

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of James)	
and Willa Morrison for a Conditional Use)	Final Order No. 58-2005
Permit to Site a Single Family Dwelling in)	
the Forest Agriculture (FA-19) Zone)	Findings and Conclusions

WHEREAS, on April 25, 2005, James and Willa Morrison filed an application (CU 05-34) for a conditional use permit to build a single family dwelling on 33.1 acres of property located approximately 4.5 miles east of Clatskanie and south of Highway 30, having tax account number 7318-000-01301, with the Columbia County Land Development Services Department; and

WHEREAS, on May 16, 2005, the application was deemed complete; and

WHEREAS, on June 24, 2005, the Columbia County Board of County Commissioners voted to take original jurisdiction over the matter; and

WHEREAS, on August 10, 2005, the Board of County Commissioners held a hearing in the matter; and

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

WHEREAS, the Board of County Commissioners heard testimony and received evidence into the record, as shown in Attachment 1, which is attached hereto and is incorporated herein by this reference; and

WHEREAS, having heard evidence and testimony, the Board of County Commissioners closed the public hearing for evidence and testimony, and carried the matter over for deliberation until August 24, 2005; and

WHEREAS, on August 24, 2005; the Board of County Commissioners deliberated on the matter and voted to approve CU 05-34 subject to several conditions of approval;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

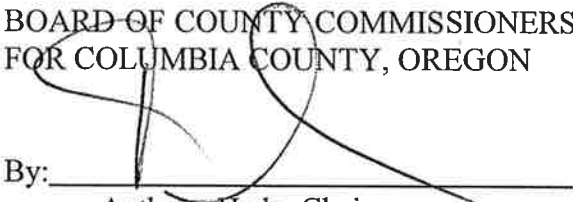
1. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law in the staff report to the Board of County Commissioners dated August 10, 2005, which is attached hereto as Attachment 2, and is incorporated herein by this reference.

2. Application CU 05-34 is APPROVED, subject to the following conditions of approval. For purposes of these Conditions of Approval "the property owner" shall include the current or future record owner(s) of the subject property.
- A. This permit shall become void 4 years from the date of this conditional use permit unless development has begun on the property. For purposes of this order, "development" shall mean the submittal of an application for a building permit to build the single family dwelling. An extension of time may be granted by the Planning Director if the property owner requests an extension in writing prior to the expiration date and if the property owner was not responsible for the failure to develop.
 - B. Prior to obtaining a building permit the property owner shall sign and record a Waiver of Remonstrance regarding current and accepted forest and farm management practices on adjacent properties devoted to timber production.
 - C. Prior to obtaining a building permit, the property owner shall obtain a Columbia County Access Approach Permit from the Columbia County Road Department.
 - D. Prior to obtaining a building permit, the property owner shall provide documentation showing that the County Sanitarian has performed a septic lot evaluation or a septic authorization, and that the property is approved for a septic system. The property owner must obtain a permit to install a septic system.
 - E. Prior to obtaining a building permit, the property owner shall submit a refined plot plan to Land Development Services clearly defining primary and secondary fire breaks around all dwellings and structures, which must be maintained in accordance with "Recommended Fire Siting Standards for Dwellings and Structures, March 1991."
 - F. The property owner must comply with OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in "Living with Fire: A Guide for the Homeowner" which is published by the Pacific Northwest Wildlife Coordinating Group. The Guide shall be followed for construction of the access driveway and all structures on site.
 - G. Prior to obtaining a building permit the property owner shall submit documentation to Land Development Services showing that the access has been approved by the Clatskanie Rural Fire District.
 - H. Prior to obtaining a building permit, the property owner shall submit documentation to Land Development Services showing that the property owner has an easement over the adjacent private property to Lindberg Road.

- I. Prior to obtaining a building permit, the property owner shall provide Land Development Services a well constructor's report, or information from the District Watermaster verifying that adequate water is available to the site pursuant to OAR 660-06-029(3)(C).
- J. Prior to obtaining a building permit, the property owner shall submit a completed Forest Land Assessment to Land Development Services. If required due to the results of the Assessment, the property owner shall submit a Timber Stocking Survey Report which must be approved by the County Assessor's Office.
- K. Prior to issuance of a building permit, the Columbia County Surface Mining Administrator must document that the Sutter Quarry Reclamation Plan has been completed.
- I. This Conditional Use Permit shall not be effective unless and until Ordinance No. 2005-5 is effective, and all conditions of the Comprehensive Plan and Zone Change to Forest Agriculture (FA-19), as set forth in Ordinance No. 2005-5, have been met.

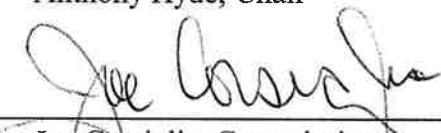
Dated this 31st day of August, 2005.

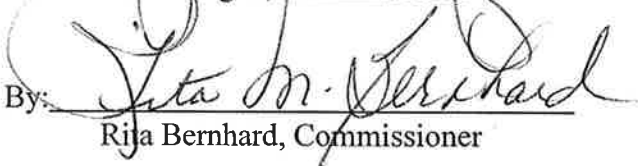
BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 
Anthony Hyde, Chair

Approved as to form

By: 
Office of the County Counsel

By: 
Joe Corsiglia, Commissioner

By: 
Rita Bernhard, Commissioner

ATTACHMENT 1

Legal Counsel's File -EXHIBIT 1

- 1) Notice of Public Hearing (Publication);
- 2) Notice of Public Hearing (Property Owner Notice);Affidavit of Publication;
- 3) Affidavit of Mailing;
- 4) Board Communication dated August 5, 2005;
- 5) Staff Report to the Board of County Commissioners;
- 6) Referral and Acknowledgment from Rainier CPAC;
- 7) Referral and Acknowledgment from Building Official;
- 8) Referral and Acknowledgment from Clatskanie PUD;
- 9) Referral and Acknowledgment from Watermaster;
- 10) Referral and Acknowledgment from Roadmaster;
- 11) Referral and Acknowledgment County Sanitarian;
- 12) Waiver of 150 day rule;
- 13) Conditional Use Permit application;
- 14) Special Power of Attorney;
- 15) Vicinity map;
- 16) Zoning Map;
- 17) Address Map;
- 18) Template Test;
- 19) Certificate of Mailing;
- 20) Board Communication dated June 24, 2005;
- 21) Minutes of June 24, 2005, Board Meeting;
- 22) Soil Map;
- 23) Topographical Map;
- 24) Plot Plans;
- 25) Letter from Rockcrest Realty;
- 26) Applicant Waiver;
- 27) Letter to James and Willa Morrison dated May 16, 2005;
- 28) Notice of Public Hearing;
- 29) Minutes of Planning Commission Meeting June 20, 2005;
- 30) Final Agency Acknowledgment;
- 31) Assessors Records.

COLUMBIA COUNTY BOARD OF COMMISSIONERS**STAFF REPORT**

08/03/05

Conditional Use Permit**HEARING DATE:** 08/10/05**FILE NUMBER:** CU 05-34**APPLICANT/OWNER:** James Morrison & Willa Morrison
3578 Gorgonio Road
Phelan, California 92371Yarbor, Yarbor, Hickey
% Century 21 Elite Realty
58147 Columbia River Hwy.
St. Helens, OR.**PROPERTY LOCATION:** Old Sutter Quarry site about 4.5 miles east of Clatskanie and south of Hwy. 30**TAX ACCT. NUMBER:** 7318-000-01301**ZONING:** Forest Agriculture - 19 (FA-19)**SIZE:** 33.1 Acres**REQUEST:** To site a single-family dwelling on a 33.1 acre parcel in a FA-19 zone, using the template option found in OAR 660-06-027(1). (See Related Pending PA 05-03)**APPLICATION COMPLETE:** 05/16/05**150 DAY DEADLINE:** 10/14/05
(Waived)**APPLICABLE REVIEW CRITERIA:**Columbia County Zoning Ordinance

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AUG 05 2005

COUNTY COUNSEL

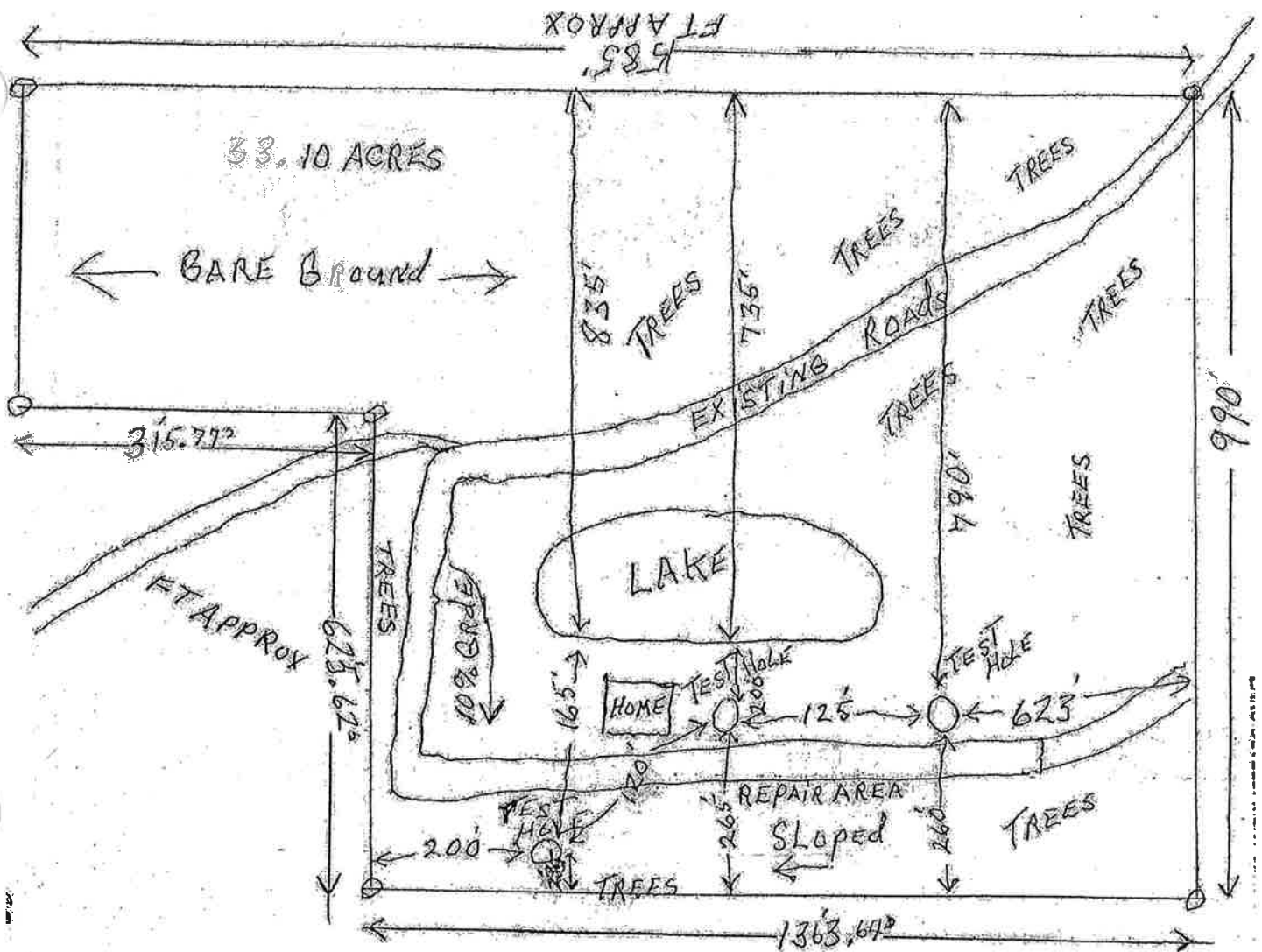


FIGURE 1: PLOT PLAN OF THE SUBJECT PROPERTY 05/31/05

BACKGROUND:

The Board of Commissioners took jurisdiction of this application at their June 28, 2005 Work Session.

The applicant requests approval to site a single family dwelling on a 33.1 acre parcel of land in the Forest Agriculture - 19 (FA-19) zone (once a zone change is approved). Access will be via a private driveway off of Lindberg Road/Hwy 30. The applicant has submitted this forest dwelling request in the FA-19 zone using the template option found in OAR 660-06-027. This application is pending approval of PA05-03.

The National Wetlands Inventory (Trenholm Quad Map) does indicate the presence of a wetlands, Palmer Creek and a pond, on the property to the north of the proposed homesite. The creek wetland has the designation of:

R4SBC which is a 'Palustrine Forested Open Water' wetland. The FEMA Flood Insurance Rate Map (FIRM) (Map # 41009C0175 C does not indicate the presence of a flood zone on the subject property. The applicant proposes water from a private well.

Emergency Services are provided by the Clatskanie Rural Fire District and the Columbia County Sheriff.

SOILS:

<u>Soils on the 33.1 acre parcel are as follows:</u>	<u>Site Index</u> <u>CMAI</u>	<u>Est. %</u> <u>of Area</u>	<u>Ag.Cap.</u> <u>Class</u>
18E - Dowde Silt Loam, 30 to 60% Slopes	168	15%	VIe
23C - Goble silt loam, warm, 3 to 15% slopes	183	5 %	VIe
23D - Goble silt loam, warm, 15 to 30% slopes	183	80%	VIe

Finding 1: The two soil classes found on the subject property include Dowde silt loam and Goble Silt Loams. Douglas-fir production capability prior to removal of overburden for surface mining activity on the site for both of the two Goble Silt Loam soil types was 168 for Dowde Silt Loam and 183 for both Goble Silt Loams for the Culmination of the Mean Annual Increment (CMAI) according to the Soil Survey of Columbia County, Oregon. The subject 33.1 acre property was capable of producing 5,982.8 cubic feet of commercial wood fiber before the overburden making up the described soil horizon was removed. Property that can produce greater than 5,000 cubic feet/tract/year is viewed by Columbia County 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 subject property is not considered high valued forestland because much of the soil type mentioned above was removed to mine the Sutter Quarry. The applicant was required to reclaim the subject property after the mining operation was completed. The applicant is not required to submit a forest management plan because of past mining practice which reduced productive potential and the large area taken out of production by the creek and pond this reducing productive potential below 5,000 cubic feet .

Applications for dwellings in the mixed Forest/Agriculture zone are reviewed under the provisions for forestland in the FA-19 zone. Both Forest and Agricultural use are permitted outright in the FA-19 zone. Forestland properties greater than 10 acres are required, as a condition of approval of a Conditional Use Permit for a dwelling, to have to Forest Land Assessment completed by the applicant to determine that the property already in forest tax deferral is adequately stocked with trees; or to indicate that the property is under farm tax deferral and being used for agricultural purposes.

The subject property at 33.1 acres is greater than 10 acres, therefore the applicant will be required to submit a forest land assessment as a condition of approval.

COLUMBIA COUNTY ZONING ORDINANCE CRITERIA AND FINDINGS:

- ☐ **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. The old quarry site has been reclaimed and restocked with trees. The property will be used to grow trees although the productive capability has been greatly reduced by removal of good soil and replacement and reclamation of poorer soil, this rendering the property less productive. Because of the subject property's underlying soil productivity capability according to the Soil Survey of Columbia County Oregon, and the size of the parcel, the subject parcel is not considered high valued resource land and is not suited for either the Primary Agriculture (PA-38) or the Primary Forest (PF-76) zone. The dwelling is proposed for a parcel that is considerably smaller than what is typically found in primary forest or primary farm zones having 80 acre minimum parcel sizes. The subject property also has the irregular topographic features of Palmer Creek running through it, sloping canyon walls, and a pond, all which make for adverse physical conditions. Because other nearby properties also contain single family dwellings the proposed use of a new conditional use dwelling should not conflict with adjacent land uses. Therefore, the subject site is consistent with the purpose of the FA-19 zone and this criterion is met

- **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:*

Finding 3: The applicant requests approval to site a single family dwelling on a 33.1 acre parcel of land in the Forest Agriculture - 19 (FA-19) zone. The proposed dwelling is not associated with nor is it "in conjunction with" any farm or forest use; therefore, a conditional use permit is required and the following criteria apply.

- 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 4: The proposed dwelling is not a farm or forest related dwelling but will be compatible with farm and forest uses and is consistent with the intent and purpose set forth in the Columbia County Zoning Ordinance relating to farm and forest lands. The resource districts are intended to preserve and enhance the agricultural lands that offer the greatest potential for food production, and to retain forest lands with the greatest potential for wood fiber, for forest use. Because the subject site offers little or no potential for harvesting timber or agricultural production, it is not considered to be a high valued farm or forest parcel. The dwelling is proposed on a parcel that is considerably smaller than what is typically found in the primary forest or farm zones. In addition, the soil survey for the 33.1 acre parcel indicates the underlying soil; even after reclamation of the rock quarry site and all soil undisturbed from the mining operation on the property are relatively well suited for timber production, but is not capable of producing 5,000 cubic feet of wood fiber. Other dwellings in the area that are in close proximity to Hwy. 30 development corridor and the above reasons make this site compatible with other forest uses on the smaller parcels of the area.

The area surrounding the subject parcel consists of both FA-19 and PF-76 zoned parcels. Four of the five surrounding parcels have addresses for dwellings as noted in Table 1. The applicant requests conditional use approval for a use that is similar in nature to other adjacent properties, some of which contain dwellings (see Table 1 on Page 5 of this report). Because the use will be compatible with farm and forest uses and consistent with the surrounding character, this criterion is met.

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

Finding 5: The proposed non-resource dwelling should not interfere with farming or forest practices in the area and should not cause any changes to the existing residential or resource use of adjacent properties. The proposed use will have no off-site impacts on forest or farm uses in the area. A single family dwelling will generally have minimal impact on accepted farm or forest practices. In the present case, there are few farm or forest parcels with high enough commercial productive capability in the immediate vicinity that could be impacted. Therefore, this criterion is met.

TAX ACCOUNT #	ACRES	ZONE	USE	TAX CODE
7318-000-01000	9.0	SM/FA-19	22530 Lindberg Road	6
7318-000-01101	20.00	FA-19	22560 Lindberg Road	6
7318-000-01200	11.56	FA-19	22824 Lindberg Road	6
7318-000-01300	80.16	FA-19/PF-76	No Dwelling/Forest	6
7318-000-01401	23.20	SM/PF-76	22930 Lindberg Road	6

* NA means Not Tax Deferred

TABLE 1: Surrounding Properties

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

Finding 6: The addition of a single-family dwelling on the subject property will not materially alter the stability of the overall land use pattern of the area since the overall land use pattern in the area is single-family dwellings on 4 of the 5 surrounding parcels to the subject property. The 160 acre template for this property also shows 15 parcels with at least 7 other dwellings surrounding the subject property. The 5 surrounding properties average approximately 28 acres. The subject parcel at 33.1 acres is close in size to other nearby properties with dwellings on them. The stability of the land use pattern of the area will not be changed by the addition of a single family dwelling on the subject parcel because it will be similar in nature to other properties with dwellings on them in the area; therefore, this criterion is met.

- 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 7: The proposed place of the dwelling will be situated on a portion of the subject parcel that is close to the road yet across the creek and not in the main portion of the 33.1 acre parcel which leaves the remainder of the property available for farm or forest use. Considering the shape and existing use of the land the proposed homesite will be located in the most suitable location on the subject property for homesite use. This criterion is met.

□ **Section 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 8: If approved, the dwelling would be located in an area of the property which is out of the way for the remainder of the property to be used for farm or forest use which makes its location ideal for the proposed homesite. Considering other parcels of similar size and use, the proposed parcel and dwelling will not increase the cost nor interfere with accepted forest management practices or farm uses on adjacent or nearby lands devoted to forest or farm use. Also, see other Finding 4 through 7 above. This criteria is met.

- .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 9: The proposed residence will be limited to a site no larger than necessary to accommodate the use. As shown on the attached plot plans, the dwelling will be limited to about one acre homesite. No activity is proposed for the parcel beyond the designated homesite other than the applicant's farm or forest management uses.

The subject property will be re-zoned to Forest Agriculture - 19 (FA-19), if and after PA-05-03 has been approved. The parcels to the north, east, and south and west of the subject property are all zoned either Primary Forest (PF-76) or Forest Agriculture (FA-19) while the property immediately to the west of the subject property is zoned FA-19. The overall land use pattern of the area can be characterized as forest and agriculture with substantial residential uses. The proposed dwelling will not alter the character of this surrounding area because it will be similar to adjacent properties that also maintain single family dwellings. The use will not impair or preclude surrounding property owners from enjoying and or managing their properties.

The permitted uses listed in the Columbia County Zoning Ordinance for the Forest Agriculture (FA-19) and Primary Forest (PF-76) zoning districts include farm uses as defined by Subsection (2) of ORS 215.203, the propagation or harvesting of forest products; dwellings necessary and accessory to farm and forest uses; buildings customarily provided in conjunction with farm or forest uses and operations conducted for the exploration of geothermal resources. The proposed dwelling will in no way preclude surrounding properties from these primary uses because it is located well away from farm or forest uses and will be similar in nature to other rural dwellings in the area, therefore, this criteria is met.

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

Finding 10: The new dwelling location provides for fire safety measures. The applicant has submitted a Fire Break Plan indicating both a 30' primary fire break; and a 100' secondary fire break. In addition to the fire

breaks, the applicant must agree to follow fire safety measures including provisions outlined in "Living with Fire: A Guide for the Homeowner" published by the Pacific Northwest Wildfire Coordinating Group as a condition of approval. This publication recommendations shall be followed in the construction of the access driveway and all structures on the site, including a fire retardant roof, spark arresters on all chimneys, and not placing the residence on a slope greater than 40%. If these measures are followed then the proposed use will not constitute an unnecessary fire hazard and this criteria is met.

- .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 11: Public utilities for the proposed dwelling will be required to use existing rights-of-ways that have the least adverse impact on forest resource. Public utilities are available near the homesite on Lindberg Road therefore servicing the proposed dwelling should not have an impact on forest resources. Staff finds that this criteria is met.

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

Finding 12: No new roads are associated with the proposed dwelling. The applicant will access the proposed residence from an existing private road that was constructed for the former quarry operation off of Lindberg Road. The Clatskanie Rural Fire Protection District will need to inspect the subject parcel and determine if the property and homesite can be accessed by fire service equipment. The driveway is also required to be inspected by the Fire District following construction. The applicant will be required to obtain an *Access Approach Permit* from the Columbia County Road Department. If these provisions are followed staff find that this criteria will be met.

- .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 13: According to the 1995 Beak Consultant's map, the subject property is not located within Major Big Game Habitat; Peripheral Big Game Habitat or Columbia White-tailed deer range. Based on the Beak Consultant maps the subject property and the immediate vicinity is classified as an "Impacted" area outside of Big Game Habitat. The applicant has indicated on the plot plan that the dwelling will be located in the best location possible considering the proximity to Palmer Creek and the pond, slopes, open pasture/fields, and existing tree cover which all lends itself well to the proposed homesite location. This criteria is met.

- ☐ **Section 406** 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 14: A condition of approval shall be that provisions shall be made by the applicant for fire safety measures in accordance with the guide, "Living with Fire: A Guide for the Homeowner" published by the Pacific Northwest Wildfire Coordinating Group. If these provisions are followed then this criterion is met.

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

Finding 15: The owner must assume responsibility for protection from wildlife damage on the subject property.

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

Finding 16: There are no primary wood processing facilities in the vicinity of the subject parcel. Therefore, the proposed use will not impose any limitation on the operation of these facilities. This criterion is met.

- .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 17: A farm/forest management impact statement may be required by the Planning Commission, however in general, a forest management plan is not required for a property with this small of production capability, due to reduced productivity potential because of the water features and past mining operations.

☐ Section 412 Fire Siting Standards for Dwellings and Roads:

- .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.

Finding 18: Palmer Creek runs through the subject property with the access driveway crossing the creek with road access to within 15 feet of the water's edge of both the creek and pond. Water for fire fighting purposes could possibly be provided for fire district pumping units if it is deemed necessary by the State Forestry or the Clatskanie Fire District.

- .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.

Finding 19: The applicant has submitted a Fire Break Plan indicating that fire breaks can be met. The Clatskanie Rural Fire District is required to approve the site plan for this proposed dwelling and adequate access to the dwelling before building permits for the dwelling may be issued. If these provisions are met before the building permit is issued then this criterion is met.

- .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 20: No new roads are associated with the proposed dwelling. The applicant will access the proposed residence from an existing private road leading up the hill to the south from the existing road that was originally constructed for trucks to haul rock from the quarry site. The driveway and the existing private road must be installed to meet County standards and will be required to be inspected by the Columbia River Fire & Rescue District following construction. The applicant is required to obtain an *Access Approach Permit* from the Columbia County Road Department prior to issuance of the building permit. This criterion is met.

Continuing with Columbia County Zoning Ordinance:

Section 1170 RIPARIAN CORRIDORS, WETLANDS, WATER QUALITY, AND FISH AND WILDLIFE HABITAT PROTECTION OVERLAY ZONE. (RP)

1172 Riparian Corridor Standards:

- A. The inventory of Columbia County streams contained in the Oregon Department of Forestry Stream Classification Maps specifies which streams and lakes are fish-bearing. Fish-bearing lakes are identified on the map entitled, "Lakes of Columbia County." A copy of the most current Stream Classification Maps is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B) for reference. The map, "Lakes of Columbia County" is attached to the Comprehensive Plan, Technical Appendix Part XVI, Article X(B), and is incorporated therein. Based upon the stream and lake inventories, the following riparian corridor boundaries shall be established:

- ☐ Fish-Bearing Streams, Rivers and Sloughs (Less than 1,000 cfs). Along all fish-bearing streams, rivers, and sloughs with an average annual stream flow of less than 1,000 cubic feet per second (cfs), the riparian corridor boundary shall be 50-feet from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below. Average annual stream flow information shall be provided by the Oregon Water Resources Department.
- ☐ Other rivers, lakes, streams, and sloughs. Along all other rivers, streams, and

sloughs, the riparian corridor boundary shall be 25 feet upland from the top-of-bank, except as provided in CCZO Section 1172(A)(5), below.

- Wetlands. Where the riparian corridor includes all or portions of a significant wetland, as identified in the State Wetlands Inventory and Local Wetlands Inventories, the standard distance to the riparian corridor boundary shall be measured from, and include, the upland edge of the wetland. Significant wetlands are also regulated under provisions in the Wetland Overlay Zone, Columbia County Zoning Ordinance, Section 1180.

B. Distance Measurement.

1. Except as provided in Subsection 1172(5) above, the measurement of distance to the riparian corridor boundary shall be from the top-of-bank. In areas where the top-of-bank is not clearly delineated, the riparian corridor boundary shall be measured from the ordinary high water level, or the line of non-aquatic vegetation, whichever is most landward.
2. The measurement shall be a slope distance. In areas where the predominant terrain consists of steep cliffs, the distances to the corridor boundary shall be measured as a horizontal distance until the top of the cliff is reached, and as a slope distance on from that point.

Finding 21: Palmer Creek which traverses the subject property, is identified as a "fish bearing" stream, according to the Stream Classification maps which indicate this creek to be fish bearing in its upper reaches beyond the subject property line. The riparian setback for fish bearing streams is 50 feet from the top of the bank. The proposed homesite location on top of the hill is well beyond 50 foot distance to the creek and pond which are down in the canyon away from the homesite, therefore, the riparian and wetland setback criteria are met.

Columbia County Zoning Ordinance continued:

Section 1190 BIG GAME RANGE OVERLAY

1193 Development Siting Standards:

All new residential development and uses located in Major and Peripheral Big Game or Columbia White-tailed Dee Habitat shall be subject to the following siting standards:

- A. Dwellings and structures shall be located as near each other and existing developed areas as possible considering topography, water features, required setbacks and firebreaks.

Finding 22: The proposed dwelling will not be located in either major or peripheral Big Game Habitat areas designated in the County Comprehensive Plan therefore this criteria does not apply. The dwelling will be located in the most optimal location considering the reclamation of the former quarry, topography, water features such as Palmer Creek and the pond, required setbacks and 130' firebreaks.

Topographically, the parcel slopes uphill away from the creek. The area around the homesite is primarily flat with a low slope angle surrounding the homesite and well suited for a residence. For the above reasons, this siting standard is met.

- B. Dwellings and structures shall be located to avoid habitat conflicts and utilize least valuable habitat areas.

Finding 23: The new dwelling will not be sited in a designated Big Game Habitat area but rather in an impacted area outside the designated Major and Peripheral Big Game Habitat areas. According to the Beak Maps, the subject property is not within a big game range. As submitted, the proposed use will have minimal impact on valuable habitat areas. The new dwelling will be sited near other existing residences in the area as evidenced by Table 1 indicating 4 dwellings on the 5 surrounding parcels; and the template test indicating 15 other parcels with at least 7 other dwellings located on them within the 160 acre square template boundary. The applicant proposes to utilize an area on the property that will minimize impact on the farm space and trees. Use of these pre-existing features will minimize conflicts and impact and will utilize the least valuable habitat areas for the homesite. The applicant proposes the homesite about 130 feet from the south property line. For these reasons, staff finds that this criterion is met.

- C. Road development shall be minimized to that which is necessary to support the proposed use and the applicant shall utilize existing roads as much as possible.

Finding 24: The applicant intends to utilize the existing former quarry road and existing driveway going up to the home site. A cross over easement is required since the subject property's private road access crosses over another property in different ownership. Use of the existing roads will minimize road development to only that distance which is necessary to provide access to the actual homesite location off the existing private road. Staff finds that this criteria is met.

- D. The owner/occupant of the resource parcel shall assume responsibility for protection from damage by wildlife.

Finding 25: A condition of approval shall be that the owners of the subject property shall assume responsibility for protection from damage by wildlife. This criteria is met.

- E. Riparian and Wetland areas shall be protected in accordance with Sections 1170 and 1180.

Finding 26: There are riparian and wetland areas associated with the pond and Palmer Creek. These riparian and wetland areas will be protected in accordance with the provisions of section 1170 and 1180 if any development related impacts to these areas are found while siting this dwelling, well away from the protected stream and wetlands. This criteria is met.

Columbia County Zoning Ordinance Section 1190 continued:

- 1194. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) of all proposed uses or development activities which require a permit and are located in Major or Peripheral Big

Game Habitat. The County will consider the comments and recommendations of ODFW, if any, before mailing a decision concerning the requested use or activity.

1195. The County shall notify the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife (USFW) of all proposed uses or development activities which require a permit and are located in Columbian White-tailed Deer Habitat. The County will consider the comments and recommendations of ODFW and USFW, if any, before making a decision concerning the requested use or activity.

Finding 27: The subject property is not located within Columbian White Tailed Deer habitat or other Big Game Habitat area as designated on the 1995 Beak Wildlife Maps, therefore, the County has not notified Oregon Department of Fish and Wildlife (ODFW) of the proposed development because it is not required to do so.

Continuing with Columbia County Zoning Ordinance:

Section 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 28: The subject site is zoned Forest Agriculture - 19 (SM to FA-19 pending approval of PA 05-03) . Section 404.13: Conditional Uses (in the FA-19 zone) of the Columbia County Zoning Ordinance lists "One-family dwellings...not provided in conjunction with farm or forest use..." Therefore the use is listed as a conditional use in the FA-19 zone and this criteria is met.

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

Finding 29: The applicable criteria of the FA-19 zoning district have been reviewed in **Findings 2 - 22** of this report. Staff has found that the proposed use complies with the specific criteria of the FA-19 zoning district.

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

Finding 30: The subject property and the proposed home site characteristics are suitable for the proposed use. The shape and irregularly shaped property will utilize a portion of the acreage that leaves the remainder of the property open for farm or forest use. The property has good access to the proposed homesite location off Lindberg Road; and has infrastructure situated along Lindberg Road. Palmer Creek and the pond are significant natural features but do not preclude use of that portion of the property as a homesite in the proposed location.

These factors all considered together make this homesite suitable for development therefore this criteria is met.

- 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 31: The subject property has an access easement but does not have road frontage on Lindberg Road, a local paved public road, on a 40' public right-of-way. The applicant is required to obtain an access permit from the County before a building permit is granted. Public facilities available to the site include power and telephone which run along the public right-of-way. The parcel is inside the Clatskanie Fire District boundary. The public facilities and services in this part of Columbia County are adequate to service the proposed use.

- 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 32: The subject property is zoned Forest Agriculture - 19 (FA-19) as are surrounding parcels as depicted in Table 1 on page 4 of this report. There are several PF-76 zoned properties surrounding the subject parcel. Four of the five parcels surrounding the subject property have dwellings located on them (see Table 1, page 4) The proposed dwelling will not alter the character of the surrounding area because it will add another dwelling on acreage similar to other like sized parcels with single-family dwellings.

The proposed use will not impair or preclude surrounding property owners from enjoying and/or managing their property because it will be similar to their existing uses which are single-family dwellings on rural acreages.

The permitted uses identified in the Columbia County Zoning Ordinance for the FA-19 zoning district include farm uses; the propagation or harvesting of forest products; dwellings necessary and accessory to farm and forest uses; buildings customarily provided in conjunction with farm or forest uses and operations conducted for the exploration of geothermal resources. The proposed dwelling will in no way preclude surrounding properties from these primary uses. This criteria is met.

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

Finding 33: The following two sections of the Columbia County Comprehensive Plan apply to the proposed use: Forest Lands and Housing.

Part IV : Forest Lands of the Comprehensive Plan lists the following 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.*

The proposed residence complies with Policy 7 of the Forest Lands section of the Columbia County Comprehensive Plan. The applicant has proposed to site a non-forest dwelling on a parcel of land zoned FA-19. As previously discussed, the subject property is generally unsuitable for commercial forest or farm use because of its former mining history, topography and water features. The proposed dwelling location will be located in the most optimal location on the property considering setbacks, creek, pond, and riparian areas considered. This proposed residence will be consistent with forest policies if all fire siting standards for dwelling in forest zones are followed. The applicant is required before a dwelling can be allowed on the property, to sign and record in the Clerk's Office, a Waiver of Remonstrance against forest and farm practices on nearby and adjacent lands devoted to farm and forest use so that the costs of forest management will not be increased significantly by any legal action from the applicant. This waiver will protect nearby property owners. The proposed homesite will utilize 1 acre of the total acreage which will leave the remainder of the parcel for forest or farm use. All appropriate measures will be taken to minimize potential negative impacts on adjacent and nearby forestlands including fire protection measures and a waiver of remonstrance. Sub-policies A,B,C,D,E, and F are also addressed elsewhere in this staff report.

Part VI: Housing is the second section of the Comprehensive Plan that applies to the proposed use. As stated in the Comprehensive Plan, the goal of the Housing section is to "provide for the housing needs of the citizens of the County by allowing adequate flexibility in housing location, type and density." The applicant has proposed a dwelling near an area that already has residential housing units on rural acreages. The proposed dwelling will provide a housing opportunity for a resident of the County. Therefore, the proposal meets the Housing Goal of the Comprehensive Plan.

- G. *The proposal will not create any hazardous conditions.*

Finding 34: The siting of a dwelling on the subject property will not create any hazardous conditions if fire prevention measures, fire siting standards, and all applicable codes are strictly followed.

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

Finding 35: A Site Design Review may be required by the Board of Commissioners.

Oregon State Statute:

ORS 215.417: Time to act under certain approved permits; extension.

- (1) *If a permit is approved under ORS 215.416 for a proposed residential development on*

agricultural or forestland outside of an urban growth boundary under ORS 215.010 to 215.293 or 215.317 to 215.438 or under county legislation or regulation, the permit shall be valid for four years.

- B.** *An extension of a permit described in subsection (1) of this section shall be valid for two years.*

Finding 36: This permit, if approved by the Board of Commissioners, will be valid for 4 years from the date of final order signature by the Chairman for this action. Two year extensions may be granted if the applicant:

- 1) Fills out and submits an application for extension to the Chief Planner no later than 1 month prior to permit expiration date.
- 2) Has a compelling reason as stated on the extension request to justify the extension.

State Oregon Administrative Rule:

□

OAR 660-06-027: Dwellings in Forest Zones

- (1) (f) *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.*
- (h) *Lots or parcels within urban growth boundaries shall not be used to satisfy the eligibility requirements under subsections (1)(f) and (1)(g) of this section.*

- (i) *A proposed dwelling provided for by subsection (1)(f) and (1)(g) is not allowed if the tract on which the dwelling will be sited includes a dwelling.*
- (3) *If the tract under subsection (1)(d) or (e) of this rule abuts a road that existed on January 1, 1993, the measurement may be made by creating a 160-acre rectangle that is one mile long and 1/4 mile wide centered on the center of the subject tract and that is to the maximum extent possible, aligned with the road.*

Finding 37: Using the Soil Survey of Columbia County it was determined that the subject 33.1 acre property was capable of producing 5,982.8 cubic feet of commercial wood fiber before the overburden making up the described soil horizon was removed, and Palmer creek and the pond area were subtracted. A 160 acre square template was applied to the subject property and it was found that there are 15 + parcels and 7+ dwellings that are partially or are entirely within the boundary of the template therefore the subject property easily meets the template requirement of 11 parcels and 3 dwellings within the boundary of a 160 acre square template. The template shows 15 discrete parcels and 7 dwellings that were sited prior to 1993 and that are not located within an urban growth boundary. Staff finds that this criteria is met.

3) **OAR 660-06-029 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;*

Finding 38: The proposed homesite should not interfere with nearby forest or agricultural lands in the area and should not cause any changes to the residential or resource use of adjacent property owners. The proposed use will have no off-site impacts to forest or farm uses in the area. If the dwelling is approved by the Board of Commissioners, extra protection will be provided by a Waiver of Remonstrance which will protect forest and farm management practices on adjacent properties.

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

Finding 39: The proposed dwelling location up on the hill will insured that adverse impacts will be located well away from the reclaimed quarry site which has also been partially replanted with trees. The homesite location will use only 1 acre for the homesite. The remaining acres will be utilized for its minimal resource value. Staff does not foresee any adverse impacts on forest operations and accepted farming practices from the proposed site because there is very little commercial farm and forest activity in the immediate area especially towards Hwy 30.

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

Finding 40: Only 1 acre will be utilized for the home site and minimal land will be used for the access driveway. Very little forest and farm land will be disturbed due to the siting of the proposed dwelling because the dwelling will be located up on the hill and off to the side away from the larger portion of the property thus leaving the majority of the acreage available for forest or farm use. Staff finds that this criteria is met.

- (d) *The risks associated with wildfire are minimized.*

Finding 41: Minimizing the risks associated with wildfire in forest zones primarily involves the installation and maintenance of primary and secondary fire buffers. The applicant is required to follow provisions in accordance with the guide, "Living with Fire: A Guide for the Homeowner" published by the Pacific Northwest Wildfire Coordinating Group. The risks associated with wildfire will be minimized if these procedures are strictly followed. Staff finds that if these measures are implemented then this criteria will be met.

- (2) *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:...*

- © *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 42: The subject parcel will be served by a private well. A condition of approval shall be that the applicant must provide a well constructor's report to LDS before building permits may be issued.

- (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 43: The applicant will access the property from Lindberg Road, over an existing private roadway that was formerly constructed for access to the quarry site. The applicant shall obtain an access permit from the Columbia County Road Department and shall provide documentation from the Clatskanie Rural Fire District indicating that driveway improvements to the proposed development site are suitable for access by fire service equipment before the building permit can be issued.

- (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) *If the lot or parcel is more than 10 acres in western Oregon, as defined in ORS 321.257, or more than 30 acres in eastern Oregon, as defined in ORS 321.405, 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.*
- (e) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm of forest zone, that the landowner for the dwelling sign and record in the deed records for the county of a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.*

Finding 44: The subject property is 33.1 acres in size and consists primarily of the former reclaimed Sutter Quarry site, Palmer Creek, a pond, and sloping creek canyon. Property greater than 10 acres are required to have the applicant complete and submit a Forest Land Assessment to the County Tax Assessor's office when applications for Conditional Use Permits are approved for the siting of a dwelling in forest zones. A timber stocking survey may be required if the assessors office determines that the property is not adequately stocked with trees on portions not utilized for pasture and livestock grazing. Forest land property that can produce greater than 5,000 cu. ft./tract/year qualifies as high value timber land. Owners of high value timber land are required to submit a forest management plan to the Columbia County Department of Land Development Services. The subject property really does not have a productive capability greater than 5,000 cubic feet of commercial wood fiber because much of the overburden and top spoil making up the soil horizon listed in the Soil Survey of Columbia County Oregon, with a higher productivity rating was stripped to expose the rock in the quarry to be mined. Subsequent to mining, the property was reclaimed but will never have the former productive capability to produce greater than 5,000 cubic feet of commercial wood fiber. For these reasons a forest management plan is not required. A Forest Land Assessment will be required because the property is over 10 acres in size. The applicant will also be required to record a Waiver of Remonstrance against standard farm and forest management practices on nearby and neighboring properties as a condition of approval.

☐ **OAR 660-06-035 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*

- (4) Prior to issuance of any building permits, the owner shall provide documentation that the County Sanitarian has performed a septic lot evaluation or a septic authorization, indicating that the property is approved for a septic system. A permit to install the septic system must be obtained.
- (5) Prior to receiving a building permit, the owner shall submit a refined plot plan clearly indicating the defined primary and secondary fire breaks around all dwellings and structures.
- (6) The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Living with Fire: A Guide for the Homeowner" published by the Pacific Northwest Wildfire Coordinating Group. This publication recommendations shall be followed in the construction of the access driveway and all structures on the site, including a fire retardant roof, spark arresters on all chimneys, and not placing the residence on a slope greater than 40%.
- (7) Prior to issuance of a building permit, the applicant shall submit documentation indicating the driveway access has been approved by Clatskanie Rural Fire District.
- (8) The applicant is required to provide proof of access by cross-over easement over the neighboring property. A access easement with the neighboring property to Lindberg Road is required..
- (9) Pursuant to OAR 660-06-029(3)© a well constructor's report; or documentation from the District Watermaster; verifying adequate domestic water is available to the site prior to any building permits being issued.
- (10) The applicant shall submit a completed Forest Land Assessment; and may be required as a result of the assessment to complete and submit a Timber Stocking Survey Report which will need to be approved by the County Tax Assessor's Office.
- (11) This Conditional Use Permit is only considered valid if PA 05-03, the Plan Amendment and Zone Change, which re-zones the property from SM to FA-19 is approved.
- (12) All provisions of the reclamation plan for the former Sutter Quarry site must be met prior to building permits being issued for this dwelling. The Surface Mining Administrator shall write a letter to this file stating that all reclamation has been completed.

Attachments:

- CUP Application and Supplemental Questions
- Vicinity Map
- Zoning Map
- Address Map
- Submitted Template Map