



MULTNOMAH COUNTY OREGON
LAND USE AND TRANSPORTATION PROGRAM
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Staff Report

Quasi-Judicial Plan and Zone Change

Case File: T4-03-001

Scheduled Before: The Multnomah County Planning Commission

Hearing Date, Time, & Place: August 4, 2003 at the Planning Commission Hearing that starts at 6:30 P.M. in Room 100 of the Multnomah County Building located at 501 SE Hawthorne Blvd., Portland, OR

Proposal: A request for a Comprehensive Plan map and Zoning Map amendment of the West Hills Rural Area Plan to change the plan and zoning designation of a 9.29 acre property from Exclusive Farm Use (EFU) to Commercial Forest Use (CFU-2).

Location: 11410 NW Skyline Blvd.
1N1W06A -00300 (R961060590)

Applicant: Phil Werner
4032 SE Ozark Ct.
Hillsboro, OR 97123

Owner: Paul and Bonnie Gill
9575 N. Tyler
Portland, OR 97203

Site Size: 9.29 acres

Present Zoning: Exclusive Farm Use (EFU)
Significant Environmental Concern, Wildlife Habitat (SEC-h)

Approval Criteria: Multnomah County Code (MCC): MCC 37.0705 Type IV Quasi-Judicial Plan and Zone Change Criteria, Framework Plan Policies 9 Agricultural Land Area, and 11 Commercial Forest Land Area.

Staff Recommendation:

Approve the requested change from EFU to CFU-2.

Findings of Fact

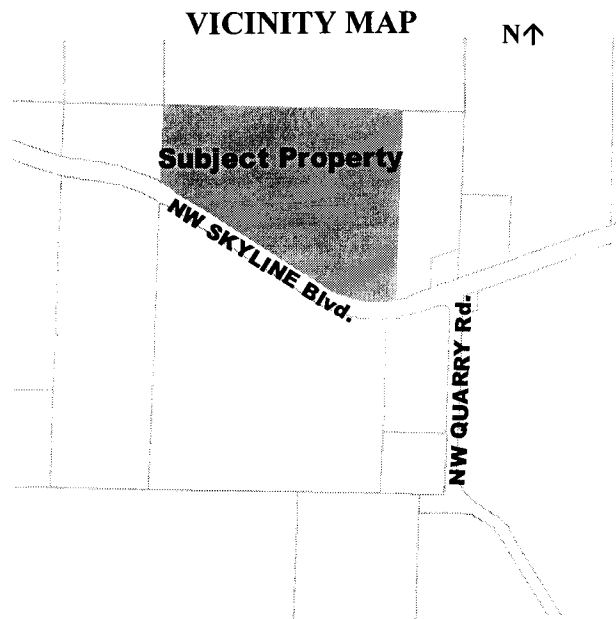
Note: Staff provides Findings as necessary to address the Multnomah County ordinance requirements referenced herein. Headings for each finding are underlined. Multnomah County Code requirements are referenced using a **bold** font. Written responses by the applicant, demonstrating compliance with code criteria, are labeled “Applicant”. Planning staff comments and analysis may follow applicant responses. Where this occurs, the notation “Staff” precedes the comments.

1. Project Description:

Staff: The applicant is requesting a map and zone change of the 9.29 acre vacant parcel in order to pursue approval of a dwelling in the future. The proposed new zone boundary is shown on Exhibit 2. The property was approved for a non-farm dwelling in 1995, casefile CU 9-95, under EFU zoning code provisions that are no longer in effect (see Exhibit 3). However, the approval has since expired. If the amendment is ultimately approved, a Conditional Use permit for a dwelling would need to be approved, along with a Significant Environmental Concern Permit, and a Hillside Development or Grading and Erosion Control permit.

2. Site and Vicinity Characteristics:

Staff: The subject parcel is located along the north side of NW Skyline Blvd., a distance of approximately one-half mile west of the City of Portland UGB. The site is in an area where the road follows the ridge line. Land to the south contains moderate slopes and a mix of fields and forested areas, and land on the north along the property frontage is steeply sloping and forested. The applicant indicates that 86% of the subject property contains soils in a soil series characterized by slopes ranging from 30 to 60% (Goble 17-E) (see Exhibit 1 Attachment 1, and Exhibit 4). Dwellings in this area are arranged along the road and are relatively frequent since most parcels contain dwellings. The subject parcel contains no structures, but is improved with an access road to the dwelling site, and a well. These were developed under prior approvals that have since expired.



3. Compliance With Initiation of Application and Notice Requirements:

Staff: MCC 37.0550 Initiation of Action requires that an application can only be initiated by written consent of the owner of record or contract purchaser. The owners of record are Paul and Bonnie Gill, and they have signed the application form, satisfying this requirement.

The application is governed by the notification procedures for Type IV applications as provided in MCC 37.0530(D), and the required newspaper notice and mailed property owner notices have been provided. Signs have been provided to the applicant for posting as required in MCC 37.0630.

4. Compliance With Quasi-Judicial Plan Revision Criteria:

Staff: The Multnomah County Comprehensive Plan Map is the same as the Zoning Map, therefore an amendment to the zoning map also requires amendment of the plan. MCC 37.0705(A) provides that for a plan map amendment, the burden is upon the person initiating a plan revision to persuade that the following standards are met:

- A. **MCC 37.0705(A)(1) The plan revision is consistent with the standards of ORS 197.732 if a goal exception is required, including any OAR's adopted pursuant to these statutes;**

Applicant: N/A

Staff: The proposed change from a farm resource zone to a forest resource zone does not entail an exception to either goal, therefore this provision does not apply. Oregon Administrative Rule OAR 660-006-015 Plan Designation Outside an Urban Growth Boundary is the controlling law on this issue because the matter of rezoning from agricultural to forest land is not addressed in the County Framework Plan or Zoning Code. OAR 660-006-015(2) provides:

“When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.”

While in this case, it is not clear from the record of the original plan and zoning designation process why the subject property was zoned EFU (ie. why it meets the definition of agricultural land), the findings herein do show why it meets the definition of forest land. The proposed plan and zone change is therefore allowed under this OAR.

- B. **MCC 37.0705(A)(2) The proposal conforms to the intent of the relevant policies in the comprehensive plan or that the plan policies do not apply. In the case of a land use plan map amendment for a commercial, industrial, or public designation, evidence must also be presented that the plan does not provide adequate areas in appropriate locations for the proposed use; and**

Applicant: We have identified Plan Policies 9 and 11 to be relevant in this proposal.

Policy 9: Agricultural Land Area

The County's policy is to designate and maintain as exclusive agricultural land, areas which are:

Predominately agricultural soil capability I, II, III and IV, as defined by U. S. Soil Conservation Service:

95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil, this soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

Of parcel sizes suitable for commercial agriculture;

The parcel is approximately 10 acres, a parcel of this size is considered relatively small for a farm operation, according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more that one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes to fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming. Nearby farm operations are 15 -40 acres that have slopes that are less that 15 percent.

In predominately commercial agricultural use;

The surrounding land is forestland and predominately zone CFU-2, see attachment 2. The nearest farm operation is approximately 350' feet away to the south, is a 13.25-acre parcel and is separated by Skyline Boulevard.

Not impacted by urban service;

This parcel is not located in an urban area and will not be impacted by urban service.

Other areas, predominately surrounded by commercial agricultural lands which

are necessary to permit farm practices to be undertaken on these adjacent lands;

Activities associated with the proposed property should not significantly affect farm operations on adjacent properties. No farm activities occur to the north, east or west of the property. The subject site is approximately 350' away from the nearest farming operation. This farm area is a 13.25-acre parcel to the south and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property.

Staff: Generally agrees with the applicant's analysis and identification of Policies 9 and 11 as applicable to this request. The intent of Policy 9 is to designate agricultural land (as defined by the elements above) with EFU zoning. The property contains predominately non-farm soils in that approximately 86% of the parcel is designated as Class VIe, series 17E, a soil that is not rated for farming under both the policy and in the Soil Conservation Service manual (see Exhibit 4). The parcel size is smaller than most other parcels in the EFU zoned area west to Brooks Rd. that are used for commercial farming. According to Oregon Department of Agriculture statistics for the year 2000, only 21.2% of farm operations in the state are in the less than 10 acre size category (see Exhibit 6). The subject property is not in farm use or impacted by urban services.

Finally, the parcel is not predominately surrounded by farm lands and is separated and buffered from farm lands to the south by Skyline Blvd. The one property frontage that is adjacent to a farmed area is the west lot line, which borders the farmed area for a distance of 288'. The other two forest land frontages total 1,443 feet, therefore the property is predominately surrounded by forest, not farm lands. These characteristics of the parcel support a finding that it is not farmland as defined in Policy 9. Since it does not contain the elements that Policy 9 sets out to designate EFU land, the intent of Policy 9 is not served with the property in EFU zoning.

Applicant:

Policy 11: Commercial Forest Land Area

The County's policy is to designate and maintain as commercial forestland, areas which are:

Predominately in Forest Cubic Foot Site Class I, II and III for Douglas Fir as classified by the U. S. Soil Conservation Service;

The surrounding land is predominately zoned CFU-2 and the soil conditions on this property are suitable for the growth of Douglas Fir.

Suitable for commercial forest use and small woodlot management;

Due to the soil conditions the site is currently being managed as a small woodlot.

Potential reforestation areas, but not, at the present, used for commercial forestry;

Timber on this property was harvested about 10 years ago and reforestation of 2850 Douglas Fir trees occurred at that time.

Not impacted by urban services;

The property is not located in an urban area and will not be impacted by urban services.

Cohesive forest areas with large parcels;

Parcels to the north, east and west are large parcels that are commercial forestlands zoned CFU-2.

Other areas which are:

Necessary for watershed protection or are subject to landslides, erosion or slumping; or

Wildlife and fish habitat areas, potential recreation areas, or are of scenic significance.

The subject site is typified by steep slopes in all but a few areas. The entire parcel is identified as a hazard area on the Multnomah County Slope Hazard Map. Landslides, erosion or slumping are possibilities due to the topography of the parcel, but not expected.

The subject property is designated as containing significant wildlife habitat (SEC-h). Maintaining the current woodlot through reforestation will enhance the wildlife habitat and will increase the scenic significance.

Staff: Agrees with the applicant's analysis. The primary soil on the property, Goble silt loam 17E, is used for timber production, urban development, and wildlife habitat, and is rated as Site Class III for Douglas Fir according to the Soil Conservation Service Survey (see Exhibits 4 and 5). The Soil Survey does not rate the on-site soils for farming. The parcel is managed as small woodlot as evidenced by the recent harvest and replanting, and forms part of the south edge of a larger block of forest land. Designating the parcel as forest land is consistent with Policy 11 because it is consistent with the elements in Policy 11 the plan uses to designate forest land.

- C. **MCC 37.0705(3) The uses allowed by the proposed changes will:**
- (a) Not destabilize the land use pattern in the vicinity;**
 - (b) Not conflict with existing or planned uses on adjacent lands; and**
 - (c) That necessary public services are or will be available to serve allowed uses.**

Staff: The analysis provided by the applicant below describes how the uses allowed in MCC 33.2220 (permitted uses in the proposed CFU-2 zone) would not destabilize the land use pattern, not conflict with uses on adjacent lands, and would be supported by necessary

services. This analysis is properly limited to uses allowed in the zone versus review and conditional uses since there is potential for the uses in the "allowed" category to occur with limited or no review. Staff notes that uses allowed in the CFU zone that result in structures are also subject to compliance with dimensional requirements and development standards, and these are generally intended to limit impacts to forest management or to minimize fire loss. In addition, the review and conditional uses which could be allowed are subject to approval criteria that accomplish essentially the same objectives that are listed in this criterion.

Staff defines the vicinity within which the land use pattern should be evaluated as the 750' notification area. This results in an impact area of over 2,300 feet along Skyline Blvd. The vicinity can be relatively small because nearly all of the subject property is below the level of Skyline Blvd. thereby shielding uses south of the road from the property. Steep slopes to the west and east also limit exposure of existing adjacent uses to the developable part of the property which is a knoll near the south-central portion. The nearest other structure north of the property is approximately 4,000 feet away, which is further than reasonably necessary to assess impact under this criterion. Dwellings, farming, and timber management are the uses that exist on adjacent lands. Most of the parcels already have dwellings, and staff is unaware of any planned uses other than farming or timber management on adjacent lands.

Staff adds that the applicant's responses in some instances consider the intended use of the property, which is for a single family dwelling. The intended use is not generally relevant to the question that must be answered under this criterion, which is the potential impacts of allowed uses on other land uses in the vicinity.

Applicant: Allowed uses under the CFU-2 zoning are:

(A) Forest operations or forest practices, including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of forest tree species, application of chemicals and disposal of slash; temporary onsite structures which are auxiliary to and used during the term of a particular forest operation; or physical alterations to the land auxiliary to forest practices including, but not limited to, those purposes of exploration, mining, commercial gravel extraction and processing, landfills, dams, reservoirs, road construction or recreational facilities:

The soil on the majority of the property is Goble Silt Loam (17E). This soil type, according the Soil Survey of Multnomah County, is best suited for the growth of Douglas Fir trees. Reforestation of the property occurred about five years ago with the planting of approximately 3000 Douglas Fir trees. The adjacent properties are currently zoned as CFU-2 and are used in a manner consistent with the plan policies. There is an existing logging road into the property, which provides log trucks access to interior parcels for forest practices. At this time there is no active harvesting of forest tree species on the subject property or the adjacent CFU-2 zoned properties.

At this time there is no active forest operation on this property or adjacent properties; therefore, there is not a need for a temporary on site structure to be using during the term of any forest practice. In the future if forest operations commence, a temporary on site structure may be placed on the property, and would be in accordance with the conditions of the allowed uses under MCC 33.2215.

Based on the soil type and the current use of the subject property and adjacent lands changing the zoning will not destabilize the land pattern use in the vicinity. Although, the current zoning for the property is EFU, it is being used in a manner consistent with the policies of CFU-2 zoning.

Changing the zoning on this property will not conflict with the planned uses of adjacent lands as the use of this property and the adjacent properties is consistent with the policies of CFU-2 zoning. The nearest farm is located approximately 350 'away and is separated by Skyline Boulevard. This farm operation does not require access onto or through the subject property. There is no evident conflict with existing or planned uses on adjacent lands.

As stated above there is an existing logging road to serve the logging operations that may occur on the subject property. Power, telephone, natural gas and water are also available to serve the needs of existing or future forest operations.

(B) A temporary portable facility for the primary processing of forest products;

Placing a temporary portable facility on this existing foundation will not destabilize the land use patterns in the vicinity, as the lands adjacent are predominately zone CFU-2 and used in a manner consistent with the CFU-2 plan policy.

There is no apparent conflict with the adjacent properties, which are zoned predominately CFU-2, by placing a temporary portable facility on the subject site property for the intent of processing forest products.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(C) Farm use, as defined by ORS 215.203;

Farming does occur on a parcel, approximately 350' away to the south of the subject property and is separated by Skyline Boulevard. Using the subject property for farming would not destabilize the land use in the vicinity. However, it was previously determined in Multnomah County Case File No. CU 9-95, that based on the configuration, steepness and limited and disjointed location of agriculturally rated soils make the reasonable use of this land for agriculture difficult.

The land use pattern along Skyline Boulevard is a diverse mix of parcel sizes and uses. Farm use on this property would not conflict with existing or planned uses on adjacent lands as there is a farm in operation on a parcel approximately 350 'away from the subject property. However, as previously stated, due to the configuration, steepness and limited agriculturally rated soils, agricultural use on this property would be difficult.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(D) Alteration, maintenance, or expansion of an existing lawfully established habitable dwelling is subject to the following:

The dimensional standards of MCC 33.2260 are satisfied; and

The development standards of MCC 33.2305(A)(5) are satisfied if the expansion exceeds 400 square feet of ground coverage.

This allowed use is not applicable in this proposal, as there is not an existing habitable dwelling on the subject site.

(E) Replacement of an existing lawfully established habitable dwelling on the same lot, subject to the following;

The replacement dwelling will be located within 200 feet of the existing dwelling; and

The existing dwelling is removed, demolished or converted to an allowable nonresidential use within three months of the completion of the replacement dwelling; and

The replacement dwelling shall satisfy the dimension standards of MCC 33.2260 and the development standards of MCC 33.2305.

This allowed use is not applicable in this proposal, as there will not be a replacement of an existing lawfully established habitable dwelling.

(F) Uses to conserve soil, air and water quality and to provide for wildlife and fisheries resources, including a public or private wildlife and fisheries conservation area.

There is no apparent evidence that the allowed use of soil air and water quality will destabilize the land use pattern in the vicinity.

The subject property is designated as containing significant wildlife habitat (SEC-h). By changing the zoning to CFU-2, this allowed use would not destabilize the surrounding properties, but would enhance it by the

preservation and maintenance of the current woodlot. These practices will provide for an increased wildlife conservation area.

This use does not conflict with the land use pattern in the vicinity as the surrounding lands are predominately forested with reforestation having occurred.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(G) An uninhabitable structure accessory to fish and wildlife habitat;

This allowed use will not destabilize the land use pattern in the vicinity as the surrounding parcels are predominately forested woodlots with reforestation in process. This application of land use enhances the fish and wildlife habitat. At this time, there is no intent to place an uninhabitable structure accessory to fish and wildlife habitat on this property.

Adjacent lands are predominately zone CFU-2 and used in a manner consistent with that zone classification, there is no evidence that this allowed use will conflict with planned or existing uses on adjacent lands.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(H) A caretaker residence for a public park or a fish hatchery;

This allowed use is not being considered in this proposal as there is not an existing public park or fish hatchery on this property, nor is there the intent or resource to establish these uses.

(I) Local distribution lines (e. g., electric, telephone, natural gas, etc.)and accessory equipment (e. g. electric distribution transformers, poles, meter cabinets, terminal boxes, pedestals)or equipment which provides service hookups, including water service hookups;

This allowed use will not destabilize or conflict with current land practices

(J) Climbing and passing lanes within the right-of-way existing as of July 1,1987.

This allowed use is not being considered in this proposal, as there are not climbing and passing lanes on the subject property, nor is the subject property within the existing right of way.

(K) Reconstruction or modification of public roads and highways, not including the addition of vehicular travel lanes, where not removal or displacement of building will occur, or no new land parcels result;

This allowed use is not being considered in this proposal, as there is not a public road or highway on the subject property.

(L) Temporary public road and highway detours that will be abandoned and restored to original condition or use at such time as not longer needed;

This allowed use is not being considered in this proposal, as there is not a temporary public road nor highway detour on the subject property.

(M) Minor betterment of existing public roads and highway related facilities such as maintenance yards, weigh stations and rest areas, within a right-of-way existing as of July 1, 1987, and contiguous public-owned property utilized to support the operation and maintenance of public roads and highways.

This allowed use is not being considered in this proposal, as there is not an existing public road and highway related facility on the subject property.

(N) A lookout tower for forest fire protection;

There is no apparent evidence that a lookout tower for forest fire protection would destabilize the land use pattern in the vicinity, as the adjacent properties are predominately forest land and would benefit from forest fire protection. There is no intent to place a lookout tower on the subject property; however, if this became necessary to preserve the current woodlot of the subject property and the adjacent properties, the owner would comply with the conditions set by the County.

Existing and planned land uses on the adjacent properties is predominately forest land and would benefit from forest fire protection in the event that a need should arise to install a lookout tower.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(O) A Water Intake facility, canal and distribution lines for farm irrigation and ponds;

A water intake facility, canal and distribution lines for farm irrigation and ponds will not destabilize the land use pattern in the vicinity as there is an active farm operation across Skyline Boulevard that could benefit from this allowed use. However, this is not being considered as the subject property and the adjacent properties are not being used in a manner consistent with this allowed use.

There is not an evident conflict with existing or planned uses on adjacent lands as the surrounding lands are predominately CFU-2, which does allow for

farm practices; however, the adjacent properties and subject property are not active farm operations.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(P) A temporary forest labor camp;

A temporary forest labor camp would not destabilize the land use pattern in the vicinity as it would be supporting a forest practice, which is consistent with the land uses on the adjacent properties. However, due to the size of the subject property, just under 10 acres, it would not support such an operation and there is no intent to establish this type of forest operation.

There is not an evident conflict with existing or planned uses on adjacent lands as the surrounding lands are predominately forest land zoned CFU-2 and could have active forest operations. A temporary forest labor camp on the subject property would be consistent with the current land use patterns in the area.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(Q) Exploration for mineral and aggregate resources as defined in ORS 517;

This allowed use is not being considered in this proposal, as there are no known mineral or aggregate resources on the subject property.

(R) Exploration for geothermal resources;

This allowed use is not being considered in the proposal, as there are no known geothermal resources on the subject property.

(S) A site for the disposal of solid waste that has been ordered to be established by the Environmental Quality Commission under ORS 459.049, together with equipment, facilities or buildings necessary for its operation.

This allowed use is not being considered in this proposal, as the subject site has not been ordered a solid waste disposal by the Environmental Quality Commission.

(T) Type A home occupations pursuant to the definition and restrictions of MCC 33.0005 (H)(6)(a) and 33.2245. Home occupations as defined by MCC 33.0005 (H) (6)(a) do not allow the level of activity defined in ORS 215.448;

This allowed use will not destabilize the land use pattern in the vicinity as the owners shall comply with the definitions and restrictions set forth in MCC 33.0005 (H)(6)(a) and MCC 33.2245 if a Type A home occupation is considered.

This allowed use will not conflict with the existing or planned uses on adjacent lands as the owners shall comply with the definitions and restrictions set forth in MCC 33.0005 (H) (6)(a) and MCC 33.2245 if a Type A home occupation is considered.

Power, telephone, natural gas and water are currently available on this site, as well as a road giving access to the site to serve this allowed use.

(U) Other structures or uses determined by the Planning Director to be customarily accessory or incidental to any use permitted or approved in this district.

n/a

(V) Actions taken in response to an emergency/disaster event as defined in MCC 33.0005 pursuant to the provisions of MCC 33.0535;

n/a

Staff: Agrees with the applicant's analysis and finds this requirement is met. A large portion of the uses allowed in the CFU-2 zone also allowed in the EFU zone. These include farm or forest management, mineral exploration, existing dwellings, public services including roads and service lines, emergency response actions. For these uses, the change from EFU to CFU-2 has no greater potential adverse impact. The additional uses which could occur under a CFU-2 zone designation include temporary forest management uses, a lookout tower, wildlife conservation related uses, water intake facilities and a solid waste disposal site.

The most likely potential impacts to properties in the vicinity from the remaining uses is noise and traffic along Skyline. The topography of the property effectively isolates it from noise to the south, and there are no uses within the vicinity to the north except for forest management. Given the temporary aspect of many of the forest management uses, staff finds it is not likely they would significantly impact the uses to the east and west due to noise, and any traffic impacts would be temporary. The one potential allowed use that could destabilize the land use pattern or conflict with existing or planned uses is if DEQ (EQC) were to designate the site for solid waste disposal. Given the necessity to contain solid waste in these sites, and given the topography of the property, staff does not believe the subject property would be chosen for this use.

- D. **MCC 37.0705(A)(4) Proof that circumstances in the area affected by the proposed revision have changed since adoption of the plan, or that there was a mistake in the plan, are additional relevant factors which may be considered under this subsection.**

Applicant: Based on the Soil Survey of Multnomah County, 95 percent of this parcel is mapped as class VI and VII soils. The three soils types located on the subject property are; Cascade silt loam (7C), Cascade silt loam (7D), and Goble silt loam (17E). Only Cascade silt loam (7C) is considered high value farmland soil. This soil type is found in less than 4 percent of the total land area of this property. Approximately 15 percent of the property is mapped Cascade silt loam (7D) and is not designated as high value farmland. This soil type resides in a narrow strip that wraps around the entire southern and western boundaries in a strip that does not exceed 200 feet in width. 86 percent of the parcel is mapped as Goble silt loam (17E). This is a type VI soil and is not considered suitable for farming. See attachment 1.

The subject property is approximately 10 acres, a parcel of this size would be considered relatively small for a farm according to the 1987 Census of Agricultural statistics. The amount of land that is level enough for cultivated crops is no more that one acre. Even the area mapped as 7D with 15 to 30 percent slopes is too steep for cultivated crops. Nearly 90 percent of the parcel is too steep and the slopes too fragile to consider it suitable for livestock. Steep topography throughout most of the site diminishes the possibility of productive farming.

Based on the configuration, steepness and limited agriculturally rated soils, agricultural use on this property would be difficult at best, it is our position that this site is inappropriately zoned as EFU. The current use of the subject property is small woodlot management, the land use pattern of the adjacent land is also forest management. Changing the zone from EFU to CFU-2 would be more consistent with the manner in which the land is used.

Staff: Agrees with the information and conclusion of the applicant. The subject parcel was part of a larger 22 acre farm parcel that was bisected by Skyline Blvd. up until 1979 when it was divided along the road (Bk 1330 pg 1240). The division resulted in a 13.25 acre parcel south of Skyline that is still farmed, and the 9.29 acre subject parcel. At the time the land was divided, the entire parcel was zoned MUA-20. The parcel was part of a larger block of land that the county proposed for exception (MUA-20) zoning, a designation the Department of Land Conservation and Development did not agree with. Zoning in this area was finally resolved in August of 1980 when the county rezoned the area EFU. Staff was unsuccessful in a search for information in the record that could explain why the forested portion of the parcel was zoned the same as the farmed part, given the obvious differences in the land. Staff believes the most likely explanation is that the properties in this area were designated based on the predominate use of the parcel, which in this case was farming, and the partition in 1979 did not show up on the Assessor's maps until sometime later after the property was zoned EFU.

5. Compliance With Quasi-Judicial Plan Revision Criteria:

Staff: MCC 37.0705(B) provides that when evaluating a proposed zone change request, the burden upon the person initiating a plan revision is to persuade that the following standards are met:

A. **MCC 37.0705(B)(1) Granting the request is in the public interest;**

Applicant: The Planning Commission establishes land zoning classification guidelines to preserve valuable land from inappropriate and incompatible use. It is the public's interest to maintain valuable agricultural and forestlands from inappropriate use. The public interest is best served when land is zoned correctly and used in the correct manner consistent with the guidelines of that zone.

Staff: Agrees. The applicant's comparison of the elements the county uses to designate farm land in Policy 9 with those used to designate forest land in Policy 11 under part 3. above demonstrates that the property does not fit the farmland designation.

B. **MCC 37.0705(B)(2) There is a public need for the requested change and that need will be best served by changing the classification of the property in question as compared with other available property;**

Applicant: The subject property is one of the only parcels in the area zoned as EFU and is nearly surrounded by forest lands zoned CFU-2. The Planning Commission's intent is to ensure that the land in their district is properly zoned, this serves public's interest by ensuring valuable land resources are not inappropriately used. The public need is best served by changing the zoning on the subject property to a classification of CFU-2, which is more consistent with the type of land use pattern on this property and the surrounding properties.

Staff: Agrees.

C. **MCC 37.0705(B)(3) The proposed action fully accords with the applicable elements of the Comprehensive Plan; and**

Staff: The applicant has already addressed the applicable elements of the Comprehensive Plan under part 3 above. Those findings also demonstrate compliance with this criterion.

D. **MCC 37.0705(B)(4) Proof of change in a neighborhood or community or mistake in the planning or zoning for the property under consideration are additional relevant factors to be considered under this subsection.**

Applicant: It is our position that the zoning classification of EFU for this site is a

mistake. The attached aerial photo and the simple photos of the property taken by Phil Werner clearly show that this property is not intended for agricultural use. See attachment 3a -3d.

All studies done on the property have proved that the soil conditions, slope and current use of the site is not consistent with the guidelines of the zone classification EFU. Therefore, approval of a zone change to CFU-2 is requested.

Staff: Agrees. The findings in part 3. under MCC 37.0705(A)(4) are equally applicable here. A change that occurred is that during the original plan development and acknowledgement process, the property was partitioned from the parent farm parcel on the south side of Skyline Blvd. As stated above, staff has not found conclusive evidence but suspects the subject property was zoned farm due to common ownership at the beginning of the planning process.

Conclusion

Considering the findings and other information provided herein, staff recommends that the Planning Commission find that the applicant has carried the necessary burden of persuasion to show that the plan and zone change criteria are met.

Exhibit List

Exhibit 1: Applicant's submittal dated May 8, 2003, narrative and Attachments.

Attachment 1: Soils Map

Attachment 2: Zoning Map

Attachment 3a: Aerial photo with property owners.

Attachment 3b-e: Photos of site

Exhibit 2: Tax Assessor's property map and proposed new zone boundary.

Exhibit 3: 1995 Non-farm dwelling approval, CU 9-95.

Exhibit 4: Soil Survey of Multnomah County, soils 17E, 7C, and 7D.

Exhibit 5: Soil Productivity for Douglas Fir Yields

Exhibit 6: Oregon Agriculture: Facts and Figures 2000.

Appeal to the Board of County Commissioners:

A Planning Commission decision of denial may be appealed to the Board of County Commissioners (Board) by any person or organization who appears and testifies at the hearing, or by those who submit written testimony into the record. An appeal must be filed with the Land Use Planning Division within 14 calendar days from the date notice of the decision is provided to those entitled to notice. An appeal requires a completed "Notice of Review" and a fee of \$530.00. [ref. MCC 37.0640 Appeals] Instructions and forms are available at the County Planning Office at 1600 SE 190th Ave., Portland, or you may call 503-988-3043, for additional instructions.