



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us



NOTICE OF ADOPTED AMENDMENT

12/29/2008

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Tillamook County Plan Amendment
DLCD File Number 003-08

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A Copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: Wednesday, January 07, 2009

This amendment was submitted to DLCD for review prior to adoption. Pursuant to ORS 197.830(2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

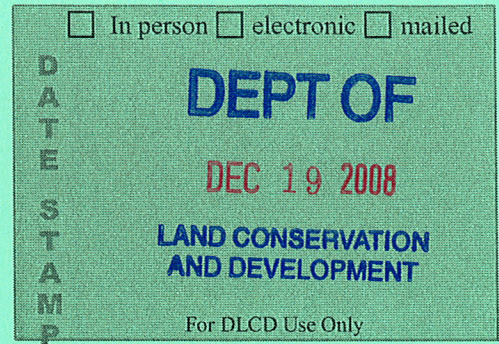
***NOTE:** THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Lisa Phipps, Tillamook County
Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative

<paa> YA

Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD
WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18



Jurisdiction: **Tillamook**

Local file number: **ZC-07-04**

Date of Adoption: **12/10/2008**

Date Mailed: **12/17/2008**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Select one** Date: June 30, 2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached".

The applicant requested and was granted a Goal Exception to Statewide Planning Goal 3 and a zone change to the Rural Residential 10-Acre zone on the property designated as Tax Lot 2102 in Section 18 of Township 2 South, Range 9 West, Willamette Meridian, Tillamook County. The subject property was zoned Farm (F-1).

Does the Adoption differ from proposal? Please select one
No.

Plan Map Changed from:

to:

Zone Map Changed from: **Farm (F-1)**

to: **Rural Residential 10-Acre (RR-10)**

Location: **2S-9-18-TL 2102**

Acres Involved: **1.68 acres**

Specify Density: Previous:

New:

Applicable statewide planning goals:

- | | | | | | | | | | | | | | | | | | | |
|--------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
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Was an Exception Adopted? YES NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes No

If no, do the statewide planning goals apply?

Yes No

If no, did Emergency Circumstances require immediate adoption?

Yes No

DLCD file No. _____

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

Local Contact: **Bradford Sheets**

Phone: **(503) 842-3408** Extension:

Address: **201 Laurel Ave.**

Fax Number: **503-842-1819**

City: **Tillamook**

Zip: **97141-**

E-mail Address: **bsheets@co.tillamook.or.us**

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and **TWO Complete Copies** (documents and maps) of the Adopted Amendment to:

ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540
2. **Electronic Submittals:** At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the Notice of Adoption is sent to DLCD.
6. In addition to sending the Notice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can now access these forms online at **<http://www.lcd.state.or.us/>**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

BEFORE THE BOARD OF COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

FILED
DEC 10 2008
3:50pm
TASSI O'NEIL
COUNTY CLERK

| | | |
|---|--|--|
| <p>In the Matter of a Request for a Goal Exception to Statewide Planning Goal 3 and a Zone Change to the Rural Residential 10-Acre (RR-10) zone on the subject property designated as Tax Lot 2102 in Section 18 of Township 2 South, Range 9 West, Willamette Meridian, Tillamook County. The subject property is currently zoned Farm (F-1).</p> | <p>)))))))</p> | <p>Findings of Fact and Decision</p> <p>ZC-07-04</p> |
|---|--|--|

This matter came before the Tillamook County Board of Commissioners at the request of the County. The Board of Commissioners, being fully apprised of the representations of the above-named persons and the records and files in this matter, finds as follows:

1. The files in this proceeding can be found in the office of the Tillamook County Department of Community Development under Ordinance Amendment ZC-07-04.
2. The Notice of Proposed Action was submitted to the Department of Land Conservation and Development and received by DLCD on June 30, 2008.
3. A public hearing was scheduled in front of the Tillamook County Planning Commission on September 25, 2008. The hearing was noticed in a proper manner according to the requirements of ORS 197 and 215. After reviewing the Staff report, testimony, and the record for ZC-07-04, the Planning Commission found the application met the criteria subject to conditions and unanimously passed a recommendation to the Tillamook County Board of Commissioners to adopt the Exception to Goal 3 and Zone Change Request ZC-07-04.
4. The Board opened a de novo public hearing on the Zone Change Request ZC-07-04 on October 8, 2008. The hearing was properly noticed according to the requirements of ORS 197 and 215. The Board closed the hearing to public testimony. After reviewing the Planning Commission's recommendation, the Staff report containing findings and conclusions, testimony, and the record and file, the Board found that the proposed Goal Exception was consistent with the Oregon Administrative Rules (OAR) 660-004 and the policies of the Tillamook County Comprehensive Plan, Article 9. The Board approved Zone Change Request ZC-07-04, adopted the Findings attached hereto and concluded that the criteria have been met herein.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS FOR TILLAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

5. Zone Change Request ZC-07-04 is hereby approved and subject to the following conditions:
 - A. This Exception and Zone Change are limited to the subject parcel (2S-9-18-TL2102) proposed in this request.

6. The subject property shall be, as set forth in the staff report (Exhibit 1), filed with Tillamook County Department of Community Development as ZC-07-04 and made a part of the Tax Lot file for this property.

DATED THIS 10th DAY OF December, 2008.

**BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON**

Aye Nay Abstain/Absent

Charles J. Hurliman
Charles J. Hurliman, Chairperson

✓ 1

Tim Josi
Tim Josi, Vice-Chairperson

✓ 1

Mark Labhart
Mark Labhart, Commissioner

✓ 1

ATTEST: Tassi O'Neil,
County Clerk

APPROVED AS TO FORM:

Susan L. Beckett
Special Deputy

William K. Sargent
William K. Sargent, County Counsel



**GOAL EXCEPTION AND COMPREHENSIVE PLAN TEXT & MAP AMENDMENT
for
ZC-07-04**

**Staff Report Date: September 18, 2008
Planning Commission Hearing Date: September 25, 2008
Board of County Commissioners Hearing Date: October 8, 2008**

I. GENERAL INFORMATION:

Applicant & Property Owners: Thomas P. and Susan K. Rieger, 8460 Bewley Creek Rd., Tillamook, Oregon 97141

Land Use Review: To rezone the subject tax lot from Farm (F-1) to Rural Residential, with all accompanying Goal Exceptions (3 & 4) (Exhibit 2).

Location: Located roughly four (4) miles south of the City of Tillamook abutting Bewley Creek Road.

Legal Description: Tax Lot 2102 in Section 18, Township 2 South, Range 9 West of the Willamette Meridian, Tillamook County, Oregon, (Exhibit 1).

Current Zone: Farm (F-1) Zone.

Description of Request: The applicant's/owners are requesting an Exception to Statewide Planning Goal 3. The proposal is for the 1.68-acre, subject property to be rezoned from Farm to Residential use. The property owner has applied for a Land Irrevocably Committed to Other Use Exception ("Committed Exception") (Exhibit 2). The Exception would apply to the entire 1.68-acre parcel.

Description of Site and Vicinity: The subject property is adjacent to Bewley Creek Road at the northwestern and northeastern property lines (Exhibit 1). The subject parcel is triangular in shape (Exhibit 1). A majority of the properties surrounding the subject property are zoned Farm (F-1) with a southwestern portion of the subject property abutting Rural Residential zoned property (Exhibit 1). There are approximately 7 lots zoned Rural Residential to the southwest of the subject property in section 18 of township 2 South, Range 9 West (Exhibit 1). The subject property is identified in the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) Web Soil Survey as having Chitwood-Knappa silt loams, 0 to 7 percent slopes (Class 2e & 3e) and Logsdon-Nehalem silt loams, 0 to 5 percent slopes (Class 2e & 3e) (Exhibit 6). Based upon the criteria in OAR 660-033-0020(8) (d), the entire site is designated as "High Value Farmland". A zoning map of the area and a Tax Assessor's map are included as Exhibit 1.

The subject property is shown on the Department of Geology and Mineral Industries (DOGAMI) bulletins as being in an area of high ground water. The subject property is primarily flat with some slope adjacent to Bewley Creek itself.

Federal Insurance Rate Map (FIRM) #410196 0250A, dated August 1, 1978, indicates the subject property is located in a Zone C flood zone. Zone C flood zones are "Areas of minimal flooding."

Location and the physical characteristics of the 1.68-acre portion of the subject property are suitable for the placement of structures providing the setbacks for the zone and riparian area are observed.

Zoning History: The parcel was originally zoned 'A-1' on January 17, 1973. As part of the countywide rezoning to achieve compliance with state law, the subject parcel was rezoned F-1 (Farm) on June 17, 1982

Existing Services: The subject property is located in the service area of School District #9 and the Tillamook Fire District. The owners intend to obtain water from the water district and develop sewage disposal on site. Electric power could be served by the Tillamook People's Utility District. Road access is proposed to be from Bewley Creek Road and all applications for Road Approaches will be through the Tillamook County Public Works Department.

II. APPLICABLE ORDINANCE, COMPREHENSIVE PLAN PROVISIONS AND STATE LAW:

1. *Oregon Administrative Rule OAR 660-004-0018 through 660-004-0028 allows the county to take an Exception to Goal 3 providing all applicable criteria are addressed and supported. The property is not currently used for Farm purposes and is not receiving a Farm Tax deferral. It is currently being taxed as "Vacant Residential Land." The proposal is to request an Exception to change the zoning on the 1.68-acre subject parcel to Rural Residential 10-Acre (RR-10) zoning. The request does include a Zone Change. An Exception allows the land to be zoned in ways not otherwise permitted by the applicable goals.*
3. *Section 3.002 (1) of the County's Land Use Ordinance states that the purpose of the Farm (F-1) zone is "...to preserve the cultural, social, and economic values that are provided by agriculture in Tillamook County by identifying and protecting land that is needed to sustain the local agricultural economy. This includes land which is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural land," (Exhibit 11).*
4. *Section 3.010 (1) of the County's Land Use Ordinance states that the purpose of the Rural Residential 10-Acre zone is "...to provide for the creation and use of small acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes," (Exhibit 12).*
5. *Section 9.020 of the County's Land Use Ordinance contains the procedures and criteria for a zone change and plan amendment. These are addressed in Section*

III (D) of this report.

III. **ANALYSIS**

The analysis below contains review of the approval criteria against the information submitted by the owner. The applicant's/owner's response to these criteria is contained within Exhibit 2 of this report.

A. **Requirements for Exception to Applicable Statewide Planning Goal.**

If a jurisdiction determines there are findings consistent with OAR 660-004-0028 to rezone resource land to residential zoning through a "Committed Exception", then justification shall be set forth in the comprehensive plan as an exception

Findings: The subject property is zoned Farm and is surrounded by other agriculturally zoned areas as well as rural residential zoning to the southwest of the subject property. According to the applicant, the property is 1.5 miles from its origin (where Bewley Creek Road connects to Highway 101) at Highway 101 and 4 miles southwest of the City of Tillamook (Exhibit 2).

The proposed request requires an Exception for Lands Irrevocably Committed to Other Uses, "Committed Exception", as provided for by the above-cited OAR 660-004-0028. This request does include a zone change. These standards are referenced for justifying the Exception.

Conclusions: Staff finds a Goal 2 Committed Exception is required for the proposed zone change. The owners are to supply sufficient information so a reasonable person can understand and determine a reasonable answer. The owner's have supplied information and documentation in support of the Goal 2 Committed Exception requiring an Exception to Statewide Planning Goal 3, Agricultural Lands. Staff concludes this criterion is met.

B. **OAR 660-004-0028 Exception Requirements for Land Irrevocably Committed to Other Uses:**

(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:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(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 address the following:*

(a) The characteristics of the exception area;

Findings: According to the applicant, "The exception area consists of one 1.68-acre parcel (2S-9-18-TL2101), adjacent to Bewley Creek Road, 1.5 miles southwest of Highway 101, approximately four miles southwest of the City of Tillamook. The size, shape and orientation of the parcel are described by the attached Exhibits A (scale drawing of the parcel), B (Assessor's Map) and C (Zoning Map). The parcel is triangular in shape and is adjacent to Bewley Creek Road on its northwest side (320 feet) and northeast side (520 feet). The south side of the triangle extends for 750 feet, and is adjacent to residential and farm-zoned properties. Bewley Creek, which averages 25 feet in width, bisects the parcel for approximately 600 feet on its south side. Land Use Ordinance section 4.080(1)(b) requires a 25-foot riparian setback on both sides of the creek, given that the creek averages more than 15 feet in width. This riparian area currently contains a buffer of trees and other vegetation. The parcel contains less than one acre that is useable for either agriculture or residential purposes. This area lies between Bewley Creek Road and Bewley Creek, outside of the 25-foot riparian area. This portion of the property is flat, and is comprised of well drained Nehalem and Knappa silt loam soils according to the USDA' Soil Survey of the Tillamook Area. There are no apparent hazards," (Exhibit 2).

Staff conducted a site visit on July 17, 2008 and found the subject property is adjacent to Bewley Creek Road at the northwestern and northeastern property lines (Exhibit 1). A majority of the properties surrounding the subject property are zoned Farm (F-1) with a southwestern portion of the subject property abutting Rural Residential zoned property (Exhibit 1). There are approximately 7 lots zoned Rural Residential to the southwest of the subject property in Section 18 of Township 2 South, Range 9 West (Exhibit 1). The area is rural in nature and the subject property is relatively flat with mixed vegetation. Bewley Creek does bisect a portion of the south/southeastern portion of the subject property.

The subject property is identified in the United States Department of Agriculture's Natural Resources Conservation Service (NRCS) Web Soil Survey as having Chitwood-Knappa silt loams, 0 to 7 percent slopes (Class 2e & 3e) and Logsdon-Nehalem silt loams, 0 to 5 percent slopes (Class 2e & 3e) (Exhibit 5). Based upon the criteria in OAR 660-033-0020(8)(d), the entire site is designated as "High Value Farmland".

(b) The characteristics of the adjacent lands;

Findings: The applicant indicates, "There are four adjacent parcels (ownerships), a residential-zoned parcel containing 1.88 acres, and three farm-zoned parcels containing 2.45, 26.18 and 42.40 acres respectively. The residential parcel is occupied by a dwelling. The 2.45-acre farm-zoned parcel across Bewley Creek Road on the northeast side is owned by the applicants and is occupied by their residence and a retail nursery. The 42.40-acre farm-zoned

parcel on the northwest side of Bewley Creek Road is owned by the applicant's brother, John Rieger, and is planted in Christmas trees. The 26.18-acre parcel south of Bewley Creek is owned by the applicant's cousin Steven Rieger and is leased to a local farmer," (Exhibit 2).

Staff finds that the adjacent lands are a mixed use of agriculture, forestry and residential use.

(c) The relationship between the exception area and the lands adjacent to it; and

Findings: According to the applicant, "Bewley Creek and Bewley Creek Road separate the exception area from the adjacent lands. The subject parcel is not used in conjunction with the owner's nursery across Bewley Creek Road as any propagation they do occurs within the green houses on that property. To extend that use to the subject parcel is neither necessary, given the scope of their operation, nor is it advisable given the proximity to Bewley Creek and the additional horticultural regulations that would be imposed on their operation. There is no relationship between the subject parcel and the other two adjacent farm parcels – or any prospect for a relationship – because of separation by Bewley Creek and Bewley Creek Road," (Exhibit 2).

Staff finds that the subject property is not only substandard in size for the Farm zone (80-acre minimum), but it is also substandard in size for the Rural Residential 10-acre zone for which this Exception and Zone Change are proposed. Tillamook County Land Use Ordinance section 3.010 (4)(b), "The minimum parcel/lot size is 10 acres for lots/parcels rezoned Rural Residential on or after October 4, 2000," (Exhibit 12). This is a legally existing lot, created well before October 4, 2000, and therefore has the ability to be rezoned to a Rural Residential zoning. The subject property is currently zoned F-1 with a portion of the southwest portion of the property abutting the Rural Residential zone. As proposed, the subject property would be integrated into the strip of Rural Residential zoning to the southwest, along Bewley Creek Road, and abut the F-1 zone at the northeastern and northwestern property lines.

Staff did not find any structures on the subject property. Given its proximity to Bewley Creek Road at the northeastern and northwestern property lines and the location of Bewley Creek running through a portion of the subject property, Staff finds that commercial agricultural or timber production on the property would be very challenging.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

Findings: The applicant indicates, "These are addressed below," (Exhibit 2).

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required

that local governments demonstrate that every use allowed by the applicable goal is "impossible." 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).

Findings: The subject property is 1.68-acres in size and abuts Bewley Creek Road at the northeastern and northwestern property lines and has Bewley Creek running through a portion of the property. At 1.68-acres in size and with its proximity to Bewley Creek Road and a 25-foot riparian setback to Bewley Creek, Staff finds it is impracticable to have commercial livestock (ORS 215.203 & OAR 660-033-0120) or commercial forestry practices (OAR 660-006-0025 (2)(a)) on the subject property (Exhibit 3). It is unclear whether an agricultural activity such as beekeeping or the employment of land for fur-bearing animals would be a practical use given its proximity to the road. The use of the property for the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species is unrealistic.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

Findings: The subject 1.68-acre parcel (2S-9-18-TL1202) is the only parcel for which the "Committed Exception" is being requested (Exhibits 1 & 2).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Findings: According to the applicant, "See findings for above Section (2)(b) for a description of the four adjacent parcels, their zoning, and their residential and farm uses. The useable portion of the subject parcel that lies between Bewley Creek and Bewley Creek Road is adjacent to a 1.88 acre, residential-zoned parcel for 200 feet on the southwest side. This is the only useable portion of the subject parcel that is not separated from other adjacent properties by either the creek or the road," (Exhibit 2).

The applicant states in section (2)(b) above that the 2.45-acre farm-zoned parcel (2S-9-18-TL2101) across Bewley Creek Road on the northeast side is owned by

the applicants and is occupied by their residence and a retail nursery. The 42.40-acre farm-zoned parcel (2S-9-18-TL2103) on the northwest side of Bewley Creek Road is owned by the applicant's brother, John Rieger, and is planted in Christmas trees. The 26.18-acre parcel (2S-9-18-TL2802) south of Bewley Creek is owned by the applicant's cousin Steven Rieger and is leased to an area dairy farmer (Exhibits 1, 2 & 6).

Staff also finds that the RR zoned 1.68-acre property (2S-9-18-TL2601) abutting the southwestern property line of subject property is developed for residential use (has a dwelling on it). Additionally, there is a dwelling on the farm zoned property located at 2S-9-18-TL2200; however, it does not appear that there is any farming activity taking place on that 3-acre property (Exhibit 6).

(b) Existing public facilities and services (water and sewer lines, etc.);

Findings: The applicant indicates, "Electric Power, telephone, fire protection and road access are all available to the subject property. Public water is available from the South Prairie Water District, with the district's water line passing through the property within the Bewley Creek Road right-of-way. There is an existing septic tank and drain field on the property," (Exhibit 2).

Staff finds that the subject property is within the Tillamook Fire District's coverage, there is electricity and water available in the area and there is an existing septic system in the ground according to Tillamook County's Environmental Program Manager. If the proposed Exception and Zone Change are approved and a dwelling is applied for, then all of the necessary sanitation permits would be required and Fire, Water letters would also be required.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable

commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

Findings: According to the applicant, "See findings for above sections (2)(a), (2)(b) and (2)(c)," (Exhibit 2).

Staff finds the subject parcel (2S-9-18-TL2102) is in a single ownership and it was developed at one time (non-farm dwelling) and is no longer developed. The applicant's/owner's own the property across the street (2S-9-18-TL2101) which has greenhouses and a retail nursery (Exhibits 1, 2 & 6).

(d) Neighborhood and regional characteristics;

Findings: According to the applicant, "The parcel is within a rural valley bisected by Bewley Creek and Bewley Creek Road. This valley contains a mix of residential and farm uses on mostly flat land, with forest uses on nearby hillsides to the south and west. The adjacent residential-zoned property to the southwest is part of a 42-acre block of residential land that is comprised of 19 parcels, ranging in size from 0.36 acres to 8.77 acres, with an average size of 2.21 acres. This block of residential land contains 13 residences and extends for 2,000 feet on each side of Bewley Creek Road. (See Exhibit C). A 9.25-acre, farm-zoned parcel separates this area from another approximately 40-acre block of residential-zoned land that extends to the end of Bewley Creek Road, 0.65 miles from the subject parcel. This area contains 13 parcels and 10 residences. There are some smaller blocks of residential zoned land with dwellings to the east along Bewley Creek Road for 1.5 miles to where it connects to Highway 101. The remaining Bewley Creek area is primarily in farm and forest use, with the nearest forest-zoned land approximately 600 feet from the subject parcel," (Exhibit 2).

Staff concurs with the applicant's assessment of the regional characteristics of the area. There is a mix of agricultural and residential uses in the neighborhood as detailed by the surrounding properties and their respective uses in section III (B)(6)(a) of this report.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Findings: The applicant indicates, "The buildable portion of the subject parcel is completely separated from adjacent resource land by Bewley Creek and Bewley Creek Road. (See Exhibits A and C). The creek, which bisects the parcel for approximately 600 feet, averages 25 feet in width, with an additional 25-foot riparian setback on both sides. This effectively limits the useable portion of the subject property to less than an acre. The road right-of-way is 30 feet wide on

the northeast side of the parcel and 40 feet wide on the northwest side, with 22 feet of pavement on each side. The creek and the road serve as barriers that substantially impede using the subject parcel in conjunction with adjacent farmland. Placing commercial farm animals or crops on such a small parcel of land adjacent to a stream would be impracticable at best," (Exhibit 2).

Staff concurs with the applicant's assertion there are both man-made and natural impediments separating the subject property from adjacent resource lands. These impediments include Bewley Creek Road and its right-of-ways and Bewley Creek itself (Exhibit 1).

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Findings: According to the applicant, "As noted above, a non-farm manufactured dwelling was located on the subject parcel from 1969 to 1973. The parcel still contains a septic tank and drainfield, and the waterline that serves the area passes through the adjacent road right-of-way. The adjacent parcel to the southwest is physically developed with a residence. The subject parcel's zoning history is also relevant with respect to why it was zoned farm (F-1) instead of residential (RR) when it was rezoned, effective June 17, 1982, as part of county-wide rezoning to achieve compliance with state law. The parcel and the surrounding area were initially zoned 'A-1' on January 17, 1973 (Tillamook County Land Use Ordinance #14). The A-1 Zone was a general purpose zone "Low density parcels as small as 20,000 square feet. This zone along with the 'RA' zone was replaced by the Rural Residential Zone in 1982.) The subject parcel was part of a 140-acre ownership when staff first conducted land use inventories and made zoning proposals in 1980. The relatively large parcel size had the affect of recommending the entire parcel for inclusion in the F-1 zone. That size changed with the legal creation of the 1.68-acre subject parcel and acquisition by Tom and Sue Rieger on May 14, 1982, prior to the F-1 zone taking effect on June 17 of that year. Had planning staff been aware of that pending change in size and ownership, the parcel would have been proposed for residential zoning at that time, given its small size, the road and stream buffers, and the adjacent residential zoning," (Exhibit 2).

Staff has consulted with the Tillamook County's Environmental Program Manager and there indeed is an existing septic system that was for the previous dwelling on the subject property (non-farm dwelling).

Conclusion: Staff concludes that the findings, (6)(a-g), demonstrate the limitations of the subject property for agricultural and forestry uses because of its size. The utilities to serve the subject property either currently exist on the subject parcel or can be acquired. Staff concludes the impacts to the adjacent properties, neighborhood in general and regional area of approving a Goal Exception are negligible. Staff concludes that Bewley Creek Road and Bewley Creek itself will act as a buffer from impacts to the remaining resource zoned properties. Staff concludes that the proposed RR-10 zoning for the subject parcel has requirements to preserve and protect adjacent resource lands. Staff

concludes that given its proposed absorption into the RR zone and the status of the surrounding properties, it is unlikely to cause further parcellation of adjacent Farm zone properties based upon the current OARs pertaining to Agricultural Lands. Based upon these findings of fact, Staff concludes that an Exception for Lands Irrevocably Committed to Other Uses is valid.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

Findings: Staff finds that the applicant has submitted a current Tillamook County Assessor's map of the subject property in this application (Exhibit 2).

Conclusion: Staff concludes this criterion has been met.

C. OTHER GOAL EXCEPTION CONSIDERATIONS

OAR 660-004-0000(3) states that *"The intent of the exception process is to permit necessary flexibility in the application of the Statewide Planning Goals."*

Findings: The legal provision for an Exception is similar to the variance process at the local level in that it recognizes that a rigid application of regulations is inappropriate in some circumstances, and that a measure of flexibility is required to ensure a reasonable outcome. The owner shall demonstrate that their proposal illustrates the need for an Exceptions process, and that it complies with all applicable requirements.

OAR 660-004-0005(1)(a) affirms that an exception *"Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;"*

Findings: This legal caveat establishes that an Exception is specific to the circumstances associated with a particular property (2S-9-18-TL2102), and that an approved Exception does not establish a precedent for what might be permitted on any other property. Each situation must be considered on its own particular merits.

OAR 660-004-0010(3) states that *"an exception to exclude certain lands from requirements of one or more statewide goals or goal requirements does not exempt a local government from the requirements of any other goal(s) for which an exception was not taken."*

Findings: The proposed Exception addresses Agricultural Lands (Goal 3) issues and requirements (Exhibit 2). The subject parcel is zoned Farm (F-1), and the owners have identified their intention of changing the zoning of the parcel. No other Goals have been requested for review.

OAR 660-004-0018(2)(a) states that "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;

(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.

Findings: The intent of the proposed Exception is to rezone the subject 1.68-acre parcel, currently zoned Farm (F-1). If the Goal Exception and Zone Change are approved then it will rezone the subject parcel to Rural Residential 10-Acre zoning and the RR zoning is limited to one dwelling. With the services extended previously for a non-farm dwelling on this property, the subject property is limited in density to a single dwelling.

Conclusions: Staff concludes this proposal will have a minimal impact on the adjacent RR zoned properties and will have little effect on the resource land surrounding the subject parcel. Staff concludes this criterion is met.

D. TCLUO Section 9.020: Map Amendment Procedure and Criteria:

(1) Notice of a proposed AMENDMENT shall be distributed according to the provisions of Section 10.060 of this Ordinance.

Findings: Notice was mailed to property owners within 750-feet of the resource zoned property. A total of 35 property owners and agencies were noticed on September 4, 2008. The Headlight Herald was also notified and a notice ran on September 10, 2008. These notices meet the 10-day requirement of TCLUO Section 10.060 for notice.

Staff did not receive any public or agency commentary at the time of finishing this recommendation to the Planning Commission.

Conclusion: Staff concludes the requirements for the notice of the proposed amendment were met.

(2) The Department shall prepare an analysis of the site and the surrounding area in the form of a map and report, considering the following factors:

(a) Size, shape and orientation of the subject parcel.

Findings: The applicant indicates, "The proposed zone change is for a 1.68-acre parcel (2S-9-18-TL2102) adjacent to Bewley Creek Road, 1.5 miles from Highway 101, approximately 4 mile southwest of the City of Tillamook. Size and shape orientation are described by the attached Exhibits A (scale drawing), B (Assessor's Map) and C (Zoning Map). The parcel is triangular in shape and is adjacent to Bewley Creek Road on its northwest side (320') and northeast side (520'). The south side of the triangle extends for 750 feet, and is adjacent to residential and farm-zoned properties. Bewley Creek, which averages 25 feet in width, bisects the parcel for approximately 600 feet on its south side, with the majority of the parcel (about 1 acre) lying between the creek and Bewley Creek Road," (Exhibit 2).

Staff concurs with the size, shape and orientation presented to the Department by the applicant of the subject property (Exhibits 1 & 2).

(b) Surrounding parcel sizes.

Findings: According to the applicant, "The four adjacent parcels contain 1.88 acres, 2.45 acres, 26.18 acres and 42.40 acres respectively. The 42-acre block of residential-zoned land adjacent to the southeast is comprised of 19 parcels, ranging from 0.36 acres to 8.77 acres, with an average size of 2.21 acres. There are larger farm and forest properties in the area with interspersed small residential parcels on the east along Bewley creek Road for 1.5 miles where it connects with Highway 101," (Exhibit 2).

Staff concurs with the applicant's assessment of the surrounding parcel sizes with the addition of two properties specifically: a 1.68-acre parcel located at 2S-9-18-TL2601 and a 3-acre parcel at 2S-9-18-TL2200 (Exhibits 1 & 6).

(c) Topography, drainage, hazards, and other physical site characteristics.

Findings: According to the applicant, "The subject parcel is flat except for the creek bed, and is comprised of well drained Nehalem and Knappa silt loam soils

according to the USDA's Soil Survey of the Tillamook Area. There are no apparent hazards. Bewley Creek bisects the southern portion of the property for about 600 feet. LUO Section 4.080(1)(b) requires a 25-foot riparian setback, given that the creek averages more than 15 feet in width. This riparian area currently contains a buffer of trees and other vegetation," (Exhibit 2).

Staff found the subject property to be relatively flat with some slopes at the channel of Bewley Creek. Staff did not find any landslide topography on the subject property. The subject property is shown on the Department of Geology and Mineral Industries (DOGAMI) bulletins as being in an area of high ground water (Exhibit 8). According to Federal Insurance Rate Map (FIRM) #410196 0250A, dated August 1, 1978, Staff found the subject property is located in a Zone C. Zone C flood zones are "Areas of minimal flooding."

Staff created a wetlands map of the subject parcel using the U.S. Fish and Wildlife Services mapping of the National Wetland Inventory. It appears from that map that there is a possibility of a strip of wetlands adjacent to Bewley Creek; however, the required riparian setback from Bewley Creek may encompass possible wetland areas (Exhibit 7). If the subject property is to be developed it would be recommended that the property owner contact the Oregon Department of State Lands to gain further information. On a site visit by Staff, Staff walked the property, but not down the slope into Bewley Creek, and did not find any wet areas.

(d) Parcel ownership and current use.

Findings: The applicant indicates, "The parcel is owned by Thomas and Susan Rieger, and is currently used for limited storage of split firewood," (Exhibit 2).

The property is owned by Thomas Paul Rieger and Susan Rieger (Exhibits 2 & 4). A site visit by Staff found a moderately vegetated lot and little else.

(e) Economic and population data for the affected area that may be contained in the Comprehensive Plan.

Findings: According to the applicant, "The Comprehensive Plan contains no economic or population data specific to this area," (Exhibit 2).

Staff found countywide economic and population data in Goal 9 of the Tillamook County Comprehensive Plan; however, it did not find any specific information on the subject property, nor did it find anything that referenced Bewley Creek Road.

(f) Traffic circulation.

Findings: The applicant indicates, "As noted above, the subject property is adjacent to Bewley Creek Road on its northwest and northeast sides for a total of about 840 feet. Access would most likely be from the northeast side, where there is 520 feet of straight frontage, with no physical sightline impairments. Bewley Creek Road extends for 0.65 miles to the southwest where it enters Stimpson Lumber Company property. There are 23 residences along this

section of public road. Some additional traffic is generate by log and gravel trucks from the Stimpson property," (Exhibit 2).

Staff finds that the general area around the subject property is a mix of uses and zones. Based upon at letter in the Tax Lot file from the Tillamook County Public Works Department, dated April 21, 2006, there is a recognized Road Approach on file with their department for access off of Bewley Creek Road (Exhibit 9). It is recommended that the owner check with the Tillamook County Public Works Department prior to any building permits to make sure that the Road Approach granted is still in effect.

(g) Zoning history of the subject parcel.

Findings: According to the applicant, "The parcel and the surrounding area were initially zoned 'A-1' on January 17, 1973 (Tillamook County Land Use Ordinance #14). The A-1 zone was a general purpose "Low Density Residential, Agricultural, Forest and Recreation Zone" that permitted dwellings on parcels as small as 20,000 square feet. (This zone, along with the 'RA' zone, was replaced by the Rural Residential Zone in 1982.) The parcel was rezoned F-1(Farm) on June 17, 1982 as part of the countywide rezoning to achieve compliance with state law. [See Section (3)(a) below for elaboration]," (Exhibit 2).

Staff concurs with the applicant's findings regarding the history of the zoning on the subject property.

(h) Compatibility of the proposed new zone with the surrounding zoning and land uses.

Findings: The applicant indicates, "Adjacent residential zoned land and road and stream buffers from adjacent farm-zoned land ensure capability. [See Section (3)(d) for an elaboration of impacts on surrounding properties.]," (Exhibit 2).

Staff finds that the subject property would be compatible with the Rural Residential zone to the southwest. The proposed Rural Residential zoning, TCLUO Section 3.010 (4)(k), requires a 100-foot setback from Farm, Forest and SFW-20 zoned properties (Exhibit 12). It appears from the applicant's submittal [Exhibit G] that there is a buildable area which adheres to the 100-foot resource zone buffer (Exhibit 2).

(i) Availability and feasibility for development of nearby properties in the proposed zone.

Findings: According to the applicant, "The adjacent residential zoned area is approaching build out, with residences on at least 13 of the 19 parcels. But this is not about the Rieger's looking for a parcel upon which they can construct a dwelling. Rather this is about making residential use of a parcel they own that is best suited for that use," (Exhibit 2).

The rural residential zoning is zoned for the development of residences (Exhibit 12). The nearby farm properties are zoned F-1 and it would not change the requirements to site a dwelling in that zone (Exhibit 11).

(j) Aesthetics.

Findings: According to the applicant, "One dwelling on 1.68 acres, which may be visible to only two other dwellings in the area should not be an infringement on anyone's sense of aesthetics. The nearest of these two dwellings is owned by the applicants, and the other – more than 200 feet away – is owned by one of the applicant's brothers. The subject parcel is very similar in size to the 19 parcels that comprise the residential-zoned area adjacent to the southwest," (Exhibit 2).

Staff finds that any development of the subject lot will change the aesthetics. It is a corner lot and therefore may be more noticeable to fellow property owners in the area. Based upon the fact that it would be integrated into a large tract of developed RR zoned properties, there should be very little impact.

(k) Availability of public facilities and services.

Findings: The applicant indicates, "Electric power, telephone, fire protection and road access are all available to the property. Public water is available from the South Prairie Water District. On-site sewage disposal should not be a problem given the area available for a system and the well-drained silt loam soil. This was affirmed by an Oct. 1, 2007 site visit by Chris Chiola, Tillamook County's On-site Sanitation Program Manager, and is addressed in more detail in the attached addendum on the prospects for placing a dwelling on the parcel," (Exhibit 2).

Staff finds that the subject property is within the Tillamook Fire District's coverage, there is electricity and water available in the area and there is an existing septic system in the ground. If the proposed Exception and Zone Change are approved and a dwelling is applied for, then all of the necessary sanitation permits would be required and both Fire and Water letters would also be required.

(l) Land use objectives of both the applicable and the proposed zoning.

Findings: The applicant indicates, "The objective of the F-1 zone is to provide and protect land for farm use on that land that is suitable for such use. The stated purpose of the Rural Residential Zones (RR or RR-10) 'is to provide for the creation and use of small-acreage homesites . . . without constraining the use of the surrounding resource-zoned properties for resource-production purposes'," (Exhibit 2).

The applicant is correct that the agricultural zoning is in place to, "preserve the cultural, social, and economic values that are provided by agriculture in Tillamook County by identifying and protecting land that is needed to sustain the local agricultural economy. This includes land which is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural land," (Exhibit 11). The rural residential zoning is, "...to provide for the creation and use of small

acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes," (Exhibit 12).

Staff finds that if the exception and re-zoning are approved and a dwelling is proposed for the subject property, then the property owner will have to adhere to the 100-foot resource zone buffer standard for siting a dwelling (Exhibit 12); this continues to protect the resource zoned land. It appears from the applicant's submittal [Exhibit G] that there is a buildable area which adheres to the 100-foot resource zone buffer (Exhibit 2).

(3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all four criteria can be met.

(a) The proposed new zone is consistent with applicable Comprehensive Plan policies.

Findings: According to the applicant, "The applicable policy in Goal 3 (Agricultural Lands) section of the Tillamook County Comprehensive Plan is at '4.1 Agricultural Land Zoning.' This policy states that: '*Tillamook County will maintain F-1 and SFW-20 zones to protect farmland and farm practices from the unnecessary encroachment of non-farm development. The county's Agricultural Lands Criteria will be used to establish priorities for the availability of farmland for conversion to non-farm uses. Land will not be removed from the farm zone without appropriate consideration of need, consequences, alternatives and compatibility.*' The Agricultural Lands Criteria was approved by the Tillamook County Board of Commissioners on July 27, 1980 to assist in determining what land should not be included in the Farm (F-1) zone. The four criteria that were used to determine the agricultural suitability or any given ownership are (1) soil suitability, (2) parcel size, (3) surrounding parcel size, and (4) compatibility of surrounding land use. The subject parcel was part of a 140-acre ownership when staff first conducted land use inventories and made zoning proposals in 1980 (see above zoning history). The relatively large parcel has the affect of recommending the entire parcel for inclusion in the F-1 zone. That size changed with the legal creation of the 1.68-acre subject parcel and acquisition by Tom and Sue Rieger on May 14, 1982, prior to the F-1 zoning taking effect on June 17 of that year. Had planning staff known of that pending change in size and ownership, the parcel would have been proposed for residential zoning at that time, given its small size, the road and stream buffers, and the adjacent residential zoning. [The parcel's lack of suitability for agriculture is discussed in detail in Section 3 (c) below.]," (Exhibit 2).

Staff finds that Tillamook County Comprehensive Plan policy for Agricultural Land Zoning will not be removed without appropriate consideration of need, consequences, alternatives and compatibility (Exhibit 10). In effect, the Goal Exception component addresses the concerns of removing the subject property out of Agricultural zoned land and placing it in residential land.

(b) The proposed new zone shall not result in the conversion of resource lands to nonresource use without an approved exception to applicable state resource protection Goals.

Findings: The applicant indicates, "This application includes an exception to Statewide Planning Goal 3 and 4 (Agricultural and Forest Lands)," (Exhibit 2).

Staff finds that an Exception to Goal 3 is required first and then a rezone can be reviewed because the subject property is zoned Farm.

(c) The site under consideration is better suited to the purposes of the proposed zone than it is to the purposes of the existing zone.

Findings: The applicant indicates, "The purpose of the existing Farm (F-1) zone is to secure and protect land that is suitable for farm use from non-farm development. The stated purpose of the Rural Residential (RR) zone 'is to provide for the creation and use of small acreage homesites . . . without constraining the use of the surrounding resource-zoned properties for resource production purposed.' The subject parcel is not suitable for agricultural use because of its size, bisection by Bewley Creek, and separation from other farmland in the area by the creek and Bewley Creek road. The creek, and the required 25-foot riparian setback on each side, reduces the parcel's available land to less than an acre. That is not sufficient for commercial farm animals, nor is it suitable for growing commercial crops, particularly given the impact of agricultural practices on the adjacent creek. The Riegers have regarded this as a residential parcel since they acquired it in 1982, when it was still zoned A-1. They never applied for farm deferral taxation – the parcel has always been taxed at the residential market rate. The property contained a non-farm residence from 1969-72, with a still-existing on-site sanitation system. (The impact on the surrounding resource land is addressed below)," (Exhibit 2).

Staff finds that the subject property is impracticable for commercial farm and forest practices on this property. Rural Residential zoning provides for many uses, including farm and forest use; however, it also provides an opportunity for less restrictive residential development. The residential use of the subject property is a better fit because of its size.

(d) Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties.

Findings: According to the applicant, "The subject parcel is adjacent to residential-zoned land for 200 feet on its southwest side between Bewley Creek and Bewley Creek Road. The parcel is otherwise adjacent to properties zoned F-1; however there are physical barriers and ownership circumstances that ensure there won't be conflicts. (See Exhibits A and C). Bewley Creek Road and Bewley Creek separate the subject parcel's buildable portion from these farm-zoned properties. The farm-zoned property across Bewley Creek Road, to the northeast of the subject parcel, is comprised of 2.45 acres, owned by the applicants, Tom and Sure Rieger. They operate a family retail nursery, where any propagation occurs within their green houses. The remainder of their

property is landscaped for their personal non-farm use. The farm zoned property across Bewley Creek road, to the northwest of the subject parcel, is comprised of 42.40 acres, owned by John Rieger, Tom's brother who grows Christmas trees on his property. A residential dwelling on the subject property would be compatible with this use, and would be buffered from any other possible future farm uses by Bewley Creek Road. The subject parcel is adjacent to farm-zoned land from approximately 550 feet on its southeast side. The buildable portion of the subject parcel is separated from this adjacent farmland by Bewley Creek, which averages 25 feet in width, and has a vegetated 25-foot riparian buffer on each side. This adjacent farm property is owned by Steve Rieger, Tom's cousin, and is leased to an area dairy farmer. The separation provided by the creek and adjacent riparian buffers ensure that a residence on the property will not affect farm practices on Steven Rieger's property," (Exhibit 2).

Staff finds that the changing of the zone on the subject property from resource land to rural residential zoned land will not impair the actual or legally designated uses of the surrounding resource zoned properties because the RR zone requires a 100-foot buffer from all resource zoned land (Exhibit 12). If the Goal Exception and Zone Change are approved, then the property owner will have to adhere to the 100-foot resource zone buffer standard for siting a dwelling. It appears from the applicant's submittal [Exhibit G] that there is a buildable area which adheres to the 100-foot resource zone buffer (Exhibit 2).

Conclusion: Staff concludes that based upon the findings listed in TCLUO Section 9.020 (1), (2)(a-l) and (3)(a-d) that a Zone Change from Farm (F-1) to Rural Residential 10-acre zoning is valid, provided that the Goal Exception (Goal 3) is approved first.

IV. CONCLUSIONS: Staff concludes the subject property is not conducive to commercial agriculture or forestry practices and generally satisfies state requirements for an Exception to Goal 3 Agricultural Lands. Staff concludes the owners have demonstrated that the property is suitable for the proposed zone change. All of the county's zone change criteria are met.

V. RECOMMENDATION: Based on the findings of fact and other relevant information contained within this report, Staff recommends **APPROVAL** for a Land Irrevocably Committed to Other Use Exception ZC-07-04 and subsequent zone change subject to the following Condition:

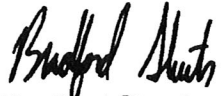
a) This Exception and Zone Change are limited to the subject parcel (2S-9-18-TL2102) proposed in the request.

VI EXHIBITS:

1. Vicinity, Tax Assessor's and Zoning Maps
2. Owner's application, justification statement and maps
3. ORS 215.203, OAR 660-033-0120 (Table 1) and OAR 660-006-0025(2)(a)
4. Tax Assessor's record for the subject property and the Bargain and Sale Deed
5. USDA's NRCS Web Soil Survey for the subject property
6. Tax Assessor's records for the adjacent properties
7. U.S. Fish and Wildlife Service map indicating the National Wetlands Inventory information

8. DOGAMI map
9. Tillamook County Public Works Department letter of April 21, 2006
10. Tillamook County Comprehensive Plan, Goal 3
11. TCLUO Section 3.002 Farm Zone (F-1)
12. TCLUO Section 3.010 Rural Residential 2 Acre and 10 Acre Zone (RR-2) (RR-10)
13. Planning Commission minutes from September 25, 2008.

Tillamook County Department of Community Development



Bradford Sheets
Associate Planner

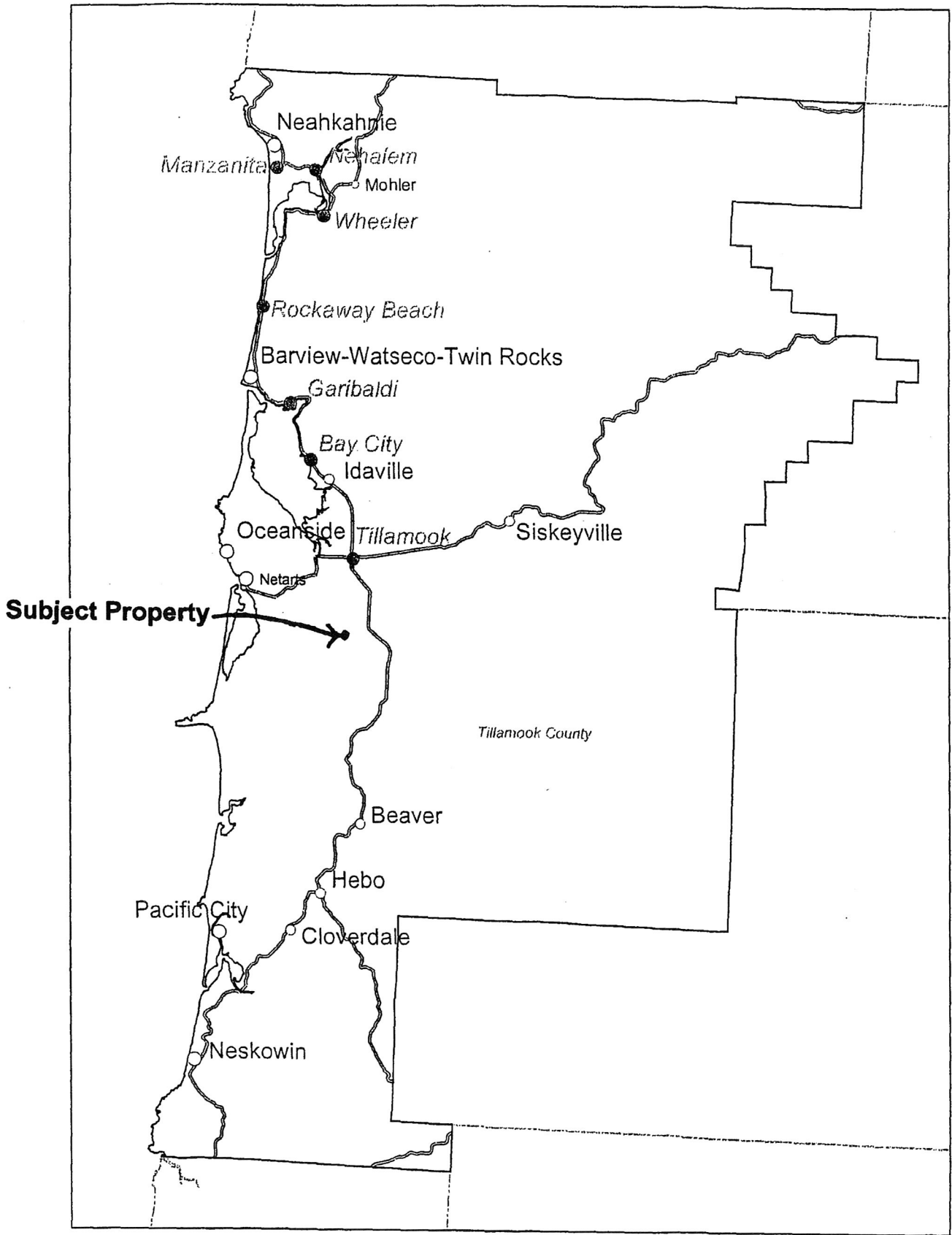
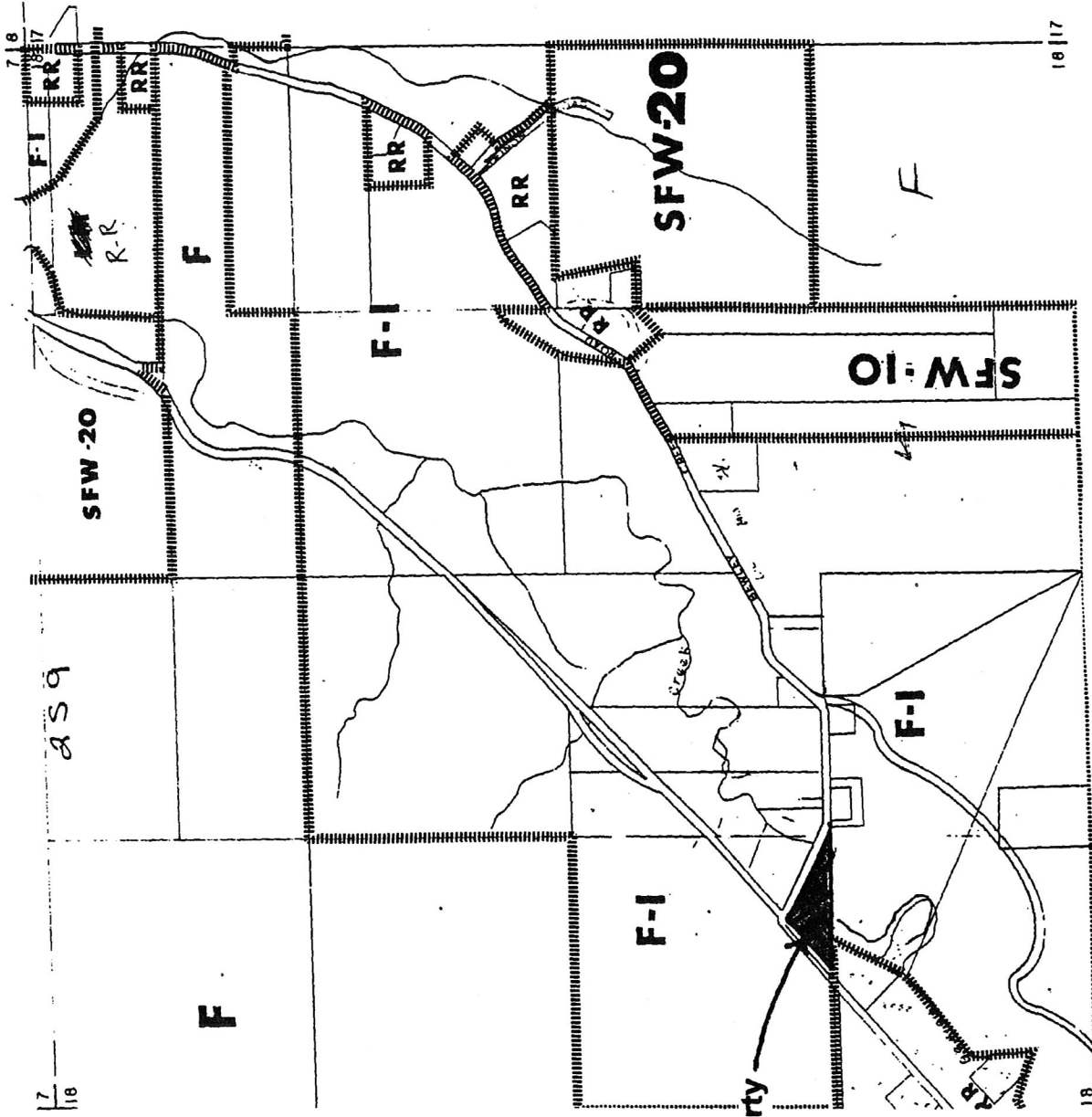


Exhibit 1



Subject Property

PLANNING APPLICATION
DEPARTMENT OF COMMUNITY DEVELOPMENT

Application Number [] Admin Review [] LUC Review [] Variance
[] Conditional Use [] Major Partition [] Zone Amendment
EC 07-04 [X] Exception [] Ordinance Amend [X] Zone Change
[] Extension [] Sub - Pre Lim [] Non Conform Major Rev
[] GHZ Report [] Sub - Final Plat [] Non Conform Minor Rev

REQUEST (Describe request)
To rezone the below-described tax lot from F-1
to Rural Residential (RR), with an accompanying
Goal exception (3+4)

APPLICANT:
Name Tom and Sue Rieger Phone 842-6872
Address 8460 Bailey Creek Road City Tillamook State OR Zip 97141

LEGALLY RECORDED OWNER:
Name Thomas & Susan Rieger Phone 842-6872
Address _____ City _____ State _____ Zip _____

1. LEGAL DESCRIPTION OF THE PROPERTY INVOLVED IN THIS APPLICATION
Township 2S Range 9W Section 18 Tax Lot 2102
Subdivision _____ Lot _____ Block _____

2. ZONING F-1

3. IS THE PROPERTY DEED RESTRICTED TO PROHIBIT THE USE AS PROPOSED IN THIS APPLICATION?
[] Yes [X] No

4. I HEREBY APPLY FOR THE ABOVE REQUEST.
I agree to abide by the requirements of the Tillamook County Comprehensive Plan, Tillamook County Land Use Ordinance, Tillamook County Land Division Ordinance as they apply to this request.

Property Owner's Signature Thomas P Rieger Date 10-12-2007
Susan K. Rieger

5. I AUTHORIZE THIS REQUEST BY THE APPLICANT.
APPLICANT'S SIGNATURE Thomas P Rieger Date 10-12-2007
Susan K. Rieger

***** FOR OFFICE USE ONLY *****

Date 10/12/07 Received JMP Fee Paid 2063⁰⁰ Receipt # 7231

G:\ADMIN\FORMS\PLANFORM\PLANNAPP

07-4402 EC Exhibit 2

October 10, 2007

To: Bill Campbell, Community Development Director
Tillamook County Planning Commission
Tillamook County Board of Commissioners

From: Vic Affolter, Planning Consultant

Re: Tom and Sue Rieger Zone Change Request and Goal Exception

The attached documents justify the Rieger's request for a zone change from farm (F-1) to residential (RR) zoning and an "irrevocably committed" exception to Statewide Planning Goals 3 and 4 (Farm and Forest Lands), to enable placement of a single dwelling on their 1.68-acre parcel (2S 9 18-2102), located adjacent to Bewley Creek Road, 1.5 miles from its origin at Highway 101, about four miles southwest of the City of Tillamook. These documents include:

- Tillamook County Zone Change Justification
- Statewide Planning Goals Exception Justification
- Exhibit A: Scale drawing of parcel
- Exhibit B: Assessor's map
- Exhibit C: Zoning map
- Exhibit D: OAR exception requirements
- Exhibit E: Scale drawing showing riparian and yard setbacks
- Exhibit F: Scale drawing showing on-site sanitation setbacks
- Exhibit G: Scale drawing showing setbacks from F-1 zoning

These documents establish that the Rieger's request meets all applicable Tillamook County zone change criteria and all requirements for an "irrevocably committed" exception to Goals 3 and 4. The zone change and goal exceptions describe subject parcel's limitations for farm use because of small size, bisection by Bewley Creek, and separation from other farmland in the area by the creek and Bewley Creek Road. The substantial buffers provided by the creek and road ensure that the placement of one dwelling on this parcel will not impact farm or forestland in the area.

**Tom and Sue Rieger Zone Change Justification
For 2S 9 18-2102
Prepared by Vic Affolter
10/10/07**

TILLAMOOK COUNTY ZONE CHANGE JUSTIFICATION

LUO SECTION 9.020: MAP AMENDMENT PROCEDURE AND CRITERIA

The following provisions govern consideration of a zone change (map amendment) request (quoted in italics). Findings that follow address these requirements.

“(1) Notice of a proposed AMENDMENT shall be distributed according to the provisions of Section 10.060 of this ordinance.”

FINDING: The Department of Community Development provides public notice.

“(2) The Department shall prepare an analysis of the site and the surrounding areas in the form of a map and report, considering the following factors:

(a) Size, shape and orientation of the subject parcel.”

FINDINGS: The proposed zone change is for a 1.68-acre parcel (2S 9 18-2102) adjacent to Bewley Creek Road, 1.5 miles from Highway 101, approximately 4 mile southwest of the City of Tillamook. Size shape and orientation are described by the attached Exhibits A (scale drawing), B (Assessor’s Map) and C (Zoning Map). The parcel is triangular in shape and is adjacent to Bewley Creek Road on its northwest side (320’) and northeast side (520’). The south side of the triangle extends for 750 feet, and is adjacent to residential and farm-zoned properties. Bewley Creek, which averages 25 feet in width, bisects the parcel for approximately 600 feet on its south side, with the majority of the parcel (about 1 acre) lying between the creek and Bewley Creek Road.

“(b) Surrounding parcel sizes.”

FINDINGS: The four adjacent parcels contain 1.88 acres, 2.45 acres, 26.18 acres and 42.40 acres respectively. The 42-acre block of residential-zoned land adjacent to the southeast is comprised of 19 parcels, ranging from 0.36 acres to 8.77 acres, with an average size of 2.21 acres. There are larger farm and forest properties in the area with interspersed small residential parcels to the east along Bewley Creek Road for 1.5 miles to where it connects with Highway 101. . (See Exhibit B.)

“(c) Topography, drainage, hazards, and other physical site characteristics.”

FINDINGS: The subject parcel is flat except for the creek bed, and is comprised of well drained Nehalem and Knappa silt loam soils according to the USDA's Soil Survey of the Tillamook Area. There are no apparent hazards. Bewley Creek bisects the southeastern portion of the property for about 600 feet. LUO Section 4.080(1)(b) requires a 25-foot riparian setback, given that the creek averages more than 15 feet in width. This riparian area currently contains a buffer of trees and other vegetation.

“(d) Parcel ownership and current use.”

FINDINGS: The parcel is owned by Thomas and Susan Rieger, and is currently used for limited storage of split firewood.

“(e) Economic and population data for the affected area that may be contained in the Comprehensive Plan.”

FINDINGS: The Comprehensive Plan contains no economic or population data specific to this area.

“(f) Traffic Circulation”

FINDINGS: As noted above, the subject property is adjacent to Bewley Creek Road on its northwest and northeast sides for a total of about 840 feet. Access would most likely be from the northeast side, where there is 520 feet of straight frontage, with no physical sightline impairments. Bewley Creek Road extends for 0.65 miles to the southwest where it enters Stimpson Lumber Company property. There are 23 residences along this section of public road. Some additional traffic is generated by log and gravel trucks from the Stimpson property.

“(g) Zoning history of the subject parcel.”

FINDINGS: The parcel and the surrounding area were initially zoned “A-1” on January 17, 1973 (Tillamook County Land Use Ordinance #14). The A-1 Zone was a general purpose “Low Density Residential, Agricultural, Forestry and Recreation Zone” that permitted dwellings on parcels as small as 20,000 square feet. (This zone, along with the “RA” zone, was replaced by the Rural Residential Zone in 1982.) The parcel was rezoned F-1 (Farm) on June 17, 1982 as part of the countywide rezoning to achieve compliance with state law. [See Section (3)(a) below for elaboration.]

“(h) Compatibility of the proposed new zone with the surrounding zoning and land uses.”

FINDINGS: Adjacent residential-zoned land and road and stream buffers from adjacent farm-zoned land ensure compatibility. [See Section (3)(d) below for an elaboration of impacts on surrounding properties.]

“(i) Availability and feasibility for development of nearby properties in the proposed zone.”

FINDINGS: The adjacent residential zoned area is approaching buildout, with residences on at least 13 of the 19 parcels. But this is not about the Riegers looking for a parcel upon which they can construct a dwelling. Rather this is about making residential use of a parcel they own that is best suited for that use.

“(j) Aesthetics”

FINDINGS: One dwelling on 1.68 acres, that may be visible to only two other dwellings in the area, should not be an infringement on anyone’s sense of aesthetics. The nearest of these two dwellings is owned by the applicants, and the other—more than 200 feet away—is owned by one of the applicant’s brothers. The subject parcel is very similar in size to the 19 parcels that comprise the residential-zoned area adjacent to the southwest.

“(k) Availability of public facilities and services.”

FINDINGS: Electric power, telephone, fire protection and road access are all available to the property. Public water is available from the South Prairie Water District. On-site sewage disposal should not be a problem given the extent of the area available for a system and the well-drained silt loam soil. This was affirmed by an Oct. 1, 2007 site visit by Chris Chiola, Tillamook County’s On-site Sanitation Program Manager, and is addressed in more detail in the attached addendum on the prospects for placing a dwelling on the parcel.

“(l) Land objectives of both the applicable and the proposed zoning.”

FINDINGS: The objective of the F-1 zone is to provide and protect land for farm use on land that is suitable for such use. The stated purpose of the Rural Residential Zones (RR or R-10) “is to provide for the creation and use of small-acreage homesites...without constraining the use of surrounding resource-zoned properties for resource-production purposes.”

“(3) The Commission shall consider an AMENDMENT request at the earliest practicable public hearing after it is proposed. In hearing the request to establish a new zoning designation, the Commission shall consider all of the following criteria. A zone MAP AMENDMENT may be approved only if all four criteria can be met.”

“(a) The proposed new zone is consistent with applicable comprehensive Plan policies.”

FINDINGS:

The applicable policy in the Goal 3 (Agricultural Lands) section of the Tillamook County Comprehensive Plan is at “4.1 Agricultural Land Zoning.” This policy states that:

"Tillamook County will maintain F-1 and SFW-20 zones to protect farmland and farm practices from the unnecessary encroachment of non-farm development. The county's Agricultural Lands Criteria will be used to establish priorities for the availability of farmland for conversion to non-farm uses. Land will not be removed from the farm zone without appropriate consideration of need, consequences, alternatives and compatibility."

The Agricultural Lands Criteria were approved by the Tillamook County Board of Commissioners on July 27, 1980 to assist in determining what land should and should not be included in the farm (F-1) zone. The four criteria that were used to determine the agricultural suitability of any given ownership are (1) soil suitability, (2) parcel size, (3) surrounding parcel size, and (4) compatibility of surrounding land use.

The subject parcel was part of a 140-acre ownership when staff first conducted land use inventories and made zoning proposals in 1980 (see above zoning history). The relatively large parcel size had the affect of recommending the entire parcel for inclusion in the F-1 zone. That size changed with the legal creation of the 1.68-acre subject parcel and acquisition by Tom And Sue Rieger on May 14, 1982, prior to the F-1 zoning taking effect on June 17 of that year. Had planning staff known of that pending change in size and ownership, the parcel would have been proposed for residential zoning at that time, given its small size, the road and stream buffers, and the adjacent residential zoning. [The parcel's lack of suitability for agriculture is discussed in detail in Section 3(c) below.]

"(b) The proposed new zone shall not result in the conversion of resource land to non-resource use without an approved exception to applicable state resource protection Goals."

FINDING: This application includes an exception to Statewide Planning Goal 3 and 4 (Agricultural and Forest Lands).

"(c) The site under consideration is better suited to the purposes of the proposed zone than it is to the existing zone."

FINDINGS: The purpose of the existing Farm (F-1) zone is to secure and protect land that is suitable for farm use from non-farm development. The stated purpose of the Rural Residential (RR) zone "is to provide for the creation and use of small-acreage homesites...without constraining the use of surrounding resource-zoned properties for resource production purposes." The subject parcel is not suitable for agricultural use because of its size, bisection by Bewley Creek, and separation from other farmland in the area by the creek and Bewley Creek road. The creek, and the required 25-foot riparian set back on each side, reduces the parcel's available land to less than an acre. That is not sufficient for commercial farm animals, nor is it suitable for growing commercial crops, particularly given the impact of agricultural practices on the adjacent creek. The Riegers

have regarded this as a residential parcel since they acquired it in 1982, when it was still zoned A-1. They never applied for farm deferral taxation—the parcel has always been taxed at the residential market rate. The property contained a non-farm residence from 1969-72, with a still-existing on-site sanitation system. (The impact on surrounding resource land is addressed below.)

“(d) Development anticipated to result from the proposed zone shall not impair the actual or the legally designated uses of surrounding properties.”

FINDINGS:

The subject parcel is adjacent to residential-zoned land for 200 feet on its southwest side between Bewley Creek and Bewley Creek Road. The parcel is otherwise adjacent to properties zoned F-1; however there are physical barriers and ownership circumstances that ensure there won't be conflicts. (See Exhibits A and C.) Bewley Creek Road and Bewley Creek separate the subject parcel's buildable portion from these farm-zoned properties. The farm-zoned property across Bewley Creek Road, to the northeast of the subject parcel, is comprised of 2.45 acres, owned by the applicants, Tom and Sue Rieger. They operate a family retail nursery, where any propagation occurs within their green houses. The remainder of their property is landscaped for their personal non-farm use.

The farm-zoned property across Bewley Creek Road, to the northwest of the subject parcel, is comprised of 42.40 acres, owned by John Rieger, Tom's brother. He grows Christmas trees on his property. A residential dwelling on the subject property would be compatible with this use, and would be buffered from any other possible future farm uses by Bewley Creek Road. The subject parcel is adjacent to farm-zoned land for approximately 550 feet on its southeast side. The buildable portion of the subject parcel is separated from this adjacent farmland by Bewley Creek, which averages 25 feet in width, and has a vegetated 25-foot riparian buffer on each side. This adjacent farm property is owned by Steven Rieger, Tom's cousin, and is leased to an area dairy farmer. The separation provided by the creek and adjacent riparian buffers ensure that a residence on the property will not affect farm practices on Steven Rieger's property.

**Tom and Sue Rieger Zone Change Goal Exception
For 2S 9 19-2102
Prepared by Vic Affolter
10/05/07**

JUSTIFICATION FOR AN EXCEPTION TO OREGON STATEWIDE PLANNING GOALS 3 AND 4 (AGRICULTURAL AND FOREST LANDS)

ORS 197.732 and OAR 660-004 contain the provisions for exception to the Oregon State land use planning goals, with the OAR providing the applicable requirements. OAR 660-004-0000(3) states that *"The intent of the exceptions process is to permit necessary flexibility in the application of the Statewide Planning Goals."* And OAR 660-004-005(a) states that an "exception" *"Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability."*

ORS 197.732(1) lists the three kinds of goal exceptions. They are as follows: (1) *"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: (Note: These standards apply to the so-called "reasons" exception—the option available if (a) or (b) is not applicable. Since the Riegers are not taking a reasons exception, these standards need not be listed here.)

The applicable OAR requirements for (a) *"physically developed"* and (b) *"irrevocably committed"* exceptions are attached as Exhibit D. They are contained in OAR 660-004-0025 and OAR 660-004-0028 respectively. A non-farm manufactured dwelling was located on the subject parcel from 1969 until 1973, circumstances that would have qualified the property for a *"physically developed"* exception. There remains some basis for such an exception, given that the property still contains a septic tank and drainfield, and the waterline that serves the area passes through the adjacent road right-of-way. However, we are addressing the applicable requirements for an *"irrevocably committed"* exception, contained in OAR 660-004-0028, to establish with reasonable certainty that an exception is justified.

(Note: *Italics* are all quotations from the applicable ORS and OAR requirements. Findings of Fact and Statement of Reasons that follow address these requirements. There is some repetition of the findings for the zone change justification because of overlapping requirements.)

OAR 660-004-0028: Exception Requirements for Land Irrevocably Committed to Other Uses (See Exhibit D for full text.)

“(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 address the following:”

“(a) The characteristics of the exception area;”

Findings:

The exception area consists of one 1.68-acre parcel (2S 9 18-2101), adjacent to Bewley Creek Road, 1.5 miles southwest of Highway 101, approximately four miles southwest of the City of Tillamook. The size, shape and orientation of the parcel are described by the attached Exhibits A (scale drawing of the parcel), B (Assessor’s Map) and C (Zoning Map). The parcel is triangular in shape and is adjacent to Bewley Creek Road on its northwest side (320 feet) and northeast side (520 feet). The south side of the triangle extends for 750 feet, and is adjacent to residential and farm-zoned properties. Bewley Creek, which averages 25 feet in width, bisects the parcel for approximately 600 feet on its south side. Land Use Ordinance section 4.080(1)(b) requires a 25-foot riparian setback on both sides of the creek, given that the creek averages more than 15 feet in width. This riparian area currently contains a buffer of trees and other vegetation.

The parcel contains less than one acre that is useable for either agriculture or residential purposes. This area lies between Bewley Creek Road and Bewley Creek, outside of the 25-foot riparian area. This portion of the property is flat, and is comprised of well drained Nehalem and Knappa silt loam soils according to the USDA’ Soil Survey of the Tillamook Area. There are no apparent hazards.

“(b) The characteristics of the adjacent lands;”

Findings: There are four adjacent parcels (ownerships), a residential-zoned parcel containing 1.88 acres, and three farm-zoned parcels containing 2.45, 26.18 and 42.40 acres respectively. The residential parcel is occupied by a dwelling. The 2.45-acre farm-zoned parcel across Bewley Creek Road on the northeast side is owned by the applicants and is occupied by their residence and a retail nursery. The 42.40-acre farm-zoned parcel on the northwest side of Bewley Creek Road is owned by the applicant’s brother, John Rieger, and is planted in Christmas trees. The 26.18-acre parcel south of Bewley Creek is owned by the applicant’s cousin Steven Rieger and is leased to an area dairy farmer.

“(c) The relationship between the exception area and the lands adjacent to it; and”

Findings: Bewley Creek and Bewley Creek Road separate the exception area from the adjacent lands. The subject parcel is **not** used in conjunction with the owner’s nursery across Bewley Creek Road as any propagation they do occurs within the green houses on that property. To extend that use to the subject parcel is neither necessary, given the scope of their operation, nor is it advisable given the proximity to Bewley Creek and the additional horticultural regulations that would be imposed upon their operation. There is

no relationship between the subject parcel and the other two adjacent farm parcels—or any prospect for a relationship—because of separation by Bewley Creek and Bewley Creek Road.

“(d) The other relevant factors set forth in OAR 660-004-0028(6).

Findings: These are addressed below.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable: (Emphasis added)

(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).

Other Relevant Factors:

“(6) Findings of fact for a committed exception shall address the following factors:”

“(a) Existing adjacent uses;”

Findings: See findings for above Section (2)(b) for a description of the four adjacent parcels, their zoning, and their residential and farm uses. The useable portion of the subject parcel that lies between Bewley Creek and Bewley Creek Road is adjacent to a 1.88 acre, residential-zoned parcel for 200 feet on the southwest side. This is the only useable portion of the subject parcel that is not separated from other adjacent properties by either the creek or the road.

“(b) Existing public facilities and services (water and sewer lines, etc.);”

Findings: Electric Power, telephone, fire protection and road access are all available to the subject property. Public water is available from the South PrairieWater District, with the district’s water line passing through the property within the Bewley Creek Road right-of-way. There is an existing septic tank and drainfield on the property.

“(c) Parcel size and ownership patterns of the exception area and adjacent lands:”

Findings: See findings for above sections (2)(a), 2(b) and (2)(c).

“(d) Neighborhood and regional characteristics;”

Findings: The parcel is within a rural valley bisected by Bewley Creek and Bewley Creek Road. This valley contains a mix of residential and farm uses on mostly flat land, with forest uses on nearby hillsides to the south and west. The adjacent residential-zoned property to the southwest is part of a 42-acre block of residential land that is comprised of 19 parcels, ranging in size from 0.36 acres to 8.77 acres, with an average size of 2.21 acres. This block of residential land contains 13 residences and extends for 2,000 feet on each side of Bewley Creek Road. (See Exhibit C.) A 9.25-acre, farm-zoned parcel separates this area from another approximately 40-acre block of residential-zoned land that extends to the end of Bewley Creek Road, 0.65 miles from the subject parcel. This area contains 13 parcels and 10 residences. There are some smaller blocks of residential zoned land with dwellings to the east along Bewley Creek Road for 1.5 miles to where it connects with Highway 101. The remaining Bewley Creek area is primarily in farm and forest use, with the nearest forest-zoned land approximately 600 feet from the subject parcel.

“(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;”

Findings: The buildable portion of the subject parcel is completely separated from adjacent resource land by Bewley Creek and Bewley Creek Road. (See Exhibits A and C.) The creek, which bisects the parcel for approximately 600 feet, averages 25 feet in width, with an additional 25-foot riparian setback on both sides. This effectively limits the useable portion of the subject parcel to less than an acre. The road right-of-way is 30 feet wide on the northeast side of the parcel and 40 feet wide on the northwest side, with 22 feet of pavement on each side. The creek and road serve as barriers that substantially impede using the subject parcel in conjunction with adjacent farmland. Placing commercial farm animals or crops on such a small parcel of land adjacent to a stream would be impracticable at best.

“(f) Physical development according to OAR 660-004-0025; and”

Findings: As noted above, a non-farm manufactured dwelling was located on the subject parcel from 1969 until 1973. The parcel still contains a septic tank and drainfield, and the waterline that serves the area passes through the adjacent road right-of-way. The adjacent parcel to the southwest is physically developed with a residence.

“(g) Other relevant factors.”

Findings: The subject parcel's zoning history is also relevant with respect to why it was zoned farm (F-1) instead of residential (RR) when it was rezoned, effective June 17, 1982, as part of county-wide rezoning to achieve compliance with state law. The parcel and the surrounding area were initially zoned "A-1" on January 17, 1973 (Tillamook County Land Use Ordinance #14). The A-1 Zone was a general purpose "Low density Residential, Agricultural, forestry and Recreation Zone" that permitted dwellings on parcels as small as 20,000 square feet. (This zone along with the "RA" zone was replaced by the Rural Residential Zone in 1982.) The subject parcel was part of a 140-acre ownership when staff first conducted land use inventories and made zoning proposals in 1980. The relatively large parcel size had the affect of recommending the entire parcel for inclusion in the F-1 zone. That size changed with the legal creation of the 1.68-acre subject parcel and acquisition by Tom and Sue Rieger on May 14, 1982, prior to the F-1 zoning taking effect on June 17 of that year. Had planning staff been aware of that pending change in size and ownership, the parcel would have been proposed for

residential zoning at that time, given its small size, the road and stream buffers, and the adjacent residential zoning.

Conclusion: Statement of Reasons

We conclude with the above-cited quote from OAR 660-004-0028(3):

“It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is ‘impossible.’ For exceptions to Goals 3 or 4, local governments are required to demonstrate that only (farm and forest) uses or activities are impracticable.”

The reasons for justifying this goal exception should be clear from the above Findings of Fact. The exception area is comprised of a single 1.68-acre parcel whose size, bisection by Bewley Creek, and separation from resource lands by that creek and Bewley Creek Road make farm and forest uses “impracticable”—the term used in the applicable ORS. In fact, commercial farm or forest uses on the subject parcel are ill advised, given its small size and proximity to Bewley Creek. The subject parcel is differentiated from “adjacent” resource land by its size and confinement by the creek and road. The parcel’s physical characteristics are similar to those of the adjacent 40-acre block of residential-zoned land to the southwest along Bewley Creek Road. Tom and Sue Rieger have always regarded this as a residential parcel as reflected by their never requesting farm use tax assessment—instead it has been taxed at market residential value since they acquired it on May 14, 1982. The buffers provided by the creek and road ensure that the placement of one dwelling on this parcel will not impact farm or forest practices in the area.

Tom and Sue Rieger
2S 9 18-2102
Prepared by Vic Affolter
10/09/07

Buildable Assessment Addendum

This addendum establishes that tax lot 2S 9 18-2102 is suitable for placement of a dwelling if the request for a zone change from farm (F-1) to residential (RR) is granted.

Exhibit E is a scale drawing of the parcel that shows a buildable area in excess of 30,000 square feet when taking into account the required 15-foot and 20-foot setbacks from Bewley Creek Road, the 5-foot setback from adjacent residential-zoned property, and the 25-foot riparian setback from Bewley Creek.

Exhibit F is a scale drawing that shows an area in excess of 30,000 square feet that is available for the placement of a septic tank and drainfield. In this case there is a 50-foot setback from the creek, but no setback from the road. Suitability for on-site sanitation was acknowledged during a site visit by Chris Chiola, Tillamook County's On-site Sanitation Program Manager, on October 1, 2007. He affirmed that the process would be either an Authorization Notice to utilize the existing system on the property, a Minor Repair to replace only the existing septic tank, or a Major Repair to replace the entire system. Any of these alternatives require a 50-foot setback from the creek, instead of the 100-foot setback that would be required for a new Construction Permit, absent an existing system. The most likely choice for the Riegers would be a Major Repair for a new system. There is room to set the system back 100 feet from the creek if they are inclined to do so. The buildable part of the parcel is a flat area, comprised of Nehalem and Knappa silt loam soils that are very accommodating for on-site sanitation.

Exhibit G is a scale drawing that provides an approximation of the small area (about 2500 square feet) that would be available for the placement of a dwelling, given application of the residential (RR) zone's provision for a 100-foot setback from an F-1 zone boundary. However, this provision in the Land Use Ordinances Section 3.010(4)(j) contains important qualifications—that the 100-foot setback applies "*unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between resource and residential uses; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100-foot requirement.*" One can make a reasonable argument that Bewley Creek and Bewley Creek Road, that separate the buildable portion of the subject parcel from adjacent farm-zoned land, provide as effective a barrier to conflicts as would a 100-foot setback without these buffers. The riparian and yard setbacks shown in Exhibit E would require at least a 50-foot setback from any farm-zoned land, which with the buffers provided by the road and creek should be sufficient. Clearly the 100-foot setback provision was not intended as an absolute standard, but rather as a flexible measure to avoid conflicts, without preventing placement of a dwelling on a parcel that meets all other applicable standards.

Finally, the two-acre minimum lot size requirement does not apply to this parcel because LUO Section 3.010(4)(b) states that "*parcels less than two acres in size that were legally established prior to June 17, 1982 may be built upon provided that all other requirements of this ordinance and other applicable development requirements are met.*" The subject parcel was legally established prior to that date as affirmed in above findings.

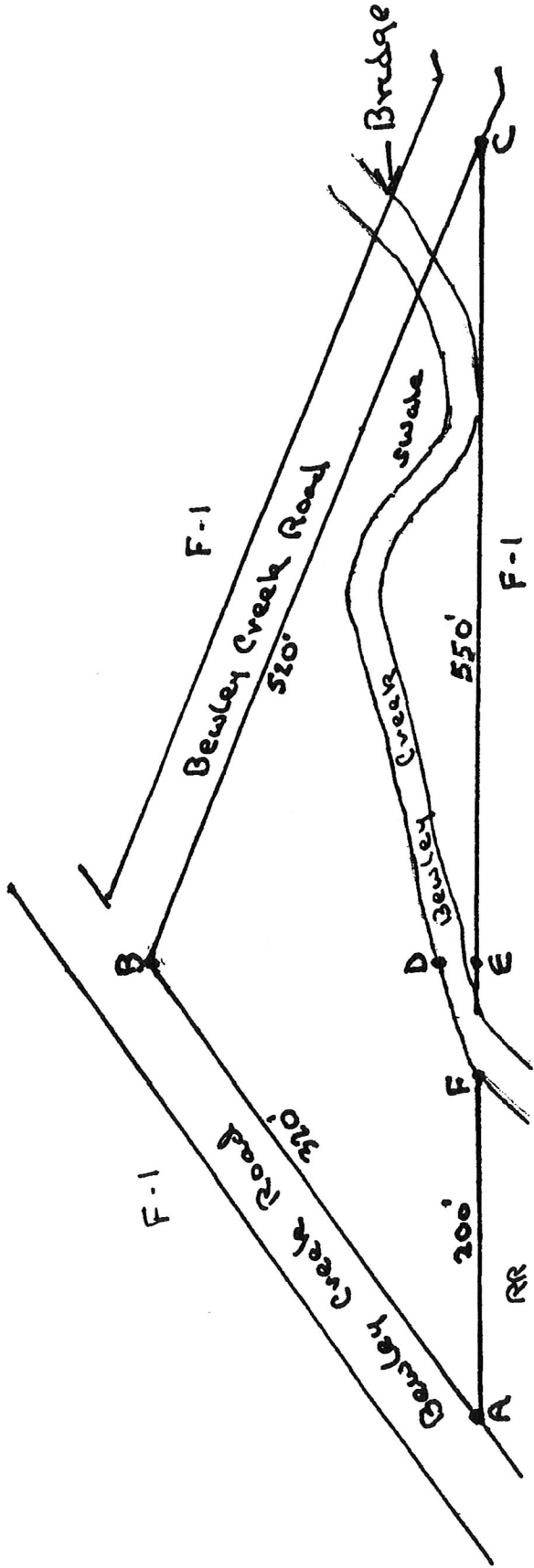


Exhibit A: Scale Drawing

Rueger Zone change

25918 - 2102

1.68 acres



Bewley Creek averages about 25' wide with a riparian setback on each side of 25'

- AB = 320'
- BC = 520'
- AC = 550'
- AF = 200'
- BD = 180'
- BE = 200'

Approximate Scale: 1" = 100'

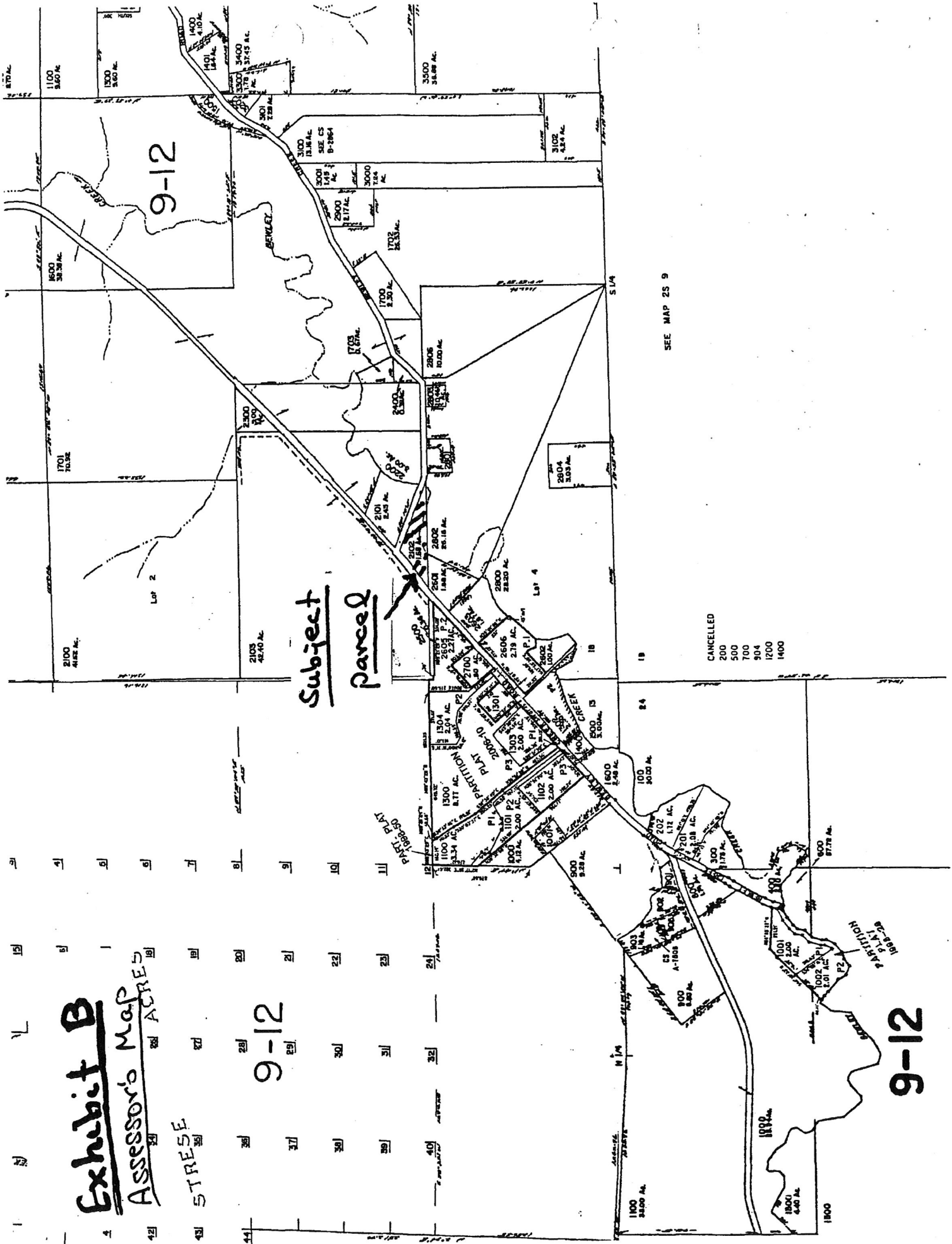
Exhibit B
Assessor's Map
 28 ACRES

STRESE

9-12

9-12

Subject
Parcel



SEE MAP 2S 9

CANCELLED
 200
 500
 700
 904
 1200
 1400

Exhibit C
Zoning Map

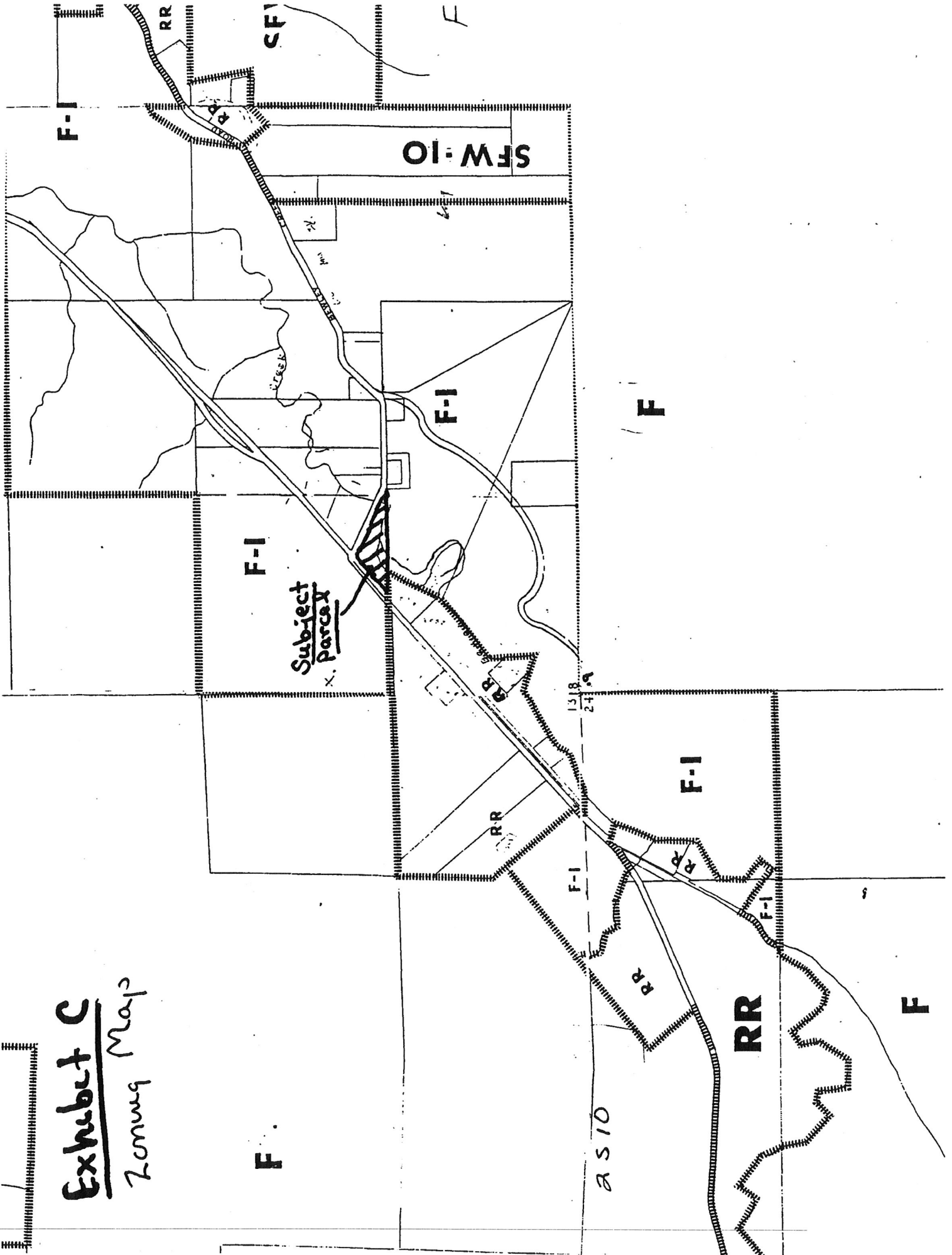


Exhibit I Goal Exception Requirements

OAR 660-004-0025

Exception Requirements for Land Physically Developed to Other Uses

(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 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.

Stat. Auth.: ORS 197

Stats. Implemented ORS 197.732

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83

OAR 660-004-0028

Exception Requirements for Land Irrevocably Committed to Other Uses

(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:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(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 address the following:

(a) The characteristics of the exception area;

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." 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).

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

(b) Existing public facilities and services (water and sewer lines, etc.);

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in

1

separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

(d) Neighborhood and regional characteristics;

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

Stat. Auth.: ORS 183 & ORS 197

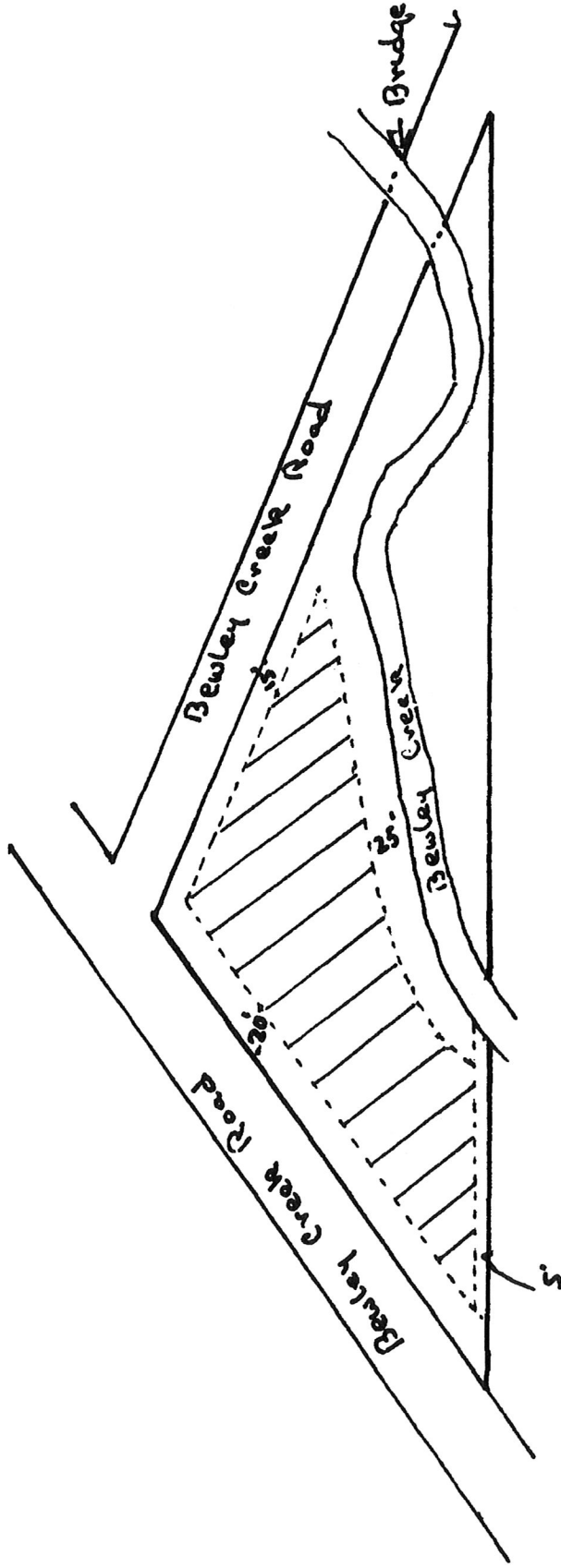
Stats. Implemented: ORS 197.732 & ORS 197.736

Hist.: LCDC 5-1982, f. & ef. 7-21-82; LCDC 9-1983, f. & ef. 12-30-83; LCDC 5-1985, f. & ef. 11-15-85; LCDC 4-1996, f. & cert. ef. 12-23-96

Exhibit E: Yard & Riparian Setbacks

Reger Zone change

259 18-2102



(Cross hatch shows buildable area (> 30,000^{sq} ft))

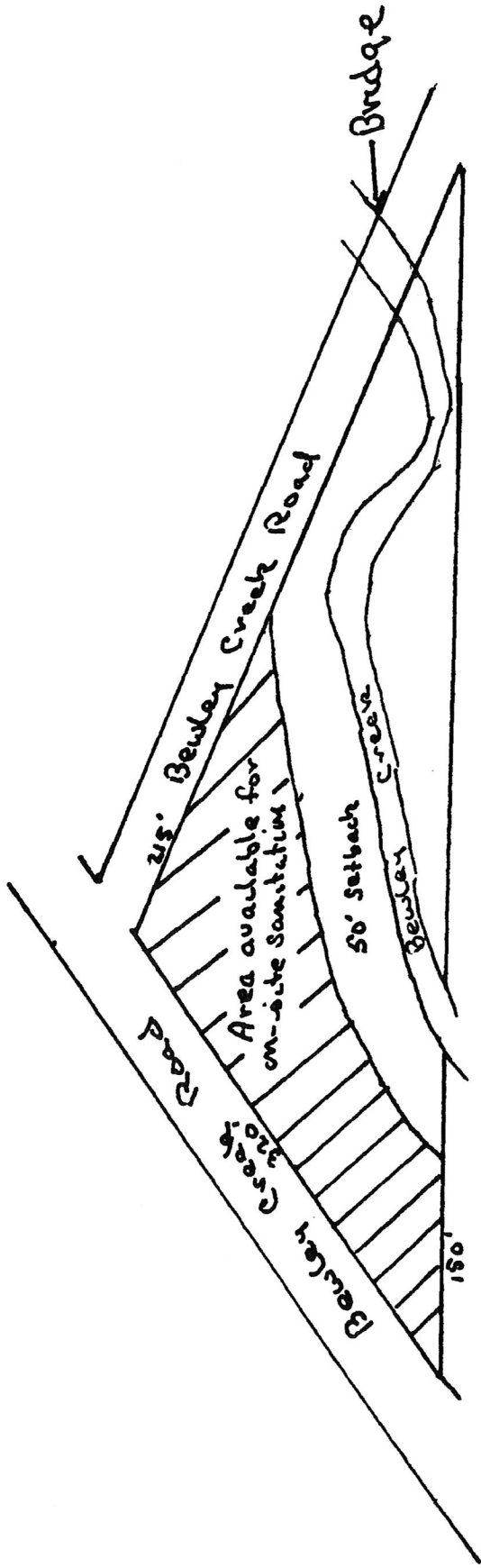
with respect to yard and riparian setbacks:

- Yard: 20', 15' + 5'
- Riparian: 25'

Approximate Scale: 1" = 100'

Exhibit F: Area Available for On-site Sanitation

Rieger Zone change
259 18-2102



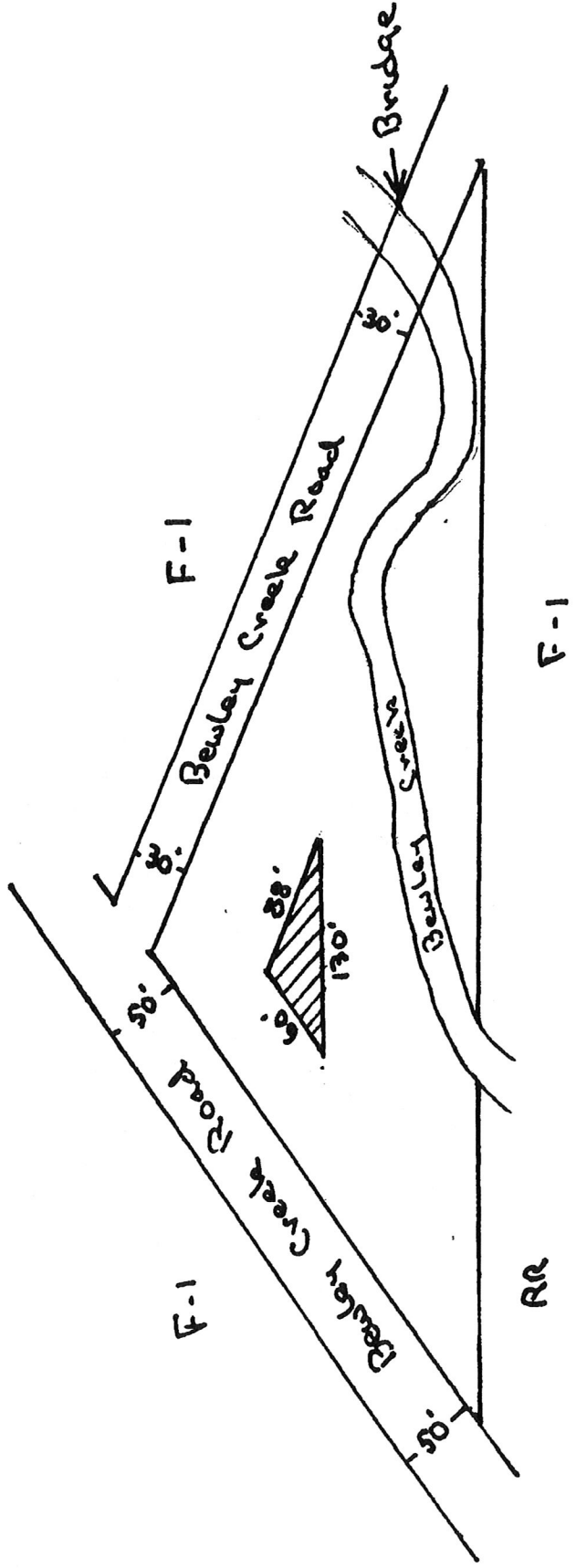
Cross hatch shows area available for on-site sanitation. given 50' Setback from Bewley Creek. This area is approximately 32,000 sq. ft.

Approximate Scale: 1" = 100'

Exhibit G: Bulldable Area with 100' Setback from F-1 Zone Boundary



Rieger Zone Change
25 9 18 - 2102



Cross hatch shows approximate
2500' bulldable area with
100' setback from F-1 Zone
boundaries

Approximate Scale: 1" = 100'

Chapter 215 — County Planning; Zoning; Housing Codes

2007 EDITION

COUNTY PLANNING; ZONING; HOUSING CODES

COUNTIES AND COUNTY OFFICERS

COUNTY PLANNING

AGRICULTURAL LAND USE

(Exclusive Farm Use Zones)

215.203 Zoning ordinances establishing exclusive farm use zones; definitions. (1) Zoning ordinances may be adopted to zone designated areas of land within the county as exclusive farm use zones. Land within such zones shall be used exclusively for farm use except as otherwise provided in ORS 215.213, 215.283 or 215.284. Farm use zones shall be established only when such zoning is consistent with the comprehensive plan.

(2)(a) As used in this section, "farm use" means the current employment of land for the primary purpose of obtaining a profit in money by raising, harvesting and selling crops or the feeding, breeding, management and sale of, or the produce of, livestock, poultry, fur-bearing animals or honeybees or for dairying and the sale of dairy products or any other agricultural or horticultural use or animal husbandry or any combination thereof. "Farm use" includes the preparation, storage and disposal by marketing or otherwise of the products or by-products raised on such land for human or animal use. "Farm use" also includes the current employment of land for the primary purpose of obtaining a profit in money by stabling or training equines including but not limited to providing riding lessons, training clinics and schooling shows. "Farm use" also includes the propagation, cultivation, maintenance and harvesting of aquatic, bird and animal species that are under the jurisdiction of the State Fish and Wildlife Commission, to the extent allowed by the rules adopted by the commission. "Farm use" includes the on-site construction and maintenance of equipment and facilities used for the activities described in this subsection. "Farm use" does not include the use of land subject to the provisions of ORS chapter 321, except land used exclusively for growing cultured Christmas trees as defined in subsection (3) of this section or land described in ORS 321.267 (3) or 321.824 (3).

(b) "Current employment" of land for farm use includes:

(A) Farmland, the operation or use of which is subject to any farm-related government program;

(B) Land lying fallow for one year as a normal and regular requirement of good agricultural husbandry;

(C) Land planted in orchards or other perennials, other than land specified in subparagraph (D) of this paragraph, prior to maturity;

(D) Land not in an exclusive farm use zone which has not been eligible for

Exhibit 3

assessment at special farm use value in the year prior to planting the current crop and has been planted in orchards, cultured Christmas trees or vineyards for at least three years;

(E) Wasteland, in an exclusive farm use zone, dry or covered with water, neither economically tillable nor grazeable, lying in or adjacent to and in common ownership with a farm use land and which is not currently being used for any economic farm use;

(F) Except for land under a single family dwelling, land under buildings supporting accepted farm practices, including the processing facilities allowed by ORS 215.213 (1)(x) and 215.283 (1)(u) and the processing of farm crops into biofuel as commercial activities in conjunction with farm use under ORS 215.213 (2)(c) and 215.283 (2)(a);

(G) Water impoundments lying in or adjacent to and in common ownership with farm use land;

(H) Any land constituting a woodlot, not to exceed 20 acres, contiguous to and owned by the owner of land specially valued for farm use even if the land constituting the woodlot is not utilized in conjunction with farm use;

(I) Land lying idle for no more than one year where the absence of farming activity is due to the illness of the farmer or member of the farmer's immediate family. For purposes of this paragraph, illness includes injury or infirmity whether or not such illness results in death;

(J) Any land described under ORS 321.267 (3) or 321.824 (3);

(K) Land used for the primary purpose of obtaining a profit in money by breeding, raising, kenneling or training of greyhounds for racing; and

(L) Land used for the processing of farm crops into biofuel, as defined in ORS 315.141, if:

(i) Only the crops of the landowner are being processed;

(ii) The biofuel from all of the crops purchased for processing into biofuel is used on the farm of the landowner; or

(iii) The landowner is custom processing crops into biofuel from other landowners in the area for their use or sale.

(c) As used in this subsection, "accepted farming practice" means a mode of operation that is common to farms of a similar nature, necessary for the operation of such farms to obtain a profit in money, and customarily utilized in conjunction with farm use.

(3) "Cultured Christmas trees" means trees:

(a) Grown on lands used exclusively for that purpose, capable of preparation by intensive cultivation methods such as plowing or turning over the soil;

(b) Of a marketable species;

(c) Managed to produce trees meeting U.S. No. 2 or better standards for Christmas trees as specified by the Agriculture Marketing Services of the United States Department of Agriculture; and

(d) Evidencing periodic maintenance practices of shearing for Douglas fir and pine species, weed and brush control and one or more of the following practices: Basal pruning, fertilizing, insect and disease control, stump culture, soil cultivation, irrigation. [1963 c.577 §2; 1963 c.619 §1(2), (3); 1967 c.386 §1; 1973 c.503 §3; 1975 c.210 §1; 1977 c.766 §7; 1977 c.893 §17a; 1979 c.480 §1; 1981 c.804 §73; 1983 c.826 §18; 1985 c.604 §2; 1987 c.305 §4; 1989 c.653 §1; 1989 c.887 §7; 1991 c.459 §344; 1991 c.714 §4; 1993 c.704 §1; 1995 c.79 §75; 1995 c.211 §1; 1997 c.862 §1; 2001 c.613 §18; 2003 c.454 §117; 2003 c.621 §67a; 2005 c.354 §1; 2007 c.739 §34]

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

OREGON ADMINISTRATIVE RULES

CHAPTER 660, DIVISION 033, RULE 0120, TABLE 1

Uses Authorized on Agricultural Lands

OAR 660-33-120 The specific development and uses listed in the following table are permitted in the areas that qualify for the designation pursuant to this division. All uses are subject to the general provisions, special conditions, additional restrictions and exceptions set forth in this division. The abbreviations used within the schedule shall have the following meanings:

A Use may be allowed. Authorization of some uses may require notice and the opportunity for a hearing because the authorization qualifies as a land use decision pursuant to ORS Chapter 197. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

R Use may be approved, after required review. The use requires notice and the opportunity for a hearing. Minimum standards for uses in the table that include a numerical reference are specified in OAR 660-33-130. Counties may prescribe additional limitations and requirements to meet local concerns as authorized by law.

* Use not permitted.

Numerical references for specific uses shown on the chart refer to the corresponding section of OAR 660-33-130. Where no numerical reference is noted for a use on the chart, this rule does not establish criteria for the use.

HV All
Farm Other USES

Farm/Forest Resource

| | | |
|-----|-----|---|
| A | A | Farm use as defined in ORS 215.203. |
| A | A | Other buildings customarily provided in conjunction with farm use. |
| A | A | Propagation or harvesting of a forest product. |
| R6 | R6 | A facility for the primary processing of forest products. |
| R28 | R28 | A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141. |

Natural Resource

| | | |
|-------|-------|--|
| A | A | Creation of, restoration of, or enhancement of wetlands. |
| R5,27 | R5,27 | The propagation, cultivation, maintenance and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission or insect species. |

Residential

| | | |
|-------|-------|---|
| A1,30 | A1,30 | Dwelling customarily provided in conjunction with farm use. |
| R9,30 | R9,30 | A dwelling on property used for farm use located on the same lot or parcel as the dwelling of the farm operator, and occupied by a relative of the farm operator or farm operator's spouse, which means grandparent, step-grandparent, grandchild, parent, step-parent, child, brother, sister, sibling, step-sibling, niece, |

nephew, or first cousin of either,, if the farm operator does, or will, require the assistance of the relative in the management of the farm use.

| | | |
|-------------------|--------------|--|
| A24, 30 | A24, 30 | Accessory Farm Dwellings for year-round and seasonal farm workers. |
| A3, 30 | A3, 30 | One single-family dwelling on a lawfully created lot or parcel. |
| R5, 10 30 | R5, 10 30 | One manufactured dwelling, or recreational vehicle, or the temporary residential use of an existing building in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident. |
| R4, 30 | R4,30 | Single-family residential dwelling, not provided in conjunction with farm use. |
| R5, 30 | R5,30 | Residential home or facility as defined in ORS 197.660, in existing dwellings. |
| R5, 30 | R5,30 | Room and board arrangements for a maximum of five unrelated persons in existing residences. |
| R12, 30 | R12, 30 | Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480. |
| A8, 30 | A8, 30 | Alteration, restoration, or replacement of a lawfully established dwelling. |
| R5, | R5 | A wildlife habitat conservation and management plan pursuant to ORS 215.800 to 215.808. |
| Commercial | | |
| R5 | R5 | Commercial activities in conjunction with farm use, including the processing of farm crops into biofuel not permitted under ORS 215.203(2)(b)(L) or ORS 215.213(1)(x) and 215.283(1)(u). |
| *18 | A | The breeding, kenneling and training of greyhounds for racing. |
| R5,14 | R5,14 | Home occupations as provided in ORS 215.448. |
| *18 | R5 | Dog kennels. |
| R5,35 | R5,35 | An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possess a wholesaler's permit to sell or provide fireworks. |
| *18 | R5 | Destination resort which is approved consistent with the requirements of Goal 8. |
| A | A | A winery as described in ORS 215.452. |

| | | | | | |
|--|-------|---|--|-----------|---|
| A23 | A23 | Farm stands. | A | 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. |
| R5 | R5 | A landscaping business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use. | R5 | R5 | Improvement of public road 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. |
| Mineral, Aggregate, Oil, and Gas Uses | | | | | |
| A | A | Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. | R13 | R13 | Roads, highways and other transportation facilities, and improvements not otherwise allowed under this rule. |
| A | A | Operations for the exploration for minerals as defined by ORS 517.750. | R | R | Transportation improvements on rural lands allowed by OAR 660-012-0065. |
| R5 | R5 | Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under this rule. | Utility/Solid Waste Disposal Facilities | | |
| R5 | R5 | Operations conducted for mining, crushing or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298. | R16 | R16 | Utility facilities necessary for public service, including wetland waste treatment systems but not including commercial facilities for the purpose of generating electrical power for public use by sale or transmission towers over 200 feet in height. |
| R5,15 | R5,15 | Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement. | R5 | R5 | Transmission towers over 200 feet in height. |
| R5 | R5 | Processing of other mineral resources and other subsurface resources. | *18 | R | A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation. |
| Transportation | | | | | |
| R5,7 | R5,7 | Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. | A | A | Fire service facilities providing rural fire protection services. |
| A | A | Climbing and passing lanes within the right of way existing as of July 1, 1987. | A | A | Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505. |
| R5 | R5 | Construction of additional passing and travel lanes requiring the acquisition of right of way but not resulting in the creation of new land parcels. | A32 | A32 | Utility facility service lines. |
| A | 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. | R5,17 | R5,22 | Commercial utility facilities for the purpose of generating power for public use by sale. |
| R5 | R5 | 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. | *18 | R5 | A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation |
| A | 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. | A29(a) 18, | R5, 29(b) | Composting facilities on farms or for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-093-0050. |
| Parks/Public/Quasi-Public | | | | | |
| | | | *18 | R2 | Public or private schools, including all buildings essential to the operation of a school. |

| | | |
|---------------------------|--------|---|
| *18 | R2 | Churches and cemeteries in conjunction with churches consistent with ORS 215.441. |
| *18 | R5,19 | Private parks, playgrounds, hunting and fishing preserves and campgrounds. |
| R5, 31 | R5, 31 | Parks, and playgrounds. A public park may be established consistent with the provisions of ORS 195.120. |
| R5, 36 | R5, 36 | Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community. |
| *18 | R5,20 | Golf courses. |
| R5,21 | R5,21 | Living history museum |
| R | R | Firearms training facility as provided in ORS 197.770. |
| R25 | R25 | Armed forces reserve center as provided for in ORS 215.213(1). |
| A | A | Onsite filming and activities accessory to onsite filming for 45 days or less as provided for in ORS 215.306. |
| R5 | R5 | Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306. |
| A26 | A26 | A site for the takeoff and landing of model aircraft, including such buildings or facilities as may reasonably be necessary. |
| R5 | R5 | Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210. |
| R5 | R5 | Operations for the extraction and bottling of water. |
| A11 | A11 | Land application of reclaimed water, agricultural or industrial process water or biosolids. |
| R5 | R5 | A county law enforcement facility that lawfully existed on August 20, 2002, and is used to provide rural law enforcement services primarily in rural areas, including parole and post-prison supervision, but not including a correctional facility as defined under ORS 162.135 as provided for in ORS 215.283(2). |
| Outdoor Gatherings | | |
| A33 | A33 | An outdoor gathering described in ORS 197.015(10)(d). |
| R34 | R34 | Any gathering subject to review of a county planning commission under ORS 433.763. |

(The numbers in the table above refer to the section numbers in OAR 660-33-130)

**The Oregon Administrative Rules contain OARs filed through August 15,
2008**

LAND CONSERVATION AND DEVELOPMENT DEPARTMENT

DIVISION 6

GOAL 4 FOREST LANDS

660-006-0025

Uses Authorized in Forest Zones

(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones:

(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;

TILLAMOOK COUNTY ASSESSOR

Real Property Assessment Report

FOR ASSESSMENT YEAR 2007

9/17/2008 9:27:17 AM

Account # 325115
Map # 2S0918-00-02102
Code - Tax # 0912-325115
Owner RIEGER, THOMAS PAUL & SUSAN
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # UNKNOWN
Sales Date/Price UNKNOWN
Legal Description UNKNOWN
Appraiser UNKNOWN

8460 BEWLEY CREEK RD
TILLAMOOK, OR 97141

| | | MA | SA | NH | Unit |
|-------------------|-----|----|----|-----|--------|
| Prop Class | 100 | 01 | 01 | 131 | 4426-1 |
| RMV Class | 100 | | | | |

| Situs Address(s) | Situs City |
|------------------|------------|
| | |

| Value Summary | | | | |
|------------------------|-------|--------|--------|-------|
| Code Area | | AV | RMV | CPR |
| 0912 | Impr. | 0 | 0 | Impr. |
| | Land | 29,920 | 63,190 | Land |
| Code Area Total | | 29,920 | 63,190 | 0 |
| Grand Total | | 29,920 | 63,190 | 0 |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|--------------|-----|----|------|------------|-----------|----------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0912 | 0 | R | F-1 | Market | 0 | A | 1.68 | | | |
| Code Area Total | | | | | | | 1.68 | | | 0 |
| Grand Total | | | | | | | 1.68 | | | 0.00 |

| Improvement Breakdown | | | | | | | |
|------------------------|-----|----------|------------|-------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| Code Area Total | | | | | | 0 | |
| Grand Total | | | | | | 0 | |

| Exemptions/Special Assessments/Potential Liability | |
|--|-------------|
| Code Area | Description |
| | |

2S918-2102

OFFICIAL RECORD OF DESCRIPTIONS OF REAL PROPERTIES
OFFICE OF COUNTY ASSESSOR, TILLAMOOK COUNTY, OREGON

9-12
CODE NUMBER

ACCOUNT NUMBER

| | | | | |
|----------------|---------------|--|----------------|--------------------|
| 325115 | SECTION _____ | TOWNSHIP _____ N. E. RANGE _____ WEST W.M. _____ | MAP NO. 2S918 | AERIAL PHOTO _____ |
| TAX LOT NUMBER | LOT NO. _____ | BLOCK NO. _____ | ADDITION _____ | CITY _____ |

INDENT EACH NEW COURSE TO THIS LINE

LEGAL DESCRIPTION

DEED RECORD

ACRES REMAINING

YEAR VOLUME PAGE

Formerly a portion of Tax Lot #2100

All that portion lying within the NW $\frac{1}{4}$ of the SW $\frac{1}{4}$ of Sec 18, Twp 2S, R9W,, WM, TCO, which is N of the S line of the NW $\frac{1}{4}$ SW $\frac{1}{4}$, SEly of the former Coats Driving and Boom Company R/W and SWly of Bewley Creek County Road.

5/20/82

281

729

B & S

BARGAIN AND SALE DEED

BOOK 281 PAGE 729 INDEXED

VILA RIEGER

hereinafter called Grantor, convey(s) to THOMAS PAUL RIEGER and SUSAN RIEGER, his wife,
Tillamook County, State of Oregon, described as:

All that portion lying within the Northwest quarter of the Southwest quarter of Section 18, Township 2 South, Range 9 West of the Willamette Meridian in Tillamook County, Oregon, which is north of the South line of the Northwest quarter of the Southwest quarter, southeasterly of the former Coats Driving and Boom Company right-of-way and Southwesterly of Bewley Creek County Road.

SUBJECT TO conditions, restrictions and easements of record.

The true and actual consideration paid for this transfer, stated in terms of dollars, is the sum of \$ 1,500.00
Until a change is requested, all tax statements shall be sent to: Mr. & Mrs. Thomas P. Rieger, 9460 Bewley
Creek Rd., Tillamook, OR 97141

DATED This 14 day of May 19 82

Vila M. Rieger



Personally appeared
the above named Vila Rieger
and acknowledged the foregoing instrument to be her
voluntary act. Before me:

Notary Public for Oregon
My Commission expires: 10/14/85

After recording, return to:
Mr. & Mrs. Thomas P. Rieger
9460 Jewley Creek Rd
Tillamook, OR 97141

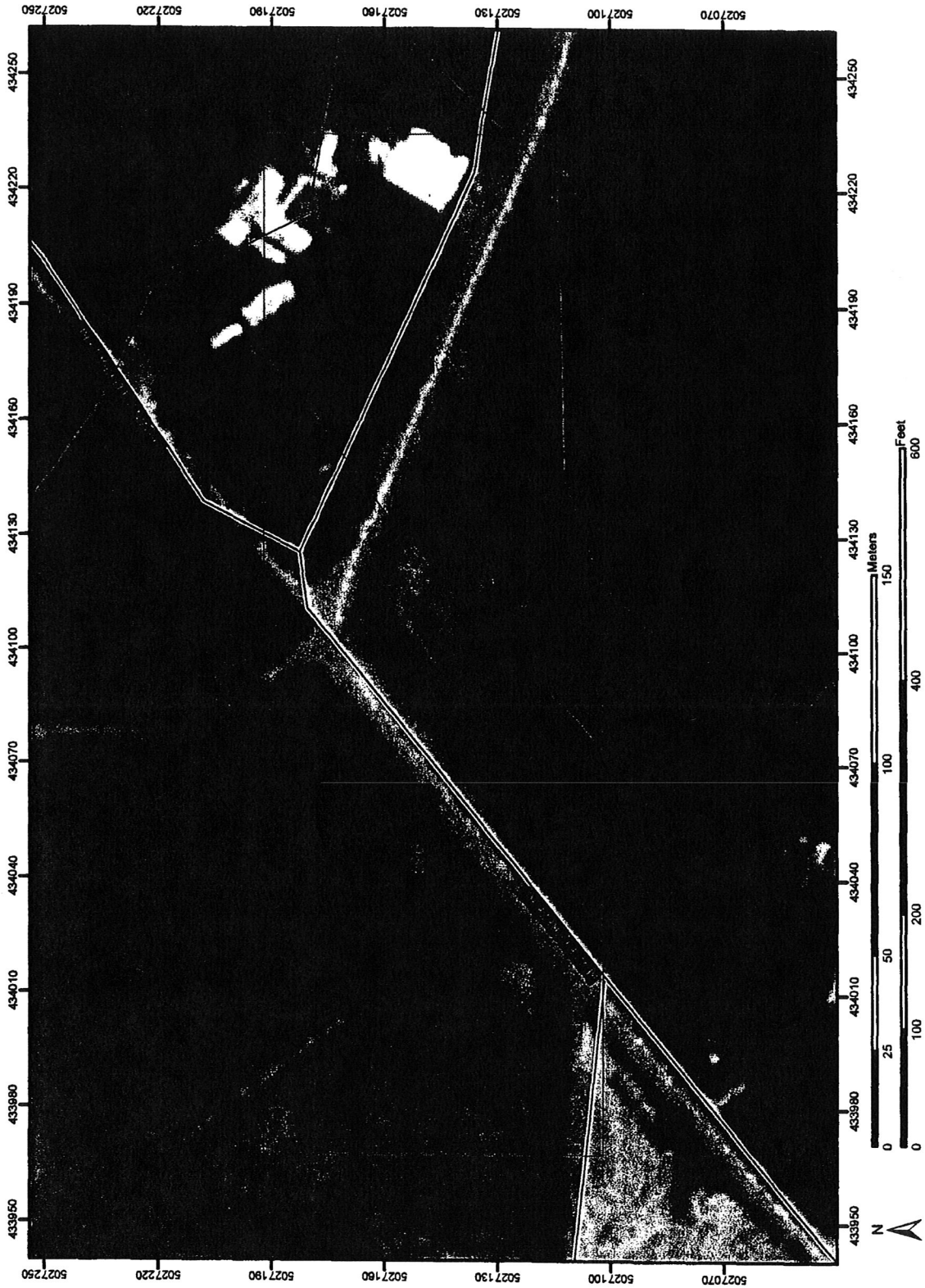
253989

State of Oregon, County of Tillamook
I hereby certify that the within instrument
was recorded for record at:



Deed 400
J. Rieger

Soil Map—Tillamook County, Oregon
(ZC-07-04)



MAP LEGEND

| | | | |
|-------------------------------|------------------------|---------------------------|---------------------|
| | Area of Interest (AOI) | | Very Stony Spot |
| | Soils | | Wet Spot |
| | Soil Map Units | | Other |
| Special Point Features | | | |
| | Blowout | | Gully |
| | Borrow Pit | | Short Steep Slope |
| | Clay Spot | | Other |
| | Closed Depression | Political Features | |
| | Gravel Pit | Municipalities | |
| | Gravelly Spot | | Cities |
| | Landfill | | Urban Areas |
| | Lava Flow | Water Features | |
| | Marsh | | Oceans |
| | Mine or Quarry | | Streams and Canals |
| | Miscellaneous Water | Transportation | |
| | Perennial Water | | Rails |
| | Rock Outcrop | Roads | |
| | Saline Spot | | Interstate Highways |
| | Sandy Spot | | US Routes |
| | Severely Eroded Spot | | State Highways |
| | Sinkhole | | Local Roads |
| | Slide or Slip | | Other Roads |
| | Sodic Spot | | |
| | Spoil Area | | |
| | Stony Spot | | |

MAP INFORMATION

Original soil survey map sheets were prepared at publication scale. Viewing scale and printing scale, however, may vary from the original. Please rely on the bar scale on each map sheet for proper map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: UTM Zone 10N

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Tillamook County, Oregon
Survey Area Data: Version 1, Sep 21, 2006

Date(s) aerial images were photographed: 7/18/1994

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

| Tillamook County, Oregon (OR057) | | | |
|-----------------------------------|--|--------------|----------------|
| Map Unit Symbol | Map Unit Name | Acres in AOI | Percent of AOI |
| 30D | Templeton medial silt loam, 5 to 30 percent slopes | 0.0 | 0.5% |
| 59B | Chitwood-Knappa medial silt loams, 0 to 7 percent slopes | 3.4 | 57.6% |
| 170B | Logsdan-Nehalem silt loams, 0 to 5 percent slopes | 2.5 | 41.9% |
| Totals for Area of Interest (AOI) | | 5.9 | 100.0% |

Tillamook County, Oregon Version date: 9/21/2006 5:19:53 PM

59B—Chitwood-Knappa medial silt loams, 0 to 7 percent slopes

Map Unit Setting

- *Elevation:* 20 to 300 feet

Map Unit Composition

- *Chitwood and similar soils:* 45 percent
- *Knappa and similar soils:* 40 percent
- *Minor components:* 6 percent

Description of Chitwood

Setting

- *Landform:* Terraces

Properties and qualities

- *Slope:* 0 to 7 percent
- *Depth to restrictive feature:* More than 80 inches
- *Drainage class:* Somewhat poorly drained
- *Capacity of the most limiting layer to transmit water (Ksat):* Moderately low to moderately high (0.06 to 0.20 in/hr)
- *Depth to water table:* About 11 to 19 inches
- *Frequency of flooding:* None
- *Frequency of ponding:* None

Interpretive groups

- *Land capability (nonirrigated):* 3e

Typical profile

- *0 to 7 inches:* Medial silt loam
- *7 to 11 inches:* Silt loam
- *11 to 19 inches:* Silty clay loam
- *19 to 29 inches:* Silty clay
- *29 to 60 inches:* Silty clay loam

Description of Knappa

Setting

- *Landform:* Terraces
-

Properties and qualities

- *Slope*: 0 to 7 percent
- *Depth to restrictive feature*: More than 80 inches
- *Drainage class*: Well drained
- *Capacity of the most limiting layer to transmit water (Ksat)*: Moderately high to high (0.16 to 1.98 in/hr)
- *Depth to water table*: More than 80 inches
- *Frequency of flooding*: None
- *Frequency of ponding*: None

Interpretive groups

- *Land capability classification (irrigated)*: 3e
- *Land capability (nonirrigated)*: 2e

Typical profile

- *0 to 9 inches*: Medial silt loam
- *9 to 20 inches*: Silt loam
- *20 to 25 inches*: Silty clay loam
- *25 to 45 inches*: Silty clay loam
- *45 to 60 inches*: Silty clay loam

Minor Components

Hebo

- *Percent of map unit*: 6 percent
- *Landform*: Depressions on terraces

Tillamook County, Oregon Version date: 9/21/2006 5:19:53 PM

170B—Logsdan-Nehalem silt loams, 0 to 5 percent slopes

Map Unit Setting

- *Elevation:* 20 to 200 feet

Map Unit Composition

- *Logsdan and similar soils:* 50 percent
- *Nehalem, occasional, and similar soils:* 40 percent
- *Minor components:* 2 percent

Description of Logsdan

Setting

- *Landform:* Stream terraces

Properties and qualities

- *Slope:* 0 to 5 percent
- *Depth to restrictive feature:* More than 80 inches
- *Drainage class:* Well drained
- *Capacity of the most limiting layer to transmit water (Ksat):* Moderately high to high (0.20 to 1.98 in/hr)
- *Depth to water table:* More than 80 inches
- *Frequency of flooding:* Rare
- *Frequency of ponding:* None

Interpretive groups

- *Land capability classification (irrigated):* 3e
- *Land capability (nonirrigated):* 2e

Typical profile

- *0 to 8 inches:* Silt loam
- *8 to 17 inches:* Silt loam
- *17 to 37 inches:* Silty clay loam
- *37 to 60 inches:* Silty clay loam

Description of Nehalem, Occasional

Setting

- *Landform:* Flood plains

Properties and qualities

- *Slope:* 0 to 5 percent
- *Depth to restrictive feature:* More than 80 inches
- *Drainage class:* Well drained
- *Capacity of the most limiting layer to transmit water (Ksat):* Moderately high to high (0.20 to 1.98 in/hr)
- *Depth to water table:* More than 80 inches
- *Frequency of flooding:* Occasional
- *Frequency of ponding:* None
- *Available water capacity:* High (about 11.6 inches)

Interpretive groups

- *Land capability classification (irrigated):* 3e
- *Land capability (nonirrigated):* 2e

Typical profile

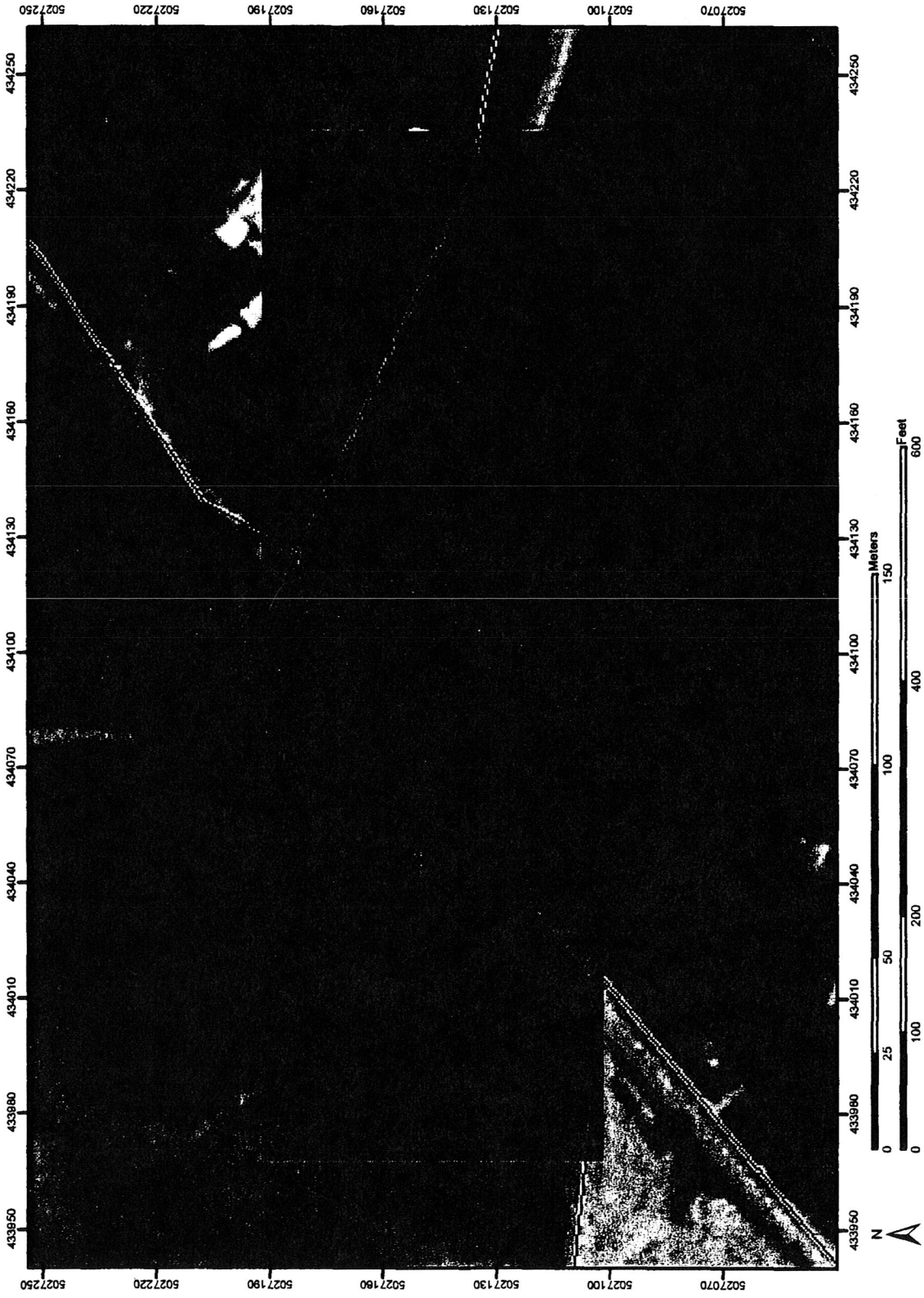
- *0 to 9 inches:* Silt loam
- *9 to 16 inches:* Silt loam
- *16 to 48 inches:* Silt loam
- *48 to 60 inches:* Silt loam

Minor Components

Brenner

- *Percent of map unit:* 2 percent
- *Landform:* Depressions on flood plains

Farmland Classification—Tillamook County, Oregon
(ZC-07-04)



MAP LEGEND

- Area of Interest (AOI)**
- Area of Interest (AOI)
- Soils**
- Soil Map Units
- Soil Ratings**
- 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 irrigated removing the root inhibiting soil layer**
- Prime farmland if irrigated and the product of (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
- Political Features**
- Municipalities**
- Cities
 - Urban Areas
- Water Features**
- Oceans
 - Streams and Canals
- Transportation**
- Roads
 - Rails
 - Interstate Highways
 - US Routes
 - State Highways
 - Local Roads
 - Other Roads

MAP INFORMATION

Original soil survey map sheets were prepared at publication scale. Viewing scale and printing scale, however, may vary from the original. Please rely on the bar scale on each map sheet for proper map measurements.

Source of Map: Natural Resources Conservation Service
Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
Coordinate System: UTM Zone 10N

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Tillamook County, Oregon
Survey Area Data: Version 1, Sep 21, 2006
Date(s) aerial images were photographed: 7/18/1994

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 — Tillamook County, Oregon | | | | |
|---|--|----------------------------------|--------------|----------------|
| Map unit symbol | Map unit name | Rating | Acres in AOI | Percent of AOI |
| 30D | Templeton medial silt loam, 5 to 30 percent slopes | Not prime farmland | 0.0 | 0.5% |
| 59B | Chitwood-Knappa medial silt loams, 0 to 7 percent slopes | Farmland of statewide importance | 3.4 | 57.6% |
| 170B | Logsdon-Nehalem silt loams, 0 to 5 percent slopes | Farmland of statewide importance | 2.5 | 41.9% |
| Totals for Area of Interest (AOI) | | | 5.9 | 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.

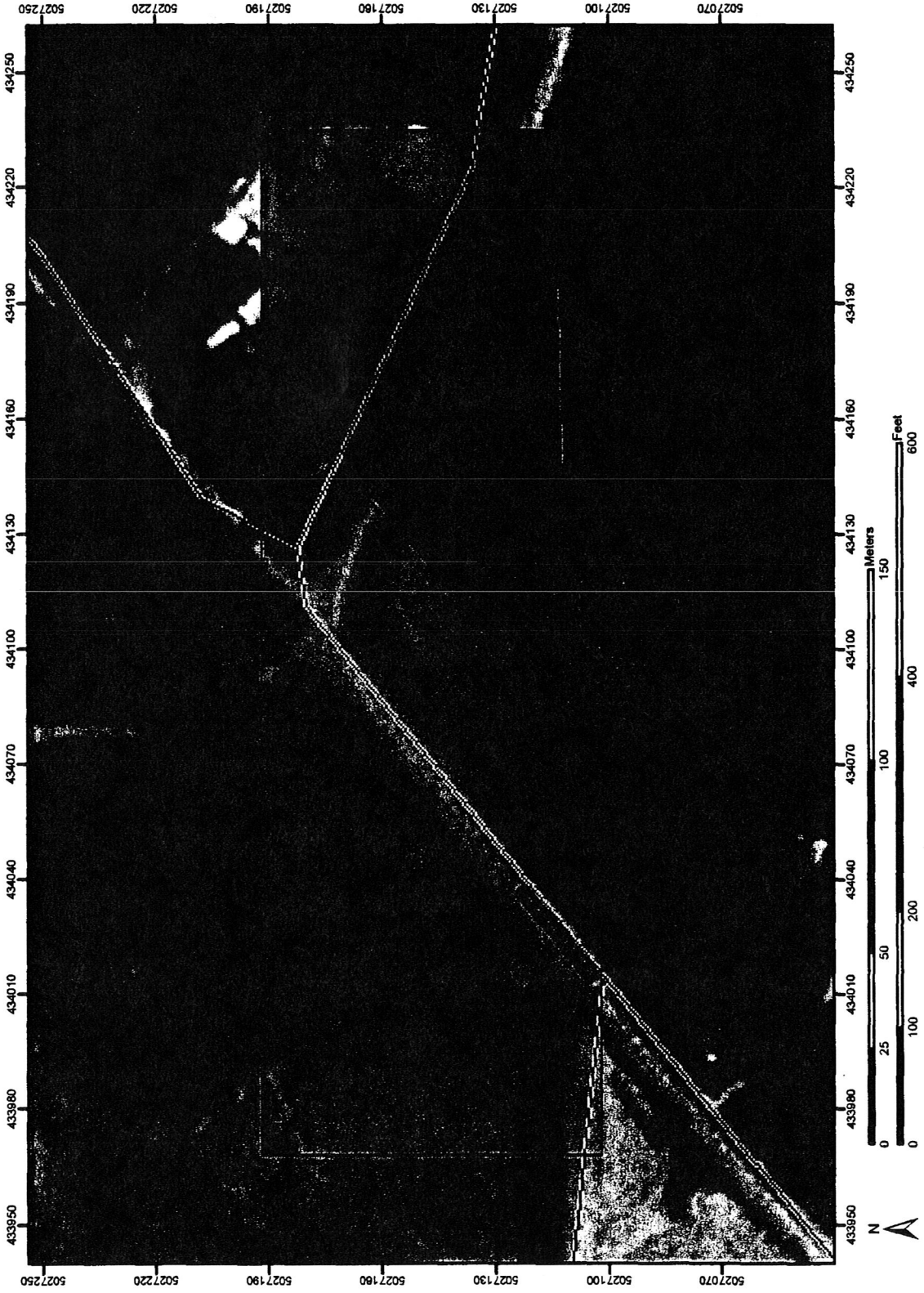
For each of a map unit's components, a corresponding percent composition is recorded. A percent composition of 60 indicates that the corresponding component typically makes up approximately 60% of the map unit. Percent composition is a critical factor in some, but not all, aggregation methods.

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.

Nonirrigated Capability Class—Tillamook County, Oregon
(ZC-07-04)



MAP LEGEND

- Area of Interest (AOI)
 - Area of Interest (AOI)
- Soils
 - Soil Map Units
- Soil Ratings
 - Capability Class - I
 - Capability Class - II
 - Capability Class - III
 - Capability Class - IV
 - Capability Class - V
 - Capability Class - VI
 - Capability Class - VII
 - Capability Class - VIII
 - Not rated or not available
- Political Features
 - Municipalities
 - Cities
 - Urban Areas
- Water Features
 - Oceans
 - Streams and Canals
- Transportation
 - Rails
 - Roads
 - Interstate Highways
 - US Routes

- State Highways
- Local Roads
- Other Roads

MAP INFORMATION

Original soil survey map sheets were prepared at publication scale. Viewing scale and printing scale, however, may vary from the original. Please rely on the bar scale on each map sheet for proper map measurements.

Source of Map: Natural Resources Conservation Service
 Web Soil Survey URL: <http://websoilsurvey.nrcs.usda.gov>
 Coordinate System: UTM Zone 10N

This product is generated from the USDA-NRCS certified data as of the version date(s) listed below.

Soil Survey Area: Tillamook County, Oregon
 Survey Area Data: Version 1, Sep 21, 2006
 Date(s) aerial images were photographed: 7/18/1994

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.



Nonirrigated Capability Class

| Nonirrigated Capability Class— Summary by Map Unit — Tillamook County, Oregon | | | | |
|---|--|--------|--------------|----------------|
| Map unit symbol | Map unit name | Rating | Acres In AOI | Percent of AOI |
| 30D | Templeton medial silt loam, 5 to 30 percent slopes | 6 | 0.0 | 0.5% |
| 59B | Chitwood-Knappa medial silt loams, 0 to 7 percent slopes | 3 | 3.4 | 57.6% |
| 170B | Logsdan-Nehalem silt loams, 0 to 5 percent slopes | 2 | 2.5 | 41.9% |
| Totals for Area of Interest (AOI) | | | 5.9 | 100.0% |



Description

Land capability classification shows, in a general way, the suitability of soils for most kinds of field crops. Crops that require special management are excluded. The soils are grouped according to their limitations for field crops, the risk of damage if they are used for crops, and the way they respond to management. The criteria used in grouping the soils do not include major and generally expensive landforming that would change slope, depth, or other characteristics of the soils, nor do they include possible but unlikely major reclamation projects. Capability classification is not a substitute for interpretations that show suitability and limitations of groups of soils for rangeland, for woodland, or for engineering purposes.

In the capability system, soils are generally grouped at three levels--capability class, subclass, and unit. Only class and subclass are included in this data set.

Capability classes, the broadest groups, are designated by the numbers 1 through 8. The numbers indicate progressively greater limitations and narrower choices for practical use. The classes are defined as follows:

Class 1 soils have few limitations that restrict their use.

Class 2 soils have moderate limitations that reduce the choice of plants or that require moderate conservation practices.

Class 3 soils have severe limitations that reduce the choice of plants or that require special conservation practices, or both.

Class 4 soils have very severe limitations that reduce the choice of plants or that require very careful management, or both.

Class 5 soils are subject to little or no erosion but have other limitations, impractical to remove, that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 6 soils have severe limitations that make them generally unsuitable for cultivation and that restrict their use mainly to pasture, rangeland, forestland, or wildlife habitat.

Class 7 soils have very severe limitations that make them unsuitable for cultivation and that restrict their use mainly to grazing, forestland, or wildlife habitat.

Class 8 soils and miscellaneous areas have limitations that preclude commercial plant production and that restrict their use to recreational purposes, wildlife habitat, watershed, or esthetic purposes.

Rating Options

Aggregation Method: Dominant Condition

Component Percent Cutoff: None Specified

Tie-break Rule: Higher

TILLAMOOK COUNTY ASSESSOR
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2007

9/17/2008 9:09:46 AM

Account # 325516
Map # 2S0918-00-02103
Code - Tax # 0901-325516
Owner RIEGER, JOHN M & PENNY L
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # UNKNOWN
Sales Date/Price UNKNOWN
Legal Description UNKNOWN
Appraiser RANDY WILSON

8500 BEWLEY CREEK RD
 TILLAMOOK, OR 97141

| | | | | | |
|-------------------|-----|-----------|-----------|-----------|-------------|
| | | MA | SA | NH | Unit |
| Prop Class | 640 | 01 | 01 | 500 | 4431-1 |
| RMV Class | 640 | | | | |

| | |
|--------------------------|-------------------|
| Situs Address(s) | Situs City |
| ID# 8480 BEWLEY CREEK RD | COUNTY |

| Value Summary | | | | | |
|------------------------|-------|---------------|---------------|---------------|-----|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0901 | Impr. | 0 | 0 | Impr. | 0 |
| | Land | 11,947 | 33,040 | Land | 0 |
| Code Area Total | | <u>11,947</u> | <u>33,040</u> | <u>0</u> | |
| Grand Total | | 11,947 | 33,040 | 0 | |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|------------------------|-----|----|--------------|------------|-----------|-------------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0901 | 0 | R | F-1 | Designated Forest Land | 0 | A | 23.59 | OA | | |
| Code Area Total | | | | | | | <u>23.59</u> | | | <u>0</u> |
| Grand Total | | | | | | | <u>23.59</u> | | | <u>0.00</u> |

| Improvement Breakdown | | | | | | | |
|------------------------|-----|----------|------------|-------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| Code Area Total | | | | | | <u>0</u> | |
| Grand Total | | | | | | <u>0</u> | |

| Exemptions/Special Assessments/Potential Liability | | |
|--|---------------------|--|
| Code Area | Type | Description |
| 0901 | SPECIAL ASSESSMENT: | FIRE PATROL NORTHWEST Amount: 31.24 Acres: 42.4 |
| 0901 | NOTATION(S): | FOREST LAND - POTENTIAL ADDITIONAL TAX LIABILITY 321.362 |
| 0901 | NOTATION(S): | WOSTOT CONVERTED 2003-04 ADDED 2003 |

Exhibit 6

TILLAMOOK COUNTY ASSESSOR

Real Property Assessment Report

FOR ASSESSMENT YEAR 2007

9/17/2008 9:10:10 AM

Account # 351023
Map # 2S0918-00-02103 S1
Code - Tax # 0901-351023
Owner RIEGER, JOHN M & PENNY L
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # UNKNOWN
Sales Date/Price UNKNOWN
Legal Description UNKNOWN
Appraiser UNKNOWN

8500 BEWLEY CREEK RD
TILLAMOOK, OR 97141

| | MA | SA | NH | Unit |
|-----------------------|----|----|-----|--------|
| Prop Class 550 | 01 | 01 | 500 | 3674-1 |
| RMV Class 500 | | | | |

| | |
|-------------------------|-------------------|
| Situs Address(s) | Situs City |
|-------------------------|-------------------|

| Value Summary | | | | | |
|------------------------|-------|--------------|---------------|---------------|-----|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0901 | Impr. | 0 | 0 | Impr. | 0 |
| | Land | 7,501 | 10,950 | Land | 0 |
| Code Area Total | | <u>7,501</u> | <u>10,950</u> | <u>0</u> | |
| Grand Total | | 7,501 | 10,950 | 0 | |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|----------------|-----|----|--------------|------------|-----------|-------------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0901 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 13.81 | SP4 | | |
| Code Area Total | | | | | | | <u>13.81</u> | | | <u>0</u> |
| Grand Total | | | | | | | <u>13.81</u> | | | <u>0.00</u> |

| Improvement Breakdown | | | | | | | |
|------------------------|-----|----------|------------|-------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| Code Area Total | | | | | | <u>0</u> | |
| Grand Total | | | | | | <u>0</u> | |

| Exemptions/Special Assessments/Potential Liability | | |
|--|--------------|--|
| Code Area | Type | Description |
| 0901 | NOTATION(S): | FARMLAND - POTENTIAL ADDITIONAL TAX LIABILITY 308A.083 |

TILLAMOOK COUNTY ASSESSOR

Real Property Assessment Report

FOR ASSESSMENT YEAR 2007

9/17/2008 9:10:24 AM

Account # 351032
Map # 2S0918-00-02103 S2
Code - Tax # 0912-351032
Owner RIEGER, JOHN M & PENNY L
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # UNKNOWN
Sales Date/Price UNKNOWN
Legal Description UNKNOWN
Appraiser LINDA RODRIGUEZ

8500 BEWLEY CREEK RD
TILLAMOOK, OR 97141

| | | MA | SA | NH | Unit |
|-------------------|-----|----|----|-----|---------|
| Prop Class | 551 | 01 | 01 | 500 | 17936-1 |
| RMV Class | 501 | | | | |

| Situs Address(s) | Situs City |
|--------------------------|------------|
| ID# 8450 BEWLEY CREEK RD | COUNTY |
| ID# 8500 BEWLEY CREEK RD | COUNTY |

| Value Summary | | | | | |
|------------------------|-------|---------|---------|---------------|-----|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0912 | Impr. | 233,670 | 353,600 | Impr. | 0 |
| | Land | 17,831 | 22,020 | Land | 0 |
| Code Area Total | | 251,501 | 375,620 | 0 | |
| Grand Total | | 251,501 | 375,620 | 0 | |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|----------------|-----|----|------|------------|-----------|----------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0912 | 0 | R | F-1 | Farm Site | 0 | A | 2.00 | | | |
| 0912 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 3.00 | SP3 | | |
| Code Area Total | | | | | | | 5.00 | | | 0 |
| Grand Total | | | | | | | 5.00 | | | 0.00 |

| Improvement Breakdown | | | | | | | |
|-----------------------|-----|----------|------------|-------------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| 0912 | 1 | 1936 | 143 | One and 1/2 story | 0 | 1648 | |
| 0912 | 8 | 1990 | 143 | One and 1/2 story | 0 | 1684 | |
| 0912 | 2 | 0 | 300 | Farm Bldg | 0 | 3392 | |
| 0912 | 3 | 0 | 300 | Farm Bldg | 0 | 750 | |
| 0912 | 4 | 0 | 300 | Farm Bldg | 0 | 3290 | |
| 0912 | 5 | 0 | 300 | Farm Bldg | 0 | 3920 | |
| 0912 | 6 | 0 | 300 | Farm Bldg | 0 | 2160 | |

| | | | | | | | |
|------|---|---|-----|-----------|---|-----------------|----------------------|
| 0912 | 7 | 0 | 300 | Farm Bldg | 6 | 1440 | |
| | | | | | | Code Area Total | <u>18,284</u> |
| | | | | | | Grand Total | <u><u>18,284</u></u> |

| Exemptions/Special Assessments/Potential Liability | | |
|---|---------------------|--|
| Code Area | Type | Description |
| 0912 | SPECIAL ASSESSMENT: | SOLID WASTE Amount: 24.00 Acres: 2 |
| 0912 | NOTATION(S): | FARMLAND - POTENTIAL ADDITIONAL TAX LIABILITY 308A.083 |

TILLAMOOK COUNTY ASSESSOR
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2007

9/17/2008 9:11:02 AM

Account # 185980
Map # 2S0918-00-02101
Code - Tax # 0912-185980
Owner RIEGER, THOMAS P & SUSAN K
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # UNKNOWN
Sales Date/Price UNKNOWN
Legal Description UNKNOWN
Appraiser KASANDRA LARSON

8460 BEWLEY CREEK RD
 TILLAMOOK, OR 97141

| | | | | | |
|-------------------|-----|-----------|-----------|-----------|-------------|
| | | MA | SA | NH | Unit |
| Prop Class | 559 | 01 | 01 | 500 | 21227-1 |
| RMV Class | 509 | | | | |

| | |
|--------------------------|-------------------|
| Situs Address(s) | Situs City |
| ID# 8460 BEWLEY CREEK RD | COUNTY |

| Value Summary | | | | | |
|------------------------|-------|---------------|---------------|---------------|----------|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0912 | Impr. | 19,830 | 41,360 | Impr. | 0 |
| | Land | 14,442 | 28,270 | Land | 0 |
| Code Area Total | | <u>34,272</u> | <u>69,630</u> | | <u>0</u> |
| Grand Total | | <u>34,272</u> | <u>69,630</u> | | <u>0</u> |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|----------------|-----|----|-------------|------------|-----------|-------------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0912 | 0 | R | F-1 | Farm Site | 0 | A | 1.00 | | | |
| 0912 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 0.60 | SP3 | | |
| 0912 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 0.85 | SP5 | | |
| Code Area Total | | | | | | | <u>2.45</u> | | | <u>0</u> |
| Grand Total | | | | | | | <u>2.45</u> | | | <u>0.00</u> |

| Improvement Breakdown | | | | | | | | |
|------------------------|-----|----------|------------|------------------------|-----|---------------|-----------|--|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # | |
| 0912 | 1 | 0 | 910 | M S Other Improvements | 0 | 0 | | |
| 0912 | 2 | 1975 | 942 | Class 4, Double Wide | 0 | 1344 | | |
| Code Area Total | | | | | | <u>1,344</u> | | |
| Grand Total | | | | | | <u>1,344</u> | | |

| Exemptions/Special Assessments/Potential Liability | | |
|--|------|-------------|
| Code Area | Type | Description |
| | | |

| | | |
|------|---------------------|--|
| 0912 | SPECIAL ASSESSMENT | FIRE PATROL NORTHWEST Amount: 18.00 Acres: 0.5 |
| 0912 | SPECIAL ASSESSMENT: | FIRE PATROL SURCHARGE NW Amount: 38.00 |
| 0912 | SPECIAL ASSESSMENT: | SOLID WASTE Amount: 12.00 |
| 0912 | NOTATION(S): | FARMLAND - POTENTIAL ADDITIONAL TAX LIABILITY 308A.083 |

Manufactured Structure Accounts: 0912-269578

TILLAMOOK COUNTY ASSESSOR
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2007

9/17/2008 9:11:57 AM

Account # 135017
Map # 2S0918-00-02802
Code - Tax # 0901-135017
Owner RIEGER, STEVEN M
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # BOOK 1995 PAGE 344242
Sales Date/Price 07-13-1995 / UNK
Legal Description UNKNOWN
Appraiser UNKNOWN

8425 BEWLEY CREEK RD
 TILLAMOOK, OR 97141

| | | | | | |
|-------------------|-----|-----------|-----------|-----------|-------------|
| | | MA | SA | NH | Unit |
| Prop Class | 550 | 01 | 01 | 500 | 11093-1 |
| RMV Class | 500 | | | | |

| | |
|-------------------------|-------------------|
| Situs Address(s) | Situs City |
|-------------------------|-------------------|

| Value Summary | | | | | |
|------------------------|-------|--------------|--------------|---------------|-----|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0901 | Impr. | 0 | 0 | Impr. | 0 |
| | Land | 6,709 | 9,810 | Land | 0 |
| Code Area Total | | <u>6,709</u> | <u>9,810</u> | <u>0</u> | |
| Grand Total | | 6,709 | 9,810 | 0 | |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|----------------|-----|----|--------------|------------|-----------|-------------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0901 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 4.67 | SP5 | | |
| 0901 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 7.77 | SP6 | | |
| 0901 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 8.74 | SP7 | | |
| Code Area Total | | | | | | | <u>21.18</u> | | | <u>0</u> |
| Grand Total | | | | | | | <u>21.18</u> | | | <u>0.00</u> |

| Improvement Breakdown | | | | | | | |
|-----------------------|-----|----------|------------|-------------|-----|------------------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| | | | | | | <u>Code Area Total</u> | <u>0</u> |
| | | | | | | <u>Grand Total</u> | <u>0</u> |

| Exemptions/Special Assessments/Potential Liability | | |
|--|---------------------|--|
| Code Area | Type | Description |
| 0901 | SPECIAL ASSESSMENT: | FIRE PATROL NORTHWEST Amount: 19.29 Acres: 26.18 |
| 0901 | SPECIAL ASSESSMENT: | FIRE PATROL SURCHARGE NW Amount: 38.00 |

0901

NOTATION(S):

FARMLAND - POTENTIAL ADDITIONAL TAX LIABILITY 308A.083

TILLAMOOK COUNTY ASSESSOR
Real Property Assessment Report
 FOR ASSESSMENT YEAR 2007

9/17/2008 9:13:04 AM

Account # 346557
Map # 2S0918-00-02802 S1
Code - Tax # 0912-346557
Owner RIEGER, STEVEN M
Agent
In Care Of
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # BOOK 1995 PAGE 344242
Sales Date/Price 07-13-1995 / UNK
Legal Description UNKNOWN
Appraiser LINDA RODRIGUEZ

8425 BEWLEY CREEK RD
 TILLAMOOK, OR 97141

| | | | | | |
|-------------------|-----|-----------|-----------|-----------|-------------|
| | | MA | SA | NH | Unit |
| Prop Class | 551 | 01 | 01 | 500 | 17869-1 |
| RMV Class | 501 | | | | |

| | |
|-------------------------|-------------------|
| Situs Address(s) | Situs City |
|-------------------------|-------------------|

| Value Summary | | | | | |
|------------------------|-------|---------------|----------------|---------------|-----|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0912 | Impr. | 74,860 | 116,630 | Impr. | 0 |
| | Land | 4,068 | 5,950 | Land | 0 |
| Code Area Total | | <u>78,928</u> | <u>122,580</u> | <u>0</u> | |
| Grand Total | | 78,928 | 122,580 | 0 | |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|----------------|-----|----|-------------|------------|-----------|-------------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0912 | 0 | R | F-1 | Farm Use Zoned | 0 | A | 5.00 | SP2 | | |
| Code Area Total | | | | | | | <u>5.00</u> | | | <u>0</u> |
| Grand Total | | | | | | | <u>5.00</u> | | | <u>0.00</u> |

| Improvement Breakdown | | | | | | | |
|------------------------|-----|----------|------------|--------------------------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| 0912 | 1 | 0 | 110 | Residential Other Improvements | 0 | 0 | |
| 0912 | 2 | 0 | 300 | Farm Bldg | 0 | 3340 | |
| 0912 | 3 | 0 | 300 | Farm Bldg | 0 | 4800 | |
| 0912 | 4 | 1992 | 300 | Farm Bldg | 0 | 8628 | |
| Code Area Total | | | | | | <u>16,768</u> | |
| Grand Total | | | | | | <u>16,768</u> | |

| Exemptions/Special Assessments/Potential Liability | |
|--|-------------|
| Code Area Type | Description |
| | |

0912

NOTATION(S):

FARMLAND - POTENTIAL ADDITIONAL TAX LIABILITY 308A.083

TILLAMOOK COUNTY ASSESSOR

Real Property Assessment Report

FOR ASSESSMENT YEAR 2007

9/17/2008 9:22:34 AM

Account # 186006
Map # 2S0918-00-02200
Code - Tax # 0912-186006
Owner RIEGER, EDMUND L &
Agent
In Care Of RIEGER, JANICE D TRUSTEES
Mailing Address

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL
Deed Reference # BOOK 1999 PAGE 378614
Sales Date/Price 03-08-1999 / \$0.00
Legal Description UNKNOWN
Appraiser ED BENAVIDEZ

8450 BEWLEY CREEK RD
TILLAMOOK, OR 97141

| | | MA | SA | NH | Unit |
|-------------------|-----|----|----|-----|---------|
| Prop Class | 101 | 01 | 01 | 131 | 21229-1 |
| RMV Class | 101 | | | | |

| Situs Address(s) | Situs City |
|------------------|------------|
| | |

| Value Summary | | | | | |
|------------------------|-------|---------|---------|---------------|-----|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0912 | Impr. | 116,480 | 212,290 | Impr. | 0 |
| | Land | 51,630 | 80,120 | Land | 0 |
| Code Area Total | | 168,110 | 292,410 | 0 | |
| Grand Total | | 168,110 | 292,410 | 0 | |

| Land Breakdown | | | | | | | | | | | |
|------------------------|-----|-----|-----------|--------------|-----|----|------|------------|-----------|----------|--|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size | |
| 0912 | 0 | R | F-1 | Market | 0 | A | 3.00 | | | | |
| Code Area Total | | | | | | | 3.00 | | | 0 | |
| Grand Total | | | | | | | 3.00 | | | 0.00 | |

| Improvement Breakdown | | | | | | | |
|------------------------|-----|----------|------------|-------------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| 0912 | 1 | 1970 | 143 | One and 1/2 story | 0 | 2029 | |
| 0912 | 2 | 0 | 300 | Farm Bldg | 0 | 725 | |
| Code Area Total | | | | | | 2,754 | |
| Grand Total | | | | | | 2,754 | |

| Exemptions/Special Assessments/Potential Liability | | |
|--|---------------------|---------------------------|
| Code Area | Type | Description |
| 0912 | SPECIAL ASSESSMENT: | SOLID WASTE Amount: 12.00 |

TILLAMOOK COUNTY ASSESSOR

Real Property Assessment Report

FOR ASSESSMENT YEAR 2007

9/17/2008 9:14:36 AM

Account # 187657
Map # 2S0918-00-02601
Code - Tax # 0912-187657

Tax Status ASSESSABLE
Acct Status ACTIVE
Subtype NORMAL

Owner FRANKE, TOM F & LORI K

Deed Reference # BOOK 2000 PAGE 394333

Agent

Sales Date/Price 11-07-2000 / \$178,000.00

In Care Of

Legal Description UNKNOWN

Mailing Address

Appraiser ED BENAVIDEZ

8535 BEWLEY CREEK RD
TILLAMOOK, OR 97141

| | MA | SA | NH | Unit |
|-----------------------|----|----|-----|---------|
| Prop Class 101 | 01 | 01 | 131 | 21105-1 |
| RMV Class 101 | | | | |

| Situs Address(s) | Situs City |
|--------------------------|------------|
| ID# 8535 BEWLEY CREEK RD | COUNTY |

| Value Summary | | | | | |
|------------------------|-------|----------------|----------------|---------------|----------|
| Code Area | | AV | RMV | RMV Exception | CPR |
| 0912 | Impr. | 121,630 | 219,450 | Impr. | 0 |
| | Land | 63,090 | 69,690 | Land | 0 |
| Code Area Total | | 184,720 | 289,140 | | 0 |
| Grand Total | | 184,720 | 289,140 | | 0 |

| Land Breakdown | | | | | | | | | | |
|------------------------|-----|-----|-----------|--------------|-----|----|-------------|------------|-----------|-------------|
| Code Area | ID# | RFD | Plan Zone | Value Source | TD% | LS | Size | Land Class | IRR Class | IRR Size |
| 0912 | 0 | R | RR | Market | 0 | A | 1.68 | | | |
| Code Area Total | | | | | | | 1.68 | | | 0 |
| Grand Total | | | | | | | 1.68 | | | 0.00 |

| Improvement Breakdown | | | | | | | |
|------------------------|-----|----------|------------|-------------------|-----|---------------|-----------|
| Code Area | ID# | YR Built | Stat Class | Description | TD% | Total Sq. Ft. | MS ACCT # |
| 0912 | 1 | 1979 | 143 | One and 1/2 story | 0 | 1788 | |
| 0912 | 2 | 1996 | 300 | Farm Bldg | 0 | 672 | |
| Code Area Total | | | | | | 2,460 | |
| Grand Total | | | | | | 2,460 | |

| Exemptions/Special Assessments/Potential Liability | | |
|--|---------------------|---------------------------|
| Code Area | Type | Description |
| 0912 | SPECIAL ASSESSMENT: | SOLID WASTE Amount: 12.00 |

U.S. Fish & Wildlife Service

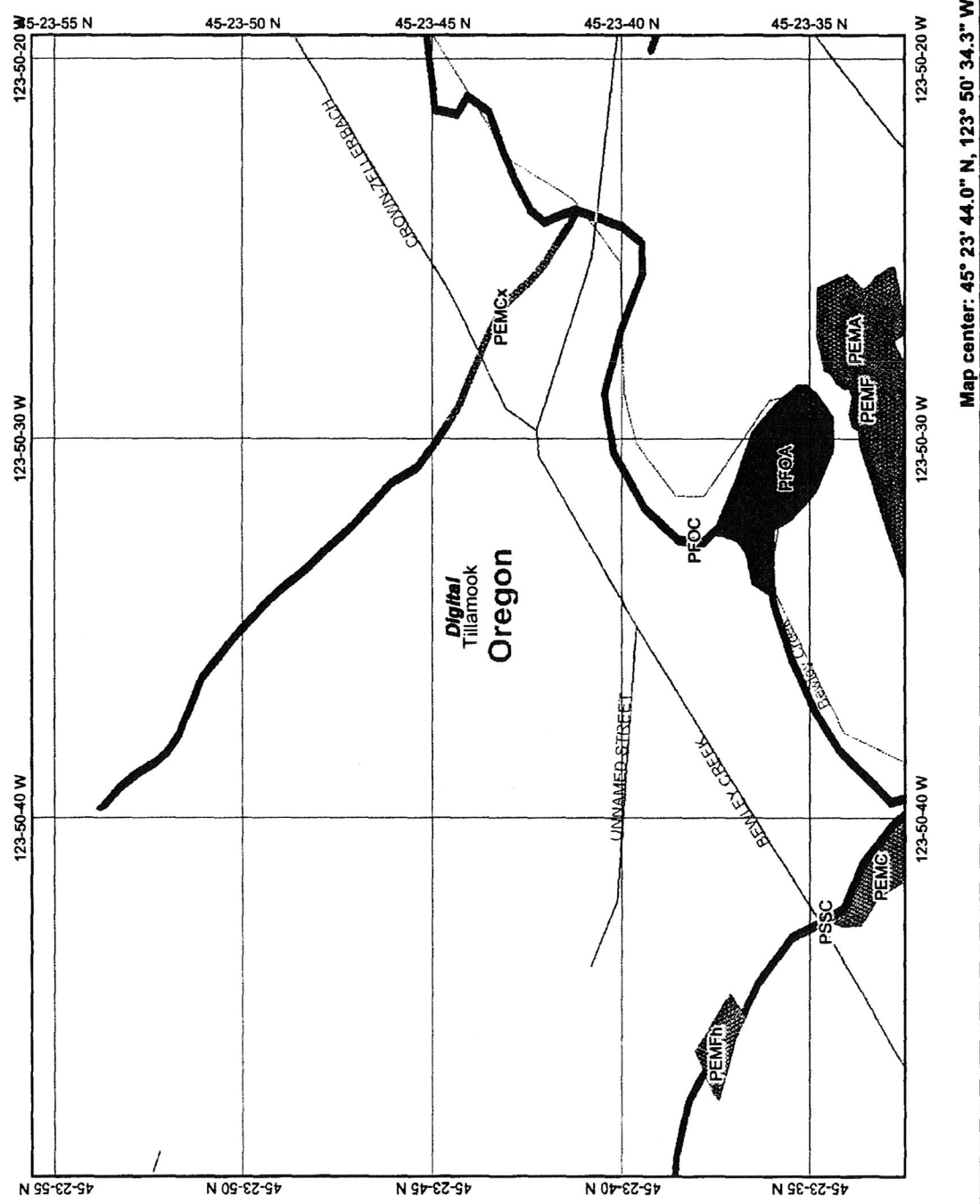


Legend

- Ohio_wet_scan
 - 0
 - 1
- Out of range
- Interstate
- Major Roads
- Other Road
- Interstate
- State highway
- US highway
- Roads
- Cities
- USGS Quad Index 24K
- Lower 48 Wetland Polygons
 - Estuarine and Marine Deepwater
 - Estuarine and Marine Wetland
 - Freshwater Emergent Wetland
 - Freshwater Forested/Shrub Wetland
 - Freshwater Pond
 - Lake
 - Other
 - Riverine
- Lower 48 Available Wetland Data
 - Non-Digital
 - Digital
 - No Data
 - Scan
- NHD Streams
- Counties 100K
- States 100K
- South America
- North America



Scale: 1:5,000

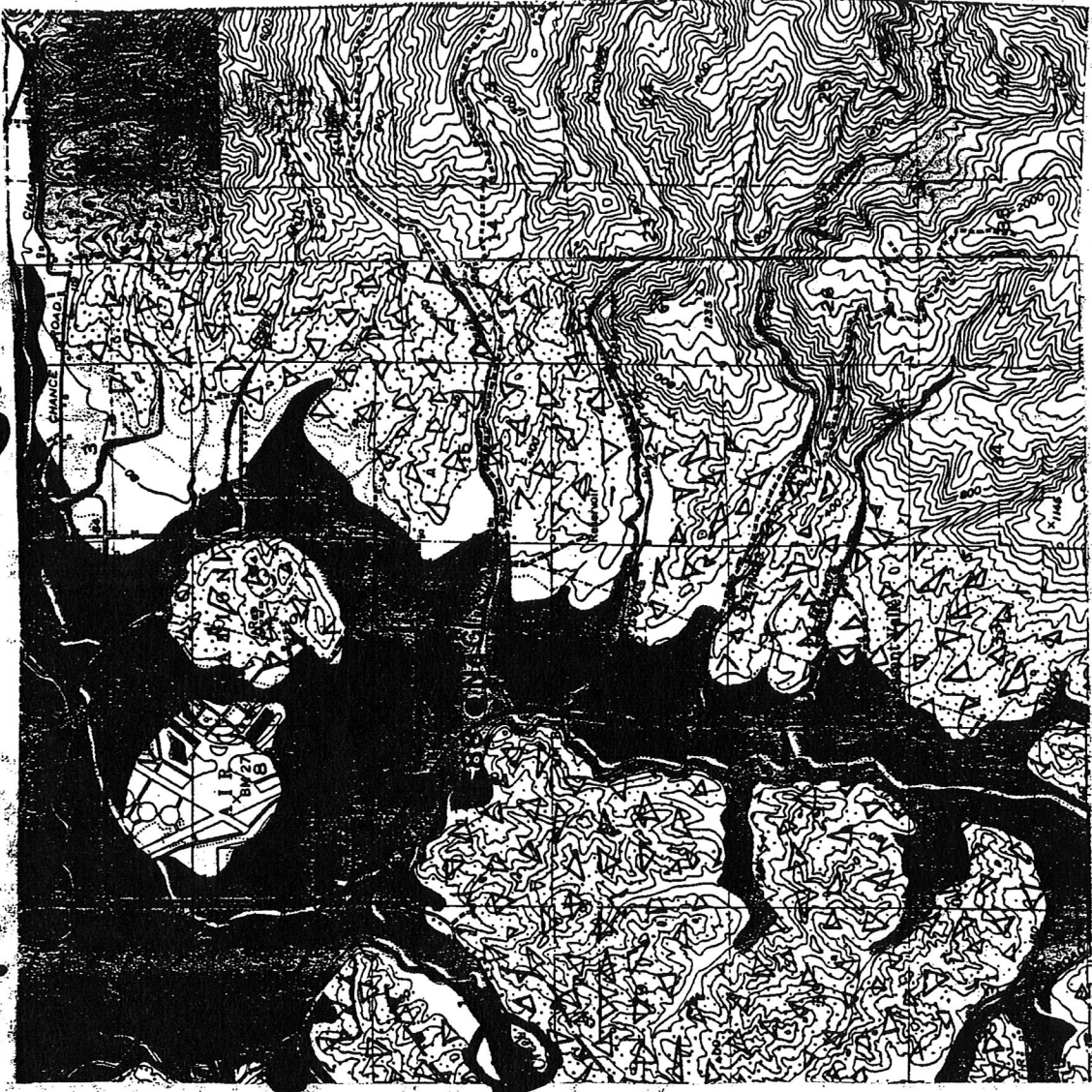


Map center: 45° 23' 44.0" N, 123° 50' 34.3" W

Notes: ZC-07-04

This map is a user generated static output from an Internet mapping site and is for general reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable. THIS MAP IS NOT TO BE USED FOR NAVIGATION.

Oregon Department of Geology and Mineral Industries
(DOGAMI)
Map



General Area

Exhibit 8

DCD

Tillamook County



PUBLIC WORKS DEPARTMENT
503 Marolf Loop, Tillamook, OR 97141

APR 2006
RECEIVED
DEPARTMENT OF
COMMUNITY
DEVELOPMENT
TDD-NONVOICE
Oregon Relay Service

(503) 842-3419
FAX: 842-6473

April 21, 2006

Tom Rieger
8460 Bewley Creek Road
Tillamook, OR 97141

RE: T2SR9W 18 TL#2102
Road Approach Permit #1447
Bewley Creek Road #B753

Tom Rieger,

I have researched records here at Public Works and found Road Approach Permit #1447 for tax lot #2102. The original permit was issued with two access points but Public Works will only recognize one of the approaches still in existence.

The recognized approach is the farthest one from Bewley Bridge on the easterly side of Bewley Creek Road, approximate MP 1.47. One of the conditions of road approach permit #1447 was to keep the overgrowth in the corner clear out for sight distance. All trees, bushes, weeds, etc. will be kept no higher than 30 inches above the existing ground grade approximately 50 feet either side of the corner.

Thank you for your cooperation and if you have any questions or concerns please feel free to contact me at the above number between the hours of 8:00 a.m. and 3:00 p.m. Monday thru Friday

Sincerely,

Walt Gile
Engineering Technician

cc: Ed Grimes, District #2 Foreman
Department of Community Development
File

Enc.: Copy of Road Approach Permit #1447

Exhibit 9

259 18 2102

Application Permit No. 1447

Road 753

ROAD APPROACH APPLICATION AND CONSTRUCTION PERMIT
NOTICE

Applicant must be the person, firm or corporation having the legal right to apply for a Road Approach Permit. Such legal right is vested only in the owner or lessee of the property abutting the highway or the holder of an easement or similar right to construct and use an approach road upon the abutting property.

FILE COPY

SECTION 18 TOWNSHIP 2 So. RANGE 9 EAST, W.M. TAX LOT NO. 2102

Thomas P. Rieger

(NAME OF APPLICANT)

8460 Bewley Creek Road 842-6872 - Tillamook

(MAILING ADDRESS AND TELEPHONE NO. OF APPLICANT)

Bewley Creek Road

(NAME OF STREET OR ROAD TO WHICH PROPOSED APPROACH IS BEING MADE)

NO CONSTRUCTION SHALL BE COMMENCED ON THE APPROACH ROAD UNTIL THIS APPLICATION HAS BEEN APPROVED AND SIGNED BY THE DEPARTMENT OF PUBLIC WORKS AND THE BOARD OF COUNTY COMMISSIONERS.

This application is made pursuant to O.R.S. Chapter 374.

The APPLICANT SHALL PROVIDE A MAP accompanying this application showing the proposed approach road and distance from centerline of the approach to the property corners, and the location of the county or public road abutting the property.

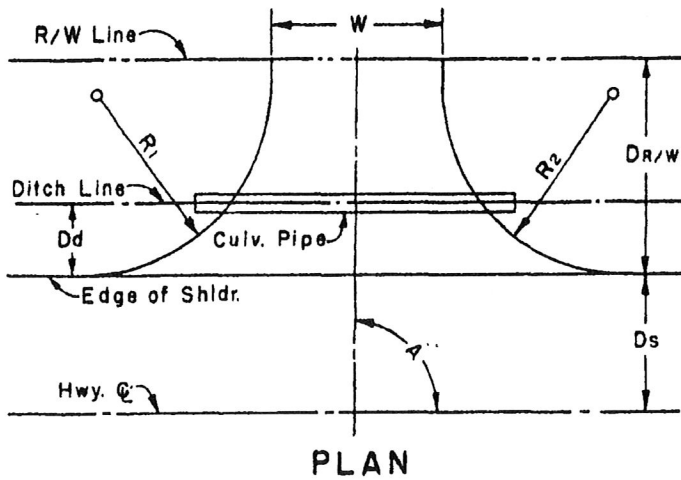
THE PROPOSED APPROACH ROAD LOCATION MUST BE STAKED AND FLAGGED ON THE SITE. If additional inspection trips are required because the site is not staked and flagged a fee of \$25.00 for each trip will be assessed.

PRIOR TO ISSUING THE PERMIT THE PUBLIC WORKS DEPARTMENT OF THE COUNTY WILL INSPECT SITE for proper drainage, traffic hazards, and general acceptability.

THE APPROACH ROAD SHALL BE CONSTRUCTED BY THE APPLICANT AS DIRECTED BY THE COUNTY AND SHALL BE CONSTRUCTED AT THE APPLICANT'S EXPENSE.

After the approach road is built, applicant shall notify the County and a FINAL INSPECTION FOR APPROVAL of the approach shall be made by the County.

BEWLEY CR RD # 753
MP 1.5±
PERMIT # 1447



The approach covered by this permit shall be constructed in accordance with the following dimensions and specifications.

W = 18 R₁ = 10 R₂ = 10 A = 90

D_s = 14 D_d = _____ DR/W = _____

Culvert Pipe Required Required

If required: Type _____

Diameter _____ inches

Length _____ feet

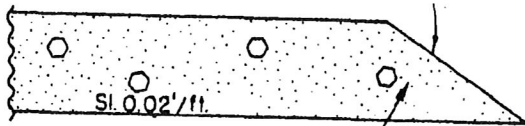
Stone base: Size & Type Pit Run

Comp. Thkn. +9 inches

Stone wearing Size & Type 1"-0" CRASHED ROCK

Surface: Comp. Thkn. 3 inches

Slope to conform to adjoining hwy.

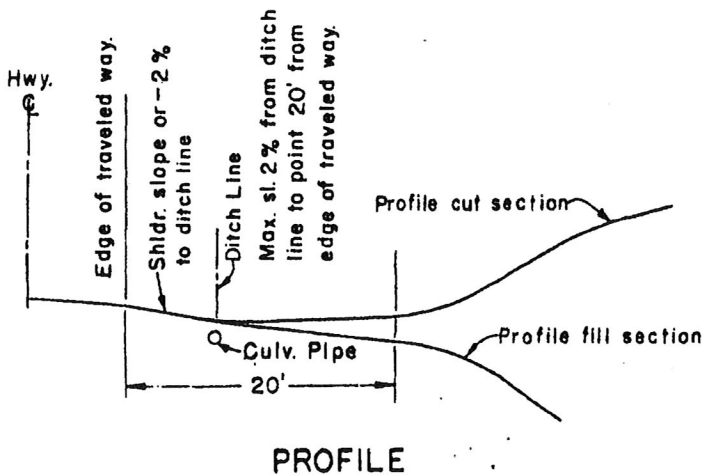


APPROACH TYPICAL SECTION

SIGHT DISTANCE

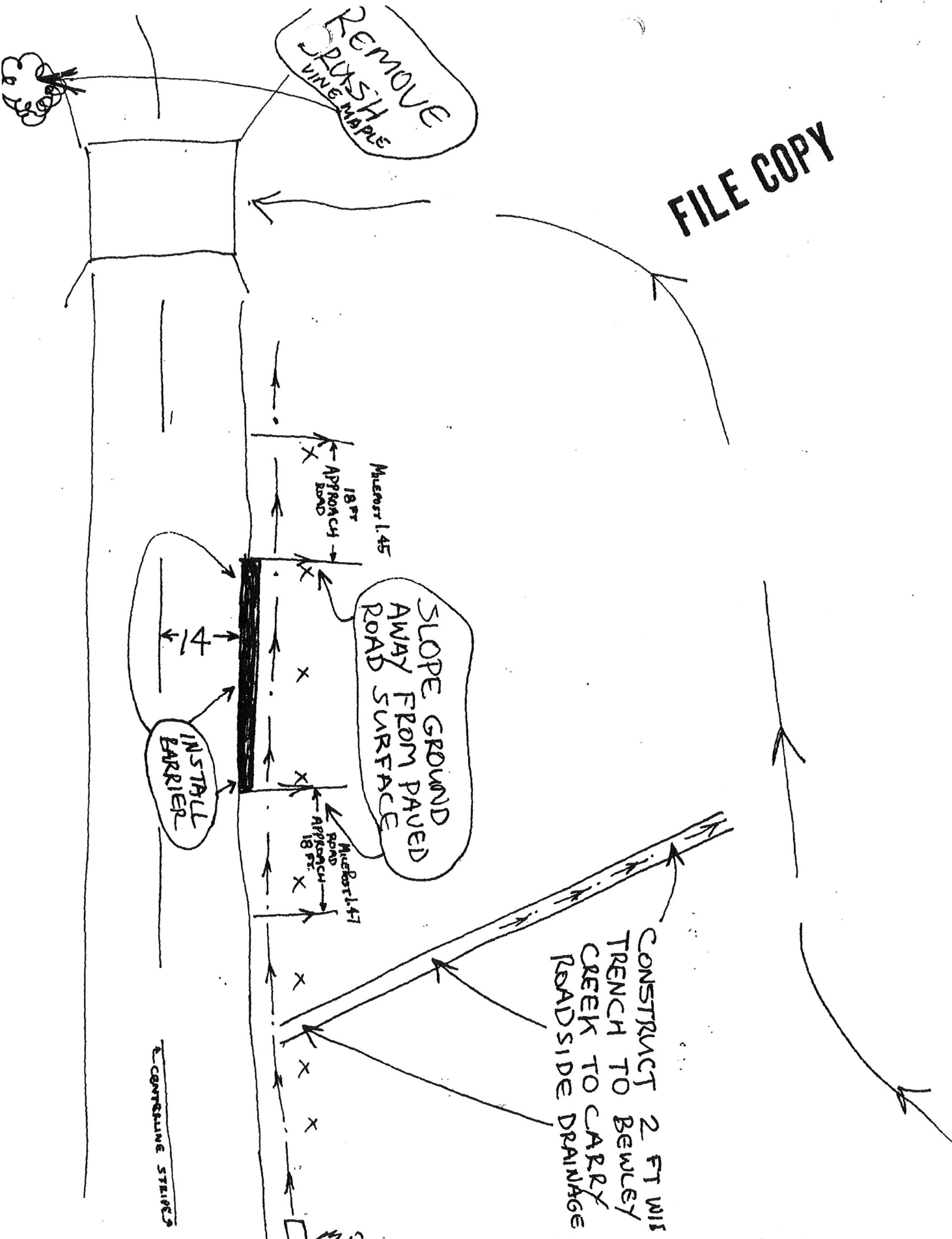
LEFT 350

RIGHT 400



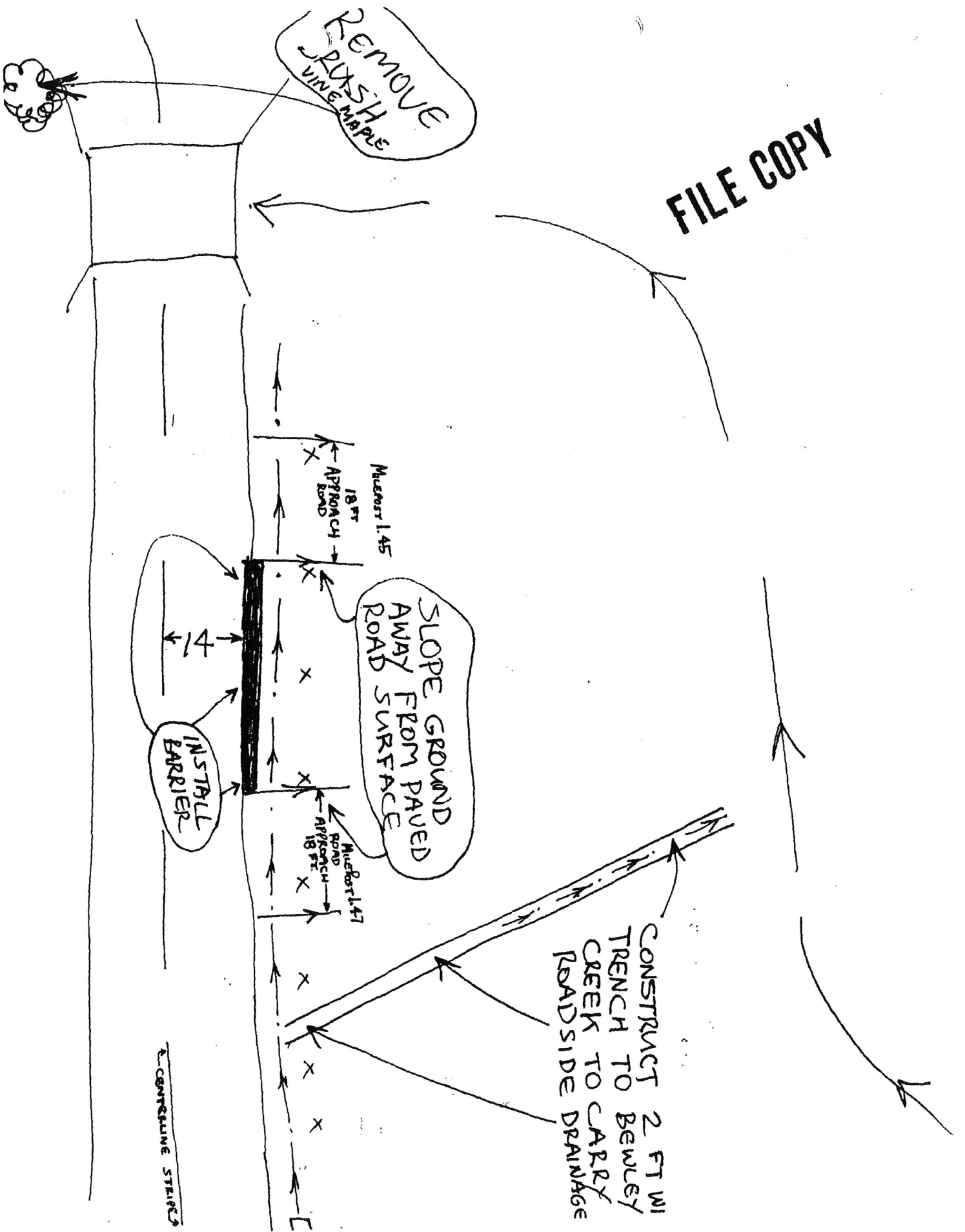
| | |
|---|--|
| ROAD APPROACH UNPAVED | |
| APPLICANT <u>RIEGER THOMAS</u> | |
| HWY. <u>Bewley Cr Rd</u> NO. <u>753</u> | |
| SIDE OF HWY. <u>SOUTH</u> | |
| MILE POST <u>1.47</u> ENGRS. STA. _____ | |
| ROAD APPROACH PERMIT NO. <u>1447</u> | |

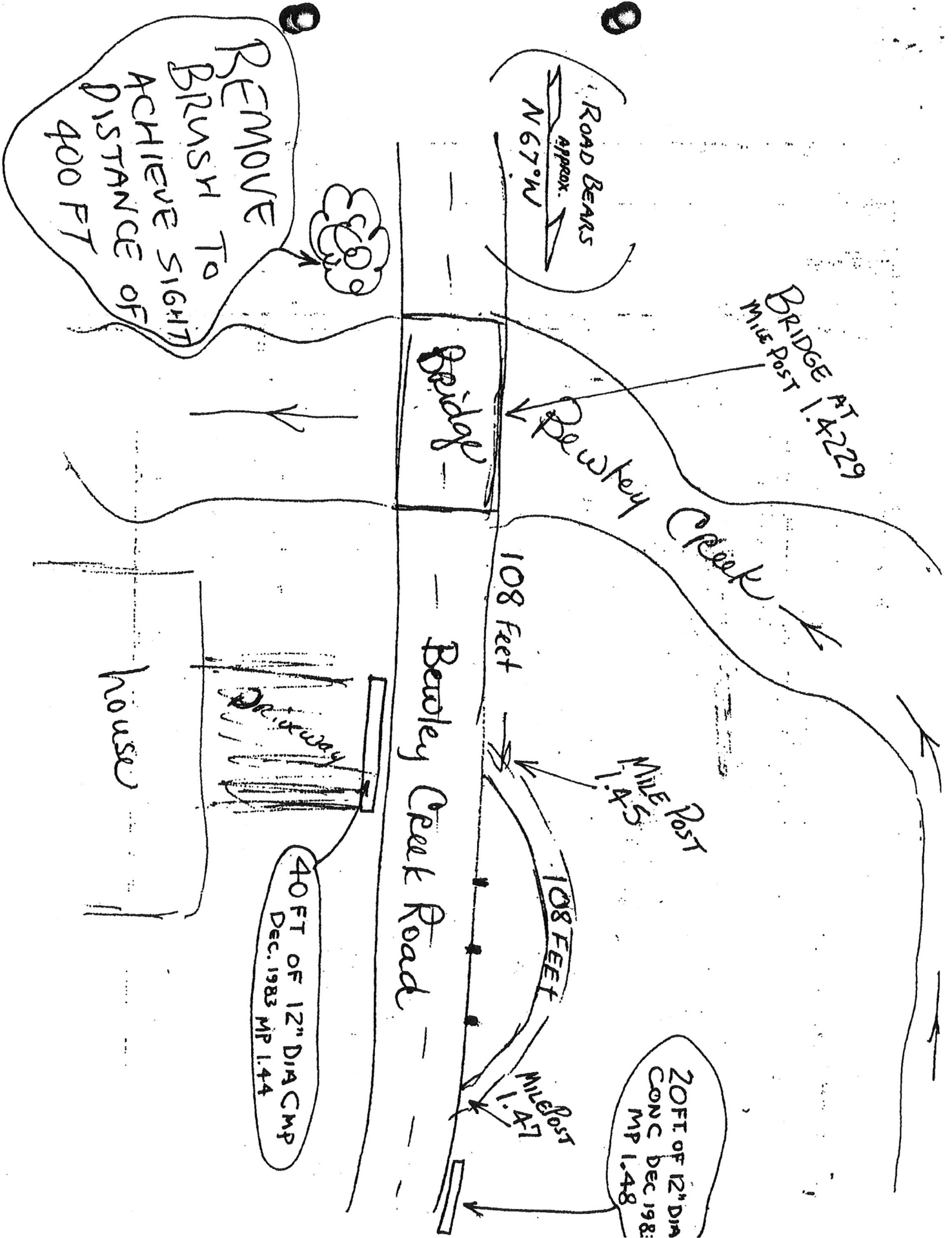
FILE COPY



FILE COPY

REMOVE
BRUSH
VINE MAPLE





ROAD BEARS
APPROX.
N 67° W

BRIDGE AT
MILE POST 1.4229

REMOVE
BRUSH TO
ACHIEVE SIGHT
DISTANCE OF
400 FT

BRIDGE

Bardley Creek

108 Feet

Bardley Creek Road

HOUSE



40 FT OF 12" DIA CMP
DEC. 1983 MP 1.44

MILE POST
1.45

108 FEET

20 FT OF 12" DIA
CONC DEC 198
MP 1.48

MILE POST
1.47

AGRICULTURAL LANDS ELEMENT

(GOAL 3)

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AGRICULTURAL LANDS ELEMENT

(Goal 3)

1. AGRICULTURE IN TILLAMOOK COUNTY

1.1 OVERVIEW

Agriculture has played a very prominent role in Tillamook County's economy and way of life since the middle of the last century. Farming produces almost 20 percent of the County's income on only 5 percent (approximately 35,000 acres) of its land.¹ The County's farm sales reached 37.8 million dollars in 1979 - a 200 percent increase over 1971.² This increase is still 47 percent when we take inflation into account.

The economic benefits of farming are shared by the entire County, with every dollar in farm sales generating a total of \$2.75 in local economic activity.³ The County's farmland also provides attractive open space that is enjoyed by residents and visitors alike. This scenic farmland and famous Tillamook Cheese contribute significantly to the County's tourist industry.

The 1978 Census of Agriculture (preliminary report) lists 388 "farms" ¹ in Tillamook County with an average size of 108 acres (see Table 1). These farms contain 42,000 acres, almost 10,000 acres of which are in woodland. Two-thirds (261) of these farms are larger than 50 acres, and 225 (58%) are dairies. ² Farm sales exceeded 20,000 dollars on 196 (51%) of the County's farms. Farming is the principal occupation of 250 (64%) of the owners or occupants of these farms. These figures indicate that approximately 2/3 of the County's farms are full-time commercial operations, most of which are dairies. The remaining third are part-time "hobby" farms.

Agriculture in Tillamook County is a dynamic, growing industry, not only in absolute terms, but also relative to both statewide agriculture and non-farm economic activities within the County. From 1971 to 1979 total farm sales increased 196 percent for the County and 165 percent for the State as a whole, while dairy sales increased 185 percent for the County and 128 percent for the State (see Table 2). After allowing for inflation, the County's increases during this period were still 47 percent for total farm sales and 41 percent for dairy sales. By comparison the respective deflated statewide figures were only 31 percent and 13 percent.

TABLE 1
Summary of Agricultural Characteristics

Tillamook County 1978

| | |
|--|---------------------|
| TOTAL ACREAGE (ALL USES) | 713,600 Acres |
| TOTAL ACREAGE IN FARMS | 42,024 Acres (5.9%) |
| FARMLAND ACCORDING TO USE | |
| Cropland and pasture | 29,942 Acres (4.2%) |
| Woodland including woodland pasture | 9,699 Acres (1.4%) |
| Land in house lots, ponds, roads, wetland, etc. | 2,383 Acres (.3%) |
| LAND IN FARM ZONE (EFU) | 35,500 Acres |
| NUMBER OF FARMS | 388 |
| AVERAGE FARM SIZE | 108 Acres |
| FARMS BY SIZE | |
| Less than 50 acres | 127 (32.7%) |
| 50 to 179 acres | 194 (50.0%) |
| 180 acres or more | 67 (17.3%) |
| FARMS BY VALUE OF SALES | |
| \$100,000 or more | 98 (25.3%) |
| \$20,000 to \$99,000 | 98 (25.3%) |
| \$2,500 to \$19,000 | 93 (24.0%) |
| Less than \$2,500 | 99 (25.5%) |
| FARMS OPERATED BY OWNER(S) | 374 (96.4%) |
| FARMING AS PRINCIPAL OCCUPATION OF FARM RESIDENT | 250 (64.4%) |

Source: 1978 Census of agriculture (preliminary report).

From 1970 to 1978 Tillamook County's farm income increased by 224 percent, while the County's non-farm income increased by only 94 percent (see Table 3). After taking inflation into account, the County's real farm income still increased by 75 percent, while non-farm income increased by only 5 percent. Even if we look at the longer 1950 to 1978 period, we still see a 110 percent real increase (allowing for inflation) in farm income as compared to a 54 percent real increase in non-farm income.

Tillamook County is the State's leading dairy county in terms of both milk production and dairy-related income, and it ranks 13th among Oregon's 36 counties in total farm income. Dairy-related agriculture produced 90 percent of the County's farm income in 1979, with 78 percent coming from milk production and the remaining 12 percent from the sale of cattle and calves produced in conjunction with dairy operations (see Table 4). Five

percent of the County's farm income came from such specialty products as nursery stock, forest greenery and holly; 2.3 percent came from miscellaneous small farm animals and products (primarily mink), and 2.1 percent came from nondairy-related beef production. Tillamook County's dairy industry benefits from a cool marine climate, a long pasture season, low irrigation requirements in most seasons, a tradition of expert, efficient dairymen and highly successful marketing procedures.

TABLE 2

Gross Farm and Dairy Product Sales

**Tillamook County and State Comparisons
(in thousands of dollars)**

| | 1971 | 1975 | 1979 |
|----------------------------|----------------|----------------|----------------|
| TOTAL FARM SALES | | | |
| Tillamook County | 12,845 (2.2%) | 21,502 (2.0%) | 38,030 (2.5%) |
| Oregon | 575,394 | 1,080,246 | 1,523,731 |
| DAIRY PRODUCT SALES | | | |
| Tillamook County | 10,056 (16.5%) | 17,200 (19.4%) | 28,690 (20.6%) |
| Oregon | 61,050 | 88,637 | 138,947 |

Sources: "Tillamook County Economic Information", Oregon Department of Economic Development, June 1979, and "Oregon 1979 Gross Farm Sales", Extension Economic Information Office, Oregon State University, December 21, 1979.

TABLE 3

**Tillamook County Personal Income Farm and Non-Farm,
for Selected Years, 1950-78
(in thousands of dollars)**

| | FARM | NON-FARM | TOTAL |
|------|----------------|----------------|--------|
| 1950 | 3,303 (14.0%) | 20,337 (86.0%) | 23,640 |
| 1959 | 2,476 (8.6%) | 26,398 (93.4%) | 28,874 |
| 1962 | 1,775 (5.9%) | 28,179 (94.1%) | 29,954 |
| 1970 | 4,734 (11.8%) | 35,370 (88.2%) | 40,104 |
| 1974 | 6,896 (12.9%) | 50,335 (88.0%) | 57,231 |
| 1978 | 15,325 (18.2%) | 68,862 (81.8%) | 84,187 |

Source: "Tillamook County Economic Information", Oregon Department of Economic Development, June 1979.

TABLE 4

**Value of Farm Production, Tillamook County Revenues
(in thousands of dollars)**

| Commodity | 1971 | 1975 | 1979 | 1980¹ |
|--|----------------------------------|----------------------------------|----------------------------------|-------------------------|
| Dairy Products | \$10,056 (78.3%) | \$17,200 (80.0%) | \$27,968 (74.0%) | \$34,654 (80.1%) |
| Dairy-Related Cattle and Calves ² | 1,604 (12.5%) | 2,652 (12.3%) | 5,927 (15.7%) | NA ³ |
| Non-Dairy-Related Cattle and Calves | 456 (3.6%) | 435 (2.0%) | 849 (2.2%) | NA ³ |
| Misc. Animals and Products (Primarily Mink) | 351 (2.7%) | 643 (3.0%) | 962 (2.5%) | 963 (2.2%) |
| Specialty Products ⁴ | 87 (0.7%) | 400 (1.9%) | 1,900 (5.0%) | 1,650 (3.8%) |
| Hay and Forages | 21 (0.2%) | 97 (0.5%) | 74 (0.2%) | 124 (0.3%) |
| All Other Commodities ⁶ | 270 (2.1%) | 74 (0.3%) | 107 (0.3%) | 130 (0.3%) |
| TOTAL RECEIPTS | \$12,845 (100%) | \$21,504 (100%) | \$37,787 (100%) | \$43,266 |

- 1 Preliminary data.
- 2 Dairy-related cattle and calves are those produced in conjunction with a dairy operation, including bull calves and cull cows.
- 3 Estimates for dairy and nondairy cattle and calf sales are not yet available for 1980. Total cattle and calf sales are estimated to be \$5,745,000.
- 4 This includes nursery stock forest greenery and holly.
- 5 The value of hay and forage produced is greatly understated by the fact that most of what is grown is not sold, but is consumed on the farm where it is produced.
- 6 This includes field crops, small fruits and berries, vegetable crops, hogs and pigs, sheep and lambs, and chicken eggs.
- 7 This includes \$224,000 in vegetable sales, which reflects Birds Eye's 1965-72 broccoli venture in Tillamook County. With the discontinuation of broccoli production, total vegetable sales dropped to \$5,000 by 1973. By 1979 total vegetable sales had risen to only \$20,000, still less than 10 percent of 1971 sales.

Source: John Massie Tillamook County Extension Agent.

The Tillamook County Creamery Association (TCCA), a producer-owned cooperative, has played a key role in the development of the County's dairy

industry for the past 60 years. TCCA had gross sales of over 46 million dollars in 1979 - a 200 percent increase over 1970. Payments to milk producers within the County reached 24 1/2 million dollars in 1979 - also a 200 percent increase over 1970. These increases are still as high as 40 percent when inflation is taken into account. The estimated 1980 return to the County's dairymen is 29.3 million dollars - a 20 percent increase over 1979. TCCA is one of the County's largest employers, with over 200 employees and a 1980 payroll of approximately \$4,000,000. ①

The Creamery Association produced 23.5 million pounds of natural cheddar cheese in 1979 - approximately 80 percent of Oregon's total production. In 1979, TCCA received 197 million pounds of locally produced milk, and an additional 83 million pounds from producers outside of the County. At the same time 39 million pounds of locally produced milk was being shipped to processors outside of the County. TCCA's capacity is such that during peak production periods during the year, it receives and processes up to 30 percent of the milk produced in Oregon. The Creamery still has excess capacity which would permit the processing of an increased supply of locally produced milk.

1.2 AGRICULTURAL LANDS INVENTORY

Tillamook County has a limited amount of land that is suited for agricultural production. The most recent comprehensive agricultural soil survey - which occurred in 1957 - identified 48,218 acres of SCS Class I-IV soils, 36,472 acres of which were in agricultural use (see Table 5).¹ These are the soils that should be retained for agricultural use according to the State agricultural lands goal. An additional 3,959 acres of SCS Class VI-VIII soils were also being used for agricultural purposes. ~~Class VI-VIII soils were also being used for agricultural purposes.~~ 8,967 acres of Class I-IV soils are in forest use in 1957, while 2,230 were in urban use. Since then approximately 1,500 additional acres of these soils have been committed to non-farm development.

TABLE 5

Agricultural Soils

Acreage by Class and Use

| | Cropland | Pasture | Forest | Urban | Other | Total |
|-----------------|-----------------|----------------|---------------|--------------|--------------|--------------|
| Class I | 0 | 0 | 0 | 0 | 0 | 0 |
| Class II | 18,767 | 908 | 1,624 | 1,194 | 5 | 22,498 |

| | | | | | | |
|--------------|---------------|--------------|--------------|--------------|------------|---------------|
| Class III | 6,058 | 857 | 2,484 | 236 | 2 | 9,637 |
| Class IV | 6,683 | 3,199 | 4,859 | 800 | 542 | 16,144 |
| TOTAL | 31,508 | 4,964 | 8,967 | 2,230 | 549 | 48,218 |

¹Soil Survey of Tillamook Area, Oregon, pp 39 & 75. This survey contains soil maps of the County's agricultural lands. In addition, the County Planning Department has color-coded maps which describe the County's agricultural soils according to capability class (I-VIII) and the five groups that are identified in Tillamook County's Soil Suitability Rating System (see appendix D).

to pgs
Footnote

1.3 THE NEED TO PROTECT FARMLAND

The quality and reputation of Tillamook County's dairy products assures that there will be a market for all the milk and cheese that can be produced in the County in the foreseeable future. What can actually be produced depends upon the amount of land that remains available for farming. There have been growing pressures to convert the County's productive farmlands to other uses. The best agricultural land is physically attractive, is relatively flat, exhibits good drainage, and has an available water supply. Such land is also easiest to develop for housing and other urban uses.

The sale of productive farmland to non-farmers leads to its irreversible transfer to non-farm uses. An extension of this trend in Tillamook County could lead to the transformation of the County's dairy industry into a second-home and retirement community. The long-term production and economic returns from the County's farmlands would be replaced by the short-term profitability of selling land and building houses.

Non-farm development not only takes farmland out of production, it can also lead to restrictions on farm practices on nearby land. Farming can be adversely affected by noise and human and animal trespass from nearby non-farm development. Many accepted and customary farming practices are not compatible with residential or other non-farm uses on nearby lands. Conflict between farm and non-farm uses can lead to restrictions on such necessary farm practices as the spreading of animal manure and the use of herbicides and pesticides. Opposition to these farm practices is likely to increase in the future as more people who were raised in an urban environment move to Tillamook County. Non-farm development can thereby affect an area much larger than the acreage upon which the development occurs. The intrusion of non-farm development into a farm area can ultimately remove the entire areas from agriculture production as adjacent farmers, tired of conflicts with their non-farm neighbors, are induced to irreversibly convert their land to other uses.

The National Association of Counties' Agricultural Lands Study has examined the wide range of conflicts that arise as non-farm residential development invades agricultural areas. This study concludes that these conflicts:

are the unmistakable signal that local agriculture is in trouble, that a traditional way of life - - and making a decent living - - is threatened . . . realistically speaking, the only way to avoid threatening land use conflicts is not for farmers to change the way they use their land - - because odors and noise are an integral part of agriculture - - but rather to change the way in which communities are developed. Ideally, they should be developed so that residences, agriculture, and other industries all have their place and are insulated from one another.

The study points out that the farmer is becoming the "underdog" - - he is becoming scarcer all the time - - in part because land use conflicts are leading to the demise of local agriculture. "And that means that, when new land use conflicts arise, the community as a whole - - composed more and more of people who do not understand agriculture - is less sympathetic to the farmers' point of view." The booklet concludes that "unless something is done at the local level to guide community growth and development, so that residential development is kept at a respectable distance from the farming industry, the future of agriculture in any localities around the nation looks gloomy".

2. LEGISLATIVE MANDATE

2.1 OVERVIEW

The loss of agricultural land served as a primary impetus for the State Legislature's establishment of Oregon's land use planning program with the passage of Senate Bill 100 in 1973. The Legislature has specifically adopted four key elements which address the protection of farmland: (1) their Agricultural Lands Policy statement; (2) the Statewide Agricultural Lands Planning Goal; (3) the provisions governing exclusive farm use (EFU) zones; and (4) preferential tax treatment for agricultural land.

2.2 AGRICULTURAL LANDS POLICY

The Legislature's 1973 Agricultural Lands Policy (ORS 215.243) made the following points:

- (1) Open land for agricultural use ... constitute(s) an important physical, social, aesthetic and economic asset to all of the people of this state.
- (2) The preservation of a maximum amount of the limited supply of agricultural land . . in large blocks is necessary in maintaining the agricultural economy of the state and for the assurance of adequate, healthful and nutritious food for the people of this state and nation.
- (3) Expansion of urban development into rural areas is a matter of public concern because of the (resultant) unnecessary increases in costs of community services, (and) conflicts between farm and urban activities.
- (4) Exclusive farm use zoning as provided by law, substantially limits alternatives to the use of rural land and, with the importance of rural lands to the public, justifies incentives and privileges offered to encourage owners of rural lands to hold such lands in exclusive farm use zones.

2.3 AGRICULTURAL LANDS PLANNING GOAL

The Agricultural Goal is one of the most specific of the 19 Statewide Planning goals, reflecting the concern for the protection of farmland that prompted the legislatures adoption of the state land use planning law (ORS Chapter 197).

The goal states that "Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space. These lands shall be inventoried and preserved by adopting exclusive farm use zones pursuant to ORS Chapter 215".

Farmland that is to be included in such farm use zones in western Oregon includes:

"land up predominantly Class I, II, III and IV soils . . . , and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event."

Minimum lot sizes that are utilized for farm uses are to be "appropriate for the continuation of the existing commercial agricultural enterprise within the area". (The County's minimum lot size requirements are discussed in Section 5.2 below.)

The exclusion of rural agricultural land from the farm use zone requires a Goal 2 "exception" to the agricultural lands goal. Such an exception must provide "compelling reasons and facts" for the exclusion, including:

- (a) Why these other uses should be provided for;
- (b) What alternative locations within the area could be used for the proposed uses;
- (c) What are the long term environmental, economic, social and energy consequences to the locality, the region or the state from not applying the goal or permitting the alternative uses;
- (d) A finding that the proposed uses will be compatible with other adjacent uses.

2.4 THE EXCLUSIVE FARM USE ZONE

The exclusive farm use zone (EFU) was created by the State Legislative to provide areas where farming can take place free of interference and to help local assessors decide which land qualifies for farm tax assessment. This zone is the implementation method for the preservation of agricultural lands that are identified in the County's comprehensive plan.

The legislature has defined farm use (ORS 215.203), and specifically enumerated all non-farm uses that a county can include in an EFU zone (ORS 215.213). The inclusion of any other uses can disqualify all land within that zone from receiving an automatic assessment at its farm use value (ORS 308.343). Tillamook County's EFU zone includes all of the uses that are permitted by state law (see Section 4.1 below).

2.5 FARM TAX ASSESSMENT

Oregon is one of a majority of states that assesses farmland at its farm value as opposed to the higher value that it might have if it were converted to non-farm development. The legislature's expressed intent is that bonafide farm properties "shall be assessed at a value that is exclusive of values attributable to urban influences or speculative purchase" (ORS 308.345).

The legislative has specified that "any land which is within a farm use zone and which is used exclusively for farm use as defined in subsection (2) of ORS 215.203, shall be assessed at its true cash value for farm use and not at the true cash value it would have if applied to other than farm use" [ORS 308.370 (1)]. The farm use value assessment ranges from 40 to 50 percent of the non-farm use assessment. The legislative has also exempted land in the farm zone from certain special district assessments, including those for sewer and water (ORS 308.401).

The legislative currently permits a farm use assessment for land that is not within an exclusive farm use zone if certain minimum income requirements are met to assure that the land is being used exclusively for farming [ORS 308.370(2) and ORS 308.372].

3. TILLAMOOK COUNTY'S AGRICULTURAL LANDS PLANNING PROCESS

3.1 OVERVIEW

Agricultural lands planning in compliance with state law (ORS 197) was initiated by the Tillamook Soil and Water Conservation District Board in the Spring of 1978 with an attempt to develop criteria for evaluating the County's agricultural lands. The County's comprehensive planning team began to address agricultural lands planning in September, 1978 with the addition of a Natural Resources Planner who as assigned responsibility for the agricultural and forestry elements of the County's comprehensive plan.

The County's efforts focused on the development of the agricultural lands criteria until these were adopted by the Board of County Commissioners on July 27, 1979. This was followed by a campaign to bring land into the County's farm zone on a voluntary basis during the Fall of 1979 and early in 1980, which increased the acreage in the farm zone from 13,000 to 25,000 acres. The identification and zoning of agricultural lands were completed from March to October of 1980 with the development and approval of zoning proposals for all of the land in the County. This brought another 10,500 acres into the farm zone, bringing the total to 35,500 acres. The final step in the agricultural lands planning process was the composition of the Agricultural Lands Element, including the drafting and approval of Agricultural Findings and Policies that reflect what has been learned during the past two years about the County's agricultural resources and needs. The exceptions that have been taken to the Agricultural Lands Goal are included in the County's "Justification" document.

3.2 AGRICULTURAL LANDS CRITERIA

Tillamook County's "Criteria for Evaluating Agricultural Lands" was adopted unanimously by the County's Board of Commissioners on July 27 after two public hearings. This action concluded a year-long process of technical assistance and public review that involved the Tillamook Soil and Water Conservation District Board, the U.S. Soil Conservation Service, the Oregon State Agricultural Extension Service, the Tillamook Farm Bureau, the County's five Citizen Advisory Committees, the County Planning Commission and the comprehensive planning team. This process is described in Appendix A.

The County Board of Commissioners' July 27 action included not only the adoption of the agricultural lands criteria (Appendix C), but also the approval of the supplementary "Soil Suitability Rating for Tillamook County's Land Use Plan", (Appendix D), and a resolution which describes the use of the criteria and identifies other factors that can be taken into account when decisions are made that affect agricultural lands (Appendix B).

The resolution explicitly recognizes the need to preserve agricultural land consistent with local needs and state law. It stipulates that the criteria and soil suitability rating system will be used prior to the adoption of the County's updated comprehensive plan "in a determination of the agricultural suitability of land that is involved in a land use decision or action", and that they "will be further used in the actual updating of the comprehensive plan to identify SCS Class I-IV soils and other agricultural and related lands that upon the owner's request could be excluded from the County's farm zone".

The four criteria that are used to determine the agricultural suitability of any given ownership are (1) soil suitability, (2) subject's parcel size, (3) surrounding parcel size, and (4) compatibility of surrounding land use (see Appendix C). Any contiguous farm ownership can be rated with a numerical value that is determined by standards that have been set for each criteria.

A weighting system which reflects the relative importance of each criteria is used to aggregate these numerical values in a 100-point scale for any particular ownership. For example, an ownership can receive up to 52 points for soil suitability, 16 points for subject's parcel size, 8 points for surrounding parcel size, and 24 points for compatibility of surrounding land use.

Soil suitability is determined by the soil suitability rating system (Appendix D).

Each of the County's agricultural soils are initially rated according to their natural ability to produce agricultural goods without managerial inputs. Soils are divided into five agricultural potential groups according to their texture,

slope, depth, natural drainage, and available water holding capacity. Each of these groups receives a numerical value which is then modified to take into account artificial drainage, the availability of irrigation water and whether or not the ownership is within the 100-year floodplain.

The County's soil suitability rating system is designed to supplement the Soil Conservation Service's land capability classification system by providing more specific information on the agricultural productivity of local soils. The County's system was reviewed and approved by the Soil Conservation Service's State Soil Scientist (see Appendix E).

The agricultural lands criteria have subsequently received national recognition, for which the Board of County Commissioners received a congratulatory letter from Governor Vic Atiyeh (see Appendix F).

3.3 VOLUNTARY EFU CAMPAIGN

A campaign for the voluntary inclusion of land in the County's farm zone was conducted by the planning team during November and December of 1979. This campaign was sponsored by the Tillamook county Soil and Water Conservation District Board and had the official support of the Tillamook County Farm Bureau, the Tillamook County Creamery Association, and the County Pomona Grange. This effort provided an opportunity to inform people about the need to protect farmland and at he advantages of the farm zone.

The Campaign focused on the 325 owners of approximately 19,000 acres that were receiving a farm tax but were not included in the County's farm zone. (Less than 13,000 acres were already in the farm zone.) Each of these owners received a letter from the Chairman of the Tillamook County Soil and Water Conservation District which stressed the need to protect farmland and the advantages of the farm zone. An application to bring land into the farm zone was enclosed along with specific information on the acreage and tax lot numbers of parcels that were currently receiving the farm tax but were not in the farm zone.

An extensive public information effort occurred at the time of these mailings. The local radio station (KTIL) provided free air space for statements by members of the County's Soil and Water Conservation District Board, Farm Bureau and Creamery Association which encouraged people to bring their land into the farm zone. Informative articles appeared in the County-wide newspaper, the "Headlight Herald" (Appendix G).

By January, 1980, applications had been received to bring over 12,000 acres into the farm zone as a result of the campaign. This included 336 parcels in 144 ownerships. Their approval by the County Planning Commission on February 28, and the Board of County Commissioners on April 11, increased the total acreage in the County's farm zone to 25,000 acres, which was approximately 75 percent of what staff estimated should eventually be included in the farm zone.

3.4 COMPLETION OF REZONING

The rezoning of the remainder of the County's lands was accomplished during the period from March to October of 1980. Agricultural land which had not come into the farm zone by the end of the voluntary EFUs campaign was evaluated to determine which additional parcels should be included in the farm zone. The agricultural lands criteria were used to make this determination.

Every possible effort was made to develop zoning proposals that were consistent with land owners' preferences while still being within the bounds established by local criteria and state law. Agreement was reached with over 98 percent of the affected land owners.

The County's five Citizen Advisory Committees (CACs) reviewed all zoning proposals for their area. This required from three to six special four-hour meetings in each CAC area. The CACs gave very careful consideration to those cases where there was a known disagreement between staff proposals and the preferences of individual property owners. The property owners were usually present to argue their case which was decided with a public vote by the CAC. Staff changed their recommendation to response to a contrary vote by a CAC in all but a few disagreements that occurred in the South County area.

After CAC review and approval, the zoning proposals were brought before the County Planning Commission who focused on disputed proposals within each CAC area. The Commission received a staff report and then heard testimony from CAC members and affected or interested property owners. Disputes were carried on to the Board of County Commissioners only if the Planning Commission supported the staff position in opposition to the affected property owners.

The Board of County Commissioners concluded their public hearings on zoning proposals in October, 1980 with the inclusion of an additional 10,500 acres in the County's farm zone. This brought the total acreage in this zone

to 35,500 acres. An additional 2,000 acres was brought into the County's Small Farm and Woodlot 20-Acres zone which also qualifies as an EFU zone. Approximately 600 of these acres are farmland, with the remainder being forest land.

3.5 AGRICULTURAL FINDINGS AND POLICIES

The agricultural findings and policies which were written at the conclusion of the agricultural planning effort reflect the preceding two years of discussions at CAC meetings and with agricultural people throughout the County. Any of the findings and policies are based on the Tillamook Soil and Water Conservation District's natural Resource Conservation Program. The SWCD Board reviewed all policies as did other interested members of the agricultural community, including the ASCS Committee, the County Extension Agent, the Soil Conservation Service's District Conservationist, and the president of the Tillamook Farm Bureau.

These findings and policies were reviewed by the County's five Citizen Advisory Committees between April and August of 1981. This review led to a number of constructive changes and eventual formal approval by each CAC by a cumulative 34-2 vote. ⁽¹⁾

4. AGRICULTURAL FINDINGS AND POLICIES

4.1 AGRICULTURAL LAND ZONING

Findings

Zoning regulations are one means that is available to the county to protect farmland while assuring that an adequate supply of buildable land is available for non-farm development. The county's commercial agricultural land has been placed in the Farm Zone (F-1) and the Small Farm Woodlot 20-Acre Zone (SFW-20). These zones are based on local resources and needs as well as being in compliance with the state law's exclusive farm use requirements (ORS 215.213). The inclusion of over 35,000 acres in the F-1 Zone and 2,000 acres in the SFW-20 Zone will help assure that the county's agricultural sector can continue to grow and contribute to the economic well-being of the entire county.

The objectives of these zones would be undermined if parcels are created and sold that are too small to support the continuation of the existing commercial agricultural enterprise within the area. Dairying is the predominant type of agriculture in Tillamook County, with over 90 percent of

the county's gross farm sales coming from dairy-related agriculture in 1979. The Tillamook County Soil and Water conservation district and the county's citizen advisory committees have concluded that 40 or more acres are normally required for a viable dairy farm, and that a 40-acre minimum lot size requirement in the county's F-1 Zone will help protect agricultural land from conversion to non-farm use.

The F-1 Zone does allow the creation of parcels smaller than 40 acres if approved by the County Planning Commission according to conditions described in subsection 3.002(5) of the county's zoning ordinance, while the SFW-20 Zone allows parcels smaller than 20 acres under the same conditions. This takes into account the fact that parcels smaller than 40 acres can be ~~sued~~^{used} for dairy farming if such use is in conjunction with other farmland in the area. And it permits the establishment of alternative commercial farm uses of greater intensity (such as a nursery) than commercial farms in the area. However, it must be recognized that some legitimate intensive farm uses such as rabbit or poultry farms need not be located on the county's more productive lands. Nor are the F-1 Zone or the SFW-10 Zone appropriate locations for so-called "hobby farms" whose owner's primary vocation is other than commercial agriculture. These uses can best be accommodated in the county's Small Farm and Woodlot 10-Acre Zone which is designed for small-scale agriculture and forest uses.

The county's F-1 Zone currently contains many parcels smaller than 40~~x~~ acres. Many of these parcels will be used in conjunction with other farmland in the area as they are not by themselves large enough to support the continuation of existing commercial agriculture. The placement of dwellings on many of these parcels would contribute to the conversion of productive land to non-farm uses. The county's F-1 Zone does permit the placement of dwellings on ownerships smaller than 40 acres if they meet conditions described in subsection 3.002(3)(n) of the zoning ordinances. The SFW-20 Zone allows parcels smaller than 20 acres according to the same conditions. These conditions are designed to assure that such dwelling will be ~~sued~~ in conjunction with commercial agricultural enterprise in the area.

Non-farm development is also permissible in the F-1 Zone and the SFW-20 Zone if it does not utilize productive farmland and if it does not interfere with farm practices on adjacent or nearby land. These zones conditionally permit all non-farm uses that are allowed under state law.

Policy

Tillamook County will maintains F-1 and SFW-20 Zones to protect farmland

and farm practices from the unnecessary encroachment of non-farm development. The county's Agricultural Lands Criteria will be used to establish priorities for the availability of farmland for conversion to non-farm uses. Land will not be removed from the farm zones without appropriate consideration of need, consequences, alternatives and compatibility. Minimum lot size requirements will be enforced to help protect agricultural land from conversion to non-farm use. The creation of parcels smaller than the prescribed minimum and /or the placement of dwellings on such parcels shall be permitted if approved by the County Planning Commission according to the criteria required by state law and following the procedures prescribed in the county's zoning ordinance.

4.2 AGRICULTURAL ADVISORY COMMITTEE

Findings

The Tillamook Soil and Water Conservation District (SWCD) Board has served as the County's agricultural Advisory Committee for the past 3 years during the revision of the County's Comprehensive plan. They have had an essential role in the Agricultural planning process, reviewing every product to assure consistency with local resources and needs as well as compliance with state law.

This relationship was anticipated by a Memorandum of Understanding that the District entered into with the Tillamook Board of County commissioners on April 19, 1978. This memorandum recognizes that "the District has been duly established under the authority of ORS 568.210 to 568.800 with responsibility for establishing and administering programs for planning and management of renewable resources lying within its jurisdictional boundaries ...". The County agreed to:

- (1) "Recognize the District's Natural Resources Conservation Program as official input to the comprehensive planning process,
- (2) Recognize the District's Annual Work Program as the implementing mechanism for appropriate Natural Resource Conservation Program objectives and policies which have been included in the comprehensive plan,
- (3) Recognize the District as the local leader in matters pertaining to the planning and management of renewable natural resources."

The SWCD's Natural Resource Conservation Program objectives and

policies have been incorporated into the County Comprehensive Plan's Agricultural Findings and policies with additions that have been approved by the District Board. Moreover, the District played an essential role in the development of the County's agricultural Lands Criteria and in the County's successful campaign to bring land into the Exclusive Farm Use Zone on a voluntary basis.

The SWCD can continue to assist the County by providing technical advice on all aspects of the County's agricultural planning process, consistent with their Memorandum of Understanding with the Board of County Commissioners. The SWCD's Annual Work Program can serve as an implementing mechanism for many of the agricultural policies that are adopted as part of the comprehensive plan. The District can make recommendations on agriculturally-related land use actions that come before the County Planning Commission, and they can conduct a quarterly review of important agricultural-related decisions that have been made by the County's Planning Department, Planning Commission, and Board of Commissioners. This review would provide a perspective on the cumulative effect of these decisions on the protection of the County's productive agricultural lands.

Policy

Tillamook County recognizes the essential contributions of the Tillamook Soil and Water Conservation District Board to the County's agricultural lands planning process and supports the continued involvement of the District in all aspects of Agricultural lands planning. This includes technical advice, policy implementation, recommendations on land use actions, and a quarterly review of important agriculturally-related decisions made by the County Planning Department, Planning Commission, and Board of Commissioners.

4.3 TECHNICAL AND FINANCIAL ASSISTANCE

Findings

The Oregon State University Extension Service, and the USDA's Soil conservation Service, Agricultural Stabilization and Conservation Service, and Farmers Home Administration have local offices which provide technical and financial services for agricultural producers in Tillamook County.

The Extension Service, with its local Extension Agent, provides information, education and technical support to local agricultural organizations and

individual producers. This service literally extends many of Oregon State University's educational and technical resources into the local community. The Extension Agent serves as an advisor to the Tillamook County Soil and Water Conservation District and has provided technical assistance in the development of the Agricultural Element of the County's comprehensive plan, including the Agricultural Lands Criteria.

The Soil Conservation Service (SCS) has a cooperative working arrangement with the locally-elected Tillamook County Soil and Water Conservation District (SWCD) which includes assistance in the development and implementation of the SWCD's Natural Resource Conservation Plan. SCS provides direct technical assistance to individuals and groups of landowners or units of government with direction from the SWCD. The assistance that SCS provided in the development of the County's Agricultural Lands Criteria is described in Exhibit A. The SWCD's authority and role in the County's agricultural lands planning process is described in Section 3 and subsection 4.2.

In addition, SCS has administrative responsibility for the following project-type activities: 1) River Basin Surveys such as the USDA "Tillamook Bay Drainage Basin Sediment and Erosion Study"; 2) The Small Watershed Program which provides financial assistance for the protection and beneficial use of water resources in the County's watersheds; 3) The Watershed Emergency Operation Program which provides financial support for the rehabilitation of watersheds damaged by natural disasters such as flooding and fire; and 4) the Resource Conservation and Development Program which has broad application to the orderly development of rural and urban areas, consistent with the protection and enhancement of natural resources.

SCS also provides technical assistance for the following cost-share programs and projects administered by the Agricultural Stabilization and Conservation Service (ASCS): 1) The Agricultural Conservation Program (ACP) which provides financial support for the protection and enhancement of soil and water resources; 2) The Emergency Conservation Program which provides financial support for the rehabilitation of farm land damaged by erosion, floods and other natural disasters; and 3) Rural Clean Water Projects. ASCS has a current application in for a Rural Clean Water Project which, if approved, would make an additional two million dollars available to farmers in the Tillamook Bay Drainage Basin for ACP-type projects.

ASCS also administers the Forestry Incentive Program (FIP) which provides financial assistance to private landowners for tree planting and timber stand

improvement. The Oregon State Department of Forestry provides technical assistance for FIP through their service forestry program.

A county ASCS Committee provides overall direction for ASCS-administered programs and projects, and approves individual applications for financial assistance. This Committee is made up of three agricultural producers who are elected by the County's farmers. These programs are administered by ASCS's County Executive Director.

The ASCS Committee and the SWCD work closely together in their common effort to bring about the conservation, development and wise use of land, water and related resources. ASCS and SCS staffs have a similar relationship which is facilitated by their sharing an office in Tillamook.

The Farmers Home Administration (FmHA) channels credit to farmers, rural residents and communities, while providing counseling and technical assistance to borrowers. FmHA programs which preserve and enhance agricultural resources and promote agricultural enterprise include loans for farm ownerships, operations and emergencies, along with loans for irrigation and drainage, grazing watershed, soil and water conservation and resource conservation and development.

Some other FmHA programs have been criticized for contributing to the conversion of productive farmland to non-farm uses. This includes loans for financing non-farm dwellings and sewer and water systems outside of established communities in agricultural areas. These loans can promote a degree of non-farm development on agricultural land that would not otherwise be possible.*

Policy

The County recognizes and encourages the financial and technical service provided by the Oregon State Extension Service and the USDA's Soil Conservation Service, Agricultural Stabilization and Conservation Service and Farmers Home Administration which preserve and enhance agricultural resources and promote agricultural enterprise. The County particularly supports and encourages those programs which require local initiative and direction.

4.4 FARM TAXATION

Findings

Oregon is one of a majority of states which has adopted a farm use value taxation program whereby farmland is assessed for its value in farm use and not at any higher value it might have if it were converted to a non-farm use. The legislature recognized that farmers can be financially compelled to convert their land to non-farm uses when it is taxed at its full development value. The acreage requirements of farming are such that farmers cannot afford to pay the same per acre tax rate as can the owners of non-farm businesses or homesites that require substantially less acreage.

The legislature has specifically provided that "Any land which is within a farm use zone . . . and which is used exclusively for farm use as defined in subsection (2) of ORS 245.203, shall be assessed at its true cash value for farm use" [ORS 3-8.370(1)]. The legislature has also exempted land in the farm zone from certain special district assessments, including those for sewer and water (ORS 308.401).

The reduced farm tax rate for land in the farm zone is reasonable and equitable as farmers still pay their own way when it comes to taxes. Even with the lower farm rate, the tax returns to the community from farms are generally greater than required public service and facility outlays to service farms. An 80-acre farm does not require as much public expenditures for school services, fire protection, road maintenance, and utility services as does 80 acres of more dense non-farm development. Moreover, substantial public benefits are derived from the incentive that the lower farm tax rate provides for keeping land in farm use as this helps assure an adequate and affordable food supply in the future.

The inclusion of a little more than 35,000 acres in the Farm Zone should not lead to significant increases in the property taxes paid by non-farmers in the county. In 1979, prior to the current rezoning of the county's land, the County Assessor had already certified over 32,000 acres as qualified by state law of the farm tax rate. Less than 13,000 acres were in the farm zone at that time. The approximately 3,500 acres that has not been receiving the farm tax, but which are not included in the farm zone are made up primarily of woodland which qualifies for a forest tax or is farm land that already qualified for the farm tax but whose owner had not filed the necessary application with the County Assessor.

One questionable feature of current State law is the provision for a farm use tax assessment for land that is not within a farm zone [ORS 308.370(2)] if certain minimum farm income requirements are satisfied to assure that the land is currently being used for agricultural purposes. The owners of such land have not made the same long-term commitment to continued

agricultural production as have those whose land is included in the farm zone, and consequently are not providing the same public benefits.

A recent congressional report indicates that farm value assessment for land not in an exclusive farm use zone tends to encourage speculation without actually protecting farmland.* This report concludes with the recommendation that "States and localities that offer preferential farmland assessments should insist that . . . tax advantages apply only to acreages where exclusive farmland zoning or other legally binding covenants will keep the land in agricultural use".

Policy

Tillamook County, recognizing the public benefits that are derived from a long-term commitment of productive land to farm use, supports continued farm use value taxation for land that is included in the exclusive farm use zone. The County request that the state legislature repeal the State law which permits a farm use assessment for land that is not in an exclusive farm use zone. The owners of such land have not made the same long-term commitment to continued agricultural production as have those whose land is in exclusive farm use, and consequently are not providing the same public benefits. However, land that is removed from the exclusive farm use zone following an action by the governing body that was not requested or initiated by the owner should continue to be eligible for farm use assessment until the owner actually stops farming and converts the land to a non-farm use.

4.5 PROTECTION OF FARM PRACTICES

Findings

Tillamook County's relatively narrow valleys and existing development patterns make it impossible to isolate farmland from non-farm development.

Even in areas where most of the land is committed to agriculture, farmers may still be outnumbered by non-farm neighbors who may object to such farm practices as the spreading of animal manure or the use of herbicides.

Such objections can take the form of nuisance lawsuits resulting in financial liability for the farmer or the suspension of agricultural operations. Opposition to various farm practices is likely to increase in the future as more people who were raised in an urban environment move to Tillamook County.

Oregon State law currently prohibits the enactment of local ordinances that "would unreasonably restrict or regulate farm structures or . . . accepted farm practices because of noise, dust, odor or other materials carried in the air or

other conditions arising therefrom if such conditions do not extend beyond the boundaries for the exclusive farm zone within which they are created in such manner as to interfere with the use of adjacent lands". (ORS 215.213)

This law provides limited protection for farmers in the farm zone as the question of what constitutes an "reasonable" restriction or regulation and what constitutes "accepted" farm practices are still subject to litigation and legal interpretation. Moreover, farmers are NOT protected by state law when the effects of their practices extend beyond the boundaries of the exclusive farm use zone. This is a particular problem for farmers in areas where commitments to non-farm development have caused the county to intersperse non-farm zoning with exclusive farm use zoning. This concession to non-farm development in predominantly farm areas could lead to significant restrictions on farm practices without further recognition of the right of farmers to continue the reasonable and customary farm practices that are required to maintain a profitable farm enterprise.

So called "right to farm" laws, which are designed to protect farmers from nuisance lawsuits, provide only limited protection no matter how well these laws are worded. In a comprehensive review of this approach in the November-December 1980 issue of the Aglands Exchange, the Director of the National Association of Counties Research Foundation's "Agriculture Lands Project" concludes that "right to farm" laws are of questionable value as a means of protecting the farmer from nuisance suits that result from land use conflicts that, in turn, stem from the encroachment of residential development into agricultural areas. This review further concludes that:

"The most that can be said for the 'right to farm' laws . . . is that they offer just a bit more protection to the farmer than does the common law of nuisance. The worst that can be said about the 'right to farm' laws is that, if indeed they are constitutional, they hold out to farmers a false promise of security that cannot be fulfilled. In this sense, they are a poor substitute for the one method of protecting agriculture from land use conflicts that offers real hope for its future security . . . discouraging residential development of agricultural areas in the first place."

The most effective and equitable way to avoid land use conflicts that may lead to restrictions on farm practices is not for farmers to change the way they use their land because odors and noise are an integral part of agriculture - but rather to utilize appropriate zoning to separate agricultural uses from non-farm development as much as possible, given topography and existing land use patterns.

Policy

Tillamook County recognizes that many customary farm practices may be offensive to non-farm neighbors, and that the most effective way to protect farm practices is to discourage non-farm development in agricultural areas. Moreover, the County regards the effects of farm practices coming from farms located within the exclusive farm use zone as reasonable and not subject to restrictions so long as they are no more offensive than what is customarily required to maintain a profitable farm operation and they are in conformity with existing federal, state and local laws.

4.6 EXTENSION OF PUBLIC SERVICES AND FACILITIES

Findings

The extension of services, such as sewer and water systems into rural farm areas permit a degree of non-farm development that would not otherwise be possible, and encourages the premature conversion of farmland to other uses. Public sewer systems are seldom, if ever, necessary to facilitate farm-related development. Public water systems are often necessary in farm areas but they need not be constructed in such a way that their long-term economic feasibility depends upon non-farm development of productive farmland.

Policy

Extension of services, such as sewer and water systems, into rural farm areas should be appropriate for the needs of agriculture and those non-farm uses permitted in the exclusive farm use zone should not be connected with any use that is not allowed in that zone, should not be assessed as part of the farm unit, and should be limited in capacity to serve specific service areas and identified needs.

4.7 HIGHWAY LOCATION

Findings

Highway construction has eliminated valuable agricultural land, adversely affected the use of adjacent pastures and undermined the viability of entire farms in Tillamook County. The County's narrow valleys are especially susceptible to the adverse effects of highway construction as farmland can be divided in a way that makes it impossible to conduct a profitable farm enterprise, particularly if adequate livestock and equipment access is not

provided under or across highways. Highway construction on farmland also encourages non-farm developments which can ultimately lead to the removal of an entire area from agricultural production.

Policy

Federal, state and local government decisions on the location of highways within Tillamook County must take into account the County's commitment to protect productive agricultural lands. Highways should not be constructed on land within the farm zone unless it is absolutely necessary. The realignment of highway corridors should occur along the edge of foot hills above farmland whenever possible. When farmland is divided by highway construction access should be provided under or across highways for livestock and equipment. Culvert sizing and placement shall be consistent with the drainage needs of adjacent farmland. Proposals for the construction of new highways or the alteration of existing ones shall be reviewed by the Tillamook Soil and Water Conservation District to determine their effect on farm land.

4.8 AGRICULTURAL/FORESTRY INTERRELATIONSHIP

Findings

Many farm ownerships contain both agricultural bottomlands and forested uplands. The 1978 Census of Agriculture indicates that 9,699 (23%) of Tillamook County's 42,024 farm acres are classified as woodland. Management of these woodlands can be an integral part of a farm operation as income from timber sales may be used to overcome short-term cash flow problems or for needed investment in capital facilities. Farmers also convert land from woodland to pasture or visa versa over time depending upon the type of land, economic conditions and individual preference. Administration of the state land use planning law recognizes the interchangeability of resource land management by not requiring an exception to show why one resource designation is chosen over another when inventoried lands satisfy the definition requirements of both the agricultural and forest goals⁽¹⁾

Whether resource land is placed in a farm or forest zone has no significant effect on its tax status. The inclusion of woodland in the farm zone does not disqualify it from the forest lands tax, nor does the inclusion of farmland in the forest zone disqualify it from the farmland tax. However, inclusion of land in the farm zone does increase the probability that it will qualify for the farm tax (see ORS 308.370 and ORS 308.372), and up to 20 acres of woodland may receive a farm tax, if it is contiguous to land in the same ownership that

is assessed at the farm rate even if the woodlot is not utilized in conjunction with farm use [see ORS 215.203(2)].

Tillamook County has taken into account both the resource potential and the preferences of the owners in determining the appropriate zoning of woodland that is included in a farm ownership. Approximately 3,500 acres of woodland in farm ownerships have been included in the farm zone (EFU). Approximately 2,000 acres have been included in the Forest Zone, and about 4,000 acres in the Small Farm and Woodlot 10-Acre Zone. With 90 percent of the County's land in forest use and only 5 percent in farmland, the county has been inclined to include land with mixed (farm/forest) resource value in the farm zone unless there were compelling reasons to do otherwise.

Policy

Tillamook County recognizes the interrelationships between agricultural and woodlot management on many farm ownerships. The conversion of land from one resource use to another shall remain at the discretion of the property owner. The interchange of such lands should not be subject to tax penalties. The County will continue to permit forest uses in the Farm Zone and farm uses in the Forest Zone. The inclusion of woodlot acreage in the Farm Zone should not disqualify it from woodlot management assistance programs.

4.9 AGRICULTURAL DIVERSIFICATION

Findings

Tillamook County's agriculture is dominated by its dairy industry, with dairy-related agriculture producing 90% of the County's farm income in 1979. (See Table 4, p. 13.) Five percent of the County's farm income came from such specialty products as nursery stock, forest greenery, and holly; 2.2 percent came from non-dairy-related beef production; 2.5 percent from miscellaneous animals and products, primarily mink; and 0.2 percent from the sale of hay and forage. All other farm commodities, including field crops, small fruits and berries, truck crops, hogs and pigs, sheep and lambs, and poultry and eggs, produced only 0.3 percent of the County's total farm income. These percentages have remained relatively constant during the decade of the ~~1970's.~~
1970's.

While dairy farming is likely to maintain its strong position in the foreseeable future, there is potential for significant increases in nondairy-related

agriculture. The County's climate and soils are well-suited for a number of nondairy products, including beets, potatoes and other truck crops, blueberries, cranberries, raspberries, boysenberries and other berries; nursery stock and holly; poultry and eggs; and such nondairy animals as beef, hogs, rabbits and mink.

The potential for diversification is shown by the fact that in 1968 vegetable sales reached \$225,000 which was 2.3 percent of total farm sales for that year. (The 1980 estimates are \$30,000 and 0.07 percent respectively.) The 1968 figures reflect the high point of Birds Eye's commercial broccoli venture, which produced high yields, excellent quality and an early harvesting date. The cool marine air made possible early plantings of broccoli with early harvest starting in June and continuing until late August or early September. The operation at first proved successful, and in 1968 the acreage was increased to 400 acres. However, it was determined that transportation costs to the processing plant in the valley outweighed the advantages and production was discontinued. 1

Transportation costs are one of the primary constraints on the development of nondairy-related agriculture, given the County's relative isolation from markets and suppliers of raw materials. Another factor is inexperience in alternative forms of agricultural production. The success of the County's dairy industry demonstrates that the negative effects of the County's relative isolation can be overcome by expert producers, the development of a local processor, and successful marketing procedures. For example, there has been a recent significant increase in rabbit production in the county as a result of the development of a rabbit marketing cooperative. In fact, the County's relative isolation from heavily populated areas can be advantageous to agriculture to the extent that it limits potential conflicts between farmers and non-farm neighbors.

Policy

Tillamook County recognizes the potential of nondairy agriculture, and encourages efforts to diversify the agricultural sector in a manner that is consistent with the continued vitality of the dairy industry.

4.10 FLOOD CONTROL

Findings

More than 15,000 acres of agricultural land are subject to periodic flooding in Tillamook County. Flooding restricts the use of land because of resulting

sediment deposition, debris, and limitations placed on animal waste disposal. Flood problems result from both natural factors and man's use of the land.

The two main natural causes of floodwaters are the rapid runoff from the mountains and high tides which block ~~sea~~^{flood} water outlets. These natural causes are compounded by man's intensive use of the land including timber harvesting and road construction in steep forested areas, improper pastureland management, and construction in areas that are subject to periodic flooding.

Floods are more likely to occur during the November to March heavy precipitation period, and may occur as early as September or as late as May. Fairly continuous rainfall during this period saturates the soil and causes heavy runoff from the steep, upper portions of the watersheds. When this heavy runoff reaches the lower portions of the streams in the flatter valleys, water overflows the channels, floods many of the fields, and drops sediment and debris.

Inundation from ocean tidal waters is common along the lower parts of the coastal watersheds. Most damage occurs when the abnormally high tides and severe winter storms coincide. Dikes and tidegates have been installed to protect many areas, but some of these structures are inadequate or in need of repair and many other areas are entirely without such protection^①

Flood control generally requires coordinated and comprehensive measures. Individual efforts to control flooding, such as the construction of dikes, may adversely affect neighbors by diverting water onto their property. Efforts to control flooding and its effects are being undertaken by the Tillamook Soil and Water conservation District, the North Coast RC & D Project, the Oregon Department of Forestry, the Oregon Department of Water Resources, the County Planning Commission and other agencies. Measures to decrease flood damage include enforcing the Forest Practices Act on forest lands, strengthening and enforcing the provisions of the County's Flood Hazard Zone, identifying flood-control reservoir sites, dredging and removing debris from slough and river channels to improve water flow, maintaining dikes and installing and maintaining pumping stations.

Policy

Tillamook County supports coordinated and comprehensive efforts to control flooding on agricultural land by enforcing the State Forest practices Act and the County's Flood Hazard Zone, improving slough and river channels, maintaining dikes, and installing and maintaining pumping stations.

4.11 SOIL CONSERVATION

Findings

Soil may be the County's most valuable resource as it provides forest trees, pasture grasses, and other life basic to our survival. The County's heavy annual rainfall and the steepness of over 90 percent of its land create serious soil erosion problems, particularly along more than 250 miles of the County's rivers and streams. Soil erosion eliminates agricultural land and wildlife habitat, and is contributing sediment to the County's waters adversely affecting shipping and navigation, commercial and sports fishing, oyster production and clamming, and other environmental and aesthetic features of the area.

The USDA's "Tillamook Bay Drainage Basin Erosion and Sediment Study" reveals that stream bottom scour and channel bank cutting results in the annual erosion of over 8,200 tons of agricultural soil in the Tillamook Basin, 7,700 tons of which is deposited as sediment in Tillamook Bay. Sheet and rill erosion result in the annual loss of an additional 5,152 tons of agricultural soil in the Basin over 1,000 tons of which is deposited as sediment in Tillamook Bay. The Tillamook Basin contains about one-half of the County's agricultural land; these lands are the source of approximately 15 percent of the sediment that reaches Tillamook Bay.

This study indicates that the following erosion control measures are likely to provide economic benefits: removing of stream debris, riprapping of critically eroding streambed areas, applying pit run gravel on eroding cattle trails, and deferring grazing in problem areas. Other measures that merit consideration include plowing, seeding, fertilizing and irrigating eroding areas, resloping and revegetating, and installing portable electric fencing to keep livestock away from eroding areas.

Efforts to establish conservation practices that will maintain soils on agricultural lands are being undertaken by the Tillamook Soil and Water Conservation district in cooperation with local, state and federal resource management agencies.

Policy

Tillamook County supports efforts to control soil erosion on agricultural lands, including implementation of economically feasible recommendations of the USDA's "Tillamook Bay Drainage Basin Erosion and Sediment Study" that are consistent with Tillamook Soil and Water Conservation district's

Coordinated Resource Management planning for stream corridors.

4.12 ANIMAL MANURE MANAGEMENT

Findings

Animal manure runoff from agricultural operations has been identified as a source of pollution in Tillamook Bay and its tributary streams. The Tillamook Bay Basin contains approximately 60 percent of the County's agricultural land and about one-half of its dairy farms.

In 1974 and 1977, the Federal Food and Drug Administration found that Tillamook Bay shellfish growing waters did not meet the National Shellfish Sanitation Program standards. High fecal coliform bacteria counts were found. Dairy cattle and other farm animals were identified as contributing fecal coliform to streams which flow into Tillamook Bay. This was confirmed in 1980 by the Oregon Department of Environmental Quality's Bacterial Study.

High fecal coliform concentrations, organic materials and suspended solids adversely affect beneficial water uses such as shellfish harvesting, fishing, swimming and other recreational uses. Depletion of oxygen in the water suffocates fish and may create offensive odors. A high concentration of fecal coliforms, indicating the possible presence of pathogenic bacteria and viruses, may pose a health threat to people consuming uncooked shellfish or ingesting contaminated water. The relative contribution of animal manure to these problems is presently undetermined and subject to considerable controversy.

The 1972 Federal Water Pollution Control act (PL 92-500) and its subsequent amendments set broad water quality goals of fishable and swimmable waters to be attained wherever possible by 1983. Section 208 of this Act establishes Congresses intent to abate pollution from non-point sources.

The Department of Environmental Quality is the designated 208 planning agency in Oregon. In January 1979, Governor Victor Atiyeh designated the State Soil and Water Conservation commission as the implementing agency for Oregon's 208 Agricultural Non-Point Source/Water Quality Program on private agricultural lands. The Tillamook County Soil and Water Conservation District (SWCD) had agreed to serve as the local management agency for 208 implementation on agricultural lands in Tillamook County.

The Tillamook County SWCD has developed an Agricultural Non-Point Source Pollution Abatement Plan for the Tillamook Bay Drainage Basin to achieve the objectives of federal and state law for reducing the agricultural pollution problems that exist in the Basin. The SWCD was assisted by the Tillamook Bay Water Quality Committee, the US Soil Conservation Service, the Oregon Department of Environmental Quality and representatives of numerous other state and local entities. The Water Quality Committee is made up of local citizens who have spent more than 15 months working on the plan.

The purpose of the plan is to reduce agricultural pollution in Tillamook Bay through a voluntary program developed and administered at the local level. Agricultural producers will be given reasonable time, technical assistance and available financial support needed to correct pollution problems. However, if satisfactory progress is not being achieved, a local mandatory program will be implemented.

The Tillamook County SWCD has responsibility for determining if a mandatory phase should be implemented. This determination will be based on the recommendation of an evaluation committee that will be made up of representatives from local and state entities, the 11 representatives will be from Tillamook County. Their evaluation of satisfactory progress will be based on the following considerations: (1) progress in developing agricultural pollution abatement plans; (2) progress in implementing best management practices; (3) water quality monitoring results; and (4) extent of valid agricultural related water quality complaints.

A two-thirds vote is required before the committee can recommend a mandatory phase. Such a mandatory phase can be recommended for the entire Tillamook Bay Drainage Basin, a specific watershed within the Basin or individual agricultural enterprises.

The successful implementation of this plan will ensure continued local control of efforts to reduce agricultural pollution of Tillamook Bay. This will help avoid conflicts between agricultural producers and federal and state agencies.

The animal waste produced on farm throughout the county can be utilized in productive, efficient and nonpolluting ways. All manure can be returned as fertilizer to the county's 30,000 acres of hay and pasture soil. The Tillamook County SWCD provides technical assistance and is seeking additional cost-share funds for the construction of dry storage facilities, pumping equipment, liquid holding tanks and improved drainage systems. The SWCD is also

sponsoring studies to determine the manure loading capacity of pasture soils.

Policy

Tillamook County supports the Tillamook Bay Drainage Basin Agricultural Pollution Abatement Plan's approach to reducing agricultural pollution of Tillamook Bay through a voluntary program developed and administered at the local level. Agricultural producers will be given reasonable time, technical assistance and available financial support needed to achieve the satisfactory progress that is required to avoid implementation of a mandatory program. The objective throughout the County is to utilize animal manure in productive, efficient and nonpolluting ways by returning it as fertilizer to the county's hay and pastureland.

4.13 PASTURELAND MANAGEMENT

Findings

More than 30,000 acres of highly productive hay and pasture lands, the basis of Tillamook County's dairy and cattle economy, must be carefully managed in order to maintain and enhance their productivity for present and future generations. Forage production on many pastures in the County can be greatly increased if management is improved.

Cooperative efforts to improve 5,000 acres of hay and pasture land annually are being undertaken by private landowners, the Soil conservation Service, the Agricultural Stabilization and Conservation Service, the County Extension, and the State Department of Agriculture through weed control, drainage, soil testing, efficient irrigation water management, fencing, rotation grazing plan, and periodic reseeding for improved forage and soil stabilization. The Tillamook Soil and Water Conservation District is also seeding to establish adequate cost share programs for permanent pasture management.

Policy

Tillamook County supports appropriate cooperative efforts between private landowners and local, state and federal management land agencies to improve pasture land management, recognizing that increases in productivity will ultimately benefit a majority of the County's citizens.

4.14 DRAINAGE

Findings

Poorly drained soils and heavy rainfall combine to limit animal manure management and productivity on more than 15,000 acres of the County's agricultural bottom lands. Artificial drainage is necessary on Brallier, Brenner, Coquille, Hebo and Yaquina soils, and it is helpful on Chitwood, Ginger, and Nestucca Soils.

Efforts to improve drainage on the County's farmlands include coordinated planning and technical and cost-share assistance in the installation and maintenance of ditches, tile lines, pumping stations and tide gates. Landowners are currently being assisted by drainage districts, the Tillamook SWCD, SCS, ASCS, North Coast RC & D, and other government agencies.

The twelve drainage districts that have been established during the past 70 years can levy taxes for the construction and maintenance of drainage district structures. Consolidation of these districts could provide a more efficient and equitable basis for addressing drainage problems.

Policy

Tillamook County supports efforts to improve drainage on existing farmland through coordinated planning and technical and cost-share assistance on such measures as ditches, tile lines, pumping stations and tide gates. Consideration should be given to consolidation of existing drainage districts.

4.15 IRRIGATION

Findings

Most of Tillamook County's soils can benefit from supplemental irrigation during dry summer months through the use of sprinkler systems. Well-drained soils, or those that have been adequately drained artificially, respond well to sprinkler irrigation, with the application of water causing no special management problems.

A high percentage of the bottomland is irrigated because water is available. Irrigation of the soils on terraces and on uplands is limited by lack of available water. Irrigation water is obtained mainly from perennial streams, with availability depending upon the possession of legal water rights that are on file with the State Watermaster. According to the 1978 Census of

Agriculture, 95 farms utilize sprinkler irrigation on a total of 4,958 acres within the County.

Policy

Tillamook County will cooperate with local, state and federal agencies in the effort to secure an increased supply of irrigation water and an equitable distribution among the County's farmers, while maintaining adequate stream flows.

4.14 WEED CONTROL

Findings

Noxious weeds, particularly tansy ragwort, continue to infest thousands of acres of private and public land in Tillamook County. All weeds displace more useful vegetation, while tansy ragwort also causes injury, illness and death to livestock.

ORS Chapter 570 recognizes that "noxious weeds . . . are a menace to the public welfare" and establishes "that steps leading to eradication and control are necessary . . . and that county, state and federal government should cooperate with individual owners in the control and eradication of noxious weed pests". ORS 570.515 to 570.600 authorizes county government to establish a weed control district, identify "noxious" weeds, appoint a weed inspector, and take the steps necessary to control noxious weeds. This includes authority for county employees to go upon private land to eradicate weeds when the owner or occupant refuses to do so. In such cases, the cost of eradication can be billed to the owner, and, if necessary, collected by the tax collector in the same manner as taxes are collected.

County government is also authorized to establish a weed control fund (ORS 570.560) and provide cost-share assistance grants to any person owning or occupying land within a weed control district who conducts a weed control project in accordance with state law. The State Department of Agriculture has provided cost-share assistance to the county for weed control since 1976. Such assistance is available for up to 50 percent of the costs of chemicals used, with a current total expenditure limit of \$5,000.

ORS 570.540 provides for the eradication of weeds on public lands and rights-of-way. The State Highway Commission, county government, reclamation districts and municipalities are required "to destroy or prevent the spread or seeding of any noxious weed . . . on any land owned by them

or constituting the right-of-way for any highway, county road, drainage or irrigation ditch, power or transmission line, or other purposes under their respective jurisdictions.

Tillamook County established a weed control district on August 7, 1925, with burdock, Canadian thistle, Chinese thistle, mustard, and Russian thistle identified as noxious weeds. Tansy ragwort was added to this list on October 2, 1940. The County commissioners reaffirmed the weed control district and the list of noxious seeds on June 5, 1953. This list needs to be revised to reflect current pinions on what should be included as noxious weeds.

Efforts to control weed infestation on more than 10,000 acres annually through an integrated program of pastureland management, natural predators, approved chemical sprays, cost-share assistance, and enforcement of weed control legislation are currently being undertaken by the County in cooperation with the State Department of Agriculture, County Extension, and the Directors of the Tillamook County Soil and Water Conservation District, who serve as the County's designated Noxious Weed Advisory Board.

Efforts are currently underway to improve the effectiveness of the County's weed control program. Such improvement requires the cooperative and coordinated efforts of the land owners of all affected property because individual property owners' incentives to control weeds are significantly reduced if control isn't practiced on neighboring properties. The voluntary cooperation of the landowners of all affected properties is being encouraged by assurance that weeds will be controlled on neighboring properties by use of available financial and technical assistance and by enforcement of the relevant provisions of ORS Chapter 570. The State Department of Agriculture has indicated that it will continue to provide cost-share assistance and County Extension will continue to provide needed technical assistance.

Policy

Tillamook County recognizes that continued noxious weed infestation of thousands of acres of private and public land in the County constitutes a menace to public welfare, and that the eradication of such weeds depends upon the cooperative efforts of the owners of all affected land. The County is committed to maintaining available technical and financial assistance and enforcing the regulations in ORS Chapter 570 that assure the effective and equitable control of noxious weeds on lands within the County.

5. TILLAMOOK COUNTY'S EXCLUSIVE FARM USE ZONE

5.1 OVERVIEW

Tillamook County's Farm (F-1) zone and its Small Farm and Woodlot 20 (SFW-20) zone both qualify under state law (ORS 215.213) as exclusive farm use zones. The purpose of the F-1 zone is "to protect farmland and farm practices and to promote agricultural enterprise on land that qualifies for farm use according to state and county requirements." The purpose of the SFW-20 zone is "to protect and promote farm and forest uses on lands which have resource value, but which are not suited for either the Farm (F-1) zone or the Forest (F) zone because of smaller parcel size, conflicting adjacent uses, adverse physical features or other limiting factors".

Approximately 35,000 acres are in the F-1 zone, with an additional 2,500 acres of farmland in the SFW-20 zone. The protection of farmland afforded by these two zones helps assure that the County's agricultural industry can continue to grow and contribute to the economic well-being of the County.

5.2 CONSISTENCY WITH STATE LAW

The State Legislature has stipulated that land within exclusive farm use zones shall be used for those farm and non-farm uses that are defined or enumerated by state law. ORS 215.203 defines "farm use" and ORS 215.213 enumerates those non-farm uses that may be allowed in an exclusive farm use zone. Tillamook County's farm zones includes all uses that are allowed under state law. ORS 308.343 provides that the inclusion of any additional uses would disqualify all land within the County's farm zone from receiving an automatic assessment at its farm use value.

The farm zone is designed to be as flexible as possible given the need to protect farmland and farm practices. All farm uses are permitted outright without Planning Commission review as is the propagation or harvesting of a forest product. Uses that are permitted conditionally include commercial activities that provide agriculture products or services such as a feed and seed store or a veterinary clinic; the mining and processing of rock or other subsurface resources; parks, playgrounds, campgrounds and hunting and fishing preserves; and home occupations. Non-farm dwellings are allowed on the condition that they are situated on land that is not generally suited for agricultural production and if they do not interfere seriously with accepted farming practices on adjacent lands devoted to farm use.

5.3 MINIMUM LOT SIZE REQUIREMENTS

The purpose of a minimum lot size requirement for land in the county's farm zones is to assure that productive agricultural land will not be divided into parcels that are too small for commercial farm use. The state agricultural planning goal stipulates that "such minimum lot sizes as are utilized for any farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise within the area".

Dairying is the predominant type of agricultural enterprise conducted in Tillamook County, with 78 percent of the County's gross farm sales coming from dairy products in 1979. An additional 12 percent came from dairy-related cattle and calf production. The 1978 Census of Agriculture (Preliminary Report) lists a total of 388 farms in Tillamook County, with an average size of 108 acres, 25 of which are in woodland. One-third of these farms were smaller than 50 acres. Since "farms" are defined to include "all lands under the day-to-day control or supervision of one person or partnership", and each farm is likely to contain two or more tax lots (either contiguous or noncontiguous), the size of the average farm lot is substantially smaller than 108 acres.

It is convenient, but not necessary, for a farmer to have all of his land in one contiguous area. Many farmers with operating dairies are interested in purchasing or leasing additional land that may be several miles away and in parcels as small as 20-40 acres. This additional land may have a number of dairy-related purposes, including the production of hay or silage or the pasturing of replacement heifers, dry stock, or beef.

While it is difficult to identify a specific critical minimum acreage that will assure continued farm use, Tillamook County's Soil and Water Conservation District Board and a majority of the County's Citizen Advisory Committee members agreed that 40 or more acres are normally required for a viable dairy farm, and that a 4-acre minimum lot size requirement in the County's primary exclusive farm use zone - - the F-1 zone - - will help protect commercial agricultural land from conversion to non-farm uses. In addition to the 35,500 acres placed in the F-1 Zone, approximately 2,500 acres of more marginal agricultural land is among the 7,000 acres in the SFW-20 Zone, which has a 20-acre minimum lot size requirement. *etc*

The Small Farm and Woodlot Zone (SFW-20) is designed for areas where a 20-acre minimum is sufficient to provide for farm or forest uses. These lands are generally less suited for resource use than land included in the Farm Zone (F-1) or Forest Zone (F) because of smaller parcel size,

conflicting adjacent uses, adverse physical features and other factors. This includes narrow river valleys ~~where~~ the ownerships include both steep hill and fairly level bottom land which is not sufficient to sustain either a commercial farm or a commercial forest operation.

Approximately 7,000 acres have been placed in this zone, representing less than one percent of the County's land area. While at least one-third of these acres have mixed farm-forest characteristics, about 2,500 acres are predominantly farm-type land, while the remaining 4,500 acres are predominantly forest-type land. The parcels that contain predominantly farm land average less than 40 acres while those containing forest land average less than 75 acres.

The SFW-20 Zone provides adequate protection for the resource value of the type of land included in the zone. The 20-acre minimum assures that land in the zone will not be divided in acreage rural lots. Moreover, land in this zone is retained for farm and forest uses through restriction on the types of uses allowed in the zone. The SFW-20 zone qualifies as an EFU zone. Apart from the 20-acre minimum, the zone is more restrictive than either the F-1 or F zones as it combines the restrictive provisions of both zones. The SFW-20 Zone does not allow golf courses as does the F-1 Zone and it contains essentially the same criteria for reviewing conditional use requests as does the F zone. All land divisions in this zone must be reviewed and approved, with particular consideration given to on-site and off-site impacts on farm and forest uses.

The F-1 Zone does allow the creation of parcels smaller than 40 acres if approved by the County Planning Commission according to conditions described in subsection 3.002(5) of the county's zoning ordinance, while the SFW-20 Zone allows parcels smaller than 20 acres under the same conditions. This takes into account the fact that parcels smaller than 40 acres can be used for dairy farming if such use is in conjunction with other farmland in the area. And it permits the establishment of alternative commercial farm uses of greater intensity (such as a nursery) than commercial farms in the area. However, it must be recognized that some legitimate intensive farm uses such as rabbit or poultry farms need not be located on the county's more productive lands. Nor are the F-1 Zone or the SFW-20 Zone appropriate locations for so-called "hobby farms" whose owner's primary vocation is other than commercial agriculture. These uses can best be accommodated in the county's Small Farm and Woodlot 10-Acre Zone which is designed for small-scale agriculture and forest uses.

APPENDIX A

DEVELOPMENT OF TILLAMOOK COUNTY'S AGRICULTURAL LANDS CRITERIA

The first draft of the Agricultural Lands criteria was developed during the Fall of 1978 by a committee comprised of Vic Affolter, County Natural Resource Planner, John Massie, County Extension Agent, Bob Pedersen, Soil Conservation Service (SCS) Tillamook District Conservationist, and George Smith, former SCS Tillamook District Conservationist. Technical assistance was provided by Roger Pfenninger, SCS Soils Scientist and Herb Huddleston, Oregon State University Extension Soils Scientist.

These criteria were reviewed and revised by the Tillamook Soil and Water Conservation District Board at three special meetings held during January and February of 1979. A presentation was made to a meeting of the Tillamook Farm Bureau on February 26. Special agricultural planning meetings were held at five locations throughout the County in March. Background for these meetings was provided in a special March issue of the "Morning Star Gazette", The planning team newsletter, which was distributed throughout the County. The March 7 issue of the Tillamook "Headlight Herald" newspaper featured a front-page article describing the agricultural planning process, as well as publicizing the March meetings (see attached articles).

The criteria were reviewed by the County's five Citizen Advisory Committees during their April meetings. Field tests were conducted in May by Affolter, Massie and Pedersen. The results of these field tests, along with comments received at public meetings, were incorporated in the final draft that was endorsed by the Tillamook Farm Bureau on June 28 and approved unanimously by the Tillamook Soil and Water Conservation District Board on May 30 (see attached letters), the Tillamook County Planning Commission on June 28, and the Board of County Commissioners on July 27 after extensive public hearings.

TILLAMOOK

Soil and Water Conservation District

POST OFFICE BOX 187
TILLAMOOK, OREGON 97141

June 21, 1979

Mel Williams, Chairman
Tillamook County Planning Commission

Dear Mr. Williams,

This is written to inform the Planning Commission that on May 31 the Tillamook County Soil and Water Conservation District Board unanimously approved both the "Criteria for Evaluating Tillamook County's Agricultural Lands" and the "Soil Suitability Rating for Tillamook County's Land Use Plan".

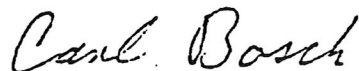
We believe that the agricultural future of Tillamook depends upon wise land use planning based on local resources and needs. We further believe that the above two documents can provide the basis for identifying and preserving our County's agricultural lands, and in so doing, serve as the cornerstone for the planning of our rural lands.

The development of these two documents is the product of the efforts of a large number of people over a year's time. The Soil and Water Conservation District Board is pleased to have been deeply involved in each step of this process. Our involvement reflects our commitment to preserving our County's agricultural lands.

In addition to our unanimous approval of these two documents, we strongly urge that Priority I and Priority II agricultural lands be given the strongest possible protection from the infringement of incompatible nonagricultural uses. We also urge that Priority III and Priority IV lands be preserved for agriculture whenever possible. If and when there is a demonstrated need for converting agricultural land to nonfarm use, we urge that first consideration be given to Priority IV land, with consideration given to Priority III land if Priority IV land is not available in an area where there is a demonstrated need for nonfarm use.

We look forward to continued involvement in all phases of the agricultural lands planning process.

Sincerely yours,



Carl Bosch, Chairman
Tillamook Soil and Water Conservation District Board

cc: Tillamook County Board of Commissioners

June 28, 1979

Tillamook County Planning Commission
Court House
Tillamook, Oregon

Re: Evaluation of countys' agriculture lands

Tillamook County Farm Bureau asks your approval of
the following drafts:

Soil Suitability rating for Tillamook Countys'
Agricultural lands. Revised 5-30-79

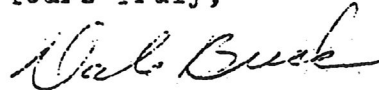
Criteria for evaluating Tillamook Countys'
agricultural lands. Revised 5-30-79

This material will be used in locating and evaluating
the countys' agricultural lands. Agriculture provides
stable employment for adults as well as many summer
jobs for young people who because of age or experience
could not be employed elsewhere. Like all criteria
it needs to be used with care and concern.

Many people worked hard in developing the criteria
and we offer our appreciation for their efforts.

Vic Affolter and those who worked with him have
attempted to obtain as much citizen involvement as
possible.

Yours Truly,



Dale Buck,
President, Tillamook Co. Farm Bureau

Ag criteria hearing draws overflowing crowd

By Lon Lasher
News Editor

County commissioners heard three hours of often emotional testimony Friday concerning proposed criteria for use in determining what land in the county is best suited for farming.

As in the case of several recent hearings on land use matters held by county commissioners, more than 45 people crammed into the tiny hearing room. At times, several people sat on a hallway bench pulled up to the hearing room door.

A second hearing on the criteria is set for July 27 at 1 p.m.

From the session Friday came several suggestions to better criteria.

"Instead of using the term soil suitability, why don't you call it land suitability," asked Dick Townsend, Tillamook city manager.

"You should consider how important the water table is to property," Robert Tobin, Tillamook, said.

"I still think there needs to be a criteria that takes into consideration what the owner desires," said Dave Neal, Tillamook.

The six criteria, which were developed by Vic Affolter, county natural resources planner, through work with the Tillamook County Soil and Water Conservation District and through a number of public hearings around the county, are soil suitability, irrigation, relation to floodplain, parcel size, surrounding parcel size and compatibility of surrounding land uses.

Concern was expressed during the meeting that land already zoned commercial would be downzoned if it met ag criteria. Denny Pastega, who owns land between Hall and Dougherty sloughs, said the uncertainty over that possibility was causing him difficulties in closing a deal.

Ag Lands/Goal 3/Complete

All three commissioners said they were not in favor of downzoning of land already zoned commercial.

"I think these criteria are excellent," said M.L. Schmidt, a Tillamook realtor. "I just want to know when it will start and who it will apply to. I'm not opposed to EFU, but I think there's a matter of choice."

"Within three to eleven months we will have to adjust some zoning," Affolter said. "In the meantime, these criteria will be used to judge suitability of ag land that is proposed for development."

"We have to do that now, but all we have are the guidelines set down by the state goals as written by the Land Conservation and Development Commission. They call all Class I through IV soils agriculture."

Most other comments made during the meeting boiled down into two areas: those who felt there is a need to protect farm land, and those who felt a landowner has the right to do whatever he wishes with his land.

At one point, testimony became so emotional that commissioner Jerry Woodward asked for cooperation among all groups.

"We're arguing about the roof before we even have the foundation built," he said. "I hope we have enough sense to quit fighting among ourselves. If we don't develop these criteria ourselves, LCDC will do it."

"This is not a zone change or an ordinance. It's just a tool for us to use. I hate to see somebody reading into it something that isn't there," Woodward said.

Most of those supporting ag criteria were farmers.

"I came from Switzerland because there wasn't much land for young farmers," said Max Hurliman, Tillamook. I worked on the Adolph Schild farm and helped him clear it. Later, I was able to buy some land of my own. I'm proud of my farm and when I sell it I want to give a young farmer the chance.

"I went to the valley the other day and along the road from Hebo a friend of mine told me there used to be lots of little farms," Hurliman said. "Now there's very few. If a bunch of us farmers don't stand up, we'll have little villages right in the middle of our farms."

Carl Bosch, a Tillamook farmer, said: "Let's quit hedging. There are 47 developments in this county already approved. Why can't we plan the wise use of the farm land we have?"

"I'm not sure we should have a minimum of less than 20 acres," Dale Buck, a Tillamook farmer, said. "But this is just the beginning of the process. We're going to have to do something."

In response to a charge that criteria were developed only by farmers who had a vested interest, that not everyone in the county had had input, Buck said: "The meetings were advertised. But you know all the people don't come. Not even everyone votes."

"We need a set of guidelines to preserve farmland," said Marion Fletcher, Tillamook.

Those opposed to criteria based their opposition on their rights as landowners.

"Are we going to make the decision or is someone else going to do it?" asked Bob Tobin, Tillamook.

"I've got a couple of acres out here that I wanted to build a house on for my kids. I was told it was good farm land for growing bulbs so I can't build a house there," Granville "Granny" Simmons, county commissioner said several times during the hearing.

"Are you out to protect your own two acres or are you acting in the interest of the county," Anita Fletcher, Tillamook, asked Simmons after he made the statement several times.

Ag criteria approved by planners

Criteria for agricultural lands were approved by the Tillamook County Planning Commission Thursday night, June 23, and sent to county commissioners.

Commissioners plan hearings on the criteria sometime this month.

No changes were made in the criteria, but addition of a homestead provision was urged. Under such a provision, a person can retire, subdivide his agricultural land so as to have a home for himself, then sell the rest of the land for farming.

Criteria were supported by both the Tillamook County Soil and Water Conservation District and the Farm Bureau.

The six weighted criteria will be used to analyze land to see whether it should be used for farming or not.

Concerns expressed by the approximately 25 people present centered on landowner control, "condemnation" by other rules and future uses of farm land.

Byron Davis, Tillamook, wanted to make sure people understood future consequences.

"I know there's been a great deal of work put into this, but at the same time I wonder if you're telling people everything. You need to let everyone know the other side. It's easy to say we'll apply these criteria, but it doesn't always work. Are you going to tell them

what's going to happen down the road?"

"While we are trying to protect agricultural land, I can take you to places where people are trying to develop and have not been allowed," Davis said.

Mel Williams, planning commission chairman, said: "The main purpose of these criteria is to help preserve farm land. We are not trying to deceive anyone. I'm sure mistakes have been made in the past and probably will be in the future. But these criteria give us a tool for evaluating land that we didn't have before."

Carl Bosch, a planning commission member and chairman of the TCSWCD board, said the intent of

developing criteria was not to lock any land in, but to make the best use possible of farm land and develop that land that was developable.

"This is only a tool. Each piece must be evaluated on its own merits," Bosch said.

David Neal, Tillamook, said: "What you need is a seventh criteria, the owner's desire. Why not take that in and weight it? Doesn't it carry any water? Isn't this the time to put it in?"

Vic Affolter, county natural resources planner who presented the criteria, replied that policies to be written later would address that problem. "The political process takes into account people's preferences. This is only a way to look at physical criteria."

Ag criteria adopted

Tillamook County commissioners unanimously adopted a set of criteria and policies for determining the agricultural suitability of county lands following a jammed, two and one-half hour public hearing at the courthouse Friday, July 27.

This action, which concluded more than five months of public review and consultation, is a major step forward in the county's efforts to protect its productive agricultural lands, according to Viv Affolter, county natural resources planner.

"Prior to next year's adoption of the county's updated comprehensive plan, the criteria will be used to determine the agricultural suitability of land that is involved in any land use decision or action," Affolter said.

"They will also be used in the actual updating of the comprehensive plan to identify all Soil Conservation Service Class I-IV lands, and other agriculturally related lands, that upon the owner's request could be excluded from the county's Exclusive Farm Use (EFU) zone," he added.

Before adoption of the criteria took place, however, several changes were made in the wording of the resolution and in the criteria themselves by the county commissioners, county planners, and the more than 50 members of the public present at the hearing.

One of the biggest changes since the

instead of a set of six criteria, there are now only four. The criteria are soil suitability, parcel size, surrounding parcel size and compatibility of surrounding land uses.

"Soil suitability now takes into account texture, slope, depth, drainage, available water capacity, flooding, and the availability of irrigation water. The other criteria help to determine how farming is affected by parcel size and the amount of non-farm development that has already occurred in an area," the county planner said.

Testimony given during the last agricultural land use hearing was a major reason for the change, he added.

Policies that were adopted along with the criteria make certain that in reaching any land use decisions, the planning commission, its staff, the Board of Commissioners, and all involved citizens will take into account any additional information presented to them, Affolter said.

"This includes such things as the location of public roads and other physical features that might restrict farming, or government regulations that also restrict farm practices, and so on," he said.

"The policies also point out that the county will not change the zoning of any commercial or industrial land without consent of the owner prior to the adoption of the comprehensive plan," Affolter added.

Steve Wilkinson, a Tillamook businessman, expressed his concern that the criteria favored the farmers in the county, and that not enough consideration was given to the economic and commercial aspects of the community.

"We are not using this system merely to get more land into EFU, but also to get what land we can out of EFU," Affolter responded.

He said that it is important to not only identify farm land, but to also list its availability for non-farm uses.

Commissioner F.E. "Shang" Knight said during the hearing that the list of criteria is much better than what the county presently had for determining land use.

"The state says that all land listed as I-IV by the Soil Conservation Service is strictly agricultural land. With our system, we can at least take some of these marginal areas and put them to other use," Commissioner Knight said.

The criteria and policies were approved previously by both the County Planning Commission and the Tillamook Soil and Water Conservation District Board, and they also received the endorsement of the Tillamook Farm Bureau, Affolter said.

"This resolution can be improved or amended in the future, and any problems or complaints can be brought before the commissioners to be

APPENDIX B

FILED

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON

AUG 5 1 07 PM 1979

JUNE WALKER
COUNTY CLERK

DEPUTY

In the Matter of the Adoption)
of Policies and Criteria for)
Evaluating Tillamook County's)
Agricultural Land for Use in)
the Interim Prior to the Adop-)
tion of the Comprehensive Plan)
as Revised to be Consistent)
with the Statewide Planning)
Goals)

R E S O L U T I O N

WHEREAS, Tillamook County recognizes that the preservation of agricultural land is necessary to maintain a stable and productive economy as well as an attractive and healthy environment; and,

WHEREAS, Tillamook County further recognizes that it must update its Comprehensive Plan to make it consistent with current Oregon State land use planning laws, including the statewide planning goals that were adopted by the legislature in 1973; and,

WHEREAS, the County also recognizes that prior to the adoption of such an updated Comprehensive Plan, land use decisions or actions must be consistent with applicable state laws, including the statewide planning goals;

NOW, THEREFORE, BE IT RESOLVED:

1. In the interim period, prior to the adoption of the County's updated Comprehensive Plan, the Criteria for Evaluating Tillamook County's Agricultural Lands and the Soil Suitability Rating for Tillamook County's Land Use Plan, as well as the policies herein set forth in this resolution, will be used in a determination of the agricultural suitability of land that is involved in a land use decision or action;

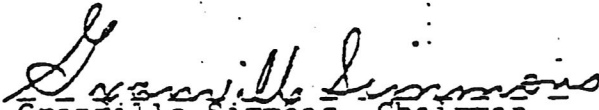
2. The aforesaid Criteria and Soil Suitability Rating and the policies set forth herein will be further used in the act updating of the Comprehensive Plan to identify SCS I-IV soils and other agricultural and related lands that upon the owner's request could be excluded from the County's Exclusive Farm Use Zone.
3. In reaching land use decisions, involved citizens, planning staff, the Planning Commission and the Board of Commissioners shall take into account all additional information that is presented to them, including, but not limited to:
 - a. other considerations that determine the physical suitability of land for agricultural use that are not taken into account in the County's Agricultural Criteria, including water table, soil depth, subterranean water, location of public roads, and other natural or man-made physical features that restrict farming;
 - b. federal, state and local governmental regulations that restrict farm practices;
 - c. environment, energy, social and economic consequences that have a direct bearing on the suitability of the land in question, including a history of the prior use of the land;
 - d. demonstrated need for the requested non-agricultural use consistent with LCDC goals;
 - e. alternative suitable location for the requested use, as identified in available buildable lands information;
 - f. compatibility of the requested use with related agricultural land.

4. Tillamook County recognizes that the owner of the land in question is often qualified to provide a substantial amount of the above information, and that the Planning Commission, staff and Board of Commissioners should give careful consideration to the information provided by the landowner;
5. Standards for qualifying for Tillamook County's Exclusive Farm Use Zone shall not exceed those specified in existing state law; and,
6. In the interim period prior to the adoption of the Tillamook County updated Comprehensive Plan, land presently zoned commercial or industrial shall not be re-zoned exclusive farm unless such a change is requested by the owner or governing body.

BE IT FURTHER RESOLVED that the aforesaid Criteria for Evaluating Tillamook County's Agricultural Land and the Soil Suitability Rating for Tillamook County's Land Use Plan described in Exhibits "A" and "B" are attached hereto and by this reference incorporated herein as if set out in full.

DATED this 27th day of July, 1979.

BOARD OF COUNTY COMMISSIONERS
FOR TILLAMOOK COUNTY, OREGON


Granville Simmons, Chairman


F.E. Knight, Commissioner


Gerald A. Woodward, Commissioner

APPENDIX C

CRITERIA FOR EVALUATING TILLAMOOK COUNTY'S AGRICULTURAL LANDS

Four criteria have been developed to evaluate the agricultural suitability of the land in Tillamook County. There may be a need to utilize some of the County's existing and potential agricultural lands for urban and rural non-farm uses. Therefore, it is important that farm land is not only identified, but is given priorities for its availability for non-farm uses. This is not done to encourage a process of conversion, but rather to 1) promote preservation of agricultural land, and to 2) guide conversion of the least valuable agricultural land to non-farm uses if and when such conversion becomes advisable.

The criteria are:

1. Soil Suitability (13)
2. Subject's Parcel Size (4)
3. Surrounding Parcel Size (2)
4. Compatibility of Surrounding Land Use (6)

A weighting system has been devised to indicate the relative importance of each criterion. The respective weights are the numbers in parentheses that follow each criterion. For example, the weights indicate that "surrounding parcel size" is one-third as important as "surrounding land use".

Land will be given a best, very good, good, fair or limited rating according to standards set for each criterion. Four (4) points will be given for a "best" rating, three (3) for "very good", two (2) for "good", one (1) for "fair", and zero (0) for "limited". These ratings will be multiplied by a criterion's relative weight. For example, if the soil on a particular parcel receives a best rating, the parcel would be given 52 points. (We multiply the 4 points it receives for its best rating by its weighting factor of 13.) If the soil had received a very good rating, the parcel would have been given 39 points (3 X 13). The Soil rating is then adjusted if the parcel has artificial drainage, if irrigation water is available, or if it is within the 100-year flood plain.

The next step is to rate the parcel according to its size. If it receives a best rating for parcel size, it would be given an additional 16 points (4 X 4). The process continues until the parcel is given points according to its rating on each of the four criteria. These points are then added up to determine the parcel's relative suitability for agriculture. Possible scores range from zero (all limited) to 100 (all best).

Priorities are assigned to agricultural land according to its suitability rating:

| | |
|---------------|-----------------|
| Priority I: | 75 - 100 points |
| Priority II: | 50 - 74 points |
| Priority III: | 25 - 49 points |
| Priority IV: | 0 - 24 points |

These priority groupings will be used in determining whether non-farm development should occur on a particular parcel of land. Priority IV should be given first consideration when there is a demonstrated need for converting existing or potential agricultural land to non-farm use.

1. SOIL SUITABILITY (Wt. of 13)

a. OBJECTIVE

To rate land for agricultural use according to the suitability of the soil for producing agricultural goods.

b. JUSTIFICATION

While the Soil Conservation Service's land capability classification is useful for identifying agricultural lands, a more specific evaluation of each of Tillamook County's soil map units is needed to justify the non-farm use of any of these lands.

c. STANDARDS

See "Soil Suitability rating for Tillamook County Land Use Plan" for a discussion of the specific standards used, and the priority groupings of the individual soil; map units based on these standards.

2. SUBJECT'S PARCEL SIZE (Wt. of 4)

a. OBJECTIVE

To rate land for agricultural use according to the size of the subject's parcel, including any adjoining parcels under the same ownership.

b. JUSTIFICATION

To assure that a parcel's size is sufficient to support a current or potential

farm use.

c. STANDARDS

- (16 pts) BEST: If the parcel is 80 acres or larger in size.
- (12 pts) VERY GOOD: If the parcel is between 40 and 80 acres in size.
- (8 pts) GOOD: If the parcel is between 20 and 40 acres in size.
- (4 pts) FAIR: If the parcel is between 5 and 20 acres in size.
- (0 pts) LIMITED: If the parcel is less than 5 acres in size.

3. SURROUNDING PARCEL SIZE (Wt. or 2)

a. OBJECTIVE

To rate land for agricultural use according to parcel size within one-quarter mile of the perimeter of the subject site.

b. JUSTIFICATION

Large parcel areas are more suitable for the continuance of agriculture than are areas that have been divided into relatively small parcels.

c. STANDARDS

- (8 pts) BEST: If more than 50% of the surrounding area contains parcels of at least 80 acres in size.
- (6 pts) VERY GOOD: If between 25% and ~~50~~⁵⁰% of the surrounding area contains parcels of at least 80 acres in size, OR more than 50% of that area contains parcels of at least 40 acres in size.
- (4 pts) GOOD: If between 25% and ~~50~~⁵⁰% of the surrounding area contains parcels of at least 40 acres in size, OR more than 50% of that area contains parcels of at least 20 acres in size.
- (2 pts) FAIR: If between 25% and 50% of the surrounding area contains parcels of at least 20 acres in size OR more than 50% of that area contains parcels of at least 5 acres in size.
- (0 pts) LIMITED: If none of the above standards are met (i.e., less than 25% of the surrounding area contains parcels of at least 20 acres in size, AND less than 50% of that area contains parcels of at least 5 acres in size).

NOTE: A parcel should be given the highest rating for which it qualifies according to the above standards.

4. COMPATIBILITY OF SURROUNDING LAND USES (Wt. of 6)

a. OBJECTIVE

To rate land for agricultural use according to the compatibility of adjacent land uses and those that exist within one-quarter mile of the perimeter of the subject parcel.

b. JUSTIFICATION

To restrict the close association of agricultural uses and non-agricultural uses which have the potential of adversely affecting one another.

c. STANDARDS

- (24 pts) BEST: If none of the adjacent land AND not more than 10% of the surrounding area* is committed to non-agricultural uses.**
- (18 pts) VERY GOOD: If not more than 10% of the adjacent land AND not more than 25% of the surrounding area is committed to non-agricultural uses.
- (12 pts) GOOD: If not more than 25% of the adjacent land AND not more than 50% of the surrounding area is committed to non-agricultural uses.
- (6 pts) FAIR: If not more than 50% of the adjacent land AND not more than 75% of the surrounding area is committed to non-agricultural uses.
- (0 pts) LIMITED: If none of the above standards are met (i.e., if either more than 50% of the adjacent land OR more than 75% of the surrounding area is committed to non-agricultural uses).

*"Surrounding area" is that area which is within one-quarter mile of the perimeter of the subject parcel.

**"Non-agricultural uses" are those uses that are not allowed within the County's Exclusive Farm Use Zone.

APPENDIX D

SOIL SUITABILITY RATING FOR TILLAMOOK COUNTY'S LAND USE PLAN

AGRICULTURAL POTENTIAL

Tillamook County's soils are initially rated according to their natural ability to produce agricultural goods without managerial inputs such as artificial drainage or irrigation. Texture, slope, depth, natural drainage, and available water holding capacity are the properties* that are utilized to divide the soils into five agricultural potential groups: Group I (Best), Group II (Very Good), Group III (Good), Group IV (Fair), and Group V (Limited).

Tillamook County has approximately 40,000 acres in cropland and pasture according to the most recent Soil Conservation Service survey. 8,392 acres (20.8%) have been included in Group I, 7,745 acres (19.2%) in Group II, 8,029 acres (19.9%) in Group III, 12,316 acres (30.6%) in group IV, and 3,818 acres (9.5%) in Group V.

Four (4) points are given to those soils in Group I, three (3) to those in Group II, two (2) to those in Group III, one (1) to those in Group IV, and zero (0) to those in Group V. These rating points are multiplied by 13 (the relative weight for soil suitability) to determine the number of points that are given a parcel for the agricultural potential of its soil. Adjustments are made for artificial drainage, irrigation water, and flooding to determine the total score for soil suitability.

MULTIPLE SOILS

If a parcel has two or more soils which fall into different suitability groups, a weighted average is taken to determine the overall soil suitability value. For example, if one-half of a parcel is made up of a Group II soil (which has a 39 point value) and the other half is a Group IV soil (which has a 13 point value), the soil suitability score for the entire parcel is 26 points ($1/2$ of 39 plus $1/2$ of 13+20).

ARTIFICIAL DRAINAGE

Drainage is a major problem on much of Tillamook County's agricultural land because of heavy rainfall and the low position and slow permeability of many soils. Artificial drainage is necessary on the Brallier, Brenner, Coquille, Hebo, and Yaquina soils. It is helpful on the Chitwood, Ginger and Nestucca soils.

*The sources of this information are the Soil Conservation Service's "Tillamook Area Soil Survey" (1964), and their more current "Soil Interpretations for Oregon" (OR-1's). These OR-1's are the Soil Conservation Service's description of the characteristics or properties of each soil.

Artificial drainage increases the soil's potential for agricultural use. This is taken into account by given the soil the rating it receives if it is well or moderately well drained as the result of the installation of appropriate drainage measures. The cost of installation is accounted for by deducting 8 points if dikes, tidegates, and pumping stations were required (Brallier, Brenner and Coquille). Four points are deducted if only field ditches or tile lines were required (Hebo, Yaquina, Nestucca, Chitwoods, and Gingers).

IRRIGATION

Most of Tillamook County's soils can benefit from irrigation during dry summer months. this is taken into account by subtracting 5 points if the parcel does not have irrigation water available. (The Availability of irrigation water is determined by the legal water rights that are on file with the state watermaster.)

FLOODING

Flooding can restrict the use of agricultural lands because of resulting sediment deposition, debris, and limitations placed on waste disposal. The effect of flooding is taken into account by subtracting 5 points if the parcel is within the 100-year flood plain as defined on CH2M Hill's Flood Insurance Rate Map.

GROUP I: BEST SOILS (52pts)

Soils with best agricultural potential are those that are 60 inches or more deep. They have a total available water holding capacity of 9 or more inches. Slopes are 3 percent or less. They are well to moderately well drained. Soil surface textures allowed in this group are loam and silt loam. Total acreage is 8,392 (20.8%).

DEPTH
60" or more

AWC
9" or more

SLOPE
3% or less

DRAINAGE CLASS
Well or moderately well

TEXTURE
loam and silt loam

SOILS INCLUDED IN THE BEST GROUP:

1. Nehalem silt loam, 0-3% slopes (11c)* (8,392)**

* SCS Land Capability Classification

** Acreage in cropland and pasture

GROUP II: VERY GOOD SOILS (39 pts)

Soils with very good agricultural potential are those that are 60 inches or more deep. They have a total available water holding capacity of 7.5 or more inches. Slopes are 7 percent or less. They are somewhat poorly to somewhat excessively drained. Soil surface textures allowed in this group are loam and silt loam. Total acreage is 7,745 (19.2%).

DEPTH
60" or more

AWC
7.5" or more

SLOPE
7% or less

DRAINAGE CLASS

Any in Group I, plus somewhat poor or somewhat excessive

TEXTURE

silt loam and loam

SOILS INCLUDED IN THE VERY GOOD GROUP:

1. Quilliyute silt loam, 0-7% slopes (Ile) (2,664)
2. Knappa silt loam, 0-7% slopes (Ile) (3,669)
3. Nestucca silt loam, 0-3% slopes (IIw) (1,412)

GROUP III: GOOD SOILS (26 pts)

Soils with a good agricultural potential are those that are at least 40 inches deep. They have a total available water holding capacity of 5.0 inches or more. Slopes are 12 percent or less. These soils are somewhat poorly to somewhat excessively drained. Surface textures allowed in this group are loam, silt loam, sandy loam, gravelly loam, clay loam, sandy clay loam, silty clay loam, or fine sandy loam. Total acreage is 8,029 (19.9%)

DEPTH
40" or more

AWC
5" or more

SLOPE
12% or less

DRAINAGE CLASS

Any in Group I or II (somewhat poor to somewhat excessive)

TEXTURE

Any in Group I or II plus sandy loam, gravelly loam, clay loam, sandy clay loam, silty clay loam, or fine sandy loam

SOILS INCLUDED IN THE GOOD GROUP:

1. Gardiner fine sandy loam, 0-3% slopes (IIs) (330)
2. Gardiner fine sandy loam overwash 3-7% slopes (IVe) (298)

3. Nehalem silt loam, overwash, 3-7% slopes (IVe) (173)
4. Quillayute silt loam, moderately deep, 0-12% slopes (IIIe) (150)
5. Knappa silt loam, 7-12% slopes (IIIe) (214)
6. Knappa silt loam, moderately deep, 01-12% slopes (IIIe) (631)
7. Meda gravelly loam, 3-12% slopes (IIIe) (1,235)
8. Gaudy loam, 0-7% slopes (IIIs) (931)
9. Astoria silt loam, 3-12% slopes (IIIe) (1,026)
10. Winema silt loam, 3-12% slopes (IIIe) (360)
11. Chitwood silt loam, 0-7% slopes (IIIw) (1,322)
12. Chitwood silt loam, 7-12% slopes (IIIw) (82)
13. Ginger silt loam, 0-7% slopes (IIw) (955)
14. Hembre silt loam, 3-12% slopes (IIIe) (322)

GROUP IV: FAIR SOILS (13 pts)

Soils with a fair agricultural potential are those that are at least 20 inches deep. They have a total water holding capacity of 2.5 inches or more. Slopes are 20 percent or less. These soils are very poorly to excessively drained. Surface textures allowed in this group are loam, silt loam, gravelly loam, clay loam, sandy clay loam, silty clay loam, fine sandy loam, loamy fine sand and peat. Total acreage is 12,316 (30.6%).

DEPTH
20" or more

AWC
2.5" or more

SLOPE
20% or less

DRAINAGE CLASS
Any in Group I-III
plus poor, very poor, or excessive

TEXTURE
Any in Group I-III plus loamy fine sand and peat

SOILS INCLUDED IN THE FAIR GROUP:

1. Astoria silt loam, 12-20% slopes (IVe) (945)

2. Winema silt loam, 12-20% slopes (IVe) (177)
3. Neskowin silty clay loam, 12-20% slopes (IIIc) (284)
4. Winema silt loam, moderately deep, 12-20% slopes (IVe) (263)
5. Meda gravelly loam, 12-20% slopes (IVe) (209)
6. Brenner silt loam (IIIw) (2,905)
7. Coquille and Brenner silt loams (IVw) (4,991)
8. Brallier peat (IVw) (140)
9. Yaquina loamy fine sand 0-3% slopes (IVw) (581)
10. Hebo silty clay loam 0-3% slopes (IVw) (1,662)
11. Hembre silt loam 12-20% slopes (IVe) (159)

GROUP V: LIMITED SOILS (0 pts)

These are SCS class VI-VIII soils or those with a slope greater than 20 percent. They fail to qualify for our best, very good, good or fair rating primarily because of limitations in their depth or slope. Most of these soils have a high risk of erosion if protective cover isn't maintained. With proper management they can be used for pasture and hay or other specialized crops. Total acreage is 3,818 (9.5%).

SOILS INCLUDED IN THE LIMITED GROUP: (Listed in alphabetical order)

1. Astoria silt loam, 20-40% slopes (VIe) (1,300)
2. Astoria silt loam, 40-60% slopes (VIe) (165)
3. Gauldy loam, shallow, 0-7% slopes (VI) (275)
4. Hembre silt loam, 20-40% slopes (VIe) (233)
5. Hembre silt loam, 40-60% slopes (VIe) (274)
6. Hembre silt loam, moderately deep, 20-40% slopes (VIe) (16)
7. Hembre silt loam, moderately deep, 40-60% slopes (VIe) (32)

8. Made land (VIIIs) (151)
9. Neskowin silty clay loam, 20-40% slopes (IVe) (165)
10. Neskowin silty clay loam, 40-60% slopes (VIe) (405)
11. Netarts fine sandy loam (VIIIe) (30)
12. Riverwash (VIIIs) (150)
13. Tide flats loam, 20-40% slopes (VIe) (483)
14. Winema silt loam, 20-40% slopes (VIe) (483)
15. Winema silt loam, moderately deep, 20-40% slopes (VIe) (133)

STANDARDS FOR SOIL SUITABILITY GROUPINGS

| Soil Characteristics | Group I (Best) | Group II (Very Good) | Group III (Good) | Group IV (Fair) | Group V (Limited) |
|---------------------------------|-------------------------|-------------------------------------|---|---|-------------------|
| Texture | loam and silt loam | loam and silt loam | loam, silt loam, sandy loam, clay loam, sandy clay loam, silty clay loam, and fine sandy loam | all in Group III, plus loamy fine sand and peat | any |
| Slope | 3% or less | 7% or less | 12% or less | 20% or less | any |
| Depth | 60" or more | 60" or more | 40" or more | 20" or more | any |
| Available water capacity | 9" or more | 7.5" or more | 5" or more | 2.5" or more | any |
| Drainage | well or moderately well | somewhat poor to somewhat excessive | somewhat poor to somewhat excessive | very poor to excessive | any |

APPENDIX E



United States
Department of
Agriculture

Soil
Conservation
Service

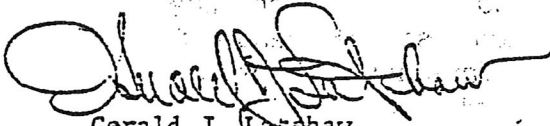
1220 S. W. Third Avenue
16th Floor
Portland, Oregon 97204

SUBJECT: ST - Soil Suitability Groupings

DATE: June 6, 1979

TO: Robert A. Pedersen
District Conservationist
SCS
Tillamook, Oregon

Attached are your drafts of the soil suitability groupings prepared for county land use planning. I have reviewed and made some editorial and technical suggestions on the copies. The guidelines for placing the soils in the suitability groupings appear to be quite adequate and I would not suggest any major changes. This information should provide the district and the planning commission with good supplemental soil interpretations for the land use capabilities as used by LCDC.



Gerald J. Latchaw
State Soil Scientist

Attachments

cc: Len Dugan
Wis Adair

March 25, 1981

Mr. Jerry Woodward
Chairman
Tillamook County Board of Commissioners
County Courthouse
201 Laurel Avenue
Tillamook, Oregon 97141

Dear Jerry:

When Wes Kvarsten, Department of Land Conservation and Development Director, returned from Tillamook County after the continuous progress review session, he showed me the attached news item from the Tillamook Headlight-Herald.

Jerry, I commend Tillamook County for an exceptional effort in the tough area of farmland inventory and protection.

This is indeed an innovative achievement. You have shown real leadership in developing these agricultural lands criteria. The national recognition you have received is well deserved.

You have my warmest congratulations for a job well done.

Sincerely,



Victor Atiyeh
Governor

Local ag criteria used nationally

USDA Soil Conservation Service (SCS) officials from Washington, D.C. have recently indicated that Tillamook County's agricultural lands criteria will be used as a model for the development of an

agricultural rating system that will be made available to interested states and counties throughout the nation.

The rating system accounts for factors such as soil qualities surrounding

uses, parcel size and present use.

Howard Tankersley, SCS's Director for Land Use, and Lloyd Wright, Chairman of SCS's Land Use Committee, visited Tillamook County this month to study the agricultural rating system that was approved by the Tillamook Board of County Commissioners in July 1979.

This system was developed by the Tillamook County Soil and Water Conservation District Board, with technical assistance from the Oregon State University Extension Service, local SCS representatives, and the County Plan-

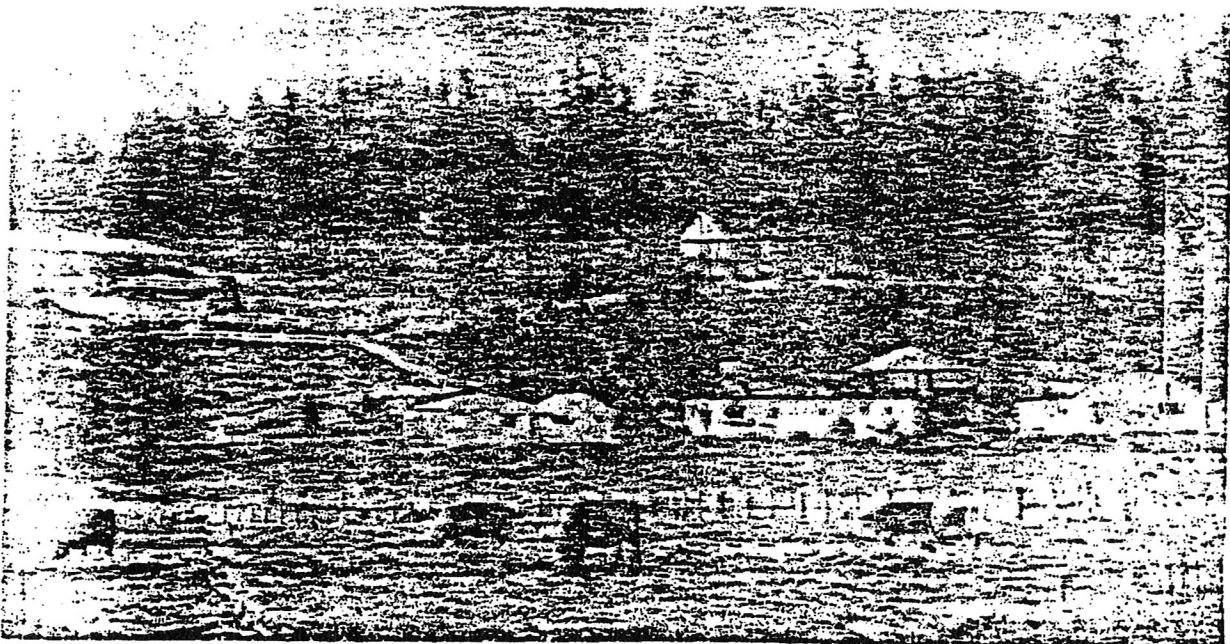
ning Department. The system is designed to determine which county's lands are best suited for long-term agricultural use.

Wright said that as states have become more aware of the need to protect agricultural land, they have requested assistance from SCS's National Office in the development of an appropriate rating system.

He said that Tillamook County's system was the best that he had seen, and that it did a particularly good job of taking local resources and needs into account when rating agricultural land.

Headlight-Herald
2-25

TILLAMOOK HEADLIGHT HERALD Oct 31, 1979



(Staff photo)

Cattle and houses...compatible?

Protection of farmland from encroachment by housing is one goal of the exclusive farm use (EFU) zoning. Four Tillamook County agricultural groups are starting a voluntary EFU campaign this month to protect lands such as shown along the Wilson River.

EFU zoning campaign started by county agriculture groups

A campaign to get farmers to put their land into exclusive farm use zoning will start in November, Carl Bosch, chairman of the Tillamook County Soil and Water Conservation District, said this week.

Joining the district in the project are the Tillamook Farm Bureau, Tillamook County Creamery Association and county granges.

"We believe agriculture is essential to our county's economy and way of life," Bosch said. "We are concerned about the conversion of farmland to other, less productive uses. Currently, only about five percent (35,000 acres) of county land is in agricultural production. This is less than half of the amount that was in production 30 years ago."

He said 13,000 acres already are in EFU zoning, but another 19,000 in farm deferral are not.

"We realize many people who have gone to the assessor's office to put their land in farm deferral believe they are in the EFU zone," Bosch said. "This is not true unless your land is in the county's F-1 zone."

All requests for EFU zoning will be handled by the county planning commission at one time. This waives a \$50 fee that ordinarily would apply to zone change requests, said Paul Benson, county planning director.

EFU zoning allows construction of dwellings and other buildings needed to operate a farm. It includes non-farm residential dwellings with planning commission approval if those dwellings don't interfere with a farming operation.

Residents living in an EFU zone can split out a parcel to live upon after retirement.

Incentives for being in an EFU zone

include a reduction of property taxes by 50 percent. farm land is exempt from new levies or assessments of sewer, water and solid waste districts, and it is protected from in-compatible uses and from subdivisions.

"Most important," said Vic Affolter, natural resources planner, "is that there is no penalty when land qualified for special farm use assessment is removed from the EFU zone following an action by the governing body that was not requested by the landowner. This could result in a savings of up to \$40,000. Non-EFU farm land has to have all back taxes paid on it when it is removed from the special program, according to state law, even if done against the property owner's wishes."

Bosch said a special publication called "Common Questions About Tillamook's EFU Zone," is available from any of the sponsoring agencies.

FFU campaign extended through mid-December

The campaign to bring farmland into the county's farm (F-1) zone will be extended until at least December 15, and perhaps until as long as the end of December. This campaign, which is being sponsored by the county's Soil and Water Conservation District, Farm Bureau, Creamery Association, and Pomona Grange, was originally scheduled to end Nov. 30.

More than 4,500 acres were brought into the F-1 zone during the first three weeks of the campaign. This represents more than 120

parcels in more than 70 ownerships.

The campaign is being extended to allow more time for discussion of the advantages of the zone and the uses that are allowed within it.

"There is a need to clear up some unfortunate rumors about what people can or can't do with their land once they are in the zone. I have talked to over 50 people whose land qualifies for farm zoning, and in all but a few instances the zone permits them to do all that they want to do with their land. In fact, the zone

provides more freedom to farm as a person wishes than does any other zone," said Vic Affolter, county agricultural land planner.

Other advantages of farm zone include assurance that a person will receive the special farm tax rate in the future; exemption from new levies or assessments of sewer or water districts; protection from incompatible uses and from the subdividing of nearby lands that are in the farm zone. Nonfarm uses, including nonfarm dwellings, are allowed if they don't interfere with farming, he said.

In addition, there is no penalty when land qualified for special farm assessment is removed from the farm zone following an action by the governing body that was not requested or initiated by the owner of the land, he said. Such a penalty is required when land that isn't in the farm zone is removed from farm use. This could result in savings in excess of \$4,000 for a 40-acre parcel of farm land that is rezoned at the initiative of the governing body, Affolter said.

Currently, individuals can receive the special farm tax rate even if their land is not farm (F-1) zone. However, the qualification for receiving these tax benefits are becoming more strict, and there is no assurance that those who own land that

is outside of the farm zone will continue to qualify for the lower farm tax rate in the future.

Farmland that is not in farm zone is not exempt from new sewer and water district assessments, and is not protected from compatible uses or from complaints about farm practices, he said.

"We are pleased about positive response to campaign, and we expect that significantly more will be brought into the zone before the end of campaign. This is a unique opportunity for the people of Tillamook County to demonstrate their commitment to farming and show what can be accomplished on a voluntary basis," Affolter said.

8,500 acres brought into county EFU zone last month

More than 8,500 acres were "brought into" the Tillamook County (F-1) Zone during the month of November as the result of a campaign by the county's farm organizations. This represents more than 200 parcels in approximately 100 ownerships.

This campaign will continue until at least the middle of December to allow sufficient time for the discussion of the advantages of the zone and the uses that are allowed within it.

The total acreage in the County's Farm Zone now exceeds 21,500 acres. This is approximately two-thirds of the land that qualifies for the farm zone said Vic Affolter, agricultural lands planner.

Actual zone changes on all "new" lands will be handled as a package at a future date, he said.

"We are very pleased with the response to this volun-

tary phase of our efforts to protect the approximately 5 percent of our County's land that is in agricultural use," Affolter said. "Virtually every farmer that I have talked to has expressed concern about the conversion of agricultural land to nonfarm uses."

Farmers realize that the replacement of the long-term productivity of their farmlands with the short-term profitability of converting farmland to nonfarm uses would hurt the great majority of our County's citizens who benefit either directly or indirectly from our dairy industry, he said. This industry produces almost 21 percent of the county's income from 25 percent of its land.

Development can not only limit the number of farm parcels, but also the quality of the land. Development on nearby

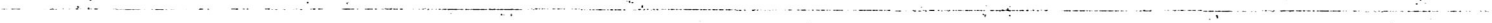
agricultural land. Many accepted and customary farming practices are not compatible with nearby nonfarm residential or commercial development. Conflicts among farm and nonfarm uses can lead to restrictions on farm practices such as the spreading of animal wastes and the use of herbicides, Affolter said.

Increasing opposition to these practices can be expected in the future from those who move here from an urban environment, he said.

The Farm Zone is designed to ensure farmers that they can continue those practices that are necessary to maintain a profitable farm operation. Carl Bosch, chairman of the Soil and Water Conservation District, said that the Farm Zone is a protection for the farmer and the consumer. It is a way to bring it

into the Farm Zone and encourage his neighbors to do the same," he said.

"The Farm Zone is flexible in the sense that it does allow nonfarm uses, including nonfarm dwellings, if they don't interfere with farming," Bosch said. He also serves on the County's Planning Commission. "The zone also assures that farmers will receive the special farm tax rate in the future," he said.



Section 3.002: Farm (F-1) Zone of Tillamook County Land Use Ordinance does not reflect all the current requirements of the Oregon Revised Statutes 215 or Oregon Administrative Rules, Chapter 660, Division 33. In a case where the Land Use Ordinance and the State Law are in conflict the stricter of the two takes precedence. Please contact Lynne Krueger, Senior Planner at (503) 842-3408 or at lkruieger@co.tillamook.or.us for clarification.

ARTICLE III

ZONE REGULATIONS

SECTION 3.002: FARM ZONE (F-1)

- (1) **PURPOSE:** The purpose of the F-1 Zone is to preserve the cultural, social, and economic values that are provided by agriculture in Tillamook County by identifying and protecting land that is needed to sustain the local agricultural economy. This includes land which is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.
- (2) **USES PERMITTED OUTRIGHT:** In the F-1 Zone, the following uses and their accessory uses are permitted outright, and subject to all applicable supplementary regulations contained in this ordinance:
 - (a) Farm use as defined by ORS 215.203.
 - (b) The propagation or harvesting of a forest product.
 - (c) Residential structures customarily provided in conjunction with a farm use on a parcel of 40 or more acres that is currently managed as part of a farm operation.
 - (d) A residence on real property used for farm use if the residence is:
 - (i) Located on the same lot or parcel as the residence of the farm operator; and
 - (ii) Occupied by a relative, which means grandparent, grandchild, parent, child, brother or sister of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator.
 - (e) Nonresidential buildings customarily provided in conjunction with farm use, including roadside stands for selling farm products produced on property owned or leased by the owner of the property on which the roadside stand is located.
 - (f) Recreation vehicles for the owner, operator, or employees of the farm may be provided in conjunction with farm use as temporary residence for a period not to exceed six months in a calendar year.

- (g) Utility facilities necessary for public service, except commercial facilities of the purpose of generating power for public use by sale and transmission towers over 200 feet in height.
- (h) Operations for the exploration for and production of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the wellhead. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1) (a) or (b).
- (i) Operations for the exploration for minerals as defined by ORS 517.750. Any activities or construction relating to such operations shall not be a basis for an exception under ORS 197.732 (1) (a) or (b).
- (j) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.
- (k) Climbing and passing lanes within the right of way existing as of July 1, 1987.
- (l) Reconstruction or modification of public roads and highways, not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.
- (m) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as no longer needed.
- (n) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weight 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.
- (o) A replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.
- (p) The breeding, boarding and training of horses for profit.
- (q) Seasonal farm-worker housing as defined in ORS 197.675.
- (r) Creation of, restoration of or enhancement of wetlands.
- (s) A winery, as described in ORS 215.452.

(3) **USES PERMITTED CONDITIONALLY:** In the F-1 Zone, the following uses and their accessory uses are permitted subject to the provisions of Article VI, including the review criteria in Section 6.040, and the additional criteria in Section 3.002 (5). All such uses are subject to any applicable supplementary regulations contained in this ordinance.

- (a) Commercial activities that are in conjunction with farm use;
- (b) Operations conducted for:
 - (i) Mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted under 3/002 (2) (h);
 - (ii) Mining of aggregate and other mineral and other subsurface resources subject to ORS 215.298;
 - (iii) Processing, as defined by ORS 517.750, of aggregate into asphalt or portland cement; and
 - (iv) Processing of other mineral resources and other subsurface resources.
- (c) Private parks, playgrounds, hunting and fishing preserves and campgrounds.
- (d) Parks, playgrounds or community centers owned and operated by a governmental agency or a nonprofit community organization.
- (e) Golf Courses.
- (f) Commercial utility facilities for the purpose of generating power for public use by sale.
- (g) Personal-use airports for airplanes and helicopter pads, including associated hangar, maintenance and service facilities. A personal-use airport as used in this section means an airstrip restricted, except for aircraft emergencies, to use by the owner, and, on an infrequent and occasional basis, by invited guests, and by commercial aviation activities in connection with agricultural operations. No aircraft may be based on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under this definition may be granted through waiver action by the Aeronautics Division in specific instances. A personal use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable rules of the Aeronautics Division.
- (h) Home occupations as provided in ORS 215.448 and Section 4.140 of this ordinance.

- (i) A facility for the primary processing of forest products, provided that such facility is found to not seriously interfere with accepted farming practices and is compatible with farm uses described in ORS 215.203 (2). Such a facility may be approved for a one-year period which is renewable. These facilities are intended to be only portable or temporary in nature. The primary processing of a forest product, as used in this Section, means the use of a portable chipper or stud mill or other similar methods of initial treatment of a forest product in order to enable its shipment to market. Forest products, as used in this Section, means timber grown upon a parcel of land or contiguous land where the primary processing facility is located.
- (j) A site for the disposal of solid waste approved by the governing body of a city or county or both and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
- (k) One manufactured dwelling in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident.
- (l) Transmission towers over 200 feet in height.
- (m) Dog kennels.
- (n) Residential homes, as defined in ORS 197.660, in existing dwellings.
- (o) The propagation, cultivation, maintenance and harvesting of aquatic species.
- (p) Construction of additional passing and travel lanes requiring the acquisition of right-of-way but not resulting in the creation of new land parcels.
- (q) 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.
- (r) 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.
- (s) A destination resort which is approved consistent with the requirements of any statewide planning goal relating to the siting of a destination resort.
- (t) Room and board arrangements for a maximum of five unrelated persons in existing residences.
- (u) Public or private schools, including all buildings essential to the operation of a school.

(v) Churches.

(4) PROVISION FOR NONFARM RESIDENCES:

(a) Single-family residential structures and their accessory use, not provided in conjunction with farm use, may be granted tentative approval upon a finding that each such proposed residence:

(i) Is compatible with farm uses described in ORS 215.203 (2) and is consistent with the intent and purposes set forth in ORS 215.243;

(ii) Does not interfere seriously with accepted farming practices, as defined in ORS 215.203 (2) (c), on adjacent lands devoted to farm use;

(iii) Does not materially alter the stability of the overall land use pattern of the area;

(iv) Is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract; and

(v) Complies with any other conditions that the County deems necessary.

(b) Final approval of such nonfarm residences shall not be granted without evidence that the lot or parcel upon which the dwelling is proposed has not been receiving special farm use assessment or that the lot or parcel has been disqualified for such assessment according to the provisions of ORS 215.236.

(5) ADDITIONAL CRITERIA FOR APPROVAL OF USES PERMITTED UNDER SECTION 3.002 (3); COMPLIANT; PENALTIES.

(a) Such uses may be approved only upon a finding that the proposed use will not:

(i) Force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; or

(ii) significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

(b) An applicant for any such proposed use may demonstrate that the criteria for approval set forth in subsection (a) of this section will be satisfied through the imposition of clear and objective conditions.

- (c) A person engaged in farm or forest practices on lands devoted to farm or forest use may file a complaint with the County Department of Community Development alleging the violation of conditions imposed pursuant to subsection (b) of this Section. Said complaint will be addressed according to the provisions of ORS 215.296.
 - (d) If a use allowed under 3.002 (3) is initiated without prior approval, the County's enforcement actions shall be consistent with the provisions of ORS 215.296 (8).
- (6) ~~PROVISION FOR A FARM RESIDENCE ON A PARCEL SMALLER THAN 40 ACRES.~~
 A single-family residential structure and accessory uses, that are customarily provided in conjunction with farm use, are permitted in the F-1 zone on a parcel that is smaller than 40 acres, subject to the procedural requirements of Section 6. 020, upon a finding that either the following requirements (a) or (b) are met, and that requirements (c), (d) and (e) are all met.
- (a) The parcel is currently employed as part of a larger farm ownership totaling 40 or more acres, and a legal agreement has been recorded with the County Clerk which prohibits separate sale of the subject parcel unless it has been legally combined with sufficient additional property to total 40 or more acres.
 - (b) The parcel is currently employed in an intensive type of agriculture (nursery, berries, vegetables, mink, or other specialty crops) which can be commercially grown and managed on the proposed parcel and which has produced at least \$12,000 a year in gross farm income. The ability of the parcel to produce such income shall be demonstrated by actual gross income generated in at least two of the past three years. This shall be established by the applicant's submission of the following evidence:
 - (i) Federal income tax returns with a list describing where the farmed properties are located, their size and type of crops, livestock or forest products raised on the properties; or
 - (ii) Sales receipts of products sold from the property or other information as may be necessary to prove income; and
 - (iii) An affidavit signed by the person whose income is in question, certifying that income requirements for the parcel have been met.
 - (c) The placement of the dwelling on the parcel does not have a significant adverse effect on the continuation of existing commercial agricultural enterprise in the area.
 - (d) The owner of the parcel has signed an affidavit which certifies that the residence is to be used only in conjunction with farm use as defined by ORS 215.203.
 - (e) The placement of the dwelling complies with all other requirements of this Ordinance and any conditions that the County deems necessary.

- (7) REVIEW OF LAND DIVISIONS: All partitions within the F-1 Zone must receive prior approval by the County Planning Director or Planning Commission. Approval is subject to the following requirements:
- (a) The proposed division is for an approved conditional nonfarm use, except for dwellings, permitted by Section 3.02 (3) (c), (d), (e), (f), (j), (u), or (v); provided that the new parcel is not larger than the minimum size necessary for the nonfarm use; or
 - (b) The proposed division is for a nonfarm residence reviewed and approved according to Section 3.002 (4); or
 - (c) The proposed division results in parcels none of which are smaller than 40 acres; or
 - (d) The proposed division creates a farm parcel smaller than 40 acres which, subject to the procedural requirements of Section 6.020, meets all of the following requirement:
 - (i) The proposed parcel is currently employed in a relatively intense type of agriculture (nursery, berries, vegetables, mink, or other specialty crops) which have produced at least \$12,000 a year in gross farm income in at least two out of the past three years. This shall be established by the applicant's submission of the following evidence:
 - (A) Federal income tax returns with a list describing where the farmed properties are located, their size and type of crops, livestock or forest products raised on the property; or
 - (B) Sales receipts of products or other information as may be necessary to prove income; and
 - (C) An affidavit signed by the person whose income is in question, certifying that income requirements for the parcel have been met.
 - (ii) The benefits of the smaller parcel to the areas agricultural economy must outweigh any negative impacts to existing larger agricultural enterprise in the area.
 - (iii) The parcelization must comply with all other requirements of this Ordinance and any conditions that the County deems necessary.
 - (e) This Section shall not apply to:
 - (i) The creation or sale of cemetery lots, if a cemetery is within the boundaries designated for a farm use at the time the zone is established.

- (ii) Divisions of land resulting from lien foreclosures or divisions of land resulting from foreclosure of recorded contracts for the sale of real property.
- (8) **STANDARDS:** Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size for all permitted uses, except farm and forest, shall be 20,000 square feet. The minimum lot size for farm and forest uses shall be 40 acres, except as provided in Section 3.002 (6) and (7) (d).
 - (b) The minimum lot width at the front building line for all uses except farming shall be 100 feet.
 - (c) The minimum lot depth for all uses except farming shall be 100 feet.
 - (d) The minimum front and rear yards shall be 20 feet.
 - (e) The minimum side yard shall be 10 feet where adjacent to land in the F-1 or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet, except on a contiguous ownership of two acres or less, where the yard requirements shall be the same as in the RR zone, and where Section 5.040 (1) (b) shall apply.
 - (f) The maximum building height for all nonfarm structures shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.
- (9) **REESTABLISHMENT OF NON-FARM USE:** A nonfarm use that is unintentionally destroyed by fire, other casualty, or natural disaster may be reestablished to its previous nature and extent as provided in ORS 215.215 (1), so long as the reestablishment meets all other building, plumbing, sanitation and other codes, ordinances, and permit requirements.
- (10) **NOTIFICATION OF THE TILLAMOOK COUNTY SOIL AND WATER CONSERVATION DISTRICT:** The Tillamook County Soil and Water conservation District shall be notified and requested to comment on all applications filed under Subsections (3), (4), (6) and (7) (d) of this Section. Responses must be received within 10 days of the date of mailing to be assured consideration.

SECTION 3.010: RURAL RESIDENTIAL 2 ACRE AND 10 ACRE ZONE (RR-2) (RR-10)

- (1) **PURPOSE:** The purpose of the RR zone is to provide for the creation and use of small-acreage residential homesites. Land that is suitable for Rural Residential use has limited value for farm or forest use; it is physically capable of having homesites on parcels of five acres or less; and it can be utilized for residential purposes without constraining the use of surrounding resource-zoned properties for resource-production purposes.
- (2) **USES PERMITTED OUTRIGHT:** In the RR zone, the following uses and their accessory uses are permitted outright, subject to all applicable supplementary regulations contained in this Ordinance.
 - (a) Single-family dwelling.
 - (b) Mobile or Manufactured Home.
 - (c) Recreational vehicle used during the construction or placement of a use for which a building or placement permit has been issued.
 - (d) Home occupations according to the provisions of Section 4.140 of this Ordinance.
 - (e) Farm uses, including aquaculture.
 - (f) Forest uses.
 - (g) Roadside stands for produce grown on the premises.
 - (h) Signs, subject to Section 4.020.
 - (i) Electrical distribution lines.
- (3) **USES PERMITTED CONDITIONALLY:** In the RR zone, the following uses and their accessory uses are permitted subject to the provisions of Article 6 and the requirements of all other applicable supplementary regulations contained in this Ordinance.
 - (a) Planned Developments subject to Section 3.080, or Mixed Use Developments subject to Section 4.130. The number of attached single family dwelling units in a cluster shall be established in the Planned Development approval process and may exceed four units per cluster if it is demonstrated that benefits in protection of natural conditions, better views, or access will be achieved by such clustering. This shall apply only to RR/PD zoned property located within a community growth boundary.
 - (b) Mobile or manufactured home, in those areas identified in Section 5.160 as being subject to special mobile/manufactured home standards, which do not comply with those standards.

- (c) Cottage industries.
 - (d) Recreational vehicle where not allowed outright by Section 5.130.
 - (e) A temporary real estate sales office.
 - (f) Churches and schools.
 - (g) Accessory structures or accessory uses without an on-site primary structure.
-
- (h) Nonprofit community meeting buildings.
 - (i) Cemeteries.
 - (j) Fire or ambulance stations.
 - (k) Golf courses and associated facilities.
 - (l) Animal hospital, kennel, or other animal boarding service.
 - (m) Towers for communications, wind energy conversion systems, or structures having similar impacts.
 - (n) Public utility facilities, including substations and transmission lines.
 - (o) Mining, quarrying, and the processing and storage of rock, sand, gravel, peat, or other earth products; on a contiguous ownership of 10 or more acres.
 - (p) Small-scale primary wood processing facilities, such as a shake mill, chipper, or stud mill, on a contiguous ownership of 10 or more acres.
 - (q) Rural industries on a contiguous ownership of 10 or more acres.
 - (r) Foster family homes accommodating six or more children or adults.
 - (s) Bed and breakfast enterprise.
 - (t) Temporary placement of a mobile home or recreational vehicle to be used because of health hardship, subject to Section 6.050.
 - (u) Parks, recreational campgrounds, primitive campgrounds hunting and fishing preserves, and other recreational uses and associated facilities, on a contiguous ownership of 10 or more acres.

- (v) Residential care, training, or treatment facility as defined by ORS 443.400; any facility which provides care, training, or treatment for six or more physically, mentally, emotionally, or behaviorally disabled individuals. Facilities that provide for five or less are addressed as ADULT FOSTER HOMES or FOSTER FAMILY HOMES.
 - (w) Home occupations according to the provisions of Section 4.140 of this Ordinance.
- (4) **STANDARDS:** Land divisions and development in the RR-2 and RR-10 zone shall conform to the following standards, unless more restrictive supplemental regulations apply:
- (a) The minimum lot size is two acres for parcels zoned before October 4, 2000.
 - (b) The minimum parcel/lot size is 10 acres for lots/parcels rezoned Rural Residential on or after October 4, 2000.
 - (c) Parcels less than two acres in size that were legally established prior to December 18, 2002 may be built upon provided that all other requirements of this Ordinance and other applicable development requirements are met.
 - (d) Lots in an approved preliminary subdivision plat that is being maintained in an active status as of the date of adoption of this Ordinance may be built upon after approval and recording of the final plat.
 - (e) The minimum lot width and depth shall both be 100 feet.
 - (f) The minimum front yard shall be 20 feet.
 - (g) The minimum side yard shall be 5 feet; on the street side of a corner lot, it shall be no less than 15 feet.
 - (h) The minimum rear yard shall be 20 feet; on a corner lot, it shall be no less than 5 feet.
 - (i) The maximum building height shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.
 - (j) Livestock can be located closer than 100 feet to a nonfarm residential building on an adjacent lot only if one of the following conditions are met:
 - 1. The location of the livestock is a nonconforming use according to the provisions of Article VII of this Ordinance.

2. The property has been taxed at the farm use rate during three of the past five year.
 3. The location of the livestock has been reviewed and approved as a conditional use according to the provisions of Article VI of this Ordinance.
- (k) No residential structure shall be located within 100 feet of an F-1, F, or SFW-20 zone boundary, unless it can be demonstrated that natural or man-made features will act as an equally effective barrier to conflicts between resource and residential used; or that a residential structure could not otherwise be placed on the property without requiring a variance to the 100 foot requirement. In either case, all yard requirements in this zone shall still apply.

(Excerpt from Planning Commission Meeting Minutes, September 25, 2008)

NEW BUSINESS

ZC-07-04: A Zone Change request and Statewide Planning Goal Exception (Goal 3) to rezone the subject property from Farm (F-1) to Rural Residential (RR-10) zoning. The subject property is 1.68-acres in size and is a legally created parcel. The property is accessed off of Bewley Creek Road and is designated as Tax Lot 2102 in Section 18, Township 2 South, Range 9 West of the Willamette Meridian, Tillamook County, Oregon. Thomas P. and Susan K. Reiger are the applicants and owners/Brad Sheets, Lead Staff

Chair read Quasi-Judicial procedures

Challenges: none

Conflicts & Biases: none

Exparte contact: none

STAFF REPORT

Bradford Sheets, Associate Planner, presented staff report. Here tonight to consider the Goal Exception first and then a Zone Change on a Farm zone property, F-1, in the EFU or High Value Farmland zone for Tillamook County. As was indicated the applicants are Mr. & Mrs. Rieger. They are also the property owners of this 1.6 acre triangular parcel. Referring to map on easel: the cross-hatched clear area is F-1 farm zone, dark green area are forest zone lands and the pinkish areas are RR-2 zoned area. Tax Lot 2102, subject parcel, abuts Bewley Creek Road on the Northeast and Northwest property boundaries and abuts Rural Residential zone to the Southwest. This parcel has high value farm soils on it. Applicant has applied for a land irrevocably committed to other use exception or committed exception. This parcel was rezoned to F-1 from A-1 zone in 1982 and previously had a non-farm dwelling on it. It has been previously developed. It is not indicated in the Oregon Dept. of Geology and Mineral Industries maps that it is an area of landslide topography and staff's investigation of the Federal Insurance Rate Maps it was not in a flood zone; it was in a Flood C zone, but in our Ordinance there are not additional requirements for development in that zone.

To rezone a property that is currently zoned as resource, be it farm, forest or SFW-20 zone, it must go through and Exception to the Statewide Planning goals, in this case Goal #3 of the Agricultural Zone. Mr. Sheets read the applicable OAR 660-004-0028:

“(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 address the following:

- (a) The characteristics of the exception area;
- (b) The characteristics of the adjacent lands;
- (c) The relationship between the exception area and the lands adjacent to it;“

Looking at map, there is a great deal of farmland surrounding the subject property, and it abuts Residential 2-acre zone. Bewley Creek crosses Bewley Creek Road at the northeastern property line and runs somewhat parallel to the southern property line and then southward off the subject property. This is high value farmland soil on the subject property. The area in general is rural in nature some is developed for agricultural use, there is also residential and commercial use. The applicant owns the subject parcel as well as the property across Bewley Creek Road, indicated in Exhibit #1 as Tax Lot 2101 where their current



residence is located. There are no structures on the subject property, the applicant does conduct some retail nursery sales on the property across Bewley Creek Road, Tax Lot 2101, but the property in question is not developed, it had been developed for residential purposes in the past, but that was for a non-farm dwelling in the farm zone. That gives you a general overview of what is going on and the relationships amongst the properties. The subject property is not farmed at this time.

Another criteria gets into whether this property could be used for farm use as defined in ORS 215-203: the propagation and harvesting of forest products as specified in OAR 660-003-0120 and the forest operations for forest practices as specified in OAR 660-06-0025 2a. All of those section of the ORS and OAR in Exhibit #3 of the Staff Report. The subject parcel is 1.68 acres in size. In evaluating this property and looking at its proximity to Bewley Creek Road staff found that it was impractical to pasture commercial livestock on this property given the creek and setbacks to Bewley Creek. And, given all of the other setbacks the forest products and development for forest uses seem impractical as well. As far as farm use and forest use the proximity to roads, the parcel size, the useable area, really isn't practical for those uses.

A conclusion that an exception area is irrevocably committed shall be supported by the findings of fact which address all of the factors of Section 6 of this rule. By statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable Goal are impracticable in the Exception Area. This is a committed exception that is being requested. Existing adjacent uses for Section 6; the properties surrounding subject property at the Southwest corner are developed for residential use in the RR-2 zone, the property to the Southeast is being used in commercial dairy production, the large tract to the Northwest is in Christmas tree production. The applicants property across street is being used as a retail nursery operation. Existing public facility and services: this parcel had previous dwelling, existing on-sanitation, water service and road approach and permit. Regarding parcel size and ownership patterns of the Exception Area and adjacent lands, the subject property is surrounded by a quite a large tract of farmland. There is a tract of RR-2 acre land to the Southwest and really doesn't abut forest land in any of those areas. Neighborhood and regional characteristics: it is rural in nature, there are dairy farms lining Bewley Creek Road, but there are also strips of RR zone properties throughout that stretch from Hwy 101 south on Bewley Creek Road to the subject property. Manmade features or other impediments separating the Exception Area from adjacent resource land: such features or impediments include, but are not limited to roads, watercourses, utility lines, easements or right-of-ways that effectively impede practical resource use of all or part of the Exception Area. The owner is requesting for that single parcel, Tax Lot 2102, to be for the Exception and Zone Change. It is abutted by Bewley Creek on both Northeast and Northwest property lines and Bewley Creek does run through the southern portion of the property. There are built in buffers connecting the dairy operations to the South into the subject property would be challenging because of Bewley Creek. Given that it is a corner lot, there are many challenges to farming a 1.68 acre parcel. There are both manmade and natural impediments separating the subject property from adjacent resource lands. Other relevant factors are that the property was previously developed for residential use and has existing septic, water and road approach. It's impacts on other farming activities would be limited. The applicants have submitted all necessary information and evidence, Exhibit #2. Staff found that the findings of 6a-g demonstrate that the limitations of the subject property for agricultural and forestry uses due to size. The utilities to serve the subject property either currently exist on the subject property or can be acquired. Staff concludes that impacts to adjacent properties, neighborhood in general and regional area of approving a Goal Exception are negligible.

Staff concludes that

- Bewley Creek Rd and Bewley Creek itself will act as a buffer from impacts to the remaining resource zone properties.
- Proposed RR-10 zone for the subject parcel has requirements to preserve and protect adjacent resource lands.
- Given its proposed absorption into the RR zone and status of the surrounding properties is unlikely to cause further parcelization of adjacent farm zone properties based on the current Oregon Administrative Rules pertaining to agricultural lands.



- Based on findings of fact, an exception for lands irrevocably committed to other uses is valid.

Other Goal Exceptions considered: In considering the approval of this Exception and Zone Change, this will not have no bearing or set precedence on the surrounding farm zoned properties in this area. Regarding the parcelization portion of this, under current farm and forest rules it is challenging to get a residence on these lands, therefore this will not be a catalyst for further zone changes or exceptions under the current rules.

This report was prepared in two phases. It will be up to the Planning Commission to determine how to address, however, the Goal Exception must be approved before the Zone Change can be approved. Mr. Sheets asked the Planning Commission if they would prefer to pause for discussion of the Goal Exception or continue on with the Staff Report for the Zone Change and consider all at the end.

Chair Heckerth: suggested that the Goal Exception be discussed and approved before moving on to the Zone Change.

Commissioner Jones: suggested that Mr. Sheets continue on with the Zone Change and make two separate motions in the proper order.

Chair Heckerth: A couple of questions. Is the reason the applicant is asking for the change to a RR-10 that it is the only option?

Mr. Sheets: Yes. The current size of the parcel, 1.68 acres, does not meet the RR-2 acre zone or the RR-10 acre zone. But, we have this Rural Residential zone. It's the only zone available for residential for converting to a residence. This is a legally existing parcel, substandard in size for the Farm zone. All of the Ordinance requirements as far as Rural Residential zoning are exactly the same.

Chair Heckerth: Was this partitioned at some point? How did this parcel come into being?

Mr. Sheets: I believe so.

Chair Heckerth: Where I'm leading is, it looks like it's been taxed historically as residential land.

Mr. Sheets: It has, it doesn't have a farm tax deferral.

TJ: this used to have a house on it

BS: It did have a non-farm dwelling on it at one time

TJ: And for some reason it was removed and they can't replace it?

BS: It has been removed. As far as replacement is concerned I'm not aware of that. This Goal Exception and Zone Change would allow for them to do in relation to a non-farm dwelling is it gives them the opportunity to place a dwelling on parcel and not be subject to administrative reviews for future development.

Chair Heckerth: Are there time limitations for replacing a dwelling in the same footprint?

BS: In the current zoning the owner has the ability to apply for another non-farm dwelling.

LP: I believe the question was why couldn't they go forward with that type of application?

BS: At this point the dwelling has already been removed, so the requirements for a replacement dwelling are a roof, walls, power, water...

Chair Heckerth: so there is too much removal?



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BS: It is already gone. During my site visit I found no traces of even a foundation. The septic system is there.

Chair Heckerth: For some reason at some point it appears that there was a change. It sounds like the taxation should have been changed, but it wasn't

BS: I can't speak to the taxation...

KM: The applicant is asking for a zone change, but they are being taxed on residential land that they are asking to be changed. It sounds like they are just trying to bring the Land Use zoning in line with how they are paying their taxes.

GO: On Page 7, C, both a & b. The part giving me trouble is in the middle of "a". "only if development, example given physical improvements such as roads, underground facilities on the resulting parcels...., can the parcels be irrevocably committed". Then in "b", "Existing parcel sizes and contiguous ownership shall be considered together in relation to the land's actual use. Several contiguous undeveloped parcels, including parcels separated only by road or highway under one ownership, shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment".

BS: The first part of "a", I would look at that as: If development on resulting parcels and other factors make unsuitable their resource use... I don't believe that development is the only barrier here. Operating a commercial farming operation on that parcel or developing for forestry uses are other reasons. Physical improvements such as roads, underground facilities are only part of it, not all. The parcel's placement and proximity to the road is part of it, but size and proximity to Bewley Creek and the riparian setbacks for that, as far as using it for commercial farm or forestry uses really makes it challenging.

GO: I understand that and agree with you on this particular parcel. I feel that these are the directions put forth on how to proceed and finding both to be blockades still.

BS: It is part of the total picture of Section 6. It is that they do own the property across the road and operate the retail nursery there, but as far as strict application of farm uses, I don't find those.

TJ: What I envisioned when Measure 37 came about some people for example had 20 acres and went out and built roads and underground utilities, etc, in anticipation of development and then apply for a zone change. I think that's what they are trying to say is not an applicable way to develop property, and that's not what has happened here.

BS: If you turn to Exhibit #3, Chapter 215 of the ORS, it does include horticulture as a farm use. The applicant has a couple of greenhouses that they conduct retail sales out of. The parcels are connected in that the applicant owns both properties. But, as far as the use of the subject parcel for commercial farm use, I see it as separate. I also think that similar to what Commissioner Jones was pointing out, it's also trying to limit parcelization in the farm zone. The last phrase states that "the presence of several parcels created for non-farm dwellings are an intent of commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception." We have these parcels and the commercial aspect is challenging at best on the subject parcel and to develop portions of it, yes, there are streets and the water lines, etc. But, there is also the land itself. That is what I think that the section as a whole is trying to outline the use for us. On "b" where it says "small parcels and separate ownership are more likely to be irrevocably committed if the parcels are developed clustered in small groups..." they are considered as contiguous ownership but I don't think that excludes the land from going through the process of irrevocable commitment.

MH: That section is extremely confusing.

GO: I agree, we don't have to get stuck on that wording, but it may come up later.



MH: The part that puts me more at ease is on page 9 in lower portion of the Findings section, beginning with "the subject parcel..." It talks about the timing and history of the zoning. It looks like it had once been the intent to have it zoned residential.

GO: I agree and think that what it being requested is reasonable. I am just getting stuck on what I feels is being presented as our instructions.

LP: with regard to the portion of subsection C,"a", which is part of your question if I understand correctly, and this actually did happen, "past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the Exception Area. I understand that is where you are having some challenges. Only if the development on the resulting parcels or other factors make unsuitable their resource use can the parcels be considered irrevocably committed. At that point is where the justification on Page 9 comes into play. When that parcel was being zone it was all one parcel. The partitioning process legally took place, it was separated from the parent parcel. That process was not know to staff at the time. It is clear, particularly given the way that the site sits that unless the property owner had requested it, it's highly unlikely that staff would have still suggested that a 1.68 acre piece remain as a farm zone. As a result, because of the shape of the lot, the natural resource constraints on that lot, it makes that a very unsuitable piece of property to stand alone as a farm operation. That takes you into Subsection B which talks about the contiguous nature of parcels. What that says is that the mere fact that a small parcel exists is not in and of itself justification, but taking into account all of the other factors is how you come to support in this instance Staff's recommendation that it does in fact meet the criteria.

TJ: Referring to Page 9 item G they purchased the property in its current condition, they did not partition it.

Chair asked for add'l questions.

CONTINUATION OF STAFF REPORT

Brad Sheets presented a summary of the Zone Change portion of staff report.

Chair Heckerorth asked the Planning Commission for questions, there were none.

APPLICANT PRESENTATION

Vic Affolter represented the applicant, Tom & Sue Rieger. This is a simple request. In regards to reforms to the Land Use Planning process I'd like to see a simpler process for situations which don't adversely affect the resource land and reserve the longer process for those requests which really require significant attention. I'll leave it up to the Planning Commission to determine which category this application falls into. If you can confirm that you have read the applicant's submission I will not go through it in detail.

There are a couple of differences between this and the previously presented application. We decided to request a zone change with an exception for reasons that hopefully are obvious. This is a different type of exception, and Irrevocable Commitment as opposed to a Reasons Exception. As a clarification, in Tillamook County essentially all farmland with a slope less than 20% is designated by state law as high value based solely on soil type which is determined significantly in part by slope..., without taking into consideration any other factors like parcel size, natural features, etc. Some land will designated as high value that anyone who's a farmer would say that it doesn't really seem to qualify. But, the Goal Exception is designed to help sort out this type of situation.

TAPE #2

Referring to the map on the easel Exhibit #1. Mr. Affolter gave a brief history of acquisition and zoning of the subject property and the commonly owned adjacent retail nursery. In 1980-1981 staff at that time of which I was a part was looking countywide at rezoning thousands of parcels. It was a very challenging



process. When this parcel was evaluated, then owned by Tom & Sue Rieger, the current owners, it was part of a 140 acre contiguous ownership. For that reason this was proposed to be in the farm zone. This was a timing issue. The BOCC took final action on that in June 17, 1982. Being done countywide these proposals and evaluations weren't being performed a month or days before, in some cases it was a year or more prior. On May 14, 1982 Tom and Sue Rieger acquired the subject parcel and the adjacent parcel. Had we know that we would have proposed this parcel for inclusion in the Rural Residential zone. There is no question in my mind about that. This could have gone that because they were using this as a retail nursery and the propagation is all within the greenhouses, the farm zone makes some sense. But it's because of the pattern of development here there are 19 parcels in this group as large as 8.77 acres. Given the nature of this being totally surrounded by the road and Bewley Creek it is isolated from adjacent farm lands. Bewley Creek has 25 foot riparian setbacks. When you take into account the road, Bewley Creek, the riparian setback you have less than an acres of usable land for any purpose. To try to farm that in conjunction with anything else would probably be a bad idea with respect to impacts to Bewley Creek. The logistics for doing that doesn't make any sense. Just simply stated it is not a farm parcel. As part of a larger farm ownership the zoning that was proposed back in 1981 made sense. But that changed and we, the county staff, were not aware of that change when the Board took final action on the zoning for that area. I don't want this to sound personal, but I think this is a very important that you understand how this got included in the farm zone. If you look at it, useful portion is less than an acre, surrounded by natural and manmade physical features. Probably the only real use for this parcel is putting a house on it, and doing so is not going to adversely affect the surrounding resource land. The adjoining properties to the north and east are owned by the owner's brother and cousin. The Northwest side is buffered by the road. The only land that is adjacent without natural or manmade barriers is the residential lot, Tax Lot 2601, the creek swings around them. In both the applicant's report and the staff report all of the applicable criteria are addressed. If at any point you find that you cannot justify a Goal Exception and Zone Change just based on the parcel size alone, the report talks about "Other Factors" making it unsuitable, so it's a combination, parcel size is just a piece of it. All of the other factors that have been mentioned, the surrounding features, the isolation from other farm land, the adjacent creek, all of that adds up to say that this is not a farm parcel, it is a residential parcel. This parcel has been assessed at market value; they have never asked for or had a farm assessment. They have always regarded it as a residential property. There was a residence on the property at one time which was removed awhile back. There are and have been utilities on the property. There is a septic tank that will possibly need replacing.

Chair Heckerorth asked for public comment and staff questions or comment. There was no public comment or staff comment.

Chair Heckerorth asked if the property tax is based on the zoning.

Lisa Phipps said that residential property can have a farm deferral if it is being used for farming purposes.

Chair Heckerorth asked why they would be paying residential tax on the subject parcel when it is zoned for farming.

Lisa Phipps said that is an issue with the Assessor's Office.

Tom Rieger, applicant, said that his brother had lived on the subject property unaware that it was zoned F-1 while his mother owned the property. His brother moved his mobile home off the property and asked Tom & Sue Rieger if they wanted to buy the property, which they did and kept it for their kids. When the new bridge went in 3 years ago, the applicants asked if the subject property was still a buildable lot and they were told that they could put a home on it. Two years ago the applicants' son wanted to put a home on the property, so the applicant went back to the Department to check into it and they were told no, it's zoned F-1 and that is the reason for this application.

Vic Affolter added that the applicants have always regarded the subject property as a residential property..

9:30 Being there were no further public or staff comments or questions the Chair closed hearing to public comment. Opened the floor for Commission discussion: Goal Exception first and then the Zone Change.



Commissioner Hoffman asked staff for clarification of "Land Irrevocably Committed to Other Uses". It tends to sound like there has to be something already going on the property to make it eligible for the exception.

Chair Heckerath asked Staff to assist in answering Commissioner Hoffman's question.

Commissioner Hoffman indicated that the question stems from statements made in the applicant's report on Page 3 under Findings #3 in bold, "It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals." Then skip down to, "...for exceptions to Goal #3 or #4 local governments are required to demonstrate that only the following uses or activities are impracticable: Farm use as defined, propagation or harvesting of a forest product or forest operations." The conflict is that one sounds like it has to already be doing something. This part sounds like it can't be employed that way because of its inherent characteristics. Does this bit trump the other?

Brad Sheets: What the County has to do is look at Goal 3 and 4 and the criteria and assess all of the criteria, take it all into consideration for the parcel as it is. It needs to be looked at with a fine toothed comb and at the same time look at all the different processes happening on the property. It's different from some other applications where if one of the criteria is not met it is turned down. We are looking at the property as a whole. "it" states that "It shall not be required that the local governments demonstrate that every use allowed by the applicable Goal be deemed as impossible." We are looking at all the different factors that need to be assessed and analyzed.

Commissioner Hoffman: If we were to hang our decision on the part that says "local governments are required to demonstrate that only the following uses or activities are impracticable," would we be within the law?

Brad Sheets: I believe so. The findings of fact show that the size of this 1.68 acre parcel with Bewley Creek, the riparian setbacks, the road itself and the setbacks from the road brings the size of the usable portion of the parcel to use it for farm or forest uses is impracticable.

Chair Heckerath asked if there is any further discussion.

Commissioner Mizee: It boils down to, you can farm in setbacks, but that isn't always available so in a worst cast scenario long term it's not a viable option for farming. If you look at the diagram there might be 2500 sq ft. which you can't hardly turn a tractor around on. It's just not practical.

Commissioner Hoffman said she thought it makes sense to grant the Exception and then go ahead to approve the Zone Change since there is substantiation in both the Staff Report and the Applicant's submittal.

Chair Heckerath agreed with Commissioner Hoffman.

Commissioner Ousele agreed as well.

Commissioner Mizee asked if the Commission is approving this in two motions or one?

Lisa Phipps suggested that this be addressed in two parts.

Chair Heckerath agreed with presenting two motions.

CALL FOR ACTION

Chair asked for further discussion on Goal Exception, there was none.



Call for motion

MOTION:

Commissioner Hoffman: In the matter of the Goal Exception contained in ZC-07-04, based on the Staff Report, other written and oral testimony and the findings of fact, I move that we recommend to Board of County Commissioners the approval for a Land Irrevocably Committed to Other Use Exception.

Commissioner Jones seconded the motion.

Motion carried 5-0

Chair Heckerroth asked if there is any discussion regarding the Zone Change.

Commissioner Ousele asked if it matters if it is a text amendment or map amendment? Both phrases are used in the Staff Report.

Lisa Phipps said that it will be both a text amendment and map amendment. ...amendments to comp plan text and map

CALL FOR ACTION

Chair asked for a motion

MOTION

Commissioner Ousele: In the matter of Zone Change ZC-07-04 Map and Text Amendment, I move that we recommend approval of the Map and Text Amendment on the basis of the Staff Report, Findings of Fact, testimony and applicant's submittal.

Commissioner Mizze seconded the motion.

Commissioner Ousele amended the motion to reflect that this Exception and Zone Change are limited to the subject parcel, 2S09-18-TL2102, as proposed in the request.

Commissioner Mizze seconded the amended motion.

Motion carried 5-0

TILLAMOOK COUNTY DEPARTMENT
OF COMMUNITY DEVELOPMENT
201 LAUREL AVENUE
TILLAMOOK, OREGON 97141

DLCD
Attn: Plan Amendment Specialist
635 Capitol St. NE
Suite 150
Salem, OR 97301-2540

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