

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application)
of Sridhar and Leslie Balakrishnan)
for a Conditional Use Permit to)
Place a Single Family Dwelling on a)
5.42 Acre Parcel in the FA-19 Zone)

ORDER NO. 75-00

FINDINGS AND CONCLUSIONS

WHEREAS, on February 23, 2000, Sridhar and Leslie Balakrishnan filed an application for a Conditional Use Permit to place a single family dwelling on a parcel of 5.42 acres (tax acct. no. 0218-6325-0000-02702) zoned Forest Agriculture (FA-19) off Lookout Road, with the Columbia County Land Development Services Department; and

WHEREAS, on February 28, 2000, said Application was deemed complete; and

WHEREAS, on April 3, 2000, the Columbia County Planning Commission held a hearing on the application; and

WHEREAS, after hearing testimony and deliberating, the Columbia County Planning Commission approved the application and on April 6, 2000, Planning Commission Chair, Jeffrey VanNatta, signed Final Order CU 00-39 approving the conditional use permit with conditions; and

WHEREAS, Courtney St. John, P.O. Box 83, Columbia City, Oregon 97018, appealed the Commission's decision to the Columbia County Board of County Commissioners on April 7, 2000; and

WHEREAS, on May 24, 2000, the Board of County Commissioners held a de novo hearing on the application; and

WHEREAS, at the hearing, Glen Higgins, of the Planning Section of Land Development Services Department submitted the Planning Commission Final Order dated 4/6/00 into the record, reviewed arguments raised by the appellant, and recommended approval of the application; and

WHEREAS, Sridhar and Leslie Balakrishnan, Applicants, Rudy Severns, property owner, and Liam Sherlock, Attorney for Applicants, testified in favor of the application; and Peggy Hennessy, Attorney for Courtney St. John, and Courtney St. John, Appellant, testified in opposition of the application; and

WHEREAS, at the hearing the following Exhibits were introduced into the record:

Exhibit 1- County Counsel's hearing file containing:

- A. Notice of Public Hearing (Property Owner);
- B. Notice of Public Hearing (Publication);
- C. Affidavit of Mailing;
- D. Affidavit of Publication;
- E. Board communication from Todd Dugdale; Land Development Services Director, dated 4/16/00;
- F. Planning Commission Staff Report dated 3/17/00;
- G. Appeal to the Board of County Commissioners dated 4/7/00;
- H. Board communication from Todd Dugdale, Land Development Services Director received May 23, 2000;

Exhibits 2-5- Four overhead maps submitted by Glen Higgins;

Exhibit 6- To scale map of the subject area submitted by Applicants;

Exhibit 7- Letter from Rainier RFPD dated 2/18/00;

Exhibit 8- Topographical map of subject area;

Exhibit 9- Letter from Hal Wilson, Columbia County Sanitarian, dated 5/22/00;

Exhibit 10- Well water report/log;

Exhibit 11- Memorandum in support of appeal dated 5/23/00 submitted by Peggy Hennessy;

Exhibits 12-18- Seven photographs of subject area submitted by Appellant;

Exhibits 19-21- Three photographs of proposed driveway site submitted by Appellant;

Exhibit 22- 8½ x 11 version of to-scale map (Exhibit 6) submitted by Leslie Balakrishnan;

Exhibit 23- Pages 1 & 6, Uniform Fire Code submitted by Leslie Balakrishnan;

Exhibits 24-26- Three photographs of subject property submitted by Leslie Balakrishnan; and

WHEREAS, before the conclusion of the initial evidentiary hearing, the Applicant's Attorney asked that the record remain open for additional written evidence; and

WHEREAS, the Board of County Commissioners agreed to keep the record open for additional written evidence, arguments, and testimony for a period of 7 days, and continued the public hearing for deliberations to June 28, 2000, at 10:00 a.m.; and

WHEREAS, on May 31, 2000, Peggy Hennessy, Attorney for the Appellant, and Leslie Balakrishnan, Applicant, submitted additional written testimony into the record by facsimile transmission; and

WHEREAS, on June 7, 2000, William Sherlock, Attorney for the Applicant, submitted the Applicant's final written rebuttal and argument into the record by facsimile transmission; and

WHEREAS, on June 28, 2000, the Board of County Commissioners reconvened, closed the public hearing, received staff recommendations and deliberated on the matter; and

WHEREAS, at the hearing on June 28, 2000, the following were marked as Exhibits for the record:

Exhibit 27- Supplemental Memorandum in Support of Appeal from Peggy Hennessy, dated 5/31/00 and received that same day by facsimile transmission;

Exhibit 28- Letter to Jim Holycross from Leslie Balakrishnan dated 5/31/00 and received that same day by facsimile transmission;

Exhibit 29- Applicant's Final Rebuttal and Argument from Williams Sherlock, dated 6/7/00 and received that same day by facsimile transmission; and

WHEREAS, a mailed copy of Exhibit 29 was received after the record was closed on 6/7/00, and such copy was not entered into the record or marked as an Exhibit.

NOW THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts Findings No.1 through No. 30 of the Land Development Services Staff Report to the Board of County Commissioners, dated May 17, 2000, which is attached hereto as Attachment A, and is incorporated herein by this reference.
2. The Board of County Commissioners adopts supplemental findings which are attached hereto as Attachment B and is incorporated herein by this reference.
3. The application by Sridhar and Leslie Balakrishnan for a conditional use permit to place a single-family dwelling on a parcel zoned FA-19 is **APPROVED** with the following conditions of approval:

A. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March, 1991, shall be followed in the construction of all structures on the site, and the access driveway. Applicant shall strictly follow the requirements of OAR 660-06-035 in the placement and construction of the dwelling, including a fire retardant roof, spark arresters on all chimneys, and not placing the residence on a slope greater than 40% .

B. A well constructor's report shall be submitted by the applicant showing adequate domestic water before a building permit may be issued for construction of a septic system or dwelling according to requirements set forth in OAR 660-06-029(3).

C. A primary fuel break area of at least 30 feet wide shall be cleared and kept clear of all brush and trees around all structures, and a 100 foot secondary fuel break shall be cleared and kept clear of all brush and trees around all structures. These buffer areas shall be entirely within the subject property according to OAR 660-06-035(3) and Columbia County Zoning Ordinance (CCZO) § 412(2). Applicants shall attest to Fire Siting Standards found in CCZO § 412.

D. The applicant shall sign a waiver of remonstrance regarding current and accepted farm and forest management practices on adjacent properties.

E. The property is not within the Rainier Rural Fire Protection District. The applicant shall have an approved contract with the Rainier Fire District to provide fire suppression services to the subject property. The Rainier Fire District shall approve of the access driveway to the home site if it is over 150 ft. in length.

F. Utilities shall be run along the driveway. The dwelling shall be located as close to Lookout Road as possible in accordance with CCZO 405(4) and 405(6).

G. The applicant is required to meet the provisions of the Forest Practices Act. The applicant shall determine the specific requirements for compliance by completing a Forest Land Assessment and Timber Stocking Compliance Application.

H. This permit shall expire two years from the date on the final order according to OAR 660-033-0140.

I. The applicant must obtain an access permit before building permits may be issued. The applicant shall clear grade Lookout Road from Hollywood Road to the driveway, 26' wide, with ditching on east side and cross culverts where required (minimum one at the intersection with Hollywood Road) and rock Lookout Road and driveway to County Road Department Driveways Standards, with turnouts as required by the Rainier Rural Fire Department.

Dated this 19th day of July, 2000.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: John P. Peterson
Chair

By: John M. Bernard
Commissioner

By: _____
Commissioner

Approved as to Form:

By: Sarah Tyson
Office of the County Counsel

ATTACHMENT A

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Columbia County Planning Commission

STAFF REPORT

March 17, 2000

Conditional Use Permit - FA-19 Zone

FILE NUMBER: CU 00-39

APPLICANT: Sridhar & Leslie Balakrishnan
2323 SW 19th Avenue
Portland, Oregon 97201

OWNERS: Rudolf and Diana Severns
P.O. Box 589
Cottage Grove, Oregon 97424

PROPERTY LOCATION: 67250 Lookout Road off Hollywood Road

REQUEST: To place a single-family dwelling on a 5.42 acre parcel in the FA-19 zone, for which a Conditional Use Permit is required.

TAX ACCT. NUMBER: 6325-000-02702

ZONING: Forest Agriculture (FA-19)

BACKGROUND:

The applicants request approval to place a single family dwelling on an existing 5.42 acre parcel in a Forest Agriculture FA-19 zone. This property had a previous conditional use permit (CU 23-97) approved for the Severns which expired after 2 years. Water will be provided from a well, and sewage will be treated by a subsurface septic system. The property has access to Lookout Road via Hollywood Road to Meissner Rd. and is not within the Rainier Rural Fire Protection District.

SOILS:

Soils on the property are as follows:

| | <u>% of Area</u> | <u>Agric Cap. Class</u> | <u>D.F. Site Class (CMAI)</u> |
|-----------------------------------|------------------|-------------------------|-------------------------------|
| Bacona silt loam, 3 to 30% slopes | 100% | VIe | 172 |

FINDINGS:

The following sections of the Zoning Ordinance are pertinent to this application:

"Section 404 Conditional Uses: In an FA-19 zone, the following uses and their accessory uses are permitted subject to the provisions of Sections 405 and 406. A conditional use shall be reviewed according to the procedures provided by Section 1503.

.13 One-family dwellings, mobile homes, or recreation vehicles and their accessory uses not provided in conjunction with farm or forest use may be granted conditional approval upon a finding that each such proposed use:

A. Is compatible with farm or forest uses and is consistent with the intent and purpose set forth in this ordinance relating to farm or forest lands; and"

Finding 1: In the FA-19 zone, a residence proposed to be placed on a parcel of land as a nonresource-related dwelling requires a conditional use permit. The proposed use may be compatible with farm or forest uses if the danger of fire spreading to the forest is minimized. All precautions will have to be strictly observed.

The purpose of the FA-19 zone is stated in Section 401:

"Purpose: The purpose of this zone is to protect and promote farm and forest uses on lands which have resource value, but which are not suited for either the Farm (PA-38) or the Forest (PF-76) zone because of smaller parcel size, conflicting adjacent uses, adverse physical features, or other limiting factors."

Finding 2: The proposed use will be consistent with the purpose of the FA-19 zone as the parcel is too small at 5.42 acres to have resource value or be considered a productive high value farm or forest unit.

Continuing with Zoning Ordinance section 404.13:

"B. Does not interfere seriously with accepted farming or forest practices on adjacent lands devoted to farm or forest use; and"

Finding 3: The proposed use will not interfere with farming or forest uses on adjacent lands if the homesite is set back far enough from the parcel boundaries to separate it from adjacent properties, and if all fire precautions are strictly observed during construction and occupation of the dwelling. A Waiver of Remonstrance will be necessary to protect forest management practices on adjacent properties.

Continuing with Zoning Ordinance section 404.13:

"C. Does not materially alter the stability of the overall land use pattern of the area; and"

Finding 4: The overall land use pattern of the immediate area is mixed forest/agriculture. Parcel sizes in the area surrounding the subject parcel range from 3.76 acres to 61.50 acres with the average parcel size being 17.49 acres. The 160 acre square template centered on the subject property indicates 19 parcels with 11 dwellings. The proposed residence fits well into this pattern of development and does not materially alter the overall land use pattern of the area.

Continuing with Zoning Ordinance section 404.13:

"D. Is situated upon generally unsuitable land for the production of farm or forest crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract."

Finding 5: The proposed residence will be situated following fire breaks standards on the south eastern corner of the property to minimize impact to forest and farmland on the remaining acreage. The driveway will closely parallel the southern property line to minimize impacts. This will not take additional land that is suitable for the production of farm or forest crops and livestock out of production.

"405 All conditional uses permitted in the FA-19 Zone shall meet the following requirements:

- .1 The use will not significantly increase the cost, nor interfere with accepted forest management practices or farm uses on adjacent or nearby lands devoted to forest or farm use."

Finding 6: The proposed use may not interfere with farming or forest uses on adjacent lands if the homesite is set back far enough from the parcel boundaries to separate it from adjacent properties, and if all fire precautions are carefully and strictly observed during construction and occupation of the dwelling. The applicants state that they "are agreeable to signing a Waiver of Remonstrance pertaining to current and accepted forestry practices in neighboring lands." A condition of approval will be that the applicants sign a Waiver of Remonstrance against current and accepted forest and farm management practices on nearby and adjoining lands devoted to forest or farm use.

Continuing with Zoning Ordinance section 405:

- "2 The use will be limited to a site no larger than necessary to accommodate the activity and, as such will not materially alter the stability of the overall land use pattern of the area or substantially limit

or impair the permitted uses of surrounding properties. If necessary, measures will be taken to minimize potential negative effects on adjacent forest lands."

Finding 7: The applicants state that "the dwelling (along with primary firebreak and driveway) will occupy less than 1 acre. Dwelling is being sited to keep it on most level portion of lot while minimizing length of driveway from Lookout Road. The remainder will be maintained at levels of reforestation required by Oregon Department of Forestry. This will not impact significantly the overall land use pattern of the area nor will it limit or impair their normal use in any way."

Continuing with Zoning Ordinance section 405:

"3 The use does not constitute an unnecessary fire hazard, and provides for fire safety measures in planning, design, construction, and operation."

Finding 8: A condition of approval shall be that the applicant must agree to meet all fire siting standards for dwellings and structures on the subject property. All fire safety provisions shall be carefully and strictly observed during construction and occupation of the dwelling. A plot plan indicating that both the 30' primary and 100' secondary fire breaks can be met shall be submitted with the building permit application. The applicant states that the "Driveway from Lookout Road will meet requirements stipulated in section 10.3 of UFC Article 10. Dwelling's roof will be fire retardant and all chimneys will employ spark arrestor. Fire protection services will be provided by Rainier Rural Fire Department (See attached letter). There will be primary and secondary fire breaks around the dwelling per OAR 660-06-035."

Continuing with Zoning Ordinance section 405:

"4 Public utilities are to develop or utilize rights-of-way that have the least adverse impact on forest resources. Existing rights-of-way are to be utilized wherever possible.

Finding 9: All public utilities will need to be routed via the shortest routes from Lookout Road to the homesite. The applicant states, "Electric power and telephone lines are present along Lookout Road already. Power and telephone service to the dwelling will be run underground along the driveway off Lookout Road."

Continuing with Zoning Ordinance section 405:

"5 Road standards shall be limited to the minimum width necessary for management and safety."

ng 10: The applicant states that the "Driveway to the dwelling will be per section 10.3 of UFC Article

10.” . The Rainier Fire District shall approve of the access driveway to the homesite if the driveway is over 150' in length.

Continuing with Zoning Ordinance section 405:

- "6 Development within major and peripheral big game ranges shall be consistent with the maintenance of big game habitat. In making this determination, consideration shall be given to the cumulative effects of the proposed action and other development in the area on big game habitat. Where such a finding is made, development shall be sited to minimize the impact on big game habitat. To minimize the impact, structures shall: be located near existing roads; be as close as possible to existing structures on adjoining lots; and be clustered where several structures are proposed."

Finding 11: The area is in a Major Big Game Habitat Area and is easily within ¼ mile of the nearest other dwelling. The proposed dwelling will be located approximately 170 ft. from Lookout Road which is near the existing road considering the fire siting standard for fire breaks.

All dwelling units, including mobile homes, shall meet the following additional requirements:

- .1 That on forest land, provision has been made for fire safety measures in accordance with the guide published by the Northwest Inter-Agency Fire Prevention Group entitled, "Fire Safety Considerations for Development in Forest Areas."

Finding 12: The dwelling site is surrounded by forest land. All fire safety measures will be strictly enforced. The property is not within the Rainier Rural Fire Protection District. The applicant shall petition the Rainier Fire District for inclusion in the Rainier Fire District; or have fire suppression services provided on contract. Fire prevention and control measures will need to be strictly enforced to prevent fire from spreading to adjacent timber lands. The applicant states that "fire protection services will be provided by Rainier Rural Fire Department (See attached letter). There will be primary and secondary fire breaks around the dwelling per OAR 660-06-035."

Continuing with Zoning Ordinance section 406:

- "2 That responsibility for protection from wildlife damage on the property shall be assumed by the dwelling's owner or occupant."

Finding 13: The owner must assume this responsibility. The applicants state, "responsibility for protection wildlife damage on the property will be assumed by dwelling residents."

Continuing with Zoning Ordinance section 406:

"3 The use does not impose any limitation on the operation of a primary wood processing facility."

Finding 14: There is no such facility in the area.

Continuing with Zoning Ordinance section 406:

"4 That a farm or forest management impact statement may be required that shows the relationship between the proposed residential use and surrounding resource uses, including setbacks for any dwellings from forest or farm uses to assure that the above conditions are met."

Finding 15: A forest management impact statement may be required by the Planning Commission.

"412 Fire Siting Standards for Dwellings and Roads: The following fire siting standards or their equivalent shall apply to all new dwellings in this zone:

- .1 If a water supply is available and suitable for fire protection, such as a swimming pool, pond, stream or lake, then road access to within 15 feet of the water's edge shall be provided for pumping units. The road access shall accommodate the turnaround of fire fighting equipment. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- .2 The owner of the dwelling shall maintain a primary fuel-free break area around all structures, shall clear and maintain a secondary fuel-free break area, and shall maintain adequate access to the dwelling for fire fighting vehicles in accordance with the provisions in "Protecting Your Home from Wildfire" published by the National Fire Protection Association.
- .3 All roads in this zone, except private roads and bridges for commercial forest uses, shall be constructed so as to provide adequate access for fire fighting equipment, according to the standards provided by the local Rural Fire Protection District or State Department of Forestry."

Finding 16: A condition of approval shall be that the applicant attests to the above requirements

Section 1503 of the Zoning Ordinance requires the following:

"1503 Conditional Uses:

.5 Granting a Permit: The Commission may grant a Conditional Use Permit after conducting a public hearing, provided the applicant provides evidence substantiating that all the requirements of this ordinance relative to the proposed use are satisfied and demonstrates the proposed use also satisfies the following criteria:

A. The use is listed as a Conditional Use in the zone which is currently applied to the site;"

Finding 17: The FA-19 zone lists "One-family dwellings...not provided in conjunction with farm or forest use..." under "Conditional Uses."

Continuing with Zoning Ordinance section 1503.5:

"B. The use meets the specific criteria established in the underlying zone:"

Finding 18: The proposed use meets the criteria established in the underlying zone.

Continuing with Zoning Ordinance section 1503.5:

"C. The characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features;"

Finding 19: The characteristics of the site appear to make it suitable for residential use, due to the parcel size, terrain, availability of power, telephone, public road and proximity to other homesites in the area.

Continuing with Zoning Ordinance section 1503.5:

"D. The site and proposed development is timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use."

Finding 20: The only transportation system in the area is Lookout Road, a narrow, graveled, public road. Public facilities are power and telephone. These appear to make the proposed residence timely.

Continuing with Zoning Ordinance section 1503.5:

"E. The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs, or precludes the use of surrounding properties for the primary uses listed in the underlying district;"

Finding 21: The proposed dwelling will not alter the character of the area nor preclude the use of surrounding properties from the primary uses listed in the FA-19 zone. There are many other dwellings (11) on surrounding properties as evidenced by the template test.

Continuing with Zoning Ordinance section 1503.5:

"F. The proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use;"

The FOREST LANDS section of the Comprehensive Plan lists the following among its POLICIES:

- "7. Limit non-forest dwellings to individual lots or parcels where it can be shown that:
 - A. The proposed site is on land generally unsuitable for forest uses;
 - B. The proposed use will not significantly impact forest uses on adjacent and nearby forest lands;
 - C. The proposed use will not significantly increase the costs of forest management on adjacent and nearby forest lands;
 - D. The site is limited in size to that area suitable and appropriate only for the needs of the proposed use;
 - E. Where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby forest lands; and,
 - F. The proposed use is consistent with the forest policies contained in the Comprehensive Plan."

Finding 22: The proposed dwelling location is 130 feet off the southern property line and 170 feet off of Lookout Road on a level area of the property. These factors will minimize the amount of forest land that is needed for the driveway and homesite. The proposed use will not impact uses on adjacent and nearby forest land. The applicants have agreed to sign a Waiver of Remonstrance against all forest management practices on nearby or adjoining lands. In addition the applicants have agreed to follow all fire siting standards for dwellings and structures when siting their dwelling. The site will be limited to approximately 1 acre including the access driveway and firebreaks around the dwelling. The applicants have agreed to follow all measures to minimize potential negative impacts on adjacent or nearby forest lands. This proposal is consistent with forest policies contained in the Comprehensive Plan as evidenced in the findings above.

Continuing with Zoning Ordinance section 1503.5:

"G. The proposal will not create any hazardous conditions."

Finding 23: The proposed dwelling and accessory structures will not be hazardous if "Fire Siting Standards for Dwellings and Structures" is strictly followed including a primary 30' and secondary 100' fire break. A condition of approval shall be that these provisions are met

Continuing with Zoning Ordinance section 1503:

"6 Design Review: The Commission may require the Conditional Use be subject to a site design review by the Planning Commission."

Finding 24: A Site Design Review may be required by the Planning Commission.

The following state laws must also be met by this application:

Oregon Revised Statutes (ORS) 215.750 permits dwellings in forest lands under certain conditions regarding the number of parcels and existing dwellings within a 160-acre square or rectangle around the subject parcel, depending on the productivity of the predominant soils on the property for growing wood fiber.

Oregon Administrative Rules (OAR) 660-06-025(1)(d) permits "Dwellings authorized by ORS 215.720 to 215.750".

OAR 660-06-027(1)(d) provides as follows:

"(d) In western Oregon, the governing body of a county or its designate may allow the establishment of a single family dwelling on a lot or parcel located within a forest zone if the lot or parcel is predominantly composed of soils that are:

- (A) Capable of producing 0 to 49 cubic feet per acre per year of wood fiber if:
 - (i) All or part of at least three other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels;
- (B) Capable of producing 50 to 85 cubic feet per acre per year of wood fiber if:
 - (i) All or part of at least seven other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and
 - (ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels;

(C) Capable of producing more than 85 cubic feet per acre per year of wood fiber if:

(i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160 acre square centered on the center of the subject tract; and

(ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels."

Finding 25: A template has been prepared for Tax Lot #2702 which is the subject of this proposal showing 19 other parcels and 11 dwellings within a 160 acre square centered on the subject property. The subject property meets and exceeds template test standards for the number of dwellings and parcels.

OAR 660-06-029 provides as follows:

"Siting Standards for Dwellings and Structures in Forest Zones:

(1) Dwellings and structures shall be sited on the parcel so that:

(a) They have the least impact on nearby or adjoining forest or agricultural lands;

(b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;

(c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and

(d) The risks associated with wildfire are minimized.

(2) Siting standards satisfying subsection OAR 660-06-029(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

(3) The applicant shall provide evidence...that the domestic water supply is from a source authorized in accordance with the Water Resources department's administrative rules for the appropriation of ground water or surface water and not from a class II stream as defined in the Forest Practices Rules (OAR Chapter 629). For purposes of this subsection, evidence of a domestic water supply means:...

(c) Verification from the Water Resources department that a water use permit is not required for the use described in the application. If the proposed water supply is from a well and is exempt from permitting requirements...the applicant shall submit the well constructor's report to the county upon completion of the well."

Finding 26: The proposed new dwelling will be approximately 170' from Lookout Road. The existing roughed in driveway which traverses across the property for about 400' will not be used in order to preserve forestland. Instead the shortest route to the homesite about 170' off of Lookout Road will be utilized. The risk of fire spreading to adjacent lands may be minimized by cleared buffer zones around all structures. A condition of approval shall be that the applicant must agree to meet all fire siting standards for dwellings and structures including setbacks for primary and secondary fire breaks. A well constructor's report will be required before a building permit may be issued. The applicant states that a well exists on the property (See Well ID #L08332). These factors should minimize risks and adverse impacts.

Continuing with OAR 660-06-029:

"(4) As a condition of approval, if road access to the dwelling is by a road owned and maintained by a private party or by the Oregon Department of Forestry, the United States Bureau of Land Management, or the United States Forest Service, then the applicant shall provide proof of a long-term road access use permit or agreement. The road use permit may require the applicant to agree to accept responsibility for road maintenance."

Finding 27: The subject property has approximately 500 feet of frontage on Lookout Road. An existing driveway traversing the property will not be used. Instead the applicant proposes to use a 170' driveway to minimize impacts to forest land. A county road access permit will be required and or approval from the Rainier Fire District for the access driveway if over 150 feet in length.

Continuing with OAR 660-06-029:

- "(5) Approval of a dwelling shall be subject to the following requirements:
- (a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
 - (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved.
 - (c) The property owner shall submit a stocking survey report to the county assessor and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met.

(d) Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation...and impose the additional tax pursuant to ORS 321.372."

Finding 28: The subject property at 5.42 acres is not required have a timber stocking survey completed per OAR 660-006-0029(5)(c). To determine the specific requirements for your property's compliance please complete the Forest Land Assessment and Timber Stocking Compliance Application found in the final order and appeal packet that will be sent to you after the hearing. This application will contain the information necessary to determine specific requirements for your forest land and what you must submit in order to comply with these requirements.

OAR 660-06-035 provides as follows:

"Fire Siting Standards for Dwellings and Structures: The following fire siting standards or their equivalent shall apply to new dwellings or structures in a forest or agriculture/forest zone:

- (1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (2) Road access to the dwelling shall meet road design standards described in OAR 660-06-040.
- (3) The owners of the dwelling and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.

- (4) The dwelling shall have a fire retardant roof.
- (5) The dwelling shall not be sited on a slope of greater than 40 percent.
- (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester."

Finding 29: The above shall be conditions of approval and most will be controlled at the time of the building permit. The property is not within the Rainier Rural Fire Protection District. Road access must meet the requirements of OAR 660-006-0040 "Fire Safety Design Standards for Roads", primary and secondary fire breaks must be created and maintained, the dwelling must have a fire retardant roof, and all chimneys must have spark arresters. The dwelling may not be placed on a slope greater than 40%.

OAR 660-006-0040 provides as follows:

"Fire Safety Design Standards for Roads: The governing body shall establish road design standards, except for private roads and bridges accessing only commercial forest uses, which ensure that public roads, bridges, private roads and driveways are constructed so as to provide adequate access for fire fighting equipment. Such standards shall address maximum grade, road width, turning radius, road surface, bridge design, culverts, and road access taking into consideration seasonal weather conditions. The governing body shall consult with the appropriate Rural Fire Protection District and Forest Protection District in establishing these standards."

Finding 30: All building permits in forested areas and forest zones require prior approval by the local Fire Protection District or Forest Protection District of the driveway to the dwelling. In this case, the applicant shall consult with the Rainier Fire Department to determine if inspection and fire suppression services can be provided on a contract basis.

COMMENTS:

- 1. The Soil & Water Conservation District states that, "our boa must meet to consider this; we will have comments to you by March 17, 2000."
- 2. The Rainier Fire District has reviewed the application and has no objection to its approval as submitted but comments, "Standard concerns for fire department access and for building in the forest zone."
- 3. Columbia 911 has reviewed the application and has no objection to its approval as submitted.
- 4. The County Road master's Office comments by letter dated March 7, 2000 as follows:

"Discussion: No objection to the Conditional Use Permit, provide the following conditions are met:

1. Apply for an access permit.
2. Clear grade Lookout Road from Hollywood Road to driveway, 26' wide, with ditching on east side and cross culverts where required (minimum one at intersection with Hollywood Road).
3. Rock Lookout Road and driveway to County Road Department Driveway standards, with turnouts as required by the Fire Department.
4. Items #2 and #3, will be incorporated into the access permit, and must be completed prior to final construction approval of the access permit."
5. Marge Murphy of the Tide Creek CPAC has reviewed the application and has no objection to its approval as submitted. "... from what I could see, the site appears satisfactory."
6. Tammy Maygra of the Tide Creek CPAC has reviewed the application and has no objection to its approval as submitted. "The site is ok to build on."

No other comments have been received from notified nearby property owners or government agencies as of the date of this staff report (March 17 , 2000).

CONCLUSION AND RECOMMENDATION:

Based on findings , staff recommends **Approval** of this request to place a single family residence on an existing 5.42 acre parcel in a Forest Agriculture FA-19 zone with the following conditions:

1. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March, 1991, shall be followed in the construction of all structures on the site, and the access driveway. Applicant shall strictly follow the requirements of OAR 660-06-035 in the placement and construction of the dwelling, including a fire retardant roof, spark arresters on all chimneys, and not placing the residence on a slope greater than 40%.
2. A well constructor's report shall be submitted by the applicant showing adequate domestic and fire fighting water, before a building permit may be issued for construction of a septic system or dwelling. OAR 660-06-029(3).
3. A primary buffer area at least 30 feet wide shall be cleared and kept clear of all brush and trees around all structures. A secondary buffer area for an additional 100 feet shall be cleared and kept clear of all brush around all structures. These buffer areas shall be entirely within the subject property. OAR 660-06-035(3). Columbia County Zoning Ordinance (CCZO) Section 412(2).

4. The applicant shall sign a Waiver of Remonstrance regarding current and accepted farm and forest management practices on adjacent properties.
5. The property is not within the Rainier Rural Fire Protection District. The applicant shall have an approved contract with the Rainier Fire District to provide fire suppression services to the subject property. The Rainier Fire District shall approve of the access driveway to the homesite if over 150' in length.
6. Utilities shall be run along the driveway. The dwelling shall be located as close to Lookout Road as possible. CCZO 405(4) and 405(6).
7. The property owner is required to meet the provisions of the Forest Practices Act which may require either a timber stocking survey or a reforestation plan. If the parcel on which you are applying to place your dwelling on is less than 10 acres then you are exempt from this requirement. To determine the specific requirements for your property's compliance please complete the Forest Land Assessment and Timber Stocking Compliance Application found in the final order and appeal packet that will be sent to you after the hearing. This application will contain the information necessary to determine specific timber stocking requirements for your forest land and what you must submit in order to comply with these requirements.
8. This permit shall expire two years from the date on the final order per OAR 660-033-0140.
9. The applicant must obtain an access permit before building permits may be issued. The applicant shall clear grade Lookout Road from Hollywood Road to driveway, 26' wide, with ditching on east side and cross culverts where required (minimum one at intersection with Hollywood Road) and rock Lookout Road and driveway to County Road Department Driveway standards, with turnouts as required by the Fire Department.

NOTE: There are no wetlands or flood hazard areas on the subject property.

ATTACHMENT B
SUPPLEMENTAL FINDINGS

(In the Matter of the Application of Sridhar and Leslie Balakrishnan for a Conditional Use Permit to Place a Single Family Dwelling on a 5.42 Acre parcel in the FA-19 Zone)

1. The Board of County Commissioners rejects Appellant's contention that the proposed location violates the fire siting standards for dwellings as established by the Oregon Department of Forestry. Applicant has provided substantial evidence that the proposed dwelling site can meet mandatory fire siting standards as set out in Columbia County Zoning Ordinance § 412. The Applicants have submitted a plot plan indicating how they will site the dwelling so as to provide adequate 30' and 100' fire breaks and shorten the access driveway. Building permits shall not be issued unless the proposed dwelling meets the provisions of the Recommended Standards. Conditions No. 1, No. 3 and No. 5 ensure that the Applicant shall construct all structures on the site and the access driveway in accordance with the requirements of OAR 660-06-029 to 660-06-040 as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" and that Applicant will site and construct the single family dwelling in accordance with OAR 660-06-035.
2. The Board of County Commissioners reject the Appellant's contentions that the property is in a location which is unprotected by the Rainier Rural Fire District and the application is therefore not timely, considering the adequacy of services and that there is inadequate water on site to provide effective fire suppression. Applicants have provided substantial evidence that fire protection will be provided by the Rainier Fire District which will respond to a fire with "water on wheels" as provided for in an approved contract between the Rainier Fire District and the Applicants. OAR 660-06-029(3) does not require that the applicant provide proof that domestic water exists on the property for firefighting purposes.
3. The Board of County Commissioners rejects the Appellant's contention that the proposed driveway exceeds a 12% grade, has no turn around and cannot safely accommodate emergency vehicles. Applicants have provided substantial evidence that the slope to the west of the proposed house is approximately 12% and, with grading, can be reduced to 8% or 10% if desired. Conditions of Approval No. 5 and No. 9 both ensure that the Fire District will approve a driveway for accommodation of emergency vehicles and the driveway shall otherwise meet County Standards.
4. The Board of County Commissioner rejects Appellant's contention that the proposed drain field does not include a backup system and that effluent may seep into a spring on Appellant's property. The Applicants have submitted substantial evidence that both initial and replacement drain fields were approved by the County Sanitarian, and that any effluent coming from the dwelling would be treated and move through the soil away from the

Appellant's property. Furthermore, Applicants have provided substantial evidence that the drain field does include a back-up or replacement area.

5. The Board of County Commissioners rejects Appellant's contention that the subject property is within Major Big Game Habitat and is not as close as possible to existing structures on adjoining lots (clustered). Although the property is within a Major Big Game Habitat area, Applicants have provided substantial evidence that the subject property meets the 1 unit per 38 acres clustering test. The Applicants have also provided substantial evidence that there are 19 parcels with 11 other dwellings in the 160 acre template according to OAR 660-06-027, and that the applicant's proposed site will place their access driveway so as to keep the dwelling as close to the road as possible.
6. The Board of County Commissioners rejects the Appellant's contention that the staff report was not made available to her 10 days prior to the planning commission meeting. The Board finds that such report was made available in accordance with the Columbia County Zoning Ordinance, and even if such a procedural defect occurred before the Columbia County Planning Commission, it did not substantially impair the appellant's right to oppose the application in the de novo hearing before the Board of County Commissioners.