



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street NE, Suite 150

Salem, Oregon 97301-2524

Phone: (503) 373-0050

First Floor/Costal Fax: (503) 378-6033

Second Floor/Director's Office: (503) 378-5518

Web Address: <http://www.oregon.gov/LCD>

NOTICE OF ADOPTED AMENDMENT

September 15, 2006

TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Clackamas County Plan Amendment
DLCD File Number 005-06



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: October 2, 2006

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Mike McCallister, Clackamas County

<paa> ya



SEP 11 2006

D L C D NOTICE OF ADOPTION

This form **must be mailed** to DLCD **within 5 working days after the final decision** AND CONSERVATION AND DEVELOPMENT
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

Jurisdiction: Clackamas County Local File No.: 20866-05-CP
(If no number, use none)

Date of Adoption: Aug. 3, 2006 Date Mailed: 9-7-06
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: 2-21-06

Comprehensive Plan Text Amendment Comprehensive Plan Map Amendment

Land Use Regulation Amendment Zoning Map Amendment

New Land Use Regulation Other: _____

(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write see Attached.≡

POST ACKNOWLEDGEMENT PLAN AMENDMENT TO REMOVE
A PORTION OF A "SMALL STREAM" IDENTIFIED ON THE RIVER &
STREAM CONSERVATION AREA MAPS FROM THE GOAL 5 INVENTORY
IN THE COMPREHENSIVE PLAN

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write same.≡ If you did not give notice for the proposed amendment, write AN/A.≡

ADOPTED AMENDMENT IS THE SAME AS PROPOSED, EXCEPT
A SMALLER SECTION OF THE STREAM WAS REMOVED.

Plan Map Changed from: N/A to N/A

Zone Map Changed from: N/A to N/A

Location: Advance Rd/ Header Rd. Wilsonville Acres Involved: 87 acres

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 1, 2, 5

Was an Exception Adopted? Yes: No:

DLCD File No.: 005-06 (15028)

Did the Department of Land Conservation and Development **receive** a notice of Proposed Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing**? Yes: ___ No: ___

If no, do the Statewide Planning Goals apply. Yes: ___ No: ___

If no, did The Emergency Circumstances Require immediate adoption. Yes: ___ No: ___

Affected State or Federal Agencies, Local Governments or Special Districts: Div. of State Lands, Corp of Engineers, Oregon Dept. of Forestry | Oregon Fish & Wildlife

Local Contact: Melie McCallister Area Code + Phone Number: 503 353 4522

Address: 9101 SE Sunnybrook Blvd. City: Clackamas

Zip Code+4: 97015 Email Address: mlcem@co.clackamas.or.us

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**

per ORS 197.610, OAR Chapter 660 - Division 18.

1. **Send this Form and TWO (2) Copies of the Adopted Amendment to:**

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. **Please Note:** Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the ANotice of Adoption is sent to DLCD.
6. In addition to sending the ANotice of Adoption to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Mara.Ulloa@state.or.us - **ATTENTION: PLAN AMENDMENT SPECIALIST.**

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Comprehensive
Plan Amendment for Sean Keys

File No.: Z0866-05-CP

ORDER NO. 2006-351
(Page 1 of 2)

This matter coming regularly before the Board of County Commissioners, and it appearing that Sean Keys made application for a Comprehensive Plan map amendment on property described as T3S, R1E, Section 8, Tax Lots 100 and 101, W.M., located on the south side of Homesteader Road, approximately ¾ miles east of its intersection with 45th Drive; and

It further appearing that planning staff, by its report dated April 3, 2006, recommended approval of the application; and

It further appearing that the Planning Commission, at its April 10 meeting, recommended denial of the application; and

It further appearing that after appropriate notice a public hearing was held before the Board of County Commissioners on May 17, 2006, at which testimony and evidence were presented, and that a preliminary decision was made by the Board on May 17, 2006;

Based upon the evidence and testimony presented, this Board makes the following findings and conclusions:

1. The applicant requests approval of a Comprehensive Plan amendment to remove from the Goal 5 inventory, as shown on the River and Stream Conservation Area Map, a "small stream" running the length of the property which has been designated as a significant site.
2. This request complies with the applicable provisions of the Statewide Planning Goals, the Clackamas County Comprehensive Plan and OAR Chapter 660 Division 23, for the reasons stated in the Planning Staff Report/Recommendation, which is hereby adopted as the findings and conclusions of this Board.
3. Because of some possibility that the lower portion of the stream may be fish-bearing, this Board is removing a smaller section of the stream than recommended by planning staff.

NOW, THEREFORE, IT IS HEREBY ORDERED that the applicable River and Stream Conservation Area Map be amended to remove the designation of the portion of

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF CLACKAMAS COUNTY, STATE OF OREGON**

In the Matter of a Comprehensive
Plan Amendment for Sean Keys



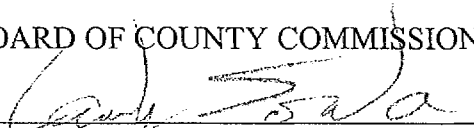
ORDER NO. 2006-351
(Page 2 of 2)

File No.: Z0866-05-CP

the waterway from the north property line down to and including a 36" culvert
approximately 1000 feet north of the south property line.

DATED this 3rd day of August, 2006.

BOARD OF COUNTY COMMISSIONERS



Bill Kennemer, Chair



Mary Raethke, Recording Secretary



Campbell M. Gilmour
Director

DEPARTMENT OF TRANSPORTATION AND DEVELOPMENT

SUNNYBROOK SERVICE CENTER
9101 SE SUNNYBROOK BLVD. | CLACKAMAS, OR 97015

NAME: Sean Keys
FILE NO: Z0866-05-CP
REPORT AUTHOR: Mike McCallister
HEARING DATE: April 10, 2006 (PC), May 17, 2006 (BCC)
REPORT DATE: April 3, 2006

**PLANNING STAFF REPORT/RECOMMENDATION
TO THE PLANNING COMMISSION**

FACTS

GENERAL INFORMATION

Applicant: Sean Keys; 17200 NW Corridor Street; Suite 105; Beaverton, OR 97006

Owner: Same

Proposal: Post Acknowledgement Plan Amendment (Comprehensive Plan Map Amendment) to remove a portion of a "Small Stream" identified on the River and Stream Conservation Areas maps from the Goal 5 Inventory in the Comprehensive Plan.

Location: South side of Homesteader Road, approximately ¾ miles east of its intersection with 45th Drive.

Legal Description: T3S, R1E, Section 8, Tax Lots 100 and 101; W.M

Comprehensive Plan Designation: Agriculture

Zone: EFU

Total Area Involved: Approximately 87 acres

RECOMMENDATION: Approval of the Comprehensive Plan Map Amendment to remove a portion of the unnamed tributary crossing the subject property from the Clackamas County Goal 5 inventory. Specifically, the portion of the tributary from a culvert on the south side of Homesteader Road to a location 250' north of the south property line (200' south of the junction of the two unnamed tributaries) shall be removed from the River and Stream Conservation Area Map.

SITE AND AREA DESCRIPTION AND SERVICE PROVIDERS

Site Description: The subject property consists of two tax lots which total approximately 87 acres. The property has recently been cleared. Most of the site is bare dirt or in pasture grass. There is one old dwelling and accessory building on the property. The property consists of gently rolling topography sloping to the south. The designated "Small Stream" runs north to south near the center of tax lot 101. The stream is located directly adjacent to and along side the driveway from Homesteader Road to the dwelling. The stream flows through a culvert under Homesteader Road onto the subject property. South of the dwelling there are scattered deciduous and coniferous trees along the stream corridor. See Exhibits 1 and 2.

Surrounding Conditions: All the adjacent and nearby lands to the north, east and west are zoned Exclusive Farm Use (EFU). The area consists of parcels ranging from 5 to 70 acres which are used for a variety of farm uses. Most of the parcels are developed with a single family dwelling. The adjacent and nearby lands to the north are zoned RRFF-5. This area consists of parcels ranging from 1 to 6 acres which are primarily developed with rural residential home sites.

Service Providers:

1. Sewer: The subject property is not located within a public or private sewer district. Sewage disposal is accommodated by an on-site sewage disposal system.
2. Water: Well.
3. Surface Water: The subject property is not located within a public or private surface water district. Surface water is regulated pursuant to Section 1008 of the ZDO.
4. Fire Protection: Tualatin Valley Fire and Rescue

Responses Requested:

1. West Linn School District
2. Tualatin Valley Fire District
3. Far West CPO
4. DTD, Traffic Engineering
5. Water Environment Services, Soils Division
6. DTD, Community Environment
7. Division of State Lands
8. Corps of Engineers
9. Dept. of Land Conservation and Development
10. Oregon Dept. of Forestry
11. Oregon Dept. of Fish and Wildlife
12. Property Owners within 750'

CPO Recommendation: The subject property is located within the Far West Citizen Planning Organization (CPO). The CPO has not submitted any comments or a recommendation on this proposal.

Exhibits: See Exhibit List following the last page of this report. Exhibits submitted by the applicant are labeled numerically. Planning Staff exhibits are labeled alphabetically.

FINDINGS AND CONCLUSIONS

Section 1. Comprehensive Plan Map Amendment. This application is subject to and must be consistent with the Statewide Planning Goals, Metro Functional Plan, County Comprehensive Plan (CP) policies and Oregon Administrative Rules (OARs).

Part 1 – Compliance with Statewide Planning Goals.....	Page 3
Part 2 – Compliance with Metro Functional Plan.....	Page 9
Part 3 – Compliance with County Comprehensive Plan Policies.....	Page 9
Part 4 – Compliance with Oregon Administrative Rule 660, Division 23.....	Page 17
Part 5 – Summary of Findings for the Comprehensive Plan Map Amendment ...	Page 19

PART 1. COMPLIANCE WITH STATEWIDE PLANNING GOALS:

A. Goal 1: Citizen Involvement: *To develop a citizen involvement program that ensures the opportunity for citizens to be involved in all phases of the planning process.*

The Planning Staff adopts the findings in the submitted application addressing this Goal in addition to the findings provided below.

This is a quasi-judicial land use application. The Clackamas County Comprehensive Plan and Section 1300 of the Zoning and Development Ordinance (ZDO) contain adopted and acknowledged procedures for citizen involvement and public notification. This application has been processed consistent with the notification requirements in Section 1300 including notice to individual adjacent and surrounding property owners within 750 feet of the subject property, notice in the local newspapers, and notice to affected agencies, dual interest parties and to the Community Planning Organization in the area. One or more advertised public hearings will also be conducted before the Clackamas County Planning Commission and Board of County Commissioners, which provides an opportunity for additional citizen involvement and input.

The proposal is consistent with Goal 1.

B. Goal 2; Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

Goal 2 requires coordination with affected governments and agencies. Notice of this application has been provided to the following agencies and governments for comments; West Linn School District, Tualatin Valley Fire District, Division of State Lands, Army

Corps of Engineers, Department of Land Conservation and Development (DLCD), Oregon Department of Forestry and Oregon Department of Fish and Wildlife.

The subject property is not located within any Urban Growth Management Area (UGMA) of nearby cities. This proposal will not affect the Comprehensive Plan of any nearby cities.

Goal 2 requires that all land use actions be consistent with the acknowledged Comprehensive Plan. This application has been evaluated against all the applicable goals and policies of the Clackamas County Comprehensive Plan. The background information and findings provided by the applicant and within this report, and comments received from agencies and interested parties provide an adequate factual base for rendering an appropriate decision consistent with the adopted County Comprehensive Plan.

This proposal is consistent with Goal 2.

C. Goal 3; Agricultural Land: *To preserve and maintain agricultural lands.*

The Planning Staff adopts the findings in the submitted application addressing this Goal in addition to the findings provided below.

The subject property is designated Agriculture on the County Comprehensive Plan map and is zoned Exclusive Farm Use. This proposal only includes removal of a protected stream from the County's Goal 5 Inventory. No change in the Agricultural plan designation or zoning district is proposed. No changes to the text of the Comprehensive Plan or zoning ordinance are proposed in this application.

Goal 3 is not applicable.

D. Goal 4; Forest Land: *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

This proposal does not include any land planned or zoned for Forest uses.

Goal 4 is not applicable.

E. Goal 5; Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

Goal 5 resources include open space areas, scenic and historic resources and other natural features. Chapter 3 of the Clackamas County Comprehensive Plan identifies significant Goal 5 resources within the County.

No outstanding scenic views/sites, wilderness areas, historic sites or structures, cultural areas, potential or approved Oregon recreation trails identified in the Comprehensive Plan are located on the subject property.

The stream, which is the subject of this application is identified on the River and Stream Conservation Area Map and is considered a “Significant” Goal 5 resource. See Exhibit 4. This stream is also identified as a wetland on the National Wetland Inventory maps. OAR 660-023 implements Statewide Planning Goal 5 and outlines the process for determining and protecting a Goal 5 resource. OAR 660-023-0090 outlines the requirements for evaluating “Riparian Corridors.” The submitted application and Part 4 of this report includes an analysis and evaluation of the significance of this stream under OAR 660-023-0090. This analysis includes substantial evidence demonstrating that a portion of the stream on the property is not a significant resource and does not warrant protection under Goal 5. Those findings are adopted to address this Goal.

This application is consistent with Goal 5.

F. Goal 6; Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

The County Comprehensive Plan and ZDO contain adopted implementing regulations to protect the air, water and land resources. The County also has adopted public facilities and service plans to accommodate all waste and process discharges in order to protect watersheds, airsheds and land resources. Section 1008 of the ZDO also includes regulations for storm drainage and erosion control in the rural areas of the County. These regulations will be applied to any future development proposals (grading, etc.) on the property and will protect the affected air, water and land resources. The proposed Comprehensive Plan map amendment will not affect the quality of any air, water or land resources.

Goal 6 is not applicable.

G. Goal 7; Areas Subject to Natural Disasters and Hazards: *To protect life and property from natural disasters.*

According to the FEMA Floodplain Maps, the subject property is not located within a designated floodplain. According to the Department of Geology and Mineral Industries (DOGAMI) map, there are no geologic hazards or significant slopes located on the subject property.

Goal 7 is not applicable.

H. Goal 8; Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate to provide for the siting of necessary recreational facilities including destination resorts.*

This proposal does not involve any designated recreational or open space lands, or affect access to any significant recreational uses in the area. This project will have no impact on the recreational needs of the County or State.

Goal 8 is not applicable.

I. Goal 9; Economic Development: *"To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare and prosperity of Oregon's citizens."*

This Goal is intended to ensure Comprehensive Plans contribute to a stable and healthy economy in all regions of the state. Goal 9 also requires the County to provide for an adequate supply of sites of suitable sizes, types, locations, and services for a variety of industrial and commercial uses consistent with plan policies. This proposal does not include any commercial, industrial or other type of employment land regulated under Goal 9.

Goal 9 is not applicable.

J. Goal 10; Housing: *"To provide for the housing needs of citizens of the state."*

This goal requires local jurisdictions to provide for an adequate number of needed housing units and to encourage the efficient use of buildable land within urban growth boundaries. OAR 660-007 and 660-008 defines the standards for determining compliance with Goal 10. OAR 660-008 addresses the general housing standards. OAR 660-007 addresses the housing standards inside the Portland Metropolitan Urban Growth Boundary. OAR 660-007 takes precedence over any conflicts between the two rules.

This proposal does not involve a request to amend the Comprehensive Plan map to or from a Residential plan designation, and therefore will have no affect on the County's inventory of land for housing needs.

Goal 10 is not applicable.

K. Goal 11; Public Facilities and Services: *"To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development."*

This Goal provides guidelines for cities and counties in planning for the timely, orderly and efficient arrangement of public facilities and services, such as sewer, water, solid waste and storm drainage. The Goal requires these public facilities and services to be provided at levels necessary and suitable for urban and rural uses, as appropriate. The subject property is located outside of an urban growth boundary and is considered "Rural" land. The area is not located within or serviced by any public or private water, sewer or storm drainage service district. No change in the Comprehensive Plan designation or zoning district is proposed in this application. No extension of public

sewer, water or storm drainage facilities is proposed in this application.

This application is consistent with Goal 11.

L. Goal 12; Transportation; *“To provide and encourage a safe, convenient and economic transportation system.”*

Oregon Administrative Rule (OAR) 660-012 (Transportation Planning Rule) implements Statewide Planning Goal 12.

OAR 660-012-0060 applies to any plan map amendment which significantly affects a transportation facility. OAR 660-012-0060(1) requires any amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility to demonstrate that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. Pursuant to OAR 660-012-0060(1) a plan or land use regulation amendment is deemed to significantly affect a transportation facility if it;

- a) *Changes the functional classification of an existing or planned transportation facility;*
- b) *Changes standards implementing a functional classification; or*
- c) *As measured at the end of the planning period identified in the adopted transportation system plan:*
 - 1. *Allow land uses or levels of development that would result in types or levels of travel or access that are inconsistent with the functional classification of an existing or planned transportation facility; or*
 - 2. *Reduce the performance of an existing or planned transportation facility below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*
 - 3. *Worsen the performance of an existing or planned transportation facility that is otherwise projected to perform below the minimum acceptable performance standard identified in the TSP or comprehensive plan.*

Compliance with OAR 660-012-0060(1) can be achieved by one or a combination of the following;

- a) *Adopting measures that demonstrate the allowed land uses are consistent with the planned function, capacity, and performance standards of the transportation facility.*
- b) *Amending the TSP or comprehensive plan to provide transportation facilities, improvements or services adequate to support the proposed land uses consistent with the requirements of this division; such amendments shall include a funding plan or*

mechanism consistent with section (4) or include an amendment to the transportation finance plan so that the facility, improvement, or service will be provided by the end of the planning period.

c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes.

d) Amending the TSP to modify the planned function, capacity or performance standards of the transportation facility.

e) Providing other measures as a condition of development or through a development agreement or similar funding method, including transportation system management measures, demand management or minor transportation improvements. Local governments shall as part of the amendment specify when measures or improvements provided pursuant to this subsection will be provided.

This proposal is only to remove a designated protected stream from the County's Goal 5 inventory. This proposal will not change the Comprehensive Plan designation or result in any increase in traffic. This proposal does not result in a change in the functional classification of an existing or planned transportation facility, nor change the standards implementing a functional classification. The proposal will not result in any increase in traffic impacts. Therefore the proposal will not create any change in the types or levels of land uses which are inconsistent with the functional classification (minor arterial) of the transportation facility or reduce the performance standards of the transportation facility.

This proposal is consistent with Goal 12.

M. Goal 13; Energy Conservation: *To conserve energy.*

This proposal will have no impact on any known or inventoried energy sites or resources. There are no planning or implementation measures under this Goal applicable to this application.

Goal 13 is not applicable.

N. Goal 14; Urbanization: *To provide for an orderly and efficient transition from rural to urban land uses.*

The subject property is not located within an UGB or Urban Reserve Area. This proposal does not involve a change in the location of the UGB, a conversion of rural land to urban land, or urbanizable land to urban land. There are no planning or implementation measures under this Goal applicable to this application.

Goal 14 is not applicable.

O. Goal 15: Willamette River Greenway: *To protect, conserve, enhance and maintain the natural scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The subject property is not located within the Willamette River Greenway.

Goal 15 is not applicable.

P. Goal 16 (Estuarine Resources), Goal 17 (Coastal Shorelands), Goal 18 (Beaches and Dunes) and Goal 19 (Ocean Resources).

Goals 16, 17, 18 and 19 are not applicable to Clackamas County.

PART 2. COMPLIANCE WITH METRO FUNCTIONAL PLAN:

The subject property is not located within the Metro Urban Growth Boundary or within a Future Urban Reserve Area regulated under the Metro Functional Plan.

The Metro Functional Plan is not applicable.

PART 3. COMPLIANCE WITH CLACKAMAS COUNTY COMPREHENSIVE PLAN POLICIES:

A. **Chapter 1; Introduction:** *This Chapter identifies the purpose of the Comprehensive Plan and how to use the Plan.*

This Chapter of the Plan includes a general introduction to the plan and describes how to use the plan. This Chapter does not include any Goals or Policies applicable to a quasi-judicial land use application.

Chapter 1 is not applicable.

B. **Chapter 2; Citizen Involvement:** *The purpose of this Chapter is to promote citizen involvement in the governmental process and in all phases of the planning process.*

There is one specific policy in this Chapter applicable to this application.

Policy 1.0; Require provisions for opportunities for citizen participation in preparing and revising local land use plans and ordinances. Insure opportunities for broad representation, not only of property owners and Countywide special interests, but also of those within the neighborhood or areas in question.

The Clackamas County Comprehensive Plan and ZDO have adopted and acknowledged procedures for citizen involvement. This application has been processed consistent with those procedures. Specifically, the County has provided notice to the Citizen's Planning

Organization in the area (Far West CPO), to property owners within 750 feet of the subject property, and published public notices in the newspaper consistent with State law and Section 1302 of the ZDO. The Planning Commission and Board of County Commissioners will also hold one or more public hearings, as necessary, consistent with Section 1303 of the ZDO. These public mailings, notices and hearings will ensure an opportunity for citizens to participate in the land use process.

This application is consistent with Chapter 2.

C. Chapter 3; Natural Resources and Energy: *The purpose of this Chapter is to provide for the planning, protection and appropriate use of the County's land, water and air resources, mineral and aggregate resources, wildlife habitats, natural hazard areas and energy sources.*

This Chapter contains eight (8) distinct Sections addressing; 1) Water Resources; 2) Agriculture; 3) Forests; 4) Mineral and Aggregate Resources; 5) Wildlife Habitats and Distinctive Resource Areas; 6) Natural Hazards; 7) Energy Sources and Conservation and; 8) Noise and Air Quality. Each of these Sections is addressed below.

1. Water Resources: This Section of the Chapter identifies policies applicable to River and Stream Corridors, Principal River Conservation Areas, Stream Conservation Areas, Wetlands and Groundwater.
 - a. River and Stream Corridors and Principal River and Stream Conservation Area Policies: The creek, which is the subject of this application, is designated as a “Small Stream” on the River and Stream Conservation Area map. Policy 12.0 is applicable to this application.

1. Policy 12.0: *Designate stream conservation areas along the corridors of fish-bearing streams based on Water Protection Rule Classification (WPRC) Maps created through the cooperative efforts of the Oregon Department of Forestry (DOF) and Oregon Department of Fish and Wildlife (ODFW) pursuant to OAR 629-635-000.*

This policy and the related subpolicies (Subpolicies 12.1 through 12.4) support the designation and protection of fish bearing streams. The subject stream was originally designated as a “Significant” stream in the Goal 5 process completed by the County because the stream was identified as a fish bearing stream on the Oregon Department of Forestry (DOF) Water Protection Rule Classification maps. Section 704 – River and Stream Conservation Area ordinance of the ZDO implements Policy 12.0 above. Section 704.03 – Area of Application includes the criteria for applying the Large, Medium and Small Stream designation throughout the County. These standards only apply to Type F (Fish Bearing) and not to Type N (Non-fish Bearing) streams.

The submitted application includes letters from the Oregon Dept. of Fish and Wildlife, Patrick Hendrix, Environmental Science and Assessment, LLC and the

Oregon Department of Forestry. See Exhibits 3, 4 and 5. These exhibits demonstrate that the portion of the stream upstream from a point 250' north of the south property line is not fish bearing and lacks the characteristics for a fish bearing stream.

The removal of this stream from the River and Stream Conservation Area map is consistent with Policy 12.0 and the "Area of Application" standards in Section 704 of the ZDO because it is not a fish bearing stream and the Dept. of Forestry will be removing this portion of the stream from the WPRC map.

This proposal complies with Policy 12.0.

- b. Wetlands: The subject stream is identified as a wetland on the National Wetland Inventory. The County recognizes the NWI as a resource document for identifying wetlands in the County. However the County Comprehensive Plan and ZDO do not include any policies or standards for the protection or mitigation of these wetlands in rural areas of the County. The Division of State Lands (DSL) is responsible for the administration of State wetland laws in rural areas. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- c. Groundwater: The subject property is not located in any Limited or Critical Groundwater Area identified by the Oregon Department of Water Resources.

This application complies with the Water Resources Section of Chapter 3.

Agriculture: The subject property is designated Agriculture on the Comprehensive Plan map. No change in the plan designation is proposed in this application. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

- 2. Forests: This application does not involve any land planned or zoned for Forest uses. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- 3. Mineral and Aggregate Resources: The subject property is not identified on the "Inventory of Mineral and Aggregate Resource Sites" in Table III-2 of the Comprehensive Plan. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- 4. Wildlife Habitats and Distinctive Resource Areas: There are no significant wildlife habitats or scenic areas identified on Map III-2 of the Comprehensive Plan located on or near the subject property. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.
- 5. Natural Hazards: This Section of the Chapter identifies policies applicable to floodplains, natural and geologic hazards, steep hillsides and areas with limiting soil characteristics such as shrink-swell soils, compressed soils, etc.

The subject property is not located within a designated floodplain. According to the DOGAMI maps there are no natural or geologic hazards, steep slopes or shrink-swell soils located on the property. There are no policies in this Section of the Comprehensive Plan applicable to this proposal.

6. Energy Sources and Conservation: This Section of the Chapter identifies policies intended to conserve energy and promote energy efficiency through source development, recycling, land use circulation patterning, site planning, building design and public education. There are no policies in this Section applicable to this application.
7. Noise and Air Quality. This Section of the Chapter identifies policies intended to minimize noise and improve air quality. There are no policies in this Section applicable to this application.

This application is consistent with Chapter 3.

D. Chapter 4; Land Use: *This Section of the Comprehensive Plan provides the definitions for urban and rural land use categories, and outlines policies for determining the appropriate Comprehensive Plan land use designation for all lands within the County.*

This Chapter contains three distinct Sections; 1) Urbanization; 2) Urban Growth Concepts and; 3) Land Use Policies for the following Land Use Plan designations; Residential, Commercial, Industrial, Open Space and Floodplains, Rural Communities, Rural, Agriculture and Forest. Each of these Sections is addressed below.

1. Urbanization Section. This Section of the Plan outlines policies guiding land use in Immediate Urban Areas, Future Urban Areas, Future Urban Study Areas and Urban Reserve Areas.

The subject property is outside of the Metro Urban Growth Boundary. The property is not located in a Future Urban Areas, Future Urban Study Area or Urban Reserve Area.

The Urbanization Policies are not applicable.

2. Urban Growth Concept Policies. The Urban Growth Concept policies in this Section of the Plan are intended to implement the Region 2040 Growth Concept Plan. The subject property is not located within the boundaries of the Urban Growth Concept Plan Map on Comprehensive Plan Map IV-8.

The Urban Growth Concept Policies are not applicable.

3. Land Use Plan Designations. The subject property is currently designated Agriculture on the Comprehensive Plan map. The proposal does not involve a change to the

Agricultural plan designation. There are no policies in the Agricultural Section of the Plan applicable to this application.

The remaining policies pertaining to the Residential, Industrial, Open Space and Floodplains, Rural Communities, Rural and Forest plan designations in this Section of the plan are not applicable.

The Land Use Plan Designation Policies are not applicable.

Chapter 4 is not applicable.

E. Chapter 5; Transportation: *This Chapter outlines policies addressing all modes of transportation.*

This Chapter contains six (6) distinct Sections addressing; 1) Roadways; 2) Transportation Demand Management; 3) Parking; 4) Transit; 5) Pedestrian and Bicycle Facilities and; 6) Freight, Rail, Air, Pipelines and Water Transportation. Each of these Sections is addressed below.

1. Roadways. The purpose of this Section is to create and maintain a safe, continuous County-wide road system that accommodates movement by all modes. The adopted County Roadway Standards are also used to ensure a safe and adequate road system.

There are no policies in this Section of the Chapter applicable to this application.

2. Transportation Demand Management. This Section outlines strategies to achieve efficiency in the transportation system by reducing demand and vehicle miles traveled.

There are no policies in this Section of the Chapter applicable to this application.

3. Parking. This Section of the Chapter outlines policies for parking standards to meet the Region 2040 Growth Concept Plan, Transportation Planning Rule and DEQ's Air Quality Maintenance Plan.

There are no policies in this Section of the Chapter applicable to this application.

4. Transit. This Section of the Chapter outlines policies for accommodating transit services and facilities.

There are no policies in this Section of the Chapter applicable to this application.

5. Pedestrian and Bicycle Facilities. This Section of the Chapter outlines policies for providing pedestrian and bicycle facilities.

There are no policies in this Section of the Chapter applicable to this application.

6. Freight, Rail, Air, Pipelines and Water Transportation. This Section of the Chapter outlines policies applicable to these various travel modes of movement of people and goods.

There are no policies in this Section of the Chapter applicable to this application.

Chapter 5 is not applicable.

F. Chapter 6; Housing: *The purpose of the Housing element of the Plan is to, "Provide opportunities for a variety of housing choices, including low and moderate income housing, to meet the needs, desires, and financial capabilities of all Clackamas County residents to the year 2010."*

There are no policies in this Chapter applicable to this application.

Chapter 6 is not applicable.

G. Chapter 7; Public Facilities and Services: *The goal of the Public Facilities and Services Chapter is to ensure an appropriate level of public facilities and services are necessary to support the land use designations in the Comprehensive Plan, and to provide those facilities and services at the proper time to serve the development in the most cost effective way.*

The subject property is located outside of the Urban Growth Boundary and is not located within any public sewer, water or storm drainage districts. This proposal is only to remove a protected stream in a rural area of the County from the County's Goal 5 inventory. This proposal will have no affect on any public facilities (sanitary sewer, water, storm drainage, solid water, street lighting) or public services (fire, law enforcement, education / schools, or County government). There are no policies in this Section of the Comprehensive Plan applicable to this application.

Chapter 7 is not applicable.

H. Chapter 8; Economics: *The goal of the Economics element of the Plan is to "Establish a broad-based, stable and growing economy to provide employment opportunities to meet the needs of the County residents." This Chapter contains 4 Sections related to; 1) Existing Industry and Business; 2) New Industry and Business; 3) Coordination; and 4) Target Industries.*

There are no policies in this Section of the Plan applicable to this proposal.

Chapter 8 is not applicable.

I. Chapter 9; Open Space, Parks, and Historic Sites: *The purpose of this Chapter of the Plan is to protect the open space resources of the County, to provide land, facilities*

and programs which meet the recreation needs of County residents and visitors, and to preserve the historical, archaeological, and cultural resources of the County.

The subject property does not include any lands designated as park land. There are no designated Historic Landmarks, Historic Districts or Historic Corridors on or adjacent to the subject property. A portion of the subject property is designated as open space on Map IX-1 of the Comprehensive Plan. Pursuant to Policy 2.0 this map is intended to identify desirable open space areas as a guide for public acquisition of lands for the Metro Greenspaces Program or other public acquisition programs on a willing seller – willing buyer basis. This proposal does not include the sale or transfer of any of the subject property to a public open space program.

Chapter 9 is not applicable.

J. Chapter 10; Community Plan and Design Plans: *This Chapter of the Comprehensive Plan includes the Mt. Hood Community Design Plan, Kruse Way Design Plan, Sunnyside Village Plan, Clackamas Industrial Area and North Bank of the Clackamas River Design Plan, Clackamas Regional Center Area Design Plan, Sunnyside Corridor Community Plan, and McLoughlin Corridor Design Plan.*

The subject property is not located within any Community Plan or Design Plan area.

Chapter 10 is not applicable.

K. Chapter 11; The Planning Process: *The purpose of this Chapter is to establish a framework for land use decisions that will meet the needs of Clackamas County residents, recognize the County's interrelationships with its cities, surrounding counties, the region, and the state, and insure that changing priorities and circumstances can be met.*

This Chapter contains two (2) Policy Sections titled: 1) City, Special District and Agency Coordination and; 2) Amendments and Implementation. In the City, Special District and Agency Coordination Section of this Chapter, Policy 1.0 is applicable to this application. In the Amendments and Implementation Section, Policy 1.0 and 3.0 are applicable.

1. City, Special District and Agency Coordination Section

a. Policy 1.0; *Participate in interagency coordination efforts with federal, state, Metro, special purpose districts and cities. The County will maintain an updated list of federal, state and regional agencies, cities and special districts and will invite their participation in plan revisions, ordinance adoptions, and land use actions which affect their jurisdiction or policies.*

Notice of this application has been provided to the following agencies and governments for comments; West Linn / Wilsonville School District, Tualatin Valley Fire District, Division of State Lands, Army Corps of Engineers, DLCD, Oregon Department of Forestry and Oregon Department of Fish and Wildlife. This notice and advertised public hearings before the Planning Commission and Board of County Commissioners provide

an adequate opportunity for interagency coordination efforts of this plan amendment and demonstrates substantial compliance with this policy. The submitted application includes comments and recommendations from the ODFW and DOF who are primarily responsible for regulatory review of fish bearing river and stream corridors.

This policy is met.

2. Amendments and Implementation Section

a. Policy 1.0; *Assure that the Comprehensive Plan and County ordinances meet the goals of LCDC, the Region 2040 Urban Growth Management Functional Plan and the Metro Framework Plan.* ”

Based on the findings in Part 1 of this report this proposal is consistent with the Statewide (LCDC) Planning Goals. The Urban Growth Management Functional Plan and Metro Framework Plan are not applicable to this application because the property is not located within an urban growth boundary or urban reserve area.

This policy is met.

b. Policy 3.0; *Amend the Comprehensive Plan pursuant to the following procedures and guidelines (listed in subpolicies 3.1 through 3.6).* This is a quasi-judicial Comprehensive Plan map amendment and is subject to subpolicies 3.1, 3.3 and 3.4.

1. Subpolicy 3.1; *A map amendment may be initiated only by the Board of County Commissioners, the Planning Commission, the Planning Director, or the owner of the property for which a change is requested.*

This application has been initiated by the property owner, Sean Keys.

This policy is met.

2. Subpolicy 3.3; *All proposed Comprehensive Plan amendments are to be considered at advertised public hearings before the Planning Commission, in accordance with state law and County requirements.*

Both the Planning Commission and Board of County Commissioners will review this application through one or more public hearings. Notice of the hearings have been published in the local newspaper and advertised consistent with or exceeding all adopted ZDO notice requirements.

This policy is met.

3. Subpolicy 3.4; *If the proposed amendment is quasi-judicial, property owners will be notified as required. The Community Planning Organization in the affected area shall be notified at least 35 days prior to the first hearing.*

The property owners within 750 feet of the subject property were notified of this application on February 21, 2006, consistent with the requirement of Section 1303 of the ZDO. The Clackamas Community Planning Organization was also notified of the application on February 21, 2006 over 35 days prior to the first hearing before the Planning Commission.

This policy is met.

This application has been processed consistent with Chapter 11.

PART 4. OREGON ADMINISTRATIVE RULE 660 – DIVISION 23

1. OAR 660-023 outlines the procedures and requirements for complying with Goal 5. The following Sections of OAR 660-023 are applicable to this application: Section 10 (Definitions), Section 30 (Inventory Process), Section 60 (Notice and Land Owner Involvement), Section 90 (Riparian Corridors) and Section 250 (Applicability). A copy of OAR 660-23 is included in Exhibit B.

2. The submitted application includes an analysis and evaluation of the applicable Sections of OAR 660-023. See pages 9-14. The Planning Staff concurs with and adopts this analysis as part of this staff report by reference therein.

3. The Planning Staff finds this proposal complies with all applicable requirements of OAR 660-023 based on the findings submitted by the applicant and the additional findings below:

a. OAR 660-023-0030(1) outlines the steps for the Goal 5 inventory process. This Section allows the inventory process to be followed for a single site as proposed in this application. The inventory process requires; 1) Collection of information about the Goal 5 resource; 2) Determine the adequacy of the information; 3) Determine the significance of resource sites and; 4) Adopt a list of significant sites.

b. OAR 660-023-0030(3) requires a determination of the adequacy of the information regarding the resource site. The information about the Goal 5 resource shall be deemed adequate if it provides the location, quality and quantity of the resource. The location information must include a description or map of the resource site. The quality information requires an evaluation of the resource site's value relative to other known examples of the same resource. The quantity information shall include an estimate of the relative abundance or scarcity of the resource.

The submitted application includes adequate location information including a map, aerial photo and written description of the resource site. The application also includes an evaluation of the relative value and characteristics of different portions or segments of stream (i.e. drainage ditch, degraded non-fish bearing channel without a riparian area and

perennial fish bearing segment). There is no information about the relative abundance or scarcity (quantity) of the resource site. The Planning Staff does not believe that is a significant factor in evaluating the significance of a site specific stream corridor.

c. OAR 660-023-0030(4) requires a determination of the significance of the resource site.

The applicant has provided (collected) information about the subject stream. This information includes a review and analysis by ODFW, DOF and an independent environmental scientist describing the location and physical characteristics of the specific stream. See Exhibits 3, 4 and 5.

The Planning Staff believes this is adequate and reliable information to evaluate the significant of the resource site because it provides a site specific analysis of the resource from an independent expert and two governing agencies responsible for stream and fish protection. The analysis provided from these experts demonstrates a portion of the stream is not a significant resource because it consists of an excavated drainage ditch and substantially degraded stream channel with no riparian corridor. A review of historical aerial photographs indicate the stream channel has been in this condition since at least 1976 well before the County completed the initial Goal 5 inventory and designated this as a significant resource site (See Exhibit C). The ODFW and DOF have indicated this portion of the stream is not a fish bearing stream nor does it have characteristics to support fish. Based on this information a portion of the stream is not a significant resource site and does not require protection under Goal 5.

d. OAR 660-023-0060 identifies the requirements for Notice and Land Owner Involvement. This section requires the County to provide notice to landowners and opportunities for citizen involvement. Notification of this application has been provided to adjacent and nearby property owners within 750 of the subject property, to the Far West CPO and affected State and local agencies. Notice of the application has been provided consistent with State law, County Comprehensive Plan policies and ZDO requirements.

e. OAR 660-023-0090(5) addresses the "Safe Harbor" provisions for complying with Riparian Corridors. The applicant has identified and addressed this Section on page 12 of the application. The Planning Staff does not believe this Section of the OAR is applicable because the stream is not considered a "significant" resource site.

f. OAR 660-023-0090(7) address the requirements of the ESEE process and analysis. The applicant has identified and addressed this Section on page 13 of the application. The ESEE analysis is only required to address conflicting uses for a "significant" resource site. The Planning Staff does not believe this Section of the OAR is applicable because the stream is not considered a "significant" resource site.

PART 5. SUMMARY OF FINDINGS AND CONCLUSIONS ON THE PAPA

Parts 1-4 of this report outlines and addresses all the policies, standards and criteria found to be applicable to this proposal in the Statewide Planning Goals, County Comprehensive Plan and Oregon Administrative Rule. In consideration of the findings in Parts 1-4, the Planning Staff finds that this proposal should be approved for the following reasons:

1. This proposal is consistent with the Statewide Planning Goals.
 2. The Metro Functional Plan is not applicable to this application.
 3. This proposal is consistent with the Clackamas County Comprehensive Plan. Specifically, Policy 12.0 in the Water Resources Section of Chapter 3 because the segment of the stream included in this application is not a fish bearing stream.
 4. This proposal is consistent with OAR 660-023.
 - a. The submitted application and the information in this application include adequate information about the location, quality and quantify of the resource site.
 - b. The ODFW, Dept. of Forestry and independent Environmental Scientist concur that the stream is not a fish bearing stream, nor does it contain characteristics suitable to support fish.
 - c. The WPRC maps identify fish (F) bearing and non-fish (N) bearing streams and were the primary source for identifying significant streams in the Goal 5 process completed by the County. The DOF has indicated the WPRC map will be changed to from a small F stream to a small N stream.
-
-