

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1113

(I N THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO
(REDESIGNATE LAND FROM "AGRICULTURE" TO "MARGINAL LAND" AND
(REZONING THAT LAND FROM "E-40/EXCLUSIVE FARM USE" TO "ML/
(MARGINAL LAND"; AND ADOPTING SAVINGS AND SEVERABILITY
(CLAUSES (file PA 0220-98; Miesen)

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 January 1998, application no. PA 0220-98 was made for a minor amendment to redesignate tax lots 3800 and 3801 of map 18-04-13 and tax lots 200 and 201 of map 18-04-24, from "Agriculture" to "Marginal Land" and concurrently rezone the property from "E-40/Exclusive Farm Use " to "ML/Marginal Land"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing of March 17, 1998, and on that date forwarded the matter to the Board without formal Commission recommendation; 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 lots 3800 and 3801 of map 18-04-13 and tax lots 200 and 201 of map 18-04-24, from "Agriculture " to "Marginal Land," such territory depicted on Plan Plot 334 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lots 3800 and 3801 of map 18-04-13 and tax lots 200 and 201 of map 18-04-24, are rezoned from "E-40/Exclusive Farm Use" (Lane Code 16.212) to "ML/Marginal Land" (Lane Code 16.214), such territory depicted on Rural Zoning Plot 334 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 13th day of MAY, 1998.

FILED

MAY 19 1998

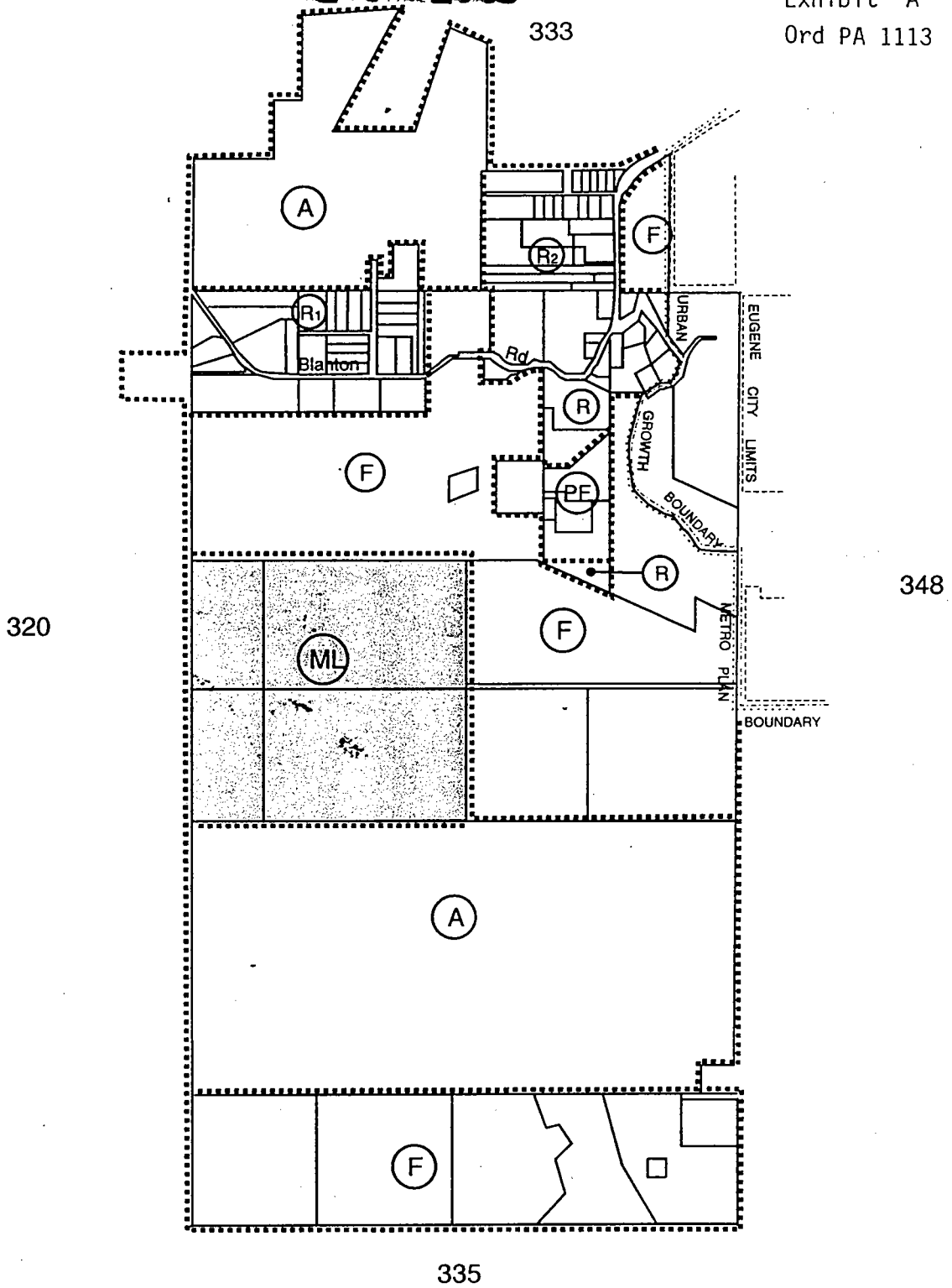
Chair, Lane County Board of County Commissioners COUNTY CLERK


Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 5-13-98 lane county

OFFICE OF LEGAL COUNSEL



	lane county		PLOT #334	
	OFFICIAL PLAN MAP			
Township Range Section				
18 04 13		18 04 24		
ORIGINAL ORD. #	PA 884	DATE	2/29/1984	FILE #
REVISION #	ORD#	DATE		FILE #

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 January 14, 1998, 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 minor rural comprehensive plan amendment re-designating 160 acres of land from Agricultural Land to Marginal Land with concurrent rezoning from Exclusive Farm Use Land (EFU-40) to Marginal Lands (ML-20). These findings of fact provide factual support for the proposed re-designation.

2. The Subject Property is designated as Agriculture Land, a Goal 3 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 lots 3800 and 3801 on Assessor's map no. 18-04-13; and tax lots 200 and 201 on Assessor's map no. 18-04-24, and located on county Zoning Plot No. 334. It is a 160 acre parcel located 3/4 mile west of the intersection of S. Willamette St. and W. 52nd Street. The Subject Property is located 1/3 mile outside the contiguous Metropolitan Plan and Urban Growth Boundaries.

4. The Subject Property is a legal lot. The Lane County Land Management Division made this determination on November 7, 1997, under PA-2939-97. The Subject Property is a 160 acre parcel, approximately 2,514 feet in width by 2,772 feet in length. The property ranges in elevation from 740 feet on the south side to 1100 feet on the north side, with slopes generally to the south at 2 to 30 percent. The property is approximately 50% wooded with oak, pine and fir trees. Portions of the

property have rock exposed at the surface. A 275 foot BPA electric transmission easement and power line bisect the property on an east-west line. Two 30 foot danger tree clearing zones exist to the north and south of this power line easement.

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

Fire:	Eugene Rural Fire Protection District #1
Police:	Lane County Sheriff
School:	Eugene 4J
Sewer:	Individual on-site septic
Water:	Individual on-site well
Access:	W. 52 nd St. and private easement
Electricity:	Lane Electric and EWEB
Telephone:	U.S. West Communications
Solid Waste:	Glenwood Transfer Station

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 west by Exclusive Farm Use (EFU-40) zoned lands, and Forest Land (F-2) to the north and east. The immediate area surrounding the Subject Property generally consists of similar land with poor forest and agricultural soils. KVAL TV Channel 13 operates a television studio and broadcast facility on the property abutting the north. Single-family homes have been constructed on properties abutting the east, south, and west of the Subject Property. There are no commercial farms producing crops abutting the Subject Property. Further to the north and east are large areas of residentially developed parcels.

7. The area is composed mainly of marginal resource lands devoted to communication facilities, housing, 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.

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 sheets #90, 91, 102, and 103 indicate the Subject Property is composed of:

Soil Conservation Service Classification of Subject Property

Soil #	Soil Name	Slope	Acres*	Agriculture Capability Class**	Theoretical Forest Rating Cu.Ft./Ac./Yr.**	% of Total
28C	Chehulpum Silt Loam	3-12%	5.2	VI	0	3%
43E	Dixonville-Phil.-Hazelair Complex	12-35%	53.03	VI	0	33%
102C	Panther Silty Clay Loam	2-12%	7.93	VI	0	5%
113C	Ritner Cobbly Silty Clay Loam	2-12%	24.69	IV	140	15%
113E	Ritner Cobbly Silty Clay Loam	12-30%	17.24	VI	140	11%
113G	Ritner Cobbly Silty Clay Loam	30-60%	7.01	VII	140	4%
138E	Witzel Very Cobbly Loam	3-30%	19.14	VI	0	12%
138G	Witzel Very Cobbly Loam	30-60%	27.28	VI	0	17%
Total			161.52			100%

*LCOG estimate of acreage is 1.52 acres above Lane County Assessor's figure of 160 acres.

**Based on Agricultural Capability Classification System in use by USDA Soil Conservation Service on 10/15/83.

11. The SCS Data indicates that the Subject Property consists of 137 acres or 85 percent nonagricultural Class VI and VII soils, and 113 acres or 70 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 Subject Property is composed predominantly of soils defined by the Soil Conservation Service as having severe limitations for soil cultivation, grazing and forest production. These facts have been confirmed by an agriculture expert.
13. An on-site analysis by a professional forester indicates that 118 acres, or 73 percent is not capable of 85 cu.ft./ac./yr. in timber growth.

14. The Subject Property is impractical to farm due to poor soil conditions and predominant 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 approximately 50% covered with oak, pine, and fir trees. A professional forester has indicated that portions of this property are such that they would support a low productive merchantable stand of timber. He concluded that only 44 acres of the 162 acre total is suited for timber production. The remaining land is not suitable for timber production due to the shallow and heavy clay based soils that have low moisture retention and exposed rock. Additionally, the existing transmission lines have removed 20 acres from production due to vegetation removal and maintenance by the Bonneville Power Administration.

17. The Subject Property is capable of producing 29 cubic feet per acre per year (cf./ac./yr.) based on a professional forester's on-site timber cruise and analysis 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 over a 50 year cycle 2) 1983 price for Douglas Fir of \$220/MBF 3) On-site inspections and measurements by a professional forester 4) ON-site soils analysis by a Soil Scientist. Based upon actual on-site observations, the professional forester estimated annual income \$3,160 per year over the growth cycle. This figure was calculated from assuming clearcutting mature, fully stocked stands and utilized the most optimistic projections.

19. The forester reports that there are no indications that the stands of timber existing on the site in 1936 have encroached onto the areas of non-timber production. Natural regeneration has occurred only in the areas of timber producing soils and not in the other areas. The Subject Property does not have a history of producing significant amounts of wood fiber.

20. An Aquifer Study and a Summary of Water Well Reports and Well Logs indicates 39 wells in the area range from 0 to 100 gpm with an average production of 13.4 g.p.m. The neighboring property to the east is served by a well that produces 15 gpm. A well on the abutting property to the south produces 30 g.p.m. Fifty percent of all wells produce greater than 5 gpm. An adequate water supply is available to serve the proposed density of one dwelling per 20 acres.

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 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 Affidavits, made part of the record as Exhibit "J", that indicate 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. 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 that only 44 acres of this site are capable of producing commercial timber. As previously indicated in finding #18 in section I above, the Subject Property optimistically is capable of producing \$3,160 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.

(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 #11 of section I above, the Board finds the Subject Property is composed of 137 acres of Agricultural Class VI and VII soils (85 percent) and 118 acres with a forest capability of less than 85 cf/ac/yr (73 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 adopted Plan policy or elements, or
- (v-v) 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 Agricultural 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 3 Policy 14 which provides for designating lands that are not agricultural land as marginal land when the Subject Property does not meet the definition of Statewide Planning Goal 3. As previously indicated, the Subject Property does not qualify as agricultural 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 160 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 EFU-40 Exclusive Farm Use 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 3 Policy 14: Provides that lands that are not agricultural land 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 and VII soils and has a forest capability of 29 cubic feet per acre per year. It is not composed of existing or potential commercial 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) None of the abutting properties are used for grazing or commercial farming. Owners of properties abutting the east, south, and west sides live on their properties and display limited tree growth as the sole resource use possible. The resulting maximum density of one dwelling per 20 acres would not appear to adversely affect the use of any adjacent or nearby lands. The proposed amendment 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 eight additional dwellings to the area. This increase is minimal and can be adequately served in conjunction 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 Agricultural 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 in conjunction 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)(ii) 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 West 52nd Street, a county road, Eugene Rural Fire Protection District #1, US West Telephone service, Lane County Sheriff and State Police protection, Lane and EWEB 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 low 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 85 percent Class VI and VII 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 lands that adjoin the Subject Property. Resource capability in the vicinity is extremely limited. There are no commercial farms or commercial forest operations abutting the subject property. Further, the forest zoned parcel (F-2) located north of the subject is composed of soils that qualify as marginal land and are not used or suitable for farming or 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 and VII 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 70 percent of the 160 acre parcel consists of soils with no published forest capability. An on-site analysis by a professional forester indicates that 118 acres, or 73 percent is not capable of 85 cu. ft./ac./yr. in timber growth. 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 \$3,160 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: 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) 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.

2) 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 West 52nd Street, a county road. The residential trip generation from a maximum of eight 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