

“Goal Two – Policy 27: Errors or Omissions. Lane County will annually initiate and process applications to correct identified errors or omissions in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of zoning) uses or from inconsistencies between the Official Plan and Zoning Plots. Changes to correct errors or omissions shall comply with the procedures and requirements of Lane Code Chapter 12 (Comprehensive Plan), Chapter 14 (Application Review and Appeal Procedures), and Chapter 16 (Land Use & Development Code), except as provided for in 27 c. and d. below.

“a. Circumstances qualifying for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following:

“* * *

“ii. Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.”

Goal Four, Policy 16:

“Lands designated with the Rural Comprehensive Plan as forest land shall be zoned Non-Impacted Forest Lands (F-1, RCP or Impacted Forest Lands (F-2, RCP). A decision to apply one of the above zones or both of the above zones in a split zone fashion shall be based upon:

“a. A conclusion that characteristics of the land correspond more closely to the characteristics of the proposed zoning than the characteristics of the other forest zone. The zoning characteristics referred to are specified below in subsections b and c. This conclusion shall be supported by a statement of reasons explaining why the facts support the conclusion.

“b. Non-impacted Forest Land Zone (F-1, RCP) Characteristics:

“(1) Predominantly ownerships not developed by residences or nonforest uses.

“(2) Predominantly contiguous, ownerships if 80 acres or larger in size.

“(3) Predominantly ownerships contiguous, to other lands utilized for commercial forest or commercial farm uses.

“(4) Accessed by arterial roads or roads intended primarily for forest management.

“(5) Primarily under commercial forest management.

“c. Impacted Forest Land Zone (F-2, RCP) Characteristics

“(1) Predominantly ownerships developed by residences or nonforest uses.

“(2) Predominantly ownerships 80 acres or less in size.

“(3) Ownerships generally contiguous to tracts containing less than 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.

“(4) Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences.”

The Staff Report states that there are two questions which must be addressed in considering this rezoning application:

1. Was the subject property comprised of four legal lots or parcels in 1984?
2. If the subject parcel was comprised of four legal lots or parcels, would that fact have resulted in the subject property being zoned F-2 rather than F-1 in 1984?

As will be discussed below, the first question is not determinative of the issue of whether the subject property may be rezoned from F-1 to F-2 because, even if four legal lots are found to exist, the required inquiry addresses ownerships, not legal lots or parcels. The fact that four legal lots or parcels existed rather than one is not relevant, and would not have dictated that the subject land be zoned F-2 rather than F-1.

The applicant has raised a legal theory and argument for rezoning the property from F-1 to F-2 that has not been identified or addressed in the Staff Report. In sum, that theory argues that the original TL 400 which encompassed the subject TL 401 was originally zoned F-2 in 1984; that TL 400 was never rezoned from F-2 to F-1 and the F-1 designation that appears on the official Zoning Map is a scrivener error; and that Plan Errors or Omissions Policy 27(a)(iv) authorizes correction of a scrivener error on an adopted Official Zoning Plot:

“a. Circumstances qualifying for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following:

“* * *

“iv. Correction of a scrivener error on an adopted Official Plan or Zoning Plot.”

Therefore an additional question must be addressed: Does the Official Zoning Map contain a scrivener error in indicating that the subject property is zoned F-1 rather than F-2?

1. The 1984 parcelization pattern dictated the F-1 F-2 zone rather than the F-2 zone.

Assuming that the land now identified as Map 19-01-17 TL 401 was comprised of four parcels rather than one in 1984, that fact is not relevant to the inquiry required by Plan Goal 4 Policy 15. Plan Goal 4 Policy 15 lists the factors that are to be considered. Three of the four factors regarding both F-1 and F-2 lands address *ownerships*, not parcels.

In 1984 TL 401 did not exist as a separate tax lot, but was part of a larger 262.98 acre TL 400 which lay on both the west and the east side of the railroad right-of-way. TL 400 was owned by Steve and Virginia Warren; that ownership continued from before 1963 until the property was sold to Dexter Forest Fiber/Willamette Chip Log, Fred McCullough and Wade Doak, around 1990. The property was logged off and then sold to Northwest Lands Inc., Darrin Kronberger.

In 1984 the Warrens ran a commercial forestry operation. A lumber mill was located on the eastern portion of TL 400. In addition to TL 400, the Warrens owned a number of additional

contiguous properties as part of their commercial timber operation. Those properties can be found Exhibit 1 of the application. Starting at the northwest corner of the ownership and proceeding clockwise around TL 401, the common ownership, with current zoning noted, consisted of least the following: TL 2400, 64 acres, E-40; 19-01-08 TL 2100 9.49 acres, F-2; 19-01-08 TL 2202, 16.34 acres, F-2; TL 3800, 23.87 acres, M-3; TL 3900, 12.84 acres, M-3 (these two M-3 parcels contained the mill site); TL 1600, 21.49 acres, F-2; and a number of unidentified F-2 parcels, including at least TL 400, 22 acres, and 1200, 20 acres, along the eastern boundary of the railroad right-of-way, including areas to the east of Lost Creek, extending south to the RR-6 parcel. The total acreage of this common ownership exceeded 450 acres.

TL 400 was under a common ownership. The analysis required by Goal 4 Policy 27 must be based on that ownership, not on the actual or presumed existence of legal lots within that ownership.

Question: in 1984 did the characteristics of the land proposed to be rezoned more closely resemble the characteristics of F-1 or F-2 lands?

The applicant is requesting that only a portion of TL 401 be rezoned from F-1 to F-2. For the sake of simplicity, and because the analysis is the same regardless, this letter will look at the area as it was configured in 1984 and refer to that area as TL 401 when considering the characteristics of contiguous or adjacent lands.

Factor 1:

"Predominantly ownerships not developed by residences or nonforest uses."

or

"Predominantly ownerships developed by residences or nonforest uses."

No residences existed on TL 401 in 1984, nor do any residences currently exist on TL 401 or on any part of the pre-1991 TL 400. Factor 1 dictates that the F-1 zone would have been imposed on TL 401.

The applicant at his Goal 4 Analysis, p. 6 concedes that the property proposed for rezoning does not exhibit this F-2 characteristic.

Factor 2:

"Predominantly contiguous ownerships of 80 acres or larger in size."

or

"Predominantly ownerships 80 acres or less in size."

The subject TL 401 is a contiguous area that was under one ownership in 1988. That contiguous ownership was 262.98 acres, and was part of an even larger contiguous ownership substantially exceeding 300 acres in size. Factor 2 dictates that the F-1 zone would have been imposed on the area currently identified as TL 401.

This factor clearly looks at the ownerships of the subject area. In the context of the errors and omissions policy, the question is whether the ownership pattern of the area proposed for zoning would, in 1984, have led to a decision to zone the property F-1 or F-2. The subject area was, in 1984, undisputedly part of a much larger ownership used for commercial forest purposes.

The applicant errs in suggesting that the size of ownerships outside the area proposed for rezoning is relevant to Factor 2. Contiguous properties are considered in Factor 3.

The applicant further errs in equating parcelization with ownerships. The subject area was in one ownership in 1984, as part of a much larger ownership; was in one ownership in July 6, 2003, when the property line adjustment deed was recorded; and presumably remains in one ownership today. The relevant date is 1984, when the Board of Commissioners are purported to have erred in applying the F-2 rather than the F-1 zoning.

Factor 3:

"Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses."

or

"Ownerships general (sic) contiguous to tracts containing 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan."

At its northwestern corner, the subject TL 401 is contiguous to 19-01-07 TL 2500. TL 2500 is an approximately 100 acre parcel zoned E-40 and was used commercially to produce cattle and timber.

19-01-08 TL 2202 is contiguous to the subject property to the north. As previously discussed, it was part of a larger commercial timber operation.

The properties contiguous to the subject property along its eastern boundary contained the mill site and other forested property, and were also part of the commercial forest use.

TL 1500, 200 acres, borders the subject property along its southern boundary. This forested property was owned by the Springfield School District and used for high school forestry programs by the Pleasant Hill School District. This constituted a commercial forest use. The property was sold to Freres Timber Company of Lyons, Oregon in the late 1990s.

At the southeastern corner, TL 401 is contiguous to 1400. Merle Brown owned and continues to own TL 1400 and the adjacent TL 1402, and uses the properties for commercial forestry. In 1984 Mr. Brown's ownerships totaled 230 acres.

Along its western boundary, TL 401 is contiguous with 19-01-18 tax lots 301, 302, and 101.¹ These properties were owned by Ray and Betty Wolf, and were used for commercial forestry. This ownership totaled approximately 200 acres. These properties are zoned F-2.

19-01-07 TL 2600, approximately 100 acres, is also contiguous to the subject TL 401's western boundary. This property has historically been used for commercial farm and forest uses, including sheep and timber.

Thus available evidence establishes that the subject Tax Lot 401 was an ownership that was *entirely* contiguous to other lands utilized for commercial forest or commercial farm uses in 1984.

The applicant errs in considering "the surrounding area within one mile." Plan Policy 15 requires that *contiguous* lands and ownerships be considered. Non-contiguous lands are not relevant to the Plan Policy 15 inquiry.

The applicant also errs in identifying current uses, rather than those existing in 1984. Since the applicant is alleging that an error was made in 1984, his burden is to demonstrate that, in 1984, evidence would support a finding that the subject land is more appropriately zoned F-2 than F-1. Evidence as to uses existing in 2004 would not have been available and is not relevant to such an inquiry.

The area proposed for rezoning is not contiguous to any exception areas. There is no evidence provided as to the existence of residences on contiguous properties in 1984.

The applicant concedes that commercial farm or forest uses predominate on adjacent properties, and therefore that Factor 3 dictates that the F-1 zone would have been imposed on the area currently identified as TL 401.

Factor 4:

"Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management."

or

"Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences."

The subject area was not accessed by an arterial road in 1984, and is not so accessed today. A private road used for timber management reached from Rattlesnake Road through TL 2400 to TL 2100 and perhaps to TL 2202. Around 1990, the private logging road was extended to the subject area to allow timber harvesting. At the eastern boundary, an easement provides access across the railroad right-of-way to the mill site. That easement no longer exists. Any roads providing access to the subject area that existed in 1984, or today, were intended primarily for forest management purposes.

¹ The numbers are not clear on the maps provided in the record. The TL numbers used here are a best guess.

There is currently no electrical service, telephone service, or any other public utility provided to the subject area. As no roads exist which provide access to the site, no other public services, including police, fire, schools, or reasonable access to solid waste disposal facilities are currently available to the subject area.

Factor 4 that the F-1 zone would have been imposed on the area currently identified as TL 401.

2. No scrivener error exists on the Official Zoning Map.

The applicant's argument begins with the fact that 1984 Ordinance 884 designated the westerly portion of TL 400 as F-2. Later in 1984 Ordinance 891, enacted in response to DLCD comments, changed the zoning designation for the westerly portion of TL 400 to F-1. The applicant argues that PA 891 contains two conflicting exhibits, the zoning map and the list of affected properties: the map shows the property as F-1, while TL 400 does not appear on the accompanying list at all, and so is not shown as being rezoned from F-2 to F-1. The applicant argues that the Zoning Map is ambiguous; that the list is a "more specific" ordinance provision, and therefore that the list should control rather than the more "general" zoning map.

The applicant also argues that it was the "intent" of the legislative body adopting Ordinance 891 to include only "very large parcels" because that was the concern voiced by DLCD; that the parcel was in fact not a "very large parcel" because it was comprised of four legal lots or parcels; and therefore that the legislative intent could not have been to rezone the subject area from F-2 to F-1.

a. The zoning map is the controlling document.

The adopting Ordinance 891 states, in relevant part:

"WHEREAS, on March 1, 1984, the Board of County Commissioners submitted its Rural Comprehensive Plan to LCDC for acknowledgment, and

"WHEREAS, since submittal, objections to the Plan have been received. In addition, DLCD staff have formally advised Lane County in staff reports dated June 28, 1984 and July 19, 1984 that the application of certain Plan Designation and Zone Districts are not supported by the facts in the record, now, therefore,

"THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY ORDAINS AS FOLLOWS:

"The following parcels are redesignated and rezoned as set forth on the interim Plan Designation and Zoning Maps attached as Exhibit "A", and further delineated in attached Exhibit "C".²

Ordinance 891 clearly states that the rezoned areas are set for in the attached Zoning Maps. The zoning maps adopted by Ordinance 891 and acknowledged by LCDC are the Official

² See Exhibit 1.

Zoning Maps. On the hand-inscribed map labeled Exhibit "A" to Ordinance 891" the western portion of TL 400 is clearly and unambiguously designated F-1, overwriting and superceding the F-2 designation found on the hand-inscribed map labeled "Exhibit "A" to Ordinance 884.

The list, which "further delineates" the zone changes, is not part of the county's land use regulations acknowledged by LCDC. That list was never intended to be, and was never, a complete and accurate compilation of every lot or parcel affected by Ordinance 891. The county recognized that the list contained errors and that the Plan Map was the controlling document. Errors on the list were still being corrected many years after 1984.³

b. The legislative intent was to rezone the subject area F-1.

Appended to this letter as Exhibit 2 are the relevant portions of DLCD's comments regarding Goal 4 forest lands. These comments note that the relevant Plan provisions are concerned with ownerships rather than lots, with other relevant factors being contiguity with parcels of similar size and uses, development with residences, the provision of public utilities and services suitable for residential development, and road access.⁴ As examples, DLCD identified a number of large parcels and ownerships that had been inappropriately zoned F-2.⁵

DLCD concluded:

"Of all issues raised under this review of Goal 4, the question of misapplication of the County's F-2 zone to lands which are currently managed commercially or of a size to be managed commercially as a forest operations (sic) presents a significant violation of Goal 4 as interpreted by the Commission in a number of Acknowledgment Reviews."

As a remedy, DLCD recommended an implementing measure:

"3. Amend the County zoning map by rezoning private non-industrial ownerships capable of commercial forest management (including forested portions of commercial farm-forest operations) currently zoned F-2 with an appropriate resource zone. An acceptable forest zone is the F-1 Zone or forest zone containing a minimum lot size of at least 80 acres as justified by the County's 'Forest Working Paper Addendum.'"

Thus DLCD's concern and recommended implementing measure was with ownerships of lands managed commercially or of a size to be managed commercially, not solely with lots or parcels.

As previously discussed, the western portion of TL 400 was part of a much larger commercial forest operation in 1984. If the legislative intent of Ordinance 891 was to respond to DLCD's concerns and comply with DLCD's recommended implementation measures, that intent was to recognize that the western portion of TL 400 was part of a commercial forest operation exceeding 450 acres in size, and to therefore zone the land F-1.

³ See Exhibit 3.

⁴ See Exhibit 2-5.

⁵ See Exhibit 2, 5-7.

As the applicant concedes and argues in asserting error, the fact that the western portion of TL 400 consisted of four legal lots or parcels was not known to the Board of Commissioners in 1984. Therefore it could not have been the intent of Ordinance 891 to zone that area F-2.

3. The property line adjustments recorded on January 6, 2003 do not comply with applicable law and are therefore invalid and of no effect.

The property line adjustment deed executed on December 30, 2002 and recorded on January 6, 2003 contains a description of an 8-step reconfiguration of TL 401. None of the eight separate property line adjustments were recorded individually. This procedure has been determined to violate applicable law. *Warf v. Coos County*, ___ Or LUBA ___ (LUBA No. 2002-087, January 1, 2003).

The recorded instruments do not bear the approval of any agent of Lane County, including the county surveyor or the governing body or its designee. The property line adjustment therefore is in violation of ORS 92.190.

The reconfiguration recorded was in fact a replat subject to the requirements of ORS 92.180 and 92.185. Because Lane County has not adopted property line adjustment procedures conforming to the requirements of ORS 92.190, property line adjustments must comply with the replat procedures of ORS 92.180 and 92.185. Lane County has implemented the statutory replat procedures in Lane Code Chapter 13. Therefore property line adjustments in general, and the reconfiguration of TL 401 in particular, must comply with the procedures of LC Chapter 13.

CONCLUSION

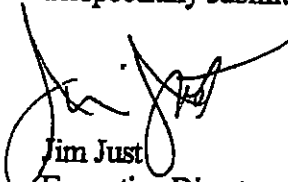
Assuming that the western portion of TL 400 is comprised of four legal lots, that fact would not have dictated the F-2 zone. In 1984, the subject area was part of a commercial forest operation exceeding 450 acres in size and was contiguous along its entire boundary with lands used for commercial farm and/or forest uses. The existence of four legal lots or parcels on the western portion of TL 400 does not affect factors of Plan Goal 4 Policy 15. Therefore the requirements Plan Policy 27(a)(ii) are not satisfied, and the requested rezoning may not be approved.

No scrivener error exists on the Official Zoning Map. The Zoning Map was and is the controlling document; the list relied upon by the applicant is supplementary and subordinate to the Zoning Map. The intent of Ordinance 891 was to rezone lands currently used for commercial forest operations F-1. Therefore the requirements Plan Policy 27(a)(iv) are not satisfied, and the requested rezoning may not be approved.

The 2003 reconfiguration of TL 401 did not comply with applicable law regarding replats or property line adjustments, and therefore is of no effect.

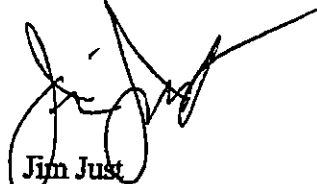
Therefore this request to rezone the subject lands from F-1 to F-2 must be rejected.

Respectfully submitted,



Jim Just
Executive Director

and



Jim Just
as an individual

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 891)
) IN THE MATTER OF AMENDING ORDINANCE
) NO. PA 887 TO CHANGE THE PLAN AND
) ZONE DESIGNATION ON VARIOUS PARCELS
) OF PROPERTY IN ORDER TO BRING THIS
) ELEMENT OF THE RURAL COMPREHENSIVE
) PLAN INTO COMPLIANCE WITH THE
) STATEWIDE GOALS AND ADOPTING A
) SAVINGS AND SEVERABILITY CLAUSE

WHEREAS, on March 1, 1984, the Board of County Commissioners submitted its Rural Comprehensive Plan to LCDC for acknowledgment, and

WHEREAS, since submittal, objections to the Plan have been received. In addition, DLCD staff have formally advised Lane County in staff reports dated June 28, 1984 and July 19, 1984 that the application of certain Plan Designation and Zone Districts are not supported by the facts in the record, now, therefore,

THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY ORDAINS AS FOLLOWS:

The following parcels are redesignated and rezoned as set forth on the interim Plan Designation and Zoning Maps attached as Exhibit "A", and further delineated in attached Exhibit "C".

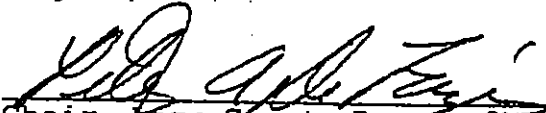
The prior designations and zones repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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 affect the validity of the remaining portions hereof.

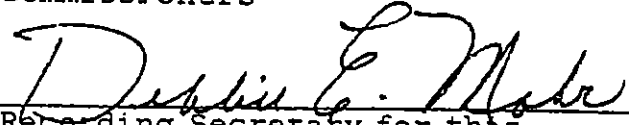
Exhibit 1.1

While not part of this Ordinance, we adopt the findings in support of this Ordinance as set forth on attached Exhibit "B".

Enacted this ~~12~~ ^{Sept} day of August, 1984.



Chair, Lane County Board of
Commissioners



Recording Secretary for this
Meeting of the Board

6-14
6-28-84

**June 28, 1984
L.C.D.C. Response
to the
Lane County Request for Compliance
for the
Rural Comprehensive Land Use Plan**

Exhibit
2



Department of Land Conservation and Development

1175 COURT STREET N.E., SALEM, OREGON 97310-0590 PHONE (503) 378-4926

June 28, 1984

The Honorable Peter DeFazio, Chairman
Board of Commissioners
Lane County Courthouse
125 East Eighth
Eugene, OR 97401

Dear Chairman DeFazio:

Enclosed is the Department's report on Lane County's request for Acknowledgment of Compliance with the Statewide Planning Goals. The Department's recommendation to the Commission is that your request be continued to the August 17, 1984 Commission meeting to complete necessary revisions to your plan and land use regulations for Goals 2, 3, 4, 7 and 11. The Department has found the plan to be thorough, innovative and well documented. Although we do not recommend acknowledgment at this time, the majority of the plan is in compliance. It is clear that the plan has significantly improved since the 1981 review, and that acknowledgment could be achieved in the near future.

The Commission will consider your acknowledgment request on July 19, 1984, at the State Capitol, Hearing Room E. You and other officials and citizens are welcome to attend this meeting and participate in the Commission's review of your acknowledgment request. The Department recommendation on Goals 5 and 15 has been postponed until the August 17, 1984 Commission meeting. However, the recommendation on these Goals will be available prior to the July 19 meeting. The Department is also recommending that the Commission hear all testimony on Goals 1-4, 5-14 and 15-18 at the July meeting, but postpone final action until the August meeting.

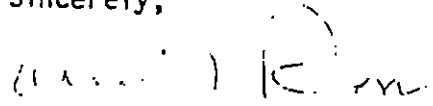
You have 10 calendar days from the date the attached report was mailed to file written exceptions to the report with the Commission at the Salem office (OAR 660-03-025(2)). We would urge you to send copies of any exceptions to commentators or objectors affected by exceptions.

Ex. 2-1.

The Honorable Peter DeFazio
June 29, 1984
Page 2

Please contact your Field Representative, Bob Rindy at 378-4095, if you have any questions and for the time when your item will appear on the agenda.

Sincerely,


James F. Ross
Director

JFR:TMC:drw
9382B/9B

cc: Mayor, City of Eugene
Mayor, City of Springfield
County Planning Director
Planning Director, City of Eugene
Planning Director, City of Springfield
Bob Rindy, Field Representative
Glen Hale, Field Representative (Coastal)
Doug White, Lead Reviewer
Mike Rupp, Reviewer
Claire Puchy, Reviewer
Jim Knight, Special Assistant for Coordination
DLCD Library (2)
Portland Office
Coordinator
Objectors and Commentors

Ex. 2-2

Goal 4 defines forest lands and forest uses as follows:

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; (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.

Forest Uses--are (1) the production of trees and the processing of forest products; (2) open space, buffers from noise, and visual separation of conflicting uses; (3) watershed protection and wildlife and fisheries habitat; (4) soil protection from wind and water; (5) maintenance of clear air and water; (6) outdoor recreational activities and related support services and wilderness values compatible with these uses; and (7) grazing land for livestock..

In reviewing Lane County's plan, the Commission can rely on 1) Goal 4 2) OAR 660-06-000 through 030 and 3) where applicable, other recent acknowledgment reviews (e.g., Coos County, Umatilla County, Clatsop County, Klamath County, and others).

Factual Base

Lane County's factual base consists of the "Forest Lands Working Paper" prepared in March 1982, and "Addendum to Working Paper" prepared in November 1983.

The "Forest Lands Working Paper" contains information addressing 1) Goal 4's requirements, 2) issues raised by the 1981 acknowledgment review of Lane County's Plan, 3) corrections to deficiencies, 4) economics of the forest resource, environmental and social, and energy programs affecting forest management and a forest resource summary.

In the January 22, 1981, review of Lane County's plan, the Commission adopted Goal 4, IOTC 1 requirement which reads as follows:

Amend the forest land inventory to distinguish between forest land and nonforest land and show that all forested land and potential commercial forest land is inventoried within the coastal area; this inventory must consider cubic foot site classes other than Douglas fir (Lane County Acknowledgment Review, 1-22-81, p. 43).

In response to this IOTC, Lane County has adopted the following: (1) a definition of commercial forest land as lands capable of producing crops of industrial wood in excess of 20 cubic feet per acre per year (Forest Working Paper, p. 4 and p. 8); (2) a general countywide cubic foot site

Ex. 2-3

- Prime commercial forest land must be protected from the constant pressures of rural development creating conflicting, nonforest land uses (FWP, p. 43).

In the Addendum, the Forest Working Paper, the County indicates that 1,119,420 acres of commercial lands in Lane County is owned by the public. The forest industry owns 541,070 acres while private nonindustry commercial forest lands amount to 152,740 acres (Addendum, p. 5).

On pages 8-9 of the addendum, the County presents information regarding parcelization of forest lands. Part of that discussion is as follows:

The presumption that parcel sizes 80 acres and greater are of a "commercial" size is a recommendation by the DLCD that is widely accepted. The question then, is what minimum parcel size will allow future residential development without adversely impacting forest resources land? To answer this involves an analysis of the current level of residential development on parcels less than 80 acres in size.

The following table shows the total number of tax lots by ownership category for parcels of all size classes and correspondingly, the number of taxlots that are developed:

Ownership	Total No.	Devlpd. No.	% of Devlpd.	% of Total
Non-industrial	4,142	1,205	97.6	13.6
Industrial	2,817	32	2.6	0.4
Public	1,895	9	0.7	0.1

These relationships emphasize the differences of the residential impact on the different types of ownerships. Clearly, the non-industrial ownership is the ownership category of most concern as approximately 98% of the residences on forest land in Lane County are on Non-industrial owned forest land.

In the addendum to the Forest Working Paper, Lane County provides extensive information in support of a minimum parcel size of 80 for "Impacted" Forest Lands. To justify this parcel size, the County attempts to ascertain the point at which the number of acres of bare forest land becomes valued more for its forest values than for its residential value. In order to make such a determination, the County assumed bare land residential values of \$18,000 per acre for rural lands near Eugene-Springfield and \$12,000 per acre for rural lands in the remainder of the County (Addendum, pp. 15-18). The following is an explanation of a graph contained in the Addendum's Figure XIII which depicts the County's findings for most of the cubic foot site class 3 rural lands of Lane County:

Ex 2.4

3. Contiguous to other parcels of similar use.
4. Composed of parcels generally less than 80 acres in size.
5. Under non-industrial private ownership and/or developed with residences.
6. The road network in the vicinity provides access to forest and/or agricultural land and access to residences.
7. Provided with levels of public utilities and services suitable for residential development.
8. Outside development and committed areas and UGB's (Plan, pp. 10-11).

Lane County has used the above general characteristics in applying to the Nonimpacted Forest Lands the "F-1" Zone and to the Impacted Forest Lands the F-2 Zone.

Application of the F-1 and F-2 Zone

In order to assess whether the F-1 and F-2 Zones are appropriate to conserve forest lands for forest uses (or appropriate for the continuation of commercial agricultural enterprises within the area), a review of how the County applied these two zones to various forest lands is necessary. In conducting this review, the Department relied upon the County's Index Map, Zoning Maps, aerial photo maps, the computer printout of acres and ownership and assessors land use index, which were all part of the County's submittal. The following is a sampling of appropriate and inappropriate application of the F-2 Zone for maps number 272 through 443. These maps cover the areas generally southwest of Eugene (Lorraine-Fox Hollow Road Spencer Creek), north of Eugene and south of Eugene down to Cottage Grove.

The following are evaluation statements addressing specific examples of rural areas where the County has applied the F-1 and F-2 Zones:

Map

272

This map contains Sections (Sec) 6 and 7 of Township (T) 19--Range (R) 4.

The F-1 Zone has been applied to forest industry owned lands; one of approximately 198 acres owned by IP and two 80 acre parcels owned by Cove Lumber and Zip-O-Log.

The F-2 has been applied to all remaining noncommitted parcels including 590 acres of a much larger forest grazing operation owned by McNutt. In fact, this

Ex 2-5

ownership consists of approximately 1,790 acres located in T19-R5 sections 1 and 2. The F-2 Zone as applied to this property is not justified based on the County's general characteristics.

275

Consists of Sections 6 and 7 of T20--R4. Lands zoned F-1 are all forest industry owned lands or public lands; even though the industry lands are adjacent to RR-5 zoned lands.

F-2 zoned lands are nonindustry owned lands. The one ownership consists of a 636 acre farm deferred parcel is not appropriately zoned.

287

Consists of Sections 5 and 8 of T 19--R 4.

F-1 zoned lands are industry owned lands. Lands zoned F-2 are generally smaller ownerships. This area is a good example of where the current F-2 is appropriately applied.

309

Consists of Sections 15 and 22 of T 18--R 4. Again, this area's F-2 zoning is appropriate.

311

Consists of Sections 3 and 10 of T 19--R 4. The application of F-2 zoning for the 179 acre, 158 acres, and 120 acre parcels is not justified.

430

Consists of Sections 25 and 36 of T 19--R 3. Again, only industry (80 acres) and public (120 acres) are zoned F-1 while a single nonindustry parcel of 878 acres is zoned F-2. Such zoning is not consistent with the County's characteristic for applying the F-1 and F-2 zones.

432

Consists of Sections 13 and 24 of T 20--R 3. Again, some very large parcels are zoned F-2 for reasons not consistent with the F-2 in general characteristics.

Summary:

The F-2 zoning of lands on maps 297 and 309 are consistent with the County's general characteristics for the F-2 Zone and consistent with past Commission decisions for secondary forest zones (see Conclusion for Goal 4).

Maps 272 and 275 contain large farm deferred parcels zoned F-2. The current F-2 Zone does not assume the continuation of the existing commercial agricultural enterprise within these areas nor is it consistent with the Commission's Goal 3 and 4 requirements (see 1000 Friends v. Douglas County, LUBA 79.006).

Ex 2.6

1. "Managed for forest and/or agricultural use or capable of being managed for forest and/or agricultural use.
Issue: This characteristic applies to all forest and agricultural lands in the County.
2. "Contiguous to other parcels of similar use."
Issue: Again, this characteristic applies to all resource areas of a homogenous nature.
3. "Under nonindustrial private ownership and/or developed with residences."
Issue: This characteristic has been over used to apply the F-2 zone to some extremely large parcels (see examples under application conclusion).
4. "Outside developed and committed areas and UGBs."
Issue: Again, all resource parcels satisfy this characteristic.

Additional precision is necessary to establish a policy containing appropriate criteria for "Nonimpacted" and Impacted lands.

Application of Plan Designations and Zones

Of all issues raised under this review of Goal 4, the question of misapplication of the County's F-2 zone to lands which are currently managed commercially or of a size to be managed commercially as a forest operations presents a significant violation of Goal 4 as interpreted by the Commission in a number of Acknowledgment Reviews. In addition, a number of very large "farm operations" and "farm-forest operations" were zoned F-2. Where this misapplication has occurred, the County needs to reevaluate to see if implementing measures under the F-1 and EFU-zones better provide the type of protection for these commercial operations envisioned by Goals 3 and 4.

The F-2 zone was established to apply to the very broad category known as "Impacted lands." As previously discussed, the general characteristics for Impacted lands allow for the inclusion of all types of land and land uses. In developing the F-2 as a means of implementing statutory and Statewide Planning Goal requirements, the F-2 zone tries to be a qualified exclusive farm-use zone, mixed use or secondary forest zone and a type of "marginal lands" zone. By applying the F-2 zone to the several thousand acres (approximately between 100 and 150 thousand acres) of nonpublic, nonforest industry-owned forest lands as well as numerous very large farm forest operations, it is safe to presume that included within the F-2 zone are lands which could also be designated as follows:

<u>Land Use Activity</u>	<u>Appropriate Zone</u>
Commercially Managed Forest Land	F-1
Commercially Managed Agricultural Land	EFU
Committed Lands	PR
Marginal Lands	ML
Nonresource/Nonexception	RR
Small Sized Ownerships	F-2

Ex 2-7

F-2 Zone is not rejected in its entirety. However, in order to establish farm-forest, secondary forest, or mixed use zones consistent with past Commission decisions, the zone must be applied to areas where the ownership pattern and management practices are similar. Also, the implementing measures must be designed to conserve that particular resource area and facilitate the type of resource management practices occurring in the area.

In past reviews, the Commission has found acceptable three different types of mixed use or secondary forest zones. These zones are discussed below in order to further describe possible amendments available to the County.

1. In the Clatsop County Acknowledgement Review, the Commission described one type of secondary forest zone as follows:

A secondary forest or mixed resource use zone with a 20 acre or 40 acre minimum was appropriate if such a zone is applied to areas consisting of predominately single ownerships of that size and if the zone actually limits further the opportunity for parcelization and development which conflicts with the Goal to conserve forest lands for forest uses. Numerous secondary zones have been approved on this basis; examples include Douglas County's AW-20 zone, Clackamas County's Transitional 20 acre Zone, Tillamook County's SFW-20 zone (also see Coos County Review, November 16, 1983, p. 104). The Commission's acceptance of secondary forest zones is based on the recognition of prevailing ownership patterns with the understanding that further parcelization of forest lands will be limited. To satisfy Goal 4, such zones must be: (1) representative of an area's existing ownership size and resource management activities, (2) limited in application to specific areas by plan policy, and (3) must be designed to limit further parcelization. In order to successfully meet these three requirements, the criteria used in applying such secondary zones must be precise and carefully applied. (Clatsop County Review, P. 50, April 13, 1984).

2. Another type of second forest zone is based on the concept of conserving large commercial resource operations engaging in both agriculture and forestry. This zone naturally requires a large minimum lot size with criteria for applying the zone and for authorizing future land divisions based on the continuation of "commercial" agriculture/forest operations (1000 Friends v. Douglas Co., LUBA 79-006).
3. Also, there is another approach found acceptable to the Commission. Justification of a forest zone's minimum parcel size designed to conserve forest resources other than the commercial forest resource. For example, Jackson County's Open Space Resource Zone (a 20-acre minimum lot size zone with density provisions consistent with Goal 5

was applied to forest lands with no commercial forest values. Because the land was forested and found to be needed for "other" forest uses as defined by Goal 4, a secondary forest zone conserving forest resource values "other" than "commercial" forest values was applied (see also Klamath County's Forest/Range zone).

Based on the County's application of the "current" F-2 zoning provisions, it appears that many areas in Lane County are zoned appropriately in a manner consistent with previous Commission decision (see Clatsop County discussion in "1" above). Areas appropriately zoned are those as represented by Maps 287 and 309 as discussed on page 81 of this report.

For commercial farm-forest lands zoned F-2 (e.g., Maps 272 and 275 on pages 81 and 82 of this report), the County needs to rezone these lands with an appropriate forest resource zone. Options available to the County include (a) rezoning commercial farm forest operations with a zone similar to the zone found acceptable to the Commission as described in Example 2 above; (b) rezone the "forested" portion of these commercial farm forest operations to F-1 or another appropriate forest zone with a justified minimum lot size. The remaining "agricultural" portion of these commercial farm forest operations can be re-zoned under the County's EFU Zone provided an appropriate lot size for grazing operations is applied; or (c) rezone the "forested" portion of the commercial farm-forest operations, as discussed in (b) above, and amend the F-2 Zone to include an appropriate minimum lot size for commercial grazing operations under LC 16.211(4).

With respect to other forested areas similar to those represented by Maps 311, 430, and 432 on page 81 of this report, the County needs to rezone these lands either F-1 or establish a suitable forest zone which will conserve these forest lands for "commercial" forest uses.

Implementing Measures

As previously discussed, the F-1 zone (LC 16.210) and the F-2 zone (LC 16.211) are the implementing measures applied to land designated under Goal 4.

F-1 Zone

The F-1 zone, as applied to Lane County's commercial forest lands, has two deficiencies.

First, under LC 16.210(4)(i), the County needs to specify that private lodges (currently undefined) and accessory uses to lodges must be assessed under the generally unsuitable test (LC 16.210)(5)(a)(ii) or take an exception to Goal 4. (Note: when the Commission provided suggested conditional use criteria for a number of uses in the Coos County Acknowledgement Review (pp. 108-109, November 1983), that review failed to indicate under what circumstances option "a" or option "b" of criterion one should be used.) Option "a"--"evidence is provided

Ex 2-9

2. Amend the comprehensive plan to:
 - a. Include a Forest Policy which establishes precise criteria for applying the F-1 and F-2 Zones. (At a minimum, criteria for applying the F-1 Zone must include ownerships of a size capable of being managed as commercial forest lands.)
 - b. Amend the four characteristics discussed under the Goal 4 conclusion for policies to establish criteria which apply only to lands appropriately zoned F-2 as per the examples discussed under "application."
 - c. Include a policy which requires a plan amendment to rezone lands from F-1 to F-2.
 - d. Delete the following from Forest Policy 11(a) "if adjacent to other nonimpacted forest lands."
3. Amend the County zoning map by rezoning private non-industrial ownerships capable of commercial forest management (including forested portions of commercial farm-forest operations) currently zoned F-2 with an appropriate resource zone. An acceptable forest zone is the F-1 Zone or forest zone containing a minimum lot size of at least 80 acres as justified by the County's "Forest Working Paper Addendum."

Also, where the County can justify such a decision, the County may apply the marginal lands zone or a rural residential zones to "committed" or nonresource lands.

4. Amend LC 16.210(4)(i) of the F-1 Zone and LC 16.211(5)(ii) to require that "lodges" be evaluated against the "generally unsuitable test" in addition to the other review standards already applied to this specific use.
5. Amend the F-2 zoning provisions as follows:
 - a. In 16.211(3)(b), adopt informational requirements for the "detailed forest management plan." At a minimum, such provisions must require sufficient information to establish adequate findings that a proposed "forest" dwelling is "necessary" and "incidental to subordinate to" the primary forest management activities described in the forest management plan.
 - b. Include in LC 16.211(3)(b) a "floor" or minimum parcel size requiring parcels below 17 acres to be assessed against the nonforest dwelling or lot of record provisions.
 - c. Delete LC 16.211(3)(e) (a dwelling accessory to a research structure or test plot) or adopt standards requiring such a dwelling to be accessory and necessary to a research operation which is accessory to commercial forest management.

E-2-10

GOAL 14: URBANIZATION

There are 12 cities in Lane County. All of them have been acknowledged including the Eugene/Springfield Comprehensive Land Use Plan up to the Metro UGB. The County's acknowledgment request being considered here is for all areas outside acknowledged UGBs.

GOAL 15: WILLAMETTE RIVER GREENWAY

This review is not completed at this time. The staff recommendation on Goal 15 will be mailed prior to July 20, 1984, for review at the August Commission meeting.

GOAL 16: ESTUARINE RESOURCES

Status

Lane County was found to be in compliance with Goal 16 for the Siuslaw Estuary at the Commission's June 1983 meeting, and for the other, minor estuaries at the July 1983 meeting.

The County has submitted no amendments to the Coastal Resource Management Plan; thus, the County remains in compliance with respect to its plan provisions. The County has submitted a reorganized Lane Code in which all the implementing ordinances relating to estuaries, coastal shorelands, and beaches and dunes have been moved in their entirety from Chapter 10 to Chapter 16 without any changes other than renumbering. However, it should be noted that while some cross-references have been renumbered, many, including those which refer to subsections within the same section of the ordinance, have not been renumbered. This causes a lack of consistency within the ordinance, which is further addressed above as a Goal 2 problem.

A further problem has come to light which was not brought out in the original plan review at the Commission's February 1981 meeting, although it existed at the time. The implementing ordinance for the Natural (NE/RCP), Conservation (CE/RCP), and Development Estuary (DE/RCP) zones define the boundaries of the zoning district as specified in LC 16.252(8)(vi). This section states that boundaries indicated on the zoning map as following the shoreline in estuarine zones shall be construed as following the "ordinary high waterline." The Commission has, in the past, always defined the upper limit of the estuarine area as "mean higher high water" (MHHW) or the "line of nonaquatic vegetation," whichever is the higher. This corresponds with the jurisdictional limits used by the Division of State Lands and U.S. Army Corps of Engineers in the waterway permit review process (see the Commission's May 31, 1984, review of the Coos Bay Estuary Management Plan, Goal 16, IOTC 1 (Ordinance) where the same problem occurred).

Ex 211

EXHIBIT 3

ZONING UPDATE

T.R.S. 18-02-25
TAXLOT A00

PLOT NO. 494

EVA ZONING: RR5/F2 ^{ORD} _{P91}

MAP ZONING: E25

Checked Draft Map
date 9-20-90
Initials: TL

CORRECT ZONING:

- MAP TYPO ON P91 LIST (SHOULD HAVE BEEN 18-05-25 A00)
- EVA
- NOT DETERMINED

ZONING UPDATE

T.R.S. 16-03-34
TAXLOT 101

PLOT NO. 394A

EVA ZONING: E-40/F-1

MAP ZONING: RR-10

Checked Draft Map
date 4-6-88 4-6-88
Initials: JH SLM

CORRECT ZONING:

- MAP
 - EVA
 - NOT DETERMINED
- THE LIST IS IN ERROR - PLEASE NOTE ON THE LIST
THANKS SLM

ZONING UPDATE

T.R.S. 19-03-06
TAXLOT 300 + 301

PLOT NO. 350

EVA ZONING: E40 + F2

MAP ZONING: F2

Checked Draft Map
date 5-3-91
Initials: TL

CORRECT ZONING:

- MAP ORD P91
- EVA
- NOT DETERMINED

DEVELOPMENTAL DISABILITIES PROG
135 EAST 9TH AVENUE, EUGEN

THE MAP IS THE FINAL WORD - THE SPLITS DON'T HAVE FOOTAGES. DO THE BEST YOU CAN - SEE ABOVE OR WAIT UNTIL NEXT WEEK - SLM

Copely,
We need the list of Ord. 891 "16.03.34 #101"

I entered all the corrections off the list & now we're funding these sort of errors - Keith (work study) is checking each map against the list, plot & A & T book so I expect more - Help??

SLM



534 SW Third L. Written testimony: Laurie Segel/1,000 Friends of Oregon; August 3, 2004.

Southern Oregon Office • P.O. Box 2442 • Medford, OR 97502 • (541) 753-1111
Willamette Valley Office • 388 State Street, Suite 604 • Salem, OR 97301 • (503) 371-7261 • fax (503) 371-7596
Lane County Office • 120 West Broadway • Eugene, OR 97401 • (541) 431-7059 • fax (541) 431-7078
Central Oregon Office • P.O. Box 8813 • Bend, OR 97708 • (541) 382-7557 • fax (541) 382-7552

August 3, 2004

Lane County Planning Commission
125 E. 8th Avenue
Eugene OR 97401

Commissioners:

RECEIVED AT HEARING
P.A. NO. 04-5276
DATE: 8-3-04 EXHIBIT NO. 2
(3 pp)

FILE # PA 04-5276
EXHIBIT # 16

Regarding PA 04-5276 (Ordinance No. PA 1211), Kronberger) a request to redesignate 82.6 acres from Nonimpacted Forest Land (F-1, RCP) to Impacted Forest Land (F-2, RCP), the following comments address the question:

In 1984, did the characteristics of the land proposed to be rezoned more closely resemble the characteristics of F-1 or F-2 lands?

Considering the area as it was configured in 1984, referred to as TL 401, the characteristics of contiguous or adjacent lands must be taken into account, and several factors must be considered.

Factor 1:

“Predominantly ownerships not developed by residences or nonforest uses.”

or

“Predominantly ownerships developed by residences or nonforest uses.”

No residences existed on TL 401 in 1984, nor do any residences currently exist on TL 401 or on any part of the pre-1991 TL 400. Factor 1 dictates that the F-1 zone would have been imposed on TL 401.

The applicant’s Goal 4 Analysis, p. 6 concedes that the property proposed for rezoning does not exhibit this F-2 characteristic.

Factor 2:

“Predominantly contiguous ownerships of 80 acres or larger in size.”

or

“Predominantly ownerships 80 acres or less in size.”

The subject TL 401 is a contiguous area of 262.98 acres that was under one ownership in 1988. That contiguous ownership was part of an even larger contiguous ownership substantially exceeding 300 acres in size. Factor 2 dictates that the F-1 zone would have been imposed on the area currently identified as TL 401.

This factor clearly looks at the ownerships of the subject area. Pursuant to the errors and omissions policy, the question is whether the ownership pattern of the area proposed for zoning

would, in 1984, have led to a decision to zone the property F-1 or F-2. The subject area was, in 1984, undisputedly part of a much larger ownership used for commercial forest purposes.

The applicant errs in suggesting that the size of ownerships outside the area proposed for rezoning is relevant to Factor 2. The applicant further errs in equating parcelization with ownerships. The subject area was in one ownership in 1984, as part of a much larger ownership, and was in one ownership on July 6, 2003, when the property line adjustment deed was recorded. The relevant date for the purpose of analyzing this factor is 1984, the date that the RCP was adopted.

Factor 3:

“Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses.”

or

“Ownerships generally contiguous to tracts containing 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.”

- At its northwestern corner, the subject TL 401 is contiguous to 19-01-07 TL 2500. TL 2500 is an approximately 100 acre parcel zoned E-40 and was used commercially to produce cattle and timber.
- 19-01-08 TL 2202 is contiguous to the subject property to the north. This parcel was part of a larger commercial timber operation.
- The properties contiguous to the subject property along its eastern boundary contained the mill site and other forested property, and were also part of the commercial forest use.
- TL 1500, 200 acres, borders the subject property along its southern boundary. This forested property was owned by the Springfield School District and used for high school forestry programs by the Pleasant Hill School District. This constituted a commercial forest use. The property was sold to Freres Timber Company of Lyons, Oregon in the late 1990s.
- At the southeastern corner, TL 401 is contiguous to 1400. Mr. Merle Brown owned and continues to own TL 1400 and the adjacent TL 1402, and uses the properties for commercial forestry. In 1984 Mr. Brown's ownerships totaled 230 acres.
- Along its western boundary, TL 401 is contiguous with 19-01-18 tax lots 301, 302, and 101.¹ These properties were owned by Ray and Betty Wolf, and were used for commercial forestry. This ownership totaled approximately 200 acres. These properties are zoned F-2.
- 19-01-07 TL 2600, approximately 100 acres, is also contiguous to the subject TL 401's western boundary. This property has historically been used for commercial farm and forest uses, including sheep and timber.

Thus, available evidence establishes that the subject Tax Lot 401 was an ownership that was *entirely* contiguous to other lands utilized for commercial forest or commercial farm uses in 1984.

¹ The numbers are difficult to read on the maps provided in the record. The TL numbers used here are a best guess.

The applicant errs in considering "the surrounding area within one mile." Plan Policy 15 requires that *contiguous* lands and ownerships be considered. Non-contiguous lands are not relevant to the Plan Policy 15 inquiry.

The applicant also errs in identifying current uses, rather than those existing in 1984. Since the applicant is alleging that an error was made in 1984, his burden is to demonstrate that, in 1984, evidence would support a finding that the subject land is more appropriately zoned F-2 than F-1. Evidence as to uses existing in 2004 would not have been available and is not relevant to this inquiry.

The area proposed for rezoning is not contiguous to any exception areas. There is no evidence provided as to the existence of residences on contiguous properties in 1984.

The applicant concedes that commercial farm or forest uses predominate on adjacent properties, and therefore that Factor 3 dictates that the F-1 zone would have been imposed on the area currently identified as TL 401.

Factor 4:

"Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management."

or

"Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences."

The subject area was not accessed by an arterial road in 1984, nor is such access available today. Any roads providing access to the subject area that existed in 1984, or today, were intended primarily for forest management purposes.²

There is currently no electrical service, telephone service, or any other public utility provided to the subject area. As no roads exist which provide access to the site, no other public services, including police, fire, schools, or reasonable access to solid waste disposal facilities are currently available to the subject area.

The review of Factor 4 shows that the F-1 zone would have been imposed on the area currently identified as TL 401.

CONCLUSION

Based on a review of the characteristics of F1 and F2 zoning, the facts show that in 1984 the characteristics of the land proposed to be rezoned more closely resembled the characteristics of F-1 lands.

Respectfully Submitted -
Laura Heigel

² A private road used for timber management reached from Rattlesnake Road through TL 2400 to TL 2100 and perhaps to TL 2202. Around 1990, the private logging road was extended to the subject area to allow timber harvesting. At the eastern boundary, an easement provides access across the railroad right-of-way to the mill site. That easement no longer exists.

J. Written testimony: Thom Lanfear; August 12, 2004.

EXHIBIT # 25

EXHIBIT # A

August 12, 2004

REC'D AUG 13 2004

B-19-04
LCPC

To: Lane County Planning Commission

Re: Zone Change Application PA 04-5276

Thank you for the opportunity to present information into the record for this proposed zone change. I am presenting this testimony as a neighboring landowner. My property lies 3/8th of a mile west of the subject property and north of Mr. Brown's property. The forested area of my property is part of a continuous forested area that stretches up to the ridge of the subject property through Mr. Brown's ownership. I am not opposed to the application of the correct zoning district to the subject properties and the F-2 Zone is an appropriate classification for small timber parcels under separate ownership. While these parcels may be found to more closely meet the characteristics of the F-2 Zone than the F-1 Zone, the correct processes should be followed and the relevant findings must support the decision.

The application of the F-1 Zone in 1984 was not in error or based upon faulty information.

The maps used by staff in 1984 did not fail to display the "actual existing legal lots" of the subject property at the time of review. All contiguous ownership in 1984 was legally considered one property according to State Law and Lane Code 13.010. "Tract" was defined as "A lot, parcel or un subdivided or unpartitioned land under the same ownership. Contiguous units of un subdivided or partitioned land under the same ownership shall be considered a single tract." The provision of ORS 92.017 that recognizes legal lot status of individual parcels created by prior deeds within contiguous ownerships was not adopted into State Law until 1985, after the designation of the subject property as F-1 Zone. ORS 92.017, enacted in 1985, states: "When lawfully created lot or parcel remains discrete lot or parcel. A lot or parcel lawfully created shall remain a discrete lot or parcel, unless the lot or parcel lines are vacated or the lot or parcel is further divided, as provided by law. [1985 c.717 §3; 1993 c.702 §2]" The subject property may be comprised of more than one legal lot today as verified by staff in legal lot determinations in applicants submittal Exhibit "B", but the legal lot determinations do not state that it was more than one legal lot in 1984. At the time staff applied the F-1 designation in 1984, the property was under the common ownership of Michael and Virginia Warren and consisted of only one legal lot, 200 acres in size. The application of the F-1 Zone to the "tract" that existed at the time was therefore not an error in 1984. The properties subject to review under this application did not exist in their present configuration and were not separate in 1984.

The parcels must be found to be legal lots.

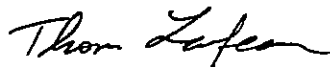
The use of the RCP Goal Two Error's & Omissions Policy #27 appears to rely upon the legal lot status of the subject property. If it relies upon the legal lot status of 1984 when the F-1 designation was applied to the property, it appears that only one legal lot existed that was 200 acres in size as described above. If it relies upon the legal lot status of parcels that exist today, then the lot line adjustments performed in 2003 must be found to comply with the LUBA decision made in *WARF v. Coos County*. The multi-step approach within one single deed taken in recorded in Instrument 2003-000996 may not meet the requirement that "a property line adjustment" is the shifting of a boundary between two "existing" parcels. In this particular

property line adjustment deed, the boundaries between five properties are changed at one time. No legal lot verification has been performed by staff for the reconfigured parcels and the applicant has not provided any argument that the reconfigured parcels conform with the decision made in that LUBA decision. I recognize that there does not appear to be a limit on sequential property line adjustments and the reconfiguration of the parcels can be accomplished provided that the proper sequence of documents are recorded. However, the legal lot status of the properties should be settled prior to a final decision in this application.

The application of Goal 2 Policy #27 to this proposal will set a precedent.

Many of the large properties under private timber ownerships are comprised of lands such as the subject property that were conveyed and consolidated over time through a series of separate purchases dating back to the early 1900's. The application of this policy to the subject proposal may set the precedent for many applications to follow. There are now two distinct processes available to F-1 landowners to pursue zone changes to F-2. Policy #27 is apparently designed to allow an application to be reviewed by the Board of Commissioners under a reduced fee to correct a perceived "error or omission" made by the staff in 1984. Zone changes based upon changes to State law, Court decisions, changes in development patterns, or reconfiguration of parcels can be reviewed by the Hearings Official as evidenced by the prior zone change decisions referenced in the applicant's submittal. While the identical Goal 4 policy criteria would be used by the Board or the Hearings Official to apply the proper Forest Zone designation to the property, the scope of the policy needs to be made clear to prospective applicants to direct them to the correct application process.

Thank you for the opportunity to comment on this proposal.



Thom Lanfear
38019 Lobo Lane
Dexter, OR 97431

K. Written testimony: Merle Brown; August 16, 2004.

E-19-04
LEPC

Dear Planning Commission:

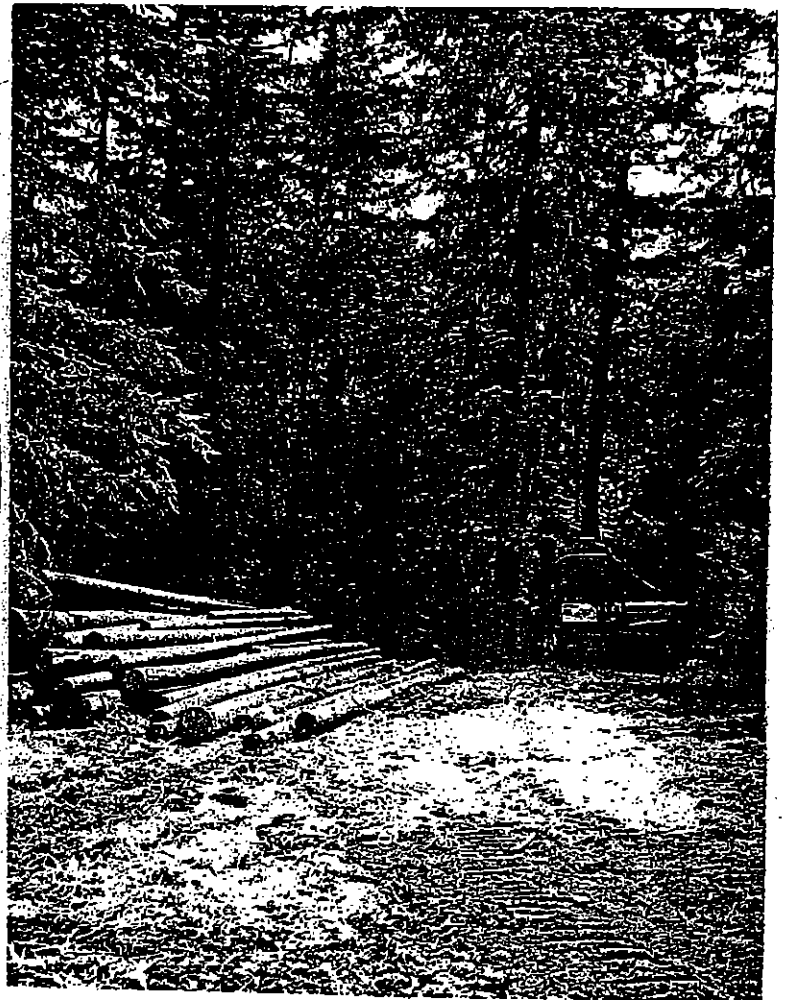
I want to reiterate that my land has always been under commercial timber management. I have employed forester/logger David Walton since 1972 to harvest just about every 3 years. However, you won't notice our work in any of the aerial photos because we believe that commercial thinning with an occasional small clear cut is a more viable and sustainable practice than large scale clear cutting.

Sincerely,

Merle S. Brown

Merle S. Brown

F
Gwen Farnsworth
82747 Rattlesnake Rd.
Dexter, OR 97431-9750



L. Written testimony: Applicant (Al Couper); August 16, 2004.

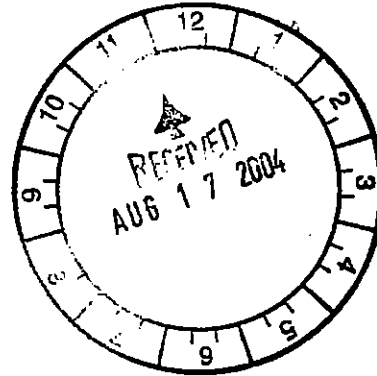
Al Couper & Associates

PROFESSIONAL LAND PLANNING
2258 Harris Street
Eugene, OR 97405
541/484-7314 (office & fax)
couplan@ordata.com

FILE # PA04-5276
EXHIBIT # 25

FILE # PA04-5276
EXHIBIT # C

8-19-04
LCPC



August 16, 2004

Kent Howe, Lane County Planning Director
Lane Co. Land Mgt. Division
Courthouse/PSB
125 East 8th Avenue
Eugene, OR 97405

RE: PA 04-5276 (Ord. No. PA 1211) Conformity Determination, F-1 to F-2
Kronberger, Assessor's Map 19-01-17, Tax Lot 401

Dear Mr. Howe:

By action of the Lane County Planning Commission, the record in this matter was left open until 5:00 pm, August 17, 2004 for the submission of additional facts, documents and related materials. On behalf of the applicant, please accept the following into the record:

1. Letter from County Assessor, Jim Gangle, dated August 14, 2004.
2. Ordinance PA 1192 and related agenda packet materials.
3. Board of Commissioners minutes for the regular meeting of December 17, 2003.
4. Application form.
5. Road easements relating to the subject property.
6. Reports from the Oregon Small Woodlands Association and the Oregon Forest Resources Institute.
7. Excerpt from Order I soils survey report
8. Original zoning work maps (circa 1983-84) for plots 507, 517 and 518.

The applicant also invokes the rights accorded by Lane Code 14.200 (3) regarding standards of evidence and of ORS 197.763 regarding the ability to respond to new evidence.

As usual, thank you for the assistance you and your staff have provided to all parties to this matter.

Very truly yours,


Al Couper

Enclosures
cc: Darren Kronberger family

Al Couper & Associates

PROFESSIONAL LAND PLANNING
2258 Harris Street
Eugene, OR 97405
541/484-7314 (office & fax)
couplan@ordata.com

FILE # PA 04-5276
EXHIBIT # 25-C-1

0-1

August 14, 2004

Mr. Jim Gangle, Lane County Assessor
Department of Assessment and Taxation
Lane County Courthouse/PSB
125 East 8th Street
Eugene, OR 97405

RE: Assessor's Maps

Dear Mr. Gangle,

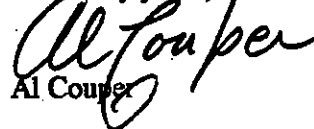
Thank you for your prompt response to my inquiry regarding the function and purpose of the cadastral maps prepared by your department in conformity with standards established by the State Department of Revenue.

In our recent phone conversation, you affirmed my contention that Assessor's Maps are prepared solely for ad valorem property tax purposes as opposed to real estate transaction law or land use law purposes. You indicated that this fundamental purpose has been in effect at least since the advent of the reappraisal mapping program of the 1950's.

As such, the maps should not be regarded as a definitive source for the location of lawfully created units of land, i.e. "legal lots" as we land use attorneys now refer to them. The proper determination of legal lots must be based on the careful examination of contracts, deeds, other conveyances of land and the criteria determined by the Department of Public Works, Land Management Division. You stated that discrete units of land are sometimes shown as individual tax lots and are sometimes are consolidated into a single tax lot. Assessor's maps are a starting point for legal lot research, not the end point. That would have been as true in 1984 as it is now.

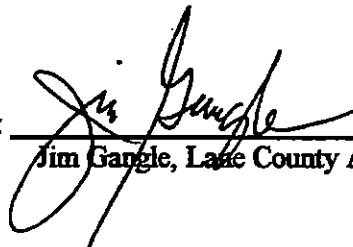
If this letter correctly documents our conversation, you can so indicate by signing below. If I have misstated your comments, let me know and I can make whatever changes are necessary. I have enclosed a copy for your records and a return envelope for the original. Again, thank you very much.

Very truly yours,


Al Couper

Enclosures

Reviewed for content:


Jim Gangle, Lane County Assessor

August 16, 2004

DATE: November 17, 2003 (Date of Memo)
December 3, 2003 (Date of First Reading)
December 17, 2003 (Date of Second Reading and Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Public Works Department/Land Management Division

PRESENTED BY: Bill Sage, Land Management Division

AGENDA ITEM TITLE: ORDINANCE PA 1192 / IN THE MATTER OF AMENDING THE LANE COUNTY GENERAL PLAN POLICIES (AN ELEMENT OF THE LANE COUNTY RURAL COMPREHENSIVE PLAN) BY ADDITION OF GOAL 2, POLICY 27 - ERRORS OR OMISSION; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

I. MOTION

MOVE ADOPTION OF ORDINANCE PA 1192 WITH EXHIBITS.

II. ISSUE

Whether or not to reinstate an Errors or Omission policy in the General Plan Policies of the Rural Comprehensive Plan.

III. DISCUSSION

A. Background

In 1984, Lane County adopted the Lane County Rural Comprehensive Plan (RCP) and applied zone designations to every property in the county as a component of the RCP. The adoption also included the Plan Policies and within Goal Two: Land Use Planning section, the Policy 21. Errors or Omission.

21. Errors or Omission. Between March 2, 1984 and June 30, 1985, citizens who identify an error in plan or zone designation, as set forth below, are entitled to the County initiating correction, either quasi-judicial or legislative, as appropriate.

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

Between March 2, 1984 and June 30, 1985, Lane County received applications filed in a timely manner, requesting corrections pursuant to Policy 21. Eight separate ordinances were adopted by the County to amend the RCP pursuant to Policy 21.

Errors or Omission, and to change the zoning designations on rural or Metro Area properties.

On June 30 1985, the *Policy 21* timeline expired and ceased to provide relief for property owners or the County. After July 1, 1985, the only opportunity property owners have had to correct errors was through the quasi-judicial process in which the applicant must carry the burden of proof and involves considerable investment in both application and consulting fees. The County has only recently had the option to initiate legislative corrections for errors or omissions during the Periodic Review Work Program in the McKenzie Watershed. In 2002, The Board of Commissioners changed zone designations for over forty properties under 36 actions including a correction of the western boundary of the rural community of Rainbow. In the majority of instances the actions were for the correction of errors or omissions of the 1984 plan/zoning designations in the Mohawk and McKenzie Valleys.

During this past year, the County has discovered approximately 70 properties in the Siuslaw or Long Tom watersheds that would qualify under the expired Policy 21 were it still available. Applications for rezoning these properties will be reviewed later in the year by the Planning Commission for recommendations to the Board of Commissioners under a separate ordinance pursuant to the Periodic Review Work Program.

In 2000, LMD staff met with land use consultants and attorneys to draft preliminary language for consideration of an addition of *Policy 27. Errors or Omission* to the *RCP Plan Policies – Goal Two: Land Use Planning*.

B. Analysis

The Purpose statement in Lane Code 16.400 Rural Comprehensive Plan Amendments addresses this issue in a very explicit manner:

Lane Code 16.400 (1) Purpose. The Board shall adopt a Rural Comprehensive Plan. The general purpose of the Rural Comprehensive Plan is the guiding of social, economic and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare. The Rural Comprehensive Plan shall be considered to be a dynamic policy-instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights. It is recognized that the Rural Comprehensive Plan affects the people of Lane County, and it is, therefore, important that the ability by individuals to propose amendments be free of restraint.

An errors or omission policy is a pact between a private property owner and the County to acknowledge existing circumstances and provide relief. For the policy to be effective it needs:

- to be based on clear standards and criteria;
- to be relatively easy for a citizen to gain acceptance of a submitted application;
- to have minimal processing fees; and
- to be processed in a timely manner.

The proposed text for *Policy 27: Errors or Omission* is provided in Exhibit "A":
Legislative Format – Policy 27.

Policy 27.c. requires the applicant to submit a completed Lane County Errors or Omission Application. A draft of the application formats for both amendments between resource zoning designations and developed& committed exception designations are attached as Attachment "B" - Lane County Errors or Omission Application. The forms are intended to provide for the disclosure of the essential information necessary for the LCPC and BCC to conclude that the existing development warrants a change in designation. The submittal would include the following minimum attachments:

- Accurate plot plan of the subject property depicting all development and uses;
- Photographs of the existing structures prior to March 2, 1984 (if available);
- Evidence of the lawful use of the structures prior to March 2, 1984;
- Photographs of the existing structures on the parcel on the date of submittal; and
- Evidence that the use has not been abandoned since March 2, 1984.

It would be the responsibility of LMD staff to conduct research and a site inspection to determine if the application and facts as presented were credible.

LMD does not have the budget to process the Errors or Omission applications without some additional funding from the Board or minimal fees to compensate for the processing expenses. The essential process steps that require compensation for, are:

• Referrals to agencies and service providers and Lane Code 14 notice to surrounding property owners.	\$ 150.00
• Two legal ads (LCPC, BCC public hearings).	350.00
• Site inspection (LMD)	200.00
• Indirect services of County Administration associated with the Board's hearings process.	<u>300.00</u>

It is estimated that the application fee should be \$ 1,000.00

C. Planning Commission Recommendation

The Lane County Planning Commission (LCPC) held two public hearings which included the proposed Policy 27 - Errors or Omission, on the agenda. The hearings were held on October 21, 2003 and November 4, 2003. The LCPC unanimously supported a recommendation for approval for Policy 27 – Errors or Omission.

D. Alternatives/Options

1. Adopt Ordinance PA 1192.
2. Do not adopt Ordinance PA 1192.
3. Provide direction to staff concerning the proposed language of the Policy the Board wishes to modify or does not support.
4. Adopt concurrent Order to Lane Manual to establish fees for the processing of Errors or Omission post acknowledgement plan amendments.

E. Recommendation

Staff recommends Alternative 1. and 4., above.

F. Timing

The Ordinance does not contain an emergency clause.

IV. FINDINGS

Findings of fact and conclusions of law addressing consistency of the proposed policy amendment are attached to the Ordinance as Exhibit "C".

V. IMPLEMENTATION / FOLLOW-UP

- A. Notice of the action will be provided to DLCD.
- B. The Board is advised to adopt the concurrent Order for the proposed plan amendment fee in Lane Manual 60.851(6).

VI. ATTACHMENTS

- A. Ordinance PA 1192
- B. Lane County Errors or Omission Application.
 - 1. *Resource Zones*
 - 2. *Developed & Committed Exception Areas*
- C. LCPC minutes (October 21, 2003 and November 4, 2003)

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1192

[IN THE MATTER OF AMENDING THE LANE COUNTY GENERAL
[PLAN POLICIES (AN ELEMENT OF THE LANE COUNTY RURAL
[COMPREHENSIVE PLAN) BY ADDITION OF GOAL 2 POLICY 27 --
[ERRORS OR OMISSION; AND ADOPTING SAVINGS AND
[SEVERABILITY CLAUSES.

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 883, has adopted the Lane County General Plan Policies which is a component of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendments of components of the Rural Comprehensive Plan; and

WHEREAS, the proposal was reviewed at public hearings with the Lane County Planning Commission on: October 21, 2003; and November 4, 2003; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on December 17, 2003; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

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

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

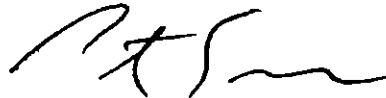
Section 1. The Lane County General Plan Policies Goal Two (Policies 1 through 26) adopted by Ordinance No. PA 883 and amended thereafter, is amended by addition of a new Lane County General Plan Policy for Goal Two (Policy 27) as set forth in Exhibit "A".

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

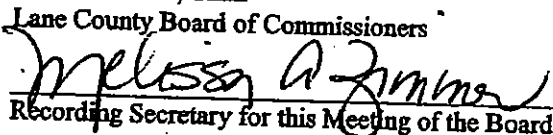
The prior policies, zoning base designations and plan diagram base designations repealed or changes by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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 thereof.

ENACTED this 17th day of December 2003.



Peter Sorenson, Chair
Lane County Board of Commissioners



Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 11-21-2003 Lane County



OFFICE OF LEGAL COUNSEL

Ordinance PA 1192
Exhibit A

Airport	Airport Safety District	/AS-RCP
Airport	Airport Operations	/AO-RCP
Nonresource	Rural Residential	RR-RCP
Public Facility	Inmate Work Camp	IWC-RCP

***NOTE:** The "Community" Plan Designation is implemented by various zoning districts as indicated, zones which also implement specific Plan designations other than "Community". A suffix "/C" shall be used in combination with these zoning abbreviations to denote the zoning inside unincorporated community plans adopted to comply with OAR 660 Division 22, the UC Rule: RR, RC, RI, RPF, and RPR.

26. Exceptions to resource goals shall be required for transmission line right-of-ways when in excess of fifty (50) feet.
27. Errors or Omissions. Lane County will annually initiate and process applications to correct identified errors or omissions in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots. Changes to correct errors or omissions shall comply with the procedures and requirements of Lane Code Chapter 12 (Comprehensive Plan), Chapter 14 (Application Review and Appeal Procedures), and Chapter 16 (Land Use & Development Code), except as provided for in 27 c. and d. below.
- a. Circumstances qualifying for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following:
- i. Lawful, structural development existing prior to September 12, 1984 and use of the structure(s) at the time qualified as an allowable use in a developed & committed zone designation other than that designated for the land on an Official Plan or Zoning Plot.
 - ii. Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.
 - iii. A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.
 - iv. Correction of a scrivener error on an adopted Official Plan or Zoning Plot.
 - v. Correction of an incompatible split-zoning of a legal lot resulting from a survey boundary line error that was discovered after September 12, 1984.

Ordinance PA 1192
Exhibit A

- vi. Compliance by a public jurisdiction or agency with a deed restriction on public land.
- vii. Correction of an inconsistency between the text of an order or ordinance adopted by the Board of Commissioners and an Official Plan or Zoning diagram.
- viii. A circumstance other than as listed in 27. a. i. -vii. above, which the Planning Commission elects to forward a favorable recommendation for consideration by the Board of Commissioners.
- b. Errors or omissions in the Official Plan and Zoning Plots shall not include circumstances requiring that a committed exception be taken or situations involving the designation of Marginal or Nonresource Lands.
- c. By September 30th of each year, property owners who believe that they have errors or omissions in the official plan or zoning of their property and who want those errors corrected shall submit to the Planning Director a completed Lane County Errors or Omission Application. Within 45 days of receipt of the application, the Director shall review the application for completeness and provide the applicant with a written notice that explains why the application was accepted or not accepted. The Director shall not accept incomplete applications or applications for changes that do not qualify as errors or omissions; and
- d. By March 31st of each year, Lane County shall conduct the first public hearings with the Lane County Planning Commission for all pending errors or omission applications accepted within the deadline specified in Policy 27 c. above.
- e. To partly defray the expense in processing the errors or omission application, a fee shall be charged the applicant. The fee shall be established by order of the Board of County Commissioners.

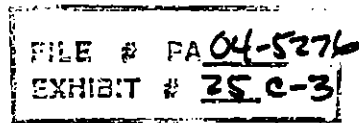
**BOARD OF COMMISSIONERS'
REGULAR MEETING**

December 17, 2003

1:30 p.m.

(Commissioners' Conference Room)

APPROVED 1/7/04



Commissioner Peter Sorenson presided with Commissioners Bill Dwyer, Bobby Green, Sr., Don Hampton and Anna Morrison present. County Administrator Bill Van Vactor, Assistant County Counsel Stephen Vorhes and Recording Secretary Melissa Zimmer were also present.

17. PUBLIC HEARINGS

a. **SECOND READING AND PUBLIC HEARING/Ordinance PA 1192/In the Matter of Amending the Lane County General Plan Policies (An Element of the Lane County Rural Comprehensive Plan) By Addition of Goal 2, Policy 27 - Errors or Omission; and Adopting Savings and Severability Clauses. (NBA & PM 12/3/03)**

Bill Sage, Land Management, reported the process they went through last year with the McKenzie Watershed was to identify any properties that they hadn't zoned properly back in 1984 when they adopted the Rural Comprehensive Plan and made amendments to conform the zoning designation to match the existing uses that were there at the time. He noted the Board adopted those in May 2002. He said this year, when working in the Siuslaw and Long Tom Watersheds, they found 65 to 70 similar applications that are conformity between the zoning designation and actual use. He said they have a chance to change them to be a benefit to the public.

Sage stated that once the periodic revenue process is completed, the legislative option goes away and they know they won't be able to reach every citizen. He said the errors and omissions policy would provide citizens to come in on a site-by-site basis to make the amendment application to the County to process them with a minimal fee. He said the order would implement the policy and the process they would go through (Policy 27, Goal 2) and the order would put in a minimal fee of a \$1,000 base.

Commissioner Sorenson opened up the Public Hearing. There being no one signed up to speak, he closed the Public Hearing.

MOTION: to adopt Ordinance PA 1192.

Dwyer MOVED, Morrison SECONDED.

ROLL CALL VOTE: 5-0.

b. **ORDER 03-12-17-14/In the Matter of Amending Chapter 60 of the Lane Manual to Add an Errors or Omission Plan Amendment Fee (LM 60.851(6)).**

Sage explained they set this fee based on the minimal amount of money they would need to do their business, not counting staff time, but to do notices and legal ads. He said it covers the cost of putting the application together. He thought the fee was fair. He said they wanted an easy application form. He said staff thought \$1,000 was reasonable to staff.

Van Vactor suggested instead of an errors and omissions amendment, that it should be a conformity determination amendment. He said they were conforming the zoning to the actual use.

Vorhes suggested tying it to something within the policy in the plan. He said they could put in parenthesis the Rural Comp Plan, Goal 2, Policy 27.

Van Vactor commented he didn't think it was an error or omissions policy, he stated the zoning had been on these properties since the mid-eighties. He didn't want to call it errors and omissions

MOTION: to approve ORDER 03-12-17-14 as amended with the conformity determination amendment.

Green **MOVED**, Dwyer **SECONDED**.

VOTE: 5-0.

18. COMMISSIONERS' ANNOUNCEMENTS

Dwyer thanked everyone who participated in the turkey presentation.

Green thanked Dwyer for being the champion with the turkeys. He said he attended a Human Services Commission meeting. He noted there are problems on the human service side with the budget deficit. He said there was some discussion about going forward with a revenue measure to help ease the reductions. He stated the Board had committed to not go out with a tax measure. He commented there might be other groups that would urge the Board to do something.

Hampton announced there were numerous light displays up the McKenzie and on Highway 59. He added tomorrow night is Creswell's dedication of Oregon Avenue.

The Board wished everyone a happy holiday season.

19. CORRESPONDENCE TO THE BOARD

None.

20. OTHER BUSINESS

None.

There being no further business, Commissioner Sorenson adjourned the meeting at 2:10 p.m.

Melissa Zimmer
Recording Secretary

File No. PAZCEO _____

Fee \$ _____

04

LANE COUNTY LAND USE APPLICATION FORM

FILE # PA 04-527
EXHIBIT # 25-C

**Rural Comprehensive Plan – Goal 2, Policy 27
Plan Amendment: Error or Omission**

Resource (Agricultural / Forest) Land

All information requested in this application form must be provided or the Planning Director will not accept this application. The appropriate legal requirements this application must comply with are included below with specific references to the regulations where they are found. The text of these regulations is identified in boldface quotes. Following each of the legal requirements are spaces for the applicant to provide the relevant information demonstrating how this application complies with the requirement.

Please print or type.

Owner _____

Address _____

P. O. Box or Street _____ Post Office _____ State _____ Zip code _____
Telephone Number () _____ - _____ e-mail _____
Area code number

Applicant _____

Address _____

P. O. Box or Street _____ Post Office _____ State _____ Zip code _____
Telephone Number () _____ - _____ e-mail _____
Area code number

SECTION I: Category

Circumstances qualifying the property for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following: [Check the appropriate box]

- () i. *Lawful, structural development existing prior to September 12, 1984 and use of the structure(s) at the time qualified as an allowable use in a developed & committed zone designation other than that designated for the land on an Official Plan or Zoning Plot.*
- () ii. *Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.*
- () iii. *A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.*
- () iv. *Correction of a scrivener error on an adopted Official Plan or Zoning Plot.*
- () v. *Correction of an incompatible split-zoning of a legal lot resulting from a survey boundary line error that was discovered after September 12, 1984.*
- () vi. *Compliance by a public jurisdiction or agency with a deed restriction on public land.*
- () vii. *Correction of an inconsistency between the text of an order or ordinance adopted by the Board of Commissioners and an Official Plan or Zoning diagram.*

- the boundaries (use a colored line and label this line) of the lot or parcel identified in Section 2B of this application;
- an inset of any existing dwelling location, well, subsurface septic system, driveway; and
- the location and identification of any accessory structures or buildings on the land identified in Section 1A and B of this application.

G. Signatures: Owner: _____ Date: _____

Applicant: _____ Date: _____

By the above signatures: the owner certifies to authorizing this application; and, the owner and applicant certify that the information contained in this application is accurate and complete.

Section 2: Lot, Parcel, and Tract Information

A. The following terms and definitions are used in this application:

- 'Lot' is defined by LC 16.090 as, "A unit of land that is created by a subdivision of land."
- 'Parcel' is defined by LC 16.090 defines as, "A unit of land created by a partitioning of land, in compliance with all applicable planning, zoning or partitioning ordinances or regulations; or by deed or land sales contract if there are no applicable planning, zoning or partitioning ordinances or regulations."
- 'Ownership' is not defined LC 16.090. Therefore, the following definition of 'ownership' is used from Webster's Third New International Dictionary Of The English Language Unabridged, "The state, relation or claim of being an owner: lawful claim or title." An example of two different ownerships is if party A (Mr. Smith) owns one parcel and if parties A and B (Mr. Smith and Mrs. Smith) own the other parcel. In order for the ownerships to be the same, the owners must all be the same.
- 'Contiguous' is defined by LC 16.090 as, "Having at least one common boundary line greater than eight feet in length. Tracts of land under the same ownership and which are intervened by a street (local access, public, County, State or Federal street) shall not be considered contiguous."
- 'Tract' is defined by OAR 660-033-0020(1) as, "'Tract' consists of one or more contiguous lots or parcels in the same ownership." For the limited purpose of analyzing this application for compliance with the tract requirements in OAR 660-033(24), contiguous lands in the same ownership as the lot or parcel where the proposed dwelling will be located shall be treated as lots or parcels. However, the findings of fact required in this Section of the application must be completed to establish that the lot or parcel where the proposed dwelling will be located meets the definition requirements for a 'lot' or 'parcel'.

B. The following required exhibits assists in identifying the proposed lot or parcel being considered for the change in zoning designation. *Attach to this application the information referred to as "Attached" and check each box when you have completed this step)*

- () *****Attached***** is a copy of a Lane County Assessment and Taxation Map with the boundaries of the subject tract (all contiguous lots or parcels in the same ownership) plotted onto it with bold lines and showing all adjoining tax lots that are not part of this tract.

(Only one of the three boxes below is applicable. Check the box that is applicable and provide the information referred to next to this box.)

- () The subject property being considered for a change in zoning designation is a 'lot' created by a subdivision of land. *****Attached***** is a copy of an approved and recorded subdivision plat with the subdivision name of *(fill in the name of the subdivision)* _____ . The boundaries of the lot are plotted onto this plat and show that it is located within the subdivision plat boundaries and that it is comprised of the following lot in its entirety. *(fill-in the lot number from the subdivision plat):* _____ . The subject property qualifies as a lot because, as demonstrated above, it is comprised of a lot in an approved subdivision plat.
- () The subject property being considered for a change in zoning designation is a 'parcel' created by a partition of land. *****Attached***** is a copy of an approved and recorded partition map or plat with the Lane County recording number of *(fill-in the recording number from the map or plat)* _____ . The boundaries of the parcel are plotted onto this map or plat and show that the it located within the partition plat or map and that it is comprised of the following parcel in its entirety *(fill-in the parcel numbers from the partition map or plat):* _____ . The subject property qualifies as a parcel because, as demonstrated above, it is a parcel in an approved partition map or plat.
- () The subject property being considered for a change in zoning designation is a 'parcel' that was created by a deed or land sales contract in compliance with all applicable planning, zoning or partitioning ordinances or at a time when there were no applicable planning, zoning or partitioning ordinances or regulations. *****Attached***** is a copy of a preliminary legal lot verification from Lane County verifying that the parcel is a lawfully created parcel.

Section 3: Soil Information and resource uses: Rezoning of resource land properties.

Section 3 of the application **applies only** when the application proposes to change the designation of a lot or parcel from "Exclusive Farm Use Land (E__)" to "Impacted Forest Land (F2)", or from "Impacted Forest Land (F2)" to "Exclusive Farm Use Land (E__)", or from "Nonimpacted Forest Land (F1)" to "Impacted Forest Land (F2)".

- A. *****Attach***** to this application, a soils report from the Lane Council of Governments (LCOG) that includes a computerized soils map and analysis of the soil classifications of the subject property. The computerized soil mapping done by the Lane Council of Governments is based upon the Natural Resource Conservation Service (NRCS) most recent publication of NRCS soils mapping and classifications. The NRCS soil classifications and mapping were used to identify the soils of the subject property in this application. The mapping and analysis also identify the applicable Douglas Fir site index, cubic foot-per acre-per year fiber productivity, agricultural capability class, and whether or not the soils are high value farm land or not. The boundaries of the subject property are defined by reference to the tax lots identified in Section I A and B of this application and as delineated in Section I F of this application.
- B. If you have soils information that you wish to submit with this application that is in addition to the soils information from LCOG, then check this box () and *****attach***** this additional information to this application.
- C. *****Attach***** If the LCOG soils information mentioned in Section 3A above is not attached to this application, then the alternative soils information listed below must be attached to this application.

- *****Attach***** a copy of the soils map for the subject property from the Soil Survey of Lane County Area, Oregon.
- *****Attach***** a map with the boundaries of the subject property plotted on to it and the boundaries of the soils together with their map unit identification plotted on to it. The soils map or another map may be used for this purpose. However, the map that is used must be sufficiently accurate and clear to identify and analyze the soils of the subject tract to determine the Douglas Fir site index classification and the agricultural capability class of the property.
- *****Attach***** a report identifying:
 - the names & numbers (Lane County soil map unit) of the soil types of the subject tract,
 - the percentage of the subject tract in each soil unit,
 - the high-value farmland classification of the soil units of the subject tract, and
 - the total percentage of the subject tract with soils having a high-value farmland classification.

D. Income from resource management products.

Complete either (a) or (b) below, as appropriate:

() (a) **Farm income:** The average gross income from 1984 to the date of application from the annual sale of farm products grown or raised on the subject property, and identify the farm use activities now occurring on the subject property: *Describe the kinds of farming occurring on the property, the number of acres for each kind of farm use, the quantity of crops per acre, animals or products being produced, and the activities associated with these uses. Do not include purchased livestock or farm products from rented or leased lands or from lands which are not part of the subject tract.*

Annual, average gross income: _____

Farm use and activities currently occurring on the subject property include _____

(attach additional pages or documents if necessary).

() (b) **Forest Income:** The income produced during previous years between 1984 and the date of application, from the harvest of timber products on the subject property, and identify the forest uses and activities now occurring on the subject property: *Describe the kinds of forest uses occurring on the property, the number of acres for each kind of forest use (pending or completion of replanting of a harvested site under Forest Practices Act, commercial thinning, small wood lot management, and the activities associated with these uses.*

Forest products gross income since 1984: _____

Forestry uses and activities currently occurring on the subject property include: _____

(attach additional pages or documents if necessary).

E. Resource management practices.

*****Attach*** any reports or records that illustrate how your property has been managed for resources productivity in the past.**

(a) Oregon Department of Forestry – Forest Practices Act Notification reports:

- Harvesting of forest tree species;
- Construction, reconstruction or improvement of roads;
- Site preparation for reforestation;
- Compliance with reforestation stocking standards;
- Conversion to any non-forest use including agricultural or recreational;
- Commercial thinning;
- Cutting of firewood for commercial sale; or
- Surface mining permits;
- Other _____.

(b) Small Woodlot Owners – management plan.

(c) Agricultural uses or practices. Check any uses or practices that occurred on the parcel prior to September 12, 1984 and any uses or practices that have occurred since 1984 and up to the time of submittal of this application. Attach any substantiating documentation of the uses or practices.

- Grain crop: Type _____, acreage _____ from _____ to _____
- Seed crop: Type _____, acreage _____ from _____ to _____
- Hay crop: Type _____, acreage _____ from _____ to _____
- Row crop: Type _____, acreage _____ from _____ to _____
- Poultry: Type _____, acreage _____ from _____ to _____
- Dairy: Type _____, acreage _____ from _____ to _____
- Livestock: Type _____, acreage _____ from _____ to _____
- Orchard: Type _____, acreage _____ from _____ to _____
- Vineyard: Type _____, acreage _____ from _____ to _____
- Nursery: Type _____, acreage _____ from _____ to _____
- Other: Type _____, acreage _____ from _____ to _____

Section F. To be completed by Lane County - Land Management Division staff.

F. Approval Criteria and Findings of Fact.

1. This proposal is a Minor Amendment pursuant to Lane Code 16.400(6)(h) and involves a zone change subject to LC 16.252. This proposal is supported by evidence and documentation provided in response to Sections A. through E. above, which implement the Rural Comprehensive Plan Goal 2, Policy 27 provisions. No exception to any Goal, resource or otherwise, is necessary.

This is simply a proposed change from one resource zone to another based on the resource management history of the parcel or lot.

2. The subject property is identified as tax lot _____, of Assessor's Map TRS _____ and is located to the _____ of the public road _____ (County Road _____). This application proposes to designate the _____-acre parcel from _____ Lands () to _____ Lands (). Doing so would enable development of the parcel to those uses allowable in the _____ zone, LC 16.21 _____, and OAR 660-0 _____.
3. The approval of this application would:
 not provide any opportunity for division of the property since the minimum parcel size in the proposed _____ zone is _____ acres.
 would provide an opportunity for division of the property into _____ parcels in compliance with the proposed minimum parcel size of _____ acres in the proposed zoning designation.
4. In regards to the relevant applicability of Goals 3 (Farm) and 4 (Forest), the _____-acre subject property consists of approximately _____ acres identified as a combination of _____ (), _____ () and _____ () soils.
5. In addressing Goal 5, Water Resources policies, the property is () is not () listed as a water quality /quantity limited area in Lane Manual 13.010.
6. The applicable General Purpose statements of Lane Code 16.003(1), (4), (10) and the Purpose statements of the _____ Zone in LC 16.21 _____ (1) are compatible in that the proposal recognizes the current resource management practices and the conservation of significant natural resources present on the property. Based on the record, the _____ designation is more consistent with the existing on-site land uses. To ensure compatibility with surrounding lands, recording of a "Farm/Forest Management Agreement" would be required by the owner of the subject property as a condition of approval for any development authorized in a Special Use Permit decision.

Conclusion

The applicant has shown by a preponderance of evidence that the past and current resource management practices of the subject parcel or lot would lead the Board of County Commissioners to the reasonable conclusion that the subject property should be redesignated as () Agricultural () Forest, and rezoned to _____ (_____, RCP).

Exhibits

- A. Official Zoning Map _____
- B. Addressing Map _____
- C. Applicant's photographs of _____

(List other exhibits below)

Easement
at the scale

2400 19-1-7

3100 2302 19-1-8

400 19-1-17

30-
10-
20-

9241358

FILE # PA 01-5276
EXHIBIT # 05-A

JUL 24 1992 17

WPTCO 100786/50-65911.9

CONVEYANCE OF ROADWAY EASEMENT

KNOW ALL MEN BY THESE PRESENTS, for a valuable consideration the receipt of which is hereby acknowledged, VIRGINIA M. WARREN (Grantor) does hereby grant, bargain, sell and convey unto WILLAMETTE VALLEY CHIP & LOG SALES, INC., an Oregon corporation, (Grantee) a perpetual non-exclusive easement and right-of-way for ingress and egress and road purposes (roadway) to be used in common with Grantor, her successors and assigns of the Servient Estate, over and across the following described Servient Estate:

22JUL24'9201REC 30.00

A strip of land, 30.0 feet wide, being the southerly 30.0 feet of that certain tract of land conveyed to Michael E. Warren and Virginia M. Warren, husband and wife, by warranty deed, recorded on Reel 1657, Reception No. 9047886, Lane County Oregon Deed Records, said strip of land being more particularly described as follows:

22JUL24'9201PFUND 10.00

BEGINNING at a point which is South 1376.10 from the Northwest corner of the William McCall Donation Claim No. 39, in Township 19 South, Range 1 West of the Willamette Meridian, said beginning point being the southwest corner of said Warren tract, thence East 3309.90 feet along the south line of said Warren tract to the southeast corner of said Warren tract; thence North 30.00 feet along the east line of said Warren tract; thence West 3309.90 feet parallel with the south line of said Warren tract; thence South 30.00 feet to the point of beginning, all in Lane County, Oregon.

22JUL24'9201A&T FUND 30.00

over
2400

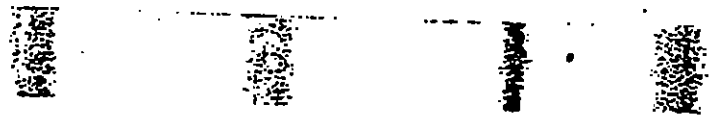
The Roadway Easement and rights and privileges herein granted are for the full use and purposes above stated by the Grantee, its licensees, permittees, and successors and assigns for the benefit of the Dominant Estate described on Schedule A, attached hereto, consisting of parcels I, II and III, to which this Easement is and shall be appurtenant and shall run with the title thereto:

Grantor, for herself and her successors and assigns, by her execution hereof, and Grantee, by its acceptance and recordation of this Easement, for itself and its successors and assigns, hereby agree as follows:

1. Grantee, its successors and assigns, shall construct a road at whatever road grade, foundation and surface is desired by Grantee.
2. After construction of the road, Grantee, its successors and assigns, shall continuously maintain the roadway in reasonable condition and repair.
3. The roadway shall not be blocked or otherwise obstructed by any persons entitled to the use thereof, except as reasonably necessary in the immediate act of using the roadway for vehicular travel and for maintenance and repair.

Conveyance of Roadway Easement - 1

D: 7/22/92



9241358

- 4. Grantee shall continuously maintain and replace, as reasonably needed, a metal gate and cattle guard sufficient to restrain cattle at the west terminus of the roadway at the junction with Rattlesnake Road, Lane County Road No. 1331.
- 5. Grantee shall construct and continuously maintain a metal gate sufficient to restrain cattle at a point 250 feet east from the point of beginning of the roadway at the junction with Rattlesnake Road. This gate shall be closed at all times, except when temporarily opened for vehicular passage whenever Grantor, her successors and assigns, are running cattle, livestock or other farm animals adjacent to the roadway on the south side thereof.

TO HAVE AND TO HOLD this Easement and roadway unto the Grantee, its permittees, licensees, heirs and assigns forever.

Grantor covenants and warrants that she is lawfully seized and possessed of the land described in the Easement herein granted, and has the full right, power and authority to execute this conveyance, and that she will defend the title to the Easement conveyed hereby and quiet enjoyment hereof against all claims and demands of all persons whomsoever.

The true consideration for this conveyance is other value.

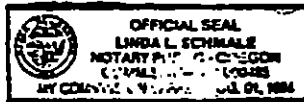
Dated this 24 day of July, 1992.

State of Oregon)
) ss.
 County of Lane)

Virginia M. Warren
 VIRGINIA M. WARREN

Personally appeared the above-named Virginia M. Warren and acknowledged the foregoing instrument to be her voluntary act and deed. Before me this 24 day of July, 1992.

Virginia M. Warren
 Notary Public for Oregon
 My Commission Expires _____



JUL 24 1992 /

9241358

CONVEYANCE OF ROADWAY EASEMENT

SCHEDULE A

Grantor: Virginia M. Warren
Grantee: Willamette Valley Chip & Log Sales, Inc., an Oregon corporation

PARCEL I:

2110

Beginning at a point on the Section line between Sections 7 and 8, Township 19 South, Range 1 West of the Willamette Meridian, 830.28 feet North of the intersection of said section line with the South line of the William McCall Donation Land Claim No. 39 of said Township and Range; thence East 690.0 feet, more or less, to the Westerly right of way line of the relocated Southern Pacific Railroad right of way; thence Northwest along the Westerly right of way line of said railroad to a point where said Westerly railroad right of way line intersects the section line between Sections 7 and 8; thence South 1010.0 feet along said section line to the point of beginning, all in Lane County, Oregon.

PARCEL II:

2302

Beginning at a point on the section line between Sections 7 and 8, in Township 19 South, Range 1 West, Willamette Meridian, in Lane County, Oregon, where the South line of the William McCall Donation Land Claim No. 39 intersects said section line; thence from said beginning point North along the section line 830.28 feet; thence East 690 feet, more or less, to the Westerly right of way line of the Southern Pacific Railroad right of way; thence Southeast along the Westerly right of way line of said railroad to a point where the South line of the William McCall Donation Land Claim No. 39 intersects said railroad right of way; and thence West 1025 feet, more or less, along said William McCall Donation Land Claim South line to the point of beginning on the section line, in Lane County, Oregon.

PARCEL III:

X4100

Lots 3, 4 and 5, in Section 12, Township 19 South, Range 1 West of the Willamette Meridian, EXCEPT beginning at the Northeast corner of Lot 5; thence South 500 feet to the center of Lost Creek; thence Northwest along center of said creek 740 feet to a point 190 feet South of Southerly Southeast corner of the Hills property; thence North 150 feet; thence East 740 feet to the place of the beginning, in Lane County, Oregon.

X4100

ALSO: Commencing at a point 32.74 chains West of the Southeast corner of John Stoops Donation Land Claim No. 41, Notification No. 6505, Township 19 South, Range 1 West of the Willamette Meridian; running thence North 24° 23' East 8.37 chains; thence North 24° 40' West 17.15 chains; thence North 40° 51' West 8.37 chains; thence North 44° West 6.81 chains; thence North 40° 55' West 10.28 chains; thence South 41° 31' West 4.85 chains to a point 3.21 chains South of the most Northerly corner of Stoops Donation Land Claim No. 41; thence South 5.68 chains; thence West 21.92 chains; thence South 33.84 chains; thence East 47.83 chains to the place of beginning, in Lane County, Oregon.

JUL 24 1992

74100
74100

ALSO: The Southwest quarter of the Northeast quarter of Section 17, Township 19 South, Range 1 West of Willamette Meridian, in Lane County, Oregon.

ALSO: The South half of the Northwest quarter of Section 17, Township 19 South, Range 1 West of the Willamette Meridian, Lane County, Oregon.

LESS & EXCEPT tract described in Final Judgment in Condemnation, Civil No. 4239, recorded October 24, in Volume 426, Page 8, of Lane County Oregon Deed Records. **9241358**

ALSO EXCEPT that certain tract acquired by the United States as evidenced by Final Judgment in Condemnation in Civil 6860 and recorded April 30, 1953, in Lane County Oregon Deed Records, under Clerk's Filing No. 4-2728.

ALSO EXCEPT that certain tract acquired by the United States as evidenced by Final Judgment in Condemnation in Civil 5102, and recorded October 8, 1952, in Lane County Oregon Deed Records, under Clerk's Filing No. 3-87033.

ALSO EXCEPT that certain tract acquired by the United States as evidenced by Final Order of Judgment Distribution in Civil 6176 and recorded April 26, 1952, in Lane County Oregon Deed Records, under Clerk's Filing No. 3-73222.

ALSO EXCEPT that certain tract acquired by the United States as evidenced by Final Judgment in Civil No. 6067 and recorded April 26, 1952, in Lane County Oregon Deed Records, under Clerk's Filing No. 26647.

ALSO EXCEPT any portion lying within the Southern Pacific Railroad right of way.

ALSO EXCEPT: Beginning at a point in the centerline of the Willamette Highway 4.27 chains East of the most Northerly Northwest corner of the John Stoop Donation Land Claim No. 41, in Township 19 South, Range 1 West of the Willamette Meridian; and running thence South 39° 40' East along the center of the Willamette Highway, 10.17 chains; thence South 83° 40' West 2.10 chains to a point 8.67 chains South of the most Southerly Southwest corner of the John Morgan Donation Land Claim No. 51, Township 19 South, Range 1 West of the Willamette Meridian; thence South 83° 40' West 8.57 chains to the most Southerly Southeast corner of the William McCall Donation Land Claim No. 39, Township 19 South, Range 1 West of the Willamette Meridian; thence North 5 chains to a point 3.21 chains South of the most Northerly Northwest corner of the said John Stoops Donation Land Claim No. 41; thence Northeasterly 5.40 chains, more or less, to the place of beginning, in Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to Arthur G. Lindley and Thelma Lindley, husband and wife, by deed recorded December 12, 1949, in Volume 406, Page 481, Lane County Oregon Deed Records.

ALSO EXCEPT that certain tract conveyed to Arthur Lindley and Thelma Lindley, husband and wife, by Bargain & Sale Deed recorded December 3, 1970, Reception No. 28972, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to Clifford J. Bales and Leah J. Bales, husband and wife, by Warranty Deed recorded October 1, 1975, Reel No. 762, Reception No. 75-42259, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract of land conveyed to Patrick S. Ferren and Mary Jane Ferren, husband and wife, by Warranty Deed recorded January 26, 1972, Reel No. 570, Reception No. 83543, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to M. H. Kimball and S. E. Kimball, his wife, by Bargain & Sale Deed recorded July 5, 1972, Reel No. 593, Reception No. 6912, Official Records of Lane County, Oregon.

Continued

9241358

ALSO EXCEPT that certain tract conveyed to Violet Ross, Vivian Wheeler and William J. Wheeler, Co-Trustees, by Bargain & Sale Deed recorded April 8, 1968, Reception No. 20076, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to Robert Opal Smith and Eulene Smith, husband and wife, by Quitclaim Deed recorded September 29, 1976, Reel No. 814, Reception No. 76-51101, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to Tomas H. Boutin and Coleen Gildersleeve, as tenants in common, by Memorandum of Land Sale Contract, recorded September 30, 1976, Reel No. 814, Reception No. 76-51360, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to C. C. Turner and Thella Pearl Turner, husband and wife, as tenants by the entirety, by Warranty Deed recorded January 29, 1958, Reel No. 110, Reception No. 30971, Official Records of Lane County, Oregon.

ALSO EXCEPT that certain tract conveyed to J. R. Hills and Habel W. Hills, his wife, by deed recorded February 17, 1930, in Book 167, Page 50, Deed Records of Lane County, Oregon.

ALSO EXCEPT: Beginning at the Brass Cap monument marking the Southeast corner of the John Stoops Donation Land Claim No. 41, Township 19 South, Range 1 West of the Willamette Meridian; thence North 89° 48' 18" West 2045.33 feet; thence North 0° 13' 42" East 736.39 feet; thence North 25° 28' 48" West 30.09 feet to a point in the center of the Old Willamette Highway, said point being referenced by a 5/8 inch iron rod South 69° 00' 00" West 35.11 feet; thence South 69° 00' 00" West 380.82 feet to a 5/8 inch iron rod; thence along the arc of a 450.02 foot radius curve right (the chord of which bears South 78° 35' 00" West 149.84 feet), a distance of 150.54 feet to a 5/8 inch iron rod; thence South 28° 10' 00" West 80.78 feet to a point in the center of Lost Creek and being the True Point of Beginning; thence South 88° 10' 00" West 54.22 feet to a 5/8 inch iron rod; thence South 54° 47' 00" West 206.00 feet to a 5/8 inch iron rod; thence North 38° 13' 00" West 140.79 feet to a 5/8 inch iron rod; thence South 53° 24' 00" West 318.37 feet to a point on the Northeasterly right of way line of the Relocated Southern Pacific Railroad right of way, said point being referenced by a 5/8 inch iron rod North 53° 24' 00" East 1.00 foot; thence along the said Northeasterly right of way line the following courses, along a line which is 150.00 feet distant Northeasterly from, when measured at right angles to the centerline of said railroad, along the arc of a decreasing talbot spiral curve right (having a centerline value of a 0.8 [4/5]), the chord of which bears North 23° 01' 03" West 180.81 feet to a point 150.00 feet distant from Engineer's centerline station L2 1125-91.59 ES; thence along a line which is 150 feet distant Northeasterly from, when measured at right angles to the said railroad centerline, North 22° 34' 04" West 291.59 feet to a point being 150.00 feet distant from, when measured at right angles to, Engineer's centerline station L2 1123-00; thence North 67° 25' 56" East 100.00 feet to a point being 250.00 feet distant from Engineer's centerline station L2 1123-00; thence along a line that is 250.00 feet distant from when measured at right angles to the said railroad

Continued

JUL 2 1997

9241358

EXHIBIT "A" Cont.

centerline, North 22° 34' 04" West 550.00 feet to a point which is 250.00 feet distant from, when measured at right angles to Engineer's centerline station L2 1117-50; thence North 67° 34' 04" West 141.42 feet to a point which is 150.00 feet distant Northeasterly from, when measured at right angles to Engineer's centerline station L2 1116-50; thence along a line that is 150.00 feet distant, when measured at right angles to the said railroad centerline, North 22° 34' 04" West 350.00 feet to a point which is 150.00 feet distant Northeasterly from, when measured at right angles to, Engineer's centerline station L2 1113-00; thence North 16° 37' 10" West 482.48 feet to a 5/8 inch iron rod, said rod being 200.00 feet distant, when measured at right angles to, Engineer's centerline station L2 1107-40.25; thence leaving said railroad right of way line, North 89° 12' 00" East 44.92 feet to a 5/8 inch iron rod; thence continue North 89° 12' 00" East 30.00 feet to a 5/8 inch iron rod set in Lost Creek to mark the South Southeast corner of the William McCall Donation Land Claim No. 39, said Township 19 South, Range 1 West of the Willamette Meridian; thence North 83° 40' 00" East 43.70 feet to the most Westerly corner of the Lindley tract as described in Deed recorded December 12, 1949, in Book 406, Page 481, Lane County Oregon Deed Records; thence South 60° 25' 00" East 362.87 feet to a point in the center of the existing Lost Creek; thence upstream along the center of said Lost Creek, South 35° 54' 00" East 208.00 feet; thence South 29° 50' 00" East 285.34 feet; thence South 38° 38' 00" East 626.74 feet; thence South 20° 56' 00" East 388.19 feet; thence South 13° 02' 00" East 185.02 feet to the True Point of Beginning, in Lane County, Oregon.

9241358

State of Oregon,
County of Lane-ss.
I, the County Clerk, in and for the said County, do hereby certify that the within instrument was received for record at

24 JUL 92 2:12 PM

Book 1778R

Lane County OFFICIAL RECORDS
Lane County Clerk

By: *John E. Fair*
County Clerk

172091/WPT/50-14558
19 02 08 00 02202
TA#813624 & 813608

After Recording Return To
Western Pioneer Title Co
P.O. Box 10146
Eugene, OR 97440

Division of Chief Deputy Clerk
Lane County Deeds and Records

2001-057889



\$61.00

00210430200100578890070073

09/05/2001 11:27:59 AM

RPR-ESMT Cnt=2 Str=6 CASHIER 05
\$5.00 \$35.00 \$10.00 \$11.00

C-5-B

**DECLARATION OF JOINT ACCESS EASEMENT
AND MAINTENANCE AGREEMENT**

FILE # PA 04-5274
EXHIBIT # C-5-B

Parties:

Northwest Lands Inc., an Oregon corporation

Pat Kronberger

Recitals:

A. The parties own contiguous properties located within Sections 8 and 17 in Township 19 South, Range 1 West of the Willamette Meridian. A legal description of the individual properties subject to this declaration is compiled on attached "Exhibit A".

B. There presently exists a pioneered roadway which traverses that property described in Exhibit A and is intended to be used as the means of ingress and egress to the individual tracts owned by each party.

C. By and through this instrument the parties do hereby declare their intent to create a perpetual non-exclusive reciprocal easement for ingress and egress 60.0 feet in width as described on attached "Exhibit B". This easement is appurtenant to each and every part of the declarant's properties as described on attached "Exhibit A"

Terms and Conditions:

1. The parties and all other persons having legal right to use the roadway (USERS) shall at all times hereafter jointly maintain the roadway in a condition as good as it's present graveled condition or in any other improved condition mutually agreed upon by the parties.

After Recording Return To: P O BOX 434, Cottage Grove, OR 97424

STATE OF OREGON)
) ss.
County of Lane)

On August 31, 2001, ~~2000~~ before me, Linda L. Schmale, personally appeared/ Pat Kronberger and personally appeared Darren Kronberger, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity as president of Northwest Lands Inc, an Oregon Corporation, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal.



Notary Public for Oregon
My Commission Expires: _____



"EXHIBIT A"

Beginning at a point on the Section line between Sections 7 and 8 in Township 19 South, Range 1 West of the Willamette Meridian 830.28 feet North of the intersection of said section line with the South line of the William McCall Donation Land Claim No. 39 of said Township and Range; thence East 690.0 feet more or less to the westerly right of way line of the relocated Southern Pacific Railroad right of way; thence Northwesterly along the westerly right of way line of said railroad to a point where said westerly railroad right of way line intersects the section line between Sections 7 and 8; thence South 1010.0 feet along said section line to the point of beginning, all in Lane County, Oregon.

Beginning at a point on the Section line between Sections 7 and 8 in Township 19 South, Range 1 West of the Willamette Meridian in Lane County, Oregon where the south line of the William McCall Donation Land Claim No. 39 intersects said section line; thence from said beginning point North along the section line 830.28 feet; thence East 690 feet more or less to the Westerly right of way of the relocated Southern Pacific Railroad right of way; thence Southeasterly along the westerly right of way of said railroad to a point where the South line of the William McCall Donation Land Claim No. 39 intersects said railroad right of way; thence West 1025 feet more or less along said William McCall Donation Land Claim south line to the point of beginning on the section line, all in Lane County, Oregon.

Lots 3, 4 and 5 in Section 17 Township 19 South, Range 1 West of the Willamette Meridian, EXCEPT beginning at the Northeast corner of Lot 5; thence South 500 feet to the center of Lost Creak; thence Northwesterly along the center of said creek 740 feet to a point 190 feet South of the Southerly Southeast corner of the Hills property; thence North 190 feet; thence East 740 feet to the place of beginning, all in Lane County, Oregon

ALSO: Commencing at a point 32.74 chains West of the Southeast corner of John Stoops Donation Land Claim No. 41, Notification No. 6505 Township 19 South, Range 1 West of the Willamette Meridian; running thence North $24^{\circ}23'$ East 8.37 chains; thence North $24^{\circ}40'$ West 17.15 chains; thence North $40^{\circ}51'$ West 8.37 chains; thence North 44° West 6.81 chains; thence North $40^{\circ}55'$ West 10.28 chains; thence South $41^{\circ}31'$ West 4.85 chains to a point 3.21 chains South of the most Northerly corner of Stoops Donation Claim No. 41; thence South 5.68 chains; thence West 21.92 chains; thence South 33.84 chains; thence East 47.83 chains to the place of beginning, all in Lane County, Oregon.

ALSO: The southwest quarter of the Northeast quarter of Section 17 Township 19 South, Range 1 West of the Willamette Meridian, in Lane County, Oregon.

ALSO: The South half of the Northwest quarter of Section 17 Township 19 South, Range 1 West of the Willamette Meridian, Lane County, Oregon.

LESS & EXCEPT: Tract described in Final Judgement in Condemnation Civil No. 4239 recorded October 24 , Volume 426, Page 8 Lane County Oregon Deed Records.

ALSO EXCEPT: That certain tract acquired by the United States as evidenced by Final Judgement in Condemnation in Civil 6860 and recorded April 30, 1953 in Lane County Oregon Deed Records, under Clerk's Filing No. 4-2728

ALSO EXCEPT: That certain tract acquired by the United States as evidenced by Final Judgement in Condemnation in Civil 5102 and recorded October 8, 1952 in Lane County Oregon Deed Records, under Clerk's Filing No.3-87033.

ALSO EXCEPT: That certain tract acquired by the United States as evidenced by Final Order of Judgement Distribution in Civil 6176 and recorded April 26 1952 in Lane County Oregon Deed Records, under Clerk's Filing No.3-73222.

ALSO EXCEPT: That certain tract acquired by the United States as evidenced by Final Judgement in Civil 6067 and recorded April 26 1952 in Lane County Oregon Deed Records, under Clerk's Filing No. 26647.

ALSO EXCEPT: any portion lying within Southern Pacific Railroad right of way.

ALSO EXCEPT: Beginning at a point in the centerline of the Willamette Highway 4.27 chains East of the most Northerly Northwest corner of the John Stoop Donation Land Claim No. 41 in Township 19 South, Range 1 West of the Willamette Meridian; and running thence South 39° East along the center of the Willamette Highway 10.17 chains; thence South 83°40' West 2.10 chains to a point 8.07 chains South of the most Southerly Southwest corner of the John Morgan Donation Land Claim No. 51, Township 19 South, Range 1 West of the Willamette Meridian; thence South 83°40' West 8.57 chains to the most Southerly Southeast corner of the William McCall Donation Land Claim No. 39 Township 19 South, Range 1 West of the Willamette Meridian; thence North 5.87 chains to a point 3.21 chains South of the most Northerly Northwest corner of said John Stoops Donation Land Claim No. 41; thence Northeasterly 5.40 chains more or less to the place of beginning, in Lane County, Oregon.

ALSO EXCEPT: that certain tract conveyed to Arthur G. Lindley and Thelma Lindley, husband and wife, by deed recorded December 12, 1949, in Volume 406, Page 481 Lane County Oregon Deed Records.

ALSO EXCEPT: that certain tract conveyed to Arthur Lindley and Thelma Lindley, husband and wife, by a Bargain and Sale Deed recorded December 3, 1970, Reception No. 28972 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to Clifford J. Bales and Leah J. Bales, husband and wife, by a Warranty Deed recorded October 1, 1975, Reel No. 762, Reception No. 75-42259 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract of land conveyed to Partick S. Ferren and Mary Jane Ferren, husband and wife, by a Warranty Deed recorded January 26, 1972, Reel No. 570, Reception No. 83543 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to M. M. Kimball and S.E. Kimball, his wife, by a Bargain and Sale Deed recorded July 5, 1972, Reel No. 593, Reception No. 6912 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to Violet Ross, Vivian Wheeler and William J. Wheeler, Co Trustees, by a Bargain and Sale Deed recorded April 8, 1968, Reception No. 20076 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to Robert Opal Smith and Eulane Smith, husband and wife, by a Quitclaim Deed recorded September 29, 1976, Reel No. 814, Reception No. 76-51101 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to Tomas H. Boutin and Coleen Gildersleeve as tenants in common, by a Memorandum of Land Sale Contract, recorded September 30, 1976, Reel No. 814, Reception No. 76-51360 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to C.C. Turner and Thella Pearl Turner, husband and wife, as tenants by the entirety, by a Warranty Deed recorded January 29, 1958, Reel No. 110, Reception No. 30971 Official Records of Lane County Oregon.

ALSO EXCEPT: that certain tract conveyed to J.R. Hills and Mabel W. Hills, his wife, by deed recorded February 17, 1930 in Book 167, Page 50 Deed Records of Lane Oregon.

ALSO EXCEPT: Beginning at the Brass cap monument marking the Southeast corner of the John Stoops Donation Land Claim No. 41 Township 19 South, Range 1 West of the Willamette Meridian; thence North $89^{\circ}46'18''$ West 2045.33 feet; thence North $00^{\circ}13'42''$ East 736.39 feet; thence North $25^{\circ}28'48''$ West 30.09 feet to a point in the center of the Old Willamette Highway, said point being referenced by a 5/8 inch iron rod South $69^{\circ}00'00''$ West 35.11 feet; thence South $69^{\circ}00'00''$ West 380.82 feet to a 5/8 inch iron rod; thence along the arc of a 450.02 foot radius curve right (the chord of which bears South $78^{\circ}35'00''$ West 149.84 feet) a distance of 150.54 feet to a 5/8 inch iron rod; thence South $88^{\circ}10'00''$ West 80.78 feet to a point in the center of Lost Creek and being the True Point of Beginning; thence South $88^{\circ}10'00''$ West 54.22 feet to a 5/8 inch iron rod; thence South $54^{\circ}47'00''$ West 206.00 feet to a 5/8 inch iron rod; thence North $38^{\circ}13'00''$ West 140.79 feet to a 5/8 inch iron rod; thence South $53^{\circ}24'00''$ West 318.37 feet to a point on the Northeasterly right of way line of the relocated Southern Pacific Railroad right of way, said point being referenced by a 5/8 inch iron rod North $53^{\circ}24'00''$ East 1.00 foot; thence along the said Northeasterly right of way line the following courses, along a line which is 150.00 feet distant northeasterly from, when measured at right angles to the centerline of said railroad along the arc of a decreasing talbot spiral curve right (having a centerline value of $a = 0.8 [4/5]$, the chord of which bears North $23^{\circ}01'03''$ West 180.81 feet to a point 150.00 feet distant from Engineer's centerline station L2 1125+91.59 ES; thence along a line which is 150.00 feet distant Northeasterly from when measured at right angles to the said railroad centerline, North $22^{\circ}34'04''$ West 291.59 feet to a point being 150.00 distant from when measured at right angles to Engineer's centerline station L2 1123+00; thence North $67^{\circ}25'56''$ East 100.00 feet to a point being 250.00 feet distant from Engineer's centerline station L2 1123+00; thence along a line that is 250.00 feet distant from when measured at right angles to said railroad centerline, North $22^{\circ}34'04''$ West 550.00 feet to a point which is 250.00 feet distant from when measured at right angles to Engineer's centerline station L2 1117+50; thence North $67^{\circ}34'04''$ West 141.42 feet to a point which is 150.00 feet distant Northeasterly from when measured at right angles to Engineer's centerline station L2 1116+50; thence along a line that is 150.00 feet distant, when measured at right angles to the said railroad centerline North $22^{\circ}34'04''$ West 350.00 feet to a point which is 150.00 feet distant Northeasterly from when measured at right angles to Engineer's centerline station L2 1113+00; thence North $16^{\circ}37'10''$ West 482.48 feet to a 5/8 inch iron rod, said rod being 200.00 feet distant when

measured at right angles to Engineer's centerline station L2 1107+40.25; thence leaving said railroad right of way North 89°12'00" East 44.92 feet to a 5/8 inch iron rod; thence continue North 89°12'00" East 30.00 feet to a 5/8 inch iron rod set in Lost Creek to mark the South Southeast corner of the William McCall Donation Land Claim No. 39, said Township 19 South, Range 1 West of the Willamette Meridian; thence North 83°40'00" East 43.70 feet to the most westerly corner of the Lindley tract as described in a deed recorded December 12, 1949 in Book 406, Page 481 Lane County Oregon Deed Records; thence South 60°25'00" East 362.87 feet to a point in the center of the existing Lost Creek; thence upstream along the center of said Lost Creek South 35°54'00" East 208.00 feet; thence South 29°50'00" East 285.34 feet; thence South 38°38'00" East 626.74 feet; thence South 20°56'00" East 388.19 feet; thence South 13°02'00" East 185.02 feet to the True Point of Beginning, all in Lane County, Oregon.

ALSO EXCEPT: any portion lying Easterly of the Southern Pacific Railroad right of way.

As long as the property is protected by a fire protection District the access roads and property shall accommodate the turnarounds needed for fire fighting equipment, even though it may extend beyond the specified easement.

"EXHIBIT B"

A strip of land 60.0 feet in width, beginning at the centerline of the easement described in an instrument recorded July 24, 1992 Reception No. 92-41358 in Lane County, Oregon Deed Records, and being 30 feet on either side of the following described centerline:

Beginning at a point on the West line of Section 8 in Township 19 South, Range 1 West of the Willamette Meridian, said point being North $00^{\circ}05'41''$ West, 15.00 feet from the Brass Cap Monument marking the 1/4 corner between Section 7 & 8 in said Township 19 South, Range 1 West of the Willamette Meridian; thence leaving said west line and running along the arc of a 100.00 foot radius curve right (the chord of which bears South $71^{\circ}22'42''$ East, 46.68 feet) a distance of 47.10 feet; thence South $57^{\circ}53'06''$ East, 163.48 feet; thence along the arc of a 225.09 foot radius curve right (the chord of which bears South $31^{\circ}31'26''$ East, 199.89 feet) a distance of 207.12 feet; thence South $5^{\circ}09'47''$ East, 297.73 feet; thence along the arc of a 149.20 foot radius curve right (the chord of which bears South $16^{\circ}21'01''$ West, 109.43 feet) a distance of 112.04 feet; thence along the arc of a 154.53 foot radius curve left (the chord of which bears South $6^{\circ}18'53''$ East, 215.37 feet) a distance of 238.29 feet; thence along the arc of a 251.03 foot radius curve right (the chord of which bears South $14^{\circ}18'17''$ East, 296.43 feet) a distance of 317.10 feet; thence along the arc of a 305.93 foot radius curve left (the chord of which bears South $4^{\circ}10'28''$ East, 268.77 feet) a distance of 278.26 feet; thence along the arc of a 420.77 foot radius curve right (the chord of which bears South $20^{\circ}43'54''$ East 138.89 feet) a distance of 139.53 feet; thence South $11^{\circ}13'54''$ East, 129.48 feet; thence along the arc of a 105.00 foot radius curve left (the chord of which bears South $63^{\circ}58'45''$ East, 167.15 feet) a distance of 193.33 feet; thence North $63^{\circ}16'24''$ East, 103.35 feet; thence along the arc of a 130.00 foot radius curve right (the chord of which bears South $72^{\circ}35'23''$ East, 181.06 feet) a distance of 200.29 feet; thence South $28^{\circ}27'12''$ East, 131.49 feet; thence along the arc of a 300.00 foot radius curve right (the chord of which bears South $9^{\circ}34'27''$ West, 369.62 feet) a distance of 398.22 feet; thence South $47^{\circ}36'06''$ West, 335.43 feet; thence along the arc of a 167.27 foot radius curve left (the chord of which bears South $30^{\circ}23'26''$ West, 98.99 feet) a distance of 100.49 feet; thence along the arc of a 291.95 radius curve right (the chord of which bears South $30^{\circ}35'03''$ West, 174.66 feet) a distance of 177.37 feet; thence along the arc of a 327.75 foot radius curve left (the chord of which bears South $20^{\circ}13'59''$ West, 305.27 feet) a distance of 317.55 feet; thence along the arc of a 439.95 foot radius curve right (the chord of which bears South $5^{\circ}21'15''$ West, 196.09 feet) a distance of 197.75 feet; thence along the arc of a 1004.54 foot radius curve left (the chord of which bears South $8^{\circ}56'15''$ West, 324.46 feet) a distance of 325.88 feet to a point on the south line of the John Stoops Donation Land Claim No. 41 in Township 19 South, Range 1 West of the Willamette Meridian and there ending, all in Lane County, Oregon.

The side lines of said strip are to be lengthened or shortened to commence on the west line of Section 8 in Township 19 South, Range 1 West of the Willamette Meridian and terminate on the south line of the John Stoops Donation Land Claim No. 41 in Township 19 South, Range 1 West of the Willamette Meridian.

Bearings used hereon are based on C.S.F. No. 34037 on file in the office of the Lane County Surveyor.

45-
10
12

GRANT OF EASEMENT AND MAINTENANCE AGREEMENT

FILE # PA 04
EXHIBIT # C-5-C

Parties:

DEXTER FOREST FIBRE, INC., an Oregon corporation, **FREDERICK J. McCULLOCH**
and **WADE A. DOAK** ("Dexter")

-and-

NORTHWEST LANDS, INC., an Oregon corporation ("Northwest")

Recitals:

- A. Dexter owns real property in Lane County, Oregon, part of which is being purchased by Northwest contemporaneously with the execution of this Agreement. Dexter will continue to own the real property described on Exhibit "C" attached hereto and incorporated herein (Dexter's property). There currently exists upon Dexter's property a private roadway which is more particularly described on Exhibit "B" attached hereto and incorporated herein ("the roadway").
- B. Attached hereto and incorporated herein as Exhibit "A" is the description of real property being purchased from Dexter by Northwest ("Northwest's property").
- C. By this Agreement, Dexter desires to grant to Northwest an easement over the existing roadway upon Dexter's property, and the parties desire to set forth their rights and duties with respect thereto. For and in consideration of the mutual covenant and conditions set forth herein, the parties now enter into the following

Agreement:

- 1 The foregoing recitals are incorporated into and made a part of this Agreement.
- 2 Dexter grants, transfers and conveys to Northwest a perpetual nonexclusive easement over and across Dexter's property, which easement is described on Exhibit "B" attached hereto and incorporated herein. This easement is appurtenant to each and every part of Northwest's property.
- 3 The foregoing grant is made on the following terms and conditions:
 - 3.1 The grantee may use the easement granted, including the existing roadway and bridge over Lost Creek, as a means of ingress and egress to and from its property as hereinbefore described, or any portion thereof. The grantee may also use the

easement granted for the installation and maintenance of public utilities as might be needed to serve its property as hereinbefore described, or any portion thereof.

- 3.2 The parties and all other persons having the legal right to use the roadway (collectively referred to as "users") shall at all times hereafter jointly maintain the roadway in a condition as good as its present graveled condition or in any other improved condition mutually agreed upon by the parties. For the purpose of this Agreement, the obligation to maintain shall include the cost of repair or replacement of the bridge over Lost Creek and any other conditions or facilities hereafter mutually agreed upon by the parties.
- 3.3 The cost of maintenance shall be paid by the users on a pro rata basis proportionate to the extent of travel and use by the users. All users shall pay their respective shares of the cost of maintenance upon the written demand of any user. In the case of disagreement regarding cost or shares, the matter shall be submitted to binding arbitration before a single arbitrator in Eugene, Oregon, all expenses of which shall be borne equally by the users.
- 3.4 Dexter shall pay real property taxes on the Exhibit "B" easement.
- 3.5 The grantee shall operate all vehicles on the roadway at speeds low enough to suppress airborne dust, and shall insure that its invitees do the same. If airborne dust persists due to vehicular travel, then the periodic watering of the roadway shall be included in a cost of maintenance for the purpose of Section 3.2 above.
- 3.6 The easement granted by this Agreement run with the land hereinbefore described and shall bind and benefit the parties, and their respective heirs, successors and assigns.

This Agreement is executed by the parties on the dates set forth below, and in the case of corporate signatories, with the authority of their respective boards of directors.

DEXTER FOREST FIBRE, INC.,
an Oregon corporation

By: Frederick J. McCulloch
Frederick J. McCulloch, President

Frederick J. McCulloch
FREDERICK J. MCCULLOCH

Wade A. Doak
WADE A. DOAK

NORTHWEST LANDS, INC.,
an Oregon corporation

By: Darren Kronberger
Darren Kronberger, President

STATE OF OREGON)
) ss
County of Lane)

This instrument was acknowledged before me this 28 day of March, 2000 by Frederick J. McCulloch, as President of Dexter Forest Fibre, Inc.



[Signature]
Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss
County of Lane)

This instrument was acknowledged before me this 29 day of March, 2000 by Darren Kronberger, as President of Northwest Lands, Inc.

[Signature]
Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss
County of Lane)

This instrument was acknowledged before me this 28 day of March, 2000 by Frederick J. McCulloch.



[Signature]
Notary Public for Oregon
My commission expires: _____

STATE OF OREGON)
) ss
County of Lane)

This instrument was acknowledged before me this 28 day of March, 2000 by Wade A. Doak.



[Signature]
Notary Public for Oregon
My commission expires: _____

New (Add'l B'ty)
LA's

EXHIBIT A

Map 19-01-17, Tax Lots 400 and 1200
After Adjustment

This description is based on that survey and map for Virginia Warren, dated August 19, 1985, by Charles W. Guile & Associates, Co., and being a portion of that property as conveyed to Michael E. Warren and Virginia M. Warren, husband and wife, in Reel 44D, Instrument No. 38111, in Reel 65, Instrument No. 63843, and in Reel 646, Instrument No. 73-31314, Lane County Oregon Deed Records, the said parcel being described as follows:

Beginning at the Brass Cap Monument marking the Southeast corner of the John Stoops Donation Land Claim No. 41. Township 19 South, Range 1 West of the Willamette Meridian; thence North 89° 46' 18" West, 2045.33 feet; thence North 0° 13' 42" East, 736.39 feet; thence North 25° 28' 48" West, 30.09 feet to a point in the center of the Old Willamette Highway as per the above mentioned survey, said point being the TRUE POINT OF BEGINNING and being referenced by a 5/8 inch iron rod South 69° 00' 00" West, 35.11 feet; thence South 69° 00' 00" West, 380.82 feet to a 5/8 inch iron rod; thence along the arc of a 450.02 foot radius curve to the right (the chord of which bears South 78° 35' 00" West, 149.84 feet) a distance of 150.54 feet to a 5/8 inch iron rod; thence South 88° 10' 00" West, 135.00 feet to a 5/8 inch iron rod; thence South 54° 47' 00" West, 206.00 feet to a 5/8 inch iron rod; thence North 38° 13' 00" West, 140.79 feet to a 5/8 inch iron rod; thence South 53° 24' 00" West, 318.37 feet to a point on the Northeasterly right of way line of the Relocated Southern Pacific Railroad right of way, said point being referenced by a 5/8 inch iron rod North 53° 24' 00" East, 1.00 foot; thence Southerly along the said Northeasterly right of way line to the Northwest corner of that parcel of land conveyed in Reel 864, Instrument No. 59022, Lane County Oregon Deed Records; thence along the North line of said parcel, South 88° 03' 13" East, 742 feet, more or less, to a point in the center of Lost Creek; thence upstream, Southerly along the center of said Lost Creek, to a point which is 80 rods North of the South line of Section 17, Township 19 South, Range 1 West of the Willamette Meridian; thence East to the right bank of said Lost Creek; thence upstream Southeasterly along the said right bank of Lost Creek to a point on the East line of said Section 17; thence along the East line of said Section 17 to the Southeast corner of that parcel of land as described in Reel 417, Instrument No. 47488, Lane County Oregon Deed Records; thence along the South and West lines of said parcel, West 2.0 chains and North 2.50 chains to a point on the South line of that parcel of land as described in Reel 259, Instrument No. 91865, Lane County Oregon Deed Records; thence along the South line of said parcel, North 89° 49' 00" West, 120.12 feet to a point on the East line of that parcel of land as described in Instrument recorded February 2, 1958, Clerk's Filing No. 7071, Lane County Oregon Deed Records; thence along the East line of said parcel, South 65.3 feet to the right bank of Lost Creek; thence continue South to the Southerly bank of Lost Creek; thence Northwesterly along said Southerly bank of Lost Creek to a point on the West line of the James Estep Donation Land Claim No. 42, in said Township 19 South, Range 1 West of the Willamette Meridian; thence North along said claim line to a point in the center of Lost Creek, said point being on the Southerly line of that certain tract of land described in deed recorded August 18, 1994, Reception No. 94-60383, Official Records of Lane County, Oregon, and as surveyed by Roberts Surveying Inc., recorded in the Lane County Surveyor's Office under Survey File Number 34037, said survey 34037 being rotated 0° 03' 19" clockwise to match bearings in said survey and map for Virginia Warren, dated August 19, 1985, by Charles W. Guile & Associates, Co., said point also bears South 0° 50' 11" West, 382.80 feet from the North Northwest corner of the James Estep Donation Land Claim No. 42; thence Northwesterly along the Southerly line of said tract of land and the center of Lost Creek as follows; North 74° 59' 41" West, 222.05 feet to a point; thence South 48° 58' 32" West, 140.00 feet to a point; thence North 86° 37' 59" West, 98.84 feet to a point; thence North 48° 45' 23" West, 482.74 feet to a point; thence North 35° 32' 36" West, 108.20 feet to the Southerly Southeast corner of the Mabel W. Hills property as conveyed on April 25, 1961 in Reel 171D, Reception No. 30030, Lane County Official Records, and as surveyed by

Skinner & Associates on January 4, 1990 and recorded in the Lane County Surveyor's Office under Survey File Number 29188; thence North 49° 44' 47" West along the Southerly line of said Mabel W. Hills property, 322.79 feet to a 5/8 inch rod set in the above mentioned survey and map for Virginia Warren, dated August 19, 1985, by Charles W. Guile & Associates, Co.; thence North 396.00 feet to a 5/8 inch iron rod; thence North 69° 00' 00" East, 390.72 feet to a point in the center of the said Old Willamette Highway per said survey, said point being referenced by a 5/8 inch iron rod South 69° 00' 00" West, 35.11 feet; thence along the center of said highway, North 25° 28' 48" West, 30.09 feet to the TRUE POINT OF BEGINNING, in Lane County, Oregon.

EXCEPTING THEREFROM the following tract of land: (Homesite at 38538 Dexter Road)

Beginning at the Brass Cap Monument marking the Southeast corner of the John Stoops Donation Land Claim No. 41. Township 19 South, Range 1 West of the Willamette Meridian; thence North 89° 46' 18" West, 2045.33 feet; thence North 0° 13' 42" East, 736.39 feet; thence North 25° 28' 48" West, 30.09 feet to a point in the center of the Old Willamette Highway as per the above mentioned survey, said point being the TRUE POINT OF BEGINNING and being referenced by a 5/8 inch iron rod South 69° 00' 00" West, 35.11 feet; thence South 69° 00' 00" West, 380.82 feet to a 5/8 inch iron rod; thence along the arc of a 450.02 foot radius curve to the right (the chord of which bears South 78° 35' 00" West, 149.84 feet) a distance of 150.54 feet to a 5/8 inch iron rod; thence South 88° 10' 00" West, 80.78 feet to a point in the center of Lost Creek; thence continuing South 88° 10' 00" West, 54.22 feet to a 5/8 inch iron rod; thence South 54° 47' 00" West, 206.00 feet to a 5/8 inch iron rod; thence South 48° 02' 00" East, 72.48 feet; thence South 32° 25' 00" East, 204.65 feet; thence East, 138.00 feet to a point in the center of said Lost Creek; thence upstream along the center of said Lost Creek along the arc of a 121.79 foot radius curve to the left (the chord of which bears South 59° 30' 44" East, 176.63 feet) a distance of 197.60 feet; thence leaving said creek centerline and running North, 36.90 feet to the Westerly Southwest corner of the Mabel W. Hills property as conveyed on April 25, 1959 and recorded on April 25, 1961 in Reel 171D, Reception No. 30030, Lane County Oregon Deed Records; thence North 396.00 feet along the West line of said Hills property to a 5/8 inch iron rod; thence North 69° 00' 00" East, 390.72 feet to a point in the center of the said Old Willamette Highway, said point being referenced by a 5/8 inch iron rod South 69° 00' 00" West, 35.11 feet; thence along the center of said highway, North 25° 28' 48" West, 30.09 feet to the TRUE POINT OF BEGINNING, in Lane County, Oregon.

EXHIBIT B

ROADWAY AND UTILITY EASEMENT

Beginning at the Brass Cap Monument marking the Southeast corner of the John Stoops Donation Land Claim No. 41. Township 19 South, Range 1 West of the Willamette Meridian; thence North $89^{\circ} 46' 18''$ West, 2045.33 feet; thence North $0^{\circ} 13' 42''$ East, 736.39 feet; thence North $25^{\circ} 28' 48''$ West, 30.09 feet to a point in the center of the Old Willamette Highway; thence South $69^{\circ} 00' 00''$ West, 35.11 feet to the TRUE POINT OF BEGINNING; thence South $69^{\circ} 00' 00''$ West, 811.14 feet; thence South $48^{\circ} 02' 00''$ East, 33.68 feet; thence North $69^{\circ} 00' 00''$ East, 798.18 feet; thence North $25^{\circ} 28' 48''$ West, 30.09 feet to the TRUE POINT OF BEGINNING, in Lane County, Oregon.

EXHIBIT C

Map 19-01-08, Tax Lot 3800
After Adjustment

This description is based on that survey and map for Virginia Warren, dated August 19, 1985, by Charles W. Guile & Associates, Co.:

Beginning at the Brass Cap Monument marking the Southeast corner of the John Stoops Donation Land Claim No. 41. Township 19 South, Range 1 West of the Willamette Meridian; thence North 89° 46' 18" West, 2045.33 feet; thence North 0° 13' 42" East, 736.39 feet; thence North 25° 28' 48" West, 30.09 feet to a point in the center of the Old Willamette Highway as per the above mentioned survey, said point being referenced by a 5/8 inch iron rod South 69° 00' 00" West, 35.11 feet; thence South 69° 00' 00" West, 380.82 feet to a 5/8 inch iron rod; thence along the arc of a 450.02 foot radius curve to the right (the chord of which bears South 78° 35' 00" West, 149.84 feet) a distance of 150.54 feet to a 5/8 inch iron rod; thence South 88° 10' 00" West, 80.78 feet to a point in the center of Lost Creek and the TRUE POINT OF BEGINNING; from the True Point of Beginning run thence North 88° 10' 00" East, 80.78 feet to a 5/8 inch iron rod; thence along the arc of a 450.02 foot radius curve to the left (the chord of which bears North 78° 35' 00" East, 149.84 feet) a distance of 150.54 feet to a 5/8 inch iron rod; thence North 69° 00' 00" East, 380.82 feet to a point in the centerline of the Old Willamette Highway as per the above mentioned survey; thence along said centerline South 25° 28' 48" East, 30.09 feet; thence leaving said centerline and running South 69° 00' 00" West, 390.72 feet to a 5/8 inch iron rod at the Westerly Northwest corner of the Mabel W. Hills property as conveyed on April 25, 1959 and recorded on April 25, 1961 in Reel 171D, Reception No. 30030, Lane County Official Records; thence South, along the West line of said Hills property, 396.00 feet to the Westerly Southwest corner of said Hills property; thence leaving said Hills property and continuing South, 36.90 feet to a point in the center of said Lost Creek; thence along the center of said Lost Creek along the arc of a 121.79 foot radius curve to the right (the chord of which bears North 59° 30' 44" West, 176.63 feet) a distance of 197.60 feet; thence leaving the center of said Lost Creek and running West, 138.00 feet; thence North 32° 25' 00" West, 204.65 feet; thence North 48° 02' 00" West, 72.48 feet to a 5/8 inch iron rod; thence North 38° 13' 00" West, 140.79 feet to a 5/8 inch iron rod; thence South 53° 24' 00" West, 318.37 feet to a point on the Northeasterly right of way line of the Relocated Southern Pacific Railroad right of way, said point being referenced by a 5/8 inch iron rod North 53° 24' 00" East, 1.00 foot; thence along the said Northeasterly right of way line as per said survey the following courses: along a line which is 150.00 feet distant Northeasterly from, when measured at right angles to, the centerline of said railroad, along the arc of a decreasing talbot spiral curve right (having a centerline value of $a = 0.8 [4/5]$), the chord of which bears North 23° 01' 03" West, 180.81 feet to a point 150.00 feet distant from Engineer's centerline station L2 1125+91.59 ES; thence along a line which is 150.00 feet distant Northeasterly from, when measured at right angles to, the said railroad centerline, North 22° 34' 04" West, 291.59 feet to a point being 150.00 feet distant from, when measured at right angles to, Engineer's centerline station L2 1123+00; thence North 67° 25' 56" East, 100.00 feet to a point being 250.00 feet distant from Engineer's centerline station L2 1123+00; thence along a line that is 250.00 feet distant from, when measured at right angles to, the said railroad centerline, North 22° 34' 04" West, 550.00 feet to a point which is 250.00 feet distant from, when measured at right angles to, Engineer's centerline station L2 1117+50; thence North 67° 34' 04" West, 141.42 feet to a point which is 150.00 feet distant Northeasterly from, when measured at right angles to, Engineer's centerline station L2 1116+50; thence along a line that is 150.00 feet distant from, when measured at right angles to the said railroad centerline, North 22° 34' 04" West, 350.00 feet to a point which is 150.00 feet distant Northeasterly from, when measured at right angles to, Engineer's centerline station L2 1113+00; thence North 16° 37' 10" West, 482.48 feet to a 5/8 inch iron rod, said rod being 200.00 feet distant from, when measured at right angles to, the said railroad centerline; thence leaving said railroad right of way line, North 89° 12' 00" East, 44.92 feet to a 5/8 inch iron rod; thence continue North 89° 12' 00" East,

30.00 feet to a 5/8 inch iron rod set in Lost Creek to mark the South Southeast corner of the William McCall Donation Land Claim No. 39, said Township 19 South, Range 1 West of the Willamette Meridian; thence North 83° 40' 00" East, 43.70 feet; thence South 60° 25' 00" East, 362.87 feet to a point in the center of the existing Lost Creek; thence upstream along the center of said Lost Creek, South 35° 54' 00" East, 208.00 feet; thence South 29° 50' 00" East, 285.34 feet; thence South 38° 38' 00" East, 626.74 feet; thence South 20° 56' 00" East, 388.19 feet; thence South 13° 02' 00" East, 185.02 feet to the TRUE POINT OF BEGINNING, in Lane County, Oregon.

**DIVISION OF CHIEF DEPUTY CLERK
LANE COUNTY DEEDS AND RECORDS**



71.00

00031680200021328009

2000021328

2:46:41 PM 04/14/2000

RPR ESHT 1 - 3 CASHIER 04
5.00 45.00 10.00 11.00