

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1349 | IN THE MATTER OF AMENDING THE RURAL
| COMPREHENSIVE PLAN TO REDESIGNATE LAND
| FROM "FOREST LAND" TO "AGRICULTURAL LAND",
| TO REZONE LAND FROM "IMPACTED FOREST LAND
| (F-2)" TO "EXCLUSIVE FARM USE LAND (E-40)",
| AND ADOPTING SAVINGS AND SEVERABILITY
| CLAUSES (File No. 509-PA16-05160; Applicant: Mikilas)

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance No. PA 884 has adopted Land Use Designations and Zoning for lands within the planning jurisdiction of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 16.400 sets forth procedures to amend the Rural Comprehensive Plan, and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comprehensive Plan; and

WHEREAS, on February 25, 2016, application no. 509-PA 16-05160 was made for a minor amendment to redesignate tax lot 300, Map 18-05-06-40, from "Forest" to "Agricultural," with a concurrent request to rezone the property from "Impacted Forest Land (F-2)" to "Exclusive Farm Use (E-40);" and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on April 18, 2017; and

WHEREAS, the Lane County Planning Commission deliberated on August 1, 2017, and forwarded the matter to the Board with a recommendation for approval of the proposed plan amendment and zone change; 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 Official Lane County Rural Comprehensive Plan is amended to redesignate Tax Lot 300, Map 18-05-06-40, from "Forest Land" to "Agricultural Land." This is depicted on the Official Lane County Plan maps and further identified as Exhibit "A" attached and incorporated herein.

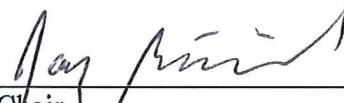
Section 2. The Official Lane County Zoning Map is amended to change the zone for Tax Lot 300, Map 18-05-06-40, from "Impacted Forest Land (F-2)" to "Exclusive Farm Use (E-40)." This is depicted on the Official Lane County Zone maps and further identified as Exhibit "B" attached and incorporated herein.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings of Fact and Conclusions of Law as set forth in Exhibit "C" attached, in support of this action.


The prior designation and zone repealed 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 to the remaining portions hereof.

ENACTED this 20th day of March, 2018



Chair
Lane County Board of County Commissioners

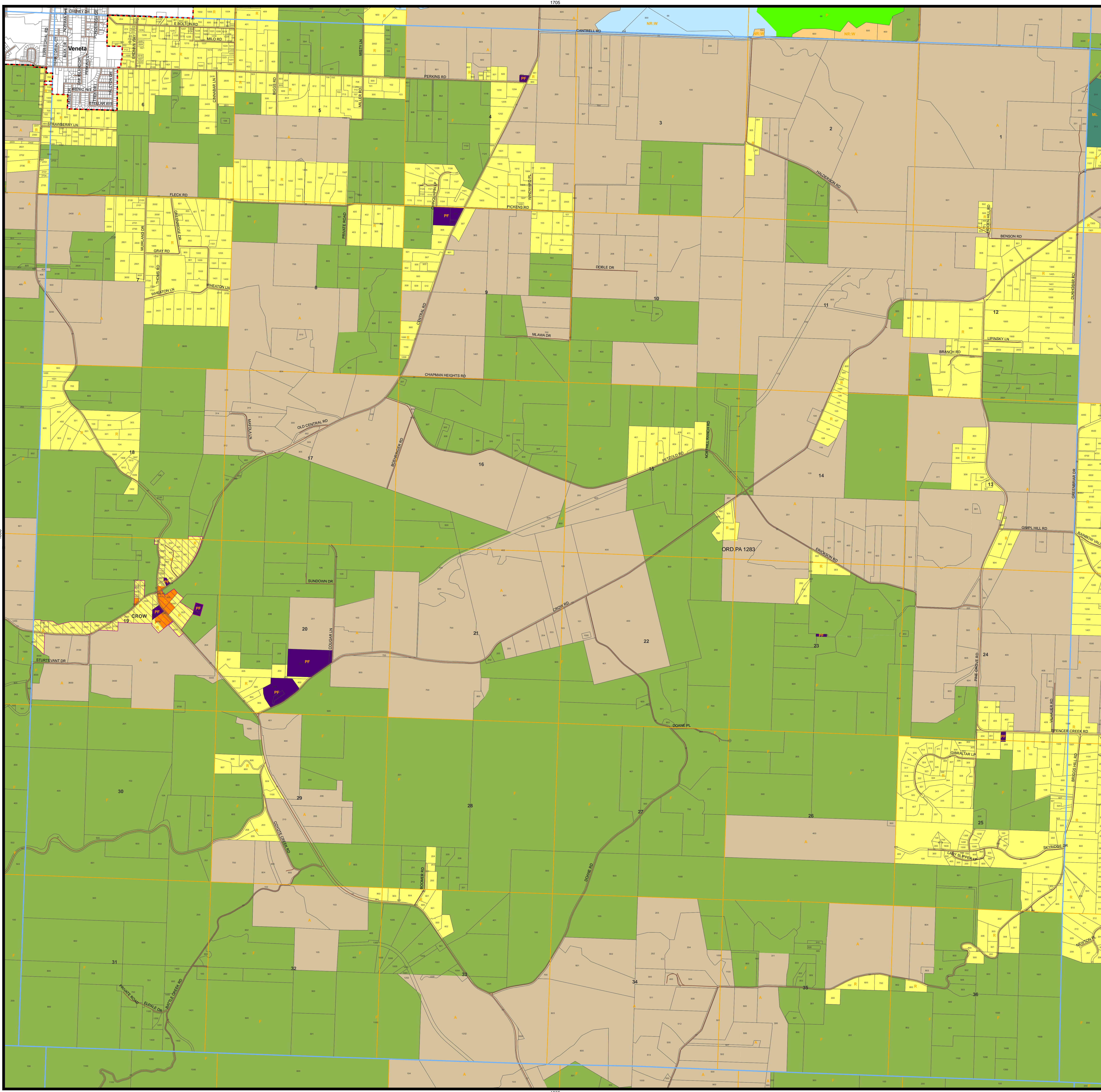


Recording Secretary for this Meeting of the Board

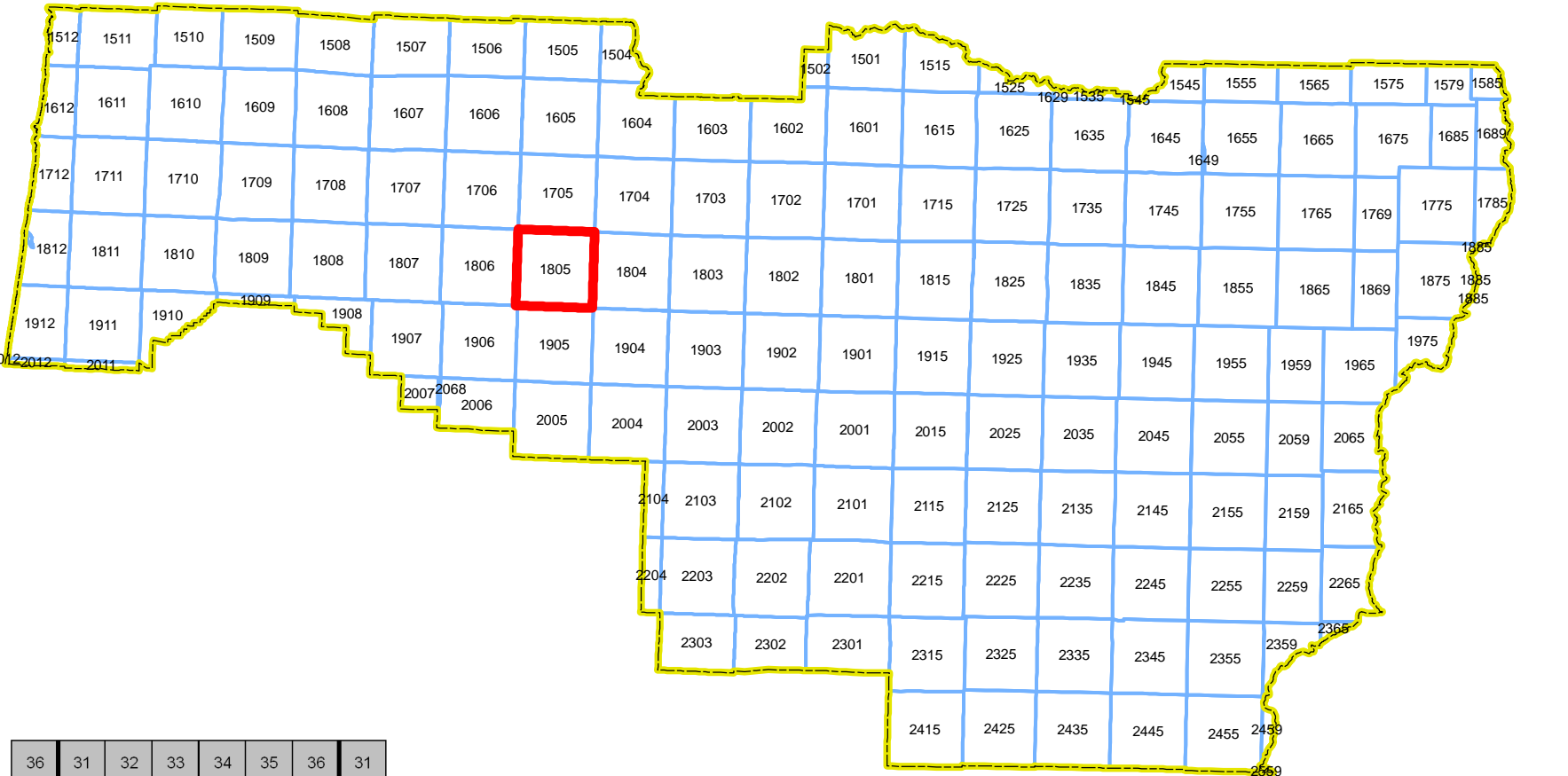
APPROVED AS TO FORM
Date 3-7-18 Lane County



OFFICE OF LEGAL COUNSEL



Township 18 South, Range 05 West



Section Legend

1	2	3	4	5	6	7	8	9	10	11	12
13	14	15	16	17	18	19	20	21	22	23	24
25	26	27	28	29	30	31	32	33	34	35	36

**ORDINANCE NO. PA 1349
EXHIBIT A PLAN MAP**

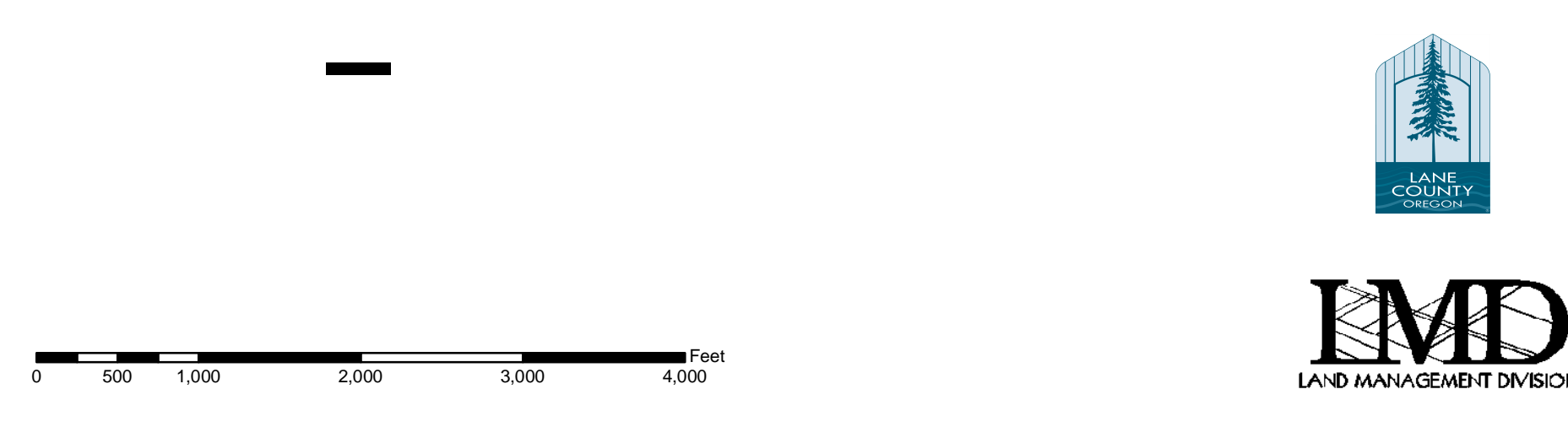
RCP Plan Designations

- F - Forest
- A - Agricultural
- ML - Marginal
- C - Commercial
- I - Industrial
- R - Residential
- NRES - Non Resource
- P - Parks
- AIR - Airport
- NR:CA - Natural Resource Conservation Area
- NR:M - Natural Resource : Mineral
- NR:W - Natural Resource : Wildlife
- E - Estuary
- DR - Destination Resort
- PF - Public Facility

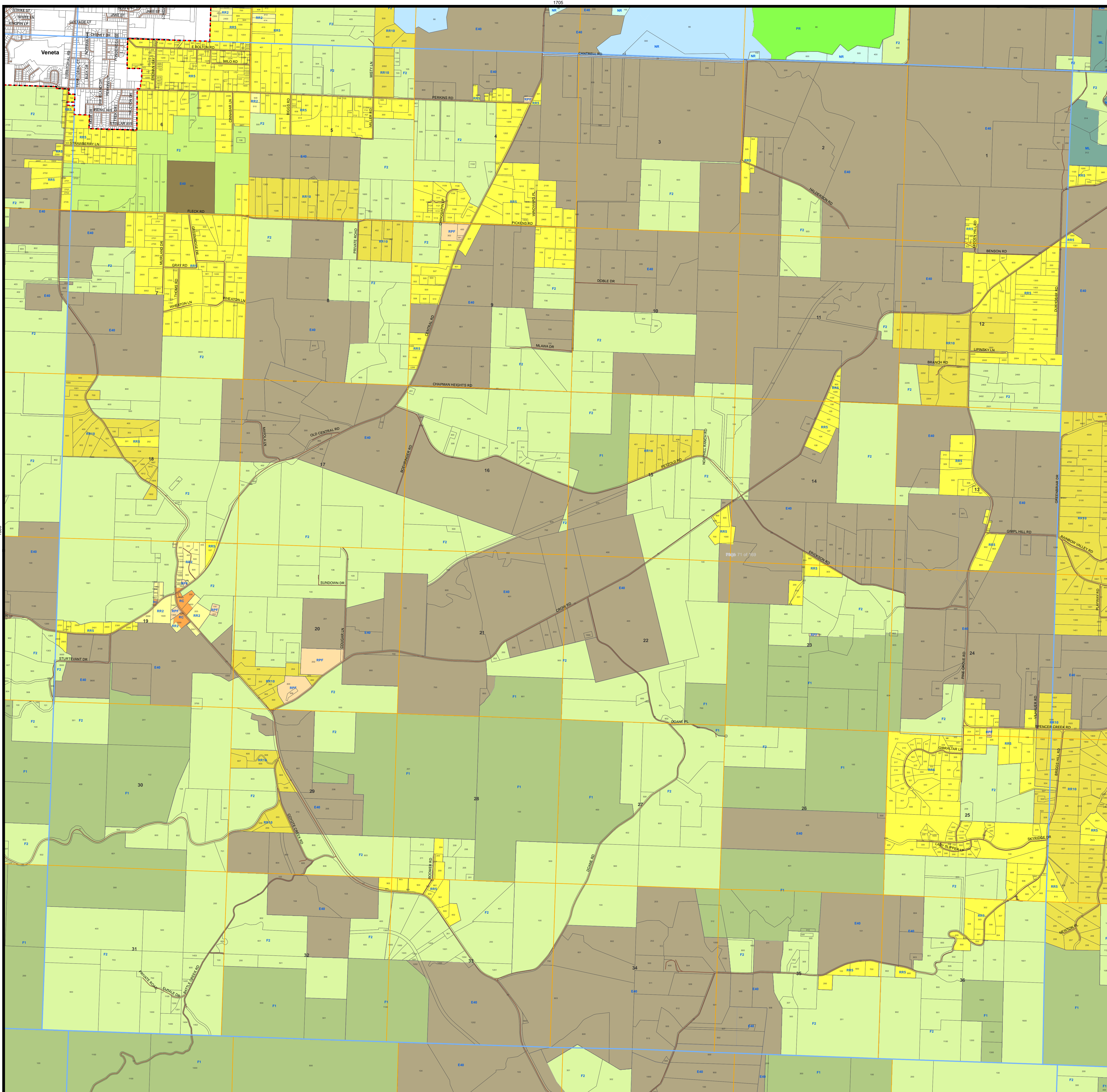
- UGB
- City Limits
- Communities
 - Rural
 - Urban
- Township Range
- Sections
- Metro Plan Boundary
- Parcels
- Roads
- Surface Water

ORIGINAL ADOPTING ORDINANCE NUMBER: **ORD.PA1246**

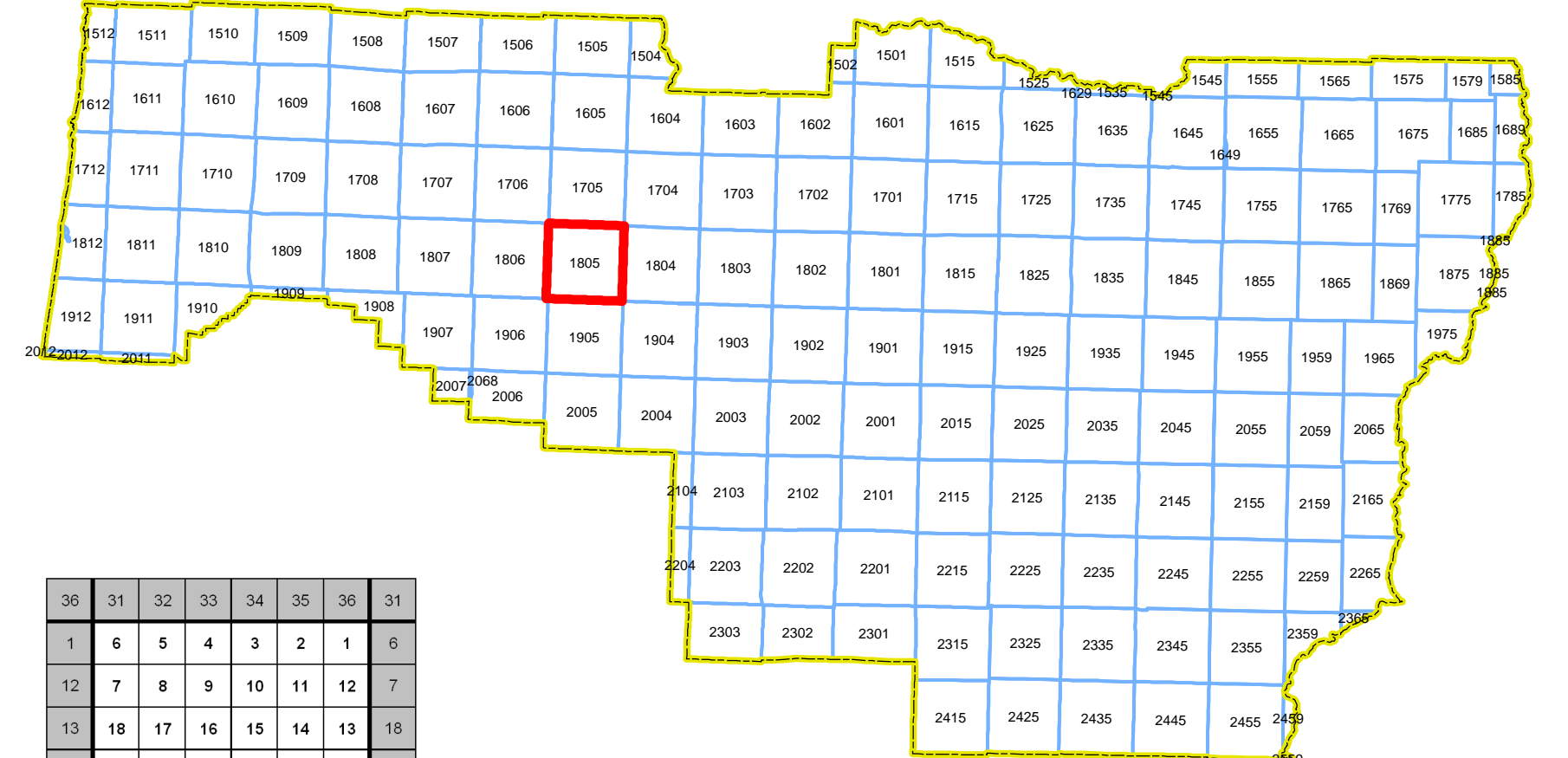
Revision	Ordinance or Order Number	Date Effective	Planning Action Number	Revision Description
1	ORD.PA1246	July 11, 2008	NA	Map Adopted
2				
3				
4				
5				
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7				
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**Official Lane County
Plan Map**



Township 18 South, Range 05 West



Section Legend

1	2	3	4	5	6
7	8	9	10	11	12
13	14	15	16	17	18
19	20	21	22	23	24
25	26	27	28	29	30
31	32	33	34	35	36

**ORDINANCE NO. PA 1349
EXHIBIT B ZONE MAP**

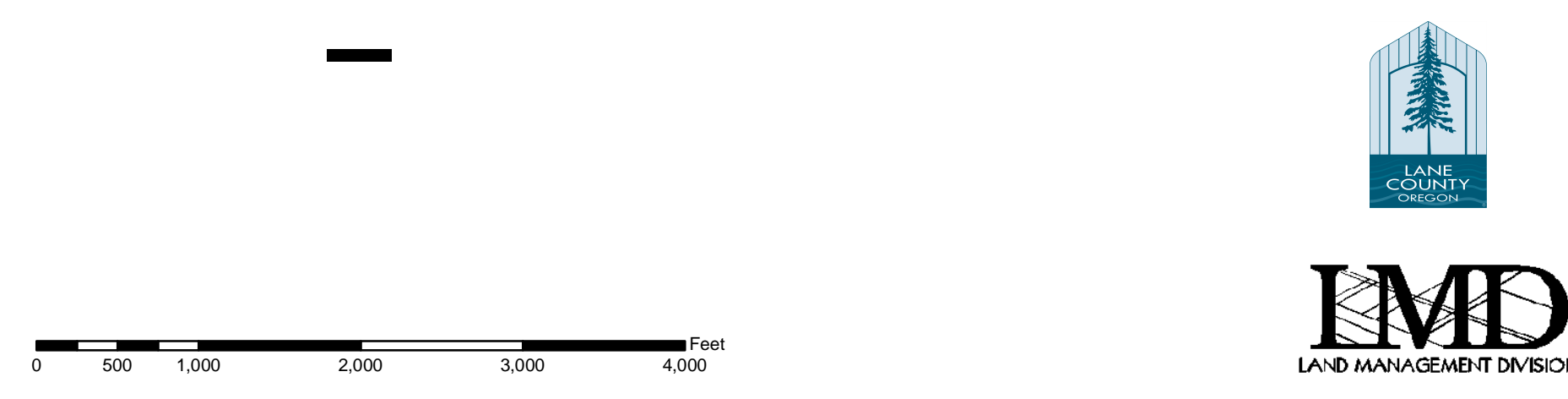
Zoning

- F1 - Non-Impacted Forest
- F2 - Impacted Forest
- E25 - Exclusive Farm Use (25 acre minimum)
- E30 - Exclusive Farm Use (30 acre minimum)
- E40 - Exclusive Farm Use (40 acre minimum)
- E60 - Exclusive Farm Use (60 acre minimum)
- ML - Marginal Lands
- RC - Rural Commercial
- RI - Rural Industrial
- LI - Light Industrial
- GI - General Industrial
- RPF - Rural Public Facility
- RR1 - Rural Residential (1 acre minimum)
- RR2 - Rural Residential (2 acre minimum)
- RR2-NRES - Non Resource (2 acre minimum)
- RR5 - Rural Residential (5 acre minimum)
- RR5-NRES - Non Resource (5 acre minimum)
- RR10 - Rural Residential (10 acre minimum)
- RR10-NRES - Non Resource (10 acre minimum)
- PR - Park and Recreation
- RPR - Rural Park and Recreation
- AO - Airport Operations
- CLWP - Clear Lake Watershed Protection Area
- NR - Natural Resource
- NE - Natural Estuary
- DR - Destination Resort
- QM - Quarry and Mining Operations
- SG - Sand, Gravel and Rock Products
- SG/CP - Sand, Gravel and Rock Products Combining Processing
- CR - Rural Commercial
- C2 - Neighborhood Commercial
- C3 - Commercial
- M2 - Light Industrial
- PF - Public Facility

- UGB
- City Limits
- Township Range
- Sections
- Parcels
- Roads
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**Official Lane County
Zoning Map**

EXHIBIT C
ORDINANCE NO. PA 1349
FINDINGS OF FACT AND CONCLUSIONS OF LAW

I. PROPOSAL DESCRIPTION/PROCEDURAL ISSUES

A. Owner/Applicant

Agent

Nick and Cynthia Mikilas 25443 Fleck Road Veneta, OR 97487	Kim O’Dea Law Office of Bill Kloos, PC 375 West 4 th St., Ste. 204 Eugene, OR 97401 (541) 954-0095
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B. Proposal

This proposal is a request to redesignate 58.35 acres of Forest Land to Agricultural Land and rezone the same from Impacted Forest Lands (F-2) to Exclusive Farm Use (E-40).

C. Procedural Issue

At the Board’s public hearing on January 23, 2018, opponents requested that the record be left open. The Board granted that request. During the open record period, applicants identified numerous e-mails submitted into the record by opponents and assert that the e-mails include information that is not relevant to the subject plan amendment and zone change approval criteria. Applicants specifically requested that the e-mails be stricken from the record.

Admittedly, many of opponents’ concerns relate to impacts from possible specific land use proposals that have yet to be proposed. However, the appropriate approach to dealing with those submittals is not to entirely strike them from the record. Those documents will remain in the record, but the Board will not consider any evidence that is not relevant to the applicable plan amendment and zone change approval criteria.

II. SITE AND PLANNING PROFILE

A. Location

Map 18-05-06-40, TL 300, hereafter referred to as the “subject property” or “property.”

The subject property is located off of Fleck Road, approximately ¼ mile southeast of the City

of Veneta's Urban Growth Boundary.

B. Zoning

The subject property is currently designated Forest Lands and zoned Impacted Forest Lands (F-2).

C. Site Characteristics/History

The subject property is 58.35 acres in size and is rectangular in shape. It is developed with a 1920 stick built single family dwelling, septic system, well, carport, barn / riding arena, smaller outbuildings and high tension Bonneville Power Administration transmission lines and towers that are contained within a 215 foot wide easement area.

The subject property was created as Deed Instrument No. 201/81, recorded in 1941 with the Lane County Deed and Records Office. The boundary lines of the property have not been altered except for 0.88 acres that was acquired by Lane County in 1960-1961 for the construction of County Road #803 (otherwise known as Fleck Road).

The property is relatively flat with minor undulation in topography. LiDAR imagery shows minimal areas of sloping with no major areas of steep slopes, ravines or cliffs. Aerial imagery also demonstrates that the property is predominately open pasture and grass land with forested areas that effectively bisect the property from the northeast corner traversing to the southwestern corner. The property is comprised of predominately high value soils according to the Natural Resource Conservation Service (NRCS); the soils are described in greater detail in **Figure 1** below.

Figure 1 – Soils Present on Subject Property

Soil Map Unit #	Soil Description	% of Property	Agricultural Class
128B	Veneta Loam, 0 to 7 percent slopes	68% / 39.68 acres	2 / High Value
73	Linslaw Loam	18% / 10.50 acres	3 / High value when drained
98	Noti Loam	14% / 8.17 acres	4 / High Value
85	Natroy Silty Clay Loam	Less than 1%	4 / High Value

Note: Information Derived from Natural Resource Conservation Service (NRCS) Soil Mapping Data

Soils on the property as demonstrated above are predominately high value agricultural soils with minimal limitations to agriculture, grazing and ranching.

The subject property contains a number of wetlands that have been identified in the National Wetland Inventory (NWI). A description of the wetlands is provided in **Figure 2** below.

Figure 2 – Mapped Wetlands Present on Subject Property

Cowardin Classification	Wetland Description	% of Property	Agricultural Class
PFOC	Palustrine, forested, seasonally flooded.	17% / 9.9 acres	2
PSSC	Linslaw Loam	7% / 4.1 acres	3
PEMA	Noti Loam	Less than 1 %	4

Note: Information Derived from National Wetland Inventory Mapping

The subject property is identified as an area designated as ‘Impacted Big Game’ and does not contain any known unique environmental resources or habitat sites except for NWI-identified wetlands.

The property has a long history of farm use and is approved for farm tax deferral.

D. Surrounding Area

The applicant provided information regarding the plan designation, zoning, and use of properties within a 1,500 foot radius of the subject property. Abutting the subject property to the west, north, and east are other Forest designated and F-2 zoned properties. Some of those properties are in agricultural use and some are in forest use. On the other side of Fleck Road to the south are lands zoned Rural Residential (RR-5), which are developed with residences. **Figures 3 and 4** below summarize the information regarding nearby properties.

Figure 3 – Summary of Surrounding Area by Acreage and Plan Designation

Properties Adjacent and Nearby (Property Within 1,500 Feet)	Total Parcels	Total Acreage
Number of adjacent and nearby property as defined by the applicant / total acreage	112 Parcels	800.0 Acres
Number of the adjacent and nearby properties that are in each Comprehensive Plan Designation / corresponding acreage	20 Forest Parcels	301.8 Acres
	3 Agricultural Parcels	281.6 Acres
	89 Residential Parcels	216.5 Acres
Number of adjacent and nearby properties that are in each general use category / corresponding acreage*	4 Forestry / Timber	46.8 Acres
	8 Agriculture / Farming	401.4 Acres
	96 Residential	337.6 Acres
	4 Other	14.1 Acres

* Where a parcel has a use category that includes residential and either farming or forestry, the parcel is characterized as residential only if it did not have deferral and is less than 15 acres. Otherwise, it is characterized as either farm or forest. If a parcel has a use category of both farm and forest it was characterized by deferral type or aerial photography. If the parcel is less than 5 acres and zoned residential, the applicant presumed it was residential in land use.

Figure 4 – Summary of Directly Adjacent Parcels by Acreage and Percentage

Properties Directly Adjacent	Total Parcels	Total Acreage
Number of adjacent properties as defined by the applicant	3 Parcels and Fleck Road	82.46 Acres
Number of the adjacent properties that are in each Comprehensive Plan Designation; with corresponding acreage	3 Forest Parcels 0 Agriculture Parcels 0 Residential Parcels	82.46 Acres

Based on the above information, the predominant comprehensive plan designation within the surrounding area is Residential, followed by Forest and then Agricultural. The predominant use on the surrounding lands by number of parcels is residential, followed by agriculture, then forest and lastly ‘other’. The predominant comprehensive plan designation on directly adjacent lands is Forest, and the predominant use on those lands is agriculture, followed by residential.

III. APPROVAL CRITERIA/ANALYSIS

A. Introduction

These findings are organized according to the kinds of standards that apply. They address the Statewide Planning Goals, the Rural Comprehensive Plan Policies, the criteria in LC 16.400 for plan changes, and the criteria in LC 16.252 for zone changes. Because the goals provide the most comprehensive set of standards, the evidence and legal argument is presented as comprehensively as possible in connection with the discussion of the goals. Whenever possible, in order to avoid repetition, reference is made back to the goal discussion when addressing the non-goal standards.

B. Compliance with Statewide Planning Goals

Amendments to local plans and code must comply with the Statewide Planning Goals. ORS 197.175(2)(A). This Part addresses each relevant goal and explains why the proposal complies. This application requires no goal exceptions.

Goal 1: Citizen Involvement

To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.

Goal 1 is a process goal. This proposal complies with Goal 1 because it will be processed as a quasi-judicial application through the County’s acknowledged public process for individual plan and zone changes. This process includes public hearings before the Planning Commission and the Board of County Commissioners. Notice of the request was sent to the Oregon Department of Land Conservation and Development Department (DLCD) on March 8, 2017. A legal advertisement was published in the Register Guard newspaper, notices were mailed to adjacent property owners and agencies, and notice was posted on the subject property announcing the

upcoming Lane County Planning Commission public hearing. A public hearing was conducted on April 18, 2017 and the hearing was closed. The written record was held open until May 2, 2017, with an opportunity for written rebuttal by May 16th and final applicant's rebuttal by May 23rd. On August 1, 2017, the Planning Commission deliberated on the matter and unanimously voted to recommend approval by the Board of County Commissioners. Timely notice in accordance with Lane Code Chapter 14 will be provided prior to the Board's second reading and public hearing. The County has a citizen involvement program, and it has been followed.

Goal 2: Land Use Planning

Part I of Goal 2 requires local governments to establish processes and policies for land use decisions.

To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.

Part II of Goal 2 authorizes exceptions to the goals – land use decisions that are not in compliance with the goals under certain circumstances. Statutes also describe when exceptions are authorized. See ORS 197.732.

This application complies with Goal 2 because it is being processed under the Rural Comprehensive Plan and Lane Code and no exception to any resource goal is proposed. The application is trading one resource designation for another because the land better fits one category based on use and capability.

Goals 3 and Goal 4: The Relationship Between Goals 3 and 4.

OAR 660-006-0015(2) states,

When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

The "Agricultural Land" designation and the "Forest Land" designation are both resource designations. The designations have equal weight and importance to the State of Oregon. Through the above Rule, Land Conservation and Development Commissioner (LCDC) has acknowledged that many lands will qualify as both Forest and Agricultural land. For lands that qualify as both, such as the subject property, LCDC will support either designation so long as the factors used to determine designation are identified. This issue is further discussed under Section III.C, below, where the comprehensive plan designation polices are reviewed specifically.

Goal 3: Agricultural Lands

To preserve and maintain agricultural lands. Agricultural lands shall be preserved

and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space and with the State's agricultural land use policy expressed in ORS 215.243 and 215.700.

Goal 3 defines “Agricultural Land” as follows:

Agricultural Land -- in western Oregon is land of predominantly Class I, II, III and IV soils and in eastern Oregon is land of predominantly Class I, II, III, IV, V and VI soils as identified in the Soil Capability Classification System of the United States Soil Conservation Service, and other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, existing land-use patterns, technological and energy inputs required, or accepted farming practices. Lands in other classes which are necessary to permit farm practices to be undertaken on adjacent or nearby lands, shall be included as agricultural land in any event.

More detailed soil data to define agricultural land may be utilized by local governments if such data permits achievement of this goal.

The LCDC has elaborated on the definition of Agricultural Land in its rules. OAR 660-033-0020. There are four parts to the relevant definition in the rule. Each part of the definition is addressed separately here.

OAR 660-033-0020(1)(a): [Predominant Soil Types]

"Agricultural Land" as defined in Goal 3 includes:

(A) Lands classified by the U.S. Soil Conservation Service (SCS) as predominantly Class I-IV soils in Western Oregon and I-VI soils in Eastern Oregon;

Goal 3 requires that SCS soils data be used to classify the soils, but it allows soils data in the published maps to be refined with more detailed onsite investigation. OAR 660-033-0030(6). The applicant is relying on SCS soils data.

The published SCS soils maps show four types of soil on this site. See Figure 1, above. Based on Figure 1, the site qualifies as Agricultural Land under this part of the test because 100% of the soils on the site are in soil Classes I-IV. As such, the other portions of the Agricultural Lands “test” need not be addressed.

OAR 660-033-0020(1)(a): [“Other Suitable Lands”]:

(B) Land in other soil classes that is suitable for farm use as defined in ORS 215.203(2)(a), taking into consideration soil fertility; suitability for grazing; climatic conditions; existing and future availability of water for farm irrigation purposes; existing land use patterns; technological and energy inputs required; and accepted

farming practices;

Because the parcel qualifies as “Agricultural Lands,” above, this standard need not be addressed.

OAR 660-033-0020(1)(a)(C): [“Land needed to permit farming practices on adjacent/nearby agricultural lands”]

Land that is necessary to permit farm practices to be undertaken on adjacent or nearby agricultural lands.

Because the parcel qualifies as “Agricultural Lands,” above, this standard need not be addressed.

OAR 660-033-0020(1)(b): [“Farm unit test”]:

Land in capability classes other than I-IV/I-VI that is adjacent to or intermingled with lands in capability classes I-IV/I-VI within a farm unit, shall be inventoried as agricultural lands even though this land may not be cropped or grazed;

Because the parcel qualifies as “Agricultural Lands,” above, this standard need not be addressed.

Goal 4: Forest Lands

To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Forest lands are those lands acknowledged as forest lands as of the date of adoption of this goal amendment. Where a plan is not acknowledged or a plan amendment involving forest lands is proposed, forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water and fish and wildlife resources.

The second paragraph of Goal 4 defines “Forest Lands.” Because a plan amendment is proposed, the second sentence of paragraph two is the operable definition. There are three parts to the definition: (1) Lands suitable for commercial forest uses; (2) adjacent and nearby lands necessary to permit forest operations or practices; and (3) other forested lands that maintain certain natural resources.

- (1) [F]orest land shall include lands which are suitable for commercial forest uses.**

The term “commercial forest uses” is not defined in any statute, goal, or rule. However, Lane County adopted a definition for the term in its comprehensive plan, and the plan was

acknowledged by the LCDC. Forest Land is land that is capable of producing crops of industrial wood in excess of 50 cubic feet per acre of annual growth. Commercial forest types of trees include: Douglas fir, hemlock/cedar/spruce, other conifers, and deciduous trees.¹

Productivity data for wood fiber is available from a number of sources. The Lane County Soil Ratings for Forestry and Agriculture, published by the Lane County Land Management Division in 1997, updated in 2011, summarizes federal and state data on wood productivity by soil types, for the full range of commercial forest trees recognized. For each soil type shown in the Soils Map and on the RLID printout as being present on subject property, Figure 5 displays the acreage data and the commercial tree species productivity.

Figure 5 – Forest Productivity

Soil	Acreage	Percentage	Ag Class	Productivity cu.ft./ac/yr (cu.ft/yr)
128B – Veneta Loam 0-7%	39.8	68%	II (HV)	150 (5,970)
73 – Linslaw Loam	10.54	18%	III (Non HV; not drained)	Est. 80 (843.2)
98 – Noti Loam	8.19	14%	IV (HV)	Est. 30 (245.7)
85 – Natroy SCL	0.0	0%	IV (HV)	Est. 60 (0)
TOTALS	58.53	100%	Predominately HV	120 (7,058.9)

Based on Figure 5, the subject tract is capable of producing 120 cu.ft./acre/year of wood fiber, well above the 50 cu.ft./ac/yr threshold. The tract qualifies as Forest Land. As such, the other portions of the Forest Lands test need not be addressed.

(2) [A]djacent or nearby lands which are necessary to permit forest operations or practices.

¹ Lane County’s definition of “commercial forest uses” was the central issue and the subject of extensive discussion in Holland v. Lane County, 16 Or LUBA 583 (1988). LUBA summarized the relevant provisions of the acknowledged county plan as follows:

The county adopted the following definition of “commercial forest land” as part of its “Working Paper: Forest Lands; March, 1982” (Forest Lands Paper) and “Addendum to Working Paper: Forest Lands; November, 1983” (Forest Lands Addendum) documents.

“‘Commercial’ forest land [is] land capable of producing crops of industrial wood in excess of 50 cubic feet per acre of annual growth.”

Ordinance No. 889, Ex. C. The Forest Lands Paper, at 10, contains an inventory of “Acres of Commercial Forest Land by Cubic Foot Site Class, Forest Type and Ownership.” This table recognizes the following commercial forest types – “Douglas fir,” “hemlock/cedar/spruce,” “other conifers” and “deciduous.”

16 Or LUBA at 586 [footnotes omitted].

Because the parcel qualifies as Forest Land under (1), this standard need not be addressed.

- (3) **[O]ther forested lands that maintain soil, air, water and fish and wildlife resources.**

Because the parcel qualifies as Forest Land under (1), this standard need not be addressed.

Goal 5: Open spaces, scenic and historic areas, and natural resources.

To conserve open space and protect natural and scenic resources.

A. What Goal 5 requires.

Goal 5 requires the County to inventory the locations, quality, and quantity of certain natural resources. Where no conflicting uses are identified, the inventoried resources shall be preserved. Where conflicting uses are identified, the economic, social, environmental, and energy consequences of the conflicting uses shall be determined and programs developed to achieve the goal.

Goal 5 is implemented through the Goal 5 Rule adopted by the LCDC in 1996. The Rule appears in OAR Chapter 660, Division 23: Procedures and Requirements for Complying with Goal 5. The Rule applies to “post-acknowledgment plan amendments” or “PAPAs,” such as this application. The Division 23 Rule replaces the Division 16 Rule.

When a local government undertakes a PAPA, it is not required to do an entire Goal 5 analysis from scratch. The local government’s obligation to do a Goal 5 analysis, and the scope of the Goal 5 analysis that is required, has been the subject of considerable case law development, which has been distilled into the applicability provisions of the Goal 5 Rule. Particularly relevant are subsections (3) and (4) of OAR 660-023-0250, which state:

“(3) Local governments are not required to apply Goal 5 in consideration of a PAPA unless the PAPA affects a Goal 5 resource. For purposes of this section, a PAPA would affect a Goal 5 resource only if:

- (a) The PAPA creates or amends a resource list or a portion of an acknowledged plan or land use regulation adopted in order to protect a significant Goal 5 resource or to address specific requirements of Goal 5;
- (b) *The PAPA allows new uses that could be conflicting uses with a particular significant Goal 5 resource site on an acknowledged resource list; or*

- (c) The PAPA amends an acknowledged UGB and factual information is submitted demonstrating that a resource site, or the impact areas of such a site, is included in the amended UGB area.

(4) Consideration of a PAPA regarding a specific resource site, or regarding a specific provision of a Goal 5 implementing measure, does not require a local government to revise acknowledged inventories or other implementing measures, for the resource site or for other Goal 5 sites, that are not affected by the PAPA, regardless of whether such inventories or provisions were acknowledged under this rule or under OAR 660, Division 16.”

The *italicized* language quoted above is relevant to this application. The provisions above reflect case law stating that where a county is amending acknowledged plan and zoning designations, the county must address Goal 5 if any of the area proposed for change encompasses lands included on the county’s inventory of Goal 5 resources. The County need not go through the Goal 5 conflict resolution process for alleged Goal 5 resources that are not on the acknowledged Goal 5 inventory.

The initial Goal 5 question, therefore, is whether the subject property includes any Goal 5 resources inventoried in the acknowledged county plan.

B. Inventoried Goal 5 Resources on the Subject Property.

The paragraphs below address the acknowledged Goal 5 resource inventories.

Historic Resources: The acknowledged list of historic resources is listed as “Historic Sites or Sites.” The subject property is not on the list.

Mineral and Aggregate Resources: Mineral and aggregate sites are listed in several appendices in the *Mineral and Aggregate Working Paper*. The subject property is not listed in any of the appendices.

Energy: The subject property is not listed on any county inventory of sites to be protected for energy production.

Water Resources: The *Water Resources Working Paper (1982)* inventories the following water resources which include or potentially include the subject property: Watersheds and Groundwater.

Riparian Resources: The *Flora & Fauna Working Paper (1982)* and *Addendum (1983)* inventories Riparian resources. The quantity of riparian areas is inventoried to include all land within 100 feet of the banks of a Class 1 stream. *Addendum at 7*. There are no Class I streams on the subject property or within 100 feet.

Wetland Resources: As stated in the *Flora and Fauna Working Paper Addendum at 6*,

there are five major wetland areas of sufficient size to warrant County identification including Fern Ridge, the Old Long Tom Channel below Fern Ridge Dam, the North Fork Siuslaw Freshwater Marsh, Maple Creek marsh, and Amazon Canal at its confluence with the waters of Fern Ridge Reservoir. Major wetlands will be protected through the 3C option. The subject site does not contain any inventoried major wetlands. Additionally, the County should take the Goal 5 Rule "1B" option on interpreting and applying the NWI data, within a timetable of one or two years (or when complete County coverage finally occurs). At the time the Flora & Fauna Working Paper was prepared, the U.S. Fish and Wildlife Service had not completed its NWI mapping for the entire county. Since that time additional mapping has been conducted. The record reflects that there are NWI-mapped wetlands on the subject property.

Sensitive Fish and Waterfowl Areas: The inventory of these sites appears in the Flora & Fauna Working Paper Addendum at 1-4. The subject property is not included on the inventory.

Natural Areas: The inventory of these sites appears in the Flora & Fauna Working Paper at 26-32. The subject property is not included on the inventory.

Big Game Range: The plan classifies the entire county into three categories of Big Game Range: Major, Peripheral, and Impacted. *See Flora & Fauna Working Paper* at 23-25, Addendum at 14. The subject property is within an area designated as Impacted Big Game. The document indicates that the County and the Oregon Department of Fish & Wildlife should collaborate on conflict resolution between development and Big Game Habitat areas.

C. ESEE Decision Process for Inventoried Goal 5 Resources

The basic requirements for conducting the conflicts analysis and developing a program for inventoried and acknowledged resources is spelled out in OAR 660-023-0040. The introductory provisions in OAR 660-023-0040(1) explain that there are four steps in the ESEE process, that the county has discretion in how it proceeds through the process so long as it completes each step, and that the analysis need not be lengthy or complex. The result should create a clear understanding of the conflicts and the consequences. The four steps in the ESEE process are:

- (a) Identify conflicting uses;
- (b) Determine the impact area;
- (c) Analyze the ESEE consequences; and
- (d) Develop a program to achieve Goal 5

The Goal 5 Rule provides additional instructions on how to conduct each of the four steps listed above. The approach taken here will be to address each of the Goal 5 resources inventoried on the site in the acknowledged plan (Big Game Range and two Water Resources) and conduct the four-step analysis. Big Game Range will be addressed first.

1. ESEE Analysis for Big Game Range

As noted above, the acknowledged Rural Comprehensive Plan inventories Big Game Range as a significant Goal 5 resource. However, the County has not yet completed the Goal 5 process for this resource. The plan documents declined to simplify the issue of conflict identification to a matter of densities for individual development sites, and instead deferred the issue to future work between the county and the ODFW. “The County should continue to work with the ODFW to resolve the issue of Big Game designation and protection in a mutually acceptable manner -- including the involvement of that agency in land use regulation development.” *Flora & Fauna Working Paper Addendum* at 14. Thus, the County has not yet completed the Goal 5 process for Big Game Habitat. At this point, the County has recognized that the resource is significant, it has recognized that there are several degrees of significance (by mapping the entire county into three alternative zones -- Major, Peripheral, and Impacted), and it has deferred the balance of the Goal 5 analysis to a later date.

The ESEE analysis must be conducted for Big Game Range because this is a post-acknowledgment plan amendment that would allow new uses (e.g., additional farm help dwellings, agri-tourism, and possibly events associated with wineries) that could conflict with Big Game Range. OAR 660-023-0250(3)(b).

(a) Identify Conflicting Uses

The approach to identifying conflicting uses is stated in OAR 660-023-0040(2)². The existing and potential conflicting uses with Big Game Range must be determined. This requires looking at the uses allowed, outright or conditionally, by the proposed EFU zoning that could occur or are likely to be developed.

2 OAR 660-023-0040(2) states:

Identify conflicting uses. Local governments shall identify conflicting uses that exist, or could occur, with regard to significant Goal 5 resource sites. To identify these uses, local governments shall examine land uses allowed outright or conditionally within the zones applied to the resource site and in its impact area. Local governments are not required to consider allowed uses that would be unlikely to occur in the impact area because existing permanent uses occupy the site. The following shall also apply in the identification of conflicting uses:

(a) If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site. The determination that there are no conflicting uses must be based on the applicable zoning rather than ownership of the site. (Therefore, public ownership of a site does not by itself support a conclusion that there are no conflicting uses.)

(b) A local government may determine that one or more significant Goal 5 resource sites are conflicting uses with another significant resource site. The local government shall determine the level of protection for each significant site using the ESEE process and/or the requirements in OAR 660-023-0090 through 660-023-0230 (see OAR 660-023-0020(1)).

Agricultural and forest uses are allowed in both the existing and proposed zones. Residential uses at certain densities conflict with big game management in Peripheral and Major Big Game Range. “Impacted Range has essentially been ‘written off’ for big game management.” *Flora & Fauna Working Paper (1982)* at 24. The plan identifies this conflict when overall residential densities reach certain levels in Peripheral and Major Big Game Range. However, the plan declines to resolve conflicts by setting density limits for Impacted Big Game areas. *Flora & Fauna Working Paper Addendum (1983)* at 14. Residential uses are generally more limited in EFU than in F-2; however, there is a possibility of additional farm help dwellings in both the F-2 and EFU zone through Director-review and approval of a land use application.

The Agricultural designation and Exclusive Farm Use zoning also allows other uses that are not allowed in the F-2 zone. For instance, the EFU zone allows agri-tourism, relative farm help dwellings, commercial activities in conjunction with farm use, and wineries and associated events. Agri-tourism includes outdoor concerts for which admission is charged, educational, cultural, health or lifestyle events, facility rentals, celebratory gatherings and other events at which the promotion of wine produced in conjunction with the winery is a secondary purpose of the event. Wineries, which are allowed uses, can include a restaurant.

The Rural Comprehensive Plan (RCP) has determined that there is no conflict with rural residential uses because Impacted Big Game Range has been “written off” for big game management. The Flora and Fauna Working Paper adopted as a part of the Rural Comprehensive Plan states:

“Impacted Range is the lowest quality habitat of the three categories. It is already developed to an extent that precludes viable management of the species, although populations may still exist there.” (Pg. 23)

With regards to conflict identification for Big Game Habitat, the Working Paper goes on to state: “Impacted Range has essentially been “written off” for big game management.” (Pg. 24).

The impacts of a restaurant and possible temporary structures in association with winery events will not be measurably greater than any additional rural residential development. Accordingly, based on the level of importance of Impacted Big Game Range, the allowable uses cannot be considered conflicting uses.

However, because the opponents have raised this issue as a potential basis for denial, the following ESEE analysis is provided.

(b) Determine the Impact Area

The approach to determining the impact area is stated in OAR 660-023-0040(3)³. Here the

³ OAR 660-023-0040(3) states:

impact area for the PAPA is the entire area of the subject property itself, since the entire county is mapped as being in one of the three big game areas.

It is worth noting that the surrounding area is predominantly rural residential in use and nature. This adjacent and nearby development degrades the value of the habitat on the subject property.

(c) Analyze the ESEE Consequences

The approach to analyzing the ESEE consequences is stated in OAR 660-023-0040(4)⁴. “ESEE consequences’ are the positive and negative economic, social, environmental, and energy (ESEE) consequences that could result from a decision to allow, limit, or prohibit a conflicting use.” OAR 660-023-0010(2). The County must analyze the ESEE consequences of allowing, limiting, or prohibiting the potentially conflicting uses listed above.

Economic Consequences: Allowing the subject property to be developed with agricultural uses would have no economic consequences. The property is already being managed for agricultural uses.

Allowing additional residential uses would increase the property value on the site, with attendant impacts on tax revenues. Impacts of such development on big game range could be limited by clustering the residential development on the site. This limitation would have no appreciable economic consequences. Prohibiting additional residential uses would have no economic consequences.

Allowing a winery and agri-tourism related uses would increase the property value on the site, with attendant impacts on tax revenues. Prohibiting those additional uses would have no economic consequences.

Determine the impact area. Local governments shall determine an impact area for each significant resource site. The impact area shall be drawn to include only the area in which allowed uses could adversely affect the identified resource. The impact area defines the geographic limits within which to conduct an ESEE analysis for the identified significant resource site.

4 OAR 660-023-0040(4) states:

Analyze the ESEE consequences. Local governments shall analyze the ESEE consequences that could result from decisions to allow, limit, or prohibit a conflicting use. The analysis may address each of the identified conflicting uses, or it may address a group of similar conflicting uses. A local government may conduct a single analysis for two or more resource sites that are within the same area or that are similarly situated and subject to the same zoning. The local government may establish a matrix of commonly occurring conflicting uses and apply the matrix to particular resource sites in order to facilitate the analysis. A local government may conduct a single analysis for a site containing more than one significant Goal 5 resource. The ESEE analysis must consider any applicable statewide goal or acknowledged plan requirements, including the requirements of Goal 5. The analyses of the ESEE consequences shall be adopted either as part of the plan or as a land use regulation.

Social Consequences: Allowing the subject property to be developed with agricultural uses would have no social consequences. The property is already being managed for agricultural uses.

Allowing or prohibiting additional residential uses on the property would have no social consequences.

Allowing a winery and agri-tourism related uses would have positive social consequences, as it could provide a venue for outdoor events for the citizens of the county. Those events could be limited in their scope and hours, which would have no greater or fewer social consequences than allowing the uses without limitation. Prohibiting those additional uses would have no social consequences.

Environmental Consequences: Allowing the subject property to be developed with agricultural uses would have no environmental consequences. The property is already being managed for agricultural uses.

Allowing the residential development would leave the property still less densely developed than the property to the south, across Fleck Road, which is zoned rural residential (RR-5) and developed with residences. The current surrounding uses already detract from the value of the subject property for big game use to such an extent that the number of additional residential development that could be allowed on the subject property would make virtually no impact. Limiting the residential use by siting structures away from the wetland areas would maintain the corridor as habitat and facilitate movement of big game through the site. Such a limitation would not seriously limit the utility of the site. Prohibiting the residential use would maintain the status quo.

Allowing a winery and agri-tourism related uses would have minimal, if any, environmental consequences. While some development is allowed in conjunction with a winery, agri-tourism would create positive social consequences, as it could provide a venue for outdoor events for the citizens of the county. Those events could be limited in their scope and hours, which would have no greater or fewer social consequences than allowing the uses without limitation. Prohibiting those additional uses would have no social consequences.

Energy Consequences: Allowing the subject property to be developed with agricultural uses would have no energy consequences. The property is already being managed for agricultural uses.

Allowing the residential development, or limiting the residential development by siting structures away from the wetlands, would have essentially the same energy impacts. If a farm help dwelling is sited on the property, the energy consequences would be positive, as the dwelling would eliminate the need for the farm help to commute from a further distance. Prohibiting the residential use would maintain the status quo.

Allowing the winery and agri-tourism related uses would have minimal, if any, energy

consequences. Prohibiting those uses would maintain the status quo.

(d) Develop a program to achieve Goal 5 for Big Game Range

The proposed program to achieve the goal is to allow the conflicting residential and other uses because the property has the same value for Big Game after the rezone as it did before. The new zoning and permitted residential uses do not change the character or substantially degrade the range.

The impact area for purposes of Big Game is limited to the subject property, in this case. The property is not located in any sort of corridor. Effects to Big Game are limited to the subject property. The subject property is approximately 58 acres in size. Additional residential structures would be limited. Development for a winery and/or agri-tourism will be limited. Agri-tourism events may not require a new permanent structure and may not materially alter the stability of the land use pattern. Developing the tract with an additional home site or two or with a winery or associated events will not change the character of the travel for Big Game. The surrounding residential development has already so impacted any Big Game that the possible increase of development allowed in the EFU zone will not have an impact.

2. ESEE Analysis for Groundwater Resources

The acknowledged county plan identifies groundwater as a Goal 5 resource. See *Water Resources Working Paper (1982)* at 10. It identifies groundwater as “extremely valuable as a direct resource of drinking water for individuals and communities, a source of irrigation water for livestock and crops, and as a base source of water for lakes and streams.” *Id.* at 10. As with Big Game Range, the plan inventories this resource as being present throughout the county. It maps the quantity of groundwater available into five general categories which reflect geographic regions. It also notes that groundwater quality is limited by natural and human induced factors.

(a) Identify Conflicting Uses

The county plan identifies two groundwater resource conflicts – development in quantity limited aquifers and in areas of polluted groundwater. *Id.* at 11. The county plan conducts a full ESEE analysis for development in water quantity and water quality limited aquifers, and it adopts a program that resolves the conflicts and achieves the goal.

With respect to quantity, the plan resolves that residential development and other uses requiring groundwater should be allowed if a showing is made that water will be available for a foreseeable period in the future. The program calls for strengthening the standards in the subdivision ordinance and for formally designating groundwater quantity limited areas. The land division provisions in the zoning code have been amended accordingly. *Id.* at 12-13. Standards have been adopted in the code for demonstrating adequate quantities of water in connection with rezoning that would create the potential for land division. See LC 13.050(13)(a)-(d). Certain sections in the county have been identified in the Lane Manual as having limited groundwater quantity. See Lane Manual, as referenced in LC 13.050(13)(c)(i).

With respect to groundwater quality, the plan identifies the conflict as “[d]evelopment in an aquifer limited in quality by arsenic, salt, iron, sulfur, landfill leachate or sewage.” *Id.* at 13. There is a small portion of the northeast corner of the subject property that lies within an area with aquifers that are known to contain high quantities of iron within the water table. The comprehensive plan resolves the identified conflict by allowing the potential for development in water quality limited areas, but ensuring that information about the nature and extent of the quality limitations is recorded and provided to landowners. *Id.* at 14-15.

The applicants contend that, because the uses allowed in the zone are similar in both resource zones, and the property is already developed, there are no conflicting uses. They assert that the acknowledged policies and regulations are sufficient to protect the resource site. However, as explained above, there are several uses allowed in the proposed EFU zone that are not allowed under the F-2 zone. Accordingly, applicant’s rationale for foregoing the ESEE analysis for groundwater resources is not defensible. That said, the Board concludes that, under the plan, these possible new uses are not conflicting uses either, and a full ESEE analysis is not required.

Initially, the subject property is not in a water quantity limited area per Board Order No. 83-12-6-2; effective December 6, 1983. However, a small portion of the subject property is within an area with aquifers that are known to contain high quantities of iron within the water table. The comprehensive plan specifically states: “Limitations to development in an aquifer contaminated by natural means should not be a restriction on building . . .” *Id.* at 14. Accordingly, the possible development under the proposed zoning is not a conflicting use.

(b) Compliance with Acknowledged Plan and Implementing Regulations

Under the Goal 5 Rule, when no conflicting uses are identified with a significant resource site, compliance with the acknowledged policies and land use regulations is sufficient. “If no uses conflict with a significant resource site, acknowledged policies and land use regulations may be considered sufficient to protect the resource site.” OAR 660-023-0040(2)(a). Therefore, no further analysis is needed.

3. ESEE Analysis for Surface Water and Watershed Resources

The acknowledged county plan identifies surface water and watersheds as Goal 5 resources. See *Water Resources Working Paper (1982)* at 3-10. The working paper states that it is difficult to separate the discussion of watersheds from that of surface water. Hence, the two will be addressed together here.

By “watershed,” the working paper refers to areas of drainage basins that drain to a particular point of use. As defined in the working paper, “the area which drains to a domestic water supply is correctly termed a watershed, even if it is much smaller than a basin.” *Id.* at 3. The working paper maps drainage basins in the county, but not watersheds, since a watershed is a function of where water is being used. The working paper recognizes that “[t]he entire County is within one or more categories of watersheds, and all ranges of quality may be found.” *Id.* at 5.

The “quality” discussion in the plan recognizes that watershed play vital roles in individual and municipal water supplies, fish and wildlife habitat, water quality, flood protection, among others. *Id.*

at 5. The “quantity” discussion in the plan recognizes that a range of uses, such as soil compaction, removal of vegetation, and increase in impervious surfaces, among others, affect the amount of water that is retained in a watershed and the amount that runs off. *Id.*

Only one conflict is identified by the plan’s ESEE analysis as a watershed conflict, as opposed to a surface water or groundwater conflict: “contamination or possible contamination of surface water supplies used for domestic purposes.” *Id.* at 5. The plan found two places where that conflict exists. One is from forestry related practices on federal, state and private timber lands. The other is from residential development in the Clear Lake area, which is in the watershed of the Heceta Water District. *Id.* at 5-6. The plan conducts no ESEE analysis for forestry practices for the reason that the county has so little control over these practices (regulated by Oregon Department of Forestry). And it conducts no ESEE analysis of the Clear Lake situation due to inadequate data. *Id.* at 5-6.

The working paper recognizes that the quality of surface waters throughout the county is affected adversely by a range of factors, only some of which are under county control. *Id.* at 7-8. Its discussion of stream water quantity is limited to a description of flow regulation in rivers and streams by federal agencies with storage and flood control responsibilities. *Id.* at 8-9.

The working paper identifies a number of activities that conflict with water quality in streams, but states that the impacts of these activities are largely beyond county land use control. Examples included in the working paper’s discussion include: water release schedules from federal reservoirs, state water rights regulation that contributes to over appropriation, nonpoint pollution from forest practices regulated by the state, nonpoint pollution from agricultural practices, and urban runoff from cities.

The working paper conducts no ESEE analysis of the problems above. “[T]hese are not considered as conflicts in the Goal 5 sense as they do not result from County planning or zoning actions, and generally cannot be resolved in that manner.” *Id.* at 10.

(a) Identify Conflicting Uses

The applicants contend that, because the uses allowed in the zone are similar in both resource zones, and the property is already developed, there are no conflicting uses. They assert that the acknowledged policies and regulations are sufficient to protect the resource site. However, as explained above, there are several uses allowed in the proposed EFU zone that are not allowed under the F-2 zone. Accordingly, applicant’s rationale for foregoing the ESEE analysis for surface water resources is not defensible. That said, the Board concludes that, under the plan, these possible new uses are not conflicting uses either, and a full ESEE analysis is not required in any event.

Development of a possible farm help dwelling or winery related uses is potentially a conflicting use with both watershed resources and surface water resources. However, roads are required and driveways will likely be gravel. Therefore, improvements will result in little impervious surface that increase stormwater runoff. It is unlikely that any stormwater from any potential development will leave the properties.

The subject property is within the Long Tom Basin and is relatively remote from the Long Tom River, the point source for the basin. It is worth pointing out in order to keep the minimal conflict stated

above in perspective that the county plan working paper does not treat the impact of low density residential development runoff to streams as a conflicting use for either watershed or surface water resources.

(b) Determine the Impact Area

The immediate impact area of the proposed use is the subject property. Where a property contains a stream and is sloped, the impact area may include downstream properties. However, in this case, the property is flat and contains no streams, so the impact area is only the subject property.

(c) Analyze the ESEE Consequences

As noted above, allowing the conflicting uses would most certainly add impervious surface to the subject property and increase the amount of stormwater runoff. Runoff could pick up pollutants of various types and convey them to the surface waters. However, the potential development of a farm help dwelling or winery-related uses is not likely to increase runoff in any measurable manner, especially given the size of the property.

Economic Consequences: As discussed in connection with Big Game range above, the possible new uses would have short term economic impacts related to the construction activity and may increase the tax base in the long run. The addition of agri-tourism uses would positively impact the economy of the county. The uses could be limited in ways that reduce the potential for conveyance of pollutants. Simple approaches to limiting the uses would: (1) keep structures that collect precipitation away from the wetland; (2) prohibit the keeping of any animals near the wetland channel; and (3) maintain channel vegetation to help intercept and retain stormwater that might reach the wetland. Those limitations are already required per the Lane Code and federal and state regulations pertaining to wetlands. Limiting the possible uses as described above would affect how the subject property is put to those uses, not whether it is so used. Therefore, there should be no appreciable economic impacts associated with such limitations. Prohibiting the possible uses would have no economic consequences, as distinct from the status quo.

Social Consequences: Allowing the potential new uses would mean that this site would be developed with uses and densities that are probably less dense than the rural residential uses that are adjacent or nearby. Allowing the agri-tourism uses would have positive social consequences associated with the increased tourism attraction. Limiting the possible uses, in terms of how the uses are sited on the property relative to the wetlands, should not have social consequences. Prohibiting the possible uses would maintain the status quo.

Environmental Consequences: Allowing the possible farm help dwelling or agri-tourism development would transform the subject property into rural residential uses similar in density to the development to the south. The runoff and potential pollution impacts would be typical of the neighboring development, which is on similar topography. This would be a pattern of rural development that the county has previously determined does not create conflicts with watershed and surface water resources of a type or magnitude that warrants any special limitations. It is impossible to determine whether the additional runoff to the streams and attendant pollutant loads would degrade or improve the receiving waters in the intermittent streams. It would depend on the pollutant concentrations in the receiving waters and the pollutant concentrations in the runoff from the site.

However, there are no streams on the subject property except for the small wetland channel to the south.

Limiting the conflicting use, by setting back buildings, and preserving wetland vegetation, would reduce the potential for and volume of stormwater discharged and the concentration of pollutants in the discharge water. Such a limitation would, therefore, reduce any adverse impact the conflicting uses might have on the water resources. Prohibiting the uses would preserve the status quo.

Energy Consequences: Allowing the residential or agri-tourism development, or limiting such development by siting structures away from the wetland, would have essentially the same energy impacts. These would include, but not be limited to, initial impacts related to construction, and long term impacts arising from the increased demand for utilities and services. The impacts on energy consumption countywide might be a net positive if the farm hand is someone who would be living on-site as opposed to commuting to the property. The impacts from agri-tourism development might range from negligible to zero, considering the travel of patrons from town to the property. Prohibiting the residential use would maintain the status quo.

(d)Develop a program to achieve Goal 5 for Watersheds and Surface Water Resources

The proposed program to achieve the goal is to allow the conflicting residential and agri-tourism uses but to limit the siting of the use in ways that reduce the potential that the uses will cause an increase in the stormwater runoff and conveyance of more pollutants to the streams, such as leaving the wetland intact, which is already required by state law.

Goal 6: Air, Water and Land Resources Quality

To maintain and improve the quality of the air, water and land resources of the State.

All waste and process discharges from future development, when combined with such discharges from existing developments shall not threaten to violate, or violate applicable state or federal environmental quality statutes, rules and standards. With respect to the air, water and land resources of the applicable air sheds and river basins described or included in state environmental quality statutes, rules, standards and implementation plans, such discharges shall not (1) exceed the carrying capacity of such resources, considering long range needs; (2) degrade such resources; or (3) threaten the availability of such resources.

Goal 6 protects the quality of land, air and water resources. The focus is on discharges from future development in combination with discharges from existing development. State and federal environmental standards are the benchmark for protection. Where there are state or federal standards for quality in air sheds or river basins, then the carrying capacity, nondegradation, and continued availability of the resources are standards.

The subject property is developed and in farm production. Historically, it has been used for farm operations, a permitted use under the existing Forest designation. The proposed Agricultural

designation allows only a small number of uses, outlined above, in addition to the uses allowed in the current Forest zone, and those uses, even if developed, will have no measurable impacts to land, water or air quality.

Goal 7: Areas Subject to Natural Disasters and Hazards.

To protect life and property from natural disasters and hazards.

Developments subject to damage or that could result in loss of life shall not be planned nor located in known areas of natural disasters and hazards without appropriate safeguards. Plans shall be based on an inventory of known areas of natural disaster and hazards.

The phrase “areas of natural disasters and hazards” means “areas that are subject to natural events that are known to result in death or endanger the works of man, such as stream flooding, ocean flooding, ground water, erosion and deposition, landslides, earthquakes, weak foundation soils and other hazards unique to local or regional areas.” There are no such areas known on the subject property.

Goal 8: Recreational Needs

To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.

The overriding purpose of Goal 8 is to address all recreational needs, but its primary focus is on siting and developing destination resorts, defined in Goal 8 as "self-contained development[s] providing visitor-oriented accommodations and developed recreational facilities in a setting with high natural amenities."

Goal 8 is not directly applicable to this proposal.

Goal 9: Economic Development

To provide adequate opportunities throughout the State for a variety of economic activities vital to the health, welfare, and prosperity of Oregon’s citizens.

Goal 9 is focused on commercial and industrial development. The Goal 9 Rule is explicitly limited to areas within urban growth boundaries. This goal is not directly applicable to this proposal.

Goal 10: Housing

To provide for the housing needs of citizens of the State.

Buildable lands for residential use shall be inventoried and plans shall encourage the

availability of adequate numbers of needed housing units at price ranges and rent levels which are commensurate with the financial capabilities of Oregon households and allow for flexibility of housing location, type and density.

Goal 10, like its implementing rule, is geared primarily to housing issues inside urban growth boundaries. The goal’s definition of “buildable lands,” for example, is limited to lands in urban and urbanizable areas. This site is outside any UGB. This goal is not applicable to this proposal.

Goal 11: Public Facilities and Services

To plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.

Urban and rural development shall be guided and supported by types and levels of urban and rural public facilities and services appropriate for, but limited to, the needs and requirements of the urban, urbanizable, and rural areas to be served. A provision for key facilities shall be included in each plan. Cities or counties shall develop and adopt a public facility plan for areas within an urban growth boundary containing a population greater than 2,500 persons. To meet current and long-range needs, a provision for solid waste disposal sites, including sites for inert waste, shall be included in each plan. In accordance with ORS 197.180 and Goal 2, state agencies that provide funding for transportation, water supply, sewage and solid waste facilities shall identify in their coordination programs how they will coordinate that funding with other state agencies and with the public facility plans of cities and counties.

“Public facilities and services” is defined in the Statewide Planning Goals to include: “[p]rojects, activities and facilities which the planning agency determines to be necessary for the public health, safety and welfare.” The Goal 11 Rule defines a “public facility.” “A public facility includes water, sewer, and transportation facilities, but does not include buildings, structures or equipment incidental to the direct operation of those facilities.” OAR 660-011- 0005(5).

Goal 11 addresses facilities and services in urban and rural areas. The subject property is “resource” land and will remain rural after this approval. The subject proposal does not provide for any rural or urban development. Therefore, Goal 11 does not apply.

Resource designations have no required minimum level of services. However, Figure 6 lists the services now available to the subject property.

Figure 6--Rural Public Facilities, Existing or Proposed

Service	Provider
Fire	Lane County Rural Fire Protection District #1
Police	Lane County Sheriff and State Police

Schools	Fern Ridge School District 28J
Access	Fleck Rd, Lane County Rural Minor Collector Road
Electric	Lane Electric
Telephone	Century Link Communications
Solid Waste	Private
Sewer	Individual Septic System
Water	Well

Goal 12: Transportation

To provide and encourage a safe, convenient and economic transportation system.

A transportation plan shall (1) consider all modes of transportation including mass transit, air, water, pipeline, rail, highway, bicycle and pedestrian; (2) be based upon an inventory of local, regional and state transportation needs; (3) consider the differences in social consequences that would result from utilizing differing combinations of transportation modes; (4) avoid principal reliance upon any one mode of transportation; (5) minimize adverse social, economic and environmental impacts and costs; (6) conserve energy; (7) meet the needs of the transportation disadvantaged by improving transportation services, (8) facilitate the flow of goods and services so as to strengthen the local and regional economy; and (9) conform with local and regional comprehensive land use plans. Each plan shall include a provision for transportation as a key facility.

Goal 12 is implemented through the Goal 12 Rule (OAR 660-012) adopted in 1991. The Rule contains a section that specifically addresses proposals such as this one – amendments to acknowledged comprehensive plans and implementing regulations. OAR 660-012-0060(1) provides that any such amendments that “significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility.”

The rule spells out clearly what constitutes a “significant affect.” OAR 660-012-0060(2) states:

A plan or land use regulation amendment significantly affects a transportation facility if it:

(a) Changes the functional classification of an existing or planned transportation facility;

(b) Changes standards implementing a functional classification system;

(c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or

(d) Would reduce the level of service of the facility below the minimum acceptable level identified in the TSP.

Lane County Transportation Planning staff reviewed the proposal and provided comment. The comments do not state a need for road improvements, a traffic impact analysis or other ‘triggers’ that would justify major changes to the existing transportation infrastructure and access to the subject property. The comments indicate that Fleck Road is functionally classified as a rural minor collector, and that the proposed plan amendment would not significantly affect a transportation facility. The opponents do not challenge that conclusion. However, during the open record period, opponents submitted a traffic analysis, dated January 22, 2015, which evaluated a traffic impact analysis from 2014, which is not part of the record, but which was seemingly conducted during the local proceedings of a previous land use application.

The 2015 analysis was conducted by Greenlight Engineering, and apparently was a document submitted during the previous request for approval of an event venue on an adjacent property. The letter does not assert that the proposed plan amendment significantly affects a transportation facility. County transportation staff’s conclusion that it does not significantly affect a transportation facility is properly based on its conclusion that the uses allowed in the proposed zone would not trigger any of the conditions set forth in OAR 660-012-0060(2) above. The issues raised by the Greenlight Engineering letter may be relevant if and when approval is sought for a particular use. In conclusion, even if the uses allowed in the EFU zone that are not currently allowed in the F-2 zone were developed, the resulting increase in traffic would not significantly affect a transportation facility.

Goal 13: Energy Conservation

To conserve energy.

Land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based on sound economic principles.

Goal 13 is primarily directed towards the development of local government land management implementation measures that maximize energy conservation.⁵ It is not directly applicable to this application for a site-specific plan and zone change.

Goal 14: Urbanization

⁵ See Brandt v. Marion County, 22 Or LUBA 473, 484 (1991), aff'd in part, rev'd in part, 112 Or App 30 (1992).

To provide for an orderly and efficient transition from rural to urban land use.

The subject proposal keeps the parcel in Resource designation. There, there is no transition. This goal does not apply.

Goal 15: Willamette River Greenway

Goal 16: Estuarine Resources

Goal 17: Coastal Shorelands

Goal 18: Beaches and Dunes

Goal 19: Ocean Resources

These five goals are not applicable as they deal with resources that are not present on the subject property.

C. Compliance with Rural Comprehensive Plan Policies

Any plan and zone change must comply with the relevant Rural Comprehensive Plan Policies. This requirement is based in statutes (ORS 197.175(2)), the Rural Comprehensive Plan Policies themselves (see, e.g. Rural Plan Policies at page 6), and the Lane Code (see, e.g., LC 16.400(6)(h)). This section, therefore, addresses the apparently relevant elements of the Rural Plan Policies. It is organized by Goal. Where possible to avoid duplicative discussion, reference is made to the discussion under the Statewide Planning Goals.

As discussed above, the subject property meets the definition of both Forest Land and Agricultural Land. Because the subject property qualifies as both Agricultural and Forest land, many of the RCP policies addressing both resource Goals are met by the subject property. It is inherent in the property's dual qualification. However, when determining whether a property should be designated Forest or Agricultural, the key is not whether the property meets or furthers the policies under the RCP, but whether the property meets the factors established in the Plan.

The Lane County Rural Comprehensive Plan Agricultural Working Paper documents the factors used to select Agricultural or Forest designation on land that meets the definition of both. Each of those factors is discussed in detail below. Based on those factors, the subject property should be designated Agricultural land.

The Agricultural Land Working Paper states,

“Agricultural/Forestry Goal Interrelationship

In an inventory of agricultural lands and forest lands there will by many instances where land will meet Goal definition for both categories. According to [Led's] policy, farm and forest uses are compatible and either designation may be made without taking an exception to the other goal. The factors used to select a designation need to be documented in the Plan. The policies within the Plan will support one designation over another depending on the situation. The county

should consider the following items in addressing overlapping lands:

- a. Identify Agricultural and Forest Lands Goal definitions and inventories*
- b. Segregate overlapping lands from single resource lands*
- c. Apply evaluations of local circumstances and Goal factors to overlapping land to determine appropriate designation*
- d. Designate overlapping lands as agricultural, forest or agricultural/forest through Plan policies and diagrams*
- e. Protect designated lands for appropriate uses through the zoning ordinance and other implementing measures.*

It is intended that agricultural and forest practices be able to coexist without mutual interference while conserving those resource lands.

Identify: The applicant has identified and addressed the proper definitions of Agricultural and Forest Lands. In short, Agricultural Land is land consisting predominantly of Class I through IV soils. Forest land is land capable of producing 50 cu.ft./acre/year of timber fiber. As shown in Tables C and D above, the subject property meets both definitions.

Segregate: By filing this application, the applicant is separating the subject property from single resource property for consideration.

Evaluate Goal Factors: Goal 3 and 4 factors are thoroughly addressed in Section III.B, above. The analysis of Goal 3 factors shows that the subject property meets the “soils” test of Agricultural land, and the “other suitable lands,” “necessary lands,” or “farm unit” tests are therefore not addressed. The analysis of Goal 4 factors shows that the subject property meets the “productivity” test for Forest lands, but and therefore, the “necessary lands” and the “other resource” tests are not addressed. Given that the subject property qualifies as both Forest and Agricultural Land, local circumstances are evaluated below to determine which designation is most appropriate.

Evaluate Local Circumstances: There is no exact definition of “local circumstances” in the Lane County RCP. The applicant interprets this provision to mean an evaluation of the subject property and surrounding designations, uses and land use patterns.

The subject property is currently, and has historically been, used for farming. It is in farm deferral. The property operates as an equestrian facility. There is no evidence that the subject property has ever been in forest use.

The predominant use in the surrounding area is residential, followed by farming. See Figure 3. There are 112 parcels in the nearby area. 96 parcels are solely in residential use (or slated for residential development by being zoned RR); 7 parcels are in agricultural use (many developed with a residence); 1 parcel is in forest use and is developed with a dwelling; 2 parcels are in both farming and forest use; and 6 parcels are vacant or in “other” use.

The predominant designation by lot/parcel in the surrounding area is Residential followed by Forest. However, many of the Forest zoned properties are in Agricultural use.

In summary, all evidence indicates that the subject property is currently used for agriculture and is surrounded by forestry, agriculture and residential uses. Evidence further indicates that the subject property has historically been used for agricultural purposes. The property is not suited for forest use based on agricultural development, power lines (BPA prohibits the growing of trees within a BPA easement), and existing and historic use. Because the property is in farm use, it would be difficult and expensive to convert the property to forest use. Conversion would require removal of structures and major cultivation. Such conversion is generally unfeasible.

Based on soils, the entire property (100%) is suitable for agricultural use. However, only 68% of the property contains soils that are suitable for forest use. Even less property is available for forestry use because commercial forestry cannot occur under the BPA power lines.

Goal Three: Agricultural Lands

Policy 1:

Encourage agricultural activities by preserving and maintaining agricultural lands through the use of an exclusive agricultural zone which is consistent with ORS 215 and OAR 660 Division 33.

The County adopted an exclusive agricultural zone as part of periodic review with Ordinance No. PA 884. By adopting the EFU zone and applying it to properties that meet the definition of agricultural lands, Policy 1 is met. As demonstrated by this application, the subject property meets the definition of agricultural lands and as such, it should be zoned EFU. Therefore, the proposal is consistent with this policy.

Policy 2:

In Agricultural Rent zones 1 and 2 preference will be given to Goal 3. In Rent Zone 3, unless commercial agricultural enterprises exist, preference will be given to Goal 4.

It appears that the subject property is within Agricultural Rent Zone 3. The record demonstrates that the subject property is currently used for agriculture and therefore, preference need not be given to Goal 4.

Policy 3:

Reserve the use of the best agricultural soils exclusively for agricultural purposes.

The subject property contains Class II, III, and IV soils, which as described above under findings to Statewide Planning Goal 3, meet the definition of Agricultural Land. The property is comprised of predominately high value soils according to the Natural Resource Conservation Service

(NRCS). Agricultural designation is proposed, which is supportive of and consistent with the above policy irrespective of an interpretation of which soils specifically constitute the “best” agricultural soils. .

Policy 8:

Provide maximum protection to agricultural activities by minimizing activities, particularly residential, that conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities.

This policy has been interpreted by the Board of Commissioners, and the interpretation has been upheld on appeal. This policy addresses only conflicts that will result in a significant change in or a significant increase in the cost of accepted farming practices. When conflicts of this magnitude might result, the proposed rezoning must be conditioned to reduce the potential conflicts below the level that will result in a significant change or significant increase in the cost of accepted agricultural practices.⁶

The subject property has been in farm use for at least 50 years. The change in zoning and designation, as discussed above, may allow a limited number of additional uses. However, the scope of those uses are limited by the adopted regulations, again as discussed above. Therefore, the rezoning and redesignation will result in no conflicts between the proposed rezoning and any adjacent or nearby agricultural activity.

Policy 10:

Such minimum lot sizes or land division criteria as are used in exclusive farm use zones shall be appropriate for the continuation of the existing commercial agricultural enterprise in the region. The commercial agricultural, minimum field or parcel sizes and corresponding fanning regions identified in Addendum to Working Paper: Agricultural Lands shall be used to Determine the appropriate division requirements for lands zoned Exclusive Farm Use (E).

Per the Agricultural Lands Addendum to Working Paper, a selected standard of 40 acres was apply to agricultural Region 16. With regards to areas of the County not identified within a specific region, reviewing the various size standards selected throughout the primary farm regions, 40 acres is found most frequently. Addendum at 7. It appears that the subject property is within or in close proximity to the southern boundary of Region 16. The proposed zone change to E-40 is consistent with the standard parcel size for the subject property.

Goal Four: Forest Lands

⁶ Gutoski v. Lane County, 34 Or LUBA 219, 225 n4 (1998), aff'd 155 Or App 369, 963 P.2d 145 (1998).

Policy 1:

Conserve forest lands by maintaining the forest land base and protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.

Forest land shall include lands which are suitable for commercial forest uses including adjacent or nearby lands which are necessary to permit forest operations or practices and other forested lands that maintain soil, air, water, and fish and wildlife resources.

This policy implements Statewide Planning Goal 4 by defining "Forest Lands" and requiring they be used consistent with the goal. The subject property qualifies as Forest Land and Agricultural Land. See discussion in connection with Statewide Planning Goals 3 and 4 above. As such, the county is free to designate it as either and zone it appropriately, provided the plan document the factors that were used to select the appropriate designation.

Goal Five: Opens Spaces, Scenic and Historic Areas and Natural Resources

Flora and Fauna Policy 7:

Because of incomplete County coverage by, and interpretation of, the National Wetlands Inventory, wetland resources are to be considered "significant" in terms of OAR 660-16-000/025 and placed in "1B" and "1C" categories. Major wetlands designated "1C" resources shall be protected per the "3C" option through a combination of existing County Coastal and Greenway zoning regulations, and federal/state ownership; where these do not occur, an appropriate wetlands zoning district shall be developed and applied. Other wetlands from the National Wetlands Inventory shall be evaluated per "1B" requirements within two years of the date of Plan adoption, and decisions made on the protection or use of the resource. The County shall consider enlarging the list of protected per Goal 5 requirements if it is clearly demonstrated that an unprotected significant wetland(s) is likely to be significantly impacted by a land use action over which the County has jurisdiction.

See discussion of wetlands resources under Statewide Planning Goal 5 findings. The County has not yet supplemented its inventory of wetlands resources, as anticipated by this policy. The subject property contains no wetland resources inventoried in the county plan. However, the National Wetlands Inventory clearly denotes that wetlands are present on the property. Furthermore, this proposal does not result in any development or uses that would otherwise disturb wetlands.

D. Compliance with Lane Code Criteria for Plan Changes

LC 16.400(6)(h) sets out the criteria for amending the county plan designation. Each of the criteria is addressed here. Where a criterion incorporates a Statewide Planning Goal, LCDDC Rule, or Rural Plan Policy, reference is made the relevant part of the narrative above so as to avoid repetition.

LC 16.400(6)(h): Method of Plan Adoption and Amendment.

- (iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings”**
 - (aa) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan component or amendment meets all the applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.**

This criterion makes general reference to other sources of standards that apply to plan changes. Those other standards are addressed elsewhere in this narrative.

- (bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:**
 - (i-i) necessary to correct an identified error in the application of the Plan; OR**
 - (ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR**
 - (iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR**
 - (iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR**
 - (v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.**

This criterion offers a list of policy choices from which the County may select to justify initiating the plan amendment. At least two are relevant to this application. Item (iv-iv) allows the plan change if it implements the Rural Comprehensive Plan Policies. Goal Three, Policy 1 of the Rural Comprehensive Plan Policies anticipates encouraging agricultural activities by the preservation and maintenance of agricultural lands through the use of an exclusive farm use zone . This proposal implements that policy because the subject property qualifies as Agricultural Land under the Goal 3 definition.

Item (v-v) invites the county to make plan changes that are desirable, appropriate or proper. This proposal also meets that criterion. Where lands qualify as both farm and forest lands, OAR 660-006-0015(2) states,

When lands satisfy the definition requirements of both agricultural land and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.

Furthermore, the Lane County Rural Comprehensive Plan Agricultural Lands working paper, page 6, provides:

“Agricultural/Forestry Goal Interrelationship

*In an inventory of agricultural lands and forest lands there will by many instances where land will meet Goal definition for both categories. According to [LCDC’s] policy, farm and forest uses are compatible and either designation may be made without taking an exception to the other goal. The factors used to select a designation need to be documented in the Plan. The policies within the Plan will support one designation over another depending on the situation. The county should consider the following items in addressing overlapping lands: ***.”*

Those items and the analysis are discussed in detail under Sections III.B and III.C, above. The analysis shows that a plan change to Agricultural is desirable, appropriate and proper based on the review set forth.

(cc) For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible achieves policy support.

Compliance with individual policies in the Rural Plan Policies is discussed thoroughly above.

(dd) For Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is compatible with the existing structure of the Rural Comprehensive Plan, and is consistent with the unamended portions or elements of the Plan.

The existing structure of the plan anticipates Resource plan designations. As discussed above, this designation is also consistent with relevant policies in the Rural Comprehensive Plan Policies.

LC 16.400(8): Additional Amendment Provisions.

(a) Amendments to the Rural Comprehensive Plan shall be classified according to the following criteria:

(i) Minor Amendment. An amendment limited to the Plan Diagram only and, if requiring an exception to the Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is

irrevocably committed to other uses not allowed by an applicable goal.

This is a minor amendment to the plan which requests a change to the Plan Diagram for the subject property – from Forest to Agricultural. No goal exceptions are requested. This application demonstrates that the subject property is not Forest Land, but Agricultural Land.

(c) Minor amendment proposals initiated by an applicant shall provide adequate documentation to allow complete evaluation of the proposal to determine if the findings required by LC 16.400(6)(h)(iii) above can be affirmatively made. Unless waived in writing by the Planning Director, the applicant shall supply documentation concerning the following:

(i) A complete description of the proposal and its relationship to the Plan.

This description has been provided throughout this supporting statement.

(ii) An analysis responding to each of the required findings of LC 16.400(6)(h)(iii) above.

The required analysis is provided above.

(iii) An assessment of the probable impacts of implementing the proposed amendment, including the following:

(aa) Evaluation of land use and patterns of the area of the amendment;

See detailed discussion in Section II, above. To summarize, the subject property is located in a sea of Residential land. Furthermore, it is adjacent to an agricultural land. Some of these uses are on land planned and zoned for resource use, and others are on land that is planned and zoned for Nonresource uses.

(bb) Availability of public and/or private facilities and services to the area of the amendment, including transportation, water supply, and sewage;

The public facilities and services available or to be provided to the site are discussed in detail above. For a discussion of each facility and service, see the Goal 11 discussion above. For a further discussion of transportation facilities, see the Goal 12 discussion above. In summary, because the site is already developed with a residence, and because it is in a highly developed are, all facilities and services are available to the site.

(cc) Impact of the amendment on proximate natural resources, resource lands or resource sites including a Statewide Planning Goal 5 “ESEE” conflict analysis where applicable;

This discussion appears in detail in other parts of this statement. The proximate natural resources to consider are those that are identified as Goal 5 resources in the comprehensive plan. The impact on these resources is discussed as part of the Goal 5 analysis above.

This proposal will have no adverse impact on proximate resource lands because the subject property will remain in resource designation and zoning.

(dd) Natural hazards affecting or affected by the proposal;

As discussed in connection with Goal 7, the subject property neither contains nor is threatened by any natural hazards.

(gg) For a proposed amendment to a nonresource designation or a Marginal Lands designation, an analysis responding to the criteria for the respective request as cited in the Plan document entitled, “Working Paper: Marginal Lands” (Lane County, 1983).

This provision is not applicable.

E. Compliance with Lane Code Criteria for Zone Changes

This proposal requests a change from F-2 zoning to E-40 zoning. LC 16.252 sets out standards for zone changes. The facts relevant to the zone change standards are largely redundant with the facts relevant to plan policies and the Statewide Planning Goals. The LC 16.252 standards are stated here and addressed, with appropriate references to other parts of this narrative.

LC 16.252(2): Criteria.

Zonings, rezonings and changes in the requirements of this Chapter shall be enacted to achieve the general purpose of this Chapter and shall not be contrary to the public interest. In addition, zonings and rezonings shall be consistent with the specific purposes of the zone classification proposed, applicable to Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion of Lane County which has not been acknowledged by the Land Conservation and Development Commission. Any zoning or rezoning may be effected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures of this section.

General purposes of Chapter 16:

LC 16.003 sets forth 14 broadly-worded purpose statements that include a provision to ensure that development is commensurate with the character and physical limitations of the land. Rezoning from F-2 to E-40 implements the proposed plan amendment to Agricultural land. The public interest is served by recognizing that the land is Agricultural land rather than Forest land.

Purpose of E-40 Zone:

The E-40 zone is intended to preserve agricultural land in Lane County. The proposed zoning is consistent with these stated purposes of the zone by recognizing that the subject property has prime agricultural soils and is already in agricultural use, and so is more appropriately zoned E-40.

Rural Comprehensive Plan Criteria:

The Rural Plan Policies provide the policy basis for comprehensive plan and implementing regulations, provide direction for land use decisions, and fulfill LCDC planning requirements. Compliance with relevant Comprehensive Plan policies is addressed elsewhere in this narrative.

Lane Code Criteria:

LC 16.004(4):

Prior to any rezoning that will result in the potential for additional parcelization, subdivision or water demands or intensification of uses beyond normal single-family residential water usage, all requirements to affirmatively demonstrate adequacy of long-term water supply must be met as described in LC 13.050(13)(a)-(d).

The request is a rezone from F-2 to E-40. These zoning districts both implement resource designations. The rezone will not result in any parcelization, or the potential for further parcelization. The subject property is not within an area identified as a water quantity limited area. Accordingly, this approval criterion is complied with.

IV. CONCLUSION:

The subject property qualifies as both Agricultural Land and Forest Land based on soils and productivity. The Statewide Planning Goals give equal weight and value to Forest Lands and Agricultural Lands. Lands that qualify as both can be given either designation so long as the factors used to determine the designation are identified. See OAR 660-006-0015(2). The factors that Lane County used to determine the designation of these dual lands are identified in the Agricultural Working Paper of the Lane County Comprehensive Plan. The main factor requires an evaluation of (1) local circumstances and (2) Goal factors. Local circumstances, which include the existing and past use of the subject property and surrounding land usage, zoning and designation, establish that the subject property is more properly designated Agriculture. Goal factors establish that the subject property meets both Goal 3 and Goal 4 factors and is therefore properly designated as either. Therefore, because the subject property meets Goal 3 factors and because local circumstances establish that the property is more properly designated Agriculture, the proposed Agricultural designation is approved.

The property is less than 60 acres and is therefore appropriate to be zoned E-40, which is consistent with other agricultural zoning in the surrounding area.