

**JORDAN
SCHRADER**
ATTORNEYS AT LAW

VIA E-MAIL & FIRST CLASS MAIL

March 5, 2010

JORDAN SCHRADER RAMIS PC

City of Springfield Planning Commission
c/o Linda Pauly, City of Springfield Community Development
225 Fifth St
Springfield OR 97477

Re: **Inclusion of Wickland Property in the Springfield UGB Formation**
Our File No. 50068-36936

Dear Ms. Pauly:

DAMIEN R. HALL

Admitted in:
Oregon and California

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damien.hall@jordanschrader.com

This firm represents the Wicklund Trust and its Trustee, Mr. Earle Wicklund. The Trust owns property that is currently located outside of the Eugene Springfield UGB, but is under consideration for inclusion within the Springfield UGB when it is formed. The Trust's property is located within the area designated as the North Gateway Employment Opportunity Area ("NGA"). This letter and supporting documentation explain why the NGA and Trust property achieve the City's employment and job creation objectives, meets the applicable legal requirements for inclusion into the UGB, and requests that the Springfield Planning Commission request the inclusion of the NGA into the Springfield UGB.

A. The suitability of the NGA Land justifies its inclusion in the UGB

The land priority statutes are not as rigid as some have suggested. In fact, the Goal 14 locational factors justify including the NGA land, despite arguments about statutory priorities.

While the City is required to consider statutorily defined land priorities in conducting its alternative analysis, the legislature and courts have indicated that Goal 14 locational factors can and should defeat land priorities so that local governments are able to bring the most quality suitable land into a UGB, even if it is not the highest priority in quantity. *See City of West Linn v. LCDC*, 201 Or App 419, 440, 119 P3d 285 (2005). On this subject, the Court of Appeals held that,



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“ORS 197.298(1) expressly provides that the priorities that it describes apply in addition to any requirements established by rule addressing urbanization such as the locational factors of Goal 14. As a result, that other high priority land may exist somewhere else adjacent to the UGB does not necessarily mean that the land will be adequate to accommodate the locational considerations of Goal 14. In other words, the statutory reference to ‘inadequate’ land addresses suitability, not just quantity, of higher priority land.” *Id.* (emphasis added).

As City Staff has described in greater detail, ORS 197.298 establishes a priority of lands suitable for consideration in UGB expansions, that informs the alternatives analysis required by OAR 660-024-0060, and which the Commission is currently undertaking. However, a local government can promote lower priority land for UGB inclusion ahead of higher priority in instances where the lower priority land is more suitable for specified objectives of the local government or the Goal 14 urbanization criteria. OAR 660-024-0060(1)(e), (5); ORS 197.298(3). The Court of Appeals more recently clarified its stance on the matter stating that “ORS 197.298(3) relaxes the prioritization requirements in certain circumstances,” and that “The ranking of land under ORS 197.298(1) is a function of its prior classification as urban reserve land, exception land, marginal land, or resource land, as well as the application of the qualitative factors under Goal 14 and ORS 197.298(3).” *Hildenbrand v. City of Addair Village*, 217 Or App 623, 633, 635, 177 P3d 40 (2008).

B. The NGA land is more suitable than other lands with different statutory priority.

Here, the NGA should be included in the UGB ahead of higher priority lands because it is more suitable to meeting the Goal 14 objectives than the other employment opportunity areas. As you can tell from the above referenced holdings of the Court of Appeals, the City should be considering the suitability of each of the employment opportunity areas under Goal 14 criteria and ORS 197.298(3), on equal footing with the land priority designation. Inclusion of the NGA into the UGB is consistent with the Goal 14 objective of providing for the orderly and efficient transition to urban land use, to accommodate urban population and employment, to ensure efficient use of land, and to provide for livable communities.

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At section F-14 of the most recent version of the *Draft Refinement Plan*, dated January 29, 2010, staff indicates the four specific Goal 14 criteria to be considered in the alternatives analysis. The criteria are listed as 1-4 below and the ways in which the NGA and Trust property comply with each are bulleted.

1) Efficient Accommodation of identified land needs

- NGA was identified by the Technical Advisory Committee as one of the three employment opportunity areas best suited for employment and large sites. *Draft 2030 Refinement Plan*, section F-17.
- The NGA is the most suitable of the employment opportunity areas to support the needed building types identified by the economic opportunities analysis. The NGA is “highly suitable” for Warehousing and Distribution, General Industrial, Office, and Other Services, as well as being “somewhat suitable” for retail. Other than the NGA, each employment opportunity area is unsuitable for at least one of the identified building types, with most being unsuitable for two or three building types. Also, no employment areas other than the NGA is highly suitable for more than two of the identified building types. *Draft 2030 Refinement Plan*, Table 2, section F-10-12.
- The NGA is adjacent to and directly accessible from I-5, therefore inclusion would provide for efficiency of access to transportation facilities from the NGA, and a more livable community for employees who would commute to and from there. *Draft 2030 Refinement Plan*, Map 9, section F-19.

2) Orderly and economic provision of public facilities and services

- The NGA is adjacent to the UGB and within the Metro Plan Boundary, therefore inclusion would provide for an efficient extension of public services and utilities. *Draft 2030 Refinement Plan*, Map 9, section F-19.

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- The NGA has is adjacent to and directly accessible from I-5, therefore inclusion would provide for efficiency of access to transportation facilities. *Draft 2030 Refinement Plan, Map 9, section F-19.*
- There is existing sewer in close proximity to the NGA, allowing for the orderly and efficient extension of sewer facilities the area. *Draft 2030 Refinement Plan, Table 1, section F-8.*
- The Fire Department has indicated that urban levels of service can be easily provided to the NGA, under both the current fire department deployment and if the station is relocated as proposed. This allows for the efficient and orderly extension of fire, life and safety facilities to the NGA. *Draft 2030 Refinement Plan, section F-34.*

3) Comparative environmental, energy, economic and social consequences

- Only the portions of the Wicklund property that are directly adjacent to the McKenzie River have the required characteristics to be considered a wetland. Therefore, riparian setbacks are sufficient to protect the wetland portion of the property if included in the UGB. A copy of the Raedeke and Associates report from an on-site investigation of the Wicklund property is attached hereto as Exhibit A.
- The Wicklund property is not high value farm land because it does not consist of predominantly high value soils as described in ORS 215.710(3) and OAR 660-033-0020(8). The report of Agronomist Tom Thomson is attached hereto as Exhibit B.

4) Compatibility of the proposed urban uses with nearby agricultural and forest activities occurring on farm and forest land outside the UGB

- The Wicklund property is hemmed in by the McKenzie River, I-5 and commercial and industrial development. Exhibit B.
- The Wicklund property could be easily absorbed into the Springfield UGB without adversely affecting the agricultural economy of the surrounding area. Exhibit B.

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While the legislature and courts have made it clear that the rational inclusion of suitable lands should trump a rigid adherence to the land priority criteria, to include lower priority land requires heavily fact driven findings. In as much as my client or I can assist the City to obtain additional information as needed to make such a finding, we are more than willing. Please feel free to contact me directly with any questions or concerns that are raised by this letter or the attached supporting reports.

For the above stated reasons we reiterate our client's request that the North Gateway Employment Opportunity Area be included into the Springfield UGB. And should inclusion of the NGA in its entirety not be found preferable, the inclusion of the 110 acre Wicklund property is requested.

Sincerely,

JORDAN SCHRADER RAMIS PC

Damien Hall by Jennifer De Gregorio

Damien R. Hall

Enclosures

cc: Earle Wicklund

Bill Monahan

COPY

From: Earle Wicklund [wicklund_associates@comcast.net]
Sent: Thursday, February 12, 2009 12:02 PM
To: 'Chad Egge'
Cc: Bill Monahan
Subject: Chad Egge RE: Wicklund Property analysis by Agronomist Tom Thomson

Chad,
Thank you for your comments regarding Mr. Thomson's agricultural report.

Earle Wicklund

From: Chad Egge [mailto:eggeseed@gmail.com]
Sent: Thursday, February 12, 2009 10:35 AM
To: Earle Wicklund
Subject: Re: Wicklund Property analysis by Agronomist Tom Thomson

To whom it may concern:

I have been farming the Wicklund Trust property since 2005.

I have considered the report on the property prepared by Northwest Agricultural Consulting, and I agree with the conclusions reached by Tom Thomson in the report.

Chad Egge

Egge Farms

2/16/2009

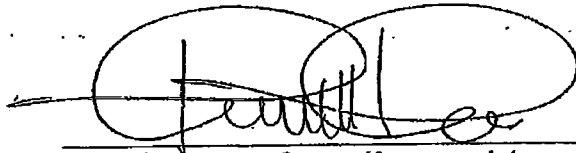
Attachment 3-15

NORTHWEST AGRICULTURAL CONSULTING

Agronomic Suitability Analysis of Wicklund Trust Property located in Lane County, Oregon and described as Section 15, T17S, R3W, WM also designated as Tax Lot 1703154000400.

PREPARED BY:

Northwest Agricultural Consulting
1275 Oak Villa Road
Dallas, Oregon 97338
503-623-0468 Phone/FAX



Tom Thomson - Owner/Agronomist
ARCPACS Certified Professional Soil Scientist No. 24781

1-27-09

Date



Agronomic Suitability Analysis of Wicklund Trust Property.

INTRODUCTION:

Mr. Earle Wicklund, a representative of the Wicklund Living Trust, is making application for the inclusion of a parcel of property owned by the Trust into the Urban Growth Boundary (UGB) of the City of Springfield, OR. The property is located in Lane County, Oregon and described as Section 15, T17S, R3W, WM also designated as Tax Lot 1703154000400.

The property is approximately 110 acres of which 70 acres are tillable with the remainder as follows: 20 acres forest or slough, 3 acres orchard, 10 acres pasture, and the remaining 7 acres are homestead and roadway.

This report is in support of the application by the Wicklund Living Trust and contains data collected from a site investigation as well as data from various sources substantiating the conclusions required by the City.

METHODS:

An on-site investigation was carried out at the site on October 31, 2008. A thorough physical examination of the property included a review of topography, slope and aspect, and other physical characteristics of the site as well as vegetation currently on the subject property and surrounding properties.

Inferences made as to agronomic practices and cropping sequences are based on my experience as a farmer and agronomic consultant. Soils information was obtained from the Soil Survey of Lane County issued in 1981 by the U. S. Department of Agriculture Natural Resources Conservation Service. Acreages of the soil series were obtained from the USDA Web Soil Survey at (<http://websoilsurvey.nrcs.usda.gov/app>). Economic information was obtained from the Oregon State University Enterprise Budget Sheets and Chemeketa Community College Farm Business Management Program Annual Reports. GIS programs were used to generate maps and interpretations for this evaluation.

NARRATIVE

Characteristics of Subject Property:

The subject property is located on the south bank of the McKenzie River northeast of the intersection of Interstate 5 and Beltline Road. The site is essentially flat ground bounded by commercial and industrial development to the south and west and the river.

The subject property currently is and has been a working farm for many years. The property has the family home and outbuildings on the southern portion. The Wicklund family grew many crops in years past but settled on green beans which were utilized in their spiced

bean business which were sold nationally. The spiced bean company closed its doors in January 2008 when it no longer could compete with rising costs associated with buying the raw product necessary for its spiced bean process. Crops previously grown on this property have included Blue Lake green beans pole and bush varieties, wheat, kale, ryegrass, dill, etc.

The property is currently leased on a cash rent annual lease to Chad Egge of Egge Farms who farms the 70 tillable acres of the parcel. Mr. Egge currently grows perennial ryegrass for seed.

The remaining 40 acres are composed of alluvial sand and gravels which are not conducive to agricultural activity due the lack of water and nutrient holding capacity.

Characteristics of Adjacent Lands:

The following analysis is based upon the area in the northeast corner of the I-5/Beltline Road intersection and bounded by the McKenzie River on the northwestern side in Section 15:

East: The McKenzie River bounds the property which prevents any access to lands across the river.

South: Commercial and industrial development bounds the property to the south and restricts any expansion of farming activities in that direction. There are some small parcels to the southeast which are farmed similar to the subject property which are also farmed by Mr. Egge.

North and West The area to the north and west consists of small farmed parcels interspersed with a nursery and some wooded areas. Sprague Road provides access to the other side of I-5. The Trust has no easement with adjacent property owner, Mr. Walt Johnson, to its NW corner however historically the Trust has had verbal permission to use the access if necessary. Interstate 5 is approximately 1000 feet to the west of the property and restricts access to lands on the other side.

Relationship between Subject Property and Adjacent Land:

The area surrounding the subject property has been in agricultural use for many years and over the last 15 years urban development encroached on the area. Many acres in the area were devoted to cannery crops such as beans, beets and corn. However, growers lost a market when the cannery closed. The few growers with the ability to add value to their crops were able to stay in business. The construction of the Mall and residential construction in the southeast corner of the Beltline/I-5 intersection served to quicken the pace of the development on the east side of I-5. Also, the landscaped Roundabouts and the large

amount of traffic on these roads at all hours of the day serve to not only impede the flow of agricultural implements but also create some safety concerns for their operators.

Although the subject property is currently being utilized for commercial farming purposes, that use is rapidly changing and its value diminished. New commercial construction is underway adjacent to the property and more to come as evidenced by numerous for sale signs on vacant and unused land.

Although an EFU designation protects the land for farm use, that designation is not a measure of economic viability. Although the land was farmed by the Wicklund family for many years, economic profitability came via a value added enterprise operated on the farm. Once the market for that business ended in 1985, they were unable to maintain profitability and would have needed to expend a significant amount of money to upgrade equipment to modern standards.

The Wicklund family has grown Blue Lake Pole green beans (1952 to 1977) and Blue Lake bush beans (1978 to 1985). In 1986 the property was leased to various local farming operations such as Jon Jaqua, Doug Siefert and Chad Egge.

Currently, the landowners receive \$4500.00 per year rent for the land from the lessee, Egge Farms. This works out to approximately \$75 per acre in rent for the tillable acres and no income for the rest of the parcel. Mr. Egge farms approximately 1200 acres under various leases which affords him economies of scale that would otherwise not be available to an individual operator attempting to farm the 70 acres alone. Thus, the parcel is uneconomical to farm by itself.

Many factors affect production of grasses grown for seed in the Willamette Valley. However, the three main factors which largely determine yields of grasses grown for seed are 1) the species-specific genetics of the crop which determines their hardiness, 2) the type of soil and its condition, and 3) the wide variation in weather during the growing season – mainly February through June. The Willamette Valley is quite notable for offering a favorable climate for grass seed production; however the vagaries of weather within any given growing season largely determine the seed production capacity of the plant for that year. Thus, the range in yield of tall fescue could genetically be anywhere from 500 to 2000 pounds per acre depending on whether it was a forage or turf type, early or late bloomer, etc. However, for any given variety of tall fescue the yield range for that variety may be 900-1100 pounds with the actual yield dependent on all factors impinging on the plant during the crop year.

Mr. Egge has stated intermediate ryegrass produced about 1400 pounds per acre on this site but previous experience with this crop in other locations often resulted in yields of greater than 2000 pounds per acre. As intermediate ryegrass currently (2008) is sold at \$0.38 per pound the 600 pound per acre yield deficit resulted in a \$228.00 per acre reduction in gross profit. After deducting fixed and variable costs, the expected net profit would at 1400 lbs is 64% less per acre than expected. As the enterprise budget was written

In 2000, a reasonable allowance for inflationary pressure on seed, fertilizer, fuel, etc must be made which would alter the above assumption of profit.

Overseeding of golf courses and pastures and new lawns for houses are typical markets for this seed. The current national economic crisis has resulted in lowered demand for grass seed at all levels and many seed companies have not shipped any seed in many months. Lack of sales depresses farm prices which results in further erosion of profit. One may assume that Mr. Egge might try to only farm land which offers the best yields at the least cost. Incidental factors besides crop inputs which may affect that decision are distance to market, ease of access to the property, etc.

Thus, considering current as well as future market and input cost conditions, the removal of this property from agricultural production would most likely have no effect on the profitability of Egge Farms. However, its loss would have some, as yet unknown, impact on the two smaller properties to the north and south which are also farmed by Mr. Egge.

Existing Adjacent Uses:

The City of Springfield's city limits and Urban Growth Boundary abut the subject property on the south. As noted above the predominate use of the land in the area surrounding the subject property is industrial and commercial use with residential use

Existing Public Facilities and Services (water and sewer lines etc):

The Trust has grandfathered water rights to the McKenzie River in addition it has three drinking water wells on the property. Based on the commercial and industrial development on adjacent lands to the south, is it clear that those properties are served by urban level public facilities, utilities and services.

Neighborhood and regional characteristics:

As noted above, the predominate land use in the area is commercial industrial with some residential uses interspersed. Lands not occupied by some form of dwelling or business seem to be evenly split between idle properties with for sale signs or those with some form of agricultural enterprise.

Natural or man-made features or other impediments separating the Subject Property from adjacent resource land , such as roads, water courses, utility lines, rights of way, that effectively impede practicable resource use of all or part of the Subject Property:

As noted above, the McKenzie River and Interstate 5 which, along with the heavy development to the south, create access barriers to and from the property

Other relevant factors:

Soils:

The main soil types on this parcel are those found near and in the flood plain of larger rivers. The property is a remnant island formed in an oxbow of the McKenzie River. The Newberg-Camas-Cloquato Association is formed upon level and well to excessively drained flood plains. The soils are of alluvial origin and contain a large proportion of sand and gravel indicative of those origins.

The Lane County Soil Survey lists the following agricultural uses for these soils: small grains, grass and legumes for seed, hay, pasture, berries, and timber. Crops previously grown on the property have included green beans, wheat, kale, ryegrass, dill, and perennial ryegrass. Because of the high risk associated with raising berries, melon and potatoes, the Trust opted never to engage in those enterprises.

The following table summarizes the characteristics of the soils:

Table 1. Soil characteristics within the subject property.

Soil Series	Symbol	Area(%)	Capability Class
Camas gravelly sandy loam	22	14.5	IVw
Fluents	48	35.1	VIIw
Newberg fine sandy loam	95	44.9	IIw
Riverwash	114	5.4	VIIw

NOTE: The soils percentages were calculated from a downloaded image from Lane County Maps which was digitized in GIS to estimate the percentage of soils within the taxlot.

The property does not qualify as High Value Farmland as defined in the LCDC administrative rule OAR 660-033-020(8) and ORS 215.710(3), because only 45% of the soil qualifies as high value (Newberg fine sandy loam). For this reason, the subject property should be given higher priority in the UGB amendment process than other resource land that is high value farmland, under state law (ORS 297.298(4)).

The fluents and riverwash soils occupy the actively developing floodplains immediately adjacent and within present stream channels. These areas contain large amounts of sand and gravel which contributes to the excessive drainage of these soils.

As can be seen in the above table, the main limiting factor for this property is wetness, usually due to a seasonally high water table due to the proximity of the river. The lower lying Newberg soils regularly flood while the Camas soils flood only in times of very high water.

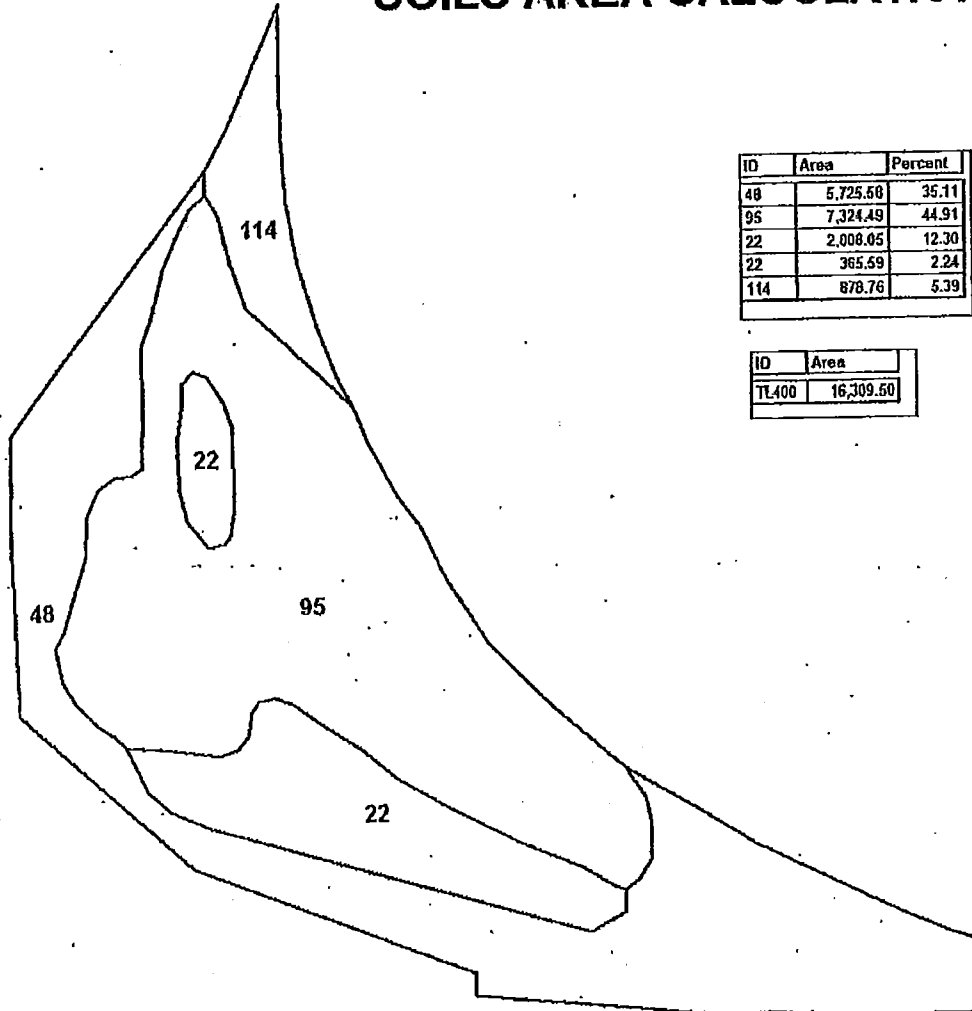
The main problem with the soils from an agronomic perspective is the coarse texture of the soils which limits their water holding capacity. Fine sands, sands, and gravels have the capability to grow some good crops if irrigations is properly applied.

CONCLUSIONS:

The Wicklund Trust Property consists of soils which are not High Value Farmland as defined by LCDC rule, and has been shown to be difficult to farm due to increasing urbanization which makes access to the property for large farm equipment difficult. The property is hemmed in by the McKenzie River, Interstate 5, and commercial/industrial development.

Considering the characteristics of the subject parcel, the characteristics of adjacent lands, and the relationship between the two, this property could easily be absorbed into the UGB of Springfield without adversely affecting the agricultural economy in the area and ought to be given a higher priority than lands better suited to agricultural enterprises.

WICKLUND UGB SOILS AREA CALCULATIONS



ID	Area	Percent
48	5,725.68	35.11
95	7,324.49	44.91
22	2,008.05	12.30
22	365.69	2.24
114	878.76	5.39

ID	Area
TL400	16,309.50

NORTH

Scale: 1 inch = 30 feet

GIS Mapping by Northwest Ag Consulting