

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

ORDINANCE PA 982 ( IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE  
 ( PLAN FROM "AGRICULTURE" TO "MARGINAL LAND" AND  
 ( REZONING FROM "E-25/EXCLUSIVE FARM USE" TO  
 ( "ML/MARGINAL LAND" FOR TAX LOT 300 MAP 18-02-28,  
 ( AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE  
 ( (PA 1168-90; SAXON)

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 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 "Agriculture" to "Marginal Land" with concurrent rezoning from "E-25/Exclusive Farm Use" to "ML/Marginal Land" for property identified as tax lot 300, Map 18-02-28; and

WHEREAS, the Lane County Planning Commission, in regular meeting and public hearing of JULY 17, 1990, did recommend approval of the request; and

WHEREAS, evidence exists within the record indicating that application meets the requirements of Lane Code 16.400, the requirements of Lane Code 16.252, and the requirements of applicable state and local law; and

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

THEREFORE, the Board of County Commissioners of Lane County, Oregon, ORDAINS as follows:

1. The Lane County Rural Comprehensive Plan designation for tax lot 300, Map 18-02-28 (Plan Plot 460) the area further identified on attached Exhibit "A" is Amended from a designation of "Agriculture" to a designation of "Marginal Land."
2. The rural zoning designation of the above-described property, as further identified on attached Exhibit "B", is changed from "E-25 /Exclusive Farm Use" to "ML/Marginal Land".

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

FILED

SEP 10 1990

COUNTY CLERK  
 FOR LANE COUNTY OR  
 BY *Shirley Dubois*

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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

ENACTED this 5th day of September, 1990.

*Bill Rogers*

Chair, Lane County Board of County Commissioners

*Judy Haldeman*

Recording Secretary for this meeting of the Board

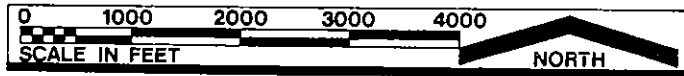
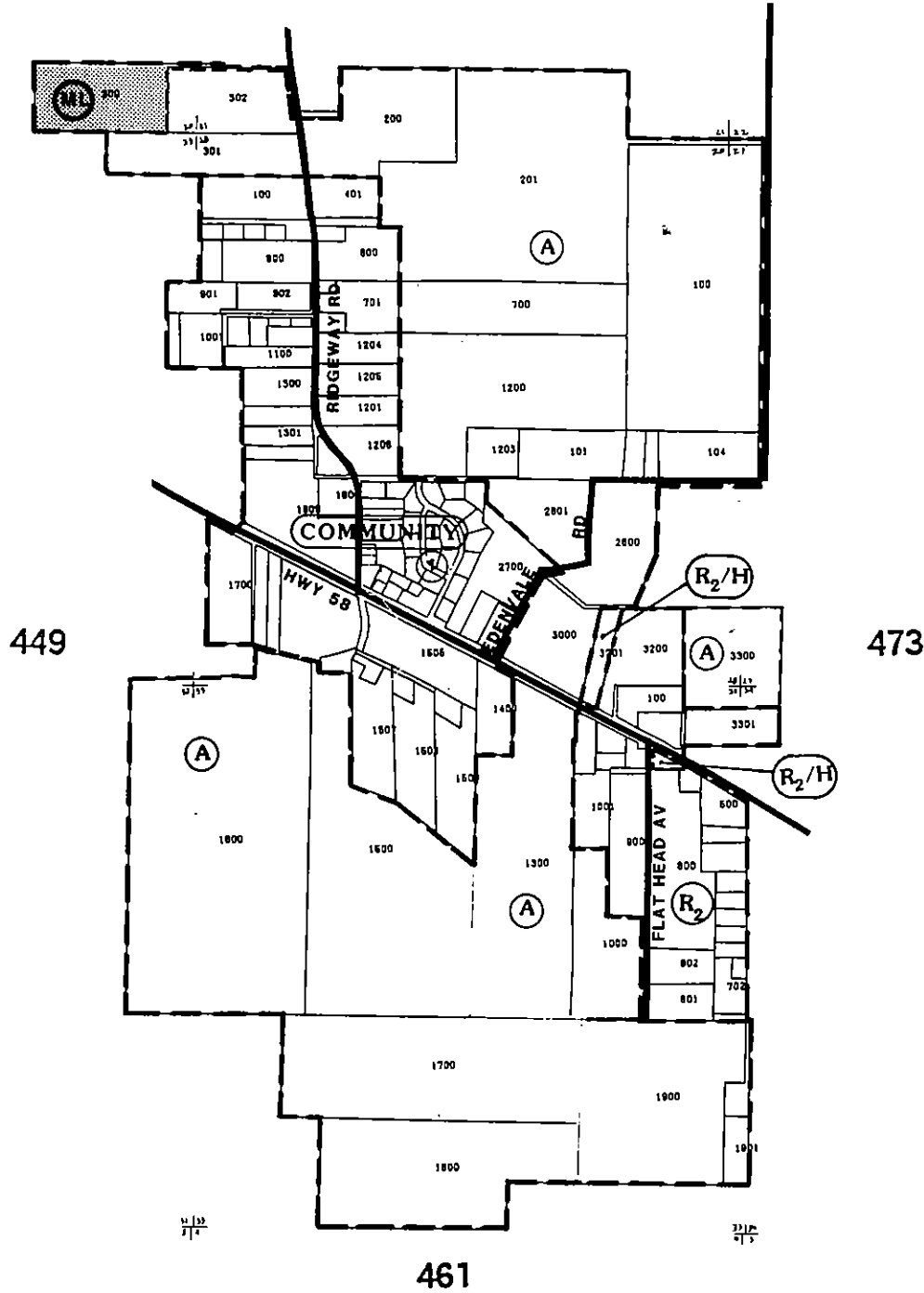
APPROVED AS TO FORM

Date 8-7-90 Lane county

*Stephen F. Vorker*  
OFFICE OF LEGAL COUNSEL

459

EXHIBIT "A" ORDINANCE PA982



OFFICIAL PLAN MAP

PLOT # 460

Township Range Section

18 02 28

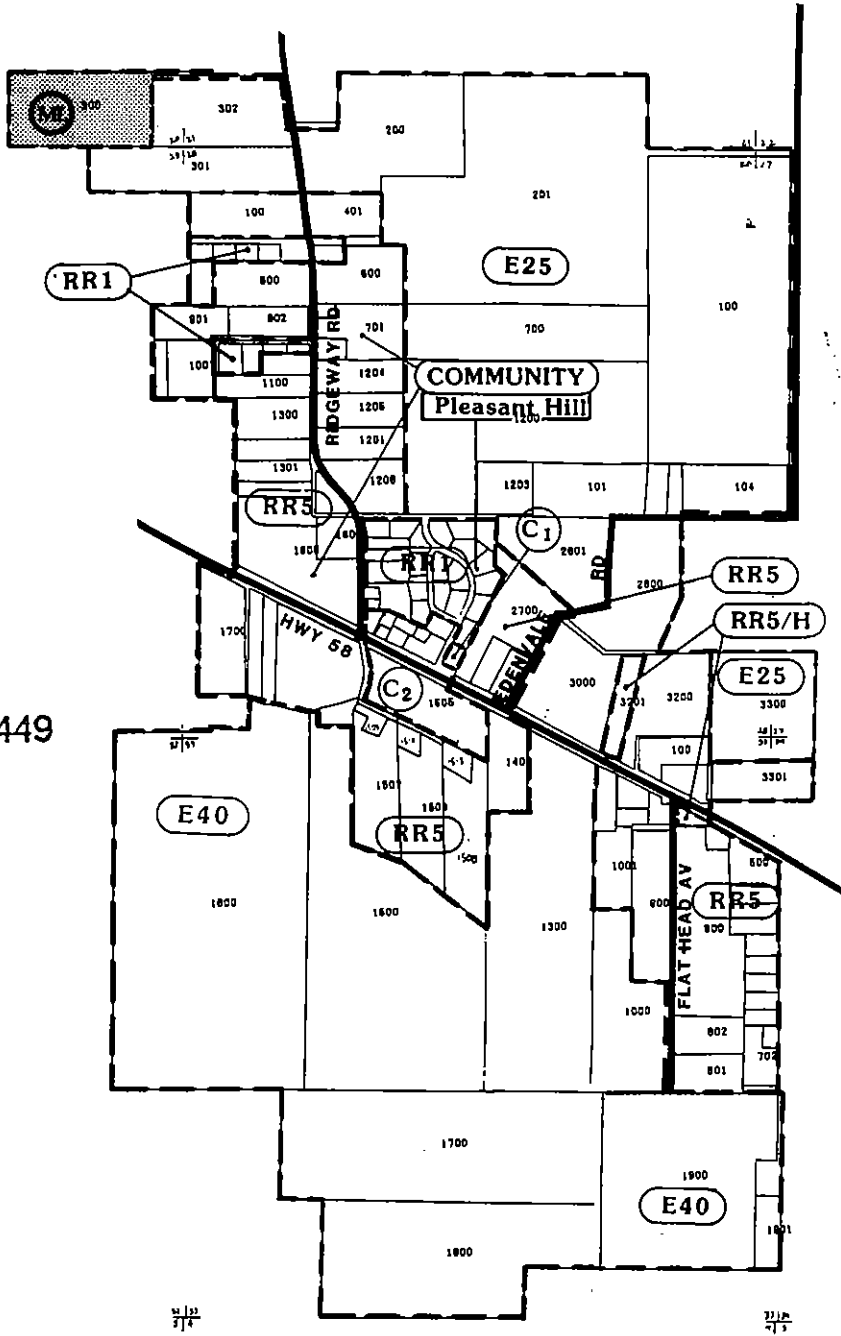
18 02 33

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

REVISION # \_\_\_\_\_ ORD. # \_\_\_\_\_ DATE \_\_\_\_\_ FILE # \_\_\_\_\_

459

EXHIBIT "B" ORDINANCE PA 982



449

473

461



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OFFICIAL ZONING MAP

PLOT# 460

Township Range Section

18 02 28

18 02 33

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

REVISION # \_\_\_\_\_ ORD. # \_\_\_\_\_ DATE \_\_\_\_\_ FILE # \_\_\_\_\_

## EXHIBIT "C" ORDINANCE PA 982

## FINDINGS IN SUPPORT OF THE ADOPTION OF ORDINANCE PA 982

1. ORS 197.247 permits the designation and zoning of Marginal Land provided statutory tests are satisfied.
2. An application has been made for Marginal Land designation for tax lot 300, Map 18-02-28, which exists northwest of Pleasant Hill.
3. The proposal satisfies tests of ORS 197.247 in that:
  - a. The applicant has certified by affidavit that agricultural use has not occurred in the manner defined by statute. Soils analyses have been prepared by a professional soils scientist indicating that the 19.94 acre parcel contains the following:
    - 9.69 acres of Salkum silty clay loam soil with a forestry site index of 145.

A site index of 145 produces 151.58 cubic feet per acre per year. Twenty four acres of such soil is necessary to produce an annual income of \$10,000 (LC 16.211(3)(c)). Since only 9.69 acres of this soil exists on the property, an income at \$10,000 is not possible.
  - b. 8.40 acres, or 42.14% of the property falls within agricultural capability ranges V through VIII. In addition, 1.85 acres, or 9.28% of the property is encumbered by development and has no assigned capability rating. The result is 51.42% of the parcel, a "predominance", is not capable of adequately sustaining farm or forest production. Total forest soils productivity equals an average of 73.62 cubic feet per acre per year of timber on the entire site.
4. The proposed amendment satisfies applicable portions of Lane Code 16.400 in that:
  - a. The amendment is being processed in accordance with all standard requirements of state and local law and administrative rules -- including the provisions of LC 16.400. Referral of the proposal to the Department of Land Conservation and Development has been made per post-Acknowledgemnt procedures. The Marginal Land designation is specifically allowed by statute, and statutory requirements are satisfied.
  - b. The amendment is necessary to provide for the implementation of adopted Plan Policy or elements. Policy 14 of the Agricultural Lands element of the Rural Comprehensive Plan Policies document states, "[Agricultural] land may be designated as marginal land if it complies with the following criteria: (a) The requirements of ORS 197.247, and (b) Lane County General Plan Polices, Goal 5, Flora and Fauna, polices numbered 11 and 12." The proposed

Marginal Land designation is located in "impacted big game range" according to adopted Department of Fish & Wildlife designations, which is a designation assigned to developed areas with big game range significance; and the property has no inventoried Goal 5 resources located on or near it.

- c. Policy support exists for the amendment, as described in b. above. Policy conflicts have not been identified, nor do any appear to exist.
  - d. The amendment is compatible and consistent with the existing structure of the Rural Comprehensive Plan in that the Marginal Land designation is allowable within the framework of the Plan provided statutory tests are satisfied.
5. The proposed amendment satisfies applicable portions of Lane Code 16.252 in that:

An ML zone on tax lot 300 will achieve the purpose of the ML district. The zone is being applied to properties in accordance with state planning coordination regulations (the total content of ORS 197.005 to 197.430) and has already been shown above to be consistent with Plan policies, elements and components. While certain portions of the County's compliance with Statewide Planning Goals have been remanded due to the March 1988 Supreme Court action, provisions having to do with Marginal Land application were not among them. The remand effected lot sizes and land uses within the County's EFU and F-2 zones, and did not impact the ML zone or its application pursuant to ORS 197.247.

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