



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150

Salem, OR 97301-2540

(503) 373-0050

Fax (503) 378-5518

www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

December 18, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Lake County Plan Amendment
DLCD File Number 001-07



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. This amendment was submitted without a signed ordinance.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 2, 2008

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
Jon Jinings, DLCD Regional Representative
Kenneth G. Gerschler, Lake County

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FORM 2

DEPT OF

**LAND CONSERVATION
AND DEVELOPMENT**

DEC 13 2007

D L C D NOTICE OF ADOPTION

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

(See reverse side for submittal requirements)

Jurisdiction: Lake County Local File No.: 1113

(If no number, use none)

Date of Adoption: September 18, 2007 Date Mailed: December 10, 2007
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: April 24, 2007

- 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.≡

Amendment of Comprehensive Plan from R-Range to FR-Farm Residential (required 10 ACRE minimum).

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.≡ AN/A

The original proposal was an amendment that would have changed the comprehensive designation from "R-Residential" to "RR-Rural Residential".
The "RR" designation could have resulted in 3 acre lots that would have required an exception. The Commission ultimately approved 10 AC minimum "FR Farm Residential"

Plan Map Changed from: R, Range to FR, Farm Residential - 10 Acre minimum

Zone Map Changed from: NO CHANGE to N/A

Location: 3017-100 NEAR SUMMER LAKE OREGON Acres Involved: 360

Specify Density: Previous: 30 Acre minimum New: 10 Acre minimum

Applicable Statewide Planning Goals: 3

Was an Exception Adopted? Yes: _____ No: X

DLCD File No.: 001-07(16063)



LAKE COUNTY PLANNING COMMISSION Agenda Date: 09/18/07
Memorandum Item Number: 8

TITLE: COMPREHENSIVE PLAN APPLICATION NO. 1113

APPLICANT(S): Richard Emery

SUPPLEMENTARY FINDINGS:

S.1. The Lake County Planning Commission and Jon Jinnings of the Oregon Department of Land Conservation and Development have reviewed the findings of fact provided by the applicant. The County and State find that the applicant findings do not warrant an approval of the comprehensive plan as proposed.

Mr. Jinnings summarized in a letter dated May 29, 2007 that *“The opportunities to justify an exception to statewide planning goals are set forth at ORS 197.732 and Statewide Planning Goal 2 (Land Use Planning). The policy established in state statute and Goal 2 are interpreted and carried out in administrative rule at OAR 660, Division 4. Any exception proposal must be found to satisfy the legal standards included in OAR 660, Division 4...and without additional material, the county does not have the information necessary to approve the proposal”*.

A 10 acre minimum would be required to not warrant the Goal 2 Exception. Lake County has approved a Comprehensive Plan designation of F-R, Farm Residential with a 10 acre minimum.



LAKE COUNTY PLANNING COMMISSION Agenda Date: 09/18/07
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UPDATE: In June, the Planning Commission approved a Comprehensive Plan amendment that would allow minimum 12 acre lots where the applicant had requested 3 acres.

In further discussion with Jon Jinnings, regional representative for the DLCD, the County will need to have the minimum acreage be consistent with existing provisions. With a designation of RR-Rural Residential, the applicant could have 3 acre parcels. Staff has identified an appropriate designation of FR-Farm Residential which will allow the desired outcome while also meeting the intent of the Planning Commission decision. The minimum lot size is 10 acres in FR and any subdivision would require Planning Commission approval. At the subdivision stage, The Planning Commission will assert the 10 acre minimum..

REQUIRED ACTION: No further action from the Lake County Planning Commission. The Applicant and the DLCD will be notified.



Planning Department

Kenneth G. Gerschler
Community Development Director

Date December 10, 2007

RE: Comprehensive Plan Change 1113, Map 30 17 Tax Lot 100

NOTICE OF LAND USE DECISION

Richard Emery
P.O. Box 115
Summer Lake, OR 97640

Enclosed is a copy of the decision issued pursuant to action taken by the Lake County Planning Commission on June 19th and September 18th, 2007. The original is filed in the development records at the County Courthouse however it is recommended that you retain your copy in a safe place for future reference.

The Lake County Land Development Ordinance outlines the procedures for zone change in Article 28 however as you have proposed a comprehensive plan amendment, Lake County has processed the request using relevant processes that involve the Lake County Planning Commission and notification to the Department of Land Conservation and Development (DLCD) at the State of Oregon. The DLCD indicated concerns that the original proposal would require additional studies in a process called "Exception" since the conversion of rangeland was proposed to urban densities. The Lake County Planning Commission concurred with the DLCD and the **final decision resulted in the subject property being designated as FR, Farm-Residential with a specific minimum lot size of 10 acres**. In the future, should you decide that you desire smaller lot sizes as you have indicated in recent discussions, a new comprehensive plan amendment with DLCD exception would be required.

As with any land use decision, there is the possibility that any person who provided written or verbal evidence may opt to appeal the Planning Commission decision to the Lake County Board of Commissioners, the Oregon Land Use Board of Appeals (LUBA) or in certain situations, the civil court system. While an appeal is uncommon, Oregon Law provides an opportunity for the process if an aggrieved party files the required documentation based upon merit within a specific timeframe. If this office is notified of a pending appeal, we will share the information with you or your authorized representative. It should be noted however that Lake County or employees working on behalf of the organization cannot provide you or your authorized representative with legal advice pertaining to this or any other land use or development application.

Should you have further questions or concerns on this matter, please call me at 541.947.6032 or E-mail kgerschler@co.lake.or.us.

Regards,


Kenneth G. Gerschler

513 Center Street • Lakeview, OR 97630 • 541.947.6033 •
Fax 541.947.2144 • www.lakecountyor.org



LAKE COUNTY PLANNING COMMISSION Agenda Date: 09/18/07
Memorandum Item Number: 8

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S.1. The Lake County Planning Commission and Jon Jinnings of the Oregon Department of Land Conservation and Development have reviewed the findings of fact provided by the applicant. The County and State find that the applicant findings do not warrant an approval of the comprehensive plan as proposed.

Mr. Jinnings summarized in a letter dated May 29, 2007 that *“The opportunities to justify an exception to statewide planning goals are set forth at ORS 197.732 and Statewide Planning Goal 2 (Land Use Planning). The policy established in state statute and Goal 2 are interpreted and carried out in administrative rule at OAR 660, Division 4. Any exception proposal must be found to satisfy the legal standards included in OAR 660, Division 4...and without additional material, the county does not have the information necessary to approve the proposal”*.

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Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

Central Oregon Regional Office

888 NW Hill Street, Suite 3

Bend, OR 97701-2942

Rural Regional Representative (541) 318-2890

Urban Regional Representative (541) 318-2899

Community Service Specialist (541) 318-8193

Fax (541) 318-8361

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

May 29, 2007

Lisa D. Bowler
Lake County Planning Office
513 Center Street
Lakeview, OR 97360



RE: Local File #1113 (Emery)

Dear Lisa:

The department would like to thank Lake County for the opportunity to review and comment on the proposed comprehensive plan amendment referenced above. The applicants in this case are proposing to convert a portion of a 360-acre parcel from an Agriculture designation to a Rural Residential designation. The subject property is evidently located near Summer Lake.

We have the following comments:

The opportunities to justify an exception to statewide planning goals are set forth at ORS 197.732 and Statewide Planning Goal 2 (*Land Use Planning*). The policy established in state statute and Goal 2 are interpreted and carried out in administrative rule at OAR 660, Division 4. Any exception proposal must be found to satisfy the legal standards included in OAR 660, Division 4. The material submitted for our review briefly addresses the items listed on the county's application form. However, the specific legal provisions governing exceptions to statewide planning goals have not been addressed. Without additional material the county does not have the information necessary to approve this proposal.

The material submitted for our review indicates that the subject property does not satisfy any of the three exception opportunities included in OAR 660, Division 4. There are no compelling reasons to abandon the property's resource zoning as provided for in OAR 660-004-0020 & -0022. The property is clearly not physically developed as provided for in OAR 660-004-0025. The property has not been demonstrated to be irrevocably committed as provided for in OAR 660-004-0028.

Furthermore, the applicants' proposal to rezone the subject property to a 3-acre density conflicts with the provisions of OAR 660-004-0040, which requires new rural residential exception areas to have a minimum parcel size of at least 10-acres or to justify an exception to Statewide Planning Goal 14 (*Urbanization*). It is our professional opinion that a goal 14 exception can not be justified in this instance. Simply stated, if the applicable criteria can be satisfied, and we are not convinced that it can, the county must apply a zoning designation with requiring any new lot or parcel to have an area of at least 10-acres. *Please see OAR 660-004-0040(7)(I).*

In conclusion, the proposal has not been demonstrated to satisfy the applicable provisions of law. We recommend that the current resource plan and zone designation be retained.

Thank you for this opportunity to comment. We request that this letter be entered into the record of these proceedings and that we receive a copy of the decision. If additional information is provided at the hearing, we ask that the hearing be continued, pursuant to ORS 197.763(4)(b), to allow us time to review the new information and respond if necessary. If you have any questions please contact me at (541) 318-2890.

Respectfully,

A handwritten signature in black ink, appearing to read 'Jon Jinnings', with a stylized flourish extending to the right.

Jon Jinnings
Regional Representative



LAKE COUNTY PLANNING & BUILDING
513 Center Street
Lakeview, Oregon 97630
Phone (541) 947-6032
Fax (541) 947-6015

Raymond Simms,
Planning Director

LAKE COUNTY COMPREHENSIVE PLAN AMENDMENT APPLICATION

APPLICATION NO. 1113

This application must be filed with the County for any amendment to the County's Comprehensive Plan Map. This application, any supplemental information and the required filing fee of \$250.00 must be filed with the Lake County Planning Office.

Answer all questions in the application. The burden of proof in making such an application rests entirely on the applicant.

1. APPLICANT:

NAME: Richard Emery

MAILING ADDRESS: P.O. Box 115

HOME PHONE 541-480-3045 BUS. PHONE: _____

2. PROPERTY LOCATION, DESCRIPTION AND RELATED INFORMATION:

Submit a Lake County Assessor's Map identifying the subject property.

A. OWNER OF RECORD: Richard Emery

MAILING ADDRESS: P.O. Box 115

Summer Lake, Oregon 97640

PHONE: 541-480-3045

B. Tax Lot(s): 100 Section(s): X Township: 30 South

Range: 17, WM and/or Lot(s): _____ of Block: _____ of the subdivision.

C. Common description: Desert

D. Size of parcel: 360 Acres

3. PROPERTY USE, HISTORICAL, PRESENT AND PROPOSED:

A. Property historically used for: Homestead, Residential

B. Property currently used for: Homestead, Residential

C. Property proposed to be used for: Residential

4. COMPREHENSIVE PLAN MAP DESIGNATION:

- A. Existing: A2-R
B. Proposed: RR 3 Acre Minimum

5. UTILITIES AND SERVICES AVAILABLE:

- A. Source of Water Supply: Well
B. Sewage disposal will be by: Private septic systems
C. Electrical power is ___ is not X available.
Serving Company: Off grid / Solar Community
D. Telephone service is X is not ___ available.
Serving Company: Unicell / Cell phone service is available.
E. Fire protection is ___ is not X available.
Serving Fire District: None, (Volunteer fire truck in Summer Lake)
F. School Bus Service is X is not ___ available. (Hwy. 31 closest pickup)
Serving School District #11

The answers to the following questions 6,7,8,9 and 10 will provide the information upon which the Planning Commission and Board of County Commissioners will base their decision.

NOTE: If farm or forest land is proposed for an urban or rural use, then Goal 2 exception criteria must be addressed. An addendum addressing those criteria must be filed with this application.

6. Have there been changes in Community attitudes and/or physical, social, economic or environmental changes in the area or related areas since Plan adoption that warrants a Plan change; and

Yes

7. Is there a public need for the Plan change; or

Yes

8. Was the original Plan incorrect? **There was never an original plan when homesteaded. Farming impracticable / impossible.**

9. Is the area proposed to be changed more appropriate for the proposed use(s) than other property available and designated for the proposed use?

Yes

10. Does the request comply with the statewide planning goals?

Yes

A. Goal 3 - Agricultural Lands.

To preserve and maintain agricultural lands.

What is the agricultural use of the subject property, now or in the past?

Some grazing.

What the agricultural uses of the surrounding properties?

Grazing (2-months a year)

B. Goal 4 - FOREST LANDS:

To conserve forest lands for forest uses.

Is there salable timber on the property? Has there been timber on the property in the past?

No

No

Do the properties surrounding the subject property have salable timber or trees in reproduction?

No

What are the effects of the proposed use on the growing, sale or harvesting of these trees?

None

C. Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources.

To conserve open space and protect natural and scenic resources.

Does the subject property include:

- a. land needed or desirable for open space;
- b. mineral and aggregate resources;
- c. energy sources;
- d. fish and wildlife areas and habitats;
- e. ecologically and scientifically significant natural areas, including desert areas;
- f. outstanding scenic views and sites;
- g. water areas, wetlands, watersheds and groundwater resources;
- h. wilderness areas;
- i. historic areas, sites, structures and objects;
- j. cultural areas;
- k. potential and approved Oregon recreation trails; and
- l. potential and approved federal wild and scenic waterways and State scenic waterways?

If the use will create conflict, what effects will the amendment have on the resource?

None

Economic? (Loss or increase of income)

Affordable home sites will help Lake Co. grow, along with an increase in tax Revenue.

Social? (Annoyances or positive effects)

Positive effects will be: Affordable land for incoming people retiring or looking for recreational properties.

Environmental? (Enhancement or degradation)

Enhance with Solar Community

Energy? (Savings or excessive use)

Savings with Solar Community

D. Goal 6 - Air, Water and Land Resource Quality:

To maintain and improve the quality of air, water and land resource of the State.

How will the proposed use affect the quality of the air? **No affect.**

What measures will be taken to reduce air pollution resulting from the proposed use?

No Impact, No Pollution. Solar powered community.

Off grid.

What type of sewage disposal system is planned for the development?

Private septic Tank. Sand filters if needed.

What measures will be taken to reduce water or land pollution resulting from the proposed use?

Will meet all compliances for RR Plan.

E. Goal 7 - Areas subject to Natural Disasters and Hazards:

To protect life and property from natural disasters and hazards.

If the subject property is identified as being subject to natural hazard (floodplain, unstable soils, etc.), what measures are planned to control the hazard?

No hazards identified. Not subject to any natural hazard.

F. 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.

Will the use proposed meet some of the recreational needs of the area residents?

Yes, the Solar community will have a community trail around nature ponds.

What facilities are proposed? **Use of natural ponds on property to enhance wildlife. Viewing area for bird watching. Natural Park area around ponds where natural resources will be protected.**

G. Goal 9 - Economy of the State:

To diversify and improve the economy of the State.

Will the use proposed contribute toward the diversification or improvement of the economy of the County? **Yes, Improved economy, more people coming in for recreation and retirement. There would be a huge tax increase for the county because of the new acreage available.**

If so, describe the contribution in terms of facilities and employment opportunities proposed.

It would bring in additional money for the whole community.

All businesses in the area would benefit from it.

The hiring of local help would be needed.

H. Goal 10 - Housing:

To provide for the housing needs of citizens of the State.

Will the proposed amendment provide additional housing or remove existing or potential dwelling units? **Provide additional land for housing.**

I. 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.

What new or additional public facilities will be required to serve the proposed use?

None other than garbage pick up.

How will the new or additional public facilities be developed and paid for?

Water **Well**

Fire **NA - Tax Base**

Sewer **Septic Systems
(Sand Filters if needed)**

Schools **NA - Tax Base**

Electricity **Solar**

Phone **Cell Phone**

Gas **Propane**

Cable **NA**

When each lot is sold, individual owners will be responsible for obtaining permits for their own development.

J. Goal 12 - Transportation:

To provide and encourage a safe convenient and economic transportation system.

Give an estimated traffic count (a. d. t.) for the proposed use. How will the potential traffic hazards resulting from the increased traffic be controlled? **estimated traffic count for the next 5-10 years would be approximately 8-10 vehicles.**

Should not be any traffic hazards. Will meet all county specs for traffic.

How will access to public roads be located to insure traffic safety?

Developed area would have a roads properly placed for a clear visual approach to county road. Stop sign at all junctions, before entry onto county road. Will meet all county specs. for traffic.

K. Goal 13 - Energy Conservation:

To conserve energy.

How will the proposed use promote energy conservation?

Solar Community will not use electricity from public utility.

L. Goal 14 - Urbanization:

To provide for an orderly and efficient transition from rural to urban land use.

What urban services will be required as a result of the proposed use being developed?

None

How will public facilities and services be extended to the site? What agencies? Where will service linkages be extended? **NA**

Will an urban growth boundary have to be extended? **No**

How will the proposed use be made compatible with adjacent agricultural uses?

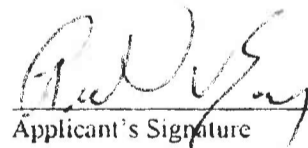
Fencing already in place.

11. CERTIFICATION:

I hereby certify the information submitted is true and complete to the best of my knowledge.

I further acknowledge that in order for any action to be taken on this application either I, or someone acting for me and entitled to represent me fully in all matters pertaining to this application, must appear at all hearings pertaining to this application.

3.20.01
Date


Applicant's Signature

Legal Owner's Signature
(If other than applicant)

FOR OFFICE USE ONLY

App. Rec:

Hearing Date: _____

Fec Pd. 300 Initials: RS

Richard Emery
PO Box 115
Summer Lake, Oregon
97640

LAKE COUNTY

GOAL 2 EXCEPTION CRITERIA

If a Plan Amendment application involves the development of new urban or rural uses (residential, commercial, or industrial) outside of an urban growth boundary, then a goal exception will be required. This questionnaire, if properly filled out, can serve as an exception to the statewide planning goals and will be accepted as such by the County as part of your Plan Amendment application.

Please give as much detail as possible. The following questions and your answers will become part of your Plan Amendment application and, if filled out correctly, will provide the necessary information for a "reasons exception".

Please refer to Oregon Administrative Rules (OAR) 660, Divisions 4 and 14 for a complete description of the State rules regarding goal exceptions.

SECTION A

Your answers to the following questions will help explain why you need to change the zone on land currently zoned for farm or forest use. Each question is designed to address the requirements of OAR 660-04-020(2)(a), and 022(1)(2) and (3). Where noted, some of these questions also address OAR 660-14-040(3)(a).

1. How much land is needed for the use you are planning? 360 acres.

For the remainder of Section A, please answer only those questions that apply to your planned use. For commercial and other special uses, answer questions 2 thru 7. For Rural Residential uses, answer questions 8 and 9. For Rural Industrial, answer questions 10 thru 12.

COMMERCIAL AND OTHER SPECIAL

Questions 2 thru 7 apply primarily to commercial plan amendments and to other special applications not involving rural residential or rural industrial development.

2. Can it be shown that a need for your planned use is based on the requirements of another statewide planning goal? (refer to Goals 3 thru 19)

_____ YES

_____ NO

If yes, please identify the goal requirement and explain how your planned use meets that requirement:

3. Is there a unique or special resource on or near your property upon which your planned use is dependent? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

If yes, described the resource:

If no, go to question 7.

4. Does your planned use require a location near the unique resource described in question 3 above? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

If yes, explain why:

If you answered yes to question 3 then you **must** answer questions 5 and 6.

5. Describe the market area that will be served by your planned use. (Describe the geographic limits of the area where there will be an economic demand for your planned use):

6. Is your property the only place within the market area (described in question 5) where the unique resource (described in question 3) can reasonably be obtained? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

Please explain (whether yes or no)

7. Does your planned use have a special feature or quality that requires a location on or near your property? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

If yes, please describe the special feature and explain why it requires a location on or near your property:

RURAL RESIDENTIAL

Questions 8 and 9 apply to rural residential plan amendments. Please note that general market demand, continuation of past housing distribution (urban/rural), and a need for certain lifestyle or housing costs are not valid reasons for a rural residential exception.

8. Based on economic information in the Comprehensive Plan, please give reasons why your planned rural residential use requires a location on land presently zoned for farm or forest use: (This question also addresses, in part, 660-14-040(3)(a))

***This homesteaded land does not have the quality of soil required for farming of any sort. *The plan would benefit the community by bringing in additional monies. *This area has been recognized as a recreational area and a great retirement area. *The plan also would mean more income for the county. *Subdivision in this area has been allowed.**

9. Is a rural location (for the planned rural residential use) necessary to meet the need for housing as a result of nearby industrial or commercial activity?

_____ YES _____ **X** NO

Recreational - Yes.

If yes, please describe why other locations that are not zoned for a resource use are unacceptable to accommodate the planned use: (This question also addresses, in part, 660-14-040(3)(a))

**Homesteaded Land. Soil not productive. Soil class VII.
There is a need already for housing on this land because
of Heirs and Relatives.**

Also, identify the nearby industrial or commercial activity:

Recreational Area

RURAL INDUSTRIAL

Questions 10 thru 12 apply to rural industrial plan amendments.

10. Is the planned industrial use dependent on a unique resource that is located on farm or forest land? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

If yes, please describe the resource and explain how the planned industrial use is dependent on it:

11. Will the planned industrial use create hazardous or other undesirable situations that are incompatible with a densely populated area? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

If yes, please describe the undesirable situation and explain why it is incompatible with densely populated areas:

12. Will your selected location provide a specific transportation or resource advantage, compared with other locations, that would also benefit the County economy and cause only a small loss of productive farm or forest land? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES _____ NO

If yes, please describe the advantage and how the County economy would benefit as a result of your planned location:

Also, describe the lost farm or forest productivity that would result from locating the planned industrial use on the proposed site (i.e. lost productivity can be expressed in terms of lost farm or forest products, or loss of annual yield per acre):

SECTION B

Your answers to the next group of questions will help you to explain why other locations, that do not require an exception, cannot, within reason, accommodate your planned use (Addressing OAR 660-04-020(2)(b)). Where noted, some of these questions also address OAR 660-14-040(3)(a). Please answer all questions in this section regardless of the type of use you plan to locate.

13. Attach a map to this questionnaire that shows the location of other areas that might accommodate the use you are planning. The map does not have to be parcel specific but should consider all possible areas in the vicinity of your proposed site. In any case, the site for which you are taking an exception must be identified on the map.

-ATTACH MAP ON BACK-

When answering questions 14 thru 18, economic and other factors can be used to determine that the planned use cannot, within reason, be located in other areas.

14. Could your planned use be located, within reason, on nearby land that has little, if any, farm or forest value (SCS soils of Class V or worse; and dominant species forest site class of 4 or worse?)

_____ YES X NO

If no, why not? Not reasonable, Proposed Planned use would be located on non-productive land. Class VII. Also Homesteaded before any zoning or regulations were put in effect.

15. Could your planned use be located, within reason, on nearby committed lands that are zoned correctly to accommodate the use?

_____ YES X NO

If no, why not? Not reasonable, Property should be rezoned due to non-productive soil.
Homesteaded before any zoning or regulations were put in effect.

16. Could your planned use be located, within reason, on nearby and correctly zoned committed lands if the planned density were increased? (This question also addresses, in part, 660-14-040(3)(a))

_____ YES X NO

If no, why not? **Plan can not be relocated. Homesteaded land. No nearby correctly zoned committed lands.**

17. Could your planned use be located, within reason, on nearby farm or forest land that is surrounded by land uses that make farming or forestry (on the surrounded land) difficult to engage in?

_____ YES X NO

If no, why not? **Proposed Planned use would not make farming or forestry difficult in any surrounding area. There is at least 160 acres of BLM property between all Ranches in the surrounding area and the Proposed Planned use area. No affect. Proposed Planned use cannot be relocated within any reason. Homesteaded Land.**

18. Could your planned use be located, within reason, inside the urban growth boundary of a nearby city? (This question also address, in part, 660-14-040(3)(a))

_____ YES X NO

If no, why not? **Not reasonable. Homesteaded land needs new plan. Needs RR opportunity where land located.**

SECTION C

Your answers to the following group of questions will help you to describe the environmental, economic, social, and energy consequences that might occur as a result of establishing your planned use on the site you have selected (Addressing OAR 660-04-020(2)(c). Questions 24 and 25 address, in part, the requirements of 660-14-040(3)(b)(B). Please note that question 29 (in Section E) addresses 660-14-040(3)(b)(A). Please give as much detail as possible in answering each question.

19. Describe the features (characteristics) of other areas where your planned use might be accommodated. Use the map and areas identified as part of questions 13 thru 18. Be sure that each area described in this question can be clearly identified on the map you have provided.

NOTE: Use back of sheet for additional areas.

Description of AREA 1: **No other area would accommodate this Proposed Plan.**

Description of AREA 2:

Description of AREA 3:

20. What are the advantages and disadvantages of removing those other areas (described in question 19) from farm or forest use? In your response to this question, consider advantages or disadvantages in relation to the long-term effects on environmental, economic, social, and energy factors such as:

Environmental factors include: the quality of soil, fish, and wildlife habitat, ground and surface water, air, and important vegetation (riparian or slope stabilization).

Economic factors include: the effect on jobs; the effect on the County's current forest industry dependency; the wise use of locally found natural resources; the efficient production and distribution of goods or services; and, the effective use of local markets for the consumption of goods or services.

Social factors are the effects on people and how they fit in with the community where they live.

Energy factors are the effects on the use (or misuse) of oil, gas, electricity, and other sources of energy.

NOTE: Use back of sheet for additional areas.

AREA 1: **Not applicable. No other area would accommodate this Proposed Plan.**

Advantages:

Disadvantages:

AREA 2:

Advantages:

Disadvantages:

AREA 3:

Advantages:

Disadvantages:

21. What are the good and bad effects that might result from developing your planned use at the site you have selected?

Good effects:

Environmental: *Very little Pollution emitted from this type of community.
*A better use of Class VII soil.

Economic: *Plan would make useless land available. *Making affordable land available for development & will attract an additional income for businesses *Increased land development will increase Lake Co. tax base.

Social: *New members to the community would mean social and economic growth to Lake Co. *A Recreational/Retirement based community would bring in monies without burdening our natural resources.

Energy: *Awesome benefit from developing a solar community.

*Promote and use of clean energy. *Planned use will not disturb ground by putting in electric lines.

Bad Effects:

Environmental: Smoke from installed fireplaces during winter months.

Economic: None foreseen.

Social: *Some farmers and ranchers do not like growth in this area.
*Stagnant growth for Lake Co.

Energy: *No new income for the electrical company.

*Additional types of heating may be required. (Propane/Firewood)

22. What steps would you take to reduce the bad effects described in question 21? ***Promote safe clean energy.**

***Solar Community. *Protect and encourage natural resources.**

***Keep and use ponds naturally located on property.**

23. Based on your answers to questions 20 and 21, give reasons why the bad effects at your selected site are not worse than the bad effects that might occur if your planned use was developed on another site that also requires an exception? Compare your selected site with other areas that would also require an exception. Your response to each of the following subsections will answer the basic question posed at the top of this paragraph. For this question, compare your selected site only with those other sites, identified in question 19, that are currently zoned for farm or forest use.

a. Which site has the least farm or forest potential?

Your site X or, another site _____

Please explain your comparison in terms of soil potential, forest site productivity, or agricultural productivity using normal farming methods:

NA
Class VII Soil. Non-Productive
No Potential.

b. Which site, if developed with your planned use, would have the least effect on nearby farm or forest uses?

Your site X or, another site _____

Please explain the basis for your comparison:

NA
Class VII Soil. Non-Productive.
No Effect.

- c. Which site, if developed with your planned use, would have the least long-term economic effect due to the loss (as a result of development) of farm or forest land?

Your site X or, another site _____

Please explain your comparison in terms of lost annual yield over time (annual yield can be expressed in cubic feet per year for forest land, or for farm land using tons of hay or animal units per year):

1 AUM 2 months per year.

- d. Which site, if developed with your planned use, would have the least effect on the quality and quantity of available water?

Your site X or, another site _____

Please explain: **No other site comparison.**

- e. Which site, if developed with your planned use, would have the least effect on existing roadways?

Your site X or, another site _____

Please explain in terms of the cost of road improvements that would be necessary to serve the site:

***No other site comparison.**

***Thousand Springs Lane graveled and maintained to proposed area.**

- f. Which site, if developed with your planned use, would have the least financial effect on existing service districts (such as water, sewer, fire, etc.)?

Your site X or, another site _____

Please explain in terms of increased costs to the affected service district:

No other site comparison.
Site chosen for development would have little to no effect on existing service districts.

24. Would development, at the site you have selected, be limited by available air, water, energy, and land resources? (This question addresses 660-14-040(3)(b)(B))

_____ YES X NO

If yes, please explain the limitations.

No limitations.

25. Would development, at the site you have selected, have a bad effect on the air, water, energy, and land resources of the surrounding area? (This question addresses 660-14-040(3)(b)(B))?

_____ YES X NO

If yes, please explain the bad effects.

No effect.

SECTION D

Your responses to the next group of questions will demonstrate that your planned use is compatible with other adjacent uses (whether those are residential, commercial, industrial, public, farm, or forest) or can be made compatible (after considering the bad effects described in question 21). These questions address OAR 660-04-020(2)(d) and 660-14-040(3)(c)(B). Please note that question 30 (in Section E) addresses OAR 660-14-040(3)(c)(A).

26. Describe how your planned use will be made compatible with bordering land uses? Consider the possible bad effects (refer to question 21) on all surrounding properties and what measures you will undertake to reduce those bad effects.

Proposed Plan use area is already fenced and will remain in order to keep developed area activity within.
160 acres of BLM Land borders Proposed Plan use area.
Area already compatible with bordering land uses.

27. Explain how your planned use will be positioned or located in a way that will make it compatible with management practices (spraying, etc.) on surrounding farm or forest land.

No management practices in the surrounding area.
Proposed Plan use area fenced in. Area already compatible with surrounding area.

SECTION E

This final group of questions apply only to applications for commercial, industrial, or urban residential uses. Your answers will justify the establishment of new urban development on undeveloped rural land. This section responds to the requirements of OAR 660-14-040 (excluding those parts which have been addressed, as noted, in other sections of this questionnaire).

28. Could your planned use be accommodated, within reason, through the expansion of an existing urban growth boundary? Is there another site, close to an urban growth boundary, that might, within reason, accommodate your planned use? (Addressing 660-14-040(3)(a))

_____ YES X NO

If no, why not? **No other site compared.
Not reasonable.**

29. Please explain why the amount of land applied for (refer to question 1) is the smallest amount necessary to accommodate your planned use? (Addressing 660-14-040(3)(b)(A))

Proposed Plan use area requires 160 acres out of the 360 acre section. This amount of acreage will allow for divisions among Family members, Heirs and interested parties, it will also allow them the purchase of adjoining parcels, making most lots larger then the plan proposes. The sale of remaining lots would help to justify the development. Soil in area not good for anything else.

30. Will your planned use, at your selected site, reduce the ability of existing cities and service districts to provide services? Will your planned use have an effect on city or district sewer, water, and fire services? (Addressing 660-14-040(3)(c)(A))

_____ YES X NO

If yes, please explain: **Proposed Plan use area to have own fire protection.**

No effect on any existing city or service districts.

31. Will your planned use require the extension of public facilities and services? (Addressing 660-14-040(3)(d))

_____ YES X NO

If yes, which services?

_____ Public sewer system

_____ Public water system

_____ Electricity

_____ Telephone

_____ Other: _____

Will the services checked above be provided to your selected site in a timely and efficient manner?

_____ YES _____ NO

Please explain:

Solar Community Development

32. Will the development of your planned use be consistent with the Urban Growth Management Agreements and Comprehensive Plans of nearby cities?

X YES _____ NO

Please explain:

Proposed Planned use area will consistent with any and all county and state laws applicable.

Adjacent Property Owners - Richard Emery 3017-100 Reference #8463

Legal Desc.	Tax Lot #	Name/Address	Reference #
3017	500	USA	8476
3018	500	1301 South G Street Lakeview, OR 97630	8959
3018	600	Applicant	8961

Interested Party: DLCD Deputy State Fire Marshal
635 Capitol St., NE #200 2525 Biehn Street
Salem, OR 97301 Klamath Falls, OR 97601

Oregon Department of Transportation, 2557 Altamond Dr. Klamath Falls, OR 97603-5701



LAKE COUNTY PLANNING DEPARTMENT

*513 Center Street
Lakeview, Oregon 97630
(541) 947-6032
FAX: (541) 947-2144*

Lisa D. Bowler, Director

NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER: OREGON REVISED STATUTE 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE, IT MUST PROMPTLY BE FORWARDED TO THE PURCHASER.

TO: Adjacent Property Owner (within 750 Feet of Applicant's Property)

FROM: Lake County Planning Department

SUBJECT: Application(s) pending before the Lake County Planning Commission

As an adjacent property owner within 750 feet of the Applicant's property, the attached notice of public hearing provides information regarding an application before the Lake County Planning Commission, its purpose and location, in which you may be interested.

A copy of the application and applicable criteria is available for review at the Lake County Planning Department, Lake County Courthouse, 513 Center Street, Lakeview, Room 206, Oregon. A copy of the application and applicable criteria is available upon request for copying and mailing costs.

Public hearing procedures offer an opportunity for testimony in favor of or opposing an application and an opportunity for cross-examination and rebuttal.

Oral testimony will be received at the time of the hearing, or you may provide written testimony prior to or at the hearing and it will be considered and read into the record. In either case, your testimony must address criteria applicable to the application as described in the attached notice or other criteria in the County's Comprehensive Plan, Zoning Ordinance, or Land Development Ordinance which you believe apply to the decision.

Failure to raise an issue at the hearing or in written testimony precludes your ability to appeal the decision.

Requests for additional information can be directed to the Lake County Planning Department.

NOTICE IS HEREBY given that the Lake County Planning Commission will hold a public hearing on Tuesday, June 19, 2007, at 6:00 P.M., at the Board of Commissioners Meeting Room, 513 Center Street, Oregon, to receive public comment and testimony on the following applications. Failure to raise an issue at the hearing or to provide sufficient specificity precludes your ability to appeal the decision. If you have needs requiring special arrangements, please call 947-6032 at least 24 hours prior to the meeting.

COMPREHENSIVE PLAN DESIGNATION CHANGE APPLICATION NO. 1113

An application by Richard Emery to change the Comprehensive Plan Designation from R, Range to RR, Rural Residential on property described as: Within Township 30 South, Range 17 EWM., Tax Lot 100. A decision will be based on the provisions of the R, Range and RR, Rural Residential Plan Designation Descriptions of the amended Lake County Comprehensive Plan of 1980.



REQUEST FOR FARM USE DETERMINATION AND DISQUALIFICATION

Applicant Name Emery Richard Date: 5-25-07

Property Description: Township 30 South, Range 17 EWM., Section , Tax Lot 100

- Application is for:
- Partition
 - Conditional Use Permit for NFD
 - Zone Change from _____ to _____
 - Comprehensive Plan Designation Change from _____ to _____
 - Subdivision
 - Zoning Permit for _____
 - Lot Line Adjustment

This form is provided for your convenience under the provisions of ORS 215.236 and in compliance with the "non-farm parcel" standards of the Lake County Planning Commission. Penalties may result from disqualification from farm use.

SECTION A:

The above described parcel is is not currently under special farm use assessment by the Lake County Assessor's Office.

Philip L. Smeal Date: 5/25/07
Assessor

SECTION B:

If the parcel is under special assessment, approval by the Planning Commission of a "non-farm use" will require disqualification from farm use assessment by the Lake County Assessor. You must notify the Assessor within 60 days of the date of approval/tentative approval of your application that the parcel, or portion of the parcel, is no longer being used as farm land and request the parcel, or portion of the parcel, be disqualified.

Amount of deferred taxes and penalties, if any: \$ _____

Assessor Date: _____

9

culture designated locations. An attempt was made to provide for Farm Residential development in a variety of locations throughout the County where development could be accommodated at minimal public cost.

North County. Because of the vast number of small acreages in Christmas Valley, few additional Farm Residential areas can be justified in North County. The Ana River subdivision was indicated as one such area, and the Wagontire Road area east of Silver Lake was another. The possibility for future development was recognized east of the old Wastina townsite and northeast of Connley Hills (see related Range descriptions).

South County/Goose Lake Valley. Farm Residential land has been indicated (1) from State Highway 140 north along the east side of Thomas Creek Road, and (2) west of New Pine Creek. The possibility for future development northwest of Warner Junction and on scattered parcels just east of the highway was recognized wherever access would be available, suitable homesites could be found, and development could occur without adversely affecting adjacent agricultural operations. All of those areas are zoned A-2, Agricultural Use, and are "set-off" from the main Valley floor agriculture operations (See Exceptions Appendix).

V. RURAL RESIDENTIAL - This classification provides areas suitable for and desirable to be utilized for minimal acreage residential parcels that will maintain rural character, and can be developed in harmony with both urban uses and agriculture, timber or rangeland activities. Areas designated Rural Residential are generally suited and intended to provide rural living opportunities for people not dependent upon the land for their livelihood, and are located in those areas most demanded for homesites and least disruptive to agriculture, rangeland and forestry uses, as well as least costly to the public for road maintenance, school busing, fire protection and other public services. Such areas should be provided in reasonably close proximity to cities and other locations of employment. Minimum lot size should be determined by space needed for water supply and sewage disposal systems. Generally, that will not be less than one acre, however, in the Warner Junction vicinity, three acres has been established by zoning as the minimum lot size.

The farmland area designated Rural Residential necessitates taking an exception to State Planning Goal No.3-Agricultural Lands. Again, such exception requires: (1) people in the community to be made aware of and to support the conversion; (2) local government(s) to find that earmarking the land for removal from the agriculture base is warranted; and (3) that the need for taking this land out of production (or potential production) be justified to the State.



**LAKE COUNTY PLANNING COMMISSION
STAFF REPORT**

Agenda Date: 06/19/07
Item Number: 10

*Lake County Planning Commission Staff Reports are considered part of the record
and may be utilized for decision making purposes.*

TITLE: CONDITIONAL USE PERMIT APPLICATION NO. 1113

APPLICANT(S): Richard Emery

SUMMARY: The applicant wishes to change the Comprehensive Plan Designation from R, Range to RR, Rural Residential on property described as: Within Township 30 South, Range 17 EWM., Tax Lot 100.

Parcel Size: 360± Acres

Current Use: Homestead, Residential

Proposed Use: Residential

Water Rights: _____ Yes No

Water: Proposed Wells

Sewage: Individual Septic Systems

Fire Protection: Deputy State Fire Marshal

Soil Information: Mixed Class V, VI and VII with the majority being Class VII.

Access: Highway 31

Farm Special Assessment:
 Yes _____ No

Minimum Required Setbacks:

Front 20 Feet Back 20 Feet Side Yard 10 Feet Exception: * Yes _____ No
*A sideyard of a nonfarm use adjacent to a farm use in an area not designated as FR, RR, or RC shall be 50 Feet.

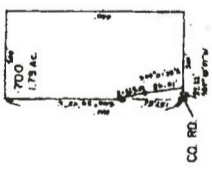
STAFF RECOMMENDED FINDINGS: Attached.

STAFF COMMENTS: This land has been owned by the Emery family since 1929. It was homesteaded sometime in the 1930's. Mr. And Mrs. Emery are asking to change the Comprehensive Plan Designation to permit them to divide the property up for children, grandchildren, and others.

NOTICING: By publication, Lake County Examiner, June 7, 2007. Individual notice by mail on May 25, 2007. Special notice mailed to the Department of Land Conservation and Development, the Deputy State Fire Marshal and the Oregon Department of Transportation.

ADDITIONAL NOTICING: Planning Commission Agenda faxed to the Oregon Department of Transportation, Oregon Department of Fish & Wildlife and the Department of Forestry. Planning Commission Agenda mailed to Lakeview Water Users. Staff report provided to the Lake County Road Department.

Richard Emery
 P.O. Box 115
 Summer Lake, OR
 97161
 541-480-3045



THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

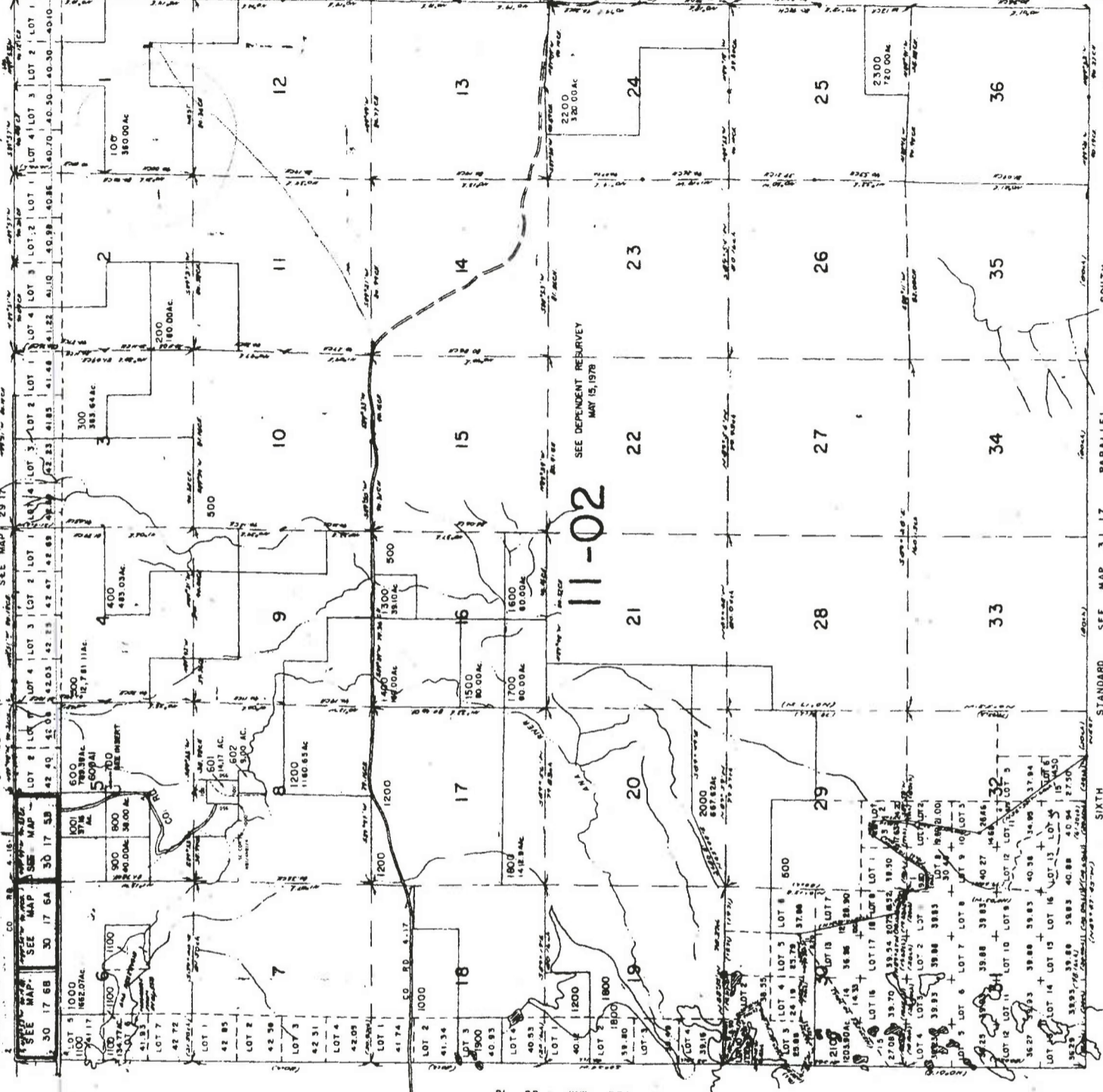
SEE MAP 30 17 53
 SEE MAP 30 17 53
 SEE MAP 30 17 53

INSERT SEC 5
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30 17
 8 INDEX

T. 30S. R. 17E. W.M. LAKE COUNTY

CANCELLED NO.



SEE MAP 30 18

SEE MAP 30 16

Revised
 7/19/2006, DLW
 30 17
 8 INDEX

LAKE COUNTY LAND SALES
PLANNING BUILDING DEPT.
513 CENTER ST.
LAKEVIEW, OREGON 97630

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

