

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1112

( IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO  
( REDESIGNATE LAND FROM "AGRICULTURE" TO "RURAL" AND  
( REZONING THAT LAND FROM "E-40/EXCLUSIVE FARM USE" TO "RR- 5/  
( RURAL RESIDENTIAL 5", ADOPTING EXCEPTIONS TO STATEWIDE  
( PLANNING GOALS 3 AND 4; AND ADOPTING SAVINGS AND SEVERABILITY  
( CLAUSES (file PA 2060-97; Goodwin)

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 May 1997, application no. PA 2060-97 was made for a minor amendment to redesignate tax lot 1800, map 17-06-27, from "Agriculture" to "Rural" with a concurrent request to rezone the property from "E-40/Exclusive Farm Use " to "RR-5/Rural Residential 5"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing of October 21, 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 1800, map 17-06-27, from "Agriculture " to "Rural," such territory depicted on Plan Plot 157 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 1800, map 17-06-27, is rezoned from "E-40/Exclusive Farm Use" (Lane Code 16.212) to "RR-5/Rural Residential 5" (Lane Code 16.231), such territory depicted on Rural Zoning Plot 157 and further identified as Exhibit "B" attached and incorporated herein.

Section 3. Developed and committed lands exceptions to statewide planning goals 3 and 4 are adopted for tax lot 1800, map 17-06-27. The findings of fact and conclusions of law supporting the exceptions are adopted as part of the Rural Comprehensive Plan and are set forth in Exhibit "C" (pages 1-4 and attachment), attached to this Ordinance.

FURTHER, although not a part of this Ordinance except as described above, 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.

FILED

MAY 19 1998

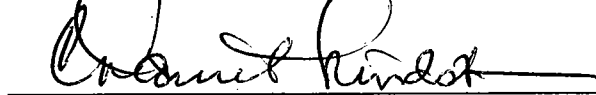
COUNTY CLERK M. Selding

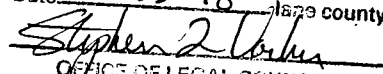
IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO REDESIGNATE LAND FROM "AGRICULTURE" TO "RURAL" AND REZONING THAT LAND FROM "E-40/EXCLUSIVE FARM USE" TO "RR-5/RURAL RESIDENTIAL 5", ADOPTING EXCEPTIONS TO STATEWIDE PLANNING GOALS 3 AND 4; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (file PA 2060-97; Goodwin)

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.

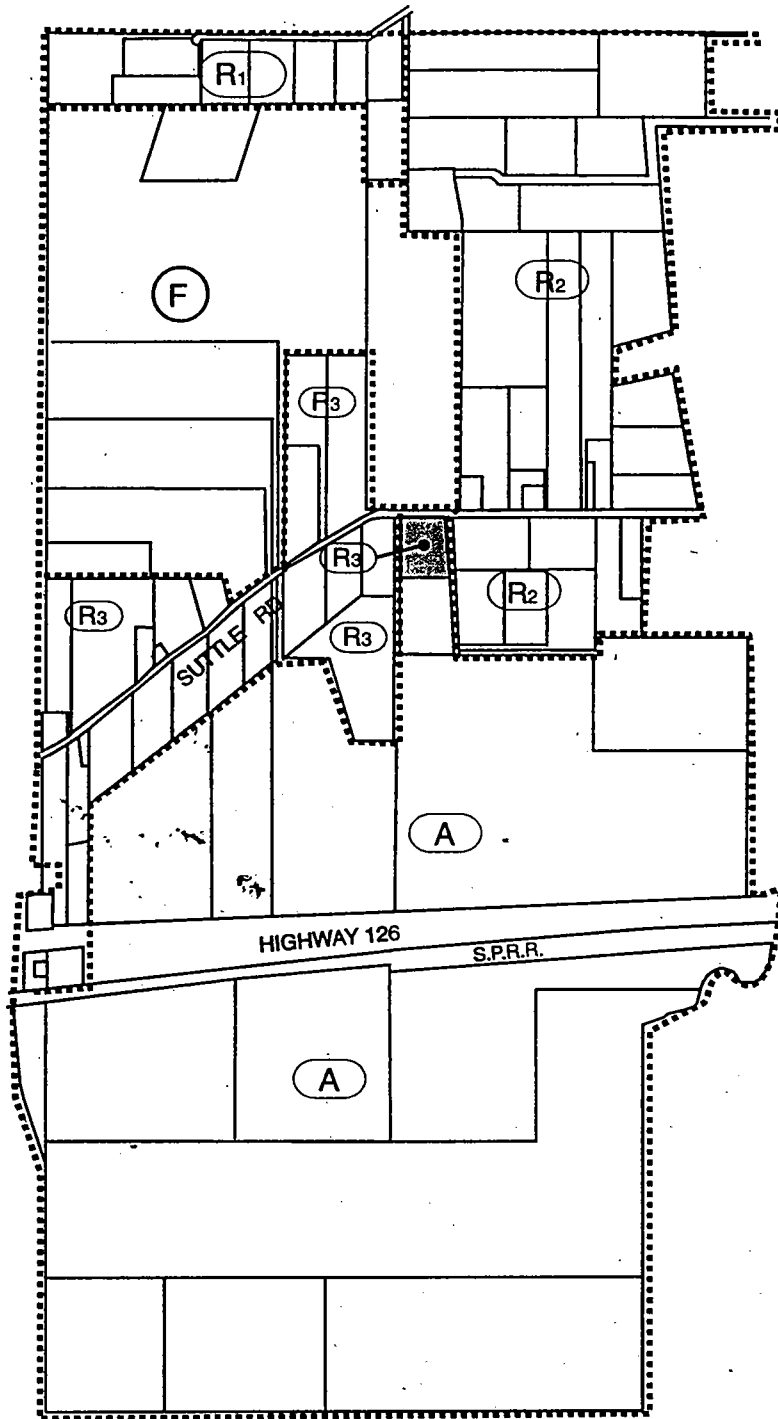
ENACTED this 13<sup>th</sup> day of MAY, 1998.

  
\_\_\_\_\_  
Chair, Lane County Board of County Commissioners

  
\_\_\_\_\_  
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM  
Date 5-13-98 Lane county  
  
\_\_\_\_\_  
OFFICE OF LEGAL COUNSEL

BOOK 160 PAGE 1286



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lane county



# OFFICIAL PLAN MAP

## PLOT #157

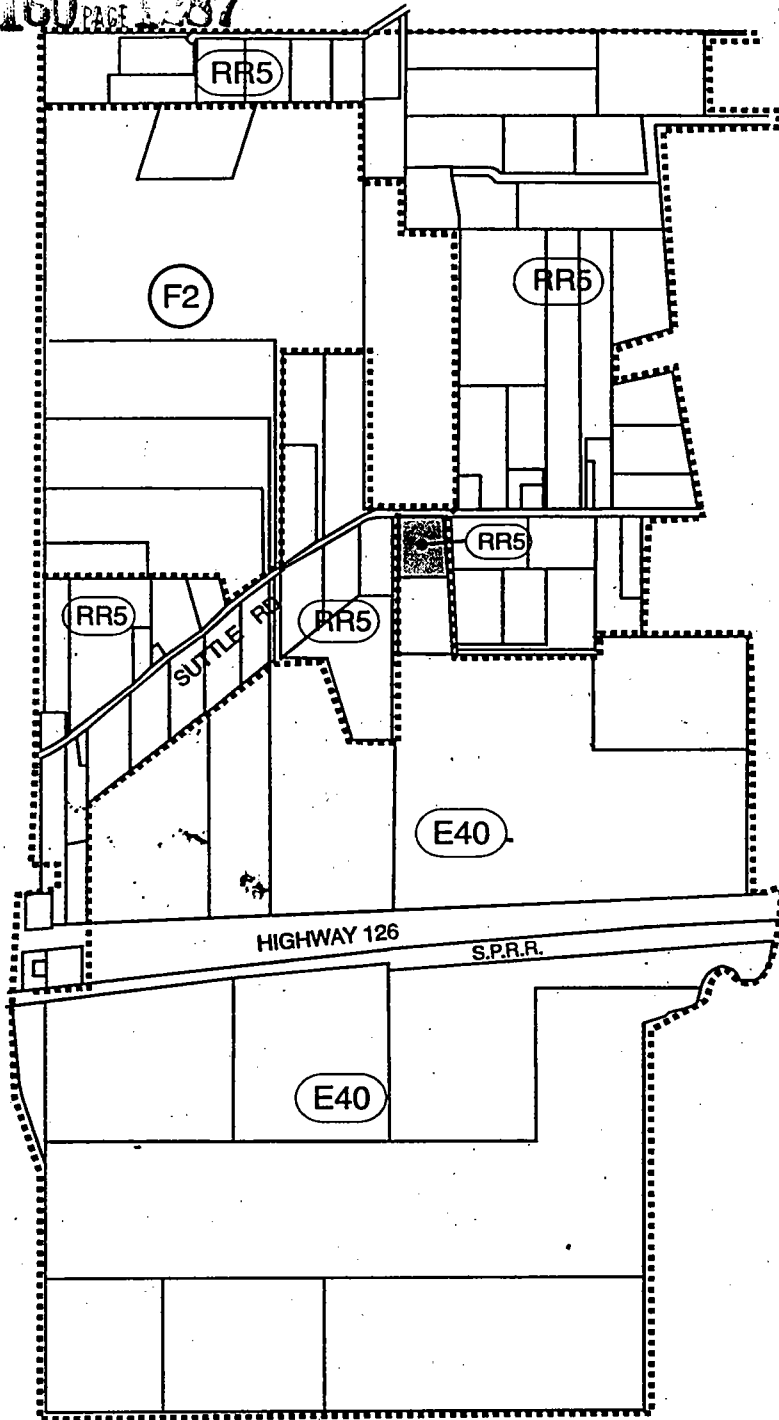
Township Range Section

17 06 27

17 06 34

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # \_\_\_\_\_

REVISION # \_\_\_\_\_ ORD# \_\_\_\_\_ DATE \_\_\_\_\_ FILE # \_\_\_\_\_



149

167

158

lane county



OFFICIAL ZONING MAP

PLOT #157

Township Range Section

17 06 27

17 06 34

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #

REVISION # ORD# DATE FILE #

## Findings of Fact and Conclusions of Law

### I. Oregon Administrative Rules Required Findings

The Board adopts the following findings of fact and conclusions of law as specifically required by OAR 660-04-028(2) and 660-04-028(6) for a developed and committed exception:

#### A. OAR 660-04-028(2)

##### (a) Characteristics of the exception area

For purposes of this analysis, the exception area is the subject property plus the adjacent exception area #157-2 (Sky Lane) to which it will be annexed and exception area #157-3 (Highway 126), adjacent on the West. The subject parcel is located between the above to exception areas. There are over 60 small residentially developed tracts within 1/2 mile of the subject property, of these only 10 are over ten acres in size. The characteristics of exception areas #157-2 and #157-3 are discussed in length in the application exhibit No. 15. In summary, the characteristics are an area dominated by small tracks, unlikely to be consolidated for resource use, developed with residential uses clustered within a large group along an existing highway and where the resource use is accessory to the primary residential use.

##### (b) Characteristics of the adjacent land

The areas adjacent to the subject property are primarily the existing acknowledged exception areas which border the subject property on the West and East. Exception area #157-2 show an average parcel size of 6.7 acres. Exception area #157-3 has an average parcel size of 5 acres. The characteristics of these areas are set forth in section II-B of the application. As noted above, because the subject parcel is being incorporated into area #157-2 the supplemental findings for that area (Exhibit #15) are made a part of these findings.

In summary, the characteristics of the adjacent lands to the West and East are small parcels largely developed by rural residential use. The property to the East was divided as part of a partition. The property to the West developed as individual parcels. Immediately to the North is Highway #126 - Suttle Road and immediately north of the County Road is a parcel zoned F-2 which is developed with a residence. To the south is a 5 acre parcel (parcel #2 of the same partition which created the subject parcel) which is contiguous to the southern parcel which is zoned E-30 and used for limited hay production and is developed with several dwellings.

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

The subject parcel is a square 5 acre piece bordered on 2 sides by large exception areas existing of small acreage's developed by residential land-use.

(d) Parcel size and ownership patterns of the exception area and adjacent lands, including an analysis of how the existing development pattern came about.

Exception area #157-2 within average parcels size of 6.7 acres, was first adopted in 1984 and re-adopted, with amendments in 1990. Exception area #157-3 with an average parcel size of 5 acres followed the same time line. Then in June and July 1989 when LC DC was determining exception areas, the subject parcel was considered to be in the same ownership as the larger parcel to the south. This is supported by comments in exhibit D., Supplemental Findings, Proposed Boundary Modification for exception area #157-2. This was not actually true however the tax assessment records had not been updated at the time the information was pulled for study. The subject parcel was actually sold in 1980 under a land sales contract and the assessment records showed no change in ownership until the property was paid for in January 89. Exception area #157-2, an original area of 215.04 acres of which 114 were accepted, was determined using the following justification:

- fragmented ownership's unlikely to consolidate;
- close proximity to residential development;
- the residential pattern of development: 22 residences in the exception area;
- the residential development is generally clustered around Hwy #126 and Sky Lane Roads serving the exception area;
- the development within the exception areas are clustered within a large group;
- any agricultural or forestry uses within the exception area appeared to be accessory to the residential use of the parcels, because of the existing residential use of the parcels and their small sizes.

In December, 1988 the Lane County Board of County Commissioners adopted Board Order #88-12-20-7, which endorsed supplemental findings for exception area #157-2. See exhibit #16 for time line and details.

(e) Neighborhood and regional characteristics

These can largely be described as predominantly single-family residential uses with incidental hobby farms, grazing, and intermittent areas of resource zoning between D&C exception areas. The immediate environment of the subject property is comprised of rural residential parcels on the East and West sides. Abutting the subject parcel on the North is Highway #126 - Suttle Road, directly north of which lies Impacted Forest Land (F-2 zoning) developed with a residence.

The corridor of Highway #126 serves almost exclusively rural residential properties, and over 60 such properties lie within 1/2 mile of the subject parcel. This observation supports the determination that this neighborhood and region are generally and substantially developed and committed to non-resource uses. As discussed in the application, the subject property is impractical for agricultural use, due to its small size, limited soil capacity, high winter water table and proximity to other residences. The same reasons can be applied to forest uses. For these reasons the land would appear more suited to rural residential zoning and inclusion in exception area #157-2.

(f) Natural or man-made features or other impediments separating the exception area from adjacent resource land

As discussed earlier the subject parcel is bordered on the North by Highway #126. It is bordered on the East by Ridiculous Road, a County Road and on the West by developed residences. On the south of the subject parcel is a 5 acre piece created in the same partition as the subject parcel, and abuts EFU-30 zoning on its southern border. This agriculturally zoned property to the south is impacted by being developed with several residences.

B. Ultimate Conclusion Required by ORS 197.732

Therefore, for all of the facts and reasons stated above, the board concludes that the standard of ORS 197.732(1)(b) that the exception area is "*irrevocably committed...because existing adjacent uses and other relevant factors make the uses allowed by the applicable goals impracticable...*" has been met.

**C. Plan and zoning designation standard of OAR 660-04-018.**

As stated above the subject parcel, although presently undeveloped with structures, is being added to an Exception Area (#157-2) which contains parcels of similar characteristics, most with residences, some without. Most, including the subject property are of similar size and in the same relationship to the County Road. The plan designation for Exception Area #157-2 is residential and the zoning designation is rural residential (RR-5). Because the subject property is a continuation of the existing types of uses within Exception Area #157-2, it is appropriate that those same designations be applied.

**II. Findings and Conclusions Relating to Plan Amendment Criteria of Lane Code 16.400.**

A. Lane Code: 16.400(6)(h)(iii) provides that the County Board of Commissioners may amend or supplement the Rural Comprehensive Plan upon making the following findings:

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

The Board finds and concludes that this Plan Amendment is consistent with local laws and regulations. The proposal entails an exception to Statewide Planning Goals 3, Agricultural Lands and Goal 4, Forest Lands, and has been submitted consistent with the requirements and provisions of OAR Division 660.

"(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 and identified error in the plan; or
- (ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; or
- (iii-iii) necessary to comply with the mandate of local, state or federal policy or law; or
- (iv-iv) necessary to provide for the implementation of adopted plan policy or elements is; or
- (v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

This application meets the criteria of (i-i, iv-iv, and v-v)

(i-i) In reviewing the parcel history it shows that in fact the subject parcel was in individual ownership during the Developed and Committed Lands Exception process, and that information was not brought to light. It was judged to be part of a larger agricultural parcel to the south. The zoning was previously AGT-5 and now is EFU-30 with exception areas bordering both the East and West boundaries. The zoning of EFU-30 appears to be in error.

(iv-iv) This application amendment will implement policies established in the Developed and Committed Lands Working Paper pertaining to the criteria applicable to Developed and Committed exceptions. Not only is the subject parcel limited for resource use by soils, potential flooding and high winter water table, but also by size (5 acres) and location in relation to surrounding parcels (surrounded by dwelling on 4 sides) as stated in the working paper.

(v-v) The applicant requests that the Lane County Board of Commissioners find, based on the extensive supportive documentation and reasons discussed in this application, that it is desirable, appropriate and proper to designate the applicants 5 acres as rural residential.

The Board finds and concludes that approval of this action is consistent with Plan Amendment findings (i-i, iv-iv and v) above.

**"(cc) For in 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."**

The Board finds and concludes that the proposed amendment supports the applicable Policies of the Rural Comprehensive Plan as discussed below:

Goal 2- Land Use Planning

Policies 9,11,12

This application is submitted consistent with the provisions of these policies of the RCP. Policies 9 and 12 call for certain processes, all of which are being followed in this application. Policy 11 lists a series of factors, all of which were applied when the exception area #157-2 was originally designated for residential use. (see exhibit #15) Because this application represents only a tiny addition to that area the findings for the original designation may be deemed to apply here as well.

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Goal 3 - Agricultural Lands

Policies 7,8,12

The subject property is not available for agricultural use by nature of soil capacity, high winter water table and proximity to other residences and committed to non-agricultural uses.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources

Policy 5

No public water system is available to this region, and the residences in the area are served by individual wells. There is no evidence that the local aquifer is being taxed by the current level of usage nor is there evidence to suggest that this proposal would result in such adverse impacts to the aquifer. No other open spaces, scenic or historic areas, or natural resources would be affected by this proposal.

Goal 7 - Natural Disasters and Hazards

Policy 2

A review of the Lane County Flood Insurance Rate Map (FIRM) panel #340 indicates the subject parcel to be in Zone C, no Flood Plain concern nor is it affected by any other known physical hazard.

Goal 11 - Public Facilities and Services

Policy 2

All necessary utilities are available to the property, including but not limited to electricity, telephone, and fire and police services. The existing level of public facilities and services available in the area are adequate to supply the needs of the pre-existing residential uses, and no increase in any of these facilities or services would be required to facilitate further residential development of the subject property consistent with the requested RR-5 zoning.

Goal 12 - Transportation

Policy 2-b

"(dd) For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan Amendment or component is compatible with the existing structure of the Rural Comprehensive Plan and is consistent with the un-amended portions of the plan."

As stated below, this proposal is a "Minor Amendment". Arriving at appropriate zoning and plan designations for properties through the Counties established Developed and Committed Exceptions process is recognized as "a major feature in the RCP ( County Working Paper, Aug. 1983.) This proposal would establish rural residential (RR-5) zoning on a property which: is adjacent to RR-5 zoning; is 5 acres in area and is not in resource use. For these reasons, the proposal to re-designate this 5 acres to Rural Residential is compatible with the existing procedural structure of the Rural Comprehensive Plan and map. The above discussion of consistency with the applicable Goals and Policies of the Lane County Rural Comprehensive Plan (RCP) illustrates consistency with the un-amended portions of the plan.

B. Lane code 16.400(8) state's:

**LC 16.400 (8)(a)(I):**

**"Minor Amendment: An amendment to the Plan Diagram only and, if requiring an exception to Statewide Planning Goals, justifies the exceptions 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."**

The Board finds and concludes that this amendment is limited to the Plan Diagram only and thus qualifies as a Minor Amendment. An exception to the Statewide Planning Goal 3 and 4 is being requested on the grounds that the property is, by virtue of all evidence supplied, committed to non-resource uses.

**LC 16.400(8)(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 LC 16.400(6)(h)(iii) 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.**

The required description is provided in the introductory section of this application.

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

The required analysis has been provided in section II.

"Unless waived by the Planning Director, the applicant shall supply documentation concerning the following:

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

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

Please see section A. for the evaluation material

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

Please see the previous section, Developed and Committed Exception, for information on these issues.

"(cc) Impact of amendment on proximate natural resources, resource lands or resource sites, including a Statewide Planning Goal 5 "ESEE" conflict analysis where applicable."

Impact potential is limited. There are no goal five resources on the property which would require an "ESEE" analysis.

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

There are no natural hazards affecting or affected by the proposal.

"(ee) For a proposed amendment to a nonresidential, non-agricultural, or non-forest 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;"

This proposal does not involve a nonresidential, non-agricultural, or non-forest designation. Approval of this request would allow a use consistent with the rural residential designation and surrounding properties. No additional impacts are anticipated in these categories.

"(ff) For a proposed amendment to a nonresidential, non-agricultural, or non-forest 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;"

This application does not involve a nonresidential, non-agricultural or non-forest designation.

**"(gg) for a proposed amendment to a non-resource designation or in marginal land designation, analysis responding to the criteria for the respective request as cited in the plan document entitled working paper: marginal lands Lane County 1983.**

This application does not involve a non-resource or marginal lands designation.

### **III. LANE DEVELOPMENT CODE REZONING CRITERIA**

**A. Lane code 16.252(2) provides the criteria for deciding on a rezoning request:**

**"...zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable Rural Comprehensive Plan elements and components and Statewide Planning Goals.."**

The Board finds and concludes that this plan amendment and zone change action complies with Rural Comprehensive Plan Goals and Policies regulating the designation of Rural Residential lands within Lane County as discussed below.

In 1988, the Board adopted Order 88-2-10-14 interpreting RCP policy 11(a) to require a numerical analysis of parcel sizes within the Exception area in which the subject property is located, and adjacent Exception areas, to establish an average parcel size and thus determine if the density of the requested zoning district is appropriate to the existing development pattern and density of the combined Exception areas. In 1995, the Board reaffirmed the Policy interpretation by means of Board Order 95-20-4. In summary, the Board Orders require that the density of the zoning to be applied, i.e. 1 acre, 2 acre, 5 acre, be that which is mathematically closest to the existing average parcel size of the contiguous Exception areas which would contain the property in question.

Application of the Board Orders to the subject property as follows: The subject property will become part of Exception Area #157-2 which currently contain 114 acres and accepted parcel's. The average parcel size for the Exception area is 6.7 acres. Because this figure is closer to 5 acres than to 10 acres, the appropriate zoning designation would be RR-5. Please see section II of this application for discussion of the proposals conformance with applicable Goals and Policies of the Lane County Rural Comprehensive Plan. Additional elements and components of the RCP would not be compromised by the proposal, as residential zoning on this site is compatible with the surrounding development pattern and with the intent of the RCP.

Documentation in support of an exception to Statewide Planning Goals 3 and 4 accompanies this Plan Amendment and Zone Change application. Remaining Statewide Planning Goals would be supported by the action.

B. The Board finds and concludes that this proposal is also consistent with the purposes of Lane Code 16 in that it:

\*insures development of property within the County in a manner commensurate with the character and physical limitations of the land;

conserve valuable resource land for production; A)- by creating a buffer between farm zoning and rural residential development, and B)- by placing rural residences on a site which is not valuable for resource use and thereby alleviating development pressure which might otherwise fall on more productive land in the county;

conserves energy through the sound use of land;

provides for the ultimate development and arrangement of efficient public facilities and services within the County, and

\*conserve open space by maintaining larger lot home sites consistent with RR-5 zoning existing in the vicinity and proposed for the subject property.

Page 4 of Lane Countys Working Paper titled: "Developed and Committed Land, Draft, August 1983, Comprehensive Plan Revision" states that the rural residential designation is applied to lands which "contained or are committed to rural housing needs. Tract sizes may range upward from less than 1 acre (average density), but do not usually exceed 10 acres". The criteria considered in applying the rural residential designation include:

a)- Existing development patterns: current densities falling between 1 and 10 acres per tract (average);

b)- Subsurface sewage disposal suitability: soils capable of meeting ORS and OAR requirements for subsurface disposal systems;

c)- Domestic water supply availability: if served by a public or community water system, the system must be capable of providing adequate quantity /quality of water for present and anticipated users. If served by individual wells adequate supply of groundwater must be available for the foreseeable future.

d)- Access: access, or reasonable expectation of access, to public roadways;

e)- Public services: tracks within A rural fire protection district and within reach of electrical power services;

**f)- Natural hazards: tracks located on slopes of 15% or less, and not located within areas subject to flooding, unstable subsurface conditions, inundation, erosion or other dangerous condition;**

**g)- Effect on resource lands: additional development would not create greater hardships on adjacent resource land or uses - (forestry, agricultural, mineral, etc.)**

The Board finds and concludes that each of the above criteria is supported by the evidence provided in this application narrative.

#### A. SUMMARY

The size, shape and configuration of this property make it unsuitable for resource use. Of particular significance is the almost complete bordering by small-scale residential zoning and land-use. The pattern is unusual to the point of raising the possibility that it occurred by oversight during the hectic period when the County was forced to reconsider the zoning on thousands of parcels.

The Board finding concludes that all of the applicable decision criteria have been met, including those required for a Developed and Committed Exception to Statewide Planning Goals 3 and 4.

#### Attachment:

- Application exhibit 15, D&C Findings
- Application exhibit 16/Supplemental D&C Findings

BOOK 160 PAGE 1299

PARCELIZATION AND DEVELOPMENT SUMMARY SHEET  
DEVELOPED AND COMMITTED EXCEPTIONS

Map: 17-06-27

Plot: 157

Name: SKY LAKE / HIGHWAY 126

Exception Number: 2

I. PARCELIZATION AND DEVELOPMENT PRIOR TO ADOPTION OF STATE PLANNING GOALS:

Number of Parcels	<u>7</u>
Number of Dwellings	<u>21</u>
Other Uses(_____)	<u>      </u>

II. PARCELIZATION AND DEVELOPMENT SINCE ADOPTION OF STATE PLANNING GOALS AND PRIOR TO ACKNOWLEDGEMENT OF COMPREHENSIVE PLAN:

Parcels Created Pursuant to Goals 3 and 4	<u>0</u>
Parcels Created by Exception to Goals 3 and 4	<u>0</u>
Parcels Created Without Findings	<u>17 (12)</u>
Subtotal of Parcels	<u>17 (12)</u>
Number of dwellings	<u>1</u>
Number Of Other Uses (_____)	<u>      </u>

III. PARCELIZATION AND DEVELOPMENT SINCE ACKNOWLEDGEMENT OF COMPREHENSIVE PLAN:

Number of Parcels	<u>3 (1)</u>
Number of Dwellings	<u>0</u>
Number of Other Uses(_____)	<u>      </u>

IV. PARCELIZATION AND DEVELOPMENT SU

Total Acreage	<u>215.0</u>
Total Number of Parcels	<u>27 (20)</u>
Largest Parcel	<u>36.6</u>
Average Parcel Size	<u>8.0 (10.8)</u>
Total Number of Dwellings	<u>22</u>

168.7



## EXHIBIT "B"

## DEVELOPED AND COMMITTED LANDS EXCEPTIONS

## (SUPPLEMENTAL FINDINGS)

Map: 17-06-27

Plot: 157

Name: Sky Lane/Highway 126

Exception Number: 2

## 11. PARCEL CREATION HISTORY

- a) 7 parcels were created before adoption of the goals, determined as follows:
- i. Using the boundaries and dates of partitions which have been plotted from the Lane County Assessment and Taxation maps onto the computer drawn map of the exception area, the total number of parcels in this category created prior to December 27, 1974 is: 0.
  - ii. Using the boundaries and dates of subdivisions which have been plotted from the Lane County Assessment and Taxation maps and survey records onto the computer drawn map of the exception area, the total number of parcels in this category created prior to December 27, 1974 is: 0.
  - iii. Using the Lane County computer drawn map and year-built data for residences which have been plotted onto the computer drawn map of the exception area, the total number of parcels not included in above categories i. and ii. and having a residence built prior to December 27, 1974 is: 4.
  - iv. Using the Lane County Assessment and Taxation maps and year-built data for residences which have been plotted onto the computer drawn map of the exception area, the total number of parcels not included in above categories i., ii. and iii. either vacant or having a residence built after December 27, 1974 is: 0. It is assumed that parcels in categories iii. and iv. were created prior to December 27, 1974 for two reasons. The first reason is that the parcel had a residence on it prior to 12/27/74 which indicates that the parcel existed in some form prior to 12/27/74. The second reason requires a more detailed explanation. On March 26, 1975, Lane County adopted land division regulations which required County approval of all partitions and recording of partition maps for all approved partitions. The 3/26/75 land division ordinance adoption date corresponds closely to the 12/27/74 Goal adoption date. It is generally accurate to assume that, if parcels were created after

12/27/74, they would be included in an approved and recorded partition map; and, that parcels without an approved and recorded partition map were created before 12/27/74.

v. Using the Lane County computer drawn map with the year built data and the partition and subdivision data plotted on it, the total number of parcels not included in an approved and recorded partition or subdivision, and being vacant or having a residence without built-upon data prior to 12/27/74 is: 3. It is assumed that these parcels were created prior to 12/27/74 for the same reasons as stated in the second reason in iv. above.

b) 13 parcels were created after the adoption of the 12/27/74 goal adoption date based upon use of the boundaries and dates of partitions and subdivisions which have been plotted onto the computer drawn map of the exception area and identification of the parcels included in this category which were created after 12/27/74.

## 12. GOAL COMPLIANCE HISTORY

0 parcels were created via application of the Goal 2 Developed and Committed Lands Exceptions process. This number was determined by examining the files for partitions and subdivisions created in 1980 or later to verify if developed-and-committed findings were included in these files as part of the basis for approving the partitions or subdivisions. It is assumed the Developed and Committed Lands Exceptions process was not followed for partitions and subdivisions created before 1980.

## 13. DEVELOPED AND COMMITTED RATIONALE

The result of all of this development is that land within this exception area is unsuitable for agricultural or forest uses because of the following factors:

- small tract sizes ( as determined by dividing the acreage of the exception area: 215.04 by the # of parcels in the exception area: 20 = an average parcel size of 10.75 acres;
- fragmented ownerships unlikely to consolidate (contiguous ownerships are identified on map with struances);
- close proximity to residential development;
- the residential pattern of development: 22 residences in the exception area;
- the residential development is generally clustered around Highway 126 and Sky Lane roads serving the exception area;
- the development within the exception area is clustered within a large group;
- any agricultural or forest uses within the exception area appear to be accessory to the residential use of the parcels because of the residential use of the parcels and their small sizes.

Background data in Lane County's Working Papers support the policy direction that clustered small parcels in fragmented ownerships in close proximity to residential development and/or developed with residences cannot reasonably be considered suitable for the continuation of commercial farm and forest uses.

"to qualify, an area must consist of at least four tracts (not parcels - see definition of 'tract' below\*) which are contiguous to one another, a majority of which have been built upon. However, individual isolated commercial and industrial activities, regardless of the number of tracts involved, are considered for D&C status. Public facilities such as schools, are also considered. In most cases, all tracts must be 10 acres or less in size, unless other factors render larger tracts unsuitable for resource use and/or committed to development." Source: Lane County Developed and Committed Working Paper, August 1983.

Refer to the original findings sheet for this exception area for the specific details on the number of tracts, total acreage, average tract size, number of residences, number of other uses, number of vacant tracts, and development pattern.

\*'Tract' refers to a lot within an approved and recorded subdivision plat, or a parcel within an approved and recorded partition map, or a parcel within an approved minor subdivision, or undivided/unpartitioned land under the same ownership. Contiguous units of the last type shall be considered a single tract.

DEVELOPED AND COMMITTED EXCEPTION FINDINGS

DATA SHEET

Map: 17-06-27

Plot: 157

Name: Sky Lane/Highway 126

Exception Number: 2

The following were adopted by the corresponding ordinances in support of this developed and committed exception area.

- Developed + Committed Lands Working Papers; adopted by Lane County Ordinance #PA 883.
- Plan Diagram Maps; adopted by Lane County Ordinance # PA 884.
- Zoning Maps; adopted by Lane County Ordinance # PA 884.
- Summary Exception Sheet; Plot: 157, Exception Number: 2; adopted by Lane County Ordinance # PA 884.

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The following are additional data resources used to generate supplemental findings in support of this exception area:

- GIS Exception Plot No. 157
- GIS Exception Listing No. 157-2
- Aerial Photo Map Number: 17-06-27
- SCS Soil Survey Map Number: 73
- USGS Topographical Quadrangle Map: Elmira
- Lane County Tax Codes for Public Service Districts; 028-18

School District: #28J

Fire District: Elmira-Noti R.F.P.D.

Water District: None

Other:

PARCELIZATION AND DEVELOPMENT SUMMARY SHEET  
DEVELOPED AND COMMITTED EXCEPTIONS

R : 17-06-27

Plot: 157

Name: SKY LANE / HIGHWAY 126

Exception Number: 2

I. PARCELIZATION AND DEVELOPMENT PRIOR TO ADOPTION OF STATE PLANNING GOALS:

Number of Parcels	<u>5</u>
Number of Dwellings	<u>19</u>
Other Uses (_____)	<u>      </u>

II. PARCELIZATION AND DEVELOPMENT SINCE ADOPTION OF STATE PLANNING GOAL AND PRIOR TO ACKNOWLEDGEMENT OF COMPREHENSIVE PLAN:

Parcels Created Pursuant to Goals 3 and 4	<u>0</u>
Parcels Created by Exception to Goals 3 and 4	<u>0</u>
Parcels Created Without Findings	<u>17</u> (12)
Subtotal of Parcels	<u>17</u> (12)
Number of dwellings	<u>1</u>
Number Of Other Uses (_____)	<u>      </u>

III. PARCELIZATION AND DEVELOPMENT SINCE ACKNOWLEDGEMENT OF COMPREHENSIVE PLAN:

Number of Parcels	<u>3</u> (1)
Number of Dwellings	<u>0</u>
Number of Other Uses (_____)	<u>      </u>

IV. PARCELIZATION AND DEVELOPMENT SUMMARY:

Total Acreage	<u>168.3</u>
Total Number of Parcels	<u>25</u> (18)
Largest Parcel	<u>15.6</u>
Average Parcel Size	<u>6.7</u> (9.4)
Total Number of Dwellings	<u>20</u>

DATA FOR EXCEPTION AREA DC-1572, MAPLOT ORDER 10:37 WEDNESDAY, DECEMBER 7, 1988 1

OWNER	MAPLOT	PCL	SCL	UNITS	YBLT ZONE4	FRM FOR	CACRES	ATACRES
MAGNUSON C O 4-7	17062600 02502	1	0	.	0 RR5	0	5.7247	1.5600
MAGNUSON C O 4-7	17062600 02502	1	0	.	0 RR5	0	5.7247	3.2700
PHILLIPS JOHN M	17062700 00101	463	0	3	0 RR5	1	44.6150	2.0400
PHILLIPS JOHN M	17062700 00101	433	0	3	0 RR5	1	44.6150	0.2500
PHILLIPS JOHN M	17062700 00101	463	0	3	0 RR5	1	44.6150	36.6400
PHILLIPS JOHN M	17062700 00101	433	0	3	0 RR5	1	44.6150	7.2500
MAGNUSON CONRAD O & LAUR	17062700 00501	461	150	.	70 RR5	0	14.7841	8.1200
MAGNUSON CONRAD O & LAUR	17062700 00501	461	0	.	0 RR5	0	14.7841	7.0400
TICE CLIFFORD C & MYRNA	17062700 00502	461	0	.	0 RR5	0	9.9548	9.7000
TICE CLIFFORD C & MYRNA	17062700 00502	461	0	.	0 RR5	0	9.9548	0.4400
GUARDALABENE A E & J S	17062700 00503	461	160	1	79 RR5	0	5.0357	5.0000
WEBB MONTIE R & JENNIFER	17062700 00504	431	140	1	77 RR5	0	5.0357	7.5000
PLANTS LEE C & MARILYN E	17062700 00505	431	0	1	0 RR5	0	5.0841	0.0000
PLANTS LEE C & MARILYN E	17062700 00505	431	307	1	0 RR5	0	7.3476	7.5000
OSTROM PHILLIP S & TERES	17062700 00506	431	107	1	0 RR5	0	7.3476	0.0000
OSTROM PHILLIP S & TERES	17062700 00506	430	0	1	0 RR5	0	4.7954	1.0600
MAGNUSON C O	17062700 00507	131	107	1	0 RR5	0	4.7954	3.9400
MOURER CHARLES R	17062700 00600	160	0	.	0 RR5	0	5.0463	5.0000
NEER WARREN H & DOROTHY	17062700 00601	640	0	.	0 RR5	0	5.8710	5.7800
FOHLER DELBERT W & E M	17062700 00602	131	107	1	0 RR5	0	19.9318	20.2300
OREGON STATE OF	17062700 00603	131	140	1	44 RR5	0	1.0725	1.9000
JACOBSON JULIAN J & GLEN	17062700 00604	431	140	1	56 RR5	0	1.0725	0.9000
VOELSCH ARTHUR J TR	17062700 00700	461	140	1	0 RR5	0	8.7605	9.2500
VOELSCH ARTHUR J TR	17062700 00700	461	0	1	0 RR5	0	11.0744	11.2400
VOELSCH ARTHUR J TR	17062700 00700	461	130	1	0 RR5	0	11.0744	0.0000
VOELSCH ARTHUR J TR	17062700 00701	461	140	1	0 RR5	0	14.7240	15.1100
SMITH EDWARD F & AGNES D	17062700 00702	131	150	1	62 RR5	0	14.7240	0.0000
SMITH EDWARD F & AGNES D	17062700 00703	130	0	1	66 RR5	0	3.0039	3.0100
BOETTGER EUGENE L	17062700 00800	130	0	.	0 RR5	0	0.7830	0.8600
WING ROBERT E & INA KAY	17062700 00900	131	130	1	0 RR5	0	0.8691	0.8400
STEVENS DARRELL C & DORI	17062700 01300	431	0	1	30 RR5	0	1.8702	1.8400
STEVENS DARRELL C & DORI	17062700 01300	431	0	1	0 RR5	0	7.3553	7.3600
EPPS OLIN N & ROWENA M	17062700 01500	640	140	1	71 RR5	0	7.3553	0.0000
EPPS OLIN N & ROWENA M	17062700 01501	161	0	1	0 RR5	0	6.4401	6.3500
EPPS OLIN N & ROWENA M	17062700 01501	161	0	1	0 RR5	0	5.2027	5.0000
EPPS OLIN N & ROWENA M	17062700 01502	461	107	1	0 RR5	0	5.2027	0.0000
EPPS OLIN N & ROWENA M	17062700 01502	461	0	2	0 RR5	0	6.7555	6.2400
EPPS OLIN N & ROWENA M	17062700 01503	161	307	2	0 RR5	0	6.7555	0.0000
EPPS OLIN N	17062700 01503	461	307	1	0 RR5	0	6.2416	0.0000
EPPS OLIN N	17062700 01503	461	0	1	0 RR5	0	6.2416	0.0000
EPPS ROWENA M	17062700 01504	640	0	1	0 RR5	0	4.9658	5.8500
EPPS ROWENA M	17062700 01504	640	0	1	0 RR5	0	4.9658	5.0000

N= 40

\* SEE SUPPLEMENTAL DATA FOR NEW OWNERSHIPS

DATA FOR EXCEPTION AREA DC-1572, OWNER NAME ORDER 10:37 WEDNESDAY, DECEMBER 7, 1988 2

OWNER	MAPLOT	PCL	SCL FRM FOR	UNITS	YBLT ZONE#	CACRES	ATACRES
BOETTGER EUGENE L	17062700 00800	130	0	1	0 RR5	0.8691	0.8600
EPPS OLIN N	17062700 01503	461	307	1	0 RR5	6.2416	0.0000
EPPS OLIN N & ROWENA M	17062700 01500	640	0	1	0 RR5	6.2416	5.8500
EPPS OLIN N & ROWENA M	17062700 01502	461	0	2	0 RR5	6.4401	6.3500
EPPS OLIN N & ROWENA M	17062700 01501	161	307	2	0 RR5	6.7555	6.2400
EPPS OLIN N & ROWENA M	17062700 01501	161	107	1	0 RR5	6.7555	0.0000
EPPS ROWENA M	17062700 01504	640	0	1	0 RR5	5.2027	0.0000
FOWLER DELBERT W + E M	17062700 00602	131	0	1	0 RR5	4.9658	5.0000
GUARDALABENE A E & J S	17062700 00503	461	160	1	0 RR5	1.7659	1.9000
JACOBSON JULIAN J & GLEN	17062700 00604	431	140	1	79 RR5	5.0357	5.0000
MAGNUSON C O	17062700 00507	131	107	1	56 RR5	8.7605	9.2500
MAGNUSON C O 4-7	17062600 02502	1	0	1	0 RR5	5.0463	5.0000
MAGNUSON C O 4-7	17062600 02502	1	0	1	0 RR5	5.7247	1.5600
MAGNUSON CONRAD O & LAUR	17062700 00501	461	150	1	0 RR5	5.7247	3.2700
MAGNUSON CONRAD O & LAUR	17062700 00600	160	0	1	0 RR5	14.7841	8.1200
MOURER CHARLES R	17062700 00601	461	0	1	0 RR5	14.7841	7.0400
NEER WARREN H & DOROTHY	17062700 00601	640	0	1	0 RR5	5.8710	5.7800
OREGON STATE OF	17062700 00603	131	140	1	0 RR5	19.9318	20.2300
OSTROM PHILLIP S & TERES	17062700 00506	431	107	1	44 RR5	1.0725	0.9000
OSTROM PHILLIP S & TERES	17062700 00506	430	0	1	0 RR5	4.7954	1.0600
PHILLIPS JOHN M	17062700 00101	463	0	3	0 RR5	4.7954	3.9400
PHILLIPS JOHN M	17062700 00101	433	0	3	0 RR5	44.6150	2.0400
PHILLIPS JOHN M	17062700 00101	463	0	3	0 RR5	44.6150	0.2500
PHILLIPS JOHN M	17062700 00101	433	0	3	0 RR5	44.6150	36.6400
PLANTS LEE C & MARILYN E	17062700 00505	431	0	1	0 RR5	44.6150	7.2500
PLANTS LEE C & MARILYN E	17062700 00505	431	307	1	0 RR5	7.3476	7.5000
SMITH EDWARD F & AGNES D	17062700 00702	130	150	1	66 RR5	3.0039	0.0000
SMITH EDWARD R & AGNES D	17062700 00703	130	0	1	0 RR5	0.7830	3.0100
STEVENS DARRELL C + DORI	17062700 01300	431	0	1	0 RR5	0.7830	0.8600
STEVENS DARRELL C & DORI	17062700 01300	431	140	1	0 RR5	7.3553	7.3600
TICE CLIFFORD C & MYRNA	17062700 00502	461	0	1	71 RR5	7.3553	0.0000
TICE CLIFFORD C & MYRNA	17062700 00502	461	0	1	0 RR5	9.9548	9.7000
VOELSCH ARTHUR J TE	17062700 00701	461	0	1	0 RR5	9.9548	0.4400
VOELSCH ARTHUR J TE	17062700 00701	461	140	1	62 RR5	14.7240	0.0000
VOELSCH ARTHUR J TR	17062700 00700	461	0	1	0 RR5	14.7240	15.1100
VOELSCH ARTHUR J TR	17062700 00700	461	0	1	0 RR5	11.0744	11.2400
WEBB MONTIE R & JENNIROS	17062700 00504	431	130	1	50 RR5	11.0744	0.0000
WING ROBERT E & INA KAY	17062700 00900	131	140	1	77 RR5	5.0841	0.0000
			130	1	30 RR5	1.8702	1.8400

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 160 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 agricultural land and that the proposed re-designation is consistent with Plan policies and the approval criteria, addressed herein.

The Board finds the subject 160 acres consists predominantly of agriculture Class VI and VII 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 as 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 re-designation from Agricultural Land to Marginal Land and rezoning from EFU-40 Exclusive Farm Use Land to ML-20 Marginal Land.