

IN THE BOARD OF COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1316

IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO RE-DESIGNATE LAND FROM "INDUSTRIAL" TO "RESIDENTIAL"; REZONE THAT LAND FROM "RI/RURAL INDUSTRIAL" TO "RR-2/RURAL RESIDENTIAL"; AND ADOPTING SAVING AND SEVERABILITY CLAUSES. (FILE 509-PA14-05143; South County Investments)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance No. PA 884, as amended, has adopted Lane Use Designations and Zoning for lands within the planning jurisdiction of the Lane County rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendment of the Rural Comprehensive Plan, and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, in March 2014, application no. 509-PA14-05143 was made for a minor amendment to redesignate map 16-02-13, tax lot 2300, and map 16-02-24-11, tax lots 104, 105, 106, 107, 109, 110, totaling 12.25 acres, from "Industrial" to "Residential", and concurrently rezone the property from "RI/Rural Industrial" to "RR-2/Rural Residential"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on February 3, 2015, and recommended approval of the proposed amendment and rezoning; and

WHEREAS, evidence exists within the record indicating that the proposal meets the requirements of Lane Code Chapter 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted public hearings and is now ready to take action;

NOW, THEREFORE, the Board of County Commissioners of Lane County Ordains as follows:

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of map 16-02-13, tax lot 2300, and map 16-02-24-11, tax lots 104, 105, 106, 107, 109, 110, totaling 12.25 acres, from "Industrial" to "Residential", such territory depicted on the Official Lane County Plan Map 1602 and further identified on a portion of that map in Exhibit "A" attached and incorporated here by this reference.

Section 2. The Lane County Rural Comprehensive Plan zoning designation of map 16-02-13, tax lot 2300, and map 16-02-24-11, tax lots 104, 105, 106, 107, 109, 110, totaling 12.25 acres, is rezoned from "RI/Rural Industrial" to "RR-2/Rural Residential", such territory depicted on the Official Lane County Zoning Map 1602 and further identified on a portion of that map in Exhibit "B" attached and incorporated here by this reference.

FURTHER, although not a part of this Ordinance except as described above, the Board of County Commissioners adopts Findings as set forth in Exhibit "C" attached and incorporated here, in support of this action.

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

ENACTED this 17th day of March, 2015.



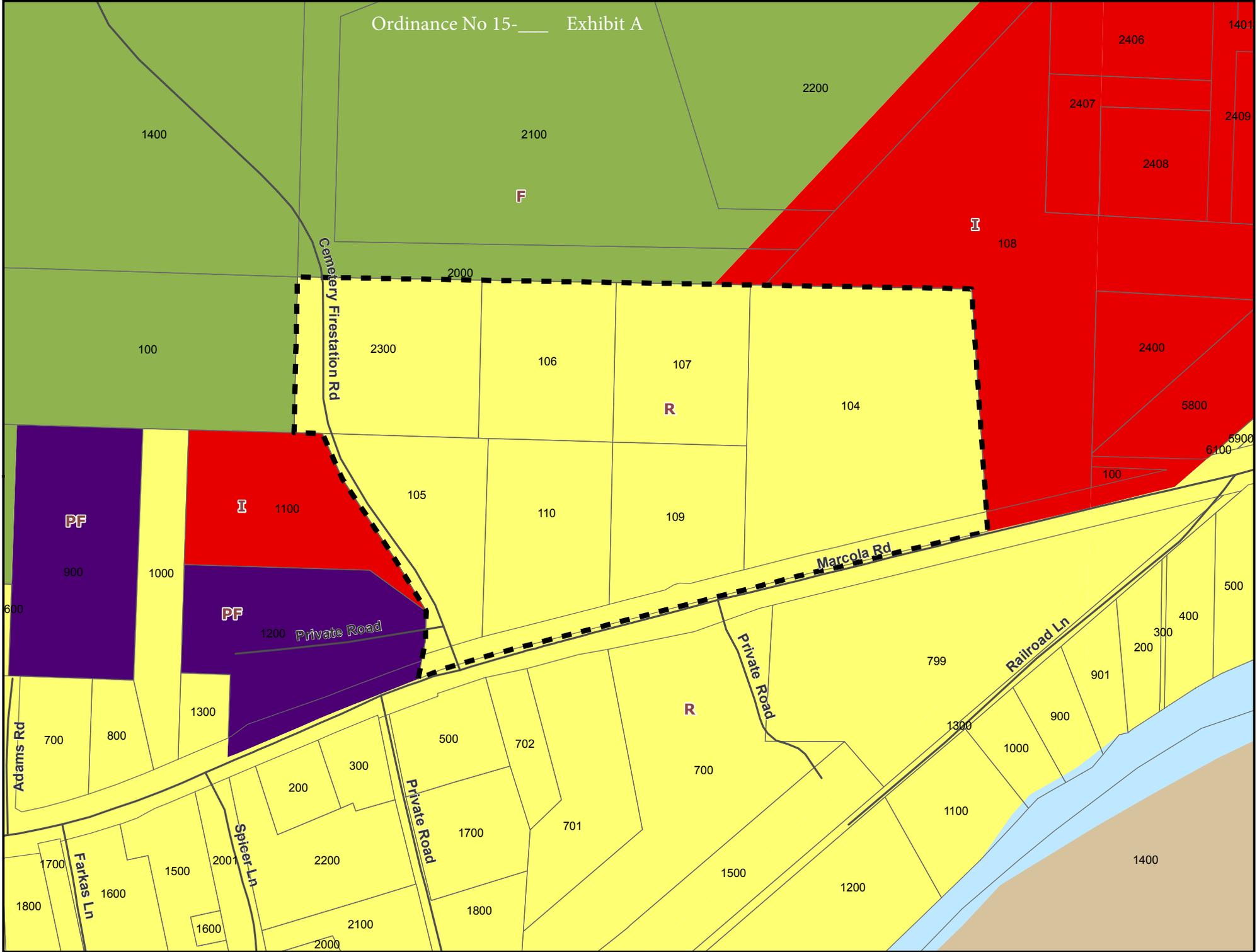
Chair, Lane County Board of County Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM
Date 2-25-15


LANE COUNTY OFFICE OF LEGAL COUNSEL

Ordinance No 15-___ Exhibit A



Cemetery Firestation Rd

Adams Rd

Farkas Ln

Spleer Ln

Private Road

Private Road

Marcola Rd

Railroad Ln

Private Road

F

R

I

PF

PF

R

ORDINANCE NO. PA 1316
EXHIBIT C.

**FINDINGS AND CONCLUSIONS
IN SUPPORT OF AMENDING THE RURAL COMPEREHENSIVE PLAN
TO REDESIGNATE LAND
FROM “INDUSTRIAL” TO “RESIDENTIAL”
AND TO REZONE THAT LAND
FROM “RI/RURAL INDUSTRIAL” TO “RR-2/RURAL RESIDENTIAL – 2 ACRE
MINIMUM”**

I. INTRODUCTION

1. This decision approves a plan change to Rural Residential (from Rural Industrial) and a zone change to RR-2 (from RI) for about 12.25 acres of land within the unincorporated community of Marcola in east Lane County. The property is adjacent to Marcola Road and consists of seven verified legal lots also known as Map 16-02-13 tax lot 2300, and Map 16-02-24-11, tax lots 104, 105, 106, 107, 109 and 110. See Ordinance No. PA 1316 Exhibits A and B, incorporated here by this reference.
2. In these findings the full text of the relevant standards appears in **bold** face font without quotation marks. The findings and conclusions addressing the standards appear in regular font.
3. These findings make reference to supporting materials in the record. References to “Initial Statement” refer to the applicant’s Initial Supporting Statement to the County Board. References to “Exhibits” are to exhibits compiled in the volume entitled: “Applicant’s Supporting Exhibits.”
4. The balance of Part I. addresses the subject property and surrounding property in general, as these facts are relevant to all of the following sections.

Part II. addresses the Statewide Planning Goals. These are the most general standards that apply to plan and zone amendments. Hence, the findings are most extensive here. Where possible, to reduce redundancy, the findings that address nongoal standards refer back to the relevant goal findings.

Part III. addresses the *Rural Comprehensive Plan Policies*.

Part IV. addresses the Lane Code criteria for Plan amendments.

Part V. addresses the Lane Code criteria for zone changes.

Summary of Proposal:

1. The subject property was formerly part of the Fisher Mill, a local mill. The actual mill structures sat on the RI zoned parcels to the east of the subject property. The concrete slab foundations still exist on those properties. The subject property was the storage, log pond and sorting area. Fisher Mill was built in the late 1940's and closed in the late 1950's. With the exception of the dry kilns, all associated structures were torn down and removed. The pond was filled around the time of closure. The dry kilns were sold and removed in the early 2000's.
2. The subject property has been vacant and unused since the mill closed. It consists of seven verified legal lots also known as Map 16-02-13 tax lot 2300, and Map 16-02-24-11, tax lots 104, 105, 106, 107, 109 and 110. Exhibit P. RLID Assessment and Taxation data shows all sites as "vacant, industrial." Exhibit K.
3. Requests for plan change must comply with the Statewide Planning Goals, the Rural Comprehensive Plan, and the county zoning code. The standards in the goals, the plan, and the code are diverse. They overlap somewhat. These findings address each relevant standard with support from maps, air photos, statements by experts in several fields, statements by neighbors, and other materials.
4. This property qualifies for a Rural Residential plan designation. The Rural Residential designation is authorized for lands within Developed and Committed Exception Areas under Goal 2. The designation is authorized by the acknowledged comprehensive plan and the zoning code. This designation is applied widely throughout Lane County within exception areas.

A. Legal Authority for Rural Residential Designation and Related Rural Residential Zoning.

1. The Goal 2 Exception Process provides a framework for identifying developed and committed lands. These lands are considered committed to an urban level of use. Counties are allowed to identify and acknowledge these lands in their Comprehensive Plans.
2. After going through the Goal 2 Exception process, on February 29th, 1984, Lane County adopted Ordinance No. PA 884, which applied a "community" plan diagram designation and zoning to 35 separate developed and committed exception areas. The Community of Marcola was one of those areas and the subject property was within the boundary. RCP Goal 2, Policy 10(c). Marcola is an Unincorporated Rural Community. RCP Goal 2, Policy 10(d).
3. The Lane County Rural Comprehensive Plan Policies ("*Rural Plan Policies*") recognize that some lands within exception areas are appropriate for a Rural Residential designation. RCP Goal 2, Policy 11 provides for Rural Residential designation within exception areas. Policy 11(a) requires the Rural Residential designation to be applied to exception areas which are devoted to rural housing uses as evaluated by seven criteria.

4. The subject property was first zoned Suburban Residential (RA, RCP) in 1980 by Ordinance No. 841. In 1983, Lane County approved a zone change request to re-zone the subject property to Light Industrial (M-2, RCP). The County re-zoned the subject property from M-2 to Rural Industrial (RI, RCP) in 2002, through periodic review.

B. Description of Subject Property and Adjacent and Nearby Area.

1. This section describes the subject property in summary terms and the adjacent and nearby land in more detail. The purpose is to provide a factual context for the balance of the findings. Reference is made to plan and zone designations, parcelization, and land uses.
2. **The Subject Property:** As stated above, the subject property was once a mill: Fisher Mill. However, that mill closed roughly 60 years ago. The property has sat vacant and unused since then. Marcola is not well situated for industrial business. The community is very small (roughly 475 residents), remote (roughly 15 miles from Springfield, the closest city), and not situated on or near a major transportation route. The train tracks that used to serve the area's industrial mill base have been removed and the land vacated. There are no industrial businesses in Marcola. The few commercial businesses that exist serve the immediate local area.
3. The subject property is vacant of any substantial structures. There are two small sheds that were associated with the old mill that will likely be removed prior to development. A portion of TL 104 has the remnants of a concrete slab. The property is flat open land adjacent to Marcola road. There are no water features or wetlands on the site.
4. **Adjacent and Nearby Land:** Because the subject property is within an exception area and has been through the Goal 2 exception process, adjacent and nearby lands will be limited to lands within the exception area because lands outside the exception area are largely irrelevant.
5. **To the North:** Immediately north of the subject property is the community boundary. Exhibit J1 Though of limited relevance, land north of the boundary are several F-2 parcels approved for residential forest template dwellings, some of which are developed. See Exhibit J2.
6. **To the East:** Immediately adjacent to the east is a block of industrial land. The old mill sat on these parcels and most of the parcels are largely covered in concrete. The parcels are largely vacant, suffering from the same issues as the subject property. Tax Lot 2406 is developed with one of the old mill dry kiln buildings. The property is in private ownership and the building is used for storage.

7. Further to the east, is a sea of rural residential land and developed single family dwellings. See Exhibits C and J. Almost all parcels are developed. See Exhibit F. Dotted among the sea of residential dwellings are: two tracts zoned RPF and developed with the Elementary School and the High School; and several tracts zoned RC (developed with a local community market, the post office, and a second hand store). Several of the RC parcels are vacant, developed with vacant buildings, or developed with noncommercial uses.
8. **To the South:** Adjacent to the south is Marcola Road. Across Marcola Road is a sea of nothing but residential zoning and development. See Exhibits C and J.
9. **To the West:** Adjacent to the west is Cemetery Fire Station Road. Across the road is one parcel zoned RI and vacant. Two additional parcels are zoned RPF and developed with a fire station and a cemetery. The remaining parcels are zoned RR-1 and developed with residences.
10. **Community of Marcola:** The unincorporated community of Marcola is located in the Mohawk valley roughly 15 miles northeast of the City of Springfield along Marcola Road and the Mohawk River. The zip code for the community is 97454. However, the zip code extends beyond the adopted boundaries of the unincorporated community.
11. Within the zip code, there are roughly 564 households and 1,406 people, resulting in a density of 2.5 people per household. Exhibit Q.
12. Based on Exhibit F, there are roughly 280 parcels within the adopted community boundary. Roughly 238 parcels (85%) are zoned RR. Roughly 80% of the parcels are developed with residences. As such, there are roughly 190 dwellings within the community boundary. At 2.5 people per household, the population is roughly 475.
13. The community is predominantly residential dwellings. The only industrial use in the vicinity is a contractor's storage yard. The few commercial uses that exist (post office, community store) serve the immediate area.

II. COMPLIANCE WITH STATEWIDE PLANNING GOALS. ORS 197.175(2)(A) and LC 16.400(6)(h)(iii)(aa).

1. Amendments to local plans and code must comply with the Statewide Planning Goals. ORS 197.175(2)(A). For individual applications like this, compliance with relevant goals must be addressed by the County. LC 16.400(6)(h)(iii)(aa). This Part addresses each relevant goal and explains why the proposal complies. This decision complies with the goals; no goal exceptions are taken.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for

citizens to be involved in all phases of the planning process.

1. Goal 1 is a process goal. This proposal complies with Goal 1 because it is being processed as a quasi-judicial application through the county's acknowledged public process for individual plan and zone changes. This process included public hearings before the Planning Commission and the County Board.

Goal 2: Land Use Planning

PART I – PLANNING

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

1. Part I of Goal 2 requires local governments to establish processes and policies for land use decisions. Goal 2 requires that each comprehensive “plan and related implementation measure * * * be coordinated with the plans of affected governmental units.” Affected governmental units include all “local governments, state and federal agencies and special districts which have programs, land ownerships, or responsibilities within the area included in the plan.” A plan is “coordinated” under Goal 2 “when the needs of all levels of governments, semipublic and private agencies and the citizens of Oregon have been considered and accommodated as much as possible.” ORS 197.015(5).
2. LUBA has construed these provisions of Goal 2 to impose two procedural requirements. First, the county must exchange information with affected governmental units. Second, the county must use the information from those governmental units in developing or revising the plan.¹ To comply with the first requirement, the local government must take steps to invite the exchange of information. The affected governmental unit must receive “notice clearly explaining the nature of the proposal and soliciting comments concerning the proposal.”² To comply with the second requirement, the county must consider any concerns expressed by affected governmental units. All units of government need not agree to a particular decision or “accede to every request” made by affected governmental units. The county must adopt findings that respond to the concerns raised by the other governments.

1
□ Rajneesh v. Wasco County, 13 Or LUBA 202, 210 (1985); DLCD v. Douglas County, 33 Or LUBA 216 (1997).

2
□ 1000 Friends of Oregon v. City of North Plains, 27 Or LUBA 372, 394, aff'd, 130 Or App 406 (1994).

3. Prior to the Planning Commission hearing, notice of the application and solicitation of comments will be sent by the County to the Marcola Rural Fire District.
4. Prior to the County Board hearing, the ORS 197.763 written notice will be sent to surrounding property owners and the Marcola Rural Fire District.
5. Based on the findings above, the affected or potentially affected governmental units will be notified of this proposed, their comments will be considered, and findings will be made explaining the degree to which and the reasons that their concerns have been accommodated. This satisfies the Goal 2 requirement for coordination.

PART II – EXCEPTIONS

1. Part II of Goal 2 authorizes exceptions the goals – land use decisions that are not in compliance with the goals under certain circumstances. Statutes also describe when exceptions are authorized. See ORS 197.732.
2. This application complies with Part II of Goal 2 because it was processed under the county plan and code and because no exception to any resource goal is proposed. The subject property is in a developed and committed exception area that has been acknowledged by the LCDC to be consistent and in conformity with the Statewide Planning Goals.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands. Agricultural lands shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the state's agricultural land use policy expressed in ORS 215.243 and 215.700.

1. The subject property is located in a Developed and Committed Exception Area that has been acknowledged by LCDC. Goal 3 is not applicable.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Forest lands are those lands acknowledged as forest lands as of the date of

adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

1. The subject property is located in a Developed and Committed Exception Area that has been acknowledged by LCDC. Goal 4 is not applicable.

Goal 5: Open spaces, scenic and historic areas, and natural resources.

To conserve open space and protect natural and scenic resources.

(1) What Goal 5 requires.

1. Goal 5 requires the county to inventory the locations, quality and quantity of certain natural resources. Where no conflicting uses are identified, the inventoried resources shall be preserved. Where conflicting uses are identified, the economic, social, environmental and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.
2. Where a county is amending acknowledged plan and zoning designations, as here, the county must address Goal 5 if any of the area proposed for change encompasses lands included on the county's inventory of Goal 5 resources.³ The county need not go through the Goal 5 conflict resolution process for alleged Goal 5 resources that are not on the acknowledged Goal 5 inventory.⁴
3. The initial Goal 5 question, therefore, is whether the subject property includes any Goal 5 resources inventoried in the acknowledged county plan.

(2) Goal 5 Resources on the Subject Property.

1. The paragraphs below address the acknowledged Goal 5 resource inventories.
2. **Historic Resources:** The acknowledged list of historic resources is listed as "Historic Sites or Sites." The subject property is not on the list.

³ [□] See Urquhart v. Lane Council of Governments, 80 Or App 176, 721 P2d 870 (1986); Plotkin v. Washington County, 165 Or App 246, 997 P2d 226 (2000); Waugh v. Coos County, 26 Or LUBA 300, 310-12 (1993); 1000 Friends of Oregon v. Yamhill County, 27 Or LUBA 508, 522 (1994).

⁴ [□] Davenport v. City of Tigard, 23 Or LUBA 565 (1992).

3. **Mineral and Aggregate Resources:** Mineral and aggregate sites are listed in several appendices in the *Mineral and Aggregate Working Paper*. The subject property is not listed in any of the appendices.
4. **Energy:** The subject property is not listed on any county inventory of sites to be protected for energy production.
5. **Water Resources:** The *Water Resources Working Paper (1982)* inventories the following water resources which include or potentially include the subject property: Watersheds (specifically the Marcola River watershed, a tributary to the McKenzie River); and Groundwater.
 - i. The subject property is in a developed and committed exception area and can currently be developed. The change from industrial to residential will have no greater impacts on the watershed.
 - ii. There will be no additional impacts to groundwater. The property is served by the Marcola Community Water system which is managed by the Rainbow Water District. The District has already confirmed that the system has sufficient water for the residential proposal. Exhibit N.
6. **Riparian Resources:** The *Flora & Fauna Working Paper (1982) and Addendum (1983)* inventories Riparian resources. Riparian areas are inventoried to include all land within 100 feet of the banks of a Class 1 stream. There are no Class I streams on the subject property. See Exhibit G.
7. **Wetland Resources:** At the time the *Flora & Fauna Working Paper* was prepared, the U.S. Fish and Wildlife Service had not completed its National Wetlands Inventory (“NWI”) mapping for the entire county. As a result, the county Goal 5 wetlands inventory was limited to five “major wetlands” areas, which do not include the subject property. Consideration of adding other “minor wetland” areas to the inventory was deferred by the county to a later date, to follow completion of the NWI mapping, but the reconsideration has not yet occurred. Thus, the county plan inventory of wetland resources does not include any such resources on the subject property. Neither the NWI inventory nor the local inventory shows wetlands on the subject property. See Exhibit G.
8. **Sensitive Fish and Waterfowl Areas:** The inventory of these sites appears in the *Flora & Fauna Working Paper Addendum* at 1-4. The subject property is not included on the inventory.
9. **Natural Areas:** The inventory of these sites appears in the *Flora & Fauna Working Paper* at 26-32. The subject property is not included on the inventory.
10. **Big Game Range:** The plan classifies the entire county into three categories of

Big Game Range: Major, Peripheral, and Impacted. See *Flora & Fauna Working Paper* at 23-25, *Addendum* at 14. The subject property is Impacted.

- i. The *Working Paper* and *Addendum* discuss conflicts between residential and big game uses in general terms. However, they explicitly decline to simplify the issue of conflict identification to a matter of densities for individual development sites, and instead defer the issue to future work between the county and the ODFW. “The County should continue to work with the ODFW to resolve the issue of Big Game designation and protection in a mutually acceptable manner -- including the involvement of that agency in land use regulation development.” *Addendum* at 14. Based on the above, the plan documents show that the County formally deferred applying this part of Goal 5 when adopting its plan.
- ii. This application would affect Big Game Range because the entire county is mapped as some form of big game habitat. In practical terms, however, no conflict from this proposal is apparent. The subject property is within an exception area that is dedicated to rural levels of use. Surrounding uses, which are largely residential in nature, have comparable impacts on big game. The existing zoning of Industrial would have larger impacts on Big Game than residential zoning. The subject property is, therefore, surrounded with uses that have comparable impacts on Big Game Range.

(3) Goal 5 Program to Meet the Goal for Resources Present.

1. As described above, the following Goal 5 resources inventoried by the county are present on the subject property: **Water Resources**, including watersheds and groundwater; and **Big Game Range**.
2. **Big Game Range:** The program to achieve the goal is to allow the conflicting residential use because the property is within a developed and committed exception area where development is anticipated.
3. **Groundwater Resources:** The program to achieve the goal is to allow the conflicting residential because the property is within a developed and committed exception area where rural levels of develop are anticipated. The property will be served by the Marcola Water District.
4. **Watershed Resources:** The program to achieve the goal is to allow the conflicting residential because the property is within a developed and committed exception area where rural levels of develop are anticipated. The subject proposal results in no additional impacts to the watershed.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of

the state.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.

1. Goal 6 protects the quality of land, air and water resources. The focus is on discharges from future development in combination with discharges from existing development. State and federal environmental standards are the benchmark for protection. Where there are state or federal standards for quality in air sheds or river basins, then the carrying capacity, nondegradation, and continued availability of the resources are standards.
2. The subject property is currently vacant and unused, though there is a concrete slab on TL 104 that will be removed prior to development. Historically it has been used a mill, which compromises surface water quality by generating industrial wastes to the intermittent streams. These sources of surface water pollution will cease or be significantly decreases with conversion of the site to low density residential use.
3. Residential use will generate septic wastes. A precondition to any residential use, however, will be the development of individual septic systems meeting state standards. The soils on the subject property are suitable for one or more types of septic systems that meet state standards. The soils on the subject property are the same as those on rural residential subdivisions in the immediate area that have developed such systems. Exhibit H. The availability of the state standards as a precondition to residential development ensures that the future use will comply with Goal 6.

Goal 7: Areas Subject to Natural Disasters and Hazards.

To protect life and property from natural disasters and hazards.

Developments subject to damage or that could result in loss of life shall not be planned nor located in known areas of natural disasters and hazards without appropriate safeguards. Plans shall be based on an inventory of known areas of natural disaster and hazards.

1. The phrase “areas of natural disasters and hazards” means “areas that are subject to natural events that are known to result in death or endanger the works of man,

such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.” OAR 660-15-000. There are no such areas known on the subject property subject property. The elevation of the site avoids any potential flood hazards. None of the soil types present is described as being prone to landslides in the *SCS Lane County Soil Survey*.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

1. The overriding purpose of Goal 8 is to address all recreational needs, but its primary focus is on siting and developing destination resorts, defined in Goal 8 as "self-contained development[s] providing visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities."
2. Goal 8 is not directly applicable to this proposal. No destination resort is proposed. Furthermore, the subject property is not used for public recreational purposes and is not designated on any county plan as intended for that purpose in the long run.

Goal 9: Economic Development

To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

1. Goal 9 is focused on commercial and industrial development. The Goal 9 Rule, OAR 660-09, is primarily limited to areas within urban growth boundaries. This goal is not directly applicable to rural residential use in an exception area.

Goal 10: Housing

To provide for the housing needs of citizens of the state.

Buildable lands for residential use shall be inventoried and plans shall encourage the availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

1. Goal 10, like its implementing rule, is geared primarily to housing issues inside urban growth boundaries. The goal’s definition of “buildable lands,” for example, is limited to lands in urban and urbanizable areas. This site is outside any UGB.

To the extent Goal 10 may have some relevance to rural areas, this proposal will comply with the goal because it will result in the potential for seven additional dwelling units.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan. In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

1. Goal 11 addresses facilities and services in urban and rural areas. The subject property is “rural” land within an exception area and will remain such after this approval, as discussed in connection with Goal 14.
2. “Public facilities and services” is defined in the Statewide Planning Goals to include: “[p]rojects, activities and facilities which the planning agency determines to be necessary for the public health, safety and welfare.” The Goal 11 Rule defines a “public facility.” “A public facility includes water, sewer, and transportation facilities, but does not include buildings, structures or equipment incidental to the direct operation of those facilities.” OAR 660-11- 005(5).
3. The *Rural Plan Policies* describe the minimum level of services for community designations in rural Lane County. The services are: schools, on-site sewage disposal, individual water supply system, electrical service, telephone service, rural level fire and police protection, reasonable access to solid waste disposal. See Goal 11, Policy 6.f. The minimum levels of services now available to the subject property, or to be developed, are described in Table E:

Table E. Rural Public Facilities, Existing or Proposed

Service	Provider
Fire	Marcola Rural Fire Protection District
Police	Lane County Sheriff and State Police
Schools	Marcola School District
Access	Macola Road, a County Arterial
Electric	Emerald People's Utility District
Telephone	Qwest Communications and others
Solid Waste	Sanipac Sanitary Services (also a local business is available)
Sewer	Individual Septic Systems (Proposed)
Water	Marcola Community Water System managed by Rainbow Water District

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services, (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans. Each plan shall include a provision for transportation as a key facility.

1. Goal 12 is implemented through the Goal 12 Rule (OAR 660-12) adopted in 1991. The Rule has a section that specifically addresses proposals such this – amendments to acknowledged comprehensive plans and implementing regulations. OAR 660-12-060(1) provides that any such amendments that “significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility.”
2. The threshold question, therefore, is whether the proposed residential development allowed by this application would significantly affect a transportation facility. The rule spells out clearly what constitutes a “significant

affect.” OAR 660-12-060(2) states:

A plan or land use regulation amendment significantly affects a transportation facility if it:

(a) Changes the functional classification of an existing or planned transportation facility;

(b) Changes standards implementing a functional classification system;

(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

(d) Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.

3. The proposed development will not trigger this section of the rule. It will not have a significant effect on Marcola Road as measured by any of the four standards listed above. Hence the proposed changes comply with Goal 12.
4. Marcola Road is classified by Lane County as a Rural Major Collector. Exhibit O. Marcola Road has ample capacity to accommodate traffic from seven additional dwelling units with the current improvements, within its current functional classification, and within the acceptable level of service established by the county. The subject properties zoned as Rural Industrial land had the potential for a higher trip rate than the subject properties zoned Rural Residential land.

Goal 13: Energy Conservation

To conserve energy.

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.

1. This goal is not directly applicable to individual land use decisions. Rather, its focus is on the adoption and the amendment of land use regulations.⁵

Goal 14: Urbanization

5

⁵ See Brandt v. Marion County, 22 Or LUBA 473, 484 (1991), aff'd in part, rev'd in part, 112 Or App 30 (1992).

To provide for an orderly and efficient transition from rural to urban land use

Goal 14 prohibits urban uses on rural land. By definition, all land outside an acknowledged urban growth boundary and not subject to a Goal 14 exception is rural land.⁶

1. The subject property is within a Goal 2 exception area. Goal 14 does not apply.

Goal 15: Willamette River Greenway

Goal 16: Estuarine Resources

Goal 17: Coastal Shorelands

Goal 18: Beaches and Dunes

Goal 19: Ocean Resources

1. These five goals are not applicable as they deal with resources that are not present on the subject property.

III. COMPLIANCE WITH RURAL COMPREHENSIVE PLAN POLICIES

1. Any plan and zone change must comply with the relevant *Rural Plan Policies*. This requirement is based in statutes (ORS 197.175(2)), the *Rural Plan Policies* themselves (see, e.g. *Rural Plan Policies* at page 6), and the *Lane Code* (see, e.g., LC 16.400(6)(h)). This section, therefore, addresses the relevant elements of the *Rural Plan Policies*. It is organized by Goal. Again, where possible to avoid duplicative discussion, reference is made to the findings made under the Statewide Planning Goals.

Goal Two: Land Use Planning

Policy 10:

Lane County shall update the RCP * to comply with the UCR ***. Once updated, any changes in the planning and zoning for the unincorporated communities shall comply with the UCR. *** The acknowledged exception areas *** are identified in Goal 2 Policy 10.c below *** Marcola. 10.d *** Unincorporated Rural Community: i. Marcola.**

1. Marcola is an acknowledged Unincorporated Rural Community that is consistent with the UCR. The proposal does not change the boundary of the acknowledged exception area. The proposed plan and zone changes do

6

⁶ 1000 Friends of Oregon v. DLCD (Curry County), 301 Or 447, 498-501, 724 P2d 268 (1986).

not affect any other characteristics in (a)i. through v.

Policy 11: Land use designations and densities appropriate for developed and committed areas shall be determined through compliance with other plan policies and the following criteria:

- a. A rural residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:**
 - i. Existing development pattern and density**
 - ii. On-site sewage disposal suitability or community sewerage**
 - iii. Domestic water supply availability**
 - iv. Access**
 - v. Public services**
 - vi. Lack of natural hazards**
 - vii. Effect on resource lands**

Policy 17:

Rural Residential Designations for non-resource lands shall be one residence per five or ten acres and shall be determined through consistency with other plan policies and the following criteria:

- i. Existing development pattern and density of any adjacent committed areas;**
- ii. Subsurface sewage disposal suitability;**
- iii. Domestic water supply availability;**
- iv. Access;**
- v. Public services;**
- vi. Lack of natural hazards;**
- vii. Effect on resource lands.**

- i. For the Unincorporated Communities of the McKenzie Watershed, the density for the creation of new lots or parcels shall be:**
 - a.A. Marcola: 1 acre (1998 existing average parcel size = .82 acre)**

1. The community of Marcola is predominantly (almost entirely) residential in nature. See discussion above, Section I.B (especially subsection 10, et.al), herein incorporated. Based on Exhibit F, there are roughly 280 parcels in Marcola. Of those parcels, 10 are zoned RPF and are developed with a fire station, elementary school and high school. 15 are zoned RC. Most of the RC lots are underutilized, vacant or unused for commercial

purposes. There is a local market, a second hand store and a post office. 18 parcels are zoned industrial, including the seven subject properties. None are in industrial use. All are vacant or unused. The remaining lots are zoned residential: largely RR1, with a few RR2 and RR5. Most are developed. Exhibit F. As such, 85% of the community is zoned and used for residential purposes. 82% of the total 280 lots are zoned RR1. The proposed plan change and zone change is consistent with development patterns of the community and nearby lands.

2. Surrounding residential development and soils are suitable for and have functioning septic systems. The subject property has similar soils. Exhibit H. Water is available through the Marcola Community Water System managed by Rainbow Water District; all public services are available to the site, as discussed under Goal 11 above. There are no natural hazards on the site, as discussed under Goal 5, above. The proposal has no effect on resource lands because it is within a Developed and Committed Exception Area. Policy 11 supports zoning the property Rural Residential.
3. RR-2 zoning is proposed. Policy 11.a.i establishes a minimum density of 1 acre, which is why most of the community is zoned RR-1 (Rural Residential – one acre minimum lot size). That density is no longer allowed per OAR 660-004-0040(7). All RR-1 zoning must now be interpreted to have a two-acre minimum lot size. RR-2 zoning is consistent with this minimum lot size and is the next closest zoning district allowed under the Lane Code. As such, the proposed density is consistent with this Policy as amended by state law.

Goal Three: Agricultural Lands

1. Because the property is within a Developed and Committed Exception Area, Goal 3 and the Goal 3 policies do not apply.
2. There is no agricultural land adjacent to the subject property.

Goal Four: Forest Lands

1. Because the property is within a Developed and Committed Exception Area, Goal 4 and the Goal 4 policies do not apply.

Goal Five: Opens Spaces, Scenic and Historic Areas and Natural Resources

Flora and Fauna Policy 10:

Land with an acknowledged exception as “built upon or committed” will be treated as Impacted Big Game *.**

1. Impacted Big Game is addressed under Goal 5, above.

Water Resources Policy 3:

Adequacy of water supply, particularly those relying on groundwater sources, shall be a major concern in reviewing major land use changes. For the purpose of applying this policy, major land use change shall be any application reviewed by the Hearings Official or the Planning Commission.

Water Resources Policy 5:

Land use designations in the Comprehensive Plan and implementing zoning shall be commensurate with groundwater aquifer capabilities.

2. See the discussion of groundwater resources in connection with Statewide Planning Goal 5 above. The subject property is served by the Marcola community water system. Rainbow Water District has already determined there is sufficient water to serve the subject property for residential purposes. Exhibit N.

Goal Seven: Areas Subject to Natural Disasters and Hazards

Policy 1:

The Natural Hazards Inventory, as contained in the 1982 Natural Hazards Working Paper and associated materials, shall be used as a guide for general land use decisions. Specific land use decisions shall be based upon the inventory and upon on-site or other evaluation as appropriate.

1. The subject property is not inventoried in the *Natural Hazards Working Paper* as a site containing natural hazards.

Goal Nine: Economy of the State

Policy 3:

Most industrial and commercial development shall be concentrated within the Urban Growth Boundaries of the various cities throughout the county.

New industrial development shall normally take place within adopted Urban Growth Boundaries *.**

- 2.1. The subject property is not within an Urban Growth Boundary or a city.
- 2.2. The subject property was historically a mill: Fisher Mill. However, that mill closed roughly 60 years ago. The property has sat vacant and unused since then. Marcola is not well situated for industrial business. The community is very small (roughly 475 residents), remote (roughly 15 miles from Springfield, the closest city), and not situated on or near a major transportation route. The train tracks that used to serve the area's industrial mill base have been removed and the

land vacated. There are no industrial businesses in Marcola. The few commercial businesses that exist serve the immediate local area. See discussion of property under Section I.B. above, herein incorporated.

2.3. The forest industry has changed drastically in the last 30 years. Remote processing mills are no longer being constructed. The railroad that used to serve the area's industrial logging base is now gone; tracks have been removed and the land has been vacated. Marcola is not situation along or near a major transportation corridor.

2.4. Based on the above characteristics and facts, it is unlikely that any other major industry will be inclined to locate in Marcola.

2.5. The proposed redesignation to RR does not conflict with the above policies.

Goal Eleven: Public Facilities and Services

Policy 1:

Lane County shall provide an orderly and efficient arrangement for the provision of public facilities, services and utilities. Designation of land into any given use category either initially or by subsequent plan amendment, shall be consistent with the minimum level of services established for that category.

Policy 6:

Land designations and service levels:

* * * *

- f. **Community (RR-1, RR-2, RR-5, RR-10, RA, RG, C1, C2, C3, M2, M3)**

Description: Land that has an existing cohesive, dense settlement and development pattern to the degree that it may no longer be considered available for other uses. ***

Service Level: Schools, onsite or community sewage disposal, individual or community water supply, electrical service, telephone service, rural level of fire and police protection, reasonable access to solid waste disposal facility.

1. See findings in connection with the discussion of Statewide Planning Goal 11.

2. The findings in connection with Goal 11 show that the subject property will have services that meet or exceed the service levels stated above. The site is already served by a community water system.

IV. COMPLIANCE WITH LANE CODE CRITERIA FOR PLAN CHANGES

1. LC 16.400(6)(h) sets out the criteria for amending the county plan designation. Each of the criteria is addressed here. Where a criteria incorporates a Statewide Planning Goal, LCDC Rule, or *Rural Plan Policy*, reference is made the relevant part of the findings above so as to avoid repetition.

LC 16.400(6)(h): Method of Plan Adoption and Amendment.

- (iii) **The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings”**
 - (aa) **For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all the applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.**
 1. This criteria makes general reference to other sources of standards that apply to plan changes. Those other standards are addressed elsewhere in this narrative.
 - (bb) **For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:**
 - (i-i) **necessary to correct an identified error in the application of the Plan; OR**
 - (ii-ii) **necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR**
 - (iii-iii) **necessary to comply with the mandate of local, state or federal policy or law; OR**
 - (iv-iv) **necessary to provide for the implementation of adopted Plan policy or elements; OR**
 - (v-v) **otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.**
2. This criteria offers a smorgasbord of policy choices from which the county may select to justify initiating the plan change. At least two are relevant to this application. Item (iv-iv) allows the plan change if it implements the *Rural Plan Policies*. Goal Two, Policy 11 of the *Rural Plan Policies* anticipates that for lands

in developed and committed exception areas, a rural residential designation shall be applied to exception areas which are devoted to rural housing uses as evaluated by a set of criteria. This proposal implements that policy because the community of Marcola is devoted to rural housing. See discussion under Goal 2, above.

3. Item (v-v) invites the county to make plan changes that are desirable, appropriate or proper. This proposal also meets that criteria. Where developed and committed lands are not suitable for industrial use because of economic and locational factors, and keeping them in an industrial zone is not needed for the success of the community, it is appropriate, desirable and proper to allow them to be put to a productive use, such as low density residential development, consistent with other applicable goals and policies.
 4. Marcola is a thriving bedroom community. Home ownership is high, rental units are occupied and there are few vacant homes. There has been no industrial base in Marcola for over 60 years, since the mill closed. The history of Marcola has already established that industrial use is not needed for the success of the community.
 5. Furthermore, holding land fallow in hopes that industry will move to Marcola is not realistic because of economic and locational factors. As discussed above (and repeated here), the subject property was once a mill: Fisher Mill. That mill closed roughly 60 years ago. The property has sat vacant and unused since then. Marcola is not well situated for industrial businesses that are not forestry based. The community is very small (roughly 475 residents), remote (roughly 15 miles from Springfield, the closest city), and not situated on or near a major transportation route. The trains that used to serve the area's industrial mill base are gone; the tracks have been removed and the land vacated. There are no industrial businesses in Marcola. The few commercial businesses that exist serve the immediate local area. Because of the above location changes, changes in the economy and changes in forestry practices (moving away from remote mills to more centralized mills), Marcola is no longer well situated for forestry industry either.
 6. It should also be noted that not all of the communities RI land is being proposed for rezone. Roughly 13 acres of land to the east of the subject property remains zoned RI. As such, opportunities for industrial development still exist with the community.
- (cc) **For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible achieves policy support.**
4. Compliance with individual policies in the *Rural Plan Policies* is discussed thoroughly above.

- (dd) **For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.**
5. The existing structure of the plan anticipates Residential designations in exception areas. As discussed above, this designation is also consistent with relevant policies in the *Rural Plan Policies*.

LC 16.400(8): Additional Amendment Provisions.

- (a) **Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:**
- (i) **Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to other uses not allowed by an applicable goal.**
6. This is a minor amendment to the plan which requests a change to the Plan Diagram for the subject property – from Industrial to Residential. No goal exceptions are requested, as the property is already located in an exception area.
- (c) **Minor amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by LC 16.400(6)(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:**
7. The requirements of subsection (c) are informational requirements. This subsection does not state substantive standards for approval. Furthermore, subsection (c) allows the informational requirements to be waived at the discretion of the County. Waiver of the information requirements is appropriate and approved in connection with this application for the reason that the information sought by this subsection substantially duplicates the information required by the other standards that are relevant to a plan change to residential designation. Notwithstanding the waiver that is justified here, the following findings are made relevant to the informational requirements.
- (i) **A complete description of the proposal and its relationship to the Plan.**
8. This description has been provided throughout this supporting statement.
- (ii) **An analysis responding to each of the required findings of LC 16.400(6)(h)(iii) above.**

9. The required analysis is provided above.
 - (iii) **An assessment of the probable impacts of implementing the proposed amendment, including the following:**
 - (aa) **Evaluation of land use and patterns of the area of the amendment;**
10. See detailed findings in Part I above. To summarize, the subject property is in the community of Marcola, a developed and committed exception area. The community is dominated by low density rural residential uses and development. Where land is designated industrial or commercial, it is largely vacant or underutilized because the community is remote, not located on a major transportation corridor and small in population.
 - (bb) **Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply, and sewage;**
11. The public facilities and services available or to be provided to the site are discussed in detail above. For a discussion of each facility and service, see the Goal 11 findings above. For a further discussion of transportation facilities, see the Goal 12 findings above. In summary, this site will be served by individual septic systems and the Marcola community water system. All other facilities and services are available.
 - (cc) **Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 “ESEE” conflict analysis where applicable;**
12. Relevant findings appear in connection with Goal 5 above. The proximate natural resources to consider are those that are identified as Goal 5 resources in the comprehensive plan. The impact on these resources is discussed as part of the Goal 5 findings above.
13. This proposal will have no adverse impact on proximate resource lands. The property lies within an unincorporated community where urban densities are anticipated.
 - (dd) **Natural hazards affecting or affected by the proposal;**
14. As discussed in connection with Goal 7, the subject property neither contains nor is threatened by any natural hazards.
 - (ee) **For a proposed amendment to a nonresidential,**

nonagricultural or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;

(ff) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;

15. Neither of these standards is relevant to an amendment to a residential designation.

(gg) For a proposed amendment to a nonresource designation or a Marginal Lands designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, “Working Paper: Marginal Lands” (Lane County, 1983).

16. The proposal is not for marginal lands or nonresource.

V. COMPLIANCE WITH LANE CODE CRITERIA FOR ZONE CHANGES

1. This proposal requests a change from RI zoning to RR-2 zoning. LC 16.252 sets out standards for zone changes. The facts relevant to the zone change standards are largely redundant with the facts relevant to plan policies and the Statewide Planning Goals. The LC 16.252 standards are stated here and addressed, with appropriate references to other parts of this narrative.

LC 16.252(2): Criteria.

Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures of this section.

General purposes of Chapter 16:

2. LC 16.003 sets forth 14 broadly-worded purpose statements that include a provision to ensure that development is commensurate with the character and physical limitations of the land. Rezoning from RI to RR-2 implements the proposed plan amendment to rural residential land. The public interest is served by recognizing that the land will likely never be developed for industrial purposes and best serves the public as homes.

Purpose of Rural Residential Zone:

3. The Rural Residential zone is intended to provide opportunities for people to live in a rural area, allow primary and accessory residential uses that are compatible with primary residential uses, and implement the *Rural Plan Policies* related to residential lands and developed and committed communities. The proposed zoning is consistent with these stated purposes of the zone.

Rural Comprehensive Plan Criteria:

4. The *Rural Plan Policies* provide the policy basis for comprehensive plan and implementing regulations, provide direction for land use decisions, and fulfill LCDC planning requirements. *Rural Plan Policies*, Goal 2, Policy 11(a)(i) specifically addresses determination of the appropriate zoning district for lands with an exception area designated Rural Residential.
 - i. **For the unincorporated Communities of the McKenzie Watershed, the density for the creation of new lots or parcels shall be: A. Marcola: 1 acre**
5. This policy identifies only potential zoning density to accompany a Rural Residential designation in Marcola. However, since adoption, LDCD has amended its rules to preclude one acre zoning. This provision must now be read to recommend a 2 acre minimum density. The proposed rezoning requests RR-2 zoning, which is less dense than a majority of the surrounding lands but is consistent with the land use pattern in the surrounding area. By definition, therefore, the proposed zoning is consistent with this policy.

Lane Code Criteria:

LC 16.004(4):

Prior to any rezoning, that will result in the potential for additional parcelization, subdivision or water demands or intensification of uses beyond normal single-family residential water usage, all requirements to affirmatively demonstrate adequacy of long-term water supply must be met as described in LC 13.050(13)(a)-(d).

6. The subject property is roughly 12 acres consisting of seven lots. The largest

parcel is 3.6 acres. As such, none of the parcels qualify for further division. The proposal does not result in additional parcelization (all seven parcels currently exist), subdivision (acreage too small), or intensification of use beyond normal single family water use.

VI. SUPPLEMENTAL FINDINGS TO ADDRESS ISSUES RAISED

[To be prepared after close of hearing before County Board, if necessary.]