



September 13, 2017

Ms. Lydia McKinney, Manager  
Lane County Land Management Division  
Public Service Building  
125 E. 8th Ave.  
Eugene, OR 97401

Re: *Oregon Country Fair request (PA 15-05195) for a private park within the Rural Residential and Impacted Forest Lands Districts and a campground within the Rural Residential District.*

Dear Ms. McKinney:

Please find the Lane County Hearings Official's decision affirming, with modifications, the Planning Director's approval of the Oregon Country Fair request (PA 15-05195) for a private park within the Rural Residential and Impacted Forest Lands Districts and a campground within the Rural Residential District.

Sincerely,

  
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Gary L. Darnielle  
Lane County Hearings Official

cc: Deanna Wright (file)



**LANE COUNTY HEARINGS OFFICIAL  
APPEAL OF AN ADMINISTRATIVE APPROVAL OF A REQUEST FOR A  
PRIVATE PARK WITHIN THE RURAL RESIDENTIAL AND IMPACTED  
FOREST LANDS DISTRICTS AND A CAMPGROUND WITHIN THE RURAL  
RESIDENTIAL DISTRICT**

**Application Summary**

On April 6, 2015, the Lane County Land Management Division received an application for a private park within the Rural Residential and Impacted Forest Lands districts and a campground within the Rural Residential district. The land use application was deemed complete on May 5, 2015. Staff received several timeline extensions from the applicant, in order for the applicant to submit supplemental information. On October 14, 2015, a supplemental packet was submitted by the applicant into the record with a Transportation Impact Analysis (TIA) and a letter addressing neighbor concerns and the proposed uses. The file was taken off hold (at the beginning of February 2016) by the applicant upon final comments received from Lane County Transportation Staff regarding the TIA. The Planning Director rendered a decision which tentatively approved the proposal with conditions of approval on May 18, 2016. A timely appeal was received May 31, 2016.

**Parties of Record**

Charlie Ruff, OCF	Bill Kloos	Thom Lanfear
Sean Malone	Robert Emmons	Sandra Larson
Rick Ingram	Brenda Hall	Paula & Roger Mauldin
Phil & Laurie Hufstader	Ellen Engholm	George & Charlett Trauger
Lauri Segel	Robert McCarthy	Tom Gannon
Kehr Gibson	Shane Harvey	Lee & Katharyn Klein
Dennis & Luann Kloehn	Jain Elliott	Shirley Gross
Deberah Escobosa	Ellen Engholm	Terry Ney, Lane Fire Authority
Sherrie Zimmerman	Heather Kent	Todd & Marie Dearing
Harold & Mary McVay	Andrew Strickland	Lee & Katharyn Klein

**Application History**

Hearing Date: September 15, 2016  
(Record Held Open Until October 20, 2016)

Decision Date: September 13, 2017

**Appeal Deadline**

An appeal must be filed within 12 days of the issuance this decision and final order, using the form provided by the Lane County Land Management Division. The appeal will be considered by the Lane County Board of Commissioners.

## **Statement of Criteria**

Lane County Rural Comprehensive Plan  
Lane Code 16.211(3)(c)  
Lane Code 16.290(4)(p) & (5)(c)

## **Findings of Fact**

1. The property subject to this application, hereinafter referred to as the “subject property,” can be identified as tax lots 1400, assessor’s map 17-06-25-30; tax lots 1801, 2900, 3200, 3203, 3300, 3401, 3402, and 3403, assessor's map 17-06-26; tax lots 100, 102, and 103, assessor's map 17-06-35. The subject property is owned by the Oregon County Fair (OCF) and has a site address as 24550 Chickadee Lane, Veneta, Oregon. Approximately 270 acres of land are associated with the proposed special use permit.

The OCF, a non-profit 501(c)(3) corporation, hosts an annual three-day art, crafts, education, and entertainment fair west of Veneta. The OCF has held the fair on this site every year since 1971. The annual Oregon Country Fair became a pre-existing nonconforming use in 1984 with the adoption of Lane County Rural Comprehensive Plan (non-conforming use verified under planning files 509-PA 85-01955 and re-verified by 509-PA 98-01674).

The annual 3-day Oregon Country Fair event experiences traffic issues created by the daily arrival of up to 18,000 paid attendees per day (52,000 persons for weekend) that are intensified by the activities of the private campgrounds along Suttle Road. The subject application does not request approval for any use of the property during the weekend of the Fair. A large volunteer effort is needed to establish and prepare the grounds of the Fair for the occurrence of the event. This traditionally begins in the 1<sup>st</sup> week of June with establishment of Main Camp to coordinate the activities of the volunteers on site. Prior to the 4<sup>th</sup> of July, approximately 250 – 300 persons stay on the site each weekend; less than 100 persons stay on site during the weekdays. After the 4<sup>th</sup> of July the numbers are increasing until the opening day of the event to the public that is held the weekend after the 4<sup>th</sup> of July. After the Fair, a relatively small number of volunteers (less than 100) are on site for 8 days to deconstruct the Fair facilities. Booth occupants depart from the site immediately after the public event and are allowed until the end of August to return to deconstruct their particular booth as necessary.

The Oregon County Fair (OCF) ownership extends for a distance of 2.4 miles bordered by Territorial Highway, Highway 126, and Suttle Road. It includes over one mile of frontage along the Long Tom River. The area proposed for the park use is limited to 270.5 acres. Portions of OCF land east of the Long Tom River and lands zoned Exclusive Farm Use on the western end of the ownership are

excluded from this proposal. Indian Creek and Long Tom River are designated as Class 1 streams in the Rural Comprehensive Plan. There will be no impacts to these bodies since no consumptive uses or discharge of water is associated with the proposed campgrounds or park uses. No grading is proposed for this project.

The subject property is within Lane Fire Authority Fire District. Access to the property is provided by Aero Road (public), Chickadee Lane (public), Suttle Road (County), Highway 126 (state) and Territorial Highway (state). Access onto state roads is not proposed for the requested campground and park. The address listed on the application for the subject property is 24550 Cihickadee Lane, Veneta, Oregon. The City of Veneta is located southeast, and the Rural Community of Elmira is located northeast of OCF ownership.

2. The Applicant proposes four areas in which various activities are intended to occur. Areas 1 through 3 are indicated on various maps by outlined blobs with the area number inside. It is understood that the activities proposed for these areas will occur within the designated blobs on the maps except that camping will occur in traditional OCF-designated campgrounds. The following is a summary of the activities that are proposed according to different regions on the subject property as described by the Applicant:

**Area 1** – Area 1 will occur on tax lot 1400, assessor's map Tax 17-06-25-30 and access to the site is provided by Aero Road and Chickadee Lane (currently public roads). This area is zoned Rural Residential (RR), and contains open woodland meadow bordered by booth structures utilized during the annual fair event. The OCF proposes to use the existing Main Stage area for small social gatherings of its members and guests of up to 500 persons in size for picnics, weddings, and memorials during the months of April through October weather permitting. These gatherings would occur a maximum of six times from April through October. The events would typically occur on a Saturday with participants arriving on Friday and departing on Sunday. Traffic associated with the use of this area would consist of a maximum of up to 350 vehicles (1.43 persons / vehicle<sup>1</sup>) with one-half (175) arriving on Friday scattered throughout the day and evening, the other half arriving on the Saturday of the gathering, and the same pattern repeated for exiting on Saturday night and throughout the day on Sunday. Any amplified music associated with the events will occur at a temporary stage area located in the same position as the annual event stage. Music will be limited to the hours of 3 pm to 10 pm. Camping would occur in areas used for camping during the annual Oregon Country Fair event, sanitation would be provided by portable toilets, and parking is proposed on tax lots 3200 and 3401 as stated in the application.

There are four dwellings on Rural Residential zoned properties within approximately 1,100 feet from the border of Area 1 using the GIS map measuring tool. These dwellings are near to and access off of Suttle Road. No objection

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<sup>1</sup> Estimate used by Access Engineering and accepted by Lane County Transportation Planning.

letters were received from this group of property owners and the owner of 24524 Suttle Road wrote in support of the application. A minimum 450 feet thick forest lies between these residential uses and Area 1.

**Area 2** – Area 2 consists of tax lot 1801, assessor's map 17-06-26. This area is zoned Rural Residential (RR), and consists of property developed with a residence, barn and a pole barn. Access to the site is provided by Aero Road and Chickadee Lane (public roads). The OCF proposes to utilize this area on Chickadee Lane year-round for day camps, retreats, and environmental education programs for a maximum of 100 persons. This proposal would include the week-long Culture Jam youth camp in the summer. The overnight youth camp includes camp activities with music and drum workshops lasting until 11:00 p.m. within the existing barn. Camping would occur in areas used for camping during the annual fair event, sanitation would be provided by portable toilets and parking is proposed on tax lot 3401, as stated in the application. No amplified music is associated with the use on Park Area 2 and no drumming will occur after dark. Park use of the property during the Culture Jam consists of nature walks, archaeology walks, group bike rides through the property, visit to the labyrinth, star gazing, frisbee, touch football, and hacky-sack. The City of Eugene Recreation Program is a partner with the Fair for the Culture Jam.

The Applicant has suggested that traffic associated with the use of this area would typically consist of a maximum of up to 34 vehicles (3 persons / vehicle). However, using the traffic control plan for the Teddy Bear Picnic is more in line with an estimate of 1.43 persons per vehicle or 70 vehicles for a 100-person event. In any event, the use of this area will not generate in excess of 50 vehicles during peak hours or at any time. Parking for the expected 70 vehicles is provided on tax lot 3401 immediately across Chickadee Lane.

There are five dwellings located within approximately 1,000 feet of Area 2. The resident of one of these dwellings wrote a letter of support and no letters of opposition were received. Three letters of concern were received from residents located within 1,500 feet of Area 2. Concerns raised were fire danger, security, and noise regarding SCOF Lot Camping area, impact on livestock and feed patterns, effect on wildlife in the F-2 zone, and noise management during music and drum workshop.

The Applicant has placed no limitation on the number of days when the park will be utilized so it is difficult to estimate the impacts on the surrounding properties. However, the Applicant's Traffic Impact Analysis (Table 8) calculated the AADT for the use of Aero Road to access Area 2 on the basis of 25, two-day, 100-person events per year. For purposes of this decision it will be assumed that the Applicant is requesting permission to use the park for 25 events annually.

**Area 3** –Area 3 consists of tax lots 100 and 103, assessor's map 17-06-35. This area is zoned Impacted Forest Lands (F-2), and consists of open fields bordered

by thick riparian forests within the Long Tom River watershed area. This area is located near the Highway 126 in the south-central portion of the property used for parking during the annual Fair event. The Applicant proposes to use the open areas for activities involving up to 1,000 persons from mid-July through October weather permitting.

Activities attended by 500-1,000 persons would be limited to day use only for a maximum of four times per year. Activities for up to 500 persons or less would be an additional four times per year (up to eight total events in Area 3) and may include camping for those events. The activities would typically last one day and include the Elmira County Fair Classic High School Track Meet and the Beaver Open Foot Bagging event. The activities would not include the use of any structures. Camping for activities involving less than 500 persons would be provided in the field at the south end of Bus Road. Sanitation would be provided by portable toilets and parking is proposed on-site via Aero Road and Suttle Road. The Applicant has warranted that prior to organized use of Area 3 for a gathering of up to 1,000 persons, the access road will be watered down to minimize dust.

Traffic associated with the use of this area for the larger gatherings of up to 1000 persons would consist of a maximum of up to 334 vehicles (3 persons / vehicle) arriving on the morning of the gathering and exiting in the evening. Traffic associated with the smaller activities of up to 500 persons that may include camping would consist of a maximum of 167 vehicles. They would typically arrive with one half (84) arriving on Friday scattered throughout the day and evening, the other half arriving on the Saturday morning of the gathering, with the same pattern repeated for exiting on Saturday night and throughout the day on Sunday. Adequate parking is available on site accessed by Aero Road and Suttle Road.

**Area 4**—Area 4 consists of tax lots 100 and 103, assessor's map 17-06-35; tax lot 1400, assessor's map 17-06-25-30; and tax lots 1801, 2900, 3200, 3203, 3300, 3401, 3402, & 3403, assessor's map 17-06-26. This area is mainly zoned Impacted Forest Lands (F-2) and a small part (tax lots 1801, 3200, 3401, 3402, 3403) is zoned Rural Residential (RR) zone and which will be used for camping. This area mainly consists of riparian forested areas and open fields. The OCF proposes to use this area year-round for day-use for nature associated activities involving up to 50 persons. The activities would include environmental studies, wildlife observation, wildflower walks, and habitat restoration. No camping is associated with these activities.

3. The subject property is surrounded by land zoned Exclusive Farm Use (E-40) to the east and west, Rural Residential zoned land to the north, and Impacted Forest Lands (F-2) Zone and Exclusive Farm Use (E-40) zoned land to the south. The nearby Residential zoned properties to the north contain residential uses and dwellings. The surrounding E-40 land to the west appears to be in some active

farm use and/or farm activities, or forested with residential uses and dwelling on the parcels. The surrounding forest land to the south appears to be mixed farm/forest uses with dwellings on the parcels.

The Exclusive Farm Use (E-40) zoned properties to the east are owned by City of Veneta and Oregon Country Fair. The property owned by Veneta appears to be partially covered by poplar cultivation in association with a City wastewater facility. This use is separated from these lands by the Long Tom River, riparian forested areas, and over 2,000 feet from the east edge of Area 3. Farm lands to the west of the subject property are used for pasture and hay production (Tax lots 103 and 104, assessor's map 17-06-34). There are several smaller parcels to the north along Suttle Rd and near the access of Bus Road that are used for limited horse grazing (Tax lots 3202, 3204, 3501, and 3502, assessor's map 17-06-26).

One neighbor, who resides at 24298 Suttle Road, testified that during the Oregon Country Fair event, *"feed patterns are disrupted due to the stress on the animals and the egg production from hens drops ..."* This property is zoned Rural Residential.

4. None of the proposed activities are open to the general public. No group is allowed to rent the property, open it up to the public, and charge a fee for their event. A usage fee is charged to the Beaver Open group. A participation fee is charged to the attendees of the youth camp. Any group of Fair members using the Main Stage area pay a small usage fee to cover costs of any cleanup and administration for the use of the property. The Fair does not charge any fee to the high schools for the track activity. The Barter Fair has not operated for three years. It was not open to the public and only provided trade space for Fair members who were charged a nominal fee to cover costs of administration and operations.
5. The Oregon Country Fair owns several water trucks. The trucks have available for fire suppression hoses and are positioned in close proximity to the activity areas during the use. These vehicles consist of one type six fire suppression rig (brush rig) equipped with a pump and 175 gallons of water, one type four 6-wheel drive vehicle equipped with a pump and 600 gallons of water, and a water tanker used for road watering. OCF will provide adequate signage indicating fire danger levels at each of the entrance points to the property. No individual campfires will be allowed in the Scof Lot camping area (RR zone campground) during the four proposed events with up to 500 people when camping is provided. OCF paid staff will be onsite in a supervisory role during the events.

The Lane Fire Authority has no objections to the proposal. In a letter dated October 9, 2015 the fire chief stated that the District has good knowledge of the OCF fire equipment through past inspections and it is adequate for onsite fire preparedness. The fire chief also stated the proposed activities will not



significantly increase the community fire hazard or increase risks to fire suppression personnel, nor will they significantly increase fire suppression costs.

The Applicant conducts a fireworks' display on July 4, the most recent one being in 2016. This last fireworks display was conducted with a permit (P16-L047) from the State Fire Marshall that approved the use of 144 candles, 104 500-gram cakes, and 36 fountains.

6. A portion of the roadways serving the proposed uses lie within the F-2 zone. The roads are gravel and are at least 16' wide with no grade over 16% extending from Suttle Road to Area 3. While the uses may have been occurring for some time on the property it is being reviewed as new use proposal therefore triggering the applicable siting standard requirements for a driveway. As such, as a condition of approval, the onsite roads within the F-2 zoned portions of the property must be constructed and verified to the minimum standards of LC 16.211(8)(e).
7. Large areas of the property are identified in the flood hazard area by Flood Insurance Rate Map 41039C1070F including some park uses in Areas 1 & 3. No filling grading or excavation is associated with this proposal. Any accessory structures needed for future storage of park supplies will occur in areas of the property located outside of the flood hazard area.
8. The subject property has frontage on Highway 126, Suttle Road, Aero Road, and Chickadee Lane. Access to the subject property is from all of the above listed roadways although the Applicant does not intend to be access the proposed use from Highway 126. Suttle Road is a Lane County road functionally classified as a rural Major Collector having a minimum right-of-way width of 80 feet for development setback purposes (LC 15.070(1)(c)(i)(ee)). Its average daily traffic (ADT) was 1,450 in 2004 according to the Lane County Roads Inventory (Appendix B to the Lane County Transportation System Plan). The inventory does not list its carrying capacity and its current ADT is unknown. Highway 126 is a State of Oregon road subject to the jurisdiction of the Oregon Department of Transportation (ODOT).

Aero Road and Chickadee Lane are both Local Access Roads (LARs) having a minimum right-of-way width of 50 feet for development setback purposes (Lane Code 15.070(1)(c)(ii)). Lane County does not maintain, but may regulate the use of Local Access Roads (Lane Code 15.010(35)(e)(v) & (vii)). Aero Road and Chickadee Lane do not meet several of the standards for Local Access Roads as found in Lane Code 15.706:

- (4) The minimum roadway width of 18' when serving four or more parcels,
- (7) The surface depths and structures of the roadway for four or more parcels are unknown, and
- (11) A minimum two-foot wide clear zone is required from the edge of the travel lane.

A traffic impact analysis (TIA) was performed by Access Engineering and dated November 25, 2015. This analysis was based upon Oregon Country Fair events. Some of the findings of the study (Section 10) are as follows:

- The 5-year crash study for Suttle Road shows that its crash rate is lower than similar state roads in Oregon and the intersection with Territorial Highway has a low crash frequency, although there have been three rear-end collisions northbound at the intersection in the past two years. Crashes at the intersection should continue to be monitored.
- Sight distance is excellent in both directions at the Aero Road intersection with Suttle Road and at the Suttle/Territorial intersection. The OCF will provide signing on Suttle Road for events.
- Traffic from all OCF events can be accommodated within both the ODOT and Lane County mobility standards at the study area intersections.
- For OCF events that attract 500 or more attendees, the expected queue for northbound Territorial Highway is four vehicles. After a 1000 person, the 95<sup>th</sup> percentile queue on eastbound Suttle Road at Territorial Highway will reach five vehicles.
- There are more than sufficient northbound left turns on Territorial Highway at Suttle Road to warrant a left-turn lane with or without OCF events. However, OCF events will increase the northbound left turns by two to three times the existing number during inbound traffic to events which could occur a maximum of 14 times a year.
- The proposed OCF events trips will add enough southbound right-turns on Territorial Highway at Suttle Road to exceed the volume criterion for a right-turn lane. Since the existing southbound lane has a wide radius compound, excellent sight distance, and a 35 MPH posted speed, a separate right-turn lane is not recommended since it would occur only a maximum of 14 times per year.
- The estimated annual average daily traffic (AADT) on Aero Road between Suttle Road and Chickadee Lane, taking into account all proposed park events at their maximum attendance and a vehicle occupancy of 1.43 persons per vehicle plus daily traffic, was found to be 62 vehicles per day. This AADT maintains Aero Road and Chickadee Lane as Local Access Roads per Lane Code 15.706.

Table 8 of the Applicant's TIA makes the following assumptions:

- Area 1 will have events with a maximum attendance of 500 persons 7 times per year and generating 4,900 vehicle trips.
- Area 2 will have events with a maximum attendance of 100 persons 25 times a year generating 3,500 vehicle trips.
- Area 3 will have 4 one-day events with a maximum attendance of 1,000 persons and 8-two day events of 500 persons, respectively, generating a total of 5,600 vehicle trips.
- Area 4 will have 25 one-day events of a maximum of 40 persons each for a total of 1,330 vehicle trips.

Suttle Road has an ADT of 1,450 vehicles<sup>2</sup> or 529,250 vehicle trips per year. The Applicant's proposal will add 15,330 vehicle trips to this total; creating an increase of less than three percent in the annual vehicle trips on Suttle Road. However, the Area 1 events could increase Suttle Road's ADT by 50 percent and one-day Area 3 events could double Suttle Road's ADT. It does not appear that either of these situations would change Suttle Road's Level of Service (LOS).

Recommendations by Access Engineering in the TIA are as follows:

1. The Oregon Country Fair should participate in the improvement of providing a northbound left-turn lane Territorial Road at Suttle Road. Ideally this improvement could be included in the Veneta-Elmira Multi-Use Pathway project currently in the ODOT 2018-2021STIP. The OCF's participation should be in proportion to the left turn AADT of the site's traffic compared to the total left turn AADT. An estimate of this proportion is found in Appendix G.
2. Aero Road and Chickadee Lane do not meet the standards for a Local Access Road per Lane Code 15.706. The recommended mitigation is to vacate both roads which will eliminate any liability for Lane County and allow the OCF to develop the roadways as Private Roads. If the County does not approve vacation, then it is recommended to bring Aero Road and Chickadee Lane up to County standards (to the east end of tax lot 3401).

Lane County Transportation planning staff has legitimate concerns regarding westbound traffic on Suttle Road encountering queued traffic waiting to turn left onto Aero Lane. In specific, they are concerned about sight distance and possible obscuring vegetation along the north side of Suttle Road. This issue can be addressed through a traffic control plan that requires appropriate signing and other traffic control measures. The Applicant's engineer prepared a Traffic Control Plan Addendum dated January 15, 2016 and based upon staff review, provided a

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<sup>2</sup> Lane County Roads Inventory, Appendix B of the Lane County Transportation System Plan (TSP) (2004)

second Traffic Control Plan Addendum dated January 27, 2016, revised February 2, 2016. This plan is proposed to be implemented for any event that anticipates an attendance for 250 people or more.

The November 25, 2015 Oregon Country Fair Events TIA was reviewed by ODOT's Region 2 Senior Transportation Analyst, Keith Blair, PE and is dated December 28, 2015. The review indicates that, "*The mitigation measures within this study may be expected to acceptably mitigate traffic effects of the proposed application. Additional work may be required to accompany approval requests for proposed mitigation measures (i.e. operational and queuing analysis, preliminary design layout, etc.)*." ODOT has acknowledged and accepted the proposed mitigation measure by the OCF to participate in a proportional share of providing a northbound left-turn lane improvement at the intersection of Territorial Highway and Suttle Road as being sufficient to mitigate the traffic effects of the proposed application.

9. In regard to services available to the proposed events, portable toilet facilities are utilized for all proposed activities in each area. There are 3 year-round units located in Area 2 which are serviced on a regular basis. With the exception of Culture Jam, no organized food preparation or shower facilities are associated with the other activities. The participants supply their own food supplies for the duration of the activity. The proposed use of Area 2 for staff retreats does not involve the preparation of meals except for the warming of foods in the existing residence kitchen as would typically be expected at a potluck.

The proposed use of the Main Stage area for gatherings does not include a request to use the sauna facility in conjunction with the gatherings. This system is operating under a valid permit issued by Lane County in 1989 and was inspected during the 2016 Fair and found to be operating in conformance with the approved permit.

Culture Jam meals have been prepared in prior years in an existing structure as a temporary kitchen. The proposed method is to bring in a temporary mobile kitchen trailer (See Applicant's Exhibit 33 to its October 13, 2016 submission). The showers used for the week-long camp have in the past been connected to the existing septic system of the residence on tax lot 1801 that was installed with Permit 1452-74. The system has been functioning adequately for the past 14 years of the event on site. However, the Applicant is also prepared to capture the shower water in a 3000-gallon bladder-type storage unit and dispose of the wastewater at the City of Veneta's Wastewater Facility. The annual attendance at Culture Jam is approximately 82 persons. Using the DEQ estimates for shower usage in OAR 340-071-0220 of 10 gallons per person per day the showers would generate 820 gallons of grey water per day or 5740 gallons per week. It is believed that the 10-gallon figure is too high and actual usage with the restricted flow devices in use on the showerheads is closer to 5 gallons per day. Either way,

the bladder unit would accommodate the proposed usage with a need to pump it empty only once during the week of camp.

10. On-site sound measurements have been taken to determine conformance with the Lane County noise requirements of Lane Code 5.615(1) and of the Oregon Department of Environmental Quality. A professional Acoustic Engineer, Art Noxon, conducted the study that involved the production of sound at the 3 stage locations<sup>3</sup> where amplified music is proposed. The sound generating devices, which emitted 85 dBA at 50 feet from the source, included two speakers, amplifier, console and player. Three testing sites were used for each location; each site at a different distance and orientation from the sound generating location. Two readings were taken at each site; one of the ambient background sound without the music and one with the music. Mr. Noxon's report, dated September 22, 2016, documents that the levels of sound in every instance did not exceed the daytime standard of 60 dB,A or even the nighttime standard of 50 dB,A at adjacent property boundaries. However, the sound level from a location of about 750 feet to the northeast of the main stage was right at the 50 dB,A nighttime threshold for LC 5.615(1)(a). Sound measurements from Miss Piggy's Lot and the Xavanadu Shade Structure indicate that the measured sound level was very close to the ambient (background) sound level at those locations. Sound measurements from the Main Stage, however, were generally about 10 dB,A above the ambient sound levels at those locations. Noise mitigation measures would have to be used if the Main Stage was used past 10:00 pm or when the sound generated at 50 feet from the state exceed 85 dB,A. No amplified noise producing activities are proposed for later than 10 pm.
11. Forest lands near the subject property are located across Highway 126 to the south. The highway and a railroad right-of-way form a combined buffer of 400 feet between the forest lands and the subject property.

Farm lands near the subject property are located to the east and west. Land to the east, tax lot 100, assessor's map 17-06-25 is owned by the City of Veneta and is used for poplar cultivation in association with the City's wastewater facility. The nearest activities proposed by the application are 1,500 feet from the cultivation activities and are separated by the Long Tom River. Pasture and hay production occur on tax lots 103 and 104, assessor's map 17-06-34, to the west. These tax lots are separated by a distance of  $\frac{3}{4}$  mile from all proposed activities except passive, nature-oriented uses.

Tax lots 3202, 3502, 3501 and 3204, assessor's map 17-06-26 are located between Suttle Road and the subject property. These parcels are zoned Rural Residential and are primarily used for horse grazing. The properties are located near the access of Bus Road, an access road that does not get much traffic. The road is lined with a vegetative buffer along the majority of its length.

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<sup>3</sup> Main stage, Miss Piggy's Lot, and Xavanadu Shade Structure.

12. Several opponents commented that their agricultural activities were adversely affected during the operation of the Oregon Country Fair. The Hufstaders commented that they put up several thousand tons of hay for livestock and that the traffic associated with the Fair slows down hay trailers and equipment that is necessary to get to their property. The Hufstaders are located on Evers Road, Elmira and their property is zoned RR-5. Evers Road is located west of Aero Road and enters Suttle Road from the north.

Sherrie Zimmerman lives on Evers Road and has to relocate her livestock to the rear of her property during the Fair. She notes that the traffic associated with the Fair makes the transport by trailer of livestock and feed prohibitive. Ms. Zimmerman's property is zoned RR-5.

Lee Klein lives on Evers Road and has commented that noise from the Fair has adversely affected his livestock in that his horses go off their feed and egg laying by chickens is negatively affected. Mr. Klein's property is zoned F-2.

### Decision

THE PLANNING DIRECTOR'S APPROVAL OF THE OREGON COUNTRY FAIR'S REQUEST (PA 15-05195) FOR PRIVATE PARKS WITHIN THE RURAL RESIDENTIAL AND IMPACTED FOREST LANDS DISTRICTS AND A CAMPGROUND WITHIN THE RURAL RESIDENTIAL DISTRICT IS AFFIRMED WITH MODIFICATIONS. The following are the conditions of approval:

1. **Approval of 509-PA15-05195 is valid for a two-year period** from the final date of approval. Lane County may grant an initial **extension period of 12 months if:**
  - a. **An applicant makes a written request with the required fee for an extension of the development approval period;**
  - b. **The request is submitted to the county prior to the expiration of the development approval period;**
  - c. **The applicant states reasons that prevented the applicant from beginning or continuing development within the approval period;**
  - d. **The county determines that the applicant was unable to begin or continue development during the approval period for reasons which the applicant was not responsible; and**
  - e. **The criteria and standards under which this proposal was granted have not changed.**

**Approval of an extension granted under this rule is an administrative decision, is not a land use decision as described in ORS 197.015 and is not subject to appeal as a land use decision.**

2. The private park and campground must be operated as indicated in the application materials and approved site plan. Any substantial deviation may require a modification of conditions as a Planning Director land use decision.
  - *The uses authorized by this special use permit may not occur until Aero Road and Chickadee Lane are improved to the standards outlined in Conditions of Approval #7 through #9, below.*
  - *The Applicant shall provide at least one weeks-notice on its website of any event under this special use permit that involves 100 to 500 participants (including off-site staff and vendors). The Applicant shall provide at least three weeks-notice on its website of any event under this special use permit that involves over 500 participants.*

The Park Area proposals include:

**PARK AREA 1** For gatherings of single-day events such as weddings, picnics, and memorials for a maximum of 500 persons six times between April to October. Music will be limited from 3:00 p.m to 10:00 p.m and will be subject to the constraints outlined in the September 22, 2016 noise survey report authored by Arthur Noxon to ensure compliance with Lane County noise regulations.<sup>4</sup>

**PARK AREA 2** For park and campground use year-round for day camps, retreats and environmental education programs for a maximum of 100 persons for up to 25 events per year.<sup>5</sup> Music and drum workshops (held in an existing barn) must cease by 11:00 pm. and must comply with Lane County noise regulations at the perimeter of property subject to this special use permit. Music conducted outside of the barn will be limited from 3:00 p.m to 10:00 p.m and will be subject to the constraints outlined in the September 22, 2016 noise survey report authored by Arthur Noxon to ensure compliance with Lane County noise regulations. No overnight temporary use in the same campground by a camper or camper's vehicle exceeding a total of 30 days during any consecutive 6-month period.

**PARK AREA 3** For park use activities. Activities attended by 500-1,000 persons must be limited to day use only maximum of four (4) times a year. Activities attended by 500 persons or less can be an additional four (4) times per year (up to eight maximum events) middle July to October. Camping for activities involving less than 500 persons to occur in Scot Lot Camping area at end of Bus Road.

*Area 3 is located on land zoned F-2 Impacted Forest Lands and therefore activities associated with this Area 3 must be primarily recreational or primarily dependent upon or associated with the forest/natural nature of the area. Purely social gatherings such as weddings, concerts, reunions, etc. are not authorized in this area.*

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<sup>4</sup> Lane Code 5.600 through 5.635

<sup>5</sup> This is based upon estimates used in the Applicant's Traffic Impact Study.

**PARK AREA 4** For park use nature associated activities year-round for day use involving a maximum of 50 persons. Activities such as: environmental studies, wildlife observation, wildflower walks, and habitat restoration. No camping is associated with these activities.

3. Complete, have notarized, and record a *Farm and Forest Management Agreement* with an attached exhibit depicting the legal description of the property (which must be recorded together with the Agreement at the Lane County Deeds and Records office). Record the documents at the Lane County Deeds and Records Office and return a copy of the recorded document to Lane County Planning.
4. On-site parking shall be maintained and continue to meet the standards in LC 16.250.
5. Construct the on-site access roads within the F-2 zoned portions of the property to the minimum road standards of LC 16.211(8)(e). The roads must be verified that they meet the construction requirements of Lane Code. Submit a Fuel Break Verification application to verify compliance with this condition depicting where the roads are located. As part of this application staff will verify that requirements of the driveway(s) are met during a field investigation.
6. The Traffic Control Plan provided in Figure 12 of the Traffic Control Plan Addendum dated January 27, 2016 and revised February 2, 2016, must be used for events when the attendance level is expected to meet or exceed 250 persons. Pursuant to Lane Code 15.205(1), implementation of the Traffic Control Plan will require a Lane County Facility Permit. Minor modifications to the Traffic Control Plan may be required as a part of the Facility Permit process based upon experience using the plan, the then current Manual of Uniform Traffic Control Devices (MUTCD) guidelines and/or based upon the current Oregon *Temporary Traffic Control Handbook For Operations of Three Days or Less*; as deemed necessary by OCF and/or Lane County staff and as approved by Lane County. The following must be included as part of the Traffic Control Plan:
  - All signs must be of the sizes indicated on the traffic control plan and must be made with orange retro-reflective background sheeting with black non-reflective permanent or removable legend and border. Sign materials shall meet the requirements of the current version of the Oregon Standard Specifications for Construction as published by ODOT. Approved sign materials can be found on ODOT's Qualified Products List (QPL).
  - Signs may be mounted on temporary sign supports meeting the current version of the Oregon Standard Specifications for Construction. Approved temporary sign supports can be found on ODOT's Qualified Products List (QPL). As an alternative, because of the frequency of events and to help



reduce traffic conflicts with set up and take down, signs may be permanently post mounted with flip-up and flip-down signs.

- Sign post materials for permanently post-mounted signs must meet the current version of the Oregon Standard Specifications for Construction.
  - Signs must be installed in accordance with the current version of the Oregon Standard Specifications for Construction and in accordance with MUTCD requirements. If permanent post mounted signs are installed, the sign installations must be inspected and approved by Lane County as part of the Facility Permit process. The applicant must maintain all signs in good condition and must continue to meet the current sign requirements of the applicable version of the MUTCD, the Oregon Standard Specifications for Road Construction, the Oregon Temporary Traffic Control Handbook for Operations of Three Days or Less, and/or Lane County requirements.
  - Sign spacing may be adjusted to fit field conditions, allow for proper visibility, and to avoid conflicts with existing signing.
  - Signs mounted on portable supports must have two orange-red or florescent orange flags mounted on top of the signs. Flags must be mounted so that the entire sign legend is visible.
7. Assuming Aero Road and Chickadee Lane are not vacated and remain Local Access Roads, Aero Road and Chickadee Lane must be constructed to meet the applicable requirements of LC 15.706. Improvements to Chickadee Lane can terminate at the east end of Tax Lot 3401 as no road traffic is proposed beyond that parcel except for service vehicles. The improvements include but are not limited to the following:
- LC 15.706(4), construct to a minimum roadway width of 18 feet.
  - LC 15.706(7), construct to a minimum surface structure including 10" of subsurface compacted gravel and 2" of driving surface either AC or gravel. If a gravel surface is used it must be kept in a dust-free condition at all times.
  - LC 15.706(11), construct a minimum 2-foot wide clear zone on each side of the roadway.
8. Unless Aero Road and/or Chickadee Lane are vacated, the portion of these roads which remain public roads must be free of obstructions to access including all gates within the public right-of-way. The Applicant must remove all gates within the public right-of-way on Aero Road and Chickadee Lane.
9. If Aero Road is vacated, the current section of Aero Road between Suttle Road and the existing intersection with Chickadee Lane must be improved and maintained to provide an 18-foot wide travel surface with a 2-foot clear zone on both sides of the roadway.

10. Pursuant to LC 15.205(1), a Facility Permit is required for placement of facilities and development within the right-of-way of a County Road. Facilities and development includes, but is not limited to, road improvements, sidewalks, new or reconstructed driveway or road approach intersections, utility placements, excavation, clearing, grading, culvert placement or replacement, storm water facilities, or any other facility, thing, or appurtenance.

A Facility Permit is required for installation of post mounted flip-up / flip-down signing if installed as part of the approved Traffic Control Plan.

A separate annual "Special Events Facility Permit" is required, for OCF events attended by 250 or more persons, in order to implement the Traffic Control Plan provided in Figure 12 and as a means of providing Lane County with planned event dates. The Applicant must coordinate with Lane County facility permitting staff to work out the details of the Special Events Facility Permit, including a minimum 4-week notice for any changes to the annual events schedule.

Contact 541-682-6902 or visit

<http://www.lanecounty.org/Departments/PW/Engr/RightofWay/Pages/rowpermits.aspx> regarding facility permits.

11. If Aero Road and Chickadee Lane are vacated, both roads should be widened, Aero Road to the south and Chickadee Lane to the east. Widening should be similar to that required if both roads were to remain Local Access Roads.
12. During inbound event traffic confusion should be avoided at the intersection of Aero Road and Chickadee Lane in order to assure that traffic does not queue on Aero Road and ultimately onto Suttle Road. Positive guidance should be provided to all inbound traffic to assure that traffic is not queued from Aero Road to Suttle Road.
13. Building permits must be obtained for the change in use of the structures (Barn and Pole Building in Area 2) in accordance with Oregon Structural Specialty Code section 111. No change in use shall occur until a new certificate of occupancy has been issued.
14. Water used on-site for events shall be transported to the subject property. Gray water from showers shall be trapped in bladders and removed from the subject property. Gray water from food preparation shall have gray water collection tanks that shall be emptied at proper facilities off of the subject property. Each event shall have a minimum of one portable toilet per 100 people.<sup>6</sup>

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<sup>6</sup> Taken from Table 1 of Lane Code 3.995(12)(b)(iv)(dd) for number of required toilets at an outdoor assembly.

15. The Oregon Country Fair (OCF) shall participate in a proportional share of providing a northbound left-turn lane improvement at the intersection of Territorial Highway and Suttle Road at such time as such improvements are made. The OCF's proportional share must be in proportion to the left turn Average Annual Daily Traffic (AADT) of the site's traffic compared to the total left turn AADT.
16. Oregon Country Fair (OCF) staff shall prevent event traffic from queuing onto Suttle Road. If inbound traffic queues onto Suttle Road, the OCF must mitigate the queuing issue by making whatever internal improvements are necessary to resolve the queuing issue.
17. The Applicant shall provide adequate signage indicating fire danger levels at each of the entrance points to the property. No individual campfires will be allowed in the Scof Lot camping area (RR zoned campground) during the four proposed events with up to 500 people when camping is provided. OCF paid staff will be onsite in a supervisory role during the events.
18. **After** the appeal period has expired, **and** after the conditions of approval are satisfied and the application has gained final approval, the Applicant may conduct the uses in the Special Use Permit. (See especially the first paragraph of Condition of Approval #2, above.)
19. This special use permit is subject to a one-year review period, beginning the day this permit becomes final. If, during this period, the Planning Director receives a complaint or complaints that the conditions of this permit have been violated or a use not allowed under the zoning of the property subject to this permit has been allowed, and the complaint or complaints have been reasonably verified by the Planning Director, an evidentiary review hearing shall be scheduled before the Hearings Official. The Hearings Official may dismiss all or some of the complaints and may modify or revoke all or portions of the special use permit as appropriate.

### **Justification for the Decision**

The Appellants have argued that the requested special use permit is an impermissible attempt to expand an existing nonconforming use. I would agree with the Appellants in the sense that the special use permit may legitimize a number of activities that occur on the Applicant's property and which arguably are beyond the scope of the 1988 reversion of the Oregon Country Fair. However, I am not aware of any language in ORS 215.130 or in the Lane Code that prohibits the County from bringing a nonconforming use or an illegal expansion of a nonconforming use into compliance with applicable zoning regulations.<sup>7</sup>

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<sup>7</sup> *Huff v. Clackamas County*, 40 Or LUBA 264, 273 (2001).

The verification of the Oregon Country Fair was subject to the provisions of ORS 215.130 and Lane Code 16.251(1). These criteria are entirely different from the special use criteria found in Lane Code 16.290(4)(p) & (5)(c) and 16.211(3)(c). The main reason that certain activities associated with the Oregon Country Fair are nonconforming is that under current zoning they require a special use permit or are not allowed under existing zoning. This application attempts to solve the former situation.

While a special use permit may legitimize uses that might not be authorized under an existing and verified non-conforming use<sup>8</sup>, it may not legitimize uses that are not allowed in a particular zoning district. Opponents, pointing to activities associated with but not part of the Oregon Country Fair, such as the alleged use of Area 4 for camping, are concerned that the requested special use permit will legitimize those activities. This decision does not treat these concerns lightly and attempts to clearly define the uses approved under this special use permit. Activities which are not allowed in a particular zoning district and which occur after this special use permit becomes final will jeopardize the validity of the permit within the Area in which it occurs and possibly the entire special use permit. The conditions of approval contain a one-year review provision which may be invoked through the receipt of evidence of permit or zoning violations that occur within the property subject to this permit. Reasonably documented complaints regarding violations will result in a review hearing, which may result in the modification or revocation of a portion of or the entire permit.

### **Private Park in a Rural Residential District**

Areas 1 and 2 are zoned Rural Residential. Lane Code 16.290(4)(p) allows parks, playgrounds and community centers as discretionary uses in the Rural Residential zone and the Applicant proposes to utilize Area 1 (tax lot 1400) and Area 2 (tax lot 1800) as private parks. Area 1 is proposed to be used for weddings, picnics, etc. with maximum of 500 persons per event, from April to October at six times/year. Music would be limited from 3:00 p.m. to 10:00 p.m. Uses in Area 1 are over 3,000 feet from the nearest property owner.

Area 2 is proposed to be used as a year-round private park that would host such activities as day camps, retreats and environmental education programs for a maximum of 100 persons. Music and drum workshops must end at 11:00 p.m.

The first issue concerns the definition of private park. LUBA has opined that the term "private" relates to the ownership of the park not the status of the park users.<sup>9</sup> The second issue concerns the definition of a park. While the Lane Code does not define "park," Lane Code 16.090 provides that where terms are not defined they shall have their ordinary accepted meanings within the context with which they are used and that Webster's Third New International Dictionary of the English Language, Unabridged,

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<sup>8</sup> See, for example, *Ooten v. Clackamas County*, 70 Or LUBA 338 (2014).

<sup>9</sup> *Central Oregon Landwatch v. Deschutes County*, 72 Or LUBA 61 (2015)

Copyright 1981, Principal Copyright 1961, shall be considered as providing ordinary accepted meanings. Webster's defines a park, in part, as the following:

“\*\*\* a tract of land maintained by a city or town as a place of beauty or of public recreation \*\*\* a large area often of forested land reserved from settlement and maintained in its natural state for public use (as by campers or hunters) or as a wildlife refuge \*\*\* a large enclosed area used for sports; *esp*: ball park.”<sup>10</sup>

It was this edition of Webster's Dictionary relied upon by LUBA in its decision in *Utsey v. Coos County*,<sup>11</sup> where the issue concerned a park for off-road vehicles on land zoned for exclusive farm use, and in its decision in *Spiering v. Yamhill County*,<sup>12</sup> where the issue concerned a paintball game park on land zoned for exclusive farm use. In both cases, LUBA opined that the definition of a “park” included a tract of land set aside for public recreational use. However, it must be understood that these decisions did not address other non-recreational uses that might be allowed within a park nor did they provide much guidance regarding allowable park uses on non-resource land.

In the present case, the proposed parks are in areas zoned for rural residential use, which implies fewer restrictions than might be found in parks located on EFU or forest lands. The National Recreation and Park Association, in its publication “Why Parks and Recreation are Essential Public Services,” notes that parks and recreational programs generate “*significant indirect revenues to local and regional economies from sports tournaments and special events such as arts, music, and holiday festivals.*” Individuals familiar with Eugene's Alton Baker Park, for instance, know that this facility hosts such activities as music concerts, commercial ventures (Art in the Vineyard Festival), and a wide variety of other activities that are not strictly recreational. By the same token, weddings, reunions and similar events are allowed in Lane County parks. For instance, the Mount Pisgah Arboretum is available for wedding ceremonies and other gatherings. Wedding ceremonies are also conducted at Eugene's Owen Rose Garden and Springfield's Dorris Ranch parks. This information only reinforces the conclusion that park usage can become more intense if the park is not located on land zoned for resource use.

I believe that there is an implied difference between public and private parks. Local governments allow commercial activities to occur in their parks but as a service to the public when open space is needed for an event or activity. The government does not normally operate the park as a commercial enterprise as the park is usually zoned for recreational or public use. A private park, however, may also host commercial activities but only for the occasional benefit of their members. I do not believe that a private park can be used in a primary way for a particular commercial enterprise. Thus, while Area 1 would be available for weddings of members of the Oregon Country Fair and their

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<sup>10</sup> Webster's Third New International Dictionary, pg 1642 (unabridged ed 1981).

<sup>11</sup> 38 Or LUBA 516 (2000)

<sup>12</sup> 25 Or LUBA 695 (1993)

guests, the Applicant could not utilize the park to operate a commercial wedding venture that was offered to the public.

In summary, I do not believe that a private park within the Rural Residential District is as limited as a park located on resource land. Reunions, weddings, and similar non-recreational uses should be allowed. The same cannot be said for private parks on resource land. Parks on land zoned for resource use or protection, such as the F-2 Impacted Forest Lands Zone, must be limited to a recreational, open space or a use that requires a natural forested setting.

The following is an analysis of the proposal based upon the applicable approval criteria:

**LC 16.290(4)(p) Allows “parks, playgrounds, community centers” subject to Planning Director approval.**

***LC 16.290(5) Uses and development in LC 16.290(4)(a) through (s) and (u) above, except for telecommunication facilities allowed in LC 16.290(4)(d) above, shall comply with the requirements in LC 16.290(5) below.***

***(a) Shall not create significant adverse impacts on existing uses on adjacent and nearby lands or on uses permitted by the zoning of adjacent or nearby undeveloped lands;***

Issues raised include concern over fire danger, water availability, water pollution, noise and traffic conflicts. These issues will be addressed separately according to the individual areas identified by the Applicant and the uses that are proposed in those areas.

Adjacent and nearby lands include farm lands to the east, which consist of land owned and used by the City of Veneta for wastewater disposal and treatment, and farm lands to the west, which occur on tax lots 103 and 104, assessor’s map 17-06-35, that consist of pasture and hay cultivation. Forest land exists to the south, across Highway 126 and a railroad right-of-way. Residential uses occur along the north and south sides of Suttle Road with many of these parcels having light agricultural activities such as the raising of chickens, cows or horses.

### **Area 1**

The Applicant proposes to use the Main Stage area for social gatherings of up to 500 persons for a maximum of six (6) times per year. The events would typically last three days with participants arriving on Friday and leaving on Sunday. These events would occur April through October and would consist of weddings, picnics, memorials, and other social gatherings. Assuming a maximum attendance

of 500 people, it is estimated that the events would generate about 350 cars,<sup>13</sup> with half arriving on Friday and another half arriving for the event on Saturday. For purposes of this analysis, it is assumed that Area 1 would not be utilized for any other events outside of its normal use in regard to the conduct of the Oregon Country Fair.

Fire Danger: The Applicant owns several fire trucks, has adequate on-site fire preparedness, and has worked well with the Lane Fire Authority during the Oregon Country Fair; a much more intense and populated event. As a condition of approval, each event will require the presence of one or more of the fire trucks, depending upon the recommendation of the Lane Fire Authority, and signage indicating fire danger will be placed at the entrance of Area 1 and where camping occurs. The Applicant will provide the Lane Fire Authority with at least two weeks-notice prior to any event and will solicit the Fire Authority's input regarding necessary fire prevention actions for each event. Camping will occur in the Scof Lot camping area. No campfires will be allowed in the camping area and the Applicant will have paid staff providing on-site supervisory role during the events.

Water Availability: Bottled water will be used in all events and no events will entail the use of shower facilities.

Water Pollution: Portable toilet facilities are utilized for all events.

Noise: Sound measurements indicate that as long as musical events at the Main Stage end at 10:00 and are not louder than 84 dB,A at 50 feet from the sound source, DEQ and Lane County noise standards will be met. However, the sound will be 10 dB,A more intense than ambient at property lines 750 feet to the northeast and 750 feet to the north. The difference of 10 dB,A is perceived as being twice as loud as the ambient sound level. Nevertheless, a 50 dB,A level is within the loudness range of a normal conversation. These conditions have been included in the conditions of approval.

Traffic Conflicts: Access to Area 1 is at the intersections of Territorial Highway and Suttle Road and Suttle Road and Aero Road. Sight distance is excellent in both directions at both intersections. The need for a northbound left-turn lane on Territorial Highway at Suttle Road exists without the events proposed by the Applicant and the Applicant's participation in the improvement at this intersection has been made a condition of approval.

Traffic from the use of Area 1 will impact neighbors who live along Suttle Road or who rely upon Suttle Road to reach Veneta and/or the Eugene-Springfield

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<sup>13</sup> Assuming 1.43 persons per car; a figure used by Lane County Transportation Planning and Access Engineering LLC and is consistent with the TIA's estimate of the number of cars for the 500-person Teddy Bear Picnic event.

metropolitan area. During the three-day operation of the Oregon Country Fair, some residents are forced to travel west on Suttle Road and then to travel east on Highway 126 to access those destinations. It is doubtful that the six events in Area 1, which will generate 350 vehicle trips on one day (Sunday), will adversely impact surrounding neighbors since this amount of traffic represents a small fraction of the traffic generated during the Oregon Country Fair although it does represent a 24 percent increase in the average daily traffic on Suttle Road. This increase will not degrade the level of service for Suttle Road.

Conclusion: The use of Area 1 as proposed by the Applicant will not create significant adverse impacts on the surrounding uses.

## Area 2

The OCF proposes to utilize this area on Chickadee Lane year-round for 25 day camps, retreats, and environmental education programs for a maximum of 100 persons. As with Area 1, relevant issues include concern over fire danger, water availability, water pollution, noise and traffic conflicts.

### Fire Danger

It is clear from the record that the Applicant has adequate equipment and training to provide the necessary protection during scheduled events. Thus, larger events such as the week-long Culture Jam youth camp in the summer will be expected to require the presence of the firefighting equipment, review by the Fire District, and trained supervisors. However, the Applicant has stated that park use of Area 2 can occur at all times during the year with the only proviso that the activities consist of 100 persons or less. However, the Applicant's Traffic Impact Study relied on a figure of 25 events per year to calculate the AADT of the area and this number will be considered as the maximum number of annual events. Included in this number is other joint activities with the Eugene Parks Department besides Culture Jam.

Water Availability: Bottled water will be used in all events and no events will entail the use of shower facilities.

Water Pollution: Portable toilet facilities are utilized for all events and, as a condition of approval, will have to be available for all use of Area 2.

Noise: It is not clear whether any musical events will be scheduled in Area 2 except for the drumming during Culture jam. However, conformity with Lane County noise regulations is included in the conditions of approval.

Traffic Conflicts: Access to Area 2 is the same as to Area 1; from the intersections of Territorial Highway and Suttle Road and the at the intersection of Suttle Road and Aero Road. Sight distance is excellent in both directions at both



intersections. The need for a northbound left-turn lane on Territorial Highway at Suttle Road exists without the events proposed by the Applicant and the Applicant's participation in the improvement at this intersection has been made a condition of approval.

It is not clear whether the Applicant intends to allow Area 2 to be used for multiple events on a single day. For purposes of this decision it is assumed not. It is also assumed that events will not be scheduled in Area 2 when events are being held in Area 3. While the use of Area 2 will increase of traffic on Suttle Road, it will be nothing compared to the traffic during the Fair and the Transportation Impact Study indicates that the existing road infrastructure can handle 100-person events without a degradation of LOS.

Conclusion: The use of Area 2 as proposed by the Applicant will not create significant adverse impacts on the surrounding uses.

- (b) ***Where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby lands;***

The major impact on adjacent and nearby lands is from traffic. Conditions of Approval #6 through #12 address traffic impacts from the proposed uses.

- (c) ***The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available; and***

Water used for drinking and cooking will be brought to the area for each event. Portable toilets will be used. Therefore, it can be concluded that the carrying capacity of the soils and existing water supply will not be exceeded. No sewer service exists on the subject property.

- (d) ***The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.***

There will be no consumptive use or discharge of water associated with the campgrounds or park uses and therefore no impact to the two Class I streams, Indian Creek and the Long Tom River, will occur.

In summary, the use of Areas 1 and 2 as private parks, as conditioned, are consistent with the approval criteria of Lane Code 16.290(4)(p) and (5).

### **Campgrounds in a Rural Residential District**

The Applicant proposes campground use in Area 2 (tax lots 1801, 3403, 3401, 3402, and 3200). The campgrounds will be used year-round for day camps and retreats with a maximum of 100 persons. The camping, as proposed, is limited to persons associated with the park uses of Areas 1, 2 and 3 including a week-long Culture Jam youth camp in Area 2 that includes music and drum workshops lasting until 11:00 p.m. within an existing barn. Camping would occur in areas used for camping during the annual fair event sanitation would be provided by portable toilets and parking is proposed on tax lot 3401.

The following are the relevant approval standards associated with campgrounds within a Rural Residential District:

*LC 16.290(4)(k) Allows "campgrounds and camping vehicle parks" subject to Planning Director approval. A "campground" is an area designed for short-term recreational purposes and where facilities, except commercial activities such as grocery stores and laundromats, are provided to accommodate that use. Space for tents, campers, recreational vehicles and motor homes are allowed and permanent open-air shelters (Adirondacks) may be provided on the site by the owner of the development. A "camping vehicle park" is a development designed primarily for transient service on which travel trailers, pickup campers, tent trailers and self-propelled motorized vehicles are parked and used for the purpose of supplying to the public a temporary location while traveling, vacationing or recreating." Campgrounds and camping vehicle parks:*

- (i) Shall be located at least:
  - (aa) 10 miles from the urban growth boundary of any city adjacent to Interstate Highway 5, or*
  - (bb) 3 miles from any other urban growth boundary unless they are contiguous to or located on lands with an accessible park or other outdoor amenity; and**

The proposal states that the campgrounds will be accessible to the parks approved for Areas 1, 2, 3 and 4. The campgrounds are contiguous to parking which is associated with Areas 2 and 3, both of which are designated as a private park.

- (ii) Shall not allow overnight temporary use in the same campground by a camper or camper's vehicle exceeding a total of 30 days during any consecutive 6-month period; and*

The application states no overnight camping in excess of 30 days total during any six-month period is proposed. This requirement has been made a condition of approval.

- (iii) ***Shall not exceed the carrying capacity of the soil or existing water supply resources or result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.***

Campers will be provided with an adequate number of portable bathroom facilities during the camping periods. Bottled water will be provided to the campgrounds and no consumptive use or discharge of water is associated with the proposed campgrounds. Because there is no consumptive use or discharge of water associated with the campgrounds there will be no impact to the two Class I streams, Indian Creek and the Long Tom River.

***LC 16.290(5) Uses and development in LC 16.290(4)(a) through (s) and (u) above, except for telecommunication facilities allowed in LC 16.290(4)(d) above, shall comply with the requirements in LC 16.290(5) below.***

- (b) ***Shall not create significant adverse impacts on existing uses on adjacent and nearby lands or on uses permitted by the zoning of adjacent or nearby undeveloped lands;***

Adjacent and nearby land in proximity to the proposed park and campgrounds in Area 1 and Area 2 consist primarily of Rural Residentially zoned parcels adjacent to Suttle Rd. There are no nearby undeveloped lands except those in common ownership with the Oregon Country Fair. All the existing nearby lands to the south of the RR-zoned land is owned by the Applicant. Concerns voiced by opponents include traffic, dust, noise, fire hazard, trespass/vandalism, and pollution.

Staff and the Applicant have suggested that it is reasonable to define “nearby lands” as properties within 1,500 feet of the proposed campgrounds. This assumption is probably valid for issues such as dust, noise, fire hazard (including fireworks), vandalism, and trespass. It do not believe that the assumption is valid for issues relating to traffic. By definition, use of the campgrounds will generate traffic that will use Suttle Road, and especially affect those properties that border or take access off of Suttle Road, such as Evers Road, and those properties between Bus Road and Territorial Highway.

#### Traffic

Camping associated with the activities in Area 3 will occur on residentially-zoned land, primarily on tax lot 3200 at the end of Bus Road. Parking is located immediately to the south of this area. Traffic impacts associated with the activities in Area 3 are subject to this standard. It is estimated that, at a maximum, these (4) events would generate 2,800 additional vehicle trips or 350 vehicles per event. As discussed above, sight distance along Suttle Road is good and conflicts are addressed by the Applicant’s Traffic Control Plan. Traffic during the proposed events would be substantially less than is experienced during the Oregon Country

Fair event and does not appear to decrease the level of service on Suttle Road. Improvements to Aero Road and Chickadee Lane are required by this decision. Based on the foregoing, I do not believe that traffic generated by park use in Area 3 will create significant adverse impacts on existing uses on adjacent and nearby lands or on uses permitted by the zoning of adjacent or nearby undeveloped lands.

Dust:

Camping occurs in open field areas and use of these areas will not generate dust. Camping areas are accessed by Bus Road (tax lot 3200), Aero Road/Chickadee Lane (tax lots 1801, 3401, 3402 and 3403). These roads must either be paved or, if graveled, must be kept in a dust-free condition at all times.

Noise

No amplified music is proposed for the camping areas and the Applicant has warranted that events will be monitored by staff, including security personnel.

Fire hazard

The Applicant has adequate equipment and training to provide the necessary protection during scheduled events and the property is located within the Lane Fire Authority. (See discussion above.) In addition, camping will be supervised by the Applicant's staff who will enforce smoking and other activities that might create a fire hazard.

Vandalism/Trespass

The camping areas are completely surrounded by property controlled by the Applicant. The reports of vandalism contained in this record concern incidents associated with the Fair event and occur off of Fair property. As indicated above, camping will be supervised and the opportunity, let alone the likelihood, of trespass and related vandalism from the campground appears negligible.

Pollution

Portable toilets will be provided for all camping events and gray water from showers and cooking will be contained and transported off-site. No other potential aspects related to pollution of the land, groundwater or surface waters has been noted.

- (b) *Where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby lands;*

Conditions of Approval #6 through #12 address traffic impacts from the proposed uses.

- (c) *The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available; and*

The Applicant has warranted that only water delivered to the events will be utilized and that portable toilets will be used. Opponents have questioned the disposal of gray water from shower facilities and cooking. Shower water will be collected in bladders and removed from the site and food preparation will be through temporary, mobile kitchens where gray water will also be transported off-site.

- (d) *The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

There will be no consumptive use or discharge of water associated with the campgrounds or park uses and therefore no impact to the two Class I streams, Indian Creek and the Long Tom River, will occur.

#### **Private Park in an Impacted Forest Lands District**

The Applicant proposes to use Areas 3 and 4 as private parks. Area 3 is proposed to host activities involving up to 1,000 people from mid-July through October, four times a year. One of these events is the Elmira Country Fair Classic High School track meet. Activities of 500 or fewer would be limited to day use four times a year. Activities of up to 500 may include camping but the camping will occur in Area 2. In addition, Area 4 is proposed to be utilized on a year-round basis for nature-associated events involving up to 50 persons.

As noted above, case law strongly suggests that park uses on lands zoned for resource use are quite restrictive and must be more closely tied to a recreational use or a use that is closely related to the natural environment of the park. For this reason, cross-country meets, the Beaver Open Foot Bagging event, and day camps in Area 3 are appropriate but music concerts, weddings, reunions, and similar events are not. The nature-associated events proposed for Area 4 are consistent with a park located on F-2 zoned land.

The record reflects that a Barter Fair is held the Monday after the end of the Oregon Country Fair. This is a commercial event where vendors are charged fees to participate.

In the past, Barter Fair has been held in the Dragon Plaza, which is located in Area 3. It is proposed that it be relocated to Pyrates Cove. As a commercial event, I do not believe that the Barter Fair can be located in either Area 3 or 4. If Pyrates Cove is located in Areas 1 or 2 it could be held there. The location of Barter Fair on F-2 zoned land would be a violation of this special use permit.

***LC 16.211(3)(c) Allows private parks and campgrounds that comply with the following:***

- (i) Except on a lot or parcel contiguous to a lake or reservoir, campgrounds shall not be allowed within three miles of an urban growth boundary unless an exception is approved pursuant to ORS 197.732 and OAR 660, division 4;***
- (ii) A campground is an area devoted to overnight temporary use for vacation, recreational or emergency purposes, but not for residential purposes and is established on a site or is contiguous to lands with a park or other outdoor natural amenity that is accessible for recreational use by the occupants of the campground;***
- (iii) A campground shall be designed and integrated into the rural agricultural and forest environment in a manner that protects the natural amenities of the site and provides buffers of existing native trees and vegetation or other natural features between campsites;***
- (iv) Campsites may be occupied by a tent, travel trailer, yurt or recreational vehicle. A 'yurt' means a round, domed shelter of cloth or canvas on a collapsible frame with no plumbing, sewage disposal hook-up or internal cooking appliance. The yurt shall be located on the ground or on a wood floor with no permanent foundation. No more than one-third or a maximum of 10 campsites, whichever is smaller, may include a yurt;***

The Applicant does not propose to use any of the F-2 zoned property within Areas 3 and 4 for campground use. Campground use associated with the park use of these areas will occur on residentially zoned property.

***Lane Code 16.211(3) provides that: "... A use in LC 16.211(3)(a) through (s), (z) and (a-a) through (g-g) below may be allowed if it will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands and excluding LC 16.211(3)(f-f) below if it will not significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel."***

The subject property is surrounded by land zoned Exclusive Farm Use (E-40) to the east and west, Rural Residential zoned land to the north, and Impacted Forest Lands (F-2) Zone and Exclusive Farm Use (E-40) zoned land to the south. The nearby Residential

zoned properties to the north contain residential uses and dwellings. The surrounding E-40 land to the west appears to be in some active farm use and/or farm activities, or forested with residential uses and dwelling on the parcels. The surrounding forest land to the south appears to be mixed farm/forest uses with dwellings on the parcels.

The forest lands to the south of the property are limited by the intervening State Highway and railroad with a combined right-of-way width approximately 400' in width. Because the proposed use does not use access to the subject property via Highway 126 it is unlikely that proposed uses can force a significant change in or significantly increase the cost of accepted forest practices on these lands. Nor is it likely that the proposed uses will significantly increase fire hazard or significantly increase fire suppression costs or significantly increase risks to fire suppression personnel if conditions of approval regarding to fire prevention and suppression are observed.

The Exclusive Farm Use (E-40) zoned properties to the east are owned by City of Veneta and Oregon Country Fair. The property owned by the City of Veneta appears to be partially covered by poplar cultivation in association with a City wastewater facility. This use is separated from these lands by the Long Tom River, riparian forested areas, and over 2,000' from the east edge of Area 3. Farm lands to the west of the subject property are used for pasture and hay production (Tax lots 103 and 104, Assessor's Map 17-06-34). There are several smaller parcels to the north along Suttle Road and near the access of Bus Road which are used for limited horse grazing (Tax lots 3202, 3204, 3501, and 3502, Assessor's Map 17-06-26).

Three residents of Evers Road have commented that traffic during the Fair has caused them to alter some of their agricultural activities, primarily in terms of transporting hay, animals or equipment by trailer during this event. Two of these residents are located on land zoned rural residential and are not protected by this standard. The other resident, is located on F-2 zoned land and has complained about noise from the Fair event adversely affecting his livestock. Dennis & Luann Kloehn, who live on Suttle Road), note that their animals are stressed during the Fair event and the egg production of their hens is affected. None of the information provided enables the Hearings Official to assess whether the noise forced a significant change in his farming practices or significantly increased the cost of these practices. Also, it is evident that none of the activities proposed by the Applicant, in isolation, has near the intensity (number of vehicles generated) as the three-day Fair. Without more evidence, it is impossible to confirm that the traffic generated by a 500-person or 1,000-person event on Area 3 would adversely affect this individual's livestock and to what degree.

In terms of fire hazard, the Applicant attests that the proposal for the open areas in the F-2 zone do not involve any increase in fire hazard. Fire hazard is mitigated by the use of several water trucks owned by the Oregon Country Fair. The trucks have available for fire suppression hoses and are positioned in close proximity to the activity areas during the use. These vehicles consist of one type-six fire suppression rig (brush rig) equipped with a pump and 175 gallons of water, one type-four 6-wheel drive vehicle equipped with a pump and 600 gallons of water, and a water tanker used for road watering.

The proposal has been reviewed by the Lane Fire Authority. The Authority's Fire Chief has worked with the Oregon Country Fair staff, is familiar with its fire equipment, and has concluded that the proposed uses in Areas 3 and 4 will not significantly increase the community fire hazard or fire suppression costs or increase risks to fire suppression personnel.

Finally, as a condition of approval, the Applicant shall provide adequate signage indicating fire danger levels at each of the entrance points to the property. No individual campfires will be allowed in the Scof Lot camping area (RR zoned campground) during the four proposed events with up to 500 people when camping is provided. OCF paid staff will be onsite in a supervisory role during the events.

A conclusion that the proposed park use of Areas 3 and 4 will not force a significant change in, or significantly increase the cost of, accepted farming or forest practices on agriculture or forest lands is supported by a preponderance of the evidence in the record. It can also be concluded by a preponderance of evidence that the park use will significantly increase fire hazard or significantly increase fire suppression costs.

***Lane Code 16.211 (8) Siting Standards for Dwellings, Structures and Other Uses. The following siting standards shall apply to all new dwellings, manufactured dwellings and structures, and other uses as specified above in LC 16.211(2)(h) and (j), and in LC 16.211(3) through (7) above. These standards are designed to make such uses compatible with forest operations and agriculture, to minimize wildfire hazards and risks and to conserve values found on forest lands. The standards in LC 16.211(8)(a)-through(b) below shall be weighed together with the requirements in LC 16.211(8)(c) and (e) below to identify the building site.***

The siting standards of Lane Code 16.211(8)(a), (c), and (d) are not applicable as no new structures are proposed.

***(b) The amount of forest lands used to site access roads, service corridors and structures shall be minimized.***

The proposed activities are located within existing open fields on the subject property (Areas 3 and 4). These areas are already served by existing roads and no new roads are proposed.

***(e) Fire Safety Design Standards for Roads and Driveways.***

This section of the Code requires objective evidence regarding fire-fighting equipment, the physical nature of access routes, and information regarding proposed improvements to access routes. It also provides standards for turnarounds, bridges and culverts, road and driveway grades, and vehicle passage turnouts.



The record contains information about the Applicant's fire-fighting equipment and assurances of the applicable fire district (Lane Fire Authority) that this equipment is adequate. There is a gravel road extending from Suttle Road to Area #3. This driveway is at least 16 feet wide and does not have any grade over 16 percent.

As a condition of approval (#5), the on-site roads within the F-2 zoned portions of the property must be constructed and verified to the minimum standards of LC 16.211(8)(e).

The application, as proposed and modified by this decision, complies with the applicable criteria of Lane Code 16.211(8).

### **Conclusion**

This application has been complex, with many moving parts and, at times, extraordinarily vague. Add to this situation is the fact that most opposing testimony has focused upon impacts from the Oregon Country Fair, an event that is a magnitude more intense than those proposed by the application. It is hoped that this decision has sufficiently clarified the parameters within which the various events and activities may take place and has illuminated the constraints necessary to make the application conform to applicable approval criteria and, within those boundaries, mitigated to the extent possible the impacts to neighboring and nearby residents. The application appears to encompass many of the activities that have occurred on the subject property before and after the Oregon Country Fair and that have caused many neighbors to distrust the Applicant's willingness to abide by applicable zoning restrictions. While this decision legitimizes many of these activities it also places limitations on their operation that, if violated, may result in the modification or revocation of the permit.

**Respectfully Submitted,**

  
**Gary Darnielle**  
**Lane County Hearings Official**

