

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

In the Matter of the Application of Gayle)
Lee for a Conditional Use Permit to Site)
a Single Family Dwelling in the Primary)
Forest (PF-76) Zone)

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FINAL ORDER NO. 15-2002
FINDINGS AND CONCLUSIONS

WHEREAS, on February 22, 2002, Gayle Lee filed an application (CU 02-34) for a conditional use permit to build a single family dwelling on 2.5 acres of property located approximately two (2) miles west of Vernonia off of Highway 47, having tax account number 4418-000-01306, and zoned Primary Forest (PF-76), with the Columbia County Land Development Services Department; and

WHEREAS, on February 22, 2002, the application was deemed complete; and

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

WHEREAS, after hearing testimony and receiving evidence into the record, the Columbia County Planning Commission voted to approve application CU-34, subject to 13 conditions of approval, and Planning Commission Chair, Jeff VanNatta signed Final Order CU 02-34 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 02-34 to the Columbia County Board of Commissioners; and

WHEREAS, a public hearing was scheduled for June 19, 2002, but was continued to July 24, 2002, upon the request of Gayle Lee; and

WHEREAS, on July 24, 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 Richard Vial, attorney for Gayle Lee, Bruce Vincent, Planner, and Gayle Lee testified in favor of the application, and Carrie MacLaren, staff attorney for 1000 Friends of Oregon, and Pat Zimmerman, President of CCCOG, testified in opposition to the application, and Jim Lee and Richard Vial gave rebuttal testimony; and

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FINAL ORDER NO. 15-2002

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. Letter to Gayle Lee dated May 15, 2002;
- F. Portion of Board of County Commissioners meeting minutes dated May 14, 2002;
- G. Appeal and Referral dated April 23, 2002;
- H. Certificate of Mailing dated April 18, 2002;
- I. Revised template map dated March 26, 2002;
- J. List of persons to receive notice;
- K. Referral contact list dated February 22, 2002;
- L. Letter to Planning Commission from 1000 Friends of Oregon dated April 1, 2002;
- M. Information presented to Planning Commission from Pat Zimmerman;
- N. Referral and Acknowledgment from Natural Resources Conservation Service dated March 20, 2002;
- O. Referral and Acknowledgment from County Sanitarian dated March 4, 2002;
- P. Referral and Acknowledgment from the County Roadmaster dated March 4, 2002;
- Q. Referral and Acknowledgment from the Oregon Department of Fish and Wildlife dated March 4, 2002;
- R. Referral and Acknowledgment from ODOT- Region 1, dated March 19, 2002;
- S. Referral and Acknowledgment from Natural Resources Conservation Service dated March 1, 2002;
- T. Referral and Acknowledgment from the Vernonia Fire District dated March 8, 2002;
- U. Notice published in Spotlight, March 20, 2002;
- V. Notice published in the Chronicle, March 20, 2002;
- W. Staff Report to the Planning Commission dated March 21, 2002;
- X. Certificate of Mailing notice of public hearing dated February 28, 2002;
- Y. Notice of public hearing dated February 28, 2002;
- Z. Board Communication dated July 17, 2002, with the following attachments;
 - i. Notice of appeal
 - ii. Planning Commission minutes from April 1, 2002, meeting;
 - iii. Planning Commission Final Order CU 02-34;
 - iv. Staff Report to the Board of County Commissioners dated July 17, 2001, with attachments;
- AA. Faxed Transmittal to Board of County Commissioners from Chris Tingey, dated July 23, 2002;

Exhibit 2- Wetland Inventory map submitted by LDS;

Exhibit 3- Documentation of template from LDS;

Exhibit 4- Reformatted Table submitted by Bruce Vincent;

- Exhibit 5- Letter from 1000 Friends of Oregon dated July 24, 2002;
- Exhibit 6- Waiver of 150 day rule signed by Gayle Lee;
- Exhibit 7- Comprehensive Plan map 44;
- Exhibit 8- Enlarged maps of property;

WHEREAS, having heard evidence and testimony, the Board of County Commissioners closed the public hearing record for evidence and testimony, deliberated on the matter and voted to approve CU 02-34 subject to conditions of approval as set forth in the staff report to the Board of County Commissioners dated July 17, 2002;

NOW, THEREFORE, IT IS HEREBY ORDERED as follows:

1. The Board of County Commissioners adopts the Findings of Fact and Conclusions of Law, Numbers 3, 5, 8, 11-13, 17-19, and 27-32, set forth in the staff report to the Board of County Commissioners dated July 17, 2002, which is attached hereto as Attachment 1, and is incorporated herein by this reference.
2. The Board of County 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. Application CU-02-34 is APPROVED, subject to the following conditions of approval:
 - A. This permit shall become void four (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 expiration date and if the applicant was not responsible for the failure to develop.
 - B. Prior to the issuance of a building permit:
 - i. The owner shall sign a Waiver of Remonstrance regarding current and accepted forest and farm management practices on adjacent properties devoted to timber production prior to any building permits being issued.
 - ii. The owner shall submit documentation from the Vernonia Rural Fire Protection District approving the private road to the proposed residence and stating it has been constructed to meet fire district standards.
 - iii. The owner shall obtain a formal name for the private road. The required process to obtain a formal name includes submitting a road name application and having it approved by the Board of County Commissioners.

- iv. The owner shall provide evidence that a County approved stop sign and road name sign have been installed at the private road/ Highway 47 intersection. A photograph or letter from the County Road Department shall be suitable evidence.
- v. The owner shall provide a copy of the road maintenance agreement indicating who is responsible for maintaining the private road.
- vi. The owner shall obtain a Columbia County Road Department Access Permit.
- vii. The owner shall provide documentation from the County Road Department indicating that the driveway has been constructed to standard driveway standards or a bond stating that the driveway will be constructed to standard.
- viii. The owner shall provide a well contractor's report verifying that adequate domestic water is available on the property;
- ix. The owner shall provide documentation that the county sanitarian has performed a septic lot evaluation and that the property is approved for a septic system.
- x. The owner shall submit a revised site plan showing the alternative homesite location that which is 50' from the east property line.
- xi. The owner shall submit a revised fire safety plan indicating the dwelling will be constructed to IR-1 Ignition Resistant construction standards, a 30' primary fire break, and a 20' secondary fire break.

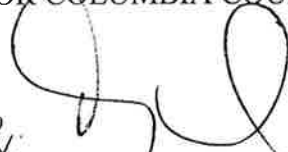
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- C. Prior to the final building inspection and issuance of an occupancy permit, the owner shall provide evidence to the Land Development Services Department that the address of the residence has been clearly posted at the intersection of the driveway and the private road. A photograph or letter from the County Road Department shall be suitable evidence.

Dated this 14th day of August, 2002.

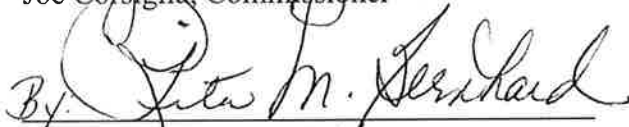
BOARD OF COUNTY COMMISSIONERS
FOR COLUMBIA COUNTY, OREGON

By: 

Tony Hyde, Chair

By: 

Joe Corsiglia, Commissioner

By: 

Rita Bernhard, Commissioner

Approved as to form

By: 

Assistant County Counsel

**Columbia County
Board of Commissioners
STAFF REPORT**

Conditional Use Permit

DATE: July 17, 2002
FILE NUMBER: CU 02-34
APPLICANT / OWNER: Gayle Lee
57700 Nehalem Highway South
Vernonia, OR 97064
PROPERTY LOCATION: Approximately 2 miles south of the City of Vernonia,
TAX ACCOUNT NUMBER: 4418-000-01306
ZONING: Primary Forest (PF-76)
SIZE: 2.50 Acres
REQUEST: To place a single-family dwelling on a parcel in a PF-76 zone
APPLICATION COMPLETE: 02/22/02 **150 DAY DEADLINE:** 07/25/02

APPLICABLE CRITERIA:

<u>A.</u>	<u>Columbia County Zoning Ordinance</u>	<u>Page Number</u>
	Section 500 Primary Forest – PF-76	3
	Section 501 Purpose	3
	Section 503 Conditional Uses	4
	Section 504 Conditional Use Requirements	4-7
	Section 505 Residential Structure Requirements	7-9
	Section 510 Fire Siting Standards for Dwellings and Roads	9
	Section 1190 Big Game Range Overlay	10
	Section 1503 Conditional Use	11-14
<u>B.</u>	<u>Oregon Revised Statutes</u>	
	ORS 215.750	15
<u>C.</u>	<u>Oregon Administrative Rules</u>	
	OAR 660-06-027 (1)	15-16
	OAR 660-06-029	16-19
	OAR 660-06-035	19
	OAR 660-06-040	21

BACKGROUND:

At the April 1, 2002 public hearing, the Columbia County Planning Commission reviewed this application (File # CU 02-34) to site a single family dwelling in the Primary Forest Zone. After reviewing the application and hearing testimony in support and in opposition to this application, the Planning Commission ruled to approve the request to site a forest dwelling.

Notice of the decision was mailed out on April 16, 2002. The decision to approve the forest dwelling was appealed on April 23, 2002. The appeal was filed in a timely manner, within 7 days, and with the appropriate fee. The appellants reason for appeal was "Noncompliance with Columbia County Comprehensive Plan, Columbia County Zoning Ordinance, State Administrative Rules, and State Revised Statutes."

Tax lot 1306 was recently reconfigured to its current size (2.5 ac.) by a property line adjustment. It was part of a tax lot 1300 which was a 131.29 acre parcel. The owners of tax lot 1300, James and Gayle Lee, recently completed a series of property line adjustment that revived and reconfigured 5 parcels. What once was a 131.29 acre tax lot, is now a 2.5 acre parcel, a 7.0 acre parcel, a 6.0 acre parcel, a 6.1 acre parcel, and a 113.40 acre parcel. The subject property, for this application is the 2.5 acre parcel that is owned by Gayle Lee. Mrs. Lee is subsequently requesting approval to site a single family dwelling on the 2.5 acre parcel which is zoned Primary Forest (PF-76).

Currently this site is accessed from an un-named private road via a private easement. The private road intersects with Nehalem Highway 47 South at location that appears to have adequate visibility. The private road consists of a 15' wide, gravel travel surface on a 50' wide, private easement. A portion of the private road slopes upward at approximately 12%, but for the most part, the road has very gentle (<8%) slopes. The applicant proposes to build a new 80' long driveway from the private road to the homesite location. The topography of the homesite location and driveway is basically flat, however there is a steep slope (> 20%) on the west side of the property sloping down to Beaver Creek, and on the north side of the property sloping down to the highway grade. There are no improvements on the subject property at this time. The applicant proposes to supply water to the residence by drilling a well. Sewage will be disposed of using a subsurface septic system approved by the County Sanitarian.

The topography of the parcel consists of two levels with a steep slope in between. The upper portion, where the home is proposed, is generally a flat point or knoll, with a steep slope (>20%) that drops down to Beaver Creek and the Nehalem Highway grade about 30'-40' below. The lower portion of the property, at the highway grade is also relatively flat. The steep slope between the two levels is estimated at approximately 40%. According to the USGS map, the elevation of the property is approximately 655 feet above msl. Vegetation on this property consists primarily of 14 year old Douglas fir, approximately 25' tall, and various hardwood tree species located in the riparian area along Beaver Creek, which forms the southwest property line. Beaver Creek is considered a Palustrine Forested Broad Leaf Deciduous Intermittently Flooded wetland according to the National Wetlands Inventory, Vernonia Quad. The Oregon Department of Forestry also indicates that Beaver Creek is a fish bearing stream. The FEMA Flood Hazard map (41009C0400 C) shows the property is not within a flood hazard area. The overall vicinity is characterized primarily by large resource parcels in timber production, with some rural homes along the Highway. The property is not located in an urban growth boundary. Emergency services are provided by the Vernonia Rural Fire Protection District and the Columbia County Sheriff.

REVIEW CRITERIA:

SOILS:

<u>Soils on the 36.90 acre tract are as follows:</u>	<u>Est. % of Area</u>	<u>Ag.Cap. Class</u>	<u>D.F.Site Class</u>
58 - Treharne silt loam,	50%	IIc	-
62D - Vernonia silt loam, 3 to 30 percent slopes.	50%	VIe	II

Finding 1: The two types of soils at this location are very different. The soils along the creek are good agricultural soils (Agricultural Capability class II) , however, the slopes are too steep to be in agricultural use. The soils on the upper portion of the site are well suited for timber production (Douglas Fir Site Class II). The productivity of the soils for Douglas-fir timber production are estimated at 211.25 cubic feet of commercial wood fiber per year for the 2.5 acre parcel. Property that can produce greater than 5,000 cu. ft./tract/year qualifies as high value timber land. Owners of high value timberland are required to submit a forest resource management plan to the Columbia County Department of Land Development Services. A forest land assessment / timber stocking survey report is also required for property that is greater than 10 acres, active forest land in a primary forest zone receiving forest tax deferral. The subject property is 2.5 acres and will not be required to submit a forest management plan or a forestland assessment/timber stocking survey. The Natural Disasters and Hazards section of the Columbia County Comprehensive Plan lists Treharne silt loam as a soil with low shear strength, and as a soil with a high water table. A geotechnical analysis will be required if the applicant proposed to build on any portion of the property that is on or near, within 40', a slope greater than 20%.

The following sections of the Zoning Ordinance and state laws are pertinent to this application:

Columbia County Zoning Ordinance

Section 500 Primary Forest - 76

Section 501 Purpose

The purpose of this zone is to retain forest land for forest use and to encourage the management of forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. And to provide for other forest uses including watershed protection, soil protection, maintenance of clean air and water, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities free from the encroachment of conflicting non-forest uses and influences.

- .1 Uses related to and in support of forest operations;
- .2 Uses to conserve soil, air, and water quality and to provide for fish and wildlife resources, agriculture and recreational opportunities appropriate in a forest environment;

- .3 Locationally dependent uses, such as communications towers, mineral and aggregate resources; etc.
- .4 Forest management dwellings as provided for in OAR 660-06-027; and
- .5 Other dwellings under prescribed conditions.

Finding 2: The applicant is applying for a forest dwelling in the primary forest zone pursuant to the "Template" option described in OAR 660-06-027(1)(f). This criteria meets the purpose of Section 501.4.

Columbia County Zoning Ordinance continued:

Section 503 Conditional Uses:

In the Primary Forest zone the following conditional uses and their accessory uses are permitted subject to the provisions of Sections 504 and 505. A conditional use shall be reviewed according to the procedures provided in Section 1503.

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

Finding 3: In the PF-76 zone, a single-family dwelling requires a Conditional Use Permit. The applicant has applied for a Conditional Use Permit and paid the necessary fee.

Columbia County Zoning Ordinance continued:

Section 504 All Conditional Uses Permitted In The PF Zone Shall Meet The Following Requirements:

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

The Oregon Forest Practices Act (ORS Chapter 527) includes the following:

527.630 Policy. (1) ...it is declared to be the public policy of the State of Oregon to encourage economically efficient forest practices that assure the continuous growing and harvesting of forest tree species and the maintenance of forest land for such purposes as the leading use on privately owned land, consistent with sound management of soil, air, water and fish and wildlife resources that assures the continuous benefits of those resources for future generations of Oregonians.

527.730 Conversion of forestland to other uses.

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

Finding 4: Converting a portion of this site to a residential use is consistent with the Oregon Forest Practices Act Section 527.730. Additionally, a large portion of this site is not eligible for timber harvest under the forest practices act because it is within 100' of a fish bearing stream. The remainder of the site that could be logged, was logged and replanted approximately 14 years ago. Soil types indicate this 2.5 acre parcel is able to grow merchantable timber at a rate of approximately 211.25 cubic feet of commercial wood fiber per year. This is not considered high value timberland because the parcel will not grow over 5,000 cubic feet per year of commercial wood fiber. Since the property does not meet the criteria for high value timberland, the applicant will not be required to submit a forest resource management plan. Furthermore, since the property is less than 10 acres in size, the applicant will not be required to submit a forestland assessment / timber stocking survey in accordance with the County Assessors Office standards.

Continuing with Columbia County Zoning Ordinance Section 504:

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

Finding 5: The proposed use will not interfere with farm or forest uses on adjacent lands. Much of this property will be used as a riparian vegetation buffer along Beaver Creek which could be considered open space. Large setbacks from adjacent properties act as a buffer and minimize potential impacts to surrounding property owners. A Waiver of Remonstrance regarding forest and farm practices will be a requirement for the applicant. The waiver will further protect resource uses in the area from potential conflicts.

Continuing with Columbia County Zoning Ordinance Section 504:

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

Finding 6: The residence, and any related structures, will be limited to a 1 acre site on the upper portion of the property. The homesite will be no larger than necessary to site the dwelling. The overall land use pattern of the area is mainly large forest resource parcels, and some rural homesites located along the Highway. See Table 1. The subject property and the adjacent property to the north, east, south and west are all zoned Primary Forest. Adjacent property to the southwest is zoned Forest Agriculture. Potential negative impacts will be limited by the fire break setbacks required in the Primary Forest zoning district.

TABLE 1 Surrounding Properties

<u>Tax Account #</u>	<u>Acreage</u>	<u>Zone</u>	<u>Use</u>
4418-000-01305	7.00 Ac.	PF- 76	Forest
4418-000-01304	6.00 Ac.	PF- 76	Forest
4418-000-01300	6.10 Ac.	PF- 76	Forest
4418-000-01303	103.40 Ac.	PF- 76	Forest/Residential
4418-000-01200	6.40	FA-19	Forest/Farm/Residential
4418-000-00401	67.81	PF- 76	Forest/Farm/Residential

Continuing with Columbia County Zoning Ordinance Section 504:

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

Finding 7: The applicant has submitted a fire break map. The proposed dwelling is located on the upper portion of the property. Much of the secondary fire break will be located within a riparian vegetation area and on a steep slope. The applicant's fire break map indicates a portion of the secondary fire break would be located on a neighboring property on the other side of the creek. Rather than removing trees on a steep slope above a fish bearing stream, staff recommends moving the homesite location east, 50' from the private road and constructing the dwelling to the Ignition Resistant -1 (IR-1) construction standards. Constructing the dwelling to IR-1 standards would allow the fire buffers to be reduced down to a 30' primary safety zone, and a 20' secondary fuel break for a total fire buffer of 50'. Shrinking the fire buffers and moving the home to the east, should allow the riparian vegetation on the steep slope above Beaver Creek to remain undisturbed. The majority of the vegetation in and around the homesite area is 14 year old reproduction Douglas Fir, approximately 25' tall. The primary fire buffer will need to be completely cleared and the secondary fire buffer will need to be extensively thinned and pruned. As long as the applicant clears and maintains the fire buffers, and builds the home to the IR-1 ignition resistant construction standards, the proposed homesite is not expected to create a fire hazard. The applicant will be responsible for the construction and operation of the site in a fire safe manner.

Continuing with Columbia County Zoning Ordinance Section 504:

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

Finding 8: Power and communication lines are recommended to be installed underground. These lines are required to be routed along the path that will cause the least impact on the forest resources. This will be following the existing private road, driveway, or along the shortest distance to existing facilities. There is an existing utility easement currently crossing the northern portion of

this site. The installation of utilities is not expected to have adverse impacts on the resource use of the land.

Continuing with Columbia County Zoning Ordinance Section 504:

- .6 Development within major and peripheral big game ranges shall be sited to minimize the impact on big game habitat. To minimize the impact, structures shall: be located near existing roads; be as close as possible to existing structures on adjoining lots; and be clustered where several structures are proposed.

Finding 9: The subject property is zoned Primary Forest. Section 1191 requires that the major big game habitat standards be applied to all land in the primary forest zone even though the Columbia County Comprehensive Plan Map 44 titled "Big Game Range in Columbia County" has identified the parcel as "Peripheral Big Game Habitat". The applicant has also proposed to continue the pattern of clustering by siting the proposed home close to existing dwellings, which are clustered along Highway 47. This pattern of clustering along the highway should have the least impact to big game and require minimal road development. The subject property, and most of Columbia County, is considered some type of big game habitat range. The Potential Conflicting Uses section of the Big Game Habitat section of the Comprehensive plan states the following:

The Oregon Department of Fish and Wildlife has recommended the following dwelling unit densities per section in big game habitat areas:

Major habitat - 1 unit per 38 acres using clustering techniques.

Peripheral habitat - 1 unit per 19 acres using clustering techniques.

There are currently 10 homes in township 4 north, range 4 west, section 18 which makes up 640 acres. This equals one home per 64 acres. With the addition of the proposed residence, the section density will be increased to one home per 58.18 acres. This is less than the maximum allowed section density of one residence per 38 acres, recommended in the major big game habitat area. Therefore, the addition of this proposed residence will not conflict with ODFW big game habitat dwelling density recommendations.

Columbia County Zoning Ordinance continued:

Section 505 Residential Structures Shall Meet The Following Additional Requirements:

- .1 Nonresource-related structures provided by Section 503.9 shall be placed only on land that is generally unsuitable for commercial forestry or agriculture taking into consideration the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract.

Finding 10: Staff finds that this site is generally unsuitable for commercial forestry because much of the site is riparian vegetation above a class 1 stream that is not eligible to be harvested and because the size of the parcel is too small to produce enough wood fiber to be considered high value forest. The timber production capability for this site is estimated at 211.25 cu.ft./year for the

entire parcel. This is less than 5,000 cu. ft./tract/year and therefore is not considered high value timber land or commercial forest. A dwelling sited on this size of a parcel (2.5 Ac.) will not preclude the parcel from resource use because the parcel was not a commercially viable timber parcel to begin with. The residential area will utilize approximately 1 acre of the subject property. Much of this site will be left in a natural state as a riparian buffer along Beaver Creek. There are homes located on the adjacent properties to the south, southwest, and west of this site. The homesite location is on a flat area, on the upper portion of the site. The applicant will be installing a new driveway access as this site is completely unimproved. The applicant proposes to site the dwelling on the flattest portion of the site. Moving the dwelling closer to the private road and constructing it to IR-1 standards will allow the fire breaks to be reduced so that they do not impact the riparian vegetation on the steep slope above Beaver Creek. The required setbacks should help buffer impacts and reduce conflicts with adjoining parcels. The proposed homesite location is not within a wetland or flood plain area or on a steep slope greater than or equal to 20%. Vegetation on the site is young Douglas fir and various hardwood species. The applicant will have to pay particular attention to clearing and maintaining adequate fire buffers.

Columbia County Zoning Ordinance Section 505:

- .2 Provision has been made for fire safety measures in accordance with the guide published by the Northwest Inter-Agency Fire Prevention Group entitled, "Fire Safety Considerations for Development in Forest Areas.

Finding 11: Fire safety measures have been taken into account with the identification of the alternate homesite location. The proposed homesite will meet the Columbia county Fire Break equivalents which include constructing the dwelling to the IR-1 Ignition Resistant Construction standards, as well as a 30' primary fire break and a 20' secondary fuel break. The new driveway that will be installed to the house will be less than 150' long and therefore, will not have to be approved by the Vernonia fire District, however, the Fire District will have to approve the private road. The private road is a 15' wide, gravel road that is in satisfactory condition. Staff does not expect the private road and driveway to have any difficulty in being approved since neither are very steep. The applicant will be required to post the address of the home in a visible location near the driveway intersection with the private road. Staff also recommends the applicant formally name the private road so all existing and future users of the road will have appropriate addresses.

Columbia County Zoning Ordinance Section 505:

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

Finding 12: The owner must assume this responsibility.

Columbia County Zoning Ordinance Section 505:

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

Finding 13: The residential use of this property will not impose any limitations on primary wood processing facilities because there are none adjacent to this property.

Columbia County Zoning Ordinance Section 505:

- .5 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 14: A farm or forest management impact statement may be required by the Planning Commission.

Columbia County Zoning Ordinance continued:

Section 510 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 15: The proposed homesite location is consistent with the above fire safety standards. The alternative fire break plan proposed by staff includes a 30' primary fire break and a 20' secondary fire buffer, and a dwelling constructed to IR-1 Ignition Resistant construction standards. These fire breaks must be created and maintained by the applicant. The applicant should also post an address sign at the intersection of their driveway and the private road. The private road to the homesite will be inspected by the Vernonia Rural Fire District and must comply with their standards for access. A building permit to site the new residence will not be issued without RFPD approval.

Section 1190

Big Game Range Overlay

1191 Purpose: To protect sensitive habitat areas for the Columbia white-tailed deer and other Big Game by limiting uses that conflict with maintenance of the areas. This section shall apply to all areas identified in the Comprehensive Plan as a major and peripheral big game range or Columbia white-tailed deer range. 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.

1192 Permitted Uses: All uses permitted in the underlying zone either outright or conditionally shall be permitted if they are shown to be consistent with the maintenance of big game and Columbia white-tailed deer habitat values identified in the Comprehensive Plan.

1193 Development Standards: In the Big Game Range zone the following standards shall apply:

.1 Big game habitat density standards:

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

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

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

If clustering is not feasible, then the ODFW recommended density standard per section shall be applied.)

- C. Columbian white-tailed deer habitat - 1 dwelling unit per 38 acres with clustering.

.2 Non-forest and non-farm dwellings shall be limited to individual lots or parcels where it can be shown that:

- A. The proposed dwelling shall be located to avoid habitat conflicts and utilize least valuable habitat areas;
- B. The site shall be limited in size to that area suitable and appropriate for residential use.
- C. Road development shall be the minimum necessary to support residential use.

- D. Dwelling densities shall not exceed the maximum standards defined in Section 1193.1.
- 3 Riparian and Wetland areas shall be protected in accordance with Sections 1170 and 1180.
 - 4 Columbia County shall notify the Oregon Department of Fish and Wildlife (ODFW) and U.S. Fish and Wildlife (USFW) of all proposed uses or activities that have the potential to adversely affect habitat and recovery of the Columbian white-tailed deer. If it is determined that habitat and recovery will be affected, the property owner shall work with ODFW and USFW to develop a management plan to protect the deer.
 - 5 Responsibility for protecting property from wildlife damage shall be assumed by the owner or occupant of the property.

Finding 16: The subject property is zoned Primary Forest. Section 1191 requires that the major big game habitat standards be applied to all land in the primary forest zone even though the Columbia County Comprehensive Plan Map 44 titled "Big Game Range in Columbia County" has identified the parcel as "Peripheral Big Game Habitat". The applicant has also proposed to continue the pattern of clustering by siting the proposed home close to existing dwellings, which are clustered along Highway 47. This pattern of clustering along the highway should have the least impact to big game and require minimal road development. The applicant has also proposed to build their home more than 50' from Beaver Creek, which borders the property on the southwest side, and thus they will not have to remove any of the riparian vegetation with this proposal. Section 1193 above also states the following:

Major habitat - 1 unit per 38 acres using clustering techniques.

Peripheral habitat - 1 unit per 19 acres using clustering techniques.

The proposed home site has been shown to be clustered in earlier findings of this report. Specifically, it will be located within 130 feet of a state highway, within 50 feet of a private road and in close proximity of three other dwellings along the Highway 47 corridor. There are currently 10 homes in township 4 north, range 4 west, section 18 which makes up 640 acres. This equals one home per 64 acres. With the addition of the proposed residence, the section density will be increased to one home per 58.18 acres. This is less than the maximum allowed section density of one residence per 38 acres, recommended in the major big game habitat area. Therefore, the addition of this proposed residence will not conflict with ODFW big game habitat dwelling density recommendations.

Staff has recommended siting the dwelling within 50 feet of the unnamed road for fire break reasons, and the applicant has agreed with this siting criteria. This site would be more appropriate for limiting the size of the residential use on the lot, while avoiding habitat loss nearer the creek. Road development associated with this project will consist of widening an existing driveway that leads to the applicants house, to 20 feet wide along approximately 400 feet from Hwy. 47 to the proposed dwelling. Driveway construction to the residence will be minimal at 50 feet. There are wetlands associated with Beaver Creek, which is the southwest property line of the parcel, however the siting of the dwelling in the north and eastern portion of the parcel will minimize any impacts on wildlife habitat. The Oregon Department of Fish and Wildlife were notified and they did not have

any objections with the proposal.

Columbia County Zoning Ordinance continued:

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 17: Columbia County Zoning Ordinance, Section 503.9, PF-76 zone lists "A nonresource-related single-family residential structure" under "Conditional Uses."

Columbia County Zoning Ordinance Section 1503.5:

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

Finding 18: The criteria of the PF-76 zone have been shown to be met in Findings 2 through 15.

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 19: This site is located approximately 2 miles south of the City of Vernonia. The 2.5 acre subject property is irregular in shape. The site receives access via a 15' wide, gravel road on a 50' wide private easement. The topography of the property consists of an upper and lower area that are generally flat, with a steep slope in between. The homesite is on an elevated knoll with a steep slope that wraps around it on three sides. The homesite location appears to be on a 0 - 5% grade. The steep grade on the southwest side of the property slopes down to Beaver Creek, which is a fish bearing stream and the property line. Care should be taken not to disturb the vegetation and create an erosion problem above the creek. The 2.5 acre parcel does not contain any flood hazard areas according to the FEMA flood map. The stream channel for Beaver creek is considered a wetland area, however, the proposed development area will be greater than 50' away from the stream. The adjacent properties to the south, southwest, and west contain single family dwellings. There are 15 parcels and 5 houses within the 160 acre square template. The site is currently unimproved with no structures, roads or utilities. The applicant proposes a single family dwelling, septic system, and well. This site contains no outstanding natural features listed in the Columbia County Comprehensive Plan. The property is within the Vernonia Rural Fire District.

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 20: The transportation system that will be primarily used by this development is automobile transportation along a private gravel road to Nehalem Highway 47 South. According to the Columbia County Transportation System Plan, the functional classification of Highway 47 is Major Arterial. The un-named private consists of a 15' wide, gravel travel surface, on a 50' wide private easement. Staff recommends the applicant formally name the private road as well as submit a copy of a recorded road maintenance agreement specifying how the road will be maintained. The applicant also should install a stop sign and road name sign at the private road, Highway 47 intersection. Public facilities near the site include electric power and telephone service. Public services include police protection via the County Sheriff and fire protection from the Vernonia Rural Fire Protection District. The proposed development is timely considering transportation and public systems and services in the area.

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 21: The 2.5 acre parcel borders large high value forest property on the south and smaller forest zoned properties on the west, north, and east. See Table 1. Much of this site will be maintained in a natural state as a riparian buffer along Beaver Creek. Most of this site cannot be used for commercial forestry because it is within 100' of a fish bearing stream. The surrounding area is generally characterized by forest zoned property that is in resource use with some smaller forest zoned properties near the highway. The residence will not alter the character of the area, as it will be similar to adjacent properties that maintain a single family residential use on acreage parcels.

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;

Finding 22: The following comprehensive Plan forest goal and policy is applicable to this application.

Columbia County Comprehensive Plan

Part IV FOREST LANDS

OAL: To conserve forest lands for forest uses.

POLICIES: It shall be the policy of Columbia County to:

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 23: (A) Staff finds the subject property is generally unsuitable for forest use because a large portion of the site is within a riparian area above a class 1 stream and is not eligible for timber harvest and because the site is too small and does not produce enough timber fiber to be considered valuable forest property. See finding 10. (B) Staff finds the proposed use will not significantly impact forest uses on surrounding properties see finding 20. (C) Staff finds the proposed use will not increase the costs of forest management to surrounding properties. See finding 5. (D) Staff finds the site is limited in size to an area no larger than necessary to accommodate the proposed use. See finding 6. (E) The most notable negative impact to surrounding forest properties would be the threat of fire danger. The applicant has provided for fire safety measures with this proposed dwelling. See findings 7, 11, and 15. (F) The use is consistent with the above forest policies.

Columbia County Zoning Ordinance Section 1503.5:

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

Finding 24: The main hazard that is usually seen when siting a home in the forest zone is the threat of fire danger. The potential for fire danger on this parcel is moderate because the majority of the parcel consists of 14 year old reproduction Douglas Fir, with branches that are close to the ground. The applicant can reduce the threat of fire by clearing and maintaining the required fire breaks and by constructing adequate access for the Vernonia Rural Fire District. The applicant has submitted a site plan that includes fire breaks including a 30' primary safety zone and a 100' secondary fuel break. Staff recommends an alternate homesite location and fire break plan that shifts the home 30' to the east and includes IR-1 ignition resistant construction, a 30' primary fire break and a 20' secondary fuel break. This alternative plan will allow the homesite to be developed without negatively impacting the riparian vegetation on a steep slope directly above a fish bearing stream. Other potential hazards for homes in forest zones are traffic hazards, flood hazards, or environmental hazards. The proposed homesite will not be located in a floodplain. The applicant's proposed homesite location may negatively impact Beaver Creek which is a fish bearing stream

that also contains wetlands. The negative impact would come in the form of riparian vegetation removal for secondary fire breaks, which might cause erosion on a steep slope directly above the Beaver Creek. The alternative homesite and fire break plan proposed by staff would not require the removal of riparian vegetation and would not impact stream and wetland area. The visibility entering on to the private road and on to the highway are expected to be adequate and should not pose a traffic hazard.

Columbia County Zoning Ordinance Section 1503:

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

Finding 25: A Site Design Review may be required by the Commission.

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".

Dwelling in Forest Zones

OAR 660-06-027(1)

(1) Dwellings authorized by OAR 660-06-025(1)(d) are:

- (a) A dwelling may be allowed if:
- (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.

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 26: Using the Soil Survey of Columbia County it was determined that the average Douglas Fir production capability of the timber producing soils on this 2.5 acre property is 211.25 cubic feet, per acre, per year of commercial wood fiber. Approximately 1.25 acres of the property contained timber producing soils. This averages 169 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 template, centered on the subject property, was prepared. The template contained 15 discrete parcels and 5 dwellings sited prior to 1993 that were not located within an urban growth boundary.

Siting Standards for Dwellings and Structures in Forest Zones

OAR 660-06-029

The following criteria or their equivalent shall apply to all new dwellings and structures in forest and

agriculture/forest zones. These criteria are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. A governing body shall consider the criteria in this rule together with the requirements of OAR 660-06-035 to identify the building site:

- (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 criteria satisfying section (1) of this rule may include setbacks from adjoining properties, clustering near or among existing structures, siting close to existing roads and siting on that portion of the parcel least suited for growing trees.

Finding 27: The subject property is a 2.5 acre parcel that contains direct frontage onto an unnamed private road that consists of 15' wide, gravel road, on a 50' private easement, that connects to Nehalem Highway 47 South. The applicant will construct at least a 12' wide, gravel driveway, that will connect with the private road. The property is currently unimproved. The applicant proposes to site the residential area approximately in the center of the property on the upper portion of the site where it is flat. Staff recommends moving the homesite location 30' to the east, 50' from the east property line. This alternative location would minimize the impact to riparian vegetation above Beaver Creek caused by fire break clearing. The timber on this property was previously harvested and replanted approximately 14 years ago. Conflicts with forest operations are not expected. The owner will be required to sign a waiver of remonstrance against standard forest and farm practices. The applicant's proposed location would require the secondary fire breaks to leave the property and included most of the riparian area along Beaver Creek. The alternative location proposed by staff would require the dwelling to be built to IR-1 ignition resistant construction standards, a 30' primary fire break and a 20' secondary fuel break, for a total fire buffer of 50'. This would remove the fire breaks from the riparian vegetation area and minimize impacts to sensitive lands located on steep slopes above a fish bearing stream. If the alternative homesite location is approved by the Planning Commission, the applicant will be required to submit a new site plan and fire break plan indicating the approved location of the home and fire breaks.

Continuing with OAR 660-06-029:

- (3) The applicant shall provide evidence to the governing body that the domestic water supply is from a source authorized in accordance with the Water Resources Department's administrative rules for the appropriation of ground water or surface water

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

- (a) Verification from a water purveyor that the use described in the application will be served by the purveyor under the purveyor's rights to appropriate water; or
- (b) A water use permit issued by the Water Resources Department for the use described in the application; or
- (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 28: The applicant is proposing to drill a private well to provide domestic water to the proposed residence. Prior to receiving a building permit, the applicant will have to provide a well constructor's report indicating this parcel has domestic water available to the site.

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 29: Access to the subject property will be via a private road easement. The private road is a 15' wide, gravel road, on a 50' private easement. The applicant will need to formally name the private road and provide a road maintenance agreement indicating who is responsible for maintaining the road. The applicant also will be required to install a county approved road name sign and stop sign at the private road/Highway 47 intersection. Since this will only be the second dwelling using the private road at this time, the travel surface will be adequate for now. The third dwelling that proposes to use the road will be responsible to upgrade the road to minimum County private road standards, which include a 20' gravel travel surface. An Oregon Department of Transportation access permit will also be required to enter onto the Highway. Additionally, the private road will need to be constructed to county standards and inspected by the Vernonia Rural Fire Protection District.

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.
- (d) Upon notification by the assessor the Department of Forestry shall determine whether the tract meets minimum stocking requirements of the Forest Practices Act. If the department determines that the tract does not meet those requirements, the department shall notify the owner and the assessor that the land is not being managed as forest land. The assessor shall then remove the forest land designation...and impose the additional tax pursuant to ORS 321.372."
- (e) The County governing body or its designate shall require as a condition of approval of a single-family dwelling under ORS 215.213, 215.383, or 215.284 or otherwise in a farm or forest zone, that the landowner for the dwelling sign and record in the deed records for the county a document binding the landowner, and the landowners's successors in interest, prohibiting them from pursuing a claim for relief of 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 30: Much of this property is not eligible for timber harvest because it is within 100' of a fish bearing stream. The remainder of the site was previously logged and replanted approximately 14 years ago. The applicant is expected to convert approximately 1 acre of the property to non-forest use. A forestland assessment / timber stocking survey, will not be required for this property since it is less than 10 acres in size. The applicant will be required to record a waiver of remonstrance against standard farm and forest operations.

Fire Siting Standards for Dwellings and Structures

OAR 660-06-035

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 31: The fire break plan submitted by the applicant left the subject property and included the riparian vegetation area of Beaver Creek. Staff proposes an alternative fire safety plan using the Columbia county Fire Break Equivalents. Staff's alternative fire safety plan includes shifting the homesite location 30' east so that it is 50' from the east property line, constructing the dwelling to IR-1 Ignition Resistant construction standards, a 30' primary fire break and a 20' secondary fuel break. Fire safety plans will become conditions of approval so the applicant will be required to meet or exceed them as well as maintain them in the future. The property is within the Vernonia Rural Fire Protection District. The applicant's will be required to post the address to this property where the driveway intersects with the private road. Fire retardant roofing and spark arresters on chimneys will be required. The applicant's proposed homesite location is not on a 40% slope. The applicant's shall maintain a 30' primary fire break and a 20' secondary fire break for a total fire buffer of 50', as well as construct the dwelling to IR-1 construction standards. The applicant will be required to get Vernonia Rural Fire Protection District approval of the private road.

Fire Safety Design Standards for Roads

AR 660-06-040

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 32: The private road to the homesite will need to be constructed with an adequate rock base, to a 12% average grade, with an emergency vehicle turn around near the proposed dwelling, and a posted driveway address near the driveway entrance onto the private road. The private road must be approved by the Vernonia RFPD prior to issuance of any building permits.

COMMENTS:

1. The County Sanitarian has reviewed the application and has no objection to its approval as submitted.
2. The County Road Department has reviewed the application and has no objection to its approval as submitted and comments: "Will require an access permit and proof of easement across TL# 4418-000-01303."
3. The Vernonia Fire District has reviewed the application and has no objection to its approval as submitted.
4. The Oregon Department of Fish and Wildlife has reviewed the application and has no objection to its approval as submitted.
5. The Oregon Department of Transportation has reviewed the application and has no objection to its approval as submitted.
6. The Natural resources Conservation Service comments: "Our board must meet to consider this; we will return their comments to you by 3-22-02."

No other comments have been received from government agencies or nearby property owners as of the date of this staff report (June 7, 2002).

STAFF COMMENTS, CONCLUSION AND RECOMMENDATION:

After visiting this property staff finds the general homesite area is appropriate, however, recommends moving the exact dwelling location approximately 30' to the east as well as modifying the fire safety plan. Staff proposes an alternative location that is 50' from the east property line, instead of 80' from the east property line. (Note: the applicant has submitted a revised plot map showing a 50' setback) In addition, staff proposes a modified fire safety plan that is consistent with the Columbia County Fire Break Equivalents. The modified fire safety plan would include shifting the dwelling 30' east, constructing the dwelling to the IR-1 Ignition Resistant construction standards, clearing and maintaining a 30' primary fire break and a 20' secondary fuel break. Staff makes this recommendation because the fire break plan originally submitted by the applicant included a portion of a neighboring property and included the riparian vegetation area on a steep slope above Beaver Creek. The alternative homesite location and fire safety plan would eliminate the need to remove riparian vegetation on a steep slope, which may cause erosion directly above a fish bearing stream.

Based on the findings found in the above report (CU 02-34), the applicant's proposal satisfies the State and County rules for allowing a residence in the forest zone. Staff recommends **APPROVAL** of this request, with 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 owner shall sign a Waiver of Remonstrance regarding current and accepted forest and farm management practices on adjacent properties devoted to timber production prior to any building permits being issued.
3. Prior to receiving a building permit, the owner shall submit documentation from the Vernonia Rural Fire Protection District approving the private road to the proposed residence and stating it has been constructed to meet fire district standards.
4. Prior to receiving a building permit, the owner shall formally name the private road. This includes submitting a road name application and having it approved by the Columbia County Board of commissioners.
5. Prior to receiving a building permit, the owner shall provide evidence that a County approved stop sign and road name sign have been installed at the private road - Highway 47 intersection. A photograph or letter from the County Road Department are suitable evidence.
6. Prior to receiving the final building inspection and occupancy permit, the applicant shall provide evidence that the address of the residence has been clearly posted at the intersection of the driveway and the private road. A photograph or letter from the County Road Department are suitable evidence.
7. Prior to receiving a building permit, the owner shall provide a copy of the road

maintenance agreement indicating who is responsible for maintaining the private road.

8. Prior to receiving a building permit, the owner shall submit a Columbia County Road Department Access Permit,
9. Prior to receiving a building permit, the owner shall provide documentation from the County Road Department indicating the driveway has been constructed to meet County driveway standards or a bond stating the driveway will be constructed to standard.
10. A well constructor's report shall be submitted, verifying adequate domestic water, before a building permit may be issued.
11. The owner shall provide documentation that the county sanitarian has performed a septic lot evaluation and that the property is approved for a septic system, prior to issuance of any building permits.
12. Prior to receiving a building permit, the owner shall submit a revised site plan indicating the alternative homesite location that is 50' from the east property line.
13. Prior to receiving a building permit, the owner shall submit a revised fire safety plan indicating the dwelling will be constructed to IR-1 Ignition Resistant construction standards, a 30' primary fire break, and a 20' secondary fire break.

GH/Matt Laird/mos

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Attachments:

- Conditional Use Permit Application (Modified on July 5, 2002)
- Vicinity Map
- Zoning Map
- Address Map
- Template Map
- Applicant's Site Plan
- Applicant's Fire Break Plan
- Property Line Adjustment Survey
- Digital Orthophoto
- Digital USGS Quad Map

cc: Gayle Lee
File

ATTACHMENT 2
SUPPLEMENTAL FINDINGS

1. The purpose of the Primary Forest Zone (PF-76), as set forth in Section 501 of the Columbia County Comprehensive Plan (CCZO) is “to retain forest land for forest use and to encourage the management of forest land for the growing, harvesting, and processing of forest crops consistent with the Oregon Forest Practices Act. And to provide for other forest uses including watershed protection, soil protection, maintenance of clean air and water, wildlife and fisheries habitat, outdoor recreation activities, open space and scenic preservation, and agricultural activities free from the encroachment of conflicting non-forest uses and influences.” The Section also lists uses which conform with the policy, including 501.5 “Other dwellings under prescribed conditions.” The Board finds that the applicant is requesting a permit to site a dwelling under the prescribed conditions in the section and under section 1503 (conditional uses), as listed in Section 501.5. Therefore, the Board finds that this criteria is met.

2. CCZO section 504.1 requires that all conditional uses in the PF-76 zone shall be “consistent with forest and farm uses and with the intent and purposes set forth in the Oregon Forest Practices Act,” (the Act). In ORS 527.630, the Oregon Forest Practices Act declares that it is “the public policy of the State of Oregon to encourage economically efficient forest practices that ensure the continuous growing and harvesting of forest tree species and the maintenance of forestland for such purposes as the leading use on privately owned land....” ORS 527.730 also states that “nothing in the Oregon Forest Practices Act shall prevent the conversion of forestland to any other use.” The Board of County Commissioners finds that there is substantial evidence in the record that the 2.5 acre parcel which is the subject of the application is not generally suited for timber production because of its site, soil, and proximity to a fish bearing stream. The Board finds that administrative rules prohibit logging within 100' feet of a fish bearing stream, such as Beaver Creek. The remainder of the site that can be logged was logged and replanted approximately 14 years ago. No timber stocking survey for forest resource management plan will be required because the parcel is not high value timberland. The Board finds that this application is consistent with the purpose of the Act, because efficient forest practices wont allow logging within 100 feet of the stream, which significantly reduces the productivity of the parcel. Nevertheless, forestry will remain the leading use of the parcel, the 1 acre site, leaving over an acre left for forestry.

3. CCZO Section 504.3 requires that the proposed use “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.” The Board finds the applicant intends to take 1 acre out of forest production to build a homesite, and that the one acre is necessary to accommodate the residential use of the property. Because of the firebreak standards for residential dwellings and their accessory buildings, it would be difficult to build a residence and accessory

buildings on less than one acre of land.

The Board also finds that the proposed residential use 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. There is substantial evidence in the record that the surrounding properties to the north, east, south and west are zoned PF-76 and one adjacent property to the southwest is zoned FA-19. (See Table 1, page 6 of the staff report). These are mainly large resource parcels, and there are some rural homesites along Highway 47, as shown on the rural address map. The Board finds that the addition of one dwelling will not change the land use pattern of the area, which is currently in forest production with existing rural residential sites. Opponents of the application argued that the stability of the land use pattern of the area will be impaired without the imposition of deed restrictions on contiguous parcels in the area. However, the Board finds that the criteria only allows the Board to look at the affect of the proposed residence on the subject parcels, and not to whether future applications on contiguous parcels will be filed. The Board finds that for the application at hand, the proposed residence will not materially alter the stability of the land use pattern because it proposes two of the most common uses in the area, forestry and residential uses. There is no proposed change in the land use pattern, and therefore the stability of the pattern will remain in balance.

Furthermore, the Board finds that the addition of one dwelling will not substantially limit or impair the permitted uses of surrounding properties . Permitted uses on PF-76 zoned land include commercial forest management, fish and wildlife management, processing facilities, test sites, structures and facilities necessary for and accessory to such management, wood, nurseries rock quarries, helipad and bedding areas, farm uses, and existing parks. Permitted uses in the FA-19 zone include commercial activities in conjunction with a farm use, mining operations, schools, churches, community centers, parks and recreational areas, public utility facilities, airplane landing strips, home occupations, forest product processing facilities horse breeding, boarding and training facilities, solid waste disposal sites, single family dwellings, and signs. The Board finds that impacts from the proposed single family dwelling on such uses may include additional traffic, fire danger and conflicts with fish and wildlife management. However, the Board finds that such conflicts can be minimized in this case. The traffic impacts from additional vehicles on Highway 47 will be minimal. The applicant will be required to build a safe access point to a private road on the applicant's property according to the County road standards. Therefore, no hazards will be created, and any additional traffic impact will be mitigated. Furthermore, the increased fire danger will be mitigated because the applicant will be required to follow state fire siting standards. Finally, the impact on fish and wildlife management will be mitigated by moving the dwelling site closer to the road and away from the stream. This movement will reduce the risk of negative effects in the riparian area of Beaver Creek, and will allow for clustering of the buildings near the road which will mitigate impact on big game habitat in the area.

4. CCZO Section 504.4 requires that "the use does not constitute an unnecessary fire hazard,

and provides for fire safety measure in planning, design, construction, and operation. The Board finds that the applicant has submitted two fire break maps. The first such map was based on the dwelling proposed to be located on the upper portion of the property which would put much of the secondary fire break within a riparian vegetation area and on a steep slope, and would place a portion of the secondary fire break on an adjacent parcel on the other side of the creek. However, upon recommendation of the County, the applicant's second fire break map shows that they have moved the proposed homesite location east, 50 feet from the private road and that they will construct the dwelling to ignition resistant (IR-1) standards. Constructing the dwelling to IR-1 standards will allow the fire buffers to be reduced to a 30 foot primary buffer, with a 20 foot secondary fuel buffer. Reducing the fire buffers and moving the home to the east will allow the riparian vegetation on the steep slope above Beaver Creek to remain undisturbed. The Board finds that as long as the applicant clears and maintains the fire buffers and builds the home to the IR-1 ignition resistant construction standards, 50' feet from the private road, the proposed homesite will not create a fire hazard.

5. CCZO Section 504.6 requires that "development within major and peripheral big game ranges shall be sited to minimize the impact on big game habitat. To minimize the impact, structures shall: be located near existing roads; be as close as possible to existing structures on adjoining lots; and be clustered where several structures are proposed." The Board of County Commissioners finds that under CCZO Section 1190, the proposed residence is in major big game habitat. The Board further finds that the dwelling is proposed to be sited to minimize the impact on big game habitat. The dwelling and accessory structures are located 50' from the private road on the property, and the dwelling and accessory structures will be clustered together within the 1 acre homesite. Furthermore, the applicant has proposed to continue the pattern of clustering by siting the proposed dwelling close to dwellings clustered along Highway 47. This pattern of clustering will minimize any impact to big game habitat and require minimal new road development. (See Supplemental Finding 8, below).
6. CCZO Section 505.1 requires that "nonresource-related structures provided by Section 503.9 shall be placed only on land that is generally unsuitable for commercial forestry or agriculture taking into consideration the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of tract." The Board of County Commissioners finds that the proposed dwelling site is generally unsuitable for commercial forestry. There is substantial evidence in the record that the parcel is composed of riparian vegetation above a class 1 stream which will not be eligible for harvesting under the Oregon Forest Practices Act, OAR 629-635-0130(1)(a). Therefore, it is impossible for a substantial portion of the 2.5 acre parcel to be commercially forested. In addition, due to the parcel size, the property is not considered to be high value timber land. The timber production capability for this site is estimated at 211.25cu.ft/year for the entire parcel, including the riparian set back. The County considers 5,000 cu.ft/tract/year to be the minimum production for high value timberland/commercial forest. This is the same test as found in OAR 660-06-027(1)(c)(A).

7. CCZO Section 510 sets forth fire siting standards for dwellings and roads. The section states that three fire siting standards or their equivalent shall apply to all new dwellings in the PF-76 zone, as follows:

- .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 firefighting 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 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.

The Board of County Commissioners finds that the proposed homesite location is consistent with the above fire safety standards. The proposed fire break plan includes a 30' primary fire break and a 20' secondary fire buffer, and construction to IR-1 Ignition Resistant construction standards, in accordance with the provisions in "Protecting Your Home from Wildfire". The applicant will also be required to provide adequate access for fire fighting equipment, to post their address at the intersection of their driveway and the private road, and to have the homesite inspected by the Vernonia Rural Fire district for compliance with their access standards. There is a stream running along the edge of the property. However, it is not suitable for use for fire protection because the slopes down to the stream are very steep, too steep for fire equipment access. Therefore, no road access to the creek shall be required.

8. 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 PF-76 zone. Section 1191 specifies that "the major habitat designation is applied to all land in the primary forest zone." This language clarifies and acts to interpret Comprehensive Plan Map 44 which is very unclear and unable to identify precisely the exact habitat designation for each parcel. Applicant raised the question as to which habitat standard applies to the application, stating that the Comprehensive Plan Map 44 controls regardless of the language in the comprehensive plan or zoning ordinance. 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 where peripheral big game and major big game habitat is found (there was no need to adopt a similar standard for impacted areas because such a standard was already included in the comprehensive plan, as quoted above). 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." The Board finds that these standards are consistent with the language and intent of the Comprehensive Plan.

The Board finds that the parcel must meet the development standards for Major 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:
 - A. Major habitat- 1 dwelling unit per 38 acres with clustering.
 - B. Peripheral habitat- 1 dwelling unit per 19 acres with clustering.

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

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

If clustering is not feasible, then the ODFW recommended density standard per section shall be applied).

- C. Columbia white-tailed deer habitat- 1 dwelling unit per 38 acres with clustering.
- .2 Non-forest and non-farm dwellings shall be limited to individual lots or parcels where it can be shown that:
 - A. The proposed dwelling shall be located to avoid habitat conflicts and utilize least valuable habitat areas;
 - B. The site shall be limited in size to that area suitable and appropriate for residential use.

- C. Road development shall be the minimum necessary to support residential use.
- D. Dwelling densities shall not exceed the maximum standards defined in Section 1193.1

The Board of County Commissioners finds that the applicant has met these major big game habitat criteria. There is substantial evidence in the record that there are currently 10 dwellings in township 4 north, range 4 west, section 18 according to the County's rural address map. Dwellings are added to the map as building permits are granted. The addresses which are typed 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. 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 10 dwellings in the section.

Based on the existing 10 dwellings in the section, there is currently 1 dwelling for every 64 acres. (640 acres/10 dwellings). With the addition of the proposed dwelling, there would be one dwelling per 58.18 acres. (640 acres/11 dwellings). This ratio exceeds the minimum density standard of 1 dwelling per 38 acres as well as the peripheral minimum density standard of 1 dwelling per 19 acres. In addition, as set forth in supplemental finding 5, the applicant proposes to cluster by locating the dwellings and structures near each other within the 1 acre site, and near the existing private road, and by the existing dwellings on adjacent property. By locating the dwelling by the road and other houses, the Board finds that it will be sited to avoid habitat conflicts and on the least valuable habitat area on the parcel. The Applicant does not propose any new road development. In addition, the Board finds that there is substantial evidence in the record that the site will be limited in size to that area suitable and appropriate for residential use (see Supplemental Finding 3). The Board further finds that Riparian and Wetland areas shall be protected in accordance with Section 1170 and 1180 where applicable, and the applicant shall be required to take responsibility for protecting property from wildlife damage.

- 9. CCZO Section 1503.5 requires that "the characteristics of the site are suitable for the proposed use considering size, shape, location, topography, existence of improvements, and natural features." The Board finds that the proposed site is located approximately 2 miles south of the City of Vernonia. The 2.5 acre property is irregular in shape and is bordered by Beaver Creek, a Class 1 fish bearing stream. The site has access via a 15 foot gravel road on a 50 foot private easement. The topography of the property consists of an upper and lower area that are generally flat, with a steep slope in between. The proposed homesite is on an elevated knoll with a steep slope that wraps around it on three sides. The grade is 1-5%. The steep grade on the southwest side of the property slopes down to Beaver Creek, which is a fish bearing stream and the property line. The 2.5 acre parcel does not contain any flood hazard areas according to the FEMA flood map, however, the stream channel for Beaver Creek is considered a wetland area. The proposed development is greater than 50'

from the steam. The site is currently unimproved with no structures, road or utilities. The site contains no outstanding natural features listed in the Columbia County Comprehensive Plan. The Board finds that considering the size, shape, location, topography, existence of improvements, and natural features of the parcel, that the site is suitable for a dwelling. There are no indications that a dwelling would not be suitable.

10. CCZO Section 1503.5 requires that “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.” The Board finds that 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. (See Supplemental Finding 3).

11. CCZO Section 1503.5 requires that “the proposal satisfies the goals and policies of the Comprehensive Plan which apply to the proposed use.” The Board of County Commissioners finds that two sections of the Comprehensive Plan apply to the proposal to build a dwelling in the primary forest zone. First, the Columbia County Comprehensive Plan Section on Forest Lands states that it is a goal of the County to “conserve forest lands for forest uses.” The Comprehensive Plan then sets forth several policies intended to meet that goal. Policy 1 states that it is a policy of the County to “conserve forest lands for forest uses,” including the production and processing of forest products, open space buffers from noise, visual separation from conflicting uses, watershed protection, wildlife and fisheries habitat, soils protection from wind and water, compatible recreational activities and grazing land for livestock. The Board of County Commissioners does not read Policy 1 as prohibiting the siting of residences in the primary forest zone. If the Board were to read policy 1 to have such an effect, then Policy 7 which allows residential siting would be of no effect. The two policies must be read together to give effect to both. The Board reads Policy 1 as a list of forest uses which are favored in the forest zone. Policy 7, then sets forth criteria under which the County will allow residences to be sited, residences being one of the “non-favored” uses allowed in the forest zone.

Policy 7 states that it is a policy of the County to “Limit non-forest dwellings to individual lots or parcels where it can be shown that:

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

Comprehensive Plan.”

The Board of County Commissioners finds that the proposal to place a single family dwelling satisfies the forest goals and policies, 7(A)-(F). Policies 7(A)-(E) are implemented through the County’s zoning ordinance. Supplemental Finding # 3, above, finds that the proposed residential use will not significantly impact forest uses on adjacent or nearby forest lands. Therefore, Policy 7(B) is satisfied. Finding #5 also makes a finding that the proposed residential use will not significantly increase the cost, nor interfere with accepted forest management practices on adjacent or nearby forest or farm land, satisfying Policy 7(C). Supplemental Finding #3, above, makes a finding that the proposed dwellings will be limited in size to an area no larger than is necessary to accommodate the residential use, which satisfies Policy 7(D). Supplemental Findings #3 and #4, above, find that the proposed residential use, after mitigation, does not constitute unnecessary fire hazards and that other potential hazards are capable of mitigation. Therefore, Policy 7(E) is satisfied.

Supplemental Finding # 6, above, makes a finding that the proposed dwellings are proposed to be placed on land that is generally unsuitable for commercial forestry. The language in Policy 7(A) restricts dwellings to land unsuitable for general “forest uses.” The Board of County Commissioners finds that § 505(1) of the Columbia County Zoning Ordinance implements policy 7(A) of the County Comprehensive Plan. By adopting the language in § 505(1), the Board has interpreted the Policy to mean that dwellings on forest land should be limited to forest land which is generally unsuitable for commercial forest uses. The Board finds that primary forest designated property will always be generally suited for forest uses. That fact has led to its designation as primary forest land. Therefore, if Policy 7A were interpreted to prohibit residences where land is suited for forest uses, no residences would be permitted in the primary forest zone. That result does not make sense given that dwellings are permitted as conditional uses in the primary forest zone under the Columbia County Comprehensive Plan and Zoning Ordinance, as well as under the Oregon Forest Practices Act. The Board finds that Supplemental Finding #6, above, adequately addresses and finds that Policy 7(A) has been satisfied.

Finally, the Board of County Commissioners finds that the proposed residential use is consistent with the other forest policies contained in the comprehensive plan. The Board finds that the proposal generally conserves forest lands for forest uses by keeping most of the parcel in active forest production. At most 1 acre the parcel will be taken out of forest production. The proposal shows that the applicant has clustered the proposed structure as close to the existing roads and neighboring structures as possible. The Board finds that the applicant’s efforts to keep the impacts of residential uses restricted to these relatively small areas satisfies the policy of conserving forest lands for forest uses while still allowing for residential uses allowed under the County’s Comprehensive Plan, Zoning Ordinance and Oregon law. The Board notes that even though timber may not be logged within the riparian area along Beaver Creek, such land is still available for forest uses, such as fish and wildlife management, consistent with the Comprehensive Plan.

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

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

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

...

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

- 1) The dwelling shall be located to avoid habitat conflicts and utilize least valuable habitat areas;
- 2) The site shall be limited in size to that area suitable and appropriate for residential use; and
- 3) Road development shall be the minimum necessary to support residential use.

The Board of County Commissioners finds that CCZO Section 1190 et sec. implement Policy 12. The Policy does not require that the Map 44 be used as the sole basis to determine whether a parcel is in major or peripheral big game habitat. The County has adopted provisions to ensure that future development does not unduly conflict with major and peripheral big game range, by limiting development in major and peripheral habitat areas to the densities recommended by the ODFW at the time of adoption, with clustering, i.e. 1 unit per 38 acres in major big game habitat, and 1 unit per 19 acres in peripheral big game habitat, as implemented by Section 1190. Therefore, the Board must determine whether the applicant has met her burden with regard to conflicts between the residential uses and big game habitat as required in the Comprehensive Plan and its implementing overlay zone. To minimize conflicts with the major big game range, the Board must limit development to the density recommended by the Oregon Department of Fish and Wildlife, as adopted in the County’s Comprehensive Plan and Zoning Ordinance. Furthermore, the dwelling must be found to be clustered. The Board finds that there is substantial evidence in the record that the applicant sufficiently clustered the dwelling and otherwise meets the major big game habitat density standard. (See Supplemental Finding # 8, above).

12. CCZO Section 1503.5(G) requires that “the proposal will not create any hazardous conditions.” The Board finds that there is substantial evidence in the record that the proposal

will not create any hazardous conditions. The main hazard associated with siting a dwelling in the forest zone is the threat of fire. The Board finds that the potential for fire danger is substantially mitigated because the majority of the parcel consists of 14 year old reproduction Douglas Fir, with branches that are close to the ground. The applicant will also be required to build the dwelling to IR-1 standards, to build and maintain fire breaks, and to satisfy the Vernonia Rural Fire District standards for the driveway turnaround and otherwise. Other hazards associated with dwellings on forest land include negative impact on big game habitat, and fish and wildlife habitat. The Board finds that the applicant will cluster the dwelling and accessory buildings close to the road and to other buildings so as to mitigate the impact on big game habitat. The applicant meets ODFW's recommended density standards for big game, as adopted in CCZO Section 1190 et. seq., and therefore, the additional dwelling should not pose a hazard to big game. Finally, there might have been a negative impact on fish habitat under the applicant's first site proposal which put the house substantially closer to Beaver Creek. The applicant's fire break area would have required the applicant to remove riparian vegetation. However, under the current proposed site plan, the house will be closer to the road, and the fire break setbacks will not effect the riparian vegetation. Therefore, there should not be any negative impact to Beaver Creek or to associated fish and wildlife habitat.

13. Opponents of the application raised the question as to whether the subject parcel is part of tract with Tax Lot 1303, and whether, therefore, it is legal to site a dwelling on the parcel under the template test. The Board finds that there is substantial evidence in the record that the subject parcel (TL 1306) is owned solely by Gayle Lee. A warranty deed (Attachment B to the application) transferred the property from Gayle and Jim Lee to Gayle Lee, individually, on January 17, 2002. The Board finds that there is also substantial evidence in the record that Jim Lee owns Tax Lot 1303, individually. A warranty deed (Attachment K to the application) transferred the property from Gayle and Jim Lee to Jim Lee, individually, on January 17, 2002. The Board further finds that the two parcels described as Tax lots 1306 and 1303 do not make up a track for purposes of the template test, as they are under separate ownership. Therefore, the Board finds that ORS 215.730(4)(c), does not require deed restrictions under ORS 215.740(3), to be placed on Tax Lot 1303.

Opponents also suggested that even if the two parcels are not part of a common tract, the Board has the discretion to impose "reasonable conditions" to approval of a conditional use permit which may include requiring deed restrictions on tax lots 1303, 1304, and 1305, based on the fact that at some point in the future, those parcels may be developed which may impact the character of the area under CCZO 504.3 and 1503.5(e). The Board finds that such a condition would not be reasonable. The Board made a finding that the addition of this one dwelling meets the criteria in 504.3 and 1503.5(e). When additional dwellings are requested, the Board make findings about these criteria as applicable to each application. However, it is not appropriate to guess what may happen in the future and impose conditions based on that guesswork.