



7. The subject property is located within an area composed of a mixture of urban and rural uses. The urban growth boundary of the City of Creswell is located across Cloverdale Road to the northwest and the Lane County solid waste transfer site is directly north and northeast. While the subject property is zoned E30, the contiguous property, tax lot 2402, is zoned Rural Public Facility (RPF) and vacant of structures. To the west across River Road the properties are zoned Rural Residential (RR5). A thin strip of land to the east and north of the Coast Fork and lands to the southeast of the Coast Fork are zoned Exclusive Farm Use (E30).
8. The subject property receives all public services required by RCP Goal 11, Policy 6.h, including South Lane Rural fire protection, police protection by the Lane County Sheriff, individual sanitation service, water by its own production, and local utility services.
9. The Soil Survey of Lane County identifies 78% of the subject property's 1.98 acres as Fluvents (48), 14% as Newberg fine sand loam (95), and 8% as Camas gravelly sandy loam.(22). None of soils on the subject property has a forestry site index rating. Fourteen percent have an agricultural capability class of 2 and eight percent is in agricultural capability class of 4.
10. The Jasper 3 National Wetlands Inventory identifies two small wetland nodes on the contiguous tax lot 2402, and streamside delineated wetlands on the subject property.
11. The applicant is requesting a developed lands exception to Statewide Goals 3 and 4, as provided by OAR 660-04-025. An exception is warranted when land subject to an exception is physically developed to the extent it is no longer available for uses allowed by the goal. The applicant's

contiguous holdings include 1.98 acres (tax lot 2901) and 2.98 acres (tax lot 2402) for a total of 4.96 acres, surrounded by two road right-of-ways and a river channel, and impacted by physical improvements that make either a farm or forest use impracticable.

B. Findings and Conclusions Related to Lane Code 16.400 Plan Amendment Criteria.

Lane Code 16.400(6)(h)(iii)(aa)-(dd) provides for the Board to amend or supplement the RCP upon making the following findings:

Lane Code 16.400(6)(h)(iii)(aa)

(aa) For Major and Minor Amendments as defined in LC 16.400(8 (a) below, the Plan component or amendment meets all applicable requirements of local and state law, including Statewide Planning Goals and Oregon Administrative Rules.

1. The Board finds this plan amendment meets all legal processing requirements of the Lane Code and the acknowledged comprehensive plan, and incorporates by reference the supporting exhibits. This amendment recognizes the existing rural industrial use on the subject properties. Findings provided in this report address applicable County standards and Statewide planning goals.
2. The Board finds that the subject 1.98 acres has a significant comparative advantage over other potential sites because of its existing public facility use providing community water for the City of Creswell thus benefiting the city and county economy. Additional detail is provided in the following findings. Approval of the requested RCP amendment and zone change will recognize the existing rural public facility use of the subject property and remove its nonconforming use status.
3. The applicant seeks a physically developed exception to Statewide Goals 3 and 4, as provided by OAR 660-04-018(2). An exception is warranted when the requested plan designation and zoning designation limits permitted uses on the site to those which are rural in nature, are consistent with other applicable Statewide Goal requirements, and are compatible with nearby uses and do not commit them to nonresource use.

The Board finds the existing water treatment plant on the subject property, is an allowable use under the proposed Rural Public Facility (RPF) zone per LC 16.294(3)(c):

(c) Water facilities such as: water treatment plants, water storage, intake and outtake facilities, pipeline right-of-way, and other facilities related to water treatment and storage.

The Board finds the existing public facility use is a rural use that is commonly located on rural land and they are sited in Lane County outside of urban growth boundary of Creswell. Water treatment plants are also located in urban areas, but this does not mean they are exclusively urban by this fact. Rural uses are developed at a low density and separated from adjacent uses, require few public facilities and services, and are intended to serve rural populations. This use is properly sited on rural lands due to the proximity to the water source on which it is dependent.

The Board also finds the existing rural use of the subject property appears to be compatible with neighboring resource uses, as it has been in continuous operation since 1989 with no apparent conflicts. The sixteen-year history of the water treatment plant on the site has not committed nearby properties to nonresource use.

Imposition of site review standards as specified in LC 16.294(4) for new development on the subject property also acts to ensure its future uses will continue to have impacts that are rural in scale and nature, thereby ensuring future compatibility with adjacent or nearby resource uses, and ensuring that future uses will not commit adjacent or nearby resource properties to nonresource use. Site review standards in LC 16.294(4)(a)-(i) require applicable development on the site “to minimize any adverse effect on existing or contemplated abutting land use” and “compatible with the surrounding vicinity.”

(bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:

(ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; or

1. The Board finds that this amendment meets criterion (ii-ii) above.

The existing water treatment plant constructed in 1989 is the sole source for all water needs, residential, industry, and emergency, of the City of Creswell. Evidence in the record shows the proposed Rural Public Facility (RPF) designation more appropriately identifies the subject property.

Based upon reasons discussed in this application, the Board finds that this amendment is necessary to fulfill an identified public or community need for the intended result of removing the nonconforming status of the facility and making the maintenance and expansion of the facility an allowable use in the RPF zone. It is the desire of the Board to permit the existing water treatment plant to continue operations in conformance with the appropriate public facility plan and zoning designations.

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

1. The Board finds the proposed amendment conforms to the following applicable RCP Policies:

Goal 2, Policy 11.e. states “*A Public Facility designation shall be applied to publicly owned grounds and facilities (i.e., schools, etc.).*”

Appropriate consideration of the above factor has been made, based on the information provided within the previous findings.

Goal 2, Policy 16 states “. . . *New rural public facility, commercial, and industrial development within the Coast Fork of the Willamette Watershed and the Middle Fork of the Willamette Watershed shall be located inside unincorporated communities or outside unincorporated communities in developed and committed exception areas that were planned and zoned for public facility, commercial or industrial purposes on June 15, 2005. An exception to this policy shall be for plan amendments or zone changes adopted pursuant to Policy 27 Conformity Determinations, and legislative actions adopted by the Board of County Commissioners during a Periodic Review Work Program (PRWP) or concurrently as post-acknowledgement plan amendments resulting from the PRWP Work Tasks . . .*”.

This plan amendment and zone change is the result of the data and inventory compiled during Work Task 5 of the Lane County Periodic Review Work Program and is a concurrent post-acknowledgement plan amendment resulting from the PRWP Work Task.

Goal 11, Policy 1 requires that *Lane County shall provide an orderly and efficient arrangement for the provision of public facilities, services and utilities. Designation of land into any given use category either initially or by subsequent plan amendment, shall be consistent with the minimum level of services established for that category.*

This request is needed for the continuation of the existing rural public facility use of the subject property by removing its nonconforming status. This amendment is in support of the City of Creswell's public role of providing an adequate and safe source of water to its citizens. The water treatment plant is located in an area built upon and committed to a nonresource use where all of the necessary services are being provided. As shown in previous findings, all of the developable land in the sensitive location of the subject property in relation to the Coast Fork of the Willamette River is built-up and committed to this nonresource use, and is and will continue to be provided with necessary services which are appropriate for rural areas and rural uses.

Goal 9, Policy 6 specifies that: *The County shall work closely with incorporated city governments to improve local economic conditions, including land and service provision.*

The County action in this matter will amend a land use designation to acknowledge an existing vital public service of the City of Creswell to the citizens of Creswell and the surrounding area.

(dd) For Minor Amendments as defined in Lane Code 16.400(8) (a), 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 Board finds this Plan amendment is consistent with the RCP intent to choose between competing uses. As stated in the record, the subject property is developed with and irrevocably committed to a rural public facility use for the past sixteen years and is publicly owned and operated. This rural public facility use requires a RPF zone designation on the subject property, tax lot 2901, in conjunction with the RPF designation and development of the same use on the contiguously-owned property, tax lot 2402, to the west. This RCP amendment is consistent with unamended portions or elements of the Plan.

Lane Code 16.400(8)

(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.

The Board finds that the proposed plan amendment is limited to a change of the RCP diagram from Agricultural Land (A) to Public Facility Land (PF). Seventy-eight percent of the soils on the subject acreage are identified as "fluvents" and classified by the SCS as having neither farm or forest capability. For this reason, a physically developed lands exception to Statewide Planning Goals 3 and 4 is required. This application qualifies as a Minor Amendment.

C. Findings and Conclusions Relating to Lane Code 16.252 Rezoning Criteria.

Lane Code 16.252

- (1) Purpose. As the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be required. Such amendments shall be made in accordance with the procedures of this section.***
- (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 for compliance with the Statewide Planning' Goals by the Land Conservation and Development Commission. Any zoning or rezoning may be affected by Ordinance or Order of the Board of County Commissioners, the Planning Commission or the Hearings Official in accordance with the procedures in this section.***

1. The Board finds the proposed RPF zoning designation implements the proposed Public Facility Land plan designation. The Board further finds the proposed RPF zone is consistent with the general purpose of Chapter 16, specifically LC 16.003(1), (2), and (8).

LC 16.003(1) states development should conform to site characteristics and be in the public interest. This RCP amendment and rezoning request recognizes existing development and existing site characteristics completed for these uses. The subject property has adequate buffering for its existing uses and available public services to serve the public interest, while recognizing the existing rural public facility on the site.

LC 16.003(2) Protect and diversify the economy of the County supports economic development activities. Approval of this request will facilitate the continued operation of the water treatment plant on the property that provides an adequate and safe source of water to the City of Creswell and diversifies the economy of the County.

LC 16.003(8) supports the effort to *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.* Approval of this request will remove the nonconforming RCP designation and zoning on the subject property, and provide for the future development of the facility as the needs of the City of Creswell dictate. Use of the standards included in LC 16.294(4) for all new development on the subject property acts to ensure its future use will continue to have impacts that are rural in scale and minimal for neighboring properties.

2. The Board finds the proposed RPF zoning appropriately implements applicable RCP policies which have been addressed in previous findings. *The purposes of the Rural Public Facility Zone (RPF, RCP) includes (a) to implement the policies of the Lane County Rural Comprehensive Plan (RCP); (b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associate with other zones; and (c) to provide protective measures for riparian vegetation along Class I streams designated as significant in the RCP.*
3. The Board finds the proposed RPF zone accurately reflects the existing rural public facility use of one-quarter of the 1.98 acres of the subject property and is the most appropriate zone for the site. The Board further finds the compatibility of the rural public facility use on the site with surrounding resource lands will be maintained by buffers created by existing Cloverdale Road and River Drive right-of-ways and the natural features including dense vegetation of the Coast

Fork of the Willamette River corridor; and by applicable site review procedures as specified in LC 16.294(4).

E. Exception Requirements

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018, 020, 025, and 028 establishes requirements for adopting an exception to a goal. The property subject to the proposed zone change is currently designated as resource land and requires an exception to Goal 3 (Agricultural) and Goal 4 (Forestry) be taken in order for it to be rezoned to a nonresource designation.

The following findings of facts support the general findings of fact in **II. Findings of Fact**, above.

a. OAR 660-004-0018 Planning and Zoning for Exception Areas.

The Purpose statement in 660-004-018(1) “. . .explains the requirements for adoption of plan and zone designations for exceptions. Exceptions to one goal or a portion of one goal do not relieve a jurisdiction from remaining goal requirements and do not authorize uses, densities, public facilities and services, or activities other than those recognized or justified by the applicable exception. Physically developed or irrevocably committed exceptions under OAR 660-004-0025 and 660-004-0028 are intended to recognize and allow continuation of existing types of development in the exception area. Adoption of plan and zoning provisions that would allow changes in existing types of uses, densities, or services requires the application of the standards outlined in this rule.

(a) Uses which are the same as the existing types of land use on the exception site; or”

The exception and zone change requested by this application are intended to recognize and legitimize the existing structures and uses on the subject property, tax lot 2901 (1.98 acres) of Assessor’s map TRS 19-03-13. In addition, the actions are an acknowledgment that the currently existing water treatment plant on the subject property is similar to other community water systems in other D&C Exception Areas and that are commonly located elsewhere in other rural settings within the Coast Fork of the Willamette River Watershed of Lane County.

Tax lot 2901 was designated as Exclusive Farm Use Land (E30), a resource zone, as part of the adoption of the Rural Comprehensive Plan in August 1984. Tax lot 2901 and contiguous tax lot 2402 to the west were developed with the existing water treatment plant in 1989 as authorized per land use decisions by the Lane County Hearings Official, Planning Director, Building Official and Sanitarian. This proposed zone change would bring the existing public facility use into conformance with the use allowed in the Rural Public Facility Zone as provided for in LC 16.294(3)(c).

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located east and south of D&C Exception Area No. 429-2. The property receives a rural level of police and fire protection and relies on water and sewerage facilities on

the property that is essential to the protection of resource and nonresource uses and development in a rural setting. The proposed rezoning designation will more closely fit the actual current use on the property.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The subject properties are a small triangular-shaped tract blended into the landscape defined by transportation corridors to the north and west and south and the Coast Fork of the Willamette River to the southeast, and agricultural resource management along a thin strip of land to the east parallel to the river.

Lands across Cloverdale Road to the north are zoned Rural Public Facility (RPF), owned by Lane County and developed with the Lane County Solid Waste Transfer Site.

The subject use was established in 1989. Any conceivable impacts from the development on the subject property to the surrounding resource lands has been present since that time. The subject property has operated without conflict with the nearby resource uses for sixteen years and no new impacts are foreseeable.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing uses and structures have been on location since 1989. Any additional development on the subject property would require compliance with setbacks and site review standards of LC 16.294(4) and compliance with subsurface disposal systems design under DEQ standards. Obviously, adequate water is available and there is no indication that the anticipated water needs or effluent discharges will adversely affect resource uses in the surrounding area.

Public services such as fire protection have been available to the subject property since the initial construction in 1989.

Evidence in the record indicates the existing uses are compatible with adjacent and nearby resource uses.

b. OAR 660-004-0025 – Exception Requirements for Land Physically Developed to Other Uses.

(1) A local government may adopt an exception to a goal when the land subject to the exception is physically developed to the extent that it is no longer available for uses allowed by the applicable goal.

(2) Whether land has been physically developed with uses not allowed by an applicable Goal, will depend on the situation at the site of the exception. The exact nature and extent of the areas found to be physically developed shall be clearly set forth in the justification for the exception. The specific area(s) must be shown on a map or otherwise described and keyed to the appropriate findings of fact. The findings of fact shall identify the extent and location of the existing physical development on the land and can include information on structures, roads, sewer and water facilities, and utility facilities. Uses allowed by the applicable goal(s) to which an exception is being taken shall not be used to justify a physically developed exception.

The analysis required is actually two-fold: (1) what land is physically developed, and (2) what capability the remaining land has for management as agricultural or forest land.

Approximately one-quarter (0.6 of-an-acre) of the subject property is developed with the 40-foot x 60-foot treatment plant, graveled parking and maintenance area, settling ponds and intake-outtake pipe lines as depicted in the site and aerial photographs in this report and the attached site development plan. Refer to Attachment "D".

The remaining three-quarters (1.38 acres) of the subject property are predominantly (78%) fluvents without either a forest or agricultural capability.

The subject property is irrevocably committed to and physically developed with the water treatment plant, pipeline routes to and from the river and along Cloverdale Road, and the remaining acreage is being conserved as riparian corridor and for the protection of the Coast Fork tributary.

c. OAR 660-004-0028 – Exception Requirements for Land Irrevocably Committed to Other Uses.

The subject property being considered for a "committed and developed" exception is identified as the 1.98-acre, tax lot 2901 of TRS 19-03-13.

(1) A local government may adopt an exception to a goal when the land subject to the exception is irrevocably committed to uses not allowed by the applicable goal because existing adjacent uses and other relevant factors make uses allowed by the applicable goal impracticable:

(a) A "committed exception" is an exception taken in accordance with ORS 197.732(1)(b), Goal 2, Part II(b), and with the provisions of this rule;

(b) For the purposes of this rule, an "exception area" is that area of land for which a "committed exception" is taken;

(c) An "applicable goal," as used in this section, is a statewide planning goal or goal requirement that would apply to the exception area if an exception were not taken.

(2) Whether land is irrevocably committed depends on the relationship between the exception area and the lands adjacent to it. The findings for a committed exception therefore must address the following:

(a) The characteristics of the exception area;

D&C Area 429-2 lies between the subject property to the east and the urban growth boundary of the City of Creswell to the west. 429-2 includes six parcels, five of which are zoned Rural Residential (RR5) and one, tax lot 2402, that is contiguously owned and developed with the subject property, zoned Rural Public Facility (RPF). The D&C area is 42.25 acres in size with an average parcel size of 7.04 acres. There are seven residences in the RR portion of the D&C area. The RR lands separate the current RPF property and the subject property from the E30 agricultural lands to the southwest. Lands to the northwest across Cloverdale Road are within the UGB of Creswell and the Lane County solid waster transfer site is located north of the subject property.

Services are provided to Exception Area No. 429-2 by:

Electricity: Emerald Peoples Utility District
Fire: South Lane Fire and Rescue District
Ambulance: South Lane Fire and Rescue District
School: Creswell School District No. 40
Lane Community College
Lane Education Service District
Police: Lane County Sheriff
Oregon State Police

(b) The characteristics of the adjacent lands;

A small, narrow strip of land, 3.08 acres in size, identified as tax lot 2800 of Map 19-03-13 abuts the subject property on the eastern boundary. Tax lot 2800 is owned by the City of Creswell and zoned Exclusive Farm Use (E30). Cloverdale Road abuts the northern boundary and the Coast Fork abuts the southern and eastern boundaries. The property is 68% fluvents, 29% water, and vacant.

E30 lands exist across the Coast Fork of the Willamette to the south. E30 lands are also located south of D&C Area 429-2 and approximately 500 feet southwest of the subject property.

(c) The relationship between the exception area and the lands adjacent to it; and

Exception Area No. 429-2 is bordered by the UGB of Creswell on the west and north. The parcelization pattern in the rural areas outside the D&C areas consists of small farm parcels ranging from ten to 20 acres with the majority developed with residences.

(d) The other relevant factors set forth in OAR 660-004-0028(6).

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Residential development within the UGB of Creswell to the west of D&C 429-2 is developed at urban subdivision densities. UGB parcels north of Cloverdale Road are five to six acres on the average and residentially developed. The County solid waste transfer site is composed of two tax lots 2600 and 2700 that are 27.87 and 26.02 acres in size respectively.

(b) Existing public facilities and services (water and sewer lines, etc.);

The residences D&C No. 429-2 are served by on-site wells and subsurface sewage disposal systems. Electrical power is provided by Emerald Peoples Utility District. Fire protection is provided by South Lane Fire and Ambulance District. U.S. Qwest provides telephone service. Lane County Sheriff's Department and the Oregon State Police provide patrol and response services. K-12 education is provided in Creswell by the School District #40 facilities.

(3) Whether uses or activities allowed by an applicable goal are impracticable as that term is used in ORS 197.732(1)(b), in Goal 2, Part II(b), and in this rule shall be determined through consideration of factors set forth in this rule. Compliance with this rule shall constitute compliance with the requirements of Goal 2, Part II. It is the purpose of this rule to permit irrevocably committed exceptions where justified so as to provide flexibility in the application of broad resource protection goals. It shall not be required that local governments demonstrate that

every use allowed by the applicable goal is "impossible." For exceptions to Goals 3 or 4, local governments are required to demonstrate that only the following uses or activities are impracticable:

(a) Farm use as defined in ORS 215.203;

The total acreage of the subject parcel 1.98 acres. The contiguous properties to the west and east are 2.89 acres and 3.07 acres.

Even though the subject property is developed with the water treatment plant, there are no opportunities for agricultural practices and definitely none that could be construed to be of the scale or viability to qualify as a "farm use" on the individual property or as a tract under Goal 3. The majority of the soils are nonproductive with fluvents found on 68% to 78% of the land. The development of an agricultural use on the subject tract with other EFU properties in the region is impracticable due to the intervening transportation corridors and river. Development of the impacted and isolated site is impracticable due to these encumbrances.

(b) Propagation or harvesting of a forest product as specified in OAR 660-033-0120; and

The riparian corridor consists of deciduous and some conifer species providing critical habitat in compliance with riparian and greenway protection standards. The soils identified on the subject property do not have a Douglas fire site index capability. An in-stream collection gallery and intake-outtake pipes passing through the riparian corridors to and from the river further eliminate the options to manage the land for forest fiber products.

(c) Forest operations or forest practices as specified in OAR 660-006-0025(2)(a).

"660-06-025(2) The following uses pursuant to the Forest Practices Act (ORS Chapter 527) and Goal 4 shall be allowed in forest zones: (a) Forest operations or forest practices including, but not limited to, reforestation of forest land, road construction and maintenance, harvesting of a forest tree species, application of chemicals, and disposal of slash;"

Commercial forest practices on the 1.98 acres, for the reasons stated above in (b), are not practicable.

(4) A conclusion that an exception area is irrevocably committed shall be supported by findings of fact which address all applicable factors of section (6) of this rule and by a statement of reasons explaining why the facts support the conclusion that uses allowed by the applicable goal are impracticable in the exception area.

(5) Findings of fact and a statement of reasons that land subject to an exception is irrevocably committed need not be prepared for each individual parcel in the exception area. Lands which are found to be irrevocably committed under this rule may include physically developed lands.

(6) Findings of fact for a committed exception shall address the following factors:

(a) Existing adjacent uses;

Refer to Findings of Fact above in response to OAR 660-004-0028(2)(b), above.

(b) Existing public facilities and services (water and sewer lines, etc.);

The subject property is served by the product of the water treatment plant and a subsurface sewage disposal system onsite.

(c) Parcel size and ownership patterns of the exception area and adjacent lands:

(A) Consideration of parcel size and ownership patterns under subsection (6)(c) of this rule shall include an analysis of how the existing development pattern came about and whether findings against the Goals were made at the time of partitioning or subdivision. Past land divisions made without application of the Goals do not in themselves demonstrate irrevocable commitment of the exception area. Only if development (e.g., physical improvements such as roads and underground facilities) on the resulting parcels or other factors make unsuitable their resource use or the resource use of nearby lands can the parcels be considered to be irrevocably committed. Resource and nonresource parcels created pursuant to the applicable goals shall not be used to justify a committed exception. For example, the presence of several parcels created for nonfarm dwellings or an intensive commercial agricultural operation under the provisions of an exclusive farm use zone cannot be used to justify a committed exception for land adjoining those parcels;

Based on the findings of fact presented in this application, the Board finds the subject acreage has been irrevocably committed to water treatment since 1989 (16 years).

Existing parcel sizes and contiguous ownerships shall be considered together in relation to the land's actual use. For example, several contiguous undeveloped parcels (including parcels separated only by a road or highway) under one ownership shall be considered as one farm or forest operation. The mere fact that small parcels exist does not in itself constitute irrevocable commitment. Small parcels in separate ownerships are more likely to be irrevocably committed if the parcels are developed, clustered in a large group or clustered around a road designed to serve these parcels. Small parcels in separate ownerships are not likely to be irrevocably committed if they stand alone amidst larger farm or forest operations, or are buffered from such operations.

County roads and the Willamette River isolate the subject property from management with other resource lands under separate ownership in the area. Small woodlot management, grazing or grass seed operations are not an option within the 1.38 acres outside the fenced development site.

(d) Neighborhood and regional characteristics;

Exception Areas in the vicinity are residential clusters along the transportation corridors between the City of Creswell and Cottage Grove to the south, the rural communities of Goshen and Pleasant Hill to the north and east. The subject property is located within the north-south, east-west, development pattern along the eastern edge of the valley floor and western toe of the forested foothills.

(e) Natural or man-made features or other impediments separating the exception area from adjacent resource land. Such features or impediments include but are not limited to roads, watercourses, utility lines, easements, or rights-of-way that effectively impede practicable resource use of all or part of the exception area;

Cloverdale Road, River Drive, and the Willamette River separate the triangular-shaped tract from the EFU lands to the southwest and to the east and impede consolidation of the subject property with nearby resource lands.

(f) Physical development according to OAR 660-004-0025; and

(g) Other relevant factors.

Refer to above Findings of Fact and the inserted aerial photograph and site photograph above.

(7) The evidence submitted to support any committed exception shall, at a minimum, include a current map, or aerial photograph which shows the exception area and adjoining lands, and any other means needed to convey information about the factors set forth in this rule. For example, a local government may use tables, charts, summaries, or narratives to supplement the maps or photos. The applicable factors set forth in section (6) of this rule shall be shown on the map or aerial photograph.

Refer to Exhibit "D" – Site Plan and the photographs in this report.

(8) The requirement for a map or aerial photograph in section (7) of this rule only applies to the following committed exceptions:

(a) Those adopted or amended as required by a Continuance Order dated after the effective date of section (7) of this rule; and

(b) Those adopted or amended after the effective date of section (7) of this rule by a jurisdiction with an acknowledged comprehensive plan and land use regulations.

d. 660-004-0030 – Notice and Adoption of an Exception

(1) Goal 2 requires that each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

(2) A planning exception takes effect when the city or county governing body adopts the comprehensive plans or plan amendment. Adopted exceptions will be reviewed by the Commission when the comprehensive plan is reviewed for compliance with the goals, when a plan amendment is reviewed pursuant to OAR chapter 660, division 18, or when a periodic review is conducted pursuant to ORS 197.640.

The proposed "developed" exception and the proposed amendment to the zoning designation are a portion of the Lane County adopted and acknowledged Periodic Review Work Program Work Task 5 for the Coast Fork of the Willamette Watershed.

e. Lane Code 16.294 – Rural Public Facility (RPF)

Lane Code 16.294(3)(c) specifically notes that water treatment plants are an allowed use in the Rural Public Facility zone.

While the potential impacts of the water treatment plant appear to be consistent with the livability and appropriate development of the surrounding area, future uses to which the property could be put is unknown at this point. This application does not include a compatibility analysis of all conditional uses in the Rural Public Facility Zone (RPF). To provide a level of comfort for the surrounding resource properties, the special use permit process of LC 16.294(3) and the site review criteria of Lane Code 16.294(4) will be used to achieve this end.

The "public interest" must be considered, as such, but for the purposes of this decision it will be assumed that any of the proposed uses allowed in LC 16.294 will not have an adverse impact on surrounding uses and it will not be contrary to the public interest.

III. CONCLUSIONS

The Board finds that the subject 1.98 acres qualify for a Rural Comprehensive Plan (RCP) designation as Public Facility Land with a (RPF) Rural Public Facility zoning designation.

The Board finds the facts presented accurately conclude the subject acreage is not forest or farm land as defined by Statewide Planning Goals 3 and 4, and that the proposed redesignation is consistent with RCP policies and the approval standards addressed in these findings.

The Board finds the subject 1.98 acres is developed with rural public facility uses and will not adversely affect surrounding lands, either with its existing water treatment facility, or with future uses through imposition of applicable site review provisions in LC 16.294(4).

The Board concludes that based upon the findings provided, the Plan amendment and zone change conform with all applicable standards to allow redesignation from Forest Land to Public Facility Land and rezoning from E30 Exclusive Farm Use to RPF Rural Public Facility.

IV. RECOMMENDATIONS

1. That the City of Creswell application PRZC Control No. 13 of Ordinance No. 1226 for the plan amendment of tax lot 2901 (1.98 acres) of Assessors Map 19-03-13 from Agricultural Land (A) Public Facility (PF), be approved.
2. That the City of Creswell application PRZC Control No. 13 of Ordinance No. 1226 for the rezoning of tax lot 2901 (1.98 acres) of Assessors Map 19-03-13 from Exclusive Farm Use (E30) to Rural Public Facility (RPF), be approved.
3. That an exception to Statewide Goal three and Goal Four be approved for tax lot 2901 (1.98 acres) of Assessors Map 19-03-13.

V. EXHIBITS

- A. Plan Map, Plot No. 429
- B. Zoning Map, Plot No. 429
- C. Assessor's Map 19-03-13
- D. Site Plan (1989).

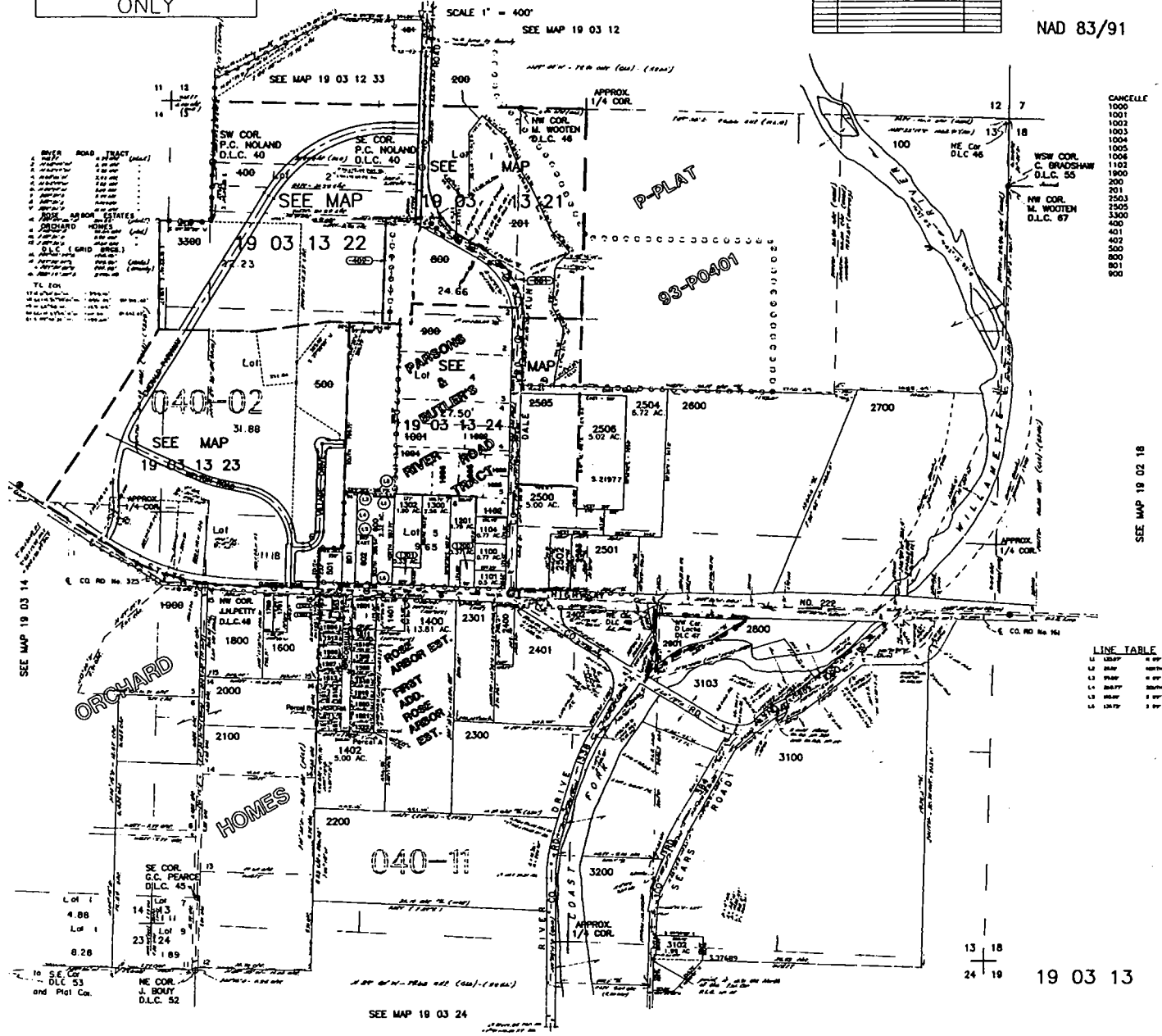
FOR ASSESSMENT AND TAXATION ONLY

SEC. 13 T.19S. R.3W. W.M. LANE COUNTY

DATE	BY	APPROVED	FILED
190313	...	...	...
190313	...	...	...
190313	...	...	...
190313	...	...	...
190313	...	...	...

19 03 13

NAD 83/91



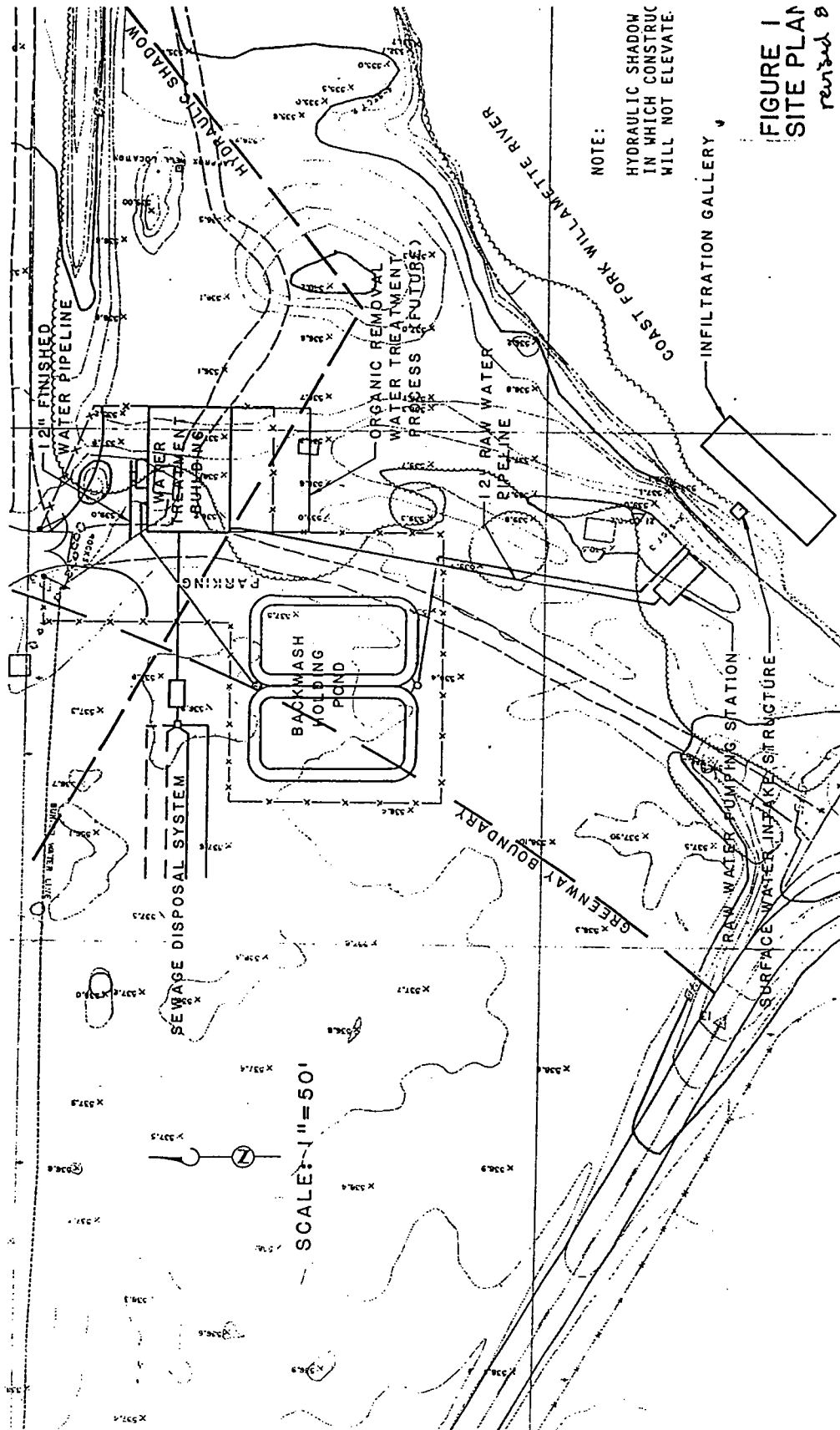
- CANCELLED
- 1000
 - 1001
 - 1002
 - 1003
 - 1004
 - 1005
 - 1006
 - 1102
 - 1900
 - 200
 - 201
 - 2503
 - 3300
 - 400
 - 401
 - 402
 - 500
 - 800
 - 801
 - 900

SEE MAP 19 02 18

LINE TABLE

L1	USAP	4	SPRING W
L2	SWP	10	WATER W
L3	SWP	10	WATER W
L4	SWP	10	WATER W
L5	SWP	10	WATER W
L6	SWP	10	WATER W

13 18
24 19
19 03 13



NOTE:
HYDRAULIC SHADOW
IN WHICH CONSTRUC
WILL NOT ELEVATE

FIGURE 1
SITE PLAN
revised 8

Exhibit No. C-14

PAPA Control No. 14

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 443 -1

**Plan Amendments and Zone Changes for:
Tax lot 107 of Assessor's Map TRS 21-02-19**

TRS - Tax lot	Acres	From/Action	To
21-02-19, 107	0.45	Rural Residential (RR5)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.290 - *Rural Residential Zone (RR)*
Lane Code 16.294 - *Rural Public Facility (RPF)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

TRS 21-02-19, tax lot 107 – 0.45 of-an-acre
Properties Owner: Lane Electric Cooperative
Proposed change in zoning designation from Rural Residential (RR5) to Rural Public Facility (RPF).

The proposed plan amendment and zone change is for one property in the ownership of Lane Electric Cooperative that was designated as Rural Residential (RR5) in 1984. The appropriate designation for the 0.45 of-an-acre facility that includes the Mosby Creek Substation is Rural Public Facility (RPF).

II. FINDINGS OF FACT

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located north of the right-of-ways of the intersection of Mosby Creek Road and Perkins Creek Road. It is within the Developed & Committed Exception Area No. 443-1. It can be identified as tax lot 107 of Assessor's map 21-02-19 and is 0.45 of-an-acre in size.
2. The subject property was designated as Rural Residential (RR5) in 1984 in conjunction with surrounding properties and was developed with the substation at the time.
3. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the utility's public service and facilities is inconsistent with the Rural Residential Zone (RR5).
4. The existing public facility use of the subject property is an allowable use in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(a) Electric utilities such as: a generation plant, transmission facilities, right-of-ways, electrical regulating substations, and other facilities related to electricity generation and distribution.*

The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

Top: Mosby Creek Substation taken from intersection of Mosby Creek Road and Perkins Creek Road.



Below: 2004 aerial – substation is north of road intersection and west of the “19” on the photo.



6. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the mid-1970's.
7. The subject property does lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility does not require a potable source of water.
8. The subject property receives the following public services: South Lane District #45 (schools); Lane Electric Cooperative (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Blue Mountain 2.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

"Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan."

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for "physically developed" and "irrevocably committed" exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application is intended to recognize the "public facility" use of Lane Electric Cooperative substation which was established on the subject property in mid-1970s and amend the zoning designation to conform to the use.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 443-1, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The subject property is enveloped by Rural Residential (RR5) lands to the north and east. The right-of-ways of Mosby Creek Road to the west and Perkins Creek Road to the south separate the facility from Forest Land in those two directions. The closest EFU lands are located approximately 400 feet to the north and separated from the subject property by Rural Residential lands. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the F1 and F2 lands to the west and south or the EFU lands to the north.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 443-1 includes six Rural Residential properties along the northern right-of-way of Perkins Creek Road and five are developed with residences. Two additional residences exist south of the right-of-way on two forest land (F2) properties.

The Lane Electric Cooperative facility has been providing a service in southeastern Lane County for decades and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 443-1 of Lane County. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (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 Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not

been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

- (1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The development of the public facility use has not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current use or new use will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.294 (RPF).

- (2) *Protect and diversify the economy of the County.*

The Cosby Creek Substation transports and provides access to electrical power in the rural areas and economy of Southern Lane County. Re-designation of the subject properties will allow diversification of the current use in compliance with the required permit processes, criteria and standards.

- (8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The facility is well located for distribution of services to their customers.

b. *Water Resources Policies #3 and #5:*

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 107 will acknowledge the existing public facility on the subject property. The current use of the facility does not require onsite potable water and therefore will not alter the use or availability of groundwater.

In the event that a more intensive use is proposed for of the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. *Public Facilities and Services Policy #6.f:*

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural

level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

- d. Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."

The existing public service on the subject property has co-existed since the mid-1970s with the agricultural and forest product industries in the surrounding area. Electrical utility facilities commonly occur adjacent to resource lands and in some instances are essential to the distribution of power to rural uses including resource operations. Any expansion or intensification of the Lane Electric facility would require compliance with Lane Code 16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

- e. Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Blue Mountain 2 quad of the National Wetlands Inventory. Past development on the subject property in the 1970s-1980s has significantly altered the natural flora communities and habitat on the one-half acre. The gravel surface and equipment within the fenced facility are partly a matter of function and partially for security and safety reasons. As a result of past alterations, the continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

- a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

- (4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is less than one-half acre in size and abuts two public roads. Surrounding lands are residentially developed. Nearby forest and agricultural lands are

buffered from the facility by road right-of-ways or nonresource parcels. None of the six RR5 properties north of Perkins Road have been managed for the production of crops, livestock or timber products for the past twenty years. The two forest land parcels west and south across the roadways are developed with residences and are under passive forest management.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an exception area developed with five residential and one public facility uses. No additional divisions can occur under the RR 5-acre standard. The existing use is a rural use that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The substation facility on the subject property is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2400F of 2975 (6-2-99).

b. *Not Contrary to the Public Interest*

The “public interest” has not been defined, as such, but for the purposes of this report it will be assumed that if the existing use will not have an adverse impact on surrounding uses then it will not be contrary to the public interest. Additionally, the longevity of the existing use strongly suggests that there is a need for the public facility in this area.

Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

c. *Lane Code 16.294*

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is (1)(b) *To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and use on tax lot 107 are consistent with this purpose.

d. *Lane Code 16.004(4)*

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is located in an area identified as being water quantity limited, however, the facility does not require a domestic water source.

The subject property is small in size (0.45 acre) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 21-02-19, tax lot 107 (0.45 of-an-acre) from Rural Residential (RR5) to Rural Public Facility (RPF), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 14 of Ordinance No. PA 1226, amending the Official Plan Map No. 443 designation for tax lot 107 of Assessors Map TRS 21-02-19, from Rural (R) to Public Facility (PF); and
2. Approval of PRZC Control No. 14 of Ordinance No. PA 1226, amending the Official Zoning Map No. 443 designation for tax lot 107 of Assessors Map TRS 21-02-19, from Rural Residential (RR5) to Rural Public Facility (RPF).

VII. EXHIBITS

- A. Plan Maps No. 443 with proposed plan change depicted.
 - B. Zoning Map Plot No. 443 with proposed zone change depicted.
 - C. Lane County Assessor's Maps TRS 21-02-19.
-
-

FOR ASSESSMENT
AND TAXATION
ONLY

SECTION 19 T.21S. R.2W.W.M.

LANE COUNTY

SCALE 1" = 400'

SEE MAP 21 02 18

21 02 19

DATE	REASON	APPROVED
12/15/18	REVISED	DATE:
12/15/18	REVISED	DATE:
12/15/18	REVISED	DATE:

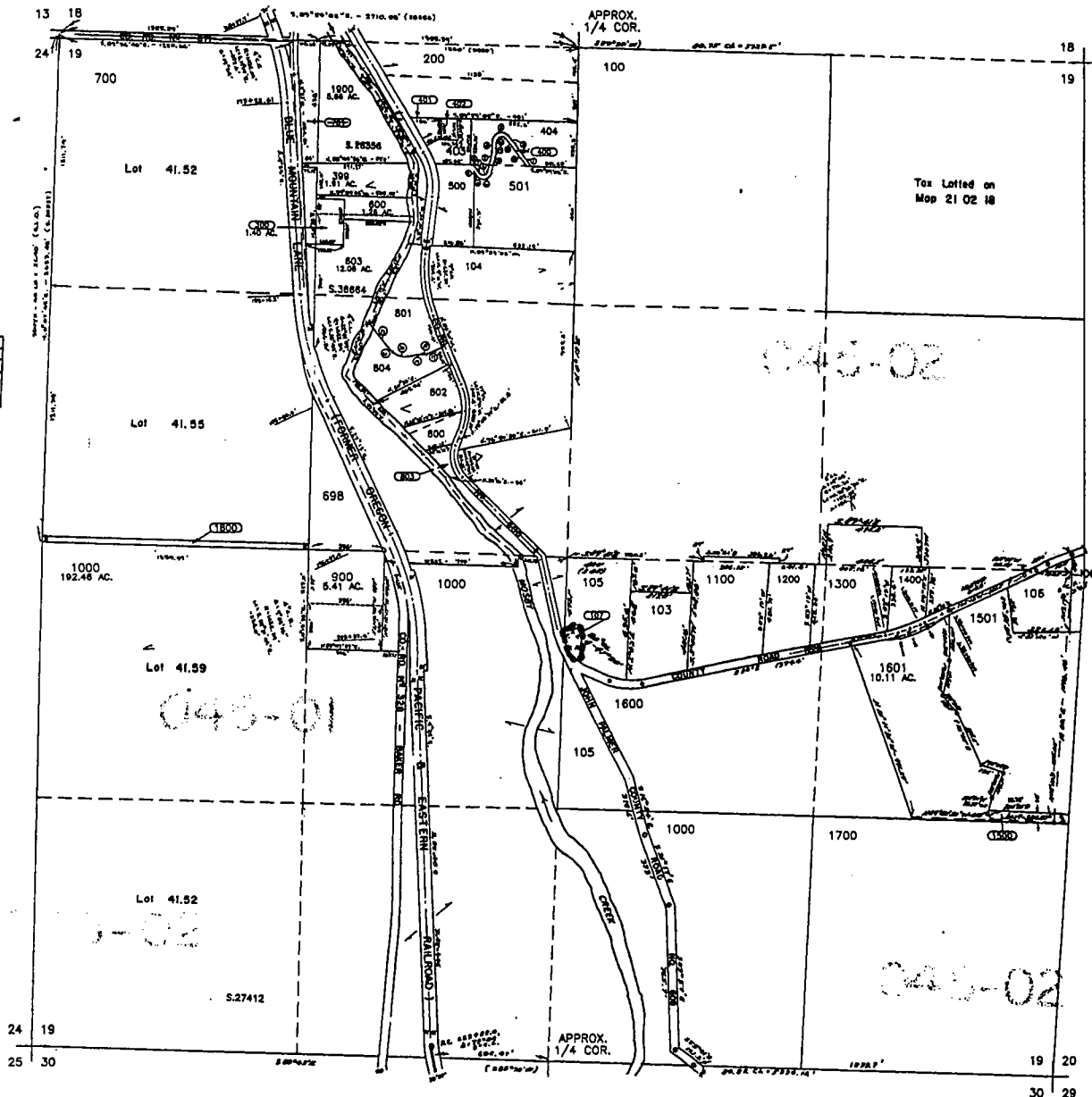
C.A.D. SYS.

NAD 83/91

T.L. 402		
NO.	BEARING	DIST.
1.	N. 89° 52' 02" W.	83.18
2.	S. 89° 52' 02" W.	100.00
3.	N. 89° 52' 02" W.	83.18
4.	S. 89° 52' 02" W.	100.00
5.	N. 89° 52' 02" W.	83.18

NO.	BEARING	DIST.
1.	N. 89° 52' 02" W.	83.18
2.	S. 89° 52' 02" W.	100.00
3.	N. 89° 52' 02" W.	83.18
4.	S. 89° 52' 02" W.	100.00
5.	N. 89° 52' 02" W.	83.18

SEE MAP 21 03 24



CANCELLED
701

T.L. 400		
NO.	BEARING	DIST.
1.	N. 89° 52' 02" W.	83.18
2.	S. 89° 52' 02" W.	100.00
3.	N. 89° 52' 02" W.	83.18
4.	S. 89° 52' 02" W.	100.00
5.	N. 89° 52' 02" W.	83.18
6.	S. 89° 52' 02" W.	100.00
7.	N. 89° 52' 02" W.	83.18
8.	S. 89° 52' 02" W.	100.00
9.	N. 89° 52' 02" W.	83.18
10.	S. 89° 52' 02" W.	100.00
11.	N. 89° 52' 02" W.	83.18
12.	S. 89° 52' 02" W.	100.00
13.	N. 89° 52' 02" W.	83.18
14.	S. 89° 52' 02" W.	100.00
15.	N. 89° 52' 02" W.	83.18
16.	S. 89° 52' 02" W.	100.00
17.	N. 89° 52' 02" W.	83.18
18.	S. 89° 52' 02" W.	100.00
19.	N. 89° 52' 02" W.	83.18
20.	S. 89° 52' 02" W.	100.00

SEE MAP 21 02 20

NO.	BEARING	DIST.
1.	N. 89° 52' 02" W.	83.18
2.	S. 89° 52' 02" W.	100.00
3.	N. 89° 52' 02" W.	83.18
4.	S. 89° 52' 02" W.	100.00
5.	N. 89° 52' 02" W.	83.18
6.	S. 89° 52' 02" W.	100.00
7.	N. 89° 52' 02" W.	83.18
8.	S. 89° 52' 02" W.	100.00
9.	N. 89° 52' 02" W.	83.18
10.	S. 89° 52' 02" W.	100.00

SEE MAP 21 02 30

21 02 19

C. Lane County Assessor's Maps TRS 21-02-19.

Exhibit No. C-15

PRZC Control No. 15

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 443-2

**Plan Amendment and Zone Change for
Tax Lot 900 of Assessor's Map 21-02-19**

Tax lot	Acreage	From	To
900	5.41	Rural Industrial (RI)	Rural Public Facility (RPF)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*

OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*

Lane County Rural Comprehensive Plan Policies

Goal Two, Policy 27 Conformity Determination Amendment

Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*

Lane Code 16.292 - *Rural Industrial Zone*

Lane Code 16.294 - *Rural Public Facility Zone*

Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The property subject to this application, hereinafter referred to as the "subject property," is located west of Blue Mountain School Road and approximately 2,700 feet south of the intersection of Allen Road. It is within the Developed & Committed Exception Area No. 443-1. It can be identified as tax lot 900 of Assessor's map 21-02-19, with a rural address of 76132 Blue Mountain School Road, Cottage Grove, OR 97424-9491, 5.41 acres in size.
2. The subject property, tax lot 900, is developed with the Blue Mountain School constructed in 1955 by the South Lane School District #45. The school is currently a private elementary school.
3. The subject property was designated as Public Facility (PF) in February 1984 in conjunction with the prior public school use of the property. In April 1984, the South Lane School District requested an amendment from PF to Limited Industrial (M1) zoning to allow the District to lease the facility to Able Computers as a research center. The amendment was approved in Ordinance No. PA 888 on July 17, 1984. In compliance with Work Task 5 of the Periodic Review Work Program, the property designation was amended from M1 Limited Industrial to Rural Industrial (RI) by Ordinance No. PA 1222 on June 15, 2005.
4. On October 13, 1998, the Lane County Hearings Official approved a temporary use permit (PA 98-5018) to allow the operation of a school within the M-1 Limited Industrial Zone.
5. This request for the zone change is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the school activities is inconsistent with the Rural Industrial Zone (RI) and a more permanent acknowledgement of the use of the facility is warranted.
6. Both educational and residential uses are consistent with the Rural Public Facility (RPF) zone and allowed by Lane Code 16.294(3)(f) and Lane Code 16.294(3)(v), respectively.

Lane Code (LC) 16.294(3)(f) Educational facilities and services such as: nursery, primary and secondary education; colleges and professional schools; special training schools such as those for: vocations, trades, arts, music, dancing, gymnastics and correspondence. Such uses must be located inside an unincorporated community.

Lane Code (LC) 16.294(3)(v) A single family dwelling for a caretaker that meets the following conditions:

- (i) The single family dwelling shall be for a caretaker in conjunction with an existing public facility use permitted by LC 16.294(2)(a) through (d) or (3)(a) through (u) above and located on the same lot or parcel as the existing public facility use.*
- (ii) There shall not be any other living quarters or dwellings on the lot, parcel or tract where the single family dwelling for the caretaker will be located; and*
- (iii) The single family dwelling for the caretaker shall not be partitioned or separated by a boundary line adjustment from [a] portion of the same lot or parcel with the public facility use on it.*

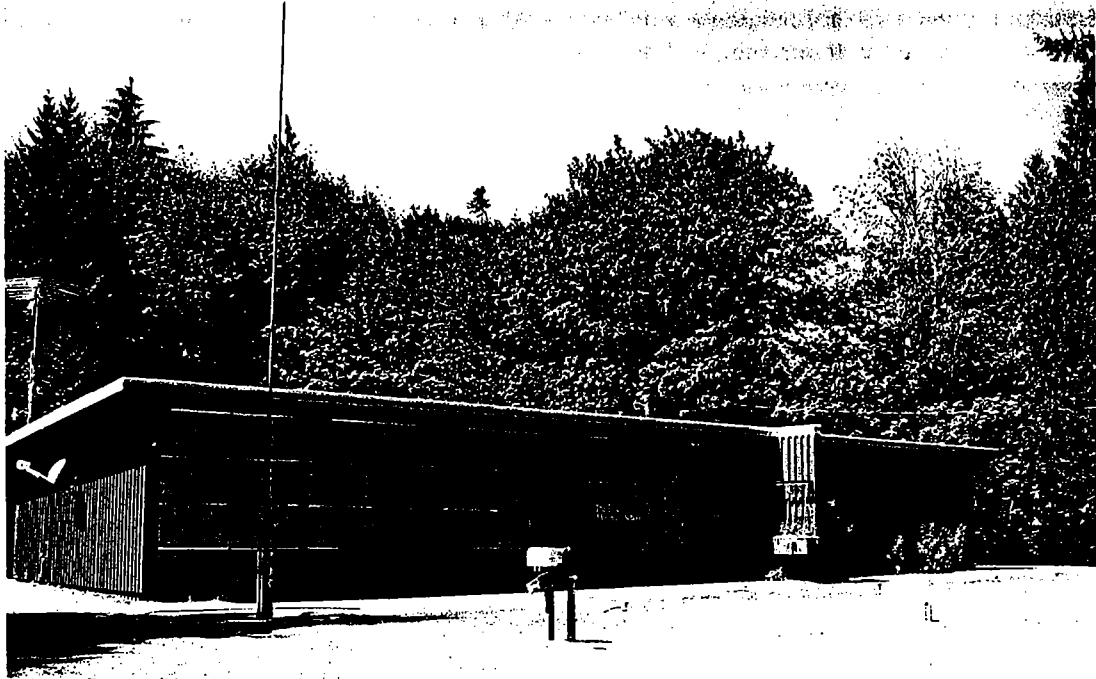
The use complies with the *Purpose* statement of LC 16.294(1)(b) *Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . (b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associate with other zones . . .*



- The Blue Mountain facility is the cluster of buildings in the center of the aerial photograph above.

7. The existing school facilities and uses include:

Main school building:	35' x 94' @ 3,290 sq. ft. (classrooms)
	15' x 94' @ 1,410 sq. ft. (covered play area)
Gymnasium:	41' x 60' @ 2,460 sq. ft.
Cafeteria:	24' x 32' @ 1,128 sq. ft. (+ additional attached storage areas)
Quiet reading room:	16' x 30' @ 480 sq. ft.



Top: Main building (classrooms). Bottom: Gymnasium



8. On May 27, 1999, approval was granted for placement of a caretaker mobile home per BP 99-0751, to the south of the main school building.



9. There is no record of any historical compatibility issues occurring between the existing school uses on the subject property and their neighbors since the school was re-established in the 1998.
10. The subject property does lie within an area identified as a “water quantity limited” area in Lane Manual 13.010. However, the existing school and the prior operation of the District #45 facilities are adequately served by an on-site well.
11. The subject property receives the following public services: South Lane School District #45 (upper elementary, middle and high schools); Emerald People’s Utility District (electrical power); South Lane County Fire & Rescue Department (fire and ambulance); US Qwest (telephone); Lane County Sheriffs Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
12. There is no apparent wetland on the subject property, per NWI map Blue Mountain 2.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in

compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) *Uses which are the same as the existing types of land use on the exception site; or*

The zone change requested by this application is intended to apply a zoning designation in conformity with the existing use of the property as a school facility in conjunction with the existing caretaker residential use, that have been integrated into the surrounding rural area for 50 years, 1955-2005.

(b) *Which meet the following requirements:*

(A) *The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and*

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is not located within an urban growth boundary. The property receives a rural level of police and fire protection. The proposed rezoning will conform with and provide for the public and private educational uses that have existed on the subject property during several extended periods since 1955.

(B) *The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and*

There are (F2) Impacted Forest Lands located to the northwest of the subject property. Nonimpacted Forest Land (F1) abuts on the western and southern boundaries. The closest EFU lands are located across Blue Mountain School Road, Mosby Creek and Mosby Creek Road approximately 700 feet to the east. Rural Residential (RR5) properties abut to the north. The eastern boundary is defined by Blue Mountain School Road and the Lane County Blue Mountain Park is situated east of the road right-of-way between the road and Mosby Creek. The RR5 lands were designated in 1984 within Developed and Committed Exception Area No. 443-2. The existing educational facility

on the subject property was present at the time and no intensification has occurred since then. No new impacts or increased commitment to nonresource uses have been identified on the F1 or F2 lands to the west, northwest and south since 1984.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing and prior schools on the subject property have been compatible with the resource use of the adjacent forest lands since 1955.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 443-2 of Lane County. It is proposed to be designated Public Facility by the Lane County Rural Comprehensive Plan and zoned Rural Public Facility (RPF). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (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 Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject property (tax lot 900 of TRS Map 21-02-19) is relatively flat across the developed area enclosing the school facilities and rises to the west into 20-30 percent slopes. The slopes in the western portion of the subject property are forested with no identified hazards due to excessive slope, grade or terrain features. Development has been orderly since 1955 and through application of land use regulations providing for the current uses. The resulting educational uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zone: Lane Code 16.294 (RPF).

(2) Protect and diversify the economy of the County.

Re-designation of the subject property will allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) Conserve farm and forest lands for the production of crops, livestock and timber products.

The developed site is small, approximately 2.5 acres including the ball fields, and has been in existence since 1955. The upland 2.9 acres is wooded and under passive forest management.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 900 will acknowledge the existing elementary school facility and provide an opportunity for continuation and improvements on the subject property. The current residential and educational uses are served by on-site well and sand filter subsurface disposal system and therefore will not alter the use or quality and availability of groundwater that is currently provided to the structures.

In the event that a more intensive or different use is proposed for the subject property, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."

The existing school structures and residential use on the subject property has co-existed since 1955 and 1998 with the agricultural and forest product industries in the surrounding area. The nearest EFU E40 resource lands are located 700 feet to the northeast across Highway two county roads and Mosby Creek. Schools commonly occurred adjacent to resource lands in past decades to provide educational opportunities for forest and mill worker's families. Any expansion or intensification of the school would require compliance with Lane Code

16.294(4) siting standards and although the standards do not directly address this policy, new uses are intended to be “compatible with the surrounding vicinity” and to “minimize any adverse effect on existing or contemplated abutting land use”.

- e. *Flora and Fauna, Policies 1 and 10* “Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

There are no delineated wetlands on the subject property. There is a small, unnamed stream that traverses from west to east along the northern property line that is identified as a Class I Stream for protection under the RCP riparian protection regulations. The closest structure on the subject property to the stream is approximately 55 feet which complies with the riparian setback standards of LC 16.294 and 16.253. The current development is approximately 500 feet from Mosby Creek, also a Class I stream (Type F) located 500 feet to the east. The continued use will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

- a. *Lane Code 16.003.* Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

- (7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where the specific development has been in place and active since 1955. The existing school and caretaker residence are rural uses that utilize a rural level of facilities. Recognizing the Blue Mountain School for what it has been for 50 years is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

- (11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject property (tax lot 900) is not within the 100-year flood hazard area. There are no other natural hazards identified on the property.

- b. *Not Contrary to the Public Interest*

The “public interest” has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then

it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the school's services in this area.

c. Lane Code 16.294

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is . . .to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual not normally associated with other zones. The proposed rezoning and uses on tax lot 900 are consistent with this purpose.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is located in an area identified as being water quantity limited, however the subject property utilizes an onsite well that has provided adequate water for the school during the past 50 years...

The subject property is small in size (5.41 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the capacity of the groundwater aquifer and carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.294(4)(i).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for TRS 21-02-19, tax lot 900 (5.41 acres) from Industrial (I) to Public Facility (PF), and Rural Industrial (RI) to Rural Public Facility (RPF), respectively, have been met.

IV. RECOMMENDATIONS

1. Approval of PRZC Control No. 15 of Ordinance No. PA 1226, amending the Official Plan Map No. 443 for tax lot 900 of Assessors Map TRS 21-02-19, from Industrial (I) to Public Facility (PF); and
2. Approval of PRZC Control No. 15 of Ordinance No. PA 1226, amending the Official Zoning Map No. 443 designations for tax lot 900 of Assessors Map TRS 21-02-19, from Rural Industrial (RI) to Rural Public Facility (RPF).

V. EXHIBITS

- A. Plan Map No. 443 with proposed plan change depicted.
- B. Zoning Map Plot No. 443 with proposed zone change depicted.
- C. Lane County Assessor's Maps TRS 21-02-19
- D. Plot Plan (9-9-98)
- E. Assessor's field notes

FOR ASSESSMENT
AND TAXATION
ONLY

SECTION 19 T.21S. R.2W.W.M.

LANE COUNTY

SCALE 1" = 400'

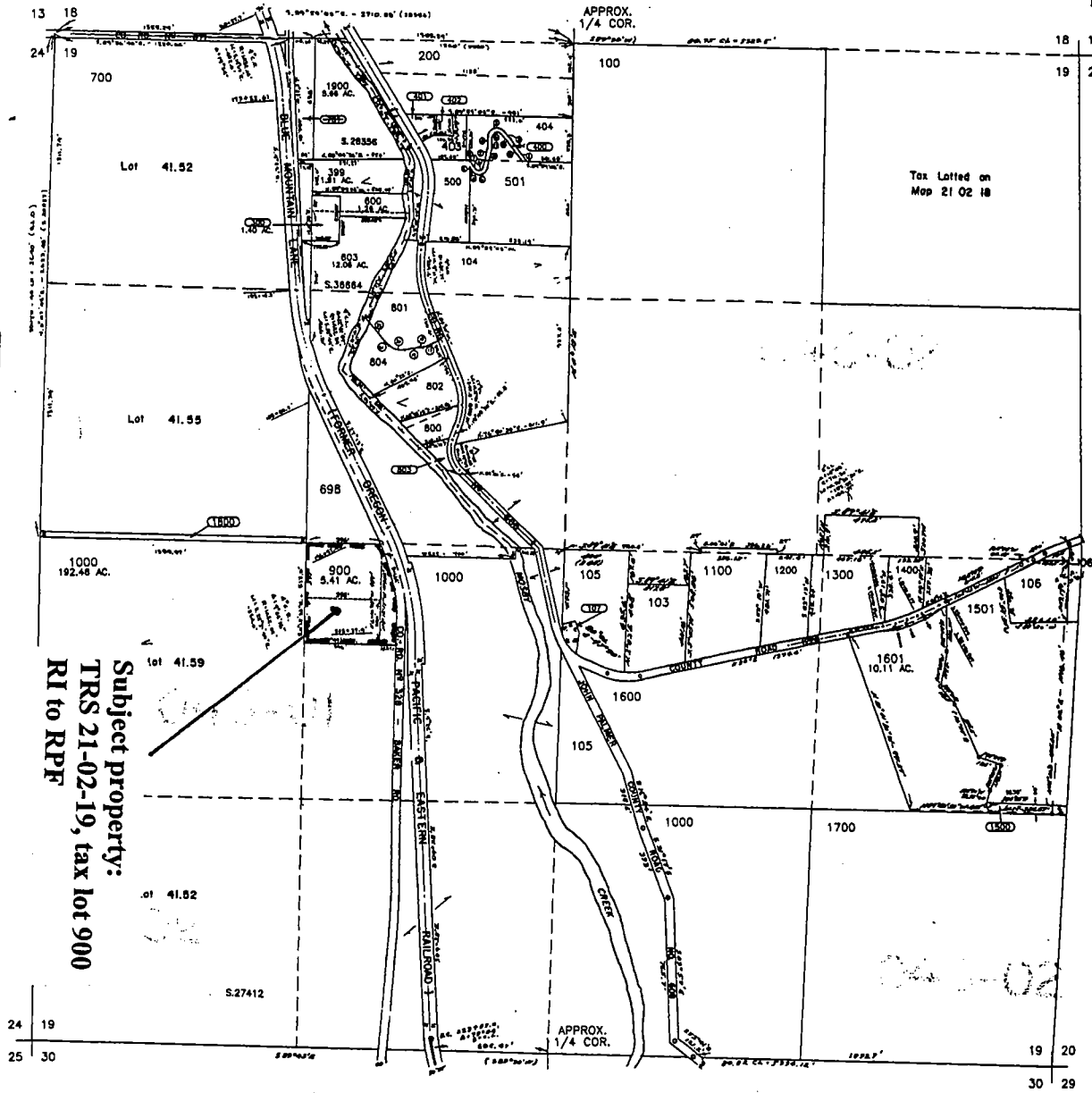
SEE MAP 21 02 18

21 02 19

DATE	REVISION	EMPLOYEE
1/27/18	REVISED BY C.A.D. SYSTEMS	CONLEY
7/27/18	ALL RECORDS TO DATE 7/27/18	CONLEY

C.A.D. SYS.

NAD 83/91



CANCELLED
701

Tax Lotted on
Map 21 02 18

NO.	BEARING	DIST.	REMARK
1	S 89° 50' 00" W	100.00'	R=140'
2	S 89° 50' 00" W	100.00'	R=140'
3	S 89° 50' 00" W	100.00'	R=140'
4	S 89° 50' 00" W	100.00'	R=140'
5	S 89° 50' 00" W	100.00'	R=140'
6	S 89° 50' 00" W	100.00'	R=140'
7	S 89° 50' 00" W	100.00'	R=140'
8	S 89° 50' 00" W	100.00'	R=140'
9	S 89° 50' 00" W	100.00'	R=140'
10	S 89° 50' 00" W	100.00'	R=140'
11	S 89° 50' 00" W	100.00'	R=140'
12	S 89° 50' 00" W	100.00'	R=140'
13	S 89° 50' 00" W	100.00'	R=140'
14	S 89° 50' 00" W	100.00'	R=140'
15	S 89° 50' 00" W	100.00'	R=140'
16	S 89° 50' 00" W	100.00'	R=140'
17	S 89° 50' 00" W	100.00'	R=140'
18	S 89° 50' 00" W	100.00'	R=140'
19	S 89° 50' 00" W	100.00'	R=140'
20	S 89° 50' 00" W	100.00'	R=140'
21	S 89° 50' 00" W	100.00'	R=140'
22	S 89° 50' 00" W	100.00'	R=140'
23	S 89° 50' 00" W	100.00'	R=140'
24	S 89° 50' 00" W	100.00'	R=140'
25	S 89° 50' 00" W	100.00'	R=140'
26	S 89° 50' 00" W	100.00'	R=140'
27	S 89° 50' 00" W	100.00'	R=140'
28	S 89° 50' 00" W	100.00'	R=140'
29	S 89° 50' 00" W	100.00'	R=140'
30	S 89° 50' 00" W	100.00'	R=140'

NO.	BEARING	DIST.
1	S 89° 50' 00" W	100.00'
2	S 89° 50' 00" W	100.00'
3	S 89° 50' 00" W	100.00'
4	S 89° 50' 00" W	100.00'
5	S 89° 50' 00" W	100.00'
6	S 89° 50' 00" W	100.00'
7	S 89° 50' 00" W	100.00'
8	S 89° 50' 00" W	100.00'
9	S 89° 50' 00" W	100.00'
10	S 89° 50' 00" W	100.00'
11	S 89° 50' 00" W	100.00'
12	S 89° 50' 00" W	100.00'
13	S 89° 50' 00" W	100.00'
14	S 89° 50' 00" W	100.00'
15	S 89° 50' 00" W	100.00'
16	S 89° 50' 00" W	100.00'
17	S 89° 50' 00" W	100.00'
18	S 89° 50' 00" W	100.00'
19	S 89° 50' 00" W	100.00'
20	S 89° 50' 00" W	100.00'
21	S 89° 50' 00" W	100.00'
22	S 89° 50' 00" W	100.00'
23	S 89° 50' 00" W	100.00'
24	S 89° 50' 00" W	100.00'
25	S 89° 50' 00" W	100.00'
26	S 89° 50' 00" W	100.00'
27	S 89° 50' 00" W	100.00'
28	S 89° 50' 00" W	100.00'
29	S 89° 50' 00" W	100.00'
30	S 89° 50' 00" W	100.00'

1. S 89° 50' 00" W 100.00'
2. S 89° 50' 00" W 100.00'
3. S 89° 50' 00" W 100.00'
4. S 89° 50' 00" W 100.00'
5. S 89° 50' 00" W 100.00'
6. S 89° 50' 00" W 100.00'
7. S 89° 50' 00" W 100.00'
8. S 89° 50' 00" W 100.00'
9. S 89° 50' 00" W 100.00'
10. S 89° 50' 00" W 100.00'

Subject property:
TRS 21-02-19, tax lot 900
RI to RPF

SEE MAP 21 02 20

S 89° 50' 00" W 100.00'
S 89° 50' 00" W 100.00'
S 89° 50' 00" W 100.00'
S 89° 50' 00" W 100.00'
S 89° 50' 00" W 100.00'

21 02 19

SEE MAP 21 02 30

C. Lane County Assessor's Maps TRS 21-02-19

INITIAL FORM

r drawings

APPLICANT NAME:
LESLEY STINE

APPLICANT PHONE #:
988-9412

APPLICANT ADDRESS:
1044 ASH AVE.
COTTAGE GROVE OR 97424

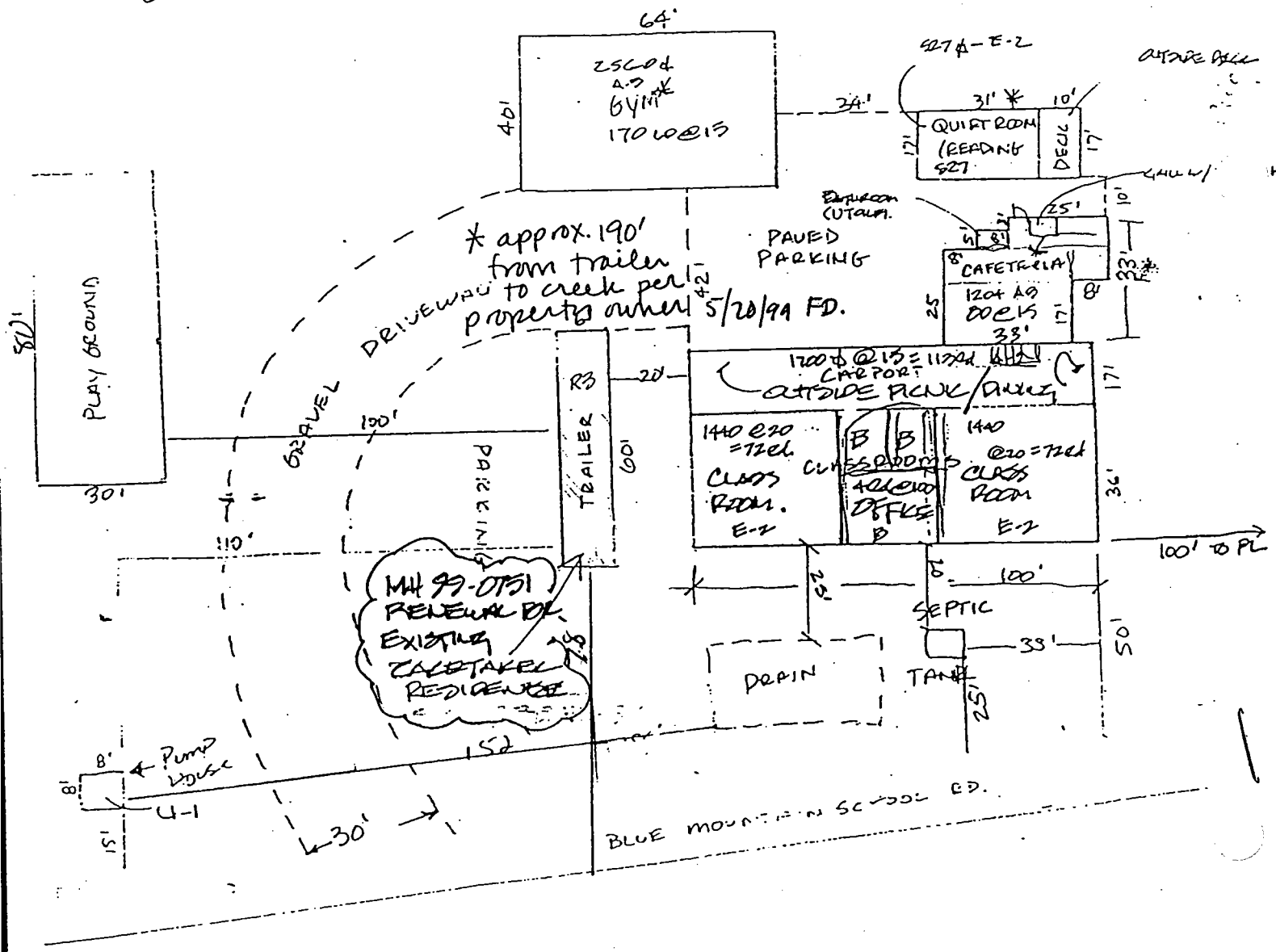
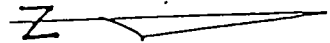
* ANTICIPATED USE(S)

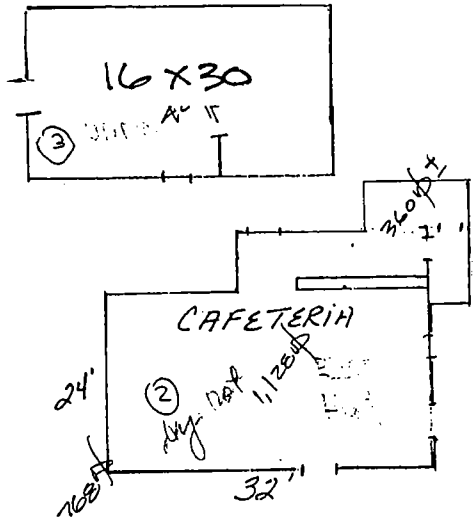
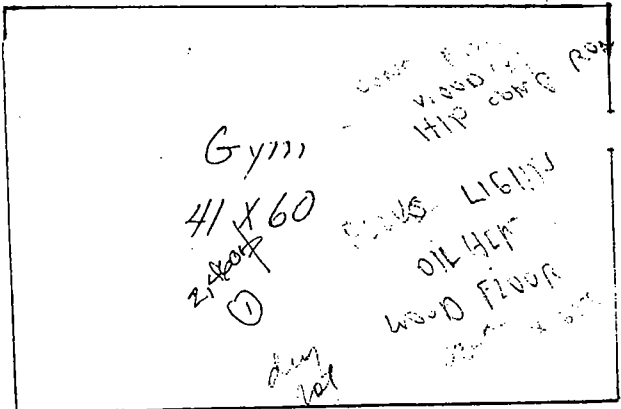
9/9/98
~~PLOT PLAN ACCEPTED~~
SUM

Indicate which direction is north with an arrow

BUILDING PLAN
CLOSE-UP

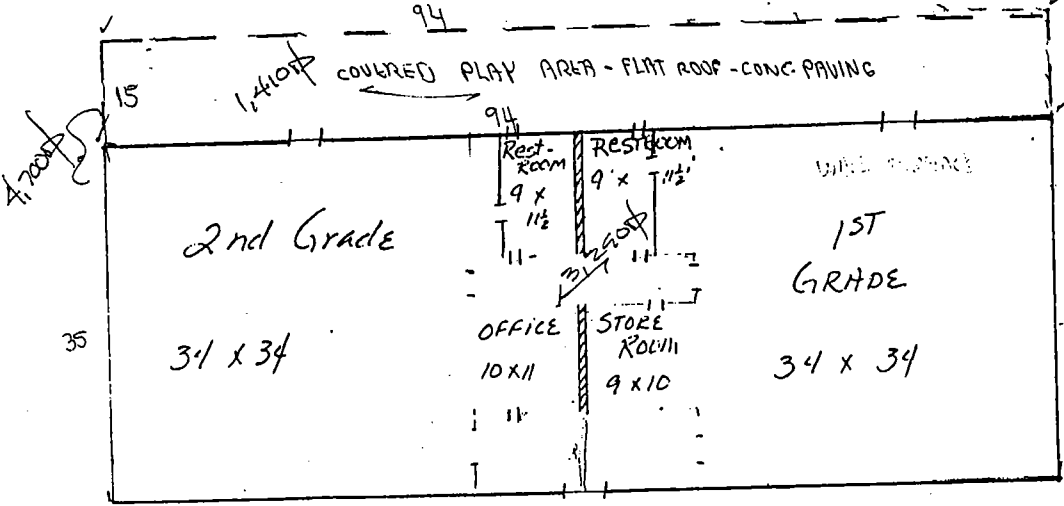
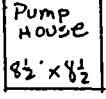
SCALE 1" = 40'





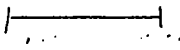
LONG ROOM FLOOR
WOOD FRAME
WOOD FLOOR
25 x 65

PUMP HOUSE
IS ON OTHER
SIDE OF SCHOOL



CONC FOUND
WO FRAME
WO EXTERIOR
SHED ROOF
TILE + CARPET FLOOR

Scale



Blue Mountain School

TOTAL DEPRECIATED REPLACEMENT COST (TRANSFER TO SUMMARY) \$ 52,930

APPRaiser: 258

E. Assessor's field notes

Exhibit No. C-16

PAPA Control No. 16

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Rural Community of Culp Creek
Developed & Committed Exception Area No. 509 -2

Plan Amendments and Zone Changes for:

Tax lot 4200 of Assessor's Map TRS 21-01-30
and
Tax lot 1800 of Assessor's Map TRS 21-01-31.1.2

TRS - Tax lot	Acres	From	To
21-01-30, 4200	0.78	Rural Residential (RR2-C)	Rural Public Facility (RPF-C)
21-01-31.1.2, 1800	0.24	Rural Residential (RR2-C)	Rural Commercial (RC-C)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*

Lane County Rural Comprehensive Plan Policies

Goal Two, Policy 27 Conformity Determination Amendment

Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*

Lane Code 16.290 - *Rural Residential Zone (RR)*

Lane Code 16.291 - *Rural Commercial Zone (RC)*

Lane Code 16.294 - *Rural Public Facility (RPF)*

Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

The proposed plan amendments and zone changes are for one property in the ownership of Lane Electric Cooperative, a public utility company, and one property in the ownership of Qwest Corporation, a telephone communications provider, that were designated as Rural Residential (RR2) in 1984.

The appropriate designation for the 0.78 of-an-acre, tax lot 4200 of TRS 21-01-30 that includes the Lane Electric Cooperative - Culp Creek Substation is Rural Public Facility (RPF-C).

The appropriate designation for the 0.24 of-an-acre, tax lot 1800 of TRS 21-01-31.1.2, that includes the Qwest telephone facility is Rural Commercial (RC-C).

II. FINDINGS OF FACT

TRS 21-01-30, tax lot 4200 – 0.78 of-an-acre

Properties Owner: Lane Electric Cooperative

Proposed change in zoning designation from Rural Residential (RR2) to Rural Public Facility (RPF-C).

1. The property subject to this application, hereinafter referred to as the "subject property," is located east of the right-of-way of the Row River Road. It is within Developed & Committed Exception Area No. 509-2. It can be identified as tax lot 4200 of Assessor's map 21-01-30 and is 0.78 of-an-acre in size.
2. The subject property was designated as Rural Residential (RR2) in 1984 in conjunction with surrounding properties and was developed with the Lane Electric Cooperative – Culp Creek Substation at the time.
3. The request for the change of zone is to bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the utility's public service and facilities is inconsistent with the Rural Residential Zone (RR2).
4. The existing public facility use of the subject property is an allowable use in the Rural Public Facility Zone per *Lane Code (LC) 16.294(3)(a) Electric utilities such as: a generation plant, transmission facilities, right-of-ways, electrical regulating substations, and other facilities related to electricity generation and distribution.*

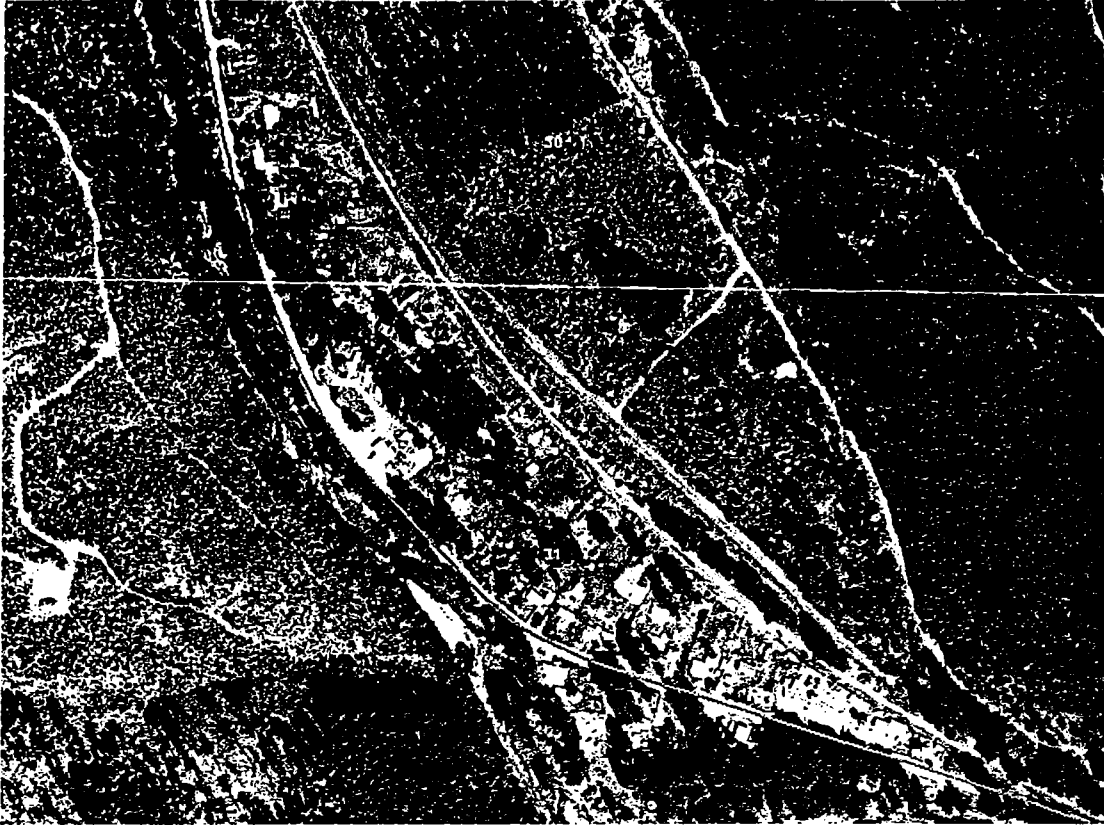
The use complies with the Purpose statement of LC 16.294(1)(b) Purpose: The purposes of the Rural Public Facility Zone (RPF-RCP) are . . . *to provide land for public and semipublic uses and development that serve rural residents and people traveling through the area that are by nature intensive or unusual uses not normally associated with other zones.*

6. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the mid-1970's.
7. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility does not require a potable source of water.
8. The subject property receives the following public services: South Lane District #45 (schools); Lane Electric Cooperative (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetland on the subject properties, per NWI map Culp Creek 2.

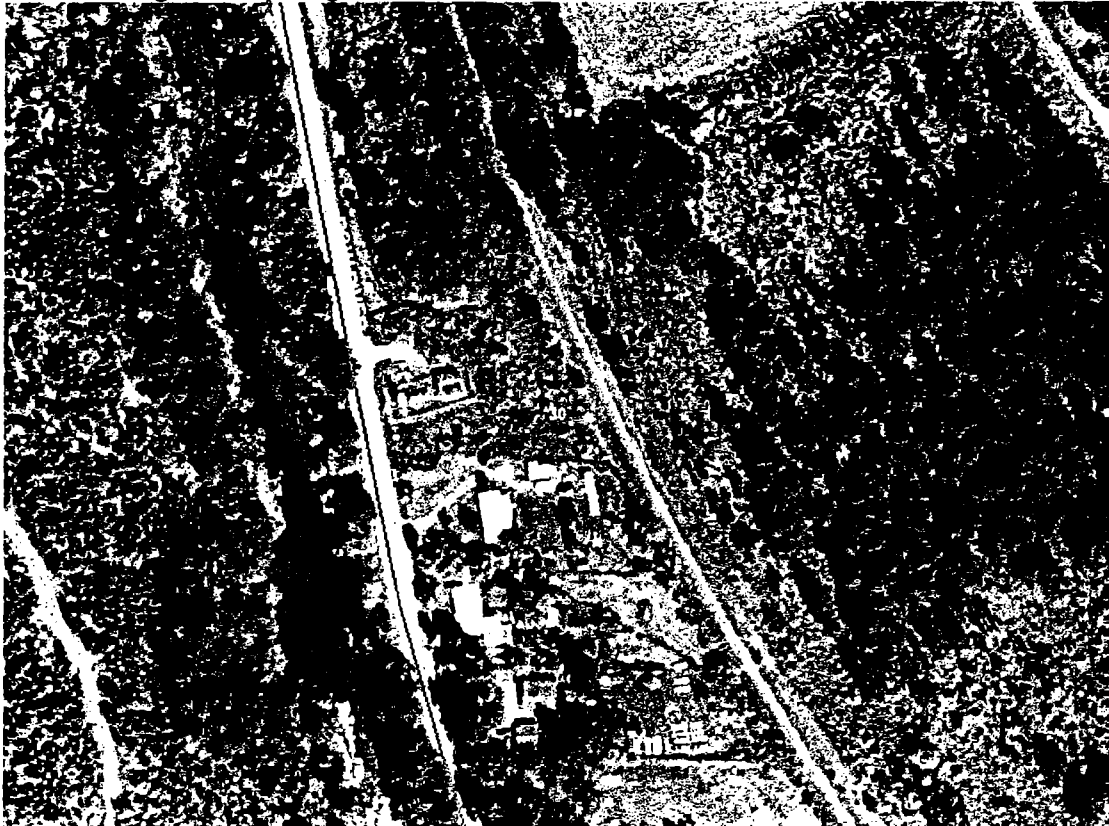
Photograph of the subject property: October 2004 – Culp Creek Substation.



Vicinity of D&C Exception Area 509-2 (northwest third of Culp Creek).



Below: Enlargement depicting the area of the Lane Electric – Culp Creek Substation



TRS 21-01-30.1.3, tax lot 1800 – 0.24 of-an-acre

Properties Owner: Qwest Corporation

Proposed change in zoning designation from Rural Residential (RR2-C) to Rural Commercial (RC-C).

1. The property subject to this application, hereinafter referred to as the "subject property," is located south of the right-of-way of the Row River Road. It is within Developed & Committed Exception Area No. 509-2. It can be identified as tax lot 1800 of Assessor's map 21-01-30.1.2 and is 0.24 of-an-acre in size.
2. The subject property was designated as Rural Residential (RR2) in 1984 in conjunction with surrounding properties and was developed with the telephone exchange facility at the time. The original facility (398 sq. ft.) was constructed in 1980 (LC 490-80) and an addition (272 sq. ft.) was added in 2001 (PA 01-5527, BP 01-0201).
3. The request for the change of zone is to bring the existing use of the subject property into conformity with the Rural Comprehensive Plan and Lane Code. The use of the subject property in connection with the commercial telephone service and facilities is inconsistent with the Rural Residential Zone (RR2), Lane Code 16.290.
4. The existing commercial use and opportunity for diversification of the use on of the subject property is allowable under either of two provisions in the Rural Commercial Zone (RC) Lane Code 16.291:

Lane Code (LC) 16.291(3)(w) Communication facilities including but not limited to those for radio, television, computers, or satellites.

Lane Code (LC) 16.291(3)(x) Telecommunications facilities, including towers, antennas, and ancillary facilities as allowed pursuant to LC 16.264.

The use complies with the Purpose statement of LC 16.291(1) Purpose: One of the purposes of the Rural Commercial Zone (RC) is . . . *to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents and people traveling through the rural . . .*

5. There is no record of any historical compatibility issues occurring between the existing use on the subject property and their neighbors since the facility were established in the mid-1970's.
6. The subject property does not lie within an area identified as a "water quantity limited" area in Lane Manual 13.010. The facility includes a "limited use" restroom served by an onsite septic system and the water is provided by the Cottage Grove Water District.
7. The subject property receives the following public services: South Lane District #45 (schools); Lane Electric Cooperative (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
8. There is no apparent wetland on the subject properties, per NWI map Culp Creek 2.

Photograph of the subject property: Qwest Corporation telephone exchange facility.



Below: Aerial photo – Subject property in the Rural Community of Culp Creek



III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject properties are within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) *Uses which are the same as the existing types of land use on the exception site; or*

The zone changes requested by this staff report are intended to recognize:

1. The “public facility” use of Lane Electric Cooperative substation which was established on the subject property in mid-1970s and amend the zoning designation to conform to the use; and
2. The “commercial” use of Qwest Corporation transfer station which was established on the subject property in 1980 and added onto in 2001 and amend the zoning designation to conform to the use.

(b) *Which meet the following requirements:*

(A) *The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and*

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject properties are located within developed & committed exception area No. 509-2, and are not within an urban growth boundary. The properties receive a rural level of police and fire protection.

(B) *The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and*

- Tax lot 4200 -- Lane Electric Cooperative - Culp Creek Substation – TRS 21-01-30.

The subject property is adjacent to Rural Residential (RR2) lands to the south. The right-of-ways of Row River Road and the Row River to the west separate the facility from Forest Land (F1) in that direction. Nonimpacted Forest Land also abuts on the northern and eastern boundaries. The closest EFU lands are located over 5,000 feet to the north and separated from the subject property by Rural Community of Dorena. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the adjacent F1 lands.

- Tax lot 1800 – Qwest Corporation telephone transfer station – TRS 21-01-31.1.2

The subject property is surrounded by Rural Residential (RR2) lands. The right-of-ways of Row River Road about the northern boundary and the Row River further to the south buffers the facility from Forest Land (F1) in that direction. Nonimpacted Forest Land to the north is buffered by the RR2 lands on the northern side of Row River Road. The closest EFU lands are located over 7,000 feet to the north and separated from the subject property by Rural Community of Dorena. There are no foreseeable impacts from the continuation of this existing use and the proposed zone change, or any increased commitment to nonresource uses of the F1 lands in the vicinity.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 509-2 includes 17 Rural Residential (RR2) properties along the northern right-of-way of Row River Road and 16 are developed with residences constructed during the 1935 to 1954 period. Five additional residences exist south of the right-of-way on six RR2 properties. One property is currently designated Rural Commercial (RC) and includes the Boyd's Mobile Home and RV Park with thirteen spaces and the vacant Boyd's Market which closed several years ago.

The Lane Electric Cooperative facility has been providing a service in southeastern Lane County for decades and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

The Qwest telephone transfer facility has been providing a service in southeastern Lane County since 1980 and the record indicates this facility has been compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. OAR 660-022-0030(6),(7),(8) – Unincorporated Community Rule

OAR 660-022-0030 (6) County plans and land use regulations shall ensure that new uses authorized within unincorporated communities do not adversely affect agricultural or forestry uses.

Development standards and uses allowed conditionally by LC 16.291 in the Rural Commercial Zone and LC 16.294 in the Public Facility Zone were adopted in April 2002 in compliance with the Unincorporated Community Rule. The operation of the existing Culp Creek Substation and the Qwest transfer station within the rural community of Culp Creek have not adversely affected the management practices of forest operators in the area and there is no foreseeable way that the continued operation of the existing structures in the newly designated public facility and commercial zone respectively, could pose any new adverse impact to management of farm or forest lands in the region. Any new commercial use proposed on either subject property would require prior approval by the Planning Director for a special use permit pursuant to the criteria of Lane Code 16.294(3) and (4) or Lane Code 16.291(3) and (4), respectively.

OAR 660-022-0030(7) County plans and land use regulations shall allow only those uses which are consistent with the identified function, capacity and level of service of transportation facilities serving the community, pursuant to OAR 660-012-0060(1)(a) through (c).

OAR 660-012-0060(1)(a)-(c) Plan and Land Use Regulation Amendments

(1) Amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and performance standards (e.g. level of service, volume to capacity ratio, etc.) of the facility. This shall be accomplished by either:

(a) Limiting allowed land uses to be consistent with the planned function, capacity, and performance standards of the transportation facility;

Both of the properties have developed access points to the County road, Row River Road and the current uses are compatible with the capacity of the road. Both facilities have adequate parking spaces for maintenance vehicles onsite. The only traffic generated by the use of the facilities is for periodic site inspections and preventative maintenance by vehicle or two at a time.

(b) Amending the TSP to provide transportation facilities adequate to support the proposed land uses consistent with the requirements of this division;

Lane County adopted new Transportation Services Plan (TSP) and revisions to Lane Code 15 Roads in May 2004. Any proposed expansion of the current uses or request for a new use on the subject properties would require compliance with the permitting process and the siting standards and criteria of LC 16.294(3) and (4) in the RPF zone or LC 16.291 (3) and (4) in the Rural Commercial Zone. The criteria of both LC zoning regulations requires that the applicant provide findings of fact and conclusions of law addressing available services, onsite traffic circulation and traffic generation on public roads, and provide for the Planning Director's conditions of approval to ensure improvements to public facilities such as roads, and to address traffic safety and congestion concerns anticipated by the development.

(c) Altering land use designations, densities, or design requirements to reduce demand for automobile travel and meet travel needs through other modes; or

No increase in anticipated traffic as a result of the proposed zone changes has been identified. No need to reduce automobile travel by citizens of Culp Creek or the general traveling public to or through the rural community is warranted. Use of the county road system is essential to the tourism and local trade that supports Culp Creek, the current employment options in Dorena and Culp Creek,

and any potential development of the proposed commercial or public facility properties, which is to serve rural citizens living in the vicinity and travelers coming to or passing through the area.

OAR 660-022-0030(8) Zoning applied to lands within unincorporated communities shall ensure that the cumulative development:

(A) Will not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations; and

Expansion of existing uses or implementation of new uses within the RPF-C zone or RC-C zone require Planning Director approval and compliance with LC 16.294(4)(h) or LC 16.291(4)(i) criteria: “(--) *The proposed use and development shall not result in public health hazards or adverse environmental impacts that violate state or federal water quality regulations.*”

(B) Will not exceed the carrying capacity of the soil or of existing water supply resources and sewer services.

Expansion of existing uses or implementation of new uses within the RPF-C zone or RC-C zone require Planning Director approval and compliance with LC 16.294(4)(i) or LC 16.291(4)(j) criteria: “(--) *The use or development shall not exceed the carrying capacity of the soil or of existing water supply resources and sewer services. Factual information shall be provided about any existing or proposed sewer or water systems for the site and the site’s ability to provide on site sewage disposal and water supply if a community sewer or water system is not available.*”

B. Plan Conformity

The two subject properties are located in developed and committed exception area number 509-2 of the Rural Community of Culp Creek.

The policies of the Rural Comprehensive Plan applicable to these amendment requests are as follows:

- A. *Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County’s Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (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 Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

- (1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject properties are relatively flat with no identified hazards due to slope, grade or terrain features. The development of the public facility use and the commercial use have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or new uses will require compliance with the applicable criteria and siting standards of the base zones, Lane Code 16.294 (RPF) or Lane Code 16.291 (RC).

- (2) *Protect and diversify the economy of the County.*

The Culp Creek Substation transports and provides access to electrical power in the rural areas and economy of the Dorena and Culp Creek region. This service is longstanding and essential to the economy of the region.

The Qwest facility has provided telephone communications to the region since 1980 and is essential to the economy of the region.

Re-designation of the subject properties will allow diversification of the current uses in compliance with the required permit processes, criteria and standards.

- (8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The facilities are well located for distribution of services to their customers.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The proposed rezoning of tax lot 4200 (Lane Electric) will acknowledge the existing public facility on the subject property. The current use of the facility does not require onsite potable water and therefore will not alter the use or availability of groundwater.

The proposed rezoning of tax lot 1800 (Qwest) will acknowledge the existing commercial use on the subject property. The current use of the transfer station includes community water system service from the Cottage Grove Water District and therefore will not alter the use or availability of groundwater.

In the event that a more intensive use is proposed for of the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.294(4)(i) [RPF] or Lane Code 16.291(4)(h) [RC] *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject properties.

d. Agricultural Lands, Policy # 8: *“Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities.”*

The existing Culp Creek Substation and the Qwest transfer station have existed on the subject properties and co-existed since the mid-1970s and 1980, respectively, with the agricultural and forest product industries in the region. Electrical utility facilities and telephone transfer stations commonly occur adjacent to resource lands and in some instances are essential to the distribution of power or operation of rural uses including resource operations. Any expansion or intensification of the Lane Electric or Qwest facilities would require compliance with Lane Code 16.294(4) or Lane Code 16.291(4) siting standards and although the standards do not directly address this policy, new uses are intended to be “compatible with the surrounding vicinity” and to “minimize any adverse effect on existing or contemplated abutting land use”.

e. Flora and Fauna, Policies 1 and 10 *“Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”*

Significant species or wildlife habitat and other natural areas have not been identified on the subject properties. There are no wetlands on the subject properties identified on the Culp Creek 2 quad of the National Wetlands Inventory. Past development on the subject properties in the 1970s-1980s have significantly altered the natural flora communities and habitat on both properties. The gravel surface and equipment within the fenced facilities are partly a matter of function and partially for security and safety reasons. As a result of past alterations, the continued uses will not pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone changes for the subject properties are in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the B. **Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The two subject properties are approximately three-quarters and one-quarter of-an-acre in size. Surrounding lands are residentially developed. The existing uses have been in place for at least 25 years. Nearby forest and agricultural lands are buffered from the facilities by road right-of-ways or nonresource parcels. Neither of the properties has been managed for the production of crops, livestock or timber products for the past forty years.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in a rural community (Culp Creek) and adjacent to another (Dorena). Both communities were “timber towns” centered on lumber mills that have since ceased production. The Dorena mill is vacant and the Culp Creek mill has been dismantled. Both communities have extensive residential development dating back to the 1930s-1940s. Both have post offices, commercial and industrial lands. No additional divisions can occur under the RR2 or RR 5-acre standards in the two communities. The existing uses are rural uses that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The Culp Creek Substation facility on the subject property, tax lot 4200, is not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2425F of 2975 (6-2-99).

The Qwest transfer station on the subject property, tax lot 1800, is within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2425F of 2975 (6-2-99). Any development would require compliance with the FIRM regulations and Lane Code 16.244 Floodplain Combining Zone regulations (/FP, RCP).

b. Not Contrary to the Public Interest

The “public interest” has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then they will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the public facility and commercial service in this area.

Development on the subject properties are not, or need not be, contrary to the public health, safety convenience and welfare. In fact, the two uses provide essential services that ensure that the public health, safety, and welfare for the citizens in the area vicinity will continue to be provided for.

c. Lane Code 16.294 and Lane Code 16.291

Lane Code 16.294(1) states that one of the purposes of the Rural Public Facility Zone is *(1)(b) To provide land for public and semipublic uses and development that serve rural residents and people traveling through the area and that are by nature intensive or unusual uses not normally associated with other zones.*

The proposed rezoning and use on tax lot 4200, map 21-01-30, are consistent with this purpose.

One of the purposes of the Rural Commercial Zone (RC) [Lane Code 16.291(1)] is . . . *to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents and people traveling through the rural . . .*

The proposed rezoning and use on tax lot 1800, map 21-01-31.1.2, are consistent with this purpose.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The Lane Electric substation does not require a domestic water source.

The Qwest transfer station is provided metered water from the Cottage Grove Water District.

The subject properties are both less than an acre in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

1. This staff report has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 21-01-30, tax lot 4200 (0.78 of-an-acre) from Rural Residential (RR2/C) to Rural Public Facility (RPF/C), have been met.
2. This staff report has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 21-01-31.1.2, tax lot 1800 (0.24 of-an-acre) from Rural Residential (RR2/C) to Rural Commercial (RC/C), have been met.

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Plan Map No. 509 designation for tax lot 4200 of Assessors Map TRS 21-01-30, from Rural (R) to Public Facility (PF).
2. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Zoning Map No. 509 designation for tax lot 4200 of Assessors Map TRS 21-01-30, from Rural Residential (RR2/C) to Rural Public Facility (RPF/C).

3. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Plan Map No. 509 designation for tax lot 1800 of Assessors Map TRS 21-01-31.1.2, from Rural (R) to Commercial (C).
4. Approval of PRZC Control No. 16 of Ordinance No. PA 1226, amending the Official Zoning Map No. 509 designation for tax lot 1800 of Assessors Map TRS 21-01-31.1.2, from Rural Residential (RR2/C) to Rural Commercial (RPF/C).

VII. EXHIBITS

- A. Plan Maps No. 509 with proposed plan changes depicted.
- B. Zoning Map Plot No. 509 with proposed zone changes depicted.
- C. Lane County Assessor's Maps TRS 21-01-30.
- D. Lane County Assessor's Maps TRS 21-01-31.1.2.

C. Lane County Assessor's Maps TRS 21-01-30.

Section 30 T.21 S. R. 1 W. W. M.

21-01-30

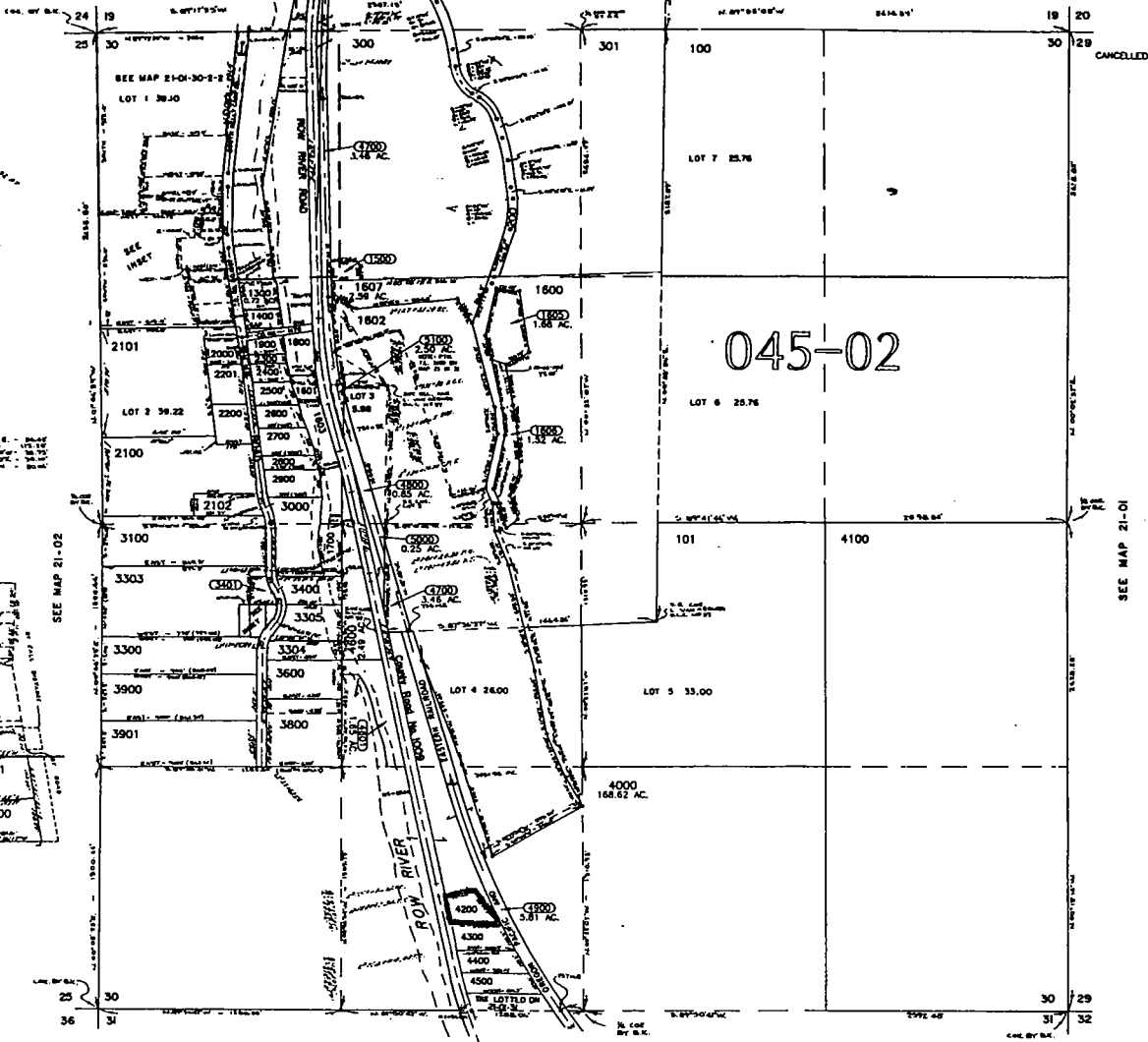
LANE COUNTY

1"=400'

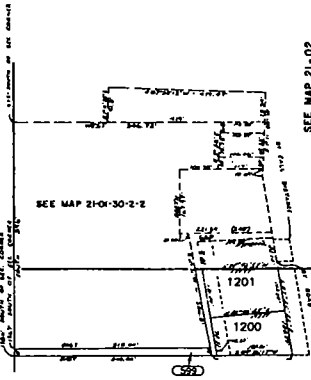
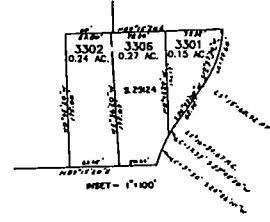
Block	Section	Range	Township	County
3302	3306	3301	21	21
0.24 AC.	0.37 AC.	0.13 AC.		

SEE MAP 21-01-19

SEE MAP 21-01-19



045-02



CHUCK DATA FOR WICKES ROAD

1. A 13' 00" 21'	B 3302.22	L 177.43
2. A 13' 00" 21'	B 3306.22	L 177.43
3. A 13' 00" 21'	B 3301.13	L 177.43
4. A 13' 00" 21'	B 190.00	L 100.00
5. A 13' 00" 21'	B 190.00	L 100.00
6. A 13' 00" 21'	B 190.00	L 100.00
7. A 13' 00" 21'	B 190.00	L 100.00
8. A 13' 00" 21'	B 190.00	L 100.00
9. A 13' 00" 21'	B 190.00	L 100.00
10. A 13' 00" 21'	B 190.00	L 100.00

SEE MAP 21-01-31

SEE MAP 21-01

CANCELLED

D Lane County Assessor's Maps TRS 21-01-31.1.2

NW1/4 NE1/4 Sec. 31 T.21S. R.1W.W.M.

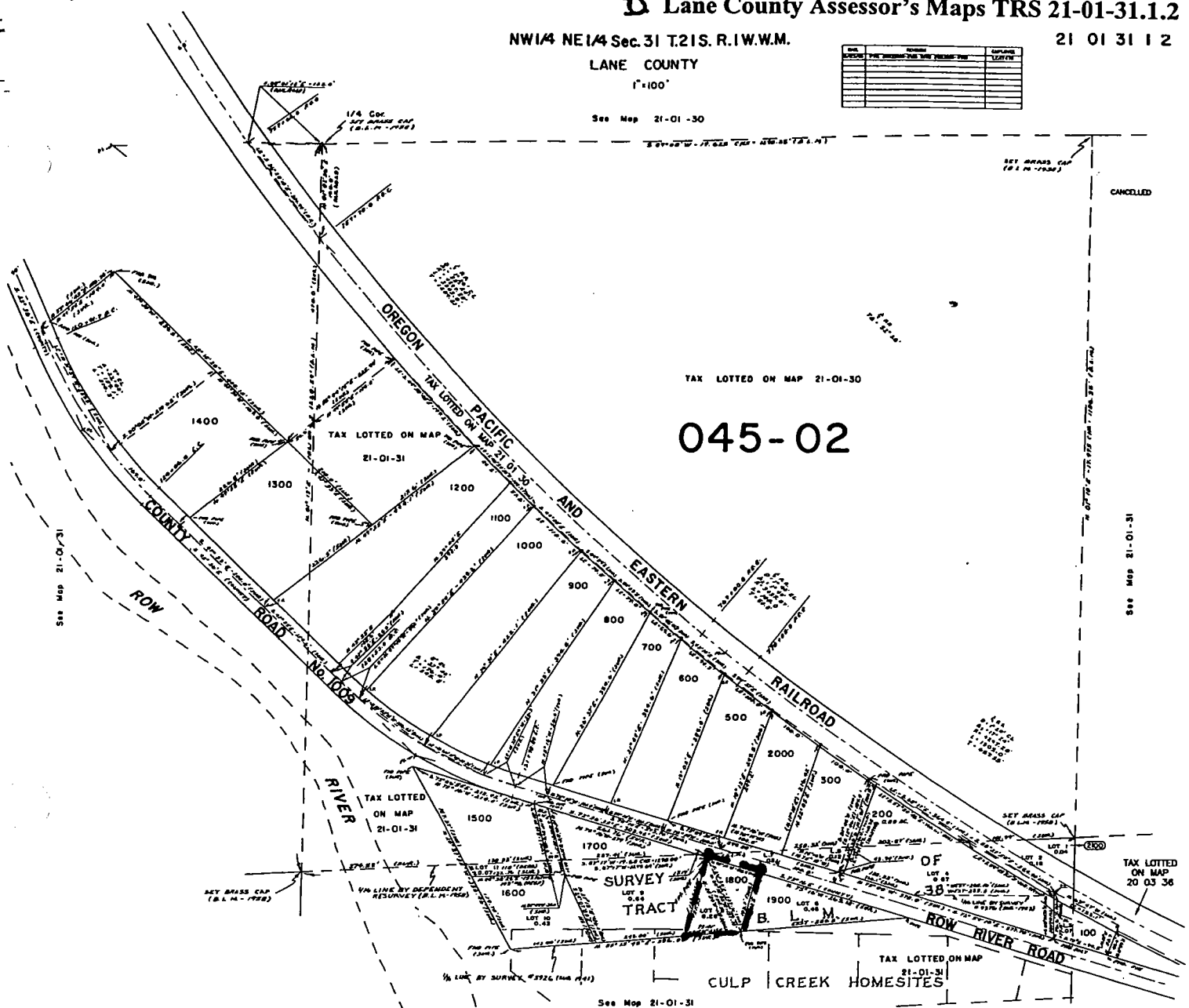
21 01 31 1.2

LANE COUNTY

1"=100'

See Map 21-01-30

NO.	SECTION	TAX	REVISION	DATE	BY



045-02

TAX LOTTED ON MAP 21-01-30

CANCELED

See Map 21-01-31

TAX LOTTED ON MAP 20-03-36

CULP CREEK HOMESITES

See Map 21-01-31

Exhibit No. C-17

PAPA Control No. 17

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed & Committed Exception Area No. 420-3

**Plan Amendments and Zone Changes for:
Tax lot 8400 of Assessor's Map TRS 20-03-35**

TRS - Tax lot	Acres	From/Action	To
20-03-35 -- 8400	2.27	Rural Industrial (RI)	Rural Residential (RR5)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
Lane County Rural Comprehensive Plan Policies
Goal Two, Policy 27 Conformity Determination Amendment
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.290 - *Rural Residential Zone (RR)*
Lane Code 16.292 - *Rural Industrial (RI)*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. BACKGROUND

TRS 20-03-35, tax lot 8400 – 2.27 acres
Properties Owner: Tom Chrestman.
Proposed change in zoning designation from Rural Industrial (RI) to Rural Residential (RR5).

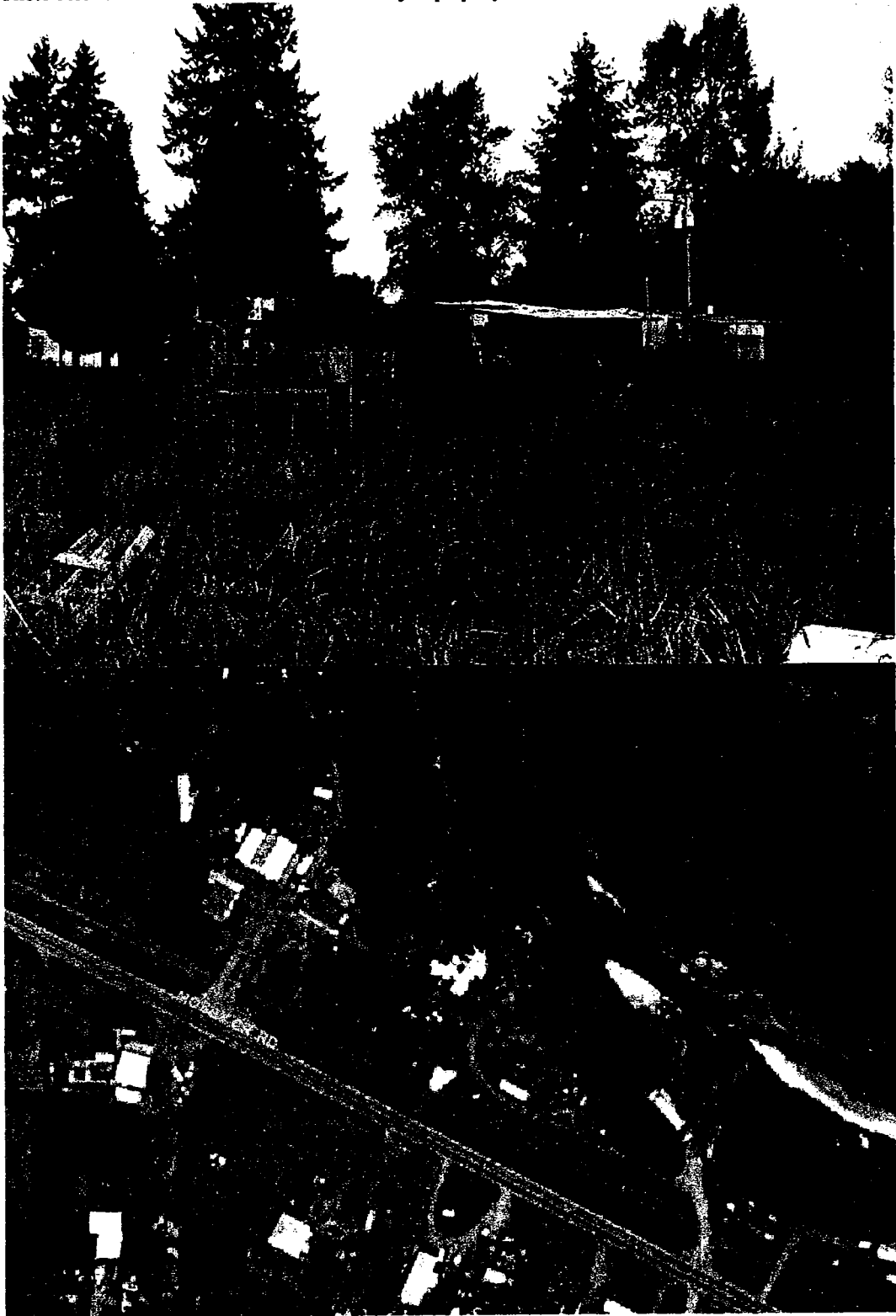
The proposed plan amendment and zone change is for one property that was designated Heavy Industrial (M3) in 1984. The property owner proposes to rezone the 2.27-acre property to Rural Residential (RR5).

II. FINDINGS OF FACT

Findings of Fact

1. The property subject to this application, hereinafter referred to as the "subject property," is located north of the right-of-way of Mosby Creek Road and south of the Row River. It is within the Developed & Committed Exception Area No. 420-3. It can be identified as tax lot 8400 of Assessor's map 20-03-35 and is 2.27 acres in size. The subject property abuts the right-of-way of the old Oregon Pacific-Electric Railroad that has been converted to an asphalt bicycle patch running parallel to Mosby Creek Road.
2. The subject property is developed with skeletal remains of an old shake mill dating back to 1978. The most recent use was allowed by the Planning Commission in 1976 as a renewal of a temporary permit with a five-year period to operate portions of the old mill as a shake mill. The permit expired in 1981. The subject property was designated as Heavy Industrial (M3) in 1984 and rezoned Rural Industrial (RI) in 2002 in a countywide action to comply with Goal 14 and the Rural Community Rule (OAR 660 Division 22).
3. The request for the change of zone is to acknowledge the most compatible use of the subject property in conformity with the Rural Comprehensive Plan and Lane Code. The industrial use of the subject property ceased approximately 20 years ago and the owner seeks to zone the parcel consistent with the surrounding Rural Residential Zone (RR5).
4. The proposed residential zone complies with the Purpose statement of LC 16.291(1)(b) *Purpose: The purposes of the Rural Residential Zone (RR-RCP) are: . . . (b) To promote a compatible and safe rural residential living environment by limiting allowed uses and development to primary and accessory rural residential uses and to other rural uses compatible with rural residential uses and uses of nearby lands.*

Photo below: Remnants of shake mill on the subject property -TRS 20-03-35, tax lot 8400.



5. The subject property is situated in the center of the 2004 aerial photograph above. Access to the property is by way of the gravel road running southwest to northeast, parallel to the “bike path” and Mosby Creek Road. The collection of three structures immediately to the northwest are three residences with rural addresses. The property to the southwest is developed with a residence and accessory building.
6. There is no record of any historical compatibility issues occurring between the prior use of the subject property and the surrounding property owners.
7. The subject property does lie within an area identified as a “water quantity limited” area in Lane Manual 13.010. The facility utilized an onsite well as a source of domestic water in the past.
8. The subject property receives the following public services: South Lane District #45 (schools); Emerald Peoples Utility District (electrical power); South Lane County Fire and Ambulance (fire and ambulance); US Qwest (telephone); Lane County Sheriff’s Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
9. There is no apparent wetlands on the subject properties, per NWI map Cottage Grove SE4.

III. JUSTIFICATION FOR THE CONCLUSIONS AND RECOMMENDATIONS.

A. Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

- (a) *Uses which are the same as the existing types of land use on the exception site; or*

The zone change requested by the property owner is intended to provide for residential development of the subject property. It is a more compatible and reasonable use of the 2.26 acres within the center of a residential area. The change of zoning would also eliminate the potential for a more intensive and less-compatible industrial use to be established on the subject property in the future.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject property is located within developed & committed exception area No. 420-3, and is not within an urban growth boundary. The property receives a rural level of police and fire protection.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The subject property is enveloped by Rural Residential (RR5) lands to the west, south and east. The northern boundary is defined by the Row River. In addition to the surrounding residential uses, the right-of-ways of Mosby Creek Road to the south and the riparian area and river to the north separate the subject property from the nearest Forest Lands over 1,200 feet to the northeast and southwest and buffered from the subject property by intervening Rural Residential lands (RR5/RR2). The closest EFU lands are located approximately 1,800 feet to the east and separated from the subject property by Rural Residential lands (RR5). There are no foreseeable impacts from the proposed zone change, or any increased commitment to nonresource uses of nearby forest lands and agricultural lands or practices.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

D&C Area No. 420-3 is adjacent to the urban growth boundary of the City of Cottage Grove. The subject property is 1,800 feet upstream from the UGB and is within a developed and committed exception area which includes 116 acres, 42 Rural Residential parcels averaging 2.76 acres and developed with 41 residences (Hoglund-Mann 1997-1998) The development pattern indicates the addition of one more residence in the center of the D&C area will be compatible with the resource use of forest and agricultural lands in the adjoining sections.

This proposed zoning change is in accord with the requirements of state law.

B. Plan Conformity

The subject property is located in "developed and committed" exception area number 420-3 of Lane County. It is proposed to be designated Rural by the Lane County Rural Comprehensive Plan and zoned Rural Residential (RR5). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

- A. Land Use Planning Policy #12. *Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.*

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (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 Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

- (1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*

The subject property is relatively flat with no identified hazards due to slope grade or terrain features. The past development of the subject property as a saw mill has not contributed any known adverse impacts to the immediate area or resources. Any development or new use on the property will require compliance with the applicable criteria and siting standards of the base zone, Lane Code 16.290 (RR).

- (2) *Protect and diversify the economy of the County.*

Re-designation of the subject property will allow marketing and development of the subject property for residential uses in compliance with the required permit processes, criteria and standards.

- (8) *Provide for the ultimate development and arrangement of efficient public services and facilities within the County.*

The subject property receives the necessary services from public agencies for residential development.

- b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The past industrial uses of the subject property were provided with potable water from an onsite well and therefore the anticipated residential use should not alter the availability of groundwater.

In the event that a more intensive use is proposed for the subject property, the property owner shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.290(5)(c) [RR] *"The proposed use and development shall not exceed the carrying*

capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. Agricultural Lands, Policy # 8: "Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."

The vacant mill on the subject property co-existed since the early-1950s with the agricultural and forest product industries in the surrounding area.. Saw and shake mills commonly occurred adjacent to resource lands and in some instances were essential to the rural residents for employment and materials. Any development of the property with a residence would require compliance with Lane Code 16.290(5) siting standards and although the standards do not directly address this policy, new uses are intended to be "compatible with the surrounding vicinity" and to "minimize any adverse effect on existing or contemplated abutting land use".

e. Flora and Fauna, Policies 1 and 10 "Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas." "Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983."

Significant species or wildlife habitat and other natural areas have not been identified on the subject property. There are no wetlands on the subject property identified on the Cottage Grove SE4 quad of the National Wetlands Inventory. Past development on the subject property in the 1950-1980s has significantly altered the natural flora communities and habitat. The property is overgrown with grasses, low scrubs, and blackberry along the Row River stream back. The riparian setback standards of LC 16.253(2)(a)-(b) provide protection for the front 50 feet upland from the ordinary high water.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 8 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The subject property is 2.27 acres in size and has access to Mosby Creek Road, a County road. Surrounding lands are residentially developed. Nearby forest and agricultural lands are buffered from the subject property by road right-of-ways, Row River, and intervening residentially developed properties. None of the 42 parcels designated as RR2 or RR5 properties in the D&C exception area 420-3 have been managed for the production of crops, livestock or timber products for the past thirty years.

(7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed change will occur in an exception area developed with 41 residences. No additional divisions can occur under the RR 5-acre standard. The existing use is a rural use that utilizes a rural level of facilities.

(11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

A portion of the subject property is within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2092F of 2975 (6-2-99). Any development will be required to comply with the standards of LC 16.244 (Floodplain Combining Zone).

b. Not Contrary to the Public Interest

The "public interest" has not been defined, as such, but for the purposes of this report it will be assumed that if the anticipated residential use will not have an adverse impact on surrounding uses, then it will not be contrary to the public interest. Development on the subject property is not, or need not be, contrary to the public health, safety convenience and welfare in that it will be similar in density and nature to what exists in the immediate vicinity and will not cause an increase in public services.

c. Lane Code 16.290

Lane Code 16.290(1) states that one of the purposes of the Rural Residential Zone is (1)(b) *To promote a compatible and safe rural residential living environment by limiting allow uses and development to primary and accessory rural residential uses and other rural uses compatible with rural residential uses and the uses of nearby lands;*

The proposed rezoning of tax lot 8400 is consistent with this purpose.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject property is located in an area identified as being water quantity limited. It has also been developed with an onsite well and has an established domestic water source.

The subject property is small in size (2.27 acres) and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the carrying capacities of soils and groundwater for subsurface waste disposal system requirements.

V. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendment of Official Plan and Official Zoning designations for TRS 20-03-35, tax lot 8400 (2.27 acres) from Rural Industrial (RI) to Rural Residential (RR5), have been met;

VI. RECOMMENDATIONS

1. Approval of PRZC Control No. 17 of Ordinance No. PA 1226, amending the Official Plan Map No. 420 designation for tax lot 8400 of Assessors Map TRS 20-03-35, from Industrial (I) to Rural (R); and
2. Approval of PRZC Control No. 17 of Ordinance No. PA 1226, amending the Official Zoning Map No. 420 designation for tax lot 8400 of Assessors Map TRS 20-03-35, from Rural Industrial (RI) to Rural Residential (RR5).

VII. EXHIBITS

- A. Plan Map, Plot No. 420 with proposed plan change depicted.
- B. Zoning Map, Plot No. 420 with proposed zone change depicted.
- C. Lane County Assessor's Map TRS 20-03-35.

FOR ASSESSMENT
AND TAXATION
ONLY

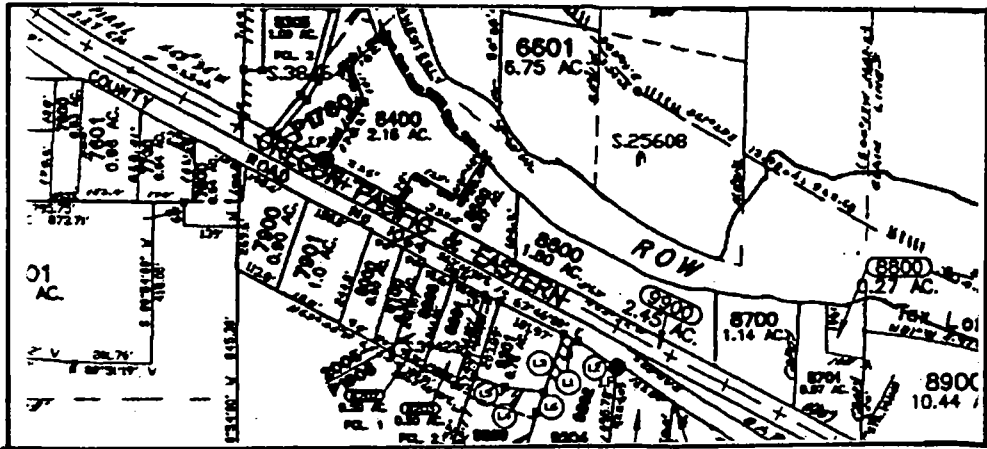
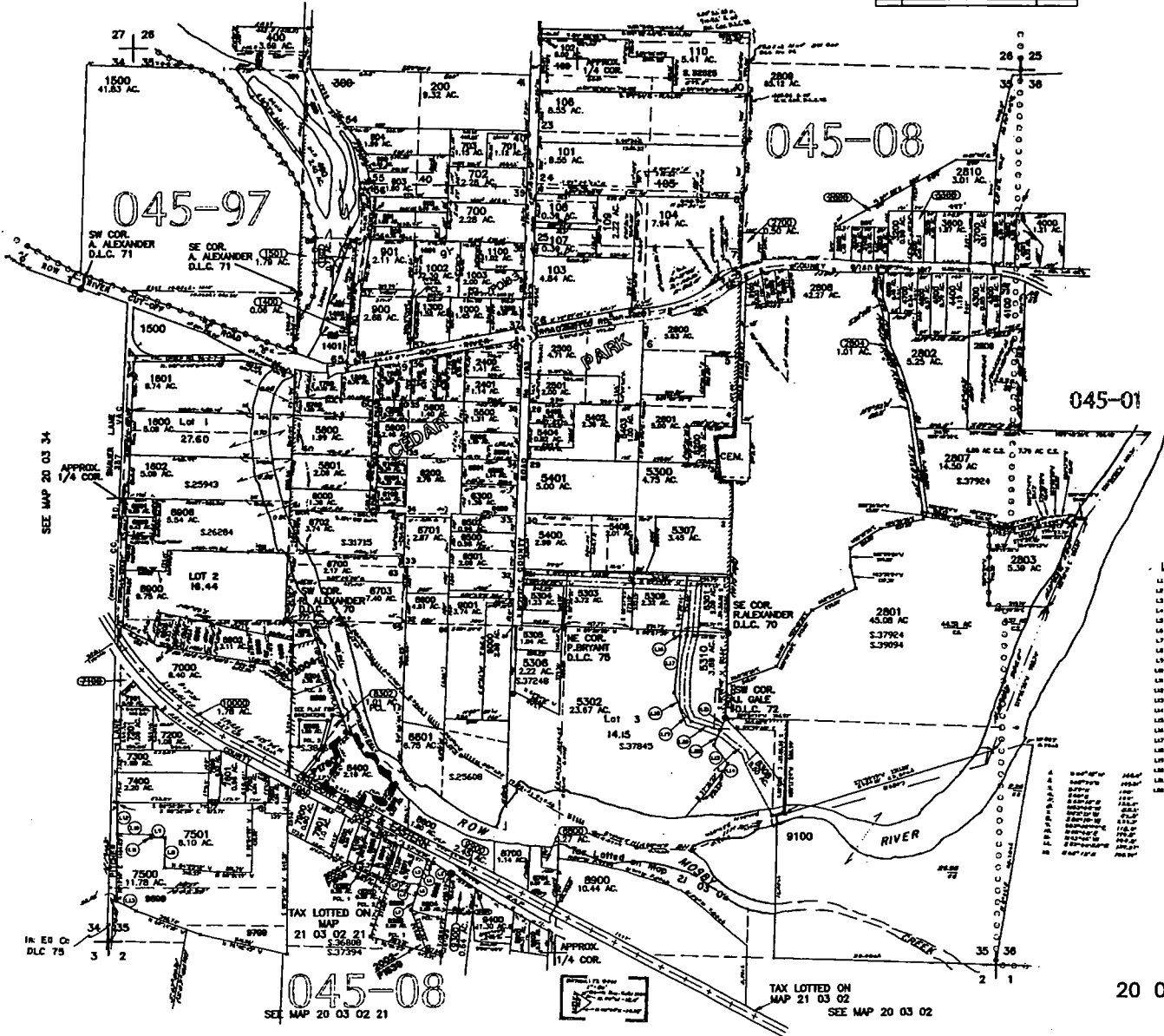
SEC. 35 T.20S. R.3W. W.M.
LANE COUNTY
SCALE 1" = 400'

20 03 35

NAD 83/91

LINE	DESCRIPTION	SURFACE
100
101
102
103
104
105
106
107
108
109
110
111
112
113
114
115
116
117
118
119
120

SEE MAP 20 03 28



Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Plot No. 292

**Plan Amendment and Zoning Designation for
Tax Lots 800, 900 and 1000 of Assessor's Map 15-04-21**

TRS - Tax lot	Acreage	From	To
15-04-21, 800	171.08	Linn County	Exclusive Farm Use (E30)
15-04-21, 900	4.18	Linn County	Exclusive Farm Use (E30)
15-04-21, 1000	1.80	Linn County	Exclusive Farm Use (E30)

Statement of Criteria

Lane County Rural Comprehensive Plan Policies

Goal Two, Policy 27 Conformity Determination Amendment

Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*

Lane Code 16.212 - *Exclusive Farm Use*

Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. Findings of Fact

1. The lands subject to this conformity determination amendment are identified as tax lots 800, 900 and 1000 of Lane County Assessor's Map 15-04-21. Refer to Exhibit "C".

TRS 15-04-21, tax lot 800 is 171.08 acres in size and developed with a residence constructed in 1946 and has an assigned rural address of 95401 Highway 99E, Junction City, OR 97448. The subject property is managed for agricultural crops by the owners, Paul and Bonnie Sandland.

TRS 15-04-21, tax lot 900 is 4.18 acres in size, undeveloped woodland owned by Oregon Department of State Lands.

TRS 15-04-21, tax lot 1000 is 1.80 acres in size with portions in the ownership of the Estate of Ronald E. McNutt and the State Land Board of Oregon.

Aerial photograph: 2004



2. At the time of adoption of the Rural Comprehensive Plan, Plan Diagrams and Zoning Diagrams in 1984, the subject properties were designated as land within the boundaries of

Linn County being considered historically east of the center line of the Willamette River, the common boundary between Land County and Linn County. Decades prior to 1984, the Willamette River had meandered to the East isolating the previous Linn County lands within a dry oxbow channel to the west of the new channel. The 2004 aerial photograph (above) depicts the subject properties west of the Willamette River (aligned north-south along the right side of the photograph) as the green cultivated lands in the center of the photograph and the wooded lands in the upper right corner. Some open water and small tributaries remain in western and northern portions of the old channel.

3. House Bill 3272 was approved by the Governor on July 29, 2003, filed in the office of the Secretary of State on the same date, and became effective on January 1, 2004. The Act amended Chapter 622 of the Oregon Laws 2003, Section 2 and amended county boundary lines for Linn County and Lane County. Specific to this Plan and Zoning amendment, Section 2 stated:

“SECTION 2. ORS 201.200 is amended to read:

(2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.”

Oregon Laws 2003, Chapter 622 is attached as Exhibit “D”.

4. Lane Code 16.252(2) Criteria states: *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 Rural Comprehensive Plan elements and components, and Statewide Planning Goals for an portion of Lane County which has not been acknowledged for compliance with Statewide Planning Goals 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 in this section.*
 - a. The three subject properties are bordered to the North, West and South by lands designated as Agricultural and zoned Exclusive Farm Use (E30) with a minimum division standards of 30 acres.
 - b. The privately owned lands (Sandland, tax lot 800; and McNutt, tax lot 1000) are actively management for farm use. The publicly owned lands (State of Oregon, tax lot 900) are passively managed for woodlot and wildlife habitat.
 - c. The E30 designation is compatible with the historical and existing uses.
 - d. The proposed amendments to the Plan and Zoning Diagrams are being considered Control No. 18, a component of Ordinance No. PA 1226.
5. The proposed amendments conform to the actions of HB 3272 and implement Chapter 622, Section 2 adjustments to the Lane County boundary.

II. Conclusion

This staff report has shown by a preponderance of evidence that the criteria applicable for approval of an amendment of Official Plan and Official Zoning Plot 292 designations for TRS 15-04-21, tax lots 800, 900 and 1000 from unzoned land to Agriculture and Exclusive Farm Use (E30), have been met.

III. Recommendations

1. Approval of PRZC Control No. 18 of Ordinance No. PA 1226, amending the Official Plan Map No. 292 designation for tax lots 800, 900 and 1000 of Assessors Map TRS 15-04-21, from Unzoned to Agriculture (A).
2. Approval of PRZC Control No. 18 of Ordinance No. PA 1226, amending the Official Zoning Map No. 292 designation for tax lots 800, 900 and 1000 of Assessors Map TRS 15-04-21, from Unzoned to Exclusive Farm Use (E30).

IV. Exhibits

- A. Plan Maps No. 292 with proposed plan changes depicted.
- B. Zoning Map Plot No. 292 with proposed zone changes depicted.
- C. Lane County Assessor's Maps TRS 15-04-21 with subject properties depicted.
- D. Oregon Laws 2003, Chapter 622 (HB 3272) 4 pp.

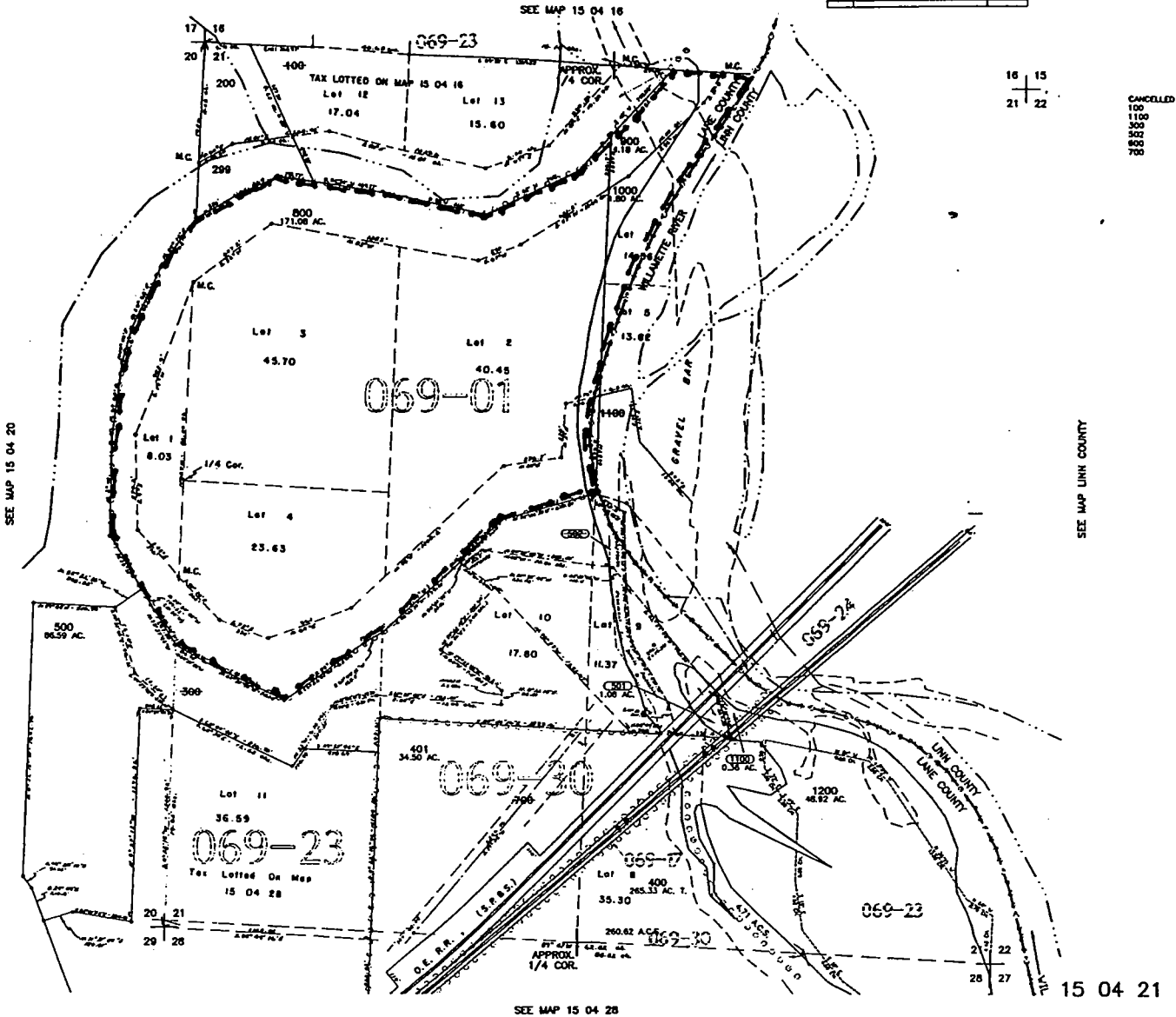
C. Lane County Assessor's Maps TRS 15-04-21 with subject properties depicted.

FOR ASSESSMENT
AND TAXATION
ONLY

SEC.21 T.15S. R.4W. W.M.
LANE COUNTY
SCALE 1" = 400'

15 04 21
NAD 83/91

NO.	DESCRIPTION	DATE
1	REVISION	12/15/91
2	REVISION	12/15/91
3	REVISION	12/15/91
4	REVISION	12/15/91
5	REVISION	12/15/91



15 04 21

CHAPTER 622

AN ACT

HB 3272

Relating to county boundary lines; amending ORS 201.020, 201.200, 201.220, 201.240 and 201.270.
Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 201.020 is amended to read:

201.020. (1) The boundary of Benton County is as follows:

[(1)] (a) Commencing in the middle of the Willamette River, at the southeast corner of Polk County; thence running south along the main channel of [such] the river to the middle fork [thereof] of the river; thence up [such] the middle fork to its source; thence due south to the forty-second parallel of north latitude; thence west along [such] the forty-second parallel to the Pacific Ocean; thence north along the coast of the Pacific Ocean to the southern boundary of Polk County.

[(2)] (b) Beginning at a point on the Benton and Lincoln County boundary line which is the northeast corner of section 13, township 14 south, range 9 west, Willamette Meridian; thence west a distance of approximately one mile to the section corner common to sections 11, 12, 13 and 14, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately one mile to the section corner common to sections 13, 14, 23 and 24, township 14 south, range 9 west, Willamette Meridian; thence west a distance of approximately four miles to the section corner common to sections 17, 18, 19 and 20, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately two miles to the section corner common to sections 29, 30, 31 and 32, township 14 south, range 9 west, Willamette Meridian; thence east a distance of approximately two miles to the section corner common to sections 27, 28, 33 and 34, township 14 south, range 9 west, Willamette Meridian; thence south a distance of approximately two and one-fourth miles to the Lane and Lincoln County boundary along the one-sixteenth section line in sections 10, 11 and 12 in township 15 south, range 9 west, Willamette Meridian; thence east to the boundary lines corner common to Lincoln, Benton and Lane Counties; thence north a distance of approximately five and one-fourth miles to the place of beginning.

[(3)] (c) The southern boundary of Benton County commences in the middle of the channel of the Willamette River at a point where a line running west will pass three miles south of the ford on Long Tom (near Rowland Hinton's field); thence running due west to a monument set on the present county boundary between Lane and Benton Counties, which is 14.96 chains north of the quarter section corner between sections 11 and 12, township 15 south, range 6 west, Willamette Meridian; thence south to the quarter corner between sections 11 and 12, township 15 south, range 6 west; thence westerly on

the quarter line through townships 6 and 7 west, to the quarter corner on the west side of section 7, township 15 south, range 7 west; thence south to the quarter corner on the east side of section 12, township 15 south, range 8 west; thence westerly on the quarter section line through township 15 south, range 8 west, to the west line of section 7 of such township.

(2) When the Willamette River serves as the boundary between Linn and Benton Counties in subsection (1)(a) and (c) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 2. ORS 201.200 is amended to read:

201.200. (1) The boundary of Lane County is as follows:

[(1)] (a) All that portion of Oregon lying south of Linn County, and south of so much of Benton County as is east of Umpqua County.

[(2)] (b) The southern boundary of Lane County is as follows: Beginning at a point in the present boundary line between Lane and Klamath Counties on the summit of the Cascade Range, at a point due east of the southeast corner of township 24 south, range 5 east of the Willamette Meridian; thence west on the township line to the Willamette Meridian, at the southeast corner of township 24 south, range 1 west; thence north seven and one-half miles to the east one-quarter section corner of section 25, township 23 south, range 1 west of the Willamette Meridian; thence west on the one-half section line 18 miles to the west one-quarter section corner of section 30, township 23 south, range 3 west of the Willamette Meridian; thence north four and one-half miles to the southeast corner of township 22 south, range 4 west of the Willamette Meridian; thence west on the township line one and one-half miles to the south one-quarter corner of section 35, township 22 south, range 4 west of the Willamette Meridian; thence north 12 miles to the north one-quarter corner of section 2, township 21 south, range 4 west of the Willamette Meridian; thence west ten and one-half miles to the southwest corner of township 20 south, range 5 west of the Willamette Meridian; thence north two miles to the southeast corner of section 24, township 20 south, range 6 west of the Willamette Meridian; thence west six miles to the southwest corner of section 19, township 20 south, range 6 west of Willamette Meridian; thence north one and one-half miles to the east one-quarter corner of section 13, township 20 south, range 7 west of the Willamette Meridian; thence west three miles to the west one-quarter corner of section 15, township 20 south, range 7 west of the Willamette Meridian; thence north two and one-half miles to the northwest corner of section 3, township 20 south,

range 7 west of the Willamette Meridian; thence west on township line to northwest corner of township 20 south, range 7 west; thence north to the southeast corner of section 24, township 19 south, range 8 west of the Willamette Meridian; thence west two miles to the southwest corner of section 23, township 19 south, range 8 west of the Willamette Meridian; thence north two miles to the southwest corner of section 11, township 19 south, range 8 west of the Willamette Meridian; thence west to the northwest corner of section 16, township 19 south, range 8 west of the Willamette Meridian; thence north one mile to the northwest corner, section 9, township 19 south, range 8 west of the Willamette Meridian; thence west on section line two miles to the northwest corner of section 7, township 19 south, range 8 west of Willamette Meridian; thence north to the northeast corner of section 12, township 19 south, range 9 west of the Willamette Meridian; thence west six miles on the section line to the southwest corner section 6, township 19 south, range 9 west of the Willamette Meridian; thence south on township line to northeast corner of section 12, township 19 south, range 10 west of the Willamette Meridian; thence west on section line one-quarter mile; thence south one-half mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile to the southwest corner of section 12, township 19 south, range 10 west; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-half mile; thence south one-quarter mile; thence west one-half mile; thence south one-quarter mile; thence west one-quarter mile to the corner common to sections 15 and 22, township 19 south, range 10 west; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile, thence west three-quarters mile; thence south one-quarter mile; thence west one-quarter mile; thence south one-quarter mile; thence west one-quarter mile to the northeast corner of section 29, township 19 south, range 10 west; thence west one mile to the northwest corner of section 29; thence south to the southeast corner of section 31, township 19 south, range 10 west of the Willamette Meridian; thence west to the northeast corner of township 20 south, range 11 west of the Willamette Meridian; thence south one-half mile to the east one-quarter corner of section 1, township 20 south, range 11 west of the Willamette Meridian; thence west on the half-section line to the Pacific Ocean.

[(3)] (c) Beginning at a point on the left bank of the Willamette River where the south line of section 16, in township 15 south, range 4 west of the Willamette Meridian intersects *[such]* the left bank, *[such]* that point being 58 links east of the one-quarter section corner on the south line of section 16; thence running along the meanders of *[such]* the left bank north 49 degrees east 4.50 chains; thence north 10 degrees east 14.50 chains; thence north 28 degrees west 13.50 chains; thence north 7 degrees

west 28.70 chains; thence north 15 degrees east 7.30 chains; thence north 30 degrees east 3.50 chains; thence north 59 degrees east 7.85 chains; thence north 82 degrees east 4.50 chains; thence north 40 degrees east four chains; thence north 10 degrees east 4.50 chains to the meander corner on the north line of section 16 where the section line intersects the left bank of *[such]* the river, *[such]* that point being south 89 degrees 30 minutes east 14.18 chains distant from the one-quarter section corner on the north line of section 16 in such township and range; thence south 89 degrees 30 minutes east four chains more or less to the center of the *[present]* main channel of the Willamette River; thence following the center of the *[present]* main channel of *[such]* the river in a southerly direction up stream to the south line of section 16; thence north 89 degrees 30 minutes west 10 chains more or less to the point of beginning, and containing 120 acres more or less.

(2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225. ←

SECTION 3. ORS 201.220 is amended to read: 201.220. (1) The boundary of Linn County is as follows:

[(1)] (a) All that portion of Oregon lying south of Marion County and east of Benton County.

[(2)] (b) The southern boundary of Linn County is as follows: Beginning in the middle of the main channel of the Willamette River, due west from where the south line of section 3, township 16 south, range 4 west intersects *[such]* the river; running thence east on the section line to the southwest corner of section 2, township 16 south, range 2 west; thence north on the section line to the northwest corner of section 23, township 15 south, range 2 west; thence east on the section line to the northeast corner of section 24, township 15 south, range 2 west; thence north on the township line between township 15 south, range 1 west, and township 15 south, range 2 west, to the summit of the ridge dividing the waters of the tributaries of the Calapooia River from the waters of the tributaries of the Mohawk River; thence easterly along the summit of the ridge dividing the waters of the Calapooia River and its tributaries from the waters of the tributaries of the Mohawk River and the tributaries of the McKenzie River to where the same intersects the west line of section 35, township 15 south, range 3 east; thence north to the southwest corner of the northwest quarter of the northwest quarter of section 35; thence east to the east line of section 35; thence south to the quarter section corner between sections 35 and 36; township 15 south, range 3 east;

thence east to the east line of section 36; thence south to the summit dividing the waters of Calapooia River from the waters of the tributaries of the McKenzie River; thence easterly along the summit of [such] the ridge to the intersection of the summit with the present southern boundary of Linn County, in township 15 south, range 4 east; thence east along the present boundary line between the counties to the summit of the Cascade Mountains.

(2) When the Willamette River serves as the boundary between Linn and Lane Counties in subsection (1)(b) of this section, a reference to the river refers to the middle of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 4. ORS 201.240 is amended to read:

201.240. (1) The boundary of Marion County is as follows:

(1) (a) The line dividing Marion and Yamhill Counties is a line drawn along the middle of the main channel of the Willamette River where that main channel is located on June 22, 1981. All land on the east side of the line dividing Marion and Yamhill Counties is part of Marion County.

(2) (b) The southern boundary of Marion County and the northern boundary of Linn County commences in the middle in the main channel of the Willamette River opposite the mouth of the Santiam River; thence up the middle of the main channel of the Santiam River as it existed on April 21, 1982, to a point opposite the mouth of the north fork of the river; thence up the middle of the main channel of the north fork as it existed on April 21, 1982, to the mouth of Whitewater Creek; thence up the creek to a point where the creek crosses the section line between sections 21 and 28 in township 10 south, range 7 east, Willamette Meridian; thence due east along the section line projected to the summit of the Cascade Mountains.

(2) When the Willamette River, the Santiam River, the north fork of the Santiam River or Whitewater Creek serves as the boundary between Linn and Marion Counties in subsection (1)(b) of this section, a reference to one of these rivers or creeks refers to the middle of the river or creek as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 5. ORS 201.270 is amended to read:

201.270. (1) The boundary of Polk County is as follows: Commencing at the southeast corner of Yamhill County, at a point in the center of the Wil-

lamette River in township 6 south of range 3 west of the Willamette Meridian 62 chains and 16 links south of the first standard parallel south; thence running due west on the south boundary line of Yamhill County to the west boundary of township 6 south of range 8 west of the Willamette Meridian; thence south to the north boundary line of Benton County; thence east along the north boundary line of Benton County to the center of the main channel of the Willamette River; thence down the center of the main channel of the Willamette River where that main channel [was located] existed on [June 22, 1981.] January 8, 2003, to the confluence of the Santiam River; thence down the center of the main channel of the Willamette River where that main channel was located on June 22, 1981, to the place of beginning, all land on the east of the line last above described being a part of Marion County.

(2) When the Willamette River serves as the boundary between Linn and Polk Counties in subsection (1) of this section, a reference to the river refers to the center of the main channel of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

SECTION 5a. If House Bill 2676 becomes law, section 5 of this 2003 Act (amending ORS 201.270) is repealed and ORS 201.270, as amended by section 1, chapter 97, Oregon Laws 2003 (Enrolled House Bill 2676), is amended to read:

201.270. (1) The boundary of Polk County is as follows: Commencing at the southeast corner of Yamhill County, in the [middle] center of the main channel of the Willamette River in township 6 south, range 3 west of the Willamette Meridian; thence N 89° 42' 43" W, 900 feet to a brass cap set in the base of the monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 42' 43" W, 5,256.03 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 51' 52" W, 14,356.78 feet to an iron pipe and brass cap monument; thence N 89° 48' 05" W, 1,314.22 feet to an aluminum pipe and aluminum cap monument; thence N 89° 59' 01" W, 3,093.00 feet to an iron pipe and brass cap monument; thence N 89° 59' 32" W, 3,487.12 feet to an iron pipe and brass cap monument; thence N 89° 54' 09" W, 891.58 feet to an iron pipe and brass cap monument; thence N 89° 52' 36" W, 1,131.35 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence S 89° 53' 16" W, 6,000.53 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 40' 14" W, 2,690.80 feet to an iron pipe and brass cap monument; thence N 89° 41'

16" W, 2,708.54 feet to an iron pipe and brass cap monument; thence N 89° 52' 16" W, 9,925.57 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 21' 07" W, 13,631.79 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence S 89° 53' 01" W, 4,749.60 feet to an iron pipe and brass cap monument; thence S 89° 52' 12" W, 4,379.73 feet to an iron pipe and brass cap monument; thence S 89° 51' 31" W, 6,113.50 feet to an iron pipe and brass cap monument; thence S 89° 50' 30" W, 8,340.37 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 51' 36" W, 5,111.72 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence S 89° 29' 45" W, 4,479.59 feet to an iron pipe and brass cap monument; thence S 89° 29' 01" W, 2,258.39 feet to a point five links north of a cast iron pyramid monument set in 1890 to denote a reference to the boundary between Polk and Yamhill Counties; thence N 89° 53' 46" W, 6,983.34 feet to a brass cap set in concrete; thence S 89° 33' 19" W, 8,919.81 feet to an aluminum pipe and aluminum cap monument; thence N 88° 40' 09" W, 7,840.11 feet to an iron pipe and brass cap monument; thence N 88° 41' 27" W, 6,684.99 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 56' 52" W, 9,123.08 feet to an iron pipe and brass cap monument; thence N 89° 58' 22" W, 7,936.58 feet to an iron pipe and brass cap monument; thence N 89° 29' 17" W, 1,312.89 feet to an iron pipe and brass cap monument; thence N 89° 46' 31" W, 14,458.42 feet to an

iron pipe and brass cap monument; thence N 89° 00' 46" W, 615.90 feet to a cast iron pyramid monument set in 1890 to denote the boundary between Polk and Yamhill Counties; thence N 89° 53' 34" W, 4,775.55 feet to the northwest corner of Polk County, which is monumented with an iron pipe and brass cap, as depicted on the county line survey of 2003, which lies on the west boundary of and 62.16 chains southerly from the northwest corner of township 6 south, range 8 west; thence south to the north boundary line of Benton County; thence east along the north boundary line of Benton County to the [middle] center of the main channel of the Willamette River; thence down the [middle] center of the main channel of the Willamette River where that main channel [was located] existed on [June 22, 1981,] **January 8, 2003, to the confluence of the Santiam River; thence down the center of the main channel of the Willamette River where that main channel was located on June 22, 1981,** to the place of beginning, all land on the east of the line last above described being a part of Marion County.

(2) When the Willamette River serves as the boundary between Linn and Polk Counties in subsection (1) of this section, a reference to the river refers to the center of the main channel of the Willamette River as it existed on January 8, 2003, and may be further identified using coordinates and other location information determined by the affected county surveyors and filed by the appropriate counties with the appropriate county assessors and the Department of Revenue under ORS 308.225.

Approved by the Governor July 29, 2003
 Filed in the office of Secretary of State July 29, 2003
 Effective date January 1, 2004

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 547-1
and
Developed and Committed Exception Area No. 554-1

Plan Amendment and Zone Change for:

Tax lot 100 (2.39 acres) of Map 21-01-35.4 (Plot 547);
and
Tax lot 1300 (0.21 acre) of Map 21-01-36.3.3 (Plot No. 554);
Tax lot 1500 (0.14 acre) of Map 21-01-36.3.3 (Plot No. 554).

TRS	Tax lot	Acreage	From	To
21-01-35.4	100	2.39	Rural Residential (RR5)	Rural Commercial (RC)
21-01-36.3.3	1300	0.21	Rural Residential (RR5)	Rural Commercial (RC)
21-01-36.3.3	<u>1500</u>	<u>0.14</u>	Rural Residential (RR5)	Rural Commercial (RC)
	Total	2.74		

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*
OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*
Lane County Rural Comprehensive Plan Policies
Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*
Lane Code 16.291 - *Rural Commercial Zone*
Lane Code 16.290 - *Rural Residential Zone*
Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. FINDINGS OF FACT

1. The properties subject to this application, hereinafter referred to as the "subject properties," are located northeast of Brice Creek Road, approximately 500 feet southwest of the intersection with Lower Brice Creek Road, and within the Developed & Committed Exception Areas No. 547-1 and 554-1.

The subject properties can be identified as:

- Tax lot 100 (2.39 acres) of Map 21-01-35.4 (Plot No. 547-1);
- Tax lot 1300 (0.21 of-an-acre) Map 21-01-36.3.3 (Plot No. 554-1);
- Tax lot 1500 (0.14 of-an-acre) Map 21-01-36.3.3 (Plot No. 554-1).

2. All of the subject properties have a Plan designation of Rural and zoning designation of Rural Residential (RR5). All are contiguous with the eastern boundary of tax lot 100 being common with the western boundary of tax lot 1500, and the eastern boundary of 1500 being common with the western boundary of 1300.

The Developed & Committed Exception Areas No. 547-1 and 554-1 are also contiguous with D&C 547 west of the common boundary and D&C 554 to the east.

3. The three subject properties identified above are part of the contiguous ownership by Ronald F. Baldwin. Refer to Exhibit "D" – Assessor's Map TRS 21-01-35.4 and Exhibit "E" – Assessor's Map TRS 21-01-36.3.3.

Mr. Baldwin also owns a fourth property that is a narrow strip of land parallel to Brice Creek Road and south of tax lot 100 of map 21-01-35.4, west of tax lot 1500 of map 21-01-36.3.3, which can be identified as tax lot 199 of Assessor's Map 21-01-35.4. It is a rectangular property 288 feet in length from northwest to southeast parallel to Brice Creek Road and 100 feet in width. It is 0.29 of-an-acre in size.

Tax lot 199 is designated as Commercial (C) on the plan diagram for Plot 547 and zoned Rural Commercial (RC) on Plot 547-1. Mr. Baldwin's intent in requesting this zone change of the subject properties is to create a common commercial designation for all four properties.

4. Development of the subject property, tax lot 100, spans two ownerships and periods of distinct uses.

Prior to the ownership being conveyed to a private party in 1993, the property was owned by the Disston School District # 177 and was developed with the Disston Elementary School. Most of the infrastructure has been removed except for the old gymnasium with three interior areas: 64' x 62' (3,968 sq. ft.), 16' x 60' (960 sq. ft.), and 12' x 62' (744 sq. ft.) for a total of 5,712 sq. ft. The 16' x 60' space was used as a residence in the mid to late 1970's. Refer to the two photos below depicting the western and eastern exposures of the "gymnasium".



Western



Eastern

The property is also developed with second structure on the property that now serves as a automotive repair shop that is 66' x 30' with an interior area of 1,980 sq. ft. A third structure shown in the above photograph (western) to the northwest of the gymnasium is an occupied manufactured home.

5. The property owner, Ronald Baldwin, seeks to acknowledge the past and continuing automotive repair uses on the subject properties. The goal of this rezoning is to have all "commercial" uses on the contiguously owned land in one compatible and appropriate Rural Commercial (RC) zoning designation.
6. The request for the change of zone will bring the existing uses of the subject property into conformity with the Rural Comprehensive Plan and the Lane Code. The use of the subject properties in connection with the commercial activities is inconsistent with the Rural Residential Zone (RR). The existing commercial and residential uses are consistent with the Rural Commercial (RC) zone and Lane Code 16.291(2)(g) and (3)(s):

(2)(g) A single family dwelling or manufactured dwelling in conjunction with an existing commercial use provided there is no other dwelling or single family living quarters on the same lot or parcel.

(3)(s) Outdoor car or truck sales lots, indoor truck or auto repair, and not including the outdoor storage of inoperable vehicles.
7. The existing commercial uses on tax lots 199 and 100 of TRS 21-01-35.4 and the adjacent tax lots 1300 and 1500 of TRS 21-01-36.3.3 complies with the *Purpose* statement of LC 16.291(1) *Purpose*:

The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents or by persons traveling through the rural area . . .
8. There is no record of any historical compatibility issues occurring between the existing commercial use on the subject properties and its neighbors. Nor is there any record of complaints from any surrounding property owners regarding compatibility issues or conflicts with the commercial activities or the current use of the old gymnasium and shop.
9. The subject properties are not within a section (21-01-35, 21-01-36) identified as a "water quantity limited" area in Lane Manual 13.010. The contiguously owned properties are developed with a well that provides adequate domestic water for the existing uses.
10. The subject properties receive the following public services: South Lane School District #45J (schools); Emerald People's Utility District (electrical power); South Lane Fire & Rescue District (fire and ambulance); US Qwest (telephone); Lane County Sheriff's Department and Oregon State Police. The property has access to the Lane Receiving Station and franchised haulers for garbage service.
11. The subject properties are completely surrounded by properties designated Rural Residential (RR5), part of D&C Exception Areas No. 547 and 554, and developed with residences.

II. Justification for the Recommendation (See Conclusion and Recommendation, below)

Statewide Planning Goals

The subject property is within an area subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan, are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone changes requested by this application are intended to recognize existing commercial uses on the subject properties that have been integrated into the surrounding rural area since the sale of the old Disston Elementary School site.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as “Rural Land” as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define “Rural Land” as land located outside of an urban growth boundary that has no or minimal public services and is not necessary or intended for urban use.

The subject properties are not located within an urban growth boundary. The properties receive a rural level of police and fire protection. The proposed rezoning will more closely fit the existing use of the subject properties which have existed on the subject properties since 1993.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

The subject property is surrounded by parcels zoned Rural Residential (RR5) which buffer the closest forest lands (F2) located 400 feet to the northeast and 400 feet to the southwest.

The prior use of the property for the elementary school and the past decade of commercial use by the applicant have co-existed with the forest lands without any evidence of having committed them to nonresource uses.

There are no Exclusive Farm Use lands with Plots 547 or 554. The closest Agricultural lands are over 2,000 feet away.

No activities associated with the commercial uses have in the past or are anticipated in the future to commit adjacent or nearby resource land to nonresource uses.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The existing use of the subject properties has been compatible with the adjacent properties and nearby farm or forest uses without known conflicts since 1993.

This proposed zoning change, as it can be restricted to the use that exists, is in accord with the requirements of state law.

B. Plan Conformity

The subject properties are located in "developed and committed" exception area numbers 547-1 and 554-1 of Lane County. They are proposed to be designated Commercial by the Lane County Rural Comprehensive Plan and zoned Rural Commercial (RC). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy #12. Changes to Plan designations for developed and committed exception areas outside of a Community designations shall be accomplished through the County's Plan Amendment Procedure.

Lane Code 16.252 Procedures for Zoning, Rezoning and amendments to Requirements.

LC 16.252, Section (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 Rural Comprehensive Plan elements and components, and Statewide Planning Goals for any portion which has not been acknowledged for compliance with the Statewide Planning Goals by the Land Conservation and Development Commission.

Applicable criteria from the *Lane Code 16.003 Purpose* subsection include:

(1) Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.

The subject properties are relatively flat with no identified hazards due to slope or terrain features. Development was been orderly and preceded land use regulations. The resulting commercial uses have not contributed any known adverse impacts to the immediate area or resources. Any development or intensification of the current uses or

new uses will require compliance with the applicable criteria and siting standards of the base zones: Lane Code 16.291 (RC).

(2) *Protect and diversify the economy of the County.*

Re-designation of the subject properties will acknowledge commercial uses; allow diversification of the current uses and avenues for new uses in compliance with the required permit processes, criteria and standards.

(4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*

The properties subject to this rezoning request are collectively small with the three as a tract being approximately 2.74 acres, and developed in its current state in the same manner as for the past 12 years. It is buffered by road corridors and nonresource-zoned properties from nearby forest (F2) land. Continued use of the subject properties will not affect the conservation of those F2 within the region surrounding the D&C areas.

b. Water Resources Policies #3 and #5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities.

The current commercial uses on the subject properties are served by the on-site wells and existing subsurface disposal systems. Therefore, the uses will not alter the volume or availability of local groundwater that is currently provided to the existing structures.

In the event that a more intensive or different use is proposed for of the subject properties, the property owners shall be required to secure Planning Director approval of the uses and comply with Lane Code 16.291(4)(j) *"The proposed use and development shall not exceed the carrying capacity of the soil or on the existing water supply resources and sewer service. To address this requirement, factual information shall be provided about any existing or proposed sewer or water systems for the site and the site's ability to provide on-site sewage disposal and water supply if a community water or sewer system is not available."*

c. Public Facilities and Services Policy #6.f:

The appropriate public service levels established by this policy are enumerated in Public Facilities and Services Policy #6.f: schools, on-site or community sewage disposal, individual or community water supply system, electrical service, telephone service, a rural level of fire and police protection, and reasonable access to a solid waste disposal facility. These services are all available to the subject property.

d. Agricultural Lands, Policy # 8: *"Provide maximum protection to agricultural activities by minimizing activities, particularly residential, which conflict with such use. Whenever possible planning goals, policies and regulations should be interpreted in favor of agricultural activities."*

The nearest EFU resource lands are buffered by Rural Residential (RR5) and Impacted Forest Land (F2) with an intervening distance in excess of 2,500 feet. Any expansion or

intensification of the use would require compliance with Lane Code 16.291(4) siting standards and although the standards do not directly address this policy, new uses are intended to be “compatible with the surrounding vicinity” and to “minimize any adverse effect on existing or contemplated abutting land use”.

- e. Flora and Fauna, Policies 1 and 10 “Implement construction, development and other land use activities which significantly alter natural systems only after evaluation of effects on wildlife habits and natural areas.” “Lands with an acknowledged exception as built upon or committed will be treated as Impacted Big Game Range, as identified in the 1982 Lane County Working Paper on Flora and Fauna and as revised and updated in 1983.”

RCP inventoried significant species have not been identified on the subject properties. There are no delineated wetlands identified on the Culp Creek 1 quad of the National Wetlands Inventory within the subject properties. There is no information in the record to indicate the continuation of the commercial use on the subject properties will pose any anticipated risk of significantly altering the natural system in the area.

The proposed zone change for the subject property is in compliance with these Rural Comprehensive Plan Policies.

C. Zone Conformity

Lane Code 16.252(2) requires that a rezoning be consistent with the general purposes of Chapter 16, as set forth in Lane Code 16.003, not be contrary to the public interest, and be consistent with the purposes of the proposed zoning classifications and the Lane County Rural Comprehensive Plan elements. Conformity with the Rural Comprehensive Plan has already been discussed.

- a. Lane Code 16.003. Lane Code 16.003 describes 14 purposes for Chapter 16. Purpose statements 1, 2, and 4 were addressed in the **B. Plan Conformity** section above. The other purpose criteria relevant to this application are as follows:

- (7) *Provide for the orderly and efficient transition from rural to urban land use.*

The proposed zone change occurs in an exception area where development is focused in an area already intensely developed with residential uses. The existing uses are rural uses that utilize a rural level of facilities. Recognizing the automotive repair use is prudent and does not accelerate the transition from rural to urban. It merely acknowledges the status quo.

- (11) *Protect life and property in areas subject to floods, landslides and other natural disasters and hazards.*

The subject properties are not within the 100-year flood hazard area per Flood Insurance Rate Map Panel 2425F of 2975 (6-2-99). There are no other natural hazards identified on the property.

- b. Not Contrary to the Public Interest

The “public interest” has not been defined, as such, but for the purposes of this report it will be assumed that if the existing uses will not have an adverse impact on surrounding uses then

it will not be contrary to the public interest. Additionally, the longevity of the existing uses strongly suggests that there is a need for the commercial use in this area.

c. Lane Code 16.292

Lane Code 16.291(1) states that *The purposes of the Rural Commercial Zone (RC-RCP) are . . . to allow commercial uses and development that are consistent with Goal 14 and that are for the retail trade of products or services needed by rural residents or by persons traveling through the rural area, . . .*

The proposed rezoning and uses on the subject properties are consistent with this purpose.

d. Lane Code 16.004(4)

Lane Code 16.004(4) requires, among other things, that an application to rezone land which creates the potential for additional parcelization or water demands demonstrate the adequacy of a long-term water supply, as described in Lane Code 13.050(13)(a)-(d).

The subject properties are small in size and any future partitioning, which is unlikely, or change of use would by necessity have to comply with the water supply resource as well as the carrying capacities of soils for subsurface waste disposal system requirements as required in LC 16.291(4)(j).

III. CONCLUSIONS

This application has shown by a preponderance of evidence that the standards and criteria applicable for approval of an amendments of Official Plan and Official Zoning designations for:

- Tax lot 100 (2.39 acres) of Map 21-01-35.4 (Plot 547);
- Tax lot 1300 (0.21 acre) of Map 21-01-36.3.3 (Plot No. 554); and
- Tax lot 1500 (0.14 acre) of Map 21-01-36.3.3 (Plot No. 554).

from Rural (R) to Commercial (C), and Rural Residential (RR5) to Rural Commercial (RC), respectively, have been met.

IV. RECOMMENDATIONS

1. Approval of PRZC Control No. 19 of Ordinance No. PA 1226, amending the Official Plan Maps No. 547-1 and 554-1 for:
 - Tax lot 100 (2.39 acres) of Map 21-01-35.4 (Plot 547);
 - Tax lot 1300 (0.21 acre) of Map 21-01-36.3.3 (Plot No. 554); and
 - Tax lot 1500 (0.14 acre) of Map 21-01-36.3.3 (Plot No. 554);from Rural (R) to Commercial (C); and
2. Approval of PRZC Control No. 19 of Ordinance No. PA 1226, amending the Official Zoning Maps No. 547-1 and 544-1 designations for:
 - Tax lot 100 (2.39 acres) of Map 21-01-35.4 (Plot 547);
 - Tax lot 1300 (0.21 acre) of Map 21-01-36.3.3 (Plot No. 554); and
 - Tax lot 1500 (0.14 acre) of Map 21-01-36.3.3 (Plot No. 554).from Rural Residential (RR5) to Rural Commercial (RC).

V. EXHIBITS

- A - 1. Plan Map No. 547 with proposed plan change depicted.
 - A - 2. Plan Map No. 554 with proposed plan change depicted.
 - B - 1. Zoning Map Plot No. 547 with proposed zone change depicted.
 - B - 2. Zoning Map Plot No. 554 with proposed zone change depicted.
 - C. Aerial Photograph BLM 12 0-00-EUG Flight 28, Exposure 79.1.1 (6-17-2000)
 - C-1. Enlargement of Aerial Photograph in vicinity of subject properties.
 - D. Lane County Assessor's Map TRS 21-01-35.4.
 - E. Lane County Assessor's Map TRS 20-01-36.3.3.
-
-

6-17-2000

12:17

BLM

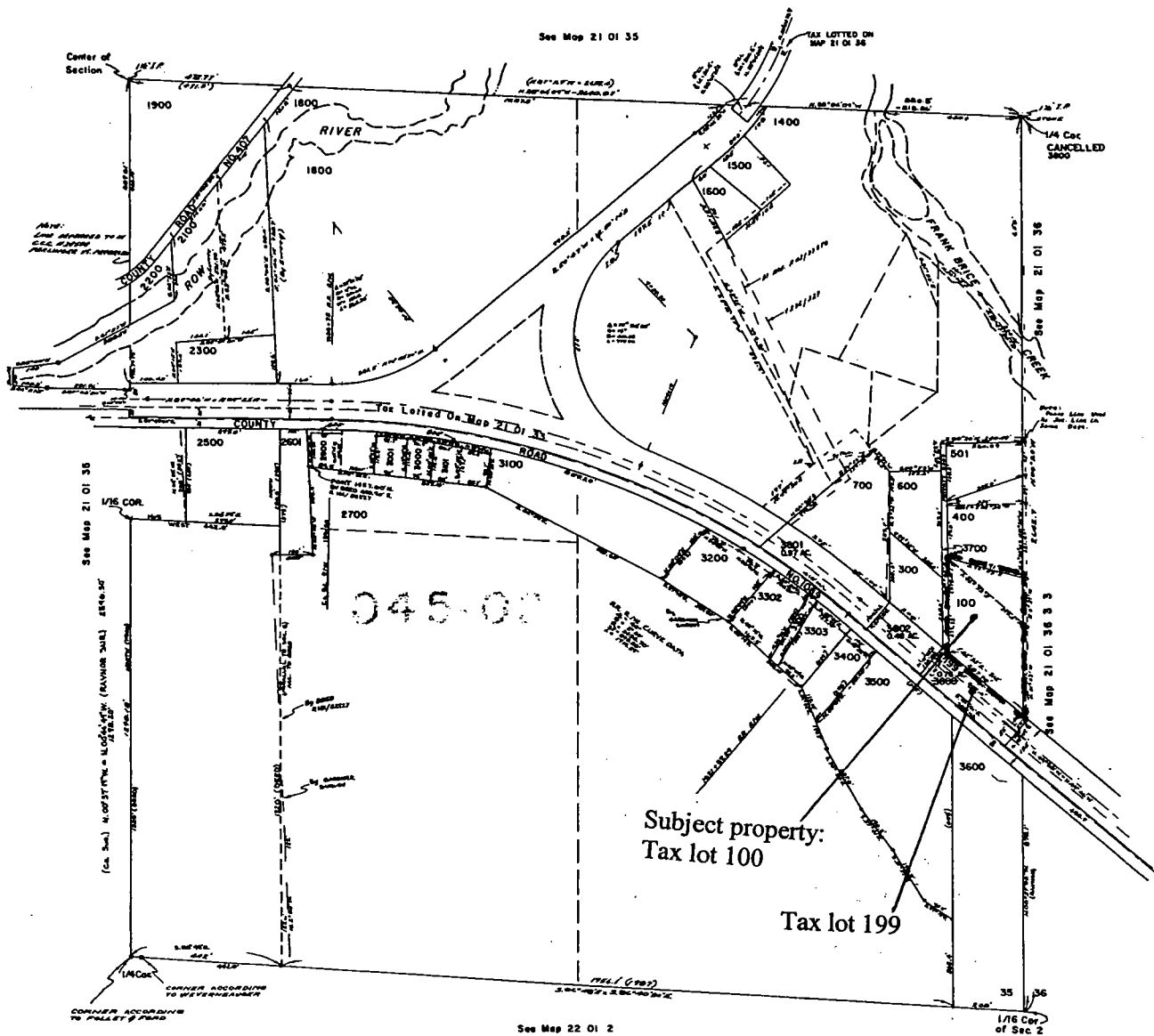
0-00-EUG

28-79_1-1



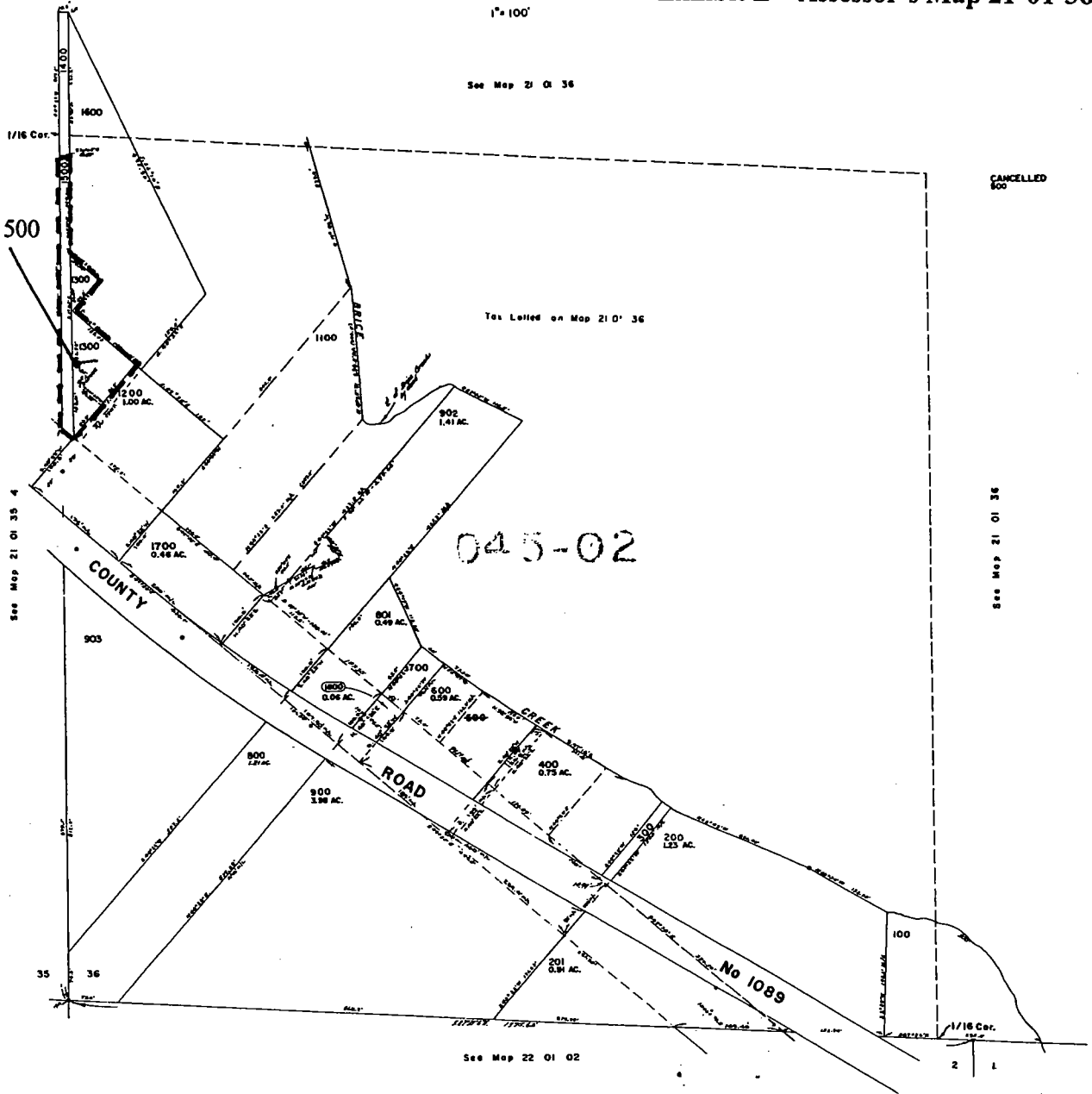
Exhibit C-1. Enlargement of Aerial Photograph in vicinity of subject properties.





See Map 21 01 36

Subject properties:
Tax lots 1300 and 1500



CANCELLED 500

See Map 21 01 36

See Map 22 01 02

2 1

Lane County -/- Coast Fork Willamette Watershed
Legislative Rezoning Project

Developed and Committed Exception Area No. 437-2

**Plan Amendment and Zone Change for
Tax Lot 1300 of Assessor's Map 18-02-19**

TRS/Tax lot	Acreage	From	To
18-02-19, 1300	5.22	Rural Residential (RR5)	Rural Industrial (RI)

Statement of Criteria

OAR 660-04-018(2) - *Planning & Zoning for Exception Areas*

OAR 660-22-030(6)-(8) – *Planning and Zoning of Unincorporated Communities*

Lane County Rural Comprehensive Plan Policies

Goal Two, Policy 27 Conformity Determination Amendment

Lane Code 16.003 & 16.004 - *Purpose and Scope and Compliance*

Lane Code 16.292 - *Rural Industrial Zone*

Lane Code 16.290 - *Rural Residential Zone*

Lane Code 16.252(2), (5) - *Procedures for Zoning, Rezoning and Amendments to Requirements*

I. Findings of Fact

Refer to Exhibit “D” Applicant’s Findings of Fact and Conclusions of Law.

The Board of County Commissioners adopts the findings of fact and conclusions of law of the applicant in Exhibit “D” as their own.

II. Justification for the Recommendation

Refer to Exhibit “D” Applicant’s Findings of Fact and Conclusions of Law.

III. Conclusion

The applicant has shown by a preponderance of evidence in Exhibit “D” that the criteria and standards applicable to this rezoning request have been met.

IV. Recommendations

That the Bessett Lucky Limited application PRZC Control No. 20 of Ordinance No. PA 1226 for the amendment to the plan designation of tax lot 1300, Assessors Map 18-02-19, from Rural (R) to Industrial (I), be approved.

That the Bessett Lucky Limited application PRZC Control No. 20 of Ordinance No. PA 1226 for the rezoning of tax lot 1300, Assessors Map 18-02-19, from Rural Residential (RR5) to Rural Industrial (RI), be approved.

V. Exhibits

A. Plan Map, Plot No. 437

B. Zoning Map, Plot No. 437

C. Assessor’s Map 18-02-19 depicting subject property tax lot 1300

D. Applicant’s Findings of Fact and Conclusions of Law.

Developed and Committed Exception Area -- No. 437-2S

**Plan Amendment and Zone Change for Assessor's Map 18-02-19, tax lot 1300
(5.01 acres): From RR5 Rural Residential to RI Rural Industrial**

I. PROPOSAL

This application requests that a 5.01 acre parcel adjacent to Highway 58 east of Goshen be redesignated and rezoned from RR5 Rural Residential to RI Rural Industrial. This rezoning would recognize the existing use of the property for heavy equipment storage and repair which has been in continuous operation on the site since 1965. It would permit the existing business to continue operating under many of the same provisions applied in the five conditional use permits previously approved for heavy equipment storage and repair on the site.

Improvements such as a number of buildings, well and septic system have been legally installed on the property. The area used for heavy equipment storage has been expanded beyond what was permitted in the prior approvals. This application will recognize this expansion and manage it within the provisions of the Rural Industrial zone. The uses in this application are consistent with what is permitted in the Rural Industrial zone, and appear to be compatible with the area. The existing use has been compatible with the surrounding neighborhood for 40 uninterrupted years of operation. Another heavy equipment storage and repair business, which is larger in size, is located one parcel away from the subject property to the southeast.

II. PARCEL SPECIFIC FINDINGS OF FACT

Findings of fact specific to the subject property: Assessor's map 18-02-19, tax lot 1300 (hereafter 18-02-19, TL 1300)

1. The property subject to this application, hereinafter referred to as the "subject property," is identified as tax lot 1300 of Assessor's Map 18-02-19, and is 5.01 acres in size. The development has an assigned rural address of 34940 Highway 58, Pleasant Hill OR 97455.
2. The subject property is designated and zoned Rural Residential RR5 and is developed with the following improvements (all dimensions are approximate).
 - * Shop (4800 sq. ft.),
 - * Shop (2800 sq. ft.),
 - * Office (520 sq. ft.),
 - * Mobile home for caretaker (840 sq. ft.),
 - * Shed
 - * Parking and outside storage
 - * Well

- * Subsurface septic system
- * Fenced with 6 foot high chain link

3. The development history of the subject property is as follows.

- A. In 1965 the current owners opened their heavy equipment storage and repair business on the property, which has been in continuous operation ever since. On March 5, 1966 the current owners purchased the site.
- B. Four conditional use permits (CUP 71-110, 76-1198, 76-261 and 81-261) have been approved on the subject property to allow the continued operation of the heavy equipment storage and repair business. Improvements required as part of these permits have been constructed on the site:
 - * subsurface septic system (SI 77-184)
 - * replacement mobile home for caretaker (LC 232-80 MH)
 - * accessory buildings (PA 2301-88 and PA 2581-88)
- C. An additional land use approval (PA 2922-86) has been granted for the heavy equipment storage and repair business, after the subject property was rezoned for Rural Residential use in 1984. This approval allowed this use to continue without requiring additional Conditional Use Permit applications.
- D. A fill permit (PA 01-5631) has been approved to add fill dirt to the northern portion of the subject property, so it can be better used for heavy equipment storage. The fill authorized in this permit has not yet been placed on the site, subject to this requested redesignation and rezoning.

4. The subject property is trapezoidal in shape, with approximately 300 feet of frontage along the right-of-way of Highway 58, and from 594.27 to 624.4 feet of depth. It is within three contiguous exception areas which total 375.04 acres in size. The subject property is part of Exception Area 437-2S, which is 104.74 acres in size and extends to the northwest along Highway 58. Another exception area (437-2N) is adjacent to the north, and is 95.5 acres in size. The subject property is adjacent to Exception Area 438-1 which is directly south of the site, 174.8 acres in size, and on both sides of Mathews Road.

5. Land zoned Agricultural E25 is located across Highway 58 from the subject property, and is developed with an orchard and residence. The Highway 58 right-of-way is 140 feet wide in the vicinity of the site. Parcels on all sides of the subject property, including the agricultural parcel across Highway 58, are developed with residences. The site is within a relatively large area of rural residential development. There are 31 dwellings and two businesses/shops located within 1/4 mile of the subject property, with the primary concentration of development located south of the site, along Mathews Road. Another heavy equipment storage and repair business which is larger

than what is on the subject property, is located one parcel away from the site to the southeast.

6. Over 97 percent of the subject property has Malabon silty clay loam (Soil Survey of Lane County Area, Oregon (1987), NRCS Map sheet 104). Malabon loam does not have a Douglas fir site index and has an agricultural capability class of 1. The other 3 percent of soils on the site are Chehalis silty clay loam (2 percent) with no Douglas fir site index and an agricultural capability class of 2, and McBee silty clay loam (1 percent) with no Douglas fir site index and an agricultural capability class of 3. The 40 year use of the subject property for heavy equipment repair and storage has rendered approximately 80 percent of the site unusable for farm or forest uses due to fill, structures, and impacted soil from heavy equipment traffic.
7. No National Wetland Inventory delineated wetlands are located on the subject property (Jasper 2 map).

III. ANALYSIS OF APPROVAL STANDARDS

Statewide Planning Goals

The subject property is within Developed & Committed Exception Area #437-2S, subject to the Lane County Rural Comprehensive Plan. This Plan has been acknowledged by the Land Conservation and Development Commission in a series of acknowledgment orders. Acknowledgment indicates that the Plan is generally in compliance with the applicable standards of the statewide planning goals, and that appropriate exceptions have been approved for any matters of noncompliance. *Byrd v. Stringer*, 295 Or. 311, 666 P.2d 1332 (1983). Accordingly, the state statutes, the standards of the Plan, and the Lane Code provisions implementing the Plan are relevant to this application. The statewide planning goals themselves do not apply to land use decisions in an area subject to an acknowledged Comprehensive Plan.

In implementing Part II of statewide planning Goal 2, Oregon Administrative Rule 660-04-018(2)(c) establishes requirements for zone changes in developed and committed exception areas:

“Changes to plan or zone designations are allowed consistently with subsections (a) or (b) of this section, or where the uses or zones are identified and authorized by specific related policies contained in the acknowledged plan.”

Subsection (a) of OAR 660-04-018(2), the relevant requirement for changes in land use, density and public facilities for “physically developed” and “irrevocably committed” exception areas, allows zone changes for:

(a) Uses which are the same as the existing types of land use on the exception site; or

The zone change requested by this application intended to recognize the existing heavy equipment storage and repair use that has existed for forty continuous years on the subject property.

(b) Which meet the following requirements:

(A) The rural uses, density, and public facilities and services maintain the land as "Rural Land" as defined by the goals and are consistent with all other applicable Goal requirements; and

The Statewide Planning Goals define "Rural Land" as land located outside of an urban growth boundary that has no or hardly any public services and is not necessary or intended for urban use.

The subject property is located southeast of Goshen and northwest of Pleasant Hill, is not within a urban growth boundary. The property receives a rural level of police and fire protection. The proposed rezoning would allow the applicant to continue the existing use of the subject property.

(B) The rural uses, density, and public facilities and services will not commit adjacent or nearby resource land to nonresource uses as defined in OAR 660-004-0028; and

No resource lands are directly adjacent to the subject property. Land designated for agricultural use (E25) is located 140 feet northeast of the subject property, across Highway 58. Lands to the west, south, and east of the subject property are designated Rural Residential (RR5). Highway 58 is north of the subject property. The subject property is developed with improvements required for heavy equipment repair and storage which have existed without any known conflicts with resource management of the agricultural land to the north.

(C) The rural uses, density, and public facilities and services are compatible with adjacent or nearby resource uses.

The use on the subject property will be unchanged from what has existed for the last forty years, which has been and will be compatible with the management of resource lands across Highway 58 to the north.

Therefore, this proposed zoning change is in accord with statewide planning goals.

Plan Conformity

The subject property is located in Developed and Committed Area #437-2S of Lane County. It is proposed to be designated Industrial by the Lane County Rural Comprehensive Plan and be zoned Rural Industrial (RI). The policies of the Rural Comprehensive Plan applicable to this request are as follows:

A. Land Use Planning Policy 13. Plan refinement within a Community designation shall be accomplished by means of rezoning within the Community designation, addressing the following criteria:

- 1. The proposed use will not adversely affect the livability or appropriate development of the surrounding area;**

The livability of the surrounding area has not been defined, at least not directly. Therefore, for purposes of this analysis, the Planning Commission and Board of Commissioners may equate "livability" with the current level of impacts and services experienced by the citizens of D&C Area #437-2S. An "adverse" impact on this standard would therefore mean to increase the negative impacts, such as traffic and noise, and to lessen or make more expensive the same range and scope of public services.

The livability in the area surrounding the subject properties is defined, in part, by the operation of residential uses on the properties within the corridor of residential and commercial uses in D&C Area #437-2S along Highway 58. The existing use on the subject property has operated on the site for 40 contiguous years with no apparent impact on the surrounding area. Most of the immediate area is developed with rural residential and rural industrial uses, with all properties directly adjacent to the subject property developed with rural residential uses.

- 2. Commercial and industrial activities within the Communities shall, to the greatest degree practicable, be concentrated in identifiable nodes which are favorably located with reference to transportation facilities and other public services.**

The subject property is located within a node of uses along Highway 58 and Mathews Road. It fronts on Highway 58 which is a primary transportation route to the west and east. The subject property is well within the node identified as the Exception Area, and is appropriately located to Highway 58.

B. Water Resources Policies 3 and 5:

These policies state that the adequacy of groundwater supply is a major issue in planning actions and that land use designations shall be commensurate with groundwater aquifer capacities. The proposed rezoning will not change the type of