

## IN THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

NOV 06 1987

ORDINANCE NO. PA 944

- ) IN THE MATTER OF ADOPTING AN  
 ) AMENDMENT TO THE RURAL COMPREHENSIVE  
 ) 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 3802, MAP 18-04-13  
 ) (FILE #PA 3192-85; TIMBERLANE-ROBBINS)

County Clerk  
 Stephen J. Robbins  
 DEPUTY

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 I-84 and II-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 3802, map 18-04-13; and

WHEREAS, the Lane County Planning Commission, in regular meetings and public hearings of August 18 and September 1, 1987, split their vote (two in favor and two not in favor) on the above-cited application, and these matters have been reported to the Board; and

WHEREAS, evidence exists within the record indicating that the application meets applicable requirements, including the requirements of Lane Code 16.400 and LC 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 BE IT ORDERED, that upon satisfying all of the Conditions of Approval in Exhibit "A" attached hereto, the Board of County Commissioners Ordains as follows:

1. As identified on Exhibit "B" attached hereto, the Rural Comprehensive Plan (Plot #334) for Lane County is Amended from a designation of "Forest" to a designation of "NonResource".
2. As identified on Exhibit "C" attached hereto, the rural zoning designation is changed from "F-2/Impacted Forest Land" to "RR-5/Rural Residential - 5," for Parcel 2 as shown on the attached partition map and F-2 to RR-10 for Parcel 1 as shown on the attached partition map.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in Exhibit "D" 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 4 day of November, 1987.

Ellie Juandi  
Vice Chairperson, Lane County Board of Commissioners

APPROVED AS TO FORM

Date 10-16-87 Lane County  
Stephen R. Vokes  
OFFICE OF LEGAL COUNSEL

## EXHIBIT "A"

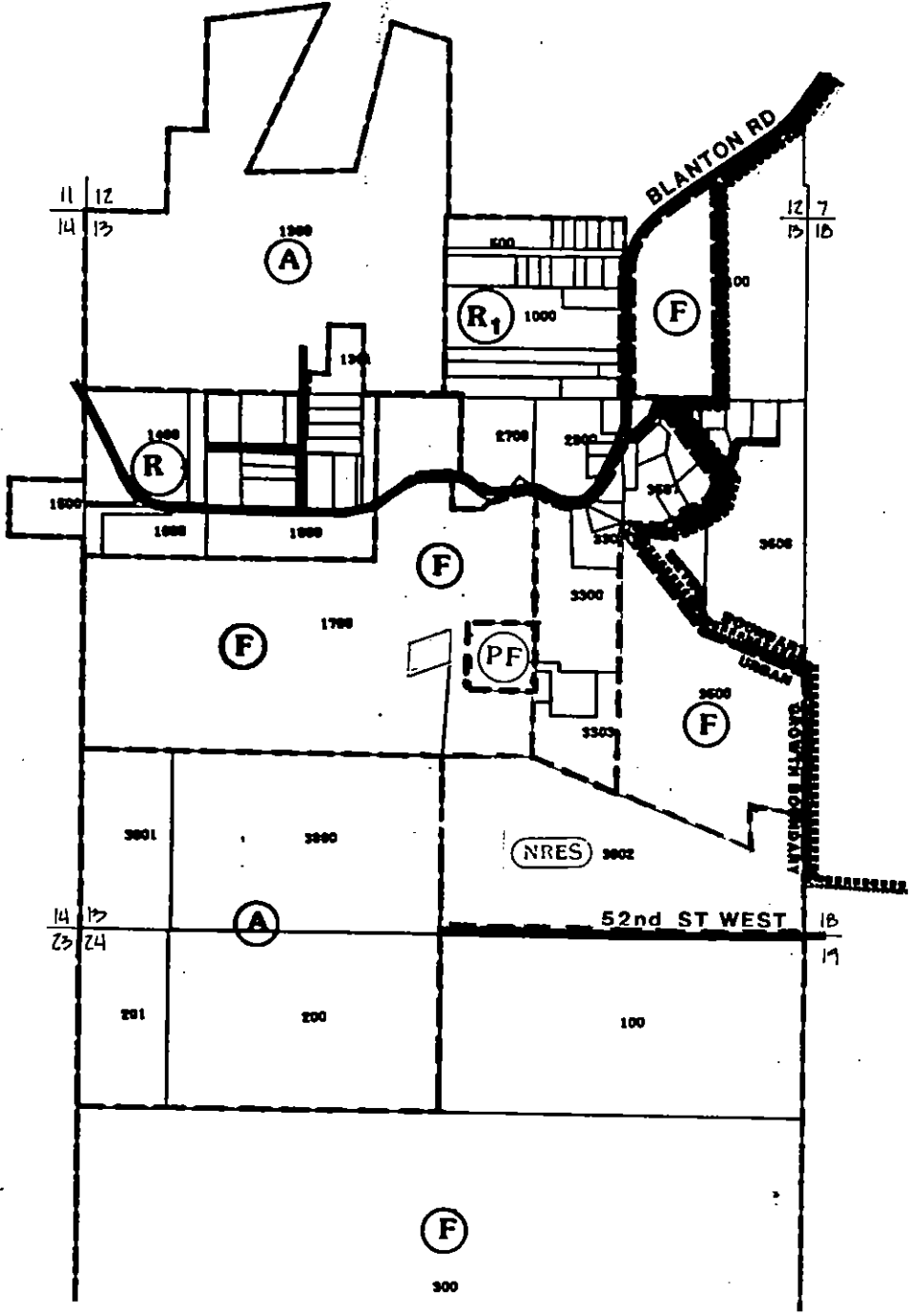
## CONDITIONS OF APPROVAL

for

Ordinance No. PA 944

1. All development and construction activities on the property shall be in accordance with the requirements of Lane Code 16.005(2) and (3) in order to ensure site and area stability. The applicant shall provide certification by a civil engineer that compliance with these requirements has been planned and satisfied during actual construction.
2. The applicant shall obtain a Site Review Permit pursuant to Lane Code 16.257 prior to any development or construction activities on the property. Site Review Evaluation shall proceed in accordance with the criteria established in Lane Code 16.257(4). Special attention shall be accorded to homesite selection and construction to ensure compatibility with soil limitations. Net residential density may be ultimately limited by the number of suitable homesites.
3. The applicant shall affirmatively demonstrate the adequacy of long-term water supply on the property pursuant to the requirements of Lane Code 13.050(13)(a)-(d) within 90 days of this decision. Rezoning to Rural Residential is expressly conditioned on compliance with the specific requirements of Lane Code 13.050(13)(c)(i), including water quality and aquifer tests.
4. All residential development on the property shall be undertaken pursuant to the Cluster Development Standards of Lane Code 16.260(4).
5. All residential development on the property shall be undertaken pursuant to the Siting and Fire Safety Standards of Lane Code 16.211(8).
6. The applicant shall incorporate the Wildlife Management Plan recommendations into the Conditions, Covenants and Restrictions of the property.

File # PA 3192-85  
Exhibit # "B"

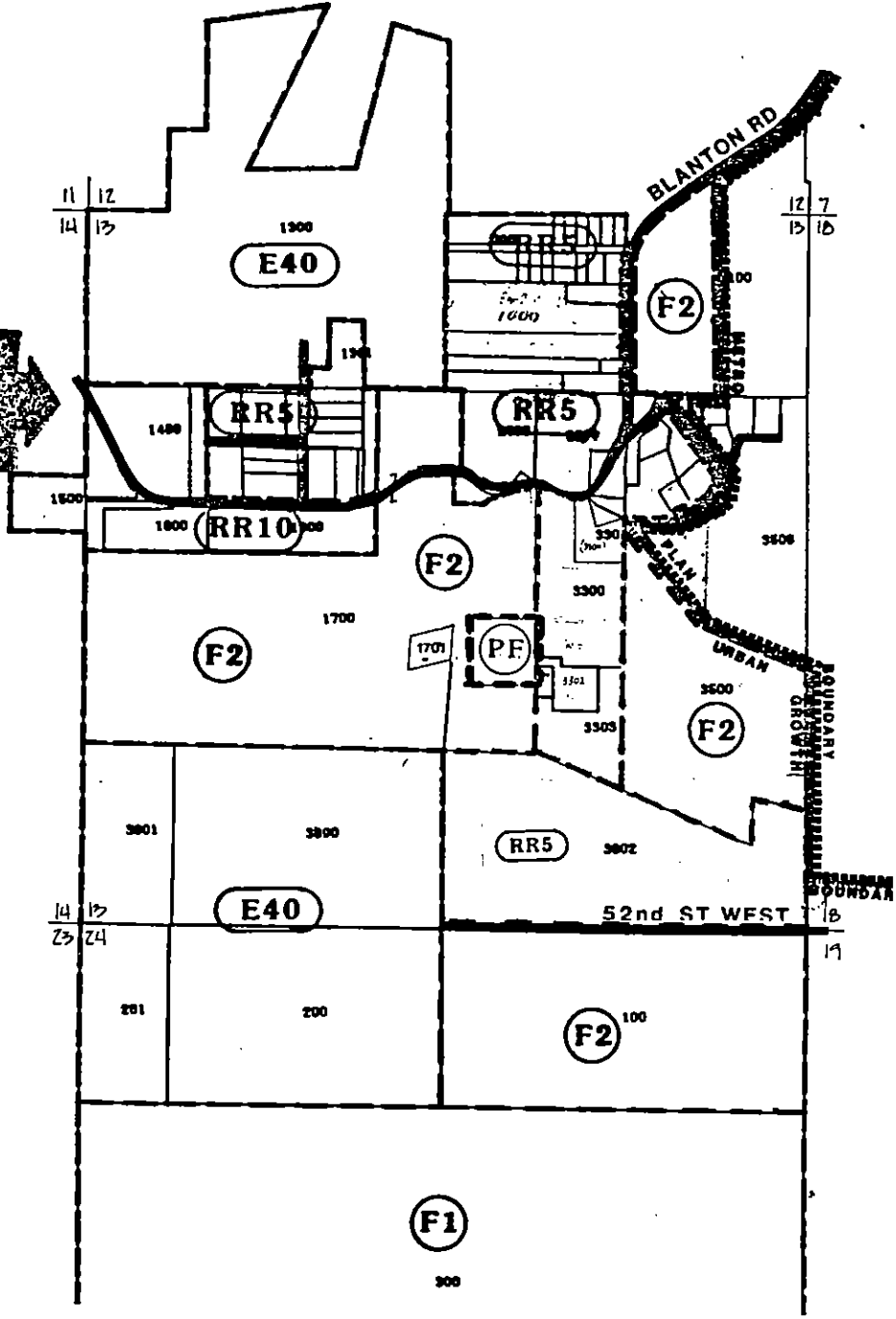


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348

File # PA 3192-85  
Exhibit # "C"

ATTENTION  
WATER LIMITED AREA  
Land Code 13.050 (13)  
16.004 (4)



320

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FINDINGS FOR ORDINANCE PA 944

1. The property subject to this application, hereinafter referred to as "the property," consists of 62 acres located on the north side of 52d Street, approximately 3/8 of a mile west of South Willamette Street. The property is designated as Assessor's Map 18-04-13, Tax Lot 3802.
2. The property is located outside the Eugene/Springfield Metropolitan Plan Urban Growth Boundary and Jurisdictional Boundary. The property lies within the jurisdiction of the Lane County Rural Comprehensive Plan. The property is currently zoned as F-2 Impacted Forest Land and is approved for a forest related residence.
3. The urban growth boundary and the city limits of Eugene are contiguous with the eastern property line, and city residential zones are located to the east. The parcels to the north consist of a 34 acre lot (180413-3500) zoned as F-2 Impacted Forest Land and a 9 acre lot (180413-3303) zoned as RR-5 Rural Residential. The parcels to the west consists of two 60 acre lots (180413-3800, 180413-3801) and two 20 acre lots (180424-200, and 180424-201) all under common ownership, and zoned as E-40 Exclusive Farm Use. The parcel to the south is an 80 acre lot (180424-100) zoned as F-2 Impacted Forest Land. The parcel to the southeast is a 50 acre lot (180319-1200) zoned F-2 Impacted Forest Land.
4. All lots adjacent to the subject property and designated as resource land, either Forest Land or Agricultural Land, are predominantly composed of non-resource soils. Tax lot 180413-3500, zoned F-2 Impacted Forest Land, has 15% forest soils and 35% percent agricultural soils. This lot is not managed for commercial wood production and is not under forest tax deferral status. Tax lots 180413-3800, 180413-3801, 180424-200, and 180424-201, zoned E-40 Exclusive Farm Use and totaling 160 acres, has 14% percent agricultural soils and 31% percent forest soils. These lots are not managed for agricultural production and are not under farm tax deferral status. Tax lot 180424-100, zoned F-2 Impacted Forest Land, has 18% agricultural soils and 18% forest soils. This lot is not managed for commercial wood production and is not under forest tax deferral status. Tax lot 180319-1200, zoned F-2 Impacted Forest Land, has no forest soils and no agricultural soils. This lot is not managed for commercial wood production and is not under forest tax deferral status.
5. To the north of the subject property, a string of lots zoned RR-5/RCP (including, but not limited to, tax lots 180413-3303, 180413-3302, 180413-3301, 180413-3300, and 180413-3304) totaling approximately 90 acres and extending 3/4 of a

mile, lies parallel with the metro plan and urban growth boundaries. Immediately to the east of the subject property, inside the urban growth boundary and zoned RA, are 6 lots ranging in size from approximately 1 to 5 acres. Further to the east, approximately 1/8 of a mile from the subject property, is the Solar Heights Subdivision.

6. Under either the detailed soil survey (Steve Wert 1981) provided by the applicant or the general S.C.S. soil survey, the majority of the acreage is composed of soils in agricultural capability classes VI and VII. According to the S.C.S. survey, the soils on the property are as follows:

Map Symbol	Soil Name	Cap. Class	Acres	Percent Of Total
	Dixonville - Philomath - Hazelair complex:			
43C	3 - 12 % slopes	6E	7	11%
43E	12 - 35 % slopes	6E	21	34%
	Witzel very cobbly loam:			
138E	3 - 30 % slopes	7S	34	55%
Total			62	100%

According to the detailed soil survey by Steve Wert, the soils on the property are as follows:

Soil Name	Cap. Class	Acres	Percent Of Total
Soil A: 0 - 10 % slopes	6	1.0	1.6%
Soil B - Rockland: 30 - 40 % slopes	6	3.3	5.4%
Soil C: 0 - 10 % slopes	4	0.5	0.8%
Darby: 30 - 40 % slopes	6	2.5	4.0%
40 - 50 % slopes	6	1.5	2.4%
Dixonville: 0 - 15 % slopes	3	4.0	6.4%

<u>Soil Name</u>	<u>Cap. Class</u>	<u>Acres</u>	<u>Percent Of Total</u>
Dixonville:			
20 - 30 % slopes	4	0.5	0.8%
Dixonville - Dupee:			
30 - 40 % slopes	6	7.5	12.1%
Dixonville - Philomath:			
40 - 55 % slopes	6	10.2	16.6%
Dupee:			
20 - 30 % slopes	4	0.2	0.3%
35 - 45 % slopes	6	1.0	1.6%
Dupee - Hazelair:			
20 - 35 % slopes	4	15.0	24.2%
Panther:			
0 - 15 % slopes	6	1.5	2.4%
15 - 20 % slopes	6	1.8	3.0%
10 - 20 % slopes	6	3.5	5.6%
Philomath - Dixonville:			
35 - 45 % slopes	6	0.4	0.6%
Rockland	6	0.1	0.1%
<u>Borrow Area</u>	6	1.5	2.4%
Total		62.0	100%

7. As shown in the table above, a majority of the property (52.4%) has slopes in excess of 30 percent and shallow or rocky soils predominate.
8. The property does not have a history of farm use and is not currently employed for agricultural production. Soil fertility on the property is generally low and the majority of soils are not arable because of shallow depth to bedrock and steepness of slope. See the 1981 Soil Survey by Steve Wert. The only potential farm use for the property is grazing, however, the property can not support a profitable grazing operation because of limited forage production potential.

According to Paul Day, Lane County Extension Service, approximately 25 acres on the property with slopes under 30 percent could potentially be planted to pasture. This estimate assumes the land could be cleared of trees and other vegetation and prepared for seeding. Due to slope

restraints and insufficient water availability, irrigation on the site is impracticable. These 25 acres could potentially produce 8 Animal Unit Months (AUMs) per acre under a high level of management without irrigation. This amount of forage (200 AUMs) is sufficient to maintain 0.67 cows per acre, for a total of 17 cows. The gross income to be derived from 17 cows, assuming their calves were sold on an annual basis, is inadequate to cover operating expenses and retire the land debt. Thus the property is not capable of supporting a profitable agricultural operation.

9. No farming activities are undertaken on land adjacent to the subject property. Four tax lots (180413-3800, 180413-3801, 180424-200, and 180424-201) totaling 160 acres under common ownership adjacent to the subject property on the west are zoned E-40 exclusive farm use, but are not currently farmed and are not in farm tax deferral status. Across an 80 acre parcel to the south is a 319 acre lot (180424-300) zoned F-1 Non-impacted Forest Land and currently in farm tax deferral status. Income to meet the minimum requirements for farm tax deferral status on this property is derived from a cattle operation which leases the property for seasonal grazing. Access to this property is provided by South Willamette Street. Other grazing operations in the vicinity are restricted to non-commercial pastures associated with rural residences. According to Paul Day, Lane County Extension Service, the nearest commercial, full-time grazing operation is the Christensen Ranch located in the Camas Swale drainage near Creswell.
10. Under either the detailed soil survey by Steve Wert (1981) or the general S.C.S. soil survey, the majority of the soils on the property do not qualify as Commercial Forest Land.

Although Witzel is rated at Cubic Foot Site Class 4, it is not suited to commercial wood production because special limitations restrict sustained productivity. Witzel is noted as a marginal forest soil because "droughtiness and shallow rooting cause rapid decline after 30 years." Lane County Soils, Farmland/Woodland (S.C.S. 1982) at 50.

The Dixonville-Philomath-Hazelair complex has been recognized by the Soil Conservation Service as a non-resource soil. "It does not have an economic value for seed crops as many of the Capability Class IV soils have, and is marginal for woodland with a 30 year root-rot-blowdown problem." James Lockard, S.C.S. District Conservationist (1983). "The site index is somewhat misleading when taken alone because when the Dixonville and Hazelair are both Site Class IV, the interspersed areas of Philomath are not suited to growing timber other than scattered white oak. Thus, in most cases with the complex there would be small

clumps of Site IV timber with interspersed open areas rather than a full stand of Site IV timber." Dick Patching, S.C.S. Soil Scientist.

Under the proposed Soil Potential Rating System, both the Witzel as well as the Dixonville-Philomath-Hazelair complex are rated as "Low" Woodland Grade in order to reflect these special limitations on sustained productivity.

According to the detailed soil survey, Steve Wert found little, if any, Witzel on the property. 69 percent of the soils were classified as unsuited for wood production, 16.6 percent were classified as marginally suited, and only 14.4 percent were classified as suited for wood production. Marginal woodland is defined by Mr. Wert as soils capable of supporting a stand of timber but where the costs of establishing such a stand preclude profitable returns.

11. No perennial streams, ponds, or other bodies of water are located on or nearby the property. The nearest perennial stream, a fork of Spencer's Creek, is approximately 1 mile to the south-west. The property is located within the Spencer Creek Watershed of the Long Tom River Water Basin. Water Resources Working Paper (1982) Map 2.
12. The property overlies a quantity limited aquifer. Water Resources Working Paper (1982) Map 3.
13. The current public services available to the property are as follows:

Fire: Eugene RFPD No.1  
 Police: County Sheriff & State Police  
 School: Eugene District 4J  
 Telephone: Pacific Northwest Bell  
 Solid Waste Disposal: Glenwood Receiving Station  
 Water: Proposed On-site  
 Sewer: Proposed On-site

CONCLUSIONSGOAL CONFORMITY

(1) Citizen Involvement. Lane County has a fully developed citizen involvement program as provided in 6 general plan policies of the acknowledged Rural Comprehensive Plan. Opportunities for citizen influence have been available at all stages of the subject plan amendment. Concerns raised by the general public in regard to the subject plan amendment have been addressed with findings, reasons, and conclusions.

(2) Land Use Planning. The Lane County Rural Comprehensive Plan, associated working papers, and the Lane Code provide policies and criteria for the evaluation of plan amendments and Non-resource designations. Compliance with these local policies and implementation measures assure an adequate factual basis for the subject decision. All applicable policies and criteria are addressed below.

(3) Agricultural Lands. The subject property is not agricultural land as defined by Goal 3 and OAR 660-05-005, and therefore need not be preserved for farm use.

OAR 660-05-005(1) provides "'Agricultural Land' as defined in Goal 3 includes:

(a) Lands classified by the U.S. Soil Conservation Service as predominantly Class I-IV soils in Western Oregon . . . ;

(b) Other lands in different soil classes which are suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farming practices; and

(c) Land which is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands."

The subject property is not predominantly composed of soils in capability classes I through IV. See Finding # 6.

The subject property does not qualify as "other lands in different soil classes which are suitable for farm use." The property does not have a history of farm use, is not currently employed for agricultural production, and is not capable of supporting a profitable agricultural operation. See Finding #8. According to ORS 215.203(2)(a), "'farm use' means the current

employment of land for the primary purpose of obtaining a profit in money . . . " Grazing is probably the most profitable agricultural use which might be made of the property, but the potential returns from such an operation show that farm use is impracticable.<sup>1</sup> The property can not support a profitable grazing operation because of limited forage production potential. See Finding #8.

Soil fertility is generally low and the majority of soils are not arable because of shallow depth to bedrock and steepness of slope. See Finding #7. Climatic conditions on the property are not extreme and would otherwise be favorable for non-irrigated field crops. Land use patterns in the area do not suggest the property is suitable for farm use because the area is not farmed and most grazing operations are restricted to non-commercial pastures associated with rural residences. See Finding #9. The technological and energy inputs necessary to convert this steep, rocky hillside into an economically viable agricultural enterprise would be extreme and beyond the scope of accepted farming practices. See Finding #8.

The designation of the subject property as agricultural land is not "necessary to permit farming practices to be undertaken on adjacent or nearby lands." The only farming practice in the vicinity occurs on the 319 acre lot (180424-300) 1/4 mile to the south of the subject property, which is leased on a seasonal basis for grazing cattle. See Finding #9. However, the operation does not use 52d Street for access and thus the resource designation on the subject property cannot be considered "necessary" to allow this part-time grazing operation to continue.

(4) Forest Lands. The subject property is not forest land as defined by Goal 4 and therefore need not be retained for the production of wood fiber and other forest uses.

Goal 4 provides that "Forest lands are:

- (1) lands composed of existing and potential forest lands which are suitable for commercial forest uses;
- (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation;
- (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use;

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<sup>1</sup> See 1000 Friends of Oregon v. LCDR (Umatilla Co.), 85 Or App 88, 96 (1987).

(4) other forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors, and recreational use."

The property is not "composed of existing and potential forest lands which are suitable for commercial forest uses." "Commercial Forest Land" is defined as sites capable of producing greater than 50 cubic feet of wood per acre per year. See Ordinance No. PA 889, Lane County General Plan Policies, Forest Lands Working Papers, as amended. The property is not suitable for commercial forest use because the majority of the soils do not qualify as Commercial Forest Land. See Finding #10.

The property does not qualify as "other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation." The property need not be designated forest land for the purpose of watershed protection because appropriate safeguards against erosion will be required as a condition of approval. See Conditions and Conclusions under Goal 7. Big game habitat as well as non-game wildlife habitat in the area will be maintained in accordance with the Wildlife Management Plan. See Conclusions and Conditions under Goal 5. Fisheries habitat is not applicable because there are no perennial streams or ponds in the vicinity. See Finding #11. Designation of the property as non-forest land will have no impact on recreational opportunities in the area because public access to the property will remain limited and is not needed for access to other recreational sites. The property is not designated in the Rural Comprehensive Plan for recreational use. See Conclusions under Goal 8.

The maintenance of vegetative cover is needed to protect the steep slopes on the property from erosion. However, low density rural development will serve to protect the vegetative cover better than a forest designation with associated logging practices.<sup>2</sup> Appropriate conditions on development imposed under Site Review Evaluation (LC 16.257(4)) and LC 16.005(3) will assure the maintenance of vegetative cover under a non-forest designation. See Conditions #1 and #2.

The property does not qualify as "other forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors, and recreational use." The property is located outside the urban growth boundary and can not be utilized as an urban buffer. See Finding # 2. A major ridge lies between the property and residential development within the urban growth boundary, which negates the utility of the site as a windbreak.

<sup>2</sup> See Osborne v. Lane Co., 5 Or LUBA 172 (1982).

Furthermore, the majority of trees on the property will be retained as a condition of development. See Condition #1. This will mitigate the impact of development on scenic values in the area, although the property is not located in a scenic corridor. Retention of trees and other vegetation will also help retain the property's value as wildlife and big game habitat by providing cover. The impact of a non-forest designation on livestock habitat and recreational use is discussed under Goal 3 and Goal 8 respectively.

(5) Open Spaces, Scenic and Historic Areas, and Natural Resources.

**Introduction**

The subject property has been inventoried and identified as "Peripheral Big Game Range Habitat" by ODFW. In addition, Rural Comprehensive Plan Goal 5, Open and Scenic Areas Policy #1 designates all resource lands in the County as open space land. Because the development will utilize on-site water supplies, the impact on groundwater resources must also be considered.

Pursuant to Rural Comprehensive Plan Goal 5, Open Space and Scenic Areas Policy #1, development standards must be applied which minimize the loss of open space. This will be achieved by cluster development on the property in accordance with Lane Code 16.260. No Goal 5 conflict will arise if this condition is satisfied.

Pursuant to Rural Comprehensive Plan Goal 5, Water Resources Policy #5, land use designations must be commensurate with groundwater aquifer capacities. The property overlies a quantity limited aquifer. Water Resources Working Paper (1982) Map 3. Proof of long-term water availability, pursuant to Lane Code 13.050(13)(a)-(d), is required as a condition of development. No Goal 5 conflict will arise if this condition is satisfied.

Rural Comprehensive Plan Goal 5, Flora and Fauna Policy #11 requires application of the Goal 5 conflict resolution procedure when proposed residential densities exceed that allowed by ODFW for the protection of big game habitat:

Oregon Department of Fish and Wildlife recommendations on overall residential density for protection of big game shall be used to determine the allowable number of residential units within regions of the County. Any density above that limit shall be considered to conflict with Goal 5 and will be allowed only after resolution in accordance with OAR 660-16-000.

The rural residential density recommended by ODFW for peripheral big game habitat is 40 acres per residence. See Flora & Fauna

Working Paper (1982) at 24. Because the proposed residential density is 5 acres per residence, a conflicting use arises and Goal 5 conflict resolution procedures are necessary pursuant to OAR 660-16-005 and 660-16-010.

#### ESEE Analysis

First, a determination of the "Economic, Social, Environmental, and Energy Consequences" (ESEE analysis) must be made pursuant to OAR 660-16-005(2). The impacts on the resource site as well as the impacts on the conflicting use must be considered.

#### Economic Consequences:

- 1) Residential development in rural areas helps to accommodate the demand for low density housing and to maintain reasonable market prices.
- 2) Residential development, at any density, has major beneficial impacts on the construction, service and professional sectors of the local economy.
- 3) The displacement of big game populations from peripheral ranges has negative economic impacts on the recreational sector of the local economy.

#### Social Consequences:

- 1) A significant portion of the housing market has a preference for rural locations and lifestyles.
- 2) The displacement of big game populations from peripheral ranges results in less visual contact for those who enjoy watching wildlife and in more scarce hunting opportunities.

#### Environmental Consequences:

- 1) Residential development on peripheral range reduces natural vegetation which provides forage and cover for wildlife.
- 2) Reductions in the extent of peripheral range ultimately results in lower big game populations.

#### Energy Consequences:

- 1) Residential development on peripheral range is generally outside urban growth boundaries which results in longer commuting distances and greater energy consumption.

Second, the identified conflict between the proposed development and big game habitat must be resolved in one of three ways pursuant to OAR 660-16-010:

- (1) Protect the resource site.
- (2) Allow conflicting uses fully.
- (3) Limit conflicting uses.

Alternative (3) is elected because the essential qualities of the resource site as big game habitat can be retained while allowing the proposed residential densities. This resolution policy has been recognized as the appropriate alternative by Lane County:

"While overall densities are important indicators of conflict, the manner in which these densities occur can either create worse conflict or reduce that which already exists. A prime example is that of 'clustering' dwelling units in Peripheral or Major Range areas -- siting dwellings on large tracts of timber or agricultural land near lot lines, near roads, and near one another. This leaves the balance of the land unimpacted." Addendum to Flora & Fauna Working Paper (1983) at 14.

#### Wildlife Management Plan

Big game populations in the area are limited to black-tailed deer (Odocoileus hemionus columbianus). These are resident populations with no seasonal migration patterns. Thus open space "corridors" need not be provided on the property to allow for seasonal movements. In general, water is readily available in western Oregon and is not a limiting factor in the area. The main concerns are limited to the preservation of forage, cover, and open space values on the property. Secondary issues include the potential impact of residential development on hunting opportunities in the vicinity, as well as the compatibility of rural lifestyles with big game.

**Forage and Cover.** The disruption of native vegetation will be confined to roads and construction sites, pursuant to Lane Code 16.005(2) and (3), and Lane Code 16.257(4)(b). A major goal of road and homesite planning will be the preservation of existing trees. Trees will be removed only where necessary. Residential landscaping will utilize native species or those introduced species with desirable forage and food characteristics for wildlife. All landscaping will be limited to those areas immediately adjacent to homesites and roadsides which have been disturbed during construction. Dead trees and other snags shall be removed only if imminently hazardous to life or property.

**Open Space.** In order to preserve the open space value of the property, all residential development shall be undertaken pursuant to the Cluster Development Standards of Lane Code 16.260(4). Fencing shall be limited to the immediate vicinity of residences, and extended lot boundary fences shall be prohibited.

In addition, the residence siting standards of Lane Code 16.211(8), Siting and Fire/Safety Standards for Dwellings, will be imposed on the subject property, although this provision is normally applicable only to dwellings conditionally approved on F-2 Impacted Forest Land. Lane Code 16.211(8)(a)(i) provides:

(i) Residences to be sited upon tracts located within a big game range as designated by the Department of Fish and Wildlife shall be sited as follows:

(aa) Near residences on other tracts.

(bb) With minimal intrusion into forest areas undeveloped by nonforest uses.

(cc) Where possible, when considering [the] above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.

Considering adjacent zoning, the 100 foot setback requirement of subsection (cc) will be imposed on the southern, western, and most of the northern property boundaries.

**Impact on Hunting.** The proposed rezoning from Forest Land to Rural Residential will have no impact on hunting opportunities in the area. The site is not currently used for hunting and could not safely be used for hunting because (1) it is within range of a major street, South Willamette; (2) it is within range of an urban area, South Eugene; (3) it is within range of major television, radio, and telephonic communications facilities, including towers and a station on the ridges to the north and east; (4) it is within range of a city park, Spencer's Butte.

**Compatibility.** Potential conflicts between wildlife and rural residential living will be minimized by appropriate provisions incorporated into the Conditions, Covenants and Restrictions of the property. Rural Comprehensive Plan Goal 5, Flora and Fauna Policy #9 provides:

Residential building permits issued within Major or Peripheral Big Game Range . . . shall include an indication of that range and a note that compatibility problems, such as damage to vegetation, may occur.

Residents will be warned that wildlife damage to vegetation and landscaping is inevitable. In addition, domestic pets will be restrained at all times. When any conflict arises between wildlife and residential development, the interests of wildlife will be given priority.

(6) Air, Water and Land Resources Quality. The waste and process discharges associated with the proposed development include household solid wastes, sewage, automobile emissions, and runoff from the property.

Existing Lane County disposal and recycling services are available to process the solid wastes produced by the residential development in an environmentally sound manner. Proper sewage treatment will be provided by an on-site system designed and constructed in accordance with all applicable Plan Policies and Lane Code requirements. See Conclusions and Conditions under Subsurface Sewage Disposal Suitability below. These requirements assure environmentally sound sewage treatment with no adverse impacts on surface or groundwater resources in the area.

The proposed residential density on the property will result in a maximum of 12 households. The increase in automobile traffic and associated emissions will be minimal.

Rural Comprehensive Plan Goal 6, Water Quality Policy #1 provides:

"Avoidance and/or control of soil erosion shall be a major criterion to be addressed in all applicable County review procedures and County construction activity."

In addition, Water Quality Policy #2 provides:

"The re-establishment of vegetative cover by standard erosion control practices shall be required as part of the land development process."

The potential for adverse effects on land and water resources due to soil erosion associated with construction activities on the property will be minimized by appropriate erosion control practices. See the Conclusions and Conditions under Goal 7 below.

(7) Areas Subject to Natural Disasters and Hazards. According to the Lane County Natural Hazards Inventory, the only hazards identified on the property are soil instability and erosion potential. This problem will be addressed with appropriate safeguards.

Rural Comprehensive Plan Goal 7, Policy #2 provides:

"Development shall be commensurate with the type and degree of any natural hazard(s) present and appropriate safeguards against flooding, ponding, landslides, land slippage, erosion or other natural hazards applicable shall be assured. For the purposes of evaluation and in the absence of any specific proposal, the provisions of the Oregon State Building Code shall be assumed to be the sole means of safeguard against natural hazards."

Most soils on the property have been identified as posing severe limitations for homesite development, including shallow depth to bedrock and steep slopes. See Finding # 7. However, these limitations are associated with the soil types in general and can be avoided or minimized on a site specific basis. According to the detailed soil survey by Steve Wert (1981), approximately 12.3 acres on the property have slopes of 20% or less. Homesite development will be limited to these milder slopes with less severe engineering limitations. Appropriate sites for homesite development will be assured under Site Review Evaluation (LC 16.257(4)). See Condition #2. Soil Conservation Service recommendations for homesite development on soils with severe limitations offer solutions which will be imposed where necessary under Site Review Evaluation:

1. "Support and stability for buildings can be provided by placing footings below the clay layer or down to bedrock.
2. "Properly designing foundations and footings and diverting runoff away from buildings help to prevent structural damage because of shrinking and swelling.
3. "Reinforced retaining walls with proper drainage are required to minimize slumping.
4. "Access roads should be designed to control surface runoff and help stabilize cut slopes.
5. "Wetness can be reduced by installing drain tile around the footings.
6. "Only the part of the site that is used for construction should be disturbed.

## 7. "Roads for year-around use need heavy base rock."

In addition, the conditions of LC 16.005(2) and (3) will be imposed to assure site and area stability. See Condition #1. None of these safeguards are considered "extensive or drastic" as used in Rural Comprehensive Plan Goal 7, Policy #3, and therefore an evaluation of project impacts need not be undertaken.

(8) Recreational Needs. A non-resource designation for the property will not adversely impact the recreational opportunities or needs of the County or region.

According to the Lane County Parks and Open Space Master Plan, the property is not needed to accommodate current or future demand for recreational sites and open space. See Lane County Parks and Open Space Master Plan at 22, 23. The property is not necessary to provide access to existing or proposed recreational areas. The open space value of the property will be preserved with cluster development. In addition, the preservation of trees and existing vegetation as a condition of development will serve to minimize adverse visual impacts. See Condition #1.

(9) Economy of the State. The economic impacts of the proposed non-resource designation must be compared with the impacts of the existing forest designation for the property.

Residential development, even at rural densities, has major beneficial impacts on the construction, professional, and service sectors of the State's economy. Residential development will also permanently destroy the property's potential to contribute raw wood products to the State's forest industries. However, due to the limited productivity of the land, the proximity to the urban growth boundary, and adjacent land development patterns in the area, the site cannot be considered suitable for long-term, sustained wood production. See Findings #10, #3, and #5. Any delay in the designation of this property as non-resource land will unduly freeze the economic benefits to be derived from rural residential development, the use for which this area is best suited.

(10) Housing. "Flexibility of housing location, type and density" is a major component of this goal. Accordingly, plans should accommodate the demand for diversity in the housing market.

Large-acre rural homesites hold a specialized but steady role in the housing market. An adequate supply of such housing will assure continued availability at reasonable prices. Appropriate zoning for large-acre homesites will not interfere with the supply or price of low-income housing.

(11) Public Facilities and Services. Sufficient levels of facilities and services are currently available to accommodate the needs of rural residential development on the property.

Rural Comprehensive Plan Goal 11, Policy #6(e) describes the minimum level of services required for rural residential zoning: "schools, on-site sewage disposal, individual water supply system, telephone service, rural level fire and police protection, and reasonable access to a solid waste disposal facility." See Finding #13 demonstrating that these services are currently available.

(12) Transportation. The proposed residential development will not have any adverse impacts on existing transportation networks.

Access to the property is currently available via existing roads. The major collector (Willamette Street) to city professional and service districts is adequate to accommodate the increased traffic flow associated with the maximum potential development. See Finding #1.

(13) Energy Conservation. In general, market forces dictate that new residential developments be energy efficient. However, residential development outside urban growth boundaries tends to result in longer commuting distances and greater energy consumption. This loss is more than offset by the opportunities for tapping renewable energy sources, such as wind power, solar power, and fuel wood energy, provided by rural locations. The net result in terms of energy conservation and supply is positive.

(14) Urbanization. This goal is not applicable to the proposed Non-resource designation and Rural Residential zoning.

The subject property qualifies as rural land and therefore an exception to Goal 14 is not necessary. "Rural land" is defined in the goals as "those which are outside the urban growth boundary and are:

- (a) Non-urban agricultural, forest, or open space lands or,
- (b) Other lands suitable for sparse settlement, small farms or acreage homesites with no or hardly any public services, and which are not suitable, necessary or intended for urban use."

Goal 14 is not applicable to the subject proposal because no "urban uses" are to be allowed outside the urban growth boundary. First, the proposed density of one residence per 5 acres is

clearly rural in character.<sup>3</sup> However, parcel size alone is not conclusive.

Although not strictly applicable to the subject application, OAR 660-14-030(3) provides the criteria to be addressed in determining whether "land is committed to urban levels of development:

- (a) Size and extent of commercial and industrial uses;
- (b) Location, number and density of residential dwellings;
- (c) Location of urban levels of facilities and services; including at least public water and sewer facilities; and
- (d) Parcel sizes and ownership patterns."

As the Oregon Supreme Court has recognized, the only objectively verifiable determinant presented in these criteria is the provision for "at least public water and sewer facilities."<sup>4</sup> Water and sewer facilities on the subject property will be provided by the developer. See Finding #13. In order to conclude that an exception to Goal 14 is not necessary, a definite distinction between lots on the subject property and those within the urban growth boundary must be retained.<sup>5</sup> Such a distinction between the subject property and adjacent lots within the UGB will be retained in terms of:

- (1) the minimum size of the lots;
- (2) the maximum residential density;
- (3) the level of services available; and
- (4) the conditions imposed on development.

<sup>3</sup> See 1000 Friends of Oregon v. LCDC (Curry Co.), 301 Or 447, 505 (1986): "We accept the concessions of 1000 Friends that residential density of one house per ten acres is generally 'not an urban intensity,' and of LCDC that areas of 'half-acre residential lots to be served by community water and sewer' are 'urban type.' We find no decisions which had trouble classifying lands at these extremes."

<sup>4</sup> See id. at 504.

<sup>5</sup> "The concern is that UGBs mean little if similarly-sized, similarly-served lots are as readily available just outside the UGBs as within them." Id. at 506.

COUNTY CRITERIAAmendment Classification

LC 16.400(8) provides that:

- (a) Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:
  - (i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.
  - (ii) Major Amendment. Any amendment that is not classified as a minor amendment.

The proposed rural plan amendment does not require changes in the plan text and does not require an exception to Statewide Planning Goals. See conclusions under Goal Conformity above and Plan Consistency below. The amendment to the Rural Comprehensive Plan is therefore a "minor amendment."

Plan Amendment Criteria

LC 16.400 (6)(h)(iii), as amended, provides as follows:

- (iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:
  - (aa) For Major and Minor Amendments as defined in LC 16.400(8)(a), the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.
  - (bb) For Major and Minor Amendments as defined in LC 16.400(8)(a), the Plan amendment or component is made necessary to:
    - (.1) correct an identified error in the application of the Plan; OR
    - (.2) fulfill an identified public or community need for the intended result of the component or amendment; OR

- (.3) comply with the mandate of local, state or federal policy or law; OR
  - (.4) provide for the implementation of adopted Plan policy or elements; OR
  - (.5) is otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate, or proper.
- (cc) For Minor Amendments as defined in LC 16.400(8)(a), the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan.
- (dd) For Minor Amendments as defined in LC 16.400((8)(a), the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

The requirements of the Statewide Planning Goals and Oregon Administrative Rules have been addressed above under Goal Conformity.

The proposed plan amendment is necessary to correct an error in the application of the plan, to provide for the implementation of adopted Plan policy, and is deemed appropriate by the Board. The original designation of the subject property as forest land was based on generalized and incorrect soils data, which has since been corrected by detailed soils studies. More accurate resource data must be acknowledged in order to assure compliance with the Goal 2 mandate that an "adequate factual base" be used in land use decision-making. In addition, it is apparent from the history of the property that the original forest designation was maintained primarily to expedite the acknowledgement of the Rural Comprehensive Plan. See Background under Application Summary. Approval of the proposed plan amendment appropriately implements the Plan policy "to systematize and streamline the existing plan amendment process, to make the process more efficient and responsive to individual needs." Rural Comprehensive Plan Goal Two, Policy #8.

Larry D. Thomson, the Lane County Hearings Officer who granted the initial Non-resource designation on the property in 1981, appropriately summarized the situation:

"I think that we have been unfair to the citizens of

Oregon by not properly providing for nonresource related housing in the rural areas. Nothing in the goals prohibits the proposed housing." ZC 81-129 at 3.

The proposed Plan amendment does not conflict with adopted Plan policies, is compatible with the existing structure of the Plan, and is consistent with unamended portions of the Plan. See Plan Consistency below.

#### Plan Consistency

Rural Comprehensive Plan Goal 2, Policy #16 allows the designation of rural residential where lands are not farm and forest lands provided:

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

Factual Documentation. Statewide Planning Goals 3 and 4 have been addressed above under Goal Conformity. The subject land does not qualify as agricultural or forest land as defined by the goals.

Exception Not Required. An exception to Goal 5, Open Spaces, Scenic and Historic Areas, and Natural Resources, is not required because the identified conflict has been resolved pursuant to OAR 660-16-010. See Goal 5 conclusions under Goal Conformity above. An exception to Goal 14, Urbanization, is not required because the proposed development will be strictly rural in terms of density, lot size, and levels of public services. See Goal 14 conclusions under Goal Conformity above.

Compatibility. The subject property is not surrounded by farm or forest lands as defined by Statewide Planning Goals #3 and #4. Thus adjacent properties also qualify as Non-resource Land. See Finding #4. However, adjacent land to the north and to the south of the subject property is currently designated F-2 Impacted Forest Land, and adjacent

land to the west of the subject property is currently designated E-40 Exclusive Farm Use. See Finding #3. To help assure compatibility with these surrounding resource lands, the requirements of LC 16.211(8), Siting and Fire/Safety Standards for Dwellings, will be imposed on the subject property, although this provision is normally applicable only to dwellings conditionally approved on F-2 Impacted Forest Land. See Condition #5.

Other Plan Policies. The Rural Residential designation must be evaluated for consistency with Rural Comprehensive Plan Goal 2, Policy 17. See Rezoning Criteria below.

In addition, Lane County's Non-resource/Non-exception Land criteria set forth in the Marginal Land Working Paper (1983) must be compared with the proposed designation.

"Land may be designated as NON-RESOURCE/NON-EXCEPTION LAND upon submission of satisfactory factual information to support the following findings:

1. The land is not composed of existing or potential forest lands which are suitable for the commercial production of wood fiber products.
2. The land is not needed for watershed protection.
3. Designation of the land as NON-RESOURCE/NON-EXCEPTION LAND will not adversely effect management of the land for big game or other wildlife, fish or waterfowl habitat.
4. No extreme soil or climatic conditions exist to the extent to require maintenance of existing vegetative cover to a degree not provided by the NON-RESOURCE/NON-EXCEPTION designation.
5. The land is not located in an agricultural or urban area and providing needed urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors or recreation uses.
6. The land is predominantly Class V-VIII soils as identified in the Soil Capability Classification System of the U.S. Soil Conservation Service.
7. The land is not suitable for farm use or grazing taking into account soil fertility, climatic conditions, existing and future availability of water for farm irrigation, existing land use patterns, technological and energy inputs required, or accepted farming practices.

8. Designation of the land as AGRICULTURAL LAND is not necessary to permit farm practices to be undertaken on adjacent or nearby lands."

Marginal Land Working Paper criteria #1 through #5 are addressed above under Goal Conformity, Goal 4. Criteria #6 through #8 are addressed above under Goal Conformity, Goal 3.

#### Rezoning Criteria

Rural Comprehensive Plan Goal 2, Policy 17 provides criteria for the determination of Rural Residential densities on Non-resource lands.

"Residential densities for non-resource lands shall be one residence per five or ten acres and shall be determined through consistency with other plan policies and the following criteria:

- a. Existing development pattern and density of any adjacent committed areas;
- b. Subsurface sewage disposal suitability;
- c. Domestic water supply availability;
- d. Access;
- e. Public service;
- f. Lack of natural hazards;
- g. Effect on resource lands."

Existing Development Pattern. To the north of the subject property, a string of lots zoned RR-5/RCP (including, but not limited to, tax lots 180413-3303, 180413-3302, 180413-3301, 180413-3300, and 180413-3304) totaling approximately 90 acres and extending 3/4 of a mile, lies parallel with the metro plan and urban growth boundaries. Immediately to the east of the subject property, inside the urban growth boundary and zoned RA, are 6 lots ranging in size from approximately 1 to 5 acres. Further to the east, approximately 1/8 of a mile from the subject property, is the Solar Heights Subdivision. The density of these adjacent committed areas and the existing development pattern of the vicinity provide substantial support for a rural density of 5 acres per residence on the subject property.

Subsurface Sewage Disposal Suitability. Although most soils on the property pose severe limitations for septic tank absorption fields in terms of slow percolation rates and/or excessive slope, these limitations can be overcome by appropriate engineering measures. Appropriate engineering measures suggested by the S.C.S. include installation of absorption lines on the contour and increasing the size of the absorption field. See Soil Interpretations for Lane County (S.C.S. 1981). Proper placement of septic tank absorption fields will be assured in accordance with LC 16.005(3). See Condition #1. In addition, adequate filtration of effluent can be assured by the installation of sand filters. PA 2798-85 authorizes installation of a sand filter sewage disposal system for the single-family residence currently situated on the property. This indicates that additional sewage disposal systems may be safely installed on similar soils elsewhere on the property.

Domestic Water Supply Availability. Domestic water supply availability on the subject property has yet to be determined. LC 16.004(4) provides:

"Prior to zoning or rezoning of land under this Chapter, . . . all requirements to affirmatively demonstrate adequacy of long-term water supply must be met as described in LC 13.050(13)(a)-(d)."

Rezoning is expressly conditioned upon compliance with the requirements of LC 16.004(4) and LC 13.050(13)(a)-(d). See Condition #3. "Conditional Approval" of the proposed zoning amendment is granted pursuant to LC 16.252(8), which provides:

"The approving authority may impose reasonable conditions if the application is approved to be completed within one year."

Access. Adequate access for the maximum number of residences possible (12) under the RR-5 density is provided by South 52d Street. Access to internal portions of the property, if necessary, shall be provided by a private road developed in conformance with the requirements of LC 15.050.

Public Service. General Plan Goal 11, Policy (6)(e) describes the minimum level of services required for rural residential zoning: schools, on-site sewage disposal, individual water supply system, telephone service, rural level fire and police protection, and reasonable access to a solid waste disposal facility. See Finding #13 demonstrating that these services are available.

Lack of Natural Hazards. According to the Lane County Natural Hazards Inventory, the only hazards identified on the property are soil instability and erosion potential. This problem will be addressed with appropriate safeguards, imposed as conditions of approval. These conditions will assure minimization of hazards due to soil instability and erosion potential, and allow for sound development at the RR-5 density. See the Conclusions and Conditions above under Goal Conformity, Goal 7, Areas Subject to Natural Disasters and Hazards.

Effect on Resource Lands. Adjacent land to the north and to the south of the subject property is currently designated F-2 Impacted Forest Land, and adjacent land to the west of the subject property is currently designated E-40 Exclusive Farm Use. See Finding #3. To help assure compatibility with surrounding resource lands, the requirements of LC 16.211(8), Siting and Fire/Safety Standards for Dwellings, will be imposed on the subject property, although this provision is normally applicable only to dwellings conditionally approved on F-2 Impacted Forest Land. Compliance with LC 16.211(8) as a condition of approval will minimize the potential negative impacts of RR-5 density in terms of potential forest management on adjacent forest land, fire danger and big game habitat. See Condition #5.

## Supplementary Findings for Ordinance PA 944

SUPPLEMENTAL FINDINGS IN RESPONSE TO DLCD OBJECTIONS

In its letter of October 20, 1987, the DLCD objected to this proposal as in violation of Goals 3 and 4. These supplemental findings address specific issues raised by the DLCD and conclude that the application is consistent with Goals 3 and 4.

Issue No. 1 (Goal 3): DLCD objects that finding the property cannot be profitably grazed is insufficient to conclude that it is not agricultural land in the meaning of Goal 3.

1. DLCD does not disagree with the findings or conclusions that the site cannot be profitably farmed. DLCD's rationale is that land with predominantly Class V or worse soils, and which is not needed to permit farm practices on nearby lands, may still be agricultural land even if it can only be farmed at a loss. DLCD reads "other lands . . . which are suitable for farm use" in the language of the Goal as including land which can only be farmed at a loss.
2. This land cannot support a profitable grazing operation due to limited forage production potential. (See Proposed Finding 8, July 23, 1987.) Extensive fencing would be required due to the proximity of nearby urban style homes. It would be difficult to maintain adequate fencing due to: the steepness of the land, and the shallow depth to bedrock in many places. The cost of maintaining such fencing would be financially burdensome relative to the amount of feed that could be produced. There is a great potential for complaints from a commercial livestock operation due to the proximity of urbanized areas. (See letter of Paul Day, Lane County Extension Agent for Livestock, November 2, 1987, Exhibit "A".)
3. There are no other commercial grazing operations nearby that it might be combined with. (See Proposed Finding 9, July 23, 1987.) Hauling livestock to the parcel to use it as part of a larger operation is impractical. Herding livestock would be hazardous to both the livestock and the nearby private property. Construction of adequate loading and herding facilities would be financially burdensome relative to the amount of feed that could be made available. (See letter of Paul Day, Lane County Extension Agent for Livestock, November 2, 1987, Exhibit "A".)
4. No prudent farmer would choose to use the site, either standing alone or in conjunction with a larger operation, primarily for the purpose of earning a profit by farming. (See letter of Paul Day, Lane County Extension Agent for Livestock, November 2, 1987, Exhibit "A".)
5. Profitability is highly relevant to a determination of whether or not land is agricultural land. The Oregon Court

of Appeals has upheld a county decision excepting land from Goal 3 because it could not be profitably farmed. See 1000 Friends of Oregon v. LCDC (Umatilla Co.), 85 Or App 88, 96 (1987). In that case, even though the land in question was actually being farmed, the court found that the conflicts with residential development, the extent of residential development, and the lack of a profitable agricultural use supported the exception from Goal 3. The court stated the fact that the most profitable crop for the site was economically unfeasible was significant in showing that agricultural use is impracticable.

6. DLCD's comments fail to take note of other facts which reinforce the nonagricultural character of these lands. All lots adjacent to the site and designated as resource land are predominantly composed of non-resource soils. (Proposed finding 4, July 23, 1987.) It is adjacent to rural zoned lots on the north and the east and to the city limits on the east. (Proposed findings 3, 5, July 23, 1987.)

Issue No. 2 (Goal 4): DLCD objects that the area consumed by the forest dwelling approved in 1985 cannot be considered lost to forest use in determining this is not forest land.

1. The findings supporting this action fully address this concern raised by DLCD.
2. The conclusion that this site is not suitable for commercial forest production is based upon a soil survey of the entire site, including the soils under the present housing site. The presence of the existing dwelling, therefore, is not a factor in this determination.

Issue No. 3 (Goal 4): The DLCD objects that this site is "other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation." DLCD objects to mitigation of wildlife habitat impacts to find consistency with Goal 4.

1. This issue has been fully addressed in the findings and conclusions. The site has no watershed, fisheries or public recreation values to protect. (Proposed finding 11; conclusion 4 [Forest Lands]; conclusion 8 [Recreation Needs].) DLCD has provided no contrary evidence showing the presence of such values.
2. The applicant's proposal includes a wildlife management plan for the resident big game. (See Proposed Findings, July 23, 1987, at 16.) This plan is incorporated into this decision and will be binding upon the property through recorded Covenants, Conditions and Restrictions. (See Condition 6.) DLCD does not argue with the finding that the plan will ensure maintenance of big game habitat and non-game wildlife

habitat in the area. (See Conclusion 4 [Forest Lands] at 13.)

3. If the wildlife resources will be protected under the Goal 5 wildlife management plan, then it is unnecessary to use Goal 4 to protect the wildlife resources. These forested lands are not needed to protect wildlife because full protection comes under Goal 5.
4. DLCD maintains that protection of the resource under Goal 5 is insufficient to escape the application of Goal 4. DLCD's position here is inconsistent with the position it took in the acknowledgment process for Lane County. Lane County's approach to making nonresource designations was fully documented and approved by the DLCD in its staff reports of June 29 and July 19, 1984, supporting acknowledgment. The DLCD staff report found the nonresource lands process fully consistent with LCDC's requirements for determining that Goals 3 and 4 do not apply. In fact, the DLCD staff found that the county's standards for protecting wildlife go beyond the requirements of the Goal. Staff Report, June 29 and July 19, 1984, at 52-53. Furthermore, the DLCD Staff Report listed as adequate several specific nonresource designations which used the method now objected to here. These included McKenzie Ridge, Meltebeke's on Van Duyn Road, and Cerro Gordo. Id. at 55. Finally, the method objected to by the DLCD was reviewed and approved by LUBA in Osborne v. lane County, 5 Or LUBA 172 (1982).

Issue No. 4: DLCD contends that any amendment to the soils survey data requires concurrence by SCS.

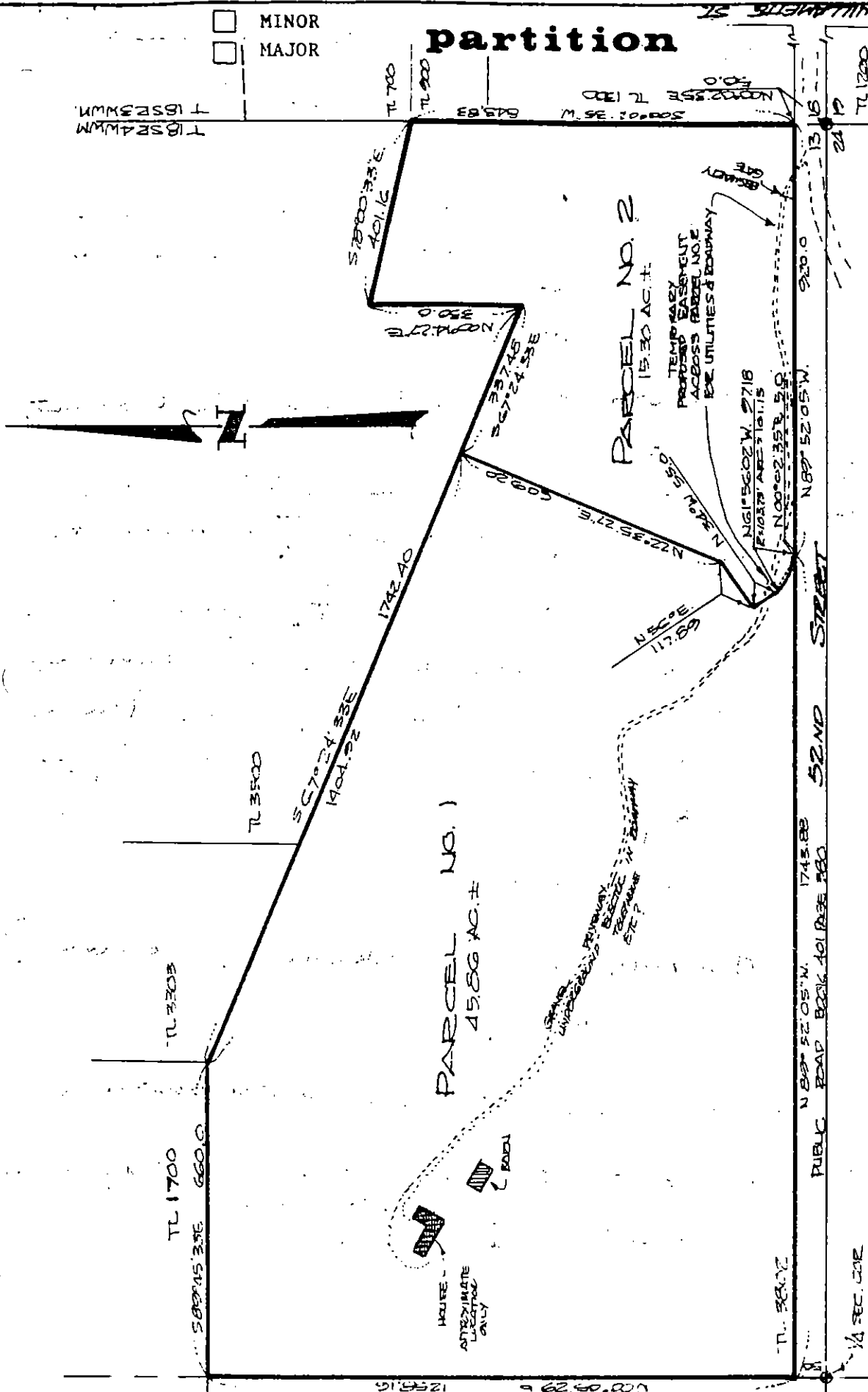
This issue is addressed in the letter from Kathi Wiederhold dated November 2, 1987, Exhibit "B".

partition

lane county



MINOR  
 MAJOR



Note: SEE ATTACHED MEMORANDUM FOR:  
ADJACENT OWNERSHIP INFO.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR

OREGON  
MAY 13, 1950  
ORVILLE O. CASWELL  
494