NOTICE OF ADOPTED AMENDMENT

01/13/2009

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Coos County Plan Amendment
DLCD File Number 008-08

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: Thursday, January 29, 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

<pa> YA
January 9, 2008

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

RE: Form 2, DLCD Notice of Adoption for AM-08-08/RZ-08-04, Walters

Dear Mr. French:

Enclosed please find the Form 2 Notice of Adoption with two (2) copies of the adopted Ordinance 08-10-011PL.

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

Sincerely,

COOS COUNTY PLANNING DEPARTMENT

Patty Evernden, Planning Director

c: David Perry
file
BEFORE THE BOARD OF COMMISSIONERS
OF THE COUNTY OF COOS, OREGON

IN THE MATTER OF AMENDING THE COOS )
COUNTY ZONING & LAND DEVELOPMENT )
ORDINANCE AND COMPREHENSIVE PLAN )
(Walters AM-08-08/RZ-08-04 )

This matter came before the Coos County Board of Commissioners sitting for the transaction of
business on the 30th of December, 2008, concerning amendments to the Coos County Zoning and
Land Development Ordinance and Comprehensive Plan. Specifically, the Board considered a
plan amendment and rezone of property described as Township 23, Range 13, Section 26, Tax
Lot 500.

WHEREAS, on October 3, 2008, George Walters filed an application to amend the Coos County
Comprehensive Plan Map and Zoning Map to change the current zoning of the subject property
from Forest to Recreation,

WHEREAS, the application was considered by the Planning Commission at public hearing on
December 4, 2008 and following deliberation, the Planning Commission recommended the
Board of Commissioners approve the proposal;

WHEREAS, consideration for the ordinance complies with Coos County Zoning & Land
Development Ordinance Section 5.1.400 criteria for rezones and Oregon Statewide Planning
Goals 3 and 4.

WHEREAS, all notices to interested property owners and interested parties have been provided
pursuant to law; now therefore,

THE BOARD OF COMMISSIONERS OF COOS COUNTY FINDS:

1. On September 7, 2004, the applicant was issued zoning clearance (ZCL-04-511) for a site
evaluation only. On December 15, 2006, zoning clearance (ZCL-06-684) was issued to allow the
applicant and his immediate family to camp for up to 45 days per calendar year on the subject
property. The property has been utilized for private recreational purposes.

2. Through a submitted report, DLCD agrees the subject property has very limited resource
value for farming or forestry and that the Recreation planning and zoning designations are
appropriate. DLCD cautions that other issues impact the proposal to subdivide and market the
subject property including transportation access, provision of drinking water and on-site waste
disposal. DLCD recommends in the event of future land division, the plat or title include
restrictions on development in the Recreation zone

Ordinance 08-10-011PL
3. Through submitted report, the Oregon Department of Transportation (ODOT) advises there is a valid Road Approach Permit (#07A35139) for a single-family residence. Future development and/or land division will require an updated ODOT Road Approach Permit.

4. Through submitted report, ODOT Rail Division, advises that a change in zoning from Forest to Recreation will change the crossing from private to public status which will require ODOT Rail Division authorization. ODOT Rail is generally opposed to creation of new grade crossings (in this case the conversion of a private crossing to public status).

5. There are jurisdictional (state/federal) wetlands associated with the eastern portion of the property. Future development will likely involve a coordinated review.

ADDITIONAL FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Oregon Statewide Planning Goal 3 defines agricultural lands in western Oregon as comprised predominantly of Class I, II, III, and IV soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other 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. Approximately half of property is class 6 soils, which are not considered farm soil. Dune land covers approximately 7% of the property along its western edge. The capability class for this area is 8, again not suitable for commercial crop production. 44% of the property is class 4w, the "w" shows that water in or on the soil interferes with plant growth or cultivation.

2. Oregon Statewide Planning Goal 4 defines forest land as including lands suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water, and fish and wildlife resources.

Before forest land is changed to another use, the productive capacity of the land in each use should be considered and evaluated.

The acknowledged zoning is forest. According to the US NRCS data, 49% of the property has Forest Site Index of 63 for Douglas Fir which is low for commercial growth in Coos County. This soil type is limited for timber management by erosion hazard, wind throw, seedling mortality, and plant competition.

3. Section 5 1.400(1)(a) requires a finding of conformance with the comprehensive plan. The proposal would change the zone designation from Forest to Recreation which is an acknowledged zone designation in the Coos County Comprehensive Plan. The implementing zone would be amended to REC. The purpose of the "REC" district is to accommodate
recreational uses of areas with high recreational or open space value. New recreational
developments in this district must be conditioned by environmental considerations set forth in the
County's Coastal Shoreland/Dune Lands Comprehensive Plan Policies where such developments
are allowed in these coastal resource areas.

The rezone area is adjacent to the Oregon Dunes National Recreation Area which is an area of
high recreation value and high open space value.

The subject property is located within a Goal 18 dune area of “limited development suitability”.
Future development is subject to administrative conditional use review which shall include a site
investigation report that addresses Comprehensive Plan Policy 5.10 Implementation Strategy 2.

A portion of the subject property is located within the Coastal Shoreland Boundary subject to
Plan Policy 5.10 Implementation Strategy 7 which allows private and public water dependent
recreation developments. Coastal Recreation is conducted not only in offshore ocean waters but
also in areas along beaches and dunes.

Based on the above, the rezone is in conformance with the Comprehensive Plan.

4. Section 5.1.400(1)(b) requires a finding that the rezoning will not seriously interfere with
permitted uses on other nearby parcels. Permitted uses in the area include forest use and
recreation. The Oregon Dunes National Recreation Area is adjacent to the subject property, the
applicant has received county authorization to temporarily camp on the property for up to 45 days
per calendar year for the purpose of recreation on the property as well as the adjacent public
recreational area. The proposed Recreation zone for the subject property is consistent with the
adjacent recreationally designated lands.

Considering the proximity of the public dune area to the forest zoned land in the area, it is
unlikely that rural recreational development of the property would seriously interfere with forest
uses on nearby parcels. Future development of the property is further restricted for development
because of wetlands, riparian setbacks and Goal 18 dune issues.

5. Section 5.1.400(1)(c) requires that the rezoning comply with all other policies and
ordinances a may be adopted by the Board of Commissioners. There are no other ordinances or
policies in place or proposed that will conflict with the proposal.

6. Section 5.1.400(2) provides 3 options for the Hearings Body to recommend a conditioned
or qualified approval to the Board of Commissioners. In this matter the Hearings Body
recommended approval with the condition that the property owner receive approval from ODOT
Rail Division regarding the railroad crossing.

CONDITION OF APPROVAL

The developer must demonstrate compliance with the Oregon Department of Transportation Rail
Division prior to obtaining future development authorization.
ADOPTED this 7th day of January, 2009.

BOARD OF COMMISSIONERS

Absent

Commissioner

Commissioner

Commissioner

ATTEST:

Recording Secretary

APPROVED AS TO FORM:

Office of County Counsel

Ordinance 08-10-011PL