



# Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

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March 17, 2010

Anne Elvers,  
Washington County Planning  
155 N. First Ave. Rm. 350  
Hillsboro, OR 97124

Hello Anne,

As requested, please enter into the record the following additional comments based on new material submitted by the applicant for local file 09-360-PA, DLCDC PAPA file 020-09. This letter replaces earlier comments made by e-mail to the County.

The basis for the proposed rezoning is a committed exception. However, the additional material submitted by the applicant still does not demonstrate why or how adjacent development makes farm or forest use on the property impracticable. "Impracticable" involves a higher bar than "impractical". There are many possible agricultural and/or forest uses for the property, considering its high productivity rating for both farm and forest purposes. The property can also be used in conjunction with other farm properties, leased, rented or sold to others. Most of the negatives the applicant and consultants have raised that are argued to detract from the productivity of the property (such as slope or irrigation) are unsupported or already reflected in the soils ratings. Most of the negatives the applicant and consultants argue create conflicts for farm or forest use at the site are inapplicable, unsupported or normal for farm or forest operations. Our reading of the materials indicates that there is very little that is unique about the property that distinguishes it from other high-quality farm or forest land.

A committed exception is normally demonstrated, in part, by showing a pattern of adjacent small-lot parcelization and development. "Adjacent" has always been used synonymously with "contiguous" in DLCDC reviews of exceptions areas. In this case, parcels averaging 13 acres on three sides of a 58-acre property are not enough to commit the property, because of the relatively large size of the subject property and the surrounding properties. The nearby location of the exceptions areas does not advance the argument for commitment of the subject property. To call the subject property committed would mean that all the intervening lands could also be considered committed. There are presumably many areas in the county that could be called committed, using this reasoning.

Anne Elvers

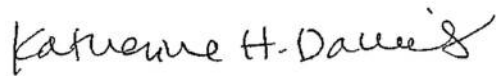
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The forest productivity rating of the subject property is predominantly cubic foot site class III, which has a range of 120 – 164 cf/ac/yr. A recent LUBA case ruled that “Rural land with a wood fiber productivity of over 80 cf/ac/yr is almost certainly suitable for commercial forest uses, even if there are limiting factors” (Just vs. Linn County, LUBA No. 2009-068).

In conclusion, the subject property is predominantly high-value farmland and productive forest land, falling well within “bright line” definitions of resource land under Goals 3 and 4, administrative rules and case law. The high threshold test for showing the impracticability of using the subject property for farm or forest use has not been demonstrated.

Please let us know if we can provide any further information or assistance. Thank you.

Sincerely,

A handwritten signature in cursive script that reads "Katherine H. Daniels".

Katherine H. Daniels  
Farm and Forest Lands Specialist

Cc: Gary Fish, Regional Representative