

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1079 (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 1518-95;
(Yauger)

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 1995, application no. PA 1518-95 was made for a minor amendment to redesignate tax lot 100, map 17-12-35.1, from "Forest" to "Marginal Land" with a concurrent request to rezone the property from "F-2/Impacted Forest Land" to "ML/Marginal Land; and

WHEREAS, the West Lane Planning Commission reviewed the proposal in public hearing of September 20, 1995, and on that date recommended approval of the proposed amendment; 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:

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lot 100, map 17-12-35.1, from "Forest" to "Marginal Land", such territory depicted on Rural Comprehensive Plan Plot 020 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 100, map 17-12-35.1, 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 020 and further identified as Exhibit "B" attached and incorporated herein. This action does not affect the existing coastal combining zone of "BD/Beaches and Dunes", which continues to be effective on the property.

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.

FILED

FEB 22 1996

COUNTY CLERK
BY Lam DeWille

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 14th day of February, 1996.

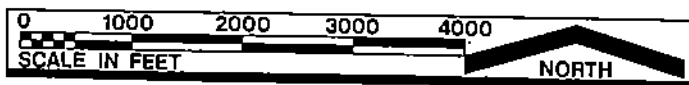
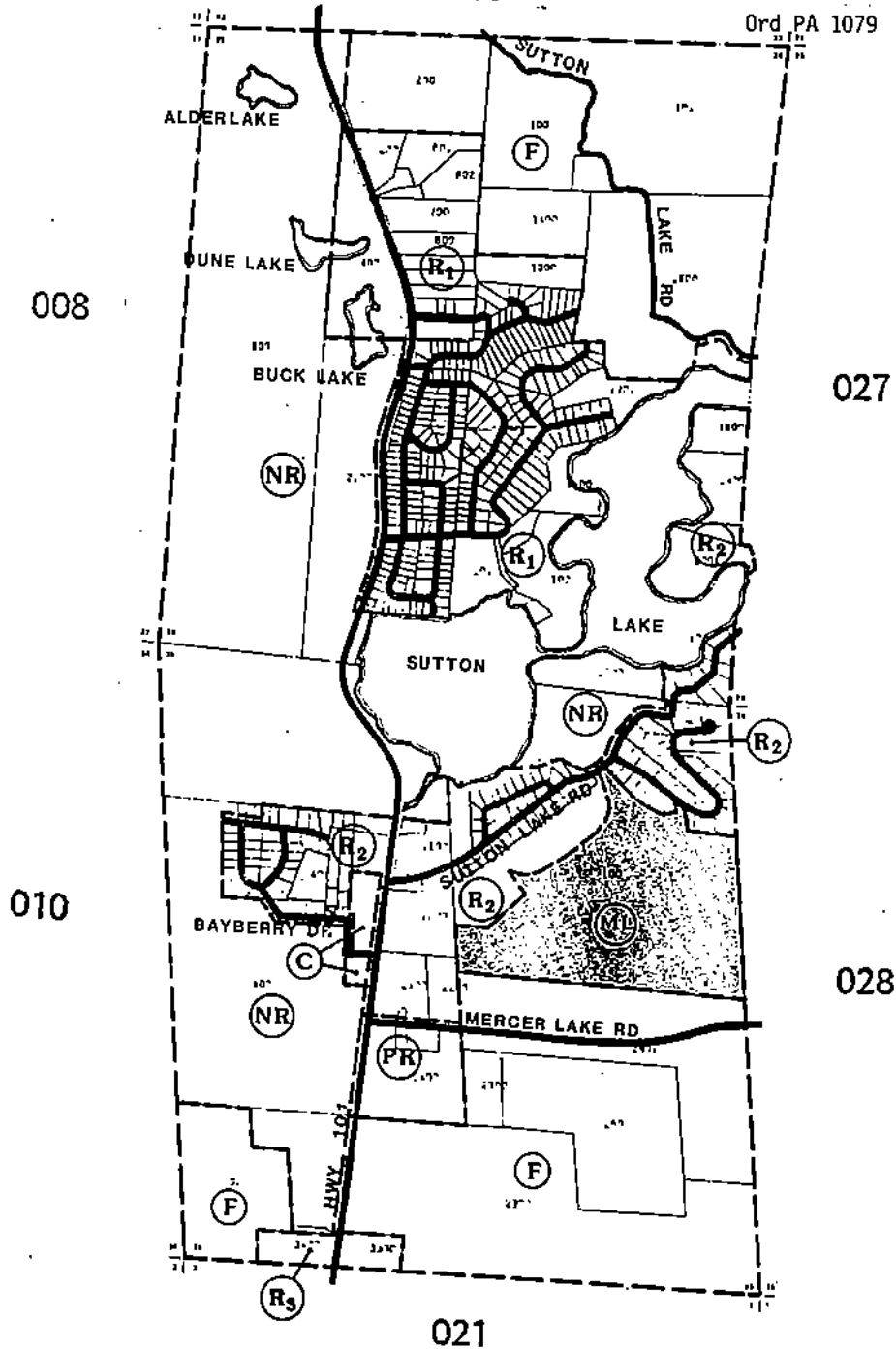
Cindy Weeldreyer
Chair, Lane County Board of County Commissioners

Leslie B. Barrett
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 1-14-96 Lane County

Stephen J. Coles
OFFICE OF LEGAL COUNSEL



lane county



OFFICIAL PLAN MAP

PLOT# 020

Township Range Section

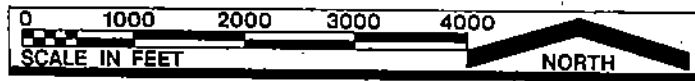
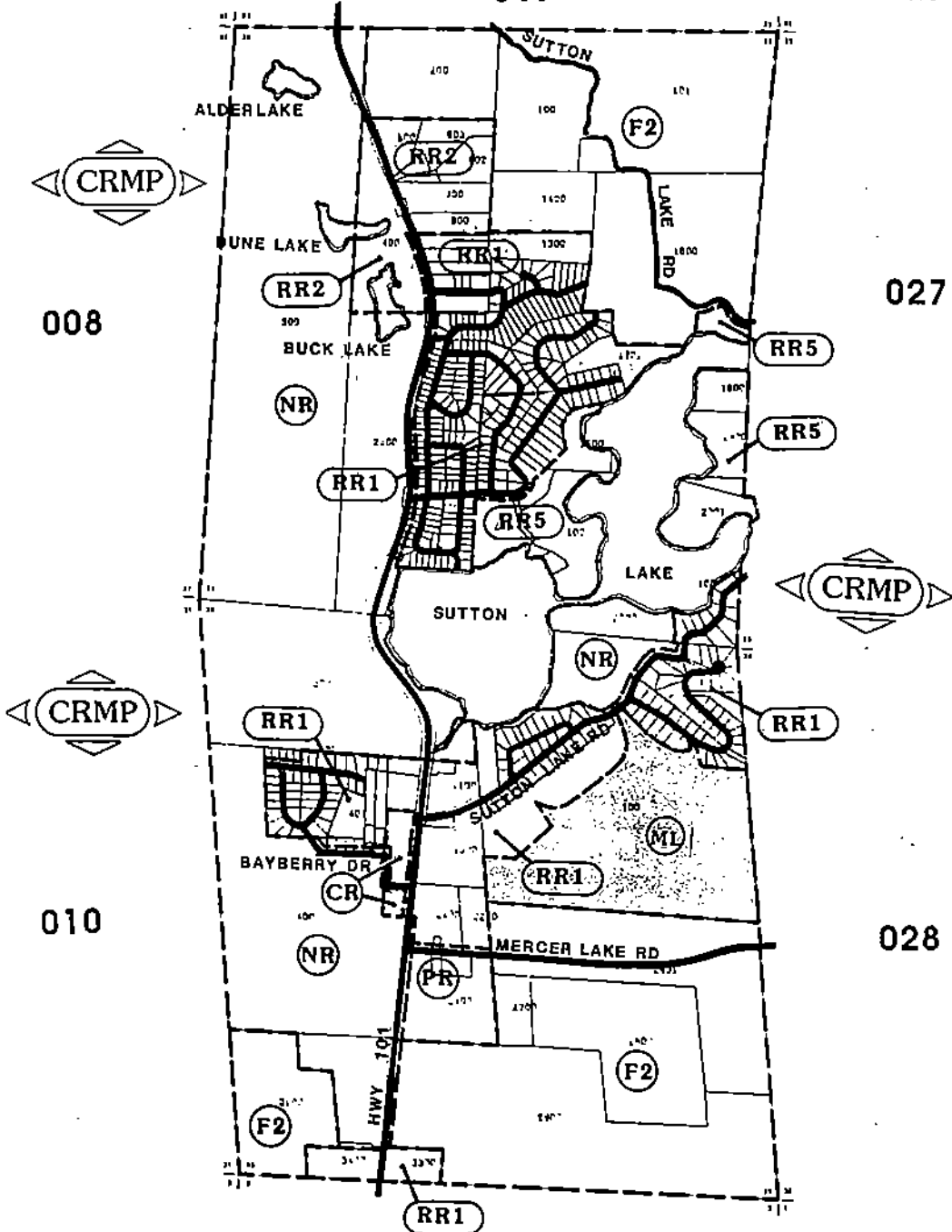
17 12 26

17 12 35

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

REVISION # ORD. # DATE FILE #

019



lane county



OFFICIAL ZONING MAP

PLOT# 020

Township Range Section

17 12 26

17 12 35

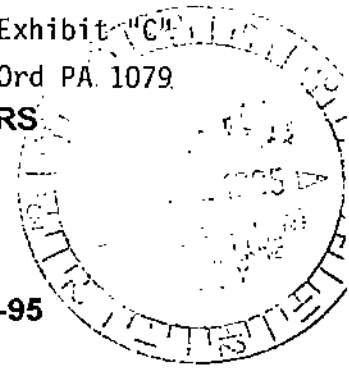
ORIGINAL ORD. # _____ PA 884 DATE 2/29/1984 FILE # _____

REVISION # _____ ORD. # _____ DATE _____ FILE # _____

BEFORE THE LANE COUNTY BOARD OF COMMISSIONERS

IN THE MATTER OF AN APPLICATION)
FOR MARGINAL LANDS PLAN AND ZONE)
DESIGNATION FOR MAP NO. 17-12-35-1,)
TAX LOT 100)

PA 1518-95



Findings of Fact
and
Conclusions of Law

I. General Information Unrelated to Approval Criteria

A. Proposal: Amend the Rural Comprehensive Plan from "Forest" to "Marginal Lands" and Rezone from F-2/Impacted Forest Lands to ML/Marginal Lands for a 78 acre tract of land lying between Sutton Lake Road and Mercer Lake Road, 1/4 mile East of Hwy 101.

B. Applicant/Owner: Leroy Yauger
P.O. Box 1318
Florence, Oregon 97439

C. Location: Map 17-12-35-1, Tax Lot 100.
The subject property is located South of Sutton Lake Road, North of Mercer Lake Road and +/- 1/4 mile East of Hwy 101. The property is approximately 3 miles North of the present North boundary of the City of Florence, in Western Lane County.

D. Zoning: F-2/RCP
The southern 2/3's of the subject property is within the Beaches & Dunes Combining Area which is consistent with the dunal sand base soil type and also consistent with soil types referenced by the Soils Conservation Service inventory maps which are referred to later within this application.

E. Site Characteristics: The subject property is bordered on the North by three platted and developed subdivisions, Mercer Creek West, Mercer Creek West 1st Addition and Sutton Lake Heights By The Sea. The three subdivisions are presently zoned RR-1. To the East, the subject property is bordered by property with a combination of zoning which includes RR-5, RR-1 and CR. To the West, the subject property is bordered by lands with a RR-1 zone designation. Property to the South of the subject property is currently zoned F-2.

The original configuration of tax lot 100 included a portion of property lying North of Sutton Lake Road. The existence of Sutton Lake Road

created two parcels and that portion of the original property lying North of Sutton Lake Road was deeded to a National Conservancy Foundation. This application only pertains to that portion of the original property which lies Southerly of Sutton Lake Road.

The subject property is made up of four timber types which are summarized on a report prepared by Steve Sly, a Professional Forester who does business under the name of Vision Forestry. Page 3, of his report defines the general site characteristics for each timber type with general comments concerning growth capabilities.

The subject property is typical of most property located within a two mile range of the Oregon Coast Line in the Florence area. The property is composed of old sand dunes which have become somewhat stabilized as a result of the establishment of a very poor stand of overgrowth brush which includes rhododendron, huckleberry, shore pine, salal and other brush species. Timber types include Sitka Spruce, Western Red Cedar, Hemlock, Douglas Fir and Shore Pine. When the forest ground cover is disturbed, dunal sand is exposed and is highly susceptible to wind erosion.

Mercer Creek, which runs from Mercer Lake into Sutton Lake traverses the property northwesterly along the eastern portion of the subject property. The ground is relatively flat with some dunal formations stabilized by old growth brush species. Approximately 14 acres of the property is poorly drained and has been designated by the Oregon Department of Forestry as a possible wetland area.

F. Services:

Water:	Heceta Water District
Sewer:	Planned on-site, individual systems
Electricity:	Central Lincoln P.U.D.
Telephone:	U.S. West
Fire:	Siuslaw Rural Fire Protection District
School:	Siuslaw School District, 97-J
Access:	Hwy 101, Sutton Lake Road, Otter Way, Mercer Creek Road.
Police:	Oregon State Police, Lane County Sheriff

II. Findings of Fact and Conclusions of Law Related to Approval Criteria

A. Applicable Criteria

This application proposes related amendments to the Lane County Rural Comprehensive Plan and to the Lane County Zoning Map. The changes would result in a redesignation of the property from Forest Lands to

Marginal Lands. The procedures, definitions and criteria for this type of application are found in state and local law as follows:

1. Lane Code (LC) 16.214(1)(c) states that the purpose of the Marginal Lands zoning district is to designate lands consistent with ORS 197.005 to 197.430.
2. ORS 197.247(1991) sets forth a two-part system of tests. The first part, which is mandatory for all applications, deals with management of agriculture or forestry during a certain time period and with income capability.

The second part of the test involves a choice among three criteria. The first two are parcelization criteria and the last is a productivity criteria. The application must meet one of the three criteria. The tests of ORS 197.247 are set forth below and applied to the facts of this case. As noted below, this application meets these tests.

3. The application must then comply with certain criteria for a Plan amendment. This application is defined as a "Minor Amendment" in that it involves a change in the Plan Diagram only. LC 16.400(8)(a)(i). The criteria for a Minor Amendment are found at LC 16.400(6)(h)(iii)(aa through dd) and at LC 16.400(8)(a) & (c)(i through iii). These criteria deal generally with the policy bases for the amendment, the impact on nearby resources and services, natural hazards and the level of information required of the applicant. As noted below, this application meets all of the criteria for a plan amendment.
4. Lastly, the application must meet the criteria for a zone change as set forth at LC 16.252(2). Those criteria deal generally with achieving the purpose of Lane Code, Chapter 16 and the Marginal Lands zoning district, with the public interest and with the applicable Plan elements and components. As noted below, this application meets the criteria for a zone change.

B. Analysis

Management and income test of ORS 197.247: "The land must not have been managed during three of the five years between January 1, 1978 and January 1, 1983, as part of a farming operation which produced \$20,000 or more in annual gross income, or as part of a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual gross income. Statistical information compiled by Oregon State University Extension Service or other similar empirical data may be used to demonstrate income capability."

Findings:

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Enclosed are copies of Affidavit* signed and notarized by Angela Palmer and Desirie Johnson which state the applicants property was not managed for agricultural or forestry purposes during the years referenced in ORS 197.247.

In addition to the affidavits, a visual inspection of the property shows that no logging or farming activities have occurred. No clear cut areas exist on the property. No visual signs of fields, fencing for animal control or any other signs of agricultural activities could be found.

The above referenced criteria is also responded to within a report prepared by Steve Sly of Vision Forestry.**Page one of his report titled "Mercer Creek Timber Summary" lists a total net income potential from the property as being \$89,474, based on today's market. Since the ORS statute speaks to gross annual income, Mr. Sly's report has been adjusted to reflect gross income figures, (see chart on page 5 of these findings). The gross income for the same timber is \$167,140. It is safe to assume that the market potential for timber between 1978 and 1983 was less than what it is today. Therefore, the price estimate shown in Mr. Sly's report is higher than it would be if it was based on 1978 to 1983 timber values. The important issue here is that based on Mr. Sly's report, the annual income potential from the subject property is well below the maximum amount allowed under the above referenced ORS statute.

\$167,140 total net income averaged over a 80 plus year growing cycle generates a annual income of less than \$2,089.25 per year. Even if we double the gross income, the amount still remains far below the \$10,000 annual income threshold.

A conservative estimate has been made as to the growth cycle. The subject property shows no signs of ever being logged, thus because of the poor forest soils conditions outlined within the soils reports, the growth cycle could very easily be well in excess of 100 years.

Below is a revised chart showing gross income:

*Attachment One to Findings

**Attachment Two to Findings

Species	Grade	MBF	\$/MBF	Gross Profit
DF	2SAW	22	\$675	\$ 14,850
DF	3SAW	55	\$625	\$ 34,375
DF	4SAW	23	\$575	\$ 13,225
DF	UTILITY	1	\$419	\$ 419
DF TOTAL		101		\$62,869
RED CEDAR	3SAW	65	\$600	\$ 39,000
RED CEDAR	4SAW	12	\$525	\$ 6,300
TOTAL		77		\$ 45,300
SHORE PINE	PULP	105	\$419	\$ 43,995
OTHER CON	CAMP RUN	32	\$468	\$ 14,976
		315		\$ 167,140

Conclusions and Reasons:

Based on the above, The Lane County Board of Commissioners finds that the subject property was not managed as part of a farming operation nor a forest operations per the submitted affidavits of record. The Commissioners also find that the property is not capable of producing an annual gross income of \$10,000 per year, over the growth cycle as demonstrated by the above stated findings.

Productivity criteria of ORS 197.247: "The proposed Marginal Land is composed predominately (more than 50%, by area) of soils in capability classes V through VIII in the Agricultural Capability Classification system used by the U.S. Department of Agriculture Soil Conservation Service, and is not capable of producing 85 cubic feet of merchantable timber per acre per year"

Findings:

A detailed investigation of the soils on Tax Lot 100 was prepared by Mr. Joel A. Norgren, PhD. A copy of his report is attached and made part of the record.* The results of Mr. Norgren's report indicate that 69% of the soils, by area, fall within the agricultural capability classification system of class VI through VIII.

*Attachment Three to Findings

TABLE "A"

Map Unit Number	Soil Name	Acres	Cubic foot per acre per year
17	Brallier muck	6.1	-0-
21E	Bullards-Ferrelo 12-30%	1.56	80
136	Willanch	13.34	-0-
140	Yaquina	3.34	-0-
94C	Netarts 3-12%	31.3	125
94E	Netarts 12-30%	15.7	125
111F	Preacher 25-50%	1.16	190
131G	Waldport 30-70%	5.5	116
		<u>78.0</u>	
Average cubic foot/acre/yr		=	87.9

Note: cubic foot per acre yields from Lane County Forest Soils Ratings

The above chart takes the Lane County Forest Soils Ratings and applies those rates to the soil stratification developed in the report by Mr. Norgren. The soil ratings make the following assumptions;

1. All ratings are taken from the "Single Phase Interpretation Sheets" (green sheets) published by the Soil Conservation Service (SCS) for the Lane County Area.
2. All ratings are for Douglas Fir unmanaged, fully stocked stands.

A review of the report prepared by Mr. Sly shows that he found the stand of timber to be composed of the following species;

Douglas Fir	101mbf/net	32%
Red Cedar	77mbf/net	24%
Shore Pine	105mbf/net	33%
Other Conifer	32mbf/net	11%
Total	315mbf/net	100%

(refer to page 2, of Mr. Slys report)

A quick review of the numbers indicates that 315mbf/net divided by 78 acres produces an average volume per acre of 4.04 mbf/acres/net. This volume per acre figure is for all species. The Lane County Forest Soils Rating system indicates that this property should be generating 87.9 cubic feet/acre/year of Douglas Fir, for a stand of timber in an un-managed environment.

If we take the 4.04mbf/acre/net, which represents approximately 80 years of growth, and do some quick math we come up with the following;

$$4.04 \text{ mbf/acre} \times 1000 = 4040 \text{ bf/acre}$$

$$4040 \text{ bf} / 12 \text{ bf per cubic foot} = 336.67 \text{ cubic feet per acre for all species of net volume over an estimated 80 year growth cycle.}$$

$$336.67 \text{ cubic feet per acre} / 80 \text{ years} = 4.21 \text{ cubic feet per acre per year.}$$

There is a big difference between 4.21 cubic feet per acre per year and 87.9 cubic feet per acre per year as predicted by the Lane County Forest Soils Ratings. The capability of the property to produce merchantable timber is more accurately portrayed when it is based on the physical measurement of the existing stand of un-managed timber.

The 4.21 cubic feet per acre per year represents a net volume. A typical differential between net and gross volume might be 20%. Even if the net figure is doubled, the cubic feet per acre per year of actual growth falls far short of the 85 cubic feet of merchantable timber per acre per year threshold.

The age of the stand of timber on tax lot 100 is estimated at 80 years. This estimate is based on the actual ring count of stumps on adjoining property with similar soils types, that were logged within the last five years.

Conclusions and Reasons:

Based on the above evidence, the Lane County Board of County Commissioners, concludes that the parcel meets both the agricultural and forest productivity criteria stated within ORS 197.247.

Sufficient evidence has been presented by the applicant to show that data derived from the Lane County green sheets regarding potential growth capabilities is not consistent with actual on-site conditions. Actual site conditions as documented above, show that the subject property has a growth capability that is far below the 85 cubic feet per acre per year threshold called for within ORS 197.247. The soils report prepared by Joel Norgren, PhD., clearly demonstrates that the subject property meets the requirements of the Agricultural Capability test as required by ORS 197.247.

Plan change criteria of LC 16.400(6)(h)(iii): "The Board 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 amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

Findings:

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The Lane County Board of Commissioners finds that this plan amendment proposal meets all legal requirements in that it is being processed pursuant to the requirements of Lane Code and the acknowledged Rural Comprehensive Plan (RCP). The proposal also meets the requirements of ORS 197.247 as demonstrated within these findings.

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

... “provide for the implementation of adopted Plan policy or elements.”

Findings

The proposed Plan amendment is made necessary to provide for the implementation of adopted Plan policy elements.

Policy 3, Goal 4 (Forest Lands) of Rural Comprehensive Plan states: “Forest lands that satisfy the requirements of ORS 197.247 may be designated Marginal Lands and such designations shall also be made in accordance with other Plan policies. Uses and land divisions allowed on Marginal Lands shall be those allowed by ORS 197.247.”

Conclusion

Information has been submitted within these findings which specifically documents that the subject property meets the necessary criteria to qualify as Marginal Lands under ORS 197.247.

“(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.”

Findings

The Lane County Board of Commissioners takes note of RCP Goal 4, policy 3, which states:

“Forest lands that satisfy the requirements of ORS 197.247 may be designated as Marginal Lands and such designation shall also be made in accordance with other Plan policies. Uses and land divisions allowed on Marginal Lands shall be those allowed by ORS 197.247”

ORS 197.247 outlines the standards for qualification as Marginal Lands. Those standards are applied to the facts of this case as discussed elsewhere in these findings and the property has demonstrated to qualify under those statutory provisions.

“(dd) For Minor Amendments as defined in LC 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”

Findings

The Lane County Board of Commissioners finds that the proposed Plan amendment is compatible with the existing structure of the Rural Comprehensive Plan, in that the marginal lands designation is allowable within the framework of the Plan (see Policy 26, Goal 2 (Land Use Planning)), provided specific statutory-tests are satisfied. In addition, the proposed Future residential use of the subject property is consistent with Policy 16, Goal 2 (Land Use Planning).

The Marginal Lands Designation does allow for parcels ranging from 10 to 20 acres in size. The 10 acre parcels, though zone Marginal Lands, are similar in character to Rural Residential zoning for similar parcel sizes. Though Marginal Lands are considered resource lands, it is reasonable to compare the proposed land classification with residential criteria since Marginal Lands do allow for residences, within the zone classification.

16. Where lands are not farm and forest lands, they may be designated on the plan diagram as rural residential provided:

- a) Detailed and factual documentation has been presented indicating that the subject lands are not farm and forest lands as defined by Statewide Planning Goals #3 and #4.
- b) An exception to any of the Statewide Planning Goals is not required.
- c) Small isolated non-resource tracts surrounded by farm and forest lands shall be discouraged if such non-resource designation would create compatibility problems.
- d) The Rural Residential Designation would be consistent with other Comprehensive Plan Policies.

The Marginal Lands designation does allow for minimal residential development, 10 acre, 20 acre parcel sizes. The test outlined in ORS 197.247, is used to determine whether or not properties qualify for the Marginal Lands Designation.

Documentation has been included in these findings that supports the claim that the subject property does meet the ORS requirements for Marginal Lands Designation.

The subject property is surrounded on three sides by lands with a residential zone class. The Marginal Lands designation will not create an isolated tract of residential development within the middle of a resource land base.

Policy 11, Goal 2 (Land Use Planning) provides a test for rural residential designations for lands devoted to rural housing. Although the Marginal Lands designation would provide for housing densities which are considerably less than that envisioned within policy 11, the below test has been applied in order to show that the subject property would meet policy 11 criteria thus substantiating that the Marginal Lands designation will not have a negative impact on surrounding properties currently having a residential zone classification:

Land use designations and densities appropriate for developed and committed areas shall be determined through compliance with other plan policies and the following criteria:

a. A Rural Residential designation shall be applied to lands which are devoted to rural housing uses as evaluated by the following criteria:

- I. existing development patterns and density;
- II. on-site sewage disposal suitability, or community sewerage;
- III. domestic water supply availability;
- IV. access
- V. public services;
- VI. lack of natural hazards;
- VII. effect on resource lands;

Development Patterns. The intent of the landowner is to partition the property into a series of ten acre and twenty acre lots as allowed within the marginal lands designation. A specific parcel pattern has yet to be determined. Existing development patterns surrounding the subject property are illustrated by a review of the tax lot map and noting existing subdivisions, and other RR-1 and CR zone classifications. The subject property is surrounded on three sides by rural residential development patterns. The parcelization of the subject property into larger 10 or 20 acre parcels will not have a negative impact on the surrounding higher parcelization densities.

Water and sewage. The subject property is within the current boundary for the Heceta Water District. Service from the water district would be extended to parcels created within the subject property. Sewage is addressed through on-site disposal systems. All of the surrounding developed parcels are currently serviced via this method of on-site disposal. Because of the size of the parcelization of the subject property, it is anticipated that all parcels will qualify for on-site sewage disposal. The sewage disposal criteria would be addressed as part of the land partition process.

Access. As mentioned within this application, access to the property is via, Hwy 101 and Sutton Lake Road. Sutton Lake Road and Hwy 101 are considered a

major intersection with developed traffic patterns which are designed to handle large amounts of traffic. The parcelization of the subject property will not have an adverse effect on existing traffic patterns.

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Public Services. With the exception of a community sewage disposal system, the subject property has ready access to the entire range of public services available to the surrounding residential community. There is nothing indicating that the proposed Plan amendment and current zone change would burden existing levels of public services or necessitate a significant increase in service provision beyond current service capacity available to the general area. (See copies of letters from service providers).

Natural hazards. A portion of the subject property is within the Beaches and Dunes Combining area. As part of the partition process, a Beaches and Dunes hazards check would need to be performed. The presence of Mercer Creek running through the property will require a study to determine the extent of riparian habitat that may exist adjacent to the creek channel.

Resource lands. Because the majority of the subject property is neither utilized for intensive resource use, nor capable of sustaining such use, it is expected that the effect of the potential parcelization of the subject property will have no effect on adjoining resource land. In addition, the adjoining resource land is composed of similar soils types that are present on the subject property. Regulation of activities which may affect jurisdictional wetlands are regulated by the Corps of Engineers and Division of State Lands.

Conclusions and Reasons: Based on the findings of fact as stated above, the Lane County Board of Commissioners concludes that this application meets the Plan change criteria of LC 16.400(6)(h)(iii).

Plan Change Criteria of Lane Code 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:

"(1) A complete description of the proposal and its relationship to the Plan."

Findings:

The required description is stated above. The future use of the property would be land divisions and homesites consistent with the density standards and other criteria of Lane Code Chapters 16 and 13. The Plan amendment will change the designation to Marginal Lands in recognition of the significant limited capability of the property for resource use.

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

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Findings

The Lane County Board of Commissioners finds that the applicant has provided the required analysis and acknowledges it to be complete.

“(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;”

Findings

The Lane County Board of Commissioners finds that land use in the area is reflected by the zoning. As mentioned above, surrounding areas have been developed as platted subdivisions and other forms of residential parcelization. The subject property is surrounded on three sides by residential land use patterns. Marginal Lands designation will allow for 10 acre and 20 acre lot size which is larger than what exists on surrounding properties.

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

Findings

The Lane County Board of Commissioners find that the property is served by all the basic facility services described in RCP Goal 11, Policy 6E for Rural Residential Land. These include schools, on-site sewage disposal, electrical service, telephone service, rural level fire and police protection and reasonable access to solid waste disposal services.

Within these findings, it has been demonstrated that all services necessary for the development of a residential area are available to the subject property. Letters of intent to provide service have been received from Heceta Water District, Central Lincoln P.U.D. and the Siuslaw Rural Fire Department. Copies of those letters are attached and made part of these findings.

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

Findings:

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As noted elsewhere, The Marginal Lands designation is a resource, rather than a residential designation. Parcel sizes of 10 and 20 acres within the marginal land areas will have little or no impact on lands that have been demonstrated to be of marginal resource value. The Lane County Board of Commissioners finds that there are no identified Goal 5 resources on the property requiring an ESEE analysis.

As noted within these findings, wetlands are acknowledge to be present on the subject property. Wetlands are regulated under the guidelines of the Corps of Engineers/Division of State Lands dredge and/or fill permit process. As part of any parcelization of the property which would be allowed under the Marginal Lands Designation, a wetland delineation will be conducted with adequate mapping to allow for careful documentation as to the location of any jurisdictional wetland areas. Any activity within a jurisdictional wetland area must be approved through the Corps of Engineer's/Division of State Lands joint application permit process.

“(dd) Natural hazards affecting or affected by the proposal:

Findings

The Lane County Board of Commissioners find that there are no identified natural hazards affecting or affected by this proposal. As mentioned within these findings, the lower 2/3rds of the subject property is within the Beaches and Dunes overlay zone which adds an additional review process to any form of development. The overlay zone is not impacted by the proposed change in zoning.

“(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 existing uses to be replaces by the proposal:”

Findings:

Marginal Lands is a classification for land which is not high quality for agricultural or forest use. It is not a “nonresidential,” “nonagricultural” or “nonforest” designation. As such, this criteria does not apply to this application.

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

Findings:

Marginal Lands is a classification for land which is not high quality for agricultural or forest use. It is not a "nonresidential," "nonagricultural" or "nonforest" designation. As such, this criteria does not apply to this application.

"(gg) For a proposed amendment to a Nonresource designation or a Marginal Land 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)."

Findings

The criteria for Marginal Lands contained in the Marginal Lands Working Paper are the same as those required by ORS 197.497. Contained within this document are findings which demonstrate that the specified criteria for Marginal Lands has been satisfied.

Zone change criteria of LC 16.252(2): "Zonings, rezoning 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 rezoning shall be consistent with the specific purposes of the zone classification proposed, applicable 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..."

Findings:

Consistency with the general purpose of Lane Code.

Lane Code 16.003 sets out a series of 14 statements of purpose for Chapter 16 of the Lane Code (Lane County Land Use and Development Code), among which the following are relevant to this application for zone change:

"(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare."

As indicated within this application, the subject property is limited in scope as resource land due to the very poor soil conditions. It is not possible to maintain a level of resource use which could generate the income necessary to qualify as productive resource land. Rezoning the property to marginal lands will allow the property to be productively used within the limitations of the existing site conditions.

"(9) Provide for and encourage a safe, convenient and economic transportation system within the County." BOOK 157 PAGE 1174

Adequate access to the property has been demonstrated within this report. There is no evidence to indicate that any partitioning of the property would compromise traffic safety, have a detrimental effect on traffic congestion in the area, or exceed the carrying capacity of either Sutton Lake Road or other nearby roads or highways.

"(13) Conserve open space and protect historic, cultural, natural and scenic resources."

No significant open spaces, historic, cultural or scenic resources have been identified as existing on the subject property. The Oregon State Department of Forestry has indicated that a portion of the property has been identified as possibly having a significant wetland. The report submitted by Mr. Sly, also mentions the presence of wet areas. A detailed wetland delineation would be a component of an application for future parcelization of the subject property.

Consistency with zone classification.

According to Lane Code 16.214(1), the intended purpose of the marginal lands zone classification is to:

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

The application of a marginal lands zone classification to the subject property will achieve the purposes of (a) and (b) above. In regard to (c), the marginal lands zone classification is being applied to properties on a case by case basis and processed in accordance with state laws for comprehensive land use coordination (that is, the provisions contained in ORS 197.005 to ORS 197.430). Supporting documentation within this application has been presented which support the proposed zone change to marginal lands.

Consistency with Comprehensive Plan.

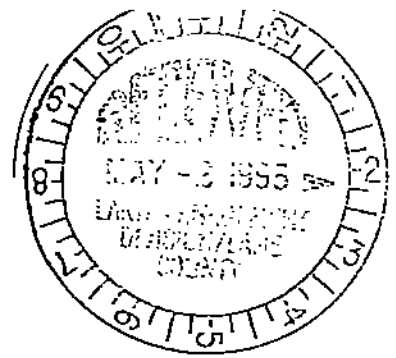
This criteria has been addressed within the scope of this application.

Conclusion.

BOOK 157 PAGE 1175

Based on the findings as stated above, the Lane County Board of Commissioners finds that the proposed Plan amendment and zone change from F-2/RCP to ML/RCP is consistent with state law, Lane County's Rural Comprehensive Plan, and the applicable criterion and requirements of Chapter 16 of the Lane Code. Based on the foregoing discussion, a marginal lands designation and zone classification is applicable to the subject property.

BOOK 157 PAGE 1177



VISION FORESTRY
05304 BERRY LANE
FLORENCE, OR 97439-8332

LE ROY YAUGER
P.O. Box 1318
FLORENCE, OR 97439

April 23, 1995

LE ROY:

The enclosed timber cruise and timber summary is for your property located in section 35 of Township 17 S., Range 12 W., Lane County, Oregon. At your request I have also enclosed the Soil Conservation Service soil classifications for the property and written an opinion for what I see as the long term uses of the property.

I thank you for the use of the aerial photo and tax lot map which I returned to you when we met on April 16, 1995.

If you have questions about the cruise give me a call at (503) 997-6130

I charge \$200 per day and I finished this parcel with the work ups and summary in a day and a half. The land use opinion and photo copies of the soil types took me another two hours.

Please send \$350 to: VISION FORESTRY
05304 BERRY LANE
FLORENCE, OR 97439-8332.

THANKS

Steve Sly
Steve Sly
VISION FORESTRY

**MERCER CREEK
TIMBER SUMMARY**

On April 15, 1995, I cruised the timber on TAX LOT 100 located in, Section 35, T.17S., R.12W., Lane County, Oregon. The timber on the property is a mix of Bastard Growth Douglas Fir, Western Red Cedar, Sitka Spruce, and Shore Pine. I broke the tract into four stand types and cruised the first three. The fourth stand type is mostly wetland or stream.

MBF SUMMARY BY SPECIES

SPECIE	GRADE	TOTAL MBF NET	NET \$/MBF (MINUS COSTS)	NET \$ (PROFIT)
DF	2SAW	22	\$432	\$9,504
DF	3SAW	55	\$368	\$20,267
DF	4SAW	23	\$341	\$7,843
DF	UTILITY	1	\$185	\$185
DF TOTAL		101		\$37,799
RED CEDAR	3SAW	65	\$330	\$21,450
RED CEDAR	4SAW	12	\$300	\$3,600
TOTAL		77		\$25,050
SHORE PINE	PULP	105	\$185	\$19,425
OTHER CON	CAMP RUN	32	\$225	\$7,200

NET PLUS ADJUSTED GROSS 315 MBF \$89,474

To arrive at the net \$/MBF I deducted logging costs from the delivered log prices dated April 10, 1995. I appraised the Douglas Fir using log prices from Willamette industries. I appraised the Shore Pine and Cedar using Davidson Industries delivered log prices.

LOG PRICES
April 10, 1995

WILLAMETTE INDUSTRIES
BOLON ISLAND
REEDSPORT, OR

*DOUGLAS FIR	Special Mill	2Saw	3Saw	4Saw
	\$900/MBF	\$725/MBF	\$640/MBF	\$580/MBF

DAVIDSON INDUSTRIES
MAPLETON, OREGON
AS PER DARYL PETERS (LOG BUYER)

DOUGLAS FIR	Special mill	2Saw	3Saw	4saw	pulp
	\$675/MBF	\$675/MBF	\$625/MBF	\$575/MBF	\$50/TON (\$375/MBF)

*SHORE PINE					Pulp
					\$50/TON (\$375/MBF)

*CEDAR			3Saw	4Saw
			\$600/MBF	\$525/MBF

* Used in the appraisal

MERCER CREEK
TIMBER SUMMARY

Type one is 12 acres in size and is primarily made up of Shore Pine and Red Cedar with scattered Spruce and Hemlock. The land is flat and boggy with several small streams running through it. The soil type is Netarts fine sand and has a potential 100-year Site Index of 80ft., and a Site class of a low V.

This timber type is clumpy and has pockets of pure cedar or Shore pine or a mix of both. There are boggy openings where no trees can grow because of the high water table. The stand averages 10 thousand board feet per acre.

Type two is made up of three different small types. The two southern pieces total 2 acres and is a mix of Douglas Fir and Shore Pine. The land is fairly steep (65%) and is soil typed as Netarts fine sand but is more well drained than type one. These pieces average \approx 10 thousand board feet per acre.

The north eastern piece of stand type two is about 3 acres and has patches of medium sized Douglas Fir, Cedar, Spruce, and Hemlock on the high ground above Mercer Creek. The soil here is Site Class III. The Timber is of primarily a domestic grade and averages \approx 30 thousand board feet per acre.

-Type three is 38 acres and is sparsely stocked with Shore Pine and Douglas Fir due to the loose sand which has precluded an adequate stand of trees to survive. The measured 100-year Douglas Fir Site Index on this type is 64 feet, with a Site class of a low VI.

This type averages 2.3 thousand board feet per acre at age 70 and in my opinion is not suitable for commercial timber production.

Type four is made up of Mercer Creek and its surrounding wetlands. Red alder is the primary specie associated with this type.



STEPHEN SLY
VISION FORESTRY

MERCER CREEK

I performed a timber cruise on TAX LOT 100, owned by Le Roy Yauger located in Township 17 S., Range 12 W., Section 35 on April 15, 1995. The following discussion is from what I have both observed and researched about the property.

The parcel has been soil typed into four soil series by the U.S.D.A. Soil Conservation Service. I have cruised the timber volumes on each of these soil types and offer the following conclusions as an Industrial Forester and Timber Cruiser.

I have enclosed copies of the Lane County Soils interpretations and the USDA Map Unit Descriptions as a reference.

I will start with the Netarts Fine Sand soil type. This type covers approximately 38 acres of the property. The main timber type present is Shore Pine with scattered Douglas Fir. The 100-year Douglas Fir Site Index on this type is 64 feet, with a Site Class of a low VI. The timber limitations for this type are erosion (from blowing sand), and low soil fertility. The trees on this type are 70 years old and 45 feet tall. The type averages 2.3 MBF per acre. The cover types are Evergreen Huckleberry and Salal. This type is not suited for commercial timber production in my opinion and the loose sand would be better stabilized with the associated lawns and bark-o-mulch of the surrounding Urban Developments.

The Yaquina Loamy Fine Sand type covers approximately 14 acres of the property. The soil type is somewhat poorly drained and as a result has Red Cedar and Shore Pine as the major timber species. The 100-year Site Index is 80 feet and a Site Class of a low V. The timber on this type averages 10 MBF per acre. This type is classed by the U.S.D.A. as poor for timber production due to the wetness limitations.

The Willanch Fine Sandy Loam type covers approximately 23 acres of the property. This type is classified by the U.S.D.A. as not suitable for timber production because of the seasonal high water table. This type has Mercer Creek and another small tributary passing through it and is mostly marsh and red alders.

The Bullards - Ferrelo loam type covers 3 acres of the property. This type has a good stand of Douglas Fir, Red Cedar, and Spruce growing on it. The timber averages approximately 30 MBF per acre. This type is a Site class III. The timber's proximity to Mercer Creek will limit the amount of timber that could be harvested. This type is also impacted by the adjacent home owners as they commonly use this type to access Mercer Creek and recreate. This type probably has a greater scenic/recreational value to the adjacent home owners than as a commercial forest type.


STEPHEN SLY
VISION FORESTRY

Good For The Woods, Inc.

P.O. Box 130

Mapleton, OR 97453

(503) 268-2959



April 27, 1995

BOOK 157 PAGE 1182

Mr. Rob Ward
Ward Northwest, Inc.
P O Box 105
Florence, OR 97439

SUBJECT: MARGINAL LANDS CLASSIFICATION

PARCEL: Lane County Map 17-12-35-1, Tax Lot 100
Portion of Tax Lot 100 Lying South of Sutton Lake Road

Mr. Ward:

As per a request from the landowner, Mr. LeRoy Yauger, I have reviewed the Forest Land Status of the above identified parcel near Sutton Lake (in the vicinity of Florence, Oregon).

My initial conclusion is that the lands owned by Mr. Yauger are not suitable for the growing and harvesting of commercial forest crops. Commercial Forestry investments rely on a long term investment (45-90 years) with an acceptable economic return at final harvest. A review of the Lane County Soils classification types existing on Tax Lot 100 indicate only one soil type capable of even approaching an acceptable conifer long term growth yield. This soil type is located on both sides of Mercer Creek in the Northeast portion of the tax lot.

The netarts firm sand soil type lists a Douglas Fir site capability of 80 which is a kings 50 year low site 4. Low site 4 is also a marginal commercial westside growing site.

If I can be of further assistance, please feel free to call.

Sincerely,

GOOD FOR THE WOODS, INC.

John Rollin

BOOK 157 PAGE 1183

Detailed investigation of soils on Tax Lot #100 , Map 17-12-35.1,
property of Mr. Leo Yauger, Sec 35, T.17S, R.12W

On August 12, 1995, I conducted a detailed investigation of soils on Tax Lot 100, between Sutton Lake Rd. and Mercer Lake Rd. Soils were examined at 16 points as shown on the accompanying map and described in the attached field notes. Field effort was concentrated on those portions of the property which preliminary investigation suggested might contain soils differing from those shown on The Soil Survey of the Lane County Area, USDA, SCS, 1987. In addition to the points described in the field notes, approximately .6 miles of traverse were studied on foot.

The main corrections to the published soil map which this investigation found are as follows:

- Approximately 9 acres of Yaquina soils (140) were actually Netarts soils (94 C&E);
- Approximately 5.5 acres of Yaquina soils were actually Waldport soils (131 G);
- Approximately 5.5 acres of Yaquina soils were actually Braillier muck (17).

The adjusted acreage distribution of the soils occurring on this 78-acre tract is presented in the following table, along with their respective capability classifications:

MAP UNIT NUMBER	SOIL NAME	CAPABIL. CLASS.	ACRES	%
17	Braillier muck	IV	6.1	7.8
21E	Bullards-Ferrelo 12-30%	IV	1.56	2.
136	Willanch	III	13.34	17.1
140	Yaquina	IV	3.34	4.3
94 C	Netarts 3-12%	VI	31.3	40.1
94 E	Netarts 12-30%	VI	15.7	20.1
111 F	Preacher 25-50%	VI	1.16	1.5
131 G	Waldport 30-70%	VII	5.5	7.1
			78.0	100.0

Soils having a capability classification of VI and VII total approximately 53.7 acres, or approximately 69% of the tract under consideration.

Joel A. Norgren
Joel A. Norgren, PhD
Soil Scientist

Field notes for a detailed soils investigation of Tax Lot #100,
Map 17-12-35.1, property of Mr. Leo Yauger

SITE NO.	DEPTH (inches)	COLOR	TEXTURE	VEGETATION	SLOPE	SOIL NAME
75' S of road						
1	0-6	10YR 5/2	fine sand	salal	8% S	Netarts C
	6-18	7.5YR 5/6 & 7.5YR 5/4	fine sand	rhododendron evrgn hklbery		
	18-36	10YR 6/3	fine sand	caecara		
200' S of #1						
2	0-14	10YR 6/1	fine sand	salal	22% NW	Netarts E
	14-30	7.5YR 4/6 & 5YR 4/6	fine sand	red hklbery Douglas fir		
	30-40	10YR 5/6 & 7.5YR 5/6	fine sand			
100' S of #2						
3	0-16	10YR 6/1	fine sand	evrgn hklbery	30% NW	Netarts E
	16-40	7.5YR 5/6	fine sand	rhododendron red cedar Douglas fir lodgepole pine		
100' S of #3						
4	0-7	10YR 4/3	fine sand	evrgn hklbery	23% WNW	Netarts E
	7-30	7.5YR 4/6 & 5YR 4/6	fine sand	rhododendron lodgepole pine		
	30-50	10YR 5/6	fine sand			
100' S of #4						
5	0-6	10YR 6/1	fine sand	evrgn hklbery	15% SW	Netarts E
	6-36	7.5YR 5/6	fine sand	rhododendron lodgepole pine		
	36+	10YR 5/6	fine sand	hairy manzanita		
200' S of #5						
6	0-9	10YR 6/2	fine sand	evrgn hklbery	12% S	Netarts E
	9-32	7.5YR 5/6 & 5YR 5/6	fine sand	rhododendron lodgepole pine		
	32-44	10YR 5/4	fine sand	hairy manzanita		

Field notes, Yauger property.....p. 2

SITE NO.	DEPTH (inches)	COLOR	TEXTURE	VEGETATION	SLOPE	SOIL NAME
200' S of #6						
7	0-9	10YR 6/2	fine sand	evrgrn hklbery	8% S	Netarts C
	9-32	7.5YR 5/6	fine sand	rhododendron		
	32-48	10YR 5/6	fine sand	lodgepole pine wax myrtle		
200' S of #7						
8	0-10	10YR 6/1	fine sand	evrgrn hklbery	3% S	Netarts C
	10-33	7.5YR 5/6	fine sand	rhododendron		
	33-49	10YR 5/6	fine sand	lodgepole pine Douglas fir		
200' S of #8						
9	0-10	10YR 6/1	fine sand	salal	5% N	Netarts C
	10-32	7.5YR 5/6	fine sand	evrgrn hklbery		
	32-44	10YR 5/6	fine sand	rhododendron		
100' S of #9						
10	0-12	10YR 5/2	fine sand	salal	60% N	Netarts E
	12-36	7.5YR 4/6 & 5YR 4/6	fine sand	evrgrn hklbery lupine		
	36-50	10YR 5/6	fine sand			
80' E of vacant house						
11	0-12	10YR 2/2	muck	red cedar	0%	Braillier
	12-40	10YR 3/4 10YR 4/2	fine sand	wax myrtle salal		muck
		com, coarse, distinct mottles		sword fern		
200' SE of #11						
12	0-36	7.5YR 2/2	muck	red cedar	0%	Braillier
	36+	10YR 5/2	fine sand	sword fern		muck
SE corner of property, 100' N of 1/2 Sec (35 & 36) post						
13	0-10	10YR 4/2	fine sand	evrgrn hklbery	5% N	Netarts C
	10-28	7.5YR 4/6 & 10YR 4/6	fine sand	rhododendron salal		
	28-48	10YR 5/6	fine sand	lodgepole pine		

Field notes, Yaeger property.....p. 3

SITE NO.	DEPTH (inches)	COLOR	TEXTURE	VEGETATION	SLOPE	SOIL NAME ¹
200' N of #13						
14	0-5	10YR 4/2	fine sand	evrgn hklbery	25% S	Netarts E
	5-26	7.5YR 4/6 &	fine sand	rhododendron		
	26-46	10YR 4/6 10YR 5/6	fine sand	salal lodgepole pine hairy manzanita		
200' N of #14						
15	0-6	10YR 4/2	fine sand	evrgn hklbery	27% S	Netarts E
	6-27	7.5YR 4/6 &	fine sand	rhododendron		
	27-47	10YR 4/6 10YR 5/6	fine sand	lodgepole pine hairy manzanita		
200' N of #15						
16	0-2	10YR 2/2	loamy f.sand	evrgn hklbery	55% NNW	Waldport G
	2-9	10YR 5/2	fine sand	rhododendron		
	9-29	7.5YR 5/4	fine sand	wax myrtle lodgepole pine Douglas fir		