



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

6/3/2010

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

FROM: Plan Amendment Program Specialist

SUBJECT: Washington County Plan Amendment  
DLCD File Number 005-10

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: Thursday, June 17, 2010

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 Acknowledgment or 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 than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

Cc: Anne Elvers, Washington County  
Jon Jinings, DLCD Community Services Specialist  
Gary Fish, DLCD Regional Representative  
Katherine Daniels, DLCD Farm/Forest Specialist

<paa> YA





FORM 2

DLCD

# Notice of Adoption

This Form 2 must be mailed to DLCD within 5-Working Days after the Final Ordinance is signed by the public Official Designated by the jurisdiction and all other requirements of ORS 197.615 and OAR 660-018-000

|                     |                                      |                                     |                                 |
|---------------------|--------------------------------------|-------------------------------------|---------------------------------|
| DATE<br>STAMP       | <input type="checkbox"/> In person   | <input type="checkbox"/> electronic | <input type="checkbox"/> mailed |
|                     | DEPT OF                              |                                     |                                 |
|                     | MAY 28 2010                          |                                     |                                 |
|                     | LAND CONSERVATION<br>AND DEVELOPMENT |                                     |                                 |
| For Office Use Only |                                      |                                     |                                 |

Jurisdiction: **Washington County**

Local file number: **10-082-PA**

Date of Adoption: **May 25, 2010**

Date Mailed: **May 27, 2010**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? ☒ Yes ☐ No Date: **3/19/2010**

☐ 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".

**Comprehensive plan map amendment to remove the Exclusive Farm Use (EFU) District designation and designate the property Exclusive Forest Conservation (EFC).**

Does the Adoption differ from proposal? No, no further explanation required.

Plan Map Changed from: **EFU**

to: **EFC**

Zone Map Changed from: **N/A**

to: **N/A**

Location: **At the terminus of SW Swank Road, south of SW Scholls-Sherwood Road** Acres Involved: **52.2**

Specify Density: Previous: **1 d.u./80 acres**

New: **1 d.u./80 acres**

Applicable statewide planning goals:

|                                     |                                     |                                     |                                     |                                     |                          |                                     |                          |                          |                          |                                     |                                     |                          |                          |                          |                          |                          |                          |                          |
|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|-------------------------------------|--------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|-------------------------------------|-------------------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| <b>1</b>                            | <b>2</b>                            | <b>3</b>                            | <b>4</b>                            | <b>5</b>                            | <b>6</b>                 | <b>7</b>                            | <b>8</b>                 | <b>9</b>                 | <b>10</b>                | <b>11</b>                           | <b>12</b>                           | <b>13</b>                | <b>14</b>                | <b>15</b>                | <b>16</b>                | <b>17</b>                | <b>18</b>                | <b>19</b>                |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/> |

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. 005-10 (18186) [16158]



DLCD file No. \_\_\_\_\_

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

**Washington County Sheriff's Office, Hillsboro School District, Washington County Fire District #2**

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Local Contact: Anne Elvers

Phone: 503-846-3583

Address: 155 N. 1<sup>st</sup> Avenue, Suite 350-14

Fax Number: 503-846-4412

City: Hillsboro

Zip: 97124

E-mail Address: [anne\\_elvers@co.washington.or.us](mailto:anne_elvers@co.washington.or.us)

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### **ADOPTION SUBMITTAL REQUIREMENTS**

**This Form 2 must be received by DLCD no later than 5 days after the ordinance has been signed by the public official designated by the jurisdiction to sign the approved ordinance(s)**  
per ORS 197.615 and OAR Chapter 660, Division 18

1. This Form 2 must be submitted by local jurisdictions only (not by applicant).
2. When submitting, please print this **Form 2** on light **green paper if available**.
3. Send this Form 2 and **One (1) Complete Paper Copy and One (1) Electronic Digital CD** (documents and maps) of the Adopted Amendment to the address in number 6:
4. **Electronic Submittals: Form 2 – Notice of Adoption will not be accepted via email or any electronic or digital format at this time.**
5. The Adopted Materials must include the final decision signed by the official designated by the jurisdiction. The Final Decision must include approved signed ordinance(s), finding(s), exhibit(s), and any map(s).
6. **DLCD Notice of Adoption must be submitted in One (1) Complete Paper Copy and One (1) Electronic Digital CD via United States Postal Service, Common Carrier or Hand Carried to the DLCD Salem Office and stamped with the incoming date stamp.** (for submittal instructions, also see # 5)] **MAIL the PAPER COPY and CD 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**

7. Submittal of this Notice of Adoption must include the signed ordinance(s), finding(s), exhibit(s) and any other supplementary information (see ORS 197.615 ).
8. Deadline to appeals to LUBA is calculated **twenty-one (21) days** from the receipt (postmark date) of adoption (see ORS 197.830 to 197.845 ).
9. In addition to sending the Form 2 - Notice of Adoption to DLCD, please notify persons who participated in the local hearing and requested notice of the final decision at the same time the adoption packet is mailed to DLCD (see ORS 197.615 ).
10. **Need More Copies?** You can now access these forms online at <http://www.lcd.state.or.us/>. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518.

*Updated December 22, 2009*

IN THE BOARD OF COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

In the Matter of a Proposed Plan ) RESOLUTION AND ORDER  
Amendment Casefile 10-082-PA )  
for James Kilty ) No. 10-44

This matter having come before the Washington County Board of Commissioners (Board) at its meeting of May 25, 2010; and

It appearing to the Board that the above-named applicant applied to Washington County for a Plan Amendment to change the plan designation for certain real property described in the Notice of Public Hearing (Exhibit "A"), attached hereto and by this reference made a part hereof, from Exclusive Farm Use (EFU) to Exclusive Forest Conservation (EFC); and

It appearing to the Board from evidence and findings in the Application (Exhibit "B") and in the Staff Reports (Exhibit "C" and "D") attached hereto and by this reference made a part hereof, that the aforementioned application does meet the requirements of the Rural/Natural Resource Plan for such a Plan Amendment; and therefore, that the aforesaid application should be approved; and

It appearing to the Board that the findings described in Exhibits "B", "C" and "D" constitute appropriate findings and should be adopted by this Board; and

It appearing to the Board that the Planning Commission, at the conclusion of its public hearing on May 5, 2010, voted to recommend that the Board adopt 10-082-PA, it is therefore

RESOLVED AND ORDERED that Casefile No. 10-082-PA for a Plan Amendment for property described in Exhibit "A" is hereby approved, based on the findings in Exhibits "B", "C" and "D", and is subject to the conditions of approval set forth in the Summary of Decision (Exhibit "E").

4 votes Aye, 0 votes Nay.

|          | AYE                                 | NAY                      | ABSENT                              |
|----------|-------------------------------------|--------------------------|-------------------------------------|
| BRIAN    | <input type="checkbox"/>            | <input type="checkbox"/> | <input checked="" type="checkbox"/> |
| SCHOUTEN | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| STRADER  | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| ROGERS   | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |
| DUYCK    | <input checked="" type="checkbox"/> | <input type="checkbox"/> | <input type="checkbox"/>            |

APPROVED AS TO FORM:

Senior Assistant County Counsel  
for Washington County, Oregon

BOARD OF COUNTY COMMISSIONERS  
FOR WASHINGTON COUNTY, OREGON

CHAIRMAN

Barbara Hejtmarek  
RECORDING SECRETARY



**AGENDA**

**WASHINGTON COUNTY BOARD OF COMMISSIONERS**

**Agenda Category:** Public Hearing - Land Use & Transportation (CPO 10)

**Agenda Title:** CONSIDER PLAN AMENDMENT 10-082-PA TO CHANGE THE PLAN DESIGNATION FROM EFU TO EFC FOR A 52 ACRE PARCEL

**Presented by:** Brent Curtis, Planning Manager

**SUMMARY:**

The applicant, James Kilty, is requesting a plan amendment to change the current land use designation of Exclusive Farm Use (EFU) to Exclusive Forest and Conservation (EFC) for a 52-acre property described as Tax Lot 3600 on Tax Map 2S2, Section 15. The property is located on SW Swank Road, south of Pascuzzi Lane, east of Seiffert Road, west of Belton Road, and north of Mountain Creek Road, as shown on the attached public notice.

Because this request involves land designated under the statewide planning goal addressing forest lands (Goal 4), a Planning Commission hearing was held for the purpose of making a recommendation to the Board on this matter. It is the Board’s responsibility to make a final decision on this application.

On May 5, 2010, the Planning Commission conducted an expedited public hearing on the plan amendment. The Commission voted 7-0 to forward a recommendation for approval to the Board. Although the Board does not have an expedited hearing process, the Board may wish to conduct the hearing similar to the Planning Commission’s procedures.

-Continued-

Attachments: Public Notice  
Resolution and Order

The staff report for the May 25, 2010 hearing and the applicant’s submittal will be provided to the Board and the Board’s clerk under separate cover prior to the hearing.

**DEPARTMENT’S REQUESTED ACTION:**

Conduct the public hearing. Approve the proposed plan amendment based on evidence and findings in the staff report and the applicant’s submittal. Authorize the Chair to sign the Resolution and Order approving Plan Amendment 10-082-PA.

**COUNTY ADMINISTRATOR’S RECOMMENDATION:**

I concur with the requested action.

100-601000

RO 10- 44

|                 |                 |
|-----------------|-----------------|
| Agenda Item No. | <u>4.b.</u>     |
| Date:           | <u>05/25/10</u> |

Under the Planning Commission's procedures, an expedited hearing process can be used under the following conditions:

- The staff report recommends approval
- The applicant has no objection
- No one in the audience wishes to testify
- There is no objection from any member of the Planning Commission

Under the expedited process, the Planning Commission relies on the written record, opens the hearing, dispenses with a verbal staff report and places on the record the fact that neither the applicant nor anyone in the audience wishes to testify.

If an expedited hearing process cannot be utilized, the Board's Rules of Procedure set the following time limits for testimony at quasi-judicial hearings. The Board may by motion grant different time limits.

1. Proponents of the action or applicant: 12 minutes
2. Supporter(s): 3 minutes per person or organizations in support
3. Opponent(s): 12 minutes total for recognized organizations (CPO, business or homeowner's associations) which shall be divided as directed by the Presiding Officer if more than one organization seeks to testify, and 3 minutes per person.
4. Rebuttal: 3 minutes by the proponent or applicant.

This agenda has been prepared in advance of the May 25th staff report. The staff report and all application materials will be provided to the Board and the Board's clerk prior to May 25, 2010. The staff report will be posted on the Long Range Planning Divisions webpage at the following location.

<http://www.co.washington.or.us/LUT/Divisions/LongRangePlanning/PlanningPrograms/CommunityPlanning/2010-plan-amendments.cfm>





WASHINGTON COUNTY  
DEPARTMENT OF LAND USE AND TRANSPORTATION  
PLANNING DIVISION  
ROOM 350-14  
155 NORTH FIRST AVENUE  
HILLSBORO, OREGON 97124  
(503) 846-3519 fax: (503) 846-4412  
www.co.washington.or.us

# NOTICE OF PUBLIC HEARINGS

## PROCEDURE TYPE III

CPO: 10

COMMUNITY PLAN: Rural/Natural Resource

## EXISTING LAND USE DISTRICT:

Exclusive Farm Use (EFU)

## PROPOSED PLAN AMENDMENT:

Comprehensive plan amendment from Exclusive Farm Use (EFU) to Exclusive Forest and Conservation (EFC)

Notice is hereby given that the Planning Commission will review the request for the above stated proposed plan amendment at a meeting on: **Wednesday, May 5, 2010 at 1:30 PM** in the auditorium of Washington County Public Services Building, 155 North First, Hillsboro, Oregon. After the hearing the Planning Commission will decide on a recommendation to the to the Board of County Commissioners on this matter.

The Board of Commissioners will consider the request at a public hearing on: **Tuesday, May 25 at 6:30 PM** in the auditorium of Washington County Public Services Building, 155 North First, Hillsboro, Oregon. The decision of the Board is final unless appealed.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to a hearing). Only those making an appearance of record shall be entitled to appeal. The public hearings will be conducted in accordance with the rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits will be imposed.

Assistive Listening Devices are available for persons with impaired hearing and can be scheduled for this meeting by calling 648-8611 (voice) or 693-4598 (TDD-Telecommunications Devices for the Deaf) no later than 5:00pm, Monday. The County will also upon request endeavor to arrange for the following services to be provided: qualified sign language interpreters for persons with speech or hearing impairments; and qualified bilingual interpreters. Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the County of your need by 5:00pm on the Monday preceding the meeting date.

FOR FURTHER INFORMATION, PLEASE CONTACT:

**Anne Elvers, Associate Planner**

AT THE WASHINGTON COUNTY DEPARTMENT OF LAND USE AND TRANSPORTATION. (503) 846-3519.

CASE FILE NO.: 10-082-PA

## APPLICANT:

James Kilty  
17405 SW Swank Road  
Sherwood, OR 97140

## OWNERS:

James and Joni Kilty, Jerrilee Kelley, and Jackie L Fowler

## PROPERTY DESCRIPTION:

ASSESSOR MAP NO: 2S2 15

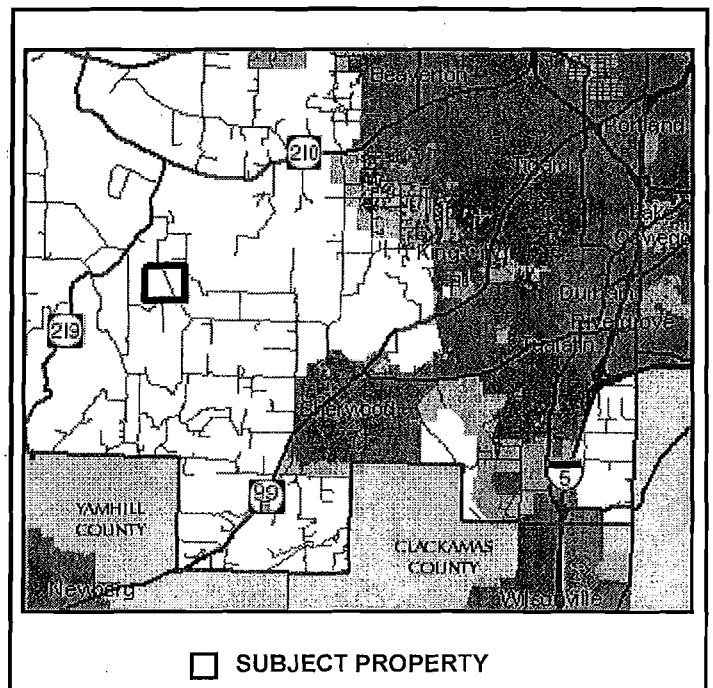
TAX LOT NO: 3600

SITE SIZE: 52 Acres

ADDRESS: 17405 SW Swank Road, Sherwood, OR 97140

LOCATION: On SW Swank Road, south of Pascuzzi Lane, east of Seiffert Road, west of Belton Road, and north of Mountain Creek Road.

## AREA MAP



## NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:

ORS CHAPTER 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER.

All interested persons may appear and provide written or oral testimony (written testimony may be submitted prior to the hearing but not after the conclusion of the hearing). Only those making an appearance of record (those presenting oral or written testimony) shall be entitled to appeal. Failure to raise an issue in the hearing, in person or by letter, or failure to provide sufficient specificity to afford the Review Authority (Planning Commission and/or Board of County Commissioners) an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals (LUBA) based on the issue.

The public hearing will be conducted in accordance with the following rules of procedure as adopted by the Board of County Commissioners. Reasonable time limits may be imposed.

#### **RULES OF PROCEDURE**

1. The staff will summarize the applicable substantive review criteria
2. A summary of the staff report is presented.
3. The applicant's presentation is given.
4. Testimony of others in favor of the application is given.
5. Testimony of those opposed to the application is given.
6. Applicant's rebuttal testimony is given.

Unless there is a continuance, if a participant so requests before the conclusion of the hearing, the record shall remain open for at least seven days after the hearing. Such an extension shall be subject to the limitations of ORS 215.428 or 227.178.

When the Review Authority reopens a record to admit new evidence or testimony, any person may raise new issues which relate to the new evidence, testimony or criteria for decision-making which apply to the matter at issue.

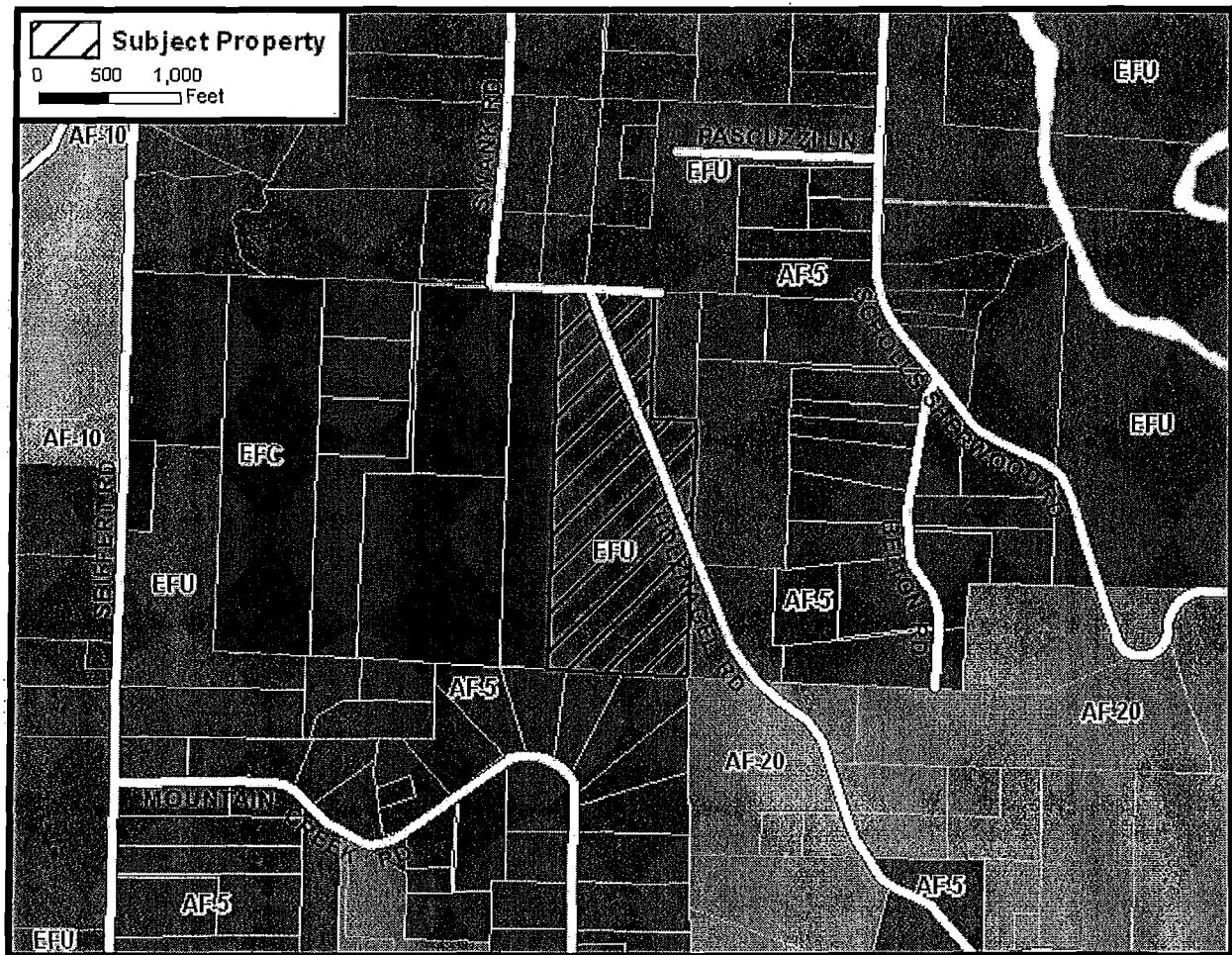
A copy of the application, all documents and evidence relied upon by the applicant and applicable criteria are available for inspection at no cost at the Department of Land Use and Transportation. A copy of this material will be provided at reasonable cost.

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For further information, please contact **Anne Elvers, Associate Planner**, Department of Land Use and Transportation, at (503) 846-3519.



**Case File Number: 10-082-PA**



Applicable Land Use Districts:

|     |                                   |
|-----|-----------------------------------|
| EFU | Exclusive Farm Use                |
| EFC | Exclusive Forest and Conservation |

Applicable Goals, Policies & Regulations:

- A. LCDC Statewide Planning Goals 1, 2, 3, 4, 5, 7, 11, 12
- B. Washington County Rural/Natural Resource Plan Policies  
1, 2, 6, 8, 10, 14, 15, 16, 22, 23
- C. Washington County Community Development Code  
Article II, Procedures  
Article III, Sections 340 and 342  
Article IV, Sections 421 and 422  
Article V
- D. OAR 660-12-060, OAR 660-04
- E. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10, 19



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# NOTICE OF PUBLIC HEARINGS

PROCEDURE TYPE III

CPO: 10

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CASE FILE NO.: 10-082-PA

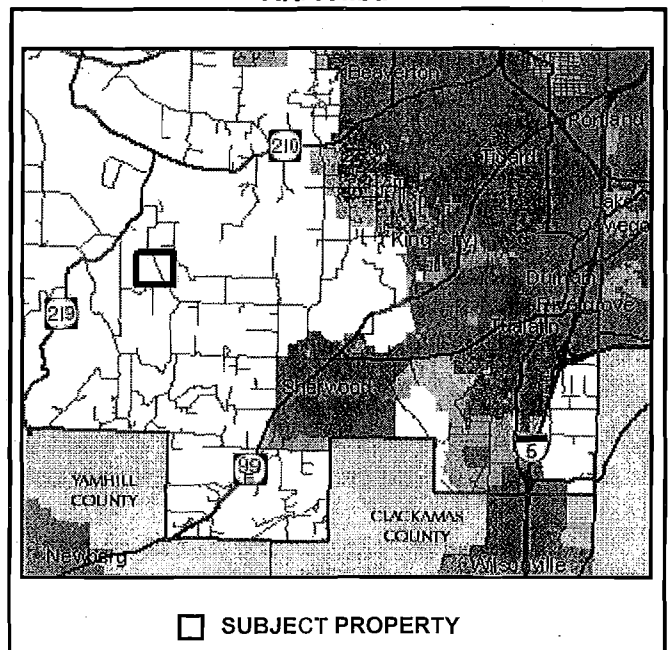
APPLICANT:  
James Kilty  
17405 SW Swank Road  
Sherwood, OR 97140

OWNERS:  
James and Joni Kilty, Jerrilee Kelley, and Jackie L Fowler

PROPERTY DESCRIPTION:

ASSESSOR MAP NO: 2S2 15  
TAX LOT NO: 3600  
SITE SIZE: 52 Acres  
ADDRESS: 17405 SW Swank Road, Sherwood, OR 97140  
LOCATION: On SW Swank Road, south of Pascuzzi Lane, east of Seiffert Road, west of Belton Road, and north of Mountain Creek Road.

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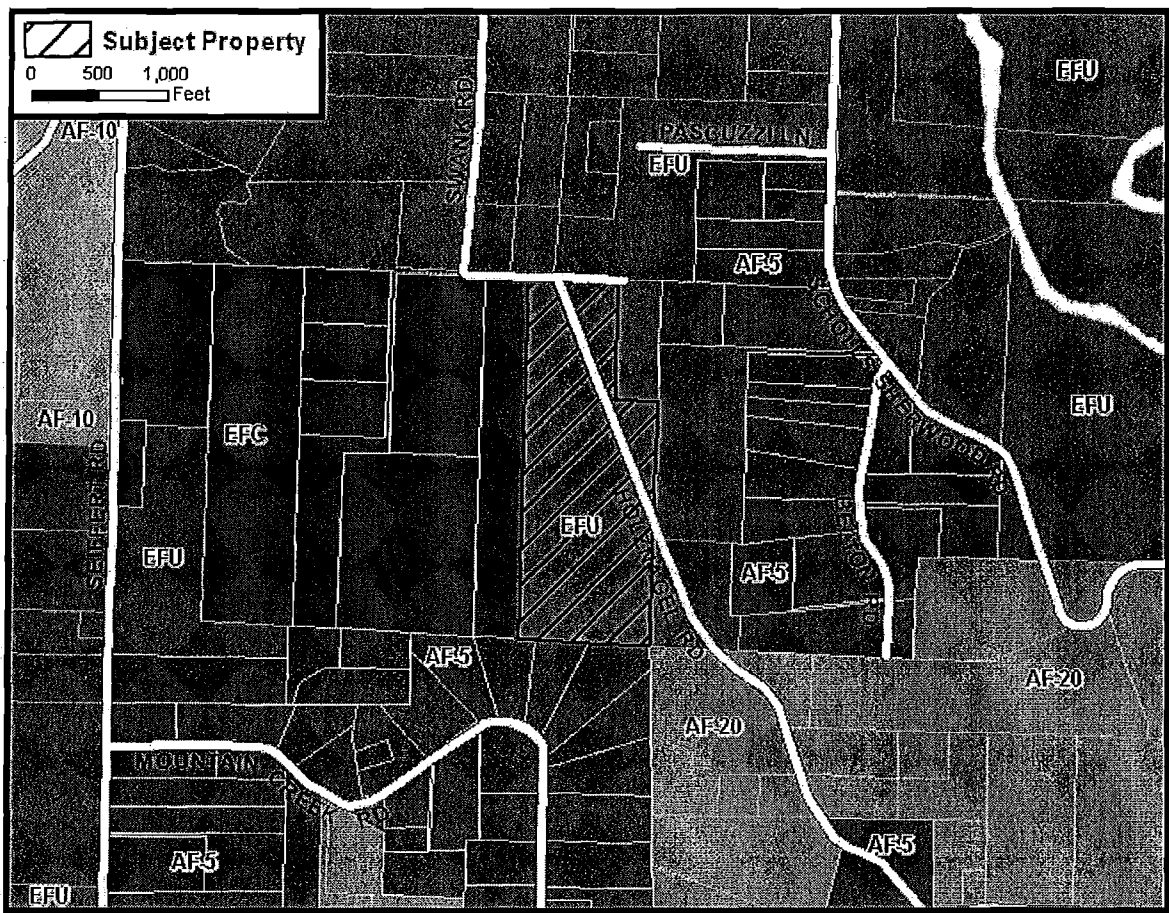
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For further information, please contact **Anne Elvers, Associate Planner**, Department of Land Use and Transportation, at (503) 846-3519.



Tax Map/Lot Number: 2S2 15, Tax Lot 3600  
Case File Number: 10-082-PA



Applicable Land Use Districts:

- EFU     Exclusive Farm Use
- EFC     Exclusive Forest and Conservation

Applicable Goals, Policies & Regulations:

- A. LCDC Statewide Planning Goals 1, 2, 3, 4, 5, 7, 11, 12
- B. Washington County Rural/Natural Resource Plan Policies 1, 2, 6, 8, 10, 14, 15, 16, 22, 23
- C. Washington County Community Development Code
  - Article II, Procedures
  - Article III, Sections 340 and 342
  - Article IV, Sections 421 and 422
  - Article V
- D. OAR 660-12-060, OAR 660-04
- E. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10, 19

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WASHINGTON COUNTY  
DEPARTMENT OF LAND USE AND TRANSPORTATION  
PLANNING DIVISION  
ROOM 350-14  
155 NORTH FIRST AVENUE  
HILLSBORO, OREGON 97124  
(503) 846-3519 fax: (503) 846-4412

# PLAN AMENDMENT PRE-APPLICATION CONFERENCE SUMMARY

PROCEDURE TYPE III

CPO: 10

COMMUNITY PLAN: Rural/Natural Resource

EXISTING LAND USE DISTRICT(S): Exclusive Farm Use (EFU)

PROPOSED PLAN AMENDMENT: EFU to EFC (Exclusive Forest and Conservation)

PRE-APPLICANT:

James Kilty

PROPERTY OWNER:

James & Joni Kilty

PROPERTY DESCRIPTION:

ASSESSOR MAP NO(S): 2S215

TAX LOT NO(S): 3600

SITE SIZE: 36.2

ADDRESS: 17045 SW Swank Road

LOCATION: At the intersection of SW Swank and SW Holznagel Road

DATE OF PRE-APPLICATION CONFERENCE: 2/5/10

PRE-APPLICANT PHONE: \_\_\_\_\_

STAFF MEMBER: Anne Elvers, Associate Planner

APPLICATION SUBMITTAL DEADLINE AND OTHER APPLICABLE REQUIREMENTS:

**FEBRUARY 15(generally) for SPRING/SUMMER HEARINGS - AUGUST 15(generally) for FALL/WINTER HEARINGS**

(NOTE: AN APPLICATION WILL NOT BE SCHEDULED FOR A PUBLIC HEARING UNTIL IT IS ACCEPTED AS COMPLETE. A COMPLETE APPLICATION ADDRESSES ALL APPLICABLE PROVISIONS OF THE VARIOUS COMPREHENSIVE PLAN ELEMENTS AND OTHER APPLICABLE REQUIREMENTS, AND HAS ALL NECESSARY FORMS FILLED OUT COMPLETELY AND CORRECTLY, AND INCLUDES THE SPECIFIED FEE DEPOSIT AND THE CONTRACT SIGNED BY THE OWNER AGREEING TO PAYMENT OF ALL COSTS ASSOCIATED WITH APPLICATION PROCESSING.)

APPLICABLE POLICIES AND REGULATIONS

RURAL NATURAL RESOURCE PLAN CONSIDERATIONS:

DEMONSTRATE CONFORMANCE WITH THE FOLLOWING POLICIES AND APPLICABLE IMPLEMENTING STRATEGIES UNDER THESE POLICIES: 1, p.1, 2, 6, 8, 10, 14.a.1, 15, 16, 22, 23

TRANSPORTATION PLAN CONSIDERATIONS:

DEMONSTRATE CONFORMANCE WITH THE FOLLOWING POLICIES AND APPLICABLE IMPLEMENTING STRATEGIES UNDER THESE POLICIES: 1, 2, 4, 5, 6, 10, 19

COMMUNITY DEVELOPMENT CODE CONSIDERATIONS:

APPLICABLE LAND USE DISTRICT SECTIONS (PURPOSE AND PERMITTED USES): 340 (EFU) & 342 (EFC)

PHYSICAL LIMITATIONS OF SITE (SECTIONS 421, 422): 421 (Flood Plain and Drainage Hazard Area Development) & 422 (Significant Natural Resources)

*On-site Public Notice Requirement (Rural Area Only): Section 204-1.4 requires the site to be posted with a public notice sign and an affidavit of posting filed within twenty-eight (28) days of application acceptance.*

OTHER CONSIDERATIONS: State Transportation Planning Rule (OAR 660-012-0060)

REVIEW AUTHORITY: ☒ Planning Commission (makes a recommendation to the Board of County Commissioners)  
☒ Board of County Commissioners (makes final decision)

GENERAL INFORMATION

PREVIOUS CASE FILES: 07-307-AD/37CL0314 (Denied)

OUTSTANDING CONDITIONS AND VIOLATIONS: N/A

OTHER INTERESTED AGENCIES AND ORGANIZATIONS: N/A

HANDOUTS DISTRIBUTED

- ☒ PLAN AMENDMENT APPLICATION FORM
- ☒ PLAN AMENDMENT PROCEDURE SUMMARY
- ☒ AGREEMENT TO PAYMENT OF FEES FOR APPLICATION PROCESSING
- ☒ REQUEST FOR STATEMENT OF SERVICE AVAILABILITY FORMS
- ☐ TRAFFIC IMPACT STATEMENT FORM

DOCUMENTS TO BE SUBMITTED WITH APPLICATION

NUMBER OF COPIES:

18 PRE-APPLICATION SUMMARY

18 PLAN AMENDMENT APPLICATION FORM

18 WRITTEN EXPLANATION, JUSTIFICATION (Please submit 2 copies for initial submittal. Additional copies will be required upon determination of completeness.)

1 FEE CONTRACT (SIGNED)

1 WASHINGTON COUNTY TAX MAP(S) (must be obtained from Assessment & Taxation Department) 2S2 15

1 ELECTRONIC COPY OF APPLICATION MATERIALS (Submit after application is deemed complete.)

SERVICE PROVIDER LETTERS:

18 HILLSBORO SCHOOL DISTRICT

18 WASHINGTON COUNTY FIRE DISTRICT #2

18 WASHINGTON COUNTY SHERIFF

- ☒ FEE DEPOSIT OF \$3500.00  
This is an initial deposit towards payment of the true cost of processing the application.

**THESE NOTES ARE GENERAL IN NATURE AND ARE NOT INTENDED TO COVER ALL OF THE ISSUES THAT MAY SURFACE IN THE REVIEW OF AN APPLICATION. ADDITIONAL INFORMATION MAY BE REQUIRED AND IT IS THE APPLICANT'S RESPONSIBILITY TO PROVIDE THE NECESSARY INFORMATION TO PROCESS AN APPLICATION AS REQUIRED BY OREGON LAW AND WASHINGTON COUNTY ORDINANCES AND REGULATIONS.**



WASHINGTON COUNTY  
DEPARTMENT OF LAND USE AND TRANSPORTATION  
PLANNING DIVISION  
ROOM 350-14  
155 NORTH FIRST AVENUE  
HILLSBORO, OREGON 97124  
(503) 846-3519

RECEIVED

FEB 16 2010

## PLAN AMENDMENT APPLICATION

PROCEDURE TYPE III (QUASI-JUDICIAL PUBLIC HEARING)

CPO: 10

COMMUNITY PLAN: KNR

EXISTING LAND USE DISTRICT(S): EFU

PROPERTY DESCRIPTION: 252 15  
ASSESSOR MAP NO(S): 3600  
TAX LOT NO(S): 52 acres / Fifty two acres  
SITE SIZE: 52 acres / Fifty two acres  
ADDRESS: 17405 SW SWANK RD  
LOCATION: Sherwood OR

PROPOSED PLAN AMENDMENT: change property zoning from EFU to EFC

DATE OF PRE-APPLICATION CONFERENCE:  
(Attach copy of summary) 02/06/10

STAFF MEMBER: Anne Elvers

EXISTING USE OF THE SITE: 32 acres of 5 year old Douglas fir trees / 12 acres of pasture

LIST ASSESSOR MAP AND TAX LOT NUMBERS OF ALL CONTIGUOUS LOTS OR PARCELS UNDER IDENTICAL OWNERSHIP:

LIST ALL PREVIOUS DEVELOPMENT REQUESTS, LAND USE ACTIONS AND DATES OR PREVIOUS ACTIONS RELATING TO THE SUBJECT PROPERTY:

measure 37 claim 2006

WE, THE UNDERSIGNED HEREBY AUTHORIZE THE FILING OF THIS APPLICATION AND CERTIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION IS COMPLETE AND CORRECT TO THE BEST OF OUR KNOWLEDGE.

James H. Kelly 02/08/10  
☒ OWNER ☐ CONTRACT PURCHASER DATE

Jan L. Kelly 02/08/10  
☒ OWNER ☐ CONTRACT PURCHASER DATE

Jackie Fowler 02/13/10  
☒ OWNER ☐ CONTRACT PURCHASER DATE

Janet Kelly 02/14/10  
☒ OWNER ☐ CONTRACT PURCHASER DATE

### NOTES:

- THIS APPLICATION MUST BE SIGNED BY ALL THE OWNERS OR ALL THE CONTRACT PURCHASERS OF THE SUBJECT PROPERTY, AS DEFINED BY THE COMMUNITY DEVELOPMENT CODE, SECTION 106-149.
- IF THIS APPLICATION IS SIGNED BY THE CONTRACT PURCHASER(S), THE CONTRACT PURCHASER(S) IS (ARE) CERTIFYING THAT THE CONTRACT VENDOR HAS BEEN NOTIFIED OF THE APPLICATION.

- THE APPLICANT OR A REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC HEARINGS.
- NO APPROVAL WILL BE EFFECTIVE UNTIL THE APPEAL PERIOD HAS EXPIRED.
- AN APPROVAL OR DENIAL OF THIS REQUEST MAY BE OVERTURNED ON APPEAL.

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CASEFILE NO. \_\_\_\_\_

APPLICANT NAME AND ADDRESS: James Kelly 17405 SW SWANK RD  
Sherwood OR  
97140

APPLICANT'S REPRESENTATIVE AND ADDRESS: \_\_\_\_\_

OWNER'S NAME AND ADDRESS: James Kelly 17405 SW SWANK RD  
SHERWOOD OR 97140

APPLICANT PHONE: 971-322-9826

OWNER PHONE: 971 322 9826

ALSO NOTIFY: \_\_\_\_\_





WASHINGTON COUNTY  
DEPARTMENT OF LAND USE AND TRANSPORTATION  
PLANNING DIVISION  
ROOM 350-14  
155 NORTH FIRST AVENUE  
HILLSBORO, OREGON 97124  
(503) 846-3519

RECEIVED  
FEB 16 2010

## PLAN AMENDMENT APPLICATION

PROCEDURE TYPE III (QUASI-JUDICIAL PUBLIC HEARING)

CPO: 10

COMMUNITY PLAN: KNR

EXISTING LAND USE DISTRICT(S): EFU

PROPERTY DESCRIPTION 252 15  
ASSESSOR MAP NO(S):  
TAX LOT NO(S): 3600  
SITE SIZE: 52 acres / Fifty-two acres  
ADDRESS: 17405 SW SWANK RD  
LOCATION: Sherwood OR

PROPOSED PLAN AMENDMENT: change property zoning from EFU to EFC

DATE OF PRE-APPLICATION CONFERENCE:  
(Attach copy of summary)

STAFF MEMBER:

EXISTING USE OF THE SITE: 32 acres of 5 year old douglas fir trees / 12 acres of pasture

LIST ASSESSOR MAP AND TAX LOT NUMBERS OF ALL CONTIGUOUS LOTS OR PARCELS UNDER IDENTICAL OWNERSHIP:

CASEFILE NO.

APPLICANT NAME AND ADDRESS:

James Kilty 17405 SW SWANK RD  
Sherwood OR  
97140

APPLICANT'S REPRESENTATIVE AND ADDRESS:

OWNER'S NAME AND ADDRESS:

James Kilty  
17405 SW SWANK RD  
SHERWOOD OR 97140

APPLICANT PHONE: 971-322-9826

OWNER PHONE: 971 322 9826

ALSO NOTIFY:

LIST /  
PROF

WE, THIS

☒ C

☒ C

NOT

RECEIPT

|                                                                    |                  |                                   |                  |
|--------------------------------------------------------------------|------------------|-----------------------------------|------------------|
| DATE                                                               | <u>2/16/10</u>   | No.                               | <u>005860</u>    |
| FROM                                                               | <u>Jim Kilty</u> |                                   |                  |
| Three thousand five hundred <sup>no</sup> / <sub>100</sub> DOLLARS |                  |                                   |                  |
| <input type="radio"/> FOR RENT <u>Plan Amendment</u>               |                  |                                   |                  |
| <input type="radio"/> FOR                                          |                  |                                   |                  |
| ACCT.                                                              |                  | <input type="radio"/> CASH        | \$               |
| PAID                                                               |                  | <input type="radio"/> CHECK       | FROM TO          |
| DUE                                                                |                  | <input type="radio"/> MONEY ORDER | BY <u>Anne E</u> |

VIOUS ACTIONS RELATING TO THE SUBJECT

RTIFY THAT THE INFORMATION CONTAINED IN

ie Fowler 02/13/10  
☒ CONTRACT PURCHASER DATE  
ie Kilty 02/14/10  
☒ CONTRACT PURCHASER DATE

IT OR A REPRESENTATIVE SHOULD BE PRESENT AT ALL PUBLIC

COMMUNITY DEVELOPMENT CODE, SECTION 100-143.

IF THIS APPLICATION IS SIGNED BY THE CONTRACT PURCHASER(S), THE CONTRACT PURCHASER(S) IS (ARE) CERTIFYING THAT THE CONTRACT VENDOR HAS BEEN NOTIFIED OF THE APPLICATION.

NO APPROVAL WILL BE EFFECTIVE UNTIL THE APPEAL PERIOD HAS EXPIRED.

AN APPROVAL OR DENIAL OF THIS REQUEST MAY BE OVERTURNED ON APPEAL.

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**DATE:** March 9, 2010

**REQUEST:** Remove the Exclusive Farm Use (EFU) plan designation and designate the parcel EFC (Exclusive Forest Conservation).

**APPLICANT:** Jim & Joni Kilty  
17045 SW Swank Road  
Sherwood, OR 97140

**LEGAL DESCRIPTION:** Tax Lot: 3600, Map 2S2 15

**SITE SIZE:** 52.2 acres,

**ZONING:** EFU

**LOCATION:** At the intersection of SW Swank and SW Holznagel Road

---

1. **APPLICABLE REGULATIONS**

- A. LCDC Statewide Planning Goals 1,2,3,4,5,6,11,and 12
- B. Washington County Comprehensive Framework Plan (Rural/Natural Resource Plan Element)
  - Policy 1a.1 - Land Use Planning
  - Policy 2 - Citizen Involvement
  - Policy 6 - Water Resources
  - Policy 8 - Natural Hazards
  - Policy 10 - Fish and Wildlife Habitat
  - Policy 14.a.1 - Plan Designations
  - Policy 15 - Exclusive Farm Use
  - Policy 16 - Exclusive Forest Lands
  - Policy 22 - Public Facilities and Services
  - Policy 23 - Exclusive Forest Lands
- C. Transportation Plan Considerations
  - Policy 1 - Travel Needs Policy
  - Policy 2 - System Safety Policy
  - Policy 4 - System Funding Policy
  - Policy 5 - System Implementation and Plan Management Policy
  - Policy 6 - Roadway System Policy
  - Policy 10 - Highway Safety Policy
  - Policy 19 - Transportation Planning Coordination and Public Involvement Policy
- D. Community Development Code Considerations
  - 1. Applicable Land Use District Sections (Purpose and Permitted Uses):
    - 340 (EFU) & 342 (EFC)
  - 2. Physical Limitations of Site
    - 421 (Flood Plain and Drainage Hazard Area Development)
    - 422 (Significant Natural Resources)
- E. State Transportation Planning Rule (OAR 660-012-0060)

II. **AFFECTED JURISDICTIONS**

1. Washington County:
  - Department of Public Safety
  - Department of Land Use and Transportation
  - Department of Health and Human Services
2. WA County Fire District #2
3. Hillsboro School District

III. **FINDINGS**

A. General Information

1. The subject site is 52.2 acres, designated EFU. (See Exhibit A) 36 acres (69% of the total subject site) are in forest. and 16.2 acres (31% of the total subject site).are in pasture.
2. Copies of aerial photos from 1998, 2002, 2006 and 2008 show that the subject site has been primarily in timber for many years. (See Exhibit B) The subject site was primarily in timber in 1983 when the Rural/Natural Resource Plan assigned an EFU designation to the subject site. A review of Assessment and Taxation records demonstrates that the site is in farm deferral and forest deferral. (See Exhibit C)
3. It was logged in 1950 and replanted in 1952. 32 acres were logged between June and September, 2006. In January 2008, the 32 acres were replanted with 300 Douglas fir seedlings per acre.
4. The subject site has one old barn near the entrance to the property, and one newer barn at the end of the gravel road. (See Exhibit A) There is no dwelling on the property. No public or community water system services the site.
5. Site access is an existing gravel road intersecting with Swank Road. The gravel road extends to the newer barn, and is approximately 1200 feet long. Three smaller roads provide minimal impact access to the forested area.
6. The site consists of high value soils for farm use and the soils are also rated moderately high to high potential productivity for forestland . (See Exhibit D)
7. Property adjacent to the subject site is zoned EFU to the east, and EFC to the West. Property to the north is zoned EFU and AF-5 to the south. (See Exhibits E - 1, 2, 3, 4)

B. Plan Policies and Strategies

Implementing Strategies Policy 1 - The Planning Process

- o. Requires that all plan amendments:
  1. Be in conformance with LCDC Goals, State Statutes, and Administrative Rules; and
  2. Be in conformance with the policies and strategies of the Rural/Natural Resource Plan Element.

**APPLICANT COMMENT:**

It is assumed that the Washington County Framework Plan Policies applicable to this request are in conformance with LCDC Goals, State Statutes, and Administrative Rules, therefore if we address the applicable Plan policies the State requirements will be concurrently addressed. We will address the applicable Rural/Natural Resource Plan Elements in subsequent sections of this report.

p. Require that plan map amendments meet the following criteria:

8) Amendments from Mixed Agriculture and Forestry-20 to Exclusive Farm Use or Exclusive Forest and Conservation shall be based upon:

B. Findings that the subject site is:

- I. In farm or forest use;
- II. On farm or forest deferral;
- III. Agricultural or forest land as defined by LCDC Goal 3 or Goal 4; or
- IV. Compatible with surrounding land uses.

C. Require that the parcel be contiguous to land with the same plan map designation being requested or be 76 acres or more in area.

**APPLICANT COMMENT:**

The site is in forest use. It is being used for at least four "forest uses" listed in the Glossary to the county's Rural/Natural Resource Plan.

- 1. The production of trees and the processing of forest products
- 2. Watershed protection
- 3. Maintenance of clean air and water
- 4. Soil protection from wind and water

32 acres were logged in fall of 2006 and replanted with Douglas fir seedlings in January, 2008, and are in compliance with the Forest Practices Act.

According to Assessment and Taxation records, the site is in farm and forest deferral. (Exhibit C) 32 acres were logged in Fall of 2006 and replanted with Douglas fir seedlings in January 2008.

The attached aerial photos demonstrate that the site has been primarily forested for many years. (Exhibit B) The site meets the definition of Goal 4 forestland, because Goal 4 broadly defines forestland as lands having high potential productivity with no serious management limitations.

According to the Soil Survey for Washington County (Exhibit D), the soils on the site are capable of producing Douglas fir with no serious limitation on forest management. As evidenced by the enclosed zoning maps, (See Exhibits E and F), the adjacent parcels to the west of the subject site are forested, in mature timber, replanted timber, or have been recently logged and are designated (EFC) The adjacent parcels to the east of the subject site are designated EFU, but the parcel in the southeast corner, adjacent to the subject site is planted in Christmas trees, the parcel above that is in pasture for livestock, and the parcel in the northeast corner adjacent to the subject site is a commercial nursery growing conifers, redwoods and cedars, and has a dwelling. Adjacent parcels to the north (across SW Swank Rd.) are designated EFU and are used as



pastureland and for farming. Adjacent parcels to the south are designated AF-5 and have dwellings. The parcel on the tip of the southeast corner of the subject site is designated AF-20, grows Douglas fir and holly, and has a dwelling.

Based on the above, adjacent and nearby EFC lots are in forest use, and they contain forest dwellings that have been in existence since as early as 1910. The most recent dwelling was built in 2001. Therefore, the impact of dwellings adjacent to forest uses has already been established. Based on the preceding evidence, the proposal complies with Criterion I-IV of this Policy.

**1.p.8.B (III) LCDC Goal 3 describes "agricultural land" as:**

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

The soils on the site are forest soils. According to Policy 16 (Exclusive Forest Lands), Washington County Rural/Natural Resource Plan Element: "Generally, all soils in the County are considered forest soils as defined according to the United States Forest Service manual, 'Field Instructions for Integrated Forest Survey and Timber Management Inventories - Oregon, Washington and California, 1974.

The site contains the following soils types: 25.7 acres of Cornelius and Kinton silt loam which has a forest value of 167.5 (potentially high productivity), 14.8 acres of Woodburn silt loam, 5.8 acres of Aloha silt loam, 4.64 acres of Huberly silt loam, and 1.4 acres of Wapato silty clay loam. (See Exhibits D and D1)

The site meets the definition of Statewide Planning Goal 3. According to the Soil Survey for Washington County (Exhibit D), the soils on the site are capable of producing Douglas fir with no serious limitation on forest management.

The site meets the definition of Statewide Planning Goal 4 Forest Lands, because Goal 4 broadly defines forestland as lands having high potential productivity with no serious limitations on forest management. Soils types on the site are **Class I** and **Class II**.

**(Class I soils** – Soils that have only slight inconsequential limitations that restrict their use and are considered the most productive soils based on the Land Capability Classification System (USDA).

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

Implementing Strategy 14.a.1 lists the factors the County must consider when determining whether a site should have an exclusive farm (EFU or AF-20) or an exclusive forest (EFC) designation. The site's current designation, EFU, is an exclusive farm use zone. Since the requested plan designation change is from EFU to EFC, this section addresses the factors applicable to the EFC District.

1. The soil is suitable for forest use and agricultural use. (See Exhibit D)  
The applicable version of Statewide Planning Goal 4 and the Glossary attached as Appendix A to the County's *Rural/Natural Resources Plan Element* define "forest lands" as including the following four types of land:

- "(1) lands composed of existing and potential forest lands which are suitable for commercial forest uses;
- (2) other forested lands needed for watershed protection, wildlife and fisheries habitat and recreation;
- (3) lands where extreme conditions of climate, soil and topography require the maintenance of vegetative cover irrespective of use; and
- (4) other forested land in urban and agricultural areas which provide urban buffers, wind breaks, wildlife and fisheries habitat, livestock habitat, scenic corridors and recreation use.

According to Assessment and Taxation records, the site is in farm and forest deferral (Exhibit C.) 32 acres were logged in Fall of 2006 and replanted with Douglas fir seedlings in January, 2008.

The attached aerial photos demonstrate that the site has been primarily forested for many years. (Exhibit B). The site meets the definition of Goal 4 forestland, because Goal 4 broadly defines forestland as lands having high potential productivity with no serious management limitations.

According to the Soil Survey for Washington County (Exhibit D), the soils on the site are capable of producing Douglas fir with no serious limitation on forest management. As evidenced by the enclosed zoning maps, (See Exhibits E and F), the adjacent parcels to the west of the subject site are forested, in mature timber, replanted timber, or have been recently logged and are designated (EFC) The adjacent parcels to the east of the subject site are designated EFU, but the parcel in the southeast corner, adjacent to the subject site is planted in Christmas trees, the parcel above that is in pasture for livestock, and the parcel in the northeast corner adjacent to the subject site is a commercial nursery growing conifers, redwoods and cedars, and has a dwelling. Adjacent parcels to the north (across SW Swank Rd.) are designated EFU and are used as pastureland and for farming. Adjacent parcels to the south are designated AF-5 and have dwellings. The parcel on the tip of the southeast corner of the subject site is designated AF-20, grows Douglas fir and holly, and has a dwelling.

Based on the above, adjacent and nearby EFC lots are in forest use, and they contain forest dwellings that have been in existence since as early as 1910, and the most recent dwelling was built in 2001. Therefore, the impact of dwellings adjacent to forest uses has already been established. Based on the preceding evidence, the proposal complies with Criterion I-IV of this Policy.

**C. Require that the parcel be contiguous to land with the same map plan designation being requested or be 76 acres or more in area.**

**APPLICANT COMMENT:**

The site is contiguous with acreage already in the EFC District. Based on that fact, the proposal complies with this criterion

**POLICY 2, CITIZEN INVOLVEMENT:**

It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and Effective communication between citizens and their county government.

**APPLICANT COMMENT:**

As required by Washington County, the requested amendment must be process via a Type III procedure. A Type III plan amendment requires that all neighbors with 1000 feet of the subject site must be sent a notice of the Planning Commission and Board of Commissioners public hearings on this matter. Generally, the County places an ad in the paper notifying interested parties of the scheduled hearings on this matter. We will post a sign on the subject site in accordance with the regulation that requires that a site must be posted within 28 days of acceptance of the application. The County will mail a copy of the plan amendment application to the CPO 10 representative. By County procedures and state law, staff will have their report available to all the parties of interest:, (e.g. neighbors and the applicant), seven days prior to the hearing. Based on the facts presented above, the proposal complies with Policy 2.

**Policy 6 - Water Resources**

**APPLICANT COMMENT:**

Policy 6 of the WA County Rural/Natural Resource Plan was amended in 2004 via Ordinance #631. Policy 6 was amended to exempt certain plan amendments, (e.g. Plan amendments from EFU to EFC, and/or plan amendments that will not increase residential density beyond one dwelling/lot of record), from submitting well log records. This plan amendment request is to change the land use designation from EFU to EFC, and, if approved, will not result in more than one dwelling on the subject site. Therefore, the subject tax lot is a "qualifying" lot with regard to the specific provisions of amended Policy 6. Based on the above-mentioned facts, no well logs will be provided as part of this application submittal.

**IMPLEMENTING STRATEGIES:**

- a) Encouraging water conservation programs by water users and purveyors;
- b) Insuring adequate quality of the ground water by coordinating with State and Federal agencies in evaluating and monitoring ground water supplies.
- c) Protecting and maintaining natural stream channels whenever possible, with an emphasis on non-structured controls when modifications are necessary.
- d) Limiting the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.
- e) Encouraging property owners with lands which qualify as "Designated Riparian Land" as defined by the 1981 Riparian Habitat Act to apply for exception of the land from ad valorem taxation.
- f) Supporting viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.
- g) Supporting measures to conserve vegetation and drainage basin of watersheds as a means of controlling the release of water to downstream farmland and urban areas.
- h) Supporting measures to conserve vegetation and drainage basin of watersheds as a means of controlling the release of water to downstream farmland and urban areas.
- i) Cooperating with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.
- j) Consistent with the recommendations of the Department of Environmental Quality, State of

Oregon and the Unified Sewerage Agency, support the expansion of storm water sampling in the Tualatin basin and consideration of proper planning and management measures for non-point source problems.

**POLICY 6a Strive to ensure adequate water supplies for all uses by:**

1. Encouraging water conservation programs by water users and purveyors;
2. Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;
3. Coordinating with State and Federal agencies in evaluation and monitoring ground water supplies;
4. Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth control provisions for the Critical Ground Water Area; and
5. Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (½) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as maybe be required to demonstrate compliance with this policy. Well logs are not required for quasi-judicial plan amendments, when the designation change will not result in an increase in density (I.e.. EFU to EFC plan amendments).

**APPLICANT COMMENTS:**

This plan amendment request is to change the land use designation from EFU to EFC, and, if approved, will not result in more than one dwelling on the subject parcel. Therefore, the subject site is a "qualifying" lot with regard to the specific provisions of Implementing Strategy (a)(5). Based on the above-stated facts, no well logs are required, nor will they be provided as part of this application submittal. Additionally there is no required analysis of said well logs, nor will any analysis be provided.

The owners of the property will be obligated to conserve water by recognizing that ground water levels may fluctuate depending on the intensity of use. Existing development regulations may limit new wells if significant lowering of the ground water table or other adverse effects on existing wells may occur. The filing of water right applications for private wells within the area will establish priority of use for ground waters.

The State of Oregon, Department of Water Resources monitors existing ground water supplies within the area and will have the authority to determine if critical ground water area designation may be necessary for the area. The subject site is located in the Chehalem ground water limited area, therefore, conditions within a critical ground water area do not apply. The applicant will comply with all requirements and restrictions of the Chehalem ground water limited area.

Washington Health Department has suggested that no direct impact on surface waters will occur since permitted residential or farm related activities occur on the property.

**Finding for Policy 6b**

**APPLICANT COMMENT:**

The owners of the property will comply with the Department of Environmental Quality water quality standards. To our knowledge, there have been no determined areas for non-point sources of water pollution within the property boundaries.

**Finding for Policy 6c.**

**APPLICANT COMMENT:**

The enclosed aerial photos included with this application include topographic features such as slope and drainage patterns. (Exhibit A) The Washington County Rural/Natural Resource Plan shows existing Water areas, Wetland, Fish and Wildlife Habitat bordering an unnamed seasonal creek that traverses southwest across the western portion of the site. (Exhibit H) No building permits for the future development will be issued until the applicant meets the development standards as set forth in the Community Development Code Section 422. (Significant Natural Resources), of the Community Development Code.

**Finding for Policy 6d.**

**APPLICANT COMMENT:**

The Washington County Rural/Natural Resource Plan shows that there is an existing Water Areas, Wetland, Fish and Wildlife habitat bordering an unnamed seasonal creek that traverses southward from the western side of the property. (Exhibit A). No building permits for the future development will be issued until the applicant meets the development standards as set forth in the Community Development Code Section 422. (Significant Natural Resources), of the Community Development Code. There should be no need to alter natural vegetation in the riparian area of the seasonal creek based on the fact that there is significant land area above the riparian area suitable for a building site.

**Finding for Policy 6e.**

**APPLICANT COMMENT:**

Based on the presence of land area above the riparian area on the subject site, it is more than likely that the natural character of the riparian area bordering the seasonal creek can be maintained.

**Finding for Policy 6f.**

**APPLICANT COMMENT:**

There are no water resource projects proposed within the boundaries of this property. Therefore, this requirement does not apply.

**Finding for Policy 6g.**

**APPLICANT COMMENT:**

There are no water projects proposed within this application. Therefore, this requirement does not apply.



**Finding for Policy 6h.**

**APPLICANT COMMENT:**

As previously stated, the site was logged in 2006, and was replanted with Douglas fir seedlings in 2008. The subject site was logged in substantial conformance with OR Department of Forestry, (ODF), rules. All vegetation removal was in substantial compliance with ODF regulations. No significant clearing or removal of existing vegetation beyond the above-mentioned logging is proposed within this application. Furthermore, there is no year round stream on the subject site.

Most of the timber on the site is located on the western side of the parcel. No spraying, aerial or otherwise, should be necessary, because the applicant plans to remove competing brush and vegetation using mechanical rather than chemical means. However, if aerial spraying becomes necessary or desirable to manage that timber, the impact along the site's southern or eastern borders can be mitigated by ensuring that spraying occurs only when the wind is blowing in a northerly or westerly direction.

The site contains commercial timber that is being managed under a forest management plan, and it is currently in forestland/small tract forestland deferral. If aerial spraying becomes necessary in the future, it will occur—in compliance with the Oregon Forest Practices Act and other applicable law—whether the designation of the site remains EFU or becomes EFC. Changing the site from an EFU to an EFC designation will merely reflect Applicant's use of the site, it is unlikely to change the forest management activities that will occur on the site. Even though the site is currently designated as EFU, its historical use was forest, and it remains in forest use today. Changing the designation of the site from EFU to EFC, will preserve—not impair—its compatibility with surrounding parcels.

**Finding for Policy i**

**APPLICANT COMMENT:**

As previously stated, the Washington County Rural/Natural Resource Plan shows an unnamed seasonal creek that traverses the western end of the subject site. (Exhibit H) There is sufficient land above the riparian area to site a dwelling in the future, and the riparian area will be left undisturbed.

**Finding for Policy j**

**APPLICANT COMMENT:**

The property owners will support expansion of storm water sampling in the Tualatin basin and work within the consideration of proper planning and management measures for non-point source problems.

**Policy 8 - Natural Hazards**

**It is the policy of Washington County to protect life and property from natural disasters and hazards.**

**APPLICANT COMMENT:**

The subject is not within a flood plain area, however there is a drainage hazard area located on the property. Plans for any future development will comply with applicable requirements of Community Development Code (CDC) Section 421 *Flood Plain and Drainage Hazard Area Development*.

## **Policy 10 - Fish and Wildlife Habitat**

*It is the policy of Washington County to protect and enhance significant fish and wildlife habitat.*

### **IMPLEMENTING STRATEGIES:**

*The County will:*

- a. Establish standards with which development in areas defined as significant Fish and Wildlife Habitat must comply; so as to assure the conservation of this habitat.*
- b. Allow activities customarily conducted in conjunction with commercial farm and forest practices in areas designated as Fish and Wildlife Areas.*
- c. Rely upon the Oregon Department of Forestry, through its administration of the Oregon Forest Practice Rules, to mitigate adverse impact of commercial forestry upon fish and wildlife habitat.*
- d. Limit the alteration of natural vegetation in riparian zones, and in locations identified as significant water areas and wetland, thereby preserving fish and wildlife habitat.*
- e. Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFU, EFC and AF-20 land use.*

### **APPLICANT COMMENT:**

Implementing strategy "d" requires the limiting of alteration of natural vegetation in the riparian zones. As previously stated, The Washington County Rural/Natural Resource Plan shows that an unnamed seasonal creek traverses the western end of the subject site. (Exhibit H) There will be minimal impact on the riparian area of the creek because there is sufficient land area outside of the riparian zone for a dwelling, and a dwelling will avoid encroachment into the riparian zone. Therefore, the proposal complies with this criterion because it is likely that there will be no significant impacts on the riparian area that may result from the location of a dwelling on the subject site.

The afore mentioned drainage hazard area on the property is a significant natural resource area, specifically a Water Areas, Wetlands & Fish and Wildlife Habitat Area. If and when future development occurs, CDC Section 422 *Significant Natural Resources* and any other applicable requirements will be followed.

## **Policy 14 - Rural Lands**

*It is the policy of Washington County to maintain distinct Comprehensive Plan Map designations for the area outside the county's Urban Growth Boundaries and to provide land use regulations to implement the designations.*

### **IMPLEMENTING STRATEGIES:**

*a. Designate Natural Resource lands in the following manner;*

- 1. Lands which meet the definitions and criteria for agricultural lands contained in LCDC Goal 3 and OAR Chapter 660, Division 05 shall be designated EFU, and lands which meet the LCDC Goal 4 definition of forest land shall be designated EFC. In determining which*

*Plan designation shall apply, (EFU or EFC), when land meets criteria for both, the EFU and EFC District, the following factors shall be utilized to determine the appropriate designation:*

- A. Soil types as related to Goal 3 and forest classifications as related to Goal 4.*
- B. The predominant use of the property.*
- C. The predominant use of the surrounding properties. (Must be contiguous or be a sufficient block of land.)*
- D. What kind of crops or forest uses the parcel has, given the size and conflicts with adjacent uses.*
- E. Physical characteristics of the site.*
- F. Whether or not the site is or has been in forest deferral.*

- 2. Lands which were zoned Agricultural and Forest 5 or 10 by the 1973 Comprehensive Framework Plan and for which an LCLD Goal 2 exception has not been provided shall be designated Agriculture and Forestry 20.*

**APPLICANT COMMENT:**

According to the Soil Survey for Washington County, USDA, SCS 1982, the Cornelius and Kinton silt loams (7 - 12 % slopes) and the Woodburn silt loams (7 - 12 % slopes), comprise 78% of the subject site and are capable of producing Douglas fir and other native tree species, with no serious limitations on forest management. (Exhibits D and D1). The enclosed aerial photos (Exhibit B) demonstrate that the subject site has been forested for many years. The subject site meets the definition of Goal 4 forestland, because Goal 4 broadly defines forestland as lands having high potential productivity with no serious management limitations.

The subject site is a 52.2 acre parcel that is contiguous with other forested parcels. As evidenced by the enclosed aerial photo (Exhibit B), many of the surrounding parcels to the north, east and south are forested and several are zoned EFC.

Additional information relevant to Policy 14 is included in the narrative for Policy 1, located above.

**Policy 15 - Exclusive Farm Lands of the Rural/Natural Resource Plan.**

*It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.*

**Implementing Strategies**

The County will:

- a. Conserve agricultural lands in accordance with Oregon State Law, Oregon Revised Statute (ORS) Chapter 215 and LCDC Goal 3 (agricultural lands) by the adoption and implementation of an Exclusive Farm Use District (EFU) consistent with these requirements.

- b. Place agricultural lands in the Exclusive Farm Use District unless an Exception to LCDC Goal 3 is provided pursuant to the LCDC Goal 2 Exception Process (OAR Chapter 660, Division 04).
- c. Require that the conversion of agricultural lands designated for Exclusive Farm Use to uses not allowed by ORS Chapter 215 be preceded by a plan amendment pursuant to the provisions of Policy 1.
- d. Allow the division of the lands placed in the Exclusive Farm Use District in accordance with the following:
  - 1. The lot area is consistent with the agricultural land use policy for the State of Oregon as expressed in ORS 215.
  - 2. The lot area is of a similar size to existing commercial agricultural operations in the surrounding area;
  - 3. In those instances where it is proposed to locate a farm-related dwelling, the proposed lot area is of sufficient size to support commercial production of food or fiber using accepted farm practices as defined in ORS 215.203(2)(C);
  - 4. Approval of the partitioning will not seriously interfere with the preservation of wildlife or fish habitat areas as identified in the Washington County Comprehensive Plan, or interference will be mitigated; and
  - 5. Any additional criteria as set forth in the County's Exclusive Farm Use District.
- e. Limit residential uses within the Exclusive Farm Use District to those permitted by ORS Chapter 215.
- f. Permit non-farm/non-forest uses only when not in conflict with agricultural or forestry activities.
- g. Require that an applicant for non-farm use record a waiver of the right to remonstrate against accepted farm or forest practices including spraying.
- h. Maintain agricultural lands in blocks large enough to encourage and maintain commercial agricultural activities when considering Plan Amendments. This strategy will be used as one of the criteria in the designation of lands in the EFU District in the legislative process of adopting this plan.
- i. Cooperate with Clean Water Services, the Oregon State Extension Service, and the Natural Resources Conservation Service in promotion of education and dissemination of information on agricultural management and practices that preserve and protect natural resources such as fish and wildlife habitat.

**APPLICANT COMMENT:**

It is the applicant's intent to emphasize forest management and conservation rather than farm use on the subject site. The soils are high value for either farming or forestland. (Exhibit D) Two thirds of the 52.2 acres are forested, and have been for many years. (Exhibit B)

The Oregon Administrative Rules for Goal 3 and Goal 4 state:

*"When inventoried land satisfies the definition requirements of both agricultural and forestland, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest or other appropriate designation."*

**Policy 16 - Exclusive Forest Lands**

*It is the policy of Washington County to conserve and maintain forestland for forest uses consistent with the existing and future needs for agricultural products, forest management*

*and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCLD Goal 2, OAR Chapter 660, Division 04, and the applicable Plan Amendment criteria in Policy 1.*

**APPLICABLE IMPLEMENTING STRATEGIES:**

The county will:

**1. Maintain forestlands in blocks large enough to encourage and maintain commercial forest activities when considering Plan Amendments. This strategy will be used as one of the criteria in the designation of lands in the EFC District in the legislative process of adopting the plan.**

**APPLICANT COMMENT:**

According to the Soil Survey for Washington County, USDA SCS 1982, (Exhibit D) the Cornelius-Kinton soils on the subject site are capable of producing Douglas Fir and Western red cedar , with no serious limitations on forest management. The Cornelius-Kinton soil units 11C (7 - 12 slopes), and 11 D, (12-20% slopes), and the Woodburn silt loam soil units 45 C (7-12 % slopes) have a SCS Capability Class of 202, which have a high potential productivity for growing Douglas fir and other native tree species. The Cornelius-Kinton soil series descriptions do list farm crops suitable for production on those soils, (Exhibit D1).

The subject site is a 52.2 acre parcel that is contiguous with other forested parcels. As evidenced by the enclosed aerial photo, (Exhibit B) many of the surrounding parcels to the north, east and south are forested and are zoned EFC. A review of the above-mentioned soil mapping indicates that all adjacent lots surrounding the subject site are also a similar mix of predominantly Cornelius and Kinton silt loams, and Woodburn silt loam, therefore the adjacent lots have a high potential productivity for growing Douglas fir and other native tree species. The subject site has been forested for many years. It was logged in 2006 and replanted with Douglas fir seedlings in 2008. The subject site meets the definition of Goal 4 forestland, because Goal 4 broadly defines forestland as lands having high potential productivity with no serious management limitations. The subject site is 52.2 acres total, with 32 forested acres, and is contiguous with other forested parcels zoned EFC. (Exhibit B) Therefore, it will be a large block of forested land that will be large enough to continue forest uses on the subject site. Therefore, the proposal complies with criteria (j) of this Policy.

**Policy 22 - Public Facilities and Services**

*It is the policy of Washington County to provide public facilities and services in the Rural/Natural Resource area in a coordinated manner and at levels which support rural type development and are efficient and cost effective to help maintain public health and safety.*

**IMPLEMENTING STRATEGIES**

The county will:

**a. Review the adequacy of the following public services and facilities in conjunction with development. (See Exhibit J)**

**1. Schools**

**2. Fire and police protection**

**APPLICANT COMMENT:**

**SCHOOLS:**

Hillsboro School District

The Hillsboro School District currently serves the Plan Amendment property area with primary education facilities within 9 miles of the property site. The School District area serving this site encompasses of the Groner Elementary School, The South Meadows Middle School, and the Hillsboro High School. All school locations will provide adequate bus transportation services.

Groner Elementary School provides educational facilities for grades K - 6. Current enrollment is 190 students, and is 1.6 miles from the subject site. South Meadows Middle School provides educational facilities for grades 7 - 8. Current enrollment is 756 students, and the school is 8.4 miles from the subject site. Hillsboro High School provides educational facilities for grades 9 - 12. Current enrollment is 1516, and the school is 9 miles from the subject site.

**FIRE PROTECTION:**

The Washington Fire District #2 provides the Plan Amendment site area with fire protection. Fire Station 19 (Midway Rd. south of Hillsboro) is staffed 24 hours per day, 365 days per year by 12 career firefighters and 40 volunteer fire fighters.

**POLICE PROTECTION:**

Washington County's Sheriff Department currently provides police protection services to the Plan Amendment area. The Sheriff Department has determined that its service level is adequate for emergency calls only. Currently, the base level of police services in Washington County is .5 officers per 1,000 population.

**Policy 23 - Transportation**

*It is the policy of Washington County to regulate the existing transportation system and to provide for the future transportation needs of the County through the development of a Transportation Plan as an element of the Comprehensive Plan.*

**IMPLEMENTING STRATEGIES**

*The County will:*

- f. Amendments to the Rural Natural Resource Plan shall be consistent with the applicable policies and strategies of the Transportation Plan.*

**APPLICANT COMMENT:**

If approved, this request will amend the Rural Natural Resource plan to change the current zoning from EFU to EFC. The applicant must demonstrate that by amending the zoning designation, there will be no significant or detrimental impacts to the current operating capacity and safe travel of vehicular traffic along SW Swank Road, which provides direct access to the subject site. The following paragraphs provide responses to the relevant and applicable policies and strategies of the Transportation Plan, and demonstrate that the request complies with those relevant and applicable policies and strategies.

**2020 Washington County Transportation Plan**  
**Policy 1            Travel Needs Policy**



- 1.0** *It is the policy of Washington County to provide a multi-model transportation system that accommodates the diverse travel needs of Washington County residents and businesses.*

**APPLICANT COMMENT:**

SW Swank Road is a paved local road connecting to SW Scholl-Sherwood Road, which in turn connects to Pacific Highway W. via Roy Rogers Road approximately 7 miles from the subject site. Therefore, local residents, and any future residents of the subject site, have a short distance to travel to a principal arterial that accommodates multi-modal means of transportation. The site offers a diverse range of transport, from a rural local road to major highways. Based on the above-mentioned facts, the proposal complies with this policy.

**Policy 2      System Safety Policy**

- 2.0** *It is the policy of Washington County to provide a transportation system that is safe.*

**APPLICANT COMMENT:**

The existing gravel driveway on the subject site intersects SW Swank Road and provides access to the site. The driveway is positioned in such a way as to maximize vehicle sight distance. The segment of Swank Road that traverses past the subject site is straight, without large vertical or horizontal curves that could obstruct sight distance. Vehicle sight distance from the existing access point to the east and the west along SW Swank Road currently is within, or can be improved, to meet Washington County standards. Therefore, any future dwelling on the site can have safe entering and exiting to and from the site in compliance with this policy.

**Policy 4      System Funding Policy**

- 4.0** *It is the policy of Washington County to aggressively seek adequate and reliable funding for transportation facilities and services, and to ensure that funding that is equitably raised and allocated.*

**APPLICANT COMMENT:**

As part of any future development on or near the subject site, the owner may be asked to enter into a Waiver of Remonstrance against any future improvements of SW Swank Road. By so doing, the County will then be assured that they will not have to expend funds fighting for the right to improve SW Swank Road. The less money spent on staff time and legal fees fighting landowners in court, the more County money will be available for funding of transportation facilities. The proposal complies with this policy, based on the likely request for a Waiver of Remonstrance against any future improvements of SW Swank Road.

**Policy 5      System Implementation and Plan Management Policy**

- 5.0** *It is the policy of Washington County to efficiently implement the transportation and to efficiently manage the transportation system.*

**APPLICANT COMMENT:**

Swank Road is classified as a Rural Local Road. To our knowledge, there is no implementation of the transportation plan that would result in scheduled improvements, additional ROW dedications, or re-classification of SW Swank Road. Even if the transportation plan does propose any particular changes to SW Swank Road, there should be no significant impact on the

transportation plan by the applicant's desire to change the current zoning from EFU to EFC. Based on the above-stated facts, the proposal complies with this policy

## Policy 6 Roadway System Policy

***It is the policy of Washington County to ensure that the roadway system is designed in a manner that accommodates the diverse travel needs of all users of the transportation system.***

**APPLICANT COMMENT:**

SW Swank Road is a paved local road that provides local residents with a direct connection to Scholl's Sherwood Road, which in turn connects to Pacific Highway W. Therefore, local residents and any future residents of the subject site have access to a principal arterial that provides a direct route to Sherwood, Tualatin, Tigard and I-5. The site can provide for the diverse travel needs of the local residents in compliance with this policy. Based on the above-mentioned facts, the proposal complies with this policy.

## Strategies

- 6.1 Provide a roadway system necessary to support travel demand associated with anticipated future development of land uses, identified in the County Comprehensive Plan at or better than the standards identified in Table 5 and consistent with the policies identified in this plan.**

**APPLICANT COMMENT:**

According to Table 5, SW Swank Road is not identified as a Deficiency Area. Table 5 indicates a Level of Service “D” and a volume/capacity ratio of 0.9 for all rural areas. Based on current EFC dwelling siting standards and current site conditions, the proposal could result in one dwelling, which is permitted if the subject site meets the requirements of CDC 430-37.2 (F), commonly referred to as the “template test” dwelling standards. Therefore, with a volume/capacity ratio of 0.9 for SW Swank Road, the addition of a dwelling on the subject site will have minimal impact on road capacity.

## Policy 10 - Functional Classification Policy

***It is the policy of Washington County to ensure the roadway system is designed and operates efficiently through use of a roadway functional classification.***

## Strategies

#### F) Local Street Network:

***Many rural local roadways are unpaved, (gravel), and serviceability can vary with rainfall and maintenance. Rural local roads provide direct access to a variety of rural land uses including agriculture, forestry, quarry activities, low density rural residential uses as well as rural commercial and industrial uses. An objective of the Transportation Plan is to minimize the impacts of urban travel on rural land uses.***

**APPLICANT COMMENT:**

SW Swank Road is designated as a local road and it is a paved road. SW Swank Road provides access to the subject site via an existing driveway which intersects with SW Swank Road. Vehicle sight distance looking east and west from the existing access point along SW Swank Road currently is within or can be improved to meet Washington County standards, and

presumably, any new driveway to and from a dwelling site could be located to comply with Washington County standards.

**Policy 19 - Transportation Planning Coordination and Public Involvement Policy**

***If is the policy of Washington County to coordinate its transportation planning local, regional, state, and federal agencies and to provide opportunities for citizens to participate in planning processes.***

**Strategies**

**19.13 Transportation Planning Rule as set forth in OAR 660-12-060.**

**APPLICANT COMMENT:**

The applicant will rely on an analysis of applicable provisions of the Transportation Planning Rule as set forth in OAR 660-12-060 that is consistent with the analysis conducted by Washington County Transportation Planning staff.

**Oregon Transportation Planning Rule OAR 660-012-0060**

Essentially, the applicant is required to demonstrate whether or not the proposed Plan Amendment from EFU to EFC meets the "significantly affect the planned transportation system" test. As applied to this case, the most direct recipient of the impact would be SW Swank Road. OAR 660-012-0060 lists the following outcomes when a Plan Amendment would "significantly affect the planned transportation system":

1. Change to the functional classification of an existing or planned transportation facility.
2. Change to the standards implementing a functional classification system.
3. The Plan Amendment would allow types of land uses or levels of land use activities that Would result in elevated levels of travel or access inconsistent with the functional classification of a transportation facility.
4. The Plan Amendment would decrease the performance standards of the road below the A minimum acceptable level identified in the County's Transportation System Plan.
5. A proposed Plan Amendment meets the "significantly affect the planned transportation system" test if the proposed Plan Amendment will demonstrably increase the intensity of land uses and the corresponding increase in trip generation.

A proposed plan amendment meets the "significantly affect the planned transportation system" test if the proposed Plan Amendment will demonstrably increase the intensity of land uses and the corresponding increase in trip generation. The proposed EFU to EFC Plan Amendment will change the zoning designation of one lot of record. As applied to this case, OAR 660-033-0030 and 660-006-0115 do not impose an exhaustive evidential burden on the applicant, because the proposed change is from one resource designation to another.

If this Plan Amendment to EFC is approved, CDC 430-37.2 limits the owner to a single, "template test" dwelling or a single "lot of record" dwelling. Therefore the impact on trip generation between an EFU zoned parcel, relative to an EFC zoned parcel is minimal. If the relative impact is minimal, (i.e. not "significant"), then the applicant has carried the burden of proof with respect to the "significantly affect the planned transportation system" test discussed above. Additionally, the proposed EFU to EFC Plan Amendment will not change the functional classification of SW Swank Road because of the low trip generation discussed above. Based on the above-stated facts, the proposal is consistent with the applicable provisions of the Transportation Planning Rule as set

forth in OAR-660-12-060.

**D. Washington County Community Development Code**  
**1. Article II, Procedures**  
**Section 202-3 Type III**  
**Section 202-3.1**

Type III actions involve development or uses which may be approved or denied, thus requiring the exercise of discretion and judgment when applying the development criteria contained in this Code or the applicable Community Plan. Impacts may be significant and the development issues complex. Extensive conditions of approval may be imposed to mitigate impacts or ensure compliance with this Code and the Comprehensive Plan.

**APPLICANT COMMENT:**

This application has been submitted as a Type III plan amendment request. The information included with the application is in compliance with standards and procedures outlined in the Code.

**Article III, Land Use District**

**Section 342 (EFC District Standards)**

The EFC District is intended to provide for forest uses and to provide for the continued use of lands for renewable forest resource production, retention of water resources, recreation, agriculture and other related or compatible uses. To retain an area's rural character and conserve the natural resources while providing for rural residential use in the areas so designated by the Comprehensive Plan. The purpose of this district is to encourage forestry as the dominant use of such lands, to conserve and manage efficiently the forest resources, in order to minimize the potential for damage from fire, pollution, soils erosion and conflict caused by development....

**APPLICANT COMMENT:**

As stated under evidence for Policy 1 and 14, the site is consistent and supportive of Goal 3 and Goal 4. The EFC District implements Goal 4, and the EFU implements Goal 3. According to Assessment and Taxation the subject site is in farm deferral and forest deferral.

The enclosed aerial photos (Exhibit B) demonstrate that the subject site has been primarily forested for many years. The subject site meets the definition of Goal 4 forestland because Goal 4 broadly defines forestland as lands having high potential productivity with no serious management limitations. According to the Soil Survey for Washington County, USDA, SCS 1982, the Cornelius and Kinton silt loams and Woodburn silt loam soils on the subject site are capable of producing Douglas fir with no serious limitations on forest management.

As evidenced by the attached aerial photo, (Exhibit F), all of the parcels surrounding the subject site are forested in mature timber, replanted timber, or have been recently logged, therefore the subject forest uses are or will be compatible with the surrounding forest uses. Based on the preceding evidence, the proposal complies with Criterion I-IV of this Policy.

#### Section 344 (AF-20 District Standards)

***The uses allowed in the Section are subject to applicable standards as set forth in Article IV, the specific standards as set forth in this section and the recording of a waiver of the right to remonstrate against accepted farm or forest practices.***

#### **APPLICANT COMMENT:**

Based on all the evidence presented in this application, it is clear that for over fifty years The largest part of the site has been devoted entirely to forest uses. The best use of the land is more suited to continue a forest use under an Exclusive Forest and Conservation zone. Therefore, based on all the evidence in this application filing, we assert that the subject site is better suited to continue as forest us under an Exclusive Forest and Conservation Zone.

To resolve potential future conflicts regarding adjacent land use activities, the property owners will sign a Waiver of the Right to Remonstrate against Accept Farm or Forest Practices.

#### **IV. Summary**

The subject site, (Tax Lot 3600, Map 2S2-15) was not located within an Exception Area and thus designated EFU. However, evidence presented in this application substantiates that it complies with the applicable standards for designation as EFC. More importantly, the Oregon Administrative Rules for Goal 3 and Goal 4 state:

***"When inventoried land satisfies the definition requirements of both agricultural and forestland, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.***

Evidence presented under responses to Policy 1 and Policy 14, substantiate that this proposal complies with the Washington County Comprehensive Plan requirements for selection of this site as EFC. The 52.2 acre site is contiguous and/or near to land zoned EFC and land that is producing timber species, such as Douglas fir, Alder and Cedar. (Exhibit B)

The site has access to SW Swank Road. Adequate water service is available from an existing well on the site. Additional services from the Hillsboro Fire District #2, Washington County Sheriff's Office and Hillsboro School District are currently available to the site and any future dwelling.

The applicant has addressed all relevant and applicable General Plan Policies and Strategies. All findings relating to the policies and strategies comply with the Washington County requirements. The proposed plan amendment will not interfere with Water Resources, or Natural Hazard Areas of Fish and Wildlife Habitats. Interference with adjacent farm and/or forest practices is not anticipated with the implementation of the proposed plan amendment. A Right to Remonstrate Waiver will be signed by the property owners upon application approval to deter potential complaints.

Future traffic generation from a Forest Template dwelling might be a maximum of ten (10) trips per day. These travel trips will not impose significant impacts on SW Swank Road, nor will the anticipated increase in trips per day surpass the capacity level of SW Swank Road. The proposed Plan Amendment will meet the identified Plan Policies and Strategies, Washington County Transportation Plan, and the Washington County Community Development Code.

**V. CONCLUSION:**

The application has been submitted in accordance with requirements established in the Washington County Code, relating to a Plan Amendment from an EFU to EFC. Evidence has been provided to address all applicable sections of the code, responses from service providers will demonstrate adequate service availability, and a Waiver of Right to Remonstrate Against Farm Practices form will be signed by the owners. Therefore, the request for a Plan Amendment from an EFU to an EFC should be approved.

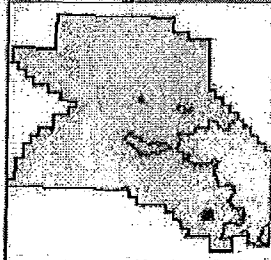
# **Exhibit A**

**10-082-PA  
Kilty Plan Amendment**



**Intermap**

Geographic Information Systems

[Navigation:](#) | [GIS Home](#) | [New Search](#) | [Navigator](#) | [Help](#) |**Parcel Report for Taxlot: 2S2150003600****Site Address: 17405 SW SWANK RD. SHERWOOD OR, 97140**Active Tool: [Zoom In](#)**Overview Map**

- ☒ Selected Taxlot  
☐ Overview Location

**Maps:**

- [Zoning](#)  
[Contour Lines](#)  
[2008 Air Photo](#)  
[USGS Quads](#)

[View Legend](#)**Zoom In****Zoom Out****Pan & Recenter****Select New Taxlot****Zoom To Selected Taxlot****Additional Information for Taxlot 2S2150003600**

- Sub Reports: [Parcel Summary](#)  
[Districts Overlay Information](#)  
[Assessment & Taxation Information](#)  
[Scanned Tax Maps](#)  
[Permits & Projects](#)

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**10-082-PA  
Kilty Plan Amendment**

## **Exhibit B**

ON COUNTY DEPT. OF P.W.  
U.S.G.S. U.S.B.R. SOIL CONS. SER. WASH.



SHEET 9

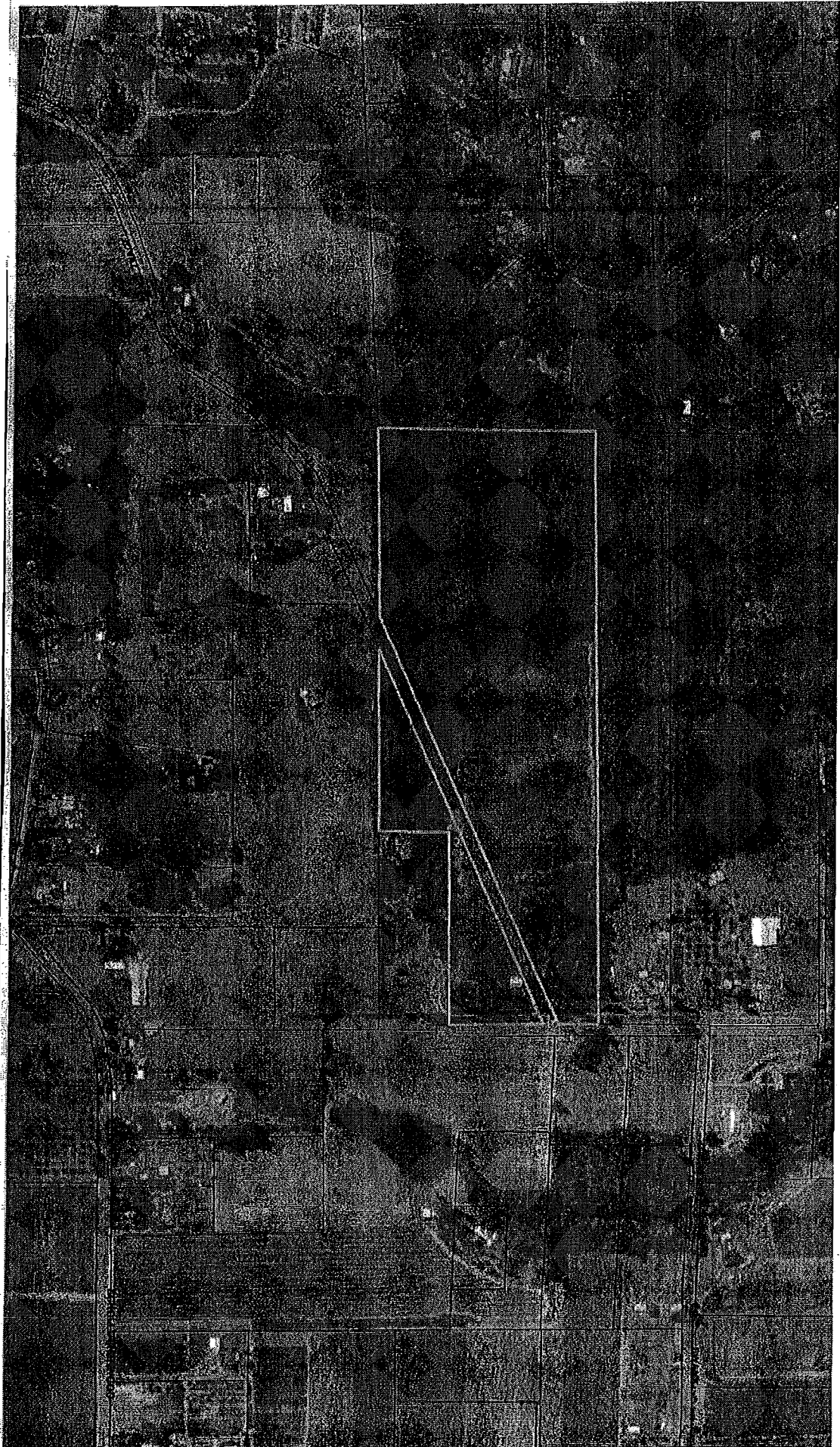


1998





2004



2006  
2006

2006







## **Exhibit C**

**10-082-PA  
Kilty Plan Amendment**



## - - Real Property Item Legal Description - -

Property ID : R566890 (Real Estate) 2S215-03600

System Legal: ON

1. Abst/Subd/Part. Plat Indicator : A  
2. Location Code :  
3. Block :  
4. Part. Plat :  
5. Lot :  
6. Add Legal Code : CS, ZF, FOR, PAT  
7. Number Of Acres : 36.20 Sqft:  
8. Effective Size for Calculations : 52.20 Acres, 2,273,832 Square feet  
9. Effective Unit Count :  
10. Undivided Interest :  
11. Mobile Home X Number :  
12. Legal Description: ACRES 36.20, CODE SPLIT, ZONED FARMLAND, FORESTLAND,  
POTENTIAL ADDITIONAL TAX LIABILITY.
13. Enter Geo Fields

Enter Field Number or &lt;RET&gt; to Exit: \_\_\_\_\_

## - - Real Property Item Legal Description - -

Property ID : R566907 (Real Estate) 2S215-03600

System Legal: ON

1. Abst/Subd/Part. Plat Indicator : A  
2. Location Code :  
3. Block :  
4. Part. Plat :  
5. Lot :  
6. Add Legal Code : CS, DFPA  
7. Number Of Acres : 16.00 Sqft:  
8. Effective Size for Calculations : 52.20 Acres, 2,273,832 Square feet  
9. Effective Unit Count :  
10. Undivided Interest :  
11. Mobile Home X Number :  
12. Legal Description: ACRES 16.00, CODE SPLIT, FORESTLAND-POTENTIAL  
ADDITIONAL TAX LIABILITY
13. Enter Geo Fields

Enter Field Number or &lt;RET&gt; to Exit: \_\_\_\_\_

## **Exhibit D**

**10-082-PA  
Kilty Plan Amendment**

Soil Data Report for: 252150003600

| Forest Value | Code | Cap Class | Plan Desig. | High Value | Description                                              | Acres       |
|--------------|------|-----------|-------------|------------|----------------------------------------------------------|-------------|
| 0E-8         | 1    | IIW-1     | EFU         | Y          | Aloha silt loam                                          | 0.00269073  |
| 0E-8         | 1    | IIW-1     | EFU         | Y          | Aloha silt loam                                          | 3.35429676  |
| 0E-8         | 1    | IIW-1     | EFU         | Y          | Aloha silt loam                                          | 2.48235503  |
| 167.50000000 | 11C  | IIIE-3    | EFU         | Y          | Cornelius and Kinton silt loams, 7 to 12 percent slopes  | 23.75079440 |
| 167.50000000 | 11C  | IIIE-3    | EFU         | Y          | Cornelius and Kinton silt loams, 7 to 12 percent slopes  | 0.56157087  |
| 167.50000000 | 11C  | IIIE-3    | EFU         | Y          | Cornelius and Kinton silt loams, 7 to 12 percent slopes  | 0.00407886  |
| 167.50000000 | 11C  | IIIE-3    | EFU         | Y          | Cornelius and Kinton silt loams, 7 to 12 percent slopes  | 0.00138344  |
| 167.50000000 | 11D  | IIIE-3    | EFU         | Y          | Cornelius and Kinton silt loams, 12 to 20 percent slopes | 0.00065947  |
| 167.50000000 | 11D  | IIIE-3    | EFU         | Y          | Cornelius and Kinton silt loams, 12 to 20 percent slopes | 1.41060387  |
| 0E-8         | 22   | IIIW-4    | EFU         | Y          | Huberly silt loam                                        | 2.08722113  |
| 0E-8         | 22   | IIIW-4    | EFU         | Y          | Huberly silt loam                                        | 1.40612688  |
| 0E-8         | 22   | IIIW-4    | EFU         | Y          | Huberly silt loam                                        | 0.58675098  |
| 0E-8         | 22   | IIIW-4    | EFU         | Y          | Huberly silt loam                                        | 0.00033272  |
| 0E-8         | 43   | IIIW-2    | EFU         | Y          | Wapato silty clay loam                                   | 1.41143070  |
| 0E-8         | 45C  | IIIE-2    | EFU         | Y          | Woodburn silt loam, 7 to 12 percent slopes               | 0.00207422  |
| 0E-8         | 45C  | IIIE-2    | EFU         | Y          | Woodburn silt loam, 7 to 12 percent slopes               | 0.00317779  |
| 0E-8         | 45C  | IIIE-2    | EFU         | Y          | Woodburn silt loam, 7 to 12 percent slopes               | 11.14126526 |
| 0E-8         | 45C  | IIIE-2    | EFU         | Y          | Woodburn silt loam, 7 to 12 percent slopes               | 3.69593263  |
| Total Acres: |      |           |             |            |                                                          | 51.90274574 |

Acres High Value Farmland: 51.90274574  
Percent High Value: 100%

## **Exhibit D1**

**10-082-PA  
Kilty Plan Amendment**

#### **CORNELIUS SILT LOAM**

Use and Vegetation: Used to produce berries, orchards, small grain and seed crops, hay, pasture, and for woodland. Native vegetation is mainly Douglas-fir, big leaf maple, western red cedar, hazelbrush and grasses.

#### **KINTON SILT LOAM**

Use and Vegetation: Soils are used for berries, orchards, small grain and seed crops, hay, pasture and woodland. Native vegetation consists of Douglas fir, bigleaf maple, western red cedar, hazelbrush, poison oak and other shrubs and grasses.

#### **ALOHA SILT LOAM**

Use and Vegetation: Most of these soils are cultivated. Orchards, berries, grain, hay and pasture are major crops. Native vegetation mainly Douglas-fir, Oregon white oak, Oregon grape, hazelbrush, alder, grasses and forbs.

#### **HUBERLY SILT LOAM**

Use and Vegetation: Pasture, grass and legume seed, small grains. Native vegetation is mainly ash, willow, hazelbrush, sedges, with some Douglas-fir and western red cedar, grasses, and weeds.

#### **WAPATO SILTY CLAY SOIL**

Use and Vegetation: Most of these soils are cultivated. Hay and pasture are major crops. When drained, beans and small grains are also raised. Native vegetation is red alder, Oregon ash, black cottonwood, willow, wild rose and sedges.

#### **WOODBURN SILT LOAM**

Use and Vegetation: This series is used for growing berries, orchards, cannery crops, grain, hay and pasture. Native vegetation is Douglas-fir, oak and grass.



# **Exhibit E**

**10-082-PA  
Kilty Plan Amendment**



Geographic Information Systems

Navigation: Washington County » GIS » Reports: Parcel Report 2S2150003600 |

General Information

- [interactive maps](#)
- [map gallery](#)
- [data catalog](#)
- [contacts](#)
- [other gis links](#)
- [gis introduction](#)
- [frequently asked questions](#)

Property Search

- [property / taxlot](#)
- [tax maps](#)

Survey Search

Land Services

Building Services

Parcel Report for Taxlot: 2S2150003600



General Property Information

|                          |                                                                                                                                                                                     |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Map & Taxlot ID #1       | 2S2150003600                                                                                                                                                                        |
| Real Property Account #: | R566890<br>R566907                                                                                                                                                                  |
| Site Address:            | 17405 SW SWANK RD, SHERWOOD OR, 97140                                                                                                                                               |
| City/State/Zip:          |                                                                                                                                                                                     |
| Legal:                   |                                                                                                                                                                                     |
| Sub Reports:             | <a href="#">District Overlay Information</a><br><a href="#">Assessment &amp; Taxation Information</a><br><a href="#">Scanned Tax Maps</a><br><a href="#">Permits &amp; Projects</a> |
| Interactive Mapping:     | <a href="#">InterMap</a>                                                                                                                                                            |
| Other Resources:         | <a href="#">Link to External Sites:</a><br><a href="#">Virtual Earth Viewer</a><br><a href="#">Google Maps Street Viewer</a>                                                        |

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# Intermap Geographic Information Systems

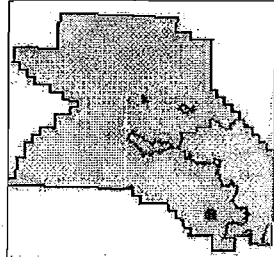
Navigation: | [GIS Home](#) | [New Search](#) | [Navigator](#) | [Help](#) |

## Parcel Report for Taxlot: 2S2150003600

Site Address: 17405 SW SWANK RD. SHERWOOD OR, 97140

Active Tool: Zoom In

### Overview Map

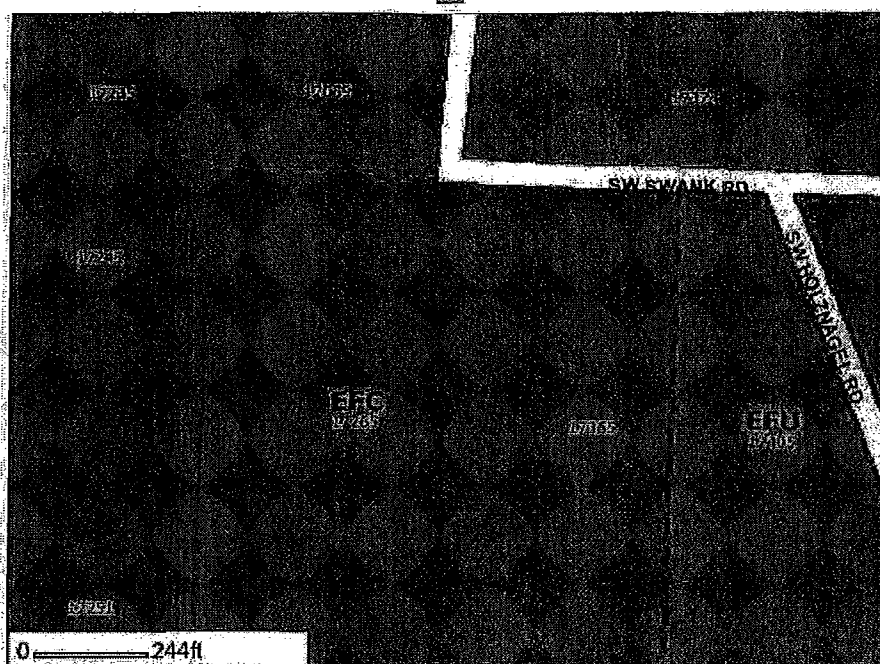


- ☒ Selected Taxlot  
☐ Overview Location

### Maps:

- [Zoning](#)  
[Contour Lines](#)  
[2008 Air Photo](#)  
[USGS Quads](#)

[View Legend](#)



Zoom In



Zoom Out

Pan & Recenter



Select New Taxlot



Zoom To

Selected Taxlot

### Additional Information for Taxlot 2S2150003600

- Sub Reports: [Parcel Summary](#)  
[Districts Overlay Information](#)  
[Assessment & Taxation Information](#)  
[Scanned Tax Maps](#)  
[Permits & Projects](#)

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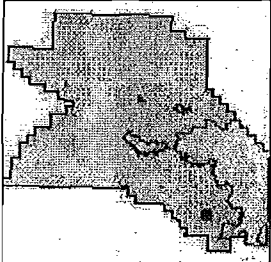
# Intermap

Geographic Information Systems

Navigation: | [GIS Home](#) | [New Search](#) | [Navigator](#) | [Help](#) |

**Parcel Report for Taxlot: 2S2150003600**  
**Site Address: 17405 SW SWANK RD. SHERWOOD OR, 97140**  
Active Tool: Zoom In

Overview Map

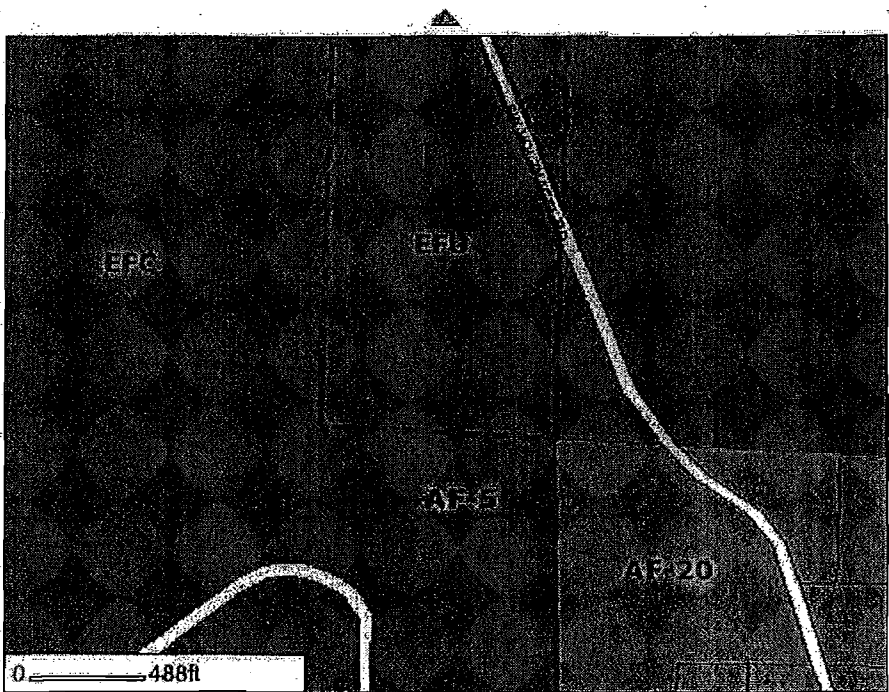


● Selected Taxlot  
□ Overview Location

**Maps:**

- ▶ [Zoning](#)
- [Contour Lines](#)
- [2008 Air Photo](#)
- [USGS Quads](#)

[View Legend](#)



Zoom In



Zoom Out

Pan & Re-center

Select New Taxlot

Zoom To Selected Taxlot

**Additional Information for Taxlot 2S2150003600**

- Sub Reports: [Parcel Summary](#)  
[Districts Overlay Information](#)  
[Assessment & Taxation Information](#)  
[Scanned Tax Maps](#)  
[Permits & Projects](#)

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# Intermap Geographic Information Systems

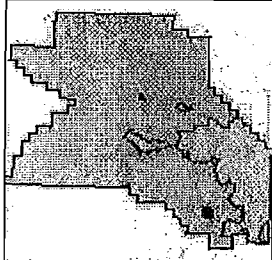
Navigation: | [GIS Home](#) | [New Search](#) | [Navigator](#) | [Help](#) |

## Parcel Report for Taxlot: 2S2150003600

Site Address: 17405 SW SWANK RD. SHERWOOD OR, 97140

Active Tool: Zoom In

Overview Map

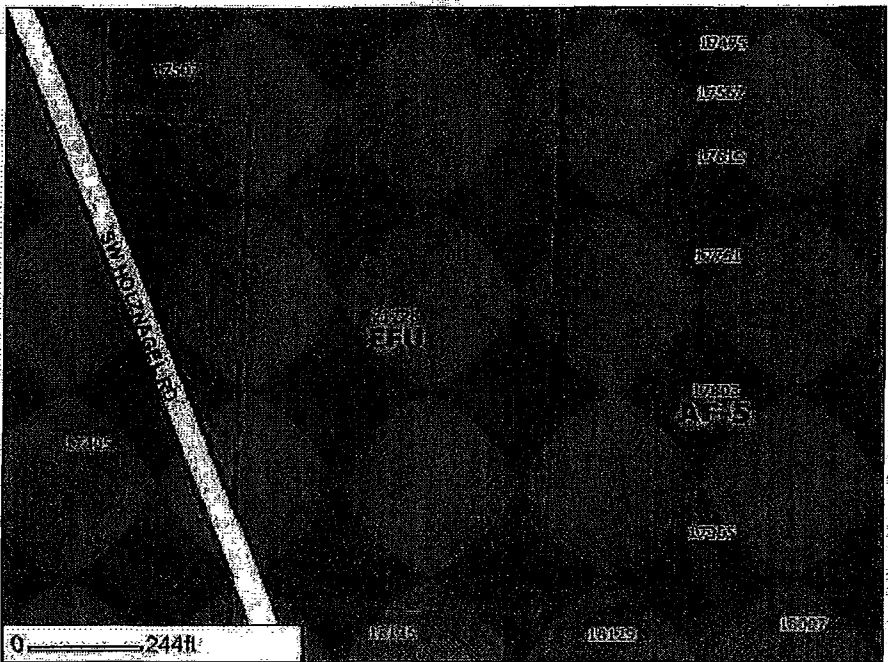


- ☒ Selected Taxlot
- ☐ Overview Location

### Maps:

- [Zoning](#)
- [Contour Lines](#)
- [2008 Air Photo](#)
- [USGS Quads](#)

[View Legend](#)



Zoom In



Zoom Out



Pan & Recenter



Select New Taxlot



Zoom To Selected Taxlot



### Additional Information for Taxlot 2S2150003600

- Sub Reports:
- [Parcel Summary](#)
  - [Districts Overlay Information](#)
  - [Assessment & Taxation Information](#)
  - [Scanned Tax Maps](#)
  - [Permits & Projects](#)

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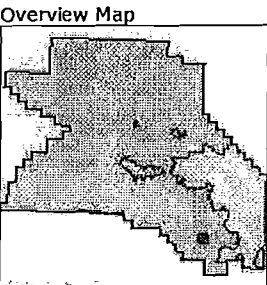


# Intermap

Geographic Information Systems

Navigation: | [GIS Home](#) | [New Search](#) | [Navigator](#) | [Help](#) |

**Parcel Report for Taxlot: 2S2150003600**  
**Site Address: 17405 SW SWANK RD. SHERWOOD OR, 97140**  
Active Tool: Zoom In



- ☒ Selected Taxlot
- ☐ Overview Location

**Maps:**

- ☒ Zoning
- [Contour Lines](#)
- [2008 Air Photo](#)
- [USGS Quads](#)

[View Legend](#)



- [Zoom In](#)
- [Zoom Out](#)
- [Pan & Recenter](#)
- [Select New Taxlot](#)
- [Zoom To Selected Taxlot](#)

**Additional Information for Taxlot 2S2150003600**

- Sub Reports:
- [Parcel Summary](#)
  - [Districts Overlay Information](#)
  - [Assessment & Taxation Information](#)
  - [Scanned Tax Maps](#)
  - [Permits & Projects](#)

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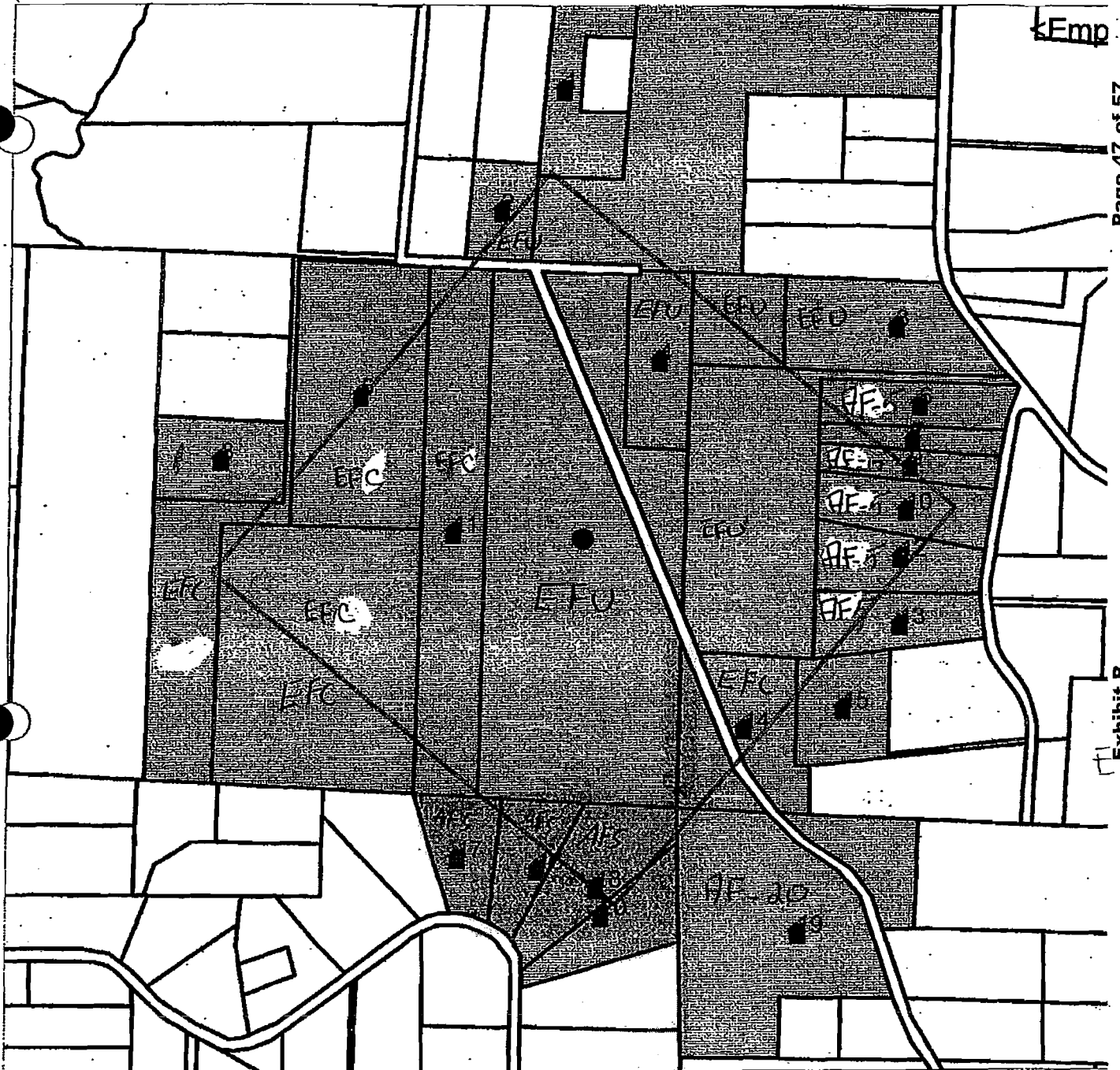
## **Exhibit F**

**10-082-PA  
Kilty Plan Amendment**



Plot date: Feb 5, 2010; C:\gls

  
Dwellings



\*\*\*\*\*Template Report\*\*\*\*\*

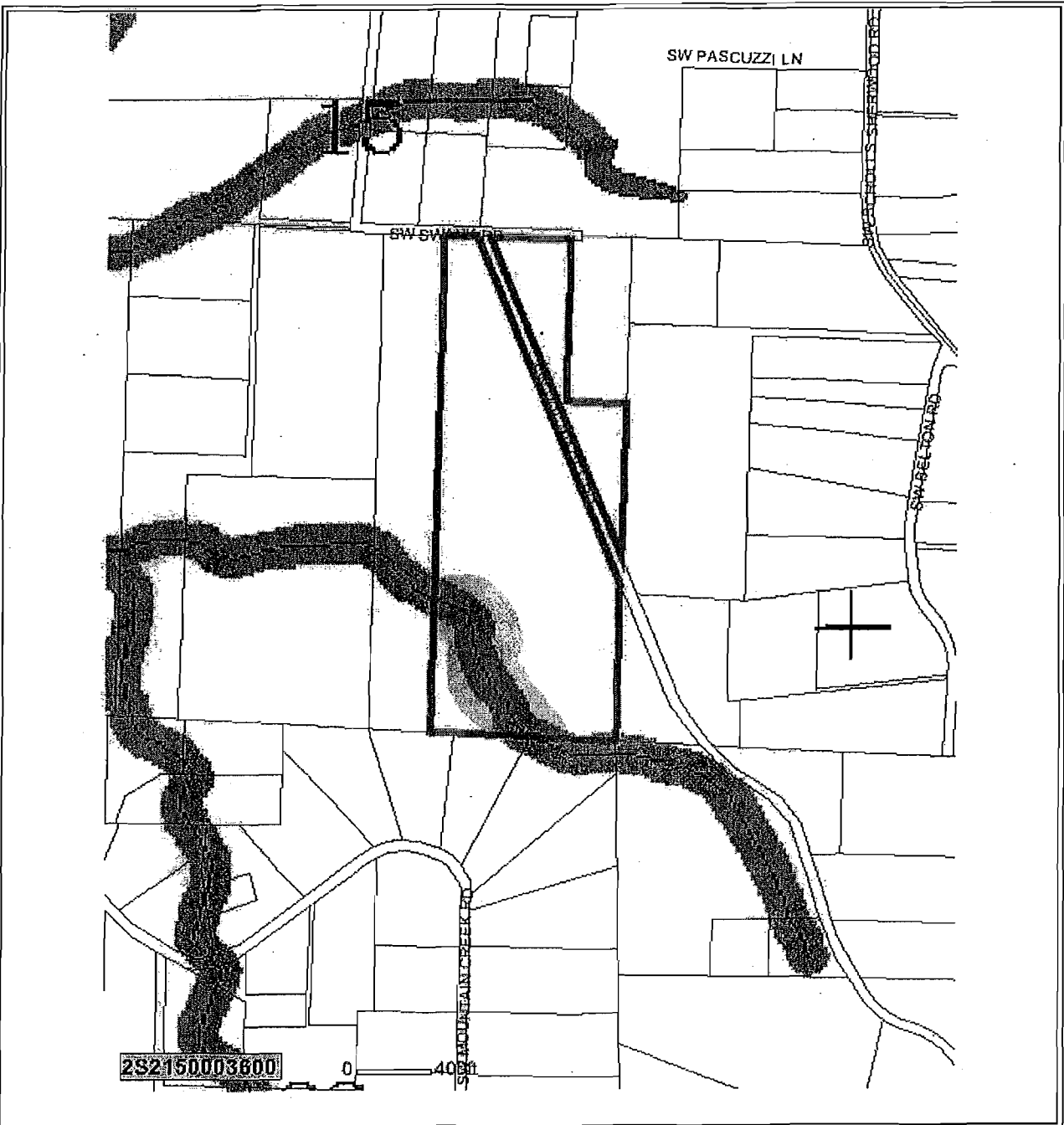
Parcels with Houses according to Assessor Data

|    |      |              |
|----|------|--------------|
| 1  | 1952 | 2S2150001400 |
| 2  | 1961 | 2S2150001700 |
| 3  | 1964 | 2S2150003801 |
| 4  | 1961 | 2S2150003700 |
| 5  | 1910 | 2S2150003300 |
| 6  | 1963 | 2S2140000704 |
| 7  | 1967 | 2S2140000705 |
| 8  | 2001 | 2S2150003006 |
| 9  | 1945 | 2S2140000721 |
| 10 | 1978 | 2S2140000722 |
| 11 | 1940 | 2S2150003500 |
| 12 | 1965 | 2S2140000707 |
| 13 | 1964 | 2S2140000708 |
| 14 | 1999 | 2S2150003802 |
| 15 | 1985 | 2S2140000716 |
| 16 | 1978 | 2S2220000314 |
| 17 | 1986 | 2S2220000313 |
| 18 | 1972 | 2S2220000315 |
| 19 | 1900 | 2S2220000100 |
| 20 | 1974 | 2S2220000316 |

\*House locations are based on Geometric Center of Parcel. All House Locations must be verified in the field.

# **Exhibit H**

**10-082-PA  
Kilty Plan Amendment**



This map was derived from several databases. The County cannot accept responsibility for any errors, omissions, or positional accuracy and therefore there are no warranties for this product. However, notification of errors would be appreciated.

Washington County  
Geographic Information Systems  
155 N First Ave, Hillsboro OR  
97124  
(503)846-8039  
www.co.washington.or.us

GIS on the Web

Close



Printed: 03/05/10 at 01:39 PM



## **Exhibit J**

**10-082-PA  
Kilty Plan Amendment**

From:

03/17/2010 13:52

#598 P.001/002



## WASHINGTON COUNTY

Dept. of Land Use & Transp.  
Land Development Services  
155 N. First Ave., Suite 350-13  
Hillsboro, OR 97124  
Ph. (503) 846-8761 Fax (503) 846-2908  
<http://www.co.washington.or.us>

### REQUEST FOR STATEMENT OF SERVICE AVAILABILITY

- ☐ WATER DISTRICT: \_\_\_\_\_
- ☒ FIRE DISTRICT: WA Co. Fire Dist. #2
- ☐ TRI-MET
- ☐ TUALATIN HILLS PARK & REC. DISTRICT
- ☐ CITY OF \_\_\_\_\_
- ☐ CLEAN WATER SERVICES

PROPOSED PROJECT NAME: \_\_\_\_\_

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, PARTITION, SPECIAL USE)

Comprehensive Plan Amendment from ECU to EEC

EXISTING USE: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

IF RESIDENTIAL:

NO. OF DWELLING UNITS: \_\_\_\_\_

SINGLE FAM. \_\_\_\_\_

MULTI-FAM. \_\_\_\_\_

IF INDUSTRIAL/COMMERCIAL:

TYPE OF USE: \_\_\_\_\_

NO. OF SQ. FT. (GROSS FLOOR AREA) \_\_\_\_\_

IF INSTITUTIONAL:

NO. SQ. FT. \_\_\_\_\_

NO. STUDENTS/EMPLOYEES/MEMBERS: \_\_\_\_\_

#### \*\*\*\*\*ATTENTION SERVICE PROVIDER\*\*\*\*\*

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).

**RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.**

(Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

☒ SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT.

Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

SIGNATURE: \_\_\_\_\_

POSITION: \_\_\_\_\_

DATE: 7-16-00

☐ SERVICE LEVEL IS INADEQUATE TO SERVICE THE PROPOSED PROJECT.

Please indicate why the service level is inadequate.

SIGNATURE: \_\_\_\_\_

POSITION: \_\_\_\_\_

DATE: \_\_\_\_\_

Service1 12/11/03

From:

03/17/2010 13:52

#598 P.002/002



## WASHINGTON COUNTY OREGON

Date: 03/05/2010

### Washington County Fire District Service Analysis

RE: Plan Amendment, changing from EFF to EFF, AS215 Tax Lot 3600  
(land use district) (map location)

Fire District: Washington County Fire Dist. #2

Dear Washington County Fire District,

The Washington County Department of Land Use and Transportation requires a formal detailed analysis of certain Public Services to determine any adverse impact on those services by the above plan amendment.

In order to provide sufficient information for the staff's impact evaluation, your response to the following questions, in addition to the standard "Service Availability Statement", is required.

1. What is the location (in miles from the parcel(s) referenced above) of the fire station?

4 mi

2. What will be the average emergency response time to the parcel(s) referenced above?

7 minutes

3. What is the total number of personnel and equipment available for an initial attack on fire spread at the parcel(s) referenced above?

up to 15

4. Will the addition of one (1) single family dwelling cause any serious impact on the current services provided?

NO

Thank you for providing the additional information for the plan amendment request.

SIGNATURE:

James H. Ritty

DATE: 03/05/10

POSITION:

owner

\\LUT1\DATA\SHARED\Plan\WPSHARE\Plan Amendments\Master\Misc forms\fire questions.doc

Department of Land Use & Transportation • Planning Division  
155 N. First Avenue, Suite 350-14, Hillsboro, OR 97124-3072  
phone: (503) 846-3519 • fax: (503) 846-4412



doneriteconst@yahoo.com

doneriteconst.com



**WASHINGTON COUNTY**  
Dept. of Land Use & Transp.  
Land Development Services  
155 N. First Ave., Suite 350-13  
Hillsboro, OR 97124  
Ph. (503) 846-8761 Fax (503) 846-2908  
www.co.washington.or.us

# **REQUEST FOR STATEMENT OF SERVICE AVAILABILITY FOR SCHOOLS**

PRE-APPLICATION DATE: \_\_\_\_\_

Service Provider: PLEASE RETURN THIS FORM TO:  
APPLICANT:

COMPANY: \_\_\_\_\_

CONTACT: Jim Kilty

ADDRESS: 17405 SW Swank Rd  
Shenwood, OR 97140

PHONE: 971-322-9826

OWNER(S):

NAME: Jim & Jean Kilty

ADDRESS: 17405 SW Swank Rd.  
Shenwood, OR 97140

PHONE: 971-322-9826

Property Desc.: Tax Map(s):

23215

Lot Number(s):

R 566907

"

R 566890

Site Size: 52.2 acres

Site Address: 17405 SW Swank Rd.

Nearest cross street (or directions to site):

At the intersection of SW Swank Rd.  
& Holznaegel Rds.

☒ SCHOOL DISTRICT NO.: Hillsboro

PROPOSED PROJECT NAME: \_\_\_\_\_

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, MINOR PARTITION, SPECIAL USE)

Comprehensive Plan Amendment From EFD to EFC

EXISTING USE: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

IF RESIDENTIAL:

IF INDUSTRIAL/COMMERCIAL:

IF INSTITUTIONAL:

NO. OF DWELLING UNITS: \_\_\_\_\_

TYPE OF USE: \_\_\_\_\_

NO. SQ. FT. \_\_\_\_\_

SINGLE FAM. \_\_\_\_\_

MULTI-FAM. \_\_\_\_\_

NO. OF SQ. FT. (GROSS FLOOR AREA) \_\_\_\_\_

NO. STUDENTS/EMPLOYEES/MEMBERS: \_\_\_\_\_

## \*\*\*\*\*ATTENTION SERVICE PROVIDER\*\*\*\*\*

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).

RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.

(Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

☐ SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT. (Use additional sheets if necessary.)

Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

| SCHOOL        | LEVEL             | CAPACITY | ENROLLMENT<br>10/1/2009 | Students<br>Per SAR | Dwellings per<br>School | Dwellings | Jim Kilty<br>17405 SW Swank Road. |
|---------------|-------------------|----------|-------------------------|---------------------|-------------------------|-----------|-----------------------------------|
| Groner        | Elementary School | 338      | 171                     | 0.29                | 0.29                    | 1         | 4.1 Miles                         |
| South Meadows | Middle School     | 1000     | 755                     | 0.12                | 0.12                    | 1         | 2.8 Miles                         |
| Hillsboro     | High School       | 1650     | 1521                    | 0.11                | 0.11                    | 1         | 3.3 Miles                         |

SIGNATURE: \_\_\_\_\_

Mike Scott

POSITION: Superintendent

DATE: March 12, 2010

☐ SERVICE LEVEL IS INADEQUATE TO SERVICE THE PROPOSED PROJECT.

If the present or future service level is inadequate, please provide information documenting your inability to provide an adequate level of service. Additionally, provide information regarding whether the use of alternative means can be employed to provide an adequate service level. Documentation of adequacy and alternatives to provide an adequate service level may include but not be limited to the following:

1. Amount of bonded indebtedness; 2. Use of double shifting; 3. Extended school periods; 4. Bussing to underutilized facilities; 5. Year-around school; 6. Construction of new facilities; 7. Portable Classrooms; 8. Impact Fees; 9. Any combination of these or other alternatives.

SIGNATURE: \_\_\_\_\_

POSITION: \_\_\_\_\_

DATE: \_\_\_\_\_

Service Pro Schools 12/11/03



**WASHINGTON COUNTY  
OREGON**

Date: 03/03/2010

**Washington County School District Service Analysis**

RE: Plan Amendment, changing from EFD to EFC, 25215 Tax Lot 3600  
(land use district) (map location)

Dear Washington County School District,

The Washington County Department of Land Use and Transportation requires a formal detailed analysis of certain Public Services to determine any adverse impact on those services by the above plan amendment.

In order to provide sufficient information for the staff's impact evaluation, your response to the following questions, in addition to the standard "Service Availability Statement", is required.

1. What is the location (in miles from the parcel(s) referenced above) of the nearest schools that would provide education services to future residents of the parcel(s) above?

See chart on page 1

2. Is bus transportation provided for students that would be located on the parcel(s) listed above?

Yes

3. What are the names of the existing school facilities in your district, current enrollment of those schools, and maximum student capacity for each school that would serve the parcel(s) listed above?

See chart on page 1

4. Will the addition of one (1) future single family dwellings cause any serious impact on the current educational services provided?

See chart on page 1

Thank you for providing the additional information for the plan amendment request.

SIGNATURE: James H. Kelly

DATE: 03/05/10

POSITION: owner

F:\SHARED\Plng\WPSHARE\Plan Amendments\Master\Misc forms\school questions.doc

Department of Land Use & Transportation • Planning Division  
155 N. First Avenue, Suite 350-14, Hillsboro, OR 97124-3072  
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Dept. of Land Use & Transp.  
Land Development Services  
155 N. First Ave., Suite 350-13  
Hillsboro, OR 97124  
Ph. (503) 846-8761 Fax (503) 846-2908  
www.co.washington.or.us

**REQUEST FOR STATEMENT  
OF SERVICE AVAILABILITY FOR  
SHERIFF OR POLICE SERVICES**

☒ WASHINGTON COUNTY SHERIFF

PRE-APPLICATION DATE: \_\_\_\_\_

Service Provider: PLEASE RETURN THIS FORM TO:  
APPLICANT:

COMPANY: \_\_\_\_\_

CONTACT: Jim Kilty

ADDRESS: 17405 SW Swank Rd.  
Sherwood, OR 97140

PHONE: 971-322-9826

OWNER(S):

NAME: Jim + Toni Kilty

ADDRESS: 17405 SW Swank Rd.  
Sherwood, OR 97140

PHONE: 971-322-9826

Property Desc.: Tax Map(s):

29215

Lot Number(s):

R566907

"

R566890

Site Size: 52.2 acres

Site Address: 17405 SW Swank Rd.

Nearest cross street (or directions to site):

At the intersection of SW Swank +  
Holznapel Rds.

PROPOSED PROJECT NAME: \_\_\_\_\_

PROPOSED DEVELOPMENT ACTION: (DEVELOPMENT REVIEW, SUBDIVISION, MINOR PARTITION, SPECIAL USE)

Comprehensive Plan Amendment from EFU to EFC

EXISTING USE: \_\_\_\_\_

PROPOSED USE: \_\_\_\_\_

IF RESIDENTIAL:

IF INDUSTRIAL/COMMERCIAL:

IF INSTITUTIONAL:

NO. OF DWELLING UNITS: \_\_\_\_\_

TYPE OF USE: \_\_\_\_\_

NO. SQ. FT. \_\_\_\_\_

SINGLE FAM. \_\_\_\_\_

MULTI-FAM. \_\_\_\_\_

NO. OF SQ. FT. (GROSS FLOOR AREA) \_\_\_\_\_

NO. STUDENTS/EMPLOYEES/MEMBERS: \_\_\_\_\_

**\*\*\*\*\*ATTENTION SERVICE PROVIDER\*\*\*\*\***

PLEASE INDICATE THE LEVEL OF SERVICE AVAILABLE TO THE SITE (ADEQUATE OR INADEQUATE).

RETURN THIS COMPLETED FORM TO THE APPLICANT AS LISTED ABOVE.

(Do NOT return this form to Washington County. The applicant will submit the completed form with their Land Development Application submittal).

☒ SERVICE LEVEL IS ADEQUATE TO SERVE THE PROPOSED PROJECT. (Use additional sheets if necessary.)

Please indicate what improvements, or revisions to the proposal are needed for you to provide adequate service to this project.

SIGNATURE: \_\_\_\_\_

POSITION: LIEUTENANT

DATE: 03/01/0

☐ SERVICE LEVEL IS INADEQUATE TO SERVE THE PROPOSED PROJECT.

If the present or future service level is inadequate, please provide information documenting your inability to provide an adequate level of service. Please also provide information regarding whether the use of alternative means can be employed to provide an adequate service level. Documentation of adequacy and alternatives to provide an adequate service level may include but not be limited to the following:

1. Contracting with private agency; 2. Contracting with other public agency; 3. Impact fees; 4. Any combination of these or other alternatives.

SIGNATURE: \_\_\_\_\_

POSITION: \_\_\_\_\_

DATE: \_\_\_\_\_

Service Pro Sheriff 12/11/03

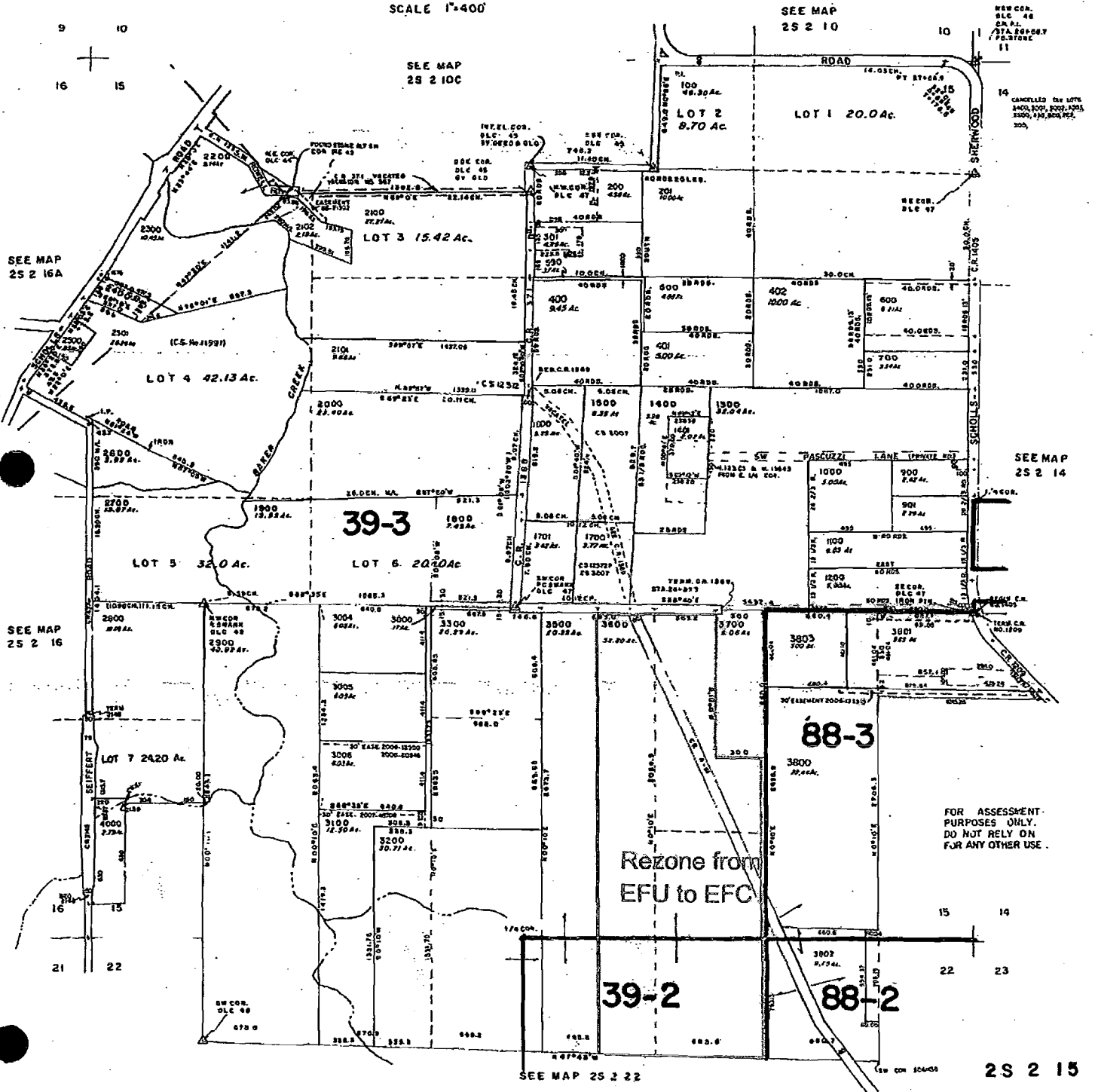
Case File 10-082-PA

Exhibit B

Page 56 of 57

SECTION 15 T2S R2W WM  
WASHINGTON COUNTY OREGON  
SCALE 1"=400'

2S 2 15





WASHINGTON COUNTY  
Department of Land Use and Transportation  
PLANNING DIVISION, SUITE #350-14  
155 NORTH FIRST AVENUE  
HILLSBORO, OREGON 97124-3072  
Tel. (503) 846-3519 fax (503) 846-4412

## STAFF REPORT

CASEFILE NO.: 10-082-PA

**APPLICANT:**

James & Joni Kilty  
17405 SW Swank Road  
Sherwood, OR 97140

**OWNERS:**

James & Joni Kilty  
Jerrilee Kelley  
Jackie Fowler  
1819 SW 20<sup>th</sup> Court  
Gresham, OR 97080

PROCEDURE TYPE: III

COMPREHENSIVE PLAN ELEMENT:  
Rural/Natural Resource

**SITE ADDRESS**

17405 SW Swank Road

CPO: 10

ASSESSOR MAP NO(S) & TAX LOT NO(S): 2S2 15  
3600

SITE SIZE: 52.2 acres

LOCATION: South of the intersection of SW Swank  
Road and SW Scholls Sherwood Road

EXISTING LAND USE DISTRICT: Exclusive Farm  
Use (EFU)

REQUEST: Comprehensive Plan Amendment to change the current land use designation of Exclusive  
Farm Use (EFU) District to Exclusive Forest Conservation (EFC) District.

### Casefile No. 10-082-PA Staff Report for the May 5, 2010 Planning Commission Hearing

#### I. APPLICABLE REGULATIONS

- A. LCDC Statewide Planning Goals 1, 2, 3, 4, 5, 7, 11, & 12
- B. OAR 660-033-0030(4) (relating to agricultural land) and OAR 660-006-0015(2) (relating to forest land),  
660-012-0060 (Transportation Planning Rule)
- C. Rural / Natural Resource Plan Policies: 1.p.1, 2, 6, 8, 10, 14.a.1, 15, 16, 22, 23
- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
  - 1. Article II, Procedures
  - 2. Article III, Land Use Districts
    - Section 340 EFU District (Intent and Purpose)
    - Section 342 EFC District (Intent and Purpose)

3. Article IV, Development Standards

|             |                                                  |
|-------------|--------------------------------------------------|
| Section 421 | Flood Plain and Drainage Hazard Area Development |
| Section 422 | Significant Natural Resources                    |

4. Article V, Public Facilities and Services

**II. AFFECTED JURISDICTIONS**

Washington County Sheriff.  
Washington County Department of Land Use and Transportation  
Hillsboro School District  
Washington County Fire District #2

**III. RECOMMENDATION**

Based on staff's findings in Section III of this report and Attachments A and B, and as summarized above under Section IV, staff recommends **APPROVAL** of the plan amendment from EFU to EFC. Therefore staff recommends that the Planning Commission forward to the Board of County Commissioners a recommendation for approval of the applicant's plan amendment request subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owed to the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. The requirements of the Community Development Code will apply to specific development applications on each parcel. Other applicable regulations will also apply, including requirements for wells and septic systems.

**IV. FINDINGS**

A. General

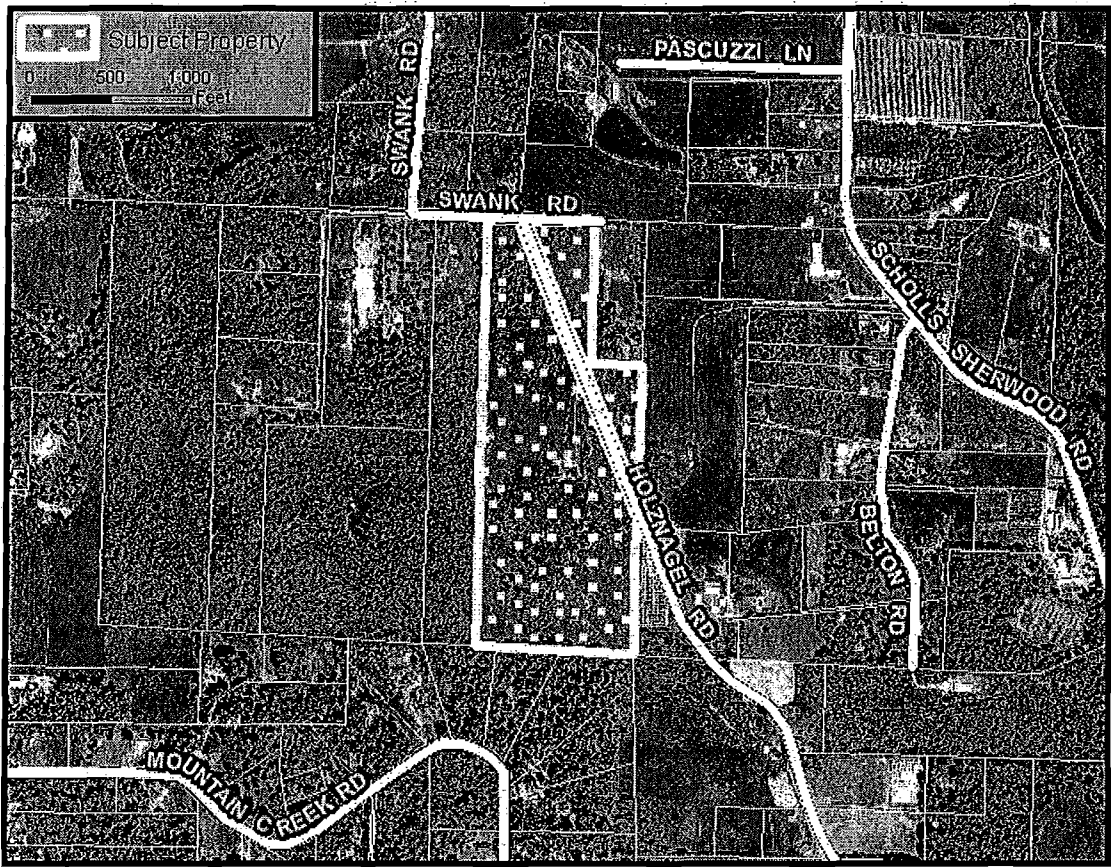
Applicant: See page 2 of the application.

Staff: The subject property is 52.2 acres and is designated as Exclusive Farm Use (EFU). The site is a mixture of forest and farm uses. Thirty-six acres (69%) of the property is actively managed for timber propagation, and 16.2 acres (31%) are used for pasture. There are two barns on site. No dwellings are present.

The lowest elevation is 180 feet above sea level (ASL) at the northern property line. The highest point on the property is the southeast corner where the elevation reaches approximately 280 feet ASL. An unnamed tributary of Baker Creek traverses the southern portion of the property, and it is designated as a drainage hazard area.

SW Holznagel Road right-of-way bisects the property, but it is not improved. Access to the site is taken from SW Swank Road. A 2009 aerial of the subject property and the immediate area is shown in Figure 1 on page 3 of this report.

Figure 1.



No letters of comment have been received.

State law requires the Board of County Commissioners to make the final decision for plan amendments on resource lands. The Board is scheduled to review this plan amendment request at its meeting on May 25, 2010. The Planning Commission's recommendation will be provided to the Board prior to that hearing.

B. Compliance with LCDC Statewide Planning Goals

Staff: The Rural/Natural Resource Plan Element of Washington County's Comprehensive Plan and related implementing ordinances have been found to be in conformance with the statewide planning goals. Goals applicable to this proposal are addressed under related policies from Washington County's Rural/Natural Resource Plan Element and in Attachment B, the Transportation Report. In addition, Oregon Administrative Rules (OAR) for Goals 3 and 4 are specifically addressed below.

LCDC Goal 3, Agricultural Lands

This goal requires agricultural lands be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and the state's agricultural land use policy. OAR Chapter 660, Division 33, sets forth the following requirement:

**OAR 660-033-0030: Identifying Agricultural Land**

**(4) When inventoried land satisfies the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.**

LCDC Goal 4, Forest Lands

This goal requires forest lands be conserved by maintaining the forest land base, and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture. OAR Chapter 660, Division 6 sets forth the following requirement:

**OAR 660-006-0015: Plan Designation Outside an Urban Growth Boundary**

**(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.**

Staff: The property is currently designated EFU, which is a resource designation for exclusive farm use. The applicant is requesting a plan amendment to EFC, which is a resource designation for forest conservation use. As stated in Goals 3 and 4 above, the applicant does not need to justify why one resource designation is more appropriate than another. The applicant's findings and the staff report document the factors used to select the requested designation; therefore, the requirements of Goals 3 and 4 have been satisfied.

**C. Rural / Natural Resource Plan**

1. Policy 1, the Planning Process, states:

It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

Applicable Implementing Strategies:

p. Require that plan map amendments meet the following criteria:



As used in the following sections a mistake means a clerical error, or a mistake in the current designation such that it probably would not have been placed on the property had the error been brought to the attention of the Board during the adoption process.

1. Amendments from Exclusive Farm Use to Exclusive Forest Conservation, or, Exclusive Forest and Conservation to Exclusive Farm Use shall:
  - A. Determine the appropriate District considering the following:
    - I. soils types as related to Goal 3 and forest classifications as related to Goal 4;
    - II. the predominant use of the property;
    - III. the predominant use and land use district of surrounding properties;
    - IV. what kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses;
    - V. physical characteristics of the site;
    - VI. whether the site is or has been on farm or forest deferral.
  - B. Require that the parcel be contiguous to land with the same plan map designation being requested or be 76 acres or more in area.

Applicant: See pages 3 - 5 of the application.

Staff: Policy 1.p.1 requires quasi-judicial plan amendments to meet one of the above criteria. Based on the following findings, staff has determined that the evidence provided by the applicant and in county records satisfies all of the criteria. Staff notes that the applicant erred when providing findings for Policy 1.p.8, plan amendments from Agriculture and Forest (AF-20) to EFC, instead of the policy above. However, other information provided by the applicant is sufficient to demonstrate compliance with this policy.

**I. soil types as related to Goal 3 and forest classifications as related to Goal 4**

LCDC Goal 3 defines agricultural land as land in western Oregon comprised of predominantly Class I, II, II and IV soils. The property is entirely comprised of Class II and III soils; therefore, it is considered agricultural land. County records show 100% of the property's soil meets the definition of "high value farmland" per OAR 660-033-0020(8).

LCDC Goal 4 broadly defines forest lands as soils that have a high potential for productivity and no serious management limitations. Approximately 47 acres of the site's soils are suitable for forest use according to the Soil Survey of Washington County, Oregon, July, 1982 (SSWC). Approximately 24 acres is comprised of soil series and classes that have high woodland productivity capability. Twenty three acres are not specifically rated for woodland productive capability but are also noted as being suitable for forest uses. Five and one-half acres are not suitable for commercial timber use because the soils are too shallow.

Additional soils analysis can be found on page 13 of this report as part of the Policy 14 *Plan Designations* findings and in Attachment A of this report.

## II. the predominant use of the property

Thirty-six acres is actively managed for timber propagation. According to the applicant, the site was logged in 1950 and replanted in 1952. The site was again logged in 2006 and replanted in 2008 per the Oregon Department of Forestry (ODF) Forest Practices Act. The remaining land is used for pasture, which is considered by Goal 4 to be a forest use. The applicant submitted aerial photographs (see Exhibit B of the application) documenting the site's use between 1978 and 2008. The unnamed tributary of Baker Creek found on the property is a significant natural resource, specifically *Water Areas, Wetlands & Fish and Wildlife Habitat*. It is also a drainage hazard area.

Policy 16 *Exclusive Forest Lands* of the Rural/Natural Resource Plan states:

***"LCDC Goal 4 defines forest uses as the production of trees and the processing of forest products; as open space, buffers from noise, and visual separation of conflicting uses; as watershed protection and wildlife and fisheries habitat; as soil protection from the wind and water; as maintenance of clean air and water; as outdoor recreational activities; and for agriculture support services such as grazing land for livestock."***

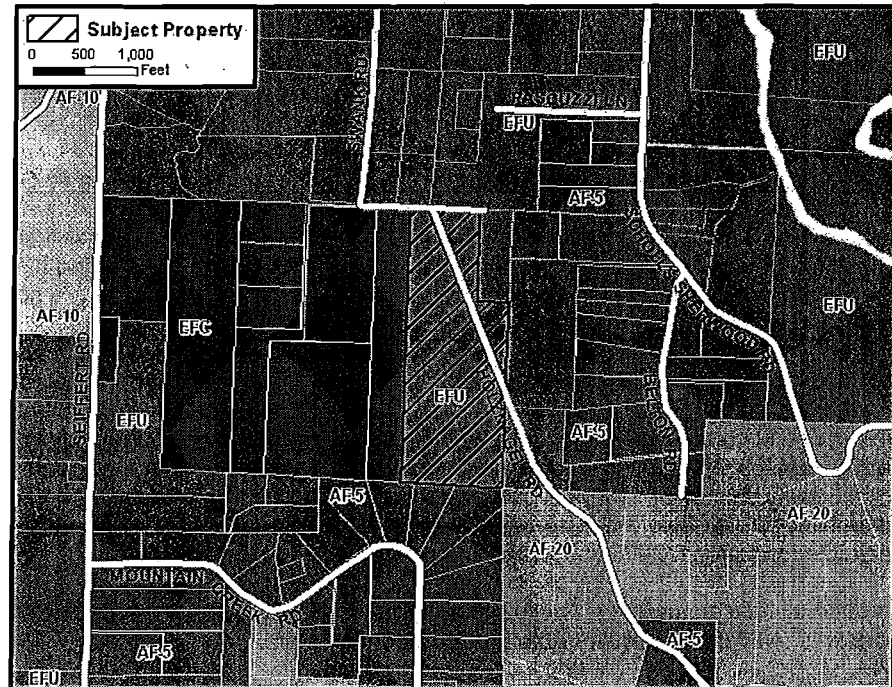
Based upon the current use of the property and the Policy 16 statement above, staff finds the property is in forest use.

## III. the predominant use and land use district of surrounding properties

The properties adjacent to the north and east are designated as EFU, the property to the southeast is designated as Agriculture and Forest (AF-20), those to the south are designated as Agriculture and Forest (AF-5) and to the west are ten parcels designated as EFC (see Figure 2 below).

Figure 2.

Each of the two EFU designated properties to the north has a dwelling and one is in farm use. To the east are three EFU designated properties. Each of these properties has a dwelling and two are in farm use. To the south are three heavily forested AF-5 designated properties, each with a dwelling. The



ten EFC designated parcels to the west are forested and five have dwellings. Two of the parcels were purchased by Metro through its Natural Greenspaces program. These ten EFC properties total approximately 164 acres.

Because the property has a history of forest use, is currently in forest use and the majority surrounding properties are in farm or forest use, staff finds approval of this request will maintain compatibility with surrounding uses.

**IV. what kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses**

The property is comprised entirely of high value soil and is capable of supporting agriculture uses and forest use. The property has a history of farm and forest use and 36 acres is currently used for timber propagation. Staff finds that the continued use of the property for those purposes will not conflict with adjacent farm and forest uses. A detailed soil analysis is included in Attachment A of this report.

**V. physical characteristics of the site**

As stated, the site is used for timber propagation and pasture. The portion of the property used for timber propagation was planted at approximately 300 seedlings per acre after the area was logged in 2006. An unnamed tributary of Baker Creek traverses the property. The tributary is identified as a drainage hazard and *Water Areas and Wetlands, Fish and Wildlife Habitat*. The property rises from approximately 180 feet above sea level (ASL) at the northern property line to approximately 280 feet ASL at the southeast corner of the property.

**VI. whether the site is or has been in farm or forest deferral**

Washington County Assessment and Taxation records show the property has been in both farm (20 acres) and forest (32.2 acres) deferral since 1987.

2. Policy 2, Citizen Involvement, states:

**It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.**

Staff: A quasi-judicial plan amendment such as this must be considered via a Type III public hearing review procedure. In accordance with CDC Section 204-4, notice of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1,000 feet of the subject property. This notice was sent at least 20 days prior to the first hearing (mailed April 15, 2010). Additionally, the county placed a legal notice of the hearing in *The Hillsboro Argus*, a newspaper of general circulation, at least ten days prior to the first hearing date (published April 23, 2010). As required by CDC Section 204-1.4, the applicant posted a sign on March 26, 2010, which was within 28 days of the March 18, 2010 acceptance date. A copy of the plan amendment application was mailed to Citizen Participation Organization (CPO) 10 on March 19, 2010. Finally, the staff report was available to interested parties seven days prior to the hearing as required by CDC Section 203-6.2. Staff finds these actions satisfy the requirements of Policy 2.

*These findings for Policy 2 also pertain to Statewide Planning Goal 1, Citizen Involvement.*

3. Policy 6, Water Resources, states:

**It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.**

Applicant: See pages 6 – 9 of the application.

Staff: In the case of plan amendments, staff interprets Policy 6 to mean that, over time, development activities in Washington County should not negatively affect the quantity or quality of surface water or groundwater. The thrust of the policy is to assure that development will have a positive or neutral effect over an extended period of time, rather than being concerned with what quantity or quality of water is present at a particular point in time. Therefore, evidence of consistency with this policy should include, if possible, assessments of groundwater quantity and quality reflected over a period of time.

For resource to resource plan amendments such as this request, implementing strategy 6.a.5. does not require well log analysis because the designation change will not result in an increase in density. However, opposition testimony can be rebutted by an applicant by reviewing well logs and having an "expert" such as a professional geologist or hydrologist review well logs and opposition testimony and provide an opinion on the groundwater situation. Expert testimony that draws its findings primarily from evidence in the well reports, however, can be refuted by new evidence beyond that which is contained in the well reports. Recent measurements of water depth in existing wells are probably the best new evidence that can be used to determine what the present groundwater quantity trend is in a plan amendment area. The present well water depth can be compared to the measured depth at the time the well was drilled to determine how groundwater quantity trends are affecting existing wells.

Applicable Implementing Strategies:

**The County will:**

- a. **Strive to ensure adequate water supplies for all uses by:**
  1. **Encouraging water conservation programs by water users and purveyors;**
  2. **Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;**
  3. **Coordinating with State and Federal agencies in evaluating and monitoring ground water supplies; and**
  4. **Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth provisions for the Cooper Mountain-Bull Mountain Critical Ground Water Area.**
  5. **Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.**

**Well logs are not required for quasi-judicial plan amendments when the designation change will not result in an increase in density (i.e. EFU to EFC plan amendments).**

Staff: As indicated by Implementing Strategy 6.a.5., plan amendments between the three resource districts, AF-20, EFU and EFC, are not required to submit well logs. Because both the EFU and EFC Districts are resource districts and the allowed uses in these districts are similar, staff believes the worst-case scenario for the development impact on the subject site under either plan designation is similar. Therefore, the applicant's burden of proof is less than what would be required in other cases where the designation would allow an increase in the potential number of dwellings or new uses not permitted by the current designation.

The property is located within the Chehalem Mountain Ground Water Limited Area. The Chehalem Mountain Ground Water Limited Area is subject to certain restrictions which are enforced by the Oregon Water Resources Department District #18 Watermaster. Restrictions include limiting single or group domestic purposes to no more than 15,000 gallons per day and limiting lawn or non-commercial watering to not more than one-half of an acre. Residences are granted one well by right; however, there is no guarantee relative to the level of water output. Permits for commercial irrigation for farm use may be issued by the Watermaster; however, they are reviewed on a case-by-case basis and are not guaranteed.

Staff finds that the current forest use encourages water conservation because it does not require irrigation to establish seedlings or maintain timber stands which account for 36 of the property's 52.2 acres. No dwellings are proposed at this time. In the event that approval for a dwelling is granted, the laws governing the Chehalem Mountain Ground Water Limited Area will apply.

**b. Ensure adequate quality of surface water and groundwater by:**

- 1. Promoting compliance with the Healthy Streams Plan, as adopted by Clean Water Services (CWS) and in compliance with the CWS-county intergovernmental agreement, to the extent that the Healthy Streams Plan and associated CWS programs apply outside the UGB;**
- 2. Promoting compliance with Department of Environmental Quality water quality standards;**
- 3. Cooperation with the Soil and Water Conservation District in the implementation of effective methods of controlling non-point sources of water pollution in agricultural areas;**
- 4. Cooperating with the Oregon State Department of Forestry in the implementation of effective methods of controlling non-point sources of water pollution in forest areas; and**
- 5. Ensuring that the establishment of subsurface sewage disposal systems (e.g., septic tanks) will not adversely affect ground water quality;**

Staff: In the event that a dwelling is approved for this property, the applicant would be required to obtain approval for an on-site septic system for the dwelling from the County Department of Health and Human Services prior to the issuance of a building permit. The standards for obtaining and maintaining such permits comply with DEQ requirements, which are designed to ensure adequate quality of groundwater. Any grading activities must comply with CDC Sections 410 (Grading and Drainage), 426 (Erosion Control) and Chapter 14.12 of the County Code

(Grading). Compliance with these standards ensures adequate quality of surface water. Therefore, staff finds the criteria of Implementing Strategy 6.b. can be satisfied.

- c. **Protect and maintain natural stream channels wherever possible, with an emphasis on non-structural controls when modifications are necessary.**
- d. **Limit the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.**
- e. **Encourage property owners with land with qualifying lands to apply for natural resource-related exemption of that land from *ad valorem* taxation where such programs are available.**

Staff: An unnamed tributary of Baker Creek is located on the property. This waterway is identified as a significant natural resource, specifically as *Water Areas and Wetlands and Fish and Wildlife Habitat*, as well as a drainage hazard area. Any timber harvesting activities near the tributary are required to follow best management practices (BMPs) as determined by the Oregon Department of Forestry (ODF). The ODF is responsible for overseeing logging activities for compliance with BMPs. In the event that development is proposed, the applicant would be required to show compliance with Sections 421 (Flood Plain and Drainage Hazard Area Development) and 422 (Significant Natural Resources). Staff finds these strategies can be satisfied.

- f. **Support viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- g. **Coordinate land use actions regarding water projects with agencies and jurisdictions which may be impacted by such projects.**

Staff: There are no water resource projects proposed on this property.

- h. **Support measures to conserve vegetation in drainage basin watersheds as a means of controlling the release of water to downstream farm lands and urban areas.**

Staff: The property is located within the Baker Creek drainage basin watershed. If development on the subject property occurs, it will be required to comply with standards of Section 421 if it is proposed within the tributary's drainage hazard area. The application states that the site was in conformance with Oregon Department of Forestry (ODF) regulations when it was logged in 2006 and replanted. The ODF BMPs apply to timber harvesting and address the conservation of vegetation as a means of controlling the release of water downstream from logged areas. Also, encouraging forest use on the site will conserve vegetation that will slow surface water runoff. Staff finds this strategy can be satisfied.

- i. **Cooperate with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.**

Staff: The subject property contains a *Water Areas and Wetlands and Fish and Wildlife Habitat* area recognized by the Division of State Lands. If development occurs within this area, it will be required to comply with Section 422 (Significant Natural Resources) which addresses development in these areas; therefore, staff finds that this strategy can be satisfied.

- j. **Consistent with the recommendations of the Department of Environmental Quality, State of Oregon, and Clean Water Services, support the expansion of stormwater sampling in the Tualatin Basin and consideration of proper planning and management measures for non-point source problems.**

Staff: Any subsequent development of the subject property will have to comply with CDC sections that implement the above strategies, Sections 410 (Grading and Drainage) and 426 (Erosion Control) at the time of development review. Staff therefore finds this strategy can be satisfied.

*These findings for Policy 6 also pertain to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas and Natural Resources, and 6, Air, Water and Land Resources Quality.*

4. Policy 8, Natural Hazards

**It is the policy of Washington County to protect life and property from natural disasters and hazards.**

Applicant: See page 9 of the application.

Staff: As previously mentioned, the unnamed tributary of Baker Creek is identified as a drainage hazard area; therefore, any future development in this will require compliance with Sections 421 and 422 of the CDC. Staff finds this policy can be satisfied.

5. Policy 10, Fish and Wildlife Habitat

**It is the policy of Washington County to protect and enhance significant fish and wildlife habitat.**

Applicable Implementing Strategies:

The County will:

- a. **Establish standards with which development in areas defined as significant fish and wildlife habitat must comply, so as to assure the conservation of this habitat.**
- b. **Allow activities customarily conducted in conjunction with commercial farm and forest practices in areas designated as Fish and Wildlife Areas.**
- c. **Rely upon the Oregon Department of Forestry, through its administration of the Oregon Forest Practice Rules, to mitigate adverse impacts of commercial forestry upon fish and wildlife.**
- d. **Limit the alteration of natural vegetation in riparian zones, and in locations identified as significant water areas and wetlands thereby preserving fish and wildlife habitat.**

Applicant: See page 10 of the application.

Staff: Each time a property is logged as a commercial forestry use, BMPs must be employed when harvesting and conducting activities in areas designated as fish and wildlife habitats. As previously mentioned, ODF is responsible for ensuring that BMPs are followed. Again, Section 422 (Significant Natural Resources) will apply if development is proposed in the *Water Areas and Wetlands, Fish and Wildlife Habitat* area of the property. Staff finds the criterion can be satisfied.

- e. **Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFU, EFC and AF-20 land use designations.**

Applicant: See page 10 of the application.

Staff: The subject property is not located within the Big Game Range; therefore, the Habitat Protection Plan does not apply.

- f. **Implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program for rural areas of Washington County to promote efforts to enhance and conserve significant riparian habitat corridors.**

Applicant: See page 10 of the application.

Staff: As previously mentioned, any development near or within the drainage hazard area of the unnamed tributary of Baker Creek must comply with Sections 421 (Flood Plain and Drainage Hazard Area Development) and 422 (Significant Natural Resources). Enforcement of these sections enhance and conserve significant riparian habitat corridors. Therefore, staff finds these criteria can be met.

6. Policy 14, Plan Designations, states:

**It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County's urban growth boundaries, and to provide land use regulations to implement the designations.**

Applicable Implementing Strategies:

a. **Designate Natural Resource lands in the following manner:**

1. **Lands which meet the definitions and criteria for agricultural lands contained in LCDC Goal 3 and OAR Chapter 660, Division 05 shall be designated Exclusive Farm Use (EFU) and lands which meet the LCDC Goal 4 definition of forest land shall be designated Exclusive Forest and Conservation (EFC). In determining which Plan Designation shall apply (EFU or EFC) when land meets criteria for both the EFU and EFC District, the following factors shall be utilized to determine the appropriate designation:**
  - A. **Soil types as related to Goal 3 and forest classification as related to Goal 4.**
  - B. **The predominant use of the property.**
  - C. **The predominant use of the surrounding properties (must be contiguous or be a sufficiently large block of land).**
  - D. **What kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses.**
  - E. **Physical characteristics of the site.**
  - F. **Whether the site is or has been on a farm or forest deferral.**



Applicant: See pages 10 & 11 of the application.

Staff: Implementing Strategy 14.a.1. sets forth criteria to determine if a site should have an exclusive farm (EFU or AF-20) or forest (EFC) designation. Since the requested plan designation change is from EFU to EFC, the criteria of this implementing strategy, as they relate to the EFC District, are applicable.

**A. Soil types as related to Goal 3 and forest classification as related to Goal 4**

As previously mentioned, the entire property is rated as high value farmland per OAR 660-033-0020(8). Approximately 24 acres of the property is rated by the SSWC as having high or moderately high woodland production capability. The soil classes for 23 acres of the property were not rated for woodland capability but are also identified as suitable for timber production. Policy 16 (Exclusive Forest Conservation) states "(g)enerally all soils in the County are considered forest soils as defined according to the United States Forest Service manual, 'Field Instructions for Integrated Forest Survey and Timber Management Inventories – Oregon, Washington and California'." Only 5.50 acres are rated as unsuitable for forest use. A detailed description of the various soil and woodland capability classes is in Attachment A of this report.

**B. The predominant use of the property**

As discussed in the Policy 1 findings of this report, staff concludes that forestry is the predominant use of the property. Currently, 36 acres of the site is used for timber propagation and the remaining area being used for pasture, which is identified by Goal 4 as a forest use.

**C. The predominant use of the surrounding properties (must be contiguous or be a significantly large block of land)**

This 52.2 acre property is adjacent to a block of approximately 164 acres of forested, EFC designated land. Staff finds approval of this request will add land to this block of EFC designated property thereby ensuring the maintenance of large blocks of forestland. As stated, the remaining adjacent lands are designated for exclusive farm use and as AF-5.

**D. What kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses**

Potential crops and woodland capability are described in Attachment A of this report. The property's high value farmland gives it the potential to grow many crops, and approximately 24 acres have been identified by the SSWC as having high woodland capability. Both of these uses are common in rural Washington County. There is no indication that continued forest use or the use of the site for agricultural purposes would negatively affect adjacent uses. As previously noted, all but 5.50 acres could support timber production.

**E. Physical characteristics of the site**

As stated, the site is used for timber propagation and pasture. The portion of the property used for timber propagation was planted at approximately 300 seedlings per acre after the area was logged in 2006. An unnamed tributary of Baker Creek traverses the property. The tributary is identified as a drainage hazard and *Water Areas and Wetlands, Fish and Wildlife Habitat*. The property rises from approximately 180 feet above sea level (ASL) at the northern property line to approximately 280 feet ASL at the southeast corner of the property.

**F. Whether the site is or has been in farm or forest deferral**

As previously mentioned, the property has been in farm and forest deferral since 1987.

As OAR 660-006-0015 states, "(w)hen lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation." Based upon this OAR and the findings of fact for Policy 14, staff finds the property meets the LCDC Goal 4 definition of forest land and that the EFC designation is appropriate and compatible with surrounding properties.

**b. Designate Exclusive Agricultural and Forest lands in "large blocks" of 76 acres or more in the legislative process which adopts this plan.**

Staff: As previously mentioned, this 52.2 acre property is adjacent to a large block of approximately 164 acres of EFC designated property to the west.

*These findings for Policy 14 also pertain to Statewide Planning Goals 3, Agricultural Lands; and 4, Forest Lands.*

**7. Policy 16, Exclusive Forest Lands, states:**

**It is the policy of Washington County to conserve and maintain forest lands for forest uses consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.**

Applicable Implementing Strategies:

- i. Maintain forest lands in blocks large enough to encourage and maintain commercial forest activities when considering Plan Amendments. This strategy will be used as one of the criteria in the designation of lands in the EFC District in the legislative process of adopting this plan.**

Applicant: See pages 12 & 13 of the application.

Staff: As stated previously, the property is adjacent to approximately 164 acres of EFC designated land, and the property has 36 acres planted for commercial timber propagation. Also, all but 5.50 acres have soils suitable for timber propagation. These factors are evidence that the request will encourage and maintain large blocks of forest lands.

Although Implementing Strategy 16.i. refers to the legislative process, "large block" criterion has been applied to both the legislative and quasi-judicial processes.

**8. Policy 15, Exclusive Farm Lands, states:**

**It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDC Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.**

Applicant: See pages 11 & 12 of the application.

Staff: As stated, the property's soils are suitable for both agriculture and forest use. Because the requested EFC designation is a resource plan designation like the EFU designation, it is not necessary to take an exception to Statewide Planning Goals 3 and 4. As a result, it is not necessary to address the exception provisions of Statewide Planning Goal 2 and OAR 660, Division 4.

9. Policy 22, Public Facilities and Services, states:

**It is the policy of Washington County to provide public facilities and service in the Rural/Natural Resource Area in a coordinated manner, at levels which support rural type development, are efficient and cost effective, and help maintain public health and safety.**

Applicable Implementing Strategy:

a. Review the adequacy of the following public services and facilities in conjunction with new development.

1. Schools

2. Fire and Police Protection

Applicant: See pages 13 & 14 of the application.

Staff: Copies of statements of service availability from three service providers to the site are included in the applicant's submittal. These statements are from the Hillsboro School District, Washington County Fire District #2 and the Washington County Sheriff's Office. The application includes a service analysis for the school district, describing present enrollments and capacity of the district's schools that serve the site, an analysis for the fire district, describing station location, equipment availability and response times, and an analysis for the Sheriff's Office, describing adequacy of service levels. No new development is proposed with this request.

The County is responsible under Implementing Strategy a. of Policy 22 for reviewing the adequacy of public facilities and services in conjunction with new development. The hearings officer for LCDR found in the 1988 Enforcement Order proceedings that *"(T)he County must have evidence in the record showing that the service provider is accurate in its assessment."* Staff interprets this to refer to a provider's assessment that an adequate or inadequate level of service can be provided. Without the above-described statements and analyses, staff could not conclude that all the affected service providers in the area can provide an adequate level of service to development that may occur on the subject property under the EFC designation, should the proposed plan amendment be approved.

Information obtained from the Hillsboro School District shows the site is located within the following school attendance areas: Groner Elementary School, South Meadows Middle School and Hillsboro High School. The school district noted that the closest school is approximately four miles from the property. The school district states there is sufficient enrollment capacity in each school should approval for a dwelling be obtained.

The site is within the service area of the Washington County Fire District #2. The service provider letter states that the fire district is capable of serving one dwelling. The fire station is located approximately four miles from the property, and the average response time would be seven minutes. The fire station has fifteen personnel.

The Washington County Sheriff's Office has reviewed the request and has determined that its service level is adequate for emergency calls only, which is consistent with the level of service provided to all rural areas.

Based on the service statements and analyses, staff finds that all the affected service providers in the area can provide an adequate level of service to the subject property if the proposed plan amendment is approved. As a result, this request complies with Policy 22.

*These findings for Policy 22 also pertain to Statewide Planning Goal 11.*

D. Washington County Transportation Plan

Applicant: See pages 14 – 17 of the application.

Staff: Findings pertaining to the County Transportation Plan and the Oregon Transportation Planning Rule are in Attachment B to this staff report.

E. Washington County Community Development Code

1. Article III, Land Use Districts:

**Section 342 Exclusive Forest and Conservation District (EFC)**

**342-1 Intent and Purpose**

The Exclusive Forest and Conservation District is intended to provide for forest uses and to provide for the continued use of lands for renewable forest resource production, retention of water resources, recreation, agriculture and other related or compatible uses, as set forth in Statewide Planning Goal 4, OAR 660-06 and ORS 215.

The purpose of this District is to encourage forestry as the dominant use of such lands, to conserve and manage efficiently the forest resources of the County and to prohibit uses of land which are not compatible with the management and development of forest resources, in order to minimize the potential for damage from fire, pollution, soil erosion and conflict caused by development. This District is suited for application to forest land as well as associated scenic lands, recreation land, wildlife habitat or other sensitive land forms or watershed areas.

The EFC District is provided to meet Oregon statutory requirements for forest lands. Uses permitted by the Forest Practices Act are not subject to the requirements of this Section.

All new buildings, including accessory buildings, in this District shall comply with the fire structure siting and fire safety standards of Section 428.

**Section 340 Exclusive Farm District (EFU)**

**340-1 Intent and Purpose**

The intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the County.

The purpose of the Exclusive Farm Use District is to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related supportive uses which are deemed appropriate. This EFU District is provided to meet the Oregon statutory and administrative rule requirements.

Applicant: See pages 18 & 19 of the application. The applicant did not address Section 340.

Staff: The property is in forest use and is in farm and forest deferral. The property meets the criteria for a change from EFU to EFC. Placing an EFC designation on the property would be consistent with the EFC District's purpose of preserving forest uses. The EFC District implements Goal 4, and the EFU District implements Goal 3. The findings under Policies 1 and 14 shows that the request complies with the applicable criteria for designation as EFC land.

*These findings for the Community Development Code also pertain to Statewide Planning Goals 3 and 4.*

#### **Section 421 Flood Plain and Drainage Hazard Area Development**

Staff: As previously mentioned, an unnamed tributary of Baker Creek traverses the property. BMPs set forth by the ODF, which include managing forestry activities in and near drainageways, must be followed when timber harvesting occurs again on the site. Future development within the drainage hazard area may require land use approval pursuant to the requirements set forth in Section 421. Staff finds that the criteria set forth in Section 421 can likely be satisfied through the development review process in the future.

#### **Section 422 Significant Natural Resources**

##### **422-1 Intent and Purpose**

The intent and purpose of these standards is to permit limited and safe development in areas with significant natural resources, while providing for the identification, protection, enhancement and perpetuation of natural sites, features, objects and organisms within the County, here identified as important for their uniqueness, psychological or scientific value, fish and wildlife habitat, educational opportunities or ecological role.

Development within riparian areas, Water Areas and Wetlands, or Water Areas Wetlands and Fish and Wildlife Habitat shall comply with applicable state and federal regulatory guidelines.

Staff: The Rural/Natural Resource Plan designates the unnamed tributary of Baker Creek as a *Water Areas, Wetlands and Fish and Wildlife Habitat* area. Any development within or near this area must adhere to the requirements of Section 422, and staff finds that the requirements can likely be satisfied through the development review process in the future.

#### **V. SUMMARY AND CONCLUSIONS**

Staff considered the evidence provided by the applicant and all of the factors relevant to a plan amendment from EFU to EFC. The factors were listed under Implementing Strategy p.1. for Policy 1 of the Rural/Natural Resource Plan. This consideration included the review of soils, the present and past use of the property, the use of the surrounding properties, possible agricultural or forest uses,

the physical characteristics of the site, the property's tax deferral status and the availability of public services and facilities. Pursuant to Plan Policies 14, 15 and 16, staff also considered the intent and purpose of the existing and proposed land use designations. The subject property described in this plan amendment request meets the applicable criteria for a plan amendment from EFU to EFC.



WASHINGTON COUNTY  
Department of Land Use and Transportation  
PLANNING DIVISION, SUITE #350-14  
155 NORTH FIRST AVENUE  
HILLSBORO, OREGON 97124-3072  
Tel. (503) 846-3519 fax (503) 846-4412

## STAFF REPORT

**CASEFILE NO.:** 10-082-PA

**APPLICANT:**  
James & Joni Kilty  
17405 SW Swank Road  
Sherwood, OR 97140

**OWNERS:**  
James & Joni Kilty  
Jerrilee Kelley  
Jackie Fowler  
1819 SW 20<sup>th</sup> Court  
Gresham, OR 97080

**PROCEDURE TYPE:** III

**COMPREHENSIVE PLAN ELEMENT:**  
Rural/Natural Resource

**SITE ADDRESS**  
17405 SW Swank Road

**CPO:** 10

**ASSESSOR MAP NO(S) & TAX LOT NO(S):** 2S2 15  
3600

**SITE SIZE:** 52.2 acres

**LOCATION:** South of the intersection of SW Swank  
Road and SW Scholls Sherwood Road

**EXISTING LAND USE DISTRICT:** Exclusive Farm  
Use (EFU)

**REQUEST:** Comprehensive Plan Amendment to change the current land use designation of Exclusive  
Farm Use (EFU) District to Exclusive Forest Conservation (EFC) District.

### Casefile No. 10-082-PA Staff Report for the May 25, 2010 Board of County Commissioners Hearing

#### **I. APPLICABLE REGULATIONS**

- A. LCDC Statewide Planning Goals 1, 2, 3, 4, 5, 7, 11, & 12
- B. OAR 660-033-0030(4) (relating to agricultural land) and OAR 660-006-0015(2) (relating to forest land),  
660-012-0060 (Transportation Planning Rule)
- C. Rural / Natural Resource Plan Policies: 1.p.1, 2, 6, 8, 10, 14.a.1, 15, 16, 22, 23
- D. Washington County Transportation Plan Policies 1, 2, 4, 5, 6, 10 & 19
- E. Washington County Community Development Code:
  - 1. Article II, Procedures
  - 2. Article III, Land Use Districts
    - Section 340 EFU District (Intent and Purpose)
    - Section 342 EFC District (Intent and Purpose)

3. Article IV, Development Standards

Section 421 Flood Plain and Drainage Hazard Area Development  
Section 422 Significant Natural Resources

4. Article V, Public Facilities and Services

**II. AFFECTED JURISDICTIONS**

Washington County Sheriff  
Washington County Department of Land Use and Transportation  
Hillsboro School District  
Washington County Fire District #2

**III. PLANNING COMMISSION RECOMMENDATION**

At the May 5, 2010 hearing, the Planning Commission held an expedited hearing and voted unanimously (7-0) to recommend **approval** of the request to the Board of County Commissioners (Board). No written or oral testimony was given. State law requires the Board to make the final decision for plan amendments on resource lands.

**IV. STAFF RECOMMENDATION**

Based on staff's findings in Section V of this report and Attachments A and B, and as summarized above under Section VI, staff recommends **APPROVAL** of the plan amendment from EFU to EFC. Therefore staff recommends that the Planning Commission forward to the Board of County Commissioners a recommendation for approval of the applicant's plan amendment request subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owed to the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. The requirements of the Community Development Code will apply to specific development applications on each parcel. Other applicable regulations will also apply, including requirements for wells and septic systems.

**V. FINDINGS**

A. General

Applicant: See page 2 of the application.

Staff: The subject property is 52.2 acres and is designated as Exclusive Farm Use (EFU). The site is a mixture of forest and farm uses. Thirty-six acres (69%) of the property is actively managed for timber propagation, and 16.2 acres (31%) are used for pasture. There are two barns on site. No dwellings are present.

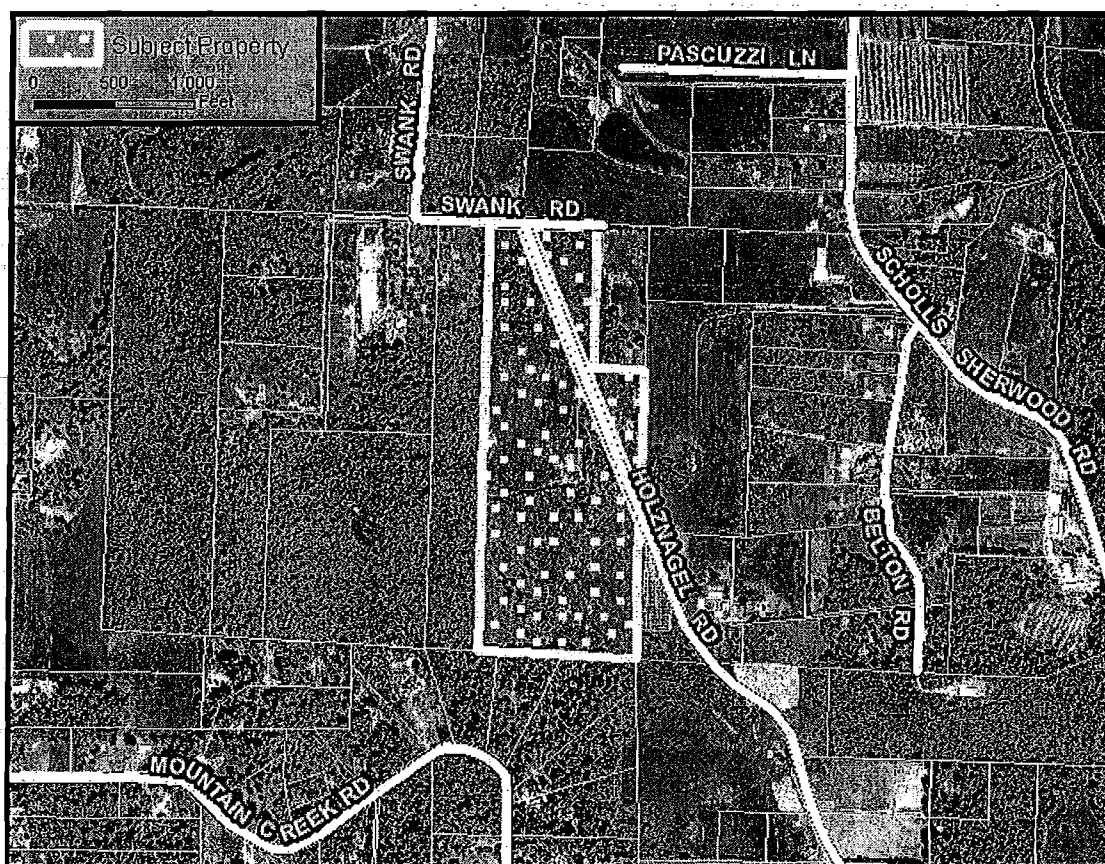
The lowest elevation is 180 feet above sea level (ASL) at the northern property line. The highest point on the property is the southeast corner where the elevation reaches approximately 280 feet



ASL. An unnamed tributary of Baker Creek traverses the southern portion of the property, and it is designated as a drainage hazard area.

SW Holznagel Road right-of-way bisects the property, but it is not improved. Access to the site is taken from SW Swank Road. A 2009 aerial of the subject property and the immediate area is shown in Figure 1 on page 3 of this report.

Figure 1.



No letters of comment have been received.

State law requires the Board of County Commissioners to make the final decision for plan amendments on resource lands. The Board is scheduled to review this plan amendment request at its meeting on May 25, 2010. The Planning Commission's recommendation will be provided to the Board prior to that hearing.

B. Compliance with LCDL Statewide Planning Goals

Staff: The Rural/Natural Resource Plan Element of Washington County's Comprehensive Plan and related implementing ordinances have been found to be in conformance with the statewide

planning goals. Goals applicable to this proposal are addressed under related policies from Washington County's Rural/Natural Resource Plan Element and in Attachment B, the Transportation Report. In addition, Oregon Administrative Rules (OAR) for Goals 3 and 4 are specifically addressed below.

#### LCDC Goal 3, Agricultural Lands

This goal requires agricultural lands be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and the state's agricultural land use policy. OAR Chapter 660, Division 33, sets forth the following requirement:

##### **OAR 660-033-0030: Identifying Agricultural Land**

**(4) When inventoried land satisfies the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.**

#### LCDC Goal 4, Forest Lands

This goal requires forest lands be conserved by maintaining the forest land base, and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture. OAR Chapter 660, Division 6 sets forth the following requirement:

##### **OAR 660-006-0015: Plan Designation Outside an Urban Growth Boundary**

**(2) When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.**

Staff: The property is currently designated EFU, which is a resource designation for exclusive farm use. The applicant is requesting a plan amendment to EFC, which is a resource designation for forest conservation use. As stated in Goals 3 and 4 above, the applicant does not need to justify why one resource designation is more appropriate than another. The applicant's findings and the staff report document the factors used to select the requested designation; therefore, the requirements of Goals 3 and 4 have been satisfied.

#### C. Rural / Natural Resource Plan

##### **1. Policy 1, the Planning Process, states:**

**It is the policy of Washington County to establish an on-going Planning Program which is a responsive legal framework for Comprehensive Planning, Community Development and Resource Conservation which accommodates changes and growth in the physical, economic and social environment, in response to the needs of the county's citizens. It is the policy of Washington County to provide the opportunity for a landowner or his/her agent to initiate quasi-judicial amendments to the Comprehensive Plan on a semi-annual basis. In addition, the Board of Commissioners, the Planning Director, or the Planning**

Commission may initiate the consideration of quasi-judicial map amendments at any time deemed necessary.

Applicable Implementing Strategies:

- p. **Require that plan map amendments meet the following criteria:**  
As used in the following sections a mistake means a clerical error, or a mistake in the current designation such that it probably would not have been placed on the property had the error been brought to the attention of the Board during the adoption process.
1. **Amendments from Exclusive Farm Use to Exclusive Forest Conservation, or, Exclusive Forest and Conservation to Exclusive Farm Use shall:**
    - A. **Determine the appropriate District considering the following:**
      - I. **soils types as related to Goal 3 and forest classifications as related to Goal 4;**
      - II. **the predominant use of the property;**
      - III. **the predominant use and land use district of surrounding properties;**
      - IV. **what kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses;**
      - V. **physical characteristics of the site;**
      - VI. **whether the site is or has been on farm or forest deferral.**
    - B. **Require that the parcel be contiguous to land with the same plan map designation being requested or be 76 acres or more in area.**

Applicant: See pages 3 - 5 of the application.

Staff: Policy 1.p.1 requires quasi-judicial plan amendments to meet one of the above criteria. Based on the following findings, staff has determined that the evidence provided by the applicant and in county records satisfies all of the criteria. Staff notes that the applicant erred when providing findings for Policy 1.p.8, plan amendments from Agriculture and Forest (AF-20) to EFC, instead of the policy above. However, other information provided by the applicant is sufficient to demonstrate compliance with this policy.

**I. soil types as related to Goal 3 and forest classifications as related to Goal 4**

LCDC Goal 3 defines agricultural land as land in western Oregon comprised of predominantly Class I, II, III and IV soils. The property is entirely comprised of Class II and III soils; therefore, it is considered agricultural land. County records show 100% of the property's soil meets the definition of "high value farmland" per OAR 660-033-0020(8).

LCDC Goal 4 broadly defines forest lands as soils that have a high potential for productivity and no serious management limitations. Approximately 47 acres of the site's soils are suitable for forest use according to the Soil Survey of Washington County, Oregon, July, 1982 (SSWC). Approximately 24 acres is comprised of soil series and classes that have high woodland productivity capability. Twenty three acres are not specifically rated for woodland productive

capability but are also noted as being suitable for forest uses. Five and one-half acres are not suitable for commercial timber use because the soils are too shallow.

Additional soils analysis can be found on page 13 of this report as part of the Policy 14 *Plan Designations* findings and in Attachment A of this report.

**II. the predominant use of the property**

Thirty-six acres is actively managed for timber propagation. According to the applicant, the site was logged in 1950 and replanted in 1952. The site was again logged in 2006 and replanted in 2008 per the Oregon Department of Forestry (ODF) Forest Practices Act. The remaining land is used for pasture, which is considered by Goal 4 to be a forest use. The applicant submitted aerial photographs (see Exhibit B of the application) documenting the site's use between 1978 and 2008. The unnamed tributary of Baker Creek found on the property is a significant natural resource, specifically *Water Areas, Wetlands & Fish and Wildlife Habitat*. It is also a drainage hazard area.

Policy 16 *Exclusive Forest Lands* of the Rural/Natural Resource Plan states:

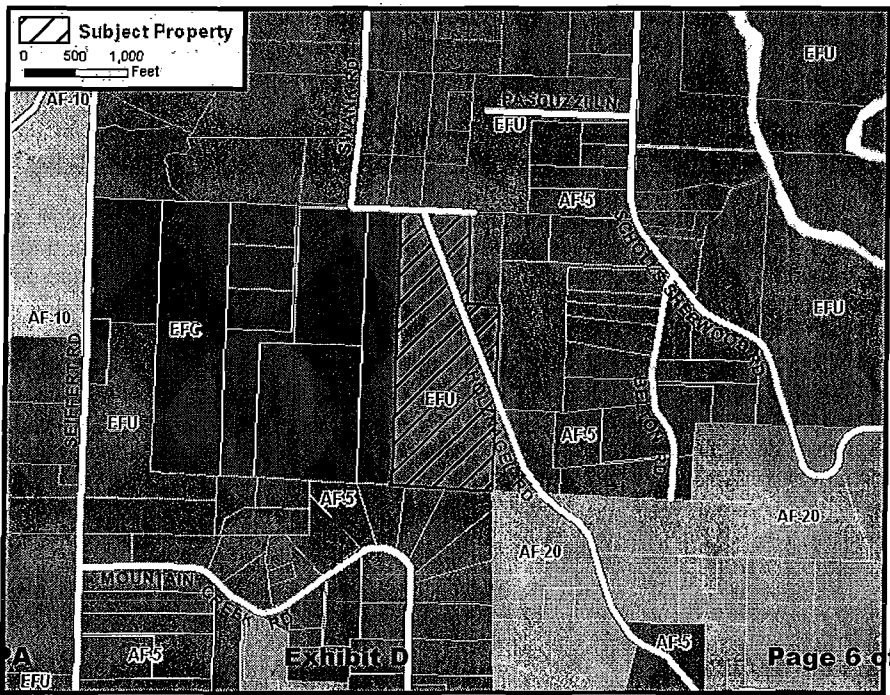
***"LCDC Goal 4 defines forest uses as the production of trees and the processing of forest products; as open space, buffers from noise, and visual separation of conflicting uses; as watershed protection and wildlife and fisheries habitat; as soil protection from the wind and water; as maintenance of clean air and water; as outdoor recreational activities; and for agriculture support services such as grazing land for livestock."***

Based upon the current use of the property and the Policy 16 statement above, staff finds the property is in forest use.

**III. the predominant use and land use district of surrounding properties**

The properties adjacent to the north and east are designated as EFU, the property to the southeast is designated as Agriculture and Forest (AF-20), those to the south are designated as Agriculture and Forest (AF-5) and to the west are ten parcels designated as EFC (see Figure 2 below).

**Figure 2.**  
Each of the two EFU designated properties to the north has a dwelling and one is in farm use. To the east are three EFU designated properties. Each of these properties has a dwelling and



two are in farm use. To the south are three heavily forested AF-5 designated properties, each with a dwelling. The ten EFC designated parcels to the west are forested and five have dwellings. Two of the parcels were purchased by Metro through its Natural Greenspaces program. These ten EFC properties total approximately 164 acres.

Because the property has a history of forest use, is currently in forest use and the majority surrounding properties are in farm or forest use, staff finds approval of this request will maintain compatibility with surrounding uses.

**IV. what kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses**

The property is comprised entirely of high value soil and is capable of supporting agriculture uses and forest use. The property has a history of farm and forest use and 36 acres is currently used for timber propagation. Staff finds that the continued use of the property for those purposes will not conflict with adjacent farm and forest uses. A detailed soil analysis is included in Attachment A of this report.

**V. physical characteristics of the site**

As stated, the site is used for timber propagation and pasture. The portion of the property used for timber propagation was planted at approximately 300 seedlings per acre after the area was logged in 2006. An unnamed tributary of Baker Creek traverses the property. The tributary is identified as a drainage hazard and *Water Areas and Wetlands, Fish and Wildlife Habitat*. The property rises from approximately 180 feet above sea level (ASL) at the northern property line to approximately 280 feet ASL at the southeast corner of the property.

**VI. whether the site is or has been in farm or forest deferral**

Washington County Assessment and Taxation records show the property has been in both farm (20 acres) and forest (32.2 acres) deferral since 1987.

2. Policy 2, Citizen Involvement, states:

**It is the policy of Washington County to encourage citizen participation in all phases of the planning process and to provide opportunities for continuing involvement and effective communication between citizens and their county government.**

**Staff:** A quasi-judicial plan amendment such as this must be considered via a Type III public hearing review procedure. In accordance with CDC Section 204-4, notice of the Planning Commission and Board of Commissioners public hearings on this application was sent to all property owners within 1,000 feet of the subject property. This notice was sent at least 20 days prior to the first hearing (mailed April 15, 2010). Additionally, the county placed a legal notice of the hearing in *The Hillsboro Argus*, a newspaper of general circulation, at least ten days prior to the first hearing date (published April 23, 2010). As required by CDC Section 204-1.4, the applicant posted a sign on March 26, 2010, which was within 28 days of the March 18, 2010 acceptance date. A copy of the plan amendment application was mailed to Citizen Participation Organization (CPO) 10 on March 19, 2010. Finally, the staff report was available to interested parties seven days prior to the hearing as required by CDC Section 203-6.2. Staff finds these actions satisfy the requirements of Policy 2.

*These findings for Policy 2 also pertain to Statewide Planning Goal 1, Citizen Involvement.*

3. Policy 6, Water Resources, states:

**It is the policy of Washington County to maintain or improve surface and ground water quality and quantity.**

Applicant: See pages 6 – 9 of the application.

Staff: In the case of plan amendments, staff interprets Policy 6 to mean that, over time, development activities in Washington County should not negatively affect the quantity or quality of surface water or groundwater. The thrust of the policy is to assure that development will have a positive or neutral effect over an extended period of time, rather than being concerned with what quantity or quality of water is present at a particular point in time. Therefore, evidence of consistency with this policy should include, if possible, assessments of groundwater quantity and quality reflected over a period of time.

For resource to resource plan amendments such as this request, implementing strategy 6.a.5. does not require well log analysis because the designation change will not result in an increase in density. However, opposition testimony can be rebutted by an applicant by reviewing well logs and having an "expert" such as a professional geologist or hydrologist review well logs and opposition testimony and provide an opinion on the groundwater situation. Expert testimony that draws its findings primarily from evidence in the well reports, however, can be refuted by new evidence beyond that which is contained in the well reports. Recent measurements of water depth in existing wells are probably the best new evidence that can be used to determine what the present groundwater quantity trend is in a plan amendment area. The present well water depth can be compared to the measured depth at the time the well was drilled to determine how groundwater quantity trends are affecting existing wells.

Applicable Implementing Strategies:

**The County will:**

- a. **Strive to ensure adequate water supplies for all uses by:**
  1. **Encouraging water conservation programs by water users and purveyors;**
  2. **Reviewing and revising existing development regulations where necessary or limiting the location or operation of new wells as a condition of development approval, considering advice and/or recommendations received from the State Water Resources Department;**
  3. **Coordinating with State and Federal agencies in evaluating and monitoring ground water supplies; and**
  4. **Complying with the May 17, 1974 Order of the State Engineer establishing and setting forth provisions for the Cooper Mountain-Bull Mountain Critical Ground Water Area.**
  5. **Requiring applicants for quasi-judicial Plan Map Amendments to provide well reports (well logs) filed with the Water Master for all Public Lands Survey (township and range system) sections within one-half (1/2) mile of the subject site and provide an analysis of whether ground water quality and quantity within the area will be maintained or improved. The analysis should include well yields, well depth, year drilled or other data as may be required to demonstrate compliance with this policy.**

**Well logs are not required for quasi-judicial plan amendments when the designation change will not result in an increase in density (i.e. EFU to EFC plan amendments).**

Staff: As indicated by Implementing Strategy 6.a.5., plan amendments between the three resource districts, AF-20, EFU and EFC, are not required to submit well logs. Because both the EFU and EFC Districts are resource districts and the allowed uses in these districts are similar, staff believes the worst-case scenario for the development impact on the subject site under either plan designation is similar. Therefore, the applicant's burden of proof is less than what would be required in other cases where the designation would allow an increase in the potential number of dwellings or new uses not permitted by the current designation.

The property is located within the Chehalem Mountain Ground Water Limited Area. The Chehalem Mountain Ground Water Limited Area is subject to certain restrictions which are enforced by the Oregon Water Resources Department District #18 Watermaster. Restrictions include limiting single or group domestic purposes to no more than 15,000 gallons per day and limiting lawn or non-commercial watering to not more than one-half of an acre. Residences are granted one well by right; however, there is no guarantee relative to the level of water output. Permits for commercial irrigation for farm use may be issued by the Watermaster; however, they are reviewed on a case-by-case basis and are not guaranteed.

Staff finds that the current forest use encourages water conservation because it does not require irrigation to establish seedlings or maintain timber stands which account for 36 of the property's 52.2 acres. No dwellings are proposed at this time. In the event that approval for a dwelling is granted, the laws governing the Chehalem Mountain Ground Water Limited Area will apply.

**b. Ensure adequate quality of surface water and groundwater by:**

- 1. Promoting compliance with the Healthy Streams Plan, as adopted by Clean Water Services (CWS) and in compliance with the CWS-county intergovernmental agreement, to the extent that the Healthy Streams Plan and associated CWS programs apply outside the UGB;**
- 2. Promoting compliance with Department of Environmental Quality water quality standards;**
- 3. Cooperation with the Soil and Water Conservation District in the implementation of effective methods of controlling non-point sources of water pollution in agricultural areas;**
- 4. Cooperating with the Oregon State Department of Forestry in the implementation of effective methods of controlling non-point sources of water pollution in forest areas; and**
- 5. Ensuring that the establishment of subsurface sewage disposal systems (e.g., septic tanks) will not adversely affect ground water quality;**

Staff: In the event that a dwelling is approved for this property, the applicant would be required to obtain approval for an on-site septic system for the dwelling from the County Department of Health and Human Services prior to the issuance of a building permit. The standards for obtaining and maintaining such permits comply with DEQ requirements, which are designed to ensure adequate quality of groundwater. Any grading activities must comply with CDC Sections 410 (Grading and Drainage), 426 (Erosion Control) and Chapter 14.12 of the County Code

(Grading). Compliance with these standards ensures adequate quality of surface water. Therefore, staff finds the criteria of Implementing Strategy 6.b. can be satisfied.

- c. **Protect and maintain natural stream channels wherever possible, with an emphasis on non-structural controls when modifications are necessary.**
- d. **Limit the alteration of natural vegetation in riparian zones and in locations identified as significant water areas and wetlands.**
- e. **Encourage property owners with land with qualifying lands to apply for natural resource-related exemption of that land from *ad valorem* taxation where such programs are available.**

Staff: An unnamed tributary of Baker Creek is located on the property. This waterway is identified as a significant natural resource, specifically as *Water Areas and Wetlands and Fish and Wildlife Habitat*, as well as a drainage hazard area. Any timber harvesting activities near the tributary are required to follow best management practices (BMPs) as determined by the Oregon Department of Forestry (ODF). The ODF is responsible for overseeing logging activities for compliance with BMPs. In the event that development is proposed, the applicant would be required to show compliance with Sections 421 (Flood Plain and Drainage Hazard Area Development) and 422 (Significant Natural Resources). Staff finds these strategies can be satisfied.

- f. **Support viable water resource projects which are proposed in the County upon review of their cost benefit analysis, alternatives, and environmental and social impacts.**

Staff: There are no water resource projects proposed in the vicinity of this property.

- g. **Coordinate land use actions regarding water projects with agencies and jurisdictions which may be impacted by such projects.**

Staff: There are no water resource projects proposed on this property.

- h. **Support measures to conserve vegetation in drainage basin watersheds as a means of controlling the release of water to downstream farm lands and urban areas.**

Staff: The property is located within the Baker Creek drainage basin watershed. If development on the subject property occurs, it will be required to comply with standards of Section 421 if it is proposed within the tributary's drainage hazard area. The application states that the site was in conformance with Oregon Department of Forestry (ODF) regulations when it was logged in 2006 and replanted. The ODF BMPs apply to timber harvesting and address the conservation of vegetation as a means of controlling the release of water downstream from logged areas. Also, encouraging forest use on the site will conserve vegetation that will slow surface water runoff. Staff finds this strategy can be satisfied.

- i. **Cooperate with the Division of State Lands, State of Oregon in their review and mitigation of projects that alter water areas and wetlands under their jurisdictions.**

Staff: The subject property contains a *Water Areas and Wetlands and Fish and Wildlife Habitat* area recognized by the Division of State Lands. If development occurs within this area, it will be required to comply with Section 422 (Significant Natural Resources) which addresses development in these areas; therefore, staff finds that this strategy can be satisfied.



- j. **Consistent with the recommendations of the Department of Environmental Quality, State of Oregon, and Clean Water Services, support the expansion of stormwater sampling in the Tualatin Basin and consideration of proper planning and management measures for non-point source problems.**

Staff: Any subsequent development of the subject property will have to comply with CDC sections that implement the above strategies, Sections 410 (Grading and Drainage) and 426 (Erosion Control) at the time of development review. Staff therefore finds this strategy can be satisfied.

*These findings for Policy 6 also pertain to Statewide Planning Goals 5, Open Spaces, Scenic and Historic Areas and Natural Resources, and 6, Air, Water and Land Resources Quality.*

4. Policy 8, Natural Hazards

**It is the policy of Washington County to protect life and property from natural disasters and hazards.**

Applicant: See page 9 of the application.

Staff: As previously mentioned, the unnamed tributary of Baker Creek is identified as a drainage hazard area; therefore, any future development in this will require compliance with Sections 421 and 422 of the CDC. Staff finds this policy can be satisfied.

5. Policy 10, Fish and Wildlife Habitat

**It is the policy of Washington County to protect and enhance significant fish and wildlife habitat.**

Applicable Implementing Strategies:

The County will:

- a. **Establish standards with which development in areas defined as significant fish and wildlife habitat must comply, so as to assure the conservation of this habitat.**
- b. **Allow activities customarily conducted in conjunction with commercial farm and forest practices in areas designated as Fish and Wildlife Areas.**
- c. **Rely upon the Oregon Department of Forestry, through its administration of the Oregon Forest Practice Rules, to mitigate adverse impacts of commercial forestry upon fish and wildlife.**
- d. **Limit the alteration of natural vegetation in riparian zones, and in locations identified as significant water areas and wetlands thereby preserving fish and wildlife habitat.**

Applicant: See page 10 of the application.

Staff: Each time a property is logged as a commercial forestry use, BMPs must be employed when harvesting and conducting activities in areas designated as fish and wildlife habitats. As previously mentioned, ODF is responsible for ensuring that BMPs are followed. Again, Section 422 (Significant Natural Resources) will apply if development is proposed in the *Water Areas and Wetlands, Fish and Wildlife Habitat* area of the property. Staff finds the criterion can be satisfied.

- e. **Implement the recommendations of the Oregon Department of Fish and Wildlife Habitat Protection Plan for Washington County and to mitigate the effects of development in the Big Game Range within the EFU, EFC and AF-20 land use designations.**

Applicant: See page 10 of the application.

Staff: The subject property is not located within the Big Game Range; therefore, the Habitat Protection Plan does not apply.

- f. **Implement the recommendations of the Tualatin Basin Fish & Wildlife Habitat Program for rural areas of Washington County to promote efforts to enhance and conserve significant riparian habitat corridors.**

Applicant: See page 10 of the application.

Staff: As previously mentioned, any development near or within the drainage hazard area of the unnamed tributary of Baker Creek must comply with Sections 421 (Flood Plain and Drainage Hazard Area Development) and 422 (Significant Natural Resources). Enforcement of these sections enhance and conserve significant riparian habitat corridors. Therefore, staff finds these criteria can be met.

6. Policy 14, Plan Designations, states:

**It is the policy of Washington County to maintain distinct comprehensive plan map designations for the area outside the County's urban growth boundaries, and to provide land use regulations to implement the designations.**

Applicable Implementing Strategies:

a. **Designate Natural Resource lands in the following manner:**

1. **Lands which meet the definitions and criteria for agricultural lands contained in LCDG Goal 3 and OAR Chapter 660, Division 05 shall be designated Exclusive Farm Use (EFU) and lands which meet the LCDG Goal 4 definition of forest land shall be designated Exclusive Forest and Conservation (EFC). In determining which Plan Designation shall apply (EFU or EFC) when land meets criteria for both the EFU and EFC District, the following factors shall be utilized to determine the appropriate designation:**
  - A. **Soil types as related to Goal 3 and forest classification as related to Goal 4.**
  - B. **The predominant use of the property.**
  - C. **The predominant use of the surrounding properties (must be contiguous or be a sufficiently large block of land).**
  - D. **What kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses.**
  - E. **Physical characteristics of the site.**
  - F. **Whether the site is or has been on a farm or forest deferral.**

Applicant: See pages 10 & 11 of the application.

Staff: Implementing Strategy 14.a.1. sets forth criteria to determine if a site should have an exclusive farm (EFU or AF-20) or forest (EFC) designation. Since the requested plan designation change is from EFU to EFC, the criteria of this implementing strategy, as they relate to the EFC District, are applicable.

**A. Soil types as related to Goal 3 and forest classification as related to Goal 4**

As previously mentioned, the entire property is rated as high value farmland per OAR 660-033-0020(8). Approximately 24 acres of the property is rated by the SSWC as having high or moderately high woodland production capability. The soil classes for 23 acres of the property were not rated for woodland capability but are also identified as suitable for timber production. Policy 16 (Exclusive Forest Conservation) states "(g)enerally all soils in the County are considered forest soils as defined according to the United States Forest Service manual, 'Field Instructions for Integrated Forest Survey and Timber Management Inventories – Oregon, Washington and California'." Only 5.50 acres are rated as unsuitable for forest use. A detailed description of the various soil and woodland capability classes is in Attachment A of this report.

**B. The predominant use of the property**

As discussed in the Policy 1 findings of this report, staff concludes that forestry is the predominant use of the property. Currently, 36 acres of the site is used for timber propagation and the remaining area being used for pasture, which is identified by Goal 4 as a forest use.

**C. The predominant use of the surrounding properties (must be contiguous or be a significantly large block of land)**

This 52.2 acre property is adjacent to a block of approximately 164 acres of forested, EFC designated land. Staff finds approval of this request will add land to this block of EFC designated property thereby ensuring the maintenance of large blocks of forestland. As stated, the remaining adjacent lands are designated for exclusive farm use and as AF-5.

**D. What kinds of crops or forest uses would be possible on the parcel given the size and conflicts with adjacent uses**

Potential crops and woodland capability are described in Attachment A of this report. The property's high value farmland gives it the potential to grow many crops, and approximately 24 acres have been identified by the SSWC as having high woodland capability. Both of these uses are common in rural Washington County. There is no indication that continued forest use or the use of the site for agricultural purposes would negatively affect adjacent uses. As previously noted, all but 5.50 acres could support timber production.

**E. Physical characteristics of the site**

As stated, the site is used for timber propagation and pasture. The portion of the property used for timber propagation was planted at approximately 300 seedlings per acre after the area was logged in 2006. An unnamed tributary of Baker Creek traverses the property. The tributary is identified as a drainage hazard and *Water Areas and Wetlands, Fish and Wildlife Habitat*. The property rises from approximately 180 feet above sea level (ASL) at the northern property line to approximately 280 feet ASL at the southeast corner of the property.

**F. Whether the site is or has been in farm or forest deferral**

As previously mentioned, the property has been in farm and forest deferral since 1987.

As OAR 660-006-0015 states, "(w)hen lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation." Based upon this OAR and the findings of fact for Policy 14, staff finds the property meets the LCDG Goal 4 definition of forest land and that the EFC designation is appropriate and compatible with surrounding properties.

**b. Designate Exclusive Agricultural and Forest lands in "large blocks" of 76 acres or more in the legislative process which adopts this plan.**

Staff: As previously mentioned, this 52.2 acre property is adjacent to a large block of approximately 164 acres of EFC designated property to the west.

*These findings for Policy 14 also pertain to Statewide Planning Goals 3, Agricultural Lands; and 4, Forest Lands.*

**7. Policy 16, Exclusive Forest Lands, states:**

**It is the policy of Washington County to conserve and maintain forest lands for forest uses consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDG Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.**

Applicable Implementing Strategies:

- i. Maintain forest lands in blocks large enough to encourage and maintain commercial forest activities when considering Plan Amendments. This strategy will be used as one of the criteria in the designation of lands in the EFC District in the legislative process of adopting this plan.**

Applicant: See pages 12 & 13 of the application.

Staff: As stated previously, the property is adjacent to approximately 164 acres of EFC designated land, and the property has 36 acres planted for commercial timber propagation. Also, all but 5.50 acres have soils suitable for timber propagation. These factors are evidence that the request will encourage and maintain large blocks of forest lands.

Although Implementing Strategy 16.i. refers to the legislative process, "large block" criterion has been applied to both the legislative and quasi-judicial processes.

**8. Policy 15, Exclusive Farm Lands, states:**

**It is the policy of Washington County to conserve and maintain agricultural lands for farm use, consistent with existing and future needs for agricultural products, forest management and open space. Exceptions to this policy may be allowed pursuant to the provisions of LCDG Goal 2, OAR Chapter 660 Division 04, and the applicable plan amendment criteria in Policy 1.**

Applicant: See pages 11 & 12 of the application.

Staff: As stated, the property's soils are suitable for both agriculture and forest use. Because the requested EFC designation is a resource plan designation like the EFU designation, it is not necessary to take an exception to Statewide Planning Goals 3 and 4. As a result, it is not necessary to address the exception provisions of Statewide Planning Goal 2 and OAR 660, Division 4.

9. Policy 22, Public Facilities and Services, states:

**It is the policy of Washington County to provide public facilities and service in the Rural/Natural Resource Area in a coordinated manner, at levels which support rural type development, are efficient and cost effective, and help maintain public health and safety.**

Applicable Implementing Strategy:

- a. **Review the adequacy of the following public services and facilities in conjunction with new development.**
  1. **Schools**
  2. **Fire and Police Protection**

Applicant: See pages 13 & 14 of the application.

Staff: Copies of statements of service availability from three service providers to the site are included in the applicant's submittal. These statements are from the Hillsboro School District, Washington County Fire District #2 and the Washington County Sheriff's Office. The application includes a service analysis for the school district, describing present enrollments and capacity of the district's schools that serve the site, an analysis for the fire district, describing station location, equipment availability and response times, and an analysis for the Sheriff's Office, describing adequacy of service levels. No new development is proposed with this request.

The County is responsible under Implementing Strategy a. of Policy 22 for reviewing the adequacy of public facilities and services in conjunction with new development. The hearings officer for LCDC found in the 1988 Enforcement Order proceedings that "(T)he County must have evidence in the record showing that the service provider is accurate in its assessment." Staff interprets this to refer to a provider's assessment that an adequate or inadequate level of service can be provided. Without the above-described statements and analyses, staff could not conclude that all the affected service providers in the area can provide an adequate level of service to development that may occur on the subject property under the EFC designation, should the proposed plan amendment be approved.

Information obtained from the Hillsboro School District shows the site is located within the following school attendance areas: Groner Elementary School, South Meadows Middle School and Hillsboro High School. The school district noted that the closest school is approximately four miles from the property. The school district states there is sufficient enrollment capacity in each school should approval for a dwelling be obtained.

The site is within the service area of the Washington County Fire District #2. The service provider letter states that the fire district is capable of serving one dwelling. The fire station is located approximately four miles from the property, and the average response time would be seven minutes. The fire station has fifteen personnel.

The Washington County Sheriff's Office has reviewed the request and has determined that its service level is adequate for emergency calls only, which is consistent with the level of service provided to all rural areas.

Based on the service statements and analyses, staff finds that all the affected service providers in the area can provide an adequate level of service to the subject property if the proposed plan amendment is approved. As a result, this request complies with Policy 22.

*These findings for Policy 22 also pertain to Statewide Planning Goal 11.*

D. Washington County Transportation Plan

Applicant: See pages 14 – 17 of the application.

Staff: Findings pertaining to the County Transportation Plan and the Oregon Transportation Planning Rule are in Attachment B to this staff report.

E. Washington County Community Development Code

1. Article III, Land Use Districts:

**Section 342 Exclusive Forest and Conservation District (EFC)**

**342-1 Intent and Purpose**

The Exclusive Forest and Conservation District is intended to provide for forest uses and to provide for the continued use of lands for renewable forest resource production, retention of water resources, recreation, agriculture and other related or compatible uses, as set forth in Statewide Planning Goal 4, OAR 660-06 and ORS 215.

The purpose of this District is to encourage forestry as the dominant use of such lands, to conserve and manage efficiently the forest resources of the County and to prohibit uses of land which are not compatible with the management and development of forest resources, in order to minimize the potential for damage from fire, pollution, soil erosion and conflict caused by development. This District is suited for application to forest land as well as associated scenic lands, recreation land, wildlife habitat or other sensitive land forms or watershed areas.

The EFC District is provided to meet Oregon statutory requirements for forest lands. Uses permitted by the Forest Practices Act are not subject to the requirements of this Section.

All new buildings, including accessory buildings, in this District shall comply with the fire structure siting and fire safety standards of Section 428.

**Section 340 Exclusive Farm District (EFU)**

**340-1 Intent and Purpose**

The intent of the Exclusive Farm Use District is to preserve and maintain commercial agricultural land within the County.

**The purpose of the Exclusive Farm Use District is to preserve and maintain agricultural lands for farm use consistent with existing and future needs for agricultural products, forests and open spaces; to conserve and protect scenic resources; to maintain and improve the quality of the air, water and land resources of the County and to establish criteria and standards for farm uses and related supportive uses which are deemed appropriate. This EFU District is provided to meet the Oregon statutory and administrative rule requirements.**

Applicant: See pages 18 & 19 of the application. The applicant did not address Section 340.

Staff: The property is in forest use and is in farm and forest deferral. The property meets the criteria for a change from EFU to EFC. Placing an EFC designation on the property would be consistent with the EFC District's purpose of preserving forest uses. The EFC District implements Goal 4, and the EFU District implements Goal 3. The findings under Policies 1 and 14 shows that the request complies with the applicable criteria for designation as EFC land.

*These findings for the Community Development Code also pertain to Statewide Planning Goals 3 and 4.*

#### **Section 421 Flood Plain and Drainage Hazard Area Development**

Staff: As previously mentioned, an unnamed tributary of Baker Creek traverses the property. BMPs set forth by the ODF, which include managing forestry activities in and near drainageways, must be followed when timber harvesting occurs again on the site. Future development within the drainage hazard area may require land use approval pursuant to the requirements set forth in Section 421. Staff finds that the criteria set forth in Section 421 can likely be satisfied through the development review process in the future.

#### **Section 422 Significant Natural Resources**

##### **422-1 Intent and Purpose**

**The intent and purpose of these standards is to permit limited and safe development in areas with significant natural resources, while providing for the identification, protection, enhancement and perpetuation of natural sites, features, objects and organisms within the County, here identified as important for their uniqueness, psychological or scientific value, fish and wildlife habitat, educational opportunities or ecological role.**

**Development within riparian areas, Water Areas and Wetlands, or Water Areas Wetlands and Fish and Wildlife Habitat shall comply with applicable state and federal regulatory guidelines.**

Staff: The Rural/Natural Resource Plan designates the unnamed tributary of Baker Creek as a *Water Areas, Wetlands and Fish and Wildlife Habitat* area. Any development within or near this area must adhere to the requirements of Section 422, and staff finds that the requirements can likely be satisfied through the development review process in the future.

## **VI. SUMMARY AND CONCLUSIONS**

Staff considered the evidence provided by the applicant and all of the factors relevant to a plan amendment from EFU to EFC. The factors were listed under Implementing Strategy p.1. for Policy 1 of the Rural/Natural Resource Plan. This consideration included the review of soils, the present and past use of the property, the use of the surrounding properties, possible agricultural or forest uses, the physical characteristics of the site, the property's tax deferral status and the availability of public services and facilities. Pursuant to Plan Policies 14, 15 and 16, staff also considered the intent and purpose of the existing and proposed land use designations. The subject property described in this plan amendment request meets the applicable criteria for a plan amendment from EFU to EFC.



April 26, 2010

ADDITIONAL SOIL INFORMATION  
CASEFILE NO. 10-082-PA

Applicant: James & Joni Kilty  
Location: On SW Swank Road, south of Pascuzzi Lane, east of Seiffert Road, west of Belton Road and north of Mountain Creek Road  
Tax Map/Lot: 2S2 15, tax lot 3600  
Site Size: 52.2 acres

The following soil analysis is based upon information contained in the Soil Survey of Washington County, Oregon, July, 1982 (SSWC).

| Soil Series            | Acres<br>(Approx.) | Woodland<br>Suitability Group | Soil Use and Management<br>Capability Unit |
|------------------------|--------------------|-------------------------------|--------------------------------------------|
| Aloha silt loam        | 6                  | none                          | IIW-1                                      |
| Cornelius Kinton       | 24                 | 2o2                           | IIIE-3                                     |
| Huberly silt loam      | 4                  | none                          | IIIW-4                                     |
| Wapato silty clay loam | 1.5                | none                          | IIIW-2                                     |
| Woodburn silt loam     | 14.5               | none                          | IIIE-2                                     |

The soil use and management capability classes are summarized as follows:

- IIW-1** This unit consists of very deep, moderately drained or somewhat poorly drained Aloha, Quatama and Woodburn soils that have sloped of 0-3%. These soils have high fertility. Permeability is moderately slow to slow. Surface runoff is slow, and the hazard of erosion is slight. These soils are used for irrigated vegetable crops, irrigated berries, orchards, small grain, hay, irrigated pasture, recreation, homesites and wildlife habitat.
- IIIE-3** This unit consists of very deep, moderately well drained Cornelius and Kinton soils. Slope is 2-20%. Permeability is slow. Fertility is high. Surface runoff is slow to medium, and the hazard of erosion is slight to moderate. These soils are used for irrigated berries, irrigated vegetable crops, orchards, small grain, legume and grass seed, irrigated hay, irrigated pasture, timber, recreation and wildlife habitat.
- IIIW-4** This unit consists of poorly drained Huberly silt loam. Slope is 0-3%. Permeability is slow. This soil has moderate fertility. Surface runoff is slow to ponded, and the hazard of erosion is slight. This soil is used for pasture and wildlife habitat. It is too shallow and wet to be used for cultivated crops or woodland.
- IIIW-2** This unit consists of deep, poorly drained Verboort and Wapato soils. Slope is 0-3%. Fertility is moderate. Permeability is slow, and water ponds during overflow. The hazard of erosion is slight. These soils are used primarily for small grain, hay, irrigated pasture, recreation and wildlife habitat. Other uses may include late-planted irrigated vegetable crops.

- IIE-2** This unit consists of very deep, moderately well drained Helvetia, Quatama and Woodburn soils that have slopes of 2-12%. These soils have high fertility. Permeability is moderately slow to slow. Surface runoff is slow to medium, and the hazard of erosion is slight to moderate. These soils are used for irrigated berries, irrigated vegetable crops, orchards, small grains, grass and legume seed crops, irrigated hay, irrigated pasture, recreation and wildlife habitat.

**The woodland capability classes are summarized as follows:**

Per the SSWC, woodland suitability group 2o2 soils comprise approximately 24 acres of the property and are described as having "high potential for productivity with no serious limitations for management." The SSWC states the approximately four acres of Huberly silt loam soils is not suitable for woodland. The remaining soils, Aloha, Wapato and Woodburn series, were not rated for woodland productivity by the SSWC, although the SSWC states that Douglas fir is commonly found on uncultivated Aloha and Woodburn series soils.

Although the Aloha, Wapato and Woodburn series were not rated for woodland productivity, it is not implied that these soils are not suitable for forest use. Policy 16 (Exclusive Farm Lands) of the Rural/Natural Resource Plan states:

*Generally, all soils in the County are considered forest soils as defined according to the United States Forest Service manual, "Field Instructions for Integrated Forest Survey and Timber Management Inventories – Oregon, Washington and California, 1974.*

The Aloha, Wapato and Woodburn series are found on the northern half of the property which is used mostly for pasture. As stated in the staff report, pasture use is considered a forest use per Goal 4 definitions.

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March 26, 2010

**TRANSPORTATION REPORT  
CASEFILE NO. 10-082-PA**

Applicant: Jim and Joni Kitty

Location: At the intersection of SW Swank Road and SW Holznagel Road

Tax Map/Lot: 2S2 15 Tax Lot 3600

Site Size: 52.2 acres

Staff has reviewed this request for compliance with the applicable transportation planning policies and rules and submits the following findings and recommendations.

**FINDINGS**

**A. General:**

1. The proposed plan amendment would change the plan designation on the subject parcel from EFU (Exclusive Farm Use) to Exclusive Forest and Conservation (EFC). The Exclusive Farm Use designation is regulated pursuant to ORS 215.213 and OAR 660, Division 33. The EFC land use district is also a resource district that is regulated by the provisions of OAR 660, Division 6.
2. The subject property is located at the southern terminus of SW Swank Road. SW Holznagel Road's right-of-way intersects SW Swank Road on the site's northern boundary. Access is via SW Swank Road, a rural local roadway. SW Holznagel Road is also a rural local road but the road physically terminates south and east of the subject property, although the right-of-way extends through the site to connect to SW Swank Road.
3. The following standards are applicable to this request and are addressed in this staff report:
  - a. OAR 660, Division 12, Oregon Transportation Planning Rule:  
Section 060 - Plan and Land Use Regulation Amendments
  - b. Washington County 2020 Transportation Plan Policies:
    - 1.0 Travel Needs Policy
    - 2.0 System Safety Policy
    - 4.0 System Funding Policy
    - 5.0 System Implementation and Management Policy
    - 6.0 Roadway System Policy
    - 10.0 Functional Classification Policy
    - 19.0 Transportation Planning Coordination and Public Involvement Policy

**B. Oregon Transportation Planning Rule**

1. The Oregon Transportation Planning Rule, OAR 660-012-0060, requires an analysis of the impact of a proposed plan amendment on the planned transportation system

- to determine whether the proposal will 'significantly affect' the planned transportation system in the area.
2. Pursuant to the OAR, the proposed plan amendment would 'significantly affect' SW Swank Road and/or the surrounding transportation network if it does any of the following:
    - Changes the functional classification of an existing or planned transportation facility;
    - Changes the standards implementing a functional classification system; as measured at the end of the planning period identified in the adopted TSP (year-2020);
    - Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or
    - Would reduce the performance standards of the facility below the minimum acceptable performance standard identified in the Transportation System Plan; or
    - Would worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the Transportation System Plan. Changes the functional classification of an existing or planned transportation facility;
  3. Considering the criteria above, in order to determine if a plan amendment will result in a 'significant impact' on transportation facilities, the County generally requires a comparative analysis of a 'reasonable worst-case development' of a site under current and proposed land use designations. (Note: When a state highway is affected, the county generally relies on comments that are prepared by ODOT.) Plan amendment requests may be for designations that permit more intensive land uses with greater trip generation potential. In such cases, applicants are typically required to submit traffic analyses that have been prepared by licensed traffic engineers in order to help evaluate the potential affects of proposed plan amendments on transportation facilities.
  4. In this case, the proposed plan amendment is to re-designate the subject parcel from EFU to EFC. Applicable Oregon Administrative Rule provisions (OAR 660-033-0030(4) and 660-006-0015(2)) establish a relatively low burden of proof for plan amendments from one resource designation to another. In this instance, both the existing plan designation of EFU and the proposed plan designation of EFC are resource designations. LUBA has also clarified the relatively low burden required to amend one exclusive resource designation for another (see *KO-AM Realty, 20 Or LUBA 127 (1990)*). The relevant rule provisions establish that when land satisfies the definition requirements of both agricultural and forest land, an exception is not required and the local plan need only document the factors that were used to select one designation (agricultural or forest) over another.

Regardless of which exclusive resource land use designation is applied, land uses are highly restricted by Oregon Statutes and Administrative Rules. The County is limited to permitting only those land uses that are authorized in ORS 215.213 and OAR Chapter 660, Division 33 on designated Exclusive Farm Use lands and those uses listed in Chapter 660, Division 6 for lands within Exclusive Forest and Conservation districts.

Under the existing EFU designation, a farm-related dwelling (or even multiple farm dwellings) *may be* permitted if the relevant approval criteria are satisfied.

Establishment of a dwelling on a lawfully created lot, parcel or tract of land under the proposed EFC land use designation is also permitted subject to satisfaction of relevant approval criteria. Since both designations provide for the same use, albeit subject to different review standards, there is no significant difference in potential trip generation as a result of possible use of the eligible subject properties for dwellings.

No matter which exclusive resource designation is applied, the intensity of potential land uses is not substantially different. Impacts on the transportation system from this 'resource' to 'resource' plan amendment are therefore not significant.

5. Considering the finding above, the proposed plan amendment from EFU to EFC is not anticipated to significantly increase trip generation from the subject property. Staff therefore concludes that the proposed amendment will not significantly affect the capacity or levels of travel on the nearby transportation network.
6. No changes in functional classification are proposed or required in order to accommodate the proposed plan amendment. Furthermore, the plan amendment will not affect the standards implementing the functional classification system as set forth in Policy 10.0 of the County's 2020 Transportation Plan nor will it significantly affect the capacity of the surrounding transportation network. Based upon these facts, staff concludes that the proposal is consistent with the identified function, capacity, and level-of-service for affected transportation facilities, consistent with Section 060 of the Oregon Transportation Planning Rule.

#### **C. Washington County 2020 Transportation Plan**

The proposed plan amendment is subject to seven policies from the County's 2020 Transportation Plan, which are listed and addressed below.

##### **1.0 TRAVEL NEEDS POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A MULTI-MODAL TRANSPORTATION SYSTEM THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF WASHINGTON COUNTY RESIDENTS AND BUSINESSES.

**STAFF:** As explained above in this report, the proposed plan amendment is not expected to have a detrimental impact on the capacity or level of service on any of the transportation facilities in the impact area since there is no anticipated significant increase in potential trip generation. The proposal therefore does not conflict with Policy 1.0.

##### **2.0 SYSTEM SAFETY POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO PROVIDE A TRANSPORTATION SYSTEM THAT IS SAFE.

**STAFF:** Any traffic safety impacts associated with potential future development on the subject property will be subject to the traffic safety regulations set forth in the Community Development Code as they apply to any proposed development.

##### **4.0 SYSTEM FUNDING POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO AGGRESSIVELY SEEK ADEQUATE AND RELIABLE FUNDING FOR TRANSPORTATION FACILITIES AND SERVICES, AND TO ENSURE THAT FUNDING IS EQUITABLY RAISED AND ALLOCATED.

**STAFF:** If development occurs on the affected property, it will be subject to payment of the appropriate Transportation Development Tax (TDT) toward future capacity improvements. Payment of the TDT is consistent with the strategies included under Policy 4.0.

**5.0 SYSTEM IMPLEMENTATION AND MANAGEMENT POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO EFFICIENTLY IMPLEMENT THE TRANSPORTATION PLAN AND TO EFFICIENTLY MANAGE THE TRANSPORTATION SYSTEM

**STAFF:** Significant impacts on capacity or roadway safety are not anticipated due to the absence of significant increases in trip generation under the proposed plan designation. The proposal is therefore consistent with Policy 5.0 since there will be no appreciable change in travel demand as a result of the plan amendment.

**6.0 ROADWAY SYSTEM POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THAT THE ROADWAY SYSTEM IS DESIGNED IN A MANNER THAT ACCOMMODATES THE DIVERSE TRAVEL NEEDS OF ALL USERS OF THE TRANSPORTATION SYSTEM.

**STAFF:** Since the proposed plan amendment will not result in significant increases in trips or travel demand, it will not degrade the planned motor vehicle performance measures set forth in the strategies for implementation of Policy 6.0. The proposal is therefore consistent with Policy 6.0.

**10.0 FUNCTIONAL CLASSIFICATION POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO ENSURE THE ROADWAY SYSTEM IS DESIGNED AND OPERATES EFFICIENTLY THROUGH USE OF A ROADWAY FUNCTIONAL CLASSIFICATION SYSTEM.

**STAFF:** The proposed plan amendment will not affect the Functional Classification of any nearby street or highway, nor will it result in land uses that are inconsistent with those identified in the Transportation Plan.

**19.0 TRANSPORTATION PLANNING COORDINATION AND PUBLIC INVOLVEMENT POLICY**

IT IS THE POLICY OF WASHINGTON COUNTY TO COORDINATE ITS TRANSPORTATION PLANNING WITH LOCAL, REGIONAL, STATE AND FEDERAL AGENCIES AND TO PROVIDE OPPORTUNITIES FOR CITIZENS TO PARTICIPATE IN PLANNING PROCESSES.

**STAFF:** Policy 19 provides that all plan amendments be reviewed for consistency with the applicable provisions of the Transportation Planning Rule (OAR 660-012-0060). This request has been reviewed and determined to be consistent with the applicable provisions of the Transportation Planning Rule (see findings in Section B., above). It is therefore consistent with Policy 19.0.

**CONCLUSION**

Based on the findings in this report, staff concludes that this proposed plan amendment (EFU to EFC) will not "significantly affect" a transportation facility as defined in OAR 660, Division 12. Under the proposed Exclusive Forest and Conservation plan designation, there will not be an increase in potential trip generation from future development when compared to the potential for trip generation under the existing AF-20 land use designation. The proposal is also consistent with all of the applicable Washington County's 2020 Transportation Plan policies as discussed in Section C. of this report.

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### **SUMMARY OF DECISION**

James and Joni Kilty applied to Washington County for a plan amendment to change the plan designation for one tax lot totaling 52.2 acres described as tax lot 3600 on Tax Map 2N2, Section 15 from Exclusive Farm Use (EFU) District to Exclusive Forest and Conservation (EFC) District.

At its meeting on May 5, 2010, the Washington County Planning Commission unanimously agreed to forward a recommendation of approval to the Board of County Commissioners. On May 25, 2010, the Board heard this matter and approved the plan amendment request, subject to the following conditions:

1. Any additional amount over and above the fee deposit submitted with this application which is determined to be owed to the County shall be paid upon receipt of a statement of balance due, consistent with the agreement for payment of fees for quasi-judicial plan amendment application processing previously signed by the owner.
2. The requirements of the Community Development Code will apply to specific development applications on each parcel. Other applicable regulations will also apply, including requirements for wells and septic systems.



Washington County - DLUT  
Long Range Planning  
155 N. First Avenue, 350-14  
Hillsboro, OR 97124

FIRST CLASS MAIL

Attn: Plan Amendment Specialist  
Dept. of Land Conservation & Development  
635 Capitol Street NE, Suite 150  
Salem, OR 97301-2540

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