



**Oregon**  
Theodore R. Kubongski, 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**

7/27/2009

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Coos County Plan Amendment  
DLCD File Number 001-09

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

Appeal Procedures\*

**DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL:** Friday, August 07, 2009

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:** Patty Evernden, Coos County  
Doug White, DLCD Community Services Specialist  
Dave Perry, DLCD Regional Representative  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA

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# 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**

JUL 20 2009

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

Jurisdiction: **Coos County**

Local file number: **AM-09-01/R2-09-01**

Date of Adoption: **7/15/09**

Date Mailed: **7/17/09**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 1/27/09

- |  |  |
|--|--|
| <input 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".

An amendment/rezone request to rezone a portion of the subject property from Forest Mixed Use (FMU) to Rural Residential-5 (RR-5) and amend the Coos County Comprehensive Plan Map designation.

Does the Adoption differ from proposal? Yes, Please explain below:

The meeting was continued and then after a verbal decision was given the findings had to be reduced to writing and then signed by the Board of Commissioners.

Plan Map Changed from: **Forest**

to: Rural Residential

Zone Map Changed from: **Forest Mixed Use**

to: **Rural Residential-5 (RR-5)**

Location: **Township 27, Range 14, Section 17C Tax Lots 1300 & 1400** Acres Involved: **27**

Specify Density: Previous: **80 acre min**

New: **5 acre min**

Applicable statewide planning goals:

- |                          |                          |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |                          |
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| <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 type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

- |  |   |                             |
|--|---|-----------------------------|
| 45-days prior to first evidentiary hearing?                    | <input checked="" type="checkbox"/> Yes | <input type="checkbox"/> No |
| If no, do the statewide planning goals apply?                  | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |
| If no, did Emergency Circumstances require immediate adoption? | <input type="checkbox"/> Yes            | <input type="checkbox"/> No |

DLCD file No. 001-09(17338) [15624]

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

ODOT-Roseburg, Confederated Tribes of Lower Umpqua and Siuslaw Indians, Bandon RFPD, and South Coast General Hospital District.

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Local Contact: **Patty Evernden, Planning Director**      Phone: (541) 396-3121      Extension: 210  
Address: **250, North Baxter**      Fax Number: **541-756-8630**  
City: **Coquille**      Zip: **97423**      E-mail Address: **[jrolfe@co.coos.or.us](mailto:jrolfe@co.coos.or.us)**

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### **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**.



## Coos County Planning Department

Coos County Courthouse Annex, Coquille, Oregon 97423  
Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, Oregon 97423  
Physical Address: 225 N. Adams, Coquille, Oregon

(541) 396-3121 Ext.210  
FAX (541) 756-8630 / TDD (800) 735-2900

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### NOTICE OF ADOPTION

July 17, 2009

Re: Coos County Planning Department File No. AM-09-01/RZ-09-01  
Application for Darcy Bosshardt  
County Ordinance No. 09-01-001PL  
Township 27, Range 14, Section 17C, Tax Lot 1300

On July 15, 2009, the Coos County Board of Commissioners adopted the above-referenced Ordinance amending the Coos County Comprehensive Plan (CCCP) and Coos County Zoning and Land Development Ordinance (CCZLDO) to rezone the subject property from Forest Mixed Use (FMU) to Rural Residential-5 (RR-5).

The adoption of this ordinance can be appealed to the Land Use Board of Appeals (LUBA), pursuant to ORS 197.830 to 197.845, by filing a Notice of Intent to Appeal within 21 days of the date this notice was deposited in the mail, as indicated on the attached Certificate of Mailing. For more information on this process, contact LUBA by telephone at 503-373-1265, or in writing at 550 Capitol St. NE, Suite 235, Salem, Oregon 97301-2552.

If you have any questions pertaining to this notice or the adopted ordinance, please contact the Planning Department by telephone at (541) 396-3121 or 756-2020, extension 210, or visit the Planning Department at 225 North Adams Street, Coquille, Oregon, Monday through Friday, 8:00 AM - 5:00 PM (closed Noon - 1:00 PM).

COOS COUNTY PLANNING DEPARTMENT

  
\_\_\_\_\_  
Jill Rolfe, Administrative Planner

c: Darcy & John Bosshardt  
David Koch, Stebbins and Coffey Attorneys At Law  
David Perry, DLCD (e-mailed and mailed)  
Linda Anderson  
Planning Commission

File

BOARD OF COMMISSIONERS  
COUNTY OF COOS  
STATE OF OREGON

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IN THE MATTER OF AMENDING THE COOS )  
COUNTY COMPREHENSIVE PLAN & COOS ) ORDINANCE 09-01-001PL  
COUNTY ZONING & LAND DEVELOPMENT )  
ORDINANCE (BOSSHARDT REZONE) )

This matter came before the Coos county Board of Commissioners sitting for the transaction of business on the April 29, 2009, concerning amendments to the Coos county Comprehensive Plan and Coos County Zoning & Land Development Ordinance. Specifically, The Board considered a plan amendment and rezone of property described as Township 27, Range 14, Section 17C, Tax Lots 1300 and 1400.

WHEREAS, on January 23, 2009, Darcy Bosshardt filed an application to amend the Coos County Comprehensive Plan Map and the Zoning Map to change the current zoning for a portion of the subject property from Forest Mixed Use to Rural Residential-5;

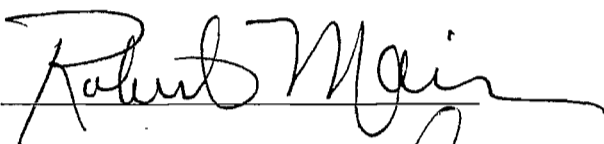
WHEREAS, the application was considered by the Planning Commission at public hearing on April 2, 2009, and following deliberation, the Planning Commission recommended the Board of Commissioners approve the proposal;

WHEREAS, consideration for the ordinance complies with Coos Zoning & Land Development Ordinance Section 5.1.400 criteria for rezones.

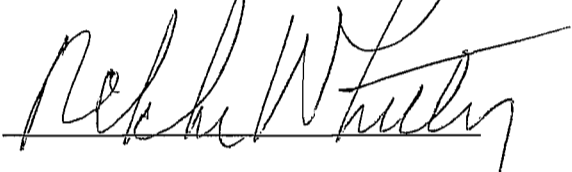
1 WHEREAS, all notices to interested property owners and interested parties  
2 have been provided pursuant to law; now therefore, THE BOARD OF COMMISSIONERS  
3 adopts the Findings and Conclusions in Attachment "A".

4 ADOPTED this 15th day of July, 2009.

5 BOARD OF COMMISSIONERS

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8 COMMISSIONER


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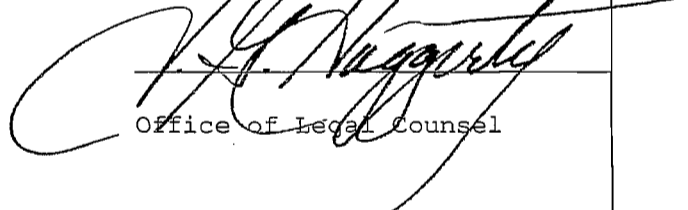
13  
14 COMMISSIONER

15  
16 ATTEST:

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18 Recording Secretary

APPROVED AS TO FORM:



Office of Legal Counsel

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## ATTACHMENT "A"

### I. Brief Statement of Application and Decision

The applicant, Mrs. Darcy Bosshardt, owns two adjacent parcels of property located north of Bandon, Oregon. Each parcel is split-zoned as both Forest (F) and Rural Residential 5 (RR-5). Mrs. Bosshardt has applied for a rezone of the F-zoned portion of each parcel (the 'subject property') to RR-5. The rezone was requested on the basis that the subject property is not resource land, because it does not satisfy the definitions of either forest land or agricultural land.

The Planning Commission held a public hearing to consider the application on April 2, 2009. After reviewing the testimony and evidence in the record, the Planning Commission determined that there was substantial evidence to support the findings that the subject property was not resource land, because it did not meet the criteria of either agricultural or forest lands. The Planning Commission unanimously moved approval of the request and directed that the matter be forwarded to the Board of Commissioners with their recommendation of approval for the rezoning of the subject property.

The Coos County Board of Commissioners held its public hearing to consider the Planning Commission's recommendation of approval for the rezone application on April 29, 2009. After reviewing the testimony and evidence in the record, including the testimony and evidence submitted by witnesses at the hearing, the Board of Commissioners agreed with the Planning Commission that there was substantial evidence to support the findings that the subject property was not resource land, because it did not meet the criteria of either agricultural or forest lands. The Board of Commissioners unanimously approved the rezoning of the subject property.

The requested rezone meets all criteria set forth in the applicable statutes, administrative rules, and County codes.

### II. Property and Ownership Information

The subject property is owned by Darcy Bosshardt, and is identified as follows:

- Parcel 1: T27S, R14W, Section 17C, Tax Lot 1300
- Parcel 2: T27S, R14W, Section 17C, Tax Lot 1400

The subject property is located approximately 7 ½ miles north of Bandon on Tokyo Lane, in Coos County, Oregon. The current zoning of each parcel is split between Forest (F) and Rural Residential 5 (RR-5). The area of each parcel that would be rezoned is approximately 8 acres; however, the western one-third of this area is comprised of beaches and steep bluffs and the western two-thirds lies within the Coastal Shoreland Boundary overlay zone, both of which impose severe restrictions on the scope of permissible uses regardless of the underlying zoning. The F-zoned portion of Tax Lot 1300 is currently developed with a single-family dwelling, which is the personal residence of John and Darcy Bosshardt.

As will be discussed in greater detail below, the subject property is not resource land. Although the subject property is zoned Forest, it is neither currently forested land, nor is it capable of supporting commercial forestry operations. In addition, the subject property has very poor soils, and other

adverse conditions, which render it unsuitable as agricultural land. Since the subject property is not resource land, the requested rezone does not require an exception to be taken to either Goals 3 or 4.

### **III. Review Criteria**

The criteria for a rezone are set forth in the Coos County Zoning and Land Development Ordinance (CCZLDO) at Section 5.1.400(1), which provides that the hearings body shall only recommend approval of a rezoning to the County Board of Commissioners upon finding that:

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

In addition, the rezoning must comply with all applicable statutes and administrative rules. Each of these criteria has been addressed as follows:

#### **A. The proposed rezoning will conform with the Coos County Comprehensive Plan.**

##### **1. The proposed rezone conforms with Comprehensive Plan Volume 1, Part 1.**

Volume 1, Part 1 of the Coos County Comprehensive Plan establishes the County's land use goals and identifies the policies and implementation strategies that the County will employ to attain these goals. As relevant to this decision, the County has identified the following goals:

- Coos County shall conserve forest lands by retaining them for the production of wood fiber and other forest uses, except where legitimate needs for non-farm uses are justified.
- Coos County shall preserve and maintain agricultural lands for farm uses consistent with existing and future needs for agricultural products, forest, and open space, except where legitimate needs for non-farm uses are justified.
- Coos County shall provide for the housing needs of its residents.

The proposed plan amendment and rezone is consistent with each of these goals, because the subject property does not qualify as either forest land or agricultural land, as those terms are defined in the County's Comprehensive Plan, CCZLDO, state statute and rules. Further, the proposed designation of the property as Rural Residential is consistent with the County's goals regarding rural housing opportunities. The proposal's consistency with each of these goals, and their implementing ordinances, is discussed in greater detail below.

##### **2. The subject property does not meet the definition of "forest lands".**

"The purpose of the 'F' district is to designate forest lands and protect them for forest uses . . ." CCZLDO, Section 4.1.100(A)(3). The term "forest lands" is a defined term within the context of the County's Comprehensive Plan, CCZLDO, state statute and rules. CCZLDO Section 2.1.200 defines the term "forest land" to include:

1. lands composed of existing and potential forest lands which are suitable for commercial forest uses;
2. other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation;



3. lands where extreme conditions of climate, soil and topography require maintenance of vegetative cover irrespective of use; and
4. other forested lands which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

Statewide Planning Goal 4, which is codified at OAR 660-015-0000(4), defines the term “forest lands” to include, in the case of a proposed plan amendment:

1. lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices; and
2. other forested lands that maintain soil, air, water and fish and wildlife resources.

**a. The subject property is unsuitable for commercial forest uses.**

The subject property was evaluated by professional forester Clyde Mulkins of the firm Mulkins & Rambo, LLC. Mr. Mulkin’s professional opinion, as set forth in his report attached hereto as Exhibit C, is that the subject property “is not suitable for commercial forest uses.” Mr. Mulkins bases his expert opinion on a review of the technical, logistical, biological and economic data related to the subject property. Mr. Mulkin’s expert opinion regarding the severe limitations posed by the use of the site for commercial forest uses is supported by the personal experiences of John and Darcy Bosshardt, who live in the dwelling located on the F-zoned portion of Tax Lot 1300. Written testimony submitted by the applicant illustrates the severity with which winter storms blow through the subject property, and the attempts that the applicant has made, in vain, to plant shore pines and other trees on their property.

Written testimony and evidence was submitted by opponent Linda Anderson on behalf of Goal One Coalition. A portion of this evidence, which purported to show trees growing on the subject property, was later acknowledged by Ms. Anderson as not depicting the subject property. Ms. Anderson apparently declined or did not respond to the applicant’s invitation for her to visit the subject property. Ms. Anderson also raised questions regarding the economic and other analysis performed by the applicant’s expert that concluded the subject property was unsuitable for commercial forest uses. However, no opponent submitted any expert opinion that differed from the applicant’s expert’s opinion, nor was any evidence submitted to contradict the data and observations that the applicant’s expert relied upon in reaching his opinion. Ms. Anderson’s speculation and lay-testimony regarding the conditions of the property, the reasons that trees were not growing on it, and the property’s potential for commercial tree production, do not overcome the specific and detailed first-hand testimony of the applicant and Mr. Mulkins regarding the actual site conditions and reasons that commercial tree production is not viable on the property.

*We find substantial evidence in the record to support the finding that the subject property is unsuitable for commercial forest uses.*

**b. The subject property is not forested land.**

Other provisions of the CCZLDO and Goal 4, provide that F-zoning is appropriate for existing “forested lands”, when they:

- are needed for watershed protection, wildlife and fisheries habitat and recreation;
- provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic

corridors and recreational use; or

- maintain soil, air, water and fish and wildlife resources.

By definition, these provisions only apply when the subject property is “forested”, and are inapplicable to lands that are not forested. The term “forested” is not defined in the CCZLDO or in Goal 4. However, the term “forested” is commonly understood as an adjective used to describe lands that are covered by “a dense growth of trees and underbrush...” Webster’s Ninth New Collegiate Dictionary, 1984.

The subject property is not comprised of forested lands, as is apparent from the aerial photographs, written testimony from the applicant, and the expert opinion of Clyde Mulkins. In addition, as discussed in the Mulkins & Rambo report, there are no streams or identified habitat sites for sensitive, threatened or endangered species on the subject property, and the subject area does not serve as an urban buffer wind break, scenic corridor, or for recreational use. There are no inventoried creeks or streams, nor has the property been identified as needed for watershed protection. The Comprehensive Plan identifies the property as having limited impact or no habitat value as big game range and there are no other identified wildlife habitat areas on the property or adjacent property. In addition, the property is not inventoried for recreational use.

Ms. Anderson claims that the requested rezoning will result in “fragmentation” of the forest land base between the forest lands to the north and south of the subject property. This claim is not supported by the evidence in the record, including the aerial photographs of the subject and adjacent properties. It is clear from this evidence that the “forest lands” to the south of the subject property are not being used for the cultivation of commercial trees. Rather, this land is developed as a private golf course, and suffers from the same poor site conditions that limit the subject property’s use for commercial forestry. The evidence in the record also shows that forest lands to the north of the subject property are somewhat protected from the adverse climate conditions, which results in more viable tree growth. The proposed rezoning will not result in fragmentation of forest lands.

*We find substantial evidence in the record to support the finding that the subject property is not forested land.*

**c. The subject property does not require F-zoning to maintain vegetative cover.**

The final provision under the definition of “forest land” provides for Forest-zoning designation for “lands where extreme conditions of climate, soil and topography require maintenance of vegetative cover irrespective of use.” In this case, the existence of a highly restrictive Shoreland Overlay zone provides a far greater degree of protection for the existing vegetative cover (gorse) along the bluff, that is provided by the F-zoning designation. The Shoreland Overlay zone will remain in effect, regardless of any change in the underlying zone designation from F to RR-5. Any development of the property with a residential use will be required to maintain the vegetative cover along the bluff and direct drainage away from the bluff to ensure that erosion does not occur.

*We find substantial evidence in the record to support the finding that the subject property does not require Forest-zoning to maintain vegetative cover.*

**3. The subject property does not meet the definition of “agricultural lands”.**

The CCZLDO Section 2.1.200 defines the term “agricultural lands” to include:

1. Soil Capability class I, II, III, and IV lands as defined by the United States Soil Conservation Service in their Soil Capability Classification system; and,
2. other lands suitable for farm use.

OAR 660-033-0020 and Statewide Planning Goal 3, which is codified at OAR 660-015-0000(3), defines the term “agricultural land” to include:

1. in western Oregon, land of predominantly Class I, II, III and IV soils;
2. other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices; and,
3. land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

**a. The subject property is comprised exclusively of Class VI, VII, and VIII soils.**

The soils of the subject property were previously mapped by the Natural Resources Conservation Service (NRCS), and included in the Soil Survey of Coos County (SSCC), which was published in 1989. The Order II/Order III methods used by the NRCS field crews were intended to cover several hundred acres per day, and to accomplish large scale groupings of soil types that did not map units smaller than 5 acres in size. The County’s code and OAR 660-033-0030(5), provides that “more detailed data on soil capability than is contained in the U.S. Natural Resources Conservation Service (NRCS) soil maps and soil surveys may be used to define agricultural land.”

The applicant retained Dennis Hutchison, a certified professional soil scientist/soil classifier, to conduct an on-site soil investigation and an Order I soil survey of the subject property, for the purpose of obtaining a more accurate classification of the subject property’s soils. The Order I Soil Survey prepared by Mr. Hutchison is more accurate than the data found in the SSCC, and is therefore relied upon as the strongest evidence concerning the Soil Capability Class of the soils for the subject property. Mr. Hutchison’s report, including exhibits and statement of credentials, is attached as Exhibit B. Mr. Hutchison determined that the subject property was comprised predominantly of Netarts loamy fine sand (43D), and Netarts loamy fine sand with strongly cemented iron hardpan (43Dirn). The Soil Capability class of both 43D and 43Dirn soils is Class VI. The remaining soils are class VII Waldport fine sand (59E), and class VIII Beaches (3). As a result, the report demonstrates that the soils of the subject property are not agricultural soils and that, as a result, the subject property does not meet the primary definition of agricultural lands.

There was no opposing testimony of evidence submitted to rebut the expert opinion or analysis of Mr. Hutchison. Rather, Ms. Anderson acknowledged in her written testimony that she agrees “that the parcel is probably not a good candidate for agricultural capability.”

*We find substantial evidence in the record to support the finding that the subject property is predominantly comprised of non-agricultural soils.*

**b. The subject property is not otherwise suitable for farm use.**

Regardless of the capability class of the site's soils, the CCZLDO definition of agricultural lands includes "other lands suitable for farm use." OAR 660-033-0020 and Goal 3 instruct that such "other lands" may be:

"lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices; and, land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."

At the request of Planning Department staff, the applicant explored the possible use of the site for cranberry production. The applicant consulted with experts and considered the suitability of the lands for other farm uses including, specifically, the cultivation of cranberries. The applicant submitted written testimony from herself and others that discussed, in detail, the site conditions as they relate to potential agricultural uses, and the cultivation of cranberries in particular. Based on the poor soil fertility, extreme seasonal climatic conditions, general unavailability of water, and existing land use patterns, the subject property is not suitable for agricultural uses including, but not limited to, cranberry cultivation.

*We find substantial evidence in the record to support the finding that the subject property is not otherwise suitable for farm use.*

#### **4. The subject property is appropriate for Rural Residential designation.**

As stated above, one of the goals set forth in Volume 1, Part 1, of the County's Comprehensive Plan is that the County "shall provide for the housing needs of its residents." The plan has designated several implementation strategies for achieving this goal. Among these is the strategy of encouraging "the availability of a wide variety of housing locations in urban and rural areas. . . For rural areas, this strategy shall be implemented through appropriate land use designations for acreage homesites . . ."

Coos County has implemented this strategy by creating "rural residential" zoning districts. Among these is the Rural Residential 5 (RR-5) zoning district. CCZLDO Section 4.1.100(6) provides that,

"The purpose of the "RR-5" district is to provide for acreage homesites outside of Urban Growth Boundaries (UGB), where moderate intensity of land development is appropriate, but where urban services and facilities may not be available. The "RR-5" district provides for the orderly development of rural land so as to encourage the continued existence of rural family life and to provide a transition of densities between urban development and exclusive agricultural or forestry uses."

As discussed above, both of the subject parcels are split-zoned and contain a Rural Residential designation as well as a Forest designation. By rezoning the Forest-zoned portion of each parcel to Rural Residential, each parcel will enjoy uniformity in its zoning designation. The portion of Tax Lot 1300 that would be designated as Rural Residential by the proposed rezone is already developed with a residential dwelling, which is consistent with the purpose of the district. The rezoning of the

Forest-zoned portion of Tax Lot 1400 to Rural Residential will be consistent with this adjacent existing use. The proposed rezoning of both parcels will allow for the applicant to realize their goal of providing for rural residential homesites that can be developed and enjoyed by their children, which is consistent with the stated purpose of the Rural Residential designation of encouraging the continued existence of rural family life.

*We find substantial evidence in the record to support the finding that the subject property is appropriate for the Rural Residential designation.*

**B. The proposed rezoning is compatible with permitted uses on nearby parcels, and will not seriously interfere with those uses.**

Several parcels located immediately north of the subject property are zoned Forest, but are developed with single-family dwellings. The parcels located to the northeast and east of the subject property are zoned Rural Residential and are similarly developed or permitted to be developed with residential dwellings, as discussed in the attached Bosshardt letter. The parcel immediately to the south of the subject property is developed with a private golf course known locally as The Sheep Ranch.

At its maximum density, the proposed rezoning would allow further partitioning of the subject property to a minimum lot size of 5 acres, and would allow each lot to be developed with a single-family residential dwelling. Under current zoning, only one single-family dwelling would be permitted on Tax Lot 1400, in addition to the existing single-family dwelling located on Tax Lot 1300. Assuming that the subject property's two existing parcels could be partitioned into a total of four parcels, the rezoning would allow for a maximum of two additional dwellings on each 13+ acre parcel.

No evidence has been submitted by any neighboring landowner in opposition to the request, and none of the neighboring landowners have asserted that the proposed rezoning would interfere with the permitted uses on their parcels. The only testimony alleging such possible interference comes from Ms. Anderson, who does not live nearby the subject property, and which merely speculated as to the potential for interference, while providing no specific evidence of interference.

*We find substantial evidence in the record to support the finding that the proposed rezoning is compatible with permitted uses on nearby parcels, and will not seriously interfere with those uses.*

**C. The proposed rezoning complies with other policies and ordinances that have been adopted by the County Board of Commissioners, and all other applicable statutes and administrative rules.**

The proposed rezoning and plan amendment does not require an exception to be taken to the Statewide Planning Goals, including but not limited to Goals 3 (Agricultural Lands), 4 (Forest Lands), and 14 (Urbanization). The evidence establishes that the subject property is neither "agricultural land" nor "forest land" as those terms are defined the County Code and state law. As a result, neither Goals 3 or 4 are applicable to the subject property. In addition, since the rezone can be accomplished without taking an exception to Goals 3 and 4, the provisions of OAR 660-004-0040 that would restrict the minimum lot size for rural residential lands to 10 acres do not apply to the rezone, pursuant to OAR 660-004-0040(2)(a). There are no other policies, ordinances, statutes, or

administrative rules that would restrict or prohibit the requested rezone and plan amendment.

*We find substantial evidence in the record to support the finding that the proposed rezoning complies with other policies and ordinances that have been adopted by the County Board of Commissioners, and all other applicable statutes and administrative rules*

#### **IV. Conclusion**

Based on the evidence in the record and findings of fact set forth above, the Board of Commissioners hereby approve the request that the Forest-zoned portion of the subject property be rezoned to Rural Residential 5 (RR-5) designation, with appropriate changes made to the Comprehensive Plan and zoning map. The evidence demonstrates that the subject property is neither agricultural land nor forest land, as those terms are defined by state and local law. In addition, the proposed rezoning conforms with the County's Comprehensive Plan, is compatible with and will not interfere with permitted uses on other nearby parcels. Finally, the proposed rezone complies with other policies and ordinances adopted by the County, and all other applicable statutes and administrative rules.

Department  
House

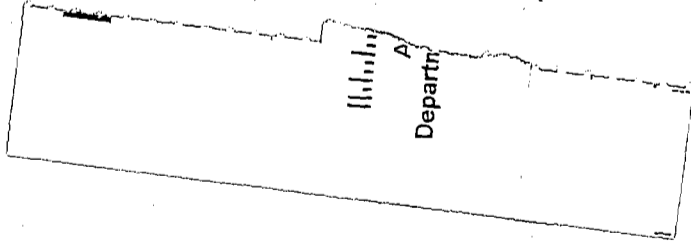
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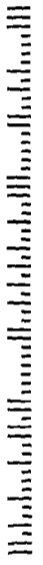
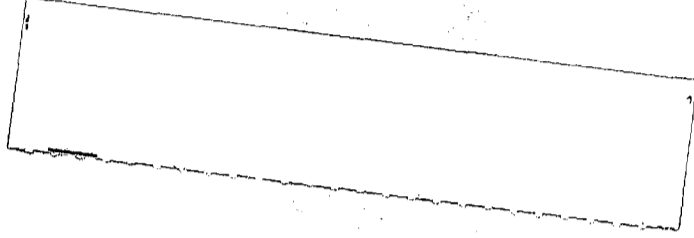
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Department of Land Conservation and Development  
635 Capitol Street NE Suite 150  
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