

AT O'CLOCK M

DEC 18 1986 BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

BY Stephanie [Signature]
County Clerk
For Lane County, Oregon
EMTY

ORDINANCE NO. PA 927

) IN THE MATTER OF ADOPTING AN
) AMENDMENT TO THE RURAL COMPRE-
) HENSIVE PLAN TO CHANGE THE PLAN
) DESIGNATION FROM "FOREST" TO
) "NONRESOURCE" AND TO REZONE FROM
) "F-2/IMPACTED FOREST LAND" TO
) "RR-5/RURAL RESIDENTIAL - 5" FOR
) TAX LOT 1100, MAP 15-12-22.4, AND
) FOR TAX LOT 101, MAP 15-12-27.1
) (FILE #PA 2392-86 & PA 2397-86;
) WILLAMETTE PACIFIC LAND CO.).

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 jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, a procedure exists in Lane Code Chapter 16.400, as adopted by Ordinances 1-84 and 11-84, for amending land use designations within the jurisdiction of the Lane County Rural Comprehensive Plan, and for concurrent rezoning to maintain compliance with such amended designations; and

WHEREAS, an application has been received for the amendment of the Rural Comprehensive Plan from "Forest" to "NonResource" with concurrent rezoning from "F-2/Impacted Forest Land" to "RR-5/Rural Residential -5" for tax lot 1100, map 15-12-22.4, and for tax lot 101, map 15-12-27.1; and

WHEREAS, the West Lane Planning Commission, in regular meetings and public hearings of October 8 and 22, and November 5, 1986, did recommend approval of a modified version of the above-cited application, including the imposition of a "/SR" (Site Review) Suffix to the portion of the property recommended for the RR-5 zone, and approved Findings to support such recommendation; and these matters have been reported to the Board; and

WHEREAS, evidence exists within the record indicating that the modified version of the application as recommended for approval by the West Lane Planning Commission meets applicable requirements, including the requirements of Lane Code 16.400 and L.C. 16.252, and the requirements of 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, Oregon,
Ordains as follows:

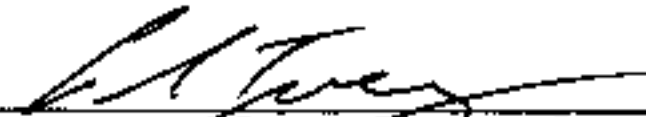
1. As identified on Exhibit "A attached hereto, the Rural Comprehensive Plan (Plot #001) for Lane County is Amended from a designation of "Forest" to a designation of "NonResource."
2. As identified on Exhibit "B" attached hereto, the rural zoning designation is changed from "F-2/ Impacted Forest Land" to "RR-5/Rural Residential."

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

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

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

ENACTED this 17th day of December, 1986.

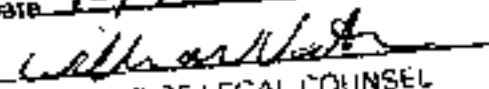


Chairperson, Lane County Board of Commissioners

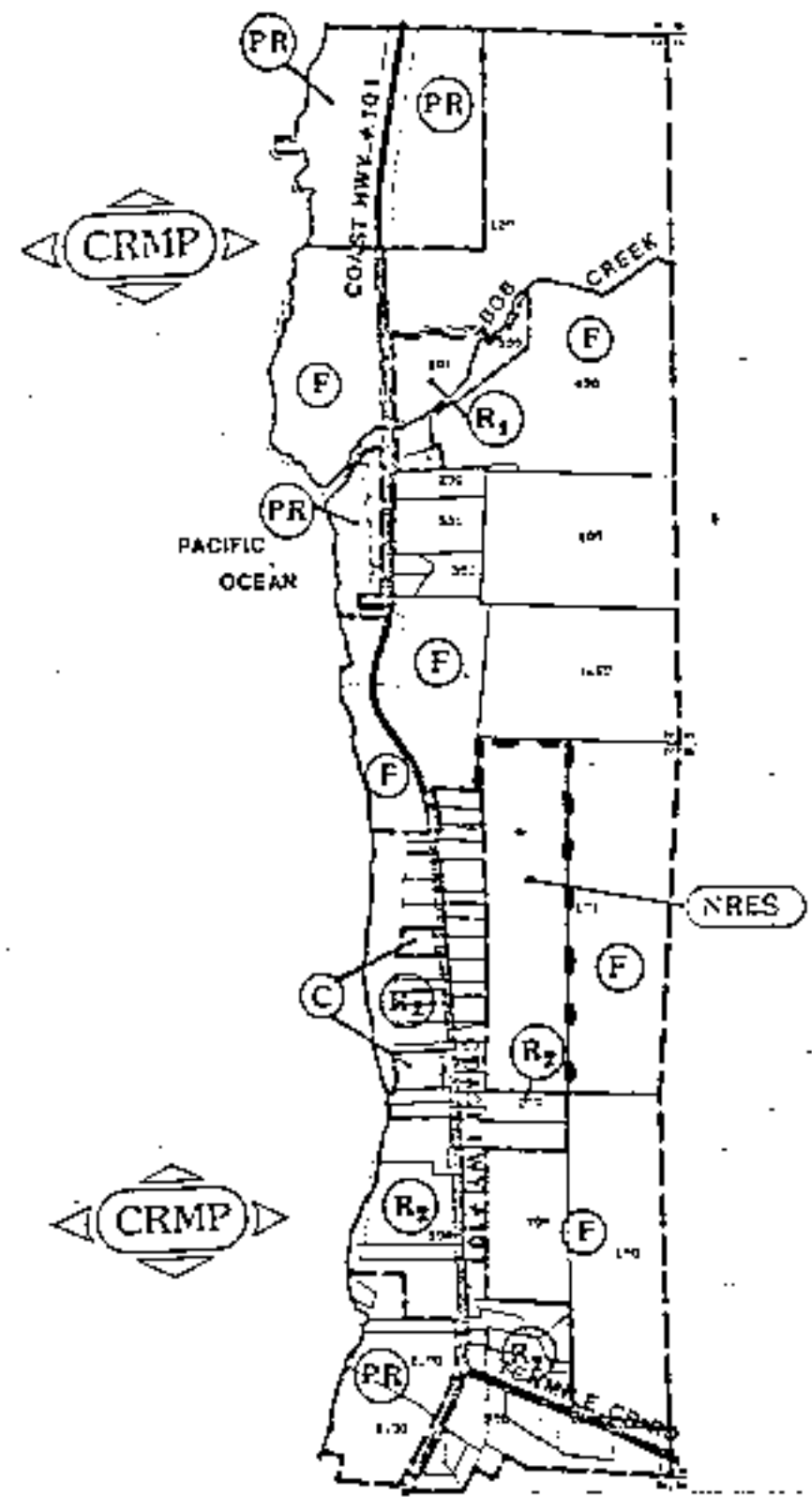
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

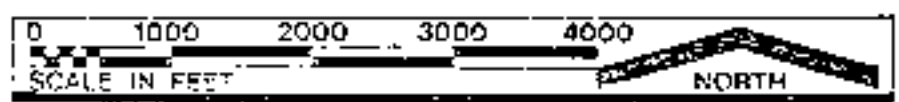
Date 12/16/86 Lane County


OFFICE OF LEGAL COUNSEL

001A

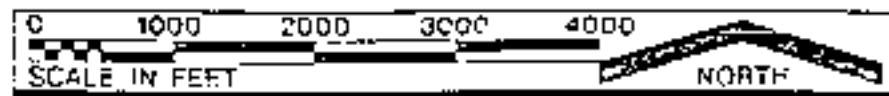
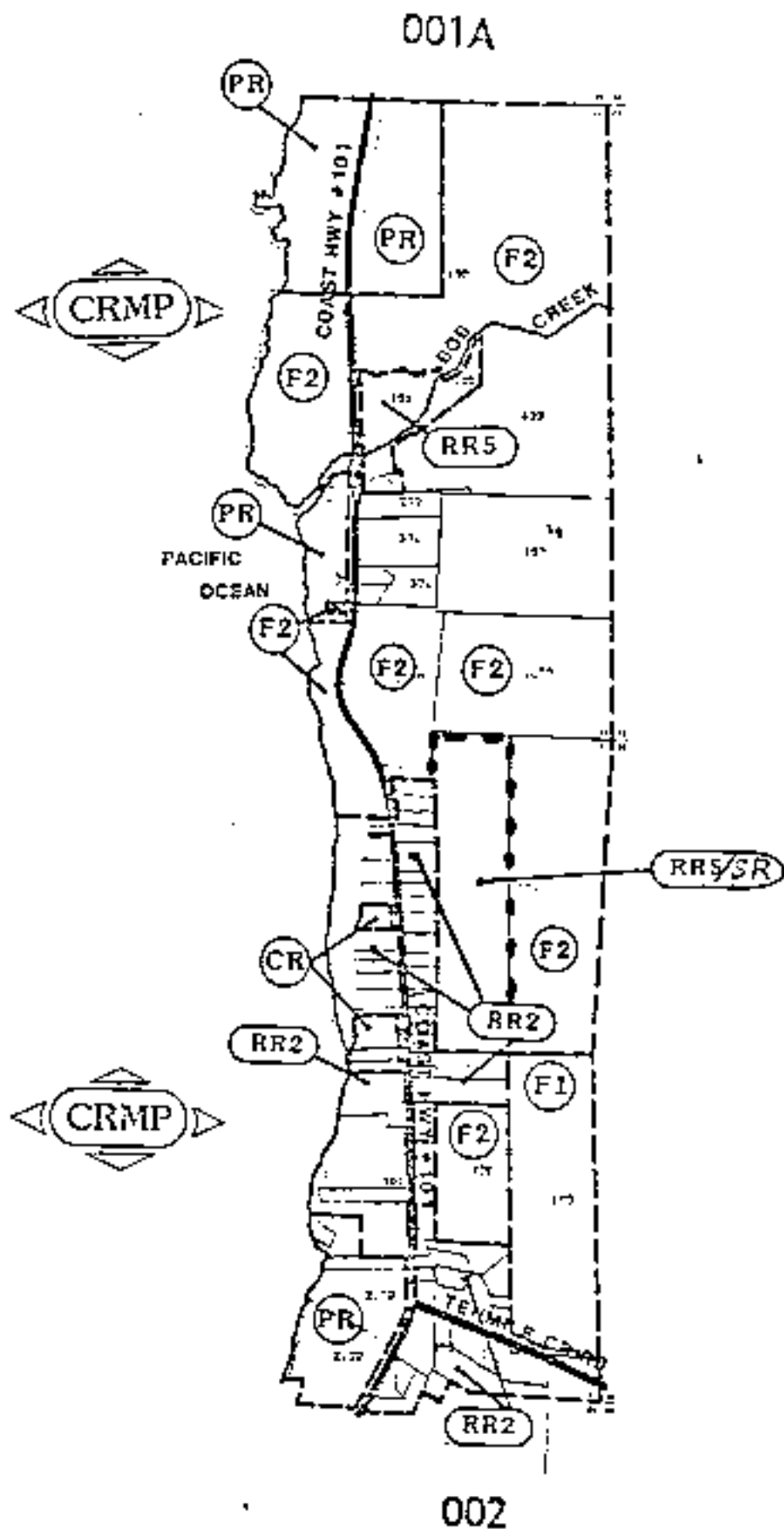


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|-------------------------------|---|---------------------|------------------|
| | OFFICIAL PLAN MAP | | PLOT# 001 |
| | Township Range Section 15 12 22 / 15 12 27 | | |
| ORIGINAL ORD. # <u>PA 884</u> | DATE <u>2/29/1984</u> | FILE # _____ | |
| REVISION # <u>2</u> | ORD. # <u>PA 903</u> | DATE <u>8/14/85</u> | FILE # _____ |

(Alternative)
EXHIBIT "B"
ORDINANCE PA 927



LANE COUNTY OFFICIAL ZONING MAP

PLOT # 001

| Township Range Section | | |
|------------------------|----|----------|
| 15 | 12 | 22 |
| | | 15 12 27 |

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE #
 REVISION # 2 DATE PA 903 DATE 8/14/85 FILE #

EXHIBIT "C"

ORDINANCE PA 927

FINDINGS IN SUPPORT OF BOARD OF COUNTY COMMISSIONERS OF LANE
COUNTY APPROVAL OF PA 2392-86 and PA 2397-86.

1. The applicant seeks a Rural Comprehensive Plan designation to Nonresource with concurrent rezoning to RR-5 for 105 acres of property identified as tax lot 1100, map 15-12-22-4, and tax lot 101, map 15-12-27-1. The property is currently designated Forest and zoned F-2. Applicant owns contiguous properties as outlined on the Notice map in the staff report dated September 19, 1986; these other properties are not a part of this request.
2. Tests for determining the eligibility of property for the Non-resource designation, a designation previously used in the RCP, exist in the form of Land Use Working Paper entitled "Marginal Lands." Tests for evaluating a Plan amendment/zone change exist in the form of Lane Code Chapter 16.400. Tests for determining zoning density (RR-10 or RR-5) exist in the form of Land Use Planning Policy #17 as well as applicable provisions of the Lane Code.
3. The proposed redesignation of tax lots 1100 and 101 from Forest to Nonresource satisfy some of the above-referenced NonResource criteria in that:
 - a) The property is not subject to LCDC Goal 3 (Agricultural Lands) application in that 95% of the soils on the site are beyond the I-IV Agricultural Capability Classification cited in the Goal as appropriate for agricultural lands in western Oregon;
 - b) The land is not needed for windbreak or urban buffer, nor is it identified as being required for recreational use or fisheries habitat;
 - c) Farm use does not exist near or on the property, nor is there any evidence in the record indicating that the property is suitable for farm use beyond low-intensity pastureland, some of which is reverting to alder, spruce and brush.
4. The proposed redesignation of tax lot 1100, map 15-12-22-4, consisting of approximately 24.5 acres, to NonResource does not satisfy NonResource criteria in that:
 - a) According to information supplied by the applicant ("Beak Report" dated June 19, 1985, and the "Sharp Report" dated October 8, 1986), about 60% of tax lot 1100 is classified as Silverspot Butterfly (a federally designated Threatened Species) habitat and much of the remainder of tax lot 1100 is acknowledged as big game habitat;

4.
 - b) The Oregon Department of Fish and Wildlife recommends against the adoption of NonResource status for tax lot 1100, based on the Department's evaluation of Wildlife habitat as stated above (4.a);
 - c) Based on a) and b) above, it can be concluded that 60% to 80% of tax lot 1100 is subject to Goal 4's definition of Forest Land in that it is land "needed for wildlife habitat";
 - d) According to information supplied by the applicant ("Rohleder Report" dated June 6, 1984), about 80% of tax lot 1100 is subject to "steep slope" (greater than 50% or 26 degrees of slope); the report acknowledges the difficulty/hazard of development on steeply sloping areas, and the necessity of maintaining vegetative cover to stabilize such slopes, prevent landslides, etc.;
 - e) Based on d) above, it can be concluded that most of the tax lot 1100 is subject to Goal 4's definition of Forest Land in that it is land "where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use."
5. Tax lot 1100 is adversely impacted by County Rural Comprehensive Plan Policies for Goal 5 (Flora & Fauna Policy 11), and for Goal 7 (Natural Hazards Policies 1, 2), in that application of the provisions of these Policies discourage/restrict development of the property for Rural Residential purposes.
6. Because of its failure to satisfy NonResource criteria for tax lot 1100, a finding cannot be made that the proposed redesignation to NonResource is based on an error in the Plan, a change of circumstances pertaining to the Plan, a change in public policy or a change in public need based on a reevaluation of the factors affecting the plan.
7. Without designation to NonResource, rezoning of the tax lot 1100 to either RR-5 or RR-10 would violate the provisions of Lane Code 16.252(2).
8. The proposed redesignation of the Eastern half of tax lot 101, map 15-12-27-1, to NonResource does not satisfy NonResource criteria in that:
 - a) Based on recently published U.S. Soil Conservation Service "Single-Phase Interpretation Sheets," the property's soils in the eastern half are capable of producing timber in excess of the County's adopted minimum of 50 cubic feet per acre per year ("commercial" standard);
 - b) In accordance with a) above, it can be concluded that the eastern half of tax lot 101 is subject to Goal 4's definition of Forest Land in that it is land "composed of existing

8. b) continued --

- potential forest lands which are suitable for commercial forest uses;" and "the production of trees and the processing of forest products";
- c) According to information supplied by the applicant ("Bundy Report with accompanying site forestation map dated October 7, 1986"), ". . . the majority of this property (tax lot 1100 and 101) are prone to severe onshore flow and krumholtz effect which will not allow for commercial timber production." This data and conclusion has been interpreted to apply predominantly to the western half of tax lot 101 exclusively and per the site graphic analysis of this report, this phenomenon does not affect the eastern commercial timber capacities of tax lot 101 because of the intervening topographic factors.
- d) Based on c) above, the western half of tax lot 101 is not "composed of existing potential forest lands which are suitable for commercial forest uses."
- e) According to information supplied by the applicant ("Beak Report--Wildlife and Habitat Assessment"), Peripheral Big Game Range (elk habitat) is confined to the eastern half of tax lot 101. This evaluation takes into consideration hiding cover, thermal cover, optimal cover and movement corridors. In recognition of these factors, the eastern portion of the property is considered under Goal 4's definition of Forest lands as "land needed for wildlife habitat.";
- f) Applicants data ("Beak Report") states that conflicts with identified habitat values are minimal on the lower terraces of the western half of the property next to Searose Beach community on tax lot 101;
- g) The Oregon Department of Fish and Wildlife (Florence office) advised that the rezoning in the western portion of tax lot 101 would have no adverse impact on fishery resources;
- h) Based on e) above, it can be concluded that the eastern half of tax lot 101 are under Goal 4 definitions as Forest "lands needed for . . . wildlife habitat.";
- i) Based on f) and g) above, the western half of tax lot 101 is not "needed for wildlife habitat.";
- j) In the supportive information ("Rohleder Report - Reconnaissance Environmental Hazards, June 15, 1985), "Slopes over 50% (. . . or approximately 26°) occur throughout the eastern portion of this site (tax lot 101).";

8. continued --
- k) Based on J) above, the eastern portion of tax lot 101 can be identified as lands under Goal 4's guidelines as "lands where extreme conditions of climate, soil and topography require maintenance of vegetative cover irrespective of use.";
 - l) The geological analysis ("Rohleder Report") supports the conclusion that the western half of tax lot 101 is made up of a majority of the terrain being of the gentler marine terrace configurations with extensive lowland meadows along the far western property boundary. The majority of the land having slopes considerably less than 50% or 26°. Review of WAC 82H-105 (6/8/82), and Development Constraints Map (PA 2392-86) illustrate this position.
 - m) Based on l) above, the western portion of tax lot 101 cannot be considered in its entirety to be "land where extreme conditions . . . soil and topography require maintenance of vegetative cover irrespective of use."
9. The proposal to redesignate the eastern portion of tax lot 101 to NonResource is adversely impacted by Lane County RCP policies for Goal 5 (Flora & Fauna Policy 11), and for Goal 7 (Natural Hazards Policies 1,2), in that application of the provisions of these Policies discourage/restrict development of the property (eastern portion/tax lot 101) for Rural Residential purposes.
10. Because of its failure to satisfy NonResource criteria for the eastern half of tax lot 101, as documented in 8. above, a finding cannot be made that the proposed redesignation to NonResource is based on an error in the Plan, a change of circumstances pertaining to the Plan, a change in public policy or a change in public need based on a reevaluation of the factors affecting the plan.
11. Based on the conclusions drawn from the documentation outlined in 8. above, a finding must be made that the western half of Tax lot 101 does satisfy NonResource criteria and the redesignation to NonResource is based on an error in the Plan due to the fact that the designation existed at the time of the Plan adoption and Lane County chose to not apply the NonResource zone designation to Western Lane County properties prior to acknowledgement by LCDC of the RCP. It was felt at that time that NonResource designations required greater study, documentation and analysis than was possible under the schedule and staff work load already committed to finalizing the RCP for adoption and submittal to LCDC. Such zone changes in the Plan handled from these original requests (CPR's) are now treated under the Plan "Errors and Omission" Policy 21, when applicable.

12. Due to the conclusion in 11. above, Lane Code 16.400(6)(iii)(bb) is satisfied.
13. Consistency with unamended portions of the Plan (LC 16.400(6)(iii)(cc)) is satisfied in that Land Use Planning Policy 20 specifically states that timely filed NonResource requests are entitled to review and, if qualifying, adoption.
14. No compatibility problems have been documented during hearings with adjacent resource lands, in fact, findings split zone the eastern half of the tax lot 101 by retaining the Forest designation F-2 (Impacted) as a buffer between the NonResource designation in the western portion of tax lot 101 and the F-1 zoning which occurs east of the tract. This buffer zone will consist of approximately forty acres. No conflicts have been made known by the U.S. Forest Service.
15. Lands east and south of the property are zoned Rural Residential and Commercial. The strip-developed community of Searose Beach consists of sixty-nine developed parcels averaging 1.3 acres in size. The western boundary of tax lot 101 is bordered by twenty-three postal addresses along Highway 101 running north and south.
16. Lane Code 16.400(6)(i) provides: A change of zoning to implement a proposed Plan amendment may be considered concurrently with such amendment.
17. Under Lane County Land Use Planning Policy #17, Rural Residential zoning can be applied to NonResource property, in this case, the western half of tax lot 101, after evaluation of the following factors:
 - a) The developed and committed (D&C) area known as the Searose Beach community consists of 69 tracts with average tract size of 1.3 acres, containing residential and commercial uses;
 - b) Suitability for subsurface sewage disposal in the western slopes of less than 40% have been documented in the applicant's "Plan & Zone Amendment Site Map" by Engineering geologist Joseph Rohleder. An area of 13.7 acres has been designated in the western portion of tax lot 101 as "land most suited for subsurface sewage disposal." In the "Rohleder Report", dated June 15, 1985, it states ". . . it appears that sufficient area exists within the Marine Terrace to accommodate 20 or more housing units" requirements for subsurface sewage disposal;
 - c) The documentation concerning domestic water supply availability (Rohleder Report - June 6, 1984) states that the existing Agate Creek Water Association water system (aka Searose Beach Community Water System) is located approximately in the eastern one-half of tax lot 101;

17. continued --

- d) Access to tax lot 101 is available to Highway 101 at several points along the western boundary of the property, including an existing access through tax lot 500 (map 15-12-27-1);
- e) Public services necessitated under Goal 11 (Public Facilities & Services) Policy 6(e) are:
 - (1) School District -- Tenmile/Ryan 143-J (Lincoln County).
 - (2) Sewer & Water -- discussed in 17 b) and c) above.
 - (3) Rural level policy and fire protection -- Mutual aid agreement only between Yachats Fire District and State Forestry District. Additional considerations to follow in Site Review findings to follow;
 - (4) Electrical Power -- Central Lincoln PUD;
 - (5) Telephone -- Pioneer;
 - (6) Rural addressing -- One address is presently assigned to tax lot 101 and one to the access tax lot 500; 95673 Highway 101 and 95637 Highway 101 respectively.

Lane Code 16.252(2)

- 18. The Board finds that the rezoning from Forest to NonResource for the western half of tax lot 101 is consistent with the specific purposes of the new zoning classification.
- 19. The Board finds that the rezoning of the western portion of tax lot 101 is consistent with applicable Rural Comprehensive Plan elements and components.
- 20. The Board finds that the rezoning is consistent with general purposes of the Chapter (LC16.003) provided a Site Review requirement is imposed on any development occurring on the property (authority drawn from LC 16.257(2)(c) in that:
 - a) Imposition of a Site Review requirement for uses now permitted within the NonResource RR zone will contribute toward the purposes stated in LC 16.003 by providing for an additional level of County review as to the scope, character and impact of any development on the property;
 - b) A Site Review of any proposed uses will assist the County in mitigating concerns expressed about residential development of the western half of tax lot 101, as stated in testimony on this matter. Of specific concern to the Board are the following:

20. b) continued ---

- (1) Protection of all known and yet to be discovered water sources, associated surface watersheds and water rights of record;
 - (2) Protection and enhancement of all known water systems presently serving adjacent off-tract residential and commercial properties. The Agate Creek Water Association aka Searose Beach Water Association water systems are foremost in our thinking as in need of assurances of cooperation and protection;
 - (3) Adherence to the strictest provisions of the Oregon Uniform Building Code be followed in construction of bridges or culverts crossing springs or Agate Creek on tax lot 101;
 - (4) Protection of all identified and yet to be discovered riparian/wetland areas on tax lot 101;
 - (5) Adherence to the strictest provisions of County sanitation standards in the development of subsurface sewage disposal systems to insure no pollution of surface or subsurface water sources.
 - (6) Cooperation with Lane County Land Management Department to provide adequate water holding capacity on tax lot 101 for fire protection of the developed residences.
21. The Board finds that the E.S.E.E. Analysis (Environmental, Social, Economic and Energy) attached hereto and dated December 4, 1986, is accepted and is adequate to determine that the residential development of eight home site (maximum number allowed under RR-5 zoning on this 40 acre parcel - west half of Tax Lot 101) will not have any short term or long term adverse impacts on economic, social, environmental, or energy resources; and in addition there will be minor short term and long term benefits associated with the construction and occupancy of the eight new houses.
22. The Board finds that the west one-half of Tax Lot 101 shall be redesignated from peripheral big game range to impacted big game range in accordance with the rest of the developed portion of the Searose Beach Community.

ECONOMIC, SOCIAL, ENVIRONMENTAL, AND ENERGY ANALYSIS
of a proposal to rezone the west half of Tax Lot 101
Map 15-12-27-1, Lane County, Oregon

ORDINANCE PA 927

December 4, 1986

INTRODUCTION

This analysis is based on the information supplied by the applicant, Lane County, agencies and other organizations in relation to this proposal. The primary issues identified throughout this process were environmental. These environmental issues are emphasized in this analysis. Economic, social, and energy aspects of the proposal were considered minor and as a result, this analysis deals only briefly with them.

ECONOMIC FACTORS

The economic impact of rezoning this property to RR-5 to permit development of eight residences is relatively small. It will provide economic benefits to the county by providing short-term employment opportunities in the local area during construction. Local suppliers of construction materials will also benefit in the short term from increases in business. Over the long term, the new residents will create a minor increase in business for local goods and services suppliers, and in the tax base of the County. Overall, permitting residential development will provide both short term and long term benefits to the local area and the county.

SOCIAL FACTORS

The social impacts of adding eight residences to the property will also be minor. This addition will not require significant increases in municipal services, classroom space, police protection, or other social services. Existing social services are briefly described in the submission by Kulla & Ronnau to the County Commissioners and Planning Commissioners of Western Lane County dated January 7, 1984 and the West Lane Planning Commission Staff Report dated September 19, 1986. Addition of such a small number of homes will not adversely affect traffic on Highway 101. One 100-ft wide lot with an existing residence has been purchased to provide good access to the west half of Tax Lot 101.

ENERGY FACTORS

The energy impacts of this additional residential development will be minor. The additional residences will create a minor increase in demand for both electricity and fuel. The homes built will typically be more energy-efficient than the older homes in the area because today's energy conservation standards for new home construction are much more stringent.

ENVIRONMENTAL FACTORS

Environmental factors of concern include big game range, riparian zones, water supply, and forest land. These factors are described in detail in submissions to the Lane County Commissioners (West Lane Planning Commissioners) by Kulla & Ronnau dated March, 1986 titled "Supplement to CPR Project", in information presented to the West Lane Planning Commission during their meetings of October 8

and 22, 1986; in responses to the West Lane Planning Commission Staff Report of September 1986 which were submitted to the Commission during their meeting of October 8, 1986; and in presentations to the Lane County Commissioners on December 3, 1986.

Big Game Range

The site is currently classified as peripheral big game range in the County's Comprehensive Plan. The County's Flora and Fauna working paper states that there are small areas of impacted big game range, usually not large enough to be mapped, within the peripheral range. These are areas of development within peripheral range that are essentially impacted due to their level of use by man. The west half of Tax Lot 101 should be redesignated as one of these small pockets of impacted big game range. As was stated in the wildlife reports (Beak Report dated June 19, 1985 and Sharp Report dated October 9, 1986) and testimony given by Lynn Sharp at hearings before the West Lane Planning Commission and the Lane County Commissioners, elk and deer use of the west part of Tax Lot 101 is very low compared to the forests on the east side of Tax Lot 101 and the meadow areas to the north, in Tax Lot 1100. Since the species composition of the vegetation of the northern meadows and the meadow in the west half of Tax Lot 101 is nearly identical, it was concluded that the latter meadow was avoided by elk and deer and was impacted big game range owing to its proximity to the adjacent existing residential development along Highway 101. Residential development in the west half of Tax Lot 101 will therefore have little or no adverse effect on big game.

Riparian Zones

Riparian zones were identified and mapped in the studies cited above. These were designated as protection zones in the Beak Report and the Concept Plan materials submitted to the West Lane Planning Commission and the Lane County Commission in October and December 1986. Residential development of this parcel will be designed to adhere to a 50 to 100-ft setback, as recommended in the Lane County Comprehensive Plan, to protect riparian zones. Permitting residential development will thus not adversely affect riparian zones.

Water Supply

Existing water supply facilities were identified in reports and testimony cited above. Portions of two existing water supply systems are located in the eastern part of the west half of Tax Lot 101. These will be protected from adverse impacts of development. Additional water needed for the proposed residential development is available from a variety of potential sources, including expansion of the existing Searose Beach system, development of other surface sources, or drilled wells. The hydrogeologic conditions of the site are favorable for development of on-site single family drilled wells. Any upgrading of the Searose Beach Water System or development of a new water system would include a reservoir or storage tank. Water storage in the area would benefit the entire community by providing increased capacity for domestic use and fire protection.

Forest Land

The question of whether the west half of Tax Lot 101 is capable of producing commercial timber is also addressed in this analysis.

The forestry report submitted to the West Lane Planning Commission on October 8, 1986 by Eric Bundy, Consulting Forester indicates that the krummholz effect of onshore winds limits potential commercial forest production to the east half of Tax Lot 101. Thus, residential development of the west half of Tax Lot 101 will not adversely affect commercial forest land.

SUMMARY

Residential development of 8 homes on the west half of Tax Lot 101 will not have any short term or long term adverse impacts on economic, social, environmental, or energy resources. There will be minor short term and long term benefits associated with construction and occupancy of the new homes.

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