

Site Class VI Forest Land in Lane County

Ownership	Species	Acreage	Volume (cu. ft.)
Forest Industry	-	0	0
Other Private	-	0	0
Willamette N.F.	-	0	0
Umpqua N.F.	-	0	0
Siuslaw N.F.	hardwoods	900	2,336
State & Other Pub.	hardwoods	1,530	3,700
<b>Total</b>		<b>2,430</b>	<b>6,036</b>

\* Source: 1960 Oregon Timber Supply and Assessment  
Oregon State Forestry Dept., December, 1960.

In addition the Oregon Forest Practices Act applies to commercial operations and as per OAR 629-24-501 (The Reforestation Requirements of the FPA for the Oregon Northwest Region):

"Lands Affected. Any lands which come within the definition of forest land and which are capable of a mean annual production of at least 50 cubic feet per acre at culmination as determined by Site Index Tables contained in ..."

Summary:

- 1) Since Lane County has inventoried its forest lands as per Goal #4 and has mapped Forest Land CFSC 2-5 with CFSC 5 defined as forest land capable of producing crops of industrial wood in excess of 50 or more cubic feet per acre of annual growth; and
- 2) Since the acreage inventoried by the 1960 Oregon Timber Supply and Assessment identified a relatively small amount (less than 2,500 acres) of land in Lane County with productivity ratings of less than 50 cubic feet per acre; and
- 3) Since the SCS Soil Interpretive Sheets for Lane County do not provide information indicating the potential forest productivity below CFSC 5; and
- 4) Since the Oregon Forest Practices Act applies to commercial operations and identifies the lands affected by OAR 629-24-501 as capable of at least 50 cubic feet per acre of annual growth;

Staff Recommends the following:

- 1) Amend the definition of "commercial" forest land p.3 of the Forest Lands Working Paper, March, 1962, and p.3 of the Addendum to the Working Paper: Forest Lands, 1962, to read as follows:

... "Commercial" forest land (land capable of producing crops of industrial wood in excess of 50 cubic feet per acre of annual growth..."

- 2) Appendix 1 of the Forest Lands Working Paper, March, 1962, lists Lane County Forest Soils and their corresponding CFSC rating as of that date. As more current information regarding forest soils becomes available, Lane County should rely upon the most current Soils Data and Soils Interpretations as utilized by the US Dept. of Agriculture Soil Conservation Service.

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**ADDENDUM TO WORKING PAPER:**

**FOREST LANDS**

**November, 1983**

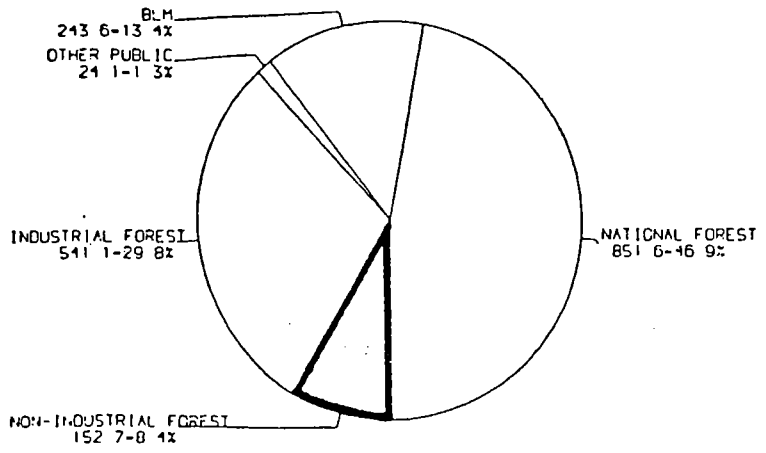
B. Technical Data

Inventories of Lane County's "commercial" forest land (land capable of producing crops of industrial wood in excess of 20 cubic feet per acre of annual growth) have been done. These inventories have been broken down by ownership, acreages, productivity (site classes), forest types (species), volume of standing timber and harvest. (See Figures I & II).

**FIGURE I**

ACRES OF COMMERCIAL FOREST LAND BY OWNERSHIP \*  
LANE COUNTY, 1981  
(In 1,000 acres)

	National Forests	BLM	Other Public	Forest Industry	Non-Industrial Private	Total Ownerships
Acres	851.65	243.64	24.13	541.07	152.74	1,813.22
Percent	46.97%	13.44%	1.33%	29.84%	8.42%	100%



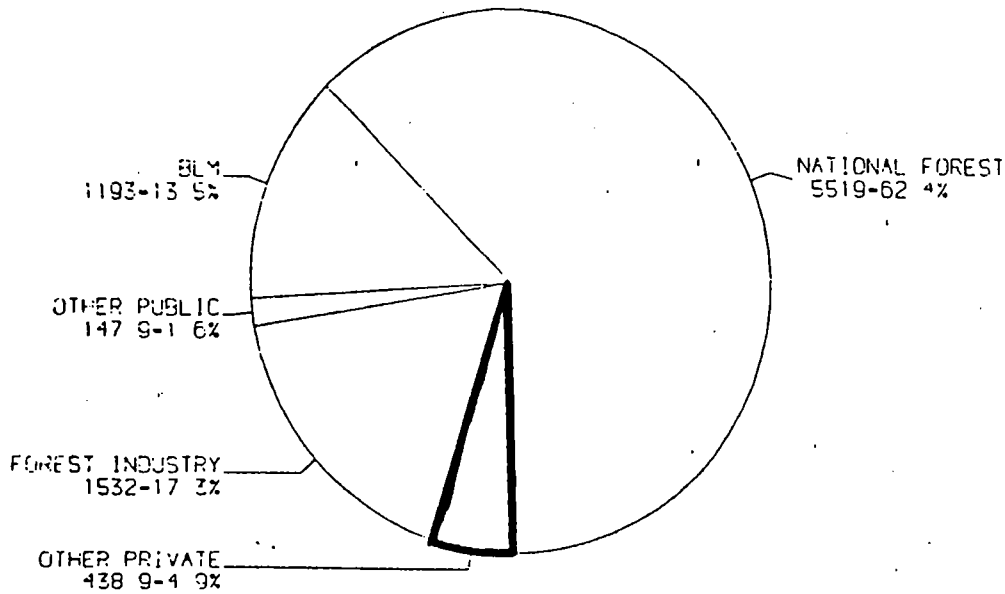
ACRES OF COMMERCIAL FOREST LAND BY CUBIC FOOT SITE CLASS,  
FOREST TYPE AND OWNERSHIP  
Lane County, 1981  
(1,000 acres)

Cubic Foot Site Class	Forest Type**	National Forests*	BLM	Other Public	Forest Industry	Non-Industry Private*	Total
2	DF	125.9	39.0	6.0	51.3	2.7	224.9
	HCS	28.3	0	0	22.4	1.0	51.7
	OC	39.6	0.8	0	0	0	40.4
	D	6.5	0	4.0	18.2	4.6	33.3
3	DF	235.8	148.5	8.2	195.8	50.0	638.3
	HCS	33.3	0	0	29.3	9.2	71.8
	OC	39.4	1.1	0	0	0	40.5
	D	6.1	T	4.5	75.6	27.9	114.1
4	DF	118.1	31.5	0	95.4	16.8	261.8
	HCS	23.6	0	0	10.1	5.7	39.4
	OC	35.5	0.7	0	0	0	36.2
	D	9.1	3.4	1.4	15.4	25.8	55.1
5	DF	99.0	17.8	0	27.5	1.6	145.9
	HCS	11.7	0	0	0	0.9	12.6
	OC	32.2	0.8	0	0	0	33.0
	D	7.5	T	0	0	6.5	14.0
TOTALS		851.6	243.6	24.1	541.0	152.7	1,813.0

DF - Douglas fir  
HCS - Hemlock, Cedar, Spruce  
OC - Other Conifers  
D - Deciduous

## FIGURE II

COMMERCIAL FOREST INVENTORY (IN MMCF) BY OWNERSHIP  
LANE COUNTY, 1980



1980 COMMERCIAL FOREST INVENTORY BY OWNERSHIP \*  
Lane County  
(Volume in Millions of Cubic Feet)

CFSC	Forest Type	National Forests**	BLM**	Other Public	Forest Industry	Non-Industry Private**	Total
2	DF	655.4	298.7	51.9	266.8	17.2	1290.0
	HCS	170.5	0	0	157.1	7.7	335.3
	OC	238.3	1.3	0	0	0	239.6
	D	43.6	0	15.0	26.4	15.1	100.1
3	DF	1922.2	666.2	55.9	506.8	197.8	3348.9
	HCS	247.9	0	0	122.2	19.8	389.9
	OC	218.2	4.6	0	0	0	222.8
	D	28.7	0.1	21.4	138.4	77.0	265.6
4	DF	861.3	129.0	0	242.8	44.5	1277.6
	HCS	160.8	0	0	5.3	1.7	167.8
	OC	127.5	2.1	0	0	0	129.6
	D	24.2	7.9	0	3.8	30.5	66.4
5	DF	612.7	81.2	0	62.2	8.5	764.6
	HCS	54.3	0	0	0	2.6	56.9
	OC	128.5	1.6	0	0	0	130.1
	D	24.5	0	3.7	0	16.5	44.7
<b>TOTAL</b>		<b>5,518.6</b>	<b>1,192.7</b>	<b>147.9</b>	<b>1,531.8</b>	<b>438.9</b>	<b>8,829.9</b>

DF - Douglas fir  
HCS - Hemlock, Cedar, Spruce  
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\* For source, refer to Bibliography entry No. 28.

\*\* These volumes were determined by reducing their values by the same percent that was calculated for the acreage figures (Table V). Using acreage correction factors on volume data is not as accurate as would be desired. However, for general trend analysis it is considered acceptable due to the relatively random nature of the volume distribution, and lack of another source of the data.

**LANFEAR Thom**

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**From:** LANFEAR Thom  
**Sent:** Wednesday, August 02, 2006 4:14 PM  
**To:** 'ebecker3@comcast.net'  
**Cc:** BARNES-WIEDERHOLD Janey  
**Subject:** RE: Two requests

Hi Ed:

I will pass along your request for the tapes to Janey Barnes Wiederhold for you.

I will also pass along your request for more information to the applicant's agent. It will be up to Mr. Cornacchia whether to submit new info or not. The submittal of new information by the applicant would require the opening of the record to allow other parties to respond.

If you want to communicate your concerns regarding the information in the record with the rest of the Planning Commission, it would be more appropriate to bring this up in deliberations at a public meeting.

Thom

-----Original Message-----

**From:** ebecker3@comcast.net [mailto:ebecker3@comcast.net]  
**Sent:** Wednesday, August 02, 2006 9:17 AM  
**To:** LANFEAR Thom  
**Cc:** Ed Becker  
**Subject:** Two requests

Thom--I am hereby requesting the following additional information as part of last evening's public hearing:

- 1) a copy of the taped testimony
- 2) A complete set of field notes supporting the Soil Scientists test hole data and his modification of NRCS's soil survey for the area.

Specifically, Mr. Rabe has testified that all 18 "test holes" were dug to the depth noted in his report. In order for him to have concluded that different mapping units exist other than what is documented in the NRCS soil survey, Mr. Rabe should have additional supporting information regarding his soil analysis for each test site. Any additional information on his survey methodology would also be appreciated.

I need you to request this information from the applicant as soon as possible so it can be included into the record which is being held open for two weeks.

If there is any question as to why this is important, please contact me. Briefly, the PC is being asked to accept the applicant's mapping unit changes that alters the resource/non-resource criteria for the rezoning by a mere 2%. Given the record shows no independent peer review, or request to NRCS regarding accuracy of the applicant's survey, I feel it is prudent for the county to get as much data and site specific information as possible to validate the applicant's claim the NRCS survey is in error.

10/19/2006

Please forward this to all other PC members so that they are aware of my request.

Thanks for getting this info for me.

Ed Becker

**LANFEAR Thom**

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Please forward this to all other PC members so that they are aware of my request.

Thanks for getting this info for me.

Ed Becker

# GOAL ONE COALITION



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Goal One is Citizen Involvement

Lane County Planning Commission  
125 East 8<sup>th</sup> Avenue  
Eugene, OR 97401

August 1, 2006

**RE: PA 05-6249, Carver nonresource**

Dear Members of the Commission:

The Goal One Coalition (Goal One) is a nonprofit organization whose mission is to provide assistance and support to Oregonians in matters affecting their communities. Goal One is appearing in these proceedings at the request of and on behalf of its membership residing in Lane County. This testimony is presented on behalf of Goal One and its membership; LandWatch Lane County, 642 Charnelton Suite 100, Eugene OR 97401 and LandWatch's membership in Lane County, specifically to include President Robert Emmons, 40093 Little Fall Creek Road, Fall Creek OR 97438; and Jim Hecker, 88864 Archer Lane, Florence OR 97439, as an individual. Mr. Hecker resides near the subject site and would be adversely affected by approval of the proposal.

We have not had time to thoroughly review the application material and provide detailed comments. We ask that the hearing be continued for one month. At a minimum, ORS 197.763(6) requires, following a request for the opportunity to present additional evidence, arguments or testimony regarding the application, that the record be left open for a minimum of seven days.

We do have a few general comments. Aerial photos show that the subject property is within a large area of forested, stabilized dunes that also includes areas of open dune land. This area extends north and south of the mouth of the Siuslaw River and has evidently been built up with migrating sand over a long period of years. If the subject property is not forest land, none of the land within this

It is repeatedly asserted that Lane County has adopted a 50 cf/ac/yr standard for forest lands. No plan policy establishes such a standard. The Forest Working Papers used a 50 cf/ac/yr standard in the initial inventory process, consistent with the ODF threshold for requiring reforestation. Now, consistent with U.S. Forest Service, ODF has adopted a 20 cf/ac/yr standard. Plan Goal 4 Policy 7(a) specifically recognizes that cubic foot site class 6 forest lands, with potential productivity of between 20 and 49 cf/ac/yr, are protected by Goal 4 and may be planned and zoned for forest uses.

OAR 660-006-0010 requires that the forest inventory *include a mapping* of forest site class – it does not *limit* the forest inventory to a mapping of potential productivity and does not *allow* for inventorying forest land solely on the basis of a generalized or “averaged” cf/ac/yr productivity which ignores soil mapping. “Adjacent or nearby lands which are necessary to



GOAL ONE COALITION

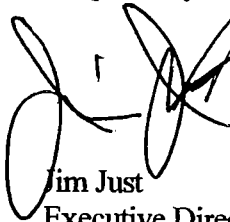
permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources” within the area being considered must also be inventoried as forest lands.

The forestry report submitted with the application materials does not include a mapping of forest site class. It is impossible to tell whether areas of land that are suitable for commercial forest uses are interspersed with other lands such that those lands are necessary to permit forest operations.

Similarly, lands that maintain soil, air, water, and fish and wildlife resources must also be inventoried as forest lands. The soils on the subject property are highly susceptible to wind erosion if the stabilizing vegetation is disturbed or removed. Such lands must be inventoried as forest lands. Forest lands also maintain air quality by sequestering carbon dioxide. Global warming is perhaps the most critical challenge we will ever face. Keeping forest lands as forest lands maintains and preserves what is by far our biggest carbon sink and is crucial in mitigating climate change.

Again, we ask that the hearing be continued or, at a minimum, that the record be left open for additional evidence and testimony.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Jim Just", written over a horizontal line.

Jim Just  
Executive Director

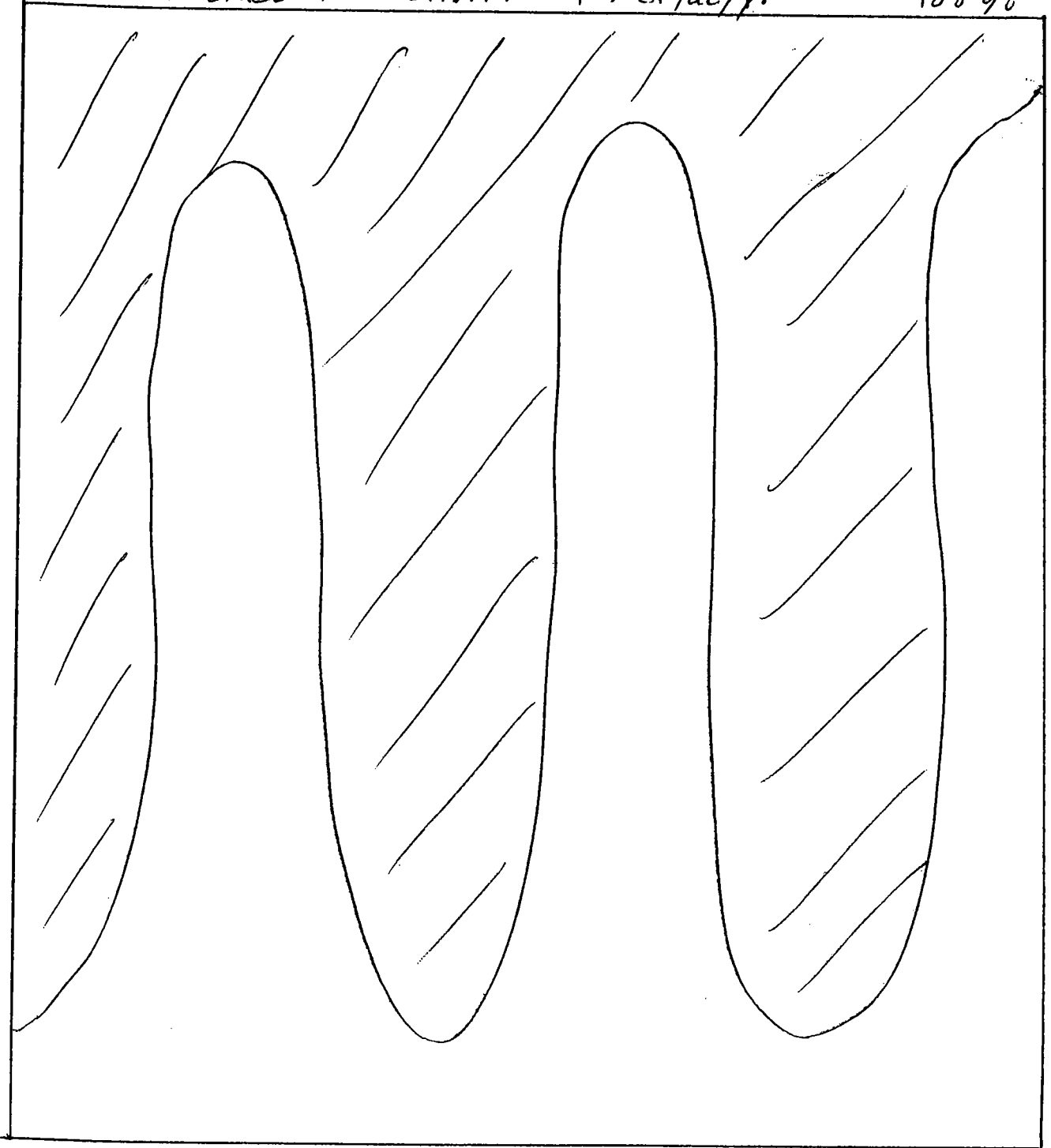
/// Forested Land 100 cf/ac/yr

□ Rock 0 cf/ac/yr

AVERAGE PRODUCTIVITY 49 cf/ac/yr

Total  
49%

51%  
100%



**Table ES-4: Recent Trends in U.S. Greenhouse Gas Emissions and Sinks by Chapter/IPC Sector (Tg CO<sub>2</sub> Eq.)**

Chapter/IPC Sector	1990	1998	1999	2000	2001	2002	2003	2004
Energy	5,149.0	5,752.3	5,822.3	5,904.3	5,931.6	5,944.6	6,009.8	6,108.6
Industrial Processes	301.1	235.1	227.5	220.8	200.7	210.9	204.1	220.7
Solvent and Other Product Use	4.3	4.8	4.8	4.8	4.8	4.8	4.8	4.8
Agriculture	439.6	483.2	483.1	458.4	483.4	457.8	439.1	440.1
Land Use, Land-Use Change, and Forestry (Emissions)	5.7	6.5	6.7	6.4	6.2	6.4	6.8	6.8
Waste	210.0	191.8	190.7	188.9	188.4	191.3	194.8	193.8
<b>Total</b>	<b>6,199.0</b>	<b>6,773.7</b>	<b>6,814.9</b>	<b>6,882.3</b>	<b>6,882.1</b>	<b>6,915.8</b>	<b>6,950.1</b>	<b>7,074.4</b>
Net CO <sub>2</sub> Flux from Land Use, Land-Use Change, and Forestry*	(910.4)	(744.0)	(765.7)	(759.5)	(768.0)	(768.6)	(774.8)	(780.1)
<b>Net Emissions (Sources and Sinks)</b>	<b>5,188.6</b>	<b>6,029.6</b>	<b>6,049.2</b>	<b>6,222.8</b>	<b>6,125.1</b>	<b>6,147.2</b>	<b>6,184.3</b>	<b>6,294.3</b>

\* The net CO<sub>2</sub> flux total includes both emissions and sequestration, and constitutes a sink in the United States. Sinks are only included in net emissions total.

Note: Totals may not sum due to independent rounding.

**Table ES-5: Net CO<sub>2</sub> Flux from Land Use, Land-Use Change, and Forestry (Tg CO<sub>2</sub> Eq.)**

Sink Category	1990	1998	1999	2000	2001	2002	2003	2004
Forest Land Remaining Forest Land	(773.4)	(618.8)	(637.9)	(631.8)	(634.0)	(634.6)	(635.8)	(637.2)
Changes in Forest Carbon Stocks	(773.4)	(618.8)	(637.9)	(631.0)	(634.0)	(634.6)	(635.8)	(637.2)
Cropland Remaining Cropland	(33.1)	(24.6)	(24.6)	(26.1)	(27.8)	(27.9)	(28.7)	(28.9)
Changes in Agricultural Soil Carbon Stocks and Liming Emissions	(33.1)	(24.6)	(24.6)	(26.1)	(27.8)	(27.5)	(28.7)	(28.9)
Land Converted to Cropland	1.5	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)
Changes in Agricultural Soil Carbon Stocks	1.6	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)	(2.8)
Grassland Remaining Grassland	(4.8)	7.5	7.5	7.4	7.4	7.4	7.3	7.3
Changes in Agricultural Soil Carbon Stocks	(4.5)	7.5	7.5	7.4	7.4	7.4	7.3	7.3
Land Converted to Grassland	(17.6)	(21.1)	(21.1)	(21.1)	(21.1)	(21.1)	(21.1)	(21.1)
Changes in Agricultural Soil Carbon Stocks	(17.6)	(21.1)	(21.1)	(21.1)	(21.1)	(21.1)	(21.1)	(21.1)
Settlements Remaining Settlements	(83.2)	(84.2)	(88.8)	(85.9)	(89.7)	(89.9)	(83.8)	(87.3)
Urban Trees	(58.7)	(73.3)	(77.0)	(77.0)	(80.7)	(80.7)	(84.3)	(88.0)
Landfilled Yard Trimmings and Food Scraps	(24.5)	(10.9)	(9.8)	(8.9)	(9.0)	(9.3)	(9.4)	(9.3)
<b>Total</b>	<b>(910.4)</b>	<b>(744.0)</b>	<b>(765.7)</b>	<b>(759.5)</b>	<b>(768.0)</b>	<b>(768.6)</b>	<b>(774.8)</b>	<b>(780.1)</b>

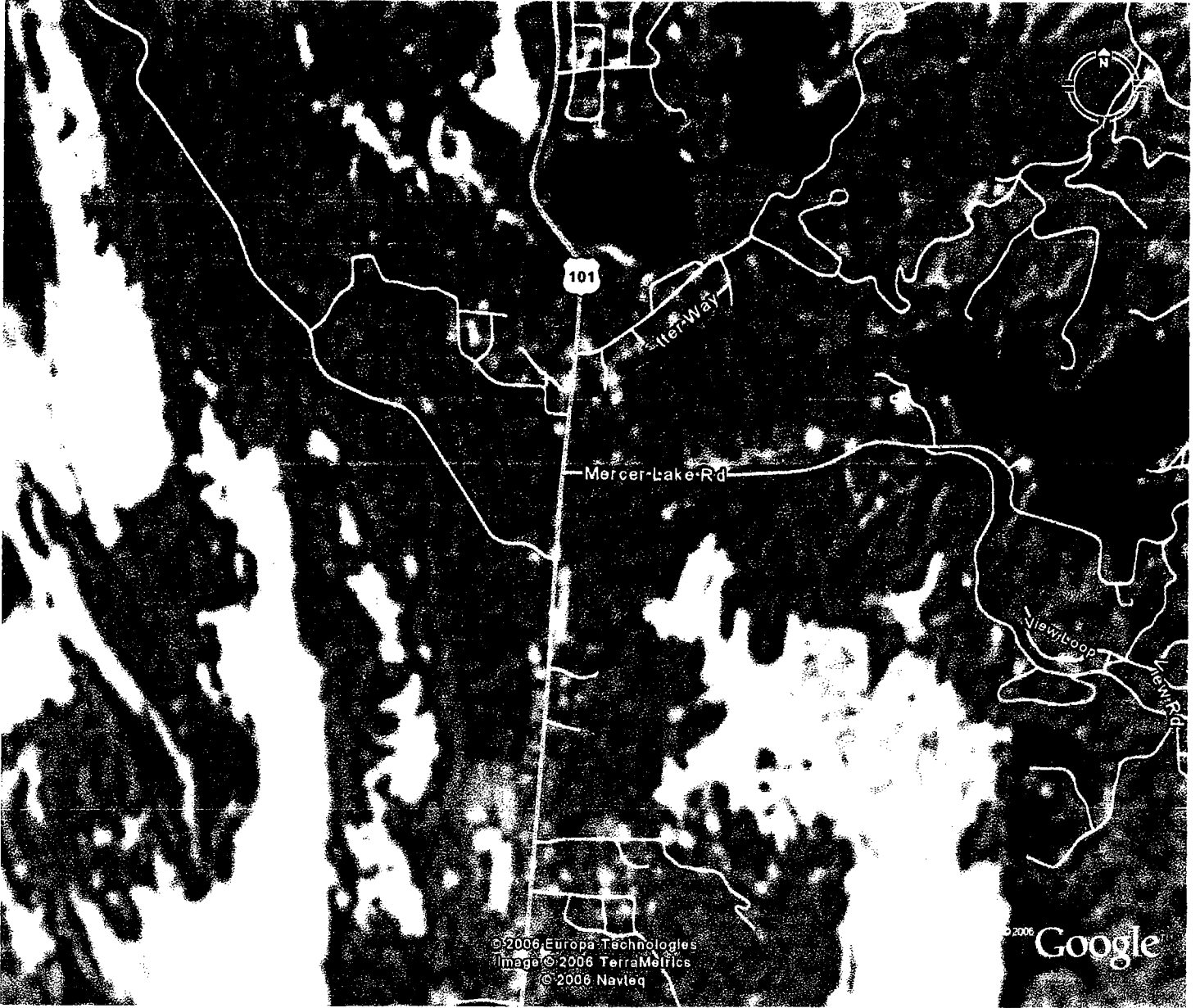
Note: Totals may not sum due to independent rounding. Parentheses indicate net sequestration.

Sitka Spruce Site Index and Cubic Foot  
Site Class Table (Forest Survey)

	Site Index														
	50	60	70	80	90	100	110	120	130	140	150	160	170	180	190
Potential Yield Cubic Feet/Acre	20-49	50-84		85-119		120-164		165-224			225+				
Cubic Foot Site Class	6	5		4		3		2			1				

Lodgepole Pine Site Index and Cubic Foot  
Site Class Table (Forest Survey)

	Site Index					
	10	20	30	40	60	70
Potential Yield Cubic Feet/Acre	$\leq 20$		20-49		50-84	
Cubic Foot Site Class	7		6		5	





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© 2006 Navteq

Google

Bull Island

Pointer 44°02'47.76" N 124°05'49.79" W elev 112 ft | of streaming 100% Eye alt 47565 ft



# Oregon

Theodore R. Kulongoski, Governor

REC'D JUL 13 2006

**Department of Land Conservation and Development  
Oregon Coastal Management Program Field Office**

720 Mill Street, PO Box 451

Waldport, Oregon 97394-0451

(541) 563-2056

FAX (541) 563-4022

Web Address: <http://www.oregon.gov/LCD>

July 10, 2006

Thom Lanfear, Planner  
Lane County Planning Department  
125 E. 8<sup>th</sup> Ave.  
Eugene, OR 97401-2926

Re: PA 05-6249

Thom,

We have reviewed the above referenced plan amendment and zone change proposed by Julia A. Carver. The subject property is located just north of the city of Florence at 88420 North Highway 101 and is presently planned and zoned for forest use. The property owner is requesting a plan amendment and zone change that would facilitate land partitioning and low-density rural residential development.

**Land Capability.** The applicant describes the subject property as a gently undulating terrace comprised of stabilized dune formations. Vegetation consists of manzanita, rhododendron, salal, blackberry, huckleberry, shore pine and cedars. The soils on the 52-acre parcel are Netarts and Waldport fine sands (27 ac) and Yaquina loamy fine sand (25 ac). The Netarts and Waldport soils are NRCS capability class VI and VII, while the Yaquina soil is class IV. None of the soils are rated by the NRCS for production of Douglas Fir. The applicant hired Marc Setchko, consulting forester, to evaluate the productivity of the parcel. Mr. Setchko reports that, due to soil and other environmental conditions, the property is poorly suited for the production of wood fiber, producing less than 50 cu. ft./ac./yr.

**Findings Must Address the Definitions of Farm and Forest Lands.** To qualify as "non-resource" land, it must be demonstrated that the land does not meet the definition of agricultural and forest lands in the Coos County Comprehensive Plan and the statewide planning goals. Agricultural lands and Forest lands are defined in the statewide planning Goals as follows:

"**Agricultural Land** in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which

are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event. More detailed soil data to define agricultural land may be utilized by local governments if such data permits achievement of this goal. Agricultural land does not include land within acknowledged urban growth boundaries or land within acknowledged exceptions to Goals 3 or 4.” (Statewide Planning Goal 3)

“**Forest lands** are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.” (Statewide Planning Goal 4)

The Findings to support this proposed plan amendment must address both farm and forest lands capability and should specifically address the definitions of farm and forest lands as expressed in the Coos County Comprehensive Plan and the statewide planning goals. The findings must explain why the subject land does not meet these definitions and provide evidence to support that argument.

**Farm Land.** According to the NRCS Soil Survey and the specific soil report commissioned by the applicant, about 52% of the soils on the subject property are capability class VI through VIII and would typically be considered “nonagricultural.” The Yaquina soil however, are have an NRCS class rating of IV and have limited value as pasture land. Wind erosion of these sands, when tilled, a harsh microclimate and lack of irrigation water are cited as impediments to developing the property for livestock production. The agricultural consultant, Paul Day, estimates that the property could support less than two head of cattle. There are no commercial farming activities adjacent or nearby the subject property. Lands surrounding the property are forested or developed for rural residential use.

**Forest Land.** The NRCS soil survey indicates that none of the soils on the site are well suited for the production of Douglas Fir wood fiber. The consulting forester has submitted a site-specific report that concludes the property is capable of producing less than 50 cu. yd./ac./yr of wood fiber. Low soil fertility and a variety of micro-climatic conditions related to its proximity to the ocean have resulted in harsh conditions for tree growth.

We recognize that the various impediments cited by the farm and forestry consultants, when considered in context with the inherently low fertility of these sandy soils, severely affect the resource capability of this parcel.

**Planning and Zoning for Rural Lands.** The rural residential density standard for new exception areas requires a 10 acre minimum lot size (OAR 660-04-040(I)). However, this application does not involve an exception to the statewide planning goals. Instead, the applicant is arguing that the land is not resource land and therefore is not subject to statewide Goals 3 and 4 pertaining to the planning and zoning of farm and forest lands. Therefore, if the county finds the subject property meets the definition of “non-resource” land and approves this request, a rural density of less than



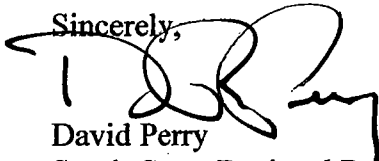
10 acres may be applied. Allowed rural densities should be consistent with the carrying capacity of the land with respect to available roads and other public facilities, as well as the suitability of the land for on-site wells and septic systems. The proposed 5 acre minimum lot sizes would be suitable, based on surrounding land use.

Since most non-resource lands are intermixed with farm and forest lands, the applicant should address compatibility of future rural residences on the site with nearby farming or forestry operations. We also recommend that Lane County apply the same standards for emergency vehicle access and wildfire mitigation that apply to farm and forest dwelling permits. And, it is prudent to condition dwelling approvals on these lands with the requirement that landowners not complain about customary resource land management practices on adjacent or nearby lands.

In conclusion, to designate this land "non-resource," the county must adopt findings that clearly demonstrate that the site conditions on this property qualify it for "non-resource" status. Based on soil data and site-specific information provided in this application it is apparent that the subject parcel has severe limitations with regard to farming and forestry practices. If the county concludes the property qualifies as "non-resource" land, the property should be planned and zoned according to its limited capacity to support rural development.

Thank you for this opportunity to comment. If you have questions, or I can be of assistance, please call.

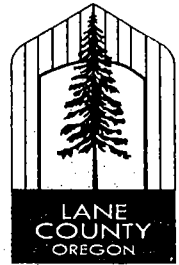
Sincerely,



David Perry  
South Coast Regional Representative

c: Rob Hallyburton  
Bob Bailey  
Ron Eber

**NOTICE  
LAND USE CHANGE BEING PROPOSED IN YOUR AREA  
&  
PUBLIC HEARING**



LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

**Department File Number:** PA 05-6249  
**Subject Property:** 18-12-02-20 #1900  
**Applicant:** Roy Carver III  
**Owner:** Julia A. Carver  
**Agent:** Steve Cornacchia  
**Location:** 88420 Highway 101 N.  
**Date & Time:** 7 P.M., August 1, 2006

Neighboring Land Owners: You are receiving this information because you own or occupy property very near the above referenced property shown on the attached map. Lane County land use regulations require that you receive this notice so that you will have a chance to comment on or participate in the hearing for the land use changes being proposed in your area. You may want to share this information with others in your neighborhood. Lane County only notifies property owners or occupants nearby the property upon which a land use change is proposed, so several of your neighbors may not yet be aware of the proposal. Notice to mortgagee, lien holder, vendor or seller: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

Agencies: The proposed development would be located in your district or service area and may place demands on you for the services your agency provides.

Land Owners, agencies, or any other party that wishes to comment on the proposal may submit their comments care of the staff person listed below prior to the hearing, or you may present materials and/or testimony at the hearing itself.

**PROPOSAL:** Request for a Rural Comprehensive Plan (RCP) diagram amendment from "Forest" to "Nonresource", and a zoning map amendment from Impacted Forest Lands (F-2) to Rural Residential (RR-5) for a 52.17 acre site located west of Highway 101 and north of the City of Florence, pursuant to Lane Code (LC) 16.252 and LC 16.400.

The criteria for Minor Amendments are found in Lane Code 16.400 (6)(h)(iii)(aa through dd). The proposal is also subject to the information requirements of L.C. 16.400(8)(a) & (c) (i through iii). These criteria and requirements deal generally with the policy basis for the amendment and the impact on nearby resources and services. These criteria also require compliance with applicable Statewide Planning Goals.

The application must also meet the criteria for a zone change as set forth in Lane Code 16.252(2). The criteria deal generally with achieving the purpose of Lane Code, Chapter

16 and the Rural Residential zoning district, with the public interest and with the applicable Plan elements and components. Uses authorized by the decision are those permitted in the zoning district as provided by L.C.16.231.

The Lane County Approval Authority who will conduct the public hearing is The Lane County Planning Commission. **The hearing will be held on August 1, 2006, at 7:00 P.M., Harris Hall, 125 East 8th Avenue, Eugene, Oregon 97401**

The order of procedure for the conduct of the hearing will generally be as follows:

- a. Announcement of the nature and purpose of the hearing
- b. Announcement of opportunities for submission of information and appeal.
- c. Disclosure of ex parte contacts
- d. Abstentions
- e. Report by the Director
- f. Applicant's testimony
- g. Testimony of persons in favor
- h. Testimony of other persons
- i. Any additional comments by the Director
- j. Applicant rebuttal
- k. Conclude the hearing

Failure of an issue to be raised in a hearing in person or by writing, or failure to provide sufficient specificity to afford the Approval Authority who conducts the hearing an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals on that issue.

The application, all documents and evidence relied upon by the applicant, and the applicable criteria are available for inspection at no cost at the Land Management Division, and copies will be provided at a reasonable cost. A copy of the staff report will be available for inspection at least seven days prior to the hearing at no cost at the Land Management Division, and copies will be provided upon request at reasonable cost. **The representative of the Land Management Division to contact regarding this application hearing, and for submittal of documents into the record, is Thom Lanfear, and the telephone number where additional information may be obtained is 682-4054.**

Lane County complies with state and federal laws and regulations relating to discrimination, including the Americans with Disabilities Act of 1990 (ADA). Individuals with disabilities requiring accommodations should contact Melissa Zimmer at 682-6503 at least 48 hours prior to the meeting.

Copies of the applicable Lane Code criteria are also available for review at the following locations. Locations marked with a "+" also have copies of State law (ORS, OAR), if needed. Please be sure to call the facility for their respective hours of operation.

- |  |  |
|--|--|
| <p>1. <i>U of O Law Library+</i><br/>346-3088<br/><i>U of O</i></p>  | <p>2. <i>City of Coburg</i><br/>485-6266<br/>91069 N. Willamette<br/>Coburg OR 97408</p>       |
| <p>3. <i>Eugene Public Library</i><br/>687-5353(<i>Adult Reference</i>)<br/>100 W. 13th Avenue<br/>Eugene OR 97401</p> | <p>4. <i>NW School of Law/Portland+</i><br/>(502)768-3879</p>                                  |
| <p>5. <i>Springfield Library</i><br/>726-3766<br/>225 N. 5th Street<br/>Springfield OR 97477</p>                       | <p>6. <i>Siuslaw Library (Flo.)</i><br/>997-3132<br/>1460 9th Street<br/>Florence OR 97439</p> |
| <p>7. <i>LCC Library-Learning Resources Center-</i><br/>726-2220<br/>2000 30th Avenue<br/>Eugene OR</p>                | <p>8. <i>Lane County Law Library+</i><br/>682-4337<br/>125 E 8th Ave<br/>Eugene OR 97401</p>   |

Mailed copies of the applicable criteria are also available, at cost, by calling Barbara Andreas at 682-3347. Please allow one week for mailing.

Internet access\*:

Lane Code is available at: <http://www.lanecounty.org/LaneCode/default.htm>

Oregon Administrative Rules at: <http://arcweb.sos.state.or.us/banners/rules.htm>

Oregon Revised Statues at: <http://landru.leg.state.or.us/ors/>

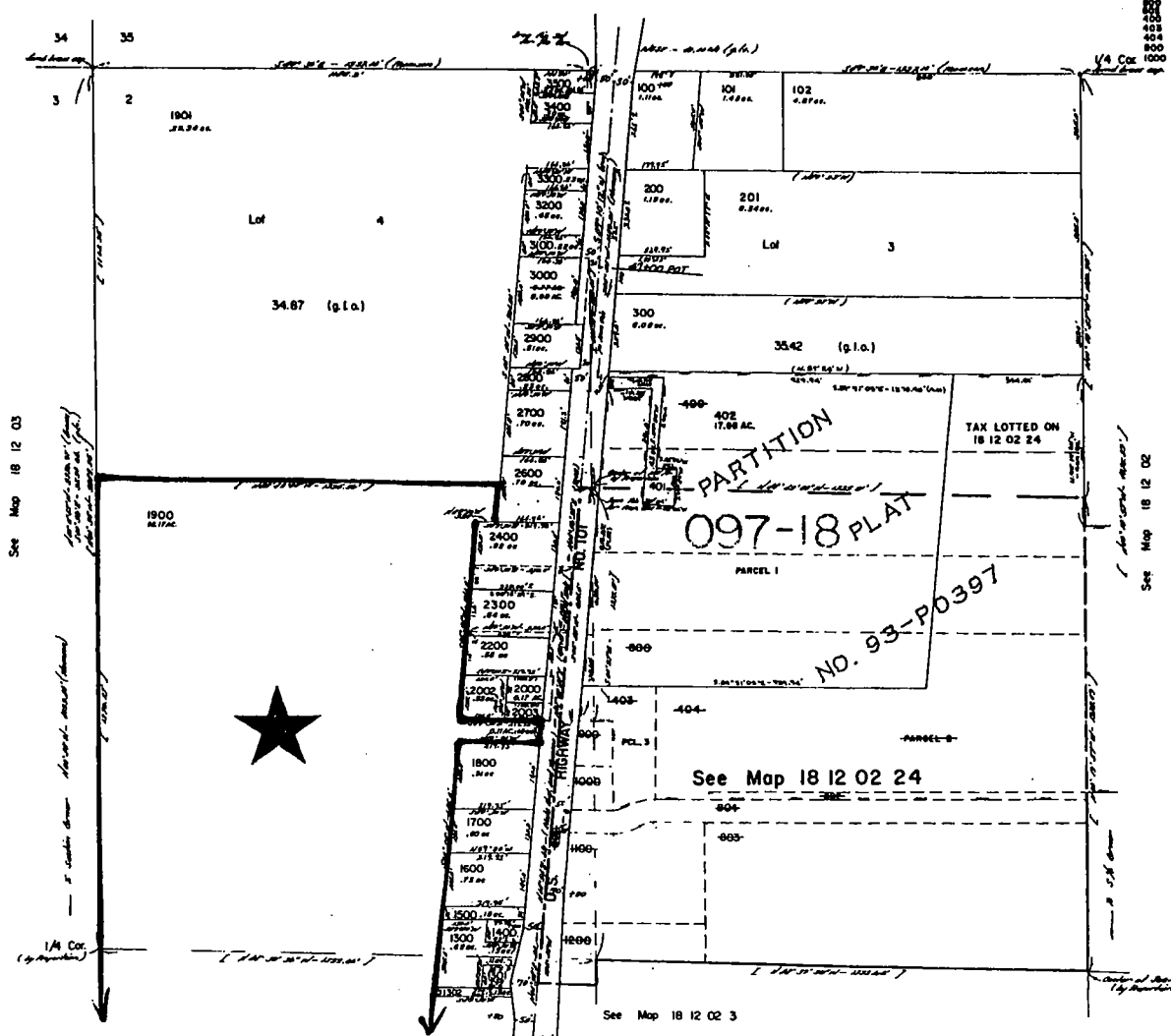
\* Internet accuracy is subject to the limitations stated therein.

LANE COUNTY

1" = 200'

See Map 17-12

CANCELLED  
801 1100  
802 1100  
803 1100  
804 1100



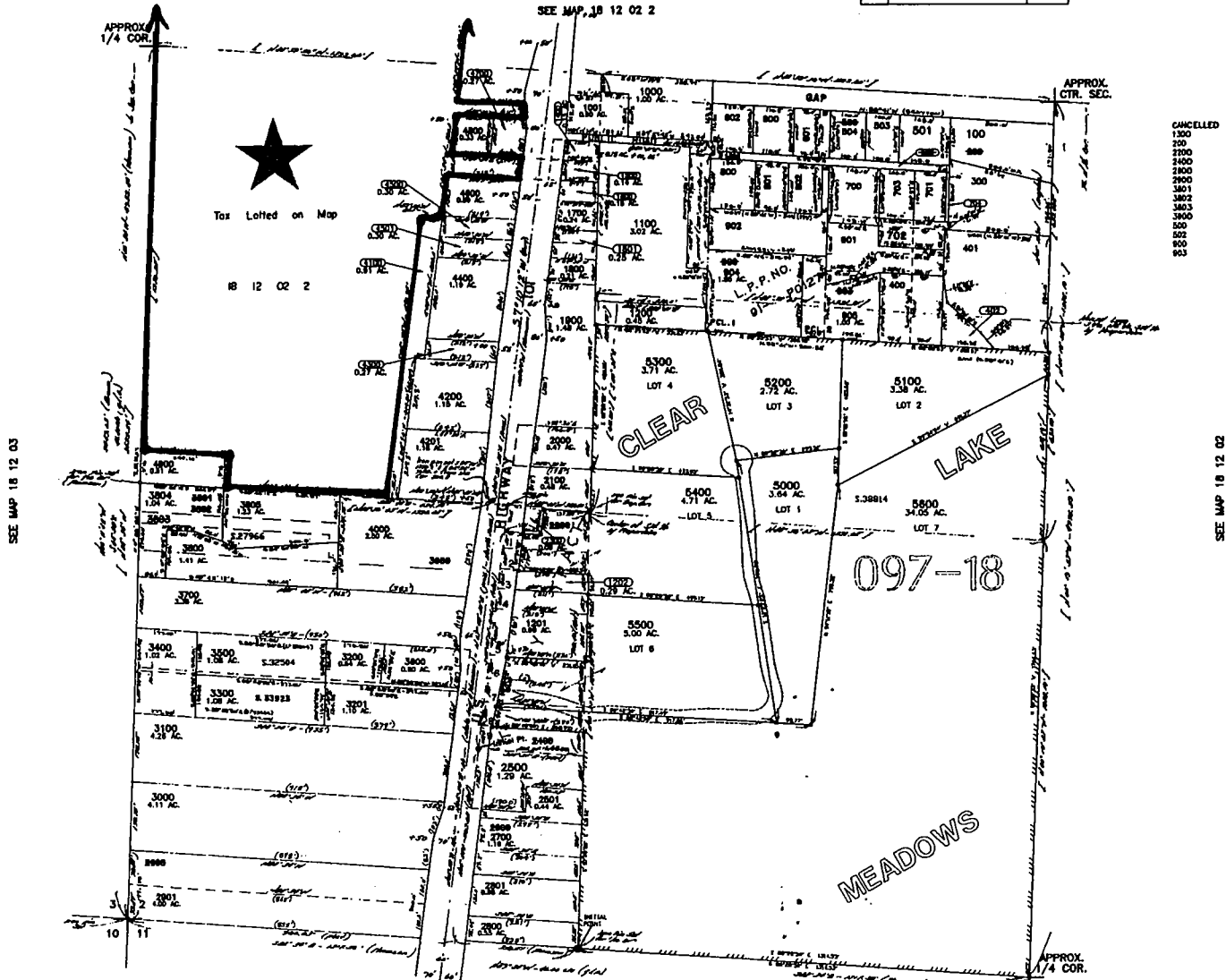
FOR ASSESSMENT  
AND TAXATION  
ONLY

SW 1/4 SEC. 2 T.18S. R.12W. W.M.  
LANE COUNTY  
SCALE 1" = 200'

18 12 02 30

NAD 83/91

LOT	ACRES	OWNER
100	0.88	LOTT
101	0.88	LOTT
102	0.88	LOTT
103	0.88	LOTT
104	0.88	LOTT
105	0.88	LOTT
106	0.88	LOTT
107	0.88	LOTT
108	0.88	LOTT
109	0.88	LOTT
110	0.88	LOTT



- CANCELLED
- 1200
- 2100
- 2400
- 2800
- 3100
- 3200
- 3300
- 3400
- 3500
- 3600
- 3700
- 3800
- 3900
- 4000
- 4100
- 4200
- 4300
- 4400
- 4500
- 4600
- 4700
- 4800
- 4900
- 5000
- 5100
- 5200
- 5300
- 5400
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- 8100
- 8200
- 8300
- 8400
- 8500
- 8600
- 8700
- 8800
- 8900
- 9000
- 9100
- 9200
- 9300
- 9400
- 9500
- 9600
- 9700
- 9800
- 9900

SEE MAP 18 12 11

18 12 02 30

REC'D MAY 02 2006

**HERSHNER HUNTER**  
LLP

STEVE CORNACCHIA  
scornacchia@hershnerhunter.com

May 1, 2006

Thom Lanfear  
Lane County Land Management Division  
125 E. 8<sup>th</sup> Avenue  
Eugene, OR 97401

Re: PA 056249 (Carver)  
Our File No.: 30517.30006

Dear Thom:

This letter confirms our telephone conversation today wherein we agreed that the subject plan amendment application needs to be modified as follows:

Section 4 LC 16.400(8)(c)(iii)(gg)2: "The subject property has not been designated by Lane County as needed for watershed protection(.)" should be amended to include the following:

"The subject property is located with the North Florence Dunal Aquifer and all development of the property shall be consistent with OAR 340-071-400(2)."

Please place this letter in the record of PA 056249.

If you have any questions or comments regarding the modification please contact me.

Best regards,



STEVE CORNACCHIA

cc: Roy Carver  
PSC:ss



**Marc E. Setchko**  
CONSULTING FORESTER

870 Fox Glenn Avenue  
Eugene, Oregon 97405  
Phone: (541) 344-0473  
FAX: (541) 344-7791

---

April 28, 2006

Attn: Lane County Planning Department

Re: Forest Productivity Analysis of Florence Parcel, T18S-R12W-Sec 2-TL #1900±52.17 acres  
Completed for Roy Carver, dated November 2, 2004.

All of the Exhibits regarding productivity present ratings based on the 50 year site index base (see enclosed copies).

Sincerely,

*Marc E Setchko*





LANE COUNTY FOREST SOIL RATINGS

Map Symbol	Soil Name	[1] Site Index	[2] Cubic Foot /Acre/Year
001A	Abiqua sicl, 0-3%	135	203
001B	Abiqua sicl, 3-5%	135	203
002E	Astoria sicl, 5-30%	130	193
003E	Astoria Variant sil, 3-30%	115	163
003G	Astoria Variant sil, 30-60%	115	163
004G	Atring-Rock outcrop complex, 30-60%	***	86**
005	Awbrig sicl	none	40**
006	Awbrig-Urban land complex	***	20**
007B	Bandon sl, 0-7%	105	145
007C	Bandon sl, 7-12%	105	145
007F	Bandon sl, 12-50%	105	145
008	Bashaw c	none	30**
009	Bashaw-Urban land complex	***	20**
010	Beaches	none	none
011C	Bellpine sicl, 3-12%	118	171
011D	Bellpine sicl, 12-20%	118	171
011E	Bellpine sicl, 20-30%	118	171
011F	Bellpine sicl, 30-50%	118	171
012E	Bellpine cob sicl, 2-30%	118	171
013F	Blachly cl, 30-50%	119	173
013G	Blachly cl, 50-70%	119	173
014E	Blachly sicl, 3-30%	127	188
014F	Blachly sicl, 30-50%	127	188
015E	Blachly-McCully cls, 3-30%	***	155
016D	Bohannon gr 1, 3-25%	118*	171
016F	Bohannon gr 1, 25-50%	118*	171
016H	Bohannon gr 1, 50-90%	118*	171
017	Brallier muck, drained	none	none
018	Brallier muck, tidal	none	none
019	Brenner sicl	none	none
020B	Eriedwell cob 1, 0-7%	108	150
021B	Bullards-Ferrelo loams, 0-7%	***	80
021C	Bullards-Ferrelo loams, 7-12%	***	80
021E	Bullards-Ferrelo loams, 12-30%	***	80
021G	Bullards-Ferrelo loams, 30-60%	***	80
022	Camas gr sl, occ flooded	none	40**
023	Camas-Urban land complex	---	20**
024	Chapman l	120	175
025	Chapman-Urban land complex	***	100**
026	Chehalis sicl, occ flooded	130	193

All ratings are taken from the "Single Phase Interpretation Sheets" (green sheets) published by the Soil Conservation Service (SCS) for the Lane County Area, Oregon except those marked \*\*

All ratings are for Douglar Fir unmanaged, fully stocked stands.

\* ratings for additional tree species are listed on SCS green sheets

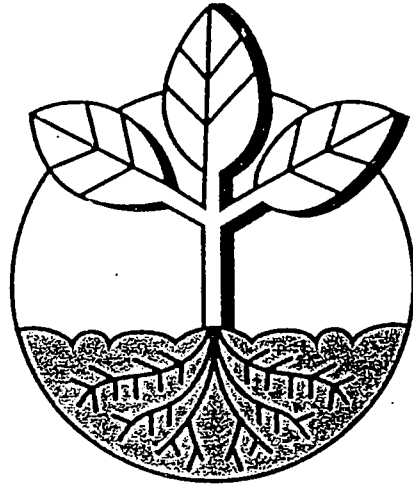
\*\* These estimated soils ratings are taken from an Office of State Forester Memorandum, February 8, 1990, General File 7-1-1

\*\*\* multiple site indices; refer to the cu.ft./acre/yr column for a composite rating for this complex

[1] 50 year base

[2] volume produced at age of culmination

# Lane County Soil Ratings for Forestry and Agriculture



Lane  
County



**Lane County  
Land Management Division**

*August 1997*

**ICOGS** Prepared by  
Lane Council of Governments

# Lane County Soil Ratings for Forestry and Agriculture

Map Symbol	Lane County Soil Map Unit	Douglas Fir Site Index	Cu. Ft./ Acre/ Year	Agricultural Capability Class	High Value Farmland
125F	Steiwer loam, 20 - 50% slopes	none		6	
126F	Tahkenitch loam, 20 - 45% slopes	124	182	6	
126G	Tahkenitch loam, 45 - 75% slopes	124	182	7	
127C	Urban land-Hazelair-Dixonville complex, 3 - 12% slopes	***	68	8	
128B	Veneta loam, 0 - 7% slopes	108	150	2	X
129B	Veneta Variant silt loam, 0 - 7% slopes	124	182	2	X
130	Waldo silty clay loam	none		3	
131C	Waldport fine sand, 0 - 12% slopes	none		6	
131E	Waldport fine sand, 12 - 30% slopes	none		7	
131G	Waldport fine sand, 30 - 70% slopes	none		7	
132E	Waldport fine sand, thin surface, 0 - 30% slopes	none		7	
133C	Waldport-Urban land complex, 0 - 12% slopes	none		6	
134	Wapato silty clay loam	none		3	X <sup>3</sup>
135C	Willakenzie clay loam, 2 - 12% slopes	110	154	3	X
135D	Willakenzie clay loam, 12 - 20% slopes	110	154	3	X
135E	Willakenzie clay loam, 20 - 30% slopes	110	154	4	X
135F	Willakenzie clay loam, 30 - 50% slopes	110	154	6	
136	Willanch fine sandy loam	none		3	
137F	Winberry very gravelly loam, 10 - 45% slopes	none		7	
138E	Witzel very cobbly loam, 3 - 30% slopes	none		6	
138G	Witzel very cobbly loam, 30 - 75% slopes	none		6	
139	Woodburn silt loam	none		2	X
140	Yaquina loamy fine sand	none		4	
141	Yaquina-Urban land complex	none		4	
142G	Yellowstone-Rock outcrop, 10 - 60% slopes	none		7	

- \* Indicates soils which have an irrigated capability class which is different from the non-irrigated capability class. *ALL OTHERS ARE 50-YEAR BASE*
- \*\* Indicates productivity calculated using 100-year Douglas fir data. *50-YEAR BASE*
- \*\*\* Indicates soil complexes with multiple site indices, refer to the CuFt/Acre/Year column for a composite volume rating for the complex.
- "none" Indicates soil map units that lack site index information on Douglas fir. The soil map unit may have the capability to produce Douglas fir, but this productivity may be very low to very high. No site index has been collected by the NRCS due to lack of suitable sites or lack of time and or funds.
- X<sup>1</sup> Only drained areas are high value farmland.
- X<sup>2</sup> Only areas protected from flooding or not frequently flooded during the growing season are high value farmland.
- X<sup>3</sup> Only drained areas that are either protected from flooding or not frequently flooded during the growing season are high value farmland.

## LANFEAR Thom

---

**From:** RCarverIII@aol.com  
**Sent:** Thursday, April 27, 2006 8:05 PM  
**To:** LANFEAR Thom  
**Cc:** scornacchia@hershnerhunter.com  
**Subject:** PA 056249

Hi Thom,

Thank you for bringing the following matters to my attention:

Netarts Soil: The soil scientist, Brian Rabe, took a look at the language in our application on page 3 that says "no new soil types were identified" and compared it to the language on page 1 of his soil study that says "According to the soil survey map, the following six soil map units are shown to occur on or near the property". He agrees with your assessment that Netarts was not previously shown to be on the property and therefore a new soil type was found on the property. He stated that the purpose of his language in the report was to show that Netarts is a soil type found in the immediate area even though it was not shown mapped on the property. The summary on page 3 of the application did not correctly reflect this distinction of "near the property" vs "on the property". Thank you for pointing this out.

50 v 100 year Forest Ratings: Marc Setchko will send you a written confirmation that the "green sheet" exhibit and the other two productivity exhibits are all based upon a 50 year growth cycle.

North Dunal Aquifer and OAR 340-71-400(2): I left a voice mail for Steve Cornacchia asking him to address these items.

Should you have any further questions or need additional information, please do not hesitate to contact me.

I look forward to getting the PC hearing date tomorrow. Thank you.

Sincerely,  
Roy Carver, III



# Land Use Application



REQUEST / PROPOSAL FOR: PA/2C NO Exception

~~Plan~~ Plan Amendment + Concurrent Zone Change

FILE NO. PA056249  
ACTION PA2C FEE 6010.00

LOCATION (PLEASE PRINT) 18-02-02:2 TL 1900

TOWNSHIP RANGE SECTION 1/4 SECTION TAX LOT SUBDIVISION / PARTITION LOT / PARCEL BLOCK

F-2 ZONED TAX CODE PLOT # 52.17 ACREAGE

88420 Highway 101 N. (Box 223) Florence, OR 97439

office  
STRUCTURES NOW ON PROPERTY

APPLICANT / AGENT

HERSHNER HUNTER (STEVE CORNACCHIA) 8/26/05  
NAME (PLEASE PRINT) DATE

180 E. 11TH AVENUE 6868511  
ADDRESS PHONE

EUGENE, OR 97401  
CITY ZIP

OWNER

John A Carver c/o Roy Carver III 8/24/05  
NAME (PLEASE PRINT) DATE

PO Box 51505 (541) 687-5922  
ADDRESS PHONE

Eugene, OR 97405  
CITY ZIP

DO YOU OWN ADJACENT PROPERTY? Yes  No

Township	Range	Section	1/4 Section	Tax Lot

WATER PUBLIC  ON-SITE WELL  COMMUNITY SYSTEM \_\_\_\_\_

SEWAGE PUBLIC  ON-SITE SEPTIC  COMMUNITY SYSTEM \_\_\_\_\_

ROAD STATE  COUNTY  PUBLIC  EASEMENT

FIRE DISTRICT Siuslaw RFPD #1 SCHOOL DISTRICT Siuslaw 475

POWER COMPANY Central Lincoln POD PHONE COMPANY Quest

I (We) have completed all the attached application requirements and certify that all statements are true and accurate to the best of my (our) knowledge and belief. I am (We are) so authorized to submit this application as evidenced by the signature of the owner below.

John A. Carver 8/24/05 Steve Cornacchia 8/26/05  
OWNER Signature Date APPLICANT Signature Date

**An accurate Plot Plan must be attached. Ask for a sample Plot Plan**

SPECIFIC SECTION OF LANE CODE REQUIRING THIS APPLICATION

STAFF COMMENTS: Mr. Cornacchia can deliver an unbound copy if need - just email him.

RELATED PERMIT #

**APPLICATION**

**for**

**AMENDMENT OF THE LANE COUNTY COMPREHENSIVE  
PLAN MAP**

**and**

**ZONE CHANGE FROM IMPACTED FOREST LAND (F2)  
TO RURAL RESIDENTIAL (RR5)**

**JULIA A. CARVER  
3850 Woodson Court  
Eugene, Oregon  
97405**

**Submission Date:  
August 26, 2005**

## APPLICATION

**Applicant:** Julia A. Carver  
3850 Woodson Court.  
Eugene, OR 97405

**Property Owner:** Julia Carver

**Property Location:** The subject property is located approximately one mile north of the intersection of Heceta Beach Road and U.S. Highway 101 and west of U.S. Highway 101.

**Assessor's Map and Lot:** Assessor's Map No. 1812022, Tax Lot 1900. A copy of the Assessor's map is included as Exhibit A. The legal description of the subject property is included as Exhibit B.

**Current County Zoning:** Impacted Forest Land (F2)

**Attorney-Consultant:** P. Steven Cornacchia  
Hershner Hunter, LLP  
180 E. 11<sup>th</sup> Avenue, Eugene, Oregon 97401.

**Submission Date:** August 26, 2005

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## 1.0 INTRODUCTION

The applicant seeks an amendment of the Lane County Rural Comprehensive Plan (RCP) Map to change the designation of 52.17 acres of land from Forestry to Rural Residential. The applicant also seeks a concurrent rezone of that land from Impacted Forest Land (F2) to Rural Residential (RR5). The subject property is located approximately one mile north of the intersection of Heceta Beach Road and U.S. Highway 101. The subject property is located west of U.S. Highway 101.

This application seeks a non-resource designation for the subject property because it is so poor in resource quality that it does not meet the definition of either Agricultural Land or Forest Land. This application demonstrates that the subject property is not resource land. Upon approval of the application, the subject property will be subdivided into parcels of at least five acres in size.

All requests for RCP amendments to non-resource designations must comply with the RCP, Lane Code and the Statewide Planning Goals. Non-resource designations are explicitly authorized by LCDC administrative rules that implement the goals and by both the RCP and Lane Code. Factually supported non-resource designations are consistent with the essential principles of Oregon's land use system because they help preserve land that is actually resource land in large blocks and maintain the agricultural and forestry economy of the state. See ORS 215.243(2). Providing residential development on rural non-resource lands helps relieve the pressure to convert quality resource land to urban uses at the fringes of cities and urban growth boundaries. To the extent that residential use can be made of rural non-resource lands, there will be less demand to extend urban growth boundaries of cities onto quality resource lands.

LCDC rules define what "resource land" is and what "non-resource land" is. "Resource land" is any land within the definition of Goal 3 (Agricultural Land), Goal 4 (Forest Land), Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands) or Goal 18 (Beaches and Dunes). See OAR 660-004-0005(2). "Non-resource land" is any land that is not within the definition of one of the goals listed above. See OAR 660-004-0005(3). The distinction between resource land and non-resource land has long been recognized by the Oregon Supreme Court.<sup>1</sup>

RCP policies recognize that some rural lands are appropriately designated as non-resource. RCP Goal 2, Policy 16 provides that lands that are not Agricultural or Forest Lands may be designated, in concert with other RCP policies, for rural residential use. RCP Goal 2, Policy 17 provides that lands that qualify for a non-resource designation shall be zoned either RR-5 or RR-10.

This application demonstrates that the subject property qualifies for a non-resource designation consistent with all applicable state and county criteria.

## 2.0 BACKGROUND INFORMATION

---

<sup>1</sup> See Perkins v. City of Rajneeshpuram, 300 Or 1, 8 n 12, 706 P2d 949 (1985).

## **2.1 General Site Description**

The property that is the subject of this application contains 52.17 acres and is located north of the city of Florence on the west side of U.S. Highway 101. The subject property is located outside of the Florence Urban Growth Boundary. The property is zoned Impacted Forest Land (F2). The property is described as Tax Lot 1900 of Lane County Assessor's Map No. 1812022. A copy of that map is attached as Exhibit A. The subject property has been determined by Lane County to be a legal lot. A copy of Lane County correspondence stating that the property qualifies as a legal lot is attached at Exhibit C. The property is bounded on the north by a 29.34 acre parcel zoned F-2, on the west by a 200-acre parcel owned by the U.S. Department of the Interior (BLM) and zoned Natural Resource, on the south by small parcels of rural residential land and on the east by myriad small residential parcels and two parcels zoned for industrial use which separate the subject property from U.S. Highway 101.

The site is relatively flat, but includes areas of gently undulating terrace, variably-sized stabilized dunes and a small portion of a large active dune in its extreme northwest corner. Approximately seven acres on the northern portion of the property have been developed as an experimental hydroponic system for the artificial production of wasabi. The experimental system is no longer in operation and has been dismantled. Plant cover consists of primarily native vegetation consisting of manzanita, rhododendron, salal, blackberry, huckleberry, grasses and shore pine and cedar trees.

## **2.2 Description of Proposed Amendments**

The application before Lane County seeks approval of the following:

1. An amendment to the RCP diagram designating the subject property as Residential;
2. A change in the zoning of the subject property from Impacted Forest Land (F2) to Rural Residential (RR5).

## **2.3 List of Exhibits:**

Exhibit A - Assessor's Map  
Exhibit B - Legal Description  
Exhibit C - Lane County Correspondence (Legal Lot Determination)  
Exhibit D - Cascade Earth Sciences Soils Assessment  
Exhibit E - Paul E. Day Agricultural Evaluation  
Exhibit F - LCDC Acknowledgement of Compliance (Selected pages)  
Exhibit G - Exhibits C and D of Ordinance No. PA 889  
Exhibit H - Order 84-9-12-3  
Exhibit I - Order 84-9-12-4

### **3.0 COMPLIANCE WITH STATEWIDE PLANNING GOALS**

#### **3.1 Goal 1 - Citizen Involvement**

*To ensure the opportunity for citizen involvement in all phases of the planning process.*

Chapter Fourteen of the Lane Code provides for a notification and participation process for all quasi-judicial land use matters. Notices of public evidentiary hearings are required to be published in a newspaper of general circulation in the county in conformance with ORS 197.763. By providing the notices required by state law and the Lane Code and the public evidentiary hearings before its planning commission and board of commissioners, Lane County satisfies the requirements and intent of Goal 1.

#### **3.2 Goal 2 - Land Use Planning**

*To establish a land use planning process and policy framework as a basis for all decisions and actions related to the use of land and to assure an adequate factual base for such decisions and actions.*

Goal 2 establishes a land use planning process and policy framework as a basis for all land use decisions, and requires development of an adequate factual base to support those decisions. A minor change is one that does not have significant effects beyond the immediate area of change, and is based on special studies or information. The justification for the specific change must be established by substantial evidence in support of the conclusion that the applicable criteria have been met.

This application complies with Goal 2. It will be processed pursuant to the requirements of the RCP and Lane Code. Application approval does not require that an exception be taken to any resource goal. By definition, "Non-resource land" is land that is not subject to goals 3, 4, 16, 17 or 18. See OAR 660-04-0005(3).

#### **3.3 Goal 3 - Agricultural Land**

*To preserve and maintain agricultural lands.*

Goal 3 provides for the protection of agricultural lands as those are defined under the goal. Goal 3 defines "Agricultural Land" as follows:

**Agricultural Land – in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification system of the United States Soil Conservation System, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.**

**More detailed soil data to define agricultural land may be utilized by local governments if such data permits achievement of this goal.**

The Land Conservation and Development Commission has adopted rules that further define Agricultural Land. OAR 660-033-0020 provides four parts to the relevant definition. Each part of the definition is addressed as follows.

**OAR 660-033-0020(1)(a): [Predominant Soil Types]**

**"Agricultural Land" as defined in Goal 3 includes:**

**(A) Lands classified by the U.S. Natural Resources Conservation Service (NRCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;**

Goal 3 also allows published NRCS soils data to be refined by more detailed onsite evaluation. See OAR 660-033-0030(6). The applicant has retained the services of Cascade Earth Sciences (Cascade) to perform an assessment of the soils on the subject property. The field work done by Cascade shows that approximately 48% of the soils are Class IV soils. None of the soils are Class I-III soils. The subject property contains approximately 52% Class VI soils.

The published NRCS soil map (Map Sheet 83 of the Soil Survey of Lane County Area, Oregon (USDA/NRCS (SCS)), September 1987 (Soil Survey), which is incorporated herein in its entirety by this reference) shows six soil map units occurring on the subject property and nearby property. A copy of Map Sheet 83 is included as an exhibit to the Cascade report and is incorporated herein by this reference. The soil map units depicted on the exhibit are:

- Dune land, soil map unit 44
- Netarts fine sand, soil map unit 94C
- Netarts fine sand, soil map unit 94E
- Waldport fine sand, soil map unit 131C
- Waldport fine sand, soil map unit 131E
- Yaquina fine sand, soil map unit 140

Cascade refined the published soils map following its onsite investigation. Cascade's report and conclusions ("Cascade Report") are included as Exhibit E and incorporated herein by this reference. The investigation included the examination and recording of key characteristics at 18 representative locations on the subject property. Those locations included test pits, cut-banks and other pertinent features. Several diagnostic criteria were documented at each location, including slope, landscape position, horizonation and effective depth. Other soil profile characteristics, such as color and texture of the surface horizon, and the presence of iron cementation, were also noted. The approximate location of each test pit or observation point and the revised delineation boundaries are depicted on Figure 1 of the Cascade report. No new soil types were identified.

Boundaries between the mapped soil units were refined by Cascade based upon the results of its investigation. The primary change in the boundaries from the Soil Survey to Figure 1 is the reduction in the presence of Yaquina soils (and Yaquina soil map units) and the increase in the presence of Netarts soils (and Netarts soil map units). Cascade's refinements were based upon landscape position and slope with the Waldport and Netarts soils being distinguished by the degree of development, as indicated by iron cementation in the subsoil, with each phase identified by slope.

The conclusions and subsequent soil map unit boundary refinements of the Cascade Report demonstrate that the subject property is not Agricultural Land under this part of the test because only approximately 48% of its soils are in soil Classes I-IV.

**OAR 660-033-0020(1)(a): [Other Suitable Lands]:**

**(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; exiting land use patterns, technological and energy inputs required; and accepted farming practices;**

This part of the test focuses on lands which have predominantly nonagricultural soils and inquires into whether they are nevertheless suitable for farm use. A list of seven factors must be considered. The suitability for farm use must consider the potential for use in conjunction with adjacent or nearby land.<sup>2</sup> The history of farm use on the subject property, such as its partial use for the hydroponic production of wasabi, is relevant to its current suitability,<sup>3</sup> but is not determinative.<sup>4</sup>

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<sup>2</sup> See DLCD v. Curry County, 28 Or LUBA 205, 208-209 (1994) aff'd 132 Or App 393 (1995).

<sup>3</sup> See Clark v. Jackson County, 17 Or LUBA 594, 606 (1990).

<sup>4</sup> See 1000 Friends of Oregon v. WASCO County Court, 80 Or App 525, 531, 723 P2d 1039 (1986) ("Also, there is no presumption that the land is agricultural land simply because of its previous agricultural use. Previous use is merely one factor for the county to consider in reaching its conclusion about the land's current condition.").

The applicant retained the services of Paul Day, MS, Agricultural Consultant, to analyze the subject property's suitability for farm use. Regarding the soils delineated in the Cascade Report, Mr. Day noted that none of the soils on the subject property is listed by the SCS/NRCS as "Prime Farmland" and determined that pasture is the only crop listed by the SCS/NRCS for any of those soils. His "Agricultural Evaluation" ("Day Report") concludes that, based upon the seven factors stated in this part of the rule, the subject property is not suitable for farm use either alone or in conjunction with adjacent or nearby lands. Specifically, the report concludes "the projected yields of pasture under high level management are very low." The Day Report is included as Exhibit E and is incorporated herein by this reference.

The Day Report briefly describes the history of the wasabi production, noting that it was accomplished entirely under "artificial or imported" conditions. The production was entirely hydroponic and made no use of the soil of the subject property.

The Day Report supported its conclusion that the subject property was not suitable for farm use (and did not fall within the scope of "other suitable lands") with an examination of each of the seven factors stated in the rule. The Day Report concluded the following with respect to each of the seven factors:

**Soil Fertility:** The report finds that fertility conditions are not conducive to production of improved forage species because the soils are low in fertility and would be in need of frequent applications of fertilizer. Furthermore, the application of fertilizer to the Netarts and Waldport soils poses potential conflicts between pasture production and groundwater quality because the applied nutrients can be leached from those soils. The reports concludes that attempts to correct the fertility problems would have the potential to result in environmental damage.

**Suitability for Grazing:** The report concludes that "the lack of native vegetation suitable for grazing and the environmental hazards associated with establishing, maintaining and managing an appropriate grazing resource all contribute to the difficulty in maintaining and managing a grazing resource." The most significant hazard associated with establishing pasture on the subject property is wind erosion induced by tillage operations. The report also includes that, even under the best of conditions and results, the subject property has a total combined livestock carrying capacity of less than two head of cattle. The subject property is not suitable for grazing.

**Climatic Conditions:** The reports states that the subject property is unprotected from coastal storms and that wind erosion and heightened livestock energy needs are likely to result. The study concludes that those climatic conditions add to the impracticability of the subject soils for agricultural production.

**Irrigation Water:** The report concludes that sources of irrigation water are impracticable, adding further to the impracticability of the subject soils for agricultural production.

**Existing Land Use Patterns:** The report concludes that "agriculture is not a factor in existing land use patterns." It details the surrounding residential and recreational uses and the resultant trespass and trash that occurs on the subject property. Noting that no other agricultural uses exist in the nearby area, the report concludes that no agricultural use in the area exists to support the same use on the subject property or be affected by the lack of agricultural use on the subject property.

**Technology and Energy Inputs Required:** The report concludes that the no application of reasonable amounts of technology or energy can overcome the physical impediment to agricultural production on the subject property.

**Accepted Farming Practices:** The report's overall conclusion is that soils, plants, location and climatic conditions render the subject property impracticable for agricultural production. It further concludes that attempting agricultural production that has a high potential for heavy soil loss through erosion is not an acceptable farming practice.

**OAR 660-033-0020(1)(a): [Land needed to permit farming practices on adjacent/nearby agricultural lands]:**

**(C) Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.**

Agricultural use does not exist in the vicinity of the subject property. There are no adjacent or nearby agricultural lands, either in designation or use, existing in the vicinity of the subject property. The subject property is not land that is necessary to permit farm practices in the vicinity.

**OAR 660-033-0020(1)(b): [Farm Unit Test]:**

**Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed.**

The subject property is not adjacent to, or in the vicinity of, any other property with agricultural soils that could be combined with the subject property to constitute a "farm unit." Consequently the farm unit test is neither relevant nor applicable to this application.

Approval of the application will be consistent with the purpose and intent of Goal 3.

### **3.4 Goal 4 - Forest Lands.**

*To preserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

*Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.*

Goal 4 defines "Forest Lands." Because this application requests a plan amendment, the second paragraph of Goal 4 contains the operable definition of that term. The definition contains three parts: (1) Lands suitable for commercial forest uses; (2) adjacent and nearby lands necessary to permit forest operations or practices; and (3) other forested lands that maintain certain natural resources. Each part of the definition is addressed below.

**(1) [F]orest land shall include lands which are suitable for commercial forest uses**

"Commercial forest uses" is not defined in any statute, goal or rule. Lane County has adopted a definition for "commercial forest land." That definition is found in the Forest Lands Working Paper of the RCP. Lane County defines "commercial forest land" as land capable of producing crops of industrial wood in excess of 50 cubic feet per acre of annual growth.

The county's definition of commercial forest land was acknowledged by the LCDC in 1984. The definition was adopted during the 1984 LCDC Acknowledgement of Compliance process for the Lane County RCP. In response to Lane County's request for LCDC acknowledgement of the RCP, LCDC required certain amendments to the Lane County RCP Forest Lands Working Paper of 1982 and the Addendum to Working Paper of 1983.<sup>5</sup> One of the requirements was for the county to "Amend the Forest Working Paper Appendix 1—Land County Forest Soils—to include "all commercial forest soils" in a manner consistent with an appropriate definition of commercial forest lands." See Exhibit F (page 16). On August 9, 1984, in Ordinance No. PA 889 (In the Matter of Amending Ordinance No. PA 883 Entitled the Lane County General Plan Policies, an Element of the Lane County Rural Comprehensive Plan, And Adopting a Savings and Severability Clause) Lane County amended the Forest Land Working Paper to include the current definition of "commercial forest land."<sup>6</sup> Lane County adopted additional findings in support of Ordinance No. PA 889 in Order 84-9-12-3 and Order 84-9-12-4. Copies of those orders are included as Exhibits H and I, respectively.

On pages 17 and 18 of the September 13, 1984, Acknowledgement of Compliance, LCDC noted that Lane County had amended its definition of "commercial forest land" to be 50 cubic feet per acre per year and concluded that the county had satisfied the previously-stated requirement of amending the Forest Land Working Paper. See Exhibit F. On pages 22 and 23 of its acknowledgement document LCDC concluded that Lane

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<sup>5</sup> Exhibit F contains selected pages of the September 13, 1984, LCDC Acknowledgement of Compliance that refer to the particular required Lane County amendments to its Forest Land Working Paper and state LCDC's acknowledgement of those particular amendments. The county's amendment of the Forest Land Working Paper definition of commercial forest land to "land capable of producing crops of industrial wood in excess of 50 cubic feet per acre of annual growth" is included in that acknowledgement. See pages 1-2, 15-18 and 22-23. While the entire September 13, 1984, LCDC Acknowledge of Compliance is incorporated herein by this reference, for the sake of brevity only the selected pages have been included in Exhibit F.

<sup>6</sup> Exhibit G contains "Exhibit C" and "Exhibit D" of Ordinance No. PA 889. While the entire Ordinance No. PA 889 is incorporated herein by this reference, for the sake of brevity only the two exhibits are included in Exhibit G.



County, following its adoption of the required amendments, complies with Goal 4. See Exhibit F.

Commercial forest types of trees include Douglas fir, hemlock, spruce, cedar, other conifers and deciduous trees.

The applicant retained the services of Marc E. Setchko, Consulting Forester, to evaluate the commercial timber productivity of the subject property. Mr. Setchko, with both professional credentials and 27 years of experience, is highly qualified to render analysis and conclusions regarding commercial timber productivity of land. Mr. Setchko concluded that the subject property will not support a merchantable stand of timber, of sufficient production capability, to meet or exceed the county's definition of commercial forest land. Mr. Setchko's Forest Productivity Analysis of the subject property is included as Exhibit J.

Specifically, Mr. Setchko found that, even assuming the most optimistic realization of growth, the subject property produces less than 50 cubic feet of merchantable timber volume per acre per year. Mr. Setchko conducted several calculations, using a variety of sources for the merchantable timber productivity of the soils of the subject property delineated by the Cascade report. Following those calculations, Mr. Setchko applied considerations for environmental abnormalities common to the strip of transitional land that is commonly located in Oregon between coastal sand and inland forested land. In his analysis Mr. Setchko summarized the environmental constraints to commercial forest production common to coastal areas within which the subject property is located:

"The above described parcel abuts the unstablized sand dunes along the Oregon Coast. The northwest portion is actually a small sliver of the dunes. The interface between the sand on the coast and the forested ground inland is a narrow band of land that is a particularly harsh growing environment for trees. The constant high winds and the brine contained in the salt air off the ocean is extremely harsh on trees; trees do not grow well in this zone. Therefore a soil type which will support a commercially viable forest just a mile or so inland will barely grow trees within this interface. Particularly on the Netarts and Waldport fine sand (Types 94 and 131); according to SCS data these soils are only suitable for Douglas-fir trees in areas which

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<sup>7</sup> Lane County's definition of "commercial forest land" was the subject of Holland v. Lane County, 16 Or LUBA (1988). LUBA summarized the relevant provisions of the acknowledged Lane County RCP as follows:

The county's decision concludes that the subject property is not suitable for commercial forest use "because the majority of the soils do not qualify as Commercial Forest Land."

The county adopted the following definition of "commercial forest land" as part of its "Working Paper: Forest Lands; March, 1982" (Forest Lands Paper) and "Addendum to Working Paper: Forest Lands; November, 1983" (Forest Lands Addendum) documents.

"'Commercial' forest land [is] land capable of producing crops of industrial wood in excess of 50 cubic feet per acre of annual growth."

Ordinance No. 889, Ex. C. The Forest Lands Paper, at 10, contains an inventory of "Acres of Commercial Forest Land by Cubic Foot Site Class, Forest Type and Ownership." This table recognizes the following commercial forest types - "Douglas fir," hemlock/cedar/spruce," "other conifers" and "deciduous."

16 Or LUBA at 586 [footnotes omitted].

are protected from the wind and the Waldport fine sand is more suited to shore pine than Douglas-fir. The constant winds blowing across this parcel leave no protected areas to establish trees in. Where natural or artificial reforestation is attempted seedling mortality is high and undesirable plant competition is a problem. If trees can be established, the windthrow hazard is high due to the extremely thin soil layer on top of the sand." Forest Productivity Analysis, page one.

Mr. Setchko provides a consistent consideration in his calculations: the environmental conditions existing on the subject property are not conducive to tree growth and it is highly unlikely that Douglas-fir could obtain the growth figures found in his calculations.

Mr. Setchko also analyzes the potential production of other commercial species of trees and concludes that either the particular species is not found in the geographic range of the subject property, will not grow on the subject property or will not grow on the subject property at a level that produces more than 50 cubic feet of merchantable timber per acre per year.

Mr. Setchko concludes that the subject property is "ill suited" to the production of merchantable timber and use of it for forestry purposes. Mr. Setchko's analysis and conclusions demonstrate that the subject property is not suitable for commercial forest uses and should not be considered forest land under the rule.

**(2) [A]djacent or nearby lands which are necessary to permit forest operations or practices.**

The majority of adjacent and nearby lands are zoned and used for purposes other than forest uses. Land to the east and south is all under non-resource designations of commercial, industrial and residential. The entire western boundary of the subject property abuts an active sand dune within federal ownership and management. The one property in the vicinity of the subject property that is zoned for forest use abuts it to the north. Although zoned F-2, the northerly parcel is similar in soil and environmental conditions to the subject property. No evidence of forest operations exists on that property and the subject property has not been managed for or used in forest operations in conjunction with that property. The subject property is not necessary to permit forest operations or practices anywhere in its vicinity.

**(3) [O]ther forested lands that maintain soil, air, water and fish and wildlife resources.**

The first inquiry of this test requires a finding that the subject property is predominantly forested. All three consultant reports included in this application describe the property as primarily covered in vegetation other than trees (manzanita, rhododendron, salal, blackberry, huckleberry, sedges, rushes and grasses). The few trees that do grow on the property are scattered and gnarled shore pine and cedar. The subject property cannot be considered as predominantly forested under the rule. Furthermore, this application has previously demonstrated that the subject property is not forest land as defined and contemplated under Goal 4. Therefore, the subject property is not "forested land" under this section of the rule.

Even if Lane County could find that the subject property is "forested land", the targeted resources of this rule (soil, air, water and fish and wildlife resources) are either not present on the subject property or are not relevant to the subject property under this section of the rule. No permanent water features or other fish habitat exist on the property. There is no apparent connection between the minimal tree cover and air quality. The soil resources of the property

have been previously discussed and are not relevant to this section of the rule. The minimal existing tree cover on the property is not necessary to maintain soil on the site. No evidence exists that the minimal tree cover is necessary to maintain wildlife populations.

The preceding discussion, and its supporting documentation, demonstrates that the subject property is not forest land under any definition of that term contained in the administrative rules implementing Goal 4. Accordingly, application approval is consistent with Goal 4.

### **3.5 Goal 5 - Open Space, Scenic and Historic Areas, and Natural Resources.**

*To conserve open space and protect natural and scenic resources.*

There has previously been a legislative determination by Lane County that no Goal 5 resources exist on the subject site except wetlands. The subject property has not been included in any inventory of needed open space or scenic areas defined by Goal 5, nor has it been identified in the RCP as having any historic, cultural or natural resources which need to be preserved and/or protected. Any development of the subject property must occur with the protection of the small areas of wetlands delineated on the subject property. While the applicant believes that the subject property can be developed without disturbance of the small wetland areas, any proposed disturbance of those wetlands will require permits from appropriate federal, state and county agencies. The proposed amendments will not conflict with any Goal 5 resources.

### **3.6 Goal 6 - Air, Water and Land Resources Quality.**

*To maintain and improve the quality of the air, water and land resources of the state.*

Goal 6 requires that air, land and water resources of the state be maintained and improved by assuring that future development, in conjunction with existing development, does not violate applicable state and federal environmental quality standards, and does not exceed the carrying capacity of local airsheds, degrade land resources or threaten the availability of such resources. The State of Oregon and Lane County have sufficient regulatory measures in place so as to ensure that existing land use activities, as well as any future development on the site, will not produce any unanticipated impacts resulting from the proposed amendments.

The proposed amendments will not produce results that will be in conflict with or inconsistent with the purpose and intent of Goal 6.

### **3.7 Goal 7 - Areas subject to Natural Disasters and Hazards.**

*To protect life and property from natural disasters and hazards.*

The phrase "areas of natural disasters and hazards" means "areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flood, in ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas." OAR 660-015-0000.

There are no such areas known on the subject property. Furthermore, the subject property is located within the Lane County Beaches and Dunes Combining Zone. Prior to any development of the property the applicant must apply for a Preliminary Investigation (Development Hazards Checklist) that will determine if any hazard areas exist and if development of the subject property should include regulatory conditions that address development within such hazard areas. See LC 16.243(10)

The proposed use of the expansion area will be consistent with the purpose and intent of Goal 7.

### **3.8 Goal 8 - Recreational Needs.**

*To satisfy the recreational needs of the citizens of the state.*

There has been a legislative determination by Lane County through its comprehensive planning process, as implemented by the RCP diagram, that the subject property is not needed for recreational facilities or opportunities. Identified recreational needs have been provided for on other sites within Lane County. The proposed amendments are therefore consistent with Goal 8.

### **3.9 Goal 9 - Economy of the State**

*To diversify and improve the economy of the state.*

Goal 9 is primarily focused on commercial and industrial development within urban areas. OAR 660-009-0010(1) specifically limits the application of Goal 9 to comprehensive plans for areas within urban growth boundaries. Goal 9 is not directly applicable to rural residential use in a non-resource designation.

Approval of the application will be consistent with the intent and purpose of Goal 9.

### **3.10 Goal 10 – Housing.**

*To provide for the housing needs of the citizens of the state.*

The primary purpose of Goal 10 is to ensure that sufficient buildable land is available to provide for a full range of housing needs within urban areas and to avoid creating shortages of residential land which would artificially restrict market choices in housing type, price range or location. The goal's definition of "buildable land," for example, is limited to lands in urban and urbanizable areas. The subject property is outside any urban growth boundary. To the extent

that Goal 10 is applicable or relevant to rural areas, application approval will comply with the goal because it will result in the potential for additional dwelling units.

### **3.11 Goal 11 - Public Facilities and Services.**

*To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban development.*

Goal 11 addresses facilities and services in urban and rural areas. The subject property is "rural" land and will remain rural after application approval, as discussed in connection with Goal 14. RCP Policies describe the minimum level of services for non-resource areas in rural Lane County. Those services are: schools, on-site sewage disposal, individual water supply system, electrical service, telephone service, rural level fire and police protection and reasonable access to solid waste disposal. See Goal 11, Policy 6.e., k. The services now available to the subject property, or proposed to be developed, include: Schools - Siuslaw No. 47J; On-site sewage disposal - individual septic systems; Water supply - Heceta Water District; electrical system - Central Lincoln PUD; Telephone service - Qwest; Fire protection - Siuslaw RFPD No. 1; Police protection - Lane County Sheriff and Oregon State Police; Solid waste disposal - County Refuse and Transfer Co.

To the extent that Goal 11 is applicable to the application, approval of the application will be consistent with the intent and purpose of the goal.

### **3.12 Goal 12 - Transportation.**

*To provide and encourage a safe, convenient and economic transportation system.*

The intent of Goal 12 is implemented through the provisions of the State Transportation Planning Rule (TPR) (OAR 660, Division 12), which was adopted by LCDC in 1991. OAR 660-012-0060(1) requires that "amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility." The rule specifies what constitutes a "significant affect." OAR 660-012-0060(1) provides:

**A plan or land use regulation amendment significantly affects a transportation facility if it would:**

**(a) Change the functional classification of an existing or planned transportation facility (exclusive of correction of map errors in an adopted plan);**

**(b) Change standards implementing a functional classification system; or**

**(c) As measured at the end of the planning period identified in the adopted transportation system plan:**

**(A) Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;**

**(B) Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan; or**

**(C) Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.**

The proposed development of the subject property will not trigger this section of the rule. It will not have a significant affect on U.S. Highway 101 as measured by any of the standards listed above. Lane Code 15.697(1) provides that a traffic impact analysis may be required for any plan amendment proposal, unless waived by the County Engineer as specified in Lane Code 15.697(2). Lane Code 15.697(2) provides that the County Engineer may waive traffic impact analysis requirements specified in LC 15.697(1) when, in the case of a plan amendment, the scale and size of the proposal is insignificant, eliminating the need for detailed traffic analysis of the performance of roadway facilities for the 20-year planning horizon. Lane Code 15.697(2)(b) provides that, generally, a waiver of a Traffic Impact Analysis will be approved when the plan designation or zoning that results will be entirely residential and the allowed density is not likely to result in creation of more than 50 lots and there is adequate information for the County Engineer to determine that a transportation facility is not significantly affected as defined in Lane County Transportation System Plan Policy 20-d.

Application approval will result in a rural residential designation and zoning for the subject property that will result in the development of no more than 10 lots (less than 50 lots being created). The Oregon Department of Transportation has preliminarily determined that the proposed development of the subject property will not significantly affect U.S. Highway 101 as provided in the rule.

Approval of the application is consistent with the intent and purpose of Goal 12.

### **3.13 Goal 13 - Energy Conservation.**

#### ***To conserve energy***

This goal is not directly applicable to individual land use decisions. Rather, its focus is on the adoption and the amendment of land use regulations.<sup>8</sup>

### **3.14 Goal 14 – Urbanization.**

#### ***To provide for an orderly and efficient transition from rural to urban land use.***

OAR 660-004-0040 specifically exempts non-resource land, as defined in OAR 660-004-0005(3), from the provisions of Goal 14 and its implementing rules. The rule specifically states that it does not apply to such resource land. The subject property is non-resource land as that term is defined in OAR 660-004-0005(3). Therefore, Goal 14 is not applicable to this application.

To the extent that Goal 14 is applicable to the application, approval of the application would be consistent with its purpose and intent.

### **3.15 Goal 15 - Willamette River Greenway.**

#### ***To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.***

The subject property is not located within the Willamette River Greenway. Accordingly, Goal 15 is not applicable.

### **3.16 Goal 16 - Estuarine Resources.**

#### ***To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and***

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<sup>8</sup> See Brandt v. Marion County, 22 Or LUBA 473, 484 (1991), aff'd in part, rev'd in part, 112 Or App 30 (1992).

*To protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.*

The subject property contains no estuarine resources.

### **3.17 Goal 17 - Coastal Shorelines.**

*To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelines, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics.*

The subject property contains no coastal shorelines.

### **3.18 Goal 18 - Beaches and Dunes.**

*To conserve, protect, where appropriate develop, and where appropriate restore the resources and benefits of coastal beach and dune areas.*

*Local governments and state and federal agencies shall prohibit residential developments and commercial and industrial buildings on beaches, active foredunes, on other foredunes which are conditionally stable and that are subject to ocean undercutting or wave overtopping, and on interdune areas (deflation plains) that are subject to ocean flooding.*

The subject property does not contain beaches and dunes that are described in this goal (other than the small area of active dune in the extreme northwest corner of the property). The subject property does, however, contain stabilized dunes and is located within the Lane County Beaches and Dunes Combining Zone (/BD-RCP Zone). Lane Code provides that all permitted buildings and uses allowed in the respective zone with which the /BD-RCP Zone is combined are permitted uses, with limited exceptions. See LC 16.243(3). Accordingly, residential structures, as permitted in the Rural Residential Zone, are permitted on the subject property. Furthermore, prior to any development of the subject property, the applicant must apply for a Preliminary Investigation (Development Hazards Checklist) from Lane County that will identify any potential development impacts and will subsequently condition development to address those impacts.

Application approval is consistent with this goal.

### **3.19 Goal 19 - Ocean Resources.**



*To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf.*

The subject property contains no ocean resources.

#### **4.0 COMPLIANCE WITH RURAL COMPREHENSIVE PLAN POLICIES**

All plan amendments and zone changes must comply with the RCP and its relevant policies.<sup>9</sup> This section addresses the relevant plan policies and is organized by Goal.

##### **Goal Two: Land Use Planning**

###### **Policy 16:**

**Where lands are not farm and forest lands, they may be designated on the plan diagram as rural residential or as parks and recreation, provided:**

- a. Detailed and factual documentation has been presented indicating that the subject lands are not farm and forest lands as defined by Statewide Planning Goals #3 and #4.**

Compliance is demonstrated under the previous discussion of Goal 3 and Goal 4.

- b. An exception to any of the Statewide Planning Goals is not required.**

No goal exception is proposed or required in this application.

- c. Small isolated non-resource tracts surrounded by farm and forest land shall be discouraged if such non-resource designation would create compatibility problems.**

The subject property is not a small, isolated tract surrounded by farm and forest land.

Furthermore, as demonstrated under the previous discussion of Goal 3 and Goal 4, the rural residential designation would pose no compatibility issues.

- d. The Rural Residential Designation would be consistent with other Comprehensive Plan Policies.**

See the discussion below.

###### **Policy 17:**

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

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<sup>9</sup> See ORS 197.175(2)(d) and LC 16.400(6)(h).

**a. Existing development pattern and density of any adjacent committed area;**

Residential use of adjacent and nearby property exists in primarily small-acreage parcels, the majority of which are less than one acre in size. The majority of those parcels are well below five acres in size. The development of parcels in sizes of at least five acres on the subject property would be consistent and compatible with the adjacent residential use in the vicinity.

**b. Subsurface sewage disposal suitability;**

Parcels five acres in size can accommodate all types of subsurface sewage facilities. The subject property has previously received septic system approval from Lane County. The ability of each parcel to accommodate the appropriate septic system is determined by Lane County regulatory procedures during the subdivision phase of development.

**c. Domestic water supply suitability;**

The subject property is within the boundaries of and serviced by Heceta Water District. All domestic water requirements for the parcels, regardless of size, are adequately provided by the District. Therefore, the typical issues involved with individual wells providing domestic water do not exist on the subject property and do not create issues that could determine or limit parcel size.

**d. Access;**

The subject property has two reserved access points to U.S. Highway 101. Access is not an issue that should determine or limit parcel size.

**e. Public services;**

Parcel size has no known effect on the availability or provision of public services on the subject property.

**f. Lack of natural hazards;**

The lack of natural hazards has been addressed in other sections of this application.

**g. Effect on resource lands.**

Distinguishing between five and ten acre parcels does not result in any known significant negative effects on adjacent resource lands. If anything, the establishment and presence of residential use adjacent to the public recreation area should decrease trespass and vandalism incidents in that area.

**Goal Three: Agricultural Lands**

**Policy 8:**

**Provide maximum protection to agricultural activities by minimizing activities, particularly residential, that conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities.**

The subject property is surrounded by land zoned and used for uses other than agriculture. Application approval will have no affect on agricultural activities in the vicinity of the subject property because such

activities do not exist. Furthermore, as demonstrated in other sections of this application, the subject property is not agricultural land.

#### **Goal Four: Forest Lands**

##### **Policy 1:**

**Conserve forest lands by maintaining the forest land base and protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use of forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.**

**Forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.**

This policy is consistent with Statewide Planning Goal 4 by defining "forest lands" and requiring that they be used consistent with the goal. The subject property is not "forest land" as demonstrated in the previous discussion of Statewide Planning Goal 4.

#### **Goal Five: Open Spaces, Scenic and Historic Areas and Natural Resources**

##### **Water Resources Policy 3:**

**Adequacy of water supply, particularly those relying on groundwater sources, shall be a major concern in reviewing major land use changes. For the purpose of applying this policy, major land use change shall be any application reviewed by the Hearings Official or the Planning Commission.**

##### **Water Resources Policy 5:**

**Land use designations in the Comprehensive Plan and implementing zoning shall be commensurate with groundwater aquifer capabilities.**

The availability of public water for domestic purposes has been demonstrated in other sections of this application. Because the subject property is within the boundary of the Heceta Water District and will receive domestic water service from that District, groundwater aquifer capabilities are not impacted by development of the subject property in residential use.

#### **Goal Seven: Areas Subject to Natural Disasters and Hazards**

##### **Policy 1:**

**The Natural Hazards Inventory, as contained in the 1982 Natural Hazards Working Paper and associated materials, shall be used as a guide for general land use decisions. Specific land use decisions shall be based upon the inventory and upon on-site or other evaluation as appropriate.**

The subject property is not inventoried in the Natural Hazards Working Paper as a site containing natural hazards.

**Goal Eleven: Public Facilities and Services**

**Policy 1:**

**Lane County shall provide an orderly and efficient arrangement for the provision of public facilities, services and utilities. Designation of land into any given use category either initially or by subsequent plan amendment, shall be consistent with the minimum level of services established for that category.**

**Policy 6:**

**Land designations and service levels:**

**\* \* \* \***

**k. Non-resource Lands (NRES)**

**Description: Lands that are not farm or forest lands as defined by Statewide Planning Goals #3 and #4. (Refer to Goal #2, Policy 16.)**

**Service Level: Consistent with service levels for Rural Residential outside a Community designation. The service level for cluster subdivisions or nonresource shall be consistent with Goal #2, Policy 24.**

These policies are addressed in connection with the discussion of Statewide Planning Goal 11. As demonstrated in that discussion, application approval will result in a development that is served consistent with the service levels described for rural, non-community areas.

**5.0 COMPLIANCE WITH LANE CODE CRITERIA FOR PLAN CHANGES**

Lane Code 16.400(6)(h) provides the criteria for amending the RCP designation:

**LC 16.400(6)(h): Method of Plan Adoption and Amendment.**

- (iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings?**
  - (aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all the applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.**

This criteria references other criteria that apply to plan changes. Those criteria are addressed in other sections of this application.

- (bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:**

**(i-i) necessary to correct an identified error in the application of the Plan; OR**

**(ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR**

**(iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR**

**(iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR**

**(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.**

At least two of the five criteria are relevant to this application. Section (iv-iv) provides for plan change if it implements the RCP policies. Goal Two, Policy 16 of the RCP provides that lands that do not meet the Agricultural or Forest Lands definitions may be designated as Non-resource Lands. Application approval would implement that policy.

Section (v-v) allows the county to make plan changes that are desirable, appropriate or proper. Application approval would meet that criteria. In situations where land is not suitable for farm or forest use, and is not needed to protect natural resources or to allow farm or forest use on adjacent or nearby land, it is desirable, appropriate and proper to allow that land to be put to other productive use, including residential use, consistent with other goals and policies.

**(cc) For Minor Amendments as defined in LC 16.400((8)(a) below, the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible achieves policy support.**

The compliance of this application with individual RCP policies is addressed earlier in this application.

**(dd) For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.**

The existing structure of the RCP provides for non-resource designations. A non-resource designation for the subject property is consistent with the relevant RCP policies as demonstrated throughout this application.

**LC 16.400(8): Additional Amendment Provisions.**

**(c) Minor amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by LC 16.400(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:**

**(i) A complete description of the proposal and its relationship to the Plan.**

The proposal has been completely described throughout this application.

- (ii) **An analysis responding to each of the required findings of LC 16.400(6)(h)(iii) above.**

The required analysis is provided earlier in this application.

- (iii) **As assessment of the probable impact of implementing the proposed amendment, including the following:**
  - (aa) **Evaluation of land use and patterns of the area of the amendment;**
  - (bb) **Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply, and sewage;**
  - (cc) **Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 "ESEE" conflict analysis where applicable;**
  - (dd) **Natural hazards affecting or affected by the proposal;**
  - (gg) **For a proposed amendment to a nonresource designation or a Marginal Lands designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, "Working Paper: Marginal Lands" (Lane County, 1983).**

The required assessments, except for the Marginal Lands Working Paper criteria, are provided in earlier sections of this application.

The Marginal Lands Working Paper contains eight standards for nonresource land designations. Those standards are somewhat redundant of Statewide Goals 3 and 4, which are addressed in full earlier in this application. Those standards are briefly discussed below with general reference to that earlier discussion of the goals:

**LANDS MAY BE DESIGNATED AS NON-RESOURCE/NON-EXCEPTION LAND UPON SUBMISSION OF SATISFACTORY FACTUAL INFORMATION TO SUPPORT THE FOLLOWING FINDINGS:**

- 1. The land is not composed of existing or potential forest lands which are suitable for the commercial production of wood fiber products.**

The subject property is not forest land. See the discussion of Goal 4 earlier in this application.

- 2. The land is not needed for watershed protection.**

The subject property has not been designated by Lane County as needed for watershed protection.

- 3. Designation of the land as NON-RESOURCE/NON-EXCEPTION LAND will not adversely affect management of the land for big game or other wildlife, fish or waterfowl habitat.**

The subject property has not been designated by Lane County, nor is it currently managed, as a site for the management for big game, other wildlife, fish or waterfowl habitat.

4. **No extreme soil or climatic conditions exist to the extent to require maintenance of existing vegetative cover to a degree not provided by the NON-RESOURCE/NON-EXCEPTION designation.**

See the discussion regarding the Beaches and Dunes Combining District.

5. **The land is not located in an agricultural or urban area and providing needed urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors or recreational uses.**

The subject property is neither agricultural land nor urban land and is not located in an area of such designation or use.

6. **The land is predominantly Class V-VIII soils as identified in the Soil Capability Classification system of the U.S. Soil Conservation Service.**

See the discussion of soil capability classifications contained in earlier sections of this application.

7. **The land is not suitable for farm or grazing taking into account soil fertility, climatic conditions, existing land use patterns, technological and energy inputs required, or accepted farming practices.**

See the discussion of the subject property's lack of suitability for farm or grazing contained in earlier sections of this application.

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

The subject property is not agricultural land. See the discussion regarding Goal 3 earlier in this application.

## **6.0 COMPLIANCE WITH LANE CODE CRITERIA FOR ZONE CHANGES**

### **LC 16.252(2): Criteria.**

**Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged by the Land Conservation and Development Commission. Any zoning or rezoning may be affected by Ordinance or Order of the Board of County Commissioners, the Planning commission or the Hearings Official in accordance with the procedures of this section.**

### **General purposes of Chapter 16:**

LC 16.003 provides 14 broadly-worded purpose statements that include a provision to ensure that development is commensurate with the character and physical limitations of the land. Rezoning the subject property from F2 to RR5 implements the proposed plan amendment to non-resource land. The

public interest is served by recognizing that the subject property is neither Agricultural Land nor Forest Land.

**Purpose of Rural Residential Zone:**

The Rural Residential Zone is intended to provide opportunities for people to live in a rural area, allow primary and accessory residential uses that are compatible with primary residential uses, and implement the RCP Policies related to non-resource lands. The proposed zoning is consistent with those stated purposes of the zone.

**Rural Comprehensive Plan Criteria:**

**Goal 2, Policy 17:**

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

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

See discussion of RCP Goal 2 Policy 17 earlier in this application.

**Lane Code Criteria:**

**LC 16.004(4):**

**Prior to any rezoning, that will result in the potential for additional parcelization, subdivision or water demands or intensification of uses beyond normal single-family residential usage, all requirements to affirmatively demonstrate adequacy of long-term water supply must be met as described in LC 13.050(13(a)-(d).**

The availability of public water for domestic purposes has been demonstrated in other sections of this application. Because the subject property is within the boundary of the Heceta Water District and will receive domestic water service from that District, groundwater aquifer capabilities are not impacted by development of the subject property in residential use and the adequacy of long-term water supply has been demonstrated.

**7.0 CONCLUSION**

This application to (i) amend the RCP to designate the subject property as non-resource land and (ii) to change the zoning of the property to the Rural Residential zone (RR-5) consistent with the amended RCP designation, demonstrates that all applicable Lane County criteria have been addressed and met. This application also demonstrates that the proposed amendments are