

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

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| In the Matter of the Applications |) | |
| by Steve Matiaco, Carole Matiaco, John |) | FINAL ORDER NO. 10-2002 |
| Jungwirth and Karen Jungwirth for 5 |) | FINDINGS AND CONCLUSIONS |
| Conditional Use Permits to Place 5 Single |) | |
| Family Dwellings in the Primary Forest |) | |
| (PF-76) Zone |) | |

WHEREAS, on September 17, 2001, Steve Matiaco filed application CU 02-10 for a conditional use permit to build a single family dwelling on 9.66 acres of property located approximately ½ mile southwest of Scappoose Vernonia Hwy, northwest of Chapman Grange Road, having tax account number 4219-000-00800, and zoned Primary Forest (PF-76), with the Columbia County Land Development Services Department; and

WHEREAS, on September 17, 2001, John Jungwirth filed application CU 02-11 for a conditional use permit to build a single family dwelling on 9.48 acres of property located approximately ½ mile southwest of Scappoose Vernonia Hwy, northwest of Chapman Grange Road, having tax account number 4219-000-00800, and zoned Primary Forest (PF-76), with the Columbia County Land Development Services Department; and

WHEREAS, on September 17, 2001, Steven Matiaco and John Jungwirth filed application CU 02-12 for a conditional use permit to build a single family dwelling on 15.02 acres of property located approximately ½ mile southwest of Scappoose Vernonia Hwy, northwest of Chapman Grange Road, having tax account number 4219-000-00800, and zoned Primary Forest (PF-76), with the Columbia County Land Development Services Department; and

WHEREAS, on September 17, 2001, Carole Matiaco filed application 02-13 for a conditional use permit to build a single family dwelling on 9.48 acres of property located approximately ½ mile southwest of Scappoose Vernonia Hwy, northwest of Chapman Grange Road, having tax account number 4219-000-00800, and zoned Primary Forest (PF-76), with the Columbia County Land Development Services Department; and

WHEREAS, on September 17, 2001, Karen Jungwirth filed application CU 02-14 for a conditional use permit to build a single family dwelling on 14.10 acres of property located approximately ½ mile southwest of Scappoose Vernonia Hwy, northwest of Chapman Grange Road, having tax account number 4219-000-00800, and zoned Primary Forest (PF-76), with the Columbia County Land Development Services Department; and

WHEREAS, on November 5, 2001, the Columbia County Planning Commission held a hearing on all five applications; and

WHEREAS, after hearing testimony and receiving evidence into the record, the Columbia County Planning Commission voted to approve applications CU 02-12 and CU 02-14, and voted to deny applications CU 02-10, CU 02-11 and CU 02-13, and Planning Commission Chair, Jeff VanNatta signed Final Orders CU 02-10, CU 02-11, CU 02-12, CU 02-13, and CU 02-14 on November 14, 2001; and

WHEREAS, the Thousand Friends of Oregon, Columbia County Citizens for Orderly Growth and Jennifer Kirkpatrick appealed the approval of CU 02-12 and CU 02-14, and A. Richard Vial, appealed the denial of CU 02-10, CU 02-11 and CU 02-13, to the Columbia County Board of Commissioners; and

WHEREAS, on February 6, 2002, the Columbia County Board of Commissioners held a de novo hearing on all five applications; and

WHEREAS, during the hearing Glen Higgins, Chief Planner for the County's Land Development Services Department, the staff report and attachments into the record, and recommended approval of all five applications; and

WHEREAS, during the hearing, Bruce Vincent, consultant for applicants, Steve Matiaco, Richard Vial, attorney for applicants, and Joe Luttrell spoke in favor of the applications, and Rosemary Lohrke, Jay Chamberlain, representing 1000 Friends of Oregon, Sid Freidman, Regional Planning Advocate fo 1000 Friends of Oregon, Michael Sheehan, and Jennifer Kirkpatrick testified in opposition of the applications; and

WHEREAS, at the hearing the following was introduced into the record:

Exhibit 1- County Counsel's file as follows:

- A. NOTICE OF PUBLIC HEARING (PUBLICATION);
- B. NOTICE OF PUBLIC HEARING (PROPERTY OWNER NOTICE);
- C. AFFIDAVIT OF MAILING;
- D. AFFIDAVIT OF PUBLICATION;
- E. STAFF REPORT TO THE BOARD OF COUNTY COMMISSIONERS DATED 1/29/02 ON APPLICATIONS 02-12 AND 02-14 with the following attachments:
 1. Appeal of Planning Commission decision CU 02-12 and 02-14;
 2. Planning Commission Final Order ;
 3. Comments Received, including:
 - a. Letter #1 from Oregon Department of Fish and Wildlife, dated November 2, 2001;
 - b. Letter #2 from Oregon Department of Fish and Wildlife dated November 2, 2001;
 - c. Letter #3 from Oregon Department of Fish and Wildlife dated November 2, 2001;
 - d. Referral and Acknowledgment- Scappoose Fire District dated

- October 11, 2001;
- e. Referral and Acknowledgment from Watermaster dated October 16, 2001;
- f. Referral and Acknowledgment from Soil and Water Conservation District dated October 16, 2001;
- g. Referral and Acknowledgment from County Roadmaster dated October 4, 2001;
- h. Referral and Acknowledgment from West Oregon Electric dated October 8, 2001;
- i. Referral and Acknowledgment from County Sanitarian dated October 1, 2001;
- j. Referral and Acknowledgment from Scappoose CPAC dated October 10, 2001;
- k. Referral and Acknowledgment from Soil and Water Conservation District dated October 30, 2001;
- l. Memo to Planning Commission from Vial Fotheringham dated July 11, 2001;
- m. Letter to Planning Commission from 1000 Friends of Oregon dated November 5, 2001;
- n. Letter to Planning Commission from John and Debbie Dudley dated October 9, 2001;
- o. Letter to Planning Commission from George and Ruth Johnson dated October 10, 2001;
- 4. Application CU 02-12 (Steven Matiaco and John Jungwirth) received September 17, 2001, with attachments;
- F. STAFF REPORT TO THE BOARD OF COUNTY COMMISSIONERS DATED 1/29/02 ON APPLICATIONS 02-10, 92-11, AND 02-13 with the following attachments:
 - 1. Appeal of CU 02.10;
 - 2. Comments received (same comments attached to staff report on 02-12 and 02-14);
 - 3. Conditional Use Permit Application CU 02-10 received September 17, 2001;
 - 4. Planning Commission Final Order 02-10;
- G. November 5, 2001 Planning Commission Minutes;
- H. Related to CU 02-10:
 - 1. Notice of Public Hearing dated October 1, 2001;
 - 2. List of Persons to Receive Notice;
 - 3. Referral Contact List;
 - 4. Certificate of Mailing Final Order CU 02-10;
 - 5. Public Notices (2);
 - 6. Certificate of Mailing Referral and Acknowledgment packet dated October 19, 2001;
 - 7. Certificate of Mailing Referral and Acknowledgment packet dated October

- 10, 2001;
8. Certificate of Mailing Notice of Public Hearing packet dated October 1, 2001;
9. Copy of returned envelope addressed to Janet Britton;
1. Related to CU 02-11:
 1. Notice of Public Hearing dated October 1, 2001;
 2. List of Persons to Receive Notice;
 3. Referral Contact list;
 4. Certificate of Mailing Final order 02-11 dated November 15, 2001;
 5. Public Notice (3);
 6. Certificate of Mailing Referral and Acknowledgment packet dated October 19, 2001;
 7. Certificate of Mailing Referral and Acknowledgment packet dated October 10, 2001;
 8. Certificate of Mailing Notice of Public Hearing packet Dated October 1, 2001;
- J. Related to CU 02-12:
 1. Notice of Public Hearing dated October 1, 2001;
 2. List of Persons to Receive Notice;
 3. Referral Contact list;
 4. Certificate of Mailing Final Order CU 02-12 dated November 15, 2001;
 5. Public Notice (2);
 6. Certificate of Mailing Referral and Acknowledgment packet dated October 19, 2001;
 7. Copy of returned envelope to Chapman Grange #788;
 8. Certificate of Mailing referral and Acknowledgment packet dated October 10, 2001;
 9. Certificate of Mailing Notice of Public Hearing packet dated October 1, 2001;
- K. Related to CU 02-13:
 1. Notice of Public Hearing;
 2. List of Persons to Receive Notice;
 3. Referral Contact List;
 4. Certificate of Mailing Final Order 02-13 dated November 15, 2001;
 5. Public notices (2);
 6. Certificate of Mailing referral and acknowledgment packet dated October 19, 2001;
 7. Certificate of Mailing referral and acknowledgment packet dated October 10, 2001;
 8. Certificate of mailing Notice of Public Hearing packet dated October 10, 2001;
- L. Related to CU 02-14:
 1. Notice of Public Hearing;

2. List of Persons to Receive Notice;
 3. Referral Contact List;
 4. Certificate of Mailing Final Order CU 02-14 dated November 15, 2001;
 5. Public Notices (3);
 6. Certificate of Mailing referral and acknowledgment packet dated October 19, 2001;
 7. Certificate of Mailing Referral and Acknowledgment packet dated October 10, 2001;
 8. Certificate of mailing Notice of Public Hearing packet dated October 10, 2001;
- M. Map of 5 application sites;
- N. Appeal of CU 02-14 received 11/21/01;
- O. Staff Report CU 02-14 to the Planning Commission dated October 24, 2001;
- P. Appeal of CU 02-12;
- Q. Staff Report CU 02-12 to the Planning Commission;
- R. Appeal of CU 02-11 received 11/21/01;
- S. Staff Report CU 02-11 to the Planning Commission dated October 25, 2001;
- T. Appeal of CU 02-10 received 11/21/01;
- U. Staff Report CU 02-10 to the Planning Commission dated October 25, 2001;
- V. Appeal of CU 02-13 received 11/21/01;
- W. Staff Report CU 02-13 to the Planning Commission dated October 24, 2001;
- X. Supplemental Findings Staff Report dated 11/05, 2001;
- Y. Board Communication dated February 4, 2001;

Exhibit 2-Letter to the Board of County Commissioners from Diana and Darryl Boom dated February 5, 2002;

Exhibit 3- Letter to the Board of County Commissioners from the Oregon Department of Fish and Wildlife dated February 5, 2002;

Exhibit 4- Fax from Richard Vial to the Board of County Commissioners;

Exhibit 5- Letter from 1000 Friends of Oregon dated February 5, 2002, submitted by Jay Chamberlain; and

WHEREAS, having heard evidence and testimony, the Board of County Commissioners closed the public hearing record for evidence and testimony, and continued the matter for deliberations to February 13, 2002; and

WHEREAS, on February 13, 2002, the Board of County Commissioners deliberated on the matter and voted to deny applications CU 02-10, CU 02-11 and CU 02-13, and to approve applications CU 02-12 and CU 02-14 subject to the conditions of approval as set forth in the staff report to the Board of County Commissioners dated January 29, 2002.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Columbia County Planning Commission adopts the Findings of Fact and Conclusions of Law which are attached hereto as Attachment A, and are incorporated herein by this reference.
2. Applications CU 02-10, CU 02-11 and CU 02-13 are DENIED.
3. Applications CU 02-12 and CU 02-14 are APPROVED subject to the following conditions of approval for each application:
 - i. The conditional use permit shall become void 2 years from the date of the final decision if development has not begun on the property. Extensions of time may be granted by the Planning Director if requested in writing before the expiration date and if the applicant was not responsible for the failure to develop within the prescribed time.
 - ii. Prior to the issuance of a building permit, the owner shall do the following:
 - a. Submit to the County Land Development Services Department, documentation from the Scappoose Rural Fire Protection District approving the shared private road and private driveway to the proposed residence and stating that the driveway and road have been constructed to meet fire district standards.
 - b. Build an emergency apparatus turnaround at the end of the driveway.
 - c. Build the driveway according to Columbia County Driveway Standards which prohibits driveway grade in excess of 12% unless special improvements are built and approved by the County Road Department.
 - d. The owner shall obtain an Access Permit from the Columbia County Road Department and shall submit the Access Permit too the Land Development Services Department.
 - e. The owner shall submit a well constructor's report indicating that sufficient domestic water is available to serve the subject property.
 - f. The owner shall provide documentation that the County Sanitarian has performed a septic lot evaluation and that the property is approved for a septic system.
 - g. The owner shall clearly mark the address of the residence in two locations. One sign shall be at the beginning of the private road near the intersection of Chapman Grange Road, and the second shall be where the shared private road enters the subject property and becomes a driveway.
 - h. The owner(s) shall follow the requirements of OAR 660-06-029 to 660-06-040, as they are interpreted by the Oregon Department of Forestry in its "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March, 1991, in the construction of the access driveway and all structures on the site. The dwelling shall, among other requirements, have a fire retardant

- i. The owner(s) shall follow the firebreak requirements of OAR 660-06-029 to 660-06-040 as interpreted by the Oregon Department of Forestry in its, "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March, 1991, or its equivalent.
- j. The owner shall obtain an official name for the private road.
- k. The owner shall meet the provisions of the Oregon Forest Practices Act which may require either a timber stocking survey or a reforestation plan.

- a. Chapman Grange Road shall be widened to a 20' wide travel surface, and be graveled. Drainage ditches and culverts shall be built as may be deemed necessary by the Columbia County Road Department. These road improvements shall start at the intersections of Melling Drive and Melonie Drive with Chapman Grange Road and shall continue to the location of the access of the new private driveway.
- b. The owner shall coordinate the removal of second growth fir trees located in the right of way which must be removed for road widening purposes.
- c. The owner shall dedicate five additional feet of road right of way on Chapman Grange Road for the length of the owner's property where such property abuts Chapman Grange Road.
- d. The owner shall construct the private driveway to County Standards, i.e. 12 feet in width, with turnouts. The owner shall use grade stakes to mark the easement location and to show the cut/fill requirements. The grade stakes shall be in place prior to site inspection by the County Road Department.

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- e. The owner shall enter into a maintenance agreement with abutting property owners which shall specify the responsibility of each property owner to maintain the shared private driveway and section of Chapman Grange Road used for access. The Maintenance Agreement shall run with the land and be binding on all successors in interest in the property. The maintenance agreement shall be recorded in the deed records of Columbia County.

Dated this 22nd day of February, 2002.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

not present to sign
Tony Hyde, Chair

Joe Corsiglia
Joe Corsiglia, Commissioner

Rita M. Bernhard
Rita Bernhard, Commissioner

Approved as to form

By: Sarah Tyson
Assistant County Counsel

ATTACHMENT A

FINAL ORDER NO. 10-2002

FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. Columbia County Zoning Ordinance § 501 sets forth the purpose of the Primary Forest Zone. As set forth in that section, the purpose of the primary forest zone is to retain forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. The purpose of the zone is also to provide for other forest uses including watershed protection, soil protection, maintenance of clean air and water, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities free from the encroachment of conflicting non-forest uses and influences. § 501 also sets forth a list of uses which comport with the purpose of the zone, including forest management dwellings provided for in OAR 660-06-027, and “other dwellings under prescribed conditions.”¹ The Board of County Commissioners finds that for all five applications, the proposed dwellings are not forest management dwellings defined as, “structures and facilities (including residences) necessary for and accessory to commercial forest management and fish and wildlife management,” under CCZO § 502.3. Rather, these dwellings are “other dwellings” which are conditional uses in the Primary Forest Zone. Consistent with § 501, all five applications are for “other dwellings” which comply with the Oregon Forest Practices Act’s, “template test” under OAR 660-06-027(1)(d). (See finding #25, below).
2. The Board of County Commissioners finds that “non-resource related single family dwellings” are conditionally permitted in the primary forest zone. The Board of County Commissioners finds that all five applications are for non-resource related single family dwellings. Therefore, the Board finds that each such application must meet the criteria set forth in CCZO § 504, § 505, and § 1503, as well as the criteria set forth in the Oregon Forest Practices Act.
3. Columbia County Zoning Ordinance § 504.1 requires that the use of each subject parcel be consistent with forest and farm uses and with the intent and purposes of the Oregon Forest Practices Act. The Board finds that ORS 527.630 sets out the intent and purpose of the Forest Practices Act. The statute states, “...it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water and fish and wildlife resources that assures the continuous benefits of those resources for future generations of

¹ While OAR 660-06-027 no longer makes a distinction between resource and non-resource related dwellings, the Columbia County Zoning Ordinance still makes reference to the distinction.

Oregonians.” ORS 527.730 further states that “nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use.” The Board of County Commissioners finds that all five of the subject applications meet the intent and purposes of the Oregon Forest Practices Act because each applicant(s) provided substantial evidence in the record that the “leading use” on each respective parcel will remain for the continuous growing and harvesting of forest tree species. Each Applicant(s) intend to convert approximately 1 to 1.5 acres of the forest land to residential uses. This conversion is not precluded by the Forest Practices Act. The remaining acreage on each property will remain in use for the growing and harvesting of forest tree species.

4. Columbia County Zoning Ordinance § 504.2 requires that the proposed residential uses 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. The Board finds that the applicants for each application have provided substantial evidence in the record that none of the proposed residential uses will 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. The only adjacent land devoted to commercial forest use is a tract of land in the Koehler Acres Subdivision which is owned by Longview Fiber. The tract is 98.7 acres to the west of the subject parcels. The five dwellings are proposed to be sited over 300 feet from the western most boundary of the parcels. Forest practices on commercial property includes the planting, managing and harvesting of forest lands. The Board finds that such a distance is an adequate buffer for accepted forest management techniques. The Board finds that the proposed dwellings will not impede the continued forest management and harvest activities on the Longview Fibre property. Longview Fibre did not comment on the applications. No evidence was presented that there would be any impediment. The record shows that the dwelling sites will be 1 to 1.5 acres in size. The only possible impediment to the commercial property would be access conflicts, and the possibility of fire due to the increased fire risk associated with residential uses. The Board finds that there is evidence in the record that existing roads will be used to access the 5 dwelling sites, and that those roads do not conflict with Longview Fibres’ access roads. Furthermore, the Board finds that fire siting standards are required to be followed by the applicants in siting the proposed dwellings. The fire siting standard requirement does not increase the cost of forest management for Longview Fibre. Furthermore, upon instituting such standards, the applicants will have mitigated the fire risk.

Other adjacent properties to the north, east and south are small parcels devoted to rural residential uses, including small farm or woodland lot uses. Most of these small lots have been developed with dwellings and other residential structures. The Board finds that the proposed dwellings will not significantly increase the cost nor interfere with farm or forest uses on these smaller parcels as long the fire siting standards are followed to prevent fire from spreading to the adjacent properties. The record shows that the parcels in the immediate vicinity of the subject parcels are part of Koehler Acres. To the north of Koehler Acres are numerous small parcels (1-8 acres), many with dwellings or other structures. Chapman Grange Road and Melonie Lane separate the platted subdivision, including the subject sites, from the large acreage tracts to the east and the south. The proposed dwellings will not interfere with farm or forest uses on such parcels. The record shows that there is adequate access off Chapman Road and Melonie Lane to serve the

additional dwellings. After the required improvements have been made, any traffic impacts will be minimal, and would not raise to the level of being “significant.” Furthermore, a waiver of remonstrance regarding forest and farm practices is a condition of approval on each application. Such a waiver will further protect resource uses in the area from potential conflicts. (See also Finding #19, below).

5. Columbia County Zoning Ordinance § 504.3 requires that the proposed dwellings will be limited to a site no larger than necessary to accommodate the residential activities 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. The Board finds that the proposed dwellings and their related structures will be limited to 1 to 1.5 acres in size, including firebreak setbacks. The activities on the parcels will be residential in nature. Because of the firebreak requirements, property around the structures must be kept free of vegetation to mitigate the risk of fire to other properties. With the fire breaks, 1 to 1.5 acres per dwelling site is necessary to accommodate the residential activities. Therefore, because the residential uses are proposed to be no larger than necessary to accommodate the proposed activity, the uses will not materially alter the stability of the overall rural or residential land use pattern of the area. Nor will the residential uses substantially limit or impair the permitted uses of the surrounding properties. The permitted uses of the surrounding properties include single family dwellings, and farm and forest uses. The Board finds that there is substantial evidence in the record that the five proposed dwellings will not interfere with farm, forest, or residential uses on the surrounding property. The Board has previously found that fire and traffic impacts on neighboring properties will be mitigated by conditions imposed by the Board. Therefore, the Board cannot find that the residential uses will substantially limit or impair the permitted uses on the surrounding properties.
6. Columbia County Zoning Ordinance § 504.4 requires that the proposed residential uses will not constitute unnecessary fire hazards, and will provide for fire safety measures in planning, design, construction and operation. The Board of County Commissioners finds that the proposed dwellings will not constitute an unnecessary fire hazard, and each applicant(s) will provide for fire safety measures in the planning, design, construction and operation of the dwelling. There is substantial evidence in the record that fire break setbacks can and will be met by the applicants. These fire break setbacks will include secondary fire breaks as indicated on the fire break plan map submitted with each application. The applicants have planned for fire safety by incorporating fire safety standards into the proposed design layout. The Board finds that by requiring the applicants to construct the dwellings as designed and to maintain the vegetation appropriately and in accordance with primary and secondary fire break standards, the residential uses will not be unnecessary fire hazards. In addition, the applicants have submitted evidence that they will improve the access road as necessary to meet fire district standards prior to receiving a building permit. By requiring such improvements, the Board finds that fire hazards are further mitigated.
7. Columbia County Zoning Ordinance § 504.5 requires that public utilities are to develop or utilize rights-of-way that have the least adverse impact on forest resources. In addition, the code section requires that existing right-of-ways are to be used whenever possible. The Board finds that there

is substantial evidence in the record that the applicants will route public utilities via the shortest routes from Chapman Grange Road and will run them along the existing road right of ways to each home site. The applicants have indicated that the power and telephone lines will be installed underground to minimize the impact on forest resources.

8. Columbia County Zoning Ordinance § 504.6 requires that development within major and peripheral big game ranges 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. The Board of County Commissioners finds that according to the Comprehensive Plan Map 44, entitled, "Big Game Range in Columbia County", all five subject parcels are identified as Major Big Game Habitat. Therefore, the applicants must site the proposed dwellings to minimize their impact on big game habitat. The Board further finds that each application to site a dwelling must individually meet each applicable criteria, and the Board must examine each application individually in order to determine if each application meets such criteria. Having done so, the Board finds that each application meets this criteria. During the hearing, Steve Matiaco submitted substantial evidence that in siting each proposed dwelling, the applicants located the dwellings as near to the existing roads and other dwellings on adjoining lots as possible, while still setting them back far enough to meet the required firebreak set backs, and the practical considerations such as slope and topography of the area. On Lots 4, 11 and 18, the proposed dwelling sites are located to the east of the parcels towards dwellings and structures on adjacent properties. In addition, according to the drawings submitted by the applicants that show the dwelling sites and accessory structures, all structures to be built under each application will be clustered together. Therefore, the Board finds that each application has minimized the impact of the development on big game habitat.
9. Columbia County Zoning Ordinance § 505.1 requires that non-resource related structures, such as single family dwellings, shall be placed only on land that is generally unsuitable for commercial forestry or agriculture taking into consideration the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. The Board of County Commissioners finds that none of the 5 subject parcels are generally suitable for commercial forestry or agriculture. The Board finds that there is no definition in the County Zoning Ordinance of "commercial forestry or agriculture." The Board, therefore, is free to interpret this code provision in the first instance. It is undisputed that each subject parcel is capable of growing trees. That fact, however, is not dispositive of the issue of commercial suitability. To be suitable for commercial production, the Board must look overall at the terrain, soil and land conditions, drainage and flooding, vegetation, location and size of the tract. We look at each application separately for a determination of suitability. Having done so, the Board finds with respect to the soil, that it is not suitable for commercial forestry. The subject properties are underlain entirely by 6D Bacona Silt Loam which is well suited for timber production (Douglas Fir Site Class II), but not so well suited for Agricultural purposes. The largest of the subject parcels is 15.02 acres. The productivity of this property for Douglas-Fir timber production is estimated at 2433.24 cubic feet per year. All of the other parcels are estimated to have lower production levels than the 15.02 acre parcel. High value timberland is generally defined as being 5,000 cubic feet per year. As a general

rule, 26 to 28 acres of land having underlying soils with Douglas fir site indexes of 165 or more are required to produce 5,000 cubic feet of wood fiber year. In this case, not only are the parcels too small, but the soil index is only 162. The Board finds that none of the subject parcels is suited for producing high-value timberland, which indicates that the property is less viable as commercial forestry. In addition, the Board finds that there is substantial evidence in the record that the subject parcels are near several residential parcels to the east. The Board finds that the location of these parcels makes them less suitable for commercial forestry because potential of conflicts with residential uses due to noise, dust, and traffic impacts.

Finally, the Board finds that the size of the tract makes them generally unsuitable for commercial forestry. Each parcel is under separate ownership, and therefore, the Board finds that each parcel's suitability for commercial forestry should be considered separately. There is no "tract" because each of the parcels is in separate ownership. County's Comprehensive Plan, in Columbia County, the existing commercial forest use patterns and management practices of large land owners have predominantly involved the use of 38-40 acre tracts as management units for silvicultural and commercial production reasons. These reasons include but are not limited to the economics of surveying, planting and thinning, brush removal, harvesting practices, fire, and insect and disease protection. (CCCP p. 18, Forest Lands, Fact #2). The Comprehensive Plan also recognizes that commercial forestry patterns in the County consist of individual private parcel ownerships in lot sizes of predominantly the 19-38 acre size. (CCCP p. 18-19, Forest Lands, Fact #5). The five parcels are in separate ownership, all of which are under 19 acres in size. The Board finds that given economies of scale, it is unlikely that each separate parcel would be attractive for commercial forestry according to the County's commercial forestry pattern. To be economically efficient, more than one parcel would have to be managed together.

10. Columbia County Zoning Ordinance § 505.2 requires that fire safety measures be taken according to the Northwest Inter-Agency Fire Prevention Group Guide entitled, "Fire Safety Considerations for Development in Forest Areas." The Board of County Commissioners finds that there is substantial evidence in the record that the applicants will strictly observe the fire safety measures set forth in the guide. The applicants have included site plans with their applications which show primary and secondary fire breaks as well as setbacks from the property lines. The applicants have provided evidence that the dwellings will be sited to also meet the primary and secondary fire break requirements of the Oregon Administrative Rules. The Board finds that the slope on the subject sites are moderate, 5-10%. The existing access driveways to the proposed building envelopes will be improved as may be necessary to meet county and fire district standards. The Board finds that prior to the issuance of a building permit, each driveway must be inspected and approved by the Scappoose Fire District.
11. Columbia County Zoning Ordinance § 505.3 requires that a dwelling's owner or occupant shall assume responsibility for wildlife damage on the property. The Board of County Commissioners finds that the applicants are willing to assume responsibility for damage to property from wildlife.
12. Columbia County Zoning Ordinance § 505.4 requires that the proposed residential uses do not

impose any limitations on the operation of a primary wood processing facility. The Board of County Commissioners finds that there are no adjacent primary wood processing facilities in the area. Therefore, the Board finds that none of the proposed residential uses will limit the operation of such a facility.

13. Columbia County Zoning Ordinance § 505.5 allows the Board to require a farm or forest management impact statement showing the relationship between the proposed residential uses and the surrounding resource uses, including setbacks for any dwellings from forest or farm uses to assure that the conditions in CCZO § 505 are met. The Board will not require such an impact statement.
14. The Board of County Commissioners finds that CCZO § 510 requires all new dwellings in the PF-76 zone to meet the following fire siting standards:
 - a. 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.
 - b. 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.
 - c. 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.

The Board of County Commissioners finds that the applicants will follow the fire safety requirements when siting their dwellings. The Applicants are willing to accept these standards as conditions of approval of their conditional use permits. The Board finds that it will require documentation from the Scappoose Rural Fire District which shows that all fire safety issues have been addressed prior to the issuance of a building permit and that the applicants otherwise meet these fire standards. The Board finds that there is no water supply available on the subject properties which would be suitable for fire protection.

15. Columbia County Zoning Ordinance § 1503.5(A) requires that proposed residential uses are listed as conditional uses in the zone which is currently applied to the sites. The Board finds that non-resource-related single family dwellings are conditionally permitted in the primary forest zone. The Board finds that the five subject applications are for non-resource related single family dwellings and are therefore properly considered as conditional uses.
16. Columbia County Zoning Ordinance CCZO § 1503.5 (B) requires that the proposed residential

uses meet the specific criteria established in the underlying zone. The Board of County Commissioners finds that all five applications meet the specific criteria listed in the primary forest underlying zone (See Findings 1-14). However, as set forth in finding # 23, below, CU 02-10, 02-11 and 02-13 do not meet the specific criteria established in the Big Game Habitat Overlay Zone (CCZO § 1190).

17. Columbia County Zoning Ordinance § 1503.5 (C) requires that the characteristics of the proposed sites be suitable for the proposed uses considering their size, shape, location, topography, the existence of improvements and natural features. The Board of County Commissioners find that two of the subject parcels, Lots 9/10 and Lot 19 are located abutting or within a few hundred feet of the existing Chapman Grange Road, and approximately 2 mile south of Scappoose-Vernonia Highway. The other three lots, Lots 4, 11 and 18 are located further west between approximately 1,000 to 1,800 feet from Chapman Grange Road and 1 mile south of Scappoose-Vernonia Highway. The proposed homesites do not contain any natural hazard areas such as wetlands, floodplains or steep slopes. The Board finds that the National Wetlands Inventory and FEMA Flood Hazard map (41009C0340) indicate that there are no wetlands or flood hazards on the property. Furthermore, according to County staff, currently the sites are unimproved with no structures on the parcels, and have some moderate slopes (between 5-10% slope). Access roads have been built. Staff has also indicated there are no outstanding natural features on these parcels. The Board finds that these parcels are suitable in size, shape, location, topography and natural features to make the sites suitable for the proposed forest dwellings. The Board finds that while the slope of the access road off Chapman Grange Road is steep, paving of the road will allow the applicants to meet Scappoose Fire District Standards, and secondary firebreaks will otherwise mitigate the increased risk of fire due to the slopes. The Board finds that the physical characteristics of these parcels make them suitable for residences. The Board further finds the location of these parcels adjacent to rural residential property makes them even more suitable for residential dwellings because of the existence of public infrastructure and utilities associated with existing rural residential densities.
18. Columbia County Zoning Ordinance § 1503.5 (D) requires that the proposed sites and proposed developments be timely, considering the adequacy of transportation systems, public facilities, and services existing or planned for the area affected by the use. The Board of County Commissioners finds that the transportation system in the area of the parcels that would be used to access the parcels is automobile transportation along Chapman Grange Road. The Board finds that Chapman Grange Road connects to the Scappoose Vernonia Highway which accesses state Highway 30 and Scappoose. Chapman Grange Road has a one lane, graveled travel surface that is in fair condition on a 40' wide public right-of-way. The Columbia County Transportation System Plan does not identify the functional classification of Chapman Grange Road; however, the integrated road information system road classification report lists both its federal and county classification as being "RL", or "Rural Local". The Board further finds that public facilities in the area include electric power and telephone service. Public services in the area include police and fire protection. The Board finds that when improvements are made to the transportation system in the area, then the proposed development will be timely.

19. Columbia County Zoning Ordinance § 1503.5 (E) requires that the proposed uses 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. The Board of County Commissioners finds that the area immediately to the east, west and south of the subject parcels consist of small parcels (5 to 15 acres) that are part of the Koehler Acres subdivision, a subdivision platted in 1929. Beyond Kohler Acres to the south and east are large acreage tracts (sixty acres and larger) that are in timber production. To the north of the sites are numerous small parcels (1 to 8 acres), many of them with dwellings and other structures. The Board further finds that Chapman Grange Road and Melonie Lane separate the platted subdivision, including the subject site, from the large acreage tracts to the east and the south. The proposed dwellings are farther away from the timber activities to the east and to the south than are numerous existing dwellings. Therefore, the proposed dwellings are not likely to impair or preclude any listed PF-76 uses. The Board finds that the character of the surrounding timber land will remain the same. In addition, there are several dwellings in the rural residential areas to the east of the proposed sites (as well as one Community Service Institutional residence).

The addition of dwellings in the area will not limit, impair, or preclude surrounding residential uses from the primary uses in the residential district. The primary uses in RR-5 zone are for single family dwellings, farm uses, propagation and harvesting of forest products and accessory structures. Evidence was submitted into the record that the character of the RR-5 zone would be altered by the placement of dwellings on the proposed parcels because the RR-5 residents would not be able to hike and horseback ride on the property. The Board of County Commissioners finds that the ability to use someone else's property for recreational purposes is not a use permitted in the RR-5 zone and should not be considered by the Board. The Board finds that the ability of the neighboring property owners to use and enjoy their property will not be altered by the addition of 5 dwellings. The proposed sites are large. The trees and vegetation should mitigate any noise associated with the dwellings. There are large rural distances between the developments. The impact from increased traffic will be minimal. Evidence in the record shows that the applicants will make improvements to Chapman Grange Road. Access to the neighboring residences will not be effected. The Board finds that any impact on the neighbors will be negligible. The Board finds, likewise, that the proposed residential uses will not alter the character of the surrounding timber land. (See finding # 4, above). There is one parcel in the immediate area which is zoned Community Service Institutional. The uses permitted in the zone are generally related to public activities including schools, government, and hospitals. The Board finds that the addition of 5 dwellings on the proposed parcels will not alter the character of the surrounding area in a manner which would limit, impair or preclude the use of the CSI property for these uses. The only possible impact would be from increased traffic. As stated above, the Board finds that the road improvements will mitigate any possible problems due to the increased traffic.

20. Columbia County Zoning Ordinance § 1503.5 (F) requires that the proposals satisfy the goals and policies of the Comprehensive Plan which apply to the proposed uses. The Board of County Commissioners finds that two sections of the Comprehensive Plan apply to the proposals to build

dwellings in the primary forest zone.

First, the Columbia County Comprehensive Plan Section on Forest Lands states that it is a goal of the County to “conserve forest lands for forest uses.” The Comprehensive Plan then sets forth several policies intended to meet that goal. Policy 1 states that it is a policy of the County to “conserve forest lands for forest uses,” including the production and processing of forest products, open space buffers from noise, visual separation from conflicting uses, watershed protection, wildlife and fisheries habitat, soils protection from wind and water, compatible recreational activities and grazing land for livestock. The Board of County Commissioners does not read Policy 1 as prohibiting the siting of residences in the primary forest zone. If the Board were to read policy one to have such an effect, then Policy 7 which allows residential siting would be of no effect. The two policies must be read together to give effect to both. The Board reads Policy 1 as a list of forest uses which are favored in the forest zone. Policy 7, then sets forth criteria under which the County will allow residences to be sited, residences being one of the “non-favored” uses allowed in the forest zone.

Policy 7 states that it is a policy of the County to “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.”

The Board of County Commissioners finds that the proposals to place 5 single family dwellings satisfies the forest goals and policies, 7(A)- (F). Policies 7(A)-(E) are implemented through the County’s zoning ordinance. Findings # 4 and #19, above, find that the proposed residential uses will not significantly impact forest uses on adjacent or nearby forest lands. Therefore, Policy 7(B) is satisfied. Finding #4 also makes a finding that the proposed residential uses will not significantly increase the cost, nor interfere with accepted forest management practices on adjacent or nearby forest or farm land, satisfying Policy 7(C). Finding #5, above, makes a finding that the proposed dwellings will be limited in size to an area no larger than is necessary to accommodate the residential use, which satisfies Policy 7(D). Findings #6 and #10, above, find that the proposed residential uses, after mitigation, do not constitute unnecessary fire hazards and that other potential hazards are capable of mitigation. Therefore, Policy 7(E) is satisfied.

Finding # 9, above, makes a finding that the proposed dwellings are proposed to be placed on land that is generally unsuitable for commercial forestry. The language in Policy 7(A) restricts dwellings to land unsuitable for general “forest uses.” The Board of County Commissioners finds

that § 505(1) of the Columbia County Zoning Ordinance implements policy 7(A) of the County Comprehensive Plan. By adopting the language in § 505(1), the Board has interpreted the Policy to mean that dwellings on forest land should be limited to forest land which is generally unsuitable for commercial forest uses. The Board finds that primary forest designated property will always be generally suited for forest uses. That fact has led to its designation as primary forest land. Therefore, if Policy 7A were interpreted to prohibit residences where land is suited for forest uses, no residences would be permitted in the primary forest zone. That result does not make sense given that dwellings are permitted as conditional uses in the primary forest zone under the Columbia County Comprehensive Plan and Zoning Ordinance, as well as under the Oregon Forest Practices Act. The Board finds that finding #9, above, adequately addresses and finds that Policy 7(A) has been satisfied.

Finally, the Board of County Commissioners finds that the proposed residential uses are consistent with the other forest policies contained in the comprehensive plan. The Board finds that the proposals generally conserve forest lands for forest uses by keeping most of the parcels in active forest production. At most 1 to 1.5 acres of each parcel will be taken out of forest production. The proposals show that the applicants have clustered the proposed structures together on each parcel, and that all of the proposed dwellings have been sited as close to the existing roads and neighboring structures as possible. The Board finds that the applicants' efforts to keep the impacts of residential uses restricted to these relatively small areas satisfies the policy of conserving forest lands for forest uses while still allowing for residential uses allowed under the County's Comprehensive Plan, Zoning Ordinance and Oregon law.

Second, the Columbia County Comprehensive Plan Section on Fish and Wildlife Habitat, states that it is a goal of the County to "protect and maintain important habitat areas for fish and wildlife in Columbia County." Policy 12 states that it is a policy of the County to "cooperate with the Oregon Department of Fish and Wildlife to ensure that future development does not unduly conflict with major and peripheral big game range, by....

B. Limiting development in major and peripheral habitat areas to a density recommended by the Oregon Department of Fish and Wildlife. Where densities of 1 unit per 38 acres in major habitat, or 1 unit per 19 acres in peripheral habitat are allowed, dwellings shall be sited using the (sic) clustering technique. Clustering incorporates all of the following, as applicable to the situation:

- 1) Locating dwellings and structures near each other and existing roads;
- 2) Locating dwellings and structures to avoid habitat conflicts and utilize least valuable habitat areas; and
- 3) Minimize road development to that necessary to support the residential use.

...

D. Limiting non-forest and non-farm dwellings within major and peripheral habitat areas to individual lots or parcels where it can be shown that:

- 1) The dwelling shall be located to avoid habitat conflicts and utilize least valuable habitat areas;
- 2) The site shall be limited in size to that area suitable and appropriate for residential use; and

- 3) Road development shall be the minimum necessary to support residential use.

The Board of County Commissioners finds that the Comprehensive Plan Map 44 (Big Game Habitat) identifies the proposed dwelling sites as being in major big game habitat. Therefore, the Board must determine whether the applicants have met their burden with regard to conflicts between the residential uses and big game habitat as required in the Comprehensive Plan. To minimize conflicts with the major big game range, the Board must limit development to the density recommended by the Oregon Department of Fish and Wildlife, as adopted in the County's Comprehensive Plan and Zoning Ordinance. Furthermore, the dwellings must be found to be clustered. The Board finds that there is substantial evidence in the record that the applicants sufficiently clustered the dwellings. The site maps show that the dwellings and structures were located near each other and existing roads. Furthermore, they were located as close to structures on adjacent property as possible while meeting fire setback requirements. The Board finds that it is reasonable to assume that big game will avoid offensive residential uses. Therefore, siting a new dwelling as close to an existing dwelling will use the least valuable habitat areas and avoid habitat conflicts. The Board finds that the applicants have also minimized road development to that necessary to support the residential uses. The applicants have submitted evidence that existing roads are planned to serve the uses as much as possible, except to the extent that road improvements were required for fire safety purposes or for traffic safety purposes. The Board finds that this comprehensive plan section is satisfied. 1000 Friends of Oregon gave testimony suggesting that the 5 proposed dwellings cannot be clustered. However, they offered no specific testimony or evidence as to what they consider clustering to be. 1000 Friends of Oregon submitted testimony to the Board that the Oregon Department of Fish and Wildlife does not agree with the applicants that the dwellings are sufficiently clustered. There are 2 letters from ODFW in the record of the hearing. The first expresses ODFW's opinion that the dwellings are not clustered. However, the letter did not set forth any reason supporting that opinion. In its later letter dated February 5, 2002, ODFW changed its mind and stated that the two dwellings closest to the existing road are clustered, and they would agree with the decision to approve those two dwellings. However, there was still no objective reason given for that opinion. The Board finds 1000 Friends' arguments to be unpersuasive and finds that the Applicants made a reasonable and successful attempt at clustering the proposed dwellings according to the County's clustering technique.

The Board finds that all five applicants have submitted substantial evidence into the record that the proposed building sites are as small as possible to support the residential use. See finding # 5, above. However, the Board finds that notwithstanding that fact, three of the five applications for single family dwellings do not meet the density standards recommended by the Oregon Department of Fish and Wildlife that have been incorporated into the County Zoning Ordinance. See Finding # 23, below.

21. Columbia County Zoning Ordinance § 1503.5(G) requires that the proposals will not create any hazardous conditions. The Board of County Commissioners finds that the five proposed dwellings will not be hazardous if suitable precautions are taken to mitigate fire hazards associated with

residential uses on and around forest lands. The Board has required that the approved dwellings meet all fire siting standards, and that the roads leading to such dwellings be improved to meet fire fighting standards. These requirements adequately mitigate any hazardous fire conditions. Other hazards that typically apply to siting of new forest dwellings include flood hazards, traffic hazards, and environmental hazards. The Board of County Commissioners finds that the proposed dwellings are not in flood plains. Therefore, there are no flood hazards. The Board further finds that although there are some moderately steep slopes, the dwellings are not proposed to be built on the steep slopes. Therefore, any risk associated with building on a slope is mitigated. Furthermore, the Board finds that the proposed driveway accesses have good visibility onto a straight portion of Chapman Grange Road and therefore, there is no traffic hazard associated with the dwellings. Finally, the Board finds the dwellings will not impact any wetland areas or any cross streams. However, the Board finds that three of the five proposed dwellings will impact Big Game Habitat in the area. Therefore, proposals for three of the five dwellings will create hazardous conditions. (See Finding # 23, below).

22. Columbia County Zoning Ordinance § 1503.6 allows the Board of Commissioners to require that these proposed conditional uses be made subject to site design review. The Board of County Commissioners finds that site design review is not necessary for the siting of the proposed dwellings because sufficient site information was submitted with the applications.
23. Columbia County Zoning Ordinance § 1190, Big Game Range Overlay, implements the Columbia County Comprehensive Plan section on Fish and Wildlife Habitat, with regard to Big Game Habitat. The Board of County Commissioners finds that this code section prevents the County from approving three of the five proposed dwellings. The section is made specifically applicable to the applications at hand in § 1191 which states that “this section shall apply to all areas identified in the Comprehensive Plan as a major and peripheral big game range.” As stated in Finding #21, above, the Board finds that the land proposed for development in these five applications falls within the major big game range in Map 44 to the Columbia County Comprehensive Plan. That being said, the Board must apply the development standards set forth in § 1193 which states, as follows:

“In the Big Game Range zone the following standards shall apply:

.1 Big game habitat density standards:

- A. Major habitat- 1 dwelling unit per 38 acres with clustering.
- B. Peripheral habitat- 1 dwelling unit per 19 acres with clustering.

(Clustering means all of the following as applicable to the situation:

1. Locating dwellings and structures near each other and existing roads;
2. Locating dwellings and structures to avoid habitat conflicts and utilize least valuable habitat areas; and
3. Minimize road development to that necessary to support the residential use.

If clustering is not feasible, then the ODFW recommended density standard per

section shall be applied.”

The Board has already determined that all five of the applications have met the clustering requirements. (See finding #20, discussing the same language in the Comprehensive Plan). However, the Board finds that 3 of the 5 proposed dwellings do not meet the major habitat density of 1 dwelling per 38 acres. The Board finds that the density is determined by identifying the number of dwellings in the section. The Board finds that the dwellings are proposed to be sited in Section 19 of Township 4N, Range 2W. The existence of dwellings is determined by the County’s Rural Address Map. According to the address map, there are 14 dwellings in Section 19. Evidence was submitted into the record which attempted to prove to the Board that 14 dwellings is not an accurate number. However, the Board finds that determining the number of dwellings by the address map is the most effective method. For example, the applicants gave oral testimony that one of the “dwellings” that the staff had counted from the address map, is actually a shack where no one is living, and should not be considered a dwelling for density purposes. The Board finds that if the Board were required to determine the status of each addressed structure (i.e. whether it is livable, whether it is burned and able to be rebuilt, etc.), the density determination would be too onerous to implement. Likewise, an opponent of the applications presented oral testimony that there are more than 14 dwellings in the section that are not shown on the address map. The Board finds that if any of these additional dwellings do exist, it is questionable whether they are legally site) because of their lack of address. The Board finds that it would not be fair to count possibly illegal dwellings in the density standard which would possibly exclude otherwise qualifying dwellings. In any event, the Board finds that neither the applicants nor any of the opponents provided substantial evidence in the record to show that there are actually any more or less than 14 dwellings in Section 19.

Another issue related to calculation of the density standard was whether or not dwellings in the rural residential and community service institutional zones should be counted as dwellings for purposes of the density calculation. The applicants argued that it is not proper to count those dwellings because, according to the Comprehensive Plan Section on Big Game Habitat, “portions of the Major and Peripheral Big Game Range have been found ‘built and committed’ and are zoned rural residential because of previous residential impact.” The language further states that “notwithstanding the lack of detail on the Wildlife Overlay Impact Map (Map 44), all exception areas shall be considered impacted and exempt from the standards of the Wildlife Overlay District.” According to the applicants’ theory, the rural residential and exception Community Service Institutional dwellings should not be counted because they are “exempt from the standards of the Wildlife Overlay District.” The Board disagrees with the applicants’ argument that the code specifically says, when doing the count, one should take out the impacted areas. Rather the code requires a calculation of dwellings “per section.” Neither the Comprehensive Plan nor Zoning Ordinance say that impacted areas in the section should be excluded from the calculation. The Board of County Commissioners finds that both the Comprehensive Plan and Zoning Ordinance require density to be calculated based on the Section. In the Comprehensive Plan, p. 228, under the discussion of potential conflicting uses, the Plan states, “The Oregon Department of Fish and Wildlife has recommended the following dwelling unity densities per section in big game habitat

areas....” (Emphasis added). Similarly, § 1193 of the Zoning Ordinance states, “if clustering is not feasible, then the ODFW recommended density standard per section shall be applied.” (Emphasis added). The Board further finds that the language excluding rural residential and other exception properties from the standards of the Wildlife Overlay District does not mean that those properties should not be included in a density calculation for primary forest zoned property. Rather, the Board interprets this language to mean that the existence of big game habitat on rural residential or other exception property will not subject those properties to the same conflicts analysis and density standards for development to which primary forest lands are subjected. The Board finds that the policy of protecting sensitive habitat areas justifies the more restrictive interpretation of the density calculation. If the rural residential dwellings were excluded from the calculation, then many more of the County’s primary forest parcels would qualify for dwellings, eventually leading to a rural residential, more urban density. The Board finds that such a result would be contrary to the big game habitat provisions found in the Columbia County Comprehensive Plan and Zoning Ordinance.

Therefore, the Board finds that there are 640 acres in Section 19. Based on 14 dwellings in the section, the density is 1 dwelling per 45.71 acres. The addition of one dwelling brings the density to 1 dwelling per 42.66 acres. The addition of 2 dwellings brings the density to 1 dwelling per 40 acres. The addition of 3 dwellings brings the density to 1 dwelling per 37.64 acres. Because the maximum density is 1 dwelling per 38 acres, the Board finds that only two additional dwellings are allowed in the section, and three of the applications for single family dwellings must be denied.

24. The Board of County Commissioners finds that based on the necessity of denying three of the applications for single family dwellings, it makes more sense to deny the applications which are most likely to conflict with big game habitat. The Board finds that the three most westerly proposed dwellings are most likely to conflict with big game habitat because they are proposed to be sited the furthest from the roads. According to big game habitat siting standards, dwellings should be placed as close as possible to existing roads, and new road construction should be minimized. (See Finding #20, above, related to Comprehensive Plan, Fish and Wildlife, Policy 12B).
25. The Board of County Commissioners finds that ORS 215.750 permits dwellings to be built in forest lands under certain conditions related to the number of parcels and existing dwellings within a 160 acre square or rectangle perimeter of the subject parcel, and related to the productivity of the predominant soils on the property, the “template test.” In addition, OAR 660-06-025(1)(d) permits dwellings to be built in the forest zone if they are authorized by ORS 215.750. The Board of County Commissioners finds that according to the Columbia County Soil Survey, the average Douglas Fir production capability of the largest parcel under consideration is 2433.24 cubic feet per acre per year of commercial wood fiber. The Douglas-fir site index for the underlying soil of the subject properties is 162 which is greater than 85 cubic feet per acre per year of wood fiber. The Board finds that according to OAR 660-06-027(1)(d), the template test therefore requires all or part of at least 11 other lots or parcels and at least three dwellings to have existed as of January

1, 1993, within the 160 acre template centered on each subject property. The Board finds that for the five applications, there were between 14 and 23 discrete parcels and between 4 and 7 dwellings sited prior to January 1, 1993. Exhibit B to the applications show the template centered on the subject site and containing all or part of the qualifying parcels and dwellings. A table listing of all qualifying lots and lots with dwellings are shown in Attachment E to the applications. The number of dwellings was determined using the County's Rural Address Map. The Board of County Commissioners finds that based on the number of parcels and dwellings in the template of each proposed parcel, each application has met the template test to site a dwelling in a forest zone.

Under the template test, a tract is defined as one or more contiguous lots or parcels under the same ownership. Because all five parcels are under separate ownership, each is entitled to a dwelling if all other requirements are met.

26. OAR 660-06-029 requires that the following criteria or their equivalent shall be applied to all new dwellings and structures being built in a forest zone:
- “(1) Dwellings 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 the structures is minimized; and
 - d) The risks associated with wildfire are minimized.
 - (2) Siting criteria satisfying section(1) of this rule 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.”

The Board of County Commissioners finds that the County's Comprehensive Plan and Zoning Ordinance contain equivalent criteria for dwellings in the forest zone. These criteria have been addressed in other findings. (See findings # 4, 5, 6, 7 and 8, above).

27. OAR 660-06-029 (3) requires that the applicants provide evidence that the domestic water supply proposed for the dwellings be 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 629). The Board of County Commissioners finds that water will be provided from a private well to each of the proposed dwellings sites, and that private wells are authorized by the Water Resources Department's administrative rules. The Board finds that the District 18 Watermaster was notified of the applications and had no objections to their approval based on the proposal to use private wells.
28. OAR 660-06-029(4) requires that if road access to any of the proposed dwellings is by a road owned and maintained by a private party, 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 Board of County Commissioners

finds that access to the subject properties will be via a private road from Chapman Grange Road with private driveways accessing each dwelling from the end of the private road. Both the County Road Department and the Scappoose Fire District have requested improvements to Chapman Grange Road that must be completed before access permits can be issued. The Board finds that the applicants are willing to make the requested road improvements and to obtain access permits from the County Road Department.

29. The Board of County Commissioners finds that the applicants are expected to convert approximately 1 to 1.5 acres of the subject properties for residential uses. The remaining acreage will continue to be used to grow timber. The productivity of the soils for Douglas-fir timber production are estimated to be, at most, 2433.24 cubic feet of commercial wood fiber per year. Property that can produce greater than 5,000 cubic feet per tract per year qualifies as high value timber land. Owners of high value timberland are required to submit a forest resource management plan to the Columbia County Department of Land Development Services. The Board finds that because these sites do not produce greater than 5,000 cubic feet per year, a forest resource management plan is not required. The Board finds that the applicants are not required to submit a timber stocking survey to the assessors's office to determine if minimum stocking requirements have been met because the property is less than 10 acres in size. However, the applicants have indicated their willingness to plant a sufficient number of trees on their parcels to meet the stocking requirements of the Department of Forestry (Attachment G, Forester's Report). Therefore, the applicants have complied with OAR 660-06-029(5).
30. OAR 660-06-035 requires that fire siting standards be applied to all applications to build new dwellings or structures in a forest zone. The Board of County Commissioners finds that the fire siting standards as set out in OAR 660-06-035 will be conditions of approval for approved dwellings. The properties proposed for development are within the Scappoose Fire Protection District. The applicants will be required to post the address to the properties at the beginning of the driveways near Chapman Grange Road and again at the end of the shared private road where the individual driveways begin. In addition, fire retardant roofing and spark arresters on chimneys will be required. Furthermore, the applicants have indicated their willingness to provide primary and secondary fuel breaks. 130 foot firebreaks will be required around all structures.
31. OAR 660-06-040 requires that road standards be established to ensure adequate fire fighting equipment access. The Board of County Commissioners finds that both the Columbia County Road Department and the Scappoose Rural Fire Protection District have requested that the applicants make additional road improvements to Chapman Grange Road. The new private road and driveways will be required to meet both the County and Fire District standards for private roads and driveways. The Board finds that the applicants are willing to meet the County Road Standards and Scappoose Rural Fire Protection District's requirements to ensure adequate fire fighting equipment access to the approved dwellings. The Board will require that the property owners sharing the private drive will and record a road maintenance agreement so that the private driveway will stay in good repair and the dwellings will be accessible for fire fighting equipment.

32. The Board of County Commissioners find that much of the opposition to these applications for Single Family Dwellings is related to the many differing philosophies related to the proper uses of forest land. For example, in his testimony before the Board, Jay Chamberlain, 1000 Friends of Oregon, stated that one of the questions before the Board is what do they want to do with out forest lands. The Board finds that such a question is no properly before the Board in considering these applications. Rather, the Board must look to the criteria which are applicable to the five applications. Having done so, the Board finds that 2 of the five applications must be approved. The question or policy of what should be done with forest lands is better answered in future legislative PAPA proceedings.
33. The Board of County Commissioners finds that the County's Subdivision and Partitioning Ordinance does not apply to the applications under consideration. Testimony was received which suggested that the Ordinance should apply. The testimony was not sufficiently specific to allow the County or the Applicant to reply in a meaningful way.
34. The Board of County Commissioners finds that after a tentative decision was made, but before the decision became final, it received an ex parte communication from Pat Zimmerman by way of an email to all three Board members. The email was received February 20, 2002. The content of the email was a request to instruct County Counsel to include findings as written by 1000 Friends of Oregon in the final order. The findings were also faxed to the Board by Ms. Zimmerman in a memo to County Counsel's office from 1000 Friends of Oregon. None of the Board members read that memo. In response to the ex parte email, the Board instructed the County Counsel's office to fax the ex parte communication to the applicants' attorney and give him an opportunity to respond in writing to the ex parte communication. Faxed comments were received by the County Counsels office but were not responsive to the email. The Board expressly rejects the memo from 1000 Friends of Oregon from the record of the decision. The memo was not considered by the Board in making this decision. The Board also expressly rejects the email from Pat Zimmerman and the faxed letter from Richard Vial dated February 22, 2002, from the record of the decision. The email and letter were not considered by the Board in making its decision.