-quarter (1/4) mile of the exterior boundaries of the proposed development. (5.226(7))*

*Location of at least one (1) temporary bench mark within the plat boundaries. (5.226(8))*

*Contour lines related to the temporary bench mark or other datum approved by the County Surveyor and having contour intervals together with the calculated degrees of slope as follows: (A) For slopes not in excess of 10 percent: two-foot contours; (B) For slopes over 10 percent: five-foot contours. (5.226(9))*

*Location of significant natural features such as rock outcroppings, marshes, wooded areas and isolated preservable trees. (5.226(10))*

*Location of any rare, threatened and endangered species (plant or animal) located on or within 1,000 feet of the proposed subdivision. (5.226(11))*

*Location and direction of all water courses and/or bodies and the location of all areas subject to flooding. (5.226(12)).*

*Existing uses on the property, including location of all existing structures. (5.226(13))*



*Location, width, name, approximate grade, and radii of curves of all proposed streets, their relationship of such streets to any projected or existing streets adjoining the proposed subdivision. The subdivider shall submit documented preliminary approval, from the County Roadmaster, of his road design. (5.226(14))*

*Location, width, and purpose of proposed easements and private roads for private use, where permitted, and all reservations or restrictions relating to such easements and private roads. (5.226(15))*

*Proposed plan for draining surface water, including the location and type of drainage ways to carry surface water from the development without adversely affecting adjacent properties. If any filling is proposed, the drainage plan must demonstrate that adequate provisions have been made for the prevention of backup or ponding of surface water on adjacent properties as well as within the proposed development. (5.226(16))*

*Location, acreage and dimensions of lots and the proposed lot numbers. (5.226(17))*

*Site, if any, allocated for a purpose other than single family dwellings. (5.226(18))*

*Location, acreage and dimensions of areas proposed for public use. (5.226(19))*

*Location, acreage and dimensions of areas proposed for common open space (30% in the Rural designation of the Clatsop Plains planning area). (5.226(20))*

The information required by subsections (2), (3), (4), (5), (6), (8), and (17) is shown on the proposed preliminary plat drawing. The vicinity map described in subsection (7) is shown on page 17 of these findings. The topographic information required in subsection (9) is shown on sheet 2 of the preliminary plat drawing. Two significant features pursuant to subsections (10) and (11) include Oregon silverspot butterfly habitat, to the east of the proposed subdivision, and riparian wetlands associated with Neacoxie Creek, also located east of the proposed preliminary plat. Neacoxie Creek flows in a north-to-south direction. Floodplain mapping is shown on page 18 of these findings. The seven proposed residential lots are entirely outside of the regulatory floodplain; the eastern portion of non-residential lot 8 is in the floodplain. The subdivision site is presently vacant. No new streets are proposed for Manion Pines. All proposed lots front on Stellar Lane, an existing improved private street. Some additional improvements at the turnaround at the end of Stellar Lane are noted on the preliminary plat. No new easements are proposed with this subdivision.

A drainage plan, pursuant to section 5.226(16) is included on page 19 of this document. The proposed preliminary plat does not include any public use areas or areas for uses other than single family dwellings.

The thirty percent open space requirement in subsection (20) is not applicable in Surf Pines. The County's interpretation of this requirement has been applied consistently in Surf Pines in the CBR zone: Surf Pines Landing, Surf Pines Estates North, and Horizon Estates were platted after the effective date of this requirement without providing thirty percent open space. Nonetheless, Manion Pines meets the open space requirement with the inclusion of the butterfly habitat tract to the east (proposed lot 8). This tract includes about 13.59 acres (slightly less if the LW-zoned land is subtracted).

LWDUO section 5.226(21) allows subdivision to be platted in one, two or three phases. Manion Pines will be platted in a single phase.

LWDUO section 5.226(22) lists seven pieces of technical documentation required for preliminary plat approval:

*(A) An acceptable and approved method of sewage disposal for each proposed lot which meets the rules and regulations of the Environmental Quality Commission of the State of Oregon as administered by the Department of Environmental Quality or its contract agent.*

*(B) An acceptable and approved method of water supply.*

*(C) The nature and type of improvements proposed for the subdivision, and a timetable for their installation.*

*(D) A description of community facilities which would serve the subdivision, and a timetable for the completion or installation of the facilities.*

*(E) Where a surface or subsurface water problem may exist, as determined by the Department of Environmental Quality, County Sanitarian, or other qualified specialist, a complete report by an independent, qualified hydrologist or hydrogeologist or other qualified specialist shall be required prior to any hearing on the Preliminary Plat by the Commission. The fee for such study shall be paid by the subdivider.*

*(F) Subdividers shall provide a list of any restrictive covenants which are to be recorded.*

*(G) A demonstration that lot size and use are in compliance with the applicable zone.*

The “acceptable and approved” methods of sewage disposal cited in subsection 22(A) are the same as those already approved on adjoining tax lots 400, 600, 700, and 900 on map 7-10-28DA; and the same as those described in OAR Chapter 240, Division 71. Each proposed lot has the same soil characteristics as the already-approved lots 400, 600, 700 and 900; and is large enough to meet the requirements of Division 71. LWDUO section 5.226(27) requires that improvements needing a state or federal permit be made a condition of preliminary plat approval. Subsurface wastewater disposal systems require a state permit, so subsection (27) applies.

Subsection 22(B) requires a water supply for each lot. The City of Warrenton provides water in Surf Pines. Existing water lines on Manion Drive and Steller Lane can serve the proposed lots.

Subsection 22(C) requires a construction schedule for subdivision improvements. An enlarged turn-around at the end of Stellar Lane is needed because of the additional lots on this street. This work will be done prior to filing the final subdivision plat, within one year of approval of the preliminary plat. No other improvements are planned by the subdividers.

Subsection 22(D) addresses community facilities for the Manion Pines subdivision. No community facilities are planned.

Subsection 22(E) addresses situations where “.. a surface or subsurface water problem may exist, as determined by the Department of Environmental Quality, County Sanitarian, or other qualified specialist..”. No determination of this kind has been made for the subject property, and we are not aware of any surface or subsurface water quality problems on the site. The requirements of subsection 22(E) are not applicable.

Subsection 22(F) requires a list of restrictive covenants. Covenants, conditions and restrictions will be recorded for Manion Pines requiring membership in the Surf Pines Association.

Subsection 22(G) requires a demonstration that the proposed lot sizes and uses comply with the applicable zoning. Proposed lots 1 through 7 are entirely within the CBR zone. The zone allows a minimum lot size of one acre (section 3.248(1)(A)), and allows single-family residences as an outright use (section 3.244(1)). Proposed lots 1 through 7 are all larger than one acre, and are all intended for residential use. Lot 8 is in the CBR and LW zone. The proposed use is open space and habitat conservation.

*LWDUO section 5.266(23) states that new subdivisions must demonstrate “Compliance with the Clatsop County Comprehensive Plan and Land and Water Development and Use Ordinance, and ORS 92 and 215”. Findings in this document demonstrate compliance with applicable parts of the County's Land and Water Development and Use Ordinance. No ordinance amendments are requested or needed to allow the proposed subdivision. The Land and Water Development and Use Ordinance implements policies in the comprehensive plan and, therefore, is consistent with those policies. Manion Pines complies with comprehensive plan policies by complying with applicable zoning code provisions. Because of this, there is no need for policy-by-policy comprehensive plan findings. Oregon Revised Statutes (ORS) chapter 92 governs subdivisions and partitions. The proposed preliminary plat map was prepared by Karl Foeste, a licensed surveyor, in compliance with the requirements of ORS chapter 92. ORS chapter 215 governs county planning, zoning and housing codes. Clatsop County's planning documents (the Land and Water Development and Use Ordinance, comprehensive plan, and Development Standards Document) were acknowledged as being in compliance with ORS 215 in 1982. Subsequent plan and code amendments have been reviewed by the Oregon Department of Land Conservation and Development and found to comply with ORS 215. By meeting the requirements of the County's planning documents, this project is also in compliance with ORS chapter 215. Section-by-section findings against ORS 215 are not required for this project.*

*LWDUO section 5.266(24) reads as follows:*

*Lots not intended for sale shall be designated by alphabetic symbol which indicates the intended usage. The acreage for each dedicated lot, if any, is to be shown.*

Proposed lot 8 is intended for non-residential use. This lot contains habitat for the threatened Oregon silverspot butterfly, and will be transferred to the North Coast Land Conservancy for long-term management and protection.

*LWDUO section 5.266(25) reads as follows:*

*Notations indicating any limitations on rights-of-access to or from streets and lots or other parcels of land proposed by the developer or established by the Board.*

No limitations described in subsection 25 are proposed or needed for Manion Pines.

LWDUO section 5.266(26) reads as follows:

*A quotation from the Clatsop County Assessor on taxes to be paid on a proposed subdivision before final platting shall take place in accordance with ORS 92.095.*

The information required by subsection 26 is only useful immediately before recording the final plat. This request is for preliminary plat approval, not final plat approval. Typically, the County makes this a requirement of final plat approval.

LWDUO section 5.266(27) concerns federal or state permits:

*If any federal or state permit is required to carry out the preliminary plat approval, approval shall be subject to a condition requiring the subdivision to comply with any applicable federal and state laws.*

State permits will be needed for subsurface wastewater disposal systems on lots 1 through 7.

LWDUO section 5.226(28) reads as follows:

*In areas subject to the geologic hazard overlay zone, a grading plan prepared in conformance with Section 4.040.*

The subject property is not in the geologic hazard overlay district, so this subsection is not applicable.

LWDUO section 5.228 establishes procedures for review of a preliminary plat. This section does not establish substantive approval criteria applicable to the proposal.

LWDUO section 5.230 establishes procedures and criteria for granting extensions to prior approvals of preliminary plats. The applicants are not seeking an extension at this time, so this section is not applicable.

LWDUO sections 5.232 through 5.240 establish procedures and standards for the final plat. These sections will be applicable when the Manion Pines final plat is submitted, but they

are not applicable to the County's decision on this preliminary plat.

*LWDUO section 5.242 and 5.244* address subdivision improvement agreements and improvement bonds. These sections may be applicable if the developers elect to record the final plat prior to building any subdivision improvements. No approval criteria are found in these code sections.

*LWDUO sections 5.246, 5.248, and 5.260* all address the final plat. These sections will eventually be applicable to Manion Pines, but are not applicable at this stage of the County's review process.

*DSD section 5.102* establishes standards for street design and construction in subdivisions. No new streets will be built as a result of this subdivision. Lots 1 through 7 take access off of an existing private road, Steller Lane. The paved driving surface will be widened to accommodate the additional traffic, and an enlarged turnaround will be installed. These improvements will be installed to meet or exceed applicable standards in *DSD section 5.102*.

*DSD section 5.104* addresses blocks in subdivision. Manion Pines is not designed with blocks, so these standards are not applicable.

*DSD section 5.106* sets standards for lot design in subdivision. These standards are, for the most part, superseded by the dimensional standards in the CBR zone, addressed on page 4 of this document. They are not applicable to the proposed preliminary plat.

*DSD section 5.108* refers to section 4.040 for grading in areas subject to the geologic hazard overlay district. The subject property is not in the geologic hazard overlay district, so this section is not applicable.

*DSD section 5.110* reads as follows: *If special building setback lines are to be established in the subdivision, they shall be shown on the subdivision plat or included in the deed restriction.* No special setback lines are established for Manion Pines; the normal setbacks

in section 3.248 of the CBR zone are applicable.

*DSD section 5.112* concerns large lot subdivisions. It reads as follows:

*In subdividing tracts into large lots which at some future time are likely to be resubdivided, the Planning Commission may require that the blocks be of such size and shape, be so divided into lots, and contain such building size restrictions as will provide for extension and opening of streets at intervals which will permit a subsequent division of any parcel into lots of smaller size.*

Only proposed lot 8 is large enough to be redivided at a future date; however, this lot contains protected habitat for the Oregon silverspot butterfly. The applicants intend to transfer ownership of lot 8 to the North Coast Land Conservancy for long-term protection and management, not for redivision and development.

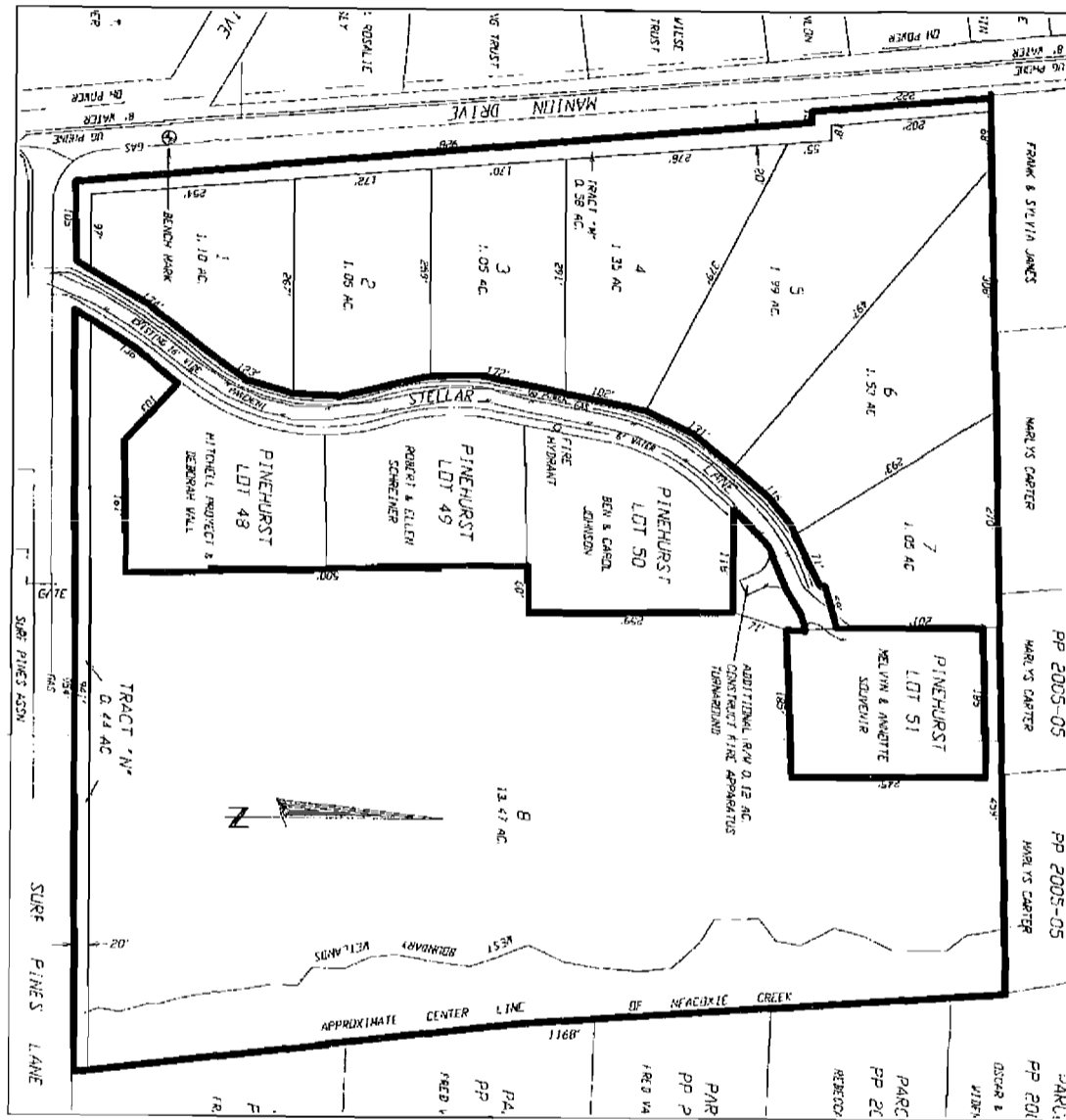
*DSD section 5.114* addresses land needed for public purposes. None of the proposed subdivision lots is intended for public purposes, nor is there any evidence of the need for land for public purposes in Surf Pines. Lot 8 will be transferred to the North Coast Land Conservancy, a private not-for-profit land trust.

*DSD sections 5.115 through 5.120* address subdivision improvements. The only planned improvements are an enlarged turnaround at the end of Steller Lane, and a wider paved surface on Steller Lane. These improvements can be constructed to meet or exceed applicable standards.

*DSD sections 5.200 and 5.201* establish survey and recording requirements for final plats. These can be applied when the Manion Pines plat is prepared for final plat review.

*DSD chapter 6* establishes road design and construction standards for subdivisions. Table 1 of these standards sets standards for subdivision streets serving ten or more lots. Steller Lane will need to be improved to the A-22 standard, with a 20-foot paved travel width. Steller Lane as it currently exists has a 16-foot paved travel width, so this will need to be widened (or bonded) before the final plat is recorded.

Proposed Subdivision Plan







Location Map



Flood Plain Map



### **Drainage Plan**

1. All dwellings shall have roof gutters, downspouts, and either splash-blocks or drywells to keep water away from foundations. If non-sandy soils are revealed in drainage areas during foundation excavation, then drywells shall be constructed to receive roof runoff.
2. Any new roads constructed in Manion Pines shall be crowned to promote drainage.
3. Unpaved road right-of-way shall be used as a drainage area for any new roads constructed in Manion Pines.
4. Driveways shall drain either to the side, or to the unpaved right-of-way drainage area of existing roads. If non-sandy soils are found in driveway runoff receiving areas, measures shall be taken to prevent ponding. These may include, but are not limited to. Construction of drywells, drainage swales, or curtain drains.
5. Curtain drains or other diversion or retention strategies shall be used to prevent surface runoff from impervious surfaces on lots 1 through 7 from flowing onto adjoining property.



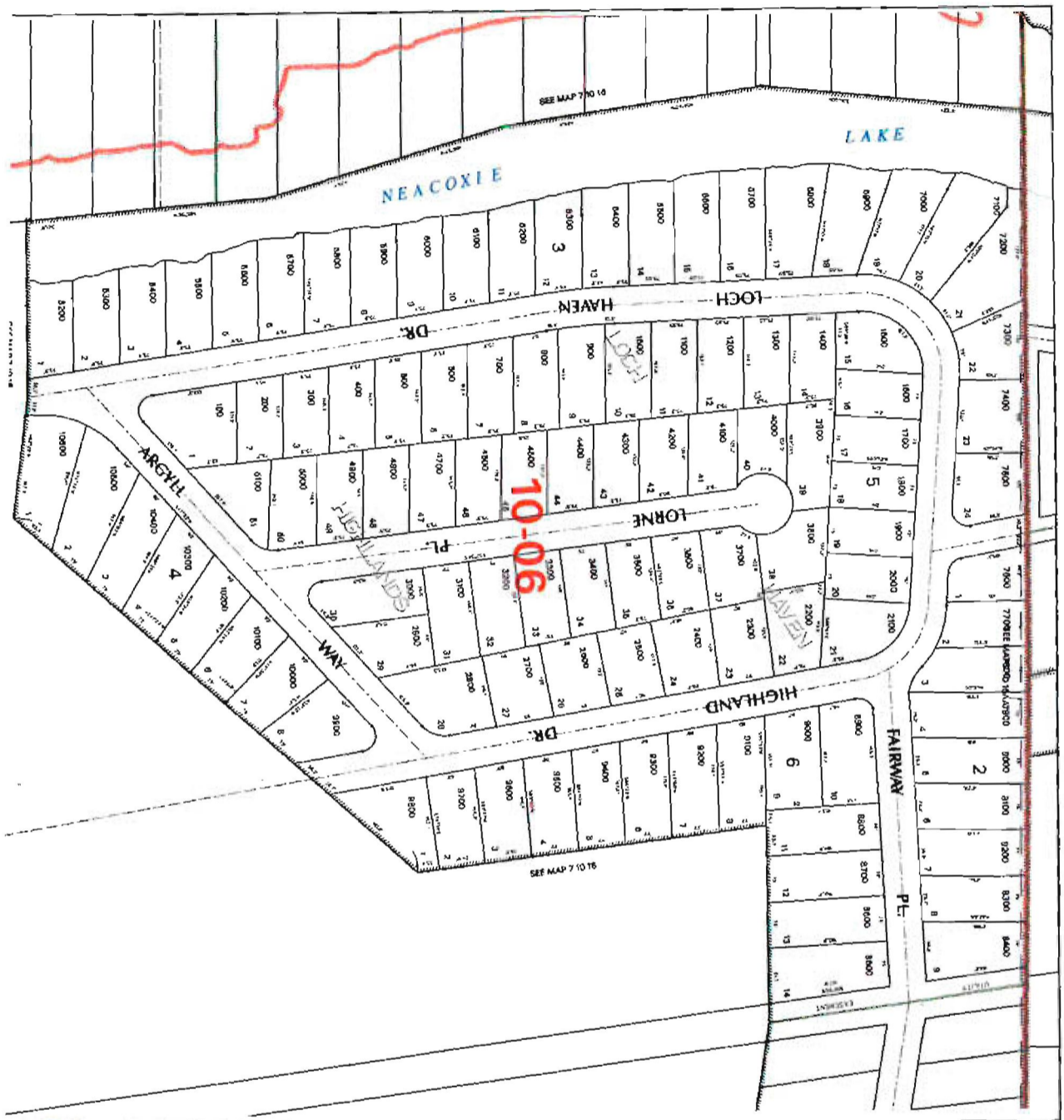
**This Page Left Blank Intentionally**

**Exhibit IV.**

**Preliminary Plat**

Oversized Exhibit

Page 149 of 156



T7N R10W SEC 16AA WM  
 CLATSOP COUNTY  
 Scale 1:1200  
 (NOT TO BE USED FOR CONVEYANCE OF REAL PROPERTY)

Total  
 106 Lots

The Auditor's Office is located at:  
 1000 Commercial Street  
 Astoria, Oregon 97103  
 January 06, 2008  
 7.10.16AA

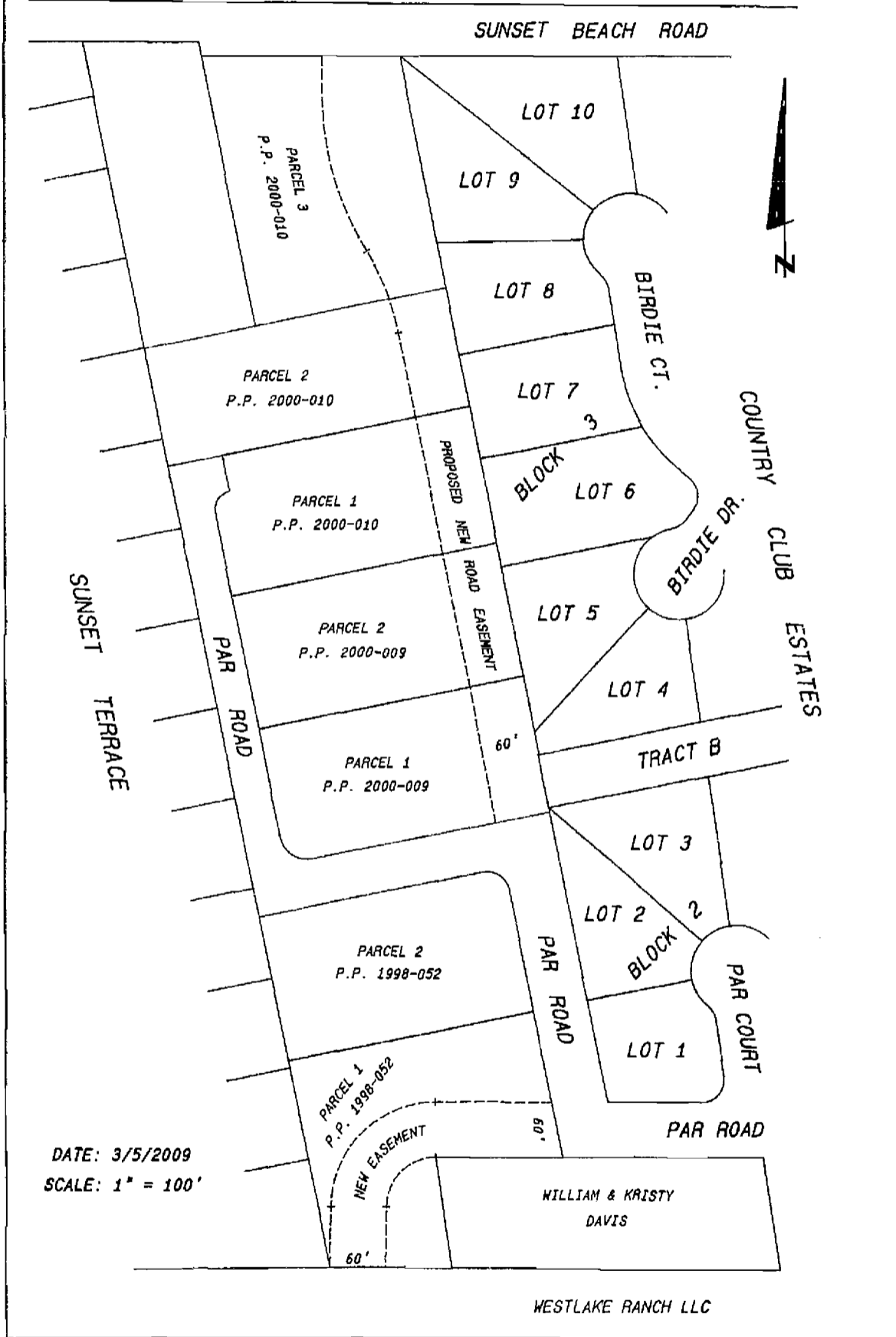
1	2	3	4	5	6	7	8	9	10	11	12
13	14	15	16	17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	32	33	34	35	36
37	38	39	40	41	42	43	44	45	46	47	48
49	50	51	52	53	54	55	56	57	58	59	60
61	62	63	64	65	66	67	68	69	70	71	72
73	74	75	76	77	78	79	80	81	82	83	84
85	86	87	88	89	90	91	92	93	94	95	96
97	98	99	100	101	102	103	104	105	106	107	108
109	110	111	112	113	114	115	116	117	118	119	120

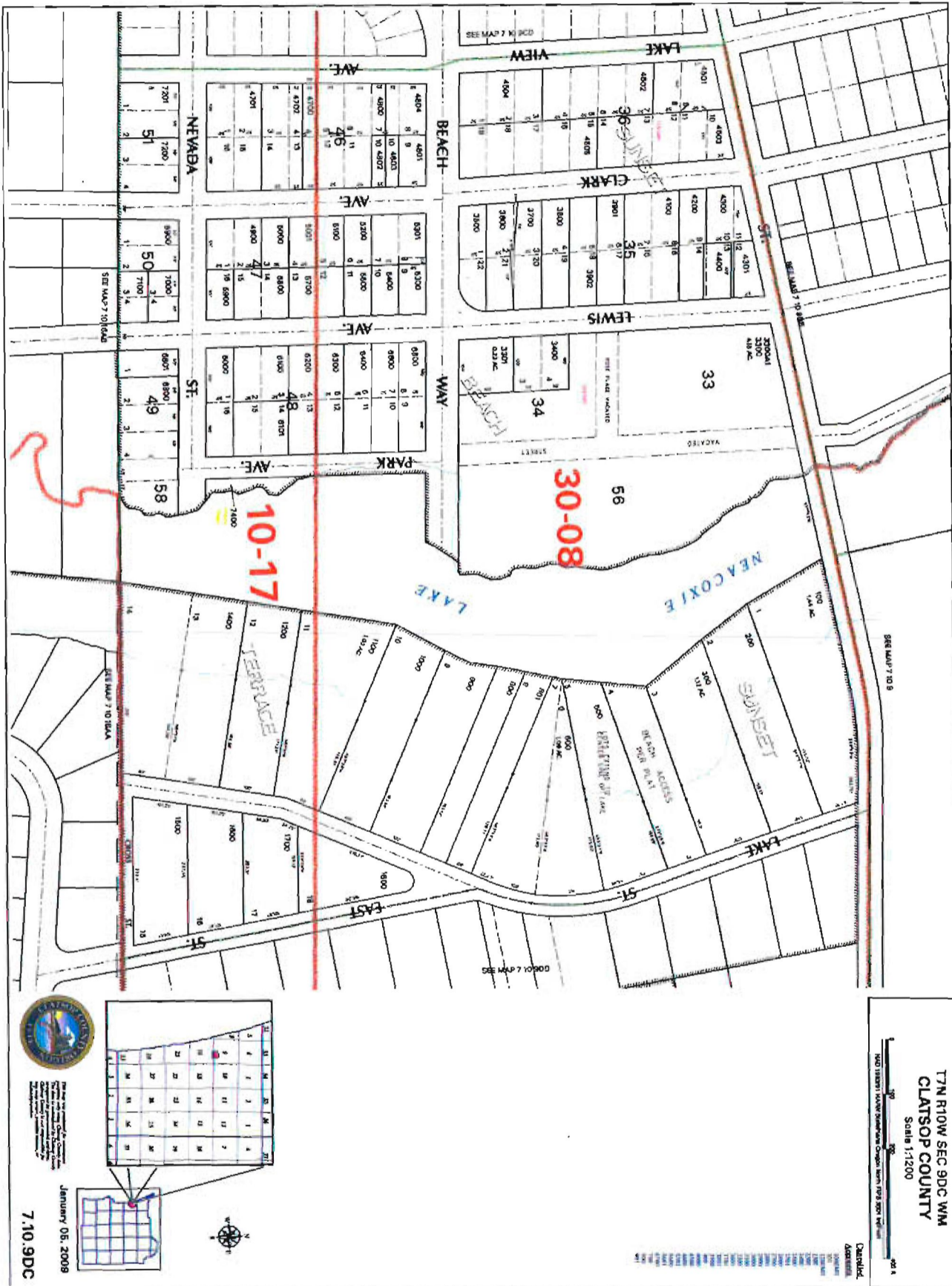




EXHIBIT SHOWING LOCATION OF PROPOSED NEW ROAD EASEMENT

S.E. 1/4 SEC. 9 & N.E. 1/4 SEC. 16, T7N, R10W, W.M.

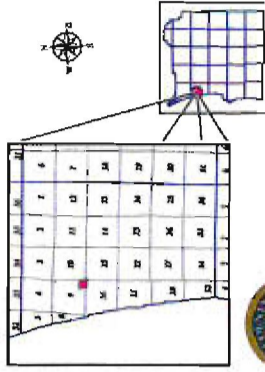




T7N R10W SEC 9DD WM  
 CLATSOP COUNTY  
 Scale 1:1200



Created  
 Approved  
 Date



January 06, 2008  
 7.10.9DD



