

W. 10. C. 1.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER No. 05-2-16-11)
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)
) In the Matter of Approving Participation at the
) Court of Appeals in Seeking Judicial Review of
) the LUBA decision in *Emmons, et al v. Lane*
) *County* (LUBA No. 2004-111).

WHEREAS in 2004 the Lane County Board of Commissioners approved land use application PA 01-5875 and enacted Ordinance No. PA 1199 to amend the Lane County Rural Comprehensive Plan to redesignate tax lot 700 of Assessor's map 17-01-28 from "Agricultural Land" to " Nonresource" and concurrently rezone that property from "E-30/Exclusive Farm Use" to "RR-5/Rural Residential"; and

WHEREAS, an appeal of that Board decision was filed with the Oregon Land Use Board of Appeals ("LUBA") in *Emmons, et al v. Lane County* (LUBA No. 2004-111) to challenge the county determination that the subject property was not agricultural or forest land; and

WHEREAS, the LUBA decision in the appeal concluded the subject property was part of a farm unit, must be considered agricultural land as a matter of law and the county decision concluding otherwise was in error and reversed notwithstanding the Board weighing of evidence and conclusion that the subject property was not part of a farm unit or agricultural land; and

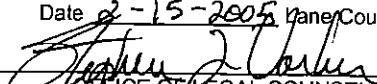
WHEREAS, without judicial review of the LUBA decision it may continue to affect potential applications by precluding review and approval without regard to the factual evidence presented to the county whenever there has been any historical agricultural use of property; and

WHEREAS, it is of countywide significance and in the interest of Lane County to get clarification of the extent of discretion available to review and determine comprehensive plan designation and zone change requests based on current information, now therefore, it is hereby

ORDERED, that the decision of LUBA in *Emmons, et al v. Lane County* (LUBA No. 2004-111) should be reviewed by the Court of Appeals and county counsel may join a petition and subsequent filings at the Court of Appeals to provide limited assistance in seeking review.

Adopted this 15th day of February, 2005.

Anna Morrison, Chair
Lane County Board of Commissioners

APPROVED AS TO FORM
Date 2-15-2005 Lane County


OFFICE OF LEGAL COUNSEL