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DATE: November 17, 2003 (Date of Memo)
December 3, 2003 (Date of First Reading)
December 17, 2003 (Date of Second Reading and Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Public Works Department/Land Management Division

PRESENTED BY: Bill Sage, Land Management Division

AGENDA ITEM TITLE: ORDINANCE PA 1192 / IN THE MATTER OF AMENDING THE LANE COUNTY GENERAL PLAN POLICIES (AN ELEMENT OF THE LANE COUNTY RURAL COMPREHENSIVE PLAN) BY ADDITION OF GOAL 2, POLICY 27 – ERRORS OR OMISSION; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

I. MOTION

MOVE ADOPTION OF ORDINANCE PA 1192 WITH EXHIBITS.

II. ISSUE

Whether or not to reinstate an Errors or Omission policy in the General Plan Policies of the Rural Comprehensive Plan.

III. DISCUSSION

A. Background

In 1984, Lane County adopted the Lane County Rural Comprehensive Plan (RCP) and applied zone designations to every property in the county as a component of the RCP. The adoption also included the Plan Policies and within Goal Two: Land Use Planning section, the *Policy 21. Errors or Omission*.

21. Errors or Omission. Between March 2, 1984 and June 30, 1985, citizens who identify an error in plan or zone designation, as set forth below, are entitled to the County initiating correction, either quasi-judicial or legislative, as appropriate.

- a. Identified plan designation/zone district application inconsistency.*
- b. Identified failure of plan and zone to recognize existing use on March 2, 1984.*
- c. Identified failure to zone F-2, where maps used by staff to designate F-1 zone did not display actual existing legal lots adjacent to the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.*

Between March 2, 1984 and June 30, 1985, Lane County received applications filed in a timely manner, requesting corrections pursuant to Policy 21. Eight separate ordinances were adopted by the County to amend the RCP pursuant to *Policy 21*.

Errors or Omission, and to change the zoning designations on rural or Metro Area properties.

On June 30 1985, the *Policy 21* timeline expired and ceased to provide relief for property owners or the County. After July 1, 1985, the only opportunity property owners have had to correct errors was through the quasi-judicial process in which the applicant must carry the burden of proof and involves considerable investment in both application and consulting fees. The County has only recently had the option to initiate legislative corrections for errors or omissions during the Periodic Review Work Program in the McKenzie Watershed. In 2002, The Board of Commissioners changed zone designations for over forty properties under 36 actions including a correction of the western boundary of the rural community of Rainbow. In the majority of instances the actions were for the correction of errors or omissions of the 1984 plan/zoning designations in the Mohawk and McKenzie Valleys.

During this past year, the County has discovered approximately 70 properties in the Siuslaw or Long Tom watersheds that would qualify under the expired Policy 21 were it still available. Applications for rezoning these properties will be reviewed later in the year by the Planning Commission for recommendations to the Board of Commissioners under a separate ordinance pursuant to the Periodic Review Work Program.

In 2000, LMD staff met with land use consultants and attorneys to draft preliminary language for consideration of an addition of *Policy 27. Errors or Omission* to the *RCP Plan Policies -- Goal Two: Land Use Planning*.

B. Analysis

The Purpose statement in Lane Code 16.400 Rural Comprehensive Plan Amendments addresses this issue in a very explicit manner:

Lane Code 16.400 (1) Purpose. The Board shall adopt a Rural Comprehensive Plan. The general purpose of the Rural Comprehensive Plan is the guiding of social, economic and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare. The Rural Comprehensive Plan shall be considered to be a dynamic policy instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights. It is recognized that the Rural Comprehensive Plan affects the people of Lane County, and it is, therefore, important that the ability by individuals to propose amendments be free of restraint.

An errors or omission policy is a pact between a private property owner and the County to acknowledge existing circumstances and provide relief. For the policy to be effective it needs:

- to be based on clear standards and criteria;
- to be relatively easy for a citizen to gain acceptance of a submitted application;
- to have minimal processing fees; and
- to be processed in a timely manner.

The proposed text for *Policy 27: Errors or Omission* is provided in Exhibit "A":
Legislative Format – Policy 27.

Policy 27.c. requires the applicant to submit a completed *Lane County Errors or Omission Application*. A draft of the application formats for both amendments between resource zoning designations and developed& committed exception designations are attached as Attachment "B" - *Lane County Errors or Omission Application*. The forms are intended to provide for the disclosure of the essential information necessary for the LCPC and BCC to conclude that the existing development warrants a change in designation. The submittal would include the following minimum attachments:

- Accurate plot plan of the subject property depicting all development and uses;
- Photographs of the existing structures prior to March 2, 1984 (if available);
- Evidence of the lawful use of the structures prior to March 2, 1984;
- Photographs of the existing structures on the parcel on the date of submittal; and
- Evidence that the use has not been abandoned since March 2, 1984.

It would be the responsibility of LMD staff to conduct research and a site inspection to determine if the application and facts as presented were credible.

LMD does not have the budget to process the Errors or Omission applications without some additional funding from the Board or minimal fees to compensate for the processing expenses. The essential process steps that require compensation for, are:

- | | |
|---|---------------|
| • Referrals to agencies and service providers and Lane Code 14 notice to surrounding property owners. | \$ 150.00 |
| • Two legal ads (LCPC, BCC public hearings). | 350.00 |
| • Site inspection (LMD) | 200.00 |
| • Indirect services of County Administration associated with the Board's hearings process. | <u>300.00</u> |

It is estimated that the application fee should be \$ 1,000.00

C. Planning Commission Recommendation

The Lane County Planning Commission (LCPC) held two public hearings which included the proposed Policy 27 - Errors or Omission, on the agenda. The hearings were held on October 21, 2003 and November 4, 2003. The LCPC unanimously supported a recommendation for approval for Policy 27 – Errors or Omission.

D. Alternatives/Options

1. Adopt Ordinance PA 1192.
2. Do not adopt Ordinance PA 1192.
3. Provide direction to staff concerning the proposed language of the Policy the Board wishes to modify or does not support.
4. Adopt concurrent Order to Lane Manual to establish fees for the processing of Errors or Omission post acknowledgement plan amendments.

E. Recommendation

Staff recommends Alternative 1. and 4., above.

F. Timing

The Ordinance does not contain an emergency clause.

IV. FINDINGS

Findings of fact and conclusions of law addressing consistency of the proposed policy amendment at attached to the Ordinance as Exhibit "C".

V. IMPLEMENTATION / FOLLOW-UP

- A. Notice of the action will be provided to DLCD.
- B. The Board is advised to adopt the concurrent Order for the proposed plan amendment fee in Lane Manual 60.851(6).

VI. ATTACHMENTS

- A. Ordinance PA 1192
- B. Lane County Errors or Omission Application.
 - 1. *Resource Zones*
 - 2. *Developed & Committed Exception Areas*
- C. LCPC minutes (October 21, 2003 and November 4, 2003)

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1192 [IN THE MATTER OF AMENDING THE LANE COUNTY GENERAL
[PLAN POLICIES (AN ELEMENT OF THE LANE COUNTY RURAL
[COMPREHENSIVE PLAN) BY ADDITION OF GOAL 2 POLICY 27 –
[ERRORS OR OMISSION; AND ADOPTING SAVINGS AND
[SEVERABILITY CLAUSES.

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 883, has adopted the Lane County General Plan Policies which is a component of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures for amendments of components of the Rural Comprehensive Plan; and

WHEREAS, the proposal was reviewed at public hearings with the Lane County Planning Commission on: October 21, 2003; and November 4, 2003; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on December 17, 2003; 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 a public hearing 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 General Plan Policies Goal Two (Policies 1 through 26) adopted by Ordinance No. PA 883 and amended thereafter, is amended by addition of a new Lane County General Plan Policy for Goal Two (Policy 27) as set forth in Exhibit "A".

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts the findings in support of this action as set forth in the attached Exhibit "B".

The prior policies, zoning base designations and plan diagram base designations repealed or changes 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 effect the validity of the remaining portions thereof.

ENACTED this ____ day of _____, 2003.

Peter Sorenson, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM

Date 11-21-2003 Lane County
Stephen J. Walker
OFFICE OF LEGAL COUNSEL

Recording Secretary for this Meeting of the Board

GOAL TWO: LAND USE PLANNING

1. The purpose of the revised Lane County Comprehensive Plan shall be to provide information to assist public and private decision-making, and to meet the requirement of Oregon State Planning Goals and associated laws.
2. The Policies shall provide the direction for County growth and development and programs for dealing with planning issues; the Plan Diagrams shall be specific graphic descriptions of proposed land use throughout the County, and shall be the primary basis for zoning decisions.
3. All products of the County Planning process shall be made available for public review and comment and shall be adopted through the hearings process.
4. The County shall be divided into two sub-County regions: the Coastal Region and the Inland Region. Each region shall have its own Plan Diagram. The dividing line shall be the eastern jurisdictional boundary of the West Lane Planning Commission.
5. The Lane County Planning Commission shall have primary advisory authority to the Board of County Commissioners for and Countywide land use policy issues.
6. The revised General Plan shall have primary jurisdiction in all areas of the County outside the incorporated City Urban Growth Boundaries and the Plan Boundary shown on the Eugene-Springfield Metropolitan Area Plan Diagram (which includes UGB plus additional territory).
7. The Planning period for the revised Plan shall be 20 years with revisions and update to occur every five years, beginning five years from the date of adoption.
8. It shall be the policy of the County to systemize and streamline the existing Plan Amendment process, to make the process more efficient and more responsive to individual needs. This will be accomplished by future amendment of the Lane Code.
9. Exceptions to LCDC Goals (i.e., a determination that it is not possible to apply an appropriate goal to a specific property) shall be in accordance with OAR 660-04-000 (Coal 2 Exception Process) and shall only be taken at times of Plan adoption of amendment.
10. Lane County shall update the Rural Comprehensive Plan during periodic review to plan and zone unincorporated communities to comply with OAR 660 Division 22, "UNINCORPORATED COMMUNITIES", the "Unincorporated Community Rule" (UCR). Once updated, any changes in the planning and zoning for the

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unincorporated communities shall comply with the UCR. The UCR was adopted by the State Land Conservation and Development Commission (LCDC) on October 28, 1994 and became effective on December 5, 1994. The definitions in the UCR for “unincorporated community” and for the four types of unincorporated communities are included in Goal 2 Policy 10 a-b below. Section - 0020(3)(a) of the UCR allows counties to plan and zone areas as communities if the, “Land has been acknowledged as an exception area and historically considered to be part of the community.” The acknowledged exception areas historically considered by Lane County to be communities are identified in Goal 2 Policy 10 c below.

- a. An “Unincorporated Community” (*OAR 660-022-0010(9)*) means, “A settlement with these characteristics:
 - i. It is made up of lands subject to an exception to Statewide Planning Goal 3, Goal 4 or both;
 - ii. Prior to the date that OAR 660 Division 22 was adopted, October 28, 1994, it was designated in The Lane County Rural Comprehensive Plan (RCP) as a “Community”;
 - iii. It lies outside the urban growth boundary of any city;
 - iv. It is not incorporated as a city; and
 - v. It meets the definition of one of the four types of unincorporated communities in Policy 3 below.”

- b. There are four types of unincorporated communities:
 - i. “Rural Community” (*OAR 660-022-0010(6)*) means, “An unincorporated community which consists primarily of residential uses but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.
 - ii. “Resort Community” (*OAR 660-022-0010(5)*) means, “an unincorporated community that was established primarily for and continues to be used primarily for recreation or resort purposes and that: includes residential and commercial uses; and provides for both temporary and permanent residential occupancy, including overnight lodging and accommodations.
 - iii. “Rural Service Center” (*OAR 660-022-0010(7)*) means, “An unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or to persons traveling through the area, but which also includes some dwellings.
 - iv. “Urban Unincorporated Community” (*OAR 660-022-0010(8)*) means, “An unincorporated community which has the following characteristics:
 - A. Includes at least 150 permanent dwelling units including manufactured homes;

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- B. Contains a mixture of land uses including three or more public, commercial or industrial land uses;
 - C. Includes areas served by a community sewer system; and
 - D. Includes areas served by a community water system.
- c. On February 29, 1984, Lane County adopted Ordinance No. PA 884. that applied a “community” plan diagram designation and zoning to 35 separate, developed and committed exception areas: Glenada, Cushman, Mapleton, Swisshome, Deadwood, Greenleaf, Triangle Lake, Walton, Blachly, Noti, Elmira, Crow, Franklin, Cheshire, Alvadore, Lorane, Lancaster, London, Saginaw, Goshen, Pleasant Hill, Jasper, Marcola, Trent, Dorena, Culp Creek, Waleterville, Fall Creek, Dexter, Leaburg, Vida, Nimrod, Blue River, Rainbow, McKenzie Bridge.
- d. The following unincorporated communities within the McKenzie Watershed are designated in the RCP as “Unincorporated Rural Communities”:
- i. Marcola,
 - ii. Waleterville,
 - iii. Leaburg.
 - iv. Vida,
 - v. Nimrod
 - vi. Blue River,
 - vii. Rainbow, and
 - viii. McKenzie Bridge.
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; and
 - vii. effect on resource lands.

Before the RCP plan diagram for an community area is amended to comply with OAR 660 Division 22, densities of 1, 2, 5 or 10 acres shall be applied to represent existing development patterns and to limit problems resulting from a negative evaluation of any of the above criteria.

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When the RCP plan diagram for a community area is amended to comply with OAR 660 Division 22, the UC Rule, new dwellings and densities for the creation of new residential lots or parcels shall comply with OAR 660 Division 22, the UC Rule and the with these requirements for specific unincorporated communities:

- 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 (*1998 existing average parcel size = .82 acres*);
 - B. Walterville: 2 acres (*1998 existing average parcel size = 1.58 acres*);
 - C. Leaburg: 2 acres (*1998 existing average parcel size = .98 acres*);
 - D. Vida: 2 acres or 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173 and located adjacent to or north of Gate Creek Road (*1998 existing average parcel size = 1.35 acres*);
 - E. Nimrod: 2 acres for areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*1998 existing average parcel size = 1.83 acres*);
 - F. Blue River: 2 acres for areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*1998 average parcel size = 4.56 acres in areas zoned RR5, 2.45 acres in areas zoned RR1 and .65 acres in RA zoned areas*);
 - G. Rainbow: 2 acres south of Highway 126, west of Mill Creek Road and north of the McKenzie River. 2 acres in areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*The 1998 average parcel size = 1.65 acres*); and
 - H. McKenzie Bridge: 2 acres west of bridge, along Highway 126 and Taylor Road, and south of the McKenzie River and along Horse Creek Road. 2 acres in areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*The 1998 existing average parcel size = 1.86 acres.*).

For developed and committed exception areas designated by the RCP as Rural Residential and located outside of communities or unincorporated communities, new dwellings and densities for the creation of new lots or parcels shall comply with OAR 660-004-0040, Application of Goal 14 (Urbanization) to Rural Residential Areas.

- b. A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential designation. The Rural Commercial designation shall encompass all commercial activities in the rural area. The range of limited, medium and medium/heavy commercial zoning shall be

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applicable in areas with a Community designation until the RCP and zoning for the areas are updated to comply with OAR 660 Division 22, the UC Rule. A single rural commercial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.

- c. A Rural Industrial designation shall be applied to existing uses and to tracts presently zoned for industrial activities addressing the same criteria as listed for the rural residential designation. The range of limited, medium and medium/heavy industrial zoning shall be applicable in areas with a Community designation until the RCP and zoning for the areas are updated to comply with OAR 660 Division 22, the UC Rule. A single rural industrial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.
 - d. A Park and Recreation designation shall be applied to uses devoted to park and recreational activities (i.e., campgrounds, developed parks, etc.).
 - e. A Public Facility designation shall be applied to publicly owned grounds and facilities (i.e., schools, etc.).
 - f. An Airport designation shall be applied to existing, developed airport facilities.
12. Changes to Plan designations for developed and committed exception areas outside of a Community designation shall be accomplished through the County's Plan Amendment Procedure.
13. Until the RCP plan diagram for a "community" is amended to comply with OAR 660 Division 22, the UC Rule, plan refinement within a "Community" designation shall be accomplished by means of rezoning within the "Community" designation, addressing the following criteria:
- a. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;
 - b. Commercial and industrial activities within Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.
14. Until the RCP plan diagram is amended to comply with OAR 660 Division 22, the UC Rule, zone changes for developed and committed exception areas with a Community designation shall be accomplished through the Plan refinement process unless a finding exists that the refinement criteria are either non-applicable to, or satisfied by, the proposed zone change.

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15. The McKenzie Watershed Land Use Policies below are part of the Rural Comprehensive Plan and shall apply to developed and committed exception lands in the McKenzie Watershed. The Lane County General Plan Policies shall also apply to these developed and committed lands. Where the McKenzie Watershed Land Use Policies are more restrictive than the Lane County General Plan Policies, the McKenzie Watershed Land Use Policies shall apply rather than the Lane County General Plan Policies.
- a. Recreation and tourism are a few of the multiple uses of the McKenzie valley and are important to the economy of the communities in the McKenzie valley. Recreation resorts are one method to promote recreation and tourism in the McKenzie Valley and should be allowed in compliance with the requirements in LC 16.
 - b. Lane County recommends that the approximate federal floodplain elevations for the community of Blue River and nearby developed and committed lands in the McKenzie watershed be updated with more specific and surveyed flood elevations and Federal Emergency Management Agency (FEMA) maps.
 - c. Lane County recommends that plans be developed and implemented for the maintenance and repair of the existing on-site sewage disposal systems in the community of Marcola and for the downtown area of the community of Blue River. A more aggressive and long term alternative to the development of such plans would be development of public facility plans for public sewers and updating these community plans to comply with the requirements of the Community Rule for urban unincorporated communities. Another more aggressive and long term alternative would be for these communities to incorporate and to perform the land use planning as cities in compliance with Goal 14.
 - d. The former veneer mill site in Blue River (map 29-16-4E, tl 202) is vacant land and, until Lane County's year 2000 periodic review, was designated industrial and zoned Light Industrial, M-2. The industrial designation and M-2 zone allowed the veneer mill to operate as a permitted use and allowed the operation of other industries. The industrial designation and industrial zoning on this land shall be maintained but does not preclude a future change of plan designation and zoning for this land. Any division of this land for the creation of parcels or lots shall demonstrate that the soil of the lots or parcels does not contain any contaminants that pose a hazard to its use.
16. New rural public facility, commercial, and industrial development shall be located inside communities or outside of "Communities" or "Unincorporated Communities" in developed and committed areas that were planned and zoned for public facility, commercial or industrial purposes on April 17, 2002. New rural industrial development that requires a rural location in order to process a rural resource may be located in a developed and committed area outside of a community. This policy shall be implemented in part through the application of zoning regulations in LC 16 that place greater limits on rural development outside

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of communities than on rural development inside of communities. Amendments to the Rural Comprehensive Plan to designate new areas for rural commercial, industrial and public facility development shall occur in nodes with similar existing development.

17. Lane County shall recognize and incorporate into the Lane County Comprehensive Plan all prior land use applications approved since January 1980 with respect to the Statewide Planning Goals to the extent legally possible.
18. Where lands are not farm and forest lands, they may be designated on the plan diagram as rural residential or as parks and recreation, provided:
 - a. Detailed and factual documentation has been presented indicating that the subject lands are not farm and forest lands as defined by Statewide Planning Goals #3 and #4.
 - b. An exception to any of the Statewide Planning Goals is not required.
 - c. Small isolated non-resource tracts surrounded by farm and forest lands shall be discouraged if such non-resource designation would create compatibility problems.
 - d. The Rural Residential Designation would be consistent with other Comprehensive Plan Policies.
19. Residential densities 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:
 - a. Existing development pattern and density of any adjacent committed areas;
 - b. Subsurface sewage disposal suitability;
 - c. Domestic water supply availability;
 - d. Access;
 - e. Public service;
 - f. Lack of natural hazards;
 - g. Effect on resource lands.
20. Plan refinements shall be prioritized for purposes of County financial revenue allocation and program planning provided by Lane County for planning services subject to fund availability in the following sequence:
 - a. Performance standards for minimum parcel size determinations within impacted forest lands.
 - b. Performance standards for minimum parcel size determinations within farm lands designated EFU.
 - c. Goal 5 conflict resolution.

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- d. Coastal Lakes.
- e. Sand & Gravel Study.

21. Destination Resorts shall be permitted in Lane County subject to the requirements stated below. For purposes of this Policy, a Destination Resort shall be defined as a multi-use recreational facility which provides a wide range of services to visitors, including but not limited to temporary lodging, meals and related services, gift shop sales, transportation and tours, indoor and outdoor recreation, and on-site entertainment. Specific uses may vary from site to site. A Destination Resort has the following characteristics:

- a. Location on a site with a high level of amenities;
- b. Use of a site design which is compatible with the natural and scenic attributes of the site and area, and which emphasized open space and natural one-site conditions;
- c. Provision of visitor-oriented accommodations and recreational facilities, and natural amenities, which serve as the primary attraction for visitors;
- d. Reservation of not less than 75% of living units on the site for only temporary, limited-stay residential use.

Destination Resorts may be developed subject to the following:

- a. Satisfaction of Lane County Plan Amendment requirements, including, where applicable, the fulfillment of LCDC Goal Exception requirements;
- b. Compliance with the provisions of the Lane County "Destination Resort" zoning district.

Destination Resort designations and zoning shall be considered only on a case-by-case basis, and may be evaluated concurrently. No designations or zoning shall occur in the absence of a specific application which addresses the criteria stated above.

22. Sites considered "significant" in terms of OAR 660-16-000 through 660-16-025 but requiring that the Goal #5 ESEE consequences analysis process be delayed (the "IB" option) shall be protected by Lane County through the application of interim protective measures. Such interim protective measures shall be considered and applied at the beginning of the plan refinement process for the "significant" sites and after sufficient information is available regarding the location, quality and quantity of the "significant" sites.

23. A cluster subdivision, with the following exceptions, shall be deemed appropriate to a rural area when the criteria below are satisfied. Exceptions to this policy includes cluster subdivision developments which meet the requirements of either A or B, and C.

- a. (1) Limited to single family residences; and
(2) Limited to 10 single family residences; and

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- (3) All lots within the cluster subdivision are five acres in size.
- or
- b. (1) Limited to single family residences; and
 - (2) Limited to 10 single family residences; and
 - (3) Lots within the cluster subdivision average, five acres in size and are not less than two acres in size.
- and
- c. (1) No further cluster development of the parcel is allowed; and
 - (2) The parcel being developed is not adjacent to another cluster subdivision containing lots less than five acres."

Consistent with the intent and requirements of OAR 660-14-040(2) and (3), a showing must be made that the development will not represent an urban population or demand an urban level of facilities and services. For purpose of meeting this standard, affirmative findings must be made addressing the following:

- a. The level of development represented by the development cannot be reasonably accommodated through the expansion of an existing urban growth boundary or by intensification of development at an existing rural center.
- b. The long-term environmental, economic, social and energy consequences resulting from the development; considering measures designed to mitigate negative impacts, are appropriate to the rural area. Factors to be considered include whether the size of the development is appropriate to the proposed rural area and whether the air, water, energy and land resources of the surrounding area are adequate to serve and are not adversely affected by the development.
- c. The proposed development is compatible with or can be made compatible with adjacent uses considering:
 - (1) Whether the development detracts from the ability of existing cities and service districts to provide services, and
 - (2) Whether the potential for continued resource management of the land at present levels surrounding and nearby the development is assured.
- d. An appropriate level of rural facilities and services are available or can be provided in a timely and efficient manner.
- e. The approval of the development is coordinated with affected jurisdictions and is consistent with the comprehensive plans of the affected jurisdictions and the Lane County Rural Comprehensive Plan.

The development will not:

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- a. Generate traffic which will exceed the carrying capacity, as defined by Lane Code Chapter 15, of adjacent public and private roads.
- b. Necessitate a higher level of police service than presently provided to the surrounding area.
- c. Occur within one mile of an existing urban growth boundary and/or share any urban service provided within a neighboring urban growth boundary.
- d. On the whole require an urban level of service.

Reasonable assurances must be provided that the cluster shall not generate students in excess of the capacity of affected facilities within the appropriate school district.

The development represents a concentration of people who generally reside and work in the area.

Deed restrictions which ensure that community water and sewer systems shall remain viable and under private ownership shall be required. Cluster subdivisions which propose to form or use a public water or sewer system shall not be allowed.

Cluster subdivisions shall be limited to residential use. No commercial or industrial uses will be allowed within existing or proposed cluster subdivisions.

All cluster subdivisions must be within an existing Rural Fire Protection District. No other identifiable substantial increase of a public service shall be necessitated by the approval of a cluster subdivision.

- 24. Outside of designated 'Community' areas, all changes to Plan Diagram designations shall be evaluated through the County's Plan Amendment procedure (LC 16.400) and approval based upon fulfillment of criteria therein.
- 25. Each of the land use designations applied to the Plan Diagram shall be implemented by one or more zoning districts, as follows:

<u>Plan Designation</u>	<u>Zone Classification</u>	<u>Abbrev.</u>
Forest Land	Nonimpacted Forest Lands	F-1, RCP
Forest Land	Impacted Forest Lands	F-2, RCP
Agricultural Land	Exclusive Farm Use	E-RCP
Natural Resource	Natural Resource	NR-RCP
Marginal Land	Marginal Lands	ML-RCP
Park and Recreation	Park and Recreation	PR-RCP
Rural Park and Recreation	Rural Park and Recreation	RPR, RCP

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Notwithstanding the plan diagram, areas designated by the plan diagram as Park and Recreation, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Park and Recreation.

Natural Resource	Quarry & Mining Operations Combining	/QM-RCP
Natural Resource	Sand, Gravel and Rock Products	SG-RCP
Natural Resource	Sand, Gravel & Rock Prod. Processing	/CP-RCP
Public Facility, Community	Public Facility	PF-RCP
Rural Public Facility	Rural Public Facility	RPF, RCP

Notwithstanding the plan diagram, areas designated by the plan diagram as Public Facility, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Public Facility.

Commercial, Community	Limited Commercial	C-1, RCP
Commercial, Community	Neighborhood Commercial	C-2, RCP
Commercial, Community	Commercial	C-3, RCP
Rural Commercial	Rural Commercial	RC, RCP

Notwithstanding the plan diagram, areas designated by the plan diagram as Commercial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Commercial.

Industrial, Community	Limited Commercial	M-1, RCP
Industrial, Community	Light Commercial	M-2, RCP
Industrial, Community	Heavy Industrial	M-3, RCP
Rural Industrial	Rural Industrial	RI, RCP

Notwithstanding the plan diagram, areas designated by the plan diagram as Industrial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Industrial.

Rural, Community	Suburban Residential	RA, RCP
Rural, Community	Garden Apartment Residential	RG, RCP
Rural, Community	Rural Residential	RR, RCP
Rural Residential	Rural Residential	RR, RCP

Notwithstanding the plan diagram, areas designated by the plan diagram as Rural, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Residential.

Destination Resort	Destination Resort	DR, RCP
Historic Structure/Site	Historic Struc. or Sites Combining	/H-RCP
Natural Estuary	Natural Estuary	/NE-RCP
Conservation Estuary	Conservation Estuary	/CE-RCP
Development Estuary	Development Estuary	/DE-RCP
Sign. Natural Shorelands	Significant Nat. Shorelands Comb.	/SN-RCP
Prime Wildlife	Prime Wildlife Shorelands Comb.	/PW-RCP
Natural Resources Conserv.	Natural Resources Conservation Comb.	/NRC-RCP
Residential Development	Res. Devel. Shorelands Combining	/RD-RCP
Shorelands Mixed Develop	Shorelands Mixed Devel. Combining	/MD-RCP
Dredge Material/Mitigation	Dredge Mat./Mitigation Site Comb.	/DMS-RCP
Beaches & Dunes	Beaches and Dunes Combining	/BD-RCP
	Floodplain Combining	/FP-RCP
Airport	Commercial Airport Safety District	/CAS-RCP

Ordinance PA 1192
Exhibit A

Airport	Airport Safety District	/AS-RCP
Airport	Airport Operations	/AO-RCP
Nonresource	Rural Residential	RR-RCP
Public Facility	Inmate Work Camp	IWC-RCP

*NOTE: The "Community" Plan Designation is implemented by various zoning districts as indicated, zones which also implement specific Plan designations other than "Community". A suffix "/C" shall be used in combination with these zoning abbreviations to denote the zoning inside unincorporated community plans adopted to comply with OAR 660 Division 22, the UC Rule: RR, RC, RI, RPF, and RPR.

26. Exceptions to resource goals shall be required for transmission line right-of-ways when in excess of fifty (50) feet.
27. Errors or Omissions. Lane County will annually initiate and process applications to correct identified errors or omissions in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots. Changes to correct errors or omissions shall comply with the procedures and requirements of Lane Code Chapter 12 (Comprehensive Plan), Chapter 14 (Application Review and Appeal Procedures), and Chapter 16 (Land Use & Development Code), except as provided for in 27 c. and d., below.
- a. Circumstances qualifying for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following:
- i. Lawful, structural development existing prior to September 12, 1984 and use of the structure(s) at the time qualified as an allowable use in a developed & committed zone designation other than that designated for the land on an Official Plan or Zoning Plot.
 - ii. Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.
 - iii. A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.
 - iv. Correction of a scrivener error on an adopted Official Plan or Zoning Plot.
 - v. Correction of an incompatible split-zoning of a legal lot resulting from a survey boundary line error that was discovered after September 12, 1984.

Ordinance PA 1192
Exhibit A

- vi. Compliance by a public jurisdiction or agency with a deed restriction on public land.
- vii. Correction of an inconsistency between the text of an order or ordinance adopted by the Board of Commissioners and an Official Plan or Zoning diagram.
- viii. A circumstance other than as listed in 27. a. i. –vii. above, which the Planning Commission elects to forward a favorable recommendation for consideration by the Board of Commissioners.
- b. Errors or omissions in the Official Plan and Zoning Plots shall not include circumstances requiring that a committed exception be taken or situations involving the designation of Marginal or Nonresource Lands.
- c. By September 30th of each year, property owners who believe that they have errors or omissions in the official plan or zoning of their property and who want those errors corrected shall submit to the Planning Director a completed Lane County Errors or Omission Application. Within 45 days of receipt of the application, the Director shall review the application for completeness and provide the applicant with a written notice that explains why the application was accepted or not accepted. The Director shall not accept incomplete applications or applications for changes that do not qualify as errors or omissions; and
- d. By March 31st of each year, Lane County shall conduct the first public hearings with the Lane County Planning Commission for all pending errors or omission applications accepted within the deadline specified in Policy 27 c, above.
- e. To partly defray the expense in processing the errors or omission application, a fee shall be charged the applicant. The fee shall be established by order of the Board of County Commissioners.

Ordinance PA 1192
Exhibit B
Findings

Finding 1. Lane Code 16.400(6)(i): This subsection of Lane Code requires that the adoption of amendments to the Rural Comprehensive Plan, and components thereto, be by ordinances. The adoption of Ord. PA 1192 would amend the RCP Goal 2 Policies by ordinance and therefore complies with this code requirement.

Finding 2. Lane Code 16.400(6)(h)(iii)(aa) requires Ord. PA 1192 to comply with applicable state laws and the Statewide Planning Goals. Based on the findings below, Ord. PA 1192 complies with applicable state laws and Statewide Planning Goals.

- a. Statewide Planning Goal 2 requires, "Opportunities shall be provided for review and comment by citizens during the preparation, review and revision of plans and implementation ordinances." Lane County provided the opportunities identified below for citizens to review and comment on the preparation, review and revision of Ord. PA 1172. These opportunities were adequate to comply with Goal 2.
 - In August 2002, Land Management Division (LMD) (Jim Mann, Senior Planner) coordinated with a group of local land use attorneys and consultants to review the need for reinstating an errors or omission policy and plan amendment process. A preliminary draft of proposed text for such a policy was developed and circulated for review by the group.
 - At least 60 days in advance of the December 17, 2003 hearing, LMD provided copies of the draft changes to the public in citizen information meetings in the rural communities of Crow (September 9, 2003), Mapleton (October 14, 2003), Elmira (October 16, 2003), to explain and distribute the proposed Policy changes.
 - Display ads advertising a series of citizen information meetings including the time and place of the meetings for citizens to hear explanations by the LMD of the proposed Policy change and where citizens could get additional information, appeared in local periodicals on the following dates:
August 22, August 25, September 2, 2003, *The Register Guard*;
September 4, 2003, *Eugene Weekly*;
September 4, 2003, *West Lane News, Tri-County News*.
 - Display ads advertising a series of citizen information meetings and LCPC public hearings including the time and place of the meetings and hearings and where citizens could get additional information, appeared in local periodicals on the following dates:
October 8, 2003, *The Siuslaw News*;
October 9, 2003, *Eugene Weekly*;
October 16, 2003, *West Lane News, Tri-County News*;
 - A legal ad was published in the *The Register-Guard* on October 7, 2003 providing notice of the LCPC public hearing in Harris Hall of the Lane County Public Service Building on October 21, 2003.

- A legal ad was published in the *The Register-Guard* on October 14, 2003 providing notice of the LCPC public hearing in the Mapleton High School Cafeteria on November 4, 2003.
 - Beginning September 15, 2003, copies of the proposed changes to RCP Goal 2 Policies to implement Policy 27 - Errors or Omission, were available at the LMD for distribution to citizens.
 - On October 21, 2003, LCPC held a public hearing in Harris Hall of the Lane County Public Service Building in Eugene to receive citizen comments on proposed amendments to Lane Code Chapter 16 including the addition of Policy 27 (Errors or Omission) to Goal 2 Policies of the RCP.
 - On November 4, 2003, LCPC held a public hearing in Mapleton High School Cafeteria in Mapleton to receive citizen comments on proposed amendments to Lane Code Chapter 16 including the addition of Policy 27 (Errors or Omission) to Goal 2 Policies of the RCP.
 - At least 45 days in advance of the December 17, 2003 hearing (on October 13, 2003) the LMD mailed to the Department of Land Conservation and Development (DLCD) a 45-day post acknowledgement notice of the hearing and two copies of the proposed addition of Policy 27 to the RCP Goal 2 Policies.
 - At least 20 days in advance of the December 17, 2003 hearing, a legal ad was published in the *The Register-Guard* on November 25, 2003 providing notice of the LCPC public hearing in Harris Hall of the Lane County Public Service Building on December 17, 2003.
 - On December 17, 2003, a public hearing was held by the Board of Commissioners in the Lane County Public Service Building of Eugene to receive citizen comments on the proposed RCP Goal 2, Policy 27 – Errors or Omission.
- b. Ord. PA 1192 acknowledges and implements Lane Code 16.400 (1) Purpose.
 “The Board shall adopt a Rural Comprehensive Plan. The general purpose of the Rural Comprehensive Plan is the guiding of social, economic and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare. The Rural Comprehensive Plan shall be considered to be a dynamic policy instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights. It is recognized that the Rural Comprehensive Plan affects the people of Lane County, and it is, therefore, important that the ability by individuals to propose amendments be free of restraint.”

- the boundaries (use a colored line and label this line) of the lot or parcel identified in Section 2B of this application;
- an inset of any existing dwelling location, well, subsurface septic system, driveway; and
- the location and identification of any accessory structures or buildings on the land identified in Section 1A and B of this application.

G. Signatures: Owner: _____ Date: _____
 Applicant: _____ Date: _____

By the above signatures: the owner certifies to authorizing this application; and, the owner and applicant certify that the information contained in this application is accurate and complete.

Section 2: Lot, Parcel, and Tract Information

- A. The following terms and definitions are used in this application:
- ‘Lot’ is defined by LC 16.090 as, “A unit of land that is created by a subdivision of land.”
 - ‘Parcel’ is defined by LC 16.090 defines as, “A unit of land created by a partitioning of land, in compliance with all applicable planning, zoning or partitioning ordinances or regulations; or by deed or land sales contract if there are no applicable planning, zoning or partitioning ordinances or regulations.”
 - ‘Ownership’ is not defined LC 16.090. Therefore, the following definition of ‘ownership’ is used from Webster’s Third New International Dictionary Of The English Language Unabridged, “The state, relation or claim of being an owner: lawful claim or title.” An example of two different ownerships is if party A (Mr. Smith) owns one parcel and if parties A and B (Mr. Smith and Mrs. Smith) own the other parcel. In order for the ownerships to be the same, the owners must all be the same.
 - ‘Contiguous’ is defined by LC 16.090 as, “Having at least one common boundary line greater than eight feet in length. Tracts of land under the same ownership and which are intervened by a street (local access, public, County, State or Federal street) shall not be considered contiguous.”
 - ‘Tract’ is defined by OAR 660-033-0020(1) as, “‘Tract’ consists of one or more contiguous lots or parcels in the same ownership.” For the limited purpose of analyzing this application for compliance with the tract requirements in OAR 660-033(24), contiguous lands in the same ownership as the lot or parcel where the proposed dwelling will be located shall be treated as lots or parcels. However, the findings of fact required in this Section of the application must be completed to establish that the lot or parcel where the proposed dwelling will be located meets the definition requirements for a ‘lot’ or ‘parcel’.

B. The following required exhibits assists in identifying the proposed lot or parcel being considered for the change in zoning designation. *Attach to this application the information referred to as “Attached” and check each box when you have completed this step)*

() *****Attached***** is a copy of a Lane County Assessment and Taxation Map with the boundaries of the subject tract (all contiguous lots or parcels in the same ownership) plotted onto it with bold lines and showing all adjoining tax lots that are not part of this tract.

(Only one of the three boxes below is applicable. Check the box that is applicable and provide the information referred to next to this box.)

- () The subject property being considered for a change in zoning designation is a 'lot' created by a subdivision of land. *****Attached***** is a copy of an approved and recorded subdivision plat with the subdivision name of *(fill in the name of the subdivision)* _____ . The boundaries of the lot are plotted onto this plat and show that it is located within the subdivision plat boundaries and that it is comprised of the following lot in its entirety. *(fill-in the lot number from the subdivision plat)*: _____ . The subject property qualifies as a lot because, as demonstrated above, it is comprised of a lot in an approved subdivision plat.
- () The subject property being considered for a change in zoning designation is a 'parcel' created by a partition of land. *****Attached***** is a copy of an approved and recorded partition map or plat with the Lane County recording number of *(fill-in the recording number from the map or plat)* _____. The boundaries of the parcel are plotted onto this map or plat and show that it is located within the partition plat or map and that it is comprised of the following parcel in its entirety *(fill-in the parcel numbers from the partition map or plat)*: _____. The subject property qualifies as a parcel because, as demonstrated above, it is a parcel in an approved partition map or plat.
- () The subject property being considered for a change in zoning designation is a 'parcel' that was created by a deed or land sales contract in compliance with all applicable planning, zoning or partitioning ordinances or at a time when there were no applicable planning, zoning or partitioning ordinances or regulations. *****Attached***** is a copy of a preliminary legal lot verification from Lane County verifying that the parcel is a lawfully created parcel.

Section 3: Soil Information and resource uses: Rezoning of resource land properties.

Section 3 of the application **applies only** when the application proposes to change the designation of a lot or parcel from "Exclusive Farm Use Land (E__)" to "Impacted Forest Land (F2)", or from "Impacted Forest Land (F2)" to "Exclusive Farm Use Land (E__)", or from "Nonimpacted Forest Land (F1)" to "Impacted Forest Land (F2)".

- A. *****Attach***** to this application, a soils report from the Lane Council of Governments (LCOG) that includes a computerized soils map and analysis of the soil classifications of the subject property. The computerized soil mapping done by the Lane Council of Governments is based upon the Natural Resource Conservation Service (NRCS) most recent publication of NRCS soils mapping and classifications. The NRCS soil classifications and mapping were used to identify the soils of the subject property in this application. The mapping and analysis also identify the applicable Douglas Fir site index, cubic foot-per acre-per year fiber productivity, agricultural capability class, and whether or not the soils are high value farm land or not. The boundaries of the subject property are defined by reference to the tax lots identified in **Section I A** and **B** of this application and as delineated in **Section I F** of this application.
- B. If you have soils information that you wish to submit with this application that is in addition to the soils information from LCOG, then check this box () and *****attach***** this additional information to this application.
- C. *****Attach***** If the LCOG soils information mentioned in **Section 3A** above is not attached to this application, then the alternative soils information listed below must be attached to this application.

- *****Attach***** a copy of the soils map for the subject property from the Soil Survey of Lane County Area, Oregon.
- *****Attach***** a map with the boundaries of the subject property plotted on to it and the boundaries of the soils together with their map unit identification plotted on to it. The soils map or another map may be used for this purpose. However, the map that is used must be sufficiently accurate and clear to identify and analyze the soils of the subject tract to determine the Douglas Fir site index classification and the agricultural capability class of the property.
- *****Attach***** a report identifying:
 - the names & numbers (Lane County soil map unit) of the soil types of the subject tract,
 - the percentage of the subject tract in each soil unit,
 - the high-value farmland classification of the soil units of the subject tract, and
 - the total percentage of the subject tract with soils having a high-value farmland classification.

D. Income from resource management products.

Complete either (a) or (b) below, as appropriate:

() (a) **Farm income:** The average gross income from 1984 to the date of application from the annual sale of farm products grown or raised on the subject property, and identify the farm use activities now occurring on the subject property: *Describe the kinds of farming occurring on the property, the number of acres for each kind of farm use, the quantity of crops per acre, animals or products being produced, and the activities associated with these uses. Do not include purchased livestock or farm products from rented or leased lands or from lands which are not part of the subject tract:*

Annual, average gross income: _____

Farm use and activities currently occurring on the subject property include _____

(attach additional pages or documents if necessary).

() (b) **Forest Income:** The income produced during previous years between 1984 and the date of application, from the harvest of timber products on the subject property, and identify the forest uses and activities now occurring on the subject property: *Describe the kinds of forest uses occurring on the property, the number of acres for each kind of forest use (pending or completion of replanting of a harvested site under Forest Practices Act, commercial thinning, small wood lot management, and the activities associated with these uses.*

Forest products gross income since 1984: _____

Forestry uses and activities currently occurring on the subject property include: _____

(attach additional pages or documents if necessary).

E. Resource management practices.

Attach any reports or records that illustrate how your property has been managed for resources productivity in the past.

() (a) Oregon Department of Forestry – Forest Practices Act Notification reports:

- () Harvesting of forest tree species;
- () Construction, reconstruction or improvement of roads;
- () Site preparation for reforestation;
- () Compliance with reforestation stocking standards;
- () Conversion to any non-forest use including agricultural or recreational;
- () Commercial thinning;
- () Cutting of firewood for commercial sale; or
- () Surface mining permits;
- () Other _____.

() (b) Small Woodlot Owners – management plan.

() (c) Agricultural uses or practices. Check any uses or practices that occurred on the parcel prior to September 12, 1984 and any uses or practices that have occurred since 1984 and up to the time of submittal of this application. Attach any substantiating documentation of the uses or practices.

- () Grain crop: Type _____, acreage _____ from _____ to _____
- () Seed crop: Type _____, acreage _____ from _____ to _____
- () Hay crop: Type _____, acreage _____ from _____ to _____
- () Row crop: Type _____, acreage _____ from _____ to _____
- () Poultry: Type _____, acreage _____ from _____ to _____
- () Dairy: Type _____, acreage _____ from _____ to _____
- () Livestock: Type _____, acreage _____ from _____ to _____
- () Orchard: Type _____, acreage _____ from _____ to _____
- () Vineyard: Type _____, acreage _____ from _____ to _____
- () Nursery: Type _____, acreage _____ from _____ to _____
- () Other: Type _____, acreage _____ from _____ to _____

Section F. To be completed by Lane County - Land Management Division staff.

F. Approval Criteria and Findings of Fact.

1. This proposal is a Minor Amendment pursuant to Lane Code 16.400(6)(h) and involves a zone change subject to LC 16.252. This proposal is supported by evidence and documentation provided in response to Sections A. through E. above, which implement the Rural Comprehensive Plan Goal 2, Policy 27 provisions. No exception to any Goal, resource or otherwise, is necessary.

This is simply a proposed change from one resource zone to another based on the resource management history of the parcel or lot.

2. The subject property is identified as tax lot _____, of Assessor's Map TRS ____-____-____.____ and is located to the _____ of the public road _____ (County Road _____). This application proposes to designate the _____-acre parcel from _____ Lands (____) to _____ Lands (____). Doing so would enable development of the parcel to those uses allowable in the _____ zone, LC 16.21 ____, and OAR 660-0 ____.
3. The approval of this application would:
 not provide any opportunity for division of the property since the minimum parcel size in the proposed _____ zone is _____ acres.
 would provide an opportunity for division of the property into _____ parcels in compliance with the proposed minimum parcel size of _____ acres in the proposed zoning designation.
4. In regards to the relevant applicability of Goals 3 (Farm) and 4 (Forest), the _____-acre subject property consists of approximately _____ acres identified as a combination of _____ () _____ () and _____ () soils.
5. In addressing Goal 5, Water Resources policies, the property is () is not () listed as a water quality /quantity limited area in Lane Manual 13.010.
6. The applicable General Purpose statements of Lane Code 16.003(1), (4), (10) and the Purpose statements of the _____ Zone in LC 16.21 (1) are compatible in that the proposal recognizes the current resource management practices and the conservation of significant natural resources present on the property. Based on the record, the _____ designation is more consistent with the existing on-site land uses. To ensure compatibility with surrounding lands, recording of a "Farm/Forest Management Agreement" would be required by the owner of the subject property as a condition of approval for any development authorized in a Special Use Permit decision.

Conclusion

The applicant has shown by a preponderance of evidence that the past and current resource management practices of the subject parcel or lot would lead the Board of County Commissioners to the reasonable conclusion that the subject property should be redesignated as () Agricultural () Forest, and rezoned to _____ (_____, RCP).

Exhibits

- A. Official Zoning Map _____
 - B. Addressing Map ____-____-____.____
 - C. Applicant's photographs of _____
- (List other exhibits below)

File No. PAZCEO _____
Fee \$ _____

LANE COUNTY LAND USE APPLICATION FORM

**Rural Comprehensive Plan -- Goal 2, Policy 27
Plan Amendment: Error or Omission**

**Rural Residential, Commercial, Industrial,
Public Facility, or Parks & Recreation Lands**

All information requested in this application form must be provided or the Planning Director will not accept this application. The appropriate legal requirements this application must comply with are included below with specific references to the regulations where they are found. The text of these regulations is identified in boldface quotes. Following each of the legal requirements are spaces for the applicant to provide the relevant information demonstrating how this application complies with the requirement.

Please print or type.

Owner _____
Address _____
P. O. Box or Street Post Office State Zip code
Telephone Number () - e-mail _____
Area code number

Applicant _____
Address _____
P. O. Box or Street Post Office State Zip code
Telephone Number () - e-mail _____
Area code number

SECTION I: Category

Circumstances qualifying the property for consideration by the Board of Commissioners under the Errors or Omission Policy may include one or more of the following: [Check the appropriate box]

- () i. *Lawful, structural development existing prior to September 12, 1984 and use of the structure(s) at the time qualified as an allowable use in a developed & committed zone designation other than that designated for the land on an Official Plan or Zoning Plot.*
- () ii. *Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate the property Nonimpacted Forest Land (F-1, RCP) zone did not display actual existing legal lots adjacent to or within the subject property, and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.*
- () iii. *A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.*
- () iv. *Correction of a scrivener error on an adopted Official Plan or Zoning Plot.*
- () v. *Correction of an incompatible split-zoning of a legal lot resulting from a survey boundary line error that was discovered after September 12, 1984.*
- () vi. *Compliance by a public jurisdiction or agency with a deed restriction on public land.*
- () vii. *Correction of an inconsistency between the text of an order or ordinance adopted by the Board of Commissioners and an Official Plan or Zoning diagram.*

- () *viii. A circumstance other than as listed in 27. a. i. –vii. above, which the Planning Commission elects to forward a favorable recommendation for consideration by the Board of County Commissioners.*

Please attach to this application a copy of the materials required by this application and any other supporting documentation that is relevant. Additional pages of explanation or relevant materials may be referenced and attached to this application.

SECTION II: General Information

- A. Identify the lot or parcel where the amendment to the plan diagram proposed by this application would be located by reference to the Lane County Department of Tax and Assessment map and tax lot (TL) numbers, and tax code (TC) numbers:

Map # ___ - ___ - ___ - _____ TL #(s) _____ Current Zoning _____

Identify any addresses for the parcel in A above or, if there are no addresses, state "none":

Identify the current zoning designation of the tract: _____

- B. Identify any contiguous property in the same ownership as the lot or parcel identified in A above by reference to the Lane County Department of Tax and Assessment map and tax lot numbers, and tax code numbers:

Map # ___ - ___ - _____ TL #(s) _____ Current Zoning _____

Map # ___ - ___ - _____ TL #(s) _____ Current Zoning _____

Map # ___ - ___ - _____ TL #(s) _____ Current Zoning _____

Identify any addresses for the tract in B above or, if there are no addresses, state "none":

- C. Identify the proposed zoning designation for the subject property: _____

- D. Identify the Lane County zoning map (plot) number: _____

- E. Identify the following service & facility providers for the property:

Electrical Power Company: _____

School District: _____

Rural Fire Protection District: _____

Water Source. () public, () on-site well, () community system

If there is a community water system, state its name: _____

Sewerage Source: () public, () on-site system, () community system

If there is a community sewerage system, state its name: _____

- F. *****Attach***** to this application a parcel plan (Follow the format suggested in Lane County Info Guide 1.3, How To Prepare Your Plot Plan, Option 2) showing:

- the boundaries of the land or tract identified in Section 1A and B of this application;

- the boundaries (use a colored line and label this line) of the lot or parcel identified in Section 2B of this application;
- an inset of any existing dwelling location, well, subsurface septic system, driveway; and
- the location and identification of any accessory structures or buildings on the land identified in Section 1A and B of this application.

G. Signatures: Owner: _____ Date: _____
 Applicant: _____ Date: _____

By the above signatures: the owner certifies to authorizing this application; and, the owner and applicant certify that the information contained in this application is accurate and complete.

Section 2: Lot, Parcel, and Tract Information

- A. The following terms and definitions are used in this application:
- ‘Lot’ is defined by LC 16.090 as, “A unit of land that is created by a subdivision of land.”
 - ‘Parcel’ is defined by LC 16.090 defines as, “A unit of land created by a partitioning of land, in compliance with all applicable planning, zoning or partitioning ordinances or regulations; or by deed or land sales contract if there are no applicable planning, zoning or partitioning ordinances or regulations.”
 - ‘Ownership’ is not defined LC 16.090. Therefore, the following definition of ‘ownership’ is used from Webster’s Third New International Dictionary Of The English Language Unabridged, “The state, relation or claim of being an owner: lawful claim or title.” An example of two different ownerships is if party A (Mr. Smith) owns one parcel and if parties A and B (Mr. Smith and Mrs. Smith) own the other parcel. In order for the ownerships to be the same, the owners must all be the same.
 - ‘Contiguous’ is defined by LC 16.090 as, “Having at least one common boundary line greater than eight feet in length. Tracts of land under the same ownership and which are intervened by a street (local access, public, County, State or Federal street) shall not be considered contiguous.”
 - ‘Tract’ is defined by OAR 660-033-0020(1) as, “‘Tract’ consists of one or more contiguous lots or parcels in the same ownership.” For the limited purpose of analyzing this application for compliance with the tract requirements in OAR 660-033(24), contiguous lands in the same ownership as the lot or parcel where the proposed dwelling will be located shall be treated as lots or parcels. However, the findings of fact required in this Section of the application must be completed to establish that the lot or parcel where the proposed dwelling will be located meets the definition requirements for a ‘lot’ or ‘parcel’.

- B. The following required exhibits assists in identifying the proposed lot or parcel being considered for the change in zoning designation. *Attach to this application the information referred to as “Attached” and check each box when you have completed this step)*
- () *****Attached***** is a copy of a Lane County Assessment and Taxation Map with the boundaries of the subject tract (all contiguous lots or parcels in the same ownership) plotted onto it with bold lines and showing all adjoining tax lots that are not part of this tract.

(Only one of the three boxes below is applicable. Check the box that is applicable and provide the information referred to next to this box.)

- () The subject property being considered for a change in zoning designation is a 'lot' created by a subdivision of land. ***Attached*** is a copy of an approved and recorded subdivision plat with the subdivision name of *(fill in the name of the subdivision)* _____ . The boundaries of the lot are plotted onto this plat and show that it is located within the subdivision plat boundaries and that it is comprised of the following lot in its entirety. *(fill-in the lot number from the subdivision plat):* _____ . The subject property qualifies as a lot because, as demonstrated above, it is comprised of a lot in an approved subdivision plat.

- () The subject property being considered for a change in zoning designation is a 'parcel' created by a partition of land. ***Attached*** is a copy of an approved and recorded partition map or plat with the Lane County recording number of *(fill-in the recording number from the map or plat)* _____ . The boundaries of the parcel are plotted onto this map or plat and show that the it located within the partition plat or map and that it is comprised of the following parcel in its entirety *(fill-in the parcel numbers from the partition map or plat):* _____ . The subject property qualifies as a parcel because, as demonstrated above, it is a parcel in an approved partition map or plat.

- () The subject property being considered for a change in zoning designation is a 'parcel' that was created by a deed or land sales contract in compliance with all applicable planning, zoning or partitioning ordinances or at a time when there were no applicable planning, zoning or partitioning ordinances or regulations. ***Attached*** is a copy of a preliminary legal lot verification from Lane County verifying that the parcel is a lawfully created parcel.

Section 3: Rezoning of a nonresource parcel (Residential, Commercial, Industrial, Public Facility, and Parks & Recreation)

Section 3 of the application **applies only** when the application proposes to change the designation of a developed lot or parcel from one and to one of the zoning designations of Rural Residential (RR, RA, RG), Rural Commercial (RC, CR, C1, C2, C3), Rural Industrial (RI, M1, M2, M3), Rural Public Facilities (RPF, PF) or Rural Parks & Recreation (RPR).

A. Statement of Criteria

- OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
- OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
- Lane County Rural Comprehensive Plan Policies
- Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
- Lane Code 16. _____ – _____ (Zoning Designation)
- Lane Code 16. _____ – _____ (Zoning Designation)
- Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

B. Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located _____ within the Rural Community of _____, or Developed & Committed Exception Area No. _____. It can be identified as tax lot _____ of Assessor's TRS Map _____, with a rural address of _____, _____, OR _____. The subject property is _____ acre(s) in size and is developed with the _____.

(Name of business or use)

The parcel is developed with the following structure(s) relating to the business or use:

- _____ (structure), ___ ft. x ___ ft. (_____ sq. ft.); in size;
- _____ (structure), ___ ft. x ___ ft. (_____ sq. ft.); in size; and
- _____ (structure), ___ ft. x ___ ft. (_____ sq. ft.); in size;

The proposed zone change will allow the historical and current use of the property to continue in conformity with the _____ Zone (Zoning designation).

- The subject property is a legal lot as documented in Section 2. B., above.
- The subject property is currently zoned for _____ (___/RCP).
- The properties to the north are zoned _____
The properties to the east are zoned _____
The properties to the south are zoned _____
The properties to the west are zoned _____
- The request for the change of zone is to bring the historical use of the property into conformity with the Rural Comprehensive Plan and Lane Code. The property's historical and present use as the _____ was established prior to acknowledgment of Lane County's comprehensive plan and is inconsistent with the property's current _____ (____) zoning.
- The existing use, _____, is an allowable use in the _____ Zone per Lane Code (LC) 16. _____
(Name of business) (Zoning Designation)
(Cite the section of the zoning code that best describes your business or use)

() The use complies with the Purpose statement of LC 16. (1) Purpose.
The change of zone would allow the _____ to continue the operation of the facility and _____

() There is no record of any historical compatibility issues occurring between the existing use _____ and its neighbors resulting from its operation since its establishment in 19____. Nor is there any record of complaints from any property owners in the vicinity regarding compatibility issues or conflicts with the existence or operation of this use, _____. The use has co-existed with their rural residential neighbors without conflict or complaint for the past _____ years.

- The subject property is () is not () within an area identified as a "water quantity limited area" in Lane Manual 13.010. (Check one box above)

Section C. To be completed by Lane County Land Management Division staff.

C. Justification for the Recommendation (See Conclusion and Recommendation, below)

I. STATEWIDE PLANNING GOALS

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) *Uses which are the same as the existing types of land use on the exception site; or*

The zone change requested by this application is intended to recognize _____ as an allowable and lawfully existing use that currently exists on the subject property and a service that is integrated throughout the () unincorporated community of _____ or () Exception Area No. _____, and surrounding rural area.

(b) *Which meet the following requirements:*

(A) *The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and*

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located within the Rural Community of _____, OR Developed & Committed Exception Area No. _____, and is not located within an urban growth boundary. The property receives a rural level of police and fire protection. The proposed rezoning will more closely fit the actual use that has existed on the subject property for more than ___ years.

(B) *The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and*

(Check the appropriate statements below)

- () There are no agricultural or forest resource lands located adjacent to the subject property.
- () Adjacent resource lands include:

- Agricultural Lands [EFU] to the North, South, East, West.
- Forest Lands [F1] or [F2] to the North, South, East, West.
- Marginal Lands [ML] to the North, South, East, West.
- Parks & Recreation Lands [PR] to the North, South, East, West.
- Sand, Gravel, and Rock Products Lands [SG, SG-CP] to the North, South, East, West.
- Quarry and Mine Operations Land [QM] to the North, South, East, West.
- The closest Agricultural Lands are designated E___ and are located _____ feet from the subject parcel's _____ boundary.
- The closest Forest Lands are designated F___ and are located _____ feet from the subject parcel's _____ boundary.

- Adjacent nonresource zoning includes:
 - Rural Residential (RR___, RA, RG) to the North, South, East, West;
 - Rural Commercial (RC, CR, C1, C2, C3) to the North, South, East, West;
 - Rural Industrial (RI, M1, M2, M3) to the North, South, East, West;
 - Rural Public Facility (RPF, PF) to the North, South, East, West; or
 - Rural Parks & Recreation (RPF) to the North, South, East, West.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing use as a _____ is _____ in nature and has been offered to the public by the _____ for _____ years. The service is provided within _____ (community) and the surrounding rural area. Adequate water is available from a Blue River Water District and there is no indication that the anticipated water needs of the facility will adversely affect resource uses in any fashion.

It has been suggested that OAR 660-012-0060(1) is applicable to rezonings. This administrative rule is a part of the Land Conservation and Development's Transportation Planning Rule and states:

"Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which 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. ..."

In a prior quasi-judicial hearing and decision, the Lane County Hearings Official found that OAR 660-012-0060(1) is not applicable to zone changes. First, a zone change is not a functional plan or an acknowledged comprehensive plan. Neither is it a land use regulation, which is defined by ORS 197.015(11) as "...any local government zoning ordinance, land division ordinance adopted under ORS 92.044 or 92.046 or similar general ordinance establishing standards for implementing a comprehensive plan." On the contrary, a zone change applies standards (i.e. Lane Code 16.252, Rural Comprehensive Plan Land Use Planning Policy #11, etc.) not establishes them and is not created by ordinance. Second, findings established by the record concerning the nonprofit medical clinic demonstrate that the proposed rezoning will not change the level of service (LOS) as it is intended to recognize the continuation of the existing use of the subject property.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

II. PLAN CONFORMITY

The subject property is located in a "developed and committed" area of Lane County, within the Community of _____. It is proposed to be designated _____ by the Lane County Rural Comprehensive Plan and is zoned () Rural _____. The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:

1. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;

The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services either suffered or enjoyed by the Community. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

The livability in the area surrounding the subject property is defined, in part, by the operation of the current _____ on the property. The _____ provides _____ to members of the rural community and surrounding area as well as traveling people. The _____ has been serving residents of _____ for _____ years and as such is part of the social, economical, and living fabric of the community.

There is no evidence in the record for one to conclude that the current use has significantly affected surrounding properties in any adverse way. In support of this assumption is the lack of recorded complaints regarding compatibility issues concerning the site.

The applicants have not indicated that they have any intention of changing the current use of the subject property. There is no reason stemming from the public record to think otherwise but the subject property may have other owners over the decades to come. Future owners of the subject property may decide that they want to intensify the existing use of the property or change the use entirely.

While the impacts from the _____ appear to be consistent with the livability and appropriate development of the surrounding area and the community-at-large, other uses permitted outright within the Rural _____ Zone may not be. The applicant has not done a compatibility analysis of these uses. Therefore, the rezoning request can only be approved if the change in zone is limited to the existing uses on the subject property. Any change of use on the property would be subject to the special use permit process of Lane Code 16.29_() and the site review criteria of Lane Code 16.29_().

2. Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.

The subject property is located adjacent to _____ and _____ from the _____ node of uses along _____. The _____ site is engulfed by their clients, and most favorably located.

B. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. The proposed rezoning will not change the type or intensity of the existing use of the subject property and therefore will not alter the use or availability of groundwater, which is currently provided by _____.

C. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

D. Agricultural Lands, Policy # 8: “Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities.”

There are () are no () agricultural zoning adjacent to the subject property. The closest EFU land is located _____ or more to the _____ of the subject property.

E. Flora and Fauna, Policies 1 and 10 “Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

Significant, specific species, wildlife habitat and other natural areas have not been identified on the subject property. The _____ is a Class I stream designated for protection in the RCP and identified as a Type F stream by Oregon Department of Forestry. The setback standard for _____ land to protection the riparian corridor in LC16.29_ and 16.253 is 50 feet () 100 feet (). The proposed rezoning will not change the existing use of the subject property and therefore will not pose a risk of significantly altering the natural system in the area. The proposed rezoning is in compliance with these Plan policies.

III. ZONE CONFORMITY

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

A. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. The purposes relevant to this application are as follows:

- (1) **Ensure that development of property within the County is commensurate with the character and physical limitation of the land and, in general, to promote and protect the public health, safety, convenience, and welfare.**

The _____ purpose is to provide _____ for the rural citizens, the traveling public, and the surrounding area. The mission epitomizes the "Purpose" of promoting and protecting public health, safety, convenience and welfare.

(2) Protect and diversify the economy of Lane County.

The existing use addresses the need for a _____ for the traveling public and local area residents in the nearby area.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The subject property is located within an exception area and is currently zoned _____ (R_____).

(7) Provide for the orderly and efficient transition from rural to urban land use.

The proposed change occurs in an exception area where development is focused in an area already intensely developed with residential and commercial uses. The existing use is a rural use that utilizes a rural level of facilities.

(11) Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.

Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services. No natural hazards have been identified.

B. Not Contrary to the Public Interest

The "public interest" has not been defined, as such, but for the purposes of this decision it will be assumed that if the proposed use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use strongly suggests that there is a need for continuance of the practice of medicine in this area.

C. Lane Code 16.291

Lane Code 16.291(1) notes that the purpose of the Rural _____ Zone is to provide _____ needed by rural residents and to provide services and facilities for tourists and travelers. The use existing on the subject property is consistent with these two purposes.

D. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d). The subject property is () is not () located in an area identified as being water quantity limited and receives water from _____. The demand for water to operate the _____ as an established use and has not been identified as a concern. The subject property is _____ of an acre in size and any future

partitioning would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

Conclusion

The applicant has shown by a preponderance of evidence that the criteria and standards applicable to this rezoning request have been met.

Exhibits

- A. Official Zoning Map _____
- B. Addressing Map __-__-__-__.
- C. Photographs

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MINUTES

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Lane County Planning Commission
Harris Hall - Lane County Courthouse

October 21, 2003
7 p.m.

PRESENT: Mark Herbert, Chris Clemow, Marion Esty, Vincent Martorello, Juanita Kirkham,
Steve Dignam, members; Bill Sage Staff;
ABSENT: Jacque Betz,

I. PERIODIC REVIEW: RCP Work Program

Section 1: Rural Industrial Zone - Lane Code 16.292
Section 2: Rural Commercial Zone - Lane Code 16.291
Section 3: RCP Goal 2, Errors or Omission Policy 27
Section 4: Destination Resort Lane Code - Lane Code 16.232
Section 5: Preliminary Compliance Report - OAR 660-22-030 and
Unincorporated Community Reports - Siuslaw and Long Tom
Watersheds

Ms. Kirkham called the meeting to order and opened the public hearing.

Jozef Zdzienicki, Taylor Street, OAR 666-030 regarding floor area restrictions, He said 60,000 square feet was beyond small scale scenario. He recommended that the Planning Commission stay with a more restrictive and small square footage in Lane Code.

Mr. Zdzienicki said, regarding Destination Resort Code language, he suggested that the time share part of the language have a distinction that one person could not buy up all the time share properties.

Regarding Policy 27 Mr. Zdzienicki said those items related to errors and omissions should be grouped together with similar problems to expedite the process.

Mr. Zdzienicki said riparian setbacks should have one standard distance to simplify the laws. He noted that there were, currently various distances for different agencies. He said this would create a large amount of confusion and suggested going with the federal distance of 150 feet.

Jay Waldren, 4530 Franklin Boulevard, distributed written material to the Planning Commission. Regarding the Siuslaw and Long Tom watersheds, Mr. Waldren said he was in favor of the wording in the code language that allowed for further hearings for Rural Comprehensive Plan proposals for the Coast Fork and Middle Fork of the Willamette River. He supported the language LC 16.292(3) which said a wrecking yard should not be a public health hazard and should not have adverse environmental impacts to water quality. He said he supported the original intent of House Bills 2691 and 2614 regarding the distinction between urban and rural uses of abandoned or diminished mill sites. He said wrecking yards, as defined

by Lane County, should not be restricted to urban use. He raised concern over support of HB 2614 and its restrictions of industrial development on sites within the Willamette Valley. He said such review should be done by a site-by-site process. He it was crucial for the benefit of his employees to expand his organization.

Mr. Waldren said the Rural Comprehensive Plan had been his biggest stumbling block so far to expanding his organization.

Laurie Segel, 120 West Broadway, spoke on behalf of 1000 Friends of Oregon. She said 1000 Friends supported HB 2691. She went on to site various typos and wording errors in the written version of the plan. She said she looked forward to giving more informed comments that were more than just technicalities.

Ms. Kirkham closed the public hearing.

In response to a question from Mr. Dignam regarding how the siting of a wrecking yard was addressed in Lane Code, Mr. Sage said the text of the amendment had been rewritten to apply to the McKenzie, Siuslaw, and Long Tom Watersheds because those were watersheds that had been through the periodic review process.

The meeting adjourned at 7:45 pm.

(Recorded by Joe Sams)

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MINUTES

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Lane County Planning Commission
Mapleton Elementary School, Mapleton Oregon

November 4, 2003
7 p.m.

PRESENT: Chris Clemow, Mark Herbert, Juanita Kirkham, Jacque Betz, Vincent Martorello,
Steve Dignam, members; Kent Howe, Bill Sage Staff;
ABSENT: Marion Esty

I. APPROVAL OF SEPTEMBER 23, 2003 MINUTES

Mr. Herbert called the meeting to order at 7 pm.

Mr. Dignam, seconded by Mr. Clemow, moved to approve the minutes of September 23, 2003, as submitted. The motion passed 5:0:1 with Ms. Kirkham abstaining.

II. PERIODIC REVIEW: Rural Comprehensive Plan Work Program

Robert Masden, Florence Oregon, said he had been living in the region for 38 years. He raised concern over the rights of landowners and the addition of more government restrictions involving land use. Regarding rural commercial land, Mr. Masden said the Lane County planners should provide reasoning for every restriction in the code. He added that planning commission members and Board of Commissioner members should all state publicly why they voted for each restriction.

Mr. Masden raised concern that the County Planning Director had too much authority over rural commercial lands. He said his rural commercial clients were not being allowed to develop their lands as they wished because of County development restrictions. He opined that the County had broken a contract with rural residents.

Regarding citizen involvement, Mr. Masden stressed the need for more solicitation of public input and opined that public involvement had declined in the past few years.

Mr. Masden said projects turned down by Lane County planners represented a breakdown of communication between the County and its constituents. He was not in favor of going through the hearings official process to appeal the decision of the Planning Director and expressed a preference for having round table discussions between citizens and the Planning Director. He reiterated his opposition to more restrictive land use rules. He commented that applicants with the same ideas for development were treated by different standards. He reiterated his desire to see more citizen involvement in the process.

Denise Morgell, 16424 Highway 36, raised concern over lack of citizen involvement in the land use planning process. She cited the case of a veterinarian in Blachly treating animals from his home. She said the man had no money to build his practice because of fees and fighting land use restrictions. She added that she had difficulties with Lane County staff that had charged her \$418 to look at four trees on her property. She noted that this was two weeks salary for her. She said she had been intimidated by Lane County staff and added that staff had lost photos of her property showing the trees she had then been charged to inspect. She remarked that there was no sanity in what she was being told by Lane County staff that had said her dwelling was non-compliant because of its location on her property. She said she was being told that her manufactured home had to be moved seven feet further back because of fire break distance and remarked that this would put her home over a nearby ledge on the property.

Ms. Morgell raised concern over the Farm Use and Forest Management agreement requiring easements.

County Planning Staff member Bill Sage said a requirement for development in a forest zone was for the resident to acknowledge that farm and forest uses could operate on adjacent sites of land. He stressed that the agreement did not release any property rights.

Ray Morgell, testified that part of the problem was that citizens did not know who to go or talk to when going to the County Courthouse. He remarked that photos and paperwork he had submitted about his property had been lost by County staff. He said he felt that he had no avenues to work with the County since staff had told him that he either had to comply with moving his home to a different location on the property or lose the property. He reiterated his wife's concern over the \$418 charge for the visit from the County worker and remarked that a person driving by the property could have done the same amount of assessment that was done. He said his family had spent approximately \$1,500 so far on county fees and reiterated that this was more than they could afford.

Ms. Kirkham urged the Morgells to contact their County Commissioner about their stance on land use issues.

Ms. Betz and Ms. Kirkham urged the Morgells to call them if they had further problems communicating with Lane County staff.

Mr. Herbert stressed that the commission was there to listen to the concerns of citizens. He urged all present to state their concerns to the Planning Commission and the Board of County Commissioners.

Planning Director Kent Howe explained that fees were charged for notifying residents of firebreak regulations as well as fees for a return visit to see that the firebreak regulations were complied with.

In response to a question from Mr. Dignam regarding outright permitted uses on rural commercial lands, Mr. Sage said there were some outright permitted uses but acknowledged that there were few of them. He said the site review process had been inserted in commercial and industrial zones so it appeared that there were no outright permitted uses.

Mr. Dignam said he was an advocate of private property rights and stressed that his voting record would support that. He noted that commissioners were required to follow state laws and sometimes that was the reasoning behind a particular vote.

Mr. Herbert closed the public hearing.

Ms. Kirkham reported that she and Bill Sage had received a letter from the Port of Siuslaw regarding the possibility of making RV parks and campgrounds permitted uses on industrial land. She distributed copies to the rest of the commission. She noted that the Port would also submit an official letter to the County.

(Recorded by Joe Sams)

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