



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 or owner was not responsible for failure to develop.

2. Prior to building permit issuance, the Applicant or owner shall obtain a septic system authorization or lot evaluation.
3. The Applicant or owner shall sign a Waiver of Remonstrance regarding current and accepted farm and forest management practices on adjacent properties devoted to agriculture and timber production prior to any building permits being issued.
4. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991, shall be followed in the construction of 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 of greater than 40%.
5. Pursuant to OAR 660-06-029(3)(C), a well constructor's report or documentation from the District Watermaster shall be submitted verifying adequate domestic water is available to the site prior to any building permits being issued.
6. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991; or their equivalent shall be followed. Depending upon the percentage of the slopes of the homesite area, a 30' (0-9% slope), 50' (10-19% slope), 75' (21-25% slope), or 150' (26-39% slope) primary fuel-free break area shall be created around all structure; in addition, a 100' secondary fuel-free break area shall be created and maintained around the dwelling.
7. The Applicant or owner shall meet the County Road Construction Standards for the proposed driveway, and shall obtain an access permit from the County Road Department, prior to the issuance of a building permit.
8. The Applicant or owner shall submit a complete Forest Land Assessment; and may be required as a result of the assessment to complete a Timber Stocking Survey Stocking Report. Both will need to be approved by the County Assessor's Office, prior to the issuance of a building permit.
9. The Applicant or owner shall submit documentation from the Scappoose Fire District approving the access driveway to the homesite, the turnaround at the end of the driveway, and any other fire and safety concerns such as an emergency vehicle turn-

around or sprinkler system in the proposed dwelling prior to the issuance of a building permit.

10. The Applicant or owner shall submit a Slope Stability Plan, prepared by a licensed engineer with Geotech experience, prior to constructing driveway improvements required to meet fire access. The engineer shall monitor the construction.

Dated this 24<sup>th</sup> day of January, 2007.

BOARD OF COUNTY COMMISSIONERS  
FOR COLUMBIA COUNTY, OREGON

By: 

Rita Bernhard, Chair

By: 

Anthony Hyde, Commissioner

By: 

Joe Corsiglia, Commissioner

Approved as to form

By: 

Office of the County Counsel

## ATTACHMENT 1

### Exhibit 1-Legal Counsel's File

- 1) Notice of Public Hearing (Publication);
- 2) Notice of Public Hearing (Property Owner Notice);
- 3) Affidavit of Publication;
- 4) Affidavit of Mailing;
- 5) List of Property Owners to receive notice;
- 6) Board Communication 06-03 dated October 10, 2006, with the following attachments:
  - A) Draft Public Notice;
  - B) Final Order 06-03;
  - C) Appeal Form received October 2, 2006;
- 7) Board Communication 06-04 dated October 10, 2006, with the following attachments:
  - A) draft public notice;
  - B) Final Order 06-04;
  - C) Appeal Form received October 2, 2006;
- 8) Board Communication CUP 06-29 dated October 10, 2006, with the following attachments:
  - A) Draft Public Notice;
  - B) Final Order CUP 06-29;
  - C) Appeal Form received October 2, 2006;
- 9) Letter from Mike Pihl to the Board of Commissioners dated November 22, 2006;
- 10) Appeal Information CU 06-29 dated September 25, 2006;
- 11) E-mail to Glen Higgins from Dorothy Cofield dated October 9, 2006;
- 12) Planning Commission Sign-In sheet;
- 13) Email to Glen Higgins from Dorothy Cofield dated October 4, 2006;
- 14) Email from Glen Higgins to Dorothy Cofield dated September 28, 2006;
- 15) Board Communication dated December 13, 2006, with the following attachments:
  - A) Staff Report CU 06-29 to the Board of County Commissioners;
  - B) Staff Report FMP 06-03 to the Board of County Commissioners;
  - C) Staff Report FMP 06-04 to the Board of County Commissioners;
- 16) Letter to Board of County Commissioners from Walker Road neighbors dated December 1, 2006;
- 17) Letter to County Counsel from Dorothy Cofield with the following attachments:
  - A) Cofield Law Office Legal Memorandum;
  - B) Exhibit 1- Columbia County Planning Commission Minutes;
  - C) Exhibit 2- Letter from Katie Bradford, Court Reporter;
  - D) Exhibit 3- Scappoose Fire Department Driveway Requirements;
  - E) Exhibit 4-PSI Preliminary Geotechnical Review;
  - F) Exhibit 5- Columbia County Zoning Designations;
  - G) Exhibit 6- Bargain and Sale Deed;
  - H) Exhibit 7- Owner Authorization;

- I) Exhibit 8- Oversized Site Plan;
- J) Walker Road 96 acre parcel-Dwelling Report;
- K) Parati Site Assessment for CU 06-29;
- L) Parati Site Assessment for FMP 06-03;
- M) Parati Site Assessment for FMP 06-04;
- N) Walker Road 65 acre parcel-Dwelling Report;

FOR CONDITIONAL USE CU 06-29

- 18) Certificate of Mailing CU 06-29;
- 19) Appeal Information for Final Order CU 06-29;
- 20) Appeal of CU 06-29 received October 2, 2006;
- 21) Letter from Robert Spurlock SRFPD, dated July 6, 2006;
- 22) Letter from Shelly Bennett dated May 1, 2006;
- 23) Letter from Lonny Welter dated April 19, 2006;
- 24) Conditional Use Permit Application (Revised) ;
- 25) Address Map;
- 26) Aerial Map;
- 27) Soil Survey Map;
- 28) Template Test Map;
- 29) Zoning Map;
- 30) Vicinity map;
- 31) Topographical Map;
- 32) Mailing Packet Check List;
- 33) Referral and Acknowledgment County Roadmaster;
- 34) Resource Management Plan for 27 acre parcel;
- 35) Tax Assessor's Map;
- 36) Soils Map;
- 37) Soil information;
- 38) Site Map;
- 39) Aerial Photo;
- 40) Douglas Fir Site Index;
- 41) Photos of 27 acre CUP Site;
- 42) Vicinity map;
- 43) Plot Plan;
- 44) Topographical Map;
- 45) Referral Contact list;
- 46) Letter to LDS from Lonny Welter dated April 19, 2006;
- 47) Referral and Acknowledgment County Roadmaster;
- 48) Referral and Acknowledgment Scappoose Fire District;
- 49) Referral and Acknowledgment Scappoose CPAC;
- 50) Referral and Acknowledgment County Sanitarian;
- 51) Referral and Acknowledgment County Watermaster;
- 52) Referral and Acknowledgment Building Official;
- 53) Referral and Acknowledgment County Sanitarian;
- 54) Referral and Acknowledgment Building Official;

- 55) Certificate of Mailing dated August 7, 2006;
- 56) Fire Service Improvement Requirements dated July 6, 2006;
- 57) Referral Contact List;
- 58) Notice of Public Hearing dated August 4, 2006;
- 59) CPAC Notice;
- 60) Letter to Kevin Bender from Glen Higgins dated August 1, 2006;
- 61) Letter to Sean Williams from LDC Design Group;
- 62) Letter to Kevin Bender from AKS Engineering and Forestry dated July 7, 2005;
- 63) Letter to Robert Spurlock from Scappoose Rural Fire Protection District;
- 64) Template Test;
- 65) Conditional Use Permit Application dated March 17, 2006;
- 66) Planning Commission Staff Report dated May 18, 2006;
- 67) Waiver of 150 Day Rule for Conditional Use Permit dated May 25, 2006;
- 68) Template test Map;
- 69) Referral and Acknowledgment Scappoose School District;
- 70) Waiver of 150 Day Rule for Conditional Use dated May 30, 2006;
- 71) Certificate of Mailing dated March 31, 2006;
- 72) Letter to Kevin Bender dated March 29, 2006;
- 73) Notice of Public Hearing dated March 30, 2006;
- 74) CPAC Notice;
- 75) Property Tax Information;
- 76) GIS Map;
- 77) Description of Access Easement;
- 78) Legal Description of 26 acre tract;
- 79) Bargain and Sale Deed;
- 80) Letter to Kevin Bender from Glen Higgins dated March 29, 2006;
- 81) Property Tax Information;
- 82) Letter to Todd Dugdale from Shelley Bennett dated December 6, 2006;

FOR FMP 06-04

- 83) Application FMP 06-04 received April 11, 2006;
- 84) Notice of Public Hearing dated March 30, 2006;
- 85) Template Test;
- 86) Email from Dorothy Cofield to Glen Higgins;
- 87) Appeal information on FMP 06-04;
- 88) Appeal of FMP 06-04 received October 10, 2006;
- 89) Fax to Glen Higgins from Dorothy Cofield dated October 9, 2006 with attached deed to Fred Bender;
- 90) Appeal Information for FMP 06-04;
- 91) Staff Report dated September 1, 2006;
- 92) Application for a Resource Dwelling dated July 14, 2006, with attached Management Plan;
- 93) Certificate of Mailing Dated September 26, 2006;
- 94) Potential Grading Profile for Access Road;
- 95) Site Plan;

- 96) Template Test;
- 97) Site Plan;
- 98) Aerial Photo;
- 99) Site Map with Resource Areas;
- 100) Soil Survey Information;
- 101) Referral and Acknowledgment Scappoose CPAC;
- 102) Referral and Acknowledgment Scappoose Fire District;
- 103) Referral and Acknowledgment County Roadmaster;
- 104) Certificate of Mailing dated August 7, 2006;
- 105) Returned Mail Josephine Villanti;
- 106) Road Index Map;
- 107) Letter to Kevin Bender from Glen Higgins dated August 1, 2006;
- 108) Notice of Public Hearing dated August 3, 2006;
- 109) Site Plan;
- 110) Address Map;
- 111) Zoning Map;
- 112) Site Plan;
- 113) Notice of Public Hearing;
- 114) Letter of Transmittal from LDC Design Group;
- 115) Letter to Kevin Bender from AKS Engineering and Forestry;
- 116) Referral Contact List;

FOR FMP 06-03

- 117) Appeal Information for FMP 06-23;
- 118) Email from Dorothy Cofield to Glen Higgins dated October 9, 2006;
- 119) List of people to receive notice;
- 120) Email from Dorothy Cofield to Glen Higgins;
- 121) Appeal of FMP 06-03 received October 2, 2006;
- 122) Final Order FMP 06-03;
- 123) Planning Commission Staff Report amended September 18, 2006;
- 124) Planning Commission Staff Report dated September 1, 2006;
- 125) Letter to Robert Spurlock from Scappoose Rural Fire Protection District;
- 126) Letter from Shelly Bennett;
- 127) Letter to LDS from Road Department;
- 128) FMP 06-03 Application;
- 129) Certificate of Mailing;
- 130) Referral and Acknowledgment, County Building Official;
- 131) Referral and Acknowledgment, Scappoose CPAC;
- 132) Referral and Acknowledgment, County Sanitarian;
- 133) Site Plan;
- 134) Address Map;
- 135) PLA Map;
- 136) Photos;
- 137) Soil Survey;
- 138) Site Map with Resource Areas;

- 139) Letter to Kevin Bender from Glen Higgins dated August 1, 2006;
- 140) Notice of Public hearing dated August 3, 2006;
- 141) CPAC Notice;
- 142) Address Map;
- 143) Site Plan;
- 144) Notice of Public Hearing;
- 145) Letter of Transmittal to Sean Williams from LDC Group;
- 146) FMP 06-03 Application;
- 147) Referral Contact List;

- Exhibit 2- Letter to Dorothy Cofield from AKS Engineering & Forestry dated December 12, 2006;
- Exhibit 3- Letter to Board of Commissioners from John McCarthy dated December 12, 2006;
- Exhibit 4- Columbia County Board of Commissioners Staff Report (Andriotti);
- Exhibit 5- Final Order FMP 06-02;
- Exhibit 6- Final Order FMP 05-02;
- Exhibit 7- Final Order FMP 05-03;
- Exhibit 8- Letter to Dorothy Cofield from PARATI dated December 12, 2006;
- Exhibit 9- 21 Photos of subject property;
- Exhibit 10- photos of adjacent property;
- Exhibit 11- Letter and attachments from Dorothy Cofield dated December 20, 2006;
- Exhibit 12- Letter to Board of Commissioners from John McCarthy;
- Exhibit 13- Letter from Ted M Rice III;
- Exhibit 14- Letter to Board of Commissioners from Greenhalgh;
- Exhibit 15- Letter to Board of Commissioners from Konnie Wheeler;
- Exhibit 16- Letter to Board of Commissioners from Kim Gilliam and Rhonda Carter;
- Exhibit 17- Letter to Todd Dugdale from Michael and Wendy Barnes;
- Exhibit 18- Letter to Board of Commissioners from unknown author;
- Exhibit 19- Rebuttal Letter to Dorothy Cofield from AKS Engineering and Forestry;
- Exhibit 20- Final Argument submitted by Dorothy Cofield dated January 3, 2007.



COLUMBIA COUNTY BOARD OF COMMISSIONERS

STAFF REPORT

December 6, 2006

Conditional Use Permit: Forest Dwelling  
Appealed Planning Commission Decision

**HEARING DATE:** December 13, 2006

**FILE NUMBER:** CU 06-29 (revised)

**APPLICANT:** Kevin Bender, Western States Development Corporation  
20285 Amberwood Drive  
Hillsboro, Oregon 97124

**OWNER:** Same as above

**PROP. LOCATION:** Approx. 4 miles northwest of Scappoose on Walker Road

**TAX ACCT. NUMBER :** 4221-000-00200

**ZONING:** Primary Forest-76 (PF-76)

**SIZE:** 27.0 +/- Acres

**REQUEST:** To site a single-family dwelling on a 27.0 acre parcel in a PF-76 zone, using the template option found in OAR 660-06-027(1).

**APPLICATION COMPLETE:** 08/01/06                      **150 DAY DEADLINE:** 12/31/06

**APPLICABLE REVIEW CRITERIA:**

| <u>Columbia County Zoning Ordinance</u> | <u>Page</u> |
|---|-------------|
| Section 501                             | 4           |
| Section 503                             | 4           |
| Section 504                             | 4           |
| Section 505                             | 6           |
| Section 510                             | 7           |
| Section 1190 Big Game Range Overlay     | 8           |
| Section 1503 Conditional Uses           | 19          |
| <u>Oregon Revised Statutes</u>          |             |
| ORS 215.417                             | 13          |
| <u>Oregon Administrative Rules</u>      |             |
| OAR 660-006-0027                        | 13          |
| OAR 660-006-0029                        | 14          |
| OAR 660-006-0035                        | 16          |
| OAR 660-006-0040                        | 17          |

**BACKGROUND:**

The applicant would like to site a single-family home on a 27.0 acre parcel, of which 1.0 acre will be utilized as a homesite for a single-family dwelling and accessory structures located in the Primary Forest (PF-76) Zone. The owner/applicant, Kevin Bender (Western States Development Corporation), is simultaneously applying for this conditional use permit (CU 06-29) and two forest management plans (FMP 06-03/06-04) all on adjacent parcels accessible via Walker Road. The subject property is located approximately four miles northwest of the City of Scappoose. The applicant's proposed home site will be located approximately 925 feet from Walker Road and will be served by an existing logging road easement that will serve as a driveway that is 0.66 miles (3,500') long. The property has moderate to steep slopes as you ascend and descend from the homesite. The subject property is land-locked and can only be accessed by the existing logging road that is 0.66 miles off Walker Road. Water will be provided to the residence by a private well. Sewage will be treated by a subsurface septic system that must be approved by the County Sanitarian before this permit is valid. The property is in the Scappoose Fire District and is also served by the Columbia County Sheriff's Office.

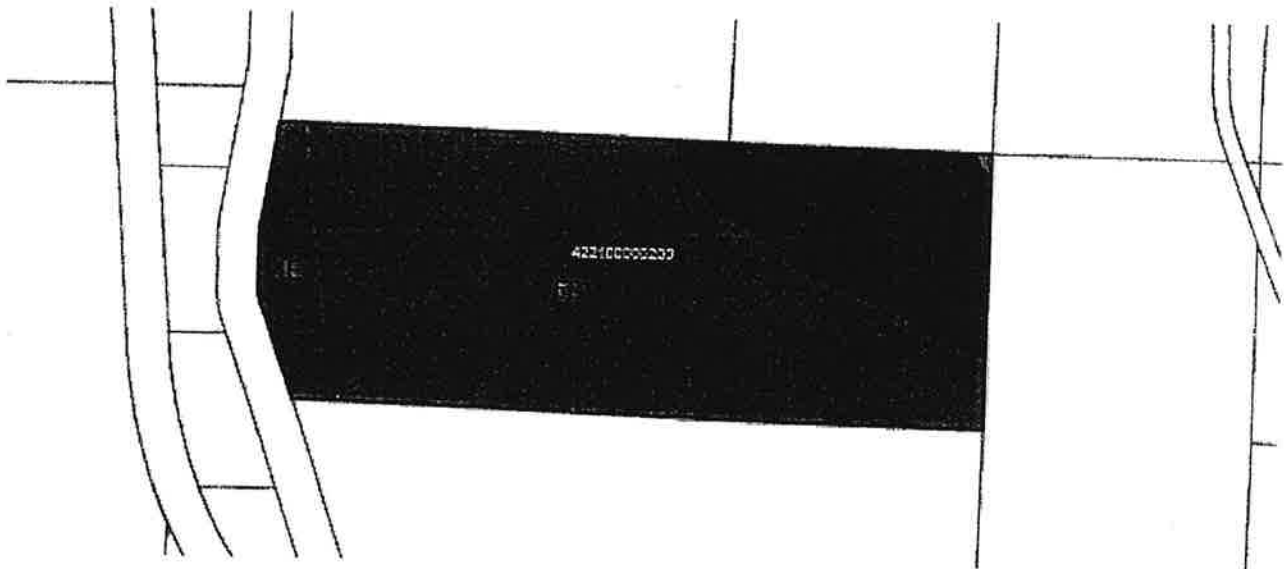
The National Wetlands Inventory (NWI) Map "Chapman" does not indicate the presence of a wetland on the subject property. The FEMA Flood Insurance Rate map, Panel 65, Map # 41009C0450C indicates there are no flood hazard areas on the subject property. Staff notes that the subject property is located in a Peripheral Big Game Habitat, but is not identified as an area for threatened or endangered plant and/or wildlife in accordance with the Scappoose-Spitzenberg Beaks Maps of 1995. There are no fish-bearing streams or bodies of water that contain environmental habitat. Also, there are no hydric soils or plants that are endangered by this proposal for a single-family home. Staff notes that there are have been several conditional use permits approved within the Walker Road area for single-dwellings in the PF-76 Zone.



**REVIEW CRITERIA & FINDINGS:**

**Columbia County Soil Survey:**

| <u>Soils on the 27.0 acre parcel are as follows:</u> | Site Index<br><u>CMAI</u> | Est. %<br><u>of Area</u> | Ag.Cap.<br><u>Class</u> |
|--|---------------------------|--------------------------|-------------------------|
| 6D - Bacona Silt Loam                                | 172                       | 73%                      | VIe                     |
| 4E - Alstony Gravelly Loam                           | 164                       | 6%                       | VIe                     |
| 19E - Dowde Silt Loam                                | 158                       | 21%                      | VIe                     |



**Finding 1:** The soils at this location are well suited for timber production (Douglas Fir Site Class II) and not so well suited for agricultural purposes (Agricultural Capability Class VI). Productivity of the soils for Douglas-fir timber production is estimated at 4,401.51 cubic feet of commercial wood fiber per year for the 27.0 acre parcel. Property that can produce greater than 5,000 cu. ft./tract/year is considered as high value timber land. Owners of high value timberland, wishing to place a dwelling, are required to submit a forest resource management plan to the Columbia County Department of Land Development Services. The subject property contains soil types that are well suited for the growth of Douglas fir trees but it is not considered high valued forestland based on the productive capability of less than 5,000 cu. ft./tract/year.

Forestland properties in the PF-76 zone greater than 10 acres in size 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 if the property already has forest tax deferral and is adequately stocked with trees; or to indicate that the property is under farm tax deferral and being used for agricultural purposes where timber stocking is not required. The subject property is 27.0 acres in size, therefore the applicant will be required to submit a forest land assessment as a condition of approval.

**COLUMBIA COUNTY ZONING ORDINANCE:**

**Section 500 PRIMARY FOREST - 76**

501 **Purpose:** The purpose of this zone is to retain forest land for forest use and to encourage the management of forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. And 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.

- .1 Uses related to and in support of forest operations;
- .2 Uses to conserve soil, air and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;
- .3 Locationally dependent uses, such as communication towers, mineral and aggregate resources; etc.
- .4 Forest management dwellings as provided for in OAR 660-006-0027; and
- .5 Other dwellings under prescribed conditions.

**Finding 2:** The applicant is applying for a forest dwelling in the primary forest zone pursuant to the "Template" option described in OAR 660-006-0027(1)(d). This criteria meets the purpose of Section 501.5.

503 **Conditional Uses:** In the PF Zone the following conditional uses and their accessory uses are permitted subject to the provisions of Section 504 and 505. A conditional use shall be reviewed according to the procedures provided in Section 1503.

- .9 A nonresource-related single-family residential structure.

**Finding 3:** In the PF-76 zone, a non-resource single-family dwelling requires a Conditional Use Permit. The applicant has applied for a Conditional Use Permit, paid the necessary fee and the subject application has been deemed complete. Provisions of Section 504 and 505 will be addressed with the proposal of this application.

504 **All Conditional Uses Permitted in the PF-76 Zone Shall Meet the Following Requirements:**

- .1 The use is consistent with forest and farm uses and with the intent and purposes set forth in the Oregon Forest Practices Act.

**OREGON FOREST PRACTICES ACT**

**527.630 Policy**

(1) Forests make a vital contribution to Oregon by providing jobs, products, tax base and other social and economic benefits, by helping to maintain forest tree species, soil, air and water resources by providing a habitat for wildlife and aquatic life. Therefore, 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 fish and wildlife resources and scenic resources within visually sensitive corridors as provided in ORS 527.755 and to ensure the continuous benefits of those resources for future generations of Oregonians.

**527.730 Conversion of forestland to other uses.**

Nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use.

**Finding 4:** This proposal is consistent with the purpose of the Oregon Forest Practices Act because the applicant has demonstrated that where the homesite will be located, the potential for adverse impacts appears to be minimized regarding concern for negative impacts that effect air, soil, water, and fish and wildlife resources. The applicant has chosen to cluster the homesite 300 +/- feet from the neighboring rural residential dwelling so that the additional 26+/- acres of forestland are not adversely effected and can be managed for forest uses. The Oregon Department of Forestry and Oregon Department of Fish and Wildlife have been contacted as to concur with such findings by staff.

- .2 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 5:** There is no evidence in the record that the proposed use will increase the cost, or interfere with farming or forest uses on adjacent lands. If approved, a dwelling on the site should not disrupt or have any effect on timber activity or agricultural production. Parcels located to the north and east of the subject property are zoned Rural Residential (RR-5). The applicant's proposed use is similar in nature to other properties in the vicinity and the proposed use will not interfere or increase the cost of farm or forest practices.

- .3 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 6:** The proposed residence will be limited to a site of approximately 1 acre in the northeast corner of the property to accommodate the use. The 27.0 acre subject property is zoned Primary Forest - 76 (PF-76). The surrounding parcels in the immediate vicinity of the subject property include a mixture of resource and rural residential lands. (See Table of Surrounding Properties on page 11) The application indicates that structures built as a result of approval of this conditional use permit will be grouped so as to create minimal impact on forest lands to the west and south. Staff does not feel the use would impair or preclude surrounding property owners from enjoying and managing their properties.

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

**Finding 7:** The new dwelling is proposed to be located approximately 200' from the northern property line and 275' from the eastern property line. The fire break for the PF-76 zoning district is a 30-foot primary and a 100-foot secondary break for a total fire buffer of 130 feet. The property line setback for all structures in the PF-76 zone is 50 feet. The location of the proposed homesite will conform to the fire break and zoning standards within the property boundaries of the subject parcel.

- .5 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 8:** Public utilities for the proposed dwelling will be required to use the existing right-of-way and driveway that has been established for access. The applicant shall meet the requirements of the designated agencies regarding power and communication lines installed. West Oregon Electric has been contacted, but there have been no comments submitted as of the date of this report.

- .6 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.

**Finding 9:** As noted on the Wildlife Game Habitat Beak Map for the Scappoose-Spitzenberg CPAC the subject property is located in the Peripheral Area for Big Game Habitat. The applicant has proposed to be clustered to the neighbor's homesite to the east by 300+/- feet. However, the applicant is also over ½ mile from Walker Road where most homes do reside. Section 1190 Big Game Range Overlay will be reviewed later in this staff report.

505 Residential Structures Shall meet the following Additional Requirements:

- .1 Nonresource-related structures provided by Section 503.9 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.

**Finding 10:** According to the soil survey of Columbia County, this entire parcel is capable of growing trees. There are no adverse soil or land conditions, drainage and flooding, or vegetation or location reasons that would preclude the use of this parcel from resource use. The limiting factor for using this property for high valued timberland for commercial forestry is the size of the parcel. The developed site will convert approximately 1 acre of this property to residential use. Setbacks will help buffer impacts and reduce conflicts with adjoining parcels. The proposed homesite location is not within a wetland or flood hazard area. The subject property is not suitable for commercial forest use because of the limited capability of producing only 4,401.51 cubic feet of commercial wood fiber a year, which is less than the 5,000 cubic feet of wood fiber a year considered high valued timberland.

- .2 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 11:** Provisions for fire safety measures in accordance with the guide published by the Northwest Inter-Agency Fire Prevention Group have been made with this proposal for a dwelling in the PF-76 zone. The proposed site plan indicates that the dwelling will meet both the primary and secondary firebreaks required. The subject property is in the Scappoose Rural Fire Protection District.

- .3 Responsibility for protection from wildlife damage on the property shall be assumed by

the dwelling's owner or occupant.

**Finding 12:** The owner must assume responsibility for protection from wildlife damage on the subject property.

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

**Finding 13:** 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.

- .5 A 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 14:** A farm/forest management impact statement may be required by the Planning Commission. The applicants submitted a forest management plan with the conditional use permit.

510 Fire Siting Standards for Dwellings and Roads:

The following fire siting standards or their equivalent shall apply to new dwellings in this zone:

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

**Finding 15:** There is no readily available water supply that may be used in the event of a fire hazard. The application states the owner will provide a water tank for emergency water supply if required. In accordance with State standards, the applicant will be required as a condition of approval to submit a plot plan indicating both a 30- foot primary and 100- foot secondary fire break around the residence and all outbuildings. The applicant will be required to install and maintain the required fire breaks. The driveway will be approximately 3,500 feet long with a surveyed maximum grade of 17 percent. Significant improvements will be required for the driveway to comply with County and local fire district standards. The proposed driveway improvements may

adversely impact the overall stability of the subject property as steep slopes are prevalent in numerous areas. The driveway access shall be improved to accommodate emergency service vehicles and must be approved by the local Fire District. Because of the possible adverse affect on slope stability of the necessary driveway improvements, widening and turnouts, the owner should submit a slope stability plan prepared by a licensed geo-tech engineer prior to conducting driveway improvements. This criteria can be met with conditions.

**Continuing with the Columbia County Zoning Ordinance:**

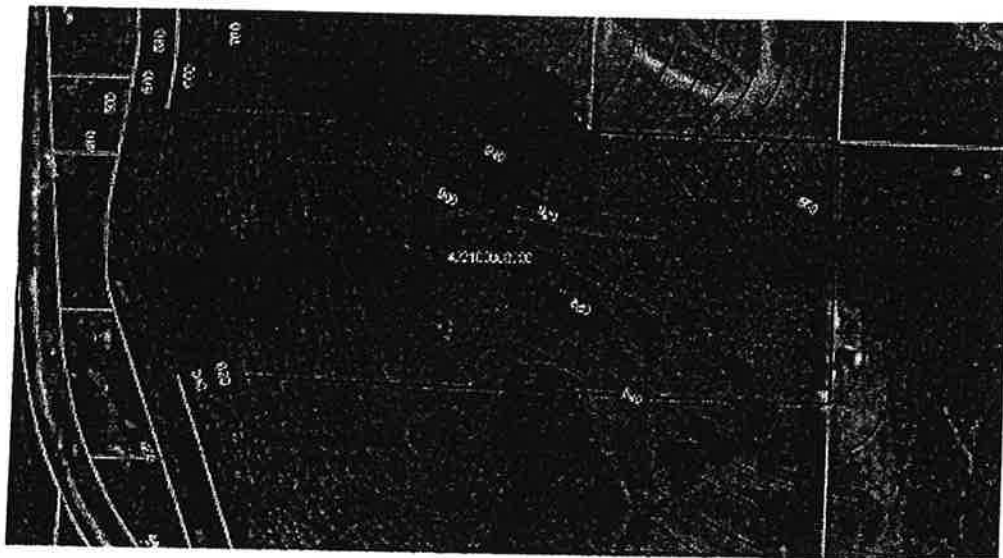
**Section 1190 BIG GAME RANGE OVERLAY**

**1193 Development Standards:**

All new development located in Major and Peripheral Big Game Habitat shall implement the following siting standards:

- .1 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 16:** The applicant is proposing to locate the home over ½ mile from Walker Road and approximately 300+/- feet from the neighboring dwelling to the east. The next closest dwellings are 750+/- feet to the northeast and 1500+/- feet to the west. This does not necessarily meet the requirements of clustering the dwelling near existing developed areas. The topography of the property has moderate to steep slopes that ascends and descends from the homesite. The proposed homesite is located in the best portion of the parcel given topography and existence of the logging road to be used as a driveway, as evidenced by the map below. Also, the parcel is land-locked, does not have any frontage on Walker road and can only be accessed by the existing logging road. The possibility of constructing the homesite close to Walker Road is not possible. Fire break setbacks and natural terrain features were considered in selecting an area of the property for the building envelope.



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



**Finding 17:** The applicant will remove a one acre portion of the subject property for the dwelling and potential accessory buildings. As submitted, the proposed use appears to have minimal impact on valuable habitat areas and assumed game trails in the forested areas. The new dwelling and the subject property is generally near other existing residences in the area as evidenced by Table 1 indicating 13 residential structures on surrounding tax lots within 750 feet of the subject property. The applicant proposes to utilize an area on the property that will minimize impact on the existing trees which will minimize conflicts and impacts on valuable habitat areas. For these reasons, staff finds that this criterion shall be met.

- .3 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 18:** The applicant has established access to and from the subject property via by an existing logging road for a proposed driveway. As a condition, if approved, the applicant shall obtain a road access permit from the County Road Department and shall receive approval from the Scappoose Fire District regarding access and turn around for emergency vehicles. The proposed driveway appears to be approximately 3,500 feet long. The applicant will need to meet the road construction standards for access that has significant slopes in the property's terrain. The Chief of the Scappoose Rural Fire Protection District indicated in a letter (see attached) to the applicant the requirements for the driveway to the proposed dwelling, which include: the driveway will need to be 12 feet wide with 4 feet of clearance on each side. Paving will be required if the grade of the driveway is over 12% and sprinklers in the dwelling will be required for any grade over 16%. Turnouts will be required at an average of 400 feet and an emergency vehicle turnaround will be required near the residence. Based on these requirements approximately 9 turnouts and sprinklers in the dwelling may be required. Due to the significant amount of improvements to the existing logging road traversing through another property, and given the fact that the proposed driveway contains steep and potentially unstable slopes, the Planning Commission determined that this criterion is not met. Staff finds that this criterion can be met with conditions imposed.

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

**Finding 19:** Staff notes that the owners of the subject property shall assume responsibility for protection from damage by wildlife. This criteria is met.

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

**Finding 20:** There are no riparian or wetland areas located on the subject parcel.

- .6 Columbia County shall notify the Oregon Department of Fish and Wildlife (ODFW) of all proposed uses or activities located within the Big Game Range Habitat. The County will consider the comments and recommendations of ODFW before making a decision concerning the requested use or activity.
- .7 Columbia County shall notify the Oregon Department of Fish and Wildlife (ODFW) and the U.S. Fish and Wildlife (USFW) of all proposed uses or activities located within the

Columbian White-Tailed Deer habitat. The County will consider the comments and recommendations of ODFW and USFW before making a decision concerning the requested use or activity.

**Finding 21:** The subject property is located within a Peripheral Big Game Habitat area as designated on the BEAK Wildlife Maps for the Scappoose-Spitzenberg CPAC area. The County notified the Oregon Department of Fish and Wildlife (ODFW) of the proposed development and received no response as of the date of this application.

**Continuing with Zoning Ordinance Section 1500 Discretionary Permits:**

**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 22:** The subject site is zoned Primary Forest - 76 (PF-76). Section 503.9: Conditional Uses (in the PF-76 zone) of the Columbia County Zoning Ordinance lists "A non-resource related single-family residential structure."

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

**Finding 23:** The applicable criteria of the PF-76 zoning district has been reviewed in this report. Staff has finds that the proposed use complies with the specific criteria of the PF-76 zoning district in Findings 2 through 15. The Planning Commission, in Finding 15 and 18, concluded that the significant amount of road modifications in the steep terrain areas did not minimize impacts of the driveway under criterion Section 510 1193.

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

**Finding 24:** The nearest urban area is Scappoose, which is located approximately 3-4 miles southeast of the subject property. The property is 27.0 acres in size and is rectangular in shape. As indicated on the plot plan and verified by site visit the proposed dwelling has access via an existing logging road as a driveway that ascends and descends to the proposed dwelling. There are several homes in the near vicinity, and 13 are within the 160 acre rectangular template. This site contains no outstanding natural features listed in the Columbia County Comprehensive Plan. The parcel does not contain any flood hazard areas. There are no existing improvements on this subject property. The property is within the Scappoose Fire District. The Planning Commission concluded that topography and steepness of the access is not suitable or desirable for fire access, and the amount of construction and earth movement required to meet standards may cause potential for increase slope instability. Staff has determined that if the owner follows a slope stability plan prepared by an engineer and brings the access driveway to fire siting standards, with conditions as imposed this criterion can be 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 25:** The subject property is accessible via a driveway from Walker Road. Public facilities are power and telephone, which exist on the subject parcel. Water will be available to the subject property through a well and West Oregon Electric will provide electrical power. The parcel is inside the Scappoose Rural Fire Protection District. 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 26:** All surrounding properties are zoned either Primary Forestland (PF-76) or Rural Residential (RR-5). The 160 acre rectangular template used in this application indicates the presence of 18 other parcels with 13 dwellings. The proposed residence will not alter the character of the area or limit, impair, or preclude the use of surrounding properties for the primary uses listed in the underlying district. The table below indicates properties and uses within 750' of the subject parcel.

| TAX ACCOUNT #  | ACRES | ZONE  | USE                          | OWNER                           | TAX CODE |
|----------------|-------|-------|------------------------------|---------------------------------|----------|
| 4221-000-00300 | 46.76 | PF-76 | 56411 Walker Road            | Western States Development Co.  | 4 & 8    |
| 4221-000-00400 | 24.10 | PF-76 | Forestland                   | Thompson, Virginia              | 6        |
| 4221-000-00500 | 20.00 | PF-76 | Forestland                   | Longview Fibre                  | 6        |
| 4221-000-00800 | 0.08  | PF-76 | Vacant                       | Gilliam, Kim & Carter, Rhonda   | N/A      |
| 4221-010-00200 | 1.06  | RR-5  | 56758 Walker Road            | Pihl, Mike Logging Co. INC      | N/A      |
| 4221-010-00301 | 6.00  | RR-5  | 56880 Walker Road            | Moore, Beverley                 | 6        |
| 4221-010-00701 | 5.20  | RR-5  | 56925 Walker Road            | Neut., Michael                  | 6        |
| 4221-010-00800 | 10.00 | RR-5  | 57049 Walker Road            | Todd, Randolph & Linda          | 6        |
| 4221-010-00900 | 12.71 | RR-5  | 56817 Walker Road            | Heil, Dennis & Lynn             | 6        |
| 4221-010-00901 | 5.78  | RR-5  | 56743 & 57645 Walker Road    | Grove, Load & Alice             | 6        |
| 4221-010-01000 | 19.90 | RR-5  | 56731 & 56733 Walker Road    | Jensen, Arnold & Karen          | 6        |
| 4221-010-01100 | 3.25  | RR-5  | 56575 Walker Road            | Benett, Shelley & Edward        | N/A      |
| 4221-010-01200 | 8.50  | RR-5  | 56644 Walker Road            | Watkins, Gregory & Jackie       | 6        |
| 4221-010-01201 | 0.95  | RR-5  | Vacant                       | Benett, Shelley & Edward        | N/A      |
| 4221-020-00100 | 32.71 | FA-19 | Forestland                   | Mudge, Frank Trustee            | 8        |
| 4221-020-00400 | 2.56  | RR-5  | Vacant                       | Crawford, Pat Lyons & Olea June | N/A      |
| 4221-020-00600 | 2.09  | RR-5  | 30241 Scappoose Vernonia Hwy | Luethe, Samuel                  | N/A      |
| 4221-020-00701 | 1.40  | RR-5  | 30339 Scappoose Vernonia Hwy | Gilliam, Kim & Carter, Rhonda   | N/A      |

|                |       |       |                              |                               |     |
|----------------|-------|-------|------------------------------|-------------------------------|-----|
| 4221-020-00702 | 1.03  | RR-5  | 30291 Scappoose Vernonia Hwy | Hunt, Ken                     | N/A |
| 4221-020-00703 | 2.26  | RR-5  | 30339 Scappoose Vernonia Hwy | Gilliam, Kim & Carter, Rhonda | N/A |
| 4221-020-00704 | 0.75  | RR-5  | 30269 Scappoose Vernonia Hwy | Vilanti, Josephine            | N/A |
| 4221-020-01000 | 38.00 | PF-76 | Forestland                   | Longview Fibre                | 6   |
| 4221-022-00500 | 5.05  | RR-5  | 56824 Old Quarry Road        | Westerdahl, Troy & Lisa       | 6   |
| 4221-022-00800 | 5.21  | RR-5  | 56807 Old Quarry Road        | Vinson, John & Diane          | 6   |

\* 4= Disqualified Farm Use (Suspension) 6= Designated Forest Land (includes Reforestation), 8= Optional Timber Tax

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

**COLUMBIA COUNTY COMPREHENSIVE PLAN:**

**PART IV FOREST LANDS**

7. Limit non-forest dwellings to individual lots or parcels where it can be shown that:

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

**Finding 27:** The proposed residence complies with Policy 7 of the Columbia County Comprehensive Plan. The applicant has proposed to site a non-forest dwelling on a parcel of land zoned PF-76. As previously discussed, the subject property is generally unsuitable for forest or farm use. Sub-policies A, B, C, D, E, and F are addressed elsewhere in this staff report.

**Continuing with the Columbia County Comprehensive Plan:**

**PART VI HOUSING**

**GOAL:** To provide for the housing needs of the citizens of the County by allowing adequate flexibility in housing location, type, and density.

**Finding 28:** The applicant has proposed a dwelling in an already impacted area that would provide a housing

opportunity for a resident of the County. In addition, the parcel is not suited for commercial forest or farm use. Therefore, the proposal meets the Housing goal of the Comprehensive Plan.

**Continuing with Zoning Ordinance Section 1503:**

G. The proposal will not create any hazardous conditions.

**Finding 29:** The site would contain a single family home within a PF-76 zoning district, which would not appear to create any hazards as result of dwelling location. Development of the driveway to access the proposed homesite is over steep and potentially erosion susceptible lands. A geotechnical report will be required for mitigating development of the driveway over unstable land. A firebreak shall be maintained in order to reduce the risk of any potential wildfires.

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

**Finding 30:** Staff finds that a Site Design Review is not necessary, but may be required by the Planning Commission.

**OREGON REVISED STATUTES (ORS):**

**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 forest land 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.

**Finding 31:** If this permit is approved, the approval period for construction for beginning the new dwelling is 4 years from the date of approval.

**OREGON ADMINISTRATIVE RULES (OAR):**

**660-006-0027**

**Dwellings in Forest Zones**

(1) Dwellings authorized by OAR 660-006-0025(1)(d) are:

(f) In western Oregon, the governing body of a county or it's 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

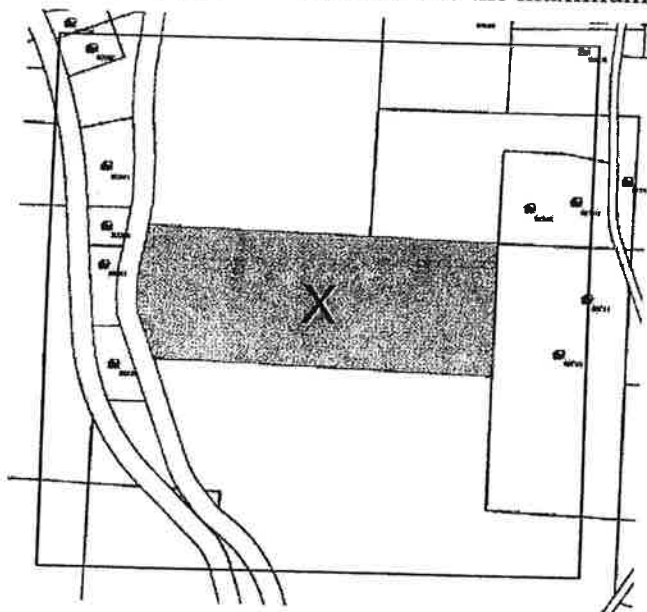
(ii) At least three dwellings existed on January 1, 1993 on the other lots or parcels.

(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 32:** Using the Columbia County Soil Survey it was determined that for the 27.0 acre parcel, there is a Douglas-fir production capability of 4,401.51 cubic feet for the designated soil types on this subject parcel. OAR 660-06-027(1)(f)(A) would require that all or part of at least 11 other lots or parcels and at least 3 dwellings, existing on January 1, 1993, are within the 160-acre square template centered on the subject property. A 160-acre square template, centered on the subject property indicates 20 +/- discrete parcels and 13 dwellings sited prior to 1993 that were not located within an urban growth boundary. The subject property is not part of a tract. Therefore, this criterion is met.

**Continuing with Oregon Administrative Rules (OAR):**

660-006-0029

**Siting Standards for Dwellings and Structures in Forest Zones**

- (1) Dwellings and structures shall be sited on the parcel so that:
- (a) They have the least impact on nearby or adjoining forest or agricultural lands;
  - (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
  - (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
  - (d) The risks associated with wildfires are minimized.

**Finding 33:** The proposed home 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 extra protection will be provided by a Waiver of Remonstrance which will protect forest and farm management practices on adjacent properties. The subject property is a 27.0 acre parcel without frontage along Walker Road. The applicant accesses the parcel via an old driveway that accessed a homestead and barn on the adjoining parcel to the south, then continues as an existing logging road to the southern edge and into the property. Although the applicant is utilizing this older and existing corridor for access and utilities, the Planning commission felt that the necessary improvements to this corridor was significant thereby not minimizing adverse impacts. The risks of wildfires shall be minimized by maintaining a primary safety zone and a secondary fuel break area around all structures.

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

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

**Finding 34:** Prior to the issuance of building permit the applicant shall submit documentation that there is an adequate water supply available on the subject property.

(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 35:** Access to the subject property will be via an easement on existing logging road, which will be utilized as a private driveway. The applicant will be required to provide proof of an easement for ingress and egress and a copy of the county road access permit from the County Road Department. The applicant shall meet the required road construction standards for upgrading this existing logging road that meets County requirements for emergency access as well as residential access. (See letters from Scappoose RFPD Chief & County Roadmaster).

(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 or a 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 36:** Due to the size of the subject property the applicant will be required to submit a Forest Land Assessment \Timber Stocking survey to the County Assessor. The applicant shall sign and record a waiver of remonstrance for complaints against neighboring forest operations.

**Continuing with Oregon Administrative Rules (OAR):**

660-006-0035

**Fire-Siting Standards for Dwellings and Structures**

The following fire siting standards or their equivalent shall apply to new dwellings or structures in a forest or agriculture/forest zone:

- (1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be provided to within 15 feet of the water's edge for firefighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.
- (2) Road access to the dwelling shall meet road design standards described in OAR 660-06-040.
- (3) The owners of the dwelling and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.
- (4) The dwelling shall have a fire retardant roof.
- (5) The dwelling shall not be sited on a slope of greater than 40 percent.
- (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

**Finding 37:** The subject parcel for the proposed dwelling is located within the Scappoose Rural Fire Protection District. The standard fire break for the PF-76 zoning district is a 30-foot primary and a 100-foot secondary break for a total of 130 feet of fire buffer. The applicant will be required to maintain the fire breaks and construct the road access to meet the requirements of OAR 660-060-040. Additionally, the Scappoose Fire

District shall approve of the access driveway and turn around for emergency vehicles, and proof of an adequate supply of domestic water shall be provided prior to the issuance of a building permit. Other requirements stated above shall be implemented through conditions imposed.

**Continuing with Oregon Administrative Rules (OAR):**

660-006-0040

**Fire Safety Design Standards for Roads**

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

**Finding 38:** The proposed driveway will be 0.66 miles from the proposed home to Walker Road. The Scappoose Fire District shall verify if the driveway is constructed to standards that will support emergency vehicles. This particular site will also require a fire apparatus turn around at the top of the driveway as well as turnabouts ever 400 feet in length along the driveway. The driveway must be inspected and approved by the Scappoose Fire District if approved.

**COMMENTS:**

1. The Scappoose Rural Fire Protection District has reviewed the application and provided comments: "will need to meet driveway standards and primary and secondary fire breaks." See attached letter.
2. The Roadmaster has reviewed the application and has no objections and provided comments: "The access road will require improvements." See attached letter.
3. The Sanitarian has reviewed the application and has no objections to its approval as submitted
4. The Scappoose CPAC recommends denial of the application "due to concerns about instability of the area, instability and grade of the road, failure to meet big game criteria that houses be close to the road and faulty completion and accuracy of applications."
5. The Building Official has reviewed the application and has no objections to its approval as submitted
6. The Watermaster has reviewed the application and has no objections to its approval as submitted
7. Shelley Bennett, a resident at 56575 Walker Road in Scappoose, has written a letter in objection to the development of this property. (See Letter by Shelley Bennett, dated May 1, 2006)

8. Michael Pihl, neighbor submitted a letter to the Board, dated November 22, 2006 in favor on the request.

No other comments have been received from notified nearby property owners or government agencies as of the date of this staff report (December 6, 2006).

#### PLANNING COMMISSION and STAFF RECOMMENDATION:

Based upon research about the property and findings of the above staff report (CU 06-29), the Planning Commission finds that the proposal does not comply with the criteria for siting a dwelling in the resource zone. Therefore the Planning Commission **Recommends Denial** this request to place a single family dwelling on a 27.0 acre parcel in a Primary Forest (PF-76) zone, based on the following reasons:

1. The Planning Commission has determined that the placement of a dwelling on the subject parcel fails to meet criterion outlined in Section 1193 Development Standards within the Big Game Range Overlay including failure to locate the dwelling close to the road and near other dwellings within existing developed areas.
2. Hazardous conditions may be created through significant impact as a result of developing the driveway to fire district and county standard for access to the proposed dwelling.

Planning Staff finds that first, that the applicant proposes to site the dwelling as close as possible to other dwellings and the siting of the house close to Walker Road is not possible. Any impact on slope stability due to driveway improvements can be minimized through conditions. Staff **Recommends** that the Board of Commissioners APPROVE this application, with the following Conditions of Approval:

#### Conditions of Approval:

1. This permit shall become void 4 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.
2. Prior to building permit issuance, the applicant shall obtain a septic system authorization or lot evaluation prior to the issuance of a building permit.
3. The applicant shall sign a Waiver of Remonstrance regarding current and accepted farm and forest management practices on adjacent properties devoted to agriculture and timber production prior to any building permits being issued.
4. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for

Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991, shall be followed in the construction of 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%.

5. Pursuant to OAR 660-06-029(3)(C) a well constructor's report or documentation from the District Watermaster shall be submitted verifying adequate domestic water is available to the site prior to any building permits being issued.
6. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March 1991; or, County adopted "Fire Break Equivalents shall be followed. Depending upon the percentage of the slopes of the homesite area, a 30' (0-9% slope), 50' (10-19% slope), 75' (21-25% slope), or 150' (26'-39% slope) primary fuel-free break area shall be created around all structures; in addition, a 100' secondary fuel-free break area shall be created and maintained around the dwelling.
7. The owner shall meet the County Road Construction Standards for the proposed driveway, as well as obtaining an access permit from the County Road Department, prior to the issuance of a building permit.
8. The applicant shall submit a complete Forest Land Assessment; and may be required as a result of the assessment, to complete a Timber Stocking Survey Stocking Report, both will need to approved by the County Assessor's Office, prior to the issuance of a building permit.
9. The owner shall submit documentation from the Scappoose Fire District approving the access driveway to the existing residence, the turnaround at the end of the driveway, and any other fire and safety concerns such as an emergency vehicle turn-around or sprinkler system in the proposed dwelling, prior to the issuance of a building permit.
10. The owner shall submit a Slope Stability Plan, prepared by a licensed engineer with Geotech experience, prior to constructing driveway improvements required to meet fire access. The engineer shall monitor the construction.

ATTACHMENT 3  
SUPPLEMENTAL FINDINGS

The Board of County Commissioners incorporates the staff report to the Board of County Commissioners dated December 6, 2006 for CU 06-29 including all its findings and conclusions, and the entire record of the proceedings before the Board, supplemented by the further findings and conclusions set forth herein. In the event of any inconsistency between the supplementary findings and conclusions herein and the incorporated matters, the findings and conclusions herein control. To the extent they are consistent with the approval granted herein, the Board adopts by reference its oral deliberations on this matter. Following are the supplementary findings and conclusions of the Columbia County Board of Commissioners:

1. The 27-acre parcel is owned by Western States Development Corporation. A non-resource dwelling is permitted as a conditional use under CCZO 503. The parcel is not suitable for commercial forest use because of its limited capability of producing only 4,401.51 cubic feet of commercial wood fiber a year, which is less than the 5,000 cubic feet of wood fiber a year considered high valued timberland. Staff recommended approval of the non-resource dwelling because its small size is generally unsuitable for resource use. The applicant's arborist, Keith Jehnke with AKS, provided written evidence the parcel will average 4,212 cubic feet per year under better than ideal conditions. Opponents raised the issue that this 27-acre parcel is resource land that does not qualify for a non-resource dwelling because it can yield more than 5000 cubic feet of commercial tree species a year when combined with the adjacent 65-acre parcel. The opponents point to no approval standard that requires aggregation of two parcels in separate ownerships to make them subject to the forest management plan requirement. The Board declines to interpret its code to impose aggregation of two parcels in separate ownerships, finding that the template dwelling state standard allows a tract to be split up to qualify separate legal lots for a dwelling as set out in Finding 6 below. Based on all the evidence in the record, the 27-acre parcel qualifies for a conditional use dwelling under the state template dwelling test.
2. The planning commission denied this application based on a finding that the placement of the dwelling on the subject parcel failed to meet §1193 Development Standards including failure to locate the dwelling close to the road and near other dwellings within existing developed areas. CCZO §1190 through §1193 set out development standards in a Big Game Overlay Zone. §1193 contains five development standards (A-E). Opponents raised §1193.A-C as not being met by the applicant. §1193.A requires dwellings to be located as near each other as possible, considering site constraints. § 1193.B requires dwellings to be located to avoid habitat conflicts and use least valuable habitat. §1193.C requires that road development is minimized to that which is necessary and to utilize existing roads where possible. The Board finds the goal of its development siting standards is not to prohibit any development that could conflict with wildlife habitat, but to minimize habitat conflicts. The Board interprets §1193 as requiring a balancing test between clustering development and utilizing existing roads, while at the same time, recognizing site constraints.

The applicant's environmental expert, Peter Keefe with Parati Company, prepared several reports for the parcel summarizing the county's Big Game Overlay criteria at CCZO 1193 and how the subject property meets the criteria. In addition, Mr. Keefe testified at the December 13, 2006 hearing and presented a layered colored map in his power point presentation, showing how the criteria are met. Mr. Keefe reviewed the proposed development criteria and layout of the sites, explaining that the buildings would be close to existing structures and development. Mr. Keefe further explained the impacted area is divided into three areas: 0-24% slopes where development could occur with the least amount of impact, to 40% grade which would have the most impact. In closing, Mr. Keefe stated that the overly maps show the proposed development is located in areas that would have the least effect on big game habitat. The Board finds Mr. Keefe's testimony and reports are credible evidence that the standards of CCZO 1193 (A-E) are balanced to provide maximum protection to big game habitat, at the same time allowing limited development within the constraints of a particular site. The Board heard Mr. Keefe describe the physical characteristics of the 27-acre parcel, the type of wildlife associated with the parcel and the location of existing and proposed roads and the dwelling site. Based on Mr. Keefe's expertise, the Board finds the proposed location of the dwelling and driveway meet all the factors in CCZO 1193. The opponents have provided little credible testimony or evidence on why the dwellings should be located close to Walker Road, on the most severe slopes and in the most critical wildlife habitat. The opponents' testimony that the dwellings will disrupt wildlife is not supported by any concrete evidence in the record. Furthermore, the Board finds CCZO 1193 does not state wildlife cannot be disrupted; it only requires that clustering occur to the extent practical as limited by site characteristics. The Board finds Mr. Keefe's testimony substantial evidence that the dwelling is located as near to the other two potential dwellings (FMP 06-04 and FMP 06-03) as possible, and other existing dwellings due to site constraints. The Board finds using existing logging roads reduces any new road disturbance which is one of the § 1193.C standards. The Board finds that the applicant's experts from Parati, who are licensed engineers and planners, have demonstrated with clear and convincing evidence why the dwellings are clustered and minimize road development. The Board rejects the opponents' contentions that clustering is not met due to the site constraints because the opponents offered no alternative sites that would protect wildlife habitat more than the proposed location. The opponents have not shown with any substantial evidence that the proposed dwelling site can be located on the steeper slopes closer to Walker Road without creating more erosion problems and disrupting habitat.

3. Under OAR 660-06-029(3), the County may approve a template dwelling if there is a demonstrated water supply. This standard requires that the applicant provide evidence of a water source that meets the Water Resources department's administrative rules. The standard does not require that a well is already constructed, but that it is feasible prior to obtaining a building permit to obtain a legal water source. Opponents contend there is inadequate ground water in the area to serve the dwelling and a new well will impact surrounding wells. The Board heard testimony from the applicant's licensed hydrogeologist, Tom Michalek with MCS Environmental Inc., in his letter dated

December 19, 2006, Mr. Michalek testified that wells in the area produce from 1 to 75 gallons per minute beginning at depths between 60 to 500 feet. Mr. Michalek reported to the Board that he reviewed the well logs and found they demonstrate that there is ample ground water in the area to serve the dwelling. Mr. Michalek reported if there were any critical groundwater problems, the Oregon Water Resources Department (OWRD) would have identified the area as a critical groundwater area. The Board is persuaded that because OWRC has not designated the subject area as having limited groundwater supplies, there is no logical reason to believe groundwater is a problem in the area. While the Board finds because Columbia County's principal water supply is from aquifers, which could always fail, there is no direct correlation between this proposed dwelling's well and countywide aquifer failure. The Board finds the applicant's expert has submitted evidence by way of well logs that there is ample groundwater to serve the proposed dwellings and the administrative rule can be met as a condition of approval. The Board concludes there is substantial evidence in the record that it is feasible to meet OAR 660-006-0029 (Siting Standards for Dwellings and Structures in Forest Zones) by imposing Condition of Approval No. 5.

4. Opponents contend the approval of this dwelling (along with FMP 06-03 and FMP 06-04) will result in rural subdivisions. Staff identified the applicable criteria for a template dwelling as shown in the staff report dated December 6, 2006. The Board has reviewed the applicable criteria and finds that growth concerns are not applicable criteria for a forest template dwelling. To the extent that opponents are arguing the use of their property will be substantially impaired ( § 504.3), the Board concludes the opponents have not established any credible evidence to support their contention.
5. The planning commission denied this application for a dwelling on a finding that hazardous conditions may be created through significant impact as a result of developing the driveway to access the proposed dwelling. CCZO 510.3 applies to all new dwellings and requires that all roads shall be constructed to provide adequate access for fire fighting equipment and according to the local rural fire protection district rules. CCZO 1193.C requires that road development is minimized. OAR 660-06-0035(3) establishes recommended road designs. The Scappoose Rural Fire Department has submitted a letter outlining its standards and its opinion that the roads can be developed to the fire department's standard, despite the steep slopes. The Board finds that the fire chief is an expert in determining what the fire department code standards are and whether they can be safely met in a particular case. The Board finds Fire Chief is an independent, neutral party that has determined the roads for this parcel can be safely developed to its standards and will not cause landslides or erosion problems. The Board finds the Fire Chief's experience in working in the county on a number of road development approvals with similar steep slopes the best evidence that the driveway can be safely constructed on this parcel.

Opponents testified based on personal observations, undated photographs and other unrelated development in Columbia County. The Board finds none of the opponents' testimony is from a licensed geotechnical engineer. The Board finds the applicant's expert, Charles Lane with PSI is a well-known and experienced geotechnical engineer.

Mr. Lane testified that he conducted a site visit to review where the driveway would be constructed. Based on his review and professional qualifications, Mr. Lane concluded it is feasible to construct the driveway to fire department standards, thus meeting CCZO 510.3 and OAR 660-06-0029. As a well-qualified geotechnical engineer with familiarity of Columbia County's geology, the Board accepts Mr. Lane's conclusion that the driveway can be constructed on the properties because it is based upon a review of the existing slopes, soils analysis and the proposed grading profiles. The Board finds the fact that the driveway will be constructed on basalt is further evidence there is no credible slope stability issue. The Board finds Mr. Lane's methodology of conducting a site visit, reviewing the soils and geology of the subject parcel, reviewing the grading profiles prepared by a civil engineer and then providing geotechnical engineering review of the proposed development is sound. The Board is persuaded that Mr. Lane's expert conclusion based on his review of the soils and geology that the proposed dwelling foundation, driveway and access road can be constructed to meet the Scappoose Rural Fire Protection District requirements took all the relevant variables into consideration. Matt Newman with Parati Company testified the steep slope of the road complies with 15% grade or less and County standards are 17%. The Scappoose Fire Department Standards state over 12% grade requires paving and over 16% require a residential fire sprinkler system in the residence. Mr. Newman explained the road will be paved to 12' width with 4 feet of clearance on each side and turnouts as required.

The Board has reviewed Mr. Lane's response to the opponents' testimony from the December 13th public hearing and the additional evidence submitted on December 20, 2006 (Exhibits 3, 10, 12, 13, 14-18) and Mr. Newman's testimony on the driveway finished slopes. The Board finds the opponents' statements that the driveway is too long to provide fire access and the flattest portion of the developed driveway will be 21 to 50% is inconsistent with the experts' testimony and the road profiles projecting the finished grades. The Board finds, along with the fire department's testimony, that with the proposed turnouts every 400 feet, there is no issue that fire trucks will not be able to access the parcel and turn around.

In addition to Mr. Lane's review, Parati Company's civil engineer, Steven White, reviewed the feasibility of constructing the driveway on the parcel and concluded that it is feasible to construct the driveway to fire department standards. Mr. White notes that drainage ditches will be designed and constructed to insure they have adequate drainage and capacity to convey storm water and adequate resistance to erosion. The applicant's representative, Fred Bender, testified that he used the existing logging roads for the 2000 logging that was conducted on the property. Mr. Bender reported that the existing logging roads did not fail or cause any slope instability, even with heavy logging equipment and the harvested trees. Based on this credible testimony, the Board finds the logging roads are probably in better shape than many of the county roads and will not create slope stability problems on neighboring properties.

As part of the steep slopes argument, opponents testified that the applicant's 2000 logging of the property caused earth movement and erosion problems. Opponents recommended the Board impose a hillside study requirement before the appeal can be



granted. The Board finds, based on the approval criteria as listed in the Staff Report, the County has no code requirement for a hillside study and it cannot impose an approval criterion where none exists. Furthermore, the opponents presented no credible evidence of a correlation between logging and earth movement.

The opponents further contended the owner failed to restock the property after the 2000 logging, causing slope stability and erosion problems. The Board finds that logging forest property is governed under the state's Forest Practices Act (FPA) and it has no jurisdiction to enforce the FPA. To the extent the opponents are arguing the proposed use will not meet the intent and purpose of the FPA (as set out in CCZP 504.1) because the owner has not maintained the property for forest uses, the record shows otherwise. The applicant's representative testified at the hearing the property was replanted in 2001 and it is a 5-6 year forest. The DOF has approved the restocking as shown in the record. At the request of the planning director, the applicant's arborist, Keith Jehnke, a certified Arborist and Logging Engineer, prepared a forest management plan and conducted a site visit. Mr. Jehnke testified there has been some spotty tree growth but that implementation of the forest management plan will assure the continued viability of the trees and help prevent erosion.<sup>1</sup>

The Board finds the record for the proposed dwelling clearly supports a finding that the driveway and home can be constructed to meet the fire department standards without any risk to slope stability or neighboring properties. A reasonable person would not find the opponents' testimony credible against the weight of the appellants' expert testimony. Charles Lane reported to the Board that he reviewed the minutes and written testimony from the December 13, 2006 appeals hearing as attached to his letter dated December 15, 2006. Mr. Lane's letter demonstrates that based on his preliminary review of the slope data and County Fire Department standards, the driveways can be engineered to achieve slope stability. Mr. Lane testified that with a slope stability plan and onsite geotechnical review of the driveway construction, it is feasible to meet Columbia County Code § 510.3. The Board finds the county has previously adopted a slope stability plan requirement for dwelling sites on steep slopes under the Columbia County Comprehensive Plan Chapter XIX (Natural Hazards) as implemented through the Uniform Building Code Chapter 70. The Board finds based on the county's experience with the dwelling site slope stability plan and the evidence in this record, it is feasible to construct the proposed driveway to county road standards considering the topography of the parcel, soils types, driveway profiles and stability of the existing logging roads. The Board finds with the imposition of a slope stability plan as a condition of approval for developing the driveways, this criterion can be met.

6. Under the template dwelling criteria at OAR 660-06-0027(1), contiguous lots in the same ownership are treated as one lot (tract) and qualify for only one dwelling. The Board

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<sup>1</sup> The proposed buyer of the parcel attended the appeal hearing and as this Board noted, with the proposed dwelling, the future owner/applicant will be able to manage the forest plan more efficiently and productively than the present owner/applicant has been able to do. This decision is not limited to this applicant/owner and runs with the land and whoever happens to own the land.

heard testimony from opponents that this application does not meet the template test because two other contiguous parcels are in the same ownership of Western States Development Corporation and are thus one "tract." The Board rejects the opponents' testimony because the record shows that Fred Bender as an individual owns the adjacent 65-acre parcel. The record shows that Western States Development Corporation (a separate legal entity) owns this parcel and a 96-acre parcel (FMP 06-03) adjacent to the 65-acre parcel. Based on state law, a parcel can be legally conveyed during pendency of a template dwelling application to qualify it as a separate parcel. One opponent questioned whether staff had counted an outbuilding as one of the three required dwellings within the template. The Board rejects that contention based on Staff's response and showing of an aerial photograph to demonstrate there are three dwellings and not an outbuilding. The Board finds no credible evidence has been submitted that this parcel does not meet the template dwelling test as set out in OAR 660-06-0027(1). The Board concludes there is substantial evidence in the record that the 27-acre parcel is a separate, lawful parcel that qualifies for a dwelling under OAR 660-06-0027.