

provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, to address traffic safety and congestion concerns anticipated by the development.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

No increase in anticipated traffic as a result of the proposed zone changes has been identified. No need to reduce automobile travel by rural citizens, LCC students or faculty, or the general traveling public to or through the D&C area is warranted. Use of the county road system is essential to the tourism that fosters the commercial development in Siltcoos Station and any potential development of the proposed commercial properties, which is to serve rural citizens living in the vicinity and travelers coming to or passing through the area.

OAR 660-022-0030(8) *Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:*

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RC zone require Planning Director approval and compliance with LC 16.291(4)(i) criteria: *"(i) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of existing uses or implementation of new uses within the RC zone require Planning Director approval and compliance with LC 16.291(4)(j) criteria: *"(j) The use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on site sewage disposal and water supply if a community sewer or water system is not available."*

C. Plan Conformity

One of the subject properties, tax lot 400 of TRS 19-11-30.3, is located within Developed and Committed Exception Area # 042-1. Two subject properties, tax lot 1100 and 1200 of TRS 19-12-25, are located adjacent to Developed and Committed Exception Area # 042-1. All three are proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial RC. 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 properties is defined, in part, by the operation of the Lane Community College facilities on tax lots 400, 1100, and 1200. The proposed zone change acknowledges the commercial aspects of the facility that has provided educational services and lodging within Siltcoos Station and surrounding area as well as the occasional traveling person since 1930s.

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

The subject properties may have other owners over the decades to come. Future owners of the subject properties may decide that they want to intensify the existing uses of the properties or change the uses entirely. While the impacts from the existing use on the subject properties appear to be consistent with the livability and appropriate development of the surrounding area, other uses permitted outright within the Rural Commercial Zone may not be. The applicants have not done a compatibility analysis of these uses. Therefore, the rezoning requests can only be approved if the change in zone is limited to the existing uses and expressed uses contemplated on the subject properties. Any future change of use shall be required to comply with the special use permit processes of LC 16.291(3) and the site review criteria of LC 16.291(4).

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 properties are located adjacent to County Road # 964, Siltcoos Station Road, and within the clustered commercial and residential zoning designations for the D&C area. The proposed rezoning of the three subject properties to Rural Commercial will augment the recreation-oriented employment and commercial uses in the area and are 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 of tax lots 400, 1100 and 1200 will acknowledge the existing commercial uses of the subject properties. The current uses of the facility are served by onsite well and therefore will not alter the use or availability of groundwater that is currently provided to the structures. In the event that more intensive uses are proposed for either of the subject properties the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water*

supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."

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 properties.

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."

The existing and future commercial operations on the subject properties and the current "commercial" uses have co-existed for decades with the agricultural and forest product industries in the surrounding area. Distances between the resource lands to the south and east, and the existing, dense development along Siltcoos Station Road effectively buffer any developed & committed uses on the properties from the management of resource parcels in the vicinity. The nearest forest-zoned parcel is over 500 feet away.

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 species or wildlife habitat and other natural areas have not been identified on the subject properties. Siltcoos Lake is a Class I stream designated for protection in the RCP and identified as Type F water by Oregon Department of Forestry. The setback standard for RC land for protection of the riparian corridor in LC 16.291 and LC 16.253 is 50 feet. There are no wetlands identified on the Florence 3 or 4 quads of the National Wetlands Inventory for the three subject properties proposed for rezoning. Therefore, the proposed uses will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the two subject properties are in compliance with these Plan policies.

D. 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 of the zone change requests for the three subject properties to Rural Commercial (RC) is to provide educational opportunities to LCC students, employment to citizens in the surrounding area, and to provide services to rural residents and travelers passing through the area. Any new or expansion of existing development shall be required to comply with the siting standards of Lane Code 16.291(4) promoting and protecting public health, safety, convenience and welfare.

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

The proposed rezoning to Rural Commercial promotes the opportunity to further provide employment and services to citizens. The proposed rezoning of the subject properties to Rural Commercial seeks to maintain the current economy on nearby developed or committed parcels.

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

The subject properties are small ranging from 0.05 to 0.43 of an acre. None have been managed for the production of crops, livestock or timber products for the past eighty years. All of the subject properties have been used for residential or commercial activities in the past.

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

The proposed changes occur in an exception area where development is focused in an area already intensely developed with residential and commercial uses. The existing uses are rural uses that utilize 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 properties are not, or need not be, contrary to the public health, safety convenience and welfare in that they 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 uses strongly suggests that there is a need for commercial and recreational uses in this area.

- c. **Lane Code 16.291**

Lane Code 16.291(1) states that the purposes of the Rural Commercial Zone is to provide commercial goods and services needed by rural residents and to provide services and facilities for tourists and travelers, and to provide employment that rely on a rural location and work force. The proposed rezoning and uses are consistent with these 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 properties are located in an area identified as being water quantity limited and the properties include an existing water system with onsite well. The subject properties are small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

E. Exception Requirements

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018, 020, 025, and 028 establishes requirements for adopting an exception to a goal. Two of the properties subject to the proposed zone changes is currently designated as resource land and requires an exception to Goal 3 (Agricultural) and Goal 4 (Forestry) be taken in order for them to be rezoned to a nonresource designation. The subject properties are:

<u>TRS - Tax Lot</u>	<u>Acreage</u>	<u>Current Designation</u>	<u>Proposed Designation</u>
TRS 19-12-25, 1100	0.05	Impacted Forest Land (F2)	Rural Commercial (RC)
TRS 19-12-25, 1200	0.07	Impacted Forest Land (F2)	Rural Commercial (RC)

The following findings of facts support the general findings of fact in **II. General Findings of Fact**, above and the site-specific findings in **III. Parcel Specific Findings of Fact**, above.

a. OAR 660-004-0018 Planning and Zoning for Exception Areas.

The Purpose statement in 660-004-018(1) “ . . .explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

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

The exceptions and zone change requested by this application are intended to recognize and legitimize the existing structures and uses on the subject properties, tax lots 1100 and 1200 of Assessor’s map TRS 19-12-25. In addition, the actions are an acknowledgment

that the currently existing uses on the subject properties are similar to the private Nightingale Resort operation in D&C Area # 042-1 and that are commonly located elsewhere in other rural settings around coastal freshwater lakes within the Siuslaw Watershed of Lane County.

Tax lots 1100 and 1200 were designated as Impacted Forest Land (F), a resource zone, in 1984. The contiguous ownership by the applicant included the 0.43-acre parcel, tax lot 400, to the east. The existing uses at the time were the same as today and they simply were not identified by the County. The current level of development and uses exceed what is allowable within the Impacted Forest Zone. This proposed zone change would bring the existing uses into conformance with uses allowed in the Rural Commercial Zone as provided for in LC 16.291(3)(f), (j), (k), (r), and (u).

(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 properties are located in the northwestern quarter of Developed and Committed Exception Area #042-1. The property receives a rural level of police and fire protection and relies on on-site, individual water and sewerage facilities. The proposed rezoning designations will more closely fit the actual current uses on the property that are essential to the management of the educational and lodging facility in the rural setting. LCC utilizes the facility as a hands-on classroom setting for naturalists forays into coastal and forest settings. The facilities provide a base for collection and identification of flora over two to three day periods.

(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

The subject properties are small parcels of land sandwiched between Siltcoos Lake and Siltcoos Station Road and blended into the surrounding Rural Residential and Rural Commercial development of Siltcoos Station.

Lands to the south and east across Siltcoos Station Road are zoned Rural Residential (RR5) and lands to the north are zoned RR5 and Rural Commercial (RC-C). Twenty-three properties within D&C Area #042-1 are developed with 22 residences. Any conceivable impacts from the development on the subject properties to the surrounding resource lands has been present since circa 1930s. The adjacent F2 land further to the east, north, and south have already been developed with dwellings. The subject properties have operated without conflict with the nearby resource uses for 70 years and no new impacts are foreseeable.

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

The historical uses and the similar current uses have been in existence for 70-plus years. The existing uses and structures have been on location since 1923 and 1931. Any additional development on the LCC properties would require compliance with setbacks, possible modifications to the subsurface disposal systems under DEQ standards, and utilization of the existing domestic water source. Adequate water is available and there is no indication that the anticipated water needs or effluent discharges will adversely affect resource uses in the surrounding area.

Public services such as fire protection and law enforcement are available and have served the development for decades.

Evidence in the record indicates the existing uses are compatible with adjacent and nearby resource uses.

b. OAR 660-004-0025 – Exception Requirements for Land Physically Developed to Other Uses.

- (1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*
- (2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*

Tax lot 400 is developed with a caretaker residence and four cabins constructed in 1931 and is also developed with a subsurface sewage disposal system and a parking lot. Tax lots 1100 and 1200 are developed with the conference building constructed in 1923 and dock facility constructed in the 1940s. Refer to Exhibits C-1 and C-2 (Site Photographs).

Electrical service has been available on the property since 1930s. Water service is provided from an onsite system serving the facility.

The subject property is irrevocably committed to and developed with these educational, commercial, and residential uses.

c. OAR 660-004-0028 – Exception Requirements for Land Irrevocably Committed to Other Uses.

- (1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:*

- (a) *A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;*
 - (b) *For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;*
 - (c) *An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*
- (2) *Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*
- (a) *The characteristics of the exception area;*

The subject properties being considered for a "committed and developed" exception are identified as tax lot 1100 of TRS 19-12-25, 0.05 of an acre in size, and tax lot 1200 of TRS 19-12-25, 0.07 of an acre in size, located in the northwestern quarter of D&C Area No. 042-1. The subject properties are abutted on three sides by lands within the exception area with designations of either Rural Residential (RR2) or Rural Commercial (RC).

D&C Area No. 042-1 is situated directly east of Siltcoos Lake and straddles Siltcoos Station Road, a County road, and is locally known as Siltcoos Station even though it was not recognized as a "community" in 1984.

The residential development was originally created as a community of forest workers and resort managers adjacent to Siltcoos Lake.

Siltcoos Station is densely developed with 44.15 acres divided amongst 23 parcels or lots with an average parcel size of 1.92 acres. Residential development included 22 residential units in 1989 within the Rural Residential (RR5) zoning designation with a five-acre minimum parcel size for new divisions. The Nightingale Fishing Resort was the only commercial development identified in 1984. The dominant use besides residential, is tourism and recreation facilities associated with the Siltcoos Lake.

Services are provided to Exception Area # 042-1 by:

Electricity:	Central Lincoln Peoples Utility District
Fire:	Siuslaw Rural Fire Protection District #1
Ambulance:	Western Lane Ambulance District
School:	Siuslaw School District 97J
	Lane Community College
	Lane Education Service District
Police:	Lane County Sheriff
	Oregon State Police
Other:	Port of Siuslaw
	Siuslaw Public Library District

Resorts were popular around Siltcoos Lake in the vicinity of Ada, Booth, and Westlake for many decades prior to the arrival of the railroad in 1916. The Willamette Pacific Railroad maintained a depot at Siltcoos Station and a U.S. Post Office served the area until late in the 1940s.

(b) The characteristics of the adjacent lands;

The eastern boundary of the D&C area is defined by the privately owned lands with a designation of Impacted Forest Lands (F2). Most of the surrounding forest lands immediately east of Siltcoos Station were logged by small outfits in the 1950-60's and not reforested. Lands most distant to the north, east and south are in corporate ownership and well advanced in reforestation. A high ridge separates the Siltcoos Lake from the Maple Creek and Fiddle Creek valleys to the northeast and southeast. The valleys provided creek-bottomlands for pasture for dairies that operated into the 1980s.

(c) The relationship between the exception area and the lands adjacent to it; and

The residential ownerships in Siltcoos Station include retirees, craftsmen and resource workers. Siltcoos Station is linked in with the fishing public and provides destination sites for recreation vehicle owners wishing to camp and fish the coastal lake for bass and anadromous fish during season.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Commercial uses on the Nightingale's Fish Resort and the LCC facility grounds are the primary recreational facilities in the area.

Harvesting of trees in the F1 and F2 lands has been very limited for 50 years. Bureau of Land Management, National Forest, and private corporate lands across the valley and further to the east offer little employment opportunities or products.

All but one of the twenty-three properties within the D&C area are currently designated as Rural Residential (RR5). Nineteen of the properties are developed with a residence.

(b) Existing public facilities and services (water and sewer lines, etc.);

All of the properties within the current community boundaries are served by permitted onsite wells or pump from the lake and all have subsurface sewage disposal systems. Electrical power is provided by Central Lincoln Peoples Utility District. Fire protection is provided by Siuslaw Rural Fire Protection District in Florence. U.S. Qwest provides telephone service. Lane County Sheriff's Department and the Oregon State Police provide patrol and response services. K-12 education is provided in Florence by the Siuslaw School District #97J facilities.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined

through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

The total acreage of the two subject properties is 0.12 of an acre. The two thin and isolated properties are developed with an 18' x 50' "commercial" structure and a "commercial" boat dock facility. Refer to Exhibits F-1 and F-2 for diagrams of the facilities. The properties are squeezed between the waters of the lake to the west and the railroad tracks to the east. Developed Rural Residential properties line the eastern right-of-way of the railroad forming a buffer between the two subject properties and resource lands 500 feet to the east of Siltcoos Station development.

The soil present on the subject properties is Lint Silt Loam (74B), 0 to 7 percent slopes. Lint Silt Loam has a Douglas fir site index of 117, a fiber productivity of 169 cubic feet per acre per year and is listed as agricultural capability class 3 and is not considered high value in Lane County's inventory. There are no opportunities for agricultural practices and definitely none that could be construed to be of the scale or viability to qualify as a "farm use" on the properties under Goal 3.

The Board of County Commissioners addressed the issue of viable farm and forest acreage in Board Order 89-10-25-4 which established a Board policy interpretation in the adoption of the 1989 Addendum to the Lane County Developed & Committed Lands Working Paper, setting forth guidelines for determining whether or not land is or is not "practicable" for resource production by virtue of adjoining uses. This interpretation states in part:

"Parcels with dwellings on one adjoining side are impracticable for farm management if 5 acres or less, and impracticable for forest management if 15 acres or less."

The development of an agricultural use on the subject property is impracticable.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

Based on the site index and productivity rating above, the 0.12-acre site could produce approximately 20 cubic feet of fiber annually within the Lint Loam soils. Values for wildlife habitat and recreation far exceed the potential for management as a forest unit.

Consolidation as a harvest unit with properties to the east is impractical for the same reasons as stated in (a) above. The two-property ownership is extremely small, isolated by nonresource uses and densely developed with structures.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

"660-06-025(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones: (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;"

Commercial forest practices on the combined 0.12 of an acre, properties are not practicable.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Refer to Findings of Fact above in response to OAR 660-004-0028(2)(b), above.

(b) Existing public facilities and services (water and sewer lines, etc.);

The subject properties are served by onsite water system and a subsurface sewage disposal system on the adjacent tax lot 400 to the east. Legal access is from Siltcoos Station Road.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

The Lane Community College management of tax lots 1100 and 1200 has been committed to commercial, educational, and recreational uses since the 1970s. Refer to Exhibits C-1 and C-2: Site Photographs. The subject property's northern, eastern and southern boundaries abut

the Rural Residential Lands with an average parcel size of 1.94 acres. The development pattern of Exception Area #042-1 was documented and adopted by the Board of Commissioners in "Supplemental Findings" for the Developed and Committed Lands Exception for Plot 014-1. The development history was set forth in subsection 11. Parcel Creation History and subsection 12 Goal Compliance History of the Findings:

"11. a. 23 parcels were created before adoption of the goals, determined as follows:

- i. Using the boundaries and dates of partitions which have been plotted from the Lane County Assessment and Taxation maps onto the computer drawn map of the exception area, the total number of parcels in this category created prior to December 27, 1974 is: 0.
 - ii. Using the boundaries and dates of subdivisions which have been plotted from the Lane County Assessment and Taxation maps onto the computer drawn map of the exception area, the total number of parcels in this category created prior to December 27, 1974 is: 16.
 - iii. Using the Lane County computer drawn map and year-built data for residences which have been plotted onto the computer drawn map of the exception area, the total number of parcels not included in above categories i. and ii. and having a residence built prior to December 27, 1974 is: 1. It is assumed that parcels in this category were created prior to December 27, 1974 for two reasons. The first reason is that the parcel had a residence on it prior to 12/27/74, which indicates that the parcel existed in some form prior to 12/27/74. The second reason requires a more detailed explanation. On March 26, 1975, Lane County adopted land division regulations, which required County approval for all partitions and recording of partition maps for all approved partitions. The 3/26/75 land division ordinance adoption date corresponds closely to the 12/27/74 Goal adoption date. It is generally accurate to assume that, if parcels were created after 12/27/74, they would be included in an approved and recorded partition map; and, that parcels without an approved and recorded partition map were created before 12/27/74
 - iv. Using Land County computer drawn map with the year-built data and the partition and subdivision data plotted on it, the total number of parcels not included in an approved and recorded partition or subdivision, and being vacant or not having a residence built prior to 12/27/74 is: 6. It is assumed that these parcels were created prior to 12/27/74 for the same reasons as stated in the second reason in iii. above.
- b. 0 parcels were created after the adoption of the 12/27/74 goal adoption date based upon use of the boundaries and dates of partitions and subdivisions which have been plotted onto the computer drawn map of the exception area and identification of the parcels included in is category which were created after 12/27/74."

"12. Goal Compliance History.

0 parcels were created via application of the Goal 2 Developed and Committed lands Exception process. This number was determined by examining the files for partitions and subdivisions created in 1980 or later to verify if developed-and – committed findings were include in these files as part of the basis for approving the partitions or subdivisions. It is assumed the Developed and Committed Lands Exceptions process was not followed for partitions and subdivisions created before 1980.”

* * *

(B) Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

Exception Area # 042-1 primarily consists of individually owned parcels developed with single-family dwellings or independent commercial businesses. Twenty-three parcels are within the exception area with 19 of them developed with 22 residences. The two subject properties are contiguous with tax lot 400 (19-11-30.3) to the east, which is 0.43 of an acre in size and developed with one caretaker residence and four cabins. The two properties have been irrevocably committed to commercial uses since 1923.

(d) Neighborhood and regional characteristics;

Exception Area # 042-1 came into being as a residential and recreation center for people connected with the freshwater fishery at the turn of the century. The community is composed of relatively small tracts with an average residential tract size of 1.92 acres. The ownership pattern is predominantly fragmented and unlikely to consolidate into contiguous ownerships.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

The proposed 0.12 of an acre for Rural Commercial designation is defined by the railroad right-of-way to the east and Siltcoos Lake to the west. Residential development to the north, south and east, and commercial development to the north impede practicable use of the subject property for resource management.

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Refer to above Findings of Fact above and Exhibit C-1 - Site photographs.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Refer to Exhibit C-1 – Site photographs; and Exhibit E – Aerial Photograph

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

d. 660-004-0030 – Notice and Adoption of an Exception

(1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(2) A planning exception takes effect when the comprehensive plan or plan amendment is adopted by the city or county governing body. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

The proposed “developed” exception and the proposed amendment to the zoning designation are a portion of the Lane County adopted and acknowledged Periodic Review Work Program for the Siuslaw Watershed.

e. Lane Code 16.291 – Rural Commercial (RC-C)

Lane Code 16.291(1)(b) notes that the purpose of the Rural Commercial Zone is “. . . to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed rural residents and people traveling through the area and, . . .”

While the potential impacts of a commercial use conditionally allowed pursuant to LC 16.291(3) and (4) appear to be culturally consistent with the livability and appropriate development of the surrounding area, the exact use to which the properties could be put is unknown at this point. This application does not include a compatibility analysis of all conditional uses in the Rural Commercial Zone (RC). To provide a level of comfort for the surrounding residential properties, the special use permit process of LC 16.291(3) and the site review criteria of Lane Code 16.291(4) can be used to achieve this end. The RC zone provides for the requirements of LC 16.291(4) site review criteria to be completed prior to development of any of the uses allowed in LC 16.291(3).

The “public interest” must be considered, as such, but for the purposes of this decision it will be assumed that any of the proposed uses allowed in LC 16.291 will not have an adverse impact on surrounding uses and it will not be contrary to the public interest. Additionally, the history of the previous uses on tax lots 1100 and 1200 strongly suggests that there is a positive cultural linkage of the existing uses.

V. CONCLUSIONS

1. This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 19-11-30.3, tax lot 400 (0.43 of an acre), from Rural Residential (RR5) to Rural Commercial (RC), have been met;
2. This application has shown by a preponderance of evidence that the standards and criteria applicable for taking an exception to Goal Three and Goal Four and for approval of “developed” exception to Goal Three and Goal Four for subject property, TRS 19-12-25, tax lots 1100 (0.05 of an acre) and 1200 (0.07 of an acre), have been met;
3. This application has shown by a preponderance of evidence that the standards and criteria applicable for amendments of Plot # 042-1 Official Plan and Official Zoning designations for TRS 19-12-25, tax lot 1100 and 1200, from Impacted Forest Land (F2) to Rural Commercial (RC), have been met;
4. Based on the conclusions 1. and 2. above, this application has shown by a preponderance of evidence that the standards and criteria applicable for including TRS 19-12-25, tax lots 1100 and 1200, (RC) in the Developed & Committed Exception Area # 042-1, have been met.

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 4 of Ordinance PA 1203, amending the Official Plan Map No. 042 and the Official Zoning Map No. 042 designations for tax lot 400 of Assessors Map TRS 19-11-30.3, from Rural Residential (RR5) to Rural Commercial (RC).
2. Approval of PRZC Control No. 4 of Ordinance PA 1203, for taking an exception to Goal Three and Goal Four for tax lots 1100 and 1200 of Assessor’s Map TRS 19-12-25, and amending the Official Plan Map No. 042 and the Official Zoning Map No. 042 designations for:

TRS-Tax lots	Acreage	From	To
19-12-25, 1100	0.05	Impacted Forest Land (F2)	Rural Commercial (RC)
19-12-25, 1200	0.07	Impacted Forest Land (F2)	Rural Commercial (RC)

3. Approval of the expansion of the Developed and Committed Exception Area # 042-1 to include tax lots 1100 and 1200 (RC) of Assessors Map TRS 19-12-25.

VII. EXHIBITS

A. Zoning Maps:

- A-1. Plan Map Plot No. 042 with one proposed zone change depicted.
- A-2. Plan Map Plot No. 033 with two proposed zone change depicted.

B. Plan Maps:

- B-1. Zoning Map Plot No. 042 with one proposed zone change depicted.
- B-2. Zoning Map Plot No. 033 with two proposed zone change depicted.

C. Site Photographs:

- C-1. TRS 19-11-030.3, Tax Lot 400, and 19-12-25, Tax Lot 1100.
- C-2. TRS 19-12-25, Tax Lots 1100 and 1200

D. Assessor's Maps:

- D-1. TRS 19-11-30.3
- D-2. TRS 19-12-25

E. Aerial Photographs:

- E-1. BLM 12 0-00-EUG Flight 6, Exposure 3, 6-1-2000
- E-2. Enlargement x 400 percent (vicinity of tax lot 2102)

F. Development Diagrams:

- F-1. LCC "conference building" diagram (McAllister).
- F-2. LCC "lake facility dock area" diagram (LCC).

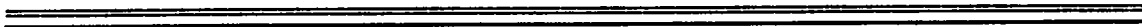


Exhibit C-1. Site Photographs

TRS 19-11-030.3, Tax Lot 400, and 19-12-25, Tax Lot 1100.

Periodic Review Work Program: Siuslaw Watershed and Long Tom Watershed (FY 02/03)

D&C Plot No. 042-1 TRS Map: 19-11-30.3, Tax Lot(s): 400 Acres: 0.43

Unincorporated Community: X No ☐ Yes - Name:

Address: 83028-83036 Siltcoos Station Road, Westlake, OR 97493 ☐ ☐

Location/Vicinity:

Zoning Designation(s): [RR5]

[]

[]

Business: Lane Community College

Use: Conference center-resort

A. Southern half of cabins viewed from Siltcoos Station Road (400)



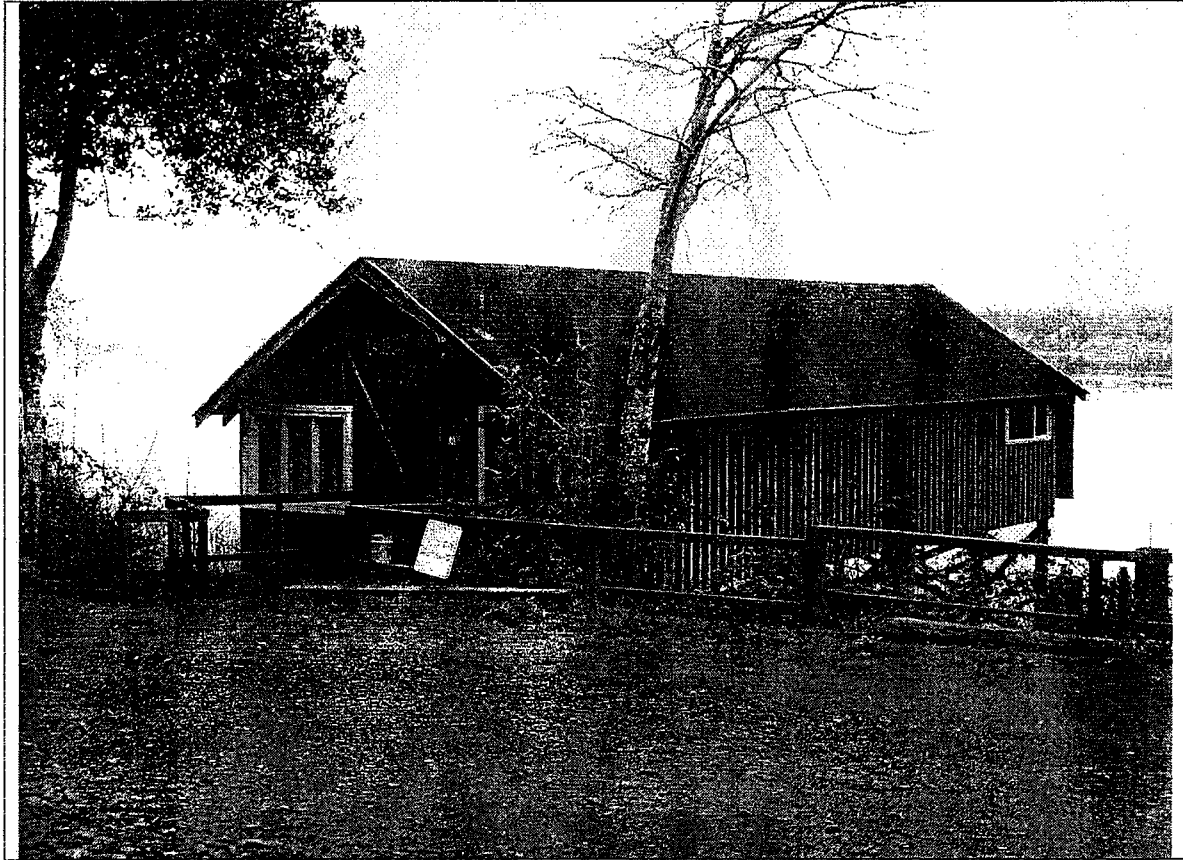
B. Cabins viewed from Siltcoos Lake (400)



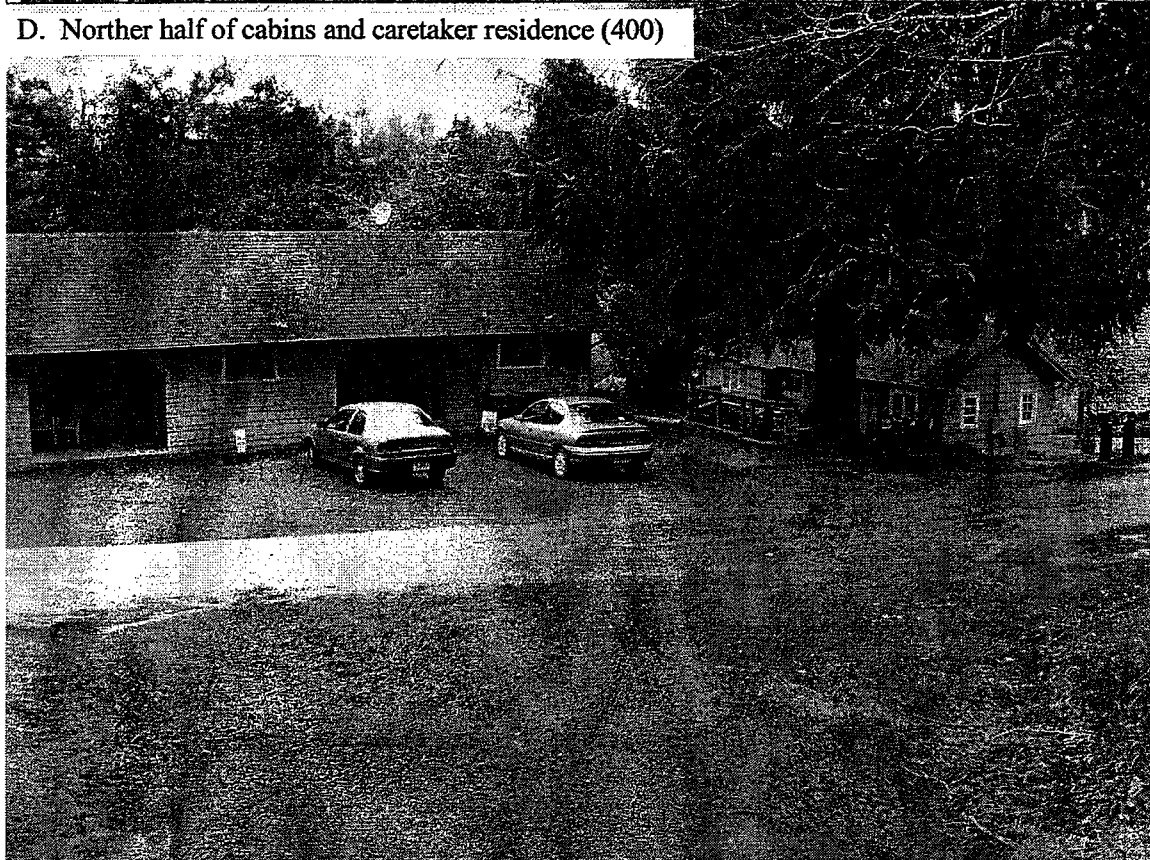
Photograph: LCC cabins viewed from lake

Note:

C. LCC Conference building (1100)



D. Norther half of cabins and caretaker residence (400)



View of dock facility

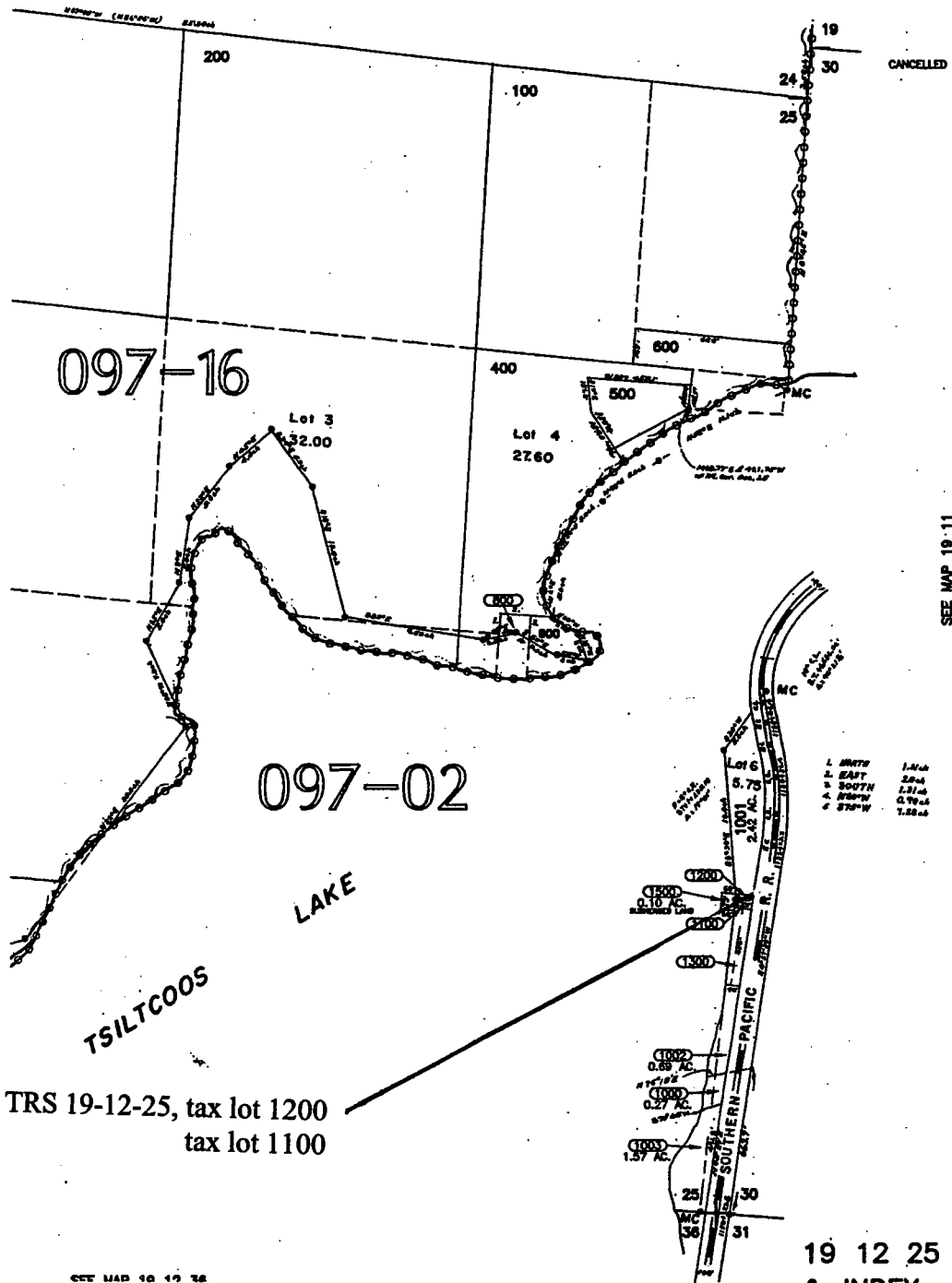
**Exhibit C-2 --TRS 19-12-25, tax lot 1100.
View "of classroom" from Siltcoos Lake.**



[illegible]

SEE MAP 19 12 24

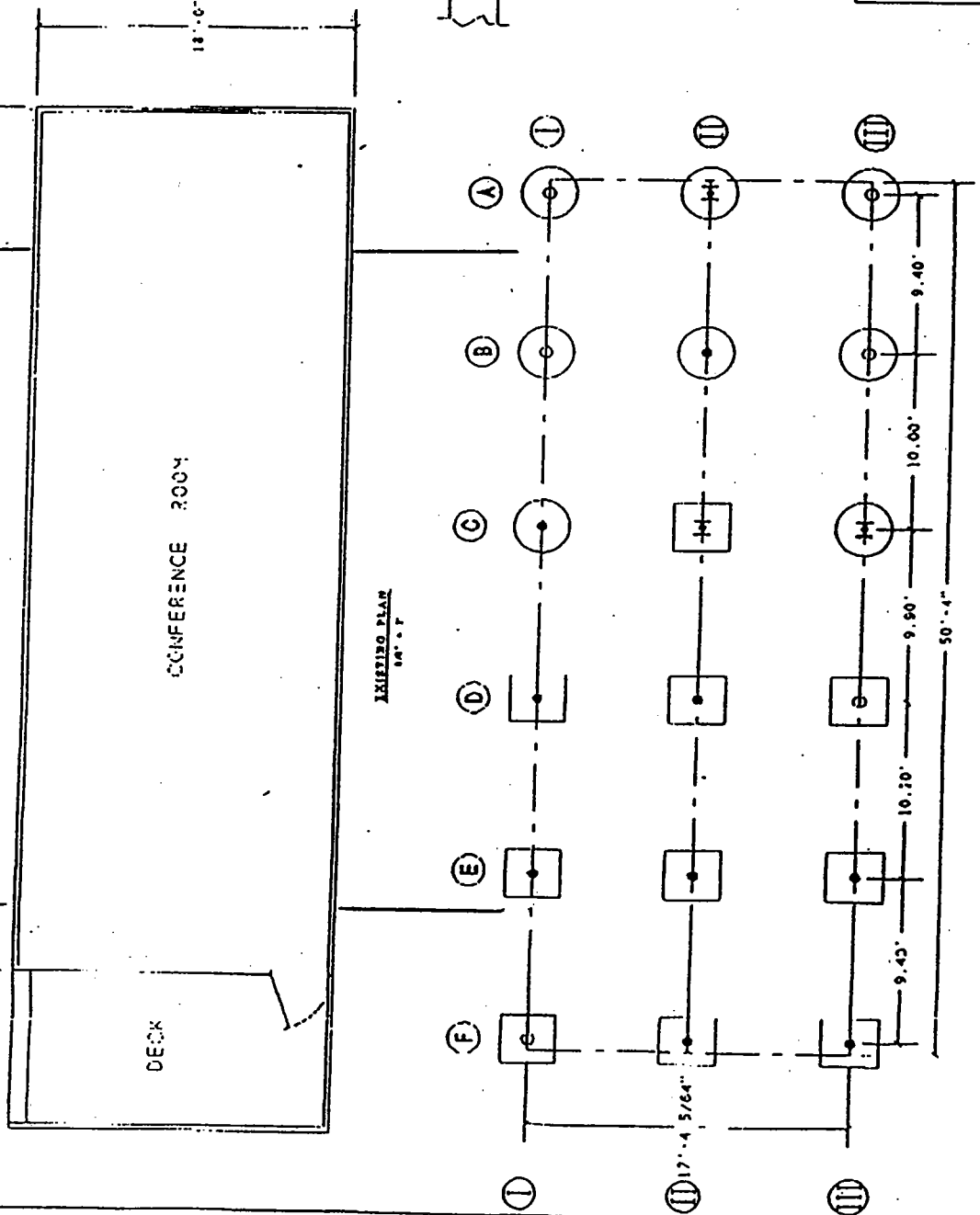
19 12 25
& INDEX
NAD 83/91



F-1. LCC "conference building" diagram (McAllister).

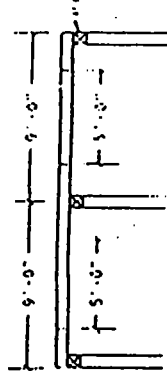
ORDINARY LOW WATER

ORDINARY HIGH WATER

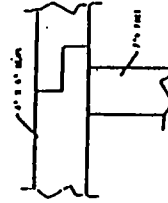


EXISTING PLAN
1/8" = 1'

PROPOSED A-1011 PLAN
1/8" = 1'



CROSS SECTION
1/4" = 1'



SPICE & POST
1/2" = 1'



MIKE McALLISTER ENGINEERING
11201 E. MAPLETON ROAD
MAPLETON, OREGON 97133
PH: 268-6322
FAX: 268-6322

CONFERENCE BUILDING

FOR

LANE COMMUNITY COLLEGE

SILVERCREEK LANE CAMPUS
BURNS CITY, OR.

DATE: 10/1/94
BY: [Signature]
CHECKED: [Signature]
APPROVED: [Signature]

F-2. LCC "lake facility dock area" diagram (LCC).



**Lane
Community
College**

AT FLORENCE

Dock Area, LCC Siltcoos Lake Facility

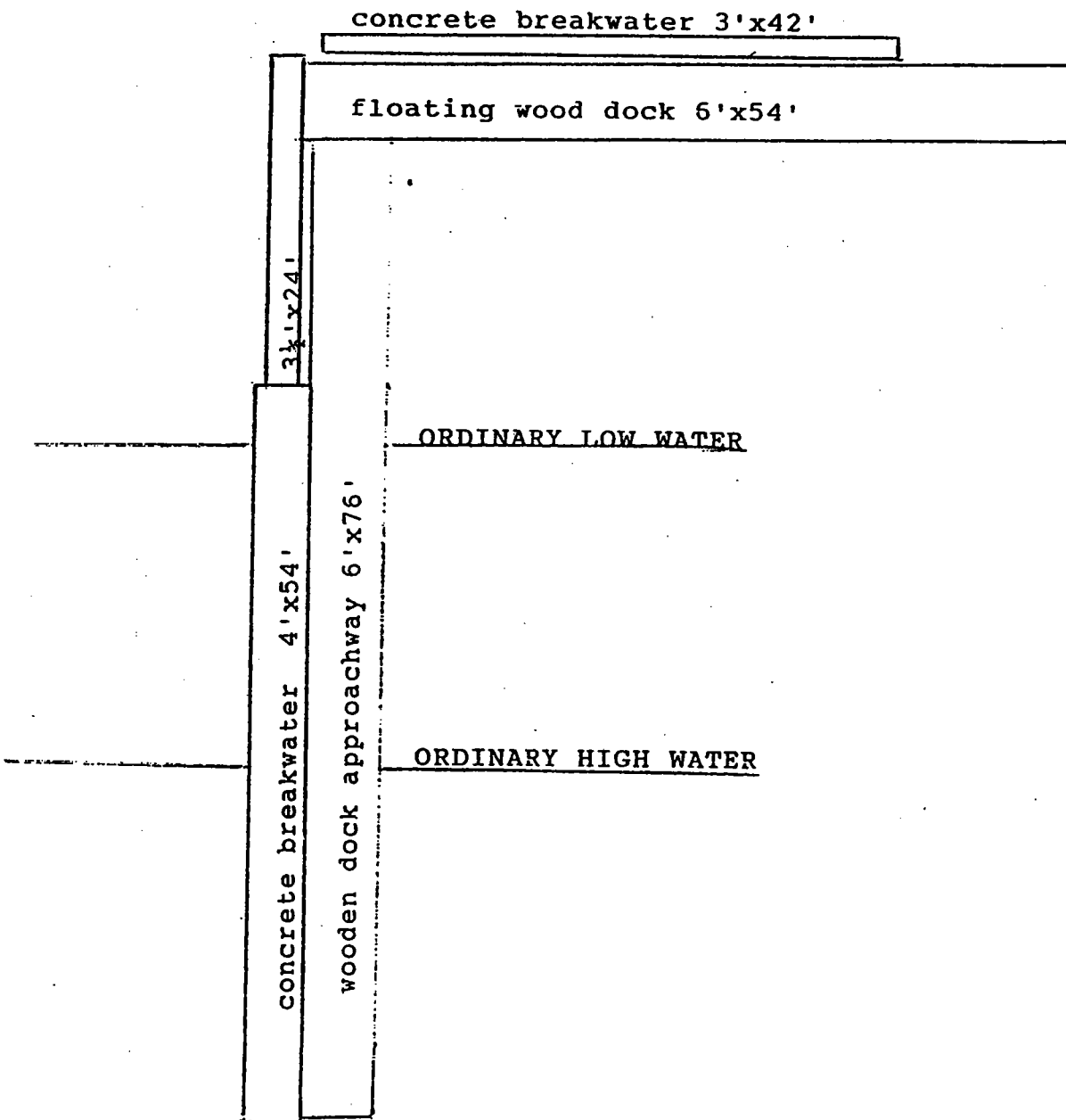


Exhibit No. C-5

PRZC Control No. 5

Lane County -/- Siuslaw Watershed Periodic Review Legislative Rezoning Project

Developed & Committed Exception Area No. 043-RPF

**Conformity Determination Amendment and Zone Change for:
Tax lot 400 of Assessor's Map TRS 18-11-08**

Tax lot	Acreage	From	To
400	0.55	Exclusive Farm Use (E25)	Rural Public Facility (RPF)

Lane County -/- Siuslaw Watershed Periodic Review Legislative Rezoning Project**Developed & Committed Exception Area No. 043-RPF****Conformity Determination Amendment and Zone Change for:
Tax lot 400 of Assessor's Map TRS 18-11-08**

Tax lot	Acreage	From	To
400	0.55	Exclusive Farm Use (E25)	Rural Public Facility (RPF)

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: *Goal Two, Policy 27 – Error or Omission*
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.294 - *Rural Public Facility Zone*
Lane Code 16.212 - *Exclusive Farm Use Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located five miles northeast of Florence, on the northern right-of-way of North Fork Siuslaw Road at the crossing of the North Fork Siuslaw River, and west of the intersection with Portage Road, and the Developed & Committed Exception Area No. 043-1. The subject property can be identified as tax lot 400 of Assessor's map TRS 18-11-08, with a rural address of 07029 North Fork Siuslaw Road, Florence, OR 97439, and is 0.55 of an acre in size.
2. The subject property is developed with the North Fork Grange No. 492 and was designated as Exclusive Farm Use and zoned E25/RCP in 1984. The development of the property as a grange hall was not identified at the time the zoning designation was applied, resulting in the error.
3. The North Fork Grange was originally constructed as a 46' x 50', was 2,148 square-foot hall in 1950. An addition, 24' x 12', 288 sq. ft., was added in 1989. The grange hall is a well maintained and functioning facility serving the upper North Fork Siuslaw Valley. Refer to Exhibit C – Site photograph.

4. The subject property is adjacent to the North Fork Siuslaw Road to the south and the North Fork Siuslaw River to the east. It is surrounded to the north, west, east and southwest by lands designated Exclusive Farm Use (E25). Lands to the southeast across the North Fork Siuslaw River are designated as Impacted Forest Land (F2).
5. The request for the change of zone designation is to correct a 1984 error pursuant to RCP General Plan Policy 27 "Errors and Omission" and bring the property and public use into conformity with the Rural Comprehensive Plan and Lane Code 16.294 Rural Public Facility Zone.

The use of the grange hall with a future caretaker quarters/dwelling are consistent with the Rural Public Facility (RPF) zone as provided for in: Lane Code 16.294(3)(h) and (3)(v):

Lane Code 16.294(3)(l) Civic, social and fraternal associations. Use uses must be located inside an unincorporated community.

The North Fork Grange Hall #492 was lawfully established on the subject property in 1950 and has been providing a public service for 54 years. The facility is exempt from the restriction on establishing such facilities outside an unincorporated community; and

Lane Code 16.294(3)(v): A single family dwelling for a caretaker in conjunction with an existing public facility . . . and located on the same lot or parcel as the public facility.

In the event the Grange elects in the future to establish a caretaker dwelling on the property, this provision will provide for the use.

The use complies with the *Purpose* statement of LC 16.294(1)(b) *Purpose: The purposes of the Rural Public Facility Zone (RPF, RCP) are (b) To provide land for public and semipublic uses and development that serve residents and people traveling through the area and that are by nature intensive or unusual use not normally associated with other zones.*

The change of zoning designation would allow Grange No. 492 to continue with the public use and service, and expand the facilities as needed in the future.

6. There is no record of any historical compatibility issues occurring between the existing grange hall on the subject property and its neighbors since the public use were established in 1950. Nor is there any record of complaints from any surrounding property owners concerning the operation of the facility regarding compatibility issues or conflicts.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010.
8. The subject properties receives the following public services: Siuslaw School District 97J (schools); Central Lincoln People's Utility District (electrical power); Siuslaw Valley Fire and Rescue (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Mercer Lake 4.
10. The grange hall has legal access and egress from North Fork Siuslaw Road to the south. The site is centrally located to citizens in the surrounding rural lands of the upper North Fork Siuslaw Valley.

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

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 the existing or planned for public services and allowable uses on the subject property. The North Fork Grange No. 492 has provided public services for citizens in the surrounding area since 1950.

(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 properties are located approximately five miles northeast from the urban growth boundary of the City of Florence. The property receives a rural level of police and fire protection.

(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

There are (EFU-E25) agricultural lands located adjacent to the subject property on three sides of the subject property. One exposure to the southeast is adjacent to Impacted Forest Land (F2).

The management of the adjacent farmlands has been compatible with the grange hall and services provided by the facility on the subject property since 1950. No impacts from the facility are known to have committed adjacent resource lands to nonresource uses.

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

The proposed designation of Rural Public Facility is for a facility that has been compatible with the management of the adjacent resource lands for 54 years.

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

Plan Conformity

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

A. Land Use Planning Policy #11(e). A Public Facility designation shall be applied to publicly owned grounds and facilities (i.e. schools, etc).

This application requests this policy to be implemented on the subject properties.

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 nearby citizens. 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 properties is defined, in part, by the organization and services provided by the Grange on the subject property for the past 54 years. The continuation of the use of the property would provide services that are intended for the benefit of the citizens in the area.

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

While the impacts from the grange hall 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 Public Facility Zone (i.e. sewage disposal plant, solid waste disposal, etc) may not be. The applicant has not done a compatibility analysis of these uses. Therefore, the rezoning request can be approved but the establishment of any other public facility use on the subject property shall require Planning Director approval

of a special use permit under the provisions of LC 16.294(3), and the site review criteria of Lane Code 16.294(4) shall apply.

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 properties, which currently receives domestic water from an onsite well.

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.”

Agriculturally zoned properties (EFU) surround the subject property. However, grange halls are support facilities that are normally found adjacent to resource lands and in general are considered to be supportive of agricultural activities. Established farm uses on the adjacent agricultural lands have functioned without impacts from the grange hall.

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 properties. The proposed rezoning will not change the existing use of the subject properties 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.

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 subject property is located on the western bank of the North Fork Siuslaw River. The 0.55 of an acre is committed to the long-term development of the Grange. Ample parking is provided on site and future expansions are provided for within the available acreage. The Grange has historically provided a range of services to agrarian communities and the facilities are centrally located to do so in the region.

Existing development on the subject property is a benefit to rural citizens and provides a public service. The facility complies with the general "purpose" of promoting and protecting public health, safety, convenience and welfare.

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

The existing use addresses some of the management and economical needs in this rural area of Lane County.

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

The subject property, 0.55 of an acre in size, has been developed with an access driveway, parking area, well, and subsurface waste disposal system since 1950.

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

The existing use is a rural use established 54 years ago that utilizes a rural level of services.

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

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 property is committed as a Grange facility to provide social and cultural ties to the rural citizens in the area. The longevity of the existing use under the applicant's ownership strongly suggests that there is a need for the continuation of Grange activities on this particular site.

C. Lane Code 16.294

Lane Code 16.294(1) notes that the purpose of the Rural Public Facility Zone is to provide services needed by rural residents that are more intensive and not normally associated with other zones. The operation of the grange hall on the subject property is consistent with this purpose.

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 not located in an area identified as being water quantity limited and pumping records suggest that availability of water from the applicant's well is not a concern. Any future partitioning of the subject property is highly unlikely and would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements. Any intensification of uses or introduction of a new use on the subject properties would require compliance with Lane Code 16.294(4)(i) *The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service.*

E. RCP General Plan Policies, Goal Two – Policy 27 Error or Omission

The Lane County Board of Commissioners adopted Ordinance PA 1192 on December 17, 2003, implementing a plan amendment process to determine if the historical use of a property was identified in 1984 with the adoption of zoning designations and acknowledgment of the Rural Comprehensive Plan and implementing Official Plan and Zoning diagrams.

For this specific site, tax lot 400 of TRS 18-11-08, the historical use and the zoning designation do not conform and are subject to amendment under the conformity determination amendment process of Policy 27:

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.*

- 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.*

The subject property qualifies for correction of the 1984 plan and zoning designations pursuant to Policy 27, subsection “a., i”:

- 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.*

The subject property, tax lot 400 of Assessors Map TRS 18-11-08, is developed with the North Fork Grange No. 492 hall that has existed as a public facility since 1950, for 54 years.

III. Conclusion

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

IV. Recommendations

That the North Fork Grange No. 492 application (PRZC Control No. 5 of Ordinance PA 1203) for the rezoning of tax lot 400, Assessors Map 18-11-08, from Exclusive Farm Use (E25) to Rural Public Facility (RPF), be approved; and

That the subject property, tax lot 400 of Assessors Map 18-11-08, be designated as the single-parcel, Developed & Committed Exception Area No. 043-RPF.

V. Exhibits

- A. Plan Map, Plot # 043-RPF with proposed amendment.
- B. Zoning Map, Plot # 043-RPF with proposed amendment.
- C. Photograph of North Fork Grange Hall – No. 492.
- D. Assessors Map 18-11-08.

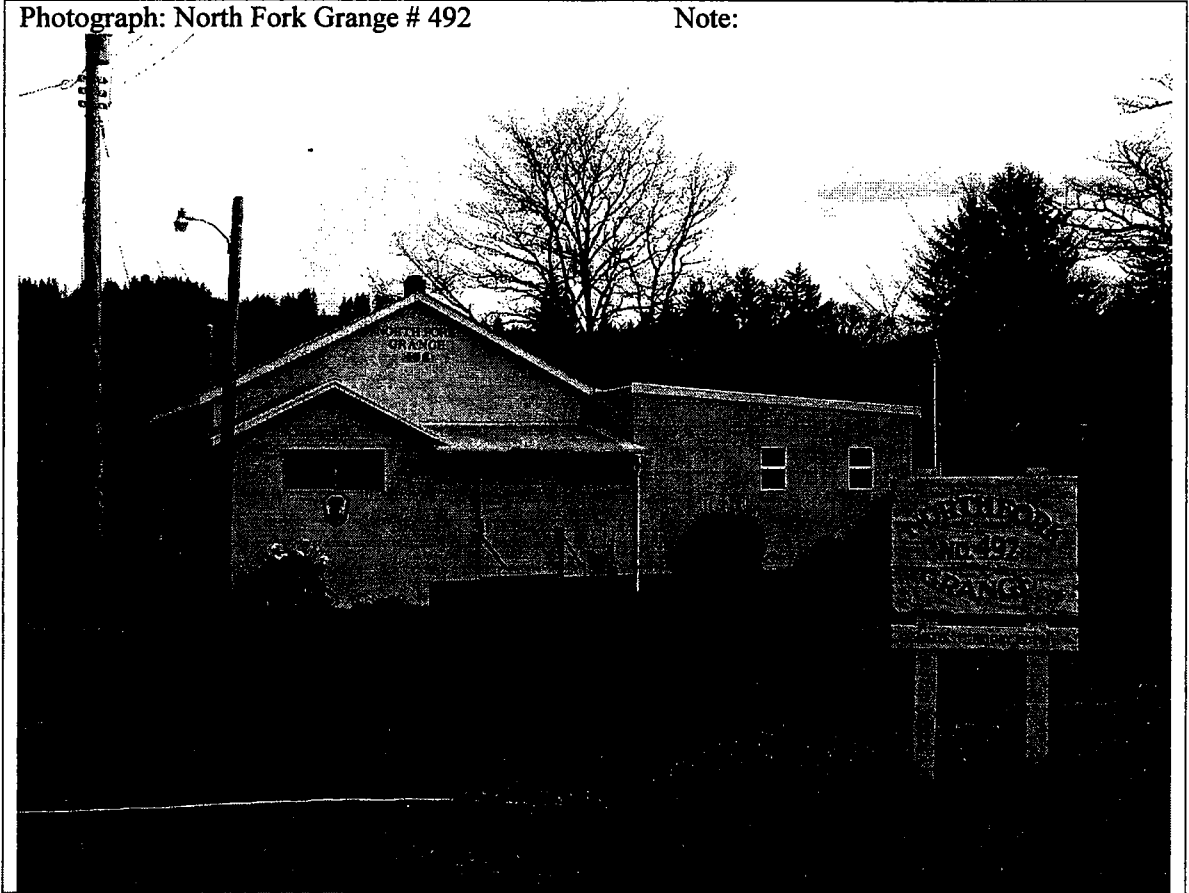
C. Photograph of North Fork Grange Hall – No. 492.

Periodic Review Work Program: Siuslaw Watershed and Long Tom Watershed (FY 02/03)

D&C Plot No. 043-RPF TRS Map: 18-11-08, Tax Lot(s): 400 Acres: 0.55
Address: 07029 North Fork Siuslaw Road, Florence, OR 97439
Location/Vicinity: West of Portage Road, intersection of NF Siuslaw Rd and NF Siuslaw River
Zoning Designation(s): [E25] Candidate for re-designation to RPF Rural Public Facility
Business: North Fork Grange #492 Use: Grange Hall

Photograph: North Fork Grange # 492

Note:



D. Assessors Map 18-11-08.

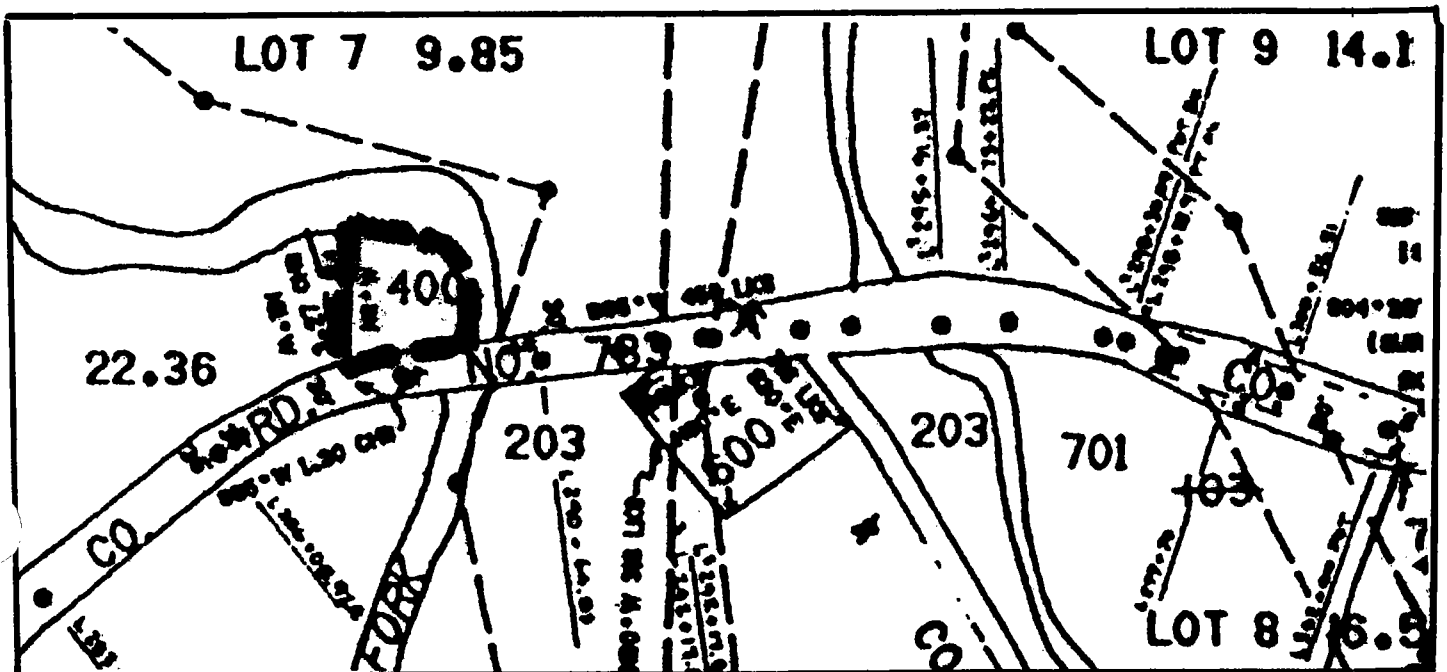
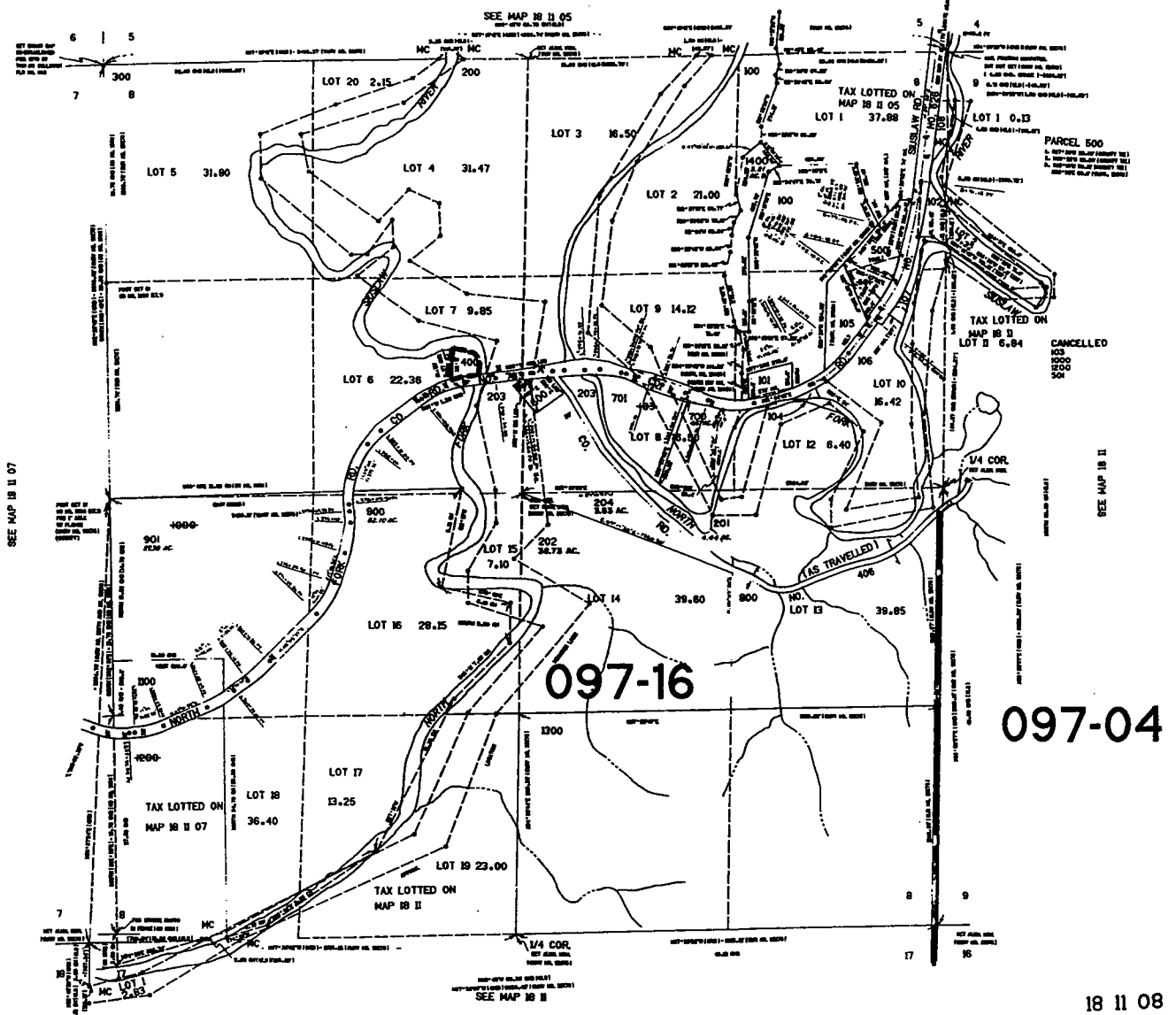


Exhibit No. Q-6

PRZC Control No. 6

Lane County -/- Siuslaw Watershed Periodic Review Legislative Rezoning Project

Developed and Committed Exception Area No. 045-1

**Plan Amendments and Zone Changes for
0.67 of an acre of Tax Lot 101 of Assessor's Map 19-11-17**

Tax lot	Acreage	From	To
101	0.67	Nonimpacted Forest Land (F1)	Rural Public Facility (RPF)

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Lane County -/- Siuslaw Watershed Periodic Review Legislative Rezoning Project**Plan Amendments and Zone Changes for:**

**Developed and Committed Exception Area No. 045-1
Designated 0.7 of an acre of Tax lot 101 of Assessors Map 19-11-17**

TRS - Tax lots	Acreage	From	To
19-11-17, 101	0.7	Impacted Forest Land (F1)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-04-018, 020, 025, and 028 – *Exception Requirements*
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 16.294 – *Rural Public Facility Zone*
Lane Code 16.210 – *Nonimpacted Forest Land (F1)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

These amendments to the Official Plan Map and Zoning Maps Plot #045 would revise the zoning designations of one property and provide for the continued public use of the existing facilities on the property.

This plan amendment would take an exception to Goals Three and Four and re-designate one designated portion (0.7 of an acre) of tax lot 101 of TRS 19-11-17 from Nonimpacted Forest Land (F1) to Rural Public Facility (RPF-C) and add the site to Developed & Committed Exception Area # 045-1.

II. FINDINGS OF FACT

The property subject to plan amendment and zone change in this application is:

TRS 19-11-17, a portion of tax lot 101, 0.7 of an acre.

Property Owner: Davidson Industries.

Applicant and Lessee: Siuslaw Rural Fire Protection District #1

Proposed change in zoning designation from Nonimpacted Forest Land (F1) to Rural Public Facility (RPF-C).

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," can be identified as 0.67 of an acre in the southwest corner of the portion of tax lot 101, TRS 19-11-17 situated north of Canary Road. The subject property's access point is from Canary Road and it has assigned rural addresses of 06955 Canary Road, Westlake, OR 97493. The property is located on Canary Road approximately four miles east of Highway 101 and nine miles southeast of Florence.
2. The applicant is Siuslaw Rural Fire Protection District #1, a rural fire protection district organized pursuant to ORS Chapter 478, which is the lessee of the subject property pursuant to a ninety-nine (99) year Real Property Lease dated April 29, 1991. The lessor/owner of the property is Davidson Industries, an Oregon Corporation.
3. The subject property is physically developed with a three-bay fire station that houses a 500-gallon pumper truck and a water tanker that can pump 450 gallons per minute and holds 3500 gallons of water. It also is developed with a subsurface disposal system, drainfield, and domestic water source well. Refer to Exhibit C: Site Photographs - TRS 19-11-17, tax lot 101, Siuslaw RFPD Canary Station, and Exhibit F: Site Development Plan.
4. The southern boundary of the subject property is defined by approximately 154 linear feet of frontage along Canary Road. To the south of the right-of-way, there is a 25-acre property of tax lot 101 zoned Rural Industrial and the site of an inactive lumber mill. The western boundary abuts a Rural Residential (RR5) parcel developed with a residence in D&C Exception Area #045-2. Lands to the north and east are designated Nonimpacted Forest Land (F1). Refer to Exhibit D. Assessor's Map: TRS 19-11-17 and Exhibit E. Aerial Photograph: WAC 19-11-08 (6-2-87).
5. The subject property is not within an area identified as a "water quantity limited" area in Lane Manual 13.010. Adequate water is available for the operation of the fire station from an onsite well.
6. There is a palustrine, emergent wetland south of the subject property and across Canary Road, per NWI map Florence 4. There are no identified NWI wetlands on the subject property.
7. Ninety-three percent of the soils present on the subject property are Nestucca Silt Loam (93). Nestucca does not have a Douglas fir site index and is listed as agricultural capability class 3 and is not considered high value in Lane County's inventory. Brallier Variant Muck (18) and water make up the remaining 16 percent of the property. Brallier does not have a Douglas fir site index and is listed as agricultural capability class 5 and is not considered high value in Lane County's inventory.
8. The subject property is separated from the management practices of nearby farm or forest operations on two sides: Canary Road and the 25.7-acre Rural Industrial (RI) to the south and the Rural Residential (RR5) to the west. The subject property is adjacent to Nonimpacted Forest Land (F1) on two sides, North and East.
9. Developed & Committed (D&C) Exception Area # 045-1 includes the abandoned mill site south of Canary Road that was designated Heavy Industrial (M3) by Board Order No. 89-2-15-12 on February 15, 1989. The property was re-designated Rural Industrial (RI) on April 17, 2002.

D&C Exception Area # 045-1 was a one-parcel exception area that consisted of 25.7 acres of the developed mill site within an 88.7-acre parcel. The remaining 63+/- acres were designated as Nonimpacted Forest Land (F1). The entire property was owned and managed by Davidson Industries.

10. Services are provided to the properties by:

Electricity:	Central Lincoln Peoples Utility District
Fire:	Siuslaw Rural Fire Protection District #1
Ambulance:	Western Lane Ambulance District
School:	Siuslaw School District 97J Lane Community College Lane Education Service District
Police:	Lane County Sheriff Oregon State Police
Other:	Port of Siuslaw Siuslaw Public Library District

11. The opportunity to amend designations, in this case into the Rural Public Facilities inventory, addresses the current aspirations of the service district for development of their property, which is one of the primary purposes of the Periodic Review Work Program process.

12. The request for the changes of the zone designations is to bring the current and proposed uses of the properties into conformity with the Rural Comprehensive Plan and Lane Code. The current zoning designations of the subject property is inconsistent with currently applied Lane Code provisions and the economical and professional aspirations of the property owner.

13. The *Purpose* section of LC 16.294(1) states: *Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones;*

The PFPD fire station use is consistent with the Rural Public Facility (RPF) zone as provided for in Lane Code 16.294(3)(o) *Governmental services, such as: post office, fire station and sheriff or police station. Such uses must be located inside an unincorporated community.*

In this instance, the facility was constructed in 1991, eleven years prior to the adoption of LC 16.294 with the requirement that such zoning designations for public uses be within an unincorporated community.

The change of zone would allow the applicant to proceed with the expansion or accessory development of the leased property for public facility uses.

Rezoning of the subject property to Rural Public Facility is in response to Periodic Review Work Task 3. 3. in the Siuslaw Watershed: *Complete a survey of the desires and opinions of people in each unincorporated community about what they would like their community to be and look like.*

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject properties are 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 consistent 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:

1. Recognize the public use of the 3-bay, “Canary” Fire Station on tax lot 101 of TRS 19-11-17; and
2. Provide a minimal amount of acreage (0.67 of an acre) for development of regional fire protection as a component of the Siuslaw RFPD umbrella in the Siuslaw Valley.

(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 adjacent to the Developed & Committed Exception Area #045-1 and are not located within an urban growth boundary. The property receives a rural level of police and fire protection. The proposed rezoning to Rural Public Facility will more closely fit the actual uses that have existed on the subject properties for over 13 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

Developed & Committed Exception Area # 045-1 includes an area, the 25+ acres of tax lot 101 of TRS 19-11-17, that is developed with the shell of an inactive lumber mill. The proposed plan amendment and zone change would add 0.67 of an acre to D&C Area # 045-1 and acknowledge the existing use on the subject property that provides fire suppression capabilities in the surrounding area for both nonresource and resource lands.

The closest EFU lands are located several miles to the northeast and south along the Maple Creek valley and the closest commercial forest lands are designated Impacted Forest Land (F1) and abut on the north and east, and are located to the south across Canary Road. Only benefits and no foreseeable impacts to resource lands have been identified from the rezoning of the subject property.

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

The public use is an essential service to surrounding lands, both resource and nonresource. As such, uses and services similar to the existing use on the subject property have been provided within the Siuslaw Valley for decades. A potable water source is available from an onsite well for the fire station and a subsurface waste disposal system serves the facility. The public use has co-existed compatibly with the surrounding resource base since 1991. There is no indication that the continued or anticipated use of the structure will adversely affect resource uses in any fashion.

B. OAR 660-022-0030(6),(7),(8) – Unincorporated Community Rule

OAR 660-022-0030 (6) *County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.*

The subject property is restricted from management with forest lands to the north due to the adjacent residential development in D&C Exception Areas #-045-2 to the east and the intervening Canary Road to the south. The subject property has been developed with the fire station for 13 years.

The operation of the existing fire station has not adversely affected the management practices of forest or farm operators in the area and there is no foreseeable way that the continued operation of the public use in the Rural Public Facility Zone could pose any adverse impact to management of farm or forest lands in the vicinity. The subject property is developed with a structure and use that most likely will remain and there is virtually no area to expand the uses into without infringing on the public road right-of-way. The rezoning of the subject property from Nonimpacted Forest Land (F1) to Rural Public Facility (RPF) will allow continuance of the current operations by the applicant.

Any new public use proposed on any of the subject property shall require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.294(3) and (4).

OAR 660-022-0030(7) *County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).*

OAR 660-012-0060(1)(a)-(c) Plan and Land Use Regulation Amendments

(1) 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 performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

No significant change in the uses on the subject property will occur as a direct result of the proposed rezoning of the subject properties to Rural Public Facility (RPF). The zoning designation changes will acknowledge the service and activities that have existed on the subject property since 1991.

(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;

Lane County is continuing in an effort to update the Lane County TSP for county and public roads. The TSP project including revisions to Lane Code 15 Roads has been the subject of public hearings before the Planning Commission and recommendations for adoption have been forwarded to the Board of County Commissioners. The Board is scheduled to hold public hearings on the TSP and code revisions in March and April 2004. In the interim, any proposed expansion of the current uses or request for a new use on either of the subject properties shall be required to comply with LC 16.294(3) permitting process and the siting standards and criteria of LC 16.294(4). The criteria of LC 16.294(4)(e), (f), and (g) requires that the applicant provide findings of fact and conclusions of law addressing available services, onsite traffic circulation and traffic generation on public roads, and provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, to address traffic safety and congestion concerns anticipated by the development.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

No increase in anticipated traffic as a result of the proposed zone change has been identified. No need to reduce automobile travel by rural citizens or the general traveling public to or through the D&C area is warranted.

OAR 660-022-0030(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RC zone require Planning Director approval and compliance with LC 16.294(4)(h) criteria: *"(h) The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of existing uses or implementation of new uses within the RC zone require Planning Director approval and compliance with LC 16.294(4)(i) criteria: *"(i) The use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on site sewage disposal and water supply if a community sewer or water system is not available."*

C. Plan Conformity

The subject property, tax lot 101 of TRS 19-11-17 is located adjacent to Developed and Committed Exception Area # 045-1 to the south. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). 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 and services provided by the Canary Fire Station on tax lot 101.

There is no evidence in the record for one to conclude that the current use on the subject property 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 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 uses of the properties or change the uses entirely. While the impacts from the existing use on the subject property appear to be consistent with the livability and appropriate development of the surrounding area, other uses permitted outright within the Rural Public Facility Zone may not be. The applicants have not done a compatibility analysis of these uses. Therefore, the rezoning requests can only be approved if the change in zone is limited to the existing use on the subject property. Any future change of use shall be required to comply with the special use permit processes of LC 16.294(3) and the site review criteria of LC 16.294(4).

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 of tax lot 101 will acknowledge the existing public use of the subject property. The current uses of the facility are served by well on tax lot 101 and therefore will not alter the use or availability of groundwater that is currently provided to the property. In the event that more intensive uses are proposed for the subject property the applicant shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(j) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

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."

The existing public use on the subject property has co-existed since 1991 with the agricultural and forest product industries in the surrounding area and the specific role of the RFPD is to provide protection for farm or forest facilities and activities as well as nonresource uses.

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 species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands identified on the Florence 4 quad of the National Wetlands Inventory for the subject property proposed for rezoning. Therefore, the existing use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the subject property is in compliance with these Plan policies.

D. 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 of the zone change requests for the subject property to Rural Public Facility (RPF) is to acknowledge the existing fire station use and to the RFPD services to rural residents in the area. Any new or expansion of existing development shall be required to comply with the siting standards of Lane Code 16.294(4) promoting and protecting public health, safety, convenience and welfare.

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

The proposed rezoning to Rural Public Facility promotes the opportunity to further provide emergency services to rural citizens. The proposed rezoning of the subject property to RPF seeks to protect the current development on nearby developed or committed parcels and resource lands.

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

The subject property is small, 0.67 of an acre. It has not been managed for the production of crops, livestock or timber products for the past 15+ years. The subject property has been developed for RFPD activities for 13 years.

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

The proposed changes occur on a property adjacent to two exception areas (045-1 to the south and 045-2 to the west) where development is focused on two parcels respectively developed with industrial and residential uses. The existing uses are rural uses that utilize a rural level of facilities.

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

The role of the RFPD is to provide fire protection for life and property within the response area of the district and beyond when coordinated with state or federal agencies.

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 fire protection facilities in this area.

c. Lane Code 16.294

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is to provide land for public development, which includes fire protection needed by rural residents. The proposed rezoning and uses are consistent with this purpose.

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 not located in an area identified as being water quantity limited and the property include an existing water system with onsite well. The subject property is small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

E. Exception Requirements

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018, 020, 025, and 028 establishes requirements for adopting an exception to a goal. The property subject to the proposed zone change is currently designated as resource land and requires an exception to Goal 3 (Agricultural) and Goal 4 (Forestry) be taken in order for it to be rezoned to a nonresource designation. The subject property is:

<u>TRS - Tax Lot</u>	<u>Acreage</u>	<u>Current Designation</u>	<u>Proposed Designation</u>
TRS 19-11-17, 101	0.67	Nonimpacted Forest Land (F1)	Rural Public Facility (RPF)

The following findings of facts support the general findings of fact in **II. Findings of Fact**, above.

a. OAR 660-004-0018 Planning and Zoning for Exception Areas.

The Purpose statement in 660-004-018(1) “ . . .explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

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

The exception and zone change requested by this application are intended to recognize and legitimize the existing structures and uses on the subject property, a portion of tax lot 101 of Assessor's map TRS 19-11-17. In addition, the action are an acknowledgment that the currently existing uses on the subject property is similar to the development in other D&C Exception Areas and that are commonly located elsewhere in other rural settings within the Siuslaw Watershed of Lane County.

Tax lot 101 was designated as Nonimpacted Forest Land (F1), a resource zone, in 1984. The lease to provide a 0.67-acre site for construction of a fire station was executed and acted on in 1991. This proposed zone change would bring the existing uses into conformance with uses allowed in the Rural Public Facilities Zone as provided for in LC 16.294(3)(o).

(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 east of D&C Exception Area #045-2 and north of D&C Exception Area #045-1. The property receives a rural level of police and fire protection and relies on water and sewerage facilities on the property tax lot. The proposed rezoning designation will more closely fit the actual current use on the property that is essential to the protection of resource and nonresource uses and development in a rural setting.

(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

The subject property is a small trapezoid of land blended into the surrounding Rural Residential and Rural Industrial development and forest resource management.

Lands to the east and north are zoned Nonimpacted Forest Land (F-1). The one other property within D&C Area #045-1 is developed with an inactive mill. The subject use under consideration was constructed in 1991. Any conceivable impacts from the development on the subject property to the surrounding resource lands has been present since 1991. The subject property has operated without conflict with the nearby resource uses for 13+ years and no new impacts are foreseeable.

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

The existing uses and structures have been on location since 1991. Any additional development on the subject property would require compliance with setbacks, possible modifications to the subsurface disposal systems under DEQ standards, and utilization of the existing domestic water source. Adequate water is available and there is no indication that the anticipated water needs or effluent discharges will adversely affect resource uses in the surrounding area.

Public services such as fire protection offered from the subject property have served the development for 13+ years.

Evidence in the record indicates the existing uses are compatible with adjacent and nearby resource uses.

b. OAR 660-004-0025 – Exception Requirements for Land Physically Developed to Other Uses.

- (1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.*
- (2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.*

The applicant's property is developed with RFPD, 3-bay, fire station constructed in 1991. Refer to Exhibit C: Site Photographs.

The subject property is irrevocably committed to and developed with a vital public use.

c. OAR 660-004-0028 – Exception Requirements for Land Irrevocably Committed to Other Uses.

- (1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:*
 - (a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;*
 - (b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;*
 - (c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.*
- (2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:*

(a) The characteristics of the exception area;

The subject property being considered for a “committed and developed” exception is identified as a portion of tax lot 101 of TRS 19-11-17, 0.67 of an acre in size located on the northern boundary of D&C Area No. 045-1.

D&C Area No. 045-1 is located four miles east of Highway 101.

The public use and development was originally constructed in 1991.

Services are provided to Exception Area # 042-1 by:

Electricity:	Central Lincoln Peoples Utility District
Fire:	Siuslaw Rural Fire Protection District #1
Ambulance:	Western Lane Ambulance District
School:	Siuslaw School District 97J Lane Community College Lane Education Service District
Police:	Lane County Sheriff Oregon State Police
Other:	Port of Siuslaw Siuslaw Public Library District

(b) The characteristics of the adjacent lands;

(c) The relationship between the exception area and the lands adjacent to it; and

Exception Area 045-2 to the west includes six parcels developed with residences and one developed with the “Old Canary Store”.

Exception Area 045-1 to the south includes one parcel developed with a vacant mill structure and railroad loading area.

The two exception areas sit across the narrow valley floor that is traversed by Canary Road and the Southern Pacific Railroad track.

Decades past, the store and mill provided employment and services to the logging community in the Fiddle Creek and Maple Creek valleys to the northeast and southeast. Today, the exception areas include a half-dozen residential uses, a vacant mill site, and the RFPD fire station.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

The vacant Canary Store was built in 1921 and is the oldest commercial structure in the area. The vacant mill site across Canary Road to the south has been vacant since the 1970s. The SPRR train tracks have been in operation since 1916 and continue to handle freight between the Willamette Valley and Coos Bay. Residential structures in D&C 045-2 date from 1930 to 1970s.

(b) Existing public facilities and services (water and sewer lines, etc.);

The residences within the D&C # 045-2 boundaries are served by onsite wells and subsurface sewage disposal systems. Electrical power is provided by Central Lincoln Peoples Utility District. Fire protection is provided by Siuslaw Rural Fire Protection District in Florence. U.S. Qwest provides telephone service. Lane County Sheriff's Department and the Oregon State Police provide patrol and response services. K-12 education is provided in Florence by the Siuslaw School District #97J facilities.

- (3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:*

(a) Farm use as defined in ORS 215.203;

The total acreage of the subject property is 0.67 of an acre. The property is developed with a 3-bay fire station. Refer to Exhibit C for photographs of the site. There are no EFU properties within two sections of the subject property.

The soils present on the 0.67 of an acre subject property are Nestucca Silt Loam (93), Fendall Silt Loam (47E) 3-30% slopes, preacher-Bohannon-Slickrock Complex (112G) 50-75% slopes, and Astoria Silt Loam (2E) 5-30% slopes. With existing parking area and apron, fire station, steep riverbank and highway right-of-way, there are no opportunities for agricultural practices and definitely none that could be construed to be of the scale or viability to qualify as a "farm use" on the properties under Goal 3.

Nestucca Loam does not have a Douglas fir site index or forest fiber productivity rating.

The Board of County Commissioners addressed the issue of viable farm and forest acreage in Board Order 89-10-25-4 which established a Board policy interpretation in the adoption of the 1989 Addendum to the Lane County Developed & Committed Lands Working Paper, setting forth guidelines for determining whether or not land is or is not "practicable" for resource production by virtue of adjoining uses. This interpretation states in part:

"Parcels with dwellings on one adjoining side are impracticable for farm management if 5 acres or less, and impracticable for forest management if 15 acres or less."

The development of an agricultural use on the subject property is impracticable.