

W.T.B.



Memo Date: January 24, 2007  
Work Session Date: February 7, 2007

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**TO:** Board of County Commissioners

**DEPARTMENT:** Public Works Department/Land Management Division

**PRESENTED BY:** Kent Howe, Planning Director

**AGENDA ITEM TITLE:** BOARD DIRECTION ON PRIORITIES OF LAND MANAGEMENT DIVISION – LONG-RANGE PLANNING PROJECTS THROUGH FY 2006-07 IN BALANCE WITH THE MANDATE TO PROCESS BALLOT MEASURE 37 CLAIMS WITHIN THE 180-DAY TIMELINE.

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**I. MOTION**

I move that the resources of the LMD long-range planning staff priorities be directed to completion of Projects \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, \_\_, (List in order of priority from the projects described in Attachments “A” through “L”).

**II. AGENDA ITEM SUMMARY**

Provide direction to Land Management Division (LMD) regarding prioritization of long range planning projects in lieu of the necessity to process 275 Ballot Measure 37 (M37) claims within the required 180-day timelines.

**III. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

Over the past year Land Management Division (LMD) has reviewed numerous long-range planning projects with the Board of Commissioners for completion within the Fiscal Year 2006-2007, and secured funding in support of some of the projects from grant sources. Two of the projects are in the peer review period and two are ready to be brought to the Planning Commission for public comment in the third quarter.

Lane County received 395 M37 claims and has processed 120 claims to-date. The remainder have a deadline for decisions in the final week of May, 2007. To meet this challenge, LMD has implemented an interim commitment by shifting approximately 75% (3.0 FTE of 4.0 FTE) of the four long-range planners to processing 25-30 claims every Tuesday that the Board meets throughout the second half of the FY. Alternatives to the six-month diversion of the long-range planner FTE continues to be recruitment and hiring of temporary planners, diversion of current building and planning permit staff, or temporary assistance from LCOG or City planners. LMD does not take the gravity of the BM37 work lightly and to date has not been successful in finding qualified, temporary personnel or other agency staff to evaluate and draft recommendations and orders for the Board’s consideration.

## **B. Policy Issues**

Reassignment of the LMD priorities will impact staff's ability to conclude work on all of the pending long-range projects prior to June 30, 2007. Some of the projects will need to be shifted to the next fiscal year or eliminated.

## **C. Board Goals**

Following the Board work session on January 3<sup>rd</sup>, the LMD long-range work program was diverted to the interim commitment to process 275 M37 claims over the next six months ending in mid to late June 2007. This commitment is one of necessity due to the lack of any other readily available resource to grapple with the volume and complexities of the pending claims within the time lines.

## **D. Financial and/or Resource Considerations**

Long-range projects have been reviewed by the Board in the past and two of the projects are partially funded by Oregon Department of Land Conservation and Development (DLCD) periodic review and technical assistance grants.

Under normal circumstances the long-range staff would be focused on completing comprehensive land use planning tasks during the latter half of the Fiscal Year 2006-2007 including:

- development of e-Government improvements,
- response to State of Oregon and voter mandates,
- processing collaborative projects with local jurisdictions including Metro Plan partners and small cities, and
- participation in regional planning projects.

The "long-range" staff consists of four individuals coordinated by Kent Howe, Planning Director:

Bill Sage, Associate Planner  
Steve Hopkins, Planner  
Stephanie Schulz, Planner  
Keir Miller, Planner

During the past year, Steve Hopkins has been involved virtually full-time in the review and processing of the M37 claims received in 2005-2006. Since January 5<sup>th</sup>, approximately 3.0 of the 4.0 FTE of the long-range staff time and approximately 0.5 FTE of the Planning Director has been committed to the processing of 25-30 BM37 claims for Board consideration as scheduled. Processing of the 275 pending BM37 claims with the identified 3.5 FTE at the rate of 65-85 claims per month will extend the completion of the project into June 2007.

Failure to process the M37 claims within the required 180-day time lines could provide the option for M37 claimants to seek financial compensation from Lane County through Circuit Court judgments.

**E. Analysis**

Twelve projects are described in Attachments “A” through “L”. The lead staff for each project and the progress to date on each project is also identified.

**F. Alternatives/Options**

The Board can choose to prioritize the listed projects or refrain from acting.

**IV. TIMING/IMPLEMENTATION**

The chosen alternative including priorities will be implemented at the direction of the Board.

**V. ATTACHMENTS**

- A. GIS Zoning Diagrams/Website for public access (Keir Miller, Steve Hopkins)
- B. Floodplain/Community Rating System (Keir Miller)
- C. Metro – Small Cities Planning (Stephanie Schulz)
- D. Title II RAC grants, (Keir Miller, Bill Sage)
- E. Siuslaw River Dredge Materials Disposal Plan - Periodic Review. (Bill Sage)
- F. Work Task 3.a. (Goals 16 and 17) – Periodic Review. (Bill Sage)
- G. Middle Fork Willamette Watershed post-acknowledgement plan amendments. (Bill Sage)
- H. ORS 836 Private Airport Planning (Steve Hopkins)
- I. Legislative updates to LC Chaps.13 & 16 (Steve Hopkins)
- J. Overhaul LC Chapters 10 and 16 (Kent Howe)
- K. Amendments of Fuel Break Requirements in the Forest Land Zones (F1 and F2) (Bill Sage)
- L. Cluster Developments Relying on Ballot Measure 37 Claims (Kent Howe, Steve Hopkins)

**Floodplain/Community Rating System** (Keir Miller)

LMD priority: Highest

The Land Management Division, through the Planning and Building Programs, is the entity responsible for implementing the flood insurance program for rural Lane County. As part of its responsibilities, LMD has been preparing an application to participate in the National Flood Insurance Program's (NFIP) Community Rating System (CRS). This is a voluntary incentive program that recognizes floodplain management activities that exceed the minimum NFIP requirements. Flood insurance premium rates are discounted to reflect the reduced flood risk. Upon acceptance into the program, the rates will be reduced by 5%. Through participation in the CRS program, the premiums can be lowered up to 45%, depending on specific actions taken by LMD. For example, all new structures in the floodplain must be elevated a minimum of 12 inches of the calculated base flood elevation. If Lane County increases the minimum elevation to 24" above the calculated base flood elevation, it would be considered an action that reduces the flood hazards risk and could lower the premiums an additional 5%, for a total reduction of 10% for all policy holders in rural Lane County.

The benefits to Lane County citizens are multiple not the least of which are financial and public safety.

**Status**

Lane County is considered by FEMA to be repetitive loss category "C" and prior to CRS application the County must:

- a. Describe our repetitive loss problem, map all repetitive loss areas, create a mailing list of all properties within these areas and conduct an annual outreach project to effected properties as outlined Section 503 of the CRS manual.
- b. Prepare a floodplain management plan as outlined in activity 510.
- c. Obtain an up-to-date Community Assistance Visit (CAV) letter of compliance from FEMA ( this is basically a letter saying we passed their last audit)

To date LMD has reviewed the repetitive loss areas. LMD has mapped and created a mailing list for all properties and we are preparing to mail outreach materials.

Concerning the Activity 510; in October 2006, the Board adopted a Natural Hazards Mitigation Plan. The plan follows the FEMA-approved 10-step planning process and specifically outlines and recommends action items directed at reducing flood losses within the County. LMD has submitted the NHMP to the CRS representative. We anticipate the NHM Plan will satisfy the Activity 510 requirement.

To obtain the CAV letter of compliance the County needs to get the floodplain revisions to Lane Code Chapter 10 and 16 adopted. They are complete and scheduled to go to the Board on January 24th (1st reading) and February 7th (public hearing).

Once these revisions are adopted, the County can submit an application to become a CRS community.

Metro – Small Cities Planning (Stephanie Schulz)

LMD Priority: High

Under State law, Lane County is partner to the decisions pertaining to any expansion of urban growth boundaries (UGB) or plan amendments within the Metro Plan Boundaries or UGBs of Eugene and Springfield and the ten small incorporated cities in Lane County. The Metro Plan is a triad with Lane County, the City of Eugene and the City of Springfield. The ten smaller cities include Dunes City, Florence, Veneta, Junction City, Coburg, Creswell, Cottage Grove, Lowell, Westfir and Oakridge. Land Management Division has assigned one full time planner to coordination with Eugene, Springfield and the ten smaller cities as well as special service districts such as Springfield Utility Board, Eugene Water & Electric Board, Willamalane, and the Metropolitan Waste Management Board.

As an example of the scope of this work, LMD accomplished the following tasks during the most recent FY 2005/2006:

Metro Plan Projects

- a. Lane Code Chapter 10 – City of Springfield Development Regulations within UGB.
- b. Eugene/Springfield Metro Plan - Public Safety Special District.
- c. Eugene Goal 5 Natural Resources Conservation Project.
- d. Eugene./Springfield Metro Plan - Plan amendment from EFU to Sand, Gravel & Rock.
- e. Glenwood Riverfront Plan Implementation

Small Cities Projects

- a. Junction City UGB Plan Expansion (Country Coach)
- b. Amend Florence Comprehensive Plan 2000/2020 (CRMP)

Regional Projects

This planner also serves on regional study groups and committees such as the Southern Willamette Valley Group study of groundwater issues in the Coburg area; Metro Waterways multi-jurisdictional study of floodplain and riverine habitat issues of the Willamette–McKenzie Rivers; and the Region 2050 project. All of these studies require in-kind services by LMD for coordination of the regional interests for conservation and development, both of which bear on the livability issues and opportunities afforded through coordinated planning.

- a. Region 2050
  - i. Created and appointed membership in Farm and Forest Task Force to conduct Farm and Forest Evaluation for Goals 3 & 4 compliance through the Regional Problem Solving Statute.
  - ii. Participated in RTAC monthly meetings, facilitated at five rural community public outreach workshops during summer 2005.
- b. Metro Waterways
  - i. Participated in monthly Technical Study Team Meetings, review and development of the “Without Project Conditions Report”; facilitated two public workshops Feb. 2005, agency field trip to Amazon Creek and Cedar Creek sub-basins in Spring 2006.

Some of the Metro and small cities projects itemized above are ongoing and will require LMD staff participation in FY 2006-2007 including monthly participation in Region 2050 and Metro Waterways, and the ‘upriver’ Willamette Restoration Initiative ACOE projects. New legislative and quasi-judicial projects will also be forthcoming from the twelve incorporated jurisdictions in that period and will be coordinated by this funded position.

**GIS Zoning Diagrams/Website for public access** (Keir Miller, Steve Hopkins)

LMD Priority: Highest

Status: 95% completed. Forty-five-day notice is required to DLCD prior to the first evidentiary hearing and LMD is ready to schedule for LCPC review in March and Board review in April.

- a. All RCP zone plots (705) have been digitized and proofed. The digital layer that was created was used to develop 86 Township-based Draft Zone Maps.
- b. All RCP plan designation plots (683) have been digitized and proofed. The digital layer that was created was used to develop 80 Township-based Draft Plan Maps.
- c. All RCP coastal combining zone plots (51) have been digitized and proofed. The digital layer that was created was used to develop 11 Township-based Draft Coastal Zone Maps.
- d. All UGB (Chapter 10) zoning mylars (6) have been digitized and proofed. The digital layer that was created was used to develop 6 Draft UGB Zone Maps.

LMD and the Public Works GIS staff participate in the annual updating of the Official Plan and Zoning Maps which currently only exist as paper plots. Access by the public is very limited and requires a visitation to Land Management Division during working hours to acquire a paper copy and verify the zoning of a property.

In FY 2003-2004, Lane County Public Works Department and the Lane County Assessment & Taxation Department established a GIS Project at the Delta Shops and initiated the creation of a GIS parcel file based on ORMAP specifications. In 2004, the Land Management Division secured a \$35,000 grant from Oregon Department of Conservation & Development to digitize the zoning plots and create a zoning designation overlay on the GIS parcel base. This has resulted in the completion of digital zoning maps for the "rural" area of Lane County located outside the urban growth boundaries of the twelve incorporated cities and the Metro Plan boundary. GIS Project is currently completing work on the parcel base and zoning overlay within the Metro Plan Area, inside the Eugene and Springfield UGBs, and inside the UGBs of Dunes City, Florence, Veneta, Junction City, Coburg, Creswell, Cottage Grove, Lowell, Westfir and Oakridge.

Completion of the digital zone maps will lead to creation of a secure, online source for citizens to access online the zoning data for individual properties and move the County away from dependence on the 1980's paper plots. The creation of these digital maps will result in a more accurate product that will be readily available to the public. These maps will also require regular maintenance to reflect zone changes and plan amendments that occur in the future. Rather than an annual update, these changes will occur as soon as the County Commissioners adopt an ordinance that rezones or changes the plan designation for a property. The Land Management Division will coordinate with the GIS Project and LC Information Services (LCIS) to establish a secure site and interface for public access.

The Economic Development Standing Committee (Video Lottery) recommended and the Board of Commissioners allocated funding in the amount of \$51,000 in FY 2005-2006 for preparation of the digitized zoning base and creation of the secure website for public access. LMD committed \$54,000 in FY 2006-2007 to complete this project by the end of June 2007. This is one of the projects that qualify for funding through the Video Lottery grant in FY2006-2007.

In addition to the maintenance of the pending adoption of the rural lands zoning designations, PW- GIS is proposing to undertake enhancements of the TransPlan digitized layers and the LMD zoning layers. Twenty-nine projects have been proposed and LMD and PWGIS are working on 27 in the FY 2006-2007 work program. A list of the projects is available upon request.

**Title II RAC grants,** (Keir Miller , Bill Sage)

LMD Priority: High

Status.

LMD processed three Title II grant applications through the Hood-Willamette RAC which were approved and for which funding has been allocated. One grant was for the Lane County Fire Defense Board and the other two grants were for Lane County Public Works – Parks Division.

RAC approval of the grants is the first step in acquiring the funding for the projects. An equal amount of effort is required to prepare the grants for the regional review process. LMD is currently involved in the submittal of the second round of data.

The three projects are:

- a. LMD is the designated staff for the Community Wildfire Protection Plan Steering Committee. In this capacity, LMD submitted a grant application on behalf of the Lane County Fire Defense Board for the installation of 24 dry hydrants and four 10,000-gallon storage tanks distributed throughout eight fire protection districts in eastern Lane County along the Wildland Urban Interface. The grant will provide \$96,000 of the necessary \$108,000 for the installation of the facilities. The Fire Defense Board does not have status to receive the Title II funds and requires Lane County as the coordinating and fiduciary agent for this project to succeed.
- b. LMD submitted two grant applications on behalf of Lane County Parks Division to fund fuels reduction projects and improvements for the public recreational use of two County parks. The sites and funding are:
  - i. Eagle Rock Park (Nimrod area) \$40,500
  - ii. Old McKenzie Fish Hatchery (Leaburg Lake area) \$17,450

LMD is currently coordinating with PW-Parks for submittal of additional fiscal documents to finalize the grants.

LMD received notice from the RAC II staff on January 8<sup>th</sup>, that more than \$385 million of Forest Service revenues will be distributed to the States. This is the final payment authorized under the Secure Rural Schools Act and the deadline for use of the funds as allocated, is September 30, 2007.

**Periodic Review -- Siuslaw River Dredge Materials Disposal Plan.** (Bill Sage)

LMD Priority: High

Status

Project is 80% completed. Research materials are available on the Lane County Website and have been distributed for peer review. Work sessions with the public will be in February-March and LCPC public hearing in April with a follow-up recommendation to the Board and the Board's public hearing in May.

Background

Lane County adopted the Coastal Resource Inventory (Wilsey & Ham, October 1978) and the Siuslaw River Dredged Material Disposal Plan (DMDP) (Wilsey & Ham, November 1978) as part of Lane Code Chapter 10 in 1980, approximately 25 years ago. Since that time new regulatory overlays including FIRM flood hazard areas, National Wetlands Inventory, Oregon Division of State Lands Goal 5 Rule for protection of wetlands, and the ESA 4d rule have become applicable on and adjacent to the inventory sites selected in 1978-1980.

Coordination of this project between the Port of Siuslaw, Oregon Department of Land Conservation and Development, U.S. Army Corp of Engineers, the City of Florence, and Lane County was initiated in early 2004. Collaborative efforts and common goals between the five public agencies and the Siuslaw River stakeholders prompted a joint-effort to fund the federal, county and special district components of the re-drafting of the Siuslaw River Dredged Material Disposal Plan.

LMD has received a \$30,000 technical assistance grant from the Oregon Department of Land Conservation and Development (DLCD) to offset the expense of this project that will expire on June 30, 2007.

The Port of Siuslaw coordinated Federal funding through the US Army Corps of Engineers for the allocation of grants to produce an in-river quantitative survey in 2005 and a qualitative spoils survey in 2006 for the reach of the Siuslaw River from the mouth to Mapleton.

The Siuslaw Watershed Council funded Laura Brody – Green Point Consulting for the completion of the Tidal Wetland Prioritization for the Siuslaw River Estuary in November 2005. This study is being integrated in the DMDP analysis.

Coordination of all these efforts entails:

- a. Implementation of Statewide Goal 17 Shorelands policies and Oregon Administrative Rules 660-017 and 660-037; to designate and protect dredge material disposal sites on rural and urban lands within the Siuslaw Watershed; and
- b. Adopt amendments to the Siuslaw River Dredged Material Disposal Plan (1978) and the CRMP Plan and Zoning Diagrams depicting the Dredged Material Disposal Sites Inventory.
- c. Amend Lane Code 16.242 Dredge Material Mitigation Site Combining Zone (/DMS –RCP) for implementation of Statewide Goal 17 Shorelands policies and Oregon Administrative Rules 660-017 and 660-037; to designate and protect dredge material disposal sites on rural and urban lands within the Siuslaw River Watershed.



- d. Coordination with the City of Florence for amendments to plan policies and regulations within the UGB, and amendments to the Coastal Resource Management Plan (CRMP) and the Siuslaw River Dredged Material Disposal Plan.
- e. Collaboration with the US Army Corps of Engineers, Oregon Division of State Lands, Port of Siuslaw, City of Florence, and private property owners to determine quality and quantity guidelines for dredge material disposal (2005-2025), and identify and secure appropriate sites for the use is necessary.

**Periodic Review - Work Task 3.a. (Goals 16 and 17) (Bill Sage)**

LMD Priority: High

**Status**

Project is 80% completed. Research materials are being loaded on the Lane County Website and will be available by January 31<sup>st</sup> for peer review.

Lane County has completed the Periodic Review Work Program for the five watersheds [McKenzie (2002), Siuslaw (2003), Long Tom (2003), Coast Fork Willamette (2005) and Middle Fork Willamette (2005)] with one exception. Work Task 3.a.i.-iii. and iv. are the remaining components of the Work Program in the Siuslaw Watershed pertaining to the Coastal Resource Management Plan (CRMP).

The first component of the Work Task requires amendments to Lane Code 16 (rural) and Lane Code 10 (urban) for definitions of terms as utilized in the Statewide Goals 16 (Estuarine), 17 (Shorelands) and 18 (Beaches and Dunes). The Order and legislative formats for the proposed revisions to the codes are scheduled for LCPC public hearing on January 23, 2007.

The second component of the Work Task requires analysis of inventories and completion of reports pertaining to water-dependent uses on commercial and industrial properties within developed and committed exception areas subject to the Coastal Resource Management Plan (CRMP) and Goals 16 and 17.

LMD has received a \$15,000 periodic review grant from the Oregon Department of Land Conservation and Development (DLCD) to offset the expense of this project. The Work Task includes drafting a Compliance Report addressing the following actions:

- a. Complete an analysis of cumulative impacts of anticipated development for Siuslaw River Estuary pursuant to *Goal 16 "Comprehensive Plan Requirements," item 5.*
- b. Complete an analysis of shorelands within developed & committed areas to determine if they should be protected for water dependent recreational, commercial and industrial use based on criteria stated in the *Goal 17 Shorelands.*
- c. Complete an analysis to determine whether or not there are any existing, developed commercial or industrial waterfront areas suited for redevelopment but not designated as especially suited for water dependent uses (*Goal 17 Coastal Shorelands*).
- d. Compile data and inventory dune areas to determine if grading or sand movement within developed and committed lands and lands within the Florence UGB should be allowed by means of a foredune grading plan which meets *Goal 18 Beaches and Dunes: "implementation requirements", item 7,* criteria.

LCPC public hearing on the Compliance Report will be in March with a recommendation to the Board and the Board public hearing will be in May. The DLCD grant expires in June 2007.

Coordination with the City of Florence and Dunes City will be needed for amendments to Lane Code 10 which applies within the UGB.

As a result of completing this high-priority project, Lane County, Florence and the Port of Siuslaw will have collaborated on a regional project of the highest priority for all of the entities' responsibilities to address economical and conservation planning in the Siuslaw River watershed in a collaborative manner.

**Middle Fork Willamette Watershed post-acknowledgement plan amendments.** (Bill Sage)

LMD Priority: Medium

Lane County has adopted and been acknowledged by DLCD for the OAR Compliance Reports required by the Periodic Review Work Program Work Tasks in the five watersheds: McKenzie (2002), Siuslaw (2003), Long Tom (2003), Coast Fork Willamette (2005) and Middle Fork Willamette (2005).

At the conclusion of each watershed effort, LMD has processed post-acknowledgment plan amendments (PAPA) stemming from the watershed analysis and public involvement as conformity determinations. These PAPA have been processed through the past five years as a policy choice endorsed by the Board of Commissioners. On November 29, 2006, the Board adopted Ordinance No. PA 1226 for the Coast Fork Willamette Watershed PAPA by a vote of 3 to 2. This addressed the zoning designations of 31 rural properties. The Ordinance has been appealed to the Oregon Land Use Board of Appeals and will be heard most likely in late Spring–early Summer.

LMD is on the threshold of beginning the drafting of the staff reports for proposed plan and zoning amendments on approximately 47 properties in the Middle Fork of the Willamette Watershed. This effort will require a minimum of 12 weeks (480 hours) of FTE to prepare the ordinance and staff reports with supporting findings of fact. It would be prudent for the Board to provide direction to LMD staff on whether this policy is still favored by a majority of the current County Commissioners. The resources and expense in processing a project of this proportion is not a prudent investment of staff time if the current Board has reservations concerning the past Board's direction on this policy (2002-2006).

LMD requests Board review of the policy and provide direction on whether to proceed with the PAPA effort in the Middle Fork Willamette Watershed.

**ORS 836 Private Airport Planning** (Steve Hopkins)

LMD Priority: Medium

Oregon Revised Statute 836 and Oregon Administrative Rule 660-013-0155 require that local jurisdictions bring airport safety and planning processes up to date with the state regulations. In this particular case the ORS-OAR addresses Private Airport Planning sites within the rural area.

Amendment of zoning and plan designations for existing private airports in the rural areas of Lane County, as required by ORS 836 and OAR 660-013-0155.

This is a mandate that is subject to compliance as a requirement in the next Periodic Review Work Program. The County can complete this project in FY2006-2007 if the Board so directs.

**Legislative updates to LC Chaps.13 & 16** (Steve Hopkins)

LMD Priority: Medium

After each legislative session, the Land Management Division revises Lane Code Chapters 10, 13, 14 and 16 to comply with any changes made to the Oregon Revised Statutes (ORS) and the Oregon Administrative Rules (OAR). Due to staff shortages and the demands of processing BM 37 claims, the changes from 2003 and 2005 Legislative Assembly sessions have not occurred.

These changes include new definitions and new allowed uses, a change to the standards for new dwellings in the farm and forest zones, new allowed industrial uses and extension of timelines, revised notice requirements for land use decisions, a change to actions on final plats, as well as other revisions. None of the revisions are expected to be controversial or generate large amounts of public comment. The revisions will be included in a single ordinance that will be presented to the Lane County Planning Commission and then to the Board of County Commissioners. The entire process will take approximately four (4) months.

**10. Overhaul LC Chapters 10 and 16 (Kent Howe)**

LMD Priority: High

This project is of the highest priority for the citizens of Lane County and the ability of LMD to effectively communicate with and process development applications. However, implementing this project will require a contractual agreement with a private consultant team over a two to three-year period of time. Implementing this project will require commitment of Video Lottery funds or another source for the duration of the project at a level of \$100,000 to \$150,000 per year. Without a commitment from the EDSC and Board on the stream of funding, this project has a necessary low rating.

Economic development is implemented, in part, by the development code. This code must be clear and concise. If it is not, the code can impede efforts to develop a healthy and sustainable economic base. The development code for Lane County, also known as the zoning ordinance, is contained in Lane Code Chapter 10 within urban growth boundaries and Lane Code Chapter 16 in the rural lands of the County. These chapters implement the 19 statewide land use planning goals in Lane County.

These chapters contain specific requirements for all development outside city limits. For example, if a land owner wants to know the setbacks from a property or whether a proposed development requires a special use permit, these chapters provide the answer. However, it is very difficult to find these answers because the current code is organized and written in a needlessly confusing and complex manner. Lane Code Chapter 10 was written more than 30 years ago and contains numerous inconsistencies and outdated terminology. Chapter 16 is needlessly complex and confusing. In addition, many of the procedures required in these chapters reference sections of the Lane Manual that do not exist. Because of this, the Lane County development code is not user friendly and the general public has little hope of understanding the code without significant assistance from LMD.

The development code will be reformatted and updated to allow the general public to easily find answers to their questions. This project will not change any standards, it will simply clarify the existing rules and make the code easier to utilize. This effort will result in better customer service by reducing the time needed to process land use applications and increasing the ability of land owners to research and answer their questions online.

Because of the amount of work required to accomplish this project, a consultant will be hired and will work under the guidance of LMD. This cost estimate is for the staff time to write the RFP to find the consultant, to manage/direct/review the efforts of the consultant and to take the final revisions to Lane Code 10 and Lane Code 16 through the adoption process.

**Amendments of Fuel Break Requirements in the Forest Land Zones (F1 and F2) (Bill Sage)**

The Board of Commissioners adopted Action Items ST: 2.1.1 and ST: 2.1.2 of the Lane County Community Wildfire Protection Plan in 2005:

Action Item ST: 2.1.1 – Review and make recommendations to the Lane County Board of Commissioners for amendments to Rural Residential Zones [Lane Code 16.290 (RR) and Lane Code 16.231 (NR)] for implementation of fire safety standards within the WUI.

Action Item ST: 2.1.2 – Review and make recommendations to the Lane County Board of Commissioners for implementation of Oregon Residential Specialty Code Section R 324 – Wildfire Hazard Mitigation regulations within the Wildland Urban Interface (WUI) of rural Lane County.

Staff presented two proposals for implementation of a new Lane Code 16.266 - Wildland –Urban Interface Combining Zone to the Board in a work session on May 24, 2006, for implementation of fire safety standards for new residential structures in 13 zoning designations of Lane Code 16 that provide for residential development.

One of the proposals was supported by the Lane County Fire Defense Board, Oregon Department of Forestry and Oregon Fire Marshall Office which called for the implementation of a “structural defensible space”. This proposal focused on establishing a defensible space around new residential structures that will provide a safe and effective area for suppression of onsite structural fires. The proposal would have required a 30-foot structural defensible space around approximately 65% of new residential structures and a 30-foot defensible space and an additional 30-foot secondary fuel break around the remaining 35% of new residential structures. The drafted requirements provided for a “closed-canopy” environment with emphasis on eliminating ladder fuels under or adjacent to trees within the structural defensible space.

The Board of Commissioners provided direction to LMD in a work session on May 24, 2006, to:

- a. Stop work on a new Lane Code 16.266; and
- b. Bring a proposal back to the Board for amendments to Lane Code 16.211 (Nonimpacted Forest Land, F2) and Lane Code 16.210 (Impacted Forest Land, F1) to implement the “structural defensible space” standards in place of the existing, more restrictive standards.

The Planning Commission has already heard testimony and forwarded recommendations to the Board of Commissioners.

The revisions would be included in an ordinance that would be brought to the Board of County Commissioners for public hearing. The process will take approximately four (4) months.

**Cluster Developments Relying on Ballot Measure 37 Claims**

This is a new long-range project which developed out of the BM37 discussions with the Board and has not been reviewed with the Board in public session.

Refer to the attached: Report Back Regarding Cluster Developments Relying on Measure 37 Claims.



**Cluster Developments Relying on Ballot Measure 37 Claims**

**I. AGENDA ITEM SUMMARY**

Report back regarding cluster developments relying on Measure 37 claims.

**II. BACKGROUND/IMPLICATIONS OF ACTION**

**A. Board Action and Other History**

The Board has waived the restrictive land use regulations that prevent subdivisions for 67 property owners that have filed M37 claims. Some of these claims are for large properties that contain more than 500 acres. The Board has expressed an interest in determining if there are benefits to cluster the subdivision development and if so, how Lane County might provide incentives to encourage low impact development or cluster subdivision development on M37 claims.

**B. Policy Issues**

How can the County encourage cluster subdivisions or lower impact development for M37 claims if the Board determines there is a benefit to the development, the developer and Lane County?

**C. Board Goals**

The public hearing on any proposed change to county land use regulations will provide an opportunity for citizen participation in decision making, in conformance with the overall goals of the Lane County Strategic Plan.

**D. Financial and/or Resource Considerations**

Staff devoted to processing M37 claims will be responsible for creating the educational materials as well as posting them to the county website. This is expected to have an insignificant impact to claims processing.

**E. Analysis**

The Board has directed staff to research the benefits of cluster subdivision development and how Lane County might provide incentives to encourage low impact development or conservation subdivision development for M37 claims. This memo compares the conventional and cluster type development scenarios.

**Explanation of Concept**

For this memo, the term "conservation" development will be used in place of

“cluster” development. It more accurately conveys the benefits of this type of development and it focuses attention on the entire development rather than just the size of the smaller lots. It is also the common term used in the industry.

A conventional development divides the property into multi-acre lots without regard for any hazards or constraints to development. For example, a 100 acre parcel is divided into ten lots that contain ten acres apiece. Each future lot owner will need to determine the most appropriate location for a dwelling and address any development issues. In contrast, conservation development is a subdivision that creates smaller lots and groups them together in specific areas that are most appropriate for development. For example, the 100 acre parcel can be developed with 10 one-acre lots. However, these lots could be grouped in one portion of the property that does not contain any floodplain or other hazards. The remaining 90 acres could be leased to a rancher as pasture.

In the conservation development, the remainder of the land is managed as open space and is commonly used for recreation by the home owners. In this type of development, the open space can be used for passive recreation, horse facilities, organized sports activities or even a golf course. Because the developable lots will be placed away from sensitive environmental features, the future lot owners will not have to deal with these issues. Usually, the developed lots are located so that areas of floodplain, wetland, riparian, dangerous slope or other development constraints are avoided. This is in contrast to the conventional approach where the future land owner is required to address these issues for each lot.

Compared to conventional design, conservation developments reduce the amount of infrastructure required to service the same number of lots. As a rule of thumb, twenty-five percent of a conventional subdivision is devoted to infrastructure, such as roads and utilities. A conservation subdivision uses much less land for infrastructure and as a result, development costs are lowered, sometimes dramatically. Depending on the size of the development and the specific design, the savings can be in the hundreds of thousands of dollars for road improvements alone. Shorter roads also mean less impervious surface area which reduces the need for drainage facilities. Consideration of impervious surface area in new developments is likely to become an issue in the near future as a factor in controlling water pollution.

The common incentive to build a conservation subdivision rather than a conventional subdivision is the ability for the local government to allow additional lots as more open space is set aside. In the current situation, M37 has provided that ability to create additional lots. The interest we have is to encourage the new developments to take advantage of the benefits of conservation design. Education concerning the benefits of conservation design and removal of regulatory hurdles to this design are the best incentives for development relying on a M37 waiver. This memo will present the benefits of conservation design and identify the local regulatory hurdles to this type of development.

### **Regulatory Hurdles**

The Statewide Planning Program distinguishes between urban and rural

development and prohibits urban levels of development in rural areas.

The Lane County Rural Comprehensive Plan implements the state policy and effectively prevents conservation developments in rural Lane County. Specifically, Goal 2, Policy 23 requires the applicant to demonstrate 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. Goal 14, Urbanization Policy 1 also limits new development outside Urban Growth Boundaries.

Because of these policies, no conservation developments have been approved since their adoption in 1984. If the Board wants to encourage land owners with valid M37 claims to consider a conservation development, these policies should be amended or the Board can make an interpretation that Goal 2, Policy 23 does not apply to land divisions that rely on valid M37 claims.

### **Option #1**

Amend the RCP to specifically exempt a M37 development from compliance with Goal 2, Policy 23 and Goal 14, Urban Policy 1. A draft amendment is included as an attachment to this memo.

An adopted order for a M37 claim waives the restrictive regulations of the base zone, but does not waive the requirements of the subdivision ordinance, which requires compliance with the Rural Comprehensive Plan. Goal 2, Policy 23 implements the state rule (OAR 660-004-0040(7)(e) which also limits the size, number and density of conservation developments and prohibits service by a new community sewer system. Goal 14, Urban Policy 1 requires urban development to occur within an Urban Growth Boundary. Any new lot that is less than 2 acres is considered an urban lot and would not comply with this policy. Because the greatest benefits of conservation subdivisions occur with lots that are less than two acres, this policy should be amended.

With a valid M37 waiver, the State Rule requirements may not be applicable. If the Board wishes to encourage conservation developments, the local regulatory hurdles should be eliminated, especially if those hurdles are based on state rule requirements that have been waived by the state.

### **Option #2**

Determine that Goal 2, Policy 23 does not apply to land divisions that rely on M37 waivers. It is possible that a conservation development that relies on a M37 claim would not be considered a "cluster development" as defined in LC 16.090. That definition states:

"Cluster Subdivision. A subdivision for which the applicable zoning district allows relaxed lot area, coverage and setback requirements and alternative types of dwellings as specified in LC Chapter 16, and which is consistent with the cluster subdivision Policy #24 set forth under Goal 2, Land Use Planning of the Lane County General Plan Policies."

The adopted order associated with each valid M37 claim waives the current lot area requirements. Because the current lot area requirements of the applicable

zoning district are not applied to a M37 development, it could be interpreted that this cluster subdivision policy is applicable.

This option is not available for Goal 14, Urban Policy 1 because it does not contain any specific language that refers to "cluster" development. An amendment appears to be the only option for this policy.

### **Incentives to Promote the Use of Conservation Design**

Conservation developments can provide numerous benefits to the developer, the County and to the future home owners. The benefits include:

- 1) Reduced cost to developer for infrastructure (fewer and shorter roads, common septic and well, shorter length to extend utilities, etc.)
- 2) More attractive and affordable developments for the purchaser
- 3) Ability to develop property around sensitive environmental features (wetlands, streams, ridges, swales, etc). Because the developable lots can be placed away from sensitive environmental features and other constraints to development, the future lot owners will not have to address these issues, which could be costly and time consuming. The developable lots can be located to avoid floodplain, wetland, riparian, dangerous slope or other environmental issues. This is in contrast to the conventional approach where the future land owner is required to do this analysis for the entire the entire lot.
- 4) Cost effective and efficient lower-impact development designs

What these advantages mean to the realtors and buyers are twofold:

**Marketing and sales advantages:** developers and realtors can capitalize on the amenities that have been preserved or provided within the development. For example, when a person buys a buildable lot in the cluster subdivision, they are also receiving the use of the open space which is much larger than the buildable lot. Depending on the size of the entire development, the open space could be 20, 50, 80 or more acres. A water feature such as a creek or pond could be available for all the home owners to enjoy.

**Value appreciation:** There are several studies that provide evidence that lots in cluster subdivisions appreciate faster than their counterparts in conventional developments. As one example, the Center for Rural Massachusetts compared the appreciation of rural developments over a twenty year period. This study found that lots within cluster developments appreciated by an average of 12.7% more than lots within conventional developments (*Arrendt, 1994*). Another study found that developed lots in conservation subdivisions carry additional value of 12% to 16% per acre compared to lots in conventional subdivisions (*Mohamed, 2006*).

### **Implementation**

Educating the land owners and developers about these benefits could occur during a pre-application meeting. We could require this meeting prior to submittal of a land use application for any development that will rely on a M37

waiver. The educational materials outlining the benefits of conservation development could also be posted on the Lane County website.

**F. Alternatives/Options**

The Board can choose one of the options presented or refrain from acting.

**V. TIMING/IMPLEMENTATION**

The chosen alternative will be implemented at the direction of the Board.

**VII. ATTACHMENTS**

Draft amendment to the Rural Comprehensive Plan.

**VIII. REFERENCES**

Arendt, Randall, 1994. *Rural by Design: Maintaining Small Town Character*, Chicago: American Planning Association Planners Press.

Arendt, Randall, 1996. *Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks*, Washington D.C.: Island Press.

Mohamed, Rayman. The Economics of Conservation Subdivisions: Price Premiums, Improvement Costs and Absorption Rates. *Urban Affairs Review*, Vol. 41, No. 3, January 2006.

## Lane County Rural Comprehensive Plan

### Goal 2, Policy 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 include cluster subdivision developments which meet the requirements of either A or B, and C. In addition, a land division that relies on a Ballot Measure 37 waiver shall be exempt from Goal 2, Policy 23.

- a. (1) Limited to single family residences; and  
(2) Limited to 20 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

- 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.

## **Goal 14, Urbanization Policy 1**

The County shall encourage new residential, commercial and industrial development to locate within existing incorporated cities or rural communities. Except for development relying on a Ballot Measure 37 waiver, any growth outside Urban Growth Boundaries must:

- a. Be restricted to committed or developed areas including approved new development centers; or
- b. Under certain specified conditions set forth in this plan, industrial, commercial and residential development is appropriate outside of developed and committed areas provided a valid exception is taken and/or all Statewide Goal requirements are met.
- c. Any community designated in the plan that does not have an adequate Urban Growth Boundary, or any addition to such community that may be proposed, shall be justified by a valid exception pursuant to Statewide Goal 2 ,Part II.