

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Robert Andreotti for) FINAL ORDER NO. 45-2002
a Conditional Use Permit to Site a Single Family Dwelling) FINDINGS AND CONCLUSIONS
in the Forest Agriculture (FA-19) Zone)

WHEREAS, on January 17, 2002, Robert Andreotti filed an application (CU 02-29) for a conditional use permit to build a single family dwelling on 39.5 acres of property located approximately 3 miles west of Scappoose on Bankston Road, having tax account number 3216-000-00600, and zoned Forest Agriculture (FA-19), with the Columbia County Land Development Services Department; and

WHEREAS, on February 7, 2002, the application was deemed complete; and

WHEREAS, on April 1, 2002, the Columbia County Planning Commission held a hearing on the application; and

WHEREAS, after hearing testimony and receiving evidence into the record, the Columbia County Planning Commission voted to approve CU 02-29, and Planning Commission Chair, Jeff VanNatta, signed Final Order CU 02-29 on April 16, 2002; and

WHEREAS, on April 23, 2002, 1000 Friends of Oregon, and Columbia County Citizens for Orderly Growth (CCCOG) appealed the approval of CU 02-29 to the Columbia County Board of Commissioners; and

WHEREAS, a hearing was scheduled for June 5, 2002, but was continued to July 10, 2002, upon the request of Robert Andreotti; and

WHEREAS, on July 10, 2002, the Board of County Commissioners held a de novo hearing in the matter; and

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

WHEREAS, during the hearing, Ann Andeotti, David Herr, Attorney for applicant, and Mervin Arnold spoke in favor of the application, Sid Friedman, 1000 Friends of Oregon, and Pat Zimmerman, President of CCCOG, spoke in opposition of the application, and Mervin Arnold gave rebuttal testimony; and

WHEREAS, at the hearing the following was introduced into the record:
Exhibit 1- County Counsel's file as follows:

- A. Notice of Public Hearing (Publication) dated May 7, 2002;
- B. Notice of Public Hearing (Property Owner Notice) dated May 7, 2002;
- C. Affidavit of Publication;
- D. Affidavit of Mailing;
- E. Appeal dated April 23, 2002;
- F. Final Order CU 02-29 with appeal information;
- G. Letter to Board of County Commissioners from Sid Friedman and Pat Zimmerman dated May 24, 2002;
- H. Staff Report to Planning Commission dated March 15, 2002;
- I. Address Map of Section 16;
- J. Notice of Public Hearing dated February 8, 2002;
- K. Notice of Hearing (Publication) dated March 20, 2002;
- L. Certificate of Mailing dated April 16, 2002;
- M. List of property owners to receive notice;
- N. Certificate of Mailing dated February 8, 2002;
- O. Certificate of Mailing staff reports and agendas dated March 22, 2002;
- P. Referral Contact list;
- Q. Letter to Matt Laird from Tom Thornton, Oregon Department of Fish and Wildlife;
- R. Letter to Planning Commission from CCCOG dated June 30, 1999;
- S. Letter to Planning Commission from 1000 Friends of Oregon dated April 1, 2002;
- T. Letter to Victor Rodriquez from Michael Greisen (Scappoose RFPD) dated February 28, 2002;
- U. Referral and Acknowledgment from the County Roadmaster dated February 27, 2002;
- V. Referral and Acknowledgment from the Soil and Water Conservation District dated February 20, 2002;
- W. Referral and Acknowledgment from the County Watermaster dated February 21, 2002;
- X. Referral and Acknowledgment from the County Sanitarian dated February 12, 2002;
- Y. Referral and Acknowledgment from the County Building official dated February 11, 2002;
- Z. Referral and Acknowledgment from the County Roadmaster dated February 15, 2002;
- AA. Email to Victor Rodriquez from the Scappoose CPAC dated February 21, 2002;
- BB. Letter to Victor Rodriguez from Scappoose CPAC dated February 21, 2002;
- CC. Planning Commission Minutes
- DD. Request from Robert Andreotti to postponing hearing date, dated May 10, 2002;
- EE. Board Communication dated July 2, 2002, with the following attachments:
 - 1. Planning Commission Final Order;
 - 2. Appeal;
 - 3. Staff Report to the Board of County Commissioners;
- FF. Waiver of 150 day requirement;

EXHIBIT 2- Letter from David Herr dated July 10, 2002;

EXHIBIT 3- Letter from 1000 Friends of Oregon dated July 10, 2002; and

WHEREAS, after hearing testimony and receiving evidence, the Board of County Commissioners voted to keep the record of the hearing open for additional written evidence until July 24, 2002, and to allow rebuttal testimony until July 31, 2002. Thereafter, the Board continued the hearing for deliberations to August 7, 2002; and

WHEREAS, the following additional evidence was submitted to the Board of County Commissioners:

EXHIBIT 4- 5 letters, as follows:

- A. Letter from 1000 Friends of Oregon dated July 24, 2002;
- B. Letter from George B. Hafeman, Jr. dated July 24, 2002;
- C. Letter from Robert and Ann Andreotti dated July 24, 2002;
- D. Rebuttal Letter from Ann Andreotti dated July 31, 2002;
- E. Rebuttal Letter from David Herr, dated July 31, 2002;

EXHIBIT 5- Board Communication from Todd Dugdale; and

WHEREAS, on August 7, 2002, having received Exhibits 4 and 5 into the record, the Board of County Commissioners deliberated on the matter and voted to approve the application subject to the conditions of approval as set forth in the staff report to the Board of County Commissioners.

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Columbia County Board of Commissioners adopts Findings 1, 2, and 7-11, and 13-33, in the Staff Report to the Board of County Commissioners dated July 2, 2002, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The Columbia County Board of Commissioners adopts Supplemental Findings of Fact and Conclusions of Law as set forth in Attachment 2, which is attached hereto and is incorporated herein by this reference.
3. Conditional Use Permit CU 02-29 is APPROVED subject to the following conditions of approval:
 - A. This permit shall expire and become void 4 years from the date of the final decision if development has not commenced on the property. Extensions of time may be granted by the Planning Director if requested in writing before the permit expiration date and if the applicant/owner was not responsible for the failure to develop.
 - B. The dwelling shall be located as shown on the proposed plot plan. Utilities shall be run along the driveway or shall be run along the shortest course to the homesite.

- C. The dwelling, all structures and access driveway shall be built according to 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, including, but not limited to, a fire retardant roof, spark arresters on all chimneys, and not placing the residence on a slope greater than 40%.
- D. 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. Depending upon the percentage of slope 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 shall be created and maintained around all structures.
- E. Prior to the issuance of a building permit:
1. The applicant/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.
 2. The applicant/owner shall provide the Department of Land Development Services with documentation from the Scappoose Rural Fire Protection District confirming the new driveway, site plan, and any other fire safety issues have been dealt with to the satisfaction of the Scappoose Rural Fire Protection District.
 3. The applicant/owner shall obtain an access permit from the County Road Department for the proposed driveway access.
 4. The applicant/owner shall submit documentation from the County Road Department that all driveway improvements have been constructed to County Standards or a bond has been posted.
 5. The applicant/owner shall submit a well constructor's report or documentation from the District Water master pursuant to OAR 660-06-029(3)(c), verifying that adequate domestic water is available to the site.
 6. The applicant/owner shall provide documentation that the county sanitarian has performed a septic lot evaluation and that the property is approved for a septic system.
 7. The applicant/owner shall submit to the Land Development Services

Department, a letter from the Assessor's office approving the applicant/owner's Forest Land Assessment and Timber Stocking Compliance Form.

- 8. The applicant/owner shall submit to the Land Development Services Department a detailed and accurate plot plan showing the slopes within the 130' fire break. If any structures are to be built less than 40' from the top of the steep slopes above the creek, a geotechnical evaluation will be required. The Applicant/owner shall comply with all recommendations of the geotechnical evaluation.
- 9. The applicant/owner shall submit to the Land Development Services Department, documentation from the Oregon Water Resources Department showing a reservoir permit for water storage in the pond.
- 10. The applicant/owner shall submit to the Land Development Services Department, documentation that riparian vegetation has been planted. Documentation may be in the form of receipts/invoices for planting services, or photographs.
- 11. The applicant/owner shall submit to the Land Development Services Department, a copy of the a deed restriction prohibiting the subject parcel from division unless the property is re-zoned to a higher density and no longer in Goal 4 Protected Forest.

F. Prior to receiving an occupancy permit, the applicant/owner shall post the address of the residence in a visible location near the driveway entrance onto Bankston Road.

Dated this 28th Day of August, 2002.

BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: [Signature]
Anthony Hyde, Chair

By: [Signature]
Joe Corsiglia, Commissioner

By: [Signature]
Rita Bernhard, Commissioner

**Columbia County Board of Commissioners
Staff Report**

7/2/02

Conditional Use Permit

BOARD ATTACHMENT #3

Appealed Decision of Approval

FILE NUMBER: CU 02-29

APPLICANT/OWNER: Robert & Ann Andreotti
P.O. Box 269
Scappoose, OR 97056

PROPERTY LOCATION: Approximately 3 miles west of Scappoose, on Bankston Road.

TAX ACCT. NUMBER: 3216-000-00600

ZONING: (FA-19) Forest Agriculture

SIZE: 39.5 Acres

REQUEST: To place a single-family dwelling on a parcel in a FA-19 zone, using the "Template" option found in OAR 660-06-027(1).

APPEALED DECISION: The Planning Commission approved the request to place a single family dwelling on the subject parcel.

APPELLANTS: Thousand Friends of Oregon, Columbia County Citizen for Orderly Growth.

APPLICABLE REVIEW CRITERIA:

<u>Columbia County Zoning Ordinance</u>	<u>Page</u>
Section 400 Forest Agriculture - 19	3
Section 401	3
Section 404	3-5
Section 405	6-8
Section 406	8
Section 412	8
Section 1170	9-11
Section 1503 Conditional Uses	11-15
 <u>Oregon Administrative Rules</u>	
OAR 660-06-027	15-16
OAR 660-06-029	16-18
OAR 660-06-035	18-19
R 660-06-040	19
 Columbia Co. Zoning Ordinance Section 402.3	 22

BACKGROUND:

On April 1, 2002, the Planning Commission heard testimony from the applicant and all interested parties, and considered the Planning Commission staff report. Robert Andreotti's request to site a new single family dwelling on a 39.5 acre parcel in the Forest Agriculture Zone (FA-19) was approved. On April 23, 2002, the Planning Commission's decision of approval was appealed by Thousand Friends of Oregon and the Columbia County Citizens for Orderly Growth.

The property is located on Bankston Road which is a 25' wide, two lane, paved road, on a 50' wide public right-of-way. This site is in an area that is characterized by farm, forest and residential uses. Adjacent properties to the north, east and west contain dwellings. The applicant requests a single family dwelling using the "Template" option found in OAR 660-06-027.

Vegetation on this site sparsely consists of some Douglas Fir that is approximately 30 years in age and some recently planted trees. Most of the site has been logged rather recently and still needs to be replanted. A Scappoose creek tributary runs through a steep valley in the center of the property. Most riparian vegetation has been removed next to the creek valley from recent logging activity. A very small culvert has been installed in a dam across the creek. This dam has served to enlarge a pond on the south side of the parcel. The proposed homesite is located approximately 250' from Bankston Road on a level area adjacent to the steep creek valley. Topographically the property has very steep slopes (>40%) down to the creek in the center of the property. The FEMA flood hazard map (41009C0480C) indicates the subject property is not within the 100 year floodplain. The National Wetlands Inventory, Dixie Mountain Quad map, identifies the pond area as a Palustrine Aquatic Bed Intermittently Exposed/ Permanent wetland area.

The driveway to the proposed homesite has been partially constructed, but it may need more gravel. The applicant proposes to provide water to the new residence by drilling a private well. Sewage will be disposed of using an individual subsurface septic system approved by the County Sanitarian. This site is not within any urban growth boundaries but is within the Scappoose Rural Fire Protection District.

REVIEW CRITERIA:

SOILS:

<u>Soils on the 39.5 acre parcel are as follows:</u>	<u>Est. % of Area</u>	<u>Ag.Cap. Class</u>	<u>D.F.Site Class</u>
22C - Goble Silt Loam, 3 to 15 percent slopes	6.5% = 2.6 ac.	Vle	III
22D - Goble Silt Loam, 15 to 30% slopes	49.5% = 19.55 ac.	Vle	III
49E - Scaponia-Braun Silt Loams, 30 to 60% north slopes	25% = 9.87 ac.	Vle	II
6D - Bacona Silt Loam, 3 to 30 percent slopes	19% = 7.5 ac.	Vle	II

Finding 1: The Goble soil series are moderately deep, moderately well drained soils on convex, road ridgetops and side slopes of mountains. The Scaponia-Braun soil is an active, convex slope soil on mountains in the Coast Range. The Bacona soils are very deep well-drained soils on stable,

convex broad ridgetops and convex side slopes of mountains. The Goble Silt Loam, which is the dominant soil around the proposed home site, is designated in the Columbia County Comprehensive Plan as being a soil with low shear strength and related to mass movement. A site/plot plan showing the relationship of all proposed structures to the topography will be required. A geotechnical evaluation may also be required if any structures are less than 40' from the top of the slope.

According to the Soil Survey of Columbia County, the subject property is well suited for forestry purposes (Douglas Fir Site Class II & III) but not so well suited for agricultural purposes (Agricultural Capability Class VIe). The productivity of the soils for Douglas-fir timber production is estimated at 6,458 cubic feet of commercial wood fiber per year for the 39.5 acre parcel. Property that can produce greater than 5,000 cu. ft./tract/year is viewed by Columbia County as high value timber land. Owners of high value timberland are required to submit a forest resource management plan to the Columbia County Department of Land Development Services. A Forest Management Plan was submitted with this Conditional Use Application. A timber stocking survey is also required for property that is greater than 10 acres, active forest land in a forest zone, and receiving forest tax deferral. This parcel is greater than 10 acres and in forest deferral, therefore, a Forest Land Assessment and Timber Stocking Compliance Form will also be required.

Columbia County Zoning Ordinance:

Section 401 Purpose: The purpose of this zone is to protect and promote farm and forest uses on lands which have resource value, but which are not suited for either the Farm (PA-38) or the Forest (PF-76) zone because of smaller parcel size, conflicting adjacent uses, adverse physical features, or other limiting factors.

Finding 2: The proposed use will be consistent with the purpose of the FA-19 zone as this is a parcel with forest areas similar in nature to surrounding properties, many of which contain residential dwellings with agricultural and forest uses.

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

- .13 One-family dwellings, mobile homes, or recreation vehicles and their accessory uses not provided in conjunction with farm or forest use may be granted conditional approval upon a finding that each such proposed use:
 - A. Is compatible with farm or forest uses and is consistent with the intent and purpose set forth in this ordinance relating to farm or forest lands; and

Finding 3: In the FA-19 zone, a dwelling proposed to be placed on forest land requires a conditional use permit. The applicant has applied for a conditional use permit and the application was deemed complete. This proposed new home will be compatible with the surrounding area, since

It is located in an area that contains homes along Bankston Road. Thus, the applicant requests a use that is similar in nature to adjacent properties, most of which contain dwellings (see Table 1).

TABLE 1 Surrounding Properties

TAX ACCOUNT #	ACREAGE	ZONE	USE
3216-000-00700	40.0	PF-76	Forest/Residential
3216-000-00800	40.0	PF-76	Forest
3216-000-00900	40.0	FA-19	Forest
3217-000-02201\2200	30.7	RR-5	Forest/Residential
3217-000-02400	4.65	RR-5	Residential
3217-000-02501	19.68	RR-5	Forest/Residential
3216-020-00500	26.39	FA-19	Forest/Residential

Continuing with the Columbia County Zoning Ordinance section 404.13:

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

Finding 4: This proposed homesite will not interfere with forest practices in the area and should require no changes to the residential or resource use of adjacent property owners. Large setbacks will help buffer the residential uses from surrounding properties and reduce possible impacts. Mandatory fire breaks will not only make it safer for the applicant and the neighbors, they help provide privacy, by allowing for large setbacks between structures. Extra protection will be provided by a Waiver of Remonstrance which will protect forest and farm management practices on adjacent properties.

Continuing with the Columbia County Zoning Ordinance section 404.13:

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

Finding 5: The overall land use pattern of the area along Bankston Road is rural acreage home sites with forest uses (see Table 1). Large resource parcels in forest use with no dwellings border the property to the south. The land use pattern will not be changed by the addition of a single family dwelling near the road on an existing 39.5 acre parcel.

Continuing with the Columbia County Zoning Ordinance section 404.13:

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

and size of the tract.

Finding 6: Criteria under §404.13(D) directly conflicts with an application for a resource related dwelling because it addresses the old criteria (pre HB 3661) of forest verses non-forest dwellings. Even though findings have been made to address 404.13(A-C) above, the entire Section 403 is not applicable to this application because the subject dwelling is provided in conjunction with forest use, a resource related dwelling. The applicant has submitted a Forest Management Plan and intends to reside in the proposed dwelling to more intensively manage the primary forest use of the 39 acre parcel.

The Board of Commissioners in the Matiaco case, Final Order No. 10-2002, found that forest designated property will always be generally suited for forest uses. That fact has led to its designation as forest land. Therefore, if §404.13(D) were interpreted to prohibit residences where land is suited for forest uses, no residences would be permitted in the forest zone. That result does not make sense given that dwellings are permitted as conditional uses in the forest zones under the Columbia County Comprehensive Plan (CCCP) and Zoning Ordinance, as well as State Statute and the Oregon Forest Practices Act. The Planning Commission agreed with the Board of Commissioners on this interpretation and found that §404.13(D) should not be used to deny this application. The Planning Commission found that small woodland lot owners can produce more cu. ft. of wood fiber per acre than large timber owners managing huge parcels, if intensive timber management practices are employed. The county recognizes the economic importance of encouraging the commercial forest products enterprise. The County finds that the applicant has demonstrated in the record that they developed a Forest Management Plan and intend to live on site to more aggressively pursue forest management on the subject site; and, the County finds that the plan is determined feasible for the owner to carry out.

Furthermore, the existing County Zoning Ordinance as written (under the old, Pre-HB3661 state forest dwelling policy), the FA-19 zone Section 402.3 list dwellings on ownerships of 19 or more acres as a permitted use as long as the proposal contains an approved Forest Management Plan, showing the dwelling to be necessary and accessory to the forest use. Thus prior to HB3361, section 404 would not be applicable to this request for a dwelling on 39.5 acres with a Forest Management Plan because it would be a permitted use. Columbia County has been reviewing all forest dwellings as conditional uses, lacking an updated review process, since 1993 in order to meet state requirements as well as the out-of-date criteria from the Columbia County code. State law implementing HB 3661 does not require Columbia County to implement and apply Section 404.13 criteria to applications for dwelling units on forest designated property. The county is able to interpret its own regulations and finds that Section 404.13(D) is not applicable for dwellings sited in conjunction with forest uses.

The proposed dwelling is located 250' from Bankston Road near the other dwellings in the area. This location will remove a small amount of the existing forest area from production. However, the proposed residence should utilize as little land as possible, (one acre) leaving the remainder primarily in forest and relatively unencumbered by structures or other conflicting uses. In order to assure continued forest growth, as anticipated by the owner's Forest Management Plan, if approved the owner must agree not to further divide the property which could allow incompatible forest uses, and must continue to stock the property in trees so that it is eligible for, and can participate in, the County's Forest Tax Deferral program.

Continuing with the Columbia County Zoning Ordinance:

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

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

Finding 7: The proposed use will not increase the cost, nor interfere with farming or forest uses on adjacent lands because the homesite location leaves large setbacks to adjacent properties and is situated in an area that should not disrupt forest practices. The applicant's proposed use of residential and forestry, is similar in nature to adjacent properties and should not conflict. The large setbacks should buffer any impacts caused by the residence. Further, a waiver of remonstrance toward farm and forest practices will also be a requirement of the applicant.

Continuing with the Columbia County Zoning Ordinance section 405:

- .2 The use will be limited to a site no larger than necessary to accommodate the activity and, as such will not materially alter the stability of the overall land use pattern of the area or substantially limit or impair the permitted uses of surrounding properties. If necessary, measures will be taken to minimize potential negative effects on adjacent forest lands.

Finding 8: The proposed residence, and any related structures, will be limited to a site no larger than necessary to site the dwelling, as shown on the submitted plot plan. The overall land use pattern of the area is rural acreage homesites with farm and forestry uses and large forestry parcels. This area has historically had some limited residential presence, as evidenced by the existing homes along Bankston Road. Negative effects on adjacent properties should be minimized by maintaining fire protection setbacks and by installing a safe driveway entrance. Adjacent properties to the north and east, along Bankston Road, and to the west, contain similar uses that mix residential and forestry on acreage parcels. The proposed homesite is in a small forested area between logging roads. The applicant will be required to maintain adequate fire buffers to minimize fire danger. Further, any other possible conflicts should be removed by requiring the applicant to record a waiver of remonstrance against farm and forest practices. This will protect surrounding owners from conflicting uses and fire hazards.

Continuing with the Columbia County Zoning Ordinance section 405:

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

Finding 9: The proposed residence will be located on mostly flat ground, but has steep slopes close to the site. The applicant has included a fire plan that provides room for a primary fire break and a secondary fuel break. The standard fire break for the FA-19 zone is a 30' primary and a 100' secondary for a total of 130' of fire buffer. Since the area around the homesite has steep slopes, the primary fire break may need to be increased on the downhill side of the proposed residence. The

applicant will be required to submit a revised fire break plan indicating the enlarged primary fire break if necessary. The homesite will need to be cleared in order to meet the fire break standards. A fire department inspection of the driveway and sign-off will be required prior to issuance of a building permit for a dwelling. These factors indicate that fire safety measures have been included in the planning, design and construction of the development.

Continuing with the Columbia County Zoning Ordinance section 405:

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

Finding 10: Public utilities will be required to use existing rights-of-ways and use the most efficient route with the least impact to provide services to the proposed home. The applicant states that he will route all utilities along the driveway.

Continuing with the Columbia County Zoning Ordinance section 405:

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

Finding 11: There will be no new roads. The applicant will serve the proposed residence with a single family driveway. The driveway must be installed to meet County standards and will be required to be inspected by the County Road Department and the Scappoose RFPD.

Continuing with the Columbia County Zoning Ordinance section 405:

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

Finding 12: It was unclear to the Planning Commission where the subject parcel lies on the Columbia County Comprehensive Plan Map 44 titled "Big Game Range in Columbia County". Map #44 has the whole county on a 8 X 11 sheet of paper, with no section lines for reference, different patterns represent various designations of habitat ranges. The map has been reproduced many times and it is very difficult to determine specific properties. Recognizing this problem, in 1995 during Periodic Review of the county's comprehensive plan and implementing ordinances, BEAK Consultants Inc. in cooperation from ODFW, produced new Big Game Range maps at a larger scale that are very clear and easier to locate specific properties. These maps have not been adopted but represent, in this case, the best information available. The subject property is not located in either Major or Peripheral Big Game Range on the 1995 Scappoose CPAC Wildlife Game Habitat Map

produced by BEAK Consultants, Inc. The Board finds that it is unclear if the applicant's property is located in a Big Game Range on Map #44 and is not identified as being in Big Game Range on the BEAK Map; and, therefore this application is not subject to the Big Game Range Overlay District and the density requirements imposed by CCZO §1190. The subject property and most of Columbia County is considered some type of big game habitat range. Impacts should be minimized by siting the dwelling close to Bankston Road, which will further continue the existing pattern of clustering homes along the road. The applicant intends to manage the growth of the existing trees and keep the majority of the property in forest uses.

Continuing with the Columbia County Zoning Ordinance:

Section 406 All dwelling units, including mobile homes, shall meet the following additional requirements:

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

Finding 13: The proposed new dwelling will be required to maintain a primary fire break and a secondary fuel break that is consistent with OAR 660-06-035. This property is located within the Scappoose Rural Fire Protection District. The applicant has minimized the potential for fire hazard by designing the project to meet the required fire breaks.

Continuing with the Columbia County Zoning Ordinance section 406:

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

Finding 14: The owner must assume this responsibility of protection from wildlife damage.

Continuing with the Columbia County Zoning Ordinance section 406:

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

Finding 15: There is no such facility in the area.

Continuing with the Columbia County Zoning Ordinance section 406:

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

Finding 16: A farm/forest management impact statement may be required by the Board.

Continuing with the Columbia County Zoning Ordinance:

Section 412

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

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

Finding 17: A primary water source for fire fighting is available on this property. A small pond at the south end of the property has road access from a logging road. The applicant may need to spread more gravel to improve the road. The applicant will be required to construct and maintain appropriate fire breaks including a 30' primary fire break and a 100' secondary fuel break. The driveway to the proposed residence must also be constructed to meet County and RFPD standards. The driveway will be inspected by the Scappoose RFPD and the County Road Department and must be approved prior to issuance of a building permit. The applicant will also be required to post the address at the intersection of the driveway and Bankston Road. A revised fire plan, indicating an extended primary fire buffer may be required prior to issuance of a building permit.

Continuing with Columbia County Zoning Ordinance:

Section 1170

Protection of Water Quality, Streambank Stabilization, and Fish and Wildlife Habitat

- .1 Riparian areas in Columbia county are defined as follows:
 - A. For all class 1 rivers and streams, the area of riparian vegetation shall extend 50 feet landward of the ordinary high water line except where shrub or forested wetlands are located adjacent to the river, then the riparian area shall be the entire area of shrub or forested

wetlands. Where emergent wetland vegetation exists adjacent to a river, the 50 feet shall be measured from the landward extent of the emergent vegetation.

- B. For lakes and reservoirs, the area of riparian vegetation shall extend 50 feet from the ordinary high water line except where emergent wetland vegetation exists adjacent to a lake, then the 50 feet shall be measured from the landward extent of the emergent vegetation
- C. For all other rivers, streams, and sloughs, the area of riparian vegetation shall extend 25 feet landward of the ordinary high water line except where shrub and forested wetlands are located adjacent to the river, then the riparian area shall be the entire area of shrub or forested wetland. Where emergent wetland vegetation exists adjacent to a river, the 25 feet shall be measured from the landward extent of the emergent vegetation.

- .2 No structure other than a fence or sign shall be located within the areas listed in (.1) above...

Finding 18: The National Wetlands Inventory, Dixie Mountain Quad map, indicates there are wetlands on the property associated with the small pond. The applicant's site plan indicates the proposed residence will not be located in a wetland and will be located well above the creek running through the center of the property. Negative impacts to the creek and riparian corridor are not expected with this project because the development area is located far enough away. It is recommended to plant vegetation on the steep banks bordering the creek. At the time of the site visit, all the riparian vegetation had been removed which will cause erosion and sedimentation in the creek. The creek is not labeled by ODFW as a fish bearing creek, however it will benefit the riparian corridor to plant vegetation and prevent erosion.

Continuing with the Columbia County Zoning Ordinance section 1170:

- .3 The following standards shall apply for the maintenance, removal, and replacement of riparian vegetation along all river, streams, lakes, and sloughs designated for riparian vegetation protection by the comprehensive plan:
 - A. No more of a tract's existing vegetation shall be cleared from the setback and adjacent area than is necessary for a permitted use, accessory buildings, necessary access, septic requirements, and fire safety requirements.
 - B. Construction activities in and adjacent to the riparian area shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that required for the facilities indicated in (A) above. Where vegetation removal beyond that allowed in (A) above cannot be avoided, the site shall be

replanted during the next replanting season to avoid water sedimentation. The vegetation shall be of indigenous species in order to maintain the natural character of the area.

- C. A maximum of 25% of existing natural vegetation may be removed from the riparian area.

Finding 19: No riparian vegetation shall be removed with the development of this project. The applicant has shown on the submitted site plan that all development will be greater than 50' from the creek and therefore removal of riparian vegetation will be avoided. However, since most of the riparian vegetation was removed when the property was logged, the steep slopes above the creek should be replanted as soon as possible to prevent erosion and landslides.

Continuing with the Columbia County Zoning Ordinance:

Section 1503 Conditional Uses:

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

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

Finding 20: The FA-19 zone lists "One-family dwellings...not provided in conjunction with farm or forest use..." under "Conditional Uses." This application is for a dwelling to be provided in conjunction with forest and farm use. Notwithstanding the fact the application is for a use allowed outright under Section 402.3, the county has elected to require all applications for dwellings in the forest zone as "conditional" and will apply conditional use criteria of this section.

Continuing with Columbia County Zoning Ordinance section 1503.5:

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

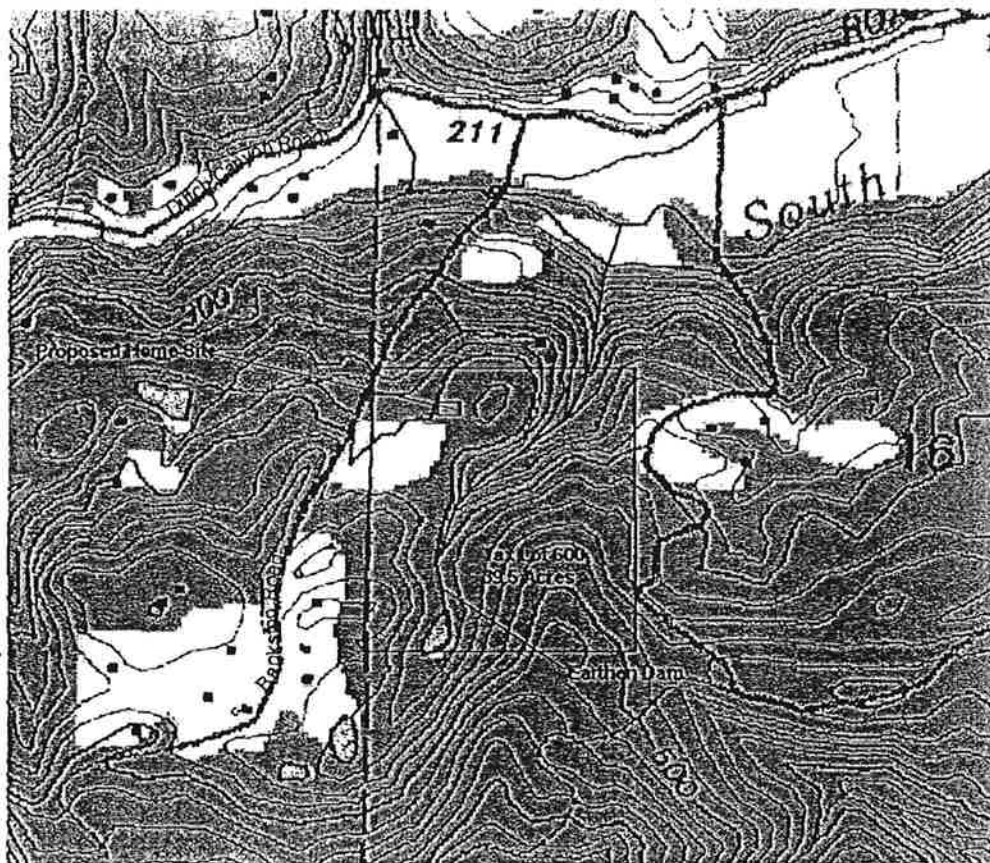
Finding 21: This criteria has been shown to be complied with in Findings 2 through 17.

Continuing with Columbia County Zoning Ordinance section 1503.5:

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

Finding 22: This property contains one quarter-quarter section of section 16 and is 39.5 acres in size. It has approx. 200 feet of frontage along Bankston Road and is located approximately 4 miles west of Highway 30. Topographically, the property has very steep slopes downward to the creek, which runs through the center of the property. (See Figure 1 below). The new home site will be located approximately 250' off the road on mostly flat ground. The site is currently unimproved other than a rough driveway. Adjacent properties to the north, east and west contain dwellings with septic systems and wells. The creek could be considered a natural feature, however, it is not proposed to be impacted during the development and is not listed by ODFW as a fish bearing stream. These characteristics indicate the site is suitable for the proposed residential use.

Figure 1 USGS Dixie Mtn. Quad.



Continuing with Columbia County Zoning Ordinance section 1503.5:

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

Finding 23: The site location is adjacent to Bankston Road, which is an 18' wide, two-lane, paved road, on a 50' public right-of-way. Public facilities are power and telephone which run along the road. The parcel is inside the Scappoose Fire Protection District. These facilities appear to make the

proposed residence timely.

Continuing with Columbia County Zoning Ordinance section 1503.5:

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

Finding 24: The proposed use will not alter the character of the area as it will not impair or preclude surrounding property owners from enjoying or managing their property. The area is characterized by acreage home sites with farm and forest uses. (See finding 3 thru 6.) The proposal will be similar in nature to surrounding properties. The applicant will be required to record a waiver of remonstrance against farm and forest practices to protect surrounding properties from grievances.

Continuing with Columbia County Zoning Ordinance section 1503.5:

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

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

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

Finding 25: Policy 7 is not applicable to this application because it is intended to address "non-forest dwellings". This language was written prior to 1993 when the State Legislature did away with the distinction between "forest" and "non-forest" dwellings and adopted House Bill 3661, which provided clear and objective standards for deciding applications for dwellings in forest zones. However, even though the Policy 7 is out-dated, sub-policies B,C,D,E, and F are addressed

elsewhere in this staff report and have been found to be met. As for policy 7A, state law no longer distinguishes between forest and non-forest dwellings. However, if the County were to distinguish between the two, this proposal would be for a resource dwelling that is accessory to the forest use, and thus policy 7 would not apply. In light of this, County planning staff acknowledges that the pre-193661 terminology still exists in our Comprehensive Plan and Zoning Ordinance and makes very subtle differences between the two. The main differences are the size of the parcel the dwelling will be sited on and the amount of land that is in beneficial resource use that is managed by the owner. A dwelling sited on this size of a parcel (39.5 Ac.) will not preclude the parcel from resource use. The parcel will still have resource value. The residential use, including accessory structures, well, septic system and driveway, will only use approximately 1 acre. The remainder can potentially be used for either farm operations or small woodland lot management, both of which have resource value protected by the Comprehensive Plan and Zoning Ordinance. In this case, the Columbia County Zoning Ordinance, which is out of date, could have this request reviewed as a permitted use in the FA-19 zone because it is on a parcel of 19 acres or greater, and thus Policy 7 would not apply. Currently, the applicable standard requires that, if the parcel is larger than 10 acres, the applicant is required by State Statute and County Ordinance to submit a Forest Land Assessment and Timber Stocking Compliance Form to determine if the non-residential acreage of the parcel is sufficiently stocked to comply with the stocking requirements of the Forest Practices Act. This stocking requirement qualifies the dwelling as a "forest dwelling" and thus planting some trees may be mandatory in order to receive Forest Tax Deferral, which is a lower tax rate. This lower tax rate thereby provides an incentive to conduct forest management on a scale that accommodates existing ownership patterns. Furthermore, if the parcel is capable of producing 5,000 cu. ft./tract/year, it is considered "high value farm land" and a Forest Management Plan is required. This requirement serves to insure that property owners manage their land for resource use efficiently. Columbia County has been reviewing all forest dwellings as conditional uses since 1993 in order to meet state requirements as well as the out-of-date criteria from the Columbia County code. Staff has begun the process of updating the Forest and Farm zone sections of the ordinance at the request of the Board of Commissioners, and hopes to alleviate the problems associated with interpreting an out-of-date code soon. (See Finding 35 on Page 22)

In satisfying the Columbia County Comprehensive Plan entitled "Big Game Habitat", see Finding 12.

Continuing with Columbia County Zoning Ordinance section 1503.5:

G. The proposal will not create any hazardous conditions.

Finding 26: The applicant proposes to minimize the threat of fire hazard by creating and maintaining the appropriate fire breaks around the residence and by constructing a driveway that meets county and fire district standards. The proposed development is well above the creek so negative impacts to the waterway are not expected with this project. However, the steep slopes on the property may be hazardous if structures are built too close. The Goble Silt Loam, which is the dominant soil around the proposed home site, is designated in the Columbia County Comprehensive Plan as being a soil with low shear strength and related to mass movement. A site/plot plan showing the relationship of all proposed structures to the topography will be required. A geotechnical evaluation may also be required if any structures are less than 40' from the top of the slope. If the proper care is taken with these precautions in mind, it is reasonable to assume that this development will not create any hazardous conditions.

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

finding 27: A Site Design Review may be required by the Board.

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

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

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

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

- (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 Soil Survey of Columbia County it was determined that the average Douglas Fir production capability of this 39.5 acre property is estimated at 6,458 cubic feet per year of commercial wood fiber. This averages 163 cubic feet per acre per year which is greater than 85 cubic feet per acre per year of wood fiber. OAR 660-06-027(1)(d) would require that all or part of at least 11 other lots or parcels and at least three dwellings, existing on January 1, 1993, are within the 160 acre square or rectangular template centered on the subject property. A 160 acre square centered on the subject property was submitted by the applicant, it claimed 15 parcels and 13 dwellings sited prior to 1993. Upon closer review staff found there to be 15 discrete parcels and 11 dwellings sited prior to 1993, none of which are located within an urban growth boundary (See amended template attachment).

OAR 660-06-029 provides as follows:

Siting Standards for Dwellings and Structures in Forest Zones:

- (1) Dwellings and structures shall be sited on the parcel so that:
 - (a) They have the least impact on nearby or adjoining forest or agricultural lands;
 - (b) The siting ensures that adverse impacts on forest operations and accepted farming practices on the tract will be minimized;
 - (c) The amount of forest lands used to site access roads, service corridors, the dwelling and structures is minimized; and
 - (d) The risks associated with wildfire are minimized.
- (2) Siting standards satisfying subsection OAR 660-06-029(1) may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.
- (3) The applicant shall provide evidence...that the domestic water supply is from a source authorized in accordance with the Water Resources department's administrative rules

for the appropriation of ground water or surface water and not from a class II stream as defined in the Forest Practices Rules (OAR Chapter 629). For purposes of this subsection, evidence of a domestic water supply means:...

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

Finding 29: The proposed residence is situated in a manner that will leave large setbacks (>130') between it and the adjacent properties. These setbacks will minimize conflicts with adjacent properties in resource use. The building site is located in somewhat of a forested area of the property that is rather flat. The risk of fire danger will be minimized by implementing primary and secondary fire breaks, as well as, coordinating with the Scappoose RFPD regarding driveway standards. The applicant does propose to supply water to the residence using a private well; hence, a well drillers report will be required prior to obtaining a building permit.

Continuing with OAR 660-06-029:

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

Finding 30: The applicant will access the property directly onto Bankston Road, which is a public right-of-way. An access permit will be required from the Road Department. Documentation from the Scappoose Fire Department indicating the driveway to serve the residence will meet fire standards will also be required.

Continuing with OAR 660-06-029:

- (5) Approval of a dwelling shall be subject to the following requirements:
 - (a) Approval of a dwelling requires the owner of the tract to plant a sufficient number of trees on the tract to demonstrate that the tract is reasonably expected to meet Department of Forestry stocking requirements at the time specified in Department of Forestry administrative rules.
 - (b) The planning department shall notify the county assessor of the above condition at the time the dwelling is approved.
 - (c) If the lot or parcel is more than 10 acres in western Oregon, as defined in ORS 321.257, or more than 30 acres in eastern Oregon, as defined in ORS 321.405, the property owner shall submit a stocking survey report to the county assessor

and the assessor shall verify that the minimum stocking requirements have been met by the time required by Department of Forestry rules. The assessor shall inform the Department of Forestry in cases where the property owner has not submitted a stocking survey report or where the survey report indicates that minimum stocking requirements have not been met.

- (d) Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation...and impose the additional tax pursuant to ORS 321.372.
- (e) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383 or 215.284 or otherwise in a farm of forest zone, that the landowner for the dwelling sign and record in the deed records for the county of a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

Finding 31: The subject property is 39.5 acres in size. One acre will be for residential use and the other 38.5 acres will remain in forest use. A Forest Land Assessment and Timber Stocking Compliance Form will be required for this parcel. A Forest Management Plan was submitted with the Conditional Use Application. Tree planting may be necessary. The assessor will be notified of the application for a residence. A waiver of remonstrance against farm and forest practices will be required prior to issuance of a building permit.

OAR 660-06-035 provides as follows:

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

- (1) The dwelling shall be located upon a parcel within a fire protection district or shall be provided with residential fire protection by contract. If the dwelling is not within a fire protection district, the applicant shall provide evidence that the applicant has asked to be included within the nearest such district. If the governing body determines that inclusion within a fire protection district or contracting for residential fire protection is impracticable, the governing body may provide an alternative means for protecting the dwelling from fire hazards. The means selected may include a fire sprinkling system, onsite equipment and water storage or other methods that are reasonable, given the site conditions. If a water supply is required for fire protection, it shall be a swimming pool, pond, lake, or similar body of water that at all times contains at least 4,000 gallons or a stream that has a continuous year round flow of at least one cubic foot per second. The applicant shall provide verification from the Water Resources Department that any permits or registrations required for water diversion or storage have been obtained or that permits or registrations are not required for the use. Road access shall be

provided to within 15 feet of the water's edge for fire-fighting pumping units. The road access shall accommodate the turnaround of fire fighting equipment during the fire season. Permanent signs shall be posted along the access route to indicate the location of the emergency water source.

- (2) Road access to the dwelling shall meet road design standards described in OAR 660-06-040.
- (3) The owners of the dwelling and structures shall maintain a primary fuel-free break area surrounding all structures and clear and maintain a secondary fuel-free break area in accordance with the provisions in "Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads" dated March 1, 1991 and published by the Oregon Department of Forestry.
- (4) The dwelling shall have a fire retardant roof.
- (5) The dwelling shall not be sited on a slope of greater than 40 percent.
- (6) If the dwelling has a chimney or chimneys, each chimney shall have a spark arrester.

Finding 32: The above criteria shall be conditions of approval and most will be controlled at the time of the building permit. If these measures are determined to be impracticable, the County may require alternative fire protection measures, as detailed above. Road access must meet the requirements of OAR 660-06-040. A primary fire break and a secondary fuel break must be created and maintained or the building constructed to Ignition Resistant equivalents. The dwelling must have a fire retardant roof, and all chimneys must have spark arresters. The dwelling may not be placed on a slope greater than 40%. The applicant will need to submit a fire break plan when applying for a building permit. The property is located within the Scappoose Rural Fire Protection District and the applicant has shown that he is willing and able to meet the above criteria.

OAR 660-06-040 provides as follows:

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

Finding 33: All building permits in forested areas and forest zones require documentation by the local Fire Protection District or Forest Protection District approving of the driveway to the dwelling if the driveway is greater than 150' in length. The driveway, in this case, is greater than 150' in length on the submitted plot plan, therefore, the Scappoose RFPD and the County Road Department will inspect the driveway.

COMMENTS:

1. The County Sanitarian has reviewed the application and has no objection to its approval as submitted.
2. The County Building Official has reviewed the application and commented the following:
Slopes may need geotech report, snow load up to 37#, IR1 & IR2.
3. The County Roadmaster has reviewed the application and has no objection to its approval as submitted.
4. The Soil & Water Conservation District has reviewed the application and has no objection to its approval as submitted.
5. The Scappoose Fire District has reviewed the application and does not object to the construction of a home on the subject parcel and also commented the following:

The driveway will need to be constructed to the Fire District driveway standard with the possibility that an emergency apparatus turnaround may be needed if the driveway is longer than 150'.

The application states that the homeowner understands the required primary and secondary set backs due to locating in the forested areas and they have the ability to meet the requirements.

Post the address at the intersection of the driveway and Bankston Road.

6. The Scappoose CPAC has recommended denial because it does not meet the Big Game Habitat density standards. If approved, they recommended the following three conditions:
 1. No spray on trees
 2. ODFW inspect the pond
 3. Geotechnical evaluation
7. The Watermaster has reviewed the application and commented the following; "A reservoir permit is needed for water storage in pond. "This property may have a permit, please verify with owner."
8. No comment was received from ODFW.
9. The Columbia County Citizen for Orderly Growth and 1000 Friends of Oregon have recommended denial because of a failure to comply with CCZO 404.13(D) and 1503.5.F(Comprehensive Plan Forest Policy 7. A. See attached letter.

Finding 34: In response to the letter from the Columbia County Citizen for Orderly Growth and 1000 Friends of Oregon, county staff believes that the appellant erred in their interpretation of the

Columbia County Zoning Ordinance, the Comprehensive Plan and the Board of Commissioners findings in the Matiaco case (10-2002).

First, the letter seems to apply the term "commercial forestry" to all parcels that can produce 5,000 cu. ft./tract/year because of its designation by the County as "high valued timberland". In Finding 9 of the Matiaco (10-2002) the Board found that there is no definition in the County Zoning Ordinance for "commercial forestry or agriculture", yet the letter repeatedly concludes that, if the parcel is classified as "high valued timberland", then it is "commercial". Staff recognizes that the parcel can be used for commercial forestry, however, most commercial forest parcels in the County are in the hundreds of acres, so staff cannot conclude that all parcels that can produce 5,000 cu. ft./tract/year are commercial forest parcels. It should be noted, that absent a clear and objective method of determining whether a parcel is "suitable for commercial forestry", it is difficult to justify approval or denial of applications under section 404.13(D) even if it applied.

Second, the letter quotes a portion of Finding #20 in the Matiaco case (Final Order No. 10-2002) but does not use its full context. Immediately following the quoted section of the Board's Matiaco finding in fact the Board stated that not allowing a dwelling under this criteria does not make sense. By doing this the appellant misapplies the intent of the finding.

The letter, erroneously, uses the "suitable for commercial forestry" classification to deny the application under section 404.13(D), which states;

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

It has been stated in this staff report and other reports in the past, criteria under §404.13(D) directly conflicts with an application for a resource dwelling because it addresses the old criteria (pre HB 3661) of forest versus non-forest dwellings. The Board of Commissioners in the Matiaco case, Final Order No. 10-2002, found that forest designated property will always be generally suited for forest uses. That fact has led to its designation as forest land. Therefore, if §404.13(D) were interpreted to prohibit residences where land is suited for forest uses, no residences would be permitted in the forest zone. That result does not make sense given that dwellings are permitted as conditional uses in the forest zones under the Columbia County Comprehensive Plan (CCCP) and Zoning Ordinance, as well as State Statute and the Oregon Forest Practices Act. Paragraph 404.13(D) of the Zoning Ordinance and Policy 7 A. of the Forest Lands section of the Comprehensive Plan do not apply to this application.

The Planning Commission agreed with the Board of Commissioners on this interpretation and found that §404.13(D) should not be used to deny this application. The Planning Commission found that small woodland lot owners can produce more cu. ft. of wood fiber per acre than large timber owners managing huge parcels, if intensive timber management practices are employed. The county recognizes the economic importance of encouraging the commercial forest products enterprise. The Commission also found that the applicant had demonstrated in the record that they developed a Forest Management Plan and intend to live on site to more aggressively pursue forest management; and, the Commission found that the plan is determined feasible for the owner to carry out.

Furthermore, if the outdated sections of the Zoning Ordinance were to be applied, the FA-19 zone 2.3 list dwellings on ownerships of 19 or more acres as a permitted use as long as the proposal

contains an approved Forest Management Plan (and other criteria), showing the dwelling to be accessory to the forest use, as this proposal does. Thus prior to HB3361, section 404 would not be applicable to this request for a dwelling on 39.5 acres with a Forest Management Plan because it would be a permitted use. Therefore, this application can not be denied under §404.13(D) because Planning Director and Planning Commission has found that it does not apply.

This letter also seeks to deny this application because of non-compliance with Policy 7 A. of the Columbia County Comprehensive Plan which states that;

7. Limit non-forest dwellings to individual lots or parcels where it can be shown that:
 - A. The proposed site is on land generally unsuitable for forest uses;

Once again, the term "non-forest dwelling" is not recognized anymore due to HB3661 and thus "Subsection A" is not applicable to this application. If the County were to use this out-of-date criteria, the proposal would be for a "forest dwelling" because the parcel is 39.5 acres in size and has been submitted with a Forest Management Plan, thus Policy 7 would be inapplicable all together because it would be a "permitted use". Columbia County has been reviewing all forest dwellings as conditional uses since 1993 in order to meet state requirements as well as the out-of-date criteria from the Columbia County code. Staff has begun the process of updating the Forest and Farm zone sections of the ordinance at the request of the Board of Commissioners, and hopes to alleviate the problems associated with interpreting an out-of-date code soon.

ALTERNATIVE FINDING APPLYING SECTION 402.3 "FOREST DWELLINGS NECESSARY AND ACCESSORY" APPLIES

Continuing with the Columbia County Zoning Ordinance Section 400 - 402

Section 400 FOREST AGRICULTURE - 19

FA-19

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

402 Permitted Uses:

- .1 Farm uses as defined by Subsection (2) of ORS 215.203.
- .2 The propagation or harvesting of a forest product.
- .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.
- B. A determination of which forest use(s) the forest residence is needed for.
- C. A discussion of why the forest residence is needed to conduct the forest use(s) identified in B. above.
- 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;
 - 2. fire protection;
 - 3. brush management;
 - 4. fish and wildlife habitat management;
 - 5. harvest and revegetation plans;
 - 6. stream quality protection; and
 - 7. fencing requirements and costs.
- E. All forest practices must comply with the Oregon Forest Practices Act.

Finding 35: Dwellings necessary and accessory to farm or forest use on contiguous ownerships of 19 or more acres are a permitted use, subject to the Forest Management Plan. The property of this application is 39.5 acres, greater than 19 acres. A Forest management Plan on forms provided by Land Development Services was submitted by the applicant as an attachment to the application for a dwelling unit on January 18, 2002. The Forest management Plan provides the information outlined in Section 402.3 A-E above. The part of this section: "reviewed by the Planning Director under the procedures set forth in Section 1601" refers the notification process which does not require a public hearing but gives the surrounding property owners an opportunity for a hearing if requested. As far as the dwelling being accessory to the forest use, a 1 to 2 acre portion of the 39.5 acre forest parcel dedicated to a dwelling, related structures and utility improvements, near the road and other dwellings is clearly accessory and subordinate to the main forest use of the property as outlined in the Forest Management Plan.

The determination that the dwelling be "necessary" for the forest use is hard to prove one way or the other, some deliberation will be necessary. There is a certain degree of ambiguity associated with the term "necessary for", if undefined. Staff thinks this is one of the major reasons why the 1993

legislation did away this "necessary and accessory" language, because of it's difficulty in applying. Much litigation occurred during the period when this term was the operative in state law for siting dwellings in the forest zone. Most notable were Champion International v. Douglas County, LUBA # 87-047 and 1000 Friends of Oregon v. Land Conservation and Development Commission and Lane County, 305 Or. 384, 752 P2d 271 (1988). The state LCDC recognized the need for and worked on a definition for "necessary for" in the late 1980s and early 1990s; they determined that it does not mean that a dwelling is absolutely required for forest management or that the production of trees is physically impossible without a dwelling. Other concepts considered toward a definition included the concept of "continuous presence" or the landowner being principally and continuously occupied in the forest management of the parcel. Yet other concepts included the dwelling would "enhance" the management of the property, or the dwelling would probably result in an incremental improvement in management. The eventual draft wording of "necessary for" used the term "contribute substantially", which reflects a vision that the time spent by the resident on forest management was an important factor, but not the only factor in making the determination. In making the "necessary for" determination for this case the county will examine the contribution dedicated by the owner towards the management and production of forest crops and determine if the owner would "contribute substantially".

The Forest Management Plan breaks the property into 5 management units and prescribes management practices or stand treatments to be applied to each unit per year. It should be noted that portions of the property has been recently logged since the completion of the plan, in this sense the estimated hours may be significantly understated. The landowner's contribution, in all five management areas, includes hand brush release to assure a free to grow environment for the young trees, pre-commercial thin, and budcap & maintenance for the spring sprouting trees. Rodent protection, if present, requires additional maintenance. The budcap and hand brush release needs to occur at least annually for budcap or semi-annually for hand brush release for 7 to 9 years until the trees are established. As the Plan sets out, the owners contribution for the above management practices adds up to 765 hours per year each time a full cycle of management areas are accomplished - versus - the anticipated contracted work (logging and planting) to be 180 hours per year. The laborious tasks anticipated to be completed by the landowner far exceeds the anticipated contract work. For a perspective, 765 hours per year equates to 14.7 hours per week.

During Oregon's attempt to draft rules for implementing the "necessary" standard, the state DLCD staff considered if the owner contribution was less than 500 hours per year, the Department could not support a determination of "contributing substantially". The 500 hour option of landowner labor input represents that level of input considered to define an active participant in forestry under the current IRS tax codes. The State analysis went on to say that levels of landowner input that meet or exceed 1040 hours per year or 20 hours per week would be accepted by the Department as "necessary for". The applicant's planned contribution of 765 hours per year exceeds the minimum 500 hours per year but is less than that the 1080 hours per year. In essence, back in 1990, the State DLCD suggested a scale where less than 500 hours per year of landowner contribution was too little; and, 1040 hours per year or more met the threshold without any doubt.

Staff suggests that the Board find that the contribution of 765 hours per year by the owner/resident of the applicant dwelling constitutes adequate justification for the applicant/owner to live on the property to manage the forest unit; and, therefore, that the proposed dwelling is necessary and accessory to the farm and forest use of the property. In addition, the amount of owner labor far exceeds the amount of contracted labor supporting the finding that the owner is "contributing substantially" to the management of the forest unit. Even if the county were to use the guidelines drafted but not

established by the state, it appears the owner would exceed 500 hours per year in forest management activities.

CONCLUSION AND RECOMMENDATION:

It is staff's position that the proposed homesite location on the parcel is acceptable and minimizes negative impacts to the area. The applicant has shown to use clustering techniques by proposing a home site close to Bankston Road and close to other homes. The Findings in this report have demonstrated that the proposed dwelling meets all state criteria for siting the dwelling on this forest zoned property. Also, the Findings on our local Zoning Ordinance, although not up to date, have been shown to be met by either examining the proposal as a resource dwelling or by applying the non-resource conditional use criteria. Both support approval of the dwelling. Protection of the creek remains an important issue. It is recommended to plant riparian vegetation, which would help stabilize the steep banks along the creek, and to install a larger culvert where the access-road crosses the creek. If any structures are to be built less than 40' from the steep banks above the creek, a geotechnical evaluation is required by the state building code. It is highly recommended to have an evaluation of the slope stability if the applicants want to protect their investment. These concerns have been addressed in the "conditions of approval".

The applicant has shown that he is willing to comply with all these conditions and will efficiently manage his land for forest use. Therefore, based on the findings in the above staff report (CU 02-29), staff recommends **APPROVAL** of this request to place a single family dwelling on a 39.5 acre parcel in a Forest Agriculture FA-19 zone with the following conditions:

Conditions of Approval:

1. This permit shall become void 4 years from the date of the final decision if development has not begun on the property. Extensions of time may be granted by the Planning Director if requested in writing before the expiration date and if the applicant was not responsible for the failure to develop.
2. The dwelling shall be located as shown on the proposed plot plan. Utilities shall be run along the driveway or take the shortest course to the homesite.
3. The applicant shall sign a Waiver of Remonstrance regarding current and accepted farm and forest management practices on adjacent properties devoted to agriculture and timber production prior to any building permits being issued.
4. The requirements of OAR 660-06-029 to 660-06-040, as interpreted by the Oregon Department of Forestry in their "Land Use Planning Notes: Recommended Fire Siting Standards for Dwellings and Structures and Fire Safety Design Standards for Roads," dated March, 1991, shall be followed in the construction of the access driveway and all structures on the site, including a fire retardant roof, spark arresters on all chimneys, and not placing the residence on a slope greater than 40%

5. The applicant shall provide the Department of Land Development Services with documentation from the Scappoose Rural Fire Protection District confirming the new driveway, site plan and any other fire safety issues have been satisfied prior to any building permits being issued.
6. Prior to receiving a building permit, an access permit from the County Road Department shall be obtained for the proposed driveway to enter Bankston Road.
7. The applicant shall submit documentation from the County Roadmaster stating that all driveway improvements have been constructed to County Standards or a bond has been posted, prior to any building permits being issued.
8. 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.
9. The applicant shall provide documentation that the county sanitarian has performed a septic lot evaluation and that the property is approved for a septic system, prior to issuance of any building permits.
10. The applicant shall post the address of the residence in a visible location near the driveway entrance to Bankston Road, prior to receiving an occupancy permit for the dwelling.
11. 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 slope of the homesite area, a 30' (0-9% slope), 50' (10-19% slope), 75' (21-25% slope), or 150' (26'-39% slope) primary fuel-free break area shall be created around all structures; in addition, a 100' secondary fuel-free break area shall be created and maintained around all structures.
12. Prior to the issuance of a building permit, LDS must receive a letter from the Assessor's office approving the owner's Forest Land Assessment and Timber Stocking Compliance Form.
13. A detailed and accurate plot plan showing the slopes within the 130' fire break will be required prior to the issuance of a building permit. If any structures are to be built less than 40' from the top of the steep slopes above the creek, a Geotechnical evaluation will be required. All recommendations of the geotechnical evaluation will also become conditions of approval.
14. Prior to the issuance of a building permit, the applicant must provide LDS with documentation from the Oregon Water Resources Department showing a reservoir permit for water storage in the pond.

15. Prior to the issuance of a building permit, the applicant shall show proof that he has planted riparian vegetation. This proof can be in the form of a receipt for planting services or photos.
16. Prior to the issuance of a building permit, the applicant shall provide LDS with a copy of the deed restriction prohibiting the property from further division unless the property is rezoned to a higher density and no longer in Goal 4 Protected Forest.

Attachments:

- Submitted Application
- Site Photos
- Vicinity Map
- Zone Map
- Plot Plan
- Submitted Template Map
- Staff's Amended Template Map
- Beak Consultants Map
- Comprehensive Plan Map 44
- Air Photo

ATTACHMENT 2
SUPPLEMENTAL FINDINGS

1. The Board of County Commissioners finds that Columbia County Zoning Ordinance Section 404 does not apply to this application. Section 404.13 makes one family dwellings which are not provided in conjunction with farm or forest uses, conditional uses and subject to the conditional use criteria of Section 404.13. However, the applicant proposes to site a dwelling “necessary and accessory to farm or forest use” in conjunction with their forest management plan. Therefore, while the application must meet the template test and other conditional use state criteria, the local code provision in Section 402 allows a dwelling necessary and accessory to farm or forest use, as a permitted use. Similarly, the Board finds that CCZO Section 405 does not apply to this application because the application is not for a “conditional” use under the local code. However, the Board finds that if Section 405 did apply, the applicant meets such criteria, as set forth in the staff report findings (Attachment 1, findings 7-11, and Attachment 2, Supplemental Finding 3). In addition, the Board finds that despite the fact that conditions are required to be placed on template dwellings under state statute, a resource dwelling under the local code is permitted outright, and not subject to the local code conditional use standards under CCZO 1503. However, the Board finds that even if Section 1503 were applicable, the application meets those criteria as set forth in the findings in the staff report (Attachment 1, pages 11-15).

2. Columbia County Zoning Ordinance Section 402 applies to this application for a resource related dwelling. Section 402.3 allows,

“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 building permits 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....”

The Board finds that the zoning ordinance does not provide any guidance as to the meaning of “necessary and accessory” to a forest use. The Board, therefore, must interpret the meaning of that language. The Board of County Commissioners finds that the language requires that the dwelling be on the same property which is proposed to be forested, and that the dwelling make forest management more efficient and convenient for the owner/operator of the forest land. The Board finds that proposed dwelling is necessary and accessory to the proposed forest use on the subject parcel according to the Applicant’s Forest Management Plan. The property is 39.5 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 January 18, 2002. The Plan provides the information required in Section 402.3.

The Board finds that there is substantial evidence in the record that the proposed dwelling is accessory and necessary to the proposed forest use. According to the site plan, the dwelling is proposed to be located approximately 250' from Bankston Road on a level area adjacent to the steep creek valley on the parcel. The applicant proposes to live in the dwelling while actively managing his forest land. The Board finds that such residential use is accessory to the proposed forest use of the property. The Board further finds that living in a dwelling on site is necessary for forest management because such use makes forest management efficient and convenient for the operator/owner of the parcel. According to the forest management plan and additional testimony from the applicant's consultant forester, the applicant will need to spend considerable forest management hours to effectively manage the property. Additional testimony was submitted by Jay Worley which indicates that the annual contribution of hours will be 252.5/year. (765 hours originally indicated + 750 additional hours/6 years). Evidence was submitted by a forester for 1000 Friends of Oregon, Rich Fairbanks, which suggested that the time needed was substantially less than Mr. Worley's estimation. However, Mr. Fairbank did not personally visit the property to see the condition of the trees and brush. Mr. Fairbank's testimony, therefore, was related to time requirements in general, and not specifically related to the subject parcel. In addition, Mr. Fairbanks only discusses the time needed for release on a 25% slope, and specifically says that he did not "investigate assertions about bud capping, planting etc...." Because Mr. Worley actually visited the site, and did a complete analysis of the time required, the Board finds that his hour estimation is more accurate than Mr. Fairbanks.

The Board finds that for small woodlot owners, it is extremely difficult to work full time and put in a minimum of 252.5 hours of work 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 so miles, sometimes in bad weather, and begin work. The Board finds that is much more likely that the work will actually get done effectively and efficiently if the applicant lives on the property. In addition, the Board finds that there is less of a risk of vandalism to the trees, to Scappoose Creek, and to forestry equipment, if the owners live on site and are able to keep an eye on it. There was testimony in the record that the Andreottis found evidence that people were trespassing on their property. The Board finds that bon fires or other trespassing activities pose a risk to the parcel in question and surrounding properties. Finally, the Board finds that the risk of out of control wildfires will be minimized by early reporting of any breaking fire by land owners living on the property. Therefore, the Board finds that this criteria is met.

3. CCZO Section 1190 through Section 1193 set out development standards in a Big Game

Overlay Zone. The Board of County Commissioners finds that the subject property is within the Big Game Habitat Overlay zone because it is in the FA-19 zone. Section 1191 specifies that “the peripheral habitat designation is applied to all land in the forest agriculture zone.” The Board finds that the specific language in Section 1191 clarifies and acts to interpret Comprehensive Plan Map 44 which is very unclear. Looking at Map 44, one is generally unable to identify the precise habitat designation for each parcel. The Board of County Commissioners finds that the Comprehensive Plan Section on Big Game Habitat, page 258 recognizes the fact that Map 44 is vague and will be wrong in some cases in applying the correct type of big game habitat on each parcel. The Plan says, “notwithstanding the lack of detail on the Wildlife Overlay Impact Map (Map), all exception areas shall be considered impacted and exempt from the standards of the Wildlife Overlay District.” This language is additional evidence of a fact that the Board already knows, i.e. that the Wildlife Overlay Map is not detailed. The finding adopted in the Comprehensive Plan, on page 260 finds that “...the County will adopt a program to protect big game habitat but allow limited impact from conflicting uses. The County shall adopt the density standards recommended by the Oregon Department of Fish and Wildlife for all Major and Peripheral Habitat areas except those identified as impacted by previous residential development.” Therefore, in order to implement the Comprehensive Plan under ORS 215.050, and adopt the standards as required in the Comprehensive Plan. The County adopted specific standards for the location of peripheral big game and major big game habitat. The specific standards are found in CCZO Section 1191, which says that, “The major habitat designation is applied to all land in the primary forest zone. The peripheral habitat designation is applied to all land in the forest-agriculture zone.” These standards were the recommended standards from ODFW at the time the zoning ordinance section was adopted. The Board finds that these standards are consistent with the language and intent of the Comprehensive Plan. The Board further finds that the Beak map relied upon by staff is not incorporated into the Plan or Code, and cannot be used to override the specific code language interpreting/clarifying Map 44.

The Board finds that the parcel must meet the development standards for Peripheral Big Game Habitat as set forth in Section 1193. Section 1193 states that in the Big Game Range zone, the following standards shall apply:

- .1 Big game habitat density standards:
 1. Major habitat- 1 dwelling unit per 38 acres with clustering.
 2. Peripheral habitat- 1 dwelling unit per 19 acres with clustering.

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

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

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

section shall be applied).

3. Columbia white-tailed deer habitat- 1 dwelling unit per 38 acres with clustering.

The Board of County Commissioners finds that the applicant has met the peripheral big game habitat criteria. There is substantial evidence in the record that there are currently 21 dwellings in township 3 north, range 2 west, section 16 according to the County's rural address map. Dwellings are added to the address map as building permits are granted. The addresses which are typed were assigned to dwellings/structures which were in existence prior to zoning in 1984 and were specifically counted and placed on the address map when it originated. The handwritten addresses are added only when an address is obtained in conjunction with a building permit under the County Rural Addressing Ordinance. If another type of structure (church, etc) is assigned an address, the structure will be designated on the map as some other kind of structure.

In this case, the map shows 22 addresses. As shown on the map, 21 of these addresses are assigned to dwellings. The other address, on tax lot 200, is assigned to the South Scappoose Grange, which is not a dwelling. The Board finds that the address map is an accurate basis for determining the number of dwellings in the area. No evidence was submitted to suggest that there are any more or less than 21 dwellings in the section.

Based on the existing 21 dwellings in the section, there is currently 1 dwelling for every 30.47 acres. (640 acres/21 dwellings). With the addition of the proposed dwelling, there will be one dwelling per 29.09 acres. (640 acres/22 dwellings). This ratio meets the maximum density standard of 1 dwelling per 19 acres. In addition, the applicant proposes to cluster by locating the dwellings and structures near each other within the 1 acre site, near the existing road, and by the existing dwellings on adjacent property.

The Board finds that Section 1193.2 does not apply to this application, because the application is for a resource dwelling. However, even if the section does apply, there is substantial evidence in the record that the applicant meets the criteria. The applicant will avoid habitat conflicts by clustering the dwelling as discussed above. In addition, the site is limited to 1 acre, near the existing road on a level area adjacent to a steep creek valley. The site is suitable and appropriate for residential use. Road development will be minimal. The applicant proposes to site the home off of Bankston road, an existing road, and to build a driveway to the home. No additional roads are proposed to be built. Finally, the dwelling density with the new home, will be 1 dwelling per 29.09 acres. As discussed above, this density does not exceed the maximum standard (1 dwelling per 19 acres) for peripheral big game habitat.