



# Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

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[www.oregon.gov/LCD](http://www.oregon.gov/LCD)



## NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: September 01, 2015

Jurisdiction: Baker County

Local file no.: PA-15-002

DLCD file no.: 002-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 08/11/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 52 days prior to the first evidentiary hearing.

### Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

### DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or [plan.amendments@state.or.us](mailto:plan.amendments@state.or.us)



# NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

**FOR DLCD USE**  
File No.: 002-15 {23782}  
Received: 8/31/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Baker County

Local file no.: **PA-15-002**

Date of adoption: 8/7/2015

Date sent: 8/31/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 5/4/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change?    Yes    No

If yes, describe how the adoption differs from the proposal:

Local contact (name and title): Kelly Howsley-Glover, Planner

Phone: 541-523-8219

E-mail: [kglover@bakercounty.org](mailto:kglover@bakercounty.org)

Street address: 1995 3<sup>rd</sup> St

City: Baker City

Zip: 97814-

## PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

### For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

### For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.
- Change from \_\_\_\_\_ to \_\_\_\_\_ acres.    A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address):

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

**If the comprehensive plan map change is a UGB amendment** including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**If the comprehensive plan map change is an urban reserve** amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

**For a change to the text of an ordinance or code:**

Identify the sections of the ordinance or code that were added or amended by title and number:

**For a change to a zoning map:**

Identify the former and new base zone designations and the area affected:

Change from EFU	to TG	Acres: 81
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address): 8s39e Tax Lot 4001

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List affected state or federal agencies, local governments and special districts: Baker County

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Attached is the report to the Board of Commissioners which includes adopted findings from the Board and the Planning Commission. A change was also made to the Comprehensive Plan Zoning Map, but a goal exception was not required as it changed from one resource zone to another.

BEFORE THE BOARD OF COMMISSIONERS  
OF BAKER COUNTY, OREGON

AN ORDINANCE CHANGING THE ZONE OF )  
TAX LOT 4001 IN TOWNSHIP 8 SOUTH )  
RANGE 38 EAST, FROM EXCLUSIVE FARM )  
USE (EFU) TO TIMBER GRAZING (TG) )

ORDINANCE NO. 2015-04  
AMENDING THE  
ZONING MAP AND  
COMPREHENSIVE PLAN  
MAP ADOPTED BY  
ORDINANCE 84-1

WHEREAS, Baker County desires to enact a Zoning Map Amendment and Comprehensive Plan Map Amendment in order to re-zone Tax Lot 4001 of Township 8 South, Range 38 East, W.M., Baker County, Oregon (Ref. 17021) from Exclusive Farm Use (EFU) to Timber Grazing (TG); and

WHEREAS, the staff report prepared for the Board of Commissioners demonstrates that the appropriate zone for this parcel is Timber Grazing, and that zoning the parcel for Timber Grazing is consistent with the applicable policies of the Baker County Comprehensive Land Use Plan; and

WHEREAS, the Baker County Planning Commission recommended approval of this zone change by unanimous vote during their meeting of June 25, 2015.

NOW THEREFORE, THE BAKER COUNTY BOARD OF COMMISSIONERS ORDAINS AS FOLLOWS:

Section 1: The Baker County Zoning Map and Comprehensive Plan Map shall be amended to show that Tax Lot 4001 of Township 8 South, Range 38 East, W.M., Baker County, Oregon (Ref. 17021) is zoned Timber Grazing

Section 2: Emergency Clause

This Ordinance being necessary for the health, welfare, and safety of the citizens of Baker County, it shall take effect immediately upon passage.

Read for the first time in full this 1<sup>st</sup> day of July, 2015.

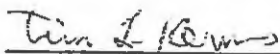
Read for the second time by title only this 15<sup>th</sup> day of July, 2015 upon the unanimous vote of the members present.

Adopted by the Baker County Board of Commissioners this 15th day of July, 2015.

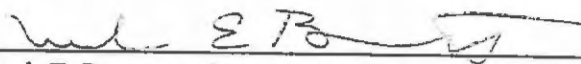
BAKER COUNTY BOARD OF COMMISSIONERS:



William Harvey, Commission Chair



Tim L. Kerns, Commissioner



Mark E. Bennett, Commissioner

Attest



Heidi Martin, Executive Assistant  
Baker County Board of Commissioners

# BAKER CITY-COUNTY PLANNING DEPARTMENT



## FINAL DECISION AND ADMINISTRATIVE REPORT for a PLAN AMENDMENT PA-15-002

STAFF REPORT DATE: July 16, 2015  
REPORT PREPARED BY: Kelly Howsley-Glover, Planner



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### GENERAL INFORMATION AND FACTS

<b><u>Applicant/ Property Owners:</u></b>	Tom and Fawn Kerns 13974 Launchpad Lane Haines, Oregon 97833
<b><u>Land Use Review:</u></b>	Plan Amendment
<b><u>Parcel Descriptions:</u></b>	±81.0 acres: Tax Lot 4001 of Township 8 South, Range 38 East, W.M., Baker County, Oregon, Ref. 17021
<b><u>Location:</u></b>	Southwest of Haines, Oregon
<b><u>Zone:</u></b>	Exclusive Farm Use (EFU)
<b><u>Existing Development:</u></b>	None
<b><u>Big Game Habitat Overlay:</u></b>	The parcel is located in the Big Game Habitat Overlay.
<b><u>Flood Zone:</u></b>	This parcel is not located in the flood zone according to FEMA FIRM 41001C0575C, dated June 3, 1988.
<b><u>Wetlands:</u></b>	According to the National Wetlands Inventory map, Riverine Wetlands and Freshwater Emergent Wetlands are identified on the parcel.
<b><u>Fire District:</u></b>	The parcel is located within the Baker Valley Rural Fire District.
<b><u>Tax Status:</u></b>	Forest Tax Deferral
<b><u>Water Rights:</u></b>	3 acres
<b><u>Parcels Legally Created:</u></b>	Parcel 2 was lawfully created by Partition Plat 1998-012, filed with the County Clerk on October 9 <sup>th</sup> , 1998.

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### I. NATURE OF REQUEST

Applicants and property owners Tom and Fawn Kerns propose to amend the zoning designation of a ±81 acre parcel, identified as Tax Lot 4001 in Township 8 South, Range 38 East, W.M., Baker County, Oregon (Ref. 17021), from Exclusive Farm Use (EFU) to Timber Grazing (TG).

## **II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS; STATE LAW**

The proposed Plan Amendment Application must comply with Chapter 260 of the Baker County Zoning Ordinance (BCZO) #2014-01, the Baker County Comprehensive Land Use Plan and the Oregon Revised Statutes. Generally, unless otherwise noted, if a request is found to be consistent with the Zoning and Subdivision Ordinance it is considered to be consistent with the Comprehensive Plan.

## **IV. ANALYSIS**

### **Chapter 260.05 – Approval Criteria**

*B. Legislative Text and Zoning Map Amendments. The Board of Commissioners shall approve Legislative Text and Zoning Map Amendments upon findings that the proposed amendment complies with the following approval Criteria:*

- 1. The amendment complies with all applicable policies of the Comprehensive Plan; and*
- 2. The amendment does not create a conflict with other provisions of this ordinance or other ordinances or regulations.*

**Findings:** This report has been created to demonstrate, according to testimony submitted in conjunction with the application, that the proposed amendment complies with all applicable policies of the Comprehensive Plan and the amendment does not create a conflict with other provisions of this ordinance or other ordinances or regulations.

**Conclusion:** The criteria are met.

*C. Combined Quasi-Judicial Comprehensive Plan Map and Zoning Map Amendment. Upon recommendation of the Planning Commission, the Board of Commissioners shall approve, approve with conditions, or deny a request for a quasi-judicial Zoning Map Amendment based on the following approval criteria:*

- 1. Demonstration of compliance with all applicable policies of the Comprehensive Plan*
- 2. Demonstration of compliance with all applicable standards of this code or other applicable implementing Ordinance.*
- 3. Assessment of the environmental impacts of the proposed change as demonstrated by the completion of an impact report described in Section 260.06.*

**Findings:** This report has been prepared to determine whether the application satisfies all criteria in the Comprehensive Plan and applicable ordinances. An environmental impact report was prepared and submitted with the application (Exhibit A).

**Conclusion:** The criteria are met.

**Chapter 260.06 – Environmental Impact.** *An applicant for a quasi-judicial Comprehensive Plan Map/Zoning Map or Zoning Map Amendment shall submit documentation to address the potential impact with the following items:*

- A. Hydrologic impacts. Documentation shall include a description of the effect upon the watershed where the project is located, the effect upon the immediate area's storm water drainage pattern, the impact of the proposed development upon downstream areas, and the effect upon the groundwater supply.*

- B. Geologic impacts. Documentation shall include a description of the soil erosion potential, stability, bearing qualities of the soil, geologic formation, and soil quality for agricultural consideration. Site evaluation shall also be completed by the Department of Environmental Quality (DEQ) to determine septic suitability for the use(s) proposed, soil permeability and infiltration rates.
- C. Vegetation impacts. Documentation shall include, but is not limited to, a description of the vegetation on the site, the forest fire potential of the site or in close proximity to the site, areas of low re-vegetative potential on the site, and unique vegetation communities either on site or within close proximity to the site. Documentation shall be done by an Oregon licensed forester.
- D. Animal life impacts. Documentation shall include, but is not limited to, a description of any rare or endangered animal species either on or within close proximity of the site, and highly productive habitats for species of sport, commercial or education value either on site or within close proximity to the site.
- E. Air quality impacts. Documentation shall include a description of the local circulation patterns, prevailing winds, and the condition up or down wind that could be affected by or upon the proposed development.
- F. Economic impacts. Documentation shall include a description of the economic impact of the proposed development upon the schools, fire districts, law enforcement, water districts, sewer districts, or any other jurisdiction as well as consideration of the proposed project's impact upon the tax rate of the tax code area in which the proposed project is to be located.
- G. Transportation impacts. Documentation shall include a description of the roads or routes of transportation in reference to right-of-way width, roadway width, access to existing roads, and the ability of the existing roads to accommodate the anticipated amount of travel that will be generated by the proposed development.
- H. Infrastructure impacts. Documentation shall include a description of the methods by which basic services, including water, sanitary waste treatment and stormwater collection will be provided on the site.

**Findings:** The applicants submitted with their application documentation addressing the Environmental Impact Criteria (Exhibit A). Included in their assessment, were the conclusions that there would be no impact on hydrologic or geologic conditions as no development is proposed as part of the application.

No vegetation impact was identified by the applicant.

The parcel is currently used for grazing approximately 40 pair of cattle for a duration of 30 days. The time of year and duration of grazing is dependent on available water from an adjacent ditch. The applicants estimate the overall production of grazing activity on the site at \$1600/year; the approximate return for grazing on the site is \$20 per head of cattle (Exhibit A).

The parcel has also been used for logging. According to the applicants (Exhibit A), the parcel was last logged in 1990 and produced 250,000 cubic feet of wood. Based on an analysis from Logan McCrae, Stewardship Forester for the Oregon Department of Forestry, there are approximately 38 acres on the parcel with soils capable of producing 43 cubic feet per acre/per year of wood fiber.



The soil is rated Class II-Irrigated in the southeast portion of the parcel, and Class VI - Non-Irrigated in the northwest portion of the parcel, with the division of soils along the tree line that runs through the property (Exhibit A and Exhibit F). The applicant suggests that despite the high quality capability class rating for the irrigated soil, “there is a shallow amount of top soil needed to grow and harvest any type of crop” that is not present on the parcel. The applicant characterizes the soil as consisting of “small and large rock which is not ideal for crop production”; there are “approximately 15 acres of good soil that is not rocky that could allow for any kind of agricultural production”. Furthermore, the applicant argues that only 3 acres of water rights on the parcel compounds the feasibility of agricultural production as “drilling a well would not be cost effective” due to the limited acreage available for crop production (Exhibit A, Page 1).

There is no rare or endangered species habitat identified on the parcel. The parcel is within the Big Game Habitat Overlay for deer and elk (Exhibit A).

As no development is proposed as part of the application, there are no known air quality impacts.

The parcel is currently taxed under the Forest Tax Deferral status. A change to Timber Grazing would not change the taxing designation, instead bringing the zone in line with the taxation deferral program.

No development or impact to adjacent roads or access is proposed, so no transportation impacts have been identified. The adjacent road, Hunt Mountain Road, is a County maintained roadway.

Infrastructure impacts have not been identified as no development is proposed.

**Conclusion: The criteria are met.**

*I. Proximity of other uses and activities. Documentation shall include a description of the relationship of the proposed development to shopping, recreational, and employment centers.*

**Findings:** The parcel is located approximately 4.5 miles southwest of Haines and 9.5 miles northwest of Baker City, Oregon. Haines has shopping and employment establishments. Baker City is the county seat and houses the majority of shopping and employment establishments for the region. Recreational opportunities are located throughout the county and include private, federal, state and local lands, parks and facilities.

The property, according to the application, is located within a 1 mile radius of approximately 38 dwellings. Most of the property adjacent and in the immediate area is designated farm or forestry use, with some rural residential land to north and south (Exhibit H).

**Conclusion: The criteria are met.**

*J. Public need. Documentation shall include a description of how the public will benefit from the proposed development and illustrate the demonstrated public need for the proposed project.*

**Findings:** The applicants (Exhibit A, Page 3) make the argument that the zone change will not only allow for more flexibility in use and potential development, but represent a “more cohesive blend” with surrounding properties as three of four parcels are currently zoned TG.

The zone change would maintain the parcel’s status as a resource zone.

**Conclusion:** The criteria are met.

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**V. SUMMARY CONCLUSIONS AND ADMINISTRATIVE DECISION**

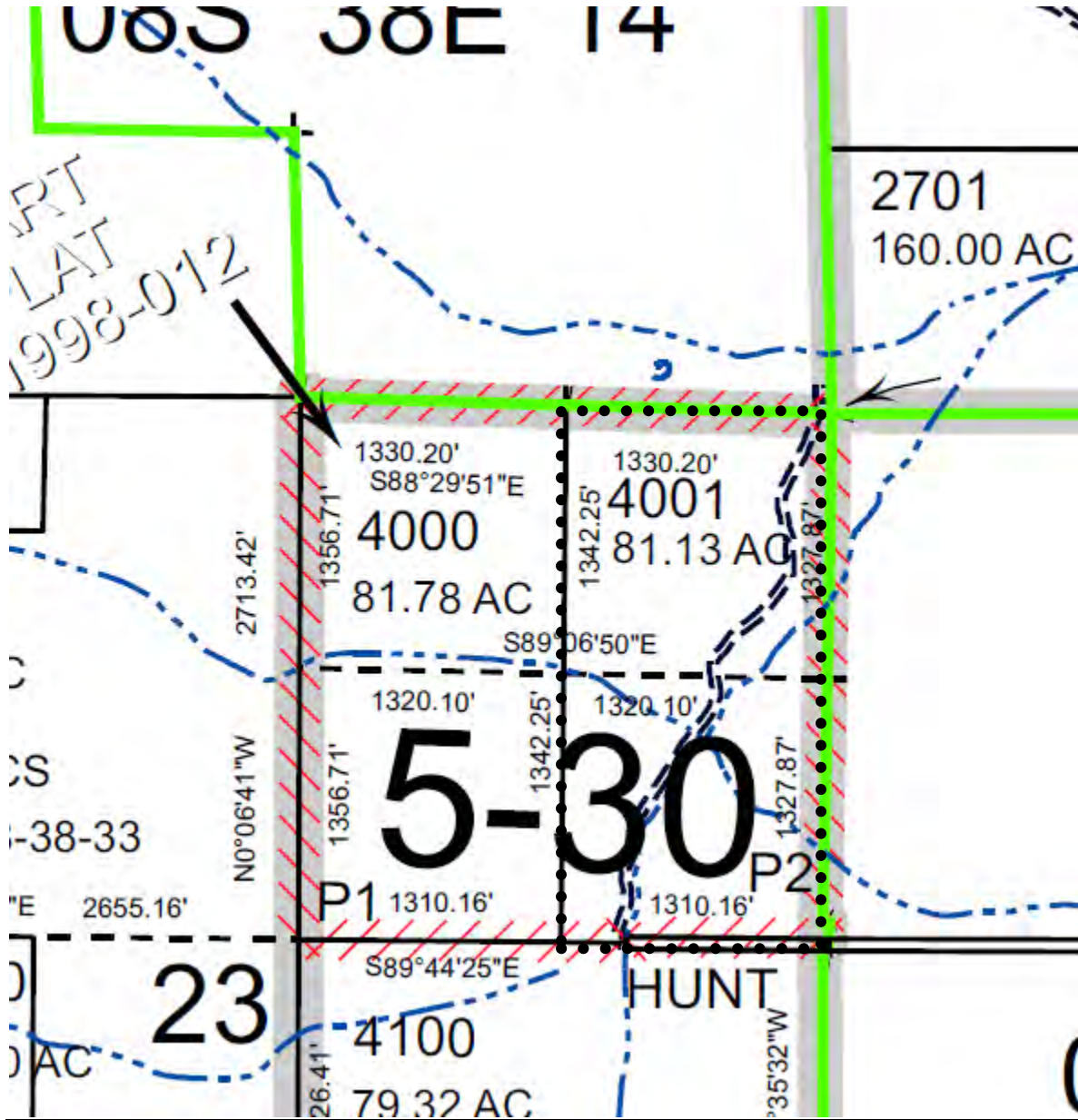
Based on the above review criteria, findings of fact and conclusions, **PA-15-002** for a legislative zone map amendment is **APPROVED**.

**VI. EXHIBITS**

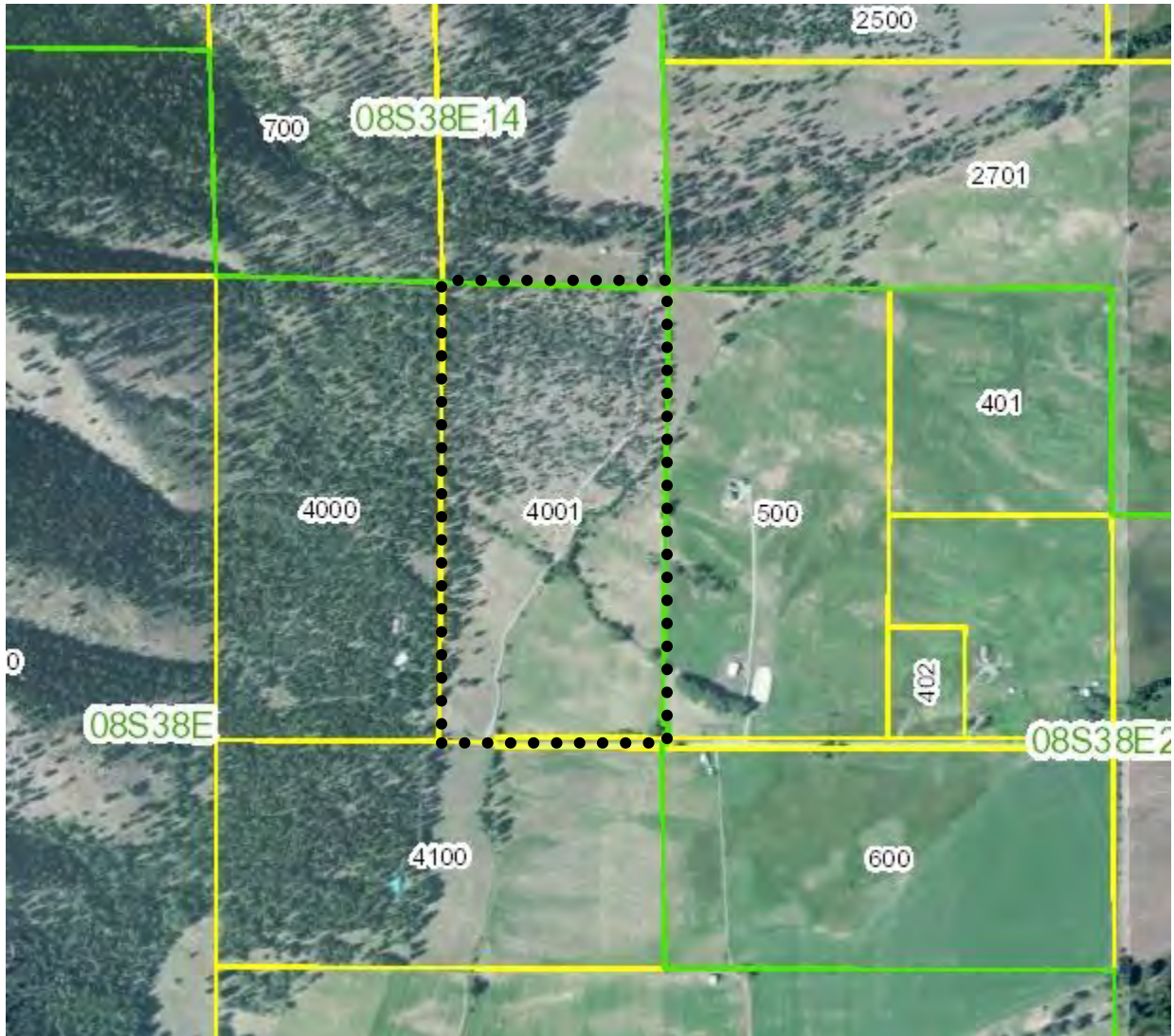
Exhibit A	Application Narrative
Exhibit B	Assessor's Tax Lot Map
Exhibit C	OR Maps Aerial View of Site
Exhibit D	Baker County Zoning Ordinance Ch. 410 EFU Uses Permitted
Exhibit E	Baker County Zoning Ordinance Ch. 420 TG Uses Permitted
Exhibit F	USDA Soil Maps
Exhibit G	Wetlands Map of Property
Exhibit H	Zoning Map of Surrounding Area

**EXHIBIT A: Applicant's Narrative**

EXHIBIT B: Assessment Map of Area



**Exhibit C: Aerial Map**



## Exhibit D: Baker County Zoning Ordinance Ch. 410 EFU Uses Permitted

**Uses Permitted Through a Type I Procedure.** In the EFU Zone the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 205.04:

A. Farm/Forest Resource:

1. Farm use, as defined in ORS 215.203(2), with the exception of livestock feedlots, sales yards, hog farms, or dairy herd confinement at any time of the year, or other concentration of livestock during May through September when such uses are located within one mile of a residential zone.
2. Accessory buildings customarily provided in conjunction with farm use.
3. The propagation or harvesting of a forest product.

B. Natural Resource:

1. Creation of, restoration of, or enhancement of wetlands.

C. Commercial:

1. Type I Minor Home Occupations, subject to the provisions of Section 760.02.

D. Transportation:

1. Climbing and passing lanes within the right-of-way existing as of July 1, 1987.
2. Reconstruction or modification of public roads and highways, including the placement of utility facilities overhead and in the subsurface of public roads and highways along the public right-of-way, but not including the addition of travel lanes, where no removal or displacement of buildings would occur, or no new land parcels result.

Temporary public road and highway detours that will be

3. Minor betterment of existing public road and highway related facilities such as maintenance yards, weigh stations and rest areas, within right-of-way existing as of July 1, 1987, and contiguous publicly-owned property utilized to support the operation and maintenance of public roads and highways.
4. Rehabilitation, replacements, minor betterment repairs and improvements, and other similar construction activities; or private or public parks, playgrounds or community centers, which are not considered to have land use impacts, as determined by the Director consistent with Chapter 220, Director's Interpretations.

5.

**410.01 Uses Permitted Through a Type II Procedure.** In the EFU Zone the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 205.05:

A. Residential:

1. Lot-of-Record Dwelling: A single-family dwelling proposed on a lot or parcel meeting all of the following criteria:
  - a. The lot or parcel on which the dwelling will be sited was lawfully created. When a lot or parcel is reconfigured pursuant to applicable law after November 4, 1993, the effect of which is to qualify a lot, parcel or tract for the

siting of a dwelling, the date of the reconfiguration is the date of creation or existence. Reconfiguration means any change in the boundary of a lot, parcel or tract; and

- b. The lot or parcel was acquired by the present owner prior to January 1, 1985, or by devise or intestate succession from a person who acquired the lot or parcel prior to January 1, 1985; and
- c. The tract on which the dwelling will be sited does not include a dwelling. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract are consolidated into a single lot or parcel when the dwelling is allowed; and
- d. The lot or parcel on which the dwelling will be sited is not high-value farmland except as provided in OAR 660-033-0130(3)(c). ORS 215.710(5) provides an opportunity for an applicant to show that the property is not high-value farmland.
- e. For the purpose of this Section a person cannot qualify as an "owner" as required by Section 410.03(A)(1) by virtue of a familial relationship to the current owner or by receiving the land as a gift or any form of sale after January 1, 1985.
- f. For the purposes of this Section "owner" includes the wife, husband, son, daughter, mother, father, brother, brother-in-law, sister, sister-in-law, son-in-law, daughter-in-law, mother-in-law, father-in-law, aunt, uncle, niece, nephew, stepparent, stepchild, grandparent or grandchild of the owner or a business entity owned by any one or combination of these family members.
- g. When approval is granted to an application under the provisions of this Section, the application may be transferred only one time by a person who has qualified under this section to any other person after the effective date of the land use decision.
- h. The proposed dwelling will comply with the requirements of the acknowledged land use plan and other County land use regulations and other provisions of law.

2. Farm Dwellings:

- a. Parcel Size Test: A single-family dwelling may be considered in conjunction with farm use if it is not identified as high-value farmland pursuant to OAR 660-033-020 (8) and:
  - i. The dwelling is proposed on a parcel which is currently employed for farm use, as defined in ORS 215.203;
  - ii. Contains no other dwelling except seasonal farm worker housing;
  - iii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land at a commercial scale; and
  - iv. Complies with the minimum parcel size requirements of Section 410.05 (B)(6).
- b. Capability Test: A single-family dwelling may be considered in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland and:
  - i. Is at least as large as the median size of commercial farm or ranch tracts capable of generating at least \$10,000 in annual gross sales that are wholly or partially within one mile from the perimeter of the subject parcel; and

- ii. The subject parcel or tract is capable of producing at least the median level of annual gross sales of County indicator crops as the same commercial farm and ranch tracts identified in Section 410.03(A)(4)(a) determined pursuant to OAR 660-33-135(3); and
  - iii. The subject parcel or tract is currently employed for farm use as defined in ORS 215.203, at a level capable of producing the annual gross sales required by Section 410.03(A)(4); and
  - iv. The subject parcel or tract on which the dwelling is proposed is not less than 20 acres; and
  - v. There is no other dwelling located on the subject parcel or tract, except seasonal farm-worker housing as permitted by ORS 215.283(1)(f); and
  - vi. If no farm use has been established at the time of application, land use approval shall be subject to a condition that no building permit may be issued prior to the establishment of the farm use as required by Section 410.03(A)(4)(c).
  - vii. The dwelling will be occupied by a person or persons who will be principally engaged in farm use of the land, such as planting, harvesting, marketing, or caring for livestock, at a commercial scale.
- c. Income Test: A single-family dwelling may be considered in conjunction with farm use if the dwelling is proposed on an agricultural parcel or tract which is not identified as high-value farmland; and
- i. The subject parcel is currently employed for farm use, as defined in ORS 215.203, that produced in the last two years or three of the last five years the lower of the following:
    - 1) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products; or
    - 2) Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon; and
  - ii. There is no other dwelling on the subject parcel, except seasonal farm-worker housing as permitted by ORS 215.283(1)(f).
  - iii. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in Section 410.03(A)(5)(a).
  - iv. In determining the gross income required by Section 410.03(A)(5)(a) the cost of purchased livestock shall be deducted from the total gross income attributed to the farm or ranch operation; only gross income from land owned, not leased or rented, shall be counted; and gross farm income earned from a lot or parcel which has been used previously to qualify another lot or parcel for the construction or siting of a primary farm dwelling may not be used.
  - v. Noncontiguous lots or parcels zoned for farm use in Baker County or contiguous counties may be used to meet the gross income requirements. When a farm or ranch operation has lots or parcels in both "Western" and "Eastern" Oregon as defined by statute division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.
  - vi. 1) Prior to the final approval for a dwelling authorized under this section that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions



form adopted as "Exhibit A" has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:

- a) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
  - b) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
- 2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
  - 3) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - 4) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by the section;
  - 5) The Director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
- d. High Value Test: A single-family dwelling may be considered customarily provided in conjunction with farm use if the dwelling is proposed on a parcel or tract which is identified as high-value farmland; and
- i. The subject parcel or tract is currently employed for farm use, as defined in ORS 215.203, that produced at least \$40,000 in gross annual income from the sale of farm products in the last two years or three of the last five years; or
  - ii. Gross annual income of at least the midpoint of the median income range of gross sales for farms in Baker County with gross sales of \$10,000 or more.
  - iii. There is no other dwelling on the subject parcel or tract, except seasonal farm-worker housing as permitted by ORS 215.283(1)(f); and
  - iv. The dwelling will be occupied by a person or persons who produced the commodities which grossed the income in Section 410.03(A)(6)(a).
  - v. In determining the gross income required by Section 410.03(A)(6)(a), the cost of purchased livestock shall be deducted from the total gross income attributed to the parcel or tract.
  - vi. Noncontiguous lots or parcels zoned for farm use in Baker County or contiguous counties may be used to meet the gross income requirements. When a farm or ranch operation has lots or parcels in both

“Western” and “Eastern” Oregon as defined by statute division, lots or parcels in Eastern or Western Oregon may not be used to qualify a dwelling in the other part of the state.

- vii. 1) Prior to the final approval for a dwelling authorized under this section that requires one or more contiguous or non contiguous lots or parcels of a farm or ranch operation to comply with the gross farm income requirements, the applicant shall provide evidence that the covenants, conditions and restrictions form adopted as “Exhibit A” has been recorded with the Baker County Clerk where the property subject to the covenants, conditions and restrictions is located. The covenants, conditions and restrictions shall be recorded for each lot or parcel subject to the application for the primary farm dwelling and shall preclude:
    - a) All future rights to construct a dwelling except for accessory farm dwellings, relative farm assistance dwellings, temporary hardship dwellings or replacement dwellings allowed by ORS Chapter 215; and
    - b) The use of any gross farm income earned on the lots or parcels to qualify another lot or parcel for a primary farm dwelling.
  - 2) The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located.
  - 3) Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - 4) The failure to follow the requirements of this section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by the section;
  - 5) The county planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting the lots and parcels subject to the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
3. Secondary Dwelling: Dwellings on real property used for farm use if the dwelling is located on the same lot or parcel as the dwelling of the farm operator and is occupied by a relative of the farm operator or the farm operator's spouse, whose assistance in the management of the farm use is or will be required by the farm operator. "Relative" is defined in Chapter 150, Definitions, of this ordinance.
  4. Accessory Farm Dwellings which satisfy the following requirements:
    - a. The accessory farm dwelling will be occupied by a person or persons who will be principally engaged in the farm use of the land and whose assistance in the management of the farm use is or will be required by the farm operator; and
    - b. The dwelling will be located:
      - i. On the same lot or parcel as the dwelling of the principal farm dwelling; or

- ii. On the same tract as the principal farm dwelling when the lot or parcel on which the accessory farm dwelling will be sited is consolidated into a single parcel with all contiguous lots and parcels in the tract; or
  - iii. On a lot or parcel on which the principal farm dwelling is not located when the accessory farm dwelling is a manufactured dwelling and a deed restriction is filed with the county clerk. The deed restriction shall require the manufactured dwelling to be removed when the lot or parcel is conveyed to another party. An accessory farm dwelling approved pursuant to this section may not be occupied by a person or persons who will not be principally engaged in the farm use of the land and whose assistance in the management of the farm use is not or will not be required by the farm operator. The manufactured dwelling may remain if it is re-approved under these rules for an accessory farm dwelling. An accessory farm dwelling may only be replaced by a manufactured dwelling.
- c. There is no other dwelling on lands designated for exclusive farm use owned by the operator that is vacant or currently occupied by persons not working on the subject farm or ranch and that could reasonably be used as an accessory farm dwelling; and
- d. The principal farm dwelling to which the proposed dwelling would be accessory, meets one of the following:
- i. On land not identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced in the last two years or three of the last five years the lower of the following:
    - 1) At least \$40,000 (1994 dollars) in gross annual income from the sale of farm products. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
    - 2) Gross annual income of at least the midpoint of the median income range of gross annual sales for farms in the county with the gross annual sales of \$10,000 or more according to the 1992 Census of Agriculture, Oregon. In determining the gross income, the cost of purchased livestock shall be deducted from the total gross income attributed to the tract; or
  - ii. On land identified as high-value farmland, the principal farm dwelling is located on a farm or ranch operation that is currently employed for farm use, as defined in ORS 215.203, and produced at least \$80,000 (1992 dollars) in gross annual income from the sale of farm products in the last two years or three of the last five years.
  - iii. For the purposes of this section "farm or ranch operation" includes all property used by the farm operator to produce agricultural goods and commodities.
- e. The County shall not approve any proposed division of a lot or parcel for an accessory farm dwelling approved pursuant to this subsection Section 410.03(7). If it is determined that an accessory farm dwelling satisfies farm dwelling requirements in Section 410.03(6), a parcel may be created consistent with the minimum parcel size requirements.
- f. An accessory farm dwelling approved pursuant to this subsection cannot later be used to satisfy the requirements for a dwelling not provided in conjunction with farm use pursuant to 410.04 of this chapter.
5. Replacement Dwelling: A lawfully established dwelling may be altered, restored or replaced if, when an application for a permit is submitted, the Director finds to their satisfaction, based on substantial evidence, that:
- a. The dwelling to be altered, restored or replaced has, or formerly had:

- i. Intact exterior walls and roof structure;
  - ii. Indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
  - iii. Interior wiring for interior lights; and
  - iv. A heating system; and
- b. The dwelling was assessed as a dwelling for purposes of ad valorem taxation for the previous five property tax years, or, if the dwelling has existed for less than five years, from that time; and
- c. Notwithstanding paragraph (b), if the value of the dwelling was eliminated as a result of either of the following circumstances, the dwelling was assessed as a dwelling until such time as the value of the dwelling was eliminated:
- i. The destruction (i.e. by fire or natural hazard), or demolition in the case of restoration of the dwelling; or
  - ii. The applicant establishes to the satisfaction of the Director that the dwelling was improperly removed from the tax roll by a person other than the current owner. "Improperly removed" means that the dwelling has taxable value in its present state, or had taxable value when the dwelling was first removed from the tax roll or was destroyed by fire or natural hazard, and the county stopped assessing the dwelling even though the current or former owner did not request removal of the dwelling from the tax roll.
6. For replacement of a lawfully established dwelling:
- a. The dwelling to be replaced shall be removed, demolished, or converted to an allowable nonresidential use:
    - i. Within one year after the date the replacement dwelling is certified for occupancy pursuant to ORS 455.055; or
    - ii. If the dwelling to be replaced is, in the discretion of Baker County, in such a state of repair that the structure is unsafe for occupancy or constitutes an attractive nuisance, on or before a date set by the permitting authority that is not less than 90 days after the replacement permit is issued; and
    - iii. If a dwelling is removed by moving it off the subject parcel to another location, the applicant must obtain approved from the Director for the new location.
  - b. The applicant must cause to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
  - c. As a condition of approval, if the replacement dwelling is located on a portion of the lot or parcel that is not zoned for exclusive farm use, the applicant shall execute and cause to be recorded in the deed records of the county a deed restriction prohibiting the siting of another dwelling on that portion of the lot or parcel. The restriction imposed is irrevocable unless the Director, or the Director's designee, places a statement of release in the deed records of the county to the effect that the provisions of 2013 Oregon Laws, chapter 462, section 2 and either ORS 215.213 or 215.283 regarding replacement dwellings have changed to allow the lawful siting of another dwelling. The Director, or the Director's designee, shall maintain a record of:

- i. The lots and parcels for which dwelling to be replaced have been removed, demolished or converted; and
  - ii. The lots and parcels that do not qualify for the siting of a new dwelling under subsection (6) of this section, including a copy of the deed restrictions filed under paragraph (b) of this subsection.
- 7. A replacement dwelling must comply with applicable building codes, plumbing codes, sanitation codes and other requirements relating to health and safety at the time of construction. However, the standards may not be applied in a manner that prohibits the siting of the replacement dwelling.
  - a. The replacement dwelling must be sited on the same lot or parcel;
    - i. Using all or part of the footprint of the replaced dwelling or near a road, ditch, river, property line, forest boundary or other natural boundary of the lot or parcel; and
    - ii. If possible, for the purpose of minimizing the adverse impacts on resource use of land in the area, within a concentration or cluster of structures or within 500 yards of another structure.
  - b. Replacement dwellings that currently have the features described in paragraph (6)(a) of this subsection and that have been on the tax roll as described in paragraph (5)(b) may be sited on any part of the same lot or parcel.
  - c. A replacement dwelling permit is a land use decision where the dwelling to be replaced:
    - i. Formerly had the features described in paragraph (5)(a) of this section; or
    - ii. Was removed from the tax roll as described in paragraph (5)(c) of this section;
  - d. Is not subject to the time to act limits of ORS 215.417; and
  - e. If expired before January 1, 2014, shall be deemed to be valid and effective if, before January 1, 2015, the holder of the permit:
    - i. Removes, demolishes or converts to an allowable nonresidential use the dwelling to be replaced; and
    - ii. Causes to be recorded in the deed records of the county a statement that the dwelling to be replaced has been removed, demolished or converted.
- 8. Replacement dwelling to be used in conjunction with farm use if the existing dwelling has been listed in a county inventory as historic property as defined in ORS 358.480.
- 9. Temporary Hardship Dwelling: A manufactured dwelling, or recreational vehicle, or the temporary use of an existing building in conjunction with an existing dwelling, or the temporary use of a dwelling may be allowed for the term of the hardship suffered by the existing resident or relative as defined in ORS Chapter 215, subject to the following:
  - a. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured home will use a public sanitary sewer system, such condition will not be required.
  - b. Permits shall be reviewed every year.

- c. Within three months of the end of the hardship, the manufactured dwelling shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished, or returned to an allowed nonresidential use.
- d. A temporary residence approved under this section is not eligible for replacement under ORS 215.213(t) or 215.283(s).
- e. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm relative as defined in ORS Chapter 215.

B. Commercial:

- 1. Type II Major Home Occupations, subject to the provisions of Section 760.03.
- 2. Farm stands meeting the following specifications:
  - 1. The structures are designed and used for sale of farm crops and livestock grown on the farm operation, or grown on the farm operation and other farm operations in the local agricultural area, including the sale of retail incidental items and fee-based activity to promote the sale of farm crops or livestock sold at the farm stand. If the annual sales of incidental items and fees from promotional activity do not make up more than 25 percent of the total annual sales of the farm stand; and
  - 2. The farm stand does not include structures designed for occupancy as a residence or for activities other than the sale of farm crops and livestock and does not include structures for banquets, public gatherings or public entertainment.

C. Transportation:

- 1. Construction of additional passing and travel lanes requiring the acquisition of right of way, but not resulting in the creation of new land parcels.
- 2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land parcels.
- 3. Improvements of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required, but not resulting in the creation of new land parcels.

D. Utility/Solid Waste Disposal Facilities:

- 1. Utility facilities, and similar minor facilities necessary for public service and repair, replacement and maintenance thereof, except commercial facilities for the purpose of generating power for public use by sale and transmission towers under 200 feet in height.
- 2. Irrigation canals, delivery lines and those structures and accessory operational facilities associated with a district as defined in ORS 540.505.
- 3. Utility facility service lines (under 200 feet).
- 4. A wind measurement device that is less than 200 feet in height if it is for temporary use for a period not to exceed 48 months.

5. Required permanent maintenance/operations buildings for a wind power facility shall be located off-site in one of Baker County's appropriately zoned areas, except that such a building may be constructed on-site if (1) the building design and construction are generally consistent with the character of similar buildings used by commercial farmers or ranchers, and (2) the building will be removed or converted to farm use upon decommissioning of the Wind Power Generation Facility.
6. Residential Wind Power Generation Facility in accordance with the provisions of Chapter 750 of this Ordinance.

E. Parks/Public/Quasi-Public:

1. Onsite filming and activities accessory to onsite filming for 45 days or fewer as provided for in ORS 215.306.
2. A site for the takeoff and landing of model aircraft, including such buildings as may reasonably be necessary.
3. Land application of reclaimed water, agricultural or industrial process water or bio-solids.
4. Fire service facilities providing rural fire protection services.
5. An outdoor gathering described in ORS 197.015(10)(d), provided that a Temporary Permit has been granted per the requirements of Section 250.02.

**410.02 Uses Permitted Through a Type III Procedure.** In the EFU Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 205.06. These uses shall also require a Conditional Use Permit as described in Chapter 210.

A. Farm/Forest Resource:

1. A facility for the primary processing of forest products.
2. A facility for the processing of farm crops or the production of biofuel as defined in ORS 315.141.
3. Livestock feedlot, sales yard, hog farm or dairy herd confinement at any time of the year, or other concentration of livestock during May through September, when such uses are located within one mile of a residential zone.
4. Guest Ranch in conjunction with an existing commercial cattle, sheep, horse, or bison operation that complies with ORS 215.203, and the requirements under Section 210.07(E), Guest Ranch, of this Ordinance. For purposes of this section, guest shall mean a person who purchases an activity package which includes ranch and recreational activities and which may include meals.

B. Natural Resource:

1. The propagation, cultivation, maintenance, and harvesting of aquatic species that are not under the jurisdiction of the State Fish and Wildlife Commission, or insect species.
2. A wildlife habitat conservation and management plan pursuant to ORS 215.799.
3. Feeding stations and wildlife management areas subject to the provisions of Section 210.07(A).

C. Residential:

1. Single family residential dwellings not provided in conjunction with farm use pursuant to ORS 215.284(2) (9/9/02).

2. Residential home or facility as defined in ORS 197.660 in existing dwellings.
3. Room and board arrangements for a maximum of five unrelated persons in existing residences.

D. Commercial:

1. Commercial activities in conjunction with farm use, including the processing of farm crops pursuant to ORS 215.213(1)(x) and 215.283(1)(u).
2. Type III Major Home Occupations, subject to the provisions of Section 760.04.
3. Dog Kennels.
4. A destination resort which is approved consistent with the requirements of Goal 8.
5. A winery, as described in ORS 215.452 (2003).
6. An aerial fireworks display business that has been in continuous operation at its current location within an exclusive farm use zone since December 31, 1986, and possesses a wholesaler's permit to sell or provide fireworks.
7. The breeding, kenneling and training of greyhounds for racing.
8. A landscaping business, as defined in ORS 671.520, or a business providing landscape architecture services, as described in ORS 671.318, if the business is pursued in conjunction with the growing and marketing of nursery stock on the land that constitutes farm use.

E. Mineral, Aggregate, Oil, and Gas Uses:

1. Operations conducted for the exploration, mining and processing of aggregate and other mineral resources or other subsurface resources subject to the restrictions and permits of the Department of Geology and Minerals Industry. See Chapter 440, Mineral Extraction Zone when dealing with patented mining claims.
2. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
4. Processing of other mineral resources and other subsurface resources.
5. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.

F. Transportation:

1. Roads, highways and other transportation facilities, and improvements not otherwise allowed.
2. Transportation improvements on rural lands allowed by OAR 660-012-0065.



3. Personal-use airports for airplanes and helicopter pads including associated hangar, maintenance and service facilities. A personal-use airport as used in this Section means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guest(s), and by commercial aviation activities in connection with agricultural operations. No aircraft may be used on a personal-use airport other than those owned or controlled by the owner of the airstrip.

Exceptions to the activities permitted under the definition may be granted through waiver action by the Oregon Aeronautics Division in specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

G. Utility/Solid Waste Disposal Facilities:

1. Major utility facilities as defined in Chapter 150 of this ordinance.
2. Transmission towers over 200 feet in height.
3. A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.
4. Commercial utility facilities for the purpose of generating power for public use by sale, not including wind power generation facilities.
5. Wind power generation facility in accordance with the provisions of Chapter 750 of this Ordinance.
6. A wind measurement device that is greater than 200 feet in height.\
7. A wind measurement device that will be used for a period exceeding 48 months.
8. A site for the disposal of solid waste approved by the governing body of a county and for which a permit has been granted under ORS 459.245 by the Department of Environmental Quality together with equipment, facilities or buildings necessary for its operation.
9. Composting facilities for which a permit has been granted by the Department of Environmental Quality under ORS 459.245 and OAR 340-096-0020.

H. Parks/Public/Quasi-Public:

1. Public or private schools for kindergarten through grade 12, including all buildings essential to the operation of a school, primarily for the residents of the rural area in which the school is located, may be permitted:
  - a. On parcels which are not predominantly comprised of high-value farmland soils if the use is not within 3 miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.
  - b. On parcels which are predominantly comprised of high-value farmland soils existing facilities may be maintained, expanded or enhanced.
2. Private, semi-public and public parks, playgrounds, hunting and fishing preserves, campgrounds, and community centers.
3. Parks and playgrounds consistent with the provisions of ORS 195.120.

4. Community centers owned by a governmental agency or a nonprofit organization and operated primarily by and for residents of the local rural community.
5. Golf courses on land determined not to be high-value farmland as defined in ORS 195.300.
6. Living history museum.
7. Firearms training facility as provided in ORS 197.770.
8. Armed forces reserve center as provided for in ORS 215.213(1).
9. Onsite filming and activities accessory to onsite filming for more than 45 days as provided for in ORS 215.306.
10. Expansion of existing county fairgrounds and activities directly relating to county fairgrounds governed by county fair boards established pursuant to ORS 565.210
11. Operations for the extraction and bottling of water.
12. Any gathering subject to review of a county planning commission under ORS 433.763.
13. Churches and cemeteries in conjunction with churches consistent with ORS 215.441, may be allowed:
  - a. On parcels which are not predominantly comprised of high-value farmland soils if the use is not within 3 miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660 Division 4.
  - b. On parcels which are predominantly comprised of high-value farmland soils, existing facilities may be maintained, expanded or enhanced.

## Exhibit E: Baker County Zoning Ordinance Ch. 420 TG Uses Permitted

**420.01 Uses Permitted Through a Type I Procedure.** In the TG Zone the following uses and their accessory uses shall be permitted outright when authorized in accordance with the provisions of Section 205.04:

A. Farm/Forest Resource:

1. Uses related to and in support of forest operations.
2. Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash.
3. Temporary on-site structures which are not enclosed and are auxiliary to and used during the term of a particular forest operation. A forest plan approved by an Oregon licensed forester describing the forest operation must be filed with the Planning Department. A statement describing the structure's use and timeline for removal shall accompany the application.
4. Physical alterations to the land auxiliary to forest practices including, but not limited to, those made for purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities.
5. Temporary portable facility for the primary processing of forest products.
6. Private hunting and fishing operations without any lodging accommodations.
7. Towers and fire stations for forest fire protection.
8. Uninhabitable structures accessory to fish and wildlife enhancement.
9. Temporary forest labor camps.
10. Farm use, as defined in ORS 215.203(2), with the exception of livestock feedlots, sales yards, hog farms, or dairy herd confinement at any time of the year, or other concentration of livestock during May through September when such uses are located within one mile of a residential zone.

B. Natural Resource:

1. Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment.

C. Commercial:

1. Type I Minor Home Occupations, subject to the provisions of Section 760.02.

**420.02 Uses Permitted Through a Type II Procedure.** In the TG Zone the following uses and their accessory uses may be permitted when authorized in accordance with the provisions of Section 205.05:

A. Farm/Forest Resource:

1. Forest management research and experimentation facilities as defined by ORS 526.215 or where accessory to forest operations.

2. Temporary on-site structures which are enclosed and are auxiliary to and used during the term of a particular forest operation. A forest plan approved by an Oregon licensed forester describing the forest operation must be filed with the Planning Department. A statement describing the structure's use and timeline for removal shall accompany the application.

B. Residential:

1. Lot of Record Dwellings authorized by ORS 215.705 through 215.720 and OAR 660-006-0027 subject to the following:
  - a. The lot or parcel on which the dwelling will be sited was lawfully created and was acquired and owned continuously by the present owner as defined in Chapter 150 of this Ordinance:
    - i. Since prior to January 1, 1985; or
    - ii. By devise or by intestate succession from a person who acquired and had owned continuously the lot or parcel since prior to January 1, 1985.
  - b. The tract on which the dwelling will be sited does not include a dwelling;
  - c. If the lot or parcel on which the dwelling will be sited was part of a tract on November 4, 1993, no dwelling exists on another lot or parcel that was part of that tract.
  - d. The proposed dwelling is not prohibited by, and will comply with, the requirements of the acknowledged comprehensive plan and land use regulations and other provisions of law.
  - e. The lot or parcel on which the dwelling will be sited, if zoned for farm use, is not on that high-value farmland described in ORS 215.710 except as provided in subsections (2) and (3) of this section.
  - f. The lot or parcel on which the dwelling will be sited, if zoned for forest use, is described in ORS 215.720, 215.740 or 215.750.
  - g. In accordance with ORS 215.720, the tract on which the dwelling will be sited is composed of soils not capable of producing 4,000 cubic feet per year of commercial tree species and is located within 1,500 feet of a public road as defined under ORS 368.001 that provides or will provide access to the subject tract. The road shall be maintained and either paved or surfaced with rock and shall not be:
    - i. A United States Bureau of Land Management (BLM) road;
    - ii. A United States Forest Service (USFS) road unless the road is paved to a minimum width of 18 feet, there is at least one defined lane in each direction and a maintenance agreement exists between the USFS and landowners adjacent to the road, a local government or a state agency.
  - h. When the lot or parcel on which the dwelling will be sited lies within an area designated in an acknowledged comprehensive plan as habitat of big game, the siting of the dwelling shall be consistent with the limitations on density upon which the acknowledged comprehensive plan and land use regulations intended to protect the habitat are based.
  - i. When the lot or parcel on which the dwelling will be sited is part of a tract, the remaining portions of the tract shall be consolidated into a single lot or parcel when the dwelling is allowed.

- j. When approval is granted to an application under the provisions of this Section, the application may be transferred only one time by a person who has qualified under this section to any other person after the effective date of the land use decision.

2. Large Tract Dwellings:

- a. If a dwelling is not allowed pursuant to subsection 1 of this section, a dwelling may be allowed if it complies with other provisions of law and is sited on a tract that does not include a dwelling.
- b. The dwelling shall be sited on a tract in eastern Oregon of at least 240 contiguous acres or 320 acres in one ownership that are not contiguous but are in the same county or adjacent counties and zoned for forest use. A deed restriction shall be filed pursuant to subsection (7) of this section for all tracts that are used to meet the acreage requirements of this paragraph.

3. Temporary Hardship Dwellings authorized by OAR 660-006-0025, which includes a manufactured dwelling or recreational vehicle, or the temporary residential use of an existing building, in conjunction with an existing dwelling as a temporary use for the term of a hardship suffered by the existing resident or a relative of the resident as defined in ORS 215.213 and 215.283, subject to the following:

- a. The manufactured dwelling shall use the same subsurface sewage disposal system used by the existing dwelling, if that disposal system is adequate to accommodate the additional dwelling. If the manufactured dwelling will use a public sanitary sewer system, such condition will not be required.
- b. Within three months of the end of the hardship, the manufactured dwelling or recreational vehicle shall be removed or demolished or, in the case of an existing building, the building shall be removed, demolished or returned to an allowed nonresidential use.
- c. A temporary residence approved under this section is not eligible for replacement under subsection 420.03(B)(4).
- d. When the hardship ends, the governing body or its designate shall require the removal of such mobile homes.
- e. The governing body or its designee shall provide for periodic review of the hardship claimed under this subsection.
- f. As used in this section, "hardship" means a medical hardship or hardship for the care of an aged or infirm person or persons as defined in OAR 660-006-0025(4)(t).

4. Replacement Dwellings: Alteration, restoration or replacement of a lawfully established dwelling that:

- a. Has intact exterior walls and roof structures;
- b. Has indoor plumbing consisting of a kitchen sink, toilet and bathing facilities connected to a sanitary waste disposal system;
- c. Has interior wiring for interior lights;
- d. Has a heating system.
- e. In the case of replacement, is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling.
- f. The replacement dwelling may be sited on any part of the same lot or parcel.

g. Replacement dwelling applications may be accepted for up to 1 year after the loss of a dwelling due to fire or natural disasters.

5. Accessory Farm Dwellings may be allowed subject to the criteria in Section 410.03(A)(4) of this ordinance.

6. Secondary Farm Dwellings may be allowed subject to the criteria in Section 410.03(A)(3) of this ordinance.

7. Caretaker residences for public parks and public fish hatcheries.

C. Commercial:

1. Type II Major Home Occupations, subject to the provisions of Section 760.03.

D. Transportation:

1. Widening of roads within existing rights-of-way in conformance with the transportation element of acknowledged comprehensive plans and public road and highway projects as described in ORS 215.213(1)(j) through (m) and 215.283(1)(h) through (k).

2. Reconstruction or modification of public roads and highways involving the removal or displacement of buildings, but not resulting in the creation of new land parcels.

3. Improvements of public road and highway related facilities, such as maintenance yards, weigh stations and rest areas, where additional property or right-of-way is required, but not resulting in the creation of new land parcels.

4. Temporary asphalt and concrete batch plants as accessory uses to specific highway projects.

5. Aids to navigation and aviation.

E. Utility/Solid Waste Disposal Facilities:

1. Utility facilities, and similar minor facilities necessary for public service and repair, replacement and maintenance thereof, except commercial facilities for the purpose of generating power for public use by sale and transmission towers under 200 feet in height.

2. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

3. A wind measurement device that is less than 200 feet in height if it is for temporary use for a period not to exceed 48 months.

4. Required permanent maintenance/ operations buildings for a wind power generation facility shall be located off-site in one of Baker County's appropriately zoned areas, except that such a building may be constructed on-site if (1) the building design and construction are generally consistent with the character of similar buildings used by commercial farm, ranch or forestry operations, and (2) the building will be removed or converted to farm or forest use upon decommissioning of the Wind Power Generation Facility.

5. Residential Wind Power Generation Facility in accordance with the provisions of Chapter 750 of this ordinance.

6. Water intake facilities, canals and distribution lines for farm irrigation and ponds.

F. Parks/Public/Quasi-Public:

1. Fire service facilities providing rural fire protection services.
2. An outdoor gathering described in ORS 197.015(10)(d), provided that a Temporary Permit has been granted per the requirements of Section 250.02.

**420.03 Uses Permitted Through a Type III Procedure.** In the TG Zone, the following uses may be permitted when authorized in accordance with the provisions of Section 205.06. These uses shall also require a Conditional Use Permit as described in Chapter 210 and subsection 420.06.

A. Farm/Forest Resource:

1. Permanent facility for the primary processing of forest products.
2. Permanent logging equipment repair and storage.
3. Log scaling and weigh stations.
4. Feeding stations and wildlife management areas subject to the provisions of Section 210.07(A).
5. Livestock feedlot, sales yard, hog farm or dairy herd confinement at any time of the year, or other concentration of livestock during May through September, when such uses are located within one mile of a residential zone.

B. Residential:

1. Template Test Dwellings:

- a. A single family dwelling may be established on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:
  - i. Capable of producing 0 to 20 cubic feet per acre per year of wood fiber if:
    - 1) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
    - 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  - ii. Capable of producing 21 to 50 cubic feet per acre per year of wood fiber if:
    - 1) All or a part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
    - 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
  - iii. Capable of producing more than 50 cubic feet per acre per year of wood fiber if:
    - 1) All of part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
    - 2) At least three dwellings existed on January 1, 1993 and continue to exist on the other lots or parcels.
- b. Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under this section. A proposed dwelling provided for under this section is not allowed if the tract on which the dwelling will be sited includes a dwelling.

- c. Except as provided by subsection (4) of this section, if the tract under this rule abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160 acre rectangle that is one mile long and ¼ mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road. d. If a tract 60 acres or larger described under this section abuts a road or perennial stream, the measurement shall be made in accordance with subsection (5) of this rule. However, one of the three required dwellings shall be on the same side of the road or stream as the tract, and:
  - i. Be located within a 160-acre rectangle that is one mile long and ¼ mile wide centered on the center of the subject tract and that is, to the maximum extent possible aligned with the road or stream; or
  - ii. Be within ¼ mile from the edge of the subject tract but not outside the length of the 160 acre rectangle, and on the same side of the road or stream as the tract.
- d. If a road crosses the tract on which the dwelling will be located, at least one of the three required dwellings shall be on the same side of the road as the proposed dwelling.
- e. A proposed dwelling under this rule is not allowed:
  - i. If it is prohibited by or will not comply with the requirements of an acknowledged comprehensive plan and acknowledged land use regulations or other provisions of law;
  - ii. Unless it complies with the requirements of OAR 660-006-0029 and 660-006-0035;
  - iii. Unless no dwellings are allowed on other lots or parcels that make up the tract and deed restrictions are established under subsection (7) of this section for the other lots or parcels that make up the tract are met.
- f. The following definitions shall apply to this rule:
  - i. "Tract" means one or more contiguous lots or parcels in the same ownership. A tract shall not be considered to consist of less than the required acreage because it is crossed by a public road or waterway;
  - ii. "Commercial Tree Species" means trees recognized under rules adopted under ORS 527.715 for commercial production.
- g. The applicant for a dwelling authorized by (1)(a) of this section that requires one or more lots or parcels to meet minimum acreage requirements shall provide evidence that the covenants, conditions and restrictions form adopted as "Exhibit A" in OAR 660-033-0135 has been recorded with the county clerk of the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - i. The covenants, conditions and restrictions are irrevocable, unless a statement of release is signed by an authorized representative of the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - ii. Enforcement of the covenants, conditions and restrictions may be undertaken by the Department of Land Conservation and Development or by the county or counties where the property subject to the covenants, conditions and restrictions is located;
  - iii. The failure to follow the requirements of the section shall not affect the validity of the transfer of property or the legal remedies available to the buyers of property which is subject to the covenants, conditions and restrictions required by this section;



- iv. The planning director shall maintain a copy of the covenants, conditions and restrictions filed in the county deed records pursuant to this section and a map or other record depicting tracts which do not qualify for the siting of a dwelling under the covenants, conditions and restrictions filed in the county deed records pursuant to this section. The map or other record required by this subsection shall be readily available to the public in the county planning office.
- h. Notwithstanding subsection (5)(a) of this rule, if the acknowledged comprehensive plan and land use regulations of a county require that a dwelling be located in a 160-acre square or rectangle described in subsection (B)(b)(1) or sections (3) or (4) of this rule, a dwelling is in the 160-acre square or rectangle if any part of the dwelling is in the 160-acre square or rectangle.
- i. Farm Management Dwellings may be established subject to the approval of the Baker County Planning Director, subject to the following:
  - i. A dwelling in conjunction with farm use may be established subject to applicable standards and finding that the proposed dwelling can satisfy all of the following criteria:
  - ii. The parcel is devoted to existing farm uses where the day-to-day activities are principally directed to the farm use on the parcel.
  - iii. The dwelling is customarily provided in conjunction with farm use.
  - iv. The parcel is large enough for the appropriate continuation of the existing commercial agricultural enterprise in the area.
  - v. The single-family dwellings and other buildings are customarily provided in conjunction with farm use.
  - vi. Compliance with such other conditions as the governing body or its designate considers necessary.

C. Commercial:

1. Private seasonal accommodations for fee hunting operations may be allowed subject to OAR 660-006-0025(5), OAR 660-006-0029, and OAR 660-006-0035 and the following requirements:
  - a. Accommodations are limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - b. Only minor incidental and accessory retail sales are permitted;
  - c. Accommodations are occupied temporarily for the purpose of hunting during game bird and big game hunting seasons authorized by the Oregon Fish and Wildlife Commission; and
  - d. A governing body may impose other appropriate conditions.
2. Private accommodations for fishing occupied on a temporary basis may be allowed subject to OAR 660-006-0025(5), OAR 600-060-0029, and OAR 660-006-0035 and the following requirements:
  - a. Accommodations limited to no more than 15 guest rooms as that term is defined in the Oregon Structural Specialty Code;
  - b. Only minor incidental and accessory retail sales are permitted;

- c. Accommodations occupied temporarily for the purpose of fishing during fishing seasons authorized by the Oregon Fish and Wildlife Commission;
- d. Accommodations must be located within ¼ mile of fish bearing Class I waters; and
- e. A governing body may impose other appropriate conditions.

- 3. Type III Major Home Occupations, subject to the provisions of Section 760.04.
- 4. Destination resorts reviewed and approved pursuant to ORS 197.435 to 197.465 and Goal 8.

D. Mineral, Aggregate, Oil and Gas Use:

- 1. Operations conducted for the exploration, mining and processing of aggregate and other mineral resources or other subsurface resources subject to the restrictions and permits of the Department of Geology and Minerals Industry.
- 2. Operations conducted for mining, crushing, or stockpiling of aggregate and other mineral and other subsurface resources subject to ORS 215.298.
- 3. Processing as defined by ORS 517.750 of aggregate into asphalt or portland cement.
- 4. Processing of other mineral resources and other subsurface resources.
- 5. Mining and processing of oil, gas, or other subsurface resources, as defined in ORS Chapter 520, and not otherwise permitted under subsection 420.02(E)(2) of this section (e.g. compressors, separators and storage serving multiple wells), and mining and processing of aggregate and mineral resources as defined in ORS Chapter 517.
- 6. Exploration for and production of geothermal, gas, oil, and other associated hydrocarbons, including the placement and operation of compressors, separators and other customary production equipment for an individual well adjacent to the well head.
- 7. Operations conducted for mining and processing of geothermal resources as defined by ORS 522.005 and oil and gas as defined by ORS 520.005 not otherwise permitted.

E. Transportation:

- 1. Expansion of existing airports.
- 2. Public road and highway projects as described in ORS 215.213(2)(p) through (r) and (10) and 215.283(2)(q) through (s) and (3).
- 3. Roads, highways and other transportation facilities, and improvements not otherwise allowed.
- 4. Transportation improvements on rural lands allowed by OAR 660-012-0065.
- 5. Personal-use airports for airplanes and helicopter pads including associated hangar, maintenance and service facilities. A personal-use airport as used in this Section means an airstrip restricted, except for aircraft emergencies, to use by the owner and, on an infrequent and occasional basis, by invited guest(s), and by commercial aviation activities in connection with agricultural operations. No aircraft may be used on a personal-use airport other than those owned or controlled by the owner of the airstrip. Exceptions to the activities permitted under the definition may be granted through waiver action by the Oregon Aeronautics Division in

specific instances. A personal-use airport lawfully existing as of September 13, 1975, shall continue to be permitted subject to any applicable regulations of the Aeronautics Division.

F. Utility/Solid Waste Disposal Facilities:

1. Wind Power Generation Facility in accordance with the provisions of Chapter 750 of this Ordinance.
2. Major utility facilities as defined in Chapter 150 of this ordinance.
3. Location dependent uses, such as communication towers, mineral and aggregate resources, etc.
4. Local distribution lines (e.g., electric, telephone, natural gas) and accessory equipment (e.g., electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals), or equipment which provides service hookups, including water service hookups for 2 or more dwellings.
5. A site for the disposal of solid waste that has been ordered to be established by the Oregon Environmental Quality Commission under ORS 459.049, together with the equipment, facilities or buildings necessary for its operation.
6. A site for the disposal of solid waste approved by the governing body of a city or county or both and for which the Oregon Department of Environmental Quality has granted a permit under ORS 459.245, together with equipment, facilities or buildings necessary for its operation.
7. Television, microwave, and radio communication facilities and transmission towers.
8. Utility facilities for the purpose of generating power. A power generation facility shall not preclude more than ten acres from use as a commercial forest operation unless an exception is taken pursuant to OAR chapter 660, division 004.
9. A wind measurement device that is greater than 200 feet in height.
10. A wind measurement device that will be used for a period exceeding 48 months.
11. Reservoirs and water impoundments.
12. New electric transmission lines with right of way widths of up to 100 feet as specified in ORS 772.210. New distribution lines (e.g., gas, oil, geothermal, telephone, fiber optic cable) with rights-of-way 50 feet or less in width.
13. Water intake facilities, related treatment facilities, pumping stations, and distribution lines.

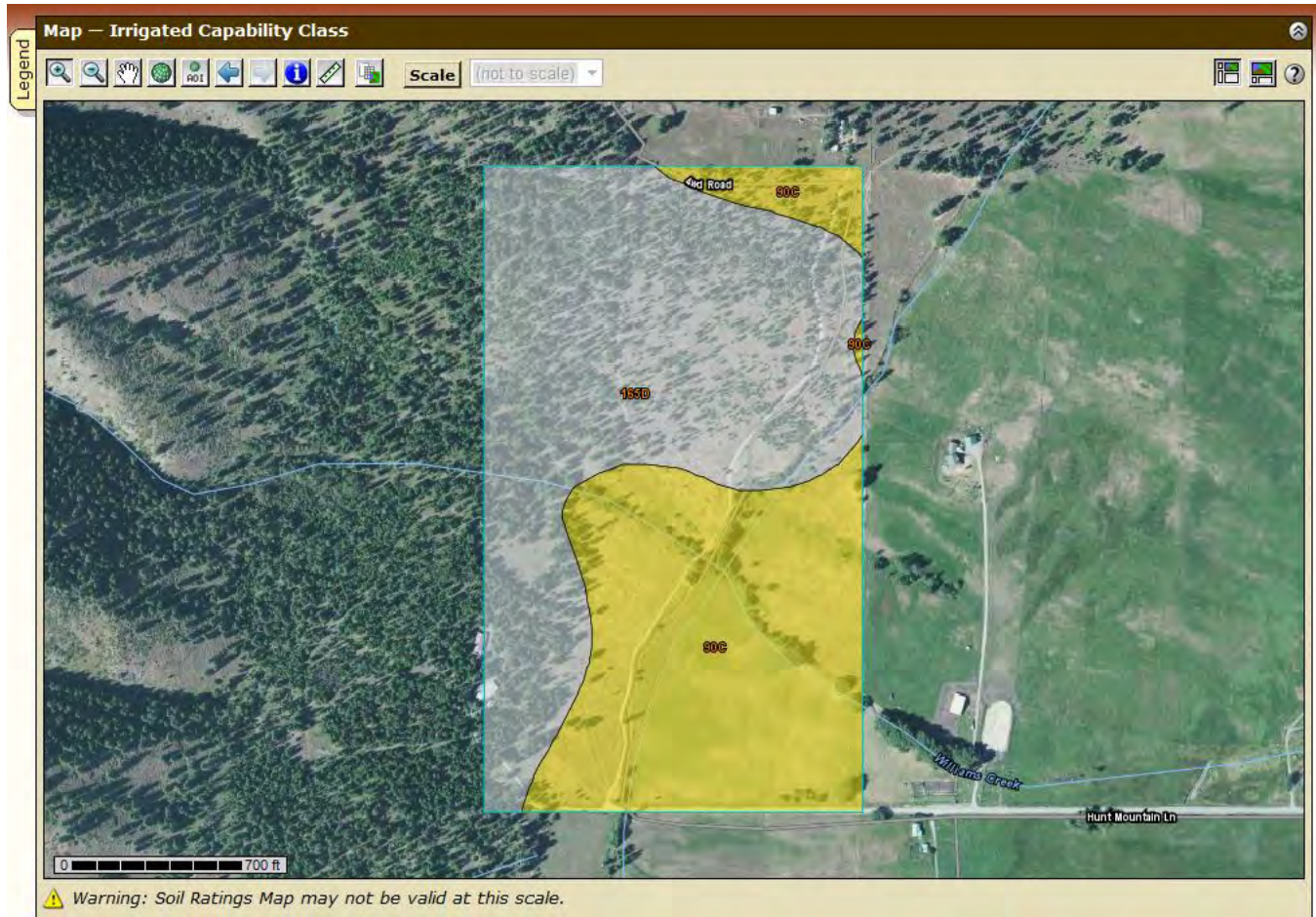
G. Parks/Public/Quasi-Public:

1. Public parks including only those uses specified under OAR 660-034-0035 or 660-034-0040, whichever is applicable.
2. Firearms training facility.
3. Cemeteries.
4. Any gathering subject to review by a County Planning Commission under the provisions of ORS 433.763. These gatherings are those of more than 3,000 persons which continue or can reasonably be expected to continue for more than 120 hours within any three-month period and any part of which is held in open spaces.
5. Private parks and campgrounds. Campgrounds in private parks shall only be those allowed subject to the following:

- a. Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR chapter 660, division 004. A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground. A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites.
- b. Campgrounds authorized by this rule shall not include intensively developed recreational uses such as swimming pools, tennis courts, retail stores or gas stations. Overnight temporary use in the same campground by a camper or camper's vehicle shall not exceed a total of 30 days during any consecutive 6-month period.
- c. Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. Separate sewer, water or electric service hook-ups shall not be provided to individual camp sites except that electrical service may be provided to yurts allowed for by the following paragraph.
- d. Subject to the approval of the county governing body or its designee, a private campground may provide yurts for overnight camping. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt. The yurt shall be located on the ground or on a wood floor with no permanent foundation. Upon request of a county governing body, the Commission may provide by rule for an increase in the number of yurts allowed on all or a portion of the campgrounds in a county if the Commission determines that the increase will comply with the standards described in ORS 215.296(1). As used in this rule, "yurt" means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance.

6. Fire stations for rural fire protection.

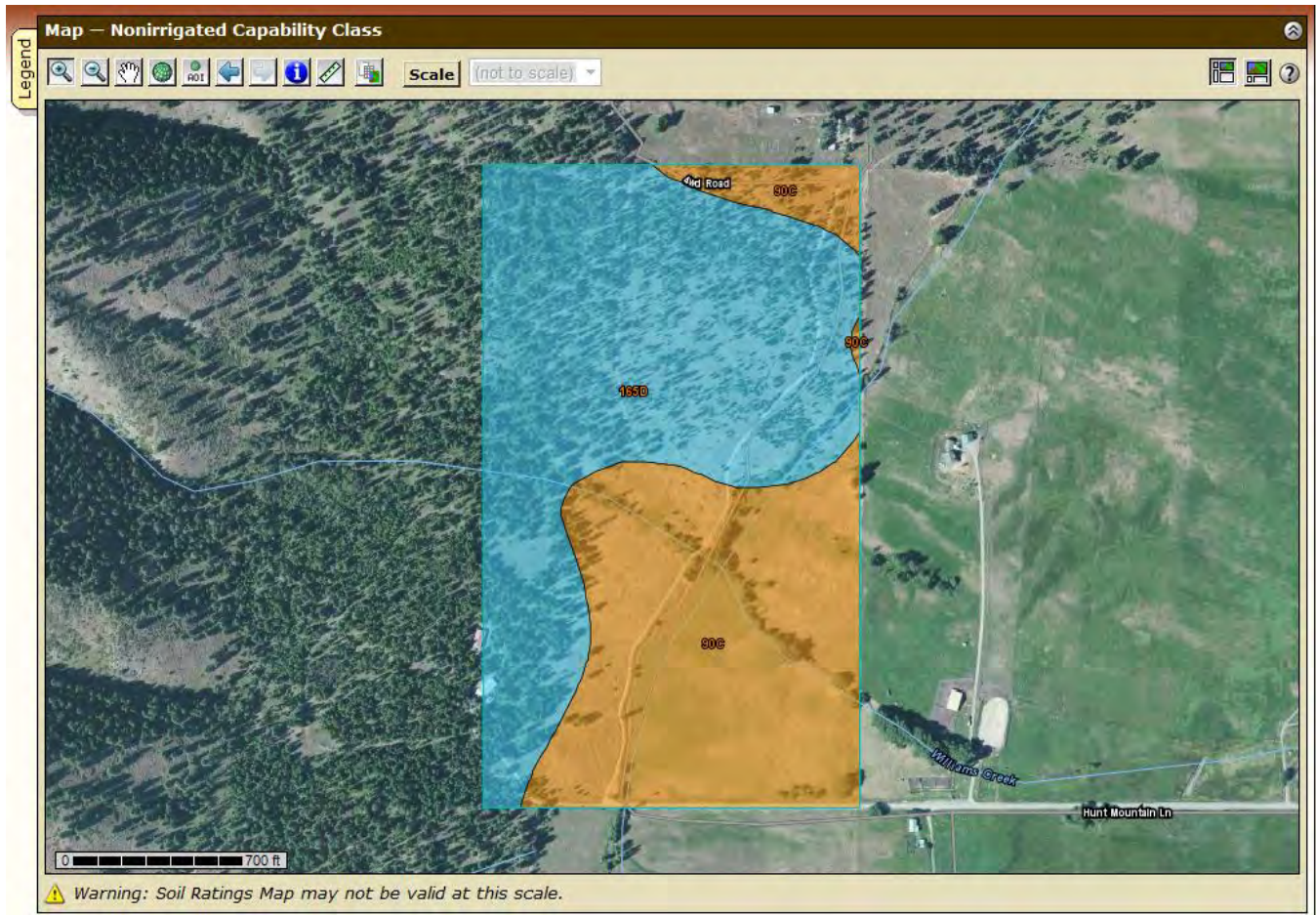
**Exhibit F: USDA Soil Maps**



**Tables - Irrigated Capability Class - Summary By Map Unit**

**Summary by Map Unit - Baker County Area, Oregon (OR604)**

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
90C	Ladd loam, 7 to 12 percent slopes	3	42.7	44.4%
165D	Tolo-Dogtown complex, 12 to 35 percent north slopes		53.5	55.6%
<b>Totals for Area of Interest</b>			<b>96.2</b>	<b>100.0%</b>



Tables — Nonirrigated Capability Class — Summary By Map Unit

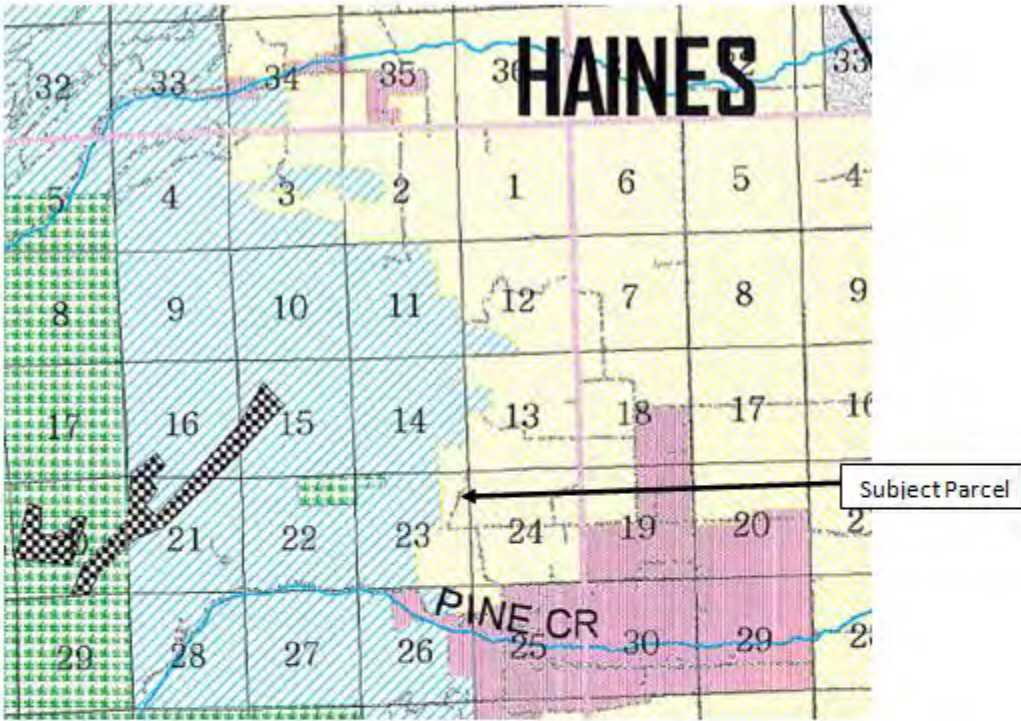
Summary by Map Unit — Baker County Area, Oregon (OR604)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
90C	Ladd loam, 7 to 12 percent slopes	2	42.7	44.4%
165D	Tolo-Dogtown complex, 12 to 35 percent north slopes	6	53.5	55.6%
<b>Totals for Area of Interest</b>			<b>96.2</b>	<b>100.0%</b>

**Exhibit G: Wetlands Map**



**Exhibit H: Zoning Map of Surrounding Area**



Zoning Legend	
	Rural Residential
	Recreation Residential
	Rural Service Area
	Exclusive Farm Use
	Primary Forest
	Timber Grazing
	Industrial
	Commercial Industrial
	Mining Extraction
	SVMA
	SVOZ
	Airport Overlay
	Airport Development
	Viewshed
	UGB