

M. T. C.
ORDN PA 1219

AGENDA COVER MEMO

DATE: December 20, 2004 (Date of Memo)
January 3, 2005 (Date of First Reading)
January 19, 2005 Date of Second Reading/Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Public Works Department/Land Management Division

PRESENTED BY: Bill Sage, Associate Planner

AGENDA ITEM TITLE: ORDINANCE NO. PA 1219 / IN THE MATTER OF AMENDING THE LANE COUNTY GENERAL PLAN POLICIES (AN ELEMENT OF THE LANE COUNTY RURAL COMPREHENSIVE PLAN) BY REVISING GOAL TWO POLICY 27.a.ii.; IMPLEMENTING HOUSEKEEPING REVISIONS TO GOAL TWO POLICY 27; AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

I. MOTION

For January 3, 2005: **I move approval of the first reading and setting the second reading and public hearing on Ordinance No. PA 1219 for January 19, 2005 at 1:30 p.m.**

For January 19, 2005: **I move approval of Ordinance No. PA 1219.**

II. ISSUE

Should the factual basis for changing the land use designation of a property from (F1) Nonimpacted Forest Land to (F2) Impacted Forest Land be based solely on the RCP General Plan Policies, Goal Four (Forest Land) Policy 15 criteria?

III. DISCUSSION

A. Background

On December 17, 2003, the Board of County Commissioners adopted Ordinance No. PA 1192 implementing Goal Two, Policy 27 Errors or Omission.

On the same agenda, the Board later adopted Order 03-12-17-14, to establish fees for the amendment process. During the Board's deliberations, administration staff and Commissioners discussed the inappropriateness of using the phrase "errors or omissions" in the text of Policy 27 and staff was directed to process future Policy 27 amendments as "conformity determinations".

On October 5, 2004, the Lane County Planning Commission (LCPC) unanimously approved (7-0) a recommendation to the Board of County Commissioners to amend the text

of RCP General Plan Policies, Goal Two Policy 27.a.ii. The legislative format for the proposed amendment to Policy 27.a.ii., is:

~~“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. Inappropriate Nonimpacted Forest Land (F-1, RCP) zoning designation, where criteria of RCP Forest Land Policy 15 indicate that Impacted Forest Land (F-2, RCP) zoning designation is more suitable.”~~

In addition to the LCPC recommendation above, Ordinance No. PA 1219 provides the opportunity to include housekeeping revisions to delete references to “errors or omissions” in Policy 27 and amend the phrases in keeping with the Board’s direction. The full text of the housekeeping revisions are included in Exhibit “A” Legislative Format (proposed revisions) to Ordinance No. PA 1219.

On December 7, 2004, the LCPC conducted a public hearing on the proposed amendments to Policy 27. Following the hearing, the LCPC deliberated and acted by unanimous vote (8 to 0) to [a] affirm their October 5, 2004 recommendation to the Board of County Commissioners; and [b] to recommend approval of revisions in keeping with the Board’s direction on conformity determinations.

B. Analysis

During a public hearing on August 3, 2004, the LCPC heard testimony in opposition to a request for an amendment from F1 Nonimpacted Forest Land to F2 Impacted Forest Land pursuant to RCP Goal two, Policy 27 a.ii. criteria.

The current Policy 27 a.ii. text could be interpreted to require a two-step analysis and two determinations in order for an application to be approved:

The first determination would be based on *“Failure to zone a property Impacted Forest Land (F-2, RCP), where maps used by staff to designate actual existing legal lots adjacent to or within the subject property, . . .”* This criterion is specific to the time of the Board of Commissioner’s action that placed the original F1 designation on the subject property. For the vast majority of F1 properties, that action occurred in 1984 with the adoption of the Rural Comprehensive Plan.

The second determination would be based on *“ . . . and had the actual parcelization pattern been available to County staff, the Goal 4 policies would have dictated the F-2 zone.”*

If the Board was to determine that the *“actual existing legal lots”* and *“actual parcelization pattern”* in 1984 were supportive of a review of the zoning designation, then the Board would apply the criteria of RCP Goal 4 - Forest Land, Policy 15 to determine whether the characteristics of the subject property and adjacent lands predominantly supported a designation of F1 or F2 Forest Land. The criteria of Goal Four – Forest Land, Policy 15 are:

“Goal Four – Policy 15. Lands designated within the Rural Comprehensive Plan as forest land shall be zoned Non-Impacted Forest Lands (F-1, RCP) or Impacted Forest

Lands (F-2, RCP). A decision to apply one of the above zones or both of the above zones in a split zone fashion shall be based upon:

- a. A conclusion that characteristics of the land correspond more closely to the characteristics of the proposed zoning than the characteristics of the other forest zone. The zoning characteristics referred to are specified below in subsections b. and c. This conclusion shall be supported by a statement of reasons explaining why the facts support the conclusion.*
- b. Non-impacted Forest Land Zone (F-1, RCP) Characteristics:*
 - (1) Predominantly ownerships not developed by residences or nonforest uses.*
 - (2) Predominantly contiguous ownerships of 80 acres or larger in size.*
 - (3) Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses.*
 - (4) Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management.*
- c. Impacted Forest Land Zone (F-2, RCP) Characteristics:*
 - (1) Predominantly ownerships developed by residences or nonforest uses.*
 - (2) Predominantly ownerships 80 acres or less in size.*
 - (3) Ownerships general contiguous to tracts containing 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.*
 - (4) Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences."*

The proposed amendments to Policy 27.a.ii. would eliminate the "step-one" qualifier for review and base the Board's decision solely on the "step-two" determination that the subject parcel was more closely characterized by either the F1 or the F2 criteria.

C. Alternatives/Options

1. Approve Ordinance No. PA 1219.
2. Do not approve Ordinance No. PA 1219.
3. Direct staff to modify the proposed text of Goal Two – Policy 27.

D. Recommendations

Staff recommends Option 1.

E. Timing

If approved by the Board, Ordinance No. PA 1219 will go into effect 30 days from the date of adoption.

IV. IMPLEMENTATION/FOLLOW-UP

Notice of the action will be provided to DLCD and parties with standing.

V. ATTACHMENT

- A. Ordinance No. PA 1219.
- B. Lane County Planning Commission Minutes: October 5, 2004 and December 7, 2004.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1219 | IN THE MATTER OF AMENDING THE LANE COUNTY
 | GENERAL PLAN POLICIES (AN ELEMENT OF THE
 | LANE COUNTY RURAL COMPREHENSIVE PLAN) BY
 | REVISING GOAL TWO POLICY 27.a.ii.; IMPLEMENTING
 | HOUSEKEEPING REVISIONS TO GOAL TWO POLICY
 | 27; AND ADOPTING SAVINGS AND SEVERABILITY
 | CLAUSES.

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

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

WHEREAS, an interpretation of Goal Two, Policy 27.a.ii. was raised at public hearing with the Lane County Planning Commission on August 3, 2004; and

WHEREAS, deliberations by the Lane County Planning Commission on October 5, 2004, resulted in unanimous approval (7-0) of an interpretation of Goal Two, Policy 27.a.ii., and unanimous approval (7-0) of a motion recommending that the Board of County Commissioners amend Goal Two Policy 27.a.ii; and

WHEREAS, the two recommendations were reviewed at a public hearing with the Lane County Planning Commission on December 7, 2005, and the Lane County Planning Commission unanimously (8-0) affirmed their October 5, 2004 actions; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on January 19, 2005; and

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

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

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

Section 1. The Lane County General Plan Policies Goal Two, Policy 27 as adopted by Ordinance No. PA 1192, is hereby amended by revision of Goal Two, Policy 27 as set forth in Exhibit "A" attached and incorporated here by this reference.

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

The prior policies, zoning base designations and plan diagram base designations repealed or changed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate,

distinct and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

ENACTED this _____ day of _____, 2005.

Chair, Lane County Board of County Commissioners

Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 12-29-2004 Lane County

Stephen Walker
OFFICE OF LEGAL COUNSEL

Proposed Amendments to Goal Two (Policy 27)

GOAL TWO: LAND USE PLANNING

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

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

- a. An "Unincorporated Community" (*OAR 660-022-0010(9)*) means, "A settlement with these characteristics:
 - i. It is made up of lands subject to an exception to Statewide Planning Goal 3, Goal 4 or both;
 - ii. Prior to the date that OAR 660 Division 22 was adopted, October 28, 1994, it was designated in The Lane County Rural Comprehensive Plan (RCP) as a "Community";
 - iii. It lies outside the urban growth boundary of any city;
 - iv. It is not incorporated as a city; and
 - v. It meets the definition of one of the four types of unincorporated communities in Policy 3 below."
- b. There are four types of unincorporated communities:
 - i. "Rural Community" (*OAR 660-022-0010(6)*) means, "An unincorporated community which consists primarily of residential uses but also has at least two other land uses that provide commercial, industrial, or public uses (including but not limited to schools, churches, grange halls, post offices) to the community, the surrounding rural area, or to persons traveling through the area.
 - ii. "Resort Community" (*OAR 660-022-0010(5)*) means, "an unincorporated community that was established primarily for and continues to be used primarily for recreation or resort purposes and that: includes residential and commercial uses; and provides for both temporary and permanent residential occupancy, including overnight lodging and accommodations.
 - iii. "Rural Service Center" (*OAR 660-022-0010(7)*) means, "An unincorporated community consisting primarily of commercial or industrial uses providing goods and services to the surrounding rural area or to persons traveling through the area, but which also includes some dwellings.
 - iv. "Urban Unincorporated Community" (*OAR 660-022-0010(8)*) means, "An unincorporated community which has the following characteristics:
 - A. Includes at least 150 permanent dwelling units including manufactured homes;
 - B. Contains a mixture of land uses including three or more public, commercial or industrial land uses;
 - C. Includes areas served by a community sewer system; and
 - D. Includes areas served by a community water system.
- c. On February 29, 1984, Lane County adopted Ordinance No. PA 884. that applied a "community" plan diagram designation and zoning to 35 separate, developed and committed exception areas: Glenada, Cushman, Mapleton, Swisshome, Deadwood, Greenleaf, Triangle Lake, Walton, Blachly, Noti, Elmira, Crow, Franklin, Cheshire,

Alvadore, Lorane, Lancaster, London, Saginaw, Goshen, Pleasant Hill, Jasper, Marcola, Trent, Dorena, Culp Creek, Walterville, Fall Creek, Dexter, Leaburg, Vida, Nimrod, Blue River, Rainbow, McKenzie Bridge.

- d. The following unincorporated communities within the McKenzie Watershed are designated in the RCP as "Unincorporated Rural Communities":

- i. Marcola,
- ii. Walterville,
- iii. Leaburg.
- iv. Vida,
- v. Nimrod
- vi. Blue River,
- vii. Rainbow, and
- viii. McKenzie Bridge.

- e. The following unincorporated communities within the Siuslaw Watershed are designated in the RCP as "Unincorporated Rural Communities":

- i. Glenada,
- ii. Cushman,
- iii. Mapleton,
- iv. Swisshome,
- v. Deadwood,
- vi. Greenleaf,
- vii. Triangle Lake,
- viii. Blachly, and
- ix. Walton.

- f. The following unincorporated communities within the Long Tom Watershed are designated in the RCP as "Unincorporated Rural Communities":

- i. Lancaster,
- ii. Franklin,
- iii. Cheshire,
- iv. Alvadore,
- v. Elmira,
- vi. Noti,
- vii. Crow, and
- viii. Lorane.

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

- a. A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:

- i. existing development pattern and density;
- ii. on-site sewage disposal suitability, or community sewerage;
- iii. domestic water supply availability;
- iv. access;
- V. public services;

- vi. lack of natural hazards; and
- vii. effect on resource lands.

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

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

- i. For the Unincorporated Communities of the McKenzie Watershed, the density for the creation of new lots or parcels shall be:
 - A. Marcola: 1 acre (*1998 existing average parcel size = .82 acres*);
 - B. Walterville: 2 acres (*1998 existing average parcel size = 1.58 acres*);
 - C. Leaburg: 2 acres (*1998 existing average parcel size = .98 acres*);
 - D. Vida: 2 acres or 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173 and located adjacent to or north of Gate Creek Road (*1998 existing average parcel size = 1.35 acres*);
 - E. Nimrod: 2 acres for areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*1998 existing average parcel size = 1.83 acres*);
 - F. Blue River: 2 acres for areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*1998 average parcel size = 4.56 acres in areas zoned RR5, 2.45 acres in areas zoned RR1 and .65 acres in RA zoned areas*);
 - G. Rainbow: 2 acres south of Highway 126, west of Mill Creek Road and north of the McKenzie River. 2 acres in areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*The 1998 average parcel size = 1.65 acres*); and
 - H. McKenzie Bridge: 2 acres west of bridge, along Highway 126 and Taylor Road, and south of the McKenzie River and along Horse Creek Road. 2 acres in areas zoned RR2 prior to the adoption of Ord. PA 1173. 5 acres for areas zoned RR5 prior to the adoption of Ord. PA 1173. (*The 1998 existing average parcel size = 1.86 acres.*).
- ii. For the Unincorporated Communities of the Siuslaw Watershed, the density for the creation of new lots or parcels shall be:
 - A. Glenada: 2 acres. (*1998 average parcel size in the Rural Residential Zone was 1.37 acres*);
 - B. Cushman: 5 acres. (*1998 average parcel size in the Rural Residential Zone was 1.52 acres*);
 - C. Mapleton: 1 acre for areas zoned RR1, 2 acres for areas zoned RR2, and 5 acres for areas zoned RR5 prior to the adoption of Ord PA 1194. (*1998 average parcel size in the Rural Residential Zone was 1.15 acres*);
 - D. Swisshome: 2 acres. (*1998 average parcel size in the Rural Residential Zone was 1.74 acres*);

- E. Deadwood: 2 acres for areas zoned RR2 and 5 acres for areas zoned RR5 prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Rural Residential Zone was 1.96 acres);*
 - F. Greenleaf: 5 acres. *(1998 average parcel size in the Rural Residential Zone was 3.33 acres);*
 - G. Triangle Lake: 2 acres. *(1998 average parcel size in the Rural Residential Zone was 0.68 acres);*
 - H. Blachly: 2 acres. *(1998 average parcel size in the Rural Residential Zone was 0.71 acres);* and
 - I. Walton: 5 acres. *(1998 average parcel size in the Rural Residential Zone was 4.08 acres).*
- iii For the Unincorporated Communities of the Long Tom Watershed, the density for the creation of new lots or parcels shall be:
- A. Lancaster: 5 acres. *(1998 average parcel size in the Rural Residential Zone was 1.57 acres);*
 - B. Franklin: 1 acre for areas zoned RR1 prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Rural Residential Zone was 2.15 acres);*
 - C. Cheshire: 1 acre for areas zoned Suburban Residential (RA) prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Suburban Residential Zone was 2.86 acres);*
 - D. Alvadore: 1 acre for areas zoned Suburban Residential (RA) prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Suburban Residential Zone was 1.60 acres);*
 - E. Elmira: 2 acres for areas zoned RR2 and 5 acres for areas zoned RR5 prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Rural Residential Zone was 2.10 acres);*
 - F. Crow: 2 acres for areas zoned RR2 and 5 acres for areas zoned RR5 prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Rural Residential Zone was 2.85 acres);*
 - G. Lorane: 2 acres for areas zoned RR2 and 5 acres for areas zoned RR5 prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Rural Residential Zone was 3.99 acres);*
 - H. Noti: 2 acres for areas zoned RR2 and 5 acres for areas zoned RR5 prior to the adoption of Ord PA 1194. *(1998 average parcel size in the Rural Residential Zone was 2.63 acres).*

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

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

comply with OAR 660 Division 22, the UC Rule. A single rural commercial zone shall be applied to areas updated to comply with OAR 660 Division 22, the UC Rule or with Goal 14.

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

restrictive than the Lane County General Plan Policies, the McKenzie Watershed Land Use Policies shall apply rather than the Lane County General Plan Policies.

- a. Recreation and tourism are a few of the multiple uses of the McKenzie valley and are important to the economy of the communities in the McKenzie valley. Recreation resorts are one method to promote recreation and tourism in the McKenzie Valley and should be allowed in compliance with the requirements in LC 16.
 - b. Lane County recommends that the approximate federal floodplain elevations for the community of Blue River and nearby developed and committed lands in the McKenzie watershed be updated with more specific and surveyed flood elevations and Federal Emergency Management Agency (FEMA) maps.
 - c. Lane County recommends that plans be developed and implemented for the maintenance and repair of the existing on-site sewage disposal systems in the community of Marcola and for the downtown area of the community of Blue River. A more aggressive and long term alternative to the development of such plans would be development of public facility plans for public sewers and updating these community plans to comply with the requirements of the Community Rule for urban unincorporated communities. Another more aggressive and long term alternative would be for these communities to incorporate and to perform the land use planning as cities in compliance with Goal 14.
 - d. The former veneer mill site in Blue River (map 29-16-4E, tl 202) is vacant land and, until Lane County's year 2000 periodic review, was designated industrial and zoned Light Industrial, M-2. The industrial designation and M-2 zone allowed the veneer mill to operate as a permitted use and allowed the operation of other industries. The industrial designation and industrial zoning on this land shall be maintained but does not preclude a future change of plan designation and zoning for this land. Any division of this land for the creation of parcels or lots shall demonstrate that the soil of the lots or parcels does not contain any contaminants that pose a hazard to its use.
 - e. New rural public facility, commercial, and industrial development within the McKenzie Watershed shall be located inside unincorporated rural communities or outside of unincorporated rural communities in developed and committed areas that were planned and zoned for public facility, commercial or industrial purposes on April 17, 2002.
16. New rural public facility, commercial, and industrial development within the Siuslaw Watershed and the Long Tom Watershed shall be located inside unincorporated communities or outside of unincorporated communities in developed and committed areas that were planned and zoned for public facility, commercial or industrial purposes on February 18, 2004. An exception to this policy shall be for plan amendments or zone changes adopted pursuant to Policy 27 – Errors or Omission, and legislative actions adopted by the Board of County Commissioners during a Periodic Review Work Program. New rural industrial development that requires a rural location in order to process a rural resource may be located in a developed and committed area outside of a community. This policy shall be implemented in part through the application of zoning regulations in LC 16 that place greater limits on rural development outside of communities than on rural development inside of communities. Amendments to the Rural Comprehensive Plan to designate new areas for rural commercial, industrial and public facility development shall occur in nodes with similar existing development.

17. Lane County shall recognize and incorporate into the Lane County Comprehensive Plan all prior land use applications approved since January 1980 with respect to the Statewide Planning Goals to the extent legally possible.
18. Where lands are not farm and forest lands, they may be designated on the plan diagram as rural residential or as parks and recreation, provided:
 - a. Detailed and factual documentation has been presented indicating that the subject lands are not farm and forest lands as defined by Statewide Planning Goals #3 and #4.
 - b. An exception to any of the Statewide Planning Goals is not required.
 - c. Small isolated non-resource tracts surrounded by farm and forest lands shall be discouraged if such non-resource designation would create compatibility problems.
 - d. The Rural Residential Designation would be consistent with other Comprehensive Plan Policies.
19. Residential densities for non-resource lands shall be one residence per five or ten acres and shall be determined through consistency with other plan policies and the following criteria:
 - a. Existing development pattern and density of any adjacent committed areas;
 - b. Subsurface sewage disposal suitability;
 - c. Domestic water supply availability;
 - d. Access;
 - e. Public service;
 - f. Lack of natural hazards;
 - g. Effect on resource lands.
20. Plan refinements shall be prioritized for purposes of County financial revenue allocation and program planning provided by Lane County for planning services subject to fund availability in the following sequence:
 - a. Performance standards for minimum parcel size determinations within impacted forest lands.
 - b. Performance standards for minimum parcel size determinations within farm lands designated EFU.
 - c. Goal 5 conflict resolution.
 - d. Coastal Lakes.
 - e. Sand & Gravel Study.
21. Destination Resorts shall be permitted in Lane County subject to the requirements stated below. For purposes of this Policy, a Destination Resort shall be defined as a multi-use recreational facility which provides a wide range of services to visitors, including but not limited to temporary lodging, meals and related services, gift shop sales, transportation

and tours, indoor and outdoor recreation, and on-site entertainment. Specific uses may vary from site to site. A Destination Resort has the following characteristics:

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

Destination Resorts may be developed subject to the following:

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

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

Prior to the designation of any property in Lane County as a "Destination Resort" under the Statewide Goal 8 guidelines and definitions as implemented in ORS 197.435 – 197.467; Lane County will be required to comply with ORS 197.465 Comprehensive Plan Implementing Measures.

- 22. Sites considered "significant" in terms of OAR 660-16-000 through 660-16-025 but requiring that the Goal #5 ESEE consequences analysis process be delayed (the "IB" option) shall be protected by Lane County through the application of interim protective measures. Such interim protective measures shall be considered and applied at the beginning of the plan refinement process for the "significant" sites and after sufficient information is available regarding the location, quality and quantity of the "significant" sites.
- 23. A cluster subdivision, with the following exceptions, shall be deemed appropriate to a rural area when the criteria below are satisfied. Exceptions to this policy includes cluster subdivision developments which meet the requirements of either A or B, and C.
 - a.
 - (1) Limited to single family residences; and
 - (2) Limited to 10 single family residences; and
 - (3) All lots within the cluster subdivision are five acres in size.
 - or
 - b.
 - (1) Limited to single family residences; and
 - (2) Limited to 10 single family residences; and
 - (3) Lots within the cluster subdivision average, five acres in size and are not less than two acres in size.

- and
- c. (1) No further cluster development of the parcel is allowed; and
 - (2) The parcel being developed is not adjacent to another cluster subdivision containing lots less than five acres."

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

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

The development will not:

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

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

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

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

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

All cluster subdivisions must be within an existing Rural Fire Protection District.

No other identifiable substantial increase of a public service shall be necessitated by the approval of a cluster subdivision.

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

<u>Plan Designation</u>	<u>Zone Classification</u>	<u>Abbrev.</u>
Forest Land	Nonimpacted Forest Lands	F-1, RCP
Forest Land	Impacted Forest Lands	F-2, RCP
Agricultural Land	Exclusive Farm Use	E-RCP
Natural Resource	Natural Resource	NR-RCP
Marginal Land	Marginal Lands	ML-RCP
Park and Recreation	Park and Recreation	PR-RCP
Rural Park and Recreation	Rural Park and Recreation	RPR, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Park and Recreation, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Park and Recreation.		
Natural Resource	Quarry & Mining Operations Combining	/QM-RCP
Natural Resource	Sand, Gravel and Rock Products	SG-RCP
Natural Resource	Sand, Gravel & Rock Prod. Processing	/CP-RCP
Public Facility, Community	Public Facility	PF-RCP
Rural Public Facility	Rural Public Facility	RPF, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Public Facility, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Public Facility.		
Commercial, Community	Limited Commercial	C-1, RCP
Commercial, Community	Neighborhood Commercial	C-2, RCP
Commercial, Community	Commercial	C-3, RCP
Rural Commercial	Rural Commercial	RC, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Commercial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Commercial.		

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

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

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

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

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

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

26. Exceptions to resource goals shall be required for transmission line right-of-ways when in excess of fifty (50) feet.
27. ~~Errors or Omissions~~ **Conformity Determinations.** Lane County will annually initiate and process applications to correct identified ~~errors or omissions~~ **plan or zoning designations** 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~~ **nonconformities** 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 Omissions~~ **Conformity Determinations** 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. Inappropriate Nonimpacted Forest Land (F-1, RCP) zoning designation, where criteria of RCP Forest Land Policy 15 indicate that Impacted Forest Land (F-2, RCP) zoning designation is more suitable.~~
 - 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 Policy 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~~ **Conformity Determinations** in the Official Plan and Zoning Plots shall not include circumstances requiring that a committed exception be taken or situations involving the designation of Marginal or Nonresource Lands.
- c. By September 30th of each year, property owners who believe that they have ~~errors or omissions~~ **a nonconformity** in the official plan or zoning of their property and who want those designations corrected shall submit to the Planning Director a completed Conformity Determination Amendment application. Within 45 days of receipt of the application, the Director shall review the application for completeness and provide the applicant with a written notice that explains why the application was accepted or not accepted. The Director shall not accept incomplete applications or applications for changes that do not qualify pursuant to one or more of the criteria of Policy 27. a. i-viii above; and
- d. By March 31st of each year, Lane County shall conduct the first public hearings with the Lane County Planning Commission for all pending Conformity Determination Amendment applications accepted within the deadline specified in Policy 27 c., above.
- e. To partly defray the expense in processing the ~~errors or omissions~~ **Conformity Determination** application, a fee shall be charged the applicant. The fee shall be established by order of the Board of County Commissioners.

Ordinance No. PA 1219
Exhibit "B"
Findings of Fact

Finding 1. Lane Code 16.400(6)(i): This subsection of Lane Code requires that the adoption of amendments to the Rural Comprehensive Plan, and components thereto, be by ordinances. The adoption of Ordinance No. PA 1219 would amend the RCP Goal 2 Policies by ordinance and therefore complies with this code requirement.

Finding 2. Lane Code 16.400(6)(h)(iii)(aa) requires Ordinance No. PA 1219 to comply with applicable state laws and the Statewide Planning Goals. Based on the findings below, Ordinance No. PA 1219 complies with applicable state laws and Statewide Planning Goals.

- a. Statewide Planning Goal 2 requires, "Opportunities shall be provided for review and comment by citizens during the preparation, review and revision of plans and implementation ordinances." Lane County provided the opportunities identified below for citizens to review and comment on the preparation, review and revision of Ordinance No. PA 1219. These opportunities were adequate to comply with Goal 2.
 - On August 3, 2004, the Lane County Planning Commission (LCPC) conducted public hearings on two proposed Conformity Determination Amendments requesting consideration of a change in zoning designation from Nonimpacted Forest Land (F-1, RCP) to Impacted Forest Land (F-2, RCP) pursuant to the qualifying criterion of Goal Two, Policy 27.a.ii.:
 - 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 indicated the F-2 zone.*and, the defining characteristics for F-1 and F-2 lands pursuant to RCP General Plan Policies, Goal Four, Policy 15.
 - During the August 3, 2004, public hearing, citizen testimony challenged the legal lot status of the subject parcels with the assumption that all contiguously-owned, lawfully created parcels previously created by real estate deeds or contracts were merged into one legal lot on January 1, 1984, and further alleged the discrete legal lot status of the individual subject parcels were invalid when the subject parcels were considered for zoning designation on September 12, 1984.
 - The LCPC elected to deliberate on the merits of the applications pursuant to Goal Two, Policy 27 and Goal Four, Policy 15, on October 5, 2004 at 5:30 P.M. in the Commissioners Conference Room, PSB. However, LCPC recommendations on the merits of the site-specific applications could not be forwarded to the Board of Commissioners until the policy issue of what constituted a "legal lot" in 1984 was determined. LMD staff conducted research and supplemented the record with available materials from the Lane County LMD records, Board of County Commissioners Office archives, and Oregon Sate Archives during the period of August through September and provided the materials and an analysis of the policy issues for consideration by the LCPC.
 - On October 5, 2004, the Lane County Planning Commission (LCPC) deliberated in a work session on the policy issue of what constituted a "legal lot" for the purposes of land use actions in 1984, which included qualifying for consideration under Rural Comprehensive Plan – General Plan Policy Two - Policy 27.a.ii.

- On October 5, 2004, the LCPC approved a motion by unanimous vote (7-0) to apply a common sense interpretation to the 1983-1986 definition for "legal lot" in Lane Code Chapter 13 and 16, based on the clarification of ORS 92 with the enactment of HB 2381 in 1985 by the Oregon Legislative Assembly, and Lane County's adoption of three ordinances in 1986 (Ordinance No. 10-86, Ordinance No. 11-86, and Ordinance PA 921), that contiguous, discrete parcels created lawfully by recorded deeds or real estate contracts prior to the 1983-1986 period were not merged during that period, and were during that period and are today, discrete legal lots.
- On October 5, 2004, the LCPC approved a motion by unanimous vote (7-0) to forward a recommendation to the Board of County Commissioners (BCC) to amend the qualifying criteria of RCP General Plan Policies - Goal Two, Policy 27.a.ii., to read similar to Policy 21.D.(2) as adopted in Ordinance PA 921 on September 10, 1986, substituting the 2004 Goal Four, "Policy 15" for Goal Four, "Policy 19(c)" (circa 1986). The proposed Goal Two – Policy 27.a.ii. text is:
 - ii. *Inappropriate Nonimpacted Forest Land (F-1, RCP) zoning designation, where criteria of RCP Forest Land Policy 15 indicate that Impacted Forest Land (F-2, RCP) zoning designation is more suitable.*
- On October 24, 2004, at least 45 days in advance of the Lane County Planning Commission public hearing on December 7, 2004 and the Board of County Commissioners' public hearing on January 19, 2005, LMD mailed to the Oregon Department of Land Conservation and Development (DLCD) a notice of the public hearing and pending adoption, and two copies of the proposed revision to RCP Goal Two, Policy 27.a.ii., and housekeeping amendments to Policy 27.
- On November 17, 2004, a legal ad was published in The Register Guard, providing notice of the Lane County Planning Commission public hearings in Harris Hall of the Lane County Public Service Building on December 7, 2004.
- On December 7, 2004, the Lane County Planning Commission (LCPC) conducted a public hearing on the proposed amendments to Goal Two –Policy 27 and unanimously approved (8-0) their recommendation to the Board of County Commissioners for adoption of the text revision to 27.a.ii., and other housekeeping amendments to Policy 27 concerning conformity determinations.
- On December 22, 2004, at least 20 days in advance of the BCC public hearing on January 19, 2005, a legal ad was published in The Register Guard providing notice of the BCC public hearing in Harris Hall of the Lane County Public Service Building on January 19, 2005.
- On January 19, 2005, a public hearing was held by the Board of County Commissioners in Harris Hall of the Lane County Public Service Building to receive citizen comments on the proposed changes to RCP General Plan Policies, Goal Two – Policy 27.a.ii., and Policy 27.
- b. Ordinance No. PA 1219 acknowledges the written testimony and documentation, and citizen comments received during the LCPC public hearings on August 3, 2004 and December 7, 2004.
- c. Ordinance No. PA 1219 acknowledges the deliberations of the LCPC on October 5, 2004 and December 7, 2004, and their recommendation to amend Goal Two, Policy 27.a.ii. and other housekeeping revisions to Policy 27..
- d. Ordinance No. PA 1219 acknowledges citizen testimony received during the Lane County Board of Commissioners public hearing on January 19, 2005.