

W.7-d

ADDENDUM TO AGENDA COVER MEMO
SUPPLEMENTAL MATERIAL

Addendum Date: November 7, 2006
Agenda Cover Memo Date: October 23, 2006
First Reading: November 8, 2006
Second Reading/Public Hearing: November 29, 2006

TO: Board of County Commissioners
DEPARTMENT: Public Works Department/Land Management Division
PRESENTED BY: Bill Sage, Associate Planner

AGENDA ITEM TITLE: **ORDINANCE NO. PA 1226 / IN THE MATTER OF ADOPTING AMENDMENTS TO THE RURAL COMPREHENSIVE PLAN FOR PROPERTIES IN THE COAST FORK WILLAMETTE WATERSHED AND OTHER PORTIONS OF RURAL LANE COUNTY; ADOPTING EXCEPTIONS TO STATEWIDE PLANNING GOALS THREE AND FOUR WHERE NECESSARY; ADOPTING CHANGES IN ZONING DESIGNATIONS TO COMPLY WITH SUCH PLAN AMENDMENTS WHERE NECESSARY; AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE. (CONTROL NO. 01 - 21)**

I. ISSUE

Two documents are attached to this Addendum:

Attachment "A" -- Ordinance No. PA 1226

Please **remove** the original Ordinance No. PA 1226 included in Attachment "A" of the Agenda Cover Memo dated October 23, 2006 and **insert** the attached Ordinance No. PA 1226.

The attached Ordinance No. PA 1226 includes revisions to the text in Section 1 of the Ordinance for Control No. 11, Control No. 13, and Control No. 17. The revisions include:

- the deletion of paragraph "d" in subsection Control No. 11 (page 5),
- the deletion of paragraph "f" in subsection Control No. 13 (page 5), and
- the addition of the text "and 'C-17-1' (pages 1-8)" in paragraph "c" in subsection Control No. 17 (page 6).

Attachment "B" – Exhibit C-17-1 – Supplemental Findings of Fact. Control No. C-17 - Chrestman

Please **add** the attached "Exhibit C-17-1 - Supplemental Findings of Fact" to the original "Exhibit No. C-17 - Findings of Fact" included as an exhibit to Attachment "A" (Ordinance No. PA 1226) of the Agenda Cover Memo dated October 23, 2006.

Exhibit C-17-1 supplements the original "C-17 Findings of Fact" on the specific subject of the proposed five-acre minimum lot size for the subject property (TRS 20-03-35, tax lot 8400).

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

**ORDINANCE NO. PA 1226) IN THE MATTER OF ADOPTING AMENDMENTS TO
) THE RURAL COMPREHENSIVE PLAN FOR PROPERTIES
) IN THE COAST FORK WILLAMETTE WATERSHED AND
) OTHER PORTIONS OF RURAL LANE COUNTY;
) ADOPTING EXCEPTIONS TO STATEWIDE PLANNING
) GOALS THREE AND FOUR WHERE NECESSARY;
) ADOPTING CHANGES IN ZONING DESIGNATIONS TO
) COMPLY WITH SUCH PLAN AMENDMENTS WHERE
) NECESSARY; AND ADOPTING A SAVINGS AND
) SEVERABILITY CLAUSE (CONTROL NO. 1 – 21)**

WHEREAS, The Board of County Commissioners of Lane County, through enactment of Ordinance 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 for amendment of 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, in May 2004, 30 actions were initiated for minor amendments to redesignate properties or portions of properties within developed and committed exception areas or unincorporated rural communities of the Coast Fork Willamette Watershed and other portions of rural Lane County, and concurrently rezone the properties or portions thereof; three actions were initiated for amendments to redesignate properties or portions of properties within resource zones of the Coast Fork Willamette Watershed and other portions of rural Lane County and adopt exceptions to Statewide Planning Goals Three and Four, and concurrently rezone the properties or portions to nonresource zones thereof to comply with such amendments; and three actions were unzoned and initiated for amendments to designate properties as resource land in the Coast Fork Willamette Watershed and concurrently zone the properties to resource designations; and

WHEREAS, the Lane County Planning Commission reviewed the proposals in a public hearing on November 1, 2005, and in deliberations on January 10, 2006, forwarded recommendations on the proposed amendments, exceptions, and rezoning to the Board of County Commissioners; and

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

WHEREAS, the Board of County Commissioners conducted a public hearing on November 29, 2006, reviewed the record and is now ready to take action;

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

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation and rezoning of the following properties or portions thereof, as identified in Control Numbers 1-21.

(PR Control No. 1 – Blue Tower Art Foundation).

- a. Redesignation of tax lot 224 of map 18-04-21, from “Rural” to “Commercial”, such territory depicted on Plan Plot 298 and further identified as Exhibit “A-1” attached and incorporated herein; and

IN THE MATTER OF ADOPTING AMENDMENTS TO THE RURAL COMPREHENSIVE PLAN FOR PROPERTIES IN THE COAST FORK WILLAMETTE WATERSHED AND OTHER PORTIONS OF RURAL LANE COUNTY; ADOPTING EXCEPTIONS TO STATEWIDE PLANNING GOALS THREE AND FOUR WHERE NECESSARY; ADOPTING CHANGES IN ZONING DESIGNATIONS TO COMPLY WITH SUCH PLAN AMENDMENTS WHERE NECESSARY; AND ADOPTING A SAVINGS AND SEVERABILITY CLAUSE (CONTROL NO. 1 - 21)

- b. Rezone tax lot 224 of map 18-04-21, from "RR5/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 298 and further identified as Exhibit "B-1" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-1" (pages 1-18) attached, are adopted in support of this action.

(PR Control No. 2 - London Grange).

- a. Redesignation of tax lot 2401 of map 22-03-30.1, from "Rural" to "Public Facility" on Plan Plot 360-1 and further identified as Exhibit "A-2", attached and incorporated herein; and
- b. Rezone tax lot 2401 of map 22-03-30.1, from "RR5/Rural Residential" (Lane Code 16.291) to "RPF/Rural Public Facility" (Lane Code 16.294) such territory depicted on Zoning Plots 360-1, and further identified as Exhibit "B-2" attached and incorporated herein; and,
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-2" (pages 1-9) attached, are adopted in support of this action.

(PR Control No. 3 - Skinner).

- a. Redesignation of a designated 0.28 of-an-acre of tax lot 800 of map 16-04-20, from "Rural" to "Industrial", such territory depicted on Plan Plot 282 and further identified as Exhibit "A-3" attached and incorporated herein; and
- d. Rezone a designated 0.28 of-an-acre of tax lot 800 of map 16-04-20, from "RR5/Rural Residential" (Lane Code 16.290) to "RI/Rural Industrial" (Lane Code 16.292), such territory depicted on Zoning Plot 282 and further identified as Exhibit "B-3" attached and incorporated herein; and
- e. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-3" (pages 1-13) attached, are adopted in support of this action.

(PR Control No. 4 - Maddux).

- a. Redesignation of tax lot 402 of map 20-03-21, from "Rural" to "Commercial", such territory depicted on Plan Plot 388 and further identified as Exhibit "A-4" attached and incorporated herein; and
- b. Rezone tax lot 402 of map 20-03-21, from "RR5/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 388 and further identified as Exhibit "B-4" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-4" (pages 1-10) attached, are adopted in support of this action.

(PR Control No. 5 – Wagon Wheel/Simons).

- a. Redesignation of tax lot 1500 of map 20-03-03, from "Rural" to "Commercial", such territory depicted on Plan Plot 402 and further identified as Exhibit "A-5" attached and incorporated herein; and
- b. Rezone tax lot 1500 of map 20-03-03, from "RR2/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 402 and further identified as Exhibit "B-5" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-5" (pages 1-11) attached, are adopted in support of this action.

(PR Control No. 6 – RC Saginaw).

- a. Redesignation of tax lot 902 of map 20-03-15, from "Rural" to "Public Facility", such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and

- b. Redesignation of a designated 0.12-acre of tax lot 700 of map 20-03-15, from "Rural" to "Commercial", such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and
- c. Remove the "Historical" designation "/H" on a portion of tax lot 700 of map 20-03-15, such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and
- d. Add the "Historical" designation "/H" to tax lot 900 of map 20-03-15.2.3, such territory depicted on Plan Plot 403 and further identified as Exhibit "A-6" attached and incorporated herein; and
- e. Rezone tax lot 902 of map 20-03-15, from "RR5/C/Rural Residential" (Lane Code 16.290) to "RPF/C/Rural Public Facility" (Lane Code 16.294), such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
- f. Rezone a designated 0.12-acre of tax lot 700 of map 20-03-15, from "RR5/C/Rural Residential" (Lane Code 16.290) to "RC/C/Rural Commercial", such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
- g. Remove the "Historical" designation "/H" on a portion of tax lot 700 of map 20-03-15, such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
- h. Add the "Historical" designation "/H" to tax lot 900 of map 20-03-15.2.3, such territory depicted on Plan Plot 403 and further identified as Exhibit "B-6" attached and incorporated herein; and
- i. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-6" (pages 1-22) attached, are adopted in support of this action.

(PR Control No. 7 – EPUD).

- a. Redesignation of tax lot 102 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
- b. Redesignation of tax lot 3800 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
- c. Redesignation of tax lot 3801 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
- d. Redesignation of tax lot 3803 of map 18-03-11.3, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 412 and further identified as Exhibit "A-7" attached and incorporated herein; and
- e. Rezone tax lot 102 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
- f. Rezone tax lot 3800 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
- g. Rezone tax lot 3801 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
- h. Rezone tax lot 3803 of map 18-03-11.3, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 412 and further identified as Exhibit "B-7" attached and incorporated herein; and
- i. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-7" (pages 1-14) attached, are adopted in support of this action.

(PR Control No. 8 – Doyle).

- a. Redesignation of a designated 0.09 of-an-acre of tax lot 1300 of map 18-03-14, from “Commercial” to “Industrial” and retaining 0.45 of-an-acre as “Commercial”, such territory depicted on Plan Plot 413 and further identified as Exhibit “A-8” attached and incorporated herein; and
- b. Redesignation of a designated 0.54 of-an-acre of tax lot 1400 of map 18-03-14, from “Commercial” to “Industrial” and retaining 0.04 of-an-acre as “Commercial”, such territory depicted on Plan Plot 413 and further identified as Exhibit “A-8” attached and incorporated herein; and
- c. Rezone a designated 0.09 of-an-acre of tax lot 1300 of map 18-03-14, from “RC/Rural Commercial” (Lane Code 16.291) to “RI/Rural Industrial” (Lane Code 16.292) and retaining 0.45 of-an-acre as “RC/Rural Commercial” (Lane Code 16.291), such territory depicted on Zoning Plot 413 and further identified as Exhibit “B-8”, attached and incorporated herein; and
- d. Rezone a designated 0.54 of-an-acre of tax lot 1400 of map 18-3-14, from “RC/Rural Commercial” (Lane Code 16.291) to “RI/Rural Industrial” (Lane Code 16.292) and retaining 0.04 of-an-acre as “RC/Rural Commercial”, such territory depicted on Zoning Plot 413 and further identified as Exhibit “B-8”, attached and incorporated herein; and
- e. Adopt an exception to the “3,500-square foot, commercial use floor area requirement” of Lane Code 16.291(4)(a) pursuant to Lane Code 16.291(4)(a)(i)-(iv) criteria, to allow use of 11,407 square feet of floor area for a single commercial use on the “RC/Rural Commercial” designated lands of the consolidated tax lots 1300 and 1400 of map 18-03-14; and
- f. Although not a part of this Ordinance, Findings as set forth in Exhibit “C-8” (pages 1-18) attached, are adopted in support of this action.

(PR Control No. 9 -- Brooks).

- a. Redesignation of tax lot 2401 of map 18-03-23.1, from “Industrial” to “Commercial”, such territory depicted on Plan Plot 413 and further identified as Exhibit “A-9” attached and incorporated herein; and
- b. Rezone tax lot 2401 of map 18-03-23.1, from “RI-C/Rural Industrial” (Lane Code 16.292) to “RC-C/Rural Commercial” (Lane Code 16.291), such territory depicted on Zoning Plot 413 and further identified as Exhibit “B-9” attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit “C-9” (pages 1-14) attached, are adopted in support of this action

(PR Control No. 10 – Jackson-Crawford).

- a. Redesignation of tax lot 1400 of map 19-03-11, from “Rural” to “Commercial”, such territory depicted on Plan Plot 415 and further identified as Exhibit “A-10” attached and incorporated herein; and
- b. Rezone of tax lot 1400 of map 19-03-11, from “RR5/Rural Residential (Lane Code 16.291)” to “RC/Rural Commercial” (Lane Code 16.291), such territory depicted on Zoning Plot 415 and further identified as Exhibit “B-10” attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit “C-10” (pages 1-11) attached, are adopted in support of this action.

(PR Control No. 11 – Nash Enterprises).

- a. Redesignation of tax lot 1301 of map 19-03-35, from “Forest” to “Industrial”, such territory depicted on Plan Plot 417-3 and further identified as Exhibit “A-11” attached and incorporated herein; and
- b. Redesignation of a designated 3.03 acres of tax lot 1202 of map 19-03-35, from “Forest” to “Industrial”, such territory depicted on Plan Plot 417-3 and further identified as Exhibit “A-11” attached and incorporated herein; and

- c. Rezone tax lot 1301 of map 19-03-35, from "F2/Impacted Forest Land" (Lane Code 16.211) to "RI/Rural Industrial" (Lane Code 16.292), such territory depicted on Zoning Plot 417-3 and further identified as Exhibit "B-11" attached and incorporated herein; and
- d. Rezone a designated 3.03 acres of tax lot 1202 of map 19-03-35, from "F2/Impacted Forest Land" to "RI/Rural Industrial", such territory depicted on Plan Plot 417-3 and further identified as Exhibit "B-11" attached and incorporated herein; and
- e. Developed and committed lands exceptions to statewide planning goals 3 and 4 are adopted for tax lot 1301 and a designated 3.03 acres of tax lot 1202 of map 19-03-35 as Exception Area 417-3, based on findings of fact and conclusions of law supporting the exceptions and amendments as set forth in Exhibit "C-11" (pages 1-20), attached and adopted in support of this action.

(PR Control No. 12 – Wilson Revocable Trust).

- a. Redesignation of a designated 0.138 of an acre of tax lot 9300 of map 21-03-35, from "Rural" to "Industrial", such territory depicted on Plan Plot 420-3 and further identified as Exhibit "A-12-1" attached and incorporated herein; and
- b. Redesignation of tax lot 501 of map 21-03-02.2.1, from "Rural" to "Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "A-12-2" attached and incorporated herein; and
- c. Redesignation of a designated 0.065 of an acre of tax lot 200 of map 21-03-02.2.1, from "Rural" to "Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "A-12-2" attached and incorporated herein; and
- d. Rezone of a designated 0.138 of an acre of tax lot 9300 of map 21-03-35, from "RR5/Rural Residential" to "RI/Rural Industrial", such territory depicted on Plan Plot 420-3 and further identified as Exhibit "B-12-1" attached and incorporated herein; and
- e. Rezone of tax lot 501 of map 21-03-02.2.1, from "RR5/Rural Residential" to "RI/Rural Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "B-12-2" attached and incorporated herein; and
- f. Rezone of a designated 0.065 of an acre of tax lot 200 of map 21-03-02.2.1, from "RR5/Rural Residential" to "RI/Rural Industrial", such territory depicted on Plan Plot 421-1 and further identified as Exhibit "B-12-2" attached and incorporated herein; and
- g. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-12" (pages 1-15) attached, are adopted in support of this action.

(PR Control No. 13 – City of Creswell).

- a. Redesignation of tax lot 2901 of map 19-03-13, from "Agricultural" to "Public Facility", such territory depicted on Plan Plot 429-2 and further identified as Exhibit "A-13" attached and incorporated herein; and
- b. Rezone tax lot 2901 of map 19-03-13 from "E30/Exclusive Farm Use" (Lane Code 16.212) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 429-2 and further identified as Exhibit "B-13" attached and incorporated herein; and
- c. Developed and committed lands exceptions to statewide planning goals 3 and 4 are adopted for tax lot 2901 of map 19-03-13 as Exception Area 429-2, based on findings of fact and conclusions of law supporting the exceptions and amendments as set forth in Exhibit "C-13" (pages 1-17), attached and adopted in support of this action.

(PR Control No. 14 – Lane Electric Cooperative).

- a. Redesignation of tax lot 107 of map 21-02-19, from "Rural" to "Public Facility", such territory depicted on Plan Plot 443-1 and further identified as Exhibit "A-14" attached and incorporated herein; and

- b. Rezone tax lot 107 of map 21-02-19, from "RR5/Rural Residential" (Lane Code 16.290) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 443-1 and further identified as Exhibit "B-14" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-14" (pages 1-9) attached, are adopted in support of this action.

(PR Control No. 15 – Blue Mountain School).

- a. Redesignation of tax lot 900 of map 21-02-19, from "Industrial" to "Public Facility", such territory depicted on Plan Plot 443-2 and further identified as Exhibits "A-15" attached and incorporated herein; and
- b. Rezone tax lot 900 of map 21-02-19, from "RI/Rural Industrial" (Lane Code 16.292) to "RPF/Rural Public Facility" (Lane Code 16.294), such territory depicted on Zoning Plot 443-2 and further identified as Exhibits "B-15", attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-15" (pages 1-10) attached, are adopted in support of this action.

(PR Control No. 16 – Culp Creek / Lane Electric Cooperative/ Qwest)

- a. Redesignation of tax lot 4200 of map 21-01-30, from "Rural" to "Public Facility", such territory depicted on Plan Plot 509-2 and further identified as Exhibits "A-16", attached and incorporated herein; and
- b. Redesignation of tax lot 1800 of map 21-01-31.1.2, from "Rural" to "Commercial", such territory depicted on Plan Plot 509-2 and further identified as Exhibits "A-16", attached and incorporated herein; and
- c. Rezone tax lot 4200 of map 21-01-30, from "RR2-C/Rural Residential" (Lane Code 16.290) to "RPF-C/Rural Commercial" (Lane Code 16.294), such territory depicted on Zoning Plot 509-2 and further identified as Exhibits "B-16" attached and incorporated herein; and
- d. Rezone tax lot 1800 of map 21-01-31.1.2, from "RR2/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 509-2 and further identified as Exhibits "B-16" attached and incorporated herein; and
- e. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-16" (pages 1-15) attached, are adopted in support of this action.

(PR Control No. 17 -- Chrestman).

- a. Redesignation of tax lot 8400 of map 20-03-35, from "Industrial" to "Rural", such territory depicted on Plan Plot 420-3 and further identified as Exhibit "A-17" attached and incorporated herein; and
- b. Rezone tax lot 8400 of map 20-03-35, from "RI/Rural Industrial" (Lane Code 16.292) to "RR5/Rural Residential" (Lane Code 16.290), such territory depicted on Zoning Plot 420-3 and further identified as Exhibit "B-17" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-17" (pages 1-9) and "C-17-1" (pages 1-8) attached, are adopted in support of this action.

(PR Control No. 18 – Sandland).

- a. Designation of tax lot 800 of map 15-04-21, as "Agricultural", such territory depicted on Plan Plot 292 and further identified as Exhibit "A-18" attached and incorporated herein; and
- b. Designation of tax lot 900 of map 15-04-21, as "Agricultural", such territory depicted on Plan Plot 292 and further identified as Exhibit "A-18" attached and incorporated herein; and
- c. Designation of tax lot 1000 of map 15-04-21, as "Agricultural", such territory depicted on Plan Plot 292 and further identified as Exhibit "A-18" attached and incorporated herein; and
- d. Zone tax lot 800 of map 15-04-21, as "E30/Exclusive Farm Use" (Lane Code 16.212), such territory depicted on Zoning Plot 292 and further identified as Exhibit "B-18" attached and incorporated herein; and

- e. Zone tax lot 900 of map 15-04-21, as "E30/Exclusive Farm Use" (Lane Code 16.212), such territory depicted on Zoning Plot 292 and further identified as Exhibit "B-18" attached and incorporated herein; and
- f. Zone tax lot 1000 of map 15-04-21, as "E30/Exclusive Farm Use" (Lane Code 16.212), such territory depicted on Zoning Plot 292 and further identified as Exhibit "B-18" attached and incorporated herein; and
- g. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-18" (pages 1-4) attached, are adopted in support of this action.

(PR Control No. 19 -- Baldwin).

- a. Redesignation of tax lot 100 of map 21-01-35.4, from "Rural" to "Commercial", such territory depicted on Plan Plot 547 and further identified as Exhibit "A-19-1" attached and incorporated herein; and
- b. Redesignation of tax lot 1300 of map 21-01-36.3.3, from "Rural" to "Commercial", such territory depicted on Plan Plot 554 and further identified as Exhibit "A-19-2" attached and incorporated herein; and
- c. Rezone tax lot 100 of map 21-01-35.4, from "RR5/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 547 and further identified as Exhibit "B-19-1" attached and incorporated herein; and
- d. Rezone tax lot 1300 of map 21-01-36.3.3, from "RR5/Rural Residential" (Lane Code 16.290) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 554 and further identified as Exhibit "B-19-2" attached and incorporated herein; and
- e. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-19" (pages 1-10) attached, are adopted in support of this action.

(PR Control No. 20 -- Bessett)

- a. Redesignation of tax lot 1300 of map 18-02-19, from "Rural" to "Industrial", such territory depicted on Plan Plot 437 and further identified as Exhibit "A-20" attached and incorporated herein; and
- b. Rezone tax lot 1300 of map 18-02-19, from "RR5/Rural Residential" (Lane Code 16.290) to "RI/Rural Industrial" (Lane Code 16.292), such territory depicted on Zoning Plot 437 and further identified as Exhibit "B-20" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-20" (pages 1-9) attached, are adopted in support of this action

(PR Control No. 21 -- Nordahl).

- a. Redesignation of tax lot 2200 of map 18-12-25, from "Industrial" to "Commercial", such territory depicted on Plan Plot 030 and further identified as Exhibit "A-21" attached and incorporated herein; and
- b. Rezone tax lot 2200 of map 18-12-25, from "RI/Rural Industrial" (Lane Code 16.292) to "RC/Rural Commercial" (Lane Code 16.291), such territory depicted on Zoning Plot 030 and further identified as Exhibit "B-21" attached and incorporated herein; and
- c. Although not a part of this Ordinance, Findings as set forth in Exhibit "C-21" (pages 1-13) attached, are adopted in support of this action.

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

The prior designations and zones 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 effect the validity to the remaining portions hereof.

ENACTED this _____ day of _____, 2006.

Chair, Lane County Board of County Commissioners

Recording Secretary for this Meeting of the Board

Approved As To Form
Date _____ Lane County

OFFICE OF LEGAL COUNSEL

**Exhibit C-17-1 – Supplemental Findings of Fact
Control No. C-17 - Chrestman
Ordinance No. PA 1226**

I. ISSUE

Written testimony submitted into the Lane County Planning Commission public hearing record by Goal One Coalition has claimed that the rezoning of a developed & committed property from a prior designation of Rural Commercial (RC – LC 16.291), Rural Industrial (RI – LC 16.292), or Rural Public Facility (RPF – LC 16.294) to Rural Residential (RR – LC 16.290) would require that Lane County establish a minimum lot size of ten acres for the rezoned property. This challenge arose specifically from the proposed rezoning of a 2.27 acre property identified as tax lot 8400 of Lane County Assessor’s map 20-03-35 in Control Number 17 of Ordinance No. PA 1226 (hereinafter, “the subject property”).

The subject property was initially designated as Rural Residential RR in 1972. The subject property was conditionally permitted for five years to be developed with a shake mill in 1974 per Temporary Permit 74-084. The subject property was designated as M3 Heavy Industrial (LC 16.226) in recognition of the facilities and industrial use history with the adoption of Lane County Ordinance No. 884 in 1984.

The subject property was rezoned to RI Rural Industrial (LC 16.292) by Lane County Ordinance No. PA 1173 on April 17, 2002, in compliance with Work Task #1 in the Lane County Periodic Review Work Program and acknowledged by Oregon Department of Land Conservation & Development in DLCD Order No. 01431 on October 31, 2002.

The shake mill (55’ x 100’) facility ceased operations approximately 20 years ago. The isolated, industrial site and vacant structure is surrounded by a rural residential area with a minimum lot size of five acres which the Board of County Commissioners adopted as Developed and Committed Exception Area 420-3 in 1984.

The designation of the 2.27-acre, subject property as Rural Residential RR5 with a minimum lot size of five acres conforms with the surrounding rural residential area of developed & committed exception area (Plot 420-3) and existing RR density of five-acres.

II. FINDINGS OF FACT

Designation of minimum lot sizes for rural residential lands in developed & committed exception areas is subject to compliance with Lane County Rural Comprehensive Plan – General Plan Policies, Goal Two, Policy 11.a., and Oregon Administrative Rule 660-004-040 *Application of Goal 14 (Urbanization) to Rural Residential Areas*.

Goal One Coalition testimony in opposition to the five-acre minimum lot size contends that the density does not comply with OAR 660-004-040(7). In specific, non-compliance with OAR 660-004-040(7)(i):

OAR 660-004-040(7)

(i) For rural residential areas designated after the effective date of this rule, the affected county shall either:

- (A) Require that any new lot or parcel have an area of at least ten acres, or*
(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements of an exception to Goal 14 in OAR 660, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660 -004-0018, "Planning and Zoning for Exception Areas."

The Board of County Commissioners finds that the proposed RR5 designation for the subject property is in compliance with OAR 660-004-0040 as set forth in the following findings of fact in support of Exhibit C-17 - Findings of Fact and Conclusions of Law (Control No. 17, Ordinance No. PA 1226).

Findings of Fact

1. Tax lot 8400 of Assessor's map 20-03-35 (hereinafter, the "subject property") was created by deed in 1951 and recorded metes and bounds description in Lane County Deeds and Records in Book 418, page 173. The subject property has been a lawfully created parcel for approximately 55 years.
2. The subject property is 2.27 acres in size and situated north of the right-of-way of Mosby Creek Road and south of Row River. It is located in approximately the center of Developed & Committed Exception Area No. 420-3 that includes 116 acres distributed throughout 42 Rural Residential (RR) properties averaging 2.76 acres and developed with 41 residences. Properties to the east and west and south across Mosby Creek Road are designated RR5 Rural Residential with a five-acre minimum lot size. Lands across the Row River to the north are designated RR2 Rural Residential with a two-acre minimum lot size.
3. OAR 660-004-0040 provides guidelines and criteria for establishing a minimum lot size for the creation of new residential "lots or parcels" and also for new "rural residential areas". The difference between the two circumstances is clear in the OAR and compliance with OAR 660-004-0040 is, in part, based on recognition of the intended differences.

The term "rural residential area", as used in OAR 660-004-0040, is clear in meaning and is understood to be inclusive of an area of contiguous lots and parcels in a developed & committed exception area with the common designation of "Rural Residential". In this instance, the "rural residential area" is identified as Developed & Committed Exception Area 420-3 and the applicable density affecting the subject property is the minimum lot size enveloping the subject property which was adopted in Ordinance No. 884 in 1984, and acknowledgment by DLCD in 1984, and subsequently re-adopted in the Lane County Periodic Review Work Program in 2002 (Ordinance No. PA 1173) and acknowledged by the Department of Land Conservation and Development Order No. 01431 in 2002 to be in compliance with Goal 14 as implemented through OAR 660-004-0040. As such, Developed & Committed Exception Area 420-3 is not a "rural residential area being designated after the effective date of this rule". Developed & Committed Exception Area 420-3 has existed as an official plan and zoning diagram in the Lane County Rural Comprehensive Plan (RCP) since adoption of the RCP in February, 1984.

If the intention of OAR 660-004-0040 was that the "area" meant or should be interpreted to mean "lot or parcel", it would have stated that connection in the terminology. In fact, OAR 660-004-0040(2)(a) states this very clearly what "rural residential area" means:

- (2)(a) This rule applies to lands that are not within an urban growth boundary, that are planned and zoned primarily for residential uses, and for which an exception to Statewide*

Planning Goal 3, (Agricultural Lands), Goal 4 (Forest Lands), or both has been taken. Such lands are referred to in this rule as rural residential areas. (emphasis added)

OAR 660-004-040(5)

(a) A rural residential zone currently in effect shall be deemed to comply with Goal 14 if that zone requires any new lot or parcel to have an area of at least two acres.

Developed & Committed Exception Area (“D&C Area”) 420-3 includes minimum lot densities of two-acres, five-acres and ten-acres. The five-acre area encompasses the subject property on three boundaries (west, south and east) and the lands to the north of Row River have a two-acre designation for the creation of new lots or parcels. The “rural residential zone” in the Lane County Rural Comprehensive Plan which implements OAR 660-004-0040 in developed & committed exception areas outside designated unincorporated communities is Lane Code 16.290. Lane Code 16.290 was adopted by the Board of Commissioners in Ordinance No. 6-02 on April 17, 2002, and acknowledged by the Oregon Department of Land Conservation and Development to be in compliance with OAR 660-004-0040 in DLCDC Order No. 01431 on October 31, 2002.

The surrounding five-acre density which is adopted for the subject property is in compliance with OAR 660-004-040(5)(a).

(c) For purposes of this section, “rural residential zone currently in effect” means a zone applied to a rural residential area, in effect on the effective date of this rule, and acknowledged to comply with the statewide planning goals.

The five-acre minimum lot size within D&C Area 420-3 was originally adopted as a component of the Lane County Rural Comprehensive Plan in February 1984 and was acknowledged by DLCDC during the County’s reacknowledgment work program during 1989-1990. The minimum lot sizes of D&C Area 420-3 including the five-acre minimum surrounding the subject property were readopted by Lane County Ordinance No. PA 1173 on April 17, 2002 and acknowledged by DLCDC Order No. 01431 on October 31, 2002.

The surrounding five-acre density as applied to the subject property is in compliance with OAR 660-004-040(5)(c).

OAR 660-022-040(6) After the effective date of this rule, a local government’s requirements for minimum lot or parcel sizes in rural residential areas shall not be amended to allow a smaller minimum for any individual lot or parcel without taking an exception to Goal 14 pursuant to OAR 660, Division 014.

The plan amendment and zone change for the subject property is from Rural Industrial (RI, LC 16.292) to Rural Residential (RR, LC 16.290). The Rural Industrial Zone does not and is not required by state law to have a numerical minimum lot size. The rural residential area south of Row River within D&C area 420-3 is designated Rural Residential (RR5) with a five-acre division standard. Designation of the subject property as “RR5” conforms to the adopted and acknowledged minimum lot size standard and would not allow a minimum smaller than the surrounding RR density for the subject property.

The surrounding five-acre density for the subject property is in compliance with OAR 660-004-040(6).

OAR 660-022-040(7)

(a) The creation of any new lot or parcel smaller than two acres in a rural residential area shall be considered an urban use. Such a lot or parcel may be created only if an exception to Goal 14 is taken. This subsection shall be construed to imply that creation of new lots or parcels two acres or larger always complies with Goal 14. The question of whether the creation of such lots or parcels complies with Goal 14 depends upon compliance with all provisions of this rule.

The subject property's metes and bounds were lawfully created in 1951 and include 2.27 acres. The subject property is not a "new" lot or parcel and it exceeds the two-acre minimum standard for a rural residential parcel.

The five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(a).

(b) Each local government must specify a minimum area for any new lot or parcel that is to be created in a rural residential area. For the purposes of this rule, that minimum area shall be referred to as the minimum lot size.

The subject property is not a "new lot or parcel" and the surrounding and adopted five-acre density which is applied to the subject property is in compliance with OAR 660-004-040(7)(b).

(c) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size of two acres or more, the area of any new lot or parcel shall equal or exceed that minimum lot size which is already in effect.

The subject property is not a "new lot or parcel", the adopted minimum lot size in the rural residential area surrounding the subject property is five-acres, and the adopted density for the subject property is five-acres and equal to the existing and enveloping, minimum lot size.

The five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(c).

(d) If, on the effective date of this rule, a local government's land use regulations specify a minimum lot size smaller than two acres, the area of any new lot or parcel created shall equal or exceed two acres.

The subject property is not a "new lot or parcel" and the adopted five-acre minimum lot size exceeds the two-acre minimum.

The five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(d).

(e) (A)- (H) addresses Planned Unit Development (PUD) and subsection (e) is not applicable to the plan amendment and rezoning of the subject property.

(f) addresses development of a single family dwelling and the option for a medical hardship dwelling on a property which does not apply to the proposal for the plan amendment and zone change of the subject property.

(g) addresses establishment of a new mobile home park or manufactured dwelling park which does not apply to the proposal for plan amendment or zone change of the subject property.

(h) A local government may allow the creation of a new parcel or parcels smaller than a minimum lot size required under subsections (a) through (d) of this section without an exception to Goal 14 only if the condition described in paragraphs (A) through (D) of this subsection exist.

Subsection (h) is not applicable to the rezoning of the subject property since the adopted minimum lot size is five-acres.

(i) For rural residential area designated after the effective date of this rule, the affected county shall either:

(A) Require that any new lot or parcel have an area of at least ten acres, or

The subject "rural residential area" is Developed & Committed Exception Area 420-3 adopted in 1984, readopted on April 17, 2002 (Ordinance No. PA 1173) and acknowledged on October 31, 2002 by Oregon Department of Land Conservation and Development Order No. 01431. D&C 420-3 has existed since 1984 and was not designated after the effective date of OAR 660-004-040.

The subject property was lawfully created in 1951, zoned Heavy Industrial (M3) in 1984 for which a developed & committed exception was taken, and is not a "new lot or parcel".

(B) Establish a minimum size of at least two acres for new lots or parcels in accordance with the requirements for an exception to Goal 14 in OAR 669, Division 014. The minimum lot size adopted by the county shall be consistent with OAR 660-004-00118, "Planning and Zoning for Exception Areas."

The adopted minimum lot size for the subject property in conformity with the surrounding rural residential lands of D&C Area 420-3 is five acres and exceeds the "minimum size of at least two acres for new lots or parcels. . ."

The adopted five-acre minimum lot size for the subject property is in compliance with OAR 660-004-040(7)(i)(A)-(B).

OAR 660-022-040(8)(a)-(g)

(8)(a) Notwithstanding the provisions of Section 7 of this rule, divisions of rural residential land within one mile of an urban growth boundary for any city or urban area listed in paragraphs (A) through (E) of this subsection shall be subject to the provisions of subsections (8)(b) and (8)(c)

- (A) Ashland;*
- (B) Central Point;*
- (C) Medford;*
- (D) Newburg;*
- (E) Sandy.*

** * **

(8)(b) If a city of urban area listed in Subsection (8)(a):

** * **

(8)(c) Notwithstanding the provisions of Section 7 of this rule, if any part of a lot or parcel to be divided is less than one mile from an urban growth boundary for a city or urban area listed in Subsection (8)(a), and if that city or urban area does not have an urban reserve area acknowledged to comply with OAR 660, Division 021, or is not part of an acknowledged regional

growth plan as described in Subsection(B), Paragraph (B), of this section, the minimum area of any new lot or parcel there shall be ten acres.

The subject property and D&C Area 420-3 are not located within one mile of Ashland, Central Point, Medford, Newberg, or Sandy. Subsections (8)(b) and (c) do not apply to the subject property.

(8)(d) Notwithstanding the provisions of Section 7, if the Portland metropolitan service district . . .

* * *

(8)(e) Notwithstanding the provisions of Section 7, if any part of a lot or parcel to be divided is less than one mile from the urban growth boundary of Portland . . .

* * *

(8)(f) Notwithstanding the provisions of Section 7 and Section (8)(e), . . . densities set forth in the Metro 2040 Plan . . .

* * *

The subject property and D&C Area 420-3 are not located within or less than a mile from the Portland metropolitan service district or urban growth boundary. Subsection (8)(d), (e) and (f) do not apply to the subject property.

(8)(g) A local government may allow the creation of a new parcel, or parcels, smaller than a minimum lot size required under subsections (a) through (f) of this section without an exception to Goal 14 only if the conditions described in paragraphs (A) through (E) of this subsection exist:

(A) The parcel to be divided has two or more permanent, habitable dwelling son it;

* * *

The subject property is not developed with any dwellings and the adopted minimum lot size is five-acres. Subsection (g) does not apply to the subject property.

OAR 660-022-040 (9)

(9) The development, placement, or use of one single-family dwelling on a lot or parcel lawfully created in an acknowledged rural residential area is allowed under this rule and Goal 14, subject to all other applicable laws.

Development or use of the subject property in D&C Area 420-3 shall be required to comply with all applicable State and local land use regulations and Oregon Specialty Code requirements at the time such development or use is identified, and required permit applications are submitted.

4. Lane County Rural Comprehensive Plan (RCP) – General Plan Policies: Goal 2, Policy 11.a. speaks directly to the issue of applying the existing and surrounding minimum lot size standard to the subject property. Goal 2, Policy 11.a. was reviewed for compliance with OAR 660-004-0040 during the Lane County Periodic Review Work Program. The application of the adopted and acknowledged Policy 11.a. was directly applied to the subject rural residential area (D&C Area 420-3) with the adoption of the OAR Compliance Report for the Coast Fork Willamette

Watershed adopted by the Board of Commissioners in Ordinance No. PA 1222 on June 15, 2005 and acknowledged by DLCD Order No. 001672 to be in compliance with OAR 660-004-0040 on July 19, 2005.

Lane County Rural Comprehensive Plan (RCP) – General Plan Policies: Goal 2, Policy 11.a. i-vii provides for the application of the policy using the following criteria:

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

In 1998, the existing development pattern within D&C Area 420-3 consists of 116 acres distributed throughout 42 Rural Residential (RR) properties averaging 2.76 acres and developed with 41 residences. Adjacent properties to the east and west, and south across Mosby Creek Road are designated RR5 Rural Residential with a five-acre minimum lot size. Lands across the Row River to the north are designated RR2 Rural Residential with a two-acre minimum lot size. The subject property is enveloped on three boundaries by RR5 lands and separated from RR2 lands by Row River. The adoption of the adjacent five-acre minimum lot size for the subject property complies with Goal 2, Policy 11.a. criteria.

- ii. *on-site sewage disposal suitability, or community sewerage*

The subject property is developed with a subsurface sanitation disposal system (SDS) authorized by Permit No. 1125-74 (7-19-74) that served the shake mill facilities from 1974 to approximately 1986. Use of the SDS for the residential use of the subject property shall be subject to compliance with applicable Lane County and Oregon Department of Environmental Quality sanitation permit requirements and inspections.

- iii. *domestic water supply availability:*

The subject property is developed with an onsite well that served the shake mill facilities from 1976 to approximately 1986. Use of the well and water system for the residential use of the subject property shall be subject to compliance with applicable Lane County land use and building permit requirements and inspections.

- iv. *access;*

Legal access to the subject property has been established for approximately 35 years from Mosby Creek Road and over an at-grade railroad crossing of the old Oregon Pacific & Eastern railroad right-of-way. The old railroad bed has been developed with an asphalt surface and is used as a public bike path.

- v. *public services*

The subject property is provided with the following public services:

- South Lane School District #45 (schools);
- Emerald Peoples Utility District (electricity);
- South Lane County Fire and Rescue (fire and ambulance);
- US Qwest (telephone);
- Lane County Sheriff's Department and Oregon State Police (law enforcement); and
- Lane County Receiving Station (solid waste disposal).

vi. lack of natural hazards; and

The subject property is level with slight slope of 0-5% towards Row River. There are no identified natural hazards, such as steep slopes, on the property. Portions of the property are within a flood hazard area which will require conditional use permits for development. There are no identified wetlands on the subject property per NWI map Cottage Grove SE4.

vii. effect on resource lands.

D&C Area 420-3 is adjacent to the urban growth boundary (UGB) of the City of Cottage Grove. The subject property is 1,800 feet upstream from the UGB. The subject property is enveloped within a rural residential area of 42 parcels developed with 41 dwellings. Residential development of the subject property is buffered on all sides by existing dwellings and residential uses. The closest Forest Lands to the northeast and southwest are separated by 1,200 feet from the subject property by developed parcels zoned Rural Residential RR5/RR2. The closest Exclusive Farm Use Lands to the east are separated by 1,800 feet from the subject property by developed parcels zoned Rural Residential RR5. No anticipated impacts or effects have been identified from the infill of one new residence on the subject property within the existing tapestry of residential development of D&C Area 420-3.

III. CONCLUSION OF LAW

In summary, the Board of County Commissioners' find, conclude and decide that the adopted zone change for the subject property from Rural Industrial (RI – Lane Code 16.292) to Rural Residential (RR5 – Lane Code 16.290) with a minimum lot size of five-acres (RR5) is in compliance with the criteria and standards of Oregon Administrative Rule 660-004-0040 and Lane County Rural Comprehensive Plan – General Plan Policies: Goal 2, Policy 11.a. Accordingly, we find, conclude and decide in support of the Findings of Fact and Conclusions of Law in Exhibit C-17 of Ordinance No. PA 1226, that the subject property should, through the enactment of Ordinance No. PA 1226, be designated Rural and zoned Rural Residential (RR5, RCP).