

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1104 (IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO (REDESIGNATE LAND FROM "FOREST" TO "MARGINAL LAND" AND (REZONING THAT LAND FROM "F-2/IMPACTED FOREST LAND" TO "ML/ (MARGINAL LAND"; AND ADOPTING SAVINGS AND SEVERABILITY (CLAUSES (file PA 1885-97; Brown)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan, and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, in April 1997, application no. PA 1885-97 was made for a minor amendment to redesignate tax lot 1200, map 18-04-07, from "Forest" to "Marginal Land" and concurrently rezone the property from "F-2/Impacted Forest Land" to "ML/Marginal Land"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing of September 16, 1997, and on that date recommended approval of the proposed amendment and rezoning; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lot 1200, map 18-04-07, from "Forest" to "Marginal Land," such territory depicted on Plan Plot 269 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 1200, map 18-04-07, is rezoned from "F-2/Impacted Forest Land" (Lane Code 16.211) to "ML/Marginal Land" (Lane Code 16.214), such territory depicted on Rural Zoning Plot 269 and further identified as Exhibit "B" attached and incorporated herein.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "C" attached, in support of this action.

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity to the remaining portions hereof.

ENACTED this 18 day of Feb., 1998.

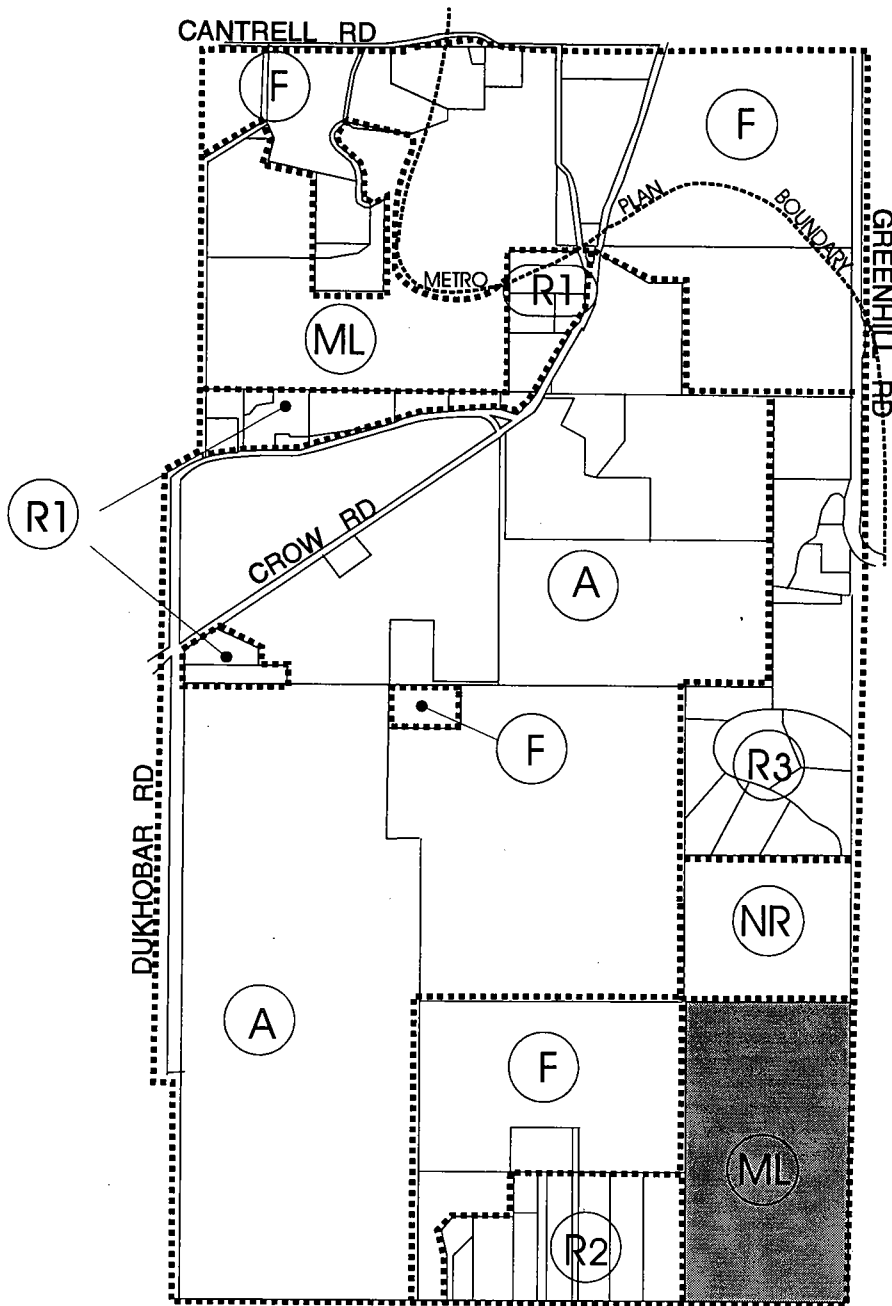
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Chair, Lane County Board of County Commissioners COUNTY CLERK BY M. Buldwin Recording Secretary for this Meeting of the Board

APPROVED TO FORM Date 12-28-97 Lane county Stephen J. ... OFFICE OF LEGAL COUNSEL


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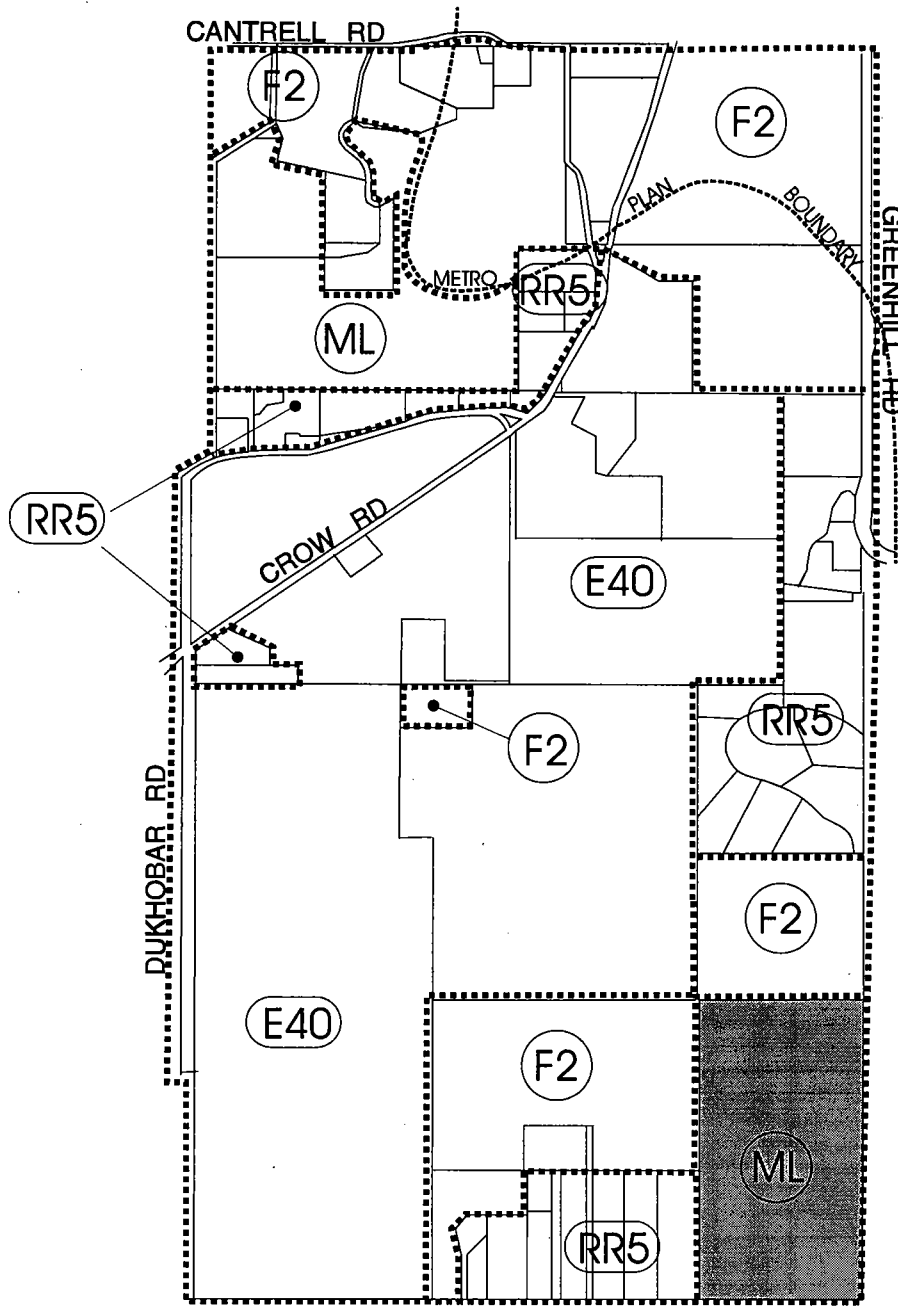
	lane county		OFFICIAL PLAN MAP		PLOT #269	
	Twship Range Section		18 04 06		18 04 07	
ORIGINAL ORD. #	PA 884	DATE	2/29/1984	FILE #		
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	OFFICIAL ZONING MAP		PLOT #269
	<small>Twnshp Range Section</small> 18 04 06 / 18 04 07		
ORIGINAL ORD. # <u>PA 884</u>	DATE <u>2/29/1984</u>	FILE # _____	
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FINDINGS OF FACT

The following findings of fact and conclusions support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change for the "Subject Property". Additional information is provided in the Applicant's statement dated June 30, 1997, which is incorporated herein by reference. These findings are divided into the following five sections:

- I. General Findings Relating to the Property and Application.
- II. Findings and Conclusions Relating to Oregon Revised Statutes
- III. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria.
- IV. Findings and Conclusions Relating to the Lane Code 16.252 Rezoning Criteria.
- V. Findings and Conclusions Relating to the Statewide Planning Goals

I. General Findings Relating to the Property and Application.

1. This application is a plan amendment redesignating 80 acres of land from Forest Land to Marginal Land with concurrent rezoning from Impacted Forest Land (F-2) to Marginal Lands (ML-20). These findings of fact provide factual support for the proposed redesignation.

2. The Subject Property is designated as Forest Land, a Goal 4 resource. The findings provided herein represent findings of fact that support a Marginal Lands designation and therefore do not require an exception to the statewide planning goals.

3. The Subject Property is identified as tax lot 1200 on Assessor's map no. 18-04-07, and located on county Zoning Plot No. 269. It is a 80 acre parcel located on the north side of North Modesto Drive, approximately three-quarter of a mile north of Gimple Hill Road. The Subject Property is located outside the Metropolitan Plan Boundary and one mile south of the Metro Urban Growth Boundary.

4. The Subject Property is a legal lot, created by a Warranty Deed conveyance in 1962, prior to county land division or zoning restrictions. The Applicants have resided on the Subject Property since 1977. It is improved with the Applicant's single-family dwelling, accessory structures, and individual on-site water and sanitation facilities. The acreage consists of dense deciduous wooded areas with a mixture of oak, Douglas fir and pine trees, small open meadows and portions with rock outcroppings. The property slopes generally to the south and east with gradual to steep slopes.

5. The Subject Property is provided the following public services:

Fire:	Lane County Fire District #1
Police:	Lane County Sheriff
School:	Eugene School District 4J
Sewer:	Individual septic system
Water:	Individual well
Access:	N. Modesto Drive (county)
Electricity:	Lane Electric
Telephone:	U.S. West Communications
Solid Waste:	Glenwood Solid Waste Disposal Site

These services are with consistent with the level of service required by RCP Goal 11 Policy 6 j for Marginal Lands and consistent with the service level of Rural Residential zoned lands located outside a Community designation.

6. The Subject Property is bordered on the south and southwest by Rural Residential zoned lands, Marginal Lands to the northeast, and Forest Land to the north, northwest and southeast. RR-10. To the north is a vacant 40 acre forest parcel zoned F-2. To the northeast are two 20 acre parcels improved with dwellings and zoned ML. To the southeast is a 95 acre combination grazing and wooded parcel improved with a dwelling and zoned F-2. To the south and southwest is a large area of residentially improved parcels zoned RR-5 and RR-10. To the northwest is a 77 acre forest parcel improved with a dwelling and zoned F-2. Also to the northwest is a 143 acre grazing and wooded parcel improved with a dwelling and zoned E-40.

7. The area is generally composed of marginal resource lands devoted to limited livestock grazing and small woodlots. No commercial farm or forest operations are located in the immediate vicinity.

8. No historic, archaeological or sensitive wildlife habitat sites have been identified on or near the subject property. The Eugene West 3 National Wetland Inventory identifies a small pond bisected by the east property boundary as a jurisdictional wetland. The proposed plan amendment and zone change will not affect the designated wetland.

9. The Subject Property is not located within any identified hazardous area. The Subject Property is not located within a floodplain.

10. The Soil Survey for Lane County Area, Oregon, map sheet #90 indicates the Subject Property is composed of four soil units:

- a) 41C Dixonville silty clay, 2.0 acres (3 percent), agricultural class IIIe and a forest capability of 130 cf./ac.yr.;
- b) 43E Dixonville-Philomath-Hazelair complex, 52.4 acres (66 percent), agricultural class VIe and 0 forest capability;
- c) 52D Hazelair silty clay loam, 14.4 acres (18 percent), agricultural class IVe and 0 forest capability; and
- d) 108F Philomath cobbly silty clay, 11.2 acres (14 percent), agricultural class VIe and 0 forest capability.

11. The Subject Property consists of 63.6 acres or 80 percent nonagricultural Class VI soils and 78 acres or 97 percent with a forest capability of less than 85 cubic feet per acre per year. The property does not have a predominance of agricultural Class I-IV soils nor is it commercial forest land.

12. The Subject Property is not irrigated or capable of supporting pasture irrigation. The Soil Conservation Service (SCS) indicates each soil type is not suited for irrigation. The Subject Property is composed predominantly of soils defined by the Soil Conservation Service as having severe limitations for soil cultivation, grazing and forest production.

13. A small portion of the Subject Property was used for limited cattle grazing on a hobby scale for approximately five years, but that activity was abandoned due to a lack of productive pasture area and the need to supply substantial supplemental feed.

14. The Subject Property is impractical to farm due to poor soil conditions and predominant wooded land characteristics that limit or prevent suitable forage.

15. The Soil Conservation Service indicates agricultural use of the subject soils is impractical due to soil conditions that include: shallow soil depth to rock, slope, clayey soil texture, droughtiness, rock outcroppings that limit use of equipment, high soil compaction and erosion conditions during wet periods, seasonal high water table, wetness and plant winter-kill due to grazing.

16. The Subject Property is predominantly covered with oak trees. Two distinct areas, that total 56 acres, contain a combination of hardwoods, fir and pine trees. A professional forester has indicated the "North" stand is a Forest Site Class mid III, slow growing, 50 percent stocked and capable of producing 7,300 board feet of timber per acre over a 50 year growth cycle. The "South" stand is a Forest Site Class IV, extremely slow growing, 20 percent stocked and capable of growing 1,900 board feet of timber per acre over a 60 year growth cycle.

17. The Subject Property is capable of producing 3 cubic feet per acre per year (cf./ac./yr.) based on published SCS soils data and approximately 15 cf./ac./yr. based on a conversion of the Applicant's foresters on-site timber cruise of the Subject Property.

18. The forest income capability of the Subject Property, over the growth cycle as required by state statutes, utilized the following assumptions and methodology: 1) a fully stocked stand of Site Class III at 50 years and Site Class IV at 60 years producing 10,500 to 15,000 bd.ft. and 4,000 to 10,000 bd. ft. per acre, respectively. Using the more conservative or higher yields for each stand (Site Class III, 38.3 acre at 15,000 bd.ft. per acre and Site Class IV, 17.9 acres at 10,000 bd.ft. per acre) at \$220.00 per thousand board feet would yield a total of \$3,184 a year in gross income.

North Stand: 15 MBF/ac X 38.3 ac. = 574.5 MBF X \$220/MBF = \$126,390

South Stand: 10 MBF/ac X 17.9 ac. = 179.0 MBF X \$220/MBF = \$ 39,380

Grand Total: \$165,770 in gross income or an average of \$2,528/yr. from the north stand and \$656/yr. from the south stand for a total of \$3,184/yr gross income average. This figure was calculated from assuming clearcutting mature, fully stocked stands and utilized the most optimistic projections. **The above income projections do not reflect the true production or stocking conditions of the Subject Property, which are substantially less than indicated.** (Emphasis added.)

19. The Applicant has removed 11 loads of bug killed pine and firewood between 1977 and 1982, which produced \$6,808 in income. One additional load of timber was removed in 1997 to accommodate construction of an on-site maintenance road yielded \$2,067. The Subject Property does not have a history of producing significant amounts of wood fiber.

20. The Subject Property is provided adequate domestic water by a well that yields 25 gallons per minute. Water Well Reports filed with the State Water Resources Department and made part of the record indicate 12 recorded well logs in Section 07 which include the Subject Property and 17 well logs in the adjoining Section 08. These wells have yields that range from 0 to 80 gpm, with an average yield of 23 and 18 gpm, respectively.

21. The Planning Commission determined the Applicants water data was sufficient to support 20 acre parcels. Lane Code 13.050(13)(c)(i) requires an aquifer test is required for parcels less than 20 acres in size in areas designated by the Board as having problems with water quality or quantity. Lane Manual 13.010(2)(a) identifies the area within the topographic expression

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of the Spencer Creek watershed boundaries as being subject to an aquifer test. Any future proposed parcels that are less than 20 acres in size will require an aquifer test in accordance with the provisions of Lane Code Chapter 13.

II. Findings and Conclusions Related to Oregon Revised Statutes.

ORS 197.247(1) (a) authorizes counties to designate land as marginal land subject to the following criteria:

(a) The proposed marginal land was not managed, during three of the five calendar years preceding January 1, 1983, as part of a farm operation that produced \$20,000 or more in annual gross income or a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual gross income; and...

1. The Applicant has supplied an Affidavit, made part of the record as Exhibit "J", that indicates the Applicant was the owner of record between 1978 and 1983, and the Subject Property did not produce \$20,000 or more in gross farm income or was part of a forest operation capable of producing, over the growth cycle, \$10,000 in annual gross income. In addition, the Applicant has made part of the record, and incorporated herein by reference as Applicant's Exhibit "K", Federal Income Tax Schedule F records for 1978 to 1983 that indicate an annual gross farm income of \$210, \$5,585, \$1,006 and \$1,368 for livestock raised on the Subject Property between 1978 and 1983, or an average of \$635 per year. The Applicants have not raised cattle on the Subject Property since the mid 1980's due to a lack of forage pasture area and the necessity for supplemental feed. The Board finds the Applicants evidence indicates the Subject Property did not satisfy the statutory income requirements for a farm operation between 1978 and 1983.

2. The Applicant's forestry report, prepared by a professional forester and incorporated as Applicant's Exhibit "L", indicates the two areas with different capabilities contain timber. As previously indicated in finding #18 in section I above, the Subject Property optimistically is capable of producing \$3,184 in gross annual income over the growth cycle. The Board finds the Subject Property is not capable of producing \$10,000 in annual gross income over the growth cycle, as required by state statute. Further, the Board adopts the Applicant's site analysis that shows the "southern" stand is extremely slow growing, justifying use of a 60 year growth cycle, as opposed to the Board's general policy of using a 50 year cycle for computation of the statutory forest income standard.

(b) The proposed marginal land also meets at least one of the following tests:

A) At least 50 percent of the proposed marginal land plus the lots or parcels at least partially located within one-quarter mile of the perimeter of the proposed marginal land consists of lots or parcels 20 acres or less in size on July 1, 1983;

B) The proposed marginal land is located within an area of not less than 240 acres of which at least 60 percent is composed of lots or parcels that are 20 acres or less in size on July 1, 1983; or

C) The Proposed marginal land is composed predominantly of soils in capability classes V through VIII in the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on October 15, 1983, and is not capable of producing eighty-five cubic feet of merchantable timber per acre per year in those counties west of the summit of the Cascade Range.

3. As indicated in finding #10 of section I above, the Board finds the Subject Property is composed of 63.6 acres of Agricultural Class VI soils (80 percent) and 2 acres with a forest capability of greater than 85 cf/ac/yr (3 percent). The Board finds the Subject Property is composed predominantly of soils not suitable for agriculture or forest production.

III. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria.

Lane Code 16.400(6)(h)(iii) provides the Board may amend or supplement the RCP upon making the following findings:

(aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

1. The Board finds this plan amendment meets all legal processing requirements of the Lane Code and the acknowledged comprehensive plan. Findings provided herein address applicable county criteria and statewide planning goals.

(bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:

(i-i) necessary to correct an identified error in the Plan;

(iv-iv) necessary to provide for the implementation of

- (v-v) adopted Plan policy or elements, or otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.**

2. The Board finds that this amendment meets criteria (i-i, iv-iv, and v-v) above.

(i-i) The subject plan amendment identifies an error in the adopted Rural Comprehensive Plan (RCP), where the Subject Property was designated Forest Land, but evidence in the record indicates this designation is inconsistent with both county policies and statewide planning goal requirements. The Board finds the existing plan designation is in error and the proposed Marginal Land designation more appropriately identifies the Subject Property.

(iv-iv) The Board also finds this amendment implements RCP Goal 4 Policy 3 which provides for designating lands that are not forest land as marginal land when the Subject Property does not meet the definition of Statewide Planning Goal 4. As previously indicated, the Subject Property does not qualify as forest land necessitating protection by the Goals, and therefore qualifies as marginal land.

(v-v) Based upon reasons discussed in this application, the Board finds that it is desirable, appropriate and proper to designate the subject 80 acre parcel as Marginal Land. It is the desire of the Board to direct large parcel rural development to areas like the Subject Property which are severely limited or precluded from any substantial resource use in order to relieve the strain of similar development on lands more suitable for farm and forest resource use in the county.

The Board finds this application properly implements the intent of the Marginal Lands Zone Purpose, LC 16.214(1), which states in relative part:

- (a) Provide an alternative to more restrictive farm and forest zoning.**
- (b) Provide opportunities for persons to live in a rural environment and to conduct intensive or part-time farm or forest operations.**
- (c) Be applied to specific properties consistently with the requirements of ORS 197.005 to 197.430 and the policies of the Rural Comprehensive Plan.**

The Board finds rezoning the Subject Property to Marginal Lands is a lawful alternative to the more restrictive F-2 Impacted Forest Land Zone; provides an appropriate location for persons to live in

a rural environment with an adequate carrying capacity; and is consistent with the provisions of ORS 197.005 to 197.430 and applicable RCP policies referenced below.

(cc) For Minor Amendments as defined in LC 16.400(8)(a), the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.

3. The Board finds the proposed amendment conforms with the following applicable RCP Policies:

Goal 4 Policy 3: Provides that lands that are not forest land lands may be designated marginal land upon a factual demonstration that the Subject Property: a) satisfies the requirements of ORS 197.247, and b) is in accordance with other applicable Plan policies.

a) The Subject Property consists predominantly of Class VI soils and has a forest capability of 15 cubic feet per acre per year. It is not composed of existing or potential forest land, nor does it require protection by Goals 3 and 4. The Subject Property has a limited forest capability and is not suitable for commercial forest production.

b) The Subject Property is not farm or forest land and therefore no exception to Goals 3 and 4 are required.

c) The Subject Property is bordered wholly or partially on three sides by other Marginal Lands or Rural Residential lands. The proposed amendment and zone change, allowing 20 acre parcels is consistent with the land use pattern of the area, marginal resource capability of the area and the carrying capacity of the Subject Property.

Goal 5 Flora and Fauna Policy 11 directs the Oregon Department of Fish and Wildlife (ODFW) to recommend an overall residential density for the protection of big game. In 1983 Lane County adopted revisions to the 1982 Wildlife Working Paper that incorporated big game/development conflict resolution through use of zoning code siting standards. The Board finds the proposed density of one dwelling per 20 acres is consistent with the big game guidelines and the characteristics of the surrounding area.

Goal 5 Water Resources Policies 3 and 5 require demonstrating an adequacy of water supply, and land use designations in the Comprehensive Plan and implementing zoning shall be commensurate with groundwater aquifer capacities. Policies 3 and 5 are applied through procedures established in Lane Code 13.050(13) that requires specific evaluation of domestic water supply as part of any subsequent land division application. The Applicant has

demonstrated adequate water supplies exist to serve the proposed residential use.

Goal 11 Policy 6 j describes the level of service appropriate for Marginal Lands as being consistent with service levels for Rural Residential lands located outside zoned a Community designation. The Subject Property is provided all necessary services as indicated by Finding 5, above. The Board finds the resultant build-out proposed by this request will add a maximum of three additional dwellings to the area, although the Applicant intends to only build one additional dwelling for his son and family on the Subject Property. This increase is minimal and can be adequately served inconjunction with adjacent residential uses. The Board finds the existing type and level of services is adequate to accommodate the Marginal Lands zoning without requiring an increase of services.

(dd) For Minor Amendments as defined in Lane Code 16.400(8)(a), the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

4. The Board finds this plan amendment conforms with the existing procedural structure of the Comprehensive Plan. As a Minor Amendment, the impact of the proposal is site specific and consistent with the unamended portions of the Plan. The Board finds the proposed amendment conforms with existing plan policies and is therefore consistent with the unamended elements of the plan.

Lane Code 16.400(8)(a): Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:

(i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.

1. The Board finds that the proposed amendment is limited to a change of the plan diagram from Forest Land to Marginal Lands. No exception is required for this amendment, it therefore qualifies as a Minor Amendment.

(c) Minor amendment proposals initiated by an Applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by Lane Code 16.400(6)(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:

- (i) **A complete description of the proposal and its relationship to the Plan.**

2. The required description has been previously provided. The proposed use of the Subject Property is for one dwelling per 20 acres inconjunction with the management of marginal forest land. The Marginal Lands designation is applied to the property through analysis that the Subject Property qualifies as Marginal Lands as required by State statute as demonstrated in section IV of the Findings of Fact, below. The Board finds the Applicant's description to be accurate and complete, and therefore conforms to this criterion.

- (ii) **An analysis responding to each of the required findings of LC 16.400(6)(h)(i) above.**

3. The Board finds this required analysis has been addressed in the previous findings, above.

- (iii) **An assessment of the probable impacts of implementing the proposed amendment, including the following:**

- (aa) **Evaluation of land use and patterns of the area of the amendment;**

4. The Board finds the Applicant has provided a complete description of the area land use pattern within the previous findings and incorporates by reference the Applicant's Statement and supporting exhibits.

- (bb) **Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply and sewage disposal;**

5. The Board finds adequate public and private facilities and services are available to the property, including: individual on-site sewage and water systems, access to N. Modesto Drive, a county road, Lane County Fire District #1, US West Telephone service, Lane County Sheriff and State Police protection, Lane Electric electrical service and access to the Glenwood Solid Waste Disposal Site.

- (cc) **Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 "ESSE" conflict analysis where applicable;**

6. The Board finds that no historic, archaeological or sensitive wildlife habitat sites have been identified on or near the Subject Property. The County's wildlife inventory indicates

the property is located within an Peripheral Big Game Range. As previously indicated, the Board finds the proposed plan amendment is consistent with county policies regarding appropriate residential densities in a big game range. The Board finds no conflict exists with Goal 5 resources and therefore an ESEE analysis is not applicable to this amendment.

(dd) Natural hazards affecting or affected by the proposal;

7. The Board finds the Subject Property is not located within a flood hazard, dangerous or natural hazards area.

(ee) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;

8. The Board finds this criterion is not applicable since the proposed amendment is not for a nonresidential designation.

(ff) For a proposed amendment to nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;

9. The Board finds this criterion is not applicable because the proposed amendment is not for a nonresidential designation.

(gg) For a proposed amendment to a Nonresource designation or a Marginal Lands designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, "Working Paper: Marginal Lands" (Lane County, 1983).

10. The Board finds the Subject Property is not farm or forest land as defined by Goals 3 and 4, nor is it capable or suitable for commercial forest production due to site soils that have only 2 acres or 3 percent with a SCS forest capability rating. The Board further finds the Subject Property is not needed for watershed protection; will not adversely effect management for big game range, fish or waterfowl habitat; does not contain vegetation necessary to protect extreme soil or climatic conditions; is not required for the protection of urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors or

recreation uses; consists of 80 percent Class VI soils; is not suitable for farm use; and is not Agricultural Land necessary to permit nearby farm uses.

IV. Findings and Conclusions Relating to Lane Code 16.252 Rezoning Criteria.

Lane Code 16.252(2) Criteria. Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.

1. The Board finds the proposed ML-20 zoning appropriately implements the proposed Marginal Lands plan designation. The Board further finds the proposed ML-20 Zone is consistent with the General Purpose of Chapter 16, Purpose statement of the Rural Residential Zone and applicable Rural Comprehensive Plan Policies, previously addressed.

2. The Board finds the proposed ML-20 Zone is consistent and similar with existing ML-20 and RR-5 and 10 zoning on lands that adjoin the Subject Property on three sides. The Subject Property is separated from grazing land to the southeast by steep wooded slopes. The Board finds the limited non-commercial scale of grazing on these lands will not be adversely affected or impacted by the proposed zone change. The Board finds forest land to the north is separated from the Subject property by a 125 foot wide major Bonneville Power Administration powerline easement. Further, this forest zoned parcel (F-2) and forest land to the northwest (F-2) are composed of soils that qualify as marginal land and are not used or suitable for commercial forest production of wood fiber.

V. Findings and Conclusions Related to the Statewide Planning Goals

The Board finds the proposed plan amendment and zone change is consistent with the statewide planning goals. For purposes of this section the following applicable statewide planning goal statements have been summarized. The Oregon Land Conservation and Development Commission Goals and Guidelines are incorporated herein by reference, except as noted.

GOAL 1 CITIZEN INVOLVEMENT

Requires citizens and affected public agencies be provided an opportunity to comment on the proposed amendment and zone change. Public notification in the form of mailed public notice will be sent by Lane County to affected agencies, including the Department of Land Conservation and Development and owners of record within 500 feet of the Subject Property.

GOAL 2 LAND USE PLANNING

Goal 2 establishes a land use planning process and policy framework as a basis for all land use decisions and requires an adequate factual base be developed to support such decisions. A minor change is one that does not have significant effect beyond the immediate area of change and is based on special studies or information. The public need and justification for the particular change must be established. Lane County has adopted a comprehensive land use plan amendment process with specific criteria that must be addressed to justify a minor change. Substantial compliance with LC 16.400, Rural Comprehensive Plan Amendments (Section III A above) constitutes compliance with the applicable provisions of Goal 2.

GOAL 3 AGRICULTURAL LANDS

Goal 3 strives to preserve and maintain agricultural lands. In western Oregon agricultural land consists of predominantly Class I -IV soils as identified by the Soil Conservation Service and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, will be included as agricultural lands.

The Soil Conservation Service identifies soils on the subject property consist predominantly of Class VI soils. The Lane County Policies Component of the General Plan, Goal 3: Agricultural Lands, Policy 7 states: Some agricultural land in the County is not suitable or available for agricultural use by nature of being built upon, committed to or needed for nonagricultural uses. The County shall plan and zone such lands for nonagricultural uses by using applicable comprehensive plan policies and the exceptions process of LCDC Goal 2, Part II.

The Subject Property qualifies as nonresource land and therefore no exception to Goal 3 is required.

GOAL 4 FOREST LANDS

Goal 4 requires the preservation and conservation of forest land for forest uses. Forest land is defined by Statewide Planning Goal 4 as: 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, windbreaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreational use.

SCS soil mapping shows 97 percent of the 80 acre parcel consists of soils with no published forest capability. An on-site analysis by a professional forester indicates two areas that total 56 acres contain forest capabilities that range from slow growing to extremely slow growing. No evidence exists that a majority of the Subject Property has a greater forest capability than that presented by the Applicant's forester. The Subject Property is marginal forest land that will optimistically produce \$3,184 in gross annual income, substantially less than the \$10,000 state standard. The Subject Property qualifies as marginal land, as allowed by state statutes.

GOAL 5 OPEN SPACES, SCENIC AND HISTORIC AREAS AND NATURAL RESOURCES

Goal 5 requires the conservation of open space and the protection of numerous natural, cultural, historic, scenic resources and wilderness area characteristics. Goal 5, as amended by OAR 660-23-000, effective September 1, 1996, contains policies and procedures for local land use planning concerning a variety of resources including: riparian corridors, water and riparian areas and fish habitat; wetlands; wildlife habitat; mineral and aggregate resources; energy sources; natural areas; scenic views and sites; open space; groundwater resources; wilderness areas; historic resources; cultural areas; Oregon recreational trails; federal wild and scenic waterways and state scenic waterways.

The new Goal 5 rule requires an evaluation of the above referenced resources, where applicable. OAR 660-23-010 and 020 include definitions, standards and specific rules applicable to each Goal 5 resource inventoried for inclusion for conservation by Goal 5.

The following Goal 5 resources are determined to be applicable given the requirements of each resource: wetlands, wildlife and groundwater resources. Other Goal 5 resources such as scenic areas, waterways, historic, natural and wilderness resources are appropriately considered by a county wide legislative process and

further are not applicable to this request.

The following factors and responses are deemed applicable to this request:

1) **Wetlands:** The Applicant's Exhibit "G" identifies a small pond divided by a property boundary line on the eastern side is classified as a wetland. The Board finds the proposed zone change will not affect the wetland area.

2) **Wildlife:** The Applicant's Exhibit "H" indicates the Subject Property is located within a Peripheral Big Game Range. There are no county inventories or specific site evidence that indicates the property is necessary to be preserved for wildlife to meet requirements for food, water, shelter, reproduction, wildlife migration corridors, big game range, nesting or roosting sites. The Board finds the 20 acre parcels allowed by the proposed marginal lands designation and zone is consistent with the overall development pattern of the area and will not adversely affect the mapped peripheral big game range area.

3) **Groundwater:** The Subject Property is not inventoried by Lane County as being located within a critical water quantity or quality groundwater area. The Applicant's Exhibit "M" indicates groundwater supplies are adequate to serve the intended residential density. The Board finds additional county standards are applicable to assure an adequate water supply if a residential density greater than one dwelling per 20 acres is proposed.

GOAL 6 AIR, WATER AND LAND RESOURCE QUALITY

The purpose of Goal 6 is to maintain and improve the quality of the air, water and land resources of the State. This Goal is generally implemented during the comprehensive planning process. As this goal pertains to site specific development, it requires that adequate protection measures are taken to assure the retention of air, water and land quality. The property will be served by adequate on-site water and sanitation facilities. A residential land use will not produce or discharge any product or by-product that would degrade such resources.

GOAL 7 AREAS SUBJECT TO NATURAL DISASTERS OR HAZARDS

The purpose of Goal 7 is to protect life and property from natural hazards. No hazards have been identified on or applicable to the subject property.

GOAL 8 RECREATIONAL NEEDS

Goal 8 is to satisfy the recreational needs of the State and visitors. This goal is appropriately implemented through the

countywide comprehensive plan process.

GOAL 9 ECONOMY OF THE STATE

The purpose of Goal 9 is to diversify and improve the economy of the State. This goal is primarily applicable to commercial and industrial development and is not applicable to this request.

GOAL 10 HOUSING

Goal 10 is intended to provide for the housing needs of the citizens of the State. While development of the property will provide additional single-family dwellings on marginal land, this goal is properly implemented during the comprehensive plan and/or periodic review legislative processes.

GOAL 11 PUBLIC FACILITIES AND SERVICES

The purpose of Goal 11 is to provide for the planning and development of a timely, orderly and efficient arrangement of public facilities and services to serve as a frame work for urban and rural development. A full range of rural services necessary to serve the use exists. The existing use will not require any public services beyond the level of those that exist.

GOAL 12 TRANSPORTATION

The purpose of Goal 12 is to provide and encourage a safe, convenient and economic transportation system. Goal 12 is not oriented toward specific land use actions such as this. It is intended to consider area-wide modes of transportation and is implemented at the comprehensive plan stage. The property is served by North Modesto Drive, a county road. The residential trip generation from a maximum of four dwellings, zoned ML-20, will not cause any detrimental affect to the local road system.

GOAL 13 ENERGY CONSERVATION

This Goal is more appropriately applied at the comprehensive plan phase and therefore is not applicable to this application.

GOAL 14 URBANIZATION

The purpose of Goal 14 is to provide for the orderly and efficient transition from rural to urban land use. The Subject Property is not located within or adjacent to an urban growth boundary and therefore is not urbanizable. Goal 14 is not applicable to this request.

GOALS 15 - 19 WILLAMETTE GREENWAY AND COASTAL RESOURCES

These Goals are not applicable to this application as they are geographically oriented and apply to the Willamette River Greenway and coastal resources.

CONCLUSIONS

The Board finds that the subject 80 acre parcel qualifies for a plan designation as Marginal Land with a ML-20 Zone. The Board finds the facts presented accurately conclude the Subject Property is not forest land and that the proposed redesignation is consistent with Plan policies and the approval criteria, addressed herein.

The Board finds the subject 80 acres consists predominantly of agriculture Class VI soils and non-forest capable soils. It is not farm or forest land as defined by Goals 3 and 4, nor is it required for protection by those Goals. The Subject Property is a developed parcel, will not adversely effect surrounding lands, and is consistent with the predominant residential density and use of surrounding lands. There are no commercial farm or forest lands in the immediately area.

The Board concludes that based upon the information contained in the Applicant's report and supplemental documents, evidence received at public hearings and made part of the record and findings provided, the plan amendment and zone change conform with all applicable criteria to allow redesignation from Forest Land to Marginal Land and rezoning from F-2 Impacted Forest Land to ML-20 Marginal Land.