



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

NOTICE OF ADOPTED AMENDMENT

March 21, 2008

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clatsop County Plan Amendment
DLCD File Number 007-07



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: April 9, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

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

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative
Patrick Wingard, Clatsop County

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Notice of Adoption

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



Jurisdiction: **Clatsop County**

Local file number: **Ordinance No. 08-03**

Date of Adoption: **3/12/2008**

Date Mailed: **3/19/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 9/28/2007

- Comprehensive Plan Text Amendment
- Comprehensive Plan Map Amendment
- Land Use Regulation Amendment
- Zoning Map Amendment
- New Land Use Regulation
- Other: **Goal Exception (Goal 14)**

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

Amend the Clatsop County Comprehensive Plan / Zoning Map by changing the zoning on 50.8 acres from Residential Agriculture - 5 (RA-5) to Residential Agriculture - 2 (RA-2). Amend the text of the Comprehensive Plan by taking an exception to Statewide Planning Goal 14, Urbanization.

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

Plan Map Changed from: **Rural Lands** to: **Rural Lands (no change)**
 Zone Map Changed from: **Residential Agriculture-5** to: **Residential Agriculture-2**
 Location: **West side of Hwy 101 north of Surf Pines Lane** Acres Involved: **50**
 Specify Density: Previous: **1 d.u./5 acres** New: **1 d.u./2 acres**

Applicable statewide planning goals:

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

Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

- 45-days prior to first evidentiary hearing? Yes No
- If no, do the statewide planning goals apply? Yes No
- If no, did Emergency Circumstances require immediate adoption? Yes No

DLCD # 007-07 (16432)

DLCD file No. _____

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

DLCD, ODOT, DEQ, Gearhart Rural Fire Protections District

Local Contact: **Patrick Wingard**

Phone: (503) 325-8611 Extension: 1705

Address: 800 Exchange Street, Suite 100

Fax Number: 503-338-3666

City: Astoria

Zip: 97103-

E-mail Address: pwingard@co.clatsop.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO Complete Copies (documents and maps) of the Adopted Amendment to:

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

2. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: webserver.lcd.state.or.us. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing mara.ulloa@state.or.us.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. Please print on 8-1/2x11 green paper only. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to mara.ulloa@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.



March 19, 2008

NOTICE OF FINAL DECISION

File No.'s: Ordinance No. 08-03; Permit #20070664

Decision Date: March 12, 2008

Applicant: Russell Earl, Steven Earl, Daniel Earl, Lori Barker, and Osburn-Olson LLC

Representative: Butch Parker – Parker Consulting

Property Owners: Russell Earl, Steven Earl, Daniel Earl, Lori Barker, and Osburn-Olson LLC

Subject Property: T7N, R10W, Sec. 22C, TL 2900; and, T7N, R10W, Sec. 27, TL 3300, 3400, 3600 & 3700; 50.8 acres located west of Hwy 101 and north of Surf Pines Lane in the unincorporated Clatsop Plains area of Clatsop County

Request: Comprehensive Plan Map / Zoning Map Amendment (Zone Change) and Goal Exception

Request Described: A change in the zoning designation for the subject property from RA-5, Residential Agriculture – 5 [five-acre minimum lot size] to RA-2, Residential Agriculture – 2 [two-acre minimum lot size]. The request also includes an exception to Statewide Planning Goal 14, Urbanization.

Action: **Approved**

Transportation and Development Services
800 Exchange Street
Suite 100
Astoria, Oregon 97103

Land Use Planning
Telephone (503) 325-8611
Fax (503) 338-3666

Clatsop County has completed its review of the request described above. The Board of County Commissioners approved the request on March 12, 2008. A copy of the signed ordinance, including adopted findings of fact, staff report, and exhibits, is available for review at the following location during normal business hours (8-5, M-F):

Clatsop County Land Use Planning Office
800 Exchange Street, Suite 100
Astoria, OR 97103

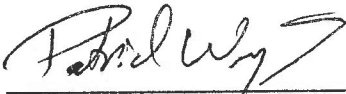
The complete ordinance is also available for review on the Clatsop County website. To access the document online please visit the County's website at the following address, www.co.clatsop.or.us, once on the homepage, click on the Land Use Planning link on the left side of the screen under quick links. This will

www.co.clatsop.or.us

take you to the Land Use Planning homepage, then click on the Public Hearings page on the left menu bar. Under the Public Hearings page click on the Board of Commissioners link at the bottom of the screen to access the document.

The requirements for appeal of this decision are set forth in ORS 197.830 to 197.845. In general, the requirements for appeal require a "Notice of Intent to Appeal" the decision, to be filed with the Oregon Land Use Board of Appeals (LUBA) in Salem, Oregon. The Notice of Intent to Appeal the decision must be filed with LUBA not later than 21 from the date of this notice. The specific and detailed requirements for the filing of the notice of appeal are set forth in ORS 197.830 to 197.845.

If you have questions regarding this decision, please do not hesitate to contact me at (503) 325-8611 or via email at pwingard@co.clatsop.or.us.

CERTIFICATE OF MAILING	
I, Patrick Wingard, hereby certify that I mailed this Notice of Final Decision via the United States Postal Service on March 19, 2008.	
	3/19/08
Patrick Wingard, Clatsop County Principal Planner	Date

IN THE BOARD OF COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

AN ORDINANCE AMENDING THE)
CLATSOP COUNTY COMPREHENSIVE)
PLAN / ZONING MAP AND ADOPTING A)
GOAL EXCEPTION)

ORDINANCE NO. 08-03

WHEREAS, on September 21, 2007 Russ Earl, Steven Earl, Daniel Earl, Lori Baker, and Osburn-Olson LLC filed an application for an amendment to the Clatsop County Comprehensive Plan / Zoning Map to amend the comprehensive plan / zoning map designation of property in Clatsop County (the "property") described as T7N, R10W, Sec. 22C, TL 2900 and T7N, R10W, Sec. 27, TL 3300, 3400, 3600 & 3700 from RA-5, Residential Agriculture – 5 to RA-2, Residential Agriculture – 2; and,

WHEREAS, the applicant also requested an exception to Statewide Planning Goal 14, Urbanization, as part of the application; and

WHEREAS, the application was considered by the Planning Commission at a public hearing on January 8 and January 15, 2008 and the Commission recommended approval, which recommendation is attached as Exhibit "PC"; and

WHEREAS, consideration for this ordinance complies with the Post Acknowledgement rules of the Oregon Land Conservation and Development Commission and the Clatsop County Planning Commission has sought review and comment and has conducted the public hearing process pursuant to the requirements of ORS 215.050 and 215.060, and the Board of Commissioners received and considered the Planning Commission's recommendations on this request and held a public hearing on this ordinance

pursuant to law on February 27, 2008; and

WHEREAS, public notice has been provided pursuant to law; now therefore,

THE BOARD OF COMMISSIONERS OF CLATSOP COUNTY ORDAIN AS FOLLOWS:

SECTION 1. The Clatsop County Comprehensive Plan / Zoning Map is hereby amended as shown in attached Exhibit 1.

SECTION 2. The Goal 14 element of the Clatsop County Comprehensive Plan is hereby amended as shown in attached Exhibit 2.

SECTION 3. The Board of Commissioners hereby approves the application and findings of fact contained in the Exhibit "PC" Planning Commission recommendation.

SECTION 4. In support of this ordinance, the Board adopts the recommendation and applicant's findings (Exhibit A) contained in attached as Exhibit "PC".

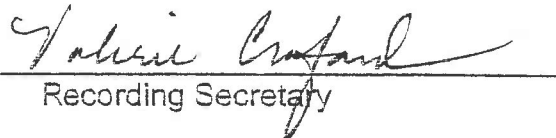
Approved this 12th day of March, 2008

THE BOARD OF COUNTY COMMISSIONERS
FOR CLATSOP COUNTY, OREGON

By


Patricia Roberts, Chair

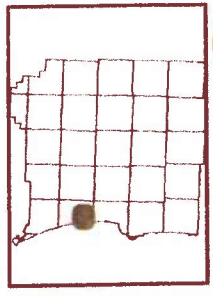
By


Valerie Crawford
Recording Secretary

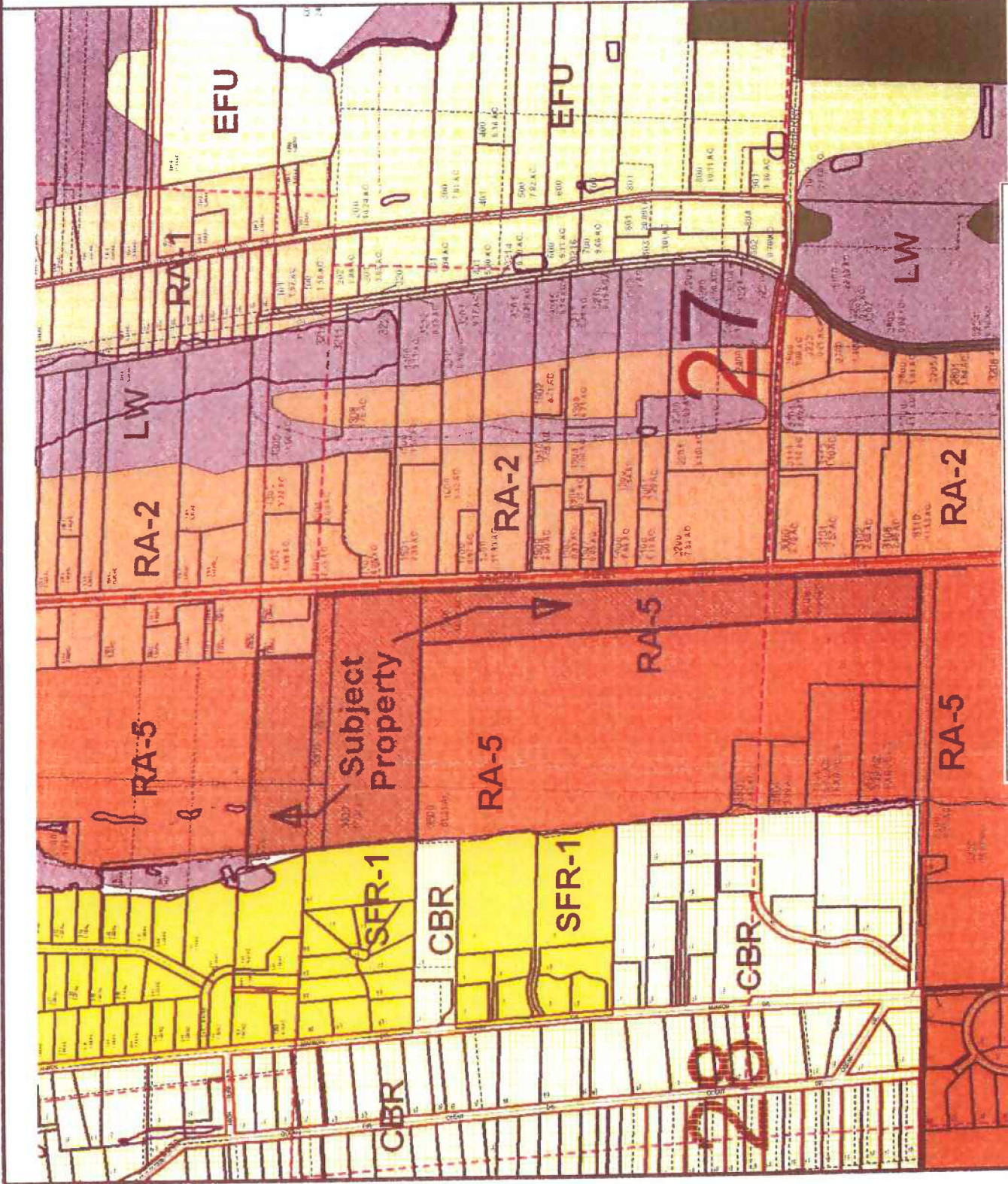
Clatsop County Map

- PLS**
 PLS Townships
Roads
 Local Road
 Local Road (Gravel)
 Private or Undeveloped R
 Private Road
 Right-of-Way, B or W
Tax Lot Arrows
Tax Map
 Water Body
 Creek
 Parcel Boundary
 Supplemental Boundary
 DLC
 Road R-C-W
Zoning
 AF
 CBR
 EFU
 F-80
 LW
 RA-1
 RA-2
 RA-5
 SFR-1

Earl, Osburn-Olson LLC
 Zone Change Map



9/26/2007



1 in. = 800 ft.

Existing Zoning: Residential Agriculture - 5 (RA-5)
 Proposed Zoning: Residential Agriculture - 2 (RA-2)

This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, misuse or misinterpretation.

ORDINANCE NO. 08-03, EXHIBIT 2

The following findings are hereby attached as a background report to the Goal 14 element of the Clatsop County Comprehensive Plan in support of the comprehensive plan / zoning map amendment approved as a function of Ordinance No. 08-03:



APPLICATION FOR
GOAL EXCEPTION
Fee: \$2,481 (Required with application)

PROPOSED USE: Rural Residential

ZONE: Rural Residential RA-5

EXCEPTION TO GOAL 3 4 10 12 14
 16 17 18 other: _____ amend existing exception

LEGAL DESCRIPTION OF PROPERTY:

T: 7N R: 10W S: 22C TL: 2900 ACRES: 12.15

~~OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:~~

T: 7N R: 10W S: 27 TL: 3300 ACRES: .81

T: 7N R: 10W S: 27 TL: 3400 ACRES: 17.32

APPLICANT 1: (mandatory) 3600 15.51
3700 5.01

Name: Corey Olson Phone # (Day): 503-738-2644

Mailing Address: 369 Stillwater Court Fax#: _____

City/State/Zip: Seaside, OR 97138 Signature: Corey Olson

PROPERTY OWNER: (mandatory if different than applicant)

Name: see Attached Phone # (Day): _____

Mailing Address: _____ Fax#: _____

City/State/Zip: _____ Signature: _____

ARCHITECT/ENGINEER/SURVEYOR/CONSULTANT: (optional)

Name: Parker Consulting - Butch Parker Phone # (Day): 541-777-0736

Mailing Address: PO Box 397 Fax #: _____

City/State/Zip: Warrenton, Oregon 97146 Signature: Butch Parker

Community Development Department
800 Exchange, Suite 100 * Astoria, Oregon 97103 * (503) 325-8611 * FAX 503-338-3666

Each of the following criteria and standards must be addressed by the applicant. The information needed to address these criteria should be submitted on separate 8.5" by 11" sheets of paper, typed.

1. An **exception** is 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 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.

2. There are three kinds of goal exceptions :
 - 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 factors make uses allowed by the applicable goal impracticable.
 - c. The following four-part test is met (a reasons exception):
 - (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 at 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;
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Requirements for exception "a" are described under paragraph 3, below. Requirements for exception "b" are found in paragraph 4. Requirements for exception "c" are in paragraph 5.

3. The county may adopt an exception to a goal when 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. Whether land has been physically developed with uses not allowed by the applicable goal

will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

4. The county may adopt an exception to a goal when land is irrevocably committed to uses not allowed by the applicable goal because factors make uses allowed by the goal impracticable. Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception must address:

- a. characteristics of the exception area;
- b. characteristics of adjacent lands;
- c. the relationship between the exception area and adjacent lands;
- d. adjacent uses;
- e. existing public facilities and services;
- f. parcel size and ownership patterns on the exception area and on adjacent lands;
- g. neighborhood and regional characteristics;
- h. natural or man-made features or other impediments separating the exception area from adjacent resource land;
- i. physical development;
- j. other relevant factors.

5. The county may adopt an exception to a goal if all four of the following standards are met:

- a. Reasons justify why the state policy embodied in the applicable goals should not apply;
- b. Areas which do not require a new exception cannot reasonably accommodate the use;
- c. The long term environmental, economic, social and energy consequences resulting from the use at 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;

- d. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Oregon Administrative Rules Chapter 660, Division 4, provide a great deal of information about the exception requirements for this type of exception. County Community Development department staff can provide a copy of these rules, or they can be obtained from the Oregon Department of Land Conservation and Development.

OFFICE USE ONLY: date received: 9/21/07 application #: 20070664
date complete: 9/27/07 R&O/Ord#: 08-01-08

Exhibit D

Goal 14: Urbanization Exception

DLCD (Department of Land Conservation and Development) has interpreted Goal 14 to require an exception when Rural Lands are rezoned to allow higher density development. There are two exception process. These are "Reasons" and "Committed" exceptions. The applicants have chosen to request this exception using the "Committed" process.

Following is justification to support the Goal 14 exception.

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

(1) A local government may adopt an exception to a goal when 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:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

Finding:

The exception area is designated Rural Lands and is zoned RA-5, one dwelling per five acres. 20.51 acres of the total 50.79 acres is contained in two tax lots. (3700 and 3600) These two lots are an average of 300 feet wide and combined length of approximately 3,000 feet. If tax lot 3600 (15.51 acres) was partitioned into 3 parcels the length to depth ratio of the lots would 2.7/1. This is within the County standard of 3/1 but is more difficult to develop. Tax lot 3300 was a non-conforming size of 4.13 acres. Clatsop County has approved Property Line Adjustments which has reduced this tax lot a 0.81 acre size. The remaining 29.50 acres is split between tax lot 2900 (12.15 acres) and 3400 (17.34 acres). All of the parcels abut Highway 101 except tax lot 2900. Tax lot 2900 currently has an approved access easement to Highway 101 to the north. The total subject property is located on a stabilized dune.

(b) The characteristics of the adjacent lands;

Finding:

All adjacent land abutting Highway 101 to the east is zoned RA-2 (one dwelling per 2 acres). Property to the north abutting Highway 101 to the west is also zoned RA-2. Adjacent property to the east is zoned and developed in 1 and 2 acre parcels. One parcel of 61 acres zoned RA-5 abuts tax lots 3600 and 3700 to the west. It currently has an approved cluster (Ridge Line Estates) of 9 two acre parcels that will abut the west property line of the subject property. All of adjacent lands are stabilized dunes.

(c) The relationship between the exception area and the lands adjacent to it; and

Finding:

The subject property has the same characteristics of the adjacent lands and is surrounded by adjacent lands that are zoned or proposed to be developed to 1 and 2 acre densities.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

OAR 660-004-0028

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Finding:

The adjacent existing uses are all residential uses except for 7.81 acres that is developed as a church property. Adjacent lands are zoned one and two acre Residential or are approved for 2 acre cluster development. Rezoning this subject property to RA-2 abutting Highway 101 would be consistent with the RA-2 present zoning of property abutting Highway 101 to the east and north.

(b) Existing public facilities and services (water and sewer lines, etc.);

Finding:

The property is presently served by the City of Warrenton water system which is capable of serving the denser development. Each lot shall have an on-site septic system such as the adjacent developed parcels have. Electricity, Telephone and Cable services are all available to the subject property. The property will be accessed by Highway 101 or by the private Surf Pines Road to the south.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision.

Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

Finding:

The existing adjacent parcels to the east are zoned RA-2 and consist of 10 parcels of 2 acres or less. There are 12 parcels that range from 2 acres to less than 4, which are not able to be partitioned. Five parcels are 4.05 acres to 11.93 acres. Four of these 5 parcels could be partitioned or provide opportunities for cluster development. One of the 5 parcels at the corner of Highway 101 and Dellmoor Loop Road (7.81 acres) is owned by a church and is developed for that use. Property to the west is within the Clatsop Plains Zoning of SFR-1 and CBR. These zones allow for 1 and 2 acre parcels. The 40+ lots abutting Manion Drive to the east is currently developed in cluster development. The SFR-1 and CRB zoned property did not have a resource exception taken for it in the original Comprehensive Plan of 1986 as Clatsop County decided this property was committed to Residential Uses and was not considered resource land. The subject property ownership is split with the southerly 37.81 acres in one ownership and the northerly 12.96 acres in another ownership.

(d) Neighborhood and regional characteristics;

Finding:

The dominant land use patterns are Surf Pines and land on the east side of Highway 101, where zoning allows two acre or denser development.

Within the 640 acres in section 27, where the subject property lies, a total of 84 tax lots covering 607 acres are on tax map 7-10-27. The acreage discrepancy is explained by roads and tax lot boundaries extending beyond section lines. The average lot size is about seven acres. The mean lot size is 3.11 acres. Fourteen of the 84 tax lots are ten acres or larger in size; only nine tax lots are fifteen acres or larger. One of the nine tax

lots that have 15 acres or more is tax lot 3500 with a total 61.51 acres. This tax lot has an approved cluster development (Ridge Line Estates) of nine two acre parcels. The two acre parcels will abut the west property lines of tax lots 3700 and 3600 of the subject property for a lineal distance of 2450 feet as shown on the attached map. The 12.15 acres of tax lot 2900, located in section 22C, abuts one acre zoning on the west and two acre zoning on the east.

There are no actively-farmed parcels or actively managed forest tracts on map 7-10-27 and 22C. Generally speaking, active farm or forest management is economically feasible on larger parcels, larger than eighty acres. Although it might be physically possible to manage smaller tracts for farm or forest purposes, it is uncommon in this area.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Finding:

There are no adjacent resource land to the subject property. A small portion (2+ acres) of the westerly property abuts Neacoxie Creek. This portion of the property is zoned LW (Conservation-Other Resources). The LW zoned land will not be effected by the proposed rezone.

(f) Physical development according to OAR 660-004-0025; and

660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

(1) A local government may adopt an exception to a goal when 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.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification

Finding:

This application is not based on a rezone to allow other uses. The residential use is still available. The rezone would allow denser uses of the same residential use. This requirement for Land Physically Developed to Other Uses is not applicable to this application.

(g) Other relevant factors.

Finding:

The southerly 20.51 acres is difficult to develop via partitioning in its current five acre zoning because of its narrow depth from Highway 101. The property is located on a stabilized dune as are the surrounding 1 and 2 acre zoned property. The increased density will not have a greater impact on the subject property than the surrounding properties had on their parent parcels.

GOAL EXCEPTIONS

197.732 Goal exceptions; criteria; rules; review. (1) A local government may adopt an exception to a goal if:

(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 as described by Land Conservation and Development Commission rule 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) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

Finding:

This property is designated Rural Residential. The Goal 14 Urbanization definition of Rural is 2 acres and Urban as 1 acre. The applicants are asking for a Rural Residential 2 zoning. This is consistent with the Goal 14 definition. The subject property is surrounded by 1 and 2 acre zoning and will be required to develop in Cluster development. This will leave larger areas as open space.

(B) Areas which do not require a new exception cannot reasonably accommodate the use;

Finding:

There is a possibility of 11 additional lots in the RA-2 Zone to the east of the subject property if all 4 of the 4+ acre lots were partitioned into 2 acre parcels. The proposed rezone would allow 28 dwellings (25+3 density transfer) instead of the current 9. The rezone would allow an increase of 19 dwellings. It is highly improbable that the existing RA-2 property would be partitioned to the minimum 2 acre size. The property to the east is already developed to the 1 and 2 acre standard.

(C) The long term environmental, economic, social and energy consequences resulting from the use at 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

Finding:

The Long term environmental, economic, social and energy consequences impacts resulting from this proposed rezone would be the same or less than other property that would require a Goal exception. The proposed rezone does not impact Resource Lands or Goal 5 resources. Other properties depending on their location could impact Resource Lands and Goal 5 resources.

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(2) "Compatible," as used in subsection (1)(c)(D) of this section, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Finding:

The requested use is not changing from Rural Residential and will have the same density as the surrounding Rural Residential properties currently have. The proposed use is compatible with adjacent uses.

(3) The commission shall adopt rules establishing:

(a) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (1)(c)(A) of this section; and

(b) Which uses allowed by the applicable goal must be found impracticable under subsection (1) of this section.

(4) 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 of subsection (1) of this section have or have not been met.

Finding:

Catsop County can approve the requested Goal 14 Exception based on the findings presented by the applicant in this document.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

Finding:

Clatsop County's Notice of Public Hearing complies with this requirement.

(6) Upon review of a decision approving or denying an exception:

(a) The board or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (1) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards of subsection (1) of this section have or have not been met.

(7) The commission shall by rule establish the standards required to justify an exception to the definition of "needed housing" authorized by ORS 197.303 (3).

(8) As used in this section, "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 applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards under subsection (1) of this section.

(9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, shall continue to be valid and shall not be subject to this section. [1983 c.827 §19a; 1995 c.521 §3]

Finding:

Sections 6 through 9 are not applicable to this application.

Goal 2, Part II(b)

Finding:

The requirements found in Goal 2, Part II(b) are identical to the requirements found in OAR 197.732 which have been addressed in the section above.

EXHIBIT "PC"

BEFORE THE PLANNING COMMISSION FOR CLATSOP COUNTY, OREGON

In the matter of an amendment to the
Clatsop County Comprehensive Plan /
Zoning Map and a Goal Exception by
Russell Earl, Steven Earl, Daniel Earl, Lori
Baker, and Osburn-Olson, LLC

RESOLUTION AND ORDER

08-01-08

RECITALS

A. Pursuant to Article 2 of the Clatsop County Land and Water Use Development Ordinance, Russell Earl, Steven Earl, Daniel Earl, Lori Baker and Osburn-Olson, LLC, property owners, applied for a comprehensive plan/zoning map amendment and goal exception (attached Exhibit A) on September 21, 2007 regarding property in Clatsop County (the "Property") described as:

T7N, R10W, Section 22C, Tax Lot 2900 and
T7N, R10W, Section 27, Tax Lots 3300, 3400, 3600 & 3700

B. Pursuant to County Procedures for Land Use Applications, staff examined the application and submitted a report dated January 1, 2008 regarding the request. The Staff Report is attached as Exhibit B.

C. Pursuant to County procedures, a hearing was held on the land use matter on January 8 and January 15, 2008 for which appropriate notice was provided.

WHEREFORE, the Planning Commission finds and resolves:

1. The Community Development Department will present the Planning Commission's recommendation to approve the request to the Board of Commissioners for their consideration.

2. That the findings contained in attached Exhibit A including Exhibits 11-15 provided by the applicant at the public hearing are adopted in support of this recommendation.

SO ORDERED this 29th day of January 2008.

PLANNING COMMISSION FOR
CLATSOP COUNTY, OREGON


Bruce Francis, Commission Chair



COMPREHENSIVE PLAN/ZONING
MAP AMENDMENT **EXHIBIT A**

Fee: \$975.00 (required with application)
- \$2175.00 (required with application)

PROPOSED USE: Residential

	<u>Zoning</u>	<u>Comprehensive Plan Designation</u>
Current:	<u>R-A-5</u>	<u>Rural Residential</u>
Proposed:	<u>R-A-2</u>	<u>Rural Residential</u>

LEGAL DESCRIPTION OF PROPERTY:

T. 7N R. 10W S. 22E TL: 2900 ACRES: 12.15

~~OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:~~

T. 7N R. 10W S. 27 TL: 3300 ACRES: 1.81

T. 7N T. 10W S. 27 TL: 3400 ACRES: 17.32

APPLICANT 1: (Mandatory)	<u>3600</u>	<u>15.51</u>
	<u>3700</u>	<u>5.01</u>

Name: Corey Olson Phone # (Day): 503-728-2644

Mailing Address: 1369 Stillwater Court FAX #:

City/State/Zip: Seaside, OR 97138 Signature: Corey Olson

PROPERTY OWNER: (Mandatory if different than applicant)

Name: See attached Phone # (Day):

Mailing Address: FAX #:

City/State/Zip: Signature:

PROPERTY OWNER #2 / SURVEYOR / AGENT / CONSULTANT / ATTORNEY: (optional)

Name: Parker Consulting - Beth Parker Phone # (Day): 541-779-0736

Mailing Address: PO Box 397 FAX #: 541-475-4314

City/State/Zip: Warrenton, Oregon 97146 Signature: Beth Parker

Community Development Department
300 Exchange, Suite 100 * Astoria Oregon 97103 * (503) 325-8611 * FAX 503-338-3666

Each of the following criteria and standards must be addressed by the applicant. The information needed to address these criteria should be submitted on separate 8.5" by 11" sheets of paper, typed.

1. The map change must be consistent with the Comprehensive Plan. The Comprehensive Plan includes the following elements:

- Goal 1 – Citizen Involvement
- Goal 2 – Land Use Planning
- Goal 3 – Agricultural Lands
- Goal 4 – Forest Lands
- Goal 5 – Open Space
- Goal 6 – Air, Water and Land Resources Quality
- Goal 7 – Natural Hazards
- Goal 8 – Recreational Needs
- Goal 9 – The Economy
- Goal 10 – Housing
- Goal 11 – Public Facilities and Services
- Goal 12 – Transportation
- Goal 13 – Energy Conservation
- Goal 14 – Urbanization
- Goal 15 – Estuarine Resources
- Goal 17 – Coastal Shorelands
- Goal 18 – Beaches and Dunes
- Southwest Coastal Community Plan
- Northeast Community Plan
- Elsie/Jewell Community Plan
- Seaside Rural Community Plan
- Lewis and Clark/Olney/Walluski Community Plan
- Clatsop Plains Community Plan

Some of these elements of the Comprehensive Plan are not applicable to the proposed map amendment. County staff will help identify applicable plan elements and policies.

2. Also address the following from Section 5.412. Zone Change Criteria of the Clatsop County Land and Water Development and Use Ordinance #80-14.
 1. The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
 2. The proposed change is consistent with the statewide planning goals (ORS 197)
 3. The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
 1. Parks, schools and recreational facilities
 2. Police and fire protection and emergency medical service
 3. Solid waste collection
 4. Water and wastewater facilities
 4. The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
 5. The proposed change will not result in over-extensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
 6. The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses
 7. The proposed change will encourage the most appropriate use of land throughout Clatsop County
 8. The proposed change will not be detrimental to the health, safety, and general welfare of Clatsop County.

3 The property in the affected area must be presently provided with adequate public facilities, services and transportation networks to support the use, or the governing body by condition requires their provision by condition attached to any approval of use.

OFFICE USE ONLY:

date received:	<u>9/21/07</u>	application #:	<u>20070664</u>
date complete:	<u>9/27/07</u>	(R&O) Ord#:	<u>#08-01-08</u>

OWNERS

T7N, R10W, Section 22C Tax Lot 2900
T7N, R10W, Section 27 Tax Lot 3300

Corey Olson 8-30-07
Corey Olson Date

Ryan Osburn 8/30/07
Ryan Osburn Date

T7N, R10W, Section 2700 Tax Lots 3400, 3600, 3700

Russell R. Earl Date

Daniel T. Earl Date

Steven M. Earl Date

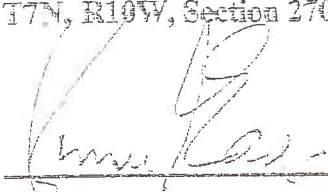
Lois R. Baker Date

OWNERS

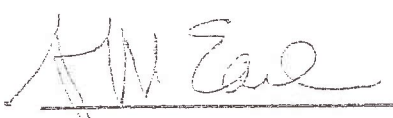
T7N, R10W, Section 22C Tax Lot 2900
T7N, R10W, Section 27 Tax Lot 3300

Corey Olson	Date	Ryan Osburn	Date
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T7N, R10W, Section 2700 Tax Lots 3400, 3600, 3700

 9/1/07

Russell R. Earl	Date	Daniel T. Earl	Date
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 9/1/2007

Steven M. Earl	Date	Lois R. Baker	Date
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OWNERS

17N, R14W, Section 23C Tax Lot 2000
17N, R14W, Section 27 Tax Lot 1000

_____	_____	_____	_____
Carey Oleno	Date	Ryan Osborn	Date

17N, R14W, Section 2700 Tax Lots 3000, 3000, 3700

_____	_____	_____	_____
Russell R. Earl	Date	Donald T. Earl	Date

_____	_____	<u>Yas R. Baker</u>	_____
Steven M. Earl	Date	Luci R. Baker	Date

OWNERS

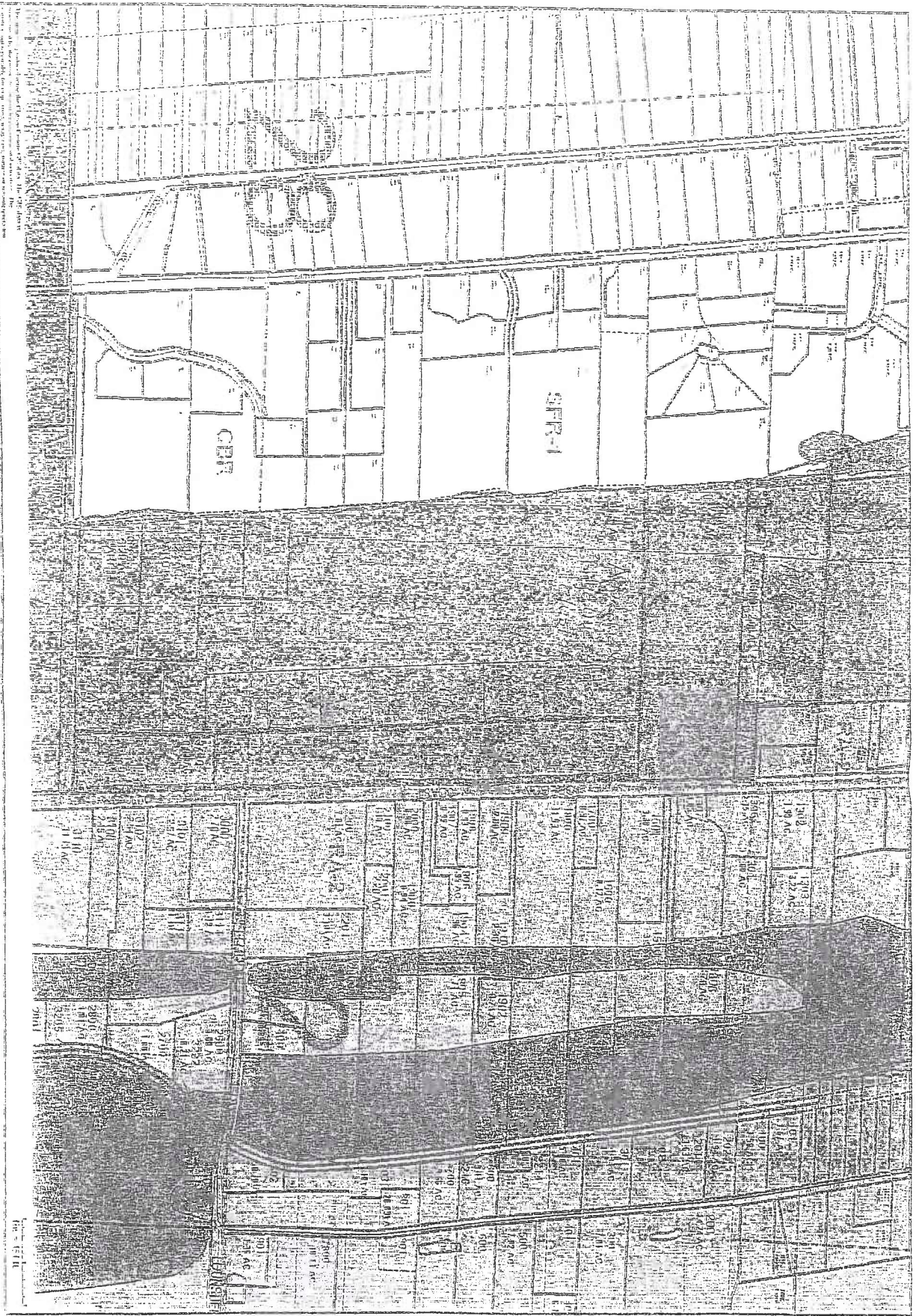
T7N, R10W, Section 22C Tax Lot 2900
T7N, R10W, Section 27 Tax Lot 3300

_____	_____	_____	_____
Cary Olson	Date	Ryan Cebura	Date

T7N, R10W, Section 2700 Tax Lots 3400, 3600, 3700

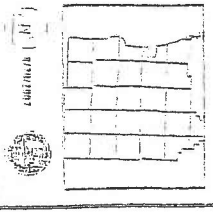
_____	_____	<u>David Earl</u> 8/31/07	_____
Russ R. Earl	Date	Daniel T. Earl	Date

_____	_____	_____	_____
Steven M. Earl	Date	Lois R. Baker	Date



Chester County Map

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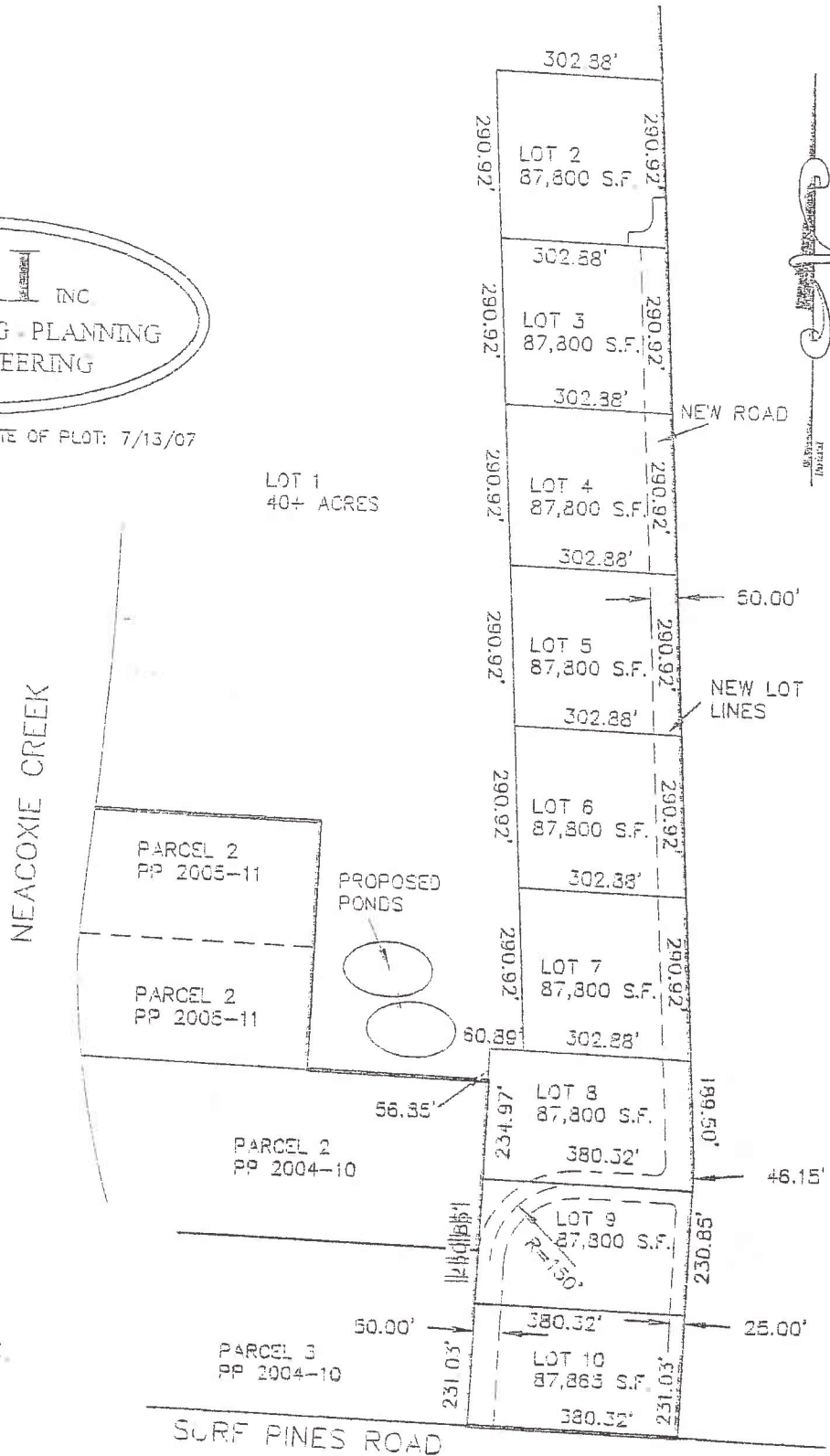
REVISED SITE PLAN RIDGE LINE ESTATES

IN THE W 1/2 OF SECTION 27, T7N, R10W, W.M.
CLATSOP COUNTY, OREGON

DATE: JUNE 14, 2007 SCALE 1" = 300'



DRAWING NAME: 7-052 DATE OF PLOT: 7/13/07



LOT 1
40+ ACRES

NEACOXIE CREEK

PARCEL 2
PP 2005-11

PARCEL 2
PP 2005-11

PARCEL 2
PP 2004-10

PARCEL 3
PP 2004-10

MAP FCR: WIDEMAN

SURVEY BY: CKI, INC.
P.O. BOX 309
SEASIDE, OR 97138
PH: 503 738 4320
FAX: 503 738 7854

SURF PINES ROAD

PROPERTY LINE ADJUSTMENT SURVEY

IN THE SE 1/4 S21, SW 1/4 S22, NE 1/4 S2B
& HW 1/4 S27, 17th, 18th, 19th, W.M.,
CLATSOP COUNTY, OREGON
DATE: AUGUST 15, 2007 SCALE 1" = 100'

LEGEND
 () FOUND BENCHMARK AS NOTED HEREON
 () FOUND 3/8" DIA. ROD WITH GRAVITY PLACED CAP MARKED
 "REGISTRATION POINT" PER MAP B-12000
 () BENCHMARKS RECORD VALUE PER MAP B-12000

NARRATIVE
 THE PURPOSE OF THIS SURVEY IS TO ADJUST PROPERTY LINE BETWEEN EXISTING PARCELS 1 AND PARCEL 11, OF INSTRUMENT NO. 200702249, DEED RECORDS CLATSOP COUNTY, OREGON.
 BEARINGS AND DISTANCES ON A LINE BETWEEN POINTS 13 AND 11 PER MAP B-12000.
 THE BEARINGS AND DISTANCES PER THIS SURVEY WERE HELD AS SHOWN HEREON, WITH DIFFERENCES IN MEASUREMENTS AS NOTED.
 ALL PROPERTY LINE ADJUSTMENTS ARE NOT FINAL, UNLESS PROPER DEEDS OF CONVEYANCE HAVE BEEN RECORDED WITH THE CLATSOP COUNTY CLERK'S OFFICE.

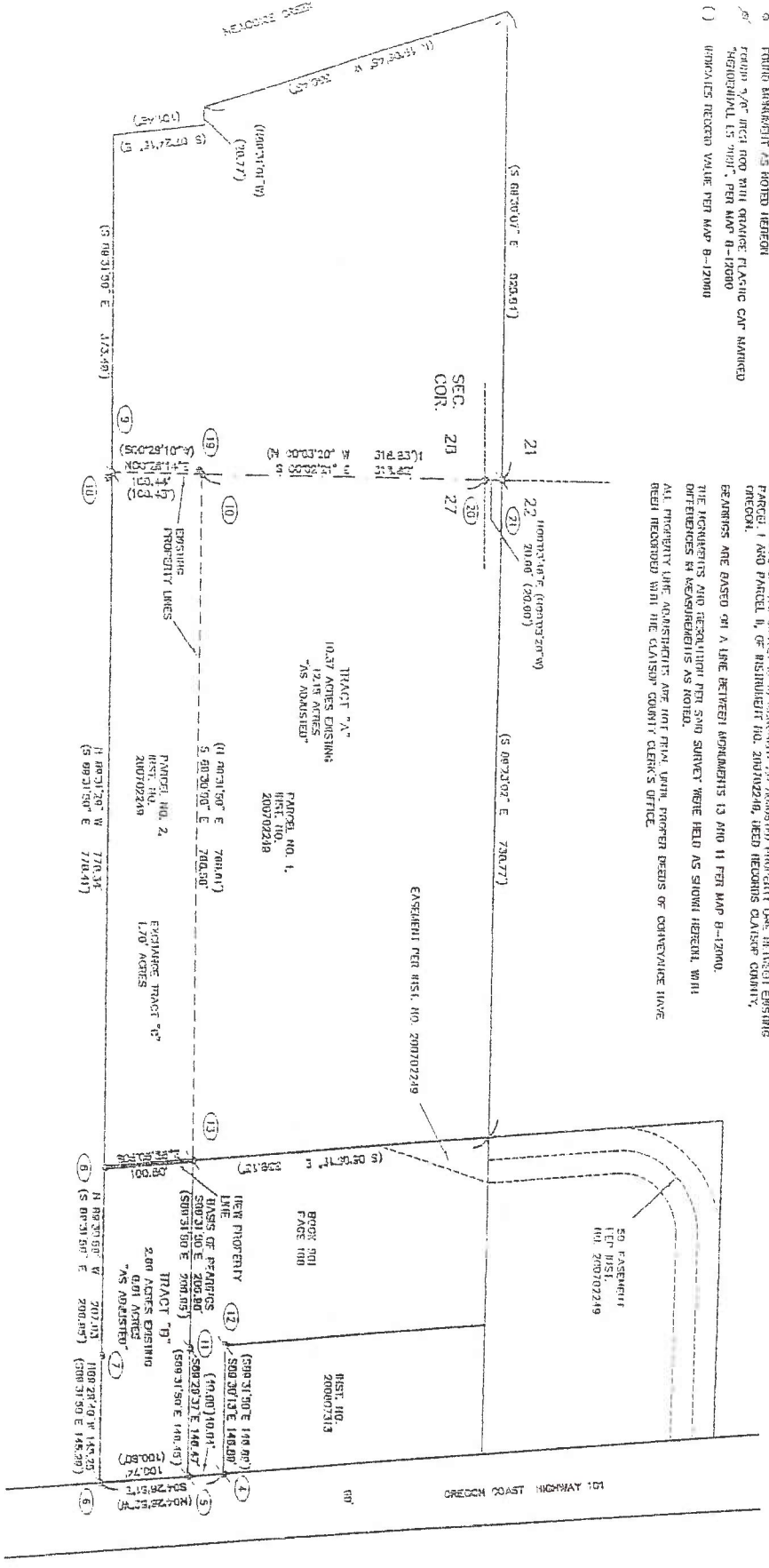


Exhibit A Findings – Comprehensive Plan Policies

This document contains findings demonstrating the proposed amendment's consistency with policies in Clatsop County's Comprehensive Plan. The Comprehensive Plan is organized into 18 county-wide elements plus five community plans. These findings are organized in the same fashion as the County's Comprehensive Plan.

These findings are required for approval of a zone change. Section 5.412 of the County's Land and Water Development and Use Ordinance addresses zone changes. Subsection 1 establishes the following criterion for zone changes:

The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.

The proposal consists of an amendment to the County's combined comprehensive plan/zoning map, changing the zoning on the following tax lots from RA5 to RA2:

- 7-10-27-3400 (17.32 acres)
- 7-10-27-3600 (15.51 acres)
- 7-10-27-3700 (5.01 acres)
- 7-10-27-3300 (0.81 acres)
- 7-10-22C-2900 (12.15 acres)

Citizen Involvement Element

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

Clatsop County should find this proposal consistent with the Plan's citizen involvement policies.

Land Use Planning Element

The Plan's Land Use Planning Element contains a Rural Lands policy:

- a. *Where subdivision or partitioning or both have occurred in a one-acre pattern of development the area will be placed in one of the one-acre zones;*
- b. *In areas with a pattern of two to five acre parcels (some smaller and some larger), the area will be placed in a two-acre zone;*
- c. *In areas adjacent to resource lands (forest, agriculture, wetlands, estuary areas), or Camp Rilea, the areas will be placed in a five-acre zone;*
- d. *In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five-acre zone;*
- e. *In addition to criteria a through d, minimum lot sizes increase with increasing distance from the following areas:*
 1. *all urban growth boundaries*
 2. *Svensen center*
 3. *Knappa center.*

This policy establishes criteria for decisions about residential density. The proposed amendments change the residential density allowed on the subject property from one dwelling unit per five acres, to one dwelling unit per two acres. The proposal is consistent with the policy for the following reasons:

- a. The dominant land use patterns are Surf Pines and land on the east side of Highway 101, where zoning allows two acre or denser development.
- b. Within the 640 acres in section 27, where the subject property lies, a total of 84 tax lots covering 607 acres are on tax map 7-10-27. The acreage discrepancy is explained by roads and tax lot boundaries extending beyond section lines. The average lot size is about seven acres. The mean lot size is 3.11 acres. Fourteen of the 84 tax lots are ten acres or larger in size; only nine tax lots are fifteen acres or larger. One of the nine tax lots that have 15 acres or more is tax lot 3500 with a total 61.51 acres. This tax lot has an approved cluster development (Ridge Line Estates) of nine two acre parcels. The two acre parcels will abut the west property lines of tax lots 3700 and 3600 for a lineal distance of 2450 feet as shown on the attached map. The 12.15 acres of tax lot 2900, located in section 22C, abuts one acre zoning on the west and two acre zoning on the east.

- There are no actively farmed parcels or actively managed forest tracts on map 7-10-27 and 22C. Generally speaking, active farm or forest management is economically feasible on larger parcels, larger than eighty acres. Although it might be physically possible to manage smaller tracts for farm or forest purposes, it is uncommon in this area.

A second Rural Lands policy reads as follows:

Rural lands are those lands which are outside the Urban Growth Boundary and are not agricultural lands or forest lands. Rural lands include lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

Nearly all of the subject property is in the "Rural Lands" comprehensive plan designation. A small part of tax lot 3400 and 2900 are in the "Conservation-Other Resources" comprehensive plan designation, and is not part of this proposal. The proposal does not change the boundary line between these two plan designations.

Agricultural Lands Element

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

Forest Lands Element

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

Goal 5 Element

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

Open space: The Plan identifies three kinds of open space: general open space (farms, forests, estuaries, the ocean and ocean beaches); site-specific open space (parks, wildlife refuges, wetlands, and specific scenic areas); and areas provided in conjunction with a specific development (such as dedicated open space in a subdivision). General open space is not present on the subject property. Changes to the general open space inventory or protection measures are not necessary for the proposed amendment or for the development contemplated on this site. The comprehensive plan identifies site-specific open space on the subject property in the form of wetlands on the west side of tax lot 3400 and 2900. This goal 5 resource is protected by the County's LW zone, and by state and federal regulatory programs designed to protect wetlands. The proposed zone change doesn't include the LW zone, so this goal 5 resource is unaffected by the proposed amendment. Open space provided in conjunction with a specific development is not present on the site, though it could be provided as part of a residential cluster development.

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

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

- The subject property is not included in either Major Big Game Range or Peripheral Big Game Range.
- Columbia whitetail deer are not found on or near the site.
- Upland game birds (grouse, quail, pigeons) are not identified in the Goal 5 plan element as requiring protection on the site or on adjacent lands.
- Waterfowl habitat exists in the area, notably in Neacoxie Creek (west of the site). The proposal does not affect the County's protection mechanism for this habitat area: the LW zone.
- The plan discusses habitat for "Furbearers and Hunted Non-game

Wildlife", including beaver, muskrat, nutria, mink, river otter, skunk, bobcat, raccoon, rabbits, and coyotes. Some of these non-game species may use the site from time to time. The comprehensive plan does not identify this site as providing habitat for these animals, nor does it include any habitat protection measures.

- Northern bald eagles, osprey, herons and snowy plovers are identified as important non-game birds.
- No fish habitat exists on the site other than in Neacoxie Creek. Fish habitat in Neacoxie Creek is protected by LW zoning, which is unaffected by the proposed amendment.
- Oregon silverspot butterfly habitat may be present on the site. The adopted comprehensive plan does not inventory butterfly habitats. The County relies on USFWS measures to protect habitat for this insect. Development on the site will be in accordance with USFWS protection measures and an updated habitat inventory.

Ecologically and scientifically significant natural areas: None of the 23 sites listed in the plan is on or near the subject property.

Outstanding scenic views and sites: Twelve sites are listed in the County's final inventory of scenic sites. None of the final inventory sites is on or near the site.

Water areas, watersheds, and groundwater: The Clatsop Plains aquifer is identified as a Goal 5 resource. The County adopted inventory information, a conflicting use analysis, and protection measures recommended in reports prepared in the early 1980s [5], [4]. These protection measures are incorporated into Clatsop County's land use regulations, and into the Oregon Department of Environmental Quality's (DEQ) subsurface wastewater disposal regulations [3]. This proposal does not conflict with these regulations, or with protection of the Clatsop Plains aquifer.

Wetlands: The Goal 5 Element relies on a wetland inventory prepared for Clatsop County by Duncan Thomas in 1980. The Thomas inventory identifies wetlands on the west edge of tax lot 3400 and 2900 [1]. The National Wetlands Inventory, conducted by the US Fish and Wildlife Service, also identifies this wetland [9].

Wilderness areas: The Oregon Islands Wilderness Area, which does not include the subject property, is identified as the only goal 5 wilderness area in Clatsop County.

Historic sites: The subject property is not included in the County's preliminary or final inventory of historic sites.

Cultural areas: The comprehensive plan does not identify any archaeological sites or other cultural resources on or near the subject property.

Oregon wild and scenic waterways: These Goal 5 resources are addressed in the "Recreational Needs" plan element. No wild or scenic waterways are present on the subject property.

Recreational trails: These goal 5 resources are covered under the County's "Recreational Needs" plan element. No inventoried recreational trails are present on the site.

There are no protected Goal 5 resources on the subject property other than than wetlands associated with Neacoxie Creek. The County should find the proposed amendment in compliance with policies in the plan's Goal 5 Element.

Air, Water and Land Resources Element

Air, Water and Land Resources policy 1 is:

The County shall encourage the maintenance of high quality of air, water and land through the following actions:

- (a) encouraging concentration of urban development inside Urban Growth Boundaries,*
- (b) encourage maintenance and improvement of pollution control facilities,*
- (c) cooperation with the State Highway Department to provide an efficient transportation system. Methods to reduce congestion and air pollution on Marine Drive/Commercial Street should be explored.*
- (d) encourage indigenous, clean industries such as fishing, boat building, tourism, and forest products utilization, and*
- (e) encourage development of resource recovery mechanisms such as recycling centers and wood waste processing.*

The proposed amendment is consistent with policy 1. Urban development (such as high-density residential or commercial uses) is not proposed on this site, so part (a) is not applicable. Parts (b), (c), (d), and (e) concern activities that are not relevant to the subject property or to this proposal. Policy 1 expresses general aspirations concerning air, water and land resources, but does not establish mandatory approval criteria applicable to this amendment.

Air, Water and Land Resources policy 2 reads as follows:

The County Planning Department shall work with the Department of Environmental Quality (DEQ) to monitor and keep its environmental data

base current including information on air quality, surface and groundwater quality, and land quality including waste disposal and erosion problems.

The proposed amendments do not conflict with the goals of monitoring environmental parameters or keeping environmental databases current. Policy 2 does not establish mandatory approval criteria applicable to the proposal or to the subject property.

Air, Water and Land Resources comprehensive plan policy 3 reads as follows:

The cumulative effect of development on the County's environment should be monitored and, where appropriate, regulated. When evaluating proposals that would affect the quality of the air, water or land in the County, consideration should be given to the impact on other resources important to the County's economy such as marine resource habitat and recreational and aesthetic resources important to the tourist industry.

Impacts on marine resource habitat (such as ocean fisheries) are not expected as a result of relocating the active dune line. The proposal should not generate any impacts on marine water quality, nutrient availability, predation, or ocean currents; or on any marine resources.

Potential impacts on recreational and aesthetic resources used by the tourist industry are unlikely. The ocean beach is an aesthetic resource for the tourist industry. The proposed amendments will not change the appearance of the ocean beach, or change access to the ocean beach, or otherwise reduce its aesthetic value. Views east from the ocean beach have already been altered in this area by homes on Manion Drive and on Strawberry Hill. Homes on the subject property will not be visible from the ocean beach. Likewise, homes developed on this site can comply with a comprehensive plan policy designed to protect scenic values associated with a portion of the Clatsop Plains.

For these reasons, County should find the proposed amendments consistent with policy 3.

Air, Water and Land Resources Element policy 4 reads as follows:

The County shall continue its efforts to find an acceptable regional solid waste disposal site or an acceptable alternative (i.e., recycling, electricity generation).

The proposed amendment does not conflict with the County's efforts to implement this policy.

Air, Water and Land Resources Element policy 5 is:

Recovery of wood wastes, rather than slash burning, shall be encouraged as a means of reducing air and water pollution, improving the economy, and for producing energy.

The proposal does not conflict with efforts to implement this policy.

Air, Water and Land Resources Element policy 6 reads as follows:

Upon completion of the Clatsop Plains Groundwater Study, the County shall reevaluate the Clatsop Plains Community Plan to determine whether existing policies and standards are adequate to protect water quality in the aquifer, lakes and streams. Consideration shall be given to protection of lakes from further degradation (eutrophication), and possible remedial actions to improve water quality.

This reevaluation took place, and is reflected in revised community plan policies and implementing measures. These policies are addressed later in these findings. Proposed amendments do not conflict with policies, standards or regulations protecting the Clatsop Plains aquifer.

Comprehensive Plan Air, Water and Land Resources policy 7 reads as follows:

The County shall work to maintain the quality of its estuarine waters through participation in the regional Columbia River estuary planning process.

This policy is not applicable to the subject property, to the proposed amendment, or to residential development on the subject property.

Air, Water and Land Resources policy 8 is:

The County shall cooperate with DEQ, State Forestry Department, State Transportation Department and other agencies in implementing best management practices to reduce non-point pollution.

This policy has no bearing on the proposed amendments or on development of the subject property.

Air, Water and Land Resources policy 9 reads as follows:

The County shall recommend that state agencies regulate the issuance of water rights so as to insure that the total water rights of a stream bed do not exceed the minimum stream flow.

No new surface water rights are sought for this project. This policy is not applicable to the proposed amendments.

Air, Water and Land Resources policy 10 reads as follows:

Subdivisions adjacent to major arterials shall address the reduction of noise impacts in their site plans.

The subject property is located adjacent to a major arterial Highway 101. A dune is located between likely residential development sites and Highway 101. This dune effectively blocks highway noise.

Air, Water and Land Resources policy 11 is:

Performance standards for noise will be considered for inclusion as standards in the County's industrial-commercial zones.

Industrial or commercial zoning is not part of this proposal, so this policy is not applicable.

Air, Water and Land Resources comprehensive plan policy 12 reads as follows:

The District Conservationist shall be used for technical evaluation of all development activities (including subdivisions and major partitions) that could create erosion and sedimentation problems with his/her recommendations incorporated into planning approvals.

This policy is implemented in the County's General Soil Development Standards, beginning at section S4.300 of the Development Standards Document. These standards apply to construction activity. This proposal does not trigger these requirements, so the policy is not applicable to this proposal. Site development on the subject property can be conducted in accordance with these standards.

Natural Disasters and Hazards Element

The Natural Disasters and Hazards Element of the County's comprehensive plan contains 11 flood hazard policies. The FEMA flood hazard map for this area (Community Panel Number 4 10027 0020 A) shows all of the land subject to this proposal to be in an "area of minimal flooding", so these policies are not applicable.

The Natural Disasters and Hazards plan element contains several soil development

policies. Site soils are classified as "dune land soils". They are not listed in the Comprehensive Plan or in the *Soil Survey of Clatsop County, Oregon* [8] as prone to mass movement. The seven general mass movement policies are not applicable to this proposal.

Five policies in the Natural Disasters and Hazards comprehensive plan element are directed toward areas with high groundwater or compressible soils. Site soils are not described in the comprehensive plan or in the *Soil Survey of Clatsop County, Oregon* as compressible, or associated with high groundwater. Because of this, these five policies are not applicable to this proposal.

Seven policies in the County comprehensive plan's Natural Disasters and Hazards element are directed at streambank erosion. There are no streambanks on the site, so these policies are not applicable.

Tsunamis are not directly addressed in the County's comprehensive plan. The subject property is not within a tsunami inundation zone as mapped by the Oregon Department of Geology and Mineral Industries, nor would the proposed amendment result in the development of any of structures regulated under ORS nnnnn on the subject property. Surf Pines Road, located on the southern boundary of the subject property, is a tsunami evacuation route. Use of Surf Pines Road for this purpose will not be affected by the proposed amendment.

Recreation Element

The Comprehensive Plan's Recreation Element contains 16 policies. Policies 1 through 4 address County parks. The subject property is not a County park, nor is it adjacent to a County park, nor is it under consideration for inclusion in the park system. These policies are not applicable to this proposal.

Recreation Policy 5 is:

Clatsop County shall attempt to protect and expand public access to the streams, river and lakes in the County. The County shall attempt to secure long-term use agreements for private boat ramp properties it maintains and develop new ramp sites as funding allows. The County shall retain existing County-owned stream-front properties identified as needed for public access and make efforts to acquire additional fishing access stream frontage.

The site has frontage on Neacoxie Creek. Public access to the waters of Neacoxie Creek is available from Sunset Beach public park, located about 3 miles to the north. No public access to the Neacoxie Creek shoreline is available at or near the subject property.

Policies 6 through 16 of the plan's Recreation element address County-owned lands and related County duties and obligations. These policies are not applicable to the proposal or to the subject property.

Economy Element

The Plan's Economy Element lists three policies addressing the forest products industry. The subject property is not forest land, nor is there any commercial timber on the site. The site is not zoned for forest uses, nor are these types of activities planned. These policies are not applicable to the proposed amendments.

Three marine resources policies are on pages 5 and 6 of the comprehensive plan's Economy Element. The subject property, though near the ocean, does not provide effective access to any of these resources, nor is it suitable for marine-related industrial development. These policies are not applicable to this proposal.

Five policies addressing the tourist industry are listed on pages 7 and 8 of the plan's Economy Element. These policies direct the County to support visitor-related industries. They are not germane to the site or to this proposal.

Two policies on the bottom of page 8 of the comprehensive plan's Economy Element address human resources. Neither are applicable to the subject property or to this proposal.

Eleven policies addressing community resources appear on pages 11 through 13 of the Economy Element. Policies 1 and 2 address the Economic Development Council, and are not applicable to the proposal. Policy 3 addresses cottage industries. No cottage industries are proposed under this amendment. The proposal does not affect the County's regulations concerning cottage industries. Policies 4, 5, and 6 address the Port of Astoria. The subject property is within the County-wide port district, but these policies do not apply to the property or to this amendment. Policy 7 addresses commercial and industrial uses. These types of uses are not proposed. Policies 8, 9 and 10 address destination resorts. The site is not large enough to be developed for a destination resort, nor would the proposed amendment allow one, so these policies are not applicable. Policy 11 deals with County, State and Federal recreation planning generally, and is not applicable to this proposal.

Housing Element

The comprehensive plan's Housing Element is based largely on data from the 1970 federal census. It includes seven population policies and fourteen housing policies. Population policy 1 addresses community plans, and is implemented with respect to the subject property through the Clatsop Plains Community Plan. Applicable housing policies from the community plan are addressed elsewhere in this document.

Population Policy 2 is *Promote population to locate in established service areas*. The subject property is in an established service area. It is serviced with public water (City of Warrenton), fire suppression (Gearhart Rural Fire Protection District), schools (Seaside School District and Clatsop Community College), ambulance service (Medix and GRFPD), and law enforcement (Clatsop County Sheriff). Private utilities provide cable television (Charter), electricity (PacifiCorp), natural gas (Northwest Natural), and telephone service (Qwest). Surf Pines road is private; Highway 101 is public. Development of the site for rural residences is not part of this proposal.

Population policy 3 reads as follows:

Promote the accommodation of growth within areas where it will have minimal negative impacts on the County's environment and natural resources.

Environmental and natural resources addressed by this policy are those identified and protected by statewide planning goals 3, 4, 5, 6, 16, 17 and 18; and by County land use regulations implementing these goals. The subject property is in an area where negative impacts on environmental and natural resources will be minimal. Impacts on wetlands, flood-plains, aquatic areas, forest resources, threatened or endangered species habitat, active dunes, farm land, mineral or aggregate resources, water quality, wilderness areas, air quality, and riparian resources are entirely avoided. Potential impacts on other natural resources or on the natural environment are minimized by development standards in the County's Development Standards Document. For these reasons, the County should find the proposed amendments consistent with Population policy 3.

Population policy 4 is *Utilize current vacant land found between developments or within committed lands*. The subject property meets this in-filling requirement. Residential development exists on all sides of the subject property. The outcome of this amendment is likely to be residential development of the site at the two-acre density. This outcome is consistent with this policy.

Population policy 5 from the County's Housing Element reads as follows:

Direct new urban growth within Clatsop County to existing urban growth boundary or rural service areas where under-utilized public or semi-public facilities exist or utility and/or investments have already been made.

The site is not within an urban growth boundary or a rural service area. This policy is not applicable to the proposed amendment because the amendment does not allow urban densities of development.

Population policy 6 from the comprehensive plan's Housing Element is *Encourage development of land with less resource value.* The subject property has less resource value than many other sites on the Clatsop Plains. It has no agricultural or forest value, no public recreational value, and no aquatic or riparian resource value. Wildlife habitat value on the site is minimal because of its small size and its proximity to existing development. The site's scenic attributes have little public value because the public cannot see the developable part of the site from public roads. Other potential development sites have more resource value than the subject property. Much of the land in Clatsop County is highly productive for growing commercial tree species [2]. Clatsop County contains lands that provide habitat for threatened or endangered species. Several thousand acres of productive agricultural lands are in Clatsop County. The site has less resource value than these lands. Clatsop County determined that land west of Highway 101 was not suitable for farming. This conclusion is part of the County's acknowledged comprehensive plan.

Development of the subject property would be consistent with policy 6. Population policy 7 addresses intergovernmental coordination, and is not applicable to the proposal.

Housing policy 1 from the Housing Element of the Comprehensive Plan reads as follows:

Clatsop County shall encourage residential development only in those areas where necessary public facilities and services can be provided and where conflicts with forest and agricultural uses are minimized.

Proposed amendments do not approve residential development. Subsequent amendment requests, if approved, may result in residential development on this site. Residential development would be consistent with this policy because the area has all necessary facilities and services for rural development:

- Public water, electricity, telephone, cable television, roads, law enforcement, and public fire suppression are available in the vicinity of the subject property.
- Wastewater disposal can be handled on-site with individual DEQ-approved subsurface disposal systems, which the Comprehensive Plan identifies as the

appropriate method of handling wastewater in rural areas

This method of wastewater disposal is employed throughout the Clatsop Plains.

Development on the subject property will not result in conflicts with farm or forest uses because the County has found that all adjacent land is unsuitable for agricultural or silvacultural activities. There is no farm or forest activity on adjoining or nearby lands. Based on this, the County should find the proposed amendment consistent with this policy.

Housing Policy 2 reads as follows:

Clatsop County shall assist in planning for the availability of adequate numbers of housing units at price ranges and rent levels commensurate with the financial capabilities of County residents.

The proposed amendments do not interfere with implementation of this policy. Housing policy 2 does not establish a mandatory approval criterion applicable to the proposed amendments.

Housing policy 3 encourages clustering. The concept site plan envision clustering consistent with this policy. This policy does not establish mandatory approval criteria applicable to the amendment. The proposal does not conflict with this policy.

Housing policy 4 is:

Clatsop County shall permit residential development in those designated areas when and where it can be demonstrated that:

- a. Water is available which meets state and federal standards;*
- b. Each housing unit will have either an approved site for a sewage disposal system which meets the standards of the County and the Department of Environmental Quality or ready access to a community system;*
- c. The setback requirements for development of wells and septic systems on adjacent parcels have been observed;*
- d. Development of residential units will not result in the loss of lands zoned or designated for agriculture or forestry and will not interfere with surrounding agricultural or forestry activities.*

The subject property is within the area served by the City of Warrenton's water system. Warrenton's water system delivers chlorinated water meeting current state and federal drinking water standards. The City has recently completed improvements to meet federal Safe Drinking Water Act standards for filtration. Subsection (a) of Housing policy 4 can be met.

If homes are built on this site as a result of a cluster subdivision, DEQ-approved subsurface wastewater disposal systems will be used for sanitary wastewater disposal. Site evaluations will be conducted during subdivision or review. Surrounding developed homesites have soils like those found on the subject property, and are served by individual subsurface wastewater disposal systems. Septic systems are a feasible means of wastewater disposal at this site. Subsection (b) of housing policy 4 can be met.

Subsection (c) of housing policy 4 requires separation between wells and drainfields. These requirements are not applicable to the proposed amendments, and can be enforced at the time development permits are issued by the County.

The subject property and surrounding land is not in an agriculture or forestry zone, nor is there any active farm or forest management occurring on the site or on nearby property. Because of this, subsection (d) of housing policy 4 can be met.

For these reasons, the proposed amendments meet the requirements of Housing policy 4.

Housing policy 5 addresses the temporary emergency use of a manufactured dwelling. This policy does not conflict with the proposal.

Housing policy 6 encourages multi-family developments and mobile home parks within Urban Growth Boundaries. The subject property is not within a UGB. Multi-family housing is not proposed, nor is a mobile home park.

Housing policy 7 encourages in-filling. The subject property is not suitable for infilling, because only one dwelling currently occupies the site, at the southern end.

Housing policy 8 reads as follows:

Clatsop County shall make provisions for housing in areas designated for rural, urban growth boundaries, and rural service areas which provide variety in location, type, density and cost where compatible with development on surrounding lands.

Policy 8 is directed at the County's land use strategy as a whole, and does not call for or require a variety of housing types on a single parcel. Rural residential development on this site is consistent with this policy because it will help provide one of several housing types desired by the County. Rural residential development would also be compatible with development on surrounding lands, which consists of single family residences on one-acre lots. The proposed amendment does not conflict with this policy.

Housing policies 9 and 10 deal with the County Housing Authority, and with State

and Federal housing agencies. Housing policies 11 and 12 address housing rehabilitation. Housing policies 13 and 14 address assisted housing. None of these policies is applicable to the proposal or to the subject property.

Public Facilities and Services Element

The Public Facilities and Services Element of the County's comprehensive plan has an "Overall policy regarding appropriate levels of public facilities in the County". The policy states that public water supply is an appropriate public facility in the Rural Lands plan designation, but is not essential for development. The subject property is served by City of Warrenton water. This policy goes on to state that fire protection is not a requirement for development. The site is served by the Gearhart Rural Fire Protection District. The policy further states that community sewage facilities are not appropriate in the Rural Lands plan designation. Community sewage facilities do not presently serve the site, nor are any planned. For these reasons the proposed amendments meet the overall policy regarding appropriate levels of public facilities.

The Public Facilities and Service Element contains nine general public facilities policies. Policy 1 refers back to the overall policy addressed in the preceding paragraph. Policy 2 refers to service levels in UGB areas, and is not applicable to this non-UGB site or to these amendments.

General Public Facilities and Services policy 3 reads as follows:

Development permits (excluding land divisions) shall be allowed only if the public facilities (water and sanitation, septic feasibility or sewage capacity) are capable of supporting increased loads. The County shall consider prior subdivision approvals within the facilities service area when reviewing the capabilities of districts.

A "development permit", as described in this policy, is a land use permit, building permit, or similar authorization for a structure or use on a site. Proposed amendments are not a development permit as the term is used in policy 3. The requirements of policy 3 will be met, when a development permit or subdivision is sought on the site. Policy 3's requirements are fully implemented in the County's ordinances. Because of this, the proposed amendment is consistent with policy 3.

General Public Facilities and Services Policy 4 deals with the creation of new community water systems. The subject property is within an area already served by a public water system, so this policy is not applicable.

General Public Facilities and Services Policy 5 addresses water and sewer district boundary changes, and is not applicable to the proposal.

General Public Facilities and Services Policy 6 requires underground utilities in certain instances. The subject property will be developed in a manner consistent with this policy.

Policies 7 and 8 deal with new utility corridor locations. No new utility corridors are needed to serve single family residential development on the subject property.

General public facility policy 9 is:

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

This policy is applicable to this proposal because the proposed amendment changes the residential density allowed on the subject property. This policy's requirements can be met:

- Water is available to the subject property from the City of Warrenton.
- Public schools serve the area. The subject property is within the boundaries of the Seaside School District, and Clatsop Community College.
- Sewer service is not available at the site, nor is it appropriate for rural development. Residential wastewater can be discharged into individual subsurface wastewater disposal systems. Septic systems are a feasible means of wastewater disposal at this site, as demonstrated by many similarly-situated existing homes on the Clatsop Plains using this wastewater disposal technique.

The County should find that appropriate public facilities and services are available to the subject property and can be used without adverse impact to other service customers.

The Public Facilities and Services comprehensive plan element contains a diking and drainage district policy. This policy is not applicable to the proposal or to the subject property.

Seven water system supply policies are included in the Public Facilities and Services Element. Policy 1 requires proof of a year-round source of potable water. The site is served by the City of Warrenton, which delivers potable water year-round.

Water supply policy 2 requires proof of water rights for surface water sources. The City of Warrenton has water rights to surface sources in the upper Lewis & Clark River. Copies of these documents are on file at Warrenton City Hall. Water

supply policy 3 addresses water from sources other than community water systems, and is not applicable to the proposal or to the site. Water supply policy 4 encourages community water system maintenance and improvement. Policy 5 relates to city-County cooperation for regional water planning. Policy 6 addresses Gnat Creek, in the northeast part of Clatsop County, as a potential water source, and is not applicable to the proposal. Water supply policy 7 requires monitoring of partitions in several water systems with actual or potential water shortages. The Warrenton water system is not mentioned in the policy. Policies 3 through 7 do not establish mandatory review criteria for plan or map amendments, and are not applicable to this proposal.

The Public Facilities and Services Element contains five waste disposal policies. Policy 1 indicates that sewer services are only appropriate in RSA and UGB areas. The subject property is not within an RSA or UGB, nor is a sewer system proposed or planned for this area. Waste disposal policy 2 encourages city-County cooperation with respect to expansion of city services. Policy 2 is not applicable to this proposal. Waste disposal policy 3 encourages alternative sewage disposal methods. The site can be developed with conventional subsurface wastewater disposal systems. Alternative methods are not required by policy 3, only encouraged. Policy 4 refers to the 1982 *Solid Waste Reduction Plan*, which has no direct bearing on this proposal or on the site. Waste disposal policy 5 makes reference to the John Day River area and to the Miles Crossing/Jeffers Gardens area. The subject property is in neither of these areas. The Public Facilities and Services plan element contains eight "governmental structure and other public facilities" policies. All deal with intergovernmental coordination, and with the expansion of services in rural areas. None of these policies is applicable to this proposal or to tax lot 300.

Transportation Element

Sixteen transportation policies are contained in the comprehensive plan's Transportation Element. Policy 1 addresses city-County cooperation in matters pertaining to airports. Policy 2 lists impacts to be considered when making decisions on transportation projects. This proposal is not a transportation project, so policy 2 is not applicable. Policy 3 addresses State-County cooperation with respect to transportation projects. Policies 4 and 5 concern County road maintenance. The subject property is not served by county roads. Policy 5 establishes requirements for new access points onto major arterials. The subject property fronts on Highway 101, a major arterial. The applicant proposes a single access point onto Highway 101, to be developed pursuant to an access permit from ODOT. Tax lot 2900 has current access to Hwy. 101 via an easement from the north. Alternatively, access is available via Surf Pines road, to the south. Policy 7 urges use of unneeded right-of-ways for greenbelts, walking trails or bike paths. There are no unneeded right-of-ways associated with this proposal or with the site. Transportation policies 1 through 7 are not germane to the proposal or to the

site.

Transportation policy 8 is:

Streets in new developments shall be designed to minimize disturbance of the land in following contour lines and avoiding cut and fill techniques.

New streets will be needed to serve development on the subject property. These streets can be built entirely on site, and to applicable country design and construction standards.

Transportation policy 9 reads as follows:

The development of unopened, dedicated public roads should be reviewed by Clatsop County for their consistency with the land use policies. When opening the road is appropriate, adequate roadway development standards shall be required.

No unopened dedicated public roads are needed to serve residential development on the subject property. Because of this, the County should find the proposals consistent with transportation policy 9.

Transportation policy 10 guides development of County road standards. Policy 11 addresses cooperation between Astoria, the County and ODOT concerning highway improvements. Policies 12, 13 and 14 address the needs of the transportation disadvantaged. Policy 15 encourages establishment of commuter bus service. None of these policies is germane to the subject property, nor do they establish mandatory approval criteria applicable to the proposed amendments.

Transportation policy 16 establishes nine maintenance, design and construction standards for County roads. These are implemented through road standards in the County's *Development Standards Document*. Roads needed to serve residential development on the site can be built to these standards.

Energy Conservation Element

Four energy policies are included in the comprehensive plan's Energy Conservation Element. Policy 1 deals with a County-wide energy conservation program. Findings concerning policy 1 are not required for approval of this proposal.

Energy policy 2 establishes two land use policies. The first encourages clustering of shopping, cultural, medical, educational and other public facilities in UGB areas. The subject property is not at an appropriate location for any of these services, and none is proposed on the site. This policy has been successfully implemented, with shopping, cultural, educational and medical facilities clustered largely within existing UGBs. The second part of policy 2 establishes solar access

goals for partitions and subdivisions. The proposed amendments do not include a partition or a subdivision. The County can apply this policy at the time a subdivision or partition is requested.

Energy policy 3 encourages renewable and alternative energy sources. Findings against policy 3 are not required for this proposal.

Energy policy 4 requires consideration of energy conservation in the designation of Rural Lands. This proposal involves the designation of Rural Lands, so policy 4 is relevant. Energy conservation factors germane to the designation of Rural Lands include the following:

transportation efficiency: The site is centrally located with respect to employment, entertainment, education, health care, government, and shopping facilities in Seaside, Gearhart, Warrenton and Astoria. The site is approximately 2.4 miles from downtown Gearhart by existing streets and highway; about 4.1 miles from downtown Seaside, about 7.4 miles from downtown Warrenton, and about 11.4 miles from downtown Astoria.

residential energy consumption: If homes are built on the subject property as a result of this proposal they will comply with current residential energy efficiency standards in the building code. Because of this, these homes are likely to be more energy efficient than older homes built under codes no longer in effect.

infrastructure efficiency: An existing road network is used to reach the site. Utilities (water, electricity, telephone, natural gas) are available in this area.

Considering these factors, the proposed Rural Lands designation of the subject property is consistent with efficient use of existing infrastructure, with transportation efficiency, and with residential energy efficiency. For these reasons, the County can find that the proposed Rural Lands designation is consistent with energy policy 4.

Urbanization

The property is not within a City's Urban Growth Boundary

Coastal Shorelands

The site is in the Coastal Shorelands planning area, and is covered by the County's Coastal Shorelands Element. A General Use Priority policy is established on page 27 of the County-wide Element. The policy establishes a priority among coastal shoreland uses. Listed from highest to lowest priority, they are:

- water-dependent uses;

- water-related uses;
- non-dependent, non-related uses which retain flexibility of future use and do not prematurely or unalterably commit ocean and coastal lake shorelands to more intensive uses;
- development, including non-dependent, non-related uses, in Rural Service Areas (compatible with existing or committed uses);
- non-dependent, non-related uses which cause a permanent or long-term change in the features of ocean and coastal lake shorelands only upon a demonstration of public need.

These use priorities are implemented through the Clatsop County's Coastal Shorelands Overlay District. Residential development on the subject property will conform to the applicable requirements of the overlay district.

A "shoreland development policy" is established in the County's comprehensive plan. It references flood insurance program requirements; establishes riparian vegetation setbacks; establishes a preference for non-structural shoreline stabilization methods; and recognizes existing state and federal authority in the area of water quality regulation. The proposed amendment is consistent with this policy: development will be in compliance with the flood insurance program; no shoreline stabilization measures are planned; and wastewater disposal will comply with applicable state requirements. Riparian vegetation associated with Neacoxie Creek can be protected during development.

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

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

The County has no design standards against which "visual attractiveness" can be evaluated. The proposed amendments do not interfere with the County's ability to promote visual attractiveness or scenic views. Visitor facilities, public viewpoints and public access to the water are inappropriate on the subject property because it is privately owned. Public access to Sunset Lake and to the ocean beaches is available via Sunset Beach county road, about 2.8 miles north of the site. Additional public ocean beach access is available via Highlands County Road, to the south. This proposal will not affect existing public access to publicly-owned shorelands.

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

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

As the term is normally used, "multiple use" (such as a mixed commercial-residential development) is not contemplated for this site, nor would it be consistent with the existing development pattern in this area. This policy does not establish mandatory approval criteria applicable to the proposal.

A planned development policy is established on page 28 of the Coastal Shorelands Element. It requires residential clustering in the Clatsop Plains planning area; prohibits industrial development; and requires that development densities be compatible with significant shoreland resources. Industrial development is not planned for this site. The proposed amendments will not threaten significant shoreland resources. For these reasons the proposal is consistent with this planned development policy.

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

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

Residential development on the subject property is consistent with the protection of these resources because the resources listed in this policy are not present on the site. The second part of this policy is:

Forestry operations within coastal shorelands shall be consistent with the protection of the natural values of major marshes, significant wildlife habitat and riparian vegetation. The State Forest Practices Act and Forest Practice Rules administered by the Department of Forestry shall be used to protect the natural values of these resources on commercial forest lands and other lands under the jurisdiction of the Forest Practices Act within coastal shorelands.

Forest resources subject to the Forest Practices Act are not present on or near the site, so this policy is not applicable.

A riparian vegetation policy is included on page 35 of the Coastal Shorelands

Element of Clatsop County's Comprehensive Plan. The policy reads as follows:

Riparian vegetation shall be retained, except in cases where removal is necessary in order to provide for development of a lot of record existing as of the date of adoption of the Clatsop County Comprehensive Plan. Removal of riparian vegetation under these circumstances shall be the minimum possible to provide for the proposed use. Restoration and enhancement of riparian vegetation is encouraged, where appropriate and consistent with water-dependent uses.

This policy is implemented through standards in Clatsop County's *Development Standards Document* section S4.237. Riparian vegetation is present on this site, and can be protected consistent with their policy.

Seven implementation policies are listed on page 36 of the County's Coastal Shorelands Element. Policy 1 states that the Land and Water Development and Use Ordinance is the managing document for ocean and coastal shoreland regulations. Policy 2 describes consistency review for state and federal permits, building permits, subdivision and planned development applications, and A-95 notices. Policy 3 speaks to coordination during plan implementation. Policy 4 addresses removal of vegetation from coastal lakes. Implementation policies 1 through 4 are not applicable to the proposal, nor do they require specific findings for approval of the proposed amendments.

Coastal Shorelands implementation policy 5 reads as follows:

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

The proposal does not contemplate any use of major marshes or significant wildlife habitat. Major marshes are not present on or near the subject property. The comprehensive plan does not identify any significant wildlife resources on the site. Riparian vegetation is present: it will not be removed or damaged as a result of the proposed amendment or subsequent residential development.

Coastal Shorelands Implementation Policy 6 references the Oregon Forest Practices Act and the Department of Forestry's responsibilities in coastal shoreland areas. Findings against policy 6 are not required for this proposal because forest resources are not present on the site.

Policy 7 is applicable to coastal headlands, significant wildlife habitat, exceptional aesthetic resources, and to historical or archaeological sites in Oswald West State Park, Ecola State Park, and Elmer Feldenheimer Forest Preserve. None of these resources is present on the subject property, so the policy does not apply to this

proposal.

A rural shorelands policy is established in section VI of the Coastal Shorelands Element. The policy is:

Shorelands in rural areas (other than those designated as major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historical and archaeological sites) shall be used, as appropriate, for:

(a) farm uses (as provided in ORS 215);

(b) propagation and harvesting of forest products consistent with the Oregon Forest Practices Act;

(c) private and public water-dependent recreational developments and open space;

(d) aquaculture;

(e) single-family dwellings on existing lots, parcels or units of land;

(f) water-dependent commercial and industrial uses and water-related commercial, industrial and recreational uses, only if such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas.

(g) subdivisions, major and minor partitions and other uses only upon a finding by the governing body of the county that such uses satisfy a need which cannot be accommodated at other upland locations or in urban or urbanizable areas.

Clatsop County shall review alternative upland locations for "other uses" within a given land parcel within rural shorelands on a case-by-case basis. In determining the suitability of alternate upland locations for "other uses" within a given land parcel in the Exclusive Farm Use (EFU-38), Forest-80 (F-80), Forest-38 (F-38), or Agriculture Forest-20 (AF-20) zones, consideration shall be given to the productivity of resource land. "Other uses" within these zones shall be located so that productivity of resource land is maintained.

The uses identified in subsections (a), (b), (c), (d) and (f) are not planned for this site, nor are they be allowed as a result of the proposed amendment. Subsections (e) and (g) may be applicable in the future. Findings required under (g) are not necessary at this time, but may be needed when the property is divided. The final paragraph in this policy is not applicable to the proposal or to the site because it refers only to the "other uses" in paragraph (g). The proposed amendments do not conflict with this policy because they do not, without further amendments, authorize any uses contrary to this policy.

Beaches and Dunes Element

The subject property is in an area of older stabilized dunes. The policies in this section of the plan are not applicable to stabilized dunes, some of the dune policies address erosion control. These are implemented in the county's development code, and can be met by employing best management practices during construction.

Clatsop Plains Community Plan

Landscape policy 1 on page 11 of the Clatsop Plains Community Plan community plan is *Excavations in sedimentary highland (Toms) should be properly engineered against slope failure*. The subject property is not in a sedimentary highland area, and is not subject to this policy.

Landscape policy 2 on page 11 of the Clatsop Plains Community Plan is *Proposed projects involving modifications of established drainage patterns should be evaluated in terms of potential for altering land stability*. The proposed amendments do not modify established drainage patterns, nor do they allow development that would do this. If a subdivision is approved, modifications of established drainage patterns can be avoided and land stability can be preserved by applying appropriate development standards. Storm water readily percolates through native sandy soils on this site and on adjoining property. Relatively little surface water drainage occurs on these soils. Nearby property has been developed without modifying established drainage patterns or altering land stability. This demonstrates the feasibility of continuing this development pattern on the subject property.

Landscape policy 3 on page 11 of the Clatsop Plains Community Plan reads as follows:

*Loss of ground cover for moderately to steeply sloping lands may cause erosion problems by increasing runoff velocity and land slumpage.
Vegetative cover for moderately to steeply sloping areas shall be maintained.*

The County's comprehensive plan and ordinances do not identify slopes that qualify as "moderately to steeply sloping". The subject property contains some slopes that may be moderately to steeply sloping. Development can meet this policy by following applicable County ordinances with respect to vegetation disturbance and erosion control.

Coastal Shorelands policy 1 on page 14 of the Clatsop Plains Community Plan is *No filling or alteration to designated and mapped critical natural holding basins such as lakes, wetlands, or marshlands*. The site contains none of the resources protected in this policy, so this policy is not applicable to the proposed

amendment.

Coastal Shorelands policy 2 on page 14 of the Clatsop Plains Community Plan reads as follows:

Culverts and other roadway or driveway improvements considered necessary by the County Department of Planning and Development, County Road Department, and State agencies shall be installed in such a manner as not to impede the flow of the drainage way nor impede the passage of resident or migratory populations of fish.

This policy does not create approval criteria applicable to the proposed amendments. The applicants are prepared to accept this driveway and culvert requirement when development permits for construction are approved by the County.

Coastal Shoreland policy 3 on page 14 of the Clatsop Plains Community Plan reads as follows:

Mining, dredging, or removal of gravel and similar materials from streams and other surface water shall be strictly controlled to prevent adverse alterations to flow characteristics, siltation, pollution, and destruction or disruption of spawning areas.

No mining, dredging, sand removal, or aggregate removal is proposed.

Coastal Shoreland policy 4 on page 14 of the Clatsop Plains Community Plan reads as follows:

Shorelands identified in this plan for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade shoreland qualities shall be discouraged.

Neither the subject property nor nearby shorelands have been identified in the Clatsop Plains Community Plan as having scenic, historic or ecological qualities meriting protection under this policy. Absent any of this qualities, the County should find policy 4 inapplicable to this proposal.

Coastal Shoreland policy 5 on page 14 of the Clatsop Plains Community Plan concerns public access:

The public has the right to enjoy and utilize all the public water bodies. No improvement shall be permitted which impedes this ability. Care also must

be exercised in protecting the privately owned shorelands.

The subject property is not an impediment to public access between any public roads and public water bodies. The applicant recognizes the public's right to access Neacoxie Creek. Access to the creek is available near Sunset Beach road.

Coastal Shoreland policy 6 on page 14 of the Clatsop Plains Community Plan reads as follows:

Public and private bridges crossing over public water bodies shall be constructed to standards that insure maximum protection to the persons utilizing the structure and to the water system it crosses. To the maximum extent possible, minimum fill and/or removal shall take place during construction of the bridge.

No bridges are proposed or needed for this amendment, or for development of the subject property, so this policy is not applicable.

Coastal Shoreland Policy 7 in the Clatsop Plains Community Plan reads as follows:

Shorelands in Rural areas shall be used as appropriate for the following:

- 1) farm use,*
- 2) private and public water-dependent recreation,*
- 3) aquaculture, and*
- 4) to fulfill the open space requirements in subdivisions and planned developments.*

The shorelands referred to in this policy are "Category F" shorelands, which include active dune areas. There are no active dunes on the subject property.

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

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

Residential development on this site can comply with this policy by meeting the letter and the intent of the RA-2 zone's height restriction.

Dunes policy 2 on page 16 of the Clatsop Plains Community Plan reads as follows:

No intensive development on top of dune ridges should be permitted.

Residential developments should be located on the sides of dunes, in order to maintain the views of the Clatsop Plains.

Views of the Clatsop Plains will be largely unaffected by residential development on the subject property.

Dunes policy 3 on page 17 of the Clatsop Plains Community Plan reads as follows:

The tops of narrow (15') and steeply sloped dunes (greater than 25 percent) shall be preserved for open space. Development should not be on ridge tops in order to blend with rather than dominate the surrounding landscape.

These areas can be avoided. This policy will be addressed at the time that development occurs.

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

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

The applicants propose to a cluster development on the subject property.

Dunes policy 5 on page 17 of the Clatsop Plains Community Plan reads as follows:

Extensive modification of dunes is strongly discouraged because such activities are difficult to stabilize in addition to the fact that the rolling dunes make up the character of the Clatsop Plains.

No dune grading or other modification is proposed as part of this amendment, nor would it be needed for development on the subject property.

Clatsop Plains Community Plan Dunes policy 6 addresses roads in dune areas:

Roads in dune areas should, as much as possible, be located along troughs between dune ridges. Roads should not be located in the vegetated area along the face or top of dunes.

The proposed development will be able to meet this policy.

Dunes policy 7 on page 17 of the Clatsop Plains Community Plan is *The County shall work with the State to provide much stricter enforcement of vehicular traffic*

on the beaches. This policy is not applicable to the proposal. It does not create mandatory approval criteria for plan amendments.

Dunes policy 8 on page 17 of the Clatsop Plains Community Plan reads as follows:

State and local jurisdictions should cooperate to evolve the most efficient traffic flow patterns, parking arrangements, and policing requirements for areas on and adjacent to active dune areas, especially parks and access areas.

Dune policy 8 is not applicable to the subject property or to the proposal.

Dunes policy 9 on page 17 of the Clatsop Plains Community Plan reads as follows:

Active dunes are un-stabilized sand areas where wind erosion is critical. Types of uses which would be appropriate would be hiking, equestrian and nature trails, historic preservation of an area or structure, beach access points, and temporary open-sided structures if adequate stabilization is provided. Off-road vehicles, grazing of livestock, structures and sand removal are prohibited uses in active dune areas.

The subject property does not include any active dune areas.

Dunes policy 10 on page 17 of the Clatsop Plains Community Plan is *Active dune areas may be included within Planned Developments, subdivisions and major partitions as open space.* There are no active dune areas on the subject property.

Dunes policy 11 on pages 17 and 18 of the Clatsop Plains Community plan reads as follows:

Decisions on plans, ordinances and land use actions in beach and dune areas, other than older stabilized dunes shall be based on findings that include:

- (a) the type of use proposed and the adverse effects it might have on the site and adjacent areas;*
- (b) temporary and permanent stabilization programs and the planned maintenance of new and existing vegetation;*
- (c) methods of protecting the surrounding area from any adverse effects of the development;*
- (d) hazards to life, public and private property, and the natural environment which may be caused by the proposed use; and*
- (e) adequate protection of the development from any geologic hazards, wind erosion, undercutting, ocean flooding and storm waves; or a finding that the*

development is of minimal value.

The subject property is an older stabilized dune so Dunes policy 11 is not applicable.

Dune policy 12 on page 18 of the Clatsop Plains Community Plan is *Where appropriate, developers may be required to dedicate easements for public access to public beaches.* The subject property is not an appropriate site for public beach access because it lacks frontage on the beach.

The Fort Stevens State Park Sub-area Policy on page 20 of the Clatsop Plains Community Plan is not applicable because this site is not in or adjacent to the park.

The Alluvial Lowlands Policy at the bottom of page 20 and the Alluvial Terraces Policy at the top of page 21 of the Clatsop Plains Community Plan are not applicable because the subject property is not in an alluvial area.

The Coast Range Foothills Policy on page 21 of the Clatsop Plains Community Plan is not applicable to the proposal because the property is not in the foothills.

Wind and Ocean Shoreline Erosion Policy 2 on page 29 of the Clatsop Plains Community Plan reads as follows:

Erosion shall be controlled and the soil stabilized by vegetation and/or mechanical and/or structural means on all dunelands. After stabilization, continuous maintenance shall be provided. In those areas where the County has taken an Exception to the Beaches and Dunes Goal, the County shall have building permits reviewed by the Soil Conservation Service and use their recommendations as conditions of approval.

The first part of this policy will be applicable when and if the County approves development plans on the site. Soil stabilization and erosion control can be achieved by replacing damaged vegetation after construction, and by mulching disturbed soils during construction. Appropriate additional conditions along these lines can be added at the time a building permit is issued. The second part of the policy is not applicable because the subject property is not subject to an exception.

Wind and Ocean Shoreline Erosion Policy 3 on page 29 of the Clatsop Plains Community Plan reads as follows:

Removal of vegetation during construction in any sand area shall be kept to the minimum required for building placement or other valid purpose. Removal of vegetation should not occur more than 30 days prior to grading

or construction. Permanent revegetation shall be started on the site as soon as practical after construction, final grading or utility placement. Storage of sand and other materials should not suffocate vegetation.

These construction-related conditions are appropriate and acceptable to the applicants. They can be imposed upon issuance of a development permit.

Wind and Ocean Shoreline Erosion Policy 4 on page 29 of the Clatsop Plains Community Plan reads as follows:

In all open sand areas, revegetation must be closely monitored and carefully maintained, which may include restrictions on pedestrian traffic. Revegetation shall return the area to its preconstruction level of stability or better. Trees should be planted along with ground cover such as grass or shrubs. To encourage stabilization, a revegetation program with time limits shall be required by the Planning Department as a condition of all building permits and land use actions (i.e. Comprehensive Plan changes, zone changes, subdivisions and partitions, planned developments, conditional use permits etc.).

A revegetation plan can be prepared at the time of a subdivision request, or at the time building permits are requested, in accordance with this policy.

Wind and Ocean Shoreline Erosion Policy 5 on page 29 of the Clatsop Plains Community Plan reads as follows:

Removal of vegetation which provides wildlife habitat shall be limited. Unnecessary removal of shoreline vegetation shall be prohibited.

Construction of the residences, garages, driveways and landscaping on this site can be conducted with a minimum of native vegetation removal. This requirement can be imposed at the time building permits are reviewed, or when the property is divided.

Wind and Ocean Shoreline Erosion Policy 6 on page 29 of the Clatsop Plains Community Plan reads as follows:

Site specific investigations by a qualified person such as a geologist, soils scientist, or geomorphologist may be required by the County prior to the issuance of building permits in open sand areas, on the ocean front, in steep hillsides of dunes, regardless of the vegetative cover, and in other conditionally stable dune area which, in view of the Planning Director or Building Official, may be subject to wind erosion or other hazard potential. Site investigations may be submitted to the State Department of Geology and other agencies for review of recommendations.

This policy is applicable at the time a building permit is issued. Information required by this policy.

Wind and Ocean Shoreline Erosion Policy 7 on page 30 of the Clatsop Plains Community Plan addresses driftwood removal:

Log debris plays an important role in the formation and maintenance of foredunes. Therefore, driftwood removal from sand areas and beaches for both individual and commercial purposes should be regulated so that dune building processes and scenic values are not adversely affected.

This policy does not establish approval criteria applicable to the proposed amendment.

Clatsop Plains Community Plan Housing policy 1 is:

Planned developments, the replatting of old subdivisions, and other land use actions shall encourage the preservation of steep slopes and other sensitive areas in their natural condition.

Steep slopes are present on this site. "Other sensitive areas", as the phrase is used in this policy, have not been identified on this site. The development plan will be able to avoid steeply-sloping areas.

Housing policy 2 on page 33 of the Clatsop Plains Community Plan reads as follows:

The location of a mobile home on an individual parcel of land shall be allowed in CONSERVATION FOREST LANDS and RURAL EXCLUSIVE FARM USE areas which are in conjunction with a farm or forestry use. In areas designated RURAL LANDS, a double wide or wider mobile home shall be allowed except in Surf Pines (zones SFR-1 and CBR), Smith Lake (zone SFR-1), and Shoreline Estates (zone RSA-SFR).

Development on the subject property can be consistent with these restrictions on manufactured dwellings. The policy is not applicable to the proposed amendments because they do not include a proposal for placement of mobile homes.

Housing policies 3 and 4 on page 33 of the Clatsop Plains Community Plan concern land within urban growth boundaries (UGBs). The site is not within an Urban Growth Boundary, so these policies are not applicable.

Sewer Policy 1 on page 34 of the Clatsop Plains Community Plan concerns sewage.

Sewage systems shall be allowed in those areas outside of the Urban Growth Boundary only to alleviate a health hazard or water pollution problem which has been identified by the Department of Environmental Quality and will be used only as a last resort.

The subject property is outside of any Urban Growth Boundary area. Residential development on the site can be served by individual DEQ-approved wastewater disposal systems. The feasibility of this is demonstrated by the use of these systems on similar property near the subject tax lots. Creation of a sewer system is not part of this proposal, nor is one needed for development on this site.

Sewer policy 2 on page 34 of the Clatsop Plains Community Plan pertains to the Shoreline Estates sewer system. The subject property is not in or near this area, so this policy is not applicable.

The Fire Protection policy on page 36 of the Clatsop Plains Community Plan reads as follows:

The County shall encourage the improvement of fire protection for the Rural and Rural Service Areas in the Clatsop Plains. The County shall work with local residents as well as the two Rural Fire Protection Districts in examining the various methods available to improve fire protection. One method which could be used is to require subdivisions and planned developments to dedicate a site, funds, or construction materials for a fire station in the Clatsop Plains.

The applicant supports improved fire suppression service on the Clatsop Plains, and would not object to an appropriate mechanism (such as a local improvement district) for implementing this policy. This policy expresses the County's aspirations with respect to rural fire protection, and does not establish mandatory approval criteria applicable to the proposed amendment.

Transportation Policy 1 on page 37 of the Clatsop Plains Community Plan concerns access onto Highway 101:

The development of new access points onto US 101 shall be kept to a minimum number. It is the intent of this policy to reduce the potential for accidents, and to provide the most efficient means of maintaining highway capacity. Planned development, subdivision, major partition regulations shall be written so as to implement this policy.

A single access point onto Highway 101 is needed for development of the subject property. Alternatively, access is currently available from Highway 101 to the north and may be available via Surf Pines road, to the south. Development of a new single shared access point onto Highway 101, consistent with this policy.

Transportation Policy 2 on page 37 of the Clatsop Plains Community Plan reads as follows:

Minor partitioning shall be required for all property adjacent to US 101. Minor partition proposals will be reviewed in order to prevent numerous access points along this highway. The requirement for minor partition review shall take effect on the date of adoption of the Clatsop Plains Community Plan.

The tentative site development plan meets the intent of this policy by minimizing new driveways onto Highway 101. A partition is not proposed with this amendment.

Transportation Policy 3 on page 37 of the Clatsop Plains Community Plan reads as follows:

Streets in new developments shall be designed to minimize disturbance of the land by following contour lines (as an alternative to a grid pattern) and avoiding cut-and-fill construction techniques.

The street design for proposed development will be able to minimize cutting and filling of dune topography.

Transportation Policy 4 on page 37 of the Clatsop Plains Community Plan is *Unnecessary rights-of-way should be used as green belts, walking trails or bike paths where appropriate.* Undeveloped public street right-of-ways are not present on or adjacent to the subject property, so this policy is not applicable to this proposal.

Transportation policy 5 on page 37 of the Clatsop Plains Community Plan concerns Highway 101:

To minimize negative visual and noise impacts of US 101, a buffer screen of existing vegetation shall be required for residential properties along US 101. Planted vegetation should be encouraged in those areas along US 101 where none presently exists. The buffer shall be 25 feet wide, unless the size of the lot and natural topography would create a hardship.

Cluster development of the subject property will be able leave a 25-foot wide undeveloped area as an open space buffer, consistent with this policy.

Transportation Policy 6 on page 37 of the Clatsop Plains Community Plan is *Clatsop County shall restrict direct access to arterials (i.e., US 101) where alternative access is available.* Alternative access onto Highway 101 may be available via Surf Pines road, to the south. Use of this private road will depend on pending agreement with the Surf pines Association (the private road's owner), and on legal rights to access vested in the deeds to the subject property.

Transportation Policy 7 on page 38 of the Clatsop Plains Community Plan reads as follows:

At the time of a major or minor partition, access points shall be examined. Consolidation of existing access points or easements for adjoining properties to allow a common access point shall be considered.

This policy is not applicable to the proposed amendment because it does not include a partition. Residential development on the subject property, if approved by the County, will result in creation of new driveways, which can be developed in a manner consistent with this policy. This policy can be implemented when a subdivision is considered.

Transportation Policy 8 on page 38 of the Clatsop Plains Community Plan reads as follows:

It is the County's intent to develop a system of collectors, frontage roads and common access points to solve the problems that many access points create along US 101. In order to carry out this intent the County shall do the following:

- a. Require new developments to have access taken from the existing collectors and frontage roads unless a variance is given.*
- b. New access points shall be reviewed by the County. New access points shall be reviewed based on proximity to existing access points and safety standards developed by the Department of Transportation.*

An internal street system can be developed that will meet this policy at time of development. 101.

Transportation policy 9 on page 38 of the Clatsop Plains Community Plan reads as follows:

Clatsop County should conduct a study of the Clatsop Plains to analyze access controls and problems in establishing criteria for collectors and frontage roads. The study should include designation of specific access

points, location of frontage roads, criteria for temporary access points, etc.

This policy does not create mandatory approval criteria applicable to this proposal or to the subject property.

Clatsop Plains Community Plan Historic Area Policy 1 reads as follows:

The County shall work with the Clatsop County Historical Advisory Committee and other organizations to identify and protect important local historical and archeological sites. Compatible uses and designs of uses should be encouraged for property nearby important historical or archeological sites.

This policy is not applicable to the subject property or to this proposal because no known archeological or historic sites are on or near the property.

Historic Area policy 2 on page 40 of the Clatsop Plains Community Plan reads as follows:

Clatsop County shall protect significant historical resources by:

- a. encouraging those programs that make preservation economically possible;*
- b. implementing measures for preservation when possible;*
- c. recognizing such areas in public and private land use determinations subject to County review.*

This policy is not applicable to the subject property or to this proposal because no known historic resources are located on or near the site.

Fish and Wildlife Policy 1 of the Clatsop Plains Community Plan reads as follows:

Maintain important fish and wildlife sites by protecting vegetation along many water bodies, classifying suitable land and water locations as NATURAL or CONSERVATION, and otherwise encouraging protection of valuable fish and wildlife habitats.

This site has not been identified as an important fish or wildlife site by the County or by resource agencies with stewardship responsibilities over fish or wildlife species or habitat. Fish and wildlife habitat associated with Neacoxie Creek and its riparian zone are not affected by the proposed amendments or subsequent residential development. Because of this, fish and wildlife policy 1 is not applicable to the proposed amendment.

Fish and Wildlife Policy 2 on page 41 of the Clatsop Plains Community Plan reads as follows:

Private and public owners of property on which valuable habitat is located will be encouraged to adequately protect important fish and wildlife sites. The private owners which participate in preserving the natural character of these sites will be assisted in taking advantage of reduced property taxes for protecting such areas. New subdivisions shall be required to leave undeveloped reasonable amounts of property which is needed for protection of valuable fish and wildlife habitat.

Valuable fish or wildlife habitat has not been identified on the subject property. Because of this, the proposed amendments are not subject to this policy.

Fish and Wildlife Policy 3 on page 41 of the Clatsop Plains Community Plan is *Intensive recreational development shall not be located within sensitive crucial habitat areas.* The subject property has not been identified as a "sensitive crucial habitat area", nor is intensive recreational development proposed. Because of this, policy 3 is not applicable to this proposal.

Fish and Wildlife Policy 4 on page 41 of the Clatsop Plains Community Plan concerns threatened and endangered species:

Habitat of all species indicated as endangered, threatened or vulnerable shall be preserved. Nesting sites of endangered bird species shall be protected and buffered from conflicting uses.

Several threatened or endangered species live in the vicinity:

Marbled murrelet: This bird is a small alcid that nests in mature coastal forests, and forages in the open sea. It may pass over the site on its way to and from its nesting sites in Clatsop County forests. No suitable murrelet nesting, roosting, feeding, or resting habitat exists on or near the subject property.

Bald eagle: No eagle nesting or feeding habitat exists on or near the property.

Brown pelican: Clatsop County is at the northern end of the range of the brown pelican. They pass over the near shore west of the site. Pelicans feed in the open ocean and in enclosed bays and estuaries. No feeding or resting habitat for brown pelicans is on or near the subject property.

Peregrine falcon: This is an endangered raptor, occasionally seen in Clatsop County. No falcon habitat is known to occur on or near the property.

Snowy plover: This is a small endangered shore-bird that once nested and may nest in foredune areas in Clatsop County. The subject property does not include any habitat suitable for the snowy plover.

Aleutian Canada goose: This is a threatened species that passes over the site during its annual migrations. These geese are protected by hunting regulations; additional land-use protection is not normally imposed.

Oregon silverspot butterfly: A remnant population lives in Clatsop County, and several known habitat areas have been identified on the Clatsop Plains. A habitat survey of the subject property will be completed prior to development. Habitat areas will be protected via an agreement with the US Fish and Wildlife service.

Columbian white-tailed deer: This is a listed endangered species occurring on land approximately 30 or more miles northeast of the project area. Most of these deer are concentrated in the Julia Butler Hansen National Wildlife Refuge, located in Wahkiakum County, Washington. There are no Columbian white-tailed deer living in or adjacent to the subject property.

Northern spotted owl: This is a listed threatened species with designated critical habitat in Clatsop County. No northern spotted owl nests have been found on or the subject property, and their identified critical habitat areas are not in this area.

Salmon: Several coastal salmon species and sub-species are found seasonally in the Columbia River, about 15 miles north of the subject property, both as upstream migrating adults, and as downstream migrating juveniles. Other threatened salmon species are found in the Neawana/ Necanicum system, south of the subject property. These fish are also found in the ocean, to the west of the site.

The County should find that the proposed amendments do not conflict with the preservation and protection of endangered, threatened or vulnerable species habitat.

Fish and wildlife policy 5 on page 41 of the Clatsop Plains Community Plan deals with wildlife refuges owned or managed by the Oregon Department of Fish and Wildlife or the US Fish and Wildlife Service. No state or federal fish and wildlife refuges are on or near the subject property, so this policy is not applicable.

Recreational Policy 1 on page 41 of the Clatsop Plains Community Plan is *Recreational vehicle parks shall be permitted in the urban growth boundaries in the Clatsop Plains*. An RV park development is not proposed under this application. Because of this, policy 1 is not applicable to this proposal.

Recreational Policy 2 on page 42 of the Clatsop Plains Community Plan addresses the disposition of County-owned lands. This policy is not applicable to this application.

Recreational policy 3 on page 42 of the Clatsop Plains Community Plan is *The designated bike trail going down the Coast shall be changed to follow US 101 instead of along the Lewis and Clark Road*. The subject property does abut Hwy

101. Development of residences on this site should have no impact on the location of the Oregon Coast bicycle route.

Recreational policy 4 on page 42 of the Clatsop Plains Community Plan reads as follows.

Recreational users shall not be allowed complete and free use of the more delicate beach/dune landforms (active dune areas). Access to these areas shall be limited and only via stabilized trails.

Recreational users of the subject property will be limited to homeowners and their guests. No intensive recreational use of the site is planned.

Recreational Policy 5 on page 42 of the Clatsop Plains Community Plan is *Clatsop County shall adopt the Fort Stevens State Park Plan as part of the Clatsop Plains Community Plan*. The subject property is more than seven miles south of Fort Stevens State Park, so this policy is not applicable to this proposal.

Recreational Policy 6 on page 42 of the Clatsop Plains Community Plan reads as follows:

State and local jurisdictions shall cooperate to evolve the most efficient traffic flow patterns, parking arrangements and policy requirements for areas on and adjacent to active dune areas, especially parks and beach accesses.

The nearest public beach access points are the Sunset Beach access road, less than three miles to the north, and the Del Rey Beach Access Road, about one mile to the south. The proposed amendments do not affect use or management of these access points. This policy does not establish mandatory approval criteria for plan or zone map amendments, and is not applicable to this proposal.

Scenic Area Policy 1 on page 44 of the Clatsop Plains Community Plan concerns ocean front views. This is not oceanfront property, so scenic Area Policy 1 is not applicable.

Scenic Area policy 2 on page 44 of the Clatsop Plains Community Plan concerns county-owned land at a location about two miles to the northeast of the subject property. Policy 2 is not applicable to the site or to the proposal.

Scenic Area policy 3 on page 44 of the Clatsop Plains Community Plan concerns Thompson Falls, located about five miles southeast of the subject property, policy 3 is not applicable to this proposal.

Scenic Area policy 4 on page 44 of the Clatsop Plains Community Plan reads as

follows:

Excessive sign sites and numbers of signs shall be discouraged by local regulations. No new billboards or other off-premise signs shall be allowed, except in commercial or industrial zoned lands with strict controls.

No signs or billboards are planned or proposed for this project, so this policy is not applicable.

Scenic Area Policy 5 on page 44 of the Clatsop Plains Community Plan is *No intensive development on the foothills or on the top of dune ridges should be permitted.*

This policy can be implemented at the time a subdivision, partition, or building permit is requested. The policy is not applicable to the proposed zone change. The property can be developed without violating this policy.

Open Space Policy 1 on page 45 of the Clatsop Plains Community Plan reads as follows:

Landowners shall be encouraged to retain or preserve large parcels of undeveloped land as open space under the provisions of the open space taxation program.

This policy does not establish mandatory approval criteria applicable to the proposed amendment.

Open Space Policy 2 on page 45 of the Clatsop Plains Community Plan reads as follows:

The County shall carefully consider the feasibility of all methods of preservation of open space as opportunities arise.

This policy does not establish mandatory approval criteria applicable to this proposal.

Open Space Policy 3 on page 45 of the Clatsop Plains Community Plan reads as follows:

The County Zoning Ordinance shall prescribe a maximum lot coverage in those areas designated DEVELOPMENT.

The subject property is not in a development designation in the comprehensive plan, nor does the proposal seek to place the subject property in the development plan designation, so this policy is not applicable. The development plan

designation covers lands zoned for industrial uses and for rural service area (that is, sewerfed) high-density residential development.

Open Space Policy 4 on page 45 of the Clatsop Plains Community Plan reads as follows:

All planned developments and subdivisions in the Clatsop Plains Planning Area designated RURAL LANDS shall cluster land uses and designate areas of permanent common open space. No reversionary clause shall be permitted in common open space. The minimum percent of common open space shall be 30 percent, excluding roads and property under water. The clustering of dwellings in small numbers and the provision of common open space assures good utilization of land, increased environmental amenities, maintenance of a low-density, semi-rural character, maintenance of natural systems (dunes, wetlands), and may be used as an open space buffer between the residential use and adjacent agricultural or forest uses. This policy shall apply to all RURAL LANDS areas in the Clatsop Plains except for the area known as Surf Pines. Clustering shall be prohibited in the area known as Surf Pines.

The subject property can be developed in a way that conforms to their policy.

Open Space Policy 5 on page 45 of the Clatsop Plains Community Plan reads as follows:

Permanent open space shall include, whenever possible, steep dunes which would require substantial alterations for building, buffers along streams, water bodies, deflation plains, and farm and forest lands.

That portion of Neacoxie Creek, on the subject property, as well as its riparian corridor, will be maintained as permanent open space. The required cluster development shall include permanent open space. The proposed amendments are consistent with this policy.

Open Space Policy 6 on page 45 of the Clatsop Plains Community Plan reads as follows:

Buffer (screening) shall be provided in all subdivisions and planned developments along property lines adjacent to arterials and/or collectors.

This proposal does not include a request for approval of a planned development or a subdivision. Because of this, policy 6 is not applicable.

Open Space Policy 7 of the Clatsop Plains Community Plan reads as follows:

Permanent open space as part of subdivisions or planned developments adjoining one another shall be interrelated and continuous whenever possible. This could mean that open space should be continuously follow ridge tops, deflation plains or shorelands. The Clatsop County Department of Planning and Development shall prepare a map of potential systems of open space to be used as a guide for developers.

The map referenced in this policy can be consulted when the subject property is subdivided or if planned development approval is sought.

Open Space Policy 8 on page 46 of the Clatsop Plains Community Plan is:

Streams and drainages which form a system of open space shall be preserved.

No streams or drainages cross the property. Because of this, the proposal is not subject to policy 8. To the extent that Neacoxie Creek is addressed by this policy, the conceptual development plan maintains this corridor as open space.

General Development Policy 1 on page 49 of the Clatsop Plains Community Plan reads as follows:

The predominant growth (residential, commercial, industrial) shall occur within the cities of Seaside, Warrenton, Gearhart, Hammond, as well as in those areas within Urban Growth Boundaries.

The cities and Urban Growth Boundary areas identified in this policy are zoned to accommodate most of the residential growth that has occurred since plan adoption and is likely to occur in the future. The County's comprehensive plan, as well as the plans of these cities, recognize that rural residential development outside of the Urban Growth Boundaries is appropriate in many circumstances. The proposed amendments do not conflict with this policy because they do not interfere with the strategy of siting most residential growth within Urban Growth Boundaries.

General Development Policy 2 on page 49 of the Clatsop Plains Community Plan reads as follows:

Residential, commercial, and industrial development shall be directed away from those areas designated CONSERVATION-FOREST, CONSERVATION-OTHER RESOURCES, and NATURAL.

Land zoned LW, on the west side of the subject property, is in a Conservation - Other Resources plan designation. This proposal would not change this feature.

Approval of the proposed amendment will conform with this policy.

General Development Policy 3 on page 49 of the Clatsop Plains Community Plan reads as follows:

In divisions of land into lots where future partitions or resubdivisions could occur, lots should be designed to take the potential for future divisions of land into consideration.

The proposed amendment does not divide the subject property. This policy can be addressed when the land is divided (either by partition or subdivision). The County's cluster development regulations generally prevent future re-division. Because of this, the proposal is consistent with this policy.

General Development Policy 4 on page 49 of the Clatsop Plains Community Plan reads as follows:

Natural features such as creeks and ridges should be used wherever possible as a boundary between intensive uses such as commercial activities and low intensity uses.

No commercial activities or other high-intensity activities are planned for the subject property. This policy does not establish mandatory review criteria applicable to this proposal.

General Development Policy 5 of the Clatsop Plains Community Plan reads as follows:

Plot plans or building plans may be required to indicate on them how storm water is to be drained. Access permits shall be reviewed by the State Highway Department and County Road Department to insure adequate drainage is provided.

The first part of this policy can be addressed when the site is divided or when building permits are sought. Generally, storm water from roofs and other impervious surfaces will be directed onto site soils. These soils drain quickly, and provide a suitable medium for handling storm water runoff. As to the second part of this policy, the property fronts Surf Pines road and Hwy 101. Appropriate access permits will be sought during the development design process. Policy 5 does not establish approval criteria applicable to the proposed dune line relocation.

General Development Policy 6 on page 49 of the Clatsop Plains Community Plan reads as follows:

Incentives shall be provided to encourage developers to use innovative

methods to provide a high quality of design, energy conservation and low income housing.

The applicant will take advantage of these incentives as appropriate.

General Development policy 7 on pages 49 and 50 of the Clatsop Plains Community Plan pertains to commercial development. Commercial uses are not proposed for this site, so this policy is not applicable.

Rural Service Area policies are established on page 51 of the Clatsop Plains Community Plan. The site is not in a rural service area, so neither the site nor the proposed amendments are subject to this policy.

Rural Lands Policy 1 of the Clatsop Plains Community Plan is *The minimum parcel size for building sites in RURAL LANDS areas shall be one acre.*

The proposed amendments do not alter the minimum lot size in the Rural Lands plan designation or in any of the zoning districts.

Rural Lands Policy 2 of the Clatsop Plains Community Plan reads as follows:

Rural residential subdivisions shall be required to have paved streets, except if the subdivision involves extremely large land parcels or only a few land parcels are involved and there is no potential for increased traffic demand on the roadway.

This policy is implemented through the County's Development Standards Document. No new roads are proposed under these amendments, nor are any new roads needed to accommodate development on the subject property.

Rural Lands Policy 3 of the Clatsop Plains Community Plan addresses commercial zoning at Cannon Beach Junction and at an area south of Warrenton. Rural Lands Policy 4 addresses Neighborhood Commercial zoning at several locations along US 101. Rural Lands Policy 5 addresses expansion of existing commercial zoning and establishment of new commercial zoning. None of these policies is applicable to the proposal or to this site.

Rural Lands Policy 6 of the Clatsop Plains Community Plan reads as follows:

Clatsop County intends to encourage a majority of Clatsop County's housing needs to occur within the various cities' urban growth boundaries. Approval of subdivisions and planned developments shall relate to the needs for rural housing. Through the County's Housing Study, the County has determined the Clatsop Plains rural housing needs to be approximately 900 dwelling units for both seasonal and permanent by the year 2000. The rural housing

needs should be re-examined every two years from the date of adoption of the Plan.

Most new growth is occurring in the cities and their UGBs, rather than in rural areas. This is due to a combination of zoning restrictions on rural land development, facility and utility cost differentials that favor of urban sites, and personal preferences for urban amenities and conveniences. Proposed amendments do not violate this policy.

Rural Lands Policy 7 of the Clatsop Plains Community Plan is:

Subdivisions and planned developments shall be encouraged to phase development over several years to provide for rural housing needs.

Proposed amendments do not include a subdivision or a planned development. The policy does not create mandatory approval criteria applicable to this proposal.

Rural Lands Policy 8 of the Clatsop Plains Community Plan "grandfathers" several lots in the Sunset Beach area. The provision does not apply to the subject site.

The Conservation Forest Lands Policy of the Clatsop Plains Community Plan is not applicable to the subject property or to the proposal because it is not in a Conservation - Forest Lands plan designation.

The two Natural Policies of the Clatsop Plains Community Plan are not applicable to the property or to the proposal because the site is not in the Natural plan designation.

References

- [1] Duncan W. Thomas. *Significant shoreland and wetland habitats in the Clatsop Plains*. Columbia River Estuary Study Taskforce, Astoria, Oregon, 1982.
- [2] Forestland Evaluation Committee. *Land Evaluation of Forest Soils, Clatsop County, Oregon*. 1990.
- [3] Oregon Department of Environmental Quality. *Chapter 340, Division 71; On-Site Sewage Disposal*. 1981.
- [4] R.W. Beck and Associates. *Clatsop Plains Ground Water Protection Plan. Summary Report and Environmental Assessment*. March 1982.

- [5] Sweet, Edwards & Associates. *Clatsop Plains Ground Water Protection Plan: Ground Water Evaluation Report*. December 1981.
- [6] Sweet, Edwards & Associates. *Clatsop Plains Ground Water Protection Plan: Monitoring Data Base*. March 1981.
- [7] US Army Corps of Engineers. *Corps of Engineers Wetlands Delineation Manual*. 1987.
- [8] US Department of Agriculture, Soil Conservation Service. *Soil Survey of Clatsop County, Oregon*. 1988.
- [9] US Department of Interior, Fish and Wildlife Service. *National Wetland Inventory; Gearhart, Oreg.* 1982.

Exhibit B
Findings for rezone request

Request: Zone map amendment from RA5 to RA2 for tax lots 7-10-27-3400, 7-10-27-3600, 7-10-27-3700 7-10-3300, 7-10-22C-2900 covering about 51 acres.

Background: The subject property is located on the west side of Highway 101, north of Surf Pines Road, and east of Neacoxie Creek. The proposed zoning would allow a maximum of 28 dwelling units on the property. Under the current zoning, no more than ten dwelling units would be allowed. One single family dwelling already exists on the property. The purpose of the proposed zone change is to allow development of a 28-unit residential subdivision. This includes a density transfer of 3 units.

Criteria: Approval of the proposed zone change is subject to requirements in sections 1.040 and 5.400 of the County's Land and Water Development and Use Ordinance. Section 5.412 lists the specific criteria:

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:

- (1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.*
- (2) The proposed change is consistent with the statewide planning goals (ORS 197).*
- (3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:*
 - (A) Parks, schools and recreational facilities*
 - (B) Police and fire protection and emergency medical service*
 - (C) Solid waste collection*
 - (D) Water and wastewater facilities*
- (4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.*
- (5) The proposed change will not result in over-intensive use of the land.*

compatible with the overall zoning pattern.

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

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

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

Section 1.040 reads as follows:

Scope and Compliance.

The provisions of this Ordinance shall apply to all unincorporated areas of Clatsop County, Oregon which are not within the urban growth boundary of an incorporated city or town. The procedural provisions of this ordinance will continue to be utilized for unincorporated areas within urban growth boundaries. A parcel of land or water area may be used, developed by land division or otherwise, and a structure may be used or developed by construction, reconstruction, alteration, occupancy or otherwise only as this Ordinance permits. In addition to complying with the criteria and other provisions within this Ordinance, each development shall comply with the applicable standards set forth in County Development and Use Standards Document. The requirements of this Ordinance apply to the person undertaking a development or the user of a development and to the person's successors in interest.

The proposal does not involve a comprehensive plan map change. The existing RA5 zone and the proposed RA2 zone are both in the Rural lands comprehensive plan designation.

A relatively small area on the west side of tax lot 3400 and 2900 approximately three acres along Neacoxie Creek -- is in the Lake and Wetlands zone. The proposal leaves the land in the Lake and Wetlands zone unaffected.

Overlay districts on the subject property include the Coastal Shorelands Overlay District. The proposed zone change does not change any overlay districts on the subject property.

5.412(1): The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.

Findings for Comp. Plan Policies, Exhibit A, addresses applicable comprehensive plan policies. The proposed zone change does not conflict with any comprehensive plan policies.

5.412(2) The proposed change is consistent with the statewide planning goals (ORS 197).

Nineteen statewide planning goals are addressed in the State Wide Planning Goals, Exhibit C, of this document. The proposal is consistent with the applicable statewide planning goals.

5.412(3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:

(A) Parks, schools and recreational facilities

(B) Police and fire protection and emergency medical service

(C) Solid waste collection

(D) Water and wastewater facilities

Parks and recreational facilities in the vicinity of the subject property include Cullaby Lake County Park, Subset Beach public park, Oregon State Parks land at Sunset Beach. Additional recreational opportunities are available in Sunset lake and on the ocean beaches. The proposed zone change will leave these park and recreational facilities unchanged.

The subject property and surrounding lands are within the Seaside School District, and within the Clatsop Community College District. Neither of these districts lack capacity to serve the subject property.

Clatsop County Sheriff's Office and the Oregon State Police provide law enforcement services in the vicinity of the subject property. The site is within the Gearhart Rural Fire Protection District. Medix ambulance service is available at the subject property. Two hospitals provide emergency medical service in Clatsop County: Seaside Providence Hospital in Seaside and Columbia Memorial Hospital in Astoria.

Solid waste collection is available at the subject property from Western Oregon Waste.

Water is available for residential development from the City of Warrenton, and

from groundwater in the Clatsop Plains aquifer.

Wastewater disposal on the subject property, and in the Clatsop Plains generally, is handled via individual subsurface wastewater disposal systems. The feasibility of this approach is demonstrated by hundreds of single-family dwellings on adjoining property in Surf Pines.

Based on this information, the County can conclude that the proposal meets the requirements in section 5.412(3).

5.412(4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.

The site adjoins US Highway 101, a major arterial. Access is controlled by the Oregon Department of Transportation. The applicant is prepared to accept any legal access requirements imposed by ODOT. The subject property also has access rights onto Surf Pines Road, a private street adjoining the property on the south with access onto Highway 101. The property has a current easement to access Highway 101 to the north.

Internal circulation for residential development can meet County road standards. These standards are designed to assure an adequate and safe transportation system.

Development under the proposed zoning would allow a maximum of 28 single family dwellings. Using standard motor vehicle trip yield figures from *Trip Generation* 36th Edition (1997, Institute of Transportation Engineers), 28 single-family dwellings should yield a maximum of about 268 trips per day. By way of comparison, traffic on Highway 101 averages 13,800 trips per day (MP 15.9, data for 2004).

Based on this, the County can conclude that the proposed zone change meets the requirements of section 5.412(4).

5.412(5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.

The overall zoning pattern in the vicinity is shown on the attached map. Existing zoning includes RA2 to the east; RA5 to the north and south, and SFR1, RA5 and

CBR to the west.

Surrounding zoning includes only residential zones. There is no commercial, industrial, agricultural or forest zoning in the area. Lake and Wetland zoning is present along Neacoxie Creek. This zoning district adjoins residential zoning on both the east and west.

Based on this, the County should conclude that section 5.412(5) is met.

5.412(6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.

The subject property is suitable for residential development at the two-acre density for the following reasons:

- Soils on the subject property are similar to those on adjoining property to the east, and to property in Surf Pines. Land to the east is zoned at the two-acre density. Surf Pines is zoned for one-acre lots, although some existing lots are smaller than one acre.
- Topographically, the subject property is similar to land in Surf Pines, zoned at the one-acre density.
- The subject property has frontage on Highway 101, as does land to the east in the RA2 zone.
- The subject property has frontage on Neacoxie Creek. Lands to the south, north and west also fronts on Neacoxie Creek and Sunset Lake.

Based on this, the County can find the proposal consistent with section 5.412(6).

5.412(7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.

The proposal does not change the use of the subject property: it is currently in a residential zone, and would remain in a residential zone under this proposal. Based on this, the County can conclude that the proposal encourages the most appropriate use of land throughout the County. The proposed zone change is consistent with section 5.412(7).

5.412(3) *The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.*

The proposed change would increase the allowed residential density from one dwelling unit per five acres to one dwelling unit per two acres. The proposal will not be detrimental to public health or safety in Clatsop County for these reasons:

- Public health concerns associated with sanitary wastewater disposal can be addressed by requiring compliance with DEQ standards for wastewater disposal systems.
- Public safety concerns related to traffic congestion or unsafe motor vehicle movements can be overcome by meeting ODOT requirements for highway access, and by developing internal roads to applicable County construction standards.
- Public health concerns associated with drinking water quality are addressed by using City of Warrenton water, which is chlorinated and meets applicable safe drinking water quality standards; or by using water from the Clatsop Plains aquifer. Using groundwater as a drinking water source avoids bacterial contamination often associated with surface water sources.
- An evaluation of general welfare includes an assessment of the ability of taxing districts to meet their obligations. The subject property is in the following taxing districts: Clatsop Community College, Northwest Educational Service District, Seaside School District, Gearhart Rural Fire Protection District, 4H Extension District, Clatsop County, Sunset Park and Recreation District, Union Health District (Providence Seaside Hospital), Port of Astoria, Sunset Transportation District, Clatsop County Rural Law Enforcement District, Clatsop County Road District. Development of the subject property will increase its assessed value, and increase the tax revenue received by the various taxing districts.
- Scenic area requirements in the County's Comprehensive Plan presumably address general welfare considerations. Development on the subject property can be accomplished at the proposed density in a manner that complies with comprehensive plan scenic area requirements. Viewed from Highway 101 as it passes the site, residential development will be hidden behind a dune.

Based on this, the County can conclude that the proposed change will not be detrimental to the health, safety and general welfare of Clatsop County. The proposal is consistent with section 5.412(8).

Exhibit C
State Wide Planning Goals

The applicants are requesting a rezone from Rural Residential RA-5 (one dwelling per 5 acres) to Rural Residential RA-2 (one dwelling per 2 acres). The current zoning of RA-5 would allow a development of ten (10) dwelling sites. The proposed zoning of RA-2 plus a proposed density transfer of three (3) would allow development of 28 dwellings on the 50.80 acres.

Following are the State Wide Planning Goals

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

Finding:

The public hearings conducted by the Clatsop County Planning Commission and the Clatsop County Board of Commissioners serves as an opportunity for citizens to be involved in the planning process. This process has been approved and acknowledged by the State of Oregon Land Conservation and Development Commission.

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

Finding:

The state Land Conservation and Development Committee acknowledged the Clatsop County's Comprehensive Plan and Development Ordinance on May 31, 1984. Following the process outlined in these documents complies with Goal 2.

Goal 3: Agricultural Lands: To preserve and maintain agricultural lands.

Finding:

The only property proposed to be developed is zoned Rural Residential. The Exclusive Farm Use-Range Land Zone is not part of this application.

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

Finding

There are no lands zoned Forest involved in this application.

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

Finding:

The proposed development will conform to the Clatsop County Comprehensive Plan and the Clatsop Plains Community Plan concerning protecting Goal 5 resources. These policies have been acknowledged by DLCD to comply with the State Wide Planning Goal 5 objectives.

Goal 6: Air, Water and Land Resources of the State. To Maintain and improve the quality of the air, water, and land resources of the state.

Finding:

None of the Goal 6 resources will be effected by this application as stated in the Comp. Plan Findings document.

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

Finding:

There are no areas designated on the subject property subject Natural Disasters and hazards.

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

Finding:

Neacoxie Creek abuts a portion of the subject property on the west. This creek can be accessed via Sunset Lake three miles to the north. Clatsop County is not proposing siting any recreational facilities in the immediate area of the proposed zone change.

Goal 9: Economic Development: To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

Finding:

This Rezone will provide an opportunity for future housing and the economic activities that accompany the housing industry. This application will not result in any loss of commercial farming or forest activities.

Goal 10: Housing: To provide for the housing needs of citizens of the state.

Finding:

This application will provide future residential opportunities for people moving into the Clatsop Plains area.

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

Finding:

The subject property is served the City of Warrenton water system. Septic systems will be on site. Telephone, Power, Cable, are currently available to serve the property.

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

Finding:

The property is located to the west of Highway 101. One new access is proposed to Highway 101. The development of 28 dwellings would generate 268 trips per day. This amount would not overly impact Highway 101. Any new roads created would be private roads within a subdivision.

Goal 13: Energy Conservation: To conserve energy.

Finding:

Goal 13 will not be impacted by this application as the property will still be zoned Rural Residential.

Goal 14: Urbanization: To provide for an orderly and efficient transition from rural to urban land use.

Findings:

The property will remain Rural Residential. DLCD has interpreted Goal 14 to require a goal exception if the property is rezoned to a zone that allows more dense development. A Goal 14 exception is part of this application in Exhibit D

Goal 15: Willamette River Greenway:

Finding:

The subject property is not within the Willamette Greenway. Goal 15 is not applicable.

Goal 16: Estuarine Resources:

Finding:

This proposed rezone does not impact any estuarine areas.

Goal 17: Coastal Shorelands: To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and To reduce the hazard to human life and property, and the effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.

Finding:

The subject property lies within Clatsop County's Coastal Shorelands Overlay. Clatsop County has deemed it is appropriate to develop this property by designating it Rural Residential in the comprehensive plan. Goal 17 will be met by following the requirements of development outlined in the County Ordinance.

Goal 18: Beaches and Dunes: To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas; and To reduce the hazard to human life and property from natural or man-induced actions associated with these areas.

Finding:

The subject property lies within Clatsop County's Beaches and Dunes Overlay. The proposed rezone is located on property that is a stabilized dune. It is separated from the beach by other stabilized dunes and foredunes. Clatsop County has deemed it appropriate to develop. Goal 18 will be met by following the requirements of development outlined in the County Ordinances.

Goal 19: Ocean Resources:

Finding:

There are no Ocean Resources involved in this application.

Conclusion: This property is in compliance with the State Wide Planning Goals by following the development standards in the Clatsop County Ordinance.



APPLICATION FOR
GOAL EXCEPTION
Fee: \$2,481 (Required with application)

PROPOSED USE: Rural Residential

ZONE: Rural Residential RA-5

EXCEPTION TO GOAL 3 4 10 12 14
 16 17 13 other: _____ amend existing exception

LEGAL DESCRIPTION OF PROPERTY:

T: 7N R: 10W S: 22C TL: 2900 ACRES: 12.15

~~OTHER ADJACENT PROPERTY OWNED BY THE APPLICANT:~~

T: 7N R: 10W S: 27 TL: 3300 ACRES: 2.81

T: 7N R: 10W S: 27 TL: 3400 ACRES: 17.32

APPLICANT 1: (mandatory) 3600 15.51
3700 5.01

Name: COREY OLSON Phone # (Day): 503-238-2644

Mailing Address: 1569 Stillwater Court Fax#: _____

City/State/Zip: Seaside, OR 97138 Signature: Corey Olson

PROPERTY OWNER: (mandatory if different than applicant)

Name: see Attached Phone # (Day): _____

Mailing Address: _____ Fax#: _____

City/State/Zip: _____ Signature: _____

ARCHITECT/ENGINEER/SURVEYOR/CONSULTANT: (optional)

Name: Parker Consulting Butch Parker Phone # (Day): 541-277-0736

Mailing Address: PO Box 347 Fax #: _____

City/State/Zip: Warrenton, Oregon 97146 Signature: Butch Parker

Community Development Department
800 Exchange, Suite 100 * Astoria, Oregon 97103 * (503) 325-8611 * FAX 503-333-3666

Each of the following criteria and standards must be addressed by the applicant. The information needed to address these criteria should be submitted on separate 8.5" by 11" sheets of paper, typed.

1. An exception is 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 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.

2. There are three kinds of goal exceptions:
 - 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 factors make uses allowed by the applicable goal impracticable.
 - c. The following four-part test is met (a reasons exception):
 - (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 at 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;
 - (4) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Requirements for exception "a" are described under paragraph 3, below. Requirements for exception "b" are found in paragraph 4. Requirements for exception "c" are in paragraph 5.

3. The county may adopt an exception to a goal when 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. Whether land has been physically developed with uses not allowed by the applicable goal

will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

4. The county may adopt an exception to a goal when land is irrevocably committed to uses not allowed by the applicable goal because factors make uses allowed by the goal impracticable. Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception must address:

- a. characteristics of the exception area;
- b. characteristics of adjacent lands;
- c. the relationship between the exception area and adjacent lands;
- d. adjacent uses;
- e. existing public facilities and services;
- f. parcel size and ownership patterns on the exception area and on adjacent lands;
- g. neighborhood and regional characteristics;
- h. natural or man-made features or other impediments separating the exception area from adjacent resource land;
- i. physical development;
- j. other relevant factors.

5. The county may adopt an exception to a goal if all four of the following standards are met:

- a. Reasons justify why the state policy embodied in the applicable goals should not apply;
- b. Areas which do not require a new exception cannot reasonably accommodate the use;
- c. The long term environmental, economic, social and energy consequences resulting from the use at 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;

- d. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Oregon Administrative Rules Chapter 660, Division 4, provide a great deal of information about the exception requirements for this type of exception. County Community Development department staff can provide a copy of these rules, or they can be obtained from the Oregon Department of Land Conservation and Development.

OFFICE USE ONLY:

date received: 9/21/07 application #: 20070664
date complete: 9/27/07 R&O Ord#: 08-01-08

OWNERS

T7N, R10W, Section 22C Tax Lot 2900
T7N, R10W, Section 27 Tax Lot 3300

Corey Olson 8-30-07
Corey Olson Date

Ryan Osburn 8/30/07
Ryan Osburn Date

T7N, R10W, Section 2700 Tax Lots 3400, 3600, 3700

Russell R. Earl Date

Daniel T. Earl Date

Steven M. Earl Date

Lois R. Baker Date

OWNERS

T7N, R10W, Section 22C Tax Lot 2900
T7N, R10W, Section 27 Tax Lot 3300

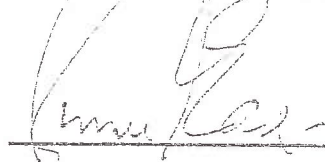
Corey Olson

Date

Ryan Osburn

Date

T7N, R10W, Section 2700 Tax Lots 3400, 3600, 3700

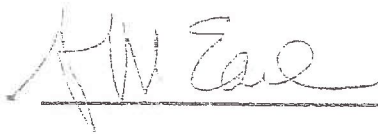
 9/1/07

Russell R. Earl

Date

Daniel T. Earl

Date

 9/1/2007

Steven M. Earl

Date

Lois R. Baker

Date

OWNERS

T7N, R10W, Section 22C Tax Lot 2300
T7N, R10W, Section 27 Tax Lot 2370

_____	_____	_____	_____
Carey Gibson	Date	Ryan Gibson	Date

T7N, R10W, Section 27B0 Tax Lots 3430, 3530, 3700

_____	_____	_____	_____
Russell R. Earl	Date	Daniel T. Earl	Date

_____	_____	<u>Yon R. Baker</u>	_____
Steven M. Earl	Date	Lois R. Baker	Date

OSYNEWS

TTN, R10W, Section 22C Tax Lot 2900
TTN, R10W, Section 27 Tax Lot 3300

Cory Olson

Date

Ryan Osburn

Date

TTN, R10W, Section 2700 Tax Lots 3400, 3600, 3700

Russell R. Earl

Date

Daniel T. Earl

Date

Daniel T. Earl 2/31/07

Steven M. Earl

Date

Lain R. Baker

Date

Exhibit D

Goal 14: Urbanization Exception

DLCD (Department of Land Conservation and Development) has interpreted Goal 14 to require an exception when Rural Lands are rezoned to allow higher density development. There are two exception process. These are "Reasons" and "Committed" exceptions. The applicants have chosen to request this exception using the "Committed" process.

Following is justification to support the Goal 14 exception.

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

(1) A local government may adopt an exception to a goal when 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:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

Finding:

The exception area is designated Rural Lands and is zoned RA-5, one dwelling per five acres. 20.51 acres of the total 50.79 acres is contained in two tax lots. (3700 and 3600) These two lots are an average of 300 feet wide and combined length of approximately 3,000 feet. If tax lot 3600 (15.51 acres) was partitioned into 3 parcels the length to depth ratio of the lots would 2.7/1. This is within the County standard of 3/1 but is more difficult to develop. Tax lot 3300 was a non-conforming size of 4.13 acres. Clatsop County has approved Property Line Adjustments which has reduced this tax lot a 0.81 acre size. The remaining 29.50 acres is split between tax lot 2900 (12.15 acres) and 3400 (17.34 acres). All of the parcels abut Highway 101 except tax lot 2900. Tax lot 2900 currently has an approved access easement to Highway 101 to the north. The total subject property is located on a stabilized dune.

(b) The characteristics of the adjacent lands,

Finding:

All adjacent land abutting Highway 101 to the east is zoned RA-2 (one dwelling per 2 acres). Property to the north abutting Highway 101 to the west is also zoned RA-2. Adjacent property to the east is zoned and developed in 1 and 2 acre parcels. One parcel of 61 acres zoned RA-5 abuts tax lots 3600 and 3700 to the west. It currently has an approved cluster (Ridge Line Estates) of 9 two acre parcels that will abut the west property line of the subject property. All of adjacent lands are stabilized dunes.

(c) The relationship between the exception area and the lands adjacent to it; and

Finding:

The subject property has the same characteristics of the adjacent lands and is surrounded by adjacent lands that are zoned or proposed to be developed to 1 and 2 acre densities.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

OAR 660-004-0028

(6) Findings of fact for a committed exception shall address the following factors.

(a) Existing adjacent uses;

Finding:

The adjacent existing uses are all residential uses except for 7.81 acres that is developed as a church property. Adjacent lands are zoned one and two acre Residential or are approved for 2 acre cluster development. Rezoning this subject property to RA-2 abutting Highway 101 would be consistent with the RA-2 present zoning of property abutting Highway 101 to the east and north.

(b) Existing public facilities and services (water and sewer lines, etc.);

Finding:

The property is presently served by the City of Warrenton water system which is capable of serving the denser development. Each lot shall have an on-site septic system such as the adjacent developed parcels have. Electricity, Telephone and Cable services are all available to the subject property. The property will be accessed by Highway 101 or by the private Surf Pines Road to the south.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision.

Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

Finding:

The existing adjacent parcels to the east are zoned RA-2 and consist of 10 parcels of 2 acres or less. There are 12 parcels that range from 2 acres to less than 4, which are not able to be partitioned. Five parcels are 4.05 acres to 11.93 acres. Four of these 5 parcels could be partitioned or provide opportunities for cluster development. One of the 5 parcels at the corner of Highway 101 and Dellmoor Loop Road (7.81 acres) is owned by a church and is developed for that use. Property to the west is within the Clatsop Plains Zoning of SFR-1 and CBR. These zones allow for 1 and 2 acre parcels. The 40+ lots abutting Manion Drive to the east is currently developed in cluster development. The SFR-1 and CRB zoned property did not have a resource exception taken for it in the original Comprehensive Plan of 1986 as Clatsop County decided this property was committed to Residential Uses and was not considered resource land. The subject property ownership is split with the southerly 37.81 acres in one ownership and the northerly 12.96 acres in another ownership.

(d) Neighborhood and regional characteristics;

Finding:

The dominant land use patterns are Surf Pines and land on the east side of Highway 101, where zoning allows two acre or denser development.

Within the 640 acres in section 27, where the subject property lies, a total of 84 tax lots covering 607 acres are on tax map 7-10-27. The acreage discrepancy is explained by roads and tax lot boundaries extending beyond section lines. The average lot size is about seven acres. The mean lot size is 3.11 acres. Fourteen of the 84 tax lots are ten acres or larger in size; only nine tax lots are fifteen acres or larger. One of the nine tax

lots that have 15 acres or more is tax lot 3500 with a total 61.51 acres. This tax lot has an approved cluster development (Ridge Line Estates) of nine two acre parcels. The two acre parcels will abut the west property lines of tax lots 3700 and 3600 of the subject property for a lineal distance of 2450 feet as shown on the attached map. The 12.15 acres of tax lot 2900, located in section 22C, abuts one acre zoning on the west and two acre zoning on the east.

There are no actively-farmed parcels or actively managed forest tracts on map 7-10-27 and 22C. Generally speaking, active farm or forest management is economically feasible on larger parcels, larger than eighty acres. Although it might be physically possible to manage smaller tracts for farm or forest purposes, it is uncommon in this area.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Finding:

There are no adjacent resource land to the subject property. A small portion (2+ acres) of the westerly property abuts Neacoxie Creek. This portion of the property is zoned LW (Conservation-Other Resources). The LW zoned land will not be effected by the proposed rezone.

(f) Physical development according to OAR 660-004-0025; and
660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

(1) A local government may adopt an exception to a goal when 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.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification

Finding:

This application is not based on a rezone to allow other uses. The residential use is still available. The rezone would allow denser uses of the same residential use. This requirement for Land Physically Developed to Other Uses is not applicable to this application.

(g) Other relevant factors

Finding:

The southerly 20.51 acres is difficult to develop via partitioning in its current five acre zoning because of its narrow depth from Highway 101. The property is located on a stabilized dune as are the surrounding 1 and 2 acre zoned property. The increased density will not have a greater impact on the subject property than the surrounding properties had on their parent parcels.

GOAL EXCEPTIONS

197.732 Goal exceptions; criteria; rules; review. (1) A local government may adopt an exception to a goal if:

(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 as described by Land Conservation and Development Commission rule 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) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

Finding:

This property is designated Rural Residential. The Goal 14 Urbanization definition of Rural is 2 acres and Urban as 1 acre. The applicants are asking for a Rural Residential 2 zoning. This is consistent with the Goal 14 definition. The subject property is surrounded by 1 and 2 acre zoning and will be required to develop in Cluster development. This will leave larger areas as open space.

(B) Areas which do not require a new exception cannot reasonably accommodate the use;

Finding:

There is a possibility of 11 additional lots in the RA-2 Zone to the east of the subject property if all 4 of the 4+ acre lots were partitioned into 2 acre parcels. The proposed rezone would allow 28 dwellings (25+3 density transfer) instead of the current 9. The rezone would allow an increase of 19 dwellings. It is highly improbable that the existing RA-2 property would be partitioned to the minimum 2 acre size. The property to the east is already developed to the 1 and 2 acre standard.

(C) The long term environmental, economic, social and energy consequences resulting from the use at 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

Finding:

The Long term environmental, economic, social and energy consequences impacts resulting from this proposed rezone would be the same or less than other property that would require a Goal exception. The proposed rezone does not impact Resource Lands or Goal 5 resources. Other properties depending on their location could impact Resource Lands and Goal 5 resources.

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(2) "Compatible," as used in subsection (1)(c)(D) of this section, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Finding:

The requested use is not changing from Rural Residential and will have the same density as the surrounding Rural Residential properties currently have. The proposed use is compatible with adjacent uses.

(3) The commission shall adopt rules establishing:

(a) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (1)(c)(A) of this section; and

(b) Which uses allowed by the applicable goal must be found impracticable under subsection (1) of this section.

(4) 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 of subsection (1) of this section have or have not been met.

Finding:

Catsop County can approve the requested Goal 14 Exception based on the findings presented by the applicant in this document.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

Finding:

Clatsop County's Notice of Public Hearing complies with this requirement.

(5) Upon review of a decision approving or denying an exception:

(a) The board or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (1) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards of subsection (1) of this section have or have not been met.

(7) The commission shall by rule establish the standards required to justify an exception to the definition of "needed housing" authorized by ORS 197.303 (3).

(8) As used in this section, "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 applicability;

(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards under subsection (1) of this section.

(9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, shall continue to be valid and shall not be subject to this section. [1983 c.827 §19a; 1995 c.521 §3]

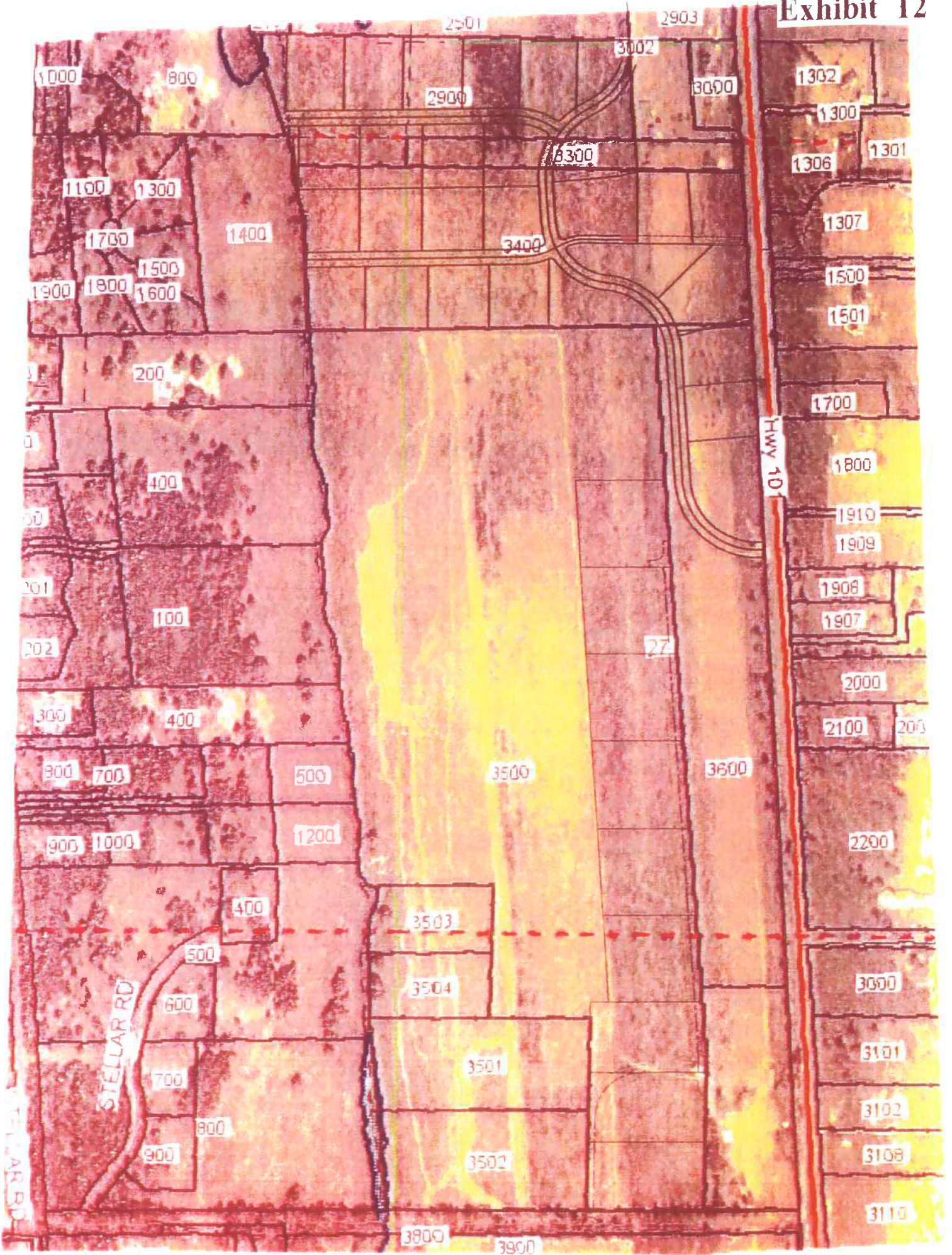
Finding:

Sections 6 through 9 are not applicable to this application.

Goal 2, Part II(b)

Finding:

The requirements found in Goal 2, Part II(b) are identical to the requirements found in OAR 197.732 which have been addressed in the section above.



January 3, 2008

Preston Polasek, City Manager
City of Warrenton
P.O. Box 250
Warrenton, OR 97146

Dear Sir

Mr. Russ Earl has approached the City of Warrenton to verify the availability of domestic water service to the properties bordered by Highway 101, Neacoxie Creek, and between Surf Pines Lane and West Lake Lane. The area would be developed for single-family residence with perhaps _____ existing and future homes. Normally, a developer with a project outside the City limits would prepare a plan with waterline extensions of sufficient size to meet domestic and fire protection needs. His plan would be submitted to the City for approval, with the developer responsible for all of the development costs.

This proposal is a little different. The developer would like to know if the City of Warrenton would participate in the costs of connecting their project to the existing water transmission line located on the abandoned railroad grade east of Highway 101. The City has expressed an interest in finding an alternative route of connecting to the transmission line in order to provide water to the south end of its service area.

The City of Warrenton provides water service to the customers living within the Pinehurst Subdivision. The City of Gearhart provides water service to the customers living within the Tiel Court, Beachwood, The Reserve, and The Highlands Subdivisions. The City of Warrenton claims ownership of the 10-inch watermain on Highlands Lane between highway 101 and The Highlands Subdivision. However, the City of Warrenton's Highland Lane watermain is not directly connected to its 20-inch transmission line; there is a section of pipeline owned by the City of Gearhart.

There has been a proposal to construct another watermain around the City of Gearhart's line in order to untangle this jurisdiction confusion. The best place to construct this new line is as close to Highlands Lane as possible in order to "loop" the network and not create "dead end" lines. So far, the City of Warrenton has not made a decision of what to do.

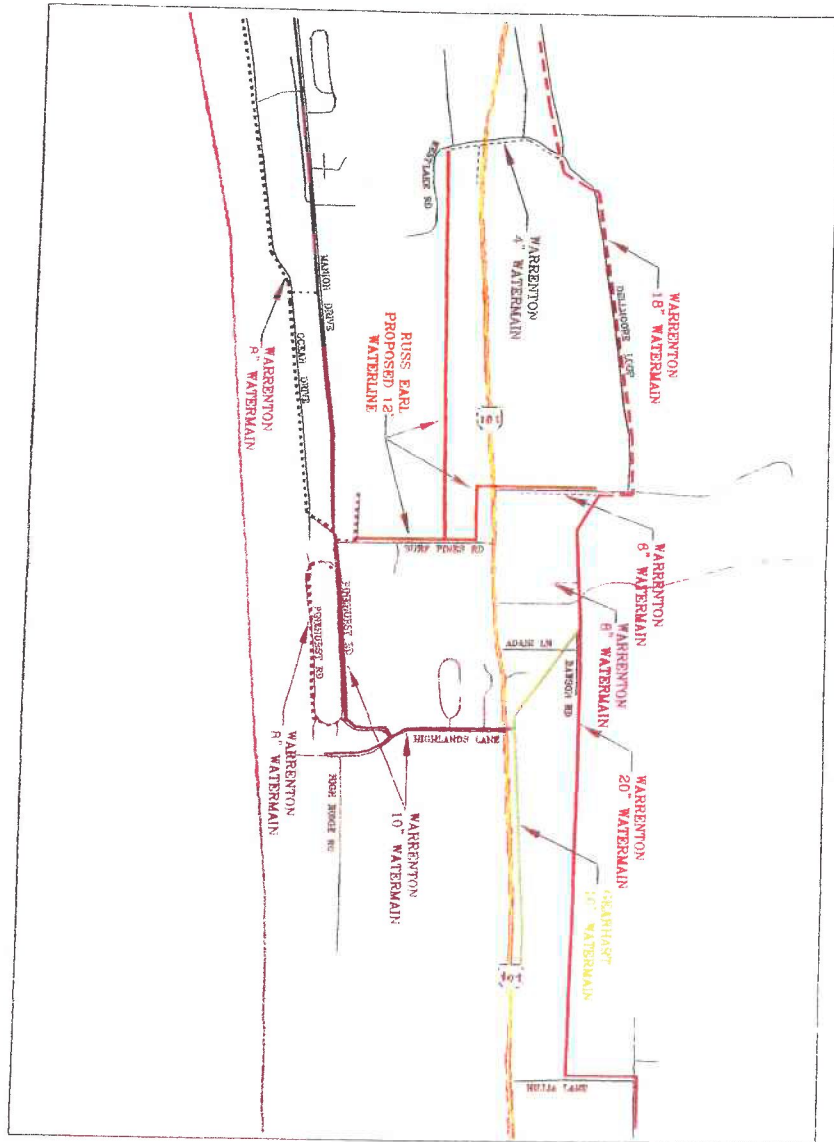
The basic proposal from Mr. Russ Earl is to replace the 6-inch waterline on the south end of Dellmoor Loop Road with a 12-inch watermain. This particular 6-inch waterline was constructed by the Seaside Christian Church, it begins at the 20-inch transmission line and ends right across from the church. The new 12-inch watermain would extend across Highway 101, along Surf Pines Lane tying into the 10-inch watermain on Manion Drive that connects Pinehurst Subdivision to Surf Pines. Another 12-inch waterline would be extended from Surf Pines Lane northerly to West Lake Lane. There is a 4-inch waterline on West Lake Lane.

Exhibit 14

SCALE 1" = 2,000'



PROPOSED WATERLINE EXTENSION RUSS EARL PROJECT



REVISIONS 12/31/08
PAGE 1 OF 1
JANUARY 3, 2008
FILE: 2938-D01



Earl/Osburn Olson Zone change
1/9/08 Planning Commission meeting notes by GKI:



This is a summary of my notes and comments in response to Staff presentation:

Goal 2:

In regards to the Goal 2 information, Staff stated that the land use study criteria has not changed but Staff did not once state what the criteria was is that study that hasn't changed. The reality is that the Study is 25 years old and most likely outdated. Even if the criteria in that study has not changed, the County itself has changed significantly in 25 years.

Goal 5:

Goal 5 is in regards to open spaces yet the zone change itself will still require open spaces because both of these zones require cluster developments.

Goal 10:

Staff stated that the proposed zone change does not provide orderly development. The fact is that the proposed application does not even propose any development. It merely proposed a density change.

In regards to the term orderly development, if a subdivision were proposed at this location, it would be orderly development since the property directly to the west (Wideman's) is being developed at this time. Properties must be development next to other developed properties in order to provide public utility extensions. Otherwise the offsite cost to extend utilities past undeveloped properties would be too great.

Staff also mentioned the school capacity as well as water capacity. These things are not applicable at this time. The proposed change in density does not create additional lots. At the time of a subdivision application is when these become applicable because this is the time when additional lots and homes are created.

Goal 18:

Staff stated that the applicant did not address groundwater supplies. Again, this is not applicable at this time. A rezone has no affect on groundwater supplies. The number of homes allowed on the lots will remain the same until a subdivision application is approved. This is when this standard would become applicable.

14th Amendment:

Staff mentions the 14th amendment which requires equal protection. A zone change does not remove people's rights for equal protection. These rights still exist under any proposed application. The County's procedure for land use applications insures this.

General:

Staff's mention of the high percentage of undeveloped R5 land shows something. It shows that developing the R5 land is economically viable. The cost to build the infrastructure in order to develop such large lots outweighs the development potential. Due to the rising cost of land, a fully developed 5 acre lot would be unaffordable to most citizens.



STAFF REPORT

-FOR-

**A Comprehensive Plan Map/Zoning Map Amendment
and Goal Exception Request**

By

Parker Consulting

On Behalf of

Russell Earl and Osburn-Olson LLC, Property Owners

January 1, 2008*

REPORT CONTENTS

- I. APPLICATION SUMMARY**
- II. STAFF RECOMMENDATION**
- III. SUMMARY OF STAFF CONCLUSIONS**
- IV. BACKGROUND**
- V. PROPERTY STATUS AND CONDITIONS**
- VI. NEIGHBORHOOD CONDITIONS**
- VII. APPLICABLE CRITERIA**
- VIII. EVALUATION OF APPLICATION**
 - 1. Zone Change Criteria**
 - 2. Goal Exception Criteria**
- IX. EXHIBITS**
 - 1. Application**
 - 2. Oregon Administrative Rule 660-004**
 - 3. Oregon Revised Statute 197.732**
 - 4. Certificate of Mailing and Affidavit of Publication for Public Notice**
 - 5. A. 1979 Vicinity Zoning Map**
B. 1983 Vicinity Zoning Map
 - 6. Letter from Fire Chief, Gearhart Fire Department**
 - 7. Clatsop Plains Buildable Lands Inventory**
 - 8. Clatsop Plains Scenic Area Map**
 - 9. Ordinance No. 83-17 (excerpt)**
 - 10. Written Comments from Interested Parties**
 - 11.- 15. Documents Submitted by Applicant at the Public Hearing**

REPORT PREPARED BY:
Patrick Wingard, AICP
Clatsop County
Principal Planner

* Staff Report updated on 1/25/08 to reflect exhibits received at the public hearing.

Clatsop County Community Development Department
800 Exchange Street, Suite 100, Astoria, OR 97103
www.co.clatsop.or.us

ph: 503-325-8611
fx: 503-338-3666
em: comdev@co.clatsop.or.us



STAFF REPORT

STAFF REPORT DATE: January 1, 2008

HEARING DATE: January 8, 2008

HEARING BODY: Planning Commission

REQUEST: Comprehensive plan map/zoning map amendment (zone change) for the subject property. The request also includes an exception to Statewide Planning Goal 14 (Urbanization).

Current Zone: Residential Agriculture-5 (RA-5)
Proposed Zone: Residential Agriculture-2 (RA-2)

Current Plan Designation: Rural Lands
Proposed Plan Designation: Rural Lands (*no change*)

APPLICANT / AGENT: Parker Consulting – Butch Parker
PO Box 397
Warrenton, OR 97146

PROPERTY OWNERS: Russell Earl Osburn-Olson LLC
86058 Wahanna Rd. 1369 Stillwater Ct.
Seaside, OR 97138 Seaside, OR 97138

PROPERTY DESCRIPTION: Five contiguous parcels:
T7N, R10W, Sec. 22C, TL 2900; and,
T7N, R10W, Sec. 27, Tls 3300, 3400, 3600, and 3700

PROPERTY LOCATION: West of Hwy 101 and north of Surf Pines Lane in the unincorporated Clatsop Plains area of Clatsop County

PROPERTY SIZE: 50.8 acres

COUNTY STAFF REVIEWER: Patrick Wingard AICP, Principal Planner *Patrick*

I. APPLICATION SUMMARY

The applicant seeks a comprehensive plan map/zoning map amendment and an exception to Statewide Planning Goal 14 (Urbanization) to change the zoning on the subject property from Residential Agriculture – 5 acre minimum (RA-5) to Residential Agriculture – 2 acre minimum (RA-2).

II. STAFF RECOMMENDATION

Deny the application based on the findings and conclusions in this report.

III. SUMMARY OF STAFF CONCLUSIONS

This report is lengthy and complex. It contains a variety of staff analyses and findings, maps, technical information, policies, approval criteria, and many exhibits. The following table lists the main criteria that apply to the request, a summary of staff's conclusions pertaining to each criterion, and a reference to the page numbers of this report where the pertinent staff analysis can be found.

Criterion	Conclusions	Page(s)
Zone Change Criterion No. 1 – Consistency with Comprehensive Plan	Application is inconsistent with the Goal 2, Goal 10, Goal 11, Goal 18, and Clatsop Plains elements of the Comprehensive Plan.	6-33
Goal 1 Element – Citizen Involvement	Satisfied.	6
Goal 2 Element – Land Use Planning	Inconsistent. Reasons for zoning property RA-5 in 1983 remain valid today. Application does not warrant overriding comprehensive five-year land use study.	6-9
Goal 3 & 4 Elements – Farm & Forest	Satisfied. These goal elements do not apply to the non-resource property	9
Goal 5 Element – Open Spaces, Scenic, Historic & Natural Resources	Satisfied with one condition of approval: Applicant must delineate the east edge of Neacoxie Creek to clarify those portions of LW-zoned lands unaffected by app.	10
Goal 6 Element – Air, Water & Land	Satisfied.	10-11
Goal 7 Element – Natural Hazards	Satisfied.	11
Goal 8 Element - Recreation	Satisfied.	11
Goal 9 Element - Economy	Satisfied	11
Goal 10 Element – Population and Housing	Inconsistent. New growth should be promoted within urban growth boundaries. Adequate provisions for housing provided under current zone designations.	11-15
Goal 11 Element – Public Facilities	Inconsistent. Documentation needed on schools and water availability	16
Goal 12 Element - Transportation	Satisfied.	16-17
Goal 13 Element - Energy	Satisfied.	17
Goal 14 Element - Urbanization	Satisfied. County policies focus on lands within urban growth areas.	17
Goal 16 & 17 Elements – Shorelands	Satisfied. Refer to Goal 5 element for a relevant condition of approval.	17
Goal 18 Element – Beach and Dunes	Inconsistent. Proposal's affect on groundwater supply must be assessed.	18
Clatsop Plains Community Plan Element	Inconsistent. Property part of a larger 900-acre contiguous tract of RA-5 zoned land that stretches 3-1/2 miles across Clatsop Plains. 'Scenic Area' designation affects property. 14 th Amendment (Equal Protection Clause) ramifications.	18-31
Zone Change Criterion No. 2 – Consistency with Statewide Plan Goals	Satisfied. Refer to Goal 5 element for a relevant condition of approval.	31-32
Zone Change Criterion No. 3 – Adequacy of Public Facilities and Services	Inconsistent. Documentation needed on schools and water availability.	32
Zone Ch. Criterion No. 4 - Transportation	Satisfied.	32
Zone Ch. Criterion No. 5 - Compatibility	Inconsistent. See analyses for Goal 2, Goal 10, and Clatsop Plains elements.	32
Zone Ch. Criterion No. 6 - Suitability	Inconsistent. See analyses for Clatsop Plains element.	33
Zone Ch. Criterion No. 7 - Appropriate	Inconsistent. See analyses for Goal 2, Goal 10, and Clatsop Plains elements.	33
Zone Ch. Criterion No. 8 - Health/Welfare	Inconsistent. Analyses for Clatsop Plains explain detriment to county welfare.	33
Goal Exception Criteria	Inconsistent. Applicant's findings insufficient to approve the request.	34-37

IV. BACKGROUND

On September 21, 2007 Parker Consulting, on behalf of Russell Earl and Osburn-Olson LLC, submitted to the Clatsop County Community Development Department applications for a comprehensive plan / zoning map amendment and an associated goal exception for 50.8-acres of land located west of Hwy 101 and north of Surf Pines Lane in the unincorporated Clatsop Plains area of Clatsop County. See maps below. The applicant proposes changing the property's zoning from RA-5, Residential Agriculture-5 [five-acre minimum lot size] to Residential Agriculture-2 [two-acre minimum lot size]. The applicant also seeks an exception to Statewide Planning Goal 14 (Urbanization) pursuant to Oregon Administrative Rule (OAR) Chapter 660 Division 4 and Oregon Revised Statute (ORS) 197.732.

V. PROPERTY STATUS AND CONDITIONS

Lot of Record Status

The subject property is comprised of five contiguous parcels described as T7N, R10W, Sec. 22C, TL 2900 and T7N, R10W, Sec. 27, TLs 3300, 3400, 3600, and 3700. Recording of the following documents with the Clatsop County Clerk's Office created the properties:

T7, R10W, Sec. 22C, TL 2900: September 12, 1997 – Warranty Deed
T7, R10W, Sec. 27, TL 3300: November 24, 1931 & March 15, 1932 – Warranty Deeds
T7, R10W, Sec. 27, TL 3400: November 10, 1970 – Warranty Deed
T7, R10W, Sec. 27, TL 3600: June 18, 1996 – Partition Plat No. 1996-020
T7, R10W, Sec. 27, TL 3700: June 18, 1996 – Partition Plat No. 1996-020

TLs 3300, 3400, 3600, and 3700 are considered “lots of record” as defined by the Clatsop County Land and Water Development and Use Ordinance (LWDUO) § 1.030. TL 2900 does not appear to be a lot of record as it was created in 1997 without benefit of land use approval (i.e., partitioning, subdivision, etc.).

LWDUO § 2.050(2) reads:

A development permit shall be issued by the Community Development Director according to the provisions of this Ordinance. The Director shall not issue a development permit for the improvement or use of land that has been previously divided or otherwise developed in violation of this Ordinance, regardless of whether the permit applicant created the violation, unless the violation can be rectified as part of the development.

Prior to issuing a development permit for the improvement or use of TL 2900, the applicant must confirm the property's status as a lot of record or legalize the parcel by filing appropriate paperwork¹ with Clatsop County.

Property Conditions

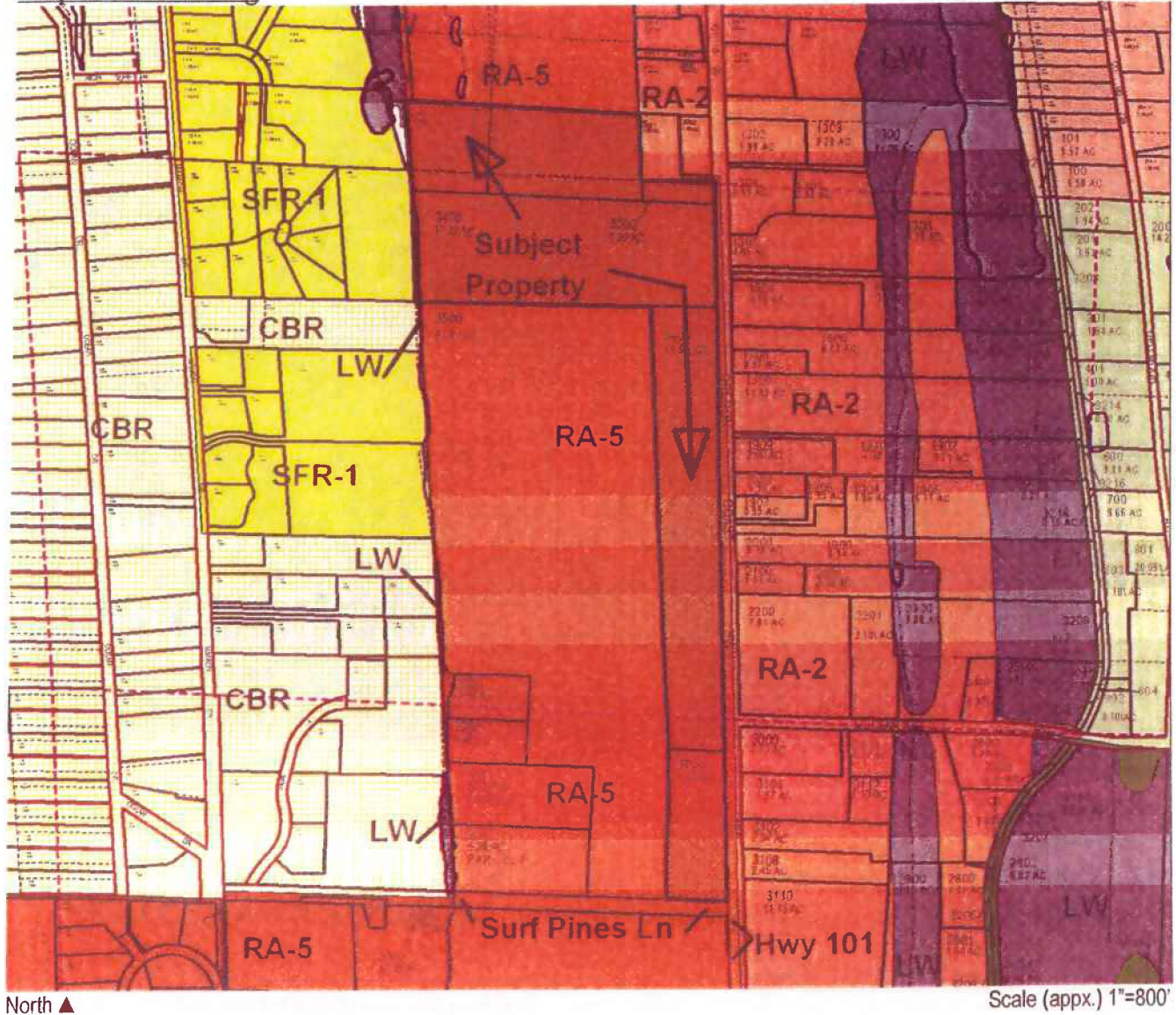
The subject property is comprised of five contiguous parcels totaling 50.8 acres in size. The property is located along the west side of Hwy 101 north of Surf Pines Lane in the unincorporated Clatsop Plains area of Clatsop County. The property is currently improved with one single-family dwelling. Four of the five parcels have direct frontage on Hwy 101. The vast majority of the subject property is zoned RA-5, Residential Agriculture-5 [five-acre minimum lot size]. A very small sliver portion of the subject property where it abuts, or includes, portions of Neacoxie Creek is zoned LW, Lake and Wetlands. The subject property abuts other RA-5 zoned lands along its southern boundary, RA-2 [two-acre minimum] zoned lands along its eastern boundary, a combination of RA-5 and LW zoned lands along its western boundary, and a combination of RA-5 and RA-2 zoned lands along its northern boundary. See [Map 1. Area Zoning](#) on the following page.

¹ Lot of Record Determination application or Partition application.

VI. NEIGHBORHOOD CONDITIONS

The neighborhood is comprised primarily of single-family residences and large tracts of open space. The area is characterized by rolling vegetated sand dunes. See aerial photograph (Map 2. Neighborhood Conditions) on following page.

Map 1. Area Zoning



Map 2. Neighborhood Conditions



VII. APPLICABLE CRITERIA

The applicable criteria for this land use application is contained in LWDUO Section 5.412 which reads:

Section 5.412. Zone Change Criteria.

The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1 040, and all of the following criteria.

- (1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
- (2) The proposed change is consistent with the statewide planning goals (ORS 197).
- (3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
 - (A) Parks, schools and recreational facilities
 - (B) Police and fire protection and emergency medical service
 - (C) Solid waste collection
 - (D) Water and wastewater facilities

- (4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
- (5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
- (6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.
- (7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.
- (8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

Additional criteria relating to the applicant's request for Clatsop County to adopt an exception to Statewide Planning Goal 14 (Urbanization) are contained in Oregon Administrative Rule Chapter 660 Division 4 (attached; Exhibit 2) and Oregon Revised Statute 197.732 (attached; Exhibit 3).

VIII. EVALUATION OF APPLICATION

As part of its land use application (attached, Exhibit 1), the applicant evaluates the application against the applicable criteria of LWDUO § 5.412 and offers findings of fact for the county's consideration. In the following sections, staff examines the application versus the eight applicable criteria of LWDUO § 5.412 (1)-(8) and proposes findings of fact for the Planning Commission's review and consideration. Proposed findings pertaining to the Goal Exception aspect of this application begin on page 33 of this report.

Zone Change Criterion No. 1: LWDUO §5.412(1) - Consistency with Comprehensive Plan

Comprehensive Plan, Goal 1 element – Citizen Involvement

Analysis:

In its application (attached, Exhibit 1), the applicant explains that the procedures used by the county to review the land use application satisfy the applicable citizen involvement policies of the comprehensive plan. Staff concurs with the applicant and adds that all requirements pertaining to the public notices (LWDUO § 2.105 - § 2.125) for this land use matter have been met.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable citizen involvement policies of the Goal 1 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 1 Element.

Comprehensive Plan, Goal 2 element – Land Use Planning

Analysis:

The Clatsop County Comprehensive Plan / Zoning Map designates the vast majority of the subject property as Rural Lands with Residential Agriculture – 5 (RA-5) zoning. A small sliver-shaped portion of the property located along Neacoxie Creek is designated as Conservation – Other Resources with Lake and Wetlands (LW) zoning. The proposal does not affect the Rural Lands and Conservation – Other Resources plan designations for the subject property and does not affect the LW zoning for the small slice of property described above. The application is centered on changing the property's zoning from RA-5 [five-acre minimum lot size] to RA-2 [two-acre minimum lot size], as applicable.

The following excerpts from the Goal 2 element of the comprehensive plan apply to this request:

Rural Lands

Rural Lands are those that are outside the urban growth boundary, outside of rural community boundaries, and are not agricultural lands or forestlands. Rural lands includes lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use.

Rural Lands in Clatsop County

A diversity of housing options ranging from high density urban environments to low density farm-forest home sites has been a recognized need in Clatsop County since the County's first Comprehensive Plan was adopted in 1969. While developing the present Comprehensive Plan, citizens and elected and appointed officials stressed the economic and cultural importance of providing for the demand for recreational and year round rural homesites.

Because of the rural character of the County along with its geographic proximity to the northern Willamette Valley population centers, there has been a steady demand for second homes and rural homesites located on small rural tracts (see Housing Element and Background Report). The demand for rural tracts is expected to continue. In order to continue to meet the demand for affordable rural homesites the County has looked to those which are "built upon and/or irrevocably committed" rural areas which generally have:

- (a) Some level of public facilities and services, especially surfaced public roads, fire protection, and piped water;
- (b) A pattern of parcel sizes generally smaller than 15 acres;
- (c) Existing residential development at a density generally higher than 1 dwelling unit per 10 acres; and
- (d) Natural boundaries, such as creeks and roads, separating the exception area from adjacent resource lands.

Areas generally falling under the above set of criteria are designated Rural Lands throughout the Comprehensive Plan. Rural Lands are those lands which are outside the urban growth boundary and are not agricultural lands or forestlands. Rural Lands include lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use. Most of these lands contain agricultural site class II-IV and forest site class FA-FD.

In developing the data base and criteria used to identify exception areas the County planning staff relied heavily on information provided by the six CACs, individual land owners, realtors and builders as well as the opinions of appointed and elected officials. Most of the information used to substantiate commitment of those lands was gathered over a 5 year period through the public hearings process which resulted in the current Comprehensive Plan. In addition, the various needs of each subarea were examined and weighed against the goals. After completion of each subarea plan, each plan's specific goals and objectives and recommended land use allocations were compared against the County as a whole. This information was compiled and tabulated using the criteria developed during the planning process and forms the main body of this report.

Generally, lands which fall under the general criteria enumerated in this Exception Process and Committed Lands Identification section are designated Rural throughout the Comprehensive Plan. Characteristically, these lands have scattered residences on parcel one-half to 15 acres in size and are clustered along roads throughout the unincorporated County.

Designation of Rural Lands Policy:

Generally parcels less than 15 acres and that are "built upon or irrevocably committed" to a non-resource use is to be placed in a residential, industrial or commercial zone.

Residential

Residential densities are generally designated through the following additional criteria:

- a. Where subdivisions or partitioning or both have occurred in a one-acre pattern of development the area will be placed in one of the one-acre zones;
- b. In areas with a development pattern of two to five acre parcels (some smaller and some larger), the areas will be placed in a two-acre zone;
- c. In areas adjacent to resource (forest, agriculture, wetlands, estuary areas) lands, or Camp Rilea, the areas will be placed in a five-acre zone;

- d. In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five-acre zone;
- e. In addition to criteria a through d, minimum lot sizes increase with increasing distance from the following areas:
 - 1. all urban growth boundaries
 - 2. Svensen center
 - 3. Knappa center

Since approximately 90% of the total County land area is forest land, it is not surprising that most of the lands identified as Rural in the Plan contains forest land class FA-FC and/or agricultural site class soils II-IV (see Forestry and Agricultural Background Report).

Analysis:

In its application (Exhibit 1, pg.'s 5-6²), the applicant reasons that the proposed zone change is consistent with the pertinent Rural Lands policies. The applicant explains that the dominant land use patterns are Surf Pines and two acre or denser development. The applicant finds the average lot size in Section 27 of Twp. 7N, Rng. 10W to be seven acres and the mean lot size to be 3.11 acres. The applicant further explains that no properties in Section 27 or Section 22C are being actively managed for farm or forest purposes.

Staff concurs with the applicant that the subject property is appropriate planned as Rural Lands by the County Comprehensive Plan.

Staff disagrees with the applicant in its assertion that the proposed zone change is consistent with the applicable Goal 2 Land Use Planning plan policies because:

The breadth of analyses provided by the applicant in its request for the zone change lacks detail and substance to justify increasing the density of the subject property from one dwelling unit per five acres to one dwelling unit per two acres. The Goal 2 element of the Comprehensive Plan reads:

In developing the data base and criteria used to identify exception areas the County planning staff relied heavily on information provided by the six CACs, individual land owners, realtors and builders as well as the opinions of appointed and elected officials. Most of the information used to substantiate commitment of those lands was gathered over a 5 year period through the public hearings process which resulted in the current Comprehensive Plan. In addition, the various needs of each subarea were examined and weighed against the goals. After completion of each subarea plan, each plan's specific goals and objectives and recommended land use allocations were compared against the County as a whole. This information was compiled and tabulated using the criteria developed during the planning process and forms the main body of this report.

The five-year planning period referenced above is 1979 to 1983, inclusive. These efforts culminated in the County's adoption of the September 30, 1983 Clatsop County Comprehensive Plan and the combined Comprehensive Plan – Zoning Map (Ordinance No. 83-17). The State of Oregon formally acknowledged the Plan and Map on May 31, 1984.

Pertinent sections of the Goal 2 element of the 1983 Clatsop County Comprehensive Plan are attached to this report as Exhibit 4. Much of the text of the Goal 2 Land Use Planning element of the 1983 Comprehensive Plan remains unchanged to this day.

Vicinity Zoning Maps for 1979 and 1983 are attached to this report as Exhibits 5A and 5B, respectively. The subject property is highlighted on the maps. Referring to Exhibit 5A, note that the subject property is

² Note, throughout this report staff refers to Exhibit 1 page numbers that appear at the very bottom of the pages.

part of a larger contiguous tract of land that was zoned RA-1 (one-acre minimum lot size) in 1979. Now, looking at Exhibit 5B, it is evident that the subject property and large portions of the contiguous tract were rezoned to RA-5 as a result of the adoption of Ordinance No. 83-17. In making its decisions to establish appropriate plan and zone designation for properties on the Clatsop Plains, the County used the same fundamental Goal 2 Land Use Planning criteria that are in place today upon which to draw its conclusions. It is essential that the Planning Commission recognize the validity of the comprehensive five-year planning effort that formed the basis for the zoning on the Clatsop Plains when considering the applicant's request to rezone the property from RA-5 to RA-2.

The bases for designating the subject property as Rural Lands and zoning the land as RA-5 remain valid today. The applicant has not shown sufficient evidence to substantiate its claim that the proposal to rezone the property from RA-5 to RA-2 is consistent with the Land Use Planning element of the Clatsop County Comprehensive Plan. The comprehensive five-year planning effort of the community that laid the foundation for planned growth in the Clatsop Plains as expressed in the Goal 2 element of the Comprehensive Plan should not be overridden by this individual undersupplied land use application. Only upon undertaking a citizen-driven comprehensive evaluation of the zoning on the Clatsop Plains should the County approve proposals to increase residential densities such as the one proposed in this application. For additional reasons provided later in this report and because the Overall Goal of the Clatsop Plains Community Plan is to:

1. protect and maintain the natural resources, natural environment and ecosystems,
2. respect the natural processes,
3. strive for well designed and well placed development, and
4. preserve the semi-rural, agricultural, open space and marine characteristics of the area.

And, Community Development Policy 1 of the Clatsop Plains Community Plan reads:

1. The predominant growth (residential, commercial, and industrial) shall occur within the Cities of Seaside, Warrenton, Gearhart and the Town of Hammond, as well as those areas in the Urban Growth Boundaries

The Planning Commission should find that the community's principles and values for land use planning on the Clatsop Plains as promulgated in the Goal 2 Land Use Planning element of the Comprehensive Plan will be upheld by denying the application.

Finding of Fact:

Based on the analyses above, the application is inconsistent with the applicable Rural Lands policies of the Goal 2 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 2 Element.

Comprehensive Plan, Goal 3 element – Agricultural Lands and Goal 4 element – Forest Lands

Analysis:

Staff concurs with the applicant's assertions on page 6 of Exhibit 1 that the Goal 3 and Goal 4 elements of the comprehensive plan do not apply to the request. Refer to the analyses done in conjunction with the goal exception on pg.'s 33-36 of this report for additional reasons as to why Goals 3 & 4 do not apply to this request.

Finding of Fact:

Based on the analysis above, the Goal 3 and Goal 4 elements of the Clatsop County Comprehensive Plan do not apply to the request. LWDUO § 5.412(1) – Goal 3 and 4 Elements.

Comprehensive Plan, Goal 5 element – Open Spaces, Scenic & Historic areas and Natural Resources Analysis:

In its analysis on pages 7-9 of Exhibit 1, the applicant explains that the western edge of the subject property contains wetlands associated with Neacoxie Creek. The applicant points out that the Goal 5 element of the comprehensive plan identifies these features as Goal 5 resources zoned LW, Lake and Wetlands. In its findings, the applicant clarifies that the zone change request would not affect the LW-zoned portions of the subject property and ultimately concludes that the proposal is consistent with the applicable policies of the Goal 5 element of the comprehensive plan.

Based on a review of the historic 1982 natural resource base maps that underlie the creation of the Lake and Wetlands (LW) zone, staff concludes that the width of the LW zone where it abuts, or includes, portions of the subject property is approximately 50 feet. In its application, the applicant does not demarcate the LW-zoned portions of the subject property against the predominant RA-5 zone. These zonal acreages and dimensional details are vital components of the rezone request and essential to the applicant's claim that the LW-zoned portions of the subject property will not be affected by the proposal. Without these details, LW-zoned portions of the subject property could inadvertently be rezoned to RA-2 contradictory to the applicable plan policies of the Goal 5 and Goal 17 elements of the comprehensive plan.

To assure that no LW-portions of the subject property are included in the rezone request, the applicant shall cause the delineation of the eastern edge of Neacoxie Creek and associated wetlands by a qualified professional as they traverse the western edge of a portion of the subject property. A licensed surveyor must remit a survey map to the county that demarcates the Neacoxie Creek natural resource (Clatsop County Site # CP 17 of the June 1982 Report by Duncan Thomas entitled, "Significant Shoreland and Wetland habitats in the Clatsop Plains") in relationship to the subject property boundaries. The expected precision for the survey map is 0.1 feet on linear dimensions and 0.01 acres on area calculations.

Finding of Fact:

Based on the analysis above, the applicant shall cause the delineation and survey of the east edge of Neacoxie Creek and associated wetlands by a qualified professional to assure consistency with the applicable policies of the Goal 5 element of the Clatsop County Comprehensive Plan. Before the rezone request may be approved, the applicant must remit to the county the information detailed in the analysis above to assure that revisions to the County Plan and Zone Map are demarcated accurately. LWDUO § 5.412(1) – Goal 5 Element.

Comprehensive Plan, Goal 6 element – Air, Water, and Land Quality

Analysis:

The applicant evaluates the application against the applicable plan policies of the Goal 6 element of the comprehensive plan in pages 9-12 of Exhibit 1. Staff concurs with the applicant that the proposal does not conflict with the applicable plan policies of Goal 6. The Clatsop County Land and Water Development and Use Ordinance (LWDUO) contains multiple development standards that would apply to the future development of the subject property to assure the protection of air, water, and land quality standards in accordance with Goal 6. These standards include, but are not limited to, clustering and open space mandates for subdivision proposals, beach and dune and coastal shoreland overlay zoning district regulations, and erosion control planning and implementation measures.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 6 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 6 Element.

Comprehensive Plan, Goal 7 element – Natural Hazards

Analysis:

The applicant's analyses contained in pages 12-13 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 7 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 7 Element.

Comprehensive Plan, Goal 8 element – Recreational Lands

Analysis:

The subject property is not an identified recreational resource. The proposal does not conflict with the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 8 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 8 Element.

Comprehensive Plan, Goal 9 element – Economy

Analysis:

The applicant's analyses contained on page 14 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 9 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 9 Element.

Comprehensive Plan, Goal 10 element – Population and Housing

Analysis:

The following Population policies apply to this request:

1. Community plans should provide for orderly growth which reduces the cost of essential services while preserving the basic elements of the environment.
2. Promote population to locate in established service areas.
3. Promote the accommodation of growth within areas where it will have minimal negative impacts on the County's environment and natural resources.
4. Utilize current vacant land found between developments or within committed lands.
5. Direct new urban growth within Clatsop County to existing urban growth boundary or rural service areas where under utilized public or semi-public facilities exist or utility and/or investments have already been made.
6. Encourage development of land with less resource value.

7. Coordinate planning efforts of local governments and special districts to maximize efficiency of public facilities, and have land use actions reflect the goals and policies of the Plan.

Policy # 1 above refers to the Clatsop Plains Community Plan. As discussed briefly under the analyses for the Goal 2 element of the Comprehensive Plan (see pg.'s 6-9 of this report), and in greater detail on pg.'s 18-31 of this report, the proposed zone change does not reflect orderly growth patterns as intended by the goals and policies of the Clatsop Plains Community Plan. The subject property is part of a larger tract of contiguous RA-5 zoned lands approximately 900 acres in size that stretches 3-1/2 miles across the Clatsop Plains from Sunset Beach Lane in the north to Highlands Lane in the south.

Policy # 2 promotes population to be located in established service areas. On page 15 of Exhibit 1, the applicant lists public facilities and utilities that currently service the subject property. Exhibit 6 contains a letter from Chief Bill Eddy of the Gearhart Rural Fire Protection District that speaks to the district's expectations for access and water supply to the site. Based on information provided in the application, it is not known if the applicant's future development plans for the subject property include expanding City of Warrenton water facilities in the area. It is unknown if the City has the capacity to service the site considering the proposed increase in residential density on the property. The applicant has not committed to making any water system improvements to the Warrenton water system that would be necessary to provide adequate fire flows to the site. The Wideman property directly to the west of the subject property chose to deliver water to its recent Ridgeline Estates Subdivision through a system of wells, pumps, and water reservoirs.

Policy # 3 refers to minimizing negative impacts on the environment and natural resources. The County's Land and Water Development and Use Ordinance (LWDUO) contains several development standards that protect the environment and natural resources (e.g., clustering requirements for subdivisions, special erosion control measures in the dunes, etc.). For reasons provided under the analyses for the Clatsop Plains Community Plan (see pg.'s 18-31), the applicant's request to increase residential densities on the subject property does not minimize negative impacts to the environment and natural resources in accordance with this plan policy even when considering the standards that currently exist in the LWDUO.

Policy # 4 expects vacant land between developments or within committed lands to be utilized. The subject property is basically vacant (save for one single-family dwelling) and is located amongst existing development. The applicant does not provide compelling reasons why the property should not be utilized as planned, at RA-5 densities, as opposed to the requested RA-2 densities. Beginning on page 64 of Exhibit 1, the applicant explains that the County should consider the subject property to be committed to other uses and suitable for an exception to Statewide Planning Goal 14 to allow an increase to the allowed residential density on the site. Analyses regarding the proposed goal exception are provided later in this report.

Policy # 5 promotes new growth to occur within urban growth boundaries or rural service areas where underutilized facilities exist and/or investments have already been made. The proposal promotes new growth outside of urban growth boundaries contradictory to this plan policy. Evidence is not provided in the application to indicate whether or not services such as streets, schools, water systems, etc. are being underutilized in the area. If excess capacity exists in these public or semi-public facilities, the applicant should provide objective and verifiable studies and reports to substantiate its claims.

Policy # 6 encourages development of land with less resource value. The Rural Lands plan designation and RA-5 zoning for the subject property indicate that the property should not be reserved for agricultural or

forest production. As previously discussed under the Comprehensive Plan Goal 5 element of this report, part of the subject property abuts, or includes, a portion of Neacoxie Creek and associated wetlands. Development on the subject property must recognize these aquatic and riparian resources implement appropriate conservation measures in accordance with the Goal 5 and Goal 17 elements of the Comprehensive Plan.

Policy #7 requires that land use actions be coordinated with local governments and special districts. The County had provided notice of the application to several local government officials including the Fire Chief for the Gearhart Rural Fire Protection, the regional planner for ODOT, the regional representative for DLCD, CREST, Surf Pines Association, and the Clatsop Soil & Water Conservation District. Staff met with representatives from ODOT and DLCD to discuss this land use application on November 30, 2007. To date, written comments from the Gearhart RFPD have been received (Exhibit 6).

Finding of Fact:

Based on the analysis above, the application does not satisfy Population plan policies # 1 - # 5 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Population).

Analysis:

The following Housing policies apply to the request:

Residential Development

1. Clatsop County shall encourage residential development only in those areas where necessary public facilities and services can be provided and where conflicts with forest and agricultural uses are minimized.
2. Clatsop County shall assist in planning for the availability of adequate numbers of housing units at price ranges and rent levels commensurate with the financial capabilities of County residents.
3. Clatsop County shall encourage planned developments and subdivisions to cluster dwelling units. The clustering of dwellings in small numbers and the provision of common open space assures good utilization of the land, increased environmental amenities, and may be used as an open space buffer between the residential use and adjacent agricultural or forest uses
4. Clatsop County shall permit residential development in those designated areas when and where it can be demonstrated that:
 - a. Water is available which meets state and federal standards;
 - b. Each housing unit will have either an approved site for a sewage disposal system which meets the standards of the County and the Department of Environmental Quality or ready access to a community system;
 - c. The setback requirements for the development of wells and septic systems on adjacent parcels have been observed;
 - d. Development of residential units will not result in the loss of lands zoned or designated for agriculture or forestry and will not interfere with surrounding agricultural or forestry activities.
7. Clatsop County shall encourage the development of passed over lots that already have services such as water and roads be preferred for development over tracts requiring an extension of services
8. Clatsop County shall make provisions for housing in areas designated for Rural, Urban Growth Boundaries, and Rural Service Areas which provide variety in location, type, density and cost where compatible with development on surrounding lands.

Housing Rehabilitation

11. Clatsop County shall develop and maintain an inventory of the type and condition of the current housing stock. The rural housing needs should be reexamined every two years to reflect the market changes and new information.

Policy # 1 above promotes residential development in areas where necessary public facilities can be provided and where conflicts with forest and agricultural uses are minimized. On pages 16-17 of Exhibit 1, the applicant satisfactorily demonstrates that necessary public facilities can be provided to the site with one exception: Schools. Do the Gearhart Elementary School and Seaside School District have capacity to serve the additional pupils that could be generated by the proposed increase in residential density on the site? Development of the site can minimize conflicts with forest and agricultural uses.

Policy # 2 expects Clatsop County to assist in planning for the availability of adequate numbers of housing units at reasonable prices for its citizenry. If approved, the application would enable an increase in the number of housing units on the subject property from 10 to 25. It is unknown if the applicant plans to incorporate affordable housing components in its future development plans (e.g., limits on building square footages) for the property. The County cannot mandate that the property owner do so but encourages the owner/developer to incorporate affordable housing components into its development plans wherever possible to avail home construction and habitation by the local populace.

Policy # 3 refers to clustering subdivisions to preserve open space, assure efficient use of land, and minimize conflicts with adjacent agriculture and forest operations. Subdivisions on the Clatsop Plains must be clustered. Existing mechanisms are already in place in the LWDUO to assure that future development of the property will uphold this standard.

Policy # 4 refers to permitting residential development only when certain development standards, such as adequate provisions for water and sanitary sewer, have been demonstrated. Existing mechanisms are already in place in the LWDUO to assure that future development of the property will meet these standards.

Policy # 7 encourages development of passed over lots prior to ones that need an extension of services. The subject property is surrounded by development on all four sides. Although some services would need to be extended (primarily roads and waterlines) to serve future development on the site, the proposal does not conflict with this policy when this property's characteristics are compared to others in much more remote locations.

Policy # 8 explains that Clatsop County shall make provisions for a variety of housing compatible with development on surrounding lands. The existing zoning designations on the Clatsop Plains that were derived from a comprehensive five-year planning effort from 1979 to 1983 provide for housing in a variety of locations, types, and densities. The subject property is part of a larger contiguous tract of RA-5 zoned lands that encompass approximately 900 acres and stretch 3-1/2 miles across the Clatsop Plains from Sunset Beach Lane to Highlands Lane. Staff completed a buildable lands inventory for the Clatsop Plains as a function of this land use application. The inventory is attached to this report as Exhibit 7. The report shows that 51.5% of the residentially zoned lands on the Clatsop Plains are yet to be developed. 72.0% of the RA-5 zoned lands are yet to be developed. Without a citizen-driven comprehensive re-evaluation of the community's principles and values with respect to future development on the Clatsop Plains, the Planning Commission should find that the proposal is not warranted.

Policy # 11 explains that the County should develop and maintain an inventory of the type and condition of the current housing stock and be reexamined every two years to reflect market changes and new information. In 1980, Clatsop County completed a housing inventory study and adopted the final January 1980 Housing Report as an appendix to the Goal 10 element of the Comprehensive Plan. Since that time, numerous land use actions, namely comprehensive plan amendments, subdivisions, and periodic review

activities, have caused the County to reexamine its housing inventory and needs. This land use application, for instance, compelled staff to conduct a buildable lands inventory for the Clatsop Plains to better understand current housing trends and conditions and incorporate these findings into its staff analyses. In 1981, 1997, and again in 2003, Clatsop County undertook major studies of the Clatsop Plains planning area. The 1981 effort focused on groundwater in the Clatsop Plains³ and incorporated impacts from current and anticipated residential development into its conclusionary findings. The 1997 effort centered on regional problem solving for the Plains⁴ involving multiple local, state, and federal agencies including the Cities of Gearhart and Warrenton. The 2003 effort⁵ primarily involved affected citizens and property owners and representatives from the Oregon Department of Land Conservation and Development (DLCD) as a function of the County's efforts to complete obligatory Periodic Review work tasks. In addition to these major studies, the Clatsop County Comprehensive Plan has seen amendments numbering greater than 200 since 1980; each time, with findings, and sometimes, with amendments to the Goal 10 element (most recently in 2006 for updated population projections to the year 2030), in support of these plan revisions.

Finding of Fact:

Based on the analysis above, the application does not satisfy Housing plan policies # 1 and # 8 of the Goal 10 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 10 Element (Housing).

Comprehensive Plan, Goal 11 element – Public Facilities and Services

Analysis:

The following excerpted Overall Policy Regarding Appropriate Levels of Public Facilities in the Rural Lands Plan designation applies to the request:

Rural Lands - Most of the areas built upon or committed to non-resource use in the County are in this Plan designation. Much of the area is currently served by community water systems.

Clatsop County is concerned that development not outstrip the capacity of the service area districts. Clatsop County requires that a proof of an adequate source of water be available before any development permit (e.g. residential, commercial or industrial), excluding land divisions, is approved.

Public water supply is an appropriate public facilities in this Plan designation, but is not essential for development.

Rural fire protection districts are present in many of the areas in this Plan designation. This is often a desired rural service and is appropriate in this Plan designation but is not a prerequisite for RA zoning. Some rural residents are more willing to pay high fire insurance premiums than taxes to maintain a local fire district. Development is scattered enough in this Plan designation, as compared with RSAs or cities, that fire protection is not a requirement for development.

Community sewage systems are not appropriate in this Plan designation.

Partition and subdivision proposals in this Plan designation will be referred to the local school district for comment.

The following Goal 11 plan policies also apply to the request:

General Public Facilities Policies

- 1 Clatsop County recognizes the level of public facilities and services described in the section "Overall Policy Regarding Appropriate Levels of Public Facilities in the County" above, as that which is reasonable and appropriate

³ December 1981 *Clatsop Plains Groundwater Protection Plan and Groundwater Evaluation Report* by Sweet, Edwards, & Associates, Inc..

⁴ November 5, 1997 *Regional Problem Solving Strategies for the Clatsop Plains, Phase I Report* by McKeever/Morris, Inc..

⁵ Clatsop County Ordinance No. 03-11; Periodic Review Work Task 4 approved by DLCD on October 22, 2003.

for development in different Plan designations in the County. Development of facilities and services in excess of those levels and types shall not be approved by the County.

9. When a Comprehensive Plan or Zone Change or both are requested that would result in a higher residential density, commercial or industrial development it shall be demonstrated and findings made that the appropriate public facilities and services (especially water, sanitation (septic feasibility or sewage) and schools) are available to the area being changed without adversely impacting the remainder of the public facility or utility service area.

Water Supply Systems Policies

4. Clatsop County shall encourage existing community water supply systems to be improved and maintained at a level sufficient to:
 - a. provide adequate fire flow and storage capacity to meet the service area requirements,
 - b. meet the anticipated long-range maximum daily use and emergency needs of the service area, and
 - c. provide adequate pressure to ensure the efficient operation of the water distribution system.

The applicant's analyses contained on pages 19-21 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan with two exceptions: The applicant does not demonstrate that the City of Warrenton water system has capacity to serve the increase in residential density on the property and that the Gearhart Elementary School and Seaside School District have adequate capacity to serve the additional pupils that may be generated from the increased residential density on the subject property. Alternatively, if the applicant were to provide water for future development on the property by a system of wells, pumps, and reservoirs, it should remit documentation that the water system will not adversely affect area wells or other area water facilities that rely on the aquifer.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to land use approvals (namely, subdivisions) and before development permits are issued for new development on the subject property, appropriate public services and facilities will be in place to service the property.

Finding of Fact:

Based on the analysis above, before the County can determine that the proposal satisfies the applicable plan policies of the Goal 11 element of the Clatsop County Comprehensive Plan, the application must demonstrate that the City of Warrenton water system and the Gearhart Elementary School and Seaside School District have adequate capacity to serve the increased water demand and number of students (respectively) that may be generated as a result of the request. Alternatively, if a system of wells, pumps, and reservoirs will serve the future water needs for the property, the applicant should remit documentation to the county that verifies that area wells or other water facilities that rely on the aquifer will not be adversely affected by the proposal. LWDUO § 5.412(1) – Goal 11 Element.

Comprehensive Plan, Goal 12 element – Transportation

Analysis:

The applicant's analyses on pages 21-22 in Exhibit 1 address outdated transportation plan policies that were replaced in 2003 with the adoption of the Clatsop County Transportation System Plan (Ordinance No. 03-09). Staff has reviewed the applicant's findings and compared these analyses against the current set of county transportation plan policies and finds that the applicant's existing analyses satisfactorily address consistency with the Goal 12 element of the comprehensive plan with one exception: The application lacks findings to demonstrate consistency with the following Goal 12 System Preservation Objective:

System Preservation

Work to ensure that development does not preclude the construction of identified future transportation improvements, and that development mitigates the transportation impacts it generates.

Objectives:

3. Ensure that amendments to the comprehensive plan, land use designation amendments, and land use regulation changes that are found to significantly affect a transportation facility are consistent with the identified function and capacity of that facility.

Finding of Fact:

Based on the analysis above, a determination of consistency with the Goal 12 Transportation element of the Comprehensive Plan cannot be made until the applicant remits adequate findings in conjunction with System Preservation Objective # 3 of the Goal 12 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 12 Element.

Comprehensive Plan, Goal 13 element – Energy Conservation

Analysis:

The applicant's findings on pages 22-23 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 13 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 13 Element.

Comprehensive Plan, Goal 14 element – Urbanization

Analysis:

The application does not involve lands located within or adjacent to an urban growth boundary. The applicant does not propose amending any urban growth boundary. The Goal 14 policies of the comprehensive plan speak to urban growth management agreements, district agreements, rural communities, and other urbanization matters that do not apply to the application. The applicant's proposed exception to Statewide Planning Goal 14 (Oregon Administrative Rule Chapter 660 Divisions 4 and 14) that is required as a function of the request to reduce parcel sizes and increase densities on the subject property is addressed later in this report.

Findings of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 14 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412 – Goal 14 Element. The applicant's proposed exception to Statewide Planning Goal 14 is addressed later in this report.

Comprehensive Plan, Goal 16 and 17 elements – Estuarine Resources and Coastal Shorelands

Analysis:

The applicant's findings on pages 23-27 of Exhibit 1 satisfactorily demonstrate that the application conforms to the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan. Refer to findings for the Goal 5 element of the Comprehensive Plan for a condition of approval pertaining to Neacoxie Creek, a Goal 5 and Goal 17 resource that abuts the subject property.

Finding of Fact:

Based on the analysis above, the application satisfies the applicable plan policies of the Goal 16 and 17 elements of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 16 & 17 Elements.

Comprehensive Plan, Goal 18 element – Beaches and Dunes

Analysis:

Development on the subject property is subject to the standards of Section 4.050, Beach and Dune Overlay District, of the Clatsop County Land and Water Development and Use Ordinance (LWDUO). These standards assure that development on dune systems only occur in accordance with the applicable plan policies of the Goal 18 element of the comprehensive plan. The application is consistent with the applicable plan policies of the Goal 18 element of the comprehensive plan with the following exception:

The application lacks findings to determine the proposal's affect on groundwater supply in accordance with the following plan policy:

6. Land use actions (i.e. Comprehensive Plan changes, zone changes, subdivisions and partitions, planned developments, conditional use permits) shall be reviewed by the Planning Commission or the Department of Planning and Development so that the proposed activity(ies) will not result in the drawdown of the groundwater supply which could lead to any or all of the following:
 - a. the loss of stabilizing vegetation,
 - b. the loss of water quality,
 - c. salt water intrusion into the water supply,
 - d. result in the permanent drawdown of the dune lakes.

Finding of Fact:

Based on the analysis above, a determination of consistency with the applicable plan policies of the Goal 18 element of the comprehensive plan cannot be made until the applicant remits adequate findings in conjunction with Beach and Dune Policy # 6 of the Goal 18 element of the Clatsop County Comprehensive Plan. LWDUO § 5.412(1) – Goal 18 Element.

Comprehensive Plan, Clatsop Plains Community Plan element

The applicable goals and policies of the Clatsop Plains Community Plan are contained in the following section. Staff analyses are interjected throughout the section.

OVERALL GOAL FOR THE CLATSOP PLAINS

The Clatsop Plains and Seaside-Gearhart Citizen Advisory Committees recognize that the natural resources and amenities of the Clatsop Plains are in fact the features which make it a desirable place in which to live. Protection of these resources (the forest, dunes, open spaces, views, animal life and habitat, ocean beaches, lakes and streams, and the absence of urban noises to name a few) is paramount if the quality of life is to be maintained for both existing and future residents. Development must be required to respect these resources and amenities since poor development or over development could very easily destroy these values which make up the present character of the Clatsop Plains.

Analysis: The proposal to increase the density of the subject property from one dwelling unit per five acres to one dwelling unit per two acres represents over development in this sector⁶ of the Clatsop Plains. The community values the open spaces, views, animal life and habitat, and other unique resources and amenities of the Clatsop Plains and this application runs counter to these ideals.

Out of the various meetings with the two CACs, an OVERALL GOAL for the Clatsop Plains was developed which summarizes the policies to be applied to the Clatsop Plains area. This OVERALL GOAL reads as follows:

OVERALL GOAL

⁶ The subject property is located within the designated 'Scenic Area' of Clatsop Plains. The relevance of this designation and its relationship to the proposal is addressed in finer detail later in this report.

The Clatsop Plains Community Plan shall provide for planned and orderly growth of the Clatsop Plains planning area which is in keeping with a majority of its citizens and without unduly depriving landowners and/or residents of the reasonable use of their land. The Plan shall:

1. protect and maintain the natural resources, natural environment and ecosystems,
2. respect the natural processes,
3. strive for well designed and well placed development, and
4. preserve the semi-rural, agricultural, open space and marine characteristics of the area.

In order to meet the Goal, the County shall:

1. Use the physical characteristics described in the section on landscape units as the major determinants of the location and intensity of the use of the land.
2. Retain as much of the land as possible in its natural state.
3. Review, update and amend the Plan on a regular basis as needs, additional data and/or economics demand

Analysis: Development of the subject property at current densities (one dwelling unit per five acres) represents reasonable use of the land. The applicant provides no evidence that the current RA-5 zoning denies reasonable use of the land. The application lacks data to compel a change to the plan for orderly growth on the Clatsop Plains as signified in the Comprehensive Plan/Zoning Map for Clatsop County. In its efforts to preserve the semi-rural, agricultural, and open space characteristics of the area, the Planning Commission should determine that the proposal does not heed community principles and values for planned development on the Clatsop Plains and lacks evidence to compel a change to the Plan.

Neacoxie Creek forms the western boundary of the large contiguous RA-5 zoned tract of land described in the paragraph above. Neacoxie Creek is a Goal 5 and Goal 17 resource and is located within the designated coastal shoreland boundary. The creek is a major determinant for the location and intensity of land use on the Clatsop Plains. The predominant zoning west of Neacoxie Creek is CBR and SFR-1. The CBR zone is comprised mainly of the area commonly known as Surf Pines. Surf Pines is an area committed to low-density rural residential development and is a Goal 14 exception area. The minimum lot size for development in this zone is one acre. Many of the parcels in this zone were created prior to the enactment of the one-acre minimum lot size standard and are often found at lot sizes less than one acre. The SFR-1 Zone is similar in its location and arrangement to the CBR zone.

The Clatsop County Comprehensive Plan/Zoning map in its current composition is derived from an original comprehensive five-year planning study conducted from 1979 to 1983. The Plan has been reviewed, updated, and amended on multiple occasions since that time. Refer to page 13 of this report for additional details and findings relating to these studies and amendments.

The community goals and policies which follow in this Plan are the basis from which the Zoning Ordinance will be developed

The Clatsop Plains planning area encompasses approximately 16,307 acres in the northwest section of Clatsop County along the coast. This planning area, for the most part, relates toward the ocean, with the various beaches and rolling dunes, and toward the several lakes in the planning area. The Clatsop Plains is essentially bisected by U.S. Highway 101. This highway is a major line for north-south movement down the Oregon Coast as well as a corridor of travel between the two population centers in the plains.

The Clatsop Plains Community Plan is an amplification of some of the policies in the County-wide Elements section of the Comprehensive Plan, and also contains policies addressing particular concerns people have for the Clatsop Plains. The County-wide Elements section is used at the community level to identify policies and strategies for addressing specific local opportunities/problems.

General Landscape Units

Policies

1. Excavations in sedimentary highland (Toms) should be properly engineered to assure against slope failure.
2. Proposed projects involving modifications of established drainage patterns should be evaluated in terms of potential for altering land stability.
3. Loss of ground cover for moderately to steeply sloping land may cause erosion problems by increasing runoff velocity and land slumpage. Vegetative cover for moderately to steeply sloping areas shall be maintained.

Coastal Shorelands and Other Shorelands

Clatsop Plains Planning Area Goal: To preserve to the fullest possible extent the scenic, aesthetic, and ecological qualities of the Coastal Shorelands and other shorelands in the Clatsop Plains in harmony with those uses which are deemed essential to the life and well-being of its citizens.

Policies

The following are in addition to those found in the Ocean and Coastal Lakes of the Estuarine Resources and Coastal Shorelands Element and Open Space, Scenic and Historic Areas and Natural Areas Element.

1. No filling or alteration to designated and mapped critical natural holding basins such as lakes, wetlands, or marshlands.
2. Culverts and other roadway or driveway improvements considered necessary by the Clatsop County Department of Planning and Development, County Road Department, and State agencies shall be installed in such a manner as not to impede the flow of the drainage way nor impede the passage of resident or migratory population of fish.
3. Mining, dredging, or removal of gravel and similar materials from streams and other surface water shall be strictly controlled to prevent adverse alterations to flow characteristics, siltation pollution, and destruction or disruption of spawning areas.
4. Shorelands identified in this Plan for their aesthetic, scenic, historic or ecological qualities shall be preserved. Any private or public development which would degrade shoreland qualities shall be discouraged.
5. The public has a right to enjoy and utilize all the public water bodies. No improvement shall be permitted which impedes this ability. Care also must be exercised in protecting the privately owned shorelands.
6. Public and private bridge crossings over public water bodies shall be constructed to standards that insure maximum protection to the persons utilizing the structure and to the water system it crosses. To the maximum extent possible, minimum fill and/or removal shall take place during construction of the bridge.
7. Shorelands in Rural areas shall be used as appropriate for the following:
 1. farm use,
 2. private and public water dependent recreation,
 3. aquaculture, and
 4. to fulfill the open space requirements in subdivisions and planned developments.

Recommended Action:

A study should be undertaken to determine a means to remove vegetation in the various lakes within the Clatsop Plains due to the hazards it causes in recreational use of water bodies.

Beaches

Policies

See Goal 18 Beaches and Dunes Background Report and County-wide Element (Ord 03-08)

Dunes

See Goal 18 Beaches and Dunes Background Report and County-wide Element (Ord 03-08)

Fort Stevens State Park Subarea Policy

Off-road vehicles should not be permitted on dune or wetland areas in the park and shall not traverse the Natural wetland-salt marsh in Clatsop Spit.

For additional information, policies and mapping for these areas see the Columbia River Estuary section of the Estuarine Resources and Coastal Shorelands Background Report and County-wide Element.

Alluvial Lowlands Policy

Development on peat and other compressible soils shall be discouraged. In those areas where development has already occurred on peat and other compressible soils, policies on those soils in the County-wide Element shall apply.

Alluvial Terraces Policy

The County should encourage development on this type of landscape unit due to the slight to moderate slopes and the moderately well drained soils.

Coast Range Foothills Policy

The predominant land use on this landscape unit should be forestry and low density residential use. This is due to the characteristics of soils in this landscape unit which have potential for mass movement.

Natural Resources

Post 208 Water Quality Study*

The study made several recommendations:

- "(a) The groundwater protection strategy of this study should promote the maximum present and future beneficial uses of the Clatsop Plains aquifer. On-site wastewater disposal has been shown to be a significant beneficial use of the aquifer, and thus, the moratorium should be lifted in all areas of the Clatsop Plains study area
- (b) The Camp Rilea wastewater spray irrigation field should be rehabilitated with a cover material that is conducive to plant growth. A suitable crop management plan should be developed so that the selected crop can be periodically harvested to remove the nutrients. The crop should be planted during March-April 1982, so that the spray irrigation field will be operable during the heavy summer use period.
- (c) The Warrenton landfill should be closed through an approved closure plan as directed by DEQ. The closure plan should provide for prohibition of further leachate contamination of the aquifer and the necessary gas removal facilities.
- (d) The wastewater disposal recommendations for the unincorporated Clatsop Plains are as follows:
 - (1) Continue with current zoning requiring a minimum of 1 acre lot size and permit the use of a standard septic tank and disposal field.
 - (2) For lots of record between 1/2 acre and 1 acre, a septic tank with a low pressure disposal field or sand filter should be used.
 - (3) For lots of record between 10,000 square feet and 1/2 acre, septic tank systems should use a sand filter with a low pressure disposal field, if DEQ's regulations on house size, setbacks and system redundancy can be accommodated.
 - (4) Allow no septic systems on lot sizes smaller than 10,000 square feet.
- (e) All future development in Gearhart, in accordance with the current Comprehensive Plan, should be required to use low pressure disposal fields and/or sand filters to maximize nitrogen removal in the system prior to disposal in the soil. DEQ should be requested to adopt a special geographic rule exempting the DEQ house size regulations in Gearhart.

- (f) Wastewater disposal recommendations for the seven sensitive areas are:
 - (1) Install low pressure distribution and/or sand filter systems for all new wastewater sources (including the aggregate of one development) under 5,000 gallons per day.
 - (2) For all new wastewater sources exceeding 5,000 gallons per day, construction of sewers and wastewater treatment facilities using land disposal or other disposal techniques acceptable to DEQ should be required.
 - (3) Present uses of the aquifer for wastewater disposal should not be prohibited.
- (g) No action should be taken on surface water conditions at this time.
- (h) Aquifer reserve areas should be maintained to protect the aquifer as a possible future drinking water source through the following measures:
 - (1) A minimum of 2.5 square miles of aquifer should be set aside for water supply development, including an area set aside by the City of Warrenton, the area within the boundaries of Camp Rilea, and the 40 acres of County-owned land at Del Ray Beach.
 - (2) The County should preserve the necessary recharge area within Camp Rilea by developing an agreement with the Oregon Department of Military within 6 months.
 - (3) Additional areas for aquifer protection should be sought through land use planning, and open space requirements.
 - (4) Land use in the reserve areas should be controlled so that the potential for groundwater contamination from nitrogen and other possible pollutants is kept to a minimum.
- (i) The groundwater monitoring program should be continued as a part of the DEQ statewide monitoring program for the wells identified in Section VII of the report with samples taken on a semi-annual basis."

Analysis: Proper mechanisms are in place in the LWDUO to ensure that future development of the subject property (whether at RA-2 or RA-5 densities) only occurs in accordance with the Landscape, Shoreland, Beaches and Dunes, and Natural Resources policies listed above. The proposal does not conflict with these plan policies.

Clatsop Plains Aquifer Policy

- 1. Land use actions (i.e. Comprehensive Plan changes, zone changes, subdivisions and partitions, planned developments, conditional use permits, etc.) shall be reviewed by the Planning Commission and the Department of Planning and Development to insure that the proposed activity(ies) will not:
 - a. adversely affect the water quality;
 - b. result in the drawdown of the groundwater supply;
 - c. result in the loss of stabilizing vegetation, or
 - d. salt water intrusion into the water supply.

Recommended Actions

- 1. To avoid desiccation of the groundwater lakes and encroachment of sea water, a water management program which is consistent with the water-budget equation for the Clatsop Plains should be developed. The County should request technical and financial assistance from state and federal agencies in evaluating water development potentials.
- 2. The County, in cooperation with other local jurisdictions, should consider a cost/benefit comparison of developing the Clatsop Plains aquifer as a water source with other sources of water supply.

Analysis: A determination of consistency with this plan policy cannot be made until the applicant remits adequate finding in conjunction with the Clatsop Plains Aquifer Policy # 1 above.

Critical Hazards

Wind and Ocean Shoreline Erosion Policies

1. Clatsop County shall prohibit:
 - a. the destruction of stabilizing vegetation (including the inadvertent destruction by moisture loss or root damage).
 - b. the exposure of stable and conditionally stable areas to erosion, and
 - c. construction of shore structures which modify current or wave patterns or the beach sand supply
2. Erosion shall be controlled and the soil stabilized by vegetation and/or mechanical and/or structural means on all dune lands. After stabilization, continuous maintenance shall be provided. In those areas where the County has taken an Exception to the Beaches and Dunes Goal, the County shall have building permits reviewed by the Soil Conservation Service and use their recommendations as conditions of approval.
3. Removal of vegetation during construction in any sand area shall be kept to the minimum required for building placement or other valid purpose. Removal of vegetation should not occur more than 30 days prior to grading or construction. Permanent revegetation shall be started on the site as soon as practical after construction, final grading or utility placement. Storage of sand and other materials should not suffocate vegetation.
4. In all open sand areas, revegetation must be clearly monitored and carefully maintained, which may include restrictions on pedestrian traffic. Revegetation shall return the area to its pre-construction level of stability or better. Trees should be planted along with ground cover such as grass or shrubs. To encourage stabilization, a revegetation program with time limits shall be required by the Planning Department as a condition of all building permits and land use actions (i.e. Comprehensive Plan changes, zone changes, subdivisions and partitions, planned developments, conditional use permits etc.).
5. Removal of vegetation which provides wildlife habitat shall be limited. Unnecessary removal of shoreline vegetation shall be prohibited.
6. Site specific investigations by a qualified person such as a geologist, soils scientist, or geomorphologist may be required by the County prior to the issuance of building permits in open sand areas, on the ocean front, in steep hillsides of dunes, regardless of the vegetative cover, and in any other conditionally stable dune area which, in the view of the Planning Director or Building Official, may be subject to wind erosion or other hazard potential. Site investigations may be submitted to the State Department of Geology and other agencies for review of recommendations.
7. Log debris plays an important role in the formation and maintenance of foredunes. Therefore, driftwood removal from sand areas and beaches for both individual and commercial purposes should be regulated so that dune building processes and scenic values are not adversely affected.

Recommended Action

The County should work with the Clatsop Soil and Water Conservation District in determining whether their three zones affecting dunes are needed in light of new State law requirements.

Analysis: Proper mechanisms are in place in the LWDUO to ensure that future development of the subject property will only occur in accordance with the Wind and Ocean Shoreline plan policies above. The proposal does not conflict with these plan policies.

Cultural

Clatsop Plains Housing Goal:

To provide adequate numbers of housing units at price ranges and rent levels commensurate with financial capabilities of the households in the region and to allow for flexibility in housing location, type and density.

Housing Policies

1. Planned developments, the replatting of old subdivisions, and other land use actions shall encourage the preservation of steep slopes and other sensitive areas in their natural condition.
2. The location of a mobile home on an individual parcel of land shall be allowed in CONSERVATION FOREST LANDS* and RURAL EXCLUSIVE FARM USE* areas which are in conjunction with a farm or forestry use. In areas

designated RURAL LANDS*, a double wide or wider mobile home shall be allowed except in Surf Pines (zones SFR-1 and CBR*), Smith Lake (zone SFR-1*) and Shoreline Estates (zone RSA-SFR*).

3. Areas shall be provided for mobile home parks within the cities' Urban Growth Boundaries.
4. Opportunities shall be provided for elderly and low income housing within the cities' Urban Growth Boundaries due to the availability of services provided.

Analysis: Appropriate controls are in place in the LWDUO to discourage development on steep slopes and in sensitive areas. The proposal does not conflict with the Housing plan policies above.

Public Facilities and Services

Sewer Policies

1. Sewage systems shall be allowed in those areas outside of the Urban Growth Boundary only to alleviate a health hazard or water pollution problem which has been identified by the Department of Environmental Quality and will be used only as a last resort.
2. The Shoreline Estates sewer system located near Cullaby Lake shall expand its sewer service area only to the current existing treatment plant's design capacity of approximately 500 people. Further development of this intensity on the Clatsop Plains shall occur within the Urban Growth Boundaries.

Analysis: The plan policies above do not apply to the request.

Transportation

Fire Protection Policy

The County shall encourage the improvement of fire protection for the Rural and Rural Service Areas in the Clatsop Plains. The County shall work with local residents as well as the two Rural Fire Protection Districts in examining the various methods available to improve fire protection. One method which could be used is to require subdivisions and planned developments to dedicate a site, funds, or construction materials for a fire station in the Clatsop Plains.

Clatsop Plains Transportation Goal:

The County will develop policies which minimize the number of access points on U.S. 101

Transportation Policies

1. The development of new access points onto U.S. 101 shall be kept to a minimum number. It is the intent of this policy to reduce the potential for accidents, and to provide the most efficient means of maintaining highway capacity. Planned development, subdivision, major partition regulations shall be written so as to implement this policy.
2. Minor partitioning shall be required for all property adjacent to U.S. 101. Minor partition proposals will be reviewed in order to prevent numerous access points along this highway. The requirement for minor partition review shall take effect on the date of adoption of the Clatsop Plains Community Plan.
3. Streets in new developments shall be designed to minimize disturbance of the land by following contour lines (as an alternative to a grid pattern) and avoiding cut-and-fill construction techniques.
4. Unnecessary rights-of-way should be used as green belts, walking trails or bike paths where appropriate.
5. To minimize negative visual and noise impacts of U.S. 101, a buffer screen of existing vegetation shall be required for residential properties along U.S. 101. Planted vegetation should be encouraged in those areas along U.S. 101 where none presently exists. The buffer shall be 25 feet wide, unless the size of the lot and natural topography would create a hardship.
6. Clatsop County shall restrict direct access to arterials (i.e., U.S. 101) where alternative access is available.
7. At the time of a major or minor partition, access points shall be examined. Consolidation of existing access points or easements for adjoining properties to allow a common access point shall be considered.

8. It is the County's intent to develop a system of collectors, frontage roads and common access points to solve the problems that many access points create along U.S. 101. In order to carry out this intent the County shall do the following:
 - a. Require new developments to have access taken from the existing collectors and frontage roads unless a variance is given.
 - b. New access points shall be reviewed by the County. New access points shall be reviewed based upon proximity to existing access points and safety standards developed by the Department of Transportation.
9. Clatsop County should conduct a study of the Clatsop Plains to analyze access controls and problems in establishing criteria for collectors and frontage roads. The study should include: designation of specific access points, location of frontage roads, criteria for temporary access points, etc.

Rail

Recommended Action

Further study should be done by the County Department of Planning and Development on what portions of the rights-of-way will not revert back to property owners. And if some of the rights-of-way do not revert back, further work should be done on how the rights-of-way should be used.

Air Transportation

Recommended Action

The Seaside-Gearhart Citizen Advisory Committee, the County, the Cities of Seaside and Gearhart, and the State Aeronautics Division should work together in developing the Seaside Airport Plan.

Analysis: Appropriate standards exist in the County's land division (e.g., subdivisions and partitions) ordinances to ensure that development on the subject property will occur in accordance with the Transportation plan policies above. The proposal does not conflict these policies.

Historic Areas

Clatsop Plains Planning Goal:

To preserve Historic Resources of our past that might otherwise be lost due to unnecessary and unwise development.

Historic Area Policies

1. The County shall work with the Clatsop County Historical Advisory Committee and other organizations to identify and protect important local historical and archeological sites. Compatible uses and designs of uses should be encouraged for property nearby important historical or archeological sites.
2. Clatsop County shall protect significant historical resources by:
 - a. encouraging those programs that make preservation economically possible;
 - b. implementing measures for preservation when possible;
 - c. recognizing such areas in public and private land use determinations subject to County review.

Analysis: The proposal does not conflict with the Historic Area plan policies above.

Fish and Wildlife Areas

Clatsop Plains Planning Goal:

To preserve wildlife habitats and natural vegetation as an essential part of the ecosystem for both men and wildlife.

Fish and Wildlife Policies

1. Maintain important fish and wildlife sites by protecting vegetation along many water bodies, classifying suitable land and water locations as NATURAL or CONSERVATION, and otherwise encouraging protection of valuable fish and wildlife habitats.

2. Private and public owners of property on which valuable habitat is located will be encouraged to adequately protect important fish and wildlife sites. The private owners which participate in preserving the natural character of these sites will be assisted in taking advantage of reduced property taxes for protecting such areas. New subdivisions shall be required to leave undeveloped reasonable amounts of property which is needed for protection of valuable fish and wildlife habitat.
3. Intensive recreational development shall not locate within sensitive crucial habitat areas.
4. Habitat of all species indicated as endangered, threatened or vulnerable shall be preserved. Nesting sites of endangered bird species shall be protected and buffered from conflicting uses.
- 5.* Wildlife refuges:

Existing wildlife refuges which are owned/leased and managed by the Oregon Department of Fish and Wildlife (ODFW) located in areas designated Conservation Forest or in other lowland areas under any plan designation shall be reviewed by the County for compliance with the approval standards listed below. Such hearings shall be conducted according to a Type IV procedure at a time and place convenient to residents of the affected planning area. ODFW shall provide an evaluation of the economic, social, environmental and energy consequences of the proposal** information sufficient to support findings with respect to the following approval criteria:

 1. Identification of the need for the proposed new wildlife management area. "Need" means specific problems or conflicts that will be resolved or specific ODFW objectives that will be achieved by establishing the proposed area.
 2. Alternative lands and management actions available to the ODFW, and an analysis of why those alternatives or management actions will not resolve identified problems or achieve objectives.

Analysis: See page 9-10 of this report. A small portion of the subject property includes Neacoxie Creek and its associated wetlands. This area is zoned LW and planned as Conservation. Because the proposal will not affect these designations, the proposal does not conflict with the Fish and Wildlife Policies above.

The US Fish and Wildlife Service has identified critical habitat for the threatened Oregon Silverspot Butterfly on or near the subject property. The County implements certain protocols during its review of development applications in these identified areas to ensure that all plan reviews are coordinated with the appropriate local, state, and federal agencies and that no development permits are issued until consistency with the applicable state and federal rules has been demonstrated.

Recreation

Recreational Policies

1. Recreational vehicle parks shall only be permitted in the urban growth boundaries in the Clatsop Plains.
2. The World War II lookout site, dune area west of Sunset Lake and the land northeast of Camp Rilea should be kept in County ownership. These areas should be preserved for their scenic value as well as for wildlife value.
3. The designated bike trail going down the Coast shall be changed to follow U.S. 101 instead of along the Lewis and Clark Road.
4. Recreational users shall not be allowed complete and free use of the more delicate beach/dune land forms (active dune areas). Access to these areas shall be limited and only via stabilized trails.
5. Clatsop County shall adopt the Fort Stevens State Park Plan as part of the Clatsop Plains Community Plan.
6. State and local jurisdictions shall cooperate to evolve the most efficient traffic flow patterns, parking arrangements and policy requirements for areas on and adjacent to active dune areas, especially parks and beach accesses.*

Recommended Action

Further research should be done on a possible trail going from Fort Clatsop National Park to the coastal beaches.

Analysis: The proposal does not conflict with the Recreation plan policies above.

Scenic Areas

Clatsop Plains Planning Goal:

Important vistas, views of the ocean, and other significant visual features should be preserved and the obstruction of these vistas should be discouraged.

The following discussion and policies are in addition to those found in the Open Space, Scenic and Historic Areas and Natural Resources, Recreational Needs and Estuarine Resources and Coastal Shorelands Elements. Sites inventoried (i.e. views along U.S. 101 of dune ridges and coastal foothills) that are in addition to those inventoried in the Open Space, Scenic and Historic Areas and Natural Resources, Recreational Needs and Estuarine and Coastal Shorelands Element are local desires and are not to be construed as additional Goal site requirements (e.g. they are not exceptional views).*

Scenic Area Policies

<u>Area</u>	<u>Perspectives</u>	<u>Policy or Control</u>
Beach/ocean	All directions	1. In order to provide the greatest view potential for properties along the ocean, the building height shall be limited to 18' on beach front lots and 26' for adjacent properties.
World War II Viewing Point	Ocean beaches, Clatsop Plains	2. The County owns about 40 acres of land. This land should be set aside for its scenic value.
Lewis & Clark Road above Thompson Falls	Seaside-Gearhart area, ocean, Tillamook Head and	3. If property above Thompson Falls is developed, some areas shall be set aside as open space.
Views along U.S. 101	The dunes to the west and Coastal Foothills to the east	4. Excessive sign sizes and numbers of signs shall be discouraged by local by local regulations. No new billboards or other off-premise signs shall be allowed, except in commercial or industrial zoned land with strict controls.
Coastal Foothills and dune ridges	All directions	5. No intensive development on the foothills or on top of dune ridges should be permitted.

Analysis: The subject property is located within the designated 'Scenic Area' of the Clatsop Plains. See attached Exhibit 8. The Clatsop Plains Scenic Area was created as a function of the five-year comprehensive planning study that occurred on the Plains from 1979 to 1983. The study culminated in the County's adoption of Ordinance No. 83-17 which enacted several major amendments to the Clatsop County Comprehensive Plan and combined Comprehensive Plan Map/Zoning Map. One of the most prominent changes to the Comprehensive Plan is reflected in the pre- and post- planning study zoning maps contained in attached Exhibits 5A and 5B.

The limits of the Clatsop Plains Scenic Area closely resemble the boundaries of the contiguous 900-acre tract of RA-5 zoned lands that stretch 3-1/2 miles across the Plains and encompass the subject property. The Scenic Area and companion 900-acre tract of RA-5 zoned lands reflect the community's values for development on the Clatsop Plains that are embodied in the Overall Goal for the Clatsop Plains that reads:

The Clatsop Plains and Seaside-Gearhart Citizen Advisory Committees recognize that the natural resources and amenities of the Clatsop Plains are in fact the features which make it a desirable place in which to live. Protection of these resources (the forest, dunes, open spaces, views, animal life and habitat, ocean beaches, lakes and streams, and the absence of urban noises to name a few) is paramount if the quality of life is to be maintained for both existing and future residents. Development must be required to respect these resources and amenities since poor development or over development could very easily destroy these values which make up the present character of the Clatsop Plains.

The proposal would fragment the contiguous 900-acre tract of RA-5 zoned lands that forms the basis for the Clatsop Plains Scenic Area. The Scenic Area and associated tract of RA-5 zoned lands implement community values that are expressed throughout the relevant goals and policies of the Clatsop Plains Community Plan. The proposal represents over develop of the area. If approved, the increase in residential density in this area would diminish, and potentially be the catalyst for the destruction, of the values that make up the present character of the Clatsop Plains. Since much of the RA-5 zoned lands in the Clatsop Plains are yet to develop (72%; see Exhibit 7), the community character for this area is still very much intact. The reasons for retaining the current character of the Scenic Area of the Clatsop Plains, through current plan policies and zone designations, remain valid today. If the proposal were approved, the County would be hard pressed to deny similar applications giving proper consideration to the Equal Protection Clause of Section I of the Fourteenth Amendment of the United States Constitution that reads:

All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States, nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

The Equal Protection Clause of the 14th amendment to the U.S. Constitution prohibits Clatsop County from denying any person within its jurisdiction the equal protection of the laws. The County must treat an individual in the same manner as others in similar conditions and circumstances. The County would violate the US Constitution if it did not treat individuals in similar conditions and circumstances in the same manner. Several tables in Exhibit 7 show that numerous parcels are currently undeveloped on the Clatsop Plains. The RA-5 zone represents the highest percentage of buildable lands in the vicinity. The Planning Commission must deny the application heeding the community's principles and values for orderly growth on the Clatsop Plains as promulgated in the relevant Comprehensive Plan goals and policies. The Planning Commission must acknowledge the Equal Protection Clause of the Fourteenth Amendment of the US Constitution and its potential ramifications in this case. The County must avoid approving this application as it lays the potential pathway for a series of future requests by like individuals owning RA-5 zoned lands in the designated Scenic Area of the Clatsop Plains that are in similar conditions and circumstances.

Open Space

Policies

1. Land owners shall be encouraged to retain or preserve large parcels of undeveloped land as open space under the provisions of the open space taxation program.
2. The County shall carefully consider the feasibility of all methods for the preservation of open space as the opportunities arise.
3. The County Zoning Ordinance shall prescribe a maximum lot coverage in those areas designated DEVELOPMENT
4. All planned developments and subdivisions in the Clatsop Plains planning area designated RURAL LANDS** shall cluster land uses and designate areas as permanent common open space. No reversionary clause shall be

permitted in common open space. The minimum percentage of common open space shall be 30%, excluding roads and property under water. The clustering of dwellings in small numbers and the provision of common open space assures good utilization of land, increased environmental amenities, maintenance of a low density semi-rural character, maintenance of natural systems (dunes, wetlands), and may be used as an open space buffer between the residential use and adjacent agricultural or forest uses. This policy shall apply in all RURAL LANDS** areas in the Clatsop Plains except for the area commonly known as Surf Pines.* Clustering shall be prohibited in the area known as Surf Pines.* Surf Pines is further described by the following description (see Appendix B) and map.*

5. Permanent open space shall include, whenever possible, steep dunes which would require substantial alterations for building, buffers along streams, water bodies, deflation plains, and farm and forest lands.
6. Buffers (screening) shall be provided in all subdivisions and planned developments along property lines adjacent to arterials and/or collectors.
7. Permanent open space as part of subdivisions or planned developments adjoining one another shall be interrelated and continuous whenever possible. This could mean that open space could continuously follow ridge tops, deflation plains or shorelands. The Clatsop County Department of Planning and Development shall prepare a map of potential systems of open space to be used as a guide for developers.
8. Streams and drainages which form a system of open space shall be preserved.

Analysis: While proper mechanisms are in place in the LWDUO to ensure that future development of the subject property (whether at RA-5 or RA-2 densities) retain areas dedicated for open space, the proposal represents a potential reduction of open space within the Clatsop Plains Scenic Area contradictory to the maximization of open space that is encouraged in Policy # 1 above. The current plan and zone designations and corresponding LWDUO development standards (i.e., clustering mandates for subdivisions), together with considerations for preserving streams/wetlands, steep slopes, critical wildlife habitat, and open state continuity, represent the County's highest methodology for preserving open space.

Community Development

General Development Policies

1. The predominant growth (residential, commercial, and industrial) shall occur within the Cities of Seaside, Warrenton, Gearhart and the Town of Hammond, as well as those areas in the Urban Growth Boundaries.
2. Residential, commercial and industrial development shall be directed away from those areas designated CONSERVATION FOREST LANDS, CONSERVATION OTHER RESOURCES, and NATURAL.
3. In divisions of land into lots where future partitions or resubdivisions could occur, lots should be designed to take the potential for future divisions of land into consideration.
4. Natural features such as creeks and ridges should be used wherever possible as a boundary between intensive uses such as commercial activities and low intensive uses.
5. Plot plans or building plans may be required to indicate on them how storm water is to be drained. Access permits shall be reviewed by the State Highway Department and County Road Department to insure adequate drainage is provided.
6. Incentives shall be provided to encourage developers to use innovative methods to provide a high quality of design, energy conservation and low income housing.
7. The following policies shall be used when examining commercial development in the Clatsop Plains:
 - a. To direct and encourage commercial activities to locate within urban growth boundaries. This will be most convenient for customers because most people will live in the urban areas. Also, business requirements for water, sewer, fire protection and other public services can best be met.
 - b. To group business activities into clusters or "centers". This will be more convenient for patrons, permitting them to accomplish more than one purpose during a stop. It will also avoid mixing homes with scattered businesses. Joint use of vehicular access and parking at commercial centers will be more economical and be less disruptive for street traffic.

- c. To prevent "strip" commercial development along arterials, particularly U.S. Highway 101, and to limit business to designated strategic locations. To reserve non-commercial portions of arterials so that property owners may develop residential or other uses without fear of disruptive business development next door.
- d. To emphasize and support existing town centers as business places. These centers are important for community identity, social cohesion, civic activity, public service, convenience, attractions and amenities. They should continue to be a focus for commercial activities as well.
- e. To concentrate new commercial development in and adjacent to existing, well-established business areas. To increase the patronage and vitality of these areas and to avoid undue dispersal of new commercial activities.

Analysis: The proposal encourages residential growth on the Clatsop Plains beyond what is envisioned in the current Comprehensive Plan goals, policies, and maps. As explained on page 26 of this report, approval of the application could act as a catalyst for additional increases in residential densities on the Clatsop Plains. An increase in residential density on the subject property would be contrary to Policy # 1 above.

Rural Service Area

Policies

1. The minimum building site in Rural Service Area shall be 7,500 square feet in sewerred areas and 15,000 square feet in unsewerred areas.
2. The area known as Shoreline Estates shall be designated a RURAL SERVICE AREA, due to the existing facilities available. The land area for this designation shall not be larger than the existing treatment plant's capacity. The expansion of the RURAL SERVICE AREA designation should NOT be allowed. It is the intent of the Community Plan to encourage urban densities to occur within the cities and the Urban Growth Boundaries where more facilities and services are available.

Analysis: These policies do not apply to the request.

Rural Lands

Clatsop Plains RURAL LANDS Goal:

To preserve and maintain the present overall rural quality of life now enjoyed in the Clatsop Plains.

Policies

1. The minimum parcel size for building sites in RURAL LANDS* areas shall be one acre.*
2. Rural residential subdivisions shall be required to have paved streets, except if the subdivision involves extremely large land parcels or only a few land parcels are involved and there is no potential for increase traffic demand on the roadway.
3. In recognition of the existing commercial uses at Cannon Beach Junction and the area south of Warrenton, a general commercial zone shall be provided at the Cannon Beach Junction and south of Warrenton.*
4. A neighborhood commercial zone allowing such uses as a gas station, or "Ma or Pa" grocery store shall be provided at the following locations along U.S. 101; Reed and Hertig, Sunset Lake and Dugan's Store and the West Lake Store.
5. When considering new commercial areas or expansion of existing commercially zoned land the policies pertaining to commercial land in the General Development policies, as well as the following standards, shall be used:
 - a. Adequate off-street parking shall be provided to prevent traffic congestion resulting from on-street parking.
 - b. A buffer and screen shall be provided between commercial and residential uses.

- c. Signs shall be designed so as not to distract from the surrounding area.
 - d. The size of neighborhood commercial uses shall be sized to serve every day personal needs of the surrounding rural population and generate little or no traffic from outside of the rural area.
 - e. Review by State and County Road officials for safe access including adequate site distance.
6. Clatsop County intends to encourage a majority of the County's housing needs to occur within the various cities' urban growth boundaries. Approval of subdivisions and planned developments shall relate to the needs for rural housing. Through the County's Housing Study, the County has determined the Clatsop Plains rural housing needs to be approximately 900 dwelling units for both seasonal and permanent by the year 2000. The rural housing needs should be reexamined every two (2) years from the date of adoption of the Plan.
7. Subdivisions and planned development shall be encouraged to phase development over several years to provide for rural housing needs.
- 8.* Grandfather the following lots:
- a. Block 4, lots 1-4
Block 13, lots 3, 4, 15-18
Block 19, lots 7 & 8**
Block 19, lots 9-12
Block 20, Lots 1-4, 9-14, 17-20
Block 29, lots 2, 3, 6, 7, 14, 15

All in Sunset Beach subdivision, Clatsop County, Oregon provided, however, that a 10,000 sq.ft. minimum lot size be required and that any other conditions for development applicable to this area shall be enforced.

- b. The five (5) lot area commonly referred to as RAM West (see attached map) provided, however, that there are no more than five lots exclusive of the coastal shoreland area.**

Analysis: The proposal does not conflict with the Rural Lands plan policies above.

Conservation Other Resources

Policy*

See Open Space, Scenic and Historic Areas and Natural Resources, Recreational Needs, Estuarine Resources and Coastal Shorelands and Beaches and Dunes Background Reports and County-wide Elements.

Analysis: A small sliver of the subject property contains Neacoxie Creek and associated wetlands. This area is planned Conservation-Other Resources. The proposal does not affect this area.

Conclusionary Finding of Fact:

Based on the analyses above, the application is inconsistent with several relevant policies of the Clatsop Plains Community Plan element of the Comprehensive Plan. LWDUO § 5.412(1) – Clatsop Plains Community Plan Element.

Zone Change Criterion No. 2: LWDUO §5.412(2) - Consistency with Statewide Planning Goals

Analysis:

In its application (Exhibit 1, pg.'s 57-60), the applicant evaluates the proposal for consistency with the applicable statewide planning goals. Staff concurs with the applicant in its assessment of the application against the statewide goals noting that before the application can be approved, the aquatic and wetland boundaries of Neacoxie Creek must be delineated to ensure that these Goal 5/17 resources are not affected by the rezone request (see pages 8-9 of this report for more details).

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 2. LWDUO § 5.412(2).

Zone Change Criterion No. 3: LWDUO §5.412(3) - Adequacy of Public Facilities and Services

Analysis:

Staff concurs with the applicant that adequate public facilities and services exist to be provided to the subject property with two exceptions: Does the City of Warrenton have adequate water to serve the future development needs of the site? And, do the Gearhart Elementary School and Seaside School District have the capacity for the additional school children that may be generated as a result of the increased residential density on the subject property? See pages 15-16 of this report for more details.

Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate public facilities and services will be installed.

Finding of Fact:

Based on the analysis above, the applicant must demonstrate that the City of Warrenton has adequate water to serve the property⁷ and that the Gearhart Elementary School and Seaside School District have adequate capacity to serve the additional students that may be generated as a result of the request. The application does not satisfy Zone Change Criterion No. 3. LWDUO § 5.412(3).

Zone Change Criterion No. 4: LWDUO §5.412(4) - Adequacy of Transportation Facilities

Analysis:

Staff concurs with the applicant that adequate transportation facilities exist for the proposal. Appropriate mechanisms are in place in the LWDUO to ensure that prior to development approvals on the subject property, adequate transportation facilities will be in place.

Finding of Fact:

Based on the analysis above, the application satisfies Zone Change Criterion No. 4. LWDUO § 5.412(4).

Zone Change Criterion No. 5: LWDUO §5.412(5) – Compatibility with Area

Analysis:

For reasons detailed on pages 6-9 (Goal 2 element of Comprehensive Plan), pages 11-15 (Goal 10 element of Comprehensive Plan), and pages 18-31 (Clatsop Plains Community Plan), the proposal does not comply with this criterion as it would result in over-intensive use of the land, undermine the community character of the Clatsop Plains, and be incompatible with the zoning pattern for the area.

Finding of Fact:

Based on the analysis above, the application does not satisfy Zone Change Criterion No. 5. LWDUO § 5.412(5).

⁷ Or, provide findings that explain alternate methods of providing adequate water to the site.

Zone Change Criterion No. 6: LWDUO §5.412(6) - Peculiar Suitability of Site for Particular Uses

Analysis:

The subject property is well suited for residential development on acreage homesites. Staff concurs with the applicant in its observations on page 54 of Exhibit 1 that the subject property is surrounded by residential development at varying densities and is topographically similar to these lands. These facts, combined with the additional details and analyses contained in the land use application, do not justify revising the zone designation on the subject property. For reasons interjected throughout this report (most prominently in the staff analyses done in conjunction with the Clatsop Plains Community Plan on pg.'s 18-31), the subject property is peculiarly well suited for residential development at five-acre densities. The proposal does not given appropriate consideration to the plan for orderly growth on the Clatsop Plains and does not uphold the community's values associated with retaining the subject property's RA-5 zoning as an integral part of the contiguous 900-acre tract of RA-5 zoned lands that stretches 3-1/2 miles across the Clatsop Plains from Sunset Beach Lane in the north to Highlands Lane in the south.

Finding of Fact:

Based on the analysis above, the application does not satisfy Zone Change Criterion No. 6. LWDUO § 5.412(6).

Zone Change Criterion No. 7: LWDUO §5.412(7) - Zone Change Promotes Appropriate Use of Land in County

Analysis:

Staff concurs with the applicant that the proposal does not affect the residential use of the land. When considering the appropriate use of land, the intensity of the land use should also be considered. For reasons already expressed in this report, the most appropriate land use of the subject property is identified in the current RA-5 zone designation. A change to RA-2 would not encourage the most appropriate use of land in the County.

Finding of Fact:

Based on the analysis above, the application does not satisfy Zone Change Criterion No. 7. LWDUO § 5.412(7).

Zone Change Criterion No. 8: LWDUO §5.412(8) - Health, Safety, and General Welfare

Analysis:

The application does not hinder the health or safety of Clatsop County. Analyses and findings in this report (most prominently in the staff analyses done in conjunction with the Clatsop Plains Community Plan on pg.'s 18-31) explain why the proposal would be detrimental to the general interests and wellbeing of Clatsop County.

Finding of Fact:

Based on the analysis above, the application does not satisfy Zone Change Criterion No. 8. LWDUO § 5.412 (8).

Goal Exception Criteria

Analysis:

The applicant assesses the application against the applicable goal exception criteria of OAR 660-004-0028 and ORS Chapter 197.732 on pages 65-71 of Exhibit 1. In its introductory paragraph, the applicant notes that it will be taking an exception to Statewide Planning Goal 14 based on the "Committed" process.

County staff met with Laren Woolley, regional representative for the Department of Land Conservation and Development (DLCD) on November 30, 2007 to discuss the proposal and to focus in on certain aspects of the application, particularly the proposed goal exception. Mr. Woolley explained to County staff that it would need to determine if any goal exceptions were taken for the subject property as part of the County's initial planning process (1979-1983) that created the current plan designations and zones for the Clatsop Plains. DLCD explained that it questioned the applicability of OAR 660-014 in addition to OAR 660-004 to the application and information regarding prior goal exceptions (if any) was needed in order to determine the correct set of administrative rules to apply to the applicant's pending goal exception request. Staff researched several County documents including Ordinance 83-17 (see Exhibit 9) and determined that the subject property was part of a larger tract of land located west of Hwy 101, north of Gearhart, and south of Warrenton identified as being non-conducive to farm or forest practices and thus not subject to the application of Statewide Planning Goals 3 and 4. As a result, the property was not subject to prior goal exceptions and is considered to be non-resource land as defined in OAR 660-004-0005(2). The additional goal exception criteria of OAR 660-014 do not apply to this application. In conclusion, the County has determined that the applicant has assessed the request for the goal exception against the correct set of criteria (OAR 660-004-0028 and ORS 197.732).

On the top of page 66, the applicant addresses OAR 660-004-0028(2)(b), the characteristics of the adjacent lands. The subject property adjoins three zone districts: RA-2, RA-5, and LW. Lands adjoining the property to the north are zoned RA-2 and RA-5. Lands adjoining the property to the west are zoned LW (Neacoxie Creek). Lands just beyond Neacoxie Creek to the west are zoned SFR-1 and CBR. Lands adjoining the property to the south are zoned RA-5, and lands adjoining the property to the east are zoned RA-2. The applicant's findings should be revised to reflect these facts.

In response to OAR 660-004-0028(2)(c), the relationship between the exception area and the lands adjacent to it, the applicant responds, "The subject property has the same characteristics of the adjacent lands and is surrounded by adjacent lands that are zoned or proposed to be developed to 1 to 2 acre densities". Staff agrees with the applicant that the subject property has the same characteristics as adjacent lands but this finding is misplaced. The two prior criteria [OAR 660-004-0028(2)(a) & (b)] ask for descriptions of the land characteristics. This criterion [OAR 660-004-0028(2)(c)] seeks information regarding the relationship between the exception area and the lands adjacent to it.

Staff disagrees with the applicant in its determination that the subject property is "surrounded by adjacent lands that are zoned or proposed to be developed to 1 to 2 acre densities". Ridgeline Estates Subdivision that abuts the subject property to the west is platted for development at five-acre densities. Lands abutting the subject property to the north and south are zoned for development at five-acre densities. The applicant's findings regarding the zoning and planned development on adjoining lands are unsubstantiated and incorrect.

The County's clustering mandate for subdivisions on the Clatsop Plains results in lot sizes smaller than what normally would occur through standard land division procedures. However, the density for a cluster subdivision shall not exceed the density allowed by the base zone designation [LWDUO §3.152(5)]. For

example, Ridgeline Estates Subdivision is a 10-lot clustered subdivision on a parcel with a total acreage of 61.28. The property is zoned RA-5. The applicant for Ridgeline Estates proposed nine two-acre subdivision lots and one 43-acre lot. A large (20-acre) portion of the 43-acre lot is dedicated open space. Thus, the overall density for Ridgeline Estates Subdivision is approximately one dwelling unit per six-acres which meets the prescribed one dwelling unit per five-acre density standard allowed by the RA-5 zone. The applicant incorrectly describes this five-acre development as being one- to two-acres in density.

In describing the relationship between the exception area (subject property) and the lands adjacent to it, staff would portray the subject property as being 50-acres of a larger 900-acre contiguous tract of RA-5 zoned land that stretches 3-1/2 miles across the Clatsop Plains from Sunset Beach in the north to Highlands Lane in the south. The subject property and the larger tract are bound by Neacoxie Creek to the west and Hwy 101 to the east. The tract was created in 1983 as a result of a five-year comprehensive planning study for the Clatsop Plains and is nearly coterminous with the designated 'Scenic Area' of Clatsop Plains, described in detail elsewhere in this report. Staff would complete its description of the relationship of the subject property to adjacent lands by explaining that in addition to abutting other RA-5 zoned lands primarily to the north and south, the subject property abuts Neacoxie Creek (LW zone) to the west and RA-2 zoned lands to the east.

For reasons described above, the County cannot accept the applicant's findings in response to OAR 660-004-0028(2)(c).

In response to OAR 660-004-0028(6)(a), (middle of page 66, Exhibit 1) the applicant describes existing adjacent uses. Staff concurs with the applicant that save for one church adjacent uses are residential. It could be noted that other adjacent uses include activities associated with dedicated open space and riparian and aquatic resources. This criterion calls for objective findings of fact. The applicant's statement, "rezoning this subject property to RA-2 abutting Highway 101 would be consistent with the RA-2 present zoning of property abutting Highway 101 to the east and north" is subjective in nature and appears to be misplaced in response to this criterion.

In response to OAR 660-004-0028(6)(b), (bottom of page 66, Exhibit 1) the applicant describes public facilities and services to the site. No documentation has been provided by the City of Warrenton that verifies that existing capacity exists in the City's water distribution system to supply water to the site. The applicant has not committed to using a public water system to service the future development of the property and may opt for a system of wells, pumps, and reservoir, as has occurred in conjunction with Ridgeline Estates. It is not known if the Gearhart Elementary School and Seaside School District have capacity to accommodate additional school children that may be generated on the property as a result of the proposed zone change. Staff finds the applicant's findings in response this criterion to be anecdotal in nature and expects documented sources in response to the availability of public facilities and services to the rezoned site, particularly public water and schools.

Staff accepts the applicant's findings in response to OAR 660-004-0028(c).

Staff concurs with the applicant in its findings in response to OAR 660-004-0028(d), neighborhood and regional characteristics, with one exception: Open space is prevalent in the neighborhood and region

Staff accepts the applicant's findings in response to OAR 660-004-0028(e).

Staff agrees with the applicant in its responses to OAR 660-004-0025(1) & (2).

Staff accepts the applicant's analyses in response to OAR 660-004-0028(g). It is unclear how the development potential of the referenced 20.51 acres bears on the review of this application.

In response to ORS 197.732(A), (middle of page 69, Exhibit 1) the applicant explains that, "[t]his property is designated Rural Residential. The Goal 14 definition of Rural is 2 acres and Urban as 1 acre. The applicants are asking for a Rural Residential 2 zoning. This is consistent with the Goal 14 definition."

Staff does not believe that the subject property is designated as "Rural Residential", at least not with respect to the State's meaning of this term. OAR 660-004-0040(2)(a) explains that, "This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide planning Goal 3 (*Agricultural lands*), Goal 4 (*Forest Lands*), or both has been taken. Such lands are referred to in this rule as *rural residential areas*". Earlier in this report (see top of page 32), staff established that exceptions to Goals 3 or 4 were never taken for the subject property. In light of the state rules and statutes that govern this goal exception procedure, the County considers the subject property to be "nonresource land" as defined in OAR 660-004-0005(2) and not "rural residential" as referenced in OAR 660-004-0040(2)(a).

Staff is unable to verify the applicant's referenced Goal 14 definitions of Rural being two acres and Urban being one acre and asks the applicant to document the source for this finding.

The applicant is seeking a rezone to Residential Agriculture – 2 zoning not Rural Residential 2 zoning.

The applicant's findings should be revised as explained above before the County's approval.

Staff accepts the applicant's findings in response to ORS 197.732(B).

With regard to the applicant's ESEE⁸ findings in response to ORS 197.732(C), staff refers to its prior analysis on page 28 of this report regarding the potential ramifications of the Equal Protection Clause of the 14th Amendment to the US Constitution to this case. In reviewing this application, the Planning Commission must be mindful of the subject property's inclusion in the 'Scenic Area' of the Clatsop Plains and the potential destruction of community values associated with orderly growth on the Plains that could occur if this application were to be approved. A successful rezone on this property could lead to other rezones for properties in similar circumstances and conditions thereby causing negative environmental, social, and economic impacts to the County when compared to a similar requests that could be made on other properties that are not part of the 'Scenic Area' of the Clatsop Plains and not subject to the same set of rigorous communities standards and ideals for managed and orderly growth that are found in this special planning area. For these reasons, staff does not accept the applicant's ESEE findings.

Staff does not accept the applicant's finding in conjunction with ORS 197.732(D). When including density in its consideration of a land use (i.e., residential development at two-acre densities differs from residential development at five-acre densities), staff disagrees with the applicant that the proposal is compatible with adjacent uses. Staff bases this finding on the prior analyses provided in conjunction with the Clatsop Plains Community Plan (see pages 18-31 of this report).

⁸ Environmental, economic, social, and energy consequences resulting from the use at the subject property versus the use at another site.

Per ORS 197.732(D), Clatsop County cannot approve the requested Goal 14 Exception due to the deficiencies and inconsistencies found in the application, as described in the detailed staff analyses on pages 31-34 of this report.

Staff agrees with the applicant that the notice of the public hearing mailed and publicized in conjunction with this application satisfy ORS 197.732(E).

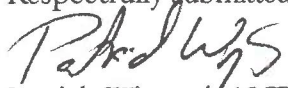
Conclusionary Finding of Fact:

Based on the analyses above, the application does not meet the standards for a goal exception and the request should be denied.

IX. EXHIBITS

Immediately follow.

Respectfully submitted,



Patrick Wingard, AICP
Principal Planner



COMPREHENSIVE PLAN/ZONING
MAP AMENDMENT
Fee \$977.00 (required with application)
- \$2175.00 (required with application)

Exhibit 1

PROPOSED USE: Residential

Zoning
Current: R-A-5
Proposed: R-A-2

Comprehensive Plan Designation
Rural Resid
Rural P

LEGAL DESCRIPTION OF PROPERTY:

T: 7N R: 10W S: 22C TL: 2900 AC

~~OTHER ADJACENT PROPERTY OWNERS:~~

T: 7N R: 10W S: 27

T: 7N T: 10W

APPLICANT:

Name: _____ Phone # (Day): 503-723-2644

City: OR FAX #: _____
Signature: [Signature]

PRO: _____ (Mandatory if different than applicant)

Name: see attached Phone # (Day): _____

Mailing Address: _____ FAX #: _____

City/State/Zip: _____ Signature: _____

PROPERTY OWNER #2 / SURVEYOR / AGENT / CONSULTANT / ATTORNEY: (optional)

Name: Parker Consulting - Beth Parker Phone # (Day): 541-779-0736

Mailing Address: PO Box 397 FAX #: 541-475-4314

City/State/Zip: Warrenton, Oregon 97146 Signature: [Signature]

Community Development Department
800 Exchange, Suite 100 * Astoria Oregon 97103 * (503) 325-8611 * FAX 503-338-3666

**REFER TO EXHIBIT A OF RESOLUTION AND
ORDER NO. 08-01-08 FOR THE COMPLETE
EXHIBIT 1, APPLICANT FINDINGS**

Oregon Administrative Rules
(filed through December 14, 2007)

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 4
INTERPRETATION OF GOAL 2 EXCEPTION PROCESS

660-004-0000

Purpose

- (1) The purpose of this rule is to explain the three types of exceptions set forth in Goal 2 "Land Use Planning, Part II, Exceptions." Except as provided for in OAR chapter 660, division 14, "Application of the Statewide Planning Goals to Newly Incorporated Cities and to Urban Development on Rural Lands" and OAR chapter 660, division 12, "Transportation Planning", section 0070, "Exceptions for Transportation Improvements on Rural Land", this division interprets the exception process as it applies to statewide Goals 3 to 19.
- (2) An exception is a decision to exclude certain land from the requirements of one or more applicable statewide goals in accordance with the process specified in Goal 2, Part II, Exceptions. The documentation for an exception must be set forth in a local government's comprehensive plan. Such documentation must support a conclusion that the standards for an exception have been met. The conclusion shall be based on findings of fact supported by substantial evidence in the record of the local proceeding and by a statement of reasons which explain why the proposed use not allowed by the applicable goal should be provided for. The exceptions process is not to be used to indicate that a jurisdiction disagrees with a goal.
- (3) The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals. The procedural and substantive objectives of the exceptions process are to:
- (a) Assure that citizens and governmental units have an opportunity to participate in resolving plan conflicts while the exception is being developed and reviewed; and
- (b) Assure that findings of fact and a statement of reasons supported by substantial evidence justify an exception to a statewide Goal
- (4) When taking an exception, a local government may rely on information and documentation prepared by other groups or agencies for the purpose of the exception or for other purposes, as substantial evidence to support its findings of fact. Such information must be either included or properly incorporated by reference into the record of the local exceptions proceeding. Information included by reference must be made available to interested persons for their review prior to the last evidentiary hearing on the exception.

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06

660-004-0005

Definitions

For the purpose of this Division, the definitions in ORS 197.015 and the Statewide Planning Goals shall apply. In addition the following definitions shall apply:

- (1) An "Exception" is 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 applicability;
- (b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
- (c) Complies with the provisions of this Division.
- (2) "Resource Land" is land subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d).
- (3) "Nonresource Land" is land not subject to the statewide Goals listed in OAR 660-004-0010(1)(a) through (g) except subsections (c) and (d). Nothing in these definitions is meant to imply that other goals, particularly Goal 5, do not apply to nonresource land.

Stat. Auth., ORS 197

Stats. Implemented ORS 197.015 & 197.732

Hist.: LCDC 5-1982, f. & ef 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0010

Application of the Goal 2 Exception Process to Certain Goals

- (1) The exceptions process is not applicable to Statewide Goal 1 "Citizen Involvement" and Goal 2 "Land Use Planning." The exceptions process is generally applicable to all or part of those statewide goals which prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services. These statewide goals include but are not limited to:
- (a) Goal 3 "Agricultural Lands"; however, an exception to Goal 3 "Agricultural Lands" is not required for any of the farm or nonfarm uses permitted in an exclusive farm use (EFU) zone under ORS Chapter 215 and OAR chapter 660 division 033, "Agricultural Lands";
 - (b) Goal 4 "Forest Lands"; however, an exception to Goal 4 "Forest lands" is not required for any of the forest or nonforest uses permitted in a forest or mixed farm/forest zone under OAR chapter 660, division 006, "Forest Lands";
 - (c) Goal 14 "Urbanization" except as provided for in OAR chapter 660, division 014 and the applicable paragraph (1)(c)(A), (B) or (C) of this rule:
 - (A) An exception is not required for the establishment of an urban growth boundary around or including portions of an incorporated city;
 - (B) When a local government changes an established urban growth boundary applying Goal 14 as it existed prior to the amendments adopted April 28, 2005, it shall follow the procedures and requirements set forth in Goal 2 "Land Use Planning," Part II, Exceptions. An established urban growth boundary is one which has been acknowledged by the Commission under ORS 197.251, 197.625 or 197.626. Revised findings and reasons in support of an amendment to an established urban growth boundary shall demonstrate compliance with the seven factors of Goal 14 and demonstrate that the following standards are met:
 - (i) Reasons justify why the state policy embodied in the applicable goals should not apply (This factor can be satisfied by compliance with the seven factors of Goal 14);
 - (ii) Areas which do not require a new exception cannot reasonably accommodate the use;
 - (iii) The long-term environmental, economic, social and energy consequences resulting from the use at 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
 - (iv) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.
 - (C) When a local government changes an established urban growth boundary applying Goal 14 as amended April 28, 2005, a goal exception is not required unless the local government seeks an exception to any of the requirements of Goal 14 or other applicable goals;
 - (d) Goal 11 "Public Facilities and Services";
 - (e) Goal 16 "Estuarine Resources";
 - (f) Goal 17 "Coastal Shorelands"; and
 - (g) Goal 18 "Beaches and Dunes."
- (2) The exceptions process is generally not applicable to those statewide goals which establish planning procedures and standards that do not prescribe or restrict certain uses of resource land or limit the provision of certain public facilities and services, because these goals contain general planning guidance or their own procedures for resolving conflicts between competing uses. However, exceptions to these goals, although not required, are possible and exceptions taken to these goals will be reviewed when submitted by a local jurisdiction. These statewide goals are:
- (a) Goal 5 "Natural Resources";
 - (b) Goal 6 "Air, Water, and Land Resources Quality";
 - (c) Goal 7 "Natural Disasters and Hazards";
 - (d) Goal 8 "Recreational Needs";
 - (e) Goal 9 "Economy of the State";

- (f) Goal 10 "Housing" except as provided for in OAR 660-008-0035, "Substantive Standards for Taking a Goal 2, Part II, Exception pursuant to ORS 197.303(3);
- (g) Goal 12 "Transportation" except as provided for by OAR 660-012-0070, "Exceptions for Transportation Improvements on Rural Land";
- (h) Goal 13 "Energy Conservation";
- (i) Goal 15 "Willamette Greenway" except as provided for in OAR 660-004-0022(6); and
- (j) Goal 19 "Ocean Resources."

(3) An exception to one goal or goal requirement does not assure compliance with any other applicable goals or goal requirements for the proposed uses at the exception site. Therefore, an exception to exclude certain lands from the requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 2-1987, f. & ef. 11-10-87; LCDC 3-1988(Temp), f. & cert. ef. 8-5-88; LCDC 6-1988, f. & cert. ef. 9-29-88; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 4-2005, f. & cert. ef. 6-28-05

660-004-0015

Inclusion as Part of the Plan

(1) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons which demonstrate that the standards for an exception have been met. The applicable standards are those in Goal 2, Part II(c), OAR 660-004-0020(2), and 660-004-0022. The reasons and facts shall be supported by substantial evidence that the standard has been met.

(2) A local government denying a proposed exception shall adopt findings of fact and a statement of reasons which demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028, and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, "Planning and Zoning of Unincorporated Communities", if applicable, or

(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved only under provisions for a reasons exception as outlined in section (4) of the rule and OAR 660-004-0020 through 660-004-0022

(4) "Reasons" Exceptions

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.732

Hist. LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1986, f. & ef. 3-20-86; LCDD 4-1998, f. & cert. ef. 7-28-98; LCDD 3-2004, f. & cert. ef. 5-7-04; LCDD 8-2005, f. & cert. ef. 12-13-05; LCDD 7-2006, f. 10-13-06, cert. ef. 10-23-06

660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.

(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas which do not require a new exception cannot reasonably accommodate the use"

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A

detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.

(c) The long-term environmental, economic, social and energy consequences resulting from the use at 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 other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site 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. Such reasons shall include but are not limited to, the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts.

(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) For the expansion of an unincorporated community defined under OAR 660-022-0010, or for an urban unincorporated community pursuant to OAR 660-022-0040(2), The exception requirements of subsections (2)(b), (c) and (d) of this rule are modified to also include the following:

(a) Prioritize land for expansion: First priority goes to exceptions lands in proximity to an unincorporated community boundary. Second priority goes to land designated as marginal land. Third priority goes to land designated in an acknowledged comprehensive plan for agriculture or forestry, or both. Higher priority is given to land of lower capability site class for agricultural land, or lower cubic foot site class for forest land;

(b) Land of lower priority described in subsection (a) of this section may be included if land of higher priority is inadequate to accommodate the use for any one of the following reasons:

(A) Specific types of identified land needs cannot be reasonably accommodated on higher priority land, or
(B) Public facilities and services cannot reasonably be provided to the higher priority area due to topographic or other physical constraints; or

(C) Maximum efficiency of land uses with the unincorporated community requires inclusion of lower priority land in order to provide public facilities and services to higher priority land.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist. LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 8-1994, f. & cert. ef. 12-5-94, LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

- (a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19, and either
 - (b) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or
 - (c) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.
- (2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.
- (3) Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts include, but are not limited to, the following:
- (a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports; or
 - (b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas, or
 - (c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages which support the decision.
- (4) Expansion of Unincorporated Communities: For the expansion of an Unincorporated Community defined under OAR 660-022-0010(10), appropriate reasons and facts include but are not limited to the following:
- (a) A demonstrated need for additional land in the community to accommodate a specific rural use based on Goals 3-19 and a demonstration that either:
 - (A) The use requires a location near a resource located on rural land, or
 - (B) The use has special features necessitating its location in an expanded area of an existing unincorporated community, including
 - (i) For industrial use, it would have a significant comparative advantage due to its location (i.e., near a rural energy facility, or near products available from other activities only in the surrounding area, or it is reliant on an existing work force in an existing unincorporated community);
 - (ii) For residential use, the additional land is necessary to satisfy the need for additional housing in the community generated by existing industrial, commercial, or other economic activity in the surrounding area. The plan must include an economic analysis showing why the type and density of planned housing cannot be accommodated in an existing exception area or UGB, and is most appropriate at the particular proposed location. The reasons cannot be based on market demand for housing, nor on a projected continuation of past rural population distributions
 - (b) Need must be coordinated and consistent with the comprehensive plan for other exception areas, unincorporated communities, and UGBs in the area. Area encompasses those communities, exception areas, and UGBs which may be affected by an expansion of a community boundary, taking into account market, economic, and other relevant factors;
 - (c) Expansion requires demonstrated ability to serve both the expanded area and any remaining infill development potential in the community at time of development with the level of facilities determined to be appropriate for the existing unincorporated community.

- (5) Expansion of Urban Unincorporated Communities: Expansion of an urban unincorporated community defined under OAR 660-022-0010(9) shall comply with OAR 660-022-0040.
- (6) Willamette Greenway. Within an urban area designated on the approved Willamette Greenway Boundary maps, the siting of uses which are neither water-dependent nor water-related within the setback line required by Section C.3 k of the Goal may be approved where reasons demonstrate the following:
- (a) The use will not have a significant adverse effect on the greenway values of the site under consideration or on adjacent land or water areas;
 - (b) The use will not significantly reduce the sites available for water-dependent or water-related uses within the jurisdiction;
 - (c) The use will provide a significant public benefit; and
 - (d) The use is consistent with the Legislative findings and policy in ORS 390.314 and the Willamette Greenway Plan approved by LCDC under ORS 390.322.
- (7) Goal 16 X Water Dependent Development. To allow water dependent industrial, commercial, or recreational uses in development and conservation estuaries which require an exception, an economic analysis must show that there is a reasonable probability that the proposed use will locate in the planning area during the planning period considering the following:
- (a) Factors of Goal 9 or for recreational uses the factors of Goal 8;
 - (b) The generally predicted level of market demand for the proposed use;
 - (c) The siting and operational requirements of the proposed use including land needs, and as applicable, moorage, water frontage, draft, or similar requirements; and
 - (d) Whether the site and surrounding area are able to provide for the siting and operational requirements of the proposed use;
 - (e) The economic analysis must be based on Goal 9 element of the County Comprehensive Plan and consider and respond to all economic needs information available or supplied to the jurisdiction. The scope of this analysis will depend on the **type** of use proposed, the regional extent of the market and the ability of other areas to provide for the proposed use.
- (8) Goal 16 -- **Other** Alterations or Uses: An exception to the requirement limiting dredge and fill or other reductions or **degradations** of natural values to water dependent uses or to the natural and conservation management unit requirements limiting alterations and uses is justified, where consistent with ORS Chapter 541, in any of the following circumstances:
- (a) Dredging to obtain fill for maintenance of an existing functioning dike where an analysis of alternatives demonstrates that other sources of fill material including adjacent upland soils or stockpiling of material from approved dredging projects can not reasonably be utilized for the proposed project or that land access by necessary construction machinery is not feasible;
 - (b) Dredging to maintain adequate depth to permit continuation of present level of navigation in the area to be dredged;
 - (c) Fill or other alteration for a new navigational structure where both the structure and the alteration are shown to be necessary for the continued functioning of an existing federally authorized navigation project such as a jetty or a channel,
 - (d) An exception to allow minor fill, dredging, or other minor alteration of a natural management unit for a boat ramp or to allow piling and shoreline stabilization for a public fishing pier;
 - (e) Dredge or fill or other alteration for expansion of an existing public non-water-dependent use or a nonsubstantial fill for a private nonwater-dependent use (as provided for in ORS 541.625) where:
 - (A) A Countywide Economic Analysis based on the factors in Goal 9 demonstrates that additional land is required to accommodate the proposed use; and
 - (B) An analysis of the operational characteristics of the existing use and proposed expansion demonstrates that the entire operation or the proposed expansion cannot be reasonably relocated; and
 - (C) That the size and design of the proposed use and the extent of the proposed activity are the minimum amount necessary to provide for the use.
 - (f) In each of the situations set forth in subsections (7)(a) to (e) of this rule, the exception must demonstrate that proposed use and alteration (including, where applicable, disposal of dredged materials) will be carried out in a manner which minimizes adverse impacts upon the affected aquatic and shoreland areas and habitats.

(9) Goal 17 -- Incompatible Uses in Coastal Shoreland Areas. Exceptions are required to allow certain uses in Coastal Shoreland areas:

(a) These Coastal Shoreland Areas include:

(A) Major marshes, significant wildlife habitat, coastal headlands, exceptional aesthetic resources and historic and archaeological sites,

(B) Shorelands in urban and urbanizable areas, in rural areas built upon or irrevocably committed to non-resource use and in unincorporated communities pursuant to OAR chapter 660, division 022 (Unincorporated Communities) that are suitable for water dependent uses;

(C) Designated dredged material disposal sites;

(D) Designated mitigation sites.

(b) To allow a use which is incompatible with Goal 17 requirements for coastal shoreland areas listed in subsection (9)(a) of this rule the exception must demonstrate:

(A) A need, based on the factors in Goal 9, for additional land to accommodate the proposed use;

(B) Why the proposed use or activity needs to be located on the protected site considering the unique characteristics of the use or the site which require use of the protected site; and

(C) That the project cannot be reduced in size or redesigned to be consistent with protection of the site and where applicable consistent with protection of natural values.

(c) Exceptions to convert a dredged material disposal site or mitigation site to another use must also either not reduce the inventory of designated and protected sites in the affected area below the level identified in the estuary plan or be replaced through designation and protection of a site with comparable capacity in the same area;

(d) Uses which would convert a portion of a major marsh, coastal headland, significant wildlife habitat, exceptional aesthetic resource, or historic or archaeological site must use as little of the site as possible, be designed and located and, where appropriate, buffered to protect natural values of the remainder of the site

(e) Exceptions to designate and protect for water-dependent uses an amount of shorelands less than is required by Goal 17 Coastal Shoreland Uses Requirement 2 must demonstrate compliance with the following:

(A) Based on the factors of Goals 8 and 9, there is no need during the next 20-year period for the amount of water-dependent shorelands required by Goal 17 Coastal Shoreland Uses Requirement 2 for all cities and the county in the estuary. The Goal 8 and Goal 9 analyses must be conducted for the entire estuary and its shorelands, and must consider the water-dependent use needs of all local government jurisdictions along the estuary, including the port authority if any, and be consistent with the Goal 8 and Goal 9 elements of the comprehensive plans of those jurisdictions.

(B) There is a demonstrated need for additional land to accommodate the proposed use(s), based on one or more of the requirements of Goals 3 to 18.

(10) Goal 18 -- Fore-dune Breaching. A fore-dune may be breached when the exception demonstrates an existing dwelling located on the fore-dune is experiencing sand inundation and the grading or removal of sand is:

(a) Only to the grade of the dwelling,

(b) Limited to the immediate area in which the dwelling is located;

(c) Sand is retained in the dune system by placement on the beach in front of the dwelling; and

(d) The provisions of Goal 18 Implementation Requirement 1 are met.

(11) Goal 18 -- Fore-dune Development. An exception may be taken to the fore-dune use prohibition in Goal 18 "Beaches and Dunes", implementation requirement (2). Reasons which justify why this state policy embodied in Goal 18 should not apply shall demonstrate compliance with the following:

(a) The use will be adequately protected from any geologic hazards, wind erosion, undercutting ocean flooding and storm waves, or is of minimal value; and

(b) The use is designed to minimize adverse environmental effects,

(c) The provisions of OAR 660-004-0020 shall also be met.

[Publications: Publications referenced are available from the agency.]

Stat. Auth.: ORS 197.040

Stats. Implemented: ORS 195.012, 197.040, 197.712, 197.717, and 197.732

Hist.: LCDC 9-1983, f. & ef. 12-30-83; LCDC 1-1984, f. & ef. 2-10-84; LCDC 3-1984, f. & ef. 3-21-84; LCDC 4-1985, f. & ef. 8-8-85; LCDC 8-1994, f. & cert. ef. 12-5-94; LCDD 7-1999, f. & cert. ef. 8-20-99; LCDD 3-

2004, f. & cert. ef. 5-7-04; LCDD 2-2006, f. & cert. ef. 2-15-06; LCDD 6-2006, f. 7-13-06, cert. ef. 7-14-06; LCDD 9-2006, f. & cert. ef. 11-15-06

660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

- (1) A local government may adopt an exception to a goal when 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.
- (2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

- (1) A local government may adopt an exception to a goal when 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:
 - (a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;
 - (b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;
 - (c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.
- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:
 - (a) The characteristics of the exception area,
 - (b) The characteristics of the adjacent lands;
 - (c) The relationship between the exception area and the lands adjacent to it; and
 - (d) The other relevant factors set forth in OAR 660-004-0028(6).
- (3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:
 - (a) Farm use as defined in ORS 215.203;
 - (b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and
 - (c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).
- (4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.
- (5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.
- (6) Findings of fact for a committed exception shall address the following factors:
 - (a) Existing adjacent uses;

- (b) Existing public facilities and services (water and sewer lines, etc.)
- (c) Parcel size and ownership patterns of the exception area and adjacent lands
- (A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels,
- (B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.
- (d) Neighborhood and regional characteristics;
- (e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area,
- (f) Physical development according to OAR 660-004-0025, and
- (g) Other relevant factors
- (7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.
- (8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:
- (a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule, and
- (b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

Stat. Auth.: ORS 183 & ORS 197

Stats. Implemented: ORS 197.732 & ORS 197.736

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 5-1985, f. & ef. 11-15-85, LCDC 4-1996, f. & cert. ef. 12-23-96

660-004-0030

Notice and Adoption of an Exception

- (1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.
- (2) A planning exception takes effect when the comprehensive plan or plan amendment is adopted by the city or county governing body. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

Stat. Auth.: ORS 197

Stats. Implemented: ORS 197.610 - ORS 197.625, ORS 197.628 - ORS 197.646 & ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

660-004-0035

Appeal of an Exception

(1) Prior to acknowledgment, an exception, or the failure to take a required exception, may be appealed to the Land Use Board of Appeals, pursuant to ORS 197.830, or to the Commission as an objection to the local government's request for acknowledgment, pursuant to ORS 197.251 and OAR 660-003-0000.

(2) After acknowledgment, an exception taken

as part of a plan amendment, or the failure to take a required exception when amending a plan, may be appealed to the Board, pursuant to ORS 197.620 and OAR chapter 660, division 18.

(3) After acknowledgment, an exception taken as part of a periodic review work task submitted under OAR 660-025-0130, or failure to take a required exception when amending a plan, may be appealed to the Commission pursuant to ORS 197.633 and OAR 660-025-0150 and 0160.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.610 - 197.625, 197.732 & 197.830

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDD 3-2004, f. & cert. ef. 5-7-04

660-004-0040

Application of Goal 14 (Urbanization) to Rural Residential Areas

(1) The purpose of this rule is to specify how Statewide Planning Goal 14, *Urbanization*, applies to rural lands in acknowledged exception areas planned for residential uses.

(2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (*Agricultural Lands*), Goal 4 (*Forest Lands*), or both has been taken. Such lands are referred to in this rule as *rural residential areas*.

(b) Sections (1) to (8) of this rule do not apply to the creation of a lot or parcel, or to the development or use of one single-family home on such lot or parcel, where the application for partition or subdivision was filed with the local government and deemed to be complete in accordance with ORS 215.427(3) before the effective date of Sections (1) to (8) of this rule.

(c) This rule does not apply to types of land listed in (A) through (H) of this subsection:

(A) land inside an acknowledged urban growth boundary;

(B) land inside an acknowledged unincorporated community boundary established pursuant to OAR Chapter 660, Division 022;

(C) land in an acknowledged urban reserve area established pursuant to OAR Chapter 660, Division 021;

(D) land in an acknowledged destination resort established pursuant to applicable land use statutes and goals;

(E) resource land, as defined in OAR 660-004-0005(2);

(F) nonresource land, as defined in OAR 660-004-0005(3);

(G) marginal land, as defined in ORS 197.247, 1991 Edition;

(H) land planned and zoned primarily for rural industrial, commercial, or public use.

(3)(a) This rule shall take effect on the effective date of an amendment to Goal 14 to provide for development of all lawfully created lots and parcels created in rural residential areas prior to the effective date of the amendment to Goal 14.

(b) Some rural residential areas have been reviewed for compliance with Goal 14 and acknowledged to comply with that goal by the department or commission in a periodic review, acknowledgment, or post-acknowledgment plan amendment proceeding that occurred after the Oregon Supreme Court's 1986 ruling in *1000 Friends of Oregon v. LCDC, 301 Or 447 (Curry County)*, and before the effective date of this rule. Nothing in this rule shall be construed to require a local government to amend its acknowledged comprehensive plan or land use regulations for those rural residential areas already acknowledged to comply with Goal 14 in such a proceeding. However, if such a local government later amends its plan's provisions or land use regulations that apply to any rural residential area, it shall do so in accordance with this rule.

(4) The rural residential areas described in Subsection (2)(a) of this rule are rural lands. Division and development of such lands are subject to Statewide Planning Goal 14, *Urbanization*, which prohibits urban use of rural lands.

(5)(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.

- (b) A rural residential zone does not comply with Goal 14 if that zone allows the creation of any new lots or parcels smaller than two acres. For such a zone, a local government must either amend the zone's minimum lot and parcel size provisions to require a minimum of at least two acres or take an exception to Goal 14. Until a local government amends its land use regulations to comply with this subsection, any new lot or parcel created in such a zone must have an area of at least two acres.
- (c) For purposes of this section, "rural residential zone currently in effect" means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.
- (6) After the effective date of this rule, a local government's requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.
- (7)(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall not be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.
- (b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.
- (c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.
- (d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.
- (e) A local government may authorize a planned unit development (PUD), specify the size of lots or parcels by averaging density across a parent parcel, or allow clustering of new dwellings in a rural residential area only if all conditions set forth in paragraphs (7)(e)(A) through (7)(e)(H) are met:
- (A) The number of new dwelling units to be clustered or developed as a PUD does not exceed 10.
- (B) The number of new lots or parcels to be created does not exceed 10.
- (C) None of the new lots or parcels will be smaller than two acres.
- (D) The development is not to be served by a new community sewer system.
- (E) The development is not to be served by any new extension of a sewer system from within an urban growth boundary or from within an unincorporated community.
- (F) The overall density of the development will not exceed one dwelling for each unit of acreage specified in the local government's land use regulations on the effective date of this rule as the *minimum lot size* for the area.
- (G) Any group or cluster of two or more dwelling units will not force a significant change in accepted farm or forest practices on nearby lands devoted to farm or forest use and will not significantly increase the cost of accepted farm or forest practices there.
- (H) For any open space or common area provided as a part of the cluster or planned unit development under this subsection, the owner shall submit proof of nonrevocable deed restrictions recorded in the deed records. The deed restrictions shall preclude all future rights to construct a dwelling on the lot, parcel, or tract designated as open space or common area for as long as the lot, parcel, or tract remains outside an urban growth boundary.
- (f) Except as provided in subsection (e) of this section, a local government shall not allow more than one permanent single-family dwelling to be placed on a lot or parcel in a rural residential area. Where a medical hardship creates a need for a second household to reside temporarily on a lot or parcel where one dwelling already exists, a local government may authorize the temporary placement of a manufactured dwelling or recreational vehicle.
- (g) In rural residential areas, the establishment of a new mobile home park or manufactured dwelling park as defined in ORS 446.003(32) shall be considered an urban use if the density of manufactured dwellings in the park exceeds the density for residential development set by this rule's requirements for minimum lot and parcel sizes. Such a park may be established only if an exception to Goal 14 is taken.
- (h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (D) of this subsection exist:

- (A) The parcel to be divided has two or more permanent habitable dwellings on it;
- (B) The permanent habitable dwellings on the parcel to be divided were established there before the effective date of this rule;
- (C) Each new parcel created by the partition would have at least one of those permanent habitable dwellings on it, and
- (D) The partition would not create any vacant parcels on which a new dwelling could be established.
- (E) For purposes of this rule, "habitable dwelling" means a dwelling that meets the criteria set forth in ORS 215.283(i)(A)-(i)(D):

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

- (A) Require that any new lot or parcel have an area of at least ten acres, or
- (B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-0018, "Planning and Zoning for Exception Areas."

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c).

- (A) Ashland;
- (B) Central Point;
- (C) Medford;
- (D) Newberg;
- (E) Sandy.

(b) If a city or urban area listed in Subsection (8)(a):

- (A) has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, or
- (B) is part of a regional growth plan that contains at least a twenty-year regional reserve of land beyond the land contained within the collective urban growth boundaries of the participating cities, and that has been acknowledged through the process prescribed for Regional Problem Solving in ORS 197.652 through 197.658, then any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance or acknowledged regional growth plan

(c) Notwithstanding the provisions of Section 7 of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR 660, Division 021, or is not part of an acknowledged regional growth plan as described in Subsection (b), Paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

(d) Notwithstanding the provisions of Section 7, if the Portland metropolitan service district has an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, any division of rural residential land in that reserve area shall be done in accordance with the acknowledged urban reserve ordinance.

(e) Notwithstanding the provisions of Section 7, if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary for the Portland metropolitan area and is in a rural residential area, and if the Portland metropolitan area does not have an urban reserve area that contains at least a twenty-year reserve of land and that has been acknowledged to comply with OAR 660, Division 021, the minimum area of any new lot or parcel there shall be twenty acres. If the lot or parcel to be divided also lies within the area governed by the Columbia River Gorge National Scenic Area Act, the division shall be done in accordance with the provisions of that act.

(f) Notwithstanding the provisions of Section 7 and Subsection (8)(e), a local government may establish minimum area requirements smaller than twenty acres for some of the lands described in Subsection (8)(e). The selection of those lands and the minimum established for them shall be based on an analysis of the likelihood that such lands will urbanize, of their current parcel and lot sizes, and of the capacity of local governments to serve such lands efficiently with urban services at the densities set forth in the Metro 2040 plan. In no case shall the minimum area requirement set for such lands be smaller than 10 acres.

(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (E) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwellings on it;

(B) The permanent, habitable dwellings on the parcel to be divided were established there before the effective date of OAR 660-004-0040;

(C) Each new parcel created by the partition would have at least one of those permanent, habitable dwellings on it;

(D) The partition would not create any vacant parcels on which new dwellings could be established; and

(E) The resulting parcels shall be sized to promote efficient future urban development by ensuring that one of the parcels is the minimum size necessary to accommodate the residential use of the parcel.

(F) For purposes of this rule, habitable dwelling means a dwelling that meets the criteria set forth in ORS 215.283(1)(t)(A) - (D).

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws. Stat. Auth.: ORS 183 & 197

Stats. Implemented: ORS 197.175 & 197.732

Hist.: LCDD 7-2000, f. 6-30-00, cert. ef. 10-4-00; LCDD 3-2001, f. & cert. ef. 4-3-01; LCDD 3-2004, f. & cert. ef. 5-7-04

Oregon Revised Statutes

Chapter 197 — Comprehensive Land Use Planning Coordination

2005 EDITION

197.732 Goal exceptions; criteria; rules; review. (1) A local government may adopt an exception to a goal if:

(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 as described by Land Conservation and Development Commission rule 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) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas which do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at 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

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

(2) "Compatible," as used in subsection (1)(c) of this section, is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) The commission shall adopt rules establishing:

(a) That an exception may be adopted to allow a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use;

(b) Under what circumstances particular reasons may or may not be used to justify an exception under subsection (1)(c)(A) of this section; and

(c) Which uses allowed by the applicable goal must be found impracticable under subsection (1) of this section.

(4) 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 of subsection (1) of this section have or have not been met.

(5) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(6) Upon review of a decision approving or denying an exception:

(a) The board or the commission shall be bound by any finding of fact for which there is substantial evidence in the record of the local government proceedings resulting in approval or denial of the exception;

(b) The board upon petition, or the commission, shall determine whether the local government's findings and reasons demonstrate that the standards of subsection (1) of this section have or have not been met; and

(c) The board or commission shall adopt a clear statement of reasons which sets forth the basis for the determination that the standards of subsection (1) of this section have or have not

been met.

(7) The commission shall by rule establish the standards required to justify an exception to

the definition of "needed housing" authorized by ORS 197.303 (3)

(8) As used in this section, "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 applicability;

(b) Does **not** comply with some or all goal requirements applicable to the subject properties or situations; and

(c) Complies with standards under subsection (1) of this section.

(9) An exception acknowledged under ORS 197.251, 197.625 or 197.630 (1) (1981 Replacement Part) on or before August 9, 1983, continues to be valid and is not be subject to this section. [1983 c.827 §19a, 1995 c.521 §3, 2005 c.67 §1]



CERTIFICATE OF MAILING

I hereby certify that I served a copy of the attached Community Development Department Notice of Rescheduled Public Hearing for the Earl/Osburn-Olson LLC Comp. Plan Amendment to those property owners and government agencies on the attached notice with postage paid and deposited in the post office at Astoria, Oregon on said day.

Date: December 10, 2007

Patrick Wingard, Principal Planner
COMMUNITY DEVELOPMENT DEPT



Clatsop County Community Development Department
800 Exchange Street, Suite 100, Astoria, OR 97103
www.co.clatsop.or.us

ph: 503-325-8611
fx: 503-338-3666
em: comdev@co.clatsop.or.us

PLANNING COMMISSION NOTICE OF **RESCHEDULED** PUBLIC HEARING:

Comprehensive Plan / Zoning Map Amendment Application from Butch Parker, consultant, on behalf of Russell Earl and Osburn-Olson LLC, property owners, to Change the Zoning on the Subject Property from Residential-Agriculture-5 (RA-5) to Residential-Agriculture-2 (RA-2)

DATE OF HEARING: January 8, 2008
TIME: 11:00 AM
LOCATION: Judge Guy Boyington Building
857 Commercial Street
Astoria, Oregon
STAFF CONTACT: Patrick Wingard, Principal Planner

You are receiving this notice because you either own property within 250 feet of the property that serves as the subject of the land use application described in this letter or you are considered to be an affected state or federal agency, local government, or special district. A vicinity map for the subject property is attached.

NOTICE IS HEREBY GIVEN that the Clatsop County Community Development Department has received the land use application described in this letter. Pursuant to Section 2.035 of the Clatsop County Land and Water Development and Use Ordinance (LWDUO), the Department Director has scheduled a public hearing on this matter before the Planning Commission at 11:00 AM on Tuesday, January 8, 2008 at the Judge Guy Boyington Building, 857 Commercial Street, Astoria, Oregon.

All interested persons are invited to testify in person by attending the hearing, or they may testify in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to [503-338-3666](tel:503-338-3666) or via email to comdev@co.clatsop.or.us. Written comments must be received in this office no later than **5PM on Monday, January 7, 2008** in order to be considered at the January 8, 2008 public hearing.

NOTE: Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue.

THE LAND USE APPLICATION DESCRIBED:

The applicant, Parker Consulting, on behalf of Russell Earl and Osburn-Olson LLC, property owners, proposes a quasi-judicial plan map / zoning map amendment for 50.8 acres of land located to the west of Hwy 101 north of Surf Pines Lane in the unincorporated Clatsop Plains area of Clatsop County. The subject property is comprised of five contiguous parcels identified as T7N, R10W, Sec. 22C, TL 2900 and T7N, R10W, Sec. 27, Tls 3300, 3400, 3600, and 3700. The applicant proposes changing the zoning on the subject property from Residential-Agriculture-5 (RA-5) [five-acre minimum] to Residential-Agriculture-2 (RA-2) [two-acre minimum].

The following criteria from Clatsop County Land and Water Development and Use Ordinance (LWDUO) apply to the request: §2.035 (Type IV Procedures for Land Use Applications), §2.105-§2.125 (Notice Requirements for Public Hearings), §3.200 (Residential-Agriculture-2 Zone Standards), §3.220 (Residential-Agriculture-5 Zone Standards), and §5.400 (Zone Change Standards).

In addition, the following elements of the Clatsop County Comprehensive Plan apply to the request: Goal 1 (Citizen Involvement), Goal 2 (Land Use Planning), Goal 5 (Scenic, Historic, and Natural Resources), Goal 6 (Air, Water, and Land Quality), Goal 7 (Natural Hazards), Goal 8 (Recreation), Goal 9 (Economy), Goal 10 (Population and Housing), Goal 11 (Public Facilities and Services), Goal 12 (Transportation), Goal 13 (Energy Conservation), Goal 14 (Urbanization), Goal 18 (Beaches and Dunes), and the Clatsop Plains Community Plan.

These documents are available for review at the Clatsop County Community Development Department office, 800 Exchange Street, Suite 100, Astoria, Oregon and on-line at the county's website, www.co.clatsop.or.us.

A copy of the application, all documents and evidence submitted by or on behalf of the applicant and applicable criteria are available for inspection at the Community Development Department Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost. A copy of the staff report will be available for inspection at the Clatsop County Community Development Department office at no cost at least seven days prior to the hearing and will be provided at reasonable cost.

In general, the procedure for conduct of the public hearing will be as follows: Introductory statements by the Planning Commission Chairperson, Planning Commission disclosures, staff report, applicant's presentation, testimony in favor, testimony in opposition, applicant rebuttal, conclusion of hearing, Planning Commission deliberations, Planning Commission decision (in this case, a recommendation to the Board of Commissioners).

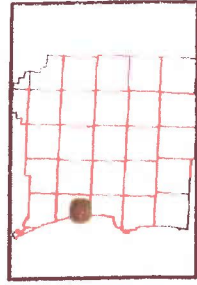
If you have questions about this land use matter or need more information, please contact Patrick Wingard, Clatsop County Principal Planner, at (503) 325-8611 or via email at pwingard@co.clatsop.or.us

Notice to Mortgagee, Lien Holder, Vendor or Seller: ORS Chapter 215 requires that if you receive this notice it must promptly be forwarded to the purchaser.

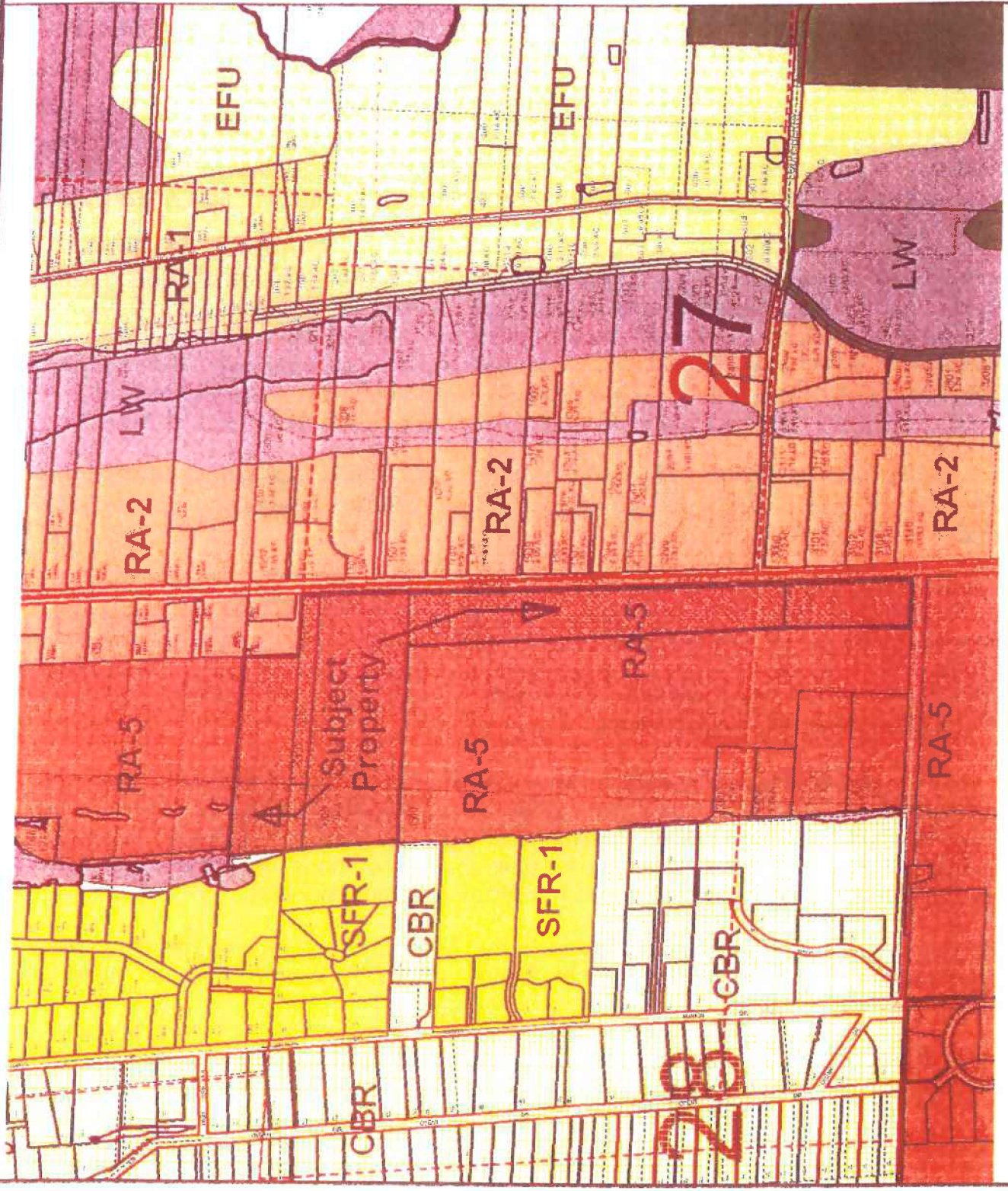
Clatsop County Map

Earl/Osburn Olson LLC Comp Plan / Zoning Map Amendment Vicinity Map

- PLS
- PLS Townships
- Roads
 - Local Road
 - Local Road (Gravel)
 - Private or Unimproved
 - Private Road
 - State Scenic Buffer
 - Trip Log Arrows
 - Trip Stop
 - Water Body
- Creek
- Parcel Boundary
- Supplemental Boundary
- DLC
- Road Right-of-Way
- Zoning
 - AF
 - CEH
 - EF1
 - F30
 - LW
 - RA-1
 - RA-2
 - RA-5
 - RA-2
 - SFR-1



9/26/2017



1 in. = 800 ft.

This map was produced using the Clatsop County GIS data. The GIS data is maintained by the county to support its governmental activities. The county is not responsible for map errors, omissions, mistakes or misinterpretation.

*Applican & Agencies
Earl/Olson-Osburn LLC
Comp. Plan Amendment
Mailed on 12/10/07(rescheduled)*

Clatsop Soil & Water Cons Dist
750 Commercial Room 207
Astoria, OR 97103

Laren Woolley
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Astoria, OR 97103

Brian Pogue
35106 Hwy 26
Seaside, OR 97138

Christine Bridgens
1255 SW 9th St
Warrenton, OR 97146

Dirk Rohne
43738 Gertula Lane
Astoria, OR 97103

Mike Autio
93750 Autio Loop
Astoria, OR 97103

CREST
750 Commercial St Room # 205
Astoria, OR 97103

Oregon Dept. of Transportation
350 West Marine Dr
Astoria, OR 97103

ODOT Region II
2960 E State St
Salem, OR 97310

Parker Consulting
PO Box 397
Warrenton, OR 97146

Corey Olson
1369 Stillwater Ct.
Seaside, OR 97138

Russell Earl
86058 Wahanna Rd
Seaside, OR 97138

Gearhart Rural Fire Dept.
Chief Bill Eddy
PO Box 2530
Gearhart, OR 97138

Earl Daniel 1/4/Earl S 1/4
10706 NE 38th Ave
Vancouver, WA 98686
710270003400

Ryan Joan V Trust
1165 Ave A
Seaside, OR 97138
710270001500

Osburn-Olson LLC
1369 Stillwater Ct
Seaside, OR 97138
71022C002900

Rautenbach Stephen/Kathryn
14947 NW Sumida Ln
Portland, OR 97229
71022C003000

Johnson Wesley
2440 Boehm Acres Rd
Seaside, OR 97138
710270001900

Klefstad Gregory K/Gertrude M
2680 Montair Ave
Long Beach, CA 90815
710270001306

Surf Pines Association
33317 Surf Pines Ln
Warrenton, OR 97146
710270003800

See Family Rev Living Trust
33360 Surf Pines Ln
Seaside, OR 97138
710270003900

Seppa Hugh/Carol
33416 West Lake Ln
Warrenton, OR 97146
710210002501

Hazen Roy S/Carolyn N
33571 Wild Daffodil Ln
Warrenton, OR 97146
710270001308

C T Johnson Inc
37751 Hwy 30
Astoria, OR 97103
710270003110

Major John E/Danny
8305 Hunter Brook St
Las Vegas, NV 89139
710270001600

Hartman Thomas G Jr
8310 N Brandon
Portland, OR 97217
71021D000800

Schindele Andrew J/Carolyn S
89051 Hwy 101
Warrenton, OR 97146
710270003100

Osburn John Burr
89053 Hwy 101
Warrenton, OR 97146
710270003102

Wideman Cara Michele
89085 Short Rd
Warrenton, OR 97146
710270003101

Penttila Philip L/Melinda L
89229 Manion Dr
Warrenton, OR 97146
71028AA00400

Klemp Dennis M/Melodi G
89253 Hwy 101
Warrenton, OR 97146
710270001910

Riley Michael O/Carol L
89285 Manion Drive
Warrenton, OR 97146
71028AA00200

Vail Deborah L
89323 Hwy 101
Warrenton, OR 97146
710270001500

Jurgensen Erma J Tr
89413 Hwy 101
Warrenton, OR 97146
710270001302

Seppa Scott A/Heather H 1/11 (c)
89471 Shady Pine Rd
Warrenton, OR 97146
71021D000215

Wideman Oscar D/ Pamela G
PO BOX 1000
Cannon Beach, OR 97110
710270003500

Ulbricht Kenneth/Lynn
PO BOX 1161
Seaside, OR 97138
710270001307

Trenholm Wilford C/Marilyn A
PO BOX 2039
Gearhart, OR 97138-2039
710270001300

Chesnut David B
PO BOX 2091
Gearhart, OR 97138
710270001900

Javratil Gregory A
PO BOX 2346
Gearhart, OR 97138
710270003000

Lowenberg Terry M/Molly
PO Box 2730
Gearhart, OR 97138
71021D000600

Seaside Christian Church
PO BOX 280
Seaside, OR 97138

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Fairless James
PO BOX 595
Seaside, OR 97138
710270002000

Stockenberg John F/Judith M
PO BOX 614
Warrenton, OR 97146
710270001908

Hill Brad Trustee
PO Box 638
Warrenton, OR 97146
71022C0029

North Coast Land Conservancy Inc
PO BOX 67
Seaside, OR 97138
71028AA01400

Bailey John A
PO BOX 902
Warrenton, OR 97146
71022C003001



State Of Oregon

County Of Clatsop } ss.

Copy Of Advertisement

Affidavit of PUBLICATION

I, Robert D Temple, being duly sworn, depose and say that I am the principal clerk of the manager of the DAILY ASTORIAN, a newspaper of general circulation, as defined by section ORS 193.010 and 193.020 Oregon Compiled Laws, Annotated, printed and published daily at Astoria in the aforesaid county and state; the Legal Notice #AB1477 Notice of Public Hearing Variance Request (M. Leroy Olvey) a printed copy of which is hereto attached, was published in the entire issue of said newspaper for one successive and consecutive time(s) in the following issues Dec 21, 2007.

Signed

[Handwritten signature]

Signed and attested before me on the 21st day of December 2007, by:

[Handwritten signature]



Notary Public for the State of Oregon, Residing at Astoria, Oregon, Clatsop County.

AB1477
CLATSOP COUNTY PLANNING COMMISSION
NOTICE OF PUBLIC HEARINGS

NOTICE IS HEREBY GIVEN that the Clatsop County Community Development Department has received the land use applications described below. Public hearings on these matters are scheduled before the Clatsop County Planning Commission at the times specified below on Tuesday, January 8, 2008 at the Judge Guy Boyington Building, 857 Commercial Street, Astoria, OR:

10:00 a.m. 1 A Variance request by Douglas West for M. Leroy Olvey to the 50-ft. highway setback on the Clatsop Plains.

10:00 2.A Variance request by Claude Kurtz to the 50-ft. highway setback and the 50-ft resource zone setback in the Knappa-Svensen area

11:00 3. A Comprehensive Plan/Zoning Map Amendment and Exception request by Parker Consulting for Russell Earl and Osburn-Olson LLC from RA-5 to RA-2 and an exception to Statewide Planning Goal 14 (Urbanization).

1:00 p.m. 4. A Subdivision request by James & Virginia Carlson for a 31-lot subdivision located south of Miles Crossing/Jeffer's Garden and west of Young's River Road along Tucker Creek Lane. Continued from November 13, 2007

3:00 5. A Comprehensive Plan/Zoning Map Amendment, Comprehensive Plan Text Amendment to Goal 5 Background Report and Geologic Hazard Permit applications by Paul Hribernick of Black Helteline LLP for Big River Holdings Inc. on property owned by Weyerhaeuser Inc and Big River Holdings Inc

All interested persons are invited to testify in person by attending the hearing, or they may testify in writing by addressing a letter to the Clatsop County Planning Commission, 800 Exchange Street, Suite 100, Astoria, OR 97103. Written comments may also be sent via FAX to 503-336-3666 or via email to comdev@co.clatsop.or.us. Written comments must be received in the Community Development office no later than 5PM on Monday, January 7, 2008 in order to be considered at the January 8, 2008 public hearing. Written comments may also be submitted directly to the Planning Commission at the public hearing.

Failure of an issue to be raised in a hearing, in person or by letter, or failure to provide statements or evidence sufficient to afford the decision maker an opportunity to respond to the issue precludes an appeal based on that issue

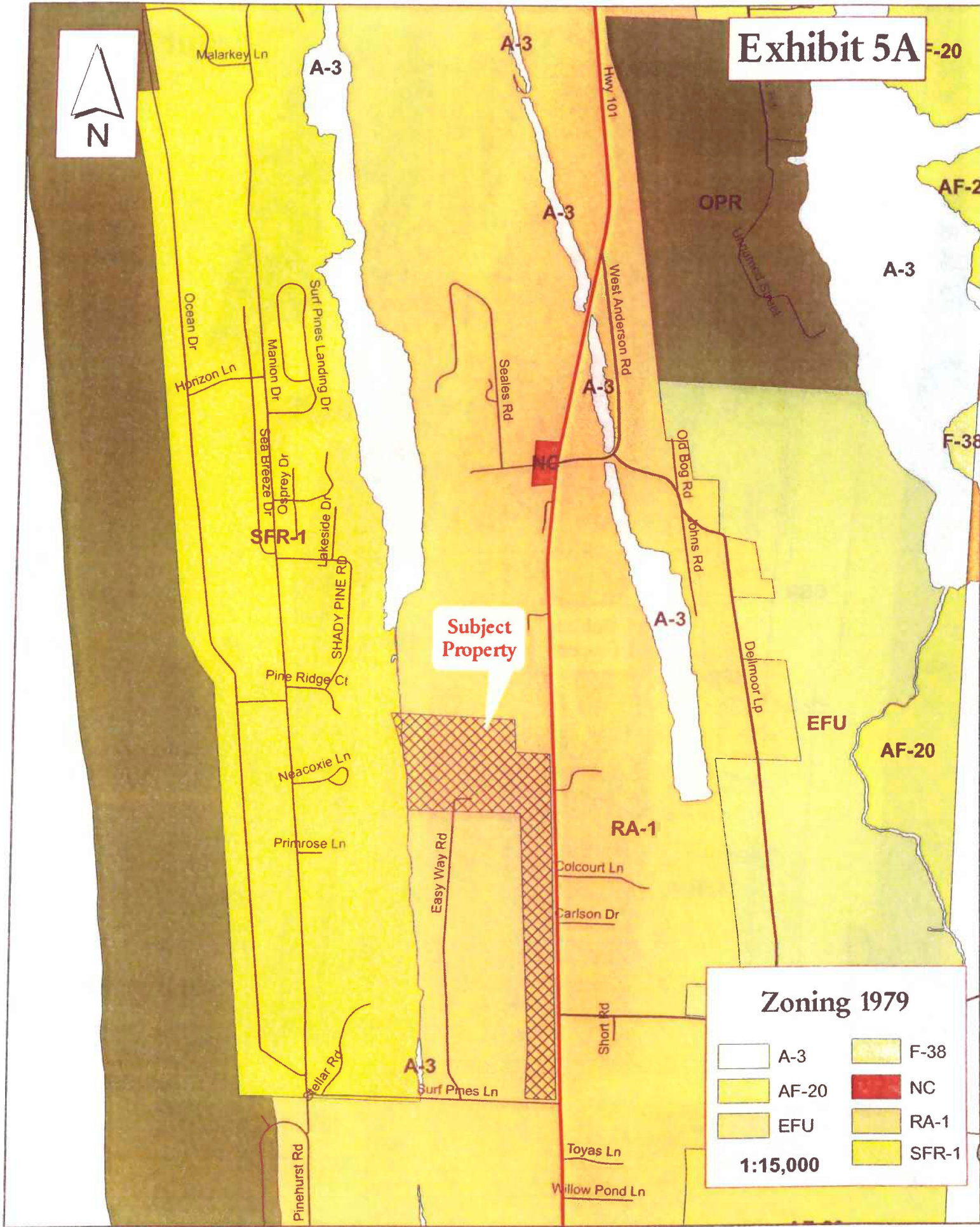
A copy of the applications, all documents and evidence submitted by or on behalf of the applicants and applicable criteria are available for inspection at the Community Development Department Office during normal business hours (M-F, 8-5) at no cost and will be provided at reasonable cost. Copies of the staff reports will be available for inspection at the Clatsop County Community Development Department office and on-line at www.co.clatsop.or.us at least seven days prior to the hearing.

If you have questions about these land use matters please contact Clatsop County Community Development Department at (503) 325-8611

Published: December 21st, 2007

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Community Development
CLATSOP COUNTY

Exhibit 5A

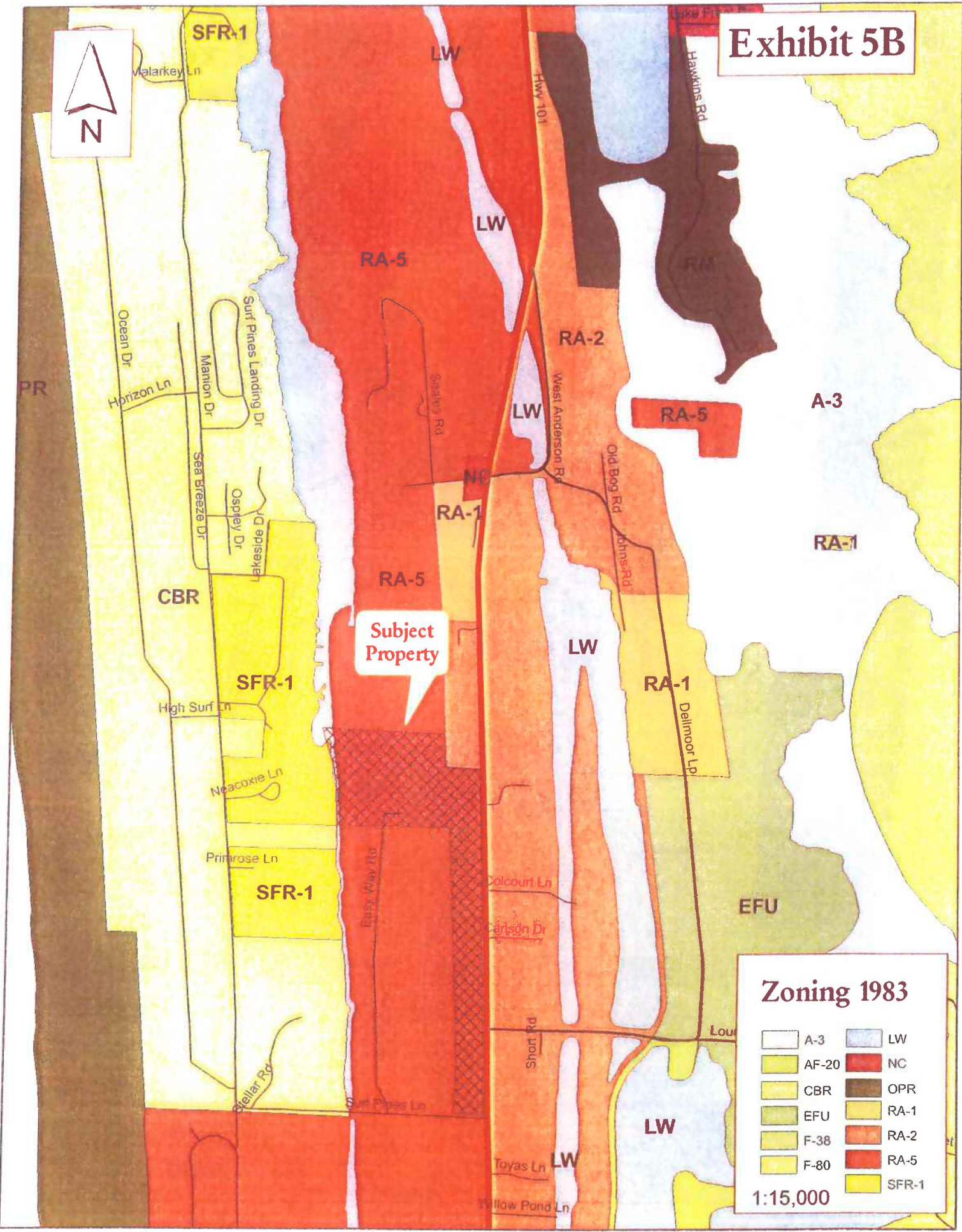


Zoning 1979

	A-3		F-38
	AF-20		NC
	EFU		RA-1
			SFR-1

1:15,000

Exhibit 5B

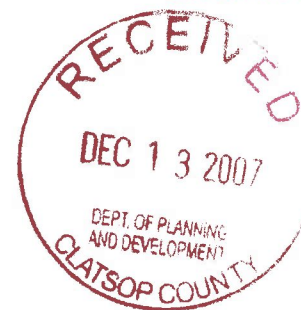


Subject Property

Zoning 1983

	A-3		LW
	AF-20		NC
	CBR		OPR
	EFU		RA-1
	F-38		RA-2
	F-80		RA-5
	SFR-1		SFR-1

1:15,000



Volunteer Fire Department

P.O. Box 2530 • Gearhart, OR 97138

December 10, 2007

Patrick Wingard, Principal Planner
Clatsop County Community Development
800 Exchange St., Suite 100
Astoria, Oregon 97103

RE Zoning Change (RA-5 to RA-2), Russ Earl & Osburn-Olson LLC
T7N - R10W - SEC 22C TL 2900 & T7N - R10W, SEC 27, TL's
3300, 3400, 3600, 3700

Mr. Wingard,

Fire Department Access & Water Supply

Fire Department Access:

Fire Department Access shall meet the guidelines as set forth in the OFC Application Guide and the Oregon Fire Code. This can be done if the zoning change is approved and prior to any final approval of the actual development plans (access, roads & turnarounds)

Fire Department Water Supply:

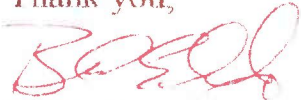
With respects to Fire Department Water Supply, this Zone change presents a unique issue that needs to be addressed prior to approval. Since the applicants

are requesting a zoning change for a higher density of buildable lots Water Supply requirements shall need to be as follows for the adequate fire protection and to ensure the present level of protection to the residents of the Gearhart Rural Fire Protection District not be jeopardized.

1. A hydrant system meeting the requirements set forth in the Oregon Fire Code shall be required.
2. Fire flow requirements shall meet the requirements set forth in the Oregon Fire Code

If you should have any questions, or feel you need my presence at the Public Hearing please contact me

Thank you,



Bill Eddy
Fire Chief
Gearhart Fire Department

cc Gearhart Rural Fire Protection Board Members
File

Clatsop Plains Buildable Lands Inventory

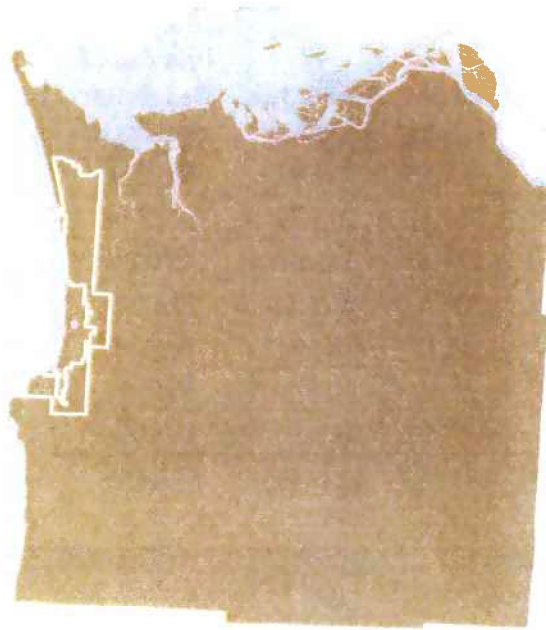
January 2008

Residential Acreage Breakdown

	Total Acreage	Built Acreage	Buildable Acreage	Percent of Buildable Acreage
CBR	640.21	408.79	231.42	36.15%
RA-1	575.39	362.10	213.29	37.07%
RA-2	523.49	287.85	235.64	45.01%
RA-5	1425.04	398.53	1026.51	72.03%
RSA-MFR	27.85	22.15	5.69	20.42%
RSA-SFR	42.97	36.12	6.87	15.99%
SFR-1	335.64	217.52	118.12	35.19%
Totals	3570.59	1733.07	1837.52	51.46%



Clatsop Plains Buildable Lands Inventory



Non-Residential Zoning	Acres
AF	807.48
EFU	446.15
F-80	3,605.85
GC	50.55
LW	1,370.39
MR	983.54
NC	8.46
NS	11.12
NU	146.52
OPR	477.74
QM	47.38
RM	699.42
TC	6.21
Total	8,660.81

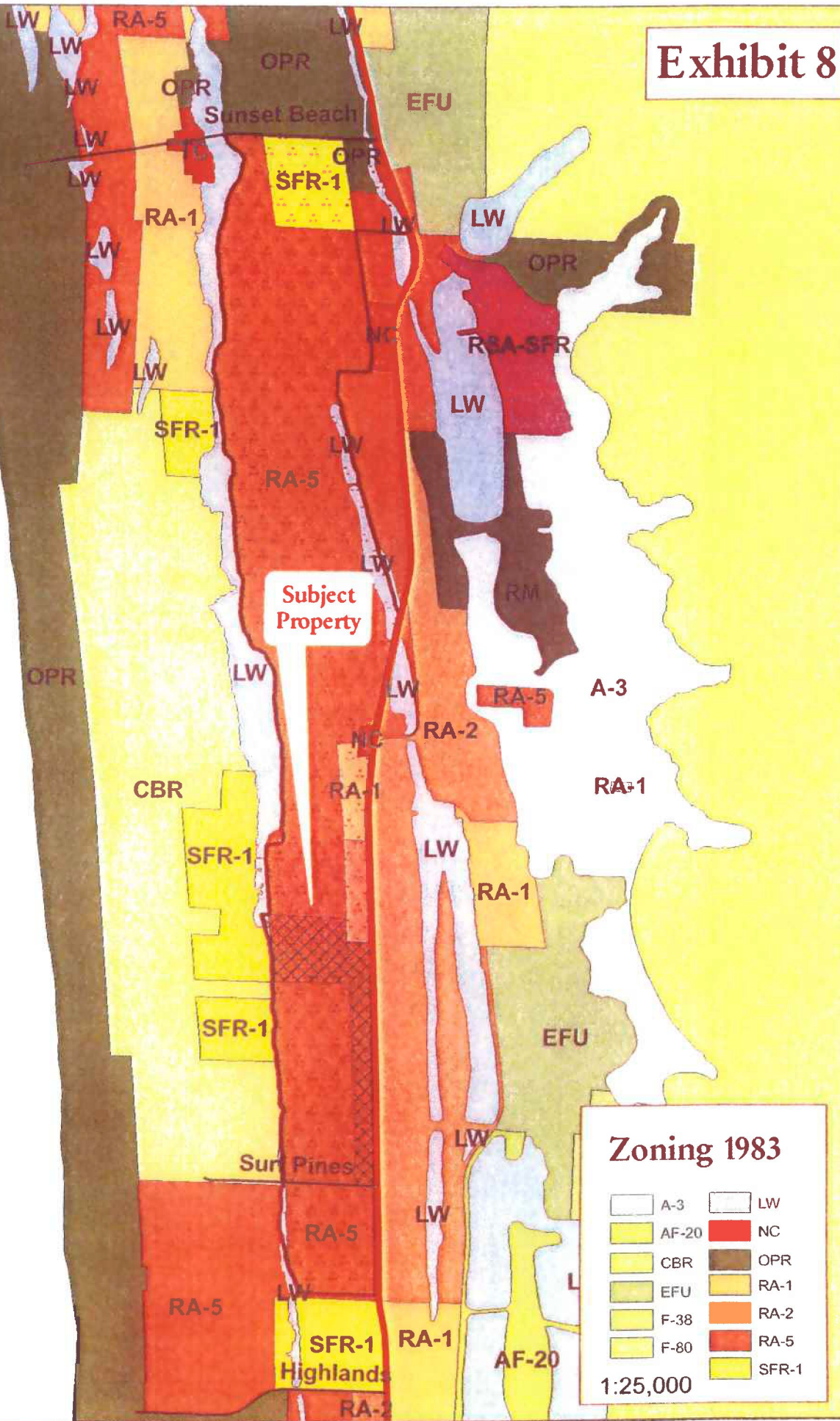
Total Residential Acreage	3,570.59
Total Non-Residential Acreage	8,660.85
Total Clatsop Plains Acreage	12,231.44

	Minimum Lot size	Min lot size or greater	Less than Min lot size	Total lots	Projected Lots of Record*	Estimated Buildable Lots	Percentage of Est. Buildable Lots
CBR	1 acre	87	32	119	16	103	86.55%
RA1	2 acre	24	155	179	78	102	56.98%
RA2	2 acre	90	140	230	70	160	69.57%
RA5	5 acre	66	401	467	201	267	57.17%
RSA-MFR	15,000 ft ²	3	3	6	1	4	66.67%
RSA-SFR	15,000 ft ²	23	139	162	70	93	57.41%
SFR-1	1 acre	132	218	350	109	241	68.86%
Totals		425	1088	1513	545	970	64.11 %

Exhibit 8



Clatsop Plains Scenic Area



Zoning 1983

	A-3		LW
	AF-20		NC
	CBR		OPR
	EFU		RA-1
	F-38		RA-2
	F-80		RA-5
			SFR-1

1:25,000

EXHIBIT "A"

COMPREHENSIVE PLAN,
ZONING AND STANDARDS
REVISIONS
VOLUME I

(LCDC In Order to Comply Statements)

Board of Commissioners Adoption: 9-30-83

Ordinance 83-17

Effective Date: 9-30-83

Add to Clatsop Plains Community Plan under Rural Lands:

Lands west of U.S. Highway 101

The area shown on Map 1 comprises approximately 4000 acres. It is located west of U.S. Highway 101 between the UGB's of Warrenton on the north and Gearhart on the south. An exception is not necessary for this area because it is not resource land under the definitions in Goal 3 - Agricultural Lands - or Goal 4 - Forest Lands.

GOAL 3

The sand dunes west of U.S. Highway 101 are predominantly Class VI and VIII soils as defined by the U.S. Department of Agriculture Soil Conservation Services Soil Capability Classification System and therefore do not meet the first part of the three part definition of agricultural lands in the Agricultural Lands Goal.

The second part of the definition is commonly referred to as the "other lands" test and requires the determination of whether the property, even though it does not consist of Class I through IV soils, is suitable for farm use taking into consideration soil fertility, suitability for grazing, climate conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, and technological and energy inputs required for accepted farming practices.

The third part of the definition of agricultural lands is lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands.

Clatsop County finds that the sand dunes west of Highway 101 are not agricultural land using the definition from Goal 3. The basis for this finding is elaborated below in response to the specific parts of the definition.

Part 1 - Soil Types

As indicated above, soils are primarily Class VI and VIII, a Westport-Gearhart sand association. In certain areas, the top soil horizon has been eroded away, leaving bare sand. The Soil Conservation Service soil classification is followed by the letter "e" - indicating erosion is a hazard. These soils do not fall within Classes I-IV; the criteria of the first part of the three part definition of agricultural lands.

6/17/83

GOAL 4

The lands west of Highway 101 are not considered forest lands using the definition in Goal 4. That definition reads:

- 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;
- 4) other forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

- 1) Commercial Timber Production. Only two quarter sections out of the entire area have a commercial forest site class - and this includes an averaging of lands in the quarter section which lie east of Highway 101. Almost the entire area has no forest site class - and is not considered suitable for commercial timber production.
- 2) Other Forested Lands. Most of the area is not forested. From aerial photos it is estimated that approximately 1/4 of the area is covered with trees. The only native tree species to grow here is the shore pine, Pinus contorta, not a commercial species.

The entire area is considered a watershed, as it overlies a large aquifer. This aquifer has been the subject of intensive study with the Clatsop Plains Groundwater Protection Study and Plan. This Plan resulted in an Environmental Quality Commission Rule designed to protect the aquifer as a potable water source. This rule was created assuming one acre density zoning on much of the Clatsop Plains. No further steps are necessary to protect this aquifer.

The entire area is excluded from big game range by the Oregon Department of Fish and Wildlife. It is already considered so impacted by residential development that it is not significant range for deer or elk.

Fisheries habitat in the area is protected by the Coastal Lake and Freshwater Wetlands zone which covers all the open water and significant wetlands.

December 15, 2007

Hugh A. Seppa
Carol J. Seppa
33416 West Lake Lane
Warrenton, OR 97146

Clatsop County Community Development Department
800 Exchange Street, Suite 100
Astoria, OR 97103

RECEIVED
DEC 31 2007
Community
Development
CLATSOP COUNTY

RE: Proposed Zone Change, on Russell Earl and Osburn-Olson LLC. Property owners, to change the Zoning on the Subject Property from Residential-Agricultures-5 (RA-5) to Residential-Agriculture-2 (AR-2)

Dear Commissioners:

We are writing concerning the proposed zone change on the Earl/Osburn property. We own adjoining property to the north, tax lots 7-10-21-2500 and 2501. We do not object to the proposed zone change, or to development of the Earl property for rural residences, so long as it complies with applicable County and state requirements.

We have reviewed the County's criteria for a zone change/plan amendment. Our land is similar to the Earl property, especially when evaluated against these criteria. If the Planning Commission recommends approval of the proposed amendment on the Earl property, a similar amendment should be favorably considered for our property.

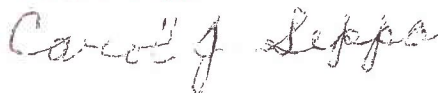
Please enter this letter into the record for this proceeding, and notify us of your decision.

Sincerely,

Hugh A. Seppa



Carol J. Seppa





January 3, 2008

RE: Earl/ Osburn / Olson Zone Change

To: Clatsop County Planning Commission

We live adjacent to this property on the west side of the creek. This property is currently zoned RA-5 and our property is zoned SFR-1. Our house looks over the creek to this property.

This property is bordered on the north and south sides by RA-5 zoning. The property to the south which is the Wideman property is currently under development.

We feel that this property should remain zoned RA-5 as is the properties to the north and south.

Changing this zone will allow for an increased density of housing, a reduced habitat area for the elk and other animals, an increase in air pollution and an increase in traffic onto Highway 101.

We are therefore opposed to the rezoning of this property and would also like to see an increase in the buffer area along the creek to 100 feet with no disturbance of any kind taking place in this area.

Molly Lowenberg
33287 Pine Ridge Ct.
Warrenton, OR. 97146

January 7, 2008

Land Use Planning
800 Exchange St., Suite 100
Astoria, OR 97103



Planning Commissioners:

As a Clatsop County resident and voter, I am writing to encourage you to DENY the "Comprehensive Plan/Zoning Map Amendment and Exception" request by Parker Consulting for Russell Earl and Osburn-Olson LLC from RA-5 to RA-2 and an exception to Statewide Planning Goal 14 (Urbanization). I support the staff report's findings and wish to emphasize several points. The application does not meet several of the zone change criteria laid out in Section 5.412.

Section (1) The proposed change is inconsistent with the Clatsop County Comprehensive Plan. The Plan and accompanying zoning, protects the county from negative growth patterns, focusing higher density areas closer to cities and in better proximity to public services. Also, the Clatsop Plains Community Plan states as its goals to:

- | | |
|----|--|
| 1 | protect and maintain the natural resources, natural environment and ecosystems, |
| 2. | respect the natural processes, |
| 3, | strive for well designed and well placed development, and |
| 4 | preserve the semi-rural, agricultural, open space and marine characteristics of the area |

This change is clearly at odds with all of these goals. The Plan and Zoning Maps were carefully developed through public process to protect the County as a whole. The proposed change benefits particular individuals at the expense of the community as a whole.

Section (5) The proposed change is inconsistent with the character of the area and is incompatible with the overall zoning pattern. The area is low density. The properties are part of an area all zoned R-5.

Section (7) The proposed change does not encourage the most appropriate use of land throughout Clatsop County. Our comprehensive plan and specifically, zoning is a growth management tool that seeks to direct growth in order to promote more compact, contiguous urban development and protect scenic areas, farmlands and other resource lands from sprawl and scattershot development. It protects the beauty of our communities and our quality of life.

Please think of the community as a whole and deny this zone change request.

Sincerely,

A handwritten signature in red ink that appears to read "Nadia Gardner".

Nadia Gardner
80285 Woodland Rd
Arch Cape, OR 97102

***Oregon Shores* Conservation Coalition**

P. O. Box 1344

Depoe Bay, Oregon 97341



Clatsop County Planning Commission
800 Exchange St., Suite 310
Astoria, OR 97103

January 11, 2008

RE: Earl and Osborn-Olson LLC Zoning Map Amendment and Goal Exception

Dear Members of the Commission:

The Goal One Coalition (Goal One) is a nonprofit organization whose mission is to provide assistance and support to Oregonians in matters affecting their communities. Goal One is appearing in these proceedings at the request of and on behalf of its membership residing in Clatsop County. This testimony is presented on behalf of Oregon Shores Conservation Coalition (OSCC, P.O. Box 1344 Depoe Bay, OR 97341); and OSCC's membership in Clatsop County.

I. Introduction

This is an application for a zoning map amendment and an associated goal exception for a 50.8-acre property located west of Highway 101 and north of Surf Pines Lane in the Clatsop Plains area of Clatsop County.

The applicant proposes changing the zoning from RA-5, Residential Agriculture-5 (five acre minimum lot size) to Residential Agriculture-2 (two acre minimum lot size). The applicant also requests an exception the statewide planning Goal 14 – Urbanization.

The subject property is comprised of five contiguous parcels identified as T7N, R10W, Section 22C, tax lot 2900; and T7N, R10W, Section 27, tax lots 3300, 3400, 3600, and 3700. Tax Lot 2900 was created in 1997 without the required county review and approval.

The area in which the subject property is located consists of single-family residences and large tracts of open space. The land consists of rolling vegetated sand dunes.

No exceptions to statewide planning goals 3 or 4 were taken when the subject property was initially zoned RA-5. Rather, the subject land was determined to be “nonresource” land.

II. Criteria applicable to the request

Clatsop County Land and Water Development and Use Ordinance (LWDUO) 5.412 sets forth zone change criteria:

“The governing body shall approve a non-legislative zone designation change if it finds compliance with Section 1.040, and all of the following criteria:

- “(1) The proposed change is consistent with the policies of the Clatsop County Comprehensive Plan.
- “(2) The proposed change is consistent with the statewide planning goals (ORS 197).
- “(3) The property in the affected area will be provided with adequate public facilities and services including, but not limited to:
 - “(A) Parks, schools and recreational facilities
 - “(B) Police and fire protection and emergency medical service
 - “(C) Solid waste collection
 - “(D) Water and wastewater facilities
- “(4) The proposed change will insure that an adequate and safe transportation network exists to support the proposed zoning and will not cause undue traffic congestion or hazards.
- “(5) The proposed change will not result in over-intensive use of the land, will give reasonable consideration to the character of the area, and will be compatible with the overall zoning pattern.
- “(6) The proposed change gives reasonable consideration to peculiar suitability of the property for particular uses.
- “(7) The proposed change will encourage the most appropriate use of land throughout Clatsop County.
- “(8) The proposed change will not be detrimental to the health, safety and general welfare of Clatsop County.

The Clatsop County Comprehensive Plan Goal 2 – Land Use Planning, Rural Lands, Designation of Rural Lands Policy provides, in relevant part:

- “Residential densities are generally designated through the following additional criteria:
- “a. Where subdivisions or partitioning or both have occurred in a one acre pattern of development the area will be placed in one of the one acre zones;
 - “b. In areas with a development pattern of two to five acre parcels (some smaller and some larger), the areas will be placed in a two acre zone;
 - “c. In areas adjacent to resource (forest, agriculture, wetlands, estuary areas) lands, or Camp Rilea, the areas will be placed in a five acre zone;
 - “d. In areas where large parcels (15 acres or greater) of non-resource land are located, the areas will be placed in a five acre zone;
 - “e. In addition to criteria a through d, minimum lot sizes increase with increasing distance from the following areas:

- “1. all urban growth boundaries
- “2. Svensen center
- “3. Knappa center”

OAR 660 Division 14 governs application of the statewide planning goals to urban development on rural lands.¹ “Committed” exceptions are addressed in OAR 660-014-0030 and “reasons” exceptions are addressed in OAR 660-014-0040.²

¹ The conclusion of the Staff Report that the goal exception criteria of ORS 660-014 are not applicable is not correct. *See VinCEP v. Yamhill County*, __ Or App __ (A135362, October 10, 2007).

² OAR 660-014-0030 sets forth criteria for an “irrevocably committed” exception to Goal 14 and provides:

“(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals 14’s requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

“(2) A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

“(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:

“(a) Size and extent of commercial and industrial uses;

“(b) Location, number and density of residential dwellings;

“(c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and

“(d) Parcel sizes and ownership patterns.

“(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.

“(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

OAR 660-014-0040 sets forth criteria governing the establishment of new urban development on undeveloped rural lands (“reasons” exception criteria):

-
- “(1) As used in this rule, “undeveloped rural land” includes all land outside of acknowledged urban growth boundaries except for rural areas committed to urban development. This definition includes all resource and nonresource lands outside of urban growth boundaries. It also includes those lands subject to built and committed exceptions to Goals 3 or 4 but not developed at urban density or committed to urban level development.
- “(2) A county can justify an exception to Goal 14 to allow establishment of new urban development on undeveloped rural land. Reasons that can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.
- “(3) To approve an exception under section (2) of this rule, a county must also show:
- “(a) That Goal 2, Part II (c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;
- “(b) That Goal 2, Part II (c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at 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 on other undeveloped rural lands, considering:
- “(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and
- “(B) Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.
- “(c) That Goal 2, Part II (c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:
- “(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and
- “(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.
- “(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner; and
- “(e) That establishment of an urban growth boundary for a newly incorporated city or establishment of new urban development on undeveloped rural land is coordinated with comprehensive plans of affected jurisdictions and consistent with plans that control the area proposed for new urban development.
- “(4) Counties are not required to justify an exception to Goal 14 in order to authorize industrial development, and accessory uses subordinate to the industrial development, in buildings of any size and type, in exception areas that were planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714.

III. Analysis

A. An exception to Goal 14 may not be approved.

1. An “irrevocably committed” exception may not be approved.

The subject property is not “irrevocably committed” to uses not allowed by Goal 14 under the criteria of OAR 660-014-0030. Development of the property with minimum lot sizes of 5 acres is possible and consistent with surrounding uses. There are no existing commercial or industrial uses. The subject property is developed with only a single dwelling. The subject property is not served by any urban facilities or services, and is specifically not provided with public water or sewer facilities. The existing parcel sizes and ownership patterns within the subject property have not committed the subject property to development at urban densities.

2. A “reasons” exception may not be approved.

OAR 660-014-0040 requires findings that an urban population and urban levels of facilities and services are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource. No such economic activity generating a need for urban levels of development has been identified.

The applicant demonstrated that any such need cannot be accommodated within nearby urban growth boundaries or by intensification of development within existing rural communities. Neither have the required ESEE or compatibility analyses been conducted.

None of the requirements of OAR 660-014-0040 have been addressed.

B. The zoning map amendment may not be approved.

Oregon Shores concurs with Staff’s conclusion that the zone change is not consistent with applicable Goal 2 Land Use Planning plan policies.

The subject property is not within an area with a development pattern of two to five acre parcels. Rather, it is within an area where large parcels of non-resource land are located. In addition, the subject property is some distance away from the nearest urban growth boundary – approximately two miles north of Gearhart, and approximately six miles south of Warrenton.

The proposed zone change does not reflect orderly growth patterns as intended by the goals and policies of the Clatsop Plains Community Plan (CPCP).

The applicant has not demonstrated that allowed development could be supported by adequate supplies of water for domestic use and fire flows as required by CPCP Policy 2. Statewide planning Goal 11

and OAR 660-011-0065 prohibit the establishment or extension of a water system which would result in increased densities on rural lands.

Increased residential densities fail to minimize negative impacts to the environment and natural resources as required by CPCP Policy 3.

IV. Conclusion

The requested exception to Goal 14 may not be approved. The applicable criteria have not been properly identified or addressed. The subject property is not irrevocably committed to urban uses. No economic activity in the area generating a need for urban levels of development has been identified; nor has it been established that any such need could not be met within UGBs or unincorporated communities, or could not be better met with fewer adverse consequences on alternative sites.

The proposed zone change is not consistent with the Clatsop County Comprehensive Plan.

Establishment or extension of a water system to enable the requested increased densities is not allowed by OAR 660-011-0065.

Goal One and other parties whose addresses appear in the first paragraph of this letter request notice and a copy of any decision and findings regarding this matter.

Respectfully submitted,

Cameron La Follette
Land Use Director
Oregon Shores Conservation Coalition

Oregon Shores Conservation Coalition

P. O. Box 1344

Depoe Bay, Oregon 97341



Clatsop County Board of Commissioners
800 Exchange St., Suite 310
Astoria, OR 97103

February 25, 2008

RE: Earl and Osborn-Olson LLC Zoning Map Amendment and Goal Exception

Dear Commissioners:

The Goal One Coalition (Goal One) is a nonprofit organization whose mission is to provide assistance and support to Oregonians in matters affecting their communities. Goal One is appearing in these proceedings at the request of and on behalf of its membership residing in Clatsop County. This testimony is presented on behalf of Goal One and its membership; Oregon Shores Conservation Coalition, P.O. Box 1344 Depoe Bay, OR 97341; and Oregon Shore's membership in Clatsop County.

I. Introduction

This is an application for a zoning map amendment and an associated goal exception for a 50.8-acre property located west of Highway 101 and north of Surf Pines Lane in the Clatsop Plains area of Clatsop County.

The applicant proposes changing the zoning from RA-5, Residential Agriculture-5 (five acre minimum lot size) to Residential Agriculture-2 (two acre minimum lot size). The applicant also requests an exception the statewide planning Goal 14 – Urbanization.

The subject property is comprised of five contiguous parcels identified as T7N, R10W, Section 22C, tax lot 2900; and T7N, R10W, Section 27, tax lots 3300, 3400, 3600, and 3700. Tax Lot 2900 was created in 1997 without the required county review and approval.

The area in which the subject property is located consists of single-family residences and large tracts of open space. The land consists of rolling vegetated sand dunes.

No exceptions to statewide planning goals 3 or 4 were taken when the subject property was initially zoned RA-5. Rather, the subject land was determined to be "nonresource" land.

Oregon Shores submitted a letter to the Planning Commission dated January 11, 2008. Oregon Shores asks that the Board review and consider that letter.

The purpose of this letter is to address the Planning Commission's decision and findings regarding compliance with requirements for an exception to Goal 14 to allow for development at 2-acre densities.

II. Criteria applicable to the request

Criteria for "committed" exceptions to the statewide planning goals are set forth in ORS 197.732, Goal 2 Part II, and OAR 660-004-0028.

OAR 660 Division 14 governs application of the statewide planning goals to urban development on rural lands.¹ "Committed" exceptions are addressed in OAR 660-014-0030.²

¹ The conclusion of the Staff Report that the goal exception criteria of ORS 660-014 are not applicable is not correct. See *VinCEP v. Yamhill County*, __ Or App __ (A135362, October 10, 2007).

² OAR 660-014-0030 sets forth criteria for an "irrevocably committed" exception to Goal 14 and provides:

"(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

"(2) A decision that land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as land that is built upon at urban densities or irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate findings of fact.

"(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the following:

"(a) Size and extent of commercial and industrial uses;

"(b) Location, number and density of residential dwellings;

"(c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and

"(d) Parcel sizes and ownership patterns.

"(4) A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining

III. Analysis

A. An exception to Goal 14 may not be approved.

1. An “irrevocably committed” exception may not be approved.

The Planning Commission in its decision failed to address OAR 660-014-0030 or to make findings addressing all of the factors set forth in Section 3 of that rule.

The Planning Commission failed to identify commercial and industrial uses on the proposed exception area; the location, number and density of residential dwellings on the proposed exception area; the location of urban levels of facilities and services, including at least public water and sewer facilities, serving or available to serve the proposed exception area, and parcel sizes and ownership patterns within proposed exception area.

The Planning Commission’s findings fail to explain how its conclusion that the proposed exception area is irrevocably committed to urban development is based on its consideration of all of the Section 3 factors.

Finally, the Planning Commission’s findings fail to explain why developing the proposed exception area at 5-acre lot or parcel sizes is impracticable. Development of the property with minimum lot sizes of 5 acres is both possible and consistent with surrounding uses. There are no existing commercial or industrial uses. The subject property is developed with only a single dwelling. The subject property is not served by any urban facilities or services, and is specifically not provided with public water or sewer facilities. The existing parcel sizes and ownership patterns within the subject property have not committed the subject property to development at urban densities.

IV. Conclusion

All of the criteria applicable to a Goal 14 exception – specifically OAR 660-014-0030 –have not been addressed and cannot be satisfied. Therefore the requested exception to Goal 14 may not be approved.

Oregon Shores and other parties whose addresses appear in the first paragraph of this letter request notice and a copy of any decision and findings regarding this matter.

Respectfully submitted,

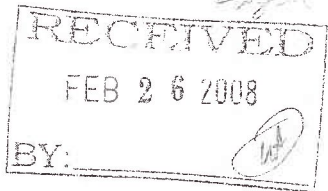
why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.

“(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.



Cameron La Follette
Land Use Director

704-111
COPY to - ROBERT
K...
K...
K...



Clatsop County Board of Commissioners
800 Exchange St., Suite 310
Astoria, OR 97103

February 26, 2008

RE: Ordinance No 08-03 Amending Clatsop County Comprehensive Plan/Zoning Map & Adoption a Goal Exception, Applicant Earl et al.

Commissioners,

As a voter and taxpayer, I am writing to urge you to deny the request by the Earl family to re-zone 50 acres in Clatsop Plains from R-5 to R-2, which would change the minimum lot sizes from 5 acre to 2 acres. This decision will open the doors to the re-zoning, loss of farmland, and suburban-style development of up to 900 acres from Gearhart to Warrenton.

When done well, development can help create more economic opportunities, build great places where people want to live and visit, preserve the qualities people love about their communities, and protect natural resources. When not carefully thought out, development can have many negative consequences, including decreased livability, strained infrastructure and services, more traffic and pollution, loss of farms and timberland, and loss of scenic views and wildlife.

One of the best ways we can protect ourselves from these negative consequences is to strengthen and direct development towards existing communities and not allow sprawling, low-density development to occur. By encouraging development in existing developed areas, communities benefit from a stronger tax base, closer proximity of jobs and services, increased efficiency of already developed land and infrastructure, reduced development pressure in fringe areas, and preservation of farms, timber land and open space. Instead of building roads, sewer pipes, and water lines further and further out as happens in "sprawl," money can be spent to make existing roads, transit service, sewer and water services, and other services more efficient.

This sprawling development pattern affects us all. Not only do local governments and their taxpayers absorb much of the cost of more and more roadways, profoundly longer water and electrical lines, and much larger sewer systems to support sprawling development, they must also fund public services to the new residents who live farther and farther from the core community. These new residents need police and fire protection, schools, libraries, trash removal, and other services. Stretching all these basic services over ever-growing geographic areas places a great burden on local governments and taxpayers. Property taxes from the new homes do not even start to cover these costs.

Staff has clearly demonstrated that this application does not meet the Zone change Criteria (Section 5.412). It is not consistent with State Planning Goals. For the above reasons, the State of Oregon has *Goal 14: Urbanization*. It encourages development within urban growth boundaries "to provide for an orderly and efficient transition from rural to urban land use,... to

ensure efficient use of lands and to provide for livable communities.” Astoria and Warrenton have recent buildable land inventories that show there is plenty of room to develop within their boundaries. Furthermore, Goal 14 requires that a goal exception meet strict criteria. The application fails to meet the criteria for a Goal exemption. This property can be plenty developed under its current zoning and restrictions. The applicants just want to double their money.

Furthermore, the application is not consistent with the Comprehensive Plan, including the Clatsop Plains plan. The Clatsop Plains Community Plans Goals are to:

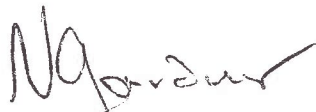
1. protect and maintain the natural resources, natural environment and ecosystems,
2. respect the natural processes,
3. strive for well designed and well placed development, and
4. preserve the semi-rural, agricultural, open space and marine characteristics of the area.

The Plan goes on to say: “The predominant growth (residential, commercial, and industrial) shall occur within the Cities of Seaside, Warrenton, Gearhart, and Hammond”.

The property has no guaranteed water and the water it is trying to get is already limited. It will be on septic, which has negative effects on Neacoxie Creek, which runs through the property. It will bring more traffic to the area as there are no stores or places of employment nearby, nor is there adequate public transportation. It does not meet the criteria of fitting the character of the area. As I discussed previously, it does not “encourage the most appropriate use of land throughout Clatsop County.”

This property and the 900 acres around it were zoned in the early 1980s through an intensively public process as 5 acre minimum lots. The wishes of a single family and a single elected Commission should not override this process. Neighboring landowners have already publically stated that they will follow suit. If there is indeed the need to re-zone this area, it should be done through a similar public process bringing in all the stakeholders, not through piecemeal re-zoning.

Development touches every part of our lives, so we should make sure we get the development we want. Please deny this application for the good of the entire county, not just the pocketbooks of one family.

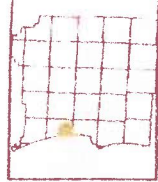


Nadia Gardner
80285 Woodland Rd
Arch Cape, OR 97103

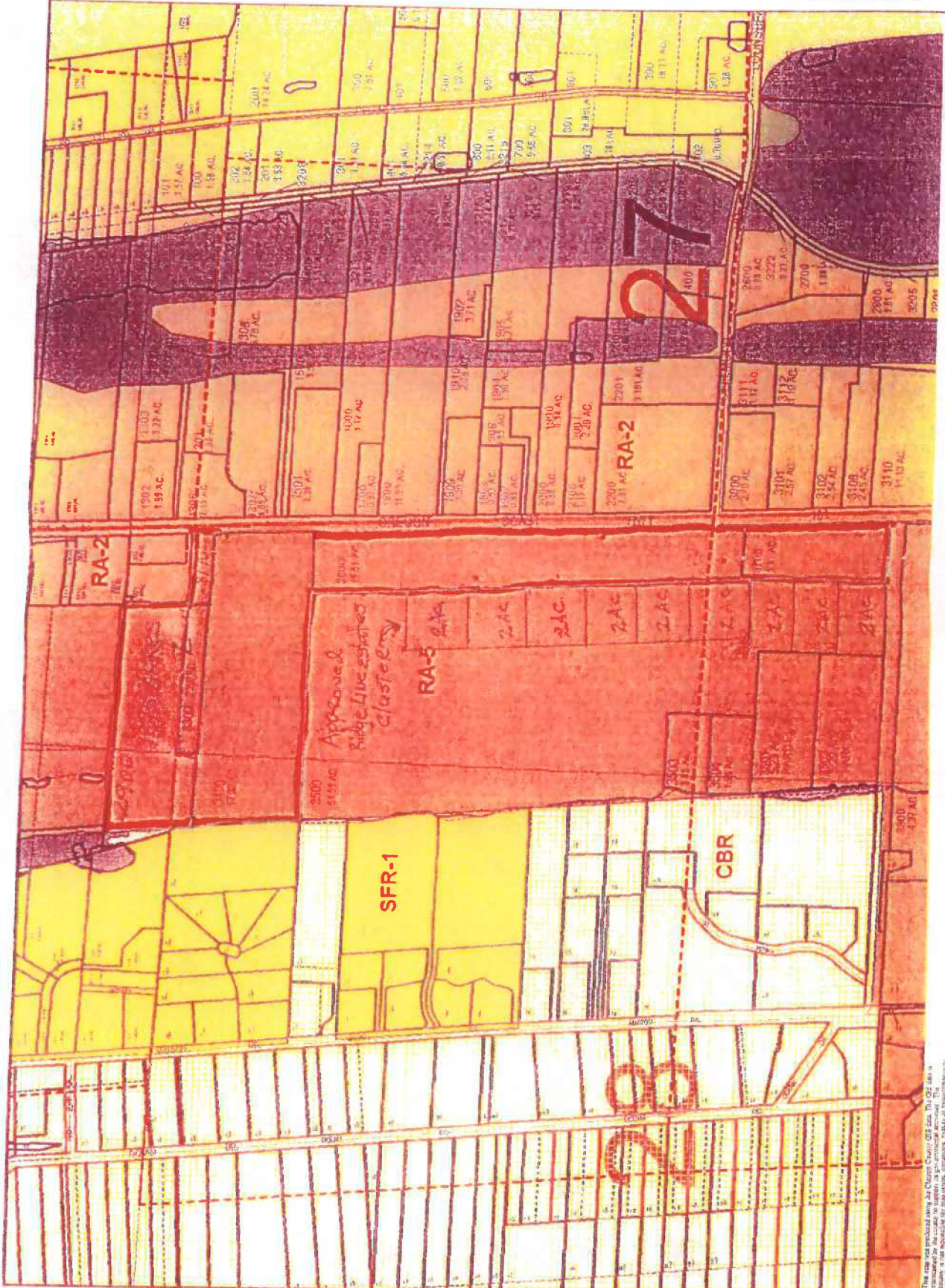
EX 11

Clatsop County Map

- PS
- Water
- 200' Contour
- 400' Contour
- 600' Contour
- 800' Contour
- 1000' Contour
- 1200' Contour
- 1400' Contour
- 1600' Contour
- 1800' Contour
- 2000' Contour
- 2200' Contour
- 2400' Contour
- 2600' Contour
- 2800' Contour
- 3000' Contour
- 3200' Contour
- 3400' Contour
- 3600' Contour
- 3800' Contour
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- 5400' Contour
- 5600' Contour
- 5800' Contour
- 6000' Contour

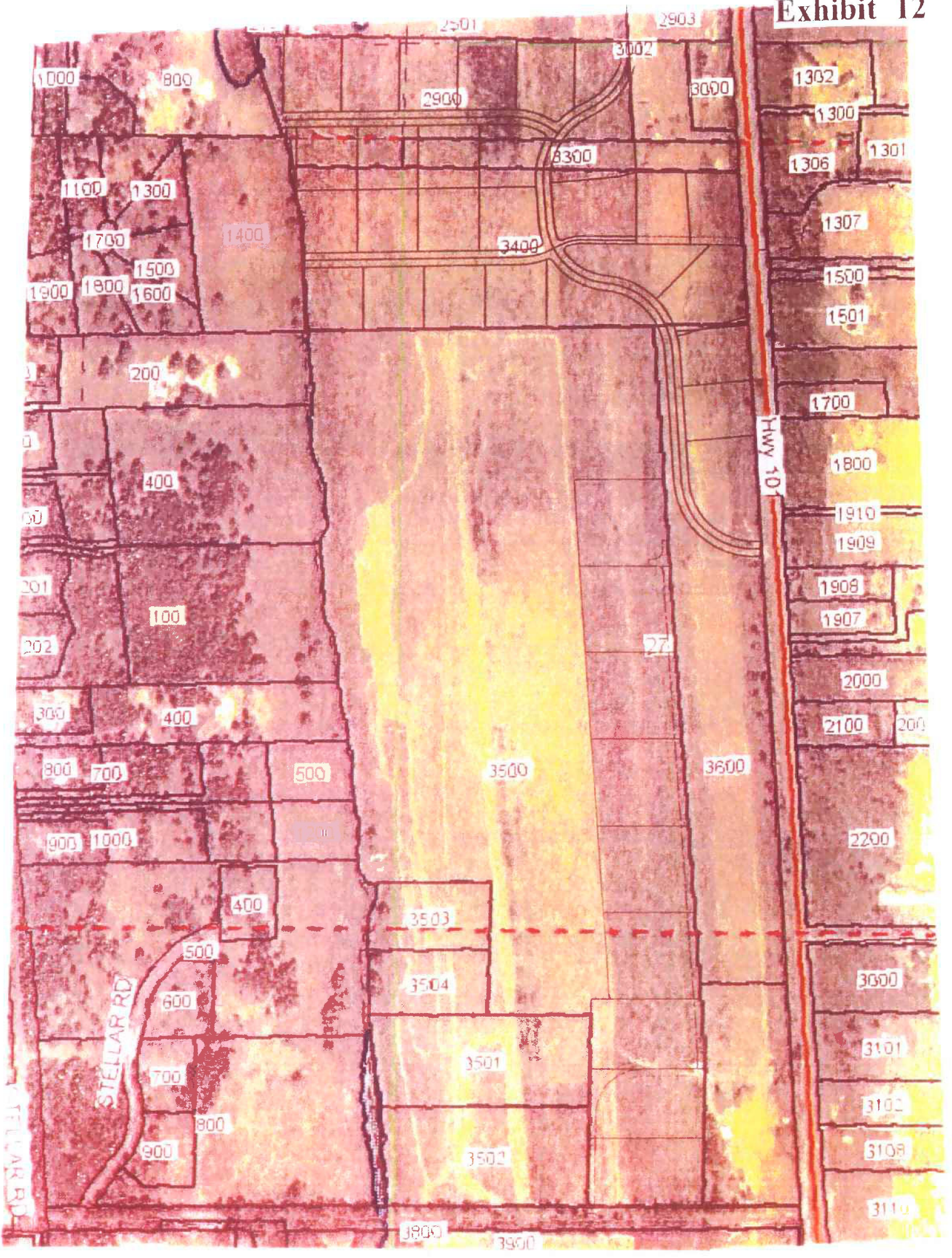


N
1" = 32,000'



116' x 654' 0"

This map was prepared by the Clatsop County GIS Department. The GIS data is maintained by the county to support its governmental functions. The accuracy of this map is dependent on the accuracy of the data provided. The map is not intended to be used for any other purpose.



January 3, 2008

Preston Polasek, City Manager
City of Warrenton
P.O. Box 250
Warrenton, OR 97146

Dear Sir

Mr. Russ Earl has approached the City of Warrenton to verify the availability of domestic water service to the properties bordered by Highway 101, Neacoxie Creek, and between Surf Pines Lane and West Lake Lane. The area would be developed for single-family residence with perhaps _____ existing and future homes. Normally, a developer with a project outside the City limits would prepare a plan with waterline extensions of sufficient size to meet domestic and fire protection needs. His plan would be submitted to the City for approval, with the developer responsible for all of the development costs.

This proposal is a little different. The developer would like to know if the City of Warrenton would participate in the costs of connecting their project to the existing water transmission line located on the abandoned railroad grade east of Highway 101. The City has expressed an interest in finding an alternative route of connecting to the transmission line in order to provide water to the south end of its service area.

The City of Warrenton provides water service to the customers living within the Pinehurst Subdivision. The City of Gearhart provides water service to the customers living within the Tiel Court, Beachwood, The Reserve, and The Highlands Subdivisions. The City of Warrenton claims ownership of the 10-inch watermain on Highlands Lane between highway 101 and The Highlands Subdivision. However, the City of Warrenton's Highland Lane watermain is not directly connected to its 20-inch transmission line; there is a section of pipeline owned by the City of Gearhart.

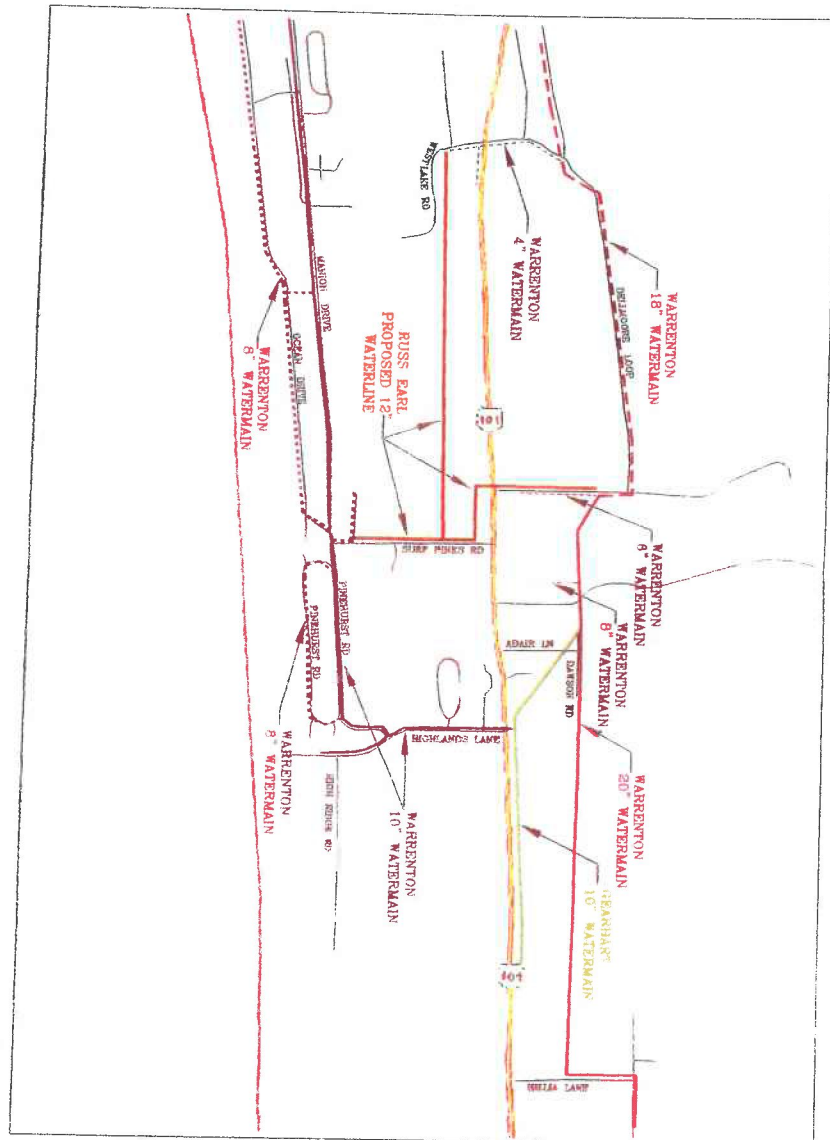
There has been a proposal to construct another watermain around the City of Gearhart's line in order to untangle this jurisdiction confusion. The best place to construct this new line is as close to Highlands Lane as possible in order to "loop" the network and not create "dead end" lines. So far, the City of Warrenton has not made a decision of what to do.

The basic proposal from Mr Russ Earl is to replace the 6-inch waterline on the south end of Dellmoor Loop Road with a 12-inch watermain. This particular 6-inch waterline was constructed by the Seaside Christian Church, it begins at the 20-inch transmission line and ends right across from the church. The new 12-inch watermain would extend across Highway 101, along Surf Pines Lane tying into the 10-inch watermain on Manion Drive that connects Pinehurst Subdivision to Surf Pines. Another 12-inch waterline would be extended from Surf Pines Lane northerly to West Lake Lane. There is a 4-inch waterline on West Lake Lane.

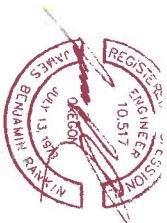
Exhibit 14

PROPOSED WATERLINE EXTENSION RUSS EARL PROJECT

SCALE 1" = 2,000'



RENEWS 12/31/08
PAGE 1 OF 1
JANUARY 3, 2008
FILE 2938-D01



Earl/Osburn Olson Zone change
1/9/08 Planning Commission meeting notes by CKI:



This is a **summary** of my notes and comments in response to Staff presentation:

Goal 2:

In regards to the Goal 2 information, Staff stated that the land **use** study criteria has not changed but Staff did not once state what the criteria was is that study that hasn't changed. The reality is that the Study is 25 years old and most likely outdated. Even if the criteria in that study has not changed, the County itself has changed significantly in 25 years.

Goal 5:

Goal 5 is in regards to open spaces yet the zone change itself will still require open spaces because both of these zones require cluster developments.

Goal 10:

Staff stated that the proposed zone change does not provide orderly development. The fact is that the proposed application does not even propose any development. It merely proposed a density change.

In regards to the term **orderly** development, if a subdivision were proposed at **this** location, it would be orderly development since the property directly to the **west** (Wideman's) is being developed at this **time**. Properties must be development next to other **developed** properties in order to provide public utility extensions. Otherwise the offsite cost to **extend** utilities past undeveloped properties **would** be too **great**.

Staff also mentioned **the** school capacity **as well as** water capacity. These things are not applicable **at** this time. **The** proposed change in **density** does **not** create additional lots. At the time **of** a subdivision application is when these become applicable because this is the time when additional lots and homes are created.

Goal 18:

Staff stated that the applicant did not address groundwater supplies. Again, this is not applicable at this time. **A rezone has no affect on** groundwater supplies. The number **of** homes allowed on the lots will remain the same until a subdivision application is approved. This is when this standard would **become** applicable.

14th Amendment:

Staff mentions the 14th amendment which requires **equal** protection. A zone change does **not** remove people's rights for equal protection. **These** rights still exist under any proposed application. The County's **procedure** for land use applications insures this.

General:

Staff's mention of the high percentage of undeveloped R5 land shows something. It shows that developing the R5 land is economically viable. The cost to build the infrastructure in order to develop such large lots outweighs the development potential. Due to the rising cost of land, a fully developed 5 acre lot would be unaffordable to most citizens.

WILLIAM E. OR CLYDENE PAUL
(503) 325-0381
SUNSET RESORT
397 MARINE DR
ASTORIA OR 97103-4327

3 LBS

1 OF 1

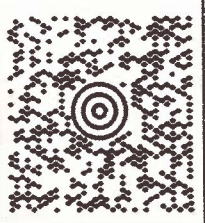
SHIP TO:
PLAN AMEN. SPEC.
DEPT. OF LAND CON. & DEV.
SUITE 150
635 CAPITOL ST. N.E.
SALEM OR 97301-2540



CLATSOP COUNTY
Transportation and Development Services
Land Use Planning
800 Exchange Street, Suite 100
Astoria, Oregon 97103
(503) 325-8611 • Fax (503) 338-3666

ATTN: RAN AMENDMENT SPEC. AUR T
DEPT. OF LAND CONSERVATION + DEV
635 CAPITOL ST. N.E., SUITE 150
SALEM, OR 97301-2540

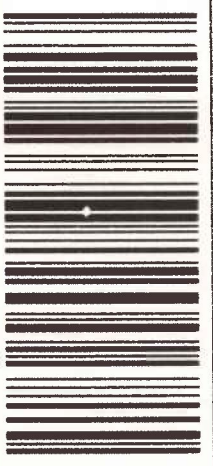
FIRST CLASS MAIL



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UPS GROUND

TRACKING #: 1Z 786 877 03 4562 5670



BILLING: P/P

REF 1: C C PLANNING NO. 715 \$9.50
REF 2: 3/19-17 MS 10 0 .41

LP2442 75 OR 01/2008

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