



# Oregon

Theodore R. Kulongoski, Governor

H-5

Department of Forestry  
Western Lane District  
PO Box 157  
Veneta, OR 97487-0157  
(541) 935-2283  
FAX: (541) 935-0731  
[www.odf.state.or.us](http://www.odf.state.or.us)



"STEWARDSHIP IN FORESTRY"

June 18, 2004

Wilhelm Hagen  
88643 Collard Lake Rd.  
Florence, OR 97439

I have reviewed your data and spot checked several areas for site index in both of the parcels identified as follows: Map No.17-12-35-40 Tax lot 500; Map No. 17-12-36-30 Tax lot 1702. It appears that your conclusions are correct. All correlations between site index and cubic feet of timber growth per acre per year fall well below the 20 cubic foot level and therefore do not fit the minimum level of lands suitable for reforestation as per OAR 629-610-0010.

Sincerely yours,

Jim Hall

Stewardship Forester

PLOT PLAN

DON WOLFORD PLS.  
87180 MUNSEL LAKE ROAD  
FLORENCE, OR 97439  
(541) 997-4455

NARRATIVE:

THE PURPOSE OF THIS SURVEY WAS TO ADJUST THE PROPERTY LINES BETWEEN (R-1), (R-2), AND (R-3). I FOUND MONUMENTS AS SHOWN AND HELD THE SECTION LINE BETWEEN SECTIONS 35 AND 36 AS BASIS OF BEARING FOR THIS SURVEY PER (R-4). I HELD THE FOUND POSITIONS OF THE BOUNDARY MONUMENTS AND ADJUSTED THE PROPERTY LINES PER DIRECTIONS OF THE OWNER. PROPERTY 2 IS UNSURVEYED EXCEPT THE ADJUSTED PROPERTY LINES AND OTHER MONUMENTS AS SHOWN. LEGAL LOT VERIFICATION FOR TL 2901 IS LANE COUNTY PA 98-5225, AND FOR TL 1702 IS LANE COUNTY PA 99-6133.

EQUIPMENT USED, NIKON A20LG TOTAL STATION.

REGISTERED  
PROFESSIONAL  
LAND SURVEYOR  
*Don Wolford*  
DONALD WOLFORD  
JANUARY 21, 1983  
001442 2002  
PLSD 0965 6/30/00

SURVEY REFERENCES:

- (R-1) RR NO. 9556636 LCODR.
- (R-2) RR NO. 200005047 LCODR.
- (R-3) RR NO. 200005048 LCODR.
- (R-4) CSF 34634.
- (R-5) CSF 32952.
- (R-6) MERCER LAKE HEIGHTS, BOOK 58 PAGE 25 LCOPR.
- (R-7) CSF 22344.
- (R-8) CSF 33236.
- (R-9) CSF 27445.

CURVE CHART			
CURVE	CHORD	RADIUS	LENGTH
C1	N50°55'06"W 280.20'	411.97'	285.90'
C2	S39°18'09"E 119.58'	411.97'	120.00'
C3	N21°23'14"W 136.99'	411.97'	137.63'
C4	S80°06'20"W 42.53'	125.52'	42.74'

PROPERTY LINE ADJUSTMENT SURVEY

FOR  
SHEPHERD-HAGEN

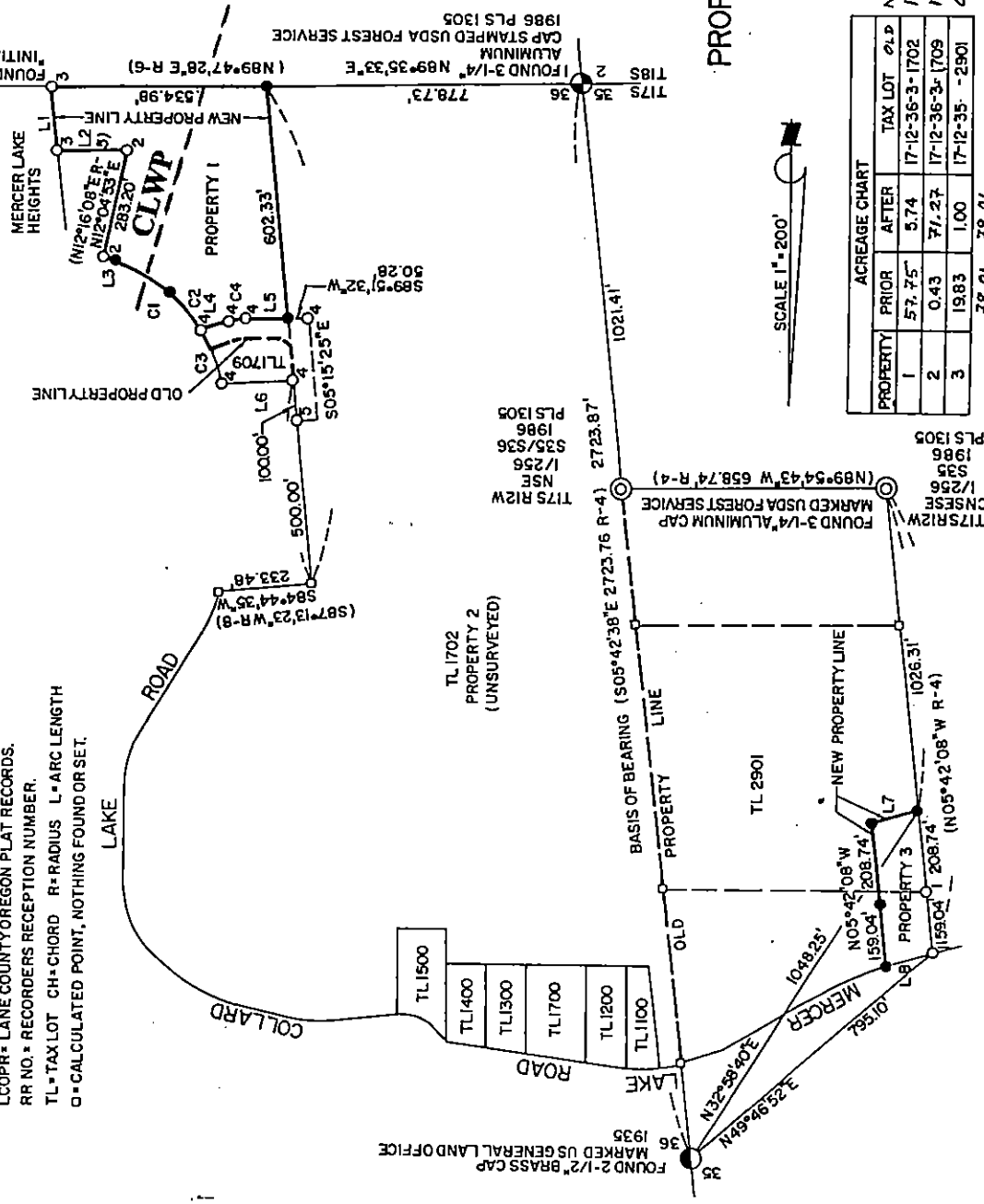
SE 1/4 SECTION 35, T17S, R12W, W.M.  
SW 1/4 SECTION 36, T17S, R12W, W.M.  
LANE COUNTY, OREGON

LINE CHART		
LINE	BEARING	DISTANCE
L1	N05°55'42"W	165.10'
L2	S89°35'31"W	173.54'
L3	N70°22'11"W	27.48'
L4	S70°21'09"W	66.11'
L5	S89°51'32"W	111.29'
L6	S87°33'03"W	179.43'
L7	S73°29'02"W	120.60'
L8	S73°29'02"W	120.60'

ACREAGE CHART			
PROPERTY	PRIOR	AFTER	NEW
1	57.75	5.74	17-12-36-3-1702 1709
2	0.43	71.27	17-12-36-3-1709 1702
3	19.83	1.00	17-12-35-2901 0500
	78.01	78.01	

JOB NO. 0007 3/4/00

- LEGEND:
- = SURVEY MONUMENTS FOUND (R-9).
  - = SET 5/8" X 30" REBAR WITH CAP STAMPED "WOLFORD PLS 2602".
  - O<sub>1</sub> = FOUND 5/8" REBAR WITH CAP "WOLFORD PLS 2602" (R-4).
  - O<sub>2</sub> = FOUND 5/8" REBAR WITH CAP "WOLFORD PLS 2602" (R-5).
  - O<sub>3</sub> = FOUND 5/8" REBAR (R-6)
  - O<sub>4</sub> = FOUND 5/8" REBAR (R-7)
  - O<sub>5</sub> = FOUND 5/8" REBAR WITH CAP "WOBBE PLS 1093" (R-8)
  - ( ) = RECORD DATA
  - CSF = COUNTY SURVEY FILE. PA = PLANNING ACTION.
  - LCODR = LANE COUNTY OREGON DEED RECORDS.
  - LCOPR = LANE COUNTY OREGON PLAT RECORDS.
  - RR NO. = RECORDERS RECEPTION NUMBER.
  - TL = TAX LOT CH-CHORD R = RADIUS L = ARC LENGTH
  - = CALCULATED POINT, NOTHING FOUND OR SET.

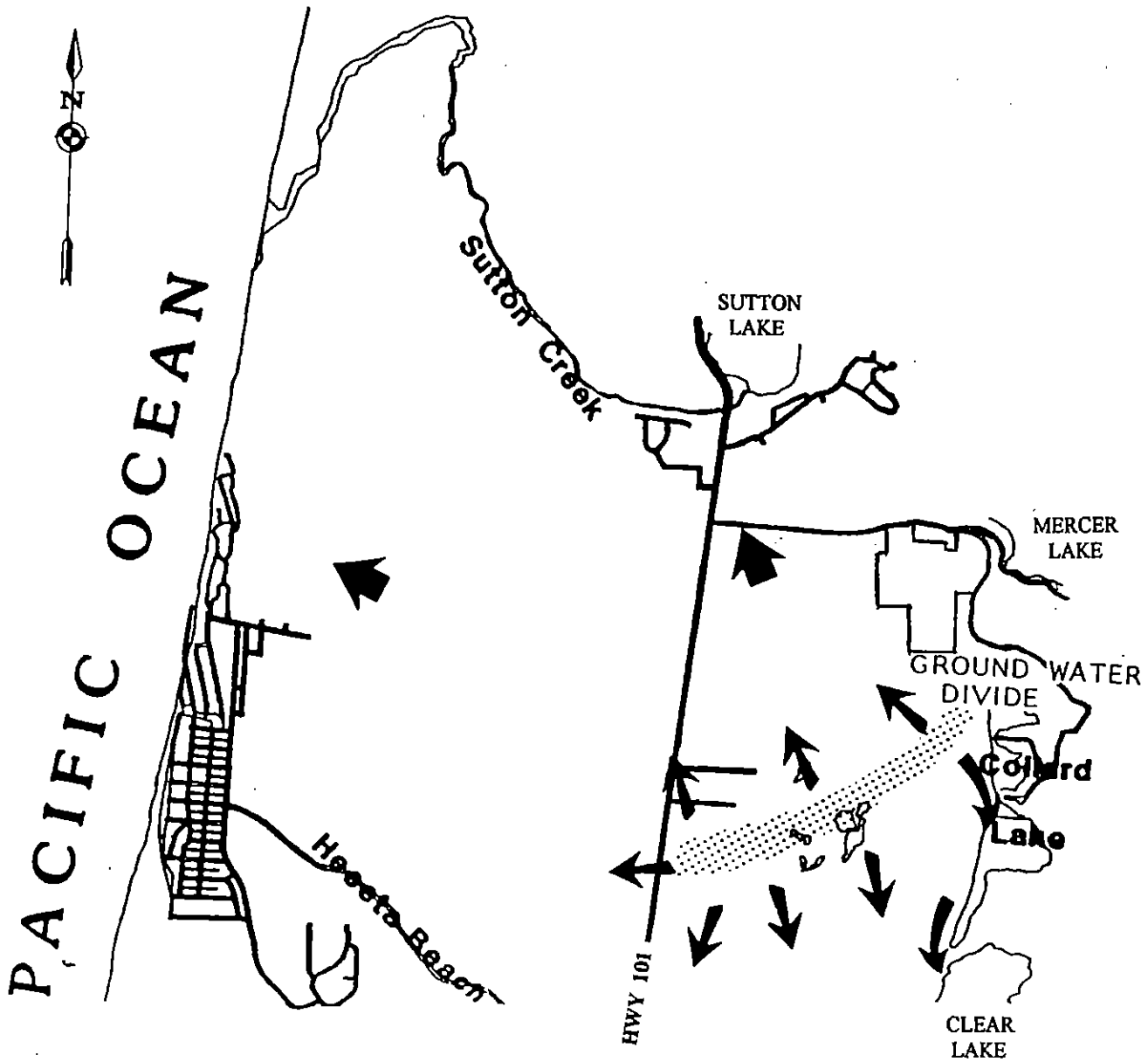


SCALE 1" = 200'

17-12-35 TL 2901 17-12-36 TL 1702 & 1709

# GROUND WATER DIVIDE MAP J

FIGURE 8. Generalized Ground Water Flow Directions and the Location of Major Ground Water Divide.



# Heceta Water District

87845 Hwy. 101 N.  
Florence, Oregon 97439  
(541) 997-2446  
Fax: (541) 997-1059

April 8, 2002


Attention: Wilhelm Hagen

RE: 17-12-36-30 TL 1702

Dear Wilhelm,

The above mentioned lot is within the service boundary of Heceta Water District. Service is available and will be provided after the purchase and installation of a water meter.

Sincerely,

  
Cindy Estes

## InsideLane

## Lane County, Intranet

My Lane Computer County Info Department Employee Info Web Applications Policies & Procedures Links

## Road Management Information System

Public Works Accidents Bridges Roads Signs Pavement Straight Line TP Lib Traffic

## ADT Counts for Road 524000 - MERCER LAKE RD - MP 0.030

TC Site: 1061

Goto Traffic Count

RoadId: 524000

Road Name: MERCER LAKE RD

MilePost: 0.030

Bound: EW

Location: 0.030 miles E[+] of [799600] HWY 101

ADT Counts	
Year	ADT
1969	280
1970	450
1971	440
1972	470
1973	550
1974	440
1975	600
1976	550
1977	750
1978	850
1979	650
1980	600
1981	650
1982	600
1983	650
1984	700
1985	850
1986	900
1987	850
1989	2550
1990	2700
1991	2550
1992	2050
1998	1000
1999	850
2000	750
2001	1150

## Location:

0.030 miles W[-] of

0.030 miles E[+] of

ON

[809600] COLLARD LAKE RD

CLR

ADT Counts	
Year	ADT
1991	2500
1992	2050
1998	850
1999	800
2000	700
2001	900

ADT Counts	
Year	ADT
1991	2250
1992	1950
1998	420
1999	370

ADT

250

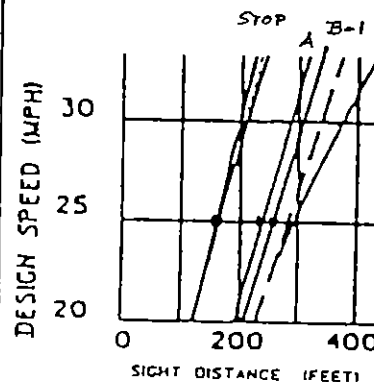
100

430

430

Average = 302 ADT

## AASHTO—Geometric Design of Highways and Streets



A- SIGHT DISTANCE FOR P VEHICLE CROSSING 2-LANE HIGHWAY FROM STOP. (SEE DIAGRAM)

B-1- SIGHT DISTANCE FOR P VEHICLE TURNING LEFT INTO 2-LANE HIGHWAY ACROSS P VEHICLE APPROACHING FROM LEFT. (SEE DIAGRAM)

B-1-4 lane+median SIGHT DISTANCE FOR P VEHICLE TURNING LEFT INTO 4-LANE HIGHWAY ACROSS P VEHICLE APPROACHING FROM LEFT. (SEE DIAGRAM)

B-2b- SIGHT DISTANCE FOR P VEHICLE TO TURN LEFT INTO 2-LANE HIGHWAY AND ATTAIN 85% OF DESIGN SPEED WITHOUT BEING OVERTAKEN BY A VEHICLE APPROACHING FROM THE RIGHT REDUCING SPEED FROM DESIGN SPEED TO 85% OF DESIGN SPEED. (SEE DIAGRAM)

Figure IX-40. Intersection sight distance at at-grade intersection (Case IIIB and Case IIIC).



# Oregon

Theodore R. Kulongoski, Governor

L-2

Department of Transportation

District 5

644 'A' Street

Springfield, OR 97477

(541) 726-2552

FAX (541) 726-2509

FILE CODE:

April 27, 2004

Wilhelm F. Hagen  
88643 Collard Lake Road  
Florence, OR 97439

Re: Wilhelm F. Hagen Property Zone Change.

This office has reviewed the traffic impact study for the proposed development abutting the Coast Highway. The levels of service and the sight distance at the Mercer Lake Road intersection are within acceptable levels.

This letter is in reference to the zone changes only: the development as now planned will not change the level of service on the Coast Highway. All final plans and approach locations are subject to review by this office when approach permits are applied for.

Sincerely,

Michael J. Wilbur  
Permit Specialist

Mjw  
C: file

The

**PUD**

966 Highway 101 • P.O. Box 370 • Florence, OR 97439 • (503) 997-3414 • FAX: (503) 997-3414

Date: April 11, 2002

To: Wilhelm Hagen  
88643 Collard Lake Road  
Florence, Oregon 97439

From: Kathleen Aitken, Senior Engineering Technician

Subject: Availability of electrical service to a potential home site

This is in response to your request for information regarding the availability of electrical service to the following parcel: 17-12-36-3 Tax Lot 1702.

Central Lincoln P.U.D. has primary power facilities within close proximity to the above referenced location. We will be able to serve the building site with primary line extension off of our existing facilities. The cost of the line extension will be determined upon a formal request for service.

If you have any questions or need further information please call me at 997-5618.

Sincerely,



Kathleen Aitken  
Senior Engineering Technician



N

# Siuslaw Valley Fire and Rescue

2625 Highway 101 North  
Florence, OR 97439-9702  
(541) 997-3212

April 8, 2002

Mr. W. F. Hagen  
88643 Collard Lake Road  
Florence, Oregon 97439

RE: Map No. 17 12-36-30  
Tax Lots 1709 and 1702  
88643 Collard Lake Road, Florence

Dear Mr. Hagen:

Be advised that Siuslaw Valley Fire and Rescue provides fire protection to the property referenced above.

You will note also that I inspected your property referenced above. Please accept this letter as confirmation that the driveway meets the fire department's standards, providing adequate access to your home site.

Should you have any questions, or require additional information, please do not hesitate to contact me.

Sincerely,

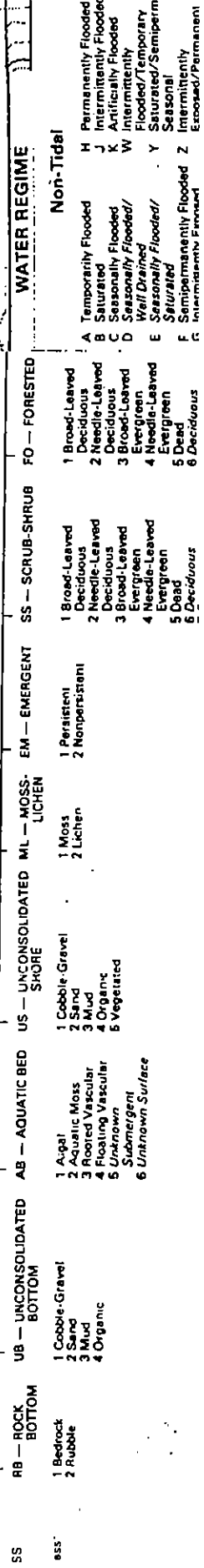
SIUSLAW VALLEY FIRE AND RESCUE

VERNE E. PASSENGER  
Deputy Chief/Fire Marshal

VEP:jh



## UNITED STATES DEPARTMENT OF THE INTERIOR



## SURROUNDING AREA AND ZONING:

MAP	TAX LOT	SIZE Acres	ZONING	LOCATION	DEVELOPMENT Status / use
17-12-36-3	100	0.42	RR1	MLR	S
	200	0.83	RR1	MLR	S
	300	0.48	RR1	MLR	S
	400	0.5	RR1	MLR	S
	500	0.5	RR1	MLR	S
	600	0.23	RR1	MLR	S
	1000	0.2	RR1	MLR	S
	1100	0.41	RR1	MLR	S
	1200	0.58	RR1	MLR	S
	1300	0.47	RR1	MLR	S
	1400	0.46	RR1	MLR	S
	1500	0.7	RR1	MLR	S
	1700	0.79	RR1	MLR	S
	1703	0.8	RR1	CLR	U / w
	1704	0.8	RR1	CLR	S
	1705	1.4	RR1	CLR	S
	1706	3.0	RR1	CLR	S
	1707	1.1	RR1/CLWP	CLR	S
	1708	0.45	RR1	CLR	U / w s
	1709	5.74	F2 / CLWP	CLR	U / w s
	1711	1.96	F2	CLR	U / w s
	1800	0.5	RR1	MLR	S
	1801	0.3	RR1	MLR	S
	1900	0.36	RR1	MLR	S
	2000	0.5	RR1	MLR	S
	3100	15.73	F2	CLR	S
17-12-35-4	100	29.74	F2	MLR	RV park
	400	44.48	F2	MLR	U / w s
	500	1.0	F2	MLR	U / w
18-12-01-2	6800	18.72	F2 / CLWP	south	U / dunes
18-12-02-0	100	73.12	NR	west	BLM

Abbreviations: S = Single family residence  
 U = Undeveloped / w = wooded s = septic approved  
 MLR = Mercer Lake Road  
 CLR = Collard Lake Road  
 CLWP = Clear Lake Watershed Protection Zone

**SUPPLEMENTAL INFORMATION FOR PA 04-5738**

**APPLICANT/** Wilhelm F. Hagen  
**OWNER:** 88643 Collard Lake Road  
Florence, OR 97439

**PROPERTY:** 17-12-36-30-1702

In order to recommend approval of my rezone request, the staff report of Nov. 9<sup>th</sup>, 2004 requires satisfactory information on two aspects:

**Supplemental data on Goal 4 and productivity of other tree species.**

1) Goal 4 considerations:

Goal 4 requirements concerning adjacent or nearby forest lands were not ignored on the basis of Goal 4 ambiguities, but rather on the fact that all adjacent F-2 parcels have direct road access and hence Goal 4 does not really apply. However, this should have been explained in detail.

Only the 44 acres F-2 parcel adjacent to the west of my property has some timber productivity because of its lower elevation reaching the water table and even has some wetlands. Actually I was not aware that this parcel (tax lot 400 on map 17-12-35-4) had a forest tax deferral, indicating some modicum of timber management. This adjacent parcel has over 1600 feet of frontage on Mercer Lake Road, as shown in Exh. B of my application, and four accesses to that road. The subject property was never used for any forest operations on adjacent F-2 lands and hence is not needed to provide access or allow timber management on the adjacent 44 acre parcel.

Similarly, the adjoining NFS land has direct access to Highway 101 and is considered in the Siuslaw National Forest Plan as unsuitable for timber production.

In summary, the subject property is not necessary to permit forest operations or practices on adjacent or nearby lands and hence the application is in compliance with Goal 4 requirements.

Another concern raised in the staff report are the Darlingtonia bogs near Highway 101. These bogs are about one half mile west of the subject property. While the groundwater flow from the subject property is toward the northwest it does not reach the bogs. This is evidenced by the fact that the water level surfaces in wetlands on the adjacent 44 acre parcel and on the Elk's property just north of that across Mercer Lake Road, as shown in Exh. O of my application. During winter when water levels are high, the water flows actually across Mercer Lake Road from the 44 acre parcel toward the north onto the Elk's Property.

Other Goal 4 and 5 requirements have been addressed in my application albeit in a dispersed manner because overlapping requirements are raised in different Goals and regulations, such as Goal 2 Policy 19 g, WP-2, WP-3, WP-4, WP-5 and Goal 6. Nevertheless, I still reserve the right to challenge the interpretation of the ambiguous Goal 4 amendment based on the attached rules on punctuations.

2) Productivity of other tree species:

The sparse tree inventory on the subject property is dominated by over 70 % in Shore Pine, followed by 20 % in Douglas Fir and less than 10 % in Red Cedar and Hemlock combined. The productivity of Douglas Fir was primarily reported in my application because it is the standard for site index and productivity evaluations. Shore Pine was measured and found to grow only 5 % better than Douglas Fir, but its commercial value is much lower and hence does not provide a viable alternative (Appl. p.4, 4<sup>th</sup> para).

Red Cedar and Hemlock were not evaluated because they represent such a very small fraction of the existing tree species and their commercial value is also much lower than for Douglas Fir. The high cost of cutting and trucking accentuates the economic disadvantage of lower valued tree species. These considerations led to the conclusion that: "There are no other viable industrial tree species". The ODF forester agreed with that conclusion (Appl. Exh. H-5).

To satisfy the requirement of the staff report, the productivity of a dominant 50 feet high Red Cedar was measured about 40 feet south of site tree # 4 in the same soil and on the same level. The result of increment boring shows an age of 89 years that corresponds to a site index of 52. The Douglas Fir # 4 was 80 years old and 53 feet high with an SI of 57. This indicates that Red Cedar grows about 10% slower than Douglas Fir. In addition, Red Cedars prefer wet soils and hence grow only in very limited areas on this sandy property, exhibiting retarded growth.

For Hemlock the situation is even worse, because its economic value is less than one half that of Douglas Fir and there are only few Hemlocks growing on this property.


For these reasons Red Cedar or Hemlock do not provide a viable alternative to Douglas Fir.

There are other issues I would like to respond to:

This parcel is not only "comprised of sandy soils with slopes ranging from 12 to 70 %" as stated in Heckers objections and III B of the staff report. The terrain consists of several parallel ridges and valleys similar to the nearby densely populated subdivisions. About one third of the area is flat with slopes of less than 12 %, especially the NW portion of the property adjacent to Mercer Lake Road. There are ample of relatively flat areas and low grades for dwellings and septic systems on 5 acre parcels. The situation is much better than in the nearby densely populated subdivisions with typically 0.5 acre and smaller lots.

The objections raised by Heckers are dishonest based on the above explanations and the fact that Heckers divided a 0.42 acre parcel into two lots with two septic systems on Mercer Lake (PA 02-5871). Their small 0.21 acre lots are not only on the same 94 E Netarts fine sand as most of my land but they are right at the lake while my land is far away. Their objections are without merit.

These additional findings should satisfy the requirements of staff for approval of my application.



## Restrictive vs. Non-Restrictive Clauses

Relative clauses can be broken down into two types: (1) restrictive and (2) non-restrictive.

A **restrictive clause** provides information that is pertinent or essential to the meaning of the sentence.

A **non-restrictive clause**, also called a parenthetical or an appositive, contains information that is extra. Information contained in a non-restrictive clause may be removed from the sentence altogether without changing the overall meaning of the sentence. Because this information is not crucial to the meaning of a sentence, it is set apart with commas, or, more emphatically, with dashes, or parentheses.

Both kinds of clauses can be signaled by the use of *wh* word (*which*, *when*, *where*, and *who*). *That* is used to signal a restrictive clause. Because a restrictive clause contributes to the basic meaning of the sentence, it is not separated from the rest of the sentence with commas or other surrounding punctuation.

The meaning of a sentence can be altered by whether a clause is punctuated so as to show that it is a restrictive clause (giving crucial information) or a non-restrictive clause (giving extra information).

A summary table follows.

<b>Restrictive</b>	<b>Non-Restrictive (appositive/parenthetical)</b>
a. begins with <i>wh</i> words or <i>that</i>	may begin with <i>wh</i> words
b. presents highly relevant information	gives "extra" information
c. is not separated from the sentence	is separated by commas, dashes, or parentheses

### Examples of non-restrictive clauses:

Bill Clinton, who was the former President, cheated on his wife.

Emily Brontë's novel *Wuthering Heights*, which I read in my Victorian novels class this semester, is a classic.

We know that these are non-restrictive clauses because the subjects' names are given; therefore the *wh* clauses are just giving extra information so it is appropriate that these clauses be set off by commas.

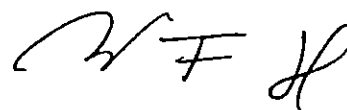
### Examples of restrictive clauses:

The woman whom I met at the baseball game was wearing my same shirt.

The on-screen kiss that I like the best is the one at the end of the movie *Clueless*.

We know that these are restrictive clauses partly because they are not set aside by commas, but also because we need the information to know what is being talked about.

*Removing a restrictive clause (without commas) alters the meaning of a sentence and hence can NOT be allowed in legal documents !*



# REZONING OF WILHELM F. HAGEN'S 71 ACRE PARCEL

Wilhelm Hagen informed us about the rezoning over four years ago and again in spring 2004.

We, the undersigned neighbors, have no objections to the rezoning of his parcel from Impacted Forest Lands (F-2) to Non-resource Land (RR-5) located on Map 17-12-36.3 tax lot 1702 and support his application PA 04-5738 favorably.

Name:

Address:

Philip D. Lanning

88452 COLLARD LAKE RD.

Tracy K. Silva

5800 Mercer Lake Rd.

Bruce Reiser

5926 Mercer Lk. Rd.

Mike P. Paff

5834 Mercer Lk. Rd.

Jimine P. Moe

5815 MERCER LAKE RD.

Shahin S. Nagul

5841 MERCER LAKE RD.

Wesley Peterson

05865 Mercer Lk. Rd.

Joe & Sandy Fantana 88683 Collard Lake Rd

Charles Enale

88580 COLLARD LAKE RD.

Shirley Enale

88580 Collard Lk. Rd.

REZONING OF WILHELM F. HAGEN's 71 ACRE PARCEL

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Name:

Address:

Bob & Judy Robson

88647 Collard Lake Rd.

Sharon Laine

88465 Collard Lake Rd.

Marilyn M. Adams

06033 Collard Lake Way

Nikki H. Modler

88525 COLLARD LOOP

Doris Rainer

88521 Collard Loop Rd

Mrs & Mr. M. Myers

88563 Bayberry Lane

Tom Shule

6078 Collard Lake way

Dave Hanson

88531 Collard Loop

Dorothy Frauerdunir

05803 Mear Lake Rd

# REZONING OF WILHELM F. HAGEN'S 71 ACRE PARCEL

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Name:

Address:

Mary Ekin Shearn ..... 05918 Mercu Lk Road  
Flaree OH

Hal Inn ..... 05881 View Loop

Scott Casper ..... 6042 View Loop-1

..... 5825 View Loop

Ronald M. Reed ..... 88468 Coland Lk. R.D.

.....

.....

.....

.....



November 14, 2004

Mike & Teri Myers  
88863 Bay Berry Lane  
Florence, Oregon  
97439  
541-997-5319

Jerry Kendall  
Land Management Division  
125 East 8th Avenue  
Eugene, Oregon  
97401

CC. William F. Hagen  
88643 Collard Lake Road  
Florence, Oregon  
97439

Re:PA 04-5738

Dear Sir:

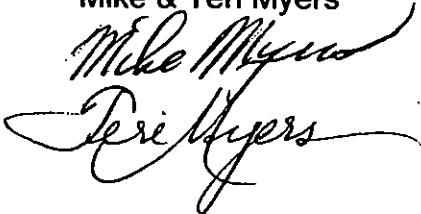
My wife and I would like to comment on the proposed zoning change for the property owned by Mr. William Hagen as outlined in PA 04-5738.

We support the requested change from F-2/RCP Impacted Forest Land to RR-5/RCP. This property consists largely of sandy soil that is totally unsuitable for production of commercial forest products. We feel that it's best use would be to provide for future developement of rural home sites. The property has sweeping views of the dunal areas to the south and west.

Mr Hagen has a long standing policy of allowing access to the public at their own risk for recreational hiking and is well regarded in this community.

Sincerely,

Mike & Teri Myers

The block contains two handwritten signatures in cursive. The top signature is for Mike Myers and the bottom signature is for Teri Myers. Both are written in dark ink.

REZONING OF WILHELM F. HAGEN's 71 ACRE PARCEL

Wilhelm Hagen informed us about the rezoning over four years ago and again in spring 2004.

We, the undersigned neighbors, have no objections to the rezoning of his parcel from Impacted Forest Lands (F-2) to Non-resource Land (RR-5) located on Map 17-12-36.3 tax lot 1702 and support his application PA 04-5738 favorably.

Name:

Address:

Mike Hanuik  
Mike Hanuik 11/14/2004 715 Fremont Ave. Eugene OR 97404

From:

Mike Hanuik  
715 Fremont Ave  
EUGENE Or. 97404

To WHOM it may concern.

Re: Rezoning application PA 04-5738 of Wilhelm Hagen for TL 1702 Map 17-12-36-3.

I own a 44 acres F-2 parcel TL 400 Map 1-12-35-4 toward the west of Mr. Hagen's property.

I have over 1300 feet of frontage on Mercer Lake Road and do not need Mr. Hagen's property to conduct forest operations.

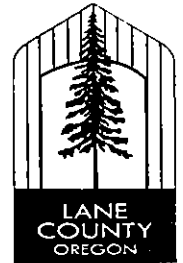
Mike Hanuik

Mike Hanuik  
Hanuik

Dated: 11/14/2004

## LANE COUNTY PLANNING COMMISSION

### STAFF REPORT



HEARING DATE: November 16, 2004

FILE No. PA 04-5738

REPORT DATE: November 9, 2004

LAND MANAGEMENT DIVISION  
[http://www.LaneCounty.org/PW\\_LMD/](http://www.LaneCounty.org/PW_LMD/)

#### I. APPLICATION DESCRIPTION

##### A. Owner/Applicant:

Wilhelm F. Hagen  
88643 Collard Lake Rd.  
Florence, Or. 97439

##### B. Proposal

Plan Amendment from "Forest Land" to "Nonresource" with concurrent zone change from "F-2/Impacted Forest Lands" to "RR-5/Rural Residential", for 71 acres of land. Map 17-12-36.3, tax lot 1702.

#### II. RECOMMENDATION

Some additional information is required before staff is willing to recommend approval of the request. The requested information (supplemental data on Goal 4, and productivity of other tree species) is discussed in the analysis section below. Provided that the supplemental information is satisfactory, staff will recommend:

- 1.) Approval of the Plan Amendment from "Forest Land" to "Nonresource", and
- 2.) Approval of the Rezone from "F-2/Impacted Forest Lands" to "RR-5/Rural Residential".

#### III. SITE AND PLANNING PROFILE

##### A. Subject Property

The subject property consists of 71 acres of F-2 zoned land located on the south side of Mercer Lake Road, with some of the east lot line adjacent to the west side of Collard Lake Road. The parcel is approximately ½ mile east of Highway 101. Refer to the map on the following page.

The parcel is the end result of multiple lot line adjustments over the years, the last having occurred in the year 2000. Approval of this request would allow subsequent application for a subdivision of up to 14 lots, with a residence of each. It is noted that as a technical matter, the lot line adjustment will have to be "noticed", with the opportunity for appeal, prior to application for a subdivision.

##### B. Site Characteristics

The application is well prepared and descriptive, so please refer to it for detailed descriptions, not repeated here. Basically speaking, the parcel is comprised of sandy soils with slopes ranging from 12%-70%. Only 1% of the parcel contains a "non-sandy" soil, and this is the only productive forest land on the property (theoretically rated at 76



17 12 36 3

C.A.D. SYS.

NO.	NAME	AREA	PERCENT
1	LAND	17.12	36.3
2	WATER	0.00	0.0
3	ROAD	0.00	0.0
4	RAILROAD	0.00	0.0
5	OTHER	0.00	0.0
6	TOTAL	17.12	36.3

CANCELLED  
1600  
1701  
1710  
2300  
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5800  
5900  
6000  
6100

SW1/4 SEC. 36 T.17S. R.12W. W.M.  
LANE COUNTY

SCALE 1" = 200'

SEE MAP 17 26 36

SEE MAP 17-12-36

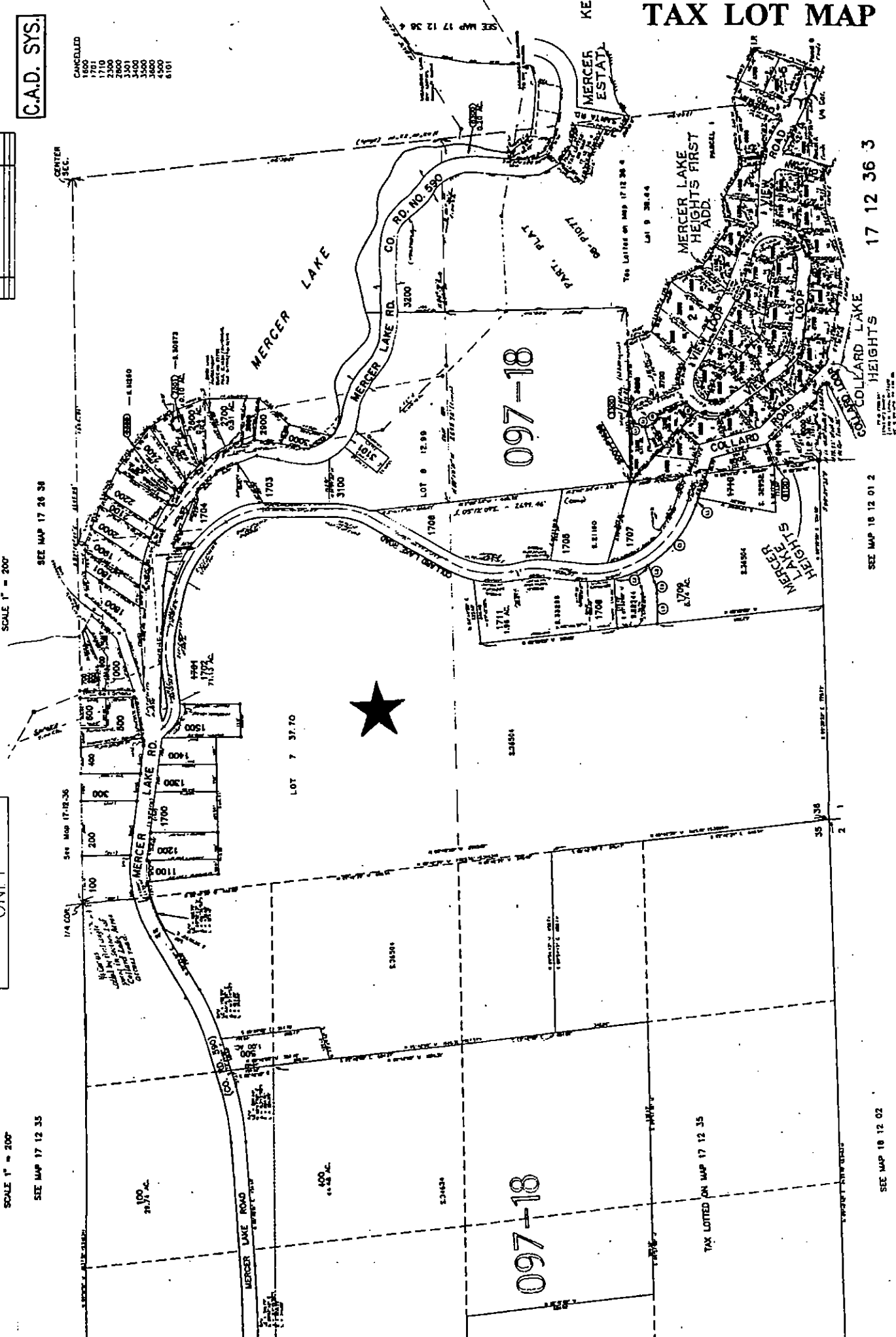
1/4 COR.

SEE MAP 17 12 35

SE1/4 SEC. 35 T.17S. R.12W. W.M.  
LANE COUNTY

SCALE 1" = 200'

FOR ASSESSMENT  
AND TAXATION  
ONLY



17 12 36 3

SEE MAP 18 12 01 2

SEE MAP 18 12 02

cu.ft./ac./year.). The remaining soils have no rating for forest use, and, overall, the agricultural capability ratings are 6-8 on a scale of 1-10. The steep slopes, sandy soils, and salt air combine to limit productivity. Existing vegetation is relatively sparse, but consists of Scott's Broom, salal, huckleberry, blackberry, rhododendron, manzanita, as well as stunted Douglas fir, Shore pine, Red Cedar, and Hemlock. This vacant land, proximate to relatively densely settled RR zoned lands, has an unfortunate history of trespass and vandalism. See page 1 of the attached submittal for further information.

**C. Surrounding Area**

Refer to applicant's exhibit C, a composite zoning map.

North: Six RR-1 zoned lots are found along the subject parcel's north lot line. Across the road is more RR-1 zoned land, with some F-2 land to the northwest.

East: RR-1 zoned land is found on the east side of Collard Lake Road. Of the four tax lots along the west side of Collard Lake Road, two are zoned F-2, and the others, RR-1.

South: F-2 zoned land (an 18 acre lot)

West: F-2 zoned land (two lots, a 44 acre privately owned lot, and a 105 acre lot owned by the Siuslaw National Forest.

**D. Services**

See page 5 of the submittal. The subject parcel has all services available, including Heceta Water, residential fire coverage, public road access, and electricity. Homes would be serviced by individual on-site septic systems.

**E. Referral Comments Received:**

Two relevant responses were received, and are attached to this report.

The first (attachment #1) is from David Perry of DLCD, commenting that approval of the request "...may well be appropriate..." in light of the low soil productivity, surrounding development, topographic features, and water availability via the Heceta Water District.

The second letter was from nearby landowners (the Heckers). It objects to the request on the basis of a conflict with the State Goals, steep slopes (12%-70%) which limit residential development, and traffic/road limitations.

The objection over State Goals mentions "forestry and open space", but is not specific. Goal 4 (Forest Lands) appears to have been adequately and essentially addressed in the submittal (see also the analysis section below), the basic thrust of which is that the soils are unproductive and the salt air further stifles tree growth. Goal 5, which includes open space protection, encourages the counties to inventory open spaces. The subject parcel is not so inventoried.

The concern over the soils ability (including steep slopes) to accommodate residential development is valid and requires response. In response, it is noted that the entire subject parcel is with the *Beaches and Dunes Combining Zone* (LC 16.243). This overlay zone will remain. Any development will be subject to a Preliminary Investigation, wherein the applicant will provide a plot plan showing the nature and exact location of the planned development. A staff planner will field visit the site, and, along with the utilization of in-house background resources, will determine what "hazards" may occur from development, and if those hazards can be mitigated or eliminated. In the case of steep

slopes, a likely outcome is that roads and structures placed on such slopes will require design by a civil engineer to warrant stability. If certain areas cannot be so "resolved", development will be prohibited. This "hazards" discussion is an appropriate one under both Goal 7 and Goal 18 (hazards and beaches and dunes, respectively), and is incorporated by this reference as part of the findings for those goals.

In regards to the concern over septic system capability, George Ehlers, the head of Environmental Health, responded by email (attachment #3). While actual field based site inspections (test holes) are the ultimate answer as to septic capability, this email response voices a general conclusion that, because of the 5-acre minimum lot size, coupled with updated technology, Mr. Ehlers was able to conclude that the lots "...will likely be approvable for some type of septic system". This is a reasonable response and acceptable finding at this stage of the owner's total project.

Finally, this proposal has been reviewed for traffic and access considerations (the last concern voiced by Mr. & Mrs. Hecker). The recently adopted Lane Code Chapter 15 normally requires a traffic impact analysis for land use proposals, but, as allowed by code, has waived that requirement (see attachment #4). The basis of the waiver was primarily due to the low traffic volume produced by the potential 14 lot development. In addition, ODOT has reviewed the proposal, and has voiced no objection (see ODOT response, exhibit L-2 in the applicant's submittal).

#### **IV. APPROVAL CRITERIA & ANALYSES**

##### **A. Approval Criteria**

Applicable criteria for all RCP amendments and rezoning are found in Lane Code 16.400(6) and LC16.252. With the exceptions noted below, the required standards are recited in the applicant's statement and so are not repeated in this staff report. The Nonresource designation is a unique designation which must meet a special set of evaluation criteria, fundamentally proving that the land involved in the proposal has no significant resource value within the definitions of the statewide planning goals.

The criteria, which are not in Lane Code but are found in the County's Marginal Lands Working Paper, require showings of limited or no resource value including such elements as watershed protection and wildlife habitat needs. Information on these criteria is discussed in the applicant's statement. It can be added that the Nonresource designation does not require adoption of a typical exception to statewide planning goals, since by its nature it obviates goal mandates.

##### **B. Evaluation**

This application proposes to change a 71 acre parcel of Impacted Forest Land property to a RR-5/Nonresource designation, in order to enable a subsequent subdivision and placement dwellings on up to 14 lots. In justifying the proposal, the applicant has addressed Plan and zoning criteria including RCP policies and Nonresource approval standards. Please refer to the applicants' statement (attached) for both criteria and the applicants' responses to them. This evaluation highlights the main standards, and discusses the need for supplemental information from the applicant.

### Productivity

In order to qualify for a Nonresource designation, the agricultural class capability of a majority of the parcel should be in class V-VIII<sup>1</sup>, and have an average forest capability rating below 50 cu.ft./ac.year<sup>2</sup>. According to the provided soils data, the subject property has 100% of its soils in agricultural capability Class 6-8. The data also shows that only 1% (one acre) of the property has a listed forest capability rating of 76 cubic feet per acre annual), for a theoretical average of .76 cu.ft.ac./year.

The applicant carries the study one step further, by taking borings of the Douglas fir found on the property. Based primarily on the influence of the salty ocean air, the measured average productivity is 1.8 cu.ft.ac./year. Shore pine were found to grow only about 5% better than Doug fir, still far below the 50 cu.ft.ac./year employed by Lane County, and also well below the 20 cu.ft.ac./year standard often raised in past Nonresource plan amendments.

The applicant's methodology was reviewed by Oregon Department of Forestry staff, who agreed with his conclusions (exhibit H-5 in the submittal).

### Goal 4

This state goal requires a finding that the subject property does not meet the definition of forest land as so defined in the goal.

The purpose statement and definition for forest lands reads as follows:

*To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

*Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.*

The original submittal did not address the underlined portion above. This provision basically requires a finding that the subject property itself is not necessary to permit forest operations on adjacent and nearby lands. For instance, if a hilltop on the applicant's parcel was used as a yarding site for an adjacent parcel, the subject parcel should still be retained as forest land.

The applicant responded to this omission with a supplement provided on 6-24-04 (attachment #5). This supplement provides a grammatical argument that the above provision is not to be read as staff has illustrated in the preceding paragraph (please refer to the attachment for the applicant's stated position). Staff has reviewed attachment #5, and does not accept this grammatical argument. The applicant has been so informed, and is willing to provide additional information addressing this provision at the hearing. Lacking the applicant's personal knowledge of the vicinity, staff researched and

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<sup>1</sup> Goal 3, in part, defines agricultural land in western Oregon as land having a majority agricultural capability of class I-IV, on a scale of I-VIII.

<sup>2</sup> Lane County recognizes land with a minimum average productivity of 50 cubic feet per acre per year as commercial forest land.

discovered that the only lot which appears to be engaged in some level of forest use is tax lot 400, a 44 acre parcel adjacent to the west of the subject parcel (at Map 17-12-35.4). Per phone conversation with A&T appraiser Dave Evans (on 11-9-04), the parcel is receiving forest tax deferral on 39.6 of its 44 acres, indicating some modicum of timber management. None of the other nearby tax lots (17-12-35 #2900, 18-12-01.2 #6800, 17-12-36.3 #1711 or 1709) are receiving any forest or farm deferral. Although the applicant will be offering more information at the hearing, staff notes that tax lot 400 has direct access onto Mercer Lake Road, suggesting that the subject property is not needed for access for timber management. Tax lot 2900 (Map 17-12-35) is part of the Siuslaw National Forest. The applicant's states (p.3, 2<sup>nd</sup> para) that the USFS finds this property "...unsuitable for timber production...".

The submittal takes note of the fact that the drainage of the subject parcel is to the northwest, away from the Clear Lake Watershed Protection zoned land found nearby to the southeast (as shown on the zone map, applicant's exhibit C). The subject parcel or nearby lands are not within a Major Big Game designated area (they are primarily within a *Peripheral Big Game* or, less so, *Impacted Big Game* areas), contain no inventoried wildlife or other Goal 5 protected items (the closest being the Darlingtonia bogs near the highway), which would require the retention of the subject parcel as forest lands. While staff feels reasonable certain that the submittal meets the above underlined provision, he looks forward to further words and documentation from the applicant, for closure on this topic.

#### **Other Tree Species**

The applicant has accounted for low-growth rates for Doug fir and Shore pine. He has not explicitly provided data on other species, either potential or actually occurring (Red Cedar, Hemlock) on the property. Although staff suspects that those other species would be limited for the same reasons (low soil fertility coupled with salt spray influence), supplemental data has been requested. The applicant is expected to provide such at the hearing.

#### **Five versus Ten acre density**

RCP policy 19 of goal 2 (Land Use Planning) establishes a set of tests to determine if Nonresource land should be zoned RR-5 or RR-10. These criteria require that the chosen zoning density be based on an analysis of the following:

- a. *Existing development patterns and density of any adjacent committed areas;*
- b. *Subsurface sewage disposal suitability;*
- c. *Domestic water supply availability;*
- d. *Access;*
- e. *Public service;*
- f. *Lack of natural hazards;*
- g. *Effect on resource lands.*

These factors are addressed on pages 6 and 9 of the submittal. Noting the adjacent RR zoning designation of one acre (existing development pattern), coupled with his responses to the other six factors, the applicant rightfully concludes that a 5 acre density is justified.

## **V. CONCLUDING COMMENTS**

### **A. Summary Remarks**

This Nonresource zone proposal on a 71 acre parcel essentially meets the necessary requirements; staff recommends approval of the request, assuming the two aspects



(addition Goal 4 information, and “other species”) are satisfactorily addressed at the hearing.

**B. Attachments to Staff Report**

1. Letter from D. Perry, DLCD—1p.
2. Letter of objection, J. & J. Hecker)—7pp.
3. Email from G. Ehlers/County Sanitarian—1p.
4. Referral from Transportation Planning—2pp.
5. Applicants “grammatical argument” on Goal 4—2pp.
6. Applicant’s original submittal, with exhibits—32pp.

**C. Materials to be Part of the Record**

1. Staff Report and attachments.
2. Applicant's statement with all exhibits.
3. File PA 04-5738
4. Lane Code Chapter 14.
5. Lane Code sections 16.252 and 16.400.
6. *Marginal Lands Working Paper*, 1983



# Oregon

Theodore R. Kulungoski, Governor

**Department of Land Conservation and Development  
Oregon Coastal Management Program Field Office**

720 Mill Street, PO Box 451

Waldport, Oregon 97394-0451

(541) 563-2056

FAX (541) 563-4022

Web Address: <http://www.lcd.state.or.us>

October 27, 2004

Jerry Kendall, Lane County LMD  
125 E. 8<sup>th</sup> Ave.  
Eugene, OR 97401

Re: PA 04-5738, Hagen

Jerry:

We have reviewed the above referenced plan amendment proposal for 71 acres of forested land located north of Florence on Collard Lake Road. The applicant is requesting a plan amendment from Forest to Nonresource and a concurrent change of zoning to rural-5 acre. The applicant is not requesting an exception to the statewide planning goals.

The soils on the subject property are comprised largely of sand, with forest site indexes less than 20 cf, as verified by the local state forester. These sandy soils also have little value for agricultural production, with Class VI - VIII NRCS soil ratings.

Under the exception process, one unit per 10-acres is the minimum dwelling density for new rural residential exception lands. However, nonresource lands are not subject to provisions of OAR 660, Division 4 (Exception Process). Given the nature of the surrounding land uses, the general suitability of the soils for on-site septic systems and the availability of drinking water from the Heceta Water District, the proposed 5-acre rural density may well be appropriate. If this land is to be developed into rural homesites, we recommend that the county require riparian buffers and avoidance of wetland areas.

Thank you for the opportunity to comment on this proposal. If you have questions, or I can be of assistance, please call.

Sincerely,

David Perry  
South Coast Regional Repr.

c: DLCD staff (RE, RH, LF, DW, BB)

LCAC #1 - 1A.

REC'D OCT 28 2004

October 27, 2004

Joany & Jim Hecker  
88864 Archer Lane  
Florence, OR 97439  
Tax Lots 900 & 1000

Jerry Kendall  
Land Management Division  
125 east 8<sup>th</sup> Ave.  
Eugene, OR 97401

RE: PA 04-5738

Dear Jerry,

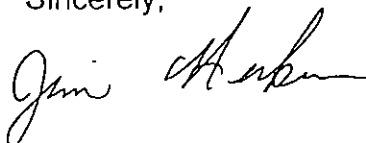
Thank you for the opportunity to review and comment on the proposed amendment to the Rural Comprehensive Plan as outlined in PA 04-5738. Unfortunately, Joany and I cannot support the proposal as submitted.

The following are our primary concerns:

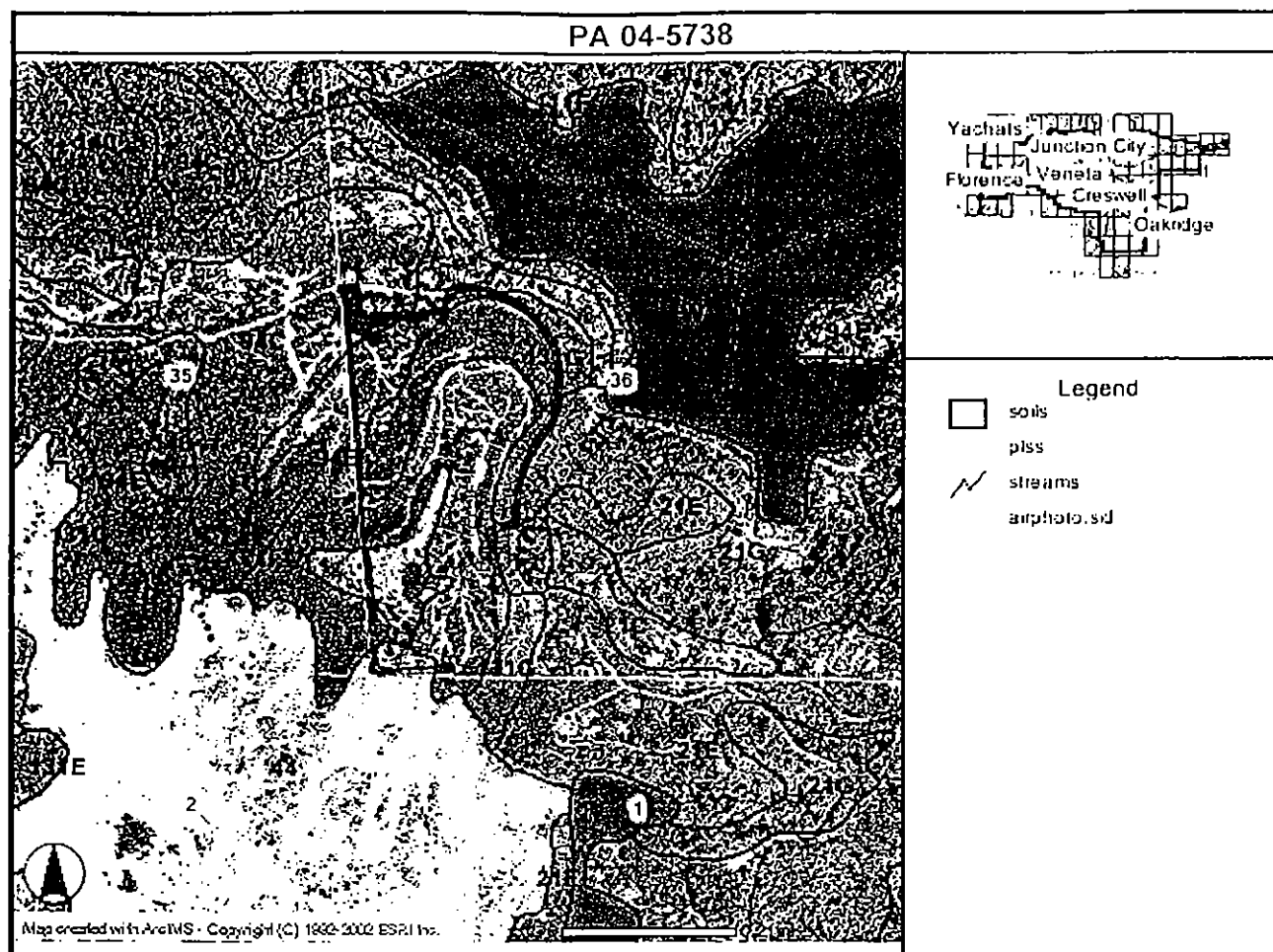
1. A zone change approved under an Amendment to the Rural Comprehensive Plan that will increase the potential number of home sites from 2 in the F-2/RCP Impacted Forest Land to 14 in the RR-5/RCP Rural Residential Land is in direct conflict with Statewide Planning Goals for forestry and open space.
2. The soils onsite are either dune land or fine sand with the majority of the area having a slope range of 12 to 70 percent (Yellow). We have attached a soils map with interpretations for the 4 soils onsite which are "Very Limited" for dwellings, sewerage disposal and roads and streets according to the USDA - NRCS soils survey for Lane County.
3. Access is limited to this parcel and development would place additional traffic and site distance problems along Mercer Lake Road and Collard Lake Road which is currently substandard for width and grade etc. There have been many accidents at this intersection.

In summary, the criteria outlined in the Lane Code have not been addressed and a zone change is not needed to bring this parcel into compliance with the Rural Comprehensive Plan.

Sincerely,



LCPC # 2 - 7pp



## Non-Technical Descriptions

Lane County Area, Oregon

[Only those map units that have entries for the selected non-technical description categories are included in this report]

Map unit: 44 - Dune land

Description category: SOI

*Dune land is over 60 inches deep to bedrock. It is sandy, somewhat excessively drained, and occurs on ridges and intervening troughs. Permeability is rapid. Wind erosion is a potential hazard.*

Map unit: 94C - Netarts fine sand, 3 to 12 percent slopes

Description category: SOI

*The Netarts soil is over 60 inches deep to bedrock. It is sandy, well drained and occurs on terraces. Water and wind erosion are potential hazards.*

Map unit: 94E - Netarts fine sand, 12 to 30 percent slopes

Description category: SOI

*The Netarts soil is over 60 inches deep to bedrock. It is sandy, well drained and occurs on terraces. Water and wind erosion are potential hazards.*

Map unit: 131G - Waldport fine sand, 30 to 70 percent slopes

Description category: SOI

*The Waldport soil is over 60 inches deep to bedrock. It is sandy, excessively well drained and occurs on sand dunes. Permeability is very rapid. Water and wind erosion are potential hazards.*

## Dwellings and Small Commercial Buildings

Lane County Area, Oregon

[The information in this table indicates the dominant soil condition but does not eliminate the need for onsite investigation. The numbers in the value columns range from 0.01 to 1.00. The larger the value, the greater the potential limitation. The table shows only the top five limitations for any given soil. The soil may have additional limitations]

Map symbol and soil name	Pct. of map unit	Dwellings without basements		Dwellings with basements		Small commercial buildings	
		Rating class and limiting features	Value	Rating class and limiting features	Value	Rating class and limiting features	Value
44: Dune land	95	Very limited Slope	1	Very limited Slope	1	Very limited Slope	1
94C: Netarts	85	Not limited		Not limited		Very limited Slope	1
94E: Netarts	85	Very limited Slope	1	Very limited Slope	1	Very limited Slope	1
131G: Waldport	85	Very limited Slope	1	Very limited Slope	1	Very limited Slope	1

## Roads and Streets, Shallow Excavations, and Lawns and Landscaping

Lane County Area, Oregon

[The information in this table indicates the dominant soil condition but does not eliminate the need for onsite investigation. The numbers in the value columns range from 0.01 to 1.00. The larger the value, the greater the potential limitation. The table shows only the top five limitations for any given soil. The soil may have additional limitations]

Map symbol and soil name	Pct. of map unit	Local roads and streets		Shallow excavations		Lawns and landscaping	
		Rating class and limiting features	Value	Rating class and limiting features	Value	Rating class and limiting features	Value
<b>44:</b> Dune land	95	Very limited Slope	1	Not rated		Not rated	
<b>94C:</b> Netarts	85	Not limited		Very limited Cutbanks cave	1	Somewhat limited Droughty	0.44
<b>94E:</b> Netarts	85	Very limited Slope	1	Very limited Cutbanks cave Slope	1 1	Very limited Slope Droughty	1 0.44
<b>131G:</b> Waldport	85	Very limited Slope	1	Very limited Slope Cutbanks cave	1 1	Very limited Slope Droughty	1 0.92

## Sewage Disposal

Lane County Area, Oregon

[The information in this table indicates the dominant soil condition but does not eliminate the need for onsite investigation. The numbers in the value columns range from 0.01 to 1.00. The larger the value, the greater the potential limitation. The table shows only the top five limitations for any given soil. The soil may have additional limitations]

Map symbol and soil name	Pct. of map unit	Septic tank absorption fields		Sewage lagoons	
		Rating class and limiting features	Value	Rating class and limiting features	Value
44: Dune land	95	Not rated		Very limited Slope	1
94C: Netarts	85	Very limited Seepage	1	Very limited Seepage Slope	1 1
94E: Netarts	85	Very limited Seepage Slope	1 1	Very limited Slope Seepage	1 1
131G: Waldport	85	Very limited Filtering capacity Slope Seepage	1 1 1	Very limited Slope Seepage	1 1



# Forestland Productivity

Lane County Area, Oregon

Map symbol and soil name	Potential productivity			Trees to manage
	Common trees	Site index	Volume of wood fiber	
			<i>Cu ft/ac</i>	
44: Dune land	—	—	—	—
94C: Netarts	Shore pine	—	—	Shore pine, Sitka spruce, Western hemlock
	Sitka spruce	—	—	
	Western hemlock	—	—	
94E: Netarts	Shore pine	—	—	Shore pine, Sitka spruce, Western hemlock
	Sitka spruce	—	—	
	Western hemlock	—	—	
131G: Waldport	Shore pine	—	—	Shore pine, Sitka spruce
	Sitka spruce	—	—	
	Western hemlock	—	—	

## KENDALL Jerry

---

From: EHLERS George  
Sent: Tuesday, November 09, 2004 2:28 PM  
To: KENDALL Jerry; 'Wilhelm Hagen'  
Subject: RE: PA 04-5738

I have made a cursory review of the supplied information. For a final septic approval each lot will have to go through the Site Evaluation process where we evaluate soil, groundwater and surfacewater conditions. That said, Lane County only denies 5-10 parcels per year. Generally those lots are either very small or situated in low wet areas. Site evaluations recognize the issues with rapidly draining soils (sand) as well as permanent and temporary groundwater. Pressured drainfields and or sand filter sytems may be needed to address these constraints. Given that these parcels have some topography and ample area, it is my expectation that they will likely be approvable for some type of septic system.

-----Original Message-----

From: KENDALL Jerry  
Sent: Monday, November 08, 2004 2:44 PM  
To: 'Wilhelm Hagen'  
Cc: EHLERS George  
Subject: RE: PA 04-5738

Yes, I'll forward you a copy of the staff report when it is done tomorrow.

I got a letter of objection from a neighbor. They cite steep slopes and the soils as limiting residential development (dwellings and driveways), as well as septic tanks. My reply for the dwelling and driveway portion will be in the staff report.

What I do need some documentation on is that a "reasonable person" can feel assured that you will probably be OK developing on site septic systems for the maximum 14 lot buildout. I have discussed this with George Ehlers, the head of Environmental Health. I have given him a copy of the letter in objection, as well as the list of soils for tax lot 1702 (17-12-36.3, informed him the parcel is 71 acres, going to RR-5, on Heceta Water, and asked him to respond. He can copy both of us by email (thanks George).

-----Original Message-----

From: Wilhelm Hagen [mailto:wfhagen@gmail.com]  
Sent: Monday, November 08, 2004 12:17 AM  
To: KENDALL Jerry  
Subject: PA 04-5738

Dear Mr. Kendall,

Would it be possible to receive your staff report by e-mail?

My address is: wfhagen@gmail.com

If this is not possible, I would like to pick up a copy on Tuesday Nov. 9th at about 11 AM along with other information you may have received.

Please let me know if this time is convenient for you.

With kind regards,

Wilhelm F. Hagen

## KENDALL Jerry

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**From:** FIELDS Phil  
**Sent:** Friday, September 03, 2004 2:13 PM  
**To:** KENDALL Jerry  
**Subject:** FW: Waiver to TIA Requirement: Plan Amendment/Zone Change on Mercer Lake Rd.

Hi Jerry,

Let me know if you need more info...

Phil

-----Original Message-----

**From:** LIEN Jason C  
**Sent:** Wednesday, August 25, 2004 8:12 AM  
**To:** FIELDS Phil; BARRY Celia  
**Subject:** FW: Waiver to TIA Requirement: Plan Amendment/Zone Change on Mercer Lake Rd.

Note that a TIA waiver (shown below) has been approved by Sonny for the Mercer Lake Rd proposal. The applicant will not have to complete a formal TIA per Lane Code for the comprehensive plan amendment.

-----Original Message-----

**From:** CHICKERING Sonny A  
**Sent:** Friday, August 20, 2004 4:38 PM  
**To:** LIEN Jason C  
**Cc:** MORGAN Bill F; STINCHFIELD Tom A  
**Subject:** RE: Waiver to TIA Requirement: Plan Amendment/Zone Change on Mercer Lake Rd.

I approve the waiver. Thanks for the complete and concise analysis

-----Original Message-----

**From:** LIEN Jason C  
**Sent:** Friday, August 20, 2004 10:17 AM  
**To:** CHICKERING Sonny A  
**Cc:** MORGAN Bill F; STINCHFIELD Tom A  
**Subject:** Waiver to TIA Requirement: Plan Amendment/Zone Change on Mercer Lake Rd.

Sonny: Please respond within 5 working days as to whether the TIA requirement may be waived, as follows:

- The proposal is to amend the Rural Comprehensive Plan from Forest Land to Nonresource land and the zoning map from Impacted Forest Land (F-2) to Rural Residential (RR-5) for a 71-acre site located about five miles north of Florence adjacent to Mercer Lake Road, a rural major collector, and Collard Lake Road, an LAR. See the shaded parcel in the attached zoning map. Approval of the proposal could result in up to 14 single-family dwellings at the site as a permitted use.
- A Traffic Impact Analysis is required because it is a comprehensive plan amendment.
- The TIA may be waived in accordance with TSP Policy 4-c when the plan designation or zoning that results will be entirely residential and the allowed density is not likely to result in creation of more than 50 lots; and there is adequate information to determine that a transportation facility is not significantly affected. Previous analysis has not indicated a level of service problem in this area. A study was done in 1999 for an RV park on Mercer Lake Road, and it indicated levels of service of A and B for existing conditions and 2020 build-out at the 101/Mercer Lake Road intersection and at the RV park entrance (just east of 101). We can anticipate that the potential of 14 peak-hour trips from a 14-lot subdivision will not have a significant affect on adjacent transportation facilities that would require the completion of a TIA as specified in Lane Code. Mercer Lake Road is not listed in the TSP's 20-Year Project List.
- Based on the assumed land use of up to 14 single-family dwellings, TP's recommendation is to waive the TIA requirement. This recommendation is supported by Bill Morgan.
- Public Works staff will review any development proposals at the site (if the zone change is approved) for access and other issues affecting the road system. The applicant may have to meet other

requirements/conditions as a result of this review. The applicant may also have to meet TIA requirements if a Special Use Permit is sought to allow more intensive uses at the site other than those permitted by the proposed zone change.

<< File: ZoneMap.pdf >>

Thanks,  
Jason

Wilhelm F. Hagen  
88643 Collard Lake Road  
FLORENCE, OR. 97439  
(541) 997- 4829

To  
Jerry Kendall  
Land Management Division  
125 E 8<sup>th</sup> Ave.  
EUGENE, OR. 97401 -2926

June 24, 2004

REZONE APPLICATION

Enclosed are four copies of my revised PAZC application and a floppy disk, as requested.

I reviewed the "other forested lands" issue and concluded that it can not refer to the subject property because of punctuation, logic, and grammatical errors. Details are attached.

The Non-Resource / Non-Exception Lands Working Paper does not raise the "other forested lands" issue in a direct manner. However, in summary the issues of air, soil, water, and fish and wildlife resources are addressed in various sections of my PAZC and should be adequate.

I have not yet received the requested response from Lane County Public Works about road access. I will submit their response as soon as I obtain it.

With kind regards,

*W F Hagen*

LCPC # 5 - 2pg.

Rec'd  
6-24-04.

The Goal 4: Forest Lands amendment states:

*"...forest lands shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources."*

This statement can not be interpreted as:

*"... forest lands shall include other forested lands that maintain soil, air, water and fish and wildlife resources."*

Because:

- 1) Only parenthetic, nonrestrictive, irrelevant clauses, which are set off by commas, can be omitted.

There are no commas that would allow the omission of the restrictive expression:

*"lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and"*

from the Goal 4 statement in order to construct the above wrong interpretation.

- 2) Without commas, the other forested lands are connected to the adjacent or nearby lands.
- 3) The plural in "other forested lands" can only refer to the adjacent or nearby lands.
- 4) The subject property may not be "forested" at all, but could be bare, brushy, grassy, sandy, or even desert land.
- 5) Only the adjacent or nearby lands can be considered forested in the context of Goal 4.
- 6) The amended expression: "*maintain soil, air, water and fish and wildlife resources*" is only sensible in conjunction with the original primary Goal 4 requirement of:  
*"...forest practices... consistent with sound management of soil, air, water, and fish and wildlife resources..."*.

Conclusion:

The language of Goal 4 restricts the other forested lands to the adjacent or nearby lands!  
Any other interpretation is not only illogical, but illegal.

Any argument against this conclusion or other interpretation would make Goal 4 ambiguous; therefore, invalid and unenforceable.

# MINUTES

Lane County Planning Commission  
Harris Hall - Lane County Courthouse

November 16, 2004  
7 p.m.

PRESENT: Jacque Betz, James Carmichael, Steve Dignam, Marion Esty, Mark Herbert, Juanita Kirkham, members; Jerry Kendall, Staff

ABSENT: Ed Becker

## I. PUBLIC HEARING: PA 04-5738

Ms. Kirkham convened the meeting at 7 pm. She called for public comments on issues not on the agenda. Seeing no one wishing to speak, she moved on to the public hearing.

Jerry Kendall provided the staff report. He said the site characteristics were largely sandy soils and steep slopes with only one percent able to provide agricultural uses. He said the typical vegetation consisted of black berry, stunted trees, Huckleberry, scotch broom, etc. He said the north border of the land had adjacent rural residential zoned land, and to the west were forest zoned lands.

Regarding public comment received, Mr. Kendall said DLCD had written a letter saying that approval of the request would be appropriate. He noted that there had been a letter of objection from nearby land owners. He said the opposition raised concerns over steep slopes, loss of open space, septic systems and poor development. He said the area was not identified on any open space inventory. He noted that public services would be available to the proposed site.

Regarding the supplemental material submitted by the applicant, Mr. Kendall noted that there were signatures from neighbors who were in approval of the application.

Mr. Kendall said the criteria for approval of the application had been met and staff was recommending approval of the plan amendment and the rezone.

In response to a question from Mr. Dignam regarding whether development would be an additional process, Mr. Kendall stated that the hearing was specifically for a plan amendment and zone change and not for a subdivision.

In response to a question from Mr. Dignam regarding whether there had been a chance for staff to review any of the signatures submitted to make sure that they were in the vicinity, Mr. Kendall said he had not verified any of the signatures but noted that the addresses submitted were near the proposed zone change.

Ms. Kirkham verified that there were no *ex parte* contacts or conflicts of interest. She opened the public hearing.

BCC ATTCH. #3-2A.

**W. Hagan** said he had no current plans to develop in the near future. He said the zone change was part of his long term plans. He said he allowed his neighbors to use the land.

Mr. Carmichael complimented the applicant on doing a good job on the application.

In response to a question from Ms. Betz regarding whether there were people in the neighborhood who were against the application, Mr. Hagen said one neighbor had been opposed after he had not allowed them to use motorcycles on the property.

There was no public testimony in opposition.

Ms. Kirkham closed the public hearing and called for deliberations.

Mr. Herbert, seconded by Ms. Betz, moved for approval of the application as recommended by staff.

In response to a question from Mr. Dignam regarding the steep slopes on the property, Mr. Kendall said the Beaches and Dunes Overlay zone would be implemented at the time development was proposed. He said the code would require a field investigation when specific development was proposed.

Mr. Dignam said he would support the motion because of the five acre parcel size. He added that the applicant had met the approval criteria as required by Lane Code.

In response to a question from Ms. Kirkham regarding whether any riparian buffers and wetland considerations needed to be addressed, Mr. Kendall said those reviews would be done when a specific development plan was submitted.

The motion passed unanimously.

The meeting adjourned at 7:30 pm.

(Recorded by Joe Sams)  
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