



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2540

Phone: 503-373-0050

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www.oregon.gov/LCD



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

Date: May 20, 2016
Jurisdiction: Jackson County
Local file no.: 439-15-00005-LRP
DLCD file no.: 006-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 05/17/2016. 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 44 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



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

FOR DLCD USE
DEPT OF
File No.:
Received: MAY 17 2016
LAND CONSERVATION
AND DEVELOPMENT

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: Jackson County

Local file no.: **439-15-00005-LRP**

Date of adoption: 05/11/2016

Date sent: 05/12/2016

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): 07/28/2015

No

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

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

Local contact (name and title): Craig Anderson, Senior Planner

Phone: 541-774-6918

E-mail: anderscm@jacksoncounty.org

Street address: 10 S. Oakdale

City: Medford

Zip: 97501

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 Forest Land to Rural Residential Land 19.7 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: **1700 Foots Creek Road, 37S-04W-02-4502**



NOTICE OF ADOPTION

Pursuant to Oregon Revised Statutes (ORS) 197.615, you are hereby being notified that the Jackson County Board of Commissioners adopted Ordinance No. 2016-8 at a properly advertised public hearing on April 6, 2016, at 1:30 p.m., in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford, Oregon 97501.

The ordinance will go into effect on July 10, 2016 (60 days from the date of adoption). A description of the ordinance follows:

Ordinance No. 2016-8 approving a minor Comprehensive Plan Map and Zoning Map Amendment requiring exceptions to Oregon Statewide Planning Goals 4 (Forest Land) and 14 (Urbanization) to change the Comprehensive Plan Map from Forest Land to Rural Residential Land and the Zoning Map from Woodland Resource (WR) to Rural Residential (RR-5) on a 19.7 acre property described as Township 37 South, Range 4 West, Section 2, Tax Lot 4502 and located at 1700 Foots Creek Road, Rogue River. Gene and Sarah Miller, owners. File No. 439-15-00005-LRP.

This notice is being mailed to you on May 12, 2016, which is within five working days after the adoption date of the ordinance(s) as required by ORS 197.615. If you have any questions on the effect of this ordinance, please contact **Craig Anderson** at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501. Telephone: Medford (541)774-6518.

You may review this ordinance, or you may purchase a copy for \$.25 for the first page and \$.10 for each additional page, at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501, between the hours of 8:00 a.m. and 4:00 p.m., Monday, Tuesday, Thursday and Friday; and 11:00 a.m. to 4:00 p.m. on Wednesday.

The Board of County Commissioner's Ordinances are the final decisions on this action. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on May 12, 2016, and the LUBA appeal period will expire on June 2, 2016. Please contact LUBA for specific appeal information. They are located at DSL Building, 775 Summer Street N.E. Suite 330, Salem, Oregon 97301-1283. They can be reached at (503) 373-1265.

Attachments: Notary Packet

NOTARY PAGE

STATE OF OREGON)
)
COUNTY OF JACKSON)

I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2016-8 by mailing a copy of the Notice of Adoption by regular mail (or delivered to county offices) or email to each of the following named persons at their respective last known addresses or emails, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on May 12, 2016.

Patricia A. Guida
Signature

Personally appeared before me this 12th day of May, 2016, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.



Laura A. Marshall
Notary Public for Oregon
My Commission Expires: 2-1-2020

NOTICE OF ADOPTION SENT TO: APPLICANT, AGENCIES AND INTERESTED PERSONS.

APPLICANT NAME: GENE & SARAH MILLER
FILE NO: 439-15-00005-LRP

ADOPTION LABELS
439-15-00005-LRP
GENE & SARAH MILLER
CREATED: 05/11/2016

APPLICANT 439-15-00005-LRP
GENE & SARAH MILLER
8630 STAPELTON RD
INDEPENDENCE, OR 97351

AGENT 439-15-00005-LRP
FRANK WALKER & ASSOC
1480 JAMESTOWN ST SE
SALEM OR 97302

BOC 439-15-00005-LRP
RICK DYER, CHAIR
BOARD OF COMMISSIONERS

BOC 439-15-00005-LRP
DOUG BREIDENTHAL
BOARD OF COMMISSIONERS

BOC 439-15-00005-LRP
COLLEEN ROBERTS
BOARD OF COMMISSIONERS

STAFF 439-15-00005-LRP
KELLY MADDING, DIRECTOR
DEVELOPMENT SERVICES

STAFF 439-15-00005-LRP
CRAIG ANDERSON
PLANNER

IP 439-15-00005-LRP
KEVIN CHRISTIANSEN
ROADS & PARKS

IP 439-15-00005-LRP
GREG ALEXANDER
ODF
5286 TABLE ROCK RD
CENTRAL POINT, OR 97502

IP 439-15-00005-LRP
KATHERINE DANIELS
DLCD
635 CAPITOL ST NE STE 150
SALEM OR 97301-2540

IP 439-15-00005-LRP
DARR KEVIN
1762 FOOTS CREEK RD
GOLD HILL, OR 97525

IP 439-15-00005-LRP
PRITCHETT ERNEST
1852 FOOTS CREEK RD
GOLD HILL, OR 97525

IP 439-15-00005-LRP
MONTGOMERY DONALD / VALERIA
PO BOX 1976
JACKSONVILLE, OR 97530

IP 439-15-00005-LRP
LINNELL BRAD
1392 FOOTS CREEK RD
GOLD HILL, OR 97525

IP 439-15-00005-LRP
DOYLE LYNNE/GREG
1696 FOOTS CREEK R FORK RD
GOLD HILL, OR 97525

IP 439-15-00005-LRP
STEVE ROUSE
PO BOX 3260
JACKSONVILLE OR 97530

IP 439-15-00005-LRP
YOLANDA MCPHERSON
1678 FOOTS CREEK RD
GOLD HILL OR 97525

IP 439-15-00005-LRP
STEVE MCGOWAN
1608 FOOTS CREEK R FORK RD
GOLD HILL, OR 97525

BEFORE THE BOARD OF COUNTY COMMISSIONERS

STATE OF OREGON, COUNTY OF JACKSON

ORDINANCE NO. 2016-8

AN ORDINANCE APPROVING A MINOR COMPREHENSIVE PLAN MAP AND ZONING MAP AMENDMENT REQUIRING EXCEPTIONS TO STATEWIDE PLANNING GOALS 4 (FOREST LAND) AND 14 (URBANIZATION) TO CHANGE THE COMPREHENSIVE PLAN MAP FROM FOREST LAND TO RURAL RESIDENTIAL LAND AND THE ZONING MAP FROM WOODLAND RESOURCE (WR) TO RURAL RESIDENTIAL (RR-5) ON A 19.7 ACRE PROPERTY DESCRIBED AS TOWNSHIP 37 SOUTH, RANGE 4 WEST, SECTION 02, TAX LOT 4502 AND LOCATED AT 1700 FOOTS CREEK ROAD, ROGUE RIVER. GENE AND SARAH MILLER OWNERS AND APPLICANTS. FILE NO. 439-15-00005-LRP.

RECITALS:

1. Pursuant to Chapters 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. On May 18, 2015, an application for a Minor Map Amendment was submitted to Jackson County. The application was deemed complete on June 17, 2015.
3. A notice of the proposed Amendment was provided to the Department of Land Conservation and Development (DLCD) on July 27, 2015, 171 days prior to the first evidentiary hearing. A notice was published on Sunday, November 29, 2015, in the Medford Mail Tribune that a first evidentiary hearing was scheduled before the Jackson County Planning Commission (JCPC) on Thursday, December 10, 2015, at 9:00 a.m. in the Auditorium of the Jackson County Offices, 10 South Oakdale, Medford. The first evidentiary hearing was continued to January 14, 2016.
4. A public hearing was held on January 14, 2016, before the JCPC in the Auditorium of the Jackson County Offices. After considering the evidence and testimony submitted, the JCPC, by motion and vote, recommended that the Board of Commissioners (BoC) approve the application. The motion failed on a split 2-2 decision, resulting in a recommendation for denial. The JCPC signed the Recommendation for Denial on January 14, 2016.

5. On April 6, 2016, the BoC held a properly advertised public hearing on the application. After considering the evidence and testimony submitted, including the record of the JCPC hearing, the BoC, by motion and vote, approved the application.

SECTION 1. FINDINGS OF FACT

Based on the evidence and arguments presented, the BoC makes the following findings of fact with respect to these proceedings. Where factual conflict arose, the BoC has resolved them consistent with these findings:

- 1.1 The BoC finds that proper legal notice was provided to the applicant, affected property owners and affected agencies on March 17, 2016, for a public hearing on this matter. Legal notice was published in the Sunday, March 27, 2016, edition of the Medford Mail Tribune.
- 1.2 The BoC finds that the JCPC's recommendations are based upon following proper procedures and hereby amends the JCPC's findings consistent with Section 2, below.

SECTION 2. LEGAL FINDINGS

Based on the evidence and arguments presented, the BoC makes the following legal findings with respect to these proceedings. Where factual conflicts arose, the BoC has resolved them consistent with these findings:

- 2.1 The BoC hereby adopts, as its own, the findings contained in the April 6, 2016, "Findings of Facts for Adoption for the Jackson County Board of Commissioners," prepared by Frank Walker and Associates, agent for the Owners and Applicants and attached hereto as "Exhibit A."
- 2.2 With regard to any approval criteria that is not addressed within Exhibit A, the BoC hereby adopts, as its own, the findings for such criteria contained in the Applicant's submission found on pages 49 – 183 of the JCPC record.

SECTION 3. CONCLUSIONS

- 3.1 The BoC concludes that proper public notice was given.
- 3.2 The BoC hereby concludes that the Applicant's findings and conclusions, hereby incorporated by reference as "Exhibit A", demonstrate that the application is in compliance with the applicable Statewide Planning Goals, Oregon Administrative Rules, Jackson County Comprehensive Plan provisions, and the Jackson County Land Development Ordinance.

SECTION 4. DECISION

NOW, THEREFORE, the Board of County Commissioners of Jackson County ORDAINS as follows:

- 4.1. Based on the record of the public hearing, the Board of County Commissioners hereby approves the requested minor Comprehensive Plan Map and Zoning Map Amendment requiring exceptions to Statewide Planning Goals 4 (Forest Land)

and 14 (Urbanization) to change the Comprehensive Plan Map from Forest Land to Rural Residential Land and the Zoning Map from Woodland Resource (WR) to Rural Residential (RR-5) on a 19.7 acre property described as Township 37 South, Range 4 West, Section 02, Tax Lot 4502 and located at 1700 Footh Creek Road, Rogue River. Gene and Sarah Miller, Owners and Applicants. File No. 439-15-00005-LRP.

ADOPTED this 11th day of May, 2016, at Medford, Oregon.

JACKSON COUNTY BOARD OF COMMISSIONERS

- Absent -

Rick Dyer, Chair

Colleen Roberts

Colleen Roberts, Commissioner

Doug Breidenthal

Doug Breidenthal, Commissioner

ATTEST:

Cherry Bonham
By: Recording Secretary

APPROVED AS TO LEGAL SUFFICIENCY:

[Signature]
County Counsel

This Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on _____, 2016, and the LUBA appeal period will expire on _____, 2016. Please contact LUBA for specific appeal information. They are located at 775 Summer Street NE, Suite 330, Salem, Oregon 97301-1283. They can be reached at (503) 373-1265.

**FINDINGS OF FACTS FOR ADOPTION
FOR
THE JACKSON COUNTY BOARD OF COMMISSIONERS**

PROPERTY OWNERS:

**GENE AND SARAH MILLER
8630 STAPLETON ROAD
INDEPENDENCE, OREGON 97351**

PROPERTY LOCATION:

**TOWNSHIP 37 SOUTH, RANGE 4 WEST
SECTION 2, TAX LOT 4200**

PREPARED BY:

**FRANK WALKER AND ASSOCIATES
1480 JAMESTOWN STREET S.E.
SALEM, OREGON 97302**

APRIL 6, 2015

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FINDINGS OF FACT FOR GOAL 3 AGRICULTURE

The following findings of fact are submitted for adoption by the Jackson County Board of Commissioners:

- The subject property has never received a property tax deferral for agricultural use.
- The subject property is more than one mile from the nearest commercial agricultural enterprise.
- The adjacent parcel analysis required by OAR 660 unquestionably demonstrates no farming activities, commercial or non-commercial, on any adjacent parcels or even on surrounding parcels beyond those that are adjacent.
- Eleven properties are adjacent to the subject property and eight of them are zoned Rural Residential (RR)-, the other three are Woodland Resource with no farm deferrals.
- Though the soils meet the statutory definition of farm land, they were not protected by an Exclusive Farm Use Zone.
- The absence of water for irrigation and the absolute requirement for storm drainage precludes any serious consideration of this property for farm use.
- No irrigation rights are available to the subject property, a prerequisite for farming the Ruch Soils.

FINAL FINDING: None of the adjacent properties have any documented farming activity historically or at the present time. Small parcelization, Rural Residential Zoning on eight of the eleven parcels, generally poor and disturbed soils and the absence of irrigation water has precluded the establishment of a commercial agriculture enterprise.

FINDINGS OF FACT FOR GOAL 4 FORESTRY

The following findings of fact are submitted for adoption by the Jackson County Board of Commissioners:

- Consulting Forester, Norman Foeller, conducted a Forest Productivity Analysis on August 22, 2013 and made the following findings:
 - 1.) There are 2.2 acres that have identifiable natural stands of conifers.
 - 2.) The Planning Notes require the use of Meyer's Ponderosa Pine Tables (Exhibit A and Culmination of Mean Annual Increment for Commercial Forest Trees in Oregon (Exhibit B).
 - 3.) The measured Site Index is 101.
 - 4.) The corresponding site productivity based on the data source required by the Oregon Department of Forestry Land Use Planning Notes Number 3, April 1998, Updated for Clarity April, 2010 (Planning Notes) is 103 cubic feet per acre per year at the culmination of mean annual increment (CMAI) for *fully stocked* natural stands.
The methodology and equipment used in data collection were: 1.) Spiegall Relaskop, 2.) 50 and 75 -foot tape reading in inches and diameter, 3.) eight and twelve inch increment borers, 4.) Range Finder, and 5.) hand compass.
 - Tree species on the tract in question: 1.) There are 2.2 (11%) acres of fully stocked ponderosa pine stands which could be sampled for productivity, 2.) There are 3.4 acres (16%) acres which consist of existing improvements and associated fuel break. 4.) There are 14.4 acres (73%) acres consisting primarily of Oregon white oak, Pacific madrone, ceanothus, poison oak, isolated groups of Ponderosa Pine, and small openings.
 - The number of Dominant or Co-Dominant tree species sampled: 25 Ponderosa Pine.

Conclusion by Norm Foeller:

"This is not commercial forest land."

- The property owners upon learning that the property was rezoned from OSD-5 to WR-20 attempted to comply with stocking requirements in order qualify for a forest deferral.
- On December 27, 1974 the owners applied to designate 16 acres out of the 19.7-acre ownership as Forest Land.
- The owners stocked the entire property into timber except for the 3.7 acres around their dwelling compound in 1975.
- On April 15, 1983 the Jackson County Assessor's Office disqualified 8 acres from special assessment as Forest Land because the property was "understocked" according to the April 15, 1983 letter from Appraiser Hanson to the Millers.
- The Millers had to pay \$812.27 for five years of deferred taxes because the tree seedlings they planted/interplanted had nearly a 100% mortality rate. On July 7, 1982 a letter was sent by LaVar Hansen, an appraiser with the Jackson County Assessor's Office (Land

4.

Appraisal Section) stating that if the remaining 8 acres “are not brought up to stocking requirements to maintain this assessment, they will be subject to disqualification as of January 1, 1983.”

- The aridity of this site as identified in the published soil survey (page 246) and in direct testimony at the Planning Commission Hearing by Norm Foeller, affirm that conditions are adverse to establishing timber seedlings.
- Norm Foeller, the consulting forester, testified at the Planning Commission Public Hearing that the site was “like a desert.”
- According to page 246 the Soil Survey of Jackson County Area, Oregon, “ Also included are small areas of Xerothents, small areas of Dumps, and small areas of Ruch soils that have slopes of more than 7 percent.”
- According to the Webster New World Dictionary: Xeric is defined as “of pertaining to, or having dry or desertlike conditions.”
- A second definition of Xeric is “characterized by, or adapted to extremely dry habitat.”
- The term “Dump” is also used in describing the co-dominant (96.9% according to the WEBSOIL SURVEY) Ruch silt loam soil.
- The term “Dump” in taxonomic soil definitions is “foreign material” such as waste from mine tailings.”
- According to Rogue River USGS 7.5 Minute Quadrangle Map, “Dredge Tailings” are mapped along the right and middle forks of Footh Creek and tributaries such as Gold Gulch and Womens Gulch. A large tailing pile is immediately south of the subject property and obvious tailing are located on Tax Lot 4503 directly to the north.
- The areas shown in white on the USGS Map are old mine tailings resulting from dredging along the above referenced creeks. A significant mine tailing is located on the south end of the subject property and on both sides of Milham Lane as shown in Exhibit 1.
- The Soil Survey for Jackson County Area, Oregon and the USGS 7.5 Minute Quadrangle map both affirm the presence of “Dumps” and “Dredge Tailings.”
- The Norm Foeller Forest Productivity Analysis ultimately states the following: “The reasons for the limited forest productivity are lack of adequate rainfall, hot growing seasons, and poorly developed soils. Climatic conditions beyond the chemical and physical properties of the soil also limit conifer production.”

FINAL FINDING: VERIFIABLE EVIDENCE FROM THE CONSULTING FORESTER, THE JACKSON COUNTY AREA, OREGON SOIL SURVEY AND THE USGS 7.5 MINUTUE QUADRANGLE MAP ESTABLISHES A PROFILE OF THE SUBJECT PROPERTY THAT RENDERS IT GENERALLY UNSUITABLE FOR THE ESTABLISHMENT AND CONTINUOUS PRODUCTION OF FOREST TREE SPECIES.

5.

FINDINGS OF FACT FOR GOAL 14 URBANIZATION

The following findings of fact are submitted for adoption by the Jackson County Board of Commissioners:

According to OAR 660-014- 0030, "A conclusion supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard that it is not appropriate to apply Goal 14's requirement prohibiting the establishment of urban uses on rural land.

Land Use Findings

- According to the Jackson County Comprehensive Plan (Page 14-10) the Foothills non-resource zoned area is part of a much larger exception area that is referred to as Rogue River-Gold Hill "Committed Urban or Urbanizable Land."
- According to Page 14-10, Rogue River-Gold Hill has 1591 Total Tax Lots.
- According to Page 14-10, there are 1591 total tax lots with 1467 total owners.
- According to Page 14-10 a total of 3340.6 acres is presently in 1547 residential tax lots for an average parcel size of 2.16 acres.
- The proposed parcel size for the subject property would be 4.9 acres.
- The percent increase in exceptions lands would be .005% or 1/200th of one percent.
- The number of residential lots would increase from 1547 to 1551 for an increase of .25%.

Impact Findings

Electric Power (According to PP&L)

- According to Pacific Power and Light, the level of electrical power capacity and the number and types of lines are the same for Foothills as it is for the towns of Rogue River and Gold Hill.
- This area is dependent on electrical power that originates at a substation in Rogue River located on the south side of the Depot Street Bridge.
- Both urban and rural areas are served by this substation (PP&L).
- The feeder lines along Foothills Road are all overhead and are continuously linked to the substation in town.
- Both sides of Foothills Road and all branches of the road have electric power service.
- The electric service to Milham Lane where three future lots could be developed, are 2-3 phase, which is more than adequate to supply the new dwellings.
- The power poles on the east side of Foothills Road to Milham Lane are classified as 2-3 phase. This type of phase is more than adequate to accept urban levels of improvements.
- The 2-3 phase can easily be converted to 3 phase (PP & L).

6.

- PP & L purposely designed these lines for future capacity when the area was zoned for five acre parcels (This according to a representative of PP&L).

Transportation Roads (According to ODOT and Jackson County)

- The subject property is served by Footh Creek Road which is a two-lane paved road with a painted center stripe, fog line, shoulder, ditch and backslope. It originates at Highway 99.
- Footh Creek Road is designed to near urban standards for Turnpike Streets, though lacking curbs and sidewalks. The road surface is elevated above ditches,
- Footh Creek Road has an average daily traffic loading (ADT) of 1466 near the intersection of State Highway 99. (ODOT)
- The ADT of Footh Creek Road is consistent with traffic characteristic of urban collectors.
- The travel lanes of Footh Creek Road are 10 feet wide. The improved portion of the 60' right-of-way (including fog lines, shoulders, ditches and back slopes is 60 feet.
- The total right-of-way dedication of 60 feet is consistent with that of urban collector streets.

Schools (According to discussions with School District Administrators)

- The Footh Creek Area is dependent on public schools located in Rogue River
- The Rogue River School District provides bus service both to areas in Rogue River and areas outside of the city limits including Footh Creek Road and Hosmer Lane.
- The school bus routes originating from Rogue River serve all forks of Footh Creek Road.
- The school district administrator stated that the schools have capacity to accept children from three potential new residences.

Fire Protection (According to telephone calls and visits to Rogue River and Gold Hill Fire Departments).

- The Rogue River Fire Department has a reciprocal agreement with the Gold Hill Fire Department to respond to fires jointly if necessary.
- The subject property is in the Rogue River Fire District and it is 6.1 miles to the fire station.
- Gold Hill Fire District does provide support services to structural fires in the event Rogue River cannot respond.
- The Rogue River Fire Department Interim Chief expressed an interest in possibly securing a satellite fire station on the subject property if available for sale.
- The subject property, particularly the dwelling compound, received counsel from the Rogue River Fire District to safeguard the dwelling and barn by implementing fire safety standards including access, a large turnaround for fire apparatus, limbing of trees, elimination of low fire fuels and thinning of trees to prevent crown fires. In addition, the fire department uses the Miller residence as an example of how to construct fire breaks for protection against wildland fires.

Police Protection (Oregon State Police)

- The Oregon State Police maintain a station near Gold Hill. The Jackson County Sheriffs Department provides patrols for the Footh Creek area.

7.

FINAL FINDING: The levels of services common for the Rogue River-Gold Hill Exception Area affirm the exception status of this area. The subject property has accessibility to the exact same services. The parcels size of five acres is actually somewhat larger than the 2.16-acre average parcel size for this designated exception area. The subject property was zoned OSD-5 prior to implementation of the Comprehensive Plan which was consistent with the parcel size in the area.

8.

FINDINGS OF FACT FOR JACKSON COUNTY COMPREHENSIVE PLAN

EXCERPTS FROM THE COMPREHENSIVE PLAN

- **It is in the interest of the county to support programs to preserve resources which contribute significantly to the local economy” (page 14-1)**

Response: The subject property and adjacent parcels have not made any significant contribution to the local economy based on the resource use of the land.

- **The intent of the exceptions process is to permit necessary flexibility in the application of the statewide planning goals**

Response: The goal does allow an exception process based on the characteristics of the land, adjacent uses and the relationship between them. A positive finding was made that the subject property has extreme limitations based on soil disturbance, aridity, heat and absence of irrigation water to prevent crop and timber losses. Adjacent lands have very similar problems except they are smaller and offer no connectedness for forestry or farming (Oregon Administrative Rule Chapter 660 and page 14-1).

- **CRITERION 2. A developed parcel in separate ownership located on forest land, which is less than six acres in size and is not in forest use, is generally committed provided that a minimum of three parcels or about 20 acres is necessary for committing the area.**

Response: This word “or” in this criterion allows parcels of about 20 acres for committing an area to non-resource uses. The subject property is 19.7 acres, has a dwelling and has minimal area suitable for timber (2.2 acres according to licensed forester).

- **Criterion 5. A parcel in separate ownership of 10 acres or more in size is not committed except for those isolated instances where the adjacent surrounding land use is developed and committed, and the subject parcel has no apparent resource use, resource potential, or special tax assessment. (Page 14-7)**

Response: The subject property, by majority of area, does not have special tax assessment and the owners would be willing to relinquish the remaining amount of tax assessment if the OSD-5, (now RR-5). The Findings in this report have already amply demonstrated that surrounding lands are built and committed to non-resource use, especially every adjoining property (nine of eleven properties).

- **Use of the Plan requires a balancing act of its various components on a case-by-case basis, as well as the selection of those particular items and factors most pertinent to the issue at hand. (Page 1-2)**

9.

Response: The above excerpt is from the section entitled "Use of the Plan." This section affirms that issues can be considered on a case by case basis.

FINAL FINDING: The Comprehensive Plan is the blueprint for land use planning in the county and it supersedes zoning. The Comprehensive Plan has the full force and effect of law, yet has the flexibility to allow changes under exceptional circumstances. The subject property is exceptional because it has proven lack of capability for timber, no true effect on buffering production forest lands and is totally surrounded by properties that are partially or wholly dedicated to non-resource use.

10.

FINDINGS OF FACT OREGON ADMINISTRATIVE RULES CHAPTER 660 (RELATIONSHIP TO ADJACENT LANDS)

The following information is submitted in response to OAR Chapter 660. Findings must be made to show the relationship (connectedness) between the subject property and adjacent parcels.

Tax Lot 4501: This undersized parcel of 9.85 acres is split zoned Woodland Resource and Rural Residential 5-Acres. The amount of acreage in the WR Zone is 8.33 acres and the amount in RR-5 is 1.52 acres. Neither of the zoned areas on this property meet the minimum lot size standard for the zone. This property only shares a 109' common boundary with the subject property. and that is with the RR-5 zoned portion of the property. The 60' right-of-way of Milham Lane separates the subject property from the entire length of Tax Lot 4501 including the 1231' flagstrip that connects to Fooths Creek Road. Only the RR-5 zoned portion of this property borders Milham Lane which forms the eastern boundary of the Miller property.

The Woodland Resource zoned portion of this property is located to the north and does not directly border the subject property. The area to the north also contains all of the above ground property improvements such as the dwelling, outbuildings, drainfield and driveways. The amount of land available for Woodland Resource is fewer than five acres after subtracting out the long flag lot and the property improvements.

This property has no connection to this property with respect to resource use. There has never been any shared forestry or agricultural activities between the two properties with a likelihood there never will be based on the non-resource use of each respective ownership.

The land classes for the property are 5.23 Rural Tract Land and 4.62 acres of Forest Land.

Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. There is no connectedness between the two properties for any type of resource use. This property does not receive full forest deferral taxation.

Tax Lot 4504: This substandard parcel is 4.74 acres and is zoned entirely RR-5. It is not directly adjacent to the subject property being separated by the 60' right-of-way by Milham Lane and the 30' flagstrip for Tax Lot 4501. This property also has a flag strip connecting directly to Fooths Creek Road similar to that of Tax Lot 4501. This property is largely bordered by Fooths Creek on the east although there appears to a small amount of property east of the creek.

There has never been any relationship between these two properties that was related to the resource use of the subject property owing to physical segregation and the obvious difference in zoning and development levels. This property is clearly built and committed to non-resource use even though it does have 3.74 acres assessed as Forest Ground.

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Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. There is no connectedness between the properties especially because of intervening “flag strips” for roads.

Tax Lot 4505: This substandard parcel is 4.51 acres and is zoned RR-5. It is not directly adjacent to the subject property because it is separated by the right-of-way of Milham Lane and the two 30 foot flagstrips that connect Footh Creek Road with Tax Lots 4504 and 4501. This parcel has a very large dwelling with significant areas dedicated to improvements.

There has never been any relationship between these two properties because of physical segregation and different zoning. This property borders Footh Creek on the east but there is no resource use of the property and it does not receive deferral for resource use. There is no relationship between these two properties with respect to resource use nor will there likely be in the future.

Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. This property is classified exclusively as rural tract land for assessment purposes (Code 401).

Tax Lot 1801: This very small parcel is .67 acres and is zoned RR-5. It is only 13.4% of the required minimum lot size for the RR-5 zone. It shares only a small common boundary to the middle of Footh Creek Road with the subject property. In fact, it only touches on a point. This property is fully built (1952) and committed to rural residential use and receives no property tax deferral. This is exclusively rural tract land (Code 401).

Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. There is no connectedness between the two parcels, nor has there ever been.

Tax Lot 1800: This substandard parcel is only .78 acres and is zoned RR-5. It is only 15.6% of the required minimum lot size for the RR-5 zone. It has a common boundary to the middle of Footh Creek Road of 125 feet. Nearly all of this lot is covered with improvements. The property does have a dwelling from 1995 and is committed to rural residential uses. This property does not receive deferred taxes for resource use. This property is exclusively rural tract land (Code 401).

Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use and there is no connectedness between them.

Tax Lot 1900: This substandard parcel is .93 acres or 18.6% of the minimum lot size of the RR-5 Zone. It has a common boundary to the center of Footh Creek Road of 125 feet with the subject property. This property is fully improved with a dwelling and has no resource potential left which accounts for why it does not receive a tax deferral for resource use because it is classed as rural tract land (Code 401).

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Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. There is no connection between this property and the subject property for resource use.

Tax Lot 2000: This substandard parcel is 1.99 acres or approximately 40% of the of the minimum lot size for the RR-5 Zone. It only connects at a point in the center of Footh Creek Road with the subject property. It is evident from examining improvements that the property is no longer available for resource use. It is fully improved with a dwelling and it receives no tax deferral for resource use because it is classified as rural tract land (Code 409).

Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. There is no connection between these properties for the resource use of the subject property.

Tax Lot 3900: This substandard parcel is 2.44 acres or 48.8% of the minimum lot size for the RR-5 Zone. It has a common boundary of 649 feet with the subject property. This property is very built and committed to non-resource use as evidenced by the five buildings on the property. It is also devoid of farm use and healthy forest use owing to the fact that it was impacted in the past by gold mining dredge spoil. It is interesting to note that the property to the south that was unaffected by dredge spoil has a much denser forest with more canopy cover and larger trees.

Though there is a large common boundary on flat ground uninterrupted by road rights-of-way and streams, there is still no connectedness between the parcels for resource use. This property receives no tax deferral for farm or forest use either because it is classified as rural tract land (Code 401). This is the first property examined thus far that actually has a direct boundary with the subject property and yet there is no shared resource use of the land for farm or forest activities.

Conclusion: The uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use. No connection of resource uses was observed.

Tax Lot 4800: This property is zoned for Woodland Resources and is 35.22 acres or 75.1% greater than the minimum lot size of the zone. It has a common boundary with the subject property of 791 feet. A distinct firebreak exists between the two properties at their common boundary because it was cleared for an airplane landing strip. The landing strip varies but averages right at 100 feet wide. This open area is devoid of low fire fuel that could be a "ladder" to tree canopies to the west. For over more than half of the common boundary the firebreak increases from the 100' wide area of the landing strip to more than 500 feet. Any ground fire originating on the subject property has reasonable potential for interdiction, especially where the 500' buffer is located. There is also a third firebreak around the dwelling on the subject property that could slow the advance of any potential fire. It should also be noted for the record that there is both access from the north and south whereby fire apparatus can easily penetrate the site.

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The subject property and Tax Lot 4800 have no contiguous forest lands and the quality of the forests on both properties is similar at the interface. This property does not have Douglas Fir on the extreme western boundary as earlier stated. The deep ravine timber is on the property immediately west of Tax 4800. *Only 5.92 acres of this property has land classed as Forest Ground, while 29.30 acres are classified as Rural Tract Land.*

Conclusion: Both properties are zoned WR but neither of them have any documented evidence that the forest lands have been productive. This property has substantial areas with no timber and other areas in the northwest corner with large amounts of surface rock. Both properties are considered as buffers to higher elevation timber lands to the west. This property with its multiple firebreaks, two driveway access points, low timber productivity and greater width (1337' to 491') is more ideally suited for a buffer. This property only borders three RR-5 zoned properties while the subject property borders eight of them. There is far less impact to resource use on this parcel because it has no public road frontage.

Further, the uses and activities on this property do not preclude resource use of the subject property but they also contribute nothing to the resource use even though the zoning is the same. Neither property owners share equipment, labor or knowledge and have been embroiled in a long-standing property line dispute.

Tax Lot 4700: This property is zoned WR and is 25.29 acres. It has a common boundary of about 500' with the subject property. This property does exceed the minimum lot size of the WR zone by 25.2%. This property contains a dwelling and outbuilding and has an access easement through the subject property. This easement had been a point of contention because it is owned by the Millers. There is no cooperation between the property owners with respect to the resource use of the land because of a feud concerning the easement. More of this land is classified as rural tract land (14.61 acres) than forest ground 10.68 acres.

The access that serves Tax Lot 4700 is 30 feet wide by 491 feet long and thus reduces the amount of land available for resource use on the subject property by .34 acres. The potential for ground fires is less at this location because there are multiple fire breaks including driveways and naturally barren areas. There is no connectedness between the properties except for the access easement that connects this tax lot with Milham Lane. Both properties tend to have sparse vegetation along their common boundary which reduces the potential for ground fires. This property *is predominantly classified as Rural Tract (14.61 acres)*. The Forested Portion is 10.68 acres and does receive deferral.

Conclusion: Neither property contributes to the other with respect to the resource use of the lands. There is no connection except for access.

Tax Lot 4503: This substandard parcel is 8.16 acres and contains the most obvious mine tailings of any adjacent property. This property is only 40.1% of the minimum lot size for the WR zone and contains a large dwelling compound. The tailings occupy a majority of the northeast quarter of the site and a strip along the road frontage immediately east of the residence. This property is very open and trees tend to be scattered. No conifer vegetation is found on this property, only low height oak trees.

There is no connectedness between this property and the subject property with respect to resource use, nor has there ever been. The small size (8.13 acres), large areas of mine tailings and a large dwelling

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compound severely reduce the amount of land available for resource use. The property *is exclusively Rural Tract Land for assessment purposes (Code 401). No deferral is given for the scant tree cover.*

Conclusion: None of the adjacent parcels to the subject property contribute to the commercial agricultural economy of the area and none of them contribute to the forest enterprise of the area either. Those properties zoned WR have a majority of their acreage designated as Rural Tract Lands rather than Forest Lands. The subject property simply has no connection to any adjacent properties that are either positive or negative for resource use. This is due in part to the fact that the subject property has a very limited portion of land (2.2 acres) mapped as forest land by a qualified professional forester.

FINAL FINDING: The uses on adjacent properties are very predominantly rural residential either by the fact they are zoned that way or the fact the land is used for that purpose. The Jackson County Assessor's Office does not assign full scale forest use to any adjacent property. There is no cohesive farm or forest enterprise from adjacent or nearby ownerships based on actual usage, past or present.

FINDINGS OF FACT IN RESPONSE TO CONCERNED CITIZEN ISSUES AND PLANNING STAFF

HYDROLOGY: Claims are being made that there are water shortages.

Response: According to the Oregon Department of Water Resources, the subject property and surrounding area are not in a Groundwater Restricted Area or a Groundwater Limited Area. The record contains over 110 well logs from the immediate area and there are no abandonments and only 5 deepenings. The following are the vital statistics regarding water:

- First Depth to water average: 66.86 feet
- Average completed depth: 124 feet
- Average Static Water Level: 25.22 feet
- Average yield in gallons per minute: 17.76
- Abandoned wells: 0
- Deepened wells: 5

The above verifiable statistics from the Oregon Well Log Query, Oregon Department of Water Resources site clearly demonstrates there is no water problem in this area.

WILDLIFE: Claims are being made that three additional dwellings will deter wildlife from the area, especially deer.

Response: According to the Oregon Department of Fish and Wildlife, there are no rare, threatened or endangered species in this already impacted area. Based on multiple field trips to the site over a three year period and personal observation of the owners, deer are abundant and move freely in amongst the homes of the area. There is no evidence provided by the neighbors that deer are, in fact, threatened, only that they migrate on certain trails at predictable times.

ACCESS: Claims are being made by the Planning Staff that Milham Lane has compromised access.

Response: The owners do not need Milham Lane to add three additional parcels because they can use a private driveway originating from Foothills Road. The issue of Milham Lane access could also be resolved through existing governmental channels.

Final Finding: None of the above alleged issues are deterrents to this decision. The thrust of the opposition is that neighbors don't want any more houses in the area since they already have their homes. The most vociferous opponent has a strained relationship with the Millers over property boundary disputes and the access easement and does not address whether this proposal meets the approval criteria. The published materials in the Soil Survey and the findings by the professional forester counter comments that this area is not dry. The soils clearly have a Xeric element that documents the aridity of the soils. This is an indisputable fact.

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