



Land of Cheese, Trees and Ocean Breeze

CONDITIONAL USE REQUEST #851-25-000118-PLNG
LICHNER NON-FARM DWELLING

*NOTICE TO MORTGAGEE, LIENHOLDER, VENDOR OR SELLER:
ORS 215 REQUIRES THAT IF YOU RECEIVE THIS NOTICE,
IT MUST BE PROMPTLY FORWARDED TO THE PURCHASER*

August 6, 2025

Dear Property Owner:

This is to confirm that the Tillamook County Department of Community Development **APPROVED WITH CONDITIONS** the above-cited requests on August 6, 2025. A copy of the application, along with a map of the request area and the applicable criteria for review are available for inspection on the Tillamook County Department of Community Development website: <https://www.tillamookcounty.gov/commdev/landuseapps> and is also available for inspection at the Department of Community Development office located at 1510-B Third Street, Tillamook, Oregon 97141.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. Forms and fees must be filed in the office of this Department before **4:00pm on August 18, 2025**. This decision will become final on August 18, 2025, after 4:00pm unless an appeal is filed in accordance with Tillamook County Land Use Ordinance Article X.

- Request:** A Conditional Use request for a non-farm dwelling in the Farm (F-1) Zone (Exhibit B).
- Location:** Accessed via Hodgdon Road, a County road, east of the City of Tillamook and is designated as Tax Lot 600 of Section 27, Township 1 South, Range 9 West of the Willamette Meridian, Tillamook County, Oregon (Exhibit A).
- Zone:** Farm (F-1)
- Applicant & Property Owner:** Matt & Stacy Lichner, c/o Breakwater Law, 9900 SW Wilshire Street, STE 200, Portland, OR 97229

CONDITIONS OF APPROVAL

Sections 6.070: COMPLIANCE WITH CONDITIONS, and 6.080: TIME LIMIT requires compliance with approved plans and conditions of this decision, and all other ordinance provisions. Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant/property owners shall obtain all Federal, State, and Local permits, as applicable, prior to development/construction.
2. The applicant/property owner shall obtain approved Zoning and Building Permits from the Tillamook County Department of Community Development prior to siting the proposed non-farm dwelling or any accessory structures.
3. The applicant/property owner shall provide evidence of permit approval for the installation of a new on-site wastewater treatment (sanitation) system prior to Zoning Permit & Building Permit submittal for the siting of the dwelling.
4. One (1) residential dwelling shall be permitted to be sited on the subject property in conformance with all applicable development standards contained in the Tillamook County Land Use Ordinance (TCLUO). Placement of the non-farm dwelling will be limited to the portion of the subject property depicted as "Homesite 2" of the Applicant's submittal (Exhibit B).
5. In accepting this Approval for a Non-Farm Dwelling in the Farm zone, the applicants/ property owners understand intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use. The owners hereby acknowledge that practices may involve but are not limited to the application of herbicides or fertilizers (including aerial spraying), road construction, changes in view, noise, dust, odor, traffic, and other impacts related to a farm zone. The applicants/property owners acknowledge the use of this property may be impacted by such activities and is accepting of that fact. In the event of conflict, the applicant/property owners understand preference will be given to farm and forest practices.

A covenant to the deed shall be required, informing that intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use and limiting pursuance of a claim for relief or cause of action of alleging injury from farming or forest practices. The Restrictive Covenant shall be filed with the Tillamook County Clerk, and a record copy shall be submitted to this Department at the time of Zoning and Building Permit application. The covenant shall be worded as the example included as 'Exhibit D'.

6. The applicant/property owner shall file proof that the homesite area has been disqualified from special assessment and that all taxes resulting from the disqualification have been paid in full. Evidence shall include documentation from the Tillamook County Assessor's Office, and shall be filed with the Department within 12 months of this approval.
7. This approval shall be void on August 6, 2027, unless all conditions are met, or an extension is requested from, and approved by, this department.

Sincerely,

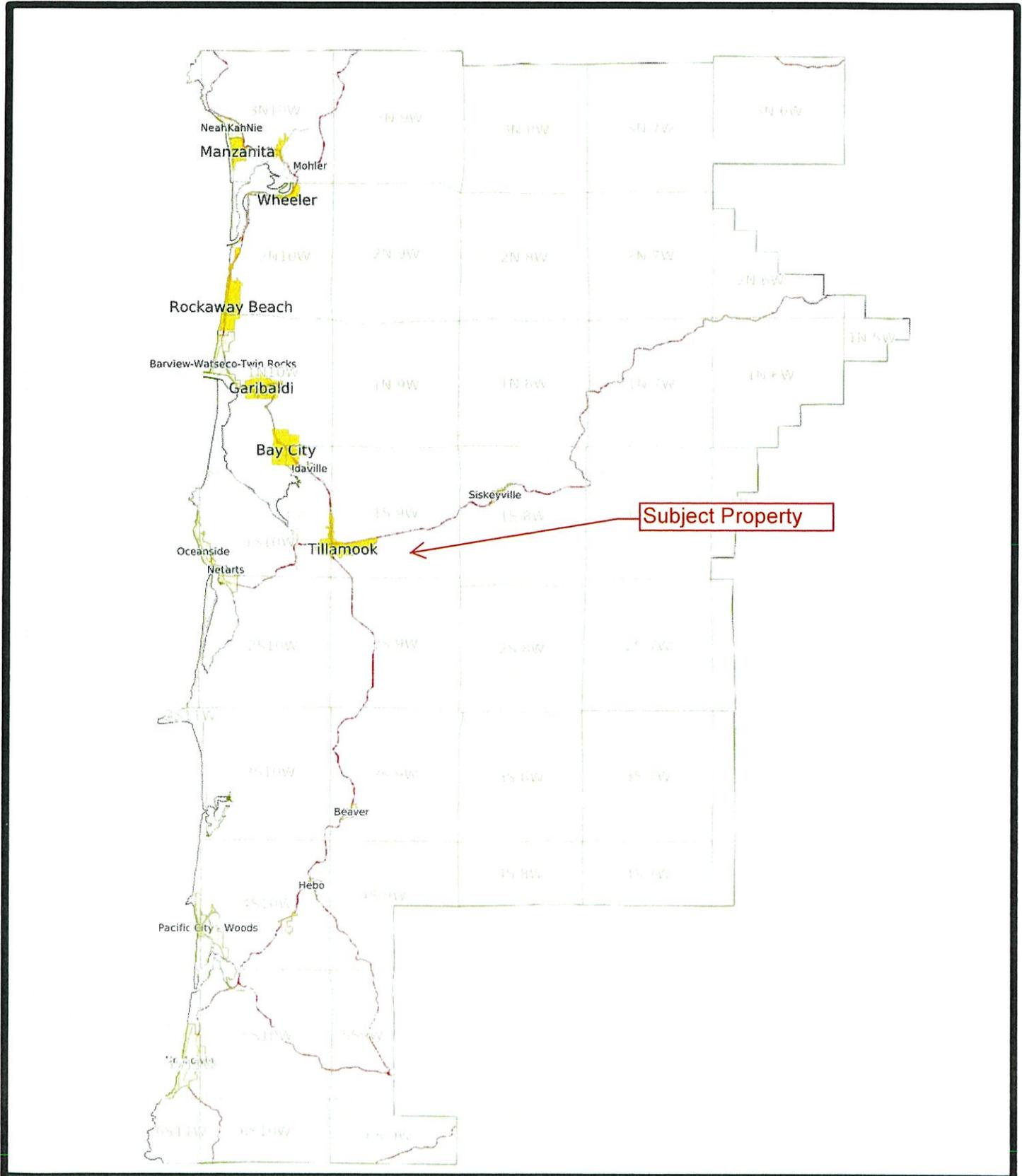
Tillamook County Department of Community Development



Sarah Absher, CFM, Director

Enc.: Vicinity, Assessor's and Zoning maps

Vicinity Map





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Sincerely,

Tillamook County Department of Community Development



Sarah Absher, CFM, Director

Enc.: Vicinity, Assessor's and Zoning maps



Land of Cheese, Trees and Ocean Breeze

**CONDITIONAL USE REQUEST #851-25-000118-PLNG: LICHNER
ADMINISTRATIVE DECISION & STAFF REPORT**

Staff Report Date: August 6, 2025

Decision Date: August 6, 2025

Decision: APPROVED WITH CONDITIONS

(This is not a Building/Placement Permit Approval)

Report Prepared by: Sarah Absher, CFM, Director

I. GENERAL INFORMATION:

Request: A Conditional Use request for a non-farm dwelling in the Farm (F-1) Zone (Exhibit B).

Location: Accessed via Hodgdon Road, a County road, east of the City of Tillamook and is designated as Tax Lot 600 of Section 27, Township 1 South, Range 9 West of the Willamette Meridian, Tillamook County, Oregon (Exhibit A).

Zone: Farm (F-1)

Applicant & Property Owner: Matt & Stacy Lichner, c/o Breakwater Law, 9900 SW Wilshire Street, STE 200, Portland, OR 97229

Description of Site and Vicinity: The subject property encompasses approximately 65.70 acres, is zoned Farm (F-1), is vegetated with grass and trees, consists of varied terrain and is not currently developed according to Tillamook County Assessor’s records (Exhibits A & B). The property is accessed from Hodgdon Road, a County road, via a property to the north identified as Tax Lot 1200 (Exhibit A).

The subject property is located in an area of shallow and deep landslide susceptibility as depicted in Oregon Department of Geology and Mineral Industries (DOGAMI) Open File Report O-20-13 (Exhibit A). Topography of the subject property consists of terraces and steep sloping hills, ridges and side slopes (Exhibit B).

The subject property is not located within an area of Special Flood Hazard per FEMA Flood Insurance Rate Map (FIRM) #41057C0584F, dated September 28, 2018 (Exhibit A). In review of the Oregon Statewide

Wetland Inventory Map, staff confirm there are no natural features present on the area of the property proposed for development (Exhibit A).

The surrounding area is a mixed use of residential and agricultural activities. Properties to the immediate south are zoned Rural Residential 2-Acre (RR-2) and are developed with single-family dwellings. Properties to the immediate north and east are zoned Farm (F-1). The larger vicinity continues the land use pattern of mixed residential and agricultural uses and large areas alternating farm and residential zoning districts (Exhibit A).

Applicant is requesting approval to place a non-farm dwelling in the northern portion of the subject property in a level, cleared area south of Neskowin Creek and Bauer Road in the general area of the previous dwelling site and existing septic field and driveway (Exhibit B).

II. APPLICABLE ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

The proposed use is governed through the following sections of the Tillamook County Land Use Ordinance (LUO). The suitability of the proposed use, in light of these criteria, is discussed below in Section III of this report:

- A. T TCLUO Section 3.002: Farm (F-1) Zone**
- B. TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas**
- C. TCLUO Article VI: Conditional Use Procedures and Criteria**

III. ANALYSIS

A. TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas

TCLUO Section 4.130 includes shallow and deep landslide susceptibility as depicted in Oregon Department of Geology and Mineral Industries (DOGAMI) Open File Report O-20-13, where slopes are greater than 29 percent on a parcel greater than 20,000 square feet as Geologic Hazard Areas subject to the requirements of TCLUO 4.130.

Findings: Staff find that, as a Condition of Approval, future development on the subject property in Geologic Hazard areas shall conform to the requirements of TCLUO Section 4.130.

B. TCLUO Section 3.002: Farm (F-1) Zone

TCLUO Section 3.002(3), 'Development Standards'

(a) Land divisions and development in the F-1 Zone shall conform to the following standards, unless more restrictive supplemental regulations apply:

...

4. The minimum front and rear yards shall be 20 feet.

5. The minimum side yard shall be 10 feet where adjacent to land in the F-1 or SFW-20 zones. Otherwise the minimum side yard shall be 20 feet.

...

7. The maximum building height for all nonfarm structures shall be 35 feet, except on ocean or bay frontage lots, where it shall be 24 feet. Higher structures may be permitted only according to the provisions of Article 8.

Findings: Applicant has prepared a Property Line Adjustment application #851-25-000117-PLNG under review with Tillamook County Community Development. The Property Line Adjustment application identifies the proposed lot layout for the parcel to contain the non-farm dwelling, if approved through this

land use review. Staff find that these development standards can be met through compliance with Conditions of Approval.

TCLUO Section 3.002(4)(w), ‘General Use Standards’

...

2. Single-family dwelling deeds. The landowner shall sign and record in the deed records for the county a document binding the landowner, and the landowner's successors in interest, prohibiting them from pursuing a claim for relief or cause of action alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or 30.937.

...

Findings: Staff find this development standard can be met through compliance with Conditions of Approval.

TCLUO Section 3.002(5), ‘Conditional Use Review Criteria’

An applicant for a use permitted in Table 1 must demonstrate compliance with the following criteria and with the Conditional Use Criteria in Article 6 Subsection 040, or in Article 6 Subsection 060 if the proposed use is for the restoration, enhancement or creation of a wetland as defined in 3.002(2).

- (a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and*
- (b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.*

Findings: Applicant is proposing the siting of a dwelling in the area identified as “Homesite 2” (Exhibit B). Homesite 2 is located on a ridge in the southwest/central area of the subject property. For the reasons outlined in the Applicant’s submittal and summarized throughout this report, Applicant states a dwelling in the homesite area will not force a significant change in practice or significantly increase the cost of practices on surrounding lands devoted to farm or forest use (Exhibit B).

Properties zoned Farm (F-1) are located to the immediate north and east of the subject property. Utilizing GIS, staff confirms forest uses are not prevalent in the vicinity, and that farm uses occurring on surrounding properties are at least 1,000 feet away or farther from the proposed homesite (Exhibit A). Staff finds that varying topography and vegetation on the subject property serve as barriers to protect agricultural operations to the north and east of the proposed dwelling site, separating active agricultural uses from any potential impacts resulting from the siting of proposed residential development in the centra/southwestern region of the subject property.

Staff find that the placement of a non-farm dwelling at the proposed location will not significantly change farm or forest practices or significantly increase the cost of farm or forest practices on surrounding land devoted to farm or forest use. Staff find that these criteria can be met through compliance with Conditions of Approval.

TCLUO Section 3.002(9), ‘Dwellings Not in Conjunction With Farm Use’

(a) Non-farm dwelling. A non-farm dwelling is subject to the following requirements:

- 1. The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use;*

Findings: Staff has addressed this requirement above in response to the Conditional Use Review Criteria outlined TCLUO 3.002(5). Staff find that the placement of a non-farm dwelling at the proposed location will not significantly change farm or forest practices or significantly increase the cost of farm or forest

practices on surrounding land devoted to farm or forest use. Staff find that these criteria can be met through compliance with Conditions of Approval.

2. *The following applies to a non-farm dwelling subject to Subsection (9):*

a. *The dwelling is situated upon a new parcel, or a portion of an existing lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and*

b. *A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a new parcel or portion of an existing lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the new parcel or portion of the existing lot or parcel is not "generally unsuitable". A new parcel or portion of an existing lot or parcel is presumed to be suitable if is composed predominantly of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use; or*

...

Findings: Applicant refers to the soils analysis included as "Exhibit B", stating that the homesite area is predominantly comprised of Class 6 soils and is not presumed to be suitable for farming. Applicant sites that Class 6 soils have severe limitations that make them generally unsuited for cultivation and limit their use to pasture, range, forestland or wildlife and food cover (Exhibit B). Applicant adds that in addition to poor soil cover, the homesite area is also subject to natural and practical barriers for usage due to steep slopes that result in limited access for farm equipment to access these areas and the safety risks that are present if tried, the area has no apparent forest resource value, is adjacent to a residentially developed area and the homesite area has not been employed for farm purposes for many decades- if ever. Applicant provided evidence to support these claims including satellite images of the subject property and homesite over the past 30 years supporting the conclusion that the property has not been engaged in active farm use (Exhibit B).

Staff concurs with the Applicant's justification and findings, and in consideration of the history of use of the site, terrain, soil classification, isolated location and size of the site proposed for non-farm residential use, that the portion of the subject property proposed for non-farm residential use is generally unsuitable land for the production of farm crops and livestock or merchantable tree species. Staff find these standards are met.

3. *The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subparagraphs 3.a through c. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subparagraphs 3.a through c.*

a. *Identify a Study Area for the cumulative impacts analysis. The Study Area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the Study Area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct*

the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the Study Area;

Findings: Applicant's "Study Area" encompasses roughly 2,021 acres and was chosen to highlight the distinct farming basin located in the eastern portion of the main Tillamook valley (Exhibit B). The Study Area consists of all farm properties located west of the Coast Range Mountains, south of Sollie Smith Road, east of Wilson River Road, Olsen Road and Trask River Road, and north of the hills associated with Sunset Heights Memorial Gardens. Lands residentially zoned and other urban, non-resource lands were not included in the study area (Exhibit B).

Applicant has included the Natural Resources Conservation Service (NRCS) Web Soil Survey's Soil Map for the Study Area (Exhibit B). Applicant notes the Study Area includes 70 separate tax lots, all of which are either entirely or primarily committed to active farming operations. Applicant notes the Study Area includes land owned and leased by large farming operations by local farm entities (Exhibit B). The Study Area per NRCS is comprised entirely of high value Class 2-4 soils with over 50% of the soils inventories as Class 2 soils (Exhibit B). Applicant references various satellite images as evidence to conclude the Study Area appears to be stable with no material changes in the last 30 years, and that the farming use of the Study Area has not materially changed in the last 30 years (Exhibit B).

Staff find that the selection of Farm (F-1) zoned, Small Farm Woodlot (SFW-20) zoned, and Forest (F) zoned properties included in the Applicant's Study Area are representative of the land use pattern surrounding the subject property, and is adequate to conduct the analysis required by TCLUO 3.002(9)(a)(3).

b. Identify within the Study Area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the Study Area including the distribution and arrangement of existing uses and the land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph; and

Findings: The Applicant's submittal includes a table detailing the type, age, zoning and location of the existing dwellings, identified as the "Lichner Cumulative Impacts Study Area" (Exhibit B). In relation to the types of farm uses, existing dwellings and dwelling development trends since 1993, the Applicant states that because the study area is entirely comprised of Class 2-4 high value farmland soils, they are disqualified from being improved with non-farm dwellings. The exception is the subject property and possibly a property identified as Tax lot 500 per the Applicant's study findings (Exhibit B).

Potential Dwelling Analysis:

Detailed analysis of the Study Area properties is contained in the Applicant's submittal (Exhibit B).

The majority of properties in the Study Area are substandard in size and there are properties, specifically those accessed via Hodgdon Road, that were part of a Measure 49 Claim (Thomas) (Exhibit B).

Non-Farm Dwelling Analysis:

Staff reviewed 38 properties developed with residential structures within the Study Area. Of those, approximately 5 were sited after 1993 and 1 of the 5 dwellings may qualify as non-farm dwellings,

consistent with the Applicant's findings. The remainder of the dwellings existed before 1993, and most are associated with active farm use.

Potential Lot-of-Record Analysis:

Applicants provided an analysis of properties that may qualify for a Lot-of-Record dwelling. Of the 69 properties, 38 are identified with a dwelling and 23 are located on tracts with at least one dwelling. Of the remaining 12 properties, 5 were acquired after 1985 and do not qualify for a Lot-of-Record dwelling. The analysis focused on the three remaining properties, summarizing the findings of each property. Two of the three properties are committed to farm use and do not qualify for a Lot-of-Record dwelling. The third, identified as Tax Lot 601, may qualify for a Lot-of-Record dwelling (Exhibit B).

After consideration of the materials submitted by the Applicant and further review conducted by Staff, Staff concur with the Applicant's findings (Exhibit B) that there are possibly two properties other than the subject property with the potential for a non-farm dwelling or the potential for a lot-of-record dwelling within the Study area.

ORS 215.263(4):

TCLUO 3.002(14) requires that new parcels in the Farm (F-1) zone, an Exclusive Farm Use zone, encompass a minimum of 80 acres. TCLUO 3.002(14) also outlines circumstances under which a division of land smaller than the minimum lot or parcel size of 80 acres may be approved. ORS 215.263(4) addresses the requirements for land divisions in exclusive farm use zones to create parcels smaller than the minimum size to contain non-farm dwellings provided that the remainder parcel complies with the minimum size requirement (80 acres or 40 acres in certain cases). TCLUO 3.002(14)(c) and (d) are reflective of the requirements outlined in ORS 215.263(4). Both properties identified with potential eligibility for qualifying for a non-farm dwelling or lot-of-record dwelling are substandard in size and are not capable of a land division (Exhibit B).

Distribution and arrangement of existing uses:

Staff find farm uses in the area consist of commercial dairies and hobby farms with large areas of residentially developed properties zoned Rural Residential 2-Acre (RR-2) (Exhibits A and B).

Land use pattern resulting from approval of possible nonfarm dwellings:

As noted above, farm uses in the area consist of commercial dairies and hobby farms with large areas of residentially developed properties zoned Rural Residential 2-Acre (RR-2) (Exhibits A and B). Staff find that conversion of the two properties from their current non-farm use to a residential use is not anticipated to result in a significant change to the land use pattern of the area. Given their size and location, staff find conversion to residential use appear unlikely.

In general, approval of two possible non-farm and lot-of-record dwellings on the properties described above would be consistent with the existing established land use pattern as the pattern would continue to be characterized by the existing agricultural and residential uses that exist in the area. Staff concurs with the Applicant's findings and analysis included in "Exhibit B" of this report and concludes that there is adequate evidence in the record to confirm the standards of this section are met.

c. Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire

water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the Study Area.

Findings: Staff concurs with the Applicant’s findings, that if the two properties were developed with dwellings, the development of the potential non-farm/lot-of-record dwellings discussed above would result in roughly 1.5 acres affirmatively removed from farm production, an insignificant amount of acreage removed from potential agricultural use in the 2,000 +-acre Study Area (Exhibit B). Staff find that the topography of the Study Area and the distribution of suitable farm soils along the valley floor, clearly identify the regions within the Study Area that are suitable for farm uses (Exhibit B).

As discussed above, Staff notes that the subject property is isolated from other farm properties due to its topographic features and the fact that the location for the proposed homesite “Homesite 2” is over 1,000 feet away from areas devoted to farm use. Further, staff finds there is no documentation of conflicts with surrounding farm uses. As also discussed above and evidenced in the Applicant’s submittal, Staff finds that the portion of subject property proposed for non-farm residential use is generally unsuitable land for the production of farm crops and livestock or merchantable tree species (Exhibit B).

Staff finds that the approval of the proposed nonfarm dwelling, together with existing dwellings and limited potential nonfarm/lot-of-record dwellings, will not diminish opportunities for existing farms to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the Study Area.

4. If a single-family dwelling is established on a lot of record as set forth in this ordinance, no additional dwelling may later be sited under the provisions of this section.

Findings: Staff finds that a Condition of Approval can be adopted that a second dwelling shall not be sited on the subject property.

C. TCLUO Article VI: Conditional Use Procedures and Criteria

Article VI of the Tillamook County Land Use Ordinance contains the procedures and review criteria for processing a conditional use request. These criteria, along with Staff’s findings and conclusions are indicated below.

TCLUO Section 6.020, ‘Procedure’ requires notification of the request to be mailed to landowners within 250-feet of the subject property and agencies, to allow 14 days for written comment, and requires staff to consider comments received in making the decision.

Findings: Notice was mailed to property owners and agencies on June 10, 2025. Comments were received from Tillamook County Public Works, Oregon Department of Fish and Wildlife (ODFW), and the general public (Exhibit C). Public comment expressed concern that allowance of this process on a Farm (F-1) zoned property would allow for other Farm (F-1) zoned properties to pursue such request (Exhibit C). Tillamook County Public Works identified the requirement for an access easement for future updates to the road approach (Exhibit C). ODFW assessed that a stream which may bisect future access to the subject property is within range of cutthroat trout and would require consultation with ODFW in the future for fish passage requirements (Exhibit C).

TCLUO Section 6.040, ‘Review Criteria’

REVIEW CRITERIA Any CONDITIONAL USE authorized according to this Article shall be subject to the following criteria, where applicable:

(1) The use is listed as a CONDITIONAL USE in the underlying zone, or in an applicable overlying zone.

Findings: TCLUO Section 3.002(15), 'Use Table', lists non-farm dwellings as a use permitted conditionally in the Farm (F-1) zone subject to satisfaction of the Conditional Use Review criteria contained in TCLUO Section 6.040 and TCLUO Section 3.002(5) as well as all other applicable standards. Staff conclude this criterion is met.

(2) The use is consistent with the applicable goals and policies of the Comprehensive Plan.

Findings: Applicant states the analysis provided demonstrates that the placement of a nonfarm dwelling will not threaten or substantially affect the use of surrounding agricultural operations, and the surrounding areas actively engaged in agricultural uses are not threatened by the siting of a dwelling on the subject property (Exhibit B). Applicant adds that this request is not in conflict with Tillamook County Comprehensive Plan Goal Element 10: Housing, Goal Element 11: Public Facilities, Goal Element 12: Transportation or Goal Element 14: Urbanization.

Staff find that the proposed uses are permitted conditionally in the Tillamook County Land Use Ordinance. The TCLUO is an implementing document of the Comprehensive Plan. In the absence of evidence to the contrary, uses allowed conditionally in the Land Use Ordinance are presumed to be consistent with the Comprehensive Plan. Staff find the Applicant is required to demonstrate adequacy of public utilities and facilities at the time of consolidated zoning and building permit application submittal and concurs that the development of one dwelling on the subject property does not conflict with the urbanization policies outlined in the Goal 14 element of the Tillamook County Comprehensive Plan. Staff also find that through the Conditions of Approval, development of the subject property will be consistent with applicable policies in the Goal 7: Hazards element of the Comprehensive Plan. Development of the property is subject to the implementing ordinances of the TCLUO, specifically Section 4.130: Development Requirements for Geologic Hazard Areas.

As discussed above, Staff concurs with the Applicant's findings and evidence in the record supporting the proposed use will not have a significant impact on surrounding farm uses considering the terrain (topography), poor soil classification and isolated location of "Homesite 2" (Exhibit B). Staff also finds the portion of subject property proposed for non-farm residential use is generally unsuitable land for the production of farm crops and livestock or merchantable tree species as evidenced in the soils report included in "Exhibit B".

Staff concurs with the Applicant's evidence that the proposed dwelling, in combination with the two other potential non-farm dwelling properties in a 2,000+-acre Study Area will not alter the surrounding agricultural land use pattern. Staff finds that the proposed use is consistent with the Goal 3 and Goal 4 elements of the Tillamook County Comprehensive Plan.

Staff conclude this criterion is met.

(3) The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.

Findings: The subject property encompasses approximately 65.70 acres, is vegetated with grass and trees, consists of varied terrain and is not currently developed according to Tillamook County Assessor's records (Exhibits A & B). The property is accessed from Hodgdon Road, a County road, via a property to the north identified as Tax Lot 1200 (Exhibit A).

The subject property is located in an area of shallow and deep landslide susceptibility as depicted in Oregon Department of Geology and Mineral Industries (DOGAMI) Open File Report O-20-13 (Exhibit A).

Topography of the subject property consists of terraces and steep sloping hills, ridges and side slopes (Exhibit B). The subject property is located outside of mapped Areas of Special Flood Hazard and there are no natural features present within the proposed development area (Exhibit A). Development shall comply with the applicable standards of TCLUO Section 4.130: Development Requirements for Geologic Hazard Areas as stated previously in this report. The Statewide Wetlands Inventory Map would indicate the presence of wetlands and a stream in the northeastern boundary of the subject property (Exhibit A). Oregon Department of Fish and Wildlife identified that the stream and wetlands may need development within the area for access from Tax Lot 1200 (Exhibit C).

Applicant is requesting approval to place a non-farm dwelling in the central/southwestern region of the subject property identified as "Homesite 2" (Exhibit B). As discussed in detail above, Staff finds that the proposed site is suitable for a non-farm dwelling considering the terrain/topography, poor soil classification, and location on the subject property. Based upon the evidence in the record, Staff concur with the Applicant that the proposed location for the non-farm residential use is generally unsuitable land to produce farm crops and livestock or merchantable tree species.

Staff finds this criterion is met and can be met through compliance with Conditions of Approval.

(4) The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.

Findings: The surrounding area is devoted to residential and agricultural uses (Exhibits A & B). Potential impacts of the proposed use on surrounding resource zoned properties are discussed at length above and in the record, and Staff find that the proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding farm and forest properties.

Staff conclude this criterion is met.

(5) The proposed use will not have detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.

Findings: Applicant states that no such facilities exist on or near the subject site (Exhibit B). Staff find no record of any such facilities being installed on or near the subject site.

Staff conclude this criterion is met.

(6) The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.

Findings: Applicant states that adequate services are available to the site or existing services in the area can be brought to the site (Exhibit B). Staff find the area and subject property are served by on-site wastewater treatment (sanitation) systems, Fairview Water District, Tillamook Fire District, Tillamook PUD, Tillamook County Sheriff's Office and the County road system.

Comments received from the Tillamook County Public Work's Department identified the necessity for an access easement to be established for a road approach to a new dwelling, to prevent future issues if properties are sold separately (Exhibit C).

Staff finds this criterion is met and can be met through compliance with Conditions of Approval.

IV. DECISION: APPROVED WITH CONDITIONS

Based on the findings shown above, Staff concludes that the applicant has satisfied the review criteria and can meet all applicable ordinance requirements at the time of application. Therefore, the Department approves this request for a non-farm dwelling subject to the Conditions of Approval in section V of this report.

Appeal of this decision. This decision may be appealed to the Tillamook County Planning Commission, who will hold a public hearing. The forms and fees must be filed in the office of this Department before **4:00 PM on August 18, 2025.**

V. CONDITIONS OF APPROVAL:

Sections 6.070: COMPLIANCE WITH CONDITIONS, and 6.080: TIME LIMIT requires compliance with approved plans and conditions of this decision, and all other ordinance provisions. Failure to comply with the Conditions of Approval and ordinance provisions could result in nullification of this approval.

1. The applicant/property owners shall obtain all Federal, State, and Local permits, as applicable, prior to development/construction.
2. The applicant/property owner shall obtain approved Zoning and Building Permits from the Tillamook County Department of Community Development prior to siting the proposed non-farm dwelling or any accessory structures.
3. The applicant/property owner shall provide evidence of permit approval for the installation of a new on-site wastewater treatment (sanitation) system prior to Zoning Permit & Building Permit submittal for the siting of the dwelling.
4. One (1) residential dwelling shall be permitted to be sited on the subject property in conformance with all applicable development standards contained in the Tillamook County Land Use Ordinance (TCLUO). Placement of the non-farm dwelling will be limited to the portion of the subject property depicted as "Homesite 2" of the Applicant's submittal (Exhibit B).
5. In accepting this Approval for a Non-Farm Dwelling in the Farm zone, the applicants/ property owners understand intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use. The owners hereby acknowledge that practices may involve but are not limited to the application of herbicides or fertilizers (including aerial spraying), road construction, changes in view, noise, dust, odor, traffic, and other impacts related to a farm zone. The applicants/property owners acknowledge the use of this property may be impacted by such activities and is accepting of that fact. In the event of conflict, the applicant/property owners understand preference will be given to farm and forest practices.

A covenant to the deed shall be required, informing that intensive farm or forest practices may be conducted upon adjacent or nearby land zoned for farm or forest use and limiting pursuance of a claim for relief or cause of action of alleging injury from farming or forest practices. The Restrictive Covenant shall be filed with the Tillamook County Clerk, and a record copy shall be submitted to this Department at the time of Zoning and Building Permit application. The covenant shall be worded as the example included as 'Exhibit D'.

6. The applicant/property owner shall file proof that the homesite area has been disqualified from special assessment and that all taxes resulting from the disqualification have been paid in full. Evidence shall

include documentation from the Tillamook County Assessor's Office, and shall be filed with the Department within 12 months of this approval.

7. This approval shall be void on August 6, 2027, unless all conditions are met, or an extension is requested from, and approved by, this department.

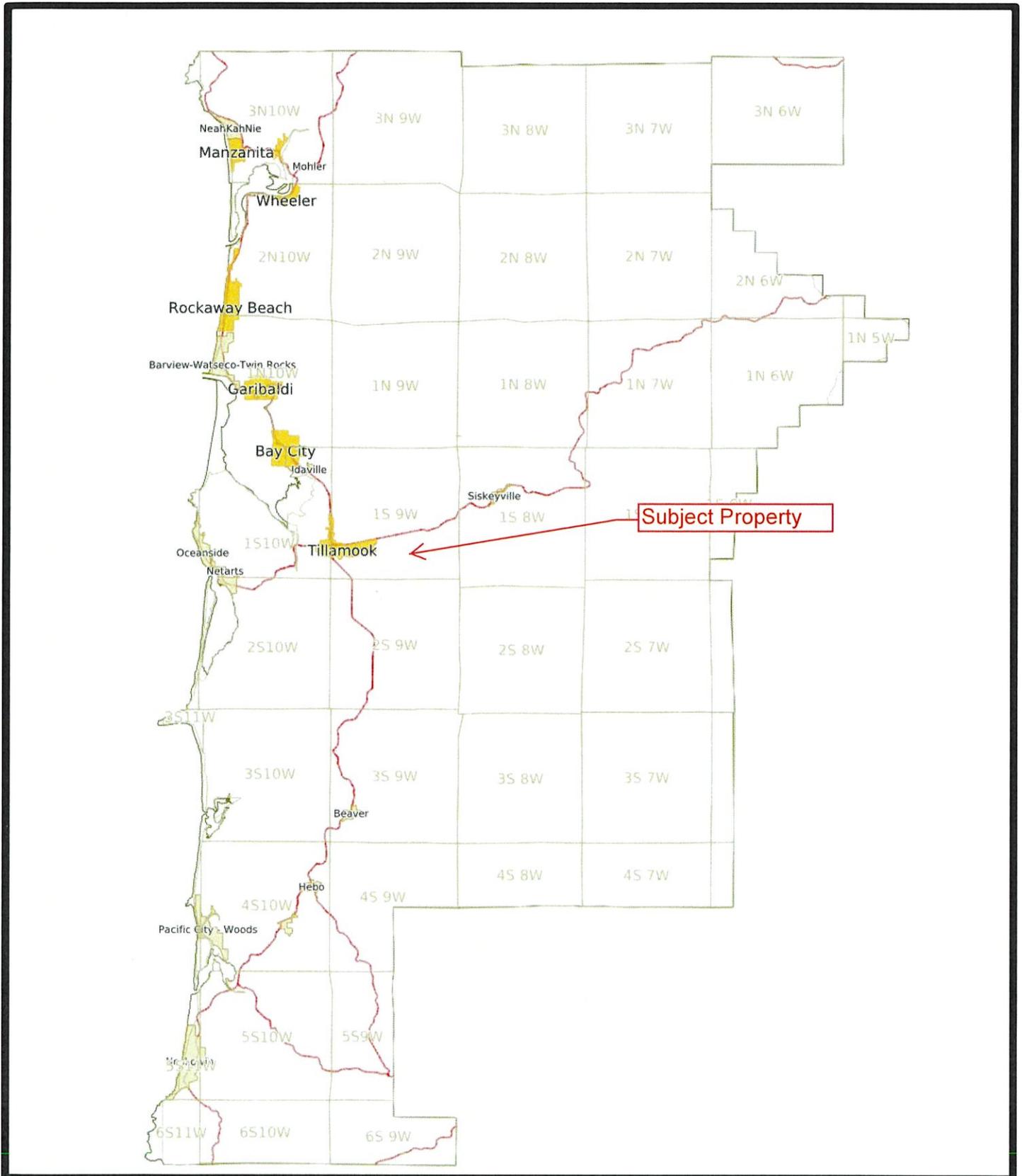
VI. EXHIBITS

All Exhibits referenced herein are, by this reference, made a part hereof.

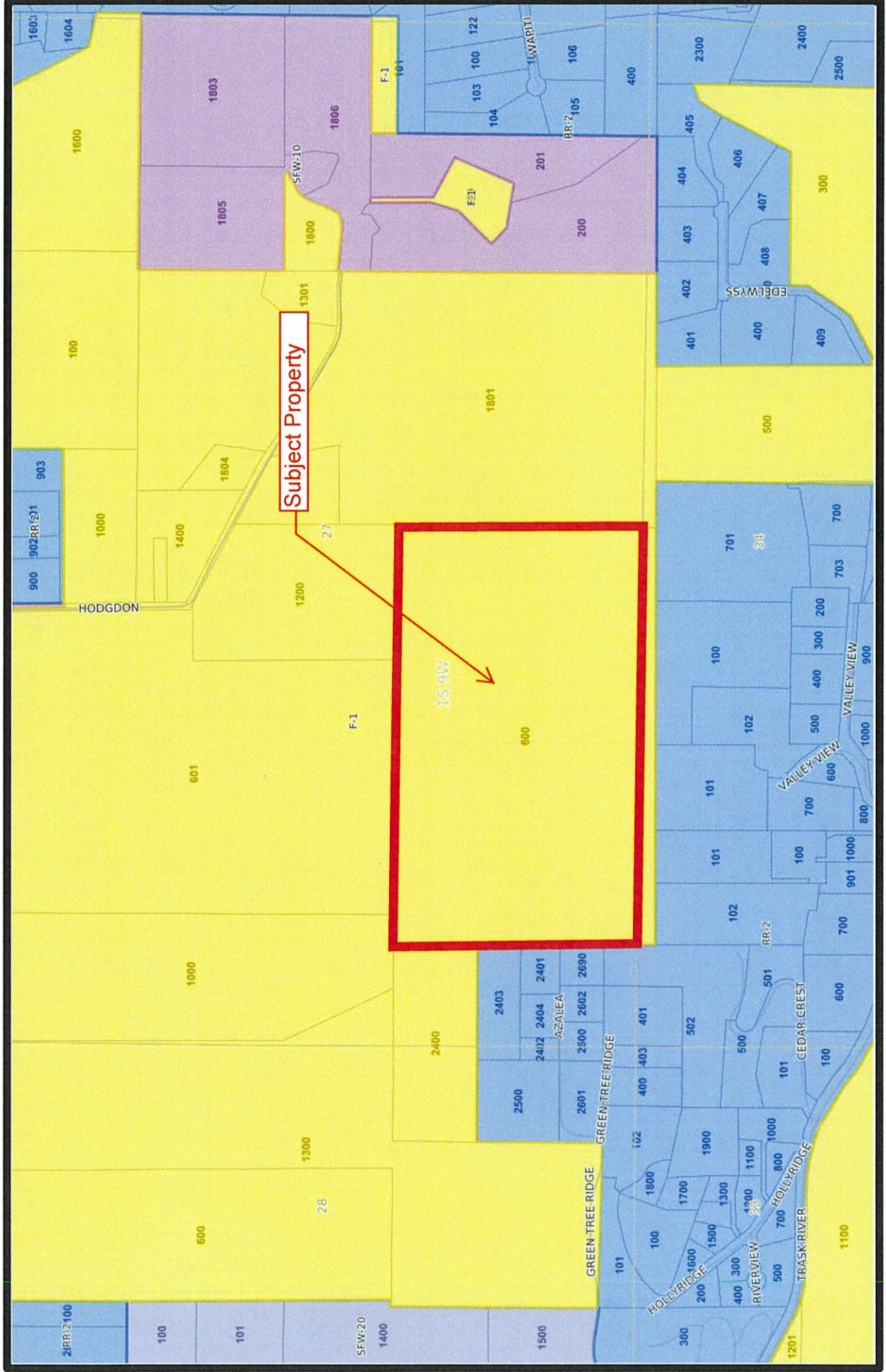
- A. Vicinity, Assessor's, Zoning and Hazard maps
- B. Applicant's submittal
- C. Public Comments
- D. Farm/Forest Restrictive Covenant

EXHIBIT A

Vicinity Map



Zoning Map



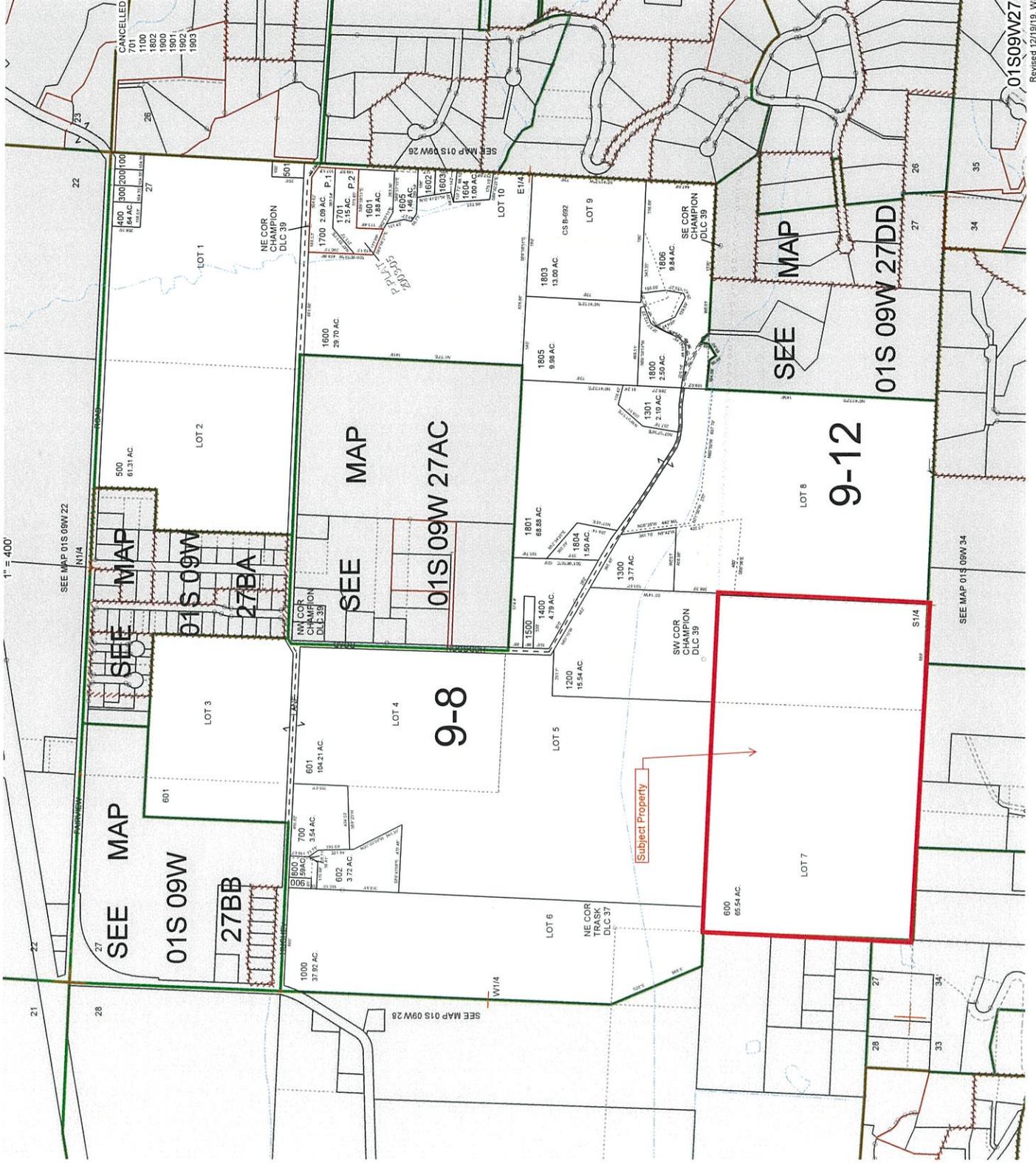
THIS MAP WAS PREPARED FOR ASSESSMENT PURPOSE ONLY

SECTION 27 T.1S. R.9W. W.M.
TILLAMOOK COUNTY

1" = 400'



01S09W27



01S09W27

Revised 12/15/15, WS

Tillamook County
2024 Real Property Assessment Report
 Account 152550

Map 1S09270000600
 Code - Tax ID 0912 - 152550

Tax Status Assessable
 Account Status Active
 Subtype NORMAL

Legal Descr See Record

Mailing LICHNER, MATTHEW MARTIN TRUSTEE &
 LICHNER, STACY NOEL TRUSTEE
 570 HODGDON RD
 TILLAMOOK OR 97141

Deed Reference # 2024-94
 Sales Date/Price 12-26-2023 / \$0
 Appraiser LORRIE MCKIBBIN

Property Class 550 MA SA NH
 RMV Class 500 01 01 500

Site	Situs Address	City
------	---------------	------

Value Summary					
Code Area	RMV	MAV	AV	RMV Exception	CPR %
0912	Land 458,780		Land	0	
	Impr 0		Impr	0	
Code Area Total	458,780	36,960	44,090	0	
Grand Total	458,780	36,960	44,090	0	

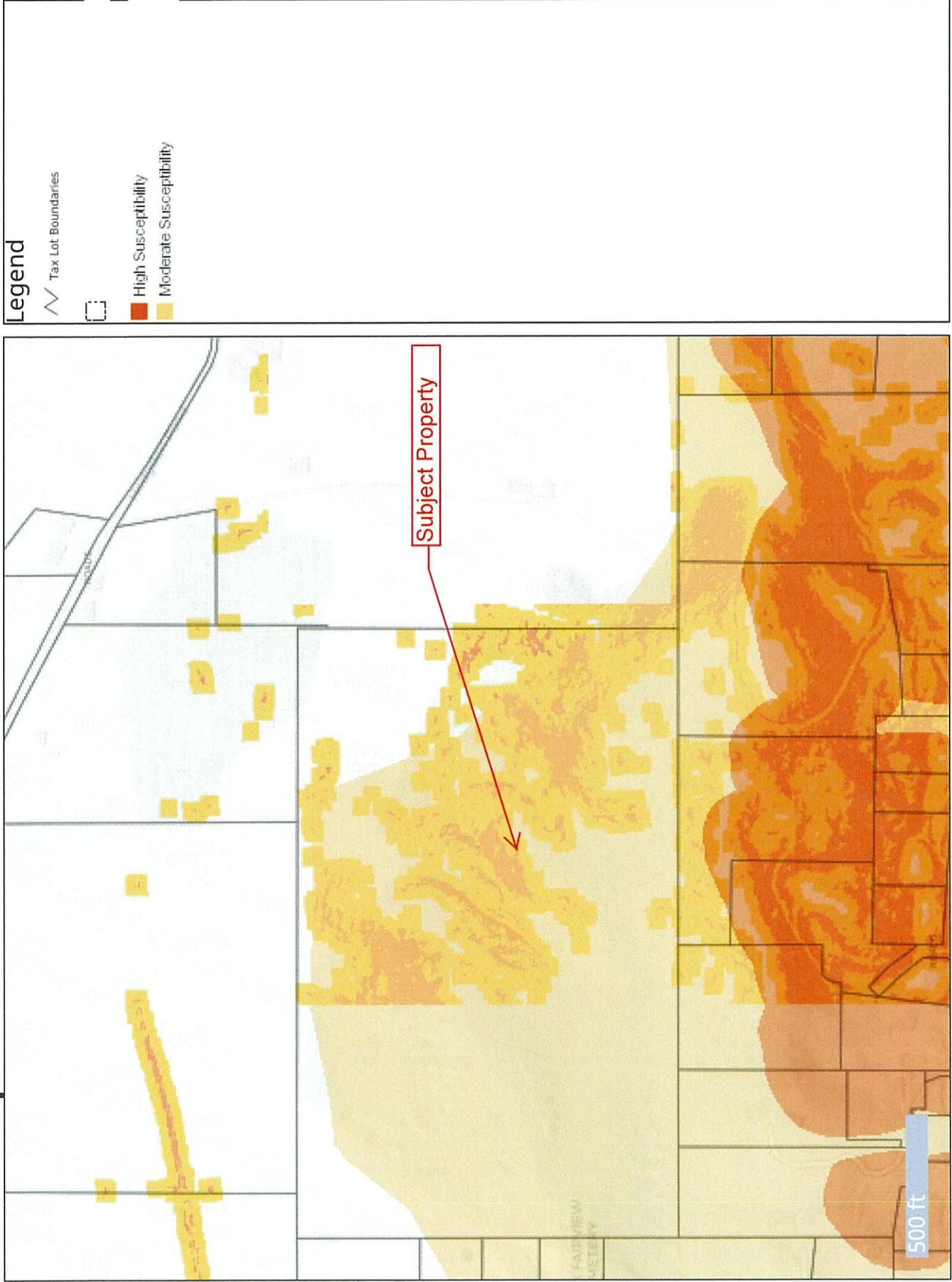
Land Breakdown									
Code Area	ID #	RFPD	Ex	Plan Zone	Value Source	Trend %	Size	Land Class	Trended RMV
0912	0	<input checked="" type="checkbox"/>		F-1	Farm Use Zoned	100	4.09 AC	SP2	28,630
	0	<input checked="" type="checkbox"/>		F-1	Farm Use Zoned	100	12.29 AC	SP3	86,030
	0	<input checked="" type="checkbox"/>		F-1	Farm Use Zoned	100	18.60 AC	SP6	130,200
	0	<input checked="" type="checkbox"/>		F-1	Farm Use Zoned	100	30.56 AC	SP6	213,920
Code Area Total							65.54 AC		458,780

Improvement Breakdown									
Code Area	Year Built	Stat	Ex	Description	Trend %	Total Sqft	Ex%	MS Acct	Trended RMV

Exemptions / Special Assessments / Notations
<p>Notations</p> <ul style="list-style-type: none"> ■ FARMLAND - POTENTIAL ADDITIONAL TAX LIABILITY 308A.083

Comments 11/29/10 Updated Soil Classes.LM
 07/15/20 Removed fire patrol per ODF study.ef

Hazard Map



Statewide Wetlands Inventory



	Oregon Scenic Waterway - Water Courses
	Essential Salmonid Habitat
	Townships
	LWT Study Area
	BASEDAT.DBO.NHDWaterbody
	BASEDAT.DBO.NHDArea
BASEDAT.DBO.NHDFlowline	
	Perennial
	Intermittent
	Ephemeral
	Unknown
	Canal/Ditch
	Canal/Ditch
	Canal/Ditch
	BASEDAT.DBO.NHDPPoint
Wetlands	
	Estuarine and Marine Deepwater
	Estuarine and Marine Wetland
	Freshwater Emergent Wetland
	Freshwater Forested/Shrub Wetland
	Freshwater Pond
	Lake
	Riverine
	SWI Agate-Wimbo Soils
	SWI Predominantly Hydric Soil Map Units

R. Soutjiem, Mavor, Microsoft, State of Oregon, GEO, EST, HERE, Garmin, IGC, Department of State Lands, P. Soumeim 2018

Date: 6/10/2025



State of Oregon
Department of State Lands
775 Summer Street, NE, Ste 100
Salem, OR 97301-1279



The Statewide Wetlands Inventory (SWI) represents the best data available at the time this map was published and is updated as new data become available. In all cases, actual field conditions determine the presence, absence and boundaries of wetlands and waters (such as creeks and ponds). An on-site investigation by a wetland professional can verify actual field conditions.

EXHIBIT B



PLANNING APPLICATION

OFFICE USE ONLY	
RECEIVED	
Date Stamp MAR 11 2025	
BY: <i>SAT</i>	
<input type="checkbox"/> Approved	<input type="checkbox"/> Denied
Received by:	
Receipt #:	
Fees:	
Permit No: 851-25-000118-PLNG	

Applicant (Check Box if Same as Property Owner)
 Name: Matthew & Stacy Lichner Phone: 503-878-8948
 Address: c/o Breakwater Law, 9900 SW Wilshire St., Ste 200
 City: Portland State: OR Zip: 97229
 Email: michael@breakwater-law.com

Property Owner
 Name: _____ Phone: _____
 Address: _____
 City: _____ State: _____ Zip: _____
 Email: _____

Request: Approval of nonfarm dwelling on map and tax lot 1S0927-00-00600.

- | | | |
|---|---|---|
| Type II
<input type="checkbox"/> Farm/Forest Review
<input type="checkbox"/> Conditional Use Review
<input type="checkbox"/> Variance
<input type="checkbox"/> Exception to Resource or Riparian Setback
<input type="checkbox"/> Nonconforming Review (Major or Minor)
<input type="checkbox"/> Development Permit Review for Estuary Development
<input checked="" type="checkbox"/> Non-farm dwelling in Farm Zone
<input type="checkbox"/> Fore-dune Grading Permit Review
<input type="checkbox"/> Neskowin Coastal Hazards Area | Type III
<input type="checkbox"/> Detailed Hazard Report
<input type="checkbox"/> Conditional Use (As deemed by Director)
<input type="checkbox"/> Ordinance Amendment
<input type="checkbox"/> Map Amendment
<input type="checkbox"/> Goal Exception
<input type="checkbox"/> Nonconforming Review (As deemed by Director)
<input type="checkbox"/> Variance (As deemed by Director) | Type IV
<input type="checkbox"/> Ordinance Amendment
<input type="checkbox"/> Large-Scale Zoning Map Amendment
<input type="checkbox"/> Plan and/or Code Text Amendment |
|---|---|---|

Location:
 Site Address: None

Map Number:	<u>1S</u>	<u>09</u>	<u>27</u>	<u>600</u>
	<small>Township</small>	<small>Range</small>	<small>Section</small>	<small>Tax Lot(s)</small>

Clerk's Instrument #: 2020-08803 and 2020-08799

Authorization
 This permit application does not assure permit approval. The applicant and/or property owner shall be responsible for obtaining any other necessary federal, state, and local permits. The applicant verifies that the information submitted is complete, accurate, and consistent with other information submitted with this application.

<i>Matthew Lichner</i>	<u>2-28-25</u>
<small>Property Owner Signature (Required)</small>	<small>Date</small>
<i>Stacy Lichner</i>	<u>2-28-25</u>
<small>Applicant Signature</small>	<small>Date</small>



Breakwater Law

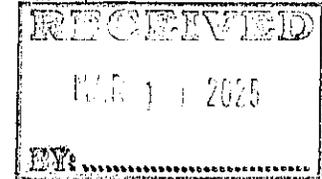
www.breakwater-law.com

March 11, 2025

OFFICE DELIVERY

Attn: Sarah Absher and Melissa Jenck
Tillamook County Department of Community Development
1510-B Third Street
Tillamook, OR 97141

Re: *Matthew and Stacy Lichner*
Application for Nonfarm Dwelling
Application for Property Line Adjustment



Dear Ms. Absher and Ms. Jenck:

For filing, please find enclosed the following two applications filed by Matthew and Stacy Lichner with respect to their properties identified as map and tax lots 1S0927-00-00600 and 1S0927-00-01200 in the vicinity of Hodgdon Road, Tillamook County:

- Property Line Adjustment Application and supporting materials prepared by Rice Surveying.
- Planning Application for approval of a nonfarm dwelling, along with the supporting Application Statement.

I understand that you will invoice the Lichners c/o this firm for the filing fees associated with these applications. Please let me know if you have any questions or concerns.

Sincerely,

BREAKWATER LAW

MICHAEL B. KITTELL¹

michael@breakwater-law.com

Encls.

Cc: Matthew and Stacy Lichner (via email only)
Mike Rice (via email only: ricesurveying@outlook.com)

¹ Licensed in Oregon and Washington

APPLICATION STATEMENT

(Application for Nonfarm Dwelling) (Application to Property Line Adjustment)

Part 1

GENERAL INFORMATION

Applicants and Owner:

Matthew M. Lichner and Stacy N. Lichner are the applicants and owners of the property described herein (together, “Applicants” or “Owners”). The Applicants own the property in their revocable living trust, identified as The Matt and Stacy Lichner Living Trust dated December 26, 2023. The Owners’ vesting deeds are attached as Exhibit A. Applicants waive the pre-application conference for this application, as per TCLUO 10.030(2).

Property:

The property subject to this Application Statement is identified map and tax lot 1S0927-00-00600 (“TL 600”) and 1S0927-00-01200 (“TL 1200”) (together, the “Lichner Property”). The Lichner Property is located in the vicinity of Hodgdon Road, outside any urban growth boundary, in Tillamook County. According to the Tillamook County Assessor, TL 600 is 65.54 acres in size and is under farmland assessment. The Property is zoned entirely Farm (F-1). TL 600 abuts additional Farm (F-1) zoned property to the north, east and west, and Rural Residential 2-acre (RR-2) to the south and west.

TL 1200 has the situs address of 570 Hodgdon Road, Tillamook. According to the Tillamook County Assessor, Tax Lot 1200 is 15.54 acres in size and is zoned Farm (F-1). TL 1200 is improved with a single-family residence (which was constructed in 2021 as a replacement dwelling). The Applicants currently live on TL 1200.

The Lichner Property is comprised of two tax lots, but three legal lots of record. The three lots of record are delineated in the map attached as Exhibit B prepared by First American Title Company. All of the legal lots of record were created prior to January 1, 1993 (*see* ORS 215.284(2)) and are less than the 80-acre minimum for the Farm (F-1) zone.

The Applicants have owned the Lichner Property since 2020. Prior to that time, the Lichner Property was owned by Stacy Lichner’s parents, Ed and Wilma Meyers. The Meyers acquired the Lichner Property in or about 1977 by virtue of a contract of sale which was fulfilled in or about April 5, 1985 by Warranty Deed recorded at Book 298, Page 206, Tillamook County Deed Records. The Property is generally comprised of a mix of grassland and alder/spruce forest,

and is improved except for the dwelling and related outbuildings adjacent to Hodgdon Road on TL 1200. Upon information and belief, the Lichner Property has not been used for substantial farming activities at any time in the past and has remained in a generally uncultivated state for many decades. The historical imagery attached in Exhibit C confirms that most of the Property has remained uncultivated for at least the past 30 years and remains in essentially the same bushy condition it has been in since at least 1994.

As shown in the topographic map attached in Exhibit D (and also shown on page 8 of the Soil Assessment attached as Exhibit F), much of the Lichner Property is burdened with strongly sloping dissected marine terraces and strongly sloping to very steeply sloping hills, ridges and sideslopes, which are not conducive to productive farming. With the exception of some minor Freshwater Forested/Shrub Wetland in the very northeastern corner of TL 600 and some Freshwater Emergent Wetland and Freshwater Forested/Shrub Wetland on TL 1200, the Lichner Property is free of wetlands and flood hazards.

Attached as Exhibit E shows the inventoried soils of TL 600 according to the USDA Web Soil Survey. According to the general information available in the USDA Web Soil Survey, the Property is over 90% comprised of Winema-Fendall medial silt loams, 5 to 30 percent slopes, with a land capability classification of 4. The remaining soils are inventoried as Tillamook-Ginger medial silt loams, 3 to 15 percent slopes, with a capability classification of 3.

Attached as Exhibit F is a Soil Assessment of the Lichner Property dated August 27, 2023 (and amended on June 3, 2024) by Red Hill Soils (“**Soils Assessment**”). This Soil Assessment is the product of onsite analysis by soil scientist Andy Gallagher, and focuses on particular areas, identified as “Site 1” through “Site 4”. This Application Statement will focus exclusively on “Site 2” of the Soils Assessment, which shall be referred to the “**Homesite Area**”.

The Homesite Area is shaped in a manner that essentially tracks the proposed new “Lichner Tract 1, Parcel 2” in the PLA Application filed herewith, is in a rectangle shape with 224.36’ x 744.64’ dimensions, and is 3.84 acres in size. The Homesite Area is comprised almost entirely of non-high value farmland soils.

Request:

This Application Statement is submitted to support two separate but related land use applications:

1. An application to approve a dwelling not in conjunction with farm use pursuant to Tillamook County Land Use Ordinance (“**TCLUO**”) 3.002(9) on the Homesite Area (“**Nonfarm Dwelling Application**”).

2. An application to approve a lot line adjustment application that seeks to adjust the property lines associated with the three legal lots of record comprising the Lichner Property to create two smaller parcels associated with the 570 Hodgdon residence and the nonfarm dwelling, and one larger parcel for the remainder of the land (“**PLA Application**”). The criteria for approval of the PLA Application will not be discussed in this Application Statement, as they should be sufficiently evident to the Department of Community Development (“**Department**”) in the PLA Application.

The PLA Application is submitted on the condition that it is contingent on the approval of the Nonfarm Dwelling Application. If the Nonfarm Dwelling Application is not approved, the PLA Application shall be deemed withdrawn and rescinded.

APPLICATION FOR NONFARM DWELLING

Applicable Ordinance and Comprehensive Plan Provisions

TCLUO § 3.002(9)

TCLUO § 3.002(9) permits the placement of a dwelling not in conjunction with farm use (*i.e.* a nonfarm dwelling) if the elements described in this Section are satisfied.

o **TCLUO 3.002(9)(a)(1)**

The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

The placement of nonfarm dwelling in the Homesite Area will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use, for the following non-comprehensive reasons:

- i. Tax Lot 600 (in which the Homesite Area is currently located) abuts commercial farmland owned by Fairview Acres (to the north) and Thomas Bruce (to the east). Such farmland is buffered from the impact of the placement of a dwelling in the Homesite Area by both distance and elevation – in particular, the Homesite Area is a minimum of 1,000 from the nearest farming areas, and also over 100’ higher than such farming areas.
- ii. The Homesite Area is much closer in proximity and elevation to the Rural Residential (RR-2) zoned property located to the south.

- iii. The Homesite Area will be separated from the Fairview Acres and Thomas Bruce farms by other EFU land owned by Lichners – *i.e.* the remaining portion of what is now TL 600.
 - iv. Only the Thomas Bruce farm uses Hodgdon Road for its primary access. This road is shared with numerous other homesites, many of which are on property zoned SFW-10 and RR-2.
 - v. The Applicants are investigating the possibility of accessing the desired nonfarm dwelling by an access easement via Trask River Road. If such access is achieved, then there would be no anticipated impact whatsoever on the transportation facilities associated with the Fairview Acres and Thomas Bruce farms, as access would be through RR-2 zoned property.
- o **TCLUO 3.002(9)(a)(2):**
 - a. *The dwelling is situated upon a new parcel, or a portion of an existing lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and*
 - b. *A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a new parcel or portion of an existing lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the new parcel or portion of the existing lot or parcel is not "generally unsuitable". A new parcel or portion of an existing lot or parcel is presumed to be suitable if is composed predominantly of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use;*

The Homesite Area is comprised almost entirely of Class 6 soils and is therefore not presumed to be suitable for farming; in fact, according to the Natural Resources Conservation Service Soils Classification, Class 6 soils "have severe limitations that make them generally unsuited to cultivation and that limit their use mainly to pasture, range, forestland, or wildlife food and cover." E.g. <https://www.ars.usda.gov/ARSUserFiles/np215/Food%20security%20talk%20inputs%20Lunch%203-15-11.pdf> (last visited on September 2, 2024).

The Soils Assessments states as follows relating to the soils on the Homesite Area (identified in the Soils Assessment as "Site 2"):

Shallow phase Ecola, Land Capability Class 6 and non-high value. This site is on a narrow ridge and steep shoulder slopes. Soils here are shallow depth (less than 20 in) to marine sedimentary rocks and they have a paralithic contact. These soils are fine-silty family. There are no established soil series in the Tillamook County Legend that are shallow to marine sedimentary rock. . . . These soils are classified as a shallow phase of Ecola series, which on the official series description are moderately deep 20 to 40 inches to marine sediments, well drained and fine silty family. So, except for shallow depth these soils are very similar to Ecola series. In Tillamook County soil survey, the Ecola series is a named component; in a complex with Templeton in two map units; 30E, slopes 30 to 60% slope; and 30F, 60 to 90% slopes. Site 2 is less than 30 percent slope so the closest map unit in Tillamook County is the 30D Templeton of which Ecola is a minor component. The 30D map unit is Class 6 and not-high value. In neighboring Clatsop County, Ecola is mapped as a consociation (16D), 3 to 30 percent slopes and is rated class 6 non-high value. Shallow soils are generally rated Class 6, non-irrigated. Soils in Sites 2, 3 and 4 were previously mapped as Winema-Fendall complex in the NRCS soil survey. Both Winema and Fendall have higher clay content in the control section than soils observed in pedons 1, 2 and 3; so, neither of the previously mapped soils are good match for these pedons. Winema is very deep, and Fendall is moderately deep.

In addition to poor soil cover for the production of farm crops and livestock, the Homesite Area is also subject to significant natural and practical barriers for usage with an on-site or off-site commercial farming operation, summarized as the following:

- The Homesite Area is located at the top of a hill that descends steeply to the north, west and east. It is separated from any nearby farming operations by strongly sloping to very steeply sloping hills, ridges and side slopes.
- The Homesite Area is located at an elevation roughly 100' higher than any nearby commercial farming operation. Even if the soils permitted the growth of grass useful in a farming operation, access to such grassland by livestock and harvesting equipment would be impractical and/or dangerous.
- There are no forest operations in the relevant vicinity of the Homesite Area, and, as shown in the attached satellite images, the Homesite Area has historically been a poor producer of trees. The Homesite Area has no apparent forestry resource value.
- The Homesite Area is located in close proximity, or immediately adjacent to, a large area of RR-2 zoned property to the south, and share a topography similar to such RR-2 zoned property.
- Notwithstanding the proximity of nearby commercial farms, upon information and belief the Homesite Area has not been employed for farming purposes for many

decades, if ever. The Satellite images attached as Exhibit C show that the Homesite Area has remained in a non-utilized and uncultivated state for at least the last 30 years.

As indicated by the historical non-use of the Homesite Area, this area is encumbered by poor soils and severe topographic limitations that altogether make expansion of the nearby commercial farming operations (or any forestry operation) to include this area unattractive and impractical. These areas are therefore generally unsuitable land for the production of farm crops and livestock or merchantable tree species.

o **TCLUO 3.002(9)(a)(3):**

The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subparagraphs 3.a through c. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subparagraphs 3.a through c.

- a. *Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;*

The study area identified by the Applicants is shown on Exhibit G and includes an area of roughly 2,021 acres (“**Study Area**”). This Study Area was chosen because it largely encompasses the distinct farming basin located in the eastern portion of the main Tillamook valley. The Study Area is generally defined to include all farming properties (i.e. zoned Farm (F-1) or Small Farm and Woodlot 20 (SFW-20)) located west of the Coast Range mountains, south of Sollie Smith Road, east of Wilson River Road, Olsen Road, and Trask River Road, and north of the hills associated with Sunset Heights Memorial Gardens and nearby RR-2 zoned properties. The Study Area is primarily zoned F-1, with six properties (along Trask River Road)

zoned SFW-20. Lands zoned RR-2 or other urban or non-resource uses are not included in the Study Area.¹

The Study Area includes seventy (70) separate tax lots, essentially all of which are either entirely or primarily committed to active farming operations (except, of course, the subject property). The Study Area includes land owned and leased by large farming operations, including Wilsonview Dairy, Fairview Acres Dairy Farm, DeNoble Farm, Barker Farm, Hodgdon Farm, Bake Farm, and Oldenkamp Farms, Inc., among others.

Attached as Exhibit H is the Natural Resources Conservation Service Web Soil Survey's Soil Map for the Study Area. The Study Area is comprised entirely of high value Class 2-4 soils (the portions identified as Class 6 soils are irregularities outside of the Study Area and included as a result to minor imprecision in creating an AOI on the Web Soil Survey tool equal to the Study Area), with over 50% of the soils inventoried as Class 2 soils.

Essentially the entire Study Area is currently committed to commercial or hobby farming operations, with some minor islands or portions of land that appear to not be currently employed for active pasture use. Attached as Exhibit I is a current satellite image of the Study Area, and attached as Exhibit J is a satellite image of the Study Area taken in 1995 (~30 years ago). As indicated in the two satellite images, the land use pattern in the Study Area appears to be extremely stable, with no material changes in the last 30 years – said differently, the two satellite images indicate that the overwhelming predominate farming use of the Study Area has not materially changed in 30 years.

Attached as Exhibit K is the Applicants' Cumulative Impacts Spreadsheet, which provides in Excel format the findings with respect to the Study Area.

- o **TCLUO 3.002(9)(a)(3)(b):**

Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the

¹ With the exceptions of map and tax lots 1S0922-00-801 and 1S0928-00-00802, which appear to be split zoned and include a minor amount of RR-2 property.

land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;

The section immediately above describes the broad types of farm uses, as well as the number, location and type of existing dwellings, the size of parcels, and dwelling development trends since 1993 in the Study Area.

Nonfarm Dwelling Analysis. With the exception of the Homesite Area and a portion of 1S0923-00-00500, all of the properties in the Study Area are comprised entirely of Class 2-4 high value farmland soils and are therefore presumed to be suitable for farming and therefore disqualified from being improved with nonfarm dwellings. Additionally, 56 of the 69 properties (excluding the subject property) are currently committed to farming purposes, and therefore not generally unsuitable for farming. With the exceptions of the property identified as map and tax lot 1S0922-00-01301 (which is entirely in AE and X flood zone designation, and also encumbered with significant wetlands), map and tax lot 1S0923-00-00500, and map and tax lot 1S0922-00-00601, all of the 13 properties not currently committed to active farm use are small acreage parcels already developed with a dwelling.

Given the above, only one property – identified as map and tax lot 1S0923-00-00500 – may be eligible for a nonfarm dwelling. Much of this property appears to be under the Wilson River or in its riparian area, but there is a minor amount (about ~1.06 acres) that is north of Sollie Smith Road and could be improved with a dwelling. Also, this property is located across the valley from the Homesite Area, is roughly 1.75 miles as the bird flies, and is accessed by a completely separate network of roads.

Lot of Record Analysis. A total of 38 of the 69 properties (excluding the subject property) are currently improved with a dwelling and are therefore barred from a lot-of-record (“LOR”) dwelling under TCLUO 3.002(8)(1)(b). 23 of the remaining properties² are located on tracts with at least one dwelling thereon, and are similarly barred from a LOR dwelling. 3.002(8)(1)(b). Of the remaining 12 properties, five (5) properties³ were acquired by the present owner after 1985 and are therefore barred from a LOR dwelling, as per TCLUO 3.002(8)(1)(a). The remaining three (3) properties are described and discussed as provided below.

² These 23 properties are: 1S0927-AC-01000, 1S0927-AC-00100, 1S0927-00-01600, 1S0927-00-01000, 1S0928-DC-01500, 1S0928-00-01400, 1S0927-BB-00100, 1S0928-00-00802, 1S0922-00-01600, 1S0922-00-01300, 1S0922-00-01200, 1S0922-00-01000, 1S0921-00-00100, 1S0921-00-00800, 1S0928-00-00901, 1S0921-00-01100, 1S0920-00-01900, 1S0920-00-00400, 1S0920-A0-00401; 1S0921-00-00400; 1S0921-00-00500; 1S0920-A0-00100; 1S0921-00-00600.

³ These five properties are: 1S0928-00-02400, 1S0922-00-01401, 1S0923-00-00500, 1S0922-00-00200, 1S0922-00-01301

- Map and tax lot 1S0928-00-00100
 - This property is comprised entirely of Class 2 soils, is over 21 acres in size, and is currently committed to farm use. It is therefore barred from a LOR dwelling under TCLUO 3.002(8)(A)(1)(e), 3.002(8)(A)(3)(b), and 3.002(8)(A)(4)(b).
- Map and tax lot 1S0922-00-01900
 - This property is comprised entirely of Class 2 soils, is over 21 acres in size, and is currently committed to farm use. It is therefore barred from a LOR dwelling under TCLUO 3.002(8)(A)(1)(e), 3.002(8)(A)(3)(b), and 3.002(8)(A)(4)(b).
- Map and tax lot 1S0922-00-00601
 - It appears that a LOR dwelling would be allowed on this property.

Consequently, it appears that one (1) property – identified as map and tax lot 1S0922-00-00601 – within the Study Area qualifies for a LOR dwelling. This property is 0.44 acres in size, is located across the valley from the Homesite Area, is roughly 1.75 miles as the bird flies, and is accessed by a completely separate network of roads.

As a result, only two properties - identified as map and tax lots 1S0923-00-00500 and 1S0922-00-00601 – are eligible for either a nonfarm dwelling or LOR dwelling. It is not reasonably foreseeable that any of the other properties within the Study Area could be approved for a nonfarm dwelling or LOR dwelling.

○ **TCLUO 3.002(9)(a)(3)(c):**

Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

As indicated in the response to TCLUO 3.002(9)(a)(3)(b), and for purposes of this cumulative impacts analysis, the full development of all reasonably foreseeable nonfarm dwellings and LOR dwellings within the Study Area would result in the improvement of two (2) additional dwellings (on map and tax lots 1S0923-00-00500 and 1S0922-00-00601), in addition to the Homesite Area. This improvement of these two parcels with dwellings would result in only about ~1.5 acres out of the entire 2,021-acre Study Area (or 0.07%) being removed from possible agricultural or conservation-based use, and dedicated to residential use. Importantly, the Homesite Area, map and tax lots 1S0923-00-00500 and 1S0922-00-00601 are not currently

committed to agricultural use; consequently, there would be *no loss* in current agricultural area or production, and the existing farms within the Study Area would retain all present options to use, operate, expand, purchase, or lease farmland. Therefore, the possible land use pattern would not materially change or alter the existing land use pattern. TCLUO 3.002(9)(a)(3) is satisfied

- o **TCLUO 3.002(9)(a)(4):**

If a single-family dwelling is established on a lot of record as set forth in this ordinance, no additional dwelling may later be sited under the provisions of this section.

No single-family dwelling is established on TL 600 (from which the Homesite Area will be created). Consequently, this criterion is satisfied.

TCLUO § 3.002(4) & (5)

- o **TCLUO 3.002(4)(w) (“General Standards”)**

The Applicant agrees to sign and record in the deed records for Tillamook County the document described in TCLUO 3.002(4)(w)(2). TCLUO 3.002(4)(w)(1) and (3) do not apply.

- o **TCLUO 3.002(5):**

An application for a use permitted in Table 1 must demonstrate compliance with the following criteria and with the Conditional Use Criteria in Article 6 Subsection 040, or in Article 6 Subsection 060 if the proposed use is for the restoration, enhancement or creation of a wetland as defined in 3.002(2).

(a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

As noted above, a dwelling in the Homesite Area will not force any change – certainly not a significant change – on, or increase the cost of, the farm or forest practices on surrounding lands. Please refer to the analysis provided above with respect to the criterion in TCLUO 3.002(9)(a)(1) for discussion and explanation.

See below for analysis with respect to the Conditional Use Criteria in Article 6 Subsection 040. The criteria in Article 6 Subsection 060 does not apply because the proposed use is not for the restoration, enhancement or creation of a wetland.

TCLUO § 6.040

TCLUO § 6.040 provides: *Any CONDITIONAL USE authorized according to this Article shall be subject to the following criteria, where applicable:*

- **TCLUO 6.040(1):** *The use is listed as a CONDITIONAL USE in the underlying zone, or in an applicable overlying.*

TCLUO 3.002(5) provides that a “use permitted in Table 1 must demonstrate compliance with . . . the Conditional Use Criteria in Article 6 Subsection 040.” Table 1 includes Dwellings Not in Conjunction with Farm Use.

- **TCLUO 6.040(2):** *The use is consistent with the applicable goals and policies of the Comprehensive Plan.*

The Goal 3 Element of the Tillamook County Comprehensive Plan discusses in significant detail the importance of agricultural land to Tillamook County, and the need to protect such land. Importantly, the requested use will not change the zoning designation of the Subject Property, and therefore will not reduce the available EFU land available in the county. It also does not result in the urbanization of farm land.

The protection of EFU land for farm uses is the primary reason for the extensive analysis required to obtain approval for a dwelling not in conjunction with farm use under TCLUO 3.002(9). The goal, of course, is to ensure that the surrounding agricultural areas are not threatened or substantially affected by the placement of a nonfarm dwelling. The analysis provided above demonstrates that the placement of a nonfarm dwelling on the Property will not threaten or substantially affect the use of surrounding agricultural, and that it therefore accords with the Goal 3 Element of the Tillamook County Comprehensive Plan.

This application, if approved, seeks to increase the housing available in Tillamook County and therefore furthers the Goal 10 Element of the Tillamook County Comprehensive Plan. No public facilities (Goal 11 Element) or transportation facilities (Goal 12) will be materially changed or affected by this application, and no urbanization will occur (Goal 14). All other Goal Elements in the Tillamook County Comprehensive Plan are not directly applicable to this application.

- o **TCLUO 6.030(3):** *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.*

The Homesite Area is suitable for the placement of a (nonfarm) single-family dwelling due to its relative proximity to RR-2 zoned land, its poor farming capabilities, its rural nature and elevation, its size permits for adequate onsite sanitation facilities, vehicular access can be created through the Lichner Property, and there is a lack of any unique geologic or natural hazards.

- o **TCLUO 6.030(4):** *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.*

Please refer to the analysis provided above with respect to the criterion in TCLUO 3.002(9)(a)(1) for discussion and explanation. There is no anticipated impact on the RR-2 zoned properties to the south, as such properties are accessed by a separate network of roads.

- o **TCLUO 6.030(5):** *The proposed use will not have detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.*

There are no solar energy systems, wind energy systems or wind mills within the vicinity of the Homesite Area. Consequently, there will be detrimental effect on such systems. This criterion is satisfied.

- o **TCLUO 6.030(6):** *The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.*

Adequate public transportation facilities, including Hodgdon Road, are already in place that serve the Lichner Property. The Homesite Area will be accessed from Hodgdon Road by private easement through the Lichner Property, as shown in the map attached to the PLA Application. The Applicants understand that the Homesite Area will receive fire protection from the Tillamook Fire District, and will receive water from the Fairview Water District. No additional public facilities or services are or will be required as a result of the placement of a dwelling on the Homesite Area. Consequently, this criterion is satisfied.

ORS 215.236 – Special Assessment

ORS 215.236(2) prohibits approval of a nonfarm dwelling application in “an exclusive farm use zone that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS

308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.”

However, ORS 215.236(3) permits the tentative approval of an application for a nonfarm dwelling, with final approval “upon receipt of evidence that the lot or parcel upon which the dwelling is proposed has been disqualified from special assessment at value for farm use” . . . “and any additional tax imposed as a result of the disqualification has been paid.”

The Applicants intend to disqualify the Homesite Area from special assessment, and pay all additional tax imposed as a result of disqualification, after approval and perfection of the PLA Application. **Consequently, the Applicants request that the Department include a condition of approval that requires the filing of proof with the Department within 12 months of approval that the Homesite Area has been disqualified from special assessment and any additional tax as a result of such disqualification has been paid.**

CONCLUSION

The Applicants respectfully request that the Department approve the Applicants’ requests herein. Any questions or concerns regarding this application should be addressed to Michael Kittell, 9900 SW Wilshire St., Suite 200, Portland, OR 97225, or via email at *michael@breakwater-law.com*.

EXHIBIT A

RECORDING REQUESTED BY:



802 Main Ave.
Tillamook, OR 97141

GRANTOR'S NAME:
Wilma A. Myers, Trustee of the Edward E. Myers Trust dated
11-13-06

GRANTEE'S NAME:
Matthew M. Lichner and Stacy N. Lichner

AFTER RECORDING RETURN TO:
Order No.: 360420008393-RB
Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

SEND TAX STATEMENTS TO:
Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

APN: 152872
Map: 1S9 27 01200
570 Hodgdon Road, Tillamook, OR 97141

Tillamook County, Oregon
12/09/2020 10:17:02 AM **2020-08803**
DEED-DWARR
\$20.00 \$11.00 \$10.00 \$61.00 - Total =\$102.00
I hereby certify that the within Instrument was received
for record and recorded in the County of Tillamook,
State of Oregon.
Tassi O'Neil, Tillamook County Clerk

TICOR TITLE™ 360420008393

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Wilma A. Myers, Trustee of the Edward E. Myers Trust dated 11-13-06, Grantor, conveys and warrants to Matthew M. Lichner and Stacy N. Lichner, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Tillamook, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$35,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED

(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 12.7.2020

Edward E. Myers Trust dated 11-13-06

BY: Wilma A. Myers
Wilma A. Myers, Trustee

State of Oregon
County of Tillamook

This instrument was acknowledged before me on 12-7-2020 by Wilma A. Myers as Trustee of the Edward E. Myers Trust u/t/a November 13, 2006.

Rhonda L. Bentley
Notary Public - State of Oregon

My Commission Expires: 7.16.22



EXHIBIT "A"
Legal Description

PARCEL NO. 1:

Commencing at a point 945 feet North of the Southwest corner of the Joseph Champion Donation Land Claim No. 39, situated in Section 27, Township 1 South, Range 9 West, Willamette Meridian, County of Tillamook, State of Oregon;

thence West 293.7 feet;

thence South 2470 feet to Section line between Sections 27 and 34, Township 1 South, Range 9 West, Willamette Meridian;

thence East on Section line 629 feet to quarter Section corner;

thence North 1875.12 feet to a point;

thence West 422 feet, more or less, to West line of Champion Donation Land Claim;

thence North on West line of said Donation Land Claim 494.9 feet to the point of beginning.

EXCEPTING THEREFROM that parcel described in Bargain and Sale Deed recorded April 28, 1995 in Book 369, page 224, Tillamook County Records, being more particularly described as: Government Lot 7, and the Southeast quarter of the Southwest quarter of Section 27, Township 1 South, Range 9 West, Willamette Meridian, County of Tillamook, State of Oregon.

PARCEL NO. 2:

Beginning at a point on the West line of the Joseph Champion Donation Land No. 39, and 4.09 chains South of the North line of M. A. Hodgdon and G. N. Hodgdon Land which is 18.50 chains North of the Southwest corner of said Champion Donation Land Claim;

thence South 7.94 chains;

thence East 6.12 chains;

thence North 4.75 chains;

thence North 63° 10' West 7.01 chains to the point of beginning.

EXHIBIT "B"
Exceptions

Subject to:

The Land has been classified as Farm Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.

Rights of the public to any portion of the Land lying within the area commonly known as Hodgdon Road.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Tillamook
Purpose: Waterline
Recording Date: January 28, 1897
Recording No: Book R, page 5
Affects: Reference is hereby made to said document for full particulars

Covenants as contained in Deed, including the terms and provisions thereof,

Executed by: Claude Thayer and Estelle Thayer; and H. Orchard
Recording Date: February 28, 1899
Recording No.: Book T, page 88
Affects: Reference is hereby made to said document for full particulars

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Margaritha Balmer
Purpose: Roadway
Recording Date: April 19, 1924
Recording No: Book 51, page 268
Affects: Reference is hereby made to said document for full particulars

RECORDING REQUESTED BY:



802 Main Ave.
Tillamook, OR 97141

AFTER RECORDING RETURN TO:

Order No.: 360420008392-RB
Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

SEND TAX STATEMENTS TO:

Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

APN: 152550
Map: 1S9 27 00600

Tillamook County, Oregon
12/09/2020 09:45:02 AM
DEED-DWARR
\$15.00 \$11.00 \$10.00 \$61.00 - Total = \$97.00
I hereby certify that the within Instrument was received
for record and recorded in the County of Tillamook,
State of Oregon.
Tassi O'Neil, Tillamook County Clerk

2020-08799

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Wilma A. Myers, Trustees of the Edward E. Myers Trust dated 11-13-06, Grantor, conveys and warrants to Matthew M. Lichner and Stacy N. Lichner, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Tillamook, State of Oregon:

Government Lot 7; and the Southeast quarter of the Southwest quarter of Section 27, Township 1 South, Range 9 West, Willamette Meridian, County of Tillamook, State of Oregon.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$165,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

TICOR TITLE 360420008392

EXHIBIT "A"
Exceptions

Subject to:

The Land has been classified as Farm Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.

Regulations, levies, liens, assessments, rights of way and easements of Fairview Water District. None found as of November 17, 2020.

Rights of the public to any portion of the Land lying within the area commonly known as streets, roads, and highways.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Fairview Water District
Purpose: Utilities
Recording Date: December 24, 1898
Recording No: Book T, page 88
Affects: Reference is hereby made to said document for full particulars

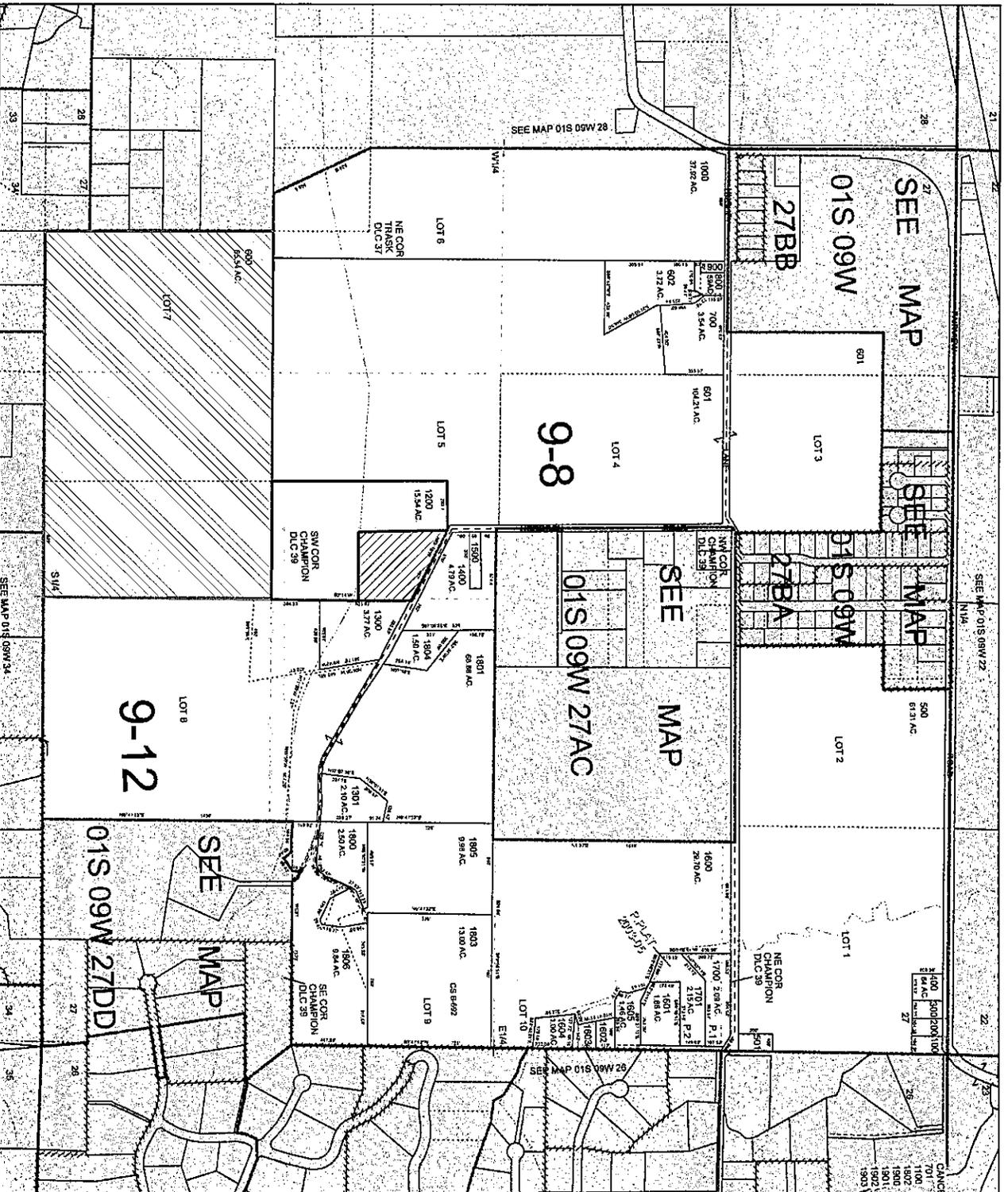
Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Fairview Water District
Purpose: Utilities
Recording Date: June 18, 1955
Recording No: Book 147, page 583
Affects: Reference is hereby made to said document for full particulars

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Fairview Water District
Purpose: Public utilities
Recording Date: April 27, 1995
Recording No: Book 369, page 172
Affects: Reference is hereby made to said document for full particulars

EXHIBIT B



First American
Title Insurance Company

File No.: 4156917
Location: Tillamook County, OR

Legend

-  01/05/2024 #2024-000094
(Tract I: Parcel No. 1)
-  01/05/2024 #2024-000094
(Tract I: Parcel No. 2)
-  01/05/2024 #2024-000094
(Tract II)



NOT TO SCALE

This map may or may not be an accurate description or identification of the land and is not intended to be relied upon as a survey of the land. The map is intended to be used as a general reference only. The map is not a warranty of title and does not constitute a contract. The map is provided for informational purposes only. First American Title Insurance Company, its subsidiaries and affiliates, expressly disclaim any and all liability for all loss or damage which may result from reliance or use of this map.

EXHIBIT C

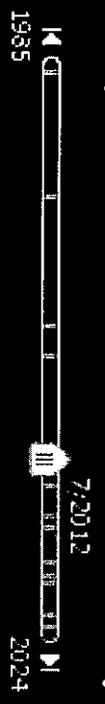
2/18/94

① Trask Pioneer Cemetery

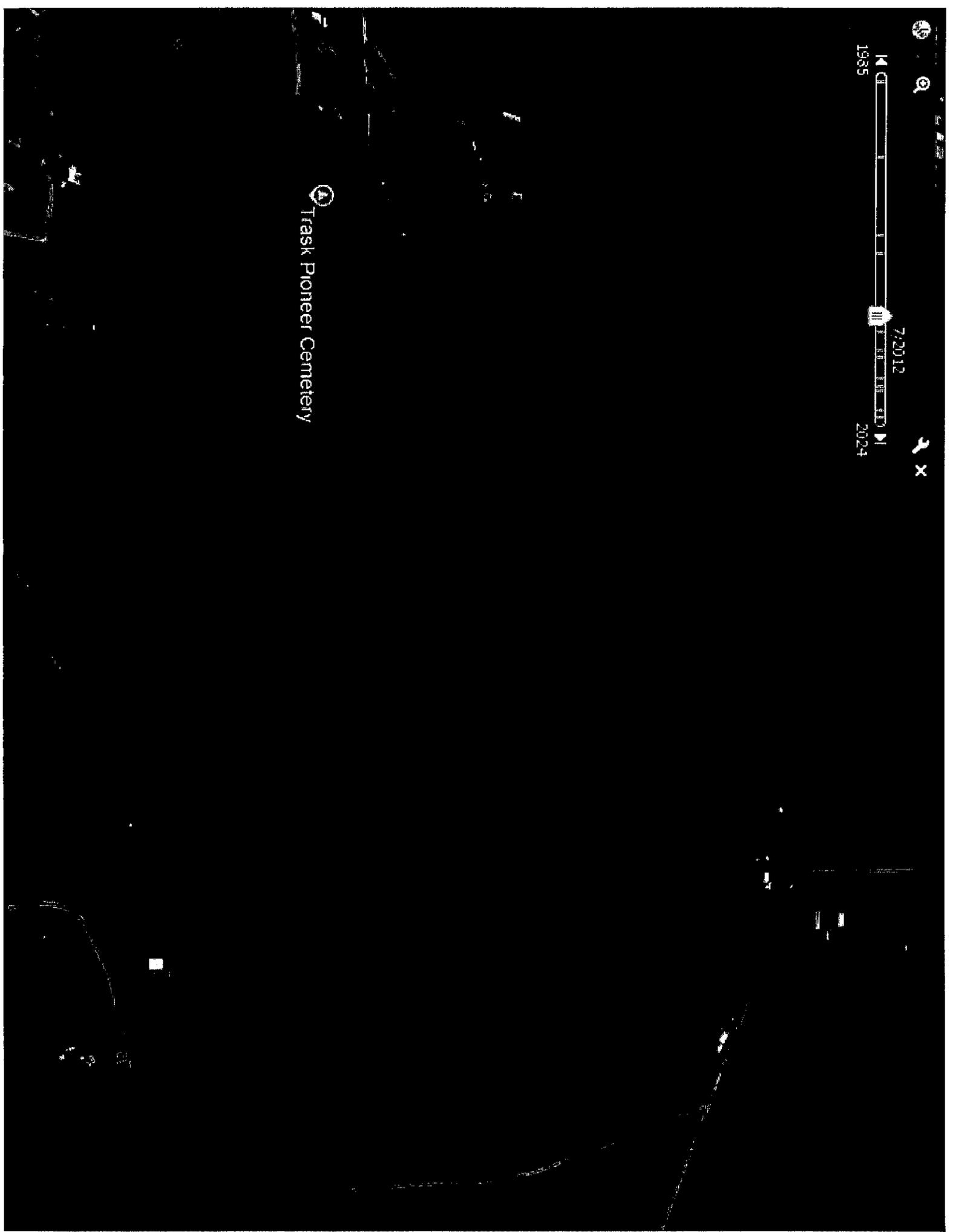


8, 2005

Trask Pioneer Cemetery

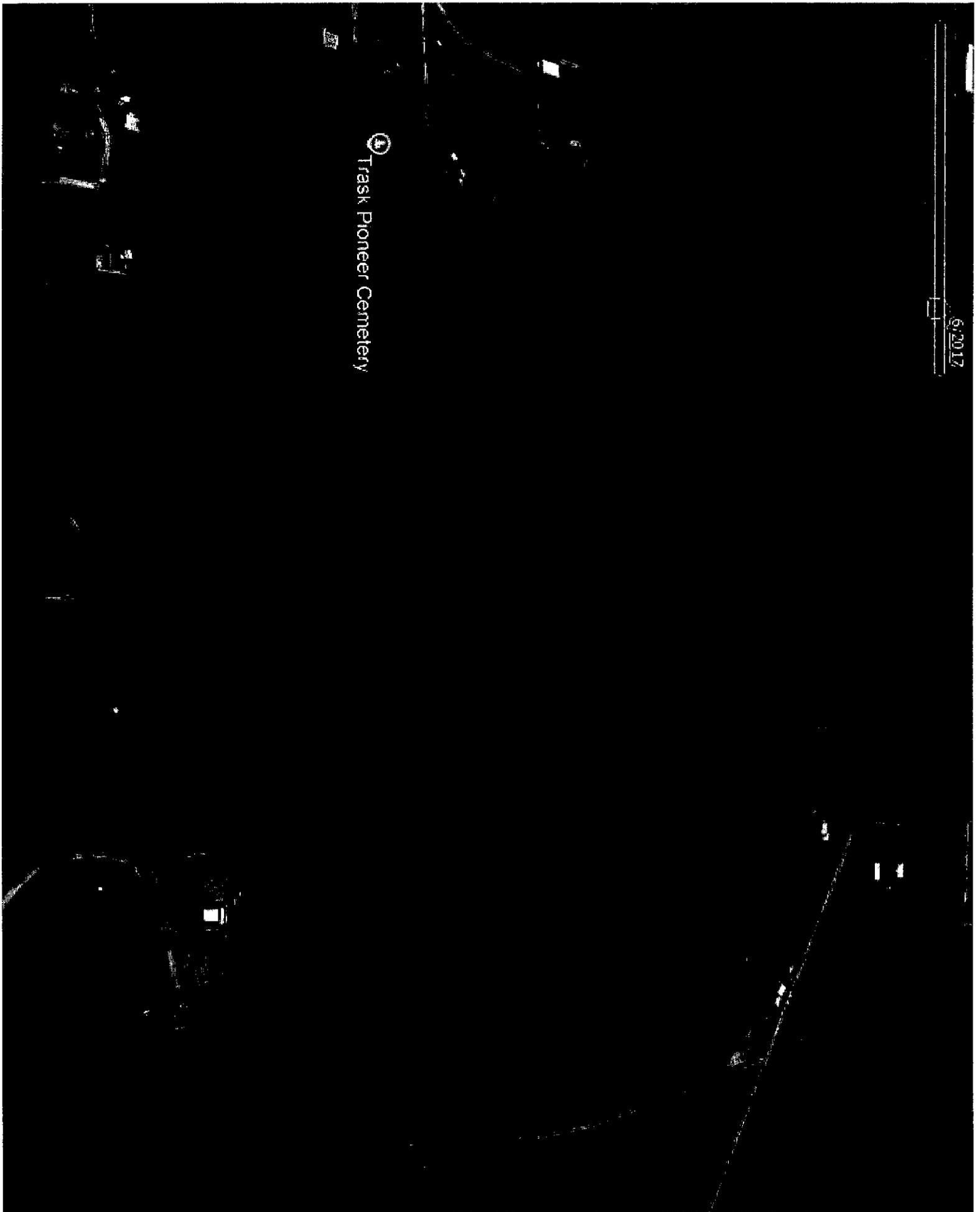


① Trask Pioneer Cemetery



6/2017

① Trask Pioneer Cemetery



9/2024

① Trask Pioneer Cemetery

Image © 2024 Airbus



EXHIBIT E

Map — Nonirrigated Capability Class

Scale (not to scale)



Warning: Soil Ratings Map may not be valid at this scale.
 You have zoomed in beyond the scale at which the soil map for this area is intended to be used. Mapping of soils is done at a particular scale. The soil surveys that comprise your AOI were mapped at 1:24,000. The design of map units and the level of detail shown in the resulting soil map are dependent on that map scale.
 Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

ables — Nonirrigated Capability Class — Summary By Map Unit

Summary by Map Unit — Tillamook County, Oregon (OR057)

Summary by Map Unit — Tillamook County, Oregon (OR057)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
73C	Tillamook-Ginger medial silt loams, 3 to 15 percent slopes	3	5.6	8.6%
83D	Winema-Fendall medial silt loams, 5 to 30 percent slopes	4	60.0	91.4%
Totals for Area of Interest			65.6	100.0%

EXHIBIT F

Soil Assessment, Hodgdon Road, Tillamook, Oregon. Amended Report

For: Matt and Stacy Lichner
570 Hodgdon Road
Tillamook, OR 97141

By: Andy Gallagher
CPSSc/SC 03114

August 27, 2023
(Amended June 3, 2024)

Andy Gallagher, Soil Scientist PO Box 2233 Corvallis, OR 97333

Red Hill Soils

541-749-7373 www.redhillsoils.com

SOIL ASSESSMENT REPORT

1. GENERAL INFORMATION

- A. TITLE: Soil Assessment, Hodgdon Road, Tillamook, Oregon (Amended).
- B. LANDOWNER: Matt and Stacy Lichner, 570 Hodgdon Road, Tillamook, OR 97141
- C. SOIL SCIENTIST AND CERTIFICATION NUMBER:
Andy Gallagher ARCPACS CPSSc/SC 03114
- D. LAND USE CASE FILE NUMBER:
- E. COUNTY: Tillamook County, Oregon.
- F. LOCATION: Tax lots 600 and 1200, Section 27, T. 1 S., R.9 W. W.M.
- G. PRESENT ZONING: Farm 1
- H. CURRENT LAND USE: Pasture and Wildlife Habitat.
- I. PURPOSE OF INVESTIGATION: Many decisions about land use and zoning are based on soil maps. This property was previously mapped at 1:20,000 scale, which is generally too small a scale for detailed land use planning and decision making. This Order-1 soil survey and soil assessment is done to classify soils within the proposed envelope of a house proposed for this parcel. *The findings of this soil assessment are only for soil classification relative to soil taxonomy and Land Capability Class ratings and do not make any claims about the suitability of the site for a building or the geotechnical aspects of the site relative to stability of surrounding slopes for such a dwelling.*

2. PREVIOUS MAPPING / BACKGROUND

This 82.08-acre property was previously mapped by the USDA-SCS Soil Survey of the Tillamook County Area and compiled by NRCS into the Web Soil Survey. The NRCS soil map of this parcel (Figure 2) shows: Hebo, Tillamook-Ginger Complex, Winema-Fendall Complex and Quillamook.

3. METHODS

A. **LEVEL ORDER OF SURVEY USED IN THIS FIELD SURVEY:** This current soil investigation is a high intensity (Order-1) soil survey. It is used as a basis for making the soil classification and soil map for the potential home site on this parcel. A total of four soil test pits and other site observations are used to document the soils in the area of the potential homesite. The average intensity of sampling in the surveyed area is about one per 1/8 acre.

B. **DATES OF FIELD INVESTIGATIONS:** Field work was done on July 27, 2023 with additional sampling on May 3, 2024.

C. **FIELD METHODS:** Methods used for observation included soil profile descriptions from test pits to classify soils. Soils were sampled in the areas selected by landowner as potential home sites and soil test pits were placed in four such locations. Soil colors were determined moist, using a Munsell Color Chart. Soil pits and surface observations were recorded with a GPS receiver and compiled into a soil map following processing with GIS software. The detailed topographic map was used to help delineate building site locations that are represented by soil pedons. Acreage of areas of representative soils in each proposed home site were estimated from the revised map using GIS software.

D. **LIMITATIONS ENCOUNTERED:** None.

4. RESULTS:

A. **GEOLOGY OVERVIEW:** The geology of the survey area is silts, and sands on marine terraces on the lower benches and marine sedimentary rocks, mudstone, and shale on the upper parts.

B. **LANDFORMS AND TOPOGRAPHY:** gently to strongly sloping dissected marine terraces and strongly sloping to very steeply sloping hills, ridges and sideslopes. Elevation ranges from 96 to 290 feet above m.s.l. (Fig. 3)

C. **SITE HYDROLOGY:** Soils observed are moderately well drained to well drained. There are areas that appear somewhat poorly drained to poorly drained in swales and drainages that were outside areas sampled.

E. Geomorphic and vegetation correlations supporting the interpretation of land capability classes of soils that differ from those in the official soil survey information. The site was mapped as soils formed on alluvial terrace and the terrain and soils support this in the area of pedon 1, and upslope areas were mapped as steep hillslopes and ridges and field observations 2, 3, 4, 5 and 6 support this. The vegetation of this site is grass pasture in openings in mixed spruce and alder forest.

F. DESCRIPTION OF REVISED SOIL MAP UNITS

Revised Soil Map Units

Soils within each of four potential homesites were evaluated and reclassified based on soil profile data. Soils were classified to the closest soil series name on the Tillamook County soil map legend as well as fit into the nearest soil map unit designation using the USDA NRCS WEBSOIL SURVEY and Tillamook County Soil Survey Report as reference.

Site 1 Tillamook soils are Class 2e non-irrigated (Class 3e irrigated) and high value farmland. This site was previously mapped as Tillamook-Ginger complex 173C. Pedon 1 fits the series description for Tillamook component of that map unit. Site 1 is less than 7 percent slope, so it is a better fit for 173B.

Site 2 Shallow phase Ecola, Land Capability Class 6 and non-high value. This site is on a narrow ridge and steep shoulder slopes. Soils here are shallow depth (less than 20 in) to marine sedimentary rocks and they have a paralithic contact. These soils are fine-silty family. There are no established soil series in the Tillamook County Legend that are shallow to marine sedimentary rock. *(Supplementary sampling on May 3, 2024 enlarged the area of Site 2 based on two additional soil profiles. In this amended report the area for proposed Home Site 2 has been moved west to the area of Soil samples 5 and 6 See figure 6).*

These soils are classified as a shallow phase of Ecola series, which on the official series description are moderately deep 20 to 40 inches to marine sediments, well drained and fine silty family. So, except for shallow depth these soils are very similar to Ecola series.

In Tillamook County soil survey, the Ecola series is a named component; in a complex with Templeton in two map units; 30E, slopes 30 to 60% slope; and 30F, 60 to 90% slopes. Site 2 is less than 30 percent slope so the closest map unit in Tillamook County is the 30D Templeton of which Ecola is a minor component. The 30D map unit is Class 6 and not-high value. In neighboring Clatsop County, Ecola is mapped as a consociation (16D), 3 to 30 percent slopes and is rated class 6 non-high value. Shallow soils are generally rated Class 6, non-irrigated.

Soils in Sites 2, 3 and 4 were previously mapped as Winema-Fendall complex in the NRCS soil survey. Both Winema and Fendall have higher clay content in the control section than soils observed in pedons 1, 2 and 3; so, neither of the previously mapped soils are good match for these pedons. Winema is very deep, and Fendall is moderately deep,

Site 3 Ecola (moderately well drained phase), Land Capability Class 6 and non-high value. Pedon 3 is moderately deep and fine silty similar to Ecola series with the exception of redoximorphic features indicating a seasonal high-water table

that puts it in the moderately well drained class. All three sites 2, 3 and 4 are fine-silty family so previously mapped soils Fendall and Winema are not as good a match. The map unit that is most closely aligned with this pedon and this site is the 30D Templeton 3 to 30 percent slopes, in Tillamook County of which Ecola is a minor component and the 16D map unit in Clatsop County where Ecola is mapped as a consociation, and both of these map units are Class 6.

Site 4 Templeton (moderately well drained phase) Land Capability Class 6 and non-high value.

Pedon 4 is deep and fine silty family like Templeton series but includes features indicating a seasonal high-water table that puts it the moderately well drained class. All three sites 2, 3 and 4 are fine-silty family so previously mapped soils Fendall and Winema are not good matches. The map unit that is most closely aligned with this site is the 30D Templeton in Tillamook County.

SUMMARY AND CONCLUSIONS:

Soils were sampled at four potential future home sites on this parcel to classify soils and place them into Land Capability Classes and use this information to determine if the soils are high value farmland or non-value farmland. Three of the four sites are reclassified as Class 6 non high value farmland, and one is reclassified as Class 2 and as such is considered high-value farmland.

Previously one of these sites (1) was mapped as 173C map unit, Tillamook-Ginger 3 to 15 percent slopes. And pedon 1 is classified as Tillamook but it better fits into the 173B map unit Tillamook-Ginger 0 to 7 percent slope (Class 2, high value farmland). The other three of these sites (2, 3 and 4) were previously mapped as Winema-Fendall Complex. Soils observed in pedons 2, 3, 4, 5 and 6 did not fit well into either the fine family and very deep Winema series or the fine family and moderately deep Fendall series. Soils observed on sites 2, 3 and 4 are fine-silty family. Site 2 is shallow (less than 20 inches) sedimentary rock. (*Supplementary sampling on May 3, 2024 enlarged the area of Site 2 based on two additional soil profiles.*) And site 3 is moderately deep and moderately well drained and site 4 is deep and moderately well drained. Soils in pedons 2, 5 and 6 are reclassified and Ecola (shallow phase), pedon 3 is reclassified as moderately well drained phase Ecola, and pedon 4 is reclassified as moderately well drained phase Templeton.

In the revised soil mapping the soils are mapped by Land Capability Class and farm value status in the area of the four potential home site. Site 1 is mapped as 2H for Class 2 and high-value status; sites 2, 3 and 4 are mapped 6N for Class 6 and non-high value status.

6. REFERENCES:

NRCS. Guide to putting soils in capability classes in Oregon from SSR01, Tech. Note 40 (June 2014)

NRCS, Websoilsurvey

NRCS, Matthew H. Fillmore and John A. Shipman, Soil Survey of Tillamook County, Oregon.

7. MAPS AND ATTACHMENTS:

- a. Figure 1. Vicinity Map (1:125,000 scale).
- b. Figure 2. Previous Soil Map (NRCS Websoilsurvey)
- c. Figure 3. Topographic Map and Site Condition Map (contour lines from Digital elevation model)
- d. Figure 4a. Assessors Map, Figure 4b. Close up of Assessors map.
- e. Figure 6. Revised Soil Map of the Project Site and location of Soil Borings
- f. Soil Profile Notes and Site Observation Notes Attachment 1.
- g. GPS coordinates Attachment 2.
- h. Appendix: Map unit 16D description from Clatsop County Soil Survey.

Figure 1. Vicinity Map, parcel at blue balloon (1:125,000 scale)

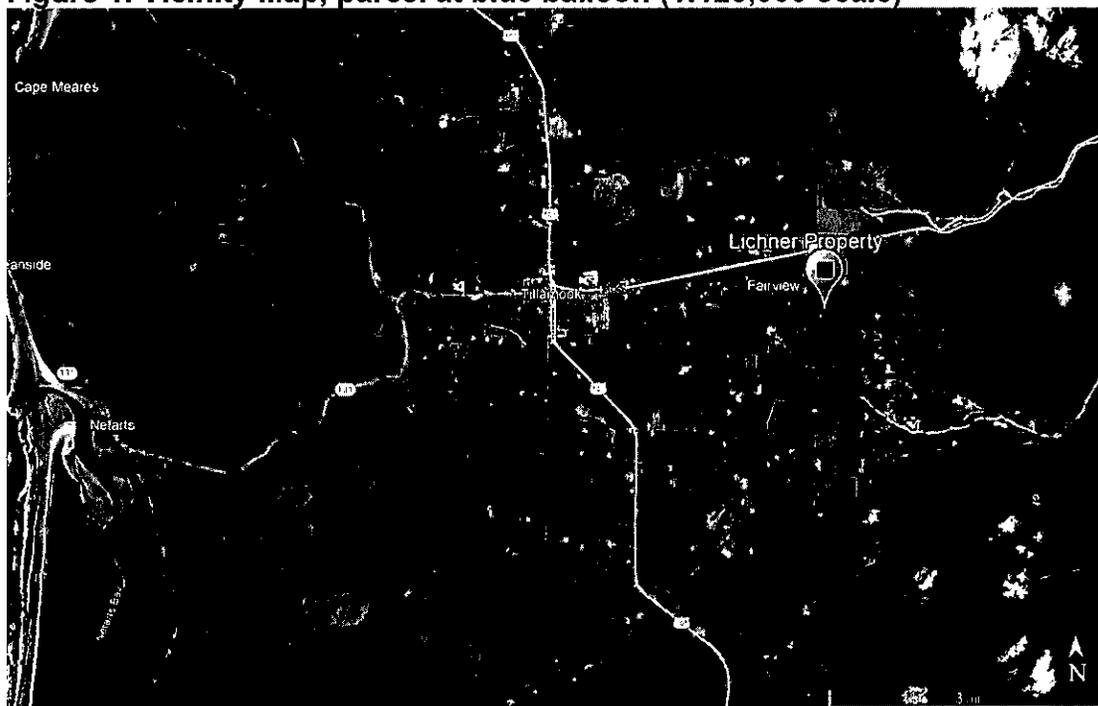
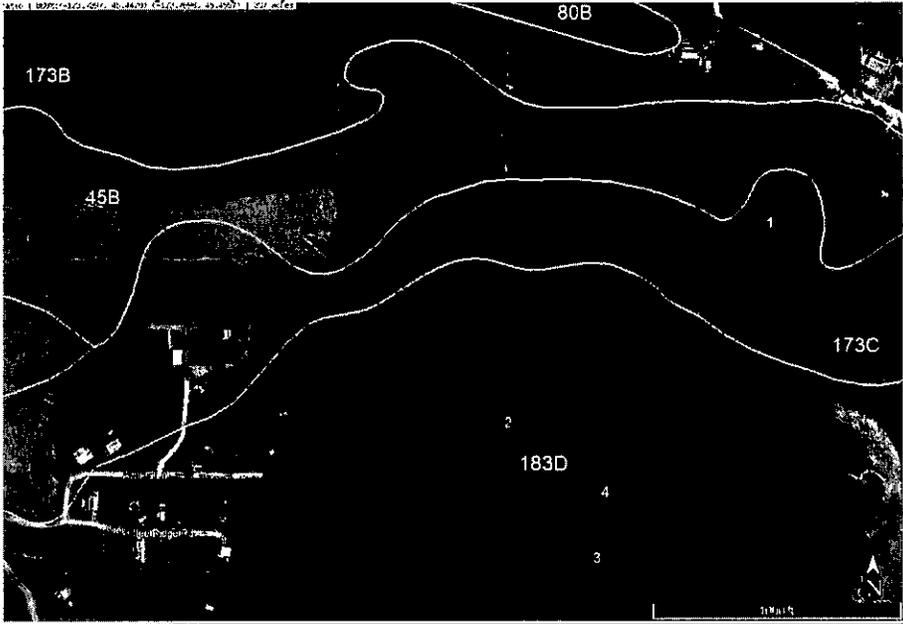


Figure 2. NRCS Soil Map Data Layer on aerial image with four areas sampled (1-4).



NRCS Soil Map Legend

SYMBOL	Name	Capability Class
45B	Hebo 0 to 5% slope	4w
80B	Quillamook 0 to 7% slope	2e
173B	Tillamook-Ginger Complex 0 to 7% slope	2e
173C	Tillamook-Ginger Complex 3 to 15% slope	3e
183D	Winema-Fendall Complex 5 to 30% slope	4e

Figure 3. Topographic map

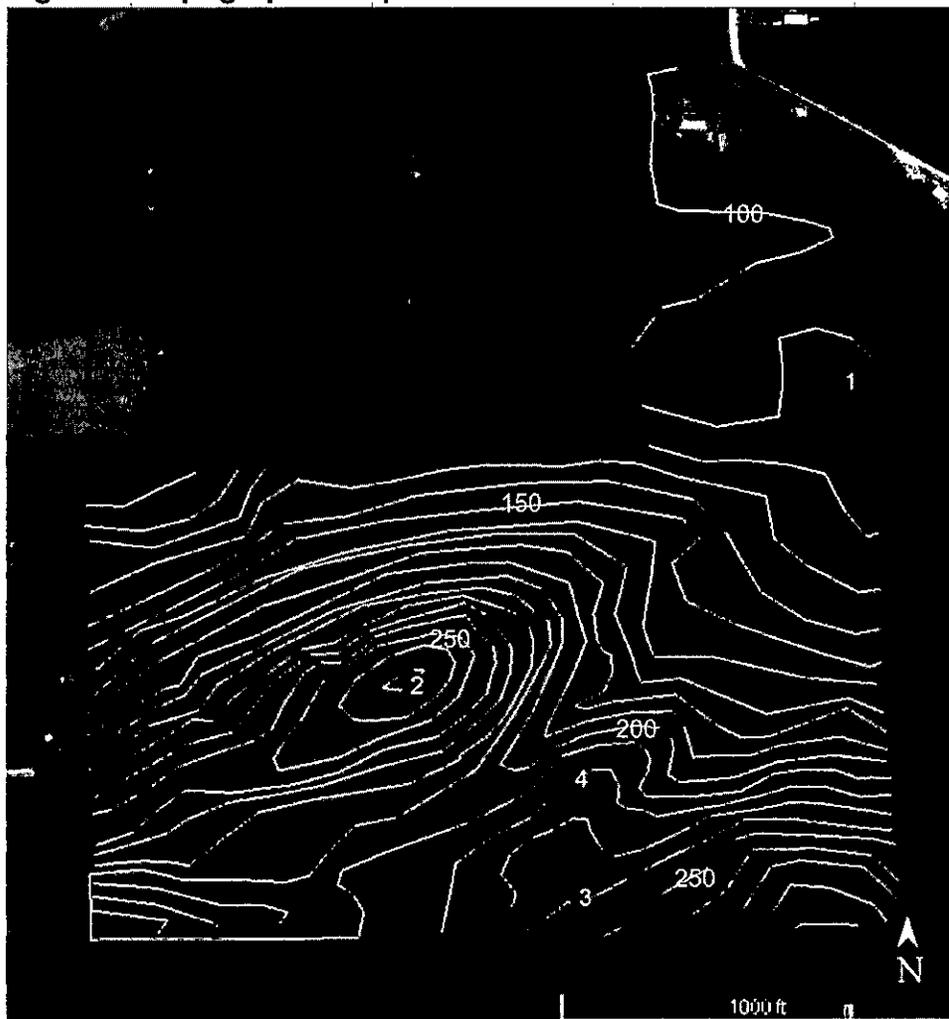


Figure 4a. Assessor's map of the tract under consideration (outlined).

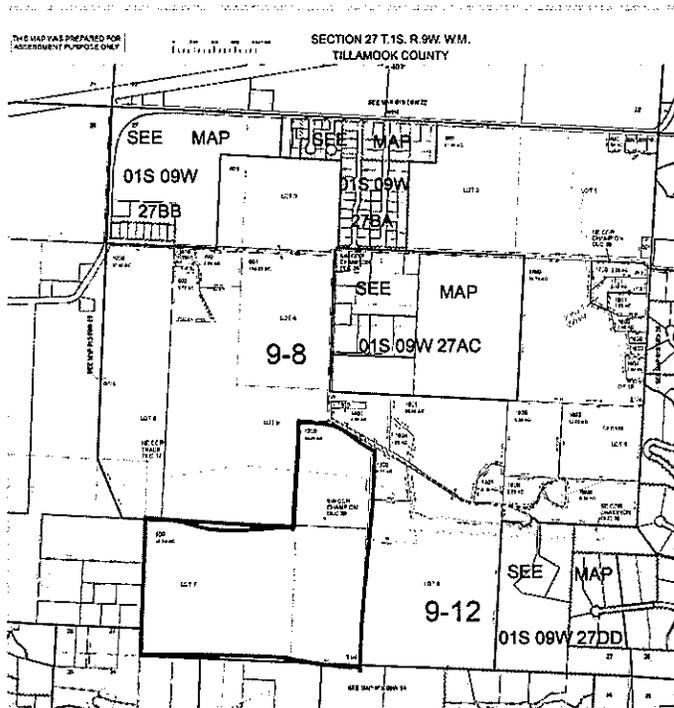


Figure 4b. Close up of assessor's map lots 600 and 1200.

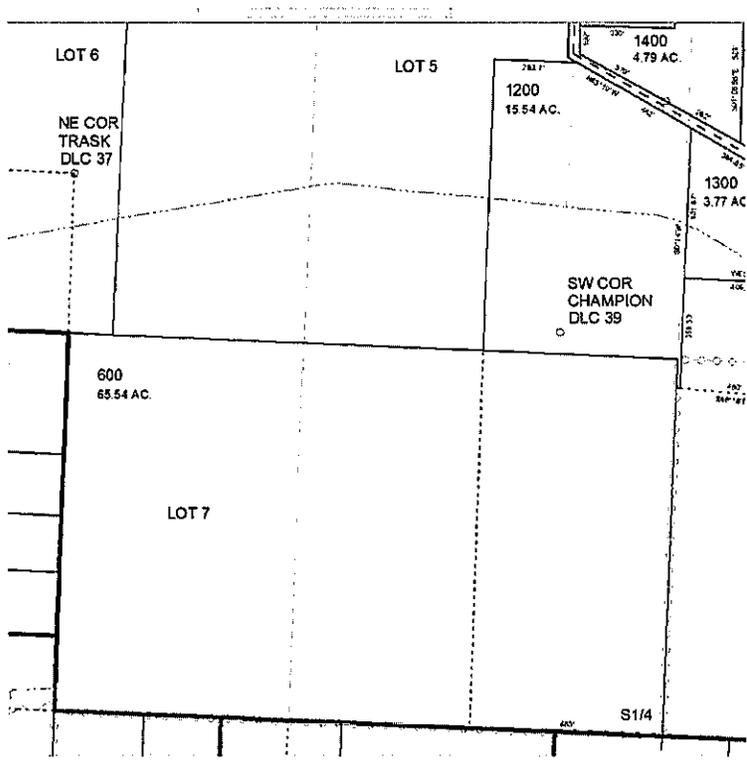
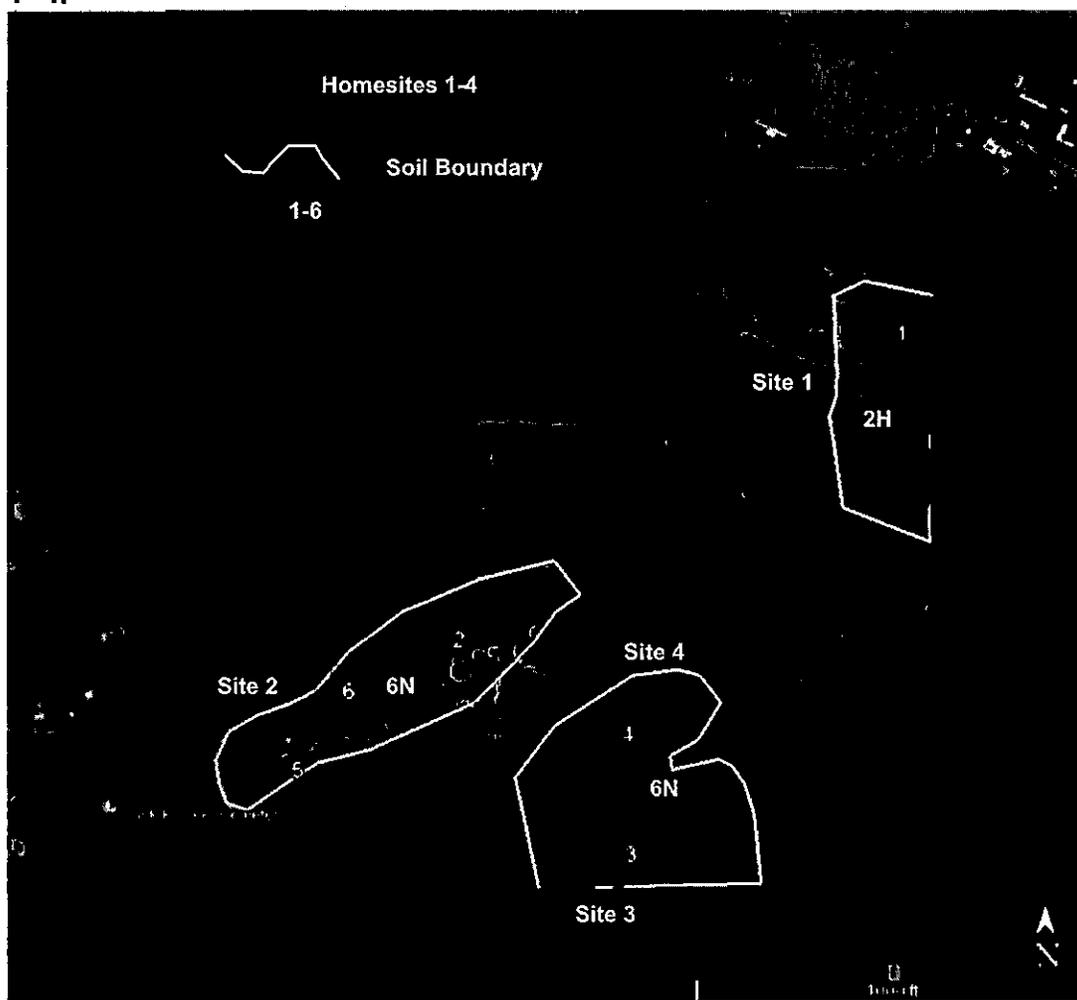


Figure 6: Revised Soil Map, Property boundary = red line, potential homesites= magenta line, soil boundaries = yellow lines, and soil pedons 1-4.



Revised Soil Legend

Symbol	Map unit
2H	Class 2, high value farmland
6N	Class 6, non-high value farmland

Soil Profile Log

1 Tillamook medial silt loam on terrace, moderately well to well drained with seasonal high-water table at 38 inches. Class 3 non-irrigated and non-high value farmland.

Horizon	Depth (IN)	Color	Texture	Note
A	0-8	10YR2/2	medial silt loam	
AB	8-11	10YR3/3	silt loam	
Bw1	11-25	10YR4/4	silty clay loam	10YR4/6 coatings
Bw2	25-28	10YR4/6	silty clay loam	10YR4/4 coatings
BC	28-38	10YR4/6	silty clay loam	
C	38-51	10YR6/2	silt loam	7.5YR5/6 accum.

2 Ecola (shallow phase) on narrow ridge. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-10	10YR2/1		medial silt loam	3mgr struc.
A2	10-19	10YR2/1		medial silt loam	2 msbk struc.
Cr1	18-30	10YR7/2	10YR4/6	Partly weathered siltstone	
Cr2	30-60			more consolidated marine sedimentary rock.	

3 Ecola (moderately well drained phase) on bench and sideslope. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-9	10YR2/1		medial silt loam	3mgr struc.
A2	9-18	10YR2/1		medial silt loam	2 msbk struc.
AC1	18-24	10YR5/2		SICL	10YR3/3 oc
AC2	24-30	10YR6/2		SICL	10YR3/3 oc
Cr1	30-36	2.5Y7/1-2	10YR5/2 cc	weathered shale	
Cr2	36-50	2.5Y7/2	10YR5/6	weathered shale	

4 Templeton (moderately well drained phase) on narrow ridgetop and sideslope. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-12	10YR2/1		medial silt loam	3cgr struc.
A2	12-24	10YR2/1		medial silt loam	2 msbk struc.
Bw1	24-33	10YR5/3	10YR5/6	SICL	1mabk struc.
1Bw2	33-59	10YR5/3	10YR 5/2, 5/6	SICL	2cabk
Cr	59+	2.5Y7/1-2	10YR5/6	weathered siltstone to vf sandstone	

5 Ecola (shallow phase) on narrow ridge. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-11	10YR2/1		medial silt loam	3mgr struc.
Cr	11-40	10YR7/2	10YR4/6	weathered siltstone	

6 Ecola (shallow phase) on narrow ridge. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-10	10YR2/1		medial silt loam	3mgr struc.
A2	10-17	10YR2/1		medial silt loam	2 msbk struc.
Cr	17-31	10YR7/2	10YR4/6	weathered sedimentary rock	

End of Boring Log

Andy Gallagher

CPSSc/SC 03114

Date: _____

Table 1. GPS coordinates of soil pedon test pits.

Point	Latitude	Longitude
1	45.45276	-123.77275
2	45.45057	-123.77744
3	45.44904	-123.77570
4	45.45988	-123.77571
5	45.44990	-123.77910
6	45.45021	-123.77854

Appendix. Soil map unit description for Ecola silt loam from Clatsop County Soil Survey.

16D-Ecola silt loam, 3 to 30 percent slopes.

Composition

Ecola soil and similar inclusions - 90 percent

Contrasting inclusions - 10 percent

Ecola Soil Position on landscape: Mountaintops

Slope range: 3 to 30 percent

Elevation: 100 to 1,600 feet

Native plants: Western hemlock, Sitka spruce, Douglas-fir, red alder, salmonberry, salal, red huckleberry, western swordfern, Oregon oxalis

Organic mat on surface: Moss, needles, and twigs 3 inches thick

Typical profile:

0 to 7 inches - very dark grayish brown silt loam

7 to 16 inches - dark brown silty clay loam

16 to 37 inches - dark, yellowish brown silty clay loam

37 inches - weathered siltstone

Depth class: Moderately deep (20 to 40 inches)

Drainage class: Well drained

Permeability: Moderate

Available water capacity: 4 to 10 inches

Potential rooting depth: 20 to 40 inches

Runoff: Medium

Hazard of erosion by water: Moderate

Included Areas

Soils that have weathered siltstone at a depth of more than 40 inches.

Soils that are wet

Major Uses

Woodland, wildlife habitat

Major Management Factors

Soil-related factors: Depth to bedrock, rooting depth, water erosion, susceptibility of the upper layer to compaction

Climatic factors (average annual):

Precipitation - 70 to 100 inches

Soil temperature - 47 to 52 degrees F (varies less than 9 degrees from summer to winter)

Frost-free period - 100 to 210 days

Woodland

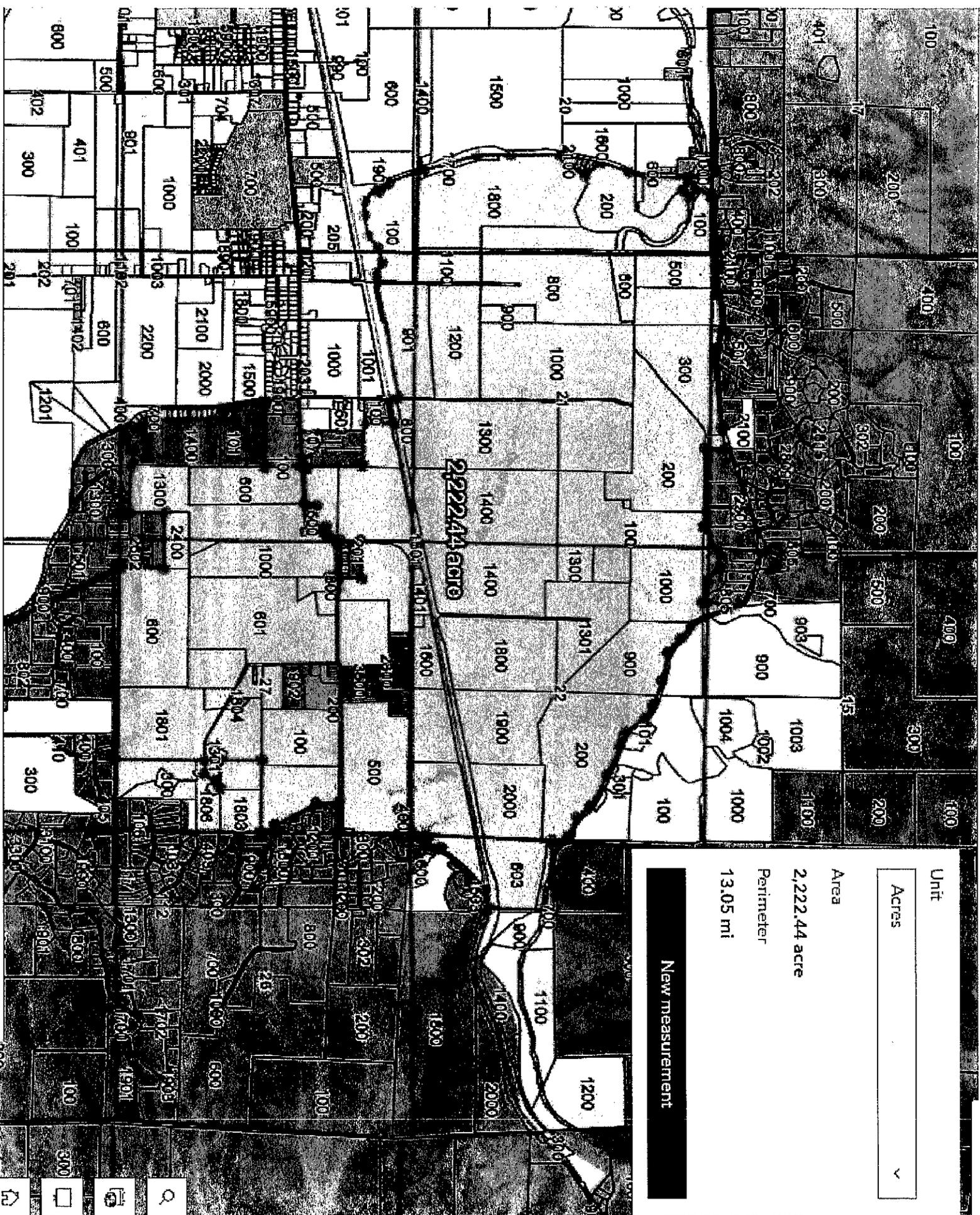
Mean site index for stated species: Western hemlock – 159 (based on 100-year site curve); 117 (based on 50-year site curve)

Estimated total production per acre: 110,110 board feet.

(International rule, one-fourth-inch kerf) from a fully stocked stand of trees 70 years old

Growth at culmination of mean annual increment (CMAI): 252 cubic feet per acre in a stand of 50-year-old trees 1.5 inches in diameter at breast height.

EXHIBIT G



Unit

Acres

Area

2,222.44 acre

Perimeter

13.05 mi

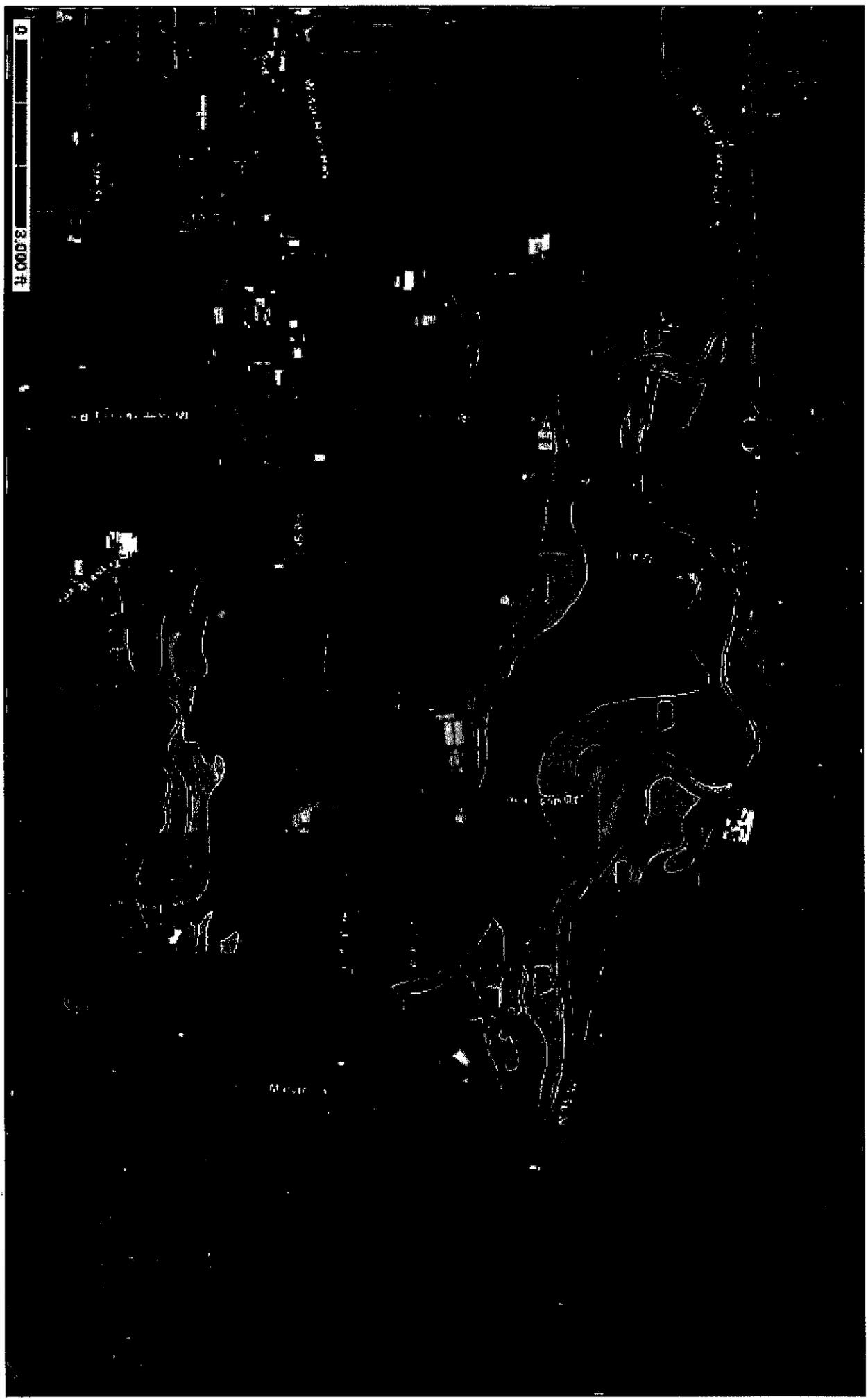
New measurement

EXHIBIT H

Map — Nonirrigated Capability Class

Scale Find to Scale

Navigation icons: Home, Back, Forward, Refresh, Print, Close

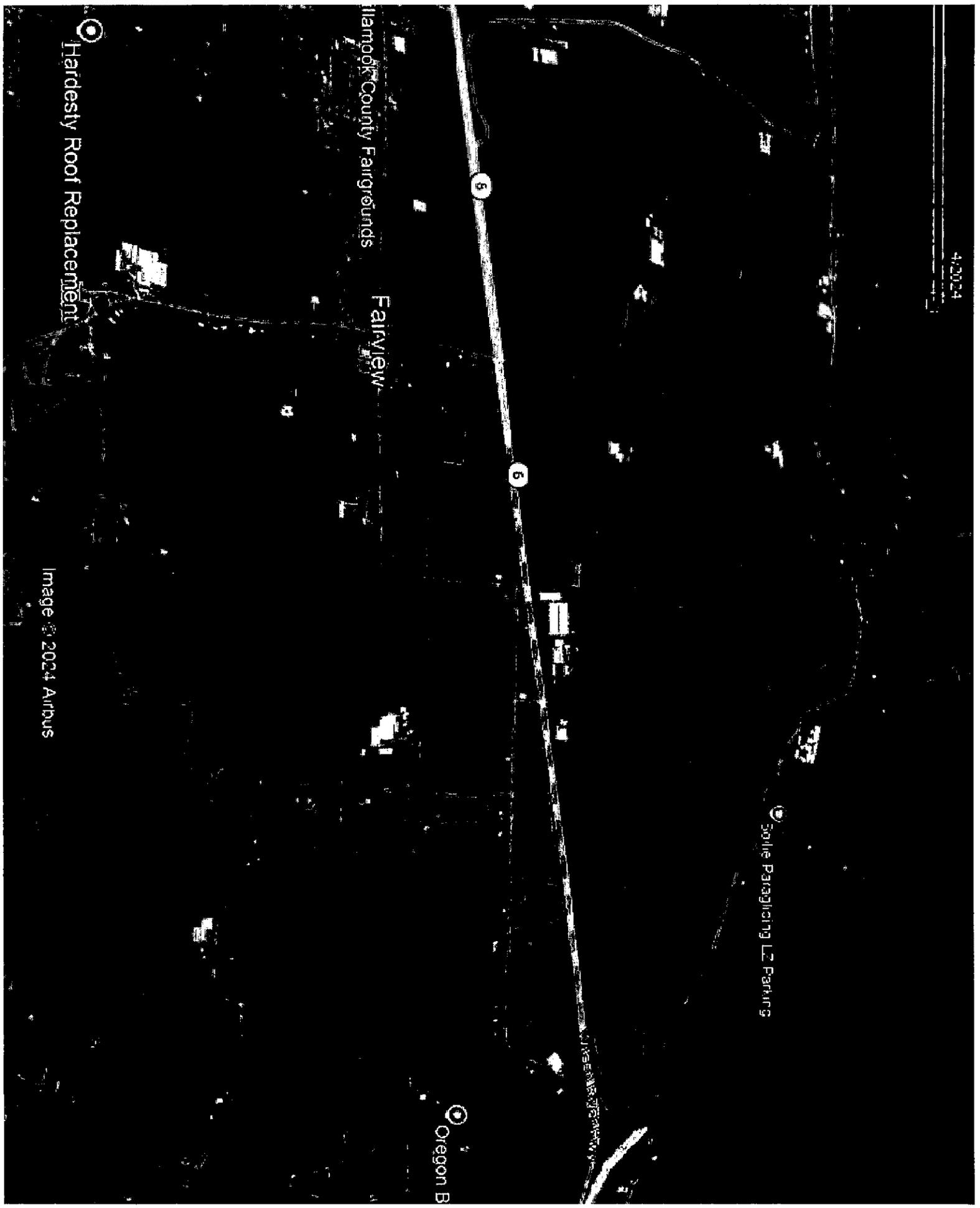


Summary by Map Unit — Tillamook County, Oregon (OR057)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
Summary by Map Unit — Tillamook County, Oregon (OR057)				
20D	Kloutchie-Necanicum complex, 5 to 30 percent slopes	6	0.5	0.0%
30E	Templeton-Ecola medial silt loams, 30 to 60 percent slopes	6	0.3	0.0%
32D	Munsoncreek-Flowerpot complex, 5 to 30 percent slopes	6	0.1	0.0%
33D	Tolovana medial silt loam, 5 to 30 percent slopes	6	0.6	0.0%
37E	Templeton-Skipanon complex, 30 to 60 percent slopes	6	1.2	0.1%
45B	Hebo silty clay loam, 0 to 5 percent slopes	4	66.7	3.0%
56C	Wolfer medial silt loam, 3 to 15 percent slopes	3	7.5	0.3%
57B	Condorbridge gravelly medial loam, 0 to 7 percent slopes	2	47.8	2.1%
57C	Condorbridge gravelly medial loam, 3 to 15 percent slopes	3	42.3	1.9%
58C	Knappa medial silt loam, 3 to 15 percent slopes	3	7.1	0.3%
59B	Chitwood-Knappa medial silt loams, 0 to 7 percent slopes	3	4.1	0.2%
74A	Nehalem silt loam, 0 to 3 percent slopes	2	451.9	20.1%
77A	Nestucca-Brenner silt loams, 0 to 3 percent slopes	3	100.7	4.5%
80B	Quillamook medial silt loam, 0 to 7 percent slopes	2	176.2	7.8%
81B	Quillamook complex, 0 to 7 percent slopes	2	483.2	21.5%
89A	Udifluvents-Riverwash-Water complex, 0 to 3 percent slopes	4	162.7	7.2%
90A	Yachats very fine sandy loam, 0 to 3 percent slopes	3	286.8	12.8%
94B	Ginger-Quillamook-Urban land complex, 0 to 7 percent slopes	3	0.1	0.0%
173B	Tillamook-Ginger medial silt loams, 0 to 7 percent slopes	2	255.7	11.4%
173C	Tillamook-Ginger medial silt loams, 3 to 15 percent slopes	3	55.9	2.5%
183D	Winema-Fendall medial silt loams, 5 to 30 percent slopes	4	97.0	4.3%
W	Water		1.1	0.0%
Totals for Area of Interest			2,249.5	100.0%



EXHIBIT I



Hardesty Roof Replacement

Hampock County Fairgrounds

Fairview

Oregon B

Soile Paragliding LZ Parking

EXHIBIT J



Mook County Fairgrounds

Fairview

6

6

Sullivan Paragliding LZ Parking

WILSON'S SUPERWAY

Oregon

Hardesly Roof Replacement

Image U.S. Geological Survey

Lichner Cumulative Impacts Study Area

Tax Lot	Size (acres)	zone 1	zone 2	Active Farm?	Improved with Residence?	Inventoried High Value Soils?
1S0927-00-00600	65.7	F		No	No	No
1S0927-00-01200	15.54	F		No	Yes	Yes
1S0927-00-01801	68.88	F		Yes	Yes	Yes
1S0927-00-01300	3.74	F		Likely No	Yes	Yes
1S0927-00-01301	2.08	F		Likely Yes	Yes	Yes
1S0927-00-01800	2.05	F		No	Yes	Yes
1S0927-00-01804	1.5	F		No	Yes	Yes
1S0927-00-01400	4.79	F		Likely Yes	Yes	Yes
1S0927-00-01500	0.5	F		No	Yes	Yes
1S0927-AC-01000	6.64	F		Yes	No	Yes
1S0927-AC-00100	32.43	F		Yes	No	Yes
1S0927-00-01600	29.7	F		Yes	No	Yes
1S0927-00-00500	61.31	F		Yes	Yes	Yes
1S0927-00-00501	0.47	F		No	Yes	Yes
1S0927-00-00601	104.21	F		Yes	Yes	Yes
1S0927-00-01000	37.92	F		Yes	No	Yes
1S0927-00-00700	3.54	F		Likely Yes	Yes	Yes
1S0927-00-00602	3.76	F		Uncertain	Yes	Yes
1S0928-00-02400	9.89	F		Uncertain	No	Yes
1S0928-00-01300	54.59	F		Yes	Yes	Yes
1S0928-00-00600	31.25	F		Yes	Yes	Yes
1S0928-00-01201	0.39	F		No	Yes	Yes
1S0928-DC-01500	9.57	SFW20		Yes	No	Yes
1S0928-DC-01400	0.77	SFW20		Maybe	Yes	Yes
1S0928-00-01400	20.4	SFW20		Yes	No	Yes
1S0928-DB-00101	10.16	SFW20		Yes	Yes	Yes
1S0928-DB-00200	0.96	SFW20		No	Yes	Yes
1S0928-DB-00100	9.4	SFW20		Yes	Yes	Yes
1S0927-BB-00100	28.77	F		Yes	No	Yes
1S0928-00-00100	37.55	F		Yes	No	Yes
1S0928-00-00200	13.4	F		Yes	Yes	Yes
1S0928-00-00802	11.71	F	RR-2	Yes	No	Yes
1S0922-00-01401	4.37	F		Yes	No	Yes
1S0922-00-01700	1.05	F		No	Yes	Yes
1S0922-00-01600	12.75	F		Yes	No	Yes
1S0922-00-01900	66.36	F		Yes	No	Yes
1S0922-00-02000	66.78	F		Yes	Yes	Yes
1S0923-00-00603	36.5	F		Yes	Yes	Yes
1S0923-00-00500	4.18	F		No	No	Yes
1S0922-00-00200	105.57	F		Yes	No	Yes
1S0922-00-00601	0.44	F		No	No	Yes
1S0922-00-00900	57.97	F		Yes	Yes	Yes

1S0922-00-01800	60.02	F		Yes	Yes	Yes
1S0922-00-01400	65.27	F		Yes	Yes	Yes
1S0922-00-01301	42.66	F		No	No	Yes
1S0922-00-01300	9.77	F		Yes	No	Yes
1S0922-00-01200	10	F		Yes	No	Yes
1S0922-00-01000	39.81	F		Yes	No	Yes
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1S0921-00-00100	53.56	F		Yes	No	Yes
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1S0921-00-00101	0.52	F		Yes	Yes	Yes
1S0921-00-01000	124.58	F		Yes	Yes	Yes
1S0921-00-00300	43.86	F		Yes	Yes	Yes
1S0921-00-00400	23.36	F		Yes	No	Yes
1S0921-00-00500	22.02	F		Yes	No	Yes
1S0920-A0-00100	14.61	F		Yes	No	Yes
1S0921-00-00600	10.74	F		Yes	No	Yes
1S0921-00-00800	65.91	F		Yes	No	Yes
1S0921-00-00900	7.07	F		Yes	Yes	Yes
1S0921-00-01200	42.12	F		Yes	Yes	Yes
1S0928-00-00901	53.63	F		Yes	No	Yes
1S0921-00-01100	17.27	F		Yes	No	Yes
1S0929-00-00100	30.87	F		Yes	Yes	Yes
1S0920-00-01800	90.2	F		Yes	Yes	Yes
1S0920-00-01700	3.57	F		Yes	Yes	Yes
1S0920-00-01900	21.77	F		Yes	No	Yes
1S0920-A0-00200	36	F		Yes	Yes	Yes
1S0920-00-00400	9.5	F		Yes	No	Yes
1S0920-A0-00401	1.47	F		Yes	No	Yes



APPLICATION STATEMENT

(Application for Nonfarm Dwelling)
(Application to Property Line Adjustment)

Part 1 GENERAL INFORMATION

Applicants and Owner:

Matthew M. Lichner and Stacy N. Lichner are the applicants and owners of the property described herein (together, “**Applicants**” or “**Owners**”). The Applicants own the property in their revocable living trust, identified as The Matt and Stacy Lichner Living Trust dated December 26, 2023. The Owners’ vesting deeds are attached as Exhibit A. Applicants waive the pre-application conference for this application, as per TCLUO 10.030(2).

Property:

The property subject to this Application Statement is identified map and tax lot 1S0927-00-00600 (“**TL 600**”) and 1S0927-00-01200 (“**TL 1200**”) (together, the “**Lichner Property**”). The Lichner Property is located in the vicinity of Hodgdon Road, outside any urban growth boundary, in Tillamook County. According to the Tillamook County Assessor, TL 600 is 65.54 acres in size and is under farmland assessment. The Property is zoned entirely Farm (F-1). TL 600 abuts additional Farm (F-1) zoned property to the north, east and west, and Rural Residential 2-acre (RR-2) to the south and west.

TL 1200 has the situs address of 570 Hodgdon Road, Tillamook. According to the Tillamook County Assessor, Tax Lot 1200 is 15.54 acres in size and is zoned Farm (F-1). TL 1200 is improved with a single-family residence (which was constructed in 2021 as a replacement dwelling). The Applicants currently live on TL 1200.

The Lichner Property is comprised of two tax lots, but three legal lots of record. The three lots of record are delineated in the map attached as Exhibit B prepared by First American Title Company. All of the legal lots of record were created prior to January 1, 1993 (*see* ORS 215.284(2)) and are less than the 80-acre minimum for the Farm (F-1) zone.

The Applicants have owned the Lichner Property since 2020. Prior to that time, the Lichner Property was owned by Stacy Lichner’s parents, Ed and Wilma Meyers. The Meyers acquired the Lichner Property in or about 1977 by virtue of a contract of sale which was fulfilled in or about April 5, 1985 by Warranty Deed recorded at Book 298, Page 206, Tillamook County Deed Records. The Property is generally comprised of a mix of grassland and alder/spruce forest,

and is improved except for the dwelling and related outbuildings adjacent to Hodgdon Road on TL 1200. Upon information and belief, the Lichner Property has not been used for substantial farming activities at any time in the past and has remained in a generally uncultivated state for many decades. The historical imagery attached in Exhibit C confirms that most of the Property has remained uncultivated for at least the past 30 years and remains in essentially the same bushy condition it has been in since at least 1994.

As shown in the topographic map attached in Exhibit D (and also shown on page 8 of the Soil Assessment attached as Exhibit F), much of the Lichner Property is burdened with strongly sloping dissected marine terraces and strongly sloping to very steeply sloping hills, ridges and sideslopes, which are not conducive to productive farming. With the exception of some minor Freshwater Forested/Shrub Wetland in the very northeastern corner of TL 600 and some Freshwater Emergent Wetland and Freshwater Forested/Shrub Wetland on TL 1200, the Lichner Property is free of wetlands and flood hazards.

Attached as Exhibit E shows the inventoried soils of TL 600 according to the USDA Web Soil Survey. According to the general information available in the USDA Web Soil Survey, the Property is over 90% comprised of Winema-Fendall medial silt loams, 5 to 30 percent slopes, with a land capability classification of 4. The remaining soils are inventoried as Tillamook-Ginger medial silt loams, 3 to 15 percent slopes, with a capability classification of 3.

Attached as Exhibit F is a Soil Assessment of the Lichner Property dated August 27, 2023 (and amended on June 3, 2024) by Red Hill Soils ("**Soils Assessment**"). This Soil Assessment is the product of onsite analysis by soil scientist Andy Gallagher, and focuses on particular areas, identified as "Site 1" through "Site 4". This Application Statement will focus exclusively on "Site 2" of the Soils Assessment, which shall be referred to the "**Homesite Area**".

The Homesite Area is shaped in a manner that essentially tracks the proposed new "Lichner Tract 1, Parcel 2" in the PLA Application filed herewith, is in a rectangle shape with 224.36' x 744.64' dimensions, and is 3.84 acres in size. The Homesite Area is comprised almost entirely of non-high value farmland soils.

Request:

This Application Statement is submitted to support two separate but related land use applications:

1. An application to approve a dwelling not in conjunction with farm use pursuant to Tillamook County Land Use Ordinance ("**TCLUO**") 3.002(9) on the Homesite Area ("**Nonfarm Dwelling Application**").

2. An application to approve a lot line adjustment application that seeks to adjust the property lines associated with the three legal lots of record comprising the Lichner Property to create two smaller parcels associated with the 570 Hodgdon residence and the nonfarm dwelling, and one larger parcel for the remainder of the land (“PLA Application”). The criteria for approval of the PLA Application will not be discussed in this Application Statement, as they should be sufficiently evident to the Department of Community Development (“Department”) in the PLA Application.

The PLA Application is submitted on the condition that it is contingent on the approval of the Nonfarm Dwelling Application. If the Nonfarm Dwelling Application is not approved, the PLA Application shall be deemed withdrawn and rescinded.

APPLICATION FOR NONFARM DWELLING

Applicable Ordinance and Comprehensive Plan Provisions

TCLUO § 3.002(9)

TCLUO § 3.002(9) permits the placement of a dwelling not in conjunction with farm use (*i.e.* a nonfarm dwelling) if the elements described in this Section are satisfied.

o **TCLUO 3.002(9)(a)(1)**

The dwelling or activities associated with the dwelling will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use.

The placement of nonfarm dwelling in the Homesite Area will not force a significant change in or significantly increase the cost of accepted farming or forest practices on nearby lands devoted to farm or forest use, for the following non-comprehensive reasons:

- i. Tax Lot 600 (in which the Homesite Area is currently located) abuts commercial farmland owned by Fairview Acres (to the north) and Thomas Bruce (to the east). Such farmland is buffered from the impact of the placement of a dwelling in the Homesite Area by both distance and elevation – in particular, the Homesite Area is a minimum of 1,000 from the nearest farming areas, and also over 100’ higher than such farming areas.
- ii. The Homesite Area is much closer in proximity and elevation to the Rural Residential (RR-2) zoned property located to the south.

- iii. The Homesite Area will be separated from the Fairview Acres and Thomas Bruce farms by other EFU land owned by Lichners – *i.e.* the remaining portion of what is now TL 600.
- iv. Only the Thomas Bruce farm uses Hodgdon Road for its primary access. This road is shared with numerous other homesites, many of which are on property zoned SFW-10 and RR-2.
- v. The Applicants are investigating the possibility of accessing the desired nonfarm dwelling by an access easement via Trask River Road. If such access is achieved, then there would be no anticipated impact whatsoever on the transportation facilities associated with the Fairview Acres and Thomas Bruce farms, as access would be through RR-2 zoned property.

o **TCLUO 3.002(9)(a)(2):**

- a. *The dwelling is situated upon a new parcel, or a portion of an existing lot or parcel, that is generally unsuitable land for the production of farm crops and livestock or merchantable tree species, considering the terrain, adverse soil or land conditions, drainage and flooding, vegetation, location and size of the tract. A new parcel or portion of an existing lot or parcel shall not be considered unsuitable solely because of size or location if it can reasonably be put to farm or forest use in conjunction with other land; and*
- b. *A new parcel or portion of an existing lot or parcel is not "generally unsuitable" simply because it is too small to be farmed profitably by itself. If a new parcel or portion of an existing lot or parcel can be sold, leased, rented or otherwise managed as a part of a commercial farm or ranch, then the new parcel or portion of the existing lot or parcel is not "generally unsuitable". A new parcel or portion of an existing lot or parcel is presumed to be suitable if is composed predominantly of Class I-IV soils. Just because a new parcel or portion of an existing lot or parcel is unsuitable for one farm use does not mean it is not suitable for another farm use;*

The Homesite Area is comprised almost entirely of Class 6 soils and is therefore not presumed to be suitable for farming; in fact, according to the Natural Resources Conservation Service Soils Classification, Class 6 soils "have severe limitations that make them generally unsuited to cultivation and that limit their use mainly to pasture, range, forestland, or wildlife food and cover." *E.g.* <https://www.ars.usda.gov/ARSTUserFiles/np215/Food%20security%20talk%20inputs%20Lunch%203-15-11.pdf> (last visited on September 2, 2024).

The Soils Assessments states as follows relating to the soils on the Homesite Area (identified in the Soils Assessment as "Site 2"):

Shallow phase Ecola, Land Capability Class 6 and non-high value. This site is on a narrow ridge and steep shoulder slopes. Soils here are shallow depth (less than 20 in) to marine sedimentary rocks and they have a paralithic contact. These soils are fine-silty family. There are no established soil series in the Tillamook County Legend that are shallow to marine sedimentary rock. . . . These soils are classified as a shallow phase of Ecola series, which on the official series description are moderately deep 20 to 40 inches to marine sediments, well drained and fine silty family. So, except for shallow depth these soils are very similar to Ecola series. In Tillamook County soil survey, the Ecola series is a named component; in a complex with Templeton in two map units; 30E, slopes 30 to 60% slope; and 30F, 60 to 90% slopes. Site 2 is less than 30 percent slope so the closest map unit in Tillamook County is the 30D Templeton of which Ecola is a minor component. The 30D map unit is Class 6 and not-high value. In neighboring Clatsop County, Ecola is mapped as a consociation (16D), 3 to 30 percent slopes and is rated class 6 non-high value. Shallow soils are generally rated Class 6, non-irrigated. Soils in Sites 2, 3 and 4 were previously mapped as Winema-Fendall complex in the NRCS soil survey. Both Winema and Fendall have higher clay content in the control section than soils observed in pedons 1, 2 and 3; so, neither of the previously mapped soils are good match for these pedons. Winema is very deep, and Fendall is moderately deep.

In addition to poor soil cover for the production of farm crops and livestock, the Homesite Area is also subject to significant natural and practical barriers for usage with an on-site or off-site commercial farming operation, summarized as the following:

- The Homesite Area is located at the top of a hill that descends steeply to the north, west and east. It is separated from any nearby farming operations by strongly sloping to very steeply sloping hills, ridges and side slopes.
- The Homesite Area is located at an elevation roughly 100' higher than any nearby commercial farming operation. Even if the soils permitted the growth of grass useful in a farming operation, access to such grassland by livestock and harvesting equipment would be impractical and/or dangerous.
- There are no forest operations in the relevant vicinity of the Homesite Area, and, as shown in the attached satellite images, the Homesite Area has historically been a poor producer of trees. The Homesite Area has no apparent forestry resource value.
- The Homesite Area is located in close proximity, or immediately adjacent to, a large area of RR-2 zoned property to the south, and share a topography similar to such RR-2 zoned property.
- Notwithstanding the proximity of nearby commercial farms, upon information and belief the Homesite Area has not been employed for farming purposes for many

decades, if ever. The Satellite images attached as Exhibit C show that the Homesite Area has remained in a non-utilized and uncultivated state for at least the last 30 years.

As indicated by the historical non-use of the Homesite Area, this area is encumbered by poor soils and severe topographic limitations that altogether make expansion of the nearby commercial farming operations (or any forestry operation) to include this area unattractive and impractical. These areas are therefore generally unsuitable land for the production of farm crops and livestock or merchantable tree species.

o **TCLUO 3.002(9)(a)(3):**

The dwelling will not materially alter the stability of the overall land use pattern of the area. In determining whether a proposed nonfarm dwelling will alter the stability of the land use pattern in the area, a county shall consider the cumulative impact of nonfarm dwellings on other lots or parcels in the area similarly situated by applying the standards set forth in subparagraphs 3.a through c. If the application involves the creation of a new parcel for the nonfarm dwelling, a county shall consider whether creation of the parcel will lead to creation of other nonfarm parcels, to the detriment of agriculture in the area by applying the standards set forth in subparagraphs 3.a through c.

- a. *Identify a study area for the cumulative impacts analysis. The study area shall include at least 2000 acres or a smaller area not less than 1000 acres, if the smaller area is a distinct agricultural area based on topography, soil types, land use pattern, or the type of farm or ranch operations or practices that distinguish it from other, adjacent agricultural areas. Findings shall describe the study area, its boundaries, the location of the subject parcel within this area, why the selected area is representative of the land use pattern surrounding the subject parcel and is adequate to conduct the analysis required by this standard. Lands zoned for rural residential or other urban or nonresource uses shall not be included in the study area;*

The study area identified by the Applicants is shown on Exhibit G and includes an area of roughly 2,021 acres (“**Study Area**”). This Study Area was chosen because it largely encompasses the distinct farming basin located in the eastern portion of the main Tillamook valley. The Study Area is generally defined to include all farming properties (i.e. zoned Farm (F-1) or Small Farm and Woodlot 20 (SFW-20)) located west of the Coast Range mountains, south of Sollie Smith Road, east of Wilson River Road, Olsen Road, and Trask River Road, and north of the hills associated with Sunset Heights Memorial Gardens and nearby RR-2 zoned properties. The Study Area is primarily zoned F-1, with six properties (along Trask River Road)

zoned SFW-20. Lands zoned RR-2 or other urban or non-resource uses are not included in the Study Area.¹

The Study Area includes seventy (70) separate tax lots, essentially all of which are either entirely or primarily committed to active farming operations (except, of course, the subject property). The Study Area includes land owned and leased by large farming operations, including Wilsonview Dairy, Fairview Acres Dairy Farm, DeNoble Farm, Barker Farm, Hodgdon Farm, Bake Farm, and Oldenkamp Farms, Inc., among others.

Attached as Exhibit H is the Natural Resources Conservation Service Web Soil Survey's Soil Map for the Study Area. The Study Area is comprised entirely of high value Class 2-4 soils (the portions identified as Class 6 soils are irregularities outside of the Study Area and included as a result to minor imprecision in creating an AOI on the Web Soil Survey tool equal to the Study Area), with over 50% of the soils inventoried as Class 2 soils.

Essentially the entire Study Area is currently committed to commercial or hobby farming operations, with some minor islands or portions of land that appear to not be currently employed for active pasture use. Attached as Exhibit I is a current satellite image of the Study Area, and attached as Exhibit J is a satellite image of the Study Area taken in 1995 (~30 years ago). As indicated in the two satellite images, the land use pattern in the Study Area appears to be extremely stable, with no material changes in the last 30 years – said differently, the two satellite images indicate that the overwhelming predominate farming use of the Study Area has not materially changed in 30 years.

Attached as Exhibit K is the Applicants' Cumulative Impacts Spreadsheet, which provides in Excel format the findings with respect to the Study Area.

o **TCLUO 3.002(9)(a)(3)(b):**

Identify within the study area the broad types of farm uses (irrigated or nonirrigated crops, pasture or grazing lands), the number, location and type of existing dwellings (farm, nonfarm, hardship, etc.), and the dwelling development trends since 1993. Determine the potential number of nonfarm/lot-of-record dwellings that could be approved under Subsections A and Section 2.11, including identification of predominant soil classifications, the parcels created prior to January 1, 1993 and the parcels larger than the minimum lot size that may be divided to create new parcels for nonfarm dwellings under ORS 215.263(4). The findings shall describe the existing land use pattern of the study area including the distribution and arrangement of existing uses and the

¹ With the exceptions of map and tax lots 1S0922-00-801 and 1S0928-00-00802, which appear to be split zoned and include a minor amount of RR-2 property.

land use pattern that could result from approval of the possible nonfarm dwellings under this subparagraph;

The section immediately above describes the broad types of farm uses, as well as the number, location and type of existing dwellings, the size of parcels, and dwelling development trends since 1993 in the Study Area.

Nonfarm Dwelling Analysis. With the exception of the Homesite Area and a portion of 1S0923-00-00500, all of the properties in the Study Area are comprised entirely of Class 2-4 high value farmland soils and are therefore presumed to be suitable for farming and therefore disqualified from being improved with nonfarm dwellings. Additionally, 56 of the 69 properties (excluding the subject property) are currently committed to farming purposes, and therefore not generally unsuitable for farming. With the exceptions of the property identified as map and tax lot 1S0922-00-01301 (which is entirely in AE and X flood zone designation, and also encumbered with significant wetlands), map and tax lot 1S0923-00-00500, and map and tax lot 1S0922-00-00601, all of the 13 properties not currently committed to active farm use are small acreage parcels already developed with a dwelling.

Given the above, only one property – identified as map and tax lot 1S0923-00-00500 – may be eligible for a nonfarm dwelling. Much of this property appears to be under the Wilson River or in its riparian area, but there is a minor amount (about ~1.06 acres) that is north of Sollie Smith Road and could be improved with a dwelling. Also, this property is located across the valley from the Homesite Area, is roughly 1.75 miles as the bird flies, and is accessed by a completely separate network of roads.

Lot of Record Analysis. A total of 38 of the 69 properties (excluding the subject property) are currently improved with a dwelling and are therefore barred from a lot-of-record (“LOR”) dwelling under TCLUO 3.002(8)(1)(b). 23 of the remaining properties² are located on tracts with at least one dwelling thereon, and are similarly barred from a LOR dwelling. 3.002(8)(1)(b). Of the remaining 12 properties, five (5) properties³ were acquired by the present owner after 1985 and are therefore barred from a LOR dwelling, as per TCLUO 3.002(8)(1)(a). The remaining three (3) properties are described and discussed as provided below.

² These 23 properties are: 1S0927-AC-01000, 1S0927-AC-00100, 1S0927-00-01600, 1S0927-00-01000, 1S0928-DC-01500, 1S0928-00-01400, 1S0927-BB-00100, 1S0928-00-00802, 1S0922-00-01600, 1S0922-00-01300, 1S0922-00-01200, 1S0922-00-01000, 1S0921-00-00100, 1S0921-00-00800, 1S0928-00-00901, 1S0921-00-01100, 1S0920-00-01900, 1S0920-00-00400, 1S0920-A0-00401; 1S0921-00-00400; 1S0921-00-00500; 1S0920-A0-00100; 1S0921-00-00600.

³ These five properties are: 1S0928-00-02400, 1S0922-00-01401, 1S0923-00-00500, 1S0922-00-00200, 1S0922-00-01301

- Map and tax lot 1S0928-00-00100
 - This property is comprised entirely of Class 2 soils, is over 21 acres in size, and is currently committed to farm use. It is therefore barred from a LOR dwelling under TCLUO 3.002(8)(A)(1)(e), 3.002(8)(A)(3)(b), and 3.002(8)(A)(4)(b).
- Map and tax lot 1S0922-00-01900
 - This property is comprised entirely of Class 2 soils, is over 21 acres in size, and is currently committed to farm use. It is therefore barred from a LOR dwelling under TCLUO 3.002(8)(A)(1)(e), 3.002(8)(A)(3)(b), and 3.002(8)(A)(4)(b).
- Map and tax lot 1S0922-00-00601
 - It appears that a LOR dwelling would be allowed on this property.

Consequently, it appears that one (1) property – identified as map and tax lot 1S0922-00-00601 – within the Study Area qualifies for a LOR dwelling. This property is 0.44 acres in size, is located across the valley from the Homesite Area, is roughly 1.75 miles as the bird flies, and is accessed by a completely separate network of roads.

As a result, only two properties - identified as map and tax lots 1S0923-00-00500 and 1S0922-00-00601 – are eligible for either a nonfarm dwelling or LOR dwelling. It is not reasonably foreseeable that any of the other properties within the Study Area could be approved for a nonfarm dwelling or LOR dwelling.

○ **TCLUO 3.002(9)(a)(3)(c):**

Determine whether approval of the proposed nonfarm/lot-of-record dwellings together with existing nonfarm dwellings will materially alter the stability of the land use pattern in the area. The stability of the land use pattern will be materially altered if the cumulative effect of existing and potential nonfarm dwellings will make it more difficult for the existing types of farms in the area to continue operation due to diminished opportunities to expand, purchase or lease farmland, acquire water rights or diminish the number of tracts or acreage in farm use in a manner that will destabilize the overall character of the study area.

As indicated in the response to TCLUO 3.002(9)(a)(3)(b), and for purposes of this cumulative impacts analysis, the full development of all reasonably foreseeable nonfarm dwellings and LOR dwellings within the Study Area would result in the improvement of two (2) additional dwellings (on map and tax lots 1S0923-00-00500 and 1S0922-00-00601), in addition to the Homesite Area. This improvement of these two parcels with dwellings would result in only about ~1.5 acres out of the entire 2,021-acre Study Area (or 0.07%) being removed from possible agricultural or conservation-based use, and dedicated to residential use. Importantly, the Homesite Area, map and tax lots 1S0923-00-00500 and 1S0922-00-00601 are not currently

committed to agricultural use; consequently, there would be *no loss* in current agricultural area or production, and the existing farms within the Study Area would retain all present options to use, operate, expand, purchase, or lease farmland. Therefore, the possible land use pattern would not materially change or alter the existing land use pattern. TCLUO 3.002(9)(a)(3) is satisfied

o **TCLUO 3.002(9)(a)(4):**

If a single-family dwelling is established on a lot of record as set forth in this ordinance, no additional dwelling may later be sited under the provisions of this section.

No single-family dwelling is established on TL 600 (from which the Homesite Area will be created). Consequently, this criterion is satisfied.

TCLUO § 3.002(4) & (5)

o **TCLUO 3.002(4)(w) (“General Standards”)**

The Applicant agrees to sign and record in the deed records for Tillamook County the document described in TCLUO 3.002(4)(w)(2). TCLUO 3.002(4)(w)(1) and (3) do not apply.

o **TCLUO 3.002(5):**

An application for a use permitted in Table 1 must demonstrate compliance with the following criteria and with the Conditional Use Criteria in Article 6 Subsection 040, or in Article 6 Subsection 060 if the proposed use is for the restoration, enhancement or creation of a wetland as defined in 3.002(2).

(a) The use will not force a significant change in accepted farm or forest practices on surrounding lands devoted to farm or forest use; and

(b) The use will not significantly increase the cost of accepted farm or forest practices on surrounding lands devoted to farm or forest use.

As noted above, a dwelling in the Homesite Area will not force any change – certainly not a significant change – on, or increase the cost of, the farm or forest practices on surrounding lands. Please refer to the analysis provided above with respect to the criterion in TCLUO 3.002(9)(a)(1) for discussion and explanation.

See below for analysis with respect to the Conditional Use Criteria in Article 6 Subsection 040. The criteria in Article 6 Subsection 060 does not apply because the proposed use is not for the restoration, enhancement or creation of a wetland.

TCLUO § 6.040

TCLUO § 6.040 provides: *Any CONDITIONAL USE authorized according to this Article shall be subject to the following criteria, where applicable:*

- o **TCLUO 6.040(1):** *The use is listed as a CONDITIONAL USE in the underlying zone, or in an applicable overlying.*

TCLUO 3.002(5) provides that a “use permitted in Table 1 must demonstrate compliance with . . . the Conditional Use Criteria in Article 6 Subsection 040.” Table 1 includes Dwellings Not in Conjunction with Farm Use.

- o **TCLUO 6.040(2):** *The use is consistent with the applicable goals and policies of the Comprehensive Plan.*

The Goal 3 Element of the Tillamook County Comprehensive Plan discusses in significant detail the importance of agricultural land to Tillamook County, and the need to protect such land. Importantly, the requested use will not change the zoning designation of the Subject Property, and therefore will not reduce the available EFU land available in the county. It also does not result in the urbanization of farm land.

The protection of EFU land for farm uses is the primary reason for the extensive analysis required to obtain approval for a dwelling not in conjunction with farm use under TCLUO 3.002(9). The goal, of course, is to ensure that the surrounding agricultural areas are not threatened or substantially affected by the placement of a nonfarm dwelling. The analysis provided above demonstrates that the placement of a nonfarm dwelling on the Property will not threaten or substantially affect the use of surrounding agricultural, and that it therefore accords with the Goal 3 Element of the Tillamook County Comprehensive Plan.

This application, if approved, seeks to increase the housing available in Tillamook County and therefore furthers the Goal 10 Element of the Tillamook County Comprehensive Plan. No public facilities (Goal 11 Element) or transportation facilities (Goal 12) will be materially changed or affected by this application, and no urbanization will occur (Goal 14). All other Goal Elements in the Tillamook County Comprehensive Plan are not directly applicable to this application.

- o **TCLUO 6.030(3):** *The parcel is suitable for the proposed use considering its size, shape, location, topography, existence of improvements and natural features.*

The Homesite Area is suitable for the placement of a (nonfarm) single-family dwelling due to its relative proximity to RR-2 zoned land, its poor farming capabilities, its rural nature and elevation, its size permits for adequate onsite sanitation facilities, vehicular access can be created through the Lichner Property, and there is a lack of any unique geologic or natural hazards.

- o **TCLUO 6.030(4):** *The proposed use will not alter the character of the surrounding area in a manner which substantially limits, impairs or prevents the use of surrounding properties for the permitted uses listed in the underlying zone.*

Please refer to the analysis provided above with respect to the criterion in TCLUO 3.002(9)(a)(1) for discussion and explanation. There is no anticipated impact on the RR-2 zoned properties to the south, as such properties are accessed by a separate network of roads.

- o **TCLUO 6.030(5):** *The proposed use will not have detrimental effect on existing solar energy systems, wind energy conversion systems or wind mills.*

There are no solar energy systems, wind energy systems or wind mills within the vicinity of the Homesite Area. Consequently, there will be detrimental effect on such systems. This criterion is satisfied.

- o **TCLUO 6.030(6):** *The proposed use is timely, considering the adequacy of public facilities and services existing or planned for the area affected by the use.*

Adequate public transportation facilities, including Hodgdon Road, are already in place that serve the Lichner Property. The Homesite Area will be accessed from Hodgdon Road by private easement through the Lichner Property, as shown in the map attached to the PLA Application. The Applicants understand that the Homesite Area will receive fire protection from the Tillamook Fire District, and will receive water from the Fairview Water District. No additional public facilities or services are or will be required as a result of the placement of a dwelling on the Homesite Area. Consequently, this criterion is satisfied.

ORS 215.236 – Special Assessment

ORS 215.236(2) prohibits approval of a nonfarm dwelling application in “an exclusive farm use zone that is, or has been, receiving special assessment without evidence that the lot or parcel upon which the dwelling is proposed has been disqualified for special assessment at value for farm use under ORS 308A.050 to 308A.128 or other special assessment under ORS

308A.315, 321.257 to 321.390, 321.700 to 321.754 or 321.805 to 321.855 and any additional tax imposed as the result of disqualification has been paid.”

However, ORS 215.236(3) permits the tentative approval of an application for a nonfarm dwelling, with final approval “upon receipt of evidence that the lot or parcel upon which the dwelling is proposed has been disqualified from special assessment at value for farm use” . . . “and any additional tax imposed as a result of the disqualification has been paid.”

The Applicants intend to disqualify the Homesite Area from special assessment, and pay all additional tax imposed as a result of disqualification, after approval and perfection of the PLA Application. **Consequently, the Applicants request that the Department include a condition of approval that requires the filing of proof with the Department within 12 months of approval that the Homesite Area has been disqualified from special assessment and any additional tax as a result of such disqualification has been paid.**

CONCLUSION

The Applicants respectfully request that the Department approve the Applicants’ requests herein. Any questions or concerns regarding this application should be addressed to Michael Kittell, 9900 SW Wilshire St., Suite 200, Portland, OR 97225, or via email at *michael@breakwater-law.com*.

EXHIBIT A

RECORDING REQUESTED BY:



802 Main Ave.
Tillamook, OR 97141

Tillamook County, Oregon
12/09/2020 10:17:02 AM
DEED-DWARR
\$20.00 \$11.00 \$10.00 \$61.00 - Total = \$102.00
I hereby certify that the within instrument was received
for record and recorded in the County of Tillamook,
State of Oregon.
Tassi O'Neil, Tillamook County Clerk

2020-08803

TICOR TITLE™ 360420008393

GRANTOR'S NAME:
Wilma A. Myers, Trustee of the Edward E. Myers Trust dated
11-13-06

GRANTEE'S NAME:
Matthew M. Lichner and Stacy N. Lichner

AFTER RECORDING RETURN TO:
Order No.: 360420008393-RB
Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

SEND TAX STATEMENTS TO:
Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

APN: 152872
Map: 1S9 27 01200
570 Hodgdon Road, Tillamook, OR 97141

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Wilma A. Myers, Trustee of the Edward E. Myers Trust dated 11-13-06, Grantor, conveys and warrants to Matthew M. Lichner and Stacy N. Lichner, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Tillamook, State of Oregon:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS THIRTY-FIVE THOUSAND AND NO/100 DOLLARS (\$35,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "B" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

STATUTORY WARRANTY DEED

(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 12.7.2020

Edward E. Myers Trust dated 11-13-06

BY: Wilma A. Myers
Wilma A. Myers, Trustee

State of Oregon
County of Tillamook

This instrument was acknowledged before me on 12-7-2020 by Wilma A. Myers as Trustee of the Edward E. Myers Trust u/t/a November 13, 2006.

Rhonda L. Bentley
Notary Public - State of Oregon

My Commission Expires: 7.16.22

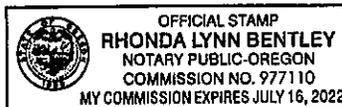


EXHIBIT "A"
Legal Description

PARCEL NO. 1:

Commencing at a point 945 feet North of the Southwest corner of the Joseph Champion Donation Land Claim No. 39, situated in Section 27, Township 1 South, Range 9 West, Willamette Meridian, County of Tillamook, State of Oregon;

thence West 293.7 feet;

thence South 2470 feet to Section line between Sections 27 and 34, Township 1 South, Range 9 West,

Willamette Meridian;

thence East on Section line 629 feet to quarter Section corner;

thence North 1875.12 feet to a point;

thence West 422 feet, more or less, to West line of Champion Donation Land Claim;

thence North on West line of said Donation Land Claim 494.9 feet to the point of beginning.

EXCEPTING THEREFROM that parcel described in Bargain and Sale Deed recorded April 28, 1995 in Book 369, page 224, Tillamook County Records, being more particularly described as: Government Lot 7, and the Southeast quarter of the Southwest quarter of Section 27, Township 1 South, Range 9 West, Willamette Meridian, County of Tillamook, State of Oregon.

PARCEL NO. 2:

Beginning at a point on the West line of the Joseph Champion Donation Land No. 39, and 4.09 chains South of the North line of M. A. Hodgdon and G. N. Hodgdon Land which is 18.50 chains North of the Southwest corner of said Champion Donation Land Claim;

thence South 7.94 chains;

thence East 6.12 chains;

thence North 4.75 chains;

thence North 63° 10' West 7.01 chains to the point of beginning.

EXHIBIT "B"
Exceptions

Subject to:

The Land has been classified as Farm Land, as disclosed by the tax roll. If the Land becomes disqualified, said Land may be subject to additional taxes and/or penalties.

Rights of the public to any portion of the Land lying within the area commonly known as Hodgdon Road.

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: City of Tillamook
Purpose: Waterline
Recording Date: January 28, 1897
Recording No: Book R, page 5
Affects: Reference is hereby made to said document for full particulars

Covenants as contained in Deed, including the terms and provisions thereof,

Executed by: Claude Thayer and Estelle Thayer; and H. Orchard
Recording Date: February 28, 1899
Recording No.: Book T, page 88
Affects: Reference is hereby made to said document for full particulars

Easement(s) for the purpose(s) shown below and rights incidental thereto, as granted in a document:

Granted to: Margaritha Balmer
Purpose: Roadway
Recording Date: April 19, 1924
Recording No: Book 51, page 268
Affects: Reference is hereby made to said document for full particulars

RECORDING REQUESTED BY:



802 Main Ave.
Tillamook, OR 97141

AFTER RECORDING RETURN TO:

Order No.: 360420008392-RB
Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

SEND TAX STATEMENTS TO:

Matthew M. Lichner and Stacy N. Lichner
4750 Brickyard Road
Tillamook, OR 97141

APN: 152550
Map: 1S9 27 00600

Tillamook County, Oregon
12/09/2020 09:45:02 AM
DEED-DWARR
\$15.00 \$11.00 \$10.00 \$61.00 - Total = \$97.00
I hereby certify that the within instrument was received
for record and recorded in the County of Tillamook,
State of Oregon.
Tassi O'Neil, Tillamook County Clerk

2020-08799

SPACE ABOVE THIS LINE FOR RECORDER'S USE

STATUTORY WARRANTY DEED

Wilma A. Myers, Trustees of the Edward E. Myers Trust dated 11-13-06, Grantor, conveys and warrants to Matthew M. Lichner and Stacy N. Lichner, as tenants by the entirety, Grantee, the following described real property, free and clear of encumbrances except as specifically set forth below, situated in the County of Tillamook, State of Oregon:

Government Lot 7; and the Southeast quarter of the Southwest quarter of Section 27, Township 1 South, Range 9 West, Willamette Meridian, County of Tillamook, State of Oregon.

THE TRUE AND ACTUAL CONSIDERATION FOR THIS CONVEYANCE IS ONE HUNDRED SIXTY-FIVE THOUSAND AND NO/100 DOLLARS (\$165,000.00). (See ORS 93.030).

Subject to:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON TRANSFERRING FEE TITLE SHOULD INQUIRE ABOUT THE PERSON'S RIGHTS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010. THIS INSTRUMENT DOES NOT ALLOW USE OF THE PROPERTY DESCRIBED IN THIS INSTRUMENT IN VIOLATION OF APPLICABLE LAND USE LAWS AND REGULATIONS. BEFORE SIGNING OR ACCEPTING THIS INSTRUMENT, THE PERSON ACQUIRING FEE TITLE TO THE PROPERTY SHOULD CHECK WITH THE APPROPRIATE CITY OR COUNTY PLANNING DEPARTMENT TO VERIFY THAT THE UNIT OF LAND BEING TRANSFERRED IS A LAWFULLY ESTABLISHED LOT OR PARCEL, AS DEFINED IN ORS 92.010 OR 215.010, TO VERIFY THE APPROVED USES OF THE LOT OR PARCEL, TO DETERMINE ANY LIMITS ON LAWSUITS AGAINST FARMING OR FOREST PRACTICES, AS DEFINED IN ORS 30.930, AND TO INQUIRE ABOUT THE RIGHTS OF NEIGHBORING PROPERTY OWNERS, IF ANY, UNDER ORS 195.300, 195.301 AND 195.305 TO 195.336 AND SECTIONS 5 TO 11, CHAPTER 424, OREGON LAWS 2007, SECTIONS 2 TO 9 AND 17, CHAPTER 855, OREGON LAWS 2009, AND SECTIONS 2 TO 7, CHAPTER 8, OREGON LAWS 2010.

TICOR TITLE 360420008392

STATUTORY WARRANTY DEED
(continued)

IN WITNESS WHEREOF, the undersigned have executed this document on the date(s) set forth below.

Dated: 12-7-2020

Edward E. Myers Trust dated 11-13-2006

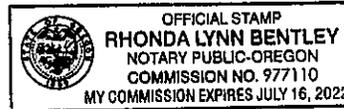
BY: Wilma A. Myers
Wilma A. Myers, Trustee

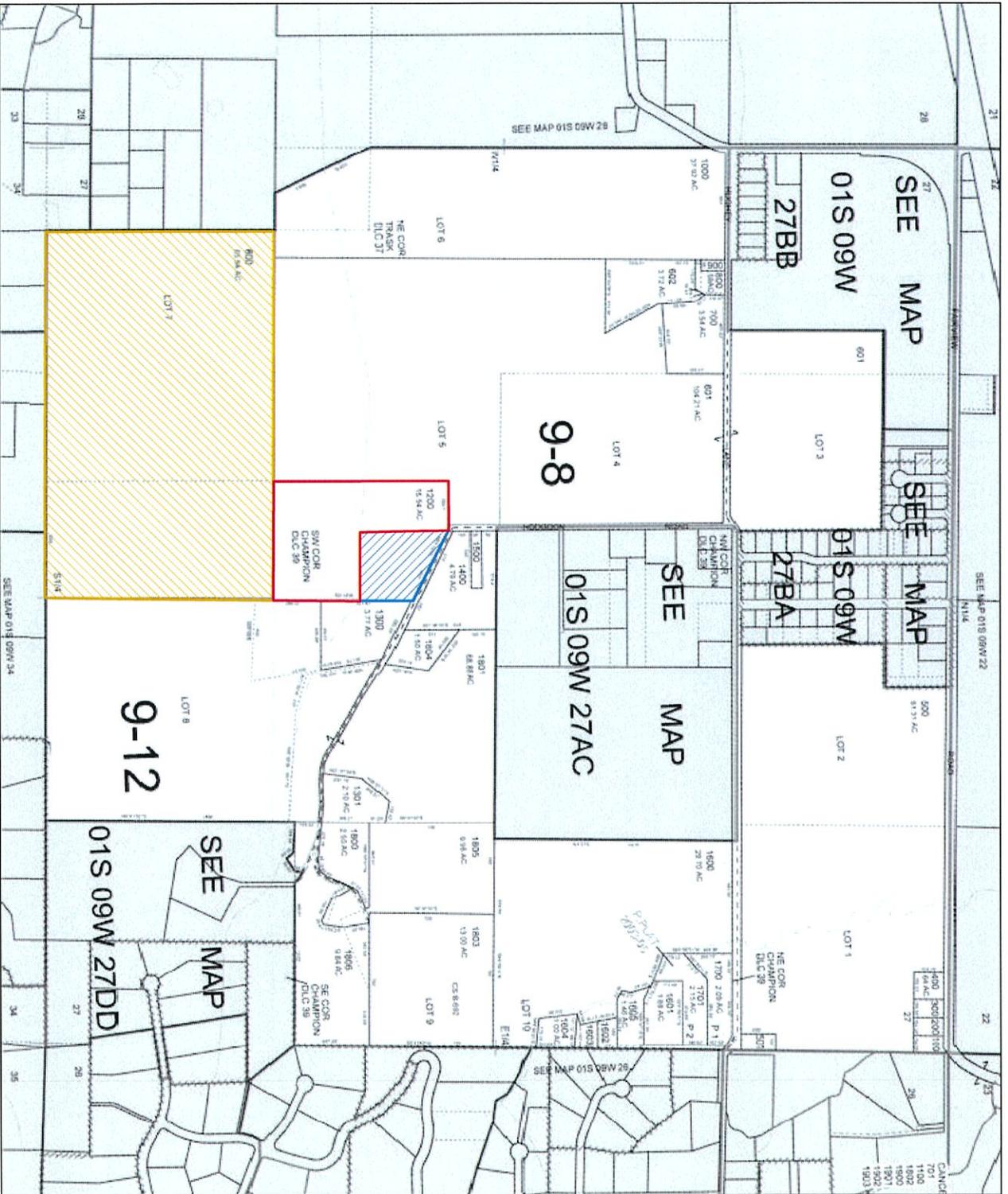
State of Oregon
County of Tillamook

This instrument was acknowledged before me on 12-7-2020 by Wilma A. Myers as Trustee of the Edward E. Myers Trust u/va November 13, 2006.

Rhonda Lynn Bentley
Notary Public - State of Oregon

My Commission Expires: 7.16.22





First American
Title Insurance Company

File No.: 4156917
Location: Tillamook County, OR

Legend

-  01/05/2024 #2024-000094
(Tract 1: Parcel No. 1)
-  01/05/2024 #2024-000094
(Tract 1: Parcel No. 2)
-  01/05/2024 #2024-000094
(Tract 1)
-  01/05/2024 #2024-000094
(Tract II)



NOT TO SCALE

This map may or may not be an accurate description of the land depicted hereon. This map is solely intended to provide orientation as to the general location of the parcel or parcels depicted hereon. First American Title Insurance Company, its subsidiaries and affiliates, expressly disclaim any and all liability for losses or damages which may result from reliance on use of this map.

EXHIBIT C



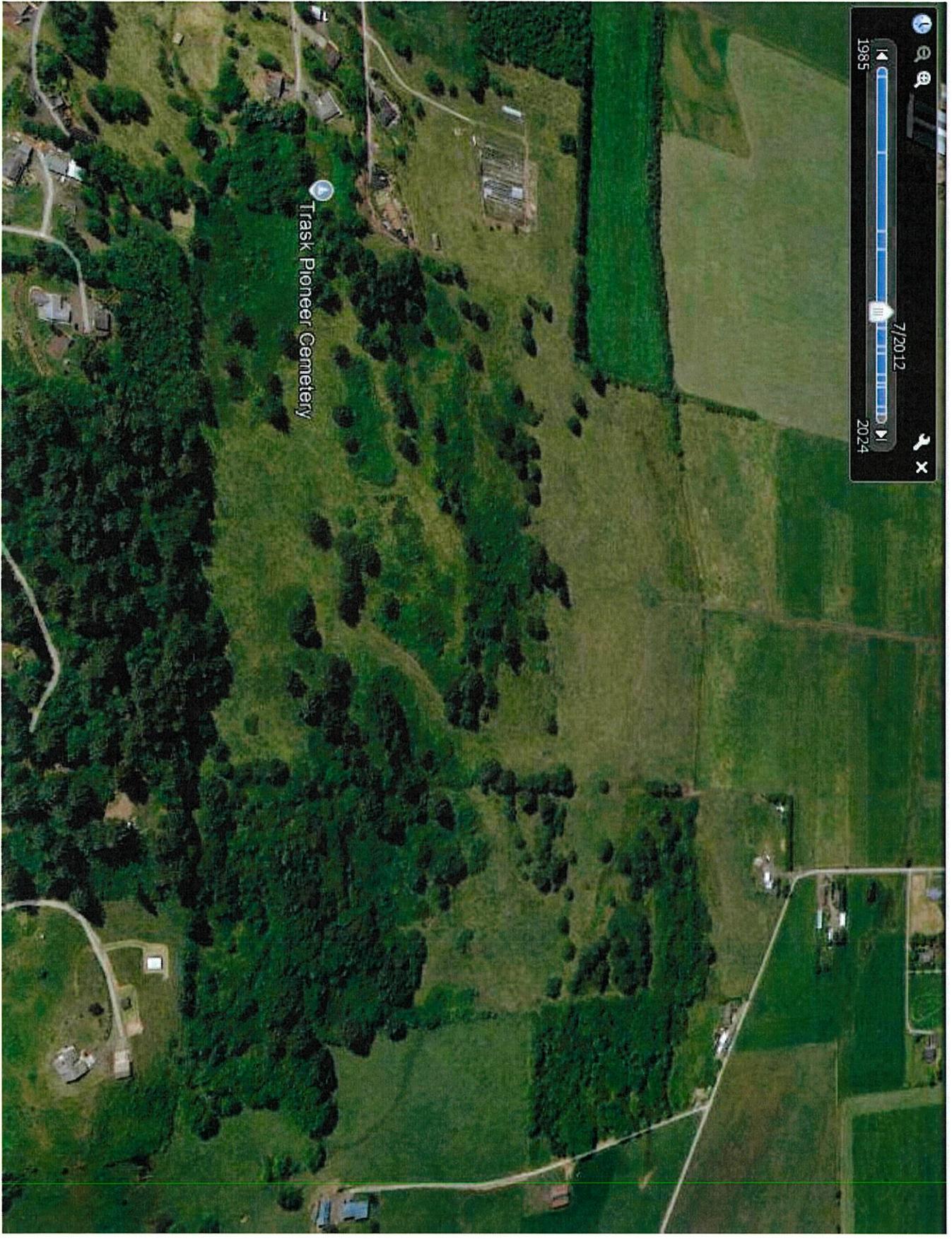
8/2005

Trask Pioneer Cemetery



7/2012
1985 2024

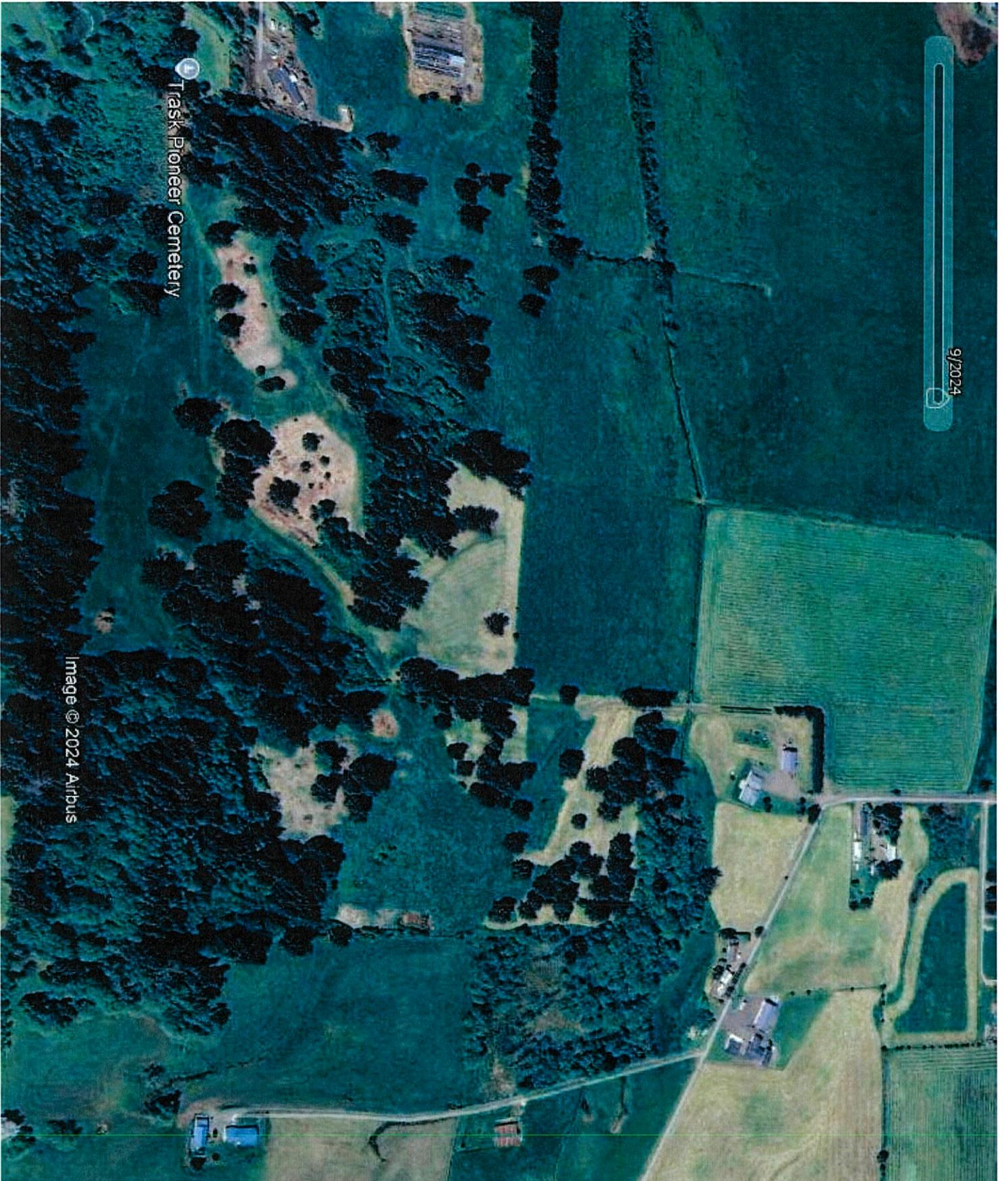
Trask Pioneer Cemetery





Trask Pioneer Cemetery

6/2017



9/2024

Task Pioneer Cemetery

Image © 2024 Airbus

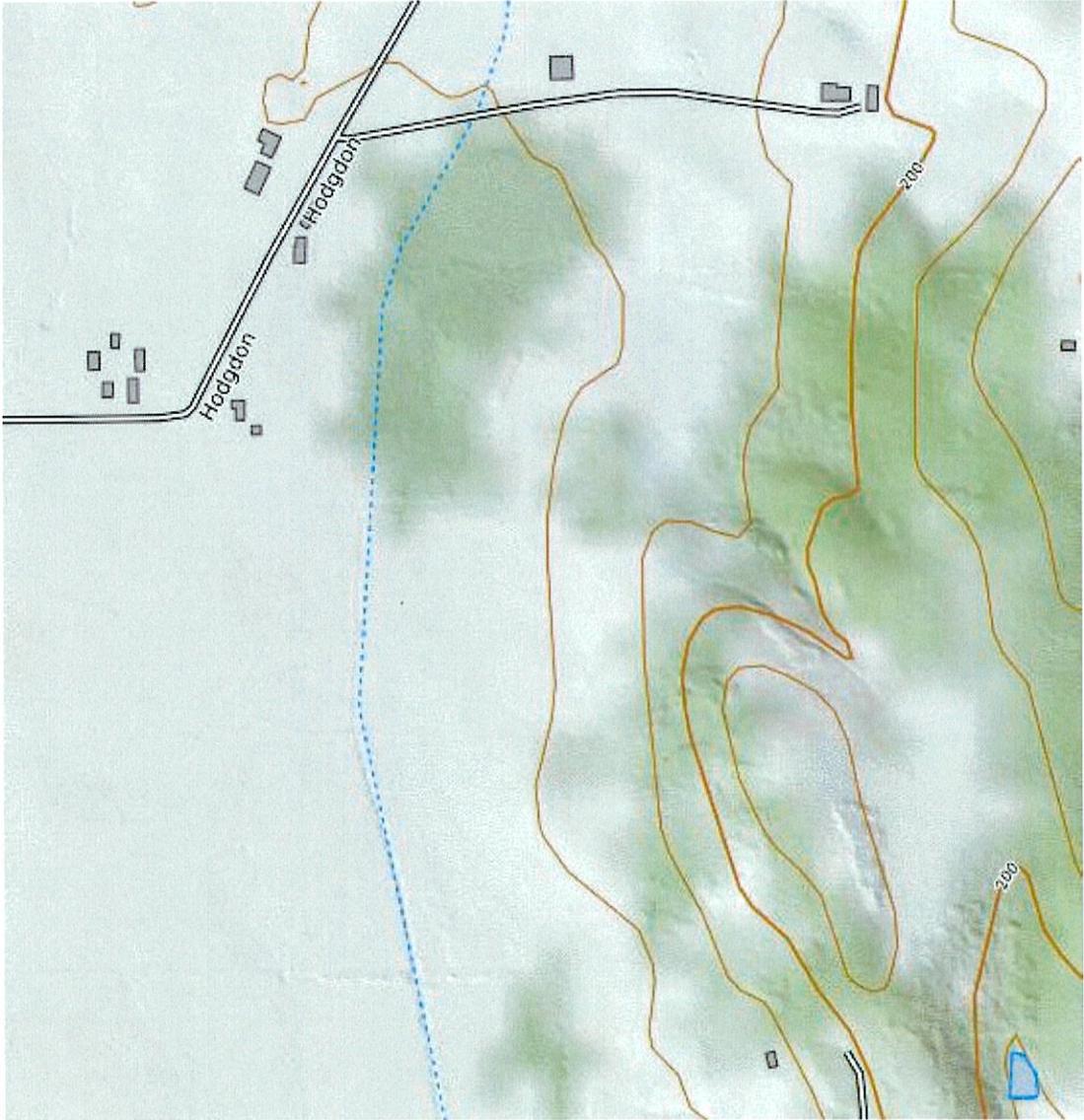
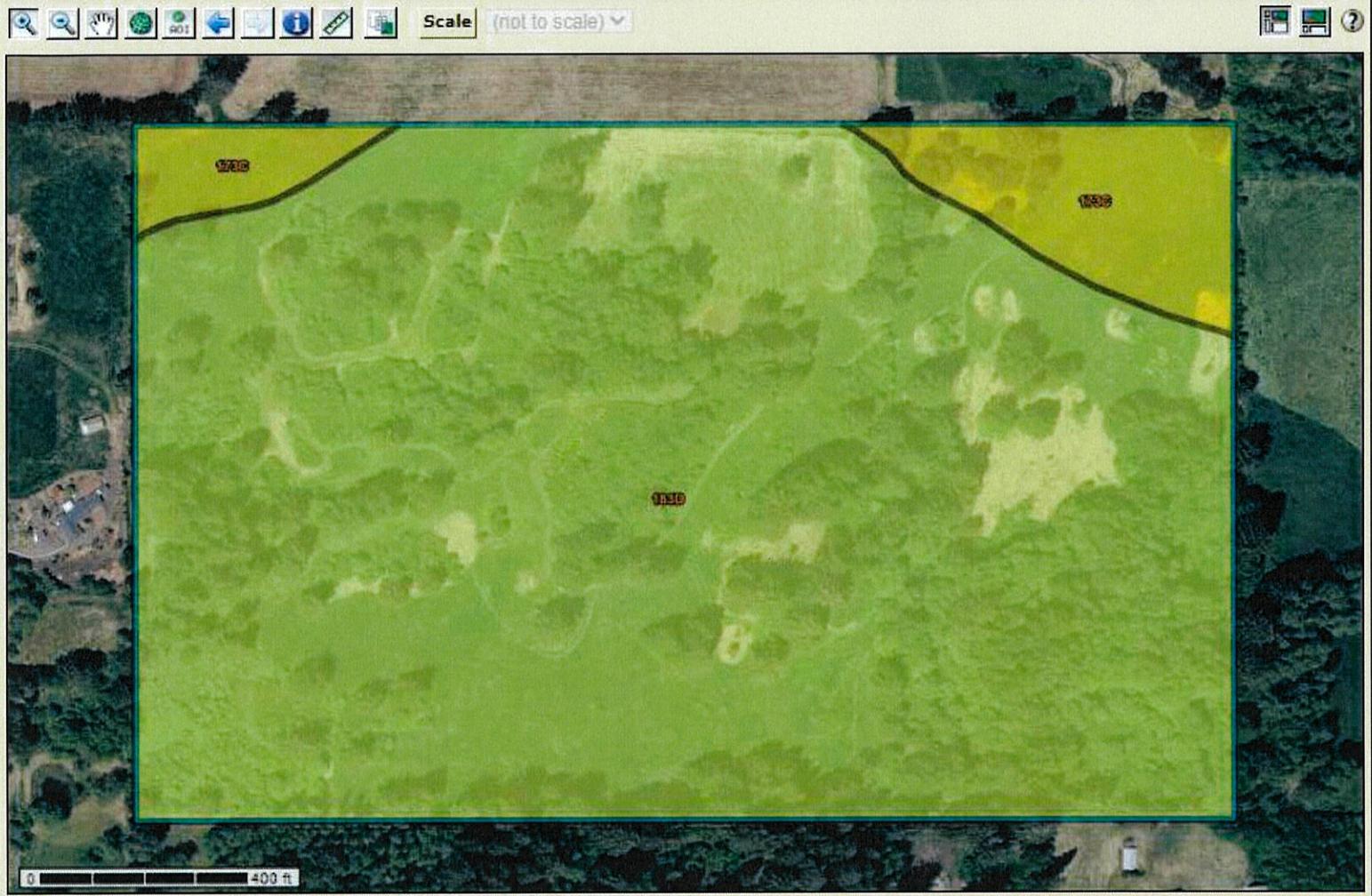


EXHIBIT E

Map — Nonirrigated Capability Class



Warning: Soil Ratings Map may not be valid at this scale.

You have zoomed in beyond the scale at which the soil map for this area is intended to be used. Mapping of soils is done at a particular scale. The soil surveys that comprise your AOI were mapped at 1:24,000. The design of map units and the level of detail shown in the resulting soil map are dependent on that map scale.

Enlargement of maps beyond the scale of mapping can cause misunderstanding of the detail of mapping and accuracy of soil line placement. The maps do not show the small areas of contrasting soils that could have been shown at a more detailed scale.

ables — Nonirrigated Capability Class — Summary By Map Unit

Summary by Map Unit — Tillamook County, Oregon (OR057)

Summary by Map Unit — Tillamook County, Oregon (OR057)

Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
73C	Tillamook-Ginger medial silt loams, 3 to 15 percent slopes	3	5.6	8.6%
83D	Winema-Fendall medial silt loams, 5 to 30 percent slopes	4	60.0	91.4%
Totals for Area of Interest			65.6	100.0%

EXHIBIT F

Soil Assessment, Hodgdon Road, Tillamook, Oregon. Amended Report

For: Matt and Stacy Lichner
570 Hodgdon Road
Tillamook, OR 97141

By: Andy Gallagher
CPSSc/SC 03114

August 27, 2023
(Amended June 3, 2024)

Andy Gallagher, Soil Scientist PO Box 2233 Corvallis, OR 97333

Red Hill Soils
541-745-7878 avg@redhillsoil.com

SOIL ASSESSMENT REPORT

1. GENERAL INFORMATION

- A. TITLE: Soil Assessment, Hodgdon Road, Tillamook, Oregon (Amended).
- B. LANDOWNER: Matt and Stacy Lichner, 570 Hodgdon Road, Tillamook, OR 97141
- C. SOIL SCIENTIST AND CERTIFICATION NUMBER:
Andy Gallagher ARCPACS CPSSc/SC 03114
- D. LAND USE CASE FILE NUMBER:
- E. COUNTY: Tillamook County, Oregon.
- F. LOCATION: Tax lots 600 and 1200, Section 27, T. 1 S., R.9 W. W.M.
- G. PRESENT ZONING: Farm 1
- H. CURRENT LAND USE: Pasture and Wildlife Habitat.
- I. PURPOSE OF INVESTIGATION: Many decisions about land use and zoning are based on soil maps. This property was previously mapped at 1:20,000 scale, which is generally too small a scale for detailed land use planning and decision making. This Order-1 soil survey and soil assessment is done to classify soils within the proposed envelope of a house proposed for this parcel. *The findings of this soil assessment are only for soil classification relative to soil taxonomy and Land Capability Class ratings and do not make any claims about the suitability of the site for a building or the geotechnical aspects of the site relative to stability of surrounding slopes for such a dwelling.*

2. PREVIOUS MAPPING / BACKGROUND

This 82.08-acre property was previously mapped by the USDA-SCS Soil Survey of the Tillamook County Area and compiled by NRCS into the Web Soil Survey. The NRCS soil map of this parcel (Figure 2) shows: Hebo, Tillamook-Ginger Complex, Winema-Fendall Complex and Quillamook.

3. **METHODS**

A. LEVEL ORDER OF SURVEY USED IN THIS FIELD SURVEY: This current soil investigation is a high intensity (Order-1) soil survey. It is used as a basis for making the soil classification and soil map for the potential home site on this parcel. A total of four soil test pits and other site observations are used to document the soils in the area of the potential homesite. The average intensity of sampling in the surveyed area is about one per 1/8 acre.

B. DATES OF FIELD INVESTIGATIONS: Field work was done on July 27, 2023 with additional sampling on May 3, 2024.

C. FIELD METHODS: Methods used for observation included soil profile descriptions from test pits to classify soils. Soils were sampled in the areas selected by landowner as potential home sites and soil test pits were placed in four such locations. Soil colors were determined moist, using a Munsell Color Chart. Soil pits and surface observations were recorded with a GPS receiver and compiled into a soil map following processing with GIS software. The detailed topographic map was used to help delineate building site locations that are represented by soil pedons. Acreage of areas of representative soils in each proposed home site were estimated from the revised map using GIS software.

D. LIMITATIONS ENCOUNTERED: None.

4. **RESULTS:**

A. GEOLOGY OVERVIEW: The geology of the survey area is silts, and sands on marine terraces on the lower benches and marine sedimentary rocks, mudstone, and shale on the upper parts.

B. LANDFORMS AND TOPOGRAPHY: gently to strongly sloping dissected marine terraces and strongly sloping to very steeply sloping hills, ridges and sideslopes. Elevation ranges from 96 to 290 feet above m.s.l. (Fig. 3)

C. SITE HYDROLOGY: Soils observed are moderately well drained to well drained. There are areas that appear somewhat poorly drained to poorly drained in swales and drainages that were outside areas sampled.

E. Geomorphic and vegetation correlations supporting the interpretation of land capability classes of soils that differ from those in the official soil survey information. The site was mapped as soils formed on alluvial terrace and the terrain and soils support this in the area of pedon 1, and upslope areas were mapped as steep hillslopes and ridges and field observations 2, 3, 4, 5 and 6 support this. The vegetation of this site is grass pasture in openings in mixed spruce and alder forest.

F. DESCRIPTION OF REVISED SOIL MAP UNITS

Revised Soil Map Units

Soils within each of four potential homesites were evaluated and reclassified based on soil profile data. Soils were classified to the closest soil series name on the Tillamook County soil map legend as well as fit into the nearest soil map unit designation using the USDA NRCS WEBSOIL SURVEY and Tillamook County Soil Survey Report as reference.

Site 1 Tillamook soils are Class 2e non-irrigated (Class 3e irrigated) and high value farmland. This site was previously mapped as Tillamook-Ginger complex 173C. Pedon 1 fits the series description for Tillamook component of that map unit. Site 1 is less than 7 percent slope, so it is a better fit for 173B.

Site 2 Shallow phase Ecola, Land Capability Class 6 and non-high value. This site is on a narrow ridge and steep shoulder slopes. Soils here are shallow depth (less than 20 in) to marine sedimentary rocks and they have a paralithic contact. These soils are fine-silty family. There are no established soil series in the Tillamook County Legend that are shallow to marine sedimentary rock. *(Supplementary sampling on May 3, 2024 enlarged the area of Site 2 based on two additional soil profiles. In this amended report the area for proposed Home Site 2 has been moved west to the area of Soil samples 5 and 6 See figure 6).*

These soils are classified as a shallow phase of Ecola series, which on the official series description are moderately deep 20 to 40 inches to marine sediments, well drained and fine silty family. So, except for shallow depth these soils are very similar to Ecola series.

In Tillamook County soil survey, the Ecola series is a named component; in a complex with Templeton in two map units; 30E, slopes 30 to 60% slope; and 30F, 60 to 90% slopes. Site 2 is less than 30 percent slope so the closest map unit in Tillamook County is the 30D Templeton of which Ecola is a minor component. The 30D map unit is Class 6 and not-high value. In neighboring Clatsop County, Ecola is mapped as a consociation (16D), 3 to 30 percent slopes and is rated class 6 non-high value. Shallow soils are generally rated Class 6, non-irrigated.

Soils in Sites 2, 3 and 4 were previously mapped as Winema-Fendall complex in the NRCS soil survey. Both Winema and Fendall have higher clay content in the control section than soils observed in pedons 1, 2 and 3; so, neither of the previously mapped soils are good match for these pedons. Winema is very deep, and Fendall is moderately deep,

Site 3 Ecola (moderately well drained phase), Land Capability Class 6 and non-high value. Pedon 3 is moderately deep and fine silty similar to Ecola series with the exception of redoximorphic features indicating a seasonal high-water table

that puts it in the moderately well drained class. All three sites 2, 3 and 4 are fine-silty family so previously mapped soils Fendall and Winema are not as good a match. The map unit that is most closely aligned with this pedon and this site is the 30D Templeton 3 to 30 percent slopes, in Tillamook County of which Ecola is a minor component and the 16D map unit in Clatsop County where Ecola is mapped as a consociation, and both of these map units are Class 6.

Site 4 Templeton (moderately well drained phase) Land Capability Class 6 and non-high value.

Pedon 4 is deep and fine silty family like Templeton series but includes features indicating a seasonal high-water table that puts it the moderately well drained class. All three sites 2, 3 and 4 are fine-silty family so previously mapped soils Fendall and Winema are not good matches. The map unit that is most closely aligned with this site is the 30D Templeton in Tillamook County.

SUMMARY AND CONCLUSIONS:

Soils were sampled at four potential future home sites on this parcel to classify soils and place them into Land Capability Classes and use this information to determine if the soils are high value farmland or non-value farmland. Three of the four sites are reclassified as Class 6 non high value farmland, and one is reclassified as Class 2 and as such is considered high-value farmland.

Previously one of these sites (1) was mapped as 173C map unit, Tillamook-Ginger 3 to 15 percent slopes. And pedon 1 is classified as Tillamook but it better fits into the 173B map unit Tillamook-Ginger 0 to 7 percent slope (Class 2, high value farmland). The other three of these sites (2, 3 and 4) were previously mapped as Winema-Fendall Complex. Soils observed in pedons 2, 3, 4, 5 and 6 did not fit well into either the fine family and very deep Winema series or the fine family and moderately deep Fendall series. Soils observed on sites 2, 3 and 4 are fine-silty family. Site 2 is shallow (less than 20 inches) sedimentary rock. *(Supplementary sampling on May 3, 2024 enlarged the area of Site 2 based on two additional soil profiles.)* And site 3 is moderately deep and moderately well drained and site 4 is deep and moderately well drained. Soils in pedons 2, 5 and 6 are reclassified and Ecola (shallow phase), pedon 3 is reclassified as moderately well drained phase Ecola, and pedon 4 is reclassified as moderately well drained phase Templeton.

In the revised soil mapping the soils are mapped by Land Capability Class and farm value status in the area of the four potential home site. Site 1 is mapped as 2H for Class 2 and high-value status; sites 2, 3 and 4 are mapped 6N for Class 6 and non-high value status.

6. REFERENCES:

NRCS. Guide to putting soils in capability classes in Oregon from SSR01, Tech. Note 40 (June 2014)

NRCS, Websoilsurvey

NRCS, Matthew H. Fillmore and John A. Shipman, Soil Survey of Tillamook County, Oregon.

7. MAPS AND ATTACHMENTS:

- a. Figure 1. Vicinity Map (1:125,000 scale).
- b. Figure 2. Previous Soil Map (NRCS Websoilsurvey)
- c. Figure 3. Topographic Map and Site Condition Map (contour lines from Digital elevation model)
- d. Figure 4a. Assessors Map, Figure 4b. Close up of Assessors map.
- e. Figure 6. Revised Soil Map of the Project Site and location of Soil Borings
- f. Soil Profile Notes and Site Observation Notes Attachment 1.
- g. GPS coordinates Attachment 2.
- h. Appendix: Map unit 16D description from Clatsop County Soil Survey.

Figure 1. Vicinity Map, parcel at blue balloon (1:125,000 scale)

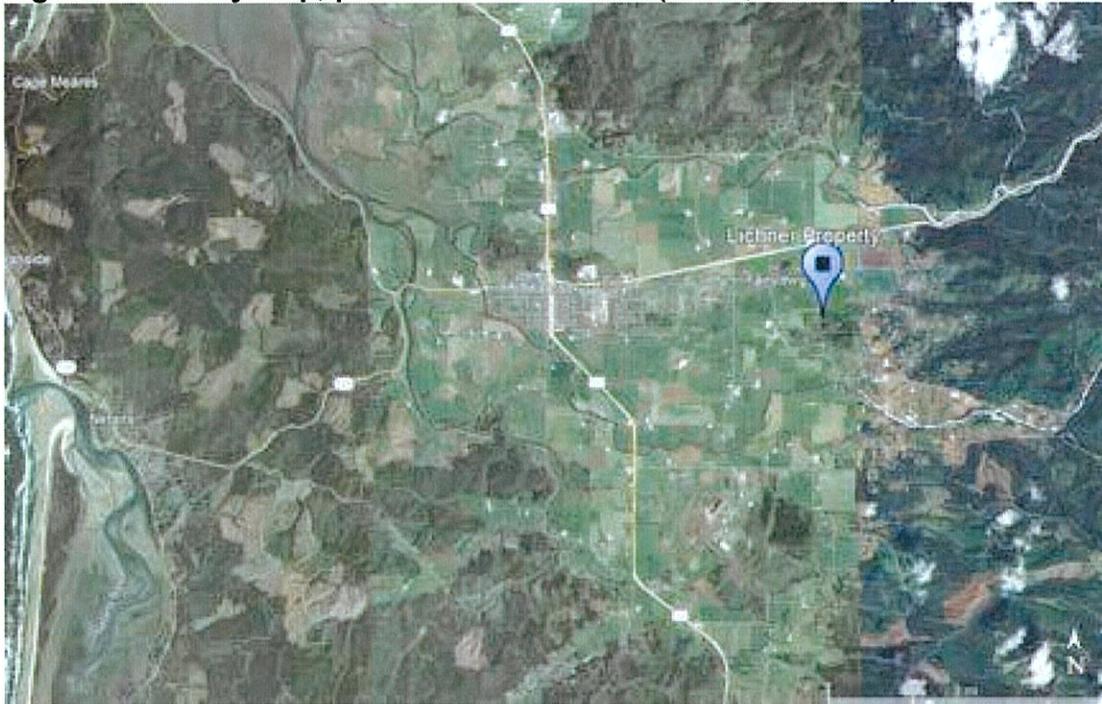
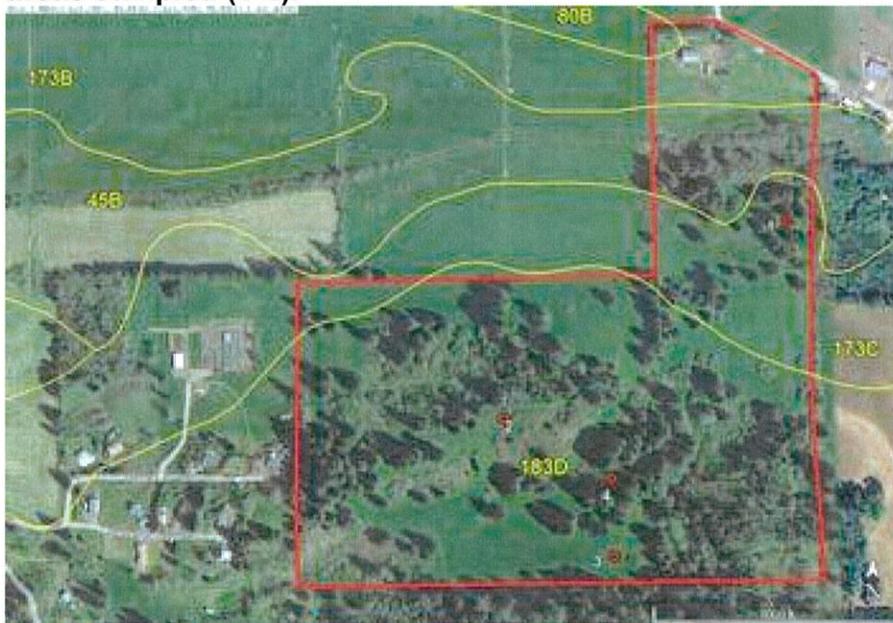


Figure 2. NRCS Soil Map Data Layer on aerial image with four areas sampled (1-4).



NRCS Soil Map Legend

<u>SYMBOL</u>	<u>Name</u>	<u>Capability Class</u>
45B	Hebo 0 to 5% slope	4w
80B	Quillamook 0 to 7% slope	2e
173B	Tillamook-Ginger Complex 0 to 7% slope	2e
173C	Tillamook-Ginger Complex 3 to 15% slope	3e
183D	Winema-Fendall Complex 5 to 30% slope	4e

Figure 3. Topographic map

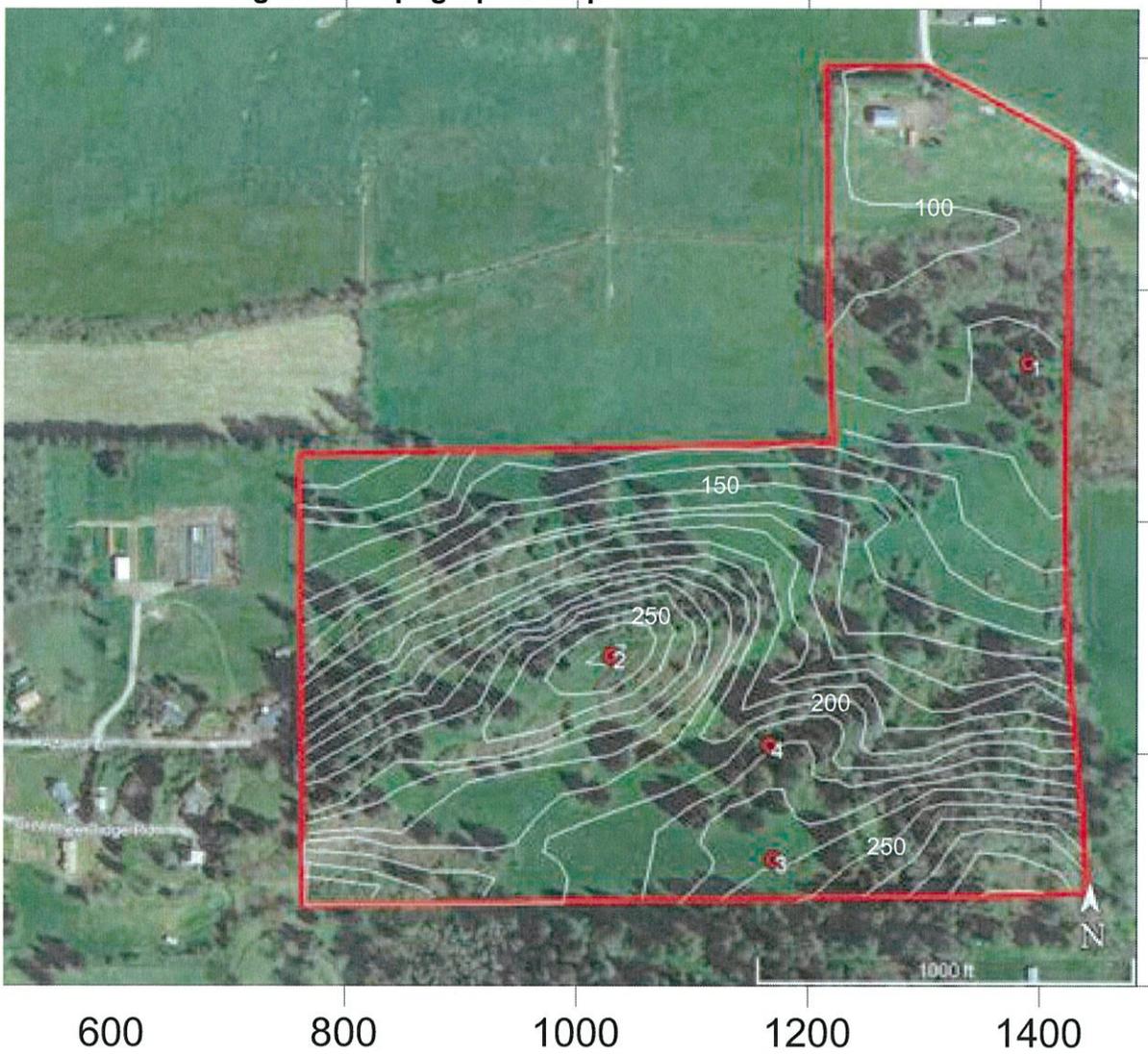


Figure 4a. Assessor's map of the tract under consideration (outlined).

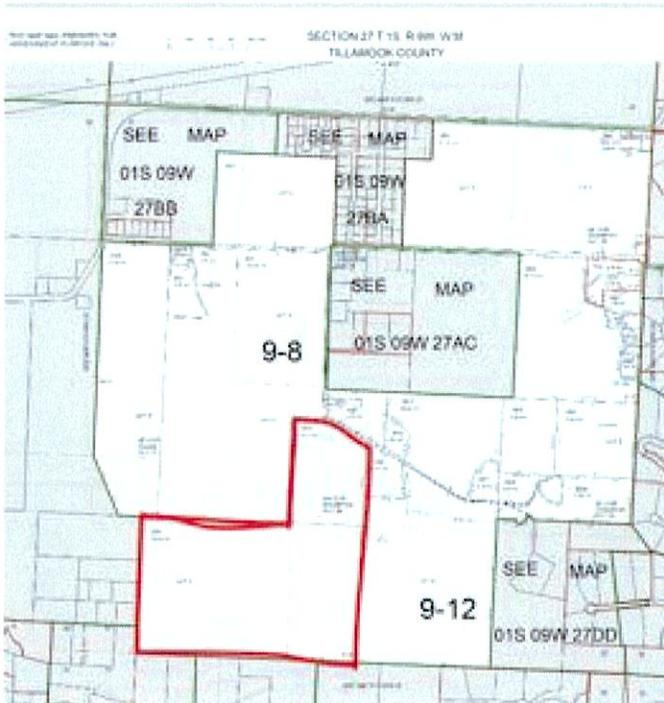


Figure 4b. Close up of assessor's map lots 600 and 1200.

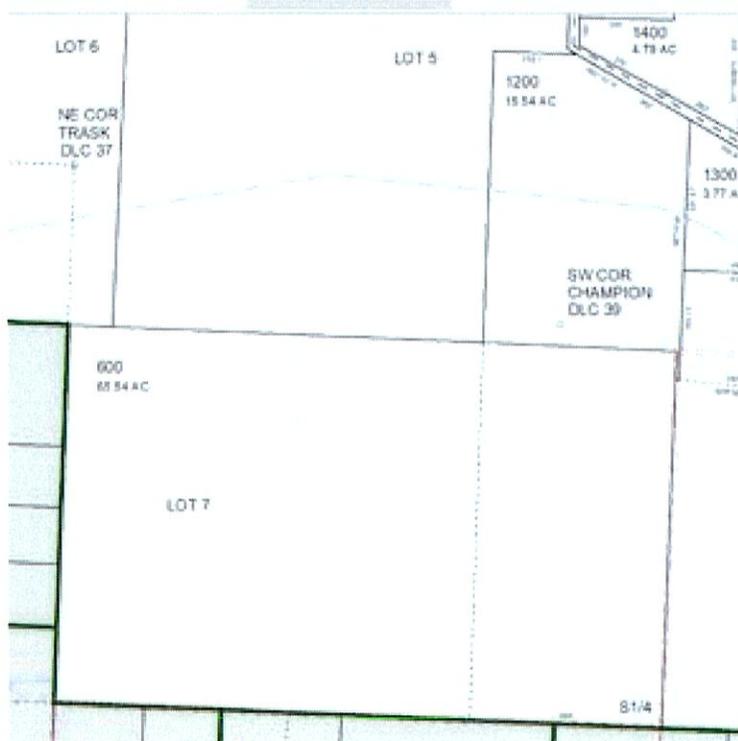


Figure 6: Revised Soil Map, Property boundary = red line, potential homesites = magenta line, soil boundaries = yellow lines, and soil pedons 1-4



400 600 800 1000 1200 1400

Symbol	Map unit
2H	Class 2, high value farmland
6N	Class 6, non-high value farmland

Soil Profile Log

1 Tillamook medial silt loam on terrace, moderately well to well drained with seasonal high-water table at 38 inches. Class 3 non-irrigated and non-high value farmland.

Horizon	Depth (IN)	Color	Texture	Note
A	0-8	10YR2/2	medial silt loam	
AB	8-11	10YR3/3	silt loam	
Bw1	11-25	10YR4/4	silty clay loam	10YR4/6 coatings
Bw2	25-28	10YR4/6	silty clay loam	10YR4/4 coatings
BC	28-38	10YR4/6	silty clay loam	
C	38-51	10YR6/2	silt loam	7.5YR5/6 accum.

2 Ecola (shallow phase) on narrow ridge. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-10	10YR2/1		medial silt loam	3mgr struc.
A2	10-19	10YR2/1		medial silt loam	2 msbk struc.
Cr1	18-30	10YR7/2	10YR4/6	Partly weathered siltstone	
Cr2	30-60			more consolidated marine sedimentary rock.	

3 Ecola (moderately well drained phase) on bench and sideslope. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-9	10YR2/1		medial silt loam	3mgr struc.
A2	9-18	10YR2/1		medial silt loam	2 msbk struc.
AC1	18-24	10YR5/2		SICL	10YR3/3 oc
AC2	24-30	10YR6/2		SICL	10YR3/3 oc
Cr1	30-36	2.5Y7/1-2	10YR5/2 cc	weathered shale	
Cr2	36-50	2.5Y7/2	10YR5/6	weathered shale	

4 Templeton (moderately well drained phase) on narrow ridgetop and sideslope. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-12	10YR2/1		medial silt loam	3cgr struc.
A2	12-24	10YR2/1		medial silt loam	2 msbk struc.
Bw1	24-33	10YR5/3	10YR5/6	SICL	1mabk struc.
1Bw2	33-59	10YR5/3	10YR 5/2, 5/6	SICL	2cabk
Cr	59+	2.5Y7/1-2	10YR5/6	weathered siltstone to vf sandstone	

5 Ecola (shallow phase) on narrow ridge. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-11	10YR2/1		medial silt loam	3mgr struc.
Cr	11-40	10YR7/2	10YR4/6	weathered siltstone	

6 Ecola (shallow phase) on narrow ridge. Class 6 and non-high value farmland

Horizon	Depth(IN)	Color	Redox	Texture	Note
A1	0-10	10YR2/1		medial silt loam	3mgr struc.
A2	10-17	10YR2/1		medial silt loam	2 msbk struc.
Cr	17-31	10YR7/2	10YR4/6	weathered sedimentary rock	

End of Boring Log

Andy Gallagher

CPSSc/SC 03114

Date: _____

Table 1. GPS coordinates of soil pedon test pits.

Point	Latitude	Longitude
1	45.45276	-123.77275
2	45.45057	-123.77744
3	45.44904	-123.77570
4	45.45988	-123.77571
5	45.44990	-123.77910
6	45.45021	-123.77854

Appendix. Soil map unit description for Ecola silt loam from Clatsop County Soil Survey.

16D-Ecola silt loam, 3 to 30 percent slopes.

Composition

Ecola soil and similar inclusions - 90 percent

Contrasting inclusions - 10 percent

Ecola Soil Position on landscape: Mountaintops

Slope range: 3 to 30 percent

Elevation: 100 to 1,600 feet

Native plants: Western hemlock, Sitka spruce, Douglas-fir, red alder, salmonberry, salal, red huckleberry, western swordfern, Oregon oxalis

Organic mat on surface: Moss, needles, and twigs 3 inches thick

Typical profile:

0 to 7 inches - very dark grayish brown silt loam

7 to 16 inches - dark brown silty clay loam

16 to 37 inches - dark, yellowish brown silty clay loam

37 inches - weathered siltstone

Depth class: Moderately deep (20 to 40 inches)

Drainage class: Well drained

Permeability: Moderate

Available water capacity: 4 to 10 inches

Potential rooting depth: 20 to 40 inches

Runoff: Medium

Hazard of erosion by water: Moderate

Included Areas

Soils that have weathered siltstone at a depth of more than 40 inches.

Soils that are wet

Major Uses

Woodland, wildlife habitat

Major Management Factors

Soil-related factors: Depth to bedrock, rooting depth, water erosion, susceptibility of the upper layer to compaction

Climatic factors (average annual):

Precipitation - 70 to 100 inches

Soil temperature - 47 to 52 degrees F (varies less than 9 degrees from summer to winter)

Frost-free period - 100 to 210 days

Woodland

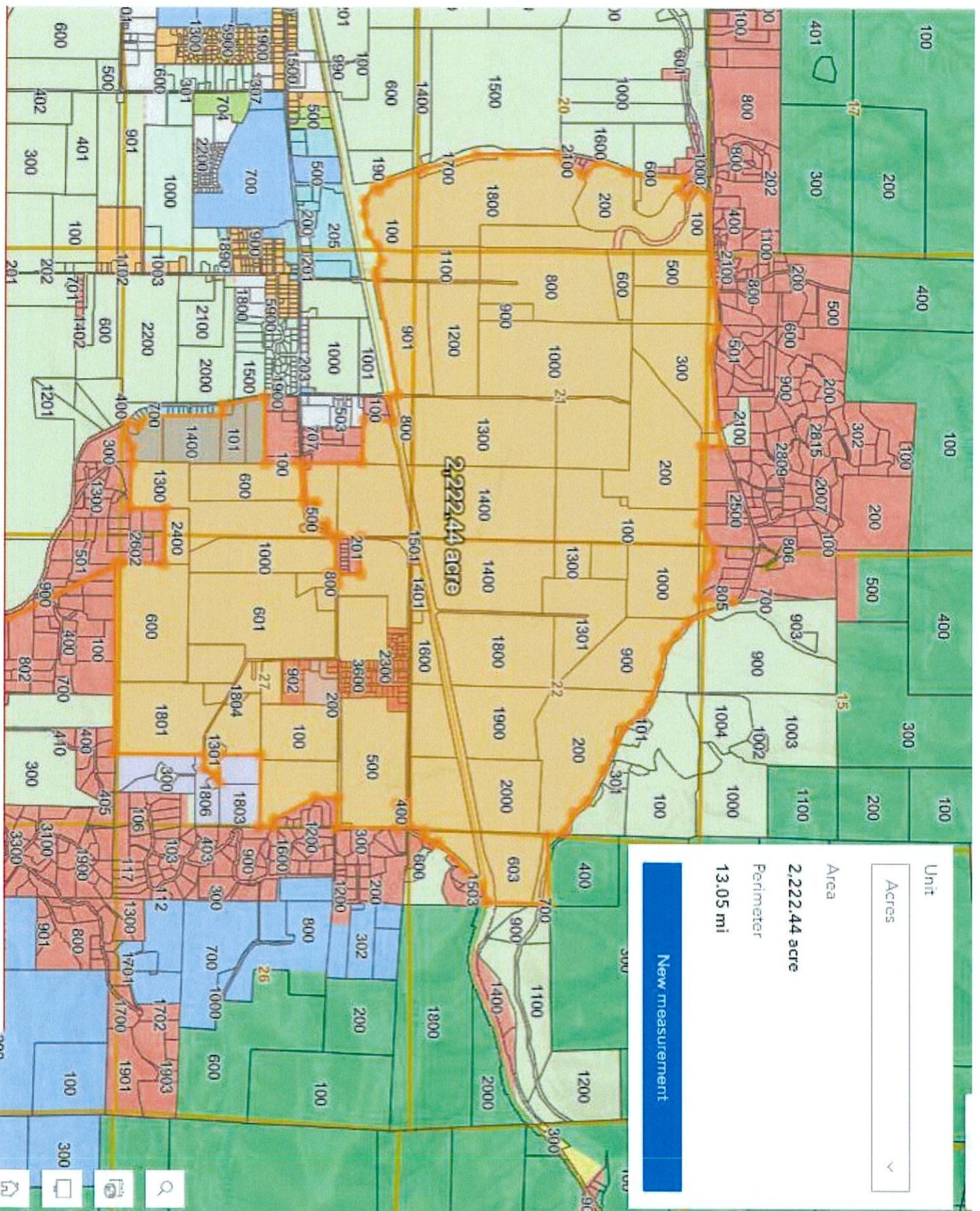
Mean site index for stated species: Western hemlock – 159 (based on 100-year site curve); 117 (based on 50-year site curve)

Estimated total production per acre: 110,110 board feet.

(International rule, one-fourth-inch kerf) from a fully stocked stand of trees 70 years old

Growth at culmination of mean annual increment (CMAI): 252 cubic feet per acre in a stand of 50-year-old trees 1.5 inches in diameter at breast height.

EXHIBIT G



Unit

Acres

Area

2,222.44 acre

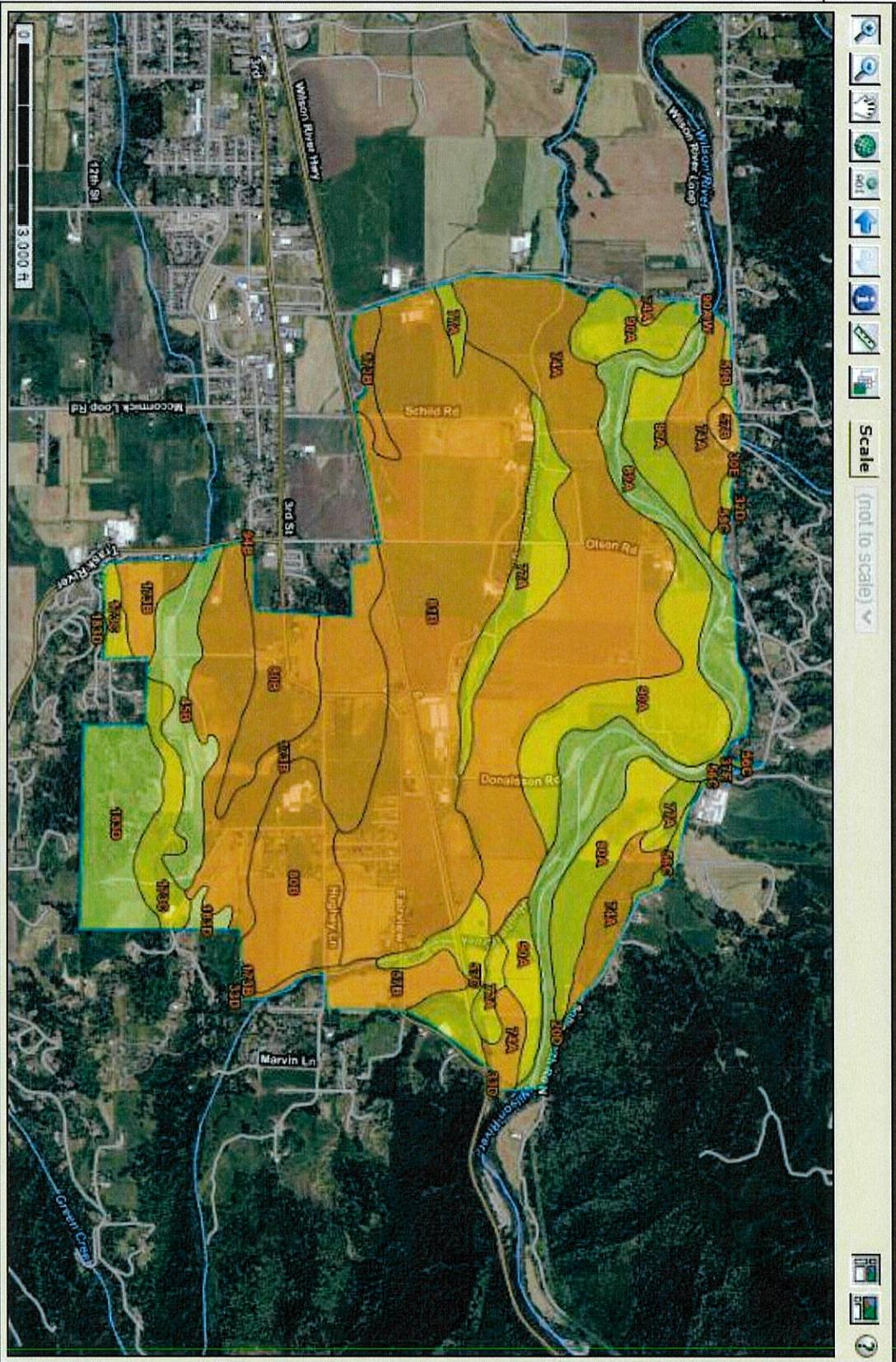
Perimeter

13.05 mi

New measurement

EXHIBIT H

Map — Nonirrigated Capability Class



Summary by Map Unit — Tillamook County, Oregon (OR057)

Summary by Map Unit — Tillamook County, Oregon (OR057)				
Map unit symbol	Map unit name	Rating	Acres in AOI	Percent of AOI
20D	Klootchie-Necanicum complex, 5 to 30 percent slopes	6	0.5	0.0%
30E	Templeton-Ecola medial silt loams, 30 to 60 percent slopes	6	0.3	0.0%
32D	Munsoncreek-Flowerpot complex, 5 to 30 percent slopes	6	0.1	0.0%
33D	Tolovana medial silt loam, 5 to 30 percent slopes	6	0.6	0.0%
37E	Templeton-Skipanon complex, 30 to 60 percent slopes	6	1.2	0.1%
45B	Hebo silty clay loam, 0 to 5 percent slopes	4	66.7	3.0%
56C	Wolfer medial silt loam, 3 to 15 percent slopes	3	7.5	0.3%
57B	Condorbridge gravelly medial loam, 0 to 7 percent slopes	2	47.8	2.1%
57C	Condorbridge gravelly medial loam, 3 to 15 percent slopes	3	42.3	1.9%
58C	Knappa medial silt loam, 3 to 15 percent slopes	3	7.1	0.3%
59B	Chitwood-Knappa medial silt loams, 0 to 7 percent slopes	3	4.1	0.2%
74A	Nehalem silt loam, 0 to 3 percent slopes	2	451.9	20.1%
77A	Nestucca-Brenner silt loams, 0 to 3 percent slopes	3	100.7	4.5%
80B	Quillamook medial silt loam, 0 to 7 percent slopes	2	176.2	7.8%
81B	Quillamook complex, 0 to 7 percent slopes	2	483.2	21.5%
89A	Udfluvents-Riverwash-Water complex, 0 to 3 percent slopes	4	162.7	7.2%
90A	Yachats very fine sandy loam, 0 to 3 percent slopes	3	286.8	12.8%
94B	Ginger-Quillamook-Urban land complex, 0 to 7 percent slopes	3	0.1	0.0%
173B	Tillamook-Ginger medial silt loams, 0 to 7 percent slopes	2	255.7	11.4%
173C	Tillamook-Ginger medial silt loams, 3 to 15 percent slopes	3	55.9	2.5%
183D	Winema-Fendall medial silt loams, 5 to 30 percent slopes	4	97.0	4.3%
W	Water		1.1	0.0%
Totals for Area of Interest			2,249.5	100.0%

EXHIBIT I

4/20/24

Solje Paragliding LZ Parking

WHEELER ROAD

Oregon

Fairview

Hlamock County Fairgrounds

Hardesty Roof Replacement

Image © 2024 Airbus



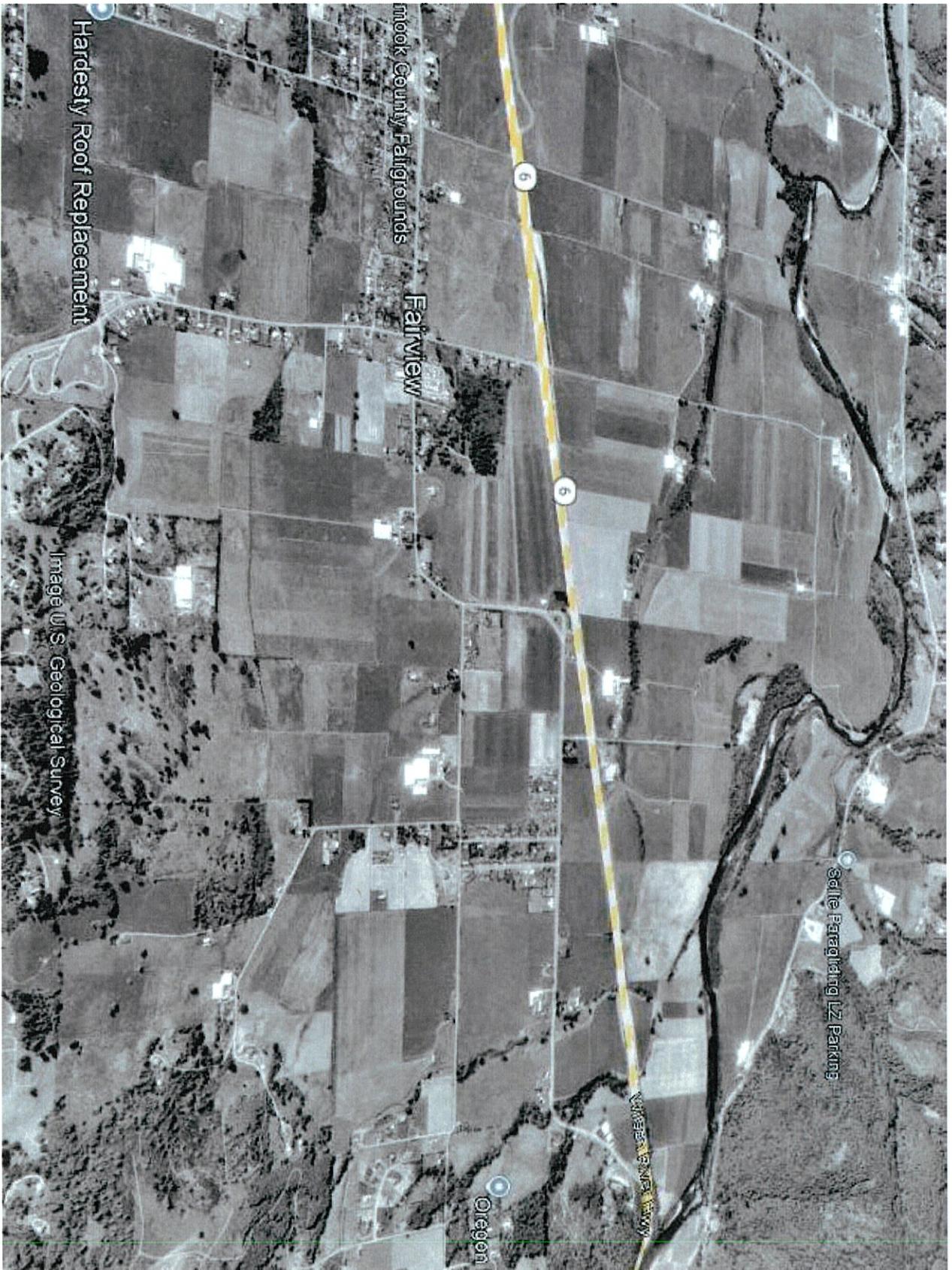


EXHIBIT K

Lichner Cumulative Impacts Study Area

Tax Lot	Size (acres)	zone 1	zone 2	Active Farm?	Improved with Residence?	Inventoried High Value Soils?
1S0927-00-00600	65.7	F		No	No	No
1S0927-00-01200	15.54	F		No	Yes	Yes
1S0927-00-01801	68.88	F		Yes	Yes	Yes
1S0927-00-01300	3.74	F		Likely No	Yes	Yes
1S0927-00-01301	2.08	F		Likely Yes	Yes	Yes
1S0927-00-01800	2.05	F		No	Yes	Yes
1S0927-00-01804	1.5	F		No	Yes	Yes
1S0927-00-01400	4.79	F		Likely Yes	Yes	Yes
1S0927-00-01500	0.5	F		No	Yes	Yes
1S0927-AC-01000	6.64	F		Yes	No	Yes
1S0927-AC-00100	32.43	F		Yes	No	Yes
1S0927-00-01600	29.7	F		Yes	No	Yes
1S0927-00-00500	61.31	F		Yes	Yes	Yes
1S0927-00-00501	0.47	F		No	Yes	Yes
1S0927-00-00601	104.21	F		Yes	Yes	Yes
1S0927-00-01000	37.92	F		Yes	No	Yes
1S0927-00-00700	3.54	F		Likely Yes	Yes	Yes
1S0927-00-00602	3.76	F		Uncertain	Yes	Yes
1S0928-00-02400	9.89	F		Uncertain	No	Yes
1S0928-00-01300	54.59	F		Yes	Yes	Yes
1S0928-00-00600	31.25	F		Yes	Yes	Yes
1S0928-00-01201	0.39	F		No	Yes	Yes
1S0928-DC-01500	9.57	SFW20		Yes	No	Yes
1S0928-DC-01400	0.77	SFW20		Maybe	Yes	Yes
1S0928-00-01400	20.4	SFW20		Yes	No	Yes
1S0928-DB-00101	10.16	SFW20		Yes	Yes	Yes
1S0928-DB-00200	0.96	SFW20		No	Yes	Yes
1S0928-DB-00100	9.4	SFW20		Yes	Yes	Yes
1S0927-BB-00100	28.77	F		Yes	No	Yes
1S0928-00-00100	37.55	F		Yes	No	Yes
1S0928-00-00200	13.4	F		Yes	Yes	Yes
1S0928-00-00802	11.71	F	RR-2	Yes	No	Yes
1S0922-00-01401	4.37	F		Yes	No	Yes
1S0922-00-01700	1.05	F		No	Yes	Yes
1S0922-00-01600	12.75	F		Yes	No	Yes
1S0922-00-01900	66.36	F		Yes	No	Yes
1S0922-00-02000	66.78	F		Yes	Yes	Yes
1S0923-00-00603	36.5	F		Yes	Yes	Yes
1S0923-00-00500	4.18	F		No	No	Yes
1S0922-00-00200	105.57	F		Yes	No	Yes
1S0922-00-00601	0.44	F		No	No	Yes
1S0922-00-00900	57.97	F		Yes	Yes	Yes

1S0922-00-01800	60.02	F		Yes	Yes	Yes
1S0922-00-01400	65.27	F		Yes	Yes	Yes
1S0922-00-01301	42.66	F		No	No	Yes
1S0922-00-01300	9.77	F		Yes	No	Yes
1S0922-00-01200	10	F		Yes	No	Yes
1S0922-00-01000	39.81	F		Yes	No	Yes
1S0922-00-00801	10.03	F	RR-2	No	Yes	Yes
1S0921-00-00100	53.56	F		Yes	No	Yes
1S0921-00-00200	71.75	F		Yes	Yes	Yes
1S0921-00-00101	0.52	F		Yes	Yes	Yes
1S0921-00-01000	124.58	F		Yes	Yes	Yes
1S0921-00-00300	43.86	F		Yes	Yes	Yes
1S0921-00-00400	23.36	F		Yes	No	Yes
1S0921-00-00500	22.02	F		Yes	No	Yes
1S0920-A0-00100	14.61	F		Yes	No	Yes
1S0921-00-00600	10.74	F		Yes	No	Yes
1S0921-00-00800	65.91	F		Yes	No	Yes
1S0921-00-00900	7.07	F		Yes	Yes	Yes
1S0921-00-01200	42.12	F		Yes	Yes	Yes
1S0928-00-00901	53.63	F		Yes	No	Yes
1S0921-00-01100	17.27	F		Yes	No	Yes
1S0929-00-00100	30.87	F		Yes	Yes	Yes
1S0920-00-01800	90.2	F		Yes	Yes	Yes
1S0920-00-01700	3.57	F		Yes	Yes	Yes
1S0920-00-01900	21.77	F		Yes	No	Yes
1S0920-A0-00200	36	F		Yes	Yes	Yes
1S0920-00-00400	9.5	F		Yes	No	Yes
1S0920-A0-00401	1.47	F		Yes	No	Yes

EXHIBIT C

6-20-25

To Dept of Community Development,

I AM A property owner in a RR ZONE
NEXT TO F-1 Zone. A conditional use

Request, 851-25-000118-PLNB: Lichner
is asking to permit a non-farm Dwelling
in a FARM (F-1) ZONE. There ARE A

LOT of F-1 ZONES in our County.

IF this ~~the~~ request is allowed
Then other F-1 ZONE owners ARE going
to ask to do the SAME Conditional use
Request for these ~~prop~~ properties

Thank you,
Concerned RR ZONE
owner

RECEIVED
JUN 24 2025
BY: Proffitt MM.

Melissa Jenck

From: Brian Olle
Sent: Monday, June 16, 2025 10:02 AM
To: Melissa Jenck
Cc: Sarah Thompson
Subject: RE: 851-25-000118-PLNG: Notice of Application

Good Morning Melissa,

This property is landlocked from a public road. Despite the Lichner's owning the adjoining property, Public Works would require that an access easement is established and provided while processing the road approach for any new dwelling – even if the intent is to use the existing access for both properties. This will prevent any future issues if properties are sold.

Thanks,

Brian Olle, P.E. | Engineering Project Manager
TILLAMOOK COUNTY | Public Works
Cell: (503)812-6569

From: Melissa Jenck <Melissa.Jenck@tillamookcounty.gov>
Sent: Tuesday, June 10, 2025 4:47 PM
To: Melissa Jenck <Melissa.Jenck@tillamookcounty.gov>
Cc: Sarah Thompson <sarah.thompson@tillamookcounty.gov>
Subject: 851-25-000118-PLNG: Notice of Application

Good afternoon,

The Notice of Application for 851-25-000118-PLNG has been distributed for Stacy and Matthew Lichner. The proposal is a Conditional Use review for the proposed establishment of a Non-Farm Dwelling upon a property zoned Farm (F-1). Link to the request is below.

<https://www.tillamookcounty.gov/commdev/project/851-25-000118-plng>

Sincerely,

*** Please note that the Tillamook County domain has changed, and my email address is now Melissa.Jenck@tillamookcounty.gov Please update your contact information as needed. Thank you. ***



Melissa Jenck (she/her) | Senior Planner
TILLAMOOK COUNTY | Community Development
1510-B Third Street
Tillamook, OR 97141
Phone (503) 842-3408 x 3301
Melissa.Jenck@tillamookcounty.gov

Melissa Jenck

From: BRADLEY Robert * ODFW <Robert.BRADLEY@odfw.oregon.gov>
Sent: Wednesday, June 11, 2025 9:16 AM
To: Melissa Jenck
Cc: Sarah Thompson
Subject: EXTERNAL: RE: 851-25-000118-PLNG: Notice of Application

[NOTICE: This message originated outside of Tillamook County -- DO NOT CLICK on links or open attachments unless you are sure the content is safe.]

Melissa,

A few comments on this application:

Note that many of the photos in the documents are of poor quality or unreadable- probably some sort of scanning issue.

Access to the property appears to be across the small stream located on the applicants tax lot 1200. The crossing is within the range of cutthroat trout distribution shown on our maps (though at the very upper end). If and when this crossing needs to be replaced, the landowners must consult with ODFW to determine fish passage requirements (or a determination that it is not necessary). This would also apply if there are any stream crossings from a potential easement access from the Trask River side.

Impacts to the riparian area of the small stream and wetlands should be avoided when accessing the site. The applicant should consult with the county and/or DSL to determine riparian or wetland permitting needs if impacts can't be avoided.

While ODFW does not object to the dwelling, there are a couple of things I noticed that I would like to point out. In the applicant's response to TCLUO 3.002(9)(a)(2), they state "Class 6 soils have severe limitations..... that limit their use to pasture, range...". Seems like the farming in the area consists mostly of pasture/range, at least in my view. Appears to be contradictory to the point they were trying to make.

Also, in the applicant's response to TCLUO 6.030(6) the applicant states there are no solar energy or wind energy systems in the area, but also states there will be a detrimental effect to those systems. I'm assuming this is a typo, but as written is also contradictory to the point they are making.

Thanks for the opportunity to comment.

Robert

Robert W. Bradley
District Fish Biologist
Oregon Department of Fish and Wildlife
North Coast Watershed District
4907 Third St
Tillamook, OR 97141
503-842-2741 x18613 (w)
503-842-8385 (fax)

EXHIBIT D

**INSTRUCTIONS FOR FILING RESTRICTIVE COVENANT
FOR THE CREATION OF A PARCEL OR PLACEMENT OF A DWELLING
ADJACENT TO LAND ZONED FOR FARM OR FOREST USE**

1. This acknowledgment is required when the County permits the creation of parcels or the location/placement of dwellings adjacent to an area designated by the County as farm or forest lands (F, F-1, SFW-20).
2. Obtain the legal description of the subject property as it's recorded in the Tillamook County Deed Records. This is what is referred to as Exhibit A and must accompany the affidavit/covenant.
3. The attached affidavit/covenant must be filled out showing the names of ALL current property owners who appear on the property deed or contract, and signed before a Notary Public. Community Development has Notaries that can provide the service for free.
4. Once the affidavit/covenant is signed and notarized with the attached legal description, bring these to the Tillamook County Clerk's office to be recorded. **The Clerk's will charge a recording fee.** Please contact the Clerk's office at (503)842-3402 for current fees.
5. **A copy of the recorded and notarized affidavit/covenant will be given to DCD to put on file.**
6. If you have any questions about the affidavit/covenant, or the recording procedure, please contact the Department of Community Development Staff at (503)842-3408 x3410.

After Recording Return To:

RESTRICTIVE COVENANT

(GRANTORS) are the owners of real property described as follows:

PROPERTY LEGAL DESCRIPTION attached as Exhibit A hereto and incorporated by reference

Do hereby promise and covenant as follows:

The property herein described is situated adjacent to a Farm or Forest resource zone such as F, F-1, or SFW-20 zones in Tillamook County, Oregon where the intent is to encourage farm and forest use and minimize conflicts with those uses. The owners/residents of this parcel understand that on the adjacent land customary and accepted farm or forest management practices, conducted in accordance with federal and state laws, ordinarily and necessarily produce noise, dust, smoke, odors, the application of manure, fertilizers, or herbicides (including aerial spraying), road construction, changes in view, and other impacts related to a resource zone.

I/We do hereby accept the potential impacts from farm and forest practices as normal and necessary and part of the risk of establishing a structure in this area and shall not pursue a claim for relief or cause of action of alleging injury from farming or forest practices for which no action or claim is allowed under ORS 30.936 or ORS 30.937.

This covenant shall run with the land and is intended to and hereby shall bind my/our heirs, assigns, lessees, and successors and it can not be deleted or altered without prior contact and approval by the Tillamook County Department of Community Development (GRANTEE) or its successor.

IN WITNESS WHEREOF, the said Party has executed this instrument this _____ day of _____, 20____,

Signature

Print Names

State of _____, County of _____

Subscribed and sworn to before me this _____ day of _____, 20__

SEAL

Notary Public of Oregon
My Commission Expires:

STATE OF OREGON
COUNTY OF TILLAMOOK