

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Kevin Bender, dba)
Western States Development, for 2 Resource Dwellings)
in the Primary Forest Zone) Final Order No. 9 -2007

WHEREAS, on August 3, 2006, Kevin Bender, dba Western States Development (hereinafter referred to as the "Applicant" submitted two applications for Resource Dwellings and associated Forest Management Plans to build a dwelling on each of two lots of approximately 65 acres and 96 acres zoned as Primary Forest (PF-76); and

WHEREAS, the Columbia County Planning Commission held a hearing in the matter and voted to deny the applications on September 11, 2006, and Final Orders 06-03 and 06-04 were signed on September 22, 2006; and

WHEREAS, on September 29, 2006, Fred Bender filed an appeal of the Planning Commission's decision for FMP 06-04, and Kevin Bender filed an appeal of the Planning Commission's decision for FMP 06-03 with the Columbia County Board of Commissioners; and

WHEREAS, on December 13, 2006, the Board of County Commissioners held a de novo hearing on the applications; and

WHEREAS, during the hearing evidence was received into the record, a list of which is attached hereto as Attachment 1, and is incorporated herein by this reference; and

WHEREAS, after hearing testimony and receiving evidence, the Board closed the hearing, keeping the record open, and carried the matter over to January 10, 2007, for deliberations; and

WHEREAS, on January 10, 2007, the Board of County Commissioners deliberated on the matters and voted to tentatively approve FMP 06-03 and FMP 06-04;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

- A. The Board of County Commissioners adopts the Finding 1, 2, 4, 7-22, 24- 33, and 38 in the Staff Reports to the Board of County Commissioners, dated December 6, 2007, for FMP 06-03 and 06-04, which are attached hereto as Attachments 2 and 3, respectively, and are incorporated herein by this reference.
- B. The Board of County Commissioners adopts additional findings of fact and conclusions of law which are attached hereto as Attachment 4 for FMP 06-04, and Attachment 5 for FMP 06-03, and are incorporated herein by this reference.

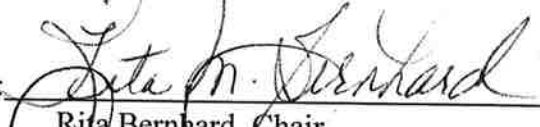
C. The Applications for Resource Dwellings with Forest Management Plans are APPROVED subject to the following conditions of approval for both applications:

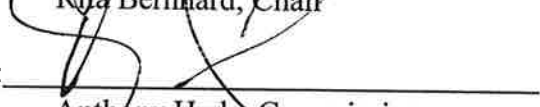
1. This Permit shall become void 4 years from the date of final approval if development has not begun on the property. Extensions of time may be granted by the Planning Director if requested in writing before the expiration date and if the Applicant or owner was not responsible for failure to develop.
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, as well as obtaining 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.

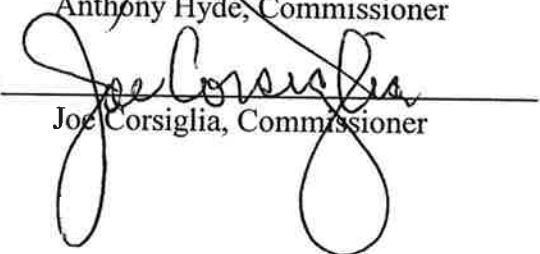
9. The Applicant or owner shall submit documentation from the Scappoose Fire District approving the access driveway to the homesite, the turnaround at the end of the driveway, and any other fire and safety concerns such as an emergency vehicle turnaround or sprinkler system in the proposed dwelling prior 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 24th day of January, 2007.

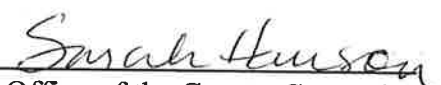
BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

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.

ATTACHMENT 2

COLUMBIA COUNTY BOARD OF COMMISSIONERS
STAFF REPORT

December 6, 2006

Forest Management Plan Dwelling
Appealed Planning Commission Decision

HEARING DATE: December 13, 2006

FILE NUMBER: FMP 06-03 (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 : 4221-040-00301 / 421-040-00200 / 4221-000-00301

ZONING: Primary Forest-76 (PF-76)

SIZE: 96.0 +/- Acres

REQUEST: To site a single-family dwelling on a 96.0 acre parcel in a PF-76 zone.

APPLICATION COMPLETE: 08/04/06 **150 DAY DEADLINE:** 12/31/06

APPLICABLE REVIEW CRITERIA:

<u>Columbia County Zoning Ordinance</u>	<u>Page</u>
Section 402	5
Section 501	4
Section 505	7
Section 510	8
Section 1190 Big Game Range Overlay	9
<u>Oregon Revised Statutes</u>	
ORS 215.417	12
<u>Oregon Administrative Rules</u>	
OAR 660-006-0027	12
OAR 660-006-0029	13
OAR 660-006-0035	15
OAR 660-006-0040	16

BACKGROUND:

The applicant would like to site a single-family home on an approximately 96.0 acre parcel, of which 1.4 acres will be utilized as a homesite for a single-family dwelling and accessory structures, all located in the Primary Forest (PF-76) Zone. The subject property is located approximately four miles northwest of the City of Scappoose on Walker Road. The applicant is simultaneously applying for a Conditional Use Permit (CU 06-29) and two Forest Management Plans (FMP 06-03/06-04) on parcels that are contiguous and all accessible via Walker Road. The Subject parcel was property line adjusted (PLA 02-30) to its current configuration of approximately 96.0 +/- acres. Water will be provided to the subject parcel by a private well and sewage will be treated by a subsurface septic system that must be approved by the County Sanitarian before as a condition of approval. The property is in the Scappoose Fire District and is also served by the Columbia County Sheriff's Office.

Because the 96.0 acre subject parcel is a high value forest unit and can produce greater than 5,000 cubic feet per year for the Culmination of Mean Annual Increment (CMAI) for Douglas Fir, this application to site a dwelling is being reviewed with a Forest Management Plan. The present use of the land is described as Douglas Fir plantation that is approximately 4 years old. Steep slopes are prevalent on a majority of the parcel with elevation changes of approximately 450 feet. The forest management plan is broken into 4 management areas which include the homesite, road maintenance, clear cut and partial clear cut where hardwoods and mixed conifers were left. The proposed homesite is accessible via a driveway from walker road that is approximately 2,800 feet long and on varied terrain.

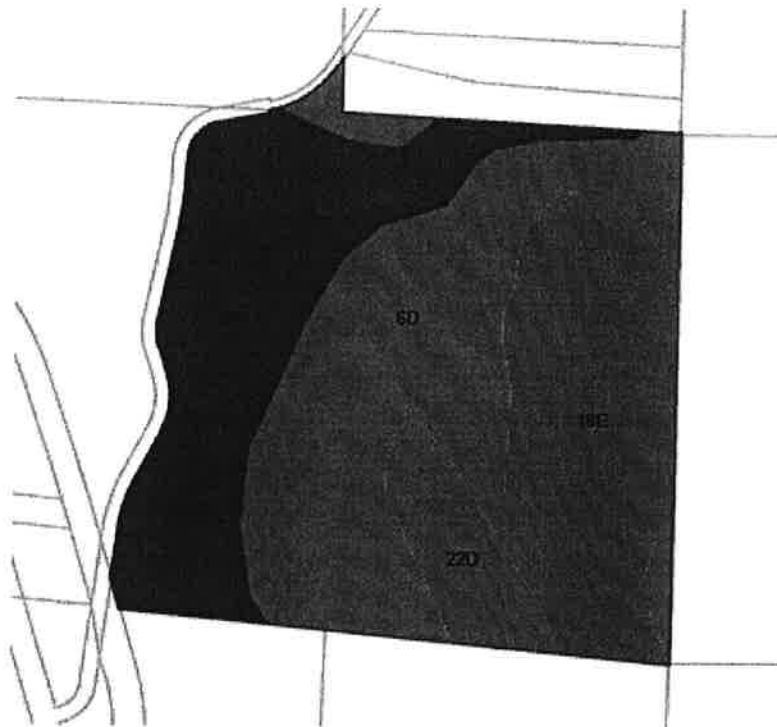
The National Wetlands Inventory (NWI) Map "Chapman" does not indicate the presence of a wetland on the subject property. The FEMA Flood Insurance Rate map, Panel 65, Map # 41009C0450C indicates there are no flood hazard areas on the subject property. Staff notes that the subject property is located in 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-Pitzenberg 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 immediate area for single-family dwellings in the PF-76 Zone.



REVIEW CRITERIA & FINDINGS:

Columbia County Soil Survey:

<u>Soils on the 96.0 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>
6D - Bacona Silt Loam	172	38%	VIe
18E - Dowde Silt Loam	168	25%	VIe
19E - Dowde Silt Loam	158	30%	VIe
22D - Goble Silt Loam	150	7%	VIe



Finding 1: There are four soil types within the subject property, all of which are well suited for the production of Douglas fir as indicated by the high site index for the Culmination of the Mean Annual Increment (CMAI). Based on these soil types, the productivity for Douglas fir timber production is estimated at 15,049.8 cubic feet of commercial wood fiber per year for the approximately 96.0 acre parcel. Property that can produce greater than 5,000 cu. ft./tract/year qualifies as high value timber land. Because the subject parcel exceeds the threshold and is considered high value timber land, this request is being reviewed as a forest resource management plan.

Forestland properties in the PF-76 zone greater than 10 acres in size are required, as a condition of approval, to have a 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 96.0 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 "Forest management dwelling" option described in Section 502.3 and Template requirements of OAR 660-006-0027. This criteria meets the purpose of Section 501.4.

502 Permitted Uses:

- .3 Structures and facilities necessary for and accessory to commercial forest management and fish and wildlife management. The uses served by such structures and facilities may include, but are not limited to: administration, equipment storage and maintenance, communications, fire protection, fish rearing, and residences for property owners, employers or full-time employees directly accessory to and required for commercial forest management or fish and wildlife management. A management plan approved by the Planning Director is required before a building permit is issued to assure that structures and facilities are consistent with the requirement of this ordinance. The management plan shall contain the information required by Section 402.3 of this ordinance, and it shall be reviewed under the procedures set forth in Section 1601 of this ordinance.

Finding 3: The applicant has applied for a residence necessary for and accessory to commercial forest management for the 96.0 acre subject parcel. A Forest Management Plan was submitted with the application supporting the need for a dwelling and structures necessary to efficiently manage the differing areas for growing fir trees. The dwelling will be located on the northeastern portion of the parcel and served by an approximately 2,800' driveway from Walker Road. The applicant has not demonstrated why the proposed dwelling is necessary for forest management. The Forest Management Plan requires the owner to contribute enormous hours, up to 82 hours per week for the year 2012, to the planned forest practices or stand treatments. The Director finds that a time contribution by the owner of this magnitude is unrealistic and much of the management measures will be contracted out. If the plan becomes

contracting most of the management practices, the necessity for the owner to live on site is compromised. The dwelling becomes the primary use of the property, for an owner employed elsewhere, and the forest use becomes accessory. It may be somewhat beneficial for the owner to live on site to assure workers are performing management techniques on a daily basis, but certainly not necessary. The criteria for the dwelling to be necessary for and accessory to forest management is not met.

Continuing with the Columbia County Zoning Ordinance:

Section 400 FOREST AGRICULTURE - 19

402 Permitted Uses:

- .3 Dwellings necessary and accessory to farm or forest use on contiguous ownerships of 19 or more acres, including a mobile home, for the owner, operator, or employees, required to carry out a use permitted outright. Applications for a building permit pursuant to this section shall be accompanied by a management plan which shall be reviewed by the Planning Director under the procedures set forth in Section 1601 of this ordinance. The application shall not be approved unless the Planning Director determines that the requirements of this section are met. The management plan must provide the following information. Additional information may also be required.
 - A. A description of the parcel, including soil types, forest site classes, forest species, ages and densities, topography, streams, wetland areas, roads, structures, and other significant geographic features.

Finding 4: The Management Plan for the 96.0 acre parcel is broken up into four management areas by use and stand type. Area 1 is a 26 acre portion of the subject parcel located in the northwestern corner. This area includes partial cut with some hardwoods and mixed conifer trees. The application indicates: "This lightly stocked area will be inter-planted with Western red cedar and Western Hemlock trees in 2007 (shade tolerant species to help with survival). This area will be managed for timber production." Area 2 comprises a majority of the subject parcel at 64.6 acres which includes regeneration harvest area with Douglas fir 1-1 seedlings planted in 2001-2002. This area currently has a high density of trees and will be managed for timber production. Area 3 is a 1.4 acre area for the homesite and support structures. Area 4 includes approximately 4.0 acres of roads. Soil types, tree species, densities and the above features are addressed in the Plan.

- B. A determination of which forest use(s) the forest residence is needed for.

Finding 5: Based on the Columbia County Soils Survey, the subject parcel is capable of producing approximately 15,049.8 cubic feet of commercial wood fiber per year and is therefore considered high value timberland. The applicant intends to manage and plant Western red cedar and Western hemlock at 400 trees per acre within the approximately 26.0 acre area 1 of the forest management plan. Within the approximately 64.6 acre area 2 of the subject property the applicant intends to plant and manage Douglas fir trees. Over the 10 year management plan the applicant indicates that the management areas will need to be hand sprayed with herbicide for competing vegetation, annual reviews will be conducted for animal damage, hand removal of competing vegetation, pre-commercial thinning, inter-plant tree seedlings, brush removal and road maintenance will be conducted. The application does not indicate specifically which forest uses the residence is required for, however, the Management Plan estimates the owner to provide labor chronologically for the ten year plan as follows: 2006 - 22.2 hours per week, 2007 - 44.8

hours per week, 2008 - 10 hours per week, 2009 - 30.9 hours per week, 2010 - 30.9 hours per week, 2011 - 30.9 hours per week, 2012 - 81.7 hours per week, 2013 - 30.9 hours per week, 2014 - 30.9 hours per week, 2015 - 30.9 hours per week and 2016 - 25.7 hours per week. Realistically, an owner with employment elsewhere would not be able to dedicate this much time and effort to the valuable tree growth. Instead, the owner will need to hire most of this work to professional tree work crews. The presence of the owner on the parcel would be beneficial for the overall management plan, however not necessary for any individual management practice.

- C. A discussion of why the forest residence is needed to conduct the forest use(s) identified in B. above.

Finding 6: As outlined in Finding 5, the forest residence would not be required because it will not be necessary for the owner to live on the site for conducting the identified forest practices. Requiring intensive management of this parcel is necessary to meet the objectives of continuous harvest production and to maximize the value of the highly potential land. The application indicates it would be beneficial for a residence to be on site for upkeep of the roads within the subject parcel which must be maintained and improved on a weekly basis to allow for access to the timber for management reasons and prevent erosion. By being located on site the owner can also identify any animal problems that may be of harm to the plantation. Additionally, due to the amount of hours required to maintain the property, it would be beneficial to live on site to reduce travel time to do the work.

- D. A discussion of methods and practices the landowner is or will be using to conserve forest resources, including but not limited to:

1. soil conservation and erosion control;

Finding 7: Soil conservation and erosion control will be achieved through road and vegetation maintenance. The applicant indicates that the graveled roads will be maintained with culverts and ditches and dirt roads will be maintained with waterbars and evaluated to ensure that erosion occurrence is slight. Waterbars, grading, ditch cleaning and culvert maintenance will be ongoing.

2. fire protection;

Finding 8: The applicant submitted a firebreak plan that includes the required 30' primary and 100' secondary firebreaks around the proposed dwelling. The applicant also states that fire protection will be increased due to the cleared roads acting as a firebreak and facilitating access to fires.

3. brush management;

Finding 9: The application indicates that competing vegetation will be hand removed on a nearly annual basis and herbicide will be applied on the first year of the management plan. Brush management will occur for the required firebreaks around the dwelling and within the management areas to facilitate healthy growth of trees.

4. fish and wildlife habitat management;

Finding 10: Various hardwoods and conifers that were leftover from logging in 2001 provides varied habitat. The regeneration harvest areas will provide ample grazing areas for deer and elk for the next 10 years. There are not any fish bearing streams present on the subject property. According to the Scappoose-Spitzenberg CPAC maps the parcel is located within Peripheral big game habitat. Section 1190 will be reviewed later in this application.

5. harvest and revegetation plans;

Finding 11: Area 1 (26.0 acres) of the subject parcel was partially harvested with scattered hardwoods and conifers remaining. Within this area Western red cedar and Western hemlock will be planted at a desired density of 400 trees per acres. The applicant states that area 2 (64.6 acres) was regeneration harvested and planted 1-1 Douglas fir seedlings at 400 trees per acre in 2001 and 2002. Any areas that are understocked will be planted. Within both areas pre-commercial thinning will be practiced in 2012 to maximize the higher value wood products.

6. stream quality protection; and

Finding 12: The subject property is not located within a designated fish bearing stream. Minor drainage areas are present on the site and shall be protected through planting of Western red cedar and Western hemlock to provide shade within riparian areas.

7. fencing requirements and costs.

Finding 13: Fencing is not required nor is it proposed within the forest management plan application.

- E. All forest practices must comply with 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.

Finding 14: All of the forest management practices utilized in the forest management plan will comply with the Oregon Forest Practices Act.

Continuing with the Columbia County Zoning Ordinance Section 505:

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 15: This application for a proposed dwelling is considered a resource dwelling that is necessary for commercial forestry because it is considered a high valued forest that requires a forest management plan.

Section 503 is specifically for conditional use requests. This criteria is not applicable.

- .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 16: 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 17: 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 18: 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 19: A farm/forest management impact statement may be required by the Board of Commissioners. The home will have large setbacks and also provide the required fire buffer that would help minimize this use from the surrounding homes and uses. The applicant will be required to provide a Waiver of Remonstrance which will protect forest and farm management practices on adjacent properties. It does not appear that the proposed home would interfere with the surrounding homes or alter the resource uses of adjoining property owners. The submitted forest management plan is adequate for the size and location of this property.

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 20: There is no readily available water supply that may be used in the event of a fire hazard. The road access to the proposed homesite shall be improved to accommodate ingress and egress of fire fighting equipment. In accordance with State standards, the applicant has submitted a plot plan indicating both a 30-foot primary and 100-foot secondary fire break around the residence. Further, the application indicates that annual brush removal will occur to maintain the firebreaks around the dwelling and any accessory structures. Significant improvements will be required for the driveway to comply with County and local fire district standards. The proposed driveway will transverse some very steep terrain. The proposed driveway improvements width and turnouts may adversely impact the overall stability of the subject property as steep slopes are prevalent in numerous areas. This area has some unstable land characteristics on steep slopes as evidenced by a slide that continues to cause problems near Scappoose Vernonia Highway to the southeast of the subject property. Road building and maintenance must be evaluated and engineered to prevent larger degradation of the land. If approved, a condition of approval of this forest management plan the applicant shall submit documentation from the Scappoose Rural Fire Protection District indicating compliance with local and state fire access requirements.

Continuing with the Columbia County Zoning Ordinance:

Section 1190 BIG GAME RANGE OVERLAY

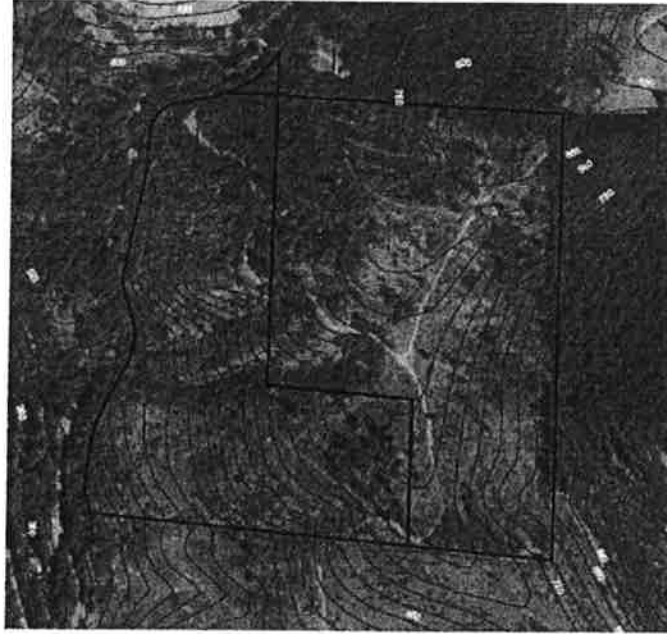
1193 Development Standards:

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 21: The applicant is proposing to locate the home 1,000+/- feet from Walker Road and will be served by an approximately 2,800 foot driveway. The nearest dwelling will be approximately 850 feet northwest of the applicants proposed homesite. Placement of the dwelling in this location fails to comply with the above standard as the dwelling is not close to other dwellings and existing developed areas. The topography of the property has moderate to steep slopes that ascends and descends from the homesite. The possibility of constructing the homesite close to Walker Road would not be feasible because of the terrain. Based on the terrain of the subject parcel the proposed homesite appears to be the best location for a dwelling. The map below illustrates that the proposed homesite is located on the most level portion of the property. Additionally, through utilizing the existing logging road, no forest lands will be disturbed through the construction of a new driveway. Rural Residential (RR-5) land is present to the north of the subject parcel with numerous dwellings in

the vicinity. 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 22: The applicant will remove a 1.4 acre portion of the subject property for the dwelling and potential accessory buildings. The proposed dwelling is on top of the ridge. As submitted, the proposed use appears to have minimal impact on valuable habitat areas. The new dwelling and the subject property, at least its border, is generally near other existing residences in the area as evidenced by the table of surrounding property owners which indicates 9 dwellings on parcels 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 be met.

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
4221-000-00700	37.30	PF-76	Forestland	Hein Trust	8
4221-010-01000	19.90	RR-5	56731 & 56733 Walker Road	Jenson, Arnold & Karen	6
4221-010-01100	3.25	RR-5	56575 Walker Road	Benett, Shelley & Edward	N/A
4221-010-01301	5.84	RR-5	Vacant	Shadwell, Phillip & Dorothy	6
4221-010-01302	1.77	RR-5	Vacant	McCarthy, John	6
4221-040-00100	6.61	RR-5	Vacant	McCarthy, John	6, 7
4221-040-00101	2.89	RR-5	56460 Walker Road	Shadwell, Phillip & Dorothy	6
4221-040-00102	5.00	RR-5	Vacant	McCarthy, John	6, 7

4221-040-00103	5.00	RR-5	56463 Walker Road	McCarthy, John	6, 7
4221-040-00300	18.24	PF-76	FMP 06-04	Western States Development Co.	8
4221-040-00400	2.49	RR-5	30671 Scappoose-Vernonia Hwy.	Hora, Fred & Sandra	N/A
4221-040-00500	0.67	RR-5	30675 Scappoose-Vernonia Hwy.	Ferguson, Daniel	N/A
4221-040-00600	1.30	RR-5	Vacant	Ford William, Don & Georgia	N/A
4222-000-00300	440.0	PF-76	Forestland	Hancock Forest Management	6
4222-000-00400	100.0	PF-76	Forestland	Longview Fibre	6
4227-000-00100	280.0	PF-76	Forestland	Hancock Forest Management	6
4228-000-00100	270.0	PF-76	Forestland	Longview Fibre	6
4228-010-00100	40.0	PF-76	Forestland	Hancock Forest Management	6
4228-010-00300	26.50	PF-76	Forestland	Longview Fibre	6
4228-010-00400	1.50	PF-76	Forestland	Hancock Forest Management	N/A
4228-010-00500	5.25	RR-5	30750 Scappoose-Vernonia Hwy.	Hancock Forest Management	6
4228-010-00501	1.49	RR-5	30715 Scappoose-Vernonia Hwy.	Ford, Georgia & William	N/A

* 4= Disqualified Farm Use (Suspension); 6= Designated Forest Land (includes Reforestation); 7 = Farm-Use (Zoned & Non-Zoned); 8= Optional Timber Tax

- .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 23: 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 2,800 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 7 turnouts and sprinklers in the dwelling may be required. Due to the significance of improvements to the existing logging road traversing through a property that contains steep and potentially unstable slopes this criterion is not met.

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

Finding 24: 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 25: 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 26: 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.

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 27: If this permit is approved, the approval period for beginning construction for 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 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:

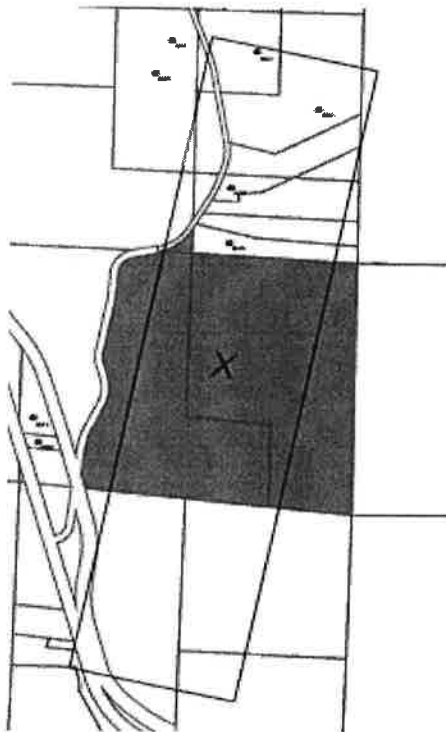
(i) All or part of at least 11 other lots or parcels that existed on January 1, 1993, are within a 160-acre square centered on the center of the subject tract; and

(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 28: Using the Columbia County Soil Survey it was determined that for the 96.0 acre parcel, there is a Douglas-fir production capability of 15,049.8 cubic feet for the designated soil types on this subject parcel. This reflects approximately 156 cu. ft. of wood fiber per acre. 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 or a rectangular template centered on the subject property. A 160-acre rectangular template, centered on the subject property indicates 23 +/- discrete parcels and 6 dwellings sited prior to 1993 that were not located within an urban growth boundary. 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 29: 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 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. The subject property is a 96.0 acre parcel along Walker Road. The applicant accesses the parcel via an existing logging road, utilized as a driveway, onto Walker Road. 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 30: Prior to the issuance of building permit the applicant shall submit documentation that there is an adequate domestic 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 31: Access to the subject property will be via an existing logging road, which will be utilized as a private driveway. The applicant will be required to provide 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 32: 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.

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 33: 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 prior to the issuance of a building permit.

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 approximately 0.5 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 every 400 feet in length along the driveway. The driveway must be inspected and approved by the Scappoose Fire District.

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. A letter submitted on November 22, 2006 from Mike Pihl spoke in favor of this 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).

STAFF CONCLUSIONS & RECOMMENDATION:

Columbia County has determined that it very important to the vitality of the county's economy to plan for and provide opportunities for land owners to maximize timber production on parcels in the Forest Zones. To accomplish this forest management plans for a single family dwelling application on the larger, high value timber parcel is required to demonstrate that a dwelling is necessary for and accessory to forest management. Obviously, very large tracts, typically owned by commercial timber companies, do not need on-site permanent structures or dwellings to produce and harvest timber. Given economies of scale, the smaller isolated forest tracts in the 25 to 35 acre size, do not provide sufficient long term return on management investments. On some tracts, to avoid the high cost of young tree management, a single family dwelling is necessary for the owner/worker to efficiently manage the timber resource. At the point when a timber tract is too large for individualized comprehensive management, the need to reside on the site is no longer important or necessary.

Based upon research about the property and findings of the above staff report (FMP 06-03), the Planning Commission and Staff finds that the proposal does not comply with all the criteria for siting a dwelling in the resource zone. The site has some severe limitations due to steep terrain for access and the reasons for a dwelling on site provides a convenience to forest management not a necessity. Therefore, Staff and the Planning Commission **Recommends Denial** of this request to place a single family dwelling on a 96.0 acre parcel in a Primary Forest (PF-76) zone:

COLUMBIA COUNTY BOARD OF COMMISSIONERS
STAFF REPORT
December 6, 2006
Forest Management Plan
Appealed Planning Commission Decision

HEARING DATE: December 13, 2006

FILE NUMBER: FMP 06-04 (revised)

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

OWNER: Fred Bender
20285 Amberwood Drive
Hillsboro, Oregon 97124

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

TAX ACCT. NUMBER : 4221-000-00300 / 4221-040-00300

ZONING: Primary Forest-76 (PF-76)

SIZE: 65.0 +/- Acres

REQUEST: To site a single-family dwelling on a 65.0 acre parcel in a PF-76 zone.

APPLICATION COMPLETE: 08/04/06 **150 DAY DEADLINE:** 12/31/06

APPLICABLE REVIEW CRITERIA:

<u>Columbia County Zoning Ordinance</u>	<u>Page</u>
Section 402	5
Section 501	4
Section 505	7
Section 510	8
Section 1190 Big Game Range Overlay	9
<u>Oregon Revised Statutes</u>	
ORS 215.417	12
<u>Oregon Administrative Rules</u>	
OAR 660-006-0027	12
OAR 660-006-0029	13
OAR 660-006-0035	15
OAR 660-006-0040	16

BACKGROUND:

The applicant would like to site a single-family home on an approximately 65.0 acre parcel, of which 1.4 acres will be utilized as a homesite for a single-family dwelling and accessory structures located in the Primary Forest (PF-76) Zone. The subject property is located approximately four miles northwest of the City of Scappoose on Walker Road. The applicant is simultaneously applying for a Conditional Use Permit (CU 06-29) and two Forest Management Plans (FMP 06-03/06-04) on parcels that are contiguous and all accessible via Walker Road. The Subject parcel was property line adjusted (PLA 02-30) to its current configuration of approximately 65.0 +/- acres. A dwelling was previously located on the subject parcel of which the date is unknown and is evidenced by an old barn that still exists. The old homestead is the area of the proposed homesite for this forest management plan dwelling, as it is the most logical area to site a dwelling on the parcel. Water will be provided to the subject parcel by a private well and sewage will be treated by a subsurface septic system that must be approved by the County Sanitarian before a home could be allowed. The property is in the Scappoose Fire District and is also served by the Columbia County Sheriff's Office.

Because the 65.0 acre subject parcel can produce greater than 5,000 cubic feet per year for the Culmination of Mean Annual Increment (CMAI) for Douglas Fir, this application to site a dwelling is being reviewed in conjunction with a Forest Management Plan. The present use of the land is described as Douglas Fir plantation that is approximately 4 years old. Steep slopes are prevalent on a majority of the parcel with significant elevation changes. The forest management plan is broken into 5 management areas which include the homesite, roads, clear cut, hardwoods and partial cut. The applicant is proposing to access the homesite via an existing logging road from Walker Road that will also be utilized to access the proposed homesite for the Conditional Use (CU 06-29) currently under review. Since Oregon state law allows for the approval of only 1 dwelling per tract of land, and the applicant, Kevin Bender Western Sales Development Corporation, transferred ownership of this 65 acre subject parcel in September to Fred Bender as an individual.

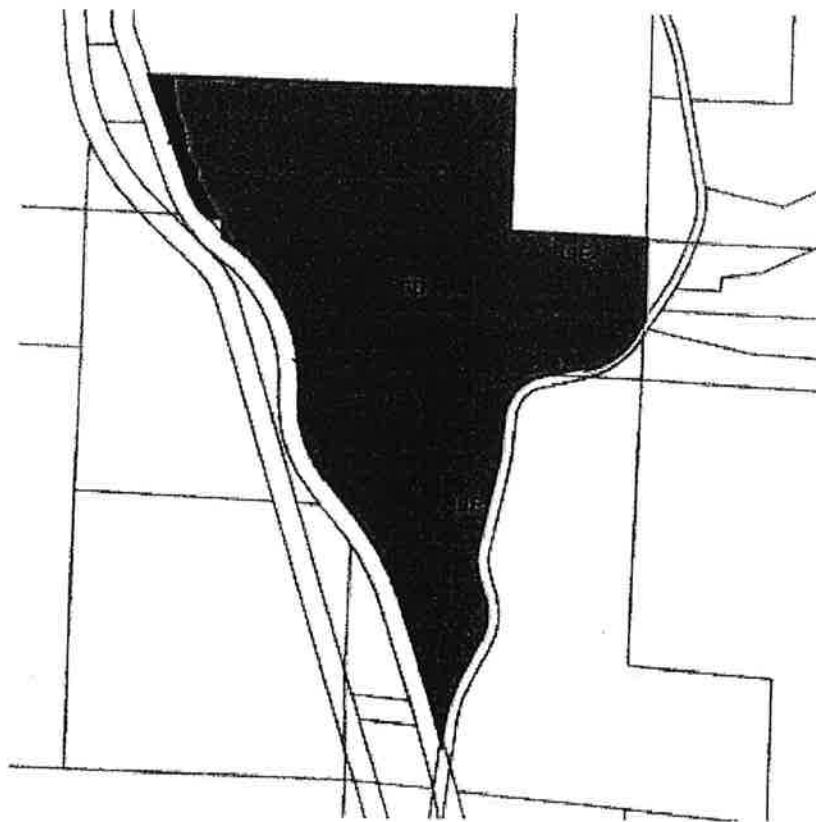
The National Wetlands Inventory (NWI) Map "Chapman" does not indicate the presence of a wetland on the subject property. The FEMA Flood Insurance Rate map, Panel 65, Map # 41009C0450C indicates there are no flood hazard areas on the subject property. Staff notes that the subject property is located in 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 home. Staff notes that there are have permits approved within the immediate area for single-family dwellings in the PF-76 Zone.



REVIEW CRITERIA & FINDINGS:

Columbia County Soil Survey:

<u>Soils on the 65.0 acre parcel are as follows:</u>	<u>Site Index CMAI</u>	<u>Est. % of Area</u>	<u>Ag.Cap. Class</u>
4E - Alstony Gravelly Loam	164	2%	VIe
6D - Bacona Silt Loam	172	88%	VIe
19E - Dowde Silt Loam	158	10%	VIe



Finding 1: There are three soil types within the subject property, all of which are well suited for the production of Douglas fir as indicated by the high site index for the Culmination of the Mean Annual Increment (CMAI). Based on these soil types, the productivity for Douglas fir timber production is estimated at 11,745.3 cubic feet of commercial wood fiber per year for the approximately 65.0 acre parcel. Property that can produce greater than 5,000 cu. ft./tract/year qualifies as high value timber land. Because the subject parcel exceeds the threshold of high value timber land this request is being reviewed under CCZO Section 402.3 as a forest resource management plan.

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 65.0 acres in size, therefore the applicant will be required to submit a forest land assessment to the County Assessor 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 “Forest management dwelling” option described in Section 502.4 and template requirements in OAR 660-006-0027. This criteria meets the purpose of Section 501.4.

502 **Permitted Uses:**

- .3 Structures and facilities necessary for and accessory to commercial forest management and fish and wildlife management. The uses served by such structures and facilities may include, but are not limited to: administration, equipment storage and maintenance, communications, fire protection, fish rearing, and residences for property owners, employers or full-time employees directly accessory to and required for commercial forest management or fish and wildlife management. A management plan approved by the Planning Director is required before a building permit is issued to assure that structures and facilities are consistent with the requirement of this ordinance. The management plan shall contain the information required by Section 402.3 of this ordinance, and it shall be reviewed under the procedures set forth in Section 1601 of this ordinance.

Finding 3: The applicant has applied for a residence necessary for and accessory to commercial forest management for the 65.0 acre subject parcel. A Forest Management Plan was submitted with the application supporting the need for a dwelling and structures necessary to efficiently manage the differing areas for growing both fir trees and

various hardwoods. The dwelling will be located on the eastern portion of the parcel and served by an approximately 1,200' driveway from Walker Road; the driveway continues another 1,800' to the 27.0 acre parcel to the north up for Conditional Use (CU 06-29) review. The Director finds that a time contribution by the owner of this magnitude is unrealistic and much of the management measures will be contracted out. If the plan becomes contracting most of the management practices, the necessity for the owner to live on site is compromised. The dwelling becomes the primary use of the property, for an owner employed elsewhere, and the forest use becomes accessory. It may be somewhat beneficial for the owner to live on site to assure workers are performing management techniques on a daily basis, but certainly not necessary. The criteria for the dwelling to be necessary for and accessory to forest management is not met. This review shall follow criteria contained in Section 402.3.

Continuing with the Columbia County Zoning Ordinance:

Section 400 FOREST AGRICULTURE - 19

402 Permitted Uses:

- .3 Dwellings necessary and accessory to farm or forest use on contiguous ownerships of 19 or more acres, including a mobile home, for the owner, operator, or employees, required to carry out a use permitted outright. Applications for a building permit pursuant to this section shall be accompanied by a management plan which shall be reviewed by the Planning Director under the procedures set forth in Section 1601 of this ordinance. The application shall not be approved unless the Planning Director determines that the requirements of this section are met. The management plan must provide the following information. Additional information may also be required.
- A. A description of the parcel, including soil types, forest site classes, forest species, ages and densities, topography, streams, wetland areas, roads, structures, and other significant geographic features.

Finding 4: The 65.0 acre parcel is broken up into five management areas by use and stand type. Area 1 is a 14 acre portion mostly located on the southern area of the parcel along Walker Road. This area includes partial cut were many hardwoods and cedar trees were left. Additionally, Douglas fir seedlings were planted in 2001-2002. The application indicates: "This lightly stocked area will be inter-planted with Western red cedar and Western Hemlock trees (shade tolerant species to help with survival). This area will be managed for timber production." Area 2 is comprised of 13.0 acres with some hardwoods and cedars left in the intermittent draw area (seasonal drainage through ravine). This area was also planted with Douglas fir seedlings in 2001-2002 and will follow the same management plan as area 1. Area 3 covers a majority of the subject parcel at 33.6 acres and is identified as a clear-cut area which also contains Douglas fir seedlings planted at the same period as the other management areas. This area contains a high density of trees and will be managed for timber production. Area 4 is a 1.4 acre area for the homesite and support structures. Area 5 includes approximately 3.0 acres of roads.

- B. A determination of which forest use(s) the forest residence is needed for.

Finding 5: Based on the Columbia County Soils Survey, the subject parcel is capable of producing approximately 11,745.3 cubic feet of commercial wood fiber per year and is therefore considered high value timberland. Within area 1 through 3 the owner will manage the existing Douglas fir seedlings that were planted in 2001-2002 and plant additional seedlings in any understocked areas. Over the 10 year management plan the applicant indicates that the management areas will need to be hand sprayed with herbicide for competing vegetation, annual reviews will be

conducted for animal damage, hand removal of competing vegetation, road maintenance and pre-commercial thinning will be conducted. The application does not indicate specifically which forest uses the residence is required for, however, the Management Plan estimates the owner to provide labor chronologically for the ten year plan as follows: 2006 - 15.5 hours/week, 2007 - 30.6 hours/week, 2008 - 7.3 hours/week, 2009 - 21.3 hours/week, 2010 - 21.3 hours/week, 2011 - 21.3 hours/week, 2012 - 48.4 hours/week, 2013 - 21.3 hours/week, 2014 - 21.3 hours/week, 2015 - 21.3 hours/week and 2016 - 18.3 hours/week. Realistically, an owner with employment elsewhere would not be able to dedicate this much time and effort to the valuable tree growth management. Instead, the owner will need to hire most of this work to professional tree work crews. The presence of the owner on the parcel would be beneficial for the overall management plan, however not necessary for any individual management practice.

- C. A discussion of why the forest residence is needed to conduct the forest use(s) identified in B. above.

Finding 6: As outlined in Finding 5, the forest residence would not be required because it will not be necessary for the owner to live on the site while conducting the planned forest practices. Requiring intensive management of this parcel is necessary to meet the objectives of continuous harvest production and to maximize the remaining value of the land concurrently. The application indicates it would be beneficial for a residence to be on site for upkeep of the roads within the subject parcel which must be maintained and improved on a weekly basis to allow for access to the timber for management reasons and prevent erosion. By being located on site the owner can also identify any animal problems that may be of harm to the plantation. Additionally, due to the amount of hours required to maintain the property, it would be beneficial to live on site to reduce travel time to do the work.

- D. A discussion of methods and practices the landowner is or will be using to conserve forest resources, including but not limited to:

- 1. soil conservation and erosion control;

Finding 7: Soil conservation and erosion control will be achieved through road and vegetation maintenance. The applicant indicates that the graveled roads will be maintained with culverts and ditches and dirt roads will be maintained with waterbars and evaluated weekly to ensure that erosion occurrence is slight. Waterbars, grading, ditch cleaning and culvert maintenance will be ongoing.

- 2. fire protection;

Finding 8: The applicant submitted a firebreak plan that includes the required 30' primary and 100' secondary firebreaks around the proposed dwelling. The applicant also states that fire protection will be increased due to the cleared roads acting as a firebreak and facilitating access to fires.

- 3. brush management;

Finding 9: The application indicates that competing vegetation will be hand removed on a nearly annual basis and herbicide will be applied on the first year of the management plan. Brush management will occur for the required firebreaks around the dwelling and within the management areas to facilitate healthy growth of trees.

- 4. fish and wildlife habitat management;

Finding 10: Various hardwoods and conifers that were leftover from logging in 2001 provides varied habitat. The regeneration harvest areas will provide ample grazing areas for deer and elk for the next 10 years. There are not any

fish bearing streams present on the subject property although there is a seasonal drainage through the ravine running down the center of the parcel. According to the Scappoose-Spitzenberg CPAC maps the parcel is located within Peripheral big game habitat. Section 1190 will be reviewed later in this application.

5. harvest and revegetation plans;

Finding 11: Area 1 (14 acres) of the subject property was partially harvested with scattered hardwoods and Western red cedars remaining. Area 2 (13 acres) was more heavily partially harvested with scattered hardwoods and Western red cedars remaining. Area 3 was regeneration harvested. Within all of these management areas Douglas fir seedlings were planted at 400 trees per acre in 2001 and 2002. Any areas that are understocked will be planted with additional Douglas fir seedlings. Within both areas pre-commercial thinning will be practiced in 2012 to maximize the higher value wood products.

6. stream quality protection; and

Finding 12: The subject property does not contain a designated fish bearing stream. Minor drainage areas are present on the site and shall be protected through planting of Western red cedar and Western hemlock to provide shade within riparian areas.

7. fencing requirements and costs.

Finding 13: Fencing is not required nor is it proposed within the forest management plan application.

- E. All forest practices must comply with 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.

Finding 14: The Management Plan was produced by Keith Jehnke, a certified Arborist and Logging Engineer. As presented, all of the forest management practices utilized in the forest management plan will comply with the Oregon Forest Practices Act.

Continuing with the Columbia County Zoning Ordinance Section 505:

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 15: The proposed dwelling is considered a resource dwelling that is necessary for commercial forestry because it is considered high valued forest land that requires a forest management plan. Section 503 is specifically for conditional use requests. This criteria is not applicable because the proposed dwelling is not a nonresource dwelling.

- .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 16: 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 17: 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 18: 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 19: A farm/forest management impact statement may be required by the Board of Commissioners. The home will have large setbacks and also provide the required fire buffer that would help minimize this use from the surrounding homes and uses. The applicant will be required to provide a Waiver of Remonstrance which will protect forest and farm management practices on adjacent properties. The proposed home would not interfere with the surrounding homes or alter the resource uses of adjoining property owners. The submitted forest management plan is adequate for the size and location of this property.

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 20: There is no readily available water supply that may be used in the event of a fire hazard. The road access to the proposed homesite shall be improved to accommodate ingress and egress of fire fighting equipment. In accordance with State standards, the applicant has submitted a plot plan indicating both a 30-foot primary and 100-foot secondary fire break around the residence. Further, the application indicates that annual brush removal will occur to maintain the firebreaks around the dwelling and any accessory structures. 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. If a dwelling is approved, a condition of approval of this forest management plan the applicant shall submit documentation from the Scappoose Rural Fire Protection District indicating compliance with local and state requirements.

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 21: The applicant is proposing to locate the home 650+/- feet from Walker Road and will be served by an approximately 1,200 foot driveway that will additionally serve a proposed dwelling up for Condition Use Permit (CU 06-29) review. The nearest dwelling is approximately 800 feet to the east of the applicants proposed homesite. The Planning Commission determined that placement of the dwelling in this location fails to comply with the above standard as the dwelling is not close to other dwellings and existing developed areas. The topography of the property has moderate to steep slopes that ascends and descends from the homesite. The possibility of constructing the homesite close to Walker Road would not be feasible because of the terrain. A dwelling was previously located on the subject parcel of which the date is unknown and is evidenced by an old

barn that still exists. The old homestead is the area of the proposed homesite for this forest management plan as it is the most logical area to site a dwelling on the parcel. Based on the terrain of the subject parcel the proposed homesite appears to be the best location for a dwelling. The map below illustrates that the proposed homesite is located on the most level portion of the property. Additionally, through utilizing the existing logging road, no forest lands will be disturbed through the construction of a new driveway. Rural Residential (RR-5) land is adjacent to both the east and west of the subject parcel with numerous dwellings in the vicinity. Fire break setbacks and natural terrain features were considered in selecting an area of the property for the building envelope. For these reasons, this siting standard is met.



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

Finding 22: The applicant will remove a 1.4 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. The new dwelling and the subject property is generally near other existing residences in the area as evidenced by the table of surrounding property owners which indicates 18 dwellings on parcels 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.

TAX ACCOUNT #	ACRES	ZONE	USE	OWNER	TAX CODE
4221-000-00200	27.0	PF-76	CU 06-29	Western States Development Co.	8
4221-000-00300	46.76	PF-76	56411 Walker Road	Western States Development Co.	4, 8
4221-000-00301	0.46	PF-76	FMP 06-03 (portion)	Western States Development Co.	8

4221-000-00400	24.10	PF-76	Forestland	Thompson, Virginia	6
4221-000-00700	37.30	PF-76	Forestland	Hein Trust	8
4221-000-00800	0.08	PF-76	Forestland	Kim, Gilliam & Carter, Rhonda	N/A
4221-010-00900	12.71	RR-5	56817 Walker Road	Heil, Dennis & Lynn	6
4221-010-00901	5.78	RR-5	56745 & 56743 Walker Road	Grove, Loyad & Alice	6
4221-010-01000	19.90	RR-5	56731 & 56733 Walker Road	Jenson, 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
4221-010-01300	18.54	RR-5	56594 Walker Road	Carey, Wagar G	6
4221-010-01301	5.84	RR-5	Vacant	Shadwell, Phillip & Dorothy	6
4221-020-00100	32.71	FA-19	Forestland	Frank Mudge Trust	8
4221-020-00701	1.40	RR-5	30339 Scappoose-Vernonia Hwy.	Kim, Gilliam & 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	Vacant	Kim, Gilliam & Carter, Rhonda	N/A
4221-020-00704	0.75	RR-5	30269 Scappoose-Vernonia Hwy.	Vilanti, Josephine	N/A
4221-020-01000	38.0	PF-76	Forestland	Longview Fibre	6
4221-040-00100	6.61	RR-5	Vacant	McCarthy, John	6, 7
4221-040-00101	2.89	RR-5	56460 Walker Road	Shadwell, Phillip & Dorothy	6
4221-040-00102	5.00	RR-5	Vacant	McCarthy, John	6, 7
4221-040-00103	5.00	RR-5	56463 Walker Road	McCarthy, John	6, 7
4221-040-00200	50.0	PF-76	FMP 06-03 (portion)	Western States Development Co.	8
4221-040-00300	18.24	PF-76	FMP 06-04	Western States Development Co.	8
4221-040-00301	45.54	PF-76	FMP 06-03 (portion)	Western States Development Co.	8
4221-040-00400	2.49	RR-5	30671 Scappoose-Vernonia Hwy.	Hora, Fred & Sandra	N/A
4221-040-00500	0.67	RR-5	30675 Scappoose-Vernonia Hwy.	Ferguson, Daniel	N/A
4221-040-00600	1.30	RR-5	Vacant	Ford Willian, Don & Georgia	N/A
4228-000-00100	270.0	PF-76	Forestland	Longview Fibre	6
4228-010-00300	26.50	PF-76	Forestland	Longview Fibre	6
4228-010-00400	1.50	PF-76	Forestland	Hancock Forest Management	N/A
4228-010-00500	5.25	RR-5	30750 Scappoose-Vernonia Hwy.	Hancock Forest Management	6
4228-010-00501	1.49	RR-5	30715 Scappoose-Vernonia Hwy.	Ford, Georgia & William	N/A

= Disqualified Farm Use (Suspension); 6= Designated Forest Land (includes Reforestation); 7 = Farm-Use (Zoned & Non-Zoned); 8= Optional Timber Tax

- .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 23: 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 applicant is proposing to use the same 3,500' driveway for a proposed dwelling being reviewed as a conditional use (CU 06-29). The subject homesite will be accessible at 1,200' of the total 3,500' driveway. 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 3 turnouts and sprinklers in the dwelling may be required. Due to the significance of improvements to the existing logging road traversing through the property that contains steep and potentially unstable slopes the Planning Commission determined that this criterion is not met. Staff finds that the applicant proposes to use the existing driveway that had been established by a previous owner, and even though some improvements to the driveway will be required, the proposal meets this requirement.

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

Finding 24: 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 25: 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 26: 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.

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

OREGON ADMINISTRATIVE RULES (OAR):

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 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 28: Using the Columbia County Soil Survey it was determined that for the 65.0 acre parcel, there is a Douglas-fir production capability of 11,745.3 cubic feet for the designated soil types on this subject parcel. This production translates to 180 cubic feet per acre per year. 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 or a rectangular template centered on the subject property. A 160-acre rectangular template, centered on the subject property indicates 20 +/- discrete parcels and 9 dwellings sited prior to 1993 that were not located within an urban growth boundary. This parcel, owned by Fred Bender, is the only parcel under the same ownership in the vicinity. There is no tract of parcels that could support a dwelling. 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 29: 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 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. The subject property is a 65.0 acre parcel along Walker Road. The applicant accesses the parcel via an existing logging road, utilized as a driveway, onto Walker Road. 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 30: 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 31: Access to the subject property will be via an existing logging road through the subject property, which will be utilized as a private driveway. The applicant will be required to provide 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 of 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 ORS30.936 or 30.937.

Finding 32: 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.

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 33: 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 prior to the issuance of a building permit.

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 approximately 1,200' 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.

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. A letter from Mike Pihl, dated November 22, 2006 was submitted in favor of 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).

STAFF CONCLUSIONS & RECOMMENDATION:

Columbia County has determined that it very important to the vitality of the county's economy to plan for and provide opportunities for land owners to maximize timber production on parcels in the Forest Zones. To accomplish this forest management plans for a single family dwelling application on the larger, high value timber parcel is required to demonstrate that a dwelling is necessary for and accessory to forest management. Obviously, very large tracts, typically owned by commercial timber companies, do not need on-site permanent structures or dwellings to produce and harvest timber. Given economies of scale, the smaller isolated forest tracts in the 25 to 35 acre size, do not provide sufficient long term return on management investments. On some tracts, to avoid the high cost of young tree management, a single family dwelling is necessary for the owner/worker to efficiently manage the timber resource. At the point when a timber tract is too large for individualized comprehensive management, the need to reside on the site is no longer important or necessary.

Based upon research about the property and findings of the above staff report (FMP 06-04), the Planning Commission and Staff finds that the proposal does not comply with all criteria for siting a dwelling in the resource zone. The proposed dwelling on site would provide a convenience to forest management, not a necessity. Therefore Staff and the Planning Commission **Recommends Denial** this request to place a single family dwelling on a 65.0 acre parcel in a Primary Forest (PF-76) zone.

ATTACHMENT 4
SUPPLEMENTAL FINDINGS

The Board of County Commissioners incorporates the staff report to the Board of County Commissioners dated December 6, 2006 for FMP 06-04 and Findings 1, 2, 4, 7-22, 24-33 and 38 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. Columbia County Zoning Ordinance Section 502.3 applies to this application for a resource related dwelling. CCZO § 502.3 allows,

“Structures and facilities necessary for and accessory to commercial forest management and wildlife management. The uses served by such structures and facilities may include, but are not limited to: administration, equipment storage and maintenance, communications, fire protection, fish rearing, and residences for property owners, employers or full-time employees directly accessory to and required for commercial forest management.....”

The Board has interpreted the “necessary for and accessory to” provision in Final Order No. 45-2002 (Robert Andreotti) which is part of this record as shown in Attachment 1. The “necessary for and accessory to” standard has the same meaning in CCZO §502 PF-76 District) as it does in CCZO §402 (FA-19 District). The Board has applied the Andreotti interpretation to other PF-76 dwelling applications as shown in Legal Counsel’s File Exhibit 1.15.A-C. The Board’s interpretation in the Andreotti decision is that in order to be necessary, the dwelling must be on the same property which is proposed to be forested, and the dwelling must make forest management more efficient and convenient for the owner/operator of the forest land. The Board finds that it has applied the Andreotti interpretation in similar template dwelling applications in the PF-76 district and it must apply its ordinances consistently with past approvals and its adopted interpretation of the necessary standard. The Board finds its interpretation of the necessary standard as set out in the Andreotti final order is different than the state standard for forest management dwellings which was abolished in 1993. The Board finds without a parallel state standard, the Board may legally interpret a local code standard independent of any prior case law on the state standard. The Board rejects the idea that the dwelling must be a proven necessity because in Andreotti, the Board adopted a standard of efficiency and convenience.

The Board finds that there is substantial evidence in the record that the proposed dwelling is accessory and necessary to the proposed forest use using the Andreotti standard of “convenience and efficiency.” According to the site plan, the dwelling is proposed to be located approximately 1200’ feet from Walker Road on a level area

adjacent to the steep slopes on the parcel. The property is 65 acres, greater than the 19 acres minimum standard for a resource dwelling. A Forest Management Plan was submitted by the applicant as an attachment to the application for a dwelling unit on July 7, 2006 and updated on December 1, 2006. The Board finds the Plan provides the information in CCZO § 402.3.

The applicant's purchaser who attended the hearing on December 13, 2006, proposes to live in the dwelling while actively managing the forest land.¹ The Board finds that such residential use is accessory to the proposed forest use of the property. According to the forest management plan and additional testimony from the applicant's consulting forester, Keith Jehnke with AKS, the owner will need to spend considerable forest management hours to effectively manage the property. Mr. Jehnke explained some of the benefits of living on site as being available to take care of plugged culverts, downed trees on the road, tree diseases, discourage trespassing and reporting fires sooner. Further, roads would be maintained if someone was driving on them and fire breaks and undergrowth maintenance would be done continuously. Additional testimony was submitted by Mr. Jehnke which indicates the annual contribution of hours a dwelling operator would spend managing this parcel for timber production is on average 20 hours a week or about 1,040 a year. Mr. Jehnke notes that those hours may easily be split between different family members residing in the dwelling with or without second jobs. Mr. Jehnke testified that this number of hours is not an enormous or unrealistic amount of time, nor is the same level of work required each week or each year. As this Board found in the Andreatti final order, the Land Conservation and Development Commission was considering adopting a standard of 1000 hours a year performed by the dwelling occupant in order to be "necessary." The Board rejects staff's recommendation of denial on the basis that this number of hours is unrealistic because the hours estimated by AKS for the owner/occupant are in line with state law projections. Testimony was introduced by the opponents that industrial timber companies are more efficient in managing these size parcels than an owner/operator and the dwelling is not necessary. The Board finds Mr. Jehnke rebutted this contention with substantial evidence in the record that industrial users cannot effectively manage this size of parcel and would not be interested in acquiring it, except for development speculation.

The Board relies on the December AKS Report testimony that explains:

"A properly run tree farm requires planning, labor, management, and observation by the owner/operator. The end result will be a tree farm that meets the owner/operators goals including an economic return on the investment as well as one or more the goals listed above [in the report]."

This Board rejects staff's conclusion that the dwelling operator will contract out all the identified activities because he or she has a day job. Mr. Jehnke rebutted this contention

¹ 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.

by explaining that the cost of contracting out all the listed activities for a small parcel operation (in relation to timber company holdings) is not cost efficient, nor can the employees always be easily found for the small operator. Mr. Jehnke's testimony is persuasive in explaining that the commercial timber companies typically sell off these "smaller" parcels of under 100 acres and rarely hold or manage them for forest management purposes. The Board is persuaded with AKS's testimony that:

"The dwelling is necessary for forest management because it makes the many forest management tasks efficient and convenient for the owner/operator. The management plan calls for numerous hours to be spent on the site. The on site owner/operator also will have more opportunities to observe and head off potential problems for the trees, the roads and the site. It would be difficult for the owner/operator to work full time and still put in the time required to keep up the tree farm. The onsite dwelling provides an ease of access to the site work that needs to be done. The owner/operator will be able to spend time working in the mornings and evenings that they would not be able to spend unless they lived on the site. * * * The dwelling does contribute substantially to the proper management of the trees on the site."

The opponents also contend the parcel was not reforested after it was clearcut in 2000 and the sparse tree growth demonstrates the owner has not managed the parcel for forest uses. The opponents imply the dwelling cannot be necessary if the trees have not been adequately restocked and are not viable. The Board is persuaded by additional written testimony from the Department of Forestry (DOF) which demonstrates the parcel has met all state restocking rules. Additional testimony from Keith Jehnke, in his letter of December 22, 2006 documented the areas of tree growth and slower growth and concluded the proposed dwelling will result in a higher volume of wood fiber and of a higher quality being grown on the site. The Board finds Mr. Jehnke's testimony and that of DOF's more testimony than that of the opponents who are not qualified foresters, did not conduct any onsite inspections and did not solicit or receive any contrary evidence from DOF.

An argument was raised that since the trees are growing and exceeding the Department of Forestry restocking standard, a dwelling is not necessary. In other words, the trees will grow on vacant land without any forest management activities. As explained above, the Board finds that a dwelling is necessary if it makes forest management more efficient and convenient. There is evidence in the record from Keith Jehnke that a smaller parcel will be ignored by an industrial owner and not produce the same quality of wood products as a small woodland owner. The Board is not persuaded that just because the minimum DOF restocking standard has been met, the parcel does not need active, onsite management. The Board finds from reviewing the FMP and listening to Mr. Jehnke's testimony that the trees will thrive with an onsite dwelling and many activities that need to be done for optimum productivity will not get done without an onsite dwelling and operator.

Staff recommended denial on the basis that the dwelling is not necessary because there are too many hours of forest management required and an owner with a full time job will contract out the management duties to a professional timber company.

The Board does not find that argument persuasive because in Andreotti, the Board found the opposite: for small woodlot owners, it is extremely difficult to work full time and put in a minimum of 20 hours a week each year without being on the property. The issue boils down to ease of access to the work that needs to be done. A small woodlot owner may have an hour or two between returning home from work and dark. The Board finds that it is much more efficient and convenient for the person to step outside and begin work on the property than to pack up all equipment, drive the 3 or more miles, sometimes in bad weather and begin work. The Board finds that it is much more likely that the work will actually get done by living onsite.

The Board finds that according to the FMP, there will always be some work that needs to be contracted out, such as the Year 2012 thinning, but the testimony from Keith Jehnke was persuasive in demonstrating the bulk of the work (90% of the hours) will be done by the owner/operator because of the convenience of living onsite. The Board finds the testimony at the December 13th public hearing from the applicant's attorney, describing the potential buyer's interest in the forest management of the property, demonstrates the parcel is being sold to people who care about forest management and have the money to properly manage the parcel for forest uses. AKS testified that an industrial forest land owner would not be interested in this size parcel and it is only worthwhile to manage small parcels that are aggregated into a large enough group of parcels to make forest management economical and practical for a large company. The Board finds based on the ASK December 22, 2006 report and testimony from Keith Jehnke that instead of this parcel being one of many vacant industrial parcels, its management will be enhanced by the small woodland owner that lives onsite.

The Board heard testimony from the applicant's land use planner, Parati and Company of evidence of people trespassing on the property by hunting, camping and having parties. The Board heard testimony that the risk of out of control wildfires will be minimized by early reporting of any breaking fires if the parcel is occupied by a dwelling, and vandalism will be controlled. The Board finds illegal hunting, bonfires or other trespassing activities pose a risk to forest management on the parcel. The Board concludes vandalism, trespassing and wildfires will be mitigated by having the onsite dwelling, which is another reason the dwelling is necessary to forest use.

In applying its necessary standard above, the Board concludes the county's zoning ordinance is more restrictive than state law which abolished the "necessary standard." The Board finds that during its Goal 5 ordinance discussions seeking public comment, the public input showed that it did not want its local laws to be more restrictive than state statute. The Board finds that its forest land ordinance has not been updated since the state statute at ORS 215.705-.750 was adopted in 1993. The Board finds the State changed state law to delete the "necessary and accessory standard" when it adopted its template dwelling provisions but the county ordinance was not likewise changed. The Board finds the "necessary" standard is too difficult to apply and the template dwelling

criteria is adequate to protect forestland. The Board finds that onsite stewardship is very important because it promotes better management of forests: Imposing a strict interpretation of the "necessary" standard could disallow the small woodland owner from living on his own lands which the Board does not support.

2. 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 65-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 06-03 and CU 06-29) 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 CU 06-29) 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. 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 properties, 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 properties 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 owner testified that he used the existing logging roads for the 2000 logging that was conducted on the property. The owner 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 also alleged the applicant failed to restock the property after the 2000 logging. Opponents appear to infer that without restocking and viable tree growth, there is no forest management plan to implement and no dwelling is necessary. 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 contending that CCZO 402.E requires the parcel to be in compliance with the FPA, the 2000 logging and restocking has been approved by the DOF as shown in the record. Keith Jehnke, a certified Arborist and Logging Engineer, prepared the forest management plan and testified if the forest management practices in the forest management plan are utilized, the forest land will be in compliance with the FPA. Based on Mr. Jehnke's earlier testimony that the dwelling is necessary to insure adequate tree growth, the Board finds the dwelling is necessary to assure that the property is in compliance with the FPA. The opponents have produced no credible evidence the parcel is not in compliance with the FPA and CCZO 402.E has been met. The Board concludes a dwelling is necessary for the parcel to be properly managed and in compliance with the FPA.

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 driveway 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 driveway, 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 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 65-acre parcel. The record shows that Western States Development Corporation (a separate legal entity) owns the two adjacent parcels (CU 06-29 and FMP 06-03). Based on state law, a parcel can be legally conveyed during pendency of a template dwelling application to qualify it as a separate parcel. The Board finds no argument has been raised that the 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 65-acre parcel is a separate, lawful parcel that qualifies for a dwelling under OAR 660-06-0027.

ATTACHMENT 5
SUPPLEMENTAL FINDINGS

The Board of County Commissioners incorporates the staff report to the Board of County Commissioners dated December 6, 2006 for FMP 06-03 and Findings 1, 2, 4, 7-22, 24-33 and 38 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. Columbia County Zoning Ordinance Section 502.3 applies to this application for a resource related dwelling. CCZO § 502.3 allows,

“Structures and facilities necessary for and accessory to commercial forest management and wildlife management. The uses served by such structures and facilities may include, but are not limited to: administration, equipment storage and maintenance, communications, fire protection, fish rearing, and residences for property owners, employers or full-time employees directly accessory to and required for commercial forest management.....”

The Board has interpreted the “necessary for and accessory to” provision in Final Order No. 45-2002 (Robert Andreotti) which is part of this record as shown in Attachment 1. The “necessary for and accessory to” standard has the same meaning in CCZO §502 PF-76 District) as it does in CCZO §402 (FA-19 District). The Board has applied the Andreotti interpretation to other PF-76 dwelling applications as shown in Legal Counsel’s File Exhibit 1.15.A-C. The Board’s interpretation in the Andreotti decision is that in order to be necessary, the dwelling must be on the same property which is proposed to be forested, and the dwelling must make forest management more efficient and convenient for the owner/operator of the forest land. The Board finds that it has applied the Andreotti interpretation in similar template dwelling applications in the PF-76 district and it must apply its ordinances consistently with past approvals and its adopted interpretation of the necessary standard. The Board finds its interpretation of the necessary standard as set out in the Andreotti final order is different than the state standard for forest management dwellings which was abolished in 1993. The Board finds without a parallel state standard, the Board may legally interpret a local code standard independent of any prior case law on the state standard. The Board rejects the idea that the dwelling must be a proven necessity because in Andreotti, the Board adopted a standard of efficiency and convenience.

The Board finds that there is substantial evidence in the record that the proposed dwelling is accessory and necessary to the proposed forest use using the Andreotti standard of “convenience and efficiency.” According to the site plan, the dwelling is proposed to be located approximately 1000’ feet from Walker Road and be served by a

2,800 foot driveway. The dwelling will be sited on a level area adjacent to the steep slopes on the parcel. The property is 96 acres, greater than the 19 acres minimum standard for a resource dwelling. The dwelling will be located 850 feet from the applicant's other proposed dwellings (FMP 06-04 and CU 06-29). A Forest Management Plan was submitted by the applicant as an attachment to the application for a dwelling unit on July 7, 2006 and updated on December 1, 2006. The Board finds the Plan provides the information in CCZO § 402.3.

The applicant's purchaser who attended the hearing on December 13, 2006, proposes to live in the dwelling while actively managing the forest land.¹ The Board finds that such residential use is accessory to the proposed forest use of the property. According to the forest management plan and additional testimony from the applicant's consulting forester, Keith Jehnke with AKS, the owner will need to spend considerable forest management hours to effectively manage the property. Mr. Jehnke explained some of the benefits of living on site as being available to take care of plugged culverts, downed trees on the road, tree diseases, discourage trespassing and reporting fires sooner. Further, roads would be maintained if someone was driving on them and fire breaks and undergrowth maintenance would be done continuously. Additional testimony was submitted by Mr. Jehnke which indicates the annual contribution of hours a dwelling operator would spend managing this parcel for timber production is on average 27 hours a week or about 1,500 hours a year. Mr. Jehnke notes that those hours may easily be split between different family members residing in the dwelling with or without second jobs. Mr. Jehnke testified that this number of hours is not an enormous or unrealistic amount of time, nor is the same level of work required each week or each year. As this Board found in the Andreotti final order, the Land Conservation and Development Commission was considering adopting a standard of 1000 hours a year performed by the dwelling occupant in order to be "necessary." The Board rejects staff's recommendation of denial on the basis that this number of hours is unrealistic because the hours estimated by AKS for the owner/occupant are in line with state law projections. Testimony was introduced by the opponents that industrial timber companies are more efficient in managing these size parcels than an owner/operator and the dwelling is not necessary. The Board finds Mr. Jehnke rebutted this contention with substantial evidence in the record that industrial users cannot effectively manage this size of parcel and would not be interested in acquiring it, except for development speculation.

The Board relies on the December AKS Report testimony that explains:

"A properly run tree farm requires planning, labor, management, and observation by the owner/operator. The end result will be a tree farm that meets the owner/operators goals including an economic return on the investment as well as one or more the goals listed above [in the report]."

¹ 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.

This Board rejects staff's conclusion that the dwelling operator will contract out all the identified activities because he or she has a day job. Mr. Jehnke rebutted this contention by explaining that the cost of contracting out all the listed activities for a small parcel operation (in relation to timber company holdings) is not cost efficient, nor can the employees always be easily found for the small operator. Mr. Jehnke's testimony is persuasive in explaining that the commercial timber companies typically sell off these "smaller" parcels of under 100 acres and rarely hold or manage them for forest management purposes. The Board is persuaded with AKS's testimony that:

“The dwelling is necessary for forest management because it makes the many forest management tasks efficient and convenient for the owner/operator. The management plan calls for numerous hours to be spent on the site. The on site owner/operator also will have more opportunities to observe and head off potential problems for the trees, the roads and the site. It would be difficult for the owner/operator to work full time and still put in the time required to keep up the tree farm. The onsite dwelling provides an ease of access to the site work that needs to be done. The owner/operator will be able to spend time working in the mornings and evenings that they would not be able to spend unless they lived on the site. * * * The dwelling does contribute substantially to the proper management of the trees on the site.”

The opponents also contend the parcel was not reforested after it was clearcut in 2000 and the sparse tree growth demonstrates the owner has not managed the parcel for forest uses. The opponents imply the dwelling cannot be necessary if the trees have not been adequately restocked and are not viable. The Board is persuaded by additional written testimony from the Department of Forestry (DOF) which demonstrates the parcel has met all state restocking rules. Additional testimony from Keith Jehnke, in his letter of December 22, 2006 documented the areas of tree growth and slower growth and concluded the proposed dwelling will result in a higher volume of wood fiber and of a higher quality being grown on the site. The Board finds Mr. Jehnke's testimony and that of DOF's more testimony than that of the opponents who are not qualified foresters, did not conduct any onsite inspections and did not solicit or receive any contrary evidence from DOF.

An argument was raised that since the trees are growing and exceeding the Department of Forestry restocking standard, a dwelling is not necessary. In other words, the trees will grow on vacant land without any forest management activities. As explained above, the Board finds that a dwelling is necessary if it makes forest management more efficient and convenient. There is evidence in the record from Keith Jehnke that a smaller parcel will be ignored by an industrial owner and not produce the same quality of wood products as a small woodland owner. The Board is not persuaded that just because the minimum DOF restocking standard has been met, the parcel does not need active, onsite management. The Board finds from reviewing the FMP and listening to Mr. Jehnke's testimony that the trees will thrive with an onsite dwelling and many activities that need to be done for optimum productivity will not get done without an onsite dwelling and operator.

Staff recommended denial on the basis that the dwelling is not necessary because there are too many hours of forest management required and an owner with a full time job will contract out the management duties to a professional timber company.

The Board does not find that argument persuasive because in Andreotti, the Board found the opposite: for small woodlot owners, it is extremely difficult to work full time and put in a minimum of 27 hours a week each year without being on the property. The issue boils down to ease of access to the work that needs to be done. A small woodlot owner may have an hour or two between returning home from work and dark. The Board finds that it is much more efficient and convenient for the person to step outside and begin work on the property than to pack up all equipment, drive the 3 or more miles, sometimes in bad weather and begin work. The Board finds that it is much more likely that the work will actually get done by living onsite.

The Board finds that according to the FMP, there will always be some work that needs to be contracted out, such as the Year 2012 thinning, but the testimony from Keith Jehnke was persuasive in demonstrating the bulk of the work (90% of the hours) will be done by the owner/operator because of the convenience of living onsite. The Board finds the testimony at the December 13th public hearing from the applicant's attorney, describing the potential buyer's interest in the forest management of the property, demonstrates the parcel is being sold to people who care about forest management and have the money to properly manage the parcel for forest uses. AKS testified that an industrial forest land owner would not be interested in this size parcel and it is only worthwhile to manage small parcels that are aggregated into a large enough group of parcels to make forest management economical and practical for a large company. The Board finds based on the ASK December 22, 2006 report and testimony from Keith Jehnke that instead of this parcel being one of many vacant industrial parcels, its management will be enhanced by the small woodland owner that lives onsite.

The Board heard testimony from the applicant's land use planner, Parati and Company of evidence of people trespassing on the property by hunting, camping and having parties. The Board heard testimony that the risk of out of control wildfires will be minimized by early reporting of any breaking fires if the parcel is occupied by a dwelling, and vandalism will be controlled. The Board finds illegal hunting, bonfires or other trespassing activities pose a risk to forest management on the parcel. The Board concludes vandalism, trespassing and wildfires will be mitigated by having the onsite dwelling, which is another reason the dwelling is necessary to forest use.

In applying its necessary standard above, the Board concludes the county's zoning ordinance is more restrictive than state law which abolished the "necessary standard." The Board finds that during its Goal 5 ordinance discussions seeking public comment, the public input showed that it did not want its local laws to be more restrictive than state statute. The Board finds that its forest land ordinance has not been updated since the state statute at ORS 215.705-.750 was adopted in 1993. The Board finds the State changed state law to delete the "necessary and accessory standard" when it adopted its template dwelling provisions but the county ordinance was not likewise changed. The

Board finds the “necessary” standard is too difficult to apply and the template dwelling criteria is adequate to protect forestland. The Board finds that onsite stewardship is very important because it promotes better management of forests: Imposing a strict interpretation of the “necessary” standard could disallow the small woodland owner from living on his own lands which the Board does not support.

2. 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 96-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 CU 06-29) 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 06-04 and CU 06-29) 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. 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 properties, 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 properties 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 owner testified that he used the existing logging roads for the 2000 logging that was conducted on the property. The owner 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 also alleged the applicant failed to restock the property after the 2000 logging. Opponents appear to infer that without restocking and viable tree growth, there is no forest management plan to implement and no dwelling is necessary. 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 contending that CCZO 402.E requires the parcel to be in compliance with the FPA, the 2000 logging and restocking has been approved by the DOF as shown in the record. Keith Jehnke, a certified Arborist and Logging Engineer, prepared the forest management plan and testified if the forest management practices in the forest management plan are utilized, the forest land will be in compliance with the FPA. Based on Mr. Jehnke's earlier testimony that the dwelling is necessary to insure adequate tree growth, the Board finds the dwelling is necessary to assure that the property is in compliance with the FPA. The opponents have produced no credible evidence the parcel is not in compliance with the FPA and CCZO 402.E has been met. The Board concludes a dwelling is necessary for the parcel to be properly managed and in compliance with the FPA.

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 driveway 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 driveway, 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 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 and Western States Development Corporation (a separate legal entity) owns the surrounding 96-acre parcel and 27-acre parcel (CU 06-29). Based on state law, a parcel can be legally conveyed during pendency of a template dwelling application to qualify it as a separate parcel. There are no contiguous lots in the same ownership because of Fred Bender's intervening ownership of the 65-acre parcel (FMP 06-04). The Board finds no argument has been raised that the 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 96-acre parcel is a separate, lawful parcel that qualifies for a dwelling under OAR 660-06-0027.