

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE No. PA 888

) IN THE MATTER OF ADOPTING  
) AN ORDINANCE FOR AMENDMENTS  
) TO LANE COUNTY'S RURAL  
) COMPREHENSIVE PLAN (ERRORS  
) AND OMISSIONS/CORRECTIONS)

WHEREAS, on or about February 29, 1984, the Board of County Commissioners of Lane County adopted and enacted Ordinance No. PA 883 amending Ordinance 870 entitled "The Lane County General Plan Policies," an element of the Lane County Rural Comprehensive Plan; and

WHEREAS, Goal 2, item 21 of those policies provides that

"\* \* \*[b]etween March 2, 1984 and December 31, 1984, citizens who identify an error in plan or zone designation, as set forth below, are entitled to the County initiating correction, either quasi-judicial or legislative, as appropriate.

- a. Identified plan designation/zone district application inconsistency.
- b. Identified failure of plan and zone to recognize existing use on March 2, 1984.
- c. Identified failure to zone F-2, where maps used by staff to designate F-1 zone did not display actual existing legal lots adjacent to the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone;" and

WHEREAS, at least nine citizens have identified errors in plan or zone designation and have applied to the County for correction of these errors; and

WHEREAS, the County has received evidence that errors were, in fact, made on the following enumerated properties and desires to correct the plan and zone designations to reflect the correct designation; and

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

NOW THEREFORE, The Board of Commissioners of Lane County ordains as follows:

- A. 1. PA 913-84, Map 17-12-03, Tax Lots 200, 300, 400, 500 and 600, currently designated PR and C and zoned PR/SN and CR/SN, be amended as follows:  
All of Tax Lots 300, 400, 500 and 600 shall be designated CR in the Comprehensive Plan and zoned CR/SN. That portion of Tax Lot 200 which lies within the boundary described in Exhibit A of the document entitled "Findings, Ordinance PA 888" shall also be designated CR in the Comprehensive Plan and zoned CR/SN. That portion of Tax Lot 200 which

lies outside of that boundary shall be designated PR in the Comprehensive Plan and zoned PR/SN.

2. PA 915-84, Map 18-12-25, Tax Lots 101 and 1400, currently designated as F and zoned F-2, be amended to reflect a PF Comprehensive Plan and zoning designation.
3. PA 937-84, Map 16-25-28, that portion of Tax Lot 3001 identified as Parcel 1 in M 2224-83, currently designated as A and zoned E-30, be amended to reflect a R plan designation and a RR 5 zoning designation.
4. PA 938-84, Map 20-03-29.32, Tax Lot 100, currently designated R and zoned RR 10, be amended to reflect a PF Comprehensive Plan and zoning designation.
5. PA 939-84, Map 18-04-13, Tax Lot 3700, currently designated R and zoned RR 10, be amended to reflect a PF Comprehensive Plan and zoning designation.
6. PA 940-84, Map 18-03-19, Tax Lot 1300, currently designated F and zoned F-2 be amended to reflect a ML Comprehensive Plan and zoning designation.
7. PA 942-84, Map 21-02-19, Tax Lot 900, currently designated and zoned PF, be amended to reflect an I Comprehensive Plan designation and a M-1 zoning designation.
8. PA 1082-84, Map 19-04-14, Tax Lots 800, 601, 602, 1000 and an adjacent portion of County road right-of-way of approximately 1.3 acres. Tax Lot 1000 is currently designated A and zoned E 40, Tax Lots 800, 601, 602 and the excess right-of-way are currently designated F and zoned F-2. This should be changed to reflect a R Comprehensive Plan designation and RR 5 zoning designation for all tax lots and a Comprehensive Plan and zoning designation of PF for the excess right-of-way.
9. PA 941-84, Map 17-06-25.3 (Tax Lot 1400), Map 17-06-35 (Tax Lots 100, 102 and 103), Map 17-06-26 (Tax Lots 3200, 3202 and 3300). Tax Lots 100, 102, 103 and 1400 currently have a PR Comprehensive Plan and zoning designation. Tax Lots 3200, 3202 and 3300 have a Comprehensive Plan designation of R and a zoning designation of RR 5. This should be amended to reflect a Comprehensive Plan designation of R and a zoning designation of RR 5 for Tax Lots 3200, 3202, 3300, 102 and 1400 and a Comprehensive Plan designation of F and a zoning designation of F-2 for Tax Lots 100 and 103.

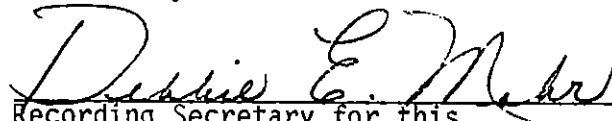
IT IS FURTHER ORDAINED that the official plan designation and zoning maps (Exhibit A to Ordinance No. PA 884) be changed to reflect these amendments.

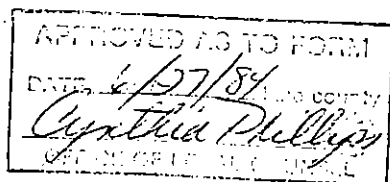
- B. The prior Plan and Zone designations listed above are repealed. However, the prior Plan designations and zoning districts remain in full force and effect to authorize prosecution of persons who violate their provisions prior to the effective date of this ordinance.

- C. 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 affect the validity of the remaining portions hereof.
- D. While not part of this Ordinance, the Board of County Commissioners adopt the Legislative Findings set forth in the attached document labeled "Findings, Ordinance PA 888."

Enacted this 17th day of July 1984.

  
Peter DeFazio, Chair  
Lane County Board of Commissioners

  
Recording Secretary for this  
Meeting of the Board



FINDINGS - ORDINANCE PA. No. 888

NOW THEREFORE, based upon the evidence in the record the Board makes the following findings:

1. PA 913-84, Map 17-12-03, Tax Lots 200, 300, 400, 500 and 600. This is a proposal to modify the areas involved for portions of this property currently planned for PR (Park and Recreation) and C (Commercial) and zoned PR and CR with possible exceptions to LCDC Goal 4. (Note: The entire property is also zoned /SN, but the shorelands designation is not at issue under this application.)

This is the Sea Lion Caves ownership which totals 95.32 acres and is identified as Map 17-12-03, Tax Lots 200, 300, 400, 500 and 600. The site is located about two miles south of Heceta Head along Highway 101 and includes commercial facilities, parking area, water system, forested area and rocky ocean headlands.

Tax Lots 300 - 600 were zoned CR and Tax Lot 200 zoned PR under the CPR process. The owners filed CPR #638 under that process. Staff recommended CR for the areas previously covered by CT and PR for the balance. West Lane Planning Commission modified staff's proposal to zone the entire 95 acres CR. That action was reversed back to the staff's proposal due to "batching" of West Lane Planning Commission's actions by the Board of County Commissioners.

The area currently zoned CR does not entirely cover those areas where improvements now lie; i.e., some development overlaps into the PR area. This overlap is an inconsistency which qualifies this application under the errors and omissions process.

Because portions of the overall property are forest land and because open space/scenic/natural values exist, LCDC Goals 4 and 5 are applicable. The coastal goals are not applicable since no change is proposed to the extent of /SN zoning of the property which has already received acknowledgment from LCDC.

The primary and single issue of this request is the extent of the property which is physically developed for uses other than those allowed by Goal 4 and for which an exception to Goal 4 can be justified. A built upon exception is justified rather than a committed exception which is based upon adjacent uses. All adjacent properties are undeveloped, therefore, a committed exception is not relevant. The Oregon Administrative Rule (660-04-000, Division 4) for the built upon exception process provides the following criteria with which a built upon exception must conform:

"660-04-025(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

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

The actual developed and developable portion of the applicant's property is described in Exhibit A, which is attached hereto and hereby incorporated by reference. This area is comprised of a portion of Tax Lot 200 and all of Tax Lots 300, 400, 500 and 600. Tax Lots 500 and 600 are committed and used for employee parking and the boundary line for the committed area should be drawn along the south boundary of Tax Lot 600 easterly to the section line and westerly to the west property line. The westerly line of the committed area should be the west property line and the northerly line of the committed area should be drawn east and west at the approximate mid-point between the north property line and the north line of the committed boundary. The extension to the west is the wildlife viewing area at the ocean edge. The extension to the north is to ensure that existing and future development is within the commercial area. The line as previously drawn probably did not encompass the sewage disposal area and parking.

2. PA 915-84, Map 18-12-25, Tax Lots 101 and 1400. This is a proposal to amend the Comprehensive Plan from F (Forest) to PF (Public Facilities) and rezone from F-2 to PF with possible exception to LCDC Goals 4 and 5. The Board finds that the staff report to the West Lane Planning Commission dated May 8, 1984, is a correct interpretation of the requirements of the statewide goals, the Comprehensive Plan and zoning ordinance as applied to the facts presented by this proposal. This Board therefore adopts this planning staff report as its findings in this matter with the exception that Tax Lot 1400 should also have been included in the CPR request. This is for the reason that Tax Lot 1400 was approved as a conditional use via CUP 80-423 effective February 9, 1981 and since the CUP approval, cemetery development has occurred. Therefore, Tax Lot 1400 is also developed and committed to the proposed redesignation and rezoning. The staff report referred to above is attached hereto, labeled Exhibit B and is hereby incorporated by reference.
3. PA 937-84, Map 16-25-28, Tax Lot 3001. This is a proposal to amend the Rural Plan (A to R) and change rural zoning (E 30 to RR 5) with exception to LCDC Goal 3 for parcel 1 of M 2224-83. The planning staff report to the Lane County Planning Commission, a copy of which is attached hereto, labeled Exhibit C and hereby incorporated by reference, is an accurate analysis of the requirements of the statewide goals, the Comprehensive Plan, and the zoning ordinance as applied to the facts of this proposal. The Board hereby adopts Exhibit C as its findings in this matter.
4. PA 938-84, Map 20-03-29.32, Tax Lot 100. This is a proposal to amend the Rural Plan (R to PF) and change rural zoning (RR-10 to PF) for the existing

Fir Grove Cemetery. The planning staff report to the Lane County Planning Commission dated May 15, 1984, a copy of which is attached hereto, labeled Exhibit D and hereby incorporated by reference, is an accurate analysis of the requirements of the statewide goals, the Comprehensive Plan and the zoning ordinance as applied to the facts presented in this proposal. Therefore, the Board hereby adopts Exhibit D as its findings in this matter.

5. PA 939-84, Map 18-04-13, Tax Lot 3700. This is a proposal to amend the Rural Plan from R to PF and change rural zoning from RR-10 to PF to recognize the prior to zoning KVAL-TV facilities. The planning staff report dated March 15, 1984, and the Lane County Planning Director Report of Findings, dated April 16, 1984, copies of which are attached hereto and labeled Exhibits E and E1 respectively, are accurate analyses of the requirements of the statewide goals, the Comprehensive Plan and zoning ordinance as applied to the facts presented by this proposal. Therefore, the Board adopts Exhibit E and E1 as its findings in this matter.
6. PA 940-84, Map 18-03-19, Tax Lot 1300. This is a proposal to amend the Rural Plan designation F to ML and change the rural zone F-2 to ML for the property covered by CPR request No. 751. The report on nonresource/nonexception and marginal lands criteria submitted by Paul Mehnert Associates, and the staff report to the Lane County Planning Commission dated May 15, 1984, copies of which are attached hereto, labeled Exhibit F and F1 respectively, are accurate analyses of the requirements of the statewide goals, the Comprehensive Plan and the zoning ordinance as they apply to the facts of this proposal. Therefore, the Board adopts Exhibits F and F1 as its findings in this matter.
7. PA 942-84, Map 21-02-19, Tax Lot 900. This is a proposal to amend the Rural Plan (PF to I) and rezone rural zoning (PF to M2) to allow operation of a small computer research facility in the former Blue Mountain School. The planning staff report to the Lane County Planning Commission dated May 15, 1984, a copy of which is attached hereto, labeled Exhibit G and hereby incorporated by reference, is an accurate analysis of the requirements of the statewide goals, the Comprehensive Plan and the zoning ordinance as they apply to the facts of this proposal. The Board adopts Exhibit G as its findings in this matter.
8. PA 1082-84, Map 19-04-14, Tax Lots 800, 601, 602 and 1000. This is a proposal to amend the Rural Plan designation from A and F to PF and R and change rural zoning from E40 and F-2 to PF and RR-5. The planning staff report to the Lane County Planning Commission, dated May 15, 1984, a copy of which is attached hereto, labeled Exhibit H and hereby incorporated by reference, is an accurate analysis of the requirements of the statewide goals, the Comprehensive Plan and the zoning ordinance as they apply to the facts presented by this proposal. Therefore, the Board hereby adopts Exhibit H as its findings in this matter.
9. PA 941-84. This is a proposal to amend rural plan (R and PR to R and F) and change rural zoning (PR and RR 5 to F-2 and RR 5) for the Oregon Country Fair property.

This property is located south of Highway 126 and west of Elmira about one mile. The site consists of 236 acres and includes Map 17-06-25.3, Tax Lot

1400, Map 17-06-35, Tax Lots 100, 102 and 103 and Map 17-06-26, Tax Lots 3200, 3202 and 3300. Tax Lot 3202 is not listed as being under the ownership of the Oregon Country Fair and has a residence on site. Assessment and Taxation records also list a personal property mobile home for Tax Lot 100. The bulk of the property is flat pasture-like ground with two entrances off of Highway 126.

A CPR request (#293) was submitted for the above property requesting PR zoning for the entire Country Fair property. Staff proposed PR for Tax Lots 100, 102, 103 and 1400 and RR 5 for 3200, 3202 and 3300. Lane County Planning Commission and the Board of County Commissioners adopted staff recommendations, however, staff subsequently received a letter (dated March 6, 1984) from an attorney/Oregon Country Fair Board member notifying that the original CPR request had been submitted without the Fair Board's permission. The letter and a prior letter from the Oregon Country Fair Board request rescission of CPR # 293. A copy of the March 6, 1984, letter is attached hereto, labeled Exhibit I and hereby incorporated by reference. This letter clearly points out that CPR #293 was submitted without the permission of the Oregon Country Fair Board.

Tax Lots 3200, 3202, 3300, 102 and 1400 should remain RR 5 as they have been included in the committed lands analysis for the RR 5 area along Highway 126 and fit the character of existing rural residential sites of the area. Tax Lot 3300 is essentially a roadway.

Regarding the change to F-2 from PR, neither zone appears to allow the fair as a permitted use. PR allows "fairgrounds" via Hearings Official approval, whereas F-2 allows "other recreational facilities" via special permit. In short, interpretation would be required if on-site development were proposed for the fair site. However, the existing use can continue in its apparent nonconforming status.

No goal exceptions would be required as those undeveloped portions would receive resource zoning (F-2) and a committed study for the overall area already included 3200, 3202, 3300, 102 and 1400 for RR 5.

Tax Lots 3200, 3202 and 3300 should be retained as RR 5, Tax Lots 102 and 1400 should be zoned RR 5 and Tax Lots 100 and 103 should be zoned F-2. An area map is attached hereto, labeled Exhibit II and hereby incorporated by reference.

# POAGE & RICE

## ENGINEERING & SURVEYING

MUNICIPAL ENGINEERING • SEWER & WATER SYSTEMS • SURVEYING • COMPUTER SERVICES

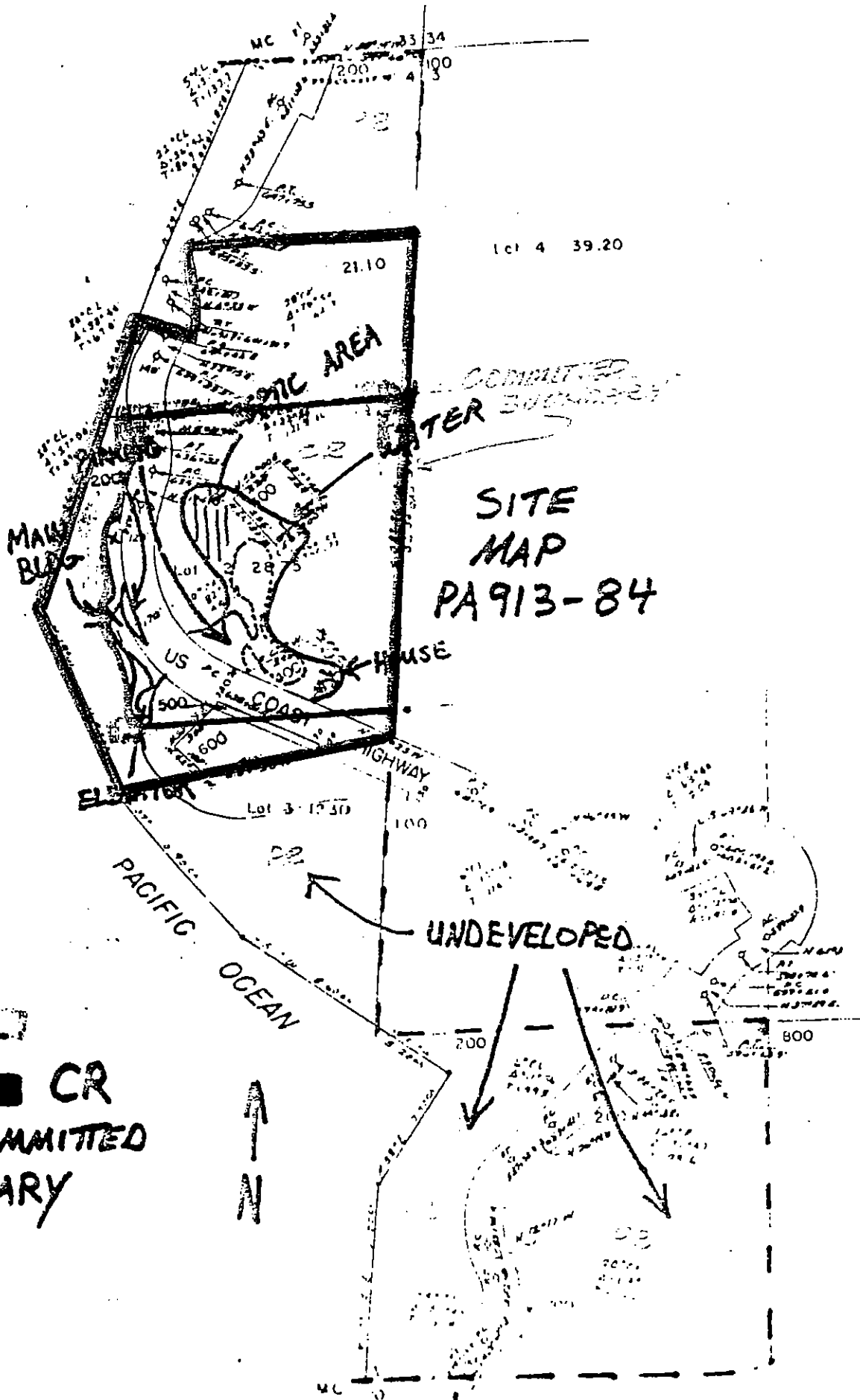
June 25, 1984  
Sea Lion Caves  
Job sea.rno

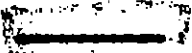

### DESCRIPTION OF COMMITTED LAND

Beginning at a point on the westerly margin of the Oregon Coast Highway at Engineer's station 621+73.5 which is further described as being 200.93 feet SOUTH and 251.26 feet WEST of the one-quarter corner between sections 3 and 4 of Township 17 South, Range 12 West of the Willamette Meridian; thence South 84°30' West to a point on the beach line of the Pacific Ocean; thence northerly along said line to a point that is at right angles to the centerline of said Oregon Coast Highway at Engineer's station 641+00; thence easterly on said line that is at right angles to the centerline of said highway to the east margin of said highway; thence northerly along said east margin to a point that is on a line that is parallel with the north section line of said section 4 and 600 feet SOUTH when measured at right angles to said section line; thence easterly along said line that is parallel with the north section line of said section 4 and 600 feet SOUTH measured at right angles to said section line to the east section line of said section 4; thence southerly along said east section line to a point that is North 84°30' East of the point of beginning; thence South 84°30' West to the point of beginning all in Lane County, Oregon.

See map, Exhibit A1.

Exhibit "A"



 CR  
 AND COMMITTED  
 BOUNDARY

# WEST LANE PLANNING COMMISSION

## STAFF REPORT

Hearing Date: W 5-8-84

File No. PA 915-84

### 1. PROPOSAL:

Amend plan from F (forest) to PF (Public Facilities) and rezone from F-2 to PF with possible exception to LCDC Goals 4 and 5.

### 2. SUBJECT PROPERTY:

This is a cemetery owned by the Florence Lodge #107 AF and AM. The site is located north of and on Hwy. 126, just east of the North Fork Siuslaw River bridge and is identified as Map 18-12-25, Tax Lot 101. Tax lot 101 consists of 4.46 acres of developed cemetery ground. Expansion of this cemetery is extending into tax lot 1400 (12.17 acres) under the name of Pacific Sunset Memorial Park.

### 3. STATUS:

Tax lots 101 and 1400 were zoned F-2 under the recent CPR process. They were formerly zoned FF 20. The County historical site inventory included tax lot 101 as a pioneer cemetery. New expansion into tax lot 1400 was approved via CUP 80-423 effective 2-9-81, and since the CUP approval, cemetery development has occurred.

### 4. ERRORS AND OMISSION QUALIFICATION:

This site was not picked up and zoned PF as part of the CPR process. PF allows cemeteries outright while F-2 does not allow cemeteries at all. Since one intent of the CPR process was to appropriately zone existing legal uses, and since F-2 does not allow cemeteries or expansion of existing non-conforming uses, the change to PF would correct the F-2 error and then conform to the errors and omissions policies.

### 5. ISSUES:

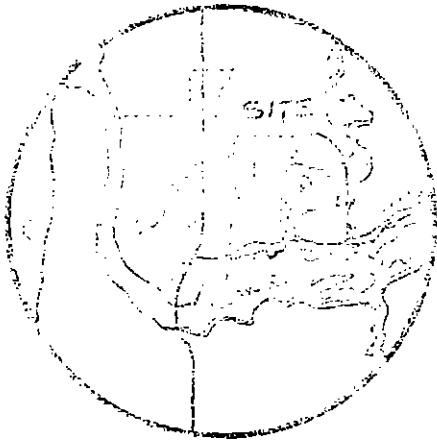
The cemetery on tax lot 101 is already developed, existing and built upon, therefore, conforming to LCDC Goal 2 policies. This finding was made in more detail as part of CUP 80-423. Therefore, it appears appropriate to rezone tax lot 101 to PF. One error still exists, however, and that is the cemetery expansion into tax lot 1400. Since the historical inventory only listed tax lot 101 and the file for CUP 80-423 was not identified until after notice had already been posted, tax lot 1400 was not included in this application. Therefore, tax lot 1400 would also be a good candidate for future errors and omissions action.

### 6. CONCLUSIONS:

Staff recommends approval of the plan amendment/rezone of tax lot 101 to PF (public facilities). Staff also recommends tax lot 1400 be included in the next batch of errors and omissions items for a change to PF.

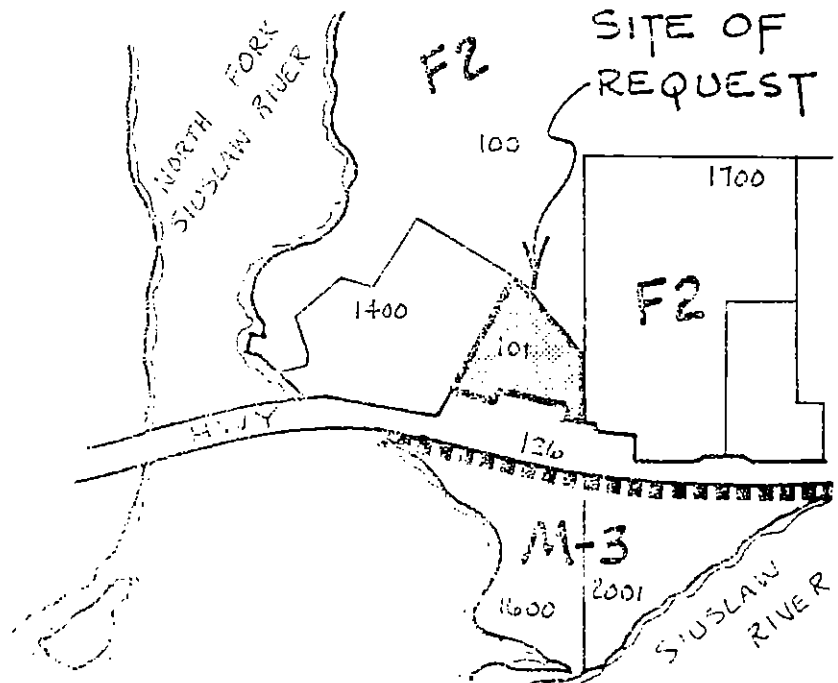
Attachment: Area Map

PA 915-84  
Plan: F to PF  
Zone: F2 to PF



VICINITY MAP

NO SCALE



LANE COUNTY PLANNING COMMISSION

STAFF REPORT

Hearing Date: 5-15-84

File No. PA 937-84

1. PROPOSAL:

Amend rural plan (A to R) and change rural zoning (E30 to RR 5) with exception to LCDC Goal 3 for Parcel 1 of M 2224-83.

2. PROPERTY:

This site consists of a 2.4 acre portion of tax lot 3001; map 16-25-28 that currently has a house on-site. The remainder of tax lot 3001 (40 acres) is primarily pasture ground with a second house and barn on-site. The property was formerly zoned EFU and is now proposed for E30.

3. STATUS:

Partition M 2224-83 was originally filed 11-30-83 in an attempt to separate the 2-4 acres away from the farmable portion of TL 3001. Because of Class I soils on-site, the nonfarm standards (requiring soils to be predominately Class IV - VIII) could not be met and, therefore, the partition was denied on 12-22-83.

4. ERRORS AND OMISSIONS QUALIFICATION:

At the time Partition M 2224-83 was being processed, planning staff discussed including Parcel 1 as part of the developed and committed area (the RR 5) adjacent to the east. Upon denial of the partition, staff committed themselves to including the nonfarm 2.4 acres as RR 5 but somehow this was not followed up on the actual maps. The error of staff's commitment but lack of follow-up justifies this proposal under the errors and omissions process.

5. ISSUES:

The 2.4 acre portion of TL 3001 is built upon and committed, consisting of driveway and improved residential ground. As such, it can be easily added to the committed lands justification for the adjacent RR 5 area. The remainder of TL 3001 would continue in farm use.

Allowing the RR 5 to include the 2.4 acre Parcel 1 would allow the applicants to refile their partition to break the RR 5 Parcel 1 from the E30 Parcel 2.

6. CONCLUSIONS:

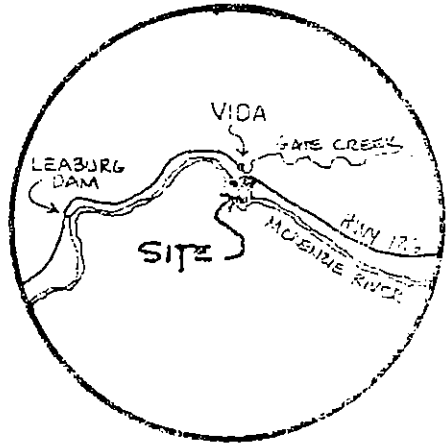
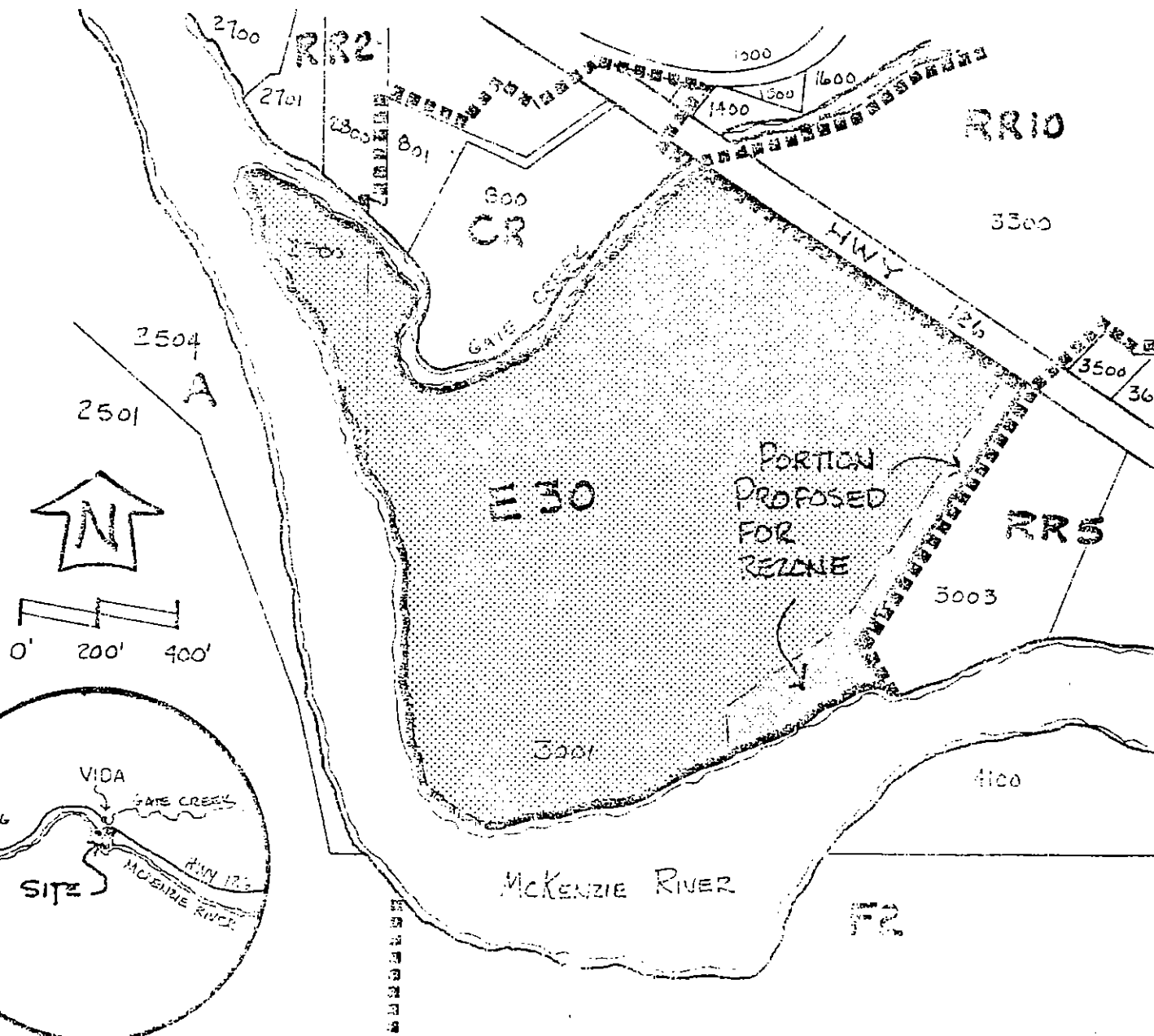
Since the 2.4 acre portion is not a part of the existing farm operation on TL 3001 and does not meet built upon standards, staff recommends Parcel 1 be redesignated as R (Residential) and rezoned RR 5 in keeping with other rural residential properties to the east.

Attachment: Area Map

PA 937-84

Plan: A to R

Zone: E30 to RR5



VICINITY MAP

10 SCALE

LANE COUNTY PLANNING COMMISSION

STAFF REPORT

Hearing Date: 5-15-84

File No. PA 938-84

1. PROPOSAL:

Amend rural plan (R to PF) and change rural zoning (RR-10 to PF) for the existing Fir Grove Cemetary.

2. PROPERTY:

This site is just NW of the City of Cottage Grove via Lorane Hwy. to Cemetary Rd. The site consists of 17.23 acres of developed cemetary, a small house converted to a cemetary office, and is identified as Map 20-03-29.32/TL 100.

STATUS:

The Fir Grove Cemetary has been in existence "for over 60 years" (according to the cemetary manager). It was originally zoned RR and later rezoned RR 10 under the CPR process. Cemetary development occurred before zoning requirements as no files have been created for prior planning action for this site. This cemetary was orginally "The Masonic and Odd Fellows Cemetary", first plotted in 1896 (Book 2, Page 25) and later became the Fir Grove Cemetary.

4. QUALIFICATION AS ERROR AND OMISSIONS:

One intent of the plan was to recognize existing uses with appropriate zoning. The RR 10 zone (as with the prior RR) only allows cemeteries via Hearings Official permit. This means the cemetary is treated as a non-conforming use and cannot expand without Hearings Official approval. The PF zone proposed would correct this use/zone inconsistency by recognizing the long time cemetary use. Therefore, this proposal qualifies under the Errors and Omissions process.

5. ISSUES:

The site is built upon and developed and an exception already taken on part of the RR 10 zoning. The status of the cemetary will not change except that it would finally be appropriately zoned.

6. CONCLUSIONS:

Staff recommends adoption of this proposal as it recognizes the long time existence of this cemetary.

Attachment: Area Map

PA 938-84

Plan: R to PF

Zone: RR10 to PF

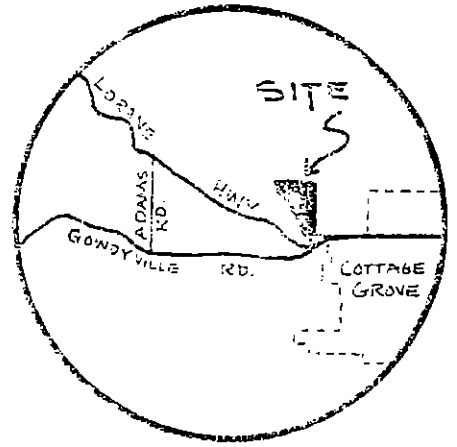
SITE OF REQUEST

PF

RR

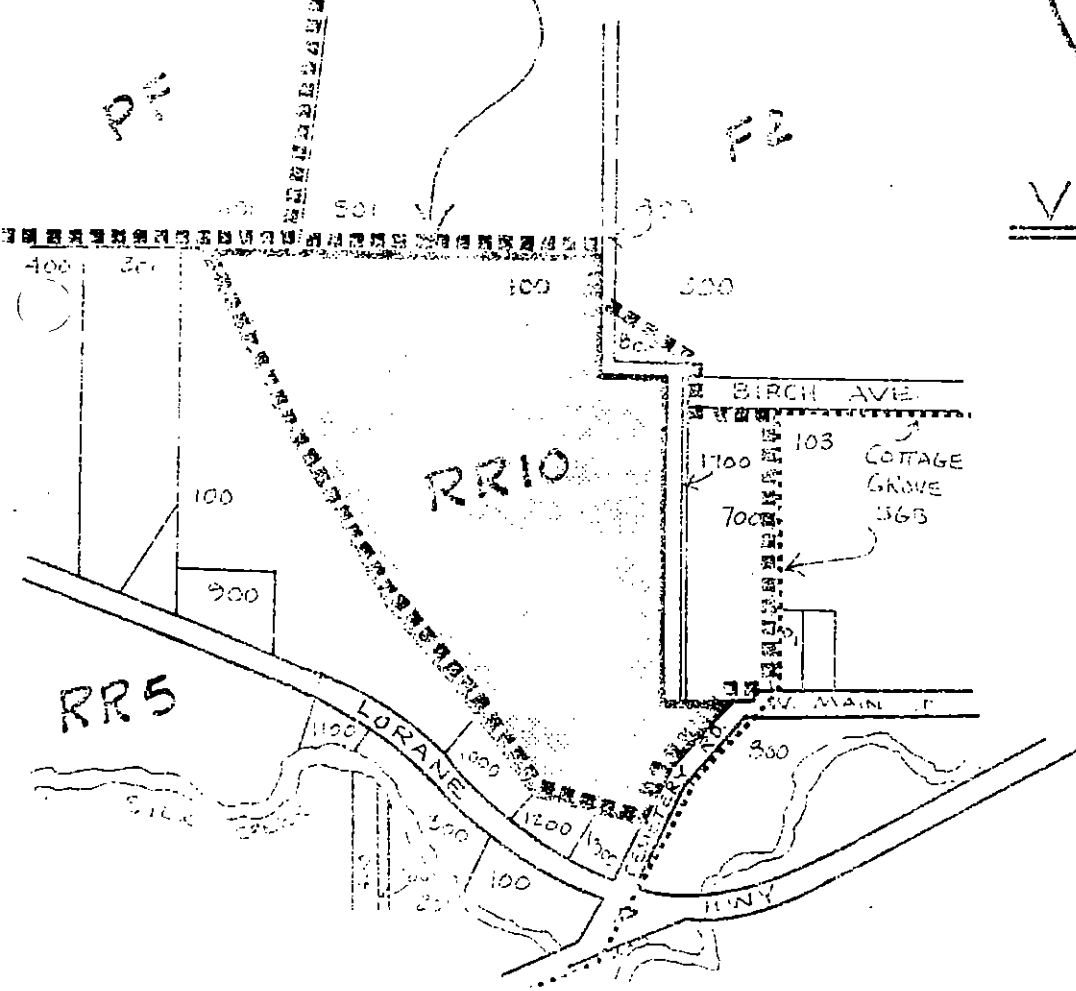
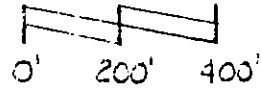
RR10

RR5



VICINITY MAP

NO SCALE



LANE COUNTY PLANNING COMMISSION

STAFF REPORT

Hearing Date: 5-15-84

File No. PA 939-84

**PROPOSAL:**

Amend rural plan from R to PF and change rural zoning from RR 10 to PF to recognize the prior-to-zoning KVAL-TV facilities.

**SUBJECT PROPERTY:**

This property is the location of the KVAL-TV studios. The site is 5 acres in size and is predominantly developed with transmission towers, a 13,645 sq. ft. studio complex, and paved parking and driveways. A 1,770 sq. ft. addition is also proposed for the studios. Site identification is Map 18-04-13/Tax Lot 3700.

**STATUS:**

The TV facilities on-site commenced in 1953, prior to zoning. Initial zoning was AGT, applied in 1966. This was changed to RR in 1973. In 1976 CUP 76-120 was approved allowing expansion of the TV facilities. The RR zoning was subsequently changed to GR II in 1980 and then to RR 10 on April 2, 1984 as part of the CPR process. The RR 10 zone now in effect does not allow TV facilities whereas the prior zones (when they were respectively in effect) did allow these facilities via Hearings Official permit. Because of the current nonconforming use status under RR 10, application PA 888-84 was recently approved allowing expansion of a legal nonconforming use (the 1,770 sq. ft. addition previously mentioned).

**4. ERROR AND OMISSIONS QUALIFICATION:**

One policy of the CPR process was to recognize existing commercial/industrial uses with appropriate zoning. The RR 10 zone now in effect does not meet that policy but, in fact, turns the TV facilities into a nonconforming use status. The PF zone proposed would correct this inconsistency and recognize these long time facilities as permitted outright. Therefore, the errors and omissions process is appropriate.

**5. ISSUES:**

On-site development (either facilities, drive areas or landscaping) covers most of the property, therefore, qualifying this site as built upon (see findings for PA 888-84). Split zoning the site to cover only the existing facilities with PF would probably not be feasible. The site's use apparently is compatible to area residences as no complaints have cropped up over the years and the actual facilities are somewhat removed from Blanton Road and subsequently buffered from other area development. Therefore, no unanswered issues are evident.

**CONCLUSIONS:**

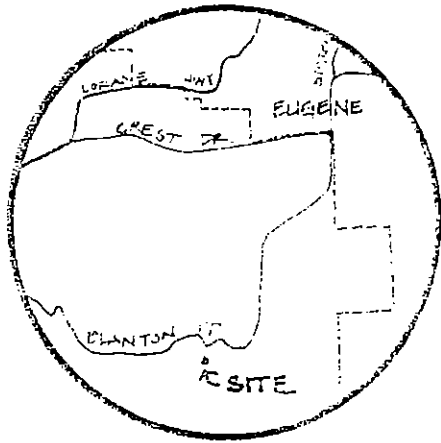
Staff recommends changing the rural plan to PF and the rural zoning to PF in recognition of the existing KVAL-TV facilities.

**ATTACHMENTS:** Area Map

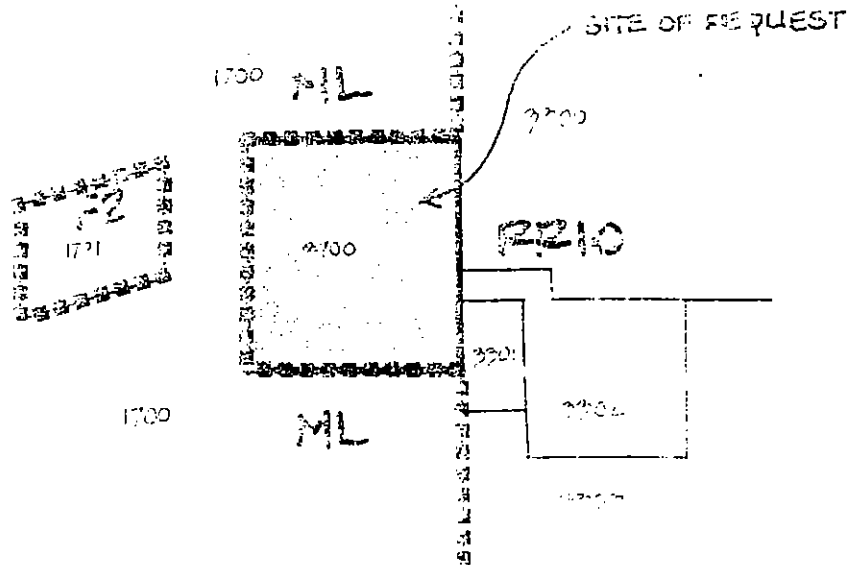
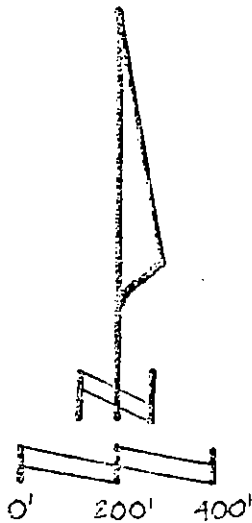
PA 939-84

Plan: R to PF

Zone: RR10 to PF



VICINITY  
MAP  
NO SCALE



LANE COUNTY PLANNING DIRECTOR

REPORT OF FINDINGS

Applicant: KVAL-TV

Prepared by: Joe Hudzikiewicz

Journal No: PA 888-84

Date: April 16, 1984

CRITERIA

Approval of expansion of a nonconforming use requires criteria listed in Lane Code 16.251(3) and 16.251(11) be met. (Criteria are shown in italics.)

*Verification of Nonconforming Use: Lane Code 16.251(1)*

*To be valid, a nonconforming use must have been lawfully established prior to enactment of an ordinance restricting or prohibiting the use.*

The KVAL-TV station was lawfully established on this site in 1953 when the property was unzoned. Subsequent zoning actions and conditional use permit approvals have affirmed the legitimacy of the use at this location. The ordinance restricting or prohibiting the television station use became effective on April 2, 1984.

*The use must have been in actual existence prior to the enactment of an ordinance restricting or prohibiting the use or have proceeded so far toward completion that a right to complete and maintain the use is deemed to have vested in the landowner.*

KVAL has operated continuously at this site since 1953. The use clearly was in actual existence at the time the RR-10 zoning became effective on April 1, 1984.

*The nonuse of a nonconforming use of a structure or property for a period in excess of one year will prohibit the resumption of the nonconforming use.*

KVAL has operated at this site continuously for 30 years; its use has never been interrupted.

Increase of Nonconforming Use: Lane Code 16.251(3)

*"A nonconforming use shall not be increased, except that permission to extend the use to any portion of a building or lot which portion was arranged or designed for such nonconforming use at the time of the passage of this chapter may be granted subject to Director approval pursuant to LC 14.100."*

The tract upon which the KVAL-TV station is located was separated from other property owned by Eugene Television, Inc. some years ago for the precise purpose of accommodating the main television station and transmission facilities. At that time, both the television station use and transmission facilities were allowed by the zoning. This lot was clearly arranged and designed for additional television station space.

Increase of Nonconforming Use: Lane Code 16.251(11)

*The change in the use will be of no greater adverse impact to the neighborhood.*

The proposed expansion does not involve any change of use of the property. The proposed addition simply provides additional control room space to accommodate functions already being carried out on the site.

*The change in the structure or physical improvements will cause no greater adverse impact to the neighborhood.*

The proposed addition involves 1,770 square feet of space located at the southwest corner of the existing television station. This addition represents an expansion of 13 percent over existing floor space. The addition will be no closer to a property line than the existing structure. The closest property line is 140 feet south of the proposed addition.

Property north, west and south of the existing television station is vacant and owned by Eugene Television, Inc. Property east of the site is owned by Obie Communications Corp. and developed with a relay station and radio transmission facilities. The proposed addition will clearly have no adverse impact on these adjacent properties.

Property northeast of the KVAL-TV site is owned by Ronald and Phyllis Bottensek and is vacant at this time. The proposed addition is completely separated from the Bottensek property by the existing television station. Further, the Bottenseks clearly recognize the existence of KVAL-TV since they rely upon an easement over KVAL-TV's access road for access to their property.

*Other provisions of this Chapter, such as property development standards, are met.*

All property development standards of the RR-10 zoning district are met by the proposed addition.

Findings In Support Of Marginal Land Designation & Zoning  
CPR #751, Moshofsky: Lane County Map 18-03-19, Tax Lot 1300

Findings in support of Marginal Lands designation and zoning on 68 acres owned by Arthur & Edward Moshofsky, identified as Tax Lot 1300 on Lane County Map 18-03-19, are based on an extensive record submitted by the applicant. The findings are based on extensive information submitted in two separate reports which documented the property's qualification for Marginal Lands zoning under ORS 197.247. These reports are attached as Exhibits A and B. In addition, the Lane County staff report found that the subject property meets the Marginal Lands criteria and recommended approval of ML zoning as attached in Exhibit C. The following summary of findings document the property's qualification for Marginal Lands designation and zoning:

1. The subject property was not managed, during any three calendar years between January 1, 1978 and 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.
2. 60% of the subject property is in agricultural capability class VI-VII soils. Even if some type of low intensity agricultural activity such as grazing occurred on the subject property it could not produce the \$20,000 or more in annual gross farm income which would disqualify it as Marginal Land.
3. Approximately 40 acres, or 58% of the subject property has no woodland site class as per the Soil Conservation Service maps. The balance is predominantly in site class IV and V soils. Projected theoretical timber revenues to the owner, if the property were fully stocked and managed, would be approximately \$1,193 per year based on the Weyerhaeuser Empirical Yield Tables.
4. An affidavit submitted by the applicant further certifies that the subject property has not made farm or forest incomes which would disqualify it for Marginal Lands zoning.
5. Past management of the subject property and its management potential clearly demonstrate the property's marginal characteristics and its demonstrated inability to produce \$20,000 in annual gross income as a farm operation or \$10,000 annual gross income as a forest operation.

6. The subject property is composed predominantly 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 eighty-five cubic feet of merchantable timber per acre per year.

7. 60% of the subject property consists of the Panther Silty Clay Loam (Capability Class VIw), Dixonville-Philomath-Hazelair (VIe) and the Witzel Very Cobbly Loam (VIIs). These capability classes have limitations which make agricultural use impractical. The Soil Conservation Service finds that capability class VI and VII soils have severe limitations that make them generally unsuited to cultivation. The capability subclass w shows that water in or on the soil interferes with plant growth or cultivation, e shows that the main limitation is risk of erosion unless close-growing plant cover is maintained, and s shows that the soil is limited because it is shallow, drouthy, or stony.

9. Information submitted by Mr. Mark Minty, owner of C & M Livestock Operations, as to the suitability of the subject property for grazing cattle, indicates that a reasonable and prudent farmer would not choose to purchase or lease 68 acres such as the subject property with predominantly non-resource soils. Minty indicates that the subject property has poor thin soil which does not maintain moisture or produce good pasture. Minty indicates there are many rock outcroppings which make prudent farming practices infeasible and that the sloping nature of the property makes water runoff a negative factor in sustaining moisture levels. The costs of improving the pasture through irrigation system installation, brush clearing and land leveling are not economically feasible with respect to the expected returns. The property is, in Minty's opinion, poor land not capable of producing an income approaching the \$20,000 annual gross income.

10. The subject property has never been managed for timber and has little potential because of its poor soils. Approximately 56% of the property has no woodland site class. Although pockets of the subject property have marginal woodland potential, these are not extensive enough to support commercial forestry. The interspersion of these marginal woodland soils within a majority area of no woodland site class makes commercial management of the property for forest use impractical. On the minority of the property which has soil types with a woodland site class, there are significant management problems with respect to erosion hazard, equipment limitation, seedling mortality, windthrow hazard and plant competition.

11. The subject property is not capable of producing 85 cubic feet of merchantable timber per acre per year according to Weyerhaeuser's "Empirical Yield Tables For Douglas Fir." The projected theoretical timber volume over a 60 year growth cycle, if stocked and managed, is approximately 512 mbf. This total yield equals 8.53 mbf per year. These 8,530 board feet equal 125 board feet per acre per year. This is equivalent to 25 cubic feet of merchantable timber per acre per year. This is clearly below 85 cubic feet of merchantable timber per acre per year, thus qualifying the subject property as Marginal Land.

EXHIBIT A  
EVALUATION OF MARGINAL LANDS CRITERIA

EVALUATION OF MARGINAL LANDS CRITERIA

SUPPLEMENTAL REPORT TO CPR #751  
NON-RESOURCE/NON-EXCEPTION REPORT  
FOR SOUTH WILLAMETTE STREET PROPERTY  
LANE COUNTY MAP 18-03-19, TAX LOT 1300

OWNED BY:

ARTHUR & EDWARD MOSHOFSKY  
2041 S.W. 58TH  
PORTLAND, OREGON 97221

PAUL MEHNERT ASSOCIATES  
BUS BARN BUILDING  
540 OAK STREET  
EUGENE, OREGON 97401

## MARGINAL LANDS EVALUATION

CPR # 751

Senate Bill 237 and the Lane County working paper entitled Marginal Land specify that "land that, due to low productive capability or impact from other land uses, are not considered as productive resource lands. Use of this land shall be very low density rural residences, part time farming and similar activities. Densities shall not exceed 1 dwelling per 20 acres adjacent to agricultural or forest lands and 1 dwelling per 10 acres elsewhere".

Land meeting the following criteria may be designated and zoned as Marginal Land:

(1) The land was not managed, during any three calendar years between January 1, 1978 and 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. Statistical information compiled by Oregon State University Extension Service or other similar empirical data may be used to demonstrate income capability; AND

(2) The proposed marginal land is composed predominantly 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 eighty-five cubic feet of merchantable timber per acre per year.

The remainder of this supplemental report will present information supporting this application's compliance with these criteria and its qualification as Marginal Land:

The first standard quoted above refers to management and income produced on the property during the three calendar years between January 1, 1978 and January 1, 1983. The 68 acre Moshofsky property consists of predominantly non-agricultural soils. Even if some type of low intensity agricultural activity such as grazing occurred on the subject property (60% of which is in agricultural capability class VI-VII soils) it could not produce the \$20,000 or more in annual gross income which would disqualify it as marginal land. Cattle prices generally generate about \$300 per cow when sold at a weight of 500-600 pounds. Using this figure it would take 66 cows grazing on 68 acres to make \$20,000 and this is clearly not possible on the subject property.

The Moshofsky property was not managed as, nor is it capable of, a forest operation capable of producing an average, over the growth cycle, of \$10,000 in annual gross income. The calculations found below under the WEYERHAEUSER YIELD TABLE CALCULATIONS show that the average annual gross income, over the growth cycle, would be approximately \$1,193 per year. Approximately 40 acres, or 58% of the subject property, has no woodland site class as per the Soil Conservation Service maps. The balance of the property is identified.

as Witzel Very Cobbly Loam (1.36 acres of woodland site class V), Dixonville Silty Clay Loam (20.4 acres of woodland site class IV) and Willakenzie Clay Loam (6.8 acres of woodland site class II). In addition to the above referenced calculations from the Weyerhaeuser yield tables, information provided by the Oregon State Forestry Department and included within the Lane County F-2 Impacted Forest Lands zoning district states that it would take 43 acres within a site class V, 34 acres within a site class IV and 17 acres within a site class II soil to produce \$10,000 in annual gross income over the growing cycle. This test cannot be met on the subject property.

The second standard quoted above requires that the subject property is composed predominantly 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. The subject property consists of 60% (approximately 40 acres) agricultural capability class VI-VII soils and thus is predominantly in classes V through VIII.

The Moshofsky property is not capable of producing eighty-five cubic feet of merchantable timber per acre per year according to Weyerhaeuser's "Empirical Yield Tables" For Douglas Fir". The majority of the property (58%) has no woodland site class. 20.4 acres (30% of the subject property) is identified as site class IV, 1.36 acres (2%) is identified as site class V and 6.8 acres (10%) is identified as site class II soil. The Weyerhaeuser tables were used to determine projected board feet Scribner scale by site and stocking classes.

Assuming a 60 year rotation period and good stocking, the following projected incomes and timber volumes were calculated using the Weyerhaeuser tables. Copies of the applicable tables used are attached to this report.

#### WEYERHAEUSER YIELD TABLE CALCULATIONS

Site Class II - 6.8 acres x 48 mbf/acre (from Weyerhaeuser Table 4) = 326.4 mbf x \$140 (average present stumpage value) = \$45,700 over the 60 year rotation.

Site Class IV - 20.4 acres x 9 mbf/acre (from Weyerhaeuser Table 10) = 183.6 mbf x \$140 (average present stumpage value) = \$25,700 over the 60 year rotation.

Site Class V - 1.4 acres x 1.2 mbf/acre (from Weyerhaeuser Table 13) = 1.7 mbf x \$140 (average present stumpage value) = \$200 over the 60 year rotation.

The total income from these 28.6 acres with woodland site class is projected at \$71,600 over the 60 year rotation period. The \$71,600 divided by the 60 year rotation period equals an annual average gross income of \$1,193 per year. This is far less than the \$10,000 or greater gross annual income applied in the first standard above as a disqualifier for Marginal Land designation.

The WEYERHAEUSER YIELD TABLE CALCULATIONS found above can also be used to project cubic foot timber yield and to clearly demonstrate that the subject property is not capable of producing eighty-five cubic feet of merchantable timber per acre per year as required for Marginal Land .

designation. When the projected timber volumes from the three categories of woodland site class found on the subject property (site class II, IV and V) are totalled, the 60 year volume is found to be approximately 512 mbf. This total yield, when divided by the 60 year rotation equals 8.53 mbf per year. These 8,530 board feet, when divided by the 68 acres within the subject property, amount to only 125 board feet per acre per year. In order to convert board footage to cubic foot, the appropriate equation, as confirmed through discussion with the State Department of Forestry, is 5.1 board feet Scribner scale = 1 cubic foot. Therefore, the 125 board feet per acre per year projected yield, when divided by 5.1, is equivalent to a yield of 25 cubic feet of merchantable timber per acre per year. This step by step calculation of projected timber volume clearly demonstrates that the subject property is not capable of producing eighty-five cubic feet of merchantable timber per acre per year, and thus it qualifies for designation as marginal land.

The information in this supplemental report clearly documents the Moshofsky property's qualification as Marginal Land. This report is supplemental information to a rather extensive report previously submitted for the Non-Resource/ Non-Exception designation. Please refer to this document for much more detail describing the subject property and its suitability for non-resource zoning.

TABLE 1

SOIL TYPES ON MOSHOFSKY PROPERTY  
MAP 18-03-19, TAX LOT 1300

<u>Soil Symbol</u>	<u>Soil Name</u>	<u>SCS Capability Class</u>	<u>% of Property</u>	<u>Woodland Site Class</u>
492D	Willakenzie Clay Loam 20-30% slopes	IVe	10%	II
475C	Panther Silty Clay Loam 2-12% slopes	VIw	18%	0
375S	Dixonville-Philomath-Hazelair 12-35% slopes	VIe	40%	0
408C	Dixonville Silty Clay Loam 3-12% slopes	IIIe	30%	IV
441K	Witzel Very Cobbly Loam 30-75% slopes	VIIIs	2%	V

# Empirical Yield Tables For Douglas Fir

Board Feet Scribner Rule  
BY  
Site and Stocking Classes

**WEYERHAEUSER TIMBER COMPANY**

TACOMA, WASHINGTON

1947

YIELD TABLE FOR DOUGLAS FIR IN M BOARD FEET PER ACRE  
SITE 11, GOOD STOCKING

IMMEDIATE AGE	ATTAINED AGE																				IMMEDIATE AGE								
	25	30	35	40	45	50	55	60	65	70	75	80	85	90	95	100	105	110	115	120		125	130	135	140	145	150	155	160
20	3.2	5.9	14.4	23.3	31.8	39.9	47.6	54.8	61.6	67.5	73.1	77.6	82.1	85.6	89.1	91.8	94.6	96.6	98.7	100.3	102.0	103.4	104.7	105.9	107.0	108.0	108.6	109.0	20
25	3.2	5.7	14.7	23.7	31.0	38.9	46.6	53.5	60.1	65.9	71.3	75.9	80.3	83.6	87.3	89.9	92.5	94.5	96.6	98.2	100.0	101.3	102.7	103.8	105.0	105.9	106.8	107.4	25
30	4.2	7.6	14.4	21.4	29.6	37.4	45.0	51.8	58.3	64.0	69.4	73.9	78.3	81.7	85.2	87.8	90.5	92.5	94.6	96.3	98.1	99.3	100.7	102.0	103.1	104.1	105.2	105.8	30
35	5.1	10.1	19.8	27.9	35.6	43.2	49.9	56.5	62.1	67.5	72.0	76.4	79.7	83.2	86.0	88.6	90.7	92.8	94.5	96.3	97.6	99.1	100.3	101.4	102.5	103.5	104.1	104.5	35
40	6.1	10.1	18.1	26.5	34.2	41.7	48.3	54.8	60.4	65.8	70.3	74.7	78.1	81.5	84.3	87.1	89.1	91.3	92.9	94.7	96.2	97.7	98.9	100.1	101.2	102.4	103.0	103.4	40
45	6.7	11.7	19.7	28.1	35.8	43.5	49.9	56.4	62.0	67.4	71.9	76.3	79.7	83.1	85.9	88.6	90.7	92.8	94.5	96.3	97.6	99.1	100.3	101.4	102.5	103.5	104.1	104.5	45
50	7.3	12.3	20.3	28.7	36.4	44.1	50.5	57.0	62.6	67.9	72.4	76.8	80.2	83.6	86.4	89.1	91.2	93.3	95.0	96.5	97.9	99.0	100.2	101.3	102.4	103.4	104.0	104.4	50
55	7.9	12.9	20.9	29.3	37.0	44.7	51.1	57.6	63.2	68.5	73.0	77.4	80.8	84.2	87.0	89.7	91.8	93.9	95.6	97.1	98.5	99.6	100.8	101.9	103.0	104.0	104.6	105.0	55
60	8.5	13.5	21.5	29.9	37.6	45.3	51.7	58.2	63.8	69.1	73.6	78.0	81.4	84.8	87.6	90.3	92.4	94.5	96.2	97.7	99.0	100.2	101.3	102.4	103.4	104.4	105.0	105.4	60
65	9.1	14.1	22.1	30.5	38.2	45.9	52.3	58.8	64.4	69.7	74.2	78.6	82.0	85.4	88.2	90.9	93.0	95.1	96.8	98.3	99.6	100.8	101.9	103.0	104.0	105.0	105.6	106.0	65
70	9.7	14.7	22.7	31.1	38.8	46.5	52.9	59.4	65.0	70.3	74.8	79.2	82.6	86.0	88.8	91.5	93.6	95.7	97.4	98.9	100.2	101.4	102.5	103.5	104.5	105.5	106.1	106.5	70
75	10.3	15.3	23.3	31.7	39.4	47.1	53.5	60.0	65.6	70.9	75.4	79.8	83.2	86.6	89.4	92.1	94.2	96.3	98.0	99.5	100.8	102.0	103.1	104.1	105.1	106.1	106.7	107.1	75
80	10.9	15.9	23.9	32.3	40.0	47.7	54.1	60.6	66.2	71.5	76.0	80.4	83.8	87.2	90.0	92.7	94.8	96.9	98.6	100.1	101.4	102.5	103.5	104.5	105.5	106.5	107.1	107.5	80
85	11.5	16.5	24.5	32.9	40.6	48.3	54.7	61.2	66.8	72.1	76.6	81.0	84.4	87.8	90.6	93.3	95.4	97.5	99.2	100.7	102.0	103.1	104.1	105.1	106.1	107.1	107.7	108.1	85
90	12.1	17.1	25.1	33.5	41.2	48.9	55.3	61.8	67.4	72.7	77.2	81.6	85.0	88.4	91.2	93.9	96.0	98.1	100.0	101.5	102.8	103.9	104.9	105.9	106.9	107.9	108.5	108.9	90
95	12.7	17.7	25.7	34.1	41.8	49.5	55.9	62.4	68.0	73.3	77.8	82.2	85.6	89.0	91.8	94.5	96.6	98.7	100.6	102.1	103.4	104.5	105.5	106.5	107.5	108.5	109.1	109.5	95
100	13.3	18.3	26.3	34.7	42.4	50.1	56.5	63.0	68.6	73.9	78.4	82.8	86.2	89.6	92.4	95.1	97.2	99.3	101.2	102.7	104.0	105.1	106.1	107.1	108.1	109.1	109.7	110.1	100
105	13.9	18.9	26.9	35.3	43.0	50.7	57.1	63.6	69.2	74.5	79.0	83.4	86.8	90.2	93.0	95.7	97.8	99.9	101.8	103.3	104.6	105.7	106.7	107.7	108.7	109.7	110.3	110.7	105
110	14.5	19.5	27.5	35.9	43.6	51.3	57.7	64.2	69.8	75.1	79.6	84.0	87.4	90.8	93.6	96.3	98.4	100.5	102.4	103.9	105.2	106.3	107.3	108.3	109.3	110.3	110.9	111.3	110
115	15.1	20.1	28.1	36.5	44.2	51.9	58.3	64.8	70.4	75.7	80.2	84.6	88.0	91.4	94.2	96.9	99.0	101.1	103.0	104.5	105.8	106.9	107.9	108.9	109.9	110.9	111.5	111.9	115
120	15.7	20.7	28.7	37.1	44.8	52.5	58.9	65.4	71.0	76.3	80.8	85.2	88.6	92.0	94.8	97.5	99.6	101.7	103.6	105.1	106.4	107.5	108.5	109.5	110.5	111.5	112.1	112.5	120
125	16.3	21.3	29.3	37.7	45.4	53.1	59.5	66.0	71.6	76.9	81.4	85.8	89.2	92.6	95.4	98.1	100.2	102.3	104.2	105.7	107.0	108.1	109.1	110.1	111.1	112.1	112.7	113.1	125
130	16.9	21.9	29.9	38.3	46.0	53.7	60.1	66.6	72.2	77.5	82.0	86.4	89.8	93.2	96.0	98.7	100.8	102.9	104.8	106.3	107.6	108.7	109.7	110.7	111.7	112.7	113.3	113.7	130
135	17.5	22.5	30.5	38.9	46.6	54.3	60.7	67.2	72.8	78.1	82.6	87.0	90.4	93.8	96.6	99.3	101.4	103.5	105.4	106.9	108.2	109.3	110.3	111.3	112.3	113.3	113.9	114.3	135
140	18.1	23.1	31.1	39.5	47.2	54.9	61.3	67.8	73.4	78.7	83.2	87.6	91.0	94.4	97.2	100.0	102.1	104.2	106.1	107.6	108.9	110.1	111.1	112.1	113.1	114.1	114.7	115.1	140
145	18.7	23.7	31.7	40.1	47.8	55.5	61.9	68.4	74.0	79.3	83.8	88.2	91.6	95.0	97.8	100.6	102.7	104.8	106.7	108.2	109.5	110.7	111.7	112.7	113.7	114.7	115.3	115.7	145
150	19.3	24.3	32.3	40.7	48.4	56.1	62.5	69.0	74.6	79.9	84.4	88.8	92.2	95.6	98.4	101.2	103.3	105.4	107.3	108.8	110.1	111.3	112.3	113.3	114.3	115.3	115.9	116.3	150
155	19.9	24.9	32.9	41.3	49.0	56.7	63.1	69.6	75.2	80.5	85.0	89.4	92.8	96.2	99.0	101.8	103.9	106.0	107.9	109.4	110.7	111.9	112.9	113.9	114.9	115.9	116.5	116.9	155
160	20.5	25.5	33.5	41.9	49.6	57.3	63.7	70.2	75.8	81.1	85.6	90.0	93.4	96.8	99.6	102.4	104.5	106.6	108.5	110.0	111.3	112.5	113.5	114.5	115.5	116.5	117.1	117.5	160

SITE IV, GOOD STOCKING

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20	2.1	3.4	4.7	6.0	7.3	8.6	9.9	11.2	12.5	13.8	15.1	16.4	17.7	19.0	20.3	21.6	22.9	24.2	25.5	26.8	28.1	29.4	30.7	32.0	33.3	34.6	35.9	37.2	38.5	39.8	41.1	42.4	43.7	45.0	46.3	47.6	48.9	50.2	51.5	52.8	54.1	55.4	56.7	58.0	59.3	60.6	61.9	63.2	64.5	65.8	67.1	68.4	69.7	71.0	72.3	73.6	74.9	76.2	77.5	78.8	80.1	81.4	82.7	84.0	85.3	86.6	87.9	89.2	90.5	91.8	93.1	94.4	95.7	97.0	98.3	99.6	100.9	102.2	103.5	104.8	106.1	107.4	108.7	110.0	111.3	112.6	113.9	115.2	116.5	117.8	119.1	120.4	121.7	123.0	124.3	125.6	126.9	128.2	129.5	130.8	132.1	133.4	134.7	136.0	137.3	138.6	139.9	141.2	142.5	143.8	145.1	146.4	147.7	149.0	150.3	151.6	152.9	154.2	155.5	156.8	158.1	159.4	160.7	162.0	163.3	164.6	165.9	167.2	168.5	169.8	171.1	172.4	173.7	175.0	176.3	177.6	178.9	180.2	181.5	182.8	184.1	185.4	186.7	188.0	189.3	190.6	191.9	193.2	194.5	195.8	197.1	198.4	199.7	201.0	202.3	203.6	204.9	206.2	207.5	208.8	210.1	211.4	212.7	214.0	215.3	216.6	217.9	219.2	220.5	221.8	223.1	224.4	225.7	227.0	228.3	229.6	230.9	232.2	233.5	234.8	236.1	237.4	238.7	240.0	241.3	242.6	243.9	245.2	246.5	247.8	249.1	250.4	251.7	253.0	254.3	255.6	256.9	258.2	259.5	260.8	262.1	263.4	264.7	266.0	267.3	268.6	269.9	271.2	272.5	273.8	275.1	276.4	277.7	279.0	280.3	281.6	282.9	284.2	285.5	286.8	288.1	289.4	290.7	292.0	293.3	294.6	295.9	297.2	298.5	299.8	301.1	302.4	303.7	305.0	306.3	307.6	308.9	310.2	311.5	312.8	314.1	315.4	316.7	318.0	319.3	320.6	321.9	323.2	324.5	325.8	327.1	328.4	329.7	331.0	332.3	333.6	334.9	336.2	337.5	338.8	340.1	341.4	342.7	344.0	345.3	346.6	347.9	349.2	350.5	351.8	353.1	354.4	355.7	357.0	358.3	359.6	360.9	362.2	363.5	364.8	366.1	367.4	368.7	370.0	371.3	372.6	373.9	375.2	376.5	377.8	379.1	380.4	381.7	383.0	384.3	385.6	386.9	388.2	389.5	390.8	392.1	393.4	394.7	396.0	397.3	398.6	399.9	401.2	402.5	403.8	405.1	406.4	407.7	409.0	410.3	411.6	412.9	414.2	415.5	416.8	418.1	419.4	420.7	422.0	423.3	424.6	425.9	427.2	428.5	429.8	431.1	432.4	433.7	435.0	436.3	437.6	438.9	440.2	441.5	442.8	444.1	445.4	446.7	448.0	449.3	450.6	451.9	453.2	454.5	455.8	457.1	458.4	459.7	461.0	462.3	463.6	464.9	466.2	467.5	468.8	470.1	471.4	472.7	474.0	475.3	476.6	477.9	479.2	480.5	481.8	483.1	484.4	485.7	487.0	488.3	489.6	490.9	492.2	493.5	494.8	496.1	497.4	498.7	500.0	501.3	502.6	503.9	505.2	506.5	507.8	509.1	510.4	511.7	513.0	514.3	515.6	516.9	518.2	519.5	520.8	522.1	523.4	524.7	526.0	527.3	528.6	529.9	531.2	532.5	533.8	535.1	536.4	537.7	539.0	540.3	541.6	542.9	544.2	545.5	546.8	548.1	549.4	550.7	552.0	553.3	554.6	555.9	557.2	558.5	559.8	561.1	562.4	563.7	565.0	566.3	567.6	568.9	570.2	571.5	572.8	574.1	575.4	576.7	578.0	579.3	580.6	581.9	583.2	584.5	585.8	587.1	588.4	589.7	591.0	592.3	593.6	594.9	596.2	597.5	598.8	600.1	601.4	602.7	604.0	605.3	606.6	607.9	609.2	610.5	611.8	613.1	614.4	615.7	617.0	618.3	619.6	620.9	622.2	623.5	624.8	626.1	627.4	628.7	630.0	631.3	632.6	633.9	635.2	636.5	637.8	639.1	640.4	641.7	643.0	644.3	645.6	646.9	648.2	649.5	650.8	652.1	653.4	654.7	656.0	657.3	658.6	659.9	661.2	662.5	663.8	665.1	666.4	667.7	669.0	670.3	671.6	672.9	674.2	675.5	676.8	678.1	679.4	680.7	682.0	683.3	684.6	685.9	687.2	688.5	689.8	691.1	692.4	693.7	695.0	696.3	697.6	698.9	700.2	701.5	702.8	704.1	705.4	706.7	708.0	709.3	710.6	711.9	713.2	714.5	715.8	717.1	718.4	719.7	721.0	722.3	723.6	724.9	726.2	727.5	728.8	730.1	731.4	732.7	734.0	735.3	736.6	737.9	739.2	740.5	741.8	743.1	744.4	745.7	747.0	748.3	749.6	750.9	752.2	753.5	754.8	756.1	757.4	758.7	760.0	761.3	762.6	763.9	765.2	766.5	767.8	769.1	770.4	771.7	773.0	774.3	775.6	776.9	778.2	779.5	780.8	782.1	783.4	784.7	786.0	787.3	788.6	789.9	791.2	792.5	793.8	795.1	796.4	797.7	799.0	800.3	801.6	802.9	804.2	805.5	806.8	808.1	809.4	810.7	812.0	813.3	814.6	815.9	817.2	818.5	819.8	821.1	822.4	823.7	825.0	826.3	827.6	828.9	830.2	831.5	832.8	834.1	835.4	836.7	838.0	839.3	840.6	841.9	843.2	844.5	845.8	847.1	848.4	849.7	851.0	852.3	853.6	854.9	856.2	857.5	858.8	860.1	861.4	862.7	864.0	865.3	866.6	867.9	869.2	870.5	871.8	873.1	874.4	875.7	877.0	878.3	879.6	880.9	882.2	883.5	884.8	886.1	887.4	888.7	890.0	891.3	892.6	893.9	895.2	896.5	897.8	899.1	900.4	901.7	903.0	904.3	905.6	906.9	908.2	909.5	910.8	912.1	913.4	914.7	916.0	917.3	918.6	919.9	921.2	922.5	923.8	925.1	926.4	927.7	929.0	930.3	931.6	932.9	934.2	935.5	936.8	938.1	939.4	940.7	942.0	943.3	944.6	945.9	947.2	948.5	949.8	951.1	952.4	953.7	955.0	956.3	957.6	958.9	960.2	961.5	962.8	964.1	965.4	966.7	968.0	969.3	970.6	971.9	973.2	974.5	975.8	977.1	978.4	979.7	981.0	982.3	983.6	984.9	986.2	987.5	988.8	990.1	991.4	992.7	994.0	995.3	996.6	997.9	999.2	1000.5	1001.8	1003.1	1004.4	1005.7	1007.0	1008.3	1009.6	1010.9	1012.2	1013.5	1014.8	1016.1	1017.4	1018.7	1020.0	1021.3	1022.6	1023.9	1025.2	1026.5	1027.8	1029.1	1030.4	1031.7	1033.0	1034.3	1035.6	1036.9	1038.2	1039.5	1040.8	1042.1	1043.4	1044.7	1046.0	1047.3	1048.6	1049.9	1051.2	1052.5	1053.8	1055.1	1056.4	1057.7	1059.0	1060.3	1061.6	1062.9	1064.2	1065.5	1066.8	1068.1	1069.4	1070.7	1072.0	1073.3	1074.6	1075.9	1077.2	1078.5	1079.8	1081.1	1082.4	1083.7	1085.0	1086.3	1087.6	1088.9	1090.2	1091.5	1092.8	1094.1	1095.4	1096.7	1098.0	1099.3	1100.6	1101.9	1103.2	1104.5	1105.8	1107.1	1108.4	1109.7	1111.0	1112.3	1113.6	1114.9	1116.2	1117.5	1118.8	1120.1	1121.4	1122.7	1124.0	1125.3	1126.6	1127.9	1129.2	1130.5	1131.8	1133.1	1134.4	1135.7	1137.0	1138.3	1139.6	1140.9	1142.2	1143.5	1144.8	1146.1	1147.4	1148.7	1150.0	1151.3	1152.6	1153.9	1155.2	1156.5	1157.8	1159.1	1160.4	1161.7	1163.0	1164.3	1165.6	1166.9	1168.2	1169.5	1170.8	1172.1	1173.4	1174.7	1176.0	1177.3	1178.6	1179.9	1181.2	1182.5	1183.8	1185.1	1186.4	1187.7	1189.0	1190.3	1191.6	1192.9	1194.2	1195.5	1196.8	1198.1	1199.4	1200.7	1202.0	1203.3	1204.6	1205.9	1207.2	1208.5	1209.8	1211.1	1212.4	1213.7	1215.0	1216.3	1217.6	1218.9	1220.2	1221.5	1222.8	1224.1	1225.4	1226.7	1228.0	1229.3	1230.6	1231.9	1233.2	1234.5	1235.8	1237.1	1238.4	1239.7	1241.0	1242.3	1243.6	1244.9	1246.2	1247.5	1248.8	1250.1	1251.4	1252.7	1254.0	1255.3	1256.6	1257.9	1259.2	1260.5	1261.8	1263.1	1264.4	1265.7	1267.0	1268.3	1269.6	1270.9	1272.2	1273.5	1274.8	1276.1	1277.4	1278.7	1280.0	1281.3	1282.6	1283.9	1285.2	1286.5	1287.8	1289.1	1290.4	1291.7	1293.0	1294.3	1295.6	1296.9	1298.2	1299.5	1300.8	1302.1	1303.4	1304.7	1306.0	1307.3	1308.6	1309.9	1311.2	1312.5	1313.8	1315.1	1316.4	1317.7	1319.0	1320.3	1321.6	1322.9	1324.2	1325.5	1326.8	1328.1	1329.4	1330.7	1332.0	1333.3	1334.6	1335.9	1337.2	1338.5	1339.8	1341.1	1342.4	1343.7	1345.0	1346.3	1347.6	1348.9	1350.2	1351.5	1352.8	1354.1	1355.4	1356.7	1358.0	1359.3	1360.6	1361.9	1363.2	1364.5	1365.8	1367.1	1368.4	1369.7	1371.0	1372.3	1373.6	1374.9	1376.2	1377.5	1378.8	1380.1	1381.4	1382.7	1384.0	1385.3	1386.6	1387.9	1389.2	1390.5	1391.8	1393.1	1394.4	1395.7	1397.0	1398.3	1399.6	1400.9	1402.2	1403.5	1404.8	1406.1	1407.4	1408.7	1410.0	1411.3	1412.6	1413.9	1415.2	1416.5	1417.8	1419.1	1420.4	1421.7	1423.0	1424.3	1425.6	1426.9	1428.2	1429.5	1430.8	1432.1	1433.4	1434.7	1436.0	1437.3	1438.6	1439.9	1441.2	1442.5	1443.8	1445.1	1446.4	1447.7	1449.0	1450.3	1451.6	1452.9	1454.2	1455.5	1456.8	1458.1	1459.4	1460.7	1462.0	1463.3	1464.6	1465.9	1467.2	1468.5	1469.8	1471.1	1472.4	1473.7	1475.0	1476.3	1477.6	1478.9	1480.2	1481.5	1482.8	1484.1	1485.4	1486.7	1488.0	1489.3	1490.6	1491.9	1493.2	1494.5	1495.8	1497.1	1498.4	1499.7	1501.0	1502.3	1503.6	1504.9	1506.2	1507.5	1508.8	1510.1	1511.4	1512.7	1514.0	1515.3	1516.6	1517.9	1519.2	1520.5	1521.8	1523.1	1524.4	1525.7	1527.0	1528.3	1529.6	1530.9	1532.2	1533.5	1534

EXHIBIT B  
EVALUATION OF MARGINAL LANDS CRITERIA  
SECOND SUPPLEMENTAL REPORT TO CPR #751

EVALUATION OF MARGINAL LANDS CRITERIA

SECOND SUPPLEMENTAL REPORT TO CPR #751  
NON-RESOURCE/NON-EXCEPTION REPORT  
FOR SOUTH WILLAMETTE STREET PROPERTY  
LANE COUNTY MAP 18-03-19, TAX LOT 1300

OWNED BY:

ARTHUR & EDWARD MOSHOFSKY  
2041 S.W. 58TH  
PORTLAND, OREGON 97221

PAUL MEHNERT ASSOCIATES  
BUS BARN BUILDING  
540 OAK STREET  
EUGENE, OREGON 97401

APRIL 1984

EVALUATION OF MARGINAL LANDS CRITERIA  
SECOND SUPPLEMENTAL REPORT TO CPR #751

There are now three separate reports which have been submitted to Lane County pertaining to CPR #751 and the information contained within all three should be considered in the County process of making a recommendation on this request. These documents are (1) "Non-Resource/Non-Exception Report For South Willamette Street Property," (2) "Evaluation of Marginal Lands Criteria, Supplemental Report To CPR #751" and (3) this "Second Supplemental Report.

At the request of the Lane County Department Of Land Management, additional information is being submitted within this supplemental report documenting this request's compliance with the following provision within Oregon Senate Bill 237:

(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.

Based upon a review of the subject property's management history, an affidavit was submitted within the first supplemental report certifying that the subject property was not managed, during

any three calendar years between January 1, 1978 and 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. A copy of that affidavit is also attached to this second supplemental report. The following information, provided at the request of Lane County, consolidates and adds to previously submitted information and further demonstrates that the property complies with Senate Bill 237's criterion (a) as quoted above and that the subject property qualifies for Marginal Lands designation and zoning.

Past management of the subject property and its management potential clearly demonstrate the property's marginal characteristics and its demonstrated inability to produce \$20,000 in annual gross income as a farm operation or \$10,000 annual gross income as a forest operation. The soils are predominantly non-resource as identified in Table 1. The attached maps illustrate the location and configuration of the soils with no agricultural capability class I-IV or woodland site class as identified by the Soil Conservation Service.

With respect to the property's agricultural potential and capability classification by the U.S. Soil Conservation service, the land is predominantly Class V-VIII soils. 60% of the subject property consists of the Panther Silty Clay Loam (Capability Class VIw), Dixonville-Philomath-Hazelair (VIe) and the Witzel Very Cobbly Loam (VIIs). These capability classes have limitations

which make agricultural use impractical. Even if some type of low intensity agricultural activity such as grazing occurred on the subject property it could not produce the \$20,000 or more in annual gross income which would disqualify it as marginal land. Cattle prices generally generate about \$300 per cow when sold at a weight of 500-600 pounds. Using this figure it would take 66 cows grazing on 68 acres to make \$20,000 and this is clearly not possible on the subject property.

Capability grouping shows, in a general way, the suitability of soils for most kinds of field crops. The groups are made according to the limitations of the soils when used for field crops, the risk of damage when they are used, and the way they respond to treatment. The Panther Silty Clay Loam and the Dixonville-Philomath-Hazelair soils comprise approximately 58% of the subject property and are Capability Class VI soils. Class VI soils are defined by the Soil Conservation Service as having "severe limitations that make them generally unsuited to cultivation". These soils also have capability subclasses of "w" and "e", respectively. Capability subclasses are soil groups within one class; they are designated by adding a small letter, e, w, s, or c, to the class numeral; for example, VIIe. The letter e shows that the main limitation is risk of erosion unless close-growing plant cover is maintained; w shows that water in or on the soil interferes with plant growth or cultivation; s shows that the soil is limited mainly because it is shallow, drouthy, or stony. The Panther Silty Clay Loam thus has excessive water which

interferes with plant growth or cultivation and the Dixonville-Philomath-Hazelair soil has a large risk of erosion.

The Witzel Very Cobbly Loam which comprises about 2% of the property is a Capability Class VII<sub>s</sub> soil. Class VII soils "have very severe limitations that make them unsuited for cultivation". The subclass "s" means that the soil is shallow, drouthy or stony.

The Dixonville-Philomath-Hazelair soil (Capability Class VI<sub>e</sub>) which is found on 40% of the property has serious hazards and limitations if used for hay and pasture. According to the SCS soil description sheet:

The main limitations are highly plastic soils subject to compaction by livestock or machinery when wet; droughty, shallow soils require summer irrigation, and very limited supplies of irrigation water are available. Uneven dates of maturity because of prolonged early season wetness on Hazelair and early drought on Philomath create additional use of equipment on steeper parts of Dixonville-Philomath-Hazelair units.

The Panther Silty Clay Loam (Capability Class VI<sub>w</sub>), found on 18% of the property, is described by its SCS soil description sheet as being poorly suited to agriculture. It states that if this soil is used for hay and pasture, "the main limitations are very slow permeability and seasonal high water table." This soil yields less pasture per acre than the Dixonville-Philomath-Hazelair Complex.

The Dixonville Silty Clay Loam (Capability Class III<sub>e</sub>), found on 30% of the property, is "poorly suited to intensive

agriculture." If used for hay and pasture, "the main limitations are summer droughtiness and excessive wetness during winter and spring months when the highly plastic clay surface soil is subject to compaction damage from livestock or equipment traffic."

The WillaKenzie Clay Loam (Capability Class IVe), found on 10% of the property, is limited for agricultural use because of its slope. It can produce some marginal pasture if properly irrigated. Irrigation is not feasible on the subject property because the limited quantity of water in the Spencer Creek basin is best utilized in meeting domestic needs.

The Witzel Very Cobbly Loam (Capability Class VIIs), found on approximately 2% of the property, has the lowest pasture yield potential of all soils located on the property.

Because of the poor soils, a reasonable and prudent farmer would not choose to purchase or lease 68 acres such as the subject property with predominantly non-agricultural soils and general unsuitability for resource management. The planning consultant has requested information from Mr. Mark Minty, owner of C & M Livestock Operations, as to the suitability of the subject property for grazing cattle. Mr. Minty, who is familiar with the subject property, has responded with the letter attached to this report. He states that the property has poor forage and is characterized by thin soils and rock outcroppings. The property is, in his expert opinion, poor land not capable of producing an income even approaching the \$20,000 annual gross income.

With respect to the subject property's past management and potential for forest management, it has never been managed for timber and has little potential because of its poor soils. Approximately 60% of the property has no woodland site class. Although pockets of the subject property have marginal woodland potential, these are not extensive enough to support commercial forestry. The interspersation of these marginal woodland soils within a majority area of no woodland site class makes commercial management of the property for forest use impractical. On the minority of the property which has soil types with a woodland site class, there are significant management problems with respect to erosion hazard, equipment limitation, seedling mortality, windthrow hazard and plant competition as identified in Table 2.

Erosion hazard exists in woodland areas during all phases of timber management and harvest. A rating of "slight" within Table 2 indicates that problems of erosion control are relatively insignificant on that soil; "moderate" indicates some precautions are needed to prevent erosion; and "severe" indicates that treatments should be planned to minimize soil loss. As seen within Table 2, the Willakenzie 492D and the Dixonville 408C of lesser slopes have slight erosion problems when compared with the Witzel 441K of moderate slopes which, without utilization of proper techniques, can through timber management and harvesting result in extensive soil erosion.

Equipment limitation ratings refer to "trafficability" and

reflect limitations in the use of equipment commonly employed in managing or harvesting the tree crop. A rating of "slight" indicates that equipment use is not restricted in kind or time of year. A rating of "moderate" indicates equipment use is moderately restricted in kind or operations by one or more factors such as: slope, stones or obstructions, seasonal soil wetness, physical soil characteristics, injury to tree roots, and soil structure and stability. A "severe" rating indicates that special equipment is needed, and its use is severely restricted by one or more of the items listed for "moderate" above, and by safety in operations. As seen within Table 2, the Dixonville 408C and the Witzel 441K have been given a "moderate" rating by the SCS. The Willakenzie 492D has been given a "slight" rating with respect to equipment limitation.

Seedling mortality ratings refer to regeneration potential and reflect the mortality of naturally occurring or planted tree seedlings as influenced by kinds of soil or topographic conditions when plant competition is assumed not to be a limiting factor. Ratings may be developed separately for naturally occurring or planted seedlings as follows:

Slight--Expected mortality is 0-25%

Moderate--Between 25 and 50%

Severe--Over 50%

The Willakenzie 492D soil has been given a "slight" seedling mortality rating while the Dixonville 408C has a "moderate" rating

(with a seedling mortality rate between 25 and 50 percent) and the Witzel 441K has a "severe" rating (with a seedling mortality rate over 50%).

Windthrow hazard ratings refer to the potential for trees falling under conditions of high wind and/or excessive soil wetness. A rating of "slight" indicates that normally there are no trees blown down by the wind. A "moderate" rating indicates that some trees are expected to blow down during periods of excessive soil wetness and high wind and a "severe" rating indicates that many trees are expected to blow down during periods of soil wetness with moderate or high winds. The Willakenzie 492D and the Dixonville 408C are given a "slight" rating by the SCS. The Witzel 441K soil has a "moderate" rating which indicates that some trees will blow down during excessive soil and high wind conditions.

Plant competition ratings refer to brush encroachment and indicate invasion or growth of undesirable species on different kinds of soil when openings are made in the canopy. "Slight" is used when it is anticipated that competition will not prevent adequate establishment and growth of seedlings; "moderate" is assigned when it is anticipated that competition may delay natural or artificial regeneration, but usually will not prevent the development of fully-stocked stands; and "severe" is used when competition can seriously impede natural or artificial regeneration without intense site preparation and maintenance treatments such as weeding or brush control. As seen in Table 2, the Witzel 441K is rated as having "slight" plant competition. The Willakenzie 492D

has "moderate" plant competition while the Dixonville 408C is rated as having "severe" plant competition which can seriously impede natural or artificial regeneration.

The preceding discussion of management problems identified for the minority of soils with woodland site class on the subject property demonstrates the significant physical limitations on managing the property for forest production (the majority of the property -60%- has no woodland potential). These physical limitations, along with the fact that the majority of the property has no woodland site class at all and the geographic problem of site class non-site class soil interspersions combine to make the subject property unsuitable for commercial forest production.

Past management of the subject property has never produced timber. Although there are some scattered areas of mixed conifer and hardwoods found on the subject property, they are on low site class soils and have never produced \$10,000 annual gross income in timber revenues. The calculations found in the first supplemental report under the WEYERHAEUSER YIELD TABLE CALCULATIONS show that the average annual gross income, over the growth cycle, would be approximately \$1,193 per year if the property were managed for timber production.

The preceding information further documents that the subject property qualifies for designation and zoning as Marginal Lands under the standards set forth in Senate Bill 237. Additional information is contained in the original Non-Resource report and

the first supplemental Marginal Lands report submitted in support of CPR #751 which demonstrates compliance with other SB 237 requirements not readdressed in this second supplemental report.

To: Lane County Department of Land Management

From: Paul Mehnert, Land Use Planning Consultant

I, Paul Mehnert, represent Arthur and Edward Moshofsky who own 68 acres adjacent to South Willamette Street identified as Tax Lot 1300 on Lane County Map 18-03-19. I have submitted a request and documentation to qualify this property for Marginal Land designation and zoning within the requirements of Senate Bill 237. All requirements of the Senate Bill, including the income provisions, have been met by the application and documented within the submittal entitled "Evaluation Of Marginal Lands Criteria". I hereby certify that the subject property was not managed, during any three calendar years between January 1, 1978 and 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.

Paul Mehnert

Paul Mehnert, Planning Consultant

February 13, 1984

Date

The foregoing document was acknowledged before me this 13<sup>th</sup> day of February, 1984, by Paul Mehnert, Planning Consultant.

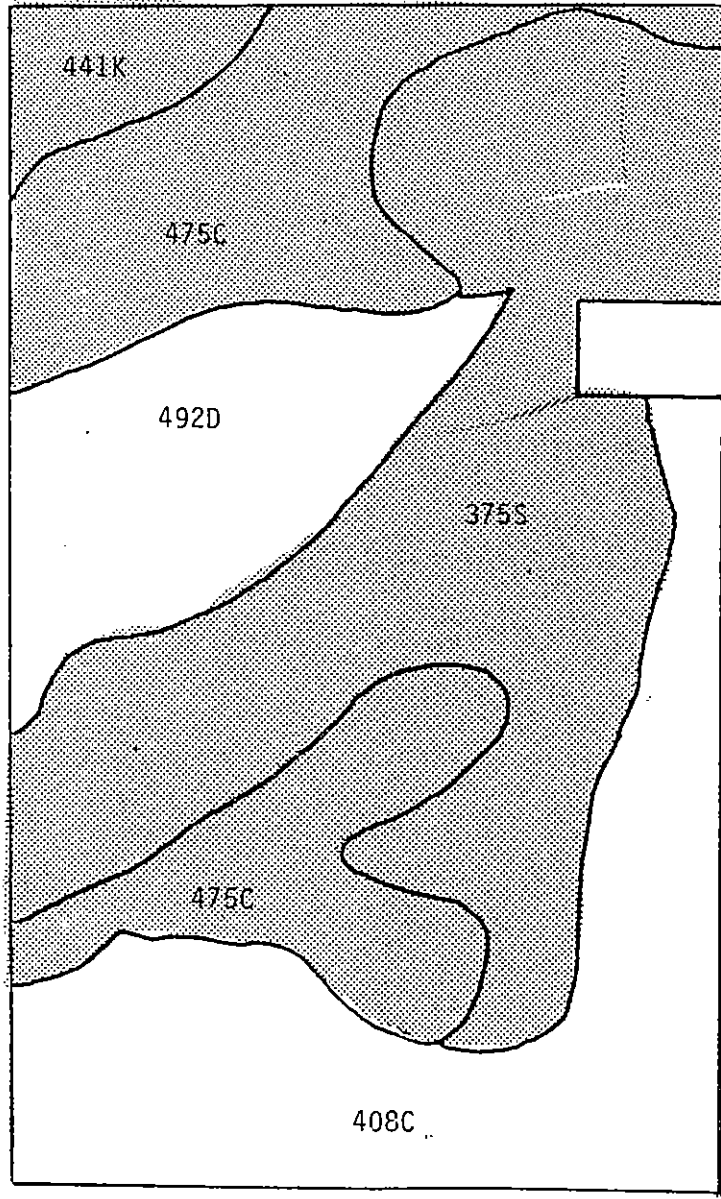
James Hagen  
Notary Public for Oregon  
My commission expires:

May 23 1984

TABLE 1

SOIL TYPES ON MOSHOFSKY PROPERTY  
MAP 18-03-19, TAX LOT 1300

<u>Soil Symbol</u>	<u>Soil Name</u>	<u>SCS Capability Class</u>	<u>% of Property</u>	<u>Woodland Site Class</u>
492D	Willakenzie Clay Loam 20-30% slopes	IVe	10%	II
475C	Panther Silty Clay Loam 2-12% slopes	VIw	18%	0
375S	Dixonville-Philomath-Hazelair 12-35% slopes	VIe	40%	0
408C	Dixonville Silty Clay Loam 3-12% slopes	IIIe	30%	IV
441K	Witzel Very Cobbly Loam 30-75% slopes	VIIe	2%	V



South Willamette Street

MAP 2

SOIL CONSERVATION SERVICE SOILS MAP



 NON-RESOURCE SOILS

Dear Lane County Planners

I have grazed cattle in the Spencer Creek area for a number of years and am familiar with the Moshinsky property next to South Willamette Street. Paul Mohnert has asked me to evaluate this property's worth for grazing cattle. This property has a poor thin type of soil which does not produce good pasture. It does not retain moisture for summer and fall grass varieties. By approximately July 1, most of the forage is dried up. The shallow soils also have many outcroppings which makes less area for grazing. This also makes prudent farming practices unfeasible, i.e., fertilizing, seeding, etc. There is also a lot of brush which takes away from the carrying capacity of the forage. The sloping nature of the property makes water runoff a negative factor in

EXHIBIT C  
LANE COUNTY STAFF REPORT

LANE COUNTY PLANNING COMMISSION

STAFF REPORT

Hearing Date: 05/15/84

File No. PA 940-84

1. PROPOSAL:

Amend rural plan F to ML and change rural zone F2 to ML for property covered by CPR request #751.

2. PROPERTY:

This Site consists of 68 acres of hilly ground (some marginal flat pasture areas and also steeper brushland) located south of Eugene, adjacent and west of S. Willamette St., just short of Camas Lane. The site has been used in the past for seasonal grazing. The site is also identified as Map 18-03-19/Tax Lot 1300.

3. STATUS:

This site was previously zoned GRI under the Spencer Creek zoning of 1980 and then F-2 under the CPR processs. The GRI would have allowed 5 acre density development whereas the current F-2 probably would not allow land divisions except if intensive horticultural like activities could be established (which is unlikely due to poor soils).

4. QUALIFICATION OF ERROR AND OMISSIONS:

The applicant originally requested a non-resource designation as part of CPR Request #751. When the B/CC chose not to evaluate non-resource requests until plan refinement, the applicant resubmitted as a late marginal lands request. Staff, at the time, felt the request met marginal lands standards and marked the CPR sheet "meets ML standards" on 2-15-84. On 2-16-84, the B/CC reviewed this request but did not look at the actual CPR sheet. They only referred to the computer printout for actions (which was not updated to include the 2-15-84 staff comments). Thus, the B/CC looked at the proposal under its former non-resource request rather than the late marginal lands request. This error qualifies CPR #751 under the errors and omissions process.

5. ISSUES:

Two criteria for approving marginal lands must be considered. For this case they are:

a) The land must not have been managed during three of the five calender 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.

b) The proposed Marginal Land is composed predominantly (more than 50%, by area) of soils in capability classes V through VIII in the Agricultural Capability Classification System used by S.C.S., and is not capable of producing 85 cubic feet of merchantable timber per acre per year.

Regarding a), the applicant submitted an affidavit attesting to meeting the income standards. Staff has no problem with this method of compliance.

Regarding b), the applicant has provided soils data and discussion indicating 60% of the property as being Class V-VIII soils (Panther, D-P-H complex and Witzel). As to woodland potential, 60% of the soils also have no woodland site class with remaining soils suffering limitations due to blow down potential and wetness. Therefore, criteria b) is conformed to.

## 6. CONCLUSIONS:

This request meets marginal lands criteria and therefore, staff can recommend approval of a rural plan and zone change to ML.

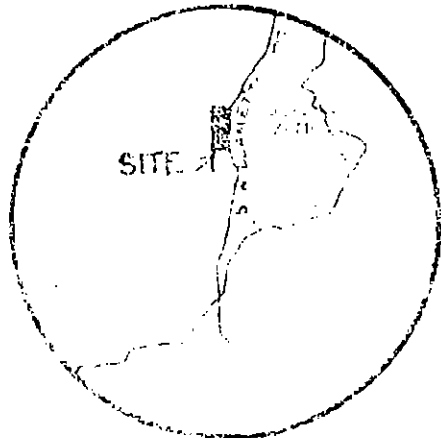
The applicant should be aware, however, that the ML statutes of the State require approval/acknowledgement by LCDC before ML uses/division requests can be processed.

Attachment: Area Map

PA 940-84

Plan: F to ML

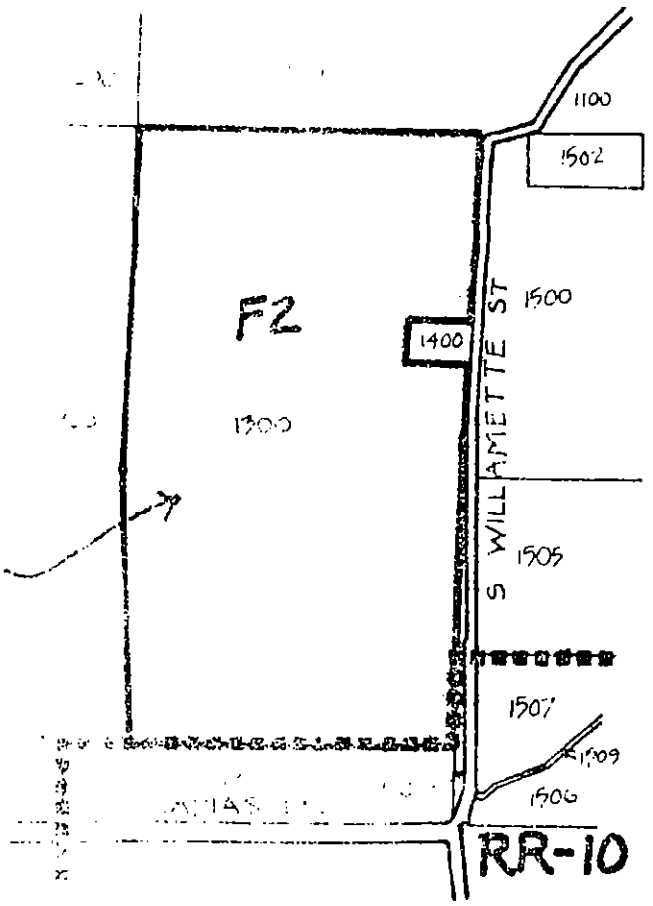
Zone: F2 to ML



VICINITY  
MAP  
NO SCALE



SITE OF REQUEST →



# LANE COUNTY PLANNING COMMISSION

## STAFF REPORT

Hearing Date: 05/15/84

File No. PA 942-84

### 1. PROPOSAL:

Amend rural plan (PF to I) and rezone rural zoning (PF to M2) to allow operation of a small computer research facility in the former Blue Mountain School.

### 2. PROPERTY:

This change is for the former Blue Mountain School facility located about 7 miles S.E. of Cottage Grove via Mosby Creek and Blue Mt. School Road. Site is identified as map 21-02-19/tax lot 900 and includes school structures and playground equipment on 4.5 acres.

### 3. STATUS:

The Blue Mountain School facilities are currently being leased from District 45J by Able Computer Co. of Irvine, Calif. On-site use is limited primarily to computer hardware research and equipment testing. Able Computer Co. uses the main school building for office space, a separate classroom building as a computer room and technical bench space and the former cafeteria as a research thinktank. Another building is used by the school district for storage, and the gymnasium building is vacant.

Able Computer Co. has only been in this site for less than a year. Staff discovered its presence here when a sign was posted without a sign permit and discovered by a building inspector on 1-30-84. Subsequently, it was also discovered that a Change of Occupancy Permit is needed. In addition, commercial research is a use not permitted in either the former PR zone or current PF zone. Building permits for sign and occupancy changes cannot be issued until zoning compliance is met.

This item was first brought up before planning scrutiny via CPR Request #1659, requesting M-2 zoning instead of the proposed PF. Staff's response was:

"The existing industrial use here was placed in violation of County zoning and building codes. Staff cannot recognize illegal uses as part of this project. This use should go through normal application processes so that the relative merits and potential effects to the area can be measured in a public forum situation. Staff's direction is to only recognize legally existing commercial/industrial uses with appropriate zoning."

Staff's position was upheld by the Lane County Planning Commission and subsequently batched out by the County Commissioners due to staff/LCPC decision consistency.

### 4. QUALIFICATION OF ERROR AND OMISSIONS PROCESS:

A request can be considered under the errors and omissions process for the County if one of the following three policies can be met. They are: A. Identified plan designation/zone district application inconsistency.

- B. Identified failure of plan and zone to recognize existing use on March 2, 1984.
- C. Identified failure to zone F-2, where maps used by staff to designate F-1 zone did not display actual existing legal lots....

Regarding the above, A. is not applicable as the proposed plan designation and zone are both consistent (both are PF). Item C. is also not applicable as this is not a forest situation.

Regarding B., although the Able Computer Co. use was operating as of March 2, 1984, it was not operating as a legal use. Staff interprets the "existing use" provision to generally imply legal use. However, for the correction of violation, interpretation of the plan policies may be done by the Planning Commission and Board to allow permissive zoning and to bring the use into conformity with the zoning.

#### 5. ISSUES:

The first issue is whether or not an apparent zoning violation qualifies as an error or omission which warrants consideration for plan amendment/rezoning. Such a change would recognize an existing business with permissive zoning.

Regarding other issues, no LCDC Goal exceptions are required as the site is built upon and developed. No compatibility problems are evident as well based on a staff visit. The use on-site is quiet, no building modifications are desired and only 4 employees are present.

The M-2 zone is too intense a zone for this use. The M-1 zone allows research facilities and would be more appropriate for this type of use. The concern is that someday if Able Computer leaves the site, a more intensive industrial use might come in under M-2 that is not as compatible to the area. Since no other zone exists allowing commercial research, M-1 might be more appropriate for use than M-2. Although advertised for M-2, since M-1 is lesser intensive than M-2, M-1 could be substituted by the Planning Commission.

#### 6. CONCLUSIONS:

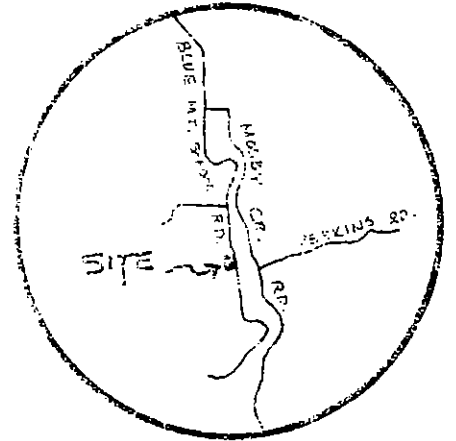
Considering the prior school use and existing playground/gymnasium facilities, the site may be ideal for a private or public recreational facility or community center. However, whether or not the school facilities should remain in public use is a policy matter for the school district and its citizens to decide. A statement in this regard should be obtained from the school district. Staff believes no zone more intensive than M-1 should be applied.

**Attachment:** Area Map

PA 942-84

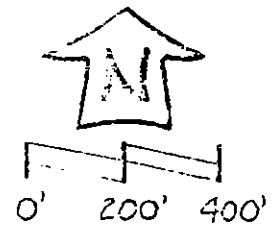
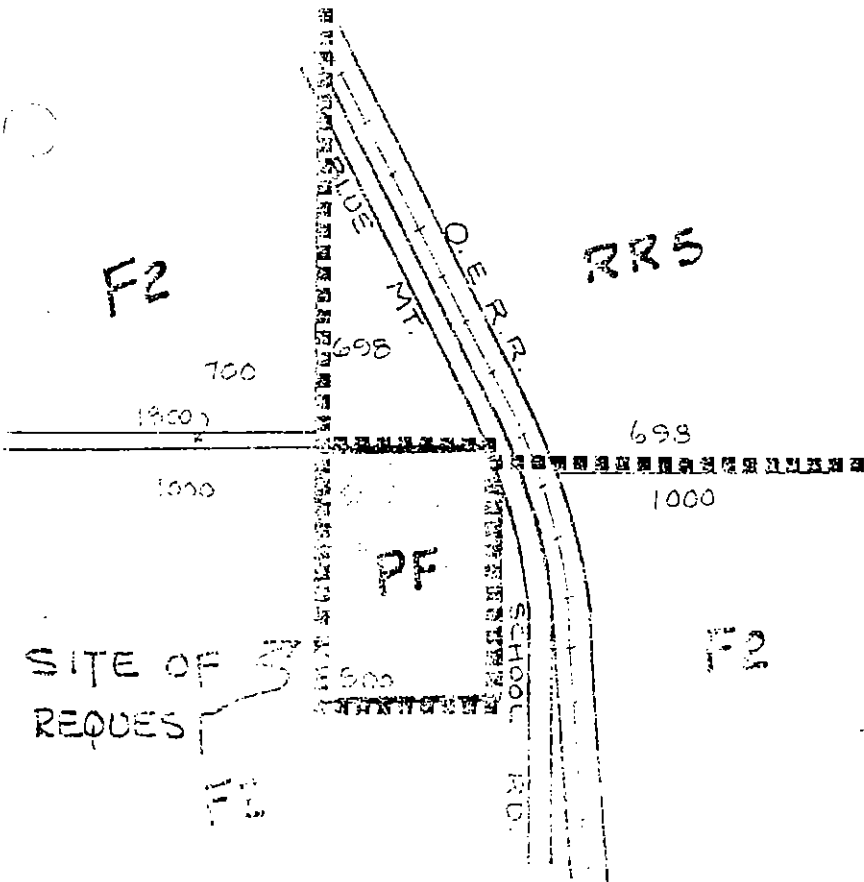
Plan: PF to I

Zone: PF to M2



VICINITY MAP

NO SCALE



LANE COUNTY PLANNING COMMISSION

STAFF REPORT

Hearing Date: 5-15-84

File No. PA 1082-84

1. PROPOSAL:

Amend rural plan designation from A and F to PF and R and change rural zone from E40 and F-2 to PF and RR 5.

2. PROPERTY:

This consists of 4 residentially developed lots totalling 19.6 acres and a triangular portion of vacant County road right-of-way of approximately 1.3 acres. These properties are located about 3 miles west of Creswell along the south side of Camas Swale Road. Sites involved are Map 19-04-14, tax lots 800, 601, 602 and 1000.

STATUS:

Tax lot 1000 is currently zoned E40 and the rest are zoned F-2. Prior to the CPR process, zoning of this area was FF-20. The four tax lots are used residentially and range in size from 1.19 acre to 8.84 acres (for an average of 4.9 acres). The excess road right-of-way is currently vacant and under vacation proceedings to create a County owned property. Concurrently to this, the Creswell Rural Fire Protection District is negotiating with County Public Works for the right to leave that site for a rural fire station. Adding the plus or minus 1.3 acres of this site to those of the others, the overall average of these 5 properties is 4.18 acres.

4. QUALIFICATION AS ERROR AND OMISSIONS:

These properties were not picked up by the CPR committed lands process although they meet the number, size and density requirements. There is also a need for better rural fire protection in this area and therefore the committed analysis would include the proposed fire station site on the County R/W to solve that need for appropriate zoning. In short, since this area was not picked up as committed before, it does qualify under the errors and omissions process now.

5. ISSUES:

A committed lands analysis to satisfy Goal exception requirements has been completed and attached. No other concerns are evident.

6. CONCLUSIONS:

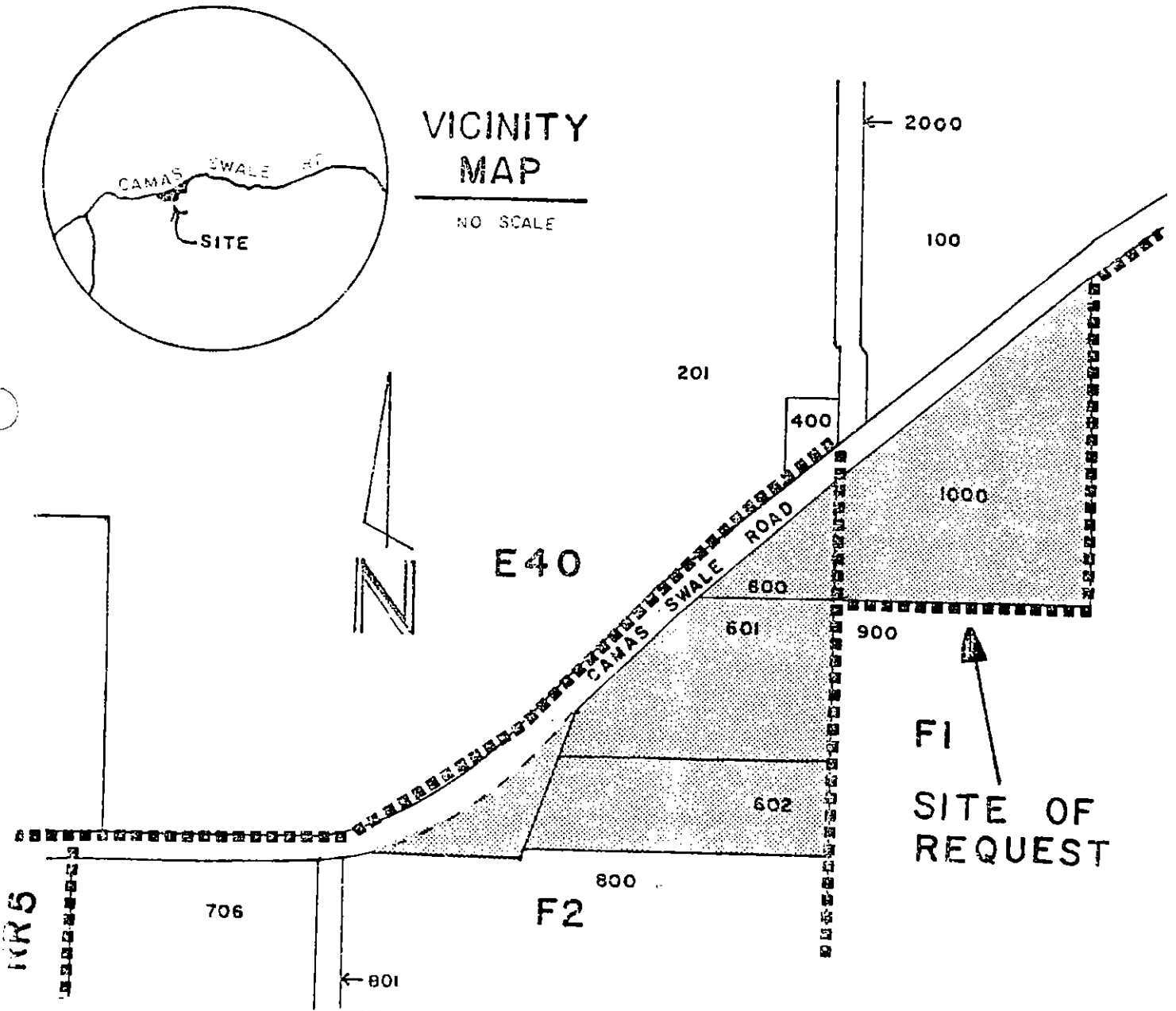
Staff recommends approval of a change to R/RR 5 to tax lots 600, 601, 602 and 1000 and PF/PF for the excess right-of-way site proposed for a rural fire station. The above properties meet committed lands criteria.

Attachment: Area Map, Committed Lands Analysis

PA 1082-84

Plan: A and F to PF and R

Zone: E40 and F2 to PF and RR5



Map: 190414 & \_\_\_\_\_  
Name: E. and O.'s

Plot: 223  
Exception Number: 2

7. Contiguous ownership:

There are no ownerships within this area contiguous to tracts of the same ownership outside the area.

Exceptions to the above including justification:

8. Summary:

Small tract sizes,  fragmented ownership,  current level and/or  pattern of development,  non-resource soils,  proximity to UGB,  natural boundaries,  neighborhood and regional characteristics, and  other relevant factors: \_\_\_\_\_, commit this area to rural residential and public facility use, and unsuitable for agricultural and/or forestry use.

Tracts in this area could not be logically combined with adjacent tracts to form  farming or  forest management units.

9. Recommendation:

The County General Plan landuse designation should be R and PF

and the area should be zoned RR5 and PF.

Tracts 600, 601, 602 and 1000 of Map 190414 should be designated Residential in the County General Plan and zoned RR5.

The remaining tract should become PF.

10. Potential for futher development:

a)  Shape,  size and/or  public facilities expansion potential are conducive for futher development of  additional areas.

b) Shape,  size,  lack of access or  lack of expansion potential of public facilities inhibits further development.

c) This is a known ground-water problem area.