



# STAFF REPORT

Coos County Planning  
60 E. Second  
Coquille, OR 97423  
<http://www.co.coos.or.us/>  
Phone: 541-396-7770

## I. MATTER DETAILS – AGENDA ITEM IV. B

**FILE NUMBERS:** AM-21-005/RZ-21-005

**APPLICANT:** KASPER, JEREMIAH D & BRIDGET R  
PO BOX 2070  
BANDON, OR 97411-2070

**STAFF CONTACT(S):** Amy Dibble, Planner II                      Jill Rolfe, Planning Director  
[adibble@co.coos.or.us](mailto:adibble@co.coos.or.us)    [jrolfe@co.coos.or.us](mailto:jrolfe@co.coos.or.us)

**SUMMARY PROPOSAL:** This application was submitted as a consolidated request with a plan amendment to change the zoning. While Coos County Zoning and Land Development Ordinance Section 5.0.400 provides for a concurrent review staff does find this application is complex and would be better to review the plan amendment separate from the rest of the request. Staff will review the Lawfully Created Unit of Land, Property Line Adjustments and Dwelling Authorizations as Administrative Actions. This will extend the time lines a bit but will not ultimately affect the decision unless the Plan Amendment is denied.

**PUBLIC HEARING:** The time and place for the Coos County Planning Commission to review this matter in a public hearing is December 2, 2021, at 7:00 P.M. in the Owen Building, 201 N. Adams Street, Coquille Oregon

**LOCATION OF PROPOSAL:** The Subject Property in which the Plan Map Amendment is proposed is identified as Township 29S, Range 14W, Sections 08, Tax Lots 302 and 301. These properties are located south of the City of Bandon and accessed off of Circle City Lane, via Barnekoff Lane onto Rosa County Road.

### APPLICABLE IDENTIFIED

**REVIEW CRITERIA:** The proposal is for an Amendment to the Coos County Comprehensive Plan Map and the Coos County Official Zoning Map by Rezoning the subject property from the current Plan Map Designation Agricultural to Forest and included in the Mixed Use Overlay and amend the Official Zone Map Designation from Exclusive Farm Use to Forest/Mixed Use subject to Coos County Zoning and Land Development (CCZLDO) Article 5.1 Plan Amendments and Rezones; Coos County Comprehensive Plan (CCCP) Volume I, Part I - Policy 5.4 Plan Implementation Strategies; Volume I, Part II, 3.2(5) Forest Lands, Implementation Strategies; Oregon's Statewide Planning Goals & Guidelines - Goal 3 - Agricultural Lands; and Goal 4 - Forest Lands and OAR 660-006-0057 Rezoning Land to an Agriculture/Forest Zone (codified in Coos County Comprehensive Plan).

**HEARING PROCESS AND PROCEDURES:** There are four ways to participate in this matter by phone; virtually; in person or in writing.

- i. **Virtual or by phone:** This option is only available during the time and date the hearing is scheduled. To participate there GoToMeeting or by phone please provide an email to [planning@co.coos.or.us](mailto:planning@co.coos.or.us) with your name, address, email and phone number for the record and in case there is any technical difficulty.

**Planning Commission**

Thu, Dec 2, 2021 7:00 PM - 10:00 PM (PST)

**Please join my meeting from your computer, tablet or smartphone.**

<https://global.gotomeeting.com/join/588742533>

**You can also dial in using your phone.**

United States: [+1 \(646\) 749-3122](tel:+16467493122)

**Access Code:** 588-742-533

- ii. **In Person:** The meeting can be attended in person at the time and date scheduled. All participants are required to follow COVID restrictions that are applicable at the time of the hearing. The meeting will be held in the Owen Building Large Conference Room 201 N. Adams Street, Coquille OR 97423. If you require assistance to participate in the meeting, please provide 48 hours' notice to the Planning Staff to accommodate the request. [planning@co.coos.or.us](mailto:planning@co.coos.or.us) or 541-396-7770.
  
- iii. **In Writing: Testimony shall be submitted by the deadline provided at the hearing or the close of the record in the forms described below.**
  - a. **Submission of Written Testimony:** Written testimony and evidenced provided by participants that will not be attending shall be received no later than 5 pm on the day of the hearing. Although it is encouraged to submit the information well in advance to provide the Hearings Body a chance with an in depth review. Written testimony and evidence to shall be mailed 225 N. Adams, Coquille, OR 97423, dropped off at the planning office at 60 E. Second Street, Coquille or emailed to [planning@co.coos.or.us](mailto:planning@co.coos.or.us). If the testimony is not received by the 5 pm deadline it will need to be submitted in person at the hearing or it will not be considered. **Please review the additional information regarding submission of written evidence.**
  
  - b. **Submission of Written Evidence**
    - Petitions: Any party may submit a petition into the record as evidence. The petition shall be considered as written testimony of the party who submitted the petition. A petition shall not be considered to be written testimony of any individual signer. To have standing, a person must participate orally at the hearing or submit other individual written comments. Anonymous petitions or petitions that do not otherwise identify the party submitting the petition shall not be accepted as evidence.
    - Required Number of Copies: Submission of written materials for consideration shall be provided in the form one original hard copy and one exact copy or one original hard copy and one electronic copy. The County may, at its sole discretion, reject any materials that do not contain the requisite number of copies. It may be requested that the County make the requisite number of copies subject to the submitter paying the applicable copy charges.
    - E-mail testimony may be submitted; however, it is the responsibility of the person submitting the testimony to verify it has been received by Planning Staff by the applicable Deadline.
    - All written testimony must contain the name of the person(s) submitting it and current mailing address for mailing of notice.
    - The applicant bears the burden of proof that all the applicable criteria have been met; however, in the case of an appeal, the appellant bears the burden of proving the basis for the appeal, such as procedural error or that applicable criteria have not in fact been met. [Amended OR 08-09-009PL 5/13/09]
  
- iv. **General Meeting Procedure:** The Planning Commission will start the meeting at 7:00 pm unless otherwise noticed. There will be introductions of the Commissioners and Staff, Approval of Minutes if available and Request for any comments from the public on matters not related to the formal hearings scheduled or pending land use matters prior to opening the hearing. Upon opening the

public hearing portion of the meeting, the Planning Staff or County Counsel will provide the procedural rules.

The Planning Commission will:

- a. Disclose the substance of any prehearing *ex parte* contacts regarding the matter at the commencement of the public hearing on the matter. The member shall state whether the contact has impaired the impartiality or ability of the member to vote on the matter and shall participate or abstain accordingly;
- b. Any actual or potential conflicts of interest (financial gain); and
- c. Any biases or reason a member will not be participating in the decision making process.

The Planning Commission will ask the audience if there are challenges to any Planning Commission members reviewing the matter. If there are challenges, they shall be brought forward with evidence to substantiate such challenge. There will be a chance for the member of the Commission to rebut the challenge or step down as the decision maker. If the member(s) does not step down the Planning Commission shall make a motion as to remove the member based on the evidence or make the statement that the evidence submitted is not sufficient to create a actual bias or conflict of interest. Once this is complete staff will present the matter and criteria and provide the Planning Commission an opportunity to ask any questions about staff's presentation or material that have been provided.

The Oral testimony will begin:

- a. Applicant's presentation (20 minutes)
- b. Proponents of the application (3 to 5 minutes)
- c. Opponents of the application (3 to 5 minutes)
- d. Rebuttal or closing by the applicant. (3 to 5 minutes)

Tips for providing effective testimony<sup>1</sup>

- a. State your name and address for the record.
  - b. Begin by saying you support or oppose a particular agenda item, and briefly explain why.
  - c. Use facts to verify your statements.
  - d. Describe how this issue affects you personally, what you suggest as a solution and then summarize your testimony.
  - e. Be sure to tell the reviewing body exactly what you wish them to do. If you are opposing, your testimony should discuss why the proposal is inconsistent with the controlling law, rules or ordinances.
  - f. Do not repeat yourself or get off-topic; keep your argument concise
- v. **Notice Requirement:** This application is a Plan Map Amendment/Rezone governed by CCZLDO Section 5.0.900.3. The notice of Post Acknowledge Plan Amendment notice was provided 35 days prior to the Planning Commission meeting to meet the requirements of ORS 197.610. The hearing notice was published in accordance with ORS 197.732. Notice was mailed to property owners in compliance with CCZLDO Section 5.0.900.1 Notice of Public Hearings. Please note that the area notified was larger due to the original concept of review was to cover more applications.
- vi. **REVIEW PERIOD:** This application was submitted on October 26, 2021. Pursuant to ORS 215.427 this application is not subject timelines as it is application for a zone change which requires a plan amendment.

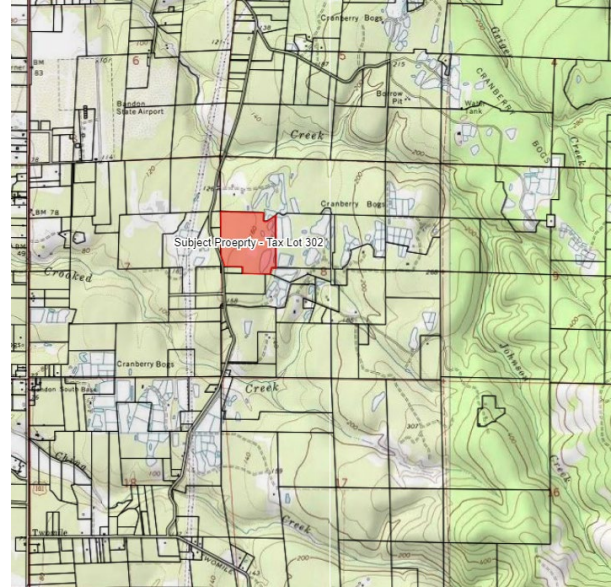
---

<sup>1</sup>[https://www.co.coos.or.us/sites/default/files/fileattachments/planning/page/13051/tesify\\_at\\_land\\_hearing\\_brochure.pdf](https://www.co.coos.or.us/sites/default/files/fileattachments/planning/page/13051/tesify_at_land_hearing_brochure.pdf)

**II. STAFF REPORT – WITH RECOMENDATOINS AND PROPOSED FINDINGS**

**A. SUBJECT PROPERTY DETAILS AND BACKGROUND:**

The application included four tax lots but to ensure a clear record the subject property is only.



According to the assessment records tax lot 302 contains a 3200 Square Foot General Purpose Building with an effective year of 2014. The google aerial historical images confirm that structure was sited between 2011 and 2013. This structure will require an after the fact land use authorization in the form of a Zoning Compliance Letter for an agriculture structure to bring it into compliance. The applicant will need to file the proper permits for an Agricultural Exemption with Oregon State Building Codes. Often times property owners are not aware they are not exempt from land use approvals for agricultural structures and there is a form that has to be provided to State to complete the process.

The subject property is split with the southern portion (approximately a third of the overall property) as part of the cranberry operation and the rest of the property in forest management. There is a cleared strip of land that is used as an access way. The total acreage of tax lot 302 based on the assessment is 43.46 acres and the proposed area of rezone is approximately 25 acres.



The future development plans for the property were included in the larger application but should not be included in this review to keep a clear record for the plan map amendment.

**i. SUBJECT PROPERTY INFORMATION:**

**Property #2**

Account Number(s):	1207604
Map Number(s):	29S140800-00302
Property Owner:	KASPER, JEREMIAH D & BRIDGET R PO BOX 2070 BANDON, OR 97411-2070
Situs Address:	None Assigned
Acreage:	43.46 Acres
Zoning	EXCLUSIVE FARM USE (EFU)
Special Development Considerations and overlays:	BANDON AREA OF MUTUAL INTEREST (BMI) BIRD SITE MEETS GOAL 5C REQRMT (B5C) NATIONAL WETLAND INVENTORY SITE (NWI) WETLAND IN CRANBERRY BOGS (WC)

**ii. KEY DEFINITIONS:**

**ZONING DISTRICT:** *A zoning designation in this Ordinance text and delineated on the zoning maps, in which requirements for the use of land or buildings and development standards are prescribed.*

**HIGH-VALUE FARMLAND:** *"High-value farmland" means land in a tract composed predominantly of soils that are:*

- A. Irrigated and classified prime, unique, Class I or Class II; or*
- B. Not irrigated and classified prime, unique, Class I or Class II.*

*A and B, above, include the following soils: 2C, 5A, 5B, 33, 17B, 25 and 36C.*

*In addition, high-value farmland includes tracts growing specified perennials as demonstrated by the most recent aerial photography of the Agricultural Stabilization and Conservation Service of the United States Department of Agriculture taken prior to November 4, 1993. "Specified perennials" means perennials grown for market or research purposes including, but not limited to, nursery stock, berries, fruits, nuts, Christmas trees or vineyards, but not including seed crops, hay, pasture or alfalfa.*

*Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40) and Coquille (12).*

**FOREST LAND:** *Those lands designated in the Coos County Comprehensive Plan (Volume I- "Balance of County") for inclusion in a Forest Lands zone. These areas 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 the 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.

**iii. ZONING AND SURROUNDING USES:**

Zone Map – The lighter green is Exclusive Farm Use, and the darker green is Forest with a Mixed Use Overlay. The proposed area to be rezone is currently zoned Exclusive Farm Use. The zoning to the west is Forest/Mixed Use and to the north, south and east are all Exclusive Farm Use. The properties in this area appear to be managed for farm, forest and residential purposes. The farming in this area is mostly cranberry farming.





**ARTICLE 4.2 – ZONING PURPOSE AND INTENT**

**FOREST (F)**

*The intent of the Forest District is to include all inventoried "forestlands" not otherwise found to be needed (excepted) for other uses.*

*The purpose of the Forest zone is to conserve and protect forest land for forest uses. Some of the areas covered by the “F” zone are exclusive forest lands, while other areas include a combination of mixed farm and forest uses.*

**FOREST MIXED USE (FMU)**

*The purpose of the Forest Mixed Farm-Forest Areas (“MU” areas) is to include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain ownership of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.*

*If land is in a zone that allows both farm and forest uses, a dwelling may be sited based on the predominate use of the tract on January 1, 1993.*

*If a use is only allowed in the mixed use zone it will be explained in the text. Otherwise the uses listed are allowed in both the Forest and Forest Mixed Use zones.*

**EXCLUSIVE FARM USE (EFU)**

*These include all inventoried "agricultural lands" not otherwise found to be needed (excepted) for other uses.*

*The purpose of the EFU district is to preserve the integrity and encourage the conservation of agricultural lands within Coos County and thereby comply with the provisions of ORS 215 and OAR 660. Division 33 to minimize conflicts between agricultural practices and non-farm uses by limiting any development to uses distinguished as dependent upon or accessory to supporting agricultural or forestry production and which qualify such farm lands for special tax relief pursuant to the provisions of Oregon Revised Statutes. This*

zone is also for the cultivation and marketing of specialty crops, horticultural crops and other intensive farm uses.

According to the Coos County Comprehensive Plan Exclusive Farm Use lands are inventoried as Agricultural Lands. The Main criterion for establishing the "Agricultural Lands Inventory" was land identified on the agricultural lands based on soils, Class I-IV soils or "other lands" suitable for agricultural use, with the following exceptions:

1. Committed rural residential areas and urban growth areas.
2. Proposed rural residential areas as per the Exception to Goals #3 and #4.
3. Proposed industrial/commercial sites.
4. Existing recreation areas (e.g., golf courses) [Recreation designation]
5. Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).
6. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].

The secondary criterion for establishing the "Agricultural Lands Inventory" was the use of aerial photos used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. However, if lands were zoned predominately forest it may have resulted in a Mixed Use Overlay.

**iv. GENERAL COMPLIANCE:**

*COMPLIANCE PURSUANT TO SECTION 1.1.300: It shall be unlawful for any person, firm, or corporation to cause, develop, permit, erect, construct, alter or use any building, structure or parcel of land contrary to the provisions of the district in which it is located. No permit for construction or alteration of any structure shall be issued unless the plans, specifications, and intended use of any structure or land conform in all respects with the provisions of this Ordinance.*

**FINDING:** Staff has reviewed the property history and the county files to determine at the time of this report the portions of the properties subject to review are compliant with the exception of the Agricultural Structure located which the applicant shall obtain an after the fact land use approval. The tax lot is made up of three lawfully created units of land that were described by deeds and shown in the 1975 zone map with separate account numbers. The full lawfully created determination will be reviewed administratively with an opportunity to appeal. However, the lawfully created status does not affect this request. Therefore, this has been addressed.

**v. COMMENTS:**

Comments were requested from Oregon Department of Wildlife for a possible protected bird site in the vicinity and Oregon Department of State Lands for wetlands. To the date of this report their comments have not been made available.

A public comment was received from Grant Family Farms in support of the application. All comments are found at Attachment B.



**B. FINDINGS, CONCLUSIONS AND RECOMMENDATIONS:**

***APPLICABLE IDENTIFIED REVIEW CRITERIA FOR REZONE:***

- a. Coos County Zoning and Land Development Ordinance (CCZLDO), Article 5.1 Plan Amendments and Rezones;
  - i. Coos County Comprehensive Plan
    - 1. Volume I Part II Inventories Sections 3.1 Agricultural Lands and 3.2 Forest Lands;
    - 2. Coos County Comprehensive Plan Maps Balance of County (14) Zone Maps and (16) Mixed Use Maps; and
- b. Oregon's Statewide Planning Goals & Guidelines Goals 3 and 4.
- c. OAR 660-006-0057 - Rezoning Land to an Agriculture/Forest Zone

***a. Coos County Zoning and Land Development Ordinance (Ordinance)***

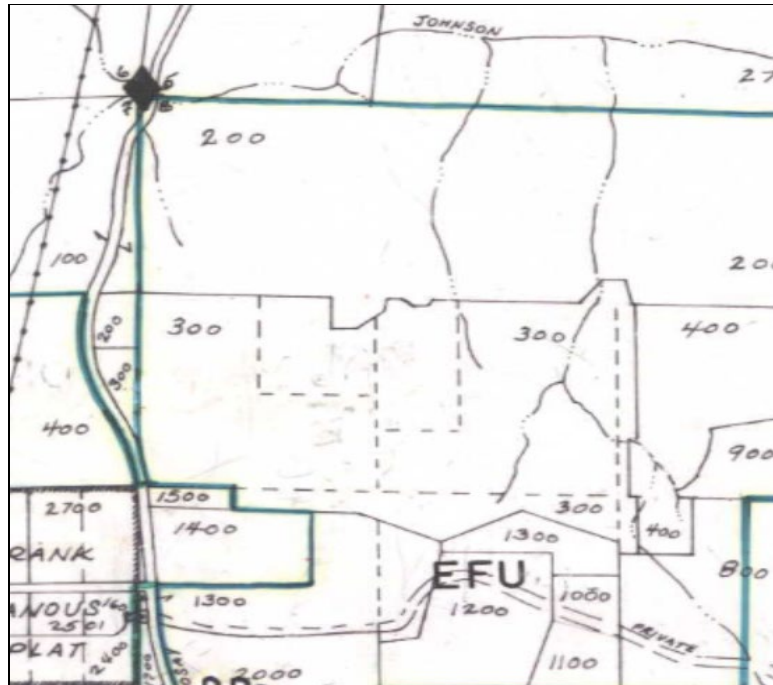
• **ARTICLE 5.1 REZONES**

• **SECTION 5.1.200 REZONES:**

*Rezoning constitutes a change in the permissible use of a specific piece of property after it has been previously zoned. Rezoning is therefore distinguished from original zoning and amendments to the text of the Ordinance in that it entails the application of a pre-existing zone classification to a specific piece of property, whereas both original zoning and amendments to the text of the Ordinance are general in scope and apply more broadly.*

**STAFF RESPONSE: This proposal is not a text amendment but a map amendment. There are three plan maps that will require amendments if the application is approved by the Board of Commissioners.**

Official Zone Map



Mixed Use Maps. Section 7 and 8 to show where the current Mixed Use Inventory is located. If approved the mixed use shaded area will be continued on to the portion of 302.



Therefore, the appropriate applications have been filed and the County is reviewing this as a Plan Map Amendment and not a Text Amendment.

- Volume I Part II Inventories Sections 3.1 Agricultural Lands and 3.2 Forest Lands;

**STAFF RESPONSE:** To understand why the zoning applied to property will help in the decision if it is still appropriate another zoning is more appropriate. When the Coos County Comprehensive Plan was developed an Agricultural Lands Inventory and Forest Inventory were created with mapping. Volume I Part I provides the following explanation regarding Agricultural Inventory.

---

Agricultural lands are differentiated from Forestlands on the basis of the following criteria:

1. Main criterion: Agricultural Lands Inventory

Land identified on the agricultural lands inventory (as Class I-IV soils or "other lands" suitable for agricultural use) are designated as agricultural lands, with the following exceptions:

- i. Committed rural residential areas and urban growth areas.
- ii. Proposed rural residential areas as per the Exception to Goals #3 and #4.
- iii. Proposed industrial/commercial sites.
- iv. Existing recreation areas (e.g., golf courses) [Recreation designation]
- v. Isolated parcels of Class I-IV soils in upland areas, which are under, forest cover. (Forestlands designation).
- vi. Narrow valley bottomlands where no agricultural activity is occurring anywhere in the vicinity [Forestlands designation].

2. Secondary criterion: Existing Land Use Inventory and Air Photos

There are two sources of existing land use information that are used to identify additional areas without Class I-IV soils in current agricultural use which were not initially identified in the agricultural lands inventory from Assessor's Data. This situation typically occurs on benches, immediately above agricultural valleys, where grazing often takes place on non-class I-IV soils. As a result, minor additions only are made to areas shown in the agricultural lands inventory.

All other areas are designated as forestlands: this includes certain areas for Class I-IV soils under forest cover, as specified in (v) and (vi) above. It is considered that resource values are equally well protected by designating these lands as forest lands, provided implementation requirements are consistent with the Agricultural Lands Goal, in accordance with the LCDC policy paper, "Agriculture/Forestry Inter-relationship."

**STAFF RESPONSE:** The map that is required to be amended is listed as Plan Map in the Balance of County Comprehensive Plan Map Alternative 3 (Map No. 13) which shows the proposed area for rezone to be Agriculture and will amended to show Forest. The second map is the Official Zone Map (Map No. 14) that shows this property zoned as Exclusive Farm Use and the proposal will amend that designation to Forest. The last map is the Mixed Use Overlay Map (Map No. 16) to include a Mixed Use Overlay on the area proposed for amendment. Based on the explanation of the current zoning it appears that entire tax lot was included in the Agricultural Inventory based on the existing farm operation and overall soils of the tract of land which consists of other tax lots. This rezone separates out the land use and soils on site and will result in the same resource protections that is intended by Agricultural and Forest designations.

- *Volume I, Part 2, Policy 3.2 Forest Lands (5) Implementation Strategies*

*5.1 Proposed Forest Zone The Planning Commission proposed to implement the Forest Lands Goal by establishing one forest zone. That zone is as follows:*

*F – "Forest"*

*Within the forest zone, the extent of preservation of forest lands primarily for forest uses will be established through implementation of the zoning ordinance. Specifically, standards within the ordinance are set to delineate those areas, or parcels, which have historically been managed as "mixed use" areas, including both*

*farm and forest uses. Based on the June 24, 1983 DLCD Staff Report of Coos County, it is understood that uses in these “mixed use” areas are appropriately expanded to include additional non-forest uses that may not otherwise be allowed in a prime commercial forest zone. As stated in that report: “The Commission’s decision in Allen v. Umatilla County (LUBA 83-076) supports the mixed use/predominant forest use concept and establishes separate requirements for authorizing certain non-forest uses in each forest area”. (June 24, 1983 DLCD Staff Report, p. 106).*

*The zoning ordinance standards are used, ultimately, to determine the degree of productivity of the land for forest production vs. the productivity of the land for farm use. It is the intent of the Planning Commission to strictly preserve prime commercial timber areas in the county, while allowing for some justified non-forest uses in the areas established as “mixed use” areas. These “mixed use” areas are identified on the “Mixed Agricultural-Forest Use Areas” inventoried map based on specific review criteria.*

*Standards for determining the degree of allowance for non-forest uses are based on such things as productivity of the land for forestry, historical land use (i.e. farm uses), terrain and surrounding uses. The review process will occur at the request of the applicant on a case by case basis.*

*There are basically two different types of forest areas in Coos County. These are (i) prime forest areas, and (ii) mixed farm-forest areas. Certain non-farm uses not allowed in the former may be allowed as conditional uses in the latter. The two types of forest land are described in greater detail, as follows:*

*(i) “Prime Forest Area”. These areas or parcels are typically large contiguous blocks of undeveloped land which are managed exclusively for timber production with some ancillary forest uses. Intensive forest management is practiced within this classification. A parcel or area subject to this classification will be preserved primarily for forest uses.*

*(ii) “Mixed Farm-Forest Area”. These areas include land which is currently or potentially in farm-forest use. Typically such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.*

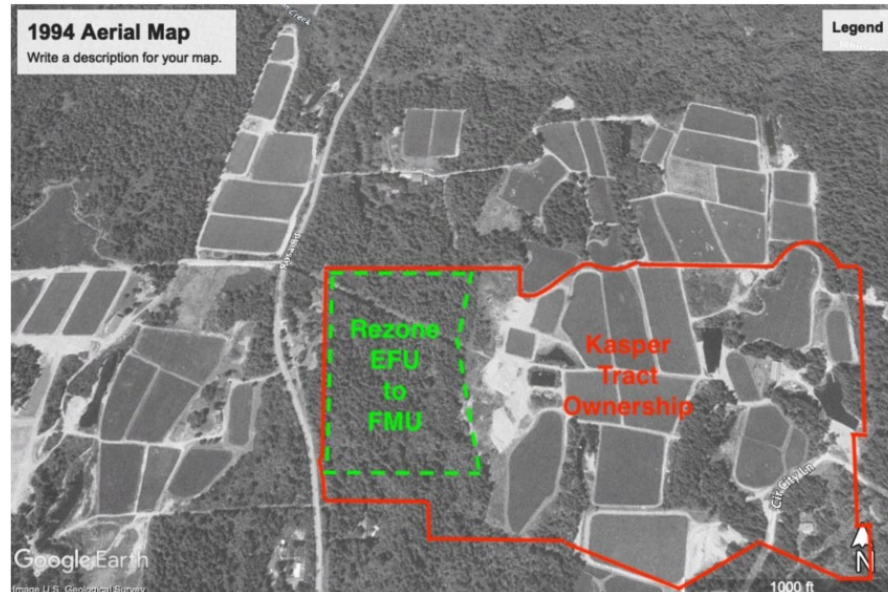
*In certain areas of the County, these “mixed use” areas consist of extensive uplands where the lands are held predominantly by ranchers who manage their properties interchangeably between grazing and forestry depending on the economic base of each commodity at any given time. An essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these lands, but not to the same extent as in “prime forest areas”, and grazing is in many places a co-dominant use. There are typically a mixture of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.*

*The mixed use areas are identified at a scale of 1”=2 miles on the “Mixed Agricultural-Forest Use Areas” Comprehensive Plan inventory map. A change in the boundary of the “mixed use” inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:*

- 1) Mixed use areas are those areas with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agricultural uses.*
- 2) Mixed use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.*

3) *Mixed use areas are those areas predominantly co-managed for both farm and forest uses.*

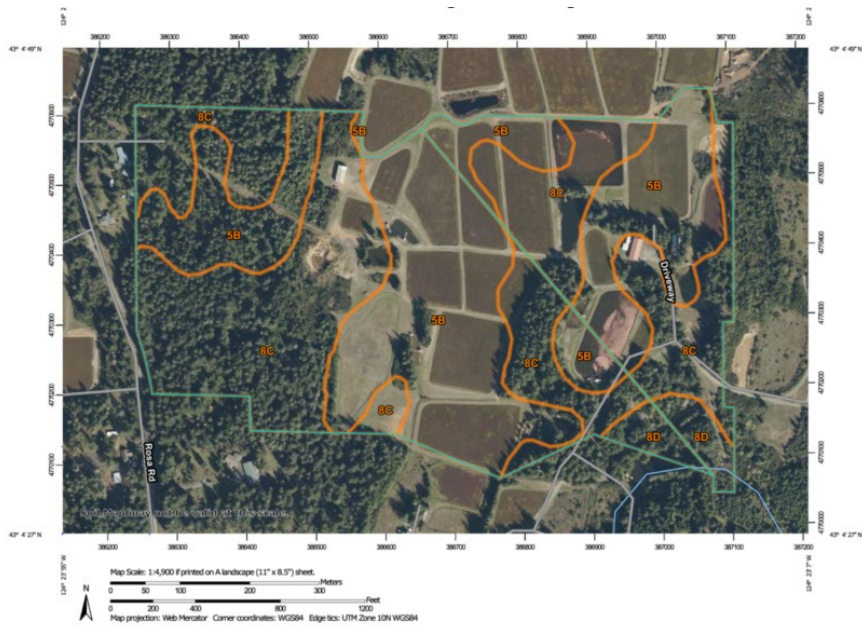
**STAFF RESPONSE:** The portion of the subject property that is proposed to be rezoned contains both agricultural and forest soils (full soil report found in Attachment A of this report) that could be reconsidered suitable for either farming or forestry use. The land has been used for forestry purposes since at least February 16, 1983. Below is a 1994 aerial image of the subject parcel



Staff agrees with the applicants' findings that based on the Natural Resource Conservation Service (NRCS) survey map, the soil type of the proposed rezone area consists of Blacklock fine sandy loam (5B) and Bullards sandy loam (8C). Bullards sandy loam (8C) has a site index of 104 and has the potential growth rate volume of wood fiber of 143 for Douglas-fir, Sitka Spruce, and Western hemlock species. Blacklock fine sandy loam (5B) has a site index of 90 and has the growth rate volume of wood fiber of 72 for Port orford cedar, Shore pine, Sitka spruce, Western hemlock.

The Bullards sandy loam is classify as Site Class III soil type using the Classification for Douglas-fir within Volume I Part 2 of the Comprehensive Plan. While the Blacklock fine sandy would not be classify given the lack of data for the growth for Douglas-fir.





### Report—Forestland Productivity

Forestland Productivity—Coos County, Oregon				
Map unit symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site Index	Volume of wood fiber <i>Cu ft/ao/yr</i>	
5B—Blacklock fine sandy loam, 3 to 7 percent slopes				
Blacklock	Port orford cedar	—	—	Port orford cedar, Shore pine, Sitka spruce, Western hemlock
	Shore pine	90	72.00	
	Sitka spruce	—	—	
	Western hemlock	—	—	
6C—Bullards sandy loam, 7 to 12 percent slopes				
Bullards	Douglas-fir	104	143.00	Douglas-fir, Sitka spruce, Western hemlock
	Pacific madrone	—	—	
	Red alder	—	—	
	Shore pine	—	—	
	Sitka spruce	157	229.00	
	Western hemlock	—	—	
	Western redcedar	—	—	
8D—Bullards sandy loam, 12 to 30 percent slopes				
Bullards	Douglas-fir	104	143.00	Douglas-fir, Sitka spruce, Western hemlock
	Pacific madrone	—	—	
	Red alder	—	—	
	Shore pine	—	—	
	Sitka spruce	157	229.00	
	Western hemlock	—	—	
	Western redcedar	—	—	

Table 2

Classification Systems for Douglas Fir  
(below 2500 feet in western Oregon)

Growth Measures		Scale															
Site Index: Height in Ft. at 100 years	50	60	70	80	90	100	110	120	130	140	150	160	170	180	190	200	210
Potential Yield: cubic feet/acre/year	20	20-49	50-80			85-119		120-164			165-224						
<u>Classification Systems</u>																	
Cubic Foot Site Class	7	6	5			4		3			2						
Site Class (Bulletin 201)			V		IV			III			II			I			
Dept. of Revenue Forest Land Class	FX		FG		FF		FE		FD	FC		FB		FA			

Source: Oregon State Department of Forestry

Coos County Land Development and Zoning Ordinance’s Key Definitions for High-Value Farmland include the soil type of 5B, which is Blacklock fine sandy loam and 8C clearly is a timber production soil with makes it impractical to apply Goal 3 or 4 alone. Therefore, the application should be approved.

- *Volume I, Part I. Policy 5.4(8) FOREST LANDS*

5.4(8) Coos County shall consider, and approve where appropriately Justified, changes from forestry to agriculture zoning districts, and vice versa, upon findings which establish:

a. That the proposed rezone would be at least as effective at conserving the resource as the existing zone;

According to the applicants area subject to rezone is currently being used for timber production. The change from EFU to FMU will continue a similar pattern of resource protection considering both zone districts are group together in Section 4.2.500 Resource Zones.

b. That the proposed rezone would not create a non-conforming use;

According to the applicants the area subject to rezone is currently being utilized for forest management. The propagation or harvesting of a forest product is outright permitted on all EFU subzones per Section 4.6.200 Exclusive Farm Use – Use Tables (3). Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash are permitted outright in Forest Mixed Use zones thru Section 4.6.110 (2).

c. That the applicant for the proposed rezone has certified the he/she understands that the rezone, if granted, could have significant tax consequences;

**Applicant Response: The applicants acknowledge there may be tax consequences for rezoning from Exclusive Farm Use to Forest Mixed Use zoning district.**

*County shall, upon a finding to approve the rezone under consideration, amend the “Agricultural Land” or “Forest Land”. Comprehensive Plan Map designation so as to correspond to the new zone, as approved.*

*Implementation of this policy shall include conducting a “rezone public hearing”.*

*This strategy recognizes:*

- d. *That agricultural and forestry are closely related in Coos County because the land resource base is capable of and suitable for supporting both agricultural and forest use and activities;*
- e. *That this simply plan revision process for agricultural and forest plan designations is necessary to help support the existing commercial agricultural and forest enterprises because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.*

**Applicant Response: The applicants understand this planning application will be decided in a public hearing.**

#### *MIXED AGRICULTURAL-FOREST USE AREAS*

*Volume I, Part II, 3.2(5) Implementation Strategies (Appendix 1)*

*There are basically two different types of forest areas in Coos County. These are (i) prime forest areas, and (ii) mixed farm-forest areas. Certain non-farm uses not allowed in the former may be allowed as conditional uses in the latter. The two types of forest land are described in greater detail, as follows:*

*(i) “Prime Forest Area”. These areas or parcels are typically large contiguous blocks of undeveloped land which are managed exclusively for timber production with some ancillary forest uses. Intensive forest management is practiced within this classification. A parcel or area subject to this classification will be preserved primarily for forest uses.*

*(ii) “Mixed Farm-Forest Area”. These areas include land which is currently or potentially in farm-forest use. Typically, such lands are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and grazing uses. The areas generally occupy land on the periphery of large corporate and agency holdings and tend to be form a buffer between more remote uplands and populated valleys. In addition, these “mixed use” areas contain ownerships of smaller size than in prime forest areas. Some are generally marginal in terms of forest productivity, such as areas close to the ocean.*

*In certain areas of the County, these “mixed use” areas consist of extensive uploads where the lands are held predominantly by ranchers who manage their properties interchangeably between*

*grazing and forestry depending on the economic base of each commodity at the any given time. As essential management approach practiced by these ranchers is to maintain enough upland grazing acreage to sustain livestock during the winter months due to the flooding of lowland areas. Some intensive forest management is practiced on these, but not to the same extent as in “prime forest areas”, and grazing is in many places a co-dominat use. There are typically mixtures of farm and forest uses in these areas. Certain non-forest uses will be allowed in areas that meet the criteria of this classification as established in the zoning ordinance.*

*The mixed use areas are identified at a scale of 1”=2 miles on the “Mixed Agricultural-Forest Use Areas” Comprehensive Plan inventory map. A change in the boundary of the “mixed use” inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:*

- a. Mixed-use areas are those with soil, aspect, topographic features and present ground cover that are best suited to a combination of forest and agriculture uses.*
- b. Mixed-use areas are those areas generally managed to maintain enough upland acreage to sustain livestock during the winter months due to flooding of lowland areas.*
- c. Mixed-use areas are those areas predominantly co-managed for both farm and forest uses.*

**Staff agrees with the applicants response that the subject property and area requested for rezone from EFU to FMU is located along Rosa Road, which is southeast of the City of Bandon. Rosa Road is combination of Forest Mixed Use, Exclusive Farm Use, and Rural Residential properties. The Coos County Comprehensive Plan identifies 160 acres as the threshold for intensive forest management (industrial forestry). The majority size of these parcels are under 160 acres, thus intensive forest management is not typically in this area.**



**The portion of the subject property that is proposed to be rezoned contains both predominately soils that could be reconsidered suitable for either farming or forestry use. The land has been used for forestry purposes since at least February 16, 1983. Based on the Natural Resource Conservation Service (NRCS) survey map, (shown earlier in this report and at Attachment A) the soil type of the proposed rezone area consists of Blacklock fine sandy loam (5B) and Bullards sandy loam (8C). Bullards sandy loam (8C) has a site index of 104 and has the potential growth**

rate volume of wood fiber of 143 for Douglas-fir, Sitka Spruce, and Western hemlock species. Blacklock fine sandy loam (5B) has a site index of 90 and has the growth rate volume of wood fiber of 72 for Port orford cedar, Shore pine, Sitka spruce, Western hemlock. The applicants have provide onsite pictures of the actual trees on site and site details to show consistency with the site index.

*Goal 3 - 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.*

*Agricultural Land -- in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and 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. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event. More detailed soil data to define agricultural land may be utilized by local governments if such data permits achievement of this goal.*

*Goal 4 - To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture. Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are 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.*

**Comprehensive plans and zoning provide certainty to assure that forest lands will be available now and in the future for the growing and harvesting of trees. Local governments shall inventory, designate and zone forest lands. Local governments shall adopt zones which contain provisions to address the uses allowed by the goal and administrative rule and apply those zones to designated forest lands. Zoning applied to forest land shall contain provisions which limit, to the extent permitted by ORS 527.722, uses which can have significant adverse effects on forest land, operations or practices. Such zones shall contain numeric standards for land divisions and standards for the review and siting of land uses. Such land divisions and siting standards shall be consistent with the applicable statutes, goal**



**and administrative rule. If a county proposes a minimum lot or parcel size less than 80 acres, the minimum shall meet the requirements of ORS 527.630 and conserve values found on forest lands. Siting standards shall be designed to make allowed uses compatible with forest operations, agriculture and to conserve values found on forest lands. Local governments authorized by ORS 215.316 may inventory, designate and zone forest lands as marginal land, and may adopt a zone which contains provisions for those uses and land divisions authorized by law.**

**Rule 660-006-0057 -Rezoning Land to an Agriculture/Forest Zone. Any rezoning or plan map amendment of lands from an acknowledged zone or plan designation to an agriculture/forest zone requires a demonstration that each area being rezoned or replanned contains such a mixture of agriculture and forest uses that neither Goal 3 nor 4 can be applied alone.**

**The applicant has provided evidence and analysis to support the conclusion that the proposal is compatible with the Coos County Comprehensive Plan and that neither the Statewide Planning Goals 3 or 4 can be applied alone.**

- **SECTION 5.1.210 RECOMMENDATION OF REZONE EXPANSION BY THE PLANNING DIRECTOR:**

*The Planning Director may recommend an expansion of the geographic limits set forth in the application if, in the Planning Director's judgment, such an expansion would result in better conformity with the criteria set forth in this Ordinance for the rezoning of property. The Planning Director shall submit a recommendation for expansion to the Hearings Body prior to the scheduled public hearing for a determination whether the application should be so extended.*

**STAFF RESPONSE: The Planning Director is not recommending an expansion of the planned rezoned area.**

- **SECTION 5.1.215 ZONING FOR APPROPRIATE NON-FARM USE:**

*Consistent with ORS 215.215(2) and 215.243, Coos County may zone for the appropriate non-farm use one or more lots or parcels in the interior of an exclusive farm use zone if the lots or parcels were physically developed for the non-farm use prior to the establishment of the exclusive farm use zone.*

**STAFF RESPONSE: The applicants are not requesting to have an interior lot or parcel rezoned. The portion requested for rezone abuts the Forest/Mixed Use area in map number 29-14-07; therefore, this criteria does not apply.**

- **SECTION 5.1.220 PROCESS FOR REZONES:**

1. *Valid application must be filed with the Planning Department at least 35 days prior to a public hearing on the matter.*
2. *The Planning Director shall cause an investigation and report to be made to determine compatibility with this Ordinance and any other findings required.*
3. *The Hearings Body shall hold a public hearing pursuant to hearing procedures at Section 5.7.300.*
4. *The Hearings Body shall make a decision on the application pursuant to Section 5.1.225.*
5. *The Board of Commissioners shall review and take appropriate action on any rezone recommendation by the Hearings Body pursuant to Section 5.1.235.*

6. *A decision by the Hearings Body that a proposed rezone is not justified may be appealed pursuant to Article 5.8.*

**STAFF RESPONSE:** A valid application was filed with the Planning Department on October 26, 2021 and a Post Acknowledgment Plan Amendment was provided 35 days prior to the Planning Commission Meeting.

Staff's investigation and report is the staff report and does determine compatibility with this ordinance, Coos County Comprehensive Plan, Statewide Planning Goals 3 and 4 and OAR 660 Division 006. The Forest Mixed Use zone and Exclusive Farm Use zones are both resource zones that are set to protect Forest and Agricultural lands. The change in the zoning will preserve that goal while allowing the zoning to reflect the actual on ground management that the property owners have been practicing prior to 1983.

The Planning Commission is holding a public hearing on the matter and making a recommendation to the Board of Commissioners who will review this matter on December 28, 2021. If the result of the Planning Commission Decision is to deny the application an appeal process will be made available.

- **SECTION 5.1.225 DECISIONS OF THE HEARINGS BODY FOR A REZONE:**

*The Hearings Body shall, after a public hearing on any rezone application, either:*

1. *Recommend the Board of Commissioners approve the rezoning, only if on the basis of the initiation or application, investigation and evidence submitted, all the following criteria are found to exist:*
  - a. *The rezoning will conform with the Comprehensive Plan or Section 5.1.215; and*
  - 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.*
2. *Recommend the Board of Commissioners approve, but qualify or condition a rezoning such that:*
  - a. *The property may not be utilized for all the uses ordinarily permitted in a particular zone;*
  - b. *The development of the site must conform to certain specified standards; or*
  - c. *Any combination of the above.*

*A qualified rezone shall be dependent on findings of fact including but not limited to the following:*

- i. *Such limitations as are deemed necessary to protect the best interests of the surrounding property or neighborhood;*
  - ii. *Such limitations as are deemed necessary to assure compatibility with the surrounding property or neighborhood;*
  - iii. *Such limitations as are deemed necessary to secure an appropriate development in harmony with the objectives of the Comprehensive Plan; or*
  - iv. *Such limitations as are deemed necessary to prevent or mitigate potential adverse environmental effects of the zone change.*
3. *Deny the rezone if the findings of 1 or 2 above cannot be made. Denial of a rezone by the Hearings Body is a final decision not requiring review by the Board of Commissioners unless appealed.*

**STAFF RESPONSE:** Staff suggests the Planning Commission finds based on the application material, comments and findings staff has made that the decision be to approve the application with one condition and that is to receive an after the fact approval for the Agricultural Structure.