

Coos County Filing Cover Sheet

01/12/2022 11:19:43 AM

TO: Coos County Clerk's Office

FROM: Planning Dept

The original document will be filed, scanned, indexed and returned to your office.

Please file the attached document in the selected category indicated in the box below using the following information:

| Commissioner Journal Filings | | | | |
|------------------------------|------|----------|---|--------|
| Affidavit of Publication | R=3Y | X | Orders and/or Resolutions | R=P |
| Board of Commissioners | R=P | | Payroll Resolutions | R=P |
| BoPTA | R=6Y | | Registry of Offices | R=6YAE |
| Contracts & Agreements | R=P | | Special District Budget | R=P |
| County Budget | R=P | | Special District <small>Formations, Annexations, Dissolutions, Election Results</small> | R=P |
| County Code | R=P | | Vacation Proceedings | R=P |
| Minutes - BOC | R=P | | R=Retention P=Permanent Y=Year AE=After Expiration | |

INDEXING INFORMATION

Affected Parties Names:
 Coos County Planning Dept

Subject of Document : Brief description, minutes, contracts, orders, etc.
 Amending Ordinance 85-12-020L, & Amending Ordinance 85-03-004L

Resolution or Order #: Example: 18-2-156-X
 AM-21-005/RZ-21-005 Kasper

Document Remarks:
 Amending Ordinance 85-12-020L, & Amending Ordinance 85-03-004L

Date of Meeting or of Document: "Date Only"
 December 28, 2021

| | | | | |
|-------------|--------|----------|----------|-----------|
| Clerk use - | Filed: | Scanned: | Indexed: | Verified: |
|-------------|--------|----------|----------|-----------|

1 BOARD OF COMMISSIONERS

2 COOS COUNTY

3 STATE OF OREGON

4 In the Matter of Amending the Coos County
5 Comprehensive Plan Designation Map Plan Map
6 from Agriculture to Forest with a Mixed Use
7 Overlay; amending the Official Zone map from
8 Exclusive Farm Use (EFU) to Forest / Mixed Use
9 (F/MU)

COUNTY FILE NUMBER –
AM-21-005/RZ-21-005, KASPER

ORDINANCE 21-12-009PL

9 SECTION 1. TITLE

10 This Ordinance shall be known as the “Coos County Ordinance No. 21-12-009 PL”.

11 SECTION 2. AUTHORITY

12 This ordinance is enacted pursuant to the provisions of ORS 203.035 and Chapter 215;

13 SECTION 3. PURPOSE

14 The purpose of this Ordinance is to amend Ordinance 85-12-020L that adopted Coos
15 County Comprehensive Plan Volume I (Balance of County) Plan Zone Map and Ordinance 85-03-
16 004L that adopted Coos County Zoning & Land Development Ordinance which implements Volume
17 I of the Coos County Comprehensive Plan;

18 SECTION 4. FINDINGS AND ORDER

19 WHEREAS the property owner, Jeremiah and Bridget Kasper requested a rezone on
20 property identified as Township 29S, Range 14W, Sections 08, Tax Lots 302. The property is located
21 south of the City of Bandon and accessed off of Circle City Lane, via Barnekoff Lane onto Rosa
22 County Road.. The subject property is currently Zoned Exclusive Farm Use. The landowner applied to
23 change the zone designation Exclusive Farm Use (EFU) to Forest (F) with a "Mixed Use"
24 (Agriculture) overlay. as presented in the application and proposal to found at Attachment A.
25

26 WHEREAS Staff reviewed the proposal and made findings in the October 28, 2021, staff report that
27

1 the applicant met the required criteria and recommended that the Planning Commission (Hearings
2 Body) find that the application complied with CCZLDO § 5.1.400.;

3 WHEREAS the Planning Commission took testimony at the December 2, 2021 hearing, there was
4 no oral testimony besides the applicant's representative to present at the hearing. There was one letter
5 received in support of the proposal. The Planning Commission found that the plan amendment and
6 rezone would meet the criteria. An email objecting to the application was received and included in the
7 record to the Board of Commission. The email did not provide any relevant points to address why the
8 application did not met the criteria. A response from the applicant was received and transmitted with the
9 record to the Board of Commissioners seven days prior to the hearing.;

11 AND IT APPEARING to the Board of Commissioners that given the definition of
12 compatibility the Board of Commissioners found that the rezone would be compatible without any
13 qualifiers to limit the use of the property. The application and staff findings along with the soil and
14 slope information support the zone change request.

15 The proposal was reviewed by the Department of Land Conservation and Development
16 (DLCD) during the 35-day filing timeline and no conflicts with the Statewide Planning Goals, Statues or
17 Rules in regards to the request where raised.

18 NOW, THEREFORE, IT IS HEREBY ORDERED that the Coos County Board of
19 Commissioners reviewed the Hearings Body recommendations and found the proposal met the
20 objectives of the comprehensive plan. The evidence and testimony in the record supported the rezone
21 to Forest with a Mixed-Use Overlay. The Board of Commissioners took into consideration the
22 evidence and determined that the proposal complied with other polices and ordinances as may be
23 adopted by the Board of Commissioners. The findings in this matter can be found at Attachment B.

24 SECTION 5. SEVERANCE CLAUSE
25
26
27
28

1 If any section, subsection, provision, clause or paragraph of this ordinance shall be adjudged or
2 declared by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall
3 not affect

4 SECTION 6. REPEAL OF INCONSISTENT ORDINANCES

5 Coos County Ordinances 85-12-020L, 85-03-004L and any subsequent amendments thereto
6 are repealed to the extent that they are in conflict with this ordinance. Coos County Ordinances 85-
7 12-020L and 85-03-004L shall remain in full force and effect in all other respects.

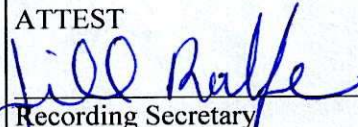
9 SECTION 7. EMERGENCY CLAUSE

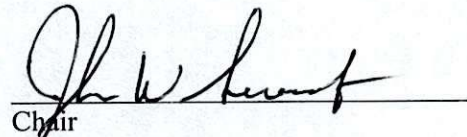
10 The Board of Commissioners for the County of Coos deems this Ordinance necessary for the
11 immediate preservation and protection of the public peace, safety, health and general welfare for
12 Coos County and declares an emergency exists, and this Ordinance shall be in full force and effective
13 upon its passage.

14 Adopted this Dated this 28th day of December, 2021.

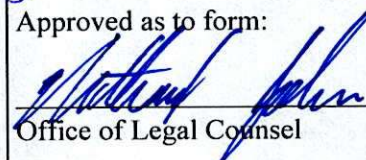
15 BOARD OF COMMISSIONERS

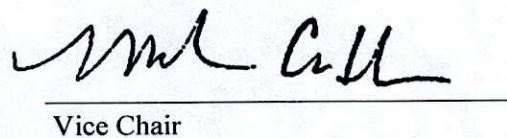
16 ATTEST

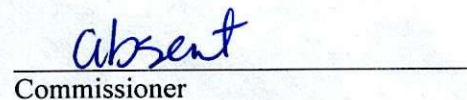
17 
18 Recording Secretary


Chair

19 Approved as to form:

20 
21 Office of Legal Counsel


Vice Chair

22 
23 absent
24 Commissioner

25 Board of Commissioner Reading: December 28, 2021
26 Effective Date of Adoption: December 28, 2021

ATTACHMENT A

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

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

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 found this application was complex and would be better reviewed by the Planning Commission and the Board of Commissioners as 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.

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).

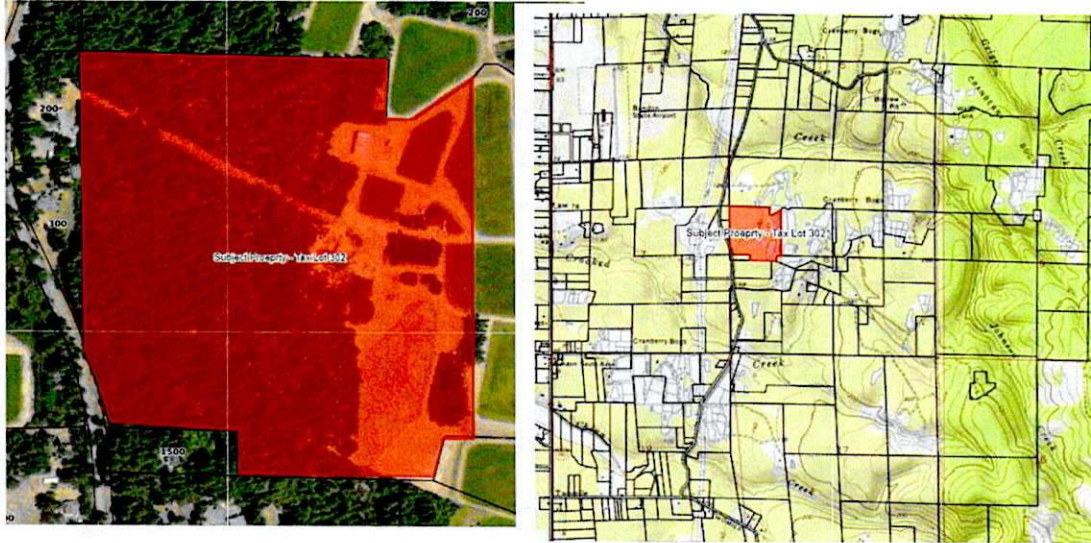
LOCATION OF PROPOSAL: The Subject Property in which the Plan Map Amendment is proposed is identified as Township 29S, Range 14W, Sections 08, Tax Lots 302 and 301. These properties are located south of the City of Bandon and accessed off of Circle City Lane, via Barnekoff Lane onto Rosa County Road.

I. Report and Findings

A. SUBJECT PROPERTY DETAILS AND BACKGROUND:

The application included four tax lots as this was submitted as a multi review; however, the only tax lot under review is tax 302, referred to as the subject property.

ATTACHMENT A



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 appears to have been sited originally without permits. The applicant has applied for 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 has filed the proper permits for an Agricultural Exemption with Oregon State Building Codes to fully resolve the issue. 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. The criteria is basically to show the property contains soils that support forest operations and that the change in zone will be compatible with surrounding zoning.

i. SUBJECT PROPERTY INFORMATION:

ATTACHMENT A

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)

The only overlays that are relevant to the portion of the property to be rezoned is the BMI and B5C.

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.

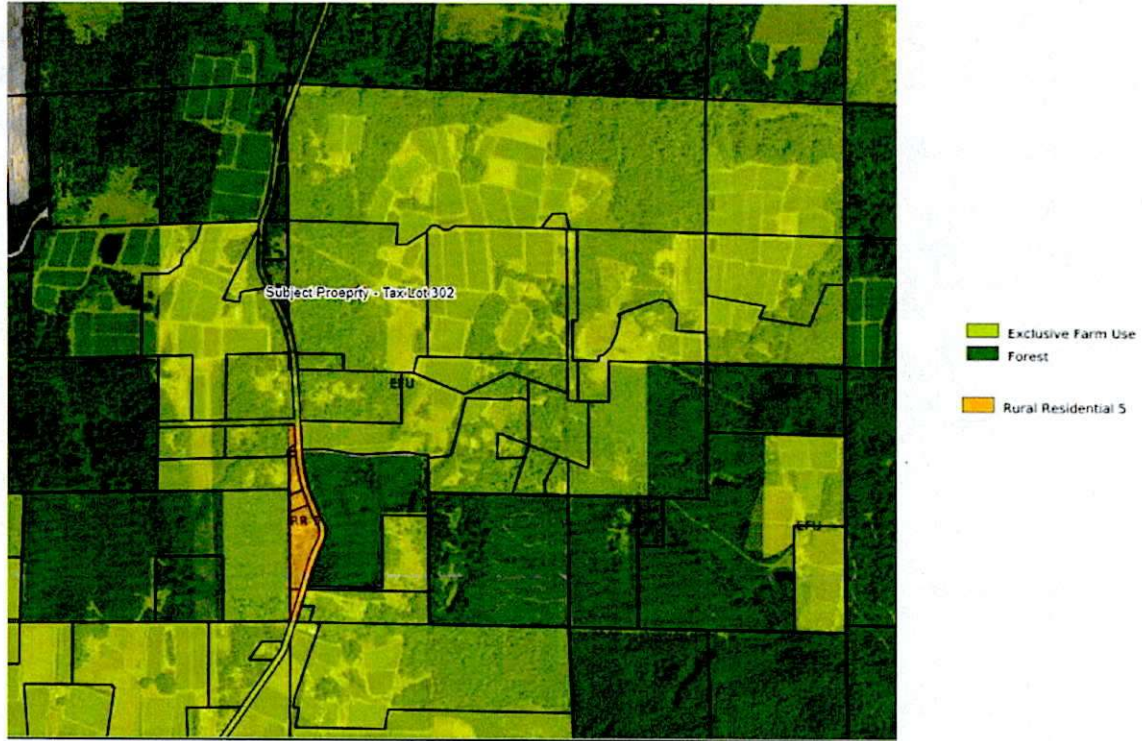
Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40)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

ATTACHMENT A

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

ATTACHMENT A

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

ATTACHMENT A

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 subject property is compliant. 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. CRITERIA AND FINDINGS:

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

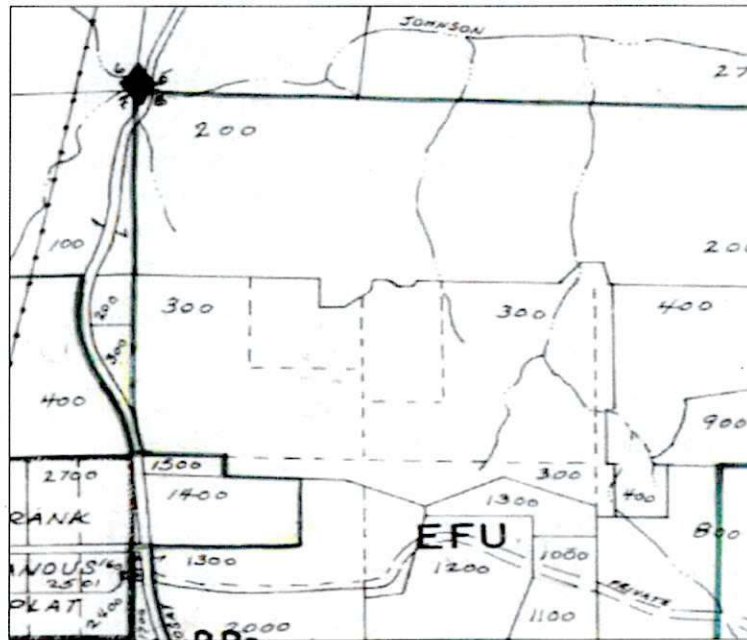
• SECTION 5.1.200 REZONES:

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.

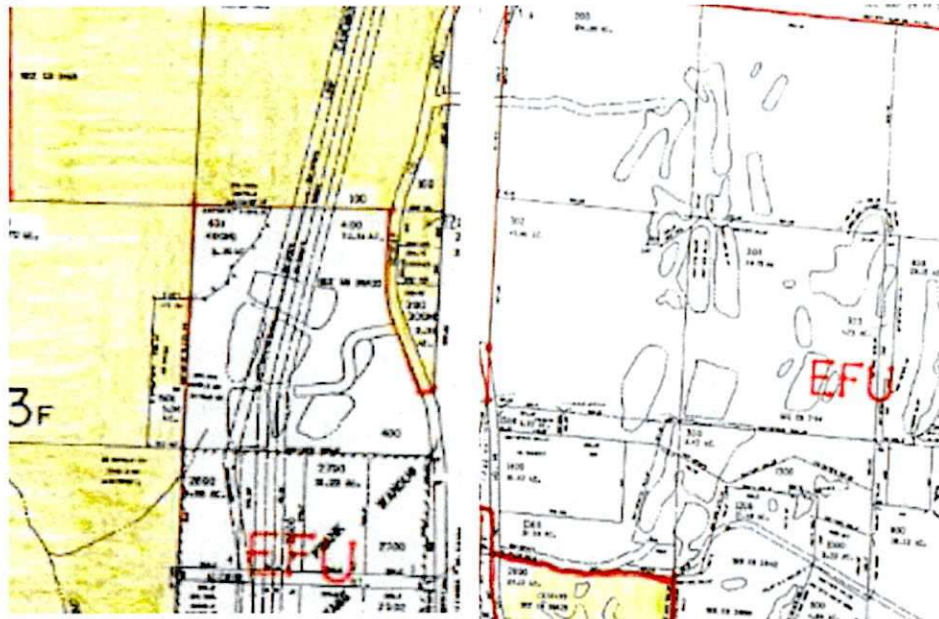
ATTACHMENT A

FINDINGS: 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.



ATTACHMENT A

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

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

FINDING: 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. This property was part of a larger farm tract so it was logically zoned Exclusive Farm Use based on the overall use of the property. However, that does not mean that the entire property should be considered farm. It may be better suited as Forest with a Mixed Use Overlay.

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."

FINDING: 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 the property was

ATTACHMENT A

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

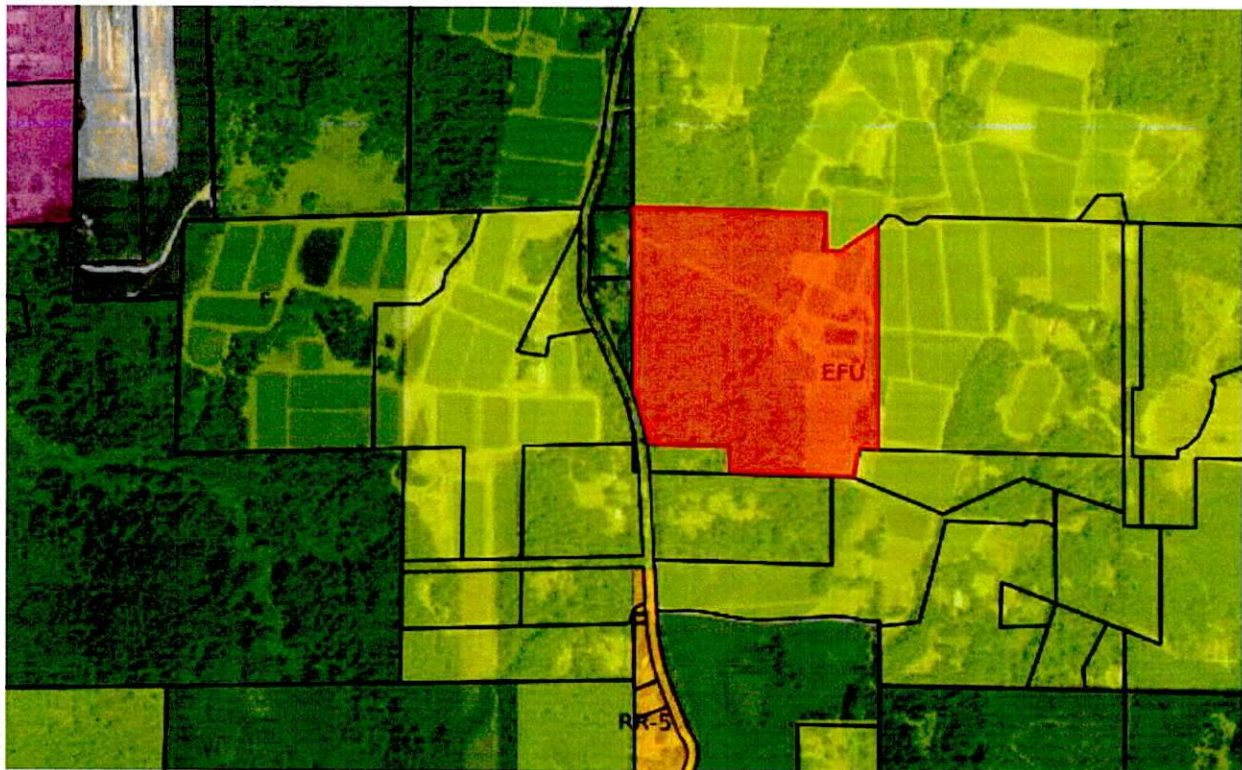
ATTACHMENT A

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.

FINDING: 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. The subject property is surrounded by Farm and Forest Zones. With smaller Forest Zones to the west. This area is mixed showing that the soils will support both farm and forest.



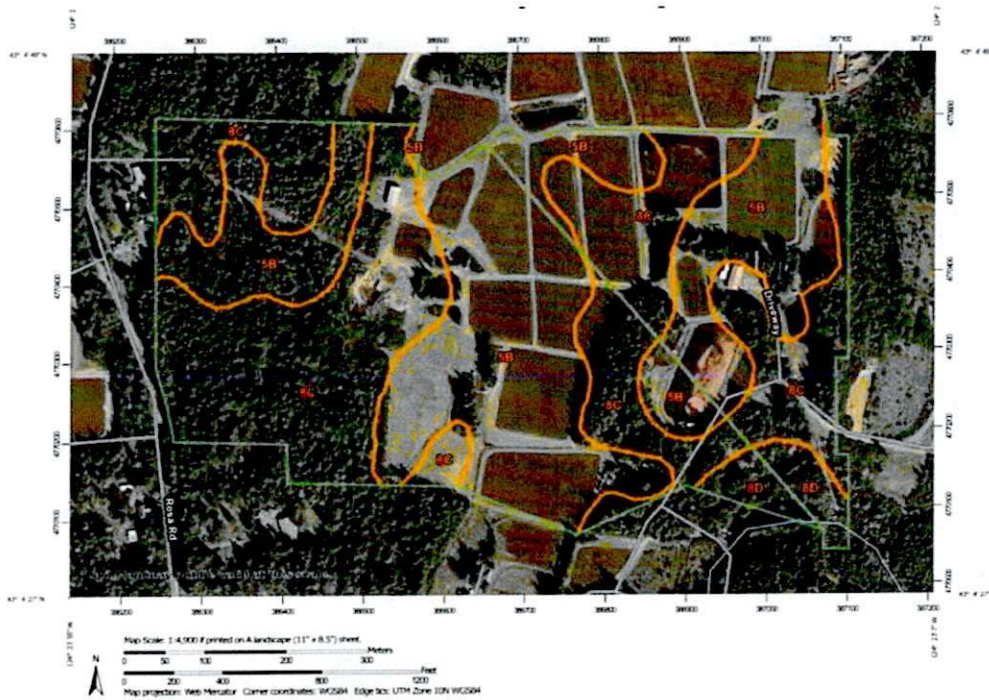
The portion of the subject property that is proposed to be rezoned contains both agricultural and forest soils (full soil report found in Attachment A of this report) that could be considered suitable for

ATTACHMENT A

either farming or forestry use. Furthermore, the portion of the land has been used for forestry purposes since at least February 16, 1983. Below is a 1994 aerial image of the subject parcel.

The applicants' findings include an accurate description of 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.



ATTACHMENT A

Report—Forestland Productivity

| Forestland Productivity—Cass County, Oregon | | | | |
|---|------------------------|------------|----------------------|--|
| Map unit symbol and soil name | Potential productivity | | | Trees to manage |
| | Common trees | Site Index | Volume of wood fiber | |
| | | | Cu Recyr | |
| 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 | 80 | 72.00 | |
| | Sitka spruce | — | — | |
| | Western hemlock | — | — | |
| 8C—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

ATTACHMENT A

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. This is consistent with the Comprehensive Plan.

- *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 information submitted and confirmed by aerial photos the area proposed to be rezoned 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. The change in zoning from one resource zone to the other will continue to conserve the resource of the area.

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

The rezone will not create a non-conforming use. Both farm and forest zones allow for Forest and Farm practices to occur. According to the application and evidence provided the area subject to rezone is currently being utilized for forest management which 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;

FINDING: 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*

ATTACHMENT A

because it enables individual management decisions to be made in a timely manner as a response to changing market conditions.

FINDING: This rezone is consistent with this strategy as it recognizes the property owner's ability to enable individual management decisions to be made in a timely manner as a response to changing market conditions. The diversification of farm and forest allows the property to be profitable as well as managed based on the intent of the Comprehensive Plan.

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 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 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-dominant 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.

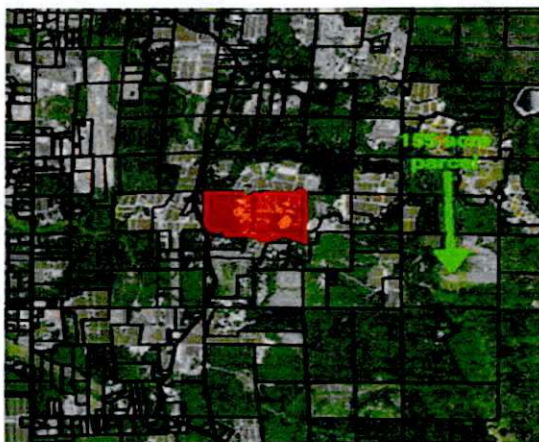
The mixed use areas are identified at a scale of 1"=2 miles on the "Mixed Agricultural-Forest Use Areas" Comprehensive Plan inventory map. A change in the boundary of the "mixed use" inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:

- 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.*

ATTACHMENT A

- 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

ATTACHMENT A

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.

Oregon Administrative 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.

FINDING: 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.

FINDING: 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 criterion 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.*

- **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.*

ATTACHMENT A

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.*

FINDING: 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 held a public hearing on the matter and made a recommendation to the Board of Commissioners to approve the rezone without any qualifiers as the evidence and testimony supported the criteria. The did recommend the applicant correct the unlawful structure and the applicant has since that time complied.

The only testimony received prior to the hearing was a letter of support.

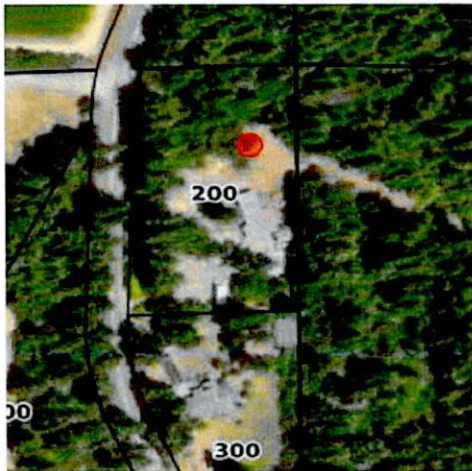
After the hearing the following comments were received:

My name is Ellery Sheets and property owner of the adjacent two acres to the West of the subject property T29S-R14W-S08- TL302 (Parcel I). I wish to contest the rezoning application from Farming to Forest multi-use as well as the Parcel 1 and 2 plans to build roads and houses on said properties. Mr. Kasper expressed to me that he was clearing the property to add additional bogs to continue the family farm. He also informed me that he would leave a 60' buffer between my property and his. These two statements were just words. He logged all the old growth just feet from the property lines. Mr. Kasper did not tell me that he was building houses which would add more traffic to an already busy road. More so I am appalled that he would plan to build a road along the entire East length of my property where the "Buffer" was to be.

ATTACHMENT A

I don't believe in a careless disregard for neighbors' attitude, but in the same breath I realize that it is his property and he can do whatever he wants with it. Had the whole situation been more transparent and truthful, this letter may not have been written. Nonetheless, I feel it is important to speak my peace about the application whatever the outcome.

The letter seems to be a neighbor dispute but not predicated on any type of review criteria. This application is not for the development of a road or dwelling. These are may be future uses that will be addressed through the other portions of the application. The fact that rezone from Farm to Forest does not have a difference in traffic. They are both resource zonings. The fact that Ellery Sheets property is zoned Forest and the primary intent of this zoning is Forest and Forestry operation and not dwellings. Therefore, this testimony provides an objection based solely on an opinion. In fact the farm zone has no setback back to the adjacent property but a the forest zone does have firebreak setbacks. Technically, it appears the Sheets are nonconforming as they are built on property boundary.



MOTION: The Board of Commissioners voted to approve the proposal as presented by the applicant based on the record.

ATTACHMENT A

Supplemental Information For AM-21-005/RZ-21-005

To: Coos County Board of Commissioners

From: Jeremiah & Bridget Kasper, Landowners
Chris MacWhorter, Consultant

Date: December 18, 2021

RE: Follow-up information regarding Planning Commission oral testimony

Dear Commissioners,

Please accept this written testimony to supplemental oral testimony that we provided to the Coos County Planning Commission at the December 2, 2021, commission hearing.

Item 1). During the hearing we provided oral testimony about the construction techniques for creating cranberry 'bogs', and the relationship to the limited amount of prime agricultural soils on the subject property. Some of this written testimony is modified from information provided to Coos County Planning Department for ACU-21-066 and ACU-21-067.

Cranberry Farming

Cranberry farming is the overall farming activity in the Rosa Road area. There are three major cranberry farms adjacent to the subject parcel. They are the Gants, the Robisons, and the Kaspers. Cranberries are an essential part of the local Bandon farming sector and are identified as high-value farmland by State land-use laws. One of the adjacent cranberry farm is currently owned by the applicants.

Reviewing the steps of cranberry farming is needed to analyze how cranberry farming interacts with the existing soils. Cranberries are grown in a well-drained, sandy, artificial bed call a cranberry bog.

Standard Cranberry Practices

1. Building & establishment
2. Growing
3. Harvesting
4. Pruning

1) To build cranberry bogs, the land is cleared and shaped. While cranberry growing is an agricultural activity, the creation of bogs in the Bandon area typically resembles large-scale commercial and residential developments compared to traditional clearing for ranching activities. This requires sizeable

ATTACHMENT A

heavy machine clearing land, burning slash, and then shape the bogs to a relatively level surface with drainage ditches. Slash burning only happens when the bogs are created and have the same effects on nearby dwellings as forest slash burning. The shaping of the beds does make dust, as does any land clearing and most row crop agricultural activities.

2) Cranberry growing is like any other typical farming operation, whereas the growers work daily throughout the year. Cranberries are unlike traditional row crops regarding the size and type of equipment. Cranberries are grown in 1 to 3-acre cranberry bogs. Once the land clearing is done, the cranberry growers typically use various small equipment for fertilizers and harvesting. Most cranberry equipment is no larger than a small tractor. Cranberries are an irrigated crop, and thus fertilizers & chemicals are either applied thru the irrigation system or small custom-powered equipment smaller than a standard truck. Like all other crops grown for human consumption, the use of chemicals is highly regulated. There is little potential for drift off of the farm. There are no helicopter spraying applications involved in the growing of cranberries.

3) There are two ways to harvest cranberries, either dry harvesting or wet harvesting. Dry harvesting involves pushing a custom machine that resembles a push lawn mower thru the cranberry bogs. The berries are collected in burlap sacks. This an extremely labor intense method that is rarely used on cranberry farms on a large scale anymore. All the neighboring cranberry farms are harvested using the wet picking method. This method involving flooding the fields and using custom-built picking equipment called 'beaters.' These machines are typically no larger than a half-ton pickup. The berries are then corralled using booms and brought into a portion of the bog to loaded. The berries are loaded into 14 – 20 ft flatbed trucks using cranberry elevators. Loading trucks is reasonably quickly and no longer than a typical wait time for road construction projects. The trucks then take the berries to central cleaning facilities. There are at least five of these facilities located throughout the Bandon area and northern Curry County. Like most other crops, these facilitates compete with each other on prices each year.

4) Pruning of cranberries vines happens after the bogs are harvest, usually every year. The bogs essential receive a light mowing of their vines. These excessive vines are typically burned. The vines have a high moisture content and thus produce a considerable amount of smoke compared to their volume. But pruning only produces a relatively minor amount of volume. The vines are also burned relatively quickly and outside of fire season.

Given these operational requirements for the routine growing and harvesting of cranberries. It is reasonable for the Board of Commissioners to conclude that given the limited amount of prime agricultural soils on the subject property, the site may be appropriate to be continued to be utilized for timber production and better fits the purpose and intent of the Forest Mixed Use zone.

SECTION 4.2.500 RESOURCE ZONES

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.

Item 2). We further wish to include the following information from the Coos County Comprehensive Plan Volume 1, Part 1, 5.4 Forest Lands

PLAN IMPLEMENTATION STRATEGIES

8. Coos County shall consider, and approve where appropriately justified, changes from forestry to agriculture zoning districts, and vice-versa, upon findings which establish:
 - i. That the proposed rezone would be at least as effective at conserving the resource as the existing zone,
 - ii. That the proposed rezone would not create a nonconforming use,
 - iii. That the applicant for the proposed rezone has certified that he/she understands that the rezone, if granted, could have significant tax consequences.

Furthermore, Coos County shall, upon a finding to approve the rezone under

ATTACHMENT A

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."

- iv. This strategy recognizes:
- a) That agriculture 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;
 - b) That this simplified plan revision process for agriculture 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.

Based on the original responses submitted in the application, we continue to maintain that the area subject to the rezone will better conform with the uses allowed under the Coos County Zoning & Land Development Ordinance for Forest Mixed Use zoning districts.

Item 3). Additionally, there was other written testimony submitted about the harvesting of the existing timber on the subject property and the effects on setbacks. We would like to submit into record that ORS 527.722: Restrictions on local government adoption of rules regulating forest operations.

(1) Notwithstanding any provisions of ORS chapters 195, 196, 197, 215 and 227, and except as provided in subsections (2), (3) and (4) of this section, no unit of local government shall adopt any rules, regulations or ordinances or take any other actions that prohibit, limit, regulate, subject to approval or in any other way affect forest practices on forestlands located outside of an acknowledged urban growth boundary.

(2) Nothing in subsection (1) of this section prohibits local governments from adopting and applying a comprehensive plan or land use regulation to forestland to allow, prohibit or regulate:

- (a) Forest practices on lands located within an acknowledged urban growth boundary;*
- (b) Forest practices on lands located outside of an acknowledged urban growth boundary, and within the city limits as they exist on July 1, 1991, of a city with a population of 100,000 or more, for which an acknowledged exception to an agriculture or forestland goal has been taken;*

ATTACHMENT A

(c) The establishment or alteration of structures other than temporary on-site structures which are auxiliary to and used during the term of a particular forest operation;

(d) The siting or alteration of dwellings;

(e) Physical alterations of the land, including but not limited to those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities, when such uses are not auxiliary to forest practices; or

(f) Partitions and subdivisions of the land.

(3) Nothing in subsection (2) of this section shall prohibit a local government from enforcing the provisions of ORS 455.310 (Single-family residence repair and maintenance exempt from codes) to 455.715 (Definitions for ORS 455.715 to 455.740) and the rules adopted thereunder.

(4) Counties may prohibit, but in no other manner regulate, forest practices on forestlands:

(a) Located outside an acknowledged urban growth boundary; and

(b) For which an acknowledged exception to an agricultural or forest land goal has been taken.

(5) To ensure that all forest operations in this state are regulated to achieve protection of soil, air, water, fish and wildlife resources, in addition to all other forestlands, the Oregon Forest Practices Act applies to forest operations inside any urban growth boundary except in areas where a local government has adopted land use regulations for forest practices. For purposes of this subsection, "land use regulations for forest practices" means local government regulations that are adopted for the specific purpose of directing how forest operations and practices may be conducted. These local regulations shall:

(a) Protect soil, air, water, fish and wildlife resources;

(b) Be acknowledged as in compliance with land use planning goals;

(c) Be developed through a public process;

(d) Be developed for the specific purpose of regulating forest practices; and

(e) Be developed in coordination with the State Forestry Department and with notice to the Department of Land Conservation and Development.

(6) To coordinate with local governments in the protection of soil, air, water, fish and wildlife resources, the State Forester shall provide local governments with a copy of the notice or written plan for a forest operation within any urban growth boundary. Local governments may review and comment on an individual forest operation and inform the landowner or operator of all other regulations that apply but that do not pertain to activities regulated under the Oregon Forest Practices Act.

ATTACHMENT A

(7) The existence or adoption by local governments of a comprehensive plan policy or land use regulation regulating forest practices consistent with subsections (1) to (5) of this section shall relieve the State Forester of responsibility to administer the Oregon Forest Practices Act within the affected area.

(8) The Director of the Department of Land Conservation and Development shall provide the State Forester copies of notices submitted pursuant to ORS 197.615 (Submission of adopted comprehensive plan or land use regulation changes to Department of Land Conservation and Development), whenever such notices concern the adoption, amendment or repeal of a comprehensive land use regulation allowing, prohibiting or regulating forest practices. [1979 c.400 §2; 1987 c.919 §17; 1991 c.919 §29; 2001 c.268 §1]

The forest operations on the subject property were notified to the Oregon Department of Forestry, and are actively operating under the rules and regulations of the Oregon Forest Practices Act.

ATTACHMENT A
ATTACHMENT B
COMMENTS

From: [Ellery Sheets](#)
To: [Planning Department](#)
Subject: Location: T29S-R14W-S08-TL302 (Parcel I)
Date: Friday, December 03, 2021 7:37:45 AM

This Message originated outside your organization.

Applicant: Jeremiah & Bridget Kasper Location: T29S-R14W-S08-TL302 (Parcel I)

Greetings,

It is unfortunate that I cannot attend the meeting for this subject property, but I will be out of town for a prior commitment. Please accept this email in my stead. My name is Ellery Sheets and property owner of the adjacent two acres to the West of the subject property T29S-R14W-S08-TL302 (Parcel I). I wish to contest the rezoning application from Farming to Forest multi-use as well as the Parcel 1 and 2 plans to build roads and houses on said properties. Mr. Kasper expressed to me that he was clearing the property to add additional bogs to continue the family farm. He also informed me that he would leave a 60' buffer between my property and his. These two statements were just words. He logged all the old growth just feet from the property lines. Mr. Kasper did not tell me that he was building houses which would add more traffic to an already busy road. More so I am appalled that he would plan to build a road along the entire East length of my property where the "Buffer" was to be.

I don't believe in a careless disregard for neighbors' attitude, but in the same breath I realize that it is his property and he can do whatever he wants with it. Had the whole situation been more transparent and truthful, this letter may not have been written. Nonetheless, I feel it is important to speak my peace about the application whatever the outcome.

Thank you for your time.

Ellery R Sheets

"Whatever you are, be a good one" Abraham Lincoln



ATTACHMENT A
ATTACHMENT C
APPLICATION

Coos County Planning Department
Coos County Courthouse Annex, Coquille, Oregon 97423
Mailing Address: 250 N. Baxter, Coos County Courthouse, Coquille, OR 97423
Physical Address: 225 N. Adams, Coquille, Oregon
(541) 396-7770
FAX (541) 396-1022 / TDD (800) 735-2900
planning@co.coos.or.us

| |
|----------------------|
| Official Use Only |
| FEE: _____ |
| Receipt No. _____ |
| Check No./Cash _____ |
| Date _____ |
| Received By _____ |
| File No. _____ |

AMENDMENT/REZONE APPLICATION
PLEASE SUBMIT 2 COMPLETE UNBOUND COPIES OF THIS APPLICATION
OR 1 ELECTRONIC AND ONE UNBOUND COPY

The following questions are to be completed in full. An application **will not** be accepted for an Amendment/Rezone without this information. The applicant should contact the Planning Department prior to filing, in order to determine a valid basis for the request.

The Board of Commissioners and Hearings Body will use these answers in their analysis of the merits of the request.

PLEASE PRINT OR TYPE:

A. APPLICANT:

Name: Jeremiah & Bridget Kasper Telephone: 1 (916) 580-4416
Address: PO Box 2070, Bandon, OR 97411

As applicant, I am (check one):

- Property owner or a purchaser under a recorded land sale contract. "Property owner" means the owner of record, including a contract purchaser. The application shall include the signature of all owners of the property. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign;
- A person or persons that have written consent of the property owner to make an application. A legal representative may sign on behalf of an owner upon providing evidence of formal legal authority to sign. In the case of an attorney a statement of representation shall accompany the application;
- Transportation agency, utility or entity that meets the criteria in Section 5.0.175 of the Coos County Zoning and Land Use Development Ordinance (CCZLDO)

If other than the owner, please give the owner's name and address:

B. DESCRIPTION OF PROPERTY:

Township 29S Range 14W Section 08 Tax Lot 302
Account No. 1207604 Lot Size 43.46 Zoning District EFU
Existing Use Timber and Cranberry Farming

C. STATE SPECIFIC ZONE DISTRICT REQUESTED: FMU

ATTACHMENT A

D. JUSTIFICATION:

(1) If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered: Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? No
Explain and provide documentation: See Attached Response

(2) If the purpose of this rezone request is for other than (1) above the following questions must be answered:

a. Will the rezone conform with the comprehensive plan? Yes
Explain: See Attached Response

b. Will the rezone seriously interfere with the permitted uses on other nearby parcels? No
Explain: See Attached Response

c. Will the rezone comply with other adopted plan policies and ordinances? Yes
Explain: See Attached Response

(3) If a Goal Exception is required please review and address this section.

All land use plans shall include identification of issues and problems, inventories and other factual information for each applicable statewide planning goal, evaluation of alternative courses of action and ultimate policy choices, taking into consideration social, economic, energy and environmental needs. The Coos County Comprehensive Plan (CCCP) and Implementing Zoning Land Development Ordinance (CCZLDO) was acknowledge¹ as having all necessary components of a comprehensive plan as defined in ORS 197.015(5) after the Coos County adopted the documents on April 4, 1985. The date of the effective plan and ordinance is January 1, 1986. Coos County did go through a periodic review exercise in the 1990's but due to lack of gain in population, economic growth and public request plan zones were not altered. Changes to the comprehensive plan and implementing ordinance have been done to ensure that any required statutory or rules requirements have been complied with. However, sometimes it is necessary for property owners or applicants to make a request to have certain properties or situations such as text amendments considered to reflect a current condition or conditions. These applications are reviewed on a case by case basis with the Board of Commissioners making a final determination. This type application and process is way to ensure that process is available to ensure changing needs are considered and met. The process for plan amendments and rezones are set out in CCZLDO Article 5.1.

Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that; (a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general

¹ "Acknowledgment" means a commission order that certifies that a comprehensive plan and land use regulations, land use regulation or plan or regulation amendment complies with the goals or certifies that Metro land use planning goals and objectives, Metro regional framework plan, amendments to Metro planning goals and objectives or amendments to the Metro regional framework plan comply with the goals. In Coos County's case the commission refers to the Land Conservation and Development Commission.

ATTACHMENT A

applicability; (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and (c) Complies with standards for an exception.

NOTE: This information outlines standards at OAR 660-004-0025, 660-004-0028 and 660-04-0022 for goal exceptions, but is NOT to be considered a substitute for specific language of the OARs. Consult the specific Oregon Administrative Rule for the detailed legal requirements.

A local government may adopt an exception to a goal when one of the following exception process is justified:

- (a) The land subject to the exception is "physically developed" to the extent that it is no longer available for uses allowed by the applicable goal;
- (b) The land subject to the exception is "irrevocably committed" to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or
- (c) A "reasons exception" addressing the following standards is met:
 - (1) Reasons justify why the state policy embodied in the applicable goals should not apply;
 - (2) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (3) The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the

Compatible, as used in subparagraph (4) is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses. A local government approving or denying a proposed exception shall set forth findings of fact and a statement of reasons which demonstrate that the standards for an exception have or have not been met.

PART III -- USE OF GUIDELINES Governmental units shall review the guidelines set forth for the goals and either utilize the guidelines or develop alternative means that will achieve the

E. REQUIRED SUPPLEMENTAL INFORMATION TO BE SUBMITTED WITH APPLICATION:

1. A legal description of the subject property (deed);
2. Covenants or deed restrictions on property, if any;
3. A general location map of the property;
4. A detailed parcel map of the property illustrating the size and location of existing and proposed uses and structures on 8 1/2" x 11" paper. If proposed structures are not known then the plot plan will need to include only existing with a note that no new structures are proposed at this time;
5. If applicant is not the owner, documentation of consent of the owner, including:
 - a. A description of the property;
 - b. Date of consent
 - c. Signature of owner
 - d. Party to whom consent is given
6. The applicant must supply a minimum of 2 copies of the entire application or one paper copy and electronic copy (email is acceptable), including all exhibits and color photocopies, or as directed by the Planning Staff.

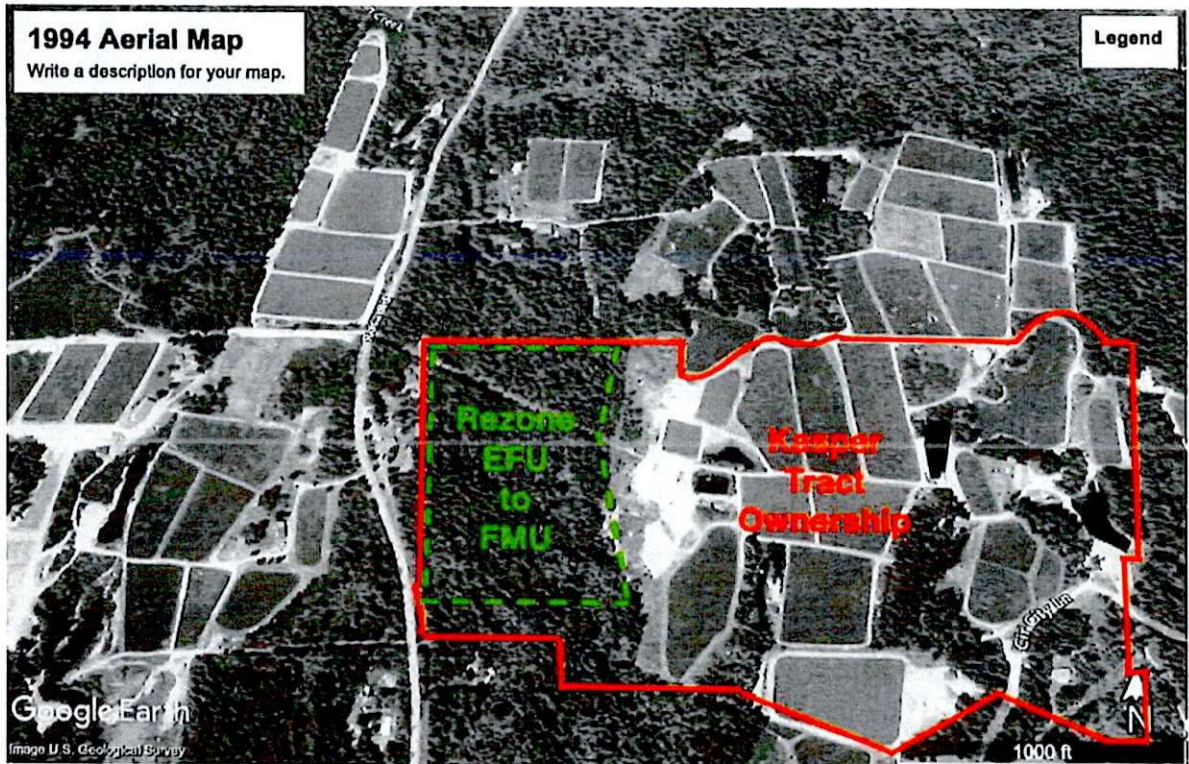
Rezone Application

OAR 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.

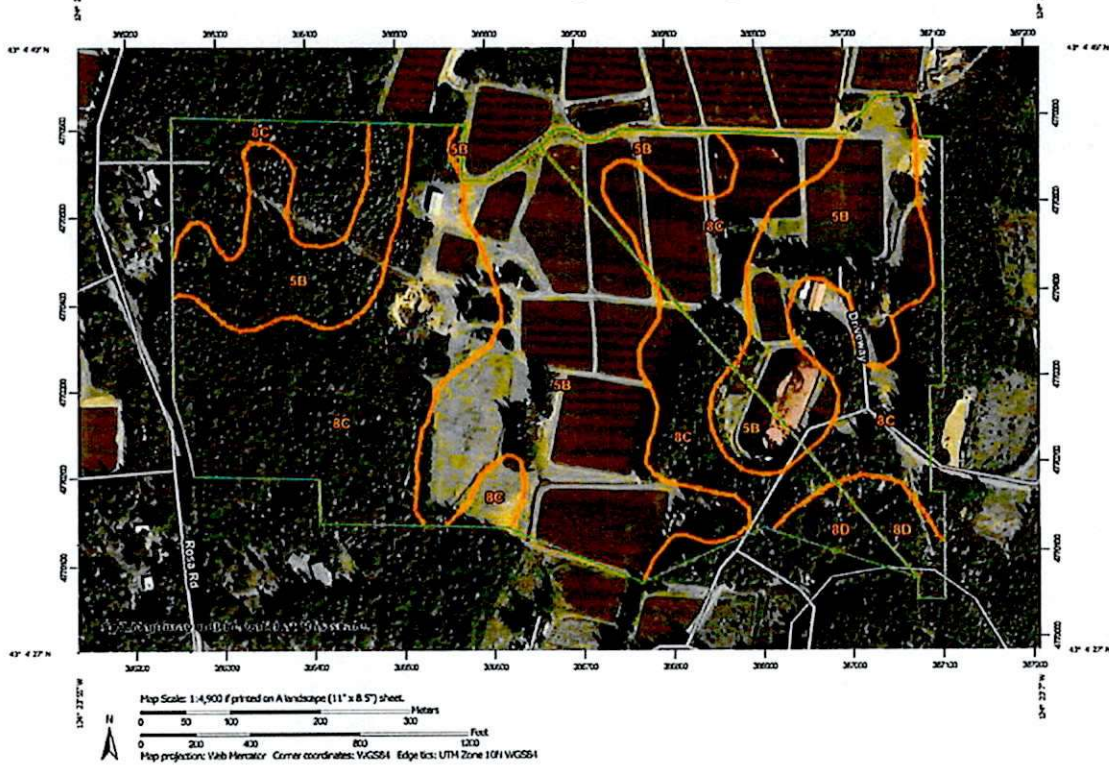
Applicant Response: The portion of the subject property that is proposed to be rezoned contains both soils that could be reconsidered suitable for either farming or forestry use. The land has been used for forestry purposes since at least February 16, 1983. Below is a 1994 aerial image of the subject parcel.



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.

ATTACHMENT A

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.



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 Cu M ³ /cy | |
| 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 | — | — | |
| 8C—Butards sandy loam, 7 to 12 percent slopes | | | | |
| Butards | 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—Butards sandy loam, 12 to 30 percent slopes | | | | |
| Butards | 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 | — | — | |

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.

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 | | | | | | |
| Classification Systems | | | | | | | | | | | | | | | | | |
| 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

Although, the 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.

“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)."

Therefore, "neither Goal 3 nor 4 can be applied alone" can apply to the rezone portion of the subject property.

ARTICLE 5.1 PLAN AMENDMENTS AND 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.

Applicant Response: The applicants are requesting a resource zone change from Exclusive Farm Use (EFU) to Forest Mixed Use (FMU).

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.

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.

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.

Applicant Response: The applicants understand that the requested area to be rezone could be expanded during this application process.

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.

Applicant Response: The portion of the parcels that the zone change is requested on was not physically developed for non-farm use prior to the establishment of the EFU district. 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).



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.*

Applicant Response: The applicants understand the Planning Commission will not make a decision within 35 days. The applicants understand the Planning Director will research, investigate, and make a report for the Planning Commission. The applicants understand the requested planning applications will be reviewed in a public hearing.

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.*

Applicant Response: The applicants understand and acknowledge the Planning Commission's review process.

SECTION 5.1.230 STATUS OF HEARINGS BODY RECOMMENDATION OF APPROVAL:

The recommendation of the Hearings Body made pursuant to 5.1.225(1) or (2) shall not in itself amend the zoning maps.

Applicant Response: The applicants understand and acknowledge the Board of Commissioner's review process.

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;

Applicant Response: The 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;

Applicant Response: 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:

- a. 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;*
- b. 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 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 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-dominant 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.

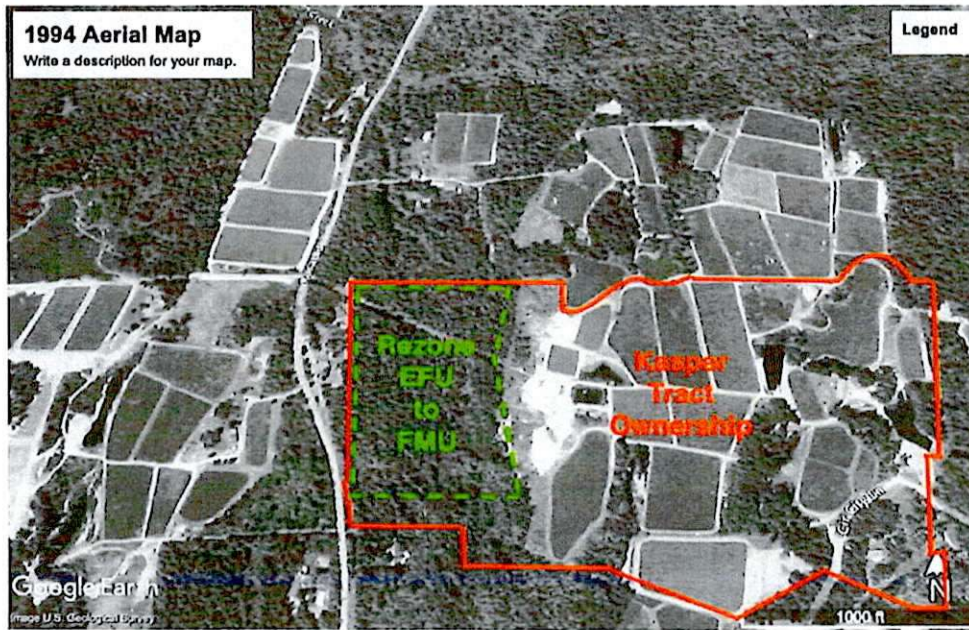
The mixed use areas are identified at a scale of 1"=2 miles on the "Mixed Agricultural-Forest Use Areas" Comprehensive Plan inventory map. A change in the boundary of the "mixed use" inventory map will require a comprehensive plan amendment. Criteria used to designate these areas are as follows:

- 1. 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.*
- 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.*

Applicant Response: 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. Below is a 1994 aerial image of the subject parcel.



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.



Figure 2: Picture of adjusted Parcel 1

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.

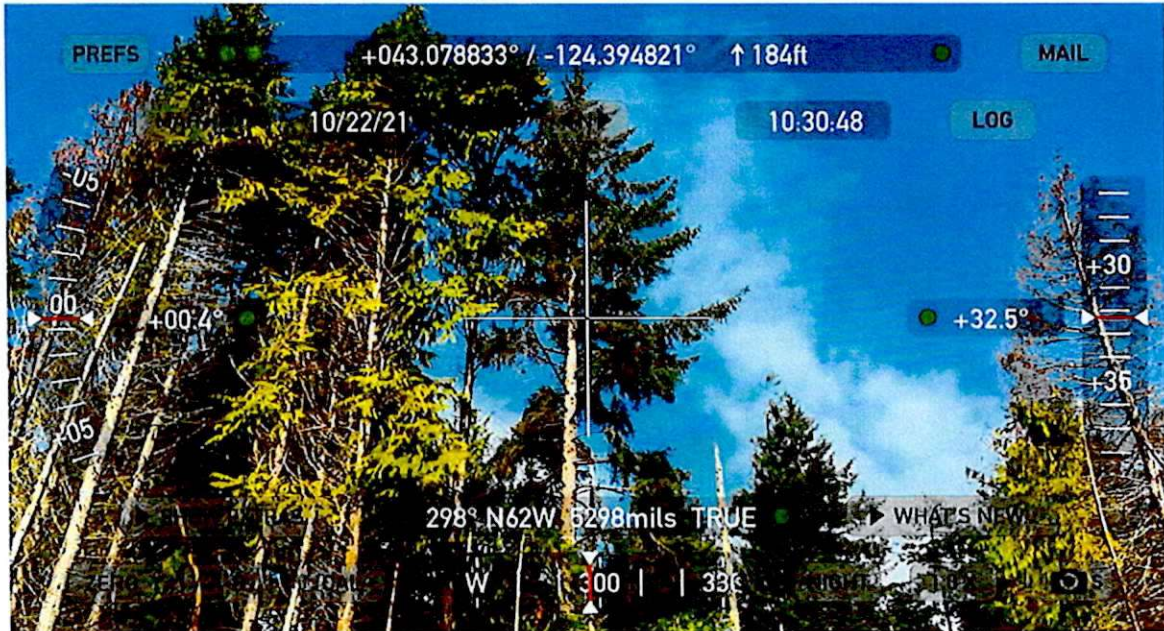
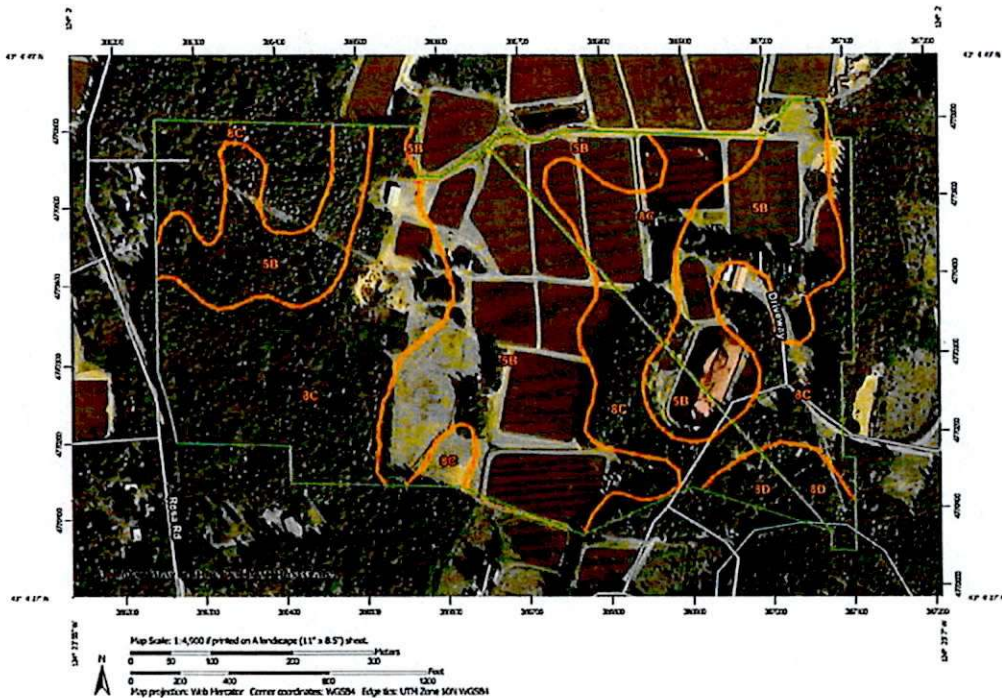


Figure 3: Picture of adjusted Parcel 1 (diverse timber species pictured)



ATTACHMENT A

Report—Forestland Productivity

Forestland Productivity—Coos County, Oregon

| Map soil symbol and soil name | Potential productivity | | | Notes to manager |
|--|---|---------------------------------|--|--|
| | Common trees | Site index | Volume of wood fiber (cu ft/acre) | |
| 5B—Blacklock fine sandy loam, 5 to 7 percent slopes Blacklock | Pacific white pine Douglas fir Western hemlock | — — — | — 175.0 — | Pacific white pine, Western hemlock |
| 5C—Bullards sandy loam, 7 to 12 percent slopes Bullards | Douglas fir Pacific white pine Pud spruce Shore pine Sitka spruce Western hemlock Plymouth redcedar | — — — — — — — | — 142.5 — — 220.00 — — | Douglas fir, Sitka spruce, Western hemlock |
| 5D—Bullards sandy loam, 12 to 20 percent slopes Bullards | Douglas fir Pacific white pine Pud spruce Shore pine Sitka spruce Western hemlock Plymouth redcedar | — — — — — — — | — 135 — — 220.00 — — | Douglas fir, Sitka spruce, Western hemlock |

The Bullards sandy loam is classified 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 classified given the lack of data for the growth for Douglas-fir.

Table 2

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

| Growth Measures | Scale | | | | | | | | | | | | | | | | |
|--|-------|-------|-------|----|----|-----|--------|-----|---------|-----|-----|---------|-----|-----|-----|-----|-----|
| | 50 | 60 | 70 | 80 | 90 | 100 | 110 | 120 | 130 | 140 | 150 | 160 | 170 | 180 | 190 | 200 | 210 |
| 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 | | | | | |
| Classification Systems | | | | | | | | | | | | | | | | | |
| 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

Although, the 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.

"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.

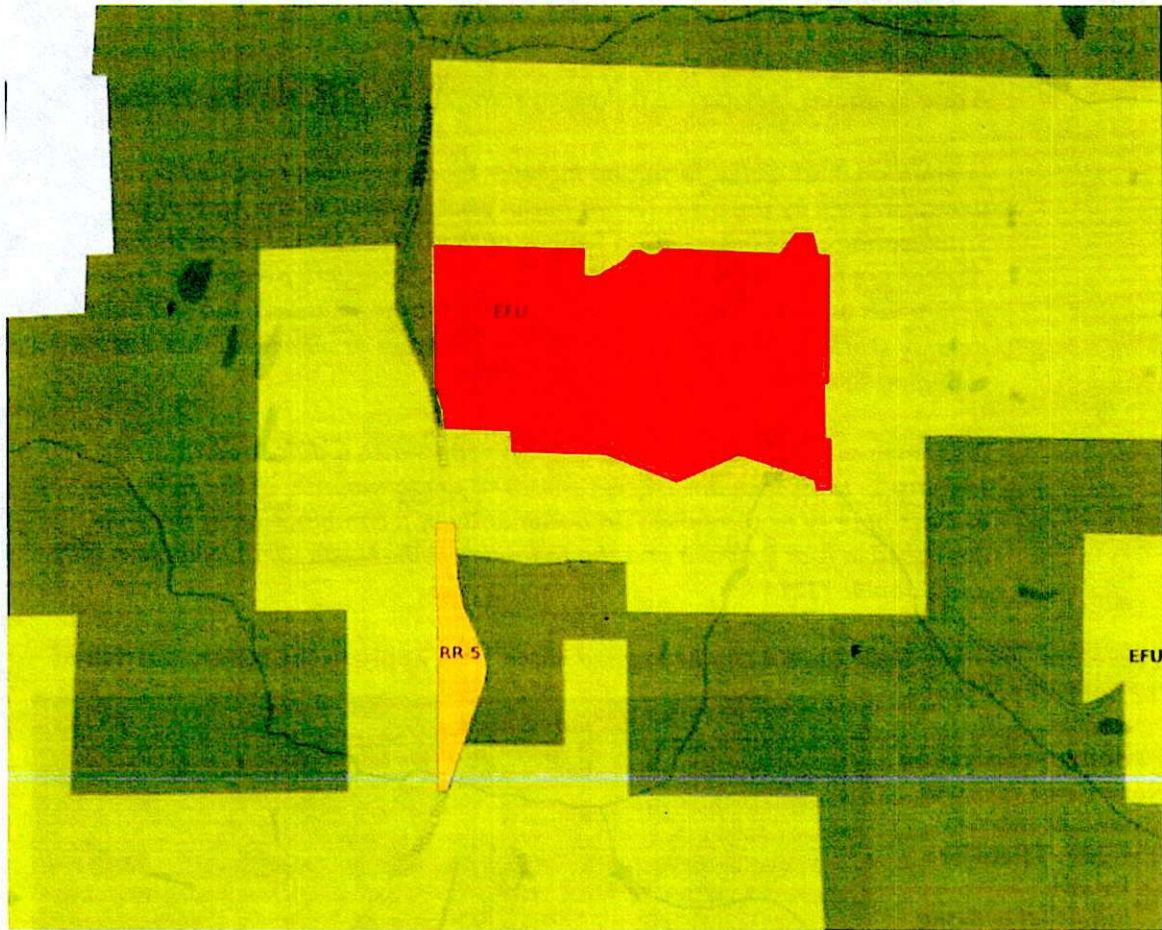
Also, high-value farmland, used in conjunction with a dairy operation on January 1, 1993, includes tracts composed predominantly of the following soils in Class III or IV or composed predominantly of a combination of the soils described in A or B above and the following soils: Meda (37C), Nehalem (40)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

Therefore, "neither Goal 3 nor 4 can be applied alone" can apply to the rezone portion of the subject property.

Farming practices on Rosa Road revolves around cranberry farming. There are no known commercial grazing or ranching operations along Rosa Road. Cattle or sheep are not brought to Rosa Road for wintertime grazing.

The nearest cattle operations are located along Twomile Lane. These operations are at least a couple of miles from the proposed rezone.





As shown in the aerial and zoning map above, the immediately vicinity around the subject property and proposed rezone are developed for both forest and cranberry farming land uses. Rural Residential-5 zoned parcels are within ¼ mile of the subject property.

JUSTIFICATION:

If the purpose of this rezone request is to rezone one or more lots or parcels in the interior of an exclusive farm use zone for non-farm uses, the following question must be answered: Were the lots or parcels for which a rezone request is made, physically developed for a non-farm use prior to February 16, 1983? Explain and provide documentation:

Applicant Response: The portion of the parcels that the zone change is requested on was not physically developed for non-farm use prior to the establishment of the EFU district. 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).

ATTACHMENT A

