CLACKAMAS COUNTY

MIKE MCCALLISTER
PLANNING AND ZONING DIRECTOR

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD OREGON CITY, OR 97045

CLACKAMAS COUNTY BOARD OF COMMISSIONERS
2051 Kaen Road, Oregon City
BCC Hearing Room - 4th Floor

LAND USE HEARING
October 22, 2014
9:30 AM

The item will not begin before time noted. Interested parties may appear and be heard during the testimony phase of any hearing at the above address. If a hearing is set for decision only, the evidence phase has been completed, so interested parties may no longer be heard. Applications or comments may be inspected, and calls or correspondence directed to: Planning & Zoning Division, 150 Beavercreek Road, Oregon City, OR 97045, (503) 742-4500.

HEARING

File No.: **Z0208-14-CP, Z0209-14-Z, Z0207-14-CU**

Applicants: Karen Karlsson for Powerhouse ReGen, LLC and Bull Run Schoolhouse, LLC
Mark Livingston for Portland General Electric

Proposal: The application consists of a proposed Comprehensive Plan Map amendment from Forest to Rural and a corresponding zone change from Timber District to Farm Forest-10 Acres for the properties adjacent to Roslyn Lake, to include the old PGE Park area, Bull Run School and the hydroelectric power plant on the Bull Run River, north of Thomas Road, as well as a reasons exception to Statewide Goal 4. A Conditional Use for a private park, campground, recreational grounds and similar uses intended for obtaining a profit is also being requested on the park site, pending approval of the Comprehensive Plan Map amendment and zone change.

Staff Contact: Gary Hewitt, 503-742-4519, GaryH@clackamas.us

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150 BEAVERCREEK ROAD OREGON CITY, OR 97045

Land Use Hearing Item
Staff Report to the Board of County Commissioners

File Number: **Z0208-14-CP and Z0209-14-Z**

Staff Contact: Gary Hewitt – Sr. Planner

Board of County Commissioners Hearing Date: October 22, 2014

PROPOSAL

The applicant is seeking a Reasons Exception to Statewide Planning Goal 4, (Forest) Lands, with a Comprehensive Plan amendment from Forest to Rural and a zone change from the Timber (TBR) to the Farm Forest – 10 Acre (FF-10) zoning district. A conditional use permit application was also consolidated with this proposal. A separate staff report and summary of that application is included in the record.

RELATED PRIOR BCC ACTION

The BCC approved a Historic Landmark overlay zoning district on this property recognizing the existing powerhouse, school, and a day-use picnic area (park site) as significant (Goal 5) historic resources and approved a Historic Corridor overlay zoning district to the three non-contiguous sites.

PLANNING COMMISSION ACTION

The Planning Commission (PC) held three hearings from July 28th to August 25th, 2014. The PC recommended approval to the BCC of the Reasons Exception, Comprehensive Plan amendment and zone change subject to a specific list of allowed and accessory uses on each site, including:

- 8 primary uses and 8 accessory uses on the park site;
- 21 primary uses and 8 accessory uses on the school site;
- 23 primary uses and 7 accessory uses on the powerhouse site.

The PC recommendation requires final review and approval of all of these uses through a conditional use permit (hearings officer public hearing review). The recommended uses approved by the Planning Commission are included in a table in Exhibit 51.

CPO, HAMLET AND VILLAGE RECOMMENDATIONS

The subject property is located in the Bull Run CPO. No comments have been submitted by the CPO.

SIGNIFICANT ISSUES

1. The significant issue in this case is whether or not the criteria for a "Reasons Exception" can be satisfied. Generally speaking, an "Exception" is an amendment to a comprehensive plan, that:

    a. Is applicable to specific properties and does not establish a planning or zoning policy of general applicability;
    b. Does not comply with some or all of the Statewide Planning Goal requirements applicable to the specific property; and
    c. Complies with specific approval criteria and standards (ORS and OAR's).

2. There are three types of "Exceptions" that may excuse compliance with the Statewide Planning Goals. There are different sets of criteria that apply to each of the different "Exceptions". This particular proposal involves one kind of "Exception" known as a "Reasons Exception." A "Reasons Exception" can be justified where:

    a. There is a need or "reasons" to establish a use or uses at the site in question and the applicant establishes that the reasons justify why the policies embodied in the applicable Statewide Goal (Goal 4 – Forest Land in this case) should not apply;
    b. The site compares favorably (alternative analysis) with other possible locations for the proposed development; and
    c. The proposed use is "compatible" with other adjacent uses or can be made compatible through measures designed to reduce impacts.

3. Two days after the last Planning Commission public hearing, the Land Use Board of Appeals (LUBA) issued a Final Opinion and Order regarding a "Reasons Exception" in Columbia County (*known as Seely vs. Columbia County*). Staff believes that several issues in *Seely* are parallel to the issues in this case, and that certain conclusions contained in the Final Opinion and Order directly relate to the application before you. In *Seely*, LUBA found that:

    a. A "Reasons Exception" is not limited to a specific use, but rather can include a wide range of uses, as has been proposed in the application before you. However, proposing a range of uses makes it more difficult to demonstrate compliance with all the remaining exception standards (summarized in paragraph 2 above), because each use or group of similar uses need to be justified under the rules.
    b. Deferring the "compatibility" standard [See Paragraph 2(c), above] to another subsequent permit process, rather than being addressed in the Exception process is not permissible. That ruling is relevant here because the applicant proposed, and the Planning Commission agreed, to defer the "compatibility"

findings to the conditional use permit process at a later date. This is not permissible under the rules for the Reasons Exception. Accordingly, the "compatibility" standard is challenging to address given the wide range of proposed uses and lack of specificity (characteristics) of those uses.

STAFF RECOMMENDATION

The Planning Staff recommended denial of the Reasons Exception, Comprehensive Plan amendment and zone change. Staff's primary reasons for denial are:

1. The broad range of proposed uses on each site. There is a lack of detail about the characteristics and intensity of all the proposed uses (number of people or customers, hours of operation, potential traffic impacts, off-street parking requirements, suitability of the site to accommodate on-site sewage disposal, whether each site will be developed with one or more of the proposed uses and the cumulative impacts of multiple uses on each site).

2. The "Reasons Exception" criteria requires specific "needs" or "reasons" to allow a proposed use or uses on the site that are otherwise prohibited under the Statewide Planning Goals and Clackamas County ZDO. The " reason" the applicant has given to justify the exceptions for the proposed uses is to allow for the continued preservation, maintenance and use of the historic sites. Staff agrees that the historic resources on the site are unique, and that the combination of the resources provide a means to tell the historical story of the area. The property is zoned for forest uses (TBR zoning district) and includes significant historic structures. In *Seely*, LUBA held that under a "Reasons Exception" there must be a close, direct relationship between the "reason" that is advanced for the exception and the proposed uses that fit within that reason. In this case many of the proposed uses have no relationship at all to the historical use of the area or structures (for example, residential use, campgrounds at the powerhouse, home occupations to host events at the school site and powerhouse, gift shops in the park site).

3. The criteria for a Reasons Exception requires evidence that each proposed use is "compatible" with or can be made compatible with the other adjacent uses. The applicant proposed and the Planning Commission agreed to defer this "compatibility" standard to a later date through the conditional use permit process for each proposed use. In *Seely,* LUBA found that this "compatibility" standard must be addressed in the "Reasons Exception" and cannot be deferred to another process.

4. The zone change criteria require evidence that the transportation system is "safe" (ZDO Section 1202.01(E)). Currently, there is inadequate sight distance at the intersection of Ten Eyck Road and Thomas Road. Staff understands the applicant is working to address this issue. However, at this time there is not adequate information demonstrating it is feasible to meet minimum sight distance standards at this nearby intersection.

<u>Alternate Recommendation</u>: During the Planning Commission public hearings, the Planning Commission requested staff to identify a list of uses that would be appropriate

for the site. Those uses are identified in Exhibit 49. Staff believes these uses are appropriate based on the historical use of the property and would be compatible with adjacent uses because any new uses would be limited to existing buildings (i.e. no new structures).

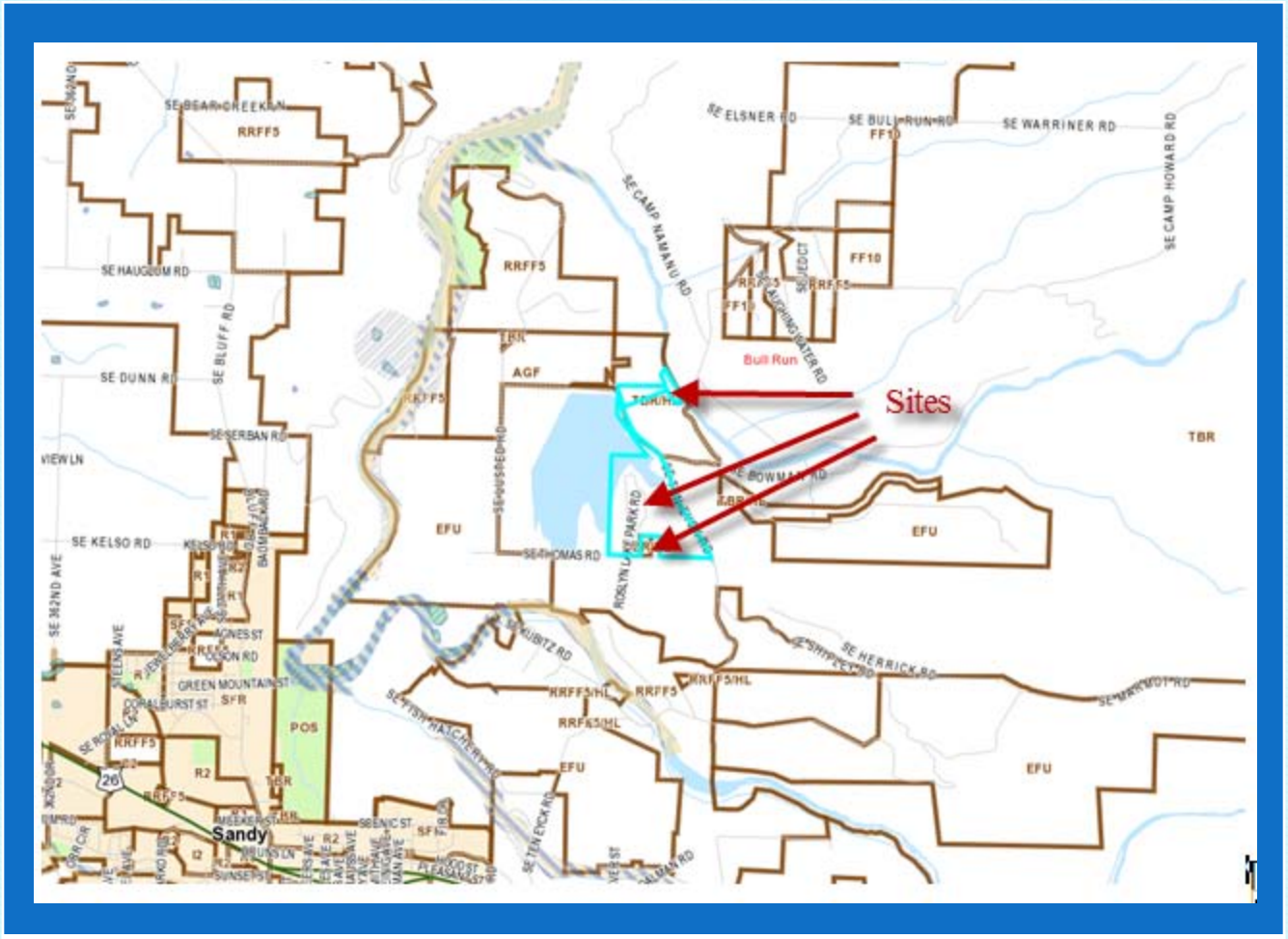
Clackamas County
Board of County Commissioners
Land Use Hearing
File Nos. Z0208-14-CP , Z0209-14-Z and Z0207-14-C

Hearing Date: October 22, 2014
Applicants: Karen Karlsson
(Powerhouse Re Gen LLC & Bull Run Schoolhouse LLC), and
Mike Livingston (Portland General Electric)

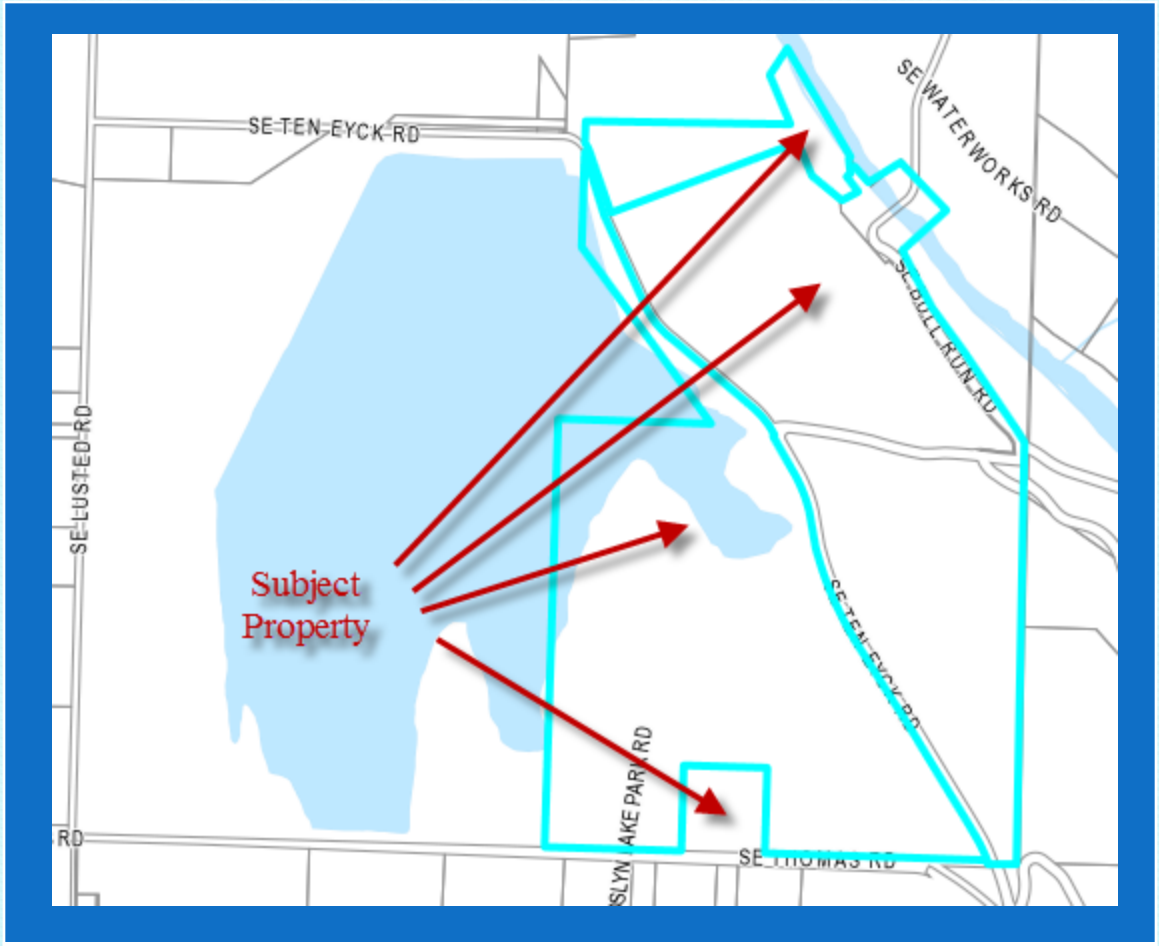
Proposal

- Apply Goal 5 – Historic Areas, through a “Reasons Exception” to change portions of Forest-designated land to Rural.
- Requesting a Comprehensive Plan Amendment from Forest to Rural.
- Requesting a Zone Change from TBR to FF-10.

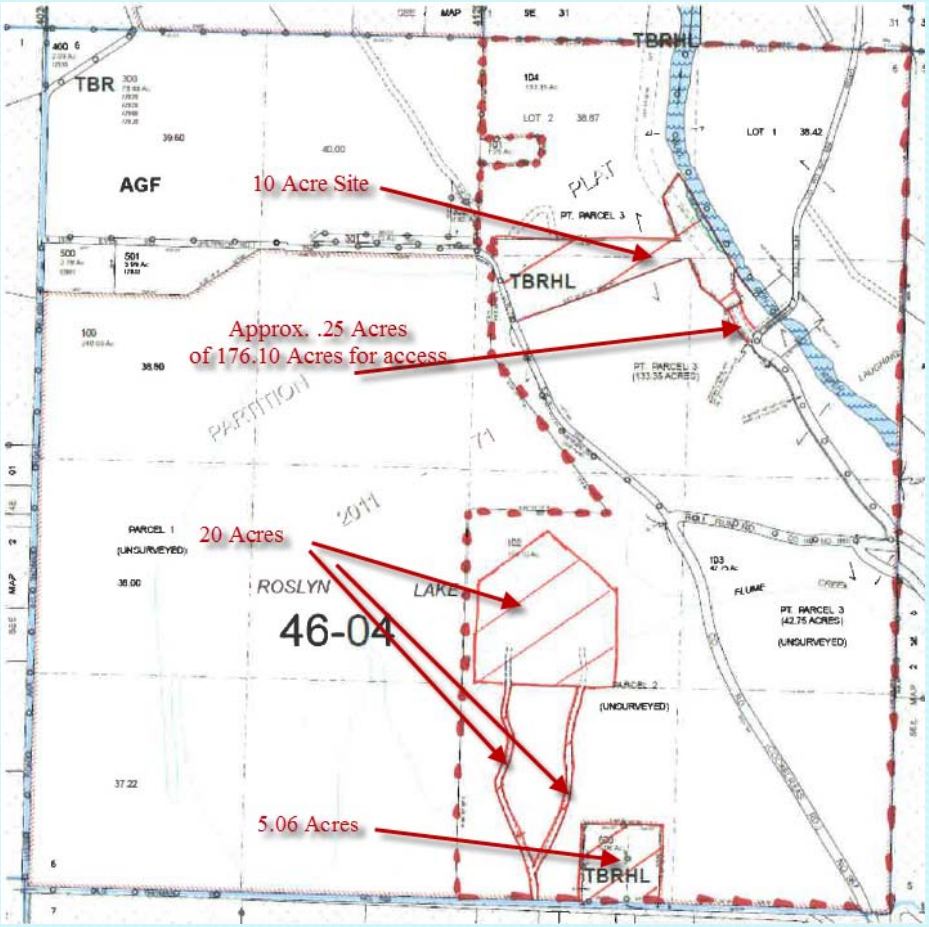
Vicinity Map



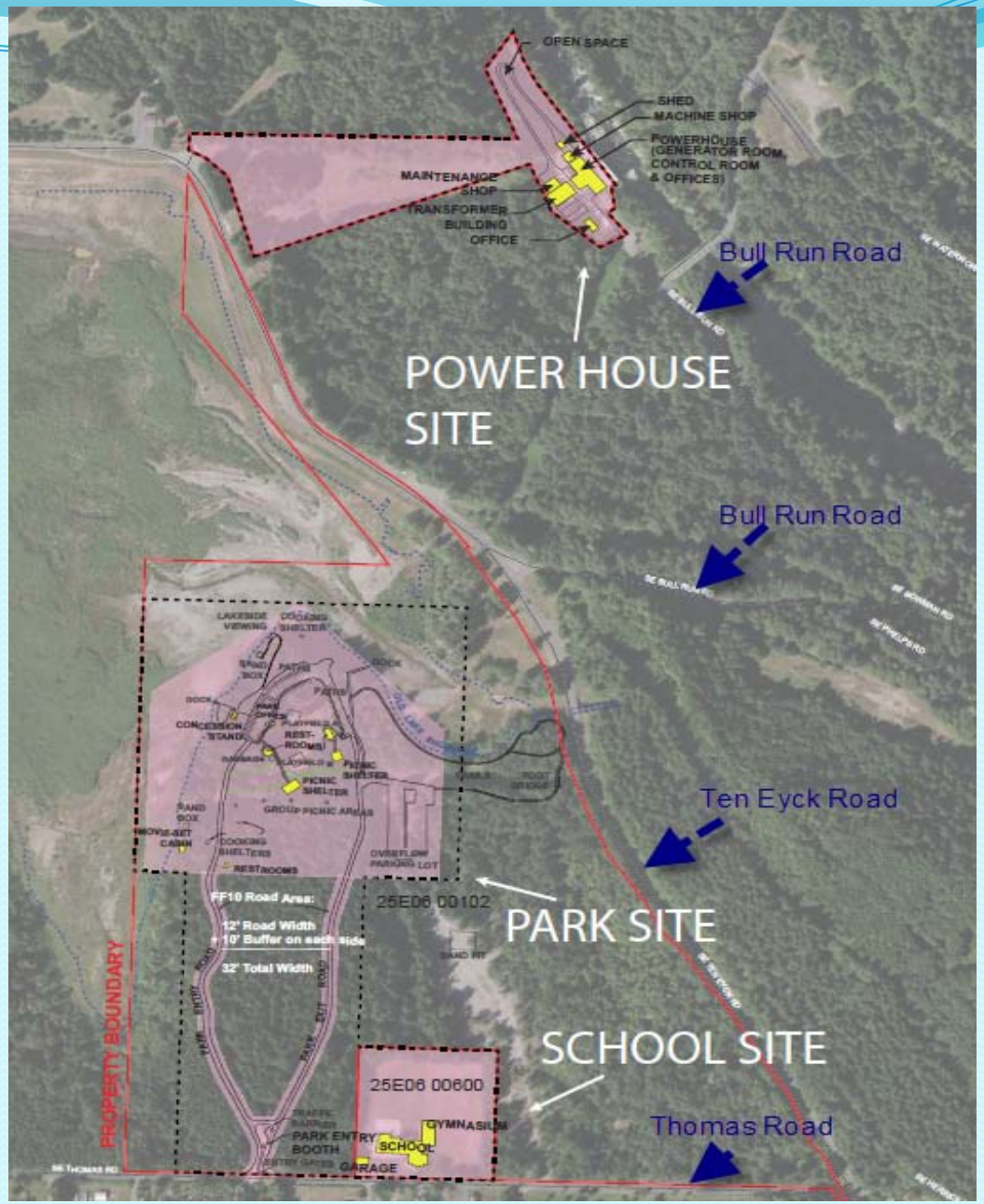
Location


SE TEN EYCK RD
SE WATERWORKS RD
SE BULL RUN RD
SE LUSTED RD
Subject
Property
SE TEN EYCK RD
SE THOMAS RD

Subject Property



Area With Historic Overlay



Applicable Policies & Criteria

- Statewide Planning Goals 4 (Forest Land) & 5 (Historic Resources)
- ORS 197.732(c): Goal Exception
- OAR 660-004-0018; 0020 and 0022: Reasons Exception
- Comp Plan Policies – Forest vs. Rural Designation
- Zone Change - Sections 406 (TBR) and 310 (FF-10)
- Goal 12 - Transportation

Planning Commission Recommendation

- Approval of the Reasons Exception, Comprehensive Plan Amendment, and Zone Change.
- The PC recommended approving the Exception to allow 16 uses at the Day Use Park Site, 29 uses at the School Site, and 30 uses at the Powerhouse Site.
- All new uses would be subject to final review through a conditional use permit process and subject to review and approval by the Historic Review Board.
- List of approved uses is included in Exhibit 51.

Subsequent LUBA Decision

- LUBA decision issued two days after the last PC hearing.
- The LUBA case is *Columbia Riverkeepers / Seely, etc. v. Columbia County* (hereafter referred to as *Seely)*
- Provides additional guidance for evaluating a "Reasons Exception" criteria.
- Includes several issues relevant to this application.

Reasons Exception Process

- First, the applicant must identify a sufficient "reason" to authorize uses <u>not</u> allowed under Goal 4.
- Second, the applicant must demonstrate that "areas" that do not require a new exception (*nonresource land*) cannot reasonably accommodate the use (alternative analysis).
- Third, proposed use will have minimal adverse "consequences" compared to other locations.
- Fourth, the proposed use must be compatible with other adjacent uses, or be so rendered through measures designed to reduce adverse impacts.

"Reasons" to Allow Uses

- The Exception must set forth the "reasons" to use resource land for uses not allowed under the Statewide Goals, in this case Goal 4 – Forest lands.
- LUBA held that under a "Reasons Exception" there must be a close, direct relationship between the "reason" and the corresponding "proposed uses" that fit within that reason which are analyzed under all of the criteria.
- The "reasons" for allowing the exception must apply to <u>each</u> proposed use or group of similar uses

Alternative Analysis

- The Exception must demonstrate that areas that do not require a new exception cannot reasonably accommodate the use.
- This step requires an evaluation of alternative sites within existing exception areas, other committed resources (farm and forest) land, and within urban growth boundaries.
- LUBA held that an exception is not warranted for the preferred site, even if the preferred site is better suited for the proposed use than the alternative site.
- Again, this application includes a wide range of uses. This standard requires this analysis for each proposed use or group of similar uses. Staff does not believe there is adequate information to demonstrate compliance with this standard.

Compatibility Standards

- The Exception must demonstrate the proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.
- The "proposed uses" are not sufficiently described to determined potential impacts with adjacent uses (physical and operational impacts of each use, how many uses, etc.)
- The applicant and Planning Commission agreed to defer and consider impacts through a subsequent conditional use permit.
- LUBA held that impacts / compatibility of the proposed uses must be determined <u>prior</u> (as part of) to the adoption of a plan or zone designation and **cannot** be deferred to future proceedings.

BCC Options

- Approve the application as submitted. Proposed uses are identified in Exhibit 47.
- Approve the application as recommended by the Planning Commission. Proposed uses are identified in Exhibit 51.
- Approve the application with uses recommended by the Planning Staff. Proposed uses are identified in Exhibit 49.
- Approve the application with a revised list of allowed uses.
- Deny the application.

Conditional Use Permit

- During the review process, the Planning Commission requested a conditional use application to see more details of the applicant's request on the park site.

- File No. Z0207-14-C was subsequently submitted and processed concurrently with the Reasons Exception, Comprehensive Plan Amendment, and Zone Change.

Conditional Use Permit Proposals

- This application includes two different requests:

1. A conditional use permit on the portion of the site zoned TBR;
2. A different conditional use permit on the portion of the site proposed to be zoned FF-10;
3. The uses proposed in both conditional use permits, if approved, would be allowed to operate simultaneously on the property.

Conditional Use Permit: TBR Zone

- This proposal is to authorize a private park on 80 acres of the site zoned TBR.
- This application can be processed without the reasons exception. A low-impact use private park is permitted in the TBR District through a conditional use permit.
- Proposed uses include low-impact recreational uses such as hiking, guided nature tours, animal tracking lessons and bird watching.
- No new buildings or other structures are proposed on the TBR zoned portion of the site. Day use of the site is proposed to allow up to 800 people a day with up to 1,500 people occasionally.
- The Planning Commission recommended allowing overnight camping (in primitive, leave no-trace techniques). State law and the ZDO prohibit campgrounds (overnight temporary use for vacation, recreational, or emergency purposes) in this location.

Conditional Use Permit: FF-10 Zone

- This conditional use permit is predicated on approval of the Reasons Exception.
- If approved, the site would be zoned FF-10.
- The proposal is for a private park, campground, and education center on 20 acres of the site.
- Use of the existing park structures, five new classrooms, two open air classroom shelters, one classroom platform to be use for overnight stays (tents),two primitive personal tent camping areas, and an archery range.
- Day use of the site is proposed to allow up to 800 people and over-night use of the site is proposed to allow up to 300 participants. Occasionally, special events may have up to 1,500 participants.

Recommendations

- The Planning Commission recommended approval of the conditional use permits subject to revised conditions in the staff report.
- Staff recommends denial of both proposals due to unresolved sight distance (safety) issues at the intersection of Thomas Road and Ten Eyck Road.
- If approved, staff recommends the condition authorizing overnight camping in the TBR zone (Proposal A) be removed.

NAME:	Powerhouse Re Gen LLC, Karen Karlsson Bull Run Schoolhouse LLC, Karen Karlsson Portland General Electric, Mike Livingston
FILE NO.:	Z0208-14-CP / Z0209-14-Z
REPORT AUTHOR:	Gary Hewitt, Sr. Planner
HEARING DATE:	July 28, 2014
REPORT DATE:	July 22, 2014

PLANNING STAFF REPORT/RECOMMENDATION TO THE PLANNING COMMISSION

FACTS

GENERAL INFORMATION

Applicant: Karen Karlsson, for Powerhouse Re Gen LLC and Bull Run Schoolhouse LLC, 906 NW 23rd Avenue, Portland, Oregon 97210; and

Mike Livingston, for Portland General Electric Company (PGE), 121 SW Salmon Street, Portland, Oregon 97204

Owner: Same

Legal Description: T2S, R5E, Section 06, W.M, Tax Lots 102, 103 and 600

Location: 13115 SE Bull Run Road, Sandy, Oregon (Abandoned Powerhouse Site)
13500 SE Bull Run Road, Sandy, Oregon (Easement to Powerhouse Site)
41401 SE Thomas Road, Sandy, Oregon (Abandoned Day-Use Park Site)
41515 SE Thomas Road, Sandy, Oregon (Abandoned School Site)

Total Area Involved: 248.51 Acres

Comprehensive Plan Designation: Forest

Current Zone: Timber District – 80 Acre (TBR)

Proposal: The applicant is requesting a Comprehensive Plan Amendment, Zone Change and Reason Exception to Statewide Goal 4 in order to change 35 acres from a Forest Comprehensive Plan designation to a Rural

designation and; from a TBR zoning district to Farm Forest – 10 acre (FF-10) zoning district.

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SECTION 1

OVERVIEW OF APPLICATION

The applicant has presented a Goal Exception application, based on several historic areas of the property. There are three historic areas existing on this site and the applicant is proposing a change from an existing Forest designation to a Rural designation to protect the Goal 5, Historic Areas. Further, this request is for a Rural designation, and all the "*uses*" requested are those allowed in a Rural zoning district, that all the "*uses*", or at least those requested "*uses*", are allowed without restriction, (see pages 3 through 6, 10, second paragraph, of the June 9th application version and page 27, second paragraph, May 2, application version). In addition, the applicant presents that there are some limited commercial uses as provided in Section 707, Historic Landmarks of the Zoning and Development Ordinance (ZDO) that would be allowed on the newly zoned rural land. Staff is not inclined to side with the applicant's position in this case. The difficulty with the applicant's approach is it fails to address the criterion that is before the county. For example, only a portion of Goal 5 and, some of the OAR 660-004 and, some of the Forest and Rural comprehensive plan Policies have been presented or addressed. The "Reasons Exception" requires that each "*use"* and *"activity*" among others, go through the exception process (*a separate and distinct process for each use*) and <u>if</u> the "*use"* or *"activity*" does not go through the exception process, being "*justified*" by it, it simply is not allowed, [see Exhibit 5, page 1, (4)(a)] . The applicant has not applied each "*use"* or *"activity*" to the complete review process as required by the "Reasons Exception", Goal 5 and the comprehensive plan, thoroughly discussing if the "*use*" or "activity" can be placed on nonresource land, and if not, why not, [see Exhibit 5, page 2, (B)(i)] and; if the "*use*" or "*activity*" could be placed on resource land already irrevocably committed to a nonresource use, [see Exhibit 5, page 2, (B)(ii)] and; if the "*use*" or "*activity*" can be placed on urban land, [see Exhibit 5, page 2, (B)(iii)].

And; the applicant has not fully addressed the Comprehensive Plan Amendment criteria as provided in the Forest and Rural designations in the Plan. Moreover, the applicant has requested to be allowed "*a range of appropriate uses*", (see page 27, second paragraph May 2, application version). This request for a "*range*" of "*uses*" is not how staff understands this process works. This has been a collaborative effort with help from the Department of Land Conservation and Development (DLCD) for insight into the criteria and general usage of the same.

This application is actually three applications in one or three "*areas of interest*" on two adjacent properties, 1.) The old PGE Day-use Park, 2.) The old Bull Run School and, 3.) The defunct PGE Hydroelectric Power Plant, which, by law, can all be considered in one application, (see Exhibit 5, page 2 - OAR – No. 3). This application is subject to standards within State Law, the County Comprehensive Plan, and Statewide Goals 4 and 5. To assist in this process, staff has provided the various documents as Exhibits 2 through 8. We suggest that having these documents ready for quick reference will assist in this review. These documents provide the guidelines for each of the appropriate standards, rules and laws the county is bound by. These documents are the current laws that regulate this type of application for a "*Reasons Exception*" and Comprehensive Plan Amendment. The remainder are sections of the Statewide Goals and a zone change.

Note: This application has three separate application and update dates, a February 21, 2014 version for the comprehensive plan amendment and zone change, a May 5, 2014 version for the "Reasons Exception", and a June 9, 2014 supplemental version for the "Reasons Exception". After reading the application numerous times, staff has gleaned that there are three basic concepts presented by the applicant.

> Concept No. 1.) The applicant provides an in depth explanation about the historic area being protected by Goal 5. Please note that the word "*preservation*" is used over and over with the words "*adaptive reuse*";
>
> Concept No. 2.) The applicant contends that a newly designated historic "*overlay*", in some way, allows discussion of only the "*existing uses*" on the historical site as if these "*existing uses*" have the same meaning as the proposed "*uses*" and "*activities*" being discussed in the "Reasons Exception" of Chapter 4 of the OAR [see page 1 of the OAR – No. (4)(a), page 2, (B), (B)(i), (B)(ii), (B)(iii) and (B)(iv)]; and;
>
> Concept No. 3.) After these discussions of the "*existing use*" of these historic sites, the applicant concludes that since the request is for a rural designation that will allow FF-10 zoning uses, and provide for "*a range of appropriate uses*" as the applicant has requested, (see pages 3 through 6 and; page 27, second paragraph within the May 2nd application version and page 10, second paragraph in the June 9th application version).

These concepts do not address the standards as required in the Goal Exceptions in the ORS, the "Reasons Exception" in the OAR, the Rural Comprehensive Plan Goals and

Policies, and Statewide Goals 4 and 5. The following are a portion of the important aspects of the law that govern this application in order to "*justify*" the "*uses*".

The following portions of the State Exception process, as provided in ORS 197.732, have specific provisions for a Goal Exception and "Reasons Exception", including but not limited to the following:

a. Reasons justify why the state policy [Goal 4] embodied in the goals should not apply. [see ORS 197.732(c)(A) Goal Exception]

b. Areas that do not require a new exception cannot reasonably accommodate the use. (Here an applicant must provide evidence of why these *"uses"* or *"activities"* cannot be placed on urban or rural lands). [see Exhibit 4, ORS 197.732(c)(B) Goal Exception]

c. The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. (Note here the criterion is calling out the "*proposed uses*" not "*existing uses*" on the property's historic sites.)

Also, 660-004-0020 provides additional criteria that must be evaluated by the applicant proposing a "Reasons Exception" in order to change the comprehensive plan and zoning of a property in a resource zone, including but not limited to the following:

a. Can the proposed use be reasonably accommodated on nonresource land (*urban and rural lands*) that would not require an exception, including increasing the density of uses on nonresource land? If not, why not? [see Exhibit 5, page 2 OAR 660-004-0020(b)(B)(i)-Exception Requirements]

b. Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource (*urban and rural uses*) uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not? [see Exhibit 5, page 2, OAR 660-004-0020(b)(B)(ii)-Exception Requirements]

c. Can the proposed use be reasonably accommodated inside an "*urban*" growth boundary? If not, why not? [see Exhibit 5, page 2, OAR 660-004-0020(b)(B)(iii)-Exception Requirements]

And when Forest lands are being considered, the Clackamas County Comprehensive Plan requires the applicant to provide substantial findings for the Forest Policies including but not limited to the following:

a. Lands suitable for forest use. [see Exhibit 6, Comp Plan, Policy 1.0(a)]

b. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year. (*The predominate soil type for the land is Alspaugh and Klickitat soils at 56.3%, capable of 158 and 150 cubic feet of timber per acre per year*.) [see Exhibit 6, Comp Plan, Forest Policy 1(b) and page 3 of the Soils Survey within application dated February 21, 2014]

c. Areas generally in forest uses. [see Exhibit 6, Comp Plan, Forest Policy 1(c) and page 2 of the Soils Survey within application dated February 21, 2014]

d. Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest. [see Exhibit 6, Comp Plan, Forest Policy 1(d)]

e. Encourage forest-related industries. [see Exhibit 6, Comp Plan, Forest Policy 2.0]

f. *Prohibit land uses that conflict with forest uses*. [see Exhibit 6, Comp Plan, Forest Policy 3.0]

g. *Housing should be limited*. [see Exhibit 6, Comp Plan, Forest Policy 4.0]

h. *Prohibit commercial and industrial development*. [see Exhibit 6, Comp Plan, Forest Policy 5.0]

The application before you is requesting a "Reasons Exception" and must meet the aforementioned criteria, among others, as stated above AND: the requirements of the Clackamas County Comprehensive Plan, as stated above. Page 44 of the February 21, 2014 version of the application shows the applicant addresses Policy 1.0 of the Comprehensive Plan for Forest and then skips Policies 2.0 through 8.0. By doing so, the applicant fails to meet the burden of proof within the application. Review of these Policies is pertinent to the application. By addressing these two Land Use Sections of the Comprehensive Plan, the Rural and Forest designations, staff will be able to weigh the facts and formulate conclusions as to which designation is most appropriate for the land. This is why it is very important to respond to all the Policies within the comprehensive plan designation.

The applicant presents the concept of "*adaptive reuse*" to be required within the Historic Overlay and Historic Landmark designation in the comprehensive plan. Their position is the comprehensive plan requires the "*preservation*" of these historic structures, ending with a conclusion that Rural is "*the only suitable alternative*" for such "*uses*", (see page 45-46 of February 21, 2014 application version). In fact, their assumption of a mandated need for "*adaptive reuse*", is incorrect since Policy 8.0 in the Comprehensive Plan clearly says, "*Pursue* 'options*' and incentives to allow productive, reasonable use, and adaptive reuse of historic properties*.", (see Exhibit 8, Comp Plan, Historic Landmarks). Nothing in this Policy points to any mandatory requirement for the county to require "*adaptive reuse*" just because it is used in the context of Policy 8.0 of the Historic Landmark section of the comprehensive plan, especially since it really states that one is

only "*pursuing their options*" with "*adaptive reuse*" as an option of many other options. There is little to no weight in the applicant's position of this "*adaptive reuse*" and "*preservation*" concept except that these words are used in the pursuit of options within the comprehensive plan for historic property.

This initial review of the criteria hopefully creates a better understanding for the Planning Commission of just what is necessary from the applicant in order for staff to assess "*why*" a "Reasons Exception", and Comprehensive Plan and Zone Change can or cannot be taken for the desired rural designation that may or may not allow or "*justify*" the proposed "*uses*" and "*activities*" on an historic resource overlay designated property.

SECTION 2

THE APPLICATION AND GENERAL DISCUSSION

The applicant has chosen to request a "Reasons Exception" with their own "*version*" or conceptual understanding of how this should be done, (see page 3, Concepts, of this report). They highlight the "*historical*" aspects of the site and focus heavily on one aspect of Goal 5, "Historic Areas". The applicant points out that since the county approved these sites as "*significant*" historic landmarks; these sites are now somehow placed in much higher regard (historic significance) than the existing comprehensive designation of Forest which, they further state, has an "*inability*" to allow "*adaptive reuse*". The applicant opines that since the property is a Forest designation, this designation would not allow the site to be used in a manner that supports the reuse of the onsite historic structures, (see page 45, second Rural - Response - February 21, 2014 application version). The applicant further implies that since portions of the property are a Goal 5 resource, this fact in and of itself somehow overrides or is more important than Goal 4, the Forest Goal governing the property currently. Staff disagrees. Actually, Goal 5 has four very separate and distinct subject matters: 1. Open Space, 2. Scenic Areas, 3. Historic Areas, and, 4. Natural Resources. An additional piece of Goal 5 is, "… when no conflicting uses have been identified, proper management of the site should "*preserve the original character*" or, ensure that any new proposed use "*fits in*" with the historic area which includes the land, structures and objects on the site, (see Exhibit 3, Goal 5).

The applicant's use of the word "*use*" as presented states that this idea somehow extends beyond just "*preservation*", (see page 8, second paragraph of the June 9, 2014 application version). There is no one "*use*" that has been proposed in this application but rather there has been a general "*range of uses*" proposed. Likely, the applicant may be referring to the historic site as the one "*use*", but this fact is not the subject matter before us. The applicant's assumption leads to the continual use of a catch phrase, "*adaptive reuse*", of historic structures and grounds, with the intension to "*enhance*" the structures

and areas around them. On the contrary, Goal 5 also states that "…*such resources shall be managed so as to preserve their* <u>*original character*</u>". The applicant relies heavily on the ability of all newly proposed "*uses"* and *"activities*" to make money to fund the preservation of the structures. The applicant goes further to imply that in order to make such monies that no one would initiate "*off-site businesses*" to create a funding source, [see page 9, third paragraph of June 9, 2014 application version]. The applicant presents the rational that since each "*use"* or *"activity*" is already allowed because of the requested rural zoning district, each "*use*" should be allowed without any further discussion, (see page 10, second paragraph June 9th version). Staff finds the "Reasons Exception", and Comprehensive Plan and Zone Change criteria require more. It requires more explanation as to "*why*" these proposed "*uses"* and *"activities*" <u>must</u> be placed on this specific resource land and not on other existing urban or rural (*nonresource*) lands inside or outside of "*the*" area.

The applicant opines that these historical sites are somehow more "***special"*** now that they have received recent approval for an historic overlay zone. It is true that these sites are historic, but the "Historic Landmark" designation is just that, an <u>overlay designation</u> that recognized the site's history and how that history may fit in with the sites themselves and the surrounding area. The Comprehensive Plan "*encourages*" the preservation of these sites, but does not mandate that the County invest in, manage or maintain such sites. The County Comprehensive Plan discusses "*adaptive reuse*" only within the context that may include other possibilities for "*pursuing options and incentives*" which may assist the owner in preserving the site (see Exhibit 8, Comp Plan, Historic Landmarks, Policy 8.0). The applicant assumes this term, "*adaptive reuse*", somehow mandates some sort of "*protection*" of such sites and/or their structures and that if any of the proposed "*uses*" were not allowed, this would somehow be illogical because it would not allow funding to protect the site and structures. The fact is that all the Historic Landmark designation does is assist with possible or potential "*options*" for the landowner to "*explore*".

There are other factors that must be reviewed. As stated previously, the "Reasons Exception", ORS 197.732 and OAR 660-004-0020 states that the applicant must show that the "*uses*" or "*activities*" cannot reasonably be accommodated on nonresource (*urban or rural*) land <u>AND</u>, as previously pointed out, the "*uses*" and "*activities*" must be limited to only those that are "*justified by the exception*". In other words, if a certain use cannot be justified, then simply, it cannot be allowed on the property. Each "*use***"** and "*activity*" must be justified through the "Reasons Exception" review process. The "Reasons Exception" also requires that, if the use cannot be placed on urban or rural land, then the applicant must provide substantial evidence as to "*why not*", [see Exhibit 5, OAR page 2, (B), (i) – (iii)]. Essentially, the applicant must propose each use and/or associated activity and explain "*why*" the use and/or activity cannot or should not be placed on local rural or urban land and must "*only*" be placed on this resource land. This exercise does not allow as the applicant has presented, a "*range of appropriate uses*" to later pick and choose from. These "*uses*" and "*activities*" must be justified "*prior*" to allowing them later on at these sites.

In this application, the whole discussion is about an abandoned Day-Use Park, an abandoned School Building and a defunct Powerhouse Facility as the "*original character*" of these multiple sites. So, based on Goal 5 and thinking about any of the "*proposed uses*", it is reasonable to think of the "*original site*", its history and historical use, and how the proposed use(s) "*fit in*" with the original site, (see Exhibit 3, Goal 5).

Based on the aforementioned criterion, which requires that <u>if</u> a "*use"* or *"activity*" cannot "*reasonably be accommodated on nonresource land*", there needs to be a very valid reason "why not", it also is reasonable to ask <u>if</u> the proposed "*use"* or *"activity*" fits in with the "*original character*" of the historic site as another but separate aspect provided through Goal 5. The applicant presents that Goal 5 "*requires*" protection of historic land without regard to what the use is, how it may impact the area or whether it "*fits in*" with the original character or not. The criterion strongly suggests the "*uses"* and *"activities*" must be "*only*" those that cannot be done "*anywhere else*" but on the abandoned Day-Use Park site, at the abandoned School site and/or the defunct Powerhouse Facility site. This should help focus attention on the basic questions that must be addressed by the applicant. The question *is "Can any of these proposed uses or activities be <u>reasonably placed</u> on nonresource land?"* Staff believes that all of the proposed uses and/or activities proposed by the applicant can be placed on nonresource land. No evidence to the contrary has been submitted. As a matter of fact, the applicant clearly points out that all the "*proposed uses*" can be done on Rural designated land as acknowledged by DLCD, (see page 10, second paragraph, June 9th application version).

As an example, the first "*use*" requested by the applicant for the abandoned Day-Use Park site is for a detached single family dwelling "…*for use solely as a caretaker dwelling*", (see page 3 of the June 9th application version). This "*use*", with or without it being used solely as a caretaker dwelling, is an allowed use in the FF-10 zoning district. The question is, can this allowed use, that of a dwelling, be placed on Urban or Rural land so it does not have to take up valuable forest land? The answer is yes. Then how can it be justified by the "Reasons Exception"? And so forth and so on. This type of discussion "*for each use*" has not been provided by the applicant. There has been no discussion if the "use" cannot reasonably be accommodated on urban or rural land, AND "*if not"* then, *"why not?*" The applicant must provide substantial evidence that the "*use*" (the dwelling) cannot be placed on urban or rural land and therefore, it must be placed on this particular resource land. In addition, no evidence is provided that a dwelling was part of the "*original character*" of the historic site or how it would "*fit in*" with that character.

Each of the standards within the "Reasons Exception" reviews the "*proposed uses*" separately. There is a need for evidence that clearly shows the criteria of the "Reasons Exception" have been satisfied. This evidence has not been fully provided by the applicant. <u>The applicant's interpretation of the "Reasons Exception" in this application to remove the Forest comprehensive plan designation is that portions of this site have been designated an Historic Landmark (HL</u>). However, the HL designation is only an overlay zone of the underlying zoning district of TBR. The County has several "*overlay zones*", for example, historic landmarks, Willamette River Greenway, habitat

conservation areas, river and stream conservation areas, mineral & aggregate districts, and sensitive bird habitat districts. These "*overlays*" are placed over the base underlying zone. These "*overlays*" have additional standards to the standards in the underlying zone and, do not stand alone. Just like one Policy of the comprehensive plan does not stand alone but are considered as a sum total of the Policies. An overlay does not override the base underlying zone nor are they more important than the underlying zone. An overlay designation is simply to recognize a certain aspect of the land in addition to the underlying zoning district. The protection of the historic resources (Goal 5) must be balanced with the underlying forest land (Goal 4) protections.

The applicant sidebars with a separate and basically unrelated land use decision concerning Schuebel School, stating it sets a precedent (see page 5, third paragraph of the May 2, 2014 narrative). The applicant asserts that a decision for a "Physically Developed" Exception should also be used to justify the "*newly proposed use*" of the Bull Run Education Center. The applicant is not asking for a "Physically Developed" Exception because it would limit the use to only a school, (see Exh. 28) . The Schuebel School action was an entirely different land use case with different criteria. The school building was located on EFU land, not TBR land, and; the exception request was for a "Physically Developed" Exception to Statewide Goal 3 (Agriculture), not Goal 4 (Forest). This example of a "Physically Developed" exception has no relevancy to this current proposal.

Staff has contacted Katherine Daniels, Farm and Forest Specialist, DLCD concerning this application and related the Planning Division's assessment of the process and requirements for a complete review of a "Reason Exception". DLCD has commented that our assessment is correct, (see Exhibit 40). The county must evaluate each "*use*" and "*activity*" and, each must be "*justified*" through the criterion as provided within OAR 660, Chapter 4, [see page 1 of the OAR (4)(a) and page 2, (B)(i) – (iii)].

To summarize, this application has not presented substantial evidence or proof to assist the county in making a determination to designate additional Rural lands because and not limited to the following:

a. No reasons why the "*range of proposed uses and activities*" cannot be accommodated on nonresource land, [see Exhibit 5, OAR, page 2, (B)(i)]

b. No reasons why the "*use or activity*" cannot be accommodated on resource land that has been irrevocably committed to nonresource uses, [see Exhibit 5, OAR, page 2, (B)(ii)]

c. No reasons why the "*use or activity*" cannot be accommodated inside an urban growth boundary, [see Exhibit 5, OAR, page 2, (B)(iii)].

d. No evidence how any of the uses "fit in" or maintains the "original character" of the historic site.

e. No review of individual uses, clearly defined in scope and character.

In conclusion, the applicant has failed to provide sufficient evidence in order to satisfy the criteria.

SECTION 3

SITE DESCRIPTION AND SERVICES

Site Description: The abandoned Bull Run School and associated facilities includes approximately 2.07 acres of the 5.06 acres it sits upon which includes two standard septic systems. The eastern portion of tax lot 600 was a property line agreement to the school property, a 2.13 acre portion of tax lot 102, now the adjacent 110.10 acre property. The current 5.06 acres is a combination of this additional 2.13 acre property line agreement, the additional land used mainly for an outdoor play area.

The defunct powerhouse and associated above ground facilities encompass approximately 3.50 of the 110.10 acres of the subject property, which is located along the Bull Run River adjacent to the access from Bull Run Road. Of importance is the access to the site is over adjacent owned property of Portland General Electric Company (PGE). PGE has signed the application in order to allow the main applicant, Karen Karlsson, to move forward with the application, completing access of necessity for the project. The applicant is requesting that 10 acres of this area becomes a Comprehensive Plan Amendment to Rural with a corresponding Zone Change to FF-10.

The abandoned Day-Use Park property area and associated facilities includes approximately 11.50 acres of the 110.10 acre subject property, which is located towards the mid-western portion of tax lot 102. The applicant is requesting that 20 acres of this area becomes a Comprehensive Plan Amendment to Rural with a corresponding Zone Change to FF-10. This allows approximately 9.50 acres that was lake bottom land to be part of the 20 acres being requested.

Surrounding Conditions: Generally Thomas Road lays east to west, and Ten Eyck Road lays north to south. To the south of Thomas Road there is TBR zoning which is best characterized as a sparse rural residential settlement area with farm and forest uses. The larger area north of Thomas Road, approximately an 830 acre area can be characterized as a large section of timber production property zoned TBR with a drained lake of approximately 147 acres, formerly Roslyn Lake. The drained lake is currently in new vegetation cover, growing grasses, shrubs and some starts of trees in a natural forest reclamation phase over the past six or seven years. The combined 248.51 acre subject properties that include the school, park, powerhouse and access portion to the powerhouse site take up approximately 30% of the northern 830 acres.

Service Providers:

1. **Sewer:** The property is not located within a public or private sewer district. Sewage disposal will need to be accommodated by an on-site sewerage disposal system.
2. **Water:** The property is not located within a public or private water district. Water will need to be accommodated by a well.
3. **Surface Water:** The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the Engineering Division of the Clackamas County Department of Transportation and Development (DTD).
4. **Fire Protection:** The property is located within the Sandy Fire District #72.

Responses Requested:

1. Bull Run School District # 45
2. Sandy Fire District
3. Traffic Engineering, Rick Nys
4. Department of Land Conservation and Development
5. Property Owners Within 750 Feet of The Subject Property
6. Bull Run CPO

Exhibits: See Exhibit List following the last page of this report.

RECOMMENDATION

Staff recommends denial of a "Reasons Exception" for a Forest, Goal 4 Exception, based on review of Goal 5, ORS 197.732 and OAR 660-004.

Staff recommends denial of a Comprehensive Plan Amendment from Forest to Rural.

Staff recommends denial of a Zone Change from a Timber District – 80 Acre (TBR) to a Farm Forest – 10 Acre (FF-10).

CONCLUSIONS AND FINDINGS

The evaluation of this application involves four steps. In order to approve this application the applicant must; 1.) Consider and justify the need for an Exception to Statewide Planning Goal 3 (Agricultural) or Goal 4 (Forest); 2.) Demonstrate compliance with the applicable goals and policies of the Comprehensive Plan (CP) and; 3.) Demonstrate compliance with the criteria for a zone change in Section 1202 of the Clackamas County Zoning and Development Ordinance (ZDO) and; 4.) Demonstrate compliance with OAR 660-004-0040.

SECTION 4

EXCEPTION TO STATEWIDE GOALS

1. ***Consideration of an Exception*:** The subject property is designated natural resource land (Forest) on the Comprehensive Plan Map. In order to change the Comprehensive Plan Map designation to any plan designation other than Forest, it is necessary to take an Exception to Statewide Land Use Goals 3 and/or 4, under the procedure described in the Oregon Administrative Rules (OAR) 660, Division 4.

   The applicant has indicated an exception to the Statewide Goals 3 and 4 is required. Staff has reviewed the Statewide Goals 3 and 4 and the need for an Exception as follows:

   A. Goal 4 Exception: Statewide Planning Goal 4 defines forest land as, "…***those lands acknowledged as forest lands as of the date of adoption of this goal amendment [December 27, 1974]. Where 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 habitat***."

      The subject property was originally designated (*acknowledged as*) "Forest" on August 8, 1974 on the Comprehensive Plan Map, Board Order No. 74-1073, and has continuously been designated "*forest land*", since that date. The property was acknowledged as forest lands as of the date of adoption of amendment to Goal 4.

① - OLD BULL RUN SCHOOL
② - OLD PGE DAY-USE PARK
③ - OLD POWERHOUSE FACILITY (PGE)
④ - ACCESS PROPERTY FROM BULL RUN RD TO POWERHOUSE

Soil Types

The applicant's agricultural soils examination is not relevant to a Goal 4 review. The subsequent timber capability within the review is adequate in describing the forest capability for the subject property. The following forest capability ratings should place a more appropriate depiction of the soils when reviewing timber production levels as required. Additionally, there is very specific and strong evidence the land use has changed by the drainage of Roslyn Lake and the inactivity of the sand silt storage pit east of the abandoned Bull Run School.

Because this application involves a plan amendment an evaluation of the suitability of the property for commercial forest uses is required. The subject property contains Alspaugh clay, Klickitat stony and Pits soils. The soil rating capability of these soil types for forest production are as follows:

Alspaugh: There is approximately 56.1 acres of this soil type on the subject property. This soil is capable of producing 158 cubic feet/per acre/per year of commercial tree species, placing this in a forest production capability rating of 1, the highest rating possible of 1 through 5.

Klickitat Stony: There is approximately 9.4 acres of this soil type on the subject property. This soil is capable of producing 150 cubic feet/per acre/per year of commercial tree species, placing this in a forest production capability rating of 1.

Pits: There is approximately 35.9 acres of this soil type on the subject property. This soil is capable of producing an unknown cubic feet/per acre/per year of commercial tree species. Based on a 2012 aerial photo, all this area but approximately 6.5 acres is in forest production which matches either Alspaugh or Klickitat soils capabilities based on historical data found in aerial photos from 1976 to 2012, see Exhibit 3.

Water: There is approximately 14.9 acres of this soil type on the subject property. This (under water) soil is typically not capable of producing timber but since the lake has been drained, there is a natural reforestation taking place. There is of cover plants, shrubs and tree starts.

2. **Conclusion:** The Alspaugh, Klickitat and current forest production of the site make up 56.9% of the soils on the subject property. These soils are all well suited for commercial forest production to include the lake being modified by drainage and inactivity at the pit site. Essentially, the subject properties are currently capable of growing timber which has not been disputed by the applicant. Therefore an exception to Statewide Planning Goal 4 is required.

SECTION 5

EXCEPTION PROCESS

1. ***Goal exceptions; criteria, rules; review. – ORS 197.732***

   A. ***ORS 197.732(c): The following standards are met:***

i. ***ORS 197.732(c)(A): Reasons justify why the state policy embodied in the applicable goals should not apply.***

The applicant provides that since the sites are considered historic resources by the county and are consistent with Goal 5, Goal 4 should not apply to the property. This is the applicant's general theme throughout the application. Basically, the applicant has presented that since the property is historic it should be zoned an FF-10 zoning district. This leaves little discussion for just how important a historic resource is when being compared to a Goal 4 resource, Forest land which by Statewide Goal is also necessary to "*conserve*" and "*protect*" forest land, (see Exhibit 2).

> Excerpt from Goal 4:
> "*To conserve 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*."

The applicant characterizes these sites as needing to rid themselves of the Forest designation, and if not, there will be no opportunities to save or "*preserve*" the "*significant historical resource*" which would just go unfettered into disrepair, (see page 6, 14, and 22, May 2nd application version).

There are three sites on the properties, two on tax lot 102 a 110.10 acre parcel predominantly in forest production and, one site on tax lot 600 a 5.06 acre parcel. The three sites at these properties were recently approved as Historic Landmark Overlays. The applicant has used this fact to imply that since these are historic sites it is paramount that they shed these sites of the oppressive Goal 4 Forest designation and allow them to become Rural designated sites. This is all fostered by the need to "*protect*" these sites, from what the applicant paints as a mandate of Goal 5 to protect such sites.

Staff finds there is no credence in the claim that just because a site is deemed historic that this, in and of itself should cause the underlying resource zone to go away in favor of a zone that allows more intensive uses to take place in the middle of a larger resource zoned area. The applicant states that by not doing so would unreasonably constrain opportunities for "*adaptive reuse*". This Forest resource has three historic site areas. Many resource properties have historic resource areas.

The subject property is surrounded by other Goal 4 land. The area is a large timber production area, estimated to be approximately 830 acres of active timber production. The comprehensive plan which governs the surrounding forested area property as well, is pretty straight forward, prohibiting conflict

with forest uses, prohibiting commercial and industrial development in Forest areas and, limiting housing in Forest areas. The applicant is requesting commercial uses and residential housing which in general, typically conflicts with forest uses on adjacent lands. Moreover, the Rural Policies of the comprehensive plan cannot be satisfied which validates the property as more appropriately designated for a Forest designation, Goal 4. An "*overlay*" zone does not trump a resource parcel just because there is a need to earn funding to keep up historic structures, (refer to page 5 of this report, last paragraph). Such a review takes into account the whole picture, the underlying zone, the other existing uses in the area, the large local area of timber production, areas that are environmentally sensitive and, the existing wildlife habitat in general. The applicant has not convinced staff that the state policy embodied in Goal 4 should not apply.

This criterion is not satisfied.

ii. ***ORS 197.732(c)(B): Areas that do not require a new exception cannot reasonably accommodate the use.***

This criterion is asking if other areas that do not require an exception, meaning nonresource land or irrevocably committed resource land that had an exception, could reasonably accommodate the "*use*". The applicant has provided a statement of the "*proposed uses*" they wish to have, "*to allow a range of appropriate uses*", (see page 11 and 27 of May 2nd application version). The applicant generally states there is a need for a school, but fails to narrow down what a school is, describing an education center, an events center, an outdoor school, a community center, a sports center or gym, (see page 10, second paragraph, June 9th application version). The problem is all of these "*uses*" could be placed on land that does not require an exception,. The many uses the applicant is seeking can be reasonably accommodated on nonresource lands.

The applicant provides that since the abandoned school was part of the area history, this should come back to life rather than have another allowed use take place within the structure. Additionally, the owner has provided that Trackers Earth wishes to use the abandoned school building as an Educational Center for an outdoor school. Since this is the case, the applicant apparently can only foresee the school being used as a school, not "*pursuing options*" other than this. The applicant discusses the "*relocation*" of the abandoned school and day-use park and the defunct powerhouse and presents a picture that the only way to use them is through "*adaptive reuse*", implying that the newly "*proposed uses*" in the FF-10 zoning district could and should only take place at these sites. Again, the applicant is comparing the "*onsite existing use*" with the "*off-site proposed uses*" that should only be done onsite because of "*adaptive reuse*", somehow a mandate that all the "*uses*" allowed in the rural zoning district are automatically allowed by some

undisclosed mandate. This concept does not speak to the criterion that these "*uses*" could not be reasonably accommodated on nonresource land elsewhere.

Nothing limits these structures from being other "*uses*" allowed by Goal 4, such as but not limited to a youth camp or a forest management research and experimentation facility. The need is to have overnight accommodations in order to operate an outdoor training facility and education center. These "*uses*" are found in the FF-10 zoning district which will fit the immediate need of a potential buyer that wishes to use the abandoned school site as an outdoor school and the abandoned day-use park as a campground and recreational site <u>but</u> these uses could only be accomplished if the property were to become rural. The TBR zone does not allow a school or campground by law. The issue is that each criterion must be addressed and addressed fully, to include the specific "*use*" requested, and show how "*each use*" is judged against the criterion, section by section and not a review of a general loosely defined "*range of uses*" in an assortment of potential uses to later pick and chose from.

This criterion is not satisfied.

iii. ***ORS 197.732(c)(C): The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and***

<u>Environmental Consequences</u>: The applicant provides since these structures were used as a school, a day-use park and powerhouse facility it would be environmentally efficient to use them again.

What the applicant fails to also discuss is the existing sites have been left abandoned. In this state the surrounding environment, being the river, timber growth, tree canopy protection of ground plants, wildlife habitat area, all encircle these historic structures. Bringing in commercial uses which currently are discouraged at these sites and discouraged on the adjacent Forest designated properties will disrupt the existing environment. There is no mention of any "*measures*" designed to reduce adverse impacts of the "*proposed uses*" in this discussion. The applicant tends to explain the "*use*" of the sites historically rather than the future "*proposed uses*" they want to have allowed on these sites.

<u>Economic Consequences</u>: The applicant provides these sites could create jobs. Allowing ongoing private investment will prevent the structures from

becoming a nuisance due to vandalism and break-ins, relieving attention from law enforcement.

Allowing commercial uses on the site could potentially create jobs. It is unclear how ongoing private investment would prevent vandalism and break-ins but suffice to say, if the site were developed with a "*use*", this would bring people to the property which would lead to more of a sense of security than in the immediate past. There is no mention of any "*measures*" designed to reduce adverse impacts of the "*proposed uses*" in this discussion. The applicant does not discuss individual uses by themselves but rather tends to look at those requested in the FF-10 zoning district as a group of potential uses to pull from.

Social Consequences: The applicant provides the use of the property would preserve the area's history and education of that history. The use also would deter vandals and illicit activities that would detract from the safety of the area.

The applicant is painting a fairly positive picture with the benefit of using these structures as gathering places for the community. Use of the sites may deter criminal activity and vandals. No evidence of vandalism has been provided. There is no mention of any "*measures*" designed to reduce adverse impacts of the "*proposed uses*" in this discussion.

Energy Consequences: The applicant provides that preservation of the structures, allowing the energy used to build the buildings, will not be wasted by allowing them to deteriorate.

Staff would think more on the lines of energy conservation from Statewide Goal 13. The sites would look for redevelopment that would minimize net energy consumption. The sites could be designed to conserve energy, reduce vehicle trips, and conserve waste water and building materials. There is no mention of any measures designed to reduce adverse impacts of the "*proposed uses*" in this discussion.

Conclusion: Staff finds that since the applicant has not provided review of individual uses, there is no way to determine the adverse impacts or ESEE consequences. The applicant did not discuss any adverse impacts of the "*proposed uses*" as provided on pages 3 through 6 of the June 9th application version. No evidence has been provided by the applicant addressing the ESEE consequences, although some attempt was made to generally discuss certain concepts of each consequence, there was no discussion of the "*uses*" versus adverse impacts comparatively on site versus off site on other rural lands.

This criterion is not satisfied.

iv. ***ORS 197.732(c)(D): The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.***

There was a general discussion of the three sites in that to assist in making the "*proposed uses*" compatible with adjacent lands, each use would be subject to the conditional use standards of the ZDO or; any development would be limited to the confines of certain areas within these sites. This conclusion by the applicant fails to satisfy the criterion. The underlying premise by the applicant is that since the site is historic it should be allowed the "*uses*" as provided in the FF-10 zoning district. If any adverse impacts are inherent in these "*uses*" then have each "*use*" filtered through the conditional use process of the ZDO. This essentially puts the cart before the horse, so to speak. You cannot allow a "*use*" that is not first "*justified*" by the "Reasons Exception", [see Exhibit 5, page 1, item (4)(a)].

For example, the applicant sort of discusses the abandoned school site without really providing what any of the "*proposed uses*" will be specifically. There is mention of "*uses*" in the FF-10 zone but nothing specific was provided for review against the criterion and especially any measures designed to reduce adverse impacts if any were found at any of these sites. At minimum there should be "*some discussion*" of what each "*proposed use*" will be, whether or not the "*proposed uses*" are compatible with adjacent uses now or will be "*so rendered*" by certain measures. This criterion was not addressed by the applicant.

This criterion is not satisfied.

2. ***<u>Exceptions Process</u>: Under Oregon Administrative Rule 660, Division 4, three avenues are available for justifying an Exception.***

A. ***OAR 660-004-0020 and OAR 660-004-0022; "Reasons Exceptions" under Goal 2, part II(c);***

B. ***OAR 660-004-0025; Land physically developed to other uses; and***

C. ***OAR 660-004-0028; Land irrevocably committed to other uses.***

i. "**Reasons Exception**": Most often a request for an Exception will focus on 'B' or 'C', above. It is not uncommon to see a claim for an Exception that actually combines both B and C.

ii. "Physically Developed" Exception: The applicant has not addressed the criteria under OAR 660-004-0025 for a "Physically Developed" Exception.

This exception process will not be used in review of the requested Comprehensive Plan Amendment and Zone Change.

This criterion is not applicable.

iii. "Irrevocably Committed" Exception: The applicant has not addressed the criteria under OAR 660-004-0028 for an "Irrevocably Committed" Exception. This exception process will not be used in review of the requested Comprehensive Plan Amendment and Zone Change.

This criterion is not applicable.

3. **Conclusion:** In order to provide the Planning Commission with an adequate explanation to further evaluate this proposal, staff will address the "Reasons" Exception criteria below. No evaluation for the "Physically Developed" or "Irrevocably Committed" Exception" will be made by staff because no discussion within the revised application has addressed this criterion.

SECTION 6

ADOPTION OF FINDINGS OF FACTS

1. OAR 660-004-0015: ***A local government approving a proposed exception shall adopt, as part of its comprehensive plan, findings of fact and a statement of reasons that demonstrate that the standards for an exception have been met. The reasons and facts shall be supported by substantial evidence that the standard has been met.***

2. ***A local government denying a proposed exception shall adopt findings of fact and a statement of reasons that demonstrate that the standards for an exception have not been met. However, the findings need not be incorporated into the local comprehensive plan.***

   Both these criterion are informational in nature and depending on the outcome of the decision, each will be adhered to as is necessary in the body of the Staff Report, the recommendations and the Findings as provided in Sections 5 through 8 of this report.

SECTION 7

REASONS EXCEPTION

660-004-0018(4): Planning and Zoning for Exception Areas

1. Subsection 660-004-0018(4): ***"Reasons" Exceptions:***

   a. 660-004-0018(4)(a): ***When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.***

      Exception criteria: OAR 660-004-0018 sets forth requirements for adoption of plan and zone designations for Exceptions. Reasons Exceptions under ORS 197.732(c) and OAR 660-004-0018 and 660-004-0020 and 660-004-0022 are intended to recognize existing types of development in the exception area along with proposed new uses as each meets the standards of the "Reasons Exception".

      This criterion can be satisfied.

   b. 660-004-0018(4)(b): ***When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.***

      These sites have not been approved as a "Reasons" exception to date. The current review is for a new "Reasons Exception" for "proposed uses" by the applicant.

      This criterion is not applicable.

   c. 660-004-0018(4)(c): ***When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030, whichever is more stringent.***

      The subject property is not located in an unincorporated community.

      This criterion is not applicable.

d. OAR 660-022-0030: **Planning and Zoning of Unincorporated Communities**

1. ***For rural communities, resort communities and urban unincorporated communities, counties shall adopt individual plan and zone designations reflecting the projected use for each property (e.g., residential, commercial, industrial, public) for all land in each community. Changes in plan or zone designation shall follow the requirements to the applicable post-acknowledgment provisions of ORS 197.610 through 197.625.***

   This area is not within a recognized unincorporated community of Clackamas County.

   This criterion is not applicable.

2. ***County plans and land use regulations may authorize any residential use and density in unincorporated communities, subject to the requirements of this division.***

   This area is not within a recognized unincorporated community of Clackamas County.

   This criterion is not applicable.

3. ***County plans and land use regulations may authorize only the following new or expanded industrial uses in unincorporated communities:***

   This area is not within an unincorporated community of Clackamas County.

   This criterion is not applicable.

SECTION 8

EXCEPTION REQUIREMENTS

660-004-0020: Goal 2, Part II(c), ***Exception Requirements***

1. ***If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.***

To evaluate the above there must be a review of OAR 660-004-0022 which is consistent with the county needing to determine if a "Reasons" justification was made under the Exception Requirements for OAR 660-004-0022. The findings are as follows:

OAR 660-004-0022

2. 660-004-0022: Goal 2, Part II(c), **Reasons Necessary to Justify an Exception Under 660-004-0022**

An exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:

Justification of the Exception

For uses not specifically provided for in 660-004-0022, or in OAR 660-011-0060 (Sewer Service), or in OAR 660-012-0070 (Transportation), or in OAR 660-014-0040 (Urban Level Development), the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

a. There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

A. A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

B. The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

The applicant provides there are multiple historic resource sites on two parcels that include an abandoned Day-Use Park, an abandoned School and a defunct Powerhouse Facility. The issue is, does the "*proposed use*" or "*activity*" require a location near the resource in order to reasonably be placed, so much so that it requires this location? This type of exception requires a "*market analysis*". No analysis was forthcoming from the applicant.

Staff concludes the applicant has missed the meaning of the criterion entirely. Criterion "A" above requires an "*analysis of the market to be served*" by the "*proposed use*" and show the exception site is the only site within the market area that can reasonably be obtained, or; "B" - the use or activity has special features or qualities that necessitate it being on or near the exception site.

The existing structures themselves, in the abandoned Day-Use Park site, the abandoned School site and the defunct Powerhouse site <u>are not being considered</u> in this criterion. These would only be considered in a review of potential "*adaptive reuse*" of the historic structures as provided in the Comprehensive Plan. This criterion is asking about the "*proposed use or activity*" themselves, those "*uses*" being requested by the applicant, such as a utility carrier cabinet, a campground or a dwelling. Nothing in the applicant's narrative describes the individual "*proposed use or activity*" on or near the proposed exception site to satisfy this criterion. The applicant's response is confusing and not relevant to the "Reasons Exception" criterion.

Staff believes the applicant has misconstrued the need in this criterion to somehow only mean the site itself rather than the "*proposed uses"* or "*activities*" in question, as provided in 'A' and 'B' above, meaning all those "*uses*" the applicant has said they want for each site within the historical confines of each individual site location, (see pages 3 through 6 of the June 9th application version). For example, how would a proposed Daycare Facility have special features or qualities that necessitate its location on or near the proposed exception site? Of course the historical structures themselves have a need to be on the site because that is what makes the site historic but this fact fails to rise to the level of a "*proposed use or activity*" having "*special features or qualities*" as the criteria points to.

The applicant's answer becomes disconnected from the criterion, meaning there is a clear reason why the "*proposed use or activity*" has a need to be on site. The applicant has not provided any explanation relevant to this criterion that explains the need for the "*proposed uses or activities*" requested directly related to this criterion.

When the applicant states, "…*there is a demonstrated need for the purposed use – the adaptive reuse of the historic Park site*…" it can only mean the "*proposed use*" is "*one*" of the many uses being proposed on page 3 through 6 of the June 9, 2014 application narrative. The applicant says nothing about "*<u>these</u> proposed uses*" in the explanation. The applicant does not address how each "*newly proposed use or activity*" stands alone as needing to be on the historic area site.

This criterion is not satisfied.

3. Rural Residential Development: ***For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.***

   The applicant did not address this criterion although three dwellings are being requested. There was no "*plan*" offered for review. Staff believes that "*Rural Residential Development*" must be reviewed outside of any market demand, as the criterion requires. The county must review this request for residential development because it would be on resource land outside an urban growth boundary. Residential development must be determined through an economic analysis, showing there are reasons for the type of housing requested that is requiring this specific location on this resource land. Staff is not aware nor has the applicant provided any market demand based on housing generated by any existing or planned rural industrial, commercial or other economic activity in this area. There was no analysis or review discussing this criterion.

   This criterion is not satisfied.

4. ***Rural Industrial Development:***

   Not applicable within this application request.

5. ***Expansion of Unincorporated Communities:***

   Not applicable within this application request.

6. ***Expansion of Urban Unincorporated Communities:***

   Not applicable within this application request.

7. ***Willamette Greenway:***

   Not applicable within this application request.

8. ***Goal 16: (Estuarine Resources):***

   Not applicable within this application request.

9. ***Goal 17: (Coastal Shorelines):***

   Not applicable within this application request.

10. ***Goal 18: (Beaches and Dunes):***

    Not applicable within this application request.

Continuing with: 660-004-0020: Goal 2, Part II(c), ***Exception Requirements***

2. ***The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:***

   a. ***"Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land.***

      The applicant discusses "*adaptive reuse*" which is a small part of a Comprehensive Plan Policy (see Policy 8.0 Historic Landmark) and how, without being on this resource site, this "reuse" could not take place. What is not stated is that Goal 5 does not override Goal 4. Goal 5 seeks to protect a historic area as an "overlay designation" through the county comprehensive plan, the implementing factor of the plan but not at the expense of losing the historic areas "*original character*", (see Goal 5).

      The applicant fails to discuss the "*state policy*" in that, "Comprehensive plans provide certainty to assure that forest lands will be available now and in the future for growing and harvesting of trees." Local governments shall adopt zones which contain provisions allowed by the goal, to grow timber and to allow uses that limit significant adverse effects on forest land, operations and practices. Reuse of onsite historic structures must be those that have little effect on forest lands, operations and practices. This is why the comprehensive plan prohibits land uses that conflict with forest uses, limits housing in Forest areas, and prohibits commercial and industrial development in Forest areas.

      The aforementioned means that essentially each "*newly proposed use*" must be reviewed based on these factors, setting forth clear facts and assumptions of why the "*proposed use*" must be placed on this resource property. Staff believes the target within this criterion is "*the use being planned*" which clearly is not talking about an "*existing use*" on the land or the "*historical use*" of the land. If this were the case, why does the criterion ask for the amount of land for "*the use being planned*" and "*why the use requires a location on resource land*." if it meant

the "*existing use*", which is already located on the subject site? Staff believes the applicant has failed to provide proper evidentiary findings of the facts and assumptions in determining the existing Goal 4 designation should not apply to the property to include the amount of land, a plan and why this location?

The applicant discusses the "*historic overlay*", the need to earn funding, the need to afford "*preservation*" of the site, the request for a Rural designation which in turn allows all the "*newly proposed uses*". But, frankly, the criterion is not asking these questions.

This criterion is not satisfied.

b. ***"Areas that do not require a new exception cannot reasonably accommodate the use." The exception must meet the following requirements:***

i. (2)(b)(A): ***The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified.***

The applicant chose not to include this criterion [OAR 660-004-0020(2)(b)(A)] as part of the application, (see page 7 of the June 9th application version).

The applicant does provide the location of the abandoned School, defunct Powerhouse and the abandoned Park site as integral to the history and context of that history. The applicant provides that these uses exist on various portions of the property currently and since they are contextually tied historically to the surrounding area, this fact will reasonably allow for an educational opportunity of each of the existing historical uses on these sites. The applicant has identified the School site as 5.06 acres; the Powerhouse site as 10 acres; and the Park site as 20 acres. A map of the location has been provided but there has been no discussion of any possible "*alternative areas*" that do not require a new exception, (see map after page 10 of the June 9th application version).

Since the applicant is focusing only on the subject historical area, there is no comparison of alternative areas. The applicant indicates the historical site is contingent on its current location. If the historical site is what was being discussed, this may be a valid reason but, again, the target of the criterion has been missed. The criterion is asking for "*possible alternative areas*" for the "*newly proposed uses*", not the "*existing historical uses*." The applicant points out that county staff asked why the "*uses*" could not be done on a site, for example, within the City of Sandy. The applicant characterizes this as a "*distant urban area*", being approximately two to three miles from the site, (see

page 8, first paragraph of the June 9th application version and page 47, Policy 3.0 Feb. 21st version).

Again, staff finds the applicant has failed to discuss the criterion, the "*alternative areas*" for "*the uses*" as requested, again misconstruing the criterion to mean something other than the "*proposed uses*" being requested for the "Reasons Exception". The applicant indicated that it was unnecessary to describe possible alternative areas that would not require a new exception. The existing historical use of the site is all that is discussed and how keeping the structures of these sites are necessary in order to "*reuse*" them. However, there is no PLAN to "*reuse*" these sites except for a list of "*proposed uses*" that may or may not "*fit in*" with the "*original character*" of the sites.

This criterion is not satisfied.

ii. (2)(b)(B): ***To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:***

a. (2)(b)(B)(i): ***Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?***

As previously discussed on page 19 of this report, staff believes the applicant has missed the meaning of the question within the criterion, (see page 19, item iv of this report). Additionally, staff finds that since the applicant only discusses the various existing structures and their historical use to include the abandoned School site, defunct Powerhouse site and abandoned Park site, the criterion is vacant of any relevant evidence within this context. The criterion is referencing "*the proposed use*", a single use, one at a time, not "*a range of uses*". The fact that a school building exists on the site is not "*the*" - "*proposed use*" but rather an existing use, if you will, on the site that could be used, as reiterated numerous times in light of an "*adaptive reuse*" in or near the historic structure or grounds. The applicant simply does not provide any substantive evidence concerning this criterion. Since there is no discussion of the various "*proposed uses*" as requested (see pages 3 through 6 of the applicant's June 9, 2014 narrative) and how they can or cannot be reasonably accommodated on nonresource land, the applicant's response is incomplete. Although the applicant talks about "*hacking*" as a process of reusing an old site or building for a purpose other than for which it was

built or designed for, there is no discussion about what each "*reuse*" or "*proposed use*" is, and why it cannot be reasonably accommodated on nonresource land (urban or rural lands).

This criterion is not satisfied.

b. (2)(b)(B)(ii): ***Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?***

Again, the applicant failed to provide substantive evidence concerning this criterion.

This criterion is not satisfied.

c. (2)(b)(B)(iii): ***Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?***

Again, the applicant failed to provide substantive evidence concerning this criterion.

This criterion is not satisfied.

d. (2)(b)(B)(iv): ***Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?***

Again, the applicant failed to provide substantive evidence concerning this criterion.

This criterion is not satisfied.

iii. (2)(b)(C): ***The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative site. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to***

support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

This criterion provides an opportunity for the applicant to discuss "*a broad review of similar types of areas*" instead of a specific site. The applicant discussed "*distant urban areas*" (the City of Sandy) and limited Historic Sites as listed in the National Register, but does not provide any more "*similar types of areas*" as the subject property. Although site specific comparisons are not required, there is no succinct review by the applicant concerning this criterion within this review from a "*broad review*" as an alternate discussion as the criterion provides.

This criterion is not satisfied.

c. "***The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site***."

The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts.

Based on the evidence, there is not a requirement of needing an alternative sites analysis for the long-term environmental, economic, social and energy consequences for a use at the proposed site unless an alternative site is specifically described with facts to support the assertion that it has fewer adverse impacts through the review process. Although this does not eliminate the need for a "*broad review*" of similar types of areas as previously discussed.

The other possible impacts such as water table, road improvements and special service districts are not necessary for this review.

This criterion is not applicable.

d. "***The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts***." ***The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices***. ***"Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses*****.**

The applicant provides that the materials previously submitted describe the uses adjacent to each of the proposed exception areas. The applicant presents it is also "*generally*" explained why the proposed uses will be compatible with adjacent uses on each site. The applicant reasons that since these "*proposed uses*" are outright or conditionally allowed on rural land, this fact would allow these uses to either be allowed outright or conditioned which would be compatible for a rural setting since these uses are allowed within the FF-10 zoning district being requested, (see page 10, second paragraph June 9th application version). The applicant fails to recognize that each "*use*" must be reviewed in regard to compatibility with other adjacent uses, including the other Forest designated uses not being requested to be designated as rural zoning. This review was not provided. There must be a discussion describing how a "*proposed use*" will become compatible with adjacent land uses. How a "*proposed use*" is situated on the site in such a manner that it becomes compatible with surrounding forest management and production practices. There was no evidence of this type within the applicant's narrative.

This criterion is not satisfied.

3. ***If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.***

As previously pointed out in Section 1 of this report staff finds the applicant does not "*key*" the discussion to the appropriate findings by excluding certain criterion.

There is more than one area for which the reasons and circumstances are "generally" the same. These have been provided as the abandoned Day-Use Park, the abandoned Bull Run School and, the defunct Powerhouse Facility. Although the exception involved more than one area, the applicant did not consider them as a

group. Each area was depicted on a map and the overall location within the narrative providing the amount of land for each. The applicant provided three separate sets of findings for each of the three sites, but also used essentially the same reasoning for all three. This is evident because some criterion is responded to with identical reasoning. This three separate sites approach, suggested by staff, apparently did not work since the Planning Commission felt the first report to be very cumbersome and awkward to review.

This criterion is satisfied.

4. ***For the expansion of an unincorporated community described under OAR 660-022-0010, including an urban unincorporated community pursuant to OAR 660-022-0040(2), the reasons exception requirements necessary to address standards 2 through 4 of Goal 2, Part II(c), as described in subsections (2)(b), (c), and (d) or this rule, are modified to also include 660-004-0020(4)(a) through (b).***

   This "Reasons" Exception is not within an unincorporated or urban unincorporated community.

   This criterion is not applicable.

SECTION 9

COMPREHENSIVE PLAN REVIEW

1. **Comprehensive Plan Policies:** ***The Comprehensive Plan Map change is subject to an evaluation of the Forest and Rural elements of the Comprehensive Plan. All three of these Sections of the Comprehensive Plan must be evaluated to determine which policies are most appropriate and applicable to the subject property. Staff has reviewed the Comprehensive Plan with respect to this application and makes the following findings:***

   A. ***Applicable Forest Policies: Policy 1.0 of the Forest element of the Comprehensive Plan identifies what areas shall be designated Forest. As with the Agricultural designation, not all factors need to be met in order to apply the Forest designation.***

      i. Policy 1.0(a): ***Lands suitable for forest uses.***

         As discussed previously, a majority of the subject property contains soils very suitable to support forest uses. Approximately 100 acres of the property is currently supporting forest uses. There are also forest uses occurring on adjacent resource lands that surround the subject property. These

surrounding properties have substantially similar soils, slope and locational characteristics as does the subject property.

This policy is satisfied.

ii. Policy 1.0(b): ***Land predominately capable of generating at least 85 cubic feet of timber per acre per year.***

Detailed soils information is provided in Section 4, page 19 of this report. This information demonstrates that the property consists predominately of Alspaugh clay and Klickitat soils, which are capable of producing 158 and 150 cubic feet per acre per year of timber, respectively. Approximately 56.3% of the property consists of soils capable of producing at least 85 cubic feet per acre per year of timber. After multiple year aerial reviews, it is also noted that the "Pits" type soil mapping has a production level very close to Klickitat soils, most notably the overburden dumping area for the lake dredging, (see Exhibit 10). The dredging moved soil from the lake bottom to the "Pits" soil area north and east of the school site. Either way, the "*predominant soil type*" is capable of producing at least 85 cubic feet per acre per year of timber.

This policy is satisfied.

iii. Policy 1.0(c): ***Areas generally in forest use.***

Approximately 100.51 acres of the subject property is currently in timber production.

This policy is satisfied.

iv. Policy 1.0(d): ***Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) shall be designated Forest.***

There is an environmentally sensitive area, an area subject to erosion, streams or wetlands located on the subject property. The environmental resource overlay identified in the Comprehensive Plan located on the subject property is the Bull Run River adjacent to the defunct "Powerhouse" area. The applicant indicates there is a protected river, a small strip of land along the Bull Run River at the defunct Powerhouse facility subject to Section 704, the River and Stream Conservation Area (RSCA) review process. The applicant states the river will be protected regardless of the zone.

This factor provides that environmentally sensitive areas be designated Forest on the Comprehensive Plan Map. Since an environmentally sensitive area is located on the property, this factor is applicable. The existing Forest designation is consistent with this factor.

This policy is satisfied.

v. Policy 1.0(e): ***Forest areas which buffer more intense land uses from areas of less intense use may be designated Forest.***

The subject property is a substantially forest area. The area to the south of the property is also zoned Forest (TBR) and developed with a sparse settlement type neighborhood. The area to the east, north and south of the property is also zoned Forest (TBR) and basically undeveloped. Clearly, the subject property provides a buffer between more intense land uses located to the south from the less intense farm and forest uses located to the east, north and west.

This policy is satisfied.

Conclusion: Based on the above findings, the characteristics of the subject property clearly meet all of the applicable Forest Plan policies. The existing Forest Comprehensive Plan designation is appropriate for the subject property.

B. ***Applicable Rural Policies:***

i. Policy 1.0 ***Areas that may be designated Rural. Under this policy the only areas that may be designated Rural are those that are presently developed, built upon, or otherwise committed to sparse settlement or small farms with no or hardly any public services available***.

The subject property is currently developed with an abandoned School building, an abandoned Day-use Park and a defunct Hydroelectric Power Generation Facility. The property has been utilized for the growing of timber since all the other uses have been abandoned. There are no public services available to the property such as public water or sewer.

This property is not considered "*presently developed*" or "*built upon*" within the confines of the criteria, meaning otherwise committed to sparse settlement or small farms. The subject property is characterized as vacant property that had development at one time but those uses have ceased. The school is not allowed within the current zone. The nonconforming uses have been lost due to a period of abandonment, ORS 215.130(7)(a).

This policy is not satisfied.

ii. Policy 2.0 ***This policy has 5 factors which must be evaluated when considering the designation of the additional rural lands.***

Policy 2.0 is not applicable based on a previous interpretation by the Board of County Commissioners. The BCC found this policy is only applicable to legislative applications and not quasi-judicial land use applications on individual properties. The interpretation of this policy and relevant case files are identified in a memo from County Counsel. (See Exhibit 24, Case File Z0450-99-CP/Z0451-99-Z, Clackamas County)

This policy is not applicable.

iii. Policy 3.0 ***Areas impacted by major transportation corridors, adjacent to areas designated Urban or Rural and for which public services are committed or planned shall be given priority in designating additional rural areas.***

The subject property is adjacent to Thomas Road on the south and Ten Eyck Road to the east, neither considered a major transportation corridor. The property is not adjacent to an area designated Urban or Rural. Public water is not available on-site with the exception to the old Powerhouse site which was part of the City of Portland water supply. There is no evidence that any new public services are committed or planned for the area.

This policy is not satisfied.

iv. Policy 4.0 ***Residential lot sizes shall be based upon:***

a. Parcelization
b. Level of existing development
c. Topography
d. Soil conditions
e. Compatibility with the types and levels of available public facilities
f. Proximity to existing Rural Communities or an incorporated city
g. Capacity and existing level of service of the road network

This criteria is not applicable because this is discussed in detail in Policy 11.0, below, as found by policy memo as discussed in that criteria findings.

This criteria is not applicable

v. Policy 5.0: ***Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.***

Policy 5.0 has been interpreted by the BCC to only apply to legislative applications, (see Exh. 24). The BCC has interpreted that it is not feasible for a quasi-judicial land use application to be applied on an individual property to satisfy this policy. In addition, they found the policy is now inconsistent with the Goal 14 Rural Residential Rule (OAR 660-004-0040) which prohibits

reduction of lot sizes in existing Rural Residential areas without an exception to Goal 14.

This criterion is not applicable.

vi. Policy 6.0 ***Areas with marginal or unsuitable soils for agriculture or forest uses shall be given a higher priority for conversion to rural development than areas with more suitable soils.***

As discussed throughout various portions of this report, the soil consists predominately of Alspaugh and Klickitat soils for forest production, and approximately 49.6% of the property contains high value farmland soils and 56.3% contains soil capable of 85 cubic feet per acre per year of wood fiber production.

This policy is not satisfied.

vii. Policy 7.0 ***Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.***

Any need for infrastructure is not necessary based on the sparse settlement of the area. There is no cost effective way in which to provide public facilities to the site. The subject property cannot be characterized as maintaining a rural character as is common with Rural zone properties.

This policy is not satisfied.

viii. Policy 8.0 ***Increased water service to an area will not be used in and of itself to justify reduced lot sizes.***

There is no evidence that any water service will be coming to this area.

This policy is not applicable.

ix. Policy 9.0 ***The County shall encourage grouping of dwelling units with lot sizes less than the minimum allowed by the zoning district, when such cluster development is compatible with the policies in this Plan and the overall density of the zoning district.***

There are no dwelling units upon the subject property. The lot size is 110.10 acres and 5.06 acres. There is no current need to cluster development because there is no density upon the land.

This policy is not applicable.

x. Policy 10.0 ***Preexisting nonconforming structures and uses which are destroyed by fire, other casualty or natural disaster shall be allowed to reconstruct, as provided by the Zoning Ordinance.***

All the uses upon the property, that of an abandoned Day-use Park and School and defunct Power Generation Facility, have lost any nonconforming use they once had. If the associated structures were to be destroyed by fire or natural disaster, the uses could only be reconstructed if the designation were Rural.

This policy is not applicable.

xi. Policy 11.0 ***The Rural (Agricultural) two-acre (RA-2), Rural Residential Farm/Forest five-acre (RRFF-5) and the Farm Forest ten-acre (FF-10) zoning districts maintain the character of Rural areas and implement the goals and policies of this Plan for residential uses in Rural areas; these zoning districts and any other zoning district developed in the future, which implements these goals and policies, should be applied in Rural areas. The requested FF-10 zone shall be applied as follows:***

A ten-acre zone shall be applied when all the following criteria are met:

xiii Policy 11.3 ***A ten-acre zone shall be applied when one or more of the following criteria are met:***

a. ***Parcels are generally ten acres.***

The subject property is 110.10 acres and 5.06 acres.

This criterion is not satisfied.

b. ***The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.***

The applicant has provided that of the 115.16 acre site, 40 acres would be set aside for existing historical site and future development. This means that over 75 acres are at least as consistent with extensive forestry uses and 49.6 acres for extensive commercial agriculture uses. The evidence shows the area (*the subject property*) is consistent with and for extensive commercial agriculture and forestry uses.

This criterion is not satisfied.

c. ***Access to a Rural Community or an incorporated city is generally poor.***

The applicant provides that the City of Sandy, an incorporated city is approximately three to four miles from the site by road and 1.5 miles as the crow flies. Staff finds the property about 2.60 miles from the city. All things considered, there is no mile rating for "*good*" versus "*poor*". Generally, a poor rating is time and distance for travel to obtain goods and services. An example of time and distance is the "*ice cream test*". This is how long does it take to go to a grocery store for ice cream and is it more likely to melt before it arrives home. As I grew up on a farm it was common not to pickup ice cream on a hot summer night because the distance took over an hour to return home. This would be considered a relatively "poor" access to an incorporated city for groceries. On the other hand, if traveling three to four miles, it is typical to purchased ice cream on a hot summer night because it would likely make it home without melting to such a degree it would ruin the product. So, in this example, access to the City of Sandy would be considered generally "good". Access to the City of Gresham would be considered generally "poor". The farm I grew up on was 2.4 miles from the Lower Logan Store (*good access*), 5 miles from the Barton Store (*good access*) and about 10.25 miles from the City of Oregon City (*poor access*).

This criterion is not satisfied.

C. ***Comprehensive Plan, Chapter 11, The Planning Process:***

i. Policy 13.0 ***of the Amendments and Implementation Section of the Planning Process Element of the Comprehensive Plan requires, for lands outside urban growth boundaries, that an Exception be taken to LCDC Goals 3 and/or 4 for any Plan Amendment or zone change to uses other than agriculture or forestry***.

This is a process implementation policy, not approval criteria. The application is being processed pursuant to this policy.

This proposal is satisfied.

2. **Comprehensive Plan Policy Conclusions:** Based on the above findings, the Comprehensive Plan designation of Rural is not appropriate to the subject property.

SECTION 10

ZONE CHANGE CRITERIA

1. ***Zone Change Criteria: Section 1202.01 of the ZDO outlines three (5) criteria for a zone change:***

A. 1202.01(A): ***Approval of the request is consistent with the Comprehensive Plan.***

Based on the evaluation of the criteria in Section 9, the Forest and Rural Comprehensive Plan Policies of this report, staff finds approval of the request is not consistent with the Comprehensive Plan.

This criterion is not satisfied.

B. 1202.01(B): ***If development has a need for public sanitary sewer, surface water management and/or water service, a zone change may be approved if development under the new zoning designation can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered*.**

Sewer: The subject property is not located within a public sanitary sewer district. No public sewer is present in the area, nor will sewer be extended to serve new development on the subject property. Sewage disposal will need to be accommodated by individual on-site sewage disposal systems.

Surface Water: The subject property is not located within a public surface water management district.

Water: The subject property is not located within a public water district. Domestic water will be provided by on-site wells.

To the best of County Planning's knowledge, the subject property is not located within a public sanitary, surface water management or water district.

This criterion is not applicable.

C. 1202.01(C): ***The zone change will not impact the transportation system such that a roadway as planned in the 20-Year Capital Improvement Plan: 1.) Must be redesigned or increased to a higher functional classification in order to maintain the minimum acceptable performance evaluation Level-of-Service standard identified by the Comprehensive Plan. 2.) Will operate at a performance evaluation Level-of-Service standard below the minimum acceptable level identified in the Comprehensive Plan. 3.) For the purposes of these criteria, the cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered. The analysis shall consider a five-year period that begins with the date of the transportation impact study provided the study is dated no more than 90 days prior to the date a complete land use application is submitted, the five-year period shall begin***

with the date a complete land use application is submitted. or; 4.) State transportation facilities shall be evaluated pursuant to the Oregon Highway Plan rather than the Comprehensive Plan.

i. 1202.01(C)(1): ***Must be redesigned or increased to a higher functional classification in order to maintain the minimum acceptable performance evaluation Level-of-Service standard identified by the Comprehensive Plan.***

The applicant provides a transportation analysis was made. In summary, the proposed change in zoning from TBR to FF-10 would allow a small number of additional trips under the "reasonable worst-case" allowed use for each zone, highest use of residential used in both cases. Rick Nys, Traffic Engineering, Clackamas County, determined that a full traffic study would be unnecessary. All relevant Clackamas County performance standards are clearly satisfied and will continue to be satisfied.

This criterion can be satisfied.

ii. 1202.01(C)(2): ***Will operate at a performance evaluation Level-of-Service standard below the minimum acceptable level identified in the Comprehensive Plan.***

Since information by Rick Nys, Traffic Engineering, Clackamas County, has provided that all relevant performance standards are satisfied and will continue to be satisfied, it holds that the Level-of-Service is within the acceptable parameters.

This criterion is satisfied.

iii. 1202.01(C)(3): ***For the purposes of these criteria, the cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered. The analysis shall consider a five-year period that begins with the date of the transportation impact study provided the study is dated no more than 90 days prior to the date a complete land use application is submitted. If a transportation impact study is not required or is dated more than 90 days prior to the date a complete land use application is submitted, the five-year period shall begin with the date a complete land use application is submitted.***

The transportation analysis provides the residential uses assumed under both the existing zoning (TBR) and the proposed new zoning (FF-10) represent the allowed uses that result in the highest motor vehicle trip generation. Rick Nys, Traffic Engineering, Clackamas County, finds the proposed uses would not alter the existing Level-of-Service (LOS) as unacceptable.

This criterion is satisfied.

iv. 1202.01(C)(4): ***State transportation facilities shall be evaluated pursuant to the Oregon Highway Plan rather than the Comprehensive Plan.***

There is no state transportation facility within or near the proposal.

This criterion is not applicable.

D. 1202.01(D): ***Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.***

A memo dated February 24, 2014 from Rick Nys of the County Traffic Engineering and Development Division finds the transportation system is adequate to serve the level of development anticipated by the zone change. A second technical memorandum dated July 7, 2014, authored by Robert Hixson, Traffic Engineering finds concerns with the access sight distance. Staff concludes there are some safety concerns in conjunction with future development of the property which will require access from both Thomas and Ten Eyck Roads.

Goal 12; Transportation; ***"To provide and encourage a safe, convenient and economic transportation system."***

Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12.

OAR 660-012-0060 applies to any plan map amendment which significantly affects a transportation facility. OAR 660-012-0060(1) requires any amendments to the functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility to demonstrate that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. Compliance with OAR 660-012-0060(1) can be achieved by:

a) Limiting allowed uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of OAR 660-012;

c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

d) ***Amending the TSP to modify the planned function, capacity and performance standards, as needed to accept greater motor vehicle congestion to promote mixed use, pedestrian friendly development where multimodal travel choices are provided.***

Pursuant to OAR 660-012-0060(2) a plan or land use regulation amendment is deemed to <u>significantly</u> affect a transportation facility if it:

a) Changes the functional classification of an existing or planned transportation facility;

b) Changes standards implementing a functional classification;

c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

d) ***Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP.***

This proposal does not result in a change in the functional classification of an existing or planned transportation facility, nor change the standards implementing a functional classification.

The applicant has submitted a Traffic Impact Analysis (TIA) completed by Lancaster Engineering dated November 4, 2013, (see Exhibit J of the application dated February 21, 2014). The TIA specifically addresses OAR 660-012-0060. The DTD, Traffic Engineering Traffic Engineering has submitted comments on this application and the Traffic Impact Statement (TIS), (see Exhibit J, page 5 of the application dated February 21, 2014).

The Traffic Impact Statement (TIS) evaluated the Lusted Road, Ten Eyck Road, Bull Run Road and Thomas Road intersections. The subject property has existing access to Thomas Road and Ten Eyck Road. It is unclear from the narrative of the application whether the applicant intends to provide access to the proposed commercial area from Ten Eyck Road. The TIS does not evaluate Park site access and assumes access will be from Thomas Road. Commercial traffic is allowed on local streets.

The TIS does indicate that the proposed Comprehensive Plan map amendment to Low Traffic Impact Commercial (LTIC) will not reduce the intersections within the impact area below a LOS 'D', which is the minimum acceptable level in the County's Transportation System Plan (TSP). This proposal will not allow types or levels of traffic inconsistent with the local street functional classification. This application is consistent with Goal 12.

This criterion is satisfied.

E. Section 1202.01(E): ***Development based on a zone change granted pursuant to this section shall be subject to 1022.***

This is not an approval criterion applicable to a zone change application. Rather, this is only an informational statement to notify the applicant that any future development proposal must comply with the Concurrency standards in Section 1022 of the ZDO.

1. **Conclusions:** Staff finds this application satisfies three criterion, two criterion are not applicable and one criterion is not satisfied. Although not all the criterion are satisfied, there was none that would have significant bearing over the other criterion that would not allow the zone change criterion to be satisfied as a whole with the exception that to be approved it must meet the comprehensive plan of Rural. It did not meet this test.

SECTION 11

GOAL 14: RURAL RESIDENTIAL RULE

1. ***On June 9, 2000 the Land Conservation and Development Commission adopted new Oregon Administrative Rules that apply to land zoned for rural residential use. The new rule is OAR 660-004-0040 - Application of Goal 14 (Urbanization) to Rural Residential Areas. This OAR was adopted to address the Curry County Supreme Court decision and to clarify Statewide Goal 14, which prohibits urban use of rural land.***

2. ***The issue in this case is the allowable density or minimum lot size standard that can be applied to the property in order to comply with OAR 660-004-0040, Statewide Goal 14 and/or the Curry County decision.***

3. ***The relevant provisions of this OAR to consider in the evaluation of this issue are listed below.***

a. OAR 660-004-0040(1): ***The purpose of this rule is to specify how Statewide Planning Goal 14, Urbanization, applies to rural lands in acknowledged exception areas planned for residential uses.***

b. OAR 660-004-0040(2)(a): ***This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide Planning Goal 3, (Agricultural lands), Goal 4 (Forest lands), or both has been taken. Such lands are referred to in this rule as rural residential areas.***

c. OAR 660-004-0040(4): ***The rural residential areas described in Subsection (2)(a) of this rule are rural lands. Division and development of such lands are subject to Statewide Planning Goal 14, Urbanization, which prohibits urban use of rural lands.***

d. OAR 660-004-0040(7)(i): ***For rural residential areas designated after the effective date of this rule, the effected county shall either:***
   (A) ***Require that any new lot or parcel have an area of at least ten acres, or***
   (B) ***Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements in Section 6.*** **(Section 6 requires an exception to Goal 14).**

This application is subject to the provisions of this OAR. The Planning Staff finds the proposed 10 acre lot size is consistent with the provisions of this rule for the following reasons:

a. OAR 660-004-0040 is applicable to this application based on the plain language in OAR 660-004-0040(1) and (2)(a). Specifically, if the application for the Comprehensive Plan amendment is approved the subject property would be in an acknowledged exception area, located outside an urban growth boundary, and zoned primarily for residential uses for which an exception to Statewide Goal 3 or 4 has been taken. The findings in Section 1 of this report demonstrate an exception to Goals 3 and 4 are required.

b. The proposed 10 acre zoning district is consistent with the rule based on the plain language in OAR 660-004-004(7)(i). Worth mentioning here is the fact that if the "*Goal Exception*" is justified, the Farm Forest – 10 Acre (FF-10) zone is considered an automatic "*fall-back*" zone by interpretation of the Board of County Commissioners, (see Exh. 24).

If this application receives a recommendation for approval from the Clackamas County Planning Commission, the recommendation should reflect a requirement that the Comprehensive Plan Map and Official Zoning Map (2-11) be amended.

CLACKAMAS COUNTY PLANNING AND ZONING DIVISION
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
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PLANNING COMMISSION
MINUTES

July 28, 2014
6:30 p.m.

Commissioners present: Mike Wagner, Norm Andreen, Tom Peterson, John Drentlaw, Gail Holmes, Mark Meek, Brian Pasko, John Gray.
Commissioners absent: None
Staff present: Mike McCallister, Gary Hewitt, Darcy Renhard.

1. Commission Chair Peterson called the meeting to order at 6:31 p.m.

2. Commission Chair Peterson asked if there was any member of the audience who wished to provide comment on an item not on the agenda. There were none.

3. The purpose of the hearing tonight is to consider Z0207-14-CU, Z0208-14-CP, and Z0209-14-Z. The three applications together comprise a legislative text amendment to the Clackamas County Zoning and Development Ordinance (ZDO) and Comprehensive (Comp) Plan, as well as a request for a Conditional Use approval for the three subject properties. Gary Hewitt explained that the applicant is asking for a Reasons Exception to change portions of designated Forest land to Rural. They are also asking for a Comprehensive Plan Amendment for the three properties from Forest to Rural, and a corresponding Zone Change from TBR for FF-10. He pointed out on overhead maps where the three properties are located , west of what used to be Roslyn Lake and adjacent to Thomas Road and Ten Eyck Road. There are three separate sites being considered in this application: the defunct Bull Run Powerhouse site, the former day park site, and the abandoned school site. Services are provided by the Sandy Fire District, Clackamas County Sherriff, PGE, and Oregon Trail School District. The sites are not served by a sewer district.

Statewide Planning Goals 4 (Forest Areas) and 5 (Historic Areas) are both applicable to this proposal. The sites were recently designated as a Historic District by the Clackamas County Board of Commissioners. ORS 197.732(c) sets the criteria for making a Goal Exception. OAR 660-004-0018, 0020, and 0022 addresses criteria for making a Reasons Exception. Sections 406 and 310 of the Clackamas County ZDO apply to TBR and FF-10 zones. Additionally, Statewide Planning Goal 12 applies to transportation policies.

The most significant issues that need to be discussed are whether the proposed new uses are justified by the Reasons Exception. OAR 660-004-0018(4)(a) requires that each potential new use needs to be fully explored to make a Reasons Exception. Goal 5 requires that the new use is in keeping with the original character of the historic site. ORS 197.732 and OAR 660-004-0018(4)(a) require that the uses are justified under the criteria, and OAR 660-004-0020(2)(b)(B) asks for a determination of why the use cannot be placed on non-resource land.

The applicant is asking for 15 possible uses if the FF-10 zone is allowed. With the current TBR zoning on the property, 11 of the 15 uses that the applicant is requesting would be allowed. These are: public parks, private parks and low impact casual recreational uses, local distribution lines (utility carrier cabinets),

collocation of telecommunication facilities, public and private conservation areas, reforestation of forest land, new wireless telecommunication facilities, uses and structures which are customarily accessory to primary uses, signs, solar energy systems, and rainwater collection systems. The uses that the applicant is requesting that are not allowed in the current TBR zoning are: single family dwelling (outright not allowed), campground (within 3 miles of a UGB), school, and daycare facilities. The applicant is also requesting additional uses (as conditional uses) for the school and powerhouse sites because of the historic landmark designation: art and music studios, galleries, offices, craft shops, bed and breakfast establishments, gift shops, museums, catering services, book stores, boutiques, restaurants, antique shops, community centers for civic and cultural events, and any use the Hearings Officer determines is similar to the other listed uses. None of these conditional uses are allowed within the TBR zone. Goal 5 states that in Historic Areas, where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. This means that in order to be allowed, the new use needs to fit in with the original character of the site's history.

Historically, the three sites were a private day use park, a school, and a hydroelectric power facility. All three of these sites have been abandoned or are no longer in use and subsequently lost their Non-Conforming Use status. The applicant feels that Goal 5 requires that a historic area must be protected, but staff argues that what the applicant does not address is how each new proposed use will be managed so as to preserve the original character of the site. DLCD has expressed a guarded level of comfort for uses that are not necessarily historic in nature. They found that some of the uses could have historic components, but that others would have no connection whatsoever to the historic nature of the site and may not be compatible to the historic nature of the property. ORS 197.732 outlines the process that must be used to determine whether or not a Reasons Exception can be made. It requires that the applicant explain why Goal 4 should not apply and why the use cannot be accommodated on lands that would not need an exception (urban and rural areas). It also requires that the applicant determine the long term consequences of the requested use at the proposed site versus a similar site elsewhere and requires that any proposed uses are compatible, or at least so rendered, through measures designed to reduce adverse impacts. The applicant states that the historic use which is recognized on the property need to be expanded to include other uses so that the property owners can earn money to fund preservation of the site, and that if the historic use is justified, then all of the uses allowed within the FF-10 zoning district can be justified as well. DLCD, on the other hand, feels that the application needs to identify those uses in the Rural designation that the applicant seeks and to separate those that may be incompatible with the historic use of the property. DLCD also indicates that the need to generate income from these properties is not recognized criteria by rule, and that there must be a connection with the historical use and the proposed uses sought by the applicant. Furthermore, any land division must be in accordance with ORS 215.780 (80 acres minimum), and any proposed uses need to be specific and not just vague references to what might be.

Staff does not feel that the applicant has addressed the following criteria:

- Areas that do not require a new exception cannot reasonably accommodate the use. [OAR 660-004-0020(2)(b)].
- To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. [OAR 660-004-0020(2)(b)(B)]
- The "alternative areas" standard paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. [OAR 660-004-0020(2)(b)(C)]
- Can the proposed use be reasonably accommodated on non-resource land that would not require an exception, including increasing density of uses on non-resource land? If not, why not? [OAR 660-0047-0020(2)(b)(B)(i)]
- There is no review of "new proposed uses" that could be reasonably accommodated on non-resource land elsewhere. [ORS 197.732(c)(A) through (D)]

- There is no discussion of measures designed to reduce adverse impacts of each new use within the ESEE review. [ORS 197.732(c)(A) through (D)]
- There is no comparison analysis of other resource sites for the proposed use vs. the subject site. [ORS 197.732(c)(A) through (D)]
- There is no information of the specifics of each new use. [ORS 197.732(c)(A) through (D)]
- There is no discussion of how the new uses will not have adverse impacts, or, if so, how to reduce them. [ORS 197.732(c)(A) through (D)]
- Clackamas County Comprehensive Plan-Forest Designation Policy 2.0: Encourage forest-related industries.
- Policy 3.0: Prohibit land uses that conflict with forest uses.
- Policy 4.0: Housing should be limited (applicant is requesting 3 dwellings).
- Policy 5.0: Prohibit commercial and industrial development in Forest areas (most uses that the applicant is requesting are commercial).
- Policy 8.0: Lawfully establish nonconforming structures and uses (the applicant does not mention that the uses on the sites have lost their nonconforming status).

Gary went on to explain that just because the property is a historical resource designated by a historic landmark overlay zone does not in turn require any special treatment of these sites, other than to help the owner pursue options that may help in the continued preservation of the structures and grounds. The proposed uses must be compatible with the historic character of the site. There is no discussion whatsoever in this regard. A designation of FF-10 cannot be applied to the sites for several reasons. 1. The general parcel size of 10-acres is not satisfied; 2. The area is not developed with uses other than commercial agriculture and forest uses; and 3. Access to an incorporated city is generally poor (the sites are within a couple of miles of the City of Sandy). The applicant implies that the historic landmark overlay zone trumps the underlying Forest zone. This is not the case. The overlay zone is intended to work together with the underlying zone, not override it.

In summary, staff feels that the application should be denied based on the failure of the applicant to address all of the criteria and/or has incorrectly addressed some of the criteria in Goal 5, ORS 197.732, OAR 660-004, and the County Comp Plan. The applicant has not been specific about the uses that they want, they have simply provided a laundry list of what they might want to do. There is no justification of each use in this application.

Commissioner Wagner asked if the BCC can go through and allow certain uses but not others. Gary answered that if they feel that the criteria have been met, then they could certainly do that. The question would be whether or not the criteria have actually been met.

Commissioner Holmes found in the application materials that the powerhouse was built in 1912, but she asked when the schoolhouse was built. It was built in 1923. They stopped teaching in the schoolhouse 9 years ago. Commissioner Andreen pointed out that this was after the property had been zoned originally. Commissioner Holmes wondered how the property could have been zoned timber if there was a schoolhouse and powerhouse on the land. Commissioner Andreen explained that zoning was done originally based on soil types. Gary reminded everyone that we are here to decide, based on the criteria, if this rezoning is appropriate for these sites.

Mike McCallister said that one of the biggest staff concerns is that the proposed uses that the applicant is asking for are pretty broad. This application requires an ESEE analysis, but there is no explanation of what uses are going to happen or how whatever uses the applicant decides on are compatible. He does not believe that you can defer the reasons exception criteria, which require that you mitigate adverse impacts, to a

conditional use. Without some sort of analysis and specificity regarding the proposed uses, there is no way to determine what uses are appropriate. Gary pointed out that what is not discussed within the application is the fact that each use has to be justified in THIS process, not in a conditional use later on. If the applicant were to answer all of the questions and address all of the criteria, we might be able to get to yes. Commissioner Andreen indicated that on page 4 of the staff report, it asks if the use can be accommodated on non-resource land. To him, this seems unreasonable. He is not sure how you can make the argument that they can just do it somewhere else. Gary replied that, for example, if they wanted to put a catering service on the site you would have to determine if there is a need for it. What kind of facilities would be needed to have a catering service? What else is out there in the surrounding areas? Maybe it is something that is needed, but the application would need to explain why. Commissioner Peterson asked if it were fair to say, based on the legality issues, if the application were approved and subsequently appealed to LUBA, that the appeal would prevail? Gary answered that it would not likely pass LUBA.

Commissioner Peterson asked the applicant to come forward and provide testimony.

Karen Karlsson (906 NW 23rd Ave., Portland) Ms. Karlsson provided pamphlets about the newly designated Bull Run Historic District. The BCC recently, and unanimously, approved them as the first historic district in unincorporated Clackamas County. They are very excited about their property, but they are also very frustrated at this point. They have submitted their application twice, but keep having to come back because they were told they had been led astray with regard to the type of application that they needed to go through. The Reasons Exception is in place because not everything fits in the Oregon land use laws. They actually believe that it is important to balance the two Goals with each other, they do not feel that Goal 5 trumps Goal 4. Part of her frustration is not only the length of time that this application has taken, but that they submitted the current application that the Planning Commission is reviewing tonight in May, and they submitted the supplemental materials in June. They haven't heard anything back from the County until receiving the staff report which proposed denial of their applications. If there was additional information that needed to be provided, then they would have. Their attorney has informed them numerous times that the Reasons Exception is just for this kind of land use proposal. Their consultant will provide more detail about how this can be done.

Rick Michaelson (1905 NW Northrup St., Portland) He realizes that the site is zoned timber and has always been timber. But if you look at Google maps, you can see that there are other uses in the area, including a historical airport. There are other areas around the properties that have been subdivided. They do not hold the timber as unimportant, they actually feel that the preservation of the historic value of the property, including the timber, is the most important thing. He feels that the conditional use process is more appropriate for determining what can or cannot be allowed. They don't plan to have a catering facility on site, but when they do hold events and educational programs, they would like to be able to provide food for attendees. When they hold art events, they would like to be able to sell the products. When they have a museum, they would like to have a gift shop on site. This is why they have listed all of the uses that they did. Adaptive Reuse is a way of getting people back into these building and continue the long history of uses. Under the current zoning, they can't use the powerhouse or the school for what they would like to do, which is activities that would maintain and educate people regarding the historic value of the properties.

Commissioner Wagner interjected that the applicant actually needed to be specific about that they want to do. If the applicant cannot tell the Planning Commission what it is they are proposing, then it is going to be very difficult to support this application. Just coming in and asking for things, as in "we just want to do what we want to do" isn't going to cut it. We wouldn't approve any other project without having all of the information before use. Commissioner Andreen agreed with Commissioner Wagner, and stated that the Planning Commission does want to get this done for the applicant, but that the applicant is going to have to get specific here. The law does not support the Planning Commission recommending approval if there is

nothing specific to approve. The applicant needs to step up to the plate tonight and work with us to help resolve some of these issues by being specific.

Jeff Joselin (14700 NW Gillihan Rd., Portland) Mr. Joselin has been involved in this project for a long time. It has been a long process, but they realized the value of the property years ago. It took a long time to even get to a prospective deal with PGE, nearly 5 years. One of the things that has happened along the way, was a meeting with the County where they were told that they need to have an 80-acre parcel minimum. They could have taken other parts of the property that may have been easier than taking the timber area, but they felt that the historic importance of the properties was paramount. Their intent initially was, in fact, to include the trees and to preserve them as well. The County felt that this was not ideal and wanted to minimize the historic zone. They still wish to preserve the trees anyway. Another issue that they have faced was having to deal with recurring vandalism on the properties. They have had to replace broken windows time after time, remove graffiti, etc. The applicants see Goal 4 and Goal 5 as working in concert. They already have a forest management plan, as well as a plan for what sustainable maintenance would look like on the sites. The goal, before they ever put down a nickel, was to establish the powerhouse as a preservation area and to get a zone change so that they could segregate the powerhouse and allow someone on site to help protect it, and to have some sort of viable uses on the other sites.

Commissioner Wagner asked if the applicant had completed a market study on the project. Mr. Joselin answered that they had not. Commissioner Wagner asked if there is an architect on the project. There is not. Commissioner Wagner asked if there is any sort of track record for their group. Mr. Michaelson answered that he has a 30 year history for working with historical properties in this region as both a consultant and a developer, and serves as one of two Oregon advisors on the National Trust for Historic Preservation.

Mr. Michaelson indicated that if he had been aware of the need for more detailed plans, then he would have provided it. Commissioner Pasko asked which version of the application they needed to address. There is a February version, a May version, and a June version. The reason that it starts on page 42 is because the first application that was submitted was for a "physically developed exception" application. The Commission should be looking at all three portions of the application. Mr. Michaelson stated that if he had known it would be necessary, they could have indicated which were the chief uses and which were the supportive uses. Pages 3-6 of the June 9th application show the list of requested uses.

Becky Hewitt (Angelo Planning Group, 921 SW Washington St., #468, Portland) Ms. Hewitt acknowledged that they did submit a three-part application, which she agreed is somewhat unusual. All three parts of the application make up the application as a whole, including the irrevocably committed and physically developed portions from the last application. The areas that are proposed for a zone change are the physically developed properties. At the last hearing, the applicant was asked to address the reasons exceptions to justify other uses and to address the access easement through the PGE property. They tried to include everything that may be necessary as accessory uses, and felt that to be on the safe side, it would be better to include absolutely everything that they may need to do on the property.

Commissioner Andreen pointed out that usually the conditional use process is to amend what has already been approved. The applicant has gone about this completely backwards. There has to be specificity in the zone change with regard to what uses you are going to have on the property. Commissioners Wagner and Pasko asked if would be possible to continue this hearing and ask that the applicant and staff clear up some of these issues.

Ms. Hewitt proceeded to review the list of proposed conditions of approval. She also gave a brief overview of their reasons analysis. She explained that Goal 4 should not apply because the Goal 5 (Historic Resource) weigh and balance conflicting goals. The proposed uses need to be located on resource land because there is

a need to preserve and activate the historic structures. Locating them elsewhere does not accomplish this. The handout of proposed uses tonight is the most current version. This is a historic resource that is located on resource land. If the County allows no uses, then the property will never get used. A couple of other clarifications to note: Gary indicated that the historic uses were already allowed, which is incorrect. Gary also said that they are not evaluating whether or not the buildings needed to be used—Ms. Hewitt feels that this is exactly what they should be evaluating. They are proposing to rezone 35 acres to RRFF-10, but to leave the other 80 acres as timber. The area that is proposed to remain in timber does not even have good soil for growing timber. Neither do the portions that are proposed for the zone change. There are thick concrete walls, paving, etc. on the areas proposed for rezoning.

Commissioner Andreen pointed out that the applicant has a very large wish list of activities. He asked if there is anything in the application that specifies which uses would take place on which sites. Ms. Hewitt responded that there would be one single family residence (SFR) on the park site, which the applicant is proposing a condition that the residence be specifically used for a caretaker. On the school site, they are proposing one SFR (caretaker only), public & private parks, utility carrier cabinets, schools, wireless telecommunication facilities, educational facilities, service & recreation facilities, etc., etc. Commissioner Andreen restated that this is a really large laundry list. He would be more comfortable if the list was narrowed down, which is what Gary has been getting at. For example, how does a B & B go with a museum? Ms. Karlsson answered that they did not know what the best use would be, so they included things that they thought might be compatible. They did this so that they wouldn't have to take another reasons exception if they found that the one thing that they were approved for won't actually work on the property. For the powerhouse site, they are asking for one SFR (caretaker only), telecommunication facilities, educational facilities, public & private non-profit parks, public & private parks for profit, plus the list of allowed uses in the historic overlay district.

Commissioner Andreen pointed out that the applicant has listed campgrounds in the school property and in the powerhouse property as well. He finds it hard to believe that they will have them in all three, so why even list them for all three properties? This appears to just be a laundry list that was inserted. The applicant is basically saying that all three properties could have the same function. Instead of actually planning, the applicant has provided a laundry list and thinks that they will just do the planning later. Commissioner Wagner said that the lists should reflect what is appropriate for each property. Commissioner Drentlaw said that the list of uses needs to justify the change. When you leave it so broad, you open up risks to the public later on.

Steve Pfeifer (attorney for the applicant, 1120 NW Couch, Portland) There doesn't seem to be as much debate about whether the project is a good idea, it's more about how you set the mechanics in motion. He offers a different perspective. A goal exception is a tool in Oregon land use law. Legislators impose very strict rules on resource lands. LCDC has refined these rules over the years. Committed and Developed rulings are strictly evidence based. The Exception Rule is something that is applied to situations that have no precedence. It asks for justification with reasons why the goal should not be applied in a particular situation. You only apply what is applicable, otherwise you would never get to anywhere with a reasons exception. It is a different level of analysis--reasons that justify why the goal should not be applied are what need to be looked at. With regard to the uses, what they are really proposing is a use that is the base for the reasons exception. The actual use proposed is a kind of adaptive reuse of the existing structures and land. One Goal does not trump the other. The applicant understands this. That is why they are applying for a reasons exception, this is why the reasons exception exists.

Commissioner Wagner would like staff to take a look at the proposed uses. There are a lot of questions that are not answered within the application. For example, he really can't see having boarding and riding stables

at the powerhouse site. Also, if they are going to have 800 people a day on the property, is there water and sanitation for them? What about parking? What about other necessary resources?

Commissioner Meek understands the comparison with Goal 4 and Goal 5, but there is no evidence of how any of these uses maintain the character of the property. There is no analysis of how any of the individual uses would impact the area. If we had that information, it may be easier for the Planning Commission to justify the applicant's request.

Commissioner Pasko thinks it would be helpful if the applicant were to provide details of what they were proposing to do up front.

Mr. Pfeifer does not agree that the goal exception requires that level of detail. It is an opportunity to say, at the local level, why a particular Goal should not apply.

Commissioner Drentlaw feels that after further discussion, we are in a position to hear a motion.

Commissioner Andreen moved to continue the hearing to August 11th at 6:30. Commissioner Drentlaw seconded the motion. *Ayes=8; motion passes.*

The applicant may submit additional testimony, but it needs to be received by Monday morning August 4th.

4. Commissioner Andreen moved to approve the June 23rd minutes as presented to the Planning Commission tonight. Commissioner Meek seconds. *Ayes=7; Nays=0; Abstain=1 (Gray). Motion passes.*

5. There being no further business, the meeting was adjourned at 10:15 p.m.

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PLANNING COMMISSION
DRAFT MINUTES

August 11, 2014
6:30 p.m.

Commissioners present: Mike Wagner, Norm Andreen, Tom Peterson, John Drentlaw, Brian Pasko, John Gray.
Commissioners absent: Gail Holmes, Mark Meek
Staff present: Mike McCallister, Gary Hewitt, Linda Preisz, Robert Hixson, Darcy Renhard.

1. Commission Chair Peterson called the meeting to order at 6:40 p.m. No Planning Commissioners have any *ex parte* contact to disclose.

2. Commission Chair Peterson asked if there was any member of the audience who wished to provide comment on an item not on the agenda. There were none.

3. The purpose of the hearing tonight is the continued consideration of Z0207-14-CU, Z0208-14-CP, and Z0209-14-Z. The three applications together comprise a legislative text amendment to the Clackamas County Zoning and Development Ordinance (ZDO) and Comprehensive (Comp) Plan amendment for all three properties, as well as a request for a Conditional Use approval for the day use park site. Gary Hewitt explained that the applicant is asking for a Reasons Exception to change portions of designated Forest land to Rural. They are also asking for a Comprehensive Plan Amendment for the three properties from Forest to Rural, and a corresponding Zone Change from TBR for FF-10. He pointed out on overhead maps where the three properties are located , west of what used to be Roslyn Lake and adjacent to Thomas Road and Ten Eyck Road. There are three separate sites being considered in this application: the defunct Bull Run Powerhouse site, the former day park site, and the abandoned school site. Services are provided by the Sandy Fire District, Clackamas County Sherriff, PGE, and Oregon Trail School District. The sites are not served by a sewer district.

Statewide Planning Goals 4 (Forest Areas) and 5 (Historic Areas) are both applicable to this proposal. The sites were recently designated as a Historic District by the Clackamas County Board of Commissioners. ORS 197.732(c) sets the criteria for making a Goal Exception. OAR 660-004-0018, 0020, and 0022 addresses criteria for making a Reasons Exception. Sections 406 and 310 of the Clackamas County ZDO apply to TBR and FF-10 zones. Additionally, Statewide Planning Goal 12 applies to transportation policies.

In response to the applicant's additional information that was provided on August 4th, Gary Hewitt provided a memorandum explaining staff's ideas for uses on each site. For all three parcels, staff is recommending that the uses are within the existing structures. Staff feels that doing this would justify the criteria for the reason's exception as well as minimizing adverse impacts. This is a solution that the applicant may not be hoping for, but it would address the necessary issues. Commissioner Wagner asked if camping and picnicking would be allowed on the park site. Gary answered that historically, this was a day use camp. Overnight stays were not allowed. Staff is not opposed to overnight camping, as long as it takes place within the existing structures. If we are going to allow any use on the property, it has to be spelled out specifically. We can't just say that anything that is allowed in the FF-10 zone could go on the properties. The reason's exception says that you

can only do the use that is justified. So far the applicant has not justified all of the uses that they are asking for. If you allow new uses, more people, etc., then it becomes something that it wasn't. If you allow uses, but only in existing structures it is self-limiting and can be tied to the historic uses. The things that the Planning Commission needs to balance are what someone wants to use the property for vs. what it was used for, what is practical, and how is it going to affect the surrounding area?

Commissioner Peterson asked if there were any other government agencies who wished to provide testimony. There were none.

Commissioner Peterson invited the applicant to come forward.

Becky Hewitt (Angelo Planning Group, 921 SW Washington St., #468, Portland) Ms. Hewitt introduced Exhibit 50, an updated version of Goal 5. Exhibit 3 in the packets shows highlighted language from Goal 5 which Ms. Hewitt stated was referenced repeatedly in Gary's analysis, but the language is no longer in Goal 5. The applicant would like to use the list of uses to be allowed that they provided on August 4th as a starting point. There is an explanation for each of the uses, by parcel, that they provided in Exhibit 47. The Historic Review Board provides an additional level of protection regarding what structures could be allowed on a historic resource. The County Code allows new structures to be added when it is in the best interest of preserving an existing resource. The applicant has considered each use that might be allowed for each site, and whether or not the use is appropriate. Commissioner Wagner asked why cemeteries and home occupations are listed as possible uses. The applicant feels that it would be unfair to the future occupants of any dwellings on the properties to not be able to pursue a home occupation. Commissioner Andreen answered that we have seen some home occupations that have gotten completely out of control, and that the applicant is just asking to have carte blanche. Commissioner Wagner understands how you can get to caretaker units on the sites based on staff's lists, but does not see how you can get from a caretaker unit to a home occupation.

Rick Michaelson (906 NW 23rd Ave., Portland) Mr. Michaelson said that the historic uses of the site are no longer economically viable, which is why they are trying to find other uses to support the properties financially. They didn't ask for multi-family because they felt that it would not follow the character of the rural zoning, but they did ask for bed & breakfast because they feel it is a similar use that would allow some use of the buildings. They are not looking to do any demolition to the buildings. They see the caretaker's residence being within the existing school building, but there is also a concern that the school buildings may have some code issues that would require a lot of work. They would like to be able to put some type of temporary housing on the property while the renovations are being done.

Karen Karlsson (906 NW 23rd Ave., Portland) Ms. Karlsson feels that they have done a good job of going through each list and trying to understand all of the different uses. They expected to have some push back on some of the things they would like, such as the home occupations. Gary's list doesn't really tie back to what they have in their list, but they are happy to remove the home occupations if that is what the Planning Commission wants.

Ms. Hewitt would like to start from the list that they have prepared so that they can see what exactly they are losing, and what they are going to have to go back and put back in.

Commissioner Drentlaw asked if the applicant has any documentation from the Historic Review Board (HRB) to support what the applicant is asking for. There is no actual documentation of support at this time, but the fact that they have designated the sites as a historic district should show that there is support from the HRB. For the HRB to specifically support any particular use at this time would be premature, since there is nothing that has been defined as a specific use on the property. Commissioner Drentlaw said that he is not aware of

anyone being allowed to live inside a building that is under construction. Mr. Michaelson answered that this is why there is a need to have a temporary dwelling on the school property.

Commissioner Wagner asked the applicant to walk through their list and compare to staff's list of uses. On the park site, staff's list does not include a detached single family dwelling. The reason the applicant is asking for a dwelling on each site is to provide a caretaker and protection to each developed site. The applicant is asking for farming to be allowed on the park site so that there could possibly be animals and/or bees raised in conjunction with parks and recreation use. Propagation or harvesting of a forest product would not allow clear cutting, but to have this allowed generally would allow for sustainable management of the forest trees. Conservation activities don't seem to hurt anything, so why wouldn't they be included. The same goes for fish and wildlife conservation activities, as long as they are not altering landscaping and tearing down buildings what does it hurt? Public and private parks, community gardens, etc. are core to the applicant's mission. This one is absent from the staff list. The land was historically a park. The level of intensity of what is there now is more consistent with what is allowed in the FF-10 zone. Schools are conditional and limited. Everything would be secondary to the existing structures, which would limit any new structures to no more than 1200 square feet. Commissioner Wagner asked if this was 1200 square feet combined, or each new building could be up to 1200 square feet. Mr. Michaelson replied that it is not inappropriate to allow buildings of a similar size, given the history of the park adding buildings as they were needed. Commissioner Wagner stated that it is not inappropriate, but right now what the applicant is asking for is unlimited. He is more comfortable with having some sort of limit on how many buildings could be added. Because cemeteries are allowed in the timber zone, the applicant feels that they should be allowed in the park site. Commissioner Andreen said that he has never seen a cemetery within a park, which Ms. Hewitt replied that it would be unusual but not impossible. The applicant does not feel that a cemetery is inappropriate because it is allowed under the existing zoning. Commissioner Peterson asked if the applicant is advocating for having a cemetery, or if it is just a use that they don't want to have removed. Mr. Michaelson replied that they are not advocating for a cemetery, but they would like to have the option if they decided later on to put one in. Under the service and recreational uses, the applicant has not included several uses, including golf courses, gymnastic facilities, country clubs, boat moorages, and RV camping facilities. Mining and resource extraction uses have all been eliminated from the list of proposed uses. Pack stations, corrals, stables, and horse trails are also removed from the list of potential uses under private and public parks for profit. The applicant is asking for home occupations, including B & Bs, to be allowed on the properties so that the caretakers on the properties may have a source of income other than being paid to take care of the properties. They are also asking for produce stands to be allowed as an accessory use if a small farm or garden were to be established on part of the property. While the applicant thinks that it is unlikely to happen, they also would like it to remain on the list of uses in case someone did decide to do it later on. Guest houses have been taken off of the list. Solar energy systems, rainwater collection systems, and electric car charging stations don't seem to hurt anybody, so they should be on the list of allowed uses. The list of uses that the applicant feels should be allowed as conditional uses under the Historic Overlay consist of: art & music studios, offices (limited to use of existing office building or a small additional office space in conjunction with whatever primary use does end up on the site), gift shops (only in conjunction with another use, no new buildings over 1200 sq. ft.), and a conditional and limited community center (which may need additional small buildings, but they would be limited to under 1200 sq. ft.). Any new structures would be limited to 1200 square feet. Commissioner Andreen referred back to the request for office use, stating that the site is a private park and the only reason that there would need to be an office on the site is for managing the park. Ms. Hewitt replied that the office would be for whichever use they decide to put on the property. Commissioner Andreen pointed out that this is exactly his concern, that the applicant is not being specific as to what is going to be on the property and that the applicant is just asking for a laundry list of potential uses. The historic use is that of a park, not an art studio. The applicant has a whole list of proposed uses that have nothing to do with a park. They are saying that because something is possibly allowed in FF-10, it should be allowed as a conditional use regardless of whether or not it was used in that way historically. Mr. Michaelson stated that the Historic Review Board

would decide whether or not what they propose would be compatible with the historic use. Ms. Hewitt indicated that the applicant does not intend to limit the uses to only what functions have been on the property in the past, that there might need to be other uses which are compatible with the uses and the structures. The structures may need to function as something other than a park in order to support some public access, trails, and the preservation of the structures.

On the school site, the applicant is asking for similar uses to the park except for: harvesting or propagation of a forest product, fish and wildlife conservation activities, public and private parks (both for profit and non-profit) and campgrounds. They are asking for a church to be allowed, as well as being able to use it as a school again. They would also like to have day care facilities, cemeteries, service and recreational uses (similar to the park, except to allow lodges and fraternal organizations), bed and breakfasts, and home occupations (applicant feels that this is more important to allow on this site than the park site). The accessory uses are pretty much the same as those proposed for the park. Regarding the uses allowed in the Historic Overlay, the applicant is requesting: art & music studios, galleries, offices, craft shops, gift shops, catering services (not sure where the market would be, but there is a commercial kitchen within the schoolhouse, so it could be done), restaurants, and community centers (conditional and limited with no new buildings over 500 sq. ft.).

On the powerhouse site, the applicant is requesting things that are pretty similar. They are asking for public and private parks, community gardens, etc. that would allow public access and minor camping with access to the river. The powerhouse is located on the Sandy River where there is a lot of kayaking activity, specifically competitive kayaking and the slalom course. Essentially the only new building would be a restroom down by the river. They would like to have commercial schools allowed because of the metal shop that already exists within the powerhouse (no new buildings over 1000 sq. ft.). They are also asking for daycare facilities (secondary to some primary use on the site), lodges and fraternal organizations, public and private recreational areas, hydroelectric facilities, bed and breakfast inns (only in conjunction with another use, i.e. overnight accommodations for educational activities), home occupations (maybe not as essential to the powerhouse as with the other sites), art and music studios (only within the existing structures), galleries (only in conjunction with the art studio), offices (only within the existing structure), craft shops and gift shops (only in conjunction with another use and within the existing structure), museums, catering, book stores, and restaurants (only in conjunction with another use), and community center for civic and cultural events. Commissioner Wagner asked how big the powerhouse is. The applicant is not sure exactly, but probably around 40,000 square feet.

Commissioner Peterson asked if there were any representatives from any CPOs, hamlets, or villages. There were none.

Commissioner Peterson asked if there was anyone who wished to testify in favor of the application. There were none.

Commissioner Peterson asked if there was anyone who wished to provide testimony in opposition to the application.

Molly King (44495 SE Phelps Rd., Sandy) Ms. King has lived in the area for five years. Her husband grew up on Shipley Road when Roslyn Lake was still there. The area is so busy already, so she has some serious concerns about things that are going to bring even more tourism into the area. The roads are narrow and curvy and already dangerous. She would like to do more research on the project, but at this time feels like she is opposed.

Commissioner Peterson asked if there was anyone who wished to provide neutral testimony. There were none.

Ms. Hewitt replied that she would be happy to provide the information from the traffic study which shows the impacts to Ms. King.

Gary Hewitt stated that one of the interesting aspects of this whole process is that we can talk about all kinds of uses and great ideas, but without having all of the relevant information about specifically what they are going to do it is impossible to determine what the impacts are going to be. Having all of these open-ended uses that the applicant is asking for, without specific details, is not in keeping with the criteria. This is why the list proposed by staff is so much shorter than the list that the applicant is requesting. The applicant does not provide information about how many students used to attend the school, how many uses are going to be in each building, what the size of the existing buildings are, etc. The reasons exception process states that you can ONLY have those uses that are justified. The criterion says that you need to justify the use before going through a conditional use or the Historic Review process. What staff is looking at is how to make the allowed uses self-limiting, which is why staff's recommendation is that any uses be within the already existing structures.

Mike McCallister explained that there is a difference between "irrevocably committed" uses and a reasons exception. A reasons exception specifies that a proposed use has special qualities that necessitate it being allowed on the site. It does not mean that the site is special, which these sites are. It means that the use itself is unique in that it cannot go on other properties that are not resource lands. There is also the policy issue of whether you can defer the impact mitigation to a conditional use. The struggle that staff is having is how to narrow down the impacts when the applicant has asked for so many uses without addressing what the impacts would be or how the uses are justified. Commissioner Andreen thinks that the applicant's argument is that they need the latitude to make money on these sites in order to save them. Mike McCallister agrees that the sites are unique and there should be some way to protect them, they are designated Goal 5. The economic needs can be considered. Commissioner Pasko feels that the applicant should be allowed to do whatever is consistent with the new zone rather than being limited. Gary explained that the reasons exception says that you have to justify the use, and that it has to be a balance of Goal 4 and Goal 5, and then you look at the economic factors, and then you go into the adverse impact factors. EACH use needs to go through this screening process, which you can't do if there are no parameters. A reasons exception is different than a regular comp plan/zone change in that you have to determine if the use is appropriate, not just is the zoning appropriate for the area. Commissioner Drentlaw asked if there is a maximum amount of square footage of building space that can be added? Gary answered that there is not, you are only limited by the setbacks and your pocketbook. The setbacks are 30 from the front and rear, and 10 feet from the sides. The property that they are looking at selling is 115+ acres, and staff felt that a house on the park site is unnecessary because there is a locked gate at the entrance, which is right next to the school site. The last staff heard, the applicant still plans to sell the park site and the school site together. If the vegetation were cleared out a bit, you would be able to monitor the entrance gate from the school site.

Mike McCallister informed the Planning Commission that if the reasons exception for the park site is accepted, then we can move on to the conditional use permit on the park site. Commissioner Peterson closed the public testimony portion of the hearing.

Commissioner Peterson opened the public hearing for Z0207-14-CU, the proposed conditional use for the park site.

Mike McCallister directed everyone to the staff report and the conditional use application that was sent to the Planning Commission. The conditional use criteria that are applicable to this are in Section 1203 of the

Zoning Ordinance. The Planning Commission needs to find that the use proposed is listed as a conditional use in the underlying zoning district. This application is predicated on the fact that the land is currently zoned TBR, and that the Planning Commission finds that the reasons exception criteria have been met to change the zoning on this property to FF-10. The Planning Commission also needs to find that the proposed use is suitable to the site. The third criteria looks at the public services available to the site, as well as the adequacy of the transportation system to the area. Fourthly, the Planning Commission will need to find that the activities and types of uses are compatible with adjacent uses. In the application materials on page 4, there is a list of proposed activities for this site. There are proposed day use activities as well as overnight activities. There is also a 'special events' use being proposed, excluding weddings. Staff evaluated the approval criteria, and generally found that if the reasons exception is approved, the site is suitable to the first criteria. Staff found that services may be met through a combination of septic, drainfields, and porta-potties. These services would have to be approved by the County Soils Division. Also, surface water would have to be remedied through the County Engineering Division, which staff does not know at this point whether or not this can be done. There are no capacity issues with regard to traffic volume. It would, however, be helpful to know what the age group is for the kids who are going to be coming out to the camp. There is a concern about the one-day occasional events. The term 'occasional' is unclear, does it mean once a month, twice a month? There are issues of having acoustical types of events as they may impact other residents in the area. Staff is not recommending that these events be allowed. The sight distance at the access drive on Ten Eyck Road is inadequate. In order to meet the sight distance requirements, vegetation would have to be removed from private property.

Commissioner Andreen asked if staff was recommending that no overnight camping be allowed. Linda Preisz explained that there are two separate conditional uses. The part that Mike McCallister referred to was the 20-acres that would be approved for a zone change to FF-10 through the reasons exception. The other conditional use is for what would remain in the TBR zone. Staff is recommending no overnight camping within the TBR zone.

Commissioner Peterson asked if there were any other government agencies who wished to provide testimony. There were none.

Sarah Breakstone (Angelo Planning, 921 SW Washington, #468, Portland, 97205) Ms. Breakstone is a consultant for the applicant, the Bull Run Education Center/Trackers Earth. She directed the Commissioners to the staff report where it mentions inadequate sight distance at Thomas Road and at Thomas and Ten Eyck. She believes that after the staff report was written, Lancaster Engineering has shown that the sight distance is actually adequate on Thomas Road based on a speed study that they did. They have also been working toward a solution for the sight distance issue on Thomas/Ten Eyck with Robert Hixson and Rick Nys of the County's Traffic Engineering Division. The application is split into two pieces, Plan A and Plan B. Plan A is about the 80-acre TBR property, and Plan B is regarding the 20-acre parcel that is being considered in the reasons exception. The Bull Run Education Center would like to use the TBR zoned property for building what are called debris shelters, which are primitive shelters made out of nothing other than what can be found in the wilderness. These shelters are eliminated the next morning to the point of non-existence, and there would only be 15-30 students a night building them. There would not be any fires being built in the TBR zone, they would be only in the designated fire areas. She would like the staff report to actually say that there would be a maximum of 800 participants per day, and 300 participants overnight. She is also asking that the special event provision be included in the conditions. In the August 7th memorandum, Gary raises an issue about the septic system. She would like to point out that on both the TBR and FF-10 portions, in the staff report it includes a condition that the applicant will submit a statement from the County Soils Division stating that the septic is adequate. She feels that this issue is covered with this condition of approval. Her second issue is where the memo states that there is no indication of adequate water systems, which Ms. Breakstone explained they are in the process of working on with the City of Portland's water district. In

answer to the question about whether or not the participants would be driving themselves, she said that the students are brought in by bus and that the staff would mainly be the only ones to drive themselves to the site. On the special events piece, it would be a maximum of 1500 using the site throughout the day, not necessarily all at one time. The applicant is open to imposing some limitations with regard to frequency through the conditions of approval. She clarified that the special events are only proposed on what they are asking to have zoned FF-10, not on the TBR zoned property.

Travis Southworth-Neumeier (4621 SE Milwaukie Ave., Portland, 97215) Mr. Southworth-Neumeier is representing the Bull Run Education Center and Trackers Earth. He explained that the intended use for the 20-acre park site (proposed to be zoned FF-10) and the 80-acre TBR site (not part of the reasons exception). Bull Run Education Center is the entity who has offered to purchase this property from Mr. Michaelson and Ms. Karlsson. Trackers Earth has stepped forward to be a funding partner in this project. Bull Run Education Center will own, manage, and rent the property to user groups. Trackers Earth is able to provide a steady and sustainable level of educational programs to support the preservation of the property. They work with almost 500 kids a day in day camps at various locations in the area, and close to 100 kids who are in residential overnight programs on Marmot Road in Sandy. Trackers Earth teaches outdoor survival skills to youth. They do a very large number of diverse educational offerings through Trackers Earth, including archery, fire building, and so forth. The 800 kids per day is a total of the 500 per day plus the 300 overnight maximum that they are asking for. Part of their program is teaching the students how to build a debris shelter out of nothing but what they find in the wilderness, which is why they need to be able to use the TBR zone. These are very low impact activities. The students are brought in by bus as much as possible. He feels that Roslyn Lake is part of the community, and feels strongly that the park should be accessible for the public to use if they need to for an event like a Fourth of July picnic, etc. Commissioner Pasko asked what they are asking for as far as frequency of special events. Mr. Southworth-Neumeier answered that he thinks maybe one a month at the very most, more likely once a quarter or four times a year. Commissioner Drentlaw asked if all three sites are going to be used for these camp activities. Mr. Southworth-Neumeier replied that they only intend to use the park property itself. There has been some discussion about the school, and they are potentially interested. At this point, though, they have not developed their business plan to the point of incorporating the school site into their project. Commissioner Andreen asked about parking for the 1500 people that they anticipate having attend the special events. This would be roughly 400 parking spaces that you would need to have. Where does the applicant propose to put these 400 cars? He answered that there are additional areas outside of the regular parking areas that could accommodate additional parking, and that they would encourage bussing and group transportation. They would also try to work with their neighbors, particularly the schoolhouse, to find additional parking if necessary.

Brian Davis (Lancaster Engineering, 321 SW 4th Ave., Portland, 97204) Mr. Davis did the traffic study for the zone change. As staff indicated, there are no issues with handling the traffic capacity. There are issues of concern about the hilly roads and that there is no speed limit on either Thomas or Ten Eyck Road. This makes the statutory speed limit 55 mph by default. County Code requires that he look at data for 5 mph above the speed limit. At 60 mph, the sight distance does not meet the standards. After the staff report was written, they did a revised analysis based on the speed that 85% of the cars travel on these roads, which ended up being 44 mph. The sight distance is adequate at this speed. Since buses are up higher than cars, they are also able to see further. The intersection at Ten Eyck and Thomas is still problematic, but the sight distance to the north from the access driveway is controlled by the applicant so the vegetation can easily be cleared. The sight distance to the south on Ten Eyck may be inadequate due to the vegetation being on private property, or it may not be on private property. The applicants for the zone change have enlisted the services of a surveyor to determine where the property lines really are.

Commissioner Andreen asked if Mr. Southworth-Neumeier planned to access the river via the powerhouse site as part of the educational programs that they offer. Mr. Southworth-Neumeier answered that it is

actually a risk control measure that they do not teach swimming skills. Commissioner Wagner asked what the student to teacher ratio is. Mr. Southworth-Neumeier answered that there is one teacher to every seven students. Commissioner Wagner is very concerned about sanitation for the special events that the applicant is asking for. The applicant has done a condition assessment, so they know that there is a septic system. They are not sure at this point how well it works, but it is there. Commissioner Wagner asked Mr. Southworth-Neumeier if he needed to have a cemetery in order to run his program. He answered that he did not. Commissioner Wagner asked how many of the additional buildings that they asked for were actually needed. Mr. Southworth-Neumeier said that they would only need five platform tents, five enclosed buildings, and two pavilions. None of these would be over 1200 square feet. The platform tents would not be permanent structures, they would be taken down and put up as needed. There is already sufficient storage on the property to store the platform tents. Commissioner Wagner asked if he was ok with not having corrals, stables, and other horse facilities. Mr. Southworth-Neumeier answered that they are fine with not having them. Linda Preisz feels like the applicant has addressed all of the concerns that staff raised in the memo, and that she is aware that they have been working with Robert Hixson on the sight distance issues. She thinks that doing four special events a year, it would make everyone happy. Commissioner Wagner asked if she has a recommendation on frequency and size of the special events. Linda replied that 1500 attendees would be alright, and that they could hold up to four throughout the year. It would be preferable if they held them during the warmer months and not in the winter.

Commissioner Peterson asked if there were any representatives of CPOs, hamlets, or villages who wished to provide testimony. There were none.

Commissioner Peterson asked if there was anyone who wished to testify in favor of the application. There were none.

Commissioner Peterson asked if there was anyone who wished to provide testimony in opposition to the application.

Commissioner Peterson closed the public testimony portion of the hearing and moved to deliberations.

Commissioner Drentlaw is opposed to any manufactured dwellings on the park site. If it is a matter of security, then you definitely would not want a person sleeping in a residence because they wouldn't be watching the site. If it were within an existing structure, he feels it is more reasonable. Commissioner Wagner doesn't have a problem with the caretaker's residence at any of the three sites, but the temporary dwelling shouldn't be on the school property any more than 90 days. He also feels that home occupations should be limited to level 1. Commissioner Andreen is opposed to any home occupations on historical sites. There should be other ways for the property owners to make money other than running a business out of a historical site. Commissioner Pasko does not think that it is unreasonable to allow a caretaker to supplement their income if you assume that they are not being paid full time. Commissioner Andreen replied that we can't assume that because that information is not in the application. The way that this has been structured, the owners plan on selling the properties to other entities. The only one they may even plan on keeping is the powerhouse, and he is not sure that they even plan on keeping that. In essence, they are asking us to zone this FF-10, which would allow the new owner to do anything that they wanted to do under the list of uses. His understanding when the applicant first came to the Planning Commission was that they wanted to preserve the historical value of these sites. When you are creating a historical site, you should not be compromising that by allowing a bunch of home occupations. Commissioners Andreen and Drentlaw agree that there may be a need for a caretaker's dwelling on the park site, but that the existing buildings are large enough to accommodate this need.

Commissioner Drentlaw moved to recommend that a detached caretaker's dwelling be allowed on the park site, but that on the powerhouse and school sites the caretaker's dwelling must be contained within the existing structures. Commissioner Andreen seconded the motion. *Ayes=7, Nays=0.*

Commissioner Wagner said that it seems to be the consensus of the Planning Commission that there not be any home occupations allowed on any of the sites. Commissioner Peterson asked if everyone agreed, which they did. *Ayes=7, Nays=0.*

Commissioner Andreen said that there is a pretty broad amount of activity in terms of farming that the applicant is asking for on a park site. Again, what the applicant is saying is that they don't know who they are going to sell to, but that they have already had a conditional use application that is fairly specific in terms of use. He recommended that this use not be allowed, Commissioner Wagner agreed. *Ayes=7, Nays=0.*

The Planning Commission is fine with propagation of forest products, public and private conservation areas, fish and wildlife management programs, public and private parks (excluding horses, horse trails, pack stations, corrals, stables), and schools (subject to Section 805). Commissioner Wagner suggested allowing a maximum of five cabins, five platform tents, and two pavilions with a maximum of 1200 square feet per structure. Commissioner Drentlaw suggested allowing seven, seven, and three to allow the applicant more flexibility. After further discussion, the rest of the Planning Commission agreed to seven, seven, and three. The Planning Commission is alright with service and recreational uses (for profit, non-profit, and commercial not to exceed the limits of Subsection 310.03(F), subject to Section 813) with the same maximum number of structures and square footage as allowed under schools. They are fine with public and private parks, campground and other similar uses with the same limits on new structures as previously agreed on, but not to include horses, stables, corrals, pack stations, and horse trails. The uses that the Planning Commission felt should not be allowed are: general farm use, bus shelters, utility carrier cabinets, wireless telecommunication facilities, churches, daycare facilities, cemeteries, operations for mining and processing geothermal resources, sanitary landfills, hydroelectric facilities, bed and breakfast residences and inns, composting facilities, kennels, aircraft land uses, commercial or processing activities in conjunction with timber and farm uses, and come occupations to host events. *Ayes=7, Nays=0.*

Under accessory uses, the Planning Commission agreed that uses and structures customarily accessory to a primary use should be allowed, as well as signs, solar energy systems, rainwater collection systems, and electric vehicle charging stations. They do not recommend allowing home occupations, produce stands, guest houses, or family daycare providers as accessory uses. *Ayes=7, Nays=0.*

Under the historic overlay uses, the Planning Commission recommends allowing offices, gift shops and a community center for civic or cultural events. All of these are not to exceed the seven, seven, and three and no more than 1200 square feet per structure as previously discussed. They do not recommend allowing art and music studios, galleries, craft shops, bed and breakfast establishments, museums, catering services, book stores, boutiques, restaurants, or antique shops. *Ayes=7, Nays=0.*

Commissioner Peterson moved to discussion on the conditional use application. Commissioner Andreen pointed out that the Hopkins Demonstration Forest is a piece of property that is very similar to this. How were they able to get approved to hold functions on their property? Mike McCallister answered that the Hopkins site was permitted under a special use provision in the ZDO and State law that allows for forest research and experimentation. They are allowed to hold functions that are limited by size and duration because they do not rise to the level of land use. Commissioner Pasko does not feel that there is an issue with the capacity that the applicant is proposing, especially if they are only holding 3-4 events per year. Commissioner Wagner is concerned with the potential sanitation issues. Commissioner Drentlaw pointed out that the sanitation requirements are already a proposed condition of approval. Commissioner Andreen

thinks that there needs to be conditions that address the potable water issue and the sight distance issue on Ten Eyck Road. He also recommended that we make a condition that the overnight guests on the TBR property (Plan A) be limited to 15-30 per night, once per week. Commissioner Pasko asked if we really want to limit them to only once per week, as he is in favor of offering them more flexibility. Commissioner Andreen pointed out that this is what the applicant has asked for. Commissioner Wagner replied that the applicant also has only asked for five new cabins, five new platform tents, and two new pavilions. After further discussion, the Planning Commission agreed to allow up to 45 guests total throughout the week on the TBR zoned property. For Plan B (park site), the Planning Commission feels that up to four special events per year is acceptable with the condition that the City of Portland provide water services for 800 people during the day, 300 people at night, and 1500 people for special events and the sight distance issue on Ten Eyck and Thomas Road be resolved. This is in addition to staff's recommended conditions.

Commissioner Andreen moved to recommended for approval the conditional use on Z0207-14-C for the park, with the conditions from staff and the three conditions that the Planning Commission has added. Commissioner Pasko seconded the motion. *Ayes=7, Nays=0. Motion passes.*

4. Commissioner Andreen moved to continue the rest of the application to August 25th. Election of officers and approval of the minutes will be continued to this meeting as well. There being no further business, the meeting was adjourned at 10:32 p.m.

DRAFT

CLACKAMAS COUNTY PLANNING AND ZONING DIVISION
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045
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PLANNING COMMISSION
MINUTES

August 25, 2014
6:30 p.m.

Commissioners present: Mike Wagner, Norm Andreen, Tom Peterson, John Drentlaw, Mark Meek, Brian Pasko, John Gray, Gail Holmes.
Commissioners absent: none
Staff present: Mike McCallister, Gary Hewitt, Linda Preisz, Darcy Renhard.

1. Vice Chair Drentlaw called the meeting to order at 6:36 p.m. No Planning Commissioners have any *ex parte* contact to disclose.

2. Vice Chair Drentlaw asked if there was any member of the audience who wished to provide comment on an item not on the agenda. There were none.

3. The public hearing for these applications has been closed. Tonight the Planning Commission is in the deliberations-only phase of the hearing process. There will be no new exhibits other than the notes on what was sent by Planning staff on August 7th. The Conditional Use for the park site was already voted on at the last hearing and will not be deliberated tonight.

The Planning Commission discussed and reached a general consensus on the following requested uses (contrary opinions noted).

SCHOOL SITE

PROPOSED PRIMARY USES:

A. Detached single family dwelling for "property caretaker":
The Planning Commission does not feel that adding a manufactured home to the school site for the purpose of housing an on-site caretaker is appropriate for the property. The existing structure can be modified to fit this need. The Planning Commission agreed 7-0 to allow one residence, as long as it is within the existing historic structure.

B. Employment of land for general farm use: The school site is only 5.6 acres, so you are really limited on what you can actually do as far as farming, Commissioner Andree pointed out. It would really just be more of a garden. The Planning Commission agreed 6-1 that the property could be used for farming. Commissioner Andreen disagrees.

C. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and similar casual uses provided that such uses are not intended for the purpose of obtaining

a commercial profit: The Planning Commission agreed 7-0 that this would be an appropriate use for the property.

D. Churches, subject to Section 804: Commissioner Wagner is opposed to allowing this use due to the amount of traffic that a church can generate. They tend to have a pretty high impact. The Planning Commission, after some discussion, decided that a church could be allowed, as long as it was only within the existing structures and no new structures were added. Commissioner Gray asked that this be clarified in the recommendation to the BCC. The Planning Commission agreed 7-0 that this was acceptable.

E. Schools, subject to Section 805, except as restricted by Subsection 310.07(C): The applicant is asking for new buildings on the site. The Planning Commission, specifically Commissioners Wagner and Gray, do not see the need for any additional structures and do not feel they should be allowed. The Planning Commission agreed 7-0 that this was an appropriate use on the property, as long as there are no new structures added.

F. Daycare facilities, subject to Section 807: The Planning Commission agreed 7-0 that this was an appropriate use on the property, as long as there are no new structures added.

G. Cemeteries, subject to Section 808: The Planning Commission agreed 7-0 that this was ***not*** an appropriate use on this property.

H. Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813: The Planning Commission agreed 7-0 that this was an appropriate use on the property, as long as there are no new structures added.

I. Bed and breakfast residences and inns, subject to Section 832: Commissioner Andreen could see something like a McMenamin's going in on the property. Commissioner Wagner is not opposed to something along those lines, he just does not think it is economically feasible. The Commissioners agreed 7-0 that this may be an appropriate use on the property.

J. Public and private parks, campgrounds, recreational grounds, hiking, and other similar uses intended for the purpose of obtaining a commercial profit: The Planning Commission agreed 7-0 that this is an acceptable use on this property, BUT this should NOT include campgrounds, corrals, stables, riding trails, or pack stations.

K. Home occupation to host events, subject to Section 806: The Planning Commission agreed 7-0 that this would be an appropriate use on the property.

PROPOSED ACCESSORY USES:

A. Uses and structures customarily accessory and incidental to a primary use: The Planning Commission agreed 7-0 that this should be allowed on the site.

B. Home occupations, including bed and breakfast homestays, subject to Section 822: The Planning Commission agreed 7-0 that this is ***not*** an appropriate use on this site.

C. Produce stands, subject to the parking requirements of Section 1015: The Commissioners feel that they should only be able to sell produce that is grown on-site. This is already limited by definition. That being clarified, they agree 7-0 that this use would be appropriate.

D. Signs, subject to Section 1010: The Planning Commission agreed 7-0 that this should be allowed on the site.

E. Solar energy systems: The Planning Commission agreed 7-0 that this should be allowed on the site.

F. Rainwater collection systems: The Planning Commission agreed 7-0 that this should be allowed on the site.

G. Electric vehicle charging stations: The Planning Commission agreed 7-0 that this should be allowed on the site.

H. Family daycare providers: The Planning Commission agreed 7-0 that this should be allowed on the site.

PROPOSED HISTORIC OVERLAY USES:

The Planning Commission agreed, on every requested use within the Historic Overlay, that all of the uses recommended for approval should be allowed ONLY within the existing historic structures, and that no new structures should be allowed.

A. Art and music studios: The Planning Commission agreed 7-0 that this should be allowed on the site.

B. Galleries: The Planning Commission agreed 7-0 that this should be allowed on the site.

C. Offices: The Planning Commission agreed 7-0 that this should be allowed on the site.

D. Craft shops: The Planning Commission agreed 7-0 that this should be allowed on the site.

E. Bed and breakfast establishments The Planning Commission agreed 7-0 that this should be allowed on the site.

F. Gift shops: The Planning Commission agreed 7-0 that this should be allowed on the site.

G. Catering services: The Planning Commission agreed 7-0 that this should be allowed on the site.

H. Book store: The Planning Commission agreed 7-0 that this should be allowed on the site.

I. Restaurants: Commissioner Pasko has more reservations about allowing a restaurant on this site than he does the other uses. He feels it is a really big stretch to get a restaurant out of what used to be a school. Commissioner Andreen agreed with Commissioner Pasko that it is quite a stretch. Commissioner Drentlaw stated that he feels it is appropriate, as long as there are no new structures and it is within the existing buildings. The Planning Commission agreed 7-0 that this should be allowed on the site.

J. Community center for civic or cultural events: The Planning Commission agreed 7-0 that this should be allowed on the site.

Commissioner Andreen moved to recommend approval to the BCC the items as discussed by the Planning Commission on the school site. Commissioner Gray seconded the motion. *Ayes=7, Nays=0. Motion passes.*

Commissioner Peterson is in attendance at this point.

POWERHOUSE SITE

PROPOSED PRIMARY USES:

A. One detached single family dwelling unit for "property caretaker": The Planning Commission is recommending that no manufactured dwellings be allowed on the property. If there is to be a single family dwelling, it should be within the existing historic structures. The Planning Commission agrees 8-0 on this item.

B. Propagation or harvesting of a forest product: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as clear cutting is prohibited.

C. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources: The Planning Commission agrees 8-0 that this use is appropriate for this site.

D. Fish and wildlife management programs: The Planning Commission agrees 8-0 that this use is appropriate on this site.

E. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit: Commissioner Gray wanted to know why the applicant is asking for multiple new buildings up to 1,000 square feet each to be allowed on the property under this use. The existing building is around 40,000 square feet, so why would they need to add additional ones? Mike

McCallister answered that these are outright permitted in the FF-10 zone, but they have to be casual uses. Casual use means that there are no reservations made and that they are coincidental type uses. They are not intensive, and they have no running water or utilities. They are also not-for-profit. Commissioner Andreen stated that the only reason that you would need a 1,000 square foot restroom was if you are having overnight guests at the campground on a regular basis. Commissioner Pasko has no problem with allowing this use, as long as it is all within the existing structures. The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as there are no new structures.

F. Schools, subject to Section 805, except as restricted by Subsection 310.07(C): Again, the Planning Commission does not feel that there is a need for additional 1,000 square foot buildings to be added to the property. As long as there are no new structures added, the Planning Commission agreed unanimously 8-0 that this use is appropriate.

G. Daycare facilities, subject to Section 807: Commissioner Wagner does not feel that daycare facilities are appropriate on this site. A school being converted to a daycare makes more sense, but this site doesn't. Commissioner Drentlaw asked about people who are going to the school and need to drop off their children. Mike McCallister explained that daycare facilities are places where you make arrangements and schedule child care. Family day care facilities are those where you can just drop your child off without notice. The Planning Commission agreed 8-0 that daycare facilities are not an appropriate use on this site.

H. Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813: Again the applicant is asking for new buildings up to 1,000 square feet. Commissioner Andreen recommended not allowing this use on this site, as the Planning Commission is already recommending these uses with no new structures on the other sites. He does not see where this site has any historic recreational uses. Commissioner Andreen moved to not allow these uses on the powerhouse site. Commissioner Gray seconded the motion. *Ayes=8, Nays=0 (to **NOT** allow service and recreational uses on the site).*

I. Hydroelectric facilities, subject to Section 829: The Planning Commission agreed 8-0 that this use is appropriate for the site.

J. Bed and breakfast residences and inns, subject to Section 832: The Planning Commission feels 8-0 that this is appropriate, only if it is with another use and there are no new structures.

K. Public and private parks, campgrounds, recreational grounds, hiking, and other similar uses intended for the purpose of obtaining a commercial profit: The Planning Commission feels that these uses are appropriate as long as everything is within the existing building and there are no new structures. *Ayes=8, Nays=0.*

L. Home occupations to host events, subject to Section 806: The Planning Commission agrees 8-0 that this use is appropriate for this site.

PROPOSED ACCESSORY USES:

A. Uses and structures customarily accessory and incidental to a primary use: The Planning Commission agrees 8-0 that this use is appropriate on this site.

B. Home occupations, including bed and breakfast homestays, subject to Section 822: The Planning Commission agrees 8-0 that this use is **NOT** appropriate on this site.

C. Signs, subject to Section 1010: The Planning Commission agrees 8-0 that this use is appropriate on this site.

D. Solar energy systems: The Planning Commission agrees 8-0 that this use is appropriate on this site.

E. Rainwater collection systems: The Planning Commission agrees 8-0 that this use is appropriate on this site.

F. Electric vehicle charging stations for residents and their nonpaying guests: The Planning Commission agrees 8-0 that this use is appropriate on this site.

G. Family daycare providers: The Planning Commission agrees 8-0 that this use is appropriate on this site.

PROPOSED HISTORIC OVERLAY USES:

A. Art and music studios: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

B. Galleries: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

C. Offices: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

D. Craft shops: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

E. Bed and breakfast establishments: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

F. Gift shops: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

G. Museums: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

H. Catering services: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

I. Book store: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

J. Restaurants: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

K. Community center for civic or cultural events: The Planning Commission agrees 8-0 that this use is appropriate on this site, as long as the use takes place only inside the existing structures.

Commissioner Andreen moved to recommend approval of the powerhouse application with the amendments that the Planning Commission has made. Commissioner Gray seconded the motion. *Ayes=8, Nays=0. Motion passes.*

Commissioner Wagner moved to have the minutes reflect that the Planning Commission has made a finding in that they have met the State's exception process that they are required to do. Due to the unique characteristics of all three sites, and the fact that the Planning Commission has reviewed all of the uses and limited the uses, that the Planning Commission has met the Goal 5 process, and that they have met the requirements of the Clackamas County Comprehensive Plan (pages 4 and 5 of the Staff Memo). Commissioner Andreen seconded the motion. *Ayes=8, Nays=0. Motion passes.*

Commissioner Wagner moved to recommend for approval Z0207-14-CU, Z0208-14-CP, and Z0209-14-ZAP with Planning Commission's findings. Commissioner Meek seconded the motion. *Ayes=8, Nays=0. Motion passes.*

4. Commissioner Andreen moved to reappoint Tom Peterson as Planning Commission Chair for another year, and Commissioner Drentlaw as Vice-Chair for another year. Commissioner Wagner seconded the motion. *Ayes=8, Nays=0. Motion passes.*

5. Commissioner Wagner moved to approve the minutes from the July 28 meeting. Commissioner Peterson seconded the motion. *Ayes=8, Nays=0. Motion passes.*

6. There being no further business, the meeting was adjourned at 8:14 p.m.

JUNE 9, 2014

APPLICATION VERSION

Z0208-14-CP / Z0209-14-Z

Hewitt, Gary

From: Becky Hewitt [rhewitt@angeloplanning.com]
Sent: Monday, June 09, 2014 2:02 PM
To: Hewitt, Gary
Cc: katherine.daniels@state.or.us
Subject: Supplemental information & clarification for Bull Run Zone Change ZO535-13-CO and ZO537-13-Z
Attachments: RoslynLake_2ndApplicationSupplementMemo_submit_060914.pdf

Hi Gary,
Please find attached a memorandum providing some updates and additional clarifications to supplement our February 2014 application. It is intended to respond to concerns that you and Katherine have raised since our May 2, 2014 memorandum. Please let me know if you have questions.
FYI, we expect to have the related conditional use application to Linda on Wednesday (June 11).
Thanks,
Becky

Becky Hewitt, AICP
Angelo Planning Group
921 SW Washington Street, Suite 468
Portland, OR 97205
rhewitt@angeloplanning.com
503-224-1496

Spam
Not spam
Forget previous vote

Memorandum

Date: June 9, 2014

To: Gary Hewitt, Clackamas County Planning & Zoning Department

From: Becky Hewitt, Angelo Planning Group

cc: Katherine Daniels, Department of Land Conservation and Development
Clackamas County Planning Commission

Re: Z0535-13-CP / Z0537-13-Z: Supplemental information and clarifications

Introduction and Purpose

This memorandum provides additional information addressing certain criteria for the "reasons" goal exception requested in the memorandum dated May 2, 2014, as an additional supplement to the zone change and goal exception application submitted in February 2014, and to reflect modifications to the application, including the requested goal exception / zone change extent and the proposed conditions of approval.

Modifications to the Application

Requested Goal Exception and Zone Change Area

The applicant is proposing a modification to the area requested for a goal exception and zone change to FF-10. This modification affects only the "Park Site", the portion of tax lot 102 that is west of Ten Eyck Road. The acreage of the requested goal exception in this area has been reduced from 40 acres (contiguous with the approved Historic District boundary) to 20 acres (contained within the Historic District boundary). The area now requested to be rezoned to FF-10 is shown on Attachment 1 to this memorandum. The area of the Park Site proposed for rezoning will continue to include the developed portion of the park as well as the paved park access roads in order to assure that legal access can be provided for uses in the FF-10 zone.

The area has been reduced in order to ensure that 80 acres of tax lot 102 will continue to be zoned Timber (TBR). The minimum lot size in the TBR zone is 80 acres. County staff and the Department of Land Conservation and Development (DLCD) expressed concern that leaving less than 80 acres zoned TBR would compromise the property owners' ability to partition the property in the future. The property owners intend to partition the "Powerhouse Site" – the roughly 10-acre portion of tax lot 102 that lies east of Ten Eyck Road and contains the historic Bull Run Powerhouse – from the remainder of the property, leaving the 100 acres west of Ten Eyck Road intact. That land division will require a separate application and land use approval; however, in order to ensure that this partition is possible in the future, the applicant has chosen to reduce the FF-10 area west of Ten Eyck Road to leave 80 acres in TBR zoning.

Conditional Use Application for Bull Run Education Center

One other modification that does not affect the proposed goal exception and zone change but is identified here for the sake of clarity is that the Conditional Use application for the Bull Run Education Center, which is being submitted to be reviewed concurrently with the zone change and plan

amendment applications, no longer includes the "School Site" (tax lot 600), as was described in the May 2, 2014 memorandum. The School Site is still included in the requested zone change and goal exception; a future use for the School Site will be identified from among those proposed to be allowed on that site (see page 3).

Requested Uses

Overview

At the request of County and DLCD staff, the applicant has modified the list of uses proposed to be allowed on the subject property. The applicant is now proposing a specific subset of the uses that could be allowed in the FF-10 zone with the historic overlay for each of the areas proposed to be rezoned FF-10. This limited list of allowed uses, of which all but a single dwelling on each site will require conditional use approval, will be imposed as a condition of approval of the goal exception and zone change (along with the others listed on page 6), and will run with the land. The listed uses are a subset of those listed in either the FF-10 zone (section 310 of the county's code) or the Historic Landmark, Historic District, and Historic Corridor overlay (section 707 of the county's code). They generally use the wording of those sections, and do not include any uses that are not identified in one of those sections. Where a further limitation is proposed that is not included in the county's code, it is shown in <u>underlined</u> text below.

All primary uses, except for a single dwelling unit, on each portion of the site to be zoned FF-10 pursuant to this application are proposed to be reviewed as conditional uses and to be subject to subsection 707.05(B) of the county's code, which requires findings that the use:

- will preserve or improve a resource which would probably not be preserved or improved otherwise;
- will not require the extension or development of urban services in rural areas;
- will not adversely affect surrounding natural resource areas;
- will utilize existing structures rather than new structures, except where new structures are determined by the Historic Review Board to be in the best interest of preserving the historic resource; and
- that all structures of any form or size, including new structures, shall satisfy Subsection 707.07.

These standards, which would not otherwise apply to primary uses in the FF-10 zone, are proposed to apply in this case to ensure that all uses that may be approved on the site support the project purpose of preserving and improving the historic resources and will be of a rural nature and intensity.

It is important to note that the uses that will be allowed on the portion of tax lot 102 that will remain zoned TBR will continue to be only those listed in the TBR zone (section 406 of the county's code).

This list of proposed uses is also included as Attachment 2 to this memorandum, so that it can easily be attached or referenced as a condition of approval.

Proposed Uses for the Park Site (FF-10 portion only)

The following are Permitted Uses on the Park Site, subject to Subsection 707.05(A):

1. One detached single family dwelling, residential home, or manufactured dwelling for use solely by a caretaker or manager;

The Hearings Officer may approve the following conditional uses on the FF-10 zoned portion of the Park Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

2. Propagation or harvesting of a forest product;
3. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;
4. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
5. Utility carrier cabinets, subject to Section 830;
6. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;
7. Schools, subject to Section 805;
8. Service and Recreational uses, subject to Section 813;
9. Wireless telecommunication facilities listed in Subsection 835.06(A);
10. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit.

The following are Accessory Uses in the Farm and Forest 10 Acre District on the Park Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);
2. Signs, subject to Section 1010;
3. Solar energy systems;
4. Rainwater collection systems.

Proposed Uses for the School Site

The following are Permitted Uses on the School Site, subject to Subsection 707.05(A):

1. One dwelling unit;

The Hearings Officer may approve the following conditional uses on the School Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

1. Public and private parks, community gardens, playgrounds, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
2. Utility carrier cabinets, subject to Section 830;
3. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;
4. Schools, subject to Section 805;
5. Daycare Facilities, subject to Section 807;
6. Service and Recreational uses, subject to Section 813;
7. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;
8. Art and music studios;
9. Galleries;
10. Offices;
11. Craft shops;
12. Bed and Breakfast establishments;
13. Gift shops;
14. Museums;
15. Catering Services;
16. Book stores;
17. Boutiques;
18. Restaurants;
19. Antique shops;
20. Community Center for civic or cultural events;
21. Any use that the Hearings Officer finds to be similar to listed uses 9 through 21 above.

The following are Accessory Uses on the School Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);
2. Signs, subject to Section 1010;
3. Solar energy systems;
4. Rainwater collection systems.

Proposed Uses for the Powerhouse Site

The following are Permitted Uses on the Powerhouse Site, subject to Subsection 707.05(A):

1. One dwelling unit for use solely by a caretaker or manager;

The Hearings Officer may approve the following conditional uses on the Powerhouse Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

1. Public and private parks, community gardens, playgrounds, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
2. Utility carrier cabinets, subject to Section 830;
3. Schools, subject to Section 805;
4. Service and Recreational uses, subject to Section 813;
5. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;
6. Art and music studios;
7. Galleries;
8. Offices;
9. Craft shops;
10. Bed and Breakfast establishments;
11. Gift shops;
12. Museums;
13. Catering Services;
14. Book stores;
15. Boutiques;

16. Restaurants;

17. Community Center for civic or cultural events;

18. Any use that the Hearings Officer finds to be similar to uses 7 through 18 above.

The following are Accessory Uses in the Farm and Forest 10 Acre District on the Powerhouse Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);

2. Signs, subject to Section 1010;

3. Solar energy systems;

4. Rainwater collection systems.

Proposed Conditions of Approval

Proposed conditions of approval for the plan amendment/zone change are listed below. These conditions are intended to be responsive to concerns raised by DLCD staff and members of the community, including those raised since submittal of the May 2, 2014 memorandum. They have been revised from the list included in the May 2, 2014 memorandum. This list of conditions is intended to replace the list in that memorandum.

- Future use of the Powerhouse Site, the FF-10 zoned portion of the Park Site, and the School Site shall be limited to those uses listed in Attachment 2.

- All primary uses on the Powerhouse Site, the FF-10 zoned portion of the Park Site, and the School Site, except for a single dwelling unit on each site, shall be reviewed as conditional uses under the county's code and shall require findings pursuant to Subsection 707.05(B).

- Land division of the Park Site (the portion of tax lot 102 west of Ten Eyck Road) shall be prohibited.

- Removal of the Historic Landmark and Historic District designations shall require the re-designation of the land to the Timber zone, unless a new goal exception is approved.

- Any new structures on the Powerhouse Site shall be limited to the existing intensively developed, fenced area of the site.

- No new permanent structures shall be built within 50 feet of the property line on the Park Site.

Additional conditions will likely be appropriate on conditional use applications for uses on the Powerhouse, Park and School sites. However, those conditions will be established through the conditional use review process and attached to those decisions as appropriate.

Supplemental Findings

The following findings are intended to supplement, not replace, those provided in the memorandum dated May 2, 2014. They address issues that were raised by County and DLCD staff since submittal of the May 2, 2014 memorandum. Accordingly, only those standards for which additional supporting information was requested have been included below. These supplemental findings are equally applicable to the Powerhouse, Park and School sites.

Oregon Administrative Rules: Department of Land Conservation and Development, Division 4: Interpretation of Goal 2 Exception Process

660-004-0020: Goal 2, Part II(c), Exception Requirements

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors: ...

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements: ...

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Response: The memorandum dated May 2, 2014 addresses why the adaptive reuse of the historic structures and grounds cannot be accommodated on other location than where those historic resources are currently located, which is on resource land. County staff requested additional information to justify why the proposed uses could not be pursued in an alternative non-resource location, including distant urban areas, with the revenue generated by those uses directed to the preservation of the historic structures.

The "use" that is proposed in this application extends beyond preservation in place to include the adaptive reuse of Goal 5 historic structures and grounds in order to both preserve and enhance the historic structures and activity areas. Historic preservation can include a spectrum of options from simply restoring and maintaining historic buildings without providing public access to adaptive reuse[1] of the structures to put them to new purposes and give the public new ways to appreciate and interact with them.

While there are a limited number of Historic Sites that can function simply as museums of the past, these are a minority of the buildings and sites listed in the National Register, Oregon's Goal Five inventory, and the Clackamas County Historic Resource list. The vast majority depend on adaptive reuse for reinvestment and economic functionality. Schools become housing for the elderly, railroad stations become hotels and shopping malls, steam plants become breweries. Without this new activity, the buildings would sit empty and no one, public or private, would be willing to spend the money to maintain them. Almost all historic preservation projects involve a resource that has outlived its original purpose, and adaptive reuse is the foundation for their preservation.

Clackamas County recognizes this in both general and specifics in Section 707, and especially Subsection 707.05, of the Development Code (as acknowledged by DLCD). Section 707 outlines the purposes and procedures for finding new uses for historic structures while preserving what is important about them. The purpose statements for 707 speak to continued and enhanced use of the historic resources and increasing their economic benefits, as well as providing for public use and enjoyment of the resources. Excerpts from the purpose statements in Subsection 707.01 are included below (emphasis added).

"A. Provide for the identification, protection, enhancement, **and use** of sites, structures, ... and buildings within the County that reflect special elements of the County's architectural, ... historical, ... and other heritage;

"E. Promote the **enjoyment and use** of historic and cultural resources appropriate for the education and recreation of the people of the County;

"G. **Enhance property values** and **increase economic and financial benefits** to the County and its inhabitants;"

The proposed uses listed in the previous section and in Attachment 2 will serve three purposes:

---

[1] Adaptive reuse has also been called "hacking" in some architectural circles. It refers to refers to the process of reusing an old site or building for a purpose other than which it was built or designed for.

1. To activate the spaces and help make them centers for the surrounding community;

2. To encourage people to visit the sites and learn about their history and hear the story of their surroundings; and

3. To raise revenue to pay for the continued upkeep of the buildings and make them partially self-supporting.

To preserve the buildings without allowing them to be used has little value to the public, because the sites are fairly secluded and isolated with limited visibility from public right-of-way. If no use of the buildings is allowed, it would preclude public experience and enjoyment of the historic buildings and the understanding of the area's history that they can impart. The historic buildings need to house active, accessible, and economically viable uses and activities, not simply be prevented from deteriorating, in order to achieve the purposes listed in Subsection 707.01 and quoted above.

Even to allow only those uses that are directly related to the historic buildings' past (such as the past uses themselves or a museum specifically linked to the site's history) would unreasonably limit the potential for their enjoyment and use. Section 707 of the county's code allows additional uses which are not otherwise allowed provided that they (among other requirements) will preserve or improve a resource which would probably not be preserved or improved otherwise. This flexibility recognizes that for some resources, a broader range of uses may be appropriate in order to provide an opportunity for preservation and improvement of the resource that is not available with the standard set of allowed uses. Those are the circumstances of this case.

The cost of upkeep on the subject property, including repair, maintenance and security for the historic buildings and grounds, runs around $10,000 per month. If the historic structures and grounds themselves cannot be put to an economically viable use, the cost of their upkeep will become such a burden that it is no longer reasonable to maintain them. The necessary income stream to maintain the three historic sites is beyond what is reasonable to expect a private entity to generate by fundraising or with potential net revenues from off-site businesses (for example, from pursuing the proposed uses at a location not requiring a goal exception), which would require additional investment for both acquisition and operation. Therefore, areas that do not require a new exception cannot reasonably accommodate the proposed uses while achieving the purpose that has been given for the reasons exception.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Response: The materials submitted previously describe the uses adjacent to each of the proposed exception areas and generally why the proposed uses will be compatible with adjacent uses on each site. The February 2014 application narrative also demonstrates that the areas proposed to be rezoned to FF-10 and re-designated to Rural on the

Comprehensive Plan are better aligned with the county's goals and policies for Rural land than for Forest land.

The proposed uses are all allowed either outright or conditionally on rural land by the county's acknowledged development code under either the county's FF-10 zone or its Historic Landmarks, Historic District and Historic Corridor overlay zone. This means that the county has found, and DLCD has acknowledged, that the uses are, or can be conditioned to be, compatible with and appropriate for a rural setting.

One dwelling per site is the only use proposed to be allowed outright on any of the proposed goal exception sites; allowing a single dwelling outright is consistent with the county's acknowledged FF-10 zone. All other uses proposed to be allowed will be subject to conditional use review, which includes the following approval criterion in Subsection 1203.01(D): "The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located." This ensures that the particular characteristics of a proposed use will be required to be compatible with the adjacent uses.

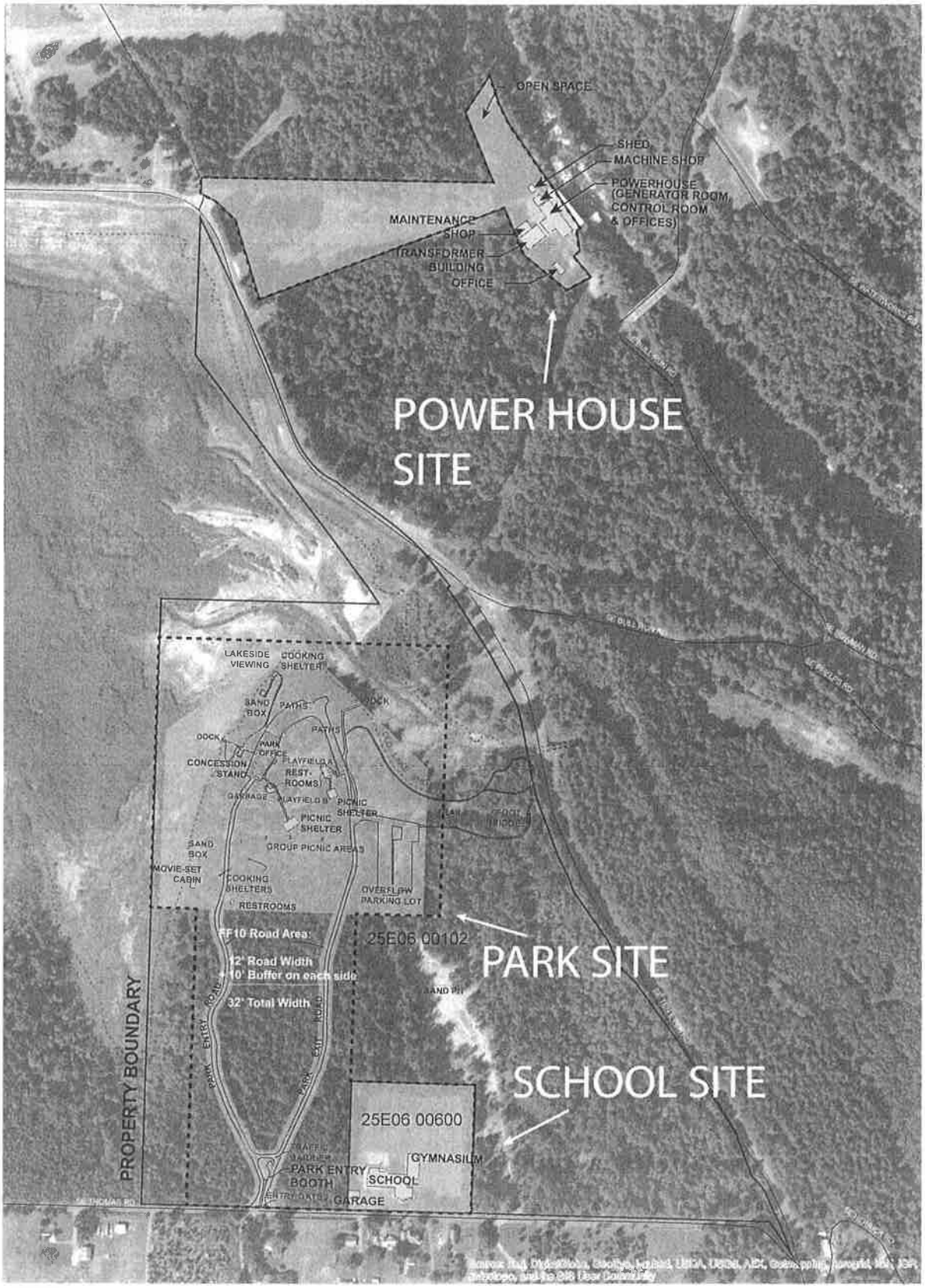
Conclusion

The School site, Powerhouse site, and Park site have all been demonstrated to meet the criteria for a "reasons" exception to Goal 4 under the relevant state statutes and administrative rules based on their historic significance. The original application submitted in February 2014 documents the extent of existing development on each of the sites and demonstrates that each of these sites is also consistent with the applicable general Clackamas County Comprehensive Plan Policies, including those related to comprehensive plan amendments and those related to historic landmarks; that each of the sites is at least as consistent with Rural comprehensive plan land use policies as with Forest Comprehensive Plan land use policies; and that the proposal is consistent with all zone change requirements in the Clackamas County Zoning and Development Ordinance.

ɔslyn Lake Plan Amendment & Zone Chan

PROPOSED GOAL EXCEPTION / COMPREHENSIVE PLAN MAP AMENDMENT / ZONE CHANGE AREAS

6/6/2014



LEGEND:

- Property Boundaries
- Approved Historic District
- Proposed FF10 Zone Area
- Existing Structures

Exhibit 1

N

0 250 500 1,000 Feet

Attachment 2

Proposed Uses for the Park Site (FF-10 portion only)

The following are Permitted Uses on the Park Site, subject to Subsection 707.05(A):

1. One detached single family dwelling, residential home, or manufactured dwelling for use solely by a caretaker or manager;

The Hearings Officer may approve the following conditional uses on the FF-10 zoned portion of the Park Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

2. Propagation or harvesting of a forest product;
3. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;
4. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
5. Utility carrier cabinets, subject to Section 830;
6. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;
7. Schools, subject to Section 805;
8. Service and Recreational uses, subject to Section 813;
9. Wireless telecommunication facilities listed in Subsection 835.06(A);
10. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit.

The following are Accessory Uses in the Farm and Forest 10 Acre District on the Park Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);
2. Signs, subject to Section 1010;
3. Solar energy systems;
4. Rainwater collection systems.

Proposed Uses for the School Site

The following are Permitted Uses on the School Site, subject to Subsection 707.05(A):

1. One dwelling unit;

The Hearings Officer may approve the following conditional uses on the School Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

1. Public and private parks, community gardens, playgrounds, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
2. Utility carrier cabinets, subject to Section 830;
3. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;
4. Schools, subject to Section 805;
5. Daycare Facilities, subject to Section 807;
6. Service and Recreational uses, subject to Section 813;
7. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;
8. Art and music studios;
9. Galleries;
10. Offices;
11. Craft shops;
12. Bed and Breakfast establishments;
13. Gift shops;
14. Museums;
15. Catering Services;
16. Book stores;
17. Boutiques;
18. Restaurants;
19. Antique shops;

20. Community Center for civic or cultural events;

21. Any use that the Hearings Officer finds to be similar to listed uses 9 through 21 above.

The following are Accessory Uses on the School Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);

2. Signs, subject to Section 1010;

3. Solar energy systems;

4. Rainwater collection systems.

Proposed Uses for the Powerhouse Site

The following are Permitted Uses on the Powerhouse Site, subject to Subsection 707.05(A):

1. One dwelling unit for use solely by a caretaker or manager;

The Hearings Officer may approve the following conditional uses on the Powerhouse Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

1. Public and private parks, community gardens, playgrounds, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;

2. Utility carrier cabinets, subject to Section 830;

3. Schools, subject to Section 805;

4. Service and Recreational uses, subject to Section 813;

5. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;

6. Art and music studios;

7. Galleries;

8. Offices;

9. Craft shops;

10. Bed and Breakfast establishments;

11. Gift shops;

12. Museums;
13. Catering Services;
14. Book stores;
15. Boutiques;
16. Restaurants;
17. Community Center for civic or cultural events;
18. Any use that the Hearings Officer finds to be similar to uses 7 through 18 above.

The following are Accessory Uses in the Farm and Forest 10 Acre District on the Powerhouse Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);
2. Signs, subject to Section 1010;
3. Solar energy systems;
4. Rainwater collection systems.

MAY 2, 2014

APPLICATION VERSION

Z0208-14-CP / Z0209-14-Z

LAND USE APPLICATION

CLACKAMAS COUNTY PLANNING DIVISION
150 BEAVERCREEK ROAD, OREGON CITY, OREGON 97045 PHONE (503) 742-4500 FAX (503) 742-4550
www.clackamas.us EMAIL: zoninginfo@co.clackamas.or.us Z0208-14-CP

FOR STAFF USE ONLY

- ☐ TEMPORARY PERMIT _____ NEW / RENEWAL
- ☐ HOME OCCUPATION (HO) _____ NEW / RENEWAL
- ☐ ALTERATION OF NON-CONFORMING USE
- ☐ NON FARM USE (N)
- ☐ FARM DWELLING _____
- ☐ FOREST DWELLING _____
- ☐ FLOODPLAIN DEVELOPMENT
- ☒ COMP. PLAN AMENDMENT
- ☒ ZONE CHANGE
- ☐ CONDITIONAL USE (C)
- ☐ SUBDIVISION SHORT (1-10) (SS)
- ☐ SUBDIVISION LONG (11+) (SL)
- ☐ PARTITION (M)
- ☐ VARIANCE (V)
- ☐ PROPERTY LINE ADJUSTMENT
- ☐ PRINCIPAL RIVER
- ☐ OTHER _____

File No.: Z0209-14-Z
Date Received: 6.9.14 Fee —
Hearing Date:
Zone: TBR
Comp. Plan: FOREST
Violation #:
Development No.:
Project No.:

CONTIN: Z0535.13.CP & Z0537.13.CP
NOW - NEW APPLICATION AS ABOVE #'S

APPLICANT INFORMATION

WHAT IS PROPOSED Zone change from TBR to FF-10 and comprehensive plan map amendment from Forest to Rural for two abutting properties

NAME OF APPLICANT Powerhouse Re Gen LLC and Bull Run Schoolhouse LLC

MAILING ADDRESS 906 NW 23rd Ave CITY Portland ST OR ZIP 97210

APPLICANT IS: ☒ LEGAL OWNER ☐ CONTRACT BUYER ☐ OPTION BUYER ☐ AGENT

NAME OF CONTACT PERSON (if other than applicant) Becky Hewitt, Angelo Planning Group

MAILING ADDRESS OF CONTACT 921 SW Washington Street, Suite 468, Portland, OR ZIP 97205

APPLICANT PHONE NUMBERS: Wk 503-227-5000 Hm _____ E-Mail Address: karen@klk-consulting.com

CONTACT PERSON PHONE NUMBERS: Wk 503-224-1496 Hm _____ E-Mail Address: rhewitt@angeloplanning.com

SITE ADDRESS: 13115 SE BULL RUN RD; 41401 SE THOMAS RD; and 41515 SE THOMAS RD SANDY OR. 97055 TOTAL LAND AREA: 113.23

LEGAL DESCRIPTION: T 2S R 5E SECTION 06 TAX LOT(S) 00102, 00600

ADJACENT PROPERTIES UNDER SAME OWNERSHIP: T___ R___ SECTION _____ TAX LOT(S) _____

PRESENT USE OF PROPERTY: No current uses on site; historic uses include a school, hydroelectric power facility, and private park

METHOD OF SEWAGE DISPOSAL: on-site septic system

WATER SUPPLY: Portland Water

OTHER PERSONS (IF ANY) TO BE MAILED NOTICES REGARDING THIS APPLICATION:

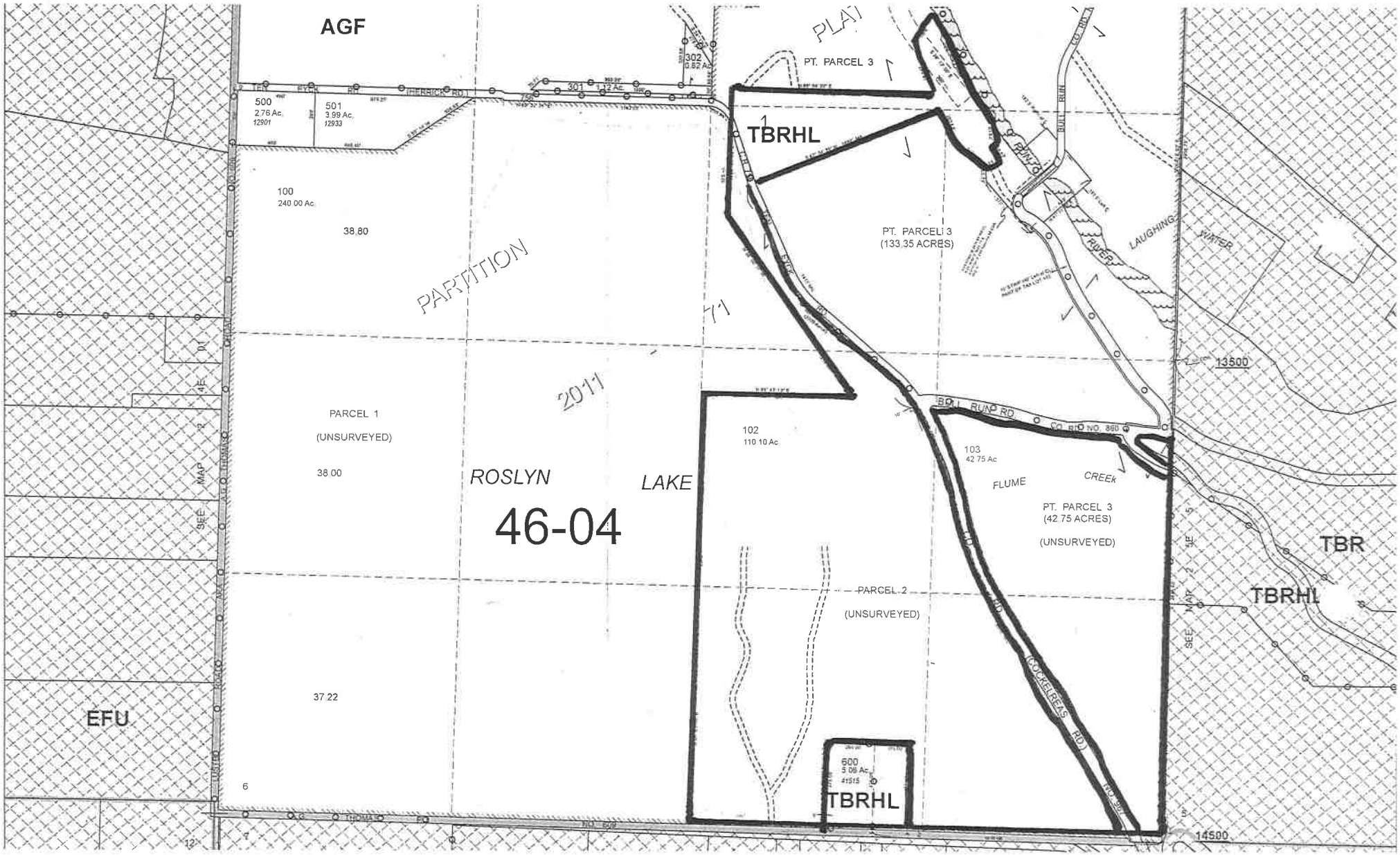
NAME	ADDRESS	ZIP	RELATIONSHIP

I hereby certify the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

KAREN KARLSSON — PROPERTY OWNER'S NAME (PRINT) — DATE 11/6/13
Mike Livingston — APPLICANT'S NAME (PRINT) — DATE 5/1/14
Karen Karlsson — PROPERTY OWNER'S SIGNATURE
Mike Livingston — APPLICANT'S SIGNATURE

For access easement, 70.00 in width per doc. No. 2011-033285, a portion of tax lot 25E06 00103 as shown on attached map.

OCP-PL10 (Rev. 11/08)


AGF
PLAT
PT. PARCEL 3
TBRHL
500
2.76 Ac.
12901
501
3.99 Ac.
12933
301
302
0.82 Ac.
100
240.00 Ac.
38.80
PARTITION
71
2011
PT. PARCEL 3
(133.35 ACRES)
BULL RUN
LAUGHING
WATER
RIVER
13500
PARCEL 1
(UNSURVEYED)
38.00
ROSLYN
LAKE
46-04
102
110.10 Ac
BULL RUN RD
103
42.75 Ac
FLUME
CREEK
PT. PARCEL 3
(42.75 ACRES)
(UNSURVEYED)
TBR
TBRHL
PARCEL 2
(UNSURVEYED)
(COCKERELL'S RD)
37.22
EFU
600
5.06 Ac.
41515
TBRHL
14500
THOMAS RD
SEE MAP 2 4E 1
SEE MAP 2 4E 5

Hewitt, Gary

From: Becky Hewitt [rhewitt@angeloplanning.com]
Sent: Friday, May 02, 2014 1:37 PM
To: Hewitt, Gary
Cc: katherine.daniels@state.or.us
Subject: Supplemental Application Materials for Roslyn Lake Zone Change (Z0535-13-CP / Z0537-13-Z)
Attachments: FINAL Signed PGE Application for easement.pdf; RoslynLake_ApplicationSupplementMemo_submit_050214.pdf; RoslynLake_AttachmentA_ProhibitedUses_050214.pdf

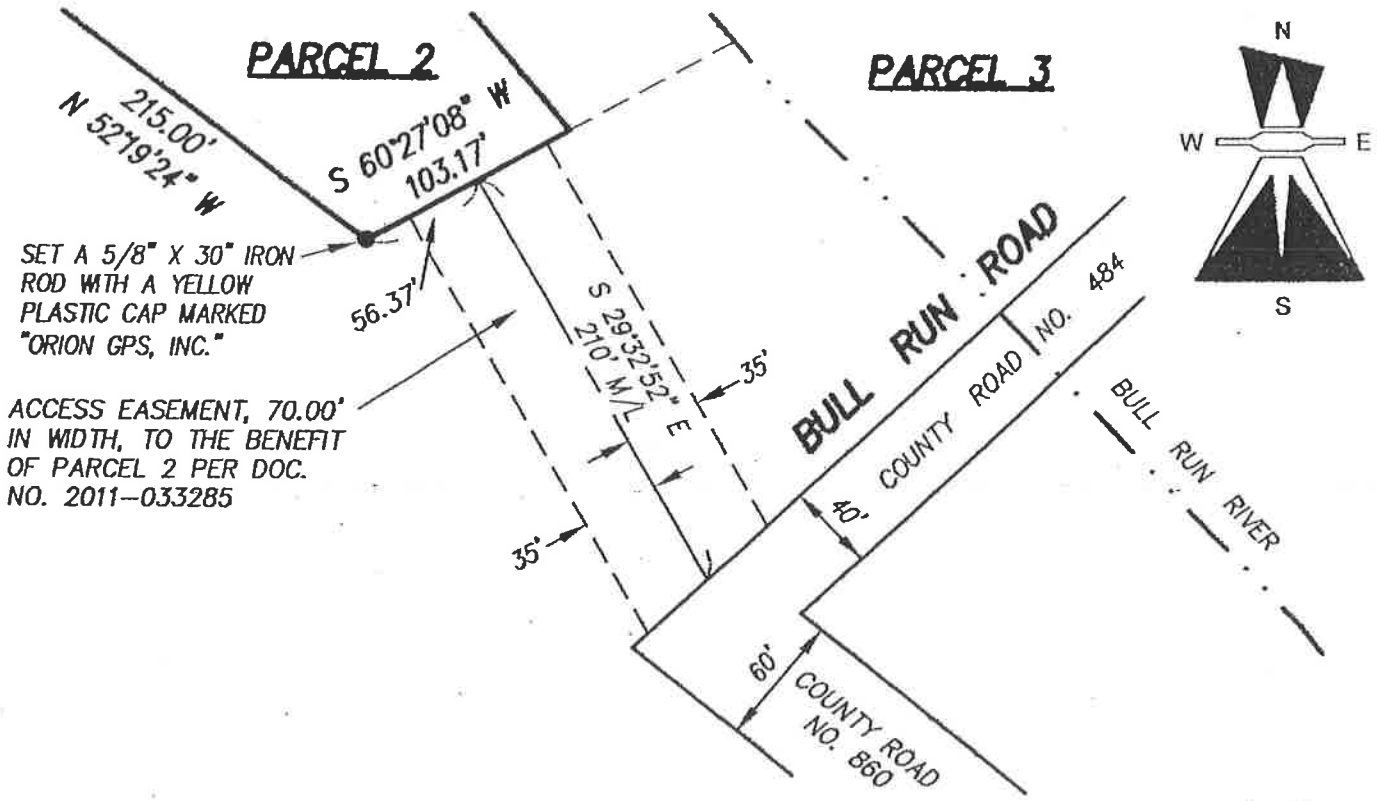
Hi Gary (and Katherine),
Please find attached three items to supplement our February 2014 application package:

1. Updated application form, including PGE signature and attachment indicating location of easement to be included in the request for plan amendment and zone change.
2. Supplemental memo with providing findings related to the "reasons" goal exception criteria and additional information on proposed uses.
3. Proposed list of prohibited FF-10 zone uses (referenced as Attachment A in the supplemental memo).

Please let me know if you have questions.
Thank you!
Becky

Becky Hewitt, AICP
Angelo Planning Group
921 SW Washington Street, Suite 468
Portland, OR 97205
rhewitt@angeloplanning.com
503-224-1496

Spam
Not spam
Forget previous vote



DETAIL "F"

SCALE: 1 = 100'

Attachment A

The following FF-10 allowed and conditional uses are not permitted on the School site, Powerhouse site, and Park site.

1. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation (310.03 G.)
2. Wireless telecommunication facilities listed in Subsection 835.04 (310.03 I.)
3. Family daycare providers (310.04 I.)
4. Wireless telecommunication Facilities listed in Subsections 835.05 (A)(2)&(3) (310.05 A.)
5. Cemeteries (310.06 A. 4)
6. Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources (310.06 A. 6)
7. Sanitary landfills and debris fills (310.06 A.7)
8. Hydroelectric facilities (310.06 A.8)
9. Composting Facilities (310.06 A.10)
10. Kennels (310.06 A.12)
11. Aircraft land uses (310.06 A.13)
12. Commercial or processing activities in conjunction with timber and farm uses (310.06 A.15)

Memorandum

Date: May 2, 2014

To: Gary Hewitt, Clackamas County Planning & Zoning Department

From: Becky Hewitt, Angelo Planning Group

cc: Katherine Daniels, Department of Land Conservation and Development
Clackamas County Planning Commission

Re: Z0535-13-CP / Z0537-13-Z: Supplemental Application Narrative

Introduction and Background

Land Use Application History

The comprehensive plan amendment and zone change request for the former powerhouse, park, and school site near the former Roslyn Lake requires an exception to Statewide Planning Goal 4 (Forest Lands). Such a goal exception may be based on one of three sets of criteria:[1]

1. The land is "physically developed" to the extent that it is no longer available for uses allowed by the applicable goal;

2. The land is "irrevocably committed" to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; or

3. Reasons justify why the state policy embodied in the applicable goals should not apply, areas that do not require a new exception cannot reasonably accommodate the use, the use is or can be made to be compatible with adjacent uses, and the impacts are not significantly more adverse than if the use were sited on another area requiring a goal exception.

An application was submitted in November 2013 that was based on the "reasons" criteria for a goal exception. At a meeting on January 23, 2014, County planning staff strongly suggested that the applicant withdraw this application and resubmit based on the "physically developed" and/or "irrevocably committed" criteria, for a variety of reasons. The applicant followed this recommendation and submitted the application dated February 21, 2014 based on a combination of the "physically developed" and "irrevocably committed" criteria. However, subsequent feedback from Department of Land Conservation and Development (DLCD) and Clackamas County staff indicated that the proposed uses could not be allowed under "physically developed" or "irrevocably committed" exceptions, which are intended only to allow continuation of an existing use rather than establishment of a new use. DLCD staff (and, later, County planning staff) recommended that a "reasons" exception would be more appropriate for the unique circumstances of the subject property and the proposed uses.

[1] ORS 197.732(2) (paraphrased).

Rather than withdraw the application again and submit a third application, the applicant chose to proceed to the March 24, 2014 Planning Commission hearing, at which County staff acknowledged that the approach that had been recommended to the applicant (proceeding with "physically developed" or "irrevocably committed" exceptions) was not appropriate, and that it did not provide adequate grounds for approving the plan amendment and zone change to FF-10. The applicant requested that the record be held open so that additional information could be submitted, showing how the proposal satisfies the "reasons" criteria for an exception to Goal 4.

This memorandum provides additional narrative and findings responding to the "reasons" criteria for a goal exception, as a supplement to the application submitted in February 2014. As with the February 2014 application, the narrative below is broken out by the three areas of the subject property:

- the "School Site" -- tax lot 600, the site of the historic Bull Run Elementary School; roughly 5 acres;
- the "Powerhouse Site" -- the northeast portion of tax lot 102, which contains the historic Bull Run Powerhouse is roughly 10 acres in size; and
- the "Park Site" – a 40-acre portion of tax lot 102 that contains the historic Roslyn Lake Park

A 60-acre portion of tax lot 102 is proposed to remain in Timber zoning (tax lot 102 measures 110 acres in total).

Inclusion of Access to Powerhouse Site

An additional issue raised during the March 24, 2014 Planning Commission hearing is the zoning of the easement that provides physical access to the Powerhouse site (the Powerhouse site has legal access from Ten Eyck Road, but the terrain precludes extending a driveway from that direction). The land over which the access easement runs is still owned by Portland General Electric (PGE). PGE has added their signature to the application form, indicating their approval to rezone the area of the access easement from Timber (TBR) to FF-10. The access easement, which measures 70 feet in width and 210 feet in length (roughly one-third of an acre), is included for the purposes of this application supplement in the Powerhouse Site.

Requested Uses and Proposed Conditions of Approval

Overview

In order to provide additional details of the proposed future uses of the subject property, in particular the Park and School sites, a conditional use application for the Park and School sites is being submitted to be reviewed concurrently with the zone change and plan amendment applications. In addition, the applicant has identified the potential uses that are appropriate to provide for adequate opportunities for adaptive reuse of the existing historic structures while precluding incompatible uses. The range of potential uses that are proposed to be allowed on the requested plan amendment/zone change areas are those allowed in the Historic Landmarks overlay zone (ZDO 707) and those allowed in the FF-10 zone, with the exception of those uses listed in Attachment A, which would be incompatible with the historic character of the site. Additional detail of the uses envisioned for the sites is provided below. It is important to note, however, that the uses described are simply examples of possible future uses that would achieve the project need of allowing compatible, financially viable adaptive re-use opportunities for the existing historic structures and sites.

School and Park Sites

The property owners have sought uses for the property that will preserve the historic structures of the park and school, allow for public enjoyment of the facilities, and further the culture and natural heritage of the Bull Run area.

A potential future use of the site meeting these goals is the Bull Run Educational Center (BREC), described below. A conditional use for the BREC is being processed concurrently with this application. It is important to note, however, that the BREC is only one possible future use of the School and Park sites. The purpose of the plan amendment and zone change is not to enable this specific use, but rather to allow a range of appropriate uses that allow the historic school and park structures and grounds to be maintained and enhanced, consistent with their Historic Landmark and Historic District status. The BREC will fulfill this goal.

The BREC will educate the public, including youth and adults, in the cultural and natural historic resources of the Bull Run, its surrounding area and the Pacific Northwest. Instruction could include local artisans and crafts people and experienced natural resources educators. Multiple organizations will be welcome to facilitate programs inclusive of, but not limited to, charter schools, historical societies and clubs, outdoor and school organizations and local artisans. The BREC will be available for community events, gatherings and meetings, inclusive of, but not limited to, Community Planning Organization meetings, celebrations, and local sport, fitness and recreation pursuits. The grounds and its facilities will be available to programs whose goals align with those of the Bull Run Educational Center's focus.[2]

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[2] Bull Run Educational Center, LLC, is a for-profit entity formed with the intent to purchase, rehab, and manage the school and park sites. The principal members are Jim Deis, Tony Deis, and Molly Strand Deis. The Bull Run Educational Center will make the park and school available to a variety of users but will maintain responsibility for keeping to the conditions of the land use approvals.

Trackers Earth, founded by Tony and Molly Deis in 2004 runs a variety of programs specializing in outdoor education. Trackers Earth operates throughout Oregon and in California. Its closest facility is its primitive camp in Marmot. Trackers Earth intends to be a significant but not exclusive user of the Bull Run Educational Center. It will develop programs uniquely suited to this new location, and will continue to operate at its other locations.

Powerhouse Site

The Powerhouse site is envisioned to become the "Powerhouse Center on the Bull Run," a non-profit creative, educational, and recreational center where the public can learn about the past and future of the region's rivers and watersheds.[3] The existing structures will provide space for educational programming related to the site's natural context and historic significance as well as other topics; meetings and retreats; civic and cultural events; and/or art studios or craft shops. The site could also provide opportunities for river access. Some overnight accommodations may be pursued to support and expand opportunities for educational programs. Conditional use permits will be required for most, if not all, of the envisioned activities.

Conditions of Approval

Proposed conditions of approval for the plan amendment/zone change are listed below. These conditions are intended to be responsive to concerns raised by DLCD staff and members of the community.

- Future use of the Powerhouse Site, the Park Site, and the School Site shall be limited to those uses allowed pursuant to ZDO 707.05.C (Historic Overlay) and those allowed outright or conditionally in the FF-10 zone, except that those uses listed in Attachment A shall be prohibited.
- Subdivision of the 40-acre FF-10 zoned Park Site shall be prohibited.
- Removal of the Historic Landmark and Historic District designations shall require approval of a new goal exception.
- Any new structures on the Powerhouse Site shall be limited to the existing intensively developed, fenced area of the site.
- No new permanent structures shall be built within 50 feet of the property line on the Park site.

Additional conditions will likely be appropriate on the conditional use application for the Park and School sites and on any subsequent conditional use applications for uses on the Powerhouse site or Park and School sites. However, those conditions will be established through the conditional use review process and attached to those decisions as appropriate.

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[3] Powerhouse Center on the Bull Run is a non-profit formed to be the long-term caretaker and user of the Powerhouse property. Its board consists of seven members. The present board members are architecture, planning, property management and development experts, and include the members of the two LLCs (Powerhouse Re Gen LLC and School House LLC, described below) that currently own the property. Four additional board positions are being reserved for area community members and potential users of the facility. Ownership of the powerhouse property will be transferred from the present owners to Powerhouse Center on the Bull Run after completion of the land use process.

Powerhouse Re Gen LLC is a for-profit entity that was formed specifically to purchase the Powerhouse property from PGE. It now owns the powerhouse and the park property. It has three members: Rick Michaelson a long time developer of historic properties; Jeff Joslin, a land use official; and Karen Karlsson, a civil engineer with experience in light rail and urban development. The members formed the LLC as a for-profit instead of a non-profit because establishing a non-profit would have taken more time than PGE allowed for completing the transaction. Bull Run School House LLC is similar to Powerhouse Re Gen LLC except that it is the owner of the school buildings and property.

Supplemental Findings

School Site

The February 2014 application materials documented the extent of physical development on the School site. In addition, at the Planning Commission hearing on March 24, 2014, an example was provided of a rural school site of a similar size and level of development (the Schuebel School), which had been approved for a plan amendment/zone change from EFU to FF-10 on the entire 6.09-acre property in 2009 based only on the "physically developed" exception criteria. The Board of County Commissioners found that the application met the applicable approval criteria, agreeing with staff's determination that:

> *"In this case, the physical improvements on the eastern 3.0 acres of the property clearly warrant a Physically Developed Exception. The western half of the property is impacted by it [sic] historical use but does not include significant physical development. However, the nature, location and extent of the physical development on the east half of the property and the general impacts from the historical recreational use on the west half of the property relative to the overall size of the property renders the property generally unsuitable for common and accepted farm practices. A 'Physically Developed' Exception is warranted on the whole property."*[4]

Originally, a condition was applied to that plan amendment/zone change site to limit its future uses to a school; however, in 2013, the Molalla River School District successfully requested that the condition be removed, allowing residential use of the site. The school district had encountered difficulty finding a buyer for the property due to the limitation that it could only be used as a school. The request submitted by the school district's representatives notes that some prospective buyers had wanted the ability to live on the property, and some had wanted the ability to reuse the buildings for other purposes. DLCD Specialist Katherine Daniels supported this amendment to remove the condition, which was approved by the Board of County Commissioners on February 12, 2014.

Given this precedent and the similarity of the Bull Run School site to the Schuebel School site, the information presented indicating the extent of physical development on the School site should be adequate to justify a "physically developed" goal exception for the full 5 acres of the site. However, since a "reasons" exception is equally justifiable for the school site, findings are presented below addressing the relevant criteria.

In addition, the "physically developed" exception criteria would provide justification only for the site's continued use as a school. The Molalla River School District's successful request to allow the full range of uses allowed in the FF-10 zone on the Schuebel School property highlights the difficulty of finding a user for a vacant public school building if the uses are limited only to a school, without the option to provide other ancillary uses on-site. Thus, responses to the "reasons" criteria below are also provided to justify the broader range of uses that should be allowed for the Bull Run school site to ensure that the objective of enabling financially viable uses of the School site that preserve and protect the historic structures is met.

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[4] File No.: ZO231-09-CP / ZO233-09-ZAP. Mike McCallister, Planning Staff Report/Recommendation to the Planning Commission, July 20, 2009; page 19. Approved by Board of County Commissioners August 20, 2009.

Oregon Revised Statutes: 197.732 Goal exceptions; criteria; rules; review.

(2) A local government may adopt an exception to a goal if:

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

Response: The need to preserve significant historic resources designated for protection by the County,[5] consistent with Goal 5 and the County's adopted and acknowledged Comprehensive Plan, justifies why the state policy embodied by Goal 4 should not apply to this property. Given the county's fiscal limitations and the absence of public sector or non-profit parties willing to acquire and maintain the historic structures, the only viable option for preservation of the designated historic resources is through private investment. In order for private investment to remain a viable option, adaptive reuse of the structures must be allowed so that they can generate revenue to offset the expense of maintenance. The School site cannot be used as a school in the Timber zone, nor are there other uses that are allowed in the Timber zone that would allow for financially viable adaptive reuse compatible with the Historic Landmark designation. Furthermore, the objective of financially viable adaptive reuse cannot be achieved if the future use is limited to a school. As noted previously, the Schuebel School example shows that a site that can only be used as a school essentially eliminates unreasonably constrains opportunities for appropriate adaptive reuse and makes finding another user nearly impossible.

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

Response: The preservation of the historic resources through adaptive reuse cannot be reasonably accommodated on any piece of land other than where those resources are currently located, which happens to be resource land. The school's site and its location relative to the community that it served are part of its history.

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

Response: The long term environmental, economic, social and energy consequences of the proposed uses at the proposed site were discussed on page 46 of the application narrative in the February 2014 submittal. They have been repeated here for convenience.

- ENVIRONMENTAL CONSEQUENCES: The school site is already developed. Allowing adaptive reuse of the existing structure and the existing developed land on the site is environmentally efficient.

[5] As noted in the February 2014 application narrative, the School site is a designated county Historic Landmark. The Historic Landmark designation was extended to cover the entire parcel by the Board of County Commissioners on April 30, 2014. The Board of County Commissioners also approved a discontinuous Historic District designation on April 30, 2014 that includes the School site as well as the Powerhouse and Park sites (see Exhibit A of the February 2014 application).

- ECONOMIC CONSEQUENCES: Enabling private investment in the historic school building allows the County to advance one of its goals – protection of historic resources – without the need to expend public money to do so. With a Plan amendment to Rural land, the site could support jobs for maintenance and educational programming or recreational uses, which will have an economic benefit. Allowing for on-going private investment will also prevent the structure from becoming a nuisance due to vandalism and break-ins, thereby preventing the site from becoming a drain on County law enforcement resources.

- SOCIAL CONSEQUENCES: Allowing for the adaptive reuse of the subject property both preserves an important piece of the community's history and allows the historic structure to potentially provide on-going benefits to the community through use as a community center or for educational or recreational activities. It also prevents the building from suffering neglect and becoming a target for vandals or a refuge for illicit activities that would detract from the safety of the area.

- ENERGY CONSEQUENCES: Enabling the adaptive reuse and preservation of the historic structure on the site allows the substantial investment of materials and energy that were used to build the structure to continue to provide value rather than being allowed to deteriorate. Because the needed infrastructure is already available at the site, there will be no energy expenditure to bring utilities to the site.

If an educational / recreational / community center were to be established on other resource land that does not already contain a historic school structure, more site improvements would be needed, possibly including extending infrastructure to serve the site as well as conversion of resource land to non-resource uses. Accommodating the proposed use on the School site has less, not more, adverse consequences than locating it on any other site requiring a goal exception.

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Response: Any of the proposed allowed future uses will be no less compatible with the adjacent uses than the historic use of the site, which was a school. The school building is situated close to Thomas Road; and the school grounds provide a buffer to the resource area that will remain on tax lot 102. The resource area on tax lot 102 is not currently used for forest operations or farming; however, since the two properties are proposed to be managed together, compatibility can be ensured between the school property and any forestry operations that may occur on the portions of tax lot 102 that remain zoned TBR. The only other nearby resource uses are buffered by Thomas Road and the row of four small, developed rural residential properties across Thomas Road to the south of the School Site. Utilization of the school property for uses allowed by the FF-10 zone and the Historic Landmark overlay will not have the effect of committing any additional resource land to non-resource uses. The conditional use and/or public hearing review process that will be required for any of the proposed future uses will also help ensure compatibility with adjacent uses through control of the extent, intensity, configuration, and/or hours of future uses. A conditional use application will be submitted for the Bull Run Education Center on the School and Park sites (see additional description below) – the simultaneous review of the conditional

use application with the plan amendment / zone change will allow greater oversight in terms of the details of future use than would otherwise be possible.

Oregon Administrative Rules: Department of Land Conservation and Development, Division 4: Interpretation of Goal 2 Exception Process

660-004-0018: Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 with regard to urban development on rural land.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Response: In order to allow use of the School site for the BREC or another similar use, and to provide flexibility for future compatible uses of the existing historic structure, the proposed future uses to be allowed on the school site are those uses listed in the Section 707 of the

County's Zoning and Development Ordinance (ZDO) for Historic Landmarks plus a subset of the uses allowed in the FF-10 zone (excluding those uses listed in Attachment A).

660-004-0020: Goal 2, Part II(c), Exception Requirements

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

Response: The reasons why the state policy embodied in Goal 4 should not apply are based on the following facts and assumptions:

- The School site is a designated county Historic Landmark, and is part of a larger, discontinuous Historic District.[6]
- According to ZDO 707.01: "The intent and purpose of this overlay district is to implement the goals and policies of the Comprehensive Plan for Historic Landmarks, Districts, and Corridors and promote the public health, safety, and general welfare by safeguarding the County's heritage as embodied and reflected in its historic resources."
- ZDO 707.02 provides criteria for determining "significance"; the School site has been found to rate as "significant" and meet the criteria for a Historic Landmark designation.
- The County's acknowledged Comprehensive Plan includes the following policy: "Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties."[7]
- The School site has not been needed as a public school for several years. No other public or private school providers have expressed interest in the site in the intervening years.[8]
- Based on the experience of the Molalla River School District with the Schuebel School, there are few public or private entities that may be willing to take on a property in a rural

[6] As noted in the February 2014 application narrative, the School site is a designated county Historic Landmark. The Historic Landmark designation was extended to cover the entire parcel by the Board of County Commissioners on April 30, 2014. The Board of County Commissioners also approved a discontinuous Historic District designation on April 30, 2014 that includes the School site as well as the Powerhouse and Park sites(see Exhibit A of the February 2014 application).

[7] Clackamas County Comprehensive Plan, Chapter 9, Policy 8.0 under "Historic Landmarks, Districts, and Transportation Corridors".

[8] The Bull Run Education Center is envisioned to be educational in nature, but to provide programming beyond what a traditional school would offer.

setting that can only be used as a school with little or no ability to add complementary uses and activities.

- Insufficient land on the School site is available for agriculture or forestry to allow for commercially viable farm or forest operations that could provide a funding stream for the upkeep of the school.

- Limiting the allowed uses to those that existed historically (i.e. a school), as the County has interpreted would be required under OAR 660-004-0018(2)(a), would make it difficult or impossible to find a future user for the School site, as demonstrated in the case of the Schuebel School.

- Given the county's fiscal limitations and the absence of public sector parties willing to acquire and maintain the historic structures, the only viable option for preservation of the School site is through private investment.

- In order for private investment to remain a viable option, adaptive reuse of the structures must be allowed so that they can generate revenue to offset the expense of maintenance.

- Moving the existing historic structures to non-resource land is neither financially feasible nor appropriate, given that the setting is part of the site's history.

- The school site is 5 acres in size. The full site has been used as a school for many years; the lot line adjustment that increased the size of the school to 5 acres was done precisely because improvements associated with the school, including the septic drain fields, play areas, and fencing, extended onto the adjacent property that is now part of the School site.

- The Historic District designation recognizes that the school grounds contribute to the school's historic character.

Based on the facts and reasons listed above, a goal exception is needed for the full 5-acre school site to allow both on-going use as a school and additional supporting, compatible uses that will enable financially viable adaptive reuse of the existing structures and improvements.

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Response: Because the purpose of the proposed goal exception is to allow compatible adaptive reuse of the existing historic School site, identification of other locations that could accommodate the Bull Run Education Center or any other potential use would ultimately leave the School site unused, without a funding stream for upkeep, and subject to falling into further disrepair. As stated previously, the purpose of the plan amendment and zone change is not to enable one specific use, but rather to allow a range of appropriate uses that allow the historic school and grounds to be maintained and enhanced, consistent with their Historic status. Moving the existing school structure would be excessively costly, could cause damage to the structure, and would deprive the structure of its site and context, which contribute to its historic character. Using the playfields for agriculture or forestry activities would not generate enough revenue to support maintenance of the structure due to the small amount of land that does not contain structures or existing parking areas. An alternatives analysis of non-resource locations is not appropriate for this unique circumstance; the adaptive reuse of the historic School site cannot reasonably be accommodated on any piece of land other than where those historic resources are currently located, which is on resource land. Preservation of the historic School site requires a goal exception.

In addition, as noted above, the February 2014 application materials demonstrate that majority of the School site is already physically developed to the extent that it is unavailable for resource uses.

(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in

which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Response: It is not possible to move the existing historic resources from the site – the site itself is an important part of their historic context. Thus, there are no other areas requiring a goal exception where the adaptive reuse of the existing historic structures could take place. In addition, as described previously (see page 6), the economic, social, environmental, and energy consequences of the proposal are expected to be positive due to the following:

- Allowing private investment in maintenance of the historic resources,
- providing a community benefit by improving the building spaces to be able to hold community gatherings and provide for educational programming, and
- deterring crime at the currently-vacant building.

These consequences are better than the alternative of preventing adaptive reuse of the historic School site and thus allowing it to fall into disrepair.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Response: The potential uses of the site under the FF-10 zoning and the Historic Landmark overlay are all compatible with other adjacent uses. As described previously, the Plan designations surrounding the proposed Plan amendment areas include Forest, Agriculture, and Rural. To the south of the property, across SE Thomas Road from the school and the park, there are several homes and small farms. While these uses are on land designated Forest, they are more similar to uses that would typically be found on Rural land. They are buffered to a degree by Thomas Road. The homes are generally located close to the road, with any small farms or forested areas located behind the homes, providing additional buffering for any resource uses taking place on those properties. The adjacent property to

the north, east and west is proposed to be managed along with the School site as part of the Bull Run Educational Center. This will ensure that the uses on the School site will be compatible with those on surrounding land.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

Response: Exhibit B of the February 2014 application submittal shows the entire site, and identifies the School Site, the Powerhouse Site, and the Park Site.

660-004-0022: Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Response: As stated previously, there is a demonstrated need for the proposed use – the adaptive reuse of the historic School site – based on the requirements of Goal 5. The existing historic building and the site that is essential to its historic context are the critical features and resources that dictate where the adaptive reuse can take place.

Powerhouse Site

The February 2014 application materials documented the extent of physical development on the Powerhouse site. The following narrative provides findings supporting a "reasons" exception for the full 10-acre powerhouse site and for allowing an appropriate range of uses for the existing structures.

Oregon Revised Statutes: 197.732 Goal exceptions; criteria; rules; review.

(2) A local government may adopt an exception to a goal if:

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

Response: The need to preserve significant historic resources designated for protection by the County,[9] consistent with Goal 5 and the County's adopted and acknowledged Comprehensive Plan, justifies why the state policy embodied by Goal 4 should not apply to this property. Since the powerhouse has been decommissioned and can no longer be used as a powerhouse, the only way to preserve the historic structures is to allow new use of the site. Given the county's fiscal limitations and the lack of willingness from the public sector to acquire and maintain the historic structures, the only viable option for preservation of the powerhouse is through private/non-profit investment. Adaptive reuse of the structures must be allowed so that they can generate revenue to offset the expense of maintenance. If the site remains in the Timber zone, or if the future uses are limited to the historic uses of the property (i.e. a commercial utility facility for the purpose of generating power), which can no longer be continued, no economically viable uses of the Powerhouse site will remain.

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

Response: The location of the powerhouse on the Bull Run River is integral to the site's history and context. Even if it were physically possible to relocate the structures (which it most certainly is not, given their size and how integrated they are into the topography of the land), the opportunity for education about the history of the area and of hydropower in Oregon, which are a major reason to save these structures, would be lost. The preservation of the historic powerhouse through adaptive reuse cannot be reasonably accommodated on any piece of land other than where those structures are currently located, which happens to be resource land.

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

[9] The entire 10-acre Powerhouse site is a designated county Historic Landmark. In addition, the Board of County Commissioners approved a discontinuous Historic District designation that includes the Powerhouse site as well as the School and Park sites on April 30, 2014 (see Exhibit A of the February 2014 application).

Response: The long term environmental, economic, social and energy consequences of the proposed uses at the Powerhouse site were discussed on page 50 of the application narrative in the February 2014 submittal. They have been repeated here for convenience.

- ENVIRONMENTAL CONSEQUENCES: The Powerhouse Site lies at the foot of the Bull Run watershed. The watershed is not accessible to the public due to the importance of water quality protection. The location of the powerhouse on the Bull Run River provides an opportunity for environmental education about the Bull Run watershed adjacent to (but safely outside) the watershed itself. The Historic Landmark designation already in place on the powerhouse will limit the potential for new buildings on the site, which will reduce the potential environmental impacts from the proposed plan amendment and zone change.

- ECONOMIC CONSEQUENCES: Enabling on-going private investment in the historic structures on the subject property allows the County to advance one of its goals – protection of historic resources – without the need to expend public money to do so. With a Plan amendment to Rural land, the site could support jobs for maintenance and educational programming, which will have an economic benefit. Allowing for on-going private investment will also prevent the structures from becoming a nuisance due to vandalism and break-ins, thereby preventing the site from becoming a drain on County law enforcement resources.

- SOCIAL CONSEQUENCES: Allowing for the adaptive reuse of the subject property both preserves an important piece of the community's history and allows the historic structures to provide on-going benefits to the community through use as gathering spaces and for educational activities. It also prevents the structures from suffering neglect and becoming targets for vandals and refuges for illicit activities that would detract from the safety of the area.

- ENERGY CONSEQUENCES: In addition to providing an opportunity for education on power generation, enabling the adaptive reuse and preservation of the historic structures on the Powerhouse Site allows the substantial investment of materials and energy that were used to build the structures to continue to provide value rather than being allowed to deteriorate. Because the needed infrastructure is already available at the site, there will be no energy expenditure to bring utilities to the site.

If a use similar to the envisioned "Powerhouse Center on the Bull Run" were to be established on other resource land that does not already contain historic structures, more site improvements would be needed, possibly including extending infrastructure to serve the site as well as conversion of resource land to non-resource uses. Accommodating the proposed use on the Powerhouse site has less, not more, adverse consequences than locating it on any other site requiring a goal exception.

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Response: The land adjacent to the Powerhouse Site is designated Forest (see Exhibit C of the February 2014 submittal). The powerhouse site is relatively isolated from other uses due to topography and the Bull Run River; the abutting properties on this side of the river are

owned by the Portland Water Bureau and by PGE[10] with uses limited to conservation of habitat resources. Because development on the Powerhouse site will likely be infeasible on the area outside the existing fenced part of the site, adaptive reuse of the structures will not create additional impacts on adjacent land. In order to ensure compatibility with adjacent resource land, a condition of approval is proposed that would preclude new structures outside the existing intensively developed, fenced portion of the Powerhouse site.

Oregon Administrative Rules: Department of Land Conservation and Development, Division 4: Interpretation of Goal 2 Exception Process

660-004-0018: Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 with regard to urban development on rural land.

(4) "Reasons" Exceptions:

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[10] Ownership information provided by Clackamas County Assessment and Taxation, 4/30/14.

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Response: As described on page 4, the Powerhouse site is envisioned to become the "Powerhouse Center on the Bull Run". In order to allow use of the Powerhouse site for this or another similar use, and to provide flexibility for future compatible uses of the existing historic structures, the proposed future uses to be allowed on the Powerhouse site are those uses listed in the Section 707 of the County's Zoning and Development Ordinance (ZDO) for Historic Landmarks plus a subset of the uses allowed in the FF-10 zone (excluding those uses listed in Attachment A).

660-004-0020: Goal 2, Part II(c), Exception Requirements

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

Response: The reasons why the state policy embodied in Goal 4 should not apply are based on the following facts and assumptions:

- The entirety of the Powerhouse site, including the intensively developed, fenced area as well as the portion extending from the fenced area to the right of way of Ten Eyck Road, is a designated county Historic Landmark, and is part of a larger, discontinuous Historic District (see Exhibit A of the February 2014 application).[11]

- According to ZDO 707.01: "The intent and purpose of this overlay district is to implement the goals and policies of the Comprehensive Plan for Historic Landmarks, Districts, and Corridors and promote the public health, safety, and general welfare by safeguarding the County's heritage as embodied and reflected in its historic resources."

- ZDO 707.02 provides criteria for determining "significance"; the Powerhouse site has been found to rate as "significant" and meet the criteria for a Historic Landmark designation.

[11] The entire 10-acre Powerhouse site is a designated county Historic Landmark. In addition, the Board of County Commissioners approved a discontinuous Historic District designation that includes the Powerhouse site as well as the School and Park sites on April 30, 2014 (see Exhibit A of the February 2014 application).

- The County's acknowledged Comprehensive Plan includes the following policy: "Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties."[12]

- The powerhouse has been decommissioned and can no longer be used to generate power.

- Limiting the allowed uses to those that existed historically (i.e. a commercial utility facility for the purposes of generating power), as the County has interpreted would be required under OAR 660-004-0018(2)(a), would preclude all use of the Powerhouse site.

- No public entities have expressed interest in owning and maintaining the site. The only viable option for preservation of the Powerhouse site is through private/non-profit investment.

- In order for private/non-profit investment to remain a viable option, adaptive reuse of the structures must be allowed so that they can generate revenue to offset the expense of maintenance.

- Moving the existing historic structures to non-resource land is neither feasible nor appropriate, given that several of the structures are constructed of concrete up to a foot thick and fitted into the site's steep topography. Furthermore, the setting is part of the site's historic significance.

- The Powerhouse site is 10 acres in size, part of a larger parcel that totals 110 acres. The Powerhouse site is separated from the remaining 100 acres of the parcel by the right of way for Ten Eyck Road.

- The access easement for the Powerhouse site from Bull Run Road (described in general terms on page 2 of this memorandum, shown on page 2 of Exhibit H of the February 2014 submittal package, and described with a full legal description in the attachment to the updated application form) is now included in the application for a plan amendment and zone change so that access to the site will not need to be provided through the TBR zone.

Based on the facts and reasons listed above, a goal exception is needed for the full 10-acre Powerhouse site to allow compatible uses that will enable financially viable adaptive reuse of the existing structures and improvements.

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

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[12] Clackamas County Comprehensive Plan, Chapter 9, Policy 8.0 under "Historic Landmarks, Districts, and Transportation Corridors".

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Response: The envisioned Powerhouse Center on the Bull Run could only exist at the Powerhouse site because the vision is crafted around the context and the historic facility that exist at the site. Moving the existing structures is not physically feasible (they are large, constructed of concrete up to a foot thick, and are fitted into the steep slopes on the site), and would deprive the structure of its site and context, which are major components of its historic character. Furthermore, identification of other locations that could accommodate any particular use would ultimately leave the Powerhouse site unused, without a funding stream for upkeep, and subject to falling into disrepair. The purpose of the plan amendment and zone change is not to enable one specific use, but rather to allow a range of appropriate uses that allow the historic Powerhouse site to be maintained and enhanced, consistent with its Historic Landmark status. An alternatives analysis of non-resource locations is not appropriate for this unique circumstance. Preservation of the historic Powerhouse site requires a goal exception.

In addition, the February 2014 application materials demonstrate that much of the Powerhouse site is already physically developed to the extent that it is unavailable for resource uses, and the remainder is a narrow strip of land encumbered by a powerline easement and underground penstocks, surrounded by land managed for habitat that will never be available for timber operations.

(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Response: It is not possible to move the existing historic resources from the site – the site itself is an important part of their historic context. Thus, there are no other areas requiring a goal exception where the adaptive reuse of the existing historic structures could take place. In addition, as described previously (see page 15), the economic, social, environmental, and energy consequences of the proposal are expected to be positive due to the following:

- Allowing private investment in maintenance of the historic resources,
- providing a community benefit by improving the building spaces to be able to hold community gatherings and provide for educational programming, and
- deterring crime at the currently-vacant buildings.

These consequences are better than the alternative of allowing the historic Powerhouse site to fall into disrepair by not allowing new uses.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Response: As described previously, the Powerhouse Site is relatively isolated from other uses due to topography and the Bull Run River; the abutting properties on this side of the

river are owned by the Portland Water Bureau and by PGE[13] and used for conservation of habitat resources. Because development on the Powerhouse site will likely be infeasible on the area outside the existing fenced part of the site, adaptive reuse of the structures will not create additional impacts on adjacent land.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

Response: Exhibit B of the February 2014 application submittal shows the entire site, and identifies the School Site, the Powerhouse Site, and the Park Site.

660-004-0022: Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Response: As stated previously, there is a demonstrated need for the proposed use – the adaptive reuse of the historic Powerhouse site – based on the requirements of Goal 5. The existing historic buildings and the site that is essential to their historic context are the critical features and resources that dictate where the adaptive reuse can take place.

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[13] Ownership information provided by Clackamas County Assessment and Taxation, 4/30/14.

Park Site

The February 2014 application materials documented the extent of physical development on the Park site. The following narrative provides findings supporting a "reasons" exception for the full 40-acre Park site that is coterminous with the Historic District boundary and for allowing an appropriate range of uses for the existing structures and grounds within that area.

Oregon Revised Statutes: 197.732 Goal exceptions; criteria; rules; review.

(2) A local government may adopt an exception to a goal if:

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

Response: The need to preserve significant historic resources designated for protection by the County,[14] consistent with Goal 5 and the County's adopted and acknowledged Comprehensive Plan, justifies why the state policy embodied by Goal 4 should not apply to this property. The Historic District designation covers the 40 acres where the plan amendment and zone change are requested, recognizing the importance of the access roads (which provide a sense of arrival to the site) and the wooded area between and immediately surrounding the roads as part of the historic context.

With Roslyn Lake drained and PGE no longer operating the park (which they had done in order to meet state and federal requirements, rather than because it provided a financial benefit), there is a need for a new purpose for the site. Given the county's fiscal limitations and the inability of the public sector to acquire and maintain the historic park structures and grounds, the only viable option for preservation of the park is through private investment. Without the lake as an attraction, additional uses beyond the historic use -- a private park for casual day use -- must be allowed in order for the park to generate revenue to offset the expense of maintenance.

The future recreational uses that are appropriate on the historic park grounds will need to be more intense and more diverse than those allowed under the Timber zone in order to generate adequate revenue to maintain the park. This is why the FF-10 zone is needed and appropriate. Future recreational uses allowed (outright or conditionally) under the FF-10 zone will still need to be rural in nature and intensity, but will allow a broader spectrum of uses, including overnight use, than would meet the standards for a private park in the Timber zone.

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

Response: The location of the Park site is integral to the site's history and context. Even if it were possible to relocate the structures, the historic setting and context, which are the major contributors to the historic significance of the site, would be lost. The preservation of the

[14] The Board of County Commissioners approved a discontinuous Historic District designation that includes the Powerhouse site as well as the School and Park sites on April 30, 2014 (see Exhibit A of the February 2014 application).

historic Park site through adaptive reuse cannot be reasonably accommodated on any piece of land other than the existing site, which happens to be resource land.

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

Response: The long term environmental, economic, social and energy consequences of the proposed uses at the Park site were discussed on pages 55-56 of the application narrative in the February 2014 submittal. They have been repeated here for convenience.

- ENVIRONMENTAL CONSEQUENCES: Allowing re-use of the park site provides an opportunity for outdoor educational programming and outdoor recreation in a natural setting that makes use of areas that are already developed and disturbed.

- ECONOMIC CONSEQUENCES: Enabling private investment in the existing structures and improvements and in a limited number of new structures on the Park Site will allow the County to provide recreational opportunities to county residents without the need to expend public money to do so, and will also increase the value of the property, increasing property tax revenue. With a Plan amendment to Rural land, the site could support jobs for maintenance and recreational and educational programming, which will have an economic benefit. Allowing for on-going private investment will also prevent the existing structures from becoming a nuisance due to vandalism and break-ins, thereby preventing the site from becoming a drain on County law enforcement resources.

- SOCIAL CONSEQUENCES: Allowing recreational and educational uses to occur again on the Park Site will provide on-going benefits to the community through increased accessibility to recreational and educational opportunities. It also prevents the structures from suffering neglect and becoming targets for vandals or refuges for illicit activities that would detract from the safety of the area.

- ENERGY CONSEQUENCES: Because the needed infrastructure is already available at the Park Site, there will be no energy expenditure to bring utilities to the site.

If a recreational use suitable in the FF-10 zone were to be established on other resource land that does not already contain park structures, parking, access roads, restrooms, septic drain fields, and other improvements, more site improvements would be needed. Enabling new recreational, educational, and other compatible uses on the Park site has less, not more, adverse consequences than locating such uses on other sites requiring a goal exception.

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Response: The Park site where the goal exception is proposed is surrounded on nearly all sides by land on the same parcel that will remain in the Timber zone. This land is envisioned to provide a buffer and transition to other adjacent resource land by allowing only the low-impact, casual, recreational use that is acceptable in the Timber zone to extend into those

areas. On the west side of the area proposed for the goal exception, the zoning boundary would coincide with the property line. On this side, a condition of approval is proposed that would preclude new permanent structures within 50 feet of this property line in order to ensure a buffer area to the adjacent resource land.

Oregon Administrative Rules: Department of Land Conservation and Development, Division 4: Interpretation of Goal 2 Exception Process

660-004-0018: Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(3) Uses, density, and public facilities and services not meeting section (2) of this rule may be approved on rural land only under provisions for a reasons exception as outlined in section (4) of this rule and applicable requirements of OAR 660-004-0020 through 660-004-0022, 660-011-0060 with regard to sewer service on rural lands, OAR 660-012-0070 with regard to transportation improvements on rural land, or OAR 660-014-0030 or 660-014-0040 with regard to urban development on rural land.

(4) "Reasons" Exceptions:

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

Response: In order to allow use of the Park site for the BREC or another similar use, and to provide flexibility for future compatible uses of the existing historic structures and grounds, the proposed future uses to be allowed on the Park site are those uses listed in the Section 707 of the County's Zoning and Development Ordinance (ZDO) for Historic Landmarks plus a subset of the uses allowed in the FF-10 zone (excluding those uses listed in Attachment A).

660-004-0020: Goal 2, Part II(c), Exception Requirements

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

Response: The reasons why the state policy should not apply are based on the following facts and assumptions:

- The 40-acre Park site that is requested to be rezoned is part of a larger, discontinuous Historic District (see Exhibit A in the original application).
- According to ZDO 707.01: "The intent and purpose of this overlay district is to implement the goals and policies of the Comprehensive Plan for Historic Landmarks, Districts, and Corridors and promote the public health, safety, and general welfare by safeguarding the County's heritage as embodied and reflected in its historic resources."
- ZDO 707.02 provides criteria for determining "significance"; approval by the BCC of the Historic District application indicates that the Park site has been found to rate as "significant".
- The County's acknowledged Comprehensive Plan includes the following policy: "Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties."[15]
- Roslyn Lake has been drained and no longer serves as a recreational amenity and attraction.
- While timber harvest is currently allowed and viable on parts of the Park site (and much of the remainder of the parcel east of Ten Eyck Road that is not included in the proposed goal exception), removal of the trees within the Historic District would be incompatible with the designation approved by the Board of County Commissioners and would significantly detract from the value of the structures in the developed park area.

[15] Clackamas County Comprehensive Plan, Chapter 9, Policy 8.0 under "Historic Landmarks, Districts, and Transportation Corridors".

- No public entities have expressed interest in owning and maintaining the site. The only viable option for preservation of the Park site is through private investment.
- In order for private investment in the Park site to remain a viable option, adaptive reuse of the structures and grounds must be allowed so that they can generate revenue to offset the expense of maintenance.
- Moving the existing historic structures to non-resource land is neither feasible nor appropriate, given that the setting is a critical part of the site's history.
- The Park site that is proposed for a goal exception is 40 acres in size, part of a larger parcel that totals 110 acres. The 60 acres surrounding the proposed goal exception area on the same parcel (excluding the Powerhouse site) will remain zoned TBR.
- Access to the more developed portions of the park must be provided on land that shares the same zoning FF-10 designation, pursuant to LUBA case No. 2001-121.[16]

Based on the facts and reasons listed above, a goal exception is needed for the 40-acre Park site to allow compatible uses that will enable financially viable adaptive reuse of the existing structures and grounds.

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

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[16] Anthony Roth vs. Jackson County and Garry Wood and Cristina Wood. LUBA No. 2001-121.

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

Response: Because the purpose of the proposed goal exception is to allow compatible adaptive reuse of the existing historic Park site, identification of other locations that could accommodate the Bull Run Education Center or any other potential use would ultimately leave the Park site unused, without a funding stream for upkeep, and subject to falling into further disrepair. As stated previously, the purpose of the plan amendment and zone change is not to enable one specific use, but rather to allow a range of appropriate uses that allow the historic park structures and grounds to be maintained and enhanced, consistent with their Historic status. Moving the existing park structures would be excessively costly, could cause damage to the structures, and would deprive the structures of their site and context, which are major components of the site's historic character. If the only economically viable uses available for the Park site were the forestry activities that are allowed in the Timber zone, all the trees that contribute to and enhance the character of the park and its historic nature would have to be harvested. This would be incompatible with the historic character of the Park site and would significantly detract from the value of the developed park area. An alternatives analysis of non-resource locations is not appropriate for this unique circumstance; the adaptive reuse of the historic Park site cannot reasonably be accommodated on any piece of land other than where those historic resources are currently located, which is on resource land. Preservation of the historic Park site requires a goal exception.

In addition, the February 2014 application materials demonstrate that a portion of the Park site is already physically developed to the extent that it is unavailable for resource uses.

(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least

productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

Response: It is not possible to move the existing historic resources from the site – the site itself is an important part of their historic context. Thus, there are no other areas requiring a goal exception where the adaptive reuse of the existing historic structures and grounds could take place. In addition, as described previously (see page 23), the economic, social, environmental, and energy consequences of the proposal are expected to be positive due to the following:

- Accommodating private investment in maintenance of the historic resources,
- Providing a community benefit by increasing access to recreational facilities, and
- Deterring crime at the currently-vacant buildings.

These consequences are better than the alternative of allowing the historic Park site to fall into disrepair by not allowing new uses.

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

Response: The Park site where the goal exception is proposed is surrounded on nearly all sides by land on the same parcel that will remain in the Timber zone. This land is envisioned to provide a buffer and transition to other adjacent resource land by allowing only the low-impact, casual, recreational use that is acceptable in the Timber zone to extend into those areas. On the west side of the area proposed for the goal exception, the zoning boundary would coincide with the property line. On this side, a condition of approval is proposed that would preclude new permanent structures within 50 feet of this property line in order to ensure a buffer area to the adjacent resource land.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

Response: Exhibit B of the February 2014 application submittal shows the entire site, and identifies the School Site, the Powerhouse Site, and the Park Site.

660-004-0022: Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the

approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

Response: As stated previously, there is a demonstrated need for the proposed use – the adaptive reuse of the historic Park site – based on the requirements of Goal 5. The existing historic structures and grounds are the critical features and resources that dictate where the adaptive reuse can take place.

Conclusion

The School site, Powerhouse site, and Park site have all been demonstrated to meet the criteria for a "reasons" exception to Goal 4 under the relevant state statutes and administrative rules based on their historic significance. The original application submitted in February 2014 documents the extent of existing development on each of the sites and demonstrates that each of these sites is also consistent with the applicable general Clackamas County Comprehensive Plan Policies, including those related to comprehensive plan amendments and those related to historic landmarks; that each of the sites is at least as consistent with Rural comprehensive plan land use policies as with Forest Comprehensive Plan land use policies; and that the proposal is consistent with all zone change requirements in the Clackamas County Zoning and Development Ordinance.

FEB. 21, 2014

APPLICATION VERSION

Z0208-14-CP / Z0209-14-Z

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals, and are consistent with all other applicable goal requirements;

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to uses not allowed by the applicable goal as described in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

(c) For uses in unincorporated communities,...

(d) For industrial development uses and accessory uses subordinate to the industrial development,...

Response: As with the school and powerhouse sites, since the historical use of the park site has been discontinued, there are no existing uses of the property, only existing structures. The requested zone designation, FF-10, is the most limited rural zone included in Clackamas County's zoning code that may be used in this location, and thus best limits future uses of the property to those appropriate to the rural setting. As an acknowledged rural zone, the uses allowed in the FF-10 zone are by definition uses that will maintain the land as rural land. (The FF-10 zone also authorizes a single numeric minimum lot size – 10 acres – as required.) The FF-10 zone allows (outright or conditionally) public and private parks, service and recreational uses, and schools, among other things. Given the nature of the site, the uses listed above represent the most likely future uses of the site.

The perimeter that is formed by the former lake bed and the narrow strips of land outside the park access roads provide a buffer between any future uses of the park site and adjacent areas that are zoned for resource use. This will help ensure that rezoning the proposed Park Site goal exception area to FF-10 will be compatible with adjacent uses and will not commit adjacent resource lands to non-resource uses.

Part 2: Compliance with Clackamas County Comprehensive Plan Policies

School Site

Chapter 11: The Planning Process

Amendments and Implementation

Policies

3.0 Amend the Comprehensive Plan pursuant to the following procedures and guidelines.

3.1 A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.

Response: The proposed map amendment is initiated by the owners of the property for which the change is requested.

ADDITIONAL APPLICATION MATERIAL FROM Z0535-13-CP Z0537-13-Z

3.2 A text amendment may be initiated ...

Response: The proposed amendment does not require a text amendment to the Comprehensive Plan; therefore this criterion is not applicable.

3.3 All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.

3.4 If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.

Response: The applicant understands that the proposed Comprehensive Plan amendment will require a public hearing before the Planning Commission and notice to property owners in the affected area.

3.5 If the proposed amendment is legislative, ...

3.6 Provide the opportunity for the DLCD and Metro to review and comment on proposed legislative amendments pursuant to the applicable provisions of Metro's Code and state laws.

Response: The proposed amendment is not legislative; therefore, these criteria do not apply.

Chapter 9 - Open Space, Parks and Historic Sites

The conservation of land, water, and historic resources, and the related provision of recreation opportunities, is one of the most important factors in maintaining the quality of life which has made Clackamas County an attractive place to live. ...

Numerous natural, historic and recreation resources will continue to be available for everyone's enjoyment if the commitment is made to preserve them. ... A distinctive building or section of the Barlow Trail provide us with an historical context which can be an important part of our identity. They give us a feeling of continuity, a connection with the past and with the future. Recreation resources are also important but, unlike the others, these need to be built up, changed, and improved as the demands of the people who use them change. This must be done within the limits of the natural resource systems. ...

Historic Landmarks, Districts, and Transportation Corridors

Clackamas County has a rich and unique heritage from its founding through its development over time. ... We are the stewards of these historic resources and charged through state law to protect and preserve them.

Cultural, economic, and social benefits can come from preservation of the County's historic resources. There is cultural value in establishing firm, visible links with the past. ... It is essential that the County make a firm commitment to protect its historic resources.

Goal

Preserve the historical, archaeological, and cultural resources of the County.

Policies

4.0 Zone properties Historic Landmark (HL), Historic Districts (HD), or Historic Corridor (HC) which are determined significant by the evaluation criteria.

5.0 Identify conflicts by analyzing the economic, social, environmental, and energy consequences of land use actions with regard to significant historic resources.

7.0 Pursue private and public sources of funding for use by property owners in the renovation and maintenance of historic properties.

8.0 Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties.

Response: The School Site has been designated as a Historic Landmark by the County.[7] The historic school building and site do not have the opportunity for productive, reasonable use or adaptive reuse due to the existing Timber zoning, in which schools are not allowed and the additional flexibility provided by the Historic Landmark designation is not available. The requested zone change is consistent with County goals and policies to protect and preserve historic resources and to allow productive, reasonable use and adaptive reuse of historic properties.

Powerhouse Site

Chapter 11: The Planning Process

Amendments and Implementation

Policies

3.0 Amend the Comprehensive Plan pursuant to the following procedures and guidelines.

3.1 A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.

Response: The proposed map amendment is initiated by the owners of the property for which the change is requested.

3.2 A text amendment may be initiated ...

Response: The proposed amendment does not require a text amendment to the Comprehensive Plan; therefore this criterion is not applicable.

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[7] Due to a lot-line adjustment that post-dates the Historic Landmark designation, the designation currently applies only to a portion of the site including the existing structures and extending north to the northern property line, but not including the eastern one-third of the property that is currently undeveloped.

3.3 All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.

3.4 If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.

Response: The applicant understands that the proposed Comprehensive Plan amendment will require a public hearing before the Planning Commission and notice to property owners in the affected area.

3.5 If the proposed amendment is legislative, ...

3.6 Provide the opportunity for the DLCD and Metro to review and comment on proposed legislative amendments pursuant to the applicable provisions of Metro's Code and state laws.

Response: The proposed amendment is not legislative; therefore, these criteria do not apply.

Chapter 9 - Open Space, Parks and Historic Sites

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Numerous natural, historic and recreation resources will continue to be available for everyone's enjoyment if the commitment is made to preserve them. ... A distinctive building or section of the Barlow Trail provide us with an historical context which can be an important part of our identity. They give us a feeling of continuity, a connection with the past and with the future. Recreation resources are also important but, unlike the others, these need to be built up, changed, and improved as the demands of the people who use them change. This must be done within the limits of the natural resource systems. ...

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Clackamas County has a rich and unique heritage from its founding through its development over time. ... We are the stewards of these historic resources and charged through state law to protect and preserve them.

Cultural, economic, and social benefits can come from preservation of the County's historic resources. There is cultural value in establishing firm, visible links with the past. ... It is essential that the County make a firm commitment to protect its historic resources.

Goal

Preserve the historical, archaeological, and cultural resources of the County.

Policies

4.0 Zone properties Historic Landmark (HL), Historic Districts (HD), or Historic Corridor (HC) which are determined significant by the evaluation criteria.

5.0 Identify conflicts by analyzing the economic, social, environmental, and energy consequences of land use actions with regard to significant historic resources.

7.0 Pursue private and public sources of funding for use by property owners in the renovation and maintenance of historic properties.

8.0 Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties.

Response: The Powerhouse Site has been designated as a Historic Landmark by the County. The historic powerhouse buildings, which can no longer be used to produce power since they have been decommissioned, do not have the opportunity for productive, reasonable use or adaptive reuse due to the existing Timber zoning, in which the additional flexibility provided by the Historic Landmark designation is not applicable. The requested zone change is consistent with County goals and policies to protect and preserve historic resources and to allow productive, reasonable use and adaptive reuse of historic properties.

Park Site

Chapter 11: The Planning Process

Amendments and Implementation

Policies

3.0 Amend the Comprehensive Plan pursuant to the following procedures and guidelines.

3.1 A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.

Response: The proposed map amendment is initiated by the owners of the property for which the change is requested.

3.2 A text amendment may be initiated ...

Response: The proposed amendment does not require a text amendment to the Comprehensive Plan; therefore this criterion is not applicable.

3.3 All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.

3.4 If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.

Response: The applicant understands that the proposed Comprehensive Plan amendment will require a public hearing before the Planning Commission and notice to property owners in the affected area.

3.5 If the proposed amendment is legislative, ...

3.6 Provide the opportunity for the DLCD and Metro to review and comment on proposed legislative amendments pursuant to the applicable provisions of Metro's Code and state laws.

Response: The proposed amendment is not legislative; therefore, these criteria do not apply.

Chapter 9 - Open Space, Parks and Historic Sites

The conservation of land, water, and historic resources, and the related provision of recreation opportunities, is one of the most important factors in maintaining the quality of life which has made Clackamas County an attractive place to live. ...

Numerous natural, historic and recreation resources will continue to be available for everyone's enjoyment if the commitment is made to preserve them. ... A distinctive building or section of the Barlow Trail provide us with an historical context which can be an important part of our identity. They give us a feeling of continuity, a connection with the past and with the future. Recreation resources are also important but, unlike the others, these need to be built up, changed, and improved as the demands of the people who use them change. This must be done within the limits of the natural resource systems. ...

Parks and Recreation

Clackamas County, like all rapidly urbanizing areas, needs to set aside land and develop facilities for the recreation and enjoyment of its residents and visitors. Various types of parks, urban recreation trails, and a number of outdoor and indoor recreational facilities will be needed over the next 20 years. ...

The initial step is a commitment to provide an adequate park and recreation system to meet the needs of the people. ... Different types of budgetary and funding mechanisms will need to be used and many segments of the community involved, including all governmental jurisdictions and the private sector.

Goals

Provide land, facilities and programs which meet the recreation needs of County residents and visitors.

Policies

3.0 Provision of recreation in rural areas must be closely coordinated with other local, state and federal agencies (e.g., school districts, Willamette Greenway Program).

4.0 Consider the need to protect environmentally sensitive areas from overuse as well as satisfy the needs of County residents and visitors in developing area park and recreation facilities.

8.0 Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities, while working toward the provision of facilities and programs specified in Policies 1.0 and 6.0.

8.4 Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on a program-by-program basis when public facilities are not available. Where appropriate, nonprofit organizations will be encouraged to operate special purpose parks and facilities (e.g., nature exhibits, historic sites).

Response: The requested zone change would allow the existing private park facilities on the subject property to once again function as a privately owned and operated recreational amenity through private investment in programming and enhancement of the facilities. This is consistent with County goals and policies to provide land, facilities and programs that meet the recreation needs of County residents and visitors, and to do so at the least cost possible to County taxpayers. The site may provide limited public access to existing perimeter trails and will provide privately-operated educational and recreational programming as well as programming to serve the broader public.

Part 3: Compliance with Rural and Forest Plan Designation Policies

Chapter 4: Land Use

This section addresses how well each of the three sites proposed for comprehensive plan amendments meet the applicable goals and policies of the current "Forest" plan designation, as compared to the requested "Rural" plan designation.

School Site

Forest

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

Goals

To conserve forestlands.

To protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forestland.

To conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the plan designation.

To minimize wildfire hazards and risks.

To enhance and protect other environmentally sensitive areas.

Policies

1.0 The following areas shall be designated Forest:

a. Lands suitable for forest use;

b. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;

c. Areas generally in forest uses;

d. Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;

e. Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

9.0 Apply zoning districts consistent with state, regional, and County goals and United States Forest Service land allocation and management plans to the Mt. Hood and Willamette National Forests.

11.0 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.

12.0 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Forest designation to any designation other than Agriculture.

Response: The policies above identify 5 indicators of land that is appropriately designated forest (Policy 1, a through e above):

- Suitability: As described in Part 1, the school site is not suitable for forest use due to the small size of the property; the presence of physical development on a portion of the site; the other small, developed tax lots adjacent to the school site; the need to allow for a back-up septic drain field; the needed buffer from the school building for commercial forestry operations; and the poor soils on the eastern part of the property.

- Land capability: The available NRCS soil mapping indicates that a portion of the site is capable of producing over 85 cubic feet of timber per acre per year; however that area includes the developed portion of the site. Of the undeveloped portion of the site, the majority is in a soil type identified as "Pits", which is very shallow over bedrock and has no rating for timber production.

- Areas generally in forest uses: The School Site is not presently in forest uses. It is currently developed with structures from a historic school building and the associated playing fields and septic treatment facilities.

- Need for environmental protection: The site has not been identified by the County as needed for watershed protection, wildlife and fish habitat, recreation, or maintenance of vegetative cover.

- Buffering of more intense land uses: The undeveloped portions of the school property can be seen as providing a buffer between more intensive uses and less intense use; however, this criterion is worded as "may" – it does not indicate that such areas must or even should be designated forest.

Justification for the requested exception to Statewide Planning Goal 4 is provided beginning on page 8.

Rural

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement such as small farms, wood lots or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

Goals

To provide a buffer between urban and agricultural or forest uses.

To perpetuate the rural atmosphere while maintaining and improving the quality of air, water, and land resources.

To conserve open space and protect wildlife habitat.

Policies

1.0 Areas may be designated Rural if they are presently developed, built upon, or otherwise committed to sparse settlement or small farms with limited, if any, public services available.

Response: As described previously, the School Site is presently developed with historic structures and committed to non-resource uses. While public water is available to the site, public sewer is not.

2.0 Designation of additional Rural lands shall be based on findings that shall include, but not be limited to:

a. Reasons why additional Rural land is needed or should be provided;

Response: The need to designate the School Site as Rural lands is due to the site's historic significance and the inability to allow adaptive re-use of the historic structure within the limitations of the Forest plan designation. The Rural plan designation allows for additional flexibility for use of the historic structure in order to encourage its use and preservation.

b. An evaluation of alternative areas in the County that should be designated Rural and a statement of why the chosen alternative is more suitable;

Response: Designation of alternative areas within the County as Rural land would not allow for the adaptive reuse and preservation of the historic structures on the site; therefore, the chosen alternative – designating the lands identified on Exhibit A as Rural land – is the only suitable alternative.

c. An evaluation of the long-term environmental, economic, social, and energy consequences to the locality, region, or state of designating the area Rural; and

Response:

- ENVIRONMENTAL CONSEQUENCES: The school site is already developed. Allowing adaptive reuse of the existing structure and the existing developed land on the site is environmentally efficient.

- ECONOMIC CONSEQUENCES: Enabling private investment in the historic school building allows the County to advance one of its goals – protection of historic resources – without the need to expend public money to do so. With a Plan amendment to Rural land, the site could support jobs for maintenance and educational programming or recreational uses, which would have an economic benefit. Allowing for on-going private investment will also prevent the structures from becoming a nuisance due to vandalism and break-ins, thereby preventing the site from becoming a drain on County law enforcement resources.

- SOCIAL CONSEQUENCES: Allowing for the adaptive reuse of the subject property both preserves an important piece of the community's history and allows the historic structure to potentially provide on-going benefits to the community through use as a community center or for educational or recreational activities. It also prevents the building from suffering neglect and becoming a target for vandals a refuge for illicit activities that would detract from the safety of the area.

- ENERGY CONSEQUENCES: Enabling the adaptive reuse and preservation of the historic structure on the site allows the substantial investment of materials and energy that were used to build the structure to continue to provide value rather than being allowed to deteriorate. Because the needed infrastructure is already available at the site, there will be no energy expenditure to bring utilities to the site.

d. Reasons why designating the area Rural will be compatible with other adjacent uses;

Response: As described previously, the school building is situated close to Thomas Road; the school grounds provide a buffer to the resource area that will remain on tax lot 102. (That land is not currently used for forest operations or farming.) The row of four small properties across Thomas Road to the south of the School Site are all developed with homes and small farms. While these uses are on land designated Forest, they are more similar to uses that would typically be found on Rural land. The use of the existing structures for a school, service and recreational uses, a bed and breakfast inn, craft shops, art and music studios, or community center would be compatible with these adjacent uses. The conditional use and/or public hearing review process that would be required for any of these uses would also help ensure compatibility with adjacent uses.

3.0 Areas impacted by major transportation corridors, adjacent to urban growth boundaries or areas designated Rural, and for which public services are committed or planned shall be given priority in designating additional Rural areas.

Response: The School Site is located approximately 1.5 miles (as the crow flies) from the Sandy urban growth boundary and in close proximity (approximately one-third of a mile) from other Rural lands. It is already served by Portland Water due to the historic uses on the site and the location adjacent to the Bull Run watershed – Portland's water supply – and does not require sewer service since it is served by adequate on-site septic facilities.

5.0 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.

Response: The proposed Plan map amendment is not intended to meet rural housing needs or provide for residential uses; therefore, this criterion is not applicable.

6.0 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.

Response: As stated previously, according to the available soil mapping from the NRCS soil survey, the undeveloped portion of the site includes, on the eastern half of the site, soils that are identified as "Pits", meaning very shallow depth to bedrock, which are unsuitable for farming or forestry (see Exhibit F). The soils on the northwestern corner of the site are identified as suitable for farming, based on the available soil maps; however, the area that is undeveloped and mapped as having soils suited to farming and forestry is less than 1.5 acres.

7.0 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.

Response: As noted above, the subject property is already served by Portland Water due to the historic uses on the site and the location adjacent to the Bull Run watershed – Portland's water supply – and does not require sewer service because the existing on-site septic disposal facilities are adequate.

11.0 The Rural Area Residential 2-Acre (RA-2), Rural Residential Farm/Forest 5-Acre (RRFF-5), and Farm/Forest 10-Acre (FF-10) zoning districts implement the goals and policies of the Rural plan designation. These zoning districts shall be applied in Rural areas as follows:

...

11.3 The FF-10 zoning district shall be applied when one or more of the following criteria are met:

a. Parcels are generally ten acres.

b. The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.

c. Access to an Unincorporated Community or an incorporated city is generally poor.

Response: The School Site is a single parcel that measures 5 acres. As described above, extent of development on the site is not consistent with extensive commercial agriculture or forestry uses. While the linear distance between the southeastern corner of the subject property and the nearest part of the Sandy UGB is just under a mile and a half, the driving distance to Sandy city limits is three to four miles. Based on these facts, the School Site meets one or more of the criteria for application of the FF-10 zoning district.

Powerhouse Site

Forest

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

Goals

To conserve forestlands.

To protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forestland.

To conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the plan designation.

To minimize wildfire hazards and risks.

To enhance and protect other environmentally sensitive areas.

Policies

1.0 The following areas shall be designated Forest:

a. Lands suitable for forest use;

b. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;

c. Areas generally in forest uses;

d. Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;

e. Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

9.0 Apply zoning districts consistent with state, regional, and County goals and United States Forest Service land allocation and management plans to the Mt. Hood and Willamette National Forests.

11.0 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.

12.0 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Forest designation to any designation other than Agriculture.

Response: The policies above identify 5 indicators of land that is appropriately designated forest (Policy 1, a through e above):

- Suitability: As described in Part 1, the Powerhouse Site is not suitable for forest use due to the extent of development on the site, including large historic buildings; the presence of power lines and shallow underground penstocks; and the small, oddly-shaped lot (which is not in common ownership with the surrounding land).

- Land capability: The available NRCS soil mapping indicates that the majority of the site is capable of producing less than 157 (but possibly more than 85) cubic feet of timber per acre per year (that area includes the developed portion of the site). A small area near Ten Eyck Road is mapped as capable of producing between 157 and 186 cubic feet per acre per year, but this land is fragmented by a 65-foot-wide powerline easement and the underground penstocks.

- Areas generally in forest uses: The Powerhouse Site is not generally in forest uses. It is largely developed with structures that were formerly associated with the hydroelectric power production on the site and the associated utility lines. There are some existing stands of trees outside of the fenced portion of the site, but they are very limited in size and fragmented. They are not currently managed for timber production.

- Need for environmental protection: A portion of the Powerhouse Site – a small strip of land bordering the Bull Run River – is protected under the County's River and Stream Conservation Area standards [ZDO 704]; however, this area will be protected equally regardless of the base zone designation.

- Buffering of more intense land uses: The Powerhouse Site is not configured to provide buffering of more intense land uses from less intense land uses due to the small size and odd shape of the site.

Justification for the requested exception to Statewide Planning Goal 4 is provided beginning on page 15.

Rural

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement such as small farms, wood lots or acreage home sites. They lack public

facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

Goals

To provide a buffer between urban and agricultural or forest uses.

To perpetuate the rural atmosphere while maintaining and improving the quality of air, water, and land resources.

To conserve open space and protect wildlife habitat.

Policies

1.0 Areas may be designated Rural if they are presently developed, built upon, or otherwise committed to sparse settlement or small farms with limited, if any, public services available.

Response: As described previously, the Powerhouse Site is presently developed with historic structures and committed to non-resource uses. While public water is available to the site, public sewer is not.

2.0 Designation of additional Rural lands shall be based on findings that shall include, but not be limited to:

a. Reasons why additional Rural land is needed or should be provided;

Response: The need to designate the Powerhouse Site as Rural land is due to the site's historic significance and the inability to allow adaptive re-use of the historic structures within the limitations of the Forest plan designation. The Rural plan designation allows for additional flexibility for use of the historic structures in order to encourage their use and preservation.

b. An evaluation of alternative areas in the County that should be designated Rural and a statement of why the chosen alternative is more suitable;

Response: Designation of alternative areas within the County as Rural land would not allow for the adaptive reuse and preservation of the historic structures on the site; therefore, the chosen alternative – designating the lands identified on Exhibit A as Rural land – is the only suitable alternative.

c. An evaluation of the long-term environmental, economic, social, and energy consequences to the locality, region, or state of designating the area Rural; and

Response:

- ENVIRONMENTAL CONSEQUENCES: The Powerhouse Site lies at the toe of the Bull Run watershed, which provides protection for Portland's drinking water supply. The watershed is not accessible to the public due to the importance of water quality protection. The location of the powerhouse on the Bull Run River provides an opportunity for environmental education about the Bull Run watershed adjacent to (but safely outside) the watershed itself. The Historic Landmark designation already in place on the powerhouse will limit the potential for new buildings on the site, which

will reduce the potential environmental impacts from the proposed zone change and Plan map amendment.

- ECONOMIC CONSEQUENCES: Enabling on-going private investment in the historic structures on the subject property allows the County to advance one of its goals – protection of historic resources – without the need to expend public money to do so. With a Plan amendment to Rural land, the site could support jobs for maintenance and educational programming, which would have an economic benefit. Allowing for on-going private investment will also prevent the structures from becoming a nuisance due to vandalism and break-ins, thereby preventing the site from becoming a drain on County law enforcement resources.

- SOCIAL CONSEQUENCES: Allowing for the adaptive reuse of the subject property both preserves an important piece of the community's history and allows the historic structures to provide on-going benefits to the community through use as gathering spaces and for educational activities. It also prevents the structures from suffering neglect and becoming targets for vandals and becoming refuges for illicit activities that would detract from the safety of the area.

- ENERGY CONSEQUENCES: In addition to providing an opportunity for education on power generation, enabling the adaptive reuse and preservation of the historic structures on the Powerhouse Site allows the substantial investment of materials and energy that were used to build the structures to continue to provide value rather than being allowed to deteriorate. Because the needed infrastructure is already available at the site, there will be no energy expenditure to bring utilities to the site.

d. Reasons why designating the area Rural will be compatible with other adjacent uses;

Response: The land adjacent to the Powerhouse Site is designated Forest (see Exhibit C). The powerhouse site is relatively isolated from other uses due to topography and the Bull Run River; the abutting properties on this side are owned by Western Rivers Conservancy and by PGE.[8] The only use of this land is for conservation of habitat resources. Because development on the site will likely be infeasible on the area outside the existing fenced part of the site, adaptive reuse of the structures will not create additional impacts on adjacent land.

3.0 Areas impacted by major transportation corridors, adjacent to urban growth boundaries or areas designated Rural, and for which public services are committed or planned shall be given priority in designating additional Rural areas.

Response: The Powerhouse Site is located just over a mile and a half (as the crow flies) from the Sandy urban growth boundary and in close proximity (less than a quarter of a mile) from other Rural lands. It is already served by Portland Water due to the historic uses on the site and the location adjacent to the Bull Run watershed – Portland's water supply – and does not require sewer service since it is served by adequate septic facilities.

[8] Ownership information provided by Clackamas County Assessment and Taxation, 10/17/13.

5.0 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.

Response: The proposed Plan map amendment is not intended to meet rural housing needs or provide for residential uses; therefore, this criterion is not applicable.

6.0 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.

Response: Soil maps for the site from the National Resource Conservation Service (NRCS) are included as Exhibit F. The soil mapping indicates that the majority of the site is unsuitable for agriculture but at least somewhat suitable for forestry, with a small portion on the western edge that is suitable for both agriculture and forestry.

7.0 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.

Response: As noted above, the Powerhouse Site is already served by Portland Water due to the historic uses on the site and the location adjacent to the Bull Run watershed – Portland's water supply – and do not require sewer service because the existing septic disposal facilities are adequate.

11.0 The Rural Area Residential 2-Acre (RA-2), Rural Residential Farm/Forest 5-Acre (RRFF-5), and Farm/Forest 10-Acre (FF-10) zoning districts implement the goals and policies of the Rural plan designation. These zoning districts shall be applied in Rural areas as follows:

...

11.3 The FF-10 zoning district shall be applied when one or more of the following criteria are met:

a. Parcels are generally ten acres.

b. The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.

c. Access to an Unincorporated Community or an incorporated city is generally poor.

Response: The Powerhouse Site is part of a 110-acre parcel, but the portion that is east of Ten Eyck Road is 10 acres. As described above, the property is developed with historic uses not consistent with extensive commercial agriculture or forestry uses. While the linear distance between the southeastern corner of the subject property and the nearest part of the Sandy UGB is just under a mile and a half, the driving distance to Sandy city limits is three to four miles. Based on these facts, the subject property meets one or more of the criteria for application of the FF-10 zoning district.

Park Site

Forest

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed

protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

Goals

To conserve forestlands.

To protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forestland.

To conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the plan designation.

To minimize wildfire hazards and risks.

To enhance and protect other environmentally sensitive areas.

Policies

1.0 The following areas shall be designated Forest:

a. Lands suitable for forest use;

b. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;

c. Areas generally in forest uses;

d. Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;

e. Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

9.0 Apply zoning districts consistent with state, regional, and County goals and United States Forest Service land allocation and management plans to the Mt. Hood and Willamette National Forests.

11.0 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.

12.0 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Forest designation to any designation other than Agriculture.

Response: The policies above identify 5 indicators of land that is appropriately designated forest (Policy 1, a through e above):

- Suitability: As described above, portions of the Park Site may be suitable for forest use, but portions (Areas P-1 and P-2 on Exhibit I) are developed with structures, a septic drain field, paved access roads, and other improvements. Areas P-3 and P-4 contain portions of the former lake bed with very sandy soils that have limited suitability for forest use. The portions of the Park Site that may be suitable for forest use are either internal to the access road loop or are narrow strips along the edge of the requested plan amendment area intended to provide clear, enforceable boundaries for the plan amendment area.

- Land capability: The available NRCS soil mapping indicates that the majority of the Park Site is capable of producing between 157 and 186 cubic feet of timber per acre per year. (The soil mapping has not been updated since the lake was drained; the historic lake bed is still mapped as water.)

- Areas generally in forest uses: The Park Site is largely forested at present, but is not currently actively managed for forest use. As noted previously, a portion of the site (Area P-1) is developed with park uses that exceed the standards set by the county for private parks within the Timber zone.

- Need for environmental protection: The Park Site has not been identified by the County as needed for watershed protection, wildlife and fish habitat, recreation, or maintenance of vegetative cover.

- Buffering of more intense land uses: The undeveloped portions of the park property can be seen as providing a buffer between the developed parts of the park and adjacent resource land; however, this criterion is worded as "may" – it does not indicate that such areas must or even should be designated forest.

Justification for the requested exception to Statewide Planning Goal 4 is provided beginning on page 24.

Rural

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement such as small farms, wood lots or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

Goals

To provide a buffer between urban and agricultural or forest uses.

To perpetuate the rural atmosphere while maintaining and improving the quality of air, water, and land resources.

To conserve open space and protect wildlife habitat.

Policies

1.0 Areas may be designated Rural if they are presently developed, built upon, or otherwise committed to sparse settlement or small farms with limited, if any, public services available.

Response: The Park Site is partially developed, as noted previously, with park structures, restrooms, an office, and paved parking areas and access roads. While public water is available to the site, public sewer is not.

2.0 Designation of additional Rural lands shall be based on findings that shall include, but not be limited to:

a. Reasons why additional Rural land is needed or should be provided;

Response: The Park Site is needed as Rural land in order to allow re-use of the existing park structures and recreational facilities that exceed the limits set for private parks on forest land.

b. An evaluation of alternative areas in the County that should be designated Rural and a statement of why the chosen alternative is more suitable;

Response: Designation of alternative areas within the County as Rural land would not allow re-use of the existing park structures and recreational facilities on the site.

c. An evaluation of the long-term environmental, economic, social, and energy consequences to the locality, region, or state of designating the area Rural; and

Response:

- ENVIRONMENTAL CONSEQUENCES: Allowing re-use of the park site provides an opportunity for outdoor educational programming and outdoor recreation in a natural setting that makes use of areas that are already developed and disturbed. If approved by the BCC, the requested Historic District designation would limit character-altering disturbance to the site from new development or clear-cut removal of trees.

- ECONOMIC CONSEQUENCES: Enabling private investment in the existing structures and improvements on the Park Site would allow the County to provide recreational opportunities to county residents without the need to expend public money to do so, and would also increase the value of the property, increasing property tax revenue. With a Plan amendment to Rural land, the site could support jobs for maintenance and recreational and educational programming, which would have an economic benefit. Allowing for on-going private investment will also prevent the existing structures from becoming a nuisance due to vandalism and break-ins, thereby preventing the site from becoming a drain on County law enforcement resources.

- SOCIAL CONSEQUENCES: Allowing recreational and educational uses to occur again on the Park Site would provide on-going benefits to the community through increased accessibility to recreational and educational opportunities. It also prevents

the structures from suffering neglect and becoming targets for vandals or refuges for illicit activities that would detract from the safety of the area.

- ENERGY CONSEQUENCES: Because the needed infrastructure is already available at the Park Site, there will be no energy expenditure to bring utilities to the site.

d. Reasons why designating the area Rural will be compatible with other adjacent uses;

Response: As noted previously, the perimeter that is formed by the former lake bed and the narrow strips of land outside the park access roads provide a buffer between any future uses of the park site and adjacent areas that are zoned for resource use. This will help ensure that rezoning the proposed Park Site goal exception area to FF-10 will be compatible with adjacent uses.

3.0 Areas impacted by major transportation corridors, adjacent to urban growth boundaries or areas designated Rural, and for which public services are committed or planned shall be given priority in designating additional Rural areas.

Response: The Park Site is located approximately 1.5 miles (as the crow flies) from the Sandy urban growth boundary and in close proximity (approximately one-third of a mile) from other Rural lands. It is already served by Portland Water due to the historic uses on the site and the location adjacent to the Bull Run watershed – Portland's water supply – and does not require sewer service since it is served by adequate on-site septic facilities.

5.0 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.

Response: The proposed Plan map amendment is not intended to meet rural housing needs or provide for residential uses; therefore, this criterion is not applicable.

6.0 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.

Response: The available NRCS soil mapping indicates that the majority of the soils on the Park Site are suitable for agricultural and forest use. (The soil mapping has not been updated since the lake was drained; the historic lake bed is still mapped as water.)

7.0 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.

Response: As noted above, the Park Site is already served by Portland Water due to the historic uses on the site and the location adjacent to the Bull Run watershed – Portland's water supply – and do not require sewer service because the existing on-site septic disposal facilities are adequate.

11.0 The Rural Area Residential 2-Acre (RA-2), Rural Residential Farm/Forest 5-Acre (RRFF-5), and Farm/Forest 10-Acre (FF-10) zoning districts implement the goals and policies of the Rural plan designation. These zoning districts shall be applied in Rural areas as follows:

...

11.3 The FF-10 zoning district shall be applied when one or more of the following criteria are met:

a. Parcels are generally ten acres.

b. The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.

c. Access to an Unincorporated Community or an incorporated city is generally poor.

Response: The Park Site is located on a 110-acre parcel, of which 100 acres, including the Park Site are contiguous. The development on the Park Site makes portions of the area requested for a comprehensive plan map amendment – particularly area P-1 – not consistent with extensive commercial agriculture or forestry uses.

While the linear distance between the southeastern corner of the subject property and the nearest part of the Sandy UGB is just under a mile and a half, the driving distance to Sandy city limits is three to four miles. Based on these facts, the subject property meets one or more of the criteria for application of the FF-10 zoning district.

Section 2. Zone Change Application

Part 4: Clackamas County Zoning and Development Ordinance

School Site

Section 1202: Zone Change

The Hearings Officer may approve a zone change, pursuant to Section 1300, if the applicant provides evidence substantiating the following:

A. Approval of the zone change is consistent with the Comprehensive Plan;

Response: The zone change on the School Site is consistent with the applicable Comprehensive Plan policies, as demonstrated in responses to those policies in Parts 2 and 3 of this application.

B. If development under the new zoning district designation has a need for public sanitary sewer, surface water management, and/or water service, it can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.

Response: The School Site is already served by public water service, which is adequate to serve development under the proposed zoning district. Public sanitary sewer service is not necessary for development under the new zoning district, since it is served by adequate on-site septic facilities.

C. The transportation system is adequate, as defined in Subsection 1007.09(D), and will remain adequate with approval of the zone change. Transportation facilities that are under the

jurisdiction of the State of Oregon are exempt from Subsection 1202.01(C). For the purpose of this criterion:

1. The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a 20-year period beginning with the year that a complete land use application is submitted.

2. It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.

3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.

4. Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).

5. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

D. The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.

E. Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

Response: Traffic analysis methods, assumptions and results are documented in Exhibit J: Bull Run Zone Change Transportation Analysis. This analysis was prepared to assess the impacts of the transportation system if both the School Site and the entirety of tax lot 102 were rezoned to FF-10. That is not proposed here; however, the analysis provides the information necessary to understand the potential traffic impacts of the rezoning of the School Site. The memo states, in relevant part:

"Since a change in zoning is proposed, the State of Oregon's Transportation Planning Rule and Clackamas County code require a comparison of the reasonable worst-case development under the existing zoning designation to the reasonable worst-case development under the proposed zoning designation. This comparative analysis will yield a potential net increase in trip generation, which serves as the basis for potential traffic impacts associated with the change in zoning. For both the existing and proposed zoning, the allowed use resulting in maximal vehicular trip generation is residential."

The memo goes on to compare the number of dwellings that would be possible under the TBR zone compared to the FF-10 zone based on the minimum lot size in each zone. For the School Site, which is only 5 acres and not large enough to subdivide under either zone, a single dwelling would hypothetically be allowed under either zone. Thus there would be no change to the "reasonable worst-case" development, as specified by County staff for the purposes of the traffic evaluation, due to the zone change and consequently no change to the number of trips that would be generated.

Clackamas County Engineering staff determined that a full Traffic Impact Study is unnecessary to support the proposed zone change. No safety deficiencies have been identified in the vicinity of the site. The surrounding roads have small existing traffic volumes. All relevant Clackamas County performance standards are clearly satisfied and will continue

to be satisfied through the planning horizon. The proposed zone change is in compliance with the State of Oregon's Transportation Planning Rule and Clackamas County's Zoning and Development Code.

Powerhouse Site

Section 1202: Zone Change

The Hearings Officer may approve a zone change, pursuant to Section 1300, if the applicant provides evidence substantiating the following:

A. Approval of the zone change is consistent with the Comprehensive Plan;

Response: The zone change on the Powerhouse Site is consistent with the applicable Comprehensive Plan policies, as demonstrated in responses to those policies in Parts 2 and 3 of this application.

B. If development under the new zoning district designation has a need for public sanitary sewer, surface water management, and/or water service, it can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.

Response: The Powerhouse Site is already served by public water service, which is adequate to serve development under the proposed zoning district. Public sanitary sewer service is not necessary for development under the new zoning district, since it is served by adequate septic facilities.

C. The transportation system is adequate, as defined in Subsection 1007.09(D), and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from Subsection 1202.01(C). For the purpose of this criterion:

1. The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a 20-year period beginning with the year that a complete land use application is submitted.

2. It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.

3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.

4. Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).

5. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

D. The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.

E. Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

Response: Traffic analysis methods, assumptions and results are documented in Exhibit J: Bull Run Zone Change Transportation Analysis. This analysis was prepared to assess the impacts of the transportation system if both the entirety of tax lot 102 and the School Site were rezoned to FF-10. That is not proposed here; however, the analysis provides the information necessary to understand the potential traffic impacts of the rezoning of the Powerhouse Site. The memo states, in relevant part:

"Since a change in zoning is proposed, the State of Oregon's Transportation Planning Rule and Clackamas County code require a comparison of the reasonable worst-case development under the existing zoning designation to the reasonable worst-case development under the proposed zoning designation. This comparative analysis will yield a potential net increase in trip generation, which serves as the basis for potential traffic impacts associated with the change in zoning. For both the existing and proposed zoning, the allowed use resulting in maximal vehicular trip generation is residential."

The memo goes on to compare the number of dwellings that would be possible under the TBR zone compared to the FF-10 zone based on the minimum lot size in each zone. Because the Powerhouse Site is part of a larger tax lot (tax lot 102), this comparison must take into account the full tax lot. Tax lot 102 totals 110 acres. Under the Timber zoning, with a minimum lot size of 80 acres, no subdivision of this tax lot would be possible. A single dwelling unit could be allowed. If the Powerhouse Site were rezoned to FF-10, the 10 acre site (the portion of tax lot 102 east of Ten Eyck Road) could be partitioned into a separate tax lot, which would then be hypothetically be allowed to build one dwelling unit. This additional dwelling unit would, according to the traffic memo, generate one trip during each of the morning and evening peaks and a weekday total of 10 trips. The impact of these trips would be *de minimis* and the transportation system will remain adequate through the planning horizon.

Clackamas County Engineering staff determined that a full Traffic Impact Study is unnecessary to support the proposed zone change. No safety deficiencies have been identified in the vicinity of the site. The surrounding roads have small existing traffic volumes and the increase in trips associated with the proposed zone change is insignificant and would not result in a perceptible change in intersection operation in the vicinity of the site. All relevant Clackamas County performance standards are clearly satisfied and will continue to be satisfied through the planning horizon. The proposed zone change is in compliance with the State of Oregon's Transportation Planning Rule and Clackamas County's Zoning and Development Code.

Park Site

Section 1202: Zone Change

The Hearings Officer may approve a zone change, pursuant to Section 1300, if the applicant provides evidence substantiating the following:

A. Approval of the zone change is consistent with the Comprehensive Plan;

Response: The zone change is consistent with the applicable Comprehensive Plan policies, as demonstrated in responses to those policies in Parts 2 and 3 of this application.

B. If development under the new zoning district designation has a need for public sanitary sewer, surface water management, and/or water service, it can be accommodated with the implementation of service providers' existing capital improvement plans. The cumulative impact of the proposed zone change and development of other properties under existing zoning designations shall be considered.

Response: The Park Site is already served by public water service, which is adequate to serve development under the proposed zoning district. Public sanitary sewer service is not necessary for development under the new zoning district, since it is served by adequate on-site septic facilities.

C. The transportation system is adequate, as defined in Subsection 1007.09(D), and will remain adequate with approval of the zone change. Transportation facilities that are under the jurisdiction of the State of Oregon are exempt from Subsection 1202.01(C). For the purpose of this criterion:

1. The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a 20-year period beginning with the year that a complete land use application is submitted.

2. It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.

3. It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.

4. Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).

5. A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

D. The proposal, as it relates to transportation facilities under the jurisdiction of the State of Oregon, complies with the Oregon Highway Plan.

E. Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

Response: Traffic analysis methods, assumptions and results are documented in Exhibit J: Bull Run Zone Change Transportation Analysis. This analysis was prepared to assess the impacts of the transportation system if both the entirety of tax lot 102 and the School Site were rezoned to FF-10. That is not proposed here; however, the analysis provides the information necessary to understand the potential traffic impacts of the rezoning of the Park Site. The memo states, in relevant part:

"Since a change in zoning is proposed, the State of Oregon's Transportation Planning Rule and Clackamas County code require a comparison of the reasonable worst-case development under the existing zoning designation to the reasonable worst-case development under the proposed zoning designation. This comparative analysis will yield a

potential net increase in trip generation, which serves as the basis for potential traffic impacts associated with the change in zoning. For both the existing and proposed zoning, the allowed use resulting in maximal vehicular trip generation is residential."

The memo goes on to compare the number of dwellings that would be possible under the TBR zone compared to the FF-10 zone based on the minimum lot size in each zone. Because the Park Site is part of a larger tax lot (tax lot 102), this comparison must take into account the full tax lot. Tax lot 102 totals 110 acres. Under the Timber zoning, with a minimum lot size of 80 acres, no subdivision of this tax lot would be possible. A single dwelling unit could be allowed. If the 40-acre Park Site and the 10-acre Powerhouse Site were rezoned to FF-10, but the remainder were left in Timber zoning, an 80-acre parcel would have to remain even if lots were subdivided off. The maximum number of additional lots that could be created from tax lot 102 (including both the Powerhouse Site and the Park Site) would be 3 – one for the Powerhouse Site and up to 2 on the Park Site. If new lots were created, each would then hypothetically be allowed to build one dwelling unit. This would result in up to 2 additional dwelling units. Each unit, according to the traffic memo, is assumed to generate one trip during each of the morning and evening peaks and a weekday total of 10 trips. This would mean a total of 2 additional morning and 2 additional evening trips, and a total of 20 additional weekday trips. The impact of these trips would be *de minimis* and the transportation system will remain adequate through the planning horizon.

Clackamas County Engineering staff determined that a full Traffic Impact Study is unnecessary to support the proposed zone change. No safety deficiencies have been identified in the vicinity of the site. The surrounding roads have small existing traffic volumes and the increase in trips associated with the proposed zone change is insignificant and would not result in a perceptible change in intersection operation in the vicinity of the site. All relevant Clackamas County performance standards are clearly satisfied and will continue to be satisfied through the planning horizon. The proposed zone change is in compliance with the State of Oregon's Transportation Planning Rule and Clackamas County's Zoning and Development Code.

Part 5: Conclusion

School Site

Part 1 of this narrative demonstrates that this proposal is consistent with the Goal Exception Criteria in State Statute and Administrative Rules for developed and committed sites.

Part 2 of this narrative demonstrates that this proposal is consistent with applicable general Clackamas County Comprehensive Plan Policies, including those related to comprehensive plan amendments and those related to historic landmarks.

Part 3 of this narrative demonstrates that this proposal is more consistent with Rural comprehensive plan land use policies than with Forest Comprehensive Plan land use policies.

Part 4 of this narrative demonstrates that this proposal is consistent with all zone change requirements in the Clackamas County Zoning and Development Ordinance.

Powerhouse Site

Part 1 of this narrative demonstrates that this proposal is consistent with the Goal Exception Criteria in State Statute and Administrative Rules for developed and committed sites.

Part 2 of this narrative demonstrates that this proposal is consistent with applicable general Clackamas County Comprehensive Plan Policies, including those related to comprehensive plan amendments and those related to historic landmarks.

Part 3 of this narrative demonstrates that this proposal is more consistent with Rural comprehensive plan land use policies than with Forest Comprehensive Plan land use policies.

Part 4 of this narrative demonstrates that this proposal is consistent with all zone change requirements in the Clackamas County Zoning and Development Ordinance.

Park Site

Part 1 of this narrative demonstrates that this proposal generally meets the Goal Exception Criteria in State Statute and Administrative Rules for developed and committed sites, and that the amount and shape of the proposed exception area is needed in order to create a clear and enforceable zoning boundary within the subject property.

Part 2 of this narrative demonstrates that this proposal is consistent with applicable general Clackamas County Comprehensive Plan Policies, including those related to comprehensive plan amendments and those related to parks and recreation.

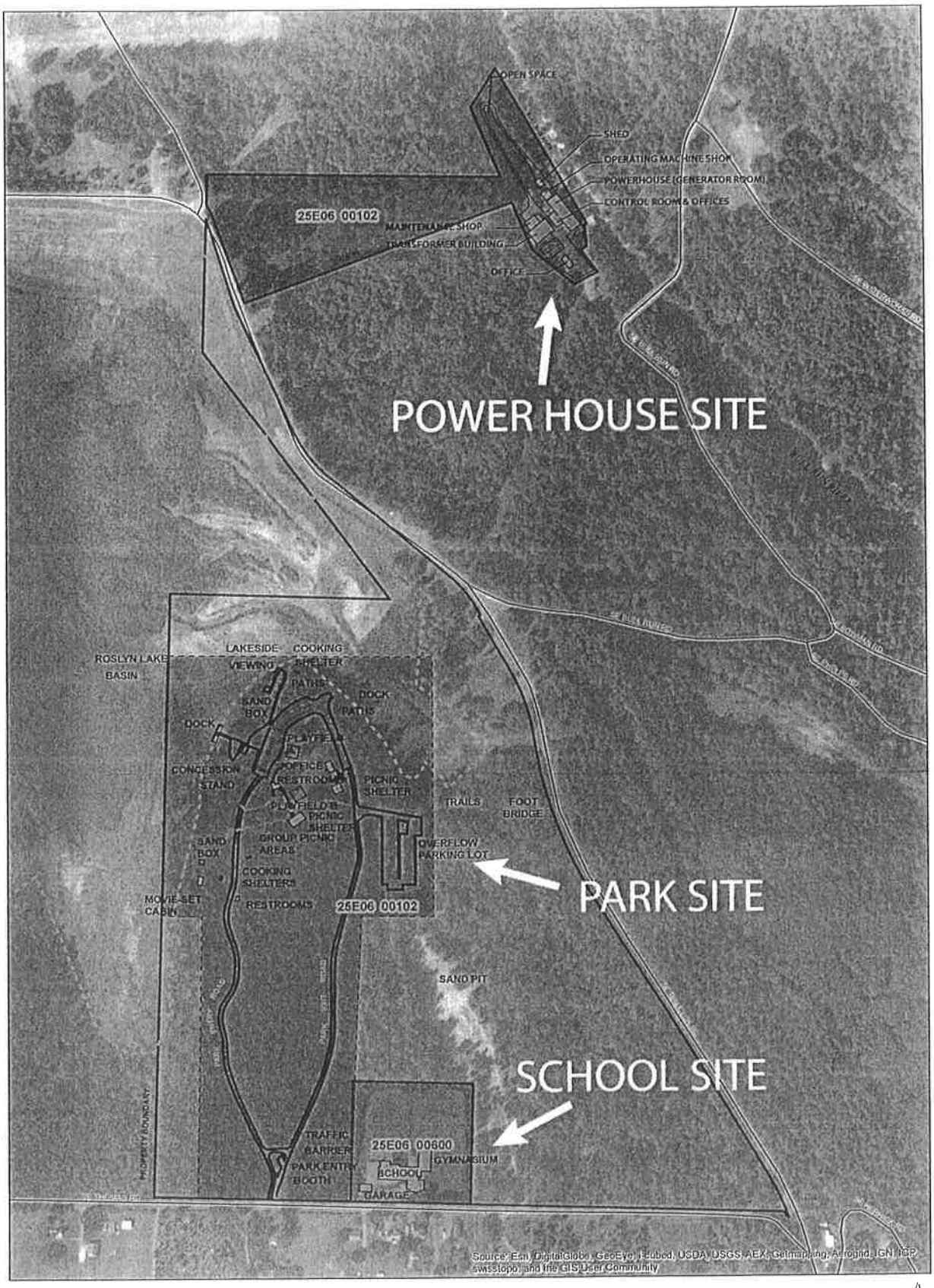
Part 3 of this narrative demonstrates that this proposal is generally equally consistent with Rural comprehensive plan land use policies as with Forest Comprehensive Plan land use policies.

Part 4 of this narrative demonstrates that this proposal is consistent with the zone change requirements in the Clackamas County Zoning and Development Ordinance.

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit A

Recommended Historic District and Proposed Goal Exception / Comprehensive Plan Map Amendment / Zone Change Areas



Taxlots
Subject Property
Streets
Streams
Former Roslyn Lake Shoreline

Recommended Discontinuous Historic District

N

0 250 500 1,000 Feet

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

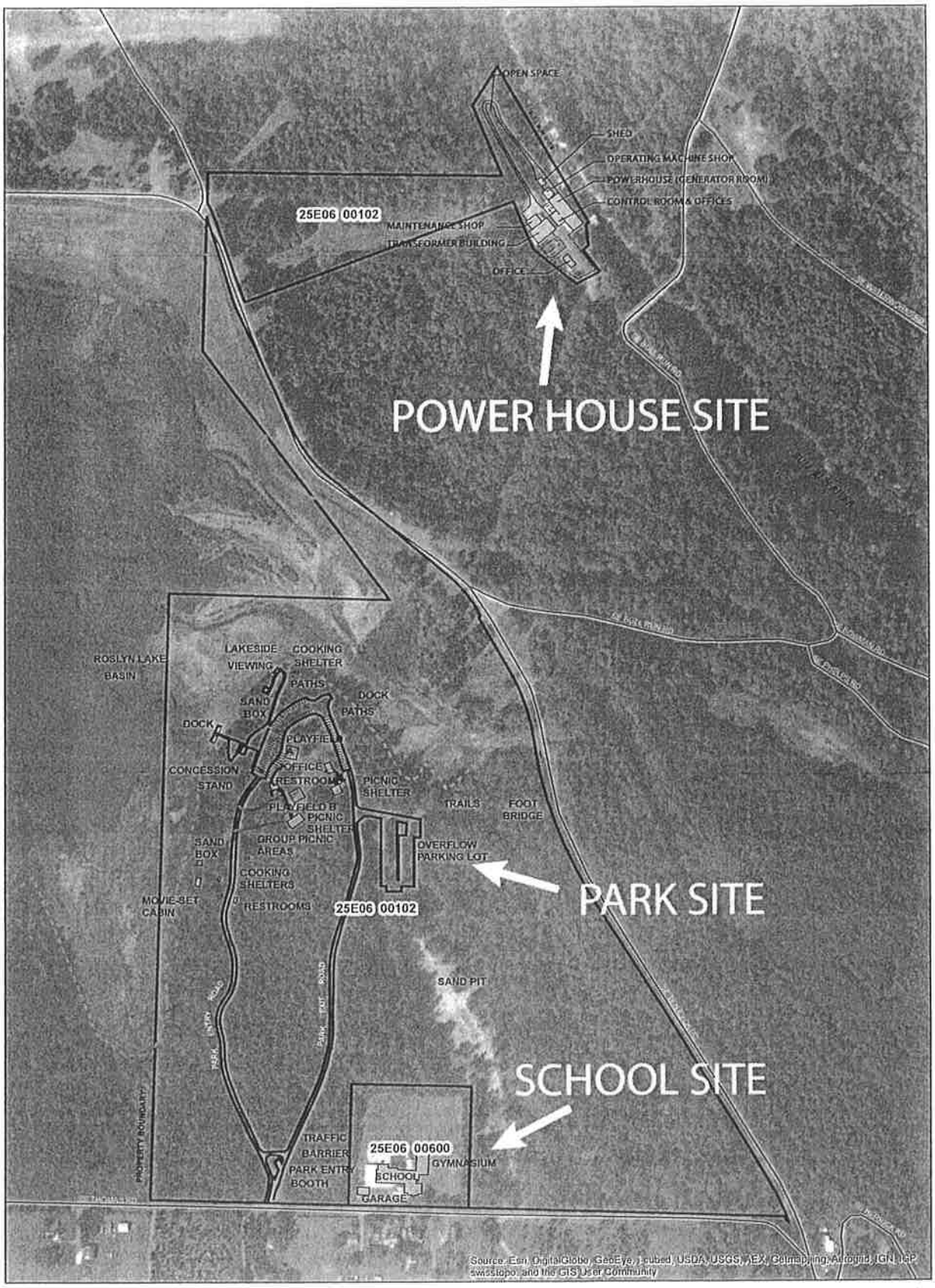
Exhibit B

Existing Site Conditions

slyn Lake Plan Amendment & Zone Char

Site Existing Conditions

11/5/2013



Taxlots
Subject Property
Streets
Streams
Former Roslyn Lake Shoreline

N

0 250 500 1,000 Feet

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

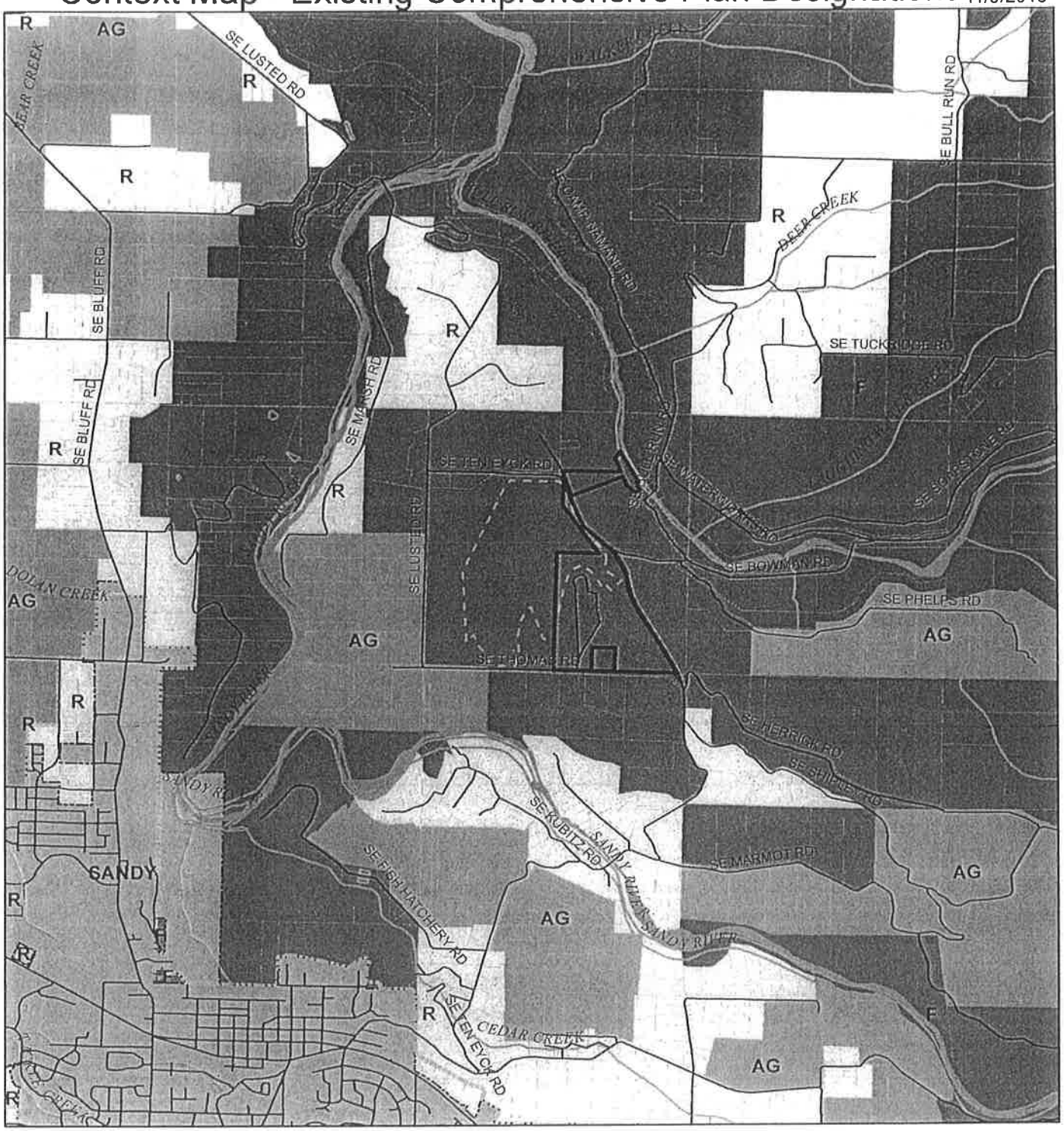
Exhibit C

Current Comprehensive Plan Designations

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Context Map - Existing Comprehensive Plan Designations

11/5/2013



Subject Property

Comprehensive Plan Designation

AG

F

R

Sandy City Limits

Sandy Urban Growth Boundary

Taxlots

Streets

Former Roslyn Lake Shoreline

Streams

N

0 0.25 0.5 1 Miles

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

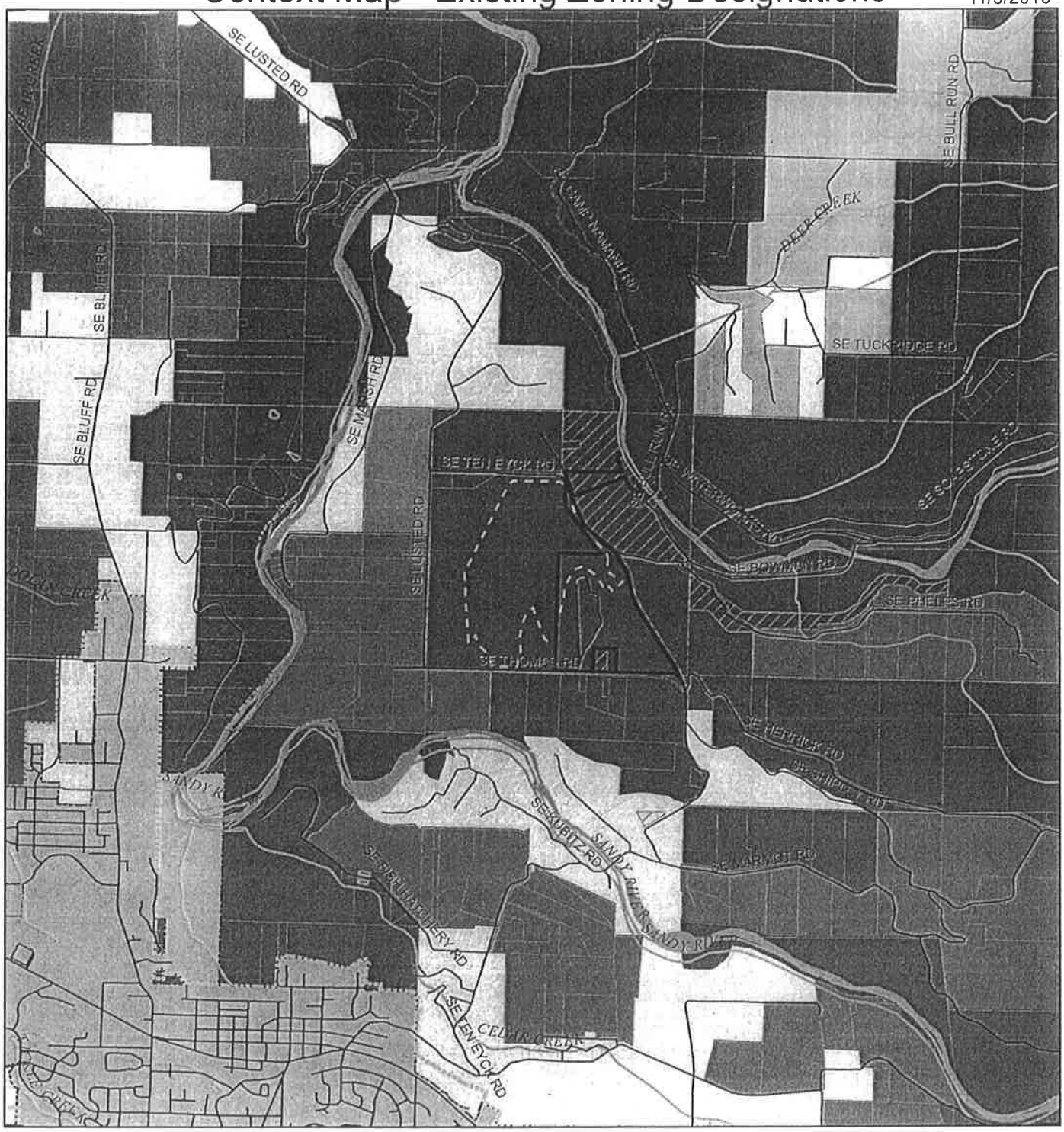
Exhibit D

Current Zoning Designations

Zone Chang. . Comprehensive Plan Map Amendi. .t Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Context Map - Existing Zoning Designations

11/5/2013



County Zoning

- RRFF5
- FF10
- TBR
- AGF
- EFU
- Historic Landmark Overlay
- Subject Property
- Sandy Urban Growth Boundary
- Sandy City Limits
- Taxlots
- Streets
- Streams
- Former Roslyn Lake Shoreline

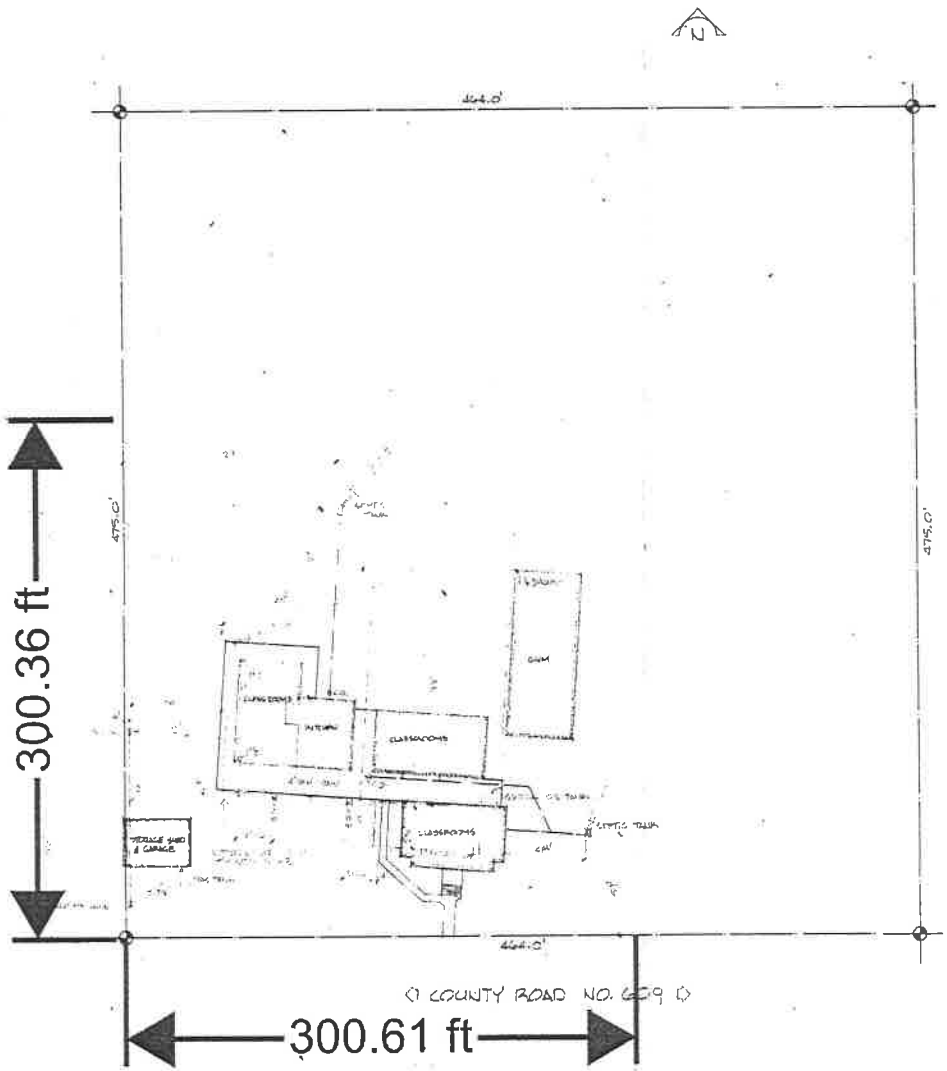
N

0 0.25 0.5 1 Miles

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit E

School Site Buildings and On-Site Septic Facilities



SCALE 1" = 40'-0"

KEY

WATER SUPPLY LINES
SANITARY LINES
STORM LINES

Not printed to scale

BUILDERS DESIGN INC.

11939 N. E. Halsey Portland, Oregon 97220 252-3453 - 252-3454

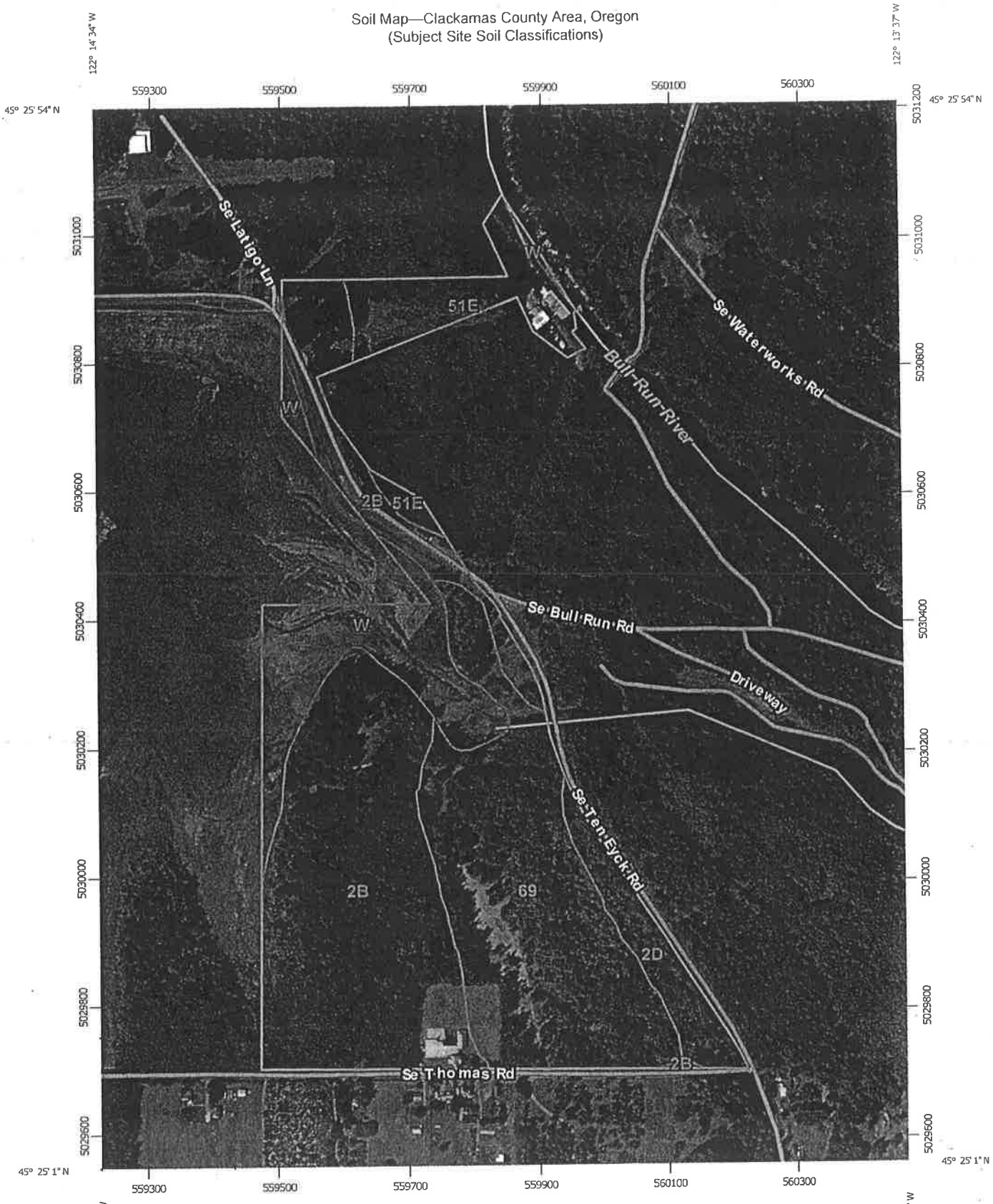
Drawn By | Date | Area | Job No. | Plan No. | Dir. No.

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit F

National Resource Conservation Service Soils Maps

Soil Map—Clackamas County Area, Oregon
(Subject Site Soil Classifications)



Map Scale: 1:8,030 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 100 200 400 600

Feet: 0 350 700 1400 2100

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84

MAP LEGEND

Area of Interest (AOI)
- Area of Interest (AOI)

Soils
- Soil Map Unit Polygons
- Soil Map Unit Lines
- Soil Map Unit Points

Special Point Features
- Blowout
- Borrow Pit
- Clay Spot
- Closed Depression
- Gravel Pit
- Gravelly Spot
- Landfill
- Lava Flow
- Marsh or swamp
- Mine or Quarry
- Miscellaneous Water
- Perennial Water
- Rock Outcrop
- Saline Spot
- Sandy Spot
- Severely Eroded Spot
- Sinkhole
- Slide or Slip
- Sodic Spot
- Spoil Area
- Stony Spot
- Very Stony Spot
- Wet Spot
- Other
- Special Line Features

Water Features
- Streams and Canals

Transportation
- Rails
- Interstate Highways
- US Routes
- Major Roads
- Local Roads

Background
- Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Clackamas County Area, Oregon
Survey Area Data: - Version 7, Aug 20, 2012

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

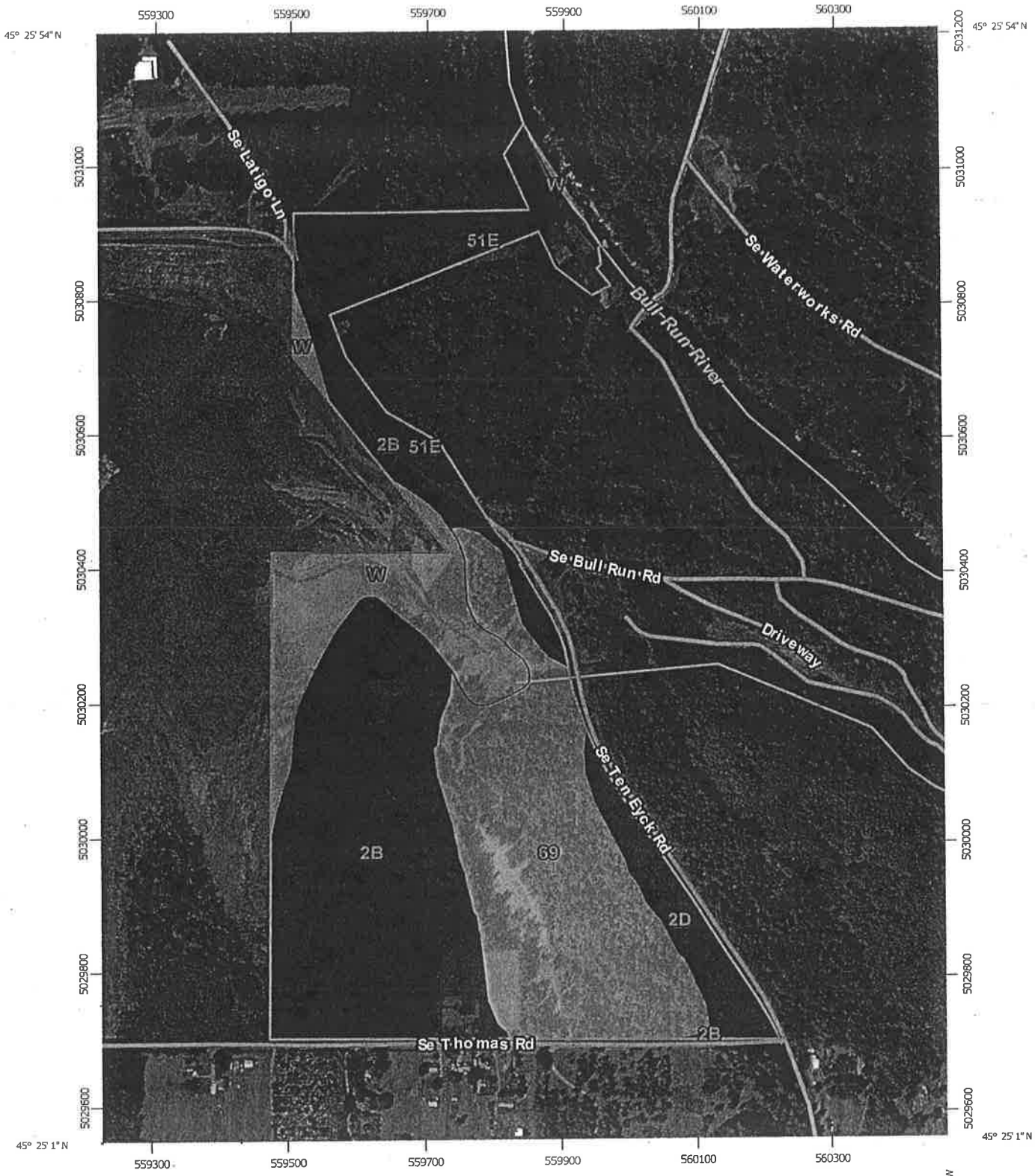
Date(s) aerial images were photographed: Jul 8, 2010—Sep 4, 2011

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Map Unit Legend

Clackamas County Area, Oregon (OR610)			
Map Unit Symbol	**Map Unit Name**	**Acres in AOI**	**Percent of AOI**
2B	Alspaugh clay loam, 2 to 8 percent slopes	49.6	42.6%
2D	Alspaugh clay loam, 15 to 30 percent slopes	6.5	5.6%
51E	Klickitat stony loam, 30 to 60 percent slopes	9.4	8.1%
69	Pits	35.9	30.9%
W	Water	14.9	12.8%
Totals for Area of Interest		**116.4**	**100.0%**

Forest Productivity (Cubic Feet per Acre per Year): Douglas-fir (King 1966 (795))—Clackamas County Area, ...
(Subject Site Soil Classifications)



Map Scale: 1:8,030 if printed on A portrait (8.5" x 11") sheet.

Meters: 0 100 200 400 600

Feet: 0 350 700 1400 2100

N

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84

Forest Productivity (Cubic Feet per Acre per Year): Douglas-fir (King 1966 (795))—Clackamas County Area, Oregon
(Subject Site Soil Classifications)

MAP LEGEND

Area of Interest (AOI)

Area of Interest (AOI)

Soils

Soil Rating Polygons

<= 157.00

> 157.00 and <= 186.00

Not rated or not available

Soil Rating Lines

<= 157.00

> 157.00 and <= 186.00

Not rated or not available

Soil Rating Points

<= 157.00

> 157.00 and <= 186.00

Not rated or not available

Water Features

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

MAP INFORMATION

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Clackamas County Area, Oregon
Survey Area Data: Version 7, Aug 20, 2012

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 8, 2010—Sep 4, 2011

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Forest Productivity (Cubic Feet per Acre per Year): Douglas-fir (King 1966 (795))

Forest Productivity (Cubic Feet per Acre per Year): Douglas-fir (King 1966 (795))— Summary by Map Unit — Clackamas County Area, Oregon (OR610)				
Map unit symbol	**Map unit name**	**Rating**	**Acres in AOI**	**Percent of AOI**
2B	Alspaugh clay loam, 2 to 8 percent slopes	186.00	49.6	42.6%
2D	Alspaugh clay loam, 15 to 30 percent slopes	186.00	6.5	5.6%
51E	Klickitat stony loam, 30 to 60 percent slopes	157.00	9.4	8.1%
69	Pits		35.9	30.9%
W	Water		14.9	12.8%
Totals for Area of Interest			**116.4**	**100.0%**

Description

Forest productivity is the volume of wood fiber that is the yield likely to be produced by the most important tree species. This number, expressed as cubic feet per acre per year and calculated at the age of culmination of the mean annual increment (CMAI), indicates the amount of fiber produced in a fully stocked, even-aged, unmanaged stand.

This attribute is actually recorded as three separate values in the database. A low value and a high value indicate the range of this attribute for the soil component. A "representative" value indicates the expected value of this attribute for the component. For this attribute, only the representative value is used.

Rating Options

Tree: Douglas-fir

Site Index Base: King 1966 (795)

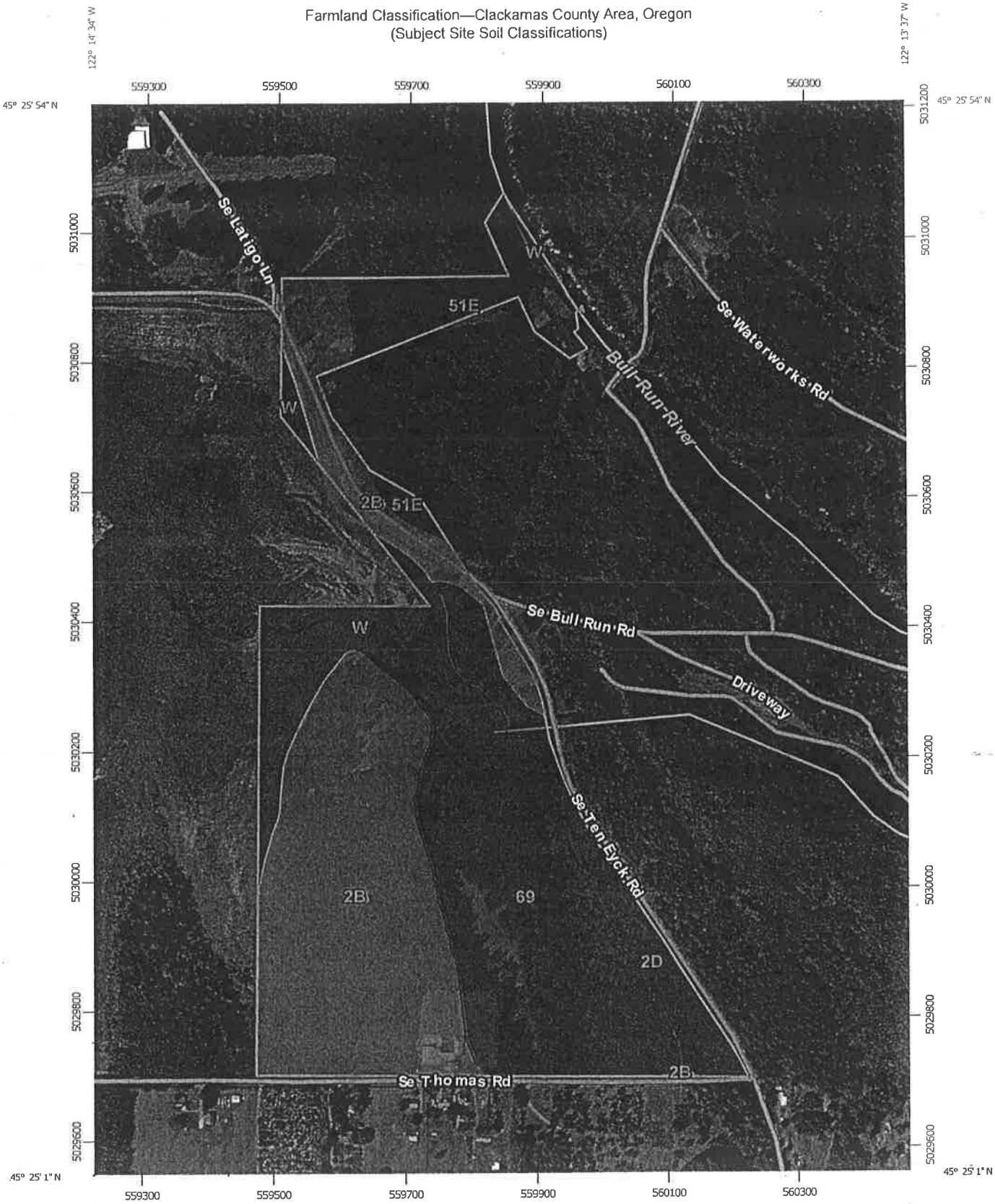
Aggregation Method: Dominant Component

Component Percent Cutoff: *None Specified*

Tie-break Rule: Higher

Interpret Nulls as Zero: No

Farmland Classification—Clackamas County Area, Oregon
(Subject Site Soil Classifications)



Map Scale: 1:8,030 if printed on A portrait (8.5" x 11") sheet.

N

Meters: 0 100 200 400 600

Feet: 0 350 700 1400 2100

Map projection: Web Mercator Corner coordinates: WGS84 Edge tics: UTM Zone 10N WGS84

Farmland Classification—Clackamas County Area, Oregon
(Subject Site Soil Classifications)

MAP LEGEND

Area of Interest (AOI)

- Area of Interest (AOI)

Soils

Soil Rating Polygons

- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Lines

- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Soil Rating Points

- Not prime farmland
- All areas are prime farmland
- Prime farmland if drained
- Prime farmland if protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated
- Prime farmland if drained and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if irrigated and drained
- Prime farmland if irrigated and either protected from flooding or not frequently flooded during the growing season
- Prime farmland if subsoiled, completely removing the root inhibiting soil layer
- Prime farmland if irrigated and the product of I (soil erodibility) x C (climate factor) does not exceed 60
- Prime farmland if irrigated and reclaimed of excess salts and sodium
- Farmland of statewide importance
- Farmland of local importance
- Farmland of unique importance
- Not rated or not available

Water Features

MAP INFORMATION

Streams and Canals

Transportation

Rails

Interstate Highways

US Routes

Major Roads

Local Roads

Background

Aerial Photography

The soil surveys that comprise your AOI were mapped at 1:20,000.

Warning: Soil Map may not be valid at this scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

Please rely on the bar scale on each map sheet for map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: http://websoilsurvey.nrcs.usda.gov
Coordinate System: Web Mercator (EPSG:3857)

Maps from the Web Soil Survey are based on the Web Mercator projection, which preserves direction and shape but distorts distance and area. A projection that preserves area, such as the Albers equal-area conic projection, should be used if more accurate calculations of distance or area are required.

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Clackamas County Area, Oregon
Survey Area Data: Version 7, Aug 20, 2012

Soil map units are labeled (as space allows) for map scales 1:50,000 or larger.

Date(s) aerial images were photographed: Jul 8, 2010—Sep 4, 2011

The orthophoto or other base map on which the soil lines were compiled and digitized probably differs from the background imagery displayed on these maps. As a result, some minor shifting of map unit boundaries may be evident.

Farmland Classification

Farmland Classification— Summary by Map Unit — Clackamas County Area, Oregon (OR610)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
2B	Alspaugh clay loam, 2 to 8 percent slopes	All areas are prime farmland	49.6	42.6%
2D	Alspaugh clay loam, 15 to 30 percent slopes	Not prime farmland	6.5	5.6%
51E	Klickitat stony loam, 30 to 60 percent slopes	Not prime farmland	9.4	8.1%
69	Pits	Not prime farmland	35.9	30.9%
W	Water	Not prime farmland	14.9	12.8%
Totals for Area of Interest			**116.4**	**100.0%**

Description

Farmland classification identifies map units as prime farmland, farmland of statewide importance, farmland of local importance, or unique farmland. It identifies the location and extent of the soils that are best suited to food, feed, fiber, forage, and oilseed crops. NRCS policy and procedures on prime and unique farmlands are published in the "Federal Register," Vol. 43, No. 21, January 31, 1978.

Rating Options

Aggregation Method: No Aggregation Necessary

Aggregation is the process by which a set of component attribute values is reduced to a single value that represents the map unit as a whole.

A map unit is typically composed of one or more "components". A component is either some type of soil or some nonsoil entity, e.g., rock outcrop. For the attribute being aggregated, the first step of the aggregation process is to derive one attribute value for each of a map unit's components. From this set of component attributes, the next step of the aggregation process derives a single value that represents the map unit as a whole. Once a single value for each map unit is derived, a thematic map for soil map units can be rendered. Aggregation must be done because, on any soil map, map units are delineated but components are not.

For each of a map unit's components, a corresponding percent composition is recorded. A percent composition of 60 indicates that the corresponding component typically makes up approximately 60% of the map unit. Percent composition is a critical factor in some, but not all, aggregation methods.

The majority of soil attributes are associated with a component of a map unit, and such an attribute has to be aggregated to the map unit level before a thematic map can be rendered. Map units, however, also have their own attributes. An attribute of a map unit does not have to be aggregated in order to render a corresponding thematic map. Therefore, the "aggregation method" for any attribute of a map unit is referred to as "No Aggregation Necessary".

Tie-break Rule: Lower

The tie-break rule indicates which value should be selected from a set of multiple candidate values, or which value should be selected in the event of a percent composition tie.

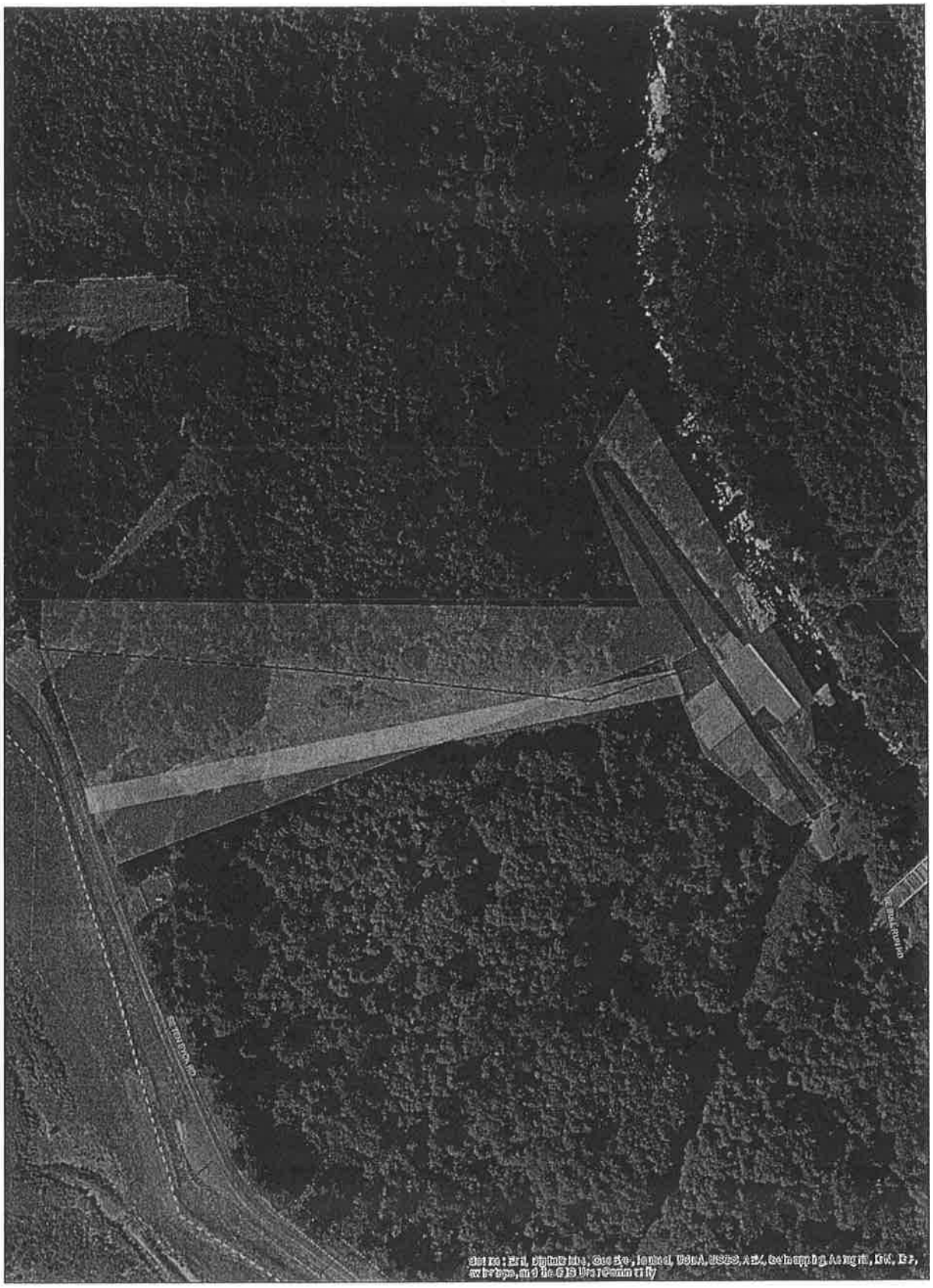
Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit G

Powerhouse Site Improvements

Powerhouse Site Improvements

2/20/2014



Proposed Historic District

Taxlots

Former Roslyn Lake Shoreline

Approximate Locations of Site Improvements

Buildings & Structures

Paved Parking Areas

AccessRoads

Power Lines

Penstocks

N

0 50 100 200 Feet

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit H

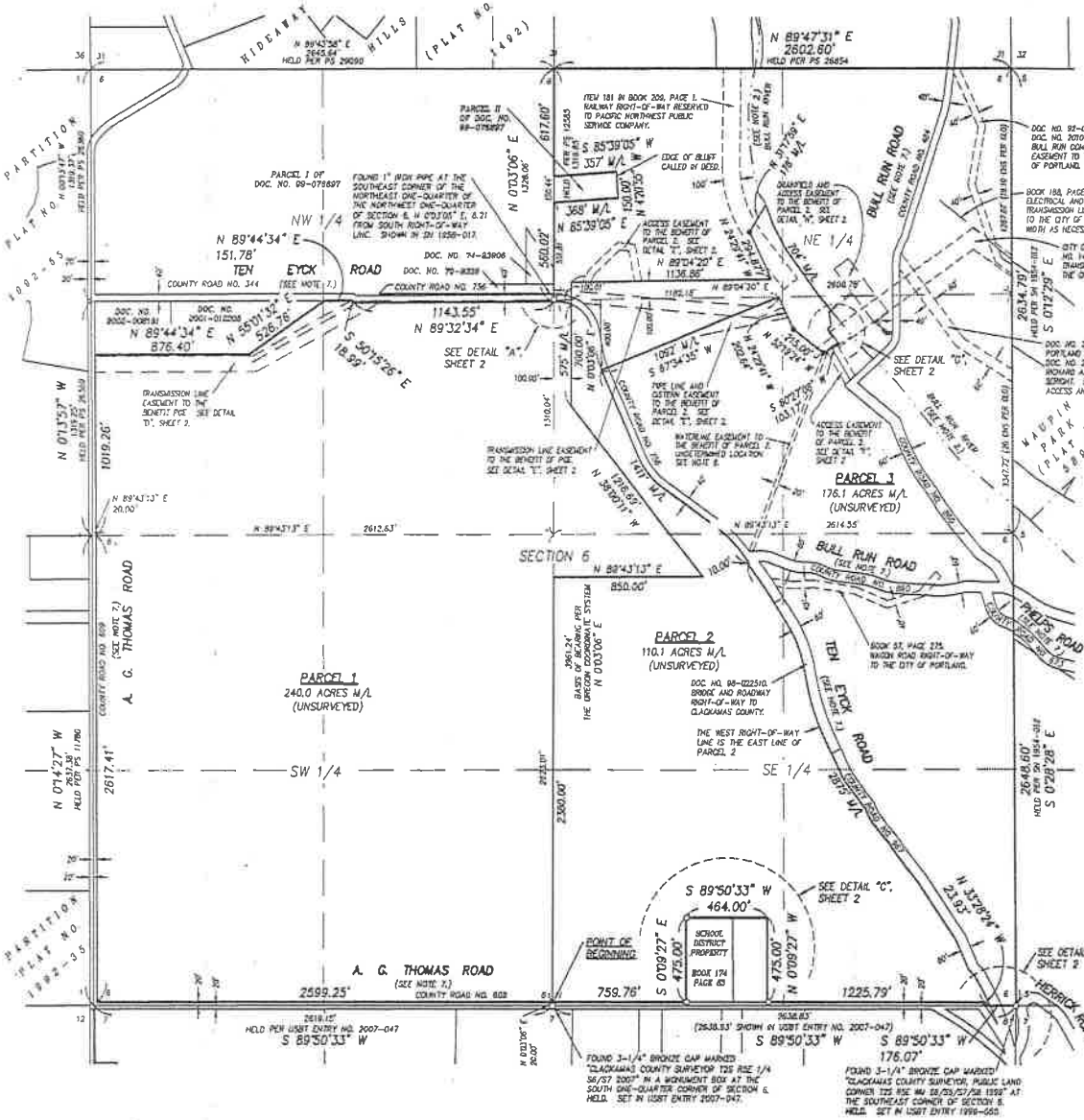
Powerhouse Site Plat and Easements

PARTITION PLAT NO. _____

LOCATED IN ALL QUARTERS OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON

SEPTEMBER 12, 2011

SCALE: 1" = 400'



orion GEOMATICS
1724 23rd Avenue
Forest Grove, OR 97116
Because the world is a spatial place™

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON
JANUARY 20, 1989
GARY P. CHRISTERSON
2577

RENEWAL: DECEMBER 31, 2011

I, GARY P. CHRISTERSON, CERTIFY THAT THIS SURVEY WAS PREPARED USING HP PRODUCT #8444A ON MYLAR JPC-442 POLYESTER FILM.

N
W E
S

SCALE
400 0 200 400 800
(FEET)
1 INCH = 400 FEET

LEGEND

- EASEMENT SIDE LINE.
- PROPERTY LINES AND RIGHT-OF-WAY LINES.
- SECTION 6 CENTERLINES AND ONE-QUARTER SECTION CENTERLINES.
- STREAM CENTERLINE.
- O FOUND MONUMENT.
- ● SET A 5/8" X 30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "ORION GPS, INC.". SET ON SEPTEMBER 12, 2011.
- M/L MORE OR LESS.

NOTES

1. THIS PLAT WAS PREPARED FROM RECORD DATA ONLY. LIMITED FIELD SURVEY HAS BEEN CONDUCTED. ALL MAP DATA AND DESCRIPTIONS ARE BASED PRIMARILY UPON INFORMATION AVAILABLE IN THE PUBLIC RECORDS. NO WARRANTY IS MADE AS TO THE CORRECTNESS OF THE DIMENSIONAL DATA AND THE SURVEY MONUMENTS SHOWN AND NO LIABILITY IS ASSUMED IF SAID INFORMATION IS IN ERROR. THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY AND IS SUBJECT TO ANY DISCREPANCIES WHICH A COMPLETE AND ACCURATE BOUNDARY SURVEY WOULD DISCLOSE. POTENTIAL PURCHASERS ARE HEREBY NOTIFIED THAT THE PARCEL AND TOTAL AREAS AND DIMENSIONS SHOWN ALONG THE PLAT BOUNDARY MAY BE SUBJECT TO CHANGE UPON COMPLETION OF A PROPER BOUNDARY (TKLD) SURVEY. SPECIFIC MINIMUM PROPERTY AREAS (BASED UPON BEST AVAILABLE EVIDENCE AT THE TIME OF FUTURE APPLICATION) ARE REQUIRED IN SOME COUNTY ZONES. POTENTIAL CUSTOMERS SHOULD INVESTIGATE ZONING REQUIREMENTS, CONDITIONS, AND APPROVED USES.
2. THE STATE OF OREGON HAS NOT DONE A NAVIGABILITY STUDY FOR TITLE PURPOSES OF THE BULL RUN RIVER. THE OWNERSHIP OF THE SUBMERGED AND SUBMERSIBLE LAND BELOW THE LINE OF ORDINARY HIGH WATER ALONG THIS WATERWAY IS UNKNOWN AND CANNOT BE KNOWN UNTIL SUCH TIME THAT A NAVIGABILITY STUDY IS CONDUCTED AND A DETERMINATION MADE EITHER BY THE LAND BOARD OR A COURT OF ADEQUATE JURISDICTION.
3. THIS PARTITION PLAT IS SUBJECT TO THE CONDITIONS OF APPROVAL CONTAINED IN CLACKAMAS COUNTY CASE FILE NUMBER Z0154-11-FLD.
4. BOOK 28, PAGE 75, RECORDED OCTOBER 6, 1886 CONVEYS A WATERLINE EASEMENT TO THE CITY OF PORTLAND. THIS EASEMENT IS NOT TO EXCEED 33 FEET IN WIDTH AND IS AT AN UNDESIGNATED LOCATION IN WOMESTEAD CLAIM 541; THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER; THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER; THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER; AND THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 6.
5. BOOK 28, PAGE 81, RECORDED OCTOBER 6, 1886 CONVEYS A WATERLINE EASEMENT TO THE CITY OF PORTLAND. THIS EASEMENT IS NOT TO EXCEED 33 FEET IN WIDTH AND IS AT AN UNDESIGNATED LOCATION IN WOMESTEAD CLAIM 541; THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER; THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER; THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER; AND THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 6.
6. BOOK 28, PAGE 83, RECORDED OCTOBER 6, 1886 CONVEYS A WATERLINE EASEMENT TO THE CITY OF PORTLAND. THIS EASEMENT IS NOT TO EXCEED 33 FEET IN WIDTH AND IS AT AN UNDESIGNATED LOCATION IN THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER AND THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 6.
7. THIS PLAT WILL BE SUBJECT TO ANY OFFICIAL COUNTY ROAD LOCATION CONDUCTED BY CLACKAMAS COUNTY.
8. THE LOCATION OF THIS WATERLINE HAS NOT BEEN DETERMINED. A WATERLINE EASEMENT, 20 FEET IN WIDTH, FOLLOWING THIS WATERLINE IS CONVEYED TO THE BENEFIT OF PARCEL 2.

2010017 - POWER HOUSE/POWER HOUSE - PLAT.DWG

PARTITION PLAT NO. _____

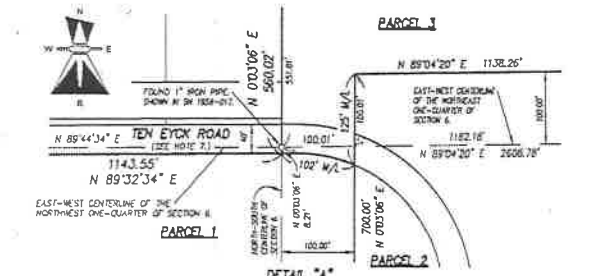
LOCATED IN ALL QUARTERS OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON
SEPTEMBER 12, 2011

orion GEOMATICS
1724 23rd Avenue
Forest Grove, OR 97116
Because the world is a spatial place™

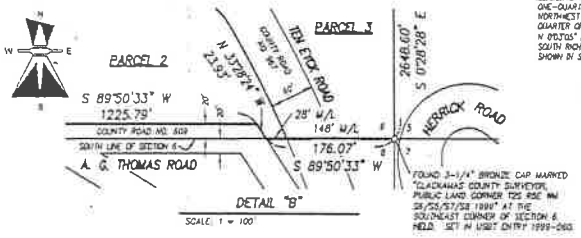
REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JANUARY 29, 1989
GARY P. CHRISTERSON
2371

RENEWAL: DECEMBER 31, 2011

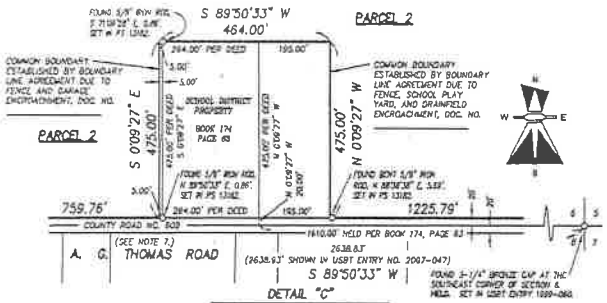
I, GARY P. CHRISTERSON, CERTIFY THAT THIS SURVEY WAS PREPARED USING HP PRODUCT #45444 ON MYLAR JPC-4412 POLYESTER FILM.



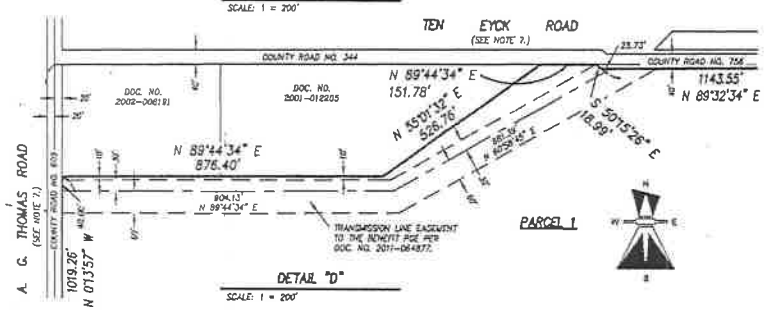
DETAIL "A"
SCALE: 1 = 100'



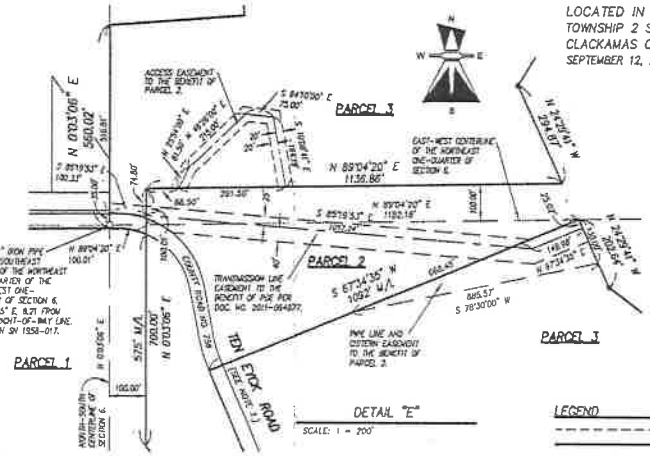
DETAIL "B"
SCALE: 1 = 100'



DETAIL "C"
SCALE: 1 = 200'



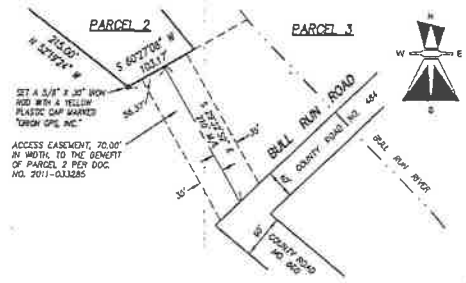
DETAIL "D"
SCALE: 1 = 200'



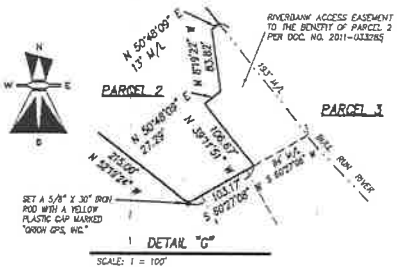
DETAIL "E"
SCALE: 1 = 200'

LEGEND

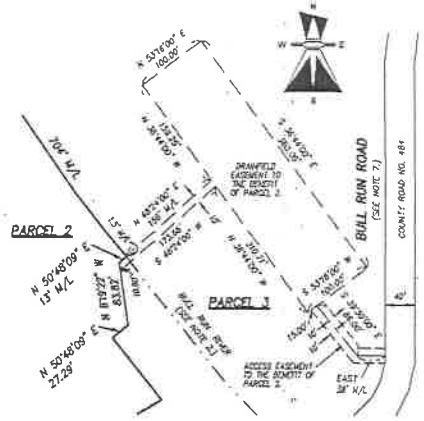
- EASEMENT SIDE LINE.
- PROPERTY LINES AND RIGHT-OF-WAY LINES.
- SECTION 6 CENTERLINES AND ONE-QUARTER SECTION CENTERLINES.
- STREAM CENTERLINE.
- O FOUND MONUMENT.
- ● SET A 5/8" X 30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "ORION GPS, INC.". SET ON SEPTEMBER 12, 2011.
- W/L WORE OR LESS.



DETAIL "F"
SCALE: 1 = 100'



DETAIL "G"
SCALE: 1 = 100'



DETAIL "H"
SCALE: 1 = 100'

2610017 - POWER HOUSE/POWER HOUSE - PLAT.DWG

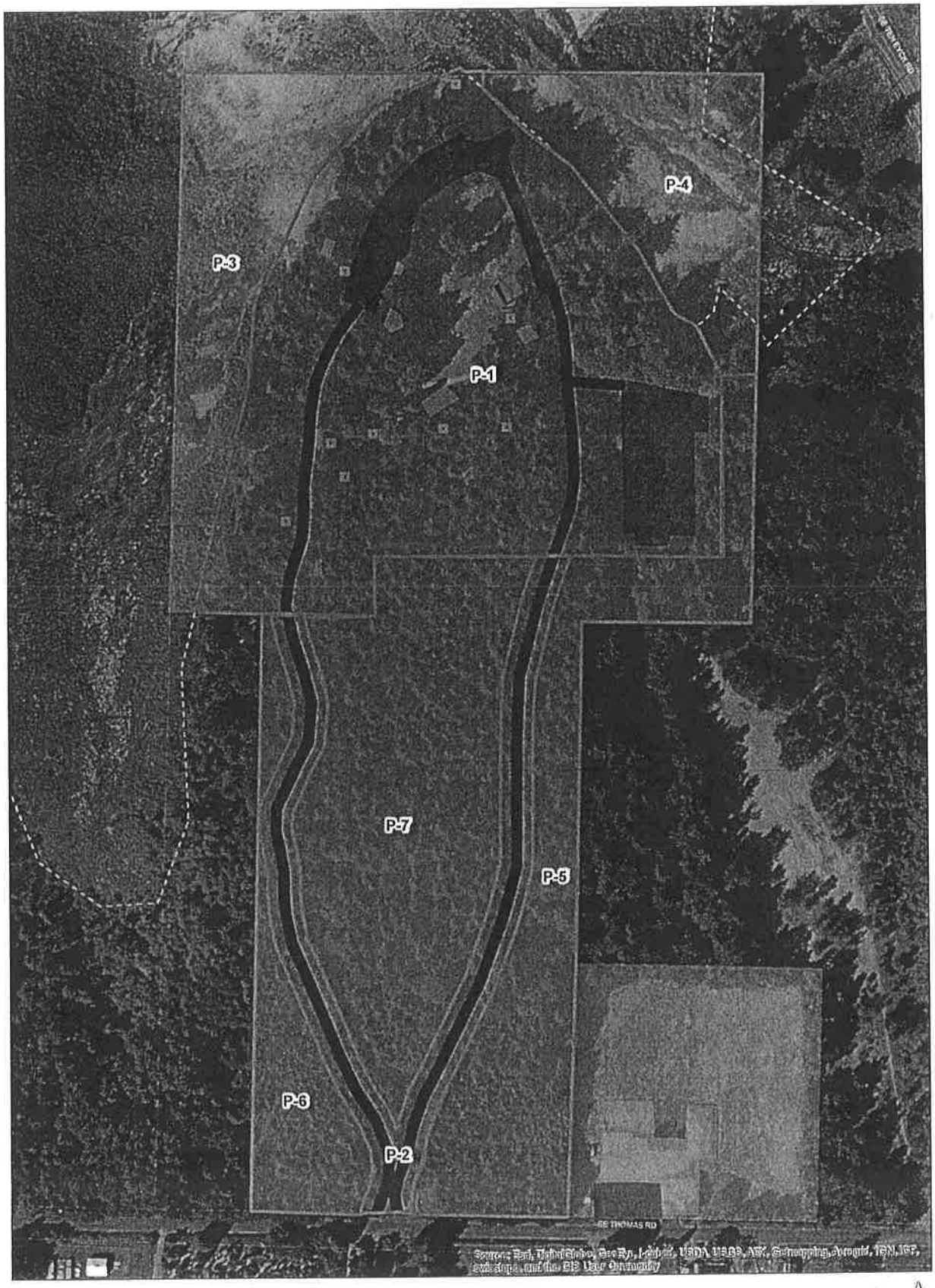
Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit I

Park Site Subareas

Park Subareas and Improvements

2/21/2014



Approximate Locations of Site Improvements

- Buildings & Structures
- Paved Parking Areas
- AccessRoads
- Group Picnic Areas & Small Cooking Shelters
- Recommended Discontinuous Historic District
- Park Site Subareas
- Taxlots
- Former Roslyn Lake Shoreline

N

0 50 100 200 Feet

Zone Change & Comprehensive Plan Map Amendment Application
for Bull Run Powerhouse, Roslyn Lake Park, and Bull Run School House

Exhibit J

Bull Run Zone Change Transportation Analysis

November 4, 2013

LANCASTER
ENGINEERING

321 SW 4th Ave., Suite 400
Portland, OR 97204
phone: 503.248.0313
fax: 503.248.9251
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Karen Karlsson
KLK Consulting, LLC
906 NW 23rd Avenue
Portland, OR 97210

RE: *Bull Run Zone Change Transportation Analysis*

Dear Karen,

This letter describes our findings regarding the trip generation increase and subsequent traffic impacts resulting from the proposed Bull Run zone change project in Clackamas County, Oregon. The effects of zone change with regard to the State of Oregon's Transportation Planning Rule are addressed herein.

Location and Project Description

The subject site is located in the north central part of Clackamas County, Oregon, a three to four mile drive from the Sandy city limits. The site for the proposed zone change consists of two parcels totaling 115 acres. The proposal is to change the zoning from Clackamas County's *Timber District (TBR)* to its *Farm Forest 10-Acre District (AF-10)*.

Previously, the site was used primarily in two ways: the Bull Run Hydroelectric Project occupied the northern part of the site, and generated power until being decommissioned in 2008. The Bull Run Elementary School occupied the southern part of the site until being closed in 2003. Both the power plant and the school structures are historic in nature, and the owner seeks the proposed zone change to repurpose and renovate the buildings while maintaining the existing recreational areas.

The site has frontage along SE Thomas Road and SE Ten Eyck Road, and is served by SE Bull Run Road. SE Ten Eyck Road is classified as a Minor Arterial in the Clackamas County Transportation System Plan, while SE Thomas Road and SE Bull Run Road are classified as Local streets. Each of these roads has a two-lane cross section with no sidewalks or dedicated bicycle facilities. None has a posted speed limit, so all are subject to Oregon's Basic Rule and a statutory speed limit of 55 mph.

A map of the site vicinity is shown in Figure 1, and a plat showing a detailed illustration of the parcels proposed for zone change is provided in the appendix.

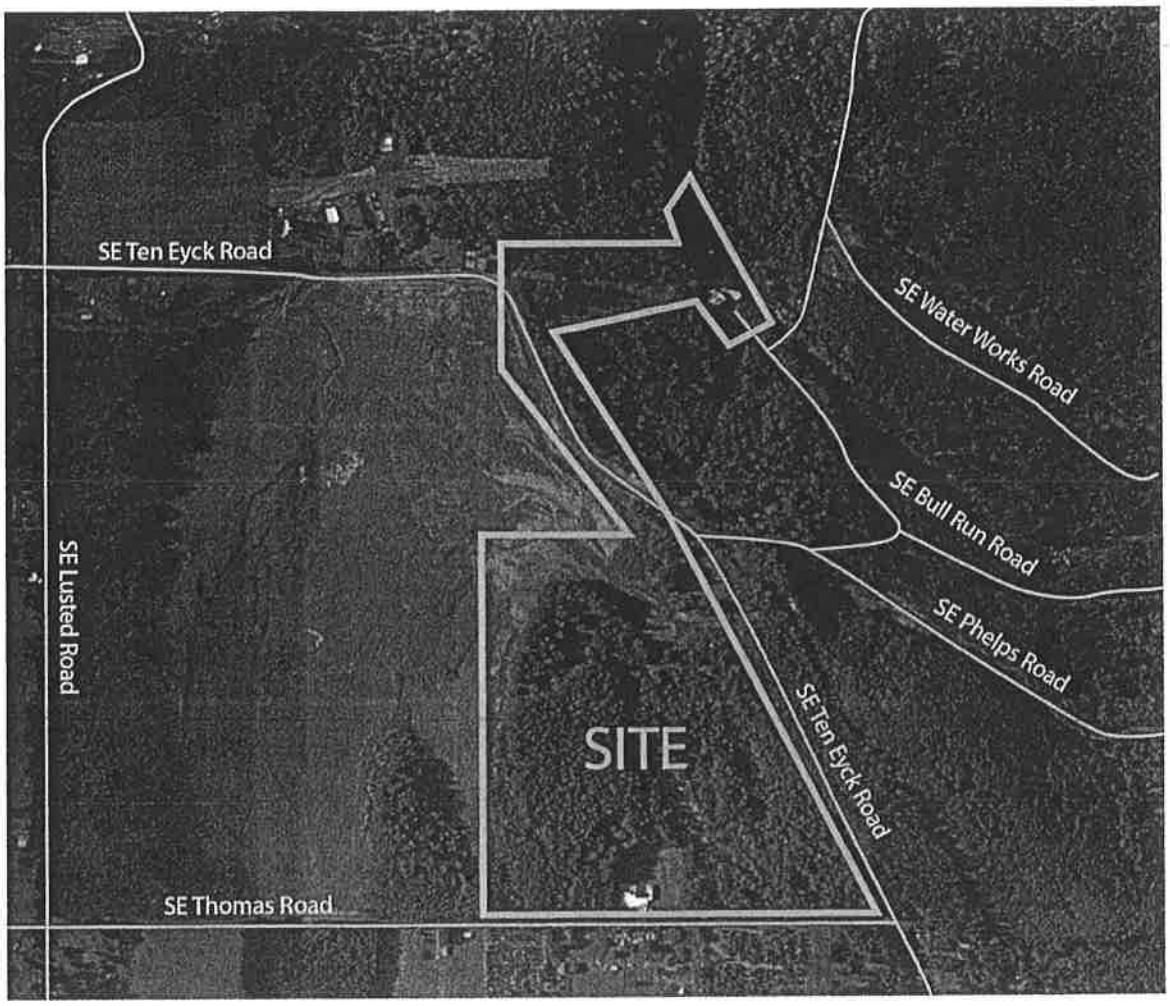


Figure 1: Vicinity and location of the project site

Trip Generation & Distribution

Since a change in zoning is proposed, the State of Oregon's Transportation Planning Rule and Clackamas County code require a comparison of the reasonable worst-case development under the existing zoning designation to the reasonable worst-case development under the proposed zoning designation. This comparative analysis will yield a potential net increase in trip generation, which serves as the basis for potential traffic impacts associated with the change in zoning.

For both the existing and proposed zonings, the allowed use resulting in maximal vehicular trip generation is residential. The subject site consists of a total of approximately 115 acres. Based on this gross acreage, it could be subdivided into as many as 11 lots under the proposed FF10 zoning. The minimum lot size under the current TBR zoning is 80 acres, so only one home is possible under this zoning. Both zonings allow for no more than one single family dwelling on each property, so the proposed zone change will result in a net increase of up to ten single family dwellings.

It is possible under the existing TBR zone that the site could generate trips during activities such as timber harvest, but these activities are temporary in nature and do not generate trips day-to-day like a residential dwelling. For that reason, the comparative analysis focuses on residential uses.

To estimate the trips generated by the proposed zone change from EFU to FF10, trip rates from the *Trip Generation Manual*[1] were used. The data for land use #210, *Single-Family Detached Housing* are used to calculate trip rates for the potential future single family dwellings that could be constructed under both the existing and proposed zoning designations.

The trip generation calculations show that under the current TBR zoning, the subject site would generate one morning peak hour trip and one evening peak hour trip if fully developed. Under the proposed FF10 zoning, the site would generate eight morning peak hour trips and eleven evening peak hour trips when fully developed. This represents a net increase of seven morning peak hour trips and ten evening peak hour trips. Under the proposed zoning, the average daily traffic would increase by 94 trips, from 10 to 104. The trip generation estimates are summarized in Table 1, and detailed trip generation calculations are included in the appendix to this letter.

---

1 Institute of Transportation Engineers (ITE), *Trip Generation Manual, 9th Edition,* 2012.

Table 1: Trip generation difference for the current and proposed zoning

	Max. # of Lots	Morning Peak			Evening Peak			Weekday Total
		In	Out	Total	In	Out	Total	
FF10 Zoning	11	2	6	8	7	4	11	104
TBR Zoning	1	0	1	1	1	0	1	10
Difference	10	2	5	7	6	4	10	94

Clackamas County Zone Change Requirements

Section 1202.01(C) of Clackamas County Code specifies the transportation-related approval criterion for a zone change: "The transportation system is adequate…and will remain adequate with approval of the zone change." Each of the five evaluation factors specified by the code are quoted directly below with responses following.

1202.01(C)(1)
The evaluation of transportation system adequacy shall include both the impact of the proposed zone change and growth in background traffic for a 20-year period beginning with the year that a complete land use application is submitted.

Given the rural setting of the site of the proposed zone change and the limited development potential of surrounding lands, traffic volumes in the vicinity are presently small and will remain small through the planning horizon. The impact of the additional trips that are possible following the approval of the zone change will be *de minimis*. The transportation system is therefore adequate through the planning horizon.

1202.01(C)(2)
It shall be assumed that all improvements identified in the Clackamas County 20-Year Capital Improvement Plan, the Statewide Transportation Improvement Plan, and the capital improvement plans of other local jurisdictions are constructed.

This is assumed in the analysis provided; however there are no planned projects in the vicinity of the proposed zone change that would have a significant effect on traffic in close proximity to the zone change.

1202.01(C)(3)
It shall be assumed that the subject property is developed with the primary use, allowed in the proposed zoning district, with the highest motor vehicle trip generation rate.

The residential uses assumed under both the existing zoning and the proposed new zoning represent the allowed uses that result in the highest motor vehicle trip generation.

1202.01(C)(4)
Transportation facility capacity shall be calculated pursuant to Subsection 1007.09(E).

This is not applicable, as it is not necessary to calculate the capacity of any specific facility in this study. This is explained in further detail in the response to the following factor.

1202.01(C)(5)
A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.

Clackamas County Roadway Standards Section 295.2 states the following with regard to when a traffic impact study (TIS) is required:

a. A TIS shall be required based upon an assessment of Engineering regarding the anticipated relative impact of a proposed development on the existing or planned transportation system.

b. A TIS to address traffic capacity shall not typically be required where the proposed development will generate less than twenty vehicles trips in any peak hour. However, a TIS may be required to address safety issues.

As described previously, the proposed zone change results in a trip generation of fewer than 20 trips during both residential peak periods. Based on this, and given the uncongested condition of the roads in the vicinity of the site, Clackamas County Engineering staff has determined that a full TIS is unnecessary to support the proposed zone change.

Additionally, Section ***1202.01(E)*** states the following:
Safety of the transportation system is adequate to serve the level of development anticipated by the zone change.

Again, given the rural location of the site and the limited development potential of the surrounding lands, traffic volumes are low in the vicinity and conflicts are minimal. No safety deficiencies are evident based upon on-site observations and the crash history in the vicinity, and it is expected that

this will remain the case through the planning horizon. The potential incremental increase in traffic resulting from the zone change will not degrade the safety in the site vicinity, and the system us therefore adequate to serve the existing and proposed uses.

Conformance with Transportation Planning Rule

The Transportation Planning Rule (TPR) is in place to ensure that the transportation system is capable of supporting possible increases in traffic intensity that could result from changes to adopted plans and land use regulations. The applicable section of the TPR is quoted directly in italics below, with a response following.

660-012-0060

(1) If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule, unless the amendment is allowed under section (3), (9) or (10) of this rule. 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) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions measured at the end of the planning period identified in the adopted TSP. As part of evaluating projected conditions, the amount of traffic projected to be generated within the area of the amendment may be reduced if the amendment includes an enforceable, ongoing requirement that would demonstrably limit traffic generation, including, but not limited to, transportation demand management. This reduction may diminish or completely eliminate the significant effect of the amendment.

(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan.

In this instance, subsections (A) and (B) are not triggered, since the proposed zone change will not impact or alter the functional classification of any existing or planned facility and the proposal does not include a change to any functional classification standards.

Subsection (C) is also not triggered as a result of the proposed zone change. The site of the proposed zone change is in a rural area, and the surrounding roads presently have relatively small traffic volumes. There is no significant congestion and applicable Clackamas County performance standards are clearly satisfied and will continue to be satisfied through the planning horizon. The increase in trips associated with the proposed zone change is insignificant and would not result in a perceptible change in intersection operation in the vicinity of the site. Given these minor impacts, the surrounding intersections are expected to continue to operate favorably through the planning horizon either with or without the proposed zone change in place.

All relevant performance standards are met and continue to be met through the planning horizon. Accordingly, the Transportation Planning Rule is satisfied.

Conclusions

Two parcels in north central Clackamas County are proposed for a zone change from TBR to FF10. The proposed zone change will generate an additional seven trips during the morning peak hour, and ten additional trips during the evening peak hour. The existing infrastructure is adequate to support this additional traffic at the planning horizon. The proposed zone change is in compliance with the State of Oregon's Transportation Planning Rule.

If you have any questions regarding this report or if you need any further assistance, please don't hesitate to contact us.

With Best Regards,

Brian A. Davis
Transportation Analyst

p. 503.248.0313
e. brian@lancasterengineering.com

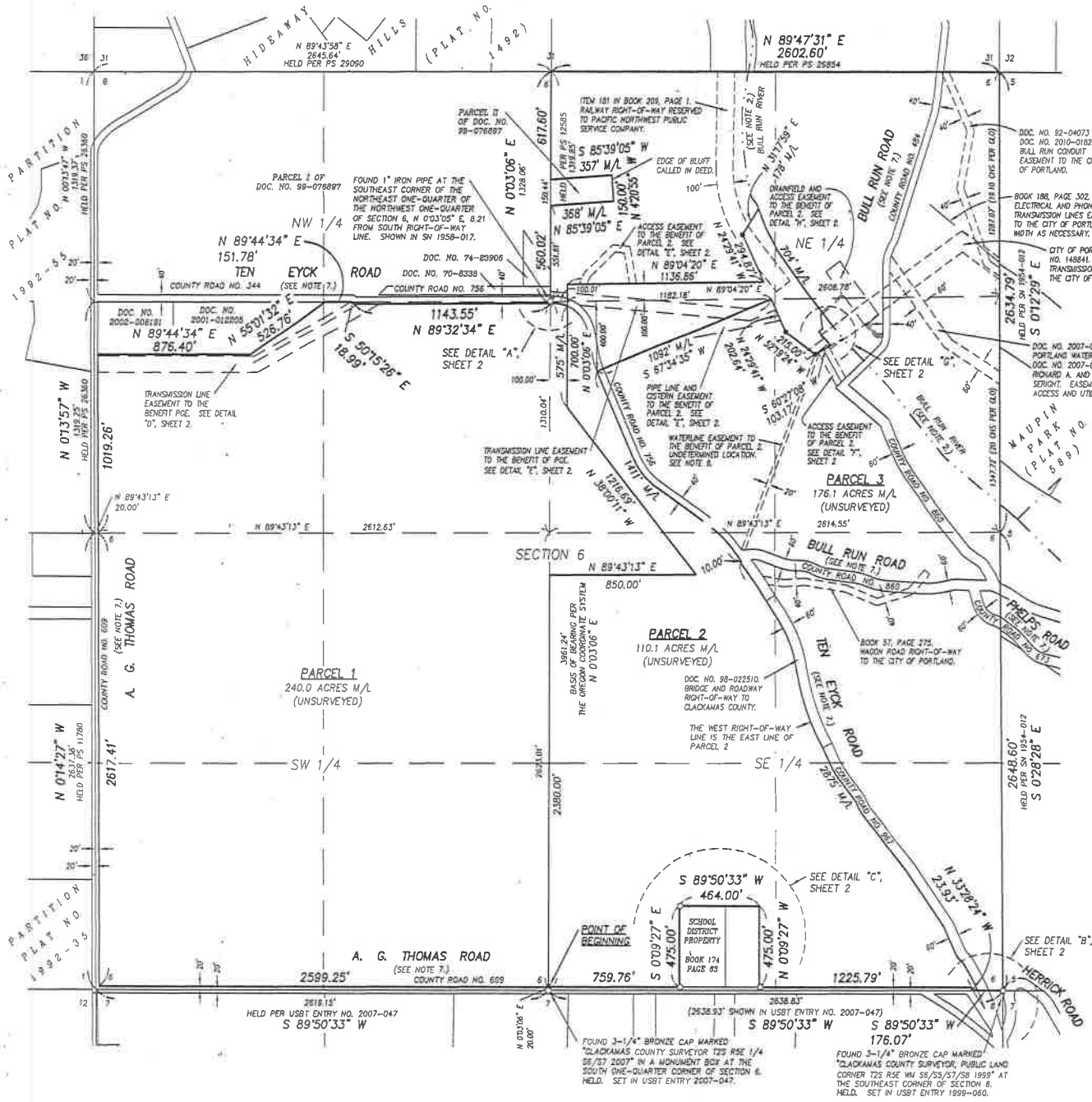
REGISTERED PROFESSIONAL ENGINEER
54853
OREGON
JULY 9, 2001
TODD E. MOBLEY
11/4/13
EXPIRES: 12/31/2014

Appendix

PARTITION PLAT NO. _____

LOCATED IN ALL QUARTERS OF SECTION 6,
TOWNSHIP 2 SOUTH, RANGE 5 EAST OF THE WILLAMETTE MERIDIAN,
CLACKAMAS COUNTY, OREGON

SEPTEMBER 12, 2011 — SCALE: 1" = 400'



orion GEOMATICS
1724 23rd Avenue
Forest Grove, OR 97116
Because the world is a spatial place™

REGISTERED PROFESSIONAL LAND SURVEYOR
OREGON JANUARY 29, 1988 GARY P. CHRISTERSON 2377

RENEWAL: DECEMBER 31, 2011

I, GARY P. CHRISTERSON, CERTIFY THAT THIS SURVEY WAS PREPARED USING HP PRODUCT #4844A ON MILANO JPC-4M2 POLYESTER FILM.

N / W / E / S

SCALE
400 0 200 400 800
(FEET)
1 INCH = 400 FEET

LEGEND

- EASEMENT SIDE LINE.
- PROPERTY LINES AND RIGHT-OF-WAY LINES.
- SECTION 6 CENTERLINES AND ONE-QUARTER SECTION CENTERLINES.
- STREAM CENTERLINE.
- O FOUND MONUMENT.
- ● SET A 5/8" X 30" IRON ROD WITH A YELLOW PLASTIC CAP MARKED "ORION GPS, INC.". SET ON SEPTEMBER 12, 2011.
- M/L MORE OR LESS.

NOTES

1. THIS PLAT WAS PREPARED FROM RECORD DATA ONLY. LIMITED FIELD SURVEY HAS BEEN CONDUCTED. ALL MAP DATA AND DESCRIPTIONS ARE BASED PRIMARILY UPON INFORMATION AVAILABLE IN THE PUBLIC RECORDS. NO WARRANTY IS MADE AS TO THE CORRECTNESS OF THE DIMENSIONAL DATA AND THE SURVEY MONUMENTS SHOWN AND NO LIABILITY IS ASSUMED IF SAID INFORMATION IS IN ERROR. THIS MAP DOES NOT CONSTITUTE A BOUNDARY SURVEY AND IS SUBJECT TO ANY DISCREPANCIES WHICH A COMPLETE AND ACCURATE BOUNDARY SURVEY WOULD DISCLOSE. POTENTIAL PURCHASERS ARE HEREBY NOTIFIED THAT THE PARCEL AND TOTAL AREAS AND DIMENSIONS SHOWN ALONG THE PLAT BOUNDARY MAY BE SUBJECT TO CHANGE UPON COMPLETION OF A PROPER BOUNDARY (FIELD) SURVEY. SPECIFIC MINIMUM PROPERTY AREAS (BASED UPON BEST AVAILABLE EVIDENCE AT THE TIME OF FUTURE APPLICATION) ARE REQUIRED IN SOME COUNTY ZONES. POTENTIAL CUSTOMERS SHOULD INVESTIGATE ZONING REQUIREMENTS, CONDITIONS, AND APPROVED USES.
2. THE STATE OF OREGON HAS NOT DONE A NAVIGABILITY STUDY FOR TITLE PURPOSES OF THE BULL RUN RIVER. THE OWNERSHIP OF THE SUBMERGED AND SUBMERSIBLE LAND BELOW THE LINE OF ORDINARY HIGH WATER ALONG THIS WATERWAY IS UNKNOWN AND CANNOT BE KNOWN UNTIL SUCH TIME THAT A NAVIGABILITY STUDY IS CONDUCTED AND A DETERMINATION MADE EITHER BY THE LAND BOARD OR A COURT OF ADEQUATE JURISDICTION.
3. THIS PARTITION PLAT IS SUBJECT TO THE CONDITIONS OF APPROVAL CONTAINED IN CLACKAMAS COUNTY CASE FILE NUMBER Z0154-11-FLD.
4. BOOK 28, PAGE 75, RECORDED OCTOBER 6, 1886 CONVEYS A WATERLINE EASEMENT TO THE CITY OF PORTLAND. THIS EASEMENT IS NOT TO EXCEED 33 FEET IN WIDTH AND IS AT AN UNDESIGNATED LOCATION IN THE WEST ONE-HALF OF THE NORTHEAST ONE-QUARTER OF SECTION 6.
5. BOOK 28, PAGE 81, RECORDED OCTOBER 6, 1886 CONVEYS A WATERLINE EASEMENT TO THE CITY OF PORTLAND. THIS EASEMENT IS NOT TO EXCEED 33 FEET IN WIDTH AND IS AT AN UNDESIGNATED LOCATION IN HOMESTEAD CLAIM 5411; THE EAST ONE-HALF OF THE NORTHEAST ONE-QUARTER; THE NORTHEAST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER; THE NORTHWEST ONE-QUARTER OF THE SOUTHEAST ONE-QUARTER; AND THE NORTHEAST ONE-QUARTER OF THE SOUTHWEST ONE-QUARTER OF SECTION 6.
6. BOOK 28, PAGE 83, RECORDED OCTOBER 6, 1886 CONVEYS A WATERLINE EASEMENT TO THE CITY OF PORTLAND. THIS EASEMENT IS NOT TO EXCEED 33 FEET IN WIDTH AND IS AT AN UNDESIGNATED LOCATION IN THE SOUTH ONE-HALF OF THE NORTHWEST ONE-QUARTER AND THE NORTH ONE-HALF OF THE SOUTHWEST ONE-QUARTER OF SECTION 6.
7. THIS PLAT WILL BE SUBJECT TO ANY OFFICIAL COUNTY ROAD LOCATION CONDUCTED BY CLACKAMAS COUNTY.
8. THE LOCATION OF THIS WATERLINE HAS NOT BEEN DETERMINED. A WATERLINE EASEMENT, 20 FEET IN WIDTH, FOLLOWING THIS WATERLINE IS CONVEYED TO THE BENEFIT OF PARCEL 2.

1e

TRIP GENERATION CALCULATIONS

Land Use: Single-Family Detached Housing
Land Use Code: 210
Variable: Dwelling Units
Variable Value: 1

AM PEAK HOUR

Trip Rate: 0.75

	Enter	Exit	Total
Directional Distribution	25%	75%	
Trip Ends	0	1	1

PM PEAK HOUR

Trip Rate: 1.00

	Enter	Exit	Total
Directional Distribution	63%	37%	
Trip Ends	1	0	1

WEEKDAY

Trip Rate: 9.52

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	5	5	10

SATURDAY

Trip Rate: 9.91

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	5	5	10

Source: TRIP GENERATION, Ninth Edition

1e

TRIP GENERATION CALCULATIONS

Land Use: Single-Family Detached Housing
Land Use Code: 210
Variable: Dwelling Units
Variable Value: 11

AM PEAK HOUR

Trip Rate: 0.75

	Enter	Exit	Total
Directional Distribution	25%	75%	
Trip Ends	2	6	8

PM PEAK HOUR

Trip Rate: 1.00

	Enter	Exit	Total
Directional Distribution	63%	37%	
Trip Ends	7	4	11

WEEKDAY

Trip Rate: 9.52

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	52	52	104

SATURDAY

Trip Rate: 9.91

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	55	55	110

Source: TRIP GENERATION, Ninth Edition

EXHIBIT LIST

IN THE MATTER OF: Powerhouse Re Gen LLC and Bull Run Schoolhouse LLC, and Portland General Electric

PLANNING FILE NO. Z0208-14-CP / Z0209-14-Z

Ex. No.	*Date of Exhibit*	*Author or source*	*Subject*
1	None	County Assessor	Location Map
2	None	Statewide Goals	Goal 4
3	None	Statewide Goals	Goal 5
4	None	Oregon Revised Statute	ORS 197.732-Goal Exceptions
5	None	Oregon Administrative Rules	OAR 660-004-0018 thru 0022
6	None	Comp Plan, Land Use Section 4	Forest Lands
7	None	Comp Plan, Land Use Section 4	Rural Lands
8	None	Comp Plan, Historic Site	Historic Landmarks
9	2011	Staff	Partition Plat 2011-071
10	1976	Staff	1976 – 2012 Aerial Photos
11	2006	Land Use Board of Appeals	*Landwatch Lane Co. vs. Lane County*
12	1986	Building Code Division	Building Permit B0071986 - Septic
13	1963	Portland General Electric	Septic Installation
14	None	Applicant	Historic Review Board Handout
15	None	Internet by Staff	About Trackers Earth, Portland
16	11-29-12	Staff	Lot of Record Status T.L. 600
17	3-29-12	Hearings Officer	Z0263-11-C – Trackers Ranch
18	1-26-12	Staff Recommendations	Z0263-11-C – Trackers Ranch
19	3-1-14	ZDO	Section 310 of the ZDO
20	3-1-14	ZDO	Section 406 of the ZDO - TBR
21	5-14-12	ZDO	Section 707 of the ZDO- Historic
22	5-14-12	ZDO	Section 813 of the ZDO - Campgrounds
23	None	Staff	Staff Worksheet – Study Area
24	2-28-00	BCC	Memo – BCC Plan Amendments
25	None	Staff	Aerials of Sites
26	1-24-14	Lancaster Engineering	Supplemental Traffic Study
27	2-24-14	Rick Nys, Traffic Engineer	Fact and Findings of Traffic Study
28	6-26-09	DLCD	Planning of Exception Areas
29	8-20-09	BCC	Limitation of School Use Only
30	3-11-14	Peggy Moretti, Restore Oregon	Comments
31	None	Donald Howse	Comments
32	None	Dan & Jeri Reynoldson	Comments
33	None	Ethan Jewett, Scoutmaster	Comments

34	3-23-14	Darcy Dedortha, MS	Comments
35	3-22-14	Beth Willhite	Comments
36	None	Staff	Mapping of Old Powerhouse Lines
37	None	Karen Karlsson, Applicant	Overview Presentation w/ Photos
38	3-24-14	Keith W. Sprengel	Comments
39	8-15-06	Yamhill Co. BCC – B.O. 790	Example of – "Reasons Exception"
40	5-23-14f	Katherine Daniels, DLCD	Comments to Applicant
41	None	Karen Karlsson, Applicant	PowerPoint Presentation
42	None	Karen Karlsson, Applicant	Bull Run History Booklet
43	7-28-14	Becky Hewitt, Consultant	Additional Uses
44	7-30-14	Staff	Guidance Letter w/ Section 813 of ZDO
45	8-4-14	Becky Hewitt, Consultant	Approval Criteria
46	8-4-14	Becky Hewitt, Consultant	Applicant's Vision
47	8-4-14	Becky Hewitt, Consultant	Uses By Site
48	8-11-14	Katherine Daniels, DLCD	Comments
49	8-11-14	Staff	Memo – New Use Recommendation
50	8-30-96	State of Oregon	Statewide Goal 5 (8/30/96 Edition)
51	None	Staff	List of Uses – Side By Side Per Site
52	8-27-14	Land Use Board of Appeals	Columbia Riverkeeper v. Columbia Co.
53	9-17-14	Mollie M. King	Comments
54	7-7-14	Robert Hixson, Engineering	Comments
55	7-25-14	Robert Hixson, Engineering	Comments
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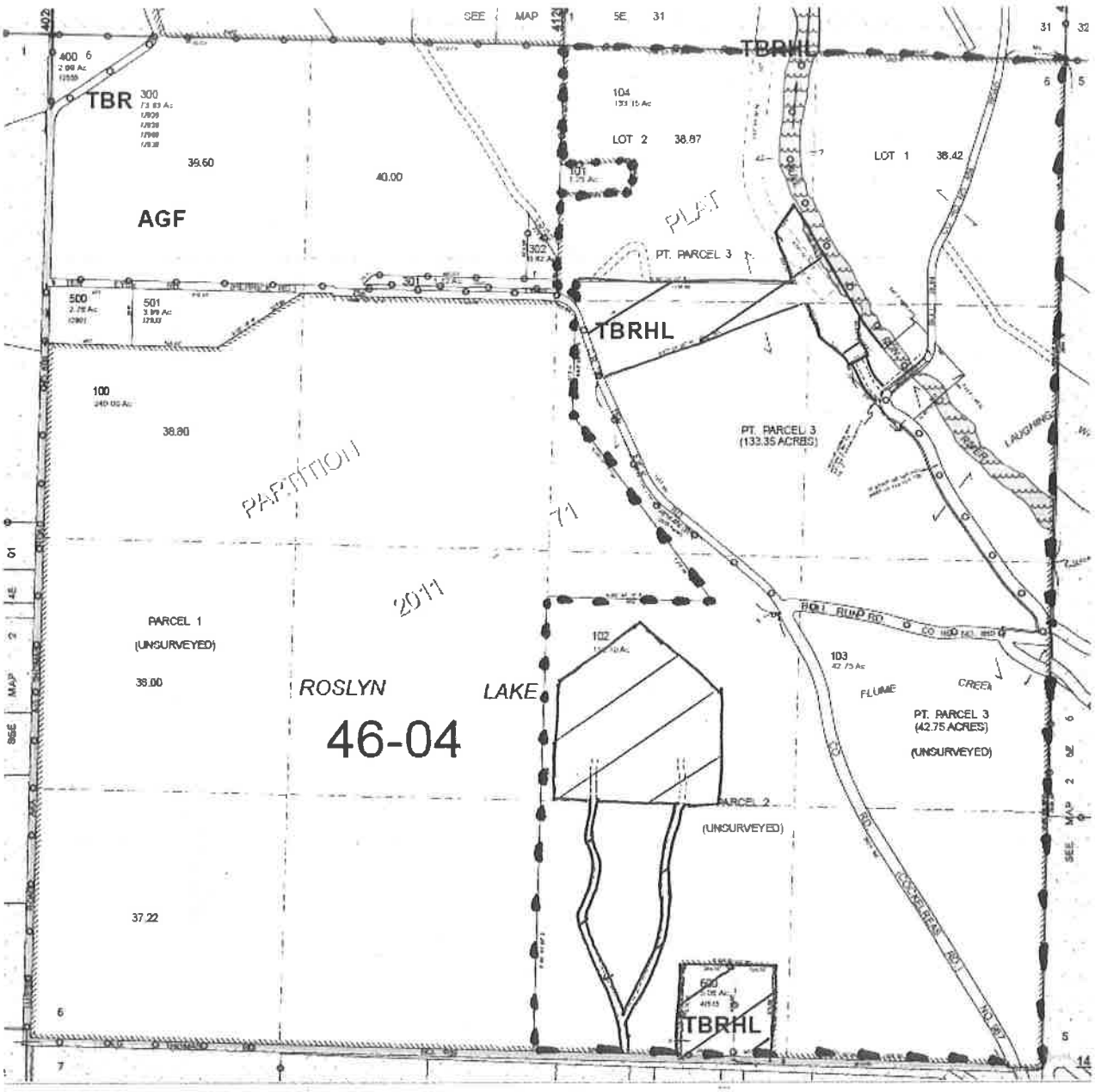
SEE MAP
TBR
AGF
39.60
40.00
LOT 2
38.87
LOT 1
38.42
PLAT
PT. PARCEL 3
TBRHL
38.80
PARTITION
71
2011
PARCEL 1
(UNSURVEYED)
38.00
ROSLYN
LAKE
46-04
PT. PARCEL 3
(133.35 ACRES)
PT. PARCEL 3
(42.75 ACRES)
(UNSURVEYED)
PARCEL 2
(UNSURVEYED)
37.22
TBRHL

EXHIBIT 1

1-1

GOAL 4: FOREST LANDS

To conserve 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.

USES

Forest operations, practices and auxiliary uses shall be allowed on forest lands subject only to such regulation of uses as are found in ORS 527.722.

Uses which may be allowed subject to standards set forth in this goal and administrative rule are: (1) uses related to and in support of forest operations; (2) uses to conserve soil, water and air quality, and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; (3) locationally dependent uses; (4) dwellings authorized by law.

IMPLEMENTATION

Comprehensive plans and zoning provide certainty to assure that forest lands will be available now and in the future for the growing and harvesting of trees. Local governments shall inventory, designate and zone forest lands. Local governments shall adopt zones which contain provisions to address the uses allowed by the goal and administrative rule and apply those zones to designated forest lands.

Zoning applied to forest land shall contain provisions which limit, to the extent permitted by ORS 527.722, uses which can have significant adverse effects on forest land, operations or practices. Such zones shall contain numeric standards for land divisions and standards for the review and siting of land uses. Such land divisions and siting standards shall be consistent with the applicable statutes, goal and administrative rule. If a county proposes a minimum lot or parcel size less than 80 acres, the minimum shall meet the requirements of ORS 527.630 and conserve values found on forest lands. Siting standards shall be designed to make allowed uses compatible with forest operations, agriculture and to conserve values found on forest lands.

Local governments authorized by ORS 215.316 may inventory, designate and zone forest lands as marginal land, and may adopt a zone which contains provisions for those uses and land divisions authorized by law.

GUIDELINES

A. PLANNING

1. Forest lands should be inventoried so as to provide for the preservation of such lands for forest uses.
2. Plans providing for the preservation of forest lands for forest uses should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

B. IMPLEMENTATION

1. Before forest land is changed to another use, the productive capacity of the land in each use should be considered and evaluated.
2. Developments that are allowable under the forest lands classification should be limited to those activities for forest production and protection and other land management uses that are compatible with forest production. Forest lands should be available for recreation and other uses that do not hinder growth.
3. Forestation or reforestation should be encouraged on land suitable for such purposes, including marginal agricultural land not needed for farm use.
4. Road standards should be limited to the minimum width necessary for management and safety.
5. Highways through forest lands should be designed to minimize impact on such lands.
6. Rights-of-way should be designed so as not to preclude forest growth whenever possible.
7. Maximum utilization of utility rights-of-way should be required before permitting new ones.
8. Comprehensive plans should consider other land uses that are adjacent to forest lands so that conflicts with forest harvest and management are avoided. ❖

EXHIBIT 2
1-1

GOAL 5: OPEN SPACES, SCENIC AND HISTORIC AREAS, AND NATURAL RESOURCES

To conserve open space and protect natural and scenic resources.

Programs shall be provided that will:
(1) insure open space,
(2) protect scenic and historic areas and natural resources for future generations, and
(3) promote healthy and visually attractive environments in harmony with the natural landscape character.
The locations, quality and quantity of the following resources shall be inventoried:

a. Land needed or desirable for open space;
b. Mineral and aggregate resources;
c. Energy sources;
d. Fish and wildlife areas and habitats;
e. Ecologically and scientifically significant natural areas, including desert areas;
f. Outstanding scenic views and sites;
g. Water areas, wetlands, watersheds and groundwater resources;
h. Wilderness areas;
i. Historic areas, sites, structures and objects;
j. Cultural areas;
k. Potential and approved Oregon recreation trails;
l. Potential and approved federal wild and scenic waterways and state scenic waterways.

Where no conflicting uses for such resources have been identified, such resources shall be managed so as to preserve their original character. Where conflicting uses have been identified the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

Cultural Area -- refers to an area characterized be evidence of an ethnic, religious or social group with distinctive traits, beliefs and social forms.

Historic Areas -- are lands with sites, structures and objects that have local, regional, statewide or national historical significance.

Natural Area -- includes land and water that has substantially retained its natural character and land and water that, although altered in character, is important as habitats for plant, animal or marine life, for the study of its natural historical, scientific or paleontological features, or for the appreciation of its natural features.

Open Space -- consists of lands used for agricultural or forest uses, and any land area that would, if preserved and continued in its present use:

(a) Conserve and enhance natural or scenic resources;
(b) Protect air or streams or water supply;
(c) Promote conservation of soils, wetlands, beaches or tidal marshes;
(d) Conserve landscaped areas, such as public or private golf courses, that reduce air pollution and enhance the value of abutting or neighboring property;
(e) Enhance the value to the public of abutting or neighboring parks, forests, wildlife preserves, nature reservations or sanctuaries or other open space;
(f) Enhance recreation opportunities;
(g) Preserve historic sites;
(h) Promote orderly urban development.

Scenic Areas -- are lands that are valued for their aesthetic appearance.

Wilderness Areas -- are areas where the earth and its community of life are untrammeled by man, where man himself is a visitor who does not remain. It is an area of undeveloped land retaining its primeval character and influence, without permanent improvement or human habitation, which is protected and managed so as to preserve its natural conditions and which (1) generally appears to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable; (2) has outstanding opportunities for solitude or a primitive and unconfined type of recreation; (3) may also contain ecological, geological, or other features or scientific, educational, scenic or historic value.

EXHIBIT 3
1-2

GUIDELINES FOR GOAL 5

A. PLANNING

1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.
2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.
3. Natural resources and required sites for the generation of energy (i.e. natural gas, oil, coal, hydro, geothermal, uranium, solar and others) should be conserved and protected; reservoir sites should be identified and protected against irreversible loss.
4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.
5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.
6. In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected.
7. As a general rule, plans should prohibit outdoor advertising signs except in commercial or industrial zones. Plans should not provide for the reclassification of land for the purpose of accommodating an outdoor advertising sign. The term "outdoor advertising sign" has the meaning set forth in ORS 377.710(23).

B. IMPLEMENTATION

1. Development should be planned and directed so as to conserve the needed amount of open space.
2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.
3. The efficient consumption of energy should be considered when utilizing natural resources.
4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.
5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.
6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas.
7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.
8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.
9. Areas identified as having non-renewable mineral and aggregate resources should be planned for interim, transitional and "second use" utilization as well as for the primary use. ❖

EXHIBIT 3
2-2

Oregon Revised Statutes (ORS)

197.732 Goal exceptions; criteria; rules; review.

(2) A local government may adopt an exception to a goal if:
(a) The land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal;
(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable; **or**

(c) The following standards are met:

(A) Reasons justify why the state policy embodied in the applicable goals should not apply;

(B) Areas that do not require a new exception cannot reasonably accommodate the use;

(C) The long term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and

(D) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

Oregon Administrative Rule

660-004-0018

Planning and Zoning for Exception Areas

(1) Purpose. This rule explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 and 660-014-0030 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(2) through (3) **Do Not Apply To The Reasons Exception**

(4) **"Reasons" Exceptions:**

(a) When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception.

(b) When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required.

(c) When a local government includes land within an unincorporated community for which an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022 was previously adopted, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that were justified in the exception or OAR 660-022-0030[1], whichever is more stringent.

660-004-0020

Goal 2, Part II(c), Exception Requirements

(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception. As provided in OAR 660-004-0000(1), rules in other divisions may also apply.

(2) The four standards in Goal 2 Part II(c) required to be addressed when taking an exception to a goal are described in subsections (a) through (d) of this section, including general requirements applicable to each of the factors:

(a) "Reasons justify why the state policy embodied in the applicable goals should not apply." The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land;

(b) "Areas that do not require a new exception cannot reasonably accommodate the use". The exception must meet the following requirements:

(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use that do not require a new exception. The area for which the exception is taken shall be identified;

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[1] **660-022-0030 – This review is not for an Unincorporated Community**
Planning and Zoning of Unincorporated Communities

EXHIBIT 5
1-3

(B) To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?

(C) The "alternative areas" standard in paragraph B may be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception unless another party to the local proceeding describes specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described, with facts to support the assertion that the sites are more reasonable, by another party during the local exceptions proceeding.

(c) "The long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site." The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. Other possible impacts to be addressed include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;

(d) "The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. "Compatible" is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.

(3) If the exception involves more than one area for which the reasons and circumstances are the same, the areas may be considered as a group. Each of the areas shall be identified on a map, or their location otherwise described, and keyed to the appropriate findings.

(4) - **Do Not Apply To The Reasons Exception**

660-004-0022

Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)

An exception under Goal 2, Part II(c) may be taken for any use not allowed by the applicable goal(s) or for a use authorized by a statewide planning goal that cannot comply with the approval standards for that type of use. The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule. Reasons that may allow an exception to Goal 11 to provide sewer service to rural lands are described in OAR 660-011-0060. Reasons that may allow transportation facilities and improvements that do not meet the requirements of OAR 660-012-0065 are provided in OAR 660-012-0070. Reasons that rural lands are irrevocably committed to urban levels of development are provided in OAR 660-014-0030. Reasons that may justify the establishment of new urban development on undeveloped rural land are provided in OAR 660-014-0040.

(1) For uses not specifically provided for in this division, or in OAR 660-011-0060, 660-012-0070, 660-014-0030 or 660-014-0040, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either

(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this paragraph must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or

(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.

(2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing except as provided for in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned that require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area.

(3) Rural Industrial Development:
(4) Expansion of Unincorporated Communities:
(5) Expansion of Urban Unincorporated Communities
(6) Willamette Greenway:
(7) Goal 16 — Water-Dependent Development:
(8) Goal 16 – Other Alterations or Uses:
(10) Goal 18 — Foredune Breaching:
(11) Goal 18 — Foredune Development:

CLACKAMAS COUNTY COMPREHENSIVE PLAN

LAND USE DEFINITIONS

This Plan divides the County into six principal land use categories: Urban, Urban Reserve, Unincorporated Communities, Rural, Agriculture, and Forest. This plan also establishes one or more land use plan designations within each of these categories.

Forest

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

FOREST

Forest areas are composed of existing and potential forestlands that are suitable for commercial forest uses. Also included are other forested lands needed for watershed protection, wildlife and fish habitat, and recreation, lands where extreme conditions of climate, soil, and topography require maintenance of vegetative cover, and forested lands in urban and agricultural areas which provide urban buffers, wind breaks, wildlife habitat, scenic corridors, and recreational use.

GOALS

□ To conserve forestlands.

□ To protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of timber as the leading use on forestland.

□ To conserve, protect, and enhance watersheds, wildlife and fisheries resources, agriculture, and recreational opportunities that are compatible with the primary intent of the plan designation.

□ To minimize wildfire hazards and risks.

□ To enhance and protect other environmentally sensitive areas.

POLICIES

1.0 The following areas shall be designated Forest:

a. Lands suitable for forest use;
b. Lands predominantly capable of generating at least 85 cubic feet of timber per acre per year;
c. Areas generally in forest uses;

d. Areas which are environmentally sensitive or otherwise require protection (watersheds, areas subject to erosion, landslides, etc.) should be designated Forest;
e. Forested areas which buffer more intense land uses from areas of less intense use may be designated Forest.

2.0 Encourage forest-related industries.

3.0 Prohibit land uses that conflict with forest uses.

4.0 Housing should be limited in Forest areas because it is generally incompatible with forest uses due to fire danger and accepted forest practices such as herbicide spraying and slash burning.

5.0 Prohibit commercial and industrial development in Forest areas.

6.0 Prohibit new sewer facilities in Forest areas.

7.0 Encourage use of a Homestead provision that allows retention of a homesite with an existing dwelling and transfer of the remaining property as long as the transfer is compatible with Forest policies.

8.0 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.

9.0 Apply zoning districts consistent with state, regional, and County goals and United States Forest Service land allocation and management plans to the Mt. Hood and Willamette National Forests.

10.0 This Plan and implementing ordinance provisions shall not conflict with the Oregon Forest Practices Act.

11.0 The Timber (TBR) and Ag/Forest (AG/F) zoning districts implement the goals and policies of the Forest plan designation. The TBR zoning district shall be applied to areas predominantly in forest use. The AG/F zoning district shall be applied to areas having such a mixture of agricultural and forest uses that neither Statewide Planning Goal 3 nor Goal 4 applies alone.

12.0 Except on lands within urban growth boundaries or as provided by the Oregon Revised Statutes for abandoned or diminished mill sites, exceptions to Statewide Planning Goals 3 and 4 shall be required for a plan amendment from the Forest designation to any designation other than Agriculture

EXHIBIT 6
2-2

CLACKAMAS COUNTY COMPREHENSIVE PLAN

LAND USE DEFINITIONS

This Plan divides the County into six principal land use categories: Urban, Urban Reserve, Unincorporated Communities, Rural, Agriculture, and Forest. This plan also establishes one or more land use plan designations within each of these categories.

Rural

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement such as small farms, wood lots or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

RURAL

Rural lands are exception lands, as defined in Oregon Administrative Rules 660-004-0005(1), that are outside urban growth boundaries and Unincorporated Communities and are suitable for sparse settlement, such as small farms, woodlots, or acreage home sites. They lack public facilities or have limited facilities and are not suitable, necessary, or intended for urban, agricultural, or forest use.

GOALS

- To provide a buffer between urban and agricultural or forest uses.

- To perpetuate the rural atmosphere while maintaining and improving the quality of air, water, and land resources.

- To conserve open space and protect wildlife habitat.

POLICIES

1.0 Areas may be designated Rural if they are presently developed, built upon, or otherwise committed to sparse settlement or small farms with limited, if any, public services available.

2.0 Designation of additional Rural lands shall be based on findings that shall include, but not be limited to:

a. Reasons why additional Rural land is needed or should be provided;

b. An evaluation of alternative areas in the County that should be designated Rural and a statement of why the chosen alternative is more suitable;

c. An evaluation of the long-term environmental, economic, social, and energy consequences to the locality, region, or state of designating the area Rural; and

d. Reasons why designating the area Rural will be compatible with other adjacent uses;

EXHIBIT 7
1-3

3.0 Areas impacted by major transportation corridors, adjacent to urban growth boundaries or areas designated Rural, and for which public services are committed or planned shall be given priority in designating additional Rural areas.

4.0 Residential lot sizes shall be based upon:

a. Parcelization;
b. Level of existing development;
c. Topography;
d. Soil conditions;
e. Compatibility with the types and levels of available public facilities;
f. Proximity to Unincorporated Communities or an incorporated city; and
g. Capacity and level of service of the road network

5.0 Existing large lots should be reduced to meet future rural housing needs prior to expanding the areas designated as Rural.

6.0 Areas with marginal or unsuitable soils for agricultural or forest use shall be given a higher priority for conversion to rural development than areas with more suitable soils.

7.0 Public facilities should be expanded or developed only when consistent with maintaining the rural character of the area.

8.0 Increased water service to an area shall not be used in and of itself to justify reduced lot sizes.

9.0 The County shall encourage grouping of dwelling units with lot sizes less than the minimum allowed by the zoning district when such development is compatible with the policies in this Plan and the overall density of the zoning district.

10.0 Lawfully established nonconforming structures and uses that are destroyed by fire, other casualty, or natural disaster shall be allowed to reconstruct, as provided by the Zoning and Development Ordinance.

11.0 The Rural Area Residential 2-Acre (RA-2), Rural Residential Farm/Forest 5-Acre (RRFF-5), and Farm/Forest 10-Acre (FF-10) zoning districts implement the goals and policies of the Rural plan designation. These zoning districts shall be applied in Rural areas as follows:

11.1 The RA-2 zoning district shall be applied when all the following criteria are met:

a. Parcels are generally two acres or smaller.
b. The area is significantly affected by development.
c. There are no natural hazards, and the topography and soil conditions are well suited for the location of homes.
d. A public or private community water system is available.
e. Areas are in proximity or adjacent to an Unincorporated Community or incorporated city.

f. In areas adjacent to urban growth boundaries, RA-2 zoning shall be limited to those areas in which virtually all existing lots are two acres or less.

11.2 The RRFF-5 zoning district shall be applied when all the following criteria are met:

a. Parcels are generally five acres.
b. The area is affected by development.
c. There are no serious natural hazards, and the topography and soils are suitable for development.
d. Areas are easily accessible to an Unincorporated Community or incorporated city.

11.3 The FF-10 zoning district shall be applied when one or more of the following criteria are met:

a. Parcels are generally ten acres.
b. The area is developed with a mixture of uses not consistent with extensive commercial agriculture or forestry uses.
c. Access to an Unincorporated Community or an incorporated city is generally poor.

Clackamas County Comprehensive Plan
[4-63] Last Amended 3/1/14

EXHIBIT 7
3-3

HISTORIC LANDMARKS, DISTRICTS, AND TRANSPORTATION CORRIDORS

Clackamas County has a rich and unique heritage from its founding through its development over time. Historic sites, objects, structures, and transportation corridors still remain which represent prehistory, the era of the Territorial Government, western migration along the Oregon Trail, the existence of the first and longest running electric street car line in the nation, the influence of the railroad on development and our heritage as an agricultural and lumber based economy. We are the stewards of these historic resources and charged through state law to protect and preserve them.

Cultural, economic, and social benefits can come from preservation of the County's historic resources. There is cultural value in establishing firm, visible links with the past. Economic benefits include enhanced property values, savings in structure replacement costs, tourism, and, in commercial areas, strengthened retail sales. Social and community benefits appear in the renewal of older neighborhoods and the increased pride fostered in the residents.
To effectively preserve historical resources, an evaluation must determine which structures and sites are worthy of preservation. A method of regulating the use or demolition of historic resources would then be necessary to protect them. It is essential that the County make a firm commitment to protect its historic resources.

Individual descriptions and maps of Clackamas County Historic Landmarks which are located within the urban area of the County can be found in the Clackamas County Historic Landmarks book, adopted by Clackamas County.

A detailed mapping project of the Barlow Road, the westernmost segment of the Oregon Trail, was undertaken in 1988. This document, entitled Maps of the Barlow Road, Mt. Hood to Oregon City, Clackamas County, prepared by the Planning and Economic Development Division, exhibits maps of the historic road corridor as well as associated historic sites. It also includes recommendations for a more detailed survey to assist in the preservation and management of this historic resource.

GOAL

- Preserve the historical, archaeological, and cultural resources of the County.

POLICIES

1.0 Conduct a comprehensive inventory in the County of historic areas, sites, structures, and objects. Inventory the location, quantity and quality of these resources using state and federal criteria.

2.0 The County adopts the Barlow Road Historic Corridor as defined by the Barlow Road Survey Project and the Barlow Road Background Report and Management Plan as a Clackamas County Historic Corridor. All provisions of the Historic Landmarks, Historic Districts and Historic Corridors Ordinance shall apply to the designated sites and historic corridor of the Barlow Road. (5-13-87; 3-24-94)

3.0 Develop criteria to further evaluate the significance of these historic resources using state and federal criteria as models.

4.0 Zone properties Historic Landmark (HL), Historic Districts (HD), or Historic Corridor (HC) which are determined significant by the evaluation criteria.

5.0 Identify conflicts by analyzing the economic, social, environmental, and energy consequences of land use actions with regard to significant historic resources.

6.0 Develop policies and programs to protect historic resources and minimize the conflicts.

7.0 Pursue private and public sources of funding for use by property owners in the renovation and maintenance of historic properties.

8.0 Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties.

9.0 Appoint an Historic Review Board whose role is to protect and preserve Historic Landmarks, Districts, and Corridors and who individually have demonstrated interest and expertise in the field of Historic Preservation. This Board shall be empowered to:

9.1 Recommend zoning of Historic Landmarks, Historic Districts, and Historic Corridors. (5-13-87)

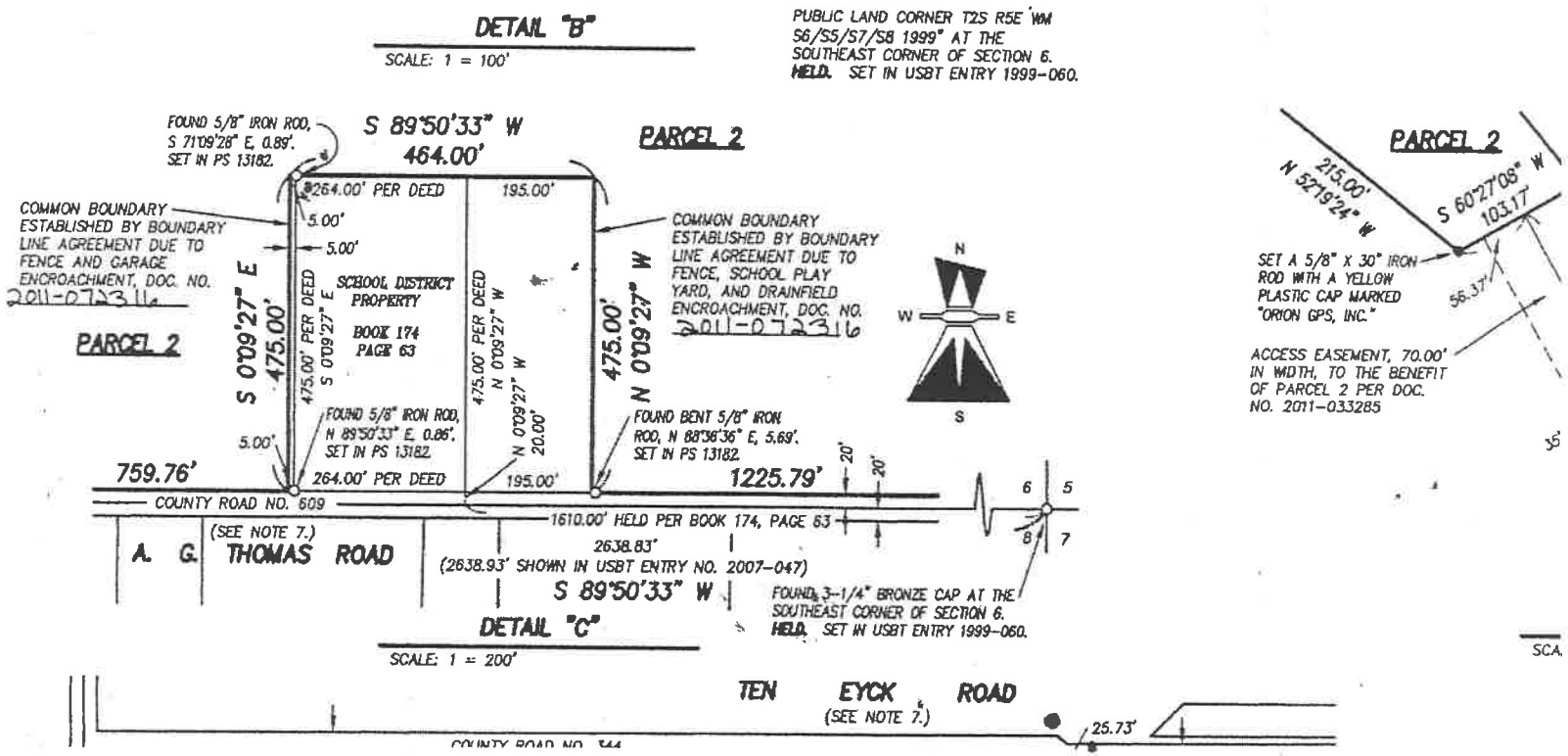
9.2 Review alterations, new construction land divisions, and proposed demolition on all Landmark, District, and Corridor properties. (5-13-87)

9.3 Provide technical assistance and conduct workshops to provide an educational forum for historic preservation to broaden community awareness and public participation. (5-13-87)

9.4 Coordinate local preservation programs, including signing, plaques or other monumentation, driving and walking tour brochures, and other informational pieces. (5-13-87)

9.5 Make recommendations for designation of sites on the National Register of Historic Places. (5-13-87)

EXHIBIT 8
3-3



Partition Plat 2011 - 071

EXHIBIT 9
1-1

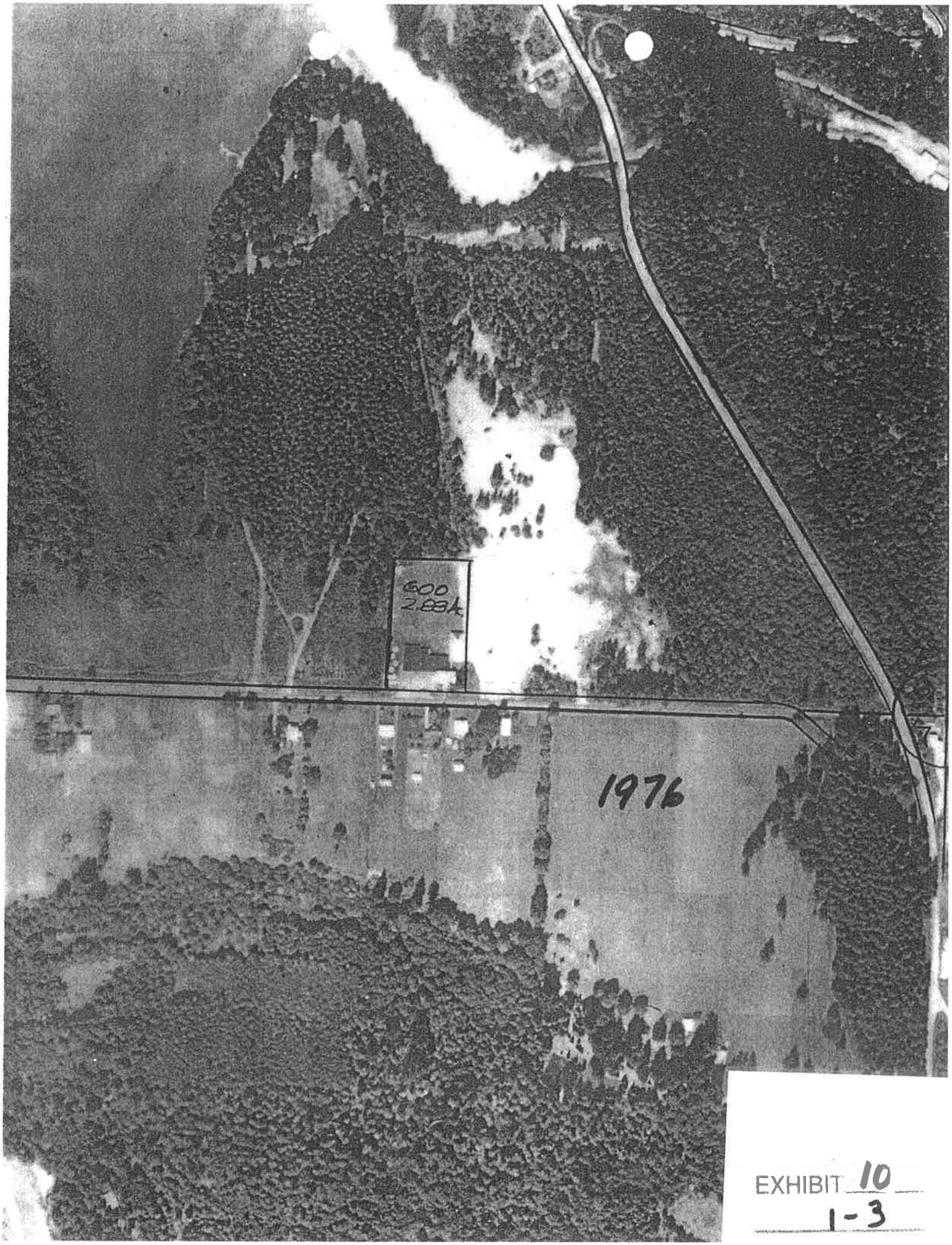


EXHIBIT 10
1-3

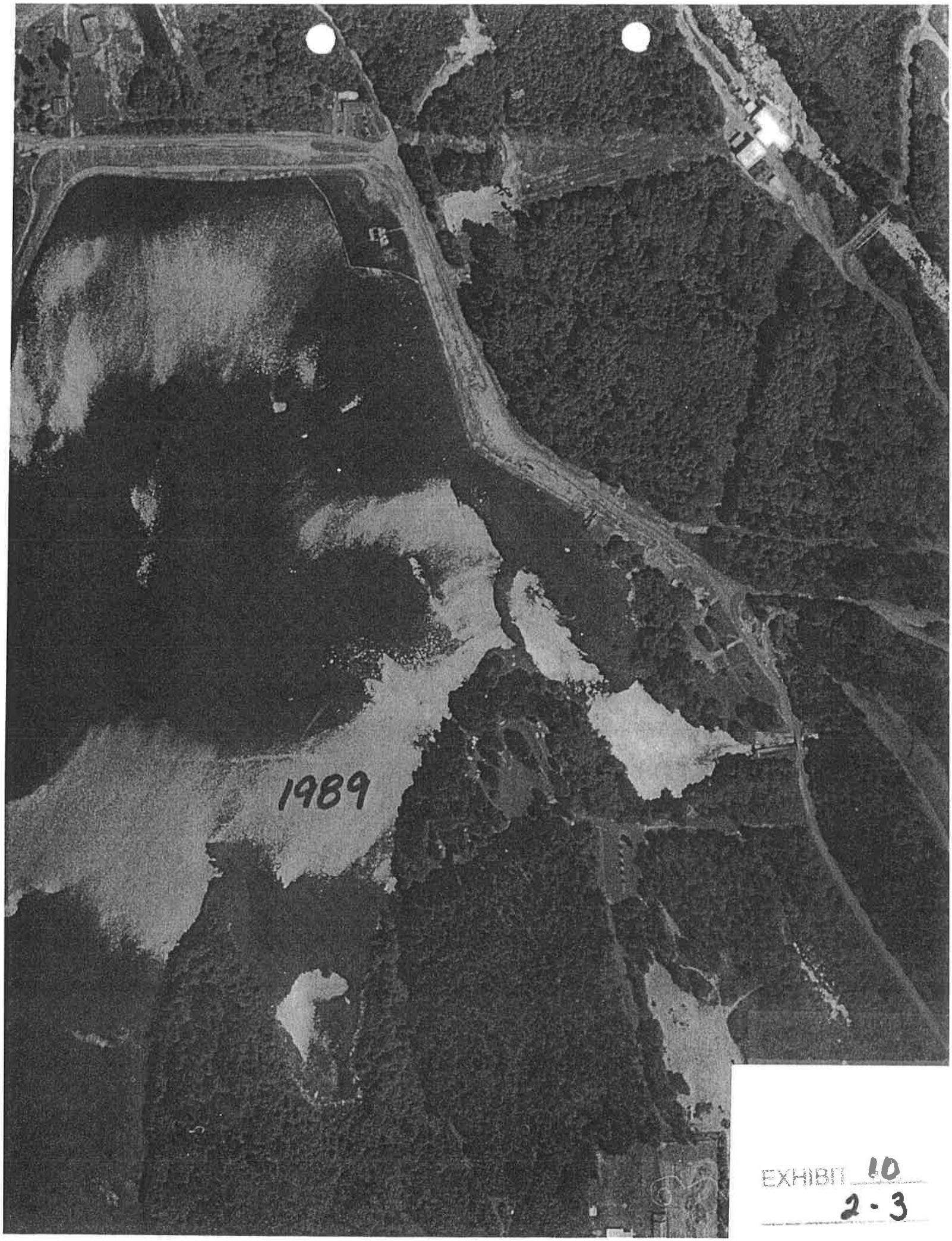


EXHIBIT 10
2-3

2012 Aerial Photo

2005 Aerial Photo

EXHIBIT 10
3-3

SEE PAGE 7

BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

LANDWATCH LANE COUNTY,
Petitioner,

vs.

LANE COUNTY,
Respondent,

and

BLUE MOUNTAIN SCHOOL,
WADE SKINNER and BETTY SKINNER,
Intervenor-Respondents.

LUBA No. 2006-235

FINAL OPINION
AND ORDER

Appeal from Lane County.

Jannett Wilson, Eugene, filed the petition for review and argued on behalf of petitioner. With her on the brief was Goal One Coalition.

Stephen L. Vorhes, Assistant County Counsel, Eugene, filed the response brief and argued on behalf of respondent.

Michael E. Farthing, Eugene, represented intervenor-respondent Blue Mountain School.

Wade Skinner and Betty Skinner, Junction City, represented themselves.

BASSHAM, Board Member; HOLSTUN, Board Chair; RYAN, Board Member, participated in the decision.

AFFIRMED 04/01/2008

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

EXHIBIT 11
1-15

Opinion by Bassham.

NATURE OF THE DECISION

Petitioner appeals a county ordinance amending its rural comprehensive plan and approving zone changes to nineteen properties, and adopting exceptions to Statewide Planning Goals 3 and 4 for two of the properties.

MOTION TO INTERVENE

Blue Mountain School, Wade Skinner, and Betty Skinner (intervenors) move to intervene on the side of respondent in the appeal. There is no opposition to the motions and they are granted.

FACTS

In 2002, as part of its Rural Comprehensive Plan (RCP) Periodic Review Program, Lane County consolidated the various zones that it applies to non-resource lands for which developed and committed statewide planning goal exceptions have been approved. Under the amended comprehensive plan, the county has only four rural zoning districts for exception lands: Rural Residential (RR), Rural Commercial (RC), Rural Industrial (RI), and Rural Public Facilities (RPF). Following acknowledgment of the amended comprehensive plan, the county rezoned all exception lands in the county to one of the four zones.

In 2004, a number of property owners in the Coast Fork Willamette watershed requested zoning review, generally on the basis that the existing use of the property was inconsistent with the new zoning designation applied in 2002. Planning staff analyzed 21 applications, covering 36 parcels. Each application and report was assigned a "control number" 1 through 21, and was generally referred to as C-1, C-2, etc. Two of the applications (C-11 and C-13) proposed rezoning resource land to non-resource designations, with associated physically developed and/or committed exceptions to Goals 3 and 4.

The county planning commission reviewed the applications and reports together, under a single process, and recommended that four of the applications be denied, and the

EXHIBIT 11
2 - 15

1 remainder be approved. Two of the applications recommended for denial (C-1 and C-19)
2 were subsequently withdrawn.

3 The board of county commissioners (BCC) held a hearing to review the planning
4 commission recommendations. The BCC voted to approve 19 of the applications (C-2
5 through C-18, C-20 and C-21), and, on November 29, 2006, adopted the challenged
6 ordinance. This appeal followed.

7 **FIRST ASSIGNMENT OF ERROR**

8 The first assignment of error challenges the "physically developed" and "irrevocably
9 committed" exceptions to Goals 3 and 4 for properties C-11 and C-13.

10 ORS 197.732(1)(a) and OAR 660-004-0025 allow local governments to adopt an
11 exception to a statewide planning goal if the land subject to the exception is "physically
12 developed to the extent that it is no longer available for uses allowed by the applicable
13 goal."[1] ORS 197.732(1)(b) and OAR 660-004-0028 allow a local government to adopt an

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[1] ORS 197.732(2) provides, in relevant part:

"A local government may adopt an exception to a goal if:

"(a) The land subject to the exception is physically developed to the extent that it is no longer available for *uses allowed by the applicable goal*;

"(b) The land subject to the exception is irrevocably committed as described by Land Conservation and Development Commission rule to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make *uses allowed by the applicable goal* impracticable[.]"

OAR 660-004-0025 provides:

"(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

"(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and

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exception if the land is "irrevocably committed" "to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable."[2] Petitioners contend that the county erred in adopting developed and committed exceptions for sites C-11 and C-13, because the existing uses on those sites are already allowed within the applicable resource zone.

Property C-11 is a 7.13-acre portion of a larger parcel zoned Impacted Forest (F-2), and is developed with a manufactured dwelling, a storage barn, and a five-acre gravel storage and sales yard for logging, quarry and farm equipment. The proposed exception area includes only the developed area; the remainder of the 28-acre parcel would remain zoned F-2. Petitioner argues that the existing uses on site C-11 are all uses allowed by Goals 3 and 4, as implemented in the county's F-2 zoning provisions. Because the existing uses are allowed by the applicable goals, petitioner argues, neither a developed nor irrevocably committed exception is permitted.

Site C-13 is a 1.98-acre parcel zoned for exclusive farm use (EFU), developed with a public water treatment plant. Site C-13 is located adjacent to the City of Creswell urban growth boundary and is separated from other lands zoned EFU except for a small strip of land owned by the city. While conceding that site C-13 presents a more compelling case for an irrevocably committed exception than site C-11, petitioner argues nonetheless that because a public water treatment facility is a permitted use in the EFU zone, neither a developed nor irrevocably committed exception is permitted for site C-13.

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utility facilities. *Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*" (Emphasis added).

[2] OAR 660-004-0028(1) provides:

"A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable."

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1 **A. Irrevocably Committed**

2 The county responds, initially, that petitioner waived any challenge to the irrevocably
3 committed exceptions for sites C-11 and C-13, by failing to raise any issues below regarding
4 the proposed irrevocably committed exceptions. According to the county, the only issues
5 raised below with respect to sites C-11 and C-13 concerned whether the two sites qualified
6 for "physically developed" exceptions under ORS 197.732(2)(a) and OAR 660-004-0025(1).
7 The county argues that no party raised any issue below regarding irrevocably committed
8 exceptions under ORS 197.732(1)(b) and OAR 660-004-0028.

9 Petitioner does not respond to the county's waiver challenge or cite to any place in
10 the record where the issues raised under this assignment of error regarding the county's
11 irrevocably committed exceptions were raised below.[3] The county appears to be correct that
12 the challenges raised below to sites C-11 and C-13 focused exclusively on the physically
13 developed exceptions. *See, e.g.*, Record 415-16, 418 (arguing that sites C-11 and C-13 do
14 not qualify for a physically developed exception under OAR 660-004-0025(1)). Absent
15 some response from petitioner, we agree with the county that the issue of whether existing
16 uses on sites C-11 and C-13 preclude the county from finding that those sites are irrevocably
17 committed under OAR 660-004-0028 was waived.[4]

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[3] Petitioner also does not question the county's presumption that the challenged ordinance is a quasi-judicial decision subject to the raise it or waive it rule of ORS 197.763(1), rather than a legislative decision to which ORS 197.763(1) does not apply. We therefore do not consider that issue.

[4] Although we need not address the merits or the county's arguments on the merits, we tend to agree with the county that petitioner misreads OAR 660-004-0028 to preclude a local government from taking an irrevocably committed exception, when the property is currently developed with a use that is allowed by the applicable resource goal. The question under OAR 660-004-0028 is whether existing adjacent uses and other relevant factors make "uses allowed by the applicable goal impracticable." As the county points out, OAR 660-004-0028(3) provides that for exceptions to Goals 3 or 4, local governments are required to demonstrate that only three uses allowed by the resource goals are "impracticable": (1) farm use, (2) propagation or harvesting of a forest product, and (3) forest operations or forest practices as specified in OAR 660-006-0025(2)(a). The county is not required to demonstrate that the subject property cannot be used for all other uses allowed under Goals 3 or 4. Unlike for physically developed exceptions under OAR 660-004-0025(2), there is no language in OAR 660-004-0028 providing that existing uses of the property that are allowed in agricultural or forest zones "shall not be used to justify" an irrevocably committed exception. Indeed, the county must consider under

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5-15

1 The petition for review devotes relatively little effort to challenging the adequacy or
2 sufficiency of the county's findings that sites C-11 and C-13 are irrevocably committed
3 under the various OAR 660-004-0028 considerations and factors. Indeed, the petition for
4 review almost concedes that site C-13 is almost completely surrounded by non-resource
5 development and that the resource uses listed in OAR 660-004-0028(3) are impracticable at
6 the site. Petitioner's challenges to the findings regarding site C-11 are more developed.[5]
7 However, we need not address those findings challenges because the issue of the sufficiency
8 of the county's findings under the OAR 660-004-0028 factors would appear to be waived for
9 failure to raise below any issues at all regarding the irrevocably committed exceptions.
10 *Lucier v. City of Medford*, 26, Or LUBA 213, 216 (1993) (in order to raise the issue of
11 whether findings of compliance with an applicable approval criterion are adequate, the
12 petitioner must demonstrate that issues regarding compliance with that criterion were raised
13 below). Because petitioner has not demonstrated that any issues regarding compliance with
14 OAR 660-004-0028 were raised below, petitioner's arguments under this assignment of error
15 do not provide a basis for reversal or remand.

16 **B. Physically Developed**

17 Petitioner may well be correct that, if the existing uses on sites C-11 and C-13 are
18 "allowed by the applicable goal" then such uses cannot be used to justify a physically

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OAR 660-004-0028 the characteristics of the exception area, as well as "other relevant factors" that bear on whether the three resource uses listed in OAR 660-004-0028(2) are impracticable.

[5] Petitioner argues with respect to site C-11:

> "Properties adjacent to C-11 are, like C-11, zoned for resource use. The findings admit that there have not been any conflicts between the adjacent resource uses and the vehicle storage operations on the C-11 site, nor any other factors on the adjacent properties that would tend to commit the C-11 site to non-resource uses. In fact, only a portion of the C-11 site is proposed for the exception, and the rest, which surrounds it, would remain in F-2 zoning; 'for continuation of the current owners' pasture and woodlot operation.' Thus, nothing on the adjacent lands has committed the C-11 site to non-resource use, and thus the 'irrevocably committed' exception cannot be justified under OAR 660-004-0028." Petition for Review 7-8 (record citations omitted).

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1 developed exception, under OAR 660-004-0025(2). However, it is clear that the county
2 adopted both physically developed and irrevocably committed exceptions for sites C-11 and
3 C-13. Because we have rejected petitioner's challenges to the irrevocably committed
4 exceptions, and the irrevocably committed exceptions alone are sufficient to support the
5 proposed plan and zoning amendments, any error the county may have made in adopting the
6 physically developed exceptions would appear to be harmless error. Accordingly, we do not
7 reach or resolve petitioner's challenges to the physically developed exceptions.

8 The first assignment of error is denied.

9 **SECOND ASSIGNMENT OF ERROR**

10 In their second assignment of error, petitioner challenges the rezoning of most of the
11 remaining sites.[6] With respect to the challenged sites, petitioner argues that the county failed
12 to comply with the requirements of OAR 660-004-0018(2) to ensure that the zoning
13 classifications applied to each site will maintain the site as rural land.

14 Changes to the zoning of land that is already subject to physically developed or
15 irrevocably committed exceptions do not require new exceptions, where the new zone
16 satisfies the requirements of OAR 660-004-0018(2). OAR 660-004-0018(3); *Friends of*
17 *Yamhill County v. Yamhill County*, 41 Or LUBA 247, 254 (2002). OAR 660-004-0018(2)
18 requires plan and zoning designations applied to developed and committed exception areas to
19 limit uses, density, and public facilities and services to those that meet at least one of four
20 requirements. As relevant here, the plan and zoning designations must limit uses, density,
21 and public facilities and services to those that (1) are the same as the existing land uses on
22 the site, under OAR 660-004-0018(2)(a), or (2) maintain the land as "rural land," do not

DLCD FIXED THIS CONFUSION IN 2011; ADDING "AND" – REPLACING "OR"

[6] Petitioner expressly declines to challenge sites C-17 and C-18. Petitioner does not discuss at all sites C-6, C-9, or C-16, which are all located in unincorporated communities. The petition for review specifically discusses only sites C-2, C-3, C-4, C-5, C-7, C-8, C-10, C-12, C-14, C-15, C-20, and C-21.

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7-15

1 commit adjacent or nearby resource land to nonresource use, and are compatible with
2 adjacent or nearby resource uses, under OAR 660-004-0018(2)(b).[7]

3 Petitioner argues that it is frequently unclear with respect to each site whether the
4 county chose to proceed under OAR 660-004-0018(2)(a) or (b). According to petitioners,
5 the county's findings for each site generally focus on the existing use of the site, but do not
6 limit the allowed uses to the existing use, as required by OAR 660-004-0018(2)(a). To the
7 extent the county proceeded under OAR 660-004-0018(2)(b), petitioner argues that the
8 county's findings fail to analyze the different and possibly more intensive uses that may be
9 allowed in the RR, RC, RI, and RPF zones, as applicable, to conclude that the use allowed
10 will maintain the land as rural land, be compatible with adjacent or nearby resource uses, and
11 not commit resource lands to nonresource uses. Instead, petitioner argues, the findings

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[7] OAR 660-004-0018(2) provides, in relevant part:

> "For 'physically developed' and 'irrevocably committed' exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:
>
> "(a) That are the same as the existing land uses on the exception site;
>
> "(b) That meet the following requirements:
>
> "(A) The rural uses, density, and public facilities and services will maintain the land as 'Rural Land' as defined by the goals and are consistent with all other applicable Goal requirements; and
>
> "(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-004-0028; and
>
> "(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses; [or]
>
> "(c) For which the uses, density, and public facilities and services are consistent with OAR 660-022-0030, 'Planning and Zoning of Unincorporated Communities,' if applicable; or
>
> "(d) That are industrial development uses, and accessory uses subordinate to the industrial development, in buildings of any size and type, provided the exception area was planned and zoned for industrial use on January 1, 2004, subject to the territorial limits and other requirements of ORS 197.713 and 197.714."

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8-15

generally discuss the *existing* use and conclude that the *existing* use is rural, is compatible with adjacent or nearby resource uses, and will not commit resource lands to nonresource uses.

The county responds that, as explained in the supplemental findings the BCC adopted, the RR, RC, RI, and RPF zones were developed in periodic review in 2002 in part to ensure that uses allowed in those zones are rural in character, consistent with Statewide Goals 11 and 14.[8] The findings go on to conclude that the 21 sites will remain "rural lands" as defined by the goals under the new zoning. Record 388-89. The county argues that the intended rural nature of the uses allowed in those zones is a legitimate consideration for purposes of OAR 660-004-0018(2)(b). Further, the county argues, the specific findings adopted for each site adequately address the requirements of OAR 660-004-0018(2)(b) and adequately explain why the applied zone is sufficient to ensure that the rural uses, density, and public facilities and services will maintain the land as 'rural land," that the uses allowed by the zone will be compatible with adjacent or nearby resource uses and that those uses will not commit nearby resource lands to nonresource use.

We understand the county to argue that while the county adopted findings under OAR 660-004-0018(2)(a) for most of the sites, the main emphasis on each site is on OAR 660-004-0018(2)(b). Petitioner is correct that the county's OAR 660-004-0018(2)(b) findings for most sites focus on the existing use and do not specifically evaluate other uses potentially allowed in the applicable zone. However, for the reasons explained below we do

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[8] The supplemental findings recount the history of periodic review, quote all of the criteria and uses allowed in the RR, RC, RI, and RPF zones, and then state:

> "When these development criteria were enacted, those actions were designed to address both the Goal 2 Exception requirements and the Goal 11 and 14 issues raised by the previous and now superceded C-1, C-2, C-3 and CR commercial land use codes, M1, M2 and M3 industrial and use codes, and PF public facility zoning regulations. Among other things, those actions were designed to establish zones that would assure maintenance of the rural character of land uses outside of urban growth boundaries and address issues of compatibility with any impacts on adjacent resource lands." Record 387.

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not see that OAR 660-004-0018(2)(b) necessarily requires an exhaustive analysis of all the uses allowed in the new zone.

As an initial matter, we agree with the county that the fact that LCDC recently acknowledged the four rural zones to comply with Goals 11 and 14, after the county completed a periodic review work task intended in part to ensure that the county's rural zones maintain rural lands as rural lands, goes a long way to support the county's conclusion that the particular rural zone applied to each site satisfies OAR 660-004-0018(2)(b)(A). That LCDC acknowledgment establishes that, absent circumstances that point to a contrary conclusion in a particular case, it is appropriate to apply those zones to rural property. When such a rural zone is applied to a particular parcel or to allow development of a particular proposed use there may arise some legitimate reason to question whether that rural zone is adequate, in and of itself, to ensure that rural lands are maintained as rural lands. *DLCD v. Klamath County*, 40 Or LUBA 221, 227 (2001). However, petitioner identifies no such reasons in the present case.

Second, we generally agree with the county that it may not be necessary under OAR 660-004-0018(2)(b) to evaluate all the various uses potentially allowed in the new rural zone that is applied to an existing exception area when (1) the rezone is from one nonresource zone to another nonresource zone, (2) the site that is rezoned is already developed with an existing use, and (3) the purpose of the rezone is to conform the zoning designation more closely to the existing use.

That said, evaluation of at least *some* uses allowed in the new zone may be necessary where the purpose of the rezone is to allow the exception area to be redeveloped or it is reasonable to assume that the rezoned property will be developed or redeveloped into uses that were not allowed by the old zone but are allowed by the new zone. Where the applicant intends to redevelop the site with a particular use allowed in the new zone, for example, the county must evaluate that new use under OAR 660-010-0018(2)(b). *See, e.g.*, *Doty v. Coos*

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1 *County*, 42 Or LUBA 103, 116-18 (2002), *rev'd and rem'd on other grounds* 185 Or App
2 233, 59 P3d 50 (2003) (zone change from industrial to recreation to allow former mill site in
3 an existing exception area to be redeveloped into a recreational vehicle park).

4 Where the application is intended to allow redevelopment of a developed site or to
5 allow development of a vacant site, but no specific use is proposed, the county may be
6 required to evaluate a wider range of uses allowed in the new zone. Similarly, if some party
7 identifies some reason to believe that due to the nature or size of the property or other
8 relevant factors the rezoning can reasonably be expected to result in development or
9 redevelopment that would fail to maintain the land as rural land, commit nearby resource
10 uses to nonresource use or be incompatible with nearby resource uses, the county must
11 specifically consider that possibility in its findings and impose appropriate conditions if
12 necessary to assure that the new zoning complies with OAR 660-004-0018(2).

13 However, even where some of the uses that are allowed in the new zone must be
14 specifically evaluated, we believe that the county's evaluation may be confined to uses
15 allowed in the new zone that are arguably more intensive than uses allowed in the existing
16 zone.[9] That is because in initially applying the existing zone to a physically developed or
17 irrevocably committed exception area, the county presumably adopted findings that the zone
18 complied with OAR 660-004-0018(2) or, at least, to the extent the existing zone does not
19 comply with the rule, that noncompliance cannot be challenged in the rezoning decision. As
20 a general matter, then, the county may assume that the uses allowed in the existing zone are

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[9] For a relatively straightforward example, if the existing zone applied to irrevocably committed exception area is rural residential 10-acre minimum, and the new zone is rural residential 5-acre minimum, the county must evaluate the impacts of the more intensive residential uses allowed in the new zone, and explain why application of the new zone is consistent with OAR 660-004-0018(2)(b). Conversely, if the existing zone is rural residential 5-acre minimum and the new zone is rural residential 10-acre minimum, the county's findings under OAR 660-004-0018(2)(b) may simply note that the uses allowed in the new zone are less intensive than those allowed in the existing zone, if that is indeed the case, and conclude therefrom that the new zone complies with OAR 660-004-0018(2)(b)(A), (B) and (C).

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not inconsistent with OAR 660-004-0018(2) and from that basis determine which uses allowed in the new zone, if any, must be evaluated.

Applying those general principles to the arguments in the present case, with one relevant exception discussed below the county found that the rezoning in each case is intended to conform the zoning designation more closely with the existing use. For example, with respect to Site C-2, which is zoned RR and developed with a grange hall built in the 1950s, the county found that the rezone to RPF is intended to "recognize the 'public facility' use" of the grange hall. Record 62. Petitioner does not cite any reason to believe that Site C-2 is likely to be redeveloped with a different, more intensive use allowed in the RPF zone. Similarly, with respect to the other developed sites, petitioner makes no attempt to identify any reason to believe that any site is likely to be redeveloped with a use that might violate OAR 660-004-0018(2)(b). Therefore, with respect to the already developed sites, we reject petitioner's overarching argument that the county was required to specifically evaluate all or some of the different uses allowed in the new zone under OAR 660-004-0018(2)(b).

Aside from that overarching argument, petitioner briefly challenges aspects of the findings for specific sites. For the most part, those challenges simply reiterate petitioner's view, rejected above, that the county erred under OAR 660-004-0018(2)(b)(A-C) in failing to evaluate all of the new uses that are hypothetically allowed in the new zone. With respect to Sites C-4, C-5, and C-20, however, petitioner points out that the planning commission voted to recommend the proposed rezone "with the caveat that the property was restricted to its current use." Record 1163 (C-4 and C-5), 1166 (C-20). Petitioner argues that the "final decision did not include that restriction, and thus the findings do not support the decision to allow the more extensive and intensive uses" permitted in the new zone. Petition for Review 12 (regarding Site C-4).

It is not clear whether this argument is directed at the county's findings regarding OAR 660-004-0018(2)(a) or OAR 660-004-0018(2)(b). We note, in this regard, that the

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county findings for each site with an existing developed use state that "[t]his proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law." *See, e.g.*, Record 63 (Site C-2). Although not entirely clear, this finding is apparently intended to "limit uses, density, and public facilities and services to * * * the existing land uses on the exception site," pursuant to OAR 660-004-0018(2)(a). We understand petitioner to argue that the ordinance itself, rather than the findings adopted in support of the ordinance, must limit the use of an exception site to the existing use, for purposes of OAR 660-004-0018(2)(a). The answer to that question is not clear to us, but we need not resolve it in the present case. Even if the county erred for purposes of OAR 660-004-0018(2)(a) in failing to place a restriction in the ordinance itself, as explained above for purposes of OAR 660-004-0018(2)(b)(A-C) the county need not conduct a hypothetical evaluation of the uses allowed in the new zone where: (1) the intent of the rezone is conform the zone more closely to the existing use, not to allow a different use, and (2) there is no reason to believe that a developed site is likely to be redeveloped into a different, more intensive use authorized by the new zone that might violate one or more of the requirements of OAR 660-004-0018(2)(b). As noted, petitioner on appeal has not identified any such reasons with respect to any of the developed sites.[10]

The only challenged site that requires extended discussion in our view is Site C-21, which is a 10.24-acre vacant parcel that is currently zoned RI, located between a state highway and the Siuslaw River. The applicant proposed to rezone it from RI to RC to facilitate future commercial development of an unspecified nature. The findings under OAR 660-004-0018(2)(a) state that the RC zone "has the potential to allow more compatible, water-dependent use of the 10.24-acres than the current Rural Industrial (RI) designation. The change of zoning would eliminate the potential for a more intensive and less compatible

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[10] As far as we know, no such reasons were identified below, either.

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1 industrial use to be established on the subject property in the future." Record 365. The
2 findings go on to conclude under OAR 660-004-0018(2)(b) that the RC zone would maintain
3 the parcel as rural land, would not commit nearby resource land to nonresource use, and is
4 compatible with nearby resource uses.[11]

5 We understand petitioner to argue that without an existing use or a specific
6 commercial proposal to evaluate, the county cannot conclude that applying the RC zone to
7 Site C-21 is consistent with OAR 660-004-0018(2)(b)(A-C), without specifically evaluating
8 each of the various commercial uses allowed in the RC zone to determine whether any of
9 those uses, if allowed, might commit nearby resource land to nonresource use, or be
10 incompatible with nearby resource uses.

11 However, the findings explain that Site C-21 is in the center of the existing exception
12 area, and is bordered on only one side by resource lands, across the highway. The findings
13 conclude that "any allowable use" in the RC zone would be buffered from nearby resource

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[11] The county's findings addressing OAR 660-004-0018(2)(b)(B) and (C) state, in relevant part:

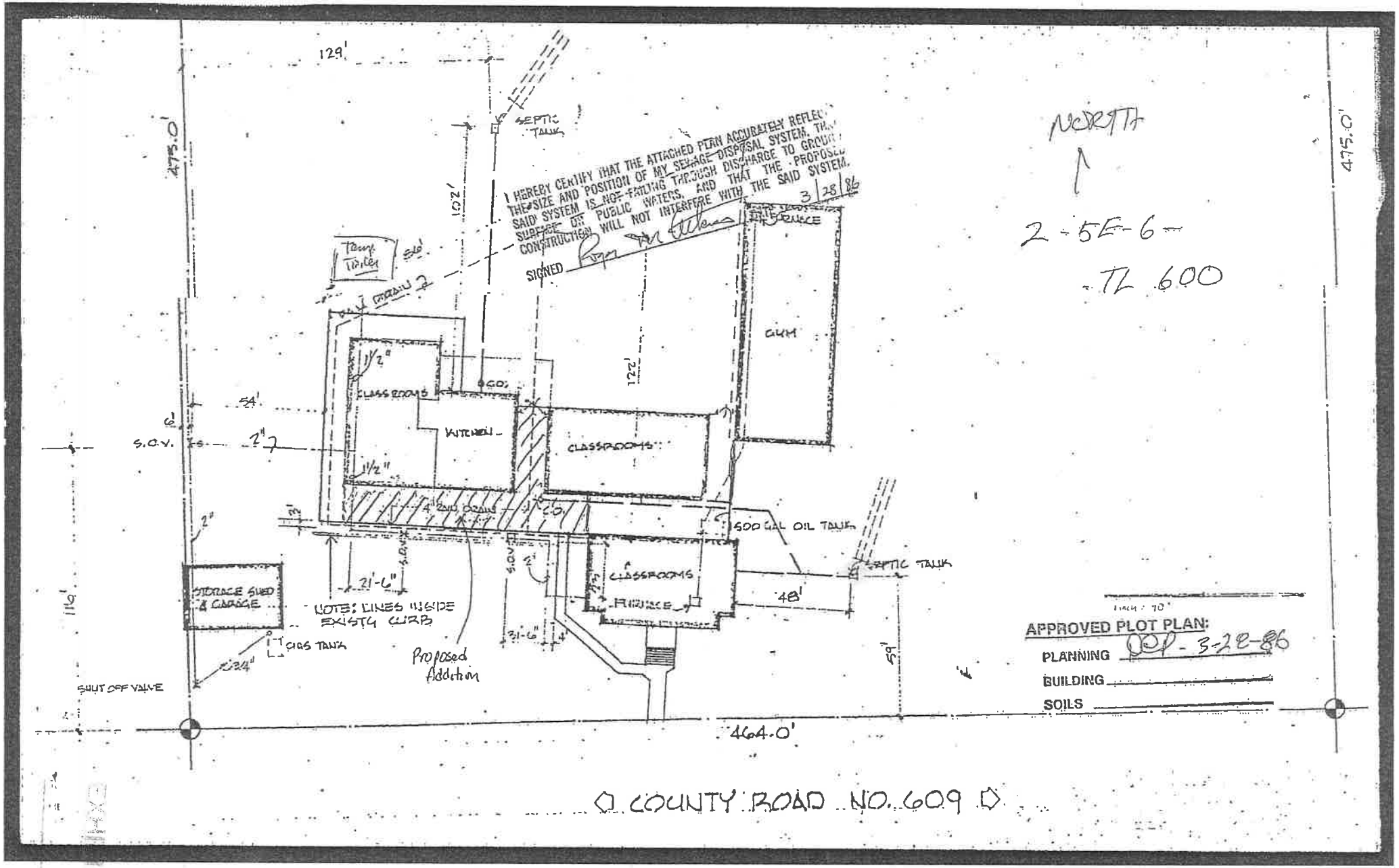
> "The subject property is situated south of Highway 126 and bordered by Rural Industrial properties to the west and east. There are four properties directly across Highway 126 to the north zoned Impacted Forest Land (F2) and developed with six residences.
>
> "* * * * *
>
> "The residential uses within the F2 zone intervene between the forest management practices on lands to the north and the subject property to the south. The nearest Exclusive Farm Use lands are located further to the northwest beyond the F2 lands referenced above and are located to the west of the North Fork of the Siuslaw River. Forest lands to the south are located on the southern shoreline of the Siuslaw River. The isolation of the subject property by the public road right-of-way, residential uses, and the two rivers buffer any allowable use in the Rural Commercial Zone from resource management practices on nearby lands. There are no foreseeable impacts from the proposed zone change, or any increased commitment to nonresource uses of nearby forest lands and agricultural lands or practices.
>
> "* * * * *
>
> "* * * The residential development on F2 lands and the public facility and industrial development pattern discussed in (B) above, indicates the rezoning from industrial use to commercial use in the center of the [exception] area will be compatible with the resource use of forest and agricultural lands in the adjoining sections." Record 365-66.

lands and resource operations by the highway, residential development, and the river. Petitioner does not cite to any particular commercial use allowed in the RC zone that, if allowed on Site C-21, would be so intensive or different in nature from uses allowed in the RI zone so as to commit nearby resource lands to nonresource use, or would be incompatible with such uses, given the presence of those buffers. Petitioner has not demonstrated that OAR 660-004-0018(2)(b) requires a more detailed analysis of Site C-21 in the present circumstances. The remaining arguments under the second assignment of error similarly provide no basis for reversal or remand.

The second assignment of error is denied.

The county's decision is affirmed.

EXHIBIT 11
15.15


129'
475.0'
SEPTIC TANK
I HEREBY CERTIFY THAT THE ATTACHED PLAN ACCURATELY REFLECTS THE SIZE AND POSITION OF MY SEWAGE DISPOSAL SYSTEM. THE SAID SYSTEM IS NOT FAILING THROUGH DISCHARGE TO GROUND SURFACE OR PUBLIC WATERS, AND THAT THE PROPOSED CONSTRUCTION WILL NOT INTERFERE WITH THE SAID SYSTEM.
SIGNED
3/28/86
102'
Temp Trailer
GYM
CLASSROOMS
KITCHEN
CLASSROOMS
122'
54'
S.O.V.
500 GAL OIL TANK
SEPTIC TANK
CLASSROOMS
FURNACE
48'
21'-6"
STORAGE SHED & GARAGE
NOTE: LINES INSIDE EXISTG CURB
Proposed Addition
31'-6"
CLEAN OUT
SHUT OFF VALVE
464.0'
NORTH
2-5E-6
TL 600
APPROVED PLOT PLAN:
PLANNING
BUILDING
SOILS
COUNTY ROAD NO. 609

B0071986

FORM WPC-20

OREGON STATE SANITARY AUTHORITY
STATE OFFICE BUILDING
1400 S. W. 5TH AVENUE
PORTLAND 1, OREGON

October 18, 1963

A. H. Greisser
Superintendent of Production
Portland General Electric Company
Electric Building
621 S. W. Alder Street
Portland 5, Oregon

Re: S - Private, Clackamas County
PGE Power House, Bull Run

Dear Mr. Greisser

Reference is made to plans for a sewage disposal system to serve a proposed new toilet room at the Bull Run Hydroelectric plant, Clackamas County, which was submitted to this office under date of October 14, 1963 and amended by letter dated October 15, 1963.

The proposed system consists of an 800 gallon septic tank with the effluent to be pumped through a 1-1/2" plastic line to a tile field across the Bull Run River.

It was agreed with Mr. Robert Whitmore, Clackamas County Sanitarian, that the proposed system could be approved subject to the following provisions:

1. The septic tank and pump sump may be located adjacent to the riverside retaining wall provided a poured concrete septic tank of watertight construction is installed, and the pump sump is constructed to be assuredly watertight. Enclosed are materials which might be helpful in designing the septic tank.

2. The pump sump shall be equipped with a high water alarm which will effectively and immediately indicate a malfunction.

3. The plastic line should be 150 pound class to provide additional wall thickness.

4. The Clackamas County Health Department should be notified so that the tile field installation can be inspected prior to covering with earth.

COPY

EXHIBIT 13
1-3

A. H. Greisser Page 2 October 18, 1963

One set of plans with our stamp of provisional approval affixed is returned herewith.

Your cooperation in submitting these materials for our review is greatly appreciated.

Very truly yours,

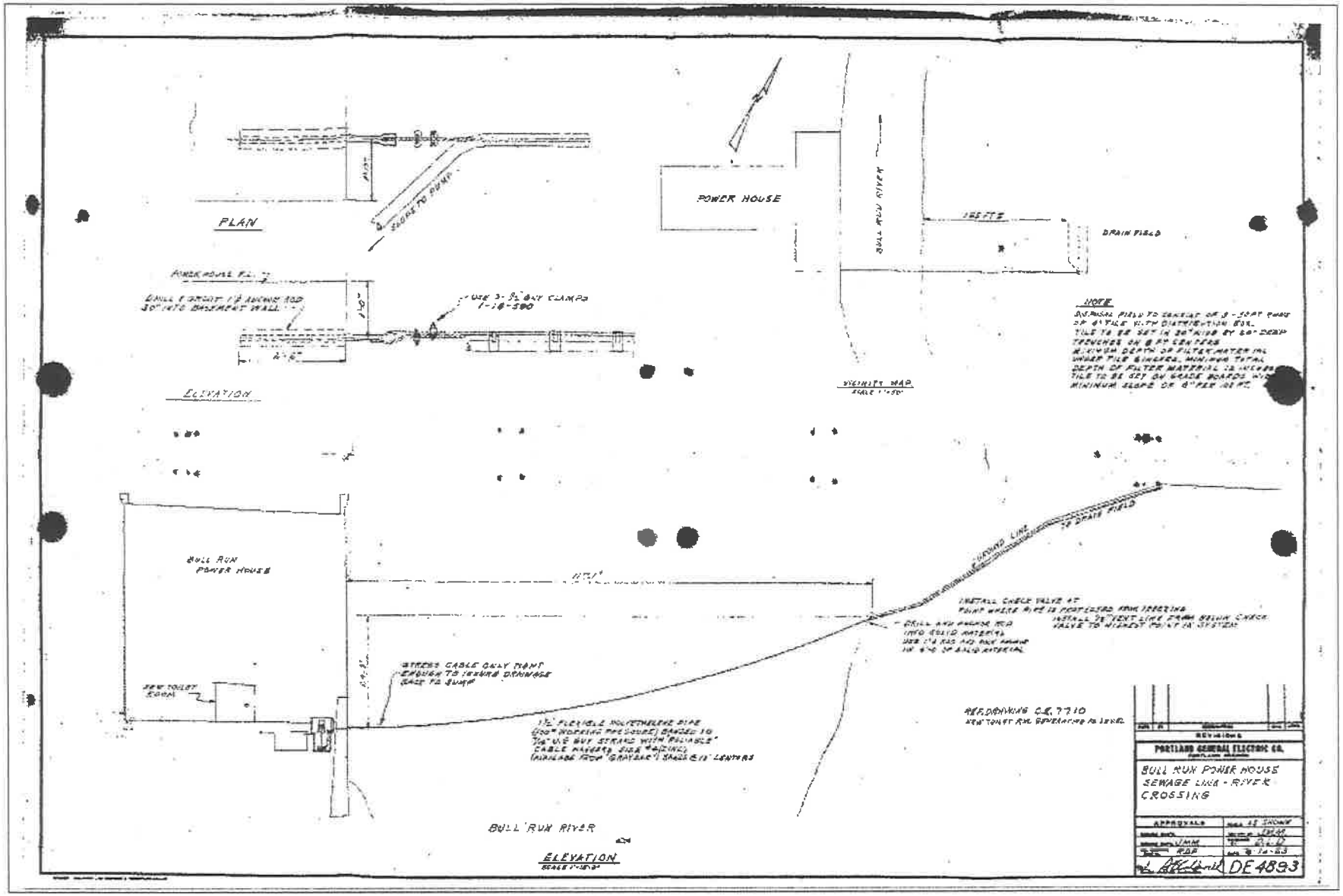
E. J. Weathersbee
District Sanitary Engineer

EJW:ms

cc: Clackamas County Health Department

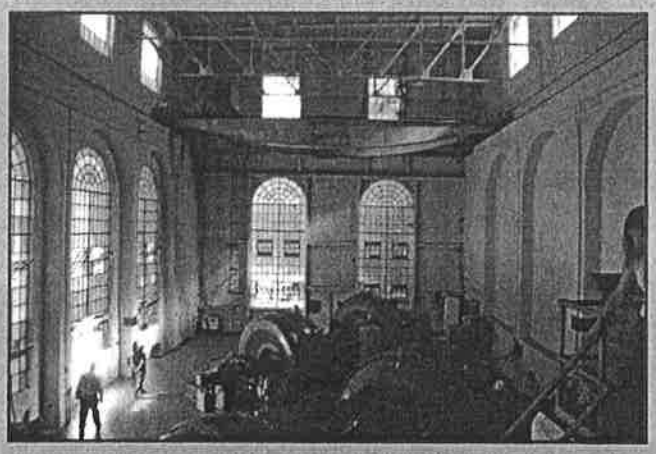
Enclosures (3)

EXHIBIT 13
2-3



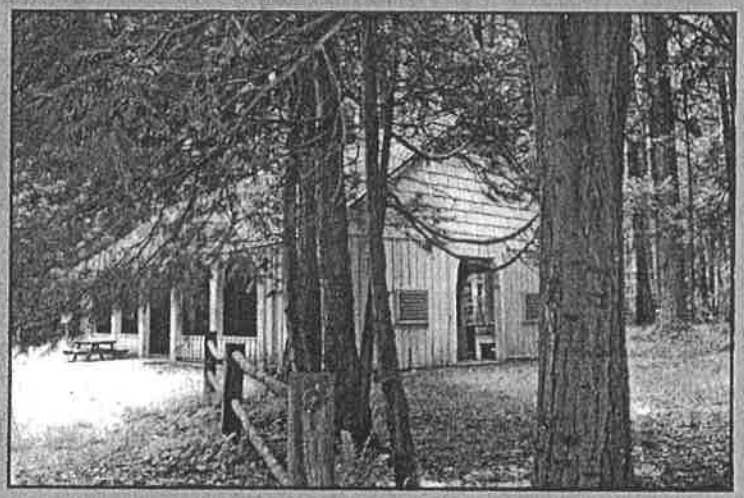
Powerhouse Septic System

EXHIBIT 13
3-3



POWERHOUSE CENTER
ON THE BULL RUN

BULL RUN EDUCATION
CENTER



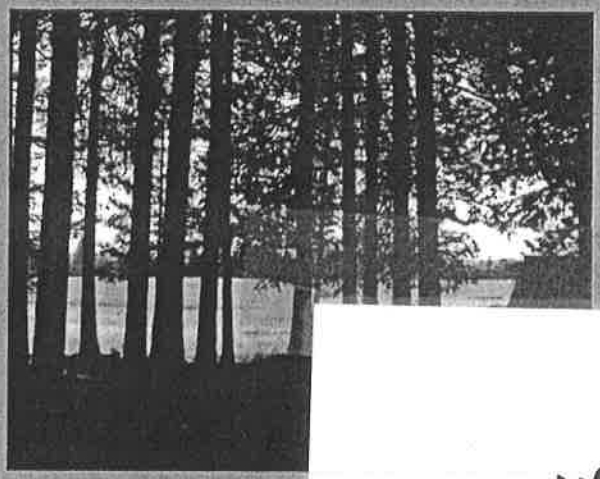


EXHIBIT 14
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Bull Run – Historic Review Board Handout

INTRODUCTION

IT'S ALL ABOUT PRESERVATION!!

The Bull Run Elementary School and Bull Run Hydroelectric Project—including the powerhouse, Roslyn Lake, and Roslyn Lake Park—all played an important role in history throughout the last century. The powerhouse and school have been listed as Historic Landmarks by Clackamas County. The Park has not yet been listed, but is of equal importance to the Community because it has intrinsic historic qualities that render it landmark-worthy, and it is an essential part of the Powerhouse's story.

In 2011, after the Bull Run Hydroelectric Project was decommissioned, the Powerhouse was facing demolition. Three developers formed Powerhouse Re Gen LLC to purchase the Powerhouse from Portland General Electric (PGE) in order to preserve it and to make it publicly accessible. The Bull Run School and a significant portion of the adjacent Roslyn Park—also under PGE ownership—were acquired as part of the same purchase. The historic qualities of the Park structures and landscapes motivated Powerhouse Re Gen to include that portion of park in the acquisition.

Since 2011, Powerhouse Re Gen has been working to find new uses for the three related properties to meet their goals: to preserve the historic character of the properties, make them available for public use, and ensure that they have long term financial viability. Powerhouse Re Gen has given tours of the powerhouse and held meetings with surrounding property owners to plan the future of the property. They also recently initiated the land use process; their goal to change the property's current zoning so that it will allow for their preservation goals to be implemented.

WHO WE ARE

There are a variety of players involved in the purchase and future ownership/operation of the powerhouse, school, and park properties—all with the goal of preservation in mind.

Powerhouse Re Gen LLC is a for-profit entity that was formed by three developers specifically to purchase the Powerhouse from PGE. It now owns the Powerhouse and Roslyn Lake Park properties. The LLC's three members include; Rick Michaelson - a long time developer of historic properties, Jeff Joslin – a preservation planner and land use expert, and Karen Karlsson - a civil engineer with experience in light rail and urban development. Powerhouse Re Gen was formed as a 'for-profit' instead of a 'non-profit' entity simply because the timeframe required to establish a non-profit was greater than the time that PGE would allow for completion of the transaction. The eventual goal of Powerhouse Re Gen is to transfer the Powerhouse property to a non-profit called **Powerhouse Center on the Bull Run** which has recently been formed. The school and park

EXHIBIT 14
2-5

properties will likely be sold to **Trackers** to be used as an indoor and outdoor environmental school and camp. **Powerhouse Re Gen** will include clauses in the sale agreement that will ensure the preservation of the structures and public access on these sites for continued community use. Funds received from the sale of the property will be used to repay the funds spent by the Powerhouse Re Gen and Schoolhouse LLCs, and to produce an endowment for the future maintenance and development of the powerhouse.

School House LLC is similar to the Powerhouse Re Gen LLC, except that it owns the Bull Run School buildings and property.

Powerhouse Center on the Bull Run is the non–profit entity that has been formed in order to be the long term caretaker and user of the powerhouse property. Its board consists of 7 members, including the 3 Powerhouse Re Gen members. The present board members are experts in architecture, planning, property management and development. Five additional board positions are being reserved for area community members and potential users of the facility. Ownership of the powerhouse property is anticipated to be transferred from Powerhouse Re Gen (its current owner) to Center on the Bull Run by December 31, 2013.

Trackers Earth is seen as a future major user of the property and its founders and investors are planning to purchase and manage the Bull Run Schoolhouse and Roslyn Lake Park properties. They have assisted us in maintaining the facilities since we purchased them. Trackers provided all of the shuttle transportation at the Powerhouse 100th birthday party as well as demonstrating blacksmithing and other skills.

Trackers Earth teaches traditional outdoor skills, operating a camp ground located nearby on Marmot Rd. Trackers and its founding staff are collaborating to develop the project of the Bull Run Educational Center. The Bull Run Educational Center will include programs from Trackers and many other educational organizations. From outdoor guides, to local non-profit groups, to a potential full-time school, many different entities will utilize the Bull Run School and Roslyn Lake Campground providing education about the history, culture and natural resources of the Bull Run, Sandy and the Pacific Northwest.

THE FUTURE OF THE POWERHOUSE

Under the non-profit's ownership, and after its adaptive reuse, the Bull Run Powerhouse will be a creative, recreational, and educational center where the public can learn about the past and future of our evolving regional rivers and watersheds. In the meantime, Powerhouse Re Gen has been seeking ideas for use of the Powerhouse through a variety of outreach efforts, including a 100th birthday party attended by 600 people in September 2012. These planning efforts will continue with additional public outreach. At present, some of the ideas include the following:

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Plans for the Powerhouse:

- Improved access to the river for kayakers who now have a hard time reaching it
- Converting the 1950's office structure into a caretaker's house
- Preservation of the turbine room for special event use
- Maintenance and continued use of the historic belt driven shop for education, art, and hobbyists.
- Display and Meeting rooms within the confines of the existing structures.
- Use of the non-historic warehouse storage buildings for heavy sculpture and other art construction
- Potential construction of a new building to provide overnight accommodations 6-8 rooms people

THE FUTURE OF THE SCHOOL AND PARK

Encompassing the Bull Run Elementary School and portions of the Roslyn Lake Campground, the proposed Bull Run Education Center will span 90-acres of built and natural areas while restoring and preserving the habitat and historic structures for their continued educational value. Collaborations and partnerships with a variety of local organizations will provide programs in folk craft, local and regional history, watershed restoration, community organization, outdoor education, natural resource management, athletics, and more.

Programs may include: Public access for nature experiences, living history demonstrations, outdoor safety and skills instruction and folk craft programs such as quilting, woodworking and blacksmithing taught by local artisans and elders; A full-time school with options for homeschool families; educational camping and outdoor school programs for kids; space for public meetings and community events; habitat restoration and natural resource management programs; locally sponsored athletics utilizing the school's historic gym and field.

Plans for the School

- Restoration, preservation and maintenance of the historic school building for programs and community events
- Commercial kitchen rehabilitated to serve programs and community events
- Exterior classrooms convertible to dorms for fluctuating population of residential students in a portion of the field
- Showers and other bathhouse amenities for residential student population
- Restoration and maintenance of athletic field for programs and community events

Plans for the Park

- Restoration, preservation and maintenance of the current park structures

EXHIBIT 14
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- Exterior classrooms convertible to dorms for a fluctuating population of residential students. These buildings will use an architectural style relevant to the existing park structures and history
- Possible enhanced wetland for wildlife
- Star observation towers unobtrusive in the tree line
- Road restoration and maintenance
- Covered structures for folk craft and traditional skills education such as blacksmithing and woodworking
- A small outdoor wood fired kitchen
- Showers and other bathhouse amenities for residential student population
- Primitive, low-intensive camping sites
- A family campfire amphitheater

LAND USE CHALLENGES

All three parcels presently are zoned TBR –Timber, one of Clackamas County's Natural Resource Districts. Because this zone is intended to preserve the land for commercial forestry, the uses allowed are quite limited and do not include schools, community centers, education centers, interpretive centers, or museums. In addition, the additional use flexibilities potentially allowed for Historic Landmarks by ZDO 707.05 are not allowed in the Timber Zone. This means that any practical use of the property which would allow the preservation of the landmarks cannot be accommodated under the present zoning.

HISTORIC ZONING HISTORY

All three properties under consideration pre-exist the zoning ordinance and had non-conforming use status once the Clackamas County zoning code was adopted. Since the properties have not been used for their original purposes since 2008, the non-conforming status has expired and the uses cannot be re-established under the TBR zoning.

NOW ENTERING THE LU APPROVAL PROCESS

In order to repurpose the properties we are now beginning the process of changing the zoning from TBR to FF10. This will require a Goal Exception, a Comprehensive Plan Amendment, and a Zone Change, all of which require approval from the Planning Commission and County Commission. We are also exploring designating the park area a Historic Landmark which requires the approval of the Historic Review Board and the County Commission. Subsequently to those approvals, we anticipate coming back to the Historic Review Committee with specific ideas for uses and alterations to the facilities, and to the Hearings Officer for any needed conditional uses. We are just beginning the process and will make sure that everyone has the appropriate updates as we proceed.

EXHIBIT 14
5-5

About us | Trackers Earth Portland, Oregon

Trackers Earth offers camps and outdoor programs for all ages. We provide innovative education in nature connection and authentic outdoor skills. Camps and classes include outdoor skills, wild plants, archery, restoration and much more. Our organization and education models are collaborative. Our purpose is to create a village of connection to the land, accountability, common sense, and limitless enthusiasm.

Trackers camps and outdoor programs have been recognized by several awards including best camp voted by parent's with Red Tricycle and NW Kids magazines and an industry specific award for creative programming by the American Camp Association.

Our Story

Tony and Molly Deis founded Trackers Earth in 2004. Tony based Trackers on his personal work in outdoor education since 1992 while teaching and developing programs for local outdoor education organizations. Since then, referrals from both parents and students has grown Trackers into one of the largest and most well respected **summer camps and outdoor programs in Portland, Oregon and beyond.**

Tony often says that Trackers has more in common with his big Italian family than conventional outdoor education. We are made up of **compassionate individuals** who focus on caring for their family and yours, competence and eloquence in all that they do and of course, gathering together for great food.

Our Motto

At Trackers we are champions of land and village. We are navigators of an epic world that needs to exist. We are a community where we remember the celebration of hearth, family, respect for the land and a timeless human story.

Our Mission

Our labor, profits, joys and hopes are directed to generating resources that help create a village of epically happy people connected to nature.

What is Trackers Earth?

Trackers is a family organization. We are not simply limited to one family. Like a true village, brothers and sisters, fathers and mothers, husbands and wives, aunties and uncles, grandmas and grandpas from many different kinds of families work side-by-side for the greater good. We value instilling care and respect for the natural world and the community we serve. With Trackers you often get the feeling of "old friends that just met".

About Safety

Since its beginning Trackers has helped lead the way in standards of risk management for outdoor camps and programs. Trackers also consults with other outdoor programs and camp organizations, helping them to

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improve their own best practices for safety and risk management. We cultivate experienced and mature staff that allow us to teach real skills and respect for the land. We seek to bring environmental education back to inspiring adventure with new and leading standards of care, responsibility and personalized learning. **Learn more** about our safety policies, programs and philosophies from **our blog.**

The Four Guilds

Story is at the heart of all great education and adventure. We believe our lives on this Earth can be epic in both play and learning. All of Trackers camps, classes and productions can also be seen as great theater. Throughout our adventures you get to take part in one or more of our guilds: Rangers, Wilders, Mariners and Artisans.

EXHIBIT 15
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CLACKAMAS COUNTY

Planning and Zoning
Development Services Building
Mike McCallister, Planning Manager
150 Beavercreek Road Oregon City, OR 97045
Phone: (503) 742-4500 fax: (503) 742-4550
e-mail: zoninginfo@co.clackamas.or.us
Web: http://www.clackamas.us/transportation/planning/

RESEARCH REQUEST FORM

DATE: 11·29·12 STAFF: GH

LEGAL/MAP NO.: T 2 S, R 5E, SECTION 06, TAX LOT(S) 600

ZONING: TBR PRIOR ZONING:

REQUEST BY: GH - MEETING

ADDRESS: CITY:

STATE: ZIP:

PHONE: FAX:

EMAIL: -

REQUESTED INFORMATION: SEPARATE LOT OF RECORD TO INCLUDE EASTERN PORTION?

RESPONSE:

TL 600 ~~East~~ is a legal lot of record. Eastern 195' appears to have been added as boundary line resolution for Partition Plat # 2011-071 to cover field portion east of school building per Sheet 2, PP 2011-071, Detail C.

STAFF: [signature] DATE: 12/03/12
Sr. Planner

NOTE: These comments pertain to land use designations and regulation in effect on the date of this response, to the specific parcel(s) of property and to the specific question asked. Regulations are subject to periodic change. A LEGAL LOT OF RECORD IS/MAY BE BUILDABLE SUBJECT TO THE REQUIREMENTS OF THE ZONE IN WHICH IT IS LOCATED. DWELLINGS ARE NOT ALLOWED OUTRIGHT IN SOME ZONING DISTRICTS. PLEASE CONSULT WITH THE PLANNING DIVISION, THE SOILS SECTION AND/OR OTHER APPROPRIATE DEPARTMENTS PRIOR TO CONSTRUCTION.

BEFORE THE LAND USE HEARINGS OFFICER
OF CLACKAMAS COUNTY, OREGON

Regarding an application for a conditional use permit to establish a private park and campground in the TBR zone.	))))	**FINAL ORDER** **Casefile Nos. Z0263-11-C (Trackers Ranch)**

A. SUMMARY

1. The applicant, Tony Deis and Trackers Ranch LLC, requests approval of a conditional use permit to establish a private park and campground for the purpose of teaching students archery, fishing, botany, animal tracking, homesteading, and wilderness survival and leadership skills.

2. The subject property is located 52815 East Marmot Road, Sandy, Oregon 97055. The subject property is approximately 40 acres in size. The subject property's legal description is T2S, R6E, Section 18, Tax lot 100, W.M. The subject property is zoned TBR Timber.

3. On March 15, 2012, Hearings Officer Kenneth Helm (the "Hearings Officer") conducted a public hearing to receive testimony and evidence about the application. The applicant made a presentation and there was also testimony by parties in favor of the application.

4. There are no contested issues related to this application.

B. HEARING AND RECORD HIGHLIGHTS

1. The Hearings Officer received testimony at the public hearing about this application on March 15, 2012. All exhibits and records of testimony are filed with the Planning Division, Clackamas County Department of Transportation and Development. At the beginning of the hearing, the Hearings Officer made the declaration required by ORS 197.763. The Hearings Officer disclaimed any *ex parte* contacts, bias or conflicts of interest. The Hearings Officer disclosed that he is a part time hearings officer for the City of Portland Hearings Office. The Hearings Officer stated that the only relevant criteria were those identified in the staff report, that participants should direct their comments to those criteria, and failure to raise all arguments may result in waiver of arguments at subsequent appeal forums. The following is a summary by the Hearings Officer of selected relevant testimony.

2. At the hearing, County planner Linda Preisz discussed various components of the staff report. She explained that since the initial hearing date of February 2, 2012, the applicant had provided additional information to be considered by staff in advance of the continued hearing on March 15, 2012. Based on that additional information which showed that the applicant intends to operate the campground as a

primitive use teaching park, she recommended approval.

a. The applicant made a short presentation which included explanation of photographs of the subject property and how the applicant would be using the proposed park and campground as a "leave no trace" style training and education camp. The applicant made specific reference to the schedule for staff which would ensure that neither campers nor staff will be resident on the subject property for more than 30 consecutive days consistent with the state administrative rule imposing that limitation. Otherwise, the applicant indicated that the recommended conditions of approval were acceptable with the minor modifications noted below.

b. The applicant's attorney Ty Wyman spoke briefly about modifications to five of the recommended conditions of approval. Those conditions of approval are identified in Exhibit 22. Each of the five conditions were discussed and staff agreed with the recommended modifications. The conditions of approval are amended below consistent with Mr. Wyman's testimony and staff comment.

b. One-party, Tom Costello representing the Audubon Society, which owns property adjacent to the subject property, testified in favor of the application. He stated that the type and intensity of use proposed by the applicant was entirely consistent with the vision that Audubon has for its own property and he did not anticipate any adverse impacts from the proposed use.

3. No party testified in opposition to the application. The applicant did not request that the record remain open and waived the right to a final comment. The hearing and the record closed on March 15, 2012.

C. DISCUSSION

1. I find that the findings and conclusions of the staff report, the application materials and case files are sufficient to justify approval of the application and I adopt those findings and conclusions as my own.

2. One issue merits additional discussion. This application is subject in part to OAR 660-006-0025 which requires that the activities which take place in private parks and campgrounds on designated forest land be "appropriate and a forced environment." Prior hearings officer decisions implementing this rule have generally found that proposed uses which did not significantly alter the land itself or would allow the subject property to be easily returned to forest use can comply with this rule. In this case, the Hearings Officer wishes to specifically note that the nature of this proposed private park and campground is entirely consistent with this rule as the private park and campground will facilitate training on "leave no trace" camping practices. It is hard to imagine a conditional use that would be more appropriate in the forest environment.

D. CONCLUSION

Based on the above findings and discussion, the Hearings Officer concludes that conditional use application Z0263-11-C should be approved.

E. DECISION

Based on the findings, discussion and conclusions provided or incorporated herein and the public record in this case, the Hearings Officer hereby **APPROVES** application Z0263-11-C subject to the following conditions of approval:

I. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 20, 2011, deemed incomplete on July 13, 2011 and revised plans and narrative submitted 8/13/11, 10/24/11, 11/21/11, 11/22/11 and 12/6/11. Additional information was submitted 2/23/12 and 3/6/12. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell, Clackamas County Permit Technician at (503) 742-4657 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Diedre Landon in the Clackamas County Engineering Division. Diedre Landon can be contacted by phone at (503) 742-4411 or email her at dlandon@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. <u>Land Use and Zoning Conditions:</u> Sandy Ingalls, (503) 742-4532, sandying@co.clackamas.or.us

1) Approval is for the specific use identified in the application materials and on the submitted site plans to the extent; they are consistent with the remaining conditions of approval. This approval authorizes the applicant to establish a private campground on-site parking and circulations system.

2) A maximum of 100 participants (paying campers) and 15 (staff campers) per week.

3) Campers (customers and staff) shall not occupy the "campground" site for more than a total of 30 days during any consecutive 6 month period. The caretaker(s) may occupy the existing single-family dwelling year round.

4) In order to comply with the 30 day maximum overnight temporary use requirement, the management will submit to the Planning Division a schedule of the staff campers per session. The report shall be due one (1) month prior to the opening of the camp per season. Since the rule stipulates a 6 month period, a minimum of 2 reports a year are required. Two reports shall be filed per year for the next two years.

5) The use of speakers, public address systems or other noise amplification devices are prohibited. Private communication devices are allowed.

6) Outdoor lighting is not permitted. Shielded security lighting is allowed.

7) The applicants shall submit within 30 days of approval of this application, a port-a-potty rental and maintenance agreement from a licensed sewerage disposal company OAR 340-071-0600, to the County Soils Division.

8) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm and 50 dB(A) from 10:00 p.m. to 7:00 a.m.(campground).

9) All signs shall be in compliance with ZDO Section 1010.

10) The applicants shall obtain all Food Handler Permits and Licenses within 30 days of approval of this application and comply with regulations, for beverages and food items being served.

12) The applicant shall obtain a sanitation license from the Community Health Department and State approval of the water system within 30 days of approval of this application.

13) A written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

14) The applicant shall have the Fire Department review, inspect, and approve all open fire locations on site, prior to use and within 30 days of approval of this application.

15) The only types of sleeping/living shelters allowed are tents (teepees), travel trailers or recreational vehicles.

III. <u>Building Code Division Conditions:</u> Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

1) All construction shall comply with current Oregon Structural Specialty Code and any other relevant codes.

2) All necessary development permits (septic, building, electrical, grading, driveway, etc.) for this facility and associated buildings shall be submitted and receive final approval and inspections before use begins within four years of the final decision.

3) The applicant shall obtain a "Change of Use" permit from the Building Division for any structure (i.e. Agriculture building) on site used for the events, office, storage of equipment, etc., approved through this application within 30 days of approval of this permit.

IV. <u>Engineering Division Conditions:</u> Kenneth Kent, (503) 742-4473, Kenken@co.clackamas.or.us

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Roadway Standards. Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

4) The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Development Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

5) At the intersection of the private road and E Marmot Road, the applicant shall provide minimum intersection sight distance of 360 feet to the north and 338 feet to the south. Sight distance shall be measured 14.5 feet back from the edge of the travel lane/fog stripe at a driver's eye height of 3.5 feet to a height of 3.5 feet in the center of the oncoming travel lane. A plan shall be submitted with the development permit identifying adequate sight lines for sight distance, including proposed improvements, such as tree/vegetation removal.

6) The applicant shall design and construct the proposed shared private road per the *Clackamas County Roadway Standards*. The private road shall meet the following standards:

   a. The minimum width for the driving surface shall be 12 feet and shall be centered within a minimum 20 foot wide clear zone, per Roadway Standards Drawing R100. The roadway shall be able to support a 75,000-pound fire apparatus. Minimum vertical clearance shall be 13.5 feet for the full length of the private road. Single lane roads in excess of 400 feet in length shall have turnouts constructed every 400 feet or less unless otherwise approved by the local Fire Chief. The turnouts shall be a minimum of 10 feet wide and 30 feet long. The spacing of the turnouts may be reduced when visibility and sight distances are limited.

   b. The applicant shall construct a paved approach to Marmot Road in accordance with Roadway Standards Drawing D500. The driveway approach to Marmot Road shall be constructed at a 90° angle and there shall be a platform,

minimum 20 feet in length and measured from the edge of Marmot Road, with a grade not to exceed plus or minus 5%. The paved approach shall have a minimum with of 20 feet. Beyond the paved approach, the private road may taper to a 12-foot width. Surface water shall not be permitted to flow off the private road approach onto Marmot Road.

c. A sufficient turnaround for fire apparatus shall be illustrated as existing or shall be constructed; corner radii for fire apparatus shall meet minimum local Fire District requirements; and vertical and horizontal clearances shall meet minimum local Fire District requirements.

7) Positive drainage must be provided for surface water to an acceptable outfall. Erosion control measures shall be installed and maintained throughout the construction process. (ZDO section 1008)

8) Prior to the issuance of a building permit, the applicant shall provide written verification of the existing access easement(s) providing access from E Marmot Road to the project site.

9) The applicant shall address storm drainage for the site improvements per ZDO Section 1008 and *Clackamas County Roadway Standards,* Chapter 4.

10) The applicants shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas.

11) Parking spaces shall meet minimum and maximum ZDO section 1015 requirements, both in number and dimensions. The revised site plan shall list a minimum of (10) ten parking spaces and two bus spaces . The site plan shall include dimension for the parking stalls and back up areas. The applicant shall provide bumper guards or curbs for each parking space in accordance with ZDO subsection 1015. The parking lot area shall be surfaced with screened gravel or better.

12) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:

a. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

b. Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

V. **Office of Sustainability Conditions:** Susan Terry, (503)-742-4461, susanter@co.clackamas.or.us

1) The applicants shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening

and other specific design standards for enclosures and pads. The Applicants must provide detailed enclosure plan, complete with service truck circulation, to Susan Terry, Community Environment Division, within 30 days of approval of this application. Contact Susan Terry at 504-742-4461.

Susan Terry can provide the necessary information about size of service trucks, building materials and appropriate containers. Detailed information, including ZDO 1021, is available on the county web site www.co.clackamas.or.us under Garbage & Recycling. Ms. Terry also must sign off on behalf of the service provider(s).

VI. Portland Water Bureau (PWB) Conditions: Richard Robbins, 503-823-7799, Richard.robbins@portlandoregon.gov

1) Clearly mark the northern boundary of tax lot 100 with fiberglass lath. PWB can provide BRWMU "no trespassing" signs that can be mounted to trees along this boundary 30 feet apart and provide personnel to install these signs, once the boundary is surveyed and marked by a licensed surveyor.

2) Allow security/law enforcement staff of PWB and Forest Service to enter the property, via the Marmot Road ingress, and periodically inspect the northern boundary to ensure that the signs described in item no. 1 above are still in place, and to also conduct on-site inspections for evidence of any user-constructed trails and trespass activities that occurs between the subject property and Section 7.

3) Alternative to condition #2, the application shall monitor and maintain the signage; install fencing along the northern property boundary that shall also be monitored and maintained in good condition, to assure no trespassing on to the property to the north.

DATED this 29th day of March, 2012.

Kenneth D. Helm

Kenneth D. Helm
Clackamas County Hearings Officer

ENDANGERED SPECIES ACT NOTICE

The federal Endangered Species Act (ESA) is not a criterion for approval of this application. The County has reviewed the approval standards in light of the requirements of the ESA, believes that the criteria for approval are consistent with the terms of the ESA and has submitted the Development Ordinances for consideration for a "4(d)" programmatic limitation. However, the analysis included in this decision does not include an evaluation by the County of the applications for consistency with the ESA nor does the decision reach any conclusions concerning that federal law. The applicant are responsible for designing, constructing, operating and maintaining the activities allowed by an approval of this application in a manner that ensures compliance with the ESA. Any question concerning this issue should be directed to the applicant, their consultants and the federal agencies responsible for administration and enforcement of the ESA for the affected species.

APPEAL RIGHTS

ZDO 1304.01 provides that, with the exception of an application for an Interpretation, the Land Use Hearings Officer's decision constitutes the County's final decision for purposes of any appeal to the Land Use Board of Appeals (LUBA). State law and associated administrative rules promulgated by LUBA prescribe the period within which any appeal must be filed and the manner in which such an appeal must be commenced. Presently, ORS 197.830(8) requires that any appeal to LUBA "shall be filed not later than 21 days after the date the decision sought to be reviewed becomes final." ZDO 1304.02 provides that this decision will be "final" for purposes of a LUBA appeal as of the date of mailing (which date appears on the last page herein).

CERTIFICATE OF MAILING

I certify that on the date set forth below I mailed a copy of the above HEARINGS OFFICER FINAL ORDER by first class mail to the following participants at the address shown:

Ty Wyman
7518 SE 34th Ave
Portland, OR 97204

Peter Fry
2153 SW Main #105
Portland, OR 97205

Tom Costello
5151 NW Cornell Rd
Portland, OR 97210

Mt Hood CPO
PO Box 632
Welches, OR 97067

Tony Deis
52815 E Marmot Rd
Sandy, OR 97055

James Deis
1424 SE 76th Ave
Portland, OR 97215

David & Bridgett Edlin
53205 E Marmot Rd
Sandy, OR 97055

The original of this decision has been filed with the Planning Division, Clackamas County Department of Transportation and Development.

DATED this 29th day of March, 2012

Linda J May

Linda J. May, Permits Specialist

Land Use and Zoning
Development Services Building
150 Beavercreek Road Oregon City, OR 97045
Phone: (503) 742-4500 fax: (503) 742-4550
e-mail: zoninginfo@co.clackamas.or.us
Web: http://www.clackamas.us/transportation/planning/

NOTICE OF LAND USE RECOMMENDATION

This document represents the Land Use and Zoning Staff findings and recommended conditions of approval for a Land Use Application for a Conditional Use Permit as cited below. It contains three parts: Section 1 – Summary, Section 2 – Conditions of approval and Section 3 – Findings.

SECTION 1 – SUMMARY

DATE: January 26, 2012

HEARING DATE: February 2, 2010 (Agenda Item Time: 9:30 am)

CASE FILE NO.: Z0263-11-C

STAFF CONTACT: Sandy Ingalls, (503) 742-4532, sandying@co.clackamas.or.us

LOCATION: T2S R6E Section 18, Tax Lot(s) 100

APPLICANT(S): Tony Deis, Trackers Ranch LLC, 52815 East Marmot Rd, Sandy, OR 97055

OWNER(S): Tony Deis, Trackers Ranch LLC, 52815 East Marmot Rd, Sandy, OR 97055

TOTAL AREA: Approximately 40 acres

ZONING: TBR; Timber District

COMPREHENSIVE PLAN DESIGNATION: Forest

CITIZENS PLANNING ORGANIZATION: MT. HOOD CORRIDOR CPO
Janine Bertram
503-622-6387
P.O. Box 632
Welches, OR 97067
janinebk@mac.com

PROPOSAL: A Conditional Use Permit to authorize a private park and campground. The youth and adult students stay in units by age bracket for usually a week during the summer, fall and/or spring sessions learning archery, fishing, botany, animal tracking, homesteading and sustenance gardening, conservation and restoration, invasive species removal/trapping,

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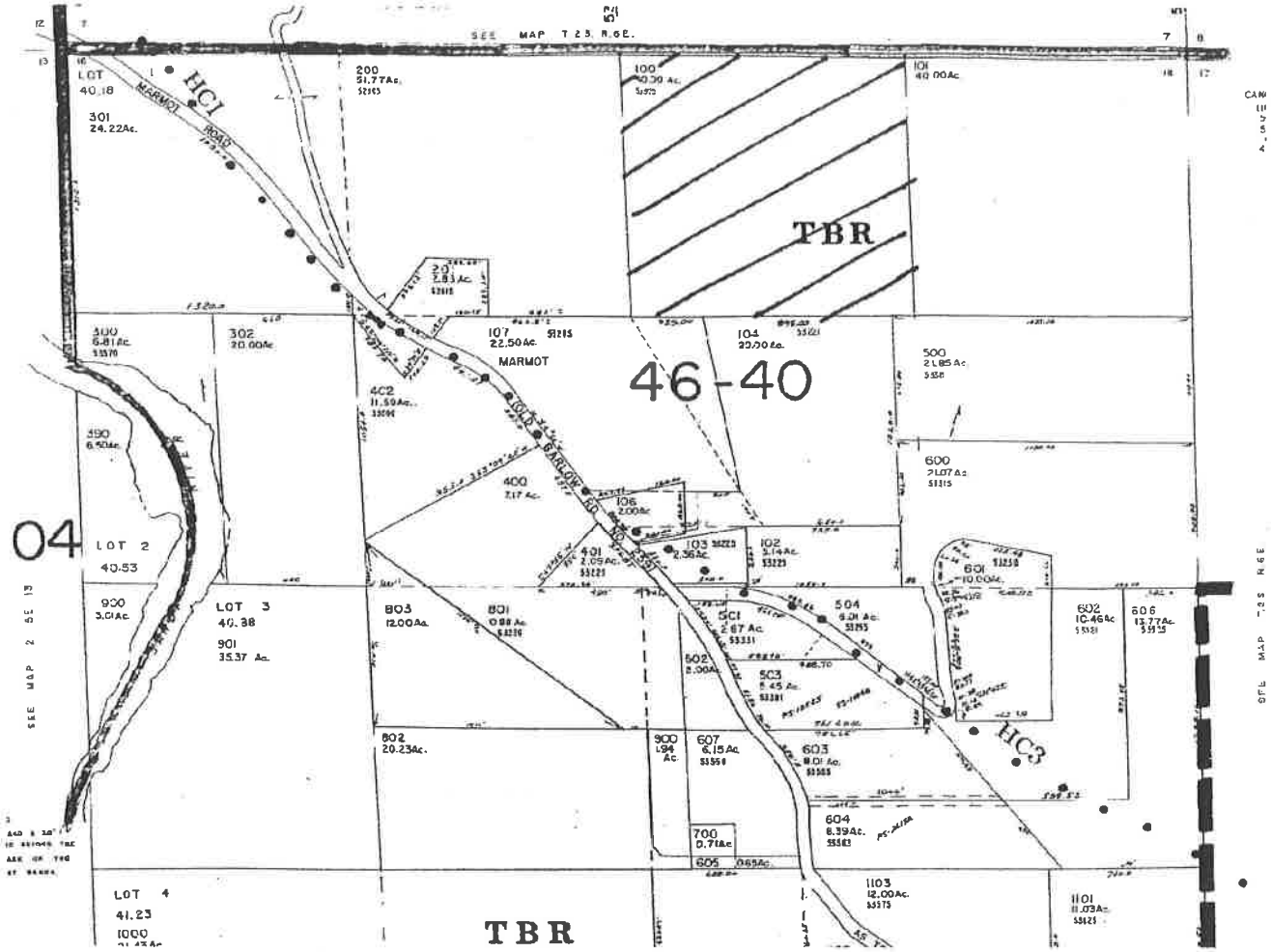
wilderness, survival, and leadership skills, and outdoor safety, etc.. Typically camp holds from 40-60 campers and eight staff. Campers arrive Sundays and leave Fridays. Access is proposed off an existing driveway from East Marmot Road.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the Land Use & Zoning Staff recommendation and all evidence submitted with this application is available for inspection, at no cost, at the Land Use Development Services Division during normal business hours (Monday – Thursday 9:00 a.m. – 4:00 p.m.). Copies of all documents may be purchased at the rate of $1.00 for the first page and 10 cents for each additional page. The Land Use & Zoning recommendation contains the findings and conclusion upon which the recommendation is based along with any recommended conditions of approval.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 406, 1002, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

Tax Map



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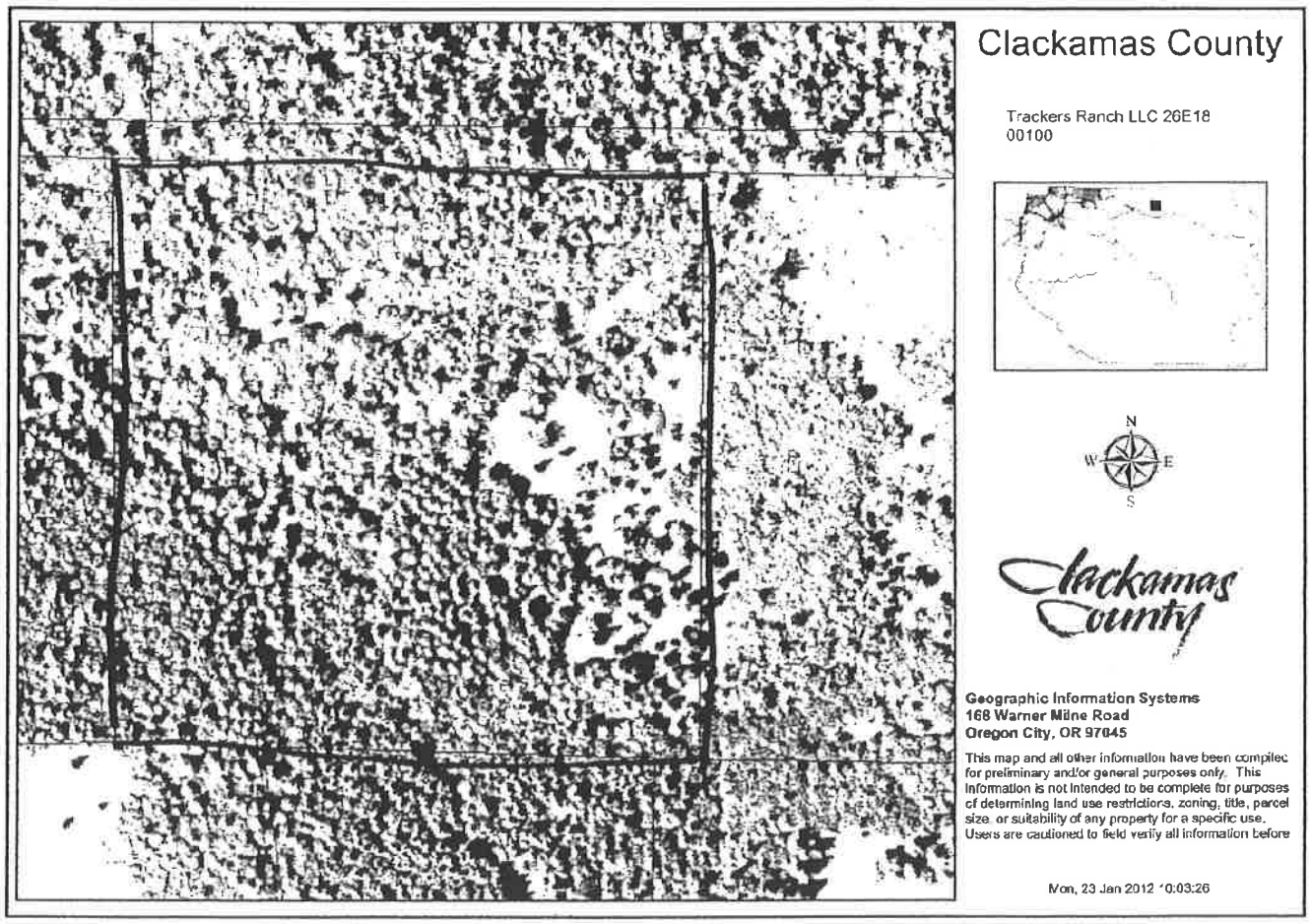
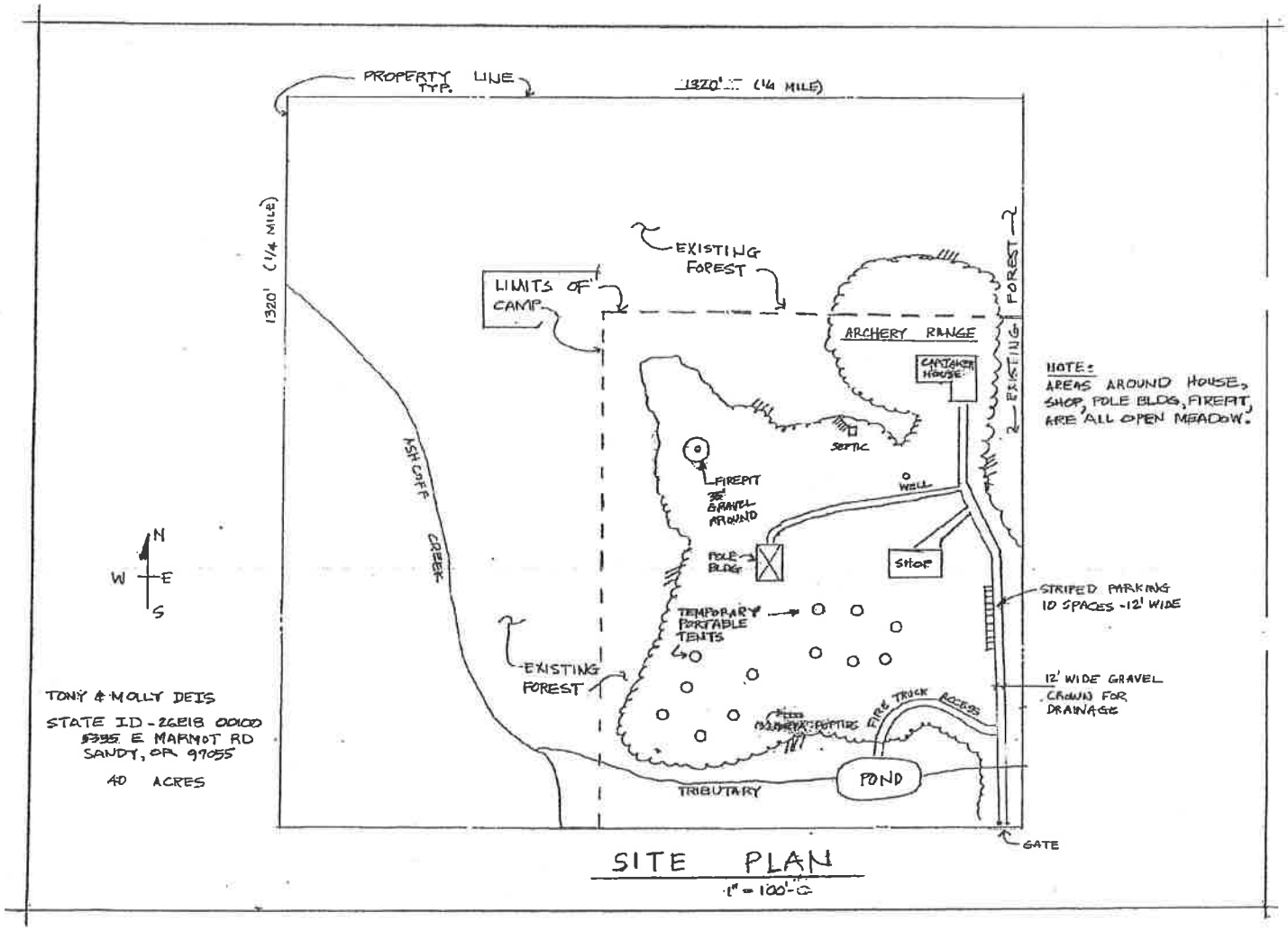
Aerial Photograph



Site plan



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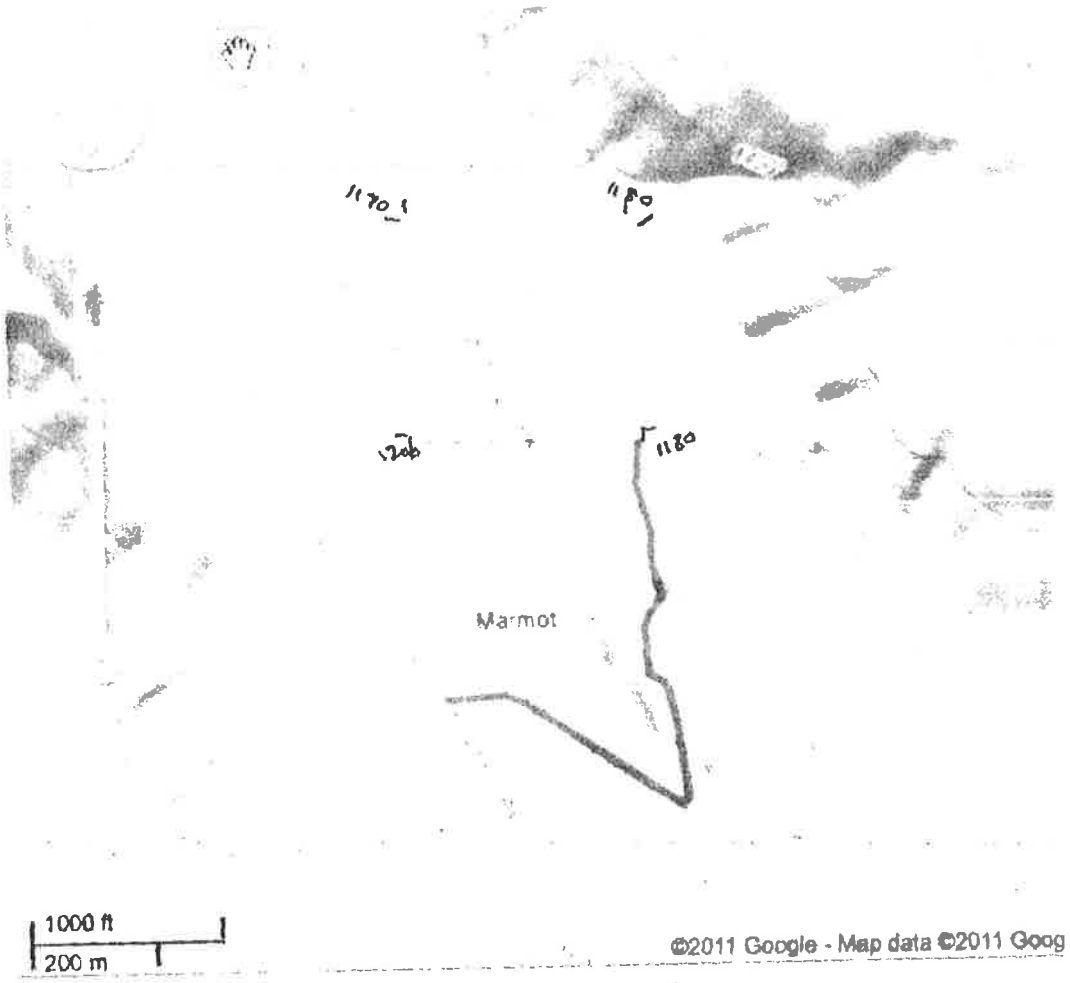
Vicinity Map



9/12/2011

RECOMMENDATION:

A. Denial for the following reasons:

1. The criteria in Section 1203.01(A) is not met as it relates to the "campground". Partially 406.06(B)(4)(c) - The overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period.

2. Intensive use: Staff found that the Pole Ag Barn/Kitchen/Community structure was a too intensive use for County's primitive definition of Campgrounds and that the individual campsites should have their own cooking and eating facilities (i.e. picnic table and primitive fire pit).

SECTION 2 – RECOMMENDED CONDITIONS OF APPROVAL

If this application is approved, staff recommends the following conditions:

I. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 20, 2011, deemed incomplete on July 13, 2011 and revised plans and narrative submitted 8/13/11, 10/24/11, 11/21/11, 11/22/11 and 12/6/11. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell, Clackamas County Permit Technician at (503) 742-4658 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Diedre Landon in the Clackamas County Engineering Division. Diedre Landon can be contacted by phone at (503) 742-4677 or email her at dlandon@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Land Use and Zoning Conditions: Sandy Ingalls, (503) 742-4532, sandying@co.clackamas.or.us

1) Approval is for the specific use identified in the application materials and on the submitted site plans to the extent; they are consistent with the remaining conditions of approval. This approval authorizes the applicant to establish a private campground on-site parking and circulations system.

2) A maximum of 68 participants (paying campers and staff campers) per week.

3) The applicants shall employee a maximum of up to eight full-time or part-time employees to work on site for their business endeavors.

4) Campers (customers and staff) shall not occupy the "campground" site for more than a total of 30 days during any consecutive 6 month period. The caretaker may occupy the existing single family dwelling year round.

5) The use of speakers, public address systems or other noise amplification devices are prohibited.

6) Outdoor lighting is not permitted.

7) The applicants shall submit within 30 days of approval of this application, a port-a-potty rental and maintenance agreement from a licensed sewerage disposal company OAR 340-071-0600, to the County Soils Division.

8) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm and 50 dB(A) from 10:00 p.m. to 7:00 a.m.(campground).

9) All signs shall be in compliance with ZDO Section 1010.

10) The applicants shall obtain all Food Handler Permits and Licenses within 30 days of approval of this application and comply with regulations, for beverages and food items being served, if the community kitchen is approved.

12) If food and drinking water is provided from this facility to participants, the applicant shall obtain a sanitation license from the Community Health Department and State approval of the water system within 30 days of approval of this application.

13) The applicant shall install two (2) bicycle parking stalls to be located at the first aid/office building, on site, under ZDO 1015, Table 1015-3.

14) A written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

15) The applicant shall have the Fire Department review, inspect, and approve all open fire locations on site, prior to use and within 30 days of approval of this application.

16) The only types of sleeping/living shelters allowed are tents, travel trailers or recreational vehicles. No teepees, yurts or temporary built structures are allowed.

17) The existing pole Ag pole building shall not be used as a camp kitchen, dining, community center or other high intensity uses, such as birthday parties (listed on page 11-12 of Exhibit 13), etc.

III. <u>Building Code Division Conditions:</u> Richard Carlson, (503) 742-4769, richardcar@co.clackamas.or.us

1) All construction shall comply with current Oregon Structural Specialty Code and any other relevant codes.

2) All necessary development permits (septic, building, electrical, grading, driveway, etc.) for this facility and associated buildings shall be submitted and receive final approval and inspections before use begins within four years of the final decision.

3) The applicant shall obtain a "Change of Use" permit from the Building Division for any structure (i.e. Agriculture building) on site used for the events, office, storage of equipment, etc., approved through this application within 30 days of approval of this permit.

IV. Engineering Division Conditions: Kenneth Kent, (503) 742-4473, Kenken@co.clackamas.or.us

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Roadway Standards. Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

4) The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Development Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

5) At the intersection of the private road and E Marmot Road, the applicant shall provide minimum intersection sight distance of 360 feet to the north and 338 feet to the south. Sight distance shall be measured 14.5 feet back from the edge of the travel lane/fog stripe at a driver's eye height of 3.5 feet to a height of 3.5 feet in the center of the oncoming travel lane. A plan shall be submitted with the development permit identifying adequate sight lines for sight distance, including proposed improvements, such as tree/vegetation removal.

6) The applicant shall design and construct the proposed shared private road per the *Clackamas County Roadway Standards*. The private road shall meet the following standards:

   a. The minimum width for the driving surface shall be 12 feet and shall be centered within a minimum 20 foot wide clear zone, per Roadway Standards Drawing R100. The roadway shall be able to support a 75,000-pound fire apparatus. Minimum vertical clearance shall be 13.5 feet for the full length of the private road. Single lane roads in excess of 400 feet in length shall have turnouts constructed every 400 feet or less unless otherwise approved by the local Fire Chief. The turnouts shall be a minimum of 10 feet wide and 30 feet long. The spacing of the turnouts may be reduced when visibility and sight distances are limited.

b. The applicant shall construct a paved approach to Marmot Road in accordance with Roadway Standards Drawing D500. The driveway approach to Marmot Road shall be constructed at a 90° angle and there shall be a platform, minimum 20 feet in length and measured from the edge of Marmot Road, with a grade not to exceed plus or minus 5%. The paved approach shall have a minimum with of 20 feet. Beyond the paved approach, the private road may taper to a 12-foot width. Surface water shall not be permitted to flow off the private road approach onto Marmot Road.

c. A sufficient turnaround for fire apparatus shall be illustrated as existing or shall be constructed; corner radii for fire apparatus shall meet minimum local Fire District requirements; and vertical and horizontal clearances shall meet minimum local Fire District requirements.

7) Positive drainage must be provided for surface water to an acceptable outfall. Erosion control measures shall be installed and maintained throughout the construction process. (ZDO section 1008)

8) Prior to the issuance of a building permit, the applicant shall provide written verification of the existing access easement(s) providing access from E Marmot Road to the project site.

9) The applicant shall address storm drainage for the site improvements per ZDO Section 1008 and *Clackamas County Roadway Standards,* Chapter 4.

10) The applicants shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas.

11) Parking spaces shall meet minimum and maximum ZDO section 1015 requirements, both in number and dimensions. The revised site plan shall list a minimum of (10) ten parking spaces and two bus spaces . The site plan shall include dimension for the parking stalls and back up areas. The applicant shall provide bumper guards or curbs for each parking space in accordance with ZDO subsection 1015. The parking lot area shall be surfaced with screened gravel or better.

12) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:

a. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

b. Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

V. **Office of Sustainability Conditions:** Susan Terry, (503)-742-4461, susanter@co.clackamas.or.us

1) Applicants shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening and other specific design standards for enclosures and pads. The Applicants must provide detailed enclosure plan, complete with service truck circulation, to Susan Terry, Community Environment Division, within 30 days of approval of this application. Contact Susan Terry at 504-742-4461.

   Susan Terry can provide the necessary information about size of service trucks, building materials and appropriate containers. Detailed information, including ZDO 1021, is available on the county web site www.co.clackamas.or.us under Garbage & Recycling. Ms. Terry also must sign off on behalf of the service provider(s).

VI. **Portland Water Bureau (PWB) Conditions:** Richard Robbins, 503-823-7799, Richard.robbins@portlandoregon.gov

1) Conduct a legal survey and clearly mark the northern boundary of tax lot 100 with fiberglass lath. PWB can provide BRWMU "no trespassing" signs that can be mounted to trees along this boundary 30 feet apart and provide personnel to install these signs, once the boundary is surveyed and marked by a licensed surveyor.

2) Allow security/law enforcement staff of PWB and Forest Service to enter the property, via the Marmot Road ingress, and periodically inspect the northern boundary to ensure that the signs described in item no. 1 above are still in place, and to also conduct on-site inspections for evidence of any user-constructed trails and trespass activities that occurs between the subject property and Section 7.

3) Alternative to condition #2, the application shall monitor and maintain the signage; install fencing along the northern property boundary that shall also be monitored and maintained in good condition, to assure no trespassing on to the property to the north.

SECTION 3 – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 406, 1002, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. **Background:**

   A. Prior Land Use Actions:

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1. File # Z0026-92, approved May 5, 1993. To establish a residence in conjunction with an herb farm.

B. This application is the outcome of a violation file (V0448-11) pending with the Community Environment Division for operating a youth camp without land use approval on site. Community Environment Division has requested certain dates for permits to be approved with this application.

C. Staff is reviewing this application using the comments submitted to the record. Staff has reviewed the applications webpage and found there are some discrepancies in the "campground" program, activities and participant (camper) age bracket.

D. Applicant's Proposal: "*The ultimate focus of Trackers' curriculum is to explore the relationship of people and the natural resources in both the past and present. A large part of the curriculum is sustainable agro-forestry, which fits well within the current designated use as timber land. All our programs, from animal tracking/habitat mapping to forest resource extraction and restoration practices, explore how harvests – directed to encourage diversity in both age and structure of timber – can encourage diversity for other native flora and fauna.*

The property owner shall develop a forest management plan that will include a harvesting rotation of sections of the property with replanting and the thinning and cultivation of the trees. The harvesting of trees shall not endanger or impede the camps operation, however students will be educated as to the process of planting, cultivating and harvesting trees to allow them to understand and experience one of Oregon's basic industries.

Accordingly, Trackers seeks approval to conduct wilderness survival programs on the site. The scope of these programs include: animal tracking, agro-forestry, outdoor safety and survival skills, fishing, archery and bow making, botany, homesteading & sustenance gardening, conservation & restoration and invasive species removal/trapping (flora and fauna).

Youth and adult students are arranged in groups. Ages 4-10 enjoy fantasy and live the life of pioneers in "little houses, The Wilders Homestead". Ages 6-10 area educated about history, archery, fishing, and wilderness skills. Ages 9-13 are immersed in a village where they discover skills, friendship, and adventure. Ages 14-18 are trained in leadership skills. Adults cover a range of outdoor safety and survival skills. The goal is to develop a full understanding of our natural resources and how they are used in our history and modern life.

The camp operates 12 weeks during the summer. Occasionally programs will be held in the fall and spring; usually eight weeks or less. Campers arrive for one week and individual campers do not return that year. Typically, the camp holds 40 campers with some sessions up to 60 campers with an anticipated growth to one hundred campers. The camp is staffed by up to eight trained staff members who stay at the camp Sunday through

Friday and leave on the weekends. Three of the eight trained staff members are permanent to the duration of the camp session.

The staff and campers live in six teepees – with plans for eight – and a proposed eight camping tents. The tents and teepees are taken down and stored in the existing storage shed when camp is not in session. Food and equipment is also stored in the storage shed that has a stove and refrigerator. The food is refrigerated by a refrigerator and freezer. The storage shed's second floor acts as a first aid room and small office. A pole building serves as an outdoor kitchen with a propane stove and wood fire cob oven. A large campfire area with benches is provided for evenings and educational functions.

The camp does not have sewer or septic. The camp does not have electricity. The well provides water through two spigots similar to what would be found in a camp ground. An open bath house with curtains for privacy provides solar showers. The camp utilizes two "port-a-potties" which are temporary and will be pumped out as necessary on a regular schedule; one for boys and one for girls."

2. **Site Description:** The site abuts an easement that abuts SE Marmot Road (a minor arterial), see the site plan, and vicinity map above. The site is located north of Marmot Road. The square shaped lot is relatively sloped, see the vicinity map, above. The site is covered in timber of varying ages planted throughout the property. A small area along the middle-eastern property line has been somewhat cleared. See the aerial photograph above and Exhibit 3. The site contains a total of 40 acres (Exhibit 2). The site was developed with a two bedroom, 4,706 square foot residence constructed in 1999.

3. **Natural Features:** The site is covered in timber of varying ages, and a small open area near the middle-eastern property line.

4. **Man Made Features:** The site has a single-family dwelling, agriculture building, pond, shed septic system, well, parking and circulation system on site.

5. **Surrounding Conditions:** The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and very few are developed with single-family dwellings.

6. **Service Providers:**

   A. Surface Water: The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the DTD, Engineering Division.
   B. Water: The subject property is not located in a public or private water district. Water is provided from an on-site well.
   C. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by port-a-potties.
   D. Fire Protection: Hoodland Fire District #74.

7. **Responses Requested:**

   A. Mt. Hood Corridor
   B. Hoodland Fire District #74.
   C. Department of Transportation and Development (DTD), Building Division
   D. Department of Transportation and Development (DTD), Traffic Engineering (TE)
   E. Department of Transportation and Development (DTD), Sustainability
   F. Water Environment Services Division (WES)
   G. DTD, Community Environment
   H. County Health
   I. Dept. of State Lands
   J. Dept of Land Conservation & Development
   K. Property Owners within 750 feet

8. **Exhibits:** See Exhibit List following the last page of this report.

PART 1. SUBMITTAL REQUIREMENTS

1. Subsection 1203.04 of the Zoning and Development Ordinance list the information that must be included in a complete application for a conditional use permit.

   This application includes a completed land use application form, site plan (see above), application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statements of Feasibility for storm water management, and sanitary sewer. Additional information was submitted on 8/13/11, 10/24/11, 11/21/11, 11/22/11 and 12/6/11. All the submittal requirements under Subsection 1203.04 are included in the application. The application was submitted on June 20, 2011 and deemed complete on December 6, 2011 (Exhibit 4). The 150 day deadline for processing this application is May 4, 2012 (Exhibit 4).

The submittal requirements of Section 1203.04 are met.

PART 2. CONDITIONAL USE PERMIT

1. Subsection 1203.01 of the Zoning and Development Ordinance lists six (6) criteria that must be satisfied in order to approve this Conditional Use.

   A. **Section 1203.01(A):** *The use is listed as a Conditional Use in the underlying zoning district.*

1. The subject property is zoned Timber. Section 406 of the ZDO controls land uses in the underlying Timber zoning district. Section 406.06(B) lists the conditional uses allowed in the Timber zoning district. Section 406.06(B)(4) of the ZDO specifically lists "Private parks and campgrounds."

2. The applicant has proposed to establish a camp/campground as a "Private Park and Campground" under the provisions of Section 406.06(B)(4). The proposed uses are summarized under the "Proposal" of this report and described in the application narrative and site plan.

3. The following background information is provided in order to provide a basis for determining whether the proposed private park and campground qualifies as a listed conditional use under Section 406.04(B)(4):

   a. Section 202 of the ZDO provides definitions of words and terms used throughout the ZDO. There is no definition of a "private park" or "park". Webster includes a definition of a "Park" to include; *"A tract of land reserved for public use; an expanse of enclosed grounds for recreational use within or adjoining a town; a landscaped city square; a tract of land kept in its natural state; a stadium or enclosed playing field; a country estate especially one that has extensive gardens, woods, pastures, and game preserves"*.

   b. Webster includes a definition of "Private" to include; *"Not in public life; secluded from the site, presence, or intrusion of others; of or limited to one person; not available for public use, control or participation; belonging to a specific person or persons"*.

   c. The Timber zoning district was acknowledged as a Forest zoning district under Statewide Planning Goal 4 (Forest Lands). The purpose of Goal 4 is to conserve forest lands. OAR 660-006 implements Goal 4. OAR 660-006-0025 identifies the uses authorized in forest zones. OAR 660-006-0025(1) provides for five general types of uses that may be allowed in the forest environment, subject to certain standards in the goal and in the OAR. The five types of uses include;

      i. Use related to and in support of forest operations.
      ii. Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and *recreational opportunities appropriate in a forest environment* (emphasis added).
      iii. Locationally dependent uses, such as communication towers, mineral and aggregate resources, etc.
      iv. Dwellings authorized by ORS 215.720 to 215.750.
      v. Other dwellings under prescribed conditions.

   d. The provisions for private parks listed in Section 406.06(B)(4) of the ZDO implements OAR 660-006-0025(4)(e). Consistent with OAR 660-006-0025(4)(e), the ZDO authorizes "Private parks and campgrounds" as a conditional use. There

is no definition of a "Park" or "Private Park" in the OAR. The description of "Private parks and campgrounds" in the ZDO is identical to the description in OAR 660-006-0025(4)(e). Therefore, the ZDO may not be interpreted or applied inconsistently with OAR 660-006-0025(4)(e).

e. There are several Land Use Board of Appeals (LUBA) cases which are relevant to the establishment of a "Private Park" in a forest zoning district. Specifically, *Cotter vs. Clackamas County (LUBA 98-107); Tice vs. Josephine County (LUBA 91-043); Utsey and Tang vs. Coos County (LUBA 2000-006) and; Spiering and MacMillan vs. Yamhill County (LUBA 93-049).*

f. Based on the above information and particularly the interpretations provided in the LUBA cases, a "Private Park" can only qualify as a listed conditional use in the Timber zoning district upon consideration of the following general guidelines; 1) the use must provide an outdoor recreational activity appropriate in forest environment; 2) the recreational uses must be a low impact recreational use which does not dominate or change the character of the forest environment; 3) consideration and balancing of the intensity of the use against surrounding land uses and; 4) consideration of the type and number of permanent structures and accessory structures.

4. In regards to the proposed **campground,** staff believes the proposed use does not meet the definition of a "Campground" based on the following:

   a. The proposed use does not meet the definition of a *"campground" as described under OAR 660-006-0025(4)(e)(A) which states that "overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6 month period.".*

      The applicant's webpage, Exhibit 13, page 19, lists opportunities for campers to stay at camp for 1) *"9-months – one evening and two full days each week, Wednesday evening through Friday afternoon"* and 2) *"1-summer 7-days a week, with course days and "village days"".* This latter program includes *"build a village to live in and gardens to eat by".* Also, the applicant states that summer camp operates for 12 weeks and that all staff but three staff leave each weekend. This does not sound like a temporary weekend overnight campout with the family or a youth group camping trip. Staff finds that all people that camp at "*Camp Trackers Overnight Summer Camp*" (Exhibit 13, page 5) should be considered campers. With that said, all campers should comply with the 30-day criteria listed above. A condition of approval is warranted stating that all campers (customers and staff) shall not occupy Trackers Overnight Summer Camp property for more than a total of 30 days during any consecutive 6 month period.

   b. The question that LUBA case 624 (1997) Donnelly v. Curry County discusses under Goal 4 is not whether a campground on forest lands is appropriately rural (i.e. non-urban) in intensity, but whether the campground's intensity of development is *"appropriate in a forest environment."*

Some of the uses listed on the applicant's webpage, Exhibit 13, page 19 include the following uses *"building and living in a village through wild crafting and horticulture"* in the Trackers Residential Immersion program; page 6 - metal working, and blacksmithing, commercial kitchen to feed all campers (paying customers and staff), and page 5 – "the Wilders Guild offers homesteading activities. Campers could make cheese from farm fresh goat milk". The applicant lists uses/activities in their application such as agro-forestry that may be a more intense use, as well as animal tracking, outdoor safety and survival skills, fishing, archery and bow making, botany, homesteading (possible high intensity use) and sustenance gardening, and invasive species removal/trapping (flora and fauna).

The applicant describes in their application and webpage, the camp units as: *"The Guilds: Rangers, Wilders, Mariners & Artisans.*

More than a Camp, a Village
In traditional villages and tribes, by the ages of 14-18 youth were often entrusted with awesome responsibility. At Trackers we seek to harken back to that time. This is not your usual summer camp. Instead it is an epic adventure into a world long past. You choose a Trackers Guild and with it you journey into the depths of traditional knowledge and ancient wisdom...

***The Rangers Guild** lives in a primitive survival camp, completely blending into the forest*
***The Wilders Guild** grows gardens, tends to our ranch animals and cares for the homestead*
***The Mariners Guild** kayaks and fishes nearly every day. They also help build a boat while learning the ways of the water*
***The Artisans Guild** trains theater production and art. They also learn filmmaking to document the day to day stories of camp life."*

Campers range in age from age 4-18 and adults.

See Exhibit 13 for other opportunities, including the camp hosting birthday parties. According to Exhibit 8 from DLCD, that *"no events or activities are permitted (e.g. birthday parties) that are not recreation-based."* Staff finds that a "recreation" use is defined as "*is an activity of leisure, leisure being discretionary time.[1] The "need to do something for recreation" is an essential element of human biology and psychology.[2] Recreational activities are often done for enjoyment, amusement, or pleasure and are considered to be "fun". The term recreation implies participation to be healthy refreshing mind and body."* (Wikipedia, the free encyclopedia)

DLCD finds that: *"The application is a problematic stretch for campgrounds for a couple of reasons:*

1) *While camp staff could be considered campers, they would have to abide by the 30-day limit in a six-month period*
2) *There is no provision in statute or rule for a commercial kitchen or other food preparation area in campgrounds*
3) *While crafts could be OK, building structures that are permanent or that could become overnight accommodations are not allowed."*

Staff concurs with DLCD and finds that the above uses are too intense of uses to comply with the statutes. County code is more restrictive and does not allow buildings constructed for temporary occupancy for campground use.

b. The property is privately owned, belonging to a specific person(s).

6. The campground is subject to the standards in Section 406.06(A)(1-4) of the ZDO and identified below:

a. *"The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands."*

The applicant is planning to operate a "campground" for up to 60 campers during the summer and sessions for smaller groups throughout the year. They state that they may increase the number to 100 campers in the future. The introduction of campers to the site may increase the chance for trespass on neighboring properties. The applicant is also planning to do some selective logging and replanting on site. This could cause erosion into the Bull Run watershed next door. The Portland Water Bureau, is requesting that he northern property line be signed to keep trespassers out of the Bull Run watershed.

This criteria can be met.

b. *"The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel."*

The applicant states that they will have evening camp fires for the "Campground" to enjoy, and cook meals in a pole barn. However, from their webpage, Exhibit 13, page 19, their immersion program may do their own cooking in their village that they build and live in. These open fire locations need to be reviewed and inspected by the Fire Department.

This criteria can be met, when the fire pit/cooking fire locations are reviewed and approved by the Fire Dept. A condition of approval is warranted.

c. *"A written irrevocable statement shall be recorded in the deed records of the County binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging*

injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937."

A condition is warranted.

d. *"If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance."*

The applicant states that they take access from an easement. A condition is warranted requiring the applicant to provide proof of a long-term road access use permit or agreement.

7. Summary:

a. The proposed "campground" does not meet the definition of a "Private Park and campground" as discussed above and therefore it does not qualify as a listed conditional use permit in under Section 1203.01(A).

b. The proposed campground can meet the requirements of Section 407.06(B)(4)(a-d) with conditions of approval, but does not qualify as a listed conditional use permit in Section 1203.01(A).

The criteria in Section 1203.01(A) is not met as it relates to the campground.

B. **Section 1203.01(B)**: *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. **Size:** The subject property is approximately 40 acres in size (Exhibit 2).

2. **Shape:** The subject property is an square lot (Exhibit 2).

3. **Topography:** The square shaped lot is relatively sloped with elevations range from 1180 feet MSL at the northeast corner, up to 1206 feet MSL at the southwest corner of the site, (vicinity map, above).

4. **Location:** Off a private easement off Marmot Rd.

5. **Improvements:** The site has a 4,706 square foot single-family dwelling constructed in 1999, existing pole barn, agriculture building, septic system, well, parking and circulation system on site.

6. **Natural Features:** The site is covered in timber of various ages (Exhibit 3); the remaining site is covered in grassland.

7. **Floodplain:** According to the FEMA Floodplain maps, the subject property is not located within or near a designated floodplain

8. **Geologic Hazards:** There are no seen hazards on the geologic hazards map.

9. **Soils:** Exhibit 15 and the table below identify the two soils types on the subject property.

Soil Type *	Rating *	Slopes *	Location on Site **	Native Vegetation *
9B – Bull Run silt loam	Low Value Farm land	3 to 8 % Slopes	Northwestern to middle of the property.	Douglas fir, western hemlock, western red cedar, red alder, sword fern, oxalis and vine maple.
9D – Bull Run silt loam	Low Value Farm land	8 to 30 % Slopes	Most of the property.	Douglas fir, western hemlock, western red cedar, red alder, sword fern, oxalis and vine maple.

* The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.
** See Exhibit 15

10. **Summary:** The physical characteristics of the site are suitable to accommodate the proposed use for the following reasons:

    a. The property is 40 acres. The large size lot is suitable to accommodate the proposed use. The submitted site plan and aerial photograph (see above), illustrates the proposed improvements to the site that include a gravel parking lots, campground sites, driveway extension, and port-a-potties, kitchen pole barn, first aid/office/storage building.

    b. The shape does not present any significant limitations to the proposed development.

    c. The slightly sloping topography is very suitable to accommodate the proposed development.

    d. The location is very suitable because it has access to Marmot Road.

    This criterion is met.

C. **Section 1203.01(C):** *The proposed development is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed development.* .

1. Subsection 1007.09: Transportation Facilities Concurrency

    1. *"The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."*

    2. Safety: Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:

        a. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and

        b. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development

    Summary: Clackamas County Traffic Engineering states that *"ZDO section 1007.09 requires that development is served by a transportation system that has adequate capacity to handle any increased vehicle trips generated by new development. There is currently not a capacity issue on E Marmot Road. The proposed use will generate approximately 12 vehicle trips per day during the peak summer use, which is slightly more than one single family residence. The roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 17)

    This criterion is met.

D. **Section 1203.01(D):** *"The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district."*

    1. The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and very few are developed with single-family dwellings

    2. This criteria does not require this use to not have any impacts, but instead the impacts must not substantially limit, impair or preclude the use of adjacent properties for the allowed primary uses. The primary uses allowed in this district are listed in Section 406.04. The primary uses allowed in this zone primarily include forest operations, farm uses, conservation of soils, air, water and provide for fish and wildlife resources, alternation of legally established dwelling, road widening, etc., private hunting and fishing operations, fire towers and stations, utility lines, water intake facilities, etc.,

mineral and aggregate exploration, etc., accessory buildings customarily incidental with a primary use, temporary structure, and wireless telecommunication facilities.

3. The background information provided in this report describes the general land uses proposed on this site and occurring on the adjacent properties. The existing single-family dwelling has been on the site since 1999. There is an existing pole barn to be used as an outdoor kitchen, and a building that will house, first aid, office and storage areas. The uses on surrounding properties are mainly forest type of uses.

4. The potential impacts on the adjacent residential uses include noise, dust, traffic fire danger, trespass and lighting. The staff concurs and adopts the findings in the application in addition to the following findings.

   a. Noise: The staff believes activities on the subject site will generate some noise greater than what is already occurring on site. Staff is unaware of any noise violations from this site. The camp noises are from up to 60 campers and 8 staff/campers singing, and yelling and activity noises of the immersion building structures, and logging timber. The applicant is proposing to increase the number of campers to 100 in the future that would most likely require an increase in camp staff.

      Staff finds that logging activities are regular activities in this zone, but "camp" noises are not. However, staff believes that the distance between of other property uses is far enough away to not be a significant problem or concern.

   b. Dust: The applicant is not planning on any major dust producing activities on site except possibly logging, which is a primary use. The site is located in a timber zoning district where dust is a normal occurrence.

   c. Lighting: The applicant states in their application that the "campground" will not have electricity. It is assumed that campers and staff/campers will use flash lights at night, which planning staff finds will not be a significant concern to neighboring properties.

   d. Traffic: The subject property has access to Marmot Road for a private easement.

   e. Fire Danger: The only concerns for fire are those of the "campgrounds" use of open campfires. Staff has recommended that the applicant have the fire department review and approve the location and use of all open fire pits, etc., on site.

   f. Trespass: There were comments about the probability of trespassing onto adjacent properties to the north by campground participants/campers/staff. Portland Water Bureau has recommends that the site be signed with no trespassing signs posted facing the site along the northern property line. Planning staff concurs with this recommendation and believes that a condition is warranted.

5. Summary: Based on the above analysis Planning and Zoning Staff does not believe the dust, noise, trespass, fire danger, lighting or traffic impacts resulting from the existing or proposed use substantially limit, impair or preclude the use of surrounding

properties for residents and farm and forest uses or practices. With conditions of approval staff finds that this criterion can be met.

E. **Section 1203.01(E):** *The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

1. The applicant has briefly addressed some of the policies in the Comprehensive Plan found to be applicable to this proposal. Staff concurs with the applicability and analysis of those policies.

   The subject property is designated Forest on the Comprehensive Plan map. The Forest Land Use Section in Chapter 4 of the Comprehensive Plan implements the Rural Plan Designation.

   The following policies within the Comprehensive Plan are applicable to this application.

   A. Chapter 3. Forests. Policy 5.0; *Cooperate and coordinate with appropriate state and federal agencies to insure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.*

      The use of forest resources for outdoor recreational uses such as private parks and campgrounds recognizes the multiple resource values of forest lands. The proposed use does not impact on environmentally sensitive areas such as slide and erosion hazard areas, scenic corridors, or unique natural and/or cultural features.

   B. Goals and Policies of the Forest Designation are also included in the Forest Section of the Land Use Chapter of the Comprehensive Plan.

      Chapter 4. Forest. Policy 3.0; *Land uses which conflict with forest uses shall not be allowed.*

      The proposed private park and campground is listed as a conditional use in the Timber zoning district. The prior analysis of the requirements of ZDO Section 1203.01(A) above, provides adequate justification that the proposed use may conflict with forest uses.

   C. ZDO subsection 1203.01(E) requires that the proposed development is consistent with the goals and policies of the Comprehensive Plan that apply to the proposed use.

      Comprehensive Plan Chapter Five, "Transportation", under the heading "Improvements to Serve Development", includes Policy 16.0, which reads as follows:

"Require development to be served by adequate roadway facilities."

Marmot Road is classified as a rural minor arterial road. The road is paved. The County standard for a minor arterial road is for a paved road 34 to 36 feet in width, with six (6) foot wide compacted gravel shoulders. See Exhibit 17, from the Transportation Division.

Transportation Engineering staff (Exhibit 17) finds that the proposal is in compliance with policy 16.0 and, therefore, ZDO subsection 1203.01 as it relates to Comprehensive Plan transportation goals and policies, with conditions of approval.

PART 3. OTHER DEVELOPMENT STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.

   A. **Section 406.06(B)(4)(a-d) Criteria and Standards:** This Section of the ZDO lists additional requirements and standards applicable to conditional use permits in the Ag/F zoning district.

   Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by this subsection. A campground is an area devoted to overnight temporary use for vacation or recreational or emergency purposes, subject to the following:

   1. These areas may be occupied by a tent, travel trailer or recreational vehicle;

      The applicant has proposed in their application and in Exhibit 13, pages 5-6, 17-18, to develop camp units (guilds) with different themes, including the 1) Rangers Guild (similar to Lord of the rings environment), 2) the Wilders Guild named after Laura Ingalls Wilder offering a homesteading environment, 3) the mariners Guild, that learn water skills, building canoes, and go fishing, and 4) The Artisans Guild, that learn crafts, theater, blacksmithing, woodworking, etc. The campers in these guilds live in tents, and teepees. Campers in the "Trackers Residential Immersion" program build and live in a village for a summer – 7-days a week.

      Staff finds that "building and living in a village" will not meet the intent of this section of the Zoning and Development Ordinance. The only types of sleeping and living facilities allowed in this section of the Code are tents, travel trailers or recreational vehicles. No teepees or yurts are allowed, by the County. A condition is warranted.

   2. These uses shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations.

Staff finds that the Pole Ag barn / kitchen/ community type of use structure may also be a too intense of a use, for the County's determination of campgrounds being a primitive use. The pole Ag barn is to be used for agricultural purposes unless change-of-use permits have been approved for this structure.

3. The overnight temporary use in the same campground shall not exceed a total of 30 days during any consecutive six month period

   Staff finds that all people camping on the site shall be "campers", be they staff or customers paying for the privilege to camp on site. Staff and DLCD find that a stay at a private "campground" is for a period of no more than 30 days in a 6 month period. Therefore, all "campers" shall not exceed a 30 day stay on site "campground" in a six month period. A condition is warranted.

4. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary, unless an exception is approved pursuant to ORS 197.732 and Oregon Administrative Rules (OAR) 660 Division 4.

   This site is outside of the three mile limit. Therefore, the criteria is met.

B. **Section 1002 Standards – Protection of Natural Resources.**

1. Section 1002.02 – General Terrain Preparation:

   The applicant briefly commented on the criteria of section 1002.

   a. Section 1002.02(A): *"All developments shall be planned, designed, constructed, and maintained with maximum regard to significant natural terrain features and topography, such as hillside areas, floodplains, and other significant land forms."*

      The applicant is not planning to develop the site further with this application. The applicant states in their application that *"no development is proposed that would affect natural features"*.

      This criterion is met.

   b. Section 1002.02(B): *"Developments shall be planned, designed, constructed, and maintained to:"*

      i. *"Avoid substantial probability of:"*

         a. *"Accelerated erosion;"*

         b. *"Pollution, contamination, or siltation of lakes, rivers, and streams;"*

         c. *"Damage to vegetation; and,"*

d. *"Injury to wildlife and fish habitats; and "*

ii. *"Minimize the removal of trees and other native vegetation that stabilize hillsides; retain moisture; reduce erosion, siltation, and nutrient runoff; and preserve the natural scenic character."*

The applicant is not planning any new development with this application.

This criterion is met.

2. Section 1002.03 – Hillsides:

"All development proposed on slopes of 20 percent or greater shall be limited to the extent that:"

a. Section 1002.03(A): *"No partition or subdivision shall create any new lot or parcel which cannot be developed under the provisions of this section."*

The applicant has not planned to partition or subdivision this site.

This criterion is not applicable

b. Section 1002.03(B) *"Development on land over 35-percent slope—and residential development on land over 25-percent slope in the RR, MRR, and HR zoning districts—shall be subject to Planning Director review pursuant to Subsection 1305.02*

The applicant is not proposing development on land over 35-percent slope—and residential development on land over 25-percent slope in the RR, MRR, and HR. The site is within the Timber zoning district.

This criterion is not applicable

c. Section 1002.03(C): *"Grading, stripping of vegetation, and lot coverage by structures and impervious surfaces shall be limited to no more than 30 percent of slopes 20 percent or greater. Variances to this standard may be granted pursuant to Section 1205. A variance shall not be granted unless the proposed development satisfies the following conditions:*

i. *The proposed lot coverage shall not exceed the maximum lot coverage standard of the zoning district;*

ii. *The additional lot coverage, grading, or stripping shall not:*

a. *Decrease the stability of the slope;*

b. *Appreciably increase erosion, sedimentation, or drainage flow from the property; or*

c. *Adver*sely *impact high priority open space as defined in Section 1011.*

iii. *Measures shall be employed to minimize grading or filling to accomplish the development.*

iv. *Disturbed areas shall be compacted if necessary and re-vegetated as soon as practical and before the annual wet season.*"

2) Section 1002.03(D): "*Buildings shall be clustered to reduce alteration of terrain and provide for preservation of natural features.*

3) Section 1002.03(E): *Creation of building sites through mass pad grading and successive padding or terracing of building sites shall be avoided.*

4) Section 1002.03(F): "*Roads shall be of minimum width, with grades consistent with County specifications. One-way streets may be allowed.*"

The applicant states that they will not be developing with this application.

This criterion can be met.

3. Section 1002.04 - Trees and Wooded Areas:

a. Section 1002.04(A): "*Existing wooded areas, significant clumps or groves of trees and vegetation, consisting of conifers, oaks and large deciduous trees, shall be incorporated in the development plan wherever feasible. Site planning and design techniques which address this standard include, but are not limited to, the following*:

i. *Siting of roadways and utility easements to avoid substantial disturbance of significant clumps or groves of trees*;

ii. *Preservation of existing trees within rights-of-way and easements when such trees are suitably located, healthy, and when approved grading allows;*

iii. *Use of flexible road standards as provided in Subsection 1007.03(A), including one-way roads or split-level roads, to preserve significant trees and avoid unnecessary disturbance of terrain*;

iv. *Retention of specimen trees or clumps of trees in parking area islands or future landscape areas of the site as provided for in Section 1009.*

v. *Use of wooded areas of the site for recreation, or other low-intensity uses, or structures, not requiring extensive clearing of large trees, grading, or filling activity which substantially alters the stability or character of the wooded area*;

vi. *Retention of trees which are necessary to ensure the stability of clumps or groves of trees considering the type of trees, soil and terrain conditions, exposure to prevailing winds, and other site-specific considerations*;

vii. *Use of trees and wooded areas to buffer, screen, or provide transitions between different or conflicting uses on and off the site*;

viii. *Use of flexible-lot-size and planned unit development designs to minimize disturbance of wooded areas*;

ix. *Siting of uses and structures to utilize the natural microclimates created by wooded areas and trees to reduce extremes in temperature, provide wind protection, filter pollutants, and replenish oxygen and moisture to the air; and*

x. *Use of other development techniques described in Subsection 1011.03(C)*."

The applicant states that the site will not be further developed, the tents are temporary and can be stored when not in use.

This criterion can be met.

b. Section 1002.04(B): "*Trees and wooded areas to be retained shall be protected during site preparation and construction according to County design and specifications by*:

ii. *Avoiding disturbance of the roots by grading activity;*

iii. *Providing for water and air filtration to the roots of trees which will be covered with impermeable surfaces*;

iv. *Pruning or topping of trees which will be in parking areas or near buildings, as necessary, to maintain proper balance between top growth and roots, reduce windfall potential, and provide adequate vision clearances for safe vehicular circulation; and*

v. *Requiring, if necessary, the advisory expertise of a qualified consulting arborist or horticulturist both during and after site preparation, and a special maintenance/management program to provide protection of specified wooded areas or specimen trees, as recommended by the arborist or horticulturist*."

The applicant has no plans for development in this application.

This criterion can be met.

4. Section 1002.06 - Wildlife Habitats and Distinctive Resource Areas:

   a. Section 1002.06(A): *"Developments on land that is outside both the Metropolitan Service District Boundary and the Portland Metropolitan Urban Growth Boundary shall be designed to*:

      i. *Protect native plant species, aquatic habitats, and endangered or otherwise important wildlife species; and*"

      The applicant has not proposed new development with this application on site, but may do selective logging as part of the campground curriculum.

      This criterion can be met.

      ii. *"Minimize adverse wildlife impacts in sensitive habitat areas, such as deer and elk winter range below 3,000 feet in elevation, riparian areas, and wetlands."*

      Staff finds that the site is not in a "Scenic & Distinctive Resource Area". The County reviews wildlife issues on sites on maps in the Comprehensive Plan, Chapter 3, Map III-2.

   The standards of Section 1002 are met.

C. **Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:**

Of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

1. Section 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area:

   "The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area.

   Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well." The water source is an existing private well.

   This criterion is met.

2. Section 1006.07 - Subsurface Sewage Disposal Standards:

All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.

The applicants submitted a statement of feasibility stating that they plan to use port-a-potties for campground use. The County Soils Division/WES (Water Environment Service) signed the statement on December 5, 2011. A condition is warranted stating that the applicant shall submit a port-a-potty rental and maintenance agreement from a licensed sewerage disposal company OAR 340-071-0600, to the County Soils Division.

This criterion can be met.

3. Section 1006.08 - Surface Water Management Standards:

   a. *"All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:*

      i. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*

      ii. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*

   b. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

   c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

      i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*

ii. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.*

iii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Clackamas County DTD, Engineering signed off on the Statement of Feasibility on December 5, 2011, that it is feasible that the proposal can comply with the standards. A condition is warranted requiring the applicant to submit their drainage plan including detention designs to DTD, Engineering. DTD, Engineering shall review and approve the plans for the erosion control prior to final plan approval.

This criterion is met.

D. **Section 1007- Roads Connectivity:**

1. Section 1007.03 – General Provisions:

A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*

B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

Engineering Staff has discussed these issues in Exhibit 17.

This criterion can be met with conditions.

C. *New developments shall have access points connecting with existing private, public, county, or state roads.*

3. *Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other*

D. *Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.*

E. *All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.*

This criterion can be met with conditions. See Exhibit 17, County Engineer comments.

2. Section 1007.04 Public and Private Roadways:

A. *All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.*

1. *Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.*

3. *Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:*

a. *Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and*

b. *Turnouts shall be provided at viewpoints or for recreational needs.*

County Engineering staff state that the *"the subject property takes access from a private road off of E Marmot Road within a portion of the County that is zoned TBR, Timber 80 acres. E Marmot Road is classified as a rural minor arterial roadway (Comprehensive Plan map V-2b). Clackamas County has adopted roadway standards that pertain to the structural section, construction characteristics, minimum required right-of-way widths and access standards for arterial roads. (Comprehensive Plan Chapter 5, Tables V-2, V-3, V-4, and V-5, and Roadway Standards Chapter 2)".*

"The applicant has proposed development of private park and campground that will include site improvements to allow public access and will generate additional vehicle trips to the site. The applicant is therefore subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007, pertaining to roads, circulation and parking improvements, and section 1008 pertaining to surface water management." (Exhibit 17)

This Criterion can be met with conditions.

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B. *Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*

1. *No planting, signing, or fencing shall be permitted which restricts motorists' vision; and*

2. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.*

Engineering staff find that "*in accordance with ZDO Subsections 1007.04.D and 1007.05, and the Clackamas County Roadway Standards, Section 240, the access road serving the proposed development is required to provide adequate intersection sight distance. The existing intersection of the private road with E Marmot Road does not currently provide adequate intersection sight distance due to trees and vegetation located on each side of the approach. The applicant has submitted speed study data and a sight distance analysis prepared by Group Mackenzie, dated June 1, 2011. The speed study has established a 90th percentile speed of 45 miles per hour southbound and 43 miles per hour northbound on E Marmot. E Marmot Road has a low traffic volume with approximately 140 average daily vehicle trips. Based on this traffic volume, sight distances provided in Table 2-10 of the Clackamas County Roadway Standards, are applicable.*" (Exhibit 17)

This Criterion is met.

3. Section 1007.06, Pedestrian and Bicycle Facilities:

A. *General Standards: Pedestrian and bicycle facilities shall be developed according to the classifications and guidelines listed in Section 1007, Comprehensive Plan Tables V-2, Roadway Classifications and Guidelines, and V-3, Roadway Classification and Guidelines (Continued), Chapter 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

The site is located on an easement off a public road. There is a proposed bike lane along this section of Marmot Road.

This Criterion is met.

4. Section 1007.09, Transportation Facilities Concurrency:

A. *The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.*

B. *Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

C. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

1. *Modification or replacement of an existing development (or a development that has a current land use approval even if such development has not yet been constructed) on the same property, provided that an increase in motor vehicle traffic does not result;*

Engineering staff have found that the capacity of transportation facilities is adequate. Exhibit 17

This Criterion is met.

D. *As used in Subsection 1007.09(C), "adequate" means a minimum of Level-of-Service (LOS) D, except:*

County Traffic engineering staff finds that *"the roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 17)

This Criterion is met.

E. *As used in Subsection 1007.09(F), "necessary improvements" are:*

1. *Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).*

   a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

   b. *If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.*

Engineering staff's Exhibit 17 discusses the issues and makes recommendations.

This Criterion can be met with conditions.

E. **<u>Section 1008 - Storm Drainage:</u>**

This section outlines the requirements for Storm Drainage and Erosion Control. The following requirements and standards of Section 1008 are applicable to this proposal.

The subject property is located within the Clackamas County Engineering area of review within the County. The rules and regulations for this district are administered by the Clackamas County Engineering Division. The applicant has submitted a Statement of Feasibility for surface water from the Clackamas County Engineering Division December 5, 2011.

The standards of Section 1008 can be met.

F. **Section 1015 – Parking and Loading:**

1. Section 1015.04 Automobile Parking Area Standards:

   Table 1015-2 lists the automobile parking space requirements for uses in the County. If a use is not found in the list, then staff looks for a similar use. In this case staff finds that the criteria does not list a similar use. To accommodate camp staff and other vehicles related to the camp use on the project site, the applicant has proposed a parking field with 10 spaces identified. The applicant has submitted a detail for bus access to the site, showing maneuvering through the parking area. Based on the submitted plan, it appears adequate circulation and parking can be provided. The applicant's site plan indicates that the parking spaces will be striped with paint. For a gravel parking area, the striping may not last. For rural gravel parking spaces, a wheel stop is required for each space and a paint making on the wheel stop is generally adequate to delineate the space. Paint stripes on gravel would likely need to be seasonally re-applied. Staff finds that the applicants parking plan is satisfactory with suffice number and spacing of parking spaces for vehicles and buses. A condition is warranted.

   This criterion can be met.

2. - Section 1015.05 Bicycle Parking Standards:

   This portion of Marmot Road is a section of the Planned Bikeway Network, Comprehensive Plan Map V-7b. Table 1015-3 identifies the minimum standards for various land uses in urban areas. There are no uses close to the proposed use. The minimum required by the ZDO is two stalls. Therefore, Planning & Zoning staff finds that the minimum requirements of two (2) bicycle parking stalls located a minimum of 50 feet from a facility door, under ZDO 1015. A condition of approval is warranted to the effect.

   This criterion can be met.

G. **Section 1021 Standards – Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments:** outlines the standards for refuse and recycling for commercial developments. The following requirements and standards of Section 1021 are applicable to this proposal.

The applicant has not submitted any specific plans for a proposed refuse and recycling enclosure. Office of Sustainability commented on the trash enclosure, indicating the requirements and conditions of approval. A condition of approval is warranted requiring the applicant to provide an acceptable plan for removing garbage and recycling from the site. Please forward this information to Susan Terry, Clackamas County Office of Sustainability, at susanter@co.clackamas.or.us for approval.

This criterion can be met.

310 FARM FOREST 10-ACRE DISTRICT (FF-10)

310.01 PURPOSE

Section 310 is adopted to implement the policies of the Comprehensive Plan for Rural areas.

310.02 AREA OF APPLICATION

Property may be zoned Farm Forest 10-Acre District when the site has been designated as Rural by the Comprehensive Plan; the criteria in Policy 11.3 of the Rural section of Chapter 4 of the Comprehensive Plan are satisfied; and the criteria in Section 1202 are satisfied.

310.03 PRIMARY USES

The following are primary uses in the Farm Forest 10-Acre District:

A. One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824.

B. Current employment of land for general farm uses, including:

1. Raising, harvesting, and selling of crops;
2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees;
3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees;
4. Dairying and the selling of dairy products;
5. Preparation and storage of the products raised on such lands for man's use and animal use;
6. Distribution by marketing or otherwise of products raised on such lands; and
7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;

C. Propagation or harvesting of a forest product. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs;

D. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;

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E. Fish and wildlife management programs;

F. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;

G. Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;

H. Utility carrier cabinets, subject to Section 830; and

I. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.

310.04 ACCESSORY USES

The following are accessory uses in the Farm Forest 10-Acre District:

A. Uses and structures customarily accessory and incidental to a primary use;

B. Home occupations, including bed and breakfast homestays, subject to Section 822;

C. Produce stands, subject to the parking requirements of Section 1015;

D. Signs, subject to Section 1010;

E. Guest houses, subject to Section 833;

F. Solar energy systems;

G. Rainwater collection systems;

H. Electric vehicle charging stations for residents and their nonpaying guests; and

I. Family daycare providers.

310.05 USES SUBJECT TO REVIEW BY THE PLANNING DIRECTOR

The Planning Director may approve the following use in the Farm Forest 10-Acre District, pursuant to Subsection 1305.02:

A. Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.

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310.06 CONDITIONAL USES

A. The Hearings Officer may approve the following conditional uses in the Farm Forest 10-Acre District, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203 and any applicable provisions of Section 800.

1. Churches, subject to Section 804;
2. Schools, subject to Section 805, except as restricted by Subsection 310.07(C);
3. Daycare facilities, subject to Section 807;
4. Cemeteries, subject to Section 808;
5. Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813;
6. Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818;
7. Sanitary landfills and debris fills, subject to Section 819;
8. Hydroelectric facilities, subject to Section 829;
9. Bed and breakfast residences and inns, subject to Section 832;
10. Composting facilities, subject to Section 834;
11. Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;
12. Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;
13. Aircraft land uses;
14. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;
15. Commercial or processing activities that are in conjunction with timber and farm uses; and
16. Home occupations to host events, subject to Section 806.

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310.07 PROHIBITED USES

The following are prohibited uses in the Farm Forest 10-Acre District:

A. Uses of structures and land not specifically permitted;

B. A subdivision or partition within the Portland Metropolitan Urban Growth Boundary resulting in the creation of one or more lots or parcels of less than 20 acres in size; and

C. Schools within the areas identified as Employment, Industrial, and Regionally Significant Industrial on the Metro Region 2040 Growth Concept Map.

310.08 DIMENSIONAL STANDARDS

A. Purpose: The dimensional standards are intended to:

1. Provide for and protect the unique character, livability, and scenic quality of rural areas of the County;

2. Provide for fire safety and protection of all structures;

3. Protect the privacy and livability of dwellings and yard areas; and

4. Preserve, within urban growth boundaries, large parcels of land for future development at urban densities.

B. Minimum Lot Size: New lots of record shall be a minimum of 10 acres in size, except as restricted by Subsection 310.07(C) or as modified by Section 902 or 1013. For the purpose of complying with the minimum lot size standard, lots that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.

C. Minimum Front Yard Setback: 30 feet; however, there shall be no minimum front yard setback for bus shelters and roadside stands of no more than 400 square feet in area and no more than 16 feet in height.

D. Minimum Side Yard Setback: 10 feet.

E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.

F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map 5-1, *Scenic Roads,* should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.

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G. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.

H. Variances: The requirements of Subsections 310.08(B) through (E) may be modified pursuant to Section 1205.

310.09 DEVELOPMENT STANDARDS

A. General: Development shall be subject to the applicable provisions of Sections 1000 and 1100.

B. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-246, 3/1/14]

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406 TIMBER DISTRICT (TBR)

406.01 PURPOSE

Section 406 is adopted to implement the goals and policies of the Comprehensive Plan for Forest areas.

406.02 AREA OF APPLICATION

Property may be zoned Timber District when the site has a Comprehensive Plan designation of Forest, consistency with Policy 11.0 of the Forest section of Chapter 4 of the Comprehensive Plan is demonstrated, and the criteria in Section 1202 are satisfied.

406.03 DEFINITIONS

Unless specifically defined in Subsection 406.03 or in Section 202, words or phrases used in Section 406 shall be interpreted to give them the same meaning as they have in common usage and to give Section 406 its most reasonable application.

A. Auxiliary: A use or alteration of a structure or land which provides help or is directly associated with the conduct of a particular forest practice. An auxiliary structure is located on site, temporary in nature, and not designed to remain for the forest's entire growth cycle from planting to harvesting. An auxiliary use is removed when a particular forest practice has concluded.

B. Cubic Foot Per Acre: As defined in Oregon Administrative Rules (OAR) 660-006-0005(3).

C. Cubic Foot Per Tract Per Year: As defined in OAR 660-006-0005(4).

D. Date of Creation and Existence: When a lot of record or tract is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot of record or tract for the siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfigured means any change in the boundary of the lot of record or tract.

E. Dwelling: Unless otherwise provided in Section 406, a dwelling is a detached single-family dwelling or a manufactured dwelling.

F. Firearms Training Facility: An indoor facility only, that provides training courses and issues certifications required for law enforcement personnel, by the Oregon Department of Fish and Wildlife, or by nationally recognized programs that promote shooting matches, target shooting, and safety.

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G. Forest Operation: Any commercial activity relating to the growing or harvesting of any forest tree species as defined in Oregon Revised Statutes (ORS) 527.620(6).

H. Navigation: References an instrument within a waterway or flightway that assists in traveling to a destination for water vessels and aircraft.

I. Owner: For purposes of a Lot of Record Dwelling, "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, nephew, niece, stepparent, stepchild, grandparent, or grandchild of the owner, or a business entity owned by any one or a combination of these family members.

J. Ownership: Holding fee title to a lot of record, except in those instances when the land is being sold on contract, the contract purchaser shall be deemed to have ownership. Ownership shall include all contiguous lots of record meeting this definition.

K. Private Park: Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms.

L. Relative: For purposes of a Temporary Dwelling for Care, "relative" means a child, parent, stepparent, grandchild, grandparent, stepgrandparent, sibling, stepsibling, niece, nephew, or first cousin of the owner.

M. Temporary Structures: Onsite structures which are auxiliary to and used during the term of a particular forest operation and used in the preliminary processing of a particular forest operation such as: pole and piling preparation, small portable sawmill, small pole building, etc. Temporary structures are allowed for a period not to exceed one year.

N. Tract: One or more contiguous lots of record under the same ownership, including lots of record divided by a County or public road, or land contiguous at a common point. Lots of record divided by a state highway are not considered contiguous.

406.04 USES PERMITTED

Table 406-1 identifies the uses permitted in the Timber District.

A. As used in Table 406-1:

1. "A" means the use is allowed.

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2. "PDR" means the use is subject to Planning Director Review pursuant to Subsection 1305.02.

3. "C" means the use is a Conditional Use, subject to Sections 1203 and 1300.

4. The "Subject To" column identifies any specific provisions of Subsection 406.05 to which the use is subject.

B. Permitted uses are subject to the applicable provisions of Subsection 406.07, *Dimensional Standards*; Subsection 406.08, *Development Standards*; Section 1000, *Development Standards*; and Section 1100, *Development Review Process*.

Table 406-1: Uses Permitted in the Timber District

	Type	Use	Subject To
FARM AND FOREST USES	A	Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals and disposal of slash where such uses pertain to forest uses and operations. Inside the Portland Metropolitan Urban Growth Boundary, refer to Subsection 1002.03 regarding a development restriction that may apply if excessive tree removal occurs.	
	A	Temporary on-site structures which are auxiliary to and used during the term of a particular forest operation.	
	A	Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction, or recreational facilities.	
	A	Farm use as defined in ORS 215.203.	
	A	Uses and structures customarily accessory and incidental to a farm or forest use, only if a primary farm or forest use exists.	
	PDR	Temporary portable facility for the primary processing of forest products.	406.05(B)(1)
	C	Permanent facility for the primary processing of forest products.	406.05(A)(1) & (6)
	C	Permanent facilities for logging equipment repair and storage.	406.05(A)(1) & (6)
	C	Log scaling and weigh stations.	406.05(A)(1) & (6)

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	Type	Use	Subject To
NATURAL RESOURCE USES	A	Uninhabitable structures accessory to fish and wildlife enhancement.	
	C	Forest management research and experimentation facilities.	406.05(A)(1) & (C)(1)
	Type	**Use**	**Subject To**
RESIDENTIAL USES	A	Uses and structures customarily accessory and incidental to a dwelling, only if a lawfully established dwelling exists.	
	A	Alteration, restoration, or replacement of a lawfully established dwelling.	406.05(D)(1)
	PDR	Forest Lot of Record Dwelling.	406.05(A)(3), (4), (5) & (D)(2)
	PDR	Forest Template Test Dwelling.	406.05(A)(3), (4), (5) & (D)(3)
	PDR	160 Acre Forest Dwelling.	406.05(A)(3), (4), (5) & (D)(4)
	PDR	200 Acre Noncontiguous Tract Forest Dwelling	406.05(A)(3), (4), (5) & (D)(5)
	PDR	Caretaker residences for public parks and public fish hatcheries.	406.05(A)(2) & (5)
	PDR	Temporary forest labor camp, subject to Subsection 1204.01, for a period not to exceed one year.	
	PDR	Temporary dwelling for care, subject to Subsection 1204.03.	406.05(A)(1), (2) & (D)(6)
	Type	**Use**	**Subject To**
COMMERCIAL USES	A	Family daycare provider.	
	PDR	Home occupation, subject to Section 822.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation to host events, subject to Section 806.	406.05(A)(1), (2), (5) & (E)(1)
	C	Home occupation for canine skills training, subject to Section 836.	406.05(A)(1), (2) (5) & (E)(1)
	C	Private accommodations for fishing on a temporary basis.	406.05(A)(1), (2), (5) & (E)(2)
	C	Private seasonal accommodations for fee based hunting.	406.05(A)(1), (5) & (E)(3)
	Type	**Use**	**Subject To**
MINERAL, AGGREGATE, OIL, AND GAS USES	A	Exploration for mineral and aggregate resources as defined in ORS Chapter 517 and subject to the requirements of the Department of Geology and Mineral Industries.	
	C	Mining and processing of oil, gas, or other subsurface resources.	406.05(A)(1), (6) & (F)(1)
	C	Exploration for and production of geothermal, gas, and oil.	406.05(A)(1), (6) & (F)(2)

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	Type	Use	Subject To
TRANSPORTATION USES	A	Widening of roads within existing rights-of-way in conformance with Chapter 5 of the Comprehensive Plan.	
	A	Climbing and passing lanes within the right of way existing as of July 1, 1987.	
	A	Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right of way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.	
	A	Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.	
	A	Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations, and rest areas, within right of way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.	
	PDR	Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.	406.05(A)(1)
	PDR	Reconstruction or modification of public roads and highways involving the removal or displacement of buildings but not resulting in the creation of new land parcels.	406.05(A)(1)
	PDR	Improvement of public roads and highway-related facilities, such as maintenance yards, weigh stations, and rest areas, where additional property or right-of-way is required but not resulting in the creation of new land parcels.	406.05(A)(1)
	PDR	Parking of up to seven dump trucks and seven trailers, subject to ORS 215.311.	406.05(A)(1)
	C	Aids to navigation and aviation.	406.05(A)(1) & (6)
	C	Expansion of existing airports.	406.05(A)(1)
	C	Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.	406.05(A)(1)
	C	Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance.	406.05(A)(1) & (G)(1)
	Type	**Use**	**Subject To**
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES	A	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility, subject to Subsection 835.04(A).	
	A	Placement of telecommunication antennas with associated equipment on an existing utility pole, subject to Subsection 835.04(B).	
	A	Essential public communication services, subject to Subsection 835.04(C).	

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	Type	Use	Subject To
UTILITY AND SOLID WASTE DISPOSAL FACILITY USES (cont.)	A	Local distribution lines (i.e., electric, telephone, natural gas) and accessory equipment (i.e., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups.	
	A	Water intake facilities, canals and distribution lines for farm irrigation and ponds.	
	A	Solar energy systems as an accessory use.	
	A	Rainwater collection systems as an accessory use.	
	A	Electric vehicle charging stations for residents and their nonpaying guests.	
	A	Meteorological towers.	
	PDR	Wind energy power production systems as an accessory use.	406.05(H)(1)
	PDR	Collocation of antennas with associated equipment on a previously approved wireless telecommunication facility that exceed Subsection 835.04(A), subject to Subsection 835.05(A).	
	PDR	Placement of telecommunication antennas with associated equipment on replacement utility pole that exceeds the replaced pole by no more than 20 feet, subject to Subsection 835.05(A).	
	C	Wireless telecommunication facilities listed in Subsection 835.06, subject to Section 835.	
	C	Water intake facilities, related treatment facilities, pumping stations, and distribution lines.	406.05(A)(1) & (6)
	C	Reservoirs and water impoundments.	406.05(A)(1), (2) & (5)
	C	A disposal site for solid waste for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities, or buildings necessary for its operation. A composting facility is subject to Section 834.	406.05(A)(1) & (6)
	C	A disposal site for solid waste that has been ordered established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities, or buildings necessary for its operation.	406.05(A)(1) & (6)
	C	Commercial utility facilities for the purpose of generating power.	406.05(A)(1), (6) & (H)(2)
	C	New electric transmission lines.	406.05(A)(1) & (H)(3)
	C	Television, microwave, and radio communication facilities.	406.05(A)(1), (6) & (H)(4)
	Type	**Use**	**Subject To**
PARKS AND PUBLIC/QUASI-PUBLIC USES	A	Private hunting and fishing operations without any lodging accommodations.	
	A	Towers and fire stations for forest fire protection.	
	C	Fire stations for rural fire protection.	406.05(A)(1) & (6)
	C	Youth camps on 40 acres or more, subject to OAR 660-006-0031.	406.05(A)(1) & (2)
	C	Cemeteries.	406.05(A)(1) & (6)

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	Type	Use	Subject To
PARKS AND PUBLIC/QUASI-PUBLIC USES (cont.)	C	Firearms training facility.	406.05(A)(1) & (6)
	C	Private parks and campgrounds.	406.05(A)(1), (2), (6) & (I)(1)
	C	Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.	406.05(A)(1) & (6)
	Type	**Use**	**Subject To**
OUTDOOR GATHERINGS	A	An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period.	406.05(J)(1)
	C	An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.	406.05(A)(1) & (J)(2)

406.05 APPROVAL CRITERIA FOR SPECIFIC USES

The following criteria apply to some of the uses listed in Table 406-1. The applicability of a specific criterion to a listed use is established by Table 406-1.

A. General Criteria

1. The use may be allowed provided that:

   a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and

   b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.

3. The landowner for the dwelling shall sign and record in the deed records for the County a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

4. An approval to construct a dwelling may be transferred to any other person after the effective date of the land use decision.

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5. If road access to the use is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management (BLM), or the United States Forest Service (USFS), then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance.

6. A land division for the use may be approved pursuant to Subsection 406.09(D).

B. Farm and Forest Uses

1. Temporary portable facility for the primary processing of forest products grown on-site, subject to Subsection 1204.01, for a period not to exceed one year.

C. Natural Resource Uses

1. Forest management research and experimentation facilities as described by ORS 526.215 or where accessory to forest operations.

D. Residential Uses

1. Alteration, restoration, or replacement of a lawfully established dwelling that:

   a. Has intact exterior walls and roof structure;

   b. Has indoor plumbing consisting of a kitchen sink, toilet, and bathing facilities connected to a sanitary waste disposal system;

   c. Has interior wiring for interior lights;

   d. Has a heating system; and

   e. In the case of replacement, is removed, demolished, or—if not a manufactured dwelling or residential trailer—converted to an allowable use within 90 days from the occupancy of the new dwelling. Manufactured dwellings and residential trailers to be replaced shall be removed from the property within 30 days from the occupancy of the new dwelling.

2. Lot of Record Dwelling, subject to the following criteria:

   a. The lot of record on which the dwelling will be sited was lawfully created prior to January 1, 1985.

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b. The lot of record on which the dwelling will be sited was acquired by the present owner:

   i. Prior to January 1, 1985; or

   ii. By devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985.

c. The tract on which the dwelling will be sited does not include a dwelling.

d. The lot of record on which the dwelling will be sited was not part of a tract that contained a dwelling on November 4, 1993.

e. The property is not capable of producing 5,000 cubic feet per year of commercial tree species.

f. The property is located within 1,500 feet of a public road, as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be a BLM road, or a USFS road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction, and a maintenance agreement exists between the USFS and the landowners adjacent to the road, a local government, or a state agency.

g. The proposed dwelling is not prohibited by this Ordinance or the Comprehensive Plan, or any other provisions of law.

h. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of adjacent common ownership land shall remain in common ownership as long as the dwelling remains as approved.

i. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(2).

3. Forest Template Dwelling, subject to the following criteria:

   a. The tract on which the dwelling will be sited does not include a dwelling.

   b. No dwellings are allowed on other lots of record that make up the tract.

   c. A deed restriction shall be recorded with the County Clerk stating no other lots of record that make up the tract may have a dwelling.

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d. The lot of record upon which the dwelling is to be located was lawfully created.

e. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(3).

f. The lot of record upon which the dwelling will be sited shall pass a template test, conducted as follows:

i. A 160 acre square template shall be centered upon the subject tract. The template may be rotated around the center point to the most advantageous position. After a position has been selected, the template shall remain fixed while lots of record and dwellings are counted. If the subject tract is larger than 60 acres and abuts a road or perennial stream, the 160 acre template shall be one-quarter mile wide by one mile long, be centered upon the subject tract, and, to the maximum extent possible, have its length aligned with the road or perennial stream.

ii. If the predominant soil type on the subject tract has a forest production capability rating, as determined by the Natural Resources Conservation Service (NRCS) Internet Soils Survey of:

A) Less than 50 cubic feet per acre per year of wood fiber production, at least part of a minimum of three lots of record shall fall within the template, and a minimum of three lawfully established dwellings shall exist on the lots within the template area; or

B) 50 – 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of seven lots of record shall fall within the template, and a minimum of four lawfully established dwellings shall exist on the lots within the template area; or

C) Greater than 85 cubic feet per acre per year of wood fiber production, at least part of a minimum of 11 lots of record shall fall within the template, and a minimum of five lawfully established dwellings shall exist on the lots within the template area.

iii. The following types of lots of record and dwellings shall not be counted toward satisfying the minimum number of lots of record or dwellings required pursuant to Subsection 406.05(D)(3)(d)(ii) to pass a template test:

A) Lots of record larger than 80 acres;

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B) Lots of record created on or after January 1, 1993;

C) Dwellings on lots of record larger than 80 acres;

D) Dwellings constructed on or after January 1, 1993;

E) Lots of record or dwellings located within an urban growth boundary;

F) Temporary dwellings; and

G) The subject property.

iv. If the subject tract is larger than 60 acres and abutting a road or perennial stream, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(d)(ii) shall be located on the same side of the road or stream as the subject tract and shall either be located within the template or within one-quarter mile of the edge of the subject tract and not outside the length of the template. If a road crosses the tract on which the dwelling will be sited, a minimum of one of the dwellings required by Subsection 406.05(D)(3)(d)(ii) shall be located on the same side of the road as the proposed dwelling.

4. 160 Acre Minimum Forest Dwelling, subject to the following criteria:

a. The tract on which the dwelling is to be sited is at least 160 acres.

b. The tract on which the dwelling will be sited does not include a dwelling.

c. The lot of record upon which the dwelling is to be located was lawfully created.

d. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(4).

5. 200 Acre Noncontiguous Dwelling, subject to the following criteria:

a. The tract on which the dwelling will be sited does not include a dwelling;

b. An owner of tracts that are not contiguous but are in Clackamas County adds together the acreage of two or more tracts that total 200 acres or more;

c. The owner submits proof of an irrevocable deed restriction, recorded in the deed records of the county, for the tracts in the 200 acres. The

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deed restriction shall preclude all future rights to construct a dwelling on the tracts not supporting the proposed dwelling, or to use the tracts to total acreage for future siting of dwellings for present and any future owners unless the tract is no longer subject to protection under goals for agricultural and forest lands;

d. None of the lots of record or tracts used to total 200 acres may already contain a dwelling.

e. All lots of record or tracts used to total a minimum of 200 acres must have a Comprehensive Plan designation of Forest;

f. The lot of record upon which the dwelling is to be located was lawfully created;

g. The County Assessor's Office shall be notified of all approvals granted under Subsection 406.05(D)(5).

6. A manufactured dwelling, residential trailer, or recreational vehicle may be used for care in conjunction with an existing dwelling for the term of a health hardship suffered by the existing resident or a relative.

E. Commercial Uses

1. The home occupation shall not unreasonably interfere with other uses permitted in the zoning district in which the subject property is located and shall not be used as justification for a zone change.

2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to the following:

a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

b. Only minor incidental and accessory retail sales are permitted; and

c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission; and

d. Accommodations must be located within one-quarter mile of fish bearing Class I waters.

3. Private seasonal accommodations for fee hunting operations may be allowed subject to the following:

a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code; and

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b. Only minor incidental and accessory retail sales are permitted; and

c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission.

F. Mineral, Aggregate, Oil, and Gas Uses

1. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520 and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517;

2. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators, and other customary production equipment for an individual well adjacent to a well head;

G. Transportation Uses

1. Roads, highways, and other transportation facilities and improvements not otherwise allowed under this Ordinance, with:

a. The adoption of an exception to the goal related to forest lands and to any other applicable goal with which the facility or improvement does not comply; or

b. Compliance with ORS 215.296 for those uses identified by rule of the Oregon Land Conservation and Development Commission as provided in Section 3, Chapter 529, Oregon Laws 1993.

H. Utility and Solid Waste Disposal Facility Uses

1. Wind energy power production systems as an accessory use, provided:

a. The system is not a commercial power generating facility;

b. No turbine has an individual rated capacity of more than 100kW, nor does the cumulative total rated capacity of the turbines comprising the installation exceed 100 kW;

c. The system complies with the Oregon Department of Environmental Quality noise standards otherwise applicable to commercial and industrial uses for quiet areas, measured at the nearest property line of the noise-sensitive use. This may be demonstrated through information provided by the manufacturer;

d. The system is prohibited if tower lighting for aviation safety is required;

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e. The system will be located outside an urban growth boundary on a minimum of one acre;

f. The system does not exceed 150 feet in height from base to the height of the tower plus one blade;

g. The system is set back a distance not less than the tower height plus one blade from all property lines; and

h. Roof mounted system towers shall extend no more than an additional five feet above the highest ridge of a building's roof or 15 feet above the highest eave, whichever is higher, but shall not exceed 150 feet in height from finished grade.

2. Commercial utility facilities for the purpose of generating power. A power generation facility shall not preclude more than 10 acres from use as a commercial forest operation unless an exception is taken pursuant to OAR 660, Division 4. Hydroelectric facilities shall also be subject to Section 829.

3. New electric transmission lines with right-of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (i.e., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.

4. Television, microwave, and radio communication facilities and transmission towers, provided the base of such structure shall not be closer to the property line than a distance equal to the height of the tower.

I. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(I)(1). A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:

a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR Chapter 660, Division 4.

b. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the

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natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.

c. Campsites may be occupied by a tent, travel trailer, yurt, or recreational vehicle.

d. Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g).

e. Campgrounds authorized by Subsection 406.05(I)(1) shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores, or gas stations.

f. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive six-month period.

g. A private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. As used in Subsection 406.05(I)(1), "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up, or internal cooking appliance.

J. Outdoor Gatherings

1. An outdoor mass gathering as defined in ORS 433.735 or other gathering of fewer than 3,000 persons that is not anticipated to continue for more than 120 hours in any three-month period, subject to ORS 433.735 through 433.760.

2. An outdoor mass gathering of more than 3,000 persons that continues or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces, shall be subject to review by the Planning Commission under the provisions of ORS 433.763.

406.06 PROHIBITED USES

Uses of structures and land not specifically permitted are prohibited.

406.07 DIMENSIONAL STANDARDS

A. Minimum Lot Size: New lots of record shall be a minimum of 80 acres in size, except as provided in Subsection 406.09 or as modified by Section 902. For the purpose of complying with the minimum lot size standard, lots of

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record that front on existing county or public roads may include the land area between the front property line and the middle of the road right-of-way.

B. Minimum Front Yard Setback: 30 feet.

C. Minimum Side Yard Setback: 10 feet.

D. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.

E. Exceptions: Dimensional standards are subject to modification pursuant to Section 900.

F. Variances: The requirements of Subsections 406.07(B) through (D) may be modified pursuant to Section 1205.

406.08 DEVELOPMENT STANDARDS

A. Fire-Siting Standards for New Structures: Fuel-free break areas shall be provided surrounding any new structure approved pursuant to a land use application based on standards in effect on or after February 5, 1990, as follows:

1. A primary fuel-free break area shall be maintained surrounding any new structure, including any new dwelling.

   a. The primary safety zone is a fire fuel break extending a minimum distance around structures. The minimum distance is established by Table 406-2 and Figure 406-1. The goal within the primary safety zone is to remove fuels that will produce flame lengths in excess of one foot. Vegetation within the primary safety zone may include green lawns and shrubs less than 24 inches in height. Trees shall be spaced with greater than 15 feet between the crowns and pruned to remove dead and low (less than eight feet) branches. Accumulated leaves, needles, limbs and other dead vegetation shall be removed from beneath trees. Nonflammable materials (i.e., rock) instead of flammable materials (i.e., bark mulch) shall be placed next to the structure. As slope increases, the primary safety zone shall increase away from the structure and down the slope at a 45-degree angle from the structure, in accordance with Table 406-2 and Figure 406-1:

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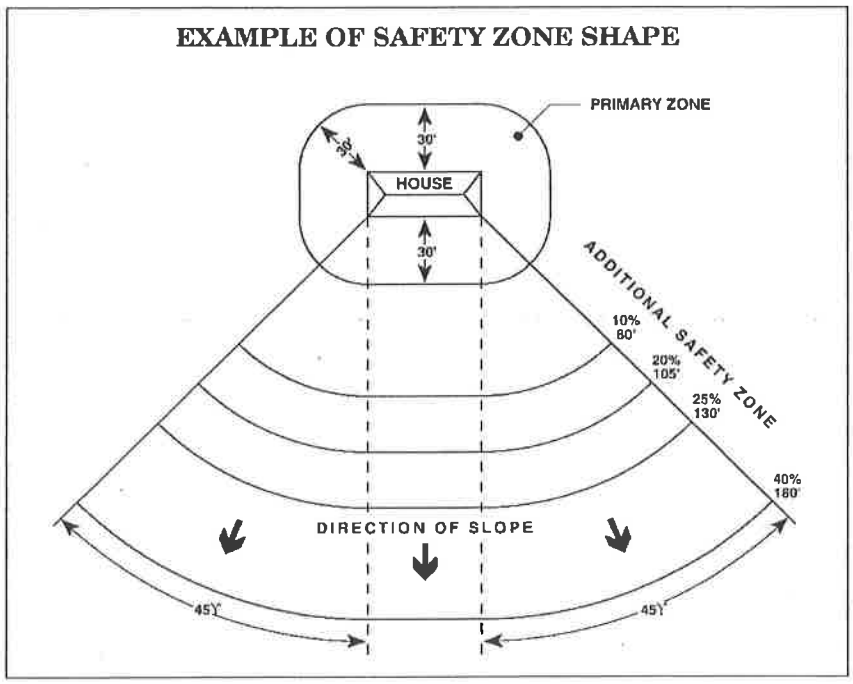
Table 406-2: Minimum Primary Safety Zone

Slope	Feet of Primary Safety Zone	Feet of Additional Primary Safety Zone Down Slope
0%	30	0
10%	30	50
20%	30	75
25%	30	100
40%	30	150

Figure 406-1: Example of Primary Safety Zone



2. For any new dwelling, a secondary fuel-free break area shall be cleared and maintained on land surrounding the dwelling that is owned or controlled by the owner.

   a. The secondary fuel-free break extends around the primary safety zone required pursuant to Subsection 406.08(A)(1). The goal of the secondary fuel-free break shall be to reduce fuels so that the overall intensity of any wildfire would be lessened and the likelihood of crown fires and crowning is reduced. Vegetation within the secondary

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fuel-free break shall be pruned and spaced so that fire will not spread between crowns of trees. Small trees and brush growing underneath larger trees shall be removed to prevent spread of fire up into the crowns of the larger trees. Dead fuels shall be removed. The minimum width of the secondary fuel-free break shall be100 feet.

3. Where the fuel-free breaks can reasonably be satisfied, they must be.

4. Section 1205 shall not be used to modify fuel-free breaks.

5. If a structure cannot reasonably satisfy fuel-free breaks on the subject property due to the size, shape, topography, or other physical characteristics of the property, the standards may be modified by one or more of the following alternatives:

   a. Irrevocable easements for fuel-free break safety zones may be obtained from adjacent property owners so that the fuel-free break safety zone can be maintained. The easement(s) shall be recorded with the County Clerk.

   b. The area of an existing road right-of-way or access easement in use and adjacent to the subject property may be utilized to satisfy the fuel-free break safety zone requirement.

   c. Structures within a River and Stream Conservation Area or the Willamette River Greenway shall be sited consistent with the requirements of Sections 704 and 705, respectively. Structures shall be sited so that a primary safety zone can be completed around the structure outside of the river or stream corridor setback/buffer area. The area within the river or stream setback/buffer area shall be exempt from the secondary fuel-free break area requirements.

6. The fuel-free break standards shall be completed and approved by the Planning Director prior to issuance of any septic, building, or manufactured dwelling permits. Maintenance of the fuel-free breaks shall be the continuing responsibility of the property owner.

B. Additional Fire-Siting Standards for New Dwellings: The following fire-siting standards shall apply to any new dwelling approved pursuant to a land use application based on standards in effect on or after February 5, 1990.

1. The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If inclusion within a fire protection district or contracting for residential fire protection is impracticable, an alternative means for protecting the dwelling from fire hazards shall be provided. The means

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selected may include a fire sprinkling system, onsite equipment and water storage, or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Oregon Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of firefighting equipment during the fires season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

2. The dwelling shall have a fire retardant roof.

3. The dwelling shall not be sited on a slope of greater than 40 percent.

4. If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

C. Compatibility Siting Standards: The following compatibility siting standards shall apply to any new structure, including any new dwelling, approved pursuant to a land use application based on standards in effect on or after February 5, 1990.

1. Structures shall be sited on the subject property so that:

   a. They have the least impact on nearby or adjoining forest or agricultural lands;

   b. The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

   c. The amount of forest lands used to site access roads, service corridors, and structures is minimized; and

   d. The risks associated with wildfire are minimized.

2. Siting criteria satisfying Subsection 406.08(C)(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads, and siting on that portion of the subject property least suited for growing trees.

3. The applicant shall provide evidence that the domestic water supply is from a source authorized in accordance with the Oregon Water Resources Department's (OWRD) administrative rules for the appropriation of ground water or surface water and not from a Class II stream as defined in

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the Oregon Forest Practices Rules (OAR Chapter 629). Evidence of a domestic water supply means:

a. Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water;

b. A water use permit issued by the OWRD for the use described in the application; or

c. Verification from the OWRD that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements under ORS 537.545, the applicant shall submit the well constructor's report to the County upon completion of the well.

D. Manufactured Dwelling Parks: Redevelopment of a manufactured dwelling park with a different use shall require compliance with Subsection 825.03.

406.09 LAND DIVISIONS

Land divisions are permitted, if consistent with one of the following options and Oregon Revised Statutes Chapter 92. A land division is subject to Planning Director review pursuant to Subsection 1305.02.

A. 80-Acre Minimum Lot Size Land Divisions: A land division may be approved if each new lot of record is a minimum of 80 acres in size, as established by Subsection 406.07(A).

B. Multiple Dwelling Land Divisions: A lot of record may be divided subject to Subsection 406.05(A)(2) and the following provisions:

1. At least two lawfully established dwellings existed on the lot of record prior to November 4, 1993;

2. Each dwelling complies with the criteria for a replacement dwelling under Subsection 406.05(D)(1);

3. Except for one lot or parcel, each lot or parcel created under this provision is not less than two nor greater than five acres in size;

4. At least one of the existing dwellings is located on each lot or parcel created under this provision;

5. The landowner of a lot or parcel created under this provision provides evidence that a restriction has been recorded in the Deed Records for Clackamas County that states the landowner and the landowner's successors in interest are prohibited from further dividing the lot or parcel.

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This restriction shall be irrevocable unless released by the Planning Director indicating the land is no longer subject to the statewide planning goals for lands zoned for Forest use;

6. A lot of record may not be divided under this provision if an existing dwelling on the lot of record was approved through:

   a. A statute, an administrative rule, or a land use regulation that prohibited or required removal of the dwelling or prohibited a subsequent land division of the lot of record; or

   b. A farm use zone provision that allowed both farm and forest uses in a mixed farm and forest use zone under Goal 4 (*Forest Lands*);

7. Existing structures shall comply with the minimum setback standards of Subsections 406.07(B) through (D) from new property lines; and

8. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

C. Homestead Dwelling Land Division: A land division may be approved for the establishment of a parcel for an existing dwelling, subject to the following criteria:

1. The parcel established for the existing dwelling shall not be larger than five acres, except as necessary to recognize physical factors such as roads or streams, in which case the parcel shall be no larger than 10 acres;

2. The dwelling existed prior to June 1, 1995;

3. The remaining parcel, not containing the existing dwelling, is:

   a. At least 80 acres; or

   b. The remaining parcel, not containing the existing dwelling, is consolidated with another parcel, and together the parcels total at least 80 acres;

4. The remaining parcel, not containing the existing dwelling, is not entitled to a dwelling unless subsequently authorized by law or goal;

5. The landowner shall provide evidence that an irrevocable deed restriction on the remaining parcel, not containing the existing dwelling, has been recorded with the County Clerk. The restriction shall state that the parcel is not entitled to a dwelling unless subsequently authorized by law or goal and shall be irrevocable unless a statement of release is signed by the Planning Director that the law or goal has changed in such a manner that

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the parcel is no longer subject to statewide planning goals pertaining to agricultural or forest land; and

6. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

D. Conditional Use Divisions: A land division creating parcels less than 80 acres in size may be approved for a conditional use to which Subsection 406.05(A)(6) is applicable, subject to the following criteria:

1. The parcel created for the conditional use shall be the minimum size necessary for the use;

2. Either the conditional use was approved pursuant to Subsections 406.05(A)(1) and (2), or—for those uses not subject to Subsections 406.05(A)(1) and (2)—compliance with Subsections 406.05(A)(1) and (2) shall be demonstrated; and

3. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

E. Parks/Open Space/Land Conservation Divisions: A land division for a provider of public parks or open space, or a not-for-profit land conservation organization, may be approved subject to ORS 215.783. In addition, the landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

F. Forest Practice Divisions: A land division creating parcels less than 80 acres in size may be approved, subject to the following criteria:

1. The division will facilitate a forest practice as defined in ORS 527.620;

2. There are unique property specific characteristics present in the proposed parcel that require an amount of land smaller than 80 acres in order to conduct the forest practice;

3. Parcels created pursuant to Subsection 406.09(F):

   a. Are not eligible for siting of a new dwelling;

   b. May not serve as the justification for the siting of a future dwelling on other lots of record;

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c. May not, as a result of the land division, be used to justify redesignation or rezoning of resource lands; and

d. May not result in a parcel of less than 35 acres, unless the purpose of the land division is to:

i. Facilitate an exchange of lands involving a governmental agency; or

ii. Allow transactions in which at least one participant is a person with a cumulative ownership of at least 2,000 acres of forest land; and

e. The landowner shall sign a statement that shall be recorded with the County Clerk, declaring that the landowner and the landowner's successors in interest will not in the future complain about accepted farming or forest practices on nearby lands devoted to farm or forest use.

406.10 SUBMITTAL REQUIREMENTS

An application for any use requiring review by the Planning Director pursuant to Subsection 1305.02 shall include:

A. A complete Land Use Application form;

B. An accurate site plan drawn to scale on 8.5" x 11" or 8.5" x 14" paper, showing the property and proposal;

C. An application fee; and

D. A Supplemental Application form or a detailed narrative addressing each of the applicable approval criteria for the proposed use.

406.11 APPROVAL PERIOD AND TIME EXTENSION

A. Approval Period: Approval of an administrative action under Section 406 is valid for four years from the date of the final written decision. If the County's final written decision is appealed, the approval period shall commence on the date of the final appellate decision. During this four-year period, the approval shall be implemented. "Implemented" means:

1. For a land division, the final plat shall be recorded with the County Clerk. If a final plat is not required under Oregon Revised Statutes Chapter 92, deeds with the legal descriptions of the new parcels shall be recorded with the County Clerk; or

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2. For all other administrative actions, a building or manufactured dwelling placement permit for a new primary structure that was the subject of the administrative action shall be obtained and maintained. If no building or manufactured dwelling placement permit is required, all other necessary County development permits shall be obtained and maintained.

B. Time Extension: If the approval of an administrative action is not implemented within the initial approval period established by Subsection 406.11(A), a two-year time extension may be approved by the Planning Director pursuant to Subsection 1305.02, and subject to Subsection 1305.05.

C. Subsections 406.11(A) and (B) do not apply to home occupations or conditional uses, which shall be subject to any applicable approval period and time extension provisions of Sections 822 or 1203.

[Amended by Ord. ZDO-224, 5/31/11; Amended by Ord. ZDO-230, 9/26/11; Amended by Ord. ZDO-234, 6/7/12; Amended by Ord. ZDO-245, 7/1/13; Amended by Ord. ZDO-247, 3/1/14]

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707 HISTORIC LANDMARK (HL), HISTORIC DISTRICT (HD), AND HISTORIC CORRIDOR (HC)

707.01 PURPOSE

The intent and purpose of this overlay district is to implement the goals and policies of the Comprehensive Plan for Historic Landmarks, Districts, and Corridors and promote the public health, safety, and general welfare by safeguarding the County's heritage as embodied and reflected in its historic resources. The provisions of this section are intended to:

A. Provide for the identification, protection, enhancement, and use of sites, structures, corridors, objects, and buildings within the County that reflect special elements of the County's architectural, archeological, artistic, cultural, engineering, aesthetic, historical, political, social, and other heritage;

B. Facilitate restoration and upkeep of historic buildings, structures or other physical objects or geographical areas;

C. Encourage public knowledge, understanding and appreciation of the County's history and culture;

D. Foster community and neighborhood pride and sense of identity based on recognition and use of cultural resources;

E. Promote the enjoyment and use of historic and cultural resources appropriate for the education and recreation of the people of the County;

F. Preserve diverse architectural styles reflecting phases of the County's history; and encourage complimentary design and construction impacting cultural resources;

G. Enhance property values and increase economic and financial benefits to the County and its inhabitants;

H. Identify and resolve conflicts between the preservation of cultural resources and alternative land uses; and

I. Integrate the management of cultural resources and relevant data into public and private land management and development processes.

707.02 AREA OF APPLICATION

A. Section 707 shall apply to all designated Historic Landmarks, Historic Districts, and Historic Corridors within the County.

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B. Historic Landmark: A site, structure, or object may be zoned Historic Landmark if it is listed on the National Register of Historic Places, or if it is rated as "significant" under the County's procedure for evaluating historic resources under the specific architectural, environmental, and historic association criteria. A site or structure must receive a total of 40 or more points under the following criteria to be considered for Historic Landmark status:

ARCHITECTURAL SIGNIFICANCE

1. It is an early (50 years or older), or exceptional, example of a particular architectural style, building type, or convention. (up to 10 points)

2. It possesses a high quality of composition, detailing, and craftsmanship. (up to 4 points)

3. It is a good, or early, example of a particular material or method of construction. (up to 4 points)

4. It retains, with little or no change, its original design features, materials, and character. (up to 7 points)

5. It is the only remaining, or one of the few remaining, properties of a particular style, building type, design, material, or method of construction. (up to 10 points)

ENVIRONMENTAL SIGNIFICANCE

6. It is a conspicuous visual landmark in the neighborhood or community. (up to 10 points)

7. It is well-located considering the current land use surrounding the property, which contributes to the integrity of the pertinent historic period. (up to 4 points)

8. It consists of a grouping of interrelated elements including historic structures, plant materials and landscapes, viewsheds and natural features. (up to 10 points)

9. It is an important or critical element in establishing or contributing to the continuity or character of the street, neighborhood, or community. (up to 7 points)

HISTORICAL SIGNIFICANCE

10. It is associated with the life or activities of a person, group, organization,

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or institution that has made a significant contribution to the community, state, or nation. (up to 10 points)

11. It is associated with an event that has made a significant contribution to the community, state, or nation. (up to 10 points)

12. It is associated with, and illustrative of, broad patterns of cultural, social, political, economic, or industrial history in the community, state, or nation. (up to 10 points)

13. It possesses the potential for providing information of a prehistoric or historic nature. (up to 10 points)

C. Historic District: Designation of a Historic District on the County zoning and Comprehensive Plan maps may be initiated by the Historic Review Board, the Board of County Commissioners, or by petition of at least 60 percent of the property owners within the geographically defined area. Criteria for designation are as follows:

1. The area is listed as a National Register Historic District, or

2. The area includes a significant concentration or linkage of sites, buildings, structures, objects or landscapes which are unified visually by style, plan, or physical development and distinguished by association with historic periods, events, people, or cultural trends, and

3. The area is of sufficient size and scope, and the component parts are cohesive enough to adequately represent, demonstrate, or commemorate the significant historic period, event, people, or trend, and

4. A substantial number of the component parts within the area are exceptionally well preserved.

D. Historic Corridor: Designation of a Historic Corridor on the County zoning and Comprehensive Plan maps may be initiated by the Historic Review Board, the Board of County Commissioners, or by petition of at least 60 percent of the owners of property within a historic trail, roadway, or rail corridor. Property designated shall satisfy one or both of the following criteria:

1. The property, site, trail, roadway, or rail corridor is associated with events that have made a significant contribution to the broad patterns of our history or are likely to yield additional information in the future, categorized under one or more of the following theme areas:

   a. archeology and prehistory;
   b. exploration;

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c. western migration;
d. settlement;
e. agriculture;
f. commerce and industry;
g. transportation technology;
h. government, politics, and military activities;
i. culture.

2. The property or site is necessary to provide for the continuity of, or future use of, the historic trail, roadway, or rail corridor.

E. Contributing Resource:

1. In order to designate a site, object, structure or landscape features as a contributing resource, the Board shall find that:

a. The resource is or, at the time the designation becomes effective, will be within a Historic District or Historic Corridor; and

b. The resource is 50 years old or older, may have received alterations, but retains its overall physical integrity, or is of special architectural or environmental or cultural significance; and

c. The resource contributes to the integrity of the Historic District or Historic Corridor; and

d. The resource does not merit landmark designation; and

e. The resource is compatible with landmarks in the district or corridor considering overall proportions, scale, architectural detail and materials.

2. Contributing resources shall be identified upon the creation of a Historic District or Historic Corridor and a list shall be created containing the same information for each resource as is required for landmarks.

[Amended by Ord. ZDO-235, 5/14/12]

707.03 BARLOW ROAD HISTORIC CORRIDOR

A. Intent: This Ordinance provision is intended to provide for the preservation and protection of the Barlow Road Historic Corridor. The intent of this Ordinance is to preserve the privacy of private property owners along the Barlow Road Historic Corridor. There is no intent by Clackamas County to condemn private property now or in the future.

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B. Barlow Road Historic Corridor is defined by the Barlow Road Background Report and Management Plan maps and shown in Chapter 3 of the Comprehensive Plan, Map III-2. Within the corridor, the following provisions shall apply:

1. The Barlow Road Historic Corridor is defined as a 40 foot wide historic corridor as shown on the Clackamas County assessor maps, identified through the Barlow Road Survey Project 1991-1992, and adopted through the historic corridor designation process within the provisions of this Ordinance. In the Government Camp area, north of Highway 26, the historic corridor width is 20 foot wide.

2. Third priority property segments shall be allowed to develop for primary uses allowed in the underlying zone. Significant development shall be reviewed as described in (3). Where physical evidence of the Barlow Road exists, property owners are encouraged to preserve the evidence.

3. The Historic Review Board shall review and make recommendations pertaining to proposed "significant development," within the historic corridor. "Significant development" shall include: zone change, conditional use, and subdivision application; commercial, industrial, and multifamily development application; and mining and gravel extraction. A site analysis shall be submitted for any "significant development" by the applicant indicating potential impacts to the historic corridor. To the maximum practicable extent, the historic corridor shall be protected as open space. Where physical evidence of the Barlow Road exists, such as wagon ruts, such evidence shall not be disturbed by development unless it is shown that the property can not be developed if the historic corridor is preserved.

4. Where road segments include portions of a County road, the Historic Review Board shall review and make recommendations to the County about any proposed right of way expansion or realignment to insure that original features of the Barlow Road are retained where possible.

5. Where State Highways are aligned with the Barlow Road Historic Corridor, proposed right of way expansion or realignment will be reviewed as outlined under Subsection 707.07, when historic resource sites identified in the Clackamas County Cultural Resources Inventory, Barlow Road Survey Project or other identified potential sites may be impacted.

6. Within the Highest and Secondary Priority Barlow Road Historic Corridor as defined on the Clackamas County assessor maps, the following activities are prohibited: structural development, mining, highway or road building, cultivation, utility line/pipeline development, vehicular use and

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other uses which would cause major surface disturbance to the road remains. Limited disturbance to the corridor shall be allowed when necessary to service the underlying use, such as sewer and utility lines.

Where the corridor has been used by vehicles, continued use is allowed. Maintaining driveways by repairing the driving surface is allowed. All attempts to preserve the historic road contour should be made when undergoing maintenance activities.

Where Highest and Secondary priority road segments include portions of a County or State road, the Historic Review Board shall review any proposed right of way expansion or realignment. To the maximum practicable extent, the Barlow Road alignment and historic landscape should be retained.

A variance application can be made to allow development in rare cases under Subsection 1205.02.

Normal maintenance activities are allowed such as clearing brush and fallen trees from the Historic Corridor and removing other objects foreign to the route.

[Amended by Ord. ZDO-235, 5/14/12]

707.04 INTERIM PROTECTION MEASURES FOR STRUCTURES LISTED ON THE CLACKAMAS COUNTY CULTURAL RESOURCES INVENTORY

A. Intent: This Ordinance provision is intended to provide interim protective measures for structures listed on the Clackamas County Cultural Resources Inventory. After a complete survey and evaluation of significance and upon designation of significant properties as Historic Landmarks within each study area or Inventoried Book, the Interim Protection Measures will cease to apply.

B. Cultural Resource Inventory properties: Review of "significant development," as defined below, shall occur for any property listed on the Clackamas County Cultural Resources Inventory as per provisions set forth in this Ordinance. "Significant development" shall include: zone change, conditional use, and subdivision applications; commercial, industrial, and multifamily development applications and demolition permit applications.

707.05 USES PERMITTED

A. Primary Uses: A Historic Landmark or properties within a Historic District or Historic Corridor may be used for any use which is allowed in the underlying district, including home occupations, provided such use is not detrimental to the preservation of the historic resource, subject to the specific requirements

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for the use, and all other requirements of this Section.

B. Conditional Use Findings: In urban and rural districts, uses listed in Subsection 707.05(C), which are not otherwise allowed in the underlying district, may be allowed, subject to the specified review procedure. Approval shall not be granted unless the proposal satisfies the criteria under Section 1203 and the applicable provisions under Section 800, and the applicant demonstrates that the use, if allowed:

1. Will preserve or improve a resource which would probably not be preserved or improved otherwise;

2. Will not require the extension or development of urban services in rural areas;

3. Will not adversely affect surrounding natural resource uses; and

4. Will utilize existing structures rather than new structures, except where new structures are determined by the Historic Review Board to be in the best interest of preserving the historic resource.

5. All structures of any form or size, including new structures, shall satisfy Subsection 707.07.

C. Public Hearing Review: The following uses may be permitted by the Hearings Officer after a public hearing conducted pursuant to Section 1300 when the proposal satisfies the requirements under Subsection 707.05(B), above:

1. Art and music studios
2. Galleries
3. Offices
4. Craft shops
5. Bed and Breakfast establishments
6. Gift shops
7. Museums
8. Catering Services
9. Book stores
10. Boutiques
11. Restaurants
12. Antique shops
13. Community Center for civic or cultural events

14. Replacement of a historic landmark dwelling with an additional dwelling on the same site and continued use of the existing dwelling for Rural Residential purposes, provided: 1) the existing dwelling is listed

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individually on the National Register of Historic Places or on state and local registers as a Historic Landmark; 2) the existing dwelling is maintained under an approved plan for rehabilitation (e.g. Secretary of Interior guidelines); and 3) there is a recorded deed recognition statement with the County that the additional dwelling is authorized only for the duration of the historic resource and to inform subsequent purchasers. A lot with an additional dwelling approved subject to this provision may not be divided pursuant to Subsection 902.01(B)(3).

15. Any use that the Hearings Officer finds to be similar to one or more of those specified in Subsections 707.05(C)(1) through (14). However, in a zoning district listed in Subsection 106.01, Section 106 shall apply in lieu of Subsection 707.05(C)(15).

[Amended by Ord. ZDO-235, 5/14/12]

707.06 HISTORIC REVIEW BOARD

A. Appointment and Composition: The Board of County Commissioners shall appoint a minimum of five individuals who have demonstrated an interest in historic preservation and have experience and/or special expertise or knowledge in the field of historic preservation.

Three positions shall be filled under the following designations: (1) Architect, with knowledge in historic restoration, (2) Contractor, with expertise in construction techniques applied to historic structures, (3) Representative from a historic group in the County.

Individuals from a city within the County may be appointed by the city to join the Historic Review Board to review permit applications within the city.

B. Terms of Service: Except for initial appointment periods specified herein, all members of the Historic Review Board shall be appointed for three years, and may be reappointed or removed at the discretion of the Board of County Commissioners.

C. Duties and Responsibilities: It is the responsibility of the Historic Review Board to insure that the purposes of this Section are implemented and to perform the following duties:

1. Adopt rules to govern its deliberations and decisions, including a method of recording its proceedings.

2. Carry out the duties described for it in this Ordinance and otherwise assist the Board of County Commissioners on historic preservation matters.

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3. Review and render decisions on proposals to alter the exterior of a Historic Landmark or primary, secondary, or contributing structure within a Historic District or Historic Corridor, subject to the procedures and criteria set for forth in Subsection 707.07.

4. Review and render decisions on all proposed new construction within a Historic District or Corridor, or on property on which a Historic Landmark is located, subject to the procedures and criteria set forth in Subsection 707.07.

5. Review and make recommendations on all applications referred by the Board of County Commissioners, Hearings Officer, Planning Commission or Design Review Committee.

6. Review and make recommendations on all applications for zoning of a Historic Landmark, a Historic District, or a Historic Corridor, as provided under Subsection 707.06.

7. Review all requests for demolition or removal of a Historic Landmark, as provided under Subsection 707.09.

8. Review and make recommendations to the Hearings Officer on all Conditional Use applications under Subsection 707.05(B).

9. Review and make recommendations on all partitions and subdivisions of designated properties.

10. Disseminate information to educate the public as to State and Federal laws protecting antiquities and historic places.

11. Act as a coordinator for local preservation groups, educational workshops, signing and monumentation projects, and other similar programs.

12. Advise interest groups, agencies, boards, commissions, and citizens on matters relating to historic preservation within the County.

13. Insure that information on inventoried historic properties is updated and maintained.

14. Continue to add to the Clackamas County Cultural Resources Inventory when appropriate.

[Amended by Ord. ZDO-235, 5/14/12]

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707.07 THE REVIEW PROCESS

This section shall apply to all Historic Landmarks, properties within Historic Districts and Historic Corridors and contributing resources therein.

A. Designation of a Historic Landmark, Historic District or Historic Corridor:

1. County Initiated Action: The Historic Review Board or Board of County Commissioners may initiate the process for designation of a Historic Landmark or Historic District or Historic Corridor. If the Historic Review Board or Board of County Commissioners initiates the process, notice shall be provided pursuant to Section 1302.

2. Quasi-Judicial Application: The owner(s) of property, or properties, may request the zoning of their property, or properties, as a Historic Landmark(s), Historic District, or Historic Corridor by making application at the Planning Division. Notice shall be provided pursuant to Section 1302.

3. Historic Review Board Evaluation: The Historic Review Board shall evaluate the proposed zoning action and shall enter findings and make a written recommendation to the Board of County Commissioners.

4. Board of County Commissioners Public Hearing: The Board of County Commissioners shall conduct a public hearing to consider the proposed zoning action and shall either approve or deny the request. The Board shall enter written findings supporting its decision.

5. Pending Permits: No building permit for altering or moving any proposed Historic Landmark or any building within an area proposed for designation as a Historic Landmark, Historic District or Historic Corridor, shall be issued while any advertised public hearing or any appeal affecting the proposed designation of the area or building is pending. In addition, demolition of a building affected by a pending public hearing or appeal under this Section shall be a violation of this Ordinance.

B. Application Requirements:

1. Prior to formal application submission, a preapplication conference between the applicant and Planning Director or Historic Review Board shall occur.

2. Standard Requirements: All applications for alteration and development made pursuant to this Section shall include:

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a. The applicant's name and address.

b. The owner's name(s) and address(s);

c. An explanation of what review process the applicant wishes to initiate and why.

d. A written description of the boundaries of the proposed Historic District, if applicable, or the location of the site;

e. A map illustrating the boundaries of the proposed district, if applicable, or the location of the site;

f. A list of exterior materials pertinent to the application request.

g. Drawings:

1. Side elevation for each side of any affected structure.

2. Drawings shall indicate dimensions and be to scale.

3. Photographs may be used in lieu of drawings for small projects.

h. Floor plans of affected structure(s).

i. Site plan showing relationship of structure(s) to roadways, parking areas, access drives, landscape features, plant materials, fences and other pertinent elements drawn to scale.

C. Alteration and Development:

1. Purpose: It is the intent of this subsection to provide for the appropriate level of review for proposed alterations and development affecting properties within Historic Districts or Historic Corridors, or those affecting Historic Landmarks, and to provide criteria for review.

2. Maintenance: The normal responsibilities of the property owner to care, repair and replace with like materials can be done without formal review. Normal maintenance may include but not be limited to:

a. Painting and related preparation of the structure. Original paint colors or colors appropriate to the historic period should be used on Historic Landmark buildings.

b. Repair and/or replacement of roofing materials with the same kind of roof materials existing.

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c. Grounds care and maintenance required or the permitted use on the property.

d. Replacement of fences, shrubs, or other yard fixtures or landscaping with like type and/or style.

e. Existing materials may be replaced in kind for a small portion of either building or grounds because of damage or decay of materials.

f. Installation and maintenance of irrigation systems.

3. Minor Alterations: The Planning Director shall determine the status of a proposed alteration. Minor alterations shall be reviewed and approved by the Planning Director, who may consult with the Historic Review Board, or any member thereof, in applying the provisions of this Section. An alteration shall be considered "minor" when the result of the proposed action is to restore portions of the exterior to the original historic appearance while performing repairs, such as:

a. Addition of gutters and downspouts.

b. Repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation.

c. Change in material to match original type of material on the structure or grounds.

d. Change in type of roof material in character with the original roofing material.

e. Replacement of storm windows or doors.

4. Alterations Criteria: The Historic Review Board shall review all proposed alterations which exceed a "minor" status under Subsection 707.07(C)(3), . A request for an alteration permit under this provision shall be made on the appropriate application form provided by the Planning Division. Review and approval of an application shall be based on findings of adherence to the following standards for rehabilitation:

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces

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that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finished, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the least damaging or gentlest means possible.

h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property, including historic plant materials, and its environment would be unimpaired.

5. New Construction: The Historic Review Board shall review all building permits for proposed structures on a landmark site or within a Historic District or Historic Corridor. Review and approval of an application shall be based on the following criteria:

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a. The design of the proposed structure is compatible with the design of the landmark building(s) on the site or in the district or corridor considering scale, style, height, and architectural detail, materials, and colors.

b. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site or within the district or corridor, considering setbacks, distances between structures, location of entrances, and similar siting considerations.

c. Changes to yard areas including planters, fences ponds, walkways and landscape materials should be compatible with the overall historic setting.

d. Scale of commercial use: Individual permitted uses shall be of a scale appropriate to serve properties surrounding the historic overlay.

6. Maximum Building Floor Area:

a. For a commercial use within an unincorporated community, the maximum building floor area per use shall be 4,000 square feet. However, a lawfully established use that existed on December 20, 2001, and serves the community or the travel needs of people passing through the area, may expand to occupy a maximum of 4,000 square feet of building floor area or 50 percent more building floor area than was occupied by the use on December 20, 2001, whichever is greater.

b. For a commercial use in a non-urban area outside an unincorporated community, the maximum building floor area per use shall be 3,000 square feet. However, a lawfully established use that existed on December 20, 2001, may expand to occupy a maximum of 3,000 square feet of building floor area or 25 percent more building floor area than was occupied by the use on December 20, 2001, whichever is greater.

c. Preexisting Commercial Uses: Lawfully established commercial uses that are located on land with a Comprehensive Plan designation of Unincorporated Community Residential or Rural, existed on December 20, 2001, and are not otherwise provided for in the underlying zoning district or this overlay zone shall not be nonconforming uses and are allowed outright.

7. Partitions and Subdivisions: The Historic Review Board shall review and make recommendations on all proposed partitions or subdivisions of sites designated as a Landmark site or located within a Historic District or

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Historic Corridor. Review of proposed subdivisions or partitions shall be based on the following criteria:

a. The partition or subdivision does not allow a significant feature of the original site, as identified in the designation action and Inventory, to be located on a separate site from the landmark.

b. The partition or subdivision allows adequate setbacks from landmark improvements to provide for buffering and mitigation of impacts associated with development of the new parcels.

c. Yard and landscaped areas including large trees and shrubs associated with the Historic Landmark structure shall be retained with the structure whenever possible.

8. Appeals:

a. Any person may appeal a decision of the Planning Director to the Historic Review Board. The appeal must be in writing and must be filed within 12 days of the date of mailing of the written decision of the Planning Director, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business.

b. Any person may appeal a decision of the Historic Review Board to the Hearings Officer. The appeal must be in writing and must be filed within 12 days of the date of mailing of the written decision of the Historic Review Board, or if the 12th day falls on a day on which the County is not open for business, by the next day on which the County is open for business. The appeal will be heard by the Hearings Officer pursuant to Section 1300.

9. Building Code Requirements:

a. Permits Required: Any alteration or relocation of a Historic Landmark shall be subject to the applicable regulations under the Uniform Building Code.

b. Waivers: As provided in Section 104(f) of the Uniform Building Code, repairs, alterations, and additions necessary for the preservation, restoration, rehabilitation, or continued use of a Historic Landmark, or building within a Historic District or Historic Corridor, may be made without conformance to all the requirements of the Uniform Building Code when authorized by the building official, provided:

1. Any unsafe conditions as described in the Uniform Building Code

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are corrected;

2. The restored building or structure will be no more hazardous, based on life safety, fire safety, and sanitation, than the existing building; and

3. The building official seeks the advice of the Oregon State Historic Preservation Officer, or designee.

c. Modifications to certain regulations: The Historic Review Board may modify regulations pertaining to signs, fence and wall provisions, general provisions regarding height, yards, area, lot width, frontage, depth, coverage, number of offstreet parking spaces required, and regulations prescribing setbacks, if the modifications:

1. Are necessary to preserve the historic character, appearance or integrity of the proposed Historic Landmark, Historic District or Historic Corridor and

2. Are in accordance with the purposes of the zoning and sign regulations.

d. Appeals: In the case of appeals related to the application of the Uniform Building Code to a Historic Landmark, or building within a Historic District or Historic Corridor, the County appeals board or the appropriate State appeals board shall seek the advice of the State historic preservation officer.

D. Moving or Demolition of a Historic Landmark or Contributing Resource:

1. Purpose: The intent of this Subsection is to protect Historic Landmarks and Historic Districts and Corridors from destructive acts and to provide the citizens of the County time to review the significance of a Historic Landmark or building within a Historic District or Corridor, and to pursue options to preserve such building(s) if historic preservation is deemed in the best interest of the community.

2. Preapplication Preservation Plan Required:

a. Preapplication preservation plan to be submitted: If an applicant requests to move or to demolish a Historic Landmark, the applicant shall prepare and submit a plan for preservation of the Historic Landmark prior to said application.

A preapplication conference shall be scheduled to allow the applicant and staff to discuss the proposal, the preservation plan requirements

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and the applicable criteria.

The preservation plan may be submitted to the County after the preapplication conference and shall be reviewed and approved by staff or the Historic Review Board.

b. The preservation plan shall include a narrative describing how the applicant will accomplish all of the following:

1. The applicant or applicant's agent shall advertise the resource in local, regional and historic preservation newspapers of general circulation in the area once per week during the preapplication period and shall provide evidence of such advertising.

2. Give public notice by placing a sign on the property informing the public of intended action which will remove or demolish the structure. The sign shall remain on the property until a permit is issued. It should also state the County department and telephone number to call for further information.

3. Prepare and make available information related to the history and sale of the property to all who inquire.

4. Provide information regarding the proposed use for the Historic Landmark site.

5. Keep a record of the parties who have expressed an interest in purchasing and/or relocating the structure. To ensure that an adequate effort has been made to secure a relocation site, the applicant shall provide a list of property locations and owners who were contacted regarding purchase of a relocation site.

c. Following receipt of the preservation plan, the Planning Director shall issue a media release to local and state newspapers of general circulation in the County.

The media release shall include, but not be limited to, a description of the significance of the Historic Landmark, the reasons for the proposed demolition or removal, and the possible options for preserving the Historic Landmark.

3. Review Required: No building identified as a primary, secondary, or contributing structure within a Historic District or Corridor, or building designated as a Historic Landmark, shall be intentionally moved, or demolished unless such action is approved by the Historic Review Board. Application for permit to move or demolish such building shall be made to

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the Planning Division, and to the Building Services Division when applicable.

4. Public Hearing Review: The Historic Review Board shall hold a public hearing, under the provisions and procedures in Subsections 1302.01(A) and (B) and Section 1303, to review the request to move, demolish or destroy a Historic Landmark, or building within a Historic District or Corridor, and shall make written findings supporting its decision to approve or suspend the request.

5. Moving a Historic Landmark or Contributing Resource:

   a. In order to allow the moving of a Historic Landmark or contributing resource, the Historic Review Board shall consider the following:

      1. Relocation is the only alternative for preservation of the Historic Landmark or contributing resource; and,

      2. The proposed relocation site will not greatly reduce the historical and/or architectural significance of the Historic Landmark or contributing resource; the site is a contextually appropriate setting; it is within the County and preferably within the neighborhood within which it is currently located; and

      3. The designated resource cannot reasonably be used in conjunction with the proposed use; and,

      4. The continued location of the landmark or contributing resource on the proposed development site precludes development on the site which would provide a greater community benefit; and,

      5. The designated landmark or contributing resource is structurally capable of relocation; and

      6. If the landmark or contributing resource is relocated within the County, the owner of the relocation site agrees, as a condition of the purchase agreement, to apply within 90 days of relocation to the County for designation as a Historic Landmark, to be protected under the provisions of this Ordinance.

      7. The loss of the landmark or contributing resource will not affect the integrity of the Historic District or Historic Corridor; and adequate effort has been made to seek a relocation site within the Historic District or Corridor.

6. Demolition of a Historic Landmark or Contributing Resource: In order to

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allow the demolition of a landmark or contributing resource within a Historic District or Corridor, the Historic Review Board shall consider the following:

a. All plans, drawings, and photographs submitted by the applicant; and,

b. Information presented at the public hearing concerning the proposed work; proposal; and,

c. The Clackamas County Comprehensive Plan; and,

d. The purposes of this Ordinance as set forth in Subsection 707.01; and,

e. The criteria used in the original designation of the Historic Landmark or Historic District or Corridor in which the property under consideration is situated; and,

f. The historical and architectural style, the general design, arrangement, materials of the structure in question, or its appurtenant fixtures; the relationship of such features to the other buildings within the district or corridor; and the position of the building in relation to public rights-of-way and to other buildings and structures in the area; and,

g. The effects of the proposed work upon the protection, enhancement, perpetuation and use of the district or corridor which cause it to possess a special character or special historical or aesthetic interest or value; and,

h. Whether suspension of the permit will involve substantial hardship to the applicant, and whether approval of the request would act to the substantial detriment of the public welfare and would be contrary to the intent and purposes of this Ordinance; and,

i. When applicable, the findings of the building official in determining the status of the subject building as a "dangerous building" under the most recent Uniform Code for the Abatement of Dangerous Buildings, and the feasibility of correcting the deficiencies to meet the requirements of the building official rather than demolishing the building.

7. Approval of Moving or Demolition Request/Appeals: The Historic Review Board may approve the moving or demolition request in consideration of the provisions under Subsections 707.07(D)(5) and (6). The action of the Historic Review Board shall be transmitted to the applicant in writing within 10 days of the decision on the request, and shall be final after a period of 12 days from the date of the letter and

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findings approving the request, or if the 12th day falls on a day on which the County is not open for business, on the next day on which the County is open for business, unless a notice of appeal is filed by any aggrieved party, pursuant to Section 1304.

8. Suspension of Moving or Demolition Permit Request: The Historic Review Board may suspend the request for moving or demolition of an Historic Landmark or contributing resource building within a Historic District or Historic Corridor if it determines that in the interest of preserving historic values for public benefit, the building should not be moved or demolished. Written findings supporting the suspension of the request shall be transmitted to the applicant within seven days of the final public hearing on the request.

9. Stay of Moving or Demolition: If the moving or demolition request is suspended by the Historic Review Board, the written finding supporting the action to suspend the request shall be transmitted to the building official along with a request that the enforcement of any applicable Notice and Order of the building official be stayed during the pendency of an appeal, or for a period of not more than 60 days from the date of the letter and findings supporting the suspension. During this stay of demolition period, the following actions may be taken:

   a. The building official may require the owner or other party responsible for the subject building to take appropriate actions, other than demolition, to protect the public from hazardous conditions associated with the building.

   b. The applicant may be required to continue to carry out the preapplication plan activities through the entire stay of moving or demolition.

   c. The Historic Review Board may research programs or projects underway which could result in public or private acquisition of the subject building and site, and assess the potential for the success of these programs or projects.

      1. If the Board determines that there is reasonable grounds to believe that such program or project may be successful, it may extend the suspension period up to 30 additional days per extension, not to exceed more than a total of 120 days from the date of the letter and finding suspending the request.

      2. If the Board determines that all such programs or projects are unlikely to be successful, and the applicant has not withdrawn his application for a demolition permit or taken appropriate alternative

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action to correct the hazards associated with the subject building as provided in a Notice and Order of the building official, then, at the end of the stay of demolition period, the Planning Director and building official may issue such permit, subject to all other applicable codes and ordinances.

10. Appeal of Stay of Demolition: Action of the Historic Review Board in suspending issuance of the permit for demolition may be appealed by the applicant to the Board of County Commissioners, within 15 days of the date of the written findings suspending the demolition permit, or if the 15th day falls on a day on which the County is not open for business, by the next day on which the County is open for business, by filing a notice of appeal as provided in Section 1304.

11. Documentation Required: When moving or demolition is eminent, whether by direct approval or if efforts during the preapplication preservation plan and Stay of Demolition are unsuccessful, the following complete documentation of the structure(s) is required to be submitted to the County by the applicant:

    a. Floor plans to scale of the structure(s) and related structures.

    b. Site plan to scale showing surrounding roadways, landscaping, natural features, structure(s), and related structures.

    c. Drawings to scale or photographs of all exterior elevations.

    d. Photographs of architectural detail not shown in elevation photographs.

    e. The Historic Preservation League of Oregon or local preservation group to be given opportunity to salvage and record the resource.

12. Moving or Demolition Permit Issuance: A moving or demolition permit for a landmark found to comply with all provisions set forth in Subsection 707.09 shall not be issued until all development permit applications for the new use or development have been approved by the County.

[Amended by Ord. ZDO-235, 5/14/12]

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813 SERVICE AND RECREATIONAL USES

813.01 ALLOWED USES

Service and recreational uses include the following:

A. Private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities, including country clubs, lodges, fraternal organizations, swimming pools, gymnastics facilities, golf courses, boarding or riding stables, boat moorages, parks, and concessions;

B. City, county, state, federal, service district, and municipal corporation uses or buildings. These do not include uses or buildings otherwise specifically listed as conditional uses in individual zoning districts or identified in Subsections 813.01(C) or (D);

C. Telephone exchanges, railroad rights-of-way, and public utility structures without shops, garages, or general administrative offices. Radio and television transmission and receiving towers and earth stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower. Wireless telecommunication facilities, amateur (Ham) radio towers, citizen band transmitters and antennas, and essential public communication services are excluded from this subsection;

D. Recreational vehicle camping facilities, subject to the following standards:

1. Locational Standards:

   a. Within an urban area, recreational vehicle camping facilities shall be located on a road with a functional classification of minor arterial or higher, and shall be no more than 1/2 mile from a major arterial or freeway/expressway.

   b. Outside an urban area, recreational vehicle camping facilities shall be located no more than 1 mile from a major arterial or freeway/expressway.

2. Campsite/Area Requirements:

   a. In areas served by public sewer, the maximum number of campsites shall not exceed 1 per 1,500 square feet of net site area.

   b. In areas not served by public sewer, the maximum number of campsites allowed shall be subject to review and approval by the Soils Section of Water Environment Services.

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1 - 4

c. Each campsite shall be at least 1,000 square feet, exclusive of roadways.

3. Improvements: Each recreational vehicle campsite shall include the following:

   a. Electrical service hookup;

   b. Potable water hookup;

   c. Sewage disposal service; and

   d. Landscaping in areas that are not intended to be occupied by the recreational vehicle or used for a parking space.

4. Parking Requirements:

   a. Each recreational vehicle campsite shall include 1 recreational vehicle parking space with minimum dimensions of 12 feet by 20 feet.

   b. Parking spaces shall be provided for the manager and employees of the camping facility.

   c. A minimum of 1 parking space per campsite shall be provided in addition to the space required for parking of a recreational vehicle. The additional space need not be located on the same site as the recreational vehicle space.

   d. Within an urban area, parking spaces shall be hard-surfaced. Outside an urban area, a graveled surface with a minimum base of 3 inches of crushed rock or better may be substituted for hard surfacing.

5. Dimensional Standards: The dimensional standards shall be the same as those required in the zoning district in which the subject property is located.

6. Accessory Uses: The following accessory uses and structures may be provided at a scale intended to serve the tenants of the recreational vehicle camping facility:

   a. A caretaker's/manager's dwelling or office;

   b. Recreational areas and equipment;

   c. Clubhouses;

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d. Tourist information centers;

e. Laundry, restroom and shower facilities;

f. Storage and/or maintenance buildings;

g. Any use that the Hearings Officer finds to be similar to one or more of those specified in Subsection 813.01(D)(6). Where a recreational vehicle camping facility is a primary use, this determination shall be made by the Planning Director and shall be processed as an Interpretation pursuant to Subsection 1305.03.

7. Access and Circulation:

   a. The location of access driveways shall be subject to approval by the Department of Transportation and Development.

   b. Any driveway, or portion thereof, which does not provide for continuous circulation shall not exceed 600 feet in length and shall terminate with a turnaround having a minimum diameter of 60 feet.

   c. The minimum driveway width for two-way traffic shall be 24 feet, except that if parking is permitted on the margins of the driveway, the minimum driveway width shall be 32 feet. The minimum driveway width for one-way traffic shall be 16 feet, except that if parking is permitted on the margins of the driveway, the minimum driveway width shall be 24 feet.

   d. Driveways shall be hard-surfaced.

8. Screening: Except as necessary to accommodate access driveways and corner vision requirements, the facility shall be screened on all sides by sight-obscuring plant materials or fencing, or a combination thereof, with a minimum height of 6 feet.

9. Maintenance: Storage of materials or equipment shall be within enclosed structures. Trash receptacles shall be provided in convenient locations for use by guests of the camping facility and in such number and of such capacity that there is no uncovered accumulation of trash at any time.

10. Other Regulations: Recreational vehicle camping facilities shall comply with all applicable rules and regulations of the Public Health Department and state agencies governing such facilities.

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E. Any use that the Hearings Officer finds to be similar to one or more of those specified above. However, in a zoning district listed in Subsection 106.01, Section 106 shall apply in lieu of Subsection 813.01(E).

[Amended by Ord. ZDO-235, 5/14/12]

EXHIBIT 22
4-4

SURROUNDING AREA PARCELS

1/2 MILE SEARCH AREA

21.18	10	1.42	~~2~~ 33.60
9.13	9.55	1.39	~~2.23~~ 25.18
42.39	8.63	1.–	30.55 19.70
47.54	21.19	1.56	~~6.57~~ 24.72
5 – 5.0	5 – 11.09	5 – 3.26	1.16 (5) .94
42.38	9.75	3.–	.96 5.78
24.44	9.75	3.19	1.45 1.12
34	22.51	3.57	5 – 1.08 6.30
39.08	36.08	1.85	.87 37.49
10 – 19.09	10 – 20.02	10 – 4.76	1.09 (10) 2.08
2.90	20.	2.55	2.0 4.77
17.60	20	12 – 1.62	1.48 24.91
12.90	19.50	~~20.~~	10 – 2.36 3.82
28.70	19.24	~~19.38~~	2.57 1.75
15 – 2.09	15 – .92	~~29.67~~	5.13 (15) 5.74
73.83	36.47	~~6.10~~	9.65 6.92
2.76	14.46	~~2.75~~	11.73 26.76
3.99	20.76	~~19.80~~ WOF	15 – 1.89 (20) 4.60
240	4.78	~~3.05~~ RIVER	.81 2.58
20 – 133.35	20 – 5.	~~19.20~~	14.42 1.85
110.10	1.0	~~2.43~~	14.62 1.57
42.75	3.0	~~.47~~	19.85 2.10
	25.22	~~.880~~	20 – 34.54 1.50
	24 – 34.–	~~1.81~~	5.20 (25) 2.68
		~~1.74~~	17.34
		~~1.52~~	23 – 19.52
		~~1.80~~	200.47
22 1,005.20 AC	382.84 AC	29.11 AC	253.38

1,005.20
382.84
29.11
200.47
253.38
1,871 AC
÷ 106
17.65 AC AVERAGE SIZE

EXHIBIT 23
1-1

MEMORANDUM

Date: February 28, 2000
To: Mike Judd
From: Terry Curry
Subject: BCC action and H.O. determinations.

Mike, this should correspond with the matters discussed in our telephone conversation.

1. On February 16, 2000, the BCC rendered an oral decision on file number Z0373-99-I (applicant Patrick Anderson). This application was a request for interpretation of Policy 13.0 of the Rural element of the Land Use Chapter of the Comprehensive Plan. Now it's time for a momentary pause to clarify what I mean by Policy 13.0; Policy 13.0 will only be Policy 13.0 in your Plan if you have not updated it to reflect amendments that were made a little over a year ago. If you have updated your plan, Policy 13.0 is now Policy 11.0 (Policies 9.0 and 10.0 in non-updated Plans were deleted through the amendment). Anyway, this is the policy that identifies the standards for applying the 2, 5 and 10-acre zones. The BCC's primary focus, and the primary focus of this portion of the memo, was the conversion of land from Resource to Rural.

   Regarding Policy 11.0 (or 13.0), the BCC made the following determinations:

   a. The Comprehensive Plan amendment/zone change application must be evaluated through a 2-step process:

      1. Step 1. The Comprehensive Plan amendment will be evaluated. The Plan amendment review will consider, at a minimum, OAR/ORS exceptions to Statewide Land Use Goals 3 & 4, other applicable Land Use Goals and the Goals and Policies of the Plan, excluding Policy 11.0 of the Rural element of the Land Use Chapter. If the application warrants an exception to Goals 3 & 4, does not conflict with other Land Use Goals and is consistent with the Comprehensive Plan, the land use designation of the property changes to Rural; and

      2. Step 2. The zone change criteria in Section 1202 (consistency with the Plan and adequacy of facilities, services and the transportation network) will be considered. Obviously, the only remaining Plan review would be Policy 11.0 (13.0). This policy will be reviewed to determine the appropriate rural zoning classification for the newly Rural designated property (assumes step 1 was approved).

   b. The word 'generally', as it is used in 11.1(a), 11.2(a) and 11.3(a) means a majority (anything larger than 50%).

      1. Under 11.1(a), parcels are generally 2-acres or smaller if they are exactly 2-acres or less;

      2. Under 11.2(a), parcels are generally 5-acres if they are less than 6-acres; and

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3. The BCC did not interpret the language in 11.3(a), for the reason identified in point 'd', below.

c. The word 'area', as it is used in 11.1(b), 11.2(b) and 11.3(b), and for identifying the land area to be evaluate in addressing 11.1(a), 11.2(a) and 11.3(a), means all lands designated Rural which are at least partially within 1/4 mile of the boundaries of the property/ land under consideration for a zone change, plus the subject property.

d. The BCC determined that with the two step process there needed to be a default zone if the Plan amendment to Rural was approved (similar to the decision of the PC). If the land use designation is changed to Rural, and if the property does not meet the criteria for 2-acre or 5-acre zoning, then the zoning of the property will become FF-10 by default.

e. If an approved Plan amendment resulted in an island of land being designated 'Rural', then the 'area' to be used in addressing the sub-policies identified in "c.", above, will be the land within the newly created 'Rural' area.

So, given the actions of the BCC, Policy 11.0 (13.0?) of the Rural element of the Land Use Chapter should be read as follows:

11.0 The Rural (Agricultural) two-acre (RA-2), Rural Residential Farm/Forest five-acres (RRFF-5) and the Farm Forest ten-acres (FF-10) zoning districts maintain the character of Rural areas and implement the goals and policies of this Plan for residential uses in Rural areas; these zoning districts and any other zoning district developed in the future, which implements these goals and policies, should be applied in Rural areas. When considering requests for zone change (one Rural zone to another), and when considering initial zoning for newly created Rural areas (when an exception to Statewide Planning Goals 3 and 4 has been granted) these zones shall be applied as follows:

11.1 A two-acre zone shall be applied when all the following criteria are met:

a. A majority of the parcels with a 'Rural' land use designation, and that are at least partially within ¼ mile of the boundaries of the property being considered for zone change, shall be exactly 2-acres, or less.

b. Land designated Rural within ¼ mile of the boundaries of the parcel(s) being considered for zone change is significantly affected by development.

c. There are no natural hazards and the topography and soil conditions are well suited for the location of homes.

d. A public or private community water system is available

e. Areas (the land being considered for zone change) are in proximity or adjacent to a Rural Center or incorporated city.

f. In areas adjacent to urban growth boundaries, 2 acre zoning shall be limited to those areas in which virtually all existing lots are already two acres or less.

11.2 A five-acre zone shall be applied when all the following criteria are met:

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a. A majority of the parcels with a 'Rural' land use designation, and that are at least partially within ¼ mile of the boundaries of the property being considered for zone change, to include the parcel being considered for zone change, shall be less than six acres..

b. Land designated Rural within ¼ mile of the boundaries of the parcel(s) being considered for zone change is affected by development.

c. There are no serious natural hazards and the topography and soils are suitable for development.

d. Areas (the land being considered for zone change) are easily accessible to a Rural Community or incorporated city.

11.3 A ten-acre zone shall be applied when the parcel(s) being considered for zone change are designated 'Rural', but neither the 2-acre or 5-acre zones can be applied.

Just to *super clarify*, this example was not adopted by the BCC. There were no changes in the Comprehensive Plan text. The above is only intended to demonstrate the impact of the BCC interpretation on the existing language.

Thanks, TC

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of an
Interpretation Request by
Patrick Anderson

File No. Z0373-99-I

ORDER NO. 2000-57
(Page 1 of 2)

This matter coming regularly before the Board of County Commissioners and it appearing that Patrick Anderson made application for an interpretation of certain language in Comprehensive Plan Rural Policy 13; and

It further appearing that Planning Staff rendered an interpretation of Rural Policy 13 in its August 10, 1999 "Notice of Determination"; and

It further appearing that the Planning Commission, on appeal from the Planning Staff decision, interpreted various aspects of Rural Policy 13 in its December 6, 1999 Final Order; and

It further appearing that Mr. Anderson appealed the Planning Commission decision to this Board, and that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex, 906 Main Street, Oregon City, OR 97045, on February 16, 2000, at which time a preliminary decision was made by the Board;

The Board interprets Comprehensive Plan, Chapter 4 (Land Use), Rural Policy 13 as follows:

> When a comprehensive plan amendment/zone change for property designated other than Rural is proposed, the board will follow a two-step process. A determination shall first be made whether a comprehensive plan amendment, including exceptions to the Statewide Goals, is justified. If so, the Board will then proceed to apply the appropriate Rural zone. If the property does not meet the criteria for either the RA-2 or RRFF-5 zone, the FF-10 zone will be applied.
>
> The term "generally" means a simple majority of the parcels within the area under consideration.

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of an
Interpretation Request by
Patrick Anderson

File No. Z0373-99-I

ORDER NO. 2000-57
(Page 2 of 2)

For purposes of Policies 13.1(b), 13.2(b) and 13.3(b), "area" means those parcels which lie wholly or partially within ¼ miles of the border of the property proposed for rezoning, which are currently designated Rural, plus the property itself. The same area shall be considered when evaluating parcel size under Policies 13.1(a), 13.2(a) and 13.3(a).

The term "generally five acres" in Policy 13.2(a) means any parcel less than six acres. The term "generally two acres or smaller" in Policy 13.1(a) means parcels no more than 2.0 acres.

ADOPTED this 6th day of April, 2000.

BOARD OF COUNTY COMMISSIONERS

Bill Kennemer

Bill Kennemer, Chair

Millicent Morrison

Millicent Morrison, Recording Secretary

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BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive Plan and Zone Change for Peter Kusyk/Beacon Homes

File No.: Z0450-99-CP/Z0451-99-Z

ORDER NO. 2000-117
(Page 1 of 2)

This matter coming regularly before the Board of County Commissioners, and it appearing that Peter Kusyk made application for a Comprehensive Plan amendment and zone change on property described as T3S, R1E, Section 05B, Tax Lot 1300, and T3S, R1E, 5C, Tax Lot 200, W.M., located on the west side of SW Newland Road, at its intersection with SW Fir Grove Road; and

It further appearing that planning staff, by its report dated September 8, 1999, has recommended denial of the application; and

It further appearing that the Planning Commission at its September 13, 1999 meeting, has recommended denial of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners in the County Courthouse Annex at 906 Main Street, Oregon City, OR, on April 5, 2000, in which testimony and evidence were presented, and that a preliminary decision was made by the Board on May 3, 2000.

Based upon the evidence and testimony presented, this Board makes the following findings:

1. The applicant requests approval of a Comprehensive Plan map amendment from Agriculture to Rural and zone change from EFU to RRFF-5.

2. This proposal meets the applicable state statutes and administrative rules, Statewide Goals, Comprehensive Plan provisions and Zoning and Development Ordinance criteria for the reasons stated in the "Board of County Commissioners Findings", attached Exhibit "A".

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BEFORE THE BOARD OF COUNTY COMMISSIONERS

OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive Plan and Zone Change for Peter Kusyk/Beacon Homes

File No.: Z0450-99-CP/Z0451-99-Z

ORDER NO. 2000-117
(Page 2 of 2)

NOW, THEREFORE, IT IS HEREBY ORDERED that the requested Comprehensive Plan amendment and zone change are granted, subject to the three conditions stated in attached Exhibit "A".

DATED this 8th day of June, 2000.

BOARD OF COUNTY COMMISSIONERS

Bill Kennemer, Chair

Millicent Morrison, Recording Secretary

EXHIBIT 24
7.22

CLACKAMAS COUNTY

Department of Transportation & Development

THOMAS J. VANDERZANDEN
DIRECTOR

NAME: Peter Kusyk/Beacon Homes
FILE NO: Z0450-99-CP/Z0451-99-Z
REPORT AUTHOR: Terry Curry
HEARING DATE: September 13, 1999 (PC); September 22, 1999 (BCC)
REPORT DATE: September 8, 1999

PLANNING STAFF REPORT/RECOMMENDATION TO THE HEARINGS OFFICER

FACTS

GENERAL INFORMATION

Applicant: Peter Kusyk

Owner: Same

Proposal: Comprehensive Plan map amendment from Agriculture to Rural. Zone change from Exclusive Farm Use (EFU) to Rural Residential/Farm Forest, 5 Acre District (RRFF-5).

Location: West side of SW Newland Road, at its intersection with SW Fir Grove Road.

Legal Description: T3S, R1E, Section 05B, Tax Lox 1300, and T3S, R1E, 5C, Tax Lot 200, W.M.

Comprehensive Plan Designation: Agriculture.

Current Zone: EFU

RECOMMENDATION

Denial

CONCLUSIONS

In order to receive approval of this application the applicant must demonstrate compliance with the applicable goals and policies of the Comprehensive Plan (CP) and with the criteria set forth for zone

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EXHIBIT 24
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changes in Section 1202 of the Clackamas County Zoning and development Ordinance (ZDO). It is also necessary for the applicant and the County to take an exception to Statewide Planning Goals 3 (Agriculture) and 4 (Forest). Staff has reviewed the exception requirements for these land use goals, applicable sections of the CP and Section 1202 of the ZDO and makes the following findings:

1. The subject property has been designated natural resource land (Agriculture) on the CP map. In order to change the CP designation and the zone to anything other than Agriculture or Forest, it is necessary to take an exception to land use goals 3 and 4, under the procedure described in Oregon Administrative Rules (OAR) 660-04.

   Statewide Planning Goal 3 defines agricultural land in western Oregon as "...land of predominantly Class I, II, III and IV soils ..." The goal also provides for applying the "Agriculture" designation to lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands. Agricultural land does not include land within acknowledged urban growth boundaries or land with acknowledged exception areas.

   Statewide Planning Goal 4 defines forest land as " ...those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where 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."

   The subject property is has never been designated (acknowledged as) "Forest" lands. Therefore, staff will find the subject property is not "Forest" land by definition.

   Staff has reviewed the Soil Survey for Clackamas County Area, Oregon, prepared by the Natural Resources Conservation Service. Based on this document, staff will find the soil types found on the subject property are Jory silty clay loam (45D), Saum silt loam (78D) and Witzel very stony silt loam (89D). Regarding each of these soils, staff has the following comments:

   A. Jory silty clay loam. This soil is found in the easterly portion of the property. The soil is identified as having slopes ranging from 15-30%, and as having a Class IVe agricultural site index. The soil is identified as being mainly used for pasture and timber. The primary concerns identified in using this soil type for pasture or timber is steepness of slope.

      Since it is the applicant's intent to construct dwellings on the property, staff will also note the steepness of the slope is identified as a limitation, as well as the low soil strength and moderately slow permeability of the soil. Slope is also identified as a concern regarding the installation of septic tank and drainfield systems.

      The soil has a class 2 Douglas fir site index. Although this soil is highly productive, an exception to Goal 4 will not be discussed because this land does not meet the Goal 4 definition of "Forest" land.

      Staff will find this soil is agricultural land, as defined in Statewide Planning Goal 3.

   B. Saum silt loam. This soil is found in the north/south central portion and easterly portion of the property. The soil is identified as having slopes ranging from 15-30%, and as having a Class IVe agricultural site index. Resource uses for this soil are identified as pasture and wildlife habitat.

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Steepness of slope limits the property's use for pasture.

Homes on this soil has the same limitations as the Jory soil plus a concern over the soil shrinking and swelling. Septic systems have the same limitations as the Jory soil.

While growing timber is not identified as one of the main uses for this soil, it does have a Class 2 Douglas fir site index.

Staff will find this soil is agricultural land, as identified in Statewide Planning Goal 3.

C. Witzel very stony silt loam. This soil is found on approximately the westerly ½ of the subject property. The soil is identified as having slopes ranging from 3-40%, and as having a Class VIIs agricultural site index. The resource use of this soil is mainly timber and wildlife habitat. The soil is considered poorly suited for the production of Douglas fir, with a class 3 Douglas fir site index.

The main limitations on growing timber are restricted rooting depth, stones and droughtiness.

Limitations on home-sites are slope and depth to bedrock. These same limitations apply to septic systems.

Staff will find this soil is not agricultural land, as identified in Statewide Planning Goal 3.

Staff will find that approximately ½ of the subject property contains soils that constitute agricultural lands. Based on the CP map designation of the property as Agriculture and the language of Statewide Planning Goal 2, part II, staff will find an exception to Goal 3 is required.

2. Under OAR 660, Division 4, three avenues are available for claiming an exception:

A. OAR 660-04-020 and OAR 660-04-022; "Reasons exceptions" under Goal 2, Part II(c);

B. OAR 660-04-022; Land physically developed to other uses; and

C. OAR 660-04-028; Land irrevocably committed to other uses.

The applicant's narrative addresses all three options, to an extent. Most often a request for an exception will focus on 'B' or 'C', above. It is not uncommon to see a claim for an exception that actually combines both B and C. The exception under A is rarely used. The amount of analysis necessary to demonstrate a 'reasons' exception is warranted is substantial and most often overwhelming. Due to the level of analysis and the degree of regional and statewide comparison required under 'A', its use and application has been almost exclusively by governmental agencies during the conduct of large-scale legislative proposals. However, since the applicant has attempted to address OAR 660-04-020 and OAR 660-04-022, staff will respond to the information provided.

D. OAR 660-04-020 and OAR 660-04-022. Since OAR 660-04-022 sets forth the specific standards which must be addressed in taking an exception for a particular use and OAR 660-04-020 sets forth the more general standards, staff will first OAR 660-04-022, followed by a discussion of OAR 660-04-020:

EXHIBIT 24
10-22

1. OAR 660-04-022 states, "[A]n exception Under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the in the following sections of this rule:" "... (2) Rural Residential Development: For rural residential development the reasons cannot be based on market demand for housing, except as provided in this section of this rule, assumed continuation of past urban and rural population distributions, or housing types and cost characteristics. A county must show why, based on the economic analysis in the plan, there are reasons for the type and density of housing planned which require this particular location on resource lands. A jurisdiction could justify an exception to allow residential development on resource land outside an urban growth boundary by determining that the rural location of the proposed residential development is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, commercial, or other economic activity in the area."

   First, to the best of staff's knowledge, this application is being filed so the applicant can build two more single-family (or rural residential) houses. As noted above, an exception can be taken under Goal 2, Part II(c) only if the request is being made for the purpose of establishing uses that are not allowed by the applicable goal. Staff will argue that the use proposed by the applicant is allowed under Goal 3, albeit only under certain circumstances. In fact, the applicant has already exercised provision within the EFU zone that can authorize a non-farm use (effectively rural residential) dwelling. In 1997 the applicant applied for, and received approval of, a non-farm use dwelling on each of the two tax lots under consideration through this current application (see our files Z1496-97-N and Z1497-97-N). These were not dwellings that were approved in conjunction with farm use; there are no strings between the dwellings and farm uses.

   Staff does not believe an exception is available here. The applicants proposed 'use' is allowed under Goal 3. From another angle, the applicant's proposal is not so much a case of trying to establish a use that is not allowed under the goal, but more a case of trying to get more of the use than is currently provided for. The method; put a minimum lot size in place that allows the land to be further parcelized. Staff certainly has no argument with reducing lot sizes (if applicable criteria are satisfied), that's why we have the ability to apply for a zone change. But, when the property is in a resource zone the are specific procedures that must be satisfied. OAR 660-04-022 simply is not the appropriately process to use to reduce lot size.

   In the event the Planning Commission does not agree with staff's above analysis, offer the following:

   a. If the County is to adopt an exception under this rule, that decision must show why there are reasons for the type and density of housing planned which require this particular location on resource land. This showing must be base on an economic analysis that is in the CP. There is no such information in the plan regarding any location, let alone this particular location. If the applicant had submitted an economic analysis, it could be considered, but no such information has been provided by the applicant;

   b. The County can allow the proposed residential development through a determination that the rural location is necessary to satisfy the market demand for housing generated by existing or planned rural industrial, (rural) commercial, or other (rural) economic activity in the area. The applicant has not provided a sufficient level of information to assist in

EXHIBIT 24
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making this determination. The applicant has only submitted information regarding existing, and I assume proposed/future, development within West Linn and Lake Oswego.

Staff will find an exception under Goal 2, part II(c) is not available because the proposed use is allowed under Goal 3. Further, staff will find the applicant has not provided a sufficient level of information to determine the consistency of this application with OAR 660-04-022(2).

2. OAR 660-04-020 a procedure for jurisdictions to determine whether an exception can be granted to use resource lands for uses not allowed by the applicable goal. In order to do this the jurisdiction must find there are reasons that are consistent with OAR 660-04-022 that warrant the exception. I have discussed above why staff does not believe this request is consistent with OAR 660-04-022.

   If the Planning Commission find OAR 660-04-022 can be met, the applicant is required to demonstrate each of the following:

   a. Reasons justify why the state policy embodied in the applicable goals should not apply. This discussion should not apply to specific properties or situations, including the amount of land for the use being planned and why the use requires a location on resource land.

      The applicant's discussion of this criterion focuses on the subject property. Without additional information, staff can only find that the applicant has not provided a sufficient level of information to find this criterion has been satisfied. The necessary facts and assumptions used as the basis for determining that a state policy should not apply have not been provided.

   b. Areas which do not require a new exception cannot reasonably accommodate the use.

      This factor requires a demonstration that areas for which an exception has already been taken cannot accommodate the use. This factor requires the applicant to examine all areas that are appropriately zoned for the proposed uses and explain why they are not available for the use. The applicant's response reads, in part, "[T]he applicant owns the subject site. There are other RRFF-5 parcels in the County which are not built upon, but the applicant does not own that property. The applicant has provided just enough information to demonstrate that this requirement is not met.

   c. An evaluation of the long-term environmental, economic, social and energy consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception.

      Staff would agree with the applicant's observation that two additional dwellings would have a minimal, if any, increase in adverse impacts on the area. If the Planning Commission is willing to accept the simplicity of this situation as an alternative to an ESEE evaluation, staff could find this requirement is satisfied.

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d. The proposed uses must be compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.

The applicant proposed two additional dwellings on parcels of approximately 5-acres in size. Dwellings on parcels of 5-acres and less are not uncommon in this area. While staff could agree with the applicant that the proposed uses would be compatible with other uses in the area, staff would at that time be somewhat remiss, given the limited amount of information in the file regarding this standard. In preparation for the hearing the applicant may want to inventory uses in the area. The narrative is weak and sketchy. The narrative only discusses that the two new houses would be compatible with the two existing houses on the subject property and a brief discussion on lot sizes. This standard is not about lot sizes. It is about compatibility with other land uses in the area.

Staff cannot find that an exception is warranted under the procedures and standards set forth and discussed in OAR 660-04-020 and OAR 660-04-022.

E. OAR 660-04-025. An exception under this provision must demonstrate that the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

The only potentially conflicting physical development on the property is the two existing dwellings. Based on the best information available to staff, it does not appear that the property has been in agricultural or managed forest use in the recent past. However, staff cannot find the dwellings would preclude the use of the property for limited agricultural or forest management purposes, even given its small size.

The applicant's narrative suggests that the Planning Commission should recognize that the property is physically developed to an extent that it is no longer available for uses allowed under Goal 3 based on the two existing authorized dwellings. While limited, the soils on the property have some suitability to support uses allowed under Goal 3. Further, the Planning Commission is obligated to reject the applicant's suggestion the two dwellings render the property no longer available for Goal 3 uses. These dwellings are authorized uses under Goal 3. In fact, they were approved under a procedure contained in the Oregon Revised Statutes (ORS), OAR and ZDO. Further OAR 660-04-025(2) specifically limits the level of consideration that can be given to those two dwellings. The rule states, "... Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

Staff will find an exception to Goal 3 is not justified under the physically developed criteria in OAR 660-04-024

F. OAR 660-04-028. (1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable. (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must

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address the following:

1. The characteristics of the exception area.

   The proposed exception area is approximately 22.31 acres in size. The soils found on the subject property have been previously discussed in this report. Suffice it to say that only about ½ of the subject property contains soils that have and agricultural site index of I-IV. In this case, all of the soils that have an index from I-IV are IV. In no way should the fact that these agricultural soils are class IV minimize the fact that they are considered 'agricultural soils' in western Oregon under the Statewide Land Use Goals and the CP. Regarding the two dwellings on site, staff will find that the subject property does not have physical characteristics that irrevocably commit it to non-resource use, as provided for under OAR 660-04-025(2).

2. The characteristics of adjacent lands. All of the lands adjacent to the subject property are zoned EFU.

   The area adjacent to the subject property on the west is an approximately 120-acre parcel. This parcel is the home of Tigard Sand and Gravel, an aggregate extraction operation. This operation has been conducted off and on since the early 1960's. There have been land use hearings and court cases that have discussed the nature of the non-conforming aggregate extraction operation. In is not the purpose of this report to detail the history of aggregate extraction on the site. It will suffice to note that the 1999 session of the Oregon Legislature adopted laws that appear to give special dispensation to non-conforming aggregate extraction operations. To the best of staff's knowledge, the only unknown issue regarding Tigard Sand and Gravel is the extent, or scope, of the non-conforming use.

   The area adjacent to the subject property on the south is an approximately 25-acre parcel that is also owned by Tigard Sand and Gravel. In terms of soil and topography, this parcel is similar to the subject property. The property does not contain a dwelling and does not currently appear to be an active part of the Tigard Sand and Gravel aggregate extraction operation.

   Land adjacent to the east of tax lot 200, T3S, R1E, Section 5C and east of the southern portion of tax lot 1300, T3S, R1E, Section 5B, on the east side of SW Newland Road, is an approximately 35.5-acre parcel that is developed with a single-family residence. The residence is located in the southwesterly portion of the property, approximately 400-feet from the subject property.

   The area to adjacent to the east and north of the northern portion of tax lot 1300, T3S, R1E, Section 5B, is part of a 9-lot residential subdivision that was recorded in 1969. One of the original platted lot is now made up of two tax lots, but is still one legal lot. All 9 of the platted subdivision lots have been developed with residences. The two lots that would be considered adjacent if they were not on the east-side of SW Newland Road are tax lots 400 and 1200/1201. The residences on these properties are approximately 100-feet from the subject property.

   Areas approximately 200 feet to the southeast and approximately 150 feet to the northwest are zoned RRFF-5. These areas are not adjacent to the subject property. Although not adjacent,

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staff will note that the area to the northwest is made up of lots that are generally 5-acres and less in size. The area to the southeast contains very few lots over 5-acres.

Given the above description of adjacent uses, staff will find that the existing residential development in the area is not at a level that creates impacts that would irrevocably commit the subject property to non-resource uses. Staff will further find that the existing aggregate extraction operation might have some impact on the resource use of the subject property, but not to an extent that it would irrevocably commit the land to non-resource use. Further, any impacts generated by the aggregate extraction operation would probably be greater relative to residential use, as proposed, than to resource use.

3. The relationship between the exception area and the lands adjacent to it.

   This relationship has been discussed under item 2(F)(2), above. Again, staff will find any potential conflicts with existing development adjacent to the subject property have not been demonstrated to irrevocably commit the subject property to non-resource use.

4. The fourth criterion refers to other relevant factors set forth in OAR 660-04-028(6). This section of the OAR requires findings of fact for a committed except to address seven factor. Staff addresses those factors as follows:

   a. The first factor refers to existing adjacent uses. This factor has already been discussed under the characteristics of adjacent lands and the relationship between the exception area and the land adjacent to it. For the reasons previously discussed, staff finds existing adjacent uses do not irrevocably commit the subject property to non-resource uses.

   b. The second factor refers to existing public facilities and services. The subject property and surrounding area is not dependent on public facilities/services for the provision of water or sewage disposal. Staff will find the subject property and any new development does not need any public facilities/services that are not currently available in the area. However, the ability of the property to be developed based on service availability does not irrevocably commit the property to such development.

   c. The third factor refers to parcel size and ownership patterns of the exception area and adjacent lands. The subject property, which is the proposed exception area, is approximately 22 acres in size. The adjacent lands vary in size from approximately 3-acres to over 140-acres (the combined Tigard Sand and Gravel ownership). Other than the subject property, the Tigard Sand and Gravel ownership, and tax lots 1200/1201, T3S, R1E, Section 5B, there are no other multiple lot ownerships on adjacent lands. While some of the parcels adjacent to the subject property are rural size, staff cannot find that the existing parcel size and ownership pattern irrevocably commit the subject property to non-resource use.

   d. The fourth factor refers to neighborhood and regional characteristics. While defining the 'neighborhood' is not an exact science, staff believes the regional and local characteristics of the subject property are quite similar to most other areas of Clackamas County. The

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location of much of Clackamas County within the Portland Metropolitan area generally dictates that mixtures of Rural, Agricultural, Forest and Urban uses will be common. This area is no different than other resource designated areas of the county. Rural designated land are nearly, but not quite, adjacent to the subject property. Designated 'Forest' lands are within a mile of the property. In direct line distance, the cities of Wilsonville and West Linn are within 3 miles of the subject property and portions of Canby are within 4 miles. The Rural Plan Amendment (RUPA) statistical area in which the subject property is located (A3) extends north SW Stafford, just south of I-205, east to Pete's Mountain Road, west to the Wilsonville city limits and south to the Willamette River. Staff can find nothing about these locational factors that irrevocably commit the subject property to non-resource uses.

e. The fifth factor refers to natural or man-made features or other impediments separating the exception area from adjacent resource land. The extent of the agricultural area the subject property is located in is generally above. Staff is not aware of any natural features (cliff, river, etc.) or man-made features (major freeways, etc.) that separate the subject property from the balance of the resource area. Topography is about the only feature staff can think of the causes some restriction, but even that is overcome by the existing road system. Staff will find the area contains no nature or man-made features that separate the exception area from adjacent resource land to an extent that the exception area would be rendered irrevocably committed to non-resource uses.

f. The sixth factor refers to physical development according to OAR 660-04-025. That section of the OAR refers to land physically developed to other uses to the extent it is no longer available for uses allowed by the applicable goal. As has been previously stated, the subject property is developed with 2 dwellings (one on each tax lot). It is staff's opinion that the presence of these 2 dwellings does not commit the property to non-resource uses. Staff will find the subject property remains available for limited resource use.

g. The last factor refers to other relevant factors. No additional relevant factors were identified in the application materials or identified by staff.

Staff will find and exception under OAR 660-04-028 for an irrevocable commitment to other uses is not warranted.

Staff will find the subject property does not meet any of the procedures for obtaining approval of an exception to Statewide Land Use Goal 3, as presented in OAR 660, Division 4.

3. The next part of this report analyzes the CP map change. The CP map change is subject to comparison under the Agriculture and Rural elements of the CP. Staff has reviewed the CP with respect to this application and finds as follows:

A. Policy 1.0 of the Agriculture element of the CP identifies what areas shall be designated Agriculture. Staff addresses these as follows:

1. Areas with predominantly Class I-IV agricultural soil as defined by the U.S. Soil Conservation Service or identified as agricultural soil by more detailed data.

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Approximately 50% of the subject property contains Class IV agricultural soil. The present Agricultural designation is consistent with this factor.

2. Areas generally in parcels of 20 acres or larger.

   The text adopted by the Board of County Commissioners along with the RUPA plan amendment contains a description of area A3 (the statistical area in which the subject property is located). Part of that description identifies that 70% of the parcels in area are 20 acres or larger. The present Agricultural designation is consistent with this factor.

3. Areas primarily in agricultural use.

   The RUPA text identifies that when the area was designated Agriculture, 85% of the area was in agricultural use. The present Agricultural designation is consistent with this factor.

4. Areas necessary to permit farming practices on adjacent lands or necessary to prevent conflicts with the continuation of agricultural uses.

   The applicant has not provided any information regarding this factor. Staff is not aware of reasons why it would be necessary to designate the subject property Agriculture in order to protect other properties. There is no evidence in the file that this factor was considered when the Agriculture designation was placed on the property.

5. Other areas in soil classes different from SCS I-IV, when the land is suitable for farm uses defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted farm practices.

   ORS 215.203(2)(a) defines 'farm use'. Staff is not aware of any particular value the subject property has for farm use beyond the fact that approximately 50% of the property contains Class IV soils. As with item 4, staff will find there is no evidence in the file that this factor was considered when the Agriculture designation was placed on the property.

Staff will find, in balance, that the designation of the subject property as agricultural land is appropriate. The property meets 3 of 5 factors used for designating land Agriculture.

B. Policy 1.0 of the Rural element of the CP identifies the areas that may be designated Rural. In this case, the only areas that may be designated Rural are those that are presently developed, built upon, or otherwise committed to sparse settlement or small farms with no or hardly any public services available.

   Portions of statistical area A3 certainly are presently developed, built upon, or otherwise committed to sparse development of small farms. However, the area was reviewed as a unit, and must continue to be looked upon in that manner unless an exception to Statewide Land Use Goal 3

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is approved. Therefore, staff must consider the information in the RUPA text when determining the level of development is more consistent with Agriculture of Rural land use designation. The density of development was in excess of 35 acres per dwelling unit. 85% of the area was in agricultural use. 70% of the area is made up of parcels 20 acres or larger. 90% of the soils within area A3 are class I-IV. Staff will find these characteristics much more closely describe an area that should be designated Agriculture than an area that should be designated Rural.

While the public services available outside of urban growth boundaries varies, the similarity is that it is almost always minimal.

Staff will find that there are probably areas within area A3 that could have been identified as rural, but only if an exception to Statewide Land Use Goal 3 could be approved . Since an exception cannot be approved, staff will find that the characteristics of area A3 reflect an Agriculture are, not a Rural area. This application is not consistent with policy 1.0 of the Rural element of the CP for designating lands Rural.

C. In the past staff has also addressed policy 2.0 of the Rural element when reviewing applications similar to the one in this proposal. The Clackamas County Hearings Officer has recently determined that policy 2.0 is only applicable in those cases where the County is pursuing a legislative amendment, not for those applications that deal with individual properties. Until this determination is changed by a higher level authority (PC or BCC), staff will not apply policy 2.0 to this type of application.

Staff will find the existing Agriculture designation of the subject property is more appropriate than the Rural designation, based on the above discussion.

4. The next, and last portion of this report will discuss the zone change criteria found in Section 1202 of the ZDO. There are only two criteria for a zone change. Staff addresses those as follows:

A. The first criterion requires approval of the request to be consistent with the CP.

Staff has already addressed several parts of the CP, above. In addition to those discussions, the following must be addressed:

1. Policy 13.0 of the Amendments and Implementation section (page 216) of the Planning Process element of the CP requires, for lands outside urban growth boundaries, require exceptions to LCDC Goals 3 and 4 for any Plan amendment or zone change to uses other than agriculture or forestry.

   Staff has already discussed the process for taking an exception to a land use goal and has found that one cannot be approved.

   This application is not consistent with policy 13.0

2. The last CP policy that must be addressed is policy 13.0 of the Rural section of the Land Use element of the CP (beginning on page 83). This policy is used to determine the appropriate minimum lot size Rural zone (2, 5, or 10 acre density zones). Since the highest density the

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applicant has requested is the 5-acre district, staff will not discuss the 2-acre district in this report. Regarding policy 13.0, staff provides the following findings:

a. Sub-policy 13.2 identifies the standards for applying the 5-acre district as follows:

1. Parcels are generally five acres.

In 1993, the BCC interpreted 'generally' in this phrase to mean "... approximately 2/3 of the parcels in the area under consideration". Although is would appear that generally should have qualified 'five acres' that is not the definition that was adopted. Base on this definition, the first criterion requires that approximately 2/3 of the parcels in the area are 5 acres or less.

In an attempt to clarify the definition of 'generally', the BCC also identified a definition of 'area', solely for the purposes of this section. 'Area' means all the properties in the subarea the subject property is within having the same zoning designation. However, the area of review may be modified when there is a determination that there are further subareas within the RUPA designated area, due to significant natural and/or manmade boundaries that physically separate these subareas." Since staff has already found that there are no natural or manmade boundaries that separate the subarea, the subarea is RUPA area A3.

Staff has previously tried to convince a previous land use Hearings Office that the level of evaluation should be less than six acres (generally 5-acres). This argument has been rejected. The BCC also rejected that suggestion by reference in their denial of file number Z0923-97-Z/Z0924-97-CP (Johnson).

The County's current land use Hearings Officer has said the language in the CP allows us to look only at parcel that are exactly 5-acres in size; nothing smaller, nothing large. In addition to being ridiculous, that determination is not consistent with the BCC reference findings in Johnson.

With all that said, staff will now address the requirement. Based on staff's calculations, there are 309 parcels within RUPA area A3. Of these, 135 are less than or equal to 5 acres. The number of parcels less than or equal to 5 acres is 43.7% of the total number of parcels. 43.7% is not approximately 2/3 (66.7%). A previous Hearings Officer has determined that 60% is not approximately 2/3.

This criterion for 5-acre rural zoning is not satisfied.

2. The area is affected by development.

As of the date of the application of the Agriculture land use designation, the area could not be considered affected by development, based on the description of the area contained the narrative for area A3.

This criterion for 5-acre rural zoning is not satisfied.

3. There are no serious natural hazards and the topography and soils are suitable for development.

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Geologic Hazards maps prepared by the State of Oregon, Department of Geology and Mineral Industries (DOGAMI) identify a thin soil hazard on the property. This characteristic impact the ability of the designated area to support septic systems and control storm water. A good amount of the land along SW Newland Road is also identified as having slopes of up to 50%. The applicant has submitted no information that demonstrates the property is suitable for development. Given the limitation identified on the DOGAMI map, staff will find there is not a sufficient level of information available to demonstrate the site is suitable for development.

This criterion has not been satisfied.

4. Areas are easily accessible to a Rural Center or incorporated city.

   Staff has previously discussed the proximity of the property to the cities of West Linn and Wilsonville. Staff will find this proximity constitutes easy accessibility.

   This criterion for 5-acre Rural zoning is satisfied.

Not each of the criteria for application of the 5-acre Rural zoning district have been satisfied.

b. Through preliminary calculations, staff has determined that the site could meet the standards under sub-policy 13.2 for the 10-acre district. However, the 10-acre district would be of no value to the applicant, given the level of approved development and the size of the subject property. Further, since staff has also found that the request is not consistent with other plan policies and cannot find that an exception should be approved, there is little value in discussing the 10-acre district.

   If an exception can be approved and the application can be found to be consistent with other portions of the CP, staff would find the criteria for the 10-acre zone can be met.

B. The second criterion for zone change requires the property and affected area be presently provided with adequate public facilities, services and transportation networks to support the use, or such facilities, services and transportation networks are planned to be provided concurrently with development of the property.

   Staff will find the public facilities, services and the transportation network in the area are adequate to support the proposed zone change, if the applicant can demonstrate the property can support two more septic systems. Water and sewage must come from on-site sources/methods and are neither public facilities nor services. Traffic impacts from 2 additional dwellings will be minimal, but access must be approved by DTD, Engineering for safety purposes.

   This criterion could be satisfied.

Staff will find the applicant has not satisfied the standards of Section 1202 for a zone change to RRFF-5

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In summary, not all of the necessary standards for a Comprehensive Plan amendment and zone change can be satisfied by this application.

If this application receives a recommendation for approval from the PC, the recommendation should reflect a requirement that the Comprehensive Plan map and Official Zoning Map 4-3 be amended if the application is approved.

RESPONSES REQUESTED

1. West Linn/Wilsonville School District
2. Tualatin Valley Fire District
3. Far West CPO
4. DTD, Soil Division
5. DTD, Construction and Development
6. DTD, Traffic Engineering
7. METRO

RESPONSES RECEIVED

1. DTD, Soils Division; Any zone change that will allow for the subject parcels to be subdivided will require a soil feasibility for all proposed new lots.
2. Far West CPO, see exhibit 6.

EXHIBITS

1. Aerial photograph of surrounding area and subject property; provided by the applicant.
2. Applicant's narrative.
3. Assessor's map T3S, R1E, Section 5D, Tax Lot 200
4. Assessor's map T3S, R1E, Section 5C, Tax Lot 1300
5. DTD, Soils Division comments
6. Far West CPO comments

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7. Area A3 description and BCC order.

8. BCC order 93-1179

9. Z0923-97-Z/Z0924-99-CP (Johnson).

10. DOGAMI map

11. DTD, Traffic Engineering

12. Letter, Peter Kusyk, Applicant dated September 13, 1999

TC/r/z0450-99/080999

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BULL RUN SCHOOL PROPERTY

BULL RUN SCHOOL DISTRICT #45 – 41515 SE Thomas Road, Sandy, Oregon

25E06 00600

EXHIBIT 25
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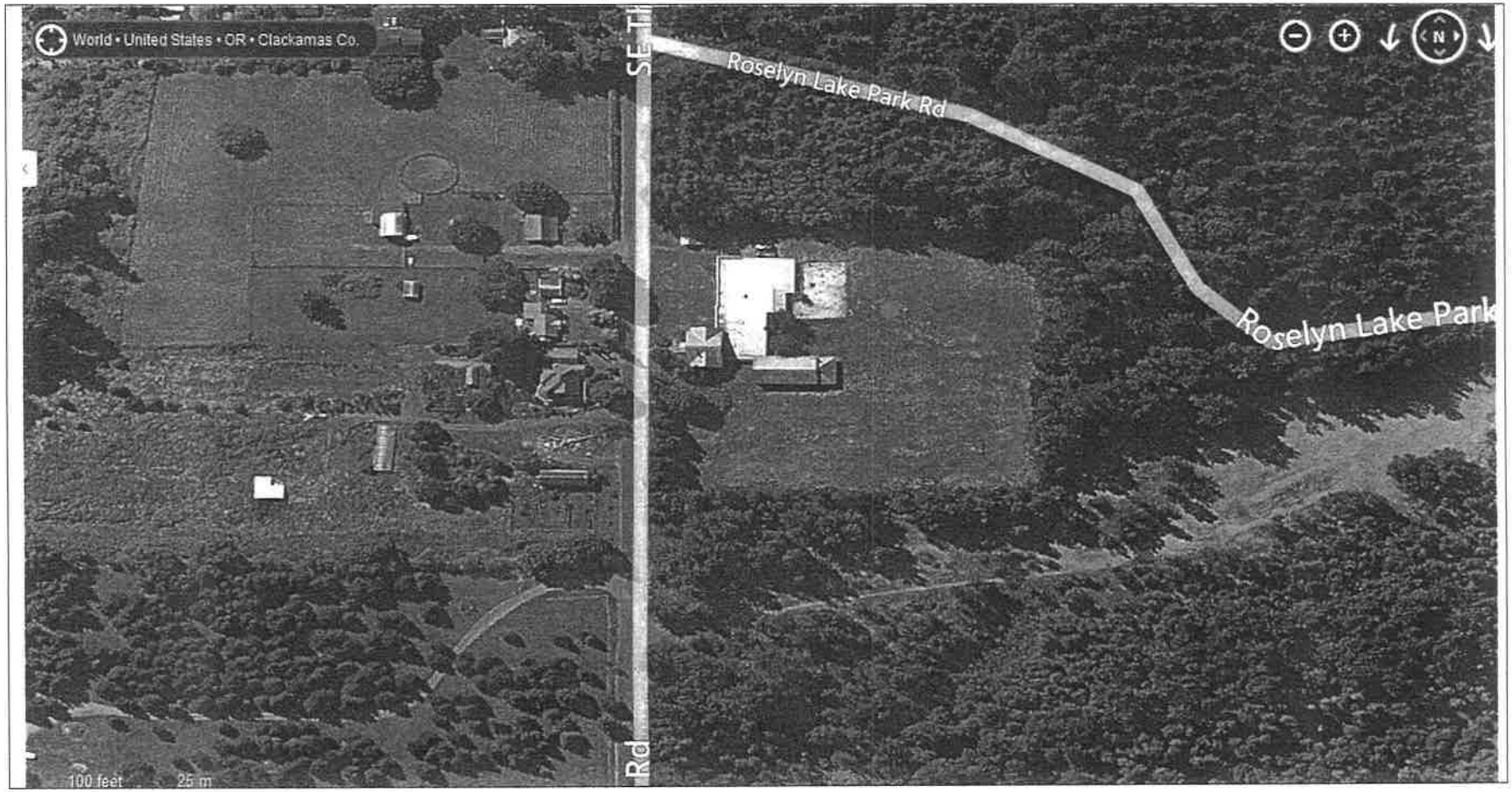

BULL RUN SCHOOL PROPERTY

BULL RUN SCHOOL DISTRICT #45 – 41515 SE Thomas Road, Sandy, Oregon

25E06 00600

EXHIBIT 25
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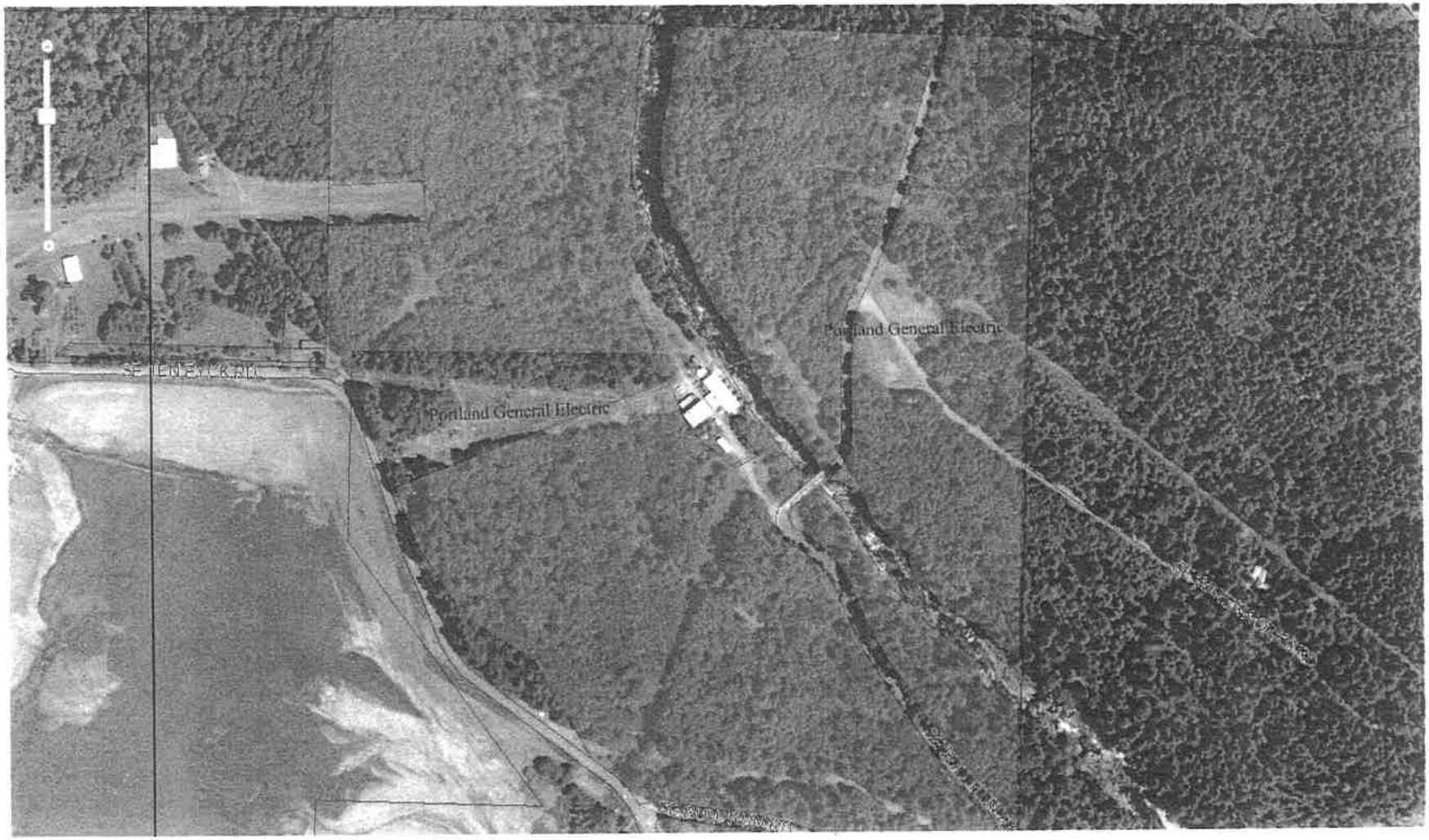

25E06 00102
POWERHOUSE SITE

EXHIBIT 25
5.4

25E06 -00102 Old PGE Day-Use Park Area 11.80 acres without access road

EXHIBIT 25
4-4

TECHNICAL MEMORANDUM

TO: Rick Nys, Clackamas County
FROM: Brian Davis
DATE: January 24, 2014
SUBJECT: Bull Run Zone Change
Response to request for clarifications

LANCASTER
ENGINEERING
321 SW 4th Ave., Suite 400
Portland, OR 97204
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This memorandum follows up upon our Transportation Analysis Letter (TAL) in support of the proposed Bull Run zone change from Clackamas County's *Timber District (TBR)* to its *Farm Forest 10-Acre District (FF10)* dated November 4, 2013, and provides the additional information requested by Clackamas County.

Crash History

To better address traffic safety in the vicinity of the subject site, the crash records obtained from ODOT's Crash Analysis and Reporting Unit were examined for the following segments:

- SE Lusted Road between SE Thomas Road and SE Ten Eyck Road
- SE Ten Eyck Road between SE Lusted Road and SE Thomas Road
- SE Bull Run Road between SE Ten Eyck Road and SE Water Works Road
- SE Thomas Road (entire length)

The segment of Lusted Road examined had one reported crash. It was a single-vehicle fixed object crash that resulted in property damage only, occurring at the intersection of SE Lusted Road at SE Ten Eyck Road when a driver swerved to avoid a *phantom vehicle,* which is a vehicle that is not directly involved in a crash but partially responsible for causing it.

The segment of Ten Eyck Road had two reported crashes, both of which were single-vehicle fixed object crashes. The first occurred a short distance to the northwest of the intersection with Bull Run Road, and the second occurred a short distance to the south of this intersection. Both resulted in a "possible injury – complaint of pain," and were caused in part due to diving too fast for conditions. One occurred in wet weather and the other occurred in icy conditions.

The segment of Bull Run Road had two reported crashes. The first was a sideswipe crash involving two opposing vehicles that was caused when one of the drivers failed to maintain a lane due to excessive speed. The second was a rear-end crash that occurred in icy conditions and was caused by a driver following too closely and driving too fast for conditions. Both resulted in property damage only.

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No crashes were reported on SE Thomas Road during the analysis period.

The crash histories are not indicative of any potential safety deficiencies with the roadways in the vicinity of the site. The crash records are provided in the appendix to this memorandum.

Sight Distance

While there is no development plan in place presently for the subject property, sight distance was examined along the site's frontage to ensure that any potential development will be able to safely take access to the public roadways.

Sight distance guidelines are specified in *A Policy on Geometric Design of Highways and Streets*[1]. The assumed driver's eye heights are 3.5 feet above the road for both vehicles exiting the driveway and vehicles on the main roadway, with the driver's eye 15 feet behind the edge of the near-side travel lane. Based on the 55-mph statutory speed limits in the vicinity of the site, the necessary intersection sight distance (ISD) such that vehicles on the public roadways will not have to slow excessively to accommodate vehicles entering from the site is 610 feet.

The subject site has extensive frontage along both SE Thomas Road and SE Ten Eyck Road, and several places along each street were identified where adequate ISD was available. Accordingly, sight distance is adequate along the site's frontage to support potential future development of the site.

Trip Generation

The November 4 TAL analyzed the potential trip generation of the proposed zone change assuming that residential development represented the reasonable worst-case development scenario, however a park is an allowed use for the proposed FF10 zoning that generates a greater number of trips during many periods.

To determine the trip generation under the reasonable worst-case development scenario, trip rates from the manual *Trip Generation*[2] were used. The data for land use #210, *Single-Family Detached Housing* were used to determine the trip generation of a potential residential development, and the data for land use #412, *County Park* were used to determine the trip generation of a potential park.

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[1] American Association of State Highway and Transportation Officials (AASHTO), *A Policy on Geometric Design of Highways and Streets*, 6th Edition, 2011.
[2] Institute of Transportation Engineers (ITE), *Trip Generation Manual, 9th Edition,* 2012.

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The reasonable worst-case trip generation under the current zoning and for both potential development scenarios for the proposed FF10 zoning is Table 1. Detailed trip generation calculations are provided in the appendix.

The trip generation calculations show that under the current TBR zoning, the subject site would generate one morning peak hour trip and one evening peak hour trip if fully developed. Ten daily trips would be generated both during weekdays and Saturdays. Under the proposed FF10 zoning, if the site were developed residentially, it would be expected to generate eight morning peak hour trips, eleven evening peak hour trips, 104 total weekday trips, and 110 Saturday trips. If the site were developed as a park, it would be expected to generate two morning peak hour trips, ten evening peak hour trips, 262 total weekday trips, and 1,396 Saturday trips. Thus, the park use would have a smaller impact during the peak hours, but a greater overall impact over the course of the day, particularly on Saturday, than that described in our November 4 TAL.

Table 1: Trip generation for current TBR zoning and for reasonable worst-case residential and county park development scenarios for the proposed FF10 zoning.

	Trip Ends vs.	Morning Peak Hour	Evening Peak Hour	Weekday Total	Saturday Total
TBR Zoning	1 Lot	1	1	10	10
FF10 Zoning (Residential)	11 Lots	8	11	104	110
FF10 Zoning (Park)	115 Acres	2	10	262	1,396

Planning Horizon Traffic Volumes

In order to estimate current traffic volumes in the vicinity of the site, observations were made during the evening peak hour on Tuesday, January 7, 2014 at the intersection of SE Ten Eyck Road at SE Thomas Road. Based on these observations, traffic volumes in are presently light, with approximately 80 total peak hour vehicles entering the intersection. Approximately 70 vehicles entered along the major street (SE Ten Eyck Road), with the remaining 10 entering along the minor street (SE Thomas Road). Based upon the common assumption that evening peak hour traffic represents 10% of the total daily traffic, the average daily traffic (ADT) along SE Ten Eyck Road is currently 700 vehicles and the ADT along SE Thomas Road is currently 100 vehicles.

Assuming a background traffic growth rate of 2% in the site vicinity, the 2034 planning horizon ADT along SE Ten Eyck Road would be approximately 1,050 vehicles, and the 2034 planning horizon volume along SE Thomas Road would be approximately 150 vehicles. The total entering volume at the intersection would be 1,200 vehicles. Note that traffic volumes in Oregon have been relatively flat

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3-13

for several years, so this represents an upper-bound estimate for future volumes. In addition, the site is outside of the Urban Growth Boundary, so year-over-year increases in traffic volume are unlikely and to the extent they do occur, will likely be less than what is experienced in urban areas. If the site were fully developed as a park and all site trips utilized the intersection of SE Ten Eyck Road at SE Thomas Road , the ADT at the intersection would be approximately 1,500 during weekdays. Assuming background traffic volumes were similar on Saturdays, the Saturday ADT would be approximately 2,600 vehicles. An examination of the Saturday trip rates in the ITE manual shows that the Saturday peak hour is about 18 percent of the daily volume. Applying this relationship to the intersection, it could have a demand of less than 500 vehicles during the Saturday peak hour.

While this represents a significant increase in traffic compared to the expected background traffic, the volumes are still well within reason for a rural, stop-controlled intersection. To determine whether the planning horizon volumes during the critical hour—the Saturday peak hour—rise to a problematic level, a basic trip distribution model was assumed and the performance metrics were calculated using the intersection analysis methodologies in the *Highway Capacity Manual (HCM)*[3]. The analysis found that the critical eastbound movement at the intersection of SE Ten Eyck Road at SE Thomas Road will operate at level-of-service (LOS B) with a volume-to-capacity (v/c) ratio of 0.17 during the Saturday peak hour. This easily meets Clackamas County's operational standard, which requires unsignalized intersections in the vicinity of the subject site to operate at LOS D or better.

Detailed results of this capacity analysis are provided in the appendix.

Conclusions

The evidence provided in this memorandum supports the findings from our November 4, 2014 TAL. The existing infrastructure is adequate to support this additional traffic at the planning horizon. The proposed zone change is in compliance with Clackamas County's Zone Change Requirements and the State of Oregon's Transportation Planning Rule.

If you have any questions regarding this report or if you need any further assistance, please don't hesitate to contact us.

REGISTERED PROFESSIONAL ENGINEER
54853
OREGON
JULY 9, 2001
TODD E. MOELLEY
1/23/14
EXPIRES 12/31/2014

[3] Transportation Research Board, *Highway Capacity Manual*, 5th Edition, 2010.

EXHIBIT 26
4-13

Appendix

EXHIBIT 26
5.13

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE LUSTED RD-OLD 25001, MP 0 to 0.3, 01/01/2008 to 12/31/2012

Total crash records: 1

SER# INVERT	S P E D	A L C	R U C S	S C H L	W O R K	DATE DAY TIME	MILEPNT DIST FROM INTERSECT	COUNTY ROADS FIRST STREET SECOND STREET	RD CHAR DIRECT LOCTN	INT-TYPE (MEDIAN) LEGS (#LANES)	INT-REL TRAF-CONTL	OFFRD RNDBT DRVWY	WTHR SURF LIGHT	CRASH COLL SVRTY	V#	SPCL USE TRLR QTY OWNER TYPE	MOVE FROM TO	P#	PRTC TYPE	INJ SVRTY	A G E	S E X	LICNS RES	PED LOC	ERROR	ACT	EVENT	CAUSE
01685	N	N	N			04/14/2012	0.00	SE LUSTED RD-OLD 25001	INTER	3-LEG	N	Y	CLD	FIX OBJ	01	NONE 0	STRGHT										079	26
NONE						SA			N		UNKNOWN	N	WET	FIX		PRVTE	S -N									007	079	00
						12A			05	0		N	DARK	PDO		PSNGR CAR		01	DRVR	NONE	20	M	OR-Y OR<25		081	000		26

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

EXHIBIT 26 C-13

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE TEN EYCK RD -25001, MP 0 to 100, 01/01/2008 to 12/31/2012

Total crash records: 1

SER# INVEST	SPE O	ALC N	DRUG S	SCL N	WRK	DATE DAY TIME	MILEPNT DIST FROM INTERSECT	COUNTY ROADS FIRST STREET SECOND STREET	RD CHAR DIRECT LOCTN	INT-TYPE (MEDIAN) LEGS (#LANES)	INT-REL TRAF-CONTL	OFFRD RNDBT DRVWY	WTHR SURF LIGHT	CRASH COLL SVRTY	V#	SPCL USE TRLR QTY OWNER TYPE	MOVE FROM TO	P#	PRTC TYPE	INJ SVRTY	AGE	SEX	LICNS RES	PED LOC	ERROR	ACT	EVENT	CAUSE
01270	Y	N	N			04/05/2012	0.65	SE TEN EYCK RD -25001	STRGHT		N	Y	RAIN	FIX OBJ	01	NONE 0	STRGHT										062	01
NO RPT						TH			UN	(NONE)	UNKNOWN	N	WET	FIX		PRVTE	W -E									000	062	00
						12A			07			N	DARK	INJ		PSNGR CAR		01	DRVR	INJC	53	F	OR-Y		047,080	017		01
										(02)													OR<25					

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

EXHIBIT 26
7-13

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE TEN EYCK RD -52002, MP 0 to 0.53, 01/01/2008 to 12/31/2012

Total crash records: 1

SER# INVEST	S P E D	A	R U G C	S H L	W O R K	DATE DAY TIME	MILEPNT DIST FROM INTERSECT	COUNTY ROADS FIRST STREET SECOND STREET	RD CHAR DIRECT LOCTN	INT-TYPE (MEDIAN) LEGS (#LANES)	INT-REL TRAF-CONTL	OFFRD RNDBT DRVWY	WTHR SURF LIGHT	CRASH COLL SVRTY	V#	SPCL USE TRLR QTY OWNER TYPE	MOVE FROM TO	P#	PRTC TYPE	INJ SVRTY	A G E	S E X	LICNS RES	PED LOC	ERROR	ACT	EVENT	CAUSE
00982	Y	N	N			03/16/2012	0.23	SE TEN EYCK RD -52002	STRGHT		N	Y	UNK	FIX OBJ	01	NONE 0	STRGHT										124,079	01
COUNTY						FR			UN	(NONE)	UNKNOWN	N	ICE	FIX		PRVTE	N -S									000	124,079	00
						8A			01			N	DAWN	INJ		PSNGR CAR		01	DRVR	INJC	28	F	OR-Y		047,080	000		01
										(02)													OR<25					

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

EXHIBIT 8.13 26

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE BULL RUN RD, MP 3.68 to 4.5, 01/01/2008 to 12/31/2012

Total crash records: 2

SER# INVEST	SPED	ALCS	DRUG	SCHL	WRK	DATE DAY TIME	MILEPNT DIST FROM INTERSECT	COUNTY ROADS FIRST STREET SECOND STREET	RD CHAR DIRECT LOCTN	INT-TYPE (MEDIAN) LEGS (#LANES)	INT-REL TRAF-CONTL	OFFRD RNDBT DRVWY	WTHR SURF LIGHT	CRASH COLL SVRTY	V#	SPCL USE TRLR QTY OWNER TYPE	MOVE FROM TO	P#	PRTC TYPE	INJ SVRTY	AGE	SEX	LICNS RES	PED LOC	ERROR	ACT	EVENT	CAUSE
02644	Y	N	N	N	N	07/24/2011	3.80	SE BULL RUN RD	CURVE		N	N	CLR	O-STRGHT	01	NONE 0	STRGHT										043	01,05
COUNTY						SU			UN	(NONE)	UNKNOWN	N	DRY	SS-M		PRVTE	N -S									000		00
						10A			05			N	DAY	PDO		PSNGR CAR		01	DRVR	NONE	20	M	OR-Y		047,080	000		01,05
										(02)													OR<25					
															02	NONE 0	STRGHT											
																PRVTE	S -N									000		00
																PSNGR CAR		01	DRVR	NONE	18	M	OR-Y		000	000		00
																							OR<25					
00434	Y	N	N			01/27/2009	4.39	SE BULL RUN RD	STRGHT		N	N	SNOW	S-1STOP	01	NONE 0	STRGHT										124	07,01
NONE						TU			UN	(NONE)	UNKNOWN	N	ICE	REAR		PRVTE	W -E									000	124	00
						10A			03			N	DAY	PDO		PSNGR CAR		01	DRVR	NONE	47	M	OR-Y		026,047	017		07,01
										(02)													OR<25					
															02	NONE 0	STOP											
																PRVTE	W -E									011	124	00
																PSNGR CAR		01	DRVR	NONE	57	M	OR-Y		000	000		00
																							OR<25					

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

EXHIBIT 6-13
26

2e

TRIP GENERATION CALCULATIONS

Land Use: Single-Family Detached Housing
Land Use Code: 210
Variable: Dwelling Units
Variable Value: 1

AM PEAK HOUR

Trip Rate: 0.75

	Enter	Exit	Total
Directional Distribution	25%	75%	
Trip Ends	**0**	**1**	**1**

PM PEAK HOUR

Trip Rate: 1.00

	Enter	Exit	Total
Directional Distribution	63%	37%	
Trip Ends	**1**	**0**	**1**

WEEKDAY

Trip Rate: 9.52

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**5**	**5**	**10**

SATURDAY

Trip Rate: 9.91

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**5**	**5**	**10**

Source: TRIP GENERATION, Ninth Edition

EXHIBIT 26
10-13

e

TRIP GENERATION CALCULATIONS

Land Use: Single-Family Detached Housing
Land Use Code: 210
Variable: Dwelling Units
Variable Value: 11

AM PEAK HOUR

Trip Rate: 0.75

	Enter	Exit	Total
Directional Distribution	25%	75%	
Trip Ends	**2**	**6**	**8**

PM PEAK HOUR

Trip Rate: 1.00

	Enter	Exit	Total
Directional Distribution	63%	37%	
Trip Ends	**7**	**4**	**11**

WEEKDAY

Trip Rate: 9.52

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**52**	**52**	**104**

SATURDAY

Trip Rate: 9.91

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**55**	**55**	**110**

Source: TRIP GENERATION, Ninth Edition

EXHIBIT 26
11-19

1e

TRIP GENERATION CALCULATIONS

Land Use: County Park
Land Use Code: 412
Variable: Acres
Variable Value: 115

AM PEAK HOUR

Trip Rate: 0.02

	Enter	Exit	Total
Directional Distribution	61%	39%	
Trip Ends	**1**	**1**	**2**

PM PEAK HOUR

Trip Rate: 0.09

	Enter	Exit	Total
Directional Distribution	61%	39%	
Trip Ends	**6**	**4**	**10**

WEEKDAY

Trip Rate: 2.28

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**131**	**131**	**262**

SATURDAY PEAK HOUR OF GENERATOR

Trip Rate: 2.21

	Enter	Exit	Total
Directional Distribution	57%	43%	
Trip Ends	**145**	**109**	**254**

SATURDAY

Trip Rate: 12.14

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**698**	**698**	**1,396**

Source: TRIP GENERATION, Ninth Edition

EXHIBIT 26
12-13

HCM Unsignalized Intersection Capacity Analysis
3: SE Thomas Road & SE Ten Eyck Road

1/23/2014

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	50	50	50	150	150	50
Peak Hour Factor	0.92	0.92	0.92	0.92	0.92	0.92
Hourly flow rate (vph)	54	54	54	163	163	54
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	462	190	217			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	462	190	217			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	90	94	96			
cM capacity (veh/h)	535	852	1352			

Direction, Lane #	EB 1	NB 1	SB 1
Volume Total	109	217	217
Volume Left	54	54	0
Volume Right	54	0	54
cSH	658	1352	1700
Volume to Capacity	0.17	0.04	0.13
Queue Length 95th (ft)	15	3	0
Control Delay (s)	11.6	2.2	0.0
Lane LOS	B	A	
Approach Delay (s)	11.6	2.2	0.0
Approach LOS	B		

Intersection Summary			
Average Delay	3.2		
Intersection Capacity Utilization	37.4%	ICU Level of Service	A
Analysis Period (min)	15		

EXHIBIT 26.
13-13

Memorandum

TO: Gary Hewitt

FROM: Traffic Engineering, Rick Nys, P.E., PTOE

DATE: February 24, 2014

RE: Z0535-13-CP, Z0537-13-Z, Powerhouse Re Gen LLC
Thomas Road, Ten Eyck Road, Bull Run Road
T.2S, R.5E, Section 06, Tax Lots 102 & 600

Traffic Engineering staff have reviewed this application and the November 4, 2013 traffic impact study and January 24, 2014 traffic study addendum from Lancaster Engineering. We have the following comments:

Facts and Findings:

1. The subject properties are located adjacent to Thomas Road, Ten Eyck Road and Bull Run Road.

2. The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was 930 vehicles per day. On Ten Eyck Road north of Bull Road, the 2011 ADT was 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was 860 vehicles per day. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change will not have a significant effect on the transportation system. The capacity of the transportation system is adequate to support the proposed zone change.

3. No specific development plan is proposed at this time. However, there are multiple locations along the various roadway frontages that could achieve adequate intersection sight distance and stopping sight distance. Upon development of the site, adequate safety can be achieved at an access location to be determined later. The safety of the transportation system is adequate to support the proposed zone change.

No conditions of approval are recommended.

EXHIBIT 27
1-1

Oregon
Theodore R. Kulongoski, Governor

Department of Land Conservation and Development
635 Capitol Street NE, Suite 150
Salem, Oregon 97301-2524
Phone: (503) 373-0050
First Floor/Coastal Fax: (503) 378-6033
Second Floor/Director's Office Fax: (503) 378-5518
Third Floor/Measure 37 Fax: (503) 378-5318
Web Address: http://www.oregon.gov/LCD

JUN 30 2009

June 26, 2009

Mike McCallister
Clackamas County Land Use and Planning Division
Department of Transportation and Development
150 Beavercreek Road
Oregon City, OR 97045

RE: Comprehensive Plan Map Amendment and Zone Change at 23931 Scheubel School Road
DLCD #001-09, Clackamas County # ZO233-09-Z, ZO234-09-C, ZO231-09-CP

Dear Mike:

Thank you for the opportunity to comment on the proposed comprehensive plan map amendment and zone change from Agriculture and Exclusive Farm Use to Rural and Rural Residential (FF-10) for 6.09 acres located at 23931 Scheubel School Road. Please enter these comments into the record of all hearings on the proposal.

Planning and Zoning of Exception Areas

The requirements for the planning and zoning of exception areas that are justified as physically developed or irrevocably committed are contained in the department's rule for interpreting the Goal 2 exception process (OAR 660-004-0018(2)).[1] Should the county approve the requested exception to Goal 3 and the comprehensive plan amendment and zone change, the parcel so justified must be planned and zoned under the criteria and requirements listed in the cited rule section. The requirement in OAR 660-004-0018(2)(a) to limit uses to those that are the same as the existing land uses on the exception site can

[1] 2) For "physically developed" and "irrevocably committed" exceptions to goals, residential plan and zone designations shall authorize a single numeric minimum lot size and all plan and zone designations shall limit uses, density, and public facilities and services to those:

(a) That are the same as the existing land uses on the exception site;

(b) That meet the following requirements:

(A) The rural uses, density, and public facilities and services will maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to non-resource use as defined in OAR 660-004-0028; and

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses;

EXHIBIT 28
EXHIBIT 1-2

be accomplished through the application of a limited use overlay zone to the acreage justified in the exception.

Thank you once again for the opportunity to comment on this comprehensive plan amendment and rezone application. If you have any questions or concerns, please don't hesitate to contact me at (503) 373-0050, extension 254, or by e-mail at gary.fish@state.or.us.

Sincerely,

Gary Fish

Gary Fish
Willamette Valley Regional Representative

cc: Doug White (e-mail), file

EXHIBIT 28
2 · 2

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON

In the Matter of a Comprehensive Plan Amendment and Zone Change for The Molalla River School District

File No.: Z0231-09-CP/ Z0233-09-ZAP

ORDER NO. 2009-90

This matter coming regularly before the Board of County Commissioners, and it appearing that the Molalla River School District made application for a comprehensive plan amendment from Agricultural to Rural, and a zone change from EFU to FF-10 on property described as T3S, R2E, Section 36, Tax Lots 901, 1500 and 1501, located one-eighth mile south of the intersection of Schuebel School Road and Lower Highland Rd.

It further appearing that planning staff, by its report dated July 7, 2009, recommended approval of the application; and

It further appearing that the Planning Commission, at its July 13, 2009 meeting, recommended approval of the applications with the condition that future use of the property be limited to school purposes; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on August 5, 2009, at which testimony and evidence were presented, and that a preliminary decision was made by the Board on August 5, 2009;

Based upon the evidence and testimony presented, this Board makes the following findings and conclusions:

1. The applicant has applied for a comprehensive plan amendment and zone change, and the application can meet the applicable approval criteria with the application of appropriate conditions of approval. The Board adopts the findings and conclusions in the revised staff report dated July 20, 2009, and the condition of approval of the comprehensive plan amendment attached hereto as Exhibit A.

NOW, THEREFORE, IT IS HEREBY ORDERED that the requested comprehensive plan amendment and zone change are approved, and that the amendment to the comprehensive plan is subject to the condition of approval attached hereto as Exhibit A.

DATED this ~~13~~ 20th day of August, 2009

BOARD OF COUNTY COMMISSIONERS

Chair

Recording Secretary

EXHIBIT 29
1-2

CCP-PW25 (3/94)

2009-90

Z0231-09-CP/ Z0233-09-ZAP

Molalla River School District

Exhibit A to Board Order

Condition of Approval of Comprehensive Plan Amendment

1. Future use of the property shall be limited to school purposes.

EXHIBIT 29
2-2

RESTORE OREGON

SAVING HISTORIC PLACES

March 11, 2014

Gary Hewitt
Development Services Building
150 Beavercreek Road
Oregon City, OR 97045

RE: Support for the re-zoning of the Bull Run Powerhouse & Complex

Dear Gary,

Restore Oregon, a 501c3 non-profit organization with the mission to *Preserve, Reuse, and Pass Forward Oregon's Historic Places*, urges Clackamas County to approve the zoning changes that would allow for the adaptive reuse of the former Bull Run Powerhouse, school complex, and Roslyn Lake Park site. Our work around the state has shown us that very rarely does an opportunity to restore and reuse an important historic industrial complex present itself and we hope the county will seize this unique opportunity.

The rich history of the power plant and the neighboring community and school is an important chapter in the county's history. Of course, timber production is also an important part of the cultural and economic story of the county, but making an allowance for this site does not diminish the value of the surrounding land. We strongly recommend that the power plant, school, and park be passed forward to future generations *as a whole*, with their contextual landscape intact.

Every year, Restore Oregon works to save an annual list of Oregon's Most Endangered Places. The first step is always to identify an economically viable use for the property in order to attract investment in it. Frequently a special accommodation in local zoning is part of the solution, especially in rural areas. And it is what's called for here. These historic structures need an economically viable new use so they can be conserved, and the current zoning is too restrictive to allow a viable reuse to move forward.

It would be a great loss to the community if this very unique site were lost and we thank you for considering our arguments in favor of preservation and reuse.

Sincerely,

Peggy Moretti

Peggy Moretti
Executive Director

EXHIBIT 30
1-1

Petition of Support

Since 2011, *Powerhouse Re Gen* – the owner's of the **Bull Run Powerhouse, Roslyn Lake Park**, and **Bull Run School** properties – have been working to preserve and reuse the three related sites while meeting the following goals:

1) Preserve the historic character of the properties.
2) Make the properties available for public use.
3) Ensure that the properties have long term financial viability.

To meet these goals, *Powerhouse Re Gen* plans to transfer ownership of the Powerhouse site to a non-profit entity, under which the Powerhouse will be preserved and serve as a creative, recreational, and educational center for the public. The School and Park properties will likely be sold to *Bull Run Educational Center,* a natural history, community and outdoor educational program run by local neighbors Molly and Tony Deis.

In order to preserve these sites and adapt them to fit the needs of the end users, a variety of improvements would need to be carried out. To start this process, *Powerhouse ReGen* has initiated the land use process with the goal of changing the property's current zoning. A zone change is required to make these site improvements possible.

Powerhouse ReGen and *Bull Run Educational Center* are asking for your support in this effort. To help us preserve and reuse these sites, please let the County know you support our efforts by providing the information requested on the lines below.

PERSONAL INFO	PLEASE PROVIDE COMMENTS IN SUPPORT OF OUR PRESERVATION EFFORTS
Name & Address: Donald Howse Porterhouse Farms 41370 SE Thomas Rd Sandy, OR 97055	I support this petition with the following reservation – that the education programs offered are not politically or religiously oriented.
EMAIL or PHONE: phfarm@aol.com farm # 503.668.5834 cell # 503.522.3933	SIGNATURE: Donald G. Howse

EXHIBIT 3F
1 - 1

Petition of Support

Since 2011, *Powerhouse Re Gen* – the owner's of the **Bull Run Powerhouse**, **Roslyn Lake Park**, and **Bull Run School** properties – have been working to preserve and reuse the three related sites while meeting the following goals:

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Powerhouse ReGen and *Bull Run Educational Center* are asking for your support in this effort. To help us preserve and reuse these sites, please let the County know you support our efforts by providing the information requested on the lines below.

PERSONAL INFO	PLEASE PROVIDE COMMENTS IN SUPPORT OF OUR PRESERVATION EFFORTS
Name & Address: Dan and Jeri Reynoldson 41400 SE Thomas Rd Sandy OR 97055	It will be great to see the property and Buildings being used! The fact that our local community can benefit from classes makes it even better!
EMAIL or PHONE: jeri.reynoldson@gmail.com	SIGNATURE: Jeri Reynolds

EXHIBIT 32

1-1

55TH CASCADIA SCOUT GROUP
PORTLAND OREGON

Gary Hewitt, Senior Planner
Planning Division
150 Beavercreek Road
Oregon City, OR 97045

Dear Mr. Hewitt,

I would like to articulate support for the The Bull Run Education Center's (BREC) facilities and activities. An outdoor educational facility such as BREC at 41515 SE Thomas Rd, the old Rosalyn Park facility, would be treasured by scout groups such as ours. We would look forward to learning and service opportunities there. To say we thrilled to see the transformation of the Rosalyn Lake Park in an outdoor-focused education center would be an understatement.

We look forward to taking a more active role in caring for the site and making it an even better resource for outdoor education in the years and decades to come. We understand that the ultimate fate of the property is not certain, we are keenly interested in helping recondition facilities and seeing expanded opportunities for youth to connect with the natural world around us.

Yours in Traditional Scouting,

Ethan Jewett
Group Scoutmaster

WWW.55CASCADIA.ORG

EXHIBIT 33
1 - 1

March 23, 2014

Clackamas County Planning and Zoning Division
Gary Hewitt, Sr. Planner,
garyh@co.clackamas.or.us
Re: Land use hearings for historic Bull Run Schoolhouse, Rosalyn Lake and Bull Run Powerhouse

Dear Mr Hewitt, members of the Planning and Zoning Division

As a scholar, educator and youth advocate I work locally and nationally in support of programs like the proposed Bull Run Education Center. This particular piece of land, rich with history and tucked into a beautiful corner of Clackamas County, is ideal for such an endeavor. The fact that an historic schoolhouse exists on the property is critically important to the decision at hand, as is the story of the park at the edge of the former lake. My own family, and thousands of others, held reunions for many years at Rosalyn Lake and I cannot imagine a better use for the land that holds these memories for me than to serve kids, families and the community through experiential education.

As a doctoral student deeply engaged in current issues facing public education I recognize the critical need for a program like the Bull Run Education Center. I see real opportunities for meaningful learning to happen at a site like the property in question, but more than that, I see hope for reclaiming the heart and spirit of education through the work of this program. I see youth and families deeply engaged in hands-on learning in the skills of craftsmen, artisans and stewards of the land, learning to make useful things and do real work that matters. I see formal and impromptu lessons which use the land and the resources themselves as pedagogy, giving biology, geology, philosophy, anthropology, poetry, sustainability and countless other academic subjects meaning beyond cold memorization of textbook data. I see a living place that families can connect to, build relationship with and learn from in ways that are often missing from public education today.

I see the potential for the Bull Run Education Center to join the growing ranks of similarly-focused model programs which draw not only exuberant and engaged students, but also visiting teams of educators who are eager to learn a better way. I see the expansion of learning opportunities for teachers-in-training and for unforgettable professional development opportunities in this private and nurturing setting. I see the presence of such a program adding immeasurable value to the economy in Sandy as learners and occasional visitors to the center travel through town, and as young artists, craftsmen, gardeners and wildcrafters learn entrepreneurial skills as they display their handiwork at local farmers markets and community fairs. I see opportunities for traditional public school students to experience natural classrooms through field trips and other nature classroom partnerships. I see the Bull Run Education Center as a gem in Clackamas County.

The need for educational opportunities such as the proposed program is well documented. Greg Smith, Professor of Education at Lewis and Clark College is internationally known and respected for his teachings on the importance of place-based education and connection to the land. He writes about

using local knowledge, phenomena, and experience as the foundation for teaching and learning. The aim of this kind of learning, he says, is to connect children and youth more firmly to their own communities and regions with the intention of cultivating and deepening their sense of environmental stewardship and civic engagement. Research is also clear regarding the value of nature based education for whole-person health and wellness. http://richardlouv.com/blog/2013/01/ , http://www.webpages.uidaho.edu/wrc/Publications/big1indx.pdf, http://www.childrenandnature.org/research/ . Programs like Janus Youth's Village Gardens, the market and the farm, have made life-changing impacts on young people. https://www.facebook.com/pages/Village-Gardens-Janus-Youth-Programs/131053303584040 In a world where food security is a concern (50% of Oregon's children live in poverty) learning to grow and prepare one's own food is necessary. Experiential, garden-based education is important beyond learning to produce food. As is evident in the work of Kennedy School of Sustainability in Cottage Grove (http://www.oregonlive.com/environment/index.ssf/2011/06/al_kennedy_alternative_high_sc.html), Hood River Middle School (http://gardenloveaffair.blogspot.com/2013/10/the-epic-nature-of-michael-becker.html)and dozens of other garden-based programs in Oregon and across the country, academic subjects come to life and gain relevancy when learned in relationship to plants, soil, sunlight and fresh air.

We face many challenges as a society trying to educate our children in a rapidly-changing world. This letter is not the appropriate place to air the endless list of initiatives that have failed to serve their purposes. I prefer to focus on the positive and on the unique opportunity to support an important effort to reconnect people to this very special place. The greatest value in land like that at Rosalyn Lake, Bull Run School and the Bull Run Powerhouse is not found in the potential for timber harvest but in unparalleled learning opportunities for generations of families and future citizens, in honoring and connecting to the history of the place and the very real relationships of people to the land. I have great confidence that the programs at Bull Run Education Center will serve those purposes well.

Thank you for your time.

Respectfully,

Darcy Bedortha, MS, MA

High School Teacher
Rural Program Coordinator, Heart of Oregon Corps
Student, Antioch University PhD in Leadership and Change
Oregon Team, Institute for Democratic Education in America

March 22, 2014

Clackamas County Planning Commission
Development Services Building
150 Beavercreek Road
Oregon City, OR 97045

RE: Z035-13-CP; Z0537-13-Z Powerhouse ReGen LLC and Bull Run Schoolhouse LLC

I am writing as an individual Bull Run area resident to provide comment on the proposed Comprehensive Plan Map Amendment and Zone Change for Tax Lot Numbers 25E06 00600 and 25E06 00102. I work in the field of natural resources as a professional specialist in the areas of forestry and forest health management. I live about 2 ½ miles from the Roslyn Lake property, and drive past there every day on my way to work. When PGE owned the property and it was functioning as a hydroelectric project and day use recreational site; like many area residents I spent a lot of leisure time there. The old PGE ownership where the lake, PGE Day Use Area, and school existed for many years offers unique conditions today in the Bull Run area in that it is almost an entire half-section of flat land with no residential housing, and offers uncluttered, open vistas from adjacent Ten Eyck Road, which is part of the Mt. Hood Loop Scenic Byway. This half-section block is Resource designated, zoned Timber land, and it plays a pivotal role linking contiguous blocks of Resource (Forest and Ag) lands between the Sandy and Bull Run Rivers (see Appendix C map). The new owners and developers (Powerhouse ReGen and Bull Run Schoolhouse LLC) of the eastern portion of this old PGE site have worked diligently to interact with the local rural inhabitants as they've developed ideas for future uses of the property.

While I favor the owners' and developers' vision of historic structure preservation, educational use, and continued public use of these properties, and acknowledge the need for finding economically viable uses that incentivize preservation and reuse, I am very uncomfortable with the nature and scope of the land use changes proposed in this application. In short, the applicant's request for a plan map amendment and zone change of approximately 55 acres from Forest designation, Timber zoning to FF-10 zoning involves an excessive removal of land from the Goal 4 Forest designation, affecting a larger area than what seems truly necessary to accomplish preservation and reuse goals of the historic properties. With the exception of 3.5 acres at the Powerhouse buildings site and the 5-acre Bull Run schoolhouse tax lot, implementation of the requested amendment and zone changes would fail to adequately conserve suitable forest lands as defined by Statewide Planning Goal 4.

My points of disagreement with this application follow, organized by Tax Lot under the applicable Goal Exception categories:

Physically Developed Exception

Powerhouse and Park Parcel (Tax Lot 102)

1) p. 16-17. The triangular-shaped powerline and penstock area extending west from the lower elevation 3-4 acre Powerhouse buildings site up to Ten Eyck Road does not meet requirements for a comprehensive plan exception and should remain under its current Goal 4 Forest designation. The existing development (powerline and penstocks) does not provide sufficient rationale to except it from the Forest designation. "Local distribution lines (e.g., electric,

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1 - 5

telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment that provides service hookups, including water service hookups" are outright allowed uses under 660-006-0025 (3) (c). The area occupied by the buried penstocks would not preclude trees from growing on the site (as trees are capable of rooting and growing in situations much more adverse than that provided by buried penstocks), grazing use of the site, use of the site as wildlife habitat, or other allowed Goal 4 uses.

Irrevocably Committed Exception

Schoolhouse Parcel (Tax lot 600)

1) p. 11. Existing adjacent uses: Existing adjacent uses are claimed to be "more similar to uses that would typically be found on Rural land," without any facts presented to support that assertion. It could just as easily be said that existing adjacent uses are consistent with Forest designated land uses, as Goal 4 states that general types of uses on Forest designated lands include, among others (a) Uses related to and in support of forest operations (b) Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment; and (d) Dwellings authorized by ORS 215.705 to 215.755. These uses would include employment of the site for tree growth and farm use. Aerial photos of the properties on Clackamas County C-Map show fully stocked conifer stands growing on the Tax Lot 102 (adjacent property on the west, north, and east sides of the schoolhouse property. On the south side of the schoolhouse parcel are three adjacent properties with single residences, outbuildings, and a mix of pasture and trees. The houses on these properties were built in 1928, 1940, and 1999 (Clackamas County C-Map). Nothing aerially visible on the adjacent properties indicates that uses are more typical of Rural Residential properties, which are allowed a greater range of uses and development than Resource properties.

2) p. 12. Parcel size and ownership patterns: Analysis is lacking of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision; such analysis is required for a goal exception based on irrevocable commitment of the exception area.

3) p. 13. Neighborhood and regional characteristics: The narrative unduly focuses on the RRFF-5 land between the subject property and the Sandy UGB while ignoring the larger context of land designation pattern, as if to imply the proximity of these lands helps justify the requested Goal 4 exemption. These Rural Residential properties occupy low-lying land adjacent to both sides of the Sandy River. They are surrounded by steep ground (bluffs and cliffs) that form a logical boundary with adjacent productive upland sites designated as Forest and Agriculture lands. It was not mentioned in the narrative but should have been noted that, based on a visual examination of the Comprehensive Plan map, it is readily apparent that the majority of lands within a mile radius of the subject property are designated Resource lands (F or AG).

4) p. 13. Natural or man-made features or other impediments: The terrain on Thomas Road is nearly flat and would not impede movement upon or across itself during forest/agriculture operations and therefore would not constitute an impediment to practicable resource use. Likewise, the sand pile is not a sufficient obstacle to impede resource use.

5) p. 13 and 14. Other relevant factors:

a. The need for replacement drainfield area does not justify placing undeveloped portions of the property into a Rural Residential designation.
b. Requirement of a 300-foot buffer around buildings is not a mandatory rule for allowing commercial forestry operations and is not sufficient reason to justify a Goal 4 exception and zone change to undeveloped portions of the property and adjacent lands.
c. The presence of unsuitable soils on a portion of the site should not provide a basis for irrevocable commitment because while unsuitable soils might affect the ability to raise certain crops, they would not preclude production of crops that could tolerate shallow soils or other allowed or conditional forest or agricultural uses such as nurseries, containerized operations, etc. See also the following headnote:

From http://www.oregon.gov/LUBA/docs/headnotes/7.1.pdf
7.1 Goal 3 – Agricultural Lands/ Goal 3 Rule – Generally. Although it may be appropriate to focus exclusively or preponderantly on the poor quality of soils for farm and forest use in deciding whether a particular tract qualifies as agricultural lands or forest lands, such an exclusive or preponderant focus on the tract itself is not appropriate in considering an irrevocably committed exception, where the focus is on the relationship of the adjoining properties to the tract. *Friends of Linn County v. Linn County*, 42 Or LUBA 235.

Powerhouse and Park Parcel (Tax Lot 102)

1) p. 20, 21. Existing adjacent uses: This property is surrounded by Timber zoned lands. Most of these lands are currently producing annual incremental tree growth, wildlife habitat, and other environmental products, services, and benefits. On the adjacent properties located on the south side of Thomas Road across from Tax Lot 102 and 600, some farm use exists (e.g. grazing), and a conifer nursery operates on one of the parcels.

2) p. 21, 26. Parcel size and ownership patterns:

a. Analysis is lacking of how the existing development pattern came about and whether findings against the goals were made at the time of partitioning or subdivision; such analysis is required for a goal exception based on irrevocable commitment of the exception area.
b. P. 26. Application omitted a 43-acre parcel to the east owned by PGE. Size of adjacent parcels to the south across Thomas Road ranges from 1 to 37 acres in size.

3) p. 21, 27. Neighborhood and regional characteristics: The narrative unduly focuses on the RRFF-5 land between the subject property and the Sandy UGB while ignoring the larger context of land designation pattern, as if to imply the proximity of these lands helps justify the requested Goal 4 exemption. These Rural Residential properties occupy low-lying land adjacent to both sides of the Sandy River. They are surrounded by steep ground (bluffs and cliffs) that form a logical boundary with adjacent productive upland sites designated as Forest and Agriculture lands. It was not mentioned in the narrative but should have been noted that, based on a visual examination of the Comprehensive Plan map, it is readily apparent that the majority of lands within a mile radius of the subject property boundaries are designated Resource lands (F or AG).

4) p. 21, 27. Natural or man-made features or other impediments: Neither Ten Eyck Road nor Thomas Road impedes movement upon or across itself and therefore does not constitute an impediment to practicable resource use. Likewise, the historic lake bed would provide no impediment to practicable resource use; a good paved road system provides access to all of the subject property and adjacent resource lands.

5) p. 27. Physical development and other relevant factors: The Park site ground is all suitable resource land and should not be granted a Goal 4 exemption based on irrevocable commitment nor allowed a zoning change to FF-10. None of the existing development is sufficient to deem it irrevocably committed to uses not allowed by Goal 4, i.e. large trees are frequently cut for safety and vegetation management reasons in State and Federal campgrounds more highly developed than this Park site; flush-toilet bathrooms can be dismantled, picnic sites can be removed and rehabilitated to natural conditions.

   a. The Park site was previously furnished by PGE as a day area and appears to conform to the current standards set for campgrounds within 3 miles of an urban growth boundary. E.g., existing improvements on the Park site do not include separate sewer, water or electric service hook-ups, conforming with ZDO 406.05 (I) approval criteria for parks, public, and quasi-public uses: "Separate sewer, water, or electric service hook-ups shall not be provided to individual campsites except that electrical service may be provided to yurts allowed for by Subsection 406.05(I)(1)(g)."(ZDO 406.05(I)(1)(d)
   b. Mention in the application of an "office building" on the park site may lead the reader to envision something much grander than what is actually on-site; it should be noted the Park site currently contains small, simple day use structures designed for summertime use.

Additional Comments

1) The lower 3-4 acres of the Powerhouse site (where the buildings and pavement are located) cannot be developed in the manner intended by the applicants due to an issue with their access from Bull Run Road, which passes through Forest Resource-designated land in Tax Lot 103. As is noted in the application on p. 33: "Access roads for one use cannot pass through land that is not zoned to allow the use being provided with access." (LUBA case 2001-121)

2) A zone change from the current Timber zoning should not be allowed on any portion of Tax Lot 102. The request for a Goal 4 exception and zone change for the Park site appears primarily motivated by a desire on the part of the owners/developers to provide overnight camping and use of the site for commercial educational purposes in order to incentivize preservation and reuse of the historic structures. If permissible, a Goal 4 Exception for Conditional Use approved for only these particular uses (camping and school activities) on this site without changing the zoning would permit these uses without removing suitable Forest lands from the Resource designation. Alternatively, other business use of this site could be explored that is capable of using the land and preserving the historic structures in the area in ways that conform to the existing Resource designation and Timber zoning. It would be poor policy to change well-reasoned land planning decisions based on the particular characteristics of one individual's business venture. Even if the owners/developers currently have no intention of developing or subdividing the property, such sentiments can change over time. Businesses frequently fail and owners must sell out. Even successful business/land owners eventually die and their successors or assignees subsequently divide what they can and sell the land in order to liquidate assets

instead of keeping the business going or the tract intact. The only protections Resource designated lands have to prevent diminishment and fragmentation over time are the land use laws that protect and conserve such lands for their Resource values and uses. If the Resource designation and Timber zoning is changed to Rural Residential designation, Farm Forest-10 and the recommended Historical Landmark status is granted on the Park site, it would allow future developments such as "art and music studios, galleries, offices, craft shops, bed and breakfast establishments, gift shops, museums, catering services, book stores, boutiques, restaurants, antique shops, community center for civic or cultural events," etc., as well as "any use that the Hearings Officer finds to be similar." These uses are inappropriate for the minimally developed and suitable Resource land of the Park site. The Goal 4 exception and zoning change would also permit future subdivision of the entire 110-acre Powerhouse and Park parcel (Tax Lot 102) into one 80-acre parcel and three 10-acre parcels with three new residences allowed – preservation of the historic day use Park structures does not warrant such impactful and permanent land use changes. It would be far better to let the historic structures in the Park area deteriorate than to allow a change in zoning to FF-10. There is no reason/need to allow construction of dwellings on this property or to increase the density of dwellings in this area – several blocks of nearby Rural Residential zoned lands offer ample opportunities for rural residence. In contrast, under the current Forest designation and Timber zoning, no subdivision of the property and no new residences would be allowed, and suitable forest land would be conserved as specified in Statewide Planning Goal 4.

3) While I would support Goal 4 Exception and rezoning to FF-10 on the 3-4 acres of physically developed land with buildings, parking lots, and paved roads beside the Bull Run River at the lower Powerhouse site; due to the access issue preventing intended use of that site, I do not support exemption at this time.

In conclusion, due to significant concerns regarding the long-term effects that the proposed Goal 4 exceptions and zoning changes would have upon the forest and rural character of the surrounding area and long-term conservation of these forest suitable and Resource designated lands, I urge denial of the Goal 4 Exceptions and zone changes requested in this application, with the exception of the schoolhouse parcel, Tax Lot 600.

Sincerely,

/s/ Beth Willhite

Beth Willhite
(503) 695-2993

EXHIBIT 36
1-2

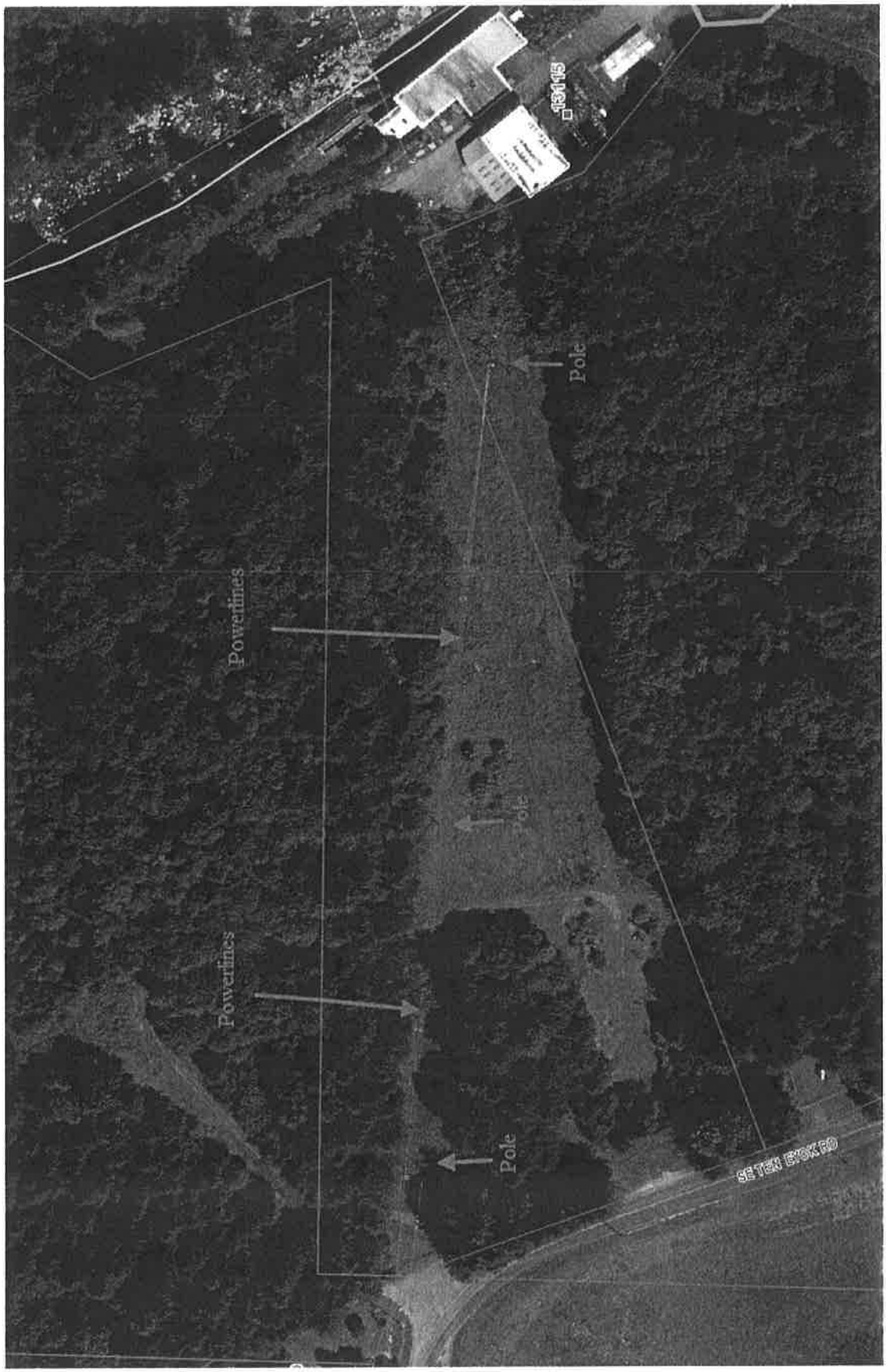


EXHIBIT 36

2-2

Bull Run Powerhouse
Roslyn Lake Park
Bull Run Schoolhouse

CLACKAMAS COUNTY
PLANNING COMMISSION HEARING
ZONE CHANGE AND
COMPREHENSIVE PLAN AMENDMENT
MARCH 24, 2014

EXHIBIT 37
1-44

August 6th 2007

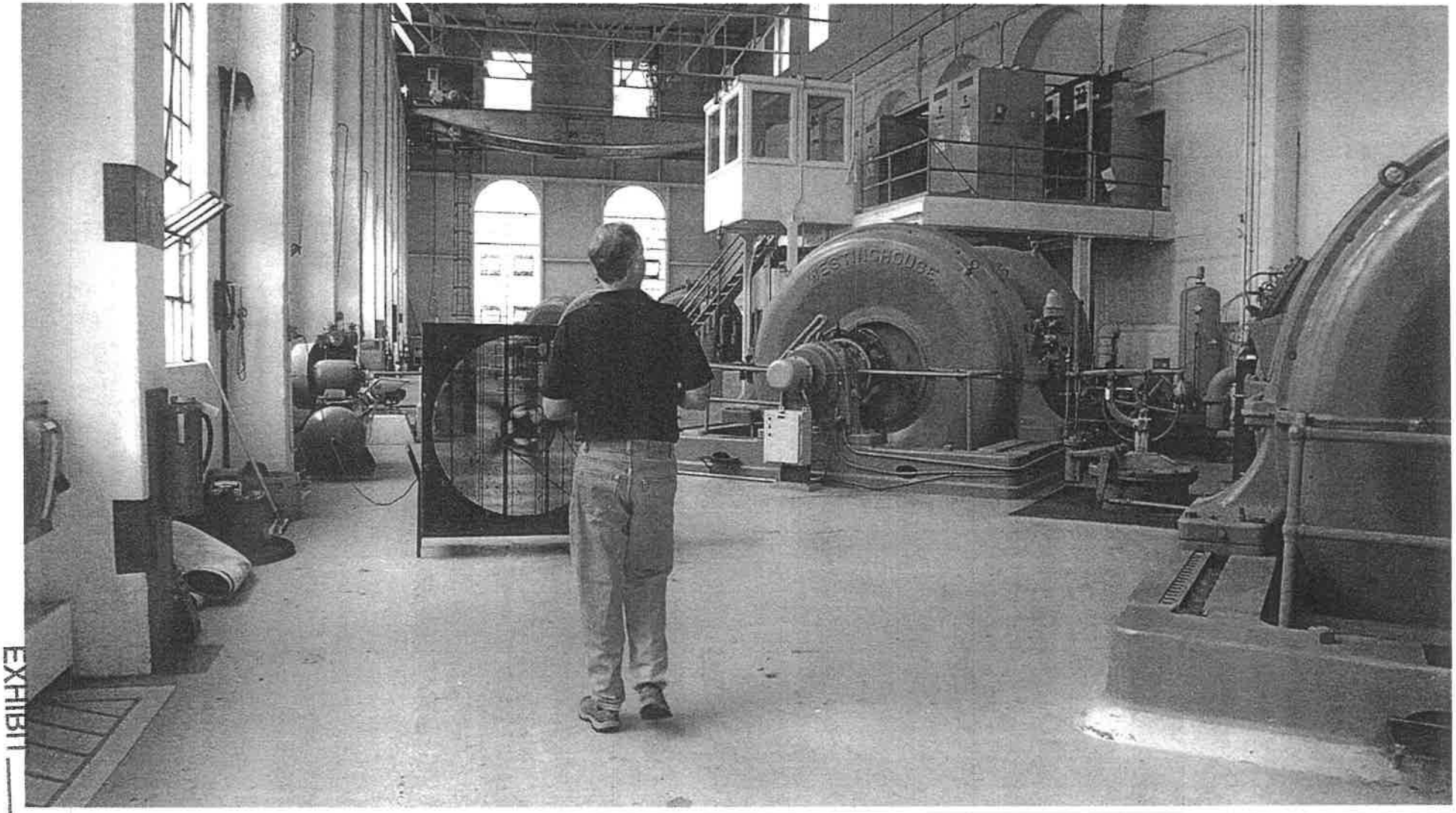


EXHIBIT 37
2-44

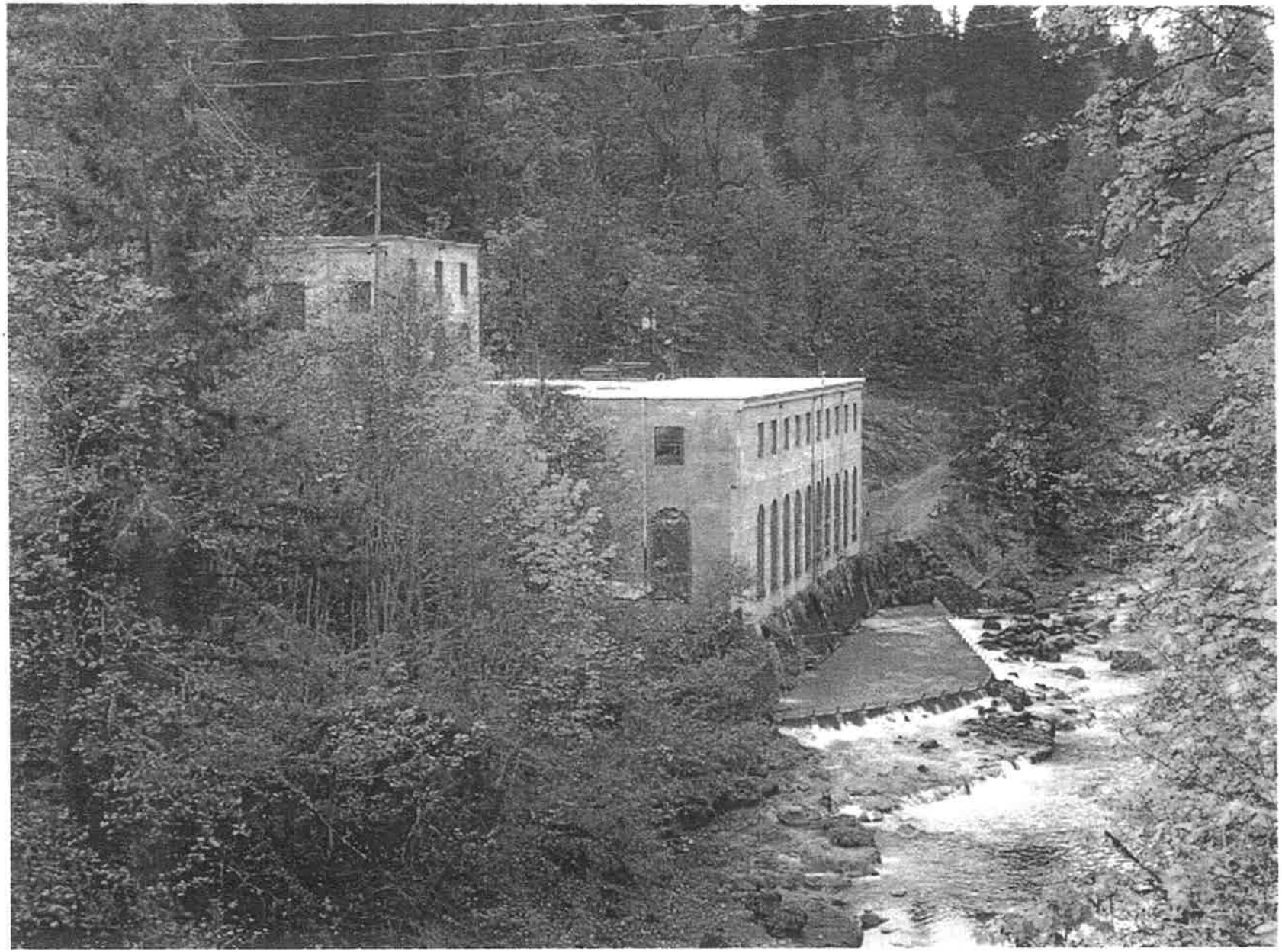


EXHIBIT 37
3-44

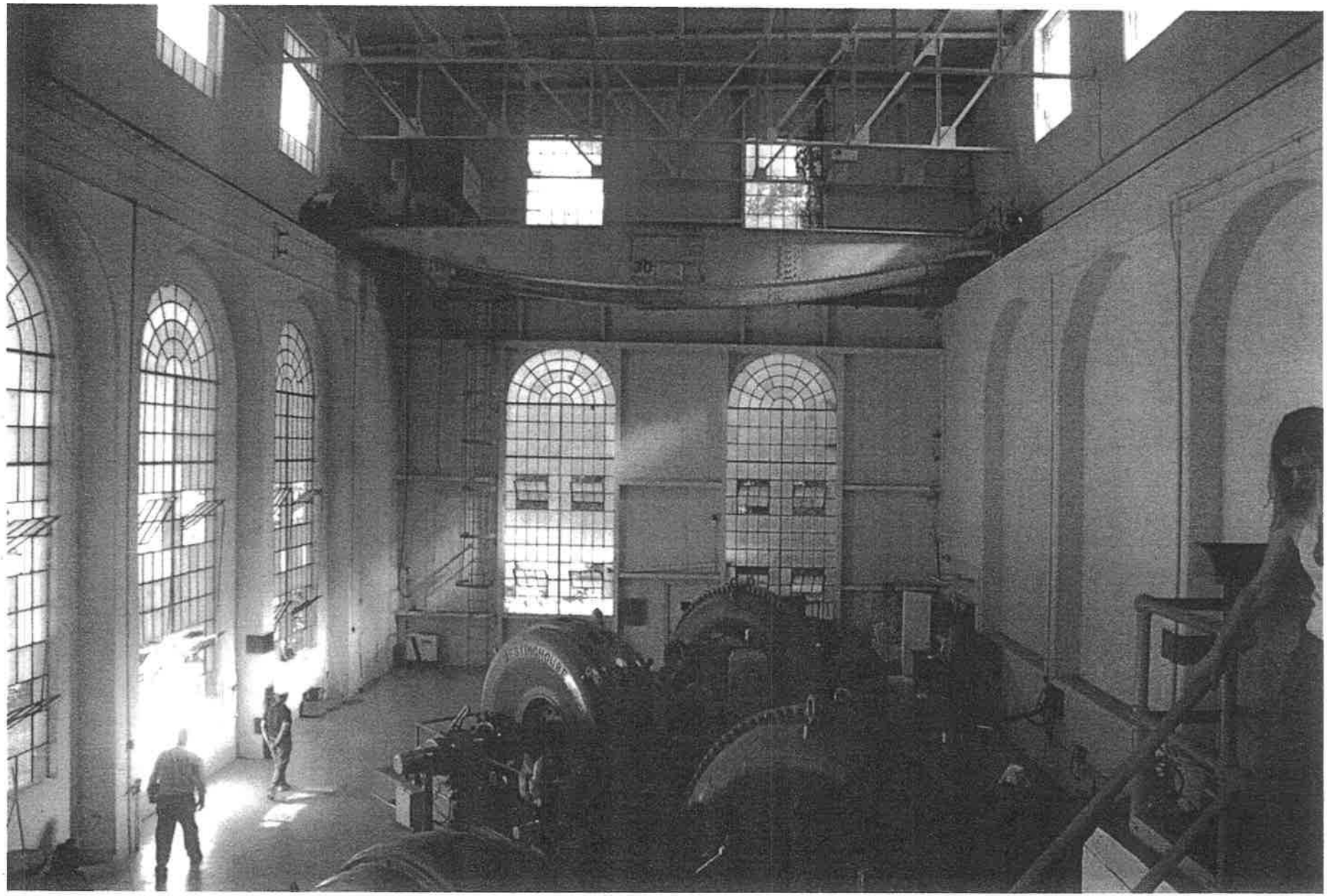
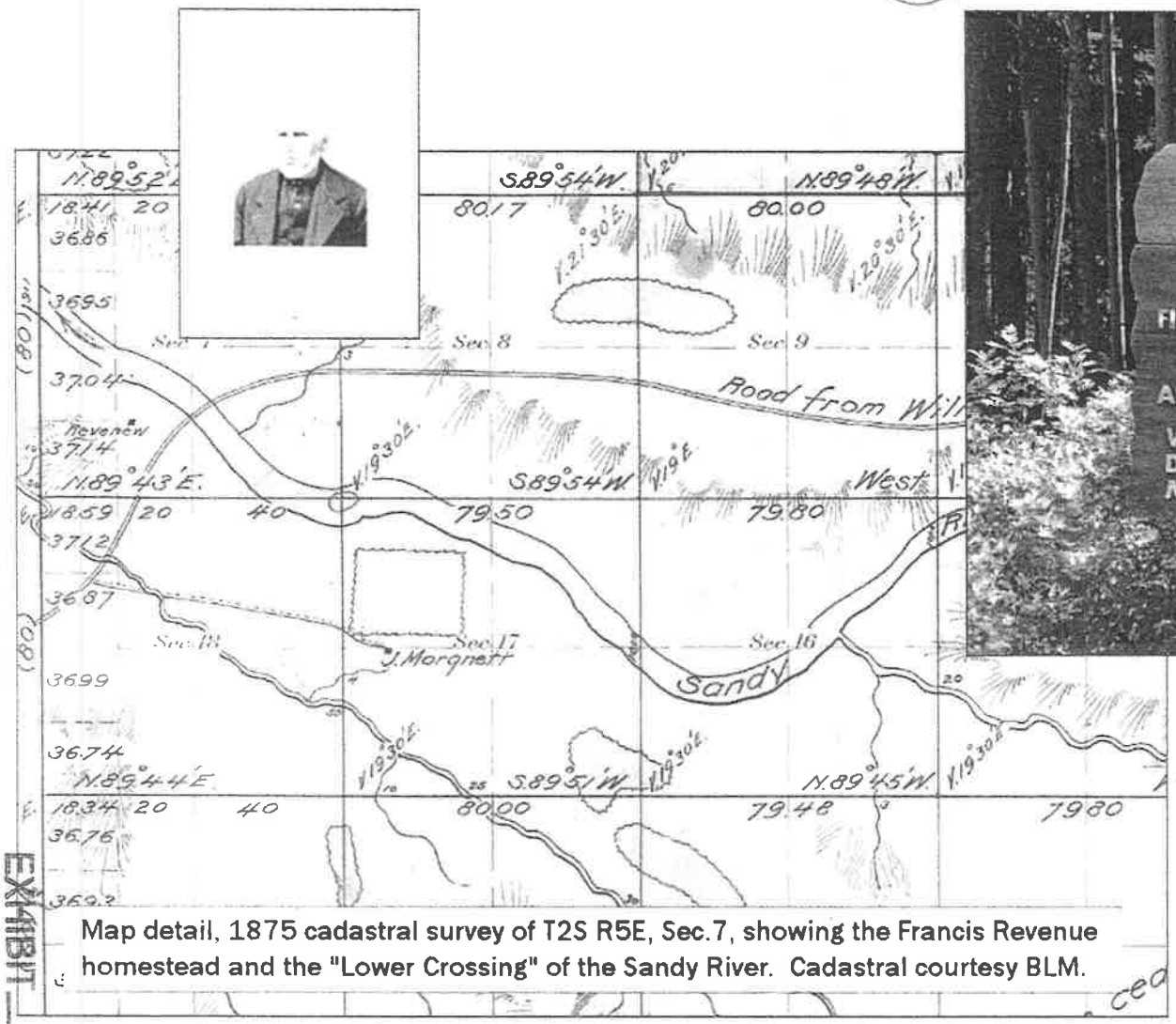
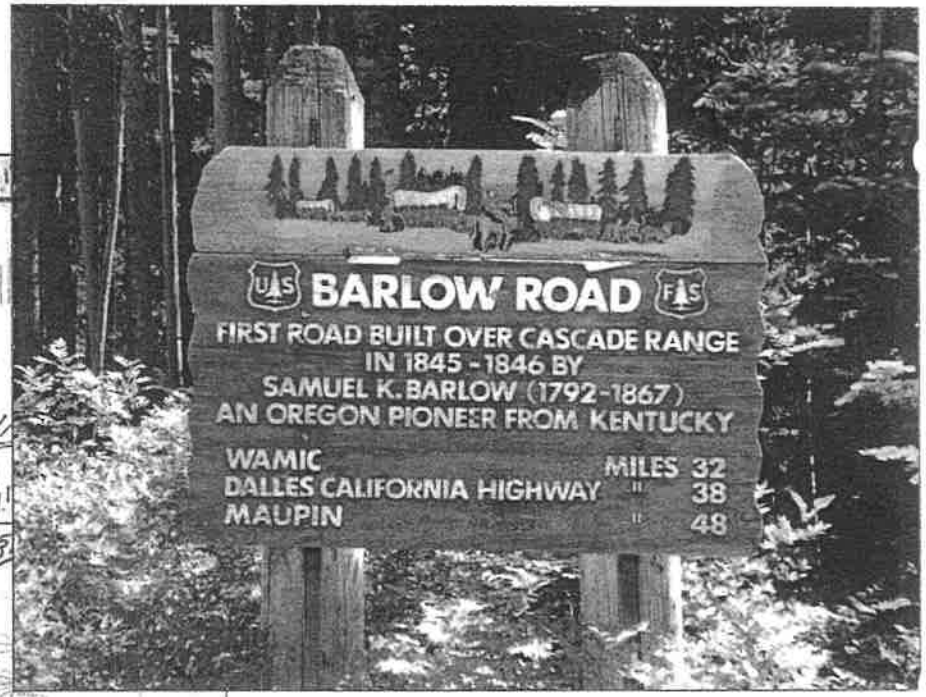


EXHIBIT 37

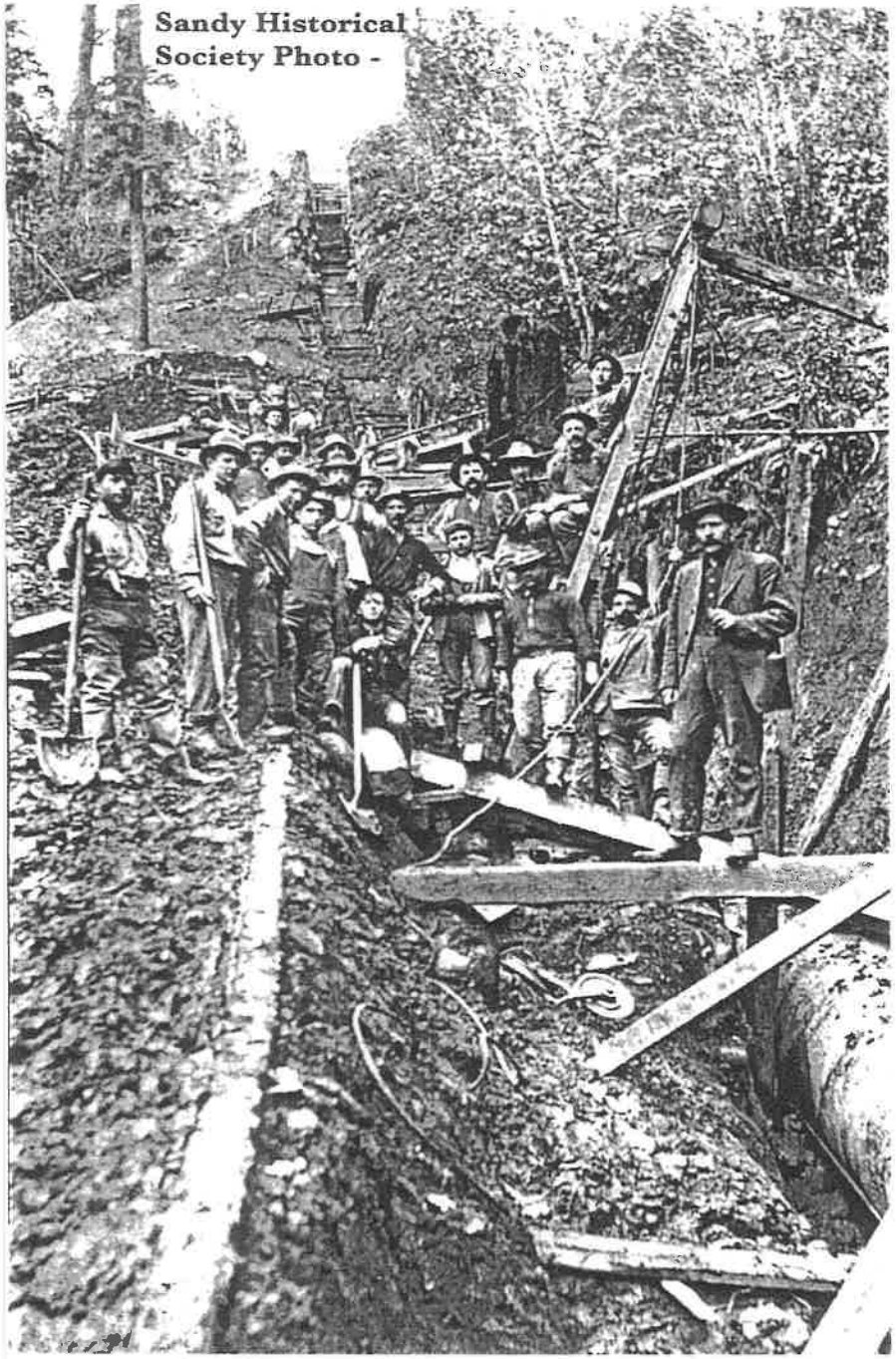
A Little History





Map detail, 1875 cadastral survey of T2S R5E, Sec.7, showing the Francis Revenue homestead and the "Lower Crossing" of the Sandy River. Cadastral courtesy BLM.

EXHIBIT 5-44



Bull Run pipline workers

Sandy Historical Society Photo - 1343

Bull Run Grocery and Post Office. Was first named Univille. ca. 1911

EXHIBIT 37

Sandy Historical Society Photo - 1246

First train over Mt Hood Railway to Bull Run. About 1910.

EXHIBIT 37

Bull Run River from above Power House showing it + temporary buildings in the background-

Dec. 23-1911

50

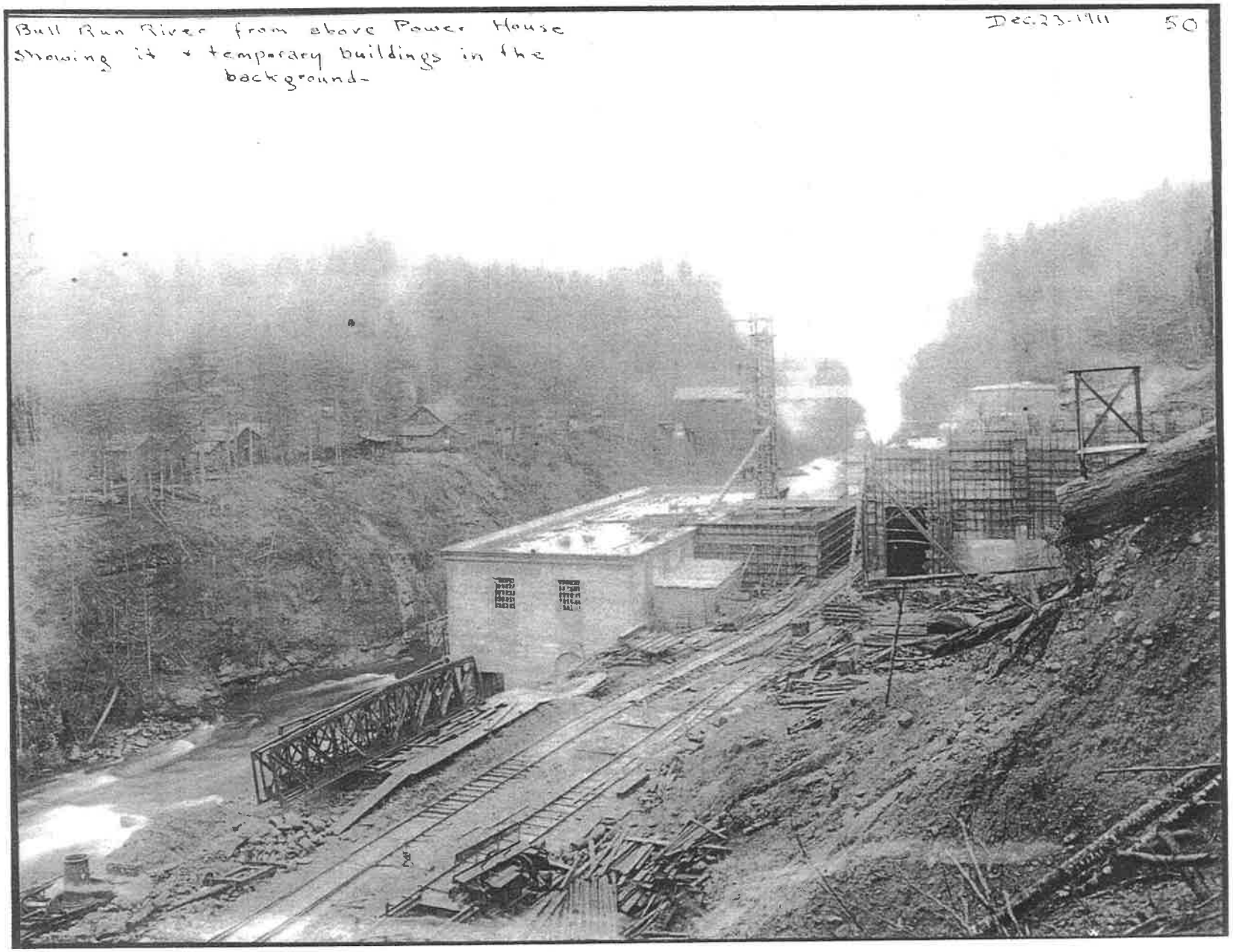


EXHIBIT 37
p. 44

Sandy Historical Society
Photo - 1114

Bull Run School in 1915. Teacher: Caroline Vaeretti (Hauser). Mel & Laura Haneberg were students

EXHIBIT 37

1912

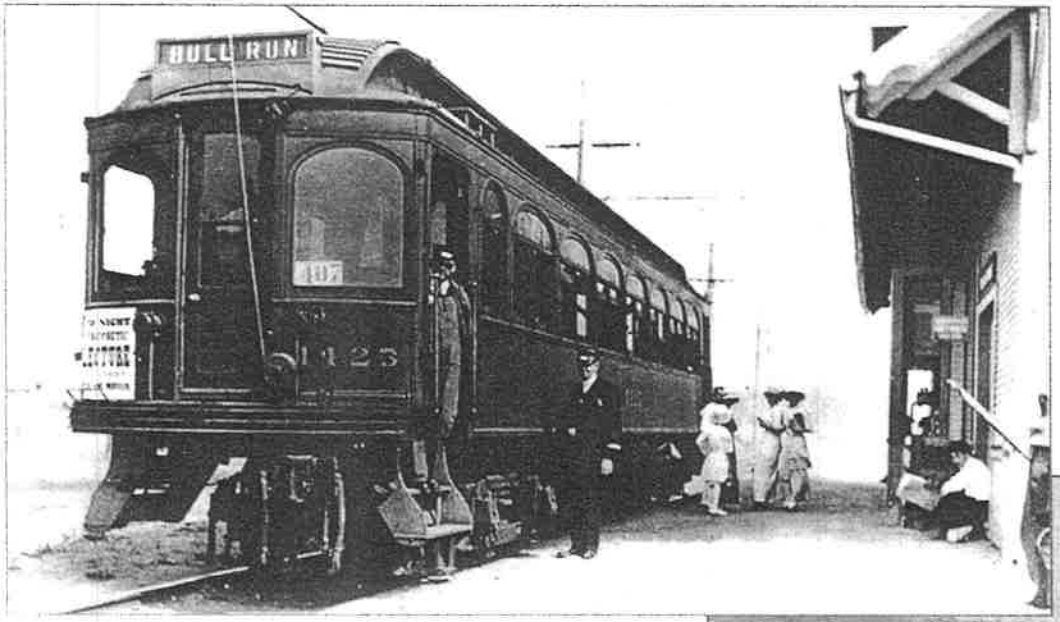
This powerhouse at Bull Run was completed in 1912. Electricity was generated by drawing water from Roslyn Lake, dropping the water down the hill in a buried conduit (upper left) and into the powerhouse turbines. The water then drained into the Bull Run River (lower right).

EXHIBIT 37

Sandy Historical Society Photo

V. Del Butler home at Bull Run. A typical power company home (PGE). Photo courtesy Mel Haneberg.

EXHIBIT 37

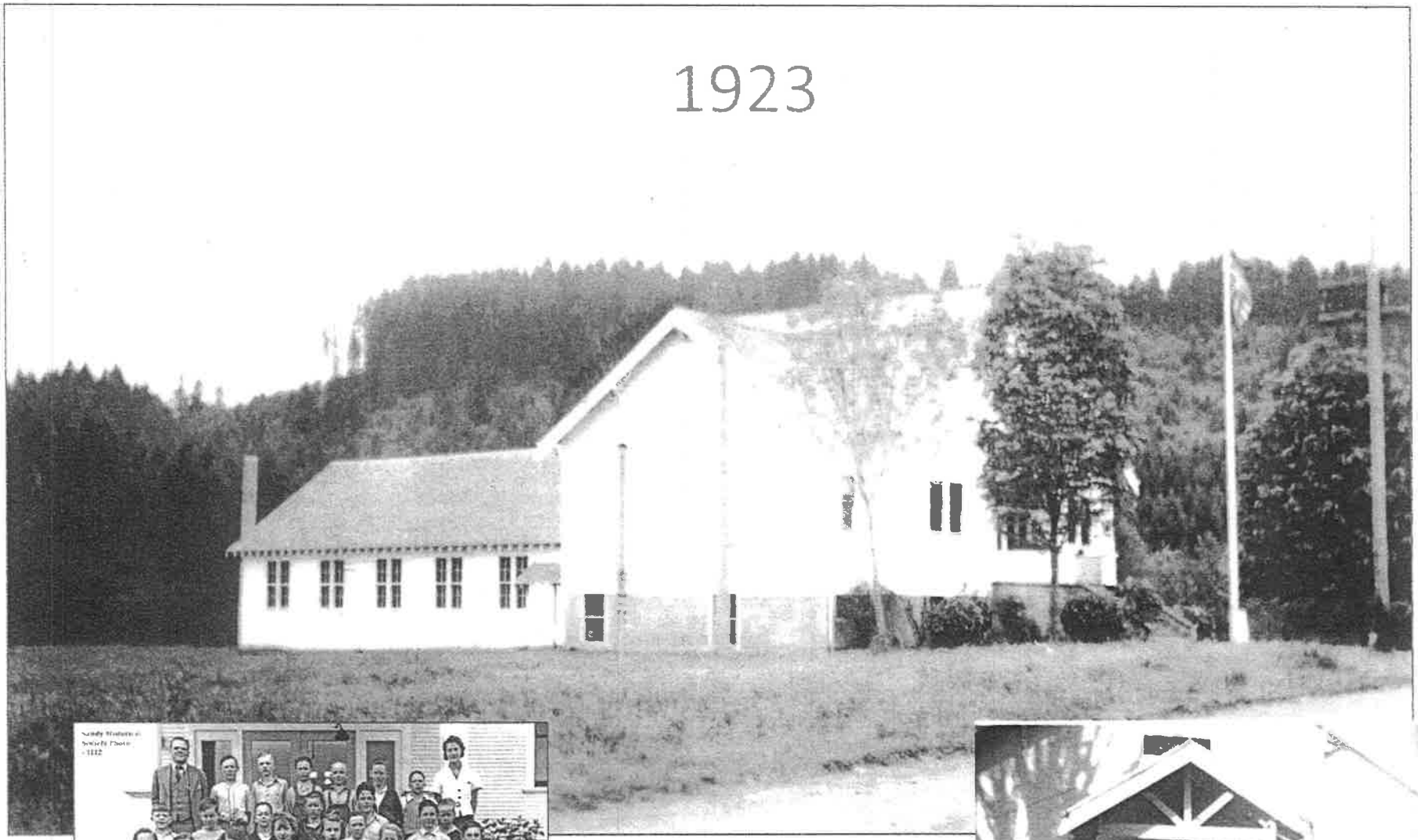


Bull Run Train

Gertrud Meinig standing, Roslyn lake ice skating.
Courtesy of Phyllis Matz.

EXHIBIT 37

1923



The whole Bull Run School. Duane Knapp, principal and teacher of grades 5 thru 8. Marie Mullenhoff, teacher of grades 1 thru 4. 1936 & 36

EXHIBIT 37

13-44

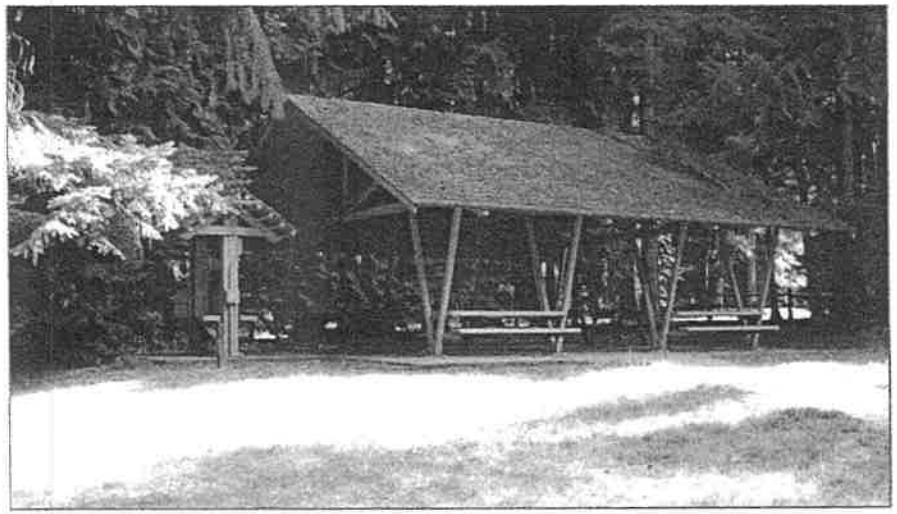
1957

Bull Run
Schoolhouse is
34 years old

Bull Run
Powerhouse is
45 years old

EXHIBIT 37

Next 50 Years



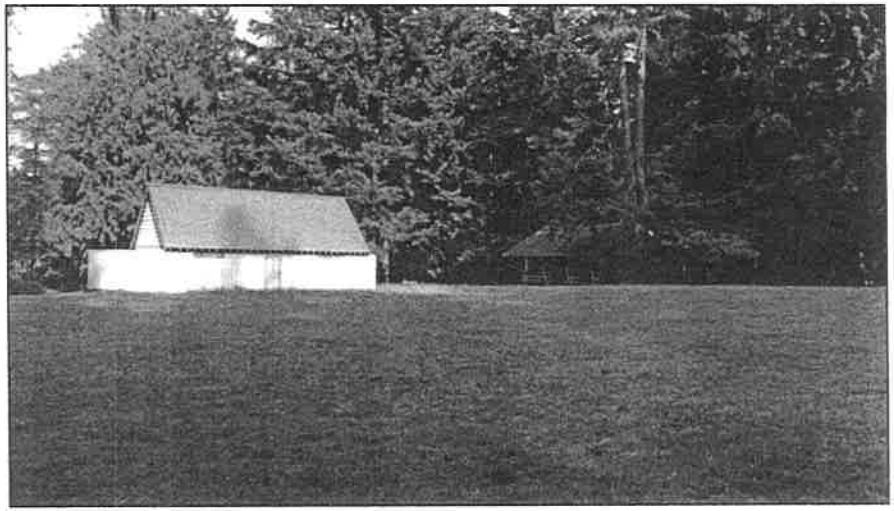
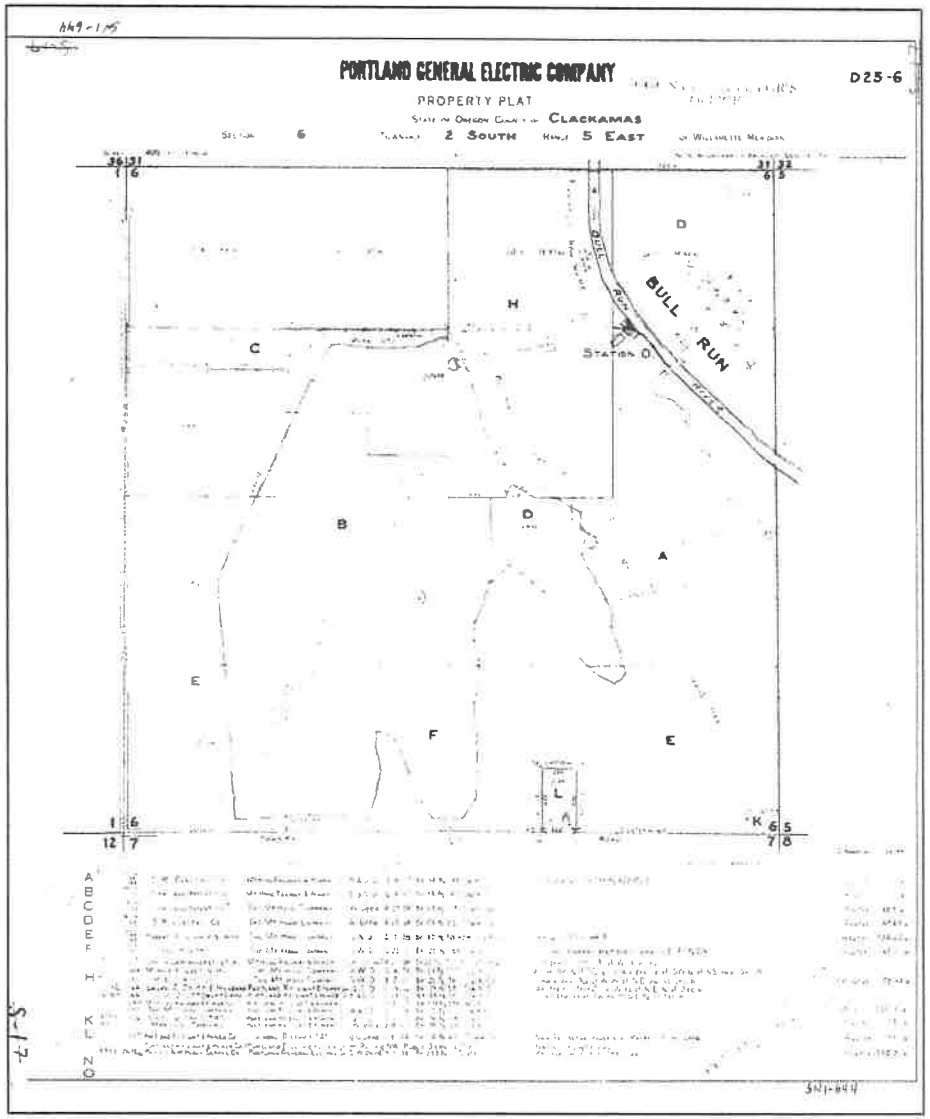


EXHIBIT 37
15-44

Next 45 Years

EXHIBIT 37
16 - 44

Bull Run Property Plat c. 1930



Powerhouse and Penstocks

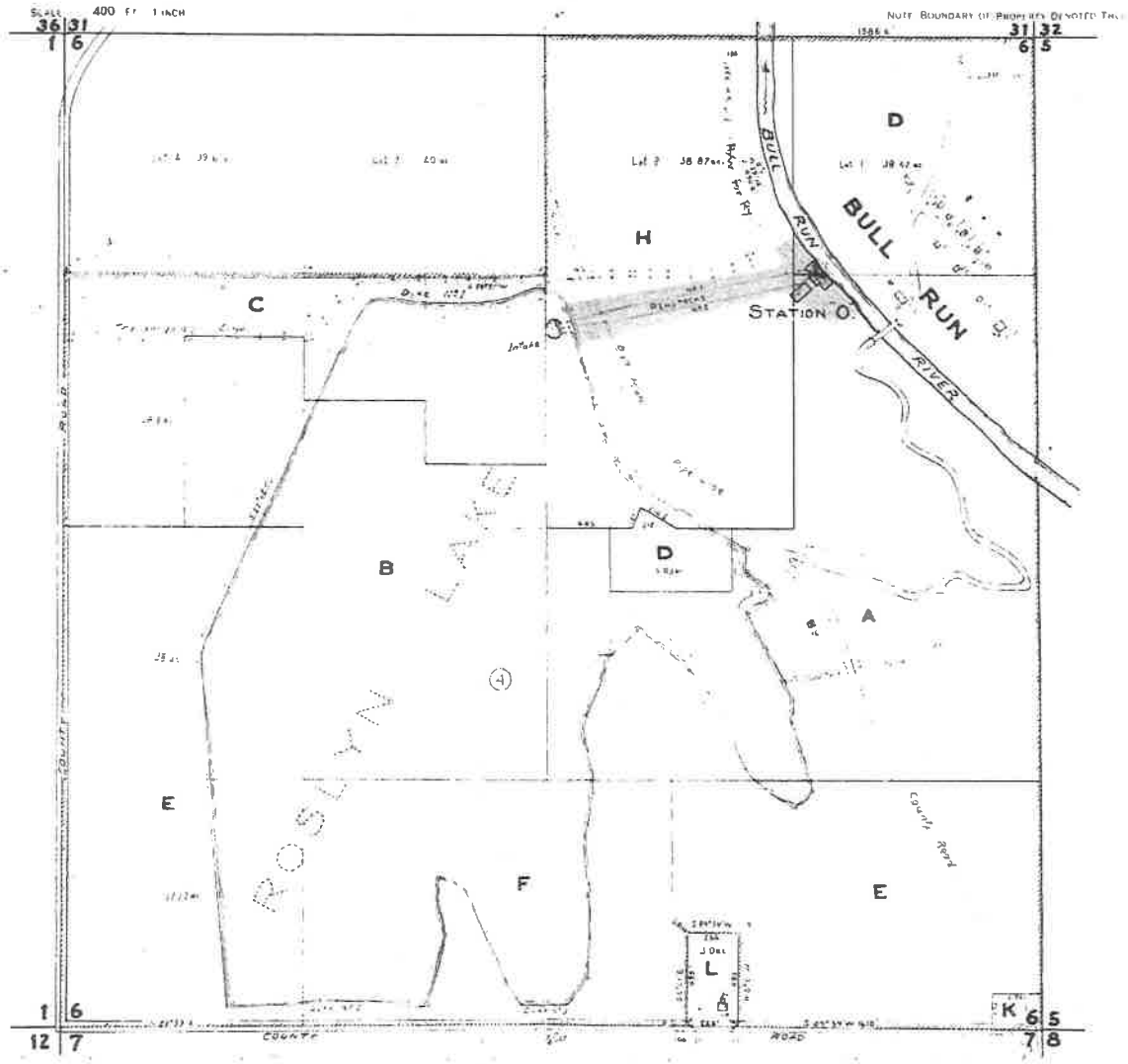


EXHIBIT 37
18-44

Roslyn Lake

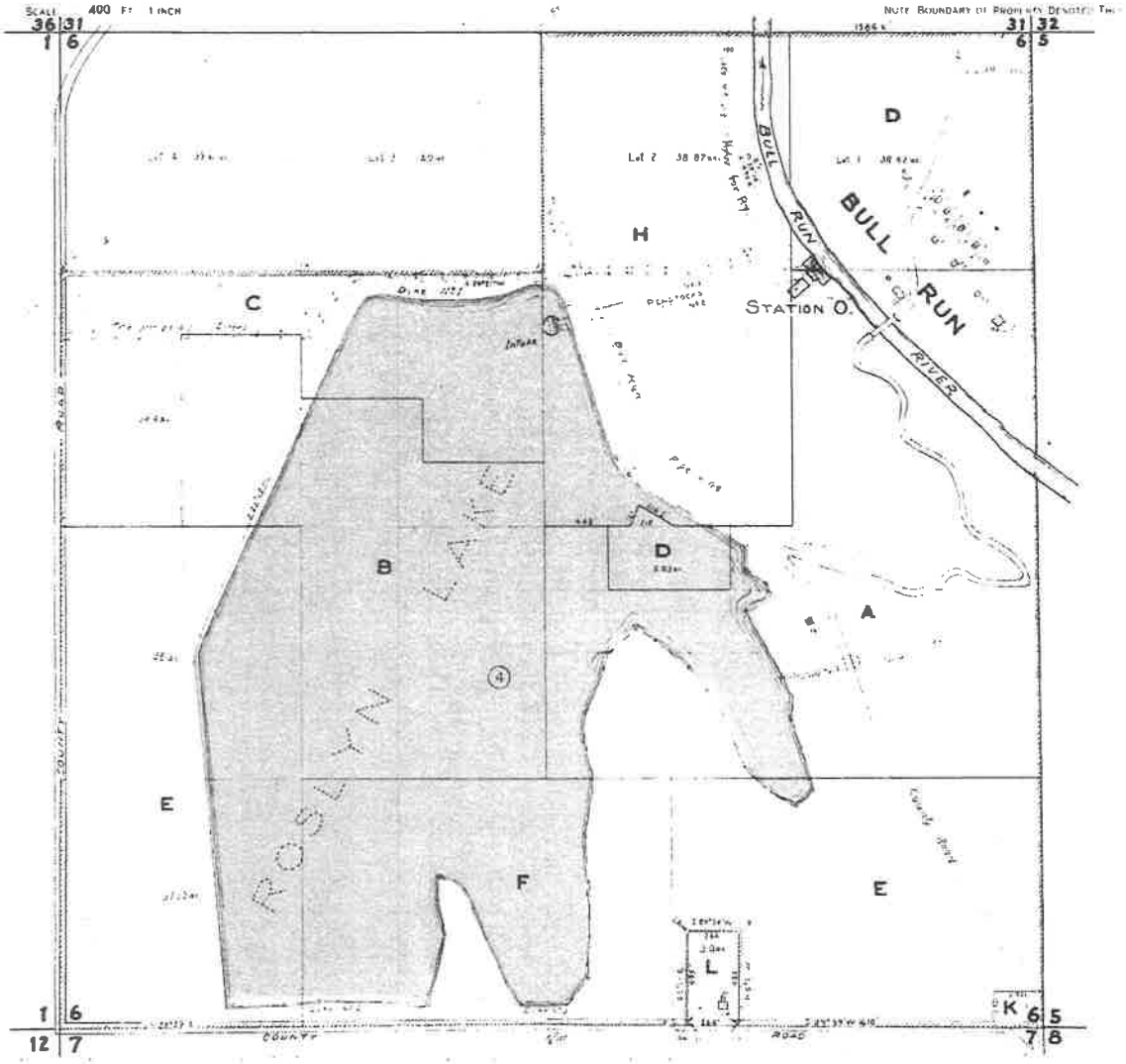


EXHIBIT 37

19-44

Town of Bull Run

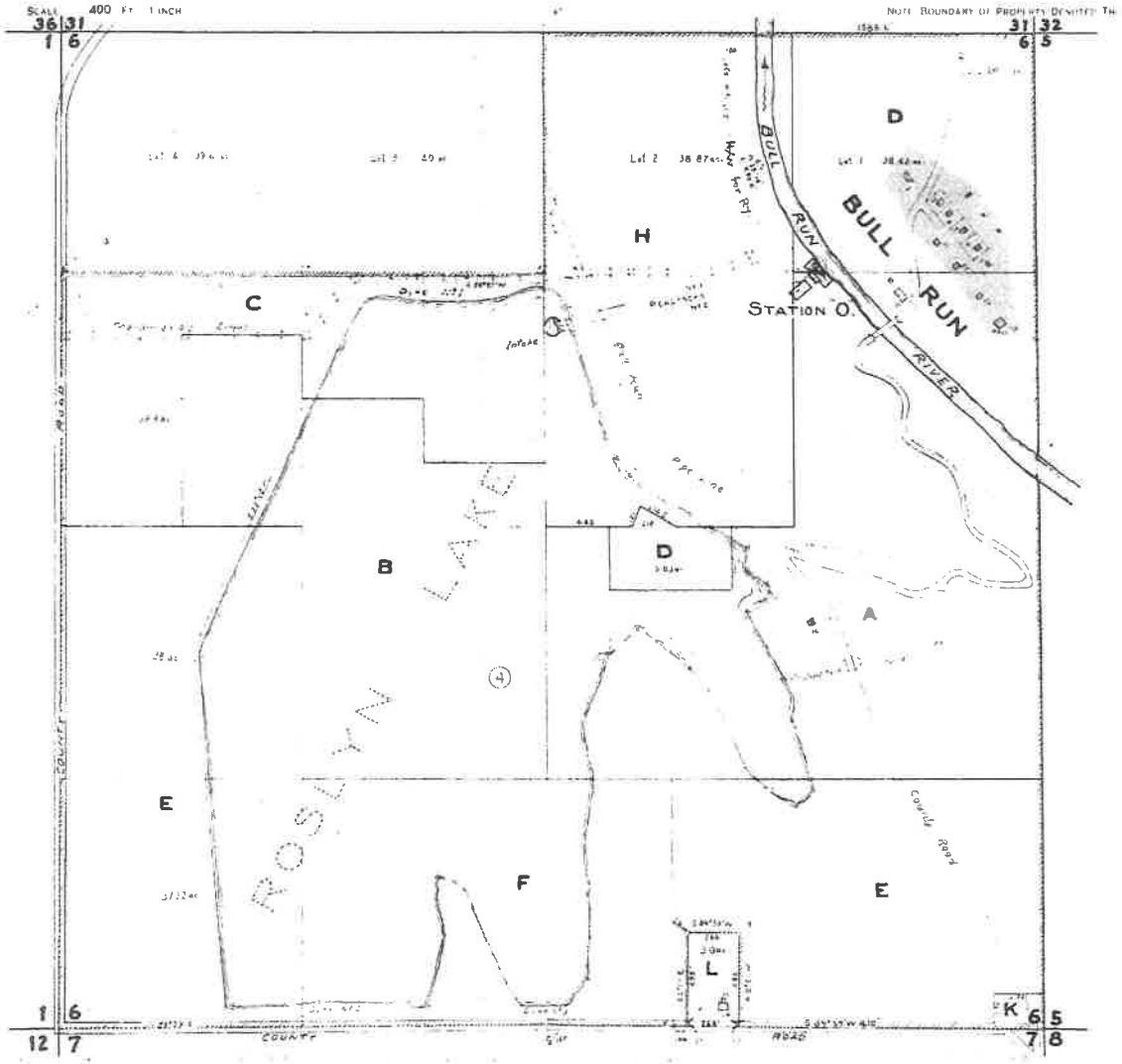


EXHIBIT 37
20-44

Mt Hood Railway

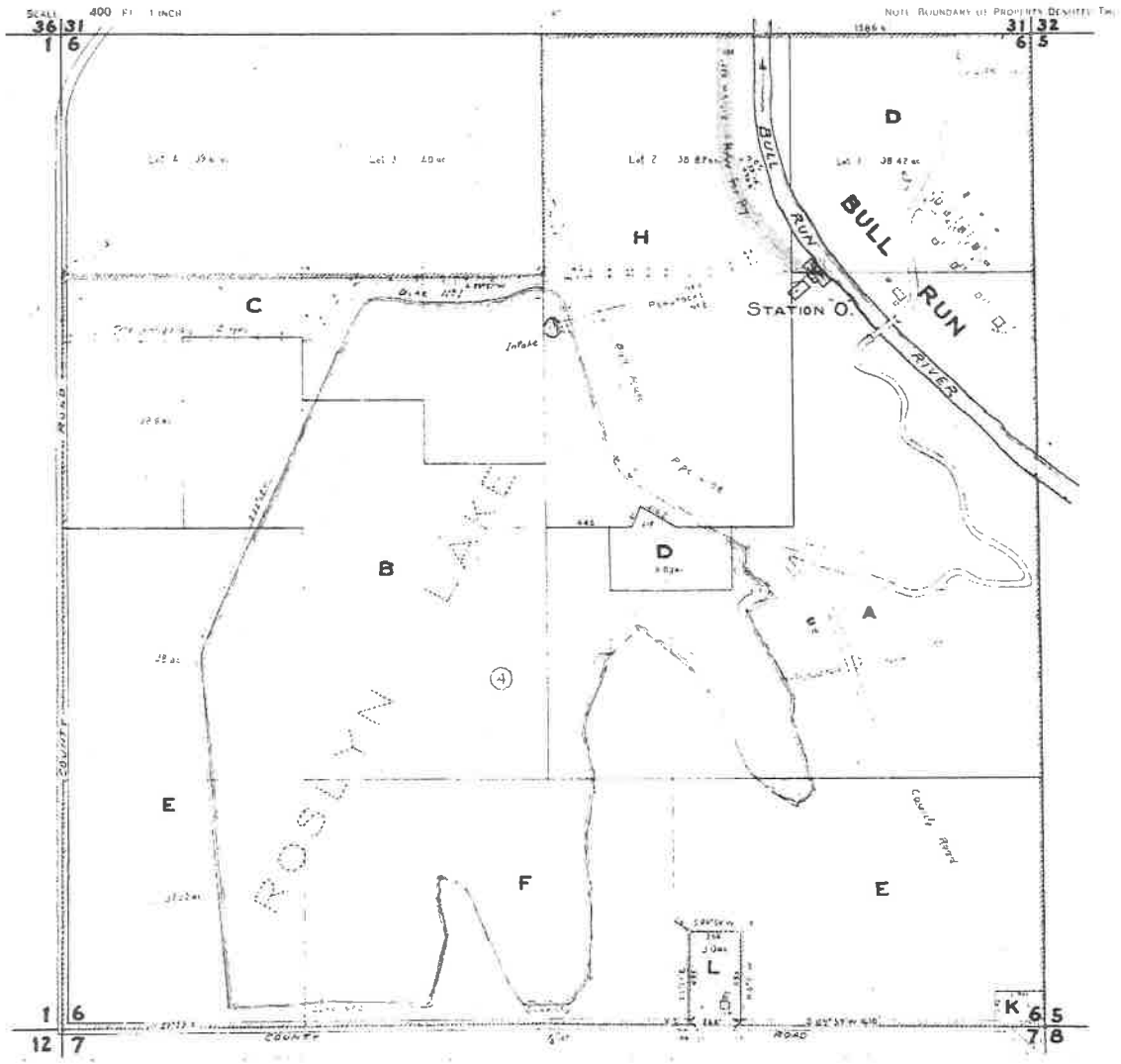


EXHIBIT 37
21-44

One Room Schoolhouse

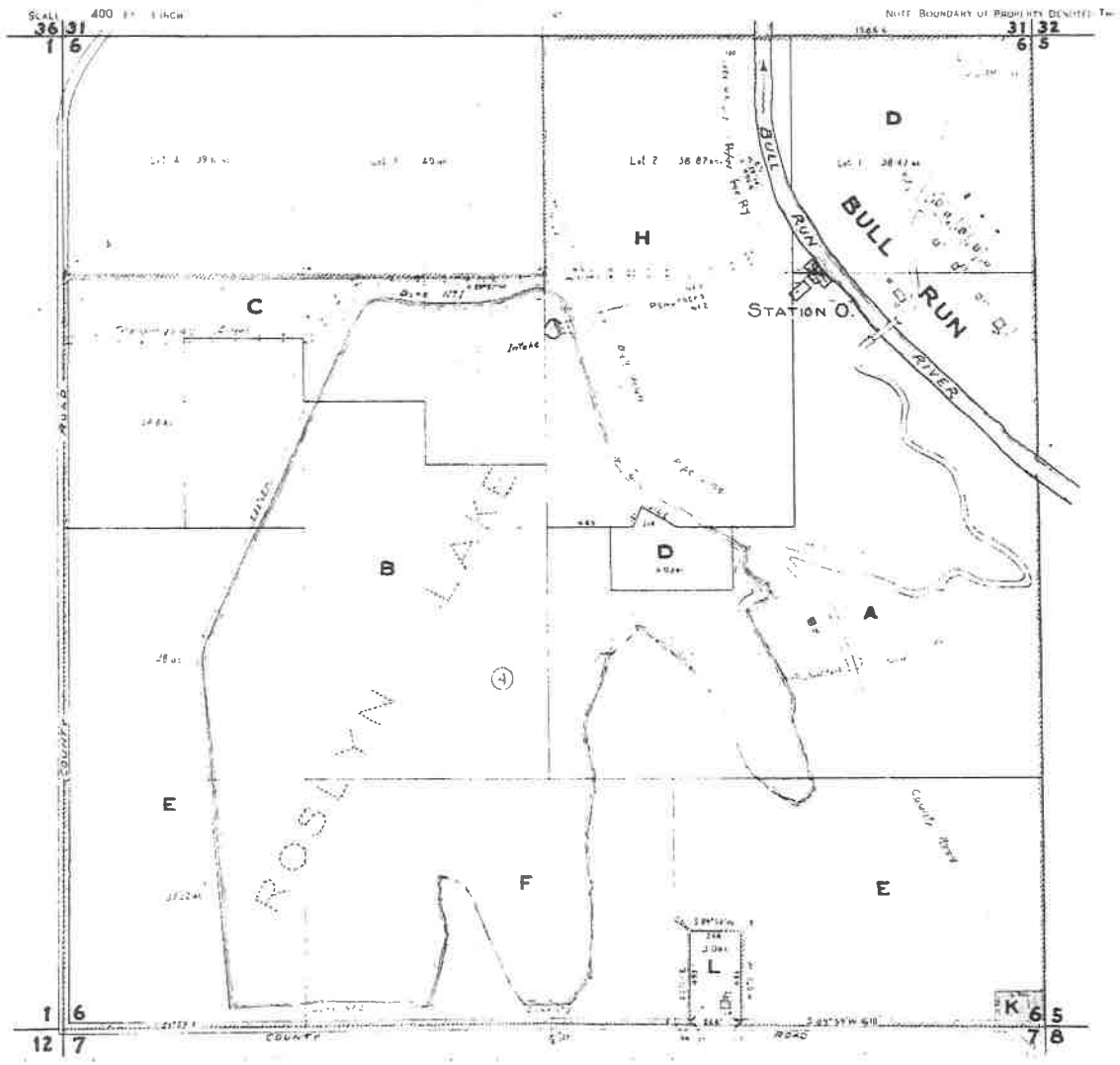


EXHIBIT 37
22-44

Two Room Schoolhouse

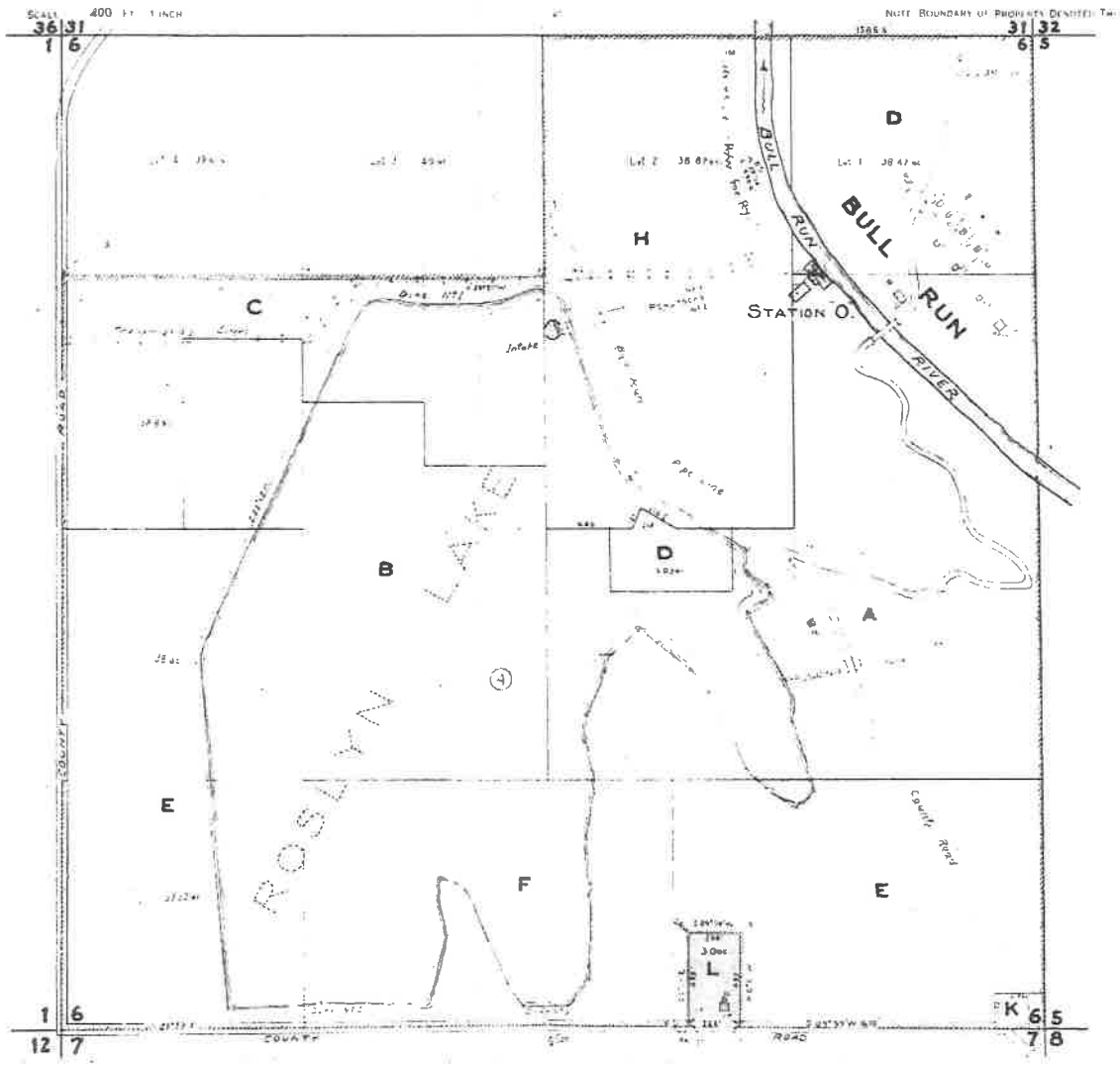


EXHIBIT 37

23-44

Roslyn Lake Park

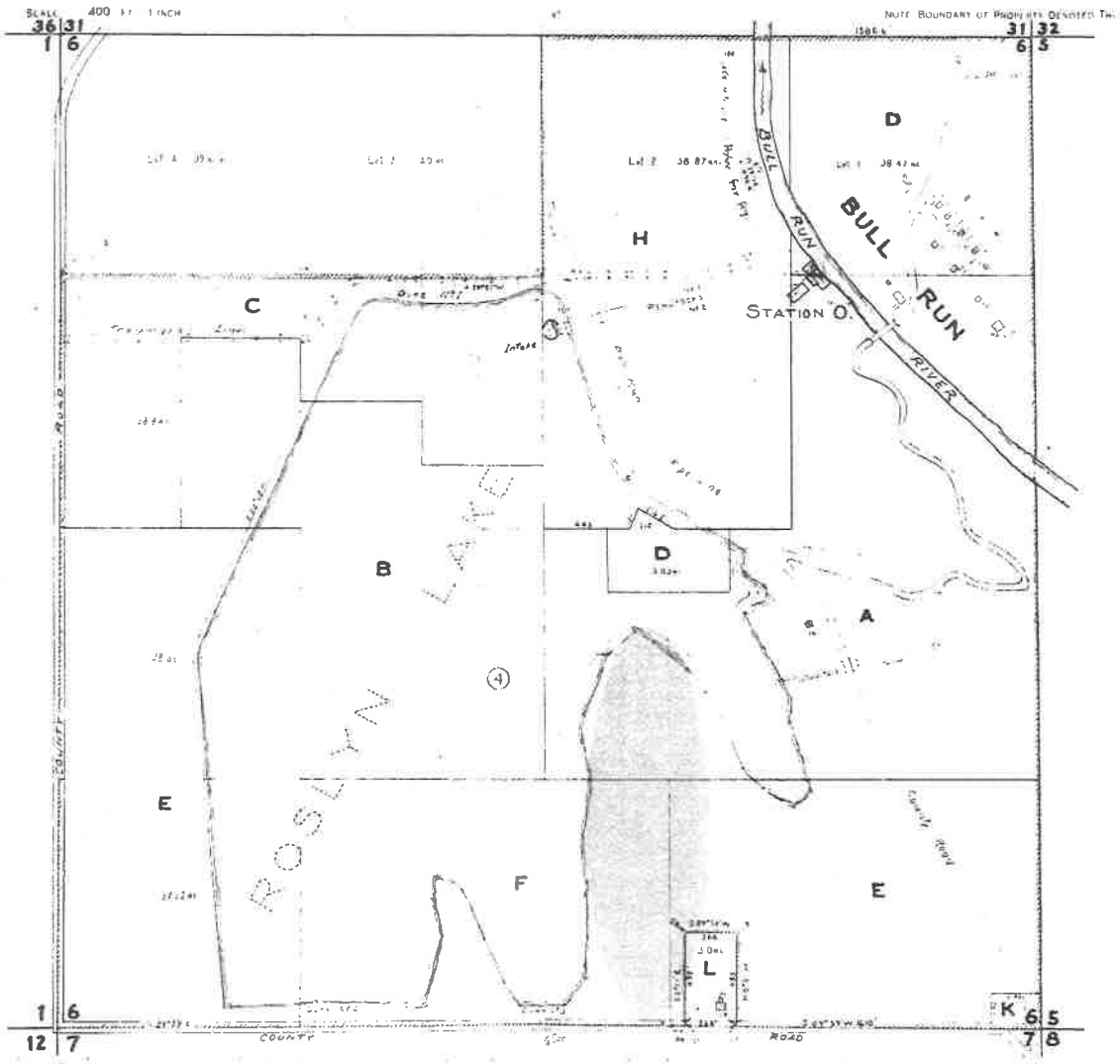


EXHIBIT 37

24-44

Bull Run Powerhouse, School and Roslyn Lake Park

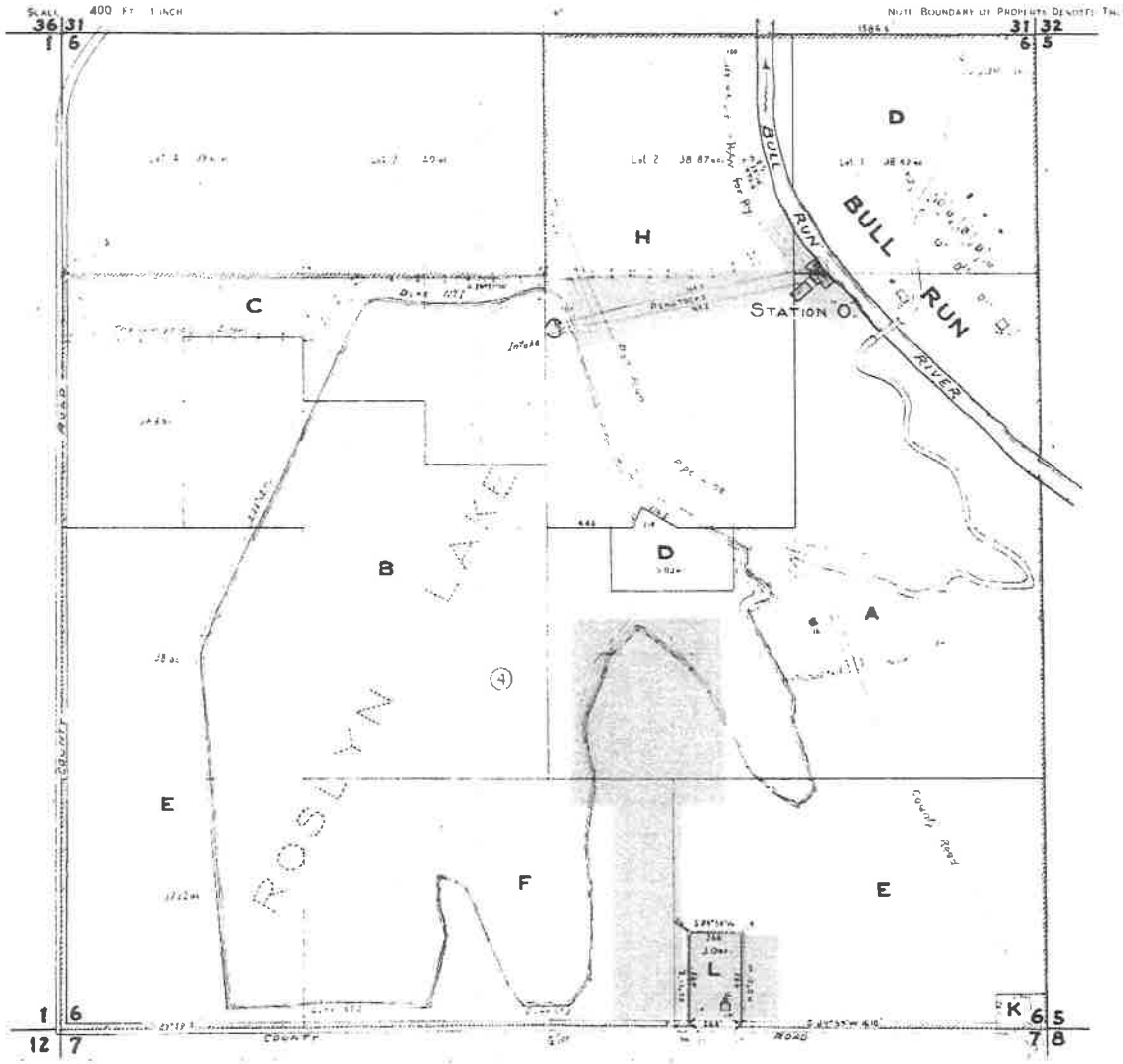
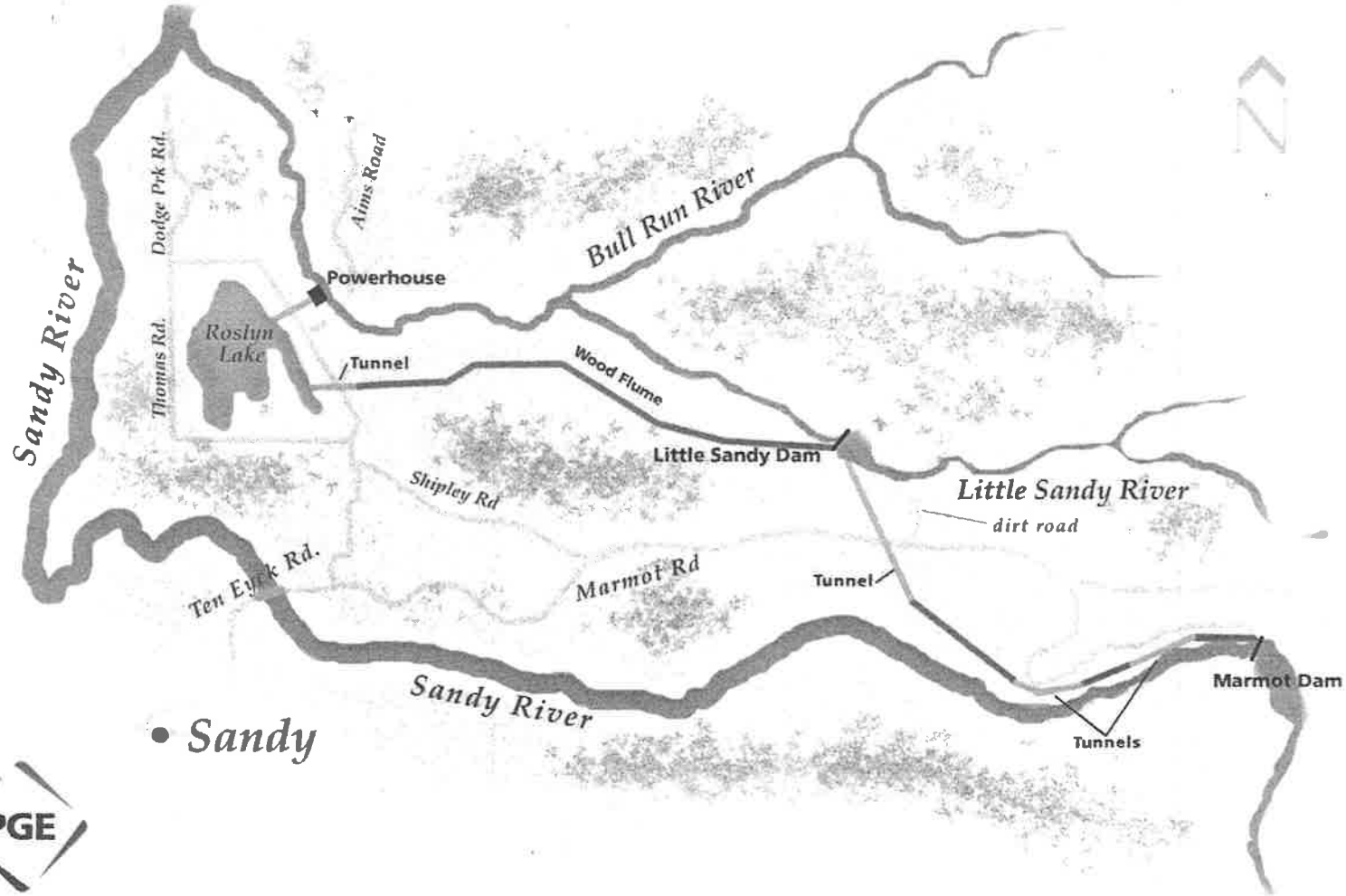


EXHIBIT 37
95-44

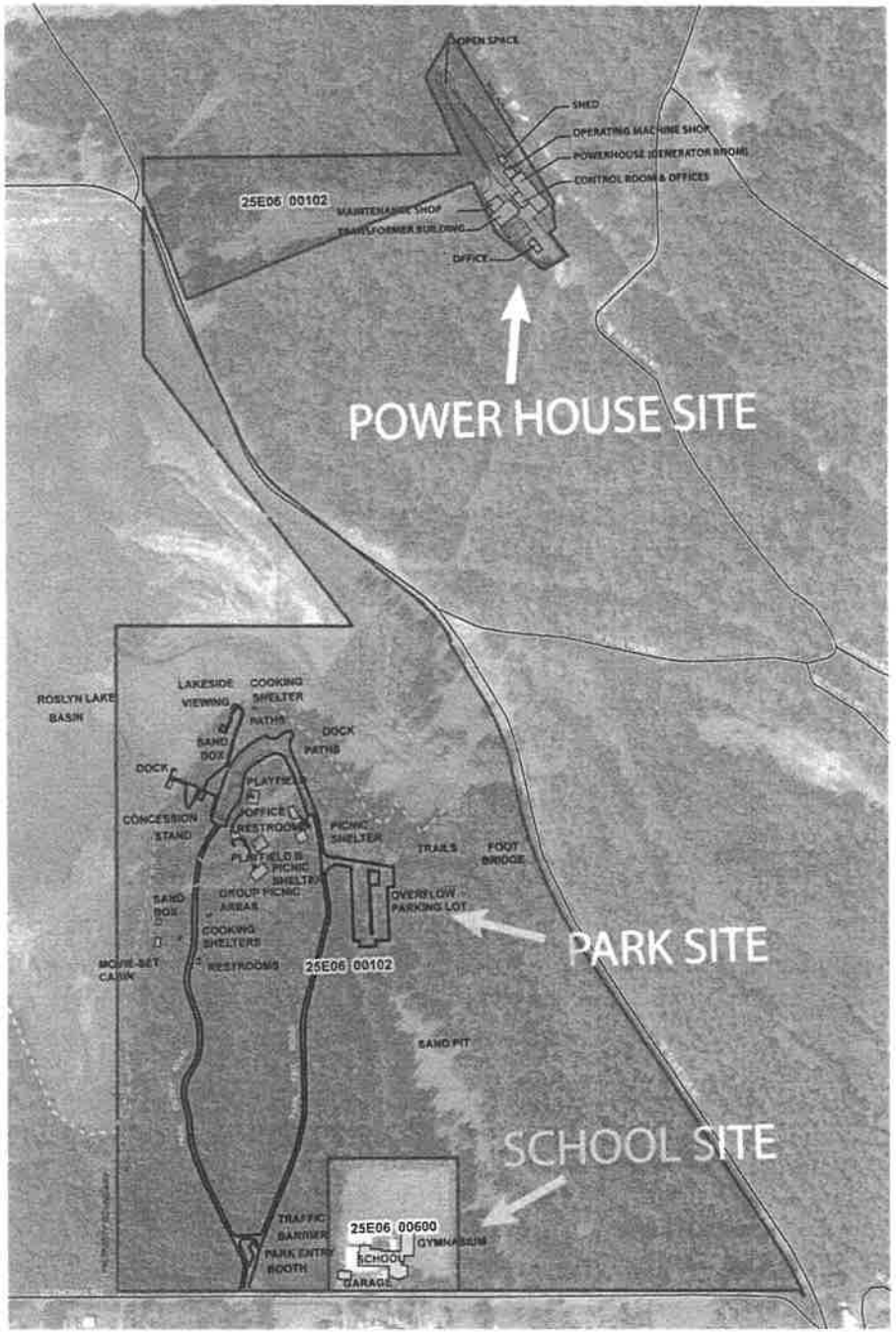
Water flow and diversion



PGE

Portland General Electric

EXHIBIT 37
PP-44



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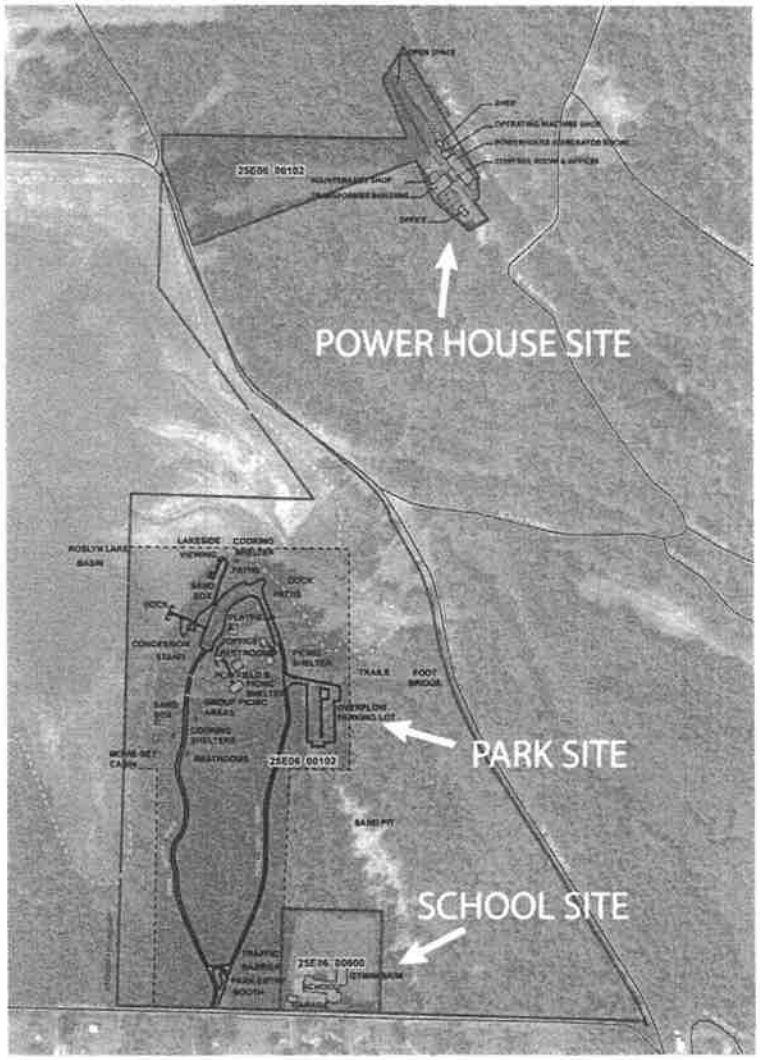
Historic District Recommendation



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Powerhouse

EXHIBIT 37

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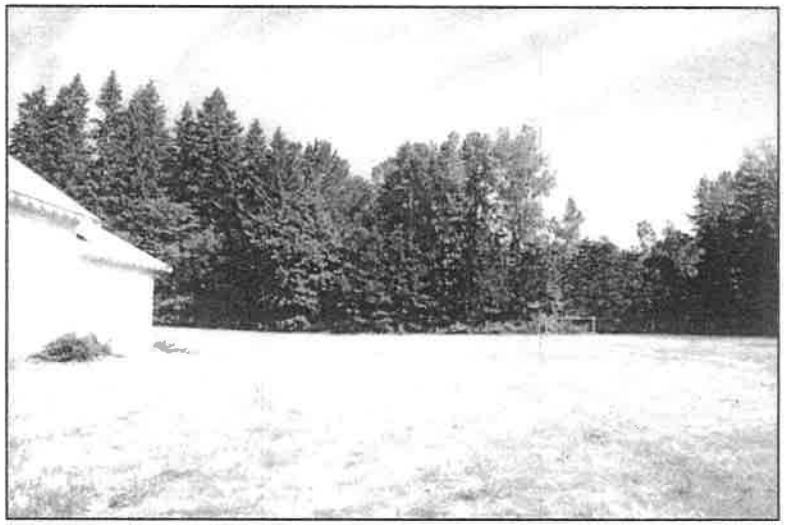
School



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Park

EXHIBIT 37

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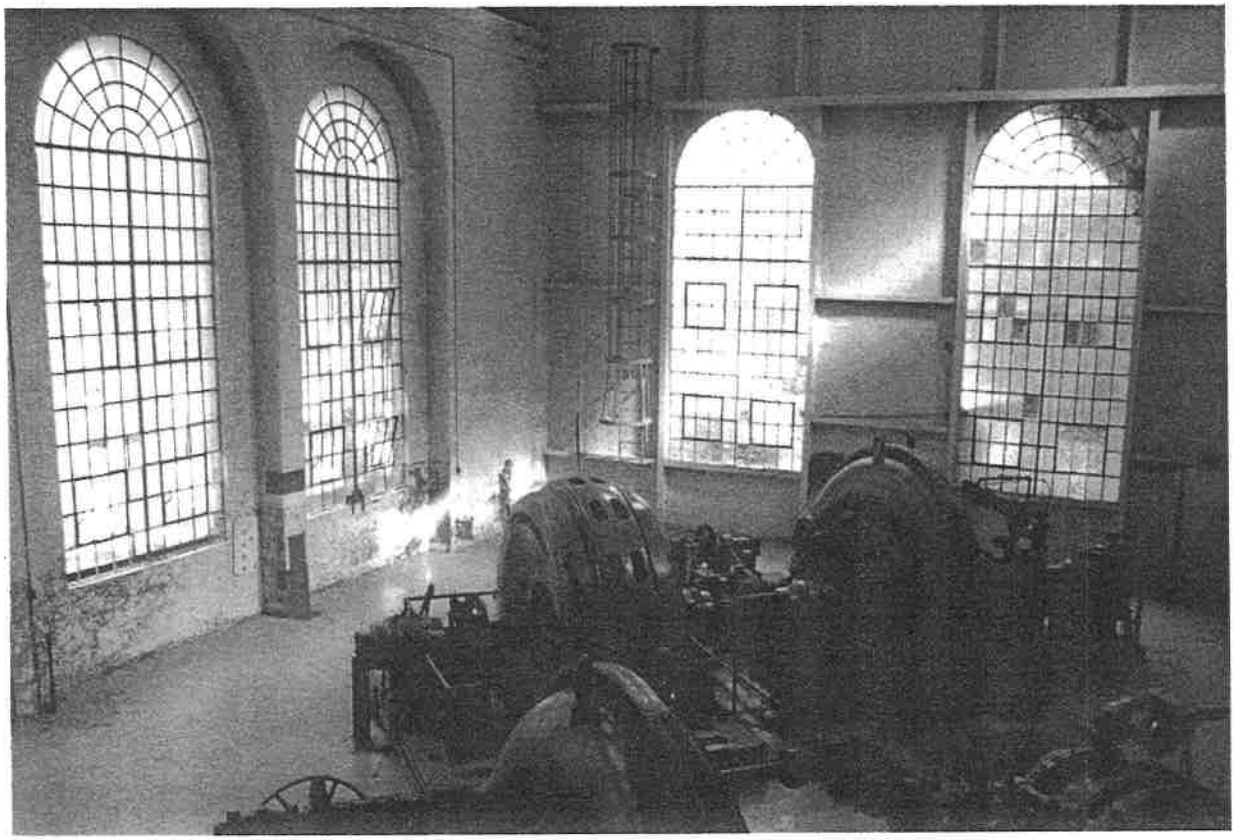
Zone Change & Comprehensive Plan Map Amendment Application for Bull Run Powerhouse, Roslyn Lake Park & Bull Run School House



Planning Commission Hearing

March 24. 2014

Angelo planning group

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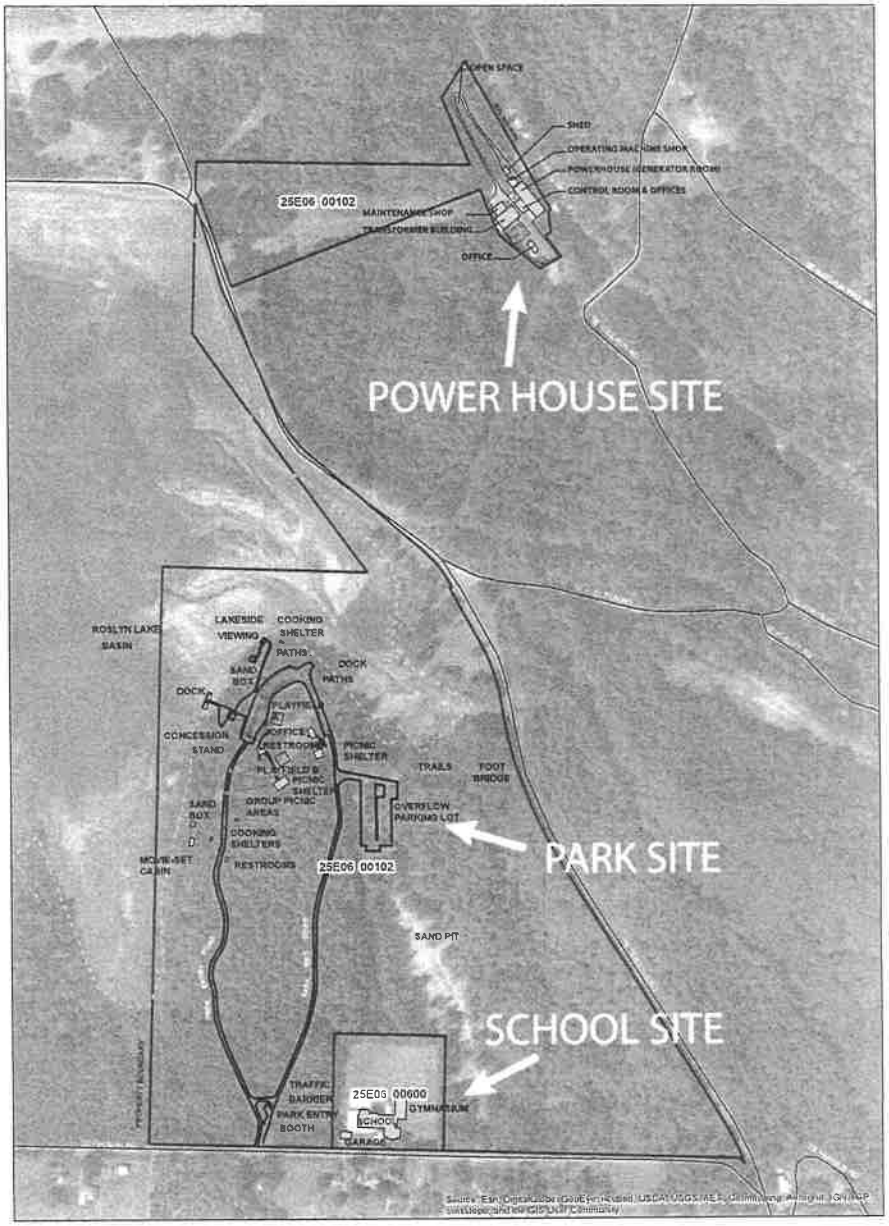
Key Issues for Tonight

1. School Site – extent of goal exception / zone change
2. Powerhouse Site – extent of goal exception / zone change
3. Day Use Park Site – extent of goal exception / zone change
4. Limitations on Allowed Uses



School Site – extent of goal exception / zone change

Total site size: 5.06 acres

Area of disagreement (approx. 2.99 acres)

Area of agreement (approx. 2.07 acres)

School Site – extent of goal exception / zone change

Precedent: Schuebel School

Facts:

- Zoned EFU, zone change to FF-10 in 2009 (ZO231-09-CP/ZO233-09-ZAP)
- Physically Developed goal exception
- 6.09 acres
- About 3 acres developed, remainder contains remnants of ball fields and playground equipment

Schuebel School Staff Recommendation

"In this case, the physical improvements on the eastern 3.0 acres of the property clearly warrant a Physically Developed Exception. The western half of the property is impacted by it [sic] historical use but does not include significant physical development. However, the nature, location and extent of the physical development on the east half of the property and the general impacts from the historical recreational use on the west half of the property relative to the overall size of the property renders the property generally unsuitable for common and accepted farm practices. ***A 'Physically Developed' Exception is warranted on the whole property."***

-- Mike McCallister, Planning Staff Report/Recommendation to the Planning Commission, July 20, 2009 [emphasis added]

Approved by Board of County Commissioners August 20, 2009

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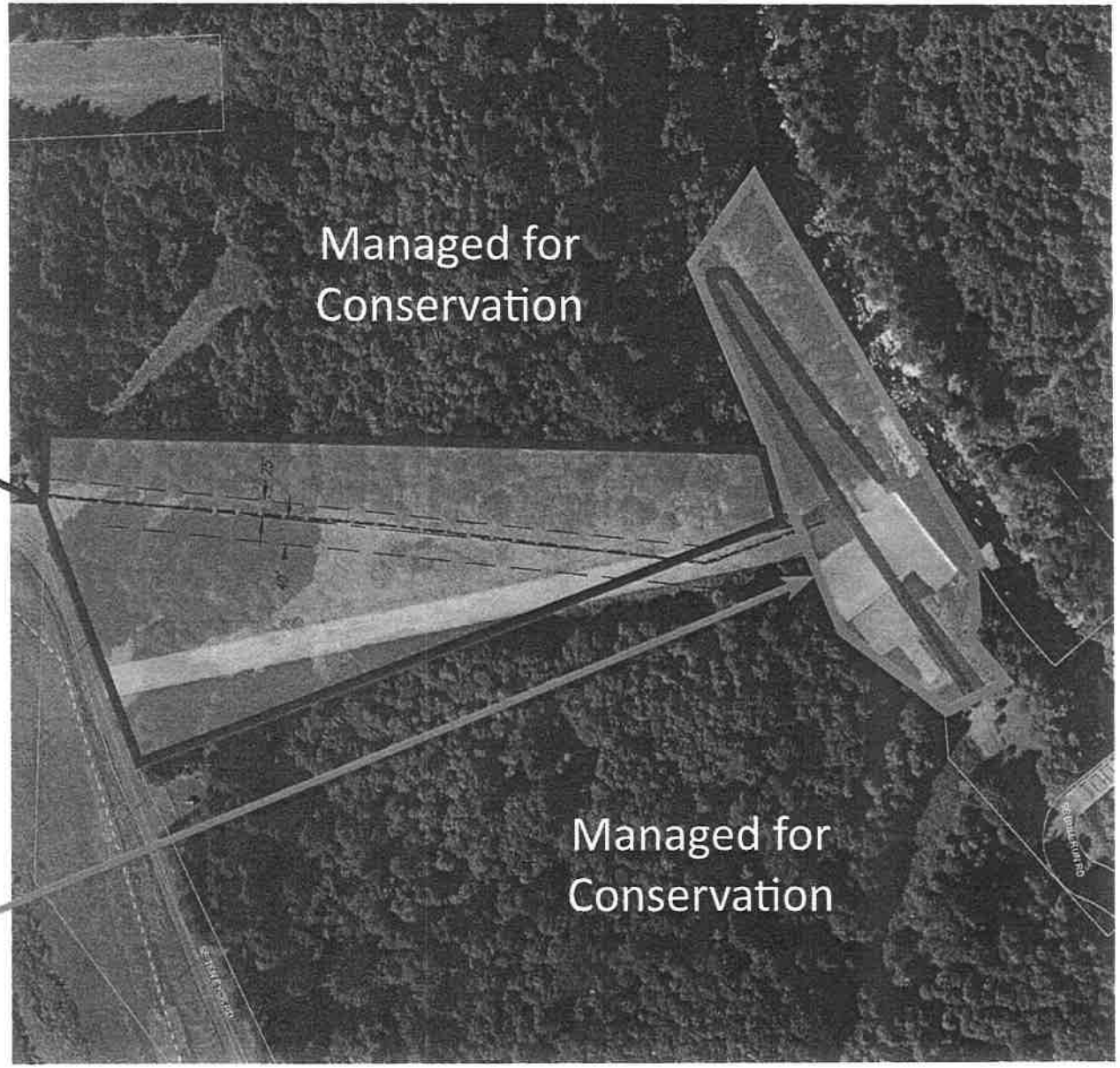
Powerhouse Site – extent of goal exception / zone change

Total site size: 10 acres (of 110 acre parcel)

Area of disagreement (approx. 6.40 acres)

Area of agreement (approx. 3.60 acres)



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Powerhouse Site – extent of goal exception / zone change

- Owners' ability to preserve Powerhouse depends on management on separate parcel
- Minimum lot size in FF-10 = 10 acres
- Could consider RRFF-5 zone with minimum lot size of 5 acres
- Criteria for "committed" exceptions [OAR 660-004-028(3), emphasis added]:

"For exceptions to Goals 3 or 4, local governments are ***required to demonstrate that only the following uses or activities are impracticable****:*
(a) ***Farm use*** *as defined in ORS 215.203;*
(b) ***Propagation or harvesting of a forest product*** *as specified in OAR 660-033-0120; and*
(c) ***Forest operations or forest practices*** *as specified in OAR 660-006-0025(2)(a)."*

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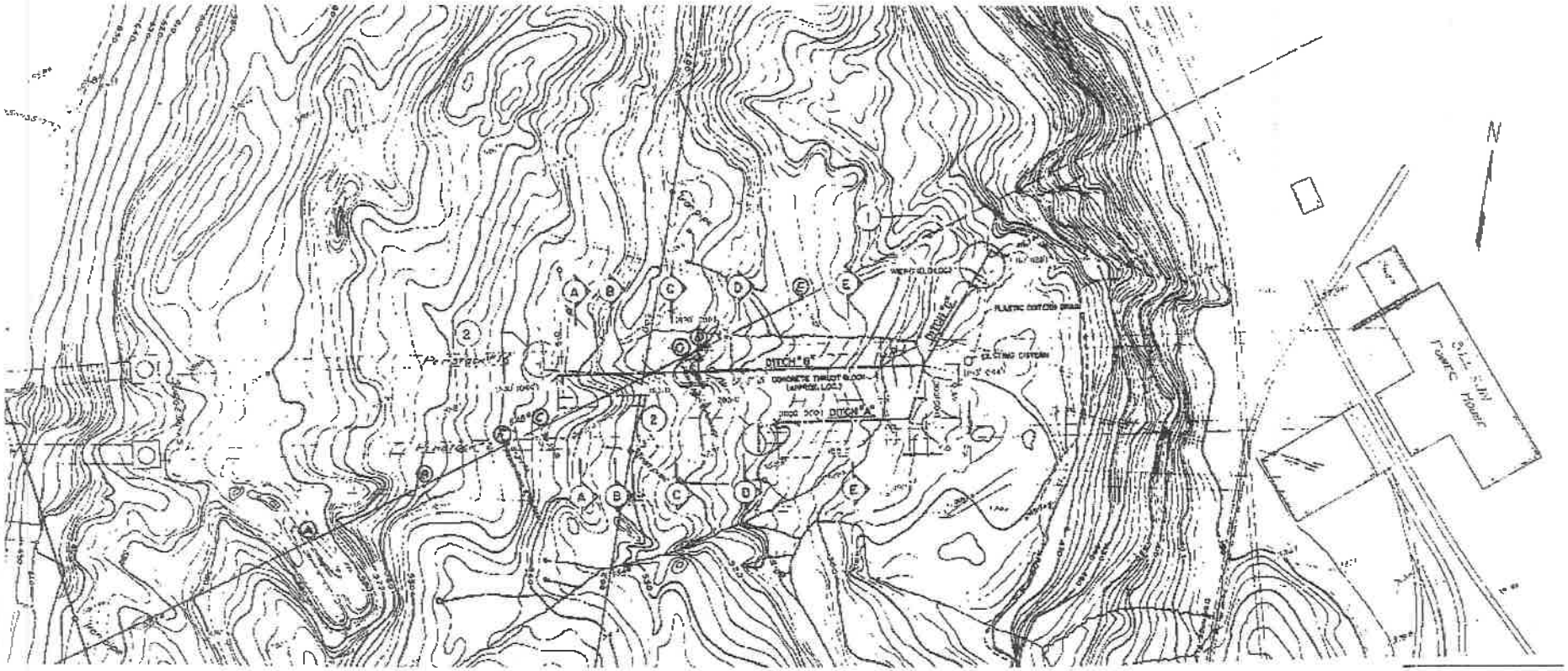
Powerhouse Site – extent of goal exception / zone change

- Forest land on either side will not be harvested
- Challenging topography
- Timber production & harvest on an isolated, narrow, fragmented 6-acre strip is not practicable



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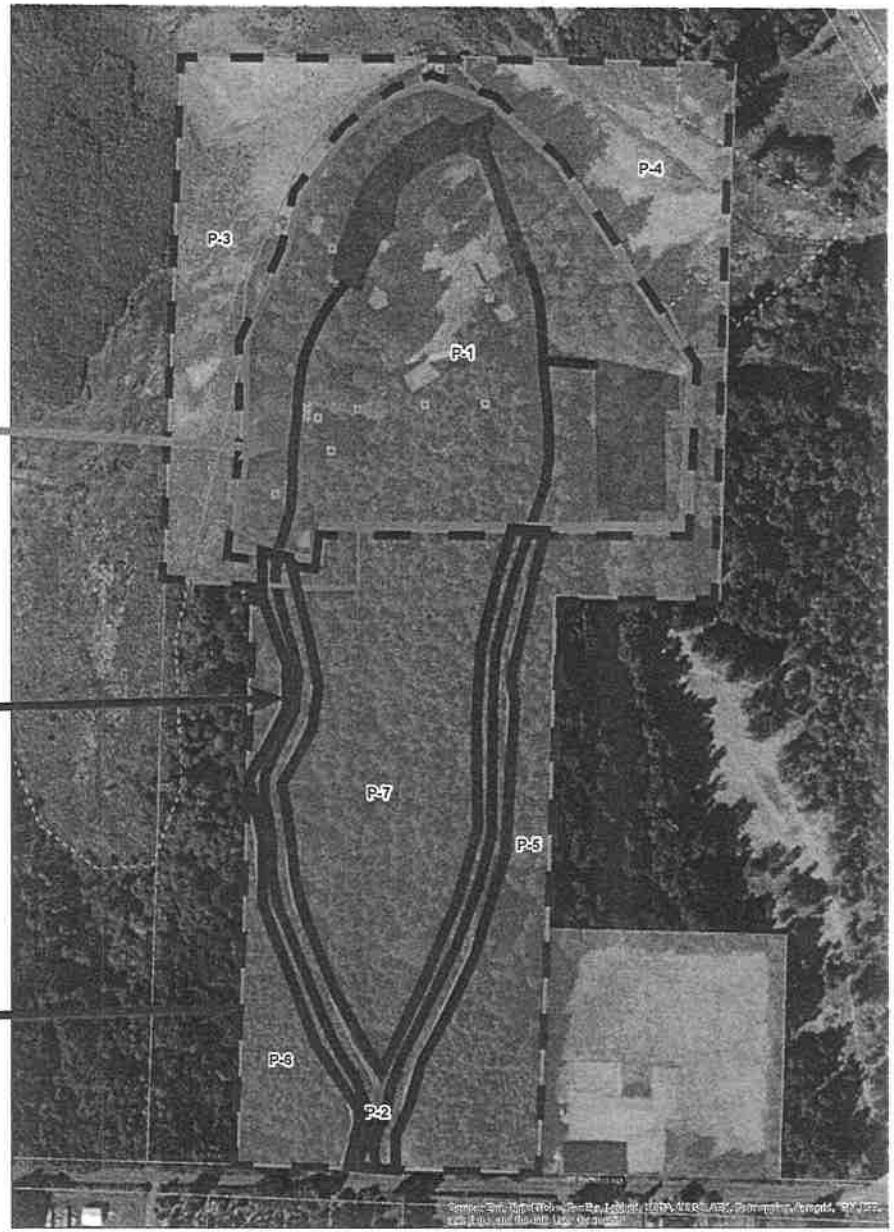
Park Site – extent of goal exception / zone change

Total site size: 40 acres
(of 110 acre parcel)

Area of agreement
(approx. 11.80 acres)

Land needed for
access (approx. 3.4
acres)

Additonal area
of disagreement
(approx. 24.8 acres)



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Park Site – extent of goal exception / zone change

Cannot create an "island" of FF-10 – access must be in same zone

Options for Access

1. Existing paved access roads (approximately 1,200 feet from Thomas Road to developed portion of park)
2. Improve narrow dirt path from Thomas Road via sand pit (approximately 1,400 feet)
3. Construct new access road in existing powerline corridor from Ten Eyck Road (approximately 530 feet)

Could justify rezoning land for access to park through "Reasons" exception if not developed

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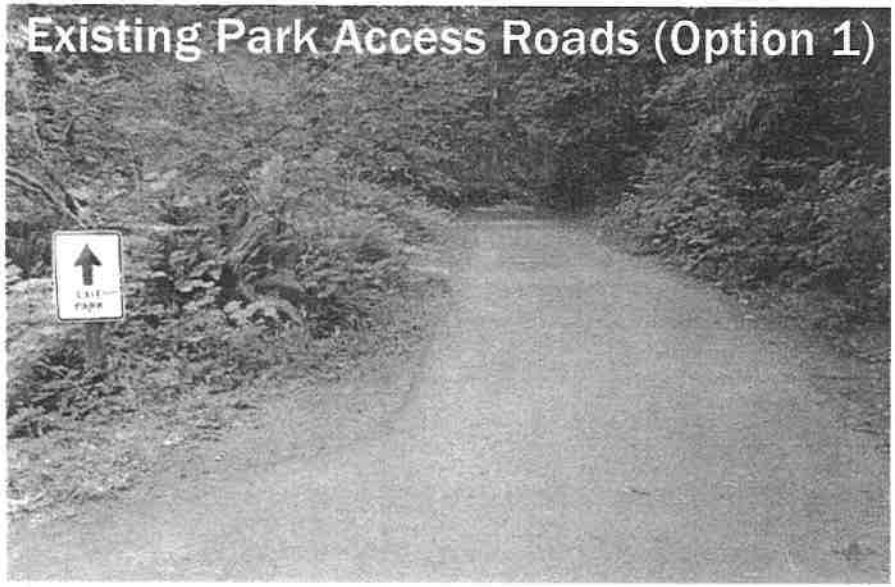
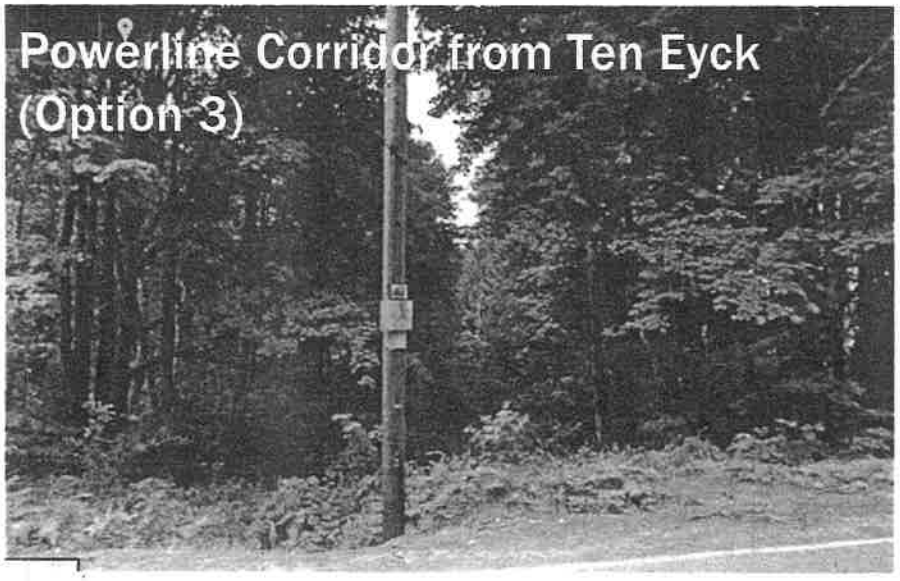
Park Site – extent of goal exception / zone change



From Thomas Road via sand pit & dirt path (Option 2)



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Limitations on Allowed Uses

- *"Physically developed or irrevocably committed exceptions... are intended to recognize and allow continuation of existing types of development in the exception area."*

- All historic uses have been discontinued; no current uses exist.

- DLCD: *"A broad interpretation of 'the same' to mean historically-related uses* ***could be reasonably argued to include the uses allowed in existing structures in the historic overlay...***" -- Katherine Daniels, email to Gary Hewitt 3/7/2014 [emphasis added]

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Summary of request

1. School Site – Goal exception / zone change on full parcel

2. Powerhouse Site – Goal exception / zone change on full 10 acre site

3. Day Use Park Site – Goal exception / zone change on developed park area (using straight lines) plus existing park access roads

4. Allowed Uses to include all uses listed for Historic Landmarks (Section 707) plus limited uses from FF-10 base zone that are compatible with the preservation of the existing historic structures

March 24, 2014

Clackamas County Planning Commission
Development Services Building
150 Beavercreek Road
Oregon City, OR 97045

RE: Z035-13-CP; Z0537-13-Z Powerhouse ReGen LLC and Bull Run Schoolhouse LLC

To Whom It May Concern:

I am writing to express my concerns regarding the application for zone change from TBR to FF10 on tax lots 25E06 00600 and 25E06 00102. I have been a resident of this area for over 35 years. My home is approximately 2 ½ miles from the tax lots in question.

There are no physical developments that would require exception to the current Goal 4 Forest designation on tax lot 102, i.e. current developments are not restrictive to the growing of trees, grazing or use as wildlife habitat and therefore, in my opinion, do not qualify for the physically developed exception. Further fragmentation and loss of our forest resources is unwarranted. Despite the applicant's intention not to develop, a FF10 zoning would allow just this to happen either with future owners or should there be a change of heart by the current owners.

I also have concerns with the traffic situation along the Oregon Scenic Byway. There is already a constant stream of traffic on weekends and the roads have been deteriorating steadily without repair. The assertion of the applicant is that traffic volumes are "small" and shall remain so for the "planning horizon". What precisely is "small" and how has this been measured? How does the change from TBR zoning to FF10 effect future applications for neighboring land owners who may wish to do the same?

In conclusion, I would support a Goal 4 exception for the approximately 3 acre area associated with the Bull Run School (tax lot 600), however, at this time I oppose the granting of the proposed zoning changes and Goal 4 exceptions as outlined in the application for tax lot 102.

Sincerely,

Keith W. Sprengel
503-548-7225

EXHIBIT 38
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BEFORE THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON

FOR THE COUNTY OF YAMHILL

SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

Approval of a Comprehensive Plan amendment from Agriculture/Forestry Large Holding to Commercial and a Zone Change from EF-80 Exclusive Farm Use to Recreational Commercial (RC), Taking Exceptions to Planning Goals 3, 4 and 14, Docket PAZ-01-06, Applicant David Kahn and the Hazel B. Timmons Trust, Tax Lot 3333-320, and Declaring an Emergency	)	Ordinance 790

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the "Board") sat for the transaction of county business on August 16, 2006, Commissioners Leslie Lewis, Kathy George and Mary P. Stern being present.

IT APPEARING TO THE BOARD that David Kahn and the Hazel B. Timmons Trust applied to the Yamhill County Department of Planning (Planning Docket PAZ-01-06) for a Comprehensive Plan amendment zone change and exceptions to Statewide Planning Goals 3, 4, and 14 and

IT APPEARING TO THE BOARD that the matter was heard by the Yamhill County Planning Commission at duly noticed public hearings on March 2 and May 4, 2006, after which the Commission voted to recommend approving the application by a vote of 7-1; the Board held a duly noticed public hearing June 7, 2006. After due consideration of the Application and the objections presented, the Board tentatively voted 3-0 to approve the Application, NOW, THEREFORE,

IT IS HEREBY ORDAINED BY THE BOARD, that the application is approved as detailed in the Findings for Approval, attached as Exhibit "A" and by this reference incorporated herein. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage. A map of the area is appended as Exhibit "B".

///

///

B.O. 06-564

EXHIBIT 39
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DONE this 16th day of August, 2006, at McMinnville, Oregon.

ATTEST

JAN COLEMAN
County Clerk

By _____ Deputy
Deputy Anne Bill

APPROVED AS TO FORM:

Rick Sanai
Assistant County Counsel

YAMHILL COUNTY BOARD OF COMMISSIONERS

Chair LESLIE LEWIS

Commissioner KATHY GEORGE

Commissioner MARY P. STERN

B.O.06-564

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ORDINANCE 790 - FINDINGS

I. INTRODUCTION

This document supports Yamhill County Ordinance No. 790, which adopts exceptions to Statewide Planning Goals 3, 4 and 14, and approves related map amendments to the Yamhill County Comprehensive Plan ("YCCP" or "Plan") and Yamhill County Zoning Ordinance ("YCZO") affecting approximately 12 acres of property on a 65.86-acre parcel. This decision approves Plan map amendments from Agriculture/Forestry Large Holding to Commercial, and zoning map amendments from Exclusive Farm Use (EFU) to Recreational Commercial (RC) in order to allow the development of a luxury wine country hotel and associated facilities.

II. APPLICANT

The application was submitted by David Kahn and the Hazel B. Timmons Trust (the "applicants"). The subject property is owned by the Hazel B. Timmons Trust.

III. DESCRIPTION OF SITE AND PROPOSAL

The subject property is a 65.86-acre parcel located at 7209 NE Breyman Orchards Road near Dayton, Oregon (Tax Lot 320). The parcel is located in Section 33, Township 3 South, Range 3 West of the Willamette Meridian, in an area known as the Red Hills of Dundee. The property is an irregularly shaped parcel that includes land on both sides of a steeply sloped hill, and contains a vacant residence on the ridge at the top of the hill. The property includes fallow fields of open grass on the south side of the hill, and a forested area on the north side of the hill. Elevations on the property range from between approximately 700 feet and 900 feet above sea level.

The subject property is bounded on the north by forested lands and by the Timmons Quarry, which is adjacent to the northwest boundary of the property. The Domaine Drouhin vineyards and winery are located to the south. A bed and breakfast, known as Wine Country Farms, is located to the southwest across Breyman Orchards Road. Forest land is immediately adjacent to the eastern property line and there are vineyards further to the east. Vineyards and one winery are found west of the property.

According to the U.S. Department of Agricultural Soil Conservation Service State Soil Geographic Database, the dominant soil type in the area is "Jory" with a silty clay-loam surface texture. The soils are considered well-drained and the water

Exhibit A
8/15/06
Ordinance 790
B.O. 06-564
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table is more than 6 feet deep. The soils fit within the Class C hydrologic group indicating slow infiltration rates. However, the high elevation of the property makes vineyards commercially impractical, and the property has not been used for any agricultural purposes for at least 10 years. The owners are not receiving any farm or forestry tax deferral for the property.

The applicants propose to develop a luxury wine country hotel on the southern portion of the parcel, on the ridge that is the highest part of the property in a location that is generally indicated on the conceptual site diagram prepared by OTAK and submitted by the applicants. The remainder of the 65-acre parcel will remain in EFU zoning. The property will be accessed from NE Breyman Orchards Road. Northeast Timmons Lane travels from the end of NE Breyman Orchards Road northeast across the parcel to the existing residence and pump house on the property.

The applicants' proposal is to develop a hotel modeled after certain high-end wine country hotels in Napa Valley – specifically, Auberge du Soleil, Calistoga Ranch and Meadowood. The hotel will be relatively small, with approximately 50 rooms, a restaurant, a spa, and limited meeting facilities. The proposed hotel will support and enhance the Yamhill County economy by providing a unique luxury hotel in the heart of wine country that will allow wine country tourists to stay in Yamhill County rather than in Portland. In order to provide the requisite destination wine country experience similar to the identified Napa Valley hotels, the hotel must be located in a quiet and idyllic rural setting that affords privacy as well as expansive views of the surrounding wine country, and must also be in close proximity to wineries with tasting rooms.

IV. COUNTY PROCEDURES

The application was filed on January 20, 2006. An initial public hearing was held before the County Planning Commission on March 2, 2006, at which hearing the applicants, their representatives, and many interested individuals presented testimony to the Planning Commission. The hearing was continued until May 4, 2006 in order to allow all parties the opportunity to submit additional written materials. On April 24, 2006, the applicant submitted a revised application narrative, together with additional supporting materials, which included detailed responses to issues raised by opponents and the Planning Commission.

The Planning Commission heard further testimony at its May 4, 2006 hearing. At the close of the public testimony, the Planning Commission held the record open until May 18, 2006 for all parties to submit additional evidence into the record, and until May 25, 2006 for all parties to submit responses to evidence submitted during the first open record period. The Planning Commission provided the applicant a final

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five-day period to provide final written argument, which the applicant submitted on May 30, 2006.

The Planning Commission considered all of the materials submitted during the open record period and deliberated to a decision at its meeting on June 1, 2006. At that meeting, the Planning Commission voted 7-1 in favor of recommending approval of the application.

The Board of Commissioners held a public hearing on June 7, 2006, and heard testimony from the applicants, the applicants' representatives, and interested members of the public. At the close of the public hearing, the Board held the record open until June 19, 2006 for all parties to submit additional evidence into the record, and until June 26, 2006 for all parties to submit responses to evidence submitted during the first open record period. Two items were submitted by email after the 5:00 p.m. deadline on June 26, 2006: an email from Jason Lett forwarding correspondence from Katherine Elstrom, and an email from Alan Campbell. Those two items were expressly excluded from the record by the Board. The Board provided the applicant a final three-day period to provide final written argument, which the applicant submitted on June 29, 2006.

The Board of Commissioners considered all of the materials submitted during the open record period and deliberated to a decision at its meeting on July 5, 2006. At that meeting, the Board of Commissioners voted 3-0 in favor of approving the application.

V. INCORPORATION OF STAFF REPORTS

The Board of Commissioners hereby adopts and incorporates by reference the county staff reports dated March 2, 2006, June 1, 2006 and July 5, 2006. In the event of a discrepancy between the incorporated staff reports and these findings, the express findings of the Board shall govern.

VI. APPLICABLE STANDARDS AND CRITERIA

This application involves amendments to acknowledged county comprehensive plan provisions and land use regulations, as well as exceptions to Statewide Planning Goals 3, 4 and 14. Under Oregon's land use statutes and goals, this application must be found to comply with a multitude of standards and criteria, including the following:

A. Statutes

1. ORS 197.340(1) – Goals provided equal weight.

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2. ORS 197.610 and 197.615 – Post-acknowledgment amendment procedures.

3. ORS 197.712(2)(g) – Economic development obligation to provide reasonable opportunities for economic development on lands outside urban growth boundaries.

4. ORS 197.732 – Goal exception standards.

5. ORS 197.763 – Notice and procedures for quasi-judicial hearings.

B. Statewide Planning Goals

1. Goal One – Citizen Involvement

2. Goal Two – Land Use Planning

3. Goal Three – Agricultural Lands

4. Goal Four – Forest Lands

5. Goal Five – Open Spaces, Scenic and Historic Areas and Natural Resources

6. Goal Six – Air, Water and Land Resource Quality

7. Goal Seven – Areas Subject to Natural Disasters and Hazards

8. Goal Eight – Recreational Needs

9. Goal Nine – Economic Development

10. Goal Ten – Housing

11. Goal Eleven – Public Facilities and Services

12. Goal Twelve – Transportation

13. Goal Thirteen – Energy Conservation

14. Goal Fourteen – Urbanization

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C. State Agency Rules

1. OAR Chapter 660, Division 4 – Interpretation of Goal 2 Exception Process:

OAR 660-004-000	Purpose
OAR 660-004-005	Definitions
OAR 660-004-0010	Application of the Goal 2 Exception Process to Certain Goals
OAR 660-004-0015	Inclusion as Part of the Plan
OAR 660-004-0018	Planning and Zoning for Exception Areas
OAR 660-004-0020	Goal 2, Part II(c), Exception Requirements
OAR 660-004-0022	Reasons Necessary to Justify an Exception Under Goal 2, Part II(c)
OAR 660-004-0030	Notice and Adoption of an Exception

2. OAR Chapter 660, Division 12 – Transportation Planning

OAR 660-012-0060	Plan and Land Use Regulation Amendments
OAR 660-012-0065	Transportation Improvements on Rural Lands

3. OAR Chapter 660, Division 14 – Application of the Statewide Planning Goals to Newly Incorporated Cities and to Urban Development on Rural Lands:

OAR 660-014-0040	Establishment of New Urban Development on Undeveloped Rural Lands

4. OAR Chapter 660, Division 18 – Plan and Land Use Regulation Amendment Review

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D. County Comprehensive Plan Provisions

The following Yamhill County Comprehensive Plan provisions are implicated by this application:

1. Urban Growth and Change and Economic Development
   - a. Urban Area Development
   - b. Rural Area Development
   - c. Economic Development
   - d. Commercial Development
2. The Land and Water
   - a. Agricultural Lands
   - b. Forest Lands
   - c. Water Resources
3. Transportation, Communications and Public Utilities
   - a. Transportation
4. Environmental Quality
   - a. Air, Water and Land Resource Quality

E. YCZO Provisions

The following Yamhill County Zoning Ordinance provisions are implicated by this application:

Section 1204 – Goal Exceptions

Section 1208 – Quasi-judicial Zone District Boundary Changes

F. Overlapping Requirements, Exceptions, and Roadmap to Findings.

The above-referenced land use standards and criteria require demonstration of compliance with a broad array of state and local provisions. It is not always easy to

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determine which specific statutory, goal, rule, plan and/or code provisions apply to a given proposal. Nor is it easy to resolve all of the inherent conflicts and interpretative issues that arise out of these frequently overlapping and occasionally inconsistent regulations.

The proposed map amendments comply with most of the provisions of the applicable goals and comprehensive plan provisions; however, the proposed amendments do not comply with certain other goal and plan policies that require "urban" levels of development to be located within urban growth boundaries and that prohibit development of agricultural lands. These departures from the requirements of Goals 3, 4 and 14, and from acknowledged comprehensive plan provisions implementing those goals, require the approval of "exceptions" to the goals. Exceptions are amendments to comprehensive plan provisions that set forth facts and reasons authorizing and justifying the necessary departures from the goals. In this instance, the applicant has requested "reasons" exceptions to Goals 3 and 4, and also an exception to Goal 14. The county's approval of these goal exceptions under the applicable state statutes and rules authorize the proposed amendments despite the fact that the amendments would otherwise conflict with the goals.

In these findings, applicable standards and criteria are set forth in bold-face headings and/or italicized type followed by the county's findings including facts, reasons and legal conclusions. These findings are organized so that the analysis begins with state law and proceeds to local law. Thus, the next section deals with state statutes and their implanting administrative rules, followed by a section addressing the Statewide Planning Goals and their implementing administrative rules, and a section addressing the standards for goal exceptions. Those sections are followed by sections addressing applicable standards and criteria from the county comprehensive plan and zoning ordinance. Often the same or similar criteria are found in more than one source. These findings attempt to minimize repetition and redundancy, using cross-references where possible and adding or repeating material only where necessary.

VII. STATE STATUTES

A. ORS 197.610 and 197.615 – Postacknowledment Amendments

ORS 197.610(1) and OAR 660-018-0020 require the county to forward a proposal to amend its acknowledged comprehensive plan or land use regulations to the DLCD director at least 45 days prior to the initial hearing. The county sent the requisite notice of the proposed amendments to DLCD on January 20, 2006. DLCD participated in the proceedings and submitted three letters regarding the application.

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After final approval and adoption of amendments to a comprehensive plan or land use regulation, ORS 197.615(1) and OAR 660-018-0040 require the county to submit a copy of the text of the amendment and supporting findings to DLCD within five business days after the final decision is adopted. The county must also provide notice of the adopted amendment to persons who participated in the local proceedings and requested in writing that they be provided such notice. The county will comply with these requirements upon final adoption of these findings.

B. ORS 197.712(2)(g) – Economic Development Obligation

This statute requires the county to provide "reasonable opportunities to satisfy local and rural needs for residential and industrial development and other economic activities on appropriate lands outside urban growth boundaries, in a manner consistent with conservation of the state's agricultural and forest land bases." The fact that these amendments are consistent with this purpose is demonstrated by the findings addressing Goal 9 in Section VIII.I of these findings, and by the findings justifying exceptions to Goals 3, 4 and 14 in Section IX below.

C. ORS 197.732 – Goal Exceptions

The requirements established by ORS 197.732 for goal exceptions, as well as the identical requirements of Goal 2, Part II and OAR 660 Divisions 4 and 14 are addressed in Section IX of these findings.

D. ORS 197.763 – Quasi-Judicial Land Use Hearing Procedures

The county provided mailed notice of the application to all owners of record within 750 feet of the subject property more than ten days prior to the first evidentiary hearing on the application, as required by ORS 197.763(2)-(3). More than ten days prior to the hearing before the Board of Commissioners, the county provided notice to all owners of record within 750 feet of the subject property and to all interested parties identified during the initial evidentiary hearing. The county held three evidentiary hearings on the application – two before the Planning Commission on March 2, 2006 and May 4, 2006, and another before the Board of Commissioners on June 7, 2006.

During the course of the proceedings, all documents and evidence submitted to the county by the applicant and other parties were available to the public for review at the County Planning Department offices, as required by ORS 197.763(4)(a). All county staff reports were available at least seven days prior to the hearing for which they were prepared, as required by ORS 197.763(4)(b). At the beginning of each public hearing, County Counsel made a statement identifying the applicable procedures and criteria, as required by ORS 197.763(5). Both the Planning

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Commission and the Board of Commissioners held the record open after the close of the hearings to allow parties the opportunity to provide new evidence and respond to new evidence, as provided by ORS 197.763(6).

VIII. STATEWIDE PLANNING GOALS

The Board finds that the requested amendments are consistent with all of the applicable Statewide Planning Goals, as addressed below.

A. Goal 1 - Citizen Involvement

Goal 1 requires local government to develop a citizen involvement program to ensure the opportunity for citizens to be involved in all phases of the planning process. Because Goal 1 establishes a requirement for local government to develop a program, it is not directly applicable to this decision. However, the county's citizen involvement plan has been adopted by the county and acknowledged by the Land Conservation and Development Commission. The hearings and county evaluation process for this case has been governed by that acknowledged program. For this particular request, multiple public hearings have been held by the county. The Board finds that Goal 1 has been met generally by the county and specifically in this instance.

B. Goal 2 - Land Use Planning

Part I of Goal 2 requires the establishment of the land use planning and policy framework as a basis for all decisions and actions. Part II of Goal 2 relates to the exception process that must be followed when an applicant or local jurisdiction requests an exception to a Statewide Planning Goal. The first part of Goal 2 has been met by acknowledgement of the county's comprehensive plan by LCDC. With respect to part 2, findings regarding the applicable exception criteria are set forth in Section IX below.

C. Goal 3 – Agricultural Lands

Goal 3 relates to the preservation of agricultural lands. The application requests map amendments that would allow commercial development on lands that are currently in an agriculture/forest plan map designation, and therefore an exception to Goal 3 is required. Findings addressing the applicable exception criteria are set forth in Section IX below.

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D. Goal 4 – Forest Lands

Goal 4 relates to the preservation of forest lands. The application requests map amendments that would allow commercial development on lands that are currently in an agriculture/forest plan map designation. Yamhill County has interpreted that a Goal 4 exception is not required since the property is zoned for exclusive farm use (EFU). However, opponents have asserted that a Goal 4 exception is required, and findings in support of a Goal 4 exception are included in case it is determined that such an exception is required. Findings addressing the applicable exception criteria are set forth in Section IX below.

E. Goal 5 – Open Spaces, Scenic and Historic Areas and Natural Resources

No Goal 5 natural resources (wetlands, riparian areas, wildlife habitat, etc.) are present on the subject property.

F. Goal 6 – Air, Water and Land Resources Quality

Goal 6 addresses waste and process discharges from future development and requires local governments to determine that the future discharges, when combined with existing development, would not threaten to violate or violate applicable state or federal environmental quality statutes, rules and standards. The applicants have submitted evidence establishing that they will comply with any applicable state and federal environmental laws and regulations all down the line. Therefore, Goal 6 will be met.

G. Goal 7 – Area Subject to Natural Disasters and Hazards

No such areas have been identified on the site; therefore, Goal 7 is not applicable.

H. Goal 8 – Recreational Needs

The area is not identified as a recreational resource by the county, and the application does not request approval as a destination resort; therefore, Goal 8 is not applicable.

I. Goal 9 – Economic Development

Goal 9 requires that local government provide adequate opportunities for a variety of economic activities vital to the health, welfare and prosperity of the citizens of Oregon. The new hotel will encourage economic development in Yamhill County

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by stimulating the vineyard, winery, and tourism industries in the County, and providing new employment opportunities at the hotel and restaurant. The construction of the hotel will also result in a number of temporary construction jobs that will benefit the county. The Board finds that the amendments are consistent with Goal 9.

J. Goal 10 – Housing

Goal 10 relates to housing needs, and is not applicable to this application.

K. Goal 11 – Public Facilities and Services

Goal 11 requires local governments to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development. The applicants have established that necessary public services such as fire protection are available. Water and waste treatment systems will be provided through private systems. The applicants have submitted substantial evidence in the form of testimony from Newton Consultants regarding the feasibility of providing water and from Environmental Management Systems regarding the feasibility of on-site wastewater treatment at the site. The Board's decision is conditioned upon the applicants' ability to obtain a permit for a well that will provide adequate water for the proposed use. The Board finds that the amendments are consistent with Goal 11.

L. Goal 12 – Transportation

Goal 12 requires a safe, convenient, and economic transportation system. The traffic impact analysis (TIA) prepared by Lancaster Engineering dated April 2006 demonstrates that the proposed map amendments will not have significant adverse impact on the county transportation plan nor will it prevent the county from meeting any of its citizens' transportation needs.

Goal 12 is implemented by the Transportation Planning Rule (TPR), which is set forth at OAR Chapter 660, Division 12. The TPR creates specific requirements for compliance and coordination among affected units of local government for the preparation, adoption, refinement, implementation and amendment of transportation system plans and local comprehensive plans and land use regulations.

The TPR requires that any amendments to comprehensive plans or land use regulations that "significantly affect a transportation facility" must assure that the allowed land uses "are consistent with the identified function, capacity and performance standards of the facility." An amendment "significantly affects" a transportation facility if it would: (1) change the functional classification of an

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existing or planned transportation facility; (2) change standards implementing a functional classification system; (3) allow types land uses or levels of development that are inconsistent with the functional classification of an existing or planned transportation facility; (4) reduce the performance standards of an existing or planned facility below minimally acceptable levels identified in the local transportation system plan; or (5) 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. OAR 660-012-0060(1).

For the proposed amendments to demonstrate compliance with the TPR, the Board must conclude that the traffic impacts from the proposed hotel are either within the performance standards of the impacted transportation facility or that adverse impacts are mitigated.

The Lancaster TIA considers whether any transportation facilities would be "significantly affected" by the proposed facility within the meaning of the TPR. The TIA concludes that traffic generated as a result of the proposed amendments:

- will not require the reclassification of an existing or planned roadway,
- will not alter standards of a functional classification system,
- will not create traffic volumes that are inconsistent with the current roadway functional classification system, and
- will not reduce the performance of the roadway system below acceptable performance standards.

The Lancaster TIA considers the traffic impacts of a 50-unit hotel, and analyzes current and future operations of four intersections of Highway 99W that are likely to be utilized by traffic generated by the proposed hotel. The TIA concludes that the proposed hotel would generate approximately 44 trips during the Saturday peak hour, including hotel guests, visitors, employees, delivery services, and other traffic. The Saturday peak hour rate is 25 percent higher than the weekday evening peak hour rate based on occupied rooms.

The TIA finds that the study area intersections on Highway 99W are currently operating acceptably under ODOT operational standards. By 2025, as background traffic volumes continue to increase, the intersection of Highway 18 and Highway 99W is expected to operate over capacity if the Newburg-Dundee Bypass is not constructed. However, even without considering the positive effects of the Bypass, the TIA concludes that the remaining three study area intersections will continue to

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operate well within ODOT standards and will have sufficient capacity to accommodate traffic from the proposed development. When the Bypass is constructed, the volume-to-capacity ratios for all four relevant intersections will drop to between 0.03 and 0.23, which is well below minimum applicable standards. However, because ODOT does not consider the Bypass to be a "planned facility" within the meaning of the new TPR, the Bypass cannot be considered for purposes of satisfying the TPR requirements. Therefore, regarding the intersection of Highway 18 and Highway 99W, the TIA concludes that McDougall Road to the east, and Stoller Road and McDougall Road to the west, will offer alternative routes to access Highway 99W and Highway 18, which alternative routes will have adequate capacity to accommodate traffic from the proposed development in 2025 without the Bypass in place.

The Board finds that Goal 12 and the TPR are satisfied. The Board of Commissioners expressly adopts and incorporates into its findings the Lancaster TIA dated April 2006, as well as the supplemental memoranda placed in the record by Lancaster dated May 18, 2006, June 7, 2006 and June 17, 2006. To the extent there is any discrepancy between the Lancaster materials adopted by the Board and these findings, the express findings of the Board shall govern.

M. Goal 13 – Energy Conservation

Goal 13 requires that land uses maximize conservation of all forms of energy based on sound economic principles. The goal is implemented by local plans and regulations that control location, orientation and density of development to minimize net energy consumption. As required by a condition of approval imposed by the Board, future site design review approval of the proposed hotel will require "green development" provisions, including steps designed to conserve energy, reduce vehicle trips, and conserve waste water and building materials.

N. Goal 14 – Urbanization

Compliance with the Goal 14 exception criteria is addressed below in Section IX.B of the findings, which conclude that the applicable exception criteria are satisfied.

O. Goal 15 – Willamette River Greenway

This Statewide Planning Goal is not applicable to this application.

P. Goal 16 – Estuarine Resources

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This Statewide Planning Goal is not applicable in Yamhill County.

Q. Goal 17 - Coastal Shorelands

This Statewide Planning Goal is not applicable in Yamhill County.

R. Goal 18 – Beaches and Dunes

This Statewide Planning Goal is not applicable in Yamhill County.

S. Goal 19 – Ocean Resources

This Statewide Planning Goal is not applicable in Yamhill County.

For the reasons stated above, the Board finds that the proposed amendments are consistent with all applicable Statewide Planning Goals.

IX. GOAL EXCEPTIONS

Goal exceptions are authorized under statewide planning statutes, goals and administrative rules in order to provide flexibility for situations in which a departure from the strict application of the goals is justified based on site-specific and project-specific conditions. Approval of a goal exception does not establish precedent for allowing future goal exceptions. Goal 2 defines the term "exception" as follows:

> "Exception means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that:
>
> "(a) Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;
>
> "(b) Does not comply with some or all goal requirements applicable to the subject properties or situations; and
>
> "(c) Complies with standards for an exception."

There are three types of exceptions: (1) "developed" exceptions are justified where the property is physically developed to the point where resource use is no longer practicable; (2) "committed" exceptions are justified where the nature of nearby physical development makes resource use impracticable; and (3) "reasons" exceptions are justified where there is a need for development at the site in question and where the applicant establishes that reasons justify why the policy embodied in the applicable goals should not apply, the site compares favorably with other possible locations for

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the proposed development, and the proposed use is compatible with other adjacent uses or can be made compatible through measures designed to reduce impacts.

A. Application of OAR Chapter 660 Exception Criteria

The application requests "reasons" exceptions to Goals 3, 4 and 14. The general criteria for reasons exceptions are set forth in LCDC's administrative rules at OAR 660-004-0020. The rules then provide additional "reasons" that can justify an exception at OAR 660-004-0022, including criteria that must be applied to more specific types of uses. Then, where an exception to Goal 14 is required to allow "urban" levels of use on rural land, still another set of criteria are set forth at OAR 660-014-0040. Thus, for an application that requires reasons exceptions to Goal 3 and Goal 4 along with an exception to Goal 14, the overlapping nature of these three sets of rules results in a particularly complex and Byzantine process even by "normal" exception rule standards.

The Board of Commissioners finds that the language of the exception rules, together with LUBA case law applying those rules, establish that where an exception to Goal 14 is required in conjunction with exceptions to Goal 3 or Goal 4, the exception criteria of OAR 660-014-0040 must be applied to the exclusion of the reasons exception criteria in OAR 660-004-0020 and 0022. The explanation for this conclusion is spelled out by LUBA in *Caine v. Tillamook County*, 25 Or LUBA 209 (1993), which involved an exception to Goal 14 and Goal 4. In *Caine*, the question arose regarding which specific exception criteria should be applied, and LUBA explained as follows:

> "We recognize that the parties do not argue that OAR 660-04-020 and 660-04-022 do not apply to the challenged decision. Further, it is unclear whether the challenged decision applies the standards of OAR 660-04-020 and 660-04-022. However, we believe resolution of this threshold issue is important to a useful disposition of this appeal. Accordingly, we determine whether OAR 660-04-020 and 660-04-022 apply to the challenged decision.
>
> "OAR 660-04-000(1) provides:
>
> > '* * * *Except as provided for in OAR 660 Division 14*, this Division interprets the exceptions process as it applies to state-wide Goals 3 to 19." (Emphasis supplied.)
>
> "In addition, OAR 660-04-022(1) provides:

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> '*For uses not specifically provided for in * * * OAR 660, Division 14*, the reasons shall justify why the state policies embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:
>
> ' * * * * * ' (Emphasis supplied.)

"By its own terms, OAR 660-04-022 applies to a reasons exception to applicable goals, only to the extent that OAR 660, Division 14 does not. Further, nothing in OAR 660-04-020 and 660-04-022 suggests that either of those rules were intended to impose additional standards to those articulated by OAR 660, Division 14. Therefore, the question is whether OAR 660, Division 14 applies to the proposal.

"OAR 660-14-000 states that Division 14:

> '* * * Specifies the satisfactory method of applying Statewide Planning Goals 2, 3, 4, 11 and 14 to the incorporation of new cities."

"OAR 660-14-040, the rule on the incorporation of new cities on undeveloped rural land, includes provisions applicable to 'new urban development on rural land.' OAR 660-14-040(2). Specifically, OAR 660-14-040(2) provides that:

> "A county can justify an exception to Goal 14 to allow new urban development on rural land. Reasons which can justify why the policies in Goals 3, 4, 11 and 14 should not apply can include but are not limited to [certain suggested reasons]."

"The basic issue in this appeal proceeding is whether the county's exceptions to Goals 4 and 14 are adequate. Moreover, there is no dispute that the proposal will allow the placement of urban level development on rural land. Accordingly, OAR 660-14-040 applies to the challenged exceptions to Goals 4 and 14 and OAR 660-04-020 and 660-04-022 do not apply. Therefore, no purpose is served in reviewing petitioner's challenges to the proposal's compliance with OAR 660-04-020 and 660-04-022." *Caine*, 25 Or LUBA at 219-220.

The situation reviewed by LUBA in the *Caine* decision is identical to the situation before the Board of Commissioners in this matter, in that exceptions to both

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a resource goal and Goal 14 were required, and LUBA concluded that only the Goal 14 exception criteria should be applied. LUBA also addressed the interplay between the Division 4 and Division 14 exception criteria in *DLCD v. Umatilla County*, 39 Or LUBA 715 (2001), where LUBA explained:

> "Under this framework, determining which criteria apply requires that the local government identify the character of the use for which a reasons exception is proposed. If the proposed exception involves circumstances or uses not governed by OAR 660-004-0022(2) through (10) or OAR Chapter 660, division 14, then OAR 660-004-0022(1)(a)-(c) provide the applicable criteria for determining whether reasons justify the proposed exception. If, on the other hand, the proposed exception is intended to allow *urban* development, then OAR 660-004-0022(1) directs the county to OAR 660-014-0040. Conversely, if the proposed exception is intended to allow *rural residential* development, then OAR 660-004-0022(1) directs the county to OAR 660-004-0022(2)." *DLCD v. Umatilla County*, 39 Or LUBA at 721-22.

The present application involves an exception that would allow the development of a 50-unit hotel, which is an urban level of commercial use and not "rural" use. Under the express language of the applicable LCDC rules, and for the reasons expressed by LUBA in the above-quoted cases, the Board concludes that the criteria for reviewing the proposed exceptions to Goals 3, 4 and 14 are the Division 14 rules at OAR 660-014-0040, and the reasons exception criteria at OAR 660-004-0020 and 0022 do not apply. However, as a precaution in the event that this decision is appealed and LUBA decides to reverse its prior decisions in *Caine* and *DLCD v. Umatilla County*, the Board also adopts findings that separately address the criteria of OAR 660-004-0020 and 0022 in Sections IX.C and D below.

B. OAR 660-014-0040 – Reasons Justifying the Exceptions

As explained above, the applicable exception criteria are set forth in the Division 14 rules at OAR 660-014-0040, which is entitled "Establishment of New Urban Development on Undeveloped Rural Land." For the reasons stated below, the Board finds that the application satisfies these criteria, and that the applicant has thereby established that sufficient reasons exist under Goal 2 and the Division 14 rules to justify the necessary exceptions to Goals 3, 4 and 14.

OAR 660-014-0040(2) provides that one means by which a county can justify a Goal 14 exception is to provide reasons that justify why the policies in Goals 3, 4, 11 and 14 should not apply, including findings that urban levels of facilities and services

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are necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource. However, the rule expressly states that this is not the only "reason" on which the county can justify an exception to the goals. Although proximity to a nearby natural resource is not an exclusive test for justifying exceptions under the Division 14 rules, for the reasons addressed in more detail below regarding the specific locational requirements of the proposed wine country hotel, the Board finds that this element of the rule is satisfied by the subject property's proximity to the county's wine country agricultural resources.

The proposed hotel will not create a permanent "urban population" on the subject property in the same way that expansion of an urban growth boundary would result in an urban population. The only significant development on the 65-acre property will be the hotel, which will only be temporarily inhabited by visiting hotel guests and hotel staff, and will also be subject to seasonal variations in levels of use. While the hotel will certainly increase the number of people on the property above current levels, it will not result in an "urban population" of the property within any rational meaning of that term, although the hotel will rely upon residents of urban population centers for its success. The hotel will provide urban levels of facilities and services on rural land within the meaning of Goal 14, and will allow development on land zoned for resource uses under Goals 3 and 4, and therefore exceptions to those goals are required.

The applicants' proposed wine country hotel is targeted at a specific demographic of relatively more affluent "core" wine consumers, who are the most likely wine country tourists. As explained in the ECONorthwest analysis and materials cited therein, these more affluent tourists seek small hotels and resorts, which offer more privacy and a wider array of services and amenities, rather than bed and breakfast-type accommodations. In fact, according to the profile prepared for the Washington State Business and Tourism Office titled "Washington Wine Country Visitor Profile 2003," wine country tourists prefer hotels over B&Bs by a ten-to-one ratio. The specific demographic characteristics of wine country tourists and the types of accommodations and amenities they seek are addressed in detail in the April 24, 2006 ECONorthwest analysis at pages 2-4. For such tourists, a vacation to wine country is typically an opportunity to get away from stressful jobs and noisy urban environments, and seek refuge in a quiet, relaxing, upscale environment where they can enjoy fine wines and food, and also pursue their interest in wine by visiting wineries with tasting rooms and related facilities. Wine country tourists are currently well-served by Napa Valley hotels such as Auberge du Soleil, Meadowood and Calistoga Ranch, which provide this type of wine country experience in a quiet rural atmosphere among vineyards and near wineries. As discussed in more detail below,

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the applicants' proposal is modeled after these hotels, which provide a very distinct type of lodging product with distinct site-related characteristics.

As explained in the economic analysis and supplemental materials prepared by ECONorthwest, despite the fact that Oregon (and Yamhill County in particular), is the home to many internationally known wineries that produce world-class wines, Oregon lacks a full-service "destination" hotel in the wine country area of the type found in Napa Valley, such as Meadowood, Auberge du Soleil and Calistoga Ranch. The proposed hotel will generate significant economic benefits to the County. At present, wine country tourists who decide to visit Yamhill County on a vacation are far more likely to stay in Portland than in Yamhill County, and must make at least a 60-mile round trip drive in order to visit wineries. In addition to depriving Yamhill County of tourist-related income, this situation also results in higher vehicle miles traveled and carbon emissions. As stated in the ECONorthwest study, "millions of potential tourism dollars are likely going unspent in Yamhill County because Oregon's wine country is inconvenient and does not have adequate accommodations for wine country tourists."

The need for a hotel of this type in the wine country of Yamhill County was recognized as early as 1988, when a report commissioned by Yamhill County identified a "pressing need" for a lodging and dining establishment like the proposed hotel designed to serve growing numbers of wine country tourists. That report is dated August 22, 1988 and is titled "A Feasibility Study for Destination Resort Development." The study was prepared by INTRA for the purposes of determining the potential size and type of future destination resorts in Yamhill County, identifying the target markets for such a resort, projecting the employment and economic impacts, and developing siting criteria and identifying one or more appropriate sites for such development in Yamhill County. (See INTRA Study, page 1-1). The 1988 study was submitted into the record by the applicants on May 18, 2006 and is adopted and incorporated by the Board as part of these findings.

As stated in the INTRA study, even as long ago as 1988 Yamhill County was attempting to capitalize on the tourism benefits associated with its growing wine industry by encouraging economic development associated with wine tasting and wine country tourism. The study found that "the secret to establishing Yamhill County as the wine-tasting capital of Oregon is the creation of attractive, visitor-oriented facilities." (INTRA Study, page 4-11). The study noted that "as the local wine industry gains momentum and as wine tasting in Yamhill County becomes a form of recreation, there will be a pressing need for additional overnight accommodations and dining opportunities in the County." (INTRA Study, page 2-2). The study also found that "there is a growing need for additional facilities to serve the small meeting and

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conference market." (INTRA Study, page 4-20). The study concluded that the county's wine industry was a significant tourism amenity and that the county should attempt to meet the identified needs and economic opportunities presented by the growth of the wine industry by locating a small destination resort in the wine country area. One of the locations identified for the proposed resort was the Red Hills of Dundee, where the subject property is located. (INTRA Study, page 6-1).

Eighteen years later, the Board finds that the needs and economic opportunities identified by the 1988 study have still gone largely unmet. Although there has certainly been a proliferation of bed and breakfast establishments in the wine country area, there has been no development similar to the "destination" wine country hotel that was proposed in 1988. As discussed in more detail below, a hotel of this type will fill a particular niche of overnight accommodation need that has never been met by Yamhill County, which is the reason why so many visitors to Yamhill County's world-class wineries only make day trips to the county, staying at nicer hotels in Portland instead. The Board of Commissioners finds that this unfortunate situation creates one of the "reasons" that justifies the proposed exception. As stated in the testimony of Tim Harmon of Auberge du Soleil, and repeated by Commissioner Stern during deliberations, "Yamhill County wines are known as some of the finest wines in the world, and they deserve a world class resort that compliments and supports them."

The need identified by the 1988 study was also well-described in the oral and written testimony of many individuals who have appeared before the planning commission in this matter. As explained in the correspondence from Dr. Eric Fruits of ECONorthwest dated May 17, 2006, multiple parties, including opponents of the application, testified regarding the existing need for a hotel of this type in Yamhill County. One such individual is Jack Czarnecki, the owner and chef of the Joel Palmer House Restaurant in Dayton. Mr. Czarnecki is a nationally recognized and well-respected chef who is currently a director of Distinguished Restaurants of North America, a board member of the American Institute of Wine and Food, and a founding member of the Society of American Cuisine. Since opening in 1997, the Joel Palmer House has become nationally recognized as one of the best restaurants not just in Yamhill County, but in all of the Pacific Northwest. In his capacity as chef and proprietor of a nationally acclaimed restaurant in Dayton, Mr. Czarnecki has the opportunity to interact with hundreds of guests who travel to Yamhill County to experience the food and wine of the region. In correspondence to the planning commission dated May 17, 2006, Mr. Czarnecki testified as follows:

> "We see many of the tourists who visit this county. Most of them visiting from around the world as well as from around the country are coming for the world class pinot noir produced here. These are travelers

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who frequently visit the wine growing areas of France, Spain, Germany, Italy, and California. They are puzzled that we do not have a world class facility for accommodating these individuals who spend hundreds if not thousands of dollars annually on wine. Many of these visitors are restaurateurs who carry the wines in their establishments. But where do they stay? Indeed we have many fine B&Bs in the area, but that type of accommodation is NOT acceptable for many of these guests who are more comfortable with the amenities a small hotel provides. Amenities are key here because these individuals are used to luxury accommodations, not motel-type creature comforts. Any issue of Wine Spectator will easily illustrate the types of small hotels prevalent in these other wine areas. Thus, Yamhill County is at a COMPETITIVE DISADVANTAGE when it comes to competing with those areas for accommodations. Our own Yamhill County Visitors Association tried to enact a room tax to use for promotion of our great county but was turned down. Opponents averred that other methods could be used to promote this area. Well, here is one of those methods - the building of a small luxury hotel to strengthen the magnet of this area to attract more tourists. It is a shame how many of these tourist come down for a day because we do not have what they consider proper accommodations. They are staying at the Vineyard Suites, The Heathman, The Benson, etc. – all quality, UPSCALE, hotels an hour away! They should be staying here and spending their dollars here."

Similar testimony was provided by Paul Hart of Rex Hill Winery, who stated in correspondence dated May 18, 2006:

"Our winery is visited by more than 40,000 people each year and the two most frequent non-wine questions we get from are visitors are where can I eat and where can we sleep nearby. The first question is being answered by the development of several first rate restaurants to which we are proud to send our visitors. The answer to the second question is much harder, especially if the guests are looking for first class accommodations. Although the many local Bed and Breakfasts provide a satisfying and comfortable experience for their guests, the few which can provide truly first class experience are usually reserved.

"The result for many guests now is that they stay in a hotel in Portland and commute to the Yamhill County wine country during the day."

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The Board agrees with the above-quoted testimony and finds that this application provides Yamhill County with a significant and timely opportunity for economic development by providing a major boost to the county's wine industry in general, and the wine tourism industry in particular. The Board finds that approval of this application furthers economic development in Yamhill County, consistent with the requirements of Goal 9, which requires the county to provide adequate opportunities for a variety of economic activities vital to the health, welfare and prosperity of the citizens of Oregon. As addressed in more detail in the Board's findings below regarding the ESEE requirements, the new hotel will encourage economic development in Yamhill County by stimulating the vineyard, winery, and tourism industries in the County, and providing new employment opportunities at the hotel and restaurant. The construction of the proposed hotel will also result in a number of temporary construction jobs that will benefit the county.

The Board also finds that ORS 197.340(1) must be considered in this application. ORS 197.340(1) provides that local governments, as well as both DLCD and LCDC, "shall give the goals equal weight in any matter in which the goals are required to be applied." The Board finds this to mean that Goal 9 has as much weight as Goals 3, 4 or 14 in this proceeding. The Board finds, based on substantial evidence in the whole record, that the economic development potential of this application for the county outweighs any concerns regarding Goals 3, 4 or 14. Specifically, the significant economic advantages associated with the proposed hotel outweigh concerns regarding the placement of an "urban" use on rural land, or the loss of 12 acres of EFU-zoned land that is not commercially viable for agricultural production and has not been in agricultural production for at least ten years.

The Board also agrees with the evidence submitted by ECONorthwest and the applicants regarding the characteristics of the proposed hotel that are necessary to meet the needs of the identified wine country tourists – those characteristics are similar to a private country estate that will also provide a complete wine country experience, including a rural setting among vineyards and proximity to wineries with tasting rooms. This conclusion is consistent with the findings of the 1988 INTRA study, which identified the Red Hills of Dundee as a potential location for the proposed wine country resort. It is also consistent with evidence submitted by the applicants regarding the three successful Napa Valley hotels that their proposal is modeled after. Based on this evidence, and as addressed in more detail below, the Board finds that the proposed hotel is entirely dependent upon critical locational factors, including proximity to wineries with on-site tasting rooms, vineyards, and other wine tourism opportunities, relative seclusion resulting from distance from major highways and population centers, and an idyllic rural setting with expansive views of the surrounding countryside and nearby vineyards. These locational

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requirements, together with the identified need for a hotel of this kind in Yamhill County, the county's need to expand and diversify its economy and promote its growing wine industry, and other reasons contained in the materials submitted by the applicants and addressed in these findings, provide the reasons that justify the exceptions to Goals 3, 4 and 14 to allow siting of the proposed wine country hotel. Also, the Board finds that the subject property has not been in commercial agricultural use for at least 10 years, in part because elevations on the site are too high for quality grape production, that the current property owners have been unable to sell the property for agricultural purposes, and that the property is not in farm or forest tax deferral. Therefore, the removal of this 12 acres of land from agricultural zoning will not have any discernable impact on the county's agricultural economy.

Additional reasons supporting the development of the proposed hotel and the required goal exceptions are set forth in the applicants' materials, including the analysis provided by ECONorthwest. The Board expressly adopts and incorporates as part of its findings the following materials submitted by the applicants: (1) the application narrative dated April 24, 2006; (2) the ECONorthwest analysis entitled "Characteristics of a Luxury Wine Country Hotel in Yamhill County, Oregon," dated April 24, 2006; (3) the alternatives analysis submitted by the applicants dated April 24, 2006; (4) correspondence provided by Dr. Eric Fruits of ECONorthwest dated May 17, 2006, May 25, 2006 and June 19, 2006, together with all attachments including the 1988 INTRA study; (5) correspondence from Perkins Coie dated May 18, 2006, together with its five attachments; and (6) correspondence from Perkins Coie dated June 19, 2006, together with its six attachments. To the extent there is any discrepancy between the above-referenced materials adopted by the Board and these findings, the express findings of the Board shall govern.

"(3) To approve an exception under section (2) of this rule, a county must also show:

"(a) That Goal 2, Part II(c)(1) and (c)(2) are met by showing that the proposed urban development cannot be reasonably accommodated in or through expansion of existing urban growth boundaries or by intensification of development in existing rural communities;

As explained above, the Board finds that the proposed development has specific locational requirements that cannot be reasonably accommodated in an urban area or an existing rural community. The type of hotel accommodations required to meet the needs of the targeted wine country tourists include characteristics similar to a private country estate, in a rural setting among vineyards. The Board agrees with the applicants' alternatives analysis, and finds that the proposed hotel requires at least 35

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acres in a quiet and idyllic rural setting, which provides privacy, serenity, expansive views of the surrounding countryside, as well as close proximity to vineyards, wineries, wine tasting rooms and related uses that are compatible with a relaxing wine country "getaway" vacation. These necessary site characteristics are a fundamental part of the success of this type of hotel, as demonstrated by the success of the three Napa Valley hotels described by the applicants in their June 19, 2006 memorandum entitled "Characteristics of Napa Valley Hotels: Meadowood, Auberge du Soleil and Calistoga Ranch." As described in that memorandum and the accompanying aerial photographs and site descriptions, the specific type of hotel development being proposed precludes a location within an urban area:

> "The type of facility being proposed by the applicant would be unique to Oregon, and is modeled after three hotels that are in a very rare class of their own, which cannot be compared to similarly sized hotels that are located in cities. These are luxurious "getaway" hotels that are specifically designed and located so as to provide guests with a beautiful and secluded environment, where they can spend several days in the heart of wine country, enjoying local wines as well as an excellent on-site restaurant, spa facilities, and other amenities. These hotels are unique in their extremely high standards of service, world-class amenities, and their idyllic rural location amidst the vineyards and forests of Napa Valley. These characteristics are also the necessary characteristics of the applicant's proposal, which, like the three hotels considered in this memo, could never succeed if located adjacent to a highway or in a noisy urban environment.
>
> "As shown on the attached photographs and tables, the applicant's proposed site and development characteristics are nearly identical to those of Meadowood, Auberge du Soleil, and Calistoga Ranch. Each are located in a beautiful and secluded rural setting with expansive views of the countryside, in close proximity to vineyards and wineries, on a minimum of 33 acres, and each provide the types of amenities for guests that are expected at hotels of this type.
>
> "Many opponents of the application have argued that there is no reason the proposed hotel could not be located in an urban area. While a run-of-the mill 50-room hotel might be successful somewhere within the Newberg UGB, the proposal is to create a hotel that is targeted at the same 'core' wine tourist demographic as the three Napa Valley locations. Like Meadowood, Auberge du Soleil, and Calistoga Ranch, the proposed use requires a serene and secluded rural environment. As explained in the written testimony of Tim Harmon, manager of Auberge du Soleil: 'a quiet rural setting among

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vineyards is a necessary element of success for a wine country hotel of this type. This type of luxury resort requires seclusion, views, and ambiance that simply could not be found in an urban environment.'"

The subject property is unique in that it provides all of the necessary site-related requirements. The subject property is in the heart of Yamhill County's wine country, within 20 minutes' driving time of more than 20 wineries, including approximately 12 nearby wineries with the desired vineyard setting and on-site tasting rooms, and within walking distance of two. At approximately 65 acres, it is large enough to meet the site size requirement. The property also provides a quiet rural setting with beautiful hilltop views of the countryside, and includes enough acreage to ensure that the hotel will be surrounded by landscaping, open space, and other resource-related uses that will be compatible with the needs of the hotel guests. Any site that did not include these features would not provide the necessary features to meet the required need and would not result in a successful project. Additionally, the Board finds that approving an exception for the subject property allows the proposed hotel to be developed without taking any viable agricultural uses out of production.

The Board also relies on the testimony placed in the record by ECONorthwest and by Tim Harmon of Auberge du Soleil. In correspondence dated May 25, 2006, Mr. Harmon explained:

> "In my experiences with hotels of this type, the 35-acre site size identified in the application is the minimum size that would be required to operate the proposed hotel with associated restaurant, spa, meeting facilities and grounds. A site of this size, which is consistent with our other properties, is essential to create a low density project that is both environmentally sensitive and that will have little or not impact to the surrounding area.
>
> "Also, as I explained at the hearing, a quiet rural setting among vineyards is a necessary element of success for a wine country hotel of this type. This type of luxury resort requires seclusion, views, and ambiance that simply could not be found in an urban environment. A luxury hotel simply will not work if it is located in a town or city location."

This issue is also addressed in the correspondence from ECONorthwest dated May 18, 2006 and May 25, 2006, as well as their initial analysis dated April 24, 2006. The May 18, 2006 letter explains:

> "The placement of existing luxury wine country hotels indicates that tourists demand more isolated rural settings that foster a feeling of seclusion and relaxation. For example, Auberge du Soleil and Meadowood are located on

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private vineyard estates in rural locations; Calistoga Ranch is located in a secluded canyon with an on-site vineyard. No 4- or 5-star wine country hotels are located in urbanized areas.

"ECONorthwest notes in its report that nearly two-thirds of the B&B rooms available in Yamhill County are located outside of urbanized areas. This is a clear indicator that B&B tourists heavily favor non-urbanized settings for their overnight visits to Yamhill County. The most widely cited exemplar of luxury accommodations in Yamhill County, the Black Walnut Inn and Vineyard, is in a 'private and comfortable setting,' 'set amid vineyards, orchards and acres of forest.

"[Tim] Harmon, CEO of Auberge Resorts testified on May 4, 2006, noted that all of Auberge's properties were located outside of urban areas and that a 'city location defeats a resort.' Indeed, he testified, 'If it would work in a city, then we would do it.' He admitted that rural areas have challenges of their own, specifically higher building costs. However, the demand for rural locations and the rates such demand can generate, makes rural luxury development financially feasible."

For the reasons described above, and additional reasons provided by the applicants and the materials submitted by ECONorthwest, the Board agrees that the proposed development could not be reasonably accommodated in or through expansion of existing UGBs, or in existing rural communities, which are generally located along busy state highways. The applicant has provided substantial evidence to support a finding that the specific requirements for the proposed luxury wine country hotel include certain features, amenities, views, and a location that would preclude an urban setting. The Board also adopts and incorporates by reference its findings in Sections IX.C and D below addressing the Division 4 exception rules as part of these findings addressing the Division 14 exception rules.

(b) That Goal 2, Part II(c)(3) is met by showing that the long-term environmental, economic, social and energy consequences resulting from urban development at the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located on other undeveloped rural lands, considering:

(A) Whether the amount of land included within the boundaries of the proposed urban development is appropriate, and

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(B) *Whether urban development is limited by the air, water, energy and land resources at or available to the proposed site, and whether urban development at the proposed site will adversely affect the air, water, energy and land resources of the surrounding area.*

The Board finds that the long-term environmental, economic, social and energy consequences resulting from locating the hotel on the subject property will not be significantly more adverse than locating the hotel on other undeveloped rural lands. The Board notes that this rule does not create a particularly high standard, but simply requires a determination that the ESEE consequences resulting from the proposed hotel "are not *significantly* more adverse" than would result from the hotel being placed on another undeveloped rural lands.

The analysis required by this section of the rule is addressed in the applicants' ESEE analysis, which the Board adopts and incorporates as part of its findings. Specifically, the Board adopts and incorporates the following: (1) the applicants' alternatives analysis dated April 24, 2006; (2) the applicants' revised ESEE analysis dated May 18, 2006; and (3) correspondence from Perkins Coie dated May 18, 2006 and June 19, 2006, which provide additional analysis of the ESEE consequences arising out of specific alternative sites identified by opponents Sid Friedman of 1000 Friends of Oregon and Kathy Miller. To the extent there is any discrepancy between the above-referenced materials adopted by the Board and these findings, the express findings of the Board shall govern.

As an initial matter, the Board finds that the alternative locations on resource land identified by project opponents Kathy Miller, in her letter dated May 2, 2006, and Sid Friedman of 1000 Friends of Oregon in his letter dated March 2, 2006 were not identified or described with sufficient specificity for the applicants or the Board to properly analyze the ESEE consequences associated with those properties as compared to the subject property. The Board agrees with the applicants' statements in the May 18, 2006 revised ESEE analysis that "Ms. Miller has not provided sufficiently specific facts regarding why she believes [the sites] would have significantly fewer adverse impacts to require the applicant to provide a detailed evaluation," and that "Mr. Friedman has not provided detailed information explaining why the [sites] would have less adverse ESEE consequences than the subject property." Despite the lack of information provided by Ms. Miller, the applicants undertook their own investigation of the identified parcels, and submitted evaluations of those properties in correspondence to the Board dated June 19, 2006, which evaluations are adopted and incorporated by the Board as part of these findings. The Board also expressly adopts the applicants' analysis regarding the sites referenced by Mr. Friedman in the revised ESEE analysis dated May 18, 2006.

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The Board finds that the ESEE impacts that will result from siting the proposed hotel on the subject property are not significantly more adverse than if the hotel were located on other undeveloped rural lands. As discussed above in the Board's findings regarding other subsections of the Goal 14 rule, the proposed wine country hotel is extremely dependent on certain critical locational factors, including proximity to wineries with on-site tasting rooms, vineyards, and other wine tourism opportunities, relative seclusion resulting from distance from major highways and population centers, and an idyllic rural setting with expansive views of the surrounding countryside and nearby vineyards. The applicants' alternatives analysis and ESEE analysis reviewed the potential alternative sites based on three criteria that are essential to the viability of the proposed hotel: (1) minimum site size of 35 acres set among or adjacent to vineyards; (2) maximum 20-minute travel time from the highest concentration of vineyards and wineries with tourist amenities; and (3) accessible to improved local and regional transportation facilities while not negatively affected by noise or view of such facilities.

As explained in the applicants' ESEE analysis and the materials submitted by ECONorthwest, the ultimate success of the hotel, and the resulting economic benefits to Yamhill County and its residents, are entirely dependent on these characteristics, which are all present at the subject property. Therefore, the economic aspect of the ESEE analysis weighs heavily in favor of the subject property, rather than other undeveloped rural lands that do not provide the same necessary characteristics, including the alternative locations identified in the materials submitted by Kathy Miller and 1000 Friends of Oregon.

Evidence provided by ECONorthwest indicates that the proposed hotel will provide seasonal employment for a minimum of 50 employees using an approximate average of one staff person to support each hotel room. In addition, the hotel is intended to support convention and meeting facilities as well as banquet rooms for private events such as weddings in the off season. The proposed hotel is expected to facilitate sale and consumption of wines produced at local wineries and will also facilitate and extend the name recognition of Yamhill County wineries stimulating sales in other national and international markets. The Board finds that in other locations such as Napa Valley, California, such wine country hotels also support sightseeing, shopping in local shops and art galleries, antiquing, and dining at restaurants in nearby areas. Consequently, the proposed hotel will have a positive economic impact on nearby commercial and retail establishments. Also, the hotel will provide additional employment, which will make more money available in Yamhill County for commercial transactions generally.

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The economic effect of the hotel on Yamhill County local wineries will be very positive due to increased use of tasting rooms and increased exposure of the local product to the wine drinkers irrespective of the site selected. The interaction between hotel guests and the local wineries, and the resulting economic benefit derived from that interaction, are greater for the subject property than other potential locations in other parts of the county, because of the site's unique proximity to so many wineries. The targeted clientele of the hotel will include wine tourists from all over the country and the world, which will provide increased visibility, recognition and distribution of Yamhill County wines in the global marketplace. As noted at the hearing before the Board, the national and international wine-related press have been inquiring with the applicants about the status of the proposed hotel, and an article about the proposal has already been published in Wine Spectator magazine.

The Board finds that the hotel will provide significant economic benefits to Yamhill County, so long as it is successful. As described elsewhere in these findings, in order to be successful the hotel requires certain locational characteristics including a rural setting among vineyards with expansive views of the countryside, and proximity to vineyards and wineries with tasting rooms. As explained in the applicants' revised ESEE analysis dated May 18, 2006 and the correspondence from Perkins Coie dated June 19, 2006, and as indicated on the maps submitted by the applicants on April 24, 2006 and May 18, 2006, the majority of alternative locations in rural areas identified by the opponents lack the requisite proximity to wineries with tasting rooms and other tourist facilities. In particular, the two properties owned by Sid Friedman of 1000 Friends of Oregon are too distant from Highway 99W and too remote from the identified concentration of wineries among vineyards with tasting rooms and other tourist facilities. Also, uncontroverted evidence in the record indicates that access to the Friedman properties is sub-standard, requiring travel on an unpaved gravel road used by logging trucks. As explained in the applicants' materials, the alternative sites identified by Ms. Miller are also either located in areas that have no view, are too distant from wine country, or are otherwise located in areas that would be incompatible with or inappropriate for the proposed luxury hotel.

The Board accepts the applicants' analysis of the relative environmental, social and energy consequences of siting the proposed hotel at the subject property rather than at other identified rural locations. The environmental, social and energy consequences related to the proposed site will not be significantly different from other potential locations on resource land. The amount of land proposed to be included within the boundaries of the proposed development is appropriate, because the applicant is requesting an exception only affecting an approximately 12-acre portion of the entire 65-acre site, which is the minimum amount of land required for the footprint of the hotel, and will allow the remainder of the subject property to remain in

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EFU zoning and to be placed in agricultural use. The applicants propose to plant the southern portions of the property in grapes, which would enhance the wine country atmosphere and would also result in a net increase in the amount of land being put to agricultural use on the subject property.

The Board finds that the site is not limited by soil, air, water or energy capacity nor will the proposed use adversely affect air, water, energy and land resources of the surrounding area. The applicants have submitted substantial evidence regarding the feasibility of obtaining the necessary permits for water rights, which will include monitoring provisions designed to assure that a new well for the hotel will not adversely affect other water rights in the area. The Board is attaching a condition of approval requiring that the applicant must obtain a water right for the hotel within three years after any appeals of this decision are resolved; in the event such water right is not obtained, the applicants shall be required to initiate necessary map amendments to return the property to EFU zoning.

(c) That Goal 2, Part II(c)(4) is met by showing that the proposed urban uses are compatible with adjacent uses or will be so rendered through measures designed to reduce adverse impacts considering:

(A) Whether urban development at the proposed site detracts from the ability of existing cities and service districts to provide services; and

(B) Whether the potential for continued resource management of land at present levels surrounding and nearby the site proposed for urban development is assured.

The Board finds that the proposed hotel will be compatible with adjacent uses, or will be rendered compatible through measures designed to reduce any adverse impacts. The proposed hotel will only require approximately 12 acres of the 65-acre property. As indicated on the applicant's proposed site plan, the hotel will be located toward the center of the parcel, away from surrounding adjacent uses, which will create buffers that will minimize external impacts. The Board is also imposing conditions of approval that will reduce potential impacts. The adjacent Timmons Quarry property to the northwest is being purchased by the developer of the proposed hotel, and the Board is attaching a condition of approval requiring that the site will no longer be used as a quarry. Property to the north is forested, but is not being managed for commercial forestry purposes. There are vineyards and wineries adjacent to the property on the south and west, and a bed and breakfast called Wine Country Farms is located to the southwest, across Breyman Orchards Road. The Board is attaching a condition of approval stating that it is not the responsibility of adjacent agricultural

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operators to modify their existing accepted practices to accommodate the hotel and/or its guests.

Regarding the compatibility of the proposed hotel with adjacent agricultural uses, the Board finds that the applicants' proposed wine country hotel is targeted at a specific demographic of relatively more affluent "core" wine consumers, who are the most likely wine country tourists. As explained in the ECONorthwest analysis and materials cited therein, these more affluent tourists seek small hotels and resorts, which offer more privacy and a wider array of services and amenities, rather than bed and breakfast-type accommodations. In fact, according to the profile prepared for the Washington State Business and Tourism Office titled "Washington Wine Country Visitor Profile 2003," wine country tourists prefer hotels over B&Bs by a ten-to-one ratio. The specific demographic characteristics of wine country tourists and the types of accommodations and amenities they seek are addressed in detail in the April 24, 2006 ECONorthwest analysis at pages 2-4. For such tourists, a vacation to wine country is typically an opportunity to get away from stressful jobs and noisy urban environments, and seek refuge in a quiet, relaxing, upscale environment where they can enjoy fine wines and food, and also pursue their interest in wine by visiting wineries with tasting rooms and related facilities.

As documented in the applicants' submittals and elsewhere in these findings, the identified wine country tourists are seeking resort-hotel types of accommodations that include characteristics similar to a private country estate and also provide a complete wine country experience, including a setting among vineyards and proximity to wineries with vineyards and tasting rooms. The Board finds that guests using the hotel will expect to share the environment and atmosphere of the vineyards and wine country, and that agricultural practices associated with wine production will be accepted, and even welcomed, as part of the overall wine country experience. Guests in the targeted demographic will understand the wine industry, and will expect and accept the necessary agricultural practices associated with growing and harvesting grapes, which practices will actually enhance their overall wine country experience.

On this point, the Board also relies upon evidence submitted into the record on May 25, 2006 by Tim Harmon of Auberge du Soleil, which is one of the Napa Valley hotels the applicants' proposal is modeled after. Auberge du Soleil is located immediately adjacent to the vineyards of Rutherford Ranch and Rutherford Hill. As stated by Mr. Harmon in his letter:

> "I understand that several opponents of the project have argued that the proposed hotel would be inherently incompatible with agricultural practices on nearby vineyards, because the guests will be bothered by

noise and activities required for those operations. However, guests at a hotel of this type are typically looking for a legitimate wine country experience, and to the extent there are agricultural activities going on, for example, at the adjacent vineyards of Domaine Drouhin Oregon, it is my experience that such activities will only enhance the experience of the guests. For example, the Auberge du Soleil is directly adjacent to two wineries, Rutherford Ranch and Rutherford Hill. The relationship is mutually beneficial: we provide a place for their guests to stay and we feature their wines at our restaurant while they provide our guests with a nearby wine country experience."

The Board also relies on correspondence submitted on June 19, 2006 by the General Manager of Rutherford Ranch Winery, which explains that since 1985 Auberge du Soleil has been operating immediately adjacent to Rutherford Ranch, and since that time there have been no conflicts between the hotel and winery operations, and that "it has been our experience that guests at a hotel of this type are specifically seeking the opportunity to interact with the wine country atmosphere, and the proximity to our winery and vineyards only serve to enhance that experience."

Several opponents have generally raised the possibility of conflicts between the hotel and agricultural practices, citing in particular noise cannons that are used in some vineyard operations to scare birds away from the vines. The Board notes that there has been no evidence put into the record regarding whether Domaine Drouhin or other nearby vineyard owners actually use noise cannons on their property, and therefore these alleged concerns are purely speculative. The Board also notes that, if such noise cannons are actually used on property near the proposed hotel, those devices are typically used only during relatively short periods of the year near harvest, and in any event do not create an inherent incompatibility with the hotel.

Regarding potential impacts from traffic, access to the site will be from the south on Breyman Orchards Road. As concluded in the TIA prepared by Lancaster Engineering, the proposed hotel will generate only approximately 44 trips during the peak hour on Saturday, and there are no resulting capacity issues on Breyman Orchards Road. The Board finds that traffic generated by the proposed hotel will be compatible with other uses to the south and west.

The Board finds that the proposed urban development on the subject property will have no impact on the ability of existing cities and service districts to provide services. Also, for the reasons stated above and in the materials adopted and incorporated as part of these findings, the Board finds that continued resource management of nearby land will not be affected by the proposed hotel. The proposed

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map amendment and exceptions only apply to approximately 12 acres of the 65-acre site, and there will be significant buffers between the hotel and adjacent agricultural uses. The nature of the proposed use is very low-impact with regard to adjacent uses, and will be sensitive to the needs of nearby vineyards due to the interests of the clientele, who are specifically seeking a "wine country" vacation. Also, as noted above, the Board is imposing a condition of approval requiring that it is not the responsibility of adjacent agricultural operators to modify their existing accepted practices to accommodate the hotel and/or its guests. In response to concerns raised by one of the opponents, hotel guests will obviously not be permitted to trespass onto any adjacent vineyard properties.

(d) That an appropriate level of public facilities and services are likely to be provided in a timely and efficient manner.

The applicants have established that any necessary public services are available. Water and waste treatment systems will be provided through private systems. The applicants have submitted substantial evidence in the form of testimony from Newton Consultants, Inc. regarding the feasibility of providing water and from Environmental Management Systems regarding the feasibility of on-site wastewater treatment at the site. The Board finds that testimony from water consultants Newton Consultants, Inc. supports a finding that it is feasible to provide appropriate levels of water for the proposed use in a timely and efficient manner. The Board adopts this finding of feasibility based on all of the oral testimony provided at the hearings by Newton Consulting representatives, as well as the written submittals in the record from Newton Consulting dated April 20, 2006 and May 25, 2006. The Board is attaching conditions of approval requiring that the applicant must obtain a water right that can provide adequate water for the hotel within three years after any appeals of this decision are resolved; in the event such water right is not obtained, the applicants shall be required to initiate necessary map amendments to return the property to EFU zoning. The Board also finds that any other necessary public facilities and services, including fire protection, can also be readily provided.

The Board finds that OAR 660-014-0040(3)(e) is not applicable, because no urban growth boundary or establishment of a new city is proposed.

C. OAR 660-004-0020(4) – Reasons Justifying the Exceptions

As explained above, the Board finds that by demonstrating compliance with the criteria of OAR Chapter 660, Division 14, the applicants have satisfied all applicable requirements and provided the necessary reasons to support approval of the requested exceptions to Goals 3, 4 and 14 under the provisions of the rules and LUBA's opinions

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in *Caine* and *DLCD v. Umatilla County*. However, in the event that LUBA elects to reverse its earlier decisions and conclude that the Division 4 rules must also be applied for purposes of obtaining exceptions to Goals 3 and 4, the Board includes the following findings.

OAR 660-004-0020(4) and Goal 2, Part II(c) establish 4 factors to be addressed when taking a "reasons" exception to a Statewide Planning Goal. Those factors and related findings are set out below. The Board also adopts and incorporates by reference the reasons set forth in its findings in Section IX.B above regarding the Division 14 rules as part of its findings addressing the Division 4 rules.

> *(a) Reasons justify why the state policy embodied in the applicable goals should not apply. The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land.*

The state policy contained in Goals 3 and 4 provide for the protection of agricultural and forested lands. Nevertheless, the Board finds that the specific locational requirements for a hotel of this type, as described in Section IX.B of these findings, do not provide the opportunity to site the hotel within an existing exception area or within an urban growth boundary. The proposal will further the economic development of Yamhill County, and will specifically bolster the county's burgeoning wine industry. The proposed hotel will also encourage the use of locally produced products and will generate new employment opportunities. The requested exception affects only approximately 12 acres of the 65-acre site, and that land has not been used for agricultural production in at least 10 years. The high elevation of the property precludes commercial vineyard uses. The proposed exception will not take any land that is currently in agricultural use out of production.

As explained in the economic analysis and supplemental materials prepared by ECONorthwest, despite the fact that Oregon (and Yamhill County in particular), is the home to many internationally known wineries that produce world-class wines, Oregon lacks a full-service "destination" hotel in the wine country area of the type found in Napa Valley, such as Meadowood, Auberge du Soleil and Calistoga Ranch. The proposed hotel will generate significant economic benefits to the County. At present, wine country tourists who decide to visit Yamhill County on a vacation are far more likely to stay in Portland than in Yamhill County, and must make at least a 60-mile round trip drive in order to visit wineries. In addition to depriving Yamhill County of tourist-related income, this situation also results in higher vehicle miles traveled and

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carbon emissions. As stated in the ECONorthwest study, "millions of potential tourism dollars are likely going unspent in Yamhill County because Oregon's wine country is inconvenient and does not have adequate accommodations for wine country tourists."

The applicants' proposed wine country hotel is targeted at a specific demographic of relatively more affluent "core" wine consumers, who are the most likely wine country tourists. As explained in the ECONorthwest analysis and materials cited therein, these more affluent tourists seek small hotels and resorts, which offer more privacy and a wider array of services and amenities, rather than bed and breakfast-type accommodations. In fact, according to the profile prepared for the Washington State Business and Tourism Office titled "Washington Wine Country Visitor Profile 2003," wine country tourists prefer hotels over B&Bs by a ten-to-one ratio. The specific demographic characteristics of wine country tourists and the types of accommodations and amenities they seek are addressed in detail in the April 24, 2006 ECONorthwest analysis at pages 2-4. For such tourists, a vacation to wine country is typically an opportunity to get away from stressful jobs and noisy urban environments, and seek refuge in a quiet, relaxing, upscale environment where they can enjoy fine wines and food, and also pursue their interest in wine by visiting wineries with tasting rooms and related facilities. Wine country tourists are currently well-served by Napa Valley hotels such as Auberge du Soleil, Meadowood and Calistoga Ranch, which provide this type of wine country experience in a quiet rural atmosphere among vineyards and near wineries.

The type of hotel accommodations required to meet the needs of the identified wine country tourists include characteristics similar to a private country estate that will also provide a complete wine country experience, including a rural setting among vineyards and proximity to wineries with tasting rooms. The proposed hotel is entirely dependent upon critical locational factors, including proximity to wineries with on-site tasting rooms, vineyards, and other wine tourism opportunities, relative seclusion resulting from distance from major highways and population centers, and an idyllic rural setting with expansive views of the surrounding countryside and nearby vineyards. These locational requirements, together with the identified need for a hotel of this kind in Yamhill County, the county's need to expand and diversify its economy and promote its growing wine industry, and other reasons contained in the materials submitted by the applicants and addressed in these findings, provide the reasons that justify the exceptions to Goals 3, 4 and 14 to allow siting of the proposed wine country hotel. Also, the Board finds that the subject property has not been in commercial agricultural use for at least 10 years, in part because elevations on the site are too high for quality grape production, that the current property owners have been unable to sell the property for agricultural purposes, and that the property is not in

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farm or forest tax deferral. Therefore, the removal of this 12 acres of land from agricultural zoning will not have any discernable impact on the county's agricultural economy.

Reasons supporting the development of the proposed hotel are set forth in the applicants' materials, including the analysis provided by ECONorthwest. The Board expressly adopts and incorporates as part of its findings the following materials submitted by the applicants: (1) the application narrative dated April 24, 2006; (2) the ECONorthwest analysis titled "Characteristics of a Luxury Wine Country Hotel in Yamhill County, Oregon," dated April 24, 2006; (3) the alternatives analysis submitted by the applicants dated April 24, 2006; (4) correspondence provided by Dr. Eric Fruits of ECONorthwest dated May 17, 2006, May 25, 2006 and June 19, 2006, together with all attachments; (5) correspondence from Perkins Coie dated May 18, 2006, together with its five attachments; and (6) correspondence from Perkins Coie dated June 19, 2006, together with its six attachments. To the extent there is any discrepancy between the above-referenced materials adopted by the Board and these findings, the express findings of the Board shall govern.

The Board finds that this application provides Yamhill County with a significant and timely opportunity for economic development and a major boost to the county's wine industry in general, and the wine tourism industry in particular; these economic advantages to the county outweigh the countervailing loss of a mere 12 acres of EFU-zoned land that is not viable for agricultural production and has not been in agricultural production for at least ten years. The Board finds that the policies embedded in Goal 3 and Goal 4 regarding protection of farm and forest land should not apply to this proposed development, because it is a locationally dependent use that can only be sited in a rural setting, outside of urban growth boundaries. This locationally dependent use requires a minimum of 35 acres in an idyllic rural setting in Yamhill County's wine country, but away from major highways, with expansive views of the surrounding countryside and adjacent vineyards.

(b) Areas which do not require an exception cannot reasonably accommodate the use.

This portion of the rule requires consideration of possible alternative locations for the use that would not require a new exception; in other words, existing exception areas or other locations inside an existing UGB. The rule provides that "economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas." Regarding the required scope of the alternatives analysis, OAR 660-004-0020(2)(b)(C) provides as follows:

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"Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding."

Based on the requirements of this rule, the applicants prepared an alternatives analysis dated April 24, 2006, which provides a broad review of similar types of areas ranging from urban areas to exception areas, and applies certain specific locational and site-related criteria as part of the analysis. The alternatives analysis includes an attached table and maps that identify certain general and specific areas that were considered as part of the applicants' review, and applies the wine country hotel siting criteria to those areas, concluding that none of those areas could reasonably accommodate the proposed use. The Board expressly adopts and incorporates the applicants' alternatives analysis dated April 24, 2006 and the attached table and maps as part of the Board's findings under this criterion.

As required by the above-quoted portion of OAR 660-004-0040(2)(b)(C), where opponents of the project identified specific alternative sites with sufficient facts to support their assertion that those sites are more reasonable, the applicants provided a more detailed site-specific analysis. In addition to the April 24, 2006 alternatives analysis, the applicants provided responses regarding specific alternative sites in the ECONorthwest analysis titled "Characteristics of a Luxury Wine Country Hotel in Yamhill County, Oregon," dated April 24, 2006, and correspondence from Perkins Coie dated May 18, 2006 and June 19, 2006. The Board expressly adopts and incorporates these documents, as well as the attached maps and other documents, as part of the Board's findings. To the extent there is any discrepancy between the above-referenced materials adopted by the Board and these findings, the express findings of the Board shall govern.

The geographic area for the applicants' alternatives analysis includes lands east of Newberg to west of McMinnville, and south to Dayton and north to Yamhill. Land categories within this area were evaluated against specific siting criteria for the wine country hotel in order of the urbanization hierarchy: inside urban growth boundaries, in county-zoned Recreational Commercial lands, and exception areas. This analysis of alternative sites satisfies the underlying questions that must be addressed when

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concluding that "areas which do not require a new exception cannot reasonably accommodate the use." As required by OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements (2)(b)(B)(i-iii), these questions are:

(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land?

(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses?

(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary?

The Board finds that a wine country hotel is a distinct type of lodging product that has distinct site-related characteristics. This finding is based on evidence in the record established by the ECONorthwest study entitled "Characteristics of a Luxury Wine Country Hotel in Yamhill County, Oregon," together with other evidence in the record including but not limited to the applicants' analyses of the site characteristics of Auberge du Soleil, Meadowood and Calistoga Ranch in Napa Valley, supplemental memoranda from ECONorthwest and the testimony of Tim Harmon of Auberge. Generally, lodging is dependent upon visibility from and easy access to highways as well as proximity to businesses. However, wine country hotels require more isolated rural settings that foster a feeling of seclusion and relaxation. As documented in the ECONorthwest study and other evidence in the record, the market for a wine country hotel consists of "core" wine consumers who seek accommodations within wine country that are sophisticated, private and luxurious. Furthermore, inherent in the definition of a wine country hotel is its setting within "wine country"; that is, a location among the very vineyards and wineries without which the wine country hotel would have no basis. In the same manner as a beach hotel must be located on or near the beach, a wine country hotel must be located in the midst of wine country.

Based upon the distinct and necessary characteristics of wine country hotels, the applicants applied a set of specific locational criteria for evaluation of the alternative areas within the lands hierarchy. These include: (1) a minimum site size of 35 acres set among or adjacent to vineyards; (2) maximum 20-minute travel time from the highest concentration of vineyards and wineries with tourist amenities in Yamhill County; and (3) accessible to improved local and regional transportation facilities while not being negatively affected by traffic noise or view of these facilities.

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Consistent with the facilities and amenities found in other wine country hotels such as Auberge du Soleil in Napa Valley, OTAK, Inc. submitted a conceptual development program and site plan for a wine country hotel that requires a minimum of 35 acres. This provides for the necessary acreage for the footprint of the facilities and the accessory estate-like setting and amenities. The second part of this criterion requires that the site be located among or adjacent to vineyards. Because a wine country hotel is wholly dependent upon its location among vineyards and wineries, this is a fundamental siting criterion that, by definition, must be met.

As provided in the ECONorthwest study and the applicants' alternatives analysis, close proximity to wineries is defined as being within a maximum 20-minute drive time. Accordingly, all areas within the land hierarchy were evaluated for drive time to a central point within the greatest concentration of wineries in Yamhill County, which is that area located between Dundee and Lafayette north of Highway 99W. This area was identified as the most suitable subarea for a wine country hotel within the overall alternatives analysis area for two reasons.

First, as shown on the area maps attached to the applicants' April 24, 2006 and May 18, 2006 submittals, this area contains the greatest concentration of wineries in Yamhill County: approximately 22 wineries, including 12 with tasting rooms. No other subarea in the county contains as many wineries in such close proximity to each other. This cluster provides a critical mass of winery tourist facilities that, in turn, creates the most viable market for a wine country hotel. As such, it is that area to which the siting of a wine country hotel is most reasonably focused.

Second, the geographic setting of these wineries and tasting rooms is predominantly the rustic, vineyard setting that patrons of a wine country hotel seek in their overall wine tourism experience. Therefore, this subarea location is the most congruent with the needs of the core wine market.

Access to a wine country hotel must balance the competing needs of accessibility to regional and local facilities, while not suffering from the negative effects of these, such as noise and unattractive views. In Yamhill County's wine country, the vast majority of wine tourists, and consequently future patrons of a wine country hotel, approach this area from the east along Highway 99W. Accordingly, alternative sites within proximity to Highway 99W are the most reasonable for the siting of the wine country hotel, which is key for the success of a wine country hotel in addition to the environmental benefits conveyed by not increasing vehicle miles traveled. Local facilities should be improved or, if not improved, limited to short distances that do not impede travel to a luxury wine country hotel. Accessibility must be tempered by the need to limit exposure to the negative impacts of transportation

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facilities. Therefore, sites must be located out of visual and audible distances of transportation facilities as a means to preserve the fundamental bucolic setting of a wine country hotel.

The table attached to the applicants' alternatives analysis contains the detailed analysis in which the wine country hotel siting criteria were applied generally to the lands in the study area. Based on this analysis, the Board finds that there are no alternative sites within the area that can "reasonably accommodate" the wine country hotel.

Regarding other specific sites identified by opponents of the project, the applicants provided responses to the extent that those sites were identified with sufficiently specific facts to support a claim that those areas could accommodate the proposed hotel. For example, in correspondence dated March 2, 2006, 1000 Friends of Oregon generally identified the entire Newberg urban reserve area, which comprises over 400 acres of land adjacent to the existing urban growth boundary. By generally identifying over 400 acres of land, 1000 Friends of Oregon did not identify any particular "site" with sufficiently specific facts to support the assertion that those locations are more reasonable. Similarly, the March 2, 2006 1000 Friends of Oregon correspondence also references several other large areas such as the "Southwest Dundee Exception Area," the "Red Hills Road Exception Area," and the "Dundee Riverside" without providing the requisite description of specific alternative sites with facts to support their claim that those areas could reasonably accommodate the proposed hotel. The Board finds that these sites were not identified with sufficient specificity by 1000 Friends to require detailed responses from the applicants or to allow the Board to make site-specific findings regarding whether they could reasonably accommodate the proposed use.

The same deficiencies exist regarding all 23 sites identified in correspondence from Kathy Miller dated May 2, 2006. In that letter, Ms. Miller identifies 23 alternative sites by tax lot number and acreage, and generally states that those sites are more reasonable because they are "not 94% high value farmland and can be accessed by roads that are not sub-standard." However, the roads to the subject property are also "not sub-standard," and Ms. Miller's general statements do not provide sufficient facts on which the Board could find that the alternative sites are either more or less reasonable than the subject property. The Board finds that these sites were not identified with sufficient specificity by Ms. Miller to require detailed responses from the applicants or to allow the Board to make site-specific findings regarding whether they could reasonably accommodate the proposed use.

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Nonetheless, in the event that LUBA finds that the opponents did specifically describe facts to support their assertions that the sites are more reasonable, the Board adopts the following findings regarding all of the specific alternative sites.

Dundee Riverside

As stated above, 1000 Friends of Oregon failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether there are specific properties that could reasonably accommodate the proposed use. According to 1000 Friends of Oregon, this area consists of approximately 275 acres of land in the eastern portion of the City of Dundee between existing development and the Willamette River. The Board agrees with the applicants' analysis that this area could not reasonably accommodate the proposed hotel for each of the following independent reasons: (a) as indicated by maps submitted into the record by the applicants, this area is directly in the path of the approved Newberg-Dundee bypass corridor, and would be either directly impacted by the construction of the bypass or would be rendered unsuitable for the proposed hotel due to the external impacts of the bypass, notably noise and view; (b) the area is within the UGB and is therefore designated to be developed at urban levels, which is not consistent with the specific locational criteria discussed above and in Section IX.B of these findings, which require a quiet rural setting; and (c) the area does not satisfy the wine country hotel siting criterion requiring a vineyard setting.

Newberg Urban Reserve Areas

As stated above, 1000 Friends of Oregon failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether there are specific properties that could reasonably accommodate the proposed use. These areas total over 400 acres and are located to the north/east, south and west of the City of Newberg. The Board adopts and incorporates the analysis set forth in the table attached to the applicants' alternatives analysis regarding these areas. Like the Dundee Riverside area addressed above, the south Newberg urban reserve area is directly in the path of the approved Newberg-Dundee bypass corridor, and is therefore unsuitable for the same reasons. Regarding the north and east urban reserve areas, the Board finds that these areas have been specifically identified as a high priority for future expansion of the Newberg UGB and future urban development, which is not consistent with the specific locational criteria discussed above and in Section IX.B of these findings that require a quiet rural setting; also, the areas to the north and east do not satisfy the wine country hotel siting criterion requiring a vineyard setting and also have relatively poor access to Highway 99W. Regarding the west Newberg urban reserve area, it does not appear that 1000

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Friends of Oregon have actually identified this area as a potential alternative site, because their March 2, 2006 letter only identifies the former Urban Reserve Areas A-D, and does not include areas E and F, which are to the west. Because this western area was not specifically identified by project opponents, the Board has no basis on which to make specific findings regarding the relative reasonableness of that area, except to adopt the analysis provided in the table attached to the applicants' alternatives analysis.

Austin Property

This property includes commercially zoned land within the City of Newberg near the railroad tracks. The Board finds that the property is within the UGB and is therefore designated to be developed at urban levels, which is not consistent with the specific locational criteria discussed above and in Section IX.B of these findings, which require a quiet rural setting. Specifically, the property is located in a busy commercial and industrial area near the railroad tracks, which would preclude successful development of the specific type of luxury wine country hotel being proposed. Also, the property does not satisfy the siting criterion requiring a vineyard setting. Finally, the Board notes that evidence in the record indicates that the Austin property is already being developed for another hotel use, and the property would therefore not be available for use by the applicants in any event.

Springbook Oaks

This is an area located in the eastern portion of the City of Newberg that is planned and designated as a live-work environment, with mixed residential and light industrial and office development. The Board finds that, based on evidence placed in the record by the applicants received from Newberg planning staff, most of the area described in the 1000 Friends of Oregon letter has already been developed in the manner planned by the city and therefore could not reasonably accommodate the proposed hotel. This evidence has not been disputed by any of the opponents in their subsequent evidentiary submittals. The Board further finds that for the same reasons expressed above regarding other urban sites identified by opponents, the urban location would preclude successful development of the specific type of luxury wine country hotel being proposed.

Red Hills Road Exception Area

As stated above, 1000 Friends of Oregon failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether there are specific properties that could reasonably accommodate the proposed use. The area is simply described by 1000 Friends in their

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March 2, 2006 letter as a 164-acre exception area in a rural setting within a 20-minute drive of "many wineries," concluding with the erroneous statement that "Red Hills Road provides access to the heart of wine country." However, the applicants provided a significantly more detailed analysis of this exception area in correspondence from Perkins Coie dated June 19, 2006, which explains that this location could not reasonably accommodate the proposed hotel based on the criteria applied in the alternatives analysis and other obvious shortcomings. The area is heavily parcelized, consisting primarily of parcels between three and seven acres. It is not located in a vineyard setting; rather, this exception area is primarily characterized by existing rural residential uses on smaller parcels. The property does not have a suitable view, and is not in sufficiently close proximity to the concentration of wineries identified by the applicant. Access to the heart of wine country from this area is indirect, and would need to be via Highway 240 to the north, because Red Hills Road is an unimproved gravel road to the south. This evidence was not disputed by any of the opponents during the subsequent open record period, and therefore the Board accepts the evidence submitted by the applicants and rejects this as a viable alternative site.

Southwest Dundee Exception Area

As stated above, 1000 Friends of Oregon failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether there are specific properties that could reasonably accommodate the proposed use. In fact, evidence submitted by the applicants in the ECONorthwest analysis dated April 24, 2006 indicates that according to Dundee planning staff there is no exception area to the southwest of Dundee. In subsequent letters to the county that include specific responses to the ECONorthwest analysis, 1000 Friends of Oregon has failed to provide any further statements or evidence regarding the existence of a "southwest Dundee exception area" or its relative suitability for the proposed use. Therefore, the Board accepts the evidence submitted by the applicants and rejects this as a viable alternative site.

Flying M Ranch

As indicated on the area maps attached to the applicants' April 24, 2006 and May 18, 2006 submittals, the Flying M Ranch is located a significant distance from the wine country area, in the far northwest portion of the maps. The Flying M Ranch is accessed by dirt and gravel roads and is an approximately 55-minute drive from the concentration of wineries in Yamhill County that were considered by the applicants. The Board notes that the 1988 INTRA study also specifically rejected the Flying M Ranch for further consideration as a potential resort site for the same reason, concluding that "the Flying M Ranch is a destination in its own right for residents and

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visitors alike. However, its distance from the 99W/18 corridor makes it an unlikely base for visitors touring the Wine Country." (INTRA Study, page 4-17). Also, the Board concurs with the applicants' conclusion that the site does not provide the necessary vineyard setting or views required for the proposed hotel.

Riverwood Golf Course

Although this site was formerly zoned Recreation Commercial, it has been recently rezoned EFU and converted from a golf course to a filbert orchard. The Board finds that this property is not properly considered as part of the alternatives analysis under OAR 660-004-0020 for this reason. Also, separately and independently, the Board finds that because of the recent conversion to farm use, the property is not available for use as a hotel. Finally, the Board agrees with the statements in the applicants' alternatives analysis regarding the fact that the property does not provide the necessary vineyard setting or views required for the proposed hotel, and therefore could not reasonably accommodate the proposed use.

Miller Sites P, Q and R

As stated above, Kathy Miller in her correspondence dated May 2, 2006 failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether these properties could reasonably accommodate the proposed use. Nonetheless, as indicated on the maps attached to the applicants' May 18, 2006 submittal, many of the sites identified by Ms. Miller, including sites P, Q and R, are located north and west of Willamina, approximately one hour away from the heart of wine country. These properties are too far down Highway 99W, requiring significantly further travel from Portland and the county's wineries. Therefore, for the reasons stated in the applicants' alternatives analysis and correspondence from Perkins Coie dated May 18, 2006, the Board finds that these sites are too remote to reasonably accommodate the proposed hotel.

Miller Site A-6

As stated above, Ms. Miller in her correspondence dated May 2, 2006 failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether this property could reasonably accommodate the proposed use. In contrast, in correspondence from Perkins Coie dated June 19, 2006, the applicants submitted the following detailed evidence into the record, which was not challenged by Ms. Miller or other opponents: "This property is located south of Highway 240 and can only be accessed via Highway 240 and a narrow private road from the east (Herring Lane). It is traversed on the north side by BPA power transmission lines and towers. It is not located among vineyards and has

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no appreciable view. The property is located adjacent to a llama farm and other agricultural uses. Access to the property is poor and it is beyond the 20-minute minimum travel time to the concentration of wineries identified by the applicant in the alternatives analysis. The area is also characterized by rural residential development that would be inconsistent with the proposed use." The Board accepts the detailed and uncontroverted evidence submitted by the applicants and finds that this property could not reasonably accommodate the use.

Miller Site I

As stated above, Ms. Miller in her correspondence dated May 2, 2006 failed to provide a sufficiently detailed factual description of this area that would allow the Board to make site-specific findings regarding whether this property could reasonably accommodate the proposed use. In contrast, in correspondence from Perkins Coie dated June 19, 2006, the applicants submitted the following detailed evidence into the record, which was not challenged by Ms. Miller or other opponents: "This site is located about half a mile up a gravel road beyond Lemelson Vineyards, and is too distant from the concentration of wineries identified by the applicant to reasonably accommodate the proposed hotel. Also, the property is heavily forested, is not set among vineyards, and has no view. The area is characterized by nearby agricultural uses and forest. The environmental consequences of locating the hotel on this site would be more adverse due to the need to remove a significant amount of trees for development of the hotel." The Board accepts the detailed and uncontroverted evidence submitted by the applicants regarding this site in both their April 24, 2006 and May 18, 2006 submittals, and finds that because of the lack of a vineyard setting, lack of requisite views, and lack of proximity to the winery concentration and Highway 99W, this property could not reasonably accommodate the proposed hotel use.

As concluded in the applicants' alternative sites analysis and supplemental materials, there are no other exception areas or areas within urban growth boundaries that are of sufficient size and location to reasonably accommodate this type of use. The use requires at least 35 acres of relatively secluded property in a rural wine country area, among vineyards and away from major highways, with expansive views of the countryside. The Board finds that the applicants have considered both urbanized and unincorporated portions of Yamhill County, and correctly concluded that no other parcels in Yamhill County that would not require an exception could reasonably accommodate the proposed luxury wine country hotel.

(c) *The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with*

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measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception. The exception shall describe the characteristics of each alternative area considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for use not allowed by the goal and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts.

The analysis required by this section of the rule is provided above in Section IX.B of these findings addressing OAR 660-014-0040(3)(b), and in the ESEE analysis and supplemental detailed site information submitted by the applicants in correspondence from Perkins Coie. The Board notes that all this rule requires is a determination that the ESEE consequences resulting from the proposed hotel "are not *significantly* more adverse" than would result from the hotel being placed in another undeveloped rural area that would also require an exception. This rule does not create a particularly high standard. For the same reasons set forth in Section IX.B of these findings, the Board finds that the long-term ESEE consequences resulting from developing the hotel on the proposed site are not significantly more adverse than would result from the hotel being placed in another undeveloped rural area that would also require a goal exception, particularly with the stated conditions of approval and other identified measures designed to reduce adverse impacts.

(d) The proposed uses are compatible with other adjacent uses or will be rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be compatible with the adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices.

The analysis required by this section of the rule is provided above in Section IX.B of these findings addressing OAR 660-014-0040(3)(c). For the same reasons set forth in Section IX.B of these findings, the Board finds that the proposed uses are compatible with other adjacent uses, particularly with the stated conditions of approval and other identified measures designed to reduce adverse impacts. The proposed hotel will be situated on only approximately 12 acres of the 65-acre site, and will be buffered from adjacent agricultural uses by open space and vineyards that will be planted by the applicants.

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D. OAR 660-004-0022

This administrative rule supplements OAR 660-004-0020 by providing examples of the types of reasons that may be relied upon to justify an exception to Goal 3 or Goal 4 for certain types of uses.

> *(a) For uses not specifically provided for in subsequent sections of 660-004 or 660-014 the reasons shall justify why the state Policy embodied in the applicable goal should not apply. Such reasons include but are not limited to the following:*
>
> *(1) There is a demonstrated need for the proposed use or activity based on one or more of the requirements of Statewide Goals 3 to 19; and either*
>
> *(2) A resource upon which the proposed use or activity is dependent can be reasonably obtained only if the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity and must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or*
>
> *(3) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

The express language of this section of the rules states that it does not apply where, as here, the requested exception contemplates uses provided for under the Division 14 rules. As explained above in Section IX.A of these findings, the Board finds that OAR 660-004-0022 does not apply where an "urban" use is requested that requires application of the Goal 14 rule at OAR 660-014-0040. However, the Board adopts the following findings in the event that LUBA decides to re-interpret the rules and reverse its prior decisions on this issue.

The demonstrated need for this proposed use is established above in Section IX.B of these findings, which are incorporated here by reference. Under OAR 660-004-0022(1), one example of a reason that can be relied upon to establish the justification for an exception is that the exception will enable a local government to meet one or more of its planning obligations. Such obligations can be found in both

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the Statewide Planning Goals and in the county's acknowledged comprehensive plan. The Board finds that in Yamhill County, the requested exceptions for the proposed hotel are necessary to allow a use that has been identified as an essential means by which the county can meet its requirements under Statewide Planning Goal 9, "Economic Development," and implementing policies of the Yamhill County Comprehensive Plan, in order to achieve the county's goals of diversification and stabilization of the local economy.

The Board finds that ORS 197.340(1) requires that local governments, DLCD and LCDC, "shall give the goals equal weight in any matter in which the goals are required to be applied." The Board finds this to mean that Goal 9 has as much weight as Goals 3, 4 or 14 in this proceeding. The Board finds, based on substantial evidence in the whole record, that the economic development potential of this application for the county outweighs any concerns regarding inconsistencies with Goals 3, 4 or 14. Specifically, the significant economic advantages associated with the proposed hotel outweigh concerns regarding the placement of an "urban" use on rural land, or the loss of 12 acres of EFU-zoned land that is not viable for agricultural production and has not been in agricultural production for at least ten years.

As explained in the economic analysis and supplemental materials prepared by ECONorthwest, despite the fact that Oregon (and Yamhill County in particular), is the home to many internationally known wineries that produce world-class wines, Oregon lacks a full-service "destination" hotel in the wine country area of the type found in Napa Valley, such as Meadowood, Auberge du Soleil and Calistoga Ranch. The proposed hotel will generate significant economic benefits to the County. At present, wine country tourists who decide to visit Yamhill County on a vacation are far more likely to stay in Portland than in Yamhill County, and must make at least a 60-mile round trip drive in order to visit wineries. In addition to depriving Yamhill County of tourist-related income, this situation also results in higher vehicle miles traveled and carbon emissions. As stated in the ECONorthwest study, "millions of potential tourism dollars are likely going unspent in Yamhill County because Oregon's wine country is inconvenient and does not have adequate accommodations for wine country tourists."

The need for a hotel of this type in the wine country of Yamhill County was recognized as early as 1988, when the INTRA study commissioned by Yamhill County identified a "pressing need" for a lodging and dining establishment like the proposed hotel designed to serve growing numbers of wine country tourists. That study indicates that even as long ago as 1988 Yamhill County was attempting to capitalize on the tourism benefits associated with its growing wine industry by encouraging economic development associated with wine tasting and wine country

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tourism. The study found that "the secret to establishing Yamhill County as the wine-tasting capital of Oregon is the creation of attractive, visitor-oriented facilities." (INTRA Study, page 4-11). The study noted that "as the local wine industry gains momentum and as wine tasting in Yamhill County becomes a form of recreation, there will be a pressing need for additional overnight accommodations and dining opportunities in the County." (INTRA Study, page 2-2). The study also found that "there is a growing need for additional facilities to serve the small meeting and conference market." (INTRA Study, page 4-20). The study concluded that the county's wine industry was a significant tourism amenity and that the county should attempt to meet the identified needs and economic opportunities presented by the growth of the wine industry by locating a small destination resort in the wine country area. One of the locations identified for the proposed resort was the Red Hills of Dundee, where the subject property is located. (INTRA Study, page 6-1).

The Board finds that the needs and economic opportunities identified by the 1988 study have still gone largely unmet. Although there has certainly been a proliferation of bed and breakfast establishments in the wine country area, there has been no development similar to the "destination" wine country hotel that was proposed in 1988. As discussed in more detail below, a hotel of this type will fill a particular niche of overnight accommodation need that has never been met by Yamhill County, which is the reason why so many visitors to Yamhill County's world-class wineries only make day trips to the county, staying at nicer hotels in Portland instead. As stated in the testimony of Tim Harmon of Auberge du Soleil, and repeated by Commissioner Stern during deliberations, "Yamhill County wines are known as some of the finest wines in the world, and they deserve a world class resort that compliments and supports them." Additional testimony regarding the need for a hotel of this type is discussed above in Section IX.B of these findings, and in the ECONorthwest analysis dated April 24, 2006 and supplemental correspondence from ECONorthwest that has been adopted and incorporated by the Board.

The Board finds that there is an identified and unmet need for a hotel of this type in order for the county to meet its obligations under Goal 9 to provide opportunities for economic activities vital to the health, welfare and prosperity of its citizens. The need for this hotel is also supported by Yamhill County Comprehensive Plan Section 1.F, which relates to Economic Development and recognizes that economic diversification "results in a stronger, more stable local economy by increasing employment opportunities." The Economic Development Plan provisions require the county to "maintain a rate and pattern of economic growth sufficient to prevent recurring high levels of unemployment and under-employment in the county, balance the real property tax base of the various cities, and strengthen local economic bases." The Board finds that the Plan identifies a need to diversify the economy,

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encourage economic growth and strengthen local economic bases. The proposed hotel responds to that need by furthering economic activity within the wine industry, stimulating additional tourism in Yamhill County, and strengthening the local economic base and the county's tax base. The proposed hotel will provide the county with an important vehicle, not otherwise available, to meet the identified economic needs and goals by providing diversification and strengthening the local economy.

Evidence provided by ECONorthwest indicates that the proposed hotel will provide seasonal employment for a minimum of 50 employees using an approximate average of one staff person to support each hotel room. In addition, the hotel is intended to support convention and meeting facilities as well as banquet rooms for private events such as weddings in the off season. The proposed hotel is expected to facilitate sale and consumption of wines produced at local wineries and will also facilitate and extend the name recognition of Yamhill County wineries stimulating sales in other national and international markets. The Board finds that in other wine-producing areas such as Napa Valley, California, wine country hotels also support sightseeing, shopping in local shops and art galleries, antiquing, and dining at restaurants in nearby areas. Consequently, the proposed hotel will have a positive economic impact on nearby commercial and retail establishments. Also, the hotel will provide additional employment, which will make more money available in Yamhill County for commercial transactions generally, and will also increase the county's overall tax base.

The economic effect of the hotel on Yamhill County local wineries will be very positive due to increased use of tasting rooms and increased exposure of the local product to the wine drinkers irrespective of the site selected. The interaction between hotel guests and the local wineries and other local businesses will result in significant economic benefits to the county's wine tourism industry and also to the county as a whole. The targeted clientele of the hotel will include wine tourists from all over the country and the world, which will provide increased visibility, recognition and distribution of Yamhill County wines in the global marketplace. As noted at the hearing before the Board, the national and international wine-related press have been inquiring with the applicants about the status of the proposed hotel, and an article about the proposal has already been published in Wine Spectator magazine. The resulting economic benefit derived from the hotel will allow the county to meet its obligations under Goal 9 and Plan Policy 1.F to maintain economic growth and strengthen the local economic base.

The Board finds that, for the reasons explained above in Section IX.B of these findings, the proposed use or activity has special features and qualities that necessitate its location on or near the proposed exception site. The subject property is unique in

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that it provides all of the necessary site-related requirements identified in the applicants' alternatives analysis. The subject property is in the heart of Yamhill County's wine country, within 20 minutes' driving time of more than 20 wineries, including approximately 12 nearby wineries with the desired vineyard setting and on-site tasting rooms, and within walking distance of two. At approximately 65 acres, it is large enough to meet the site size requirement. The property also provides a quiet rural setting with beautiful hilltop views of the countryside, and includes enough acreage to ensure that the hotel will be surrounded by landscaping, open space, and other resource-related uses that will be compatible with the needs of the hotel guests. Any site that did not include these features would not meet the required need and would not result in a successful project. Fortunately, the subject property also allows the proposed hotel to be developed without taking any viable agricultural uses out of production.

As explained above, and in the ECONorthwest analysis, the hotel will be a significant economic generator for the area and for the County in general. Its location is necessary for it to achieve its success. In order to attract visitors and "core" wine tourists, it must be located in a wine country location, on a parcel with sufficient size and views to provide a "destination" wine country experience.

X. COMPREHENSIVE PLAN POLICIES

The application complies with most, but not all, of the applicable Yamhill County Comprehensive Plan policies. However, the only Plan policies that are inconsistent with the map amendments are those policies that require "urban" levels of development to be located within urban growth boundaries and that prohibit development of agricultural lands. These departures from the county's acknowledged Plan provisions may be allowed based on the Board's approval of the requested goal exceptions. The county's approval of the requested goal exceptions under the applicable state statutes and rules authorize the proposed amendments despite the fact that the amendments would otherwise conflict with certain Plan policies. Therefore, as indicated below, the Board's decision approving the requested exceptions means that many otherwise applicable Plan policies are not relevant.

Plan Section I – Urban Growth and Change and Economic Development

A. Urban Area Development

Goal Statement 1: To encourage the containment of growth within existing urban centers, provide for the orderly, staged, diversified and compatible development of all of the cities of Yamhill County, and assure an efficient transition from rural to urban land use.

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Policy A: Yamhill County will, in cooperation with the cities and special districts of the county, encourage urban growth to take the form of a series of compact, balanced communities, each with its own business and community center and each related to industrial areas and other centers of employment.

Policy C: Yamhill County will recognize the lands within established urban growth boundaries as the appropriate and desired location for urban development.

Goal Statement 2: To encourage the containment of urban services and facilities and other public capital improvements within existing urbanizing areas in order to achieve an orderly pattern of urban growth.

These county goal statements and associated policies are intended to implement Goal 14 by requiring urban levels of development to occur within urban areas. The Board has adopted findings identifying the reasons why the policies and standards of Goal 14 should not apply to the present application, and explaining why the proposed development meets the applicable exception criteria. Therefore, these county goals and policies implementing Goal 14 are not relevant to this application.

B. Rural Area Development

Goal Statement 1: To provide an adequate amount of land, development areas and sites to accommodate those uses which are customarily found in rural areas or require or are better suited to rural locations, without compromising the basic goal relating to urban containment and orderly urban development.

The Board finds that the application is consistent with this goal statement. As explained in the applicants' alternatives analysis and the ECONorthwest analysis, and as set forth in the Board's findings in Section IX.B above, the proposed hotel use can only be located in a rural setting, rather than an urban setting, and other sites that do not require exceptions cannot reasonably accommodate the proposed use. The development of a single hotel on 12 acres will not compromise the basic goal of providing a compact urban form and orderly urban development.

Policy B: All proposed rural area developments shall be based on a reasonable expectation of the demand for the use of such land or facilities within a reasonable period of time and no large-scale development shall be approved without:

1. The submission and approval of a layout and design concept, with provision for the staging and servicing of all phases of the development;

2. The approval of all federal and state agencies relative in any applicable health, safety and environmental controls; and

3. An adequate demonstration of the financial capacity and responsibility of the proponents to complete the development and provide for operation and maintenance services.

The Board finds that these policies will be addressed in conformance with applicable YCZO standards at the time of Site Design Review and actual development of the proposed hotel. For purposes of the map amendments and exceptions at issue in this proceeding, the applicant has submitted a proposed site plan that identifies the approximate location of the hotel and the area of the requested map amendments. Also, for the reasons explained in the ECONorthwest analysis and supplemental memoranda, and in the Board's findings in Section IX above, the requested exception is consistent with this policy because the proposed development is based on a reasonable expectation of the demand for a luxury wine country hotel in Yamhill County.

Policy C: *All proposed rural area development and facilities:*

1. Shall be appropriately, if not uniquely, suited to the area or site proposed for development;

2. Shall not be located in any natural hazard area, such as a floodplain or area of geologic hazard, steep slope, severe drainage problems or soil limitations for building or sub-surface sewage disposal, if relevant;

3. Shall be furnished with adequate access and an adequate individual or community water supply, if required; and shall not be justified solely or even primarily on the argument that the land is less costly than alternative better sites or that federal or state aid is available in the form of subsidized water supply or sewerage extensions from nearby urban centers.

The Board finds that the proposed development is consistent with these policies. For the reasons explained in Section IX of these findings regarding the specific locational requirements for the proposed hotel, the hotel is appropriately, if not uniquely, suited to the site proposed for development. Also, the proposed hotel will not be located in a natural hazard area and has adequate access. The Board has found that water service for the hotel is feasible, and has conditioned its approval on the applicant's ability to provide adequate water supply and to obtain the necessary permit for a well within three years.

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Policy D: No proposed rural area development shall require or substantially influence the extension of costly services and facilities normally associated with urban centers, such as municipal water supply and sanitary sewerage or power, gas and telephone services, nor shall it impose inordinate additional net costs on mobile, centralized public services, such as police and fire protection, school busing or refuse collection.

The Board finds that for the reasons stated elsewhere in these findings, the proposed development does not require the extension of costly utilities to the site, and does not impose inordinate additional net costs on public services such as police and fire protection.

C. Alternative Development

The Board finds that these policies are not applicable to the present application, and do not create mandatory approval criteria in any event.

D. City Growth and Development

The Board finds that these policies apply to urban development within cities, annexation and urban reserve areas, and are therefore not applicable to the present application.

E. Housing

The Board finds that these goals and policies relate to the provision of adequate housing in Yamhill County, and do not apply to the present application.

F. Economic Development

The Plan indicates that the county has found that economic diversification generally results in a stronger and more stable local economy because it increases employment opportunities, and that high levels of unemployment have traditionally been a problem. The Plan also acknowledges that new industries have entered the county to help alleviate this situation.

Goal Statement: *To maintain a rate and pattern of economic growth sufficient to prevent recurring high levels of unemployment and under-employment in the county, balance the real property tax base of the various cities, and strengthen local economic bases.*

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Policy A: Yamhill County will, in cooperation with the cities, local chambers of commerce and affiliated industrial promotion grounds, and State agencies concerned with the State and regional economic development, encourage a diversified employment base, the strengthening of trade centers, and the attraction of both capital and labor intensive enterprises, consistent with the needs of each community and the County as a whole.

The Board finds that the proposed hotel and accessory uses including the meeting facility, restaurant and spa will encourage a diversified employment base in the county. The proposed hotel will require the hiring of a minimum of 50 employees. It also will result in attraction of tourists and business oriented visitors to the area who are likely to patronize the local wineries and vineyards, as well as many other area businesses. The hotel will also support the Yamhill County wine industry by attracting a nationwide clientele of wine consumers who are seeking this type of wine country tourist experience. The Board adopts and incorporates by reference its findings in Section IX.B regarding the beneficial economic impacts of the hotel on the economy of the county.

Policy B: Yamhill County will encourage economic development projects which do not conflict with the predominant timber and agricultural character of the county.

The approximately 65-acre property contains several areas formerly in agricultural use but which have not been in commercial agricultural use for at least 10 years. Based on evidence in the record, the Board finds that elevations on the site are too high for quality grape production, the current property owners have been unable to sell the property for agricultural purposes, and the property is not in farm or forest tax deferral. The Board has adopted findings approving exceptions to Goals 3 and 4 for the subject property, and finding that the removal of this 12 acres of land from agricultural zoning will not have any discernable impact on the county's agricultural economy. The Board finds that the hotel will not conflict with the predominant timber and agricultural character of the county, and will further Plan policies regarding economic development and diversification of the county's economy. The proposed hotel would provide overnight accommodations for tourists and meeting facilities that will allow larger groups of people to remain in the area, which would supplement and enhance the local vineyard industry and the county's growing wine tourism industry. The Board adopts and incorporates by reference its findings in Section IX.B regarding the beneficial economic impacts of the hotel on the economy of the county.

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Policy C: *Yamhill County will ensure citizen participation in economic development planning through the continued involvement of the Yamhill County Economic Development Committee.*

Policy D: *Yamhill County will develop an Overall Economic Development Program which is consistent with the county comprehensive plan. This program will be outlined in an updated Overall Economic Development Plan which, upon completion, will be incorporated into the economic element of the county comprehensive plan.*

The Board finds that these policies create citizen involvement and planning requirements that do not create mandatory approval criteria for the county's review of quasi-judicial map amendment applications.

G. Commercial Development

Goal Statement: *To create an environment for commercial development which will preserve and enhance the vitality of the central business districts, assure safer, more convenient and attractive community and neighborhood commercial centers, and protect prime commercial sites for use in advance of need.*

Policy C: *Commercial uses unsuited to downtown areas will normally be restricted to other areas within the urban growth boundary.*

Policy E: *Highway service and tourist commercial uses catering to the needs of the traveling public will be encouraged to locate within existing urban centers. Traditional central commercial uses will be encouraged to locate or relocate only in existing town centers and the dispersal of such uses to peripheral highway locations will be discouraged.*

Policy G: *Recreational commercial uses will be encouraged to locate within urban growth boundaries or in compatible urban areas where their location and space requirements can be most satisfactorily fulfilled.*

The Board finds that these county goal statements and associated policies are not stated as mandatory approval criteria, but create aspirational goals directing the county to "encourage" commercial development to occur in urban areas; as such, these general planning policies designed to "encourage" growth in a certain location cannot be relied upon by the county as a means to deny the present quasi-judicial plan amendment application. The Board also finds that these policies are intended to implement Goal 14 by encouraging commercial development to occur in downtown

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areas within urban growth boundaries. The Board has adopted findings identifying specific reasons why the policies and standards of Goal 14 should not apply to the present application, and explaining why the proposed development meets the applicable exception criteria. Therefore, even if these county goals and policies contained mandatory approval criteria, they are not relevant to this application.

H. Industrial Development

The Board finds that these goals and policies regarding industrial development do not apply to the present application.

Plan Section II – The Land and Water

A. Agricultural Lands

Goal Statement 1: *To conserve Yamhill County's farm lands for the production of crops and livestock and to ensure that the conversion of farm land to urban use where necessary and appropriate occurs in an orderly and economical manner.*

Goal Statement 2: *To conserve Yamhill County's soil resources in a manner reflecting their suitability for forestry, agriculture and urban development and their sustained use for the purposes designated on the county plan map.*

The Board finds that these goal statements and related implementing policies are intended to implement Goal 3 by generally prohibiting development of agricultural lands. The Board has adopted findings identifying specific reasons why the policies and standards of Goal 3 should not apply to the present application, and explaining why the proposed development meets the applicable exception criteria. Therefore, these county goals and policies implementing Goal 3 are not relevant to this application.

B. Forest Lands

Goal Statement: *To conserve and manage efficiently the county's forest and range resources, thereby ensuring a sustained yield of forest products, adequate grazing areas for domestic livestock, habitat for fish and wildlife, protection of forest soils and watershed, and preservation of recreational opportunities.*

The Board finds that these goal statements and related implementing policies are intended to implement Goal 4 by generally prohibiting development of forest

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lands. The Board has adopted findings identifying specific reasons why the policies and standards of Goal 4 should not apply to the present application, and explaining why the proposed development meets the applicable exception criteria. Therefore, these county goals and policies implementing Goal 4 are no longer relevant to this application.

C. Water Resources

Goal Statement: *To conserve and to manage efficiently our water resources in order to sustain and enhance the quantity and quality of flows for all consumptive and non-consumptive uses and to abate flood, erosion and sedimentation problems.*

Policy A: *Yamhill County will cooperate with federal and state agencies, the cities of the county, and the local soil and water conservation district to identify, conserve and develop water resources on a long-range, multiple-use basis in response to need, with full consideration given to the benefits, costs, potential uses and the carrying capacity of the resource.*

The Board finds that Policy A creates a planning requirement that directs the county to cooperate with other public entities regarding the identification and conservation of water resources in response to need. This policy does not create a mandatory approval criterion for a quasi-judicial map amendment. Further, the Board has included conditions of approval requiring the applicants to obtain an adequate water supply for the hotel by obtaining the necessary permits from the Oregon Water Resources Department (OWRD) within three years. The state permitting process will require consideration of water availability and impacts of a new well on the carrying capacity of the groundwater resource. As explained in the opinion provided by Newton Consultants, OWRD ground water permits include conditions on ground water rights requiring the applicants to demonstrate that the project's wells have no measurable impact on surrounding wells.

Policy I: *Where conflicting uses are identified or intended, in specific proposals or programs, the economic, social, environmental and energy consequences of the conflicting uses shall be determined as used as a basis for decision-making.*

Evidence in the record from Newton Consultants indicates that it is feasible for the applicants to obtain a permit for a new well in the marine sediments that can operate without interfering with other wells in the area. Extension of wells into the marine sediments, together with properly designed and constructed well seals, can be relied upon as a way to reduce potential for well interference to the satisfaction of

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OWRD. The state permitting process will require consideration of water availability and impacts of a new well on the carrying capacity of the groundwater resource. As explained in the opinion provided by Newton Consultants, OWRD ground water permits typically include conditions on ground water rights requiring the applicants to demonstrate that the projects' wells have no measurable impact on surrounding wells. Therefore, the Board finds that there is no direct evidence that the hotel will be a "conflicting use" with any other uses in the area within the meaning of Policy I.

D. Fish and Wildlife

The Board finds that these goals and policies regarding protection of fish and wildlife do not apply to the present application, because there is no identified fish or wildlife habitat on the subject property and the proposed development will not otherwise impact fish or wildlife habitat.

E. Open Space

The county's goals and policies regarding open space require adoption of an inventory of significant open space and scenic resources as part of the county's Goal 5 inventory. The subject property is not included on any inventory of significant resources under Goal 5, including open space. The Board finds that these goals and policies do not apply to the present application.

F. Mineral and Aggregate Resources

G. Ecologically and Scientifically Significant Natural Areas

H. Outstanding Scenic Views and Sites

I. Historic Areas, Sites, Structures and Objects and Cultural Areas

J. Wild and Scenic Waterways

The goals and policies regarding these resources all relate to areas that are included on the county's inventory of significant resources under Goal 5. The 12 acres subject to this request do not include any resources on the county's Goal 5 inventory, and these sections of the Plan do not apply.

Plan Section III – Transportation, Communication and Public Utilities

A. Transportation

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Goal Statement: To provide and encourage an efficient, safe, convenient and economic transportation and communication system, including road, rail, waterways, public transit and air, to serve the needs of existing and projected urban and rural development within the county, as well as to accommodate the regional movement of people and goods and the transfer of energy, recognizing the economic, social and energy impacts of the various modes of transportation.

Policy B: *All transportation-related decisions will be made in consideration of land use impacts including but not limited to adjacent land use patterns, both existing and planned, and their designated uses and densities*

Policy J: *All county transportation-related decisions will be made in particular consideration of energy efficiency and conservation.*

Policy O: *All transportation-related decisions will be made in support of the efficient and economic movement of people, goods, and services throughout the region, and will be based on the location and adequacy of facilities for such goods and services.*

The Board finds that for the reasons explained in Section VIII.L of these findings regarding Goal 12 and the TPR, and for the reasons explained in the Lancaster TIA and supplemental memoranda adopted by the Board, the map amendments and exceptions are consistent with the county's goal to provide an efficient, safe, convenient and economic transportation and communication system, and with the relevant policies designed to implement the goal. Even without considering the eventual construction of the Newberg-Dundee Bypass, which has long been tomorrow's dream for the county but is now approaching reality, the intersections that would be impacted by the hotel will continue to operate acceptably. To the extent this decision is a "transportation-related decision" within the meaning of the above-quoted policies, the Board has considered the land use impacts associated with the development of the proposed hotel, including nearby land uses, and has also considered the energy efficiencies that will result from allowing individuals who would otherwise stay overnight in Portland and make day trips to Yamhill County's wine country to stay locally instead. As concluded in the Lancaster TIA, the proposed hotel will have no significant effect on efficient and economic transportation throughout the region, and will not significantly effect any transportation facilities within the meaning of the TPR.

Plan Section V – Environmental Quality

A. Air, Water and Land Resource Quality

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Goal Statement 1: To conserve and to protect natural resources, including air, water, soil and vegetation and wildlife, from pollution or deterioration which would dangerously alter the ecological balance, be detrimental to human health, or compromise the beauty and tranquility of the natural environment

Goal Statement 2: To preserve and enhance the charm and amenity values of the county, while accommodating change, through ensuring harmony between urban development and the natural environment, at the same time cultivating more attractive urban environments in which to live, work and play

The Board finds that the approval of the requested map amendments and exceptions is consistent with these two goal statements and implementing policies. There is not a sliver of evidence in the record to suggest that the proposed hotel would "dangerously alter the ecological balance." Nor is there substantial evidence in the record to support a finding that the hotel would otherwise be detrimental to human health or compromise the beauty and tranquility of the natural environment. In order to ensure environmental quality and promote sustainability, the Board has imposed a condition of approval requiring the applicants to include "green development" provisions, to be determined in the Site Design Review approval, including but limited to the following: (a) vehicle trip reduction; (b) energy conservation; (c) waste water reuse; and (d) building material conservation. The proposed hotel will provide harmonious development that does not detract from the beauty of the natural rural environment, but instead fits seamlessly in its surroundings.

XI. ZONING ORDINANCE PROVISIONS

Pursuant to Section 1204 of the Yamhill County Zoning Ordinance ("YCZO"), this application was processed through a Type C Procedure as described in YCZO Section 1301.01.C. Under YCZO 1208.02, a quasi-judicial change to a zoning map may be authorized provided that the applicant demonstrates compliance with the following criteria:

A. *The proposed change is consistent with the goals, policies and any other applicable provisions of the Comprehensive Plan.*

Compliance with all applicable goals, policies and provisions of the YCCP is addressed in Section X of these findings.

B. *There is an existing, demonstrable need for the particular uses allowed by the requested zone, considering the importance of such uses to the citizenry or the economy of the area, the existing*

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market demand which such uses will satisfy, and the availability and location of other lands so zoned and their suitability for the uses allowed by the zone.

The Board finds that substantial evidence in the record establishes that there is an existing demonstrable need for the particular use allowed by the requested zone. Detailed findings addressing the "need" criterion are set forth above in Section IX, and those findings are adopted and incorporated by reference. The use allowed by the requested zone, pursuant to an exception granted for applicable Goals, is a luxury wine country hotel. The analysis submitted by ECONorthwest demonstrates that the need exists for such a facility to serve Oregon's wine country. The Board has already adopted findings that the proposed use is important to the citizenry and the economy of the area. The use will generate an economic boost for Yamhill County by promoting the wine growing region and its vineyards and vendors, without creating undue traffic burdens, impact on water resources or withdrawing valuable land from agricultural production. The scale of the proposed hotel is consistent with the character of the Yamhill County wine country. The use not only benefits the economy but also the citizens of the state by promoting the wine growing industry and those citizens who work in the industry.

The ECONorthwest analysis also demonstrates that there is a significant existing market demand for the use. The market demand is not met by existing hotel facilities or bed and breakfast establishments. Notwithstanding that existing overnight accommodations in the county are well run and meet a need, this kind of facility represents an unfulfilled need given the explosive growth of the county's wine-related economy and wine tourism in general.

No other location is appropriate for this use. As explained in Section IX of these findings, and addressed in detail in the ECONorthwest analysis, the applicant has established that no other lands zoned RC are suitable for the use given either their location, size, or proximity to highways and urban areas. The subject property is appropriate for the use because of its reasonable access to State Highway 99, its proximity to vineyards and wineries, its views to the south and its distance from urban areas.

C. *The proposed change is appropriate considering the surrounding land uses, the density and pattern of development in the area, any changes which may have occurred in the vicinity to support the proposed amendment and the availability of utilities and services likely to be needed by the anticipated uses in the proposed district.*

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The Board finds that the proposed zone change is appropriate considering the surrounding land uses. The surrounding land uses consist of a bed and breakfast, the pre-existing quarry, and several wineries and related vineyards. The Board has already adopted findings in Section IX.B that the proposed use will not have adverse external impacts that could affect the wineries and vineyards, and the Board has adopted a condition of approval requiring that existing agricultural uses shall not be required to modify their existing accepted practices to accommodate the hotel, and other conditions that will ensure compatibility with adjacent uses The proposed hotel is likely to be beneficial to the adjacent bed and breakfast because it will provide additional visibility to the area, and additional potential guests for the bed and breakfast. The Board finds that, for the reasons stated above in Section IX, the zone change is appropriate for the density and pattern of development in the area, based on the limited nature of the rezoning of the 65-acre parcel, the proposed location of the hotel on the site and its relatively small size, the extinguishing of the existing quarry use, and the reasons explained above regarding the locationally-specific nature of the proposed use. Also, the hotel will not introduce large-scale traffic demands, and proposes no public utilities. The Board has adopted findings regarding availability of utilities and services. The only public services necessary to support the use are public roads, sheriff services and fire service. The existing public road is appropriate for sheriff and fire services reaching the use.

D. Other lands in the County already designated for the proposed uses are either unavailable or not as well-suited for the anticipated uses due to location, size or other factors.

Detailed findings addressing alternative locations are set forth above in Section IX of these findings. As previously stated, the proposed use has special features that necessitate location on the proposed site, which provides excellent access to the county's expanding wine industry. As explained in the ECONorthwest analysis and the applicants' separate alternatives analysis, there are no other areas in the county with zoning that would allow the proposed use that are sufficient size and location to accommodate this type of use. The use requires at least 35 acres in the wine country area, away from major highways, with expansive views of the countryside. The analyses submitted by the applicants consider both urbanized and unincorporated portions of Yamhill County, and correctly conclude that no other parcels in Yamhill County already designated for the proposed use would accommodate the proposed hotel.

E. The amendment is consistent with the current Oregon Administrative Rules (OARs) for exceptions, if applicable.

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Compliance with the applicable OARs governing exceptions is addressed in Section IX above.

XII. RESPONSES TO ISSUES RAISED BY OPPONENTS

The majority of issues raised by opponents that are relevant to applicable approval criteria are addressed in the findings set forth above. In addition to those findings, the Board adopts the following findings in response to specific issues raised by opponents.

A. Lack of Precedential Effect

Several opponents suggest that if the Board of Commissioners approves this application and related goal exceptions, the decision will create precedent that will require the county to also approve future applications for development on farmland. However, the statute regarding exceptions expressly requires that approval of an exception does not establish precedent for future applications:

> "As used in this section, 'exception' means a comprehensive plan provision, including an amendment to an acknowledged comprehensive plan, that is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability." ORS 197.732(8)(a).

The Board finds that approval of one quasi-judicial land use application cannot legally set a precedent for future land use approvals. LUBA has recognized that a local government cannot be bound by findings that were made in previous land use decisions. *See, e.g., Jaffer et al. v. City of Monmouth*, LUBA No. 2005-123, April 24, 2006, at slip op. 8 (holding that a prior denial of a similar application on the same property did not create binding precedent in subsequent city decision). In *Femling v. Coos County*, 34 Or LUBA 328 (1988), LUBA rejected arguments that the county could be bound by prior findings on another land use application, explaining that:

> "We held in *Nelson v. Clackamas County*, 19 Or LUBA 131, 140 (1990) that our system of land use adjudication 'is incompatible with giving preclusive effect to issues previously determined by a local government tribunal in another proceeding.' Similarly, the county is not bound to resolve 'claims' made in one application consistently with 'claims' in earlier applications *Nelson*, 19 Or LUBA at 136. In short, nothing the county decided in the 1993 proceeding precludes or binds its decision in this proceeding."

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Exceptions to the Statewide Planning Goals are very difficult to obtain, and each application must stand or fall on its own specific factual situation. The Board's conclusion that the applicable approval criteria are satisfied regarding the present application does not create any precedent requiring that future exception applications must also be approved.

B. Demand Exists for One Hotel

Concerns were raised by DLCD and other individuals regarding the approval of this application creating a "line at the door" of applicants attempting to site similar hotel projects by relying on the same or similar reasons for the exceptions as the applicants here. However, the Board finds that evidence in the record establishes that the county will only be able to support one hotel of the unique variety proposed by the applicants, and there is no economic basis to support a demand for a second hotel of this type. The Board believes there is an opportunity for one such development and more than one such development could not satisfy the applicable criteria because it would not be economically viable. A second similar hotel would not be justifiable economically as a coattail rider on the approval of this application.

C. The Application Does Not Propose a "Destination Resort."

Several opponents argued that the application requested the siting of a "small destination resort," and therefore should be denied under the destination resort criteria of ORS 197.445 due to its location within 24 miles of the Metro UGB. However, the application does not propose a destination resort pursuant to ORS 197.435-467. The site does not qualify as a destination resort location because it is not within the map of eligible lands adopted by Yamhill County pursuant to ORS 197.455. Also, the applicants' proposal is for map amendments affecting only approximately 12 acres of property, which is less than the 20-acre minimum established by ORS 197.445(7). Further, the applicant is not proposing to spend the amounts required for "recreational facilities" under the same statutory section. The Board finds that opponents have not explained why the county should be required to treat an application as a "destination resort" where the application does not fit within the statutory criteria for such a resort and the applicants have not requested treatment as a destination resort under the county's plan and the applicable statutes. *See Doherty v. Morrow County*, 44 Or LUBA 141 (2003).

D. Compliance With Goal 14 Exception Criteria

Opponents express general disagreement with the premise that the county may approve an "urban" hotel use on rural land under the applicable goal exception criteria. However, the Board finds that this is precisely what the Goal 14 exception

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rules are designed to allow, so long as those criteria are satisfied. Opponents assert that the applicant may not be allowed to rely in part on a need for specific "rural" characteristics in order to satisfy the applicable criteria for a goal exception. However, the actual criteria set forth in the applicable state rules contain no such prohibition. Rather, the rules provide that the county may approve the requested exception if it finds that the proposed development cannot be "reasonably accommodated" within an urban area or through the expansion of a UGB. The applicant has submitted a significant amount of evidence on which the Board has adopted findings that the proposed use cannot be reasonably accommodated on urban land, or other land that would not require an exception, and that the applicable criteria for the requested exceptions are met.

DLCD and other opponents have identified certain hotels in Napa Valley and Sonoma Valley that are located in urban areas, and offered those hotels as evidence that a wine country hotel does not need to be located in a rural setting. However, as explained in the Board's findings in Section IX.B above, relying on the materials submitted by the applicants and ECONorthwest, the applicants are proposing a very distinct and unique type of luxury wine country hotel that cannot be duplicated in an urban area. Indeed, evidence in the record from ECONorthwest dated May 25, 2006 addresses several of the other California hotels identified by opponents, and notes that one of those hotels, the Hotel Healdsburg, is regularly complained about by guests due to the noise of the surrounding urban area, and as a result the hotel provides earplugs in each room for its guests. As discussed in the ECONorthwest correspondence, other hotels identified by opponents can be readily distinguished from what is being proposed by applicants here based on level of service and amenities provided, as well as the overall environment. The proposed hotel is targeted at a distinct clientele of "core" wine consumers who will travel great distances in order to be able to enjoy a true wine country experience in Yamhill County. As described in more detail in Section IX.B of these findings, that experience cannot be found in an urban setting.

E. Appropriateness of RC Zoning

Opponents assert that it is not clear from the YCZO list of allowed uses in the Recreational Commercial zone whether the proposed hotel would be an allowed use in that zone, because it is not clear what the "recreational" element of the proposed hotel will be. First, the Board notes that there is not currently a development application before the county for the proposed hotel, and this issue will be most appropriately determined at the time an actual development application is submitted, rather than during this map amendment process. The Board also notes that the applicant's tentative proposal includes recreational uses such as tennis courts, a swimming pool, and hiking trails on the property, and that the RC zone also expressly allows "any use

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not specifically listed as a permitted or conditional use in this district that is similar in character, scale and performance to the permitted uses specified in subsection 601.02." YCZO 601.04. Such a use may be allowed as a "similar use," subject to the provisions of YCZO 1206.

F. Site Size

Several opponents contend that because the applicants are requesting a rezone for only 12 acres of the entire 65-acre parcel, the applicants erroneously imposed a 35-acre minimum site size for purposes of the alternatives analysis. However, the Board finds that the basis for the 12-acre request is simply to minimize the amount of EFU land that is redesignated by only changing the map designations for the footprint of the hotel, parking, and access road to the property. The fact that the paved and constructed areas of the site plan only constitute 12 acres does not change the need for a minimum of 35 acres to site the hotel. The additional property is required for open space, views, and a proposed vineyard, which leaves land in agricultural production and contributes to the necessary ambiance of a luxury wine country hotel. The Board finds that the opponents' suggestion that this hotel could be successfully located on a 12-acre site in an urban area is incorrect. The expected economic benefit to the county and its wine tourism industry will not occur if the hotel is not successful.

G. Applicability of Goal 9

In correspondence dated June 7, 2006, DLCD raises concerns regarding the application of the exceptions criteria, noting that the applicant has based its proposal in part on the economic development elements of Goal 9, and asserting that there is no Goal 9 requirement that applies to this application. The Board disagrees with DLCD's apparent position that Goal 9 is essentially meaningless. Goal 9 expressly states that its purpose is "to provide adequate opportunities ... for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens." The Board finds that Goal 9 is designed to encourage economic development, which will be one direct result of the proposed wine country hotel. The benefits of the proposed hotel on the Yamhill County economy are explained in the analysis and supplemental memoranda submitted by Eric Fruits of ECONorthwest, and the economic need for a hotel of this type has been well documented through evidence placed in the record before the Planning Commission and the Board. DLCD concedes that providing overnight lodging "may well be needed to support the economy of the county," and the Board agrees with this statement. The Board notes that ORS 197.340(1) provides that local governments, as well as both DLCD and LCDC, "shall give the goals equal weight in any matter in which the goals are required to be applied." Because the Statewide Planning Goals are intended to have equal weight, the county's need for

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economic development can certainly provide a justification for exceptions under Goals 2 and 14, provided that all of the applicable criteria are met.

XIII. CONCLUSION

Based on all of the findings set forth above and all of the evidence in the record, the Board of Commissioners approves the applications with a limited use overlay that contains the following conditions:

CONDITIONS OF APPROVAL:

The Board attaches the following conditions of approval to its findings regarding Ordinance No. 790.

1. Quarry rights will be terminated with final approval of the comprehensive plan and zoning map amendments and final approval of Site Design Review. Final approval shall be the date that all appeals are exhausted on the above land use applications.

2. The applicant's Site Design Review application shall include "green development" provisions, to be determined in the Site Design Review approval and shall include, but not be limited to, the following: (a) vehicle trip reduction; (b) energy conservation; (c) waste water reuse; and (d) building material conservation.

3. The Site Design Review application shall include a construction management plan. The applicant shall coordinate with neighboring property owners during construction to minimize construction impacts on surrounding property owners.

4. The approved use shall include a hotel operator with a demonstrated track record of successfully executing boutique "get-away" hotels. The hotel operator shall strive for a high rating by a rating group such as *The Mobil Guide* or *The Michelin Guide*.

5. This exception approval shall be limited to the description of the use and the acreage proposed by the applicant at the June 7, 2006 public hearing.

6. The Site Design Review shall be a Type "C" process before the Planning Commission as described in Section 1301.01(C) of the Yamhill County Zoning Ordinance.

7. During Site Design Review the applicant shall demonstrate that the well will provide an adequate quantity and quality of water for the proposed use.

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8. If the applicant does not receive a water right within three years of the final date that all appeals have been resolved on the zone change, the Planning Commission shall initiate a comprehensive plan amendment and zone change from RC Recreation Commercial to EF-80 Exclusive Farm Use pursuant to Section 1208.01(A) of the Yamhill County Zoning Ordinance.

9. The applicant shall waive their Measure 37 (2004) claim upon final approval of their comprehensive plan and zoning map amendment. Final approval shall be the date that all appeals are exhausted on the above land use application.

10. Prior to issuance of development permits, the landowner shall sign an affidavit acknowledging the following declaratory statement and record it in the deed and mortgage records for Yamhill County: "The subject property is located in an area designated by Yamhill County for agricultural uses. It is the county policy to protect agricultural operations from conflicting land uses in such designated areas. Accepted agricultural practices in this area may create inconveniences for the owners, occupants, or guests of the proposed hotel. It is not the agricultural operator's responsibility to modify accepted practices to accommodate the owner, occupants or guests of the hotel, with the exception of such operator's violation of state law."

End

Exhibit A
Ordinance 790
8/15/06
BO. 06-564
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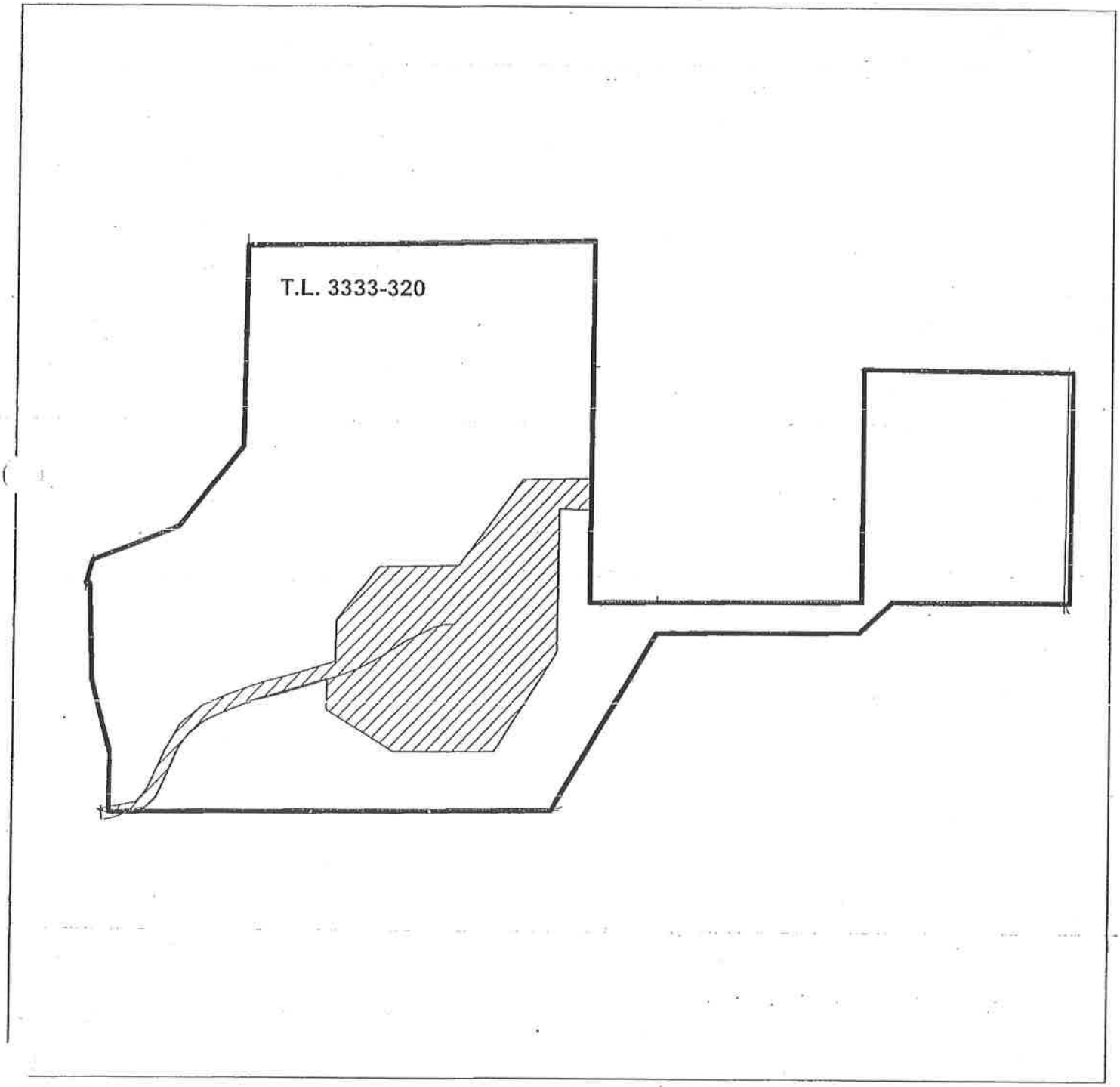
EXHIBIT "B" FOR ORDINANCE No. 790

COMPREHENSIVE PLAN AMENDMENT FROM AGRICULTURE/FORESTRY LARGE HOLDING TO COMMERCIAL

ZONE CHANGE FROM EF-80 EXCLUSIVE FARM USE TO RC RECREATION COMMERCIAL USE



Legend

Area Subject to Amendment

Subject Parcel

NOT TO SCALE

ORDINANCE No.: 790

EXHIBIT "B"

B.O.06-564

Prepared by Yamhill County Department of Planning and Development

EXHIBIT 39

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Hewitt, Gary

From: Daniels, Katherine [katherine.daniels@state.or.us]
Sent: Friday, May 23, 2014 2:02 PM
To: Becky Hewitt (rhewitt@angeloplanning.com)
Cc: Hewitt, Gary; Donnelly, Jennifer
Subject: Bull Run exception

Hi Becky,

I wanted to follow up on our recent conversation with some further-considered thoughts. I discussed the issues you raised to me with Rob Hallyburton, our Community Planning Services Manager. Here is our thinking:

- It would be better to identify the uses in the FF-10 and historic overlay that are permitted rather than the uses that are prohibited. This is both because this is what the exceptions process calls for at OAR 660-004-0018(4)(a) and because these zones could be amended in the future to allow new uses that could potentially be incompatible with the historic use of the property.
- The need for the applicant to generate sufficient revenue from the site to protect the historic structures by allowing uses that are not historic in nature is not a recognized criterion in rule. DLCD has already expressed a guarded level of comfort for uses that are not necessarily historic in nature, including recreational, civic or cultural uses, as these uses could have historic components and would serve the public interest in ways that are compatible with historic protection. (Rob was actually surprised that I said OK to these) Personal celebratory events and business functions do not fit this mold of serving the public interest and have no connection to the historic nature of the site. For this reason, conditions should be attached by the County to any proposed park, community center or other similar use that could otherwise potentially permit these types of incompatible uses.
- We understand the applicant's argument that the 10-acre powerhouse site should be allowed to be partitioned and that the proposed 60-acre Timber-zoned remainder will not violate the statutory 80-acre minimum parcel size because it would be part of a 110-acre parcel, the other 40 acres of which would be zoned FF-10. However, the split-zoning would be of the applicant's creation and would have a similar effect as a partition in creating a non-conforming Timber-zoned parcel. While I'm not aware of case law on this particular type of situation, I don't believe the proposal is consistent with ORS 215.780.

I know this is not what you wanted to hear, but this is our take on the proposal. The rule requirements for reasons exceptions are as rigorous regarding permitted uses at a given site as they are in justifying the proposed use at the site.

Katherine

Katherine Daniels, AICP | Farm and Forest Lands Specialist
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Spam
Not spam
Forget previous vote

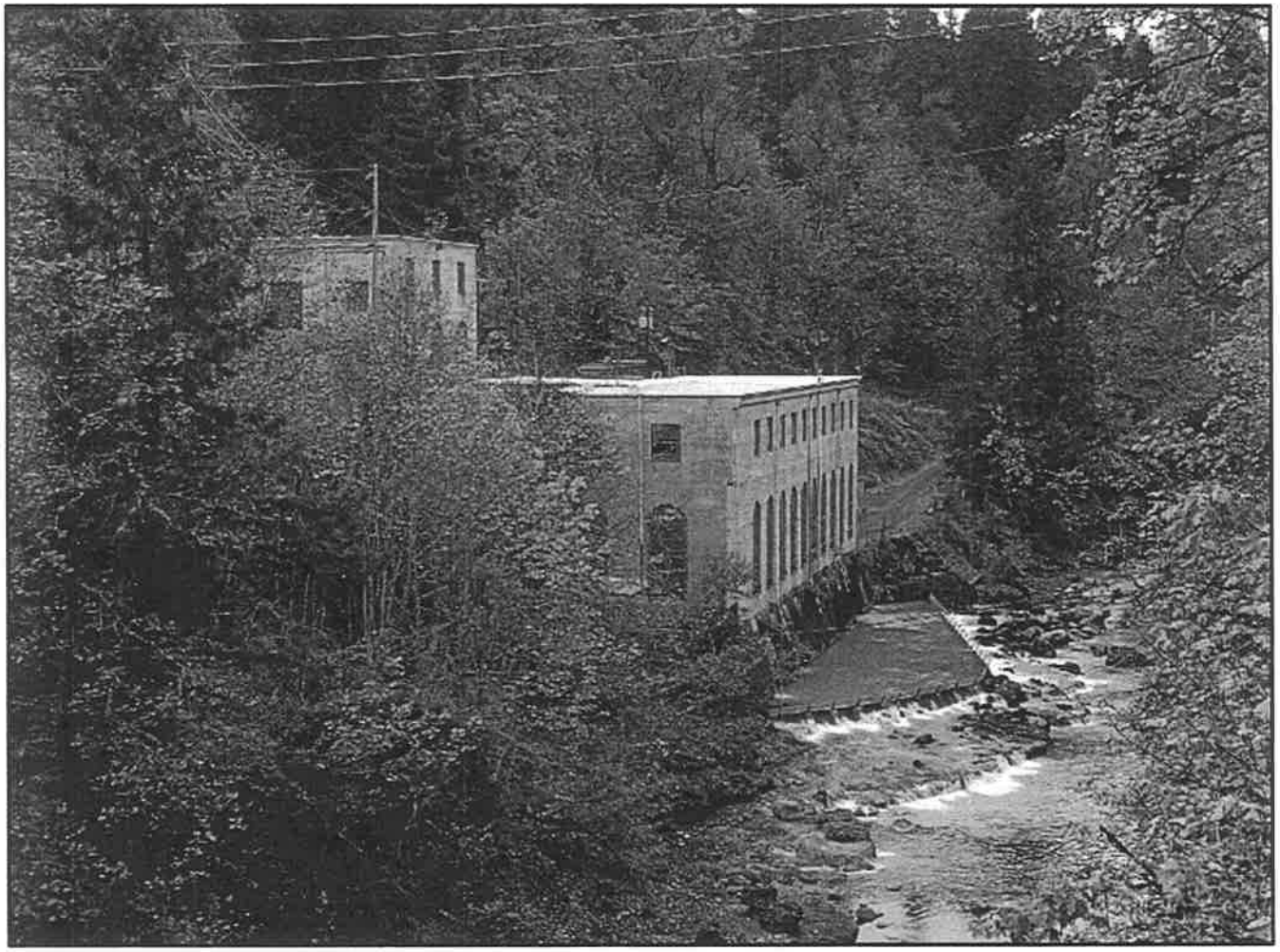
EXHIBIT 40
1 - 1

Bull Run Powerhouse

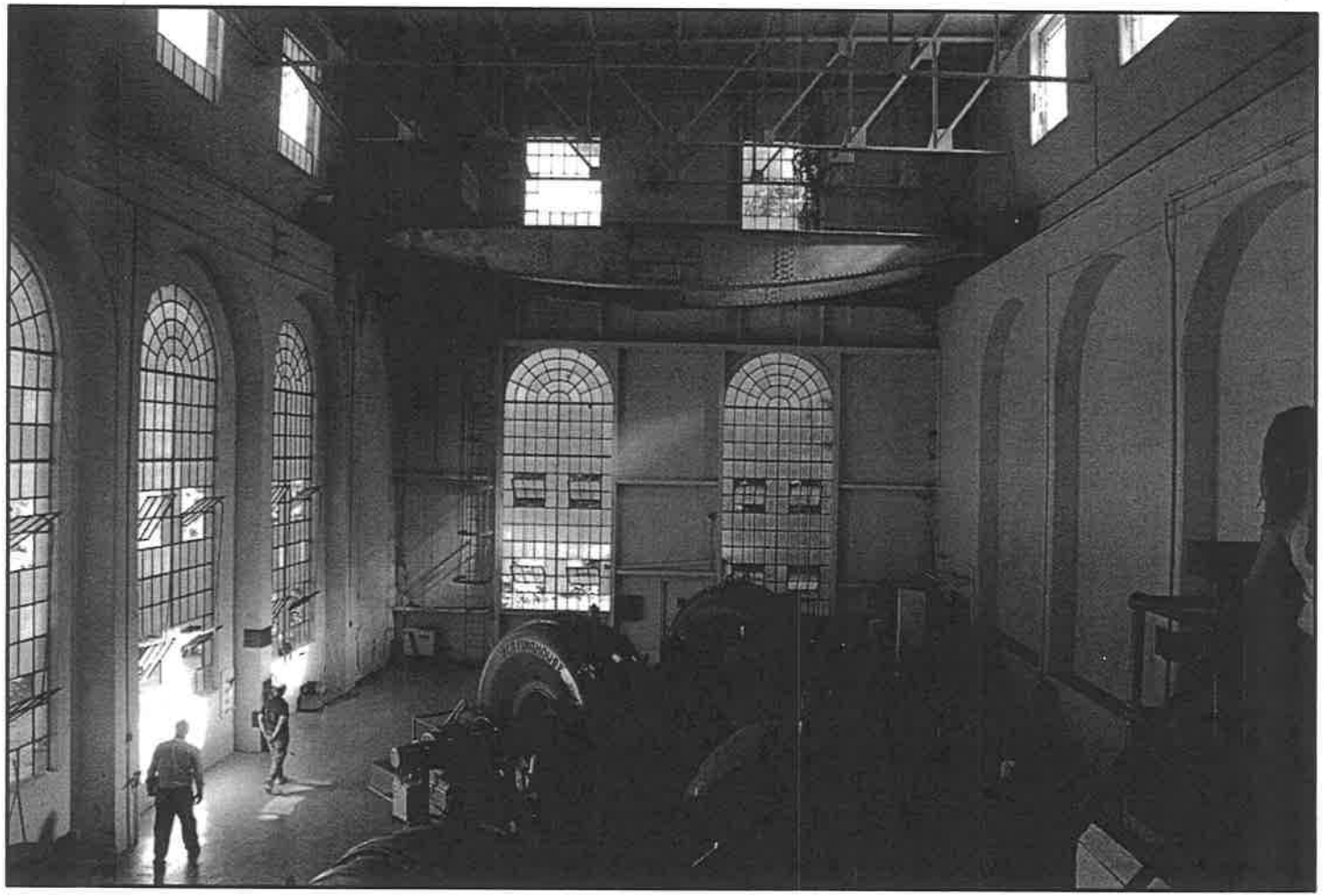
COMPLETED 1912

EXHIBIT 1-18

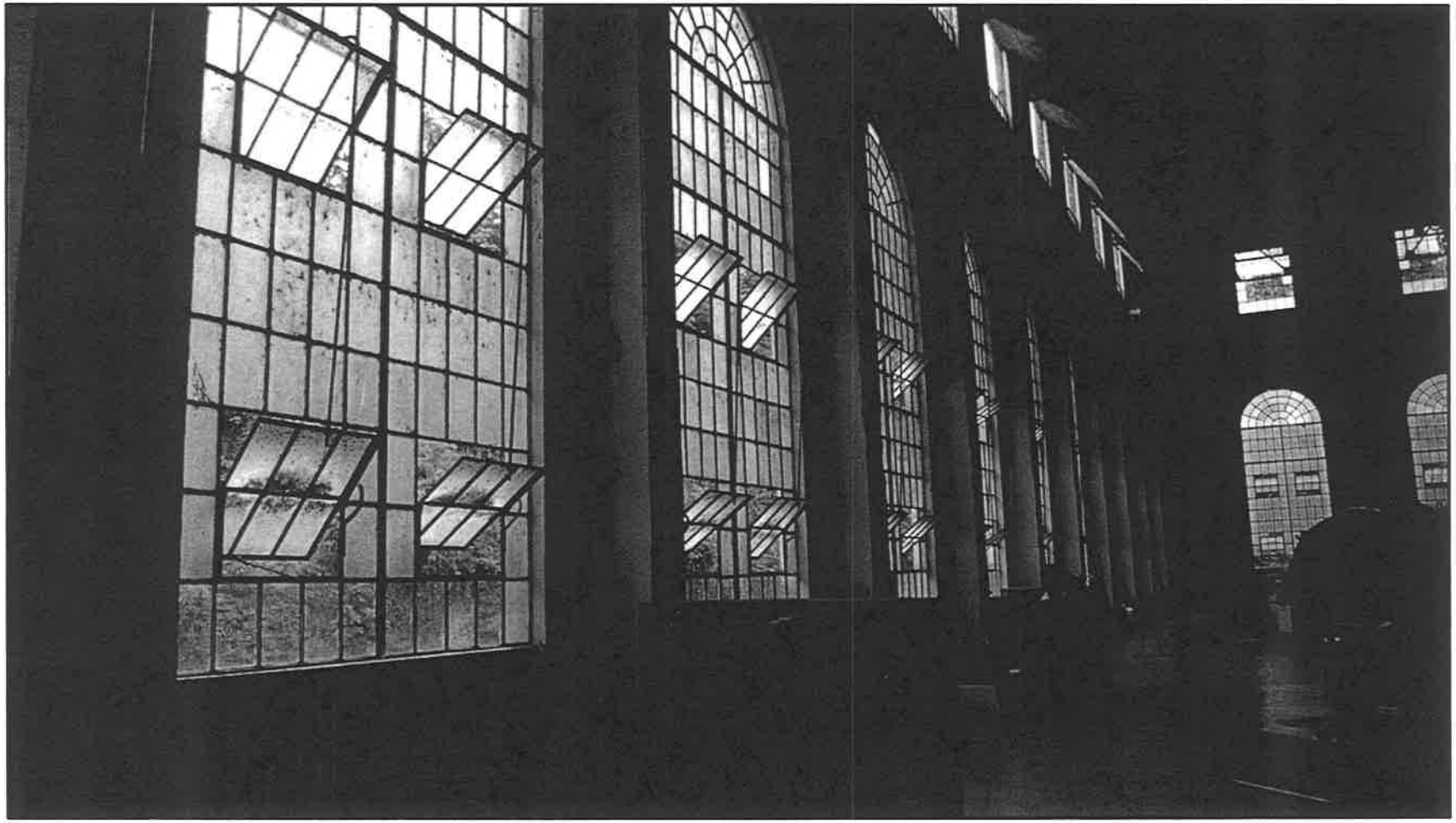
Powerhouse on the Bull Run River



Generator Room



Generator Room



41
4-18

Transformer Building

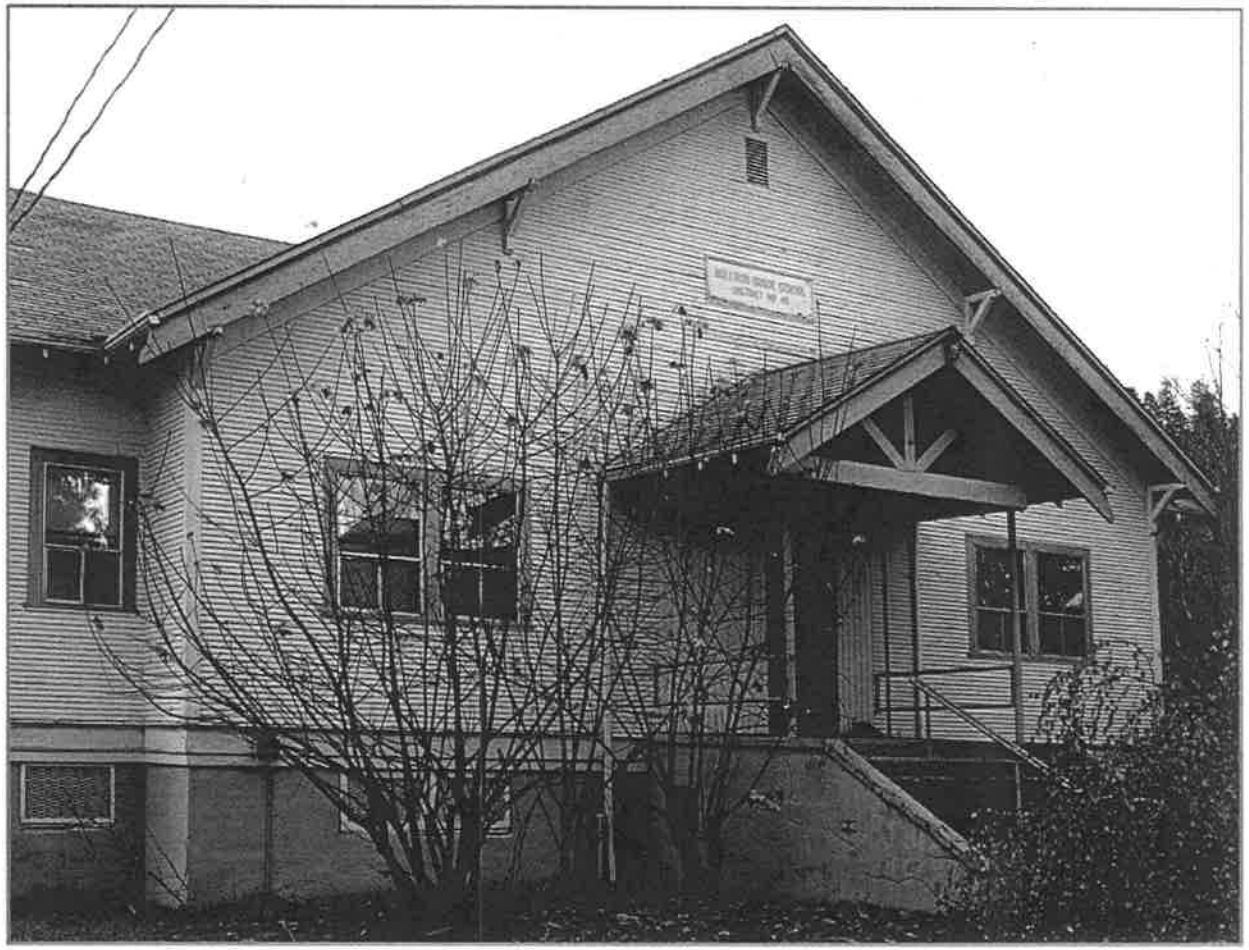
Belt Driven Machine Shop

Bull Run Elementary Schools

ONE ROOM SCHOOL BUILT c.1890-1900

TWO ROOM SCHOOL BUILT 1923

Two Room Bull Run Elementary School Today

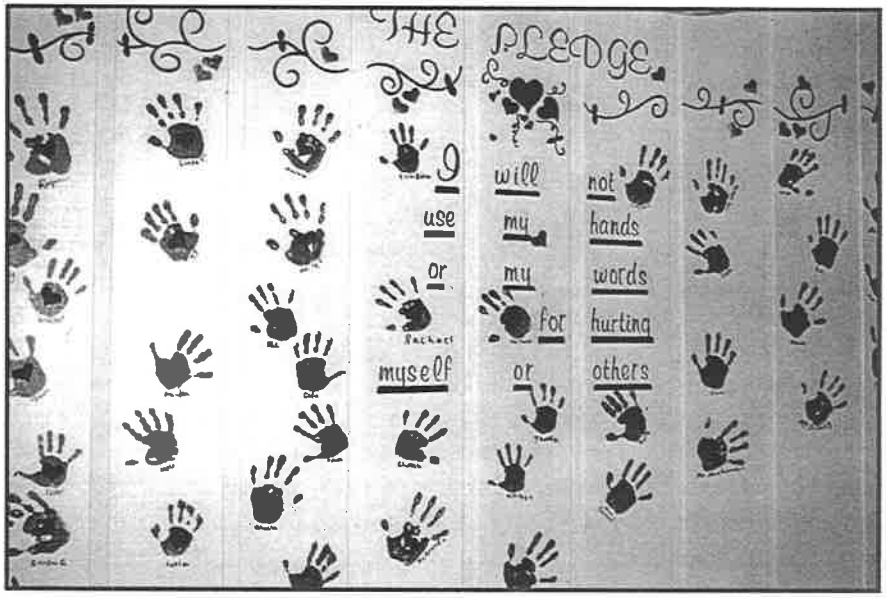


41
R-18

Bull Run School with Additions

Gymnasium / Auditorium

School Murals



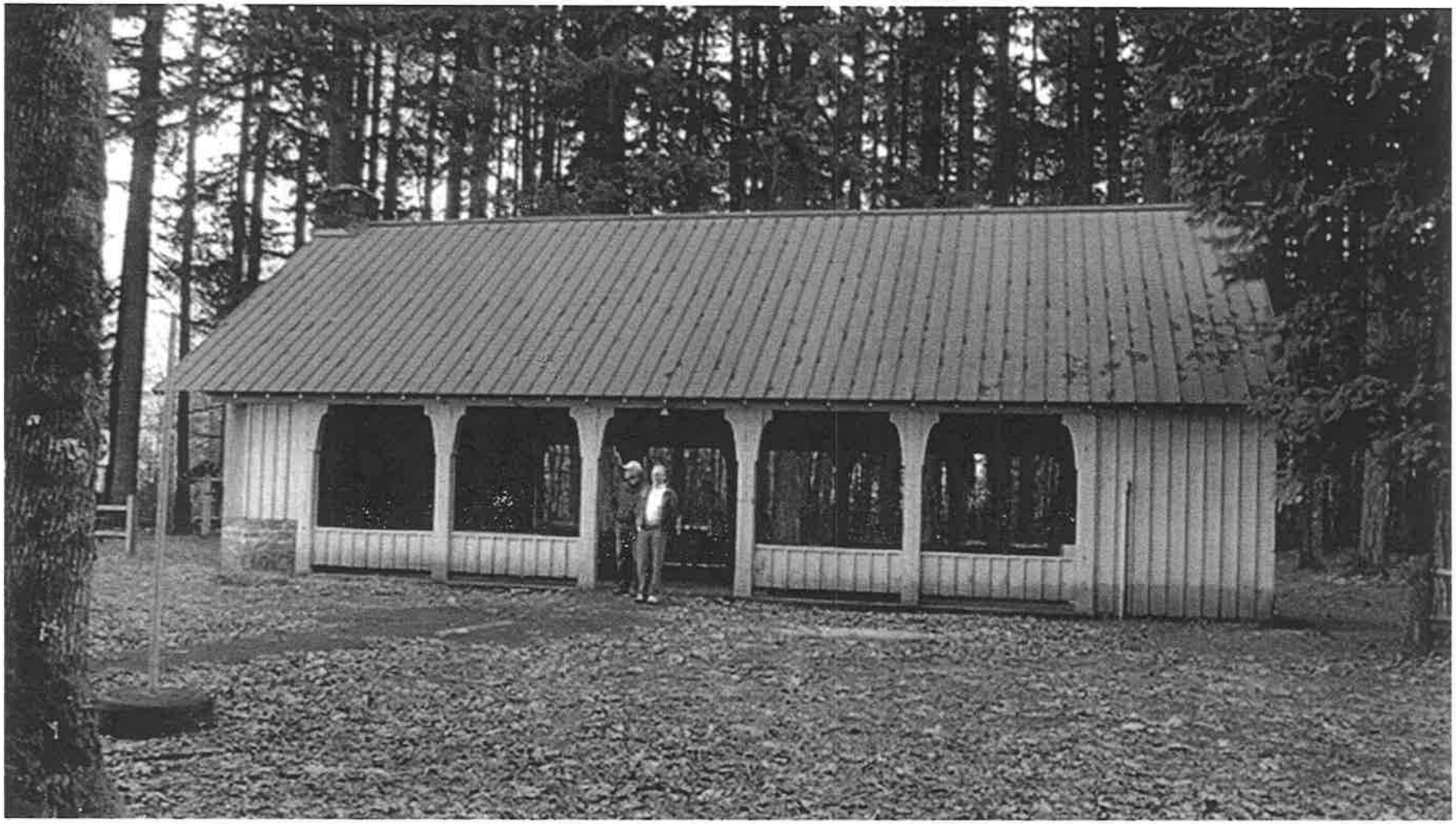
Roslyn Lake Park

BUILT 1956 - 1970

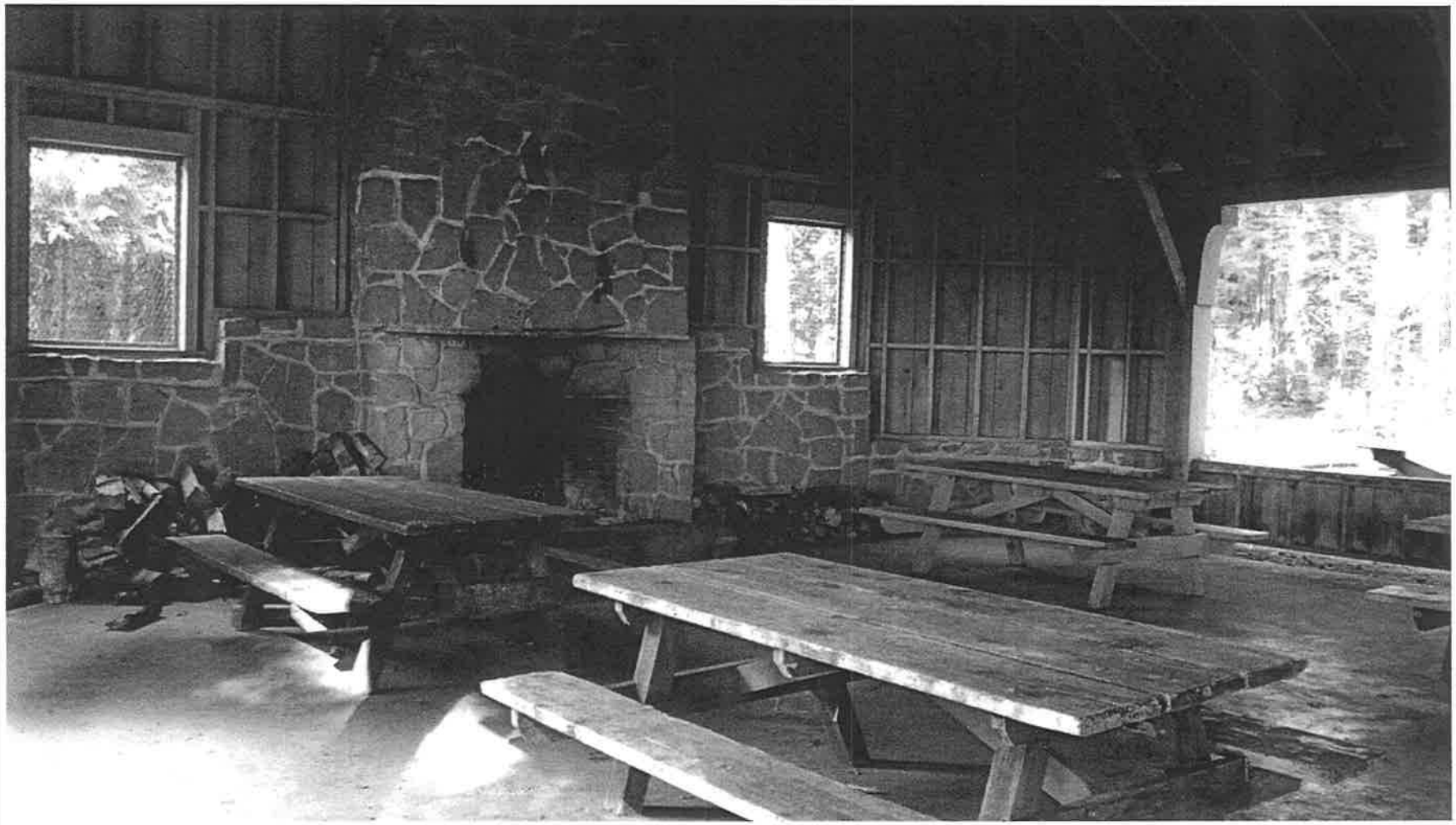
81-21
1+

Gatehouse and Entry Road

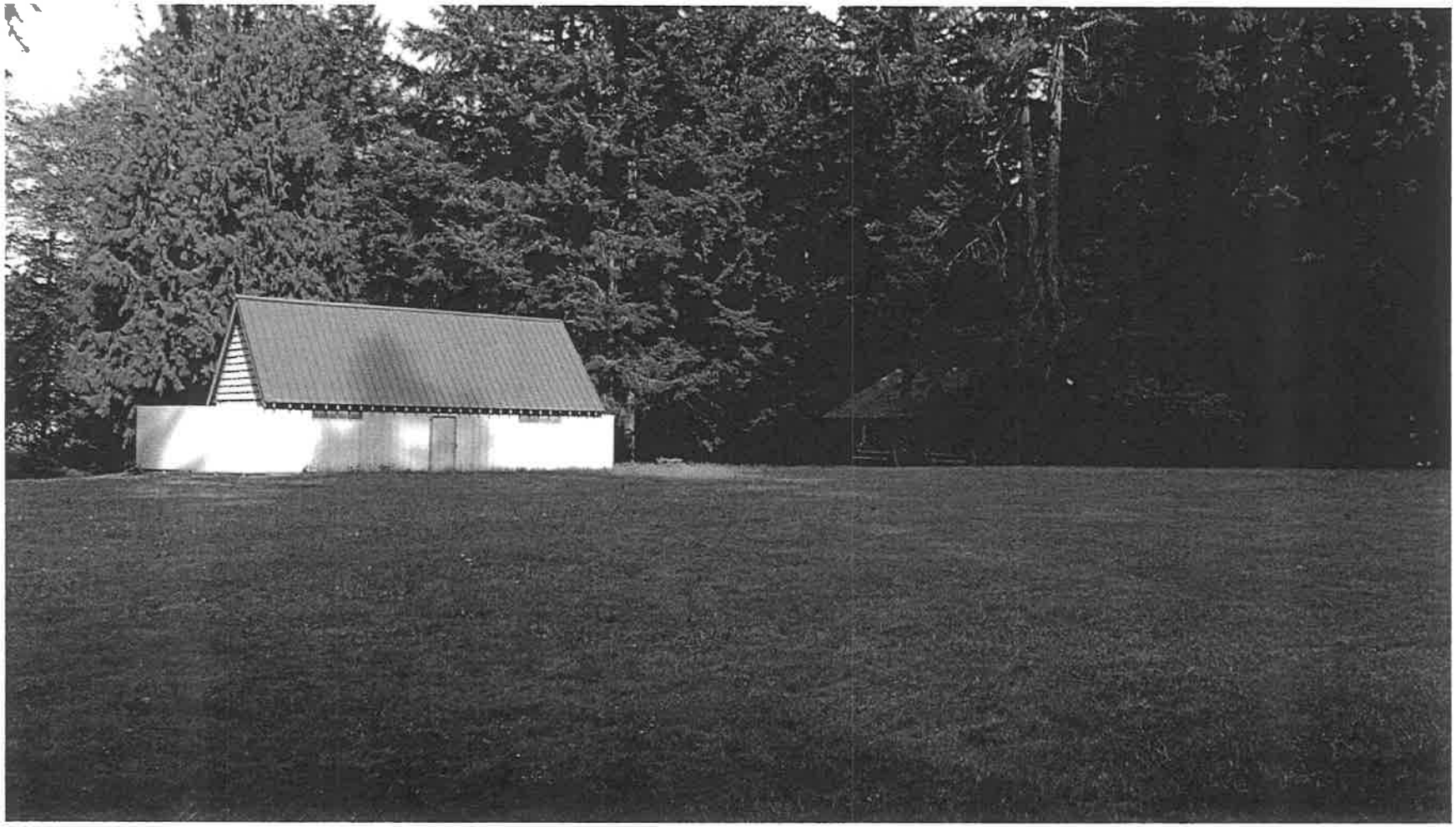
Pavilion



Inside Pavilion

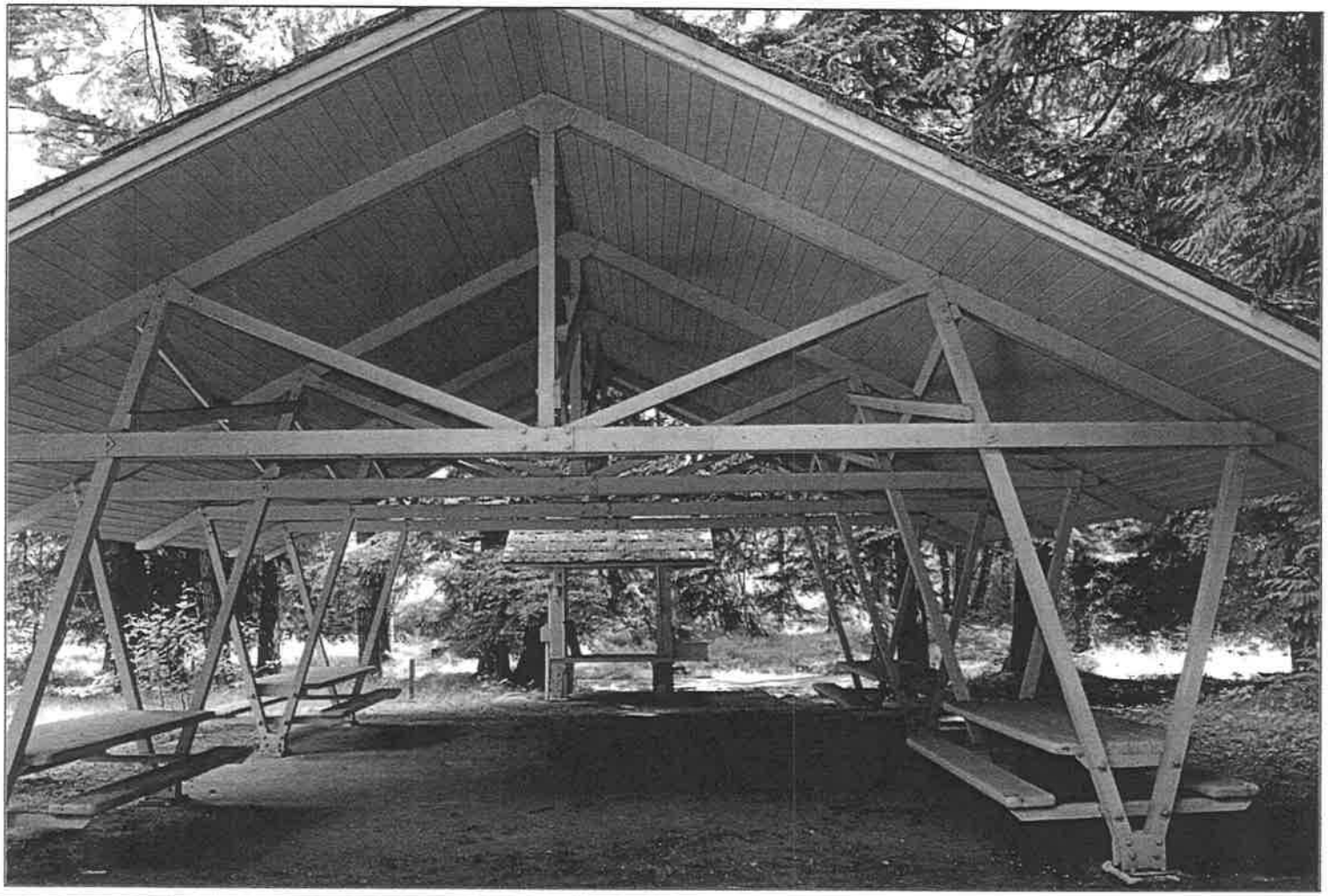


Ball Fields



Restroom and Service Buildings

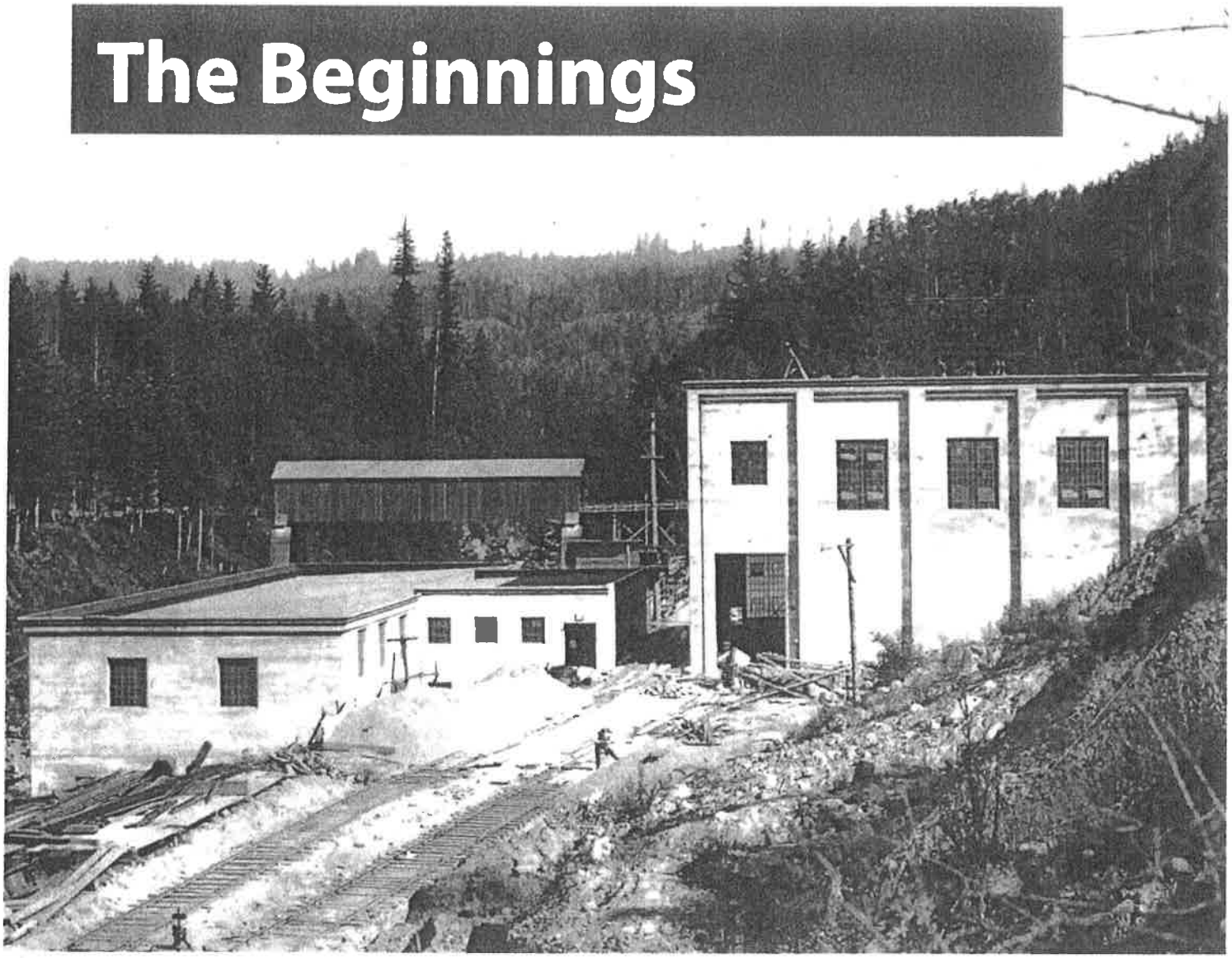
Picnic Shelters



Bull Run Historic District

EXHIBIT 42
1-24

The Beginnings

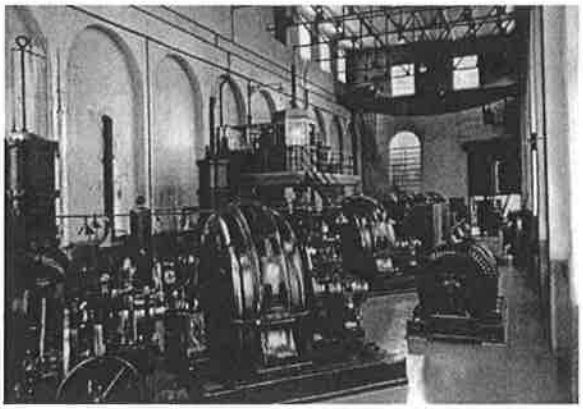


The History of the Bull Run Powerhouse

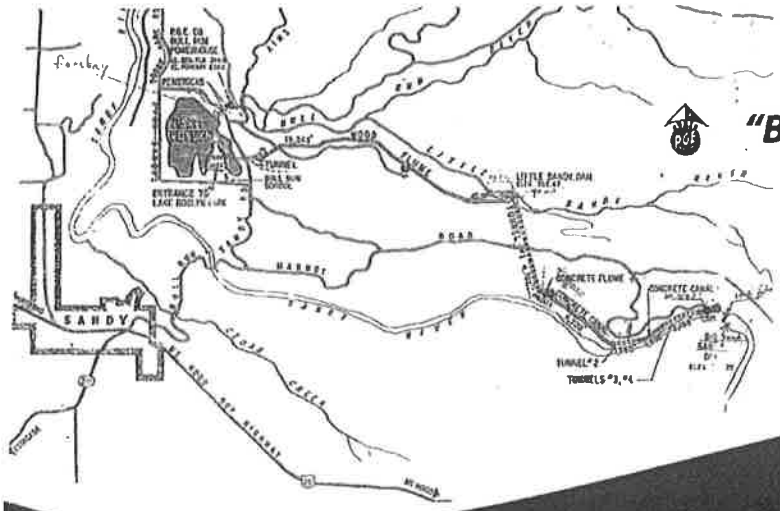
42
2-24

The Beginnings

The History of the Bull Run Powerhouse

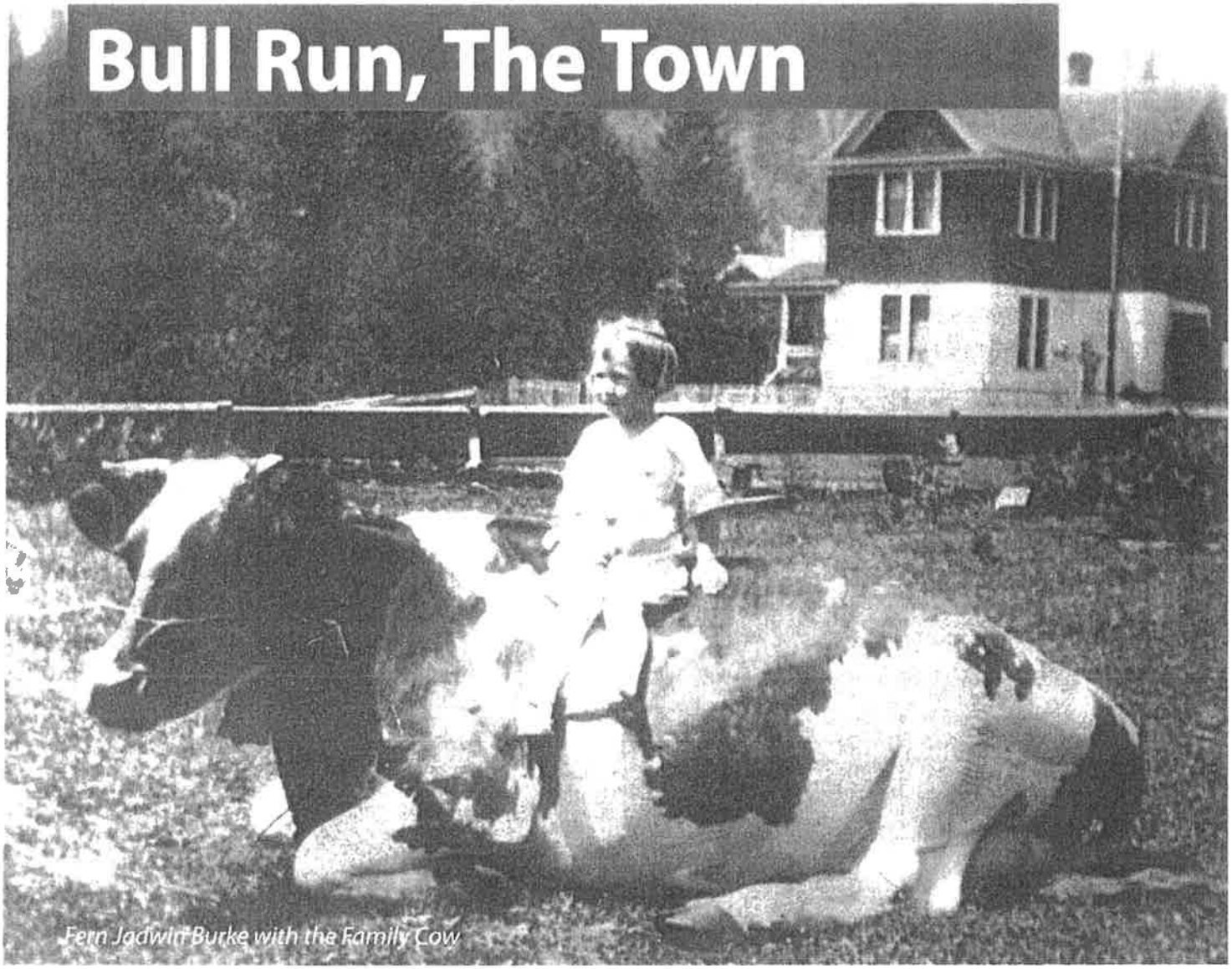


The Bull Run Powerhouse was one of the first hydroelectric generating plants in Oregon. Construction started in 1909 and was finished in September of 1912. From that date until May 2008, the plant provided electricity to the Portland area. The Powerhouse helped power Portland's first great period of urban and technological development. The boldness and challenges of establishing such an enterprise in an area so remote were without parallel. The force of two rivers (the Sandy and Little Sandy) was harnessed and sent to Roslyn Lake and from there to the Powerhouse. The ways in which the water was moved and its energy captured was also without precedent.



"Built right, didn't have to change it."

Bull Run, The Town

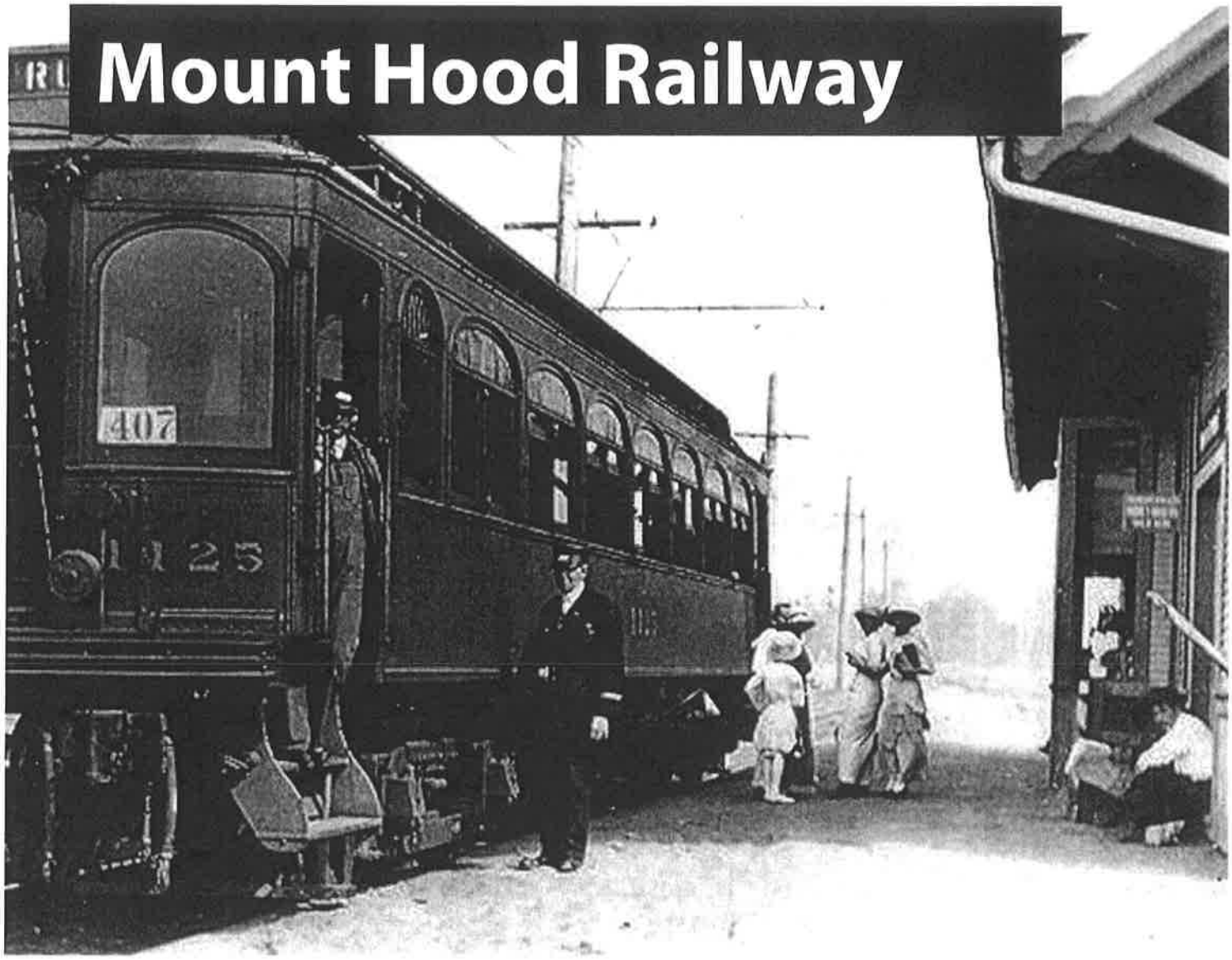


Fern Jadwin Burke with the Family Cow

"Bull Run was a very tight knit community..."

42
4-20

Mount Hood Railway

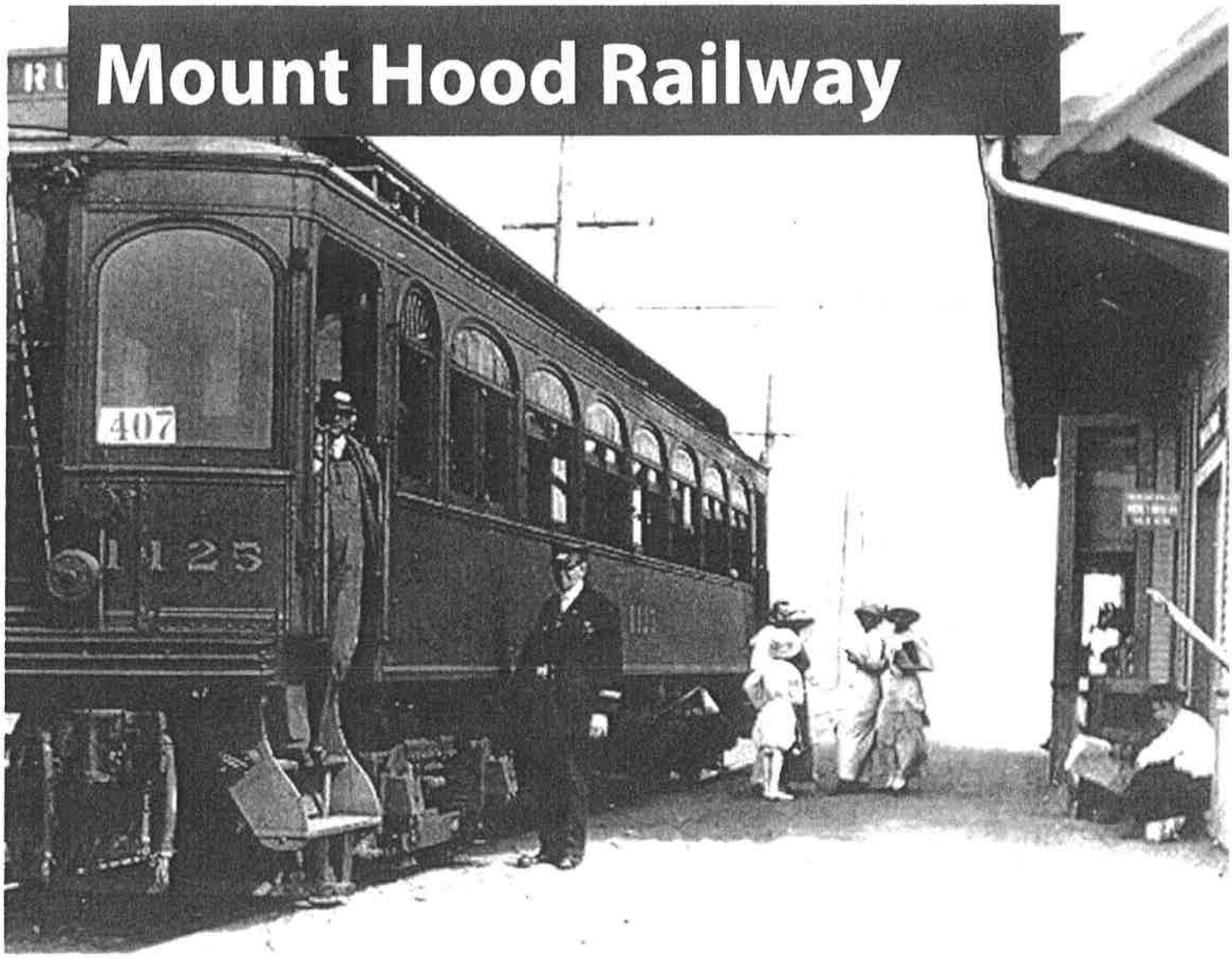


The Bull Run Rail Line & Bull Run Station

The History of Bull Run

42

Mount Hood Railway



The Bull Run Rail Line & Bull Run Station

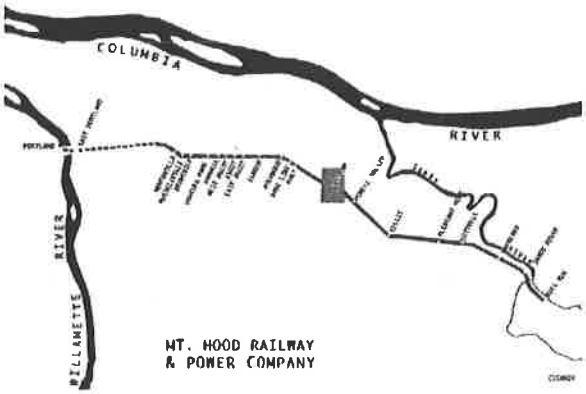
The History of Bull Run

42
6-24

Mount Hood Railway

The Bull Run Rail Line & Bull Run Station

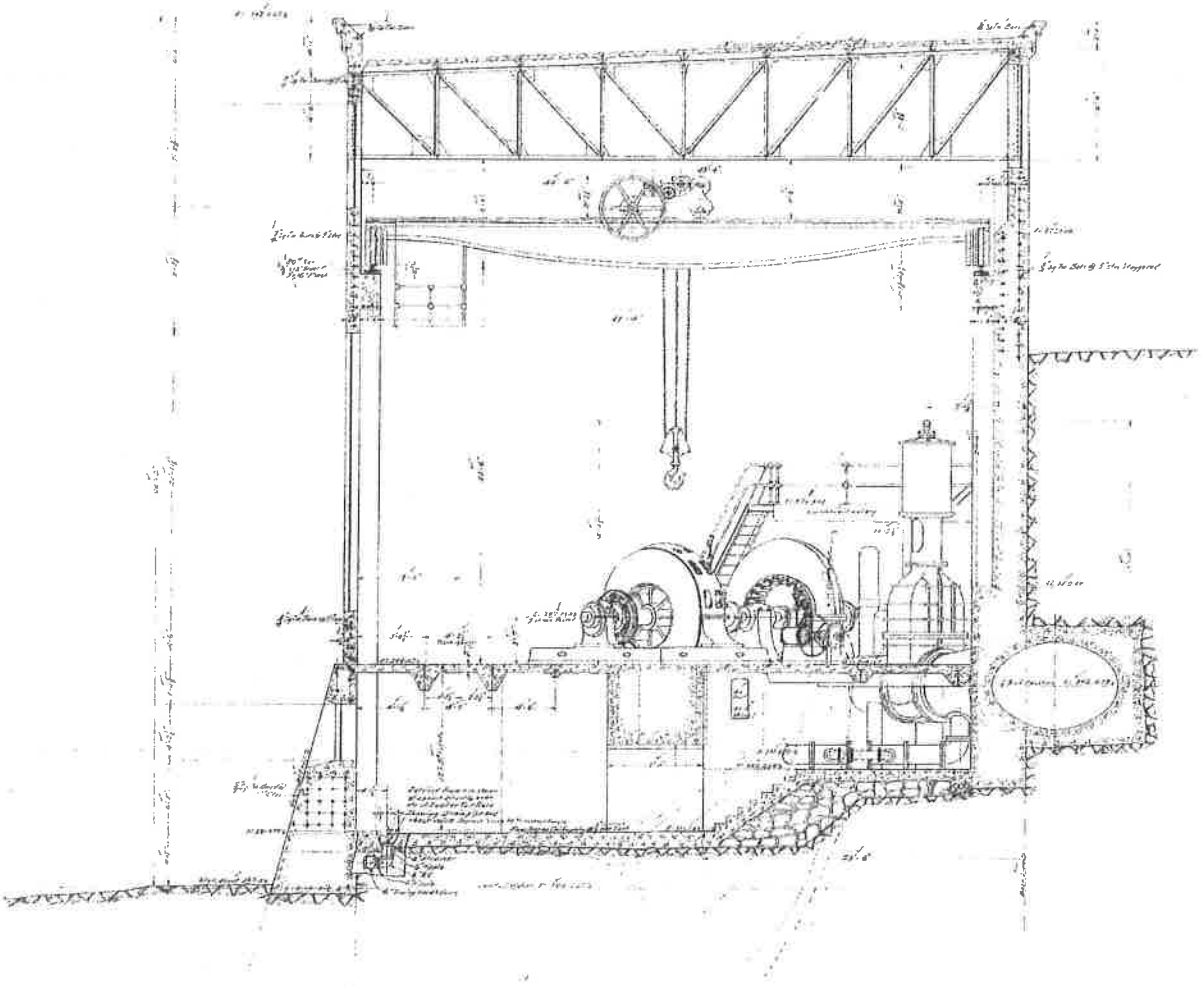
To construct the Bull Run hydroelectric project, the company needed improved access to the Powerhouse site. At the time, it took three hours by stagecoach to reach Bull Run from the electric railway depot in Boring along roads planked to be usable during heavy rains. In mid-1911, the company finished construction of a railway line between the Montavilla neighborhood in Portland and Bull Run.



The Mount Hood Railway and Power Company line, 22 miles long, began as a steam locomotive railway. In 1912, the company merged with the Portland Railway, Light and Power Company (PRL&P), which later modified the line for use by electric trolleys. Trolley service to Bull Run ended in 1930.

Fishermen came via the "Fisherman's Special," embarking from Portland in the morning, fishing the day along the Sandy, and returning in the evening. Campers destined for nearby Camp Namanu arrived and departed from the "station," beginning and ending their camp experience with the two-mile walk to camp from the station.

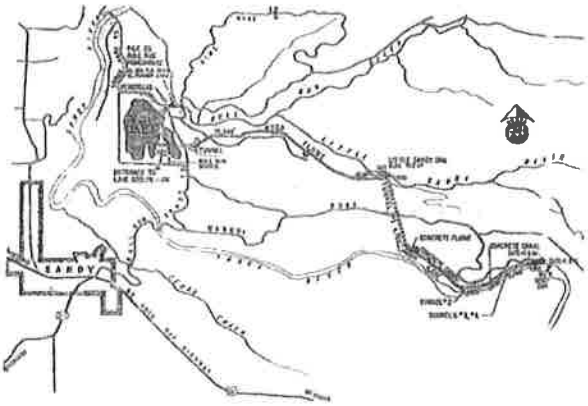
How It Worked

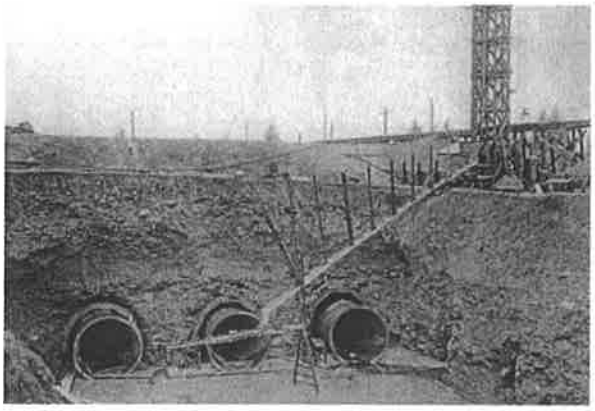


The Method

How It Worked

The Method





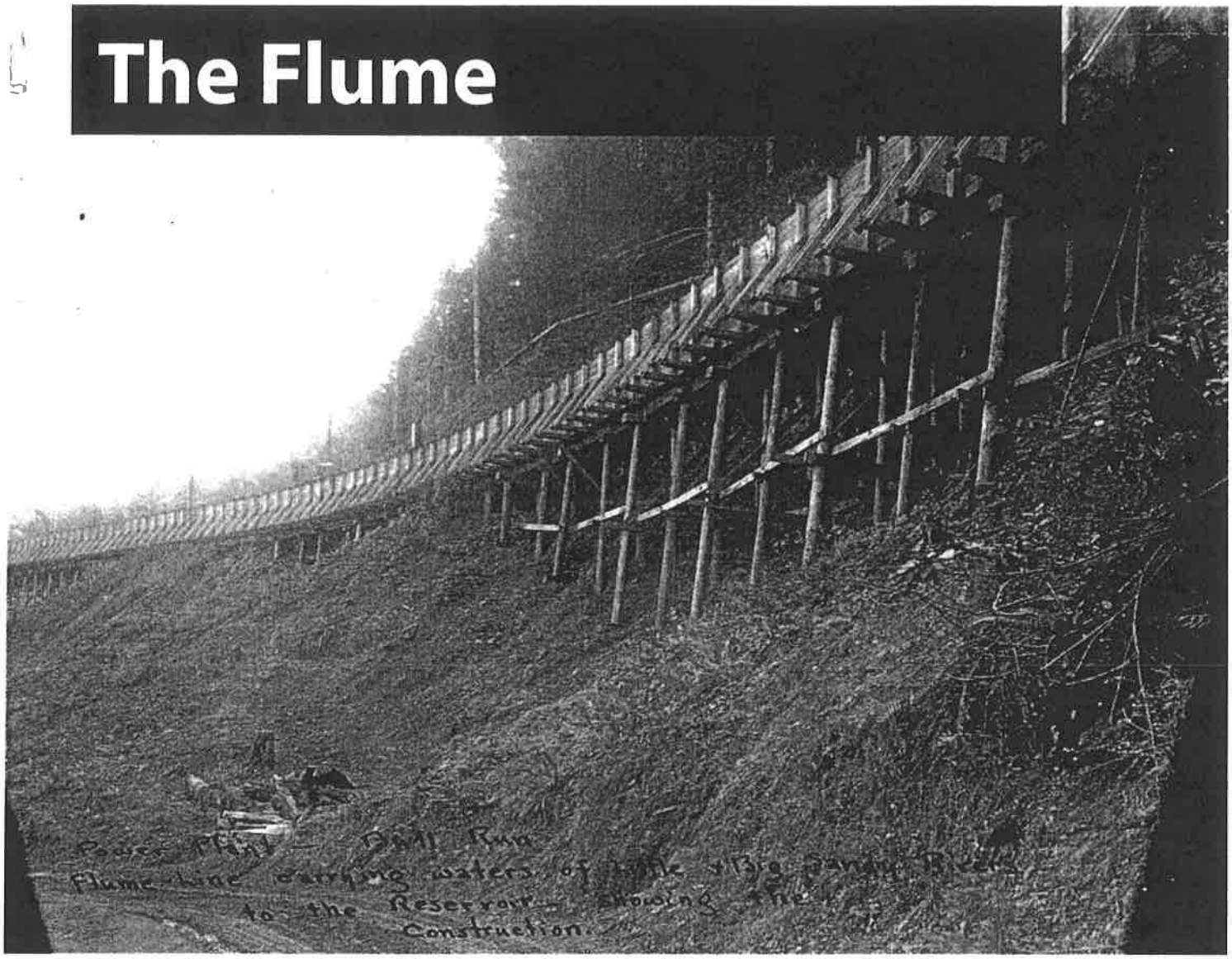
The Bull Run Powerhouse was different from other hydroelectric projects because the water used to power the turbines did not come from the river that the Powerhouse sat on, the Bull Run.

Instead, the water came from the Little Sandy and Sandy Rivers. Water traveled through pipes, tunnels, and mainly, a 15,000 foot wooden flume. Roslyn Lake was used as a reservoir for the water, which then traveled through penstock pipes to the Powerhouse.

Since two rivers supplied the water, when the plant was decommissioned and the dams removed, two tributaries were restored and improved for fish passage.

Hydroelectric energy is a very effective way of creating electricity. The Bull Run Powerhouse proved this by being an economical and reliable provider of energy for almost 100 years.

The Flume



"The Outside Crew"

42
10-24

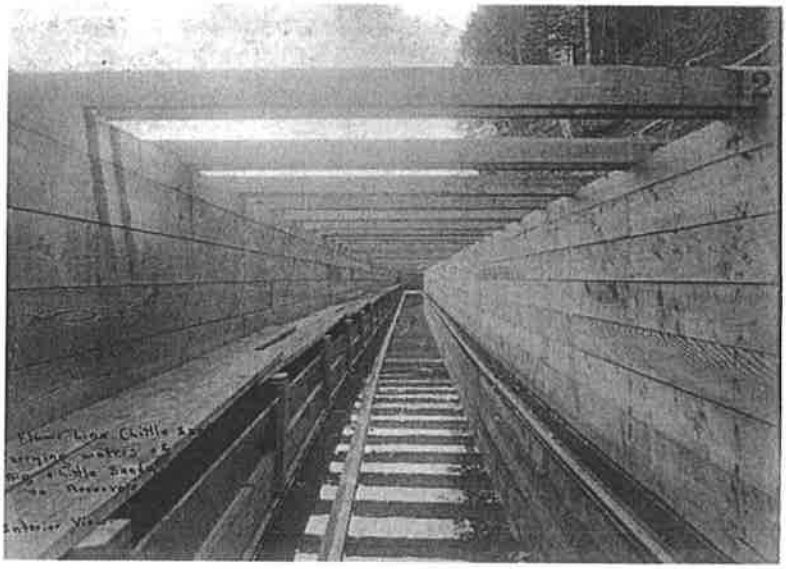
The Flume

"The Outside Crew"

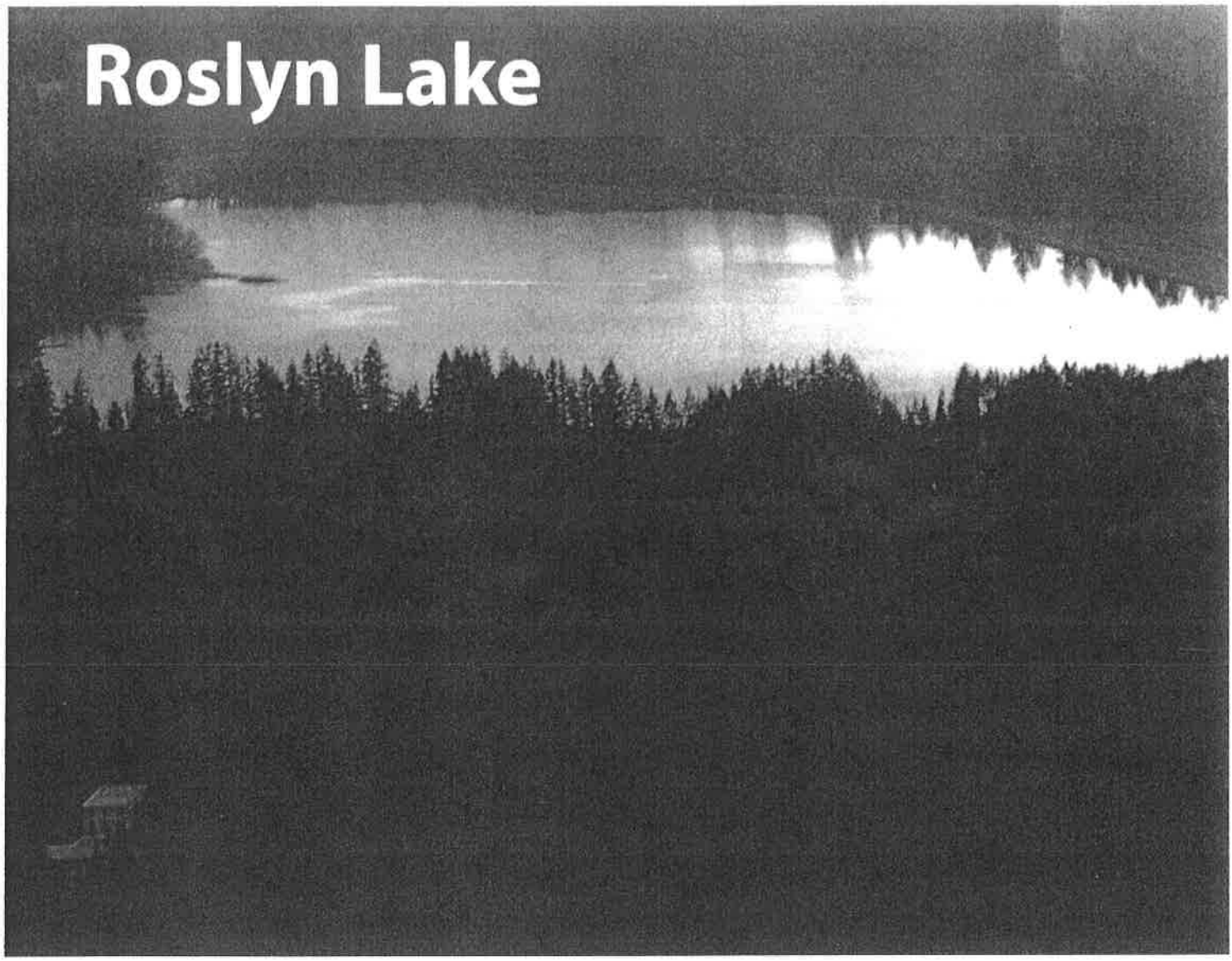
Most everyone started their work at the Powerhouse on the flume. You would not get hired if you didn't live close to the Powerhouse, so that if something went wrong, you could be there.

The number of men working on the flume varied, but most of them enjoyed working outside. The flume was built to fit to the topography of the land, so at times the distance from the footing to the top rail of the flume was 110', and at other times it was 8". For a long time there was no walkway across it, so the men would step across on the caps that were about 4 feet apart. They quickly got over their fear of heights!

Later tracks and rail vehicles located on top of the flume carried the workers.



Roslyn Lake



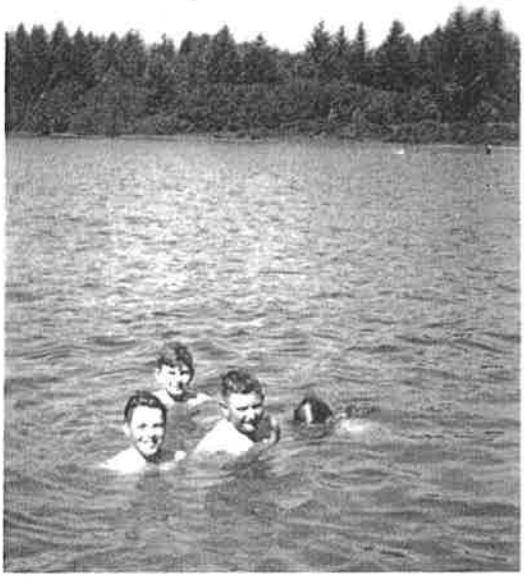
The Reservoir

42

Roslyn Lake

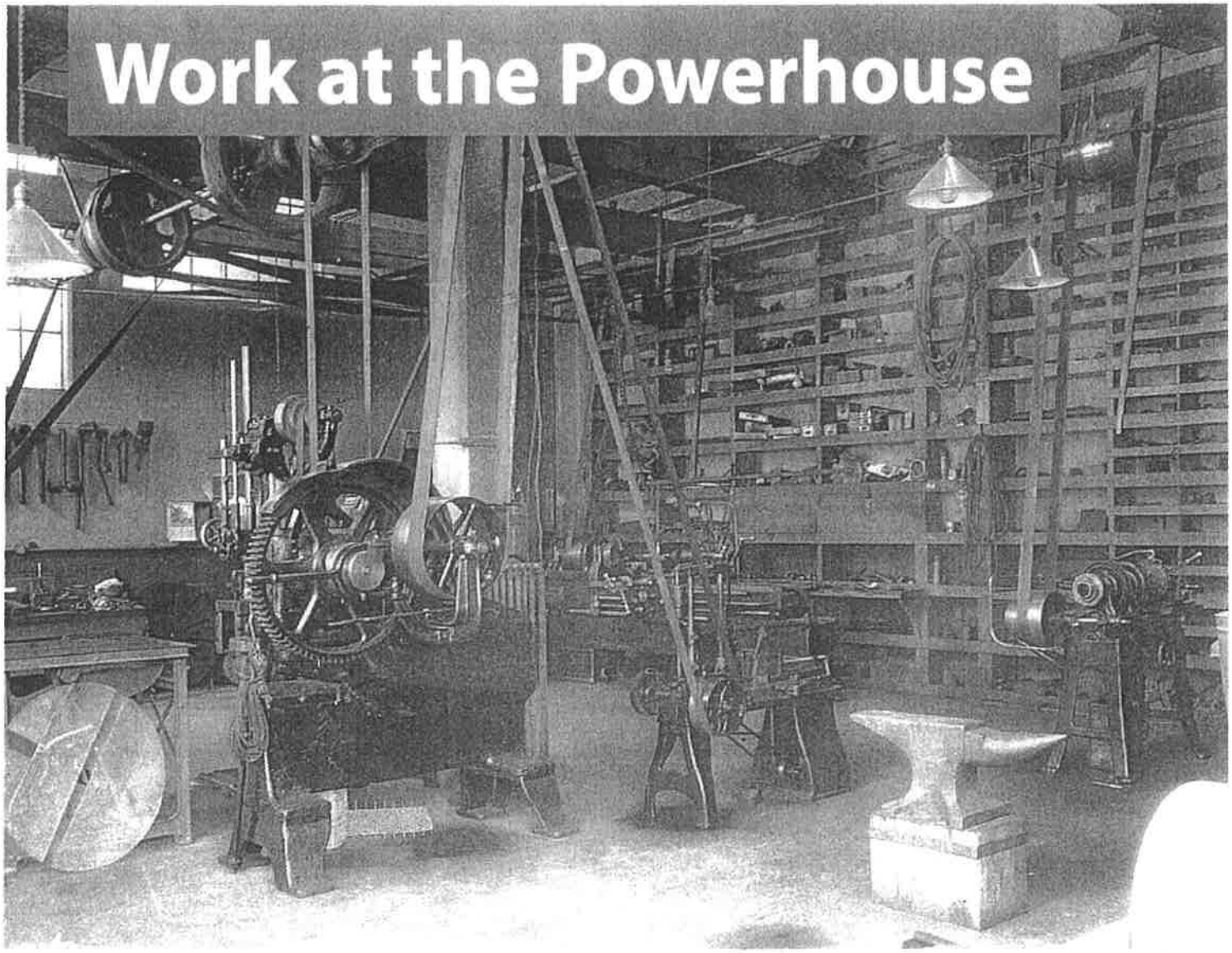
The Reservoir

Roslyn Lake began as a simple reservoir for the water to be held and then moved through to the Powerhouse; it soon developed into something much more. Roslyn Lake became a place where families and friends could meet and enjoy some of Oregon's scenic nature. Many people spent time at Roslyn Lake, whether they were camping, picnicking, boating, fishing or playing games. The lake was stocked with fish and the water wasn't too cold. This was a beautiful place for people to grow up, and in 2008 when the Powerhouse was decommissioned, many were sad to see it go.



"I loved it. It was a beautiful place in the summer.... You'd watch kids play and people get sunburned. I'll miss it immensely."

Work at the Powerhouse



"Lookin' for a Job?"

Work at the Powerhouse

"Lookin' for a Job?"

"Great! You'll start on the flume."

From Flume

Work outdoors, digging the soil away from support beams, tearing out and replacing old floor boards.

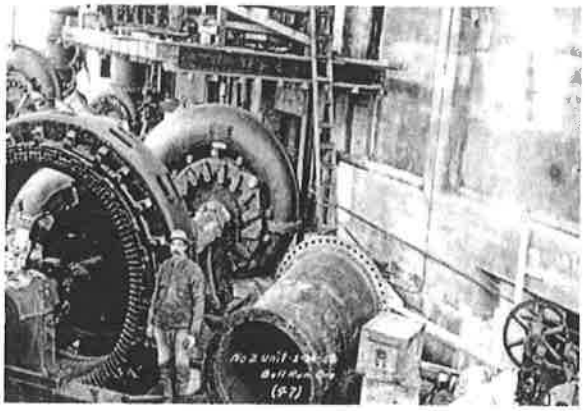
To Wheel Tender

Work on the lower floor of the Powerhouse. Wiping down and oiling everything, keeping things moving smoothly. And of course, constantly mopping and wiping the floor.

To Operator

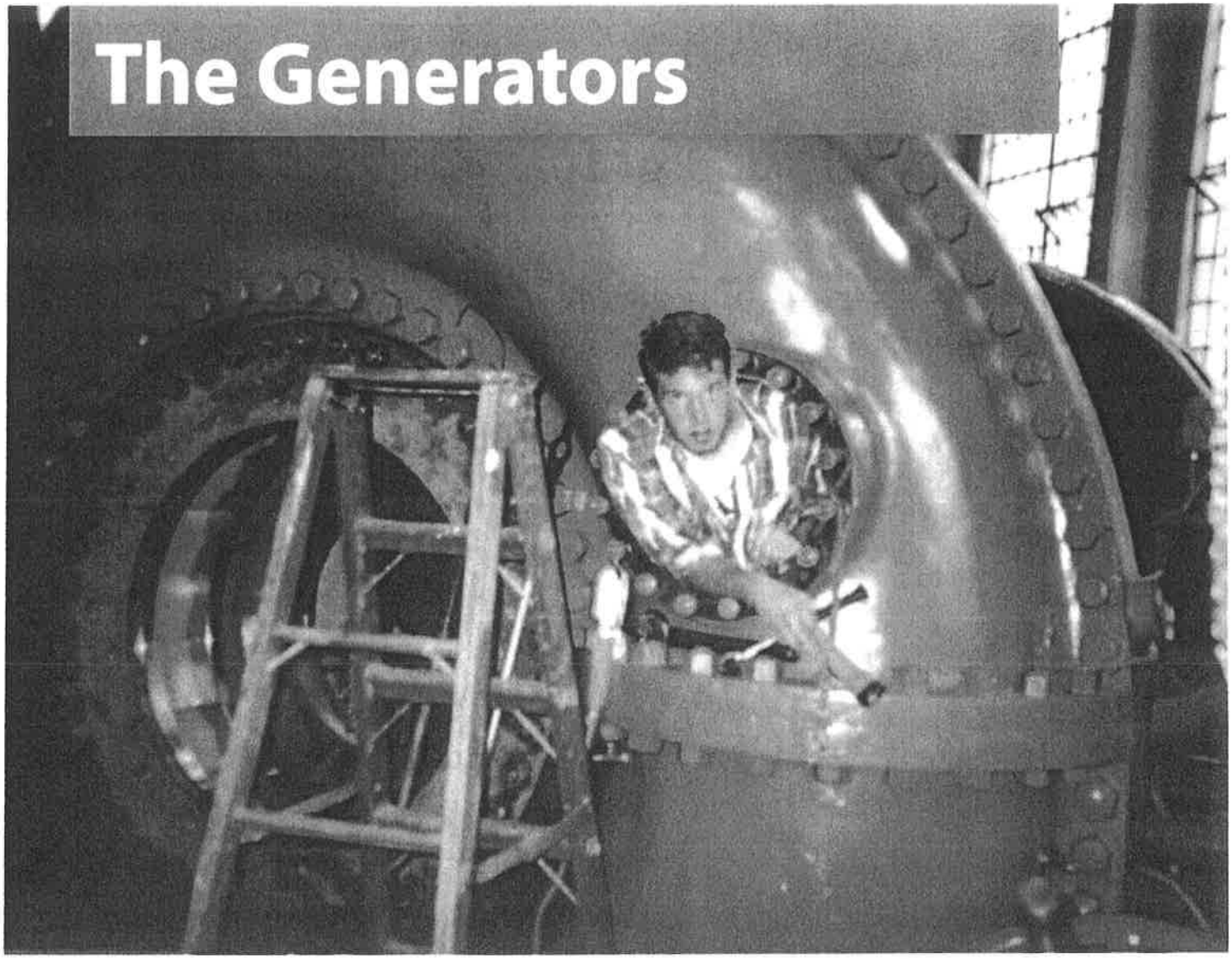
Work on the upper floor of the Powerhouse operating switches and synchronizing the motors.

The Powerhouse workers were one big family. For the most part, they all got along with each other and their supervisor. They rotated through different shifts (12pm - 8pm, 8pm - 4am, 4am - 12pm) so they didn't get too used to sleeping at night. Their work had value and meant a lot for cities all over Oregon, especially Portland.



"The [supervisor] had a window in the office, he'd look through and you'd better be moving downstairs ... doesn't matter what you'd be doing, as long as you're moving!"

The Generators



Powering Portland

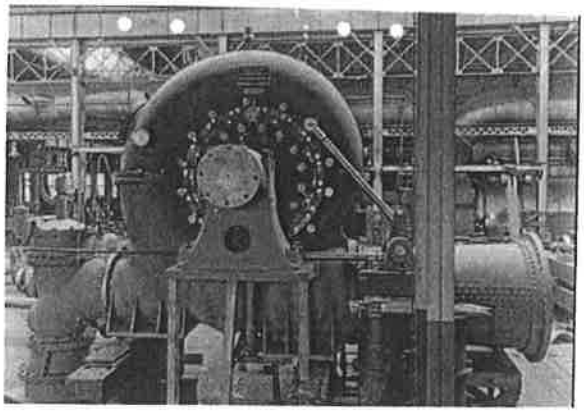
The Generators

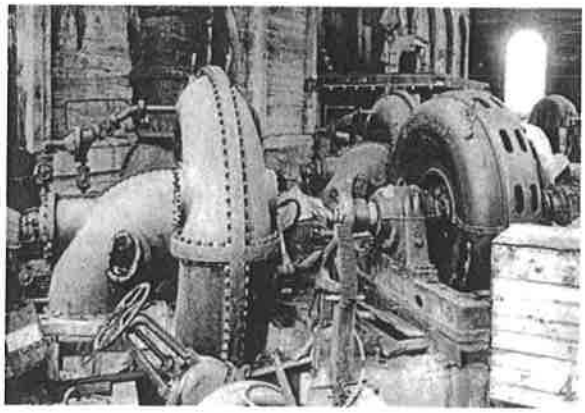
Powering Portland

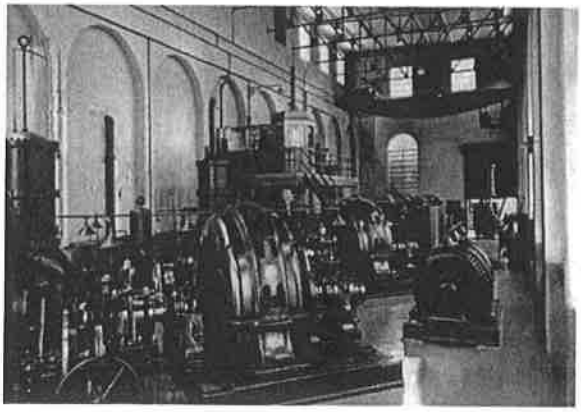
To provide Portland, a rapidly growing city, with electricity from 1912 to 2008 these generators had to work hard. They produced 22-23 megawatts and 24 on a good day. Each generator ran with great force, creating 91 decibel noise levels, where 90 dB is the level where sustained exposure may result in hearing loss. However, the workers never wore earplugs. The generators also created a large vibration, but that usually only affected those on the upper level of the powerhouse.

Each of the four generators had a worker assigned for whom its care was their own responsibility. So, they had to wipe it down, oil it, paint and re-paint it, sweep and mop the area around it, and of course, keep it running smoothly.

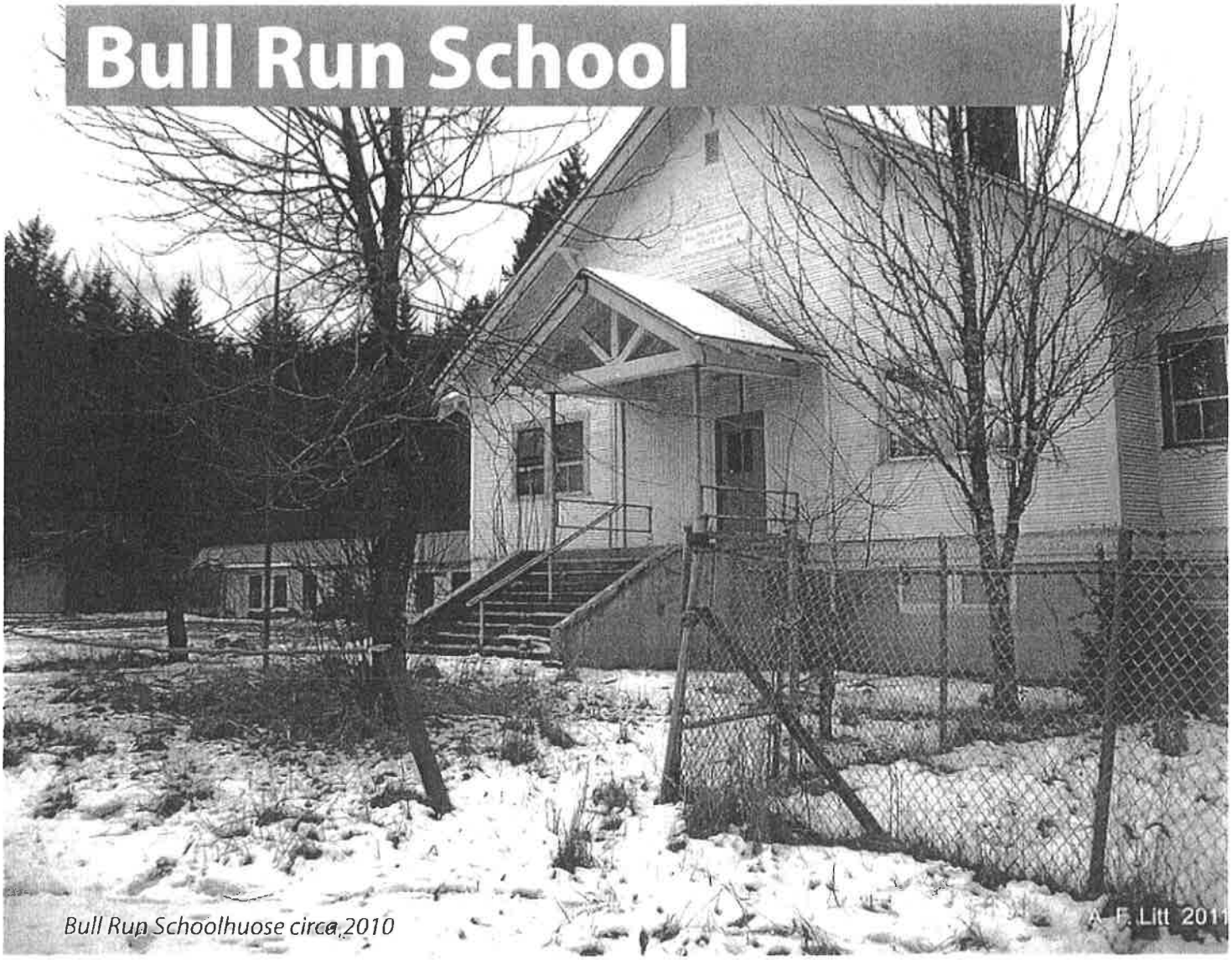
Most people you know probably work in front of a computer. These men worked in front of an 150+ ton piece of machinery.







Bull Run School



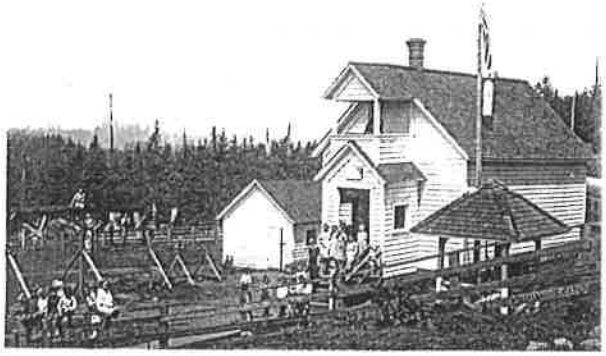
Bull Run Schoolhuose circa 2010

The School was the heart of the community...

Bull Run School

The School was the heart of the community...

In the early 1900's, a one-room Bull Run schoolhouse was built at Ten Eyke & Thomas Roads. As the community grew, plans for a larger two-room school were underway. In 1923, construction of the new school was delayed forcing the one-room schoolhouse to stay open without having it's water supply tested. The teacher became ill and died of Typhoid Fever contracted from contaminated well water.

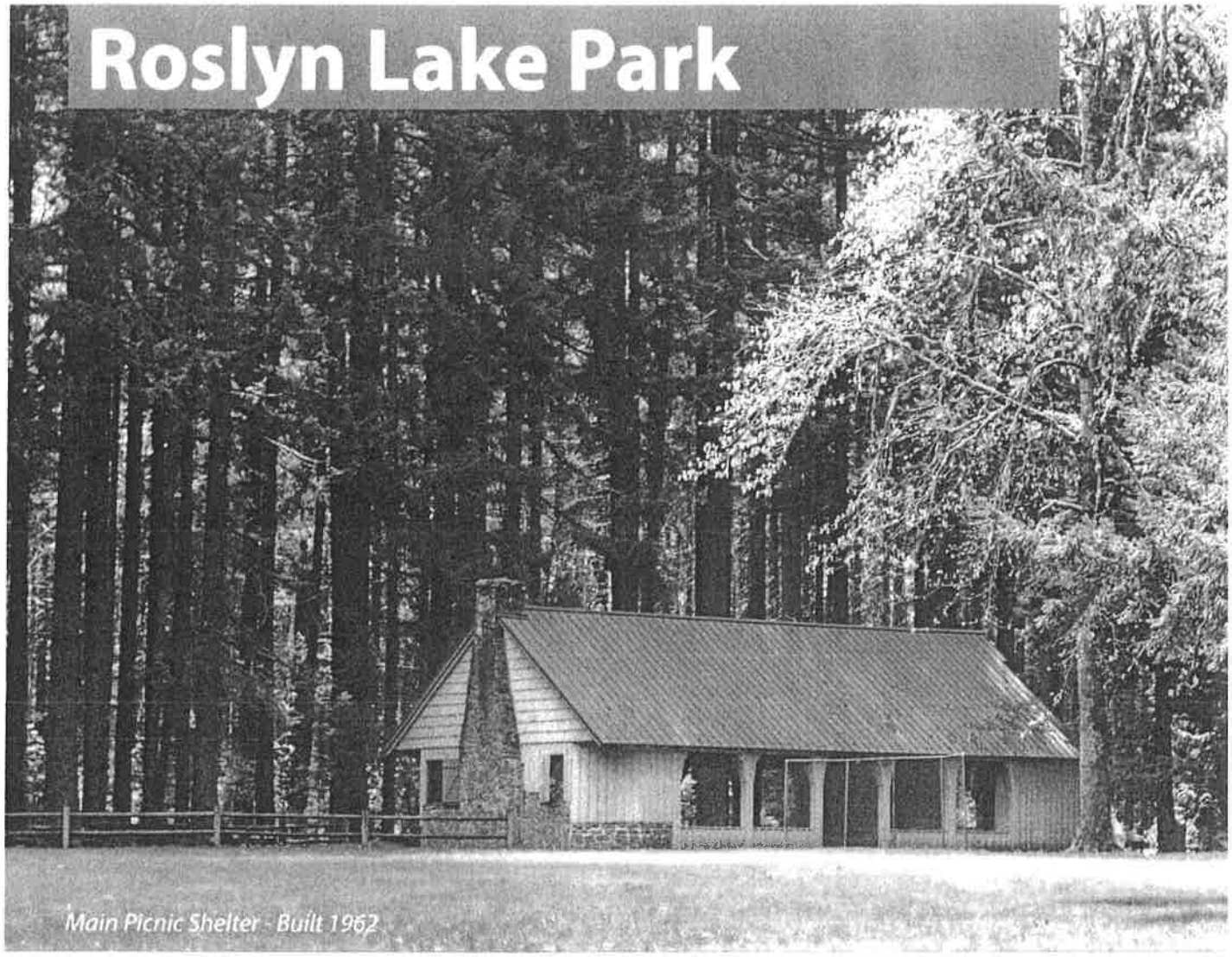


The new two-room schoolhouse, located up the street from the previous school, was one of few in the area that could afford a gymnasium, afforded by taxes collected from a thriving lumber industry. One local resident was quoted in the Oregonian saying:

"We had a very early gymnasium. It had a floor and a heater in it. My wife went to Cottrell School. Whenever they played basketball, they played on gravel."

Over time, the school went through many alterations and additions to adapt to the growing population. But in 1984, the school district was facing controversy and financial stress. In 2003 the school was closed and all students were transferred to Firwood Elementary School.

Roslyn Lake Park



Main Picnic Shelter - Built 1962

"The lake you play by this summer will also iron your clothes."

Roslyn Lake Park

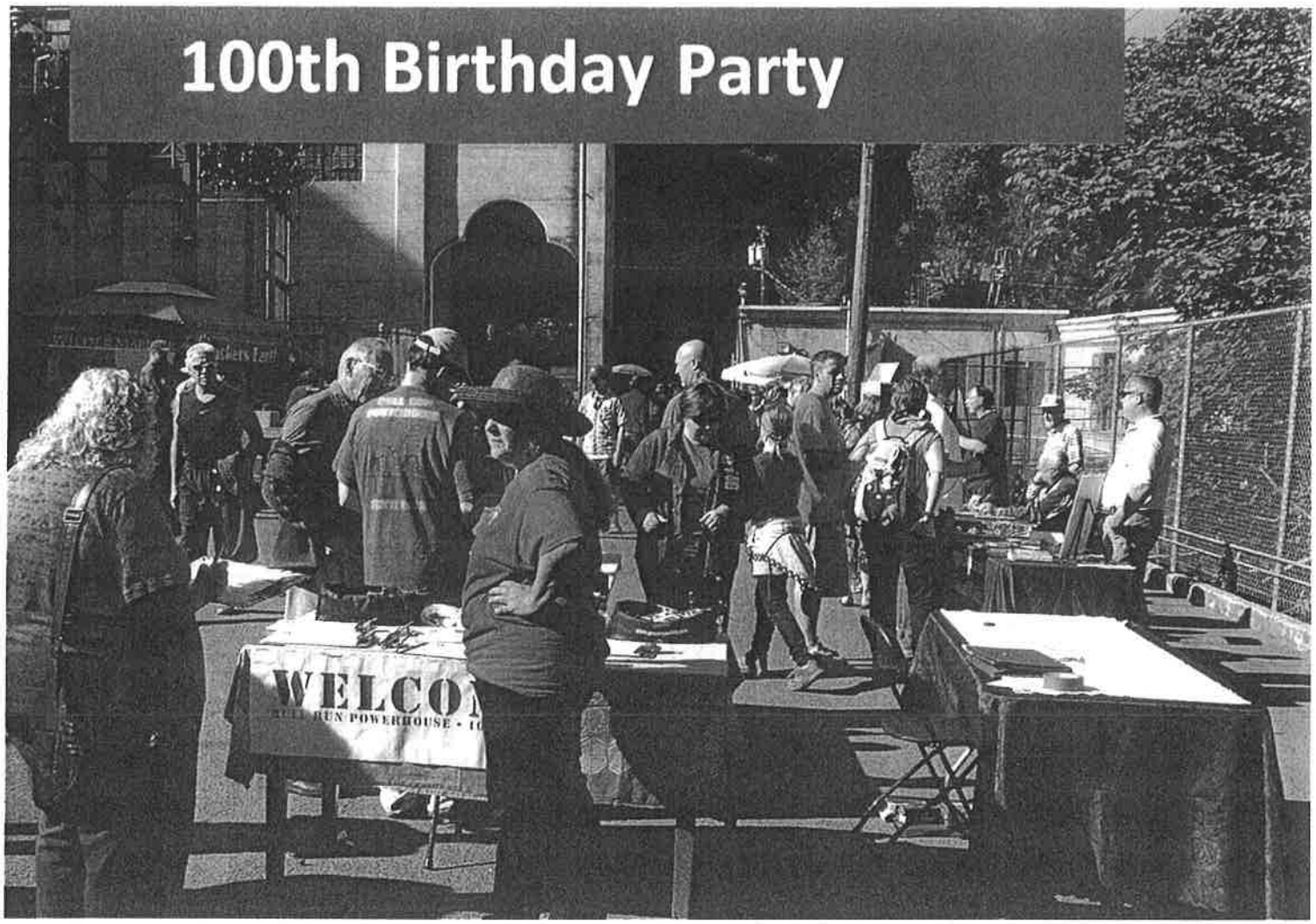
"The lake you play by this summer will also iron your clothes."

In the late 1950's, PGE began improving the land adjacent to Roslyn Lake for use as a recreational facility. Over time, various amenities were added including restrooms with flush-toilets, boat ramps, play areas, and covered picnic shelters. It became known as Roslyn Lake Park and remained a popular recreation spot for decades.

In the mid 1990's, PGE estimated that 63,000 people visited the park annually and that picnic areas were being used at ninety-percent capacity.

The Lake remained filled with water until May 2008 when the Powerhouse was decommissioned and the last of the lake's water ran through the turbines. The park was closed shortly thereafter, although it continues to be used by area residents.

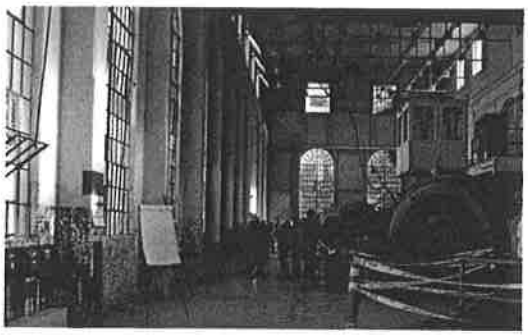
100th Birthday Party



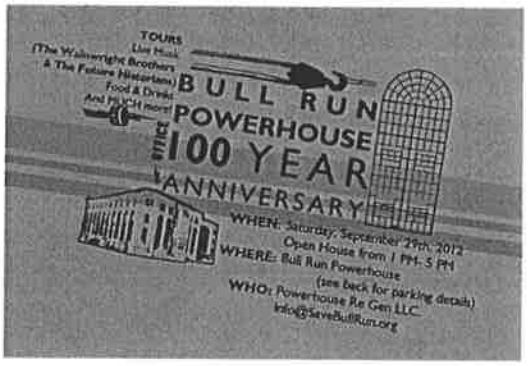
600 People Attended

100th Birthday Party

600 People Attended



Inside the Generator Room



On September 29th, 2012 Powerhouse Re Gen LLC hosted an open house at the Bull Run Powerhouse to commemorate 100 years since it began producing electricity.

It was the first opportunity for the community to tour the site since it ceased producing power in 2009.

600 people attended.

Neighbors, former employees and their families, scout troops, engineering students and many lovers of history were all there. There were tours, historic displays, live music, food, and refreshments.

Ideas for the future use of the powerhouse were collected from attendees

Otis Brophy at the Forge

For additional information SaveBullRun.org

Uses to be Allowed by Site

July 28, 2014

Proposed Uses for the Park Site (FF-10 portion only)

The following are Permitted Uses on the Park Site, subject to Subsection 707.05(A):

1. One detached single family dwelling, residential home, or manufactured dwelling for use solely by a caretaker or manager;

The Hearings Officer may approve the following conditional uses on the FF-10 zoned portion of the Park Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

2. Propagation or harvesting of a forest product;
3. Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;
4. Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
5. Utility carrier cabinets, subject to Section 830;
6. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;
7. Schools, subject to Section 805;
8. Cemeteries, subject to Section 808;
9. Service and Recreational uses, subject to Section 813;
10. Wireless telecommunication facilities listed in Subsection 835.06(A);
11. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit.

The following are Accessory Uses in the Farm and Forest 10 Acre District on the Park Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);
2. Signs, subject to Section 1010;
3. Solar energy systems;
4. Rainwater collection systems.

EXHIBIT 43
1-4

Proposed Uses for the School Site

The following are Permitted Uses on the School Site, subject to Subsection 707.05(A):

1. One dwelling unit;

The Hearings Officer may approve the following conditional uses on the School Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

1. Public and private parks, community gardens, playgrounds, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;
2. Utility carrier cabinets, subject to Section 830;
3. Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835;
4. Schools, subject to Section 805;
5. Daycare Facilities, subject to Section 807;
6. Service and Recreational uses, subject to Section 813;
7. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;
8. Art and music studios;
9. Galleries;
10. Offices;
11. Craft shops;
12. Bed and Breakfast establishments;
13. Gift shops;
14. Museums;
15. Catering Services;
16. Book stores;
17. Boutiques;
18. Restaurants;
19. Antique shops;

EXHIBIT 43
2-4

20. Community Center for civic or cultural events;

21. Any use that the Hearings Officer finds to be similar to listed uses 9 through 21 above.

The following are Accessory Uses on the School Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);

2. Signs, subject to Section 1010;

3. Solar energy systems;

4. Rainwater collection systems.

Proposed Uses for the Powerhouse Site

The following are Permitted Uses on the Powerhouse Site, subject to Subsection 707.05(A):

1. One dwelling unit for use solely by a caretaker or manager;

The Hearings Officer may approve the following conditional uses on the Powerhouse Site, pursuant to Section 1300. Approval shall not be granted unless the proposal complies with Section 1203, Subsection 707.05(B), and any applicable provisions of Section 800.

1. Public and private parks, community gardens, playgrounds, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;

2. Utility carrier cabinets, subject to Section 830;

3. Schools, subject to Section 805;

4. Service and Recreational uses, subject to Section 813;

5. Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;

6. Art and music studios;

7. Galleries;

8. Offices;

9. Craft shops;

10. Bed and Breakfast establishments;

11. Gift shops;

EXHIBIT 43
3-4

12. Museums;

13. Catering Services;

14. Book stores;

15. Boutiques;

16. Restaurants;

17. Community Center for civic or cultural events;

18. Any use that the Hearings Officer finds to be similar to uses 7 through 18 above.

The following are Accessory Uses in the Farm and Forest 10 Acre District on the Powerhouse Site:

1. Uses and structures customarily accessory and incidental to a primary use (including a use listed as a conditional use);

2. Signs, subject to Section 1010;

3. Solar energy systems;

4. Rainwater collection systems.

EXHIBIT 43
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CLACKAMAS
COUNTY

Planning & Zoning Division

Development Services Building
Mike McCallister, Planning Director
150 Beavercreek Road | Oregon City, OR 97045
phone: (503) 742-4500 | fax: (503) 742-4550 | e-mail: zoninginfo@co.clackamas.or.us
web: http://www.clackamas.us/transportation/planning

July 30, 2014

Becky Hewitt, AICP
Angelo Planning Group
921 SW Washington Street, Suite 468
Portland, Oregon 97205

Re: Z0208-14-CP / Z0209-14-Z – Karlsson
T2S, R5E, Section 06, W.M, Tax Lot 102, 103 and 600

At the recent Planning Commission hearing held July 28, 2014 it was understood the Planning Division would provide some guidance to the process in seeking a balance with the request and the overall criterion. It was noted during the hearing that the staff report would be a good path to follow in addressing all the criteria. We have discussed this matter and find the following additional information might be helpful in the continued application process. We do not believe this requires a rewrite of the initial application but a summary of the facts regarding these issues might be helpful. We offer the following as a general open ended guideline.

Would you provide a "*realistic*" list of uses for each separate site. What does your client "*really*" want? What is it they just couldn't live without? My recollection of the hearing was the Planning Commission wanted a more realistic list of uses for each site. Also, they wanted some evidence why your clients believe the proposed uses will ultimately support the continuation of the historic sites, other than revenue which is not in state law.

Although you reviewed the ESEE criterion, we noticed it was all positive in nature. An ESEE analysis generally has an equal review of positive and negative issues. Also, how does your client know these uses will actually help preserve the historic site with no business plan or study? Would you please discuss the economic factors along with other relevant factors of why these proposed uses are reasonably accommodated on and will benefit the sites? Most likely this will be something more than "*adaptive reuse*".

Another aspect of the application was the "*adaptive reuse*" you and Steve Pfeiffer discussed. So, is the theme to actually "*reuse*" the existing structures for <u>all</u> these uses? Are new structures anticipated and if so, how would this be in keeping with the "*original characteristics*" of the historic sites?

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When requesting a use in one Section that has broader uses in another Section, such as Section 813, Service and Recreational Uses, you need to add these additional uses to the mix of uses requested, see attached Section 813.

Could you focus in on the need for a dwelling on all three sites? How will the dwelling be used? Will the dwelling be placed in an existing structure, if not, why? Will there be any size limitation? Based on your clients' discussion of a future division and sale of the Park and School site, why ask for three dwellings on ultimately two ownerships in the very near future?

Could you provide some a basic "*vision*" the applicants have for each site? What is anticipated for each site based on the uses? Will the general activities be outside or inside and why? How many anticipated attendees for each site, generally? Will there be any self imposed limitations of some or all of the uses?

And lastly, Mr. Pfeiffer indicated that all the proposed uses would be subject to review through the Conditional Use standards as provided for in Section 1203 of the ZDO which is how he plans on dealing with OAR 660-004-0020)2)(d), adverse impacts. We are not convinced this is not just delaying the criteria, not addressing it at ORS 197.732(2)(c)(B) and OAR 660-004-0020(2)(b). Also you may want to discuss how Subsection 707.05(B) will be applied to include any potential adverse impacts of these proposed uses? By design, how will these uses be compatible? How are these sites at full "*vision*" compatible with other adjacent uses or how will these "*uses*" be rendered compatible, through measures designed to reduce adverse impacts?

Sincerely,

Gary Hewitt – Sr. Planner

Cc: Planning Commission (Via E-mail)
Karen Karlsson (Via E-mail)
Steven L. Pfeiffer, Attorney (Via E-mail)

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813 SERVICE AND RECREATIONAL USES

813.01 ALLOWED USES

Service and recreational uses include the following:

A. Private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities, including country clubs, lodges, fraternal organizations, swimming pools, gymnastics facilities, golf courses, boarding or riding stables, boat moorages, parks, and concessions;

B. City, county, state, federal, service district, and municipal corporation uses or buildings. These do not include uses or buildings otherwise specifically listed as conditional uses in individual zoning districts or identified in Subsections 813.01(C) or (D);

C. Telephone exchanges, railroad rights-of-way, and public utility structures without shops, garages, or general administrative offices. Radio and television transmission and receiving towers and earth stations, provided that the base of such towers shall not be closer to the property line than a distance equal to the height of the tower. Wireless telecommunication facilities, amateur (Ham) radio towers, citizen band transmitters and antennas, and essential public communication services are excluded from this subsection;

D. Recreational vehicle camping facilities, subject to the following standards:

1. Locational Standards:

   a. Within an urban area, recreational vehicle camping facilities shall be located on a road with a functional classification of minor arterial or higher, and shall be no more than 1/2 mile from a major arterial or freeway/expressway.

   b. Outside an urban area, recreational vehicle camping facilities shall be located no more than 1 mile from a major arterial or freeway/expressway.

2. Campsite/Area Requirements:

   a. In areas served by public sewer, the maximum number of campsites shall not exceed 1 per 1,500 square feet of net site area.

   b. In areas not served by public sewer, the maximum number of campsites allowed shall be subject to review and approval by the Soils Section of Water Environment Services.

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c. Each campsite shall be at least 1,000 square feet, exclusive of roadways.

3. Improvements: Each recreational vehicle campsite shall include the following:

   a. Electrical service hookup;

   b. Potable water hookup;

   c. Sewage disposal service; and

   d. Landscaping in areas that are not intended to be occupied by the recreational vehicle or used for a parking space.

4. Parking Requirements:

   a. Each recreational vehicle campsite shall include 1 recreational vehicle parking space with minimum dimensions of 12 feet by 20 feet.

   b. Parking spaces shall be provided for the manager and employees of the camping facility.

   c. A minimum of 1 parking space per campsite shall be provided in addition to the space required for parking of a recreational vehicle. The additional space need not be located on the same site as the recreational vehicle space.

   d. Within an urban area, parking spaces shall be hard-surfaced. Outside an urban area, a graveled surface with a minimum base of 3 inches of crushed rock or better may be substituted for hard surfacing.

5. Dimensional Standards: The dimensional standards shall be the same as those required in the zoning district in which the subject property is located.

6. Accessory Uses: The following accessory uses and structures may be provided at a scale intended to serve the tenants of the recreational vehicle camping facility:

   a. A caretaker's/manager's dwelling or office;

   b. Recreational areas and equipment;

   c. Clubhouses;

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d. Tourist information centers;

e. Laundry, restroom and shower facilities;

f. Storage and/or maintenance buildings;

g. Any use that the Hearings Officer finds to be similar to one or more of those specified in Subsection 813.01(D)(6). Where a recreational vehicle camping facility is a primary use, this determination shall be made by the Planning Director and shall be processed as an Interpretation pursuant to Subsection 1305.03.

7. Access and Circulation:

   a. The location of access driveways shall be subject to approval by the Department of Transportation and Development.

   b. Any driveway, or portion thereof, which does not provide for continuous circulation shall not exceed 600 feet in length and shall terminate with a turnaround having a minimum diameter of 60 feet.

   c. The minimum driveway width for two-way traffic shall be 24 feet, except that if parking is permitted on the margins of the driveway, the minimum driveway width shall be 32 feet. The minimum driveway width for one-way traffic shall be 16 feet, except that if parking is permitted on the margins of the driveway, the minimum driveway width shall be 24 feet.

   d. Driveways shall be hard-surfaced.

8. Screening: Except as necessary to accommodate access driveways and corner vision requirements, the facility shall be screened on all sides by sight-obscuring plant materials or fencing, or a combination thereof, with a minimum height of 6 feet.

9. Maintenance: Storage of materials or equipment shall be within enclosed structures. Trash receptacles shall be provided in convenient locations for use by guests of the camping facility and in such number and of such capacity that there is no uncovered accumulation of trash at any time.

10. Other Regulations: Recreational vehicle camping facilities shall comply with all applicable rules and regulations of the Public Health Department and state agencies governing such facilities.

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E. Any use that the Hearings Officer finds to be similar to one or more of those specified above. However, in a zoning district listed in Subsection 106.01, Section 106 shall apply in lieu of Subsection 813.01(E).

[Amended by Ord. ZDO-235, 5/14/12]

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6-6

Approval Criteria for New Uses, Additions and Alterations, and New Development in the Bull Run Historic District

The following provides a brief summary of the approval criteria that must be met for future land use applications in the Bull Run Historic District. The full text of the code sections referenced is included on the following pages for convenience.

First, for all uses identified in the proposed use table as Conditional Uses (this includes nearly all uses proposed to be allowed), the general approval criteria for Conditional Uses found in Section 1203.01 must be met (see page 3), as well as any special use requirements in Section 800. These standards ensure compatibility of the proposed use with the surrounding area and with the nature of the site itself.

Second, for all uses identified with a double asterisk (**) in the proposed use table, the approval criteria of Subsection 707.05(B) must be met (see page 4).[1] These criteria ensure that the proposed uses are appropriate in the historic district and that their establishment ensures the protection of the Historic Resource.

In addition, the criteria of 707.07(C) apply to all alterations, additions, and new construction in the Historic Overlay District (see page 5). The criteria ensure that the physical development is appropriate and is consistent with best practices in historic preservation.

Section 1004 allows the County to further restrict or condition development on or near the site of any designated historic or cultural resource in order to protect the unique character of the resource(s) (see page 8).

Finally, the following conditions of approval are recommended by the applicant as part of the zone change and goal exception:

- Future use of the Powerhouse Site, the FF-10 zoned portion of the Park Site, and the School Site shall be as identified in the document titled "Uses to be allowed by site", dated August 4, 2014, including the use- and site-specific limitations identified in that document.
- Land division of the Park Site (the portion of tax lot 102 west of Ten Eyck Road) shall be prohibited.
- Removal of the Historic Landmark and Historic District designations shall require the re-designation of the land to the Timber zone, unless a new goal exception is approved.

[1] Note that normally, the criteria of 707.05(B) apply only to uses that are not otherwise allowed in the underlying district, but are allowed (conditionally) with the historic overlay. The applicant is proposing applying these approval criteria more broadly to all conditional uses allowed on the historic sites, so that all uses support the preservation of the historic resources.

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- Any new structures on the Powerhouse Site shall be limited to the existing intensively developed, fenced area of the site.
- No new permanent structures shall be built within 50 feet of the property line on the Park Site.

The in-depth review of future proposals through the Conditional Use and Historic Review processes along with the applicant's proposed conditions of approval will ensure that the uses and developments on the sites protect both the community and the historic character of the properties.

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2-8

Standard Approval Criteria for All Conditional Uses

1203.01 APPROVAL CRITERIA

The Hearings Officer may approve a conditional use, pursuant to Section 1300, if the applicant provides evidence substantiating the following:

A. The use is listed as a conditional use in the zoning district in which the subject property is located.

B. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.

C. The proposed use is consistent with Subsection 1007.09, and safety of the transportation system is adequate to serve the proposed use

D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.

E. The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use.

F. The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000.

Note: Section 800 lists additional requirements for various uses. Section 1000 lists development standards that also have to be met

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Additional Approval Criteria for Conditional Uses in Historic Overlay[2]

707.05 USES PERMITTED

B. Conditional Use Findings: In urban and rural districts, uses listed in Subsection 707.05(C), which are not otherwise allowed in the underlying district, may be allowed, subject to the specified review procedure. Approval shall not be granted unless the proposal satisfies the criteria under Section
1203 and the applicable provisions under Section 800, and the applicant demonstrates that the use, if allowed:

1. Will preserve or improve a resource which would probably not be preserved or improved otherwise;

2. Will not require the extension or development of urban services in rural areas;

3. Will not adversely affect surrounding natural resource uses; and

4. Will utilize existing structures rather than new structures, except where new structures are determined by the Historic Review Board to be in the best interest of preserving the historic resource.

5. All structures of any form or size, including new structures, shall satisfy Subsection 707.07.C.

[2] Note that normally, the criteria of 707.05(B) apply only to uses that are not otherwise allowed in the underlying district, but are allowed (conditionally) with the historic overlay. The applicant is proposing applying these approval criteria more broadly to all conditional uses allowed on the historic sites, so that all uses support the preservation of the historic resources.

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Additional Approval Criteria for Alterations and Additions to Historic Structures

707.07 THE REVIEW PROCESS

C. Alteration and Development:

1. Purpose: It is the intent of this subsection to provide for the appropriate level of review for proposed alterations and development affecting properties within Historic Districts or Historic Corridors, or those affecting Historic Landmarks, and to provide criteria for review.

2. Maintenance: The normal responsibilities of the property owner to care, repair and replace with like materials can be done without formal review. Normal maintenance may include but not be limited to:

a. Painting and related preparation of the structure. Original paint colors or colors appropriate to the historic period should be used on Historic Landmark buildings.

b. Repair and/or replacement of roofing materials with the same kind of roof materials existing.

3. Minor Alterations: The Planning Director shall determine the status of a proposed alteration. Minor alterations shall be reviewed and approved by the Planning Director, who may consult with the Historic Review Board, or any member thereof, in applying the provisions of this Section. An alteration shall be considered "minor" when the result of the proposed action is to restore portions of the exterior to the original historic appearance while performing repairs, such as:

a. Addition of gutters and downspouts.

b. Repairing or providing a compatible new foundation that does not result in raising or lowering the building elevation.

c. Change in material to match original type of material on the structure or grounds.

d. Change in type of roof material in character with the original roofing material.

e. Replacement of storm windows or doors.

4. Alterations Criteria: The Historic Review Board shall review all proposed alterations which exceed a "minor" status under Subsection 707.07(C)(3). A request for an alteration permit under this provision shall be made on the appropriate application form provided by the Planning Division. Review and approval of an application shall be based on findings of adherence to the following standards for rehabilitation:

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5-8

a. A property shall be used for its historic purpose or be placed in a new use that requires minimal change to the defining characteristics of the building and its site and environment.

b. The historic character of a property shall be retained and preserved. The removal of historic materials or alteration of features and spaces that characterize a property shall be avoided.

c. Each property shall be recognized as a physical record of its time, place and use. Changes that create a false sense of historical development, such as adding conjectural features or architectural elements from other buildings, shall not be undertaken.

d. Most properties change over time; those changes that have acquired historic significance in their own right shall be retained and preserved.

e. Distinctive features, finished, and construction techniques or examples of craftsmanship that characterize a historic property shall be preserved.

f. Deteriorated historic features shall be repaired rather than replaced. Where the severity of deterioration requires replacement of a distinctive feature, the new feature shall match the old in design, color, texture, and other visual qualities and, where possible, materials. Replacement of missing features shall be substantiated by documentary, physical, or pictorial evidence.

g. Chemical or physical treatments, such as sandblasting, that cause damage to historic materials shall not be used. The surface cleaning of structures, if appropriate, shall be undertaken using the least damaging or gentlest means possible.

h. Significant archeological resources affected by a project shall be protected and preserved. If such resources must be disturbed, mitigation measures shall be undertaken.

i. New additions, exterior alterations, or related new construction shall not destroy historic materials that characterize the property. The new work shall be differentiated from the old and shall be compatible with the massing, size, scale, and architectural features to protect the historic integrity of the property and its environment.

j. New additions and adjacent or related new construction shall be undertaken in such a manner that if removed in the future, the essential form and integrity of the historic property, including historic plant materials, and its environment would be unimpaired.

5. New Construction: The Historic Review Board shall review all building permits for proposed structures on a landmark site or within a Historic District or Historic Corridor. Review and approval of an application shall be based on the following criteria:

a. The design of the proposed structure is compatible with the design of the landmark building(s) on the site or in the district or corridor considering scale, style, height, and architectural detail, materials, and colors.

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b. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site or within the district or corridor, considering setbacks, distances between structures, location of entrances, and similar siting considerations.

c. Changes to yard areas including planters, fences ponds, walkways and landscape materials should be compatible with the overall historic setting.

d. Scale of commercial use: Individual permitted uses shall be of a scale appropriate to serve properties surrounding the historic overlay.

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Additional Development Standards to Protect Historic Properties

1004 HISTORIC PROTECTION

1004.01 PURPOSE To preserve structures, sites, objects, and areas with in Clackamas County having historic, cultural, or archaeological significance.

1004.02 STANDARDS

A. Refer to Section 707 for standards and provisions related to historic/cultural resource designation and County review of any proposed alteration.

B. All developments shall be planned, designed, constructed, and maintained to assure protection of any designated historic or cultural resource on or near the site. Restrictions on development may include:

   1. Clustering of buildings and incorporation of historic-cultural resources into site design in a manner compatible with the character of such resources.

   2. Limitations on site preparation and grading to avoid disturbances of areas within any historic or archaeological sites, monuments or objects of antiquity.

   3. Provision of adequate setbacks and buffers between the proposed development and the designated resources.

C. The County may attach additional conditions with respect to the following design factors in protecting the unique character of historic/cultural resources:

   1. Architectural compatibility;

   2. Proposed intensity of development;

   3. Relationship to designated open space;

   4. Vehicular and pedestrian access;

   5. Proposed building or structural mass in relation to the designated resource.

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Bull Run Historic District: A vision for the future

The Bull Run Historic District consists of three interrelated and historically connected sites within a 115-acre area. It consists of the Bull Run Hydroelectric Power plant complex, the Bull Run School, and the Roslyn Lake Park. Powerhouse Re Gen has taken the lead in the preservation and planning for the future of the facilities. Powerhouse Re Gen's mission is location specific – preserving and remembering the Bull Run community and its role in the development of the area and region.

The Powerhouse Complex is the primary focus of Powerhouse Re Gen's preservation mission. Its reuse is intended to focus on the history of the Bull Run and Sandy River watersheds as they went from natural to industrial and then back to natural as the dams were built and then removed. The focus will be on the preserved generators, the tool shop and heavy machinery facilities, and the river itself. The goal is not only to preserve the facility but to enliven it with activities attractive to a wide-ranging audience. Its future use has aspects of a museum, a school, and community center all focused on the site. None of these uses are allowed now because of the Timber Zone restrictions.

Other uses that are requested as part of the proposed zone change and plan amendment are secondary to and supportive of the primary use – a small museum store, a restaurant or cafe to provide a small eating area for visitors and participants, office and meeting spaces for educational programs, and a small number of sleeping areas so that multi-day educational events can be held. It is anticipated that even with these supportive "commercial" activities, the facility will not be financially self-sustaining and will need grants, donations, and other revenue sources.

As many of the activities as feasible will be contained within the existing structures. Constructing new space is not consistent with the project's mission, except where building code regulations would make it difficult to accommodate a use within the existing structures. Any new structures will require the approval of the Historic Review Board to ensure that they are supportive of the character of historic resource.

The land containing the penstocks between the powerhouse and Ten Eyck road is included in the proposed zone change and plan amendment, which covers 10 acres around the Powerhouse, in order to allow the area east of Ten Eyck Road to be partitioned from the remaining property. No new structures will be allowed within this area.

The Bull Run School is hoped to once again become a center for the Bull Run Community. Portions of the building could be used to tell the cultural history of the area, including early settlements and the development of the Bull Run School District, while others could be available

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for community meetings and events. It is hoped that the gym and the fields once again become centers for community recreation and entertainment.

The School was not originally a central part of Powerhouse Re Gen's plans. However meetings with the community showed that the school was more important to the community than the powerhouse (which they had never been invited to enter until Powerhouse Re Gen held an event in 2012 to commemorate the 100th anniversary of the establishment of the facility). Hearing this, Powerhouse Re Gen decided to attempt to save the school as well as the powerhouse. In order to provide adequate support to both facilities, however, the school will ultimately need to be owned and operated by an entity separate from the powerhouse, with additional participants.

In order to find other participants to preserve and maintain the school site, it needs to have the ability to become self-supporting and generate enough revenue to pay for all of its operations, as well as the cost of rehabilitation. Therefore a broad range of uses, some of which can pay rent, must be explored both to activate the building and to pay its costs. The variety of uses would lure a larger audience than just history buffs to learn about the area and help make the school an active center for the community. Because the building contains 17,000 square feet of space, no new buildings are planned, aside from possibly a modest caretaker's structure if that use cannot be accommodated within the existing school structure.

Conversion of the abandoned schoolhouse to a self-supporting enterprise that rehabilitates and preserves the structure and restores some access to the site for the public is an ambitious program and can only be accomplished over time. The first step in the development process will be to establish a dwelling unit within (or adjacent to) the school building. While this residential unit is primarily to provide a presence on site in order to deter vandalism, the unique nature of the building and the site offer opportunities for live/work arrangements such as a bed and breakfast, a family daycare provider, an event-hosting home occupation, or the home of an artist who could also use portions of the building as studio and gallery space.

Roslyn Lake Park provides an opportunity to preserve and restore some public access to a historic recreational amenity for the community. In order to provide adequate support for all facilities, without harvesting the timber, the Park Site will need to ultimately be owned and operated by an entity separate from Powerhouse Re Gen. Finding an appropriate user for this portion of the property will not only achieve Powerhouse Re Gen's preservation mission, but will enable the sale of the Park Site to generate revenue to support the preservation of the powerhouse. One current proposal (the subject of the Conditional Use application submitted in June 2014 for this portion of the property) is to repurpose the site for as the "Bull Run Education Center", serving both youth and adults, with overnight accommodations. This would serve multiple purposes – preserving the existing facilities, allowing occasional neighborhood use, and generating revenue for the powerhouse.

Youth camps, as allowed in the timber zone, do not allow for-profit operations. Parks in the timber zone do not allow overnight accommodations in this area. The most likely use in the

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timber zone that could generate revenue would be commercial timber harvesting, which would destroy the historic character of the site, jeopardize the historic structures, and would not allow re-establishment of recreational activities similar to the site's past use.

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Proposed Uses for the Park Site (FF-10 portion only)

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)†	Explanation
Primary uses listed in the FF-10 Zone			
One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824.	L***	A single dwelling used primarily for oversight purposes.	A residence is needed in order to provide year-round security for the site.
Current employment of land for general farm uses, including: 1. Raising, harvesting, and selling of crops; 2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees; 3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees; 4. Dairying and the selling of dairy products; 5. Preparation and storage of the products raised on such lands for man's use and animal use; 6. Distribution by marketing or otherwise of products raised on such lands; and 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;	L	Shall not require removal of trees or historic structures. Permitted only in conjunction with a park or recreation use.	A limited amount of agricultural use (such as bee keeping or the keeping of farm animals) may be appropriate on the site in support of park or recreation uses, provided it does not impact the historic character or forest canopy.
Propagation or harvesting of a forest product.	L	Clear cutting shall be prohibited.	Sustainable management of the trees on the FF-10 portion of the park property may include limited harvesting of trees in order to ensure forest health.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

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Uses to be Allowed by Site

Proposed Uses for the Park Site (FF-10 portion only)

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)†	Explanation
Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;	P		Conservation activities are consistent with the goal of maintaining the historic wooded character of the site.
Fish and wildlife management programs;	L	In existing structures without altering landscaping.	Wildlife management is appropriate to the park's natural setting, provided that it does not require new structures or alterations to the landscaping on the site.
Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;	C**		The site was historically used as a park; future use as a park or similar use is entirely consistent with and supportive of its historic character.
Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;	N		These facilities are not suitable for this historic site.
Utility carrier cabinets, subject to Section 830;	N		These are defined as housing "utility equipment intended for offsite service". They would not be necessary in order to provide services to the site and are not suitable for this historic site.
Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.	N		These facilities are not suitable for this historic site.
Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.	N		These facilities are not suitable for this historic site.
Churches, subject to Section 804;	N		A church would require a significant new structure, which would be incompatible with the historic character of the site.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

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Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)[1]	Explanation
Schools, subject to Section 805, except as restricted by Subsection 310.07(C);	C+L**	Limited to Commercial Schools and Schools providing outdoor education. No new buildings over 1,200 square feet to serve this use.	Commercial Schools are defined as: "A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation." Schools providing instruction in certain skills, such as wood working or forestry, and outdoor education programs may be appropriate to the site, provided that they do not require significant new structures. Any new buildings are limited in size so as to be smaller than the major historic structures.
Daycare facilities, subject to Section 807;	N		Daycare facilities would require new structures and have no connection to the history of the site.
Cemeteries, subject to Section 808;	C**	Shall not require removal of trees or historic structures.	Certain styles of burial facilities that utilize a more natural setting rather than a manicured landscape could be well suited to the natural context of the site and reinstitute public access to the park setting.
Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813;	C+L**	Not to include country clubs, gymnastics facilities, golf courses, boat moorages or recreational vehicle camping facilities. No new buildings over 1,200 square feet to serve this use.	The sub-uses and activities within "Service and Recreational Uses" under Section 813 includes private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities. Since the site was historically used as a park and recreational facility, this is consistent with its historic character, with the exception of those sub-uses identified for exclusion at left. Any new buildings are limited in size so as to be smaller than the major historic structures.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

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Uses to be Allowed by Site

Proposed Uses for the Park Site (FF-10 portion only)

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)†	Explanation
Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818;	N		Mining or other subsurface resource extraction would detract from or destroy the historic character of the site.
Sanitary landfills and debris fills, subject to Section 819;	N		These facilities are not suitable for this historic site.
Hydroelectric facilities, subject to Section 829;	N		While the site was historically connected to hydroelectric power, establishing a new hydroelectric facility on the site is not feasible given that the dam was removed and the lake drained.
Bed and breakfast residences and inns, subject to Section 832;	N		A bed and breakfast could not be accommodated within existing structures on the site and would require a new structure beyond what is appropriate to add to the site.
Composting facilities, subject to Section 834;	N		While on-site composting of any food waste generated on site is appropriate, establishment of a composting facility to handle compost materials from off-site would be incompatible with the historic character of the site.
Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;	N		These facilities are not suitable for this historic site.
Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;	N		These facilities are not suitable for this historic site.
Aircraft land uses;	N		These facilities are not suitable for this historic site.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*

*** Subject to Section 707.07(C) and Section 707.05(B).*

**** Subject to Section 707.07(C).*

EXHIBIT 47
4-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)†	Explanation
Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;	C**		The site was historically used as a park; future use as a park or similar use is entirely consistent with and supportive of its historic character.
Commercial or processing activities that are in conjunction with timber and farm uses;	N		Commercial-scale farming and timber uses are not appropriate for the site; processing activities for such uses are also not appropriate.
Home occupations to host events, subject to Section 806.	C**		Home occupations should be available to the future resident(s) of the dwelling to be allowed on-site, as a way to allow for supplemental income beyond that provided by serving as a caretaker for the property. The existing standards in Section 806 limit the number of employees on site, the number of guests to be allowed at any single event, and the number of events per week, as well as setting parking and noise regulations.
Accessory uses listed in the FF-10 zone			
Uses and structures customarily accessory and incidental to a primary use;	Accessory		
Home occupations, including bed and breakfast homestays, subject to Section 822;	Accessory		Home occupations should be available to the future resident(s) of the dwelling to be allowed on-site, as a way to allow for supplemental income beyond that provided by serving as a caretaker for the property. The existing standards in Section 822 limit the number of employees on site and the area that may be dedicated to the home occupation, as well as setting traffic, parking and noise regulations.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
5-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)†	Explanation
Produce stands, subject to the parking requirements of Section 1015;	Accessory + L	Accessory to farm or community garden use only.	If a small amount of farm use or a community garden were located on the park site, a small produce stand to offer items grown on site for sale to the surrounding neighborhood would be appropriate.
Signs, subject to Section 1010;	Accessory + L***	Signs shall be compatible with the historic character of the site.	Signage will be necessary for public information, but should be designed to be visually compatible with the historic character of the site.
Guest houses, subject to Section 833;	N		Because the dwelling is limited to a single dwelling primarily for oversight purposes, guest houses are not appropriate.
Solar energy systems;	Accessory ***	Subject to approval of the Historic Review Board.	Solar energy generation connects to the site's history as being part of a power generation system and provides opportunities to reduce site energy needs.
Rainwater collection systems;	Accessory		Allows for more sustainable stormwater management and irrigation measures, reducing environmental impacts.
Electric vehicle charging stations for residents and their nonpaying guests;	Accessory		Supports sustainability goals.
Family daycare providers.	Accessory		Home occupations should be available to the future resident(s) of the dwelling to be allowed on-site, as a way to allow for supplemental income beyond that provided by serving as a caretaker for the property.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)[1]	Explanation
Uses identified in Section 707 – Historic Overlay			
Art and music studios	C+L**	No new buildings over 1,200 square feet to serve this use.	Using the existing buildings, along with small new supporting buildings, for art and music lessons is consistent with the intent of providing for some public access and recreational activities on the site.
Galleries	N		The existing structures do not lend themselves to conversion to this use.
Offices	C+L**	Limited to use of existing office building or office space in conjunction with another use. No new buildings over 1,200 square feet to serve this use.	The park facilities include a small park office building. It is appropriate to allow office functions within that building to be re-established, or to allow a similar small administrative office supporting a primary use on the site.
Craft shops	N		The existing structures do not lend themselves to conversion to this use.
Bed and Breakfast establishments	N		A bed and breakfast could not be accommodated within existing structures on the site and would require a new structure beyond what is appropriate to add to the site.
Gift shops	C+L**	Permitted only in conjunction with another use. No new buildings over 1,200 square feet to serve this use.	The existing park structures include a small concession stand that could be re-purposed as a gift shop. If the primary use is a recreational use, a small gift shop may be appropriate to serve visitors.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)[1]	Explanation
Museums	N		The existing structures do not lend themselves to conversion to this use.
Catering Services	N		The existing structures do not lend themselves to conversion to this use.
Book stores	N		The existing structures do not lend themselves to conversion to this use.
Boutiques	N		The existing structures do not lend themselves to conversion to this use.
Restaurants	N		The existing structures do not lend themselves to conversion to this use.
Antique shops	N		The existing structures do not lend themselves to conversion to this use.
Community Center for civic or cultural events	C+L**	No new buildings over 1,200 square feet to serve this use.	To the extent that the existing structures, along with small new structures, can become a "community center" without requiring significant new structures, this is consistent with the intent to provide public access to and enjoyment of the site.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
8 - 27

Proposed Uses for the School Site

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Primary uses listed in the FF-10 Zone			
One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824.	P***		A residence is needed in order to provide year-round security for the site. This would likely mean the conversion of a portion of the school building for use as a dwelling, unless that is not feasible based on building codes or other issues.
Current employment of land for general farm uses, including: 1. Raising, harvesting, and selling of crops; 2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees; 3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees; 4. Dairying and the selling of dairy products; 5. Preparation and storage of the products raised on such lands for man's use and animal use; 6. Distribution by marketing or otherwise of products raised on such lands; and 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;	P		A limited amount of agricultural use may be appropriate on the portions of the site that do not have existing structures.
Propagation or harvesting of a forest product.	N		There are few or no existing trees on the property. Due to the small size of the property, even if trees were planted, timber harvest could jeopardize the historic school structure.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;	N		The school grounds are part of the historic character of the site. There are no existing resources on the grounds that would provide the basis for a conservation area.
Fish and wildlife management programs;	N		The school grounds are part of the historic character of the site. They are not well suited to a wildlife management program.
Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;	C+L**	Not to include campgrounds, pack stations, corrals or stables.	Community gardens, playgrounds, recreational grounds (e.g. soccer fields) and similar uses are consistent with the historic use of the site as a school grounds with associated recreational and community facilities.
Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;	N		These facilities are not suitable for this historic site.
Utility carrier cabinets, subject to Section 830;	N		These are defined as housing "utility equipment intended for offsite service". They would not be necessary in order to provide services to the site and are not suitable for this historic site.
Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.	N		These facilities are not suitable for this historic site.
Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.	N		These facilities are not suitable for this historic site.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
10 - 27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Churches, subject to Section 804;	C+L**	No new enclosed buildings over 500 square feet to serve this use.	Churches often reuse spaces designed for another purpose (e.g. vacant storefronts). The interior of the school building could fairly easily be converted to serve as a church facility, which would be consistent with its historic role as a community gathering place. Because the existing building is so large, additional buildings beyond small accessory structures are not needed to support future uses.
Schools, subject to Section 805, except as restricted by Subsection 310.07(C);	C+L**	No new enclosed buildings over 500 square feet to serve this use.	The site was historically used as a school. Should a private school or other similar educational facility find the site to be desirable as a school again, it would be consistent with its historic character. Because the existing building is so large, additional buildings beyond small accessory structures are not needed to support future uses.
Daycare facilities, subject to Section 807;	C+L**	No new enclosed buildings over 500 square feet to serve this use.	The school building could easily be converted to serve as a daycare facility. Since it was historically used as an educational facility for children, use as a daycare would be consistent with its historic character. Because the existing building is so large, additional buildings beyond small accessory structures are not needed to support future uses.
Cemeteries, subject to Section 808;	C+L**	Shall not require removal of historic structures.	The fields and grounds on the School Site could be an appropriate place to establish a small cemetery.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
11-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813;	C+L**	Not to include country clubs, golf courses, telephone exchanges, public utility structures, or recreational vehicle camping facilities. No new enclosed buildings over 500 square feet to serve this use.	The sub-uses and activities within "Service and Recreational Uses" under Section 813 includes private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities. A number of these, including lodges and fraternal organizations and public buildings could be appropriate for the school building, which was historically a community gathering place. With the exclusions listed at left, this use is appropriate for the school site.
Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818;	N		Mining or other subsurface resource extraction would detract from or destroy the historic character of the site.
Sanitary landfills and debris fills, subject to Section 819;	N		These facilities are not suitable for this historic site.
Hydroelectric facilities, subject to Section 829;	N		These facilities are not suitable for this historic site.
Bed and breakfast residences and inns, subject to Section 832;	C**		The school building could be converted to serve as a bed & breakfast without requiring significant exterior modifications to the structure. Section 832 already limits bed and breakfast inns within Historic Landmarks to use of preexisting structures and establishes appropriate standards for such uses.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
12 - 27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Composting facilities, subject to Section 834;	N		While on-site composting of any food waste generated on site is appropriate, establishment of a composting facility to handle compost materials from off-site would be incompatible with the historic character of the site.
Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;	N		These facilities are not suitable for this historic site.
Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;	N		These facilities are not suitable for this historic site.
Aircraft land uses;	N		These facilities are not suitable for this historic site.
Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;	C+L**	Not to include campgrounds, pack stations, corrals or stables.	Recreational grounds (e.g. soccer fields) and similar uses are consistent with the historic use of the site as a school grounds with associated recreational and community facilities.
Commercial or processing activities that are in conjunction with timber and farm uses;	N		Commercial-scale farming and timber uses are not feasible on or appropriate for the site; processing activities for such uses are also not appropriate.
Home occupations to host events, subject to Section 806.	C**		If the school building were converted (in part) to become a dwelling, it would be suitable for use also for hosting events as a home occupation, subject to the existing standards in Section 806, which limit the number of employees on site, the number of guests to be allowed at any single event, and the number of events per week, as well as setting parking and noise regulations.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
13-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Accessory uses listed in the FF-10 zone			
Uses and structures customarily accessory and incidental to a primary use;	Accessory		
Home occupations, including bed and breakfast homestays, subject to Section 822;	Accessory		If the school building were converted (in part) to become a dwelling, it would be suitable for home occupations.
Produce stands, subject to the parking requirements of Section 1015;	Accessory + L	Accessory to farm or community garden use.	If a small amount of farm use or a community garden were located on the school grounds, a small produce stand to offer items grown on site for sale to the surrounding neighborhood would be appropriate.
Signs, subject to Section 1010;	Accessory + L***	Signs shall be compatible with the historic character of the site.	Signage will be necessary for public information, but should be designed to be visually compatible with the historic character of the site.
Guest houses, subject to Section 833;	N		If the school building were converted to use as a dwelling, there would be ample space within the existing dwelling to accommodate guests or employees within the existing structure.
Solar energy systems;	Accessory ***	Subject to approval of the Historic Review Board.	Solar energy generation provides opportunities to reduce site energy needs.
Rainwater collection systems;	Accessory		Allows for more sustainable stormwater management and irrigation measures, reducing environmental impacts.
Electric vehicle charging stations for residents and their nonpaying guests;	Accessory		Supports sustainability goals.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
14-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Family daycare providers.	Accessory		If the school building were converted (in part) to become a dwelling, it would be suitable for home occupations, including family daycare providers. As noted previously, portions of the school building can readily be adapted for daycare.
Uses identified in Section 707 – Historic Overlay			
Art and music studios	C+L**	Permitted only within the existing building.	The school building could be converted to provide art and music studios fairly easily.
Galleries	C+L**	Permitted only within existing building. Permitted only in conjunction with Art Studios.	A gallery use would be appropriate if the school were to serve a creative arts use.
Offices	C+L**	Permitted only within the existing building. Permitted only in conjunction with another use.	It is appropriate to allow administrative offices supporting a primary use on the site,
Craft shops	C+L**	Permitted only within the existing building. Permitted only in conjunction with another use.	A craft shop would be appropriate if the school were to serve a creative arts use.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
15 - 27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Bed and Breakfast establishments	C**		The school building could be converted to serve as a bed & breakfast without requiring exterior modifications to the structure. Section 832 already limits bed and breakfast inns within Historic Landmarks to use of preexisting structures and establishes appropriate standards for such uses.
Gift shops	C+L**	Permitted only within the existing building. Permitted only in conjunction with another use.	If the primary use is a bed and breakfast, recreational use or a creative arts use, a small gift shop may be appropriate to serve visitors.
Museums	N		The existing structure does not lend itself to conversion to this use.
Catering Services	C+L**	Permitted only within the existing building.	The school building has an existing commercial kitchen that could be converted to a catering kitchen.
Book stores	C+L**	Permitted only within the existing building. Permitted only in conjunction with another use.	If the primary use is a bed and breakfast, recreational use or a creative arts use, a small book store may be appropriate to serve visitors.
Boutiques	N		The existing structure does not lend itself to conversion to this use, nor is there likely to be a market for this as a standalone use, given the rural location.
Restaurants	C+L**	No new enclosed buildings over 500 square feet to serve this use.	The school building could potentially be converted to a preservation-themed restaurant while keeping the historic character of the structures and grounds.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
16-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Antique shops	N		The existing structure does not lend itself to conversion to this use, nor is there likely to be a market for this as a standalone use, given the rural location.
Community Center for civic or cultural events	C+L**	No new enclosed buildings over 500 square feet to serve this use.	The school was historically a community gathering space, and could readily be converted to be a community center, consistent with its historic character.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
17-27

Proposed Uses for the Powerhouse Site

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Primary uses listed in the FF-10 Zone			
One detached single-family dwelling, residential home, or manufactured dwelling. A manufactured dwelling shall be subject to Section 824.	L***	A single dwelling used primarily for oversight purposes.	A residence is needed in order to provide year-round security for the site.
Current employment of land for general farm uses, including: 1. Raising, harvesting, and selling of crops; 2. Feeding, breeding, selling, and management of livestock, poultry, fur-bearing animals, or honeybees; 3. Selling of products of livestock, poultry, fur-bearing animals, or honeybees; 4. Dairying and the selling of dairy products; 5. Preparation and storage of the products raised on such lands for man's use and animal use; 6. Distribution by marketing or otherwise of products raised on such lands; and 7. Any other agricultural use, horticultural use, animal husbandry, or any combination thereof;	N		There is no portion of the Powerhouse site that is suitable for farm uses.
Propagation or harvesting of a forest product.	L	Clear cutting shall be prohibited.	Sustainable management of the trees on wooded portion of the Powerhouse site may include limited harvesting of trees in order to ensure forest health.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
18 - 27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources;	P		Conservation activities, especially adjacent to the river, are consistent with the goal of protecting both the historic and the natural resources on the site.
Fish and wildlife management programs;	P		There are existing facilities established and used by the Oregon Department of Fish and Wildlife (an acclimation pond for rearing and releasing of fish) adjacent to the river. Future use of the site for such fish and/or wildlife management programs is consistent with the goal of protecting both the historic and the natural resources on the site.
Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, stables, and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit;	C+L**	No new buildings over 1,000 square feet to serve this use. Campgrounds shall be permitted only in conjunction with a park use. Not to include pack stations, corrals, or stables.	The river's location and accessibility adjacent to the Powerhouse provides an opportunity to provide public water access for boating or other recreational use. Some overnight camping may be appropriate adjacent to the river for boaters. The types of park-related uses that would be appropriate for the site do not require significant new buildings, but might warrant a small restroom facility or similar.
Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823;	N		These facilities are not suitable for this historic site.
Utility carrier cabinets, subject to Section 830;	N		These are defined as housing "utility equipment intended for offsite service". They would not be necessary in order to provide services to the site and are not suitable for this historic site.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
19 - 27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.	N		These facilities are not suitable for this historic site.
Wireless telecommunication facilities listed in Subsections 835.05(A)(2) and (3), subject to Section 835.	N		These facilities are not suitable for this historic site.
Churches, subject to Section 804;	N		The existing structure does not lend itself to conversion to this use.
Schools, subject to Section 805, except as restricted by Subsection 310.07(C);	C+L**	Limited to Commercial Schools. No new buildings over 1,000 square feet to serve this use.	Schools providing instruction in certain skills, such as metal-working in the historic machine shop, and environmental and arts education programs are appropriate to the site, provided that they do not require significant new structures. Commercial Schools are defined as "A building where instruction is given to pupils in arts, crafts, or trades, and operated as a commercial enterprise as distinguished from schools endowed and/or supported by taxation."
Daycare facilities, subject to Section 807;	C+L**	Limited to care for children of visitors to or employees of other uses on the site, in conjunction with another use. No new buildings over 1,000 square feet to serve this use.	If the Powerhouse is converted to a museum or similar use, a small on-site childcare facility may be appropriate to serve children of visitors and/or children of employees of the site.
Cemeteries, subject to Section 808;	N		There is not adequate room on the Powerhouse Site to provide for a cemetery.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
20-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813;	C+L**	Not to include country clubs, gymnastics facilities, golf courses, or recreational vehicle camping facilities. No new buildings over 1,000 square feet to serve this use.	The sub-uses and activities within "Service and Recreational Uses" under Section 813 includes private commercial, noncommercial, or nonprofit recreational areas, uses, and facilities. A number of these, including lodges and fraternal organizations and public buildings could be appropriate for the powerhouse building. With the exclusions listed at left, this use is appropriate for the Powerhouse site.
Operations conducted for the exploration, mining, and processing of geothermal resources, aggregate and other mineral resources, or other subsurface resources, subject to Section 818;	N		Mining or other subsurface resource extraction would detract from or destroy the historic character of the site.
Sanitary landfills and debris fills, subject to Section 819;	N		These facilities are not suitable for this historic site.
Hydroelectric facilities, subject to Section 829;	C**		The site was historically used as a hydroelectric facility. While it has been decommissioned and cannot be used as such any more, the facilities themselves still remain. In addition, if, in the future, hydroelectric power can be generated in a less impactful way without disrupting streamflow, this could be an appropriate place for a small demonstration or pilot project, given its history.
Bed and breakfast residences and inns, subject to Section 832;	C+L**	Allowed only in conjunction with another use.	The primary purpose of allowing lodging on the site is to allow multi-day workshops and educational seminars. Section 832 already limits bed and breakfast inns within Historic Landmarks to use of preexisting structures and establishes appropriate standards for such uses.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
21-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Composting facilities, subject to Section 834;	N		While on-site composting of any food waste generated on site is appropriate, establishment of a composting facility to handle compost materials from off-site would be incompatible with the historic character of the site.
Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835;	N		These facilities are not suitable for this historic site.
Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines;	N		These facilities are not suitable for this historic site.
Aircraft land uses;	N		These facilities are not suitable for this historic site.
Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit;	C+L**	No new buildings over 1,000 square feet to serve this use. Campgrounds shall be permitted only in conjunction with a park use. Not to include pack stations, corrals, or stables.	The river's location and accessibility adjacent to the Powerhouse provides an opportunity to provide public water access for boating or other recreational use. Some overnight camping may be appropriate adjacent to the river for boaters. The types of park-related uses that would be appropriate for the site do not require significant new buildings, but might warrant a small restroom facility or similar.
Commercial or processing activities that are in conjunction with timber and farm uses;	N		Commercial-scale farming and timber uses are not feasible on or appropriate for the site; processing activities for such uses are also not appropriate.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
22-27

Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Home occupations to host events, subject to Section 806.	C**		Home occupations should be available to the future resident(s) of the dwelling to be allowed on-site, as a way to allow for supplemental income beyond that provided by serving as a caretaker for the property. The existing standards in Section 806 limit the number of employees on site, the number of guests to be allowed at any single event, and the number of events per week, as well as setting parking and noise regulations.
Accessory uses listed in the FF-10 zone			
Uses and structures customarily accessory and incidental to a primary use;	Accessory		
Home occupations, including bed and breakfast homestays, subject to Section 822;	Accessory		Home occupations should be available to the future resident(s) of the dwelling to be allowed on-site, as a way to allow for supplemental income beyond that provided by serving as a caretaker for the property. The existing standards in Section 822 limit the number of employees on site and the area that may be dedicated to the home occupation, as well as setting traffic, parking and noise regulations.
Produce stands, subject to the parking requirements of Section 1015;	N		Growing produce on-site is not feasible; there is no need to allow a produce stand.
Signs, subject to Section 1010;	Accessory + L***	Signs shall be compatible with the historic character of the site.	Signage will be necessary for public information, but should be designed to be visually compatible with the historic character of the site.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

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Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Guest houses, subject to Section 833;	N		Because the dwelling is limited to a caretaker/manager dwelling, guest houses are not appropriate.
Solar energy systems;	Accessory ***	Subject to approval of the Historic Review Board.	Solar energy generation connects to the site's history as being part of a power generation system and provides opportunities to reduce site energy needs.
Rainwater collection systems;	P		Allows for more sustainable stormwater management and irrigation measures, reducing environmental impacts.
Electric vehicle charging stations for residents and their nonpaying guests;	P		Supports sustainability goals.
Family daycare providers.	Accessory		Home occupations should be available to the future resident(s) of the dwelling to be allowed on-site, as a way to allow for supplemental income beyond that provided by serving as a caretaker for the property.
Uses identified in Section 707 – Historic Overlay			
Art and music studios	C+L**	Permitted only within the existing structures.	The large covered spaces and heavy equipment (hoists) are uniquely suited to the construction of large art pieces. That activity would also help enliven the spaces.
Galleries	C+L**	Permitted only in conjunction with art studios. Permitted only within the existing structures.	A gallery area would allow the display and sale of artwork created at the facility or related to the Bull Run watershed.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

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Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Offices	C+L**	Permitted only within the existing structures.	The site includes office space that was used as administrative offices by PGE employees overseeing the facility. This office space could easily be used for office purposes again. It is appropriate to allow administrative offices supporting a primary use on the site, or to provide office space for local non-profits that have a connection to the mission of the facility.
Craft shops	C+L**	Permitted only in conjunction with another use. Permitted only within the existing structures.	A craft shop could sell artwork and crafts produced on-site, including items made in the historic machine shop.
Bed and Breakfast establishments	C+L**	Permitted only in conjunction with another use.	The primary purpose of allowing lodging on the site is to allow multi-day workshops and educational seminars. Section 832 already limits bed and breakfast inns within Historic Landmarks to use of preexisting structures and establishes appropriate standards for such uses.
Gift shops	C+L**	Permitted only in conjunction with another use. Permitted only within the existing structures.	It is appropriate to allow a small gift shop to serve visitors to the facility. Items sold will have a connection to the facility and the Bull Run community, or will be sundries for use by visitors.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
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Use (as listed in development code)	Status* (for site)	Additional Limitations (for site)	Explanation
Museums	C+L**	No new enclosed buildings over 1,000 square feet to serve this use.	The entire site will have characteristics of a museum and interpretive center. The main generator room lends itself to a "museum" space dedicated to the history of hydroelectric power and the site.
Catering Services	C+L**	Permitted only in conjunction with another use. No new enclosed buildings over 1,000 square feet to serve this use.	A small catering service would be to serve on-site activities and visitors.
Book stores	C+L**	Permitted only in conjunction with another use. Permitted only within the existing structures.	It is appropriate to allow a small bookstore to serve visitors to the facility. Items sold will have a connection to the facility and the Bull Run community, or will be sundries for use by visitors.
Boutiques	N		The existing structure does not lend itself to conversion to this use, nor is there likely to be a market for this as a standalone use, given the rural location.
Restaurants	C+L**	Permitted only in conjunction with another use. No new enclosed buildings over 1,000 square feet to serve this use.	A restaurant would be primarily to serve on-site activities and visitors.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

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Use (as listed in development code)	**Status*** (for site)	**Additional Limitations** (for site)	**Explanation**
Antique shops	N		The existing structure does not lend itself to conversion to this use, nor is there likely to be a market for this as a standalone use, given the rural location.
Community Center for civic or cultural events	C+L**	No new enclosed buildings over 1,000 square feet to serve this use.	The powerhouse facility can function as a place where people can gather and hold occasional events that are related to the core mission of the facility.

** P = Permitted; L = Limited; C = Conditional; N = Prohibited*
*** Subject to Section 707.07(C) and Section 707.05(B).*
**** Subject to Section 707.07(C).*

EXHIBIT 47
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Hewitt, Gary

From: Daniels, Katherine [katherine.daniels@state.or.us]
Sent: Monday, August 11, 2014 11:07 AM
To: Hewitt, Gary
Subject: Bull Run Reasons Exception

Dear Gary and Planning Commission members,

Thank you for the opportunity to review the additional materials provided on August 4th by the applicant in support of the Bull Run reasons exception. Please enter these comments into the record of the proceedings.

The reasons exception process provides a potential path to the approval of a use when there is a compelling reason to site that use at a particular location. This sometimes occurs when a new, unanticipated use becomes feasible, such as wind farms in EFU zones before state rules were adjusted. In this case, the process is being proposed to allow the adaptive reuse of an historical site. While this can be a legitimate basis for a reasons exception, inasmuch as there is a "locational" rationale, "adaptive reuse" is really a process, not a particular use. It is the first step in deciding on appropriate specific uses for the site, and appropriate planning and zoning to protect the site for those uses.

The additional submitted information provides a little more detail on types of proposed uses; however, it is still insufficient. The category of use "service and recreational uses that exceed the limits of Subsection 310.03(F)" is not a specific use and needs to be broken out for purposes of the reasons exception. Other questionable uses that don't appear to have a link to the historic nature of the site include cemeteries and home occupations to host events. There is little detail on a number of other proposed uses. All proposed uses should have an historic nexus with the Bull Run operation. Enough detail about the proposed uses must be provided to allow the County to determine their compatibility with adjacent uses, in this case forest use. The forest rule requires that recreational uses in forest zones be "appropriate in a forest environment." LUBA has used this standard to disapprove a proposed private park in a forest zone that involved mass gatherings. By the same standard, a reasons exception that similarly allowed a potential standing venue for such uses could not be justified.

The reasons exception process requires that specific proposed uses be identified up-front and not through a subsequent conditional use review. The exceptions rule does not authorize the postponement of the evaluation of potential proposed uses to a later date. This is because a reasons exception involves a higher and more rigorous level of review, including a plan amendment and broader opportunity for comment.

We understand that the applicant's desire is to market the property to allow a subsequent purchaser some flexibility in allowed uses. While the applicant has a vision for the adaptive reuse of this historic site, there is no guarantee that a subsequent purchaser will share this vision. In fact, a loosely-defined reasons exception is likely to attract a type and scale of development not anticipated by the applicant or the County. A narrower but well-supported reasons exception will provide the best guarantee that the Bull Run site will maintain its historic integrity over time. We recommend that the applicant scale back and specify some appropriate uses, in coordination with county planning staff, while communicating to potential future purchasers that if they have different ideas, they may propose a new reasons exception to the County at a later date.

I hope these comments are helpful. Please let me know if I can provide further assistance.

Katherine

Katherine Daniels, AICP | Farm and Forest Lands Specialist
Community Services Division
Oregon Dept. of Land Conservation and Development
635 Capitol Street NE, Suite 150 | Salem, OR 97301-2540

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Memorandum

DATE: August 11, 2014

TO: Planning Commission Members

FROM: Gary Hewitt - Sr. Planner
Clackamas County Planning Division

RE: **Recommendation of Proposed Uses**
Z0208-14-CP/Z0209-14-Z – Bull Run Area "Reasons Exception"

Staff has met several times over the last two weeks about the request from the Planning Commission, that staff try to find a way to allow some uses at these sites. Without specific information of each use, staff has arrived at a list that has been balanced between the needs of Goal 4 and Goal 5, the criteria in ORS 197.732 and OAR 660-004 for a Reasons Exception and; the Forest, Rural and Historical Comprehensive Plan Goals and Policies. Balancing the historic commitment with potential adverse impacts could likely be satisfied if a proposed use were to be wholly within existing historical structures effectively becoming self limiting. Staff finds although there were no fully explored new uses, the following limited new uses for these three sites may be allowed.

Powerhouse Site:

Museum (inside)
Small Restaurant (inside)
Gift Shop (inside)
Art Gallery (inside)
Fish & Wildlife Management (outside)
Signs (outside)
Office Space (inside)
Dwelling (inside)
Signs (Section 1010)

School Site:

School (inside/with outside play areas)
Daycare Facility (inside)
Art & Music Studio (inside display/teaching)
Office (inside)
Dwelling (inside)
Signs (Section 1010)

Park Site:

Offices (inside)
Gift Shop (inside)
Signs (Section 1010)

Oregon's Statewide Planning Goals & Guidelines

GOAL 5: NATURAL RESOURCES, SCENIC AND HISTORIC AREAS, AND OPEN SPACES

OAR 660-015-0000(5)
(Please Note: Amendments Effective 08/30/96)

To protect natural resources and conserve scenic and historic areas and open spaces.

Local governments shall adopt programs that will protect natural resources and conserve scenic, historic, and open space resources for present and future generations. These resources promote a healthy environment and natural landscape that contributes to Oregon's livability.

The following resources shall be inventoried:

a. Riparian corridors, including water and riparian areas and fish habitat;
b. Wetlands;
c. Wildlife Habitat;
d. Federal Wild and Scenic Rivers;
e. State Scenic Waterways;
f. Groundwater Resources;
g. Approved Oregon Recreation Trails;
h. Natural Areas;
i. Wilderness Areas;
j. Mineral and Aggregate Resources;
k. Energy sources;
l. Cultural areas.

Local governments and state agencies are encouraged to maintain current inventories of the following resources:

a. Historic Resources;
b. Open Space;
c. Scenic Views and Sites.

Following procedures, standards, and definitions contained in commission rules, local governments shall determine significant sites for inventoried resources and develop programs to achieve the goal.

GUIDELINES FOR GOAL 5

A. PLANNING

1. The need for open space in the planning area should be determined, and standards developed for the amount, distribution, and type of open space.

2. Criteria should be developed and utilized to determine what uses are consistent with open space values and to evaluate the effect of converting open space lands to inconsistent uses. The maintenance and development of open space in urban areas should be encouraged.

3. Natural resources and required sites for the generation of energy (i.e. natural gas, oil, coal, hydro, geothermal, uranium, solar and others) should be conserved and protected;

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reservoir sites should be identified and protected against irreversible loss.

4. Plans providing for open space, scenic and historic areas and natural resources should consider as a major determinant the carrying capacity of the air, land and water resources of the planning area. The land conservation and development actions provided for by such plans should not exceed the carrying capacity of such resources.

5. The National Register of Historic Places and the recommendations of the State Advisory Committee on Historic Preservation should be utilized in designating historic sites.

6. In conjunction with the inventory of mineral and aggregate resources, sites for removal and processing of such resources should be identified and protected.

7. As a general rule, plans should prohibit outdoor advertising signs except in commercial or industrial zones. Plans should not provide for the reclassification of land for the purpose of accommodating an outdoor advertising sign. The term "outdoor advertising sign" has the meaning set forth in ORS 377.710(23).

B. IMPLEMENTATION

1. Development should be planned and directed so as to conserve the needed amount of open space.

2. The conservation of both renewable and non-renewable natural resources and physical limitations of the land should be used as the basis for determining the quantity, quality, location, rate and type of growth in the planning area.

3. The efficient consumption of energy should be considered when utilizing natural resources.

4. Fish and wildlife areas and habitats should be protected and managed in accordance with the Oregon Wildlife Commission's fish and wildlife management plans.

5. Stream flow and water levels should be protected and managed at a level adequate for fish, wildlife, pollution abatement, recreation, aesthetics and agriculture.

6. Significant natural areas that are historically, ecologically or scientifically unique, outstanding or important, including those identified by the State Natural Area Preserves Advisory Committee, should be inventoried and evaluated. Plans should provide for the preservation of natural areas consistent with an inventory of scientific, educational, ecological, and recreational needs for significant natural areas.

7. Local, regional and state governments should be encouraged to investigate and utilize fee acquisition, easements, cluster developments, preferential assessment, development rights acquisition and similar techniques to implement this goal.

8. State and federal agencies should develop statewide natural resource, open space, scenic and historic area plans and provide technical assistance to local and regional agencies. State and federal plans should be reviewed and coordinated with local and regional plans.

9. Areas identified as having non-renewable mineral and aggregate resources should be planned for interim,

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transitional and "second use" utilization as well as for the primary use.

Z0208-14-CP/Z0209-14-Z – Proposed Use List – Planning Commission Recommendations By Site

Park Site		School Site		Powerhouse Site	
Done		Pending		Pending	
Yes	One detached single family dwelling within an existing historical structure. No manufactured dwellings.	Yes	One detached single family dwelling within an existing historical structure. No manufactured dwellings	Yes	One detached single family dwelling within an existing historical structure. No manufactured dwellings
No	Current employment of land for general farm uses.	Y	Current employment of land for general farm uses.	N	Current employment of land for general farm uses.
Yes	Propagation or harvesting of a forest product.	N	Propagation or harvesting of a forest product.	Y	Propagation or harvesting of a forest product.
Yes	Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources.	N	Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources.	Y	Public and private conservation areas and structures for the conservation of water, soil, forest, or wildlife habitat resources.
Yes	Fish and wildlife management programs.	N	Fish and wildlife management programs.	Y	Fish and wildlife management programs.
Yes	Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit. New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit.	Y	Public and private parks, community gardens, campgrounds, playgrounds, recreational grounds, hiking and similar casual uses provided that such uses are not intended for the purpose of obtaining a commercial profit.
No	Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823.	N	Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823.	N	Bus shelters under the ownership and/or control of a city, county, state, or municipal corporation, subject to Section 823.
No	Utility carrier cabinets, subject to Section 830.	N	Utility carrier cabinets, subject to Section 830.	N	Utility carrier cabinets, subject to Section 830.
No	Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.	N	Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.	N	Wireless telecommunication facilities listed in Subsection 835.04, subject to Section 835.

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	Park Site		School Site		Powerhouse Site
No	Wireless telecommunication facilities listed in Subsection 835.05(A)(2) and (3), subject to Section 835.	N	Wireless telecommunication facilities listed in Subsection 835.05(A)(2) and (3), subject to Section 835.	N	Wireless telecommunication facilities listed in Subsection 835.05(A)(2) and (3), subject to Section 835.
No	Churches, subject to Section 804.	Y	Churches, subject to Section 804.	N	Churches, subject to Section 804.
Yes	Schools, subject to Section 805, except as restricted by Subsection 310.07(C); New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Schools, subject to Section 805, except as restricted by Subsection 310.07(C).	Y	Schools, subject to Section 805, except as restricted by Subsection 310.07(C).
No	Daycare facilities, subject to Section 807.	Y	Daycare facilities, subject to Section 807.	Y	Daycare facilities, subject to Section 807.
No	Cemeteries, subject to Section 808.	Y	Cemeteries, subject to Section 808	N	Cemeteries, subject to Section 808
Yes	Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813. New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813.	Y	Service and recreational uses that exceed the limits of Subsection 310.03(F), subject to Section 813.
No	Operations conducted for the exploration , mining, and processing of geothermal resources....	N	Operations conducted for the exploration , mining, and processing of geothermal resources....	N	Operations conducted for the exploration , mining, and processing of geothermal resources....
No	Sanitary landfills and debris fills, subject to Section 819.	N	Sanitary landfills and debris fills, subject to Section 819.	N	Sanitary landfills and debris fills, subject to Section 819.
No	Hydroelectric facilities, subject to Section 829.	N	Hydroelectric facilities, subject to Section 829.	Y	Hydroelectric facilities, subject to Section 829.
No	Bed and Breakfast residences and inns, subject to Section 832.	Y	Bed and Breakfast residences and inns, subject to Section 832.	Y	Bed and Breakfast residences and inns, subject to Section 832.
No	Composting facilities, subject to Section 834.	N	Composting facilities, subject to Section 834.	N	Composting facilities, subject to Section 834.
No	Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835.	N	Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835.	N	Wireless telecommunication facilities listed in Subsection 835.06(A), subject to Section 835.

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	Park Site		School Site		Powerhouse Site
No	Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines.	N	Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines.	N	Kennels, provided that the portion of the premises used is located a minimum of 200 feet from all property lines.
No	Aircraft land uses;	N	Aircraft land uses;	N	Aircraft land uses;
Yes	Public and private parks, campgrounds, recreational grounds, hiking, and other similar uses intended for the purpose of obtaining a commercial profit. New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Public and private parks, campgrounds, recreational grounds, hiking, and other similar uses intended for the purpose of obtaining a commercial profit.	Y	Public and private parks, campgrounds, recreational grounds, hiking, and other similar uses intended for the purpose of obtaining a commercial profit.
No	Commercial or processing activities that are in conjunction with timber and farm uses.	N	Commercial or processing activities that are in conjunction with timber and farm uses.	N	Commercial or processing activities that are in conjunction with timber and farm uses.
No	Home occupations to host events, subject to Section 806.	Y	Home occupations to host events, subject to Section 806.	Y	Home occupations to host events, subject to Section 806.
	Accessory Uses		**Accessory Uses**		**Accessory Uses**
Yes	Uses and structures customarily accessory and incidental to a primary use.	Y	Uses and structures customarily accessory and incidental to a primary use.	Y	Uses and structures customarily accessory and incidental to a primary use.
No	Home occupations, including bed and breakfast homestays, subject to Section 822.	Y	Home occupations, including bed and breakfast homestays, subject to Section 822.	Y	Home occupations, including bed and breakfast homestays, subject to Section 822.
No	Produce stands, subject to the parking requirements of Section 1015.	Y	Produce stands, subject to the parking requirements of Section 1015.	N	Produce stands, subject to the parking requirements of Section 1015.
Yes	Signs, subject to Section 1010.	Y	Signs, subject to Section 1010.	Y	Signs, subject to Section 1010.
No	Guest houses, subject to Section 833.	N	Guest houses, subject to Section 833.	N	Guest houses, subject to Section 833.
Yes	Solar energy systems.	Y	Solar energy systems.	Y	Solar energy systems.

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	Park Site		School Site		Powerhouse Site
Yes	Rainwater collection systems.	Y	Rainwater collection systems.	Y	Rainwater collection systems.
Yes	Electric vehicle charging stations for residents and their nonpaying guests.	Y	Electric vehicle charging stations for residents and their nonpaying guests.	Y	Electric vehicle charging stations for residents and their nonpaying guests.
No	Family daycare providers.	Y	Family daycare providers.	Y	Family daycare providers.
	Historic Overlay Uses		**Historic Overlay Uses**		**Historic Overlay Uses**
No	Art and music studios	Y	Art and music studios	Y	Art and music studios
No	Galleries	Y	Galleries	Y	Galleries
Yes	Offices. New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Offices	Y	Offices
No	Craft shops.	Y	Craft shops.	Y	Craft shops.
No	Bed and breakfast establishments.	Y	Bed and breakfast establishments.	Y	Bed and breakfast establishments.
Yes	Gift shops. New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Gift shops.	Y	Gift shops.
No	Museums	N	Museums	Y	Museums
No	Catering services.	Y	Catering services.	Y	Catering services.
No	Book store.	Y	Book store.	Y	Book store.
No	Boutiques	N	Boutiques	N	Boutiques
No	Restaurants	Y	Restaurants	Y	Restaurants
No	Antique shops	N	Antique shops	N	Antique shops
Yes	Community Center for civic or cultural events. New structures not to exceed 7 Cabins, 7 Platform tents, and 3 Pavilion structures of no more than 1,200 sq. ft. each.	Y	Community Center for civic or cultural events.	Y	Community Center for civic or cultural events.

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BEFORE THE LAND USE BOARD OF APPEALS

OF THE STATE OF OREGON

COLUMBIA RIVERKEEPER, MIKE SEELY,
CANDY SEELY, and SEELY FAMILY FARM, INC.,
Petitioners,

vs.

COLUMBIA COUNTY,
Respondent,

and

PORT OF ST. HELENS and CITY OF CLATSKANIE,
Intervenors-Respondents.

LUBA No. 2014-017/018

FINAL OPINION
AND ORDER

Appeal from Columbia County.

Maura Fahey, Portland, filed a petition for review and argued on behalf of petitioner Columbia Riverkeeper. With her on the brief was Courtney Johnson and CRAG Law Center.

Carrie A. Richter, Portland, filed a petition for review and argued on behalf of petitioners Seely et al. With her on the brief was Garvey Schubert Barer.

No appearance by Columbia County.

Gary P. Shepherd, Portland, filed the response brief and argued on behalf of intervenor-respondent, Port of St. Helens. With him on the brief was Oregon Land Law.

John P. Salisbury, Clatskanie, represented intervenor-respondent City of

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Clatskanie.

BASSHAM, Board Member; RYAN, Board Chair; HOLSTUN, Board Member, participated in the decision.

REMANDED 08/27/2014

You are entitled to judicial review of this Order. Judicial review is governed by the provisions of ORS 197.850.

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Opinion by Bassham.

NATURE OF THE DECISION

Petitioners appeal an ordinance that adopts a comprehensive plan amendment, zone change and a reasons exception to allow for expansion of a rural industrial park.

MOTIONS FOR REPLY BRIEFS

Petitioner Columbia Riverkeeper (Riverkeeper) and petitioners Mike Seely, *et al.* (Seely petitioners) move to file reply briefs to respond to new matters raised in the response brief. There is no opposition to the reply briefs, and they are allowed.

FACTS

Intervenor Port of St. Helens (the Port) owns the Port Westward Industrial Park (Port Westward), which is an existing 905-acre rural industrial exception area with 4,000 feet of deepwater frontage along the Columbia River. Port Westward is a former World War II-era military ammunition depot that was deeded to the Port in 1967. The site has its own on-site water-supply and sewage treatment system, and is served by existing fiber-optic, electrical and natural gas connections. In the 1970s, the county adopted an irrevocably committed exception to Statewide Planning Goal 3 (Agricultural Lands) for Port Westward, and planned and zoned it for rural industrial uses.

Port Westward currently includes a 1,250 foot long dock, two electrical generating plants, a 1.3 million-barrel tank farm, a biomass refinery facility, and internal roads and infrastructure. The site is served by a railroad spur, with road connections via county roads to nearby state and interstate highways.

The Port leases 43 acres within Port Westward to a biomass-refinery. Since 1973, the Port has leased the remaining 862 acres of the 905-acre Port

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Westward site to Portland General Electric (PGE) on a 99-year lease. PGE currently operates two power plants on 120 acres of its 862-acre leasehold, and sub-leases much of the remainder of its leasehold to area farmers. Some of the vacant Port Westward area includes wetlands.

In February 2013, the Port applied to the county for a comprehensive plan amendment, zone change and Statewide Planning Goal 2 (Land Use Planning) reasons exception for 957 acres adjacent to Port Westward on its southern and western boundaries. The exception area is currently planned and zoned for agricultural uses, and consists of high-value farm soils. As initially proposed, the exception area included three tax lots bordering the Columbia River. However, the county commissioners removed two of the riverfront lots from the exception area due to concerns about impacts on riparian habitat. The commissioners ultimately approved an exception area of 837 acres, and zoned it Rural Industrial Planned Development (RIPD), as an expansion of Port Westward, which is also zoned RIPD. The RIPD zone allows as *permitted* uses only farm and forest use and forest product processing uses, but *conditionally* allows industrial uses broadly described as "[p]roduction, processing, assembling, packaging, or treatment of materials; research and development laboratories; and storage and distribution of services and facilities," subject to standards and conditions.

The stated purpose of the 837-acre Port Westward expansion is to accommodate "future maritime and large lot industrial users that will benefit from the moorage and deep-water access, existing services, energy generation facilities and rail/highway/water transportation facilities." Record 47. However, the Port did not propose any specific industrial uses for approval through the reasons exception process.

The Seely petitioners farm property that is adjacent and directly south of the exception area, growing heirloom peppermint and native spearmint, which represents five percent of regional mint production. Petitioners and others opposed the exception, citing water-quality impacts and potential impacts on wildlife habitat and farm uses, from dust, noise, additional traffic and train crossings delaying the movement of farm vehicles. Others from nearby cities expressed concerns over potential adverse impacts on transportation facilities caused by increased train traffic serving new industrial uses in the exception area. A particular concern was coal trains and dust impacts from the storage, loading or unloading of coal.

The county board of commissioners approved the 837-acre exception area with conditions. Conditions include a requirement for site design review for any new use in the exception area, a trip cap (i.e., a limit on the number of trips) of 332 p.m. peak hour trips, submission of a rail plan for any new use that includes rail transportation, and a prohibition on the storage, loading or unloading of coal.

These appeals followed.

INTRODUCTION

Pursuant to ORS 197.732(2)(c), Statewide Planning Goal 2, Part II(c), and OAR 661-004-0020(2)(a), a local government may take an exception to a statewide planning goal to authorize uses of land not otherwise allowed under the goal, if the local government identifies "reasons" that "justify why the state policy embodied in the applicable goals should not apply[.]" Here, the applicable goal is Goal 3 (Agricultural Land), which is generally to preserve and maintain agricultural land for farm use.

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1 OAR 660-004-0022(1) sets out a general standard for reasons exceptions
2 that are not addressed elsewhere in the rule. OAR 660-004-0022(3)
3 specifically addresses rural industrial development, and provides a non-
4 exclusive set of three reasons that can justify an exception to allow rural
5 industrial uses of resource land, including that (1) the use is significantly
6 dependent on a unique resource, including "river or ocean ports," (2) the use
7 cannot be located within an urban growth boundary due to impacts that are
8 hazardous or incompatible with dense populations, and (3) the use would have
9 a significant comparative economic advantage due to its location near certain
10 activities or resources.[1]

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[1] OAR 660-004-0022(3) provides:

> "Rural Industrial Development: For the siting of industrial development on resource land outside an urban growth boundary, appropriate reasons and facts may include, but are not limited to, the following:
>
> "(a) The use is significantly dependent upon a unique resource located on agricultural or forest land. Examples of such resources and resource sites include geothermal wells, mineral or aggregate deposits, water reservoirs, natural features, or river or ocean ports;
>
> "(b) The use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas; or
>
> "(c) The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of

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1 In the present case, the county concluded that the exception was justified
2 under all three reasons set out in OAR 660-004-0022(3). Specifically, the
3 county concluded that the industrial uses allowed in the RIPD zone (1) will be
4 maritime related uses that will be significantly dependent on the river port and
5 docks to import or export materials or goods; (2) cannot be located within an
6 urban growth boundary due to impacts that are hazardous or incompatible with
7 dense populations, or (3) would have a significant comparative advantage due
8 to the location of the site, and its proximity to the deepwater access,
9 rail/highway connections, energy facilities and other amenities associated with
10 the existing the Port Westward site.

11 Once the local government has identified a sufficient "[r]easons" under
12 OAR 660-004-0020(2)(a), and in this case OAR 660-004-0022(3), to authorize
13 a use not allowed by the applicable goal, the next step is to demonstrate that
14 "[a]reas that do not require a new exception cannot reasonably accommodate
15 the use." OAR 660-004-0020(2)(b) (the reasonable accommodation standard).
16 This step requires evaluation of alternative sites within existing exception
17 areas, irrevocably committed resource lands, and urban growth boundaries.

18 Once the local government has demonstrated that the proposed use
19 cannot be reasonably accommodated on lands that do not require a new
20 exception, the local government must demonstrate that the "long-term
21 environmental, economic, social and energy [ESEE] consequences resulting
22 from the use at the proposed site * * * are not significantly more adverse than

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the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision."

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would typically result from the same proposal being located in [other] areas requiring a goal exception[.]" OAR 660-004-0020(2)(c) (the ESEE standard). This step requires an evaluation of the ESEE consequences of developing the exception area, compared with the typical ESEE consequences of developing other resources lands.

Additionally, the local government must determine that the "proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." OAR 660-004-0020(2)(d) (the compatibility standard).

Finally, at the end of the process, the local government must adopt plan and zone designations that effectively "limit the uses, density, public facilities and services, and activities to only those that are justified in the exception." OAR 660-004-0018(4)(a).[2]

The Seely petitioners' four assignments of error challenge the county's determinations under each of the foregoing four steps. Riverkeeper's first and second assignments of error challenge the county's determinations under the second and fourth steps, respectively.

FIRST ASSIGNMENT OF ERROR (Seely)

In four sub-assignments of error, petitioners challenge the county's conclusions that three separate "reasons" justify taking an exception to Goal 3.

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[2] OAR 660-004-0018(4)(a) provides:

> "When a local government takes an exception under the 'Reasons' section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception."

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A persistent theme throughout the Seely petitioners' first assignment of error, and a theme with relevance to other assignments of error, is that the Port's approach in seeking a reasons exception for a very broad range of unspecified industrial uses, based on three separate reasons, is either impermissible or highly problematic. As explained below, we disagree with petitioners that anything in the applicable administrative rules or elsewhere *requires* the Port to propose specific industrial uses, or precludes the Port from seeking approval for a reasons exception for a wide range of unspecified industrial uses, based on multiple reasons. However, as discussed below, we generally agree with petitioners that that approach makes it highly problematic for the Port to demonstrate compliance with all exception standards and applicable goal requirements. It may be that the Port and the county have bit off more than they can chew, or more than can practicably be accomplished outside of periodic review, and that a more limited reasons exception, justifying a narrower subset of industrial uses under fewer reasons, may be easier to achieve.

A. First Sub-Assignment of Error: Proposed Use

As a threshold matter, petitioners first contend that the county erred in failing to sufficiently identify the proposed "use," which petitioners believe is necessary to determine if the reasons exception is justified under the exception standards. According to petitioners, both the general reasons exception standards at OAR 660-004-0022(1) and the three specific reasons that can justify rural industrial uses on resource land under OAR 660-004-0022(3) require the local government to identify the "use" or the "proposed use" with sufficient specificity, so that the exceptions criteria (reasonably accommodate, ESEE and compatibility standards) can be meaningfully applied, and so that

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uses allowed in the exception area are limited to those justified in the exception.

However, petitioners argue that the Port never identified any specific proposed uses for the exception area, and the county's analysis accordingly treats the proposed use as a wide range of industrial uses that are allowed in the RIPD zone under the broad provisions of that zone, *i.e.*, the "[p]roduction, processing, assembling, packaging, or treatment of materials; research and development laboratories; and storage and distribution of services and facilities[.]" One problem with that approach, we understand petitioners to argue, is that not all of the open-ended and undefined industrial uses potentially allowed in the RIPD zone can be justified under any of the three reasons the county identified. Petitioners contend that not all of the many industrial uses potentially allowed under the RIPD zone will necessarily be water-dependent uses, or will necessarily have impacts that are hazardous or incompatible with dense population, or will necessarily benefit from a significant comparative advantage due to the location near certain resources, or justify the loss of high-value farmland. Petitioners argue that, without knowing what particular industrial uses are intended for the site, or without limiting the allowed types of industrial uses only to those uses allowed in the RIPD zone that qualify under at least one of the three OAR 660-004-0022(3) reasons, the county's reasons exception fails at the starting gate.

Further, petitioners argue that without a specifically identified set of industrial uses allowed in the exception area, the county is in no position to demonstrate that the remainder of the OAR 660-004-0020(2) standards are met: the reasonable accommodation standard, the ESEE standard, and the compatibility standard. According to petitioners, each of these standards

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contemplate a reasonably specific "use" or "proposed use," and cannot be meaningfully evaluated without a specific proposed use.

The Port argues, and we generally agree, that nothing cited to us in OAR chapter 660, division 004 or elsewhere *requires* the county to identify a specific proposed use, or precludes the county from identifying a relatively wide range of industrial uses as the proposed "use" for purposes of applying the reasons exception criteria at OAR 660-004-0020 and 660-004-0022. Nor do we see anything in the rule that necessarily precludes the county from justifying the exception based on multiple "reasons." While OAR 660-004-0020 and 660-004-0022 are more easily applied to a specific or narrowly defined proposed use under a single reason, rather than the more abstract general planning exercise the county engaged in here, we cannot say as a matter of law that the reasons exception process and standards are not potentially available vehicles to approve plan and zoning amendments that authorize a wide range of uses, justified by multiple reasons.

However, there is no question that the approach the county took in its decision—to approve a wide and open-ended range of industrial uses allowed in the RIPD zone, pursuant to three distinct, but partially over-lapping "reasons"—vastly complicates what is already a difficult process when the analysis moves to determining whether the proposal complies with the reasonably accommodate, ESEE and compatibility standards, and at the end of the process when the county must limit uses allowed to those justified in the reasons exception.

It is important to note that a reasons exception is in some ways a more limited vehicle than its cousins, physically developed and irrevocably committed exceptions. If a physically developed or irrevocably committed

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exception to the resource goals is adopted based on pre-existing industrial development, for example, the county can plan and zone the property for virtually any kind of rural industrial use.[3] However, a reasons exception authorizes only those uses that fit the particular reasons advanced, and pursuant to OAR 660-004-0018(4)(a) the local government must limit uses in reasons exception areas to those justified in the reasons exception.

Consequently, under a reasons exception, there must be a close, direct relationship between the "reason" that is advanced for the exception, the corresponding "proposed uses" that fit within that reason and are analyzed under the exception criteria, and the uses that are ultimately authorized in the exception area. The county must ensure that its decision authorizes *only* those industrial uses that (1) are justified by at least one sufficient reason, and (2) satisfy all of the exception standards. That task is made all the more difficult in the present case, because the county advanced three separate reasons that apply to partially overlapping but distinct sets of uses. The decision does not claim that *all* of the authorized uses are supported by a single reason, and that does not appear to be the case. The categories of port-dependent uses, uses with hazardous or incompatible impacts, and uses that benefit from a significant comparative advantage due to location near certain resources may overlap considerably, but nonetheless they are distinct sets of uses. For example, some

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[3] OAR 660-004-0018(2) imposes limits on residential uses in physically developed or irrevocably committed exception areas, but imposes no similar limits on industrial uses in such areas. Indeed, OAR 660-004-0018(2)(d) provides that industrial uses in physically developed and irrevocably committed exceptions areas planned and zoned prior to January 1, 2004, may occur in "buildings of any size and type," subject to certain statutory limits at ORS 197.713 and 197.714.

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of the uses described in OAR 660-004-0022(3)(b)—those with hazardous or incompatible impacts—could overlap with the uses described under the other two reasons, but could also include uses that are neither port-dependent nor benefit from a comparative advantage due to location near certain resources. And, as petitioners argue, some rural industrial uses broadly allowed in the RIPD zone might not fit within *any* of the three reasons set out in OAR 660-004-0022(3), a question we consider below.

Stated differently, under the county's approach it has saddled itself with the burden of adopting essentially three separate reasons exceptions, each of which will require at least some separate analysis of the set or subsets of uses covered by each reason. Because the three reasons apply to partially overlapping sets of uses in the present case, the three reasons are *additive*, not fungible alternatives or backstops for each other. Justification of one subset of uses under one reason is not sufficient to justify other uses that do not fall under that reason.

Similarly, that one subset of uses under one reason may satisfy all of the exception criteria (reasonably accommodate, ESEE analysis, and compatibility standards) does not mean that all uses authorized by the exception necessarily satisfy those criteria. As one example, discussed in more detail below, in applying the reasonably accommodate standard the county cannot disqualify an alternative site solely because the site cannot reasonably accommodate port-dependent industrial uses, if the site can reasonably accommodate other uses that fit within one of the other two reasons. The county can totally disqualify an alternative site only if the site cannot reasonably accommodate any of the three subsets of uses described under each reason.

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With those observations, we turn next to what we understand to be petitioners' second argument under the first sub-assignment of error, namely that the uses authorized by the challenged decision are so broad and ill-defined, that the county has not effectively limited authorized uses to those that are justified under the three reasons advanced, as required by OAR 660-004-0018(4)(a). *See* n 2. Petitioners argue that the decision authorizes all industrial uses allowed in the RIPD zone, with the exception of a coal export facility, and that the county has not effectively limited all industrial uses to those justified by the reasons exception, *i.e.*, those uses that are port-dependent uses, have hazardous or incompatible impacts, or benefit from a significant comparative advantage due to location near certain uses or resources.

The Port responds that the county's decision adequately identifies and the conditions effectively limit the "proposed uses" to those justified in the decision. The Port contends that the decision adequately characterizes the proposed uses as "future maritime and large lot industrial users that will benefit from the moorage and deepwater access, existing services, energy generation facilities and rail/highway/water transportation facilities." Record 47. The Port argues that, consistent with OAR 660-004-0018(4)(a), the county imposed condition E.5, which provides that "[t]he types of industrial uses for the subject property shall be limited to the uses, density, public facilities & services and activities to only those that are justified in the exception." Record 19. According to the Port, the county's decision analyzes and purports to justify only those industrial uses that fit within one or more of the three reasons set out in OAR 660-004-0022(3). Combined with Condition E.5, the Port argues that the uses allowed in the exception area are sufficiently limited to those justified in the decision.

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Further, the Port argues that the RIPD zone itself, in combination with the county's comprehensive plan, limits the industrial uses that may be approved in the future to those that have been justified in the exception. The Port notes that under Columbia County Zoning Ordinance (CCZO) 683.1(A) all industrial uses in the RIPD zone are conditional uses that must satisfy approval criteria requiring that the "requested use conforms with the goals and policies of the Comprehensive Plan—specifically those policies regarding rural industrial development and exceptions to the rural resource land goals and policies." The Columbia County Comprehensive Plan (CCCP) includes general industrial development policies that, among other things, require that industrial uses in exception areas be "consistent with the exception statements[.]" CCCP Part XII, Policy 12. We understand the Port to argue that CCZO 683.1(A) will require that any proposed use conform to the exception decision itself, which will be added to the CCCP as part of or in addition to the Port Westward exception statement, and which will effectively limit any industrial use to those types of industrial uses justified in the exception statement.

Further, the Port argues that the CCCP includes policies specific to Resource Industrial Development that, when applied to proposed industrial uses pursuant to CCZO 683.1(A), will effectively restrict industrial uses allowed in the exception area to one or more of the three reasons the county used to justify the exception. The Resource Industrial Development Policies restrict rural industrial development to two categories of uses: (1) those uses described in Policies 3(A) through (F), or those uses described in Policy 3(G).[4]

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[4] The CCCP Rural Industrial Lands Policies state, in relevant part:

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1 We understand the Port to argue that Policies 3(A) through (F) effectively limit
2 industrial uses to those that correspond to the "port-dependent" or "significant
3 competitive advantage" reasons described in OAR 660-004-0022(3)(a) and (b),

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"It shall be a policy of the County to:

"1. Designate as Rural Industrial in the Plan those lands which are currently being utilized or which are recognized as being needed to accommodate rural and natural resource industries.

"2. Implement the Rural Industrial plan designation through the use of a single Resource Industrial Planned Development zone.

"3. Restrict industrial development on land zoned Resource Industrial Planned Development to those uses that:

"A. Are not generally labor intensive;

"B. Are land extensive;

"C. Are located with adequate rail and/or vehicle and/or deep water port and/or airstrip access;

"D. Complement the character and development of the surrounding area;

"E. Are consistent with the rural facilities and existing and/or planned for the area; *and*,

"F. Will not require facility and/or service improvements at public expense; *or*,

"G. Are not appropriate for location within Urban Growth Boundaries due to their hazardous nature." (Italics added.)

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while Policy 3(G) effectively limits industrial uses to those to correspond to the "hazardous impacts" described in OAR 660-004-0022(3)(c).

Finally, the Port argues that the reasons exception also describes the proposed uses as "large lot" uses, industrial uses that require larger lots for structures, staging areas or buffers. The findings recite that the Port has been approached by several different companies seeking sites between 50 to 300 acres. Record 77. The Port argues that, consistent with Policy 3(B)'s requirement for "land extensive" sites, the RIPD zone includes minimum lot size standards under CCZO 684.1 that will allow the planning commission to require that any industrial uses approved in the exception area will be located on large lots.[5]

Although it is a close question, we agree with the Port that the county has sufficient measures in place to ensure that any industrial uses approved in the exception area will be limited to those justified by one or more of the three reasons advanced. Given the broad and ill-defined range of industrial uses allowed in the RIPD zone and the breadth of the three independent reasons advanced, there is no question that the challenged decision potentially authorizes a very wide range of industrial uses. Petitioner's concern that the decision may, inadvertently, authorize uses not justified under one or more of the three reasons advanced is a reasonable concern. However, we agree with the Port that Condition E.5, CCZO 683.1(A) and CCCP Part XII, Policy 12,

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[5] The RIPD zone has no minimum lot size for rural industrial uses. Instead, under CCZO 684.2, the planning commission determines the minimum lot size on a case by case basis, based on the size that is sufficient to support the requested rural industrial use considering, among other things, the overall scope and phasing of the project, space required for parking, loading and open space, and setbacks needed to adequately protect adjacent properties.

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together act to effectively require future conditional use applicants to demonstrate that a particular proposed industrial use was justified in the exception decision. Further, via CCZO 683.1(A), future conditional use applicants will be required to demonstrate that the proposed use conforms to either CCCP Resource Development Policies 3(A) through (F) or with Policy 3(G), the language of which echoes the themes of OAR 660-004-0022(3)(a), (b) and (c). Petitioners do not attempt to describe or provide examples of any industrial use that could be approved under the foregoing condition, code standards, comprehensive plan policies and the text of the exception decision itself, that is not justified in the exception decision. Accordingly, petitioners arguments under the first sub-assignment of error do not provide a basis for reversal or remand.

The first sub-assignment of error is denied.

B. Second Sub-Assignment of Error: Significantly Dependent on a Unique Resource

As noted, OAR 660-004-0022(3)(a) authorizes a reason exception to site rural industrial uses on resource land where the use is "significantly dependent upon a unique resource," including "river or ocean ports." The county's findings conclude that many of the proposed uses will be significantly dependent on a unique resource: deep-water access to the Columbia river.[6]

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[6] The findings state, in relevant part:

> "The Columbia River is recognized as a Marine Highway Corridor—M-84, emphasizing the importance of the river corridor for serving local, regional and national transportation needs. * * * It is the County's more valuable transportation resource, but this resource is currently underutilized.

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"The river is a unique site-specific resource that is very important to the economy of Columbia County. Increasing use of the river route promotes transportation efficiency. Locating port dependent uses adjacent to the river further promotes that efficiency. By approving the application the County will recognize the importance of the river to the local and regional economy and promote the proper location of river dependent/port dependent industries. * * *

"Not only is the subject property adjacent to the Columbia River, but it is ideally located adjacent to a naturally deep section of the River and served by a 43 foot shipping channel. Port Westward is the only property owned by the Port of St. Helens that is able to receive deep sea ships at water depths of 45 to 75 feet. An additional positive attribute of the subject property is its proximity to the mouth of the Columbia which provides a direct trans-shipping link to the Pacific Ocean—a direct link to international trade."

"* * * * *

"Applicant anticipates the property will be occupied by uses that are significantly dependent upon the Columbia River and port resources described above. Probable uses will be a combination of maritime and industrial users that will benefit from the existing services, the deepwater port, existing and future docks, the railroad, and energy facilities. Uses will focus on the river and rail for transportation of their inventory and products. The Port's goal is to attract companies looking to export, import, process, or manufacture goods with the intent of using the combination of rail and maritime capabilities to receive and then deliver those goods via ships. For example, a natural resource export facility would utilize river barge and/or rail shipments to move material to Port Westward for loading onto ships. Such a facility would require hundreds of acres to locate. * * *.

"The Port has been approached by several different companies representing several different industries ranging from renewables,

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1 Petitioners challenge those findings, arguing first that some of the uses
2 allowed in the exception area will not be port-dependent uses, and that the
3 county failed to impose a condition limiting proposed uses to port-dependent
4 uses. However, as explained above, the county advanced three reasons to
5 justify the exception area, and the fact that not all uses allowed in the exception
6 area will be port-dependent uses for purposes of OAR 660-004-0022(3)(a) is
7 not erroneous, as long as all uses allowed fall within one or more of the three
8 reasons.

9 Petitioners next argue that the existing Port Westward dock facilities are
10 underutilized, suggesting that there is no need for additional lands or docking
11 facilities for port-dependent uses. However, as the Port argues, that argument
12 is more appropriately framed under the reasonably accommodate standard of
13 OAR 660-004-0020(2)(b). For purposes of identifying a reason under OAR
14 660-004-0022(3)(a), the county is not required to demonstrate that existing
15 port-related facilities are underutilized.

16 Finally, petitioners note that two of the three riverfront lots originally
17 proposed for the exception area were withdrawn from the application.
18 Petitioners argue that the findings fail to explain how the single remaining
19 riverfront lot will be adequate to serve the uses that are "significantly
20 dependent" on river access, when a majority of the lands in the exception area
21 are not adjacent to the river. If petitioners are suggesting that only uses on land
22 immediately adjacent to the river can be "significantly dependent" on river

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such as biodiesel, biomass, and solar; petroleum based products; grain; wood chips; cement; power plants; automobiles; and natural resources including coal and other bulk commodities. The businesses on average have been requesting between 50-300 acres to support their intended uses." Record 76-77.

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access, we disagree. Petitioners cite to no evidence in the record suggesting that dock facilities on the riverfront lot would be inadequate to serve industrial uses in the landward remainder of the exception area.

The second sub-assignment of error is denied.

C. Third Sub-Assignment of Error: Impacts that are Hazardous or Incompatible in Densely Populated Areas

As a second independent reason, the county relied on OAR 660-004-0022(3)(b), which authorizes an exception for rural industrial uses on resource land where "[t]he use cannot be located inside an urban growth boundary due to impacts that are hazardous or incompatible in densely populated areas[.]"

The county's brief findings under OAR 660-004-0022(3)(b) focus on the attributes of the subject site, and do not identify or discuss any use that has "impacts that are hazards or incompatible in densely populated areas."[7] The

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[7] The county's findings addressing OAR 660-004-0022(3)(b) state, in full:

> "A positive attribute of the subject property is its location away from an urban center and dense rural residential populations. The relatively isolated character of the site is a characteristic sought and needed by many of the users seeking large scale industrial sites. As provided for in the Comprehensive plan:
>
> > "'There is a need within the state for large isolated sites for heavy industry. These sites must be isolated and separate from concentrations of population. Whiles these sites themselves need to be isolated, they also need to be relatively close to major sources of support industries, services, and be served by multimodel transportation. There are not many areas in the state where these sites exist.'
>
> "Fortunately for the County, Port Westward and the subject property represent one of those unique and coveted sites. The

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1 closest the findings come is to quote comprehensive plan language describing a
2 statewide need for "large isolated sites for heavy industry[.]" The findings also
3 incorporate by reference findings under OAR 660-004-0022(3)(c), the
4 "significant comparative advantage due to location" reason. However, nothing
5 cited to us in those incorporated findings address uses with impacts that are
6 hazardous or incompatible with dense populations.

7 Petitioners argue that without knowing what kind of use is proposed, and
8 without describing the "impacts" of such use, it is impossible to adopt a
9 reasons exception under OAR 660-004-0022(3)(b) based on a conclusion that
10 the impacts of the use "are hazardous or incompatible in densely populated
11 areas."

12 We agree with petitioners that the county's above-quoted findings are
13 inadequate to justify any uses under OAR 660-004-0022(3)(b), which requires
14 a description of the proposed uses and their impacts sufficiently to determine
15 that such impacts are either "hazardous" or "incompatible in densely populated
16 areas." The county findings make no such attempt, other than to vaguely refer
17 to "large lot" and "heavy industrial" uses. But different heavy industrial uses

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subject property has the location and attributes that makes it an excellent example of 'where to expand.'

"Additionally, as demonstrated below in response to OAR 660-004-0020(2)(b)(B)(iii), there are no locations inside an urban growth boundary upon which a large scale industrial user could develop a facility away from dense urban populations. Those findings are incorporated by reference.

"Applicant hereby incorporates by reference the findings provided in response to OAR 660-004-0022(3)(c) below. Those findings, together with the findings above, demonstrate compliance with OAR 660-004-0022(3)(b)." Record 78.

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may have very different impacts, and only some may be hazardous or incompatible with dense populations. And industrial uses that require or prefer large lots may do so due to impacts and the need for buffers, but may also simply require large lots due to the nature of the use, regardless of impacts.

We agree with petitioners that to the extent the county relies solely on the "hazardous/incompatible impacts" language of OAR 660-004-0022(3)(b) to justify some of the allowed industrial uses, the county must more specifically identify the proposed uses that fit within that reason, identify impacts that are hazardous or incompatible with dense populations, and condition or otherwise limit allowed uses to those justified under that reason.

The third sub-assignment of error is sustained.

D. Fourth Sub-Assignment of Error: Significant Comparative Advantage

OAR 660-004-0022(3)(c) sets out the most general of the three reasons listed in the rule and authorizes an exception where:

> "The use would have a significant comparative advantage due to its location (e.g., near existing industrial activity, an energy facility, or products available from other rural activities), which would benefit the county economy and cause only minimal loss of productive resource lands. Reasons for such a decision should include a discussion of the lost resource productivity and values in relation to the county's gain from the industrial use, and the specific transportation and resource advantages that support the decision."

The county adopted 13 pages of findings under OAR 660-004-0022(3)(c). Record 78-91. The gist of those findings is that the location has significant comparative advantage due to its proximity to deep-water access, and the Port Westward site itself, with its existing dock facilities, utilities, power generating facilities, railroad and road connections, etc. The combination of those

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1 qualities, the county found, are very rare in the county and around the state. To
2 address the "benefit to the county economy" language, the county adopted
3 extensive findings discussing a severe shortage of industrial lands in the
4 region, particularly large, development ready sites. The findings then discuss
5 low employment and wages in the county, which lags behind state averages,
6 and conclude that expanding the supply of prime industrial land would benefit
7 the county's economy. Finally, the findings discuss lost agricultural
8 productivity compared to the county's gain from the industrial use, and
9 conclude that the loss is small compared to the county's gain from the
10 industrial use.

11 Petitioners first argue, again, that whether proximity to river access,
12 transportation, utilities, etc., will convey a significant comparative advantage
13 cannot be known until a particular use is identified and evaluated. We
14 disagree. The focus of OAR 660-004-0022(3)(c) is on the location of the
15 property in proximity to certain resources, three examples of which are given:
16 existing industrial activity, an energy facility, or products available from other
17 rural activities, and the comparative advantages derived from that proximity.
18 The county identified the proximate resources that provide the location a
19 comparative advantage, including deep-water access, existing dock facilities,
20 access to railroad, highways and interstates, and the presence of utilities and
21 power generating facilities. Petitioners do not dispute that the location provides
22 those advantages. Two of the advantages benefit river or port-dependent uses;
23 the remainder would benefit many other kinds of rural industrial use. Given
24 the breadth of the locational advantages identified by the county, we disagree
25 with petitioners that the county must identify a specific industrial use in order
26 to invoke OAR 660-004-0022(3)(c).

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1 Petitioners next argue that the significant comparative advantages
2 represented by the existing docks, energy facilities, railroad spurs, roads and
3 utilities etc., all stem from Port Westward, and that the competitive advantage
4 must come from the exception area itself, not an adjoining exception area.
5 However, as explained above, OAR 660-004-0022(3)(c) is focused on the
6 comparative advantages of the location due to its *proximity* to certain
7 resources, and we see nothing in the rule suggesting that such proximate
8 resources need be located in the exception area.

9 Next, petitioners challenge the county's findings that locating rural
10 industrial uses in the exception area would benefit the county economy.
11 Petitioners argue that the county concluded, essentially, that there is a general
12 need or market demand for prime industrial land in the county. According to
13 petitioners, LUBA has held that for purposes of a different reasons exception
14 standard, at OAR 660-004-0022(1)(a), that mere market demand for a use not
15 allowed by a resource goal is an insufficient "reason." *Morgan v. Douglas*
16 *County*, 42 Or LUBA 46, 53 (2002); *Middleton v. Josephine County*, 31 Or
17 LUBA 423, 430 (1996).

18 However, OAR 660-004-0022(1)(a) is inapplicable in the present case,
19 and provides as one general "reason" for an exception a "demonstrated need for
20 the proposed use or activity, based on one or more of the requirements of Goals
21 3 to 19."[8] The cited cases interpreted OAR 660-004-0022(1)(a) to the effect

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[8] OAR 660-004-0022(1) provides, in relevant part:

> "For uses not specifically provided for in this division * * * the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:

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that the local government must also show that the exception is necessary to help the local government satisfy its obligations under other goals. In the present case, petitioners argue for a similar understanding of OAR 660-004-0022(3)(c), to the effect that the county cannot find that the proposed uses would "benefit the county economy" based merely on market demand for prime industrial land, but must also identify a goal obligation that the exception helps satisfy.

The Port argues, and we agree, that the "benefit the county economy" language of OAR 660-004-0022(3)(c) is not analogous to the "demonstrated need" based on one or more goal requirements language of OAR 660-004-0022(1)(a). To "benefit the county economy" is a more generous standard than "demonstrated need" based on goal requirements. Petitioners have not shown that, given the identified shortage of prime industrial land in the county, and the significant comparative advantage due to location, the county erred in concluding that allowing the proposed rural industrial uses would benefit the county economy.

Finally, petitioners challenge the county's findings that the proposed uses would "cause only minimal loss of productive resources." OAR 660-004-0022(3)(c) also requires the county to consider the "lost resource productivity and values in relation to the county's gain from the industrial use." The county concluded that the eventual loss of 857 acres of agricultural land is small when compared to the economic gains from rural industrial use of the exception area, given the comparative economic advantages. The county noted that the

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> "(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19[.]"

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1 portions of the exception area currently used for a tree farm would continue
2 until industrial uses are approved, that the exception area is a small fraction of
3 the resource lands in the area, and that tax revenues and income from industrial
4 uses will far exceed revenues and income from continued farming of the
5 exception area. Based on these considerations, the county concluded that
6 economic gain from industrial use significantly outweighed the lost resource
7 productivity. Record 90-91.

8 Petitioners contend that the findings fail to demonstrate that there is only
9 "minimal loss" of productive resources. According to petitioners, adequate
10 findings on that point would address the farming activities currently occurring
11 in the exception area, and the actual revenue and employment generated by
12 those activities. Further, petitioners argue that the findings should also
13 consider adverse economic impacts on adjoining lands in agricultural use.

14 We disagree with petitioners that findings addressing the "minimal loss
15 of productive resources" language must address adverse impacts on *adjoining*
16 resource uses. The focus of OAR 660-004-0022(3)(c) is on weighing the
17 comparative cost/benefits of replacing resource use of the exception area with
18 rural industrial uses, and "loss of productive resources" refers to resources
19 within the exception area. Other exception standards, specifically the
20 compatibility standard at OAR 660-004-0020(2)(d), address adverse impacts
21 on adjoining uses.

22 We also disagree that findings addressing the "minimal loss of
23 productive resources" language must necessarily evaluate the revenues and
24 employment generated by the current resource uses within the exception area.
25 For one thing, such information may not be readily available from the current
26 farm operator. Further, the *current* uses, revenues and employment of the

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exception area are ephemeral, easily manipulated considerations. If the owner of the exception area is the applicant, as will typically be the case, the applicant could simply cease resource use for a period of time and thus attempt to skew the comparative economic costs/benefits. Here, the county compared current and potential future tax revenue, and average farm income versus anticipated industrial revenues based on Oregon State University Extension Service figures, among other sources. Petitioners have not demonstrated that that approach is insufficient for purposes of OAR 660-004-0022(3)(c).

The fourth sub-assignment of error is denied.

The first assignment of error (Seely) is sustained in part.

SECOND ASSIGNMENT OF ERROR (Seely)
FIRST ASSIGNMENT OF ERROR (Riverkeeper)

OAR 660-004-0020(2)(b) is the reasonable accommodation standard and one prong of that standard requires a finding that "areas that do not require a new exception cannot reasonably accommodate the use," and sets out four questions to answer.[9] Both sets of petitioners challenge the county's findings

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[9] OAR 660-004-0020(2)(b)(B) provides, as relevant:

> "To show why the particular site is justified, it is necessary to discuss why other areas that do not require a new exception cannot reasonably accommodate the proposed use. Economic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under this test the following questions shall be addressed:
>
> "(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?

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1 under OAR 660-004-0020(2)(b). Riverkeeper challenges the county's findings
2 that Port Westward cannot reasonably accommodate the proposed uses, while
3 the Seely petitioners challenge the county's findings regarding other alternative
4 sites.

5 **A. Vacant Port Westward Lands**

6 As noted, much of the adjoining 905-acre Port Westward site is vacant
7 exception land that is already zoned RIPD. PGE has a 99-year lease for 862
8 acres of the Port Westward site, and has developed 147 acres of that leasehold
9 with two power plants. The Port leases 43 acres within Port Westward to a
10 biomass-refinery. Of the remainder, approximately 80 acres consist of
11 mitigation areas, 60 acres are within the floodplain, 30 acres are developed
12 with a security gate and other infrastructure, and 100 acres are subject to utility
13 easements and roads, leaving approximately 445 vacant acres within PGE's
14 leasehold. PGE subleases 300 acres to the Seely petitioners for farming. PGE
15 has future plans to construct a third power plant in its leasehold.

"(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses not allowed by the applicable Goal, including resource land in existing unincorporated communities, or by increasing the density of uses on committed lands? If not, why not?

"(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?

"(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?"

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1 The county concluded that, notwithstanding that much of Port Westward
2 is seemingly vacant and available for development, in actuality there is only
3 "minimum" property within Port Westward that is available for development.
4 To reach that conclusion, the county removed from the calculus (1) all lands
5 within PGE's leasehold, and (2) all lands designated as wetlands on county
6 records, which apparently consists of almost all of the undeveloped land within
7 Port Westward.[10] The county concluded that the few remaining acres under
8 direct Port control are insufficient in size to attract large lot/traded sector
9 industries.

10 Riverkeeper challenges those findings, arguing that all of the cited
11 limitations were present at the time the county adopted an exception for Port
12 Westward in the 1970s and that there have been very few changes since then.
13 According to Riverkeeper, the comprehensive plan exception statement for Port
14 Westward states that PGE uses approximately 120 acres for its power plants,

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[10] The county's findings state:

> "While areas of [Port Westward] appear vacant and 'available' for additional development, they are not in fact so. Nearly the entirety of the area inside the existing [Port Westward] and not currently developed is identified by the County as wetlands. * * * Additionally, PGE, the leaseholder, controls which uses, if any it may allow on the leased property pursuant to the terms of its 99 year lease. Besides the two existing generating plant and tanks already on the site, PGE—through an Integrated Resource Plan (IRP) issued in 2010—is proposing to construct an additional 200 MW [megawatt power plant] at the site. Given the buffer required by PGE to protect its facilities, the fact that some property is located within the flood zone, extensive wetlands, existing easements and rail tracks throughout the site, there is minimum property remaining within the current already zoned RIPD area." Record 92-93.

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1 and that the "remainder of the land [is] available for sublease to large-scale rail,
2 barge, and/or ship users." CCCP at 120. Riverkeeper also notes that in 1999,
3 the Port and PGE signed a joint marketing agreement intended to "intensify the
4 use of the Property thus furthering economic development activity in the area."
5 Record 2063. Riverkeeper cites to evidence that PGE has "actively
6 participated" in marketing efforts to sublease land from its leasehold. Record
7 2056. Riverkeeper contends that the county erred in concluding that vacant
8 lands within the PGE leasehold cannot "reasonably accommodate" proposed
9 industrial uses, simply because of the PGE lease.

10 With respect to wetlands, Riverkeeper argues that any wetlands were
11 presumably present at the time the exception for Port Westward was adopted,
12 and that the findings do not explain what has changed, or why areas identified
13 as having wetlands cannot be developed with appropriate permits and
14 mitigation.

15 The Port provides no response to Riverkeeper's argument that the county
16 erred in concluding for purposes of the reasonably accommodate standard that
17 the 445 vacant acres within PGE's leasehold are unavailable for industrial
18 development, due to the leasehold. We agree with Riverkeeper that absent
19 evidence that PGE is categorically unwilling to sublease part or all of its
20 leasehold to other industrial users, or that the leased lands cannot otherwise be
21 reasonably made available for development through acquisition or termination
22 of the leasehold interest, the fact that 445 vacant acres is subject to PGE's
23 leasehold does not mean that such lands are unavailable or cannot reasonably
24 accommodate proposed rural industrial uses. In conducting the alternative sites
25 analysis required by OAR 660-004-0020(2)(b), the county cannot limit its
26 analysis to lands controlled by the applicant, or conclude that an alternative site

1 controlled by others is not available for industrial development simply due to
2 different ownership or control.

3 With respect to wetlands, the Port cites to a finding from the county's
4 ESEE analysis under OAR 660-004-0020(2)(c) that development of the
5 wetland areas within Port Westward would adversely impact the environmental
6 value of those wetlands, while development of the proposed exception area
7 would impact few wetlands. Record 109. Based on that finding and others, the
8 county concluded that the ESEE consequences of developing the proposed
9 exception area would not be significantly more adverse than developing other
10 resource lands that also require an exception. We understand the Port to argue
11 that, for similar reasons, the county may disqualify the vacant Port Westward
12 acreage that is designated as wetlands, for purposes of the OAR 660-004-
13 0020(2)(b) reasonably accommodate standard.

14 We disagree with the Port. The reasonably accommodate standard at
15 OAR 660-004-0020(2)(b) asks a very different question from the question
16 posed by the ESEE analysis required by OAR 660-004-0020(2)(c). The latter
17 assumes that an exception is justified for the proposed use, and asks essentially
18 whether some other resource land that would also require an exception is better
19 suited for the proposed use, considering the ESEE consequences of developing
20 the two resource areas. The reasonably accommodate standard is more difficult
21 to satisfy than the ESEE standard. The relevant question under OAR 660-004-
22 0020(2)(b) is not which site is better suited, but whether an alternative site that
23 does not require a new exception can "reasonably accommodate" the proposed
24 use. If so, an exception is not warranted for the preferred site, even if the
25 preferred site is better suited for the proposed use than the alternative site.

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As we understand it, all of the existing industrial development and infrastructure in Port Westward is located on approximately 300 acres of fill previously placed in the wetlands on the site. Generally, the mere presence of wetlands on a site does not make the site unbuildable; it usually means only that the applicant must obtain a fill permit from the Department of State Lands, and provide any mitigation, on-site or off-site, that is required. The Port cites to no evidence in the record that wetlands areas within Port Westward are unbuildable or any reason to believe that appropriate permits and mitigation are not available options. Under OAR 660-004-0020(2)(b)(B), "[e]conomic factors may be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas." It may be that the cost of filling and providing mitigation for wetland areas would be so prohibitive that the cost alone or in combination with other factors could allow the county to conclude that vacant lands within Port Westward site cannot reasonably accommodate any industrial use. However, the findings do not discuss the cost of wetland fill and mitigation, and any finding that vacant lands within Port Westward are unbuildable for industrial uses due to wetlands would seem to be belied by the evidence that PGE is planning to construct a third power plant on the property, which presumably will require some fill and mitigation. We conclude that the county has not demonstrated that the approximately 445 acres of vacant lands within the Port Westward site can be rejected under the reasonable accommodate standard, based on the mere presence of wetlands.

The first assignment of error (Riverkeeper) is sustained.

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1 **B. Other Alternative Sites**

2 The Seely petitioners challenge the county's findings that other
3 industrially zoned properties in the region cannot "reasonably accommodate"
4 the proposed industrial uses.[11]

5 The county considered a number of alternative sites, some owned by the
6 Port or other ports, and some industrially zoned lands owned by cities or other
7 entities along the river. The county disqualified each alternative site for a
8 variety of reasons. The county concluded that almost all alternative sites could
9 not "reasonably accommodate" the proposed uses because they lack deep water
10 access or in some cases any port facilities at all. The county rejected other sites
11 because the vacant available acreage was too small to accommodate in one
12 location all of the multiple large lot industrial uses that the 837-acre proposed
13 exception area could accommodate. The county rejected other sites because
14 they lacked rail access or would require additional expense to extend rail.
15 Other sites were rejected because vacant lands included wetlands, or were
16 environmentally contaminated and would require expensive environmental
17 remediation.

18 The county rejected a site near the City of Rainier, with 450 vacant acres
19 zoned for heavy industrial use, for several reasons, including that ownership of
20 the site is parcelized, increasing the cost to consolidate parcels to accommodate

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[11] The Port argues initially that, while challenges to the alternative sites analysis were raised below, no argument was made that the county misconstrued OAR 660-004-0020(2)(b) in applying the alternative site analysis, and thus petitioners' arguments under their second assignment of error are waived. ORS 197.763(1). Petitioners reply, and we agree, that the challenges raised below to the alternative sites analysis were sufficient to allow petitioners to argue that the county's misconstrued OAR 660-004-0020(2)(b).

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a large lot user. The same site was also rejected in part because it is planned for "labor intensive uses." In addition, the Rainier site was also rejected because it is located in close proximity to the City of Rainier, and the county deemed it inappropriate for the proposed rural industrial uses, which the county seeks to locate away from populated areas, a finding that apparently invokes the reason set out at OAR 660-004-0022(3)(b).

Petitioners argue, and we agree, that the county's analysis of alternative sites under OAR 660-004-0020(2)(b) is flawed in several particulars. The main problem, as discussed above, is the sheer breadth of the industrial uses that the county purports to take an exception for, combined with the fact that the county advances three separate non-overlapping "reasons" to justify the exception. That approach vastly complicates the alternative sites analysis. Stated simply, under that approach a site cannot be rejected solely because it cannot reasonably accommodate one sub-set of proposed industrial use, if it can reasonably accommodate other sub-sets of proposed industrial uses. Further, a site cannot be rejected solely because it cannot accommodate certain types of industrial uses justified under one "reason," if the site can reasonably accommodate other types of industrial uses that are justified under a different "reason." In essence, if the county seeks to justify the exception based on three separate "reasons" that cover a broad array of overlapping but distinct sets of uses, it has placed itself into a position where it must conduct three separate alternatives analyses, and can completely reject an alternative site only if the site cannot reasonably accommodate the proposed uses under any of the separate reasons.

For example, if the county had limited the proposed uses to port-dependent uses that require deep-water access, then the county could easily

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1 reject alternative sites that do not provide deep-water access. However, the
2 county also seeks to authorize a large array of other unspecified industrial uses
3 that are not port-dependent and that do not rely on deep-water access or any
4 port facilities at all. For such uses, the county cannot disqualify an alternative
5 site simply because it does not provide deep water access. Similarly, the
6 county rejected some sites due to lack of rail access. But the extremely broad
7 array of industrial uses that the county seeks to authorize presumably includes
8 uses that do not require or benefit from rail access.

9 In addition, the county has not established that alternative sites cannot
10 reasonably accommodate the proposed uses because no individual site is large
11 enough to accommodate in the same place all of the large-lot industrial uses
12 that the proposed 837-acre exception area could accommodate. As far as the
13 findings establish, there is no magic number about the size of the exception
14 area; it simply happens to match the size of the property that the Port has
15 acquired. Relatedly, the findings also do not establish that multiple large lot
16 industrial uses must be located together at a single site. We agree with
17 petitioners that if one or more alternative sites can reasonably accommodate
18 one or more of the proposed large lot industrial uses, then the county cannot
19 reject such sites solely on the basis that they cannot provide 837 acres for
20 multiple large lot industrial uses at a single location.

21 Some industrially zoned sites were rejected due to the presence of
22 wetlands. As discussed above with respect to the Port Westward site, the mere
23 presence of wetlands is not a sufficient basis to reject an alternative site, absent
24 findings and evidence that due to regulatory, cost or other relevant factors it is
25 unreasonable to expect that the site can be developed with any of the broad

array of industrial uses proposed here. The county identified no such evidence and made no such findings.

One site was rejected in part to due to unspecified environmental contamination. The cost of environmental remediation is certainly a relevant factor in determining whether an alternative site can reasonably accommodate the proposed use. However, the findings do not discuss the cost of environmental remediation at all.

Finally, we agree with petitioners that some of the factors the county considered to reject the 450 vacant acres at the Rainier site require more explanation or supporting evidence. That the Rainier site is more parcelized, which might increase the negotiation costs of acquiring a large site, represents an economic cost that can be considered along with other factors, but the findings brief reference to parcelization is insufficient to explain why unspecified economic costs associated with assembling parcels, combined with other factors, means that the Rainier site cannot reasonable accommodate the proposed uses. Similarly, the findings do not explain why the fact that the Rainier site is planned for "labor intensive uses" means that some of the proposed industrial uses cannot be accommodated at the Rainier site. The broad array of proposed industrial uses does not necessarily exclude labor intensive uses. *See* n 4 (CCCP Policies restricting RIPD uses to those that are "not *generally* labor intensive") (emphasis added.) Finally, the county rejected the Rainier site because it is too close to the City of Rainier and the county seeks to locate industrial uses away from dense populations. That rationale presumably is based on the OAR 660-004-0022(3)(b) "reason" to locate on resource land rural industrial uses that are hazardous or incompatible with dense populations. However, we held above that the county had failed to

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establish a sufficient reason under OAR 660-004-0022(3)(b). In addition, even if that reason were available, the broad array of industrial uses proposed for the exception area presumably include many uses that are non-hazardous or not incompatible with dense populations.

In sum, the reasonable accommodation standard at OAR 660-004-0020(2)(b) is not an easy standard to satisfy even in more typical circumstances that involve a single proposed use and a single "reason." Under the approach approved by the county, with an open-ended and extremely broad array of proposed industrial uses, and three separate "reasons" with distinct, partially overlapping sets of uses, rejecting *all* alternative sites under the reasonable accommodation standard becomes highly problematic. Remand is warranted for the county to re-evaluate its alternative sites analysis in light of the foregoing.

The first assignment of error (Riverkeeper) is sustained.

The second assignment of error (Seely) is sustained.

THIRD ASSIGNMENT OF ERROR (Seely)

OAR 660-004-0020(2)(c) requires a finding that the long-term ESEE consequences that would result from allowing the use at the proposed exception site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in other areas requiring a goal exception.[12]

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[12] OAR 660-004-0020(2)(c) also provides, in relevant part:

> "* * * The exception shall describe: the characteristics of each alternative area considered by the jurisdiction in which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal,

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The county's findings generally conclude that there would be few long-term adverse ESEE consequences from locating industrial uses in the exception area, and that such location would not have significantly more adverse ESEE consequences than would typically result from the same proposal being located on other resource lands. In discussing environmental consequences, the county concluded that industrial use in the exception area would have no significant adverse consequences for nearby resource uses:

> "Additionally, no significant adverse consequences to nearby users are anticipated. In analyzing those environmental consequences, the County is benefited by a 25 plus year history of large scale industrial development adjacent to resources uses at this property. There is no evidence that those industrial uses have significantly impacted or altered adjacent farming and tree farming operations. The evidence is that tree farms and mint farms have operated during that time adjacent to and within the [Port Westward] facilities, including on buffer lands around the industrial facilities. Their existence supports the ability to sustain resource uses near rural industrial uses. * * *." Record 109.

> and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site. Such reasons shall include but are not limited to a description of: the facts used to determine which resource land is least productive, the ability to sustain resource uses near the proposed use, and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base. * * *"

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1 Petitioners argue that the foregoing findings are inadequate, because they
2 fail to discuss the agricultural uses on adjoining property, including petitioners'
3 mint and berry operations. According to petitioners, testimony was submitted
4 below that the adjoining lands are some of the most productive in the county, in
5 terms of contribution to employment and overall mint production. Petitioners
6 testified that some "dirty" industrial uses allowed in the exception area could
7 have significant adverse impacts on sensitive mint and berry operations. For
8 that reason, petitioners argue, the county's reliance on the 25-year history of
9 compatibility between area farms and the existing energy facilities at the Port
10 Westward site does not assist the county, because the PGE facilities are not
11 hazardous or "dirty" industrial uses. Petitioners argue that, given the high
12 productivity and sensitivity of adjoining farm uses, the county failed to
13 adequately demonstrate that the ESEE consequences of industrial use in the
14 exception area would not be significantly more adverse than industrial use on
15 other resource lands, where soils may be less productive or neighboring
16 agricultural uses less sensitive and economically significant.
17 The Port responds by citing to the county's findings regarding OAR 660-
18 004-0020(2)(d), the compatibility standard, to the effect that the county
19 considered petitioners' testimony regarding adverse impacts on its mint and
20 berry operations, and concluded that, with conditions imposed, the proposed
21 industrial uses can be made compatible with petitioners' adjacent farm uses.
22 Among the conditions imposed was a prohibition on coal export uses, which
23 was the primary "dirty" industry discussed below, due to dust impacts on
24 sensitive mint and berry operations. The Port contends that the findings
25 addressing the compatibility standard at OAR 660-004-0020(2)(d) are

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1 sufficient to address petitioners' concerns with the findings addressing the
2 ESEE standard at OAR 660-004-0020(2)(c).

3 OAR 660-004-0020(2)(c) and (d) address different policy
4 considerations, and findings addressing one standard are not necessarily also
5 sufficient to satisfy the other. However, the compatibility findings discuss
6 adjoining mint and berry operations at some length, and it is reasonably clear
7 that the county was well aware of the testimony regarding the nature, value and
8 sensitivity of adjoining farm uses. Record 112-114. The compatibility
9 findings also demonstrate that the county was aware of petitioners' concerns
10 regarding "dirty" industrial uses, and the county adopted several conditions to
11 address those concerns.

12 Given the related compatibility findings, in our view the only potentially
13 significant flaw that petitioners identify in the ESEE findings is that the
14 findings focus on the subject property and environs, and do not directly
15 confront the question posed by OAR 660-004-0020(2)(c): whether adverse
16 ESEE consequences of developing the exception area would be significantly
17 greater than the typical ESEE consequences of developing *other* resource
18 lands. As petitioners suggest, the typical ESEE consequences of developing
19 other alternative resource lands *may* be less adverse than developing the
20 subject property, *if* such alternative resource lands happen not to be adjacent to
21 especially productive, high sensitivity agricultural lands. However, we
22 conclude that petitioners have not demonstrated that remand is warranted for
23 more adequate findings on this point. OAR 660-004-0020(2)(c) does not
24 require a detailed evaluation of specific alternative sites "unless such sites are
25 specifically described with facts to support the assertion that the sites have
26 significantly fewer adverse impacts during the local exceptions proceeding."

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Petitioners do not contend that any specific alternative resource sites were identified below, or that any alternative sites exist that adjoin other resource lands with less productive soils or less sensitive crops than the proposed exception area. Absent identification of specific alternatives, the county's generic comparison of ESEE consequences is adequate to demonstrate compliance with OAR 660-004-0020(2)(c).

The third assignment of error (Seely) is denied.

FOURTH ASSIGNMENT OF ERROR (Seely)
SECOND ASSIGNMENT OF ERROR (Riverkeeper)

ORS 197.732(2)(c)(D), Goal 2, Part II(c), and OAR 660-004-0020(2)(d) require findings that "proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts." The rule elaborates as follows:

> "The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. 'Compatible' is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses."

In their fourth assignment of error, the Seely petitioners argue that the county admitted that it is "impossible" to show how every potential industrial use allowed in the exception area under the RIPD zone is or can be made compatible with adjacent uses.[13] Petitioners agree, and argue that that means

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[13] The county's findings state, as relevant:

> "* * * Any proposed uses in this new industrial zone will need to be compatible with both adjoining uses, industrial and farming. These criteria will be reviewed at site design review prior to

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1 that the compatibility standard cannot be meaningfully evaluated unless a
2 reasonably specific industrial use is proposed.
3 The Port agrees that the findings do not attempt to describe how
4 proposed uses are compatible with adjacent uses, but argues that the findings
5 adequately describe how proposed uses will be rendered compatible through
6 measures designed to reduce adverse impacts, consistent with that prong of

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> releasing a building permit. There has been a substantial amount of testimony received from the farm community pertaining to whether this new industrial zone would allow uses that are incompatible with crops in nearby fields. Most testimony expressed a fear that the most despicable industrial uses may site next to them. The farm community does not have problems with the uses already in existence at Port Westward. As such, some lands that are zoned for industrial use at Port Westward are leased for agricultural purposes and can remain so. *It is impossible for the applicant to show how every possible industrial use could or would be considered compatible with adjoining farm uses, even with an exhaustive list of mitigating measures.* For this reason and to be in compliance with this criteri[on], staff believes that before a development permit is issued each new use should be reviewed for compatibility with adjacent farm uses. The applicant has proposed that the following conditions be imposed to ensure measures are in place to reduce adverse impacts:
>
> "* * * * *
>
> "9) Development applications shall include an agricultural impact assessment report that shall analyze adjacent agricultural uses and practices and demonstrate that impacts from the proposed uses are mitigated. The reports shall include a description of the type and nature of the agricultural uses and farming practices, if any, which presently occur on adjacent lands zoned for farm use, type of agricultural equipment customarily used on the property, and wind pattern information. The report shall include a mitigation plan." Record 64-65 (italics added).

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1 OAR 660-004-0020(2)(d). According to the Port, the county "imposed
2 conditions necessary to ensure that the compatibility criterion will be satisfied
3 and that compatibility will in fact be ensured before permitting future uses, as
4 permitted by applicable rules." Response Brief 83.

5 We generally agree with petitioners that because the compatibility
6 standard focuses on "adverse impacts," it cannot be meaningfully addressed
7 unless the "proposed use" is described sufficiently to identify and evaluate its
8 likely adverse impacts. The county could possibly apply the compatibility
9 standard to multiple categories of uses with similar adverse impacts, but the
10 county cannot possibly apply the compatibility standard to a large, open-ended
11 range of unspecified and unknown industrial uses, and it is telling that the
12 county in the present case did not even try.

13 Instead, as the Port argues, the county attempted to ensure, via a
14 condition and reliance on site design and conditional use standards applied to
15 future development proposals, that the compatibility determination will be
16 addressed at the time of development. Contrary to the Port's argument, that
17 approach is not consistent with the language of OAR 660-004-0020(2)(d) that
18 allows a county to determine compliance with the rule based on findings that
19 the proposed use will be rendered compatible with adjacent uses through
20 "measures designed to reduce adverse impacts." That language contemplates
21 that the county has identified the proposed use, has determined that the use has
22 adverse impacts incompatible with adjacent uses, but has identified and
23 imposed specific measures *in the exception decision* to reduce impacts and thus
24 render the proposed use compatible. Identifying a *process* that in the future
25 will identify the proposed use, identify the adverse impacts of that use, and

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then identify and impose any specific measures needed to reduce impacts and render the proposed use compatible, is something quite different.

The most accurate characterization of the county's approach is, as petitioners and Riverkeeper argue, that the county completely deferred a determination of compliance with OAR 660-004-0020(2)(d) to the time of future development applications. Riverkeeper argues that the county erred in so deferring that determination. In the alternative, Riverkeeper argues that the conditions imposed to ensure compliance with the compatibility requirement are inadequate.

The Port responds, initially, that Riverkeeper's argument that it is impermissible to defer a determination of compliance with OAR 660-004-0020(2)(d) is waived, because the argument was not raised below. ORS 197.763(1). Riverkeeper replies that it raised issues below regarding the conditions intended to defer the compatibility determination to subsequent permit proceedings. Record 716. While it is a reasonably close question, we agree with Riverkeeper that the challenges raised below regarding compliance with the compatibility standard and the challenges to the conditions imposed to ensure that the standard is met are sufficient to allow Riverkeeper to argue on appeal that the findings and conditions imposed regarding the compatibility standard represent an impermissible deferral.

On the merits, the parties discuss several cases involving multi-stage development or permit approvals generally holding that, where there is insufficient information to find compliance with a development standard the local government may defer that finding to a later stage of review, as long as the later stage offers or is "infused" with the same participatory rights as the initial proceeding. *See Gould v. Deschutes County*, 216 Or App 150, 162, 171

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1 P3d 1017 (2007) (multi-stage planned unit development); *Butte Conservancy v.*
2 *City of Gresham*, 51 Or LUBA 194, 205 (2005) (tentative subdivision
3 approval); *Rhyne v. Multnomah County*, 23 OR LUBA 442, 447 (1992) (multi-
4 stage planned development). Among other disputes, the parties disagree
5 whether the subsequent development approvals for uses allowed or
6 conditionally allowed in the new exception area under the RIPD zoning will
7 offer the same participatory rights as the county's goal exception proceeding.

8 Although we need not resolve this dispute, we tend to agree with
9 Riverkeeper that a simple permit proceeding under the RPID zoning would not
10 offer or be infused with the same level of notice and participatory rights that a
11 post-acknowledgment plan amendment taking a goal exception would provide.
12 In particular, such a permit proceeding would not guarantee a hearing and
13 would likely provide notice only to nearby property owners of a decision, with
14 a right of local appeal, and would not provide notice to the Department of Land
15 Conservation and Development (DLCD) and other non-local agencies and
16 entities that rely on obtaining notice of post-acknowledgment plan amendments
17 via DLCD.

18 However, there is a fundamental point here that the Port and the county
19 overlook. No party cites any cases, and we are aware of none, holding that a
20 local government may approve a *goal exception* subject to a complete deferral
21 of findings of compliance with a Goal 2 exception standard, where the only
22 determination regarding whether that Goal 2 exception standard is met is made
23 after the goal exception is approved at the time a subsequent development
24 application for a specific use that is allowed under the zoning that the
25 exception decision applies to the exception area. *Gould*, *Butte Conservancy*,

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1 *Rhyne*, and other similar cases all involved multi-stage development approvals
2 or permit decisions, not goal exceptions.

3 Generally, whether a comprehensive plan amendment complies with an
4 applicable statewide planning goal or an administrative rule implementing the
5 goal must be determined before the plan amendment is adopted, and cannot be
6 deferred to a subsequent permit proceeding after the plan amendment is
7 adopted. *See Willamette Oaks v. City of Eugene*, 232 Or App 29, 36, 200 P3d
8 445 (2009) (compliance with Goal 12 and the Transportation Planning Rule
9 cannot be deferred to a permit proceeding); *Root v. Klamath County*, 63 Or
10 LUBA 230, 252 (2011) (same).

11 In *Friends of Yamhill County v. Yamhill County*, 47 Or LUBA 160, 169
12 (2004), we stated the "general principle" that Goal 14 compliance issues raised
13 by a post-acknowledgment plan amendment must be addressed and resolved at
14 the time the plan amendment is adopted. While we did not foreclose the
15 possibility, we questioned whether a goal compliance issue raised by the plan
16 and zoning amendment could be "deferred" to a subsequent development
17 approval under the zoning scheme adopted in the amendment decision.

18 There may be some circumstances where it is permissible to defer to a
19 later proceeding consideration of goal compliance issues that tangentially arise
20 in processing a post-acknowledgment plan amendment that does not require a
21 goal exception. But even if so, we believe that it is clearly impermissible to
22 defer to a subsequent permit proceeding a determination that a *Goal 2*
23 *exception standard* is met. ORS 197.732(2)(c), Goal 2, Part II(c), and OAR
24 660-004-0020(2) set out four core goal exception standards: the reasons,
25 reasonably accommodate, ESEE analysis and compatibility standards.
26 Compliance with these four Goal 2 exception standards is the *sine qua non* of a

1 reasons exception. We think it is highly unlikely the Land Conservation and
2 Development Commission (LCDC), the agency responsible for implementing
3 the statewide planning program, including the goal exception standards, would
4 agree that the Port and county's deferral approach to the compatibility standard
5 could be extended to the required finding that "reasons justify why the state
6 policy embodied in the applicable goals should not apply" Similarly, we think
7 it is highly unlikely LCDC would agree that a local government could defer to
8 a subsequent proceeding the alternative sites analyses required under the
9 reasonably accommodate and ESEE standards. It is only somewhat less likely
10 that LCDC would agree that a local government could approve a reasons
11 exception, along with associated comprehensive plan text and map
12 amendments and zone changes, for a use or range of uses, without knowing
13 whether that use or those uses are compatible or can be made compatible with
14 adjacent uses. The time to discover whether the proposed use is compatible or
15 can be made compatible with adjacent uses, and therefore qualifies for a goal
16 exception under OAR 660-004-0020(2)(d), is before the local government
17 adopts the comprehensive plan text, map and zoning changes that authorize the
18 proposed use.
19 Accordingly, we conclude that findings of compliance with the Goal 2
20 compatibility standard cannot be deferred to a subsequent permit proceeding.
21 In our view, this conclusion underscores the main theme discussed above, that
22 the Port's fundamental approach in this proceeding to request a reasons
23 exception to authorize a very broad and open-ended range of unspecified
24 industrial uses is highly problematic, even if it is not prohibited by LCDC's
25 exception rule. Even more so than other exception standards, the compatibility

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1 standard is written in a manner that makes it very difficult to apply to a broad
2 range of diverse industrial uses.

3 The fourth assignment of error (Seely) and the second assignment of
4 error (Riverkeeper) are sustained.

5 **THIRD ASSIGNMENT OF ERROR (Riverkeeper)**

6 In Riverkeeper's third assignment of error, Riverkeeper argues that the
7 county failed to adequately consider whether the proposed zone change would
8 significantly affect transportation facilities within the meaning of OAR 660-
9 012-0060, part of the Transportation Planning Rule (TPR).

10 As relevant here, OAR 660-012-0060 requires local governments to
11 determine whether proposed plan amendments and zone changes will
12 "significantly affect" a transportation facility in one of the ways described in
13 the rule.[14]

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[14] OAR 660-012-0060 provides, in relevant part:

> "If an amendment to a functional plan, an acknowledged comprehensive plan, or a land use regulation (including a zoning map) would significantly affect an existing or planned transportation facility, then the local government must put in place measures as provided in section (2) of this rule * * *. 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) Result in any of the effects listed in paragraphs (A) through (C) of this subsection based on projected conditions

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1 Riverkeeper argues that the county failed to address whether the zone
2 change would "significantly affect" rail traffic by increasing the number of
3 trains on the railroad system that connects to Port Westward, as expanded.
4 Instead, Riverkeeper argues, the County impermissibly deferred considering
5 whether proposed uses will "significantly affect" the rail system to the
6 conditional use process when specific industrial uses are considered. In
7 response to concerns raised regarding increased rail traffic, the county imposed
8 Condition 4(h), which requires that any proposed use that includes transport to
9 or from the property by rail must submit a rail plan that identifies "the number
10 and frequency of trains to the subject property, the impact on the County's
11 transportation system, and proposed mitigation." Record 19. However,
12 Riverkeeper argues, a local government cannot defer a finding of compliance
13 with OAR 660-012-0060 to subsequent development approvals, but must
14 address the TPR when approving plan and zoning changes that allow
15 development. *See Willamette Oaks LLC v. City of Eugene*, 232 Or App 29, 33,

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measured at the end of the planning period identified in the adopted TSP. * * *

"(A) Types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility;

"(B) Degrade the performance of an existing or planned transportation facility such that it would not meet the performance standards identified in the TSP or comprehensive plan; or

"(C) Degrade the performance of an existing or planned transportation facility that is otherwise projected to not meet the performance standards identified in the TSP or comprehensive plan."

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1 220 P3d 445 (2009) (findings of compliance with TPR requirements for
2 comprehensive plan and land use regulation amendments cannot be deferred to
3 future permit approval stage).

4 The Port responds that OAR 660-012-0060 does not require the county
5 evaluate whether the proposed amendments will "significantly affect" the rail
6 system, because none of the six tests for "significantly affect" listed in OAR
7 660-012-0060(1)(a) through (c) apply to rail systems.

8 A railroad is a "transportation facility" as defined at OAR 660-012-
9 0005(3) and pursuant to OAR 660-012-0020 a local government transportation
10 system plan (TSP) must include a planning element for railroads. However,
11 nothing in OAR 660-012-0020 or elsewhere cited to our attention requires
12 local governments to adopt either functional classifications or performance
13 standards for railroads. OAR 660-012-0060(1)(a)-(c) defines "significantly
14 affect" in six different ways. Each of the six ways to "significantly affect" a
15 transportation facility under OAR 660-012-0060(a)-(c) relates to either a
16 change or inconsistency with a functional classification, or a degradation of a
17 performance standard.

18 In the present case, Riverkeeper does not identify any functional
19 classification or performance standard in the county's TSP or elsewhere that
20 applies to railroads within the county. Therefore, Riverkeeper's arguments
21 under OAR 660-012-0060 do not provide a basis for reversal or remand. *See*
22 *People for Responsible Prosperity v. City of Warrenton*, 52 Or LUBA 181
23 (2006) (arguments that an amendment "significantly affects" the Columbia
24 River as a "transportation facility" fail under OAR 660-012-0060(1) where the
25 petitioner identifies no functional classification or performance standard in the
26 TSP that is applicable to the river); *Gunderson LLC v. City of Portland*, 62 Or

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1 LUBA 403, 414, *aff'd in part, rev'd in part on other grounds*, 243 Or App 612,
2 259 P3d 1007 (2011), *aff'd* 352 Or 648, 290 P3d 803 (2012) (city's Freight
3 Master Plan does not provide performance measures for the Willamette River
4 for purposes of OAR 660-012-0060(1)).

5 We do not understand this assignment of error to concern the possible
6 impacts of increased rail traffic on county or city roads at railroad crossings. If
7 that argument is intended, it is not sufficiently developed for review.

8 The third assignment of error (Riverkeeper) is denied.

9 **FOURTH ASSIGNMENT OF ERROR (Riverkeeper)**

10 Statewide Planning Goal 14 (Urbanization) generally prohibits
11 establishment of urban uses outside urban growth boundaries. The county's
12 findings regarding Goal 14 state simply that "Goal 14 is not applicable. The
13 proposed amendments do not authorize urban uses on rural lands or otherwise
14 convert rural land to urban uses." Record 68.

15 In supplemental findings, the county adopted what appear to be two
16 alternative findings. First, the county concluded that to the extent the
17 amendments authorize urban uses on rural land, OAR 660-004-0022(3)
18 provides an "exemption" to Goal 14. Second, the county concluded that the
19 same reasons and findings supporting the exception to Goal 3 also support an
20 exception to Goal 14.[15] Riverkeeper challenges the county's primary
21 conclusion and its two alternative conclusions.

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[15] The county's supplemental findings state, in relevant part:

> "* * * Because Part IX [of the CCCP] and Goal 14 prohibit urban development outside of acknowledged urban growth boundaries (UGBs), objectors argue that industrial development is therefore prohibited on the subject property, which is outside of a UGB,

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1 **A. Goal 14 Potentially Applies to Industrial Use of Rural Land**

2 Riverkeeper argues that the decision authorizes a wide range of
3 industrial uses in the exception area, including many that could be "urban"
4 rather than "rural" in character, given the nature and intensity of those uses and

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without an exception to Goal 14. The Port, on the other hand, argues that such an exception is not required because rural industrial development receives a special exemption from Goal 14 pursuant to OAR 660-004-0022(3), which provides specific criteria for a Goal 2 exception for Rural Industrial Development.

"The Board agrees with the Port and adopts and incorporates [its argument as the county's own]. In the alternative, the Board also finds that even if a separate exception to Goal 14 were required, sufficient facts and analysis in the record support such an exception. Specifically, OAR 660-014-0040(2) provides that a county can justify an exception to Goal 14 to allow urban development of rural land if urban development is 'necessary to support an economic activity that is dependent upon an adjacent or nearby natural resource.' The [CCCP] recognizes the need for large, isolated sites for heavy industry that are supported by services, including multi-model transportation. The application here is for the expansion of an industrial park adjacent to a deep water port on the Columbia River to promote the shipment of goods and thus meets the criterion.

"* * * * *

To the extent that the objectors argue that the Port did not address the above[-quoted OAR 660-014-0040(3)] criteria, the Board finds that the application addressed all of the above criteria in its exception statement and supporting testimony. In conclusion, the Board finds that the Exception to Goal 14 was not required, but if it were, the application meets the criteria under OAR 660-014-0040(3) for the same reasons that it meets the criteria under OAR 660-004-0020 and 660-004-0022(3) for a reasons exception to allow industrial use of resource land." Record 41-42.

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1 the range of facilities and services (natural gas lines, electrical lines, sewage,
2 water, fiber optic, rail and road connections, etc.) that would likely be extended
3 from the Port Westward site to support them. Riverkeeper cites to language in
4 *1000 Friends of Oregon v. LCDC (Umatilla Co.)*, 85 Or App 88, 92, 735 P2d
5 1295 (1987), for the proposition that "the very nature of industrialization
6 suggest that industrial uses are urban uses."[16]

7 In *Shaffer v. Jackson County*, 17 Or LUBA 922, 931 (1989), we rejected
8 an argument that industrial uses are inherently urban in nature. Absent rule-
9 making on the part of LCDC, we concluded that whether a particular industrial
10 use of rural land is urban or rural requires a case-by-case determination, based

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[16] *1000 Friends of Oregon v. LCDC (Umatilla Co.)* involved LCDC approval of a county decision planning and zoning 1400 acres of land for heavy industrial use on rural lands, without an exception to Goal 14. The Court of Appeals remanded the decision to LCDC to determine if the authorized industrial uses are "urban" uses and thus require an exception to Goal 14:

> "Both LCDC and LUBA have previously suggested that rural industrial or commercial use is a violation of Goal 14. *See 1000 Friends v. LCDC (Curry Co.)* [301 Or 447 at 507 n. 37, 724 P2d 268 (1986)]. The rule which LCDC adopted to explain the reasons exception states criteria which the county must address before it may approve an exception to the goals for rural industrial development. OAR 660-04-022(3). The rule applies to industrial use on rural resource lands; it does not specifically require the county to take an exception to Goal 14 to permit industrial use of rural non-resource land. However, the rule, previous LCDC policy and the very nature of industrialization suggest that industrial uses are urban uses. Because LCDC has not explicitly construed Goal 14 to the contrary, we cannot say whether such a construction would be sustainable. LCDC should explain whether heavy industry is an urban use. Because it has not done so, it has not explained why the facts lead it to the conclusion that industrial use of this land would not violate Goal 14."

on factors identified in case law. *Id.* To our knowledge, LCDC has not adopted any rule-making that clarifies how to answer the highly problematic question of whether an industrial use is urban or rural in nature.

Shaffer involved a decision that rezoned resource land to the county's Rural Limited Industrial (RLI) zone to allow development of an asphalt batch plant. The relevant factors discussed in *Shaffer* that point toward a rural rather than an urban industrial use include whether the industrial use (1) employs a small number of workers, (2) is significantly dependent on a site-specific resource and there is a practical necessity to site the use near the resource, (3) is a type of use typically located in rural areas, and (4) does not require public facilities or services. *Id.* at 933-40. None of the *Shaffer* factors are conclusive in isolation, but must be considered together. Under the analysis described in *Shaffer*, if each of these factors is answered in the affirmative, then it is relatively straightforward to conclude, without more, that the proposed industrial use is rural in nature. However, if at least one factor is answered in the negative, then further analysis or steps are necessary. In that circumstance, the county will either have to (1) limit allowed uses to effectively prevent urban use of rural land, (2) take an exception to Goal 14, or (3) adequately explain why the proposed use, notwithstanding the presence of one or more factors pointing toward an urban nature, should be viewed as a rural use.

In the present case, the county's primary conclusion is that "proposed amendments do not authorize urban uses on rural lands[.]" Record 68. However, the county did not expressly consider any of the factors cited in *Shaffer*, or indeed offer any explanation at all for its bare conclusion that the amendments authorize no urban uses. Given the sheer breadth and the ill-

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defined parameters of the uses authorized under the amendments, that is an exceedingly inadequate and conclusory finding.

B. OAR 660-004-0022(3) does not exempt industrial uses from Goal 14.

As noted, the county adopted two alternative conclusions. The first is that a reasons exception under OAR 660-023-0022(3) "exempts" the county from the requirement to take an exception to Goal 14 in order to approve urban use of rural land. Riverkeeper argues, and we agree, that OAR 660-004-0022(3) is expressly concerned with *rural* industrial development, and provides a non-exclusive list of reasons that can be used to justify an exception to use resource land for rural uses not allowed under the resource goals. Nothing in OAR 660-004-0022(3) purports to exempt industrial uses from otherwise applicable goals such as Goal 14. *See also* OAR 660-004-0018(1) (exceptions to one goal does not relieve a jurisdiction from remaining goal requirements).

In *Shaffer*, we reached a similar conclusion. Jackson County's RLI zone, like the county's RPID zone in the present case, is intended to implement OAR 660-004-0022(3) and allow industrial uses that are justified under reasons exceptions to the *resource* goals, for example for the reason described at OAR 660-004-0022(3)(c) for uses that benefit from a "significant comparative advantage" due to location near certain resources. 17 Or LUBA at 944-45. We concluded that application of the RLI zone under a reasons exception to a resource goal pursuant to OAR 660-004-0022(3) does not mean that the proposed industrial uses justified under OAR 660-004-0022(3)(c) may not also require an exception to Goal 14, if the proposed use is an urban industrial use rather than a rural industrial use (although we commented that such a reason could also provide a reason for a Goal 14 exception). *Id.* Accordingly, the

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county's first alternative reason for concluding that Goal 14 need not be addressed is simply erroneous.

C. Exception to Goal 14

The county's second alternative was to perfunctorily adopt an exception to Goal 14, for the same reasons and under the same set of findings and criteria used to take an exception to Goal 3. Riverkeeper argues, and we agree, that this second alternative is deeply flawed. Initially, we note that it is problematic for a local government to adopt a reasons exception to Goal 14 on *contingent* or *alternative* basis, at least in circumstances, such as the present one, where the exception is for a broad range of unspecified uses. OAR 660-004-0015(1) requires that the findings and statement of reasons supporting an exception be adopted as part of the local government's comprehensive plan. One important purpose of that requirement is to ensure that the county, applicants and the public know with reasonable certainty exactly which goal(s) or goal requirements no longer apply to the subject property. If the county's comprehensive plan exception statement for the exception area states both that an exception to Goal 14 is not required because no urban uses are allowed, but that an exception to Goal 14 was taken to allow urban uses, without more, it is not at all clear which uses are arguably urban or what urban levels of intensity are allowed in the exception area. That problem is exacerbated here by the broad, open-ended range of uses that the county seeks to justify under the reasons exception.

That problem aside, we agree with Riverkeeper that the county erred in purporting to take an exception to Goal 14 based solely on the record and findings directing at satisfying the general Goal 2 exception standards in OAR 660-004-0020 for a Goal 3 exception. As discussed in *Shaffer*, the same reason

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that justifies an exception to Goal 3 under OAR 660-004-0022(3) may (or may not) also constitute a sufficient reason to justify an exception to Goal 14. However, the Goal 14 rule, at OAR 660-014-0040, has its own set of specific standards for reasons exceptions to Goal 14. While the Goal 14 exception standards are similar to the general Goal 2 exception standards, there are important differences and it includes additional requirements not found in the Goal 2 standards. To cite only one example, the OAR 660-014-0040(3)(a) alternative sites standard has a different focus than the OAR 660-004-0020(2)(b) alternative sites analysis, and requires additional consideration of whether the proposed use can be accommodated through *expansion* of an urban growth boundary or intensification of development in existing rural communities. The two analyses are not fungible and cannot substitute for each other. *VinCEP v. Yamhill County*, 215 Or App 414, 426, 171 P3d 368 (2007). Indeed, pursuant to OAR 660-004-0000(1)(c), the specific standards at OAR 660-014-0040 control over the general standards at OAR 660-004-0020. The county's findings do not address the standards for a Goal 14 exception, and the county's findings directed at the general Goal 2 exception standards are not adequate to remedy that deficiency.

For the foregoing reasons, the county's primary conclusion that none of the proposed uses are urban uses is inadequate, and the county's two alternate conclusions are either erroneous or not based on adequate findings and substantial evidence. Remand is necessary for the county to address whether any of the proposed uses allowed in the exception area under the *Shaffer* factors or other applicable considerations constitute the urban use of rural land. If so, the county must either limit allowed uses to rural uses or take an exception to Goal 14, addressing the criteria at OAR 660-012-0040.

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On remand, that task may continue to be complicated by the Port's approach in seeking to authorize the broad universe of industrial uses potentially allowed under the RPID zone. The Port's burden would be considerably simplified if it chose to narrow that universe of potential industrial uses to a more manageable size, and proposed a smaller sub-set of uses, particularly if that subset of uses is justified by a single "reason" rather than each of the three reasons set forth in OAR 660-004-0022(3). Our decision in *Shaffer* indicates that such an approach would also simplify the Goal 14 analysis.

As noted above, in *Shaffer* the county attempted to base its conclusion that the asphalt batch plant was a rural use in part on a finding under OAR 660-004-0022(3)(c) that the proposed use would have a "significant comparative advantage due to its location near" certain resources. We rejected that attempt, concluding that the existence of a "significant comparative advantage" is not a relevant "factor" used to determine whether the proposed use is rural rather than urban, although it may provide a sufficient reason to take an exception to Goal 14. 17 Or LUBA at 944.

Similarly, in *Shaffer* we held that whether a proposed industrial use will create offsite impacts "incompatible with an urban area" is irrelevant to whether the use is urban or rural, and hence whether an exception to Goal 14 is required, although such impacts may provide a reason to support an exception to Goal 14. *Id.* at 943-44 (citing *Hammack & Associates, Inc. v. Washington County*, 16 Or LUBA 75, 100, n 7, *aff'd* 89 Or App 40, 747 P2d 373 (1987).

These two holdings are important in the present case, because as explained above the county relied on three separate reasons listed at OAR 660-004-0022(3)(a) to (c), with overlapping but distinct sets of associated uses, to

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support the reasons exception. The first reason at OAR 660-004-0022(3)(a)—significantly dependent on a site-specific resource—is closely related to one of the "factors" we held must be considered to determine whether an proposed industrial use is urban or rural in nature. The second and third reasons, at OAR 660-004-0022(3)(b) and (c)—for uses that have hazardous or incompatible impacts, or uses that benefit from a significant comparative advantage due to location near certain resources—are considerations that we held are *not* factors to be considered in determining whether a proposed use is urban or rural in nature (although they might provide reasons for taking a Goal 14 exception).

Consequently, in the present case whether a particular use is an urban or rural use under the *Shaffer* factors may depend in part on the *reason* under which it was justified. Because the "significantly dependent" on a unique resource language of OAR 660-004-0022(3)(a) closely parallels one of the relevant factors the county can apply to determine whether proposed uses are urban or rural, it may be somewhat easier for the county to conclude that none of the proposed uses allowed in the exception area are urban uses, if the proposed uses are narrowed to those that are justified solely under OAR 660-004-0022(3)(a) rather than the broader universe of uses justified under OAR 660-004-0022(3)(b) and (c).

The fourth assignment of error (Riverkeeper) is sustained.

FIFTH ASSIGNMENT OF ERROR (Riverkeeper)

Statewide Planning Goal 11 (Public Facilities and Services) provides in relevant part that "[u]rban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served." The Goal 11 rule, at OAR 660-011-0060(2)

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1 prohibits, among other things, the establishment of a new sewer system serving
2 multiple lots on rural lands, or the extension of existing sewer lines on rural
3 lands to serve other properties, absent an exception to Goal 11.

4 Under the fifth assignment of error, Riverkeeper argues that because the
5 county approved urban uses on rural land, requiring a Goal 14 exception, the
6 county is also required to adopt an exception to Goal 11, because the "proposed
7 urban level uses will necessarily require extension of public facilities and
8 services at a level to support the use." Riverkeeper Petition for Review 50.

9 Riverkeeper's argument is premature. As discussed under the fourth
10 assignment of error, remand is necessary for the county to determine if the
11 proposed uses include urban uses of rural land, and either limit the exception to
12 exclude such uses or adopt an exception to Goal 14. Even if the county
13 ultimately determines that an exception to Goal 14 is required, it does not
14 *automatically* follow that the county must also adopt an exception to Goal 11.
15 Not all urban uses of rural land will necessarily require public facilities and
16 services, or require the establishment of sewer systems or the extension of
17 sewer lines under circumstances that require an exception to Goal 11.
18 However, if on remand the county chooses to take an exception to Goal 14 to
19 allow urban uses within the exception area, the county should then consider
20 what facilities and services will be necessary to support those uses, and
21 whether an exception to Goal 11 is necessary to provide those facilities and
22 services.[17] In the meantime, Riverkeeper's argument that the county erred in

---

[17] We note that the county concluded that "when sewer systems are proposed in the future for the subject property, an exception to Goal 11 may be required at that time," because the "RIPD zone is a rural zone, and any proposed sewer facilities will be subject to the requirements of Goal 11."

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1 failing to adopt a Goal 11 exception as part of the present decision is
2 premature, and does not provide a basis for reversal or remand.
3 The fifth assignment of error (Riverkeeper) is denied.
4 The county's decision is remanded.

Record 40. We understand the county to conclude that if *rural* industrial uses proposed for development in the exception area require the establishment or extension of a sewer system, the county will adopt an appropriate exception to Goal 11 at that time.

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REC'D

SEP 24 2014

Hewitt, Gary

From: Mollie King [mollieking@yahoo.com]
Sent: Wednesday, September 24, 2014 1:23 PM
To: Hewitt, Gary
Subject: Letter - Mollie King

Clackamas County
2051 Kaen Road
Oregon City, OR 97045

September 17, 2014

Dear Clackamas County Board of Commissioners,

I write to you as a concerned citizen who lives within a few miles of the Rosalyn Lake and Bull Run Powerhouse areas. I have researched some of the Oregon Administrative Rules (OAR). I ask that you deny the request for zoning changes and not grant the development of a campground at the Rosalyn Lake area. It is less than 3 miles from the Urban Growth Boundary (UGB) of the City of Sandy and therefore prohibited by state law. Another property outside the UGB would be more suitable.

I am also very concerned about the large amount of approximately 20,000 square footage of new structures to be built at the site and therefore the increased amount of people and traffic. The area is already extremely busy – especially in the spring, summer and fall. My husband has lived in the area for approximately 30 years (myself for six). We have seen much increased use over the years. Where are the adverse impact review studies regarding traffic and amount of people (1,500 four times per year, 800 daily and 300 overnight)?

County planning department staff has recommended denial, but I understand that the Planning Commission is recommending approval. This concerns me as well. I read your comments on the county website regarding your desire for the public to "Tell us what you want and what you need." You all spoke to desiring trust and transparency in government, a genuine public process and for providing excellent customer service. I appreciated that. I am asking for an honest, legal process and a denial to zoning changes and therefore a denial to the development proposal.

Sincerely,

Mollie M. King
44495 SE Phelps Road
Sandy, OR 97055

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Memorandum

TO: Gary Hewitt

FROM: Traffic Engineering and Development Review, Robert Hixson

DATE: July 7, 2014

RE: Z0208-14-CP and Z0209-14-Z, Private Park
T2S., R5E., Section 6, Tax Lots 102, 103 and 600

Traffic Engineering and Development Review staff have visited the site and reviewed the submitted application materials. We have the following comments:

Facts and Findings:

1. The applicant has proposed a comprehensive plan amendment and zone change for the subject property.

2. Engineering staff will focus on ZDO subsections 1202.01 C and E.

3. The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road, the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. Staff finds that the application is in compliance with ZDO subsection 1202.01 C, regarding the capacity of the transportation system.

4. The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, neither location meets minimum standards and no mitigations are proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

5. Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road fail to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1202.01 E regarding adequacy of the safety of the transportation system.

   At the intersection of Ten Eyck Road and Thomas Road there is the need for a sight line easement southerly from Thomas Road. The property where the easement is needed is not under the control of the applicant and no evidence has been provided to staff that indicates it is feasible to obtain the easement.

   At the intersection of the site access with Thomas Road, intersection sight distance is inadequate to the east, due to the vertical curve of Thomas Road to the east. The vertical curve of Thomas Road to the east limits the intersection sight distance to approximately 540 feet, while 665 feet is the minimum requirement. In addition, stopping sight distance westbound approaching the access is also limited by vertical curves in Thomas Road resulting in approximately 500 feet of available stopping sight distance while 570 feet of stopping sight distance is required.

Conclusion:

Due to the inadequate sight distances associated with the intersection of Ten Eyck Road and Thomas Road and the site access intersection with Thomas Road, Engineering staff finds that the application is not in complete compliance with ZDO subsection 1202.01 E and is unable to recommend approval.

However, staff understands that this application may be approved and therefore provides the following.

Preface to recommended conditions of approval:

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

If this application is approved, Engineering staff recommend the following conditions of approval:

1) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

   Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

   Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, prior to issuance of a Development Permit.

   Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

   S:\DTD_Common\DEVLPMNT\2014\Z0208-14-CP-Z0209-14-Z-TE-RH-Deis

Preisz, Linda

From: Hixson, Robert
Sent: Friday, July 25, 2014 11:18 AM
To: Todd Mobley
Cc: Nys, Richard; Preisz, Linda; Hewitt, Gary
Subject: RE: Ten Eyck Sight Distance

Hi Todd,

Rick is out of the office until August 4, 2014. Here are my current concerns.

The County is able to address sight distance restrictions on private property through the Clackamas County Code. I have never dealt with one of these, but it is something that may take quite a long time to accomplish, especially if the property owner is uncooperative. We would undoubtedly spend considerable time to try to work to achieve a mutually agreeable solution with the property owner. The process could take many months and it is my understanding that this could still result in the County being sued for damages if obstructions on private property were removed or trimmed without the owner's formal consent.

In this case, since we don't have survey data to evaluate, we don't know where the sight restrictions are in relation to the limits of the right-of-way/property line. Finding this property line and illustrating the sight line on an exhibit is feasible to accomplish and I recommend that this be done. With such an exhibit, we would then know if there was anything on private property that required a dedication of additional time and effort from the County to get it removed or trimmed and maintained. Also, with the survey data, we would know the exact limits of a sight line easement if the sight line crosses over private property and what obstructions required attention. This would be useful and likely essential if an easement needs to be negotiated with the property owner as it would illustrate the precise impacts to the property.

If the survey data shows that the obstructions are in the right-of- way, they can be removed or trimmed and maintained without the property owner's permission. The owner would need to be notified of the upcoming work as the vegetation along the frontage that is in the right-of-way is still the property of the adjacent property owner. If the fencing turns out to be in the right-of-way, the County would also be able to advise the property owner to move the fence back out of the right-of-way and onto the owner's private property. If that occurs, the resulting right-of-way would be easier to maintain without a fence in the way.

It is my opinion that this survey work should be done so we have substantial evidence to evaluate. With that information available, we could work to find and implement the best solution.

Before I would begin working to address this situation using the County Code, I would first need my supervisor to evaluate the issues. If he found it appropriate for me to work on, he would assign me this work. This work would need to be prioritized with my other assignments and would be worked on when deemed appropriate. It is my understanding that there have been no reported crashes at this intersection over the last five years that were analyzed (2008 – 2012) so this work might not be prioritized near the top of my assignments by my supervisor, considering other projects that have deadlines. I would anticipate that we would need to survey the frontage to learn where the right-of-way line is located so we would know if anything on private property was obstructing the sight line. With that information, we would be able to inform the property owner of the situation and let them know if anything on private property needed attention or if the obstructions were all in the right-of-way.

Based on the currently available evidence I can find that the site access intersection with Thomas Road is adequate, based on the speed study and count information which indicates that Thomas Road is a very low volume local road. Without survey data for the Ten Eyck Road frontage, southerly from Thomas Road, no one knows what obstructions are

on private property, if any, and what obstructions are in the right-of-way. Before I could recommend a condition of approval regarding the sight distance southerly, I would need to know if a sight line easement was required.

Since this sight distance concern is related to a Comprehensive Plan Amendment, Zone Change, and Conditional Use, it is my opinion that we should have a clear understanding of what is needed to achieve adequate sight distance southerly prior to recommending approval and appropriate conditions. Based on the supplemental speed study work, we have been able to adjust the sight distance requirements. With similar supplemental survey work, we would know what sight restrictions were in the right-of-way and those that were on the private property located southerly from Thomas Road.

If you have any questions or require further clarification, please reply to this e-mail message or call me at the listed phone number.

Sincerely,

Robert

Robert Hixson
Clackamas County, DTD Engineering
150 Beavercreek Road
Oregon City, OR 97045
503-742-4708 (phone)
503-742-4659 (fax)
roberth@co.clackamas.or.us
Office hours: 7:30 AM - 4:00 PM Monday - Friday

From: Todd Mobley [mailto:todd@lancasterengineering.com]
Sent: Thursday, July 24, 2014 5:40 PM
To: Nys, Richard; Hixson, Robert
Cc: Brian Davis
Subject: Fwd: Ten Eyck Sight Distance

Rick and Robert,

I was out there yesterday looking into this some more, and achieving 385 feet of sight distance looks pretty doable, although the line of sight does still go behind the fence. Based on the property boundary info we have seen, that may or may not mean that the line of sight actually leaves the right-of-way. I'm hoping that this can be our mutually-agreeable engineering solution to take to the hearing, but I'm not too confident on how this gets memorialized in a condition of approval. My understanding is that the applicant still does not have certainty that the property owner will cooperate and the planning department is reluctant to write a condition of approval until they know that an easement is attainable.

Under what circumstances would something like this be handled by the County directly? With the reduced sight distance requirement and what now looks like minimal clearing with no tree removal, is this something that the County coordinate with the property owner? The applicant has control of the

sight line on the north side of Thomas, so I'm sure they will accept a condition of approval to clear that side and probably even grant the County a sight distance easement to maintain the line of sight.

Let me know what you think. Thanks,

-Todd

Todd E. Mobley, PE, PTOE | Principal
Lancaster Engineering | www.lancasterengineering.com
321 SW 4th Avenue, Suite 400 | Portland, OR 97204
O: 503-248-0313 | C: 503-319-9811 | todd@lancasterengineering.com

---------- Forwarded message ----------
From: **Todd Mobley** <todd@lancasterengineering.com>
Date: Thu, Jul 24, 2014 at 7:29 AM
Subject: Ten Eyck Sight Distance
To: Brian Davis <brian@lancasterengineering.com>

The line of sight to get 385 feet of sight distance is not as bad as I expected. We might be able to achieve it without any tree removal, just some underbrush and limbing. I put a stake with a pink ribbon where the sight line crosses the fence
at each end
. The attached pictures are taken from 385 feet looking back toward the intersection and from Thomas looking to the right. You'll likely have to zoom in to see the stake and ribbon, but they're visible.

After laying out the line of site and staking both ends, I measured between the stakes, along the fence line, and it was only 150 feet. This ought to give us enough to show the easement area, which will probably be considerably smaller than what we had previously.

-Todd

Todd E. Mobley, PE, PTOE | Principal
Lancaster Engineering | www.lancasterengineering.com
321 SW 4th Avenue, Suite 400 | Portland, OR 97204
O: 503-248-0313 | C: 503-319-9811 | todd@lancasterengineering.com

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Spam
Not spam
Forget previous vote

Exhibit 55
Page 3 of 3

Planning and Zoning
Development Services Building
150 Beavercreek Road Oregon City, OR 97045
Phone: (503) 742-4500 fax: (503) 742-4550
e-mail: zoninginfo@co.clackamas.or.us
Web: http://www.clackamas.us/transportation/planning/

STAFF RECOMMENDATION TO THE BCC

This document represents the Planning and Zoning Staff findings, conclusion and recommended conditions of approval for a Land Use Application of a Conditional Use Permit as cited below. It contains three parts: Section 1 – Summary, Section 2 – Conditions of approval and Section 3 – Findings.

SECTION 1 – SUMMARY

DATE: October 1, 2014

CASE FILE NO.: Z0207-14-C

STAFF CONTACT: Linda Preisz, 503-742-4528, lindap@co.clackamas.or.us

LOCATION: T2S R6E Section 06, Tax Lot(s) 102

APPLICANT(S): Tony Deis, Bull Run Educational Center, LLC, P.O. Box 14400, Portland OR 97293

OWNER(S): Powerhouse Re Gen LLC, Karen Karlsson, 906 NW 23rd Avenue, 52815 East Marmot Rd, Sandy, OR 97055

TOTAL AREA: Approximately 20 acres and 80 acres

ZONING: TBR; Timber District

COMPREHENSIVE PLAN DESIGNATION: Forest

CITIZENS PLANNING ORGANIZATION: Bull Run CPO
Roger Bell
503-367-5162
P.O. Box 75
Sandy, OR 97055
Maia007@yahoo.com

PROPOSAL: Two Conditional Use requests. Proposal A is to authorize a private park on 80 acres of the site zoned TBR. The applicant proposes low-impact recreational uses that will include activities such as hiking, guided nature tours, animal tracking lessons and bird watching.

No new buildings or other structures are proposed on the TBR portion of the site. Day use of the site is proposed to allow up to 800 people (includes participants and staff). The PC recommended that up to 4 times a year, 1,500 participants could attend special events.

Proposal B is predicated on approval of a pending application for a Reasons Exception and Comprehensive Plan/Zone change to authorize a private park, campground and educational center on 20 acres of the site zoned FF-10. In addition to the existing park structures, the applicant proposes 5 convertible classroom buildings-approximately 800sf each (can convert to sleeping quarters), two new open air classrooms/picnic shelters, one outdoor classroom platform-approximately 2,000sf which can also be used for overnight stays (tents), two primitive personal tent camping areas, and a 50 X 80 foot archery range. Day use of the site is proposed to allow up to 800 people and overnight use of the site is proposed to allow up to 300 participants. Access is proposed off an existing driveway from SE Thomas Road.

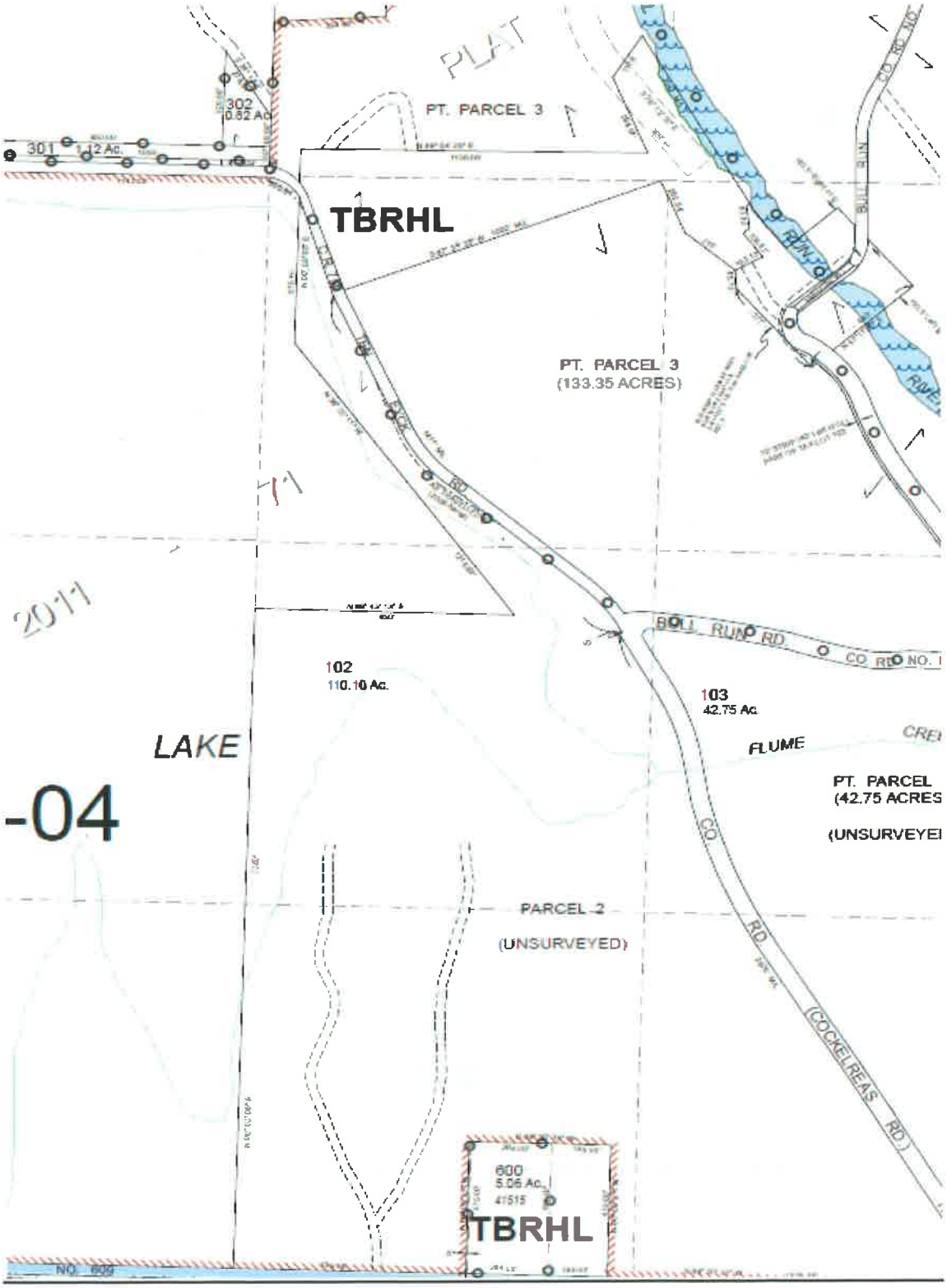
Occasionally, special events, up to 4 times a year, may have up to 1500 participants.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the this recommendation and all evidence submitted with this application is available for inspection, at no cost, at the Planning and Zoning Division during normal business hours (Monday- Friday 8:00 a.m. – 3:00 p.m.). Copies of all documents may be purchased at the rate of $1.00 for the first page and 10 cents for each additional page. The staff recommendation contains the findings and conclusion upon which the recommendation is based along with any recommended conditions of approval.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 406, 310, 1001, 1002, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

Tax Map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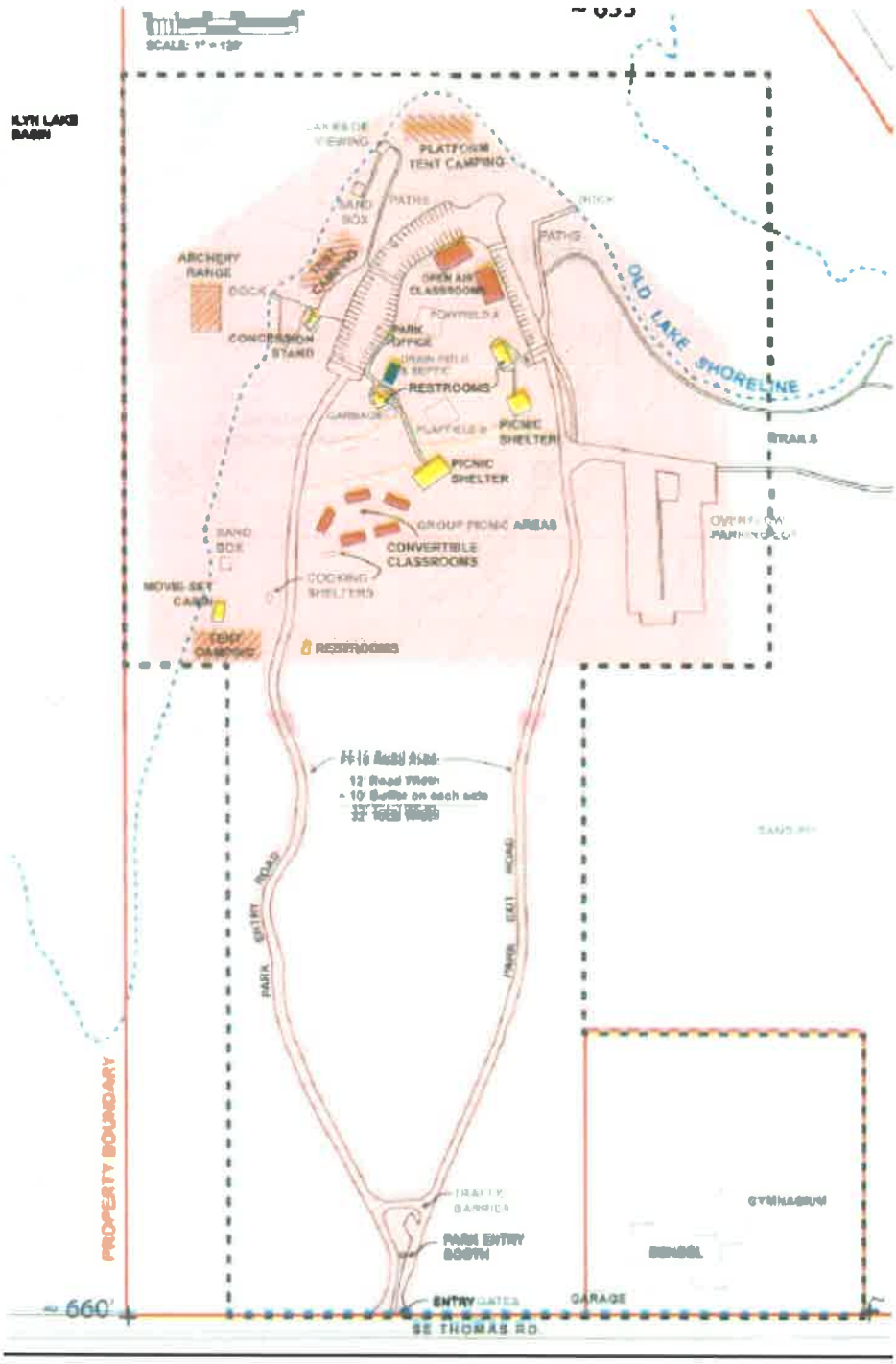
PT. PARCEL 3
302
0.62 Ac.
301
1.12 Ac.
TBRHL
PT. PARCEL 3
(133.35 ACRES)
2011
BULL RUN RD.
CO. RD. NO. 1
102
110.10 Ac.
103
42.75 Ac.
LAKE
FLUME
PT. PARCEL
(42.75 ACRES
(UNSURVEYEI
-04
PARCEL 2
(UNSURVEYED)
CO. RD. (COCKELREAS RD.)
600
5.06 Ac.
TBRHL

Site plan


PLATFORM TENT CAMPING
ARCHERY RANGE
CONCESSION STAND
OPEN AIR CLASSROOMS
PARK OFFICE
RESTROOMS
PICNIC SHELTER
PICNIC SHELTER
GROUP PICNIC AREAS
CONVERTIBLE CLASSROOMS
COOKING SHELTERS
RESTROOMS
OLD LAKE SHORELINE
TRAILS
PROPERTY BOUNDARY
PARK ENTRY BOOTH
ENTRY GATES
GARAGE
GYMNASIUM
SCHOOL
660'
SE THOMAS RD

RECOMMENDATION FOR PROPOSAL A:

DENIAL. It has not been shown that adequate site distance can be supplied so that the safety of the transportation system at the intersection of Thomas Road and Ten Eyck Road is provided.

SECTION 2 – RECOMMENDED CONDITIONS OF APPROVAL FOR PLAN A.

If approved, Staff recommends the following conditions:

I. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 11, 2014. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell at (503) 742-4657 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Lori Phillips in the Clackamas County Administration Division. Lori Phillips can be contacted by phone at (503) 742-4331 or email her at loriphi@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be

construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Land Use and Zoning Conditions: Linda Preisz, (503) 742-4528, lindap@co.clackamas.or.us

Approval is for the specific use identified in the application materials and on the submitted site. This approval authorizes the applicant to establish a private day use park using an existing on-site parking and circulation system.

1) A maximum of 800 participants (campers and staff) per day. No over-night camping is permitted.

   (The Planning Commission recommended that this camp be able to have up to 45 participants in overnight stays using primitive - leave no trace - techniques.

   This recommendation is not in accordance with state law. ZDO406.05I(1) states "A campground is an area devoted to overnight temporary use and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:

   a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS197.732 and OAR chapter 660, Division 4."

   The subject property is within 3 miles of the City of Sandy UGB. This use was not included in the Reason Exception. It was not described or mentioned in the conditional use application.)

   Staff does not recommend that over-night camping be permitted.

2) Special Events, up to 4 times a year, shall be limited to 1500 participants.

3) The use of speakers, public address systems or other noise amplification devices is prohibited.

4) Outdoor lighting is not permitted.

5) **Prior to commencement of activity,** the applicants shall submit to this file, a statement from the Clackamas County Soils Division that the existing septic system is adequate.

6) **Prior to commencement of activity,** the applicants shall submit to this file, a statement of feasibility from the Portland Water Bureau stating the existing system is adequate for the approved uses.

7) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm.

8) **Prior to commencement of activity,** the applicants shall obtain all Food Handler Permits and Licenses to comply with regulations, for any beverages and food items being served.

9) **Prior to commencement of activity**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A copy shall be submitted to this file.

10) **Prior to commencement of activity**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner and the landowner's successors in interest, to manage the approximately 25 acre forest directly south of the PGE-Day Use Park area to protect the historic character of the site and its fully developed tree canopy and grove like character. No clear cutting shall occur. Tree thinning and cutting is limited to that which encourages the long term health of the forest. A copy shall be submitted to this file.

11) **Prior to commencement of activity,** the applicant shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening and other specific design standards for enclosures and pads. The applicant must provide a detailed plan for service to Planning.

III. Engineering Division Conditions: Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards

and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall verify by a professional survey that a 30-foot wide, one-half right-of-way width exists along the entire Ten Eyck Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C140.

4) The applicant shall verify by a professional survey that a 24-foot wide, one-half right-of-way width exists along the entire Thomas Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C110.

5) The applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Thomas Road site frontage. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Roadway Standards* drawing C110)

6) The applicant shall provide a copy of the Engineer's drainage study, surface water management plan, and Engineer's detention calculations to DTD Engineering, Deana Mulder.

7) The onsite circulation drive shall comply with Roadway Standards Drawing R100 regarding widths and structural section. In addition, sections of 12-foot wide driveway shall be centered in a 20-foot wide clear zone.

8) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces and parking spaces for buses shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks, buses), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

9) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces provided. The applicant shall label all carpool, disabled, bus, and loading berth spaces on the plans. All ADA parking spaces and adjacent accessible areas shall be paved and be provided with appropriate pavement markings and signing. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

10) The applicant shall provide 2 bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

11) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

    Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

    Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, **prior to issuance of a Development Permit.**

    Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.

13) **Prior to certificate of occupancy**, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

14) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned a minimum of five and a maximum of seven feet above the pavement surface, at the driveway intersection with Thomas Road. (*Manual on Uniform Traffic Control Devices*)

15) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

16) **Prior to the issuance of a building permit**, the applicant shall submit to Clackamas County Engineering Office:

    a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

b) Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

c) A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

   i) The permit will be for road, driveway, drainage, parking and maneuvering area, and other site improvements.

   ii) The Development Permit fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.

   iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

d) When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development Permit.

17) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

SECTION 3 – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 406, 1001, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. **Background:**

   A. Prior Land Use Actions:

      1. File Z0579-13, approved April 30, 2014 – Historic Landmark overlay zone placed on the PGE-DAY USE Park, Historic Landmark Designation reduced on the Bull Run Power Plant and Historic Landmark Designation increased on the Bull Run School.

2. In addition, Z0579-13 designated the three sites as a Historic District.

B. Applicant's Proposal:

The BREC (Bull Run Educational Center) seeks approval to conduct wilderness survival programs on the site. The scope of these programs include: animal tracking, agro-forestry, outdoor safety and survival skills, hiking, bird watching, all low-impact recreational uses.

2. **Site Description:** The site is located north of SE Thomas Road and west of SE Ten Eyck Road. The irregular shaped lot is relatively flat. The site is covered in timber of varying ages planted throughout the property. The forested area between the day-use park and the road contains trees about 100 years old. There is also an old quarry site which is filling in with trees. This portion of the site contains approximately 80 acres. This portion of the site has no structures.

3. **Natural Features:** The site is covered in timber of varying ages and a contains a small open area near the old quarry. The drained Roslyn Lake is now covered with timber.

4. **Surrounding Conditions:** The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

5. **Service Providers:**

A. Surface Water: The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the DTD, Engineering Division.
B. Water: The subject property is served by Portland Water.
C. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by an existing septic system.
D. Fire Protection: Sandy Fire District #72.

7. **Responses Requested:**

A. Bull Run CPO
B. Sandy Fire District #72.
C. Department of Transportation and Development (DTD), Building Division
D. Department of Transportation and Development (DTD), Traffic Engineering (TE)
E. Dept. of State Lands
F. Dept of Land Conservation & Development
G. Property Owners within 750 feet

8. **Exhibits:** See Exhibit List following the last page of this report.

PART 1. SUBMITTAL REQUIREMENTS

1. Subsection 1203.04 of the Zoning and Development Ordinance list the information that must be included in a complete application for a conditional use permit.

   This application includes a completed land use application form, site plan (see above), application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statements of Feasibility for storm water management, and sanitary sewer. The application was submitted on June 11, 2014 and deemed complete.

The submittal requirements of Section 1203.04 are met.

PART 2. CONDITIONAL USE PERMIT

1. Subsection 1203.01 of the Zoning and Development Ordinance lists six (6) criteria that must be satisfied in order to approve this Conditional Use.

   A. **Section 1203.01(A):** *The use is listed as a Conditional Use in the underlying zoning district.*

      1. The subject property is zoned Timber. Section 406 of the ZDO controls land uses in the underlying Timber zoning district. Section 406.04 lists the uses allowed in the Timber zoning district. Section 406.04(A)(1), (2) (6) and (I)(1) of the ZDO specifically lists "Private parks and campgrounds."

      2. The applicant has proposed to establish a private park under the provisions of Section 406.04. The proposed uses are summarized under the "Proposal" of this report and described in the application narrative and site plan.

      3. Private Park is defined in section 406 as *"Land that is used for low impact casual recreational uses such as picnicking, boating fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed but does not include track for motorized vehicles or areas for target practice or the discharge of firearms."*

         Staff finds that the proposed use meets this definition.

      4. The private park is subject to the standards in Section 406.04(A)(1, 2 & 6) and 406.04(I) 1 of the ZDO and identified below:

a. *"The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands."*

The proposed use on the site will not alter the overall character of the surrounding area. The site will maintain its natural, park-like setting; no new roads will be constructed, existing traffic routes will not be altered. The site will maintain its natural character. The applicant's shall record a deed statement prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices.

This criterion can be met.

b. *"The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel."*

The proposed use of the site includes activities such as hiking, guided nature tours, animal tracking and similar uses. No new structures will be built on the TBR portion of the site. The proposed activities will not change the amount of potential fire fuel on the land nor will it change the availability of water for fire suppression.

This criterion can be met.

c. *"A written irrevocable statement shall be recorded in the deed records of the County binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937."*

This criterion can be met.

5. Summary:

The proposed "private park" meets the definition of a "Private Park and campground" and can meet the requirements of Section 407.04 with conditions of approval.

B. **Section 1203.01(B)**: *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. **Size:** The subject property is approximately 80 acres in size.

2. **Shape:** The subject property is irregular in shape.

3. **Topography:** The irregularly shaped lot is relatively flat.

4. **Location:** Access from SE Thomas Road.

5. **Improvements:** None.

6. **Natural Features:** The site is covered in timber of various ages, timber filling dry lake bed, and slowly re-foresting gravel pit.

7. **Floodplain:** According to the FEMA Floodplain maps, the subject property is not located within or near a designated floodplain

8. **Geologic Hazards:** There are no seen hazards on the geologic hazards map.

9. **Soils:** The table below identifies one soils type on the subject property. The eastern portion containing the old quarry has Pits. The Pit soils map unit consists of exactions from which soil rock or gravel has been removed. This map unit is not assigned a capability classification.

Soil Type *	Rating *	Slopes *	Location on Site **	Native Vegetation *
2B Alspaugh clay loam	High Value Forest	2 to 8 % Slopes	Western half	Douglas fir, red alder, salal, brackenfern and swordfern.

* The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.

10. **Summary:** The physical characteristics of the site are suitable to accommodate the proposed use for the following reasons:

    a. The property is approximately 80 acres. The large size lot is suitable to accommodate the proposed use. The submitted site illustrates the proposed site does not include any permanent structures.

    b. The shape does not present any significant limitations to the proposed development.

    c. The relatively flat topography is very suitable to accommodate the proposed use.

    d. The location has access to SE Thomas Road.

This criterion is met.

C. **Section 1203.01(C):** *The proposed development is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed development.*.

1. Subsection 1007.09: Transportation Facilities Concurrency

   1. *"The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."*

   2. Safety: Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. Engineering adds:

      The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road, the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. Staff finds that the application is in compliance with that portion of ZDO subsection 1203.01 C, regarding the capacity of the transportation system.

      The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, neither location meets the minimum standards nor are mitigations proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

      Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road **fail** to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1203.01 C regarding adequacy of the safety of the transportation system.

After staff wrote the recommendation, the applicant submitted a speed study which provided evidence that sight distance with the access drive and Thomas Road is satisfactory. Although no new evidence was submitted concerning sight distance issues with Thomas Road and Ten Eyck Road, the Planning Commission believes the matter can be addressed satisfactorily by the applicant.

Summary: Clackamas County Traffic Engineering continues to believe that the proposal DOES NOT satisfy the requirements of subsection 1203.1C.

This criterion has NOT been satisfied at this time.

D. **Section 1203.01(D):** "*The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district.*"

1. The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

2. These criteria do not require the use to not have any impacts, but instead the impacts must not substantially limit, impair or preclude the use of adjacent properties for the allowed primary uses. The primary uses allowed in this district are listed in Section 406.04. The primary uses allowed in this zone primarily include forest operations, farm uses, conservation of soils, air, water and provide for fish and wildlife resources, alteration of legally established dwellings, road widening, etc., private hunting and fishing operations, fire towers and stations, utility lines, water intake facilities, etc., mineral and aggregate exploration, etc., accessory buildings customarily incidental with a primary use and wireless telecommunication facilities.

3. The background information provided in this report describes the general land uses proposed on this site and occurring on the adjacent properties. The uses on surrounding properties are mainly forest type of uses.

4. The potential impacts on the adjacent residential uses include noise, dust, traffic, fire danger and lighting. Staff makes the following findings.

   a. Noise: Staff believes activities on the subject site will generate some noise greater than what is already occurring on site. Staff is unaware of any noise violations from this site. The park noises from up to 800 (1500 occasionally) participants may include singing, and yelling and activity noises. Logging activities also produce noise.

   Logging activities and farm activities are regular uses in this zone and produce noise, staff believes that the distance between the camp and other property uses are far enough to mitigate such noises and therefore noise will not be a significant problem or concern.

b. Dust: The applicant is not planning on any major dust producing activities on site except possibly logging, which is a primary use. The site is located in a timber zoning district where dust is a normal occurrence.

c. Lighting: The applicant states in their application that the TBR private park area will not have electricity. It is assumed that campers and staff/campers may use flash lights at night but staff finds that this will not be a significant concern to neighboring properties.

d. Traffic: The subject property has access to Thomas Road. The capacity of the transportation system will not be significantly affected.

e. Fire Danger: No fires or camping areas are requested.

5. Summary: Based on the above analysis staff believes the dust, noise, fire danger, lighting or traffic impacts resulting from the existing or proposed use will not substantially limit, impair or preclude the use of surrounding properties for residents and farm and forest uses or practices. **With conditions of approval, this criterion can be met.**

E. **Section 1203.01(E):** *The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

1. The applicant did address Chapter 9- Open Space, Parks, Historic Sites. The goals and policies of that section generally pertain to public facilities. Policy 8 does state "*Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities*" and Policy 8.4 "*Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on program-by-program basis when public facilities are not available.*" Staff and the Planning Commission agree that this proposal is in keeping with Chapter 9 of the Comprehensive Plan.

2. Chapter 3. Natural Resources and Energy - Forests. Policy 5.0; *Cooperate and coordinate with appropriate state and federal agencies to insure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.*

   The use of forest resources for outdoor recreational uses such as private parks recognizes the multiple resource values of forest lands. The proposed use does not impact on environmentally sensitive areas such as slide and erosion hazard areas, scenic corridors, or unique natural and/or cultural features.

3. Goals and Policies of the Forest Designation are also included in the Forest Section of the Land Use Chapter of the Comprehensive Plan.

Chapter 4. Land Use - Forest. Policy 3.0; *Land uses which conflict with forest uses shall not be allowed.*

The proposed private park is listed as a conditional use in the Timber zoning district. The prior analysis of the requirements of ZDO Section 1203.01(A) above, provides adequate justification that the proposed use should not conflict with forest uses.

4. Comprehensive Plan Chapter Five, "Transportation", under the heading "Improvements to Serve Development", includes Policy 16.0, which reads as follows:

   "Require development to be served by adequate roadway facilities."

   Transportation Engineering staff (Exhibit 4) finds that the proposal is NOT in compliance with policy 16.0 and, therefore, ZDO subsection 1203.01 as it relates to Comprehensive Plan transportation goals and policies, with conditions of approval, it may comply.

PART 3. OTHER DEVELOPMENT STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.
   A. **Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:** Of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

      1. Section 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area:

         "The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area.

         Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well." The water source is Portland Water. The applicant shall provide a Statement of Feasibility that the water source is adequate for the proposed use.

         This criterion can be met.

      2. Section 1006.07 - Subsurface Sewage Disposal Standards:

         All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems

shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.

The applicants state that they will be using the existing PGE-Day Use park bathrooms. A condition is warranted stating that the applicant will submit a report to the file from the County Soils Division stating the existing system is adequate for the proposal.

This criterion can be met.

3. Section 1006.08 - Surface Water Management Standards:

   a. *"All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:*

      i. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*

      ii. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*

   b. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

   c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

      i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*

      ii. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.*

      iii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Clackamas County DTD, Engineering signed a Statement of Feasibility, April 30, 2014, and states that it is feasible the proposal can comply with the standards. A condition is warranted requiring the applicant to submit their drainage plan including detention designs to DTD, Engineering. DTD, Engineering shall review and approve the plans for the erosion control prior to final plan approval. **This criterion can be met.**

D. **Section 1007- Roads Connectivity:**

1. Section 1007.03 – General Provisions:

A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*

B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

Engineering Staff has discussed these issues in Exhibit 17.

This criterion can be met with conditions.

C. *New developments shall have access points connecting with existing private, public, county, or state roads.*

Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other uses.

D. *Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.*

E. *All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.*

This criterion is met with conditions. See Exhibit 17, County Engineer comments.

2. Section 1007.04 Public and Private Roadways:

A. *All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.*

1. *Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.*

3. *Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:*

a. *Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and*

b. *Turnouts shall be provided at viewpoints or for recreational needs.*

County Engineering staff state that the *"the subject property takes access from SE Thomas Road within a portion of the County that is zoned TBR, Timber 80 acres."*

"The applicant has proposed development of private park that will include site improvements and will generate additional vehicle trips to the site. The applicant is therefore subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007, pertaining to roads, circulation and parking improvements, and section 1008 pertaining to surface water management." (Exhibit 4)

This criterion can be met with conditions.

B. *Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*

1. No planting, signing, or fencing shall be permitted which restricts motorists' vision; and

2. Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.

Engineering staff find that "in accordance with ZDO Subsections 1007.04.D and 1007.05, and the Clackamas County Roadway Standards, Section 240, the access road serving the proposed development is required to provide adequate intersection sight distance. The existing intersection of the private road with Thomas Road and Thomas Road with Ten Eyck Road does not currently provide adequate intersection sight distance due to trees and vegetation located on each side of the approach. The applicant has submitted speed study data and a sight

distance analysis prepared by Lancaster Engineering, dated June 18, 2014. Based on this traffic volume, sight distances provided in Table 2-10 of the Clackamas County Roadway Standards are applicable." (Exhibit 4) The applicant has submitted additional information which provides evidence that the sight distance is adequate at the intersection of the camp's driveway with Thomas Road. However, the intersection of Thomas Road and Ten Eyck Road does not meet this standard.

This criterion IS NOT met.

3. Section 1007.09, Transportation Facilities Concurrency:

   A. *The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.*

   B. *Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

   C. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

   Engineering staff have found that the capacity of transportation facilities is adequate. (Exhibit 4)

   This criterion is met.

   D. *As used in Subsection 1007.09(C), "adequate" means a minimum of Level-of-Service (LOS) D, except:*

   County Traffic engineering staff finds that *"the roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 4)

   This criterion is met.

   E. *As used in Subsection 1007.09(F), "necessary improvements" are:*

      1. *Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).*

         a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

         b. *If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.*

Engineering staff's Exhibit 4 discusses the issues and makes recommendations.

This criterion can be met with conditions.

E. **Section 1008 - Storm Drainage:**

This section outlines the requirements for Storm Drainage and Erosion Control. The following requirements and standards of Section 1008 are applicable to this proposal.

The subject property is located within the Clackamas County Engineering area of review within the County. The rules and regulations for this district are administered by the Clackamas County Engineering Division. The applicant has submitted a Statement of Feasibility for surface water from the Clackamas County Engineering Division May 30, 2014.

The standards of Section 1008 can be met.

F. **Section 1015 – Parking and Loading:**

1. Section 1015.04 Automobile Parking Area Standards:

   Parking has been established with the PGE-Day Use area. Since this parking area historically handled up to 1000 visitors a day, staff and the Planning Commission finds that the applicants parking plan is satisfactory with sufficient number and spacing of parking spaces for vehicles and buses.

   This criterion is met.

G. **Section 1021 Standards – Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments:** outlines the standards for refuse and recycling for commercial developments. The applicant has not submitted any specific plans. There is an existing refuse and recycling enclosure. A condition of approval is warranted requiring the applicant to provide an acceptable plan for the private park garbage and recycling needs.

This criterion can be met.

RECOMMENDATION FOR PROPOSAL B:

DENIAL. The conditional use process cannot be used to assess the use compatibility with other adjacent uses or condition the use to reduce adverse impacts per state law OAR 660-004-0020(2)(d).

CLACKAMAS COUNTY PLANNING AND ZONING DIVISION
DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT
DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045
503-742-4500 | ZONINGINFO@CLACKAMAS.US

Land Use Application

For Staff Use Only

Date received:	6/11/14	File number:	Z0207-14-C
Hearing date:		Fee:	2,895.00
Zone:	TBR	Comp Plan:	
Violation #:	none	CPO:	Bull Run

Applicant Information

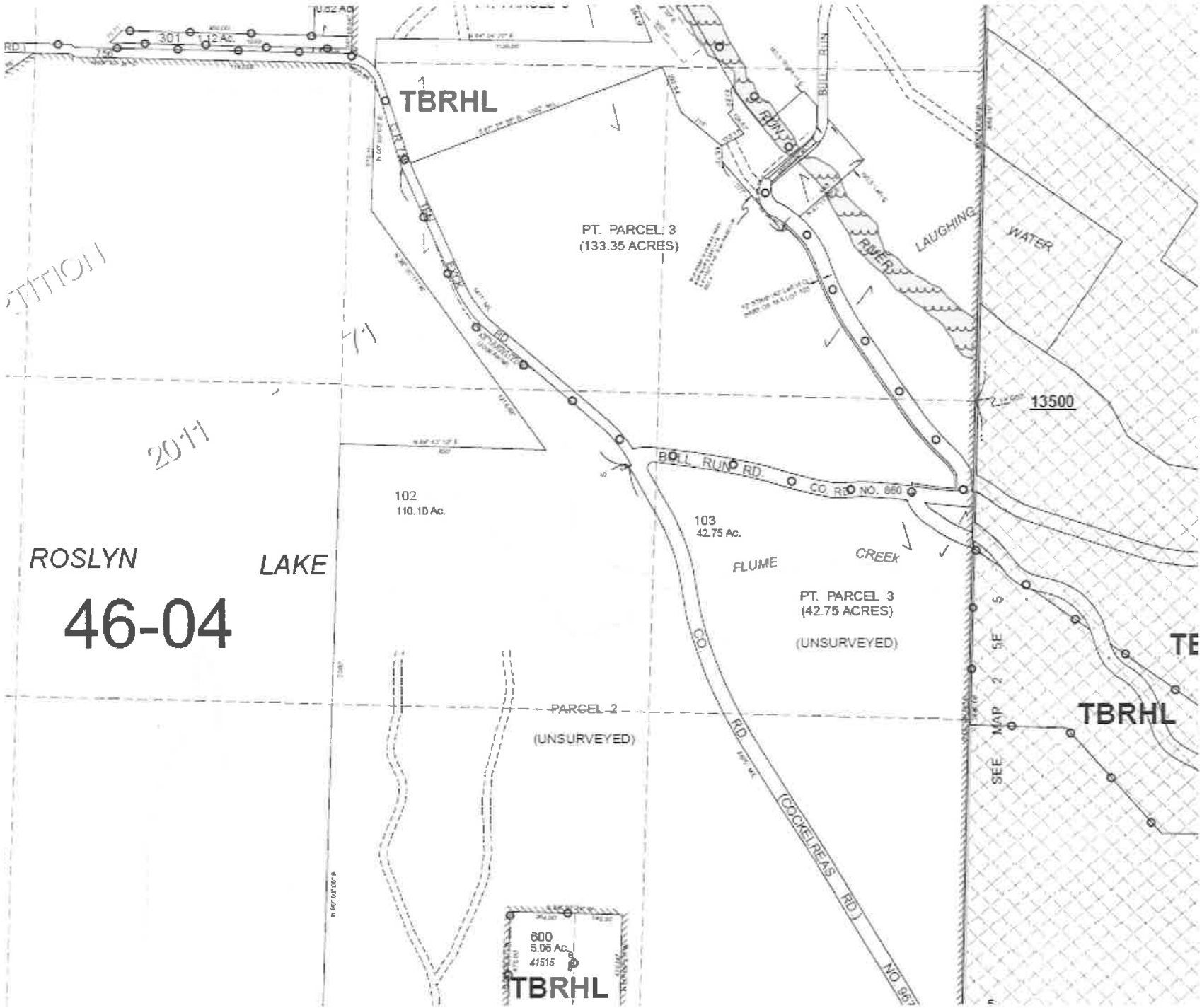
What is proposed? Outdoor education and recreation center - see narrative for detailed description

Name of applicant: Tony Deis, Bull Run Educational Center, LLC
Mailing address: PO Box 14400, Portland, OR 97293
Applicant is (select one):
[ ] Legal owner [ ] Contract buyer [X] Option buyer [ ] Agent
Name of contact person (if other than applicant) Serah Breakstone, Angelo Planning Group
Mailing address of contact person: 921 SW Washington Street, Suite 468, Portland, OR 97205
Applicant #s: Wk. 503-453-3038 Cell: Email: tony@trackersearth.com
Contact person #s: Wk. 503-227-3674 Cell: Email: sbreakstone@angeloplanning.com
SITE ADDRESS: 41515 SE Thomas Road, Sandy 97055
TAX LOT NUMBER: T 2 R 5E 36 Tax Lot(s) 00102 Total land area: 110.10
ADJACENT PROPERTIES UNDER SAME OWNERSHIP:
T R Tax Lot(s)
T R Tax Lot(s)
T R Tax Lot(s)
PRESENT USE OF PROPERTY: Former park and recreation area, currently vacated and unused
METHOD OF SEWAGE DISPOSAL: On-site septic facilities
WATER SUPPLY: Portland water
OTHER PERSONS (IF ANY) TO BE MAILED NOTICES REGARDING THIS APPLICATION:

NAME	ADDRESS	ZIP	RELATIONSHIP
Karen Karlsson, KLK Consulting	906 NW 23rd Avenue	Portland, OR 97210	Property owner

I hereby certify that the statements contained herein, along with the evidence submitted, are in all respects true and correct to the best of my knowledge.

KAREN KARLSSON	6/9/14	TONY DEIS	6/9/2014
Property owner's name (print)	Date	Applicant's name (print)	Date
Karen Karlsson			
Property owner's signature		Applicant's signature	


TBRHL
PT. PARCEL 3
(133.35 ACRES)
LAUGHING
WATER
RIVER
13500
BULL RUN RD.
CO. RD. NO. 860
102
110.10 Ac.
103
42.75 Ac.
FLUME
CREEK
PT. PARCEL 3
(42.75 ACRES)
(UNSURVEYED)
ROSLYN
LAKE
46-04
PARCEL 2
(UNSURVEYED)
CO. RD. (COCKELREAS RD.) NO. 867
SEE MAP 2 SE 5
TBRHL
600
5.06 Ac.
41515
TBRHL
2011

CLACKAMAS
COUNTY

PRELIMINARY STATEMENT OF FEASIBILITY

To be completed by the applicant:

Applicant's Name: Bull Run Educational Center, LLC

Property Legal Description: T ~~25~~ 2 S, R ~~4~~ 5E, Section 06, Tax Lot(s) 00102 & 00600

Site Address: ~~41401~~ 41515 SE Thomas Road, Sandy 97055 Project Engineer: [redacted]

Project Title/Description of Proposed Development:

Outdoor education and recreation center - see attached description

To be completed by the service provider or surface water management authority:

Check all that apply:

- ☐ Sanitary sewer capacity in the wastewater treatment system and the sanitary sewage collection system is available to serve the development or can be made available through improvements completed by the developer or the system owner.
- * Adequate surface water treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.
- ☐ Water service is available in levels appropriate for the development, and adequate water system capacity is available in source, supply, treatment, transmission, storage and distribution or such levels and capacity can be made available through improvements completed by the developer or the system owner. This statement ☐ applies ☐ does not apply to fire flows.*

  *If water service is adequate with the exception of fire flows, the applicant shall submit a statement from the fire district serving the subject property that states that an alternate method of fire protection, such as an on-site water source or a sprinkler system, is acceptable.

- ☐ This statement is issued subject to conditions of approval set forth in the attached.
- ☐ Adequate ☐ sanitary sewer service, ☐ surface water management, ☐ water service cannot be provided.

Ugo Di Sy
Signature of Authorized Representative

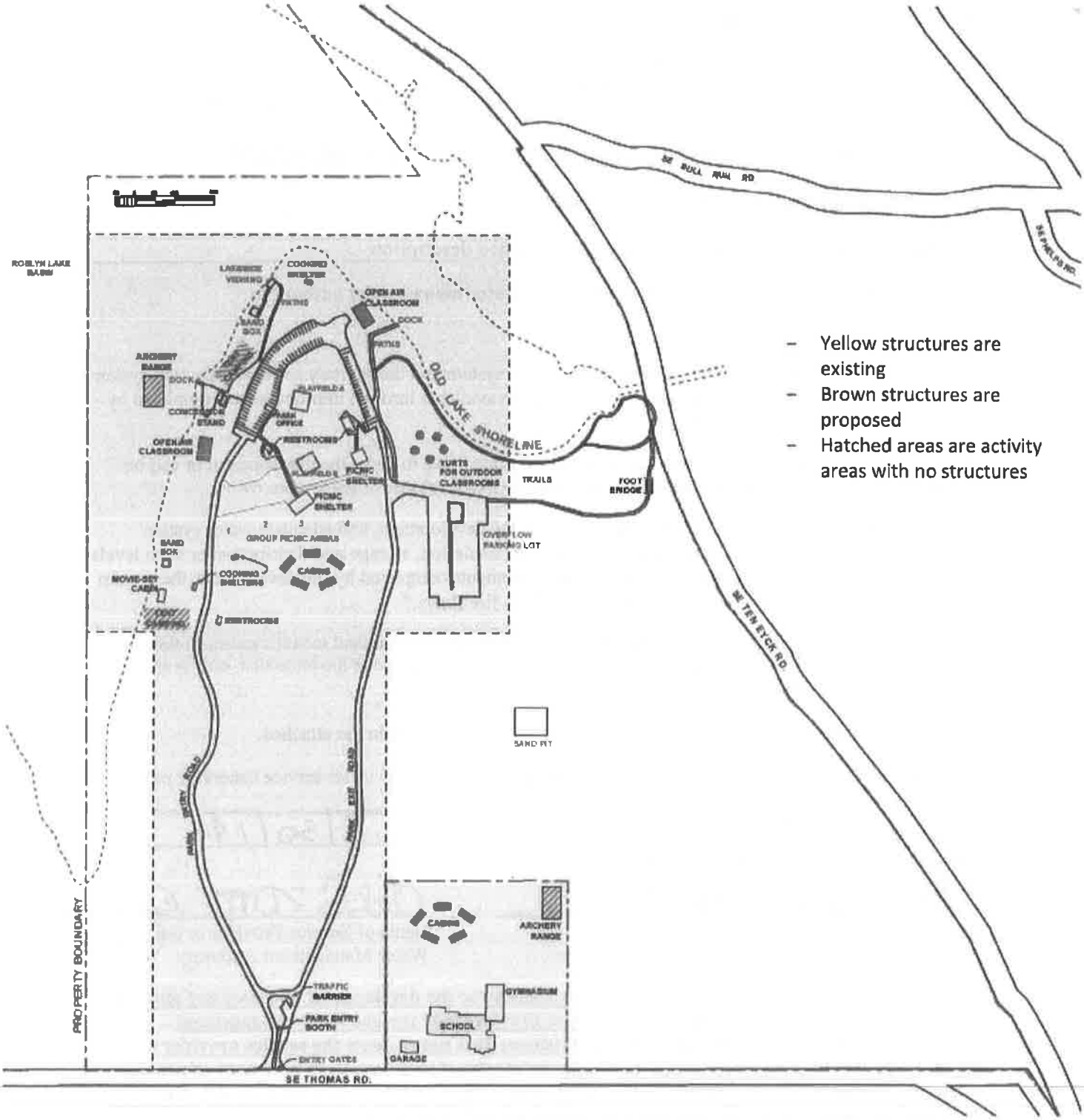
5/30/14
Date

Sr. Civil Engineer
Title

Clack Co. DTD Engineering
Name of Service Provider or Surface Water Management Authority

Completion of this statement does not reserve capacity for the development and does not alter an applicant's obligation to comply with the service provider's or surface water management authority's regulations. Completion of this statement does not obligate the service provider or surface water management authority to finance or construct improvements necessary to provide adequate service for the proposed development. Completion of this statement does not guarantee that land use approval for the proposed development will be granted.

Bull Run Education Center
Proposed Site Plan



- Yellow structures are existing
- Brown structures are proposed
- Hatched areas are activity areas with no structures

Transmittal

Date: June 11, 2014

To:	Linda Preisz	**From:**	Serah Breakstone
Firm:	Clackamas County Planning and Zoning Division	**Phone:**	503.227.3674
Address:	150 Beavercreek Rd. Oregon City, Oregon 97405	**E-mail:**	
Phone:			
RE:	Bull Run Education Center Conditional Use Application		

Linda,
We are submitting this conditional use application on behalf of the Bull Run Education Center, LLC. Per your request, we are submitting one copy of the application narrative and forms, plus a full-size proposed site plan. We will provide additional copies at your request. This submittal package also includes the original signed application form, a check in the amount of $2,895.00 for the application fee, and a Statement of Feasibility form from County Engineering for surface water.

Please contact me if you have questions or need additional information.
Thank you for your review.

Serah Breakstone

Conditional Use Application

Bull Run Education Center, LLC

Submitted to Clackamas County Planning & Zoning Division
Development Services Bldg., 150 Beavercreek Rd., Oregon City

Submitted by:

Angelo planning group

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Bull Run Education Center Conditional Use Application

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Proposal Overview

Subject site

The subject site is located adjacent to the historic site of Roslyn Lake, northeast of Sandy, near the intersection of SE Thomas Road and SE Ten Eyck Road in unincorporated Clackamas County. The site covers the portion of tax lot 25E06 102 west of Ten Eyck Road, which has split zoning as follows:

- 20 acres of tax lot 25E06 102 zoned FF-10 (the FF-10 is assumed zoning based on a zone change; see below for further explanation)
- 80 acres of tax lot 25E06 102 zoned Timber (TBR)

The site contains the historic Roslyn Lake Park, including outdoor activity areas, parking areas and park-related structures (picnic shelters, restrooms and a cabin). Tax lot 102 also contains the historic Bull Run powerhouse; however, that portion of the site (which is located east of Ten Eyck Road) is not part of this conditional use application. See Exhibit A for a map of the subject site, existing site conditions and context.

The Bull Run Education Center LLC (referred to as the applicant in this narrative) is an organization that intends to purchase and manage the subject site as an outdoor education and recreation center. The applicant will make the site available to a variety of users for outdoor activities, as described below.

Proposed activities, FF-10

Activities on the FF-10 portion of the site will be those associated with outdoor education and recreation programs and may include:

- Youth day and overnight camps
- Adult evening and weekend overnight classes (art, history, survival skills, etc.)
- School field trips
- Personal camping associated with youth and adult overnight programs
- Hiking associated with youth and adult programs
- Outdoor theater gatherings
- Natural history tours
- Archery classes and events
- Historical reenactments and demonstrations
- Occasional public and private gatherings/special events, not to include weddings

Due to the nature of the uses on the site, the number of people using the site and the hours of operation will vary greatly depending on the season and the particular programs in operation. The following provides an estimate of anticipated use of the FF-10 portion of the site:

- Day use: Up to 800 people (includes participants and staff) using the site during the day for the various programs/activities such as those listed above (youth and adult). Typical hours for day programs are 9:00 AM to 5:00 PM, with peak use occurring between June and

August. Shorter evening programs may also be offered. Transportation for day use programs will generally involve a combination of buses and some personal vehicle use.

- Overnight use: Up to 300 people using the site for overnight stays (includes participants and staff) for overnight programs such as those listed above. Typical hours of operation for multi-day programs are 9:00 AM on the first day to 4:00 PM on the final day, with use occurring March through November. As with the day use activities, transportation onto the site will be through a combination of buses and personal vehicles.
- Special events: Occasional one-day use of the site for a larger public or private special event such as a family reunion, acoustic concert, craft fair, or other similar use. Weddings will not be allowed on the site. The number of people using the site for a special event will vary widely, with a maximum of 1,500 people using the site over the course of the day (but not all at once). Typical hours for a special event are 10:00 AM to 10:00 PM. Transportation would be a combination of buses and personal vehicle use. Depending on the size of event, buses may be required.

In addition to reuse of existing park structures and activity areas on the site, the applicant proposes a number of new structures and improvements within the FF-10 area that will support the planned uses. Proposed development includes the following (see Exhibit B for proposed site plan):

- Five convertible classroom buildings. These buildings will be used as classrooms during the day that can convert into sleeping quarters for overnight programs. Building will be approximately 20 by 40 feet and will contain two classroom units capable of holding up to a total of twenty (20) people for overnight stays. Buildings will include bathroom and shower facilities. See Exhibit C for an image of the buildings.
- Two new open air classrooms/picnic shelters. Proposed shelters will be covered structures similar in size and appearance to the existing picnic shelters. See Exhibit D for an image of existing shelters. Shelters will be used for gatherings, meetings and classes.
- Outdoor classrooms. The outdoor classrooms will be tents located on platforms and used for classes, gatherings and meetings. The platform tents will also be convertible to sleeping quarters.
- Two primitive personal tent camping areas. This will consist of space set aside and maintained for personal tent camping by families and other groups participating in programs on site.
- One 50 by 80 foot archery range in the northwest corner of the park property along the old Roslyn Lake shoreline. The archery range will comply with industry standards, have a safe backstop and clearly outlined safety buffers. It will not include any new structures.

Examples of typical activity proposed for the FF-10 portion of the site

Proposed activities, TBR

Activities on the 80-acre TBR portion of the site will be low-impact recreational uses such as hiking, guided nature tours, animal tracking lessons, bird watching and picnicking. No new buildings or structures are being proposed for the TBR portion of the site. The number of people using the TBR portion of the site will fluctuate depending on the activity and season, similar to the numbers for the FF-10 portion described above. In some cases, activities on the TBR site will be tied to programs on the FF-10 portion of the site. In other instances, activities on the TBR portion will be independent of activities on the FF-10 portion. In all instances, activities on the TBR portion will be restricted to those that are considered low impact and appropriate for the resource area.

Example of typical activity proposed on TBR portion of the site

Request for conditional use approval

In order to facilitate use of the subject site for the above purposes, the applicant is requesting conditional use approval from Clackamas County under Sections 310.06.14 (FF-10) and 406.04 (TBR) of the Clackamas County Zoning and Development Ordinance.

- Section 310.06.14 allows "Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit" as a conditional use in the FF-10 zone.
- Section 406.04 allows "Private parks and campgrounds" as a conditional use in the TBR zone.

At the time of this submittal, the entire site is designated Forest land and is zoned Timber (TBR). Some of the proposed uses listed above would not be allowed under this zoning. However, the current property owner, Powerhouse Re Gen LLC, has applied to the County for a zone change and goal exception (to Statewide Planning Goal 4) to change the land use designation to Rural and the zoning to FF-10 on the 20-acre portion of the site that is developed with existing park structures and improvements. The zone change/goal exception application is under review by the County and has had one public hearing before the Planning Commission. The zone change/goal exception application is anticipated to go to a second public hearing before the Planning Commission in July. The applicant requests that this conditional use application be reviewed concurrently with the zone change/goal exception application. The code sections addressed in this application assume that the zone change/goal exception will be granted and part of the subject site will be zoned FF-10 as described previously.

There is also a Historic District overlay on the subject site (see Exhibit B). A discussion of how the historic character of the site will be preserved and maintained is also included with this narrative.

Conformance with Conditional Use Criteria

This section contains information to demonstrate that the proposed uses are consistent with the conditional use criteria listed in Section 1203.01 of the Clackamas County Zoning and Development Ordinance. Due to the split zoning on tax lot 102, some responses are organized into two parts (where appropriate for clarity) - one for the FF-10 portion of the site and one for the TBR portion of the site. In other instances, one response was suitable to cover both zones.

Section 1203.01: Conditional Use Approval Criteria

1203.01 APPROVAL CRITERIA

The Hearings Officer may approve a conditional use, pursuant to Section 1300, if the applicant provides evidence substantiating the following:

***A.** The use is listed as a conditional use in the zoning district in which the subject property is located.*

FF-10 Response: On the FF-10 land, the applicant proposes to use the site as an outdoor education and recreation center which will include a variety of activities. Activities may include (but are not limited to):

- Youth day and overnight camps
- Adult evening and weekend overnight classes (art, history, survival skills, etc.)
- School field trips
- Camping associated with youth and adult overnight programs
- Hiking associated with youth and adult programs
- Outdoor theater gatherings
- Natural history tours
- Archery classes and events
- Historical reenactments and demonstrations
- Public and private gatherings and special events, not to include weddings

Section 310.06 Conditional Uses in the FF-10 zone allows these types of uses subject to conditional use approval as follows:

> Subsection (14): "Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit"

TBR Response: On the Timber land, the applicant proposes low-impact recreational uses that will include activities such as hiking, guided nature tours, animal tracking lessons, bird watching and picnicking. No new buildings or structures are proposed for the TBR portion of the site. These types of uses are allowed as a conditional use per Section 406.04 as follows:

> ***406.04 Uses authorized***
>
> *Private parks and campgrounds, subject to 406.05(A)(1), (2), (6) & (I)(1)*

Private parks are defined as "Land that is used for low impact casual recreational uses such as picnicking, boating, fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed above but does not include tracks for motorized vehicles or areas for target practice or the discharge of firearms." Uses on the TBR portion of the site will be similar to those described here and will not involve motorized vehicles, target practice or discharge of firearms.

B. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.

Existence of improvements, topography and natural features

FF-10 Response: The subject site was owned and operated by Portland General Electric (PGE) as a park and recreation area for over 50 years before it was closed in 2008. Many of the park features still exist on the site and are in decent working condition, including:

- Three restroom buildings
- Two large picnic shelters
- Concession stand building
- Cabin once used as a movie set
- Park office building
- Park entry booth
- Numerous picnic tables and outdoor cooking stations
- Two playfields
- Two horseshoe pits
- Main parking area with 80 parking spaces
- Overflow parking area with 96 parking spaces

These features are suitable for the proposed outdoor education and recreation uses on the subject site. Essentially, approval of this conditional use request will allow the site to once again function as a park and recreation area, similar to and consistent with its historic use.

On the FF-10 land, the applicant intends to improve and/or maintain the existing park features and incorporate them into the future recreational activities. Specifically, the applicant proposes the following:

- Parking areas. Current parking areas will be used for bus and personal vehicle parking for on-site program staff and participants.
- Picnic shelters. Shelters will be maintained and used for gatherings, meetings and classes
- Existing restrooms. Restrooms will be improved (showers will be added) and used as restrooms for program participants
- Cabin. The cabin (previously used as a movie set) will be maintained; no uses are currently planned for the cabin.
- Park office building and entry booth. These structures will be maintained for occasional use as needed.

- Concession stand. The stand will be maintained for occasional use as needed.
- Outdoor areas. Outdoor activity areas (horseshoe pits, trails, open space, etc) will be maintained and used by visitors and program participants.

TBR Response: In terms of existing improvements, topography and natural features on the Timber portion of the site, existing improvements are limited to informal hiking/walking trails. The rest of the Timber portion of the site is comprised of wooded forest an some open space areas. The undeveloped forest/open space and hiking trails are appropriate for the low-impact recreational uses intended for that area.

Size, shape and location

FF-10 and TBR Response:

The former Roslyn Park was heavily used from its inception to its closure in 2008. In 1966 the park hit a peak of 100,000 visitors. In 1997 the annual number of visitors totaled 63,000, with a peak weekend average of 3,000 people. This history demonstrates that the size and shape of the site are suitable to serve large numbers of people over time and at once. As shown in the site plan, the developed, FF-10 zoned portion of the park has adequate size to accommodate the various structures and activity areas proposed for the site while still maintaining the TBR-zoned area in a natural, park-like setting with large undeveloped areas of forest and open space. See the park images in Exhibit G. Furthermore, the site's close proximity to the cities of Sandy (approximately 3.5 miles) and Portland (less than 30 miles) make it a convenient location for many potential users of the recreational activities planned for the site.

Based on the above information, the characteristics of the subject site are quite suitable for the uses being proposed by the applicant. Therefore, criterion (B) is satisfied.

***C**. The proposed use is consistent with Subsection 1007.09, and safety of the transportation system is adequate to serve the proposed use.*

1007.09 TRANSPORTATION FACILITIES CONCURRENCY

A. The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrently with the new development it is required to serve or, within a reasonable period of time following the approval of new development.

B. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.

C. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:

FF-10 and TBR Response: This is a conditional use application that does not qualify for any exemptions listed under (C) above. Therefore, Subsection 1007.09 applies. In order to demonstrate compliance with this section, a transportation impact study was conducted for the subject site by Lancaster Engineering. See Exhibit E for a full copy of the study. The study examined peak hour trip generation, intersection capacity, parking, crash history and other traffic impacts and concluded the following:

- The greatest impacts to the transportation system are expected to occur on Saturdays. The expected peak hour trip generation of the site 212 vehicles, with half entering the site and half exiting.
- Capacity analyses show that the intersection of SE Ten Eyck and SE Thomas Roads is currently operating at level-of-service (LOS) A with a volume-to-capacity (v/c) v/c ratio of 0.03. Following development of the site, this intersection is projected to continue to operate at LOS A, with the v/c ratio increasing to 0.15. Upon full build-out of the site, the proposed access is projected to operate at LOS A with a v/c ratio of 0.16. This is well within Clackamas County's operational standards in both cases.
- The on-site parking area will accommodate up to 100 cars and six large buses, corresponding to the maximum number of vehicles expected to visit the site on a typical Saturday. Thus, adequate parking is available at the site even if all site trips were to occur concurrently, which is generally not expected.
- The crash history was examined for street segments and intersections in the vicinity of the site. Based upon the detailed crash records and on-site observations, no safety deficiencies were noted for the transportation infrastructure surrounding the site.
- Left-turn lane warrants were examined for the intersection of SE Ten Eyck and Thomas Roads. A left-turn lane is not warranted currently, nor will it be following the proposed development of the site.
- Clackamas County's concurrency requirement is satisfied for the proposed development. No mitigations are needed or recommended.

Based on this analysis, the County's transportation concurrency requirement is satisfied.

D. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the zoning district(s) in which surrounding properties are located.

FF-10 and TBR Response: Properties surrounding the subject site are zoned Timber and are generally rural in character. Under the Timber zoning, primary uses on those surrounding sites could include farm and forest operations, single family dwellings (with limitations), utility and solid waste facilities, and some hunting/fishing activities. Existing uses adjacent to the site include several small farms with homes to the south across SE Thomas Road, undeveloped and currently unmanaged wooded areas to the east and west, and the former Roslyn Lake bed on the north and northeast edges. The historic Bull Run Elementary School is also adjacent to the site at the southeast corner; the school is currently unused, and is included in the zone change proposal mentioned previously to be rezoned to FF-10.

The proposed uses on the site will not alter the overall character of the surrounding area. The site will maintain its natural, park-like setting; no new roads will be constructed, existing traffic routes will not be altered, and the addition of buildings and shelters will be done in a manner that complements the historic character of the park. The developed portion of the subject site is located in the center of the site, away from surrounding properties and buffered from them by wooded areas and open space that will continue to be zoned TBR (the minimum buffer from adjacent properties is 40 feet from the western property line to the FF-10 zoning). This distance and buffering will mitigate any potential noise impacts from proposed uses on surrounding properties. In addition, the

transportation impact study (Exhibit E) concludes that traffic generated by the proposed use will not have negative impacts on surrounding roads and intersections. Service levels will remain adequate (LOS A) and no safety deficiencies will result.

Based on the above, none of the proposed outdoor activities will limit, impair or preclude the ability of surrounding properties to engage in farm/forest practices, build a single-family home or establish other primary uses allowed in the Timber zone.

E. *The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use.*

FF-10 and TBR Response: Goals and policies of the Comprehensive Plan that apply to the proposed use are found in Chapter 9 - Open Space, Parks and Historic Sites. Relevant goals and policies are cited below with responses to demonstrate consistency with each.

Chapter 9 - Open Space, Parks and Historic Sites

Parks and Recreation

Goal

Provide land, facilities and programs which meet the recreation needs of County residents and visitors.

Policies

8.0 Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities, while working toward the provision of facilities and programs specified in Policies 1.0 and 6.0.

8.4 Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on a program-by-program basis when public facilities are not available. Where appropriate, nonprofit organizations will be encouraged to operate special purpose parks and facilities (e.g., nature exhibits, historic sites).

FF-10 and TBR Response: The requested uses on the subject site will allow the existing park to once again function as a privately owned and operated recreational amenity through private investment in programming and enhancement of the facilities. This is consistent with County goals and policies to provide land, facilities and programs that meet the recreation needs of County residents and visitors, and to do so at the least possible cost to County taxpayers. Conditional use approval will enable the subject site to provide privately-operated educational and recreational opportunities, as well as programming to serve the broader public.

Historic Landmarks, Districts and Transportation Corridors

Goal

Preserve the historical, archaeological, and cultural resources of the County.

Policy

8.0 Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties.

FF-10 and TBR Response: Conditional use approval on this site will allow the historic park to once again be operational as an outdoor recreation and natural area. The applicant proposes to preserve and reuse the existing structures on the site for their intended purposes (for example, existing picnic shelters will be used for picnic gatherings, restroom buildings will be used for restrooms, and so on). The wooded forest/open space (Timber zoned portion) will be used for low-impact recreational uses, consistent with historic uses in that area. Additions to the site (classroom buildings, platform tents, new shelters) will be done in a manner consistent with the historic character of the site and will help the applicant ensure financial viability for the park. In addition, new buildings and improvements to existing buildings will be subject to review by the Historic Review Board during the building permit process. This supports the County's goal of preserving historic resources and capitalizing on options that allow reasonable use and reuse of historic properties and minimize the need for public funding. More discussion of historic preservation on the site can be found under the response to Section 707 in this narrative.

***F.** The proposed use complies with any applicable requirements of the zoning district and overlay zoning district(s) in which the subject property is located, Section 800, and Section 1000.*

Per the pre-application conference summary (see Exhibit F), the following sections of code contain requirements applicable to this application:

- Section 310 FF-10 District
- Section 406 Timber District
- Section 707 Historic overlay
- Section 1007 Roads and Connectivity
- Section 1015 Parking and Loading
- Section 1021 Refuse and Recycling

310 FARM FOREST 10-ACRE DISTRICT (FF-10)

FF-10 Response: As established earlier in this narrative, Section 310.06 Conditional Uses in the FF-10 zone allows the proposed types of uses subject to conditional use approval as follows:

> *Subsection (14): "Public and private parks, campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit"*

> ***310.08 Dimensional Standards***
>
> *B. Minimum Lot Size: New lots of record shall be a minimum of 10 acres in size, except as restricted by Subsection 310.07(C) or as modified by Section 902 or 1013…*
>
> *C. Minimum Front Yard Setback: 30 feet; however, there shall be no minimum front yard setback for bus shelters and roadside stands of no more than 400 square feet in area and no more than 16 feet in height.*

D. Minimum Side Yard Setback: 10 feet.

E. Minimum Rear Yard Setback: 30 feet; however, accessory structures shall have a minimum rear yard setback of 10 feet.

F. Scenic Roads: Structures built on lots adjacent to roads designated as scenic on Comprehensive Plan Map V-5, Scenic Roads, should be set back a sufficient distance from the right-of-way to permit a landscaped or natural buffer area.

FF-10 Response: No new lots of record are proposed as part of this conditional use request; therefore, (B) above is not applicable. All proposed new structures will meet the minimum front, side and rear yard setbacks established in 310.08 above (as noted previously, the FF-10 zone is no closer than 40 feet from the side and rear property lines; no new structures are proposed adjacent to the front property line abutting Thomas Road). The subject property is not adjacent to a designated scenic road; therefore, (F) above is not applicable.

406 TIMBER DISTRICT (TBR)

406.04 Uses authorized

Private parks and campgrounds, subject to 406.05(A)(1), (2), (6) & (I)(1)

TBR Response: On the Timber land, the applicant proposes low-impact recreational uses that will include activities such as hiking, guided nature tours, animal tracking lessons and bird watching. No new buildings or structures are proposed for the TBR portion of the site. As described earlier in this narrative, these types of uses are allowed as a conditional use per Section 406.04 above.

406.05 Approval Criteria for Specific Uses

The following criteria apply to some of the uses listed in Table 406-1. The applicability of a specific criterion to a listed use is established by Table 406-1.

A. General Criteria

1. The use may be allowed provided that:

a. The proposed use will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands; and

TBR Response: The proposed uses on the Timber zoned portion of the site will be low-impact recreational uses such as hiking and bird watching. Proposed activities will not alter land patterns or result in fragmentation of forest lands (thereby creating unusable land remnants), nor will they alter traffic circulation in a way that would impact transport of forest products or equipment to/from surrounding properties. In addition, the transportation impact study (Exhibit E) determined that traffic impacts on the surrounding transportation network will be minimal; service levels will remain adequate and no safety deficiencies will result. The site will maintain its natural character; no trees will be removed (except to maintain the health of the forest) and no new roads will be constructed. The developed portion of the subject site is located in the center of the site, away from surrounding properties and buffered from them by wooded areas and open space. Based on this information, proposed activities will not force a change or increase in the cost of farming/forest practices on surrounding lands.

b. The proposed use will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel.

TBR Response: The proposed use of the site includes activities such as hiking, guided nature tours, animal tracking and similar uses. No camping (and therefore no campfires) is proposed and no new structures will be constructed on the Timber portion of the site. The proposed activities will not change the amount of potential fire fuel on the land (trees and vegetated debris, for example), nor will they change the availability of water for fire suppression. Furthermore, the proposed uses will not alter access or circulation for fire suppression equipment. Based on this information, the proposed low-impact recreational uses will not result in any increases to fire hazard, fire suppression costs or fire suppression personnel. The applicant anticipates that the County will require written approval from the Fire District for fire access, circulation and water supply prior to issuance of a building permit for the subject site.

2. A written statement recorded with the deed or written contract with the County or its equivalent is obtained from the land owner that recognizes the rights of the adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules.

TBR Response: As required per Subsection (2) above, the property owner (Powerhouse Re Gen LLC) will provide a written statement acknowledging the rights of adjacent and nearby land owners to conduct forest operations consistent with the Oregon Forest Practices Act and Rules. The applicant assumes this will be a condition of approval for this conditional use request.

6. A land division for the use may be approved pursuant to Subsection 406.09(D).

TBR Response: No land division is being proposed as part of this conditional use request. Therefore, Section 6 above is not applicable.

I. Parks, Public, and Quasi-Public Uses

1. Private parks and campgrounds: Campgrounds in private parks shall only be those allowed by Subsection 406.05(I)(1). A campground is an area devoted to overnight temporary use for vacation, recreational, or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:

TBR Response: Section I(1) above regulates campgrounds and campsites on Timber land. No campgrounds or campsites are being proposed for the Timber portion of the subject site. Therefore, this section is not applicable.

707 HISTORIC LANDMARK (HL), HISTORIC DISTRICT (HD), AND HISTORIC CORRIDOR (HC)

The subject site is currently designated as a historic district and is therefore subject to applicable requirements in Section 707. Relevant requirements are cited below with a response demonstrating compliance.

707.05 Uses Permitted

A. Primary Uses: A Historic Landmark or properties within a Historic District or Historic Corridor may be used for any use which is allowed in the underlying district, including home occupations, provided such use is not detrimental to the preservation of the historic resource, subject to the specific requirements for the use, and all other requirements of this Section.

FF-10 and TBR Response: As demonstrated previously, the proposed uses are allowed as conditional uses on the site per the underlying FF-10 and TBR zoning.

B. Conditional Use Findings: In urban and rural districts, uses listed in Subsection 707.05(C), which are not otherwise allowed in the underlying district, may be allowed, subject to the specified review procedure. Approval shall not be granted unless the proposal satisfies the criteria under Section 1203 and the applicable provisions under Section 800, and the applicant demonstrates that the use, if allowed:

1. Will preserve or improve a resource which would probably not be preserved or improved otherwise;

FF-10 and TBR Response: The former Roslyn Lake Park (previously owned and operated by PGE) was closed in 2008 and sold in 2010 to the current property owners for the purpose of preservation and adaptive reuse. Because Roslyn Lake has been drained since the park was closed in 2008, there is no longer a major amenity to serve as an attraction for a private park that does not provide specific programming and activities. The requested conditional use will allow the property to be used in a way that provides a funding stream for the continued preservation of the historic resource. The applicant will be able to operate for-profit outdoor education and recreation programs on the site, thus creating financial support for preserving and improving the historic resource. Because no public or non-profit entities have shown an interest in purchasing and operating the historic park site, the requested conditional use to operate the property as a private park for the purposes of generating a commercial profit will preserve and improve a resource that would otherwise likely not be preserved or improved.

2. Will not require the extension or development of urban services in rural areas;

FF-10 and TBR Response: The subject site is currently served by Portland Water and on-site septic systems. Extension or development of other urban services will not be needed to support the proposed uses on the site.

3. Will not adversely affect surrounding natural resource uses; and

FF-10 and TBR Response: Properties surrounding the subject site are zoned Timber and are generally rural in character. Existing uses adjacent the site include several homes and small farms to the south across SE Thomas Road, undeveloped and currently unmanaged wooded areas to the east and west, and the former Roslyn Lake bed on the north and northeast edges.

As established previously in this narrative, the proposed uses on the site will not impact surrounding natural resources. The site will maintain its natural, park-like setting; no new roads will be constructed, existing traffic routes will not be altered, and the addition of buildings and shelters will be done in a manner that complements the historic character of the park and does not impact any ecologically sensitive areas. Furthermore, the developed area of the site where the bulk of the proposed uses will be located is central to the site and buffered from surrounding properties by wooded forest land and open spaces.

Based on this information, the proposed uses will not adversely affect surrounding natural resources.

4. Will utilize existing structures rather than new structures, except where new structures are determined by the Historic Review Board to be in the best interest of preserving the historic resource.

FF-10 Response: As stated previously, the applicant intends to maintain and use existing park structures for the proposed uses as follows:

- Picnic shelters. Shelters will be maintained and used for gatherings, meetings and classes.
- Existing restrooms. Restrooms will be improved and used as restrooms for program participants.
- Cabin. The cabin (previously used as a movie set) will be maintained; no uses are currently planned for the cabin.
- Park office building and entry booth. These structures will be maintained for occasional use as needed.
- Concession stand. The stand will be maintained for occasional use as needed.

No structures will be removed. In addition, the applicant proposes the addition of some new structures, including five convertible classrooms and two picnic shelters, described previously. Addition of these structures will allow the applicant to maximize reuse of the site as an outdoor education and recreation center, making it financially viable to continue to use and maintain the historic resources on the site. The classroom buildings and shelters will be designed and constructed to complement the historic character of the park and its existing structures. See Exhibits C and D for images.

TBR Response: There are no existing structures on the TBR portion of the site and no new structures are being proposed for the TBR portion of the site.

5. All structures of any form or size, including new structures, shall satisfy Subsection 707.07.

FF-10 and TBR Response: Per County staff, the applicant is not required to address Subsection 707.07 as part of this conditional use application. Proposed new structures on the subject site will be reviewed for consistency with this section during the building permit process.

1007 Roads and Connectivity

FF-10 and TBR Response: No new roads or access points are being proposed as part of this project. The transportation impact study in Exhibit E provides a description of the existing access and roadways used by the subject site.

Section 1007.09 requires the applicant to demonstrate that the transportation system is adequate to support the proposed use. In order to achieve this, the applicant has provided a transportation impact study performed by Lancaster Engineering. Details about this study and its findings are provided in a previous section of this narrative. A full copy of the study is provided in Exhibit E.

1015 Parking and Loading

FF-10 and TBR Response: The subject site has two existing vehicle parking areas: the main parking area is located near the center of the developed portion of the site and has 80 striped parking spaces. The overflow parking area is located at the southeast corner of the FF-10 portion of the site and has 96 parking spaces. This provides a total of 176 parking spaces serving the subject site. Both parking areas are paved and have paved access and maneuvering areas.

Table 1015-2 lists the vehicle parking requirements for certain uses; if a use is not specified on the list, then a use most similar to the proposed use is typically used. However, due to the unique nature of proposed use on the subject site, the applicant finds that neither the proposed use nor a use similar to the proposed use can be found on the table. Therefore, the applicant has provided a parking analysis as part of the transportation impact study (see Exhibit E). That analysis concludes that existing parking on the site is sufficient to accommodate projected peak parking demand for the proposed uses. Specifically, the study concludes:

> "As described previously regarding trip generation, given the unique nature of the proposed land uses at the site, it is difficult to predict with exactitude the parking generation for the site. Based on the applicant's experience with similar programs that have taken place throughout the region, it is expected that as many as 100 cars and six buses will be utilized to support the typical activities at the site during the peak periods.
>
> The parking that will be provided at the site is planned to exceed the expected demand. The proposed site plan includes two parking areas—a main parking area with 80 striped parking spaces, and an overflow parking area that has space for 96 vehicles.
>
> Since the vehicular demand will consist of staff members as well as parents picking up and dropping off participants in the programs, it is expected that at any given time actual demand for parking will be significantly less than the total number of vehicles expected at the site. However, enough parking exists to accommodate all vehicles even in the extremely rare circumstance that all vehicles were to need on-site parking at the same time. It is expected that for typical site operations, the main lot will accommodate most if not all

demand. Together with the overflow lot, ample parking will be available to accommodate all planned uses of the site."

1021 Refuse and Recycling Standards

Per the pre-application summary (see Exhibit F), the applicant must comply with the standards of Section 1021 for size and location of refuse and recycling areas, including environmentally hazardous wastes, as well as garbage truck circulation and access standards. Applicable standards are cited below.

1021.04 General Provisions

B. Recycling and Solid Waste Service Areas:

1. Recycling receptacles shall be designed and located to serve the collection requirements for the specific type of material.

2. The recycling area shall be located in close proximity to the garbage container areas and be accessible to the local franchised collection firm's equipment.

3. Recycling receptacles or shelters located outside a structure shall have lids and be covered by a roof constructed of water and insect resistive material. The maintenance of enclosures, receptacles and shelters is the responsibility of the property owner.

4. The location of the recycling area and method of storage shall be approved by the local fire marshal.

5. Recycling and solid waste service areas shall be at ground level and be accessible to the franchised solid waste and recycling collection firm.

6. Recycling and solid waste service areas shall be used only for purposes of storing solid waste and recyclable materials and shall not be a general storage area to store personal belongings of tenants, lessees, property management or owners of the development or premises.

7. Recyclable material service areas shall be maintained in a clean and safe condition pursuant to the provisions of the Clackamas County Solid Waste and Waste Management Ordinance.

C. Special Wastes or Recyclable Materials:

1. Environmentally hazardous wastes defined in Oregon Revised Statutes 466.005 shall be located, prepared, stored, maintained, collected, transported, and disposed in a manner acceptable to the Oregon Department of Environmental Quality.

2. Containers used to store cooking oils, grease, or animal renderings for recycling or disposal shall not be located in the principal recyclable materials or solid waste storage

areas. These materials shall be stored in a separate storage area designed for such purpose.

1021.06 Receptacle Design Standards

The following provisions shall apply to the design and location of receptacles.

A. Containers: Enclosures shall be designed consistent with the following standards:

1. Length and width of the service container.

2. A minimum of two feet, including pad area, shall be provided around the sides and rear of each container.

3. A minimum three feet, including pad area, shall be provided in front of each container for maneuverability in depositing garbage or recyclable materials. In cases where the containers face each other, a minimum four feet shall be provided.

4. Containers two cubic yards or less in size shall be provided with a minimum nine feet of unobstructed overhead or vertical clearance for servicing.

5. Containers greater than two cubic yards in size shall be provided with a minimum 20 feet of unobstructed overhead or vertical clearance for servicing.

1021.07 Vehicle Access

A. The minimum safe vehicular access to the front of a service container pad, shelter, or enclosure shall be a length of 45 feet and width of 12 feet.

B. Vehicle access to service a drop box or compactor shall include the pad length as required in Subsection 1021.07(A) plus a minimum of 65 feet in front of the loading hook placement position.

C. The vehicular access to a pad or enclosure shall be hard-surfaced consistent with the off-street parking provisions of Section 1015.

D. In the absence of an on-site through street or driveway, a cul-de-sac with a minimum 50-foot turning radius shall be provided for vehicle maneuvering at the end of a private dead end street or driveway. A standard emergency services hammerhead turnaround, consistent with the County's standards for road improvements, may be granted in lieu of the cul-de-sac when the design is approved by the local fire district.

E. The percent of grade for access to the pad or enclosure shall not exceed three percent. Exceptions may be granted when compatible with the equipment manufacturer's specifications and consistent with Subsection 1021.10.

1021.08 Signs

> *"No Parking" signs shall be placed in a prominent location on the enclosure, or shelter, and painted on the pavement in front of the enclosure, or shelter, to provide unobstructed and safe access for servicing receptacles. Signs clearly identifying recycling containers and type of recyclable material shall be placed on each respective container and maintained at all times.*

FF-10 and TBR Response: Waste and recycling service for the subject site will be provided by Waste Management Oregon. At the time of this narrative, the applicant has not received detailed information from Waste Management regarding their recommendation for container size, service frequency, or access requirements. The applicant will continue to work with Waste Management to ensure that trash and recycling storage and service on the subject site is managed safely and will be adequate to serve proposed uses.

In lieu of a detailed trash and recycling plan at this time, the applicant proposes the following condition of approval:

> "Applicants shall comply with the requirements of the solid waste/recycling service provider (Waste Management) and applicable standards in ZDO Section 1021 concerning location and accessibility of solid waste/recycling enclosures and the size, screening and other specific design standards for enclosures and pads. The applicants must provide a detailed enclosure plan, complete with service truck circulation, to the Clackamas County Community Environment Division within 60 days of approval of this application."

This condition of approval will ensure that standards and requirements of Section 1021 will be met prior to occupancy of the subject site.

Conclusion

The information provided in this application submittal package, including the narrative, site plan and other materials, demonstrates that the proposed uses on the subject site can meet the applicable requirements and criteria established by Clackamas County. The applicant requests conditional use approval to operate the Bull Run Education Center on the historic park site. The applicant also requests that this conditional use request be reviewed concurrently with the zone change/goal exception application that is currently being processed by the County.

Bull Run Education Center Conditional Use Application

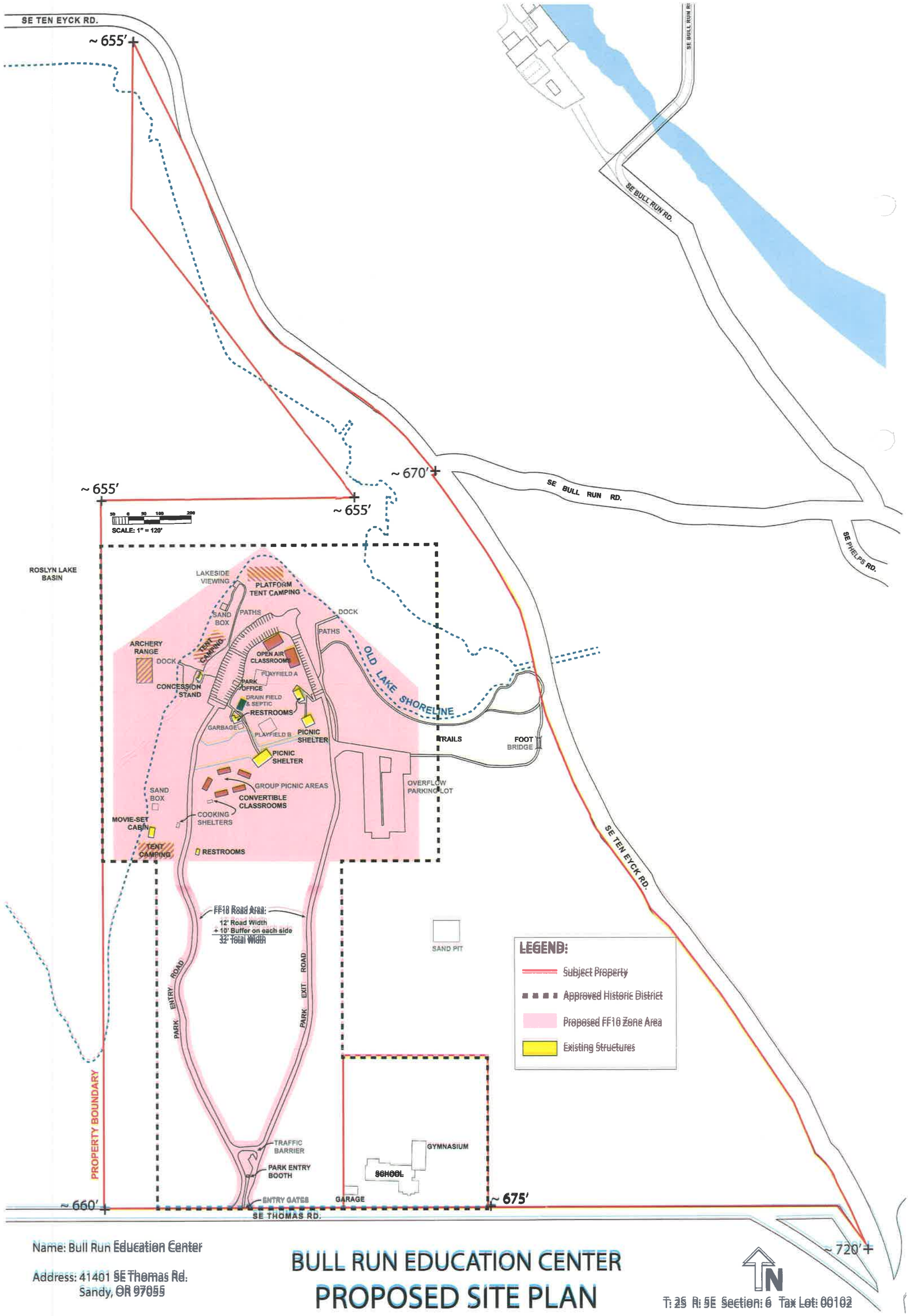
Exhibit A

Existing Site Conditions

Bull Run Education Center Conditional Use Application

Exhibit B

Proposed Site Plan



Name: Bull Run Education Center

Address: 41401 SE Thomas Rd.
Sandy, OR 97055

BULL RUN EDUCATION CENTER
PROPOSED SITE PLAN

T: 2S R: 5E Section: 6 Tax Lot: 00102

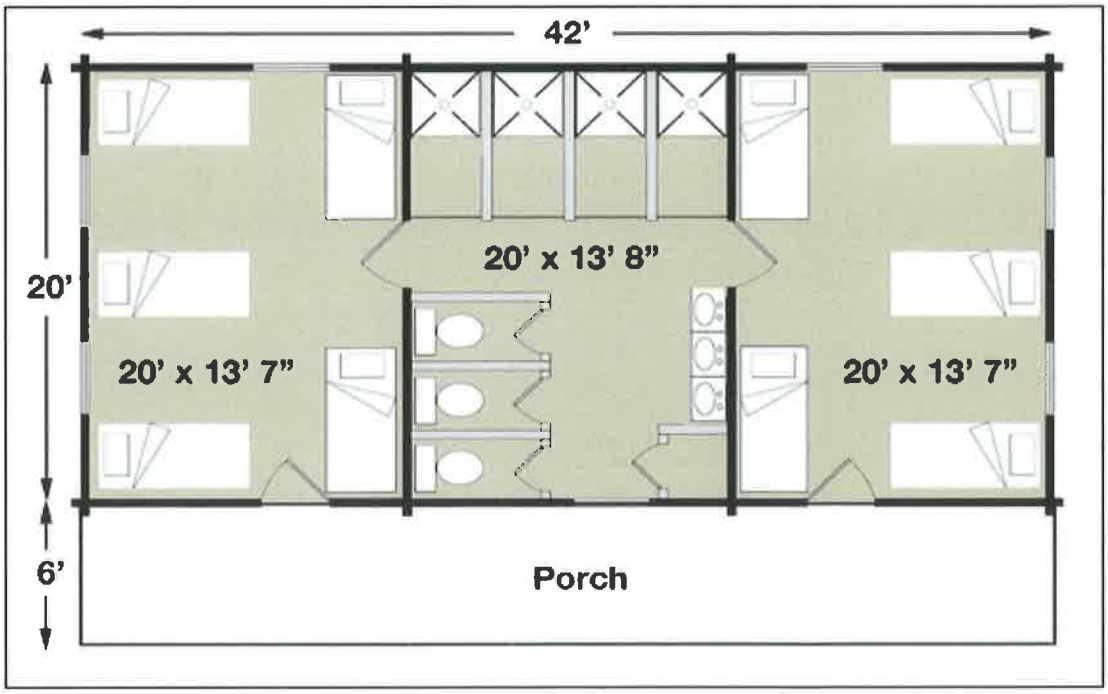
Bull Run Education Center Conditional Use Application

Exhibit C

Images of Convertible Classrooms

Example of convertible classroom exterior

Convertible classroom dimensions



Bull Run Education Center Conditional Use Application

Exhibit D

Image of Existing Shelter

Existing shelter on FF-10. Proposed new shelters will be similar in appearance.

Bull Run Education Center Conditional Use Application

Exhibit E

Transportation Impact Study

Bull Run Education Center

Transportation Impact Study

Clackamas County, Oregon

DATE:
June 11, 2014

PREPARED FOR:
Tracker's Earth

PREPARED BY:
Brian Davis
Todd Mobley, PE, PTOE

REGISTERED PROFESSIONAL ENGINEER
54853
OREGON
JULY 9, 2001
TODD E. MOBLEY
6/11/14

EXPIRES: 12/31/2014

LANCASTER
ENGINEERING

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Executive Summary

1. Tax lots 102 is proposed to be developed as the Bull Run Education Center, which will preserve the existing historic structures on the site and add several new structures in support of several outdoor experiential learning programs. The site is 100 acres in total, 80 acres of which are zoned as *Timber District (TBR),* and 20 of which are zoned as *Farm Forest 10-Acre District (FF10).*

2. The greatest impacts to the transportation system are expected to occur on Saturdays. The expected peak hour trip generation of the site 212 vehicles, with half entering the site and half exiting.

3. Capacity analyses show that the intersection of SE Ten Eyck and SE Thomas Roads is currently operating at level-of-service (LOS) A with a volume-to-capacity (v/c) v/c ratio of 0.03. Following development of the site, this intersection is projected to continue to operate at LOS A, with the v/c ratio increasing to 0.15. Upon full build-out of the site, the proposed access is projected to operate at LOS A with a v/c ratio of 0.16. This is well within Clackamas County's operational standards in both cases.

4. The on-site parking area will accommodate up to 100 cars and six large buses, corresponding to the maximum number of vehicles expected to visit the site on a typical Saturday. Thus, adequate parking is available at the site even if all site trips were to occur concurrently, which is generally not expected.

5. The crash history was examined for street segments and intersections in the vicinity of the site. Based upon the detailed crash records and on-site observations, no safety deficiencies were noted for the transportation infrastructure surrounding the site.

6. Left-turn lane warrants were examined for the intersection of SE Ten Eyck and Thomas Roads. A left-turn lane is not warranted currently, nor will it be following the proposed development of the site.

7. Clackamas County's concurrency requirement is satisfied for the proposed development. No mitigations are needed or recommended.

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Introduction

Project Description

Tax lot 102 proposed to be redeveloped as the Bull Run Education Center. The property was formerly home to the Bull Run Powerhouse and the historic Roslyn Lake Park. The new uses will include a variety of outdoor activities, and the proposal calls for restoring the existing buildings as well as adding several new structures, including:

- Five 'convertible' classroom buildings, which can also be used as sleeping quarters for overnight programs
- Two new shelters similar to existing park shelters on the site
- Five outdoor classrooms, consisting of platforms and tents
- Two tent areas
- One archery range

The site is 100 acres in total, 80 acres of which are zoned as *Timber District (TBR),* and 20 of which are zoned as *Farm Forest 10-Acre District (FF10).*

To quantify these impacts of the proposal on the nearby transportation system, this report includes safety and capacity analysis at the intersection of SE Ten Eyck Road at SE Thomas Road, as well as the proposed site access along SE Thomas Road. Additionally, the report examines parking supply and demand at the site.

Based upon these analyses, Clackamas County's Zoning and Development Ordinance Section 1007.09, which requires adequate transportation infrastructure to be provided concurrent with new development, is addressed with regard to the proposed development.

Site Location

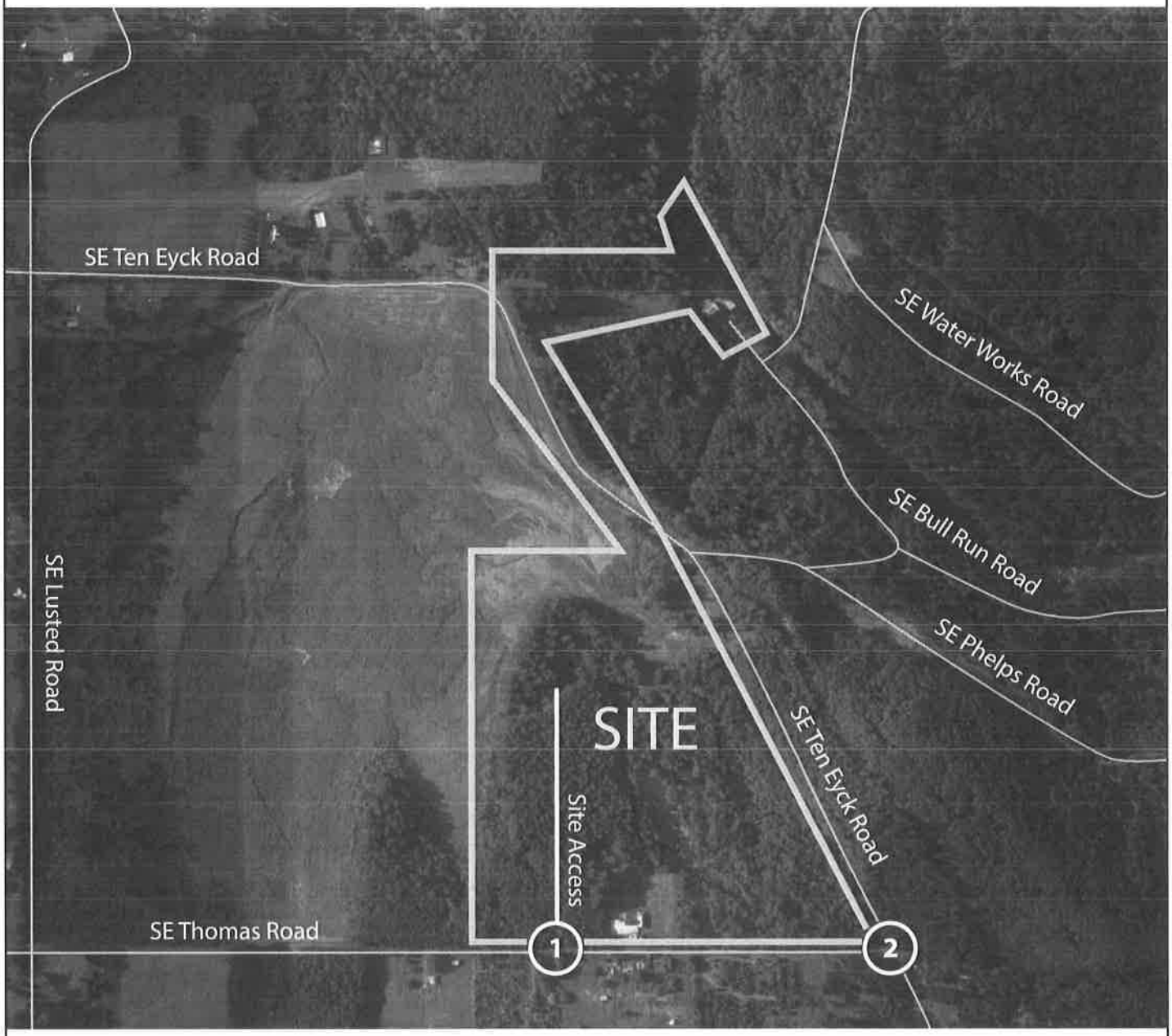
The site has frontage along SE Thomas Road and SE Ten Eyck Road, and is served by SE Bull Run Road. SE Ten Eyck Road is classified as a Minor Arterial in the Clackamas County Transportation System Plan, while SE Thomas Road and SE Bull Run Road are classified as Local streets. Each of these roads has a two-lane cross section with no sidewalks or dedicated bicycle facilities. None has a posted speed limit, so all are subject to Oregon's Basic Rule and a statutory speed limit of 55 mph.

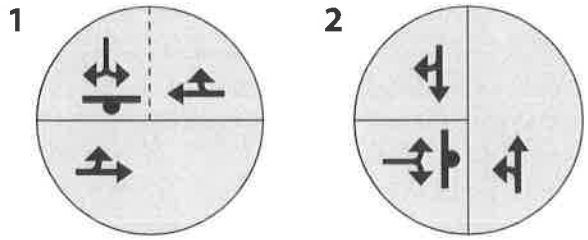
Study Intersections

The intersection of SE Ten Eyck and SE Thomas Roads is a three-legged intersection that is controlled by a stop sign on the eastbound (SE Ten Eyck Road) approach. Each approach consists of one lane for all movements and there are no marked crosswalks or other pedestrian infrastructure at the intersection.

The site will take access to SE Thomas road at the location of the existing driveway. The access is a three-legged intersection with each approach consisting of one lane for all movements. The intersection will be controlled with a stop sign on the southbound approach.

Figure 1 on page six shows the project study area and the location of the site within this area, as well as the lane configuration and traffic control devices at the study intersections.





Legend

(#) Study intersection

Stop sign

Figure 1

Bull Run Education Center
Vicinity and Study Intersections

N

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Site Trips

Trip Generation

To estimate the trips generated by proposed new uses, typically trip rates from the *Trip Generation Manual*[1] were used. However, given the unique nature of the proposed new uses, there is no land use in the manual that exactly matches the uses planned at the site. However, the applicant has run a number of similar programs throughout the state and thus has experience with identifying the travel characteristics of the participants. A list of programs and the projected attendances for each program is provided in the appendix. The trip generation for the site is projected based upon this data.

As indicated in the activity table, it is expected that the bulk of site trips will be generated on weekends, with up to 6 buses and 100 cars expected to drop off and pick up participants in the day and overnight programs offered. While it is exceedingly likely that the vehicles will arrive and depart over several hours (particularly since some cars will be driven by employees who will remain for the program), for analysis purposes it is assumed that all 100 cars and all 6 buses will both arrive at and depart the site during the peak hour. Thus, the analysis assumes that during the expected peak hour of the generator on Saturdays, there will be 212 total site trips, with half entering and half exiting.

As a reasonableness check, this trip generation is compared to that of a 115-acre County Park (land use code #412), which is a former use for the bulk of the site and the nearest land use in the *Trip Generation Manual* to the proposed new use. These calculations are provided in the appendix. The Saturday trip generation for this use is 1,396 total trips. Using the standard assumption that the peak hour trip generation will total approximately 10% of daily traffic, the expected Saturday peak hour trip generation would be 140 trips. Thus, the 212 site trips used in the analysis represents a reasonable upper-bound assumption for the trip generation of the site, and the actual impacts are likely to be less than quantified in this report.

---

[1] Institute of Transportation Engineers (ITE), *Trip Generation Manual, 9th Edition,* 2012.

Trip Distribution & Assignment

It is expected that the vast majority of site trips will arrive from and depart toward the south, in the direction of Sandy and Highway 26. This provides the quickest route to the developed areas in the vicinity of the site. Thus, the trip distribution assumes that 90% of site trips will arrive from and depart toward the east along SE Thomas Road, utilizing SE Ten Eyck Road to travel between the site and Sandy.

The remaining 10% of site trips will arrive from and depart toward the northwest in the direction of Troutdale and Wood Village, with roughly 5% of site trips utilizing SE Thomas Road to access SE Lusted Road west of the site, and the remaining 5% utilizing SE Thomas Road to access SE Ten Eyck Road to travel between the site and the developed areas to the northwest.

The expected distribution and assignment of site trips is shown in Figure 2 on page nine.

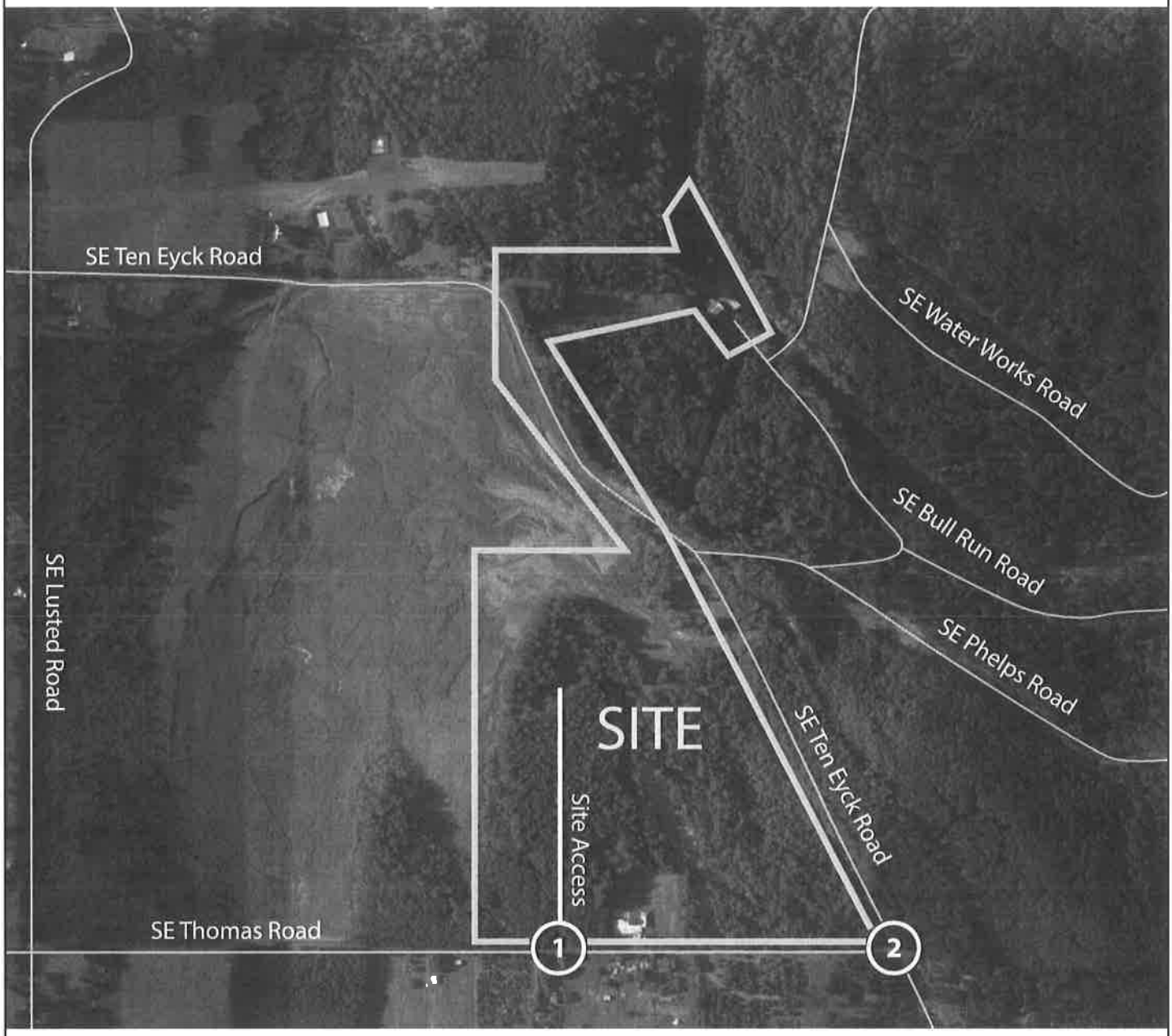

Figure 2

Trip Generation and Distribution
Saturday Peak Hour

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Operational Analysis

Existing and Background Traffic Volumes

To determine existing traffic volumes at the study intersections, traffic counts were conducted at the intersections of SE Ten Eyck Road and Thomas Roads on Saturday, May 31, 2014 from 12:00 to 4:00 PM. The peak hour was found to occur from 3:00 to 4:00 PM. Based on these traffic counts, volumes at the site of the proposed access along SE Thomas Road were inferred. These existing volumes are shown in Figure 3 on page 11. The raw data is provided in the technical appendix.

To gauge the effect on the proposed development relative to a *no-build* scenario, background volumes were calculated based upon an expected four year build-out period and assuming 2% year-over-year growth in traffic volumes. These background traffic volumes are summarized in Figure 4 on page 12. The trips generated by the proposed project summarized in Figure 2 are added to these background volumes; traffic volumes in this scenario are summarized in Figure 5 on page 13.

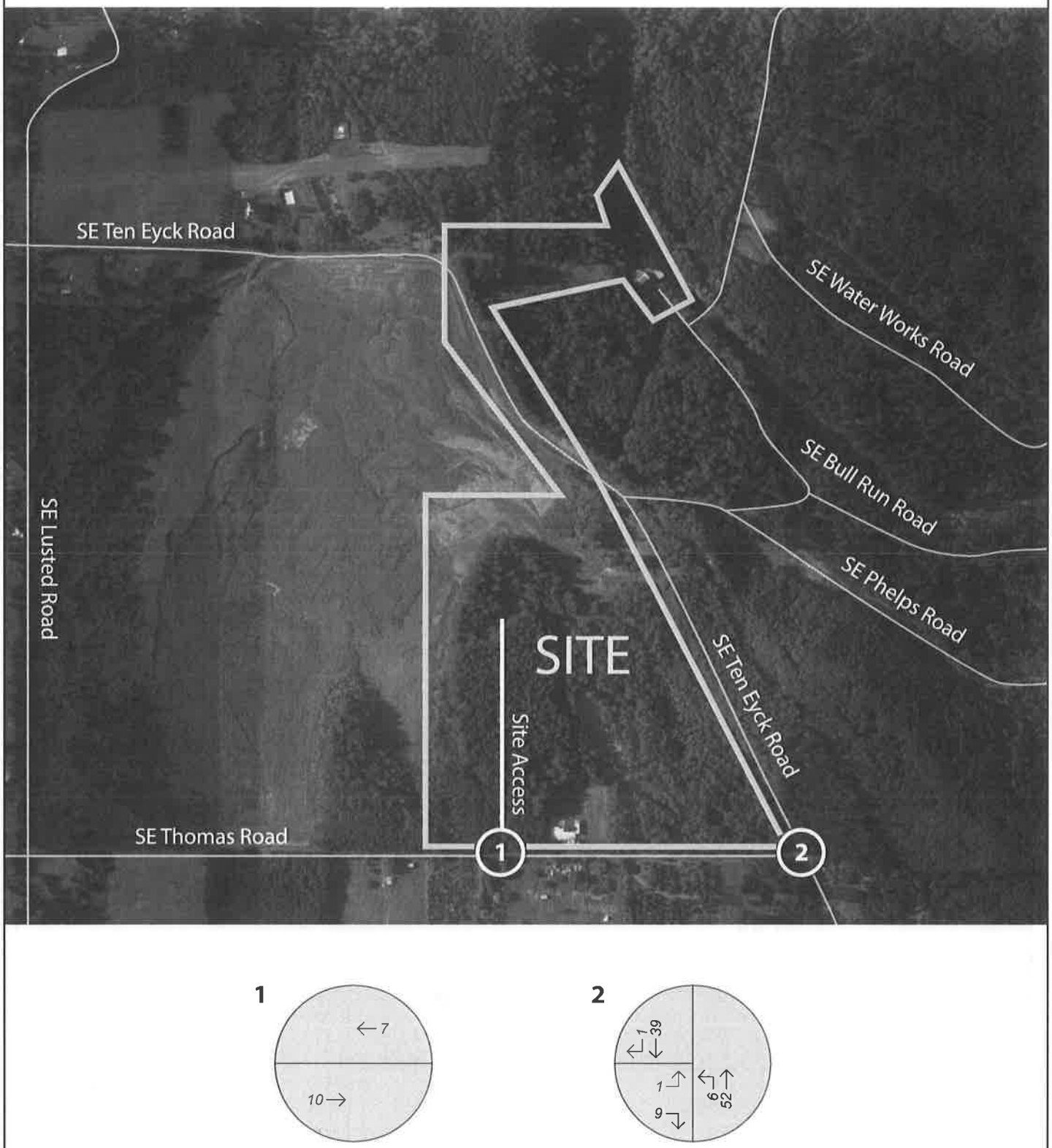


Figure 3

Traffic Volumes—Existing Conditions
Saturday Peak Hour

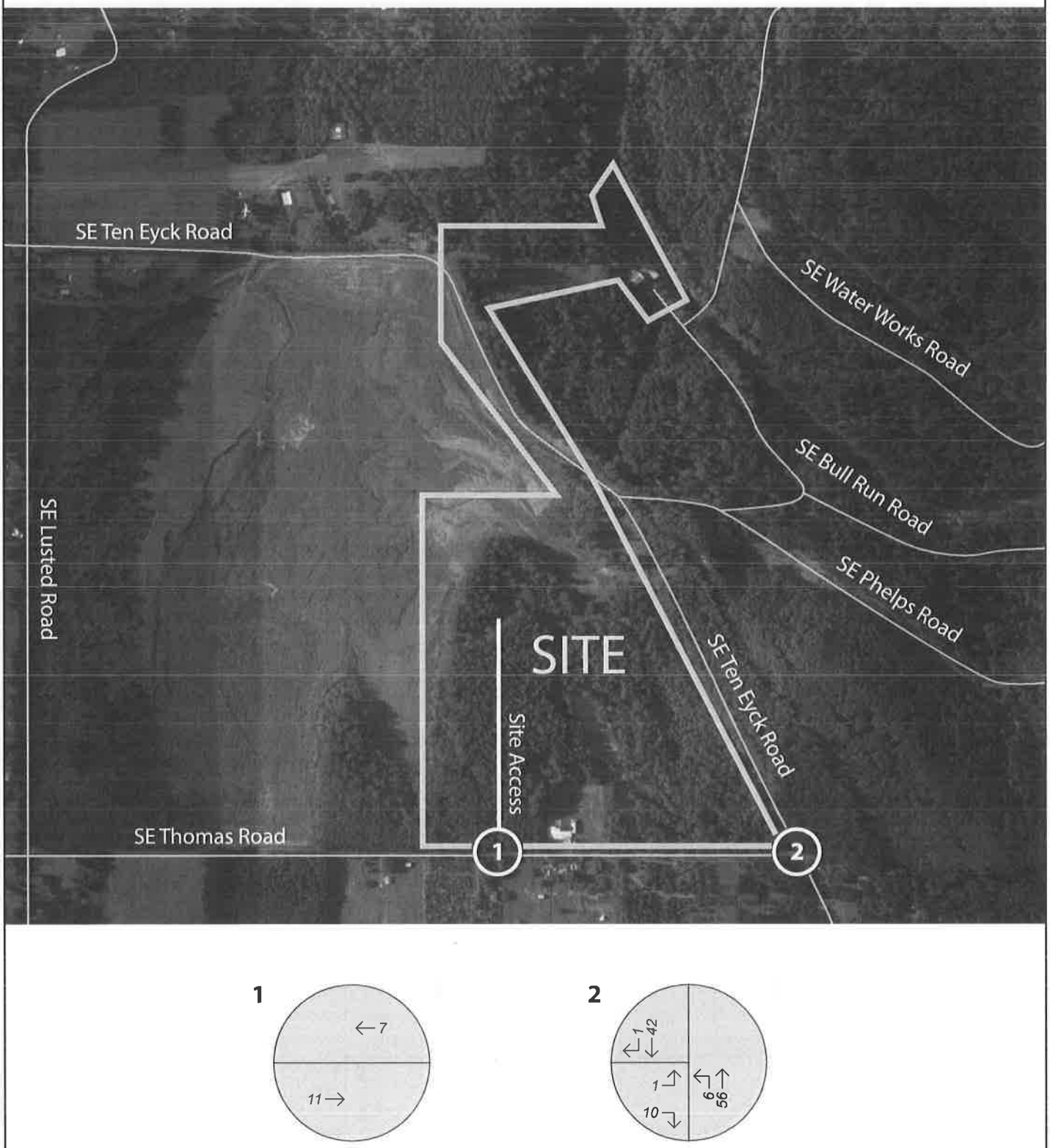
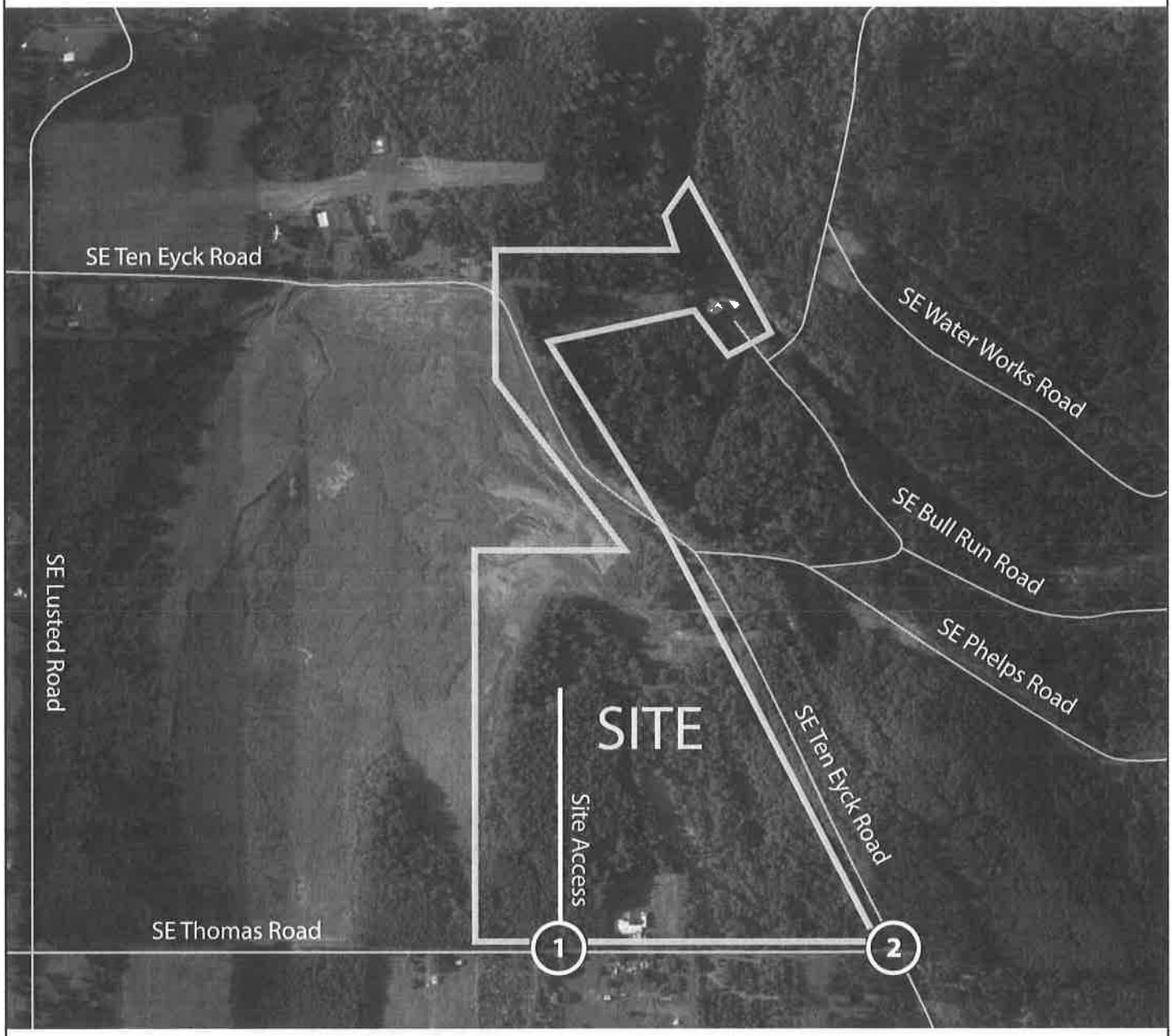


Figure 4

Traffic Volumes—2018 Background
Saturday Peak Hour

N



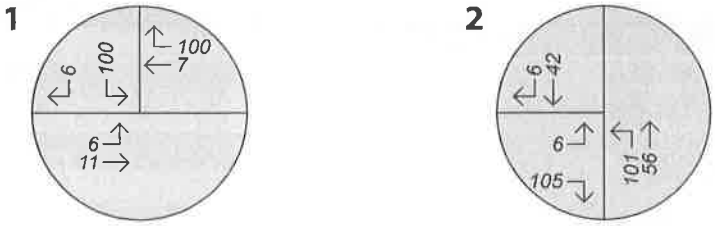


Figure 5

Traffic Volumes—2018 Background + Site Trips
Saturday Peak Hour

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Capacity Analysis

To determine the capacity and level-of-service at the study intersections, a capacity analysis was conducted. The analysis was conducted using the intersection analysis methodologies in the *Highway Capacity Manual (HCM)*[2]. Level-of-service (LOS) can range from A, which indicates little or no delay, to F, which indicates a significant amount of congestion and delay. Clackamas County's operational Standards require unsignalized intersections in rural areas to operate at LOS E or better.

In order to gauge the amount of capacity remaining at the intersection, the volume-to-capacity ratio (v/c) is also calculated and reported. A ratio of less than 1.0 indicates that the intersection is operating within capacity. The County's operational standards require unsignalized intersections in rural areas to operate with a v/c ratio of 0.75 or lower.

The results of the capacity analysis show that the intersection of SE Ten Eyck and Thomas Roads is currently operating at LOS A with a v/c ratio of 0.03 during the Saturday peak hour. Following the background growth and the addition of new trips from the proposed project, the intersection is projected to continue to operate at LOS A with a v/c ratio of 0.15. This is within the Clackamas County's operational standards.

Following the full build-out of the site as planned, the proposed site access along SE Thomas Road is projected to operate at LOS A with a v/c ratio of 0.16. This is again within Clackamas County's operational standards.

Table 1 shows a summary of the capacity and level-of-service calculations at the study intersections under the three scenarios outlined previously: 1) Existing conditions; 2) Background conditions, and; 3) Background conditions with site trips added.

Detailed capacity analysis results are provided in the appendix.

Table 1: Intersection capacity and level-of-service summary

	Saturday Peak Hour		
	LOS	Delay (s)	V/C Ratio
Ten Eyck Rd. at Thomas Rd.			
Existing	A	9	0.03
Background	A	9	0.03
Background + Site	A	9	0.15
Thomas Rd. at Site Access			
Background + Site	A	10	0.16

[2] Transportation Research Board, *Highway Capacity Manual,* 5th Edition, 2010.

1e

Parking Analysis

As described previously regarding trip generation, given the unique nature of the proposed land uses at the site, it is difficult to predict with exactitude the parking generation for the site. Based on the applicants experience with similar programs that have taken place throughout the region, it is expected that as many as 100 cars and six buses will be utilized to support the typical activities at the site during the peak periods.

The parking that will be provided at the site is planned to exceed the expected demand. The proposed site plan includes two parking areas—a main parking area with 80 striped parking spaces, and an overflow parking area that has space for 96 vehicles.

Since the vehicular demand will consist of staff members as well as parents picking up and dropping off participants in the programs, it is expected that at any given time actual demand for parking will be significantly less than the total number of vehicles expected at the site. However, enough parking exists to accommodate all vehicles even in the extremely rare circumstance that all vehicles were to need on-site parking at the same time. It is expected that for typical site operations, the main lot will accommodate most if not all demand. Together with the overflow lot, ample parking will be available to accommodate all planned uses of the site.

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Safety Analysis

Crash History

Using data obtained from ODOT's Crash Analysis and Reporting Unit, a review of the most recent available five years of crash history (2008-2012) at the study intersection of SE Ten Eyck and Thomas Roads was performed. Additionally, crash records were examined for the following segments:

- SE Lusted Road between SE Thomas Road and SE Ten Eyck Road
- SE Ten Eyck Road between SE Lusted Road and SE Thomas Road
- SE Bull Run Road between SE Ten Eyck Road and SE Water Works Road
- SE Thomas Road (entire length)

The intersection of SE Ten Eyck and SE Thomas Roads had no reported crashes during the analysis period.

The segment of Lusted Road examined had one reported crash. It was a single-vehicle fixed object crash that resulted in property damage only, occurring at the intersection of SE Lusted Road at SE Ten Eyck Road when a driver swerved to avoid a *phantom vehicle,* which is a vehicle that is not directly involved in a crash but partially responsible for causing it.

The segment of Ten Eyck Road had two reported crashes, both of which were single-vehicle fixed object crashes. The first occurred a short distance to the northwest of the intersection with Bull Run Road, and the second occurred a short distance to the south of this intersection. Both resulted in a "possible injury – complaint of pain," and were caused in part due to diving too fast for conditions. One occurred in wet weather and the other occurred in icy conditions.

The segment of Bull Run Road had two reported crashes. The first was a sideswipe crash involving two opposing vehicles that was caused when one of the drivers failed to maintain a lane due to excessive speed. The second was a rear-end crash that occurred in icy conditions and was caused by a driver following too closely and driving too fast for conditions. Both resulted in property damage only.

No crashes were reported on SE Thomas Road during the analysis period.

The crash histories are not indicative of any potential safety deficiencies with the roadways in the vicinity of the site. The crash records are provided in the appendix.

Left-Turn Lane Warrants

Left turn lane warrants were examined at the intersection of SE Ten Eyck and SE Thomas Roads to determine whether a left-turn lane is currently necessary or will be necessary following the planned development of the site. The warrant analysis was conducted during the Saturday afternoon peak hour using the methodology outlined by NCHRP Report #457[3].

It was found that a left-turn is not presently warranted and will not be warranted following development of the site as planned. Accordingly, a left-turn lane is not recommended. Detailed calculations for the left turn lane warrant evaluation are provided in the appendix to this report.

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[3] Transportation Research Board, *NCHRP Report #457: Engineering Study Guide for Evaluating Intersection Improvements, 2001.*

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Clackamas County Concurrency Requirement

Clackamas County's Zoning and Development Ordinance Section 1007.09 specifies the County's concurrency requirement—"that transportation infrastructure is provided concurrently with the new development it is required to serve or, within a reasonable period of time following the approval of new development." Subsection C of this code indicates that, "Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."

As described in the Capacity Analysis, volume-to-capacity ratio and level-of-service were calculated in accordance with Clackamas County's *Roadway Standards*. This analysis found that the capacity of the transportation facilities is currently adequate to support the proposed development as required by this section, and no mitigations are therefore required or recommended.

Conclusions

The proposed development of the Bull Run Education Center on tax lot 102 in the rural area a short distance to the north of Sandy, Oregon is expected to generate up to 212 new trips during its peak demand period on Saturday afternoons. The transportation system in the vicinity of the site has ample capacity to support these new trips, and Clackamas County's concurrency requirement is met for the proposed development.

The proposed parking area is adequate to meet demand even under worst-case assumptions.

No safety issues currently exist at the study intersections or along segments in the vicinity of the site. Accordingly no mitigations or needed or recommended to support the development.

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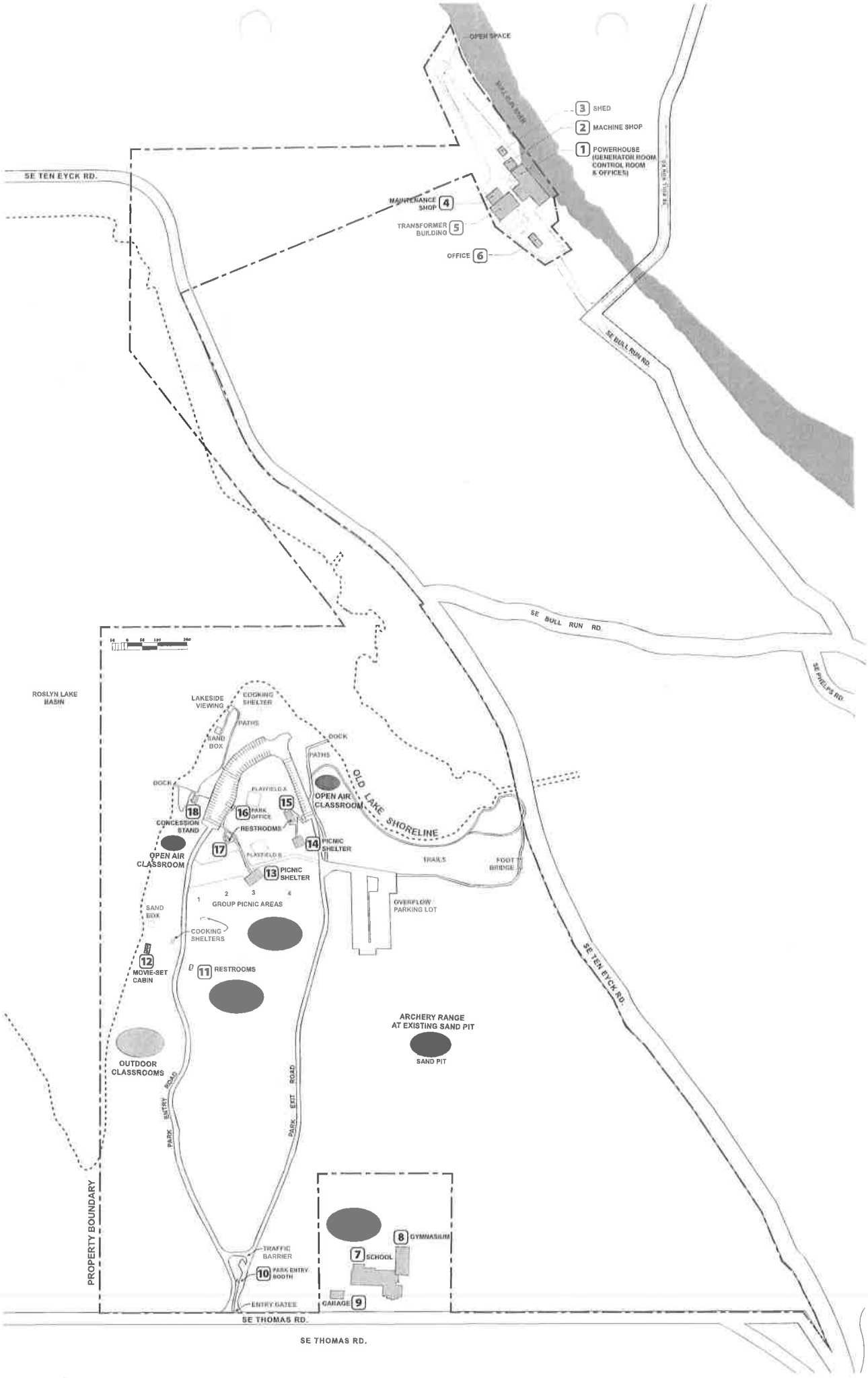
Appendix


OPEN SPACE
3 SHED
2 MACHINE SHOP
1 POWERHOUSE (GENERATOR ROOM CONTROL ROOM & OFFICES)
SE TEN EYCK RD.
MAINTENANCE SHOP 4
TRANSFORMER BUILDING 5
OFFICE 6
SE BULL RUN RD.
SE BULL RUN RD.
SE PHELPS RD.
ROSLYN LAKE BASIN
LAKESIDE VIEWING
COOKING SHELTER
PATHS
SAND BOX
DOCK
PATHS
DOCK
PLAYFIELD A
OPEN AIR CLASSROOM
OLD LAKE SHORELINE
18
16 PARK OFFICE
15
CONCESSION STAND
RESTROOMS
14 PICNIC SHELTER
17
OPEN AIR CLASSROOM
PLAYFIELD B
TRAILS
FOOT BRIDGE
13 PICNIC SHELTER
1 2 3 4
GROUP PICNIC AREAS
OVERFLOW PARKING LOT
SAND BOX
COOKING SHELTERS
12 MOVIE-SET CABIN
11 RESTROOMS
SE TEN EYCK RD.
ARCHERY RANGE AT EXISTING SAND PIT
SAND PIT
OUTDOOR CLASSROOMS
PARK ENTRY ROAD
PARK EXIT ROAD
PROPERTY BOUNDARY
8 GYMNASIUM
7 SCHOOL
TRAFFIC BARRIER
10 PARK ENTRY BOOTH
GARAGE 9
ENTRY GATES
SE THOMAS RD.
SE THOMAS RD.

SE TEN MILE RD.
SE TALLY RD.
SE THOMAS RD.
PROPERTY BOUNDARY
OPEN AIR CLASSROOM
OPEN AIR CLASSROOM
OUTDOOR CLASSROOMS
ARCHERY RANGE
OFFICE
SCHOOL

Programs	Days and Times	Attendance	Transportation
Transportation Provided			
Day Program Group Visits	9:00 am to 3:00 pm, Peak Use June-August	20 to 750 participants	Bus Only: up to 15 buses
Residential Programs	9:00 am first day to 4:00 pm final day, Peak use March-November	20 to 300 participants	Bus Only: up to 6 buses
Participant Transported			
Day Programs	Sat/Sun 8:00p -5:00p	5-325 particpants	Carpool and bus: up to 6 buses, up to 100 cars
Residential Programs	Overnights, typically 2-3 days 5:00 pm -3:00 pm	5-200 participants	Carpool and bus: up to 5 buses, up to 75 cars
Special Events			
Public Events	2-6 times per year, single day, 10:00 am to sundown	50-1500 participants	Bus and carpool, maximum 200 cars
Private Events	1-4 times per year, single day, 10:00 am to Sundown	50-1500 participants	Bus and carpool, maximum 200 cars
Staffing			
Staff for all programs		1:7 ratio, 3-110	Bus and Carpool
Staff for events		1:15 ration, 3-110	Bus and Carpool

1e

TRIP GENERATION CALCULATIONS

Land Use: County Park
Land Use Code: 412
Variable: Acres
Variable Value: 115

AM PEAK HOUR

Trip Rate: 0.01

	Enter	Exit	Total
Directional Distribution	80%	20%	
Trip Ends	**1**	**0**	**1**

PM PEAK HOUR

Trip Rate: 0.06

	Enter	Exit	Total
Directional Distribution	41%	59%	
Trip Ends	**3**	**4**	**7**

WEEKDAY

Trip Rate: 2.28

	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**131**	**131**	**262**

SATURDAY

Trip Rate: 12.14

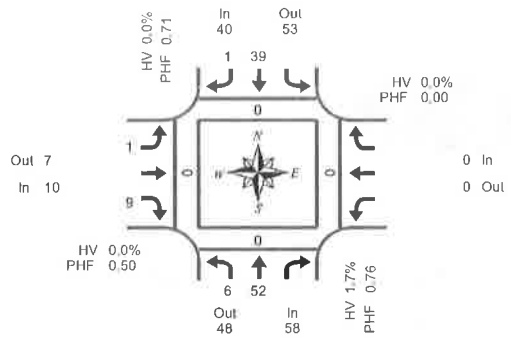
	Enter	Exit	Total
Directional Distribution	50%	50%	
Trip Ends	**698**	**698**	**1,396**

Source: TRIP GENERATION, Eighth Edition

Total Vehicle Summary

All Traffic Data Services Inc.

Clay Carney
(503) 833-2740



SE Ten Eyck Rd & SE Thomas Rd

Saturday, May 31, 2014
2:00 PM to 4:00 PM

5-Minute Interval Summary
2:00 PM to 4:00 PM

Interval Start Time	Northbound SE Ten Eyck Rd L	T	Bikes	Southbound SE Ten Eyck Rd T	R	Bikes	Eastbound SE Thomas Rd L	R	Bikes	Westbound SE Thomas Rd Bikes	Interval Total	Pedestrians Crosswalk North	South	East	West
2:00 PM	1	2	1	5	0	0	0	3	0	0	11	0	0	0	0
2:05 PM	1	3	0	8	0	0	0	0	0	0	12	0	0	0	0
2:10 PM	0	4	0	4	0	0	0	3	0	0	11	0	0	0	0
2:15 PM	0	5	0	3	0	0	0	2	0	0	10	0	0	0	0
2:20 PM	0	0	0	2	0	0	0	0	0	0	2	0	0	0	0
2:25 PM	0	2	0	3	0	0	0	1	0	0	6	0	0	0	0
2:30 PM	0	4	0	0	0	0	0	0	0	0	4	0	0	0	0
2:35 PM	1	3	0	3	0	0	0	1	0	0	8	0	0	0	0
2:40 PM	0	2	2	3	0	0	0	0	0	0	5	0	0	0	0
2:45 PM	2	4	0	1	0	0	0	2	0	0	9	0	0	0	0
2:50 PM	0	5	1	4	0	0	0	0	0	0	9	0	0	0	0
2:55 PM	0	6	0	0	0	0	0	0	0	0	6	0	0	0	0
3:00 PM	0	3	1	4	0	1	0	0	1	0	7	0	0	0	0
3:05 PM	0	4	0	1	0	0	0	1	0	0	6	0	0	0	0
3:10 PM	1	6	0	3	0	1	0	1	0	0	11	0	0	0	0
3:15 PM	0	4	0	3	0	0	0	0	0	0	7	0	0	0	0
3:20 PM	0	6	0	3	0	0	0	1	0	0	10	0	0	0	0
3:25 PM	0	2	0	3	1	0	0	0	0	0	6	0	0	0	0
3:30 PM	0	2	0	2	0	1	1	0	0	0	5	0	0	0	0
3:35 PM	2	4	0	5	0	0	0	1	0	0	12	0	0	0	0
3:40 PM	1	4	0	7	0	0	0	1	0	0	13	0	0	0	0
3:45 PM	1	5	0	1	0	0	0	3	0	0	10	0	0	0	0
3:50 PM	1	3	0	3	0	0	0	0	0	0	7	0	0	0	0
3:55 PM	0	9	0	4	0	0	0	1	0	0	14	0	0	0	0
Total Survey	11	92	5	75	1	3	1	21	1	0	201	0	0	0	0

15-Minute Interval Summary
2:00 PM to 4:00 PM

Interval Start Time	Northbound SE Ten Eyck Rd L	T	Bikes	Southbound SE Ten Eyck Rd T	R	Bikes	Eastbound SE Thomas Rd L	R	Bikes	Westbound SE Thomas Rd Bikes	Interval Total	Pedestrians Crosswalk North	South	East	West
2:00 PM	2	9	1	17	0	0	0	6	0	0	34	0	0	0	0
2:15 PM	0	7	0	8	0	0	0	3	0	0	18	0	0	0	0
2:30 PM	1	9	2	6	0	0	0	1	0	0	17	0	0	0	0
2:45 PM	2	15	1	5	0	0	0	2	0	0	24	0	0	0	0
3:00 PM	1	13	1	8	0	2	0	2	1	0	24	0	0	0	0
3:15 PM	0	12	0	9	1	0	0	1	0	0	23	0	0	0	0
3:30 PM	3	10	0	14	0	1	1	2	0	0	30	0	0	0	0
3:45 PM	2	17	0	8	0	0	0	4	0	0	31	0	0	0	0
Total Survey	11	92	5	75	1	3	1	21	1	0	201	0	0	0	0

Peak Hour Summary
3:00 PM to 4:00 PM

By Approach	Northbound SE Ten Eyck Rd In	Out	Total	Bikes	Southbound SE Ten Eyck Rd In	Out	Total	Bikes	Eastbound SE Thomas Rd In	Out	Total	Bikes	Westbound SE Thomas Rd In	Out	Total	Bikes	Total
Volume	58	48	106	1	40	53	93	3	10	7	17	1	0	0	0	0	108
%HV	1.7%				0.0%				0.0%				0.0%				0.9%
PHF	0.76				0.71				0.50				0.00				0.77

Pedestrians Crosswalk North	South	East	West
0	0	0	0

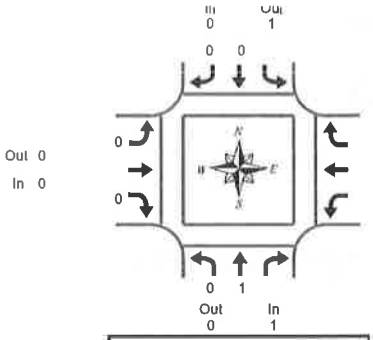
By Movement	Northbound SE Ten Eyck Rd L	T		Total	Southbound SE Ten Eyck Rd T	R	Total	Eastbound SE Thomas Rd L		R	Total	Westbound SE Thomas Rd			Total	Total
Volume	6	52		58	39	1	40	1		9	10				0	108
%HV	0.0%	1.9%	NA	1.7%	NA 0.0%	0.0%	0.0%	0.0%	NA	0.0%	0.0%	NA	NA	NA	0.0%	0.9%
PHF	0.38	0.76		0.76	0.70	0.25	0.71	0.25		0.45	0.50				0.00	0.77

Rolling Hour Summary
2:00 PM to 4:00 PM

Interval Start Time	Northbound SE Ten Eyck Rd L	T	Bikes	Southbound SE Ten Eyck Rd T	R	Bikes	Eastbound SE Thomas Rd L	R	Bikes	Westbound SE Thomas Rd Bikes	Interval Total	Pedestrians Crosswalk North	South	East	West
2:00 PM	5	40	4	36	0	0	0	12	0	0	93	0	0	0	0
2:15 PM	4	44	4	27	0	2	0	8	1	0	83	0	0	0	0
2:30 PM	4	49	4	28	1	2	0	6	1	0	88	0	0	0	0
2:45 PM	6	50	2	36	1	3	1	7	1	0	101	0	0	0	0
3:00 PM	6	52	1	39	1	3	1	9	1	0	108	0	0	0	0

Heavy Vehicle Summary

All Traffic Data Services Inc.
Clay Carney
(503) 833-2740



Peak Hour Summary
3:00 PM to 4:00 PM

SE Ten Eyck Rd & SE Thomas Rd

Saturday, May 31, 2014
2:00 PM to 4:00 PM

Heavy Vehicle 5-Minute Interval Summary
2:00 PM to 4:00 PM

Interval Start Time	Northbound SE Ten Eyck Rd			Southbound SE Ten Eyck Rd			Eastbound SE Thomas Rd			Westbound SE Thomas Rd			Interval Total
	L	T	Total	T	R	Total	L	R	Total			Total	
2:00 PM	0	0	0	0	0	0	0	0	0			0	0
2:05 PM	0	0	0	0	0	0	0	0	0			0	0
2:10 PM	0	0	0	0	0	0	0	0	0			0	0
2:15 PM	0	0	0	0	0	0	0	0	0			0	0
2:20 PM	0	0	0	0	0	0	0	0	0			0	0
2:25 PM	0	0	0	0	0	0	0	0	0			0	0
2:30 PM	0	0	0	0	0	0	0	0	0			0	0
2:35 PM	0	0	0	0	0	0	0	0	0			0	0
2:40 PM	0	0	0	0	0	0	0	0	0			0	0
2:45 PM	0	0	0	0	0	0	0	0	0			0	0
2:50 PM	0	0	0	0	0	0	0	0	0			0	0
2:55 PM	0	0	0	0	0	0	0	0	0			0	0
3:00 PM	0	1	1	0	0	0	0	0	0			0	1
3:05 PM	0	0	0	0	0	0	0	0	0			0	0
3:10 PM	0	0	0	0	0	0	0	0	0			0	0
3:15 PM	0	0	0	0	0	0	0	0	0			0	0
3:20 PM	0	0	0	0	0	0	0	0	0			0	0
3:25 PM	0	0	0	0	0	0	0	0	0			0	0
3:30 PM	0	0	0	0	0	0	0	0	0			0	0
3:35 PM	0	0	0	0	0	0	0	0	0			0	0
3:40 PM	0	0	0	0	0	0	0	0	0			0	0
3:45 PM	0	0	0	0	0	0	0	0	0			0	0
3:50 PM	0	0	0	0	0	0	0	0	0			0	0
3:55 PM	0	0	0	0	0	0	0	0	0			0	0
Total Survey	0	1	1	0	0	0	0	0	0			0	1

Heavy Vehicle 15-Minute Interval Summary
2:00 PM to 4:00 PM

Interval Start Time	Northbound SE Ten Eyck Rd			Southbound SE Ten Eyck Rd			Eastbound SE Thomas Rd			Westbound SE Thomas Rd			Interval Total
	L	T	Total	T	R	Total	L	R	Total			Total	
2:00 PM	0	0	0	0	0	0	0	0	0			0	0
2:15 PM	0	0	0	0	0	0	0	0	0			0	0
2:30 PM	0	0	0	0	0	0	0	0	0			0	0
2:45 PM	0	0	0	0	0	0	0	0	0			0	0
3:00 PM	0	1	1	0	0	0	0	0	0			0	1
3:15 PM	0	0	0	0	0	0	0	0	0			0	0
3:30 PM	0	0	0	0	0	0	0	0	0			0	0
3:45 PM	0	0	0	0	0	0	0	0	0			0	0
Total Survey	0	1	1	0	0	0	0	0	0			0	1

Heavy Vehicle Peak Hour Summary
3:00 PM to 4:00 PM

By Approach	Northbound SE Ten Eyck Rd			Southbound SE Ten Eyck Rd			Eastbound SE Thomas Rd			Westbound SE Thomas Rd			Total
	In	Out	Total	In	Out	Total	In	Out	Total	In	Out	Total	
Volume	1	0	1	0	1	1	0	0	0	0	0	0	1
PHF	0.25			0.00			0.00			0.00			0.25

By Movement	Northbound SE Ten Eyck Rd			Southbound SE Ten Eyck Rd			Eastbound SE Thomas Rd			Westbound SE Thomas Rd			Total
	L	T	Total	T	R	Total	L	R	Total			Total	
Volume	0	1	1	0	0	0	0	0	0			0	1
PHF	0.00	0.25	0.25	0.00	0.00	0.00	0.00	0.00	0.00			0.00	0.25

Heavy Vehicle Rolling Hour Summary
2:00 PM to 4:00 PM

Interval Start Time	Northbound SE Ten Eyck Rd			Southbound SE Ten Eyck Rd			Eastbound SE Thomas Rd			Westbound SE Thomas Rd			Interval Total
	L	T	Total	T	R	Total	L	R	Total			Total	
2:00 PM	0	0	0	0	0	0	0	0	0			0	0
2:15 PM	0	1	1	0	0	0	0	0	0			0	1
2:30 PM	0	1	1	0	0	0	0	0	0			0	1
2:45 PM	0	1	1	0	0	0	0	0	0			0	1
3:00 PM	0	1	1	0	0	0	0	0	0			0	1

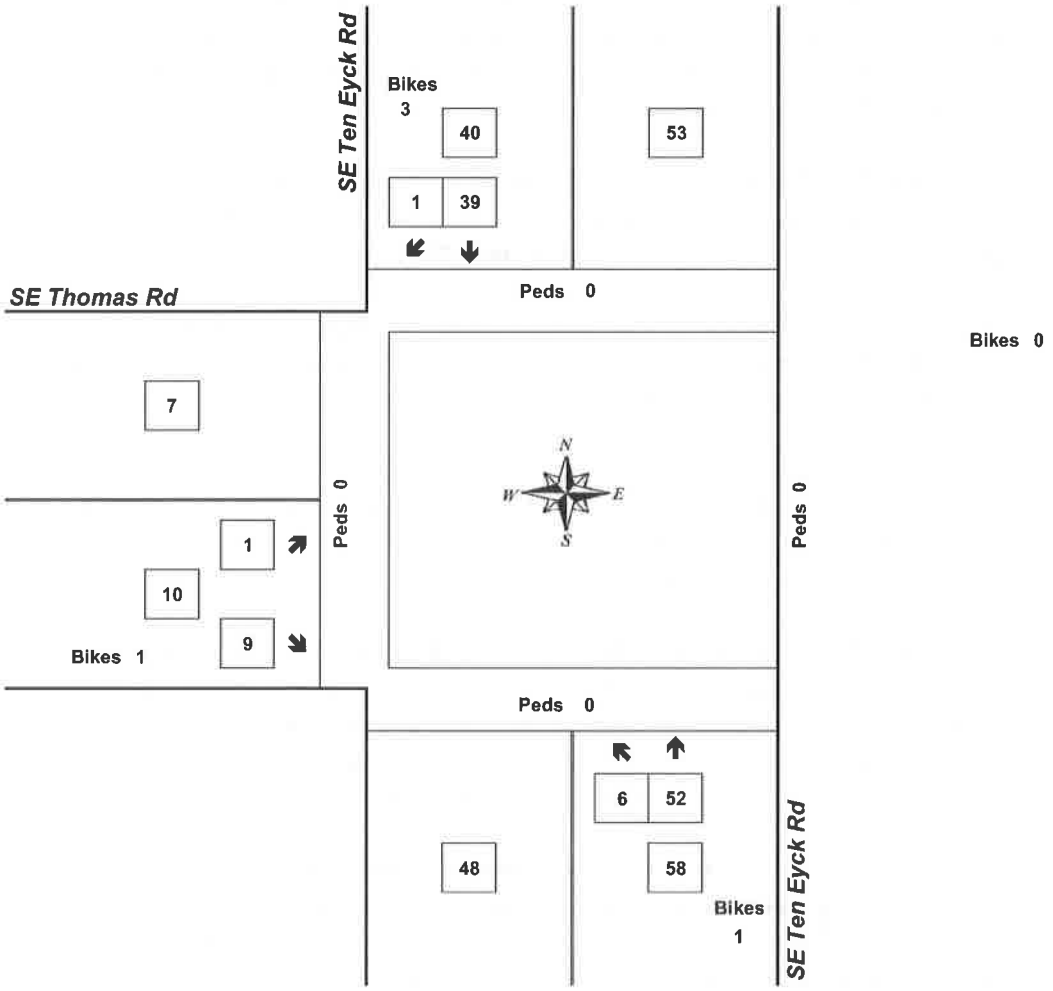
Peak Hour Summary

All Traffic Data Services Inc

Clay Carney
(503) 833-2740

SE Ten Eyck Rd & SE Thomas Rd

3:00 PM to 4:00 PM
Saturday, May 31, 2014



Approach	PHF	HV%	Volume
EB	0.50	0.0%	10
WB	0.00	0.0%	0
NB	0.76	1.7%	58
SB	0.71	0.0%	40
Intersection	0.77	0.9%	108

Count Period: 2:00 PM to 4:00 PM

1e

LEVEL OF SERVICE

Level of service is used to describe the quality of traffic flow. Levels of service A to C are considered good, and rural roads are usually designed for level of service C. Urban streets and signalized intersections are typically designed for level of service D. Level of service E is considered to be the limit of acceptable delay. For unsignalized intersections, level of service E is generally considered acceptable. Here is a more complete description of levels of service:

Level of service A: Very low delay at intersections, with all traffic signal cycles clearing and no vehicles waiting through more than one signal cycle. On highways, low volume and high speeds, with speeds not restricted by other vehicles.

Level of service B: Operating speeds beginning to be affected by other traffic; short traffic delays at intersections. Higher average intersection delay than for level of service A resulting from more vehicles stopping.

Level of service C: Operating speeds and maneuverability closely controlled by other traffic; higher delays at intersections than for level of service B due to a significant number of vehicles stopping. Not all signal cycles clear the waiting vehicles. This is the recommended design standard for rural highways.

Level of service D: Tolerable operating speeds; long traffic delays occur at intersections. The influence of congestion is noticeable. At traffic signals many vehicles stop, and the proportion of vehicles not stopping declines. The number of signal cycle failures, for which vehicles must wait through more than one signal cycle, are noticeable. This is typically the design level for urban signalized intersections.

Level of service E: Restricted speeds, very long traffic delays at traffic signals, and traffic volumes near capacity. Flow is unstable so that any interruption, no matter how minor, will cause queues to form and service to deteriorate to level of service F. Traffic signal cycle failures are frequent occurrences. For unsignalized intersections, level of service E or better is generally considered acceptable.

Level of service F: Extreme delays, resulting in long queues which may interfere with other traffic movements. There may be stoppages of long duration, and speeds may drop to zero. There may be frequent signal cycle failures. Level of service F will typically result when vehicle arrival rates are greater than capacity. It is considered unacceptable by most drivers.

1e

LEVEL OF SERVICE CRITERIA FOR SIGNALIZED INTERSECTIONS

LEVEL OF SERVICE	CONTROL DELAY PER VEHICLE (Seconds)
A	<10
B	10-20
C	20-35
D	35-55
E	55-80
F	>80

LEVEL OF SERVICE CRITERIA FOR UNSIGNALIZED INTERSECTIONS

LEVEL OF SERVICE	CONTROL DELAY PER VEHICLE (Seconds)
A	<10
B	10-15
C	15-25
D	25-35
E	35-50
F	>50

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	1	9	6	52	39	1
Peak Hour Factor	0.77	0.77	0.77	0.77	0.77	0.77
Hourly flow rate (vph)	1	12	8	68	51	1
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	134	51	52			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	134	51	52			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	100	99	99			
cM capacity (veh/h)	855	1017	1554			

Direction, Lane #	EB 1	NB 1	SB 1
Volume Total	13	75	52
Volume Left	1	8	0
Volume Right	12	0	1
cSH	998	1554	1700
Volume to Capacity	0.01	0.01	0.03
Queue Length 95th (ft)	1	0	0
Control Delay (s)	8.7	0.8	0.0
Lane LOS	A	A	
Approach Delay (s)	8.7	0.8	0.0
Approach LOS	A		

Intersection Summary			
Average Delay	1.2		
Intersection Capacity Utilization	17.8%	ICU Level of Service	A
Analysis Period (min)	15		

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	1	10	6	52	42	1
Peak Hour Factor	0.77	0.77	0.77	0.77	0.77	0.77
Hourly flow rate (vph)	1	13	8	68	55	1
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	138	55	56			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	138	55	56			
tC, single (s)	6.4	6.2	4.1			
tC, 2 stage (s)						
tF (s)	3.5	3.3	2.2			
p0 queue free %	100	99	99			
cM capacity (veh/h)	851	1012	1549			

Direction, Lane #	EB 1	NB 1	SB 1
Volume Total	14	75	56
Volume Left	1	8	0
Volume Right	13	0	1
cSH	994	1549	1700
Volume to Capacity	0.01	0.01	0.03
Queue Length 95th (ft)	1	0	0
Control Delay (s)	8.7	0.8	0.0
Lane LOS	A	A	
Approach Delay (s)	8.7	0.8	0.0
Approach LOS	A		

Intersection Summary			
Average Delay	1.3		
Intersection Capacity Utilization	17.8%	ICU Level of Service	A
Analysis Period (min)	15		

Movement	EBL	EBR	NBL	NBT	SBT	SBR
Lane Configurations						
Sign Control	Stop			Free	Free	
Grade	0%			0%	0%	
Volume (veh/h)	6	105	101	52	42	6
Peak Hour Factor	0.77	0.77	0.77	0.77	0.77	0.77
Hourly flow rate (vph)	8	136	131	68	55	8
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type	None					
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	388	58	62			
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	388	58	62			
tC, single (s)	6.5	6.3	4.2			
tC, 2 stage (s)						
tF (s)	3.6	3.4	2.3			
p0 queue free %	99	86	91			
cM capacity (veh/h)	555	996	1515			

Direction, Lane #	EB 1	NB 1	SB 1
Volume Total	144	199	62
Volume Left	8	131	0
Volume Right	136	0	8
cSH	955	1515	1700
Volume to Capacity	0.15	0.09	0.04
Queue Length 95th (ft)	13	7	0
Control Delay (s)	9.4	5.3	0.0
Lane LOS	A	A	
Approach Delay (s)	9.4	5.3	0.0
Approach LOS	A		

Intersection Summary			
Average Delay	5.9		
Intersection Capacity Utilization	28.5%	ICU Level of Service	A
Analysis Period (min)	15		

Movement	EBL	EBT	WBT	WBR	SBL	SBR
Lane Configurations						
Sign Control		Free	Free		Stop	
Grade		0%	0%		0%	
Volume (veh/h)	6	11	7	100	100	6
Peak Hour Factor	0.77	0.77	0.77	0.77	0.77	0.77
Hourly flow rate (vph)	8	14	9	130	130	8
Pedestrians						
Lane Width (ft)						
Walking Speed (ft/s)						
Percent Blockage						
Right turn flare (veh)						
Median type					None	
Median storage veh)						
Upstream signal (ft)						
pX, platoon unblocked						
vC, conflicting volume	139				104	74
vC1, stage 1 conf vol						
vC2, stage 2 conf vol						
vCu, unblocked vol	139				104	74
tC, single (s)	4.2				6.5	6.3
tC, 2 stage (s)						
tF (s)	2.3				3.6	3.4
p0 queue free %	99				85	99
cM capacity (veh/h)	1420				880	977

Direction, Lane #	EB 1	WB 1	SB 1
Volume Total	22	139	138
Volume Left	8	0	130
Volume Right	0	130	8
cSH	1420	1700	885
Volume to Capacity	0.01	0.08	0.16
Queue Length 95th (ft)	0	0	14
Control Delay (s)	2.7	0.0	9.8
Lane LOS	A		A
Approach Delay (s)	2.7	0.0	9.8
Approach LOS			A

Intersection Summary			
Average Delay	4.7		
Intersection Capacity Utilization	19.1%	ICU Level of Service	A
Analysis Period (min)	15		

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE LUSTED RD-OLD 25001, MP 0 to 0.3, 01/01/2008 to 12/31/2012

Total crash records: 1

SER# / INVEST	S P E D	A L C	R U S	S C H	W O R N	DATE / DAY / TIME	MILEPNT / DIST FROM / INTERSECT	COUNTY ROADS / FIRST STREET / SECOND STREET	RD CHAR / DIRECT / LOCTN	INT-TYPE (MEDIAN) / LEGS / (PLANED)	INT-REL / TRAF- / CONTL	OFFRD / RNDBT / DRWWY	WTHR / SURF / LIGHT	CRASH / COLL / SVRTY	V#	SPCL USE / TRLR QTY / OWNER / TYPE	MOVE / FROM / TO	P#	PRTC / TYPE	INJ / SVRTY	A G E	S X	LICNS / REG	PED / LOC	TRNSP	ACT	EVENT	CAUSE
01685	N	N			N	04/14/2012	0.00	SE LUSTED RD-OLD 25001	INTER	3-LEG	N	Y	CLD	FIX OBJ	01	NONE 0	STRGHT										079	26
NONE						SA			N		UNKNOWN	N	WET	FIX		PRVTE	S -N									007	079	00
						12A			05	D		N	DARK	PDO		PSNGR CAR		01	DRVR	NONE	20	M	OR-Y OR<25		081	000		26

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE TEN EYCK RD -25001, MP 0 to 100, 01/01/2008 to 12/31/2012

Total crash records: 1

SER# INVEST	SPEED	ALC	DRUG	SCHL	WRK	DATE DAY TIME	MILEPNT DIST FROM INTERSECT	COUNTY ROADS FIRST STREET SECOND STREET	RD CHAR DIRECT LOCTN	INT-TYPE (MEDIAN) LEGS (#LANES)	INT-REL TRAF-CONTL	OFFRD RNDBT DRWWY	WTHR SURF LIGHT	CRASH COLL ATRTY	V#	SPCL USE TRLR QTY OWNER TYPE	MOVE FROM TO	P#	PRTC TYPE	INJ SVRTY	AGE	SEX	LICNS REG	PED LOC	PERSON	ACT	EVENT	CAUSE
01270	Y	N	N			04/05/2012	0.65	SE TEN EYCK RD -25001	STRGHT		N	Y	RAIN	FIX OBJ	01	NONE 0	STRGHT										062	01
NO RPT						TH			UN	(NONE)	UNKNOWN	N	WET	FIX		PRVTE	W -E									000	062	00
						12A			07			N	DARK	INJ		PSNGR CAR		01	DRVR	INJC	53	F	OR-Y		047,080	017		01
										(02)													OR<25					

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

CDS380
01/22/2014

CLACKAMAS COUNTY

OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING
SE TEN EYCK RD -52002, MP 0 to 0.53, 01/01/2008 to 12/31/2012
Total crash records: 1

SER# INVEST	S P E D	A L C	R U S	S C 1	W O R E	DATE DAY TIME	MILEPNT DIST FROM INTERSECT	COUNTY ROADS FIRST STREET SECOND STREET	RD CHAR DIRECT LOCTN	INT-TYPE (MEDIAN) LEGS (HLANES)	INT-REL TRAF- CONTL	OFFRD RNDBT DRWWY	WTHR SURF LIGHT	CRASH COLL SVRTY	Y#	SPCL USE TRLR QTY OWNER TYPE	MOVE FROM TO	P#	PRTC TYPE	INJ SVRTY	A G E	S E X	LICNS RES	FED LOC	ERROR	ACT	EVENT	CAUSE
00982	Y	N	N			03/16/2012	0.23	SE TEN EYCK RD -52002	STRGHT		N	Y	UNK	FIX OBJ	01	NONE 0	STRGHT										124,079	01
COUNTY						FR			UN	(NONE)	UNKNOWN	N	ICE	FIX		PRVTE	N -S									000	124,079	00
						8A			01			N	DAWN	INJ		PSNGR CAR		01	DRVR	INJC	28	F	OR-Y		047,080	000		01
										(02)													OR<25					

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OREGON.. DEPARTMENT OF TRANSPORTATION - TRANSPORTATION DEVELOPMENT DIVISION
TRANSPORTATION DATA SECTION - CRASH ANAYLYSIS AND REPORTING UNIT
COUNTY ROAD CRASH LISTING

CLACKAMAS COUNTY

SE BULL RUN RD, MP 3.68 to 4.5, 01/01/2008 to 12/31/2012

Total crash records: 2

SER# / INVEST	S P E D / A L C	R S W / U G H / S I O / R F	DATE / DAY / TIME	MILEPNT / DIST FROM / INTERSECT	COUNTY ROADS / FIRST STREET / SECOND STREET	RD CHAR / DIRECT / LGTTN	INT-TYPE / (MEDIAN) / LEGS / (ALANES)	INT-REL / TRAF- / CONTL	OFFRD / RNDBT / DRVWY	WTHR / SURF / LIGHT	CRASH / COLL / SVRTY	V#	SPCL USE / TRLR QTY / OWNER / TYPE	MOVE / FROM / TO	P#	PRTC / TYPE	INJ / SVRTY	A G E	S E X	LICNS / RES	PED / LOC	ERROR	ACT	EVENT	CAUSE
02644	Y	N N N N	07/24/2011	3.80	SE BULL RUN RD	CURVE		N	N	CLR	O-STRGHT	01	NONE 0	STRGHT										043	01,05
COUNTY			SU			UN	(NONE)	UNKNOWN	N	DRY	SS-M		PRVTE	N -S									000		00
			10A			05			N	DAY	PDO		PSNGR CAR		01	DRVR	NONE	20	M	OR-Y		047,080	000		01,05
							(02)													OR<25					
												02	NONE 0	STRGHT											
													PRVTE	S -N									000		00
													PSNGR CAR		01	DRVR	NONE	18	M	OR-Y		000	000		00
																				OR<25					
00434	Y	N N	01/27/2009	4.39	SE BULL RUN RD	STRGHT		N	N	SNOW	S-1STOP	01	NONE 0	STRGHT										124	07,01
NONE			TU			UN	(NONE)	UNKNOWN	N	ICE	REAR		PRVTE	W -E									000	124	00
			10A			03			N	DAY	PDO		PSNGR CAR		01	DRVR	NONE	47	M	OR-Y		026,047	017		07,01
							(02)													OR<25					
												02	NONE 0	STOP											
													PRVTE	W -E									011	124	00
													PSNGR CAR		01	DRVR	NONE	57	M	OR-Y		000	000		00
																				OR<25					

Disclaimer: The information contained in this report is compiled from individual driver and police crash reports submitted to the Oregon Department of Transportation as required in ORS 811.720. The Crash Analysis and Reporting Unit is committed to providing the highest quality crash data to customers. However, because submittal of crash report forms is the responsibility of the individual driver, the Crash Analysis and Reporting Unit can not guarantee that all qualifying crashes are represented nor can assurances be made that all details pertaining to a single crash are accurate. Note: Legislative changes to DMV's vehicle crash reporting requirement, effective 01/01/2004, may result in fewer property damage only crashes being eligible for inclusion in the Statewide Crash Data File.

Left-Turn Lane Warrant Analysis

1e

Intersection: SE Ten Eyck and SE Thomas Roads
Date: 6/6/2014
Scenario: 2018 Background + Site Trips
Time: Saturday Peak Hour

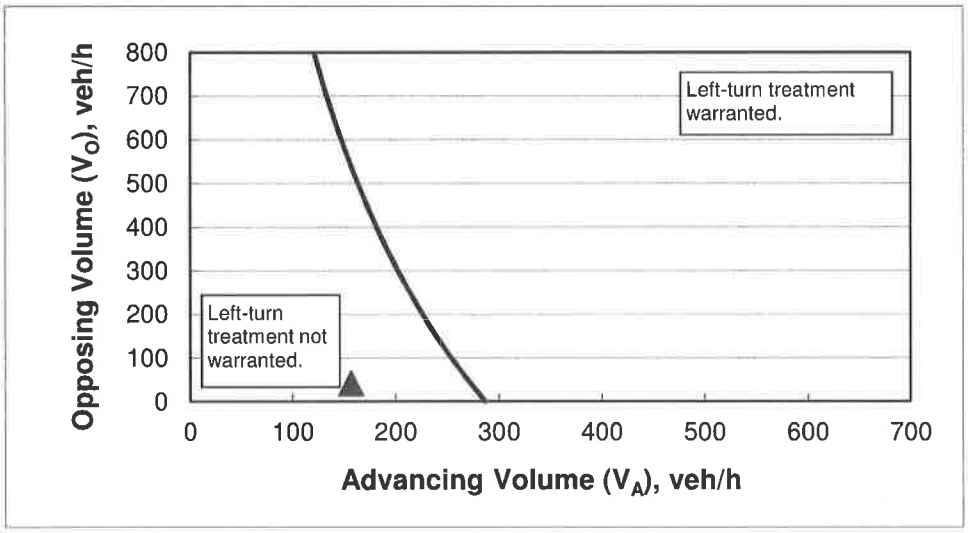
2-lane roadway (English)

INPUT

Variable	Value
85th percentile speed, mph:	55
Percent of left-turns in advancing volume (V_A), %:	64%
Advancing volume (V_A), veh/h:	157
Opposing volume (V_O), veh/h:	42

OUTPUT

Variable	Value
Limiting advancing volume (V_A), veh/h:	272
Guidance for determining the need for a major-road left-turn bay:	
Left-turn treatment NOT warranted.	



CALIBRATION CONSTANTS

Variable	Value
Average time for making left-turn, s:	3.0
Critical headway, s:	5.0
Average time for left-turn vehicle to clear the advancing lane, s:	1.9

Bull Run Education Center Conditional Use Application

Exhibit F

Pre-Application Summary

CLACKAMAS COUNTY

MIKE MCCALLISTER
PLANNING AND ZONING MANAGER

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

DEVELOPMENT SERVICES BUILDING
150 BEAVERCREEK ROAD | OREGON CITY, OR 97045

CONDITIONAL USE PRE-APPLICATION CONFERENCE

CLACKAMAS COUNTY DEPARTMENT OF TRANSPORTATION & DEVELOPMENT
LAND USE & ENVIRONMENTAL PLANNING DIVISION
Development Service Building, 150 Beavercreek Road, Oregon City OR 97045
Phone: (503) 742-4500 Fax: (503) 742-4550

ZPAC0040-14

LOCATION: Room 209, Planning, DSB

DATE & TIME: May 22, 2014, 10:30 a.m.

STAFF CONTACT: Linda Preisz — Phone: (503) 742-4528 — E-mail: lindap@co.clackamas.or.us

APPLICANT: Travis Southworth-Neumeyer, Quattro Development

LEGAL DESCRIPTION: T2S R5E Sec.06 Tax lots 102 and 600.

SITE ADDRESS: 41401 SE Thomas Road, Sandy OR

TOTAL AREA INVOLVED: Approximately 54 Acres

PRESENT ZONING: FF-10

PROPOSAL: to establish an Educational Center for the community

APPLICABLE AGENCIES & STAFF:

1. County Planning: Linda Preisz — (503) 742-4528 — lindap@co.clackamas.or.us
2. Sandy Fire District #72: Don Patty – (503) 668-8093 – donp@boringfire.com
3. Traffic Engineering and Construction & Development:
    a. Rick Nys — (503) 742-4702 — richardnys@co.clackamas.or.us
4. System Development Charges (SDCs): Lori Phillips -503-742-4331

AGENDA

1. Introductions
2. Process
   A. Submittal Requirements
      i. See Subsection 1203.04
      ii. Statements of Feasibility. Two required, one from traffic – Rick Nys and the other one from engineering-surfacewater from Ugo Dilullo
      iii. No. copies of application materials = 1 large set, 1 small
   B. Completeness Review = 30 days from date of submittal
   C. Once complete, notice is sent to all applicable agencies, the Citizens Planning Organization (CPO) and property owners within 750 feet.
   D. Comment Period = 15 days from date of notice +/-
   E. Decision – in this case, BCC
      i. Final Order may be appealed to the State Land Use Board Of Appeals (LUBA)
   F. Processing Time lines: Rural = 150 days
3. Fees
   A. Application Fee = $2,895.00
   B. Transportation System Development Charges (SDCs)
   C. Schools Development Charge
4. Building Construction & Codes

   Contact Richard Carlson, 503-742-4769, with building code questions.

5. ZDO Section 310 Farm Forest 10-Acre District
   A. Proposed use is a conditional use. Section 310.06A(5) allows private parks, campgrounds, recreational and similar uses though Section 813.

6. ZDO Section 707 Historic Landmark

   Section 707.04 allows certain conditional uses in rural and urban districts. Approval is not granted unless the proposal satisfies the criteria under Section 1203 and the applicable provisions under Section 800 and the applicant demonstrates that the use, if allowed:
   1. Will preserve or improve a resource which would probably not be preserved or improved otherwise;
   2. Will not require the extension or development of urban services in rural area;
   3. Will not adversely affect surrounding natural resource uses; and

4. Will utilize existing structures rather than new structures, except where new structures are determined by the Historic Review board to be in the best interest of preserving the historic resource.
5. All structures of any form or size, including new structures, shall satisfy Subsection 707.07

Section 707.05C(13) would permit a Community Center for civic or cultural events.

The definition of community center is a center where the members of a community can gather for social, education, or cultural activities. Events such as weddings are not included in the definition.

bldg permit

The rehabilitation and utilization of the existing historic structures will require an architectural assessment to determine what improvements are necessary to meet building codes. A rehabilitation plan will be required along with a covenant placed on the property showing the plan and the percentage of monies to be used annually to preserve the historic resources. A yearly report will be submitted to the zoning file.

will be a condition of approval

The proposed site plan and narrative shows the use of yurts. Such structures are not permitted on private property. They are only allowed in public campgrounds.

Once you have conditional use approval, the building permit for new construction on a HL property must be reviewed by the Historic Review Board. Review and approval of an application shall be based on the flowing criteria:

a. The design of the proposed structure is compatible with the design of the landmark building(s) on the site. Considering scale, style, height, and architectural detail, materials and colors.
b. The location and orientation of the new structure on the site is consistent with the typical location and orientation of similar structures on the site considering setbacks, distances between structures, location of entrances and similar siting considerations.
c. Changes to yard areas including planters, fences, ponds, walkways and landscape materials should be compatible with the overall historic setting.

7. ZDO Section 1007 & 1015 — Roads, Circulation & Parking

Rick Nys requires a traffic study.

8. ZDO Section 1203 Conditional Use

A conditional use can be approved if the applicant provides evidence substantiating the following:

B. The use is listed as a conditional use in the zoning district in which the subject property is located.
C. The characteristics of the subject property are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features.
D. The proposed use is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed use.
E. The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties fort the primary uses allowed in the zoning district in which surrounding properties are located.
F. The proposal satisfies the goals and policies of the Comprehensive Plan that apply to the proposed use. Chapter 9 policy 8 " Pursue options and incentives to allow productive, reasonable use, and adaptive reuse of historic properties."
G. The proposed use complies with any applicable requirement of the zoning district and overly zoning district in which the subject property is located, Section 800 and Section 1000.

8. ZDO Section 1021 — Refuse & Recycling Standards for Commercial, Industrial & Multi-Family Developments

The proposal must meet standards of this Section for size and location of refuse and recycling area(s), including environmentally hazardous wastes, as well as garbage truck circulation and access standards.

Bull Run Education Center Conditional Use Application

Exhibit G

Site Images

Image of wooded area on Timber zoned portion of site

Image of picnic area on FF-10 zoned portion of site

EXHIBIT LIST
IN THE MATTER OF Z0207-14-C: Rosalyn Lake Park/Trackers Earth Conditional Use

Ex. No.	*Date of Exhibit*	*Author or source*	*Subject*
1	07/21/14	DTD, P & Z, Linda Preisz	Staff Recommendation to PC
2	06/11/14	Applicant	Aerial Photograph
3	06/18/14	Lancaster Engineering, Brian Davis	Comments: Traffic
4	07/07/14	DTD, TE, Robert Hixson	Comments: Traffic
5	07/07/14	DTD, TE, Robert Hixson	Memo
6	7/25/14	DTD, TE, Robert Hixson	Memo
7	8/25/14	DTD, P & Z, Linda Preisz	PC recommendation to the BCC
8	10/3/14	Gary McLean	Comments re: ongoing violations on subject property

* Exhibits received during hearing
** Exhibits received during open record after hearing
*** Oversize exhibits

CLACKAMAS COUNTY

Planning and Zoning
Development Services Building
150 Beavercreek Road Oregon City, OR 97045
Phone: (503) 742-4500 fax: (503) 742-4550
e-mail: zoninginfo@co.clackamas.or.us
Web: http://www.clackamas.us/transportation/planning/

RECOMMENDATION TO THE PLANNING COMMISSION

This document represents the Planning and Zoning Staff findings, conclusion and recommended conditions of approval for a Land Use Application of a Conditional Use Permit as cited below. It contains three parts: Section 1 – Summary, Section 2 – Conditions of approval and Section 3 – Findings.

SECTION 1 – SUMMARY

DATE: July 21, 2014

HEARING DATE: July 28, 2014

CASE FILE NO.: Z0207-14-C

STAFF CONTACT: Linda Preisz, 503-742-4528, lindap@co.clackamas.or.us

LOCATION: T2S R6E Section 06, Tax Lot(s) 102

APPLICANT(S): Tony Deis, Bull Run Educational Center, LLC, P.O. Box 14400, Portland OR 97293

OWNER(S): Powerhouse Re Gen LLC, Karen Karlsson, 906 NW 23rd Avenue, 52815 East Marmot Rd, Sandy, OR 97055

TOTAL AREA: Approximately 20 acres and 80 acres

ZONING: TBR; Timber District

COMPREHENSIVE PLAN DESIGNATION: Forest

CITIZENS PLANNING ORGANIZATION: Bull Run CPO
Roger Bell
503-688-1649
P.O. Box 75
Sandy, OR 97055
Maia007@yahoo.com

EXHIBIT 1
41 pgs

PROPOSAL: Two Conditional Use requests. Proposal A is to authorize a private park on 80 acres of the site zoned TBR. The applicant proposes low-impact recreational uses that will include activities such as hiking, guided nature tours, animal tracking lessons and bird watching. No new buildings or other structures are proposed on the TBR portion of the site. Day use of the site is proposed to allow up to 800 people (includes participants and staff).

Proposal B is predicated on a pending application for a Reasons Exception and Comprehensive Plan/Zone change. This application was consolidated with that pending application. This review analyzes the proposal with the premise that FF-10 zoning is approved.

Proposal B is too authorize a private park, camp ground and educational center on 20 acres of the site zoned FF-10. In addition to the existing park structures, the applicant proposes 5 convertible classroom buildings (can convert to sleeping quarters), two new open air classrooms/picnic shelters, outdoor classrooms (tents) which can also be used for overnight stays, two primitive personal tent camping areas, and a 50 X 80 foot archery range. Overnight use of the site is proposed to allow up to 300 participants. Access is proposed off an existing driveway from SE Thomas Road.

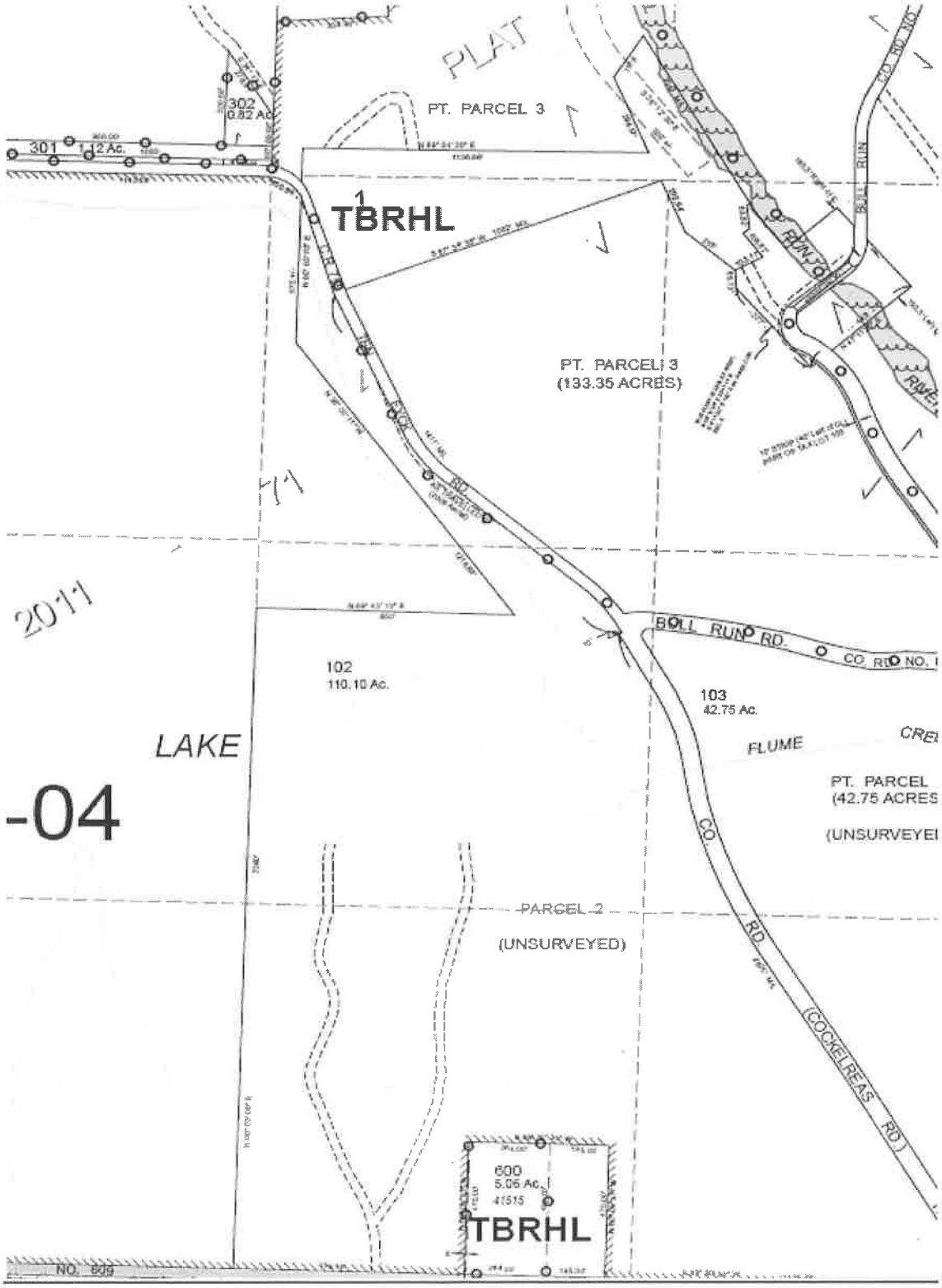
NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

OPPORTUNITY TO REVIEW THE RECORD: A copy of the Planning & Zoning Staff recommendation and all evidence submitted with this application is available for inspection, at no cost, at the Land Use Development Services Division during normal business hours (Monday-Friday 8:00 a.m. – 3:00 p.m.). Copies of all documents may be purchased at the rate of $1.00 for the first page and 10 cents for each additional page. The Planning & Zoning recommendation contains the findings and conclusion upon which the recommendation is based along with any recommended conditions of approval.

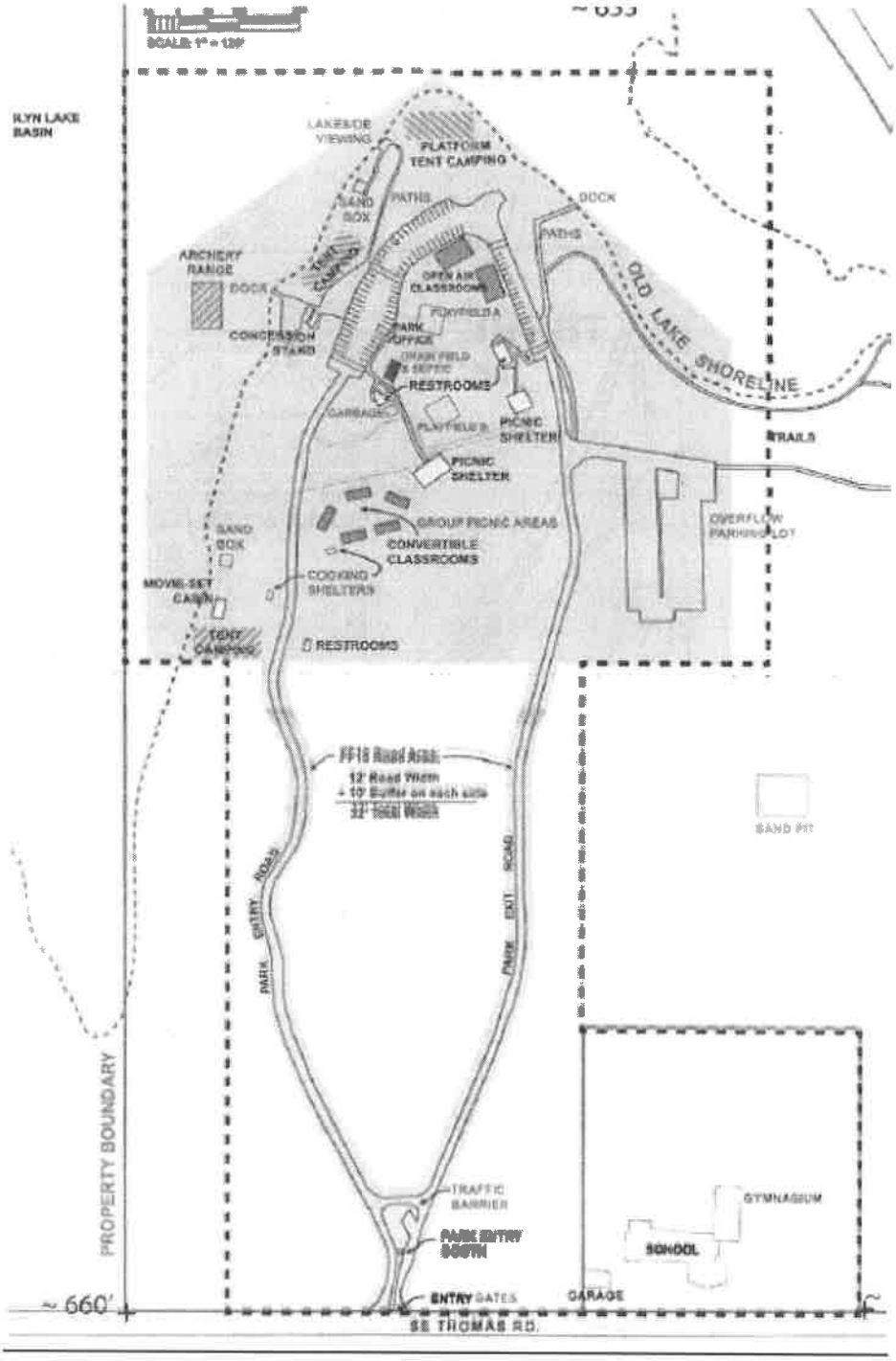
APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 406, 310, 1001, 1002, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

Staff will process the two conditional use requests separately.

Tax Map


PLAT
PT. PARCEL 3
302
0.82 Ac.
301
1.2 Ac.
TBRHL
PT. PARCEL 3
(133.35 ACRES)
2011
BOLL RUN RD.
CO. RD. NO.
102
110.10 Ac.
103
42.75 Ac.
LAKE
-04
FLUME
PT. PARCEL
(42.75 ACRES
(UNSURVEYEI
PARCEL 2
(UNSURVEYED)
CO. RD. (COCKELREAS RD.)
600
5.06 Ac.
41515
TBRHL
NO. 609

Site plan


ILYN LAKE BASIN
LAKESIDE VIEWING
PLATFORM TENT CAMPING
SAND BOX
PATHS
DOCK
PATHS
ARCHERY RANGE
DOCK
TENT CAMPING
OPEN AIR CLASSROOMS
FOUNDFIELD A
CONCESSION STAND
PARK OFFICE
DRAIN FIELD & SEPTIC
RESTROOMS
GARBAGE
PLAYFIELD B
PICNIC SHELTER
PICNIC SHELTER
OLD LAKE SHORELINE
TRAILS
GROUP PICNIC AREAS
CONVERTIBLE CLASSROOMS
OVERFLOW PARKING LOT
SAND BOX
COOKING SHELTERS
MOVIE SET CABIN
TENT CAMPING
RESTROOMS
FF18 Road Area:
12' Road Width
+ 10' Buffer on each side
32' Total Width
SAND PIT
PARK ENTRY ROAD
PARK EXIT ROAD
PROPERTY BOUNDARY
TRAFFIC BARRIER
PARK ENTRY SOUTH
GYMNASIUM
SCHOOL
~ 660'
ENTRY GATES
GARAGE
SS THOMAS RD.

RECOMMENDATION:

Denial, due to sight distance issues with the access drive and Thomas Road and the intersection of Thomas Road and Ten Eyck Road. If approved, these are suggested conditions.

SECTION 2 – RECOMMENDED CONDITIONS OF APPROVAL FOR PLAN A.

If this application is approved, staff recommends the following conditions:

I. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 11, 2014. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell at (503) 742-4657 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Lori Phillips in the Clackamas County Administration Division. Lori Phillips can be contacted by phone at (503) 742-4331 or email her at loriphi@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be

construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. <u>Land Use and Zoning Conditions:</u> Linda Preisz, (503) 742-4528, lindap@co.clackamas.or.us

Approval is for the specific use identified in the application materials and on the submitted site. This approval authorizes the applicant to establish a private campground using an existing on-site parking and circulation system.

1) A maximum of 800 participants (campers and staff) per day. up to 1500 day use special events

2) No overnight use is permitted.

3) The use of speakers, public address systems or other noise amplification devices is prohibited.

4) Outdoor lighting is not permitted.

5) **<u>Prior to commencement of activity,</u>** the applicants shall submit to this file, a statement from the Clackamas County Soils Division that the existing septic system is adequate.

6) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm.

7) **<u>Prior to commencement of activity,</u>** the applicants shall obtain all Food Handler Permits and Licenses to comply with regulations, for any beverages and food items being served.

8) **<u>Prior to commencement of activity</u>**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A copy shall be submitted to this file.

9) **<u>Prior to commencement of activity</u>**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner and the landowner's successors in interest, to manage the approximately 25 acre forest directly south of the PGE-Day Use Park area to protect the historic character of the site and its fully developed tree canopy and grove like character. No clear cutting shall occur. Tree thinning and cutting is limited to that which encourages the long term health of the forest. A copy shall be submitted to this file.

10) **Prior to commencement of activity,** the applicant shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening and other specific design standards for enclosures and pads. The applicant must provide a detailed plan for service to Planning.

III. Engineering Division Conditions: Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall verify by a professional survey that a 30-foot wide, one-half right-of-way width exists along the entire Ten Eyck Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C140.

4) The applicant shall verify by a professional survey that a 24-foot wide, one-half right-of-way width exists along the entire Thomas Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C110.

5) The applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Thomas Road site frontage. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Roadway Standards* drawing C110)

6) The applicant shall provide a copy of the Engineer's drainage study, surface water management plan, and Engineer's detention calculations to DTD Engineering, Deana Mulder.

7) The onsite circulation drive shall comply with Roadway Standards Drawing R100 regarding widths and structural section. In addition, sections of 12-foot wide driveway shall be centered in a 20-foot wide clear zone.

8) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces and parking spaces for buses shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks, buses), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

9) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces provided. The applicant shall label all carpool, disabled, bus, and loading berth spaces on the plans. All ADA parking spaces and adjacent accessible areas shall be paved and be provided with appropriate pavement markings and signing. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

10) The applicant shall provide 2 bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

11) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

    Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

    Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, **prior to issuance of a Development Permit.**

    Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.

13) **Prior to certificate of occupancy**, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

14) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned a minimum of five and a maximum of seven feet above the pavement surface, at the driveway intersection with Thomas Road. (*Manual on Uniform Traffic Control Devices*)

15) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

16) **Prior to the issuance of a building permit**, the applicant shall submit to Clackamas County Engineering Office:

    a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

    b) Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

    c) A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

        i) The permit will be for road, driveway, drainage, parking and maneuvering area, and other site improvements.

        ii) The Development Permit fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.

        iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

    d) When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development Permit.

17) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used

for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

SECTION 3 – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 406, 1001, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. **Background:**

   A. Prior Land Use Actions:

      1. File Z0579-13, approved April 30, 2014 – Historic Landmark overlay zone placed on the PGE-DAY USE Park, Historic Landmark Designation reduced on the Bull Run Power Plant and Historic Landmark Designation increased on the Bull Run School.

      2. In addition, Z0579-13 designated the three sites as a Historic District.

   B. Applicant's Proposal:

      The BREC (Bull Run Educational Center) seeks approval to conduct wilderness survival programs on the site. The scope of these programs include: animal tracking, agro-forestry, outdoor safety and survival skills, hiking, bird watching, all low-impact recreational uses.

2. **Site Description:** The site is located north of SE Thomas Road and west of SE Ten Eyck Road. The irregular shaped lot is relatively flat. The site is covered in timber of varying ages planted throughout the property. The forested area between the day-use park and the road contains trees about 100 years old. There is also an old quarry site which is filling in with trees. This portion of the site contains approximately 80 acres. This portion of the site has no structures.

3. **Natural Features:** The site is covered in timber of varying ages and a small open area near the old quarry.

4. **Surrounding Conditions:** The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

5. **Service Providers:**

A. Surface Water: The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the DTD, Engineering Division.
B. Water: The subject property is served by Portland Water.
C. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by an existing septic system.
D. Fire Protection: Sandy Fire District #72.

7. **Responses Requested:**

A. Bull Run CPO
B. Sandy Fire District #72.
C. Department of Transportation and Development (DTD), Building Division
D. Department of Transportation and Development (DTD), Traffic Engineering (TE)
E. Dept. of State Lands
F. Dept of Land Conservation & Development
G. Property Owners within 750 feet

8. **Exhibits:** See Exhibit List following the last page of this report.

PART 1. SUBMITTAL REQUIREMENTS

1. Subsection 1203.04 of the Zoning and Development Ordinance list the information that must be included in a complete application for a conditional use permit.

   This application includes a completed land use application form, site plan (see above), application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statements of Feasibility for storm water management, and sanitary sewer. The application was submitted on June 11, 2014 and deemed complete.

The submittal requirements of Section 1203.04 are met.

PART 2. CONDITIONAL USE PERMIT

1. Subsection 1203.01 of the Zoning and Development Ordinance lists six (6) criteria that must be satisfied in order to approve this Conditional Use.

   A. **Section 1203.01(A):** *The use is listed as a Conditional Use in the underlying zoning district.*

1. The subject property is zoned Timber. Section 406 of the ZDO controls land uses in the underlying Timber zoning district. Section 406.04 lists the uses allowed in the Timber zoning district. Section 406.04(A)(1), (2) (6) and (I)(1) of the ZDO specifically lists "Private parks and campgrounds."

2. The applicant has proposed to establish a private park under the provisions of Section 406.04. The proposed uses are summarized under the "Proposal" of this report and described in the application narrative and site plan.

3. Private Park is defined in section 406 as *"Land that is used for low impact casual recreational uses such as picnicking, boating fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed but does not include track for motorized vehicles or areas for target practice or the discharge of firearms."*

   Staff finds that the proposed use meets this definition and therefore is listed as a conditional use. This criterion is met.

4. The private park is subject to the standards in Section 406.04(A)(1, 2 & 6) and 406.04(I) 1 of the ZDO and identified below:

   a. *"The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands."*

      The proposed use on the site will not alter the overall character of the surrounding area. The site will maintain its natural, park-like setting; no new roads will be constructed, existing traffic routes will not be altered. The site will maintain its natural character. The applicant's shall record a deed statement prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices.

      This criterion can be met.

   b. *"The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel."*

      The proposed use of the site includes activities such as hiking, guided nature tours, animal tracking and similar uses. No camping (no campfires) is proposed and no new structures will be built on the TBR portion of the site. The proposed activities will not change the amount of potential fire fuel on the land nor will it change the availability of water for fire suppression.

      This criterion can be met.

c. *"A written irrevocable statement shall be recorded in the deed records of the County binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937."*

This criterion can be met.

5. Summary:

The proposed "private park" meets the definition of a "Private Park and campground" and can meet the requirements of Section 407.04 with conditions of approval.

B. **Section 1203.01(B)**: T*he characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. **Size:** The subject property is approximately 80 acres in size.

2. **Shape:** The subject property is irregular.

3. **Topography:** The irregularly shaped lot is relatively flat.

4. **Location:** Access from SE Thomas Road.

5. **Improvements:** None.

6. **Natural Features:** The site is covered in timber of various ages, dry lake bed, and slowly re-foresting gravel pit.

7. **Floodplain:** According to the FEMA Floodplain maps, the subject property is not located within or near a designated floodplain

8. **Geologic Hazards:** There are no seen hazards on the geologic hazards map.

9. **Soils:** The table below identifies one soils type on the subject property. The eastern portion containing the old quarry has Pits. The Pit soils map unit consists of exactions from which soil rock or gravel has been removed. This map unit is not assigned a capability classification.

Soil Type *	Rating *	Slopes *	Location on Site **	Native Vegetation *
2B Alspaugh clay loam	High Value Forest	2 to 8 % Slopes	Western half	Douglas fir, red alder, salal, brackenfern and swordfern.

* The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.

10. **Summary:** The physical characteristics of the site are suitable to accommodate the proposed use for the following reasons:

    a. The property is approximately 80 acres. The large size lot is suitable to accommodate the proposed use. The submitted site illustrates the proposed site does not include any permanent structures.

    b. The shape does not present any significant limitations to the proposed development.

    c. The relatively flat topography is very suitable to accommodate the proposed use.

    d. The location has access to SE Thomas Road.

    This criterion is met.

C. **Section 1203.01(C):** *The proposed development is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed development.*

1. Subsection 1007.09: Transportation Facilities Concurrency

    1. *"The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."*

    2. Safety: Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. Engineering adds:

    The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road,

the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. Staff finds that the application is in compliance with that portion of ZDO subsection 1203.01 C, regarding the capacity of the transportation system.

The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, neither location meets the minimum standards and no mitigations are proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road fail to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1203.01 C regarding adequacy of the safety of the transportation system.

Summary: Clackamas County Traffic Engineering states that the proposal DOES NOT satisfies the requirements of subsection 1203.1C.

This criterion is NOT met.

D. **Section 1203.01(D):** "*The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district.*"

1. The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings

2. This criteria does not require this use to not have any impacts, but instead the impacts must not substantially limit, impair or preclude the use of adjacent properties for the allowed primary uses. The primary uses allowed in this district are listed in Section 406.04. The primary uses allowed in this zone primarily include forest operations, farm uses, conservation of soils, air, water and provide for fish and wildlife resources,

alteration of legally established dwellings, road widening, etc., private hunting and fishing operations, fire towers and stations, utility lines, water intake facilities, etc., mineral and aggregate exploration, etc., accessory buildings customarily incidental with a primary use and wireless telecommunication facilities.

3. The background information provided in this report describes the general land uses proposed on this site and occurring on the adjacent properties. The uses on surrounding properties are mainly forest type of uses.

4. The potential impacts on the adjacent residential uses include noise, dust, traffic, fire danger and lighting. The staff makes the following findings.

   a. Noise: The staff believes activities on the subject site will generate some noise greater than what is already occurring on site. Staff is unaware of any noise violations from this site. The park noises from up to 800 participants may include singing, and yelling and activity noises. Logging activities also produce noise.

      Although Staff finds that logging activities and farm activities are regular uses in this zone, staff believes that the distance between the camp and other property uses is far enough to mitigate and therefore noise will not be a significant problem or concern.

   b. Dust: The applicant is not planning on any major dust producing activities on site except possibly logging, which is a primary use. The site is located in a timber zoning district where dust is a normal occurrence.

   c. Lighting: The applicant states in their application that the TBR private park area will not have electricity. It is assumed that campers and staff/campers may use flash lights at night but staff finds that this will not be a significant concern to neighboring properties.

   d. Traffic: The subject property has access to Thomas Road. The capacity of the transportation system will not be significantly affected.

   e. Fire Danger: The only concern for fire is the use of open campfires. No campfires will occur in the TBR portion of the Private Park.

5. Summary: Based on the above analysis Planning and Zoning Staff believes the dust, noise, fire danger, lighting or traffic impacts resulting from the existing or proposed use will not substantially limit, impair or preclude the use of surrounding properties for residents and farm and forest uses or practices. With conditions of approval, staff finds that this criterion can be met.

E. **Section 1203.01(E)***: The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

1. The applicant did address Chapter 9- Open Space, Parks, Historic Sites. The goals and policies of that section generally pertain to public facilities. Policy 8 does state "*Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities*" and

Policy 8.4 "*Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on program-by-program basis when public facilities are not available.*" Staff agrees that this proposal is in keeping with Chapter 9 of the Comprehensive Plan.

2. Chapter 3. Natural Resources and Energy - Forests. Policy 5.0; *Cooperate and coordinate with appropriate state and federal agencies to insure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.*

   The use of forest resources for outdoor recreational uses such as private parks recognizes the multiple resource values of forest lands. The proposed use does not impact on environmentally sensitive areas such as slide and erosion hazard areas, scenic corridors, or unique natural and/or cultural features.

3. Goals and Policies of the Forest Designation are also included in the Forest Section of the Land Use Chapter of the Comprehensive Plan.

   Chapter 4. Land Use - Forest. Policy 3.0; *Land uses which conflict with forest uses shall not be allowed.*

   The proposed private park is listed as a conditional use in the Timber zoning district. The prior analysis of the requirements of ZDO Section 1203.01(A) above, provides adequate justification that the proposed use should not conflict with forest uses.

4. Comprehensive Plan Chapter Five, "Transportation", under the heading "Improvements to Serve Development", includes Policy 16.0, which reads as follows:

   "Require development to be served by adequate roadway facilities."

   Transportation Engineering staff (Exhibit 4) finds that the proposal is NOT in compliance with policy 16.0 and, therefore, ZDO subsection 1203.01 as it relates to Comprehensive Plan transportation goals and policies, with conditions of approval, it may comply.

PART 3. OTHER DEVELOPMENT STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.
   A. **Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:**

Of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

1. Section 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area:

   "The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area.

   Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well." The water source is Portland Water.

   This criterion is met.

2. Section 1006.07 - Subsurface Sewage Disposal Standards:

   All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.

   The applicants state that they will be using the existing PGE-Day Use park bathrooms. A condition is warranted stating that the applicant will submit a report to the file from the County Soils Division stating the existing system is adequate for the proposal.

   This criterion can be met.

3. Section 1006.08 - Surface Water Management Standards:

   a. *"All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:*

      i. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*

      ii. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*

b. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*

ii. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.*

iii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Clackamas County DTD, Engineering signed off on the Statement of Feasibility on April 30, 2014, that it is feasible that the proposal can comply with the standards. A condition is warranted requiring the applicant to submit their drainage plan including detention designs to DTD, Engineering. DTD, Engineering shall review and approve the plans for the erosion control prior to final plan approval.

This criterion can be met.

D. **Section 1007- Roads Connectivity:**

1. Section 1007.03 – General Provisions:

A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*

B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5*

and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.

Engineering Staff has discussed these issues in Exhibit 17.

This criterion may be met with conditions.

C. *New developments shall have access points connecting with existing private, public, county, or state roads.*

Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other uses.

D. *Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.*

E. *All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.*

This criterion is met with conditions. See Exhibit 17, County Engineer comments.

2. <u>Section 1007.04 Public and Private Roadways:</u>

A. *All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.*

1. *Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.*

3. *Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:*

a. *Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and*

b. *Turnouts shall be provided at viewpoints or for recreational needs.*

County Engineering staff state that the *"the subject property takes access from SE Thomas Road within a portion of the County that is zoned TBR, Timber 80 acres."*

"The applicant has proposed development of private park that will include site improvements and will generate additional vehicle trips to the site. The

applicant is therefore subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007, pertaining to roads, circulation and parking improvements, and section 1008 pertaining to surface water management." (Exhibit 4)

This criterion can be met with conditions.

B. *Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*

1. *No planting, signing, or fencing shall be permitted which restricts motorists' vision; and*
2. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.*

Engineering staff find that "in accordance with ZDO Subsections 1007.04.D and 1007.05, and the Clackamas County Roadway Standards, Section 240, the access road serving the proposed development is required to provide adequate intersection sight distance. The existing intersection of the private road with Thomas Road does not currently provide adequate intersection sight distance due to trees and vegetation located on each side of the approach. The applicant has submitted speed study data and a sight distance analysis prepared by Lancaster Engineering, dated June 18, 2014. Based on this traffic volume, sight distances provided in Table 2-10 of the Clackamas County Roadway Standards are applicable." (Exhibit 4)

This criterion is NOT met.

3. Section 1007.09, Transportation Facilities Concurrency:

A. *The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.*

B. *Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

C. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

Engineering staff have found that the capacity of transportation facilities is adequate. (Exhibit 4)

This criterion is met.

D. *As used in Subsection 1007.09(C), "adequate" means a minimum of Level-of-Service (LOS) D, except:*

County Traffic engineering staff finds that *"the roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 4)

This criterion is met.

E. *As used in Subsection 1007.09(F), "necessary improvements" are:*

1. *Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).*

   a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

   b. *If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.*

   Engineering staff's Exhibit 4 discusses the issues and makes recommendations.

   This criterion can be met with conditions.

E. **Section 1008 - Storm Drainage:**

This section outlines the requirements for Storm Drainage and Erosion Control. The following requirements and standards of Section 1008 are applicable to this proposal.

The subject property is located within the Clackamas County Engineering area of review within the County. The rules and regulations for this district are administered by the Clackamas County Engineering Division. The applicant has submitted a Statement of Feasibility for surface water from the Clackamas County Engineering Division May 30, 2014.

The standards of Section 1008 can be met.

F. **Section 1015 – Parking and Loading:**

1. Section 1015.04 Automobile Parking Area Standards:

   Parking has been established with the PGE-Day Use area. Since this parking area historically handled up to 1000 visitors a day, Staff finds that the applicants parking plan is satisfactory with sufficient number and spacing of parking spaces for vehicles and buses.

   This criterion is met.

G. **Section 1021 Standards – Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments:** outlines the standards for refuse and recycling for commercial developments. The applicant has not submitted any specific plans. There is an existing refuse and recycling enclosure. A condition of approval is warranted requiring the applicant to provide an acceptable plan for the private park garbage and recycling needs.

This criterion can be met.

The following review of the BREC proposal for a private park and campground is predicated on a pending Reasons Exception and Comprehensive Plan/Zone change. It is based on FF-10 zoning being approved. If the zone change does not occur, this application is void.

SECTION 2 – RECOMMENDED CONDITIONS OF APPROVAL FOR PLAN B.

RECOMMENDATION:

Denial based on inadequate site distance issues.

If this application is approved, staff recommends the following conditions:

IV. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 11, 2014. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell at (503) 742-4657 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Lori Phillips in the Clackamas County Administration Division. Lori Phillips can be contacted by phone at (503) 742-4331 or email her at loriphi@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

V. **Land Use and Zoning Conditions:** Linda Preisz, (503) 742-4528, lindap@co.clackamas.or.us

Approval is for the specific use identified in the application materials. This approval authorizes the applicant to establish a private park and campground on a parcel with an existing on-site parking and circulation system.

1) A maximum of 300 participants (campers and staff) per day. ← overnight day use higher #s

2) The use of speakers, public address systems or other noise amplification devices is prohibited.

3) **Prior to commencement of activity,** the applicants shall submit to this file, a statement from the Clackamas County Soils Division that the existing septic system is adequate.

3) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm and 50 dB(A) from 10:00 p.m. to 7:00 a.m.

4) Any new lighting plan shall be reviewed and approved by the Planning Division.

5) **Prior to commencement of activity,** the applicants shall obtain all Food Handler Permits and Licenses to comply with regulations, for any beverages and food items being served.

6) **Prior to commencement of activity**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A copy shall be submitted to this file.

7) **Prior to commencement of activity,** the applicant shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening and other specific design standards for enclosures and pads. The applicant must provide a detailed plan, including the garbage enclosure and service truck circulation to Planning.

8) **Prior to commencement of activity**, the applicant shall have the Fire Department review, inspect and approve all fire locations on site and submit evidence of the approval to this file.

9) **Prior to the issuance of building permits**, the proposed new structures shall be reviewed and approved by the Clackamas County Historic Review Board.

10) **Prior to the issuance of building permits**, for all historic structures, an architectural assessment shall be provided to determine what improvements are necessary to meet building codes.

11) **Prior to the issuance of building permits**, a rehabilitation plan shall be prepared along with a covenant placed on the property deeds showing the plan and the percentage of monies to be used annually to preserve the historic resources. A yearly report shall be submitted to the zoning file.

VI. Engineering Division Conditions: Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall verify by a professional survey that a 30-foot wide, one-half right-of-way width exists along the entire Ten Eyck Road site frontage, or shall dedicate additional right-

of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C140.

4) The applicant shall verify by a professional survey that a 24-foot wide, one-half right-of-way width exists along the entire Thomas Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C110.

5) The applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Thomas Road site frontage. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Roadway Standards* drawing C110)

6) The applicant shall provide a copy of the Engineer's drainage study, surface water management plan, and Engineer's detention calculations to DTD Engineering, Deana Mulder.

7) The onsite circulation drive shall comply with Roadway Standards Drawing R100 regarding widths and structural section. In addition, sections of 12-foot wide driveway shall be centered in a 20-foot wide clear zone.

8) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces and parking spaces for buses shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks, buses), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

9) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces provided. The applicant shall label all carpool, disabled, bus, and loading berth spaces on the plans. All ADA parking spaces and adjacent accessible areas shall be paved and be provided with appropriate pavement markings and signing. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

10) The applicant shall provide 2 bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

11) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

    Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, prior to issuance of a Development Permit.

Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.

13) **Prior to certificate of occupancy**, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

14) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned a minimum of five and a maximum of seven feet above the pavement surface, at the driveway intersection with Thomas Road. (*Manual on Uniform Traffic Control Devices*)

15) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

16) **Prior to the issuance of a building permit**, the applicant shall submit to Clackamas County Engineering Office:

    a. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

    b. Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

    c. A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

        i. The permit will be for road, driveway, drainage, parking and maneuvering area, and other site improvements.

        ii. The Development Permit fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.

iii. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

d. When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development Permit.

17) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

SECTION 6 – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 310, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. **Background:**

A. Prior Land Use Actions:

1. File Z0579-13, approved April 30, 2014 – Historic Landmark overlay zone placed on the PGE-DAY USE Park, Historic Landmark Designation reduced on the Bull Run Power Plant and Historic Landmark Designation increased on the Bull Run School.

2. In addition, Z0579-13 designated the three sites as a Historic District.

B. Applicant's Proposal:

The BREC (Bull Run Educational Center) seeks approval to conduct wilderness survival programs including camping on the 20 acre site. The scope of these programs includes:

- Youth day and overnight camps
- Adult evening and weekend overnight classes
- School field trips
- Personal camping associated with youth and adult overnight programs
- Hiking associated with youth and adult programs

- Outdoor theater gatherings
- Natural history tours
- Archery classes and events
- Historical reenactments and demonstrations.
- Occasional public and private gathers, not to include weddings.

The existing structures of the Historic Landmark PGE-Day Use Area will be used. These include two picnic shelters, several cooking shelters, three restrooms, a paved parking lot and an overflow parking lot.

In addition to reuse of the existing park structures and activity areas on the site, the applicant proposes a number of new structures and improvements. These additional items are:

- Five convertible classroom buildings. (Used as classrooms during the day and converted into sleeping quarters for overnight programs.)
- Two new open air classrooms/picnic Shelters similar in size and appearance to the existing picnic shelters.
- Three outdoor classrooms – tents located on platforms and used for classes, gatherings and meetings. The platform tents will also be convertible to sleeping quarters.
- Two primitive personal tent camping areas.
- One 50 X 80 foot archery range.

3. **Site Description:** The site is located north of SE Thomas Road and west of SE Ten Eyck Road. The irregular shaped lot is relatively flat. The site is covered in timber of varying ages planted throughout the property. This portion of the site contains approximately 20 acres. This portion of the site has existing historic structures as described above.

3. **Natural Features:** The site is covered in timber of varying ages.

4. **Surrounding Conditions:** The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

5. **Service Providers:**

E. Surface Water: The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the DTD, Engineering Division.
F. Water: The subject property is served by Portland Water.
G. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by an existing septic system.
H. Fire Protection: Sandy Fire District #72.

7. **Responses Requested:**

   C. Bull Run CPO
   D. Sandy Fire District #72.
   E. Department of Transportation and Development (DTD), Building Division
   F. Department of Transportation and Development (DTD), Traffic Engineering (TE)
   G. Dept. of State Lands
   H. Dept of Land Conservation & Development
   I. Property Owners within 750 feet

8. **Exhibits:** See Exhibit List following the last page of this report.

PART 1. SUBMITTAL REQUIREMENTS

1. Subsection 1203.04 of the Zoning and Development Ordinance list the information that must be included in a complete application for a conditional use permit.

   This application includes a completed land use application form, site plan (see above), application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statements of Feasibility for storm water management, and sanitary sewer. The application was submitted on June 11, 2014 and deemed complete.

The submittal requirements of Section 1203.04 are met.

PART 2. CONDITIONAL USE PERMIT

1. Subsection 1203.01 of the Zoning and Development Ordinance lists six (6) criteria that must be satisfied in order to approve this Conditional Use.

   A. **Section 1203.01(A):** *The use is listed as a Conditional Use in the underlying zoning district.*

      1. The subject property is zoned FF-10. Section 310 of the ZDO controls land uses in the underlying FF-10 zoning district. Section 310.06 lists the uses. Section 310.06(A)(14) of the ZDO specifically lists "Public and private parks and campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit."

3. The applicant has proposed to establish a private park under the provisions of Section 310.04. The proposed uses are summarized under the "Proposal" of this report and described in the application narrative and site plan.

4. The proposed "private park" meets the definition of a "Public and private parks, campground, etc." and can meet the requirements of Section 310.04 with conditions of approval.

B. **Section 1203.01(B)**: *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. **Size:** The subject property is approximately 20 acres in size.

2. **Shape:** The subject property is irregular.

3. **Topography:** The irregularly shaped lot is relatively flat.

4. **Location:** Access from SE Thomas Road.

5. **Improvements:** The existing historic PGE-Day Use Park structures.

6. **Natural Features:** The site is covered in timber of various ages.

7. **Floodplain:** According to the FEMA Floodplain maps, the subject property is not located within or near a designated floodplain

8. **Geologic Hazards:** There are no seen hazards on the geologic hazards map.

9. **Soils:** The table below identifies one soils type on the subject property.

Soil Type *	Rating *	Slopes *	Location on Site **	Native Vegetation *
2B Alspaugh clay loam	High Value Forest	2 to 8 % Slopes	Western half	Douglas fir, red alder, salal, brakenfern and swordfern.

* The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.

10. **Summary:** The physical characteristics of the site are suitable to accommodate the proposed use for the following reasons:

    a. The property is approximately 20 acres. The lot is suitable to accommodate the proposed additional structures and activity areas.

    b. The shape does not present any significant limitations to the proposed development.

    c. The relatively flat topography is very suitable to accommodate the proposed use.

    d. The location has access to SE Thomas Road.

    This criterion is met.

C. **Section 1203.01(C):** *The proposed development is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed development.*.

III. Subsection 1007.09: Transportation Facilities Concurrency

iv. *"The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."*

v. Safety: Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. Engineering adds:

The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road, the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. Staff finds that the application is in compliance with that portion of ZDO subsection 1203.01 C, regarding the capacity of the transportation system.

The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, both locations do not meet the minimum standards and no mitigations are proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road fail to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1203.01 C regarding adequacy of the safety of the transportation system.

Summary: Clackamas County Traffic Engineering states that the proposal DOES NOT satisfies the requirements of subsection 1203.1C.

This criterion is NOT met.

D. **Section 1203.01(D):** "*The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district.*"

1. The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings

2. This criterion does not require this use to not have any impacts, but instead the impacts must not substantially limit, impair or preclude the use of adjacent properties for the allowed primary uses. The primary uses allowed in this district are listed in Section 310.03. The primary uses allowed in this zone primarily include dwellings, the raising, harvesting and selling of crops, forest operations, fish and wildlife management programs.

4. The background information provided in this report describes the general land uses proposed on this site and occurring on the adjacent properties. The uses on surrounding properties are mainly forest type of uses with a few dwellings and small farms.

5. The potential impacts on the adjacent residential uses include noise, dust, traffic, fire danger and lighting. The staff concurs and adopts the findings in the application in addition to the following findings.

Noise: The staff believes activities on the subject site will generate some noise greater than what is already occurring on site. The park noises from up to 300 participants may include singing, and yelling and activity noises. Logging activities also produce noise.

Staff finds that logging activities and farm activities are regular uses in this zone and believes that the distance between the park/campground and these other property uses is far enough to not be a significant problem or concern.

Dust: The applicant is not planning on any major dust producing activities. The site is surrounded by a timber zoning district where dust is a normal occurrence.

Lighting: The applicant states in their application that the FF-10 private park and campground will use the existing electricity. An outdoor lighting plan was not submitted in the proposal.

Traffic: The subject property has access to Thomas Road. The capacity of the transportation system will not be significantly affected.

Fire Danger: The only concern for fire is the use of open campfires. The existing fire areas and any new fire sites will be inspected and approved by the local fire district.

6. Summary: Based on the above analysis Planning and Zoning Staff believes the dust, noise, fire danger, lighting or traffic impacts resulting from the existing or proposed use will not substantially limit, impair or preclude the use of surrounding properties for residents and farm and forest uses or practices. With conditions of approval staff finds that this criterion can be met.

E. **Section 1203.01(E):** *The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

1. The applicant offers that Chapter 9- Open Space, Parks and Historic Sites and the Parks and Recreation section. The goals and policies of that section generally pertain to public facilities. Policy 8 does state "*Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities*" and Policy 8.4 "*Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on program-by-program basis when public facilities are not available.*" Staff agrees that this proposal is in keeping with Chapter 9 of the Comprehensive Plan.

2. ZDO subsection 1203.01(E) requires that the proposed development is consistent with the goals and policies of the Comprehensive Plan that apply to the proposed use. Comprehensive Plan Chapter Five, "Transportation", under the heading "Improvements to Serve Development", includes Policy 16.0, which reads as follows: "Require development to be served by adequate roadway facilities."

   Transportation Engineering staff (Exhibit 17) finds that the proposal is NOT in compliance with policy 16.0 and, therefore, ZDO subsection 1203.01 as it relates to

Comprehensive Plan transportation goals and policies, with conditions of approval, it may comply.

PART 3. OTHER DEVELOPMENT STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.

   A. **Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:** Of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

      1. Section 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area:

         "The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area. Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well." The water source is Portland Water.

         This criterion is met.

      2. Section 1006.07 - Subsurface Sewage Disposal Standards:

         All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.

         The applicants state that they will be using the existing PGE-Day Use park bathrooms. A condition is warranted stating that the applicant will submit a report to the file from the County Soils Division stating the existing system is adequate for the proposal.

         This criterion can be met.

      3. Section 1006.08 - Surface Water Management Standards:

         a. *"All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other*

impervious or near-impervious surfaces to an appropriate discharge point and shall:

i. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*

ii. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*

b. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*

ii. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.*

iii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Clackamas County DTD, Engineering signed off on the Statement of Feasibility on April 30, 2014, that it is feasible that the proposal can comply with the standards. A condition is warranted requiring the applicant to submit their drainage plan including detention designs to DTD, Engineering. DTD, Engineering shall review and approve the plans for the erosion control prior to final plan approval.

This criterion can be met.

D. **Section 1007- Roads Connectivity:**

1. Section 1007.03 – General Provisions:

A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and*

Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.

B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

Engineering Staff has discussed these issues in Exhibit 17.

This criterion may be met with conditions.

C. *New developments shall have access points connecting with existing private, public, county, or state roads.*

Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other uses.

D. *Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.*

E. *All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.*

This criterion is NOT met but may be met with conditions. See Exhibit 17, County Engineer comments.

2. Section 1007.04 Public and Private Roadways:

A. *All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.*

1. *Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.*

3. *Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:*

   a. *Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and*

   b. *Turnouts shall be provided at viewpoints or for recreational needs.*

   County Engineering staff state that the *"the subject property takes access from SE Thomas Road within a portion of the County that is zoned TBR, Timber 80 acres."*

   "The applicant has proposed development of private park that will include site improvements and will generate additional vehicle trips to the site. The applicant is therefore subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007, pertaining to roads, circulation and parking improvements, and section 1008 pertaining to surface water management." (Exhibit 4)

   This criterion can be met with conditions.

B. *Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*

   1. *No planting, signing, or fencing shall be permitted which restricts motorists' vision; and*

   2. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.*

   Engineering staff find that "*in accordance with ZDO Subsections 1007.04.D and 1007.05, and the Clackamas County Roadway Standards, Section 240, <u>the access road serving the proposed development is required to provide adequate intersection sight distance.</u> The existing intersection of the private road with SE Ten Eyck and Thomas Roads do not currently provide adequate intersection sight distance due to trees and vegetation located on each side of the approach. The applicant has submitted speed study data and a sight distance analysis prepared by Lancaster Engineering, dated June 18, 2014. Based on this traffic volume, sight distances provided in Table 2-10 of the Clackamas County Roadway Standards are applicable."* (Exhibit 14)

   This criterion is NOT met.

3. <u>Section 1007.09, Transportation Facilities Concurrency</u>:

   A. *The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.*

B. *Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

C. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

Engineering staff have found that the capacity of transportation facilities is adequate. Exhibit 17

This criterion is met.

D. *As used in Subsection 1007.09(C), "adequate" means a minimum of Level-of-Service (LOS) D, except:*

County Traffic engineering staff finds that *"the roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 17)

This criterion is met.

E. *As used in Subsection 1007.09(F), "necessary improvements" are:*

1. *Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).*

   a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

   b. *If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.*

Engineering staff's Exhibit 4 discusses the issues and makes recommendations.

This criterion can be met with conditions.

E. **Section 1008 - Storm Drainage:**

This section outlines the requirements for Storm Drainage and Erosion Control. The following requirements and standards of Section 1008 are applicable to this proposal.

The subject property is located within the Clackamas County Engineering area of review within the County. The rules and regulations for this district are administered by the Clackamas County Engineering Division. The applicant has submitted a Statement of Feasibility for surface water from the Clackamas County Engineering Division May 30, 2014.

The standards of Section 1008 can be met.

F. **Section 1015 – Parking and Loading:**

1. Section 1015.04 Automobile Parking Area Standards:

   Parking has been established with the PGE-Day Use area. Since this parking area historically handled up to 1000 visitors a day, Staff finds that the applicants parking plan is satisfactory with sufficient number and spacing of parking spaces for vehicles and buses.
   This criterion is met.

G. **Section 1021 Standards – Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments:** outlines the standards for refuse and recycling for commercial developments. The following requirements and standards of Section 1021 are applicable to this proposal.

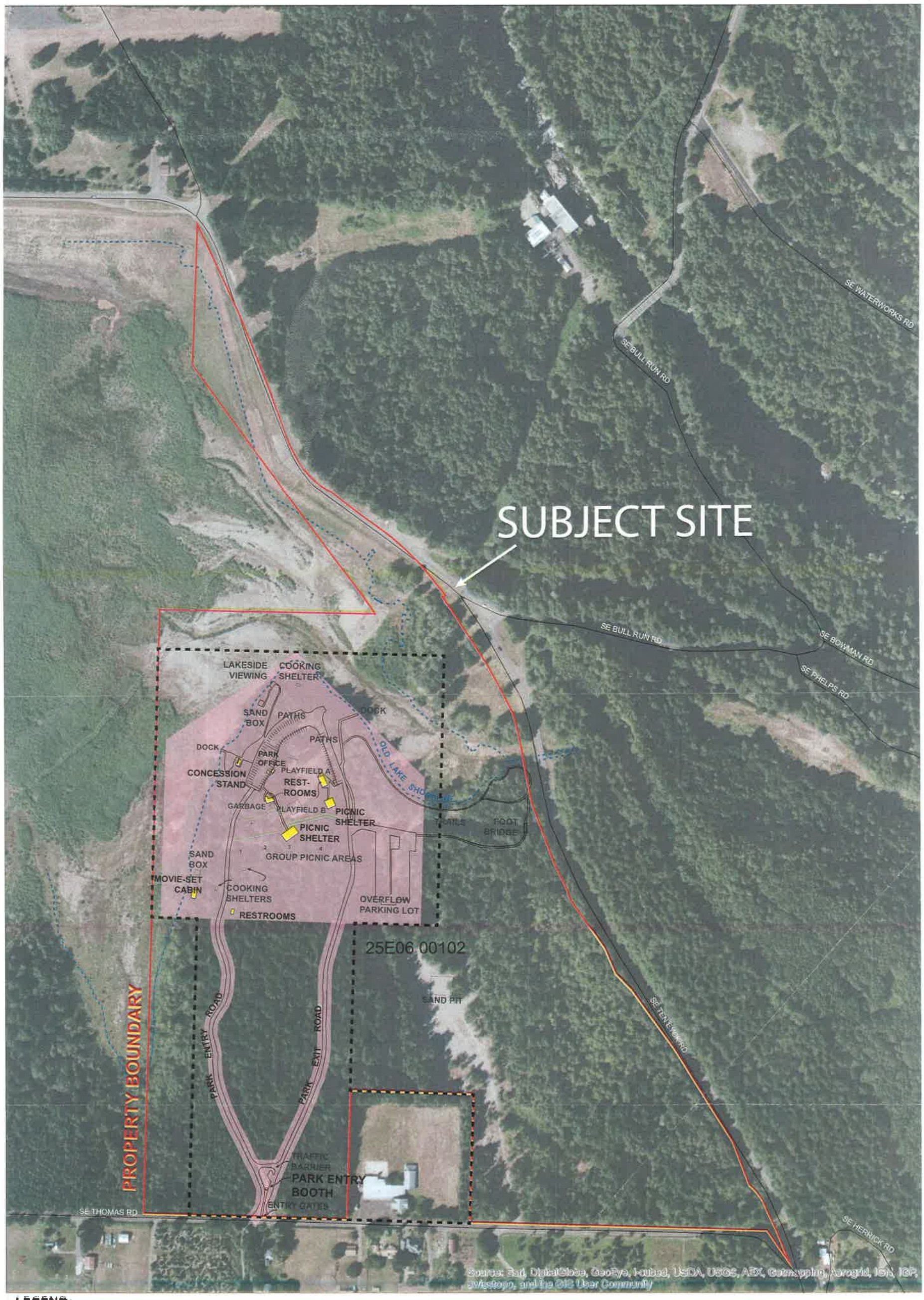
The applicant has not submitted any specific plans concerning refuse and recycling. A condition of approval is warranted requiring the applicant to provide an acceptable plan.

This criterion can be met.

Bull Run Education Center Conditional Use Request

SITE EXISTING CONDITIONS

6/9/2014



LEGEND:

- Property Boundaries
- Approved Historic District
- Proposed FF10 Zone Area
- Existing Structures

EXHIBIT 2
pg. 1 of 1

N

0 250 500 1,000 Feet

TECHNICAL MEMORANDUM

REGISTERED PROFESSIONAL ENGINEER 54853 OREGON JULY 9, 2001 TODD E. MOBLEY 6/18/14

EXPIRES: 12/31/2014

LANCASTER ENGINEERING
321 SW 4th Ave., Suite 400
Portland, OR 97204
phone: 503.248.0313
fax: 503.248.9251
lancasterengineering.com

TO: Rick Nys,
Clackamas County

FROM: Brian Davis
Todd Mobley, PE, PTOE

DATE: June 18, 2014

SUBJECT: Sight Distance at Study Intersections
Bull Run Education Center

This memorandum is an addendum to Lancaster Engineering's transportation impact study in support of the proposed Bull Run Education Center in Clackamas County, Oregon, dated June 11, 2014. The memorandum describes sight distance at the two study intersections identified in the original report: SE Ten Eyck Road at SE Thomas Road; and SE Thomas Road at the site access.

To ensure that the site access and study intersection can safely accommodate expected new demand, the available intersection sight distances and stopping sight distances were measured in the field based upon specifications in *Clackamas County Roadway Standards* in *A Policy on Geometric Design of Highways and Streets*[1].

Intersection Sight Distance for Entering Traffic

Intersection sight distances (ISD) for traffic entering the major road from the stop controlled approach along the minor road were measured in accordance with Section 240.4 of the Roadway Standards. This section specifies a driver's eye location of 14.5 feet from the edge of the nearest travel lane, and a driver's eye height and object height of 3.5 feet above the road surface. Based on the 55-mph statutory speed limit on the subject roadways, the necessary intersection sight distance (ISD) such that vehicles on the major street will not have to slow excessively to accommodate vehicles entering from the minor street is 610 feet.

At the intersection of SE Ten Eyck and SE Thomas Roads, the sight distance in the northerly direction was measured to be 420 feet, and the sight distance in the southerly direction was measured to be 330 feet. In both cases, this is less than the necessary ISD. The applicant controls the property to the northwest of this intersection, and by clearing some vegetation on this property, the necessary ISD can be achieved. A sight distance easement will be necessary to achieve the necessary ISD to the south of the intersection.

[1] American Association of State Highway and Transportation Officials (AASHTO), *A Policy on Geometric Design of Highways and Streets*, 6th Edition, 2011.

EXHIBIT 3
5 pgs

At the intersection of the planned access at SE Thomas Road, the sight distance was measured to be in excess of 610 feet in both the easterly and westerly directions.

Intersection Sight Distance for Left-turning Traffic

Intersection sight distance for a vehicle stopped in traffic was also measured according to guidelines specified in *Roadway Standards.* This represents the sight distance necessary such that a vehicle turning left from the major road onto the minor road could do so without an opposing vehicle along the major road slowing excessively. Based on the 55-mph statutory speed limit on the subject roadways, the required ISD for left-turning vehicles is 445 feet.

At both the intersection of SE Ten Eyck and SE Thomas Roads and the intersection of SE Thomas Road at the planned site access, the ISD for left-turning vehicles was found to be greater than 445 feet.

Stopping Sight Distance

The available stopping sight distances (SSD) were also measured in accordance with Section 240.5 of the Roadway Standards, with the driver's eye height 3.5 feet above the road surface and object height 2 feet above the road surface in the middle of each travel lane. The SSD necessary is also based on the speed of traffic on the major roadways, and represents the sight distance needed such that a driver can perceive and react to a potential hazard in time to avoid a collision. Based on the 55-mph speed limits on the subject roadways, *Roadway Standards* specifies that a vehicle approaching a second vehicles stopped in traffic waiting to turn must have 495 feet of sight distance available.

For northbound traffic along SE Ten Eyck Road its intersection with SE Thomas Road, the SSD approaching a stopped vehicle was measured in the field to be 520 feet. For eastbound traffic along SE Thomas Road at its intersection with the planned site access, the SSD was measured to be well in excess of the required 495 feet.

Conclusions

Sight distance available at the intersection of SE Thomas Road at the site access exceeds the necessary ISD in both directions. No mitigation is needed at this intersection.

Sight distance at the intersection of SE Ten Eyck Road at SE Thomas Road was measured to be less than the necessary ISD in both directions. To the north, vegetation on a property under the applicant's control can be cleared to achieve the necessary ISD. To the south, a sight distance easement is needed to provide the adequate sight distance. Lancaster Engineering will conduct

further analysis to determine the size and location of the easement needed, and follow up with an additional memorandum detailing our findings.

If you have any questions or would like additional information, please do not hesitate to contact us.

Memorandum

TO: Linda Preisz

FROM: Traffic Engineering and Development Review, Robert Hixson

DATE: July 7, 2014

RE: Z0207-14-C, Private Park
T2S., R5E., Section 6, Tax Lots 102, 103 and 600

Traffic Engineering and Development Review staff have visited the site and reviewed the submitted application materials. We have the following comments:

Facts and Findings:

1. The applicant has proposed the use of some existing onsite improvements and construction of additional improvements to establish a private park and educational and recreational facility.

2. The applicant is subject to the provisions of *Clackamas County Zoning and Development Ordinance* (*ZDO*) section 1007, pertaining to roads and connectivity, section 1015, pertaining to parking and loading, section 1008 pertaining to surface water management, and section 1203 pertaining to conditional use requirements. Additionally, the applicant is subject to other *ZDO* requirements, the *Clackamas County Comprehensive Plan* and *Clackamas County Roadway Standards*.

3. The park site is located at the northwesterly corner of Thomas Road and Ten Eyck Road, with access proposed via Thomas Road. Onsite, traffic circulation is proposed via a one lane, one-way loop road, circulating clockwise. Both the entry and exit approaches intersecting with Thomas Road are adequately paved.

4. Based on Assessor Map information, Ten Eyck Road adjacent the subject property has a 60-foot wide right-of-way and Thomas Road has a 40-foot wide right of way. The 60-foot width meets the standard for a two lane rural minor arterial while the minimum standard for a two lane rural local is 48 feet.

5. The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas.

6. Vehicle parking spaces and bicycle parking spaces shall meet *ZDO* section 1015 dimensional requirements.

7. Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards subsection 240.5.

EXHIBIT 4
6 pgs

8. When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development permit.

9. The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road, the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. Staff finds that the application is in compliance with that portion of ZDO subsection 1203.01 C, regarding the capacity of the transportation system.

10. The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, neither location meets minimum standards and no mitigations are proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

11. Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road fail to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1203.01 C regarding adequacy of the safety of the transportation system.

    At the intersection of Ten Eyck Road and Thomas Road there is the need for a sight line easement southerly from Thomas Road. The property where the easement is needed is not under the control of the applicant and no evidence has been provided to staff that indicates it is feasible to obtain the easement.

    At the intersection of the site access with Thomas Road, intersection sight distance is inadequate to the east, due to the vertical curve of Thomas Road to the east. The vertical curve of Thomas Road to the east limits the intersection sight distance to

approximately 540 feet, while 665 feet is the minimum requirement. In addition, stopping sight distance westbound approaching the access is also limited by vertical curves in Thomas Road resulting in approximately 500 feet of available stopping sight distance while 570 feet of stopping sight distance is required.

12. The use of public rights-of-way for construction vehicle and materials staging is not authorized by the Roadway Standards and poses a potentially deleterious effect of the proposed use, because it contributes to congestion, reduces sight distance, and occupies shoulders intended for emergencies and other purposes. To protect the public from such effects, the applicant shall be required to submit a construction vehicle management plan for review and approval by the County DTD, Construction and Development Section, before the County issues a Development Permit. This may be accomplished with adequate notes on the plans indicating that no material or vehicle staging will occur within the right-of-way.

Conclusion:

Due to the inadequate sight distances associated with the intersection of Ten Eyck Road and Thomas Road and the site access intersection with Thomas Road, Engineering staff finds that the application is not in complete compliance with ZDO subsection 1203.01 C and is unable to recommend approval.

However, staff understands that this application may be approved and therefore provides the following.

Preface to recommended conditions of approval:

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

If this application is approved, Engineering staff recommend the following conditions of approval:

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall verify by a professional survey that a 30-foot wide, one-half right-of-way width exists along the entire Ten Eyck Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C140.

4) The applicant shall verify by a professional survey that a 24-foot wide, one-half right-of-way width exists along the entire Thomas Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C110.

5) The applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Thomas Road site frontage. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Roadway Standards* drawing C110)

6) The applicant shall provide a copy of the Engineer's drainage study, surface water management plan, and Engineer's detention calculations to DTD Engineering, Deana Mulder.

7) The onsite circulation drive shall comply with Roadway Standards Drawing R100 regarding widths and structural section. In addition, sections of 12-foot wide driveway shall be centered in a 20-foot wide clear zone.

8) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces and parking spaces for buses shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks, buses), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

9) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces required and the number of parking spaces provided. The applicant shall label all carpool, disabled, bus, and loading berth spaces on the plans. All ADA parking spaces and adjacent accessible areas shall be

paved and be provided with appropriate pavement markings and signing. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

10) The applicant shall provide illuminated bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

11) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

    Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

    Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, prior to issuance of a Development Permit.

    Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.

13) Prior to certificate of occupancy, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

14) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned a minimum of five and a maximum of seven feet above the pavement surface, at the driveway intersection with Thomas Road. (*Manual on Uniform Traffic Control Devices*)

15) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

16) Prior to the issuance of a building permit, the applicant shall submit to Clackamas County Engineering Office:

   a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

   b) Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

   c) A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

      i) The permit will be for road, driveway, drainage, parking and maneuvering area, and other site improvements.

      ii) The Development Permit fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.

      iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

   d) When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development Permit.

17) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

S:\DTD_Common\DEVLPMNT\2014\Z0207-14-C-TE-RH-Deis

All Traffic Data
15105 SE 17th St.
Vancouver, WA. 98683
503-833-2740

Site Code: 1
Ten Eyck Rd S-O Thomas Rd

NB

Start Time	1 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	76 999	Total	85th Percent	95th Percent
06/24/14	0	0	0	0	0	0	2	1	0	0	0	0	0	0	3	47	49
01:00	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	44	45
02:00	0	0	0	0	0	0	0	1	0	0	0	0	0	0	1	49	50
03:00	0	0	0	0	0	1	0	1	0	0	0	0	0	0	2	48	50
04:00	0	0	0	0	0	2	0	0	0	0	0	0	0	0	2	39	40
05:00	0	0	0	0	1	1	5	2	1	0	0	0	0	0	10	48	52
06:00	0	0	0	0	2	6	10	5	1	1	0	0	0	0	25	48	53
07:00	0	0	0	1	7	13	4	1	0	0	0	0	0	0	26	41	45
08:00	0	0	0	5	1	8	7	2	0	0	0	0	0	0	23	44	47
09:00	0	0	0	5	4	5	9	2	2	1	0	0	0	0	28	47	54
10:00	0	0	0	2	1	6	6	4	1	0	0	0	0	0	20	47	50
11:00	0	0	0	3	1	9	7	1	3	0	1	0	0	0	25	50	55
12 PM	1	0	0	1	4	12	8	1	0	0	0	0	0	0	27	43	45
13:00	0	0	0	2	5	14	11	2	2	0	0	0	0	0	36	44	50
14:00	1	0	1	3	1	14	11	6	1	0	0	0	0	0	38	46	49
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16:00	2	0	0	0	5	8	18	8	3	0	0	0	0	0	44	47	51
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18:00	1	0	0	0	1	6	13	9	7	1	0	0	0	0	38	51	54
19:00	0	0	0	1	4	14	10	2	3	0	0	0	0	0	34	45	52
20:00	1	0	0	0	4	10	10	3	4	0	0	0	0	0	32	48	52
21:00	1	0	1	1	3	6	4	4	2	0	0	0	0	0	22	48	52
22:00	0	0	0	0	2	2	3	2	0	1	0	0	0	0	10	48	57
23:00	0	0	0	0	0	2	6	0	1	0	0	0	0	0	9	45	52
Total	10	0	2	24	53	168	171	66	36	6	1	0	0	0	537		
Percent	1.9%	0.0%	0.4%	4.5%	9.9%	31.3%	31.8%	12.3%	6.7%	1.1%	0.2%	0.0%	0.0%	0.0%			
AM Peak				08:00	07:00	07:00	06:00	06:00	11:00	06:00	11:00				09:00		
Vol.				5	7	13	10	5	3	1	1				28		
PM Peak	16:00		14:00	14:00	13:00	15:00	17:00	18:00	18:00	15:00					17:00		
Vol.	2		1	3	5	18	20	9	7	1					47		
Grand Total	10	0	2	24	53	168	171	66	36	6	1	0	0	0	537		
Percent	1.9%	0.0%	0.4%	4.5%	9.9%	31.3%	31.8%	12.3%	6.7%	1.1%	0.2%	0.0%	0.0%	0.0%			

15th Percentile :	33 MPH
50th Percentile :	40 MPH
85th Percentile :	47 MPH
95th Percentile :	52 MPH

Statistics

10 MPH Pace Speed :	36-45 MPH
Number in Pace :	308
Percent in Pace :	57.4%
Number of Vehicles > 55 MPH :	7
Percent of Vehicles > 55 MPH :	1.3%
Mean Speed(Average) :	40 MPH

All Traffic Data
15105 SE 17th St.
Vancouver, WA. 98683
503-833-2740

Site Code: 1
Ten Eyck Rd S-O Thomas Rd

SB

Start Time	1 15	16 20	21 25	26 30	31 35	36 40	41 45	46 50	51 55	56 60	61 65	66 70	71 75	76 999	Total	85th Percent	95th Percent
06/24/14	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	*	*
01:00	0	0	0	0	0	0	1	0	0	0	0	0	0	0	1	44	45
02:00	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	*	*
03:00	0	0	0	0	1	1	1	1	0	1	0	0	0	0	5	56	58
04:00	0	0	0	0	0	1	1	1	1	1	0	0	0	0	5	56	58
05:00	0	0	0	0	1	1	4	5	1	0	0	0	0	0	12	49	51
06:00	0	0	0	0	0	2	9	6	8	3	5	0	0	0	33	59	63
07:00	0	0	0	0	3	4	4	5	4	1	1	1	0	0	23	54	64
08:00	0	0	0	1	0	5	12	6	6	3	0	0	0	0	33	53	57
09:00	0	0	0	0	0	5	6	8	4	2	1	0	0	0	26	53	59
10:00	0	0	0	2	1	10	15	8	4	1	0	0	0	0	41	49	53
11:00	0	0	0	1	2	12	17	9	5	1	0	0	0	0	47	49	53
12 PM	0	0	0	1	4	3	7	10	2	1	1	0	0	0	29	50	57
13:00	0	1	0	0	2	6	7	9	5	1	3	0	0	0	34	53	62
14:00	0	0	0	4	3	12	8	14	5	1	0	0	0	0	47	50	53
15:00	0	0	0	0	6	10	11	8	6	1	0	0	0	0	42	50	54
16:00	1	0	0	1	1	8	8	13	8	2	0	1	0	0	43	52	57
17:00	2	1	0	0	3	8	19	15	7	1	0	0	0	0	56	50	53
18:00	0	0	1	0	1	9	6	3	4	2	1	1	1	0	29	55	65
19:00	0	0	0	2	1	7	5	4	3	1	1	0	0	0	24	52	59
20:00	1	0	0	0	3	2	7	4	1	1	0	0	0	0	19	48	55
21:00	0	0	1	1	1	4	8	4	1	0	1	0	0	0	21	48	55
22:00	0	0	0	0	1	1	3	3	0	1	0	0	0	0	9	50	57
23:00	0	0	0	0	0	2	3	3	1	0	0	0	0	0	9	49	52
Total	4	2	2	13	34	113	162	139	76	25	14	3	1	0	588		
Percent	0.7%	0.3%	0.3%	2.2%	5.8%	19.2%	27.6%	23.6%	12.9%	4.3%	2.4%	0.5%	0.2%	0.0%			
AM Peak				10:00	07:00	11:00	11:00	11:00	06:00	06:00	06:00	07:00			11:00		
Vol.				2	3	12	17	9	8	3	5	1			47		
PM Peak	17:00	13:00	18:00	14:00	15:00	14:00	17:00	17:00	16:00	16:00	13:00	16:00	18:00		17:00		
Vol.	2	1	1	4	6	12	19	15	8	2	3	1	1		56		
Grand Total	4	2	2	13	34	113	162	139	76	25	14	3	1	0	588		
Percent	0.7%	0.3%	0.3%	2.2%	5.8%	19.2%	27.6%	23.6%	12.9%	4.3%	2.4%	0.5%	0.2%	0.0%			

15th Percentile :	36 MPH
50th Percentile :	43 MPH
85th Percentile :	51 MPH
95th Percentile :	57 MPH

Statistics

10 MPH Pace Speed :	40-49 MPH
Number in Pace :	289
Percent in Pace :	49.1%
Number of Vehicles > 55 MPH :	43
Percent of Vehicles > 55 MPH :	7.3%
Mean Speed(Average) :	44 MPH

Hewitt, Gary

From: Hixson, Robert
Sent: Monday, July 07, 2014 10:08 AM
To: Brian Davis
Cc: Todd Mobley; Nys, Richard; Preisz, Linda; Hewitt, Gary
Subject: RE: Ten Eyck and Thomas; June 18, 2014, Technical Memorandum, (Z0208-14-CP, Z0209-14-Z, and Z0207-14-C)

Hi Brian,

Based on a phone call to your office this morning, I understand that you will be out of the office today. It was suggested that I should send you an e-mail with my concerns.

I am working on a memorandum for this project and based on the deadline provided to me by Planning staff I will need to submit it to Planning today. My principal concerns relate to ZDO subsection 1202.01 E regarding the safety of the transportation system for the zone change and ZDO subsection 1203.01 C, which relates to the safety of the transportation system for the conditional use element of the proposal.

I reviewed the submitted materials for the project, including the June 18, 2014, Lancaster Engineering Technical Memorandum regarding sight distances. I visited the site last Thursday to take measurements. Rick Nys indicated that speed study data may be available. However, I was unable to locate any speed study data in the available materials provided to me for review.

The Technical Memorandum identifies that the roads under consideration are governed by the Basic Rule and 55 mile per hour speeds were used when evaluating sight distances. However, Roadway Standards subsection 250.1.2 requires 5 miles per hour to be added to intended or posted speeds to arrive at design speeds to be used for sight distance calculations. This adjustment has not been utilized in the Technical Memorandum resulting in the use of measurements based on 55 mph instead of 60 mph.

These are my current concerns associated with the June 18, 2014, Technical Memorandum.

1. Page 1, paragraph 3, last line: A sight distance of 610 feet is referenced, while the required standard is 665 feet.
2. Page 1, paragraph 4, last sentence: While the need for a sight distance easement has been identified, no evidence has been provided to indicate that it will be feasible to obtain the easement.
3. Page 2, paragraph 1: My field measurements indicate that the sight distances easterly do not meet minimum standards. The intersection sight distance easterly, with the frontage vegetation adequately maintained, would be limited to approximately 540 feet (665 feet is the minimum) due to the vertical curve of Thomas Road. This same vertical curve limits the westbound stopping sight distance to approximately 500 feet (570 feet is the minimum)
4. Page 2, paragraph 2, last line: The ISD for a left turning vehicle is identified as 445 feet while the minimum standard is 490 feet.
5. Page 2, paragraph 4, last line: The stopping sight distance is identified as 495 feet while the minimum standard is 570 feet.
6. Page 2, paragraph 5, first sentence: Lancaster Engineering staff measured the stopping sight distance at 520 feet. The minimum standard is 570 feet indicating the existing stopping sight distance is inadequate.
7. Page 2, paragraph 5, last sentence: The required stopping sight distance is indentified as 495 feet, while the minimum standard is 570 feet.

In conclusion, the submitted evidence does not indicate that the site access intersection with Thomas Road or the intersection of Thomas Road with Ten Eyck Road meet the minimum sight distance standards. In addition, a sight line

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3 pgs

easement, over property not under the control of the applicant, has not been obtained and no evidence has been provided to indicate that the easement is feasible to obtain.

If speed study data is available, I would be interested in reviewing that data. Also, If evidence could be provided that Thomas Road is a very low volume local road, both now and 20 years into the future, use of the very low volume local road sight distance standards may provide a solution to the site access intersection with Thomas Road sight distances.

Based on the submitted materials currently available for my review, I will be unable to recommend approval.

If you have any questions or require further clarification, please reply to this e-mail message or call me at the listed phone number.

Sincerely,

Robert

Robert Hixson
Clackamas County, DTD Engineering
150 Beavercreek Road
Oregon City, OR 97045
503-742-4708 (phone)
503-742-4659 (fax)
roberth@co.clackamas.or.us
Office hours: 7:30 AM - 4:00 PM Monday - Friday

From: Nys, Richard
Sent: Wednesday, July 02, 2014 4:46 PM
To: Brian Davis
Cc: Todd Mobley; Hixson, Robert
Subject: RE: Ten Eyck and Thomas

Thanks Brian,

I forwarded to Robert. He will contact you if he has questions as he prepares our comments. I'm out the rest of the week and all next week, but will look at emails.

Rick

From: Brian Davis [mailto:brian@lancasterengineering.com]
Sent: Wednesday, July 02, 2014 4:39 PM
To: Nys, Richard
Cc: Todd Mobley
Subject: Ten Eyck and Thomas

Rick,

Pivoting back to the Bull Run project, here's the sight triangle we need to achieve the SSD90 sight distance of 425 feet, as we discussed. The piece of the sight triangle that crosses private property is hatched in red on the attached diagram. As near as I can tell, it will require an easement of approximately 3,775 s.f.

I'll get in touch with the client to see where he is with those conversations and let you know what I find out.

Brian
--
Brian Davis

Transportation Analyst
Lancaster Engineering

(503) 248-0313
brian@lancasterengineering.com

Spam
Not spam
Forget previous vote

Preisz, Linda

From: Hixson, Robert
Sent: Friday, July 25, 2014 11:18 AM
To: Todd Mobley
Cc: Nys, Richard; Preisz, Linda; Hewitt, Gary
Subject: RE: Ten Eyck Sight Distance

Hi Todd,

Rick is out of the office until August 4, 2014. Here are my current concerns.

The County is able to address sight distance restrictions on private property through the Clackamas County Code. I have never dealt with one of these, but it is something that may take quite a long time to accomplish, especially if the property owner is uncooperative. We would undoubtedly spend considerable time to try to work to achieve a mutually agreeable solution with the property owner. The process could take many months and it is my understanding that this could still result in the County being sued for damages if obstructions on private property were removed or trimmed without the owner's formal consent.

In this case, since we don't have survey data to evaluate, we don't know where the sight restrictions are in relation to the limits of the right-of-way/property line. Finding this property line and illustrating the sight line on an exhibit is feasible to accomplish and I recommend that this be done. With such an exhibit, we would then know if there was anything on private property that required a dedication of additional time and effort from the County to get it removed or trimmed and maintained. Also, with the survey data, we would know the exact limits of a sight line easement if the sight line crosses over private property and what obstructions required attention. This would be useful and likely essential if an easement needs to be negotiated with the property owner as it would illustrate the precise impacts to the property.

If the survey data shows that the obstructions are in the right-of- way, they can be removed or trimmed and maintained without the property owner's permission. The owner would need to be notified of the upcoming work as the vegetation along the frontage that is in the right-of-way is still the property of the adjacent property owner. If the fencing turns out to be in the right-of-way, the County would also be able to advise the property owner to move the fence back out of the right-of-way and onto the owner's private property. If that occurs, the resulting right-of-way would be easier to maintain without a fence in the way.

It is my opinion that this survey work should be done so we have substantial evidence to evaluate. With that information available, we could work to find and implement the best solution.

Before I would begin working to address this situation using the County Code, I would first need my supervisor to evaluate the issues. If he found it appropriate for me to work on, he would assign me this work. This work would need to be prioritized with my other assignments and would be worked on when deemed appropriate. It is my understanding that there have been no reported crashes at this intersection over the last five years that were analyzed (2008 – 2012) so this work might not be prioritized near the top of my assignments by my supervisor, considering other projects that have deadlines. I would anticipate that we would need to survey the frontage to learn where the right-of-way line is located so we would know if anything on private property was obstructing the sight line. With that information, we would be able to inform the property owner of the situation and let them know if anything on private property needed attention or if the obstructions were all in the right-of-way.

Based on the currently available evidence I can find that the site access intersection with Thomas Road is adequate, based on the speed study and count information which indicates that Thomas Road is a very low volume local road. Without survey data for the Ten Eyck Road frontage, southerly from Thomas Road, no one knows what obstructions are

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pg. 1 of 3

on private property, if any, and what obstructions are in the right-of-way. Before I could recommend a condition of approval regarding the sight distance southerly, I would need to know if a sight line easement was required.

Since this sight distance concern is related to a Comprehensive Plan Amendment, Zone Change, and Conditional Use, it is my opinion that we should have a clear understanding of what is needed to achieve adequate sight distance southerly prior to recommending approval and appropriate conditions. Based on the supplemental speed study work, we have been able to adjust the sight distance requirements. With similar supplemental survey work, we would know what sight restrictions were in the right-of-way and those that were on the private property located southerly from Thomas Road.

If you have any questions or require further clarification, please reply to this e-mail message or call me at the listed phone number.

Sincerely,

Robert

Robert Hixson
Clackamas County, DTD Engineering
150 Beavercreek Road
Oregon City, OR 97045
503-742-4708 (phone)
503-742-4659 (fax)
roberth@co.clackamas.or.us
Office hours: 7:30 AM - 4:00 PM Monday - Friday

From: Todd Mobley [mailto:todd@lancasterengineering.com]
Sent: Thursday, July 24, 2014 5:40 PM
To: Nys, Richard; Hixson, Robert
Cc: Brian Davis
Subject: Fwd: Ten Eyck Sight Distance

Rick and Robert,

I was out there yesterday looking into this some more, and achieving 385 feet of sight distance looks pretty doable, although the line of sight does still go behind the fence. Based on the property boundary info we have seen, that may or may not mean that the line of sight actually leaves the right-of-way. I'm hoping that this can be our mutually-agreeable engineering solution to take to the hearing, but I'm not too confident on how this gets memorialized in a condition of approval. My understanding is that the applicant still does not have certainty that the property owner will cooperate and the planning department is reluctant to write a condition of approval until they know that an easement is attainable.

Under what circumstances would something like this be handled by the County directly? With the reduced sight distance requirement and what now looks like minimal clearing with no tree removal, is this something that the County coordinate with the property owner? The applicant has control of the

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sight line on the north side of Thomas, so I'm sure they will accept a condition of approval to clear that side and probably even grant the County a sight distance easement to maintain the line of sight.

Let me know what you think. Thanks,

-Todd

Todd E. Mobley, PE, PTOE | Principal
Lancaster Engineering | www.lancasterengineering.com
321 SW 4th Avenue, Suite 400 | Portland, OR 97204
O: 503-248-0313 | C: 503-319-9811 | todd@lancasterengineering.com

---------- Forwarded message ----------
From: **Todd Mobley** <todd@lancasterengineering.com>
Date: Thu, Jul 24, 2014 at 7:29 AM
Subject: Ten Eyck Sight Distance
To: Brian Davis <brian@lancasterengineering.com>

The line of sight to get 385 feet of sight distance is not as bad as I expected. We might be able to achieve it without any tree removal, just some underbrush and limbing. I put a stake with a pink ribbon where the sight line crosses the fence
at each end
. The attached pictures are taken from 385 feet looking back toward the intersection and from Thomas looking to the right. You'll likely have to zoom in to see the stake and ribbon, but they're visible.

After laying out the line of site and staking both ends, I measured between the stakes, along the fence line, and it was only 150 feet. This ought to give us enough to show the easement area, which will probably be considerably smaller than what we had previously.

-Todd

Todd E. Mobley, PE, PTOE | Principal
Lancaster Engineering | www.lancasterengineering.com
321 SW 4th Avenue, Suite 400 | Portland, OR 97204
O: 503-248-0313 | C: 503-319-9811 | todd@lancasterengineering.com

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Not spam
Forget previous vote

EXHIBIT 6
pg. 3 of 3

CLACKAMAS COUNTY

Planning and Zoning
Development Services Building
150 Beavercreek Road Oregon City, OR 97045
Phone: (503) 742-4500 fax: (503) 742-4550
e-mail: zoninginfo@co.clackamas.or.us
Web: http://www.clackamas.us/transportation/planning/

RECOMMENDATION OF THE PLANNING COMMISSION

This document represents the Planning and Zoning Staff findings, conclusion and recommended conditions of approval for a Land Use Application of a Conditional Use Permit as cited below. It contains three parts: Section 1 – Summary, Section 2 – Conditions of approval and Section 3 – Findings.

SECTION 1 – SUMMARY

DATE: August 25, 2014

CASE FILE NO.: Z0207-14-C

STAFF CONTACT: Linda Preisz, 503-742-4528, lindap@co.clackamas.or.us

LOCATION: T2S R6E Section 06, Tax Lot(s) 102

APPLICANT(S): Tony Deis, Bull Run Educational Center, LLC, P.O. Box 14400, Portland OR 97293

OWNER(S): Powerhouse Re Gen LLC, Karen Karlsson, 906 NW 23rd Avenue, 52815 East Marmot Rd, Sandy, OR 97055

TOTAL AREA: Approximately 20 acres and 80 acres

ZONING: TBR; Timber District

COMPREHENSIVE PLAN DESIGNATION: Forest

CITIZENS PLANNING ORGANIZATION: Bull Run CPO
Roger Bell
503-367-5162
P.O. Box 75
Sandy, OR 97055
Maia007@yahoo.com

PROPOSAL: Two Conditional Use requests. Proposal A is to authorize a private park on 80 acres of the site zoned TBR. The applicant proposes low-impact recreational uses that will include activities such as hiking, guided nature tours, animal tracking lessons and bird watching.

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No new buildings or other structures are proposed on the TBR portion of the site. Day use of the site is proposed to allow up to 800 people (includes participants and staff). The PC recommended that up to 4 times a year, 1,500 participants could attend special events.

Proposal B is predicated on approval of a pending application for a Reasons Exception and Comprehensive Plan/Zone change to authorize a private park, campground and educational center on 20 acres of the site zoned FF-10. In addition to the existing park structures, the applicant proposes 5 convertible classroom buildings-approximately 800sf each (can convert to sleeping quarters), two new open air classrooms/picnic shelters, one outdoor classroom platform-approximately 2,000sf which can also be used for overnight stays (tents), two primitive personal tent camping areas, and a 50 X 80 foot archery range. Day use of the site is proposed to allow up to 800 people and overnight use of the site is proposed to allow up to 300 participants. Access is proposed off an existing driveway from SE Thomas Road.

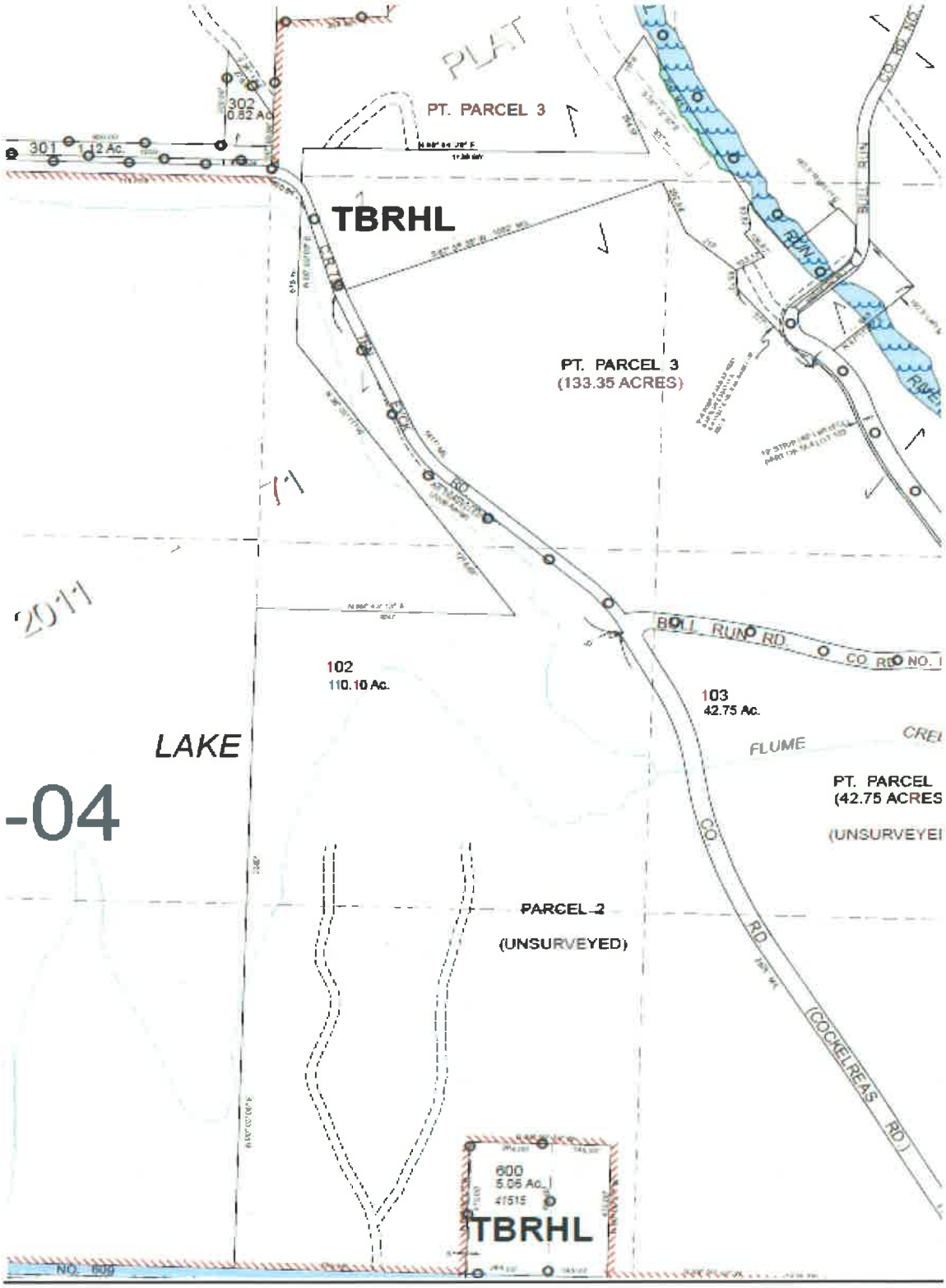
Occasionally, special events, up to 4 times a year, may have up to 1500 participants.

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: ORS Chapter 215 requires that if you receive this notice, it must be promptly forwarded to the purchaser.

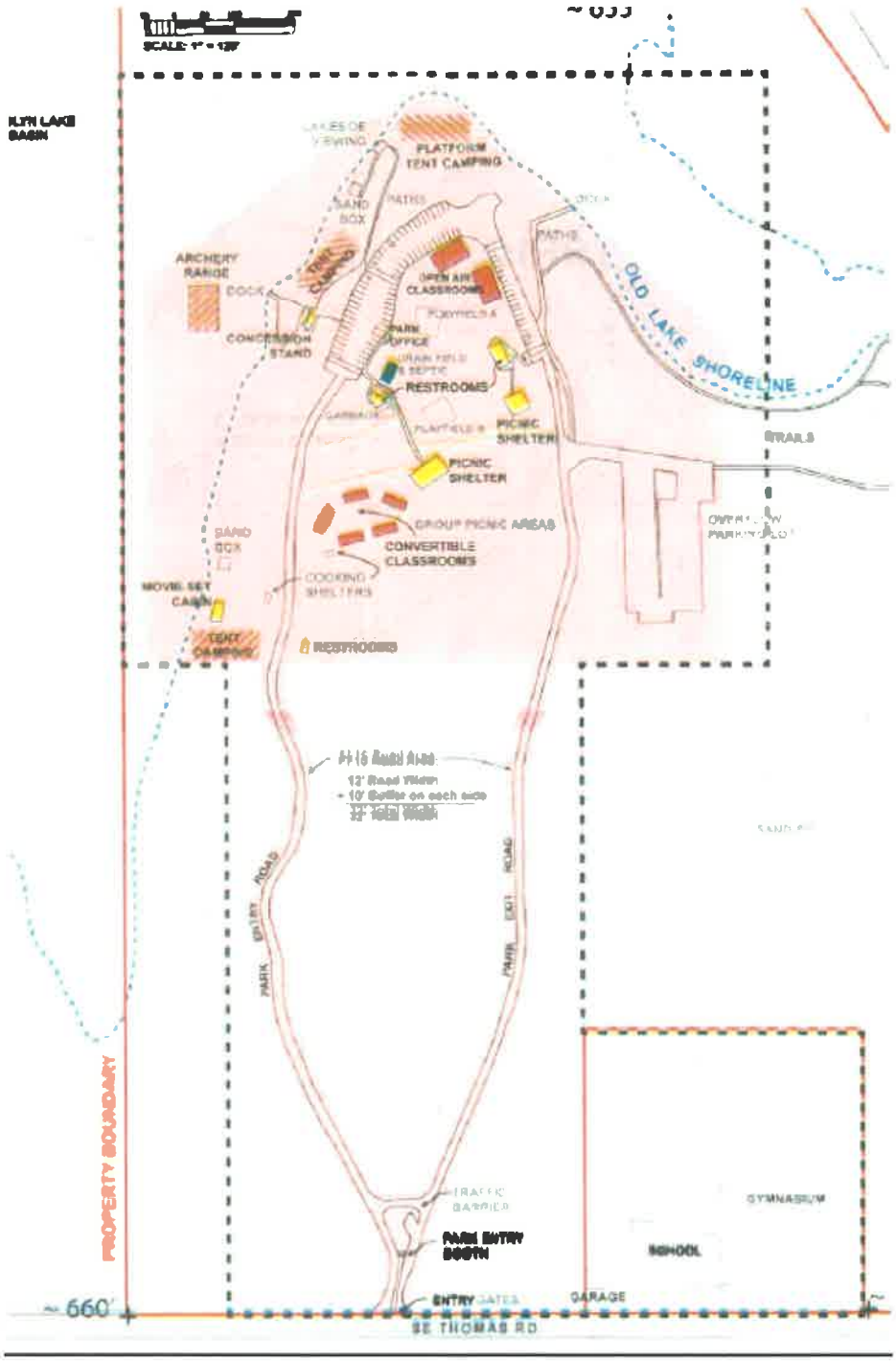
OPPORTUNITY TO REVIEW THE RECORD: A copy of the Planning Commission recommendation and all evidence submitted with this application is available for inspection, at no cost, at the Planning and Zoning Division during normal business hours (Monday- Friday 8:00 a.m. – 3:00 p.m.). Copies of all documents may be purchased at the rate of $1.00 for the first page and 10 cents for each additional page. The Planning Commission recommendation contains the findings and conclusion upon which the recommendation is based along with any recommended conditions of approval.

APPLICABLE APPROVAL CRITERIA: This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Sections(s) 406, 310, 1001, 1002, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

Tax Map


PLAT
PT. PARCEL 3
302
0.82 Ac.
301
1.12 Ac.
TBRHL
PT. PARCEL 3
(133.35 ACRES)
2011
BULL RUN RD.
CO. RD. NO. 1
102
110.10 Ac.
103
42.75 Ac.
LAKE
FLUME
PT. PARCEL
(42.75 ACRES
(UNSURVEYEI
-04
PARCEL 2
(UNSURVEYED)
CO. RD. (COCKELREAS RD.)
600
5.06 Ac.
41515
TBRHL
NO. 600

Site plan


PLATFORM TENT CAMPING
ARCHERY RANGE
CONCESSION STAND
OPEN AIR CLASSROOMS
PARK OFFICE
RESTROOMS
PICNIC SHELTER
PICNIC SHELTER
OLD LAKE SHORELINE
TRAILS
GROUP PICNIC AREAS
CONVERTIBLE CLASSROOMS
COOKING SHELTERS
MOVIE SET CABIN
RESTROOMS
PARK ENTRY ROAD
PARK EXIT ROAD
PROPERTY BOUNDARY
TRAFFIC BARRIER
PARK ENTRY BOOTH
ENTRY GATES
GYMNASIUM
SCHOOL
GARAGE
~660'
SE THOMAS RD

RECOMMENDATION:

Approval with conditions.

SECTION 2 – RECOMMENDED CONDITIONS OF APPROVAL FOR PLAN A.

The Planning Commission recommends APPROVAL with the following conditions:

I. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 11, 2014. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell at (503) 742-4657 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Lori Phillips in the Clackamas County Administration Division. Lori Phillips can be contacted by phone at (503) 742-4331 or email her at loriphi@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies

responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

II. Land Use and Zoning Conditions: Linda Preisz, (503) 742-4528, lindap@co.clackamas.or.us

Approval is for the specific use identified in the application materials and on the submitted site. This approval authorizes the applicant to establish a private day use park using an existing on-site parking and circulation system.

1) A maximum of 800 participants (campers and staff) per day. No over-night camping requested. However, the Planning Commission recommended that this camp be able to have up to 45 participants in overnight stays using primitive - leave no trace - techniques.

   This recommendation is not in accordance with state law. ZDO406.05I(1) states "A campground is an area devoted to overnight temporary use and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground, subject to the following:

   a. Except on a lot of record contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS197.732 and OAR chapter 660, Division 4."

      The subject property is within 3 miles of the City of Sandy UGB.
      This use was not included in the Reason Exception. It was not described or mentioned in the conditional use application.

   Staff does not recommend that this use be permitted.

2) Special Events, up to 4 times a year, shall be limited to 1500 participants.

3) The use of speakers, public address systems or other noise amplification devices is prohibited.

4) Outdoor lighting is not permitted.

5) **Prior to commencement of activity,** the applicants shall submit to this file, a statement from the Clackamas County Soils Division that the existing septic system is adequate.

6) **Prior to commencement of activity,** the applicants shall submit to this file, a statement of feasibility from the Portland Water Bureau stating the existing system is adequate for the approved uses.

7) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm.

8) **Prior to commencement of activity,** the applicants shall obtain all Food Handler Permits and Licenses to comply with regulations, for any beverages and food items being served.

9) **Prior to commencement of activity**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A copy shall be submitted to this file.

10) **Prior to commencement of activity**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner and the landowner's successors in interest, to manage the approximately 25 acre forest directly south of the PGE-Day Use Park area to protect the historic character of the site and its fully developed tree canopy and grove like character. No clear cutting shall occur. Tree thinning and cutting is limited to that which encourages the long term health of the forest. A copy shall be submitted to this file.

11) **Prior to commencement of activity,** the applicant shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening and other specific design standards for enclosures and pads. The applicant must provide a detailed plan for service to Planning.

III. Engineering Division Conditions: Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall verify by a professional survey that a 30-foot wide, one-half right-of-way width exists along the entire Ten Eyck Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C140.

4) The applicant shall verify by a professional survey that a 24-foot wide, one-half right-of-way width exists along the entire Thomas Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C110.

5) The applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Thomas Road site frontage. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Roadway Standards* drawing C110)

6) The applicant shall provide a copy of the Engineer's drainage study, surface water management plan, and Engineer's detention calculations to DTD Engineering, Deana Mulder.

7) The onsite circulation drive shall comply with Roadway Standards Drawing R100 regarding widths and structural section. In addition, sections of 12-foot wide driveway shall be centered in a 20-foot wide clear zone.

8) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces and parking spaces for buses shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks, buses), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

9) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces provided. The applicant shall label all carpool, disabled, bus, and loading berth spaces on the plans. All ADA parking spaces and adjacent accessible areas shall be paved and be provided with appropriate pavement markings and signing. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

10) The applicant shall provide 2 bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

11) <u>The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road</u>. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall

also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, **prior to issuance of a Development Permit.** (Obtaining these easements on private property may take years.)

Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.

13) **Prior to certificate of occupancy**, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

14) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned a minimum of five and a maximum of seven feet above the pavement surface, at the driveway intersection with Thomas Road. (*Manual on Uniform Traffic Control Devices*)

15) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

16) **Prior to the issuance of a building permit**, the applicant shall submit to Clackamas County Engineering Office:

    a) Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

    b) Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

    c) A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to

Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

i) The permit will be for road, driveway, drainage, parking and maneuvering area, and other site improvements.

ii) The Development Permit fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.

iii) The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

d) When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development Permit.

17) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

SECTION 3 – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 406, 1001, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. **Background:**

A. Prior Land Use Actions:

1. File Z0579-13, approved April 30, 2014 – Historic Landmark overlay zone placed on the PGE-DAY USE Park, Historic Landmark Designation reduced on the Bull Run Power Plant and Historic Landmark Designation increased on the Bull Run School.

2. In addition, Z0579-13 designated the three sites as a Historic District.

B. Applicant's Proposal:

The BREC (Bull Run Educational Center) seeks approval to conduct wilderness survival programs on the site. The scope of these programs include: animal tracking, agro-

forestry, outdoor safety and survival skills, hiking, bird watching, all low-impact recreational uses.

2. **Site Description:** The site is located north of SE Thomas Road and west of SE Ten Eyck Road. The irregular shaped lot is relatively flat. The site is covered in timber of varying ages planted throughout the property. The forested area between the day-use park and the road contains trees about 100 years old. There is also an old quarry site which is filling in with trees. This portion of the site contains approximately 80 acres. This portion of the site has no structures.

3. **Natural Features:** The site is covered in timber of varying ages and a contains a small open area near the old quarry. The drained Roslyn Lake is now covered with timber.

4. **Surrounding Conditions:** The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

5. **Service Providers:**

   A. Surface Water: The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the DTD, Engineering Division.
   B. Water: The subject property is served by Portland Water.
   C. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by an existing septic system.
   D. Fire Protection: Sandy Fire District #72.

7. **Responses Requested:**

   A. Bull Run CPO
   B. Sandy Fire District #72.
   C. Department of Transportation and Development (DTD), Building Division
   D. Department of Transportation and Development (DTD), Traffic Engineering (TE)
   E. Dept. of State Lands
   F. Dept of Land Conservation & Development
   G. Property Owners within 750 feet

8. **Exhibits:** See Exhibit List following the last page of this report.

PART 1. SUBMITTAL REQUIREMENTS

1. Subsection 1203.04 of the Zoning and Development Ordinance list the information that must be included in a complete application for a conditional use permit.

This application includes a completed land use application form, site plan (see above), application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statements of Feasibility for storm water management, and sanitary sewer. The application was submitted on June 11, 2014 and deemed complete.

The submittal requirements of Section 1203.04 are met.

PART 2. CONDITIONAL USE PERMIT

1. Subsection 1203.01 of the Zoning and Development Ordinance lists six (6) criteria that must be satisfied in order to approve this Conditional Use.

   A. **Section 1203.01(A):** *The use is listed as a Conditional Use in the underlying zoning district.*

      1. The subject property is zoned Timber. Section 406 of the ZDO controls land uses in the underlying Timber zoning district. Section 406.04 lists the uses allowed in the Timber zoning district. Section 406.04(A)(1), (2) (6) and (I)(1) of the ZDO specifically lists "Private parks and campgrounds."

      2. The applicant has proposed to establish a private park under the provisions of Section 406.04. The proposed uses are summarized under the "Proposal" of this report and described in the application narrative and site plan.

      3. Private Park is defined in section 406 as *"Land that is used for low impact casual recreational uses such as picnicking, boating fishing, swimming, camping, hiking, or nature-oriented recreational uses such as viewing and studying nature and wildlife habitat and may include play areas and accessory facilities that support the activities listed but does not include track for motorized vehicles or areas for target practice or the discharge of firearms."*

         The Planning Commission finds that the proposed use meets this definition.

      4. The private park is subject to the standards in Section 406.04(A)(1, 2 & 6) and 406.04(I) 1 of the ZDO and identified below:

         a. *"The proposed use shall not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands."*

            The proposed use on the site will not alter the overall character of the surrounding area. The site will maintain its natural, park-like setting; no new roads will be

constructed, existing traffic routes will not be altered. The site will maintain its natural character. The applicant's shall record a deed statement prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices.

This criterion can be met.

b. *"The proposed use shall not significantly increase fire hazard, fire suppression costs, or risks to fire suppression personnel."*

The proposed use of the site includes activities such as hiking, guided nature tours, animal tracking and similar uses. No new structures will be built on the TBR portion of the site. The proposed activities will not change the amount of potential fire fuel on the land nor will it change the availability of water for fire suppression.

This criterion can be met.

c. *"A written irrevocable statement shall be recorded in the deed records of the County binding upon the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under Oregon Revised Statutes (ORS) 30.936 or 30.937."*

This criterion can be met.

5. Summary:

The proposed "private park" meets the definition of a "Private Park and campground" and can meet the requirements of Section 407.04 with conditions of approval.

B. **Section 1203.01(B)**: *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. **Size:** The subject property is approximately 80 acres in size.

2. **Shape:** The subject property is irregular in shape.

3. **Topography:** The irregularly shaped lot is relatively flat.

4. **Location:** Access from SE Thomas Road.

5. **Improvements:** None.

6. **Natural Features:** The site is covered in timber of various ages, timber filling dry lake bed, and slowly re-foresting gravel pit.

7. **Floodplain:** According to the FEMA Floodplain maps, the subject property is not located within or near a designated floodplain

8. **Geologic Hazards:** There are no seen hazards on the geologic hazards map.

9. **Soils:** The table below identifies one soils type on the subject property. The eastern portion containing the old quarry has Pits. The Pit soils map unit consists of exactions from which soil rock or gravel has been removed. This map unit is not assigned a capability classification.

Soil Type *	Rating *	Slopes *	Location on Site **	Native Vegetation *
2B Alspaugh clay loam	High Value Forest	2 to 8 % Slopes	Western half	Douglas fir, red alder, salal, brackenfern and swordfern.

* The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.

10. **Summary:** The physical characteristics of the site are suitable to accommodate the proposed use for the following reasons:

    a. The property is approximately 20 acres. The large size lot is suitable to accommodate the proposed use. The submitted site illustrates the proposed site does not include any permanent structures.

    b. The shape does not present any significant limitations to the proposed development.

    c. The relatively flat topography is very suitable to accommodate the proposed use.

    d. The location has access to SE Thomas Road.

    The Planning Commission finds this criterion is met.

C. **Section 1203.01(C):** *The proposed development is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed development.* .

1. Subsection 1007.09: Transportation Facilities Concurrency

1. *"The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."*

2. Safety: Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. Engineering adds:

   The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road, the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. Staff finds that the application is in compliance with that portion of ZDO subsection 1203.01 C, regarding the capacity of the transportation system.

   The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, neither location meets the minimum standards nor are mitigations proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

   Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road fail to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1203.01 C regarding adequacy of the safety of the transportation system.

   After staff wrote the recommendation, the applicant submitted a speed study which provided evidence that sight distance with the access drive and Thomas Road is satisfactory. Although no new evidence was submitted concerning sight distance issues with Thomas Road and Ten Eyck Road, the Planning Commission

believes the matter can be addressed satisfactorily by the applicant.

Summary: Clackamas County Traffic Engineering continues to believe that the proposal DOES NOT satisfy the requirements of subsection 1203.1C.

This criterion has not been satisfied at this time.

D. **Section 1203.01(D):** "*The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district.*"

1. The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

2. These criteria do not require the use to not have any impacts, but instead the impacts must not substantially limit, impair or preclude the use of adjacent properties for the allowed primary uses. The primary uses allowed in this district are listed in Section 406.04. The primary uses allowed in this zone primarily include forest operations, farm uses, conservation of soils, air, water and provide for fish and wildlife resources, alteration of legally established dwellings, road widening, etc., private hunting and fishing operations, fire towers and stations, utility lines, water intake facilities, etc., mineral and aggregate exploration, etc., accessory buildings customarily incidental with a primary use and wireless telecommunication facilities.

3. The background information provided in this report describes the general land uses proposed on this site and occurring on the adjacent properties. The uses on surrounding properties are mainly forest type of uses.

4. The potential impacts on the adjacent residential uses include noise, dust, traffic, fire danger and lighting. The Planning Commission makes the following findings.

   a. Noise: The Planning Commission believes activities on the subject site will generate some noise greater than what is already occurring on site. Staff is unaware of any noise violations from this site. The park noises from up to 800 (1500 occasionally) participants may include singing, and yelling and activity noises. Logging activities also produce noise.

      Logging activities and farm activities are regular uses in this zone and produce noise, the Planning Commission believes that the distance between the camp and other property uses are far enough to mitigate such noises and therefore noise will not be a significant problem or concern.

   b. Dust: The applicant is not planning on any major dust producing activities on site except possibly logging, which is a primary use. The site is located in a timber zoning district where dust is a normal occurrence.

   c. Lighting: The applicant states in their application that the TBR private park area will not have electricity. It is assumed that campers and staff/campers may use

flash lights at night but the Planning Commission finds that this will not be a significant concern to neighboring properties.

d. Traffic: The subject property has access to Thomas Road. The capacity of the transportation system will not be significantly affected.

e. Fire Danger: No fires or camping areas are requested.

5. Summary: Based on the above analysis the Planning Commission believes the dust, noise, fire danger, lighting or traffic impacts resulting from the existing or proposed use will not substantially limit, impair or preclude the use of surrounding properties for residents and farm and forest uses or practices. **With conditions of approval, the Planning Commission finds that this criterion can be met.**

E. **Section 1203.01(E):** *The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

1. The applicant did address Chapter 9- Open Space, Parks, Historic Sites. The goals and policies of that section generally pertain to public facilities. Policy 8 does state "*Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities*" and Policy 8.4 "*Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on program-by-program basis when public facilities are not available.*" **The Planning Commission agrees that this proposal is in keeping with Chapter 9 of the Comprehensive Plan.**

2. Chapter 3. Natural Resources and Energy - Forests. Policy 5.0; *Cooperate and coordinate with appropriate state and federal agencies to insure forest management practices that recognize the multiple resource values of forest lands. Impacts on environmentally sensitive areas such as slide and erosion hazard areas, sensitive fish and wildlife habitat, scenic corridors, unique natural and/or cultural features, etc, shall be minimized.*

   The use of forest resources for outdoor recreational uses such as private parks recognizes the multiple resource values of forest lands. The proposed use does not impact on environmentally sensitive areas such as slide and erosion hazard areas, scenic corridors, or unique natural and/or cultural features.

3. Goals and Policies of the Forest Designation are also included in the Forest Section of the Land Use Chapter of the Comprehensive Plan.

   Chapter 4. Land Use - Forest. Policy 3.0; *Land uses which conflict with forest uses shall not be allowed.*

   The proposed private park is listed as a conditional use in the Timber zoning district. The prior analysis of the requirements of ZDO Section 1203.01(A) above, provides adequate justification that the proposed use should not conflict with forest uses.

4. Comprehensive Plan Chapter Five, "Transportation", under the heading "Improvements to Serve Development", includes Policy 16.0, which reads as follows:

   "Require development to be served by adequate roadway facilities."

   Transportation Engineering staff (Exhibit 4) finds that the proposal is NOT in compliance with policy 16.0 and, therefore, ZDO subsection 1203.01 as it relates to Comprehensive Plan transportation goals and policies, with conditions of approval, it may comply.

PART 3. OTHER DEVELOPMENT STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.
   A. **Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:** Of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

      1. Section 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area:

         "The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area.

         Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well." The water source is Portland Water. The applicant shall provide a Statement of Feasibility that the water source is adequate for the proposed use.

         This criterion can be met.

      2. Section 1006.07 - Subsurface Sewage Disposal Standards:

         All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.

         The applicants state that they will be using the existing PGE-Day Use park bathrooms. A condition is warranted stating that the applicant will submit a report to

the file from the County Soils Division stating the existing system is adequate for the proposal.

This criterion can be met.

3. Section 1006.08 - Surface Water Management Standards:

   a. *"All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:*

      i. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*

      ii. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*

   b. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

   c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

      i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*

      ii. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.*

      iii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

      Clackamas County DTD, Engineering signed a Statement of Feasibility, April 30, 2014, and states that it is feasible the proposal can comply with the standards. A condition is warranted requiring the applicant to submit their drainage plan including detention designs to DTD, Engineering. DTD, Engineering shall review and approve the plans for the erosion control prior to final plan approval.

This criterion can be met.

D. **Section 1007- Roads Connectivity:**

1. Section 1007.03 – General Provisions:

A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*

B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

Engineering Staff has discussed these issues in Exhibit 17.

This criterion may be met with conditions.

C. *New developments shall have access points connecting with existing private, public, county, or state roads.*

Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other uses.

D. *Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.*

E. *All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.*

This criterion is met with conditions. See Exhibit 17, County Engineer comments.

2. Section 1007.04 Public and Private Roadways:

A. *All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.*

1. *Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.*

3. *Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:*

   a. *Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and*

   b. *Turnouts shall be provided at viewpoints or for recreational needs.*

   County Engineering staff state that the *"the subject property takes access from SE Thomas Road within a portion of the County that is zoned TBR, Timber 80 acres."*

   "The applicant has proposed development of private park that will include site improvements and will generate additional vehicle trips to the site. The applicant is therefore subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007, pertaining to roads, circulation and parking improvements, and section 1008 pertaining to surface water management." (Exhibit 4)

   This criterion can be met with conditions.

B. *Developments shall* <u>*comply with the intersection sight distance*</u> *and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*

   1. *No planting, signing, or fencing shall be permitted which restricts motorists' vision; and*

   2. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.*

Engineering staff find that "in accordance with ZDO Subsections 1007.04.D and 1007.05, and the Clackamas County Roadway Standards, Section 240, the access road serving the proposed development is required to provide adequate intersection sight distance. <u>The existing intersection of the private road with Thomas Road and Thomas Road with Ten Eyck Road does not currently provide adequate intersection sight distance due to trees and vegetation located on each side of the approach.</u> The applicant has submitted speed study data and a sight distance analysis prepared by Lancaster Engineering, dated June 18, 2014. Based on this traffic volume, sight distances provided in Table 2-10 of the Clackamas County Roadway Standards are applicable." (Exhibit 4) The applicant has submitted additional information which provides evidence that the sight distance

is adequate at the intersection of the camp's driveway with Thomas Road. However, the intersection of Thomas Road and Ten Eyck Road does not meet this standard.

This criterion may be met.

3. Section 1007.09, Transportation Facilities Concurrency:

   A. *The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.*

   B. *Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

   C. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

   Engineering staff have found that the capacity of transportation facilities is adequate. (Exhibit 4)

   This criterion is met.

   D. *As used in Subsection 1007.09(C), "adequate" means a minimum of Level-of-Service (LOS) D, except:*

   County Traffic engineering staff finds that *"the roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 4)

   This criterion is met.

   E. *As used in Subsection 1007.09(F), "necessary improvements" are:*

      1. *Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).*

         a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

         b. *If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.*

      Engineering staff's Exhibit 4 discusses the issues and makes recommendations.

      This criterion may be met with conditions.

E. **Section 1008 - Storm Drainage:**

This section outlines the requirements for Storm Drainage and Erosion Control. The following requirements and standards of Section 1008 are applicable to this proposal.

The subject property is located within the Clackamas County Engineering area of review within the County. The rules and regulations for this district are administered by the Clackamas County Engineering Division. The applicant has submitted a Statement of Feasibility for surface water from the Clackamas County Engineering Division May 30, 2014.

The standards of Section 1008 can be met.

F. **Section 1015 – Parking and Loading:**

1. Section 1015.04 Automobile Parking Area Standards:

   Parking has been established with the PGE-Day Use area. Since this parking area historically handled up to 1000 visitors a day, the Planning Commission finds that the applicants parking plan is satisfactory with sufficient number and spacing of parking spaces for vehicles and buses.

   This criterion is met.

G. **Section 1021 Standards – Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments:** outlines the standards for refuse and recycling for commercial developments. The applicant has not submitted any specific plans. There is an existing refuse and recycling enclosure. A condition of approval is warranted requiring the applicant to provide an acceptable plan for the private park garbage and recycling needs.

This criterion can be met.

SECTION 2 – RECOMMENDED CONDITIONS OF APPROVAL FOR PLAN B.

RECOMMENDATION:

Approval with conditions.

IV. General Conditions:

1) Approval of this land use permit is based on the submitted written narrative and plan(s) dated June 11, 2014. No work shall occur under this permit other than which is specified within these documents. It shall be the responsibility of the property owner(s) to comply with this document(s) and the limitation of approval described herein.

2) The applicant is advised to take part in a Post Land Use Transition meeting. County staff would like to offer you an opportunity to meet and discuss this decision and the conditions of approval necessary to finalize the project. The purpose of the meeting is to ensure you understand all the conditions and to identify other permits necessary to complete the project. If you like to take advantage of this meeting please contact Wendi Coryell at (503) 742-4657 or at wendicor@co.clackamas.or.us.

3) Prior to the issuance of the building permit submit a statement of use to Lori Phillips in the Clackamas County Administration Division. Lori Phillips can be contacted by phone at (503) 742-4331 or email her at loriphi@co.clackamas.or.us. The statement of use is used to calculate Transportation System Development charge. A TSDC is included in the final calculation of building permit fees for new commercial projects; this includes additions and tenant improvements that increase the number of daily trips to the site.

4) This approval is valid for a period of four years from the date of final written decision. If the proposed use has not been established within that time, the approval shall expire unless a timely application for extension of the permit is filed with the County under ZDO Section 1203.03 and the application is approved. The conditional use approval is implemented when all necessary permits for the development have been secured and are maintained.

5) This Conditional Use approval is granted subject to the above and below stated conditions. Failure to comply with any of the conditions of approval constitutes a violation of this permit and may be cause for revocation of this approval.

6) The approval of the application granted by this decision concerns only the applicable criteria for this decision. The decision does not include any conclusions by the county concerning whether the activities allowed will or will not come in conflict with the provisions of the federal Endangered Species Act (ESA). This decision should not be construed to or represented to authorize any activity that will conflict with or violate the ESA. It is the applicant, in coordination if necessary with the federal agencies responsibility for the administration and enforcement of the ESA, who must ensure that the approved activities are designed, constructed, operated and maintained in a manner that complies with the ESA.

V. **Land Use and Zoning Conditions:** Linda Preisz, (503) 742-4528, lindap@co.clackamas.or.us

Approval is for the specific use identified in the application materials. This approval authorizes the applicant to establish a private park and campground on a parcel with an existing on-site parking and circulation system.

1) A maximum of 800 participants (campers and staff) per day. A maximum of 300 overnight campers per day.

2) Special Events, up to 4 times a year, shall be limited to 1500 participants.

3) The use of speakers, public address systems or other noise amplification devices is prohibited.

4) **Prior to commencement of activity,** the applicants shall submit to this file, a statement from the Clackamas County Soils Division that the existing septic system is adequate.

5) **Prior to commencement of activity**, the applicants shall submit to this file, a statement of Feasibility from the Portland Water Bureau stating water service to the site is adequate.

6) **Prior to commencement of activity,** the State of Oregon Department of Forestry shall review the activities on the site and approve the fire locations/fire starting learning program and the applicant shall submit evidence of the approval to this file.

7) All events shall comply with ambient noise levels of 60 dB(A) from 7:00 am until 10:00 pm and 50 dB(A) from 10:00 p.m. to 7:00 a.m.

8) Any new lighting plan shall be reviewed and approved by the Planning Division.

9) **Prior to commencement of activity,** the applicants shall obtain all Food Handler Permits and Licenses to comply with regulations, for any beverages and food items being served.

10) **Prior to commencement of activity**, a written irrevocable statement shall be recorded with the deed records for the county binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937. A copy shall be submitted to this file.

11) **Prior to commencement of activity,** the applicant shall comply with all requirements of the solid waste/recycling service provider(s) and ZDO Section 1021 concerning location and accessibility of solid waste/ recycling enclosure(s), the slope of the site, and the size, screening and other specific design standards for enclosures and pads. The applicant must provide a detailed plan, including the garbage enclosure and service truck circulation to Planning.

12) **Prior to commencement of activity**, the applicant shall have the Sandy Fire Department review, inspect and approve all fire locations on site and submit evidence of the approval to this file.

13) **Prior to the issuance of building permits**, the proposed new structures shall be reviewed and approved by the Clackamas County Historic Review Board.

14) **Prior to the issuance of building permits**, for all historic structures, an architectural assessment shall be provided to determine what improvements are necessary to meet building codes.

15) **Prior to the issuance of building permits**, a rehabilitation plan shall be prepared along with a covenant placed on the property deeds showing the plan and the percentage of monies to be used annually to preserve the historic resources. A yearly report shall be submitted to the zoning file.

VI. Engineering Division Conditions: Robert Hixson, (503) 742-4708, roberth@co.clackamas.or.us

The following items are project requirements from the Department of Transportation and Development's Development Engineering Division. These conditions of approval are not intended to include every engineering requirement necessary for the successful completion of this project, but are provided to illustrate to the applicant specific details regarding the required improvements that may prove helpful in determining the cost and scope of the project. These conditions are based upon the requirements detailed in the County's Comprehensive Plan (Comp Plan), the County's Zoning and Development Ordinance (ZDO) and the County's Site Development and Roadway Construction Standards (Roadway Standards). Additional requirements beyond those stated in the conditions of approval may be required. The applicant may discuss the requirements of the project with staff at any time.

The requirements specifically required by the Comp Plan and the ZDO cannot be modified by the Development Engineering Division. However, the requirements detailed in these conditions of approval, derived from the Roadway Standards, are based upon nationally accepted standards and engineering judgment and may be modified pursuant to Section 170 of the Roadway Standards. The applicant is required to provide sufficient justification to staff in the request. Staff shall determine if a modification is warranted.

1) All frontage improvements in, or adjacent to Clackamas County right-of-way, or on site, shall be in compliance with *Clackamas County Roadway Standards*.

2) The applicant shall obtain a Development Permit from Clackamas County Department of Transportation and Development prior to the initiation of any construction activities associated with the project.

3) The applicant shall verify by a professional survey that a 30-foot wide, one-half right-of-way width exists along the entire Ten Eyck Road site frontage, or shall dedicate additional right-

of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C140.

4) The applicant shall verify by a professional survey that a 24-foot wide, one-half right-of-way width exists along the entire Thomas Road site frontage, or shall dedicate additional right-of-way as necessary to provide it. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Clackamas County Roadway Standards* drawing C110.

5) The applicant shall grant an eight-foot wide easement for signs, slopes, and public utilities along the entire Thomas Road site frontage. Contact Deana Mulder for the specifics regarding exhibits to be included with submittals. (*Roadway Standards* drawing C110)

6) The applicant shall provide a copy of the Engineer's drainage study, surface water management plan, and Engineer's detention calculations to DTD Engineering, Deana Mulder.

7) The onsite circulation drive shall comply with Roadway Standards Drawing R100 regarding widths and structural section. In addition, sections of 12-foot wide driveway shall be centered in a 20-foot wide clear zone.

8) The applicant shall provide adequate on site circulation for the parking and maneuvering of all vehicles anticipated to use the parking and maneuvering areas, including a minimum of 24 feet of back up maneuvering room for all 90-degree parking spaces. Loading spaces and parking spaces for buses shall also be afforded adequate maneuvering room. The applicant shall show the paths traced by the extremities of anticipated large vehicles (delivery trucks, fire apparatus, garbage and recycling trucks, buses), including off-tracking, on the site plan to insure adequate turning radii are provided for the anticipated large vehicles maneuvering on the site.

9) Parking spaces shall meet *ZDO* section 1015 dimensional requirements. The plans shall list the number of parking spaces provided. The applicant shall label all carpool, disabled, bus, and loading berth spaces on the plans. All ADA parking spaces and adjacent accessible areas shall be paved and be provided with appropriate pavement markings and signing. Parking layout geometry shall be in accordance with ZDO Table 1015-1 and Figure 1015-1.

10) The applicant shall provide 2 bicycle-parking spaces in accordance with *ZDO* subsection 1015.05, Table 1015-3.

11) The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances at the driveway intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck Road. Adequate intersection sight distance for drivers turning left into the site from Thomas Road or from Ten Eyck Road onto Thomas Road shall also be provided and maintained. In addition, no plantings at maturity, retaining walls, embankments, fences or any other objects shall be allowed to obstruct minimum sight distance requirements.

    Plans submitted in anticipation of issuance of a Development Permit shall include an exhibit illustrating sight lines and any sight line easements for site driveways and the intersection of Ten Eyck Road and Thomas Road to insure sight lines are not obstructed by vegetation, trees, vertical curves, or any other objects along the subject property frontages or offsite.

Any required sight line easements shall be demonstrated as feasible to obtain, to the satisfaction of Engineering staff, prior to issuance of a Development Permit.

Minimum intersection sight distances and stopping sight distances shall be in accordance with Roadway Standards section 240. For a 60 mile per hour design speed, intersection sight distances are required to be a minimum of 665 feet and stopping sight distances are required to be a minimum of 570 feet, with appropriate adjustments for grades for stopping sight distances.

12) Applicant shall comply with County Roadway Standards clear zone requirements in accordance with Roadway Standards section 245.

13) **Prior to certificate of occupancy**, the applicant shall provide an Engineer's cost estimate to Clackamas County Engineering for any unfinished improvements required by conditions of approval. The estimate shall be submitted for review and approval of quantities of asphalt concrete, aggregates, curbs, sidewalks and any other required improvements and associated construction costs.

14) The applicant shall install and maintain a 30-inch "STOP" sign, with the bottom of the sign positioned a minimum of five and a maximum of seven feet above the pavement surface, at the driveway intersection with Thomas Road. (*Manual on Uniform Traffic Control Devices*)

15) All traffic control devices on private property, located where private driveways intersect County facilities shall be installed and maintained by the applicant, and shall meet standards set forth in the *Manual on Uniform Traffic Control Devices* and relevant Oregon supplements.

16) **Prior to the issuance of a building permit**, the applicant shall submit to Clackamas County Engineering Office:

    a. Written approval from the local Fire District for the planned access, circulation, fire lanes and water source supply. The approval shall be in the form of site and utility plans stamped and signed by the Fire Marshal.

    b. Written approval from the Department of Transportation and Development for surface water management facilities, surface water detention facilities, and erosion control measures.

    c. A set of site improvement construction plans, including a striping and signing plan, for review, in conformance with *Clackamas County Roadway Standards* Section 140, to Deana Mulder in Clackamas County's Engineering Office and obtain written approval, in the form of a Development Permit.

        i. The permit will be for road, driveway, drainage, parking and maneuvering area, and other site improvements.

        ii. The Development Permit fee will be calculated at a per parking space rate according to the current fee structure for commercial/industrial/multi-family development at the time of the Development Permit application.

iii. The applicant shall have an Engineer, registered in the state of Oregon, design and stamp construction plans for all required improvements, or provide alternative plans acceptable to the Engineering Division.

d. When the Department of Transportation and Development is the surface water authority for the proposed project and detention facilities are a requirement of development, the applicant shall provide a copy of an approved grading permit to DTD Engineering, Deana Mulder, prior to the issuance of a Development Permit.

17) Before the County issues a Development Permit, the applicant shall submit a construction vehicle management and staging plan for review and approval by the County DTD, Construction and Development Section, if the public road right-of-way is planned to be used for construction staging. That plan shall show that construction vehicles and materials will not be staged or queued-up on public streets and shoulders without specific authority from DTD. If the public road right-of-way is not planned to be used for construction staging, a note shall be added to the construction drawings stating that the public road right-of-way will not be used for construction staging.

SECTION 6 – FINDINGS

This application is subject to Clackamas County Zoning and Development Ordinance (ZDO) Section(s) 310, 1006, 1007, 1008, 1010, 1015, 1021, 1203, and Comprehensive Plan.

BACKGROUND INFORMATION, SITE AND AREA DESCRIPTION AND SERVICES

1. **Background:**

A. Prior Land Use Actions:

1. File Z0579-13, approved April 30, 2014 – Historic Landmark overlay zone placed on the PGE-DAY USE Park, Historic Landmark Designation reduced on the Bull Run Power Plant and Historic Landmark Designation increased on the Bull Run School.

2. In addition, Z0579-13 designated the three sites as a Historic District.

B. Applicant's Proposal:

The BREC (Bull Run Educational Center) seeks approval to conduct wilderness survival programs including camping on the 20 acre site. The scope of these programs includes:

- Youth day and overnight camps
- Adult evening and weekend overnight classes
- School field trips
- Personal camping associated with youth and adult overnight programs
- Hiking associated with youth and adult programs
- Outdoor theater gatherings
- Natural history tours

- Archery classes and events
- Historical reenactments and demonstrations.
- Occasional public and private gatherings, not to include weddings.

The existing structures of the Historic Landmark PGE-Day Use Area will be used. These include two picnic shelters, several cooking shelters, three restrooms, a paved parking lot and an overflow parking lot.

In addition to reuse of the existing park structures and activity areas on the site, the applicant proposes a number of new structures and improvements. These additional items are:

- Five convertible classroom buildings, approximately 800sf. (Used as classrooms during the day and converted into sleeping quarters for overnight programs.)
- Two new open air classrooms/picnic Shelters similar in size and appearance to the existing picnic shelters.
- Three outdoor classrooms, approximately 2,000sf – tents located on a platform and used for classes, gatherings and meetings. The platform tents will also be convertible to sleeping quarters.
- Two primitive personal tent camping areas.
- One 50 X 80 foot archery range.

3. **Site Description:** The site is located north of SE Thomas Road and west of SE Ten Eyck Road. The irregular shaped lot is relatively flat. The site is covered in timber of varying ages planted throughout the property. This portion of the site contains approximately 20 acres. This portion of the site has existing historic structures as described above.

3. **Natural Features:** The site is covered in timber of varying ages.

4. **Surrounding Conditions:** The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

5. **Service Providers:**

E. Surface Water: The property is not located within a public or private surface water management district. Surface water management is subject to Section 1008 of the ZDO, as administered by the DTD, Engineering Division.
F. Water: The subject property is served by Portland Water.
G. Sewer: The subject property is not located in a public or private sewer district. Sewage disposal is accommodated by an existing septic system.
H. Fire Protection: Sandy Fire District #72.

6. **Responses Requested:**

C. Bull Run CPO
D. Sandy Fire District #72.
E. Department of Transportation and Development (DTD), Building Division
F. Department of Transportation and Development (DTD), Traffic Engineering (TE)
G. Dept. of State Lands
H. Dept of Land Conservation & Development
I. Property Owners within 750 feet

7. **Exhibits:** See Exhibit List following the last page of this report.

PART 1. SUBMITTAL REQUIREMENTS

1. Subsection 1203.04 of the Zoning and Development Ordinance list the information that must be included in a complete application for a conditional use permit.
   This application includes a completed land use application form, site plan (see above), application fee and completed supplemental application addressing the criteria in Section 1203 of the ZDO. The application also includes a description of the proposed use, vicinity map and Preliminary Statements of Feasibility for storm water management, and sanitary sewer. The application was submitted on June 11, 2014 and deemed complete.

The submittal requirements of Section 1203.04 are met.

PART 2. CONDITIONAL USE PERMIT

1. Subsection 1203.01 of the Zoning and Development Ordinance lists six (6) criteria that must be satisfied in order to approve this Conditional Use.

   A. **Section 1203.01(A):** *The use is listed as a Conditional Use in the underlying zoning district.*

   1) The subject property is zoned FF-10. Section 310 of the ZDO controls land uses in the underlying FF-10 zoning district. Section 310.06 lists the uses. Section 310.06(A)(14) of the ZDO specifically lists "Public and private parks and campgrounds, recreational grounds, hiking and horse trails, pack stations, corrals, boarding or riding stables, and other similar uses intended for the purpose of obtaining a commercial profit."

   2) The applicant has proposed to establish a private park under the provisions of Section 310.04. The proposed uses are summarized under the "Proposal" of this report and described in the application narrative and site plan.

3) The proposed "private park" meets the definition of a "Public and private parks, campground, etc." and can meet the requirements of Section 310.04 with conditions of approval per the approved Reasons Exception.

B. **Section 1203.01(B)**: *The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements and natural features.*

1. **Size:** The subject property is approximately 20 acres in size.

2. **Shape:** The subject property is irregular.

3. **Topography:** The irregularly shaped lot is relatively flat.

4. **Location:** Access from SE Thomas Road.

5. **Improvements:** The existing historic PGE-Day Use Park structures.

6. **Natural Features:** The site is covered in timber of various ages.

7. **Floodplain:** According to the FEMA Floodplain maps, the subject property is not located within or near a designated floodplain

8. **Geologic Hazards:** There are no seen hazards on the geologic hazards map.

9. **Soils:** The table below identifies one soils type on the subject property.

Soil Type *	Rating *	Slopes *	Location on Site **	Native Vegetation *
2B Alspaugh clay loam	High Value Forest	2 to 8 % Slopes	Western half	Douglas fir, red alder, salal, brakenfern and swordfern.

* The Soils Survey of Clackamas County Area, published by the United States Department of Agriculture.

10. **Summary:** The physical characteristics of the site are suitable to accommodate the proposed use for the following reasons:

a. The property is approximately 20 acres. The lot is suitable to accommodate the proposed additional structures and activity areas.

b. The shape does not present any significant limitations to the proposed development.

c. The relatively flat topography is very suitable to accommodate the proposed use.

d. The location has access to SE Thomas Road.

This criterion is met.

C. **Section 1203.01(C):** *The proposed development is consistent with Subsection 1007.09 and safety of the transportation system is adequate to serve the proposed development.* .

III. Subsection 1007.09: Transportation Facilities Concurrency

iv. *"The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development. Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses. Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner."*

v. Safety: Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. Engineering adds:

The project is located in an area of generally low traffic volumes. In 2011, the average daily traffic (ADT) on Ten Eyck Road south of Bull Run Road was approximately 930 vehicles per day. On Ten Eyck Road north of Bull Run Road, the 2011 ADT was approximately 425 vehicles per day. On Bull Run Road east of Ten Eyck Road, the 2011 ADT was approximately 860 vehicles per day. The traffic impact analyses provide evidence that the capacity of the transportation system is adequate to support the project comprehensive plan amendment and zone change according to the requirements of the Transportation Planning Rule. Based upon the existing and projected future year traffic volumes and the proposed trip generation of the site, the proposed zone change and comprehensive plan amendment will not have a significant effect on capacity issues associated with the transportation system and no capacity issues will result. The Planning Commission finds that the application is in compliance with that portion of ZDO subsection 1203.01 C, regarding the capacity of the transportation system.

The applicant shall provide and maintain adequate intersection sight distances and adequate stopping sight distances for the site driveways and the intersection of Ten Eyck Road/Thomas Road. Based on the submitted materials, both locations do not meet the minimum standards and no mitigations are proposed so that the intersections would meet minimum standards. In addition, the applicant has demonstrated that a sight line easement is needed at the southwesterly corner of

Ten Eyck Road/Thomas Road to allow the intersection sight distance to the south to meet minimum standards. The feasibility of obtaining the easement has not been demonstrated with evidence in the submitted materials.

Based on the submitted June 18, 2014, Technical Memorandum prepared by Lancaster Engineering, and field measurements made by County Engineering staff, the site intersection with Thomas Road and the intersection of Thomas Road and Ten Eyck road fail to meet minimum safety standards and therefore the application is unable to comply with that portion of ZDO subsection 1203.01 C regarding adequacy of the safety of the transportation system. Evidence submitted in the file shows that the sight distance is adequate for the driveway access of the park with Thomas Road. No new evidence has been submitted concerning the intersection of Thomas Road and Ten Eyck Road.

Summary: Clackamas County Traffic Engineering states that the proposal DOES NOT satisfies the requirements of subsection 1203.1C.

This criterion is NOT met but may be met with conditions.

D. **Section 1203.01(D):** "*The proposed use will not alter the character of the surrounding area in a manner that substantially limits, impairs or precludes the use of surrounding properties for the primary uses allowed in the underlying zoning district.*"

1. The surrounding properties are all zoned TBR. Properties range in size from 20 to over 100 acres. These lots are forested with various aged trees, grasslands and a few are developed with single-family dwellings.

2. This criterion does not require this use to not have any impacts, but instead the impacts must not substantially limit, impair or preclude the use of adjacent properties for the allowed primary uses. The primary uses allowed in this district are listed in Section 310.03. The primary uses allowed in this zone primarily include dwellings, the raising, harvesting and selling of crops, forest operations, fish and wildlife management programs.

3. The background information provided in this report describes the general land uses proposed on this site and occurring on the adjacent properties. The uses on surrounding properties are mainly forest type of uses with a few dwellings and small farms.

4. The potential impacts on the adjacent residential uses include noise, dust, traffic, fire danger and lighting. The Planning Commission concurs and adopts the findings in the application in addition to the following findings.

   Noise: The Planning Commission believes activities on the subject site will generate some noise greater than what is already occurring on site. The park noises from up to 300 (and up to 1,500) participants may include singing, and yelling and activity noises. Logging activities also produce noise.

The Planning Commission finds that logging activities and farm activities are regular uses in this zone and believes that the distance between the park/campground and these other property uses is far enough to not be a significant problem or concern.

Dust: The applicant is not planning on any major dust producing activities. The site is surrounded by a timber zoning district where dust is a normal occurrence.

Lighting: The applicant states in their application that the FF-10 private park and campground will use the existing electricity. An outdoor lighting plan was not submitted in the proposal.

Traffic: The subject property has access to Thomas Road. The capacity of the transportation system will not be significantly affected.

Fire Danger: The only concern for fire is the use of open campfires. The existing fire areas and any new fire sites will be inspected and approved by the local fire district and the Department of Forestry.

5. Summary: Based on the above analysis, the Planning Commission believes the dust, noise, fire danger, lighting or traffic impacts resulting from the existing or proposed use will not substantially limit, impair or preclude the use of surrounding properties for residents and farm and forest uses or practices. **With conditions of approval, the Planning Commission finds that this criterion can be met.**

E. **Section 1203.01(E):** *The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.*

1. The applicant offers that Chapter 9- Open Space, Parks and Historic Sites and the Parks and Recreation section. The goals and policies of that section generally pertain to public facilities. Policy 8 does state "*Use all available and responsible means to reduce the cost of acquisition, development, operation and maintenance of parks and recreation facilities*" and Policy 8.4 "*Encourage the private sector to help meet the recreation needs of County residents and visitors. The recreation program should use private facilities on program-by-program basis when public facilities are not available.*" **The Planning Commission agrees that this proposal is in keeping with Chapter 9 of the Comprehensive Plan.**

2. ZDO subsection 1203.01(E) requires that the proposed development is consistent with the goals and policies of the Comprehensive Plan that apply to the proposed use. Comprehensive Plan Chapter Five, "Transportation", under the heading "Improvements to Serve Development", includes Policy 16.0, which reads as follows: "Require development to be served by adequate roadway facilities."

   Transportation Engineering staff (Exhibit 17) finds that the proposal is NOT in compliance with policy 16.0 and, therefore, ZDO subsection 1203.01 as it relates to Comprehensive Plan transportation goals and policies, **with conditions of approval, the Planning Commission finds it may comply.**

PART 3. OTHER DEVELOPMENT STANDARDS

1. **Other Applicable Sections of the ZDO:** Other applicable standards and Sections of the ZDO applicable to this application are addressed below.

   A. **Section 1006, Water Supply, Sanitary Sewer, Surface Water; and Utilities Concurrency:** Of the ZDO sets forth the standards, requirements and considerations that pertain to utility lines and facilities.

      1. Section 1006.05 – Water Supply Standards Outside The Portland Metropolitan Urban Growth Boundary And Mount Hood Urban Area:

         "The provisions of this section apply outside the Portland Metropolitan Urban Growth Boundary and the Mount Hood urban area. Applicants for any development permit shall specify a lawful water source for the proposed development, such as a public or community water system, certificated water right or exempt-use well." The water source is Portland Water.

         This criterion can be met.

      2. Section 1006.07 - Subsurface Sewage Disposal Standards:

         All development proposing subsurface sewage disposal shall receive approval for the system from the Clackamas County Water Environment Services, Soils Section prior to submittal of a land use application to the County for development. Said systems shall be installed pursuant to ORS 454.605-454.745 and Chapters 171, 523 and 828, Oregon Administrative Rules 340, Divisions 71 and 73 and the policies of the Clackamas County, WES, Soils Section.

         The applicants state that they will be using the existing PGE-Day Use park bathrooms. A condition is warranted stating that the applicant will submit a report to the file from the County Soils Division stating the existing system is adequate for the proposal.

         This criterion can be met.

      3. Section 1006.08 - Surface Water Management Standards:

         a. *"All developments shall provide for positive drainage and adequate conveyance of storm and surface water runoff from roofs, footings, foundations, and other impervious or near-impervious surfaces to an appropriate discharge point and shall:*

            i. *Comply with the requirements of any special districts with surface water management regulatory jurisdiction; or*

ii. *The requirements of Section 1008 and the County Roadway Standards in areas not under the jurisdiction of a surface water management regulatory authority.*

b. *Installation of stormwater management and conveyance facilities shall be coordinated with the extension of necessary water and sanitary sewer services.*

c. *Approval of a development shall be granted only if the applicant provides a preliminary statement of feasibility from the surface water management regulatory authority. The statement shall verify that adequate surface water management, treatment and conveyance is available to serve the development or can be made available through improvements completed by the developer or the system owner.*

i. *The service provider may require a preliminary storm water management plan, storm drainage report, natural resource assessment and buffer analysis prior to signing the preliminary statement of feasibility.*

ii. *In those areas that are not within a surface water management district, the preliminary statement of feasibility shall be signed by the County Department of Transportation and Development, Engineering Division.*

iii. *The statement shall be dated no more than one year prior to the date a complete land use application is filed and need not reserve surface water treatment and conveyance system capacity for the development.*

Clackamas County DTD, Engineering signed off on the Statement of Feasibility on April 30, 2014, that it is feasible that the proposal can comply with the standards. A condition is warranted requiring the applicant to submit their drainage plan including detention designs to DTD, Engineering. DTD, Engineering shall review and approve the plans for the erosion control prior to final plan approval.

This criterion can be met.

D. **<u>Section 1007- Roads Connectivity:</u>**

1. <u>Section 1007.03 – General Provisions:</u>

A. *The location, alignment, design, grade, width, and capacity of all roads shall be planned, coordinated, and controlled by the Department of Transportation and Development and shall conform to Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards. Where conflicts occur between Section 1007, the Comprehensive Plan, and the Clackamas County Roadway Standards, the Comprehensive Plan shall control.*

B. *Right-of-way dedications and improvements shall be required of all new developments, including partitions, subdivisions, multifamily dwellings, two- and three-family dwellings, condominiums, single-family dwellings, and commercial, industrial, and institutional uses, as deemed necessary by the Department of Transportation and Development and consistent with Section 1007, Chapters 5 and 10 of the Comprehensive Plan, and the Clackamas County Roadway Standards.*

Engineering Staff has discussed these issues in Exhibit 17.

This criterion may be met with conditions.

C. *New developments shall have access points connecting with existing private, public, county, or state roads.*

Approaches to public and county roads shall be designed to accommodate safe and efficient flow of traffic and turn control where necessary to minimize hazards for other uses.

D. *Street alignments, intersections, and centerline deflection angles shall be designed according to the standards set forth in Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards.*

E. *All roads shall be designed and constructed to adequately and safely accommodate vehicles, pedestrians, and bicycles according to Chapters 5 and 10 of the Comprehensive Plan and the Clackamas County Roadway Standards. Development-related roadway adequacy and safety impacts to roadways shall be evaluated pursuant to the Clackamas County Roadway Standards and also to Oregon Department of Transportation standards for state highways.*

This criterion is NOT met but may be met with conditions. See Exhibit 17, County Engineer comments.

2. Section 1007.04 Public and Private Roadways:

A. *All roadways shall be developed according to the classifications, guidelines, tables, figures, and maps in Chapters 5 and 10 of the Comprehensive Plan and the provisions of the Clackamas County Roadway Standards.*

1. *Development along streets with specific design standards specified in Chapter 10 of the Comprehensive Plan shall improve those streets as shown in Chapter 10.*

3. *Development adjacent to scenic roads identified on Comprehensive Plan Map V-5, Scenic Roads, shall conform to the following design standards, as deemed appropriate by the Department of Transportation and Development:*

a. *Road shoulders shall be improved to accommodate pedestrian and bicycle traffic; and*

b. *Turnouts shall be provided at viewpoints or for recreational needs.*

County Engineering staff state that the *"the subject property takes access from SE Thomas Road within a portion of the County that is zoned TBR, Timber 80 acres."*

"The applicant has proposed development of private park that will include site improvements and will generate additional vehicle trips to the site. The applicant is therefore subject to the provisions of Clackamas County Zoning and Development Ordinance (ZDO) section 1007, pertaining to roads, circulation and parking improvements, and section 1008 pertaining to surface water management." (Exhibit 4)

This criterion can be met with conditions.

B. *Developments shall comply with the intersection sight distance and roadside clear zone standards of the Clackamas County Roadway Standards. In addition:*

1. *No planting, signing, or fencing shall be permitted which restricts motorists' vision; and*
2. *Curbside parking may be restricted along streets with visibility problems for motorists, pedestrians, and/or bicyclists as deemed appropriate by the Department of Transportation and Development.*

Engineering staff find that "*in accordance with ZDO Subsections 1007.04.D and 1007.05, and the Clackamas County Roadway Standards, Section 240, the access road serving the proposed development is required to provide adequate intersection sight distance. The existing intersection of the private road with SE Ten Eyck and Thomas Roads does not currently provide adequate intersection sight distance due to trees and vegetation located on each side of the approach. The applicant has submitted speed study data and a sight distance analysis prepared by Lancaster Engineering, dated June 18, 2014. Based on this traffic volume, sight distances provided in Table 2-10 of the Clackamas County Roadway Standards are applicable.*" (Exhibit 14)

This criterion is NOT met. The Planning Commission finds that this condition may be met.

3. <u>Section 1007.09, Transportation Facilities Concurrency</u>:

A. *The purpose of Subsection 1007.09 is to ensure that transportation infrastructure is provided concurrent with the new development it is required to serve or, within a reasonable period of time following the approval of new development.*

B. *Subsection 1007.09 shall apply to the following development applications: design review, subdivisions, partitions, and conditional uses.*

C. *Approval of a development shall be granted only if the capacity of transportation facilities is adequate or will be made adequate in a timely manner. The following shall be exempt from this requirement:*

Engineering staff have found that the capacity of transportation facilities is adequate. Exhibit 17

This criterion is met.

D. *As used in Subsection 1007.09(C), "adequate" means a minimum of Level-of-Service (LOS) D, except:*

County Traffic engineering staff finds that *"the roadway system has adequate capacity to accommodate the proposed use, consistent with concurrency requirements under ZDO Subsection 1007.09."* (Exhibit 17)

This criterion is met.

E. *As used in Subsection 1007.09(F), "necessary improvements" are:*

1. *Improvements identified in a transportation impact study as being required in order to comply with the adequacy standard identified in Subsection 1007.09(D).*

   a. *A determination regarding whether submittal of a transportation impact study is required shall be made based on the Clackamas County Roadway Standards, which also establish the minimum standards to which a transportation impact study shall adhere.*

   b. *If a transportation impact study is not required, County traffic engineering or transportation planning staff shall identify necessary improvements or the applicant may opt to provide a transportation impact study.*

Engineering staff's Exhibit 4 discusses the issues and makes recommendations. **This criterion can be met with conditions.**

E. **Section 1008 - Storm Drainage:**

This section outlines the requirements for Storm Drainage and Erosion Control. The following requirements and standards of Section 1008 are applicable to this proposal.

The subject property is located within the Clackamas County Engineering area of review within the County. The rules and regulations for this district are administered by the Clackamas County Engineering Division. The applicant has submitted a Statement of Feasibility for surface water from the Clackamas County Engineering Division May 30, 2014.

The standards of Section 1008 can be met.

F. **Section 1015 – Parking and Loading:**

1. Section 1015.04 Automobile Parking Area Standards:

Parking has been established with the PGE-Day Use area. Since this parking area historically handled up to 1000 visitors a day, Staff finds that the applicants parking

plan is satisfactory with sufficient number and spacing of parking spaces for vehicles and buses. **This criterion is met**.

G. **Section 1021 Standards – Refuse and Recycling Standards for Commercial, Industrial, and Multifamily Developments:** outlines the standards for refuse and recycling for commercial developments. The following requirements and standards of Section 1021 are applicable to this proposal.

The applicant has not submitted any specific plans concerning refuse and recycling. A condition of approval is warranted requiring the applicant to provide an acceptable plan. **This criterion can be met**.

Preisz, Linda

From: Gcs03 [gcs03@aol.com]
Sent: Friday, October 03, 2014 4:21 PM
To: Preisz, Linda
Subject: Conditional Use Permit Application Change – No penalty for current violation?

October 3, 2014

Linda Preisz
Clackamas County Historic Review Board
Clackamas County Planning and Zoning,

RE: Conditional Use Permit Application Change – No penalty for violation
File No.(s): Z0208-14-CP; Z0209-13-Z and Z0207-14-14-C
Site Address: 41401 and 41515 SE Thomas Road, Sandy, Oregon, 97055 and; 13115 SE Bull Run Road, Sandy, Oregon, 97055

Linda,

First off, when is the next hearing or public input on this Conditional Use Permit request? Do I still have time to file a complaint?

Issue: Having attended the Aug 19th Aims Community CPO meeting, I have a concern/complaint I want to file with Clackamas County regarding the Conditional Use Permit request for the Bull Run School and Roslyn Lake camping area.

This is the second time I have written to the Clackamas County Planning office with basically the same issue: An apparently currently illegally operating business is now applying for a conditional use permit and there doe not appear to be any penalty for their current violation. My first letter to the county (2013) concerned another business on TenEyck Road that claimed to have broken the law for several years, but was granted a conditional use permit to continue their business without any penalty for their prior zoning/use violation. It appears Clackamas residents are free to break zoning laws and if they get caught, they just need to apply and will be given a zoning/use change without any penalty.

This latest issue regards commercial use of the Bull Run School and Roslyn Lake camping/lake area which appear to be in violation of current zoning rules. Zoning Rules are not my area of expertise, so I am going by what was reported at the meeting, admitted to by representatives of "Trackers Earth" and the "Powerhouse ReGen", and told to me by several area resident witnesses.

Several residents in our community have witnessed people appearing to be camping (day and overnight) and large numbers of people and busses using the lake/camping area for "some sort of activity". At the Aims CPO meeting, a representative of "Trackers Earth" (commercial business) admitted to their use of the property and allowing campers to

EXHIBIT 8
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spend the night. The owners of the property (Karen Karlsson from Powerhouse ReGen) also stated that they knew Trackers was using the property, but did not know about the overnight camping. It is my understanding that for Trackers or ReGen to use the Lake area for this type of commercial use, an apparent violation of that property's current zoning, they need a conditional use permit, for which they are applying to Clackamas County.

As a local resident and concerned citizen, I like to believe our laws are meant to be followed. If one does not like the law or does not want to follow it, they can choose to break the law or try to change it. Breaking the law usually leads to some type of penalty. However, in this case, Trackers and ReGen have admitted to ignoring the law and at the same time are attempting to have the law changed specifically for them. There doesn't appear to be any fine or penalty for their admission of guilt.

I do not know what a penalty would or could be. But, it seems that their request for and potentially being given a conditional use permit to continue their violation doe not serve the public's interest or encourage others to follow the law. As the dates and amount of their violations have not been well documented, but they admit to the violations, only a decline of their conditional use permit or a delay of several years seems agreeable. I do not know if this type of penalty is allowed by law, but if not, approving the conditional use request would only encourage others to break or not follow the rules.

If I am wrong in my understanding of the zoning and/or use of this property, is it possible someone from Clackamas County Planning could call me and correct my understanding? I would greatly appreciate it.

Sincerely,

Gary McLean
41610 SE Bacon Creek Lane
Sandy, OR 97055
503-939-0852

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EXHIBIT 6
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