



Oregon

Theodore R. Kulongoski, Governor

Department of Land Conservation and Development

635 Capitol Street, Suite 150
Salem, OR 97301-2540
(503) 373-0050
Fax (503) 378-5518
www.lcd.state.or.us

AMENDED NOTICE OF ADOPTED AMENDMENT

January 8, 2008



TO: Subscribers to Notice of Adopted Plan
or Land Use Regulation Amendments

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Lane County Plan Amendment
DLCD File Number 006-07

The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. Due to the size of amended material submitted, a complete copy has not been attached. A copy of the adopted plan amendment is available for review at the DLCD office in Salem and the local government office.

Appeal Procedures*

DLCD ACKNOWLEDGMENT or DEADLINE TO APPEAL: January 28, 2008

This amendment was submitted to DLCD for review 45 days prior to adoption. Pursuant to ORS 197.830 (2)(b) only persons who participated in the local government proceedings leading to adoption of the amendment are eligible to appeal this decision to the Land Use Board of Appeals (LUBA).

If you wish to appeal, you must file a notice of intent to appeal with the Land Use Board of Appeals (LUBA) no later than 21 days from the date the decision was mailed to you by the local government. If you have questions, check with the local government to determine the appeal deadline. Copies of the notice of intent to appeal must be served upon the local government and others who received written notice of the final decision from the local government. The notice of intent to appeal must be served and filed in the form and manner prescribed by LUBA, (OAR Chapter 661, Division 10). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

***NOTE: THE APPEAL DEADLINE IS BASED UPON THE DATE THE DECISION WAS MAILED BY LOCAL GOVERNMENT. A DECISION MAY HAVE BEEN MAILED TO YOU ON A DIFFERENT DATE THAN IT WAS MAILED TO DLCD. AS A RESULT YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.**

Cc: Doug White, DLCD Community Services Specialist
Rob Hallyburton, DLCD Planning Services Division Manager
Ed Moore, DLCD Regional Representative
Keir Miller, Lane County

<paa> ya/

FORM 2

DLCD NOTICE OF ADOPTION

DEPT OF

This form must be mailed to DLCD within 5 working days after the final decision
per ORS 197.610, OAR Chapter 660 - Division 18

(See reverse side for submittal requirements)

JAN 08 2008

LAND CONSERVATION
AND DEVELOPMENT

Jurisdiction: Lane County Local File No.: PA1245 & ORD NO. 15-07
(If no number, use none)

Date of Adoption: January 2, 2008 Date Mailed: _____
(Must be filled in) (Date mailed or sent to DLCD)

Date the Notice of Proposed Amendment was mailed to DLCD: August 29, 2007 &
November 20, 2007

☒ Comprehensive Plan Text Amendment ☐ Comprehensive Plan Map Amendment
☐ Land Use Regulation Amendment ☒ Zoning Map Amendment
☒ New Land Use Regulation ☐ Other: _____
(Please Specify Type of Action)

Summarize the adopted amendment. Do not use technical terms. Do not write "See Attached."

Adopt Lane Code 16.296 (Private Use Airport Overlay Zone),
Amend LC 16.012 to include 16.296 into the list of established
zones and Adopt an official private Use Airport
Safety overlay Zone Map.

Describe how the adopted amendment differs from the proposed amendment. If it is the same, write "Same." If you did not give notice for the proposed amendment, write "N/A."

No changes in the base zone or plan designations
of affected properties as was originally proposed. A
letter to DLCD dated 11/26/07 described these
modifications. Adopted ordinances enact an overlay zone.

Plan Map Changed from: N/A to N/A

Zone Map Changed from: _____ to _____

Location: 5 locations Acres Involved: 265

Specify Density: Previous: N/A New: N/A

Applicable Statewide Planning Goals: 1, 2, 12

Was an Exception Adopted? Yes: _____ No: ☒

DLCD File No.: 006-07(16362)

Did the Department of Land Conservation and Development receive a notice of Proposed

Amendment **FORTY FIVE (45) days prior to the first evidentiary hearing.** Yes: ☒ No: ☐

If no, do the Statewide Planning Goals apply. Yes: ☐ No: ☐

If no, did The Emergency Circumstances Require immediate adoption. Yes: ☐ No: ☐

Affected State or Federal Agencies, Local Governments or Special Districts: Oregon

Department of Aviation, DLCD, FAA

Local Contact: Keir Miller Area Code + Phone Number: 541-682-4631

Address: 125 E. 8th Ave

City: Eugene, OR Zip Code+4: 97401-9949

ADOPTION SUBMITTAL REQUIREMENTS

This form **must be mailed** to DLCD **within 5 working days after the final decision**
per ORS 197.610, OAR Chapter 660 - Division 18.

1. Send this Form and TWO (2) Copies of the Adopted Amendment to:

**ATTENTION: PLAN AMENDMENT SPECIALIST
DEPARTMENT OF LAND CONSERVATION AND DEVELOPMENT
635 CAPITOL STREET NE, SUITE 150
SALEM, OREGON 97301-2540**

2. Submit **TWO (2) copies** the adopted material, if copies are bounded please submit **TWO (2) complete copies** of documents and maps.
3. Please Note: Adopted materials must be sent to DLCD not later than **FIVE (5) working days** following the date of the final decision on the amendment.
4. Submittal of this Notice of Adoption must include the text of the amendment plus adopted findings and supplementary information.
5. The deadline to appeal will not be extended if you submit this notice of adoption within five working days of the final decision. Appeals to LUBA may be filed within **TWENTY-ONE (21) days** of the date, the "Notice of Adoption" is sent to DLCD.
6. In addition to sending the "Notice of Adoption" to DLCD, you must notify persons who participated in the local hearing and requested notice of the final decision.
7. **Need More Copies?** You can copy this form on to 8-1/2x11 green paper only ; or call the DLCD Office at (503) 373-0050; or Fax your request to:(503) 378-5518; or Email your request to Larry.French@state.or.us - ATTENTION: PLAN AMENDMENT SPECIALIST.

January 7, 2008

Department of Land Conservation and Development
Attn: Larry French, Plan Amendment Program Specialist
635 Capitol Street NE, Suite 150
Salem, OR 97301-2540



LAND MANAGEMENT DIVISION

http://www.LaneCounty.org/PW_LMD/

RE: Ordinance No. PA 1245 and Ordinance N. o15-07 (Private Airport Updates)

Dear Mr. French,

Ordinance No. PA 1245 and Ordinance No. 15-07 were adopted by the Board of County Commissioners on January 2, 2008. Notice of Adoption and two copies of Ordinance No. PA 1245 and Ordinance No. 15-07 are attached. In addition, the required adopted findings and map are included along with the supplemental Board of Commissioners memo. I have also noticed all parties with standing.

The following individuals are parties with standing:

CHARLES RUFF
OREGON COUNTRY FAIR
24550 CHICKADEE LANE
VENETA, OR 97452

MICHAEL REEDER
800 WILLAMETTE STREET
EUGENE, OR 97401

CHRIS CUMMINGS
OREGON DEPARTMENT OF
AVIATION
3040 25TH STREET SE
SALEM, OR 97302-1125
JOHN HENDERSON
29484 MEADOWVIEW RD
JUNCTION CITY, OR 97448

ZACK MITTGE
777 HIGH STREET, SUITE 200
EUGENE, OR 97401

BOB PALMER
4905 DONALD STREET
EUGENE, OR 97405

CONRAD MAGNUSON
24003 SUTTLE RD
VENETA, OR 97487

LLOYD AMUNDSON
29447 CULVER LANE
JUNCTION CITY, OR 97488

MARY W. CRABANGH
81120 MILL ROAD
CRESWELL, 97438

RANDY STOUT
86277 PANORAMA ROAD
SPRINGFIELD, OR 97478

GEORGE BAKER
29454 MEADOWVIEW ROAD
JUNCTION CITY, OR 97488

TOM URBAN
PO BOX 2119
JASPER, OR 97438

DANIEL KERSEY
92110 PRAIRIE ROAD
JUNCTION CITY, OR 97448

PAT CALLIS
1442 ASH DRIVE
BOZEMAN, MT 59715

If you have questions about the Ordinances, please contact me at 541 682-4631.

Sincerely,

Keir Miller
Associate Planner

Enclosures

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. PA 1245

IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) BY REVISING GOAL-2, POLICY 25; TO ESTABLISH PROVISIONS FOR A PRIVATE USE AIRPORT OVERLAY ZONE; BY ADOPTING AN OFFICIAL PRIVATE USE AIRPORT OVERLAY ZONE MAP; BY APPLYING THE OVERLAY ZONE TO FIVE PRIVATE USE AIRPORTS AND SURROUNDING PROPERTIES AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the Jurisdiction of the of the Lane County Rural Comprehensive Plan; and

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 883, has adopted the Lane County General Plan Policies which is a component of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 12.050 and 16.400 set forth procedures for amendments of the Rural Comprehensive Plan and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comp Plan; and

WHEREAS, It is necessary to amend the Rural Comprehensive Plan and apply an overlay zone to provide for the continued operation and vitality of certain private use airports in Lane County consistent with state law; and

WHEREAS, It is necessary to amend the Rural Comprehensive Plan and apply an overlay zone to reduce the potential safety hazards to persons living, working or recreating on lands near such private use airports ; and

WHEREAS, the proposal was reviewed at public hearings with the Lane County Planning Commission on October 16 and November 20, 2007; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on December 5, 2007; and

WHEREAS, evidence exists in the record indicting that the proposal meets the requirements of Lane Code Chapters 12 and 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action;

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

Section 1, The Lane County General Plan Policies, Goal 2 (Policy 25) adopted by Ordinance No. PA 883 and amended thereafter is amended by revising Goal 2 General Plan Policy 25, to add provisions for a Private Use Airport Overlay Zone and to perform minor housekeeping corrections as set forth in Exhibit "A".

Section 2, An Official Private Use Airport Overlay Zone Map is established and adopted as depicted in Exhibit "B".

Section 3, The Private Use Airport Overlay Zone is applied to the lands and airspace encompassed by the surfaces and districts delineated on the Official Private Use Airport Overlay Zone Map to the following properties or portions thereof:

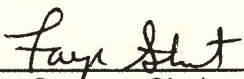
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1604080000510	1604290000100	1706260001703	1802130000201	1903340000701
1604080000900	1604290002600	1706260001704	1802130000204	2003030000200
1604170000101	1604290002601	1706260001705	1802130000205	2003030000600
1604170000601	1604320000200	1706260002401	1802130000300	2003030000700
1604170000601	1604330000201	1706260002502	1802130000301	2003030000800
1604200001400	1604330000400	1706260002601	1802130000301	2003030000800
1604210000301	1706220001200	1706260002601	1802130000302	2003030000800
1604210000301	1706220001200	1706270000102	1802130000303	2003030000801
1604210000301	1706220001200	1706340000101	1802140000100	2003030000801

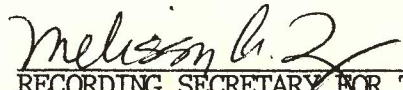
FURTHER, Although not part of this Ordinance, the Board of County Commissioners adopts findings in support of this action as set forth in Exhibit "C".

The prior policies, plan and zone diagram designations repealed or changed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation of thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause phrase of portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

ENACTED this 2ND day of January, ~~2007~~ 2008


Faye Stewart, Chair
Lane County Board of County Commissioners


RECORDING SECRETARY FOR THIS
MEETING OF THE BOARD

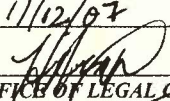
APPROVED AS TO FORM
Date 11/12/07 Lane County

OFFICE OF LEGAL COUNSEL

Exhibit A: Proposed changes to RCP Goal 2, Policy 25
Proposed deletions shown with a ~~strikethrough~~
Proposed additions are underlined

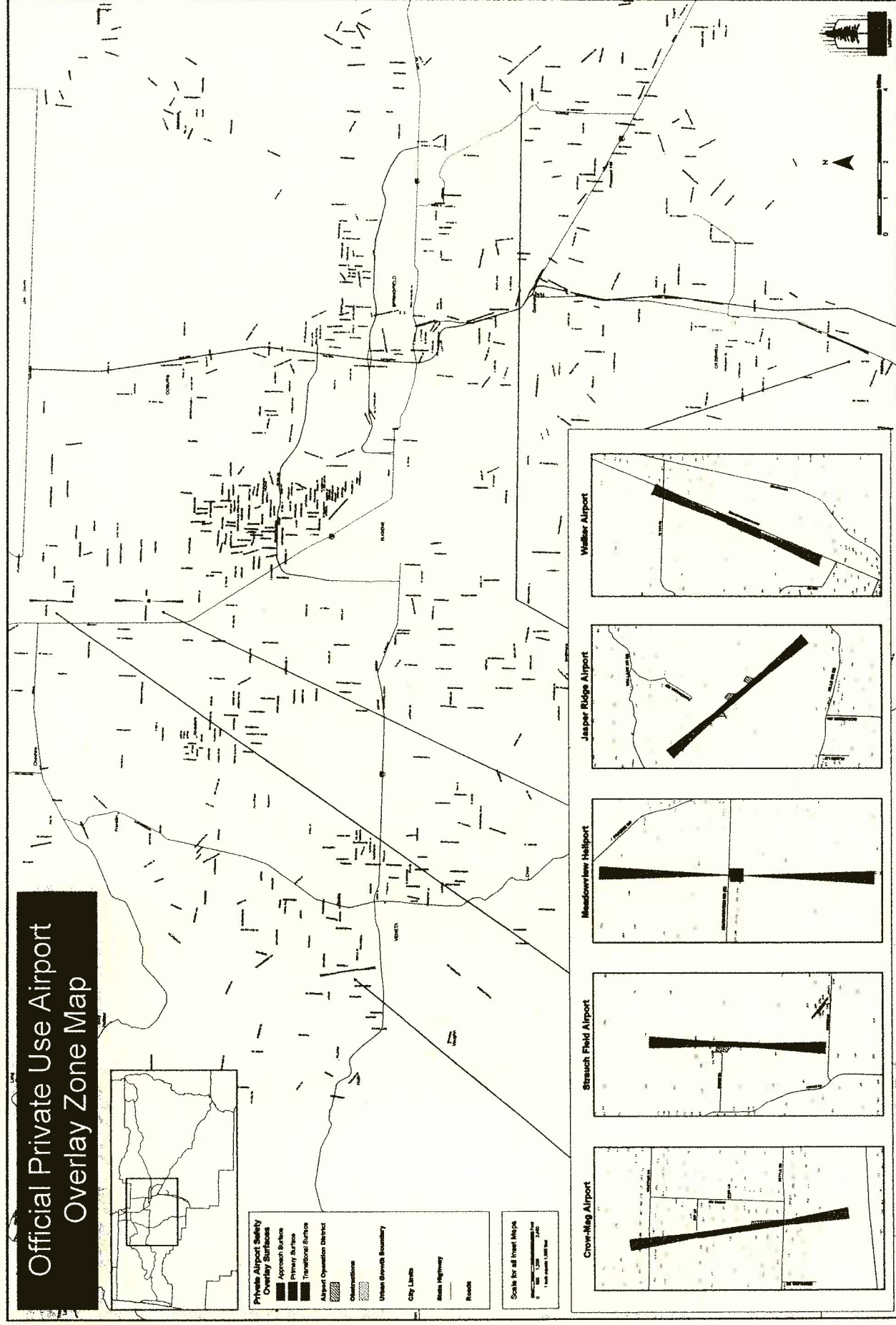
All cluster subdivisions must be within an existing Rural Fire Protection District.

No other identifiable substantial increase of a public service shall be necessitated by the approval of a cluster subdivision.

24. Outside of designated 'Community' areas, all changes to Plan Diagram designations shall be evaluated through the County's Plan Amendment procedure (LC 16.400) and approval based upon fulfillment of criteria therein.
25. Each of the land use designations applied to the Plan Diagram shall be implemented by one or more zoning districts, as follows:

<u>Plan Designation</u>	<u>Zone Classification</u>	<u>Abbrev.</u>
Forest Land	Nonimpacted Forest Lands	F-1, RCP
Forest Land	Impacted Forest Lands	F-2, RCP
Agricultural Land	Exclusive Farm Use	E-RCP
Natural Resource	Natural Resource	NR-RCP
Marginal Land	Marginal Lands	ML-RCP
Park and Recreation	Park and Recreation	PR-RCP
Rural Park and Recreation	Rural Park and Recreation	RPR, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Park and Recreation, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Park and Recreation.		
Natural Resource	Quarry & Mining Operations Combining	/QM-RCP
Natural Resource	Sand, Gravel and Rock Products	SG-RCP
Natural Resource	Sand, Gravel & Rock Prod. Processing	/CP-RCP
Public Facility, Community	Public Facility	PF-RCP
Rural Public Facility	Rural Public Facility	RPF, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Public Facility, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Public Facility.		
Commercial, Community	Limited Commercial	C-1, RCP
Commercial, Community	Neighborhood Commercial	C-2, RCP
Commercial, Community	Commercial	C-3, RCP
Rural Commercial	Rural Commercial	RC, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Commercial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Commercial.		
Industrial, Community	Limited Commercial	M-1, RCP
Industrial, Community	Light Commercial	M-2, RCP
Industrial, Community	Heavy Industrial	M-3, RCP
Rural Industrial	Rural Industrial	RI, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Industrial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Industrial.		
Rural, Community	Suburban Residential	RA, RCP
Rural, Community	Garden Apartment Residential	RG, RCP
Rural, Community	Rural <u>Rural</u> Residential	RR, RCP

Exhibit B: Official Private Use Airport Overlay Zone Map (scale Reduced)



FINDINGS AND CONCLUSIONS IN SUPPORT OF ADOPTION OF ORDINANCE No. PA 1245

The Lane County Board of Commissioners ("Board") finds as follows:

1. The Ordinance to which these findings are attached effects an update to the Lane County Rural Comprehensive Plan ("RCP") The Board is amending RCP General Plan Goal 2, Policy 25 to include a Private Use Airport Overlay zone into the County's General Plan Policies. The Board is also adopting an Official Private Use Airport Overlay Zone Map, and is applying this overlay zone to the properties or portions of properties listed in Section 3 of Ordinance No. PA 1245. These changes will be referred to as the "private use airport updates" throughout these findings. Furthermore, references to "private use airports" within these findings shall be understood to also include the Meadowview Heliport.
2. Pursuant to Lane Code (LC) 12.050(1) and LC 16.400(6)(h)(i) amendments to the Comprehensive Plan and the Rural Comprehensive Plan shall be by ordinance. Furthermore, Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comp Plan. Adopting Ordinance No. PA 1245 accomplishes these requirements.
3. LC 12.050(2) provides review criteria to adopt the private use airport updates into the County Comprehensive Plan. The criteria are as follows:

LC 12.050

- (2) The Board may amend or supplement the comprehensive plan upon a finding of:*
- (a) an error in the plan; or*
 - (b) changed circumstances affecting or pertaining to the plan; or*
 - (c) a change in public policy; or*
 - (d) a change in public need based on a reevaluation of factors affecting the plan;*
- provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.*

The private use airport updates meet the needs of both LC 12.050(2)(c) and (d). Pursuant to OAR 660-13-0070 and OAR 660-13-0155, Lane County is mandated by state law to adopt these updates. In addition, Senate Bill 1113, commonly referred to as the Airport Protection Act, was enacted in part to address a public need to provide for the continued operation and safety of private use airports. These updates address the requirements of Senate Bill 1113.

LC 16.400(6)(h)(iii)(bb) provides similar review criteria for amendments to the Rural Comprehensive Plan, as follows:

LC 16.400(6)(h)(iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

- (bb) For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:*
- (i-i) necessary to correct an identified error in the application of the Plan; OR*
 - (ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR*
 - (iii-iii) necessary to comply with the mandate of local, state, or federal policy or law; OR*
 - (iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR*

(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

With regard to these review criteria the Board finds that the private use airport updates are necessary to:

- a. address a change in public need as evidenced by the enactment SB 1113; and
- b. comply with the mandate of state law. Specifically, the following elements of the Airport Planning Rule: OAR 660-13-0070 and OAR 660-13-0155.

Based upon these findings, the Board concludes that the proposed private use airport updates are consistent with the review criteria listed above

4. In addition to the requirements in LC 16.400(6)(h)(iii)(bb) listed above, additional findings under LC 16.400(6)(h)(iii)(aa) must be made to adopt the proposed private use airport updates. Specifically, the Board may amend the Rural Comprehensive Plan upon making certain additional findings, as follows:

LC 16.400(6)(h)(iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

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

The amendment meets applicable requirements of local and state law in that it is being processed as a Plan Amendment pursuant to LC Chapter 14 requirements, and is subject to the approval criteria of LC Chapter 12 and 16, both of which chapters are in compliance with state law as outlined in the statewide planning Goal 2 findings, below. Findings of consistency with the approval criteria in LC 16 are contained herein, including findings of consistency with applicable Statewide Planning Goals and Oregon Administrative Rules:

Goal 1 - Citizen Involvement. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Pursuant to the requirements of Lane Code, citizen involvement occurred in the preparation and review of Ordinance No. PA 1245 and Ordinance No. ____-07 as follows:

- On September 5, 2007, written notices were mailed to adjacent and nearby property owners surrounding the private use airports and overlay zone, informing the property owners of the date, time and place of the Lane County Planning Commission public hearing.
- On September 26, 2007, a legal ad was published in The Register Guard, providing notice of the Lane County Planning Commission public hearings in BCC Conference Room of the Lane County Public Service Building on October 16, 2007, at 7:00 P.M.
- On October 16, 2007, the Lane County Planning Commission (LCPC) conducted a public hearing on the proposed private use airport updates.
- On October 16, 2007, the Lane County Planning Commission (LCPC) announced the date (November 20, 2007), location (BCC Conference Room of the Lane County Public Service Building) and time certain (7:00 P.M.) of the continued public hearing on the private use airport updates.
- On October 29, 2007, two separate "Ballot Measure 56" notices, pursuant to ORS 215.503, were mailed to property owners within the Private Use Airport Overlay zone as well as to surrounding property owners and all parties of record. The notices informed the

recipients of the date, time and place of the continued Lane County Planning Commission public hearing and of the date, time and place of the Lane County Board of Commissioners Second Reading and Public Hearing on the private use airport updates.

- On November 14, 2007, a legal ad was published in *The Register Guard*, providing notice of the Lane County Board of Commissioners public hearing in the BCC Conference Room of the Lane County Public Service Building on December 5 2007, at 1:30 P.M.
- On November 20, 2007, the Lane County Planning Commission (LCPC) conducted the continued public hearing on the proposed private use airport updates. During deliberations at the November 20th hearing, by a vote of [REDACTED] to [REDACTED], the Planning Commission forwarded a recommendation to the Board of Commissioners to [REDACTED] the proposal.
- On December 5, 2007, the Board of County Commissioners conducted a public hearing on Ordinance No. PA 1245 and Ordinance No. 15-07.

The private airport updates constitute a plan amendment that is subject to the public notification and hearing processes and provisions of LC Chapter 14 and 16. As described above, the public involvement requirements of these chapters have been met and opportunity for public involvement was afforded at all phases of the process. The amendment is therefore consistent with statewide planning Goal 1.

Goal 2 - Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The Rural Comprehensive Plan (RCP) was acknowledged by the Land Conservation and Development Commission (LCDC) as complying with state planning goals. LC 16.400, adopted and also acknowledged by LCDC specifies the means by which the RCP may be amended. Notice of the public hearing and pending adoption of the private airport updates was mailed to the Oregon Department of Land Conservation and Development (DLCD) on August 29, 2007. The private use airport updates follow the procedures outlined in Lane Code and these findings provide an adequate factual basis for action. The amendment therefore conforms to the established land use planning process and framework consistent with Goal 2.

Goal 3 - Agricultural Land: *To preserve and maintain agricultural lands.*

The private use airport updates seek to preserve and maintain agricultural lands to the maximum extent feasible by limiting the application of the airport operation district to the portions of private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses appropriate within the underlying base zones on which it is applied. Adoption of the private use airport updates will not change any agricultural land use designations. Based upon these findings the amendment is consistent with Goal 3.

Goal 4 - Forest Lands: *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The private use airport updates seek implement the Goal 4 requirements to the maximum extent feasible by limiting the application of the airport operation district to the portions of private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses

appropriate within the underlying base zones on which it is applied. Adoption of the private use airport updates will not change any forest land use designations. Based upon these findings the amendment is consistent with Goal 4.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

The treatment of resources regulated under Goal 5 will not change as a result of the private use airport updates, and therefore, they are consistent with Goal 5.

Goal 6 - Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

The private use airport updates do not include any changes to the treatment of the resources protected under this goal, so the goal is not relevant to this amendment.

Goal 7 - Areas Subject To Natural Disasters And Hazards: *To protect life and property from natural disasters and hazards.*

None of the private use airports are located within regulated floodplains or other areas subject to known natural hazards. Additionally, during natural disaster situations, the private use airports may potentially be used for emergency service delivery or response, evacuation, fire fighting and rescue operations. Based upon these findings the amendment is consistent with Goal 7.

Goal 8 - Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Private use airports afford recreational opportunities to airports sponsors and guests may serve visitors to traveling to the state by noncommercial aircraft. Furthermore, the private use airport updates do not include any changes related to management of recreational resources, Based upon these findings the amendment is consistent with Goal 8.

Goal 9 - Economic Development: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

While the private airport update will provide for the continued operation and vitality of private use airports in Lane County which have been determined by the state to be of economic importance, the above statewide planning goal requirement is not directly relevant to the amendment.

Goal 10 - Housing: *To provide for the housing needs of citizens of the state.*

The private use airport updates seek implement the Goal 10 requirements to the maximum extent feasible by limiting the application of the airport operation district to the portions of private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses appropriate within the underlying base zones on which it is applied. Adoption of the private use airport updates will not change any residential land use designations. Based upon these findings the amendment is consistent with Goal 10.

Goal 11 - Public Facilities and Services: *to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The private use airport updates will not change any County requirements related to public facilities and services, so this goal is not relevant to the amendment.

Goal 12 - Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

Implementation of the private use airport updates will promote convenient transportation opportunities (air travel) and will encourage safety through enactment of the safety overlay zone requirements. Therefore, the updates are consistent with Goal 12.

Goal 13 - Energy: *To conserve energy.*

The private use airport updates will not change any County requirements related to energy, so this goal is not relevant to the amendment.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to urban land use.*

The private use airport updates will not change any County requirements related to urbanization, so this goal is not relevant to the amendment.

Goal 15 - Willamette River Greenway: *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The private use airport updates will not change any County requirements related to the Willamette River Greenway, so this goal is not relevant to the amendment.

Goal 16 - Estuarine Resources: *To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.*

The private use airport updates will not change any County requirements related to the estuarine resources, so this goal is not relevant to the amendment.

Goal 17 - Coastal Shorelands: *To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters, and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.*

The private use airport updates will not change any County requirements related to coastal shorelands, so this goal is not relevant to the amendment.

Goal 18 - Beaches and Dunes: *To conserve, protect, where appropriate develop and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.*

The private use airport updates will not change any County requirements related to beaches and dunes, so this goal is not relevant to the amendment.

Goal 19 - Ocean Resources: *To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf. All local, state, and federal plans, policies, projects, and activities which affect the territorial sea shall be developed, managed and conducted to maintain, and where appropriate, enhance and restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources.*

The private use airport updates will not change any County requirements related to ocean resources, so this goal is not relevant to the amendment.

The following Oregon Administrative Rules are specifically applicable to the private use airport updates:

- OAR 660-013-0155 Planning Requirements for Small Airports and;
- OAR 660-013-0070 Local Government Safety Zones for Imaginary Surfaces

OAR 660-013-0155 requires local governments to recognize the location of private use airports in planning documents and also requires that governments not impose limitations on airport uses that existed at any time during 1996. Additionally, the OAR allows for new aviation related uses subject to certain criteria. OAR 660-013-0070 requires local governments to adopt safety overlay zones that protect aircraft approach surfaces by restricting intrusions into those areas.

As the proposed private use airport updates were tailored specifically to implement the requirements of OAR 660-013-0155 and OAR 660-013-0070, the Board finds the updates to be consistent with the applicable OARs.

5. Pursuant to Lane Code 16.400(6)(i):

A change of zoning to implement a proposed Plan amendment may be considered concurrently with such amendment. In such case, the Board shall also make the final zone change decision, and the Hearings Official's consideration need not occur.

Enactment of Ordinance PA 1245 will implement a change of zoning concurrent with the proposed Plan amendment. Additional findings under LC 16.252(2) must be made to implement this zone change. Specifically, the Board may apply the Private Use Airport Overlay zone to the properties or portions of properties listed in Section 3 of Ordinance No PA 1245 upon making findings to address the following criteria:

LC16252(2) 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 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 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.

The "general purposes" of Lane Code Chapter 16 are found in LC 16.003 (1)-(14). The private use airport updates achieve the applicable requirements of LC 16.003(1)-(14) as follows:

(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 private use airport updates will apply only to properties with recognized and existing airport uses and those properties within the approach surfaces of those airports. The updates are, in part, designed to promote and protect the public health, safety, convenience and welfare by limiting the height of structures and vegetation that could penetrate primary and approach surfaces and cause risk to pilots as well as persons and property on the ground.

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

The private use airport updates will provide for continued airport and heliport business operations.

(3) Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.

The supply of prime industrial lands will be minimally be impacted by the private airport updates. Portions of six industrially zoned properties totaling roughly 12 acres will be covered by the overlay zone. All but one of the properties is currently developed to some degree. The overlay zone will not impact the allowable uses of these sites but may limit the height of newly constructed buildings. Approximately 6 acres of the total impacted sites are far enough away from the primary surfaces of the private use airports that height limitations may only be applied to structures exceeding 85 feet or more.

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

The private airport updates seek to conserve farm and forest lands for the production of crops, livestock and timber products to the maximum extent feasible by limiting the application of the airport operation district to the portions of the private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses appropriate within the underlying on which it is applied.

(5) Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live.

While the above general purpose is not directly relevant to the private use airport updates, the updates are not contradictory to this purpose.

(6) Conserve all forms of energy through sound economical use of land and land uses developed on the land.

The private use airports are located on portions of properties already devoted to airport use. As such, these sites are correctly properly designated within the airport operation district boundaries of the Private Use Airport Overlay zone. The transportation network and other infrastructure and services already exist to serve these sites and allow for their efficient use.

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

While the above general purpose is not directly relevant to the private use airport updates, the updates are not contradictory to this purpose.

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

The private use airport updates are being applied in areas where public services and facilities already exist and where it will not be necessary to enlarge or extend those services to accommodate their use.

(9) Provide for and encourage a safe, convenient and economic transportation system within the County.

Implementation of the private use airport updates will promote convenient transportation opportunities (air travel) and will encourage safety through enactment of the safety overlay zone requirements.

(10) Protect the quality of the air, water and land resources of the County.

The private use airport updates do not include any changes to the treatment of the resources protected under this general purpose statement, so the statement is not relevant to this amendment.

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

None of the private use airports are located within regulated floodplains or other areas subject to known natural hazards. Additionally, during natural disaster situations, the private use airports may potentially be used for emergency service delivery or response, evacuation, fire fighting and rescue operations.

(12) Provide for the recreational needs of residents of Lane County and visitors to the County.

Private use airports afford recreational opportunities to airports sponsors and guests may serve visitors to Lane County traveling by noncommercial aircraft.

(13) Conserve open space and protect historic, cultural, natural and scenic resources.

Implementation of the private use airport updates will not reduce the amount of open space nor impact any inventoried, historic, cultural, natural or scenic resources.

(14) Protect, maintain, and where appropriate, develop and restore the estuaries, coastal shorelands, coastal beach and dune area and to conserve the nearshore ocean and continental shelf of Lane County.

While the above general purpose is not directly relevant to the private airport updates, the updates are not contradictory to this purpose. Furthermore, based upon the above findings, the Board finds that the private airport updates will meet the general purposes of Lane Code Chapter 16.

In addition to the requirement that zonings and rezonings meet the general purposes criteria of Lane Code Chapter 16, as discussed above, LC16252(2) also requires that zonings and rezonings shall:

not be contrary to the public interest [and;]

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 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 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.

In regards to these criteria the Board finds as follows:

- The private airport updates are not contrary to the public interest because they implement the requirements of state law which was promulgated by a public need to promote the continued operation and vitality of private airports and to reduce the potential safety hazards to persons living, working or recreating on lands near such airports.
 - The private airport updates are consistent with the purposes of the proposed Private Use Airport Overlay zone because the zone will be applied to established private use airports and surrounding environs for which it was specifically designed.
 - The private airport updates are consistent with the applicable Rural Comprehensive Plan elements as discussed throughout these findings and incorporated here by reference.
 - The private airport updates are consistent with Statewide Planning Goals based upon the finding provided in accordance with LC 16.400(6)(h)(iii)(aa), above.
6. Based upon all of the above findings, the Board concludes that the proposed private use airport updates are consistent with the requirements set forth in the applicable approval criteria. Therefore, the Board approves adoption of the proposal.



IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. 15-07

IN THE MATTER OF AMENDING CHAPTER 16 OF
LANE CODE TO ESTABLISH A NEW ZONE
CLASSIFICATION FOR PRIVATE USE AIRPORTS
(LC 16.012, LC 16.296)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 16 of Lane Code is hereby amended by deleting, substituting, and adding new sections as follows:

DELETE THESE SECTION(S)

16.012
as located on pages 16-5 through 16-6
(a total of 2 pages)

NONE

INSERT THESE SECTION(S)

16.012
as located on pages 16-5 through 16-6
(a total of 2 pages)

16.296
As located on pages 16-666 through 16- 679
(a total of 14 pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of this substitution and addition is to establish a new zone classification for private use airports (LC 16.012, LC 16.296).

ENACTED this 2nd day of JANUARY 2008
2007.

Faye Stet
Chair, Lane County Board of Commissioners

Melissa A. Z
Recording Secretary for this Meeting of the Board

APPROVED AS TO FORM

Date 12/04/07 Lane County

[Signature]
OFFICE OF LEGAL COUNSEL

16.007 Compliance With Rural Comprehensive Plan.

In the event of any conflict between any provision of this chapter and provisions of the Rural Comprehensive Plan of Lane County, or duly adopted portions, elements or amendments of such Plan, the more restrictive Provisions shall prevail. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.008 Interpretation.

When in the administration of this chapter there is doubt regarding the intent of the chapter or the suitability of uses not specified, the Director shall request an interpretation of the provision by the Board of County Commissioners. The Board shall issue an interpretation to resolve the doubt, but such interpretation shall not have the effect of amending the provisions of this chapter. Any interpretation of the chapter shall be deemed an administrative action and shall be based on the following considerations:

- (1) The Lane County Comprehensive Plan.
- (2) The purpose and intent of the chapter as applied to the particular section in question.
- (3) The opinion of the County Counsel. Copies of such interpretations shall be indexed and kept on file in the Department and may be reviewed by the public upon request. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.009 Restrictiveness.

Where the conditions imposed by a provision of this chapter overlap, the provisions which are more restrictive shall govern. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.010 Severability.

If any section, paragraph, subsection, clause, sentence or provision of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate or nullify the remainder of this chapter, and the effect thereof shall be confined to the section, paragraph, subsection, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this chapter notwithstanding the parts so declared unconstitutional or invalid. Further, should any section, paragraph, subsection, clause, sentence or provision of this chapter be judicially declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration or judgment shall not affect, impair, invalidate or nullify such section, paragraph, subsection, clause, sentence or provision as to any other premises or use. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.011 Introductory Provisions.

In order to achieve the purposes outlined in LC 16.003, and to assure that the development and use of land in Lane County conforms to the Rural Comprehensive Plan, zone classifications have been established for all unincorporated areas outside of adopted urban growth boundaries and within Lane County. These zones specify regulations for the use of land and property development standards, and use applied by boundaries indicated on the Lane County Rural Comprehensive Plan Zoning Maps. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.012 Zone Classifications.

For the purpose of this chapter of Lane Code, the following zones are hereby established:

16.013

Lane Code

16.013

<u>Zone Classification</u>	<u>Abbreviation</u>	<u>Section No.</u>
Nonimpacted Forest Lands	F-1, RCP	16.210
Impacted Forest Lands	F-2, RCP	16.211
Exclusive Farm Use	E-RCP	16.212
Natural Resource	NR-RCP	16.213
Marginal Lands	ML RCP	16.214
Park and Recreation	PR-RCP	16.215
Quarry and Mining Operations	QM-RCP	16.216
Sand, Gravel and Rock Products	SG-RCP	16.217
Sand, Gravel and Rock Products Combining Processing	SG-CP-RCP	16.218
Public Facility	PF-RCP	16.219
Limited Commercial	C-1, RCP	16.220
Neighborhood Commercial	C-2, RCP	16.221
Commercial	C-3, RCP	16.222
Rural Commercial	C-R, RCP	16.223
Limited Industrial	M-1, RCP	16.224
Light Industrial	M-2, RCP	16.225
Heavy Industrial	M-3, RCP	16.226
Inmate Work Camp	IWC, RCP	16.227
Suburban Residential	RA-RCP	16.229
Garden Apartment Residential	RG-RCP	16.230
Rural Residential	RR-RCP	16.231
Destination Resort	DR-RCP	16.232
Historic Structures or Sites Combining	/H-RCP	16.233
Natural Estuary	/NE-RCP	16.234
Conservation Estuary	/CE-RCP	16.235
Development Estuary	DE-RCP	16.236
Significant Natural Shorelands Combining	/SN-RCP	16.237
Prime Wildlife Shorelands Combining	/PW-RCP	16.238
Natural Resources Conservation Combining	/NRC-RCP	16.239
Residential Development Shorelands	/RD-RCP	16.240
Combining		
Shorelands Mixed Development Combining	/MD-RCP	16.241
Dredge Material/Mitigation Site Combining	/DMS-RCP	16.242
Beaches and Dunes Combining	/BD-RCP	16.243
Floodplain Combining	/FP-RCP	16.244
Commercial Airport Safety District	/CAS-RCP	16.245
Airport Safety District	/AS-RCP	16.246
Airport Operation	AO-RCP	16.247
Clear Lake Watershed Protection	CLWP-RCP	16.258
Rural Residential	RR, RCP	16.290
Rural Commercial	RC, RLP	16.291
Rural Industrial	RI, RCP	16.292
Rural Public Facility	RPF, RCP	16.294
Rural Park and Recreation	RPR, RCP	16.295
Private Use Airport Overlay	/PUAO-RCP	16.296

(Revised by Ordinance No. 7-87, Effective 6.17.87; 17-87, 12.25.87; 12-90, 10.11.90; 11-91A, 8.30.91; 6-98, 12.2.98, 6-02, 5.16.02)

16.013 Location of Zones.

The boundaries of the zones indicated on the Lane County Zoning Maps are hereby adopted by reference. (Revised by Ordinance No. 7-87, Effective 6.17.87)

(i) The proposed use and development shall not exceed the carrying capacity of the soil or of the existing water supply resources and sewer service. To sewage disposal and water supply if a community water or sewer system is not available.

(5) Area. No minimum is established, except what is necessary to comply with LC 16.295 and other requirements of LC Chapter 16. Land divisions shall comply with LC Chapter 13.

(6) Property Development Standards. All uses and development allowed by LC 16.295(2) and (3) above shall comply with the following development standards:

(a) Property Line Setbacks. Structures other than a fence or sign shall be located:

(i) At least 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and

(ii) 10 feet from all other property lines except as provided below, in LC 16.295(6)(b) and (c).

(b) Riparian Setback Area. Except for property located between the Eugene-Springfield Metropolitan Area General Plan Boundary and the Eugene and Springfield Urban Growth Boundaries, where setbacks are provided for in LC 16.253(6), the riparian setback area shall be the area between a line 50 feet above and parallel to the ordinary high water of a Class I stream designated for riparian vegetation protection in the Rural Comprehensive Plan. No structure other than a fence or sign shall be located closer than 50 feet from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A modification to the riparian setback standard for a structure may be allowed provided the requirements of LC 16.253(3) or LC 16.253(6), as applicable, are met.

(c) Maintenance, Removal and Replacement of Indigenous Vegetation within the Riparian Setback Area. Maintenance, removal and replacement of indigenous vegetation within the riparian setback area designated for riparian vegetation protection by the comprehensive plan must comply with the provisions of LC 16.253(2) or LC 16.253(6), as applicable, are met.

(d) Signs.

(i) Signs shall not extend over a public right-of-way or project beyond the property line.

(ii) Signs may be illuminated but shall not be flashing or capable of movement.

(iii) Signs shall advertise uses and development that are conducted on the property.

(iv) Signs shall not project above the height of the tallest structure on the property.

(v) Signs shall not contain more 200 square feet in area.

(e) Parking. Off street parking shall be provided in accordance with LC 16.250. (Revised by Ordinance No. 6-02, Effective 5.16.02; 10-04, 6.4.04, 5-04, 7.1.04)

PRIVATE USE AIRPORT OVERLAY ZONE (/PUAO, RCP) RURAL COMPREHENSIVE PLAN

16.296 Private Use Airport Overlay Zone (/PUAO, RCP)

(1) Purpose. The purpose of the Private Use Airport Overlay Zone is to recognize the locations of certain private use airports and heliports and to provide for their continued operation and vitality consistent with state law. It also provides for standards to promote air navigational safety at these airports, and to reduce the potential safety hazards to persons living, working or recreating on lands near such airports.

(2) Applicability. The Private Use Airport Overlay Zone consists of two elements: a private use airport operation district and a safety overlay zone.

(a) The private use airport operation district applies to private use airports and heliports in rural Lane County that were the base for three or more aircraft on December 31, 1994, as shown in the records of the Oregon Department of Transportation. The boundaries of the private use airport operation district are delineated on the Official Private Use Airport Overlay Zone Map. The identified private use airports and heliports in Lane County include:

- (i) Crow-Mag Airport;
- (ii) Jasper Ridge Airport;
- (iii) Meadowview Heliport;
- (iv) Strauch Field Airport; and
- (v) Walker Airport.

(b) The safety overlay zone applies to those lands encompassed by the airport and heliport surfaces set forth and defined in LC 16.296(3), delineated in LC 16.296(8) and diagramed LC 16.296(13).

(c) If any airport or heliport to which this overlay zone has been applied is removed from the State's list of airports in a manner described in ORS 836.610, the county will no longer apply and enforce the safety overlay zone that corresponds to the removed airport or heliport.

(3) Definitions.

Aircraft. Includes airplanes and helicopters, but not hot air balloons or ultralights.

Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

Airport Elevation. The highest point of an airports' usable runway, measured in feet above mean sea level.

Airport Imaginary Surface. Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary areas for private use airports are defined by the primary surface and approach surface.

Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport or heliport.

Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of a runway. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to the width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for one foot forward.

Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

Heliport. An area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft.

Heliport Imaginary Surface. Airport imaginary surfaces as they apply to heliports.

Heliport Approach Surfaces. The approach surface beginning at each end of the heliport primary surface and has the same width as the primary surface. The surface extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

Heliport Primary Surface. The area of the primary surface that coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the established heliport elevation.

Heliport Transitional Surfaces. Surfaces extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontal from the centerline of the primary and approach surfaces.

Obstruction. Any structure, or tree, plant or other object of natural growth that penetrates an imaginary surface.

Primary Surface. A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation on the nearest point on the runway centerline. The width of the primary surface is 200 feet.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure. For the purposes of LC 16.296, "structures" means any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

(4) Existing Uses within the Private Use Airport Operation District. Operation of existing uses listed in LC 16.296(5) that existed at any time during 1996 may be continued at their current levels as of January 1, 2008. The uses that existed during 1996 are specific to each airport and heliport and are on file with the Land Management Division. In response to citizen complaints related to requests for building permits or other expansions pursuant to LC 16.296(6), the Director will make a determination regarding the existence of the use in 1996 that is being proposed for expansion. The determination of an existing use shall be based upon a review of evidence provided by the airport sponsor, a review of the historical property file records, Land Management inventory and historical aerial photos. The determination is subject to submittal of an Airport Use Determination application pursuant to LC 14.050 and review and approval of the Airport Use Determination pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

(5) Continued Operation of Existing Uses. Operation of the following uses may be continued within the airport operation district at their current levels as of the effective date of this ordinance upon determination that the use existed at the airport or heliport at any time during 1996.

(a) Customary and usual aviation-related activities, including but not limited to take-offs and landings.

(b) Aircraft hangers and tie-downs.

(c) Ongoing maintenance of airport facilities.

(d) Fixed based operator facilities.

(e) One single family residence per airport for either: an airport caretaker, operator or security officer, but not a residence for each.

(f) Other activities incidental to the normal operation of an airport. Except as provided elsewhere in Lane Code 16.296, "customary and usual aviation-related activities" do not include residential, commercial, or industrial uses provided for in other sections of Lane Code Chapter 16.

(g) Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

(h) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical labs, medical equipment sales, and other similar uses.

(i) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

(j) Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

(k) Flight instruction, including activities, facilities, and non-residential accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

(l) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personnel use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

(m) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

(n) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.

(o) Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agriculture, forestry or rangeland management setting.

(p) Agricultural and forestry activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.

(q) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft, aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving. Parachuting businesses may only be allowed where the business has approval to use a drop zone that is at least 10 contiguous acres in size. A larger drop zone may be required where evidence of missed landings and dropped equipment supports the need for the larger area. The configuration of 10 acre minimum drop zone shall roughly

approximate a square or circle and may contain structures, trees, or other obstacles if the remainder of the drop zone provides adequate areas for parachutists to safely land.

(6) Expansion of Existing Uses. The expansion of uses identified in 16.296(5)(a)-(q) that existed at any time during 1996, are permitted as provided in this section.

(a) Expansions Allowed Outright. The following expansions of existing uses are permitted outright:

(i) Construction of additional hangars and tie-downs by the owner of the airport or heliport.

(ii) Basing additional aircraft at the airport or heliport.

(iii) Increases in flight activity.

(b) Other Expansions of Existing Uses.

(i) Growth of existing uses that require building permits, other than those existing uses identified LC 16.296(6)(a) shall be permitted as an administrative decision without public hearing, unless the growth:

(A) Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals.

(B) Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or

(C) Exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

(ii) Growth of an existing use for which a public hearing is required shall be permitted only upon demonstration of compliance with the standards for new uses set out in LC 16.296(7).

(7) New Uses. Uses identified in LC 16.296(5) are permitted following a public hearing before the Director upon demonstration of compliance with the following standards. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

(a) The use is or will be supported by adequate types and levels of facilities and services and transportation systems authorized by applicable statewide land use planning goals;

(b) The uses do not seriously interfere with existing land uses in areas surrounding the airport or heliport; and

(c) For airports or heliports adjacent to land zoned for exclusive farm use, the use complies with the requirements in ORS 215.296.

(8) Safety Overlay Zone Surface Delineation. The location of the imaginary surfaces defined in LC 16.296(3) for each private use airport and heliport subject to this overlay zone are depicted on the Official Private Use Airport Overlay Zone Map. All lands, waters and airspace, or portions thereof that are located within these surfaces are subject to the requirements of this overlay zone. The dimensional standards and slope profiles for these surfaces are diagrammed in LC 16.296(13).

(9) Notice of Land Use and Permit Applications within the Safety Overlay Zone.

(a) The county shall provide written notice of applications for land use decisions or administrative approvals, including comprehensive plan or zoning amendments, affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation pursuant to LC 14.070 and 14.100 in the same manner and within the same timelines as notice is provided to property owners entitled by law to written notice of land use decisions or administrative approvals.

(b) The County shall provide notice of decision on a land use or administrative approval application affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation within the same timelines that such

notice, pursuant to LC 14.100, is provided to parties to a land use or limited land use proceeding.

(10) Height Limitations within the Safety Overlay Zone. All structures permitted by the underlying zone shall comply with the height limitations in LC 16.296(10)(a) and (b), below. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations controls.

(a) Except as provided in LC 16.296(10)(b) below, no structure, tree or other object of natural growth shall penetrate an airport imaginary surface.

(b) Height variances may be permitted when supported in writing by the airport sponsor and the Department of Aviation. Applications for height variances shall comply with LC 16.256(1) and (2), and shall be subject to such conditions and terms as recommended by the Department of Aviation.

(11) Procedures. An applicant seeking a land use or administrative approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

(a) A map or drawing showing the location of the property in relation to the airport or heliport imaginary surfaces. The Director shall provide the applicant with appropriate base maps upon which to locate the property.

(b) Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

(c) If a height variance is requested, letters of support from the airport sponsor and the Department of Aviation.

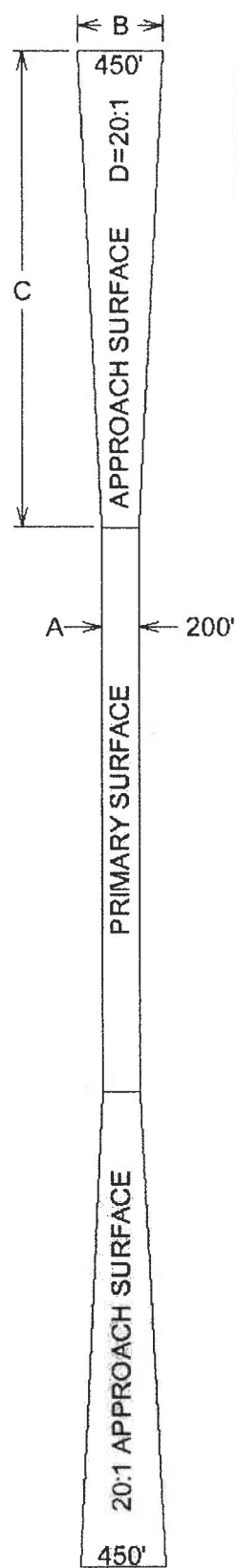
(12) Nonconforming Structures.

(a) These regulations do not require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations do not require any change in the construction, alteration or intended use of any structure for which construction was begun or land use permits were applied for prior to January 1, 2008.

(b) Notwithstanding LC 16.296(12)(a), the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

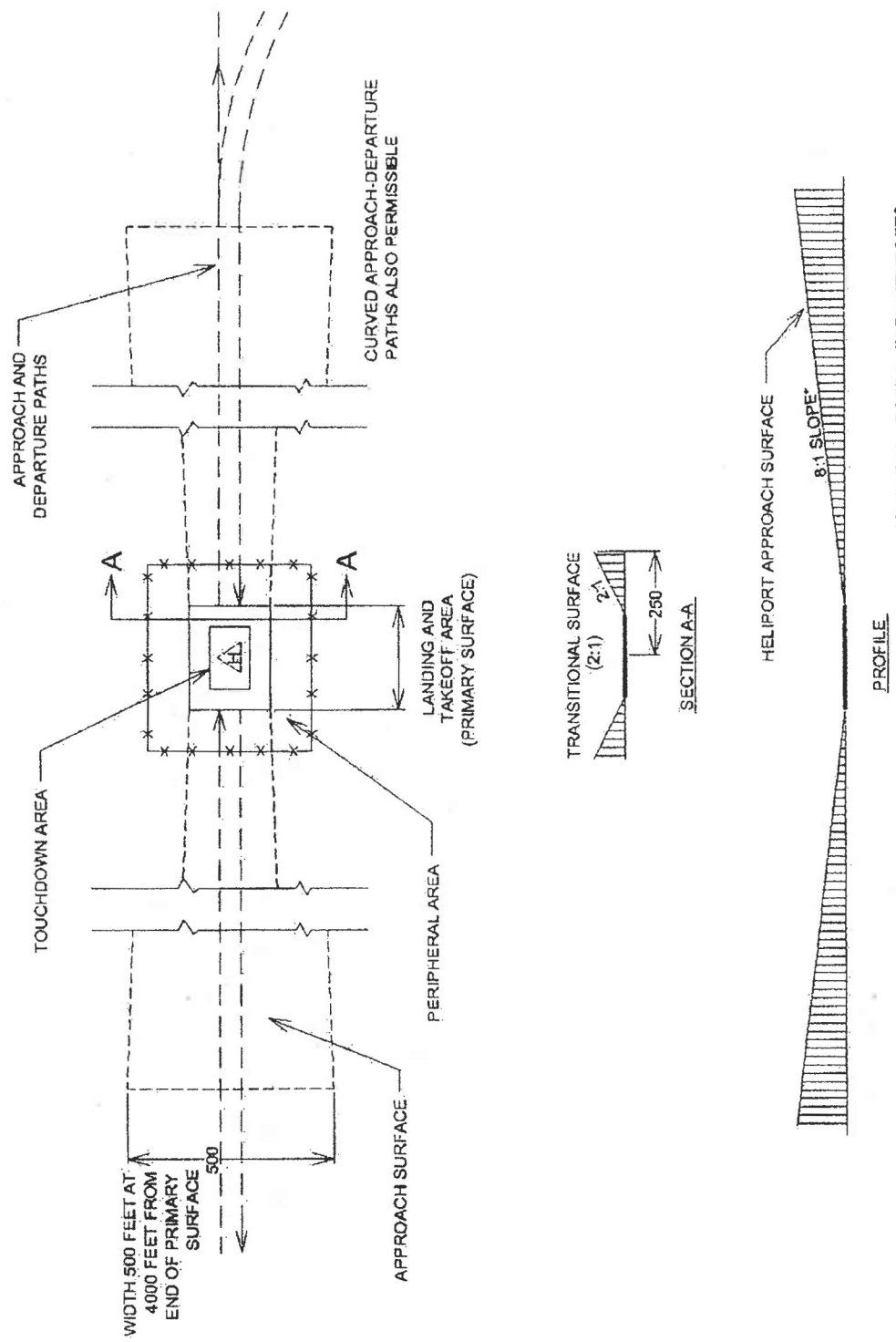
(c) No land use decision, administrative approval or other permit shall be granted that would allow a nonconforming structure to become a greater hazard to air navigation than it was on January 1, 2008.

(13) Surfaces Diagramed. The airport surfaces delineated in LC 16.296(8), above are as diagramed in Figure 1.1, below. The heliport surfaces delineated in LC 16.296(8) above are as diagramed in Figure 1.2, below. In addition to the diagrams below, these surfaces have been mapped on the Official Private Use Airport Overlay zone map.



DIM	ITEM	DIMENSIONAL STANDARDS IN FEET
A	WIDTH OF PRIMARY SURFACE AND APPROACH SURFACE WIDTH AT INNER END	200
B	APPROACH SURFACE WIDTH AT THE END	450
C	APPROACH SURFACE LENGTH	2500
D	APPROACH SLOPE	20:01

LC 16.296 (13) Figure 1.1: Private-Use Airport Surfaces



LC 16.296 (13) Figure 1.2: Heliport Surfaces

**LAND DIVISIONS
RURAL COMPREHENSIVE PLAN**

16.300 Land Divisions.

(1) Relationship of Lane Code Chapter 13 into Lane Code Chapter 16. LC Chapter 13 is the procedure for partitioning or subdividing lands under the jurisdiction of the Lane County Rural Comprehensive Plan with the following addition:

(a) Definitions. Abbreviations, terms, phrases, words and their derivatives shall be construed as specified in LC 16.090 instead of as specified in LC 13.010. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

**RURAL COMPREHENSIVE PLAN AMENDMENTS
RURAL COMPREHENSIVE PLAN**

16.400 Rural Comprehensive Plan Amendments.

(1) Purpose. The Board shall adopt a Rural Comprehensive Plan. The general purpose of the Rural Comprehensive Plan is the guiding of social, economic and physical development of the County to best promote public health, safety, order, convenience, prosperity and general welfare. The Rural Comprehensive Plan shall be considered to be a dynamic policy instrument that can be modified to reflect changing circumstances and conditions as well as to correct errors and oversights. It is recognized that the Rural Comprehensive Plan affects the people of Lane County, and it is, therefore, important that the ability by individuals to propose amendments be free of restraint.

(2) Scope and Organization. The Rural Comprehensive Plan shall conform to the requirements of Statewide Planning Goals. The Rural Comprehensive Plan shall consist of components which shall be organized into categories by Plan type or geographic area as described in LC 16.400(3) below.

(3) Plan Categories.

(a) Rural Comprehensive Plan. This category includes all plans relating to lands beyond the Eugene-Springfield Metropolitan Area General Plan boundary and the urban growth boundaries of the cities within Lane County.

(b) Special Purpose Plan. This category includes Plans addressing a single or special need. The Plans may apply Countywide or to a limited area.

(4) Rural Comprehensive Plan Described. The Rural Comprehensive Plan of Lane County shall consist of the following components:

(a) Rural Comprehensive Plan.

(i) General Plan Policies and Plan Designations applying throughout Lane County outside of the Metropolitan Area General Plan and outside of all urban growth boundaries (Adopted by Ordinance No. 883).

(b) Special Purpose Plans.

(i) Transportation System Plan (Adopted by Ordinance No. 3-80 and Amended by Ordinance No. 10-04).

(ii) Willamette Greenway Plan (Ordinance No. 783).

(iii) Parks and Open Space Plan (Adopted by Ordinance No. 850).

(iv) Solid Waste Management Plan (Adopted by Ordinance No. 771) (Amended by Ordinance Nos. 79-80, PA 918 and PA 1179).

(v) Coastal Resources Management Plan (Adopted by Ordinance No. 803) (Amended by Ordinance Nos. 862 and 876).

(vi) Siuslaw River Dredged Material Disposal Plan (Adopted by Ordinance No. 749) (Amended by Ordinance Nos. 861 and 877).

(vii) Housing Plan (Adopted by Ordinance No. 1-78).

(5) Interrelationship of Plan Components. New Comprehensive Plan components shall include a description of relationship to other Plan components within

the respective Plan category and to the overall Rural Comprehensive Plan. Existing Plan components not containing such a description of relationship shall, at the next update of that Plan, be amended to include such a description.

(6) Plan Adoption or Amendment - General Procedures. The Rural Comprehensive Plan, or any component of such Plan, shall be adopted or amended in accordance with the following procedures:

(a) Referral to Planning Commission. Before the Board takes any action on a Rural Comprehensive Plan component, or an amendment to such Plan component, a report and recommendation thereon shall be requested from the County Planning Commission and a reasonable time allowed for the submission of such report and recommendation. In the event the Rural Comprehensive Plan component, or amendment applies to a limited geographic area, only the Planning Commission having jurisdiction of that area need receive such referral.

(b) Planning Commission - Hearing and Notice.

(i) The Planning Commission shall hold at least one public hearing before making a recommendation to the Board on a Rural Comprehensive Plan component, or an amendment to such Plan component, and the hearing shall be conducted pursuant to LC 14.300.

(ii) Notice of the time and place of hearing shall be given, pursuant to LC 14.300.

(iii) If an exception to State Planning Goals is to be considered during the hearing, such exception shall be specifically noted in the notices of such hearing.

(iv) The proposed Rural Comprehensive Plan component, or an amendment to such Plan component, shall be on file with the Director and available for public examination for at least 10 days prior to the time set for hearing thereon.

(c) Planning Commission - Consideration With Other Agencies.

(i) In considering a Rural Comprehensive Plan component, or an amendment to such Plan component, the Planning Commission shall take account of and seek to harmonize, within the framework of the needs of the County, the Comprehensive Plans of cities, and the Plans and planning activities of local, state, federal and other public agencies, organizations and bodies within the County and adjacent to it.

(ii) The Planning Commission, during consideration of a Rural Comprehensive Plan component or an amendment to such Plan component, shall consult and advise with public officials and agencies, public utility companies, civic, educational, professional and other organizations, and citizens generally to the end that maximum coordination of Plans may be secured.

(iii) Whenever the Planning Commission is considering a Rural Comprehensive Plan component, or an amendment to such Plan component, it shall be referred to the planning agency of every city and county affected to inform them and solicit their comments.

(iv) The provisions of this subsection are directory, not mandatory, and the failure to refer such Plan, or an amendment to such Plan, shall not in any manner affect its validity.

(d) Planning Commission - Recommendation and Record.

(i) Recommendation of the Planning Commission on a Rural Comprehensive Plan component, or an amendment to a Plan component, shall be by resolution of the Commission and carried by the affirmative vote of not less than a majority of its total voting members.

(ii) The record made at the Planning Commission hearings on a Rural Comprehensive Plan component, or an amendment to such Plan component and all materials submitted to or gathered by the Planning Commission for its consideration, shall be forwarded to the Board along with the recommendation.

(e) Board Action - Hearing and Notice.

(i) After a recommendation has been submitted to the Board by the Planning Commission on the Rural Comprehensive Plan component, or an amendment to such Plan component, all interested persons shall have an opportunity to be heard thereon at a public hearing before the Board conducted pursuant to LC 14.300.

(ii) Notice of the time and place of the hearing shall be given pursuant to LC 14.300.

(iii) If an exception to Statewide Planning Goals is to be considered during the hearing, such exception shall be specifically noted in the notice of such hearing.

(iv) Hearings to consider amendments of the Plan Diagram that affect a single property, small group of properties or have other characteristics of a quasi-judicial proceeding shall be noticed pursuant to LC 14.300.

(f) Concurrent Consideration. The Board and Planning Commission may hold a single joint meeting to consider the proposed Plan amendment consistent with the requirements of LC 16.400(6)(e)(ii),(iii) and (iv) above.

(g) Board Referral. Before the Board makes any change or addition to a Plan component, or Plan component amendment recommended by the Planning Commission, it may first refer the proposed change or addition to the Planning Commission for an additional recommendation. Failure of the Planning Commission to report within 21 days after the referral, or such longer period as may be designated by the Board, shall be deemed to be approval of the proposed change or addition. It shall not be necessary for the Planning Commission to hold a public hearing on such change or addition.

(h) Method of Adoption and Amendment.

(i) The adoption or amendment of a Rural Comprehensive Plan component shall be by Ordinance.

(ii) The adoption or amendment shall be concurrent with an amendment to LC 16.400(4) above. In the case of a Rural Comprehensive Plan adoption, the Code amendment shall place such Plan in the appropriate category. In the case of a Rural Comprehensive Plan amendment, the Code amendment shall insert the number of the amending Ordinance.

(iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

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

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

(i-i) necessary to correct an identified error in the application of the Plan; or

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

(iii-iii) necessary to comply with the mandate of local, state or federal policy or law; or

(iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; or

(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

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

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

(i) A change of zoning to implement a proposed Plan amendment may be considered concurrently with such amendment. In such case, the Board shall also make the final zone change decision, and the Hearings Official's consideration need not occur.

(7) Validation of Prior Action. The adoption of a Rural Comprehensive Plan component, or an amendment to such Plan component under the authority of prior acts, is hereby validated and shall continue in effect until changed or amended under the authority of these provisions.

(8) Additional Amendment Provisions. In addition to the general procedures set forth in LC 16.400(6) above, the following provisions shall apply to any amendment of Rural Comprehensive Plan components.

(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 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.

(ii) Major Amendment. Any amendment that is not classified as a minor amendment.

(b) Amendment proposals, either minor or major, may be initiated by the County or by individual application. Individual applications shall be subject to a fee established by the Board and submitted pursuant to LC 14.050.

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

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

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

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

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

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

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

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

(ee) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an assessment of employment gain or loss, tax revenue impacts and public service/facility costs, as compared to equivalent factors for the existing uses to be replaced by the proposal;

(ff) For a proposed amendment to a nonresidential, nonagricultural or nonforest designation, an inventory of reasonable alternative sites now

appropriately designated by the Rural Comprehensive Plan, within the jurisdictional area of the Plan and located in the general vicinity of the proposed amendment;

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

(9) Addition Amendment Provisions - Special Purpose Plans. In addition to the general provisions set forth in LC 16.400(6) above, the following provisions shall apply to any amendment of Rural Comprehensive Plan components classified in LC 16.400(4) above as Special Purpose Plans. Amendments to Special Purpose Plans may only be initiated by the County. Any individual, however, may request the Board to initiate such amendment. Requests must set forth compelling reasons as to why the amendment should be considered at this time, rather than in conjunction with a periodic Plan update. An offer to participate in costs incurred by the County shall accompany the request.

(10) Designation of Abandoned or Diminished Mill Sites. A minor plan amendment pursuant to LC 16.400(8)(a)(i), to the Rural Comprehensive Plan for an abandoned or diminished mill site on a lot or parcel zoned Nonimpacted Forest Lands Zone (F-1, RCP), Impacted Forest Lands Zone (F2, RCP) or Exclusive Farm Use Zone (E-RCP) to Rural Industrial Zone (RI, RCP) without taking an exception to Statewide Goal 3 (Agricultural Lands), Goal 4 (Forest Land), Goal 11 (Public Facilities and Services), or Goal 14 (Urbanization) may be allowed after submittal of an application pursuant to LC 14.050 and after review and approval of the application pursuant to LC 16.400(6) and (10).

(a) As used in this subsection, "abandoned or diminished mill site" means a mill, plant of other facility engaged in the processing or manufacturing of wood products, including sawmills and facilities for the production of plywood, veneer, hardboard, panel products, pulp and paper, that:

- (i) Is located outside of urban growth boundaries;
- (ii) Was closed after January 1, 1980, or has been operating at less than 25 percent of capacity since January 1, 2003; and
- (iii) Contains or contained permanent buildings used in the production or manufacturing of wood products.

(b) An abandoned or diminished mill site designated as Rural Industrial zone (RI, RCP) pursuant to LC 16.400(10), may be developed for any level of industrial use pursuant to LC 16.292(3)(o), is exempt from the standards of LC 16.292(3)(b), and may occur outside a building or in one or more buildings of any size.

(c) Concurrently with approval of a plan amendment, the Board may approve, without taking an exception to Statewide Goal 11:

(i) The extension of sewer facilities to lands that on June 10, 2003, were zoned Rural Industrial Zone (RI, RCP), Light Industrial Zone (M-1, RCP), Limited Industrial Zone (M-2, RCP), or Heavy Industrial Zone (M-3, RCP), and that contain an abandoned or diminished mill site. The sewer facilities may serve only industrial uses authorized for the mill site and contiguous lands zoned for industrial use.

(ii) The extension of sewer facilities to an abandoned or diminished mill site that is rezoned for Rural Industrial (RI, RCP) use under LC 16.400(10) only as necessary to serve industrial uses authorized for the mill site.

(iii) The establishment of on-site sewer facilities to serve an area that on June 10, 2003, was zoned Rural Industrial Zone (RI, RCP), Light Industrial Zone (M-1, RCP), Limited Industrial Zone (M-2, RCP), or Heavy Industrial Zone (M-3, RCP), and that contains an abandoned or diminished mill site or to serve an abandoned or diminished mill site that is rezoned for Rural Industrial Zone (RI, RCP) pursuant to LC 16.400(10).

(d) A local government, as defined in ORS 174.116, may not authorize a connection to any portion of a sewer facility located between an urban growth boundary or the boundary of an unincorporated community and the boundary of the mill site or the industrial zone containing the mill site, except as provided under ORS 197.732 and any goals adopted under ORS 197.225 relating to public facilities and services.

(e) Sewer facilities approved pursuant to LC 16.400(10)(c) shall be limited in size to meet the needs of authorized industrial uses and may not provide service to retail, commercial or residential development, except as provided under any goals adopted under ORS 197.225 relating to public facilities and services, unless all appropriate exceptions are approved under ORS 197.732. The presence of the sewer facilities may not be used to justify an exception to any goals adopted to protect agricultural lands and forestlands or relating to urbanization.

(f) The Board shall determine the boundary of an abandoned or diminished mill site. For an abandoned or diminished mill site that is rezoned for Rural Industrial Zone (RI, RCP) pursuant to LC 16.400(10), land within the boundary of the mill site may include only those areas that were improved for the processing or manufacturing of wood products.

(g) For an abandoned or diminished mill site subject to LC 16.400(10)(f), the Planning Director may approve a permit only for industrial development and accessory uses subordinate to such development on the mill site. The Planning Director may not approve a permit for retail, commercial or residential development on the mill site.

(h) For land that on June 10, 2003, was zoned Impacted Forest Land Zone (F-1, RCP), Nonimpacted Forest Land Zone (F-2, RCP), or Exclusive Farm Use Zone (E-RCP), and that is rezoned for Rural Industrial Zone (RI, RCP) under LC 16.400(10), the Board may not later rezone the land for retail, commercial or other nonresource use unless all appropriate exceptions under ORS 197.732 have been approved.

(11) Periodic Review of Plan Components. All components of the Rural Comprehensive Plan shall contain a provision requiring the Plan be reviewed and, as needed, revised on a periodic cycle to take into account changing public policies and circumstances. Any Plan component adopted under the authority of prior acts can be assumed to require a review every five years. *(Revised by Ordinance No. 7-87, Effective 6.17.87; 10-02, 11.15.02; 10-04, 6.4.04; 12-04, 6.11.04)*

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16.007 Compliance With Rural Comprehensive Plan.

In the event of any conflict between any provision of this chapter and provisions of the Rural Comprehensive Plan of Lane County, or duly adopted portions, elements or amendments of such Plan, the more restrictive Provisions shall prevail. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.008 Interpretation.

When in the administration of this chapter there is doubt regarding the intent of the chapter or the suitability of uses not specified, the Director shall request an interpretation of the provision by the Board of County Commissioners. The Board shall issue an interpretation to resolve the doubt, but such interpretation shall not have the effect of amending the provisions of this chapter. Any interpretation of the chapter shall be deemed an administrative action and shall be based on the following considerations:

- (1) The Lane County Comprehensive Plan.
- (2) The purpose and intent of the chapter as applied to the particular section in question.
- (3) The opinion of the County Counsel. Copies of such interpretations shall be indexed and kept on file in the Department and may be reviewed by the public upon request. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.009 Restrictiveness.

Where the conditions imposed by a provision of this chapter overlap, the provisions which are more restrictive shall govern. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.010 Severability.

If any section, paragraph, subsection, clause, sentence or provision of this chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate or nullify the remainder of this chapter, and the effect thereof shall be confined to the section, paragraph, subsection, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this chapter notwithstanding the parts so declared unconstitutional or invalid. Further, should any section, paragraph, subsection, clause, sentence or provision of this chapter be judicially declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration or judgment shall not affect, impair, invalidate or nullify such section, paragraph, subsection, clause, sentence or provision as to any other premises or use. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.011 Introductory Provisions.

In order to achieve the purposes outlined in LC 16.003, and to assure that the development and use of land in Lane County conforms to the Rural Comprehensive Plan, zone classifications have been established for all unincorporated areas outside of adopted urban growth boundaries and within Lane County. These zones specify regulations for the use of land and property development standards, and use applied by boundaries indicated on the Lane County Rural Comprehensive Plan Zoning Maps. *(Revised by Ordinance No. 7-87, Effective 6.17.87)*

16.012 Zone Classifications.

For the purpose of this chapter of Lane Code, the following zones are hereby established:

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<u>Zone Classification</u>	<u>Abbreviation</u>	<u>Section No.</u>
Nonimpacted Forest Lands	F-1, RCP	16.210
Impacted Forest Lands	F-2, RCP	16.211
Exclusive Farm Use	E-RCP	16.212
Natural Resource	NR-RCP	16.213
Marginal Lands	ML RCP	16.214
Park and Recreation	PR-RCP	16.215
Quarry and Mining Operations	QM-RCP	16.216
Sand, Gravel and Rock Products	SG-RCP	16.217
Sand, Gravel and Rock Products Combining Processing	SG-CP-RCP	16.218
Public Facility	PF-RCP	16.219
Limited Commercial	C-1, RCP	16.220
Neighborhood Commercial	C-2, RCP	16.221
Commercial	C-3, RCP	16.222
Rural Commercial	C-R, RCP	16.223
Limited Industrial	M-1, RCP	16.224
Light Industrial	M-2, RCP	16.225
Heavy Industrial	M-3, RCP	16.226
Inmate Work Camp	IWC, RCP	16.227
Suburban Residential	RA-RCP	16.229
Garden Apartment Residential	RG-RCP	16.230
Rural Residential	RR-RCP	16.231
Destination Resort	DR-RCP	16.232
Historic Structures or Sites Combining	/H-RCP	16.233
Natural Estuary	/NE-RCP	16.234
Conservation Estuary	/CE-RCP	16.235
Development Estuary	DE-RCP	16.236
Significant Natural Shorelands Combining	/SN-RCP	16.237
Prime Wildlife Shorelands Combining	/PW-RCP	16.238
Natural Resources Conservation Combining	/NRC-RCP	16.239
Residential Development Shorelands	/RD-RCP	16.240
Combining		
Shorelands Mixed Development Combining	/MD-RCP	16.241
Dredge Material/Mitigation Site Combining	/DMS-RCP	16.242
Beaches and Dunes Combining	/BD-RCP	16.243
Floodplain Combining	/FP-RCP	16.244
Commercial Airport Safety District	/CAS-RCP	16.245
Airport Safety District	/AS-RCP	16.246
Airport Operation	AO-RCP	16.247
Clear Lake Watershed Protection	CLWP-RCP	16.258
Rural Residential	RR, RCP	16.290
Rural Commercial	RC, RLP	16.291
Rural Industrial	RI, RCP	16.292
Rural Public Facility	RPF, RCP	16.294
Rural Park and Recreation	RPR, RCP	16.295
Private Use Airport Overlay	/PUAO-	16.296
	RCP	

(Revised by Ordinance No. 7-87, Effective 6.17.87; 17-87, 12.25.87; 12-90, 10.11.90; 11-91A, 8.30.91, 6-98, 12.2.98; 6-02, 5.16.02)

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(i) At least 20 feet from the right-of-way of a State road, County road or a local access public road specified in LC Chapter 15; and

(b) Riparian Setback Area. Except for property located between the Eugene-Springfield Metropolitan Area General Plan Boundary and the Eugene and Springfield Urban Growth Boundaries, where setbacks are provided for in LC 16.253(6), the riparian setback area shall be the area between a line 50 feet above and parallel to the ordinary high water of a Class I stream designated for riparian vegetation protection in the Rural Comprehensive Plan. No structure other than a fence or sign shall be located closer than 50 feet from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A modification to the riparian setback standard for a structure may be allowed provided the requirements of LC 16.253(3) or LC 16.253(6), as applicable, are met.

(c) Maintenance, Removal and Replacement of Indigenous Vegetation within the Riparian Setback Area. Maintenance, removal and replacement of indigenous vegetation within the riparian setback area designated for riparian vegetation protection by the comprehensive plan must comply with the provisions of LC 16.253(2) or LC 16.253(6), as applicable, are met.

(d) Signs.

(i) Signs shall not extend over a public right-of-way or project beyond the property line.

(ii) Signs may be illuminated but shall not be flashing or capable of movement.

(iii) Signs shall advertise uses and development that are conducted on the property.

(iv) Signs shall not project above the height of the tallest structure on the property.

(v) Signs shall not contain more 200 square feet in area.

(e) Parking. Off street parking shall be provided in accordance with LC 16.250. *(Revised by Ordinance No. 6-02, Effective 5.16.02, 10-04, 6.4.04; 5-04, 7.1.04)*

**PRIVATE USE AIRPORT OVERLAY ZONE (/PUAO, RCP)
RURAL COMPREHENSIVE PLAN**

16.296 Private Use Airport Overlay Zone (/PUAO, RCP)

(1) **Purpose.** The purpose of the Private Use Airport Overlay Zone is to recognize the locations of certain private use airports and heliports and to provide for their continued operation and vitality consistent with state law. It also provides for standards to promote air navigational safety at these airports, and to reduce the potential safety hazards to persons living, working or recreating on lands near such airports.

(2) **Applicability.** The Private Use Airport Overlay Zone consists of two elements: a private use airport operation district and a safety overlay zone.

(a) The private use airport operation district applies to private use airports and heliports in rural Lane County that were the base for three or more aircraft on December 31, 1994, as shown in the records of the Oregon Department of Transportation. The boundaries of the private use airport operation district are delineated on the Official Private Use Airport Overlay Zone Map. The identified private use airports and heliports in Lane County include:

(i) Crow-Mag Airport;

(ii) Jasper Ridge Airport;

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- (iii) Meadowview Heliport;
- (iv) Strauch Field Airport; and
- (v) Walker Airport.

(b) The safety overlay zone applies to those lands encompassed by the airport and heliport surfaces set forth and defined in LC 16.296(3), delineated in LC 16.296(8) and diagramed LC 16.296(13).

(c) If any airport or heliport to which this overlay zone has been applied is removed from the State's list of airports in a manner described in ORS 836.610, the county will no longer apply and enforce the safety overlay zone that corresponds to the removed airport or heliport.

(3) Definitions.

Aircraft. Includes airplanes and helicopters, but not hot air balloons or ultralights.

Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

Airport Elevation. The highest point of an airports' usable runway, measured in feet above mean sea level.

Airport Imaginary Surface. Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary areas for private use airports are defined by the primary surface and approach surface.

Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport or heliport.

Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of a runway. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to the width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for one foot forward.

Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

Heliport. An area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft.

Heliport Imaginary Surface. Airport imaginary surfaces as they apply to heliports.

Heliport Approach Surfaces. The approach surface beginning at each end of the heliport primary surface and has the same width as the primary surface. The surface extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

Heliport Primary Surface. The area of the primary surface that coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the established heliport elevation.

Heliport Transitional Surfaces. Surfaces extending outward and upward from the lateral boundaries of the heliport primary surface and from the

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approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontal from the centerline of the primary and approach surfaces.

Obstruction. Any structure, or tree, plant or other object of natural growth that penetrates an imaginary surface.

Primary Surface. A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation on the nearest point on the runway centerline. The width of the primary surface is 200 feet.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure. For the purposes of LC 16.296, "structures" means any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

(4) **Existing Uses within the Private Use Airport Operation District.** Operation of existing uses listed in LC 16.296(5) that existed at any time during 1996 may be continued at their current levels as of January 1, 2008. The uses that existed during 1996 are specific to each airport and heliport and are on file with the Land Management Division. In response to citizen complaints related to requests for building permits or other expansions pursuant to LC 16.296(6), the Director will make a determination regarding the existence of the use in 1996 that is being proposed for expansion. The determination of an existing use shall be based upon a review of evidence provided by the airport sponsor, a review of the historical property file records, Land Management inventory and historical aerial photos. The determination is subject to submittal of an Airport Use Determination application pursuant to LC 14.050 and review and approval of the Airport Use Determination pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

(5) **Continued Operation of Existing Uses.** Operation of the following uses may be continued within the airport operation district at their current levels as of the effective date of this ordinance upon determination that the use existed at the airport or heliport at any time during 1996.

(a) Customary and usual aviation-related activities, including but not limited to take-offs and landings.

(b) Aircraft hangers and tie-downs.

(c) Ongoing maintenance of airport facilities.

(d) Fixed based operator facilities.

(e) One single family residence per airport for either: an airport caretaker, operator or security officer, but not a residence for each.

(f) Other activities incidental to the normal operation of an airport. Except as provided elsewhere in Lane Code 16.296, "customary and usual aviation-related activities" do not include residential, commercial, or industrial uses provided for in other sections of Lane Code Chapter 16.

(g) Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

(h) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency

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transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical labs, medical equipment sales, and other similar uses.

(i) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

(j) Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

(k) Flight instruction, including activities, facilities, and non-residential accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

(l) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personnel use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

(m) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

(n) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.

(o) Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agriculture, forestry or rangeland management setting.

(p) Agricultural and forestry activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.

(q) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft, aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving. Parachuting businesses may only be allowed where the business has approval to use a drop zone that is at least 10 contiguous acres in size. A larger drop zone may be required

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where evidence of missed landings and dropped equipment supports the need for the larger area. The configuration of 10 acre minimum drop zone shall roughly approximate a square or circle and may contain structures, trees, or other obstacles if the remainder of the drop zone provides adequate areas for parachutists to safely land.

(6) Expansion of Existing Uses. The expansion of uses identified in 16.296(5)(a)-(q) that existed at any time during 1996, are permitted as provided in this section.

(a) Expansions Allowed Outright. The following expansions of existing uses are permitted outright:

(i) Construction of additional hangars and tie-downs by the owner of the airport or heliport.

(ii) Basing additional aircraft at the airport or heliport.

(iii) Increases in flight activity.

(b) Other Expansions of Existing Uses.

(i) Growth of existing uses that require building permits, other than those existing uses identified LC 16.296(6)(a) shall be permitted as an administrative decision without public hearing, unless the growth:

(A) Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals.

(B) Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or

(C) Exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

(ii) Growth of an existing use for which a public hearing is required shall be permitted only upon demonstration of compliance with the standards for new uses set out in LC 16.296(7).

(7) New Uses. Uses identified in LC 16.296(5) are permitted following a public hearing before the Director upon demonstration of compliance with the following standards. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

(a) The use is or will be supported by adequate types and levels of facilities and services and transportation systems authorized by applicable statewide land use planning goals;

(b) The uses do not seriously interfere with existing land uses in areas surrounding the airport or heliport; and

(c) For airports or heliports adjacent to land zoned for exclusive farm use, the use complies with the requirements in ORS 215.296.

(8) Safety Overlay Zone Surface Delineation. The location of the imaginary surfaces defined in LC 16.296(3) for each private use airport and heliport subject to this overlay zone are depicted on the Official Private Use Airport Overlay Zone Map. All lands, waters and airspace, or portions thereof that are located within these surfaces are subject to the requirements of this overlay zone. The dimensional standards and slope profiles for these surfaces are diagramed in LC 16.296(13).

(9) Notice of Land Use and Permit Applications within the Safety Overlay Zone.

(a) The county shall provide written notice of applications for land use decisions or administrative approvals, including comprehensive plan or zoning

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amendments, affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation pursuant to LC 14.070 and 14.100 in the same manner and within the same timelines as notice is provided to property owners entitled by law to written notice of land use decisions or administrative approvals.

(b) The County shall provide notice of decision on a land use or administrative approval application affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation within the same timelines that such notice, pursuant to LC 14.100, is provided to parties to a land use or limited land use proceeding.

(10) Height Limitations within the Safety Overlay Zone. All structures permitted by the underlying zone shall comply with the height limitations in LC 16.296(10)(a) and (b), below. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations controls.

(a) Except as provided in LC 16.296(10)(b) below, no structure, tree or other object of natural growth shall penetrate an airport imaginary surface.

(b) Height variances may be permitted when supported in writing by the airport sponsor and the Department of Aviation. Applications for height variances shall comply with LC 16.256(1) and (2), and shall be subject to such conditions and terms as recommended by the Department of Aviation.

(11) Procedures. An applicant seeking a land use or administrative approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

(a) A map or drawing showing the location of the property in relation to the airport or heliport imaginary surfaces. The Director shall provide the applicant with appropriate base maps upon which to locate the property.

(b) Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

(c) If a height variance is requested, letters of support from the airport sponsor and the Department of Aviation.

(12) Nonconforming Structures.

(a) These regulations do not require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations do not require any change in the construction, alteration or intended use of any structure for which construction was begun or land use permits were applied for prior to January 1, 2008.

(b) Notwithstanding LC 16.296(12)(a), the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

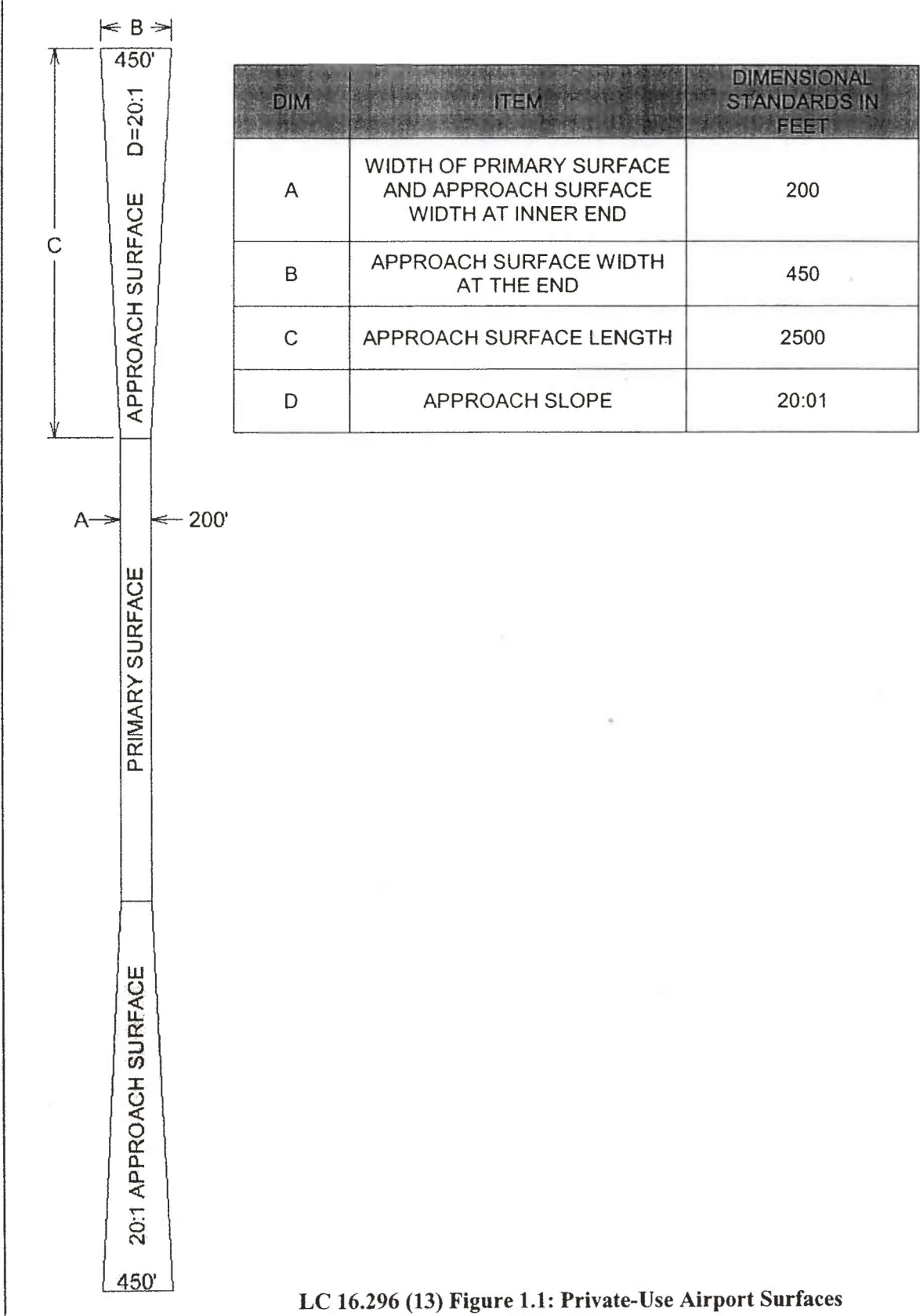
(c) No land use decision, administrative approval or other permit shall be granted that would allow a nonconforming structure to become a greater hazard to air navigation than it was on January 1, 2008.

(13) Surfaces Diagrammed. The airport surfaces delineated in LC 16.296(8), above are as diagrammed in Figure 1.1, below. The heliport surfaces delineated in LC 16.296(8) above are as diagrammed in Figure 1.2, below. In addition to the diagrams below, these surfaces have been mapped on the Official Private Use Airport Overlay zone map.

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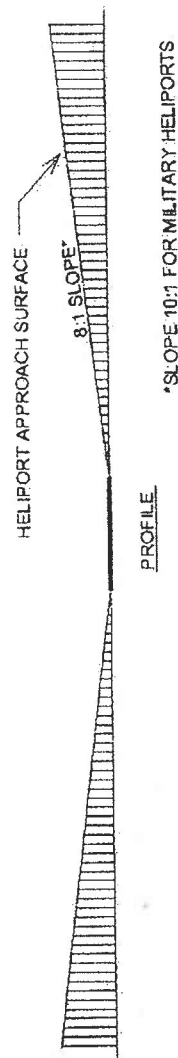
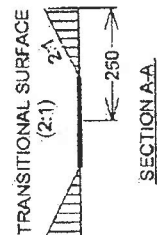
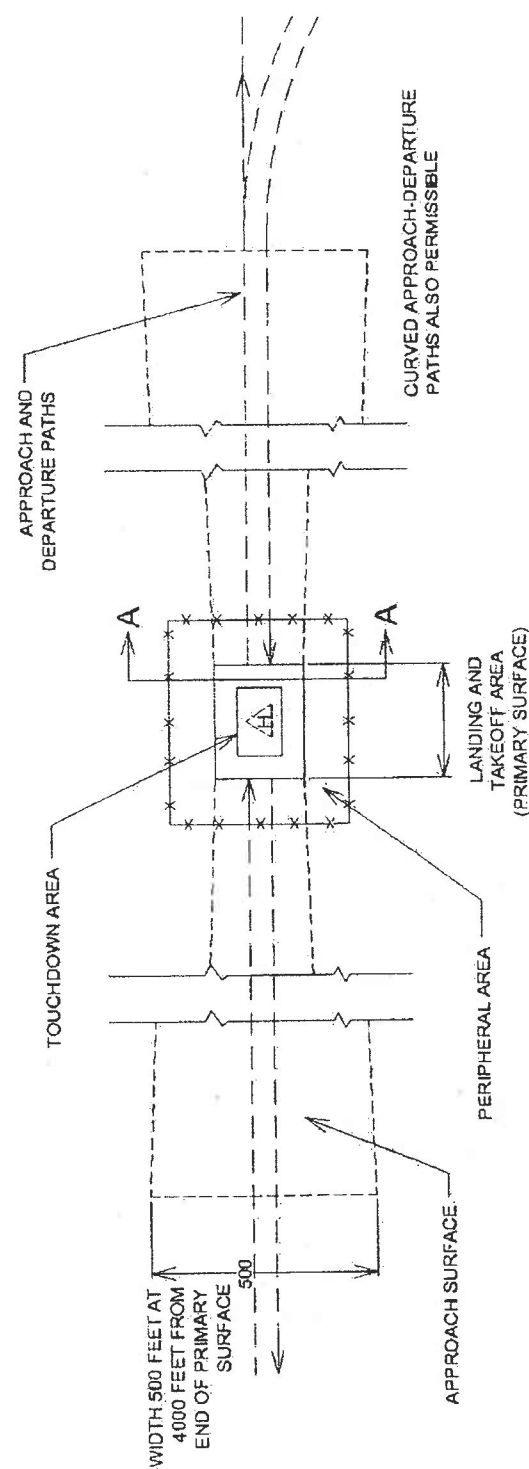


LC 16.296 (13) Figure 1.1: Private-Use Airport Surfaces

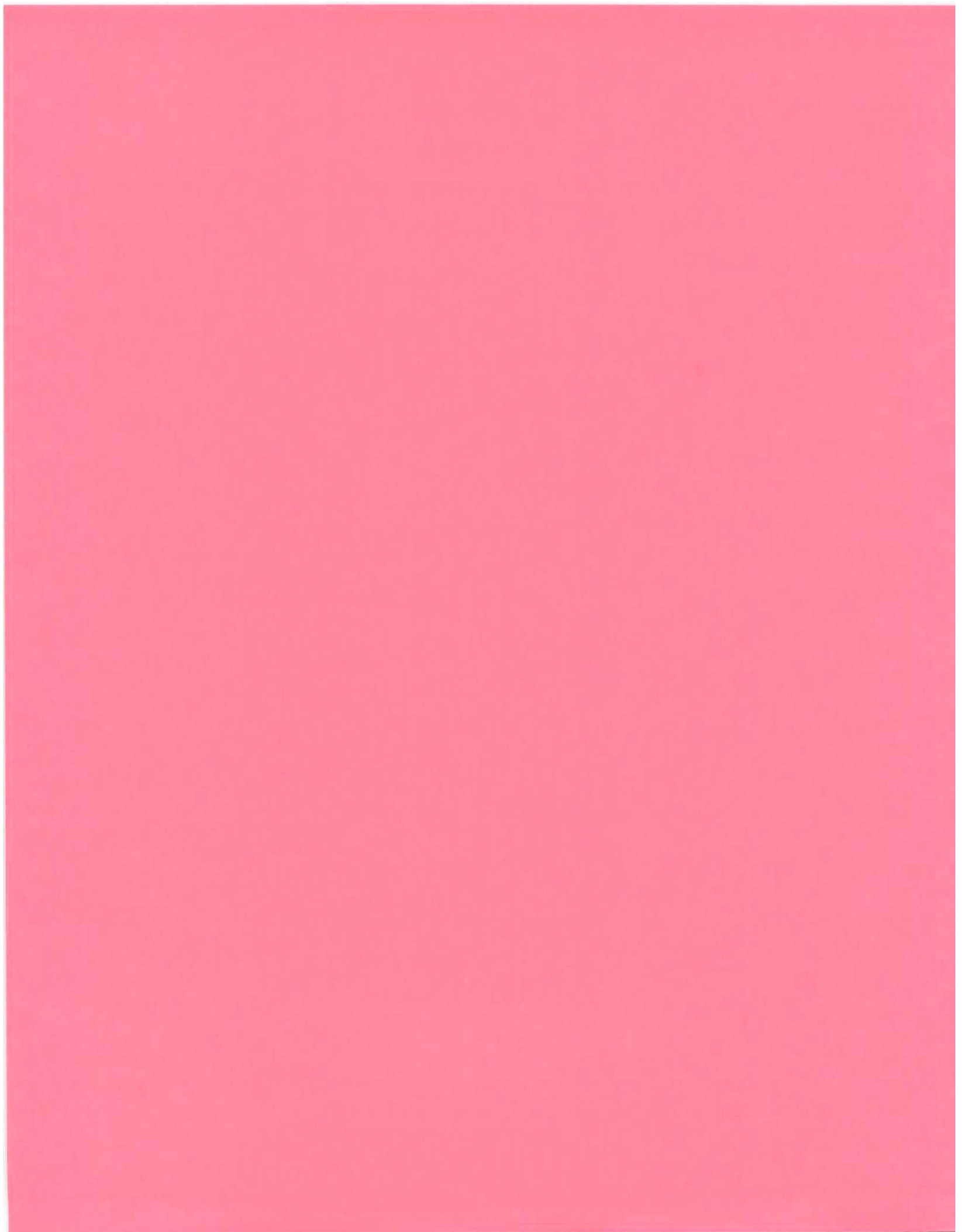
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LC 16.296 (13) Figure 1.2: Heliport Surfaces



SUPPLEMENTAL MEMO

File Record Tracking Information

Ordinance Number: 15-07

Planning Action Number: 1245

File Record Number: 57

DATE: December 20, 2007 (Date of Memo)
December 5, 2007 (Second Reading/Public Hearing)
January 2, 2008 (Third Reading/Public Hearing)

TO: **LANE COUNTY BOARD OF COMMISSIONERS**

FROM: Public Works Department/Land Management Division

PRESENTED BY: Keir Miller, Associate Planner

AGENDA ITEM TITLE:

- 1) ORDINANCE NO PA1245 - IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) BY REVISING GOAL-2, POLICY 25; TO ESTABLISH PROVISIONS FOR A PRIVATE USE AIRPORT OVERLAY ZONE; BY ADOPTING AN OFFICIAL PRIVATE USE AIRPORT OVERLAY ZONE MAP; BY APPLYING THE OVERLAY ZONE TO FIVE PRIVATE USE AIRPORTS AND SURROUNDING PROPERTIES AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.
- 2) ORDINANCE 15-07 - IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO ESTABLISH A NEW ZONE CLASSIFICATION FOR PRIVATE USE AIRPORTS (LC16.012, LC16.296)

The Board held the First Reading and Public Hearings on the proposed ordinances on November 20, 2007. On December 5, 2007, the Second Reading and Public Hearings were held. At that time, staff recommended that the Board accept testimony but postpone taking final action until January 2, 2008, to allow for the required 2 week public notice period between readings of the revised ordinances.

This extension was requested because modifications to the ordinances occurred after the First Reading. These modifications were outlined in a previous supplemental memo to the Board dated November 27, 2007.

As of the drafting of this memo, no new information has been submitted into the record and staff now recommends that the Board move forward and adopt Ordinance Number PA1245 and Ordinance Number 15-07. The justification for this recommended option is outlined in the original staff report to the Board dated October 31, 2007.



AGENDA COVER MEMO

File Record Tracking Information

Ordinance Number: 15-07
Planning Action Number: 1245

File Record Number: 58

DATE: October 31, 2007 (Date of Memo)
November 20, 2007 (First Reading)
December 5, 2007 (Second Reading/Public Hearing)

TO: **LANE COUNTY BOARD OF COMMISSIONERS**

FROM: Public Works Department/Land Management Division

PRESENTED BY: Keir Miller, Associate Planner

AGENDA ITEM TITLE: 1) ORDINANCE NO PA1245 – IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) BY REVISING GOAL-2, POLICY 25; TO ESTABLISH PROVISIONS FOR A PRIVATE USE AIRPORT OVERLAY ZONE; BY ADOPTING AN OFFICIAL PRIVATE USE AIRPORT OVERLAY ZONE MAP; BY APPLYING THE OVERLAY ZONE TO FIVE PRIVATE USE AIRPORTS AND SURROUNDING PROPERTIES AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

2) ORDINANCE __-07- IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO ESTABLISH A NEW ZONE CLASSIFICATION FOR PRIVATE USE AIRPORTS (LC16.012, LC16.296)

I. REQUESTED MOTIONS

A. November 20, 2007:

Move First Reading of Ordinance Number PA 1245 and Ordinance No __-04 and set Second Reading and Public Hearing for December 5, 2007 at 1:30 PM.

B. December 5, 2007:

Move to adopt Ordinance Number PA 1245 and Ordinance No __-04

II. AGENDA ITEM SUMMARY

The Board of Commissioners is being asked to adopt amendments to the Rural Comprehensive Plan (RCP) that would: (1) establish a Private Use Airport Overlay

zone (LC 16.296 - /PUAO-RCP); (2) adopt an Official Private Use Airport Overlay Zone Map and (3); apply the Private Use Airport Overlay Zone designation to the five existing private use airports and surrounding properties listed in Attachment A, Section 3 of this memo. These amendments would bring the county into compliance with state law pertaining to private airport planning and protection.

III. BACKGROUND/ IMPLICATIONS OF ACTIONS

A. Board Action and Other History

In 1995, the state adopted the Airport Protection Act (SB 1113), codified at ORS 836.600 Airports and Landing Fields. On February 12, 1999, DLCD Oregon Administrative Rules Chapter 660, Division 13, Airport Planning, became effective. OAR 660-013, commonly referred to as the Airport Planning Rule (APR), implements provisions of ORS 836.600. The APR and statute require the county to take several actions in regards to private use airports. These requirements are intended to encourage and support the safe and continued operation of Oregon's private use airports.

Specifically, the county must address:

- OAR 660-013-0155 Planning Requirements for Small Airports and;
- OAR 660-013-0070 Local Government Safety Zones for Imaginary Surfaces

In brief, OAR 660-013-0155 requires local governments to recognize the location of private use airports in planning documents and also requires that governments not impose limitations on airport uses that existed at any time during 1996. Additionally, the OAR allows for new aviation related uses subject to certain criteria (i.e. the use is supported by adequate public services and will not create a serious interference with surrounding uses). OAR 660-013-0070 requires local governments to adopt safety overlay zones that protect aircraft approach surfaces by restricting intrusions into those areas.

The APR applies to both privately owned and publicly owned, private use airports that were registered, licensed or otherwise recognized by the Oregon Department of Transportation (ODOT) Aeronautics Division on or before December 31, 1994, with three or more based aircraft.

According to ORS 836.610(2)(a), local governments are required to amend their comprehensive plan and land use regulations to reflect the requirements of the APR not later than the first periodic review cycle after the official list of affected airports is published. The Lane County Periodic Review Work Program was initially adopted by the Board of County Commissioners and acknowledged by DLCD in 1996 and later amended, re-adopted and re-acknowledged in 1998. Compliance with OAR 660-013 was not included in the Work Program because the Work Plan preceded it in time. However, ORS 836.610(2)(a) would require Lane County to implement the amendments at the time of the next periodic review work program, five to seven years from now. On May 30, 2007, the Board of County Commissioners directed Land Management Division to make the private use airport work project the first priority at the conclusion of the mandated processing of Ballot Measure 37 claims on June 20, 2007.

On April 2, 1999, ODOT Aeronautics Division (now the Oregon Department of Aviation) distributed the official lists of airports affected by the APR. No publicly owned, private use airports were recognized to have existed in Lane County on or before December 31, 1994. The following privately owned, private use airports were identified and are subject to this work plan:

- Crow-Mag Airport;
- Jasper Ridge Airport;
- Meadowview Heliport;
- Strauch Field Airport; and
- Walker Airport.

State law requires that the county gather evidence relating to the location and boundaries of these privately-owned, private use airports and heliports (including their aircraft approach surfaces and potential obstructions) and establish an overlay zone to protect those surfaces from obstructions.

The required boundary information has been obtained and mapped (see Attachment "F") and staff is recommending that the Board adopt ordinance language for an overlay zone and implement the overlay zone to comply with the requirements of state law. Attachment "A" Ordinance PA 1245 and Attachment "B" 15-07, along with associated exhibits, will address these requirements

B. Policy Issues

There are two foreseeable issues that may arise from the adoption and implementation of a private use airport overlay zone. The first issue concerns the expansion of existing uses and the potential for new uses that may conflict with neighboring properties. The Airport Protection Act and the subsequent APR and statutes were promulgated by a perceived need to protect private airport uses. The rule and statutes are clear in that counties may not impose any limits on uses that existed at any time during 1996. Considering this, the proposed amendments would allow airport sponsors to pursue uses at their facilities which have not occurred in over a decade. Altogether new uses may also be possible through the special use permit process. Additionally, sponsors may expand certain uses such as increased flight activity, or may build additional hangars without need for a land use decision. New uses or expansions of existing uses may not be welcomed by neighboring property owners. The second issue concerns limits on the height of structures and vegetation imposed by the overlay zone requirements. Surrounding properties will be impacted by the height limitations of the overlay zone. These limitations are both for the safety of pilots using the airfields and for the safety of those living nearby. These restrictions are confined to the delineated approach surfaces and in most cases only encompass a portion of neighboring properties.

C. Financial and/or Resource Considerations

Adopting LC 16.296 will presumably be seen by the five sponsors as beneficial to the future use of the aviation facilities. The ordinance will impose compliance with safety standards and could result in some restrictions on property owners of adjacent lands. New structures or additions to existing structures could conceivably result in height

restrictions to development proposed by adjacent property owners within the aircraft approach surfaces. A remote possibility exists that such restrictions could trigger a Ballot Measure 37 claim but it is likely that these types of restrictions would be exempt from the measure because they relate to health and safety.

C. Planning Commission

Public hearings before the Planning Commission were held on this matter on October 16 and November 20. As of the date of this memo, the Planning Commission has yet to act on the proposal.

IV. ACTION

A. Alternatives/Options

Option 1: Adopt Ordinance Number PA 1245 and Ordinance No __-04
Option 2: Do not adopt Ordinance Number PA 1245 and Ordinance No __-04
Option 3: Direct staff to provide additional information in support of Option 1

B. Recommendation

Staff recommends Option 1.

C. Follow Up

Upon action on the Ordinances, staff will notify all parties of record and the Department of Land Conservation and Development of the Board's decision.

V. ATTACHMENTS

- A. Ordinance PA 1245
 - Exhibit A: Proposed Amendments to RCP Goal 2, Policy 25
 - Exhibit B: Official Private Use Airport Safety Overlay Zone Map (scale reduced)
 - Exhibit C: Findings in Support of Ordinance PA 1245
- B. Ordinance No. No. __-07
 - Exhibit A: Lane Code 16.296 Private Use Airport Overlay Zone (/PUAO - RCP)
 - Exhibit B: Proposed Amendments to Lane Code 16.012
- C. LCPC Meeting Minutes for 7/10/07 Work Session
- D. LCPC Meeting Minutes for 10/16/07 (to be provided as a supplemental)
- E. LCPC Meeting Minutes for 11/20/07 (to be provided as a supplemental)
- F. Reference Maps

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. PA 1245

IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) BY REVISING GOAL-2, POLICY 25; TO ESTABLISH PROVISIONS FOR A PRIVATE USE AIRPORT OVERLAY ZONE; BY ADOPTING AN OFFICIAL PRIVATE USE AIRPORT OVERLAY ZONE MAP; BY APPLYING THE OVERLAY ZONE TO FIVE PRIVATE USE AIRPORTS AND SURROUNDING PROPERTIES AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 884, has adopted Land Use Designations and Zoning for lands within the Jurisdiction of the of the Lane County Rural Comprehensive Plan; and

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance PA 883, has adopted the Lane County General Plan Policies which is a component of the Lane County Rural Comprehensive Plan; and

WHEREAS, Lane Code 12.050 and 16.400 set forth procedures for amendments of the Rural Comprehensive Plan and Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comp Plan; and

WHEREAS, It is necessary to amend the Rural Comprehensive Plan and apply an overlay zone to provide for the continued operation and vitality of certain private use airports in Lane County consistent with state law; and

WHEREAS, It is necessary to amend the Rural Comprehensive Plan and apply an overlay zone to reduce the potential safety hazards to persons living, working or recreating on lands near such private use airports ; and

WHEREAS, the proposal was reviewed at public hearings with the Lane County Planning Commission on October 16 and November 20, 2007; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on December 5, 2007; and

WHEREAS, evidence exists in the record indicting that the proposal meets the requirements of Lane Code Chapters 12 and 16, and the requirements of applicable state and local law; and

WHEREAS, the Board of County Commissioners has conducted a public hearing and is now ready to take action;

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

Section 1, The Lane County General Plan Policies, Goal 2 (Policy 25) adopted by Ordinance No. PA 883 and amended thereafter is amended by revising Goal 2 General Plan Policy 25, to add provisions for a Private Use Airport Overlay Zone and to perform minor housekeeping corrections as set forth in Exhibit "A".

Section 2, An Official Private Use Airport Overlay Zone Map is established and adopted as depicted in Exhibit "B".

Section 3, The Private Use Airport Overlay Zone is applied to the lands and airspace encompassed by the surfaces and districts delineated on the Official Private Use Airport Overlay Zone Map to the following properties or portions thereof:

1604080000100	1604280000800	1706220001300	1706340000102	1802140000101
1604080000501	1604280000900	1706220001801	1706350000100	1903340000101
1604080000502	1604280000900	1706220001805	1706350000103	1903340000200
1604080000503	1604280000901	1706220001806	1802130000100	1903340000200
1604080000508	1604280001000	1706220002700	1802130000100	1903340000700
1604080000510	1604290000100	1706260001703	1802130000201	1903340000701
1604080000900	1604290002600	1706260001704	1802130000204	2003030000200
1604170000101	1604290002601	1706260001705	1802130000205	2003030000600
1604170000601	1604320000200	1706260002401	1802130000300	2003030000700
1604170000601	1604330000201	1706260002502	1802130000301	2003030000800
1604200001400	1604330000400	1706260002601	1802130000301	2003030000800
1604210000301	1706220001200	1706260002601	1802130000302	2003030000800
1604210000301	1706220001200	1706270000102	1802130000303	2003030000801
1604210000301	1706220001200	1706340000101	1802140000100	2003030000801

FURTHER, Although not part of this Ordinance, the Board of County Commissioners adopts findings in support of this action as set forth in Exhibit "C".

The prior policies, plan and zone diagram designations repealed or changed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation of thereof prior to the effective date of this Ordinance.

If any section, subsection, sentence, clause phrase of portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such section shall be deemed a separate, distinct and independent provision, and such holding shall not effect the validity of the remaining portions thereof.

ENACTED this _____ day of _____, 2007.

Faye Stewart, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

Exhibit A: Proposed changes to RCP Goal 2, Policy 25
Proposed deletions shown with a ~~strikethrough~~
Proposed additions are underlined

All cluster subdivisions must be within an existing Rural Fire Protection District.

No other identifiable substantial increase of a public service shall be necessitated by the approval of a cluster subdivision.

24. Outside of designated 'Community' areas, all changes to Plan Diagram designations shall be evaluated through the County's Plan Amendment procedure (LC 16.400) and approval based upon fulfillment of criteria therein.
25. Each of the land use designations applied to the Plan Diagram shall be implemented by one or more zoning districts, as follows:

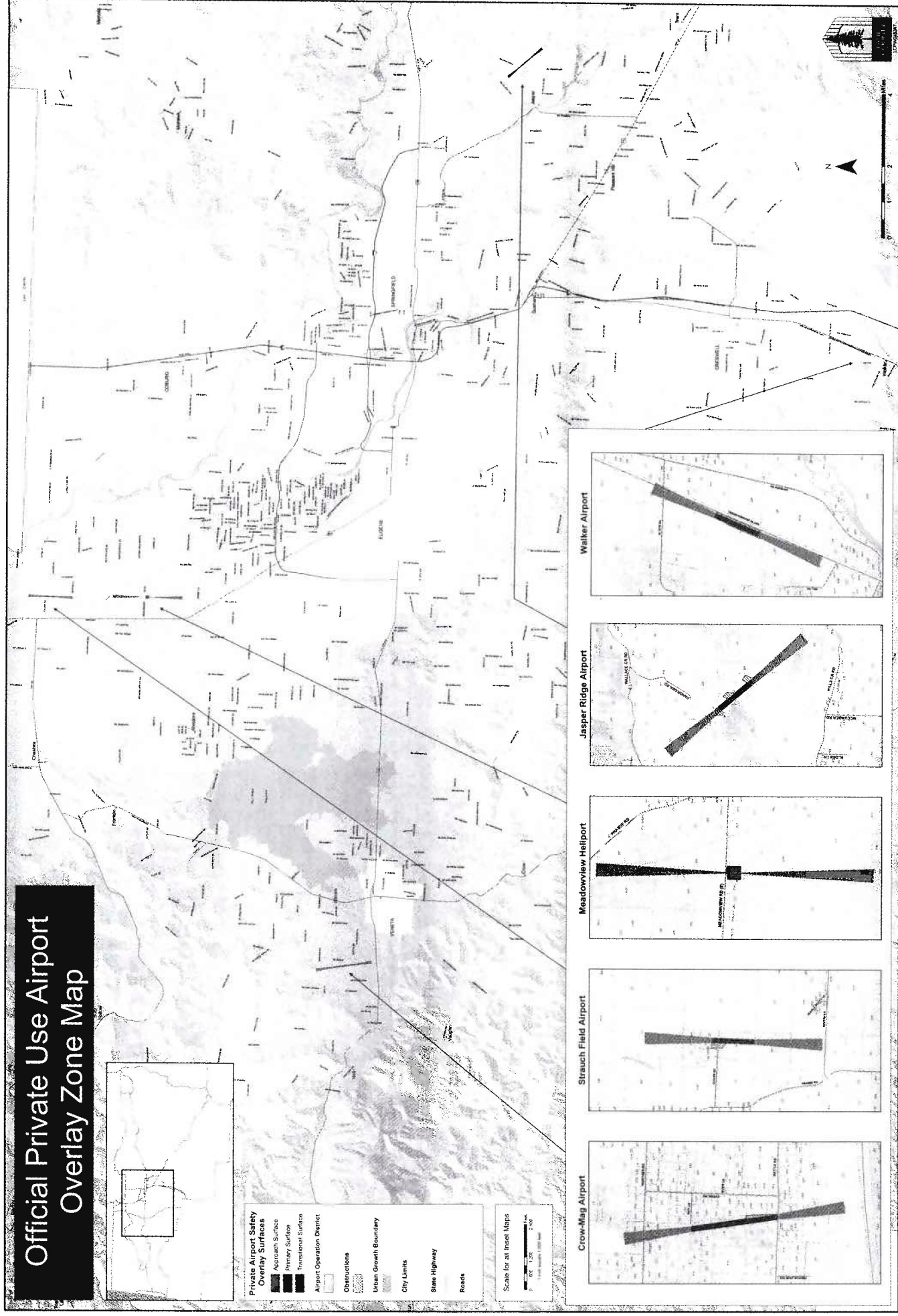
<u>Plan Designation</u>	<u>Zone Classification</u>	<u>Abbrev.</u>
Forest Land	Nonimpacted Forest Lands	F-1, RCP
Forest Land	Impacted Forest Lands	F-2, RCP
Agricultural Land	Exclusive Farm Use	E-RCP
Natural Resource	Natural Resource	NR-RCP
Marginal Land	Marginal Lands	ML-RCP
Park and Recreation	Park and Recreation	PR-RCP
Rural Park and Recreation	Rural Park and Recreation	RPR, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Park and Recreation, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Park and Recreation.		
Natural Resource	Quarry & Mining Operations Combining	/QM-RCP
Natural Resource	Sand, Gravel and Rock Products	SG-RCP
Natural Resource	Sand, Gravel & Rock Prod. Processing	/CP-RCP
Public Facility, Community	Public Facility	PF-RCP
Rural Public Facility	Rural Public Facility	RPF, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Public Facility, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Public Facility.		
Commercial, Community	Limited Commercial	C-1, RCP
Commercial, Community	Neighborhood Commercial	C-2, RCP
Commercial, Community	Commercial	C-3, RCP
Rural Commercial	Rural Commercial	RC, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Commercial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Commercial.		
Industrial, Community	Limited Commercial	M-1, RCP
Industrial, Community	Light Commercial	M-2, RCP
Industrial, Community	Heavy Industrial	M-3, RCP
Rural Industrial	Rural Industrial	RI, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Industrial, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Industrial.		
Rural, Community	Suburban Residential	RA, RCP
Rural, Community	Garden Apartment Residential	RG, RCP
Rural, Community	Rural <u>Rural</u> Residential	RR, RCP

Rural Residential	Rural Residential	RR, RCP
Notwithstanding the plan diagram, areas designated by the plan diagram as Rural, that are located outside of communities and inside developed and committed exception areas, are now designated as Rural Residential.		
Destination Resort	Destination Resort	DR, RCP
Historic Structure/Site	Historic Struc. or Sites Combining	/H-RCP
Natural Estuary	Natural Estuary	/NE-RCP
Conservation Estuary	Conservation Estuary	/CE-RCP
Development Estuary	Development Estuary	/DE-RCP
Sign. Natural Shorelands	Significant Nat. Shorelands Comb.	/SN-RCP
Prime Wildlife	Prime Wildlife Shorelands Comb.	/PW-RCP
Natural Resources Consv.	Natural Resources Conservation Comb.	/NRC-RCP
Residential Development	Res. Devel. Shorelands Combining	/RD-RCP
Shorelands Mixed Develop	Shorelands Mixed Devel. Combining	/MD-RCP
Dredge Material/Mitigation	Dredge Mat./Mitigation Site Comb.	/DMS-RCP
Beaches & Dunes	Beaches and Dunes Combining	/BD-RCP
	Floodplain Combing	/FP-RCP
Airport	Commercial Airport Safety District	/CAS-RCP
Airport	Airport Safety District	/AS-RCP
Airport	Airport Operations	AO-RCP
	<u>Private Use Airport Overlay</u>	<u>/PUAO-RCP</u>
Nonresource	Rural Residential	RR-RCP
Public Facility	Inmate Work Camp	IWC-RCP

***NOTE:** The "Community" Plan Designation is implemented by various zoning districts as indicated, zones which also implement specific Plan designations other than "Community". A suffix "/C" shall be used in combination with these zoning abbreviations to denote the zoning inside unincorporated community plans adopted to comply with OAR 660 Division 22, the UC Rule: RR, RC, RI, RPF, and RPR.

26. Exceptions to resource goals shall be required for transmission line right-of-ways when in excess of fifty (50) feet.
27. Conformity Determinations. Lane County will annually initiate and process applications to correct identified plan or zoning designations in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots. Changes to correct nonconformities shall comply with the procedures and requirements of Lane Code Chapter 12 (Comprehensive Plan), Chapter 14 (Application Review and Appeal Procedures), and Chapter 16 (Land Use & Development Code), except as provided for in 27 c. and d., below.
 - a. Circumstances qualifying for consideration by the Board of Commissioners under the Conformity Determinations Policy may include one or more of the following:
 - i. Lawful, structural development existing prior to September 12, 1984 and use of the structure(s) at the time qualified as an allowable use in a developed & committed zone designation other than that designated for the land on an Official Plan or Zoning Plot.

Exhibit "B"
to "Attachment A"



FINDINGS AND CONCLUSIONS IN SUPPORT OF ADOPTION OF ORDINANCE No. PA 1245

The Lane County Board of Commissioners ("Board") finds as follows:

1. The Ordinance to which these findings are attached effects an update to the Lane County Rural Comprehensive Plan ("RCP") The Board is amending RCP General Plan Goal 2, Policy 25 to include a Private Use Airport Overlay zone into the County's General Plan Policies. The Board is also adopting an Official Private Use Airport Overlay Zone Map, and is applying this overlay zone to the properties or portions of properties listed in Section 3 of Ordinance No. PA 1245. These changes will be referred to as the "private use airport updates" throughout these findings. Furthermore, references to "private use airports" within these findings shall be understood to also include the Meadowview Heliport.
2. Pursuant to Lane Code (LC) 12.050(1) and LC 16.400(6)(h)(i) amendments to the Comprehensive Plan and the Rural Comprehensive Plan shall be by ordinance. Furthermore, Lane Code 16.252 sets forth procedures for rezoning lands within the jurisdiction of the Rural Comp Plan. Adopting Ordinance No. PA 1245 accomplishes these requirements.
3. LC 12.050(2) provides review criteria to adopt the private use airport updates into the County Comprehensive Plan. The criteria are as follows:

LC 12.050

- (2) *The Board may amend or supplement the comprehensive plan upon a finding of:*
- (a) *an error in the plan; or*
 - (b) *changed circumstances affecting or pertaining to the plan; or*
 - (c) *a change in public policy; or*
 - (d) *a change in public need based on a reevaluation of factors affecting the plan;*
- provided, the amendment or supplement does not impair the purpose of the plan as established by LC 12.005 above.*

The private use airport updates meet the needs of both LC 12.050(2)(c) and (d). Pursuant to OAR 660-13-0070 and OAR 660-13-0155, Lane County is mandated by state law to adopt these updates. In addition, Senate Bill 1113, commonly referred to as the Airport Protection Act, was enacted in part to address a public need to provide for the continued operation and safety of private use airports. These updates address the requirements of Senate Bill 1113.

LC 16.400(6)(h)(iii)(bb) provides similar review criteria for amendments to the Rural Comprehensive Plan, as follows:

LC 16.400(6)(h)(iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

- (bb) *For Major and Minor Amendments as defined in LC 16.400(8)(a) below, the Plan amendment or component is:*
- (i-i) *necessary to correct an identified error in the application of the Plan; OR*
 - (ii-ii) *necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR*
 - (iii-iii) *necessary to comply with the mandate of local, state, or federal policy or law; OR*
 - (iv-iv) *necessary to provide for the implementation of adopted Plan policy or elements; OR*

(v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.

With regard to these review criteria the Board finds that the private use airport updates are necessary to:

- a. address a change in public need as evidenced by the enactment SB 1113; and
- b. comply with the mandate of state law. Specifically, the following elements of the Airport Planning Rule: OAR 660-13-0070 and OAR 660-13-0155.

Based upon these findings, the Board concludes that the proposed private use airport updates are consistent with the review criteria listed above

4. In addition to the requirements in LC 16.400(6)(h)(iii)(bb) listed above, additional findings under LC 16.400(6)(h)(iii)(aa) must be made to adopt the proposed private use airport updates. Specifically, the Board may amend the Rural Comprehensive Plan upon making certain additional findings, as follows:

LC 16.400(6)(h)(iii) The Board may amend or supplement the Rural Comprehensive Plan upon making the following findings:

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

The amendment meets applicable requirements of local and state law in that it is being processed as a Plan Amendment pursuant to LC Chapter 14 requirements, and is subject to the approval criteria of LC Chapter 12 and 16, both of which chapters are in compliance with state law as outlined in the statewide planning Goal 2 findings, below. Findings of consistency with the approval criteria in LC 16 are contained herein, including findings of consistency with applicable Statewide Planning Goals and Oregon Administrative Rules:

Goal 1 - Citizen Involvement. *To develop a citizen involvement program that insures the opportunity for citizens to be involved in all phases of the planning process.*

Pursuant to the requirements of Lane Code, citizen involvement occurred in the preparation and review of Ordinance No. PA 1245 and Ordinance No. ____-07 as follows:

- On September 5, 2007, written notices were mailed to adjacent and nearby property owners surrounding the private use airports and overlay zone, informing the property owners of the date, time and place of the Lane County Planning Commission public hearing.
- On September 26, 2007, a legal ad was published in The Register Guard, providing notice of the Lane County Planning Commission public hearings in BCC Conference Room of the Lane County Public Service Building on October 16, 2007, at 7:00 P.M.
- On October 16, 2007, the Lane County Planning Commission (LCPC) conducted a public hearing on the proposed private use airport updates.
- On October 16, 2007, the Lane County Planning Commission (LCPC) announced the date (November 20, 2007), location (BCC Conference Room of the Lane County Public Service Building) and time certain (7:00 P.M.) of the continued public hearing on the private use airport updates.
- On October 29, 2007, two separate "Ballot Measure 56" notices, pursuant to ORS 215.503, were mailed to property owners within the Private Use Airport Overlay zone as well as to surrounding property owners and all parties of record. The notices informed the

recipients of the date, time and place of the continued Lane County Planning Commission public hearing and of the date, time and place of the Lane County Board of Commissioners Second Reading and Public Hearing on the private use airport updates.

- On November 14, 2007, a legal ad was published in *The Register Guard*, providing notice of the Lane County Board of Commissioners public hearing in the BCC Conference Room of the Lane County Public Service Building on December 5 2007, at 1:30 P.M.
- On November 20, 2007, the Lane County Planning Commission (LCPC) conducted the continued public hearing on the proposed private use airport updates. During deliberations at the November 20th hearing, by a vote of [REDACTED] to [REDACTED], the Planning Commission forwarded a recommendation to the Board of Commissioners to [REDACTED] the proposal.
- On December 5, 2007, the Board of County Commissioners conducted a public hearing on Ordinance No. PA 1245 and Ordinance No. ____-07.

The private airport updates constitute a plan amendment that is subject to the public notification and hearing processes and provisions of LC Chapter 14 and 16. As described above, the public involvement requirements of these chapters have been met and opportunity for public involvement was afforded at all phases of the process. The amendment is therefore consistent with statewide planning Goal 1.

Goal 2 - Land Use Planning: *To establish a land use planning process and policy framework as a basis for all decisions and actions related to use of land and to assure an adequate factual base for such decisions and actions.*

The Rural Comprehensive Plan (RCP) was acknowledged by the Land Conservation and Development Commission (LCDC) as complying with state planning goals. LC 16.400, adopted and also acknowledged by LCDC specifies the means by which the RCP may be amended. Notice of the public hearing and pending adoption of the private airport updates was mailed to the Oregon Department of Land Conservation and Development (DLCD) on August 29, 2007. The private use airport updates follow the procedures outlined in Lane Code and these findings provide an adequate factual basis for action. The amendment therefore conforms to the established land use planning process and framework consistent with Goal 2.

Goal 3 - Agricultural Land: *To preserve and maintain agricultural lands.*

The private use airport updates seek to preserve and maintain agricultural lands to the maximum extent feasible by limiting the application of the airport operation district to the portions of private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses appropriate within the underlying base zones on which it is applied. Adoption of the private use airport updates will not change any agricultural land use designations. Based upon these findings the amendment is consistent with Goal 3.

Goal 4 - Forest Lands: *To conserve forest lands by maintaining the forest land base and to protect the state's forest economy by making possible economically efficient forest practices that assure the continuous growing and harvesting of forest tree species as the leading use on forest land consistent with sound management of soil, air, water, and fish and wildlife resources and to provide for recreational opportunities and agriculture.*

The private use airport updates seek implement the Goal 4 requirements to the maximum extent feasible by limiting the application of the airport operation district to the portions of private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses

appropriate within the underlying base zones on which it is applied. Adoption of the private use airport updates will not change any forest land use designations. Based upon these findings the amendment is consistent with Goal 4.

Goal 5 - Open Spaces, Scenic and Historic Areas, and Natural Resources: *To conserve open space and protect natural and scenic resources.*

The treatment of resources regulated under Goal 5 will not change as a result of the private use airport updates, and therefore, they are consistent with Goal 5.

Goal 6 - Air, Water and Land Resources Quality: *To maintain and improve the quality of the air, water and land resources of the state.*

The private use airport updates do not include any changes to the treatment of the resources protected under this goal, so the goal is not relevant to this amendment.

Goal 7 - Areas Subject To Natural Disasters And Hazards: *To protect life and property from natural disasters and hazards.*

None of the private use airports are located within regulated floodplains or other areas subject to known natural hazards. Additionally, during natural disaster situations, the private use airports may potentially be used for emergency service delivery or response, evacuation, fire fighting and rescue operations. Based upon these findings the amendment is consistent with Goal 7.

Goal 8 - Recreational Needs: *To satisfy the recreational needs of the citizens of the state and visitors and, where appropriate, to provide for the siting of necessary recreational facilities including destination resorts.*

Private use airports afford recreational opportunities to airports sponsors and guests may serve visitors to traveling to the state by noncommercial aircraft. Furthermore, the private use airport updates do not include any changes related to management of recreational resources, Based upon these findings the amendment is consistent with Goal 8.

Goal 9 - Economic Development: *To provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.*

While the private airport update will provide for the continued operation and vitality of private use airports in Lane County which have been determined by the state to be of economic importance, the above statewide planning goal requirement is not directly relevant to the amendment.

Goal 10 - Housing: *To provide for the housing needs of citizens of the state.*

The private use airport updates seek implement the Goal 10 requirements to the maximum extent feasible by limiting the application of the airport operation district to the portions of private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses appropriate within the underlying base zones on which it is applied. Adoption of the private use airport updates will not change any residential land use designations. Based upon these findings the amendment is consistent with Goal 10.

Goal 11 - Public Facilities and Services: *to plan and develop a timely, orderly and efficient arrangement of public facilities and services to serve as a framework for urban and rural development.*

The private use airport updates will not change any County requirements related to public facilities and services, so this goal is not relevant to the amendment.

Goal 12 - Transportation: *To provide and encourage a safe, convenient and economic transportation system.*

Implementation of the private use airport updates will promote convenient transportation opportunities (air travel) and will encourage safety through enactment of the safety overlay zone requirements. Therefore, the updates are consistent with Goal 12.

Goal 13 - Energy: *To conserve energy.*

The private use airport updates will not change any County requirements related to energy, so this goal is not relevant to the amendment.

Goal 14 - Urbanization: *To provide for an orderly and efficient transition from rural to urban land use.*

The private use airport updates will not change any County requirements related to urbanization, so this goal is not relevant to the amendment.

Goal 15 - Willamette River Greenway: *To protect, conserve, enhance and maintain the natural, scenic, historical, agricultural, economic and recreational qualities of lands along the Willamette River as the Willamette River Greenway.*

The private use airport updates will not change any County requirements related to the Willamette River Greenway, so this goal is not relevant to the amendment.

Goal 16 - Estuarine Resources: *To recognize and protect the unique environmental, economic, and social values of each estuary and associated wetlands; and to protect, maintain, where appropriate develop, and where appropriate restore the long-term environmental, economic, and social values, diversity and benefits of Oregon's estuaries.*

The private use airport updates will not change any County requirements related to the estuarine resources, so this goal is not relevant to the amendment.

Goal 17 - Coastal Shorelands: *To conserve, protect, where appropriate, develop and where appropriate restore the resources and benefits of all coastal shorelands, recognizing their value for protection and maintenance of water quality, fish and wildlife habitat, water-dependent uses, economic resources and recreation and aesthetics. The management of these shoreland areas shall be compatible with the characteristics of the adjacent coastal waters; and to reduce the hazard to human life and property, and the adverse effects upon water quality and fish and wildlife habitat, resulting from the use and enjoyment of Oregon's coastal shorelands.*

The private use airport updates will not change any County requirements related to coastal shorelands, so this goal is not relevant to the amendment.

Goal 18 - Beaches and Dunes: *To conserve, protect, where appropriate develop and where appropriate restore the resources and benefits of coastal beach and dune areas; and to reduce the hazard to human life and property from natural or man-induced actions associated with these areas.*

The private use airport updates will not change any County requirements related to beaches and dunes, so this goal is not relevant to the amendment.

Goal 19 - Ocean Resources: *To conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf. All local, state, and federal plans, policies, projects, and activities which affect the territorial sea shall be developed, managed and conducted to maintain, and where appropriate, enhance and restore, the long-term benefits derived from the nearshore oceanic resources of Oregon. Since renewable ocean resources and uses, such as food production, water quality, navigation, recreation, and aesthetic enjoyment, will provide greater long-term benefits than will nonrenewable resources, such plans and activities shall give clear priority to the proper management and protection of renewable resources.*

The private use airport updates will not change any County requirements related to ocean resources, so this goal is not relevant to the amendment.

The following Oregon Administrative Rules are specifically applicable to the private use airport updates:

- OAR 660-013-0155 Planning Requirements for Small Airports and;
- OAR 660-013-0070 Local Government Safety Zones for Imaginary Surfaces

OAR 660-013-0155 requires local governments to recognize the location of private use airports in planning documents and also requires that governments not impose limitations on airport uses that existed at any time during 1996. Additionally, the OAR allows for new aviation related uses subject to certain criteria. OAR 660-013-0070 requires local governments to adopt safety overlay zones that protect aircraft approach surfaces by restricting intrusions into those areas.

As the proposed private use airport updates were tailored specifically to implement the requirements of OAR 660-013-0155 and OAR 660-013-0070, the Board finds the updates to be consistent with the applicable OARs.

5. Pursuant to Lane Code 16.400(6)(i):

A change of zoning to implement a proposed Plan amendment may be considered concurrently with such amendment. In such case, the Board shall also make the final zone change decision, and the Hearings Official's consideration need not occur.

Enactment of Ordinance PA 1245 will implement a change of zoning concurrent with the proposed Plan amendment. Additional findings under LC 16.252(2) must be made to implement this zone change. Specifically, the Board may apply the Private Use Airport Overlay zone to the properties or portions of properties listed in Section 3 of Ordinance No PA 1245 upon making findings to address the following criteria:

LC16252(2) 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 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 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.

The "general purposes" of Lane Code Chapter 16 are found in LC 16.003 (1)-(14). The private use airport updates achieve the applicable requirements of LC 16.003(1)-(14) as follows:

(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 private use airport updates will apply only to properties with recognized and existing airport uses and those properties within the approach surfaces of those airports. The updates are, in part, designed to promote and protect the public health, safety, convenience and welfare by limiting the height of structures and vegetation that could penetrate primary and approach surfaces and cause risk to pilots as well as persons and property on the ground.

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

The private use airport updates will provide for continued airport and heliport business operations.

(3) Conserve the limited supply of prime industrial lands to provide sufficient space for existing industrial enterprises and future industrial growth.

The supply of prime industrial lands will be minimally ~~be~~ impacted by the private airport updates. Portions of six industrially zoned properties totaling roughly 12 acres will be covered by the overlay zone. All but one of the properties is currently developed to some degree. The overlay zone will not impact the allowable uses of these sites but may limit the height of newly constructed buildings. Approximately 6 acres of the total impacted sites are far enough away from the primary surfaces of the private use airports that height limitations may only be applied to structures exceeding 85 feet or more.

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

The private airport updates seek to conserve farm and forest lands for the production of crops, livestock and timber products to the maximum extent feasible by limiting the application of the airport operation district to the portions of the private use airports already committed to airport uses. Additionally, the overlay zone does not limit the uses appropriate within the underlying on which it is applied.

(5) Encourage the provision of affordable housing in quantities sufficient to allow all citizens some reasonable choice in the selection of a place to live.

While the above general purpose is not directly relevant to the private use airport updates, the updates are not contradictory to this purpose.

(6) Conserve all forms of energy through sound economical use of land and land uses developed on the land.

The private use airports are located on portions of properties already devoted to airport use. As such, these sites are correctly properly designated within the airport operation district boundaries of the Private Use Airport Overlay zone. The transportation network and other infrastructure and services already exist to serve these sites and allow for their efficient use.

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

While the above general purpose is not directly relevant to the private use airport updates, the updates are not contradictory to this purpose.

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

The private use airport updates are being applied in areas where public services and facilities already exist and where it will not be necessary to enlarge or extend those services to accommodate their use.

(9) Provide for and encourage a safe, convenient and economic transportation system within the County.

Implementation of the private use airport updates will promote convenient transportation opportunities (air travel) and will encourage safety through enactment of the safety overlay zone requirements.

(10) Protect the quality of the air, water and land resources of the County.

The private use airport updates do not include any changes to the treatment of the resources protected under this general purpose statement, so the statement is not relevant to this amendment.

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

None of the private use airports are located within regulated floodplains or other areas subject to known natural hazards. Additionally, during natural disaster situations, the private use airports may potentially be used for emergency service delivery or response, evacuation, fire fighting and rescue operations.

(12) Provide for the recreational needs of residents of Lane County and visitors to the County.

Private use airports afford recreational opportunities to airports sponsors and guests may serve visitors to Lane County traveling by noncommercial aircraft.

(13) Conserve open space and protect historic, cultural, natural and scenic resources.

Implementation of the private use airport updates will not reduce the amount of open space nor impact any inventoried, historic, cultural, natural or scenic resources.

(14) Protect, maintain, and where appropriate, develop and restore the estuaries, coastal shorelands, coastal beach and dune area and to conserve the nearshore ocean and continental shelf of Lane County.

While the above general purpose is not directly relevant to the private airport updates, the updates are not contradictory to this purpose. Furthermore, based upon the above findings, the Board finds that the private airport updates will meet the general purposes of Lane Code Chapter 16.

In addition to the requirement that zonings and rezonings meet the general purposes criteria of Lane Code Chapter 16, as discussed above, LC16252(2) also requires that zonings and rezonings shall:

not be contrary to the public interest [and;]

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 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 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.

In regards to these criteria the Board finds as follows:

- The private airport updates are not contrary to the public interest because they implement the requirements of state law which was promulgated by a public need to promote the continued operation and vitality of private airports and to reduce the potential safety hazards to persons living, working or recreating on lands near such airports.
 - The private airport updates are consistent with the purposes of the proposed Private Use Airport Overlay zone because the zone will be applied to established private use airports and surrounding environs for which it was specifically designed.
 - The private airport updates are consistent with the applicable Rural Comprehensive Plan elements as discussed throughout these findings and incorporated here by reference.
 - The private airport updates are consistent with Statewide Planning Goals based upon the finding provided in accordance with LC 16.400(6)(h)(iii)(aa), above.
6. Based upon all of the above findings, the Board concludes that the proposed private use airport updates are consistent with the requirements set forth in the applicable approval criteria. Therefore, the Board approves adoption of the proposal.

IN THE BOARD OF COUNTY COMMISSIONERS, LANE COUNTY, OREGON

ORDINANCE NO. ■-07

IN THE MATTER OF AMENDING THE LANE COUNTY
RURAL COMPREHENSIVE PLAN (RCP) AND LANE
CODE CHAPTER 16 TO ESTABLISH A NEW ZONE
CLASSIFICATIONS FOR PRIVATE USE AIRPORTS
(LC16.012, LC16.296)

The Board of County Commissioners of Lane County ordains as follows:

Chapter 16 of Lane Code is hereby amended by deleting, substituting and adding the following section:

DELETE THIS SECTION

LC16.012
as located on pages ■-■
(a total of ■ pages)

INSERT THIS SECTION

LC16.012
as located on pages ■-■
(a total of ■ pages)

DELETE THESE SECTIONS

Not Applicable

INSERT THESE SECTIONS

LC 16.296
as located on pages ■-■
(a total of ■ pages)

Said sections are attached hereto and incorporated herein by reference. The purpose of these substitutions and additions is to establish and an overlay zone classifications for private use airports in the Rural Comprehensive Plan and to incorporate the private use airport overlay zone regulations into Lane Code Chapter 16.

ENACTED this _____ day of _____, 2007.

Faye Stewart, Chair
Lane County Board of County Commissioners

APPROVED AS TO FORM

Date _____ Lane County

OFFICE OF LEGAL COUNSEL

PRIVATE USE AIRPORT OVERLAY ZONE (PUAO, RCP)
RURAL COMPREHENSIVE PLAN

16.296 Private Use Airport Overlay Zone (PUAO, RCP).

(1) Purpose. The purpose of the Private Use Airport Overlay Zone is to recognize the locations of certain private use airports and heliports and to provide for their continued operation and vitality consistent with state law. It also provides for standards to promote air navigational safety at these airports, and to reduce the potential safety hazards to persons living, working or recreating on lands near such airports.

(2) Applicability. The Private Use Airport Overlay Zone consists of two elements: a private use airport operation district and a safety overlay zone.

(a) The private use airport operation district applies to private use airports and heliports in rural Lane County that were the base for three or more aircraft on December 31, 1994, as shown in the records of the Oregon Department of Transportation. The boundaries of the private use airport operation district are delineated on the Official Private Use Airport Overlay Zone Map. The identified private use airports and heliports in Lane County include:

- (i) Crow-Mag Airport;
- (ii) Jasper Ridge Airport;
- (iii) Meadowview Heliport;
- (iv) Strauch Field Airport; and
- (v) Walker Airport.

(b) The safety overlay zone applies to those lands encompassed by the airport and heliport surfaces set forth and defined in LC 16.296(3), delineated in LC 16.296(8) and diagramed LC 16.296(13).

(c) If any airport or heliport to which this overlay zone has been applied is removed from the State's list of airports in a manner described in ORS 836.610, the county will no longer apply and enforce the safety overlay zone that corresponds to the removed airport or heliport.

(3) Definitions.

Aircraft. Includes airplanes and helicopters, but not hot air balloons or ultralights.

Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

Airport Elevation. The highest point of an airports' usable runway, measured in feet above mean sea level.

Airport Imaginary Surface. Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary areas for private use airports are defined by the primary surface and approach surface.

Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport or heliport.

Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of a runway. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to the width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for one foot forward.

Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

Exhibit A: LC 16. 296 (DRAFT)

Heliport. An area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft.

Heliport Imaginary Surface. Airport imaginary surfaces as they apply to heliports.

Heliport Approach Surfaces. The approach surface beginning at each end of the heliport primary surface and has the same width as the primary surface. The surface extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

Heliport Primary Surface. The area of the primary surface that coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the established heliport elevation.

Heliport Transitional Surfaces. Surfaces extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontal from the centerline of the primary and approach surfaces.

Obstruction. Any structure, or tree, plant or other object of natural growth that penetrates an imaginary surface.

Primary Surface. A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation on the nearest point on the runway centerline. The width of the primary surface is 200 feet.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure. For the purposes of LC 16.296, "structures" means any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

(4) Existing Uses within the Private Use Airport Operation District. Operation of existing uses listed in LC 16.296(5) that existed at any time during 1996 may be continued at their current levels as of the effective date of this ordinance (January 1, 2008). The uses that existed during 1996 are specific to each airport and heliport and are on file with the Land Management Division. In response to citizen complaints related to requests for building permits or other expansions pursuant to LC 16.296(6), the Director will make a determination regarding the existence of the use in 1996 that is being proposed for expansion. The determination of an existing use shall be based upon a review of evidence provided by the airport sponsor, a review of the historical property file records, Land Management inventory and historical aerial photos. The determination is subject to submittal of an Airport Use Determination application pursuant to LC 14.050 and review and approval of the Airport Use Determination pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

(5) Continued Operation of Existing Uses. Operation of the following uses may be continued within the airport operation district at their current levels as of the effective date of this ordinance upon determination that the use existed at the airport or heliport at any time during 1996.

(a) Customary and usual aviation-related activities, including but not limited to take-offs and landings.

(b) Aircraft hangers and tie-downs.

(c) Construction and maintenance of airport facilities.

(d) Fixed based operator facilities.

(e) One single family residence per airport for either: an airport caretaker, operator or security officer, but not a residence for each.

(f) Other activities incidental to the normal operation of an airport. Except as provided elsewhere in Lane Code 16.296, "customary and usual aviation-related activities" do not include residential, commercial, or industrial uses provided for in other sections of Lane Code Chapter 16.

Exhibit A: LC 16. 296 (DRAFT)

(g) Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

(h) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical labs, medical equipment sales, and other similar uses.

(i) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

(j) Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

(k) Flight instruction, including activities, facilities, and non-residential accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

(l) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personnel use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

(m) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

(n) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.

(o) Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agriculture, forestry or rangeland management setting.

(p) Agricultural and forestry activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.

(q) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft, aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving. Parachuting businesses may only be allowed where the business has secured a drop zone in accordance with the requirements of OAR 660-013-010(8).

(6) Expansion of Existing Uses. The expansion of uses identified in 16.296(5)(a)-(q) that existed at any time during 1996, are permitted as provided in this section.

(a) Expansions Allowed Outright. The following expansions of existing uses are permitted outright:

Exhibit A: LC 16.296 (DRAFT)

(i) Construction of additional hangars and tie-downs by the owner of the airport or heliport.

(ii) Basing additional aircraft at the airport or heliport.

(iii) Increases in flight activity.

(b) Other Expansions of Existing Uses.

(i) Growth of existing uses that require building permits, other than those existing uses identified LC 16.296(6)(a) shall be permitted as an administrative decision without public hearing, unless the growth:

(A) Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals.

(B) Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or

(C) Exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

(ii) Growth of an existing use for which a public hearing is required shall be permitted only upon demonstration of compliance with the standards for new uses set out in LC 16.296(7).

(7) New Uses. Uses identified in LC 16.296(5) are permitted following a public hearing before the Director upon demonstration of compliance with the following standards. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

(a) The use is or will be supported by adequate types and levels of facilities and services and transportation systems authorized by applicable statewide land use planning goals;

(b) The uses do not seriously interfere with existing land uses in areas surrounding the airport or heliport; and

(c) For airports or heliports adjacent to land zoned for exclusive farm use, the use complies with the requirements in ORS 215.296.

(8) Safety Overlay Zone Surface Delineation. The location of the imaginary surfaces defined in LC 16.296(3) for each private use airport and heliport subject to this overlay zone are depicted on the Official Private Use Airport Overlay Zone Map. All lands, waters and airspace, or portions thereof that are located within these surfaces are subject to the requirements of this overlay zone. The dimensional standards and slope profiles for these surfaces are diagrammed in LC 16.296(13).

(9) Notice of Land Use and Permit Applications within the Safety Overlay Zone.

(a) The county shall provide written notice of applications for land use decisions or administrative approvals, including comprehensive plan or zoning amendments, affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation pursuant to LC 14.070 and 14.100 in the same manner and within the same timelines as notice is provided to property owners entitled by law to written notice of land use decisions or administrative approvals.

(b) The County shall provide notice of decision on a land use or administrative approval application affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation within the same timelines that such notice, pursuant to LC 14.100, is provided to parties to a land use or limited land use proceeding.

(10) Height Limitations within the Safety Overlay Zone. All structures permitted by the underlying zone shall comply with the height limitations in LC 16.296(10)(a) and (b), below. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations controls.

(a) Except as provided in LC 16.296(10)(b) below, no structure, tree or other object of natural growth shall penetrate an airport imaginary surface.

(b) Height variances may be permitted when supported in writing by the airport sponsor and the Department of Aviation. Applications for height variances shall comply with LC 16.256(1) and (2), and shall be subject to such conditions and terms as recommended by the Department of Aviation.

Exhibit A: LC 16. 296 (DRAFT)

(11) Procedures. An applicant seeking a land use or administrative approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

(a) A map or drawing showing the location of the property in relation to the airport or heliport imaginary surfaces. The Director shall provide the applicant with appropriate base maps upon which to locate the property.

(b) Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

(c) If a height variance is requested, letters of support from the airport sponsor and the Department of Aviation.

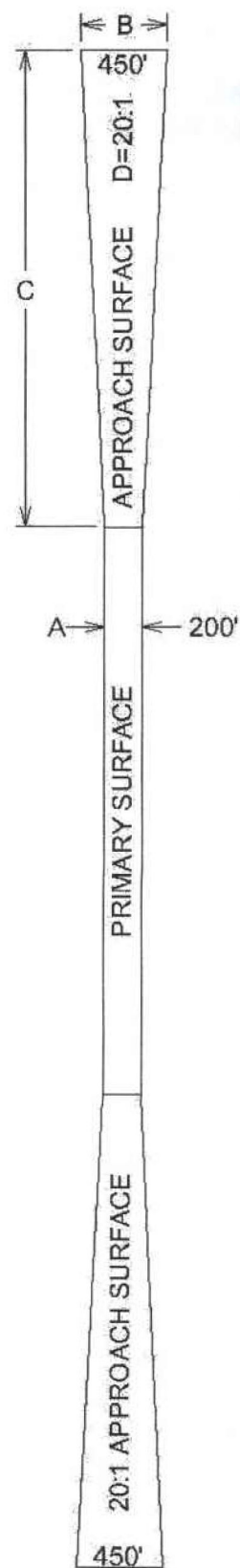
(12) Nonconforming Uses.

(a) These regulations do not require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations do not require any change in the construction, alteration or intended use of any structure, the construction or alteration of which was begun prior to the effective date of this overlay zone.

(b) Notwithstanding LC 16.296(12)(a), the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

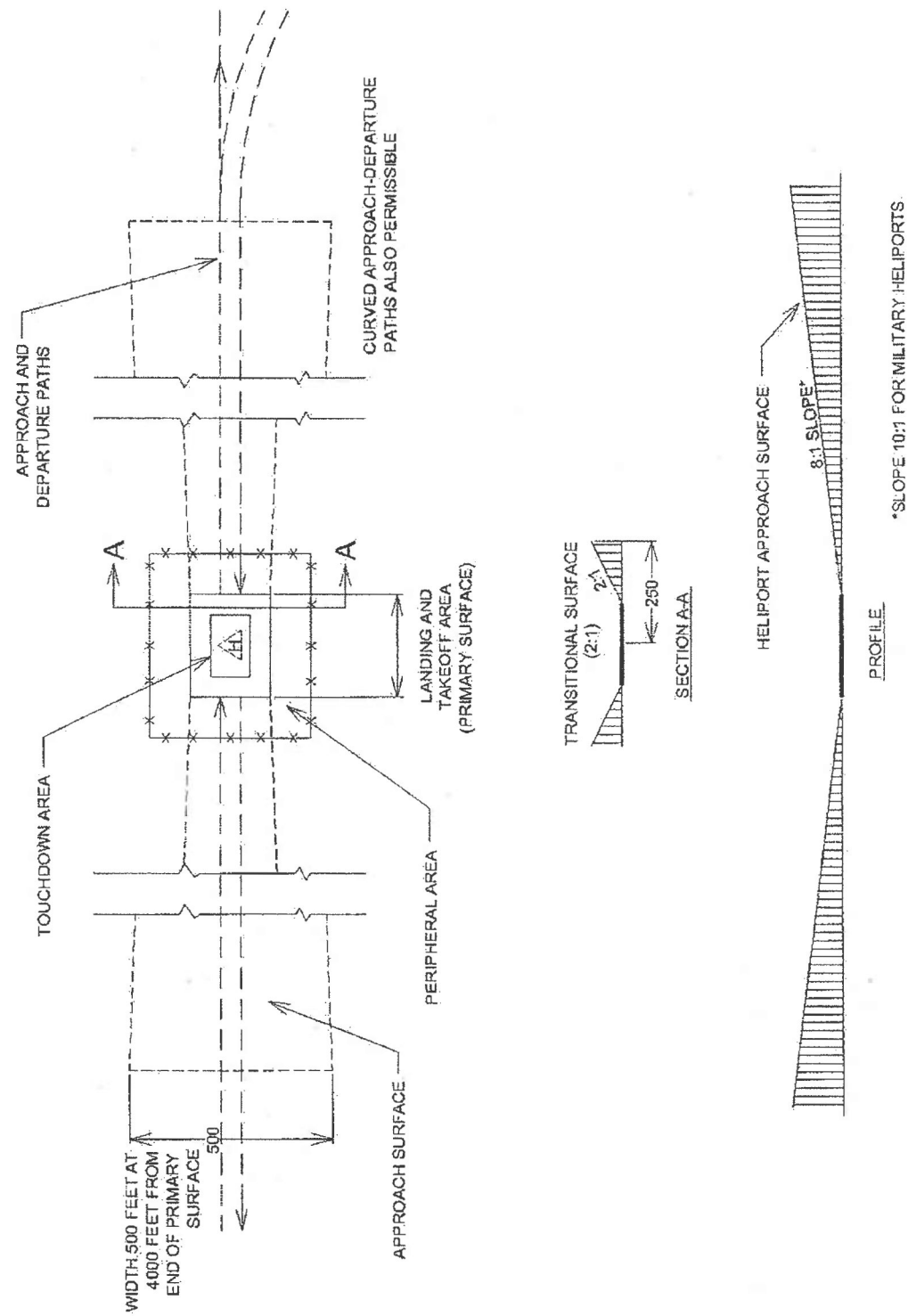
(c) No land use decision, administrative approval or other permit shall be granted that would allow a nonconforming use or structure to become a greater hazard to air navigation than it was on January 1, 2008.

(13) Surfaces Diagramed. The airport surfaces delineated in LC 16.296(8), above are as diagramed in Figure 1.1, below. The heliport surfaces delineated in LC 16.296(8) above are as diagramed in Figure 1.2, below. In addition to the diagrams below, these surfaces have been mapped on the Official Private Use Airport Overlay zone map.



ITEM	ITEM	DIMENSIONAL STANDARDS IN FEET
A	WIDTH OF PRIMARY SURFACE AND APPROACH SURFACE WIDTH AT INNER END	200
B	APPROACH SURFACE WIDTH AT THE END	450
C	APPROACH SURFACE LENGTH	2500
D	APPROACH SLOPE	20:01

LC 16.296 (13) Figure 1.1: Private-Use Airport Surfaces



LC 16.296 (13) Figure 1.2: Heliport Surfaces

Exhibit: B: Proposed Amendments to Lane Code 16.012
Proposed additions underlined

16.012 Zone Classifications.

For the purpose of this chapter of Lane Code, the following zones are hereby established:

Zone Classification	Abbreviation	Section No.
Nonimpacted Forest Lands	F-1, RCP	16.210
Impacted Forest Lands	F-2, RCP	16.211
Exclusive Farm Use	E-RCP	16.212
Natural Resource	NR-RCP	16.213
Marginal Lands	ML RCP	16.214
Park and Recreation	PR-RCP	16.215
Quarry and Mining Operations	QM-RCP	16.216
Sand, Gravel and Rock Products	SG-RCP	16.217
Sand, Gravel and Rock Products	SG-CP-RCP	16.218
Combining Processing Public Facility	PF-RCP	16.219
Limited Commercial	C-1, RCP	16.220
Neighborhood Commercial	C-2, RCP	16.221
Commercial	C-3, RCP	16.222
Rural Commercial	C-R, RCP	16.223
Limited Industrial	M-1, RCP	16.224
Light Industrial	M-2, RCP	16.225
Heavy Industrial	M-3, RCP	16.226
Inmate Work Camp	IWC, RCP	16.227
Suburban Residential	RA-RCP	16.229
Garden Apartment Residential	RG-RCP	16.230
Rural Residential	RR-RCP	16.231
Destination Resort	DR-RCP	16.232
Historic Structures or Sites	/H-RCP	16.233
Combining Natural Estuary	/NE-RCP	16.234
Conservation Estuary	/CE-RCP	16.235
Development Estuary	DE-RCP	16.236
Significant Natural Shorelands	/SN-RCP	16.237
Combining Prime Wildlife Shorelands	/PW-RCP	16.238
Combining Natural Resources	/NRC-RCP	16.239
Conservation Combining Residential Development	/RD-RCP	16.240
Shorelands Combining Shorelands Mixed	/MD-RCP	16.241

Development Combining		
Dredge Material/Mitigation	/DMS-RCP	16.242
Site Combining		
Beaches and Dunes	/BD-RCP	16.243
Combining		
Floodplain Combining	/FP-RCP	16.244
Commercial Airport Safety	/CAS-RCP	16.245
District		
Airport Safety District	/AS-RCP	16.246
Airport Operation	AO-RCP	16.247
Clear Lake Watershed	CLWP-RCP	16.258
Protection		
Rural Residential	RR, RCP	16.290
Rural Commercial	RC, RLP	16.291
Rural Industrial	RI, RCP	16.292
Rural Public Facility	RPF, RCP	16.294
Rural Park and Recreation	RPR, RCP	16.295
<u>Private Use Airport Overlay</u>	<u>/PUAO-RCP</u>	<u>16.296</u>

(Revised by Ordinance No. 7-87, Effective 6.17.87; 17-87, 12.25.87, 12-90, 10.11.90; 11-91A, 8.30.91, 6-98, 12.2.98; 6-02, 5.16.02)

Attachment C July 10, 2007
LCPC Work Session Minutes

NAME OF MEETING: Lane County Planning Commission
DATE OF MEETING: July 10, 2007
TO: Janey Barnes-Wiederhold
RECORDED BY: Linda Henry

=====

ROUTING INFORMATION

07/25/07 Draft to Staff
(Date & Initials)

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MINUTES

Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

July 10, 2007
5:30 p.m.

PRESENT: Ed Becker, Chair; John Sullivan, Vice Chair; Nancy Nichols, Todd Johnston, Howard Shapiro, Jozef Siekiel-Zdzienicki, Lane County Planning Commissioners; Kent Howe, Keir Miller, Lane County Land Management Division.

ABSENT: Lisa Arkin, Jim Carmichael, Steve Dignam, Lane County Planning Commissioners.

Mr. Becker convened the meeting of the Lane County Planning Commission.

WORK SESSION:

1. Adoption of Proposed LC 16.296 and LC 16.297, to Identify Privately-Owned Airports and to Address Aviation Safety in rural Lane County.

Mr. Johnston arrived at 5:35 p.m.

Mr. Miller directed the Planning Commission's attention to:

- A July 10, 2007 memorandum previously distributed from himself to commissioners regarding *ORS Chapter 836 Airports and Landing Fields*; *OAR 660-013-0700 Local Government Safety Zones Airport Planning*; and *OAR 660-013-0155 Planning Requirements for Small Airports*.
- Attachment A: (DRAFT) Lane Code 16.296—*Private Use Airport Zone (PUA, RCP) Rural Comprehensive Plan*.
- Attachment B: (DRAFT) Lane Code 16.297—*Private Use Airport Safety Overlay Zone (PUASO, RCP) Rural Comprehensive Plan*.

Mr. Miller offered the staff report, supported by a PowerPoint presentation. Paper copies of the PowerPoint presentation were distributed to commissioners. In 1995, the state adopted the Airport Protection Act, codified at ORS 836.600, *Airports and Landing Fields*. On February 12, 1999, the Department of Land Conservation and Development (DLCD), Oregon Administrative Rules (OAR), Chapter 660, Division 13, *Airport Planning*, became effective. OAR 660-013, commonly referred to as the Airport Planning Rule (APR), implemented provisions of ORS 836.660. The APR applied to both privately and publicly owned, private use airports that were registered, licensed or otherwise recognized by the Oregon Department of Transportation (ODOT) Aeronautics Division (now the Oregon Department of Aviation) on or before December

31, 1994, with three or more based aircraft. On May 30, 2007 the Board of County Commissioners directed Land Management Division staff to make the private use airport work project the first priority at the conclusion of the mandated processing of Ballot Measure claims on June 20, 2007.

No publicly owned, private use airports existed in Lane County on or before December 31, 1994. On April 2, 1999, ODOT Aeronautics Division distributed the official lists of airports affected by the APR and subject to this work plan, which included:

- Crow-Mag Airport.
- Jasper Ridge Airport.
- Meadowview Heliport.
- Strauch Field Airport.
- Walker Airport.

The APR and statute require the county to take several actions in regards to private use airports. The county must specifically address:

- OAR 660-013-0155 which required local governments to recognize the location of private use airports in planning documents and also required that governments not impose limitations on airport uses that existed at any time during 1996. Additionally, the OAR allowed for new aviation related uses subject to certain criteria (i.e., the use was supported by adequate public services and would not create a serious interference with surrounding uses).
- OAR 660-013-0070 required local governments to adopt safety overlay zones that protected aircraft approach surfaces by restricting intrusions in to those areas.

Staff initiated discussions with the airport and heliport sponsors in order to gather the required documentation. Surveys were sent to sponsors on June 25, 2007. When the required information was returned and the areas delineated, the County would adopt a base zoning designation for each airport to ensure their continued operation and safety overlay zone with the aircraft approach surfaces to protect those areas from obstructions.

In addition to the two zoning districts, the County would need to adopt Findings of Fact and Conclusions of law that laid out the reasons why it was undertaking this mandated project, how it would implement state law as Lane Code and how it would address potential conflicts in its permit processes for use of the air facilities and uses on neighboring properties.

Adopting LC 16.296 and LC 16.297 would presumably be seen by the sponsors as beneficial to the future use of the aviation facilities. Adopting LC 16.297 would impose compliance with safety standards and could result in some restrictions on the property owners of adjacent lands. New uses or increases in existing uses could conceivably result in height restrictions on development for adjacent property owners within the aircraft approach surfaces. A remote possibility existed that such restrictions could trigger Ballot Measure 37 claims. At the least, the conditions of approval for structures on adjacent properties would require an aviation easement to allow the unobstructed passage for aircraft. The adoption of restrictive overlay zones would require Fair Disclosure Statements and Disclosure to Real Estate Buyers notices for prospective buyers of adjacent properties within the approach surfaces.

When the sponsors had returned their completed surveys, LMD and Public Works GIS staff would digitize the primary and approach surfaces on the applicable Official zoning Maps. The Planning Commission would then conduct a public hearing by the end of the summer to review the maps and proposed ordinances, after which a recommendation would be forwarded to the Board.

Mr. Miller took questions from commissioners.

Responding to a question from Mr. Carmichael, Lane County would require no changes to pre-existing airports.

Mr. Howe added all Federal Aviation Agency (FAA) safety regulations were in place and governed the sites. The issue before the commissioners was a land use issue.

Mr. Shapiro suggested limiting the size of caretaker facilities at the airports to prevent construction of residential buildings on airport or commercially zoned sites.

Responding to a question from Mr. Sullivan, Mr. Miller opined RiverBend Medical Center would be subject to the requirements, as a privately owned, public use facility, if a heliport was built at the medical center.

Responding to a question from Ms. Nichols, Mr. Miller said vegetation and building height was limited on properties within 200 feet of airports, property owners were responsible for limiting the height of vegetation.

Responding to a question from Mr. Shapiro, Mr. Miller said developers would be required to indicate on their site plans a cross section of the height of proposed buildings in relation to the approach surface.

Responding to a question from Mr. Sullivan, Mr. Howe said the public notice for the public hearing would include: a written notice to property owners within 750 feet of the airport approach zones; posting a notice near the airports to notify those passing by of the public hearing; and, a public hearing notice would be published in the Register Guard. Mr. Howe added an expanded area could be used for public notice.

Mr. Siekiel-Zdzienicki stated rye grass farmers in the Junction City and Cottage Grove areas who burn should be notified, although they were further than 750 feet.

Mr. Miller stated smoke related to agricultural practices was not regulated under this code.

Responding to a question from Mr. Siekiel-Zdzienicki, Mr. Miller the intent of the language in LC 16.296(6)(b)(i)(C) was to prevent uses adjacent to farm and forest zones from affecting crop harvesting.

Responding to a question from Ms. Nichols, Mr. Miller said the current zoning on airports varied, and this action would change the base zone.

Responding to a question from Mr. Becker, Mr. Miller agreed to research the impact of federal Department of Homeland Security regulations on the proposed code.

Responding to a question from Mr. Siekiel-Zdzienicki, Mr. Howe said neighbors would have an opportunity to testify at both the Planning Commission and Board of County Commissioners public hearings.

2. Adoption of June 5, 2007 Minutes

Ms. Nichols offered the following corrections to the public hearing minutes:

Page 1, paragraph 6:

Ms. Nichols was a member of the Siuslaw Watershed Council ~~Estuary~~ Technical Team.

Page 3, paragraph 3:

In response to Mr. Siekiel-Zdzienicki, Mr. Sage said the height of the dunes was currently three to four **feet** in a rolling pattern. He added the planned-for, maximum capacity of the site would be 10 feet.

Mr. Sullivan offered the following correction to the public hearing minutes:

Page 3, paragraph 6:

Mr. Sullivan said the COE **has found that** ~~would need to find~~ the quality and quantity of the **soil spoils** would not be adverse to the environment at Site 10.

Mr. Sullivan, seconded by Mr. Johnston, moved to approve the June 5, 2007 work session and public hearing minutes as amended. The motion passed unanimously, 5:0.

3. Adoption of June 19, 2007 Minutes

Mr. Siekiel-Zdzienicki requested the following correction to the work session minutes:

~~Mr. Siekiel-Zdzienicki, seconded by Mr. Johnston, moved to recommend that the County Board of Commissioners adopt the July 2007 addendum to the Siuslaw River Dredged Material Disposal Plan to correct errors made on old maps, while not endorsing or opposing any existing sites. The motion passed unanimously, 6:0.~~

Mr. Siekiel-Zdzienicki, seconded by Mr. Johnston, moved to recommend that the Board of County Commissioners adopt the July 2007 addendum to the Siuslaw River Dredged Material Disposal Plan.

Ms. Arkin offered a friendly amendment, adding “to correct scrivener errors. Adoption was not necessarily an endorsement of any particular site.” Mr. Siekiel-Zdzienicki and Mr. Johnston accepted Ms. Arkin’s friendly amendment.

The corrected motion should read:

Mr. Siekiel-Zdzienicki, seconded by Mr. Johnston, moved to recommend that the Board of County Commissioners adopt the July 2007 addendum to the Siuslaw River Dredged Material Disposal Plan to correct scrivener errors. Adoption was not necessarily an endorsement of any particular site. The motion passed unanimously, 6:0.

Noting no additional corrections,

Mr. Sullivan, seconded by Mr. Johnston, moved to approve the June 19, 2007 work session minutes as amended. The motion passed unanimously, 5:0.

Mr. Sullivan, seconded by Mr. Siekiel-Zdzienicki, moved to approve the June 19, 2007 public hearing minutes as submitted. The motion passed unanimously, 5:0.

4. Other Business

Mr. Sullivan reviewed the sessions for the upcoming Oregon chapter of the American Planning Association (OAPA) webcast. He agreed to respond on behalf of the commission.

Mr. Howe reported that Ballot Measure 37 had been referred to the voters for the November 2007 election. Lane County had 8 outstanding claims, which it expected to process by July 24, 2007. Out of a total of approximately 390 claims, 15 had been put on hold at the applicants’ request. He explained that under the original Ballot Measure 37, those claims submitted after December 2, 2006 were required to have had an application denied. One such claim had been filed with and denied by Lane County. The applicant had appealed the denial to the State and Lane County expected to process the claim within two months.

Mr. Howe stated that approximately 12 development applications for the claims that had been waived. The pressure was on Lane County to process the applications so the applicants could vest their development rights before the November election.

Responding to a question from Mr. Sullivan, Mr. Howe said from a planning perspective, there was rule for destination resorts in which the resorts were mapped. Under Ballot Measure 37, a developer could build a destination resort, irrespective of the rule. One claim Lane County would be reviewing was a vineyard subdivision southwest of Eugene. A public hearing had been conducted and a decision was expected by the end of the month.

Mr. Howe said the Planning Commission would have an active fall, with the following issues: private airport planning code amendments; community rating system proposal that would reduce flood plain insurance rates in the county by five percent; updates to the Lane Code to reflect

legislative updates from the 2003, 2005, and 2007 legislative sessions; conversion of paper maps to digital format.

Responding to a question from Mr. Sullivan, Mr. Howe said Lane County would pay the registration fee for any commissioners who wished to attend the Oregon Planning Institute (OPI) trainings in September at the University of Oregon (UO).

Responding to a question from Mr. Siekiel-Zdzienicki, Mr. Howe confirmed Commissioners Siekiel-Zdzienicki and Nichols' terms were ending, and they needed to reapply if they wished to serve another term.

Responding to a question from Mr. Becker, Mr. Howe said some lawfully existing old cabins were being replaced on the McKenzie River.

The meeting adjourned at 6:30 p.m.

(Recorded by Linda Henry)

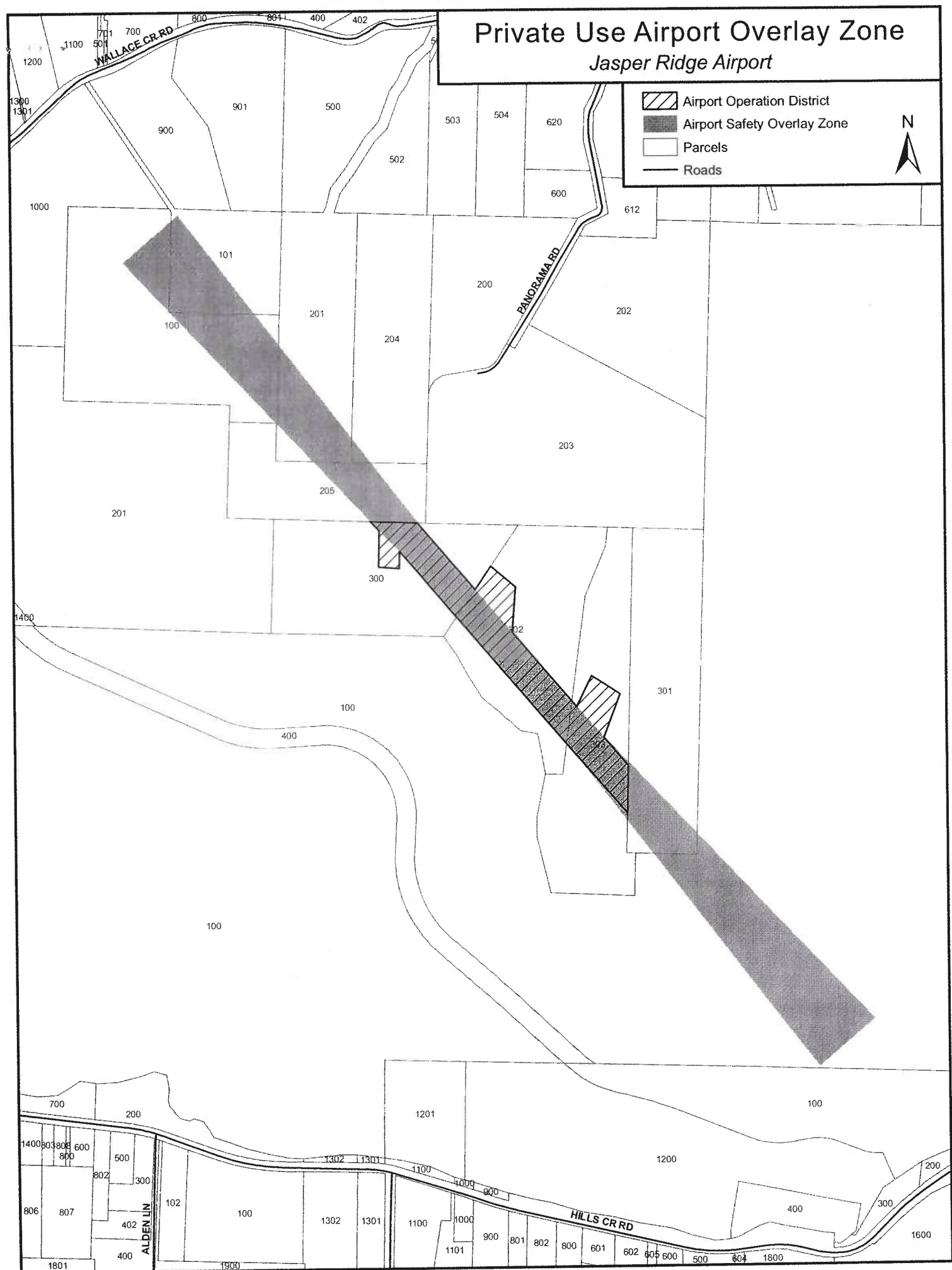
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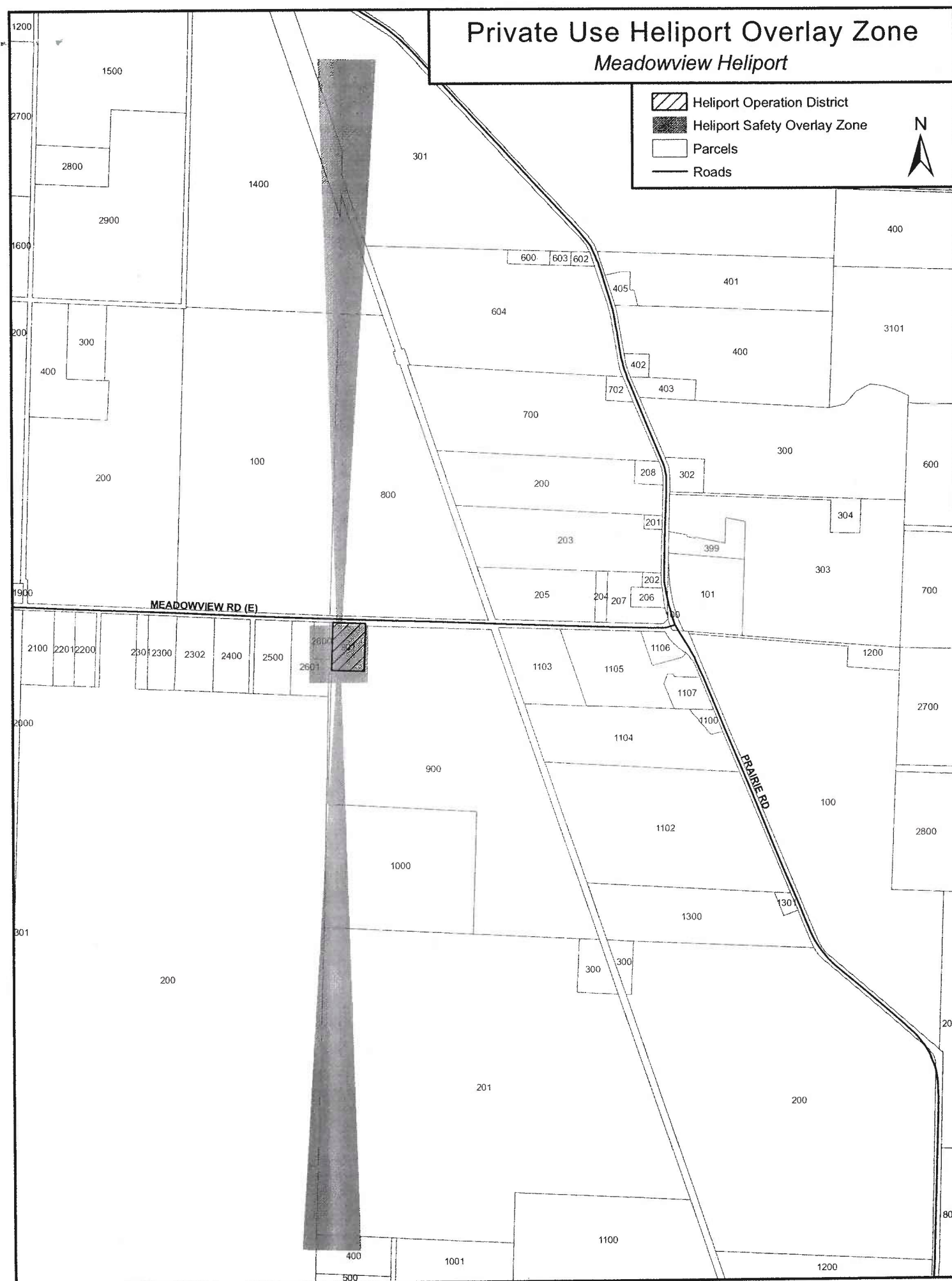
Attachment “F”

Maps of areas affected by the proposed Private Use Airport Overlay Zone for the following private use airports in Lane County:

- **Crow Mag Airport**
 - **Jasper Ridge Airport**
 - **Meadowview Heliport**
 - **Strauch Field Airport**
 - **Walker Field Airport**
-

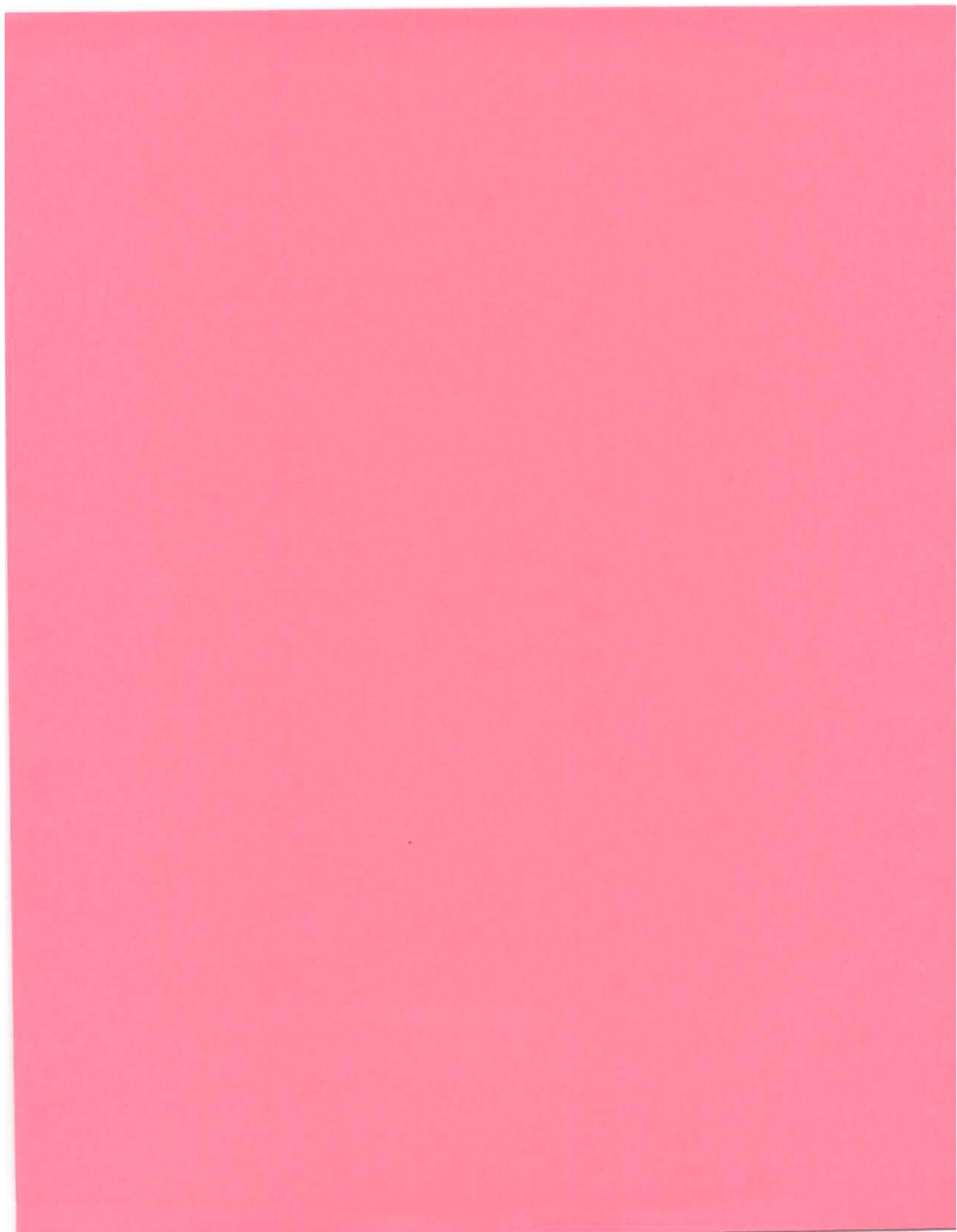












File Record Tracking Information

Ordinance Number: 15-07
Planning Action Number: 1245
File Record Number: 53

SUPPLEMENTAL MEMO

DATE: November 27, 2007 (Date of Memo)
December 5, 2007 (Second Reading/Public Hearing)

TO: LANE COUNTY BOARD OF COMMISSIONERS

FROM: Public Works Department/Land Management Division

PRESENTED BY: Keir Miller, Associate Planner

AGENDA ITEM TITLE: 1) ORDINANCE NO PA1245 - IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) BY REVISING GOAL-2, POLICY 25; TO ESTABLISH PROVISIONS FOR A PRIVATE USE AIRPORT OVERLAY ZONE; BY ADOPTING AN OFFICIAL PRIVATE USE AIRPORT OVERLAY ZONE MAP; BY APPLYING THE OVERLAY ZONE TO FIVE PRIVATE USE AIRPORTS AND SURROUNDING PROPERTIES AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

2) ORDINANCE 15-07 - IN THE MATTER OF AMENDING CHAPTER 16 OF LANE CODE TO ESTABLISH A NEW ZONE CLASSIFICATION FOR PRIVATE USE AIRPORTS (LC16.012, LC16.296)

The attached information supplements a staff report dated October 31, 2007, concerning Ordinances PA1245 and 15-07. These proposed ordinances would implement changes to the Rural Comprehensive Plan (RCP) to recognize and protect private use airports in Lane County.

BACKGROUND

This proposal was originally discussed with the Planning Commission at a work session on July 10, 2007. An additional LCPC work session and public hearing on the item was held on October 16, 2007. Minutes for the October 16 meeting were not available when the original staff report was drafted but they are included here, as Attachment "A".

The October 16 public hearing was continued until November 20, 2007, to provide staff and the Planning Commission an opportunity to review challenges raised by an attorney representing Lloyd and Edna Amundson, a party in opposition. The challenges that were raised are included as Attachment "B". Staff reviewed the challenges and modified the proposed amendments to address identified issues. These modifications were included in the original packet submitted to the Board of Commissioners on October 31. A summary of the modifications can be found in the November 20th LCPC staff report,

included as Attachment "C".

At the November 20 public hearing, council representing the Admundsons voiced support for the modifications made by staff and submitted additional comments for consideration. These comments are included as Attachment "D". After reviewing these additional comments, staff recommended a few minor modifications to the proposed ordinance. The Planning Commission concurred with the suggested modifications of staff and forwarded a unanimous recommendation to the Board that the proposed ordinance be adopted with following modifications:

- LC 16.296(5)(c) would be modified to clarify that maintenance, not construction, of airport facilities would be considered an ongoing existing use.
- Additional language would be added to LC 16.296(5)(q) to clarify the requirements for drop zones related to parachuting businesses as described in OAR 660-013-0100(8).
- LC 16.296(12) would be renamed from "Nonconforming Uses" to "Nonconforming Structures".
- Additional language would be added to LC 16.296(12). This language would clarify that structures for which permits have already been applied for are except from the safety overlay zone requirements.

These modifications are identified in legislative format and included as Attachment "E".

In addition to these changes, staff modified the proposed Official Private Use Airport Safety Overlay Zone Map. The map change applies to the Strauch Field Airport. The change shortens the recognized length of the airport runway by approximately 270 feet and reduces the distance that the safety overlay extends onto an adjoining property by the same distance. This change was needed after it was discovered that the Strauch Field runway bisected an undeveloped portion of Culver Lane, a public right of way. Attachment "F" reflects this change.

RECOMMENDATION

These modifications constitute a significant change to the ordinances as read on November 20, 2007. Staff recommends that the Board open the hearing and accept testimony but postpone taking final action on the item until January 2, 2008 to allow for the required 2 week public notice period between readings of the revised ordinances.

ATTACHMENTS

- A. LCPC Meeting minutes for 10/16/07 Work Session and Public Hearing.
- B. Comments in opposition submitted at 10/16/07 Public Hearing
- C. Supplemental staff report to LCPC for continued Public Hearing on 11/20/07
- D. Additional Comments submitted at continued LCPC Public Hearing on 11/20/07
- E. LC16.296 as revised from 1st Reading (revisions shown in legislative format)
- F. Revised Official Private Use Airport Safety Overlay Zone Map

Attachment "A"

MINUTES

Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

October 16, 2007
5:30 p.m.

PRESENT: Ed Becker, Chair; John Sullivan, Vice Chair; Lisa Arkin, Steve Dignam, Todd Johnston, Nancy Nichols, Jozef Siekiel-Zdzienicki, Lane County Planning Commissioners; Kent Howe, Keir Miller, Lane County Land Management Division.

ABSENT: Howard Shapiro, Jim Carmichael, Lane County Planning Commissioner.

Mr. Becker called the meeting to order and reviewed the agenda. He noted that a public hearing would be conducted at 7 p.m. following the work session.

WORK SESSION

1. Adoption July 10 and August 7, 2007 Minutes

Mr. Dignam, seconded by Mr. Sullivan, moved to approve the July 10 and August 7, 2007, minutes. The motion passed, 5:0; Ms. Arkin and Mr. Johnston abstaining.

2. Continuation of discussion concerning the proposed adoption of LC 16.296 and LC 16.297, to identify privately-owned airports, to establish base zone designations and boundaries where private use airports operate and to establish aviation safety overlay zones in rural Lane County.

Associate Planner Keir Miller distributed an updated agenda that included the public hearing format. He said the work session would review the information presented at a July 10, 2007, work session regarding private airport planning in Lane County. He said that Lane County, consistent with the State's Airport Protection Act, was embarking on an effort to recognize private use airports and provide safety standards for those airports. He said the act required counties to take the following actions regarding airports that were recognized in 1994 as having three or more aircraft:

- recognize the location of private airports in the comprehensive plan,
- not impose any limitations on uses that existed in 1996,
- allow new aviation related uses subject to certain criteria, and
- adopt safety overlay zones.

Mr. Miller explained that County was proposing a base zone that would allow for certain uses in the private airports and a safety overlay zone; those were reflected in Lane Code 16.296 and 16.297. He said those zones would apply to four private use airports and one private use heliport—Crow-Mag Airport, Strauch Field Airport, Meadowview Heliport, Jasper Ridge Airport, Walker Airport—and illustrated their locations on a map. He said the base zone would allow continuation of current uses, with some increase in intensity possible under a special use permit, and new uses might be permitted but would require a public hearing; the safety overlay established a buffer around the airports based on take off and landing zones. He used a diagram to illustrate the dimensions of an overlay zone.

Mr. Becker noted that policy language in the agenda materials seemed to suggest that airport sponsors could grant a height variance for structures in the overlay zone, but other materials indicated that was a decision that had to be made jointly by the sponsor and the Department of Aviation. He asked staff to clarify that in the code.

In response to questions from commissioners, Mr. Miller said a height variance question had to be raised by the property owner with the sponsor and Department of Aviation. He said the safety overlay zone was exempt from Measure 37 claims. He said another policy issue of some concern was the requirement that a property owner in the overlay zone would be required to grant a navigation easement to the airport before construction of a habitable structure.

Mr. Miller reviewed the recommended motions to establish the base and safety overlay zones and to redesignate the properties. He said that questions had been raised about the public hearing notice and he would address that at the hearing; the County's legal counsel had advised continuing the hearing until a November 20, 2007, time certain so it could be renoticed.

Mr. Sullivan commented that the subject seemed to include both land use and regulatory issues. He asked if staff would provide any guidance on matters that were outside the commission's purview, but might be raised during the public hearing. Mr. Miller said the boundaries of the safety overlay zone were established by federal and state aviation agencies, although the height of things within the zones was tied to land use. As follow-up to a question from an earlier meeting, he said that there were no federal plans to enact Homeland Security requirements for private use airports.

Ms. Nichols asked if the County had any discretion on the height of safety overlay zones. Mr. Miller said the County could impose more stringent requirements, but that could raise Measure 37 issues.

In response to a question from Mr. Siekiel-Zdzienicki, Mr. Miller explained that the zoning maps still showed M1, M2 and M3 designations, those had been changed to R1 (rural industrial) by legislative action in the mid-1990s; the code was updated but because of the extent of effort required to update the maps, a notation was made on them to indicate the changes. He said that updated maps would soon be available.

Mr. Sullivan remarked that there were currently no privately owned, public use airports in the County and asked what would be involved if someone wished to develop one. Mr. Miller replied that the code would not apply, but the airport sponsor could petition the State to be placed on the

County list and if that request was approved, the County would need to amend its code to add that airport.

Ms. Arkin asked if the adopting the safety overlay zone map would devalue the properties subject to it. Mr. Miller said it would impose some regularly not current in effect, but it was difficult to say if that would devalue the property.

Mr. Dignam observed that an airport sponsor could impose restrictions on a neighboring property and asked why the Board of County Commissioners had made the issue a priority. Mr. Miller said a consortium of interests, not just one individual, had brought the issue to the State in the mid-1990s. Planning Director Kent Howe added that the Department of Aviation regarded the smaller airports as part of a larger system that merited protection. He said an individual had asked the County to make implementation of the State law a priority, which was why it became part of the work program.

Mr. Johnston asked if airport sponsors would acquire additional rights under the new code and whether the commission could allow for fewer new permitted uses. Mr. Miller said some restrictions under the current zoning, such as on building new hangers, would not exist under the new zoning, but the code was based on a template from the State and reflected Oregon Revised Statutes (ORS).

Mr. Becker asked why the Meadowview Heliport overlay zone was larger than the zones for fixed wing airports. Mr. Miller said the zones were established by the Department of Aviation, based on diagrams provided by airport sponsors.

Mr. Siekiel-Zdzienicki asked if the determination of an existing use would be based solely on a review of materials without a site inspection to confirm the information. Mr. Miller said a site visit might not be useful in confirming how long a use had been in existence; the public hearing would allow neighboring property owners to dispute any information from sponsors regarding uses they did not feel was accurate. He said that aerial photographs could also be used.

In response to comments from Mr. Johnston and Mr. Sullivan, Mr. Miller said that an airport could increase the number of flights without going through a review process if the new code was adopted.

Ms. Arkin asked if language could be added restricting increases in the number of flights. Mr. Miller said there would need to be a finding that such a restriction met State requirements.

Mr. Dignam asked how the code would address ultralight and kit aircraft or situations in which an individual flew a plane from his own property. Mr. Miller replied that the code excluded ultralights from the definition of aircraft and the code would apply only to the five identified airports.

In response to question from Mr. Dignam and Ms. Arkin, Mr. Miller said the code was silent with respect to paving dirt land strips or installation of lighting and navigational aids. He indicated that paving could be subject to permitting and many of the airports were day use only. He would research the question of lighting, including whether any restrictions could be imposed.

Mr. Sullivan asked about a situation in which an airport increased skydiving activity, which impacted adjacent private use property because more people would be landing there. Mr. Miller replied that the code would only apply to expansion of existing uses on the property under control of the airport owner within the base zone.

3. Work Program Update

Mr. Becker invited Mr. Howe to provide an update on recent land use planning activities and what issues the commission might expect to see in the future, as well as the impact of Measure 37.

Mr. Howe noted that the American Planning Association, Oregon Chapter (OAPA) was offering planning commission training online and hoped that commissioners were able to take advantage of it. He said the Board was considering revising how commissioners were appointed and favored appointing a member from each district, with one member at large to be appointed by the Planning Commission. He said the details were still under discussion.

Mr. Howe stated that loss of staff to process land use applications had resulted in an extremely large backlog and that afforded little time for long-term planning activities unless they were identified as high priority. He reviewed a number of issues that would impact the work program, including:

- elimination of the Lane County Local Government Boundary Commission and transfer of annexation responsibilities to local jurisdictions,
- metropolitan area planning as a consequence of separating the Eugene and Springfield urban growth boundaries,
- a court decision related to property line adjustments that affected all cities and would require clarification by the legislature,
- denial of 36 Measure 37 claims, and
- a Multnomah County court decision that determined partitions in subdivisions were not land uses and could affect Measure 37 claims if upheld.

Mr. Howe distributed a document entitled *Lane County Planning Commission Recommendations* and reviewed the County's appeals record. He noted that County decisions were generally not appealed or were upheld on appeal. He briefly reviewed potential agenda items for future commission meetings.

With no further business, the meeting adjourned at 6:55 p.m.

(Recorded by Lynn Taylor)

MINUTES

Lane County Planning Commission
Board of Commissioners Conference Room—125 East 8th Avenue
Eugene, Oregon

October 16, 2007
7:00 p.m.

PRESENT: Ed Becker, Chair; John Sullivan, Vice Chair; Lisa Arkin, Steve Dignam, Todd Johnston, Nancy Nichols, Jozef Siekiel-Zdzienicki, Lane County Planning Commissioners; Kent Howe, Keir Miller, Lane County Land Management Division.

ABSENT: Howard Shapiro, Jim Carmichael, Lane County Planning Commissioner.

Mr. Becker convened the meeting of the Lane County Planning Commission. He reviewed the procedures for testifying during the public hearing. He stated that the hearing and the record would remain open until November 20, 2007.

Mr. Becker polled commissioners for conflicts of interest or *ex parte* contacts. None were declared.

PUBLIC HEARING: Proposed adoption of Lane Code (LC) 16.296 and LC 16.297, to identify privately owned airports, to establish base zone designations and boundaries where private use airports operate and to establish aviation safety overlay zones in rural Lane County.

Mr. Becker opened the public hearing and called for the staff report.

Associate Planner Keir Miller stated that the hearing concerned proposed amendments to the Lane County Rural Comprehensive Plan regarding private airport planning in Lane County, stemming from the Airport Protection Act of 1995. He said counties were mandated to take several actions to protect privately owned airports in existence in 1994 and housing at least three aircraft. He said the proposed new ordinances addressed that requirement by establishing standards for two new zone designations: LC 16.296, base zone and LC 16.297, safety overlay zone. He said staff had also drafted plan amendments that would change the plan designation and zoning for the five private use airports subject to the provisions of the Air Protection Act. He said the hearing and record would remain open to allow the commission an opportunity to review recently received new information and to address potential notice concerns. He distributed a letter from Zack Mittge, on behalf of Lloyd and Edna Amundson, and submitted a copy for the record.

Mr. Becker noted that there would be additional opportunities for public comment and written testimony at the November 20, 2007, public hearing. He called for testimony from those present.

Bob Palmer, 4905 Donald Street, Eugene, said he had contacted the State in April regarding some problems at Strauch Field and was informed that the counties were authorized in 1995 to adopt airport protection measures. He said he had asked the County to move forward with those measures. He stated that Strauch Field had been in existence since 1967 and was registered in 1987. He supported protection for Strauch Field.

Con Magnuson, 24003 Butte Road, Veneta, stated he had owned Crow-Mag Airport since 1974. He said the site was originally zoned as an airport and through some type of oversight that designation was changed. He supported implementation of the provisions of the Airport Protection Act. He commented that as of January 1, 2008, ultralights would be considered sport aircraft and require a pilot's license and registration.

Ms. Arkin asked if the airport was day use only. Mr. Magnuson replied that use was not limited to the daytime. He said navigation lights were installed in 1976. He described the type of lights that were used, but said nighttime use was limited. He said there was a flight school at the airport and the runway was 50 feet wide and 3,000 feet long.

Mr. Siekiel-Zdzienicki asked if there were any issues with neighbors. Mr. Magnuson said there had been no concerns expressed by neighbors since 1996.

Ms. Arkin asked if the runway was paved. Mr. Magnuson said the runway was a dirt underlay with a gravel overlay and grass planted on that. He said that type of surface provided better drainage and stabilized the ground.

Ms. Arkin asked if the other privately owned airports in the County were similar. Mr. Magnuson was not certain that other airports could be used at night.

Zach Mittge, 777 High Street, Eugene, attorney, referenced his letter to the commission dated October 16, 2007, which had been distributed by Mr. Miller. He said he represented Lloyd and Edna Amundson, owners of property adjacent to Strauch Field. He said he had raised the concern with notice procedures for the hearing and understood the County would renotify for the November 20, 2007, hearing. He said the initial notice identified properties subject to the airport base zone, but not the safety overlay zone. He felt that property owners within the safety zone did not receive enough information to understand the potential impacts.

Mr. Mittge questioned why the County could not simply establish the safety overlay zones instead of rezoning and redesignating the airport properties as airports, which would eliminate their existing zoning and prevent the property from being used for other purposes if the owner was no longer interested in having an airport. He said that went beyond what the State required.

Mr. Mittge said under the current proposed airport boundaries the EFU zone on a portion of the Amundson's land would be eliminated but they would derive no benefit from that. He cited a portion of the proposed new code that would require all uses, activities, facilities, vegetation and structures allowed in private use airport zone shall comply with the requirements of the private use airport safety overlay zone. He said the State only addressed structures and vegetation in take off and landing areas; the language related to all uses, activities and facilities was added by the County. He said the proposed zone would allow uses such as search and rescue and parachutes businesses that were not specified by the State.

Mr. Mittge said there could be a number of goal exceptions based on the fact the County was barring existing uses of property and there were inconsistencies with the Lane Code with regard to particular agricultural provisions that would apply to the Amundson property, which was identified as farm property with high value agricultural soils. He said the proposed code would negate those uses on the property.

Mr. Siekiel-Zdzienicki asked how that could occur if the property was in the safety overlay zone. Mr. Mittge said that it would not be a problem if the Amundson's property was outside of the private use

airport zone, but he questioned whether there would be problems for other property owners with EFU designation.

Mr. Mittge said he had difficulty identifying which properties would be affected and that meant owners could have difficulty determining financial impacts. He questioned when the zones would be delineated. He characterized the avigational easement required of adjacent property owners under LC 16.297(9) as government taking.

Mr. Becker asked if accurate maps of zones and parcels were available. Mr. Miller said there were maps that clearly identified parcels affected by overlay zones. He said a misreading of the Strauch Field site plan resulted in a small portion of tax lot 503 being included in the base zone; that could be easily remedied.

Mr. Mittge recommended that the notice of the next hearing include mapping if possible so people could determine the location of their properties relative to the proposed zoning.

Mary Crabaugh, 81120 Mill Road, Creswell, stated that her family used to own Walker Airport. She currently owned property to the north and west of the airstrip and wanted to know how she would be affected by the proposed zoning.

Mr. Becker asked Ms. Crabaugh to meet with Mr. Miller, who could provide all of the relevant information, and then return to testify at the public hearing on November 20 if she had concerns or comments after reviewing the material.

Tom Urban, 86166 Panorama Road, Springfield, stated he was one of the Jasper Ridge Airport sponsors. He said the airport had a grass over gravel landing strip similar to Crow-Mag Airport and had been in existence and registered since 1981. He said the airport was day use only and neighbors had not expressed any concerns. He asked if there were tax implications to the new zoning. He was concerned that the safety overlay zone would jeopardize forestland deferrals. Mr. Miller said he was referring tax inquiries to the County's Department of Assessment and Taxation. He said the safety overlay zone would not affect the underlying zoning.

Mr. Siekiel-Zdzienicki asked if there would be problems with trees on the land. Mr. Urban said that he kept the area on his property clear and had an agreement with the owner of adjacent property to trim any trees that posed a hazard.

Ms. Arkin asked if Mr. Urban regarding the avigational easement as government taking. Mr. Urban replied that existing uses would not be affected; limitations were only imposed on construction of new structures. He said his neighbors did not regard the easement as a taking.

In response to a question from Ms. Nichols, Mr. Miller said the code as drafted did not specify who was responsible for the cost of topping vegetation that intruded into the overlay zone.

Mr. Palmer remarked that 18 counties had already adopted private use airport regulations. He said the overlay zone was sloped up as it got farther from the landing strip and only trees would be an issue; there were no trees in the proposed overlay zones for any of the five airports.

Mr. Magnuson added cited federal requirements for airport safety zones. He said that federal airport registration required that the entries be clearly defined to assure adequate safety margins.

Randy Stout, 86277 Panorama Road, Springfield, said his property was at the end of the Jasper Ridge airstrip. He said the issue of taking was important and emphasized that the State of Oregon had established its authority to take some airspace for safety, just as it could take road easements. He felt that the safety overlay zone, particularly because of the upward slope, had minimal impact on property.

Mr. Miller indicated he would present information in response to the public testimony at the next hearing.

Mr. Dignam asked staff to conduct additional research on the issue of takings to assure that the code was in compliance with State and federal law. Mr. Miller said he would provide a written response to the issues raised during public testimony and in Mr. Mittge's written testimony.

Mr. Becker stated that the hearing would be continued to November 20, 2007, and the record would remain open until that time.

The meeting adjourned at 7:55 p.m.

(Recorded by Lynn Taylor)



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Mark M. Williams

Attachment "B"

October 16, 2007

Lane County Planning Commission
c/o Keir Miller, Associate Planner
Lane County Land Management
Public Service Building
125 E. 8th Ave
Eugene, OR 97401-2926

Via E-mail keir.miller@co.lane.or.us, Hand Delivery and First Class Mail

Re: Lane Use Hearing on October 16, 2007
Our Clients: Lloyd and Edna Amundson
Our File No.: 10607

Dear Planning Commission Members:

Our firm represents Lloyd and Edna Amundson, property owners who will be adversely affected by the proposed Private Use Airport and Private Use Airport Safety Overlay zones. We write to oppose the proposed adoption of the Private Use Airport and Private Use Airport Safety Overlay zones, because the proposed zones are contrary to both state and local law.

Please include this letter in the record of these proceedings, and provide us with notices of all future activity in this case, including hearings, decisions, and appeal.

A. Defects in the Notice.

As a preliminary matter, the notice of the proposed hearing contained numerous defects. In particular, as set forth in prior correspondence to County staff (incorporated herein by this reference), the proposed notice does not conform to the applicable requirements of ORS 215.503. That statute requires:

ORS 215.503

1. Individual notice that "describe[s] in detail how the proposed ordinance would affect the use of the property." ORS 215.503(5)
2. It also requires a heading in bold-face type that:

"This is to notify you that (governing body of the county) has proposed a land use regulation that may affect the permissible uses of your property and other properties." *Id.*

3. As well as a statement in the body of the notice that:
"The (governing body) has determined that adoption of this ordinance may affect the permissible uses of your property, and other properties in the affected zone, and may change the value of your property." *Id.*

None of these requirements were met in this case.

This is not merely a technical violation of the statute. The notice at issue did not identify all properties that would be subject to the proposed zone changes. In particular, none of the properties that are proposed to be subject to the Private Use Airport Safety Overlay Zone are identified as subject to the Overlay Zone in the notice.

Hence, property owners that the County would burden with the additional limitations on use, and exact avigational easements from, have not been told that the proposed rezoning affects their property, much less how it would affect or burden their property. This is not only a violation of the statute, but of Statewide Planning Goal 2 and the owners' right to due process.

This violation may have serious repercussions. In particular, where a "local government makes a land use decision that is different from the proposal to such a degree that the notice of the proposed action does not reasonably describe the local government's final actions," a party's right to appeal the decision does not terminate within 21 days of the final decision (ORS 197.830(3)) nor is that party's appeal limited to issues raised at the public hearing before the local government. ORS 197.835(4)(b). Indeed, the requirements of ORS 215.503 are directly linked to the requirements of ORS 215.060 and 215.223, which provide that a county's actions will have "no legal effect" if they are not properly noticed.

Lane Code

Moreover, the County's notice also fails to conform to the requirements of the Lane Code in that it fails to conform with one or more of the requirements of LC 14.070(2). For example, properties are not identified by street address, LC 14.070(1)(b), nor does the notice include:

"A statement that failure of an issue to be raised in a hearing, in person or by writing, or failure to provide statements or evidence sufficient to afford the Approval Authority an opportunity to respond to the issue precludes appeal to the Land Use Board of Appeals." LC 14.070(2)(f).

Again, these technical violations may have serious repercussions for Lane County and substantially interfere with the participation by interested members of the public.

B. The Private Use Airport Zone Is Not Authorized By Law.

As County staff notes, Oregon's airport planning requirements only require local governments to:

(1) "**recognize** in [their] planning documents **the location of private-use airports**...if the airport was the base for three or more aircraft as shown in the records of the Department of Transportation, on December 31, 1994." ORS 836.608(2) (Emphasis added).

(2) "**not impose limitations** on the continued operation" of specified airport uses at these private-use airports. ORS 836.608(3)(a) (Emphasis added).

(3) And "**authorize the establishment** of a new" airport use or uses at these private-use airports under certain circumstances. ORS 836.608(3)(b) (Emphasis added).

Unfortunately, the propose Private Use Airport Zone goes beyond merely identifying existing private use airports, and providing for the continuation of these airport uses, and for expansion in certain circumstances. It bars otherwise permitted uses on both airport and non-airport properties, and in a way that conflicts with the Lane County Comprehensive Plan and Statewide Planning Goals. Accordingly, the Planning Commission should not recommend the approval of this zone.

The Private Use Airport Zone includes property that it should not.

First, the boundaries of the proposed Private Use Airport Zone include non-airport property in violation of state law.

The County is required to locate private-use airports by setting:

"a boundary showing areas in airport ownership, or subject to long-term lease that are developed or committed to airport uses."

The boundary proposed for adoption before the County includes properties that are not owned or subject to long-term lease by an airport.

In particular, the County appears to identify "Strauch Field" as encompassing "portions of tax lots 503 and 900" as subject to the Private Use Airport zone. See Notice Item 8. Lot 503 is not owned or subject to long-term lease by the owners of "Strauch Field." As reflected in Lane County tax records (attached), Lloyd and Edna Amundson are the sole owners of lot 503. Accordingly, no portion of lot 503 should be included in the PUA zone, nor should it be designated to accommodate such zoning.

The Private Use Airport Zone bars uses that it should not.

The proposed Private Use Airport Zone bars existing uses on the airport properties that are permitted by the existing zoning. The zone bars uses in two fashions:

1. It includes a list of permitted and conditionally permitted uses that is substantially more restrictive than the current zoning on the property; and
2. It purports to make all uses and activities within the Private Use Airport Zone subject to the restrictions of the Safety Overlay Zone.

With regard to the first issue, state law does require that the County not limit specified airport uses on airport properties, and to permit growth of these uses in certain circumstances. It does not require the County to bar all permitted, non-airport uses of airport properties.

On the one hand, these permitted uses have already been adopted by Lane County and have been acknowledged as being in compliance with both the comprehensive plan and the Statewide Planning Goals, so it is not unlawful to permit these uses to continue. On the other, barring existing uses on these properties would invite potential Measure 37 claims.

This problem is magnified by the difficulties the County has had in accurately identifying the boundaries of this zone. For example, under the current state of the proposed zone, the County could unwittingly bar uses which are expressly permitted on the Amundson's EFU land, and turn others into nonconforming uses subject to the stringent limitations of the County's nonconforming use provisions. This problem could be carried forward on other properties that have been improperly mapped or designated.

State law does not require the County to bar all underlying uses of the airport properties. Indeed, as acknowledged by ODA, state law does not even require a base zone to be adopted. Thus, while the County might want to use a Private Use Airport Zone (or overlay) to identify and locate private-use airports and to permit the specified airport uses to continue (and expand under appropriate circumstances) on these properties, it should not make these provisions exclusive, or bar existing conditional or approved uses on the subject properties.

The second issue, is codified at the proposed LC 16.296(8). Although captioned "Limitations on Height of Structures" this provision states:

"All uses, activities, facilities, vegetation and structures allowed in the Private Use Airport zone shall comply with the requirements of the Private Use Airport Safety Overlay Zone, LC 16.297."

This provision may be designed to address the required protection for approach zones set forth at ORS 836.608(8). However, this proposed provision exceeds the authority set by statute.

ORS 836.608(8) only imposes restrictions on the "height of structures" and not on "uses, activities [or] facilities."¹ Hence, the proposed limitations on uses, activities or facilities are not authorized by statute, and the proposed zone should be revised so as not to impose any height limitation of uses, activities or facilities that are not considered structures.

The proposed zone bars uses that it should permit, and it should not be adopted by Lane County.

The Private Use Airport Zone permits uses that it should not.

In addition to barring existing activities on airport properties, the proposed list of permitted uses would permit additional activities on airport properties that it should not. OAR 660-013-0155 requires local governments to use the list of uses for non-towered airports "in conjunction with ORS

¹ In interpreting this rule, DLCD included "trees and other objects of natural growth" in its prohibitions on approach areas. 660-013-0070(1). Although it is highly questionable that trees might be considered "structures" under the statute, we do not dispute the propriety of the County adhering to the DLCD rule. However, for the sake of consistency with the statute, the County should identify the structural height limitations as applying only to structures and "trees and other objects of natural growth."

836.608 to determine the appropriate types of uses authorized" for private-use airports.

The proposed zone is not based on the required analysis. The staff report does not reflect any consideration of whether the uses proposed are "appropriate types of uses" under ORS 836.608. As the required analysis has apparently not been undertaken, the proposed zone should not be adopted.

For example, the zone includes "search and rescue" operations. LC 16.296(5)(j). This is a use that is not identified by either ORS 836.608 or OAR 660-013-0100. Thus, it cannot be on the list of approved uses under OAR 660-013-0155.

Likewise, the proposed zone would appear to permit parachute businesses (LC 16.296(5)(q), without imposing the requirement set forth in OAR 660-013-0155(8) that such businesses have secured a "drop zone" at least 10 acres in size.

Furthermore, proposed LC 16.296(4) appears to permit additional uses. It provides:

"Operation of the existing uses may be continued at their current levels as of the effective date of this ordinance (_____, 2007) upon a determination that the use existed at the airport at any time during 1996."

This provision is problematic for two reasons: (1) it does not identify what "existing uses" may be continued to operate on airport properties. This provision may be intended to implement 836.608(2) that provides for the continuation of specified airport uses. However, as written it encompasses any "existing us[e]" of the subject property that occurred at any time in 1996. (2) It appears that these "existing uses" "may be continued at their current levels as of the effective date of the ordinance" for an unspecified period of time until a determination occurs.

In 2004, the Land Use Board of Appeals struck a similar provision from the City of Cottage Grove's Mixed-Use Master Plan ordinance that would have permitted existing levels of use on a property to continue until such time as an MUM application was approved. In so doing, the Land Use Board of Appeals held that the provisions authorized the continuation of existing uses that were unlawful or in violation of applicable land use laws, and that Cottage Grove could not legalize the existing uses in this fashion. *Okray v. City of Cottage Grove*, 47 Or LUBA 297, 302-303 (2004). Since, the proposed

language would appear to do the same thing, the County should not approve this ordinance.

Hence, as the proposed zone is not based on the required analysis and includes uses that are forbidden, it should not be approved by the County.

The Private Use Airport Zone requires one or more Goal Exceptions that have not been taken.

The proposed Private Use Airport Zone would bar existing uses permitted by the underlying zone. In fact, the proposal calls not just for the creation of an overlay (which might permit additional uses and impose additional restrictions on a property without fundamentally altering the underlying zone), but for the complete rezoning and redesignation in the plan of all properties that are identified as Private Use Airports. This could violate a number of statewide planning goals including resource protection goals (Goal 3 and 4), housing (Goal 10) and urbanization (Goal 14).

For example, "Strauch Field" would be designated and rezoned from Agricultural and EFU-30, respectively, to Airport and Private Use Airport. This violates Goal 3. Goal 3 provides:

"Agricultural land shall be preserved and maintained for farm use, consistent with existing and future needs for agricultural products, forest and open space."

"Farm use," under Goal 3, includes both farm and non-farm uses set forth in ORS 215.213. However, as set forth above, the proposed list of permitted uses would bar most of these farm and non-farm "farm use[s]" and remove this agricultural land from farm use. Accordingly, this proposal violates Goal 3, and, without a Goal Exception, cannot be approved. *See also* LC 16.400(2) (requiring consistency between the comprehensive plan and Statewide Planning Goals).

The Private Use Airport Zone is inconsistent with the unamended portions of the Lane County Rural Comprehensive Plan.

Consistent with Goal 3, Lane County's Rural Comprehensive Plan states that the County shall:

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

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

Again, the proposed "Strauch Field" would be located on property that is designated as agricultural land, and on land that is comprised of good agricultural soils (for example, the Amundson property is 77% class II soils). Hence, the proposal is inconsistent with the unamended portions of the rural comprehensive plan, and should not be approved. See LC 16.252(2) & 16.400

For each of the foregoing reasons, the Planning Commission should recommend denial of the proposed Private Use Airport zone.

C. The Private Use Airport Safety Overlay Is Not Authorized By Law.

In addition to the problems with the primary zone, the proposed Safety Overlay is inconsistent with state and local law and should not be approved.

The Private Use Airport Safety Overlay is unclear.

As set forth above, the notice of this hearing does not identify any property as being subject to the proposed Private Use Safety Overlay (PUASO). Moreover, the County's records contain only a substantially reduced version of the proposed map, the scale of which precludes any meaningful opportunity to review where the overlay is proposed to be located.

County staff may point out that property owners received notice that an Overlay Zone would be applied as part of this legislative action. However, this notice is substantially undermined because notices were sent to property owners that would be subject to proposed Private Use Airport Zone, the Public Use Airport Overlay Zone as well as adjoining property owners. This would only add to the confusion of these property owners, as to whether their property (identified only by map and tax lot number in the notice), was one of the identified properties subject to the proposed Private Use Airport Zone, the unidentified properties subject to the proposed Private Use Airport Zone overlay, or an unidentified adjoining property. The notice does not locate the overlay zone, or even state what those impacts would. Therefore, property owners' interest and ability to appear and defend has been substantially undermined in this case.

Additionally muddying the waters is LC 16.297(4) which provides that "imaginary surface delineation" (which is the basis of the overlay zone) "shall

be delineated." This appears to indicate that the Overlay Zone would be adopted before its boundaries are set.

This lack of clarity prior to adoption of the zoning runs counter to applicable provisions of the Lane Code. For example, Lane Code provides:

"The Planning Commission, during consideration of a Rural Comprehensive Plan component or an amendment to such a Plan component shall consult and advise with...citizens generally to the end that maximum coordination of Plans may be secured." LC 16.400(6)(c)(ii).

That coordination has not been served and has been substantially undermined by the lack of fixed and identifiable zone boundaries for the overlay in this process. Indeed, property owners cannot even presently identify those structures that would be considered "nonconforming uses" under the proposed LC 16.297(8). Given this lack of clarity, the County should not approve the proposed Overlay.

The Private Use Safety Overlay appears to impose restrictions on uses which are not authorized or required by law.

Similar to LC 16.296(8), discussed above, the proposed LC 16.297(6) states:

"All uses permitted by the underlying zone shall comply with the height limitations in LC 16.297(6)(a) and (b) below." (Emphasis added)

This creates an inconsistency with LC 16.297(6)(a) which, according to its terms, expressly refers only to "structure[s], tree[s] or other object[s] of natural growth." These provisions are internally consistent, and the reference to "[a]ll uses" is inconsistent with the provisions of OAR 660-013-0070(1) as set forth above. Accordingly, this zone should not be adopted.

The Private Use Safety Overlay would exact an unlawful avigational easement from surrounding property owners.

In addition to the structural height limitation required by law, the proposed LC 16.297(9) requires that adjacent property owners to the identified private airports dedicate an "avigational easement" to their neighbors in a "form acceptable to the airport sponsor" which "shall allow unobstructed passage for aircraft" upon application for land use permits or land use decisions. This goes beyond the requirements of state law and is unlawful taking on these property owner's interests.

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As set forth above, the only restriction on uses that is provided for by state statute is to prohibit structures, trees and other objects of natural growth from penetrating the approach zone for an airport. This protection is embodied in LC 16.297(6). Hence, there is neither need nor authorization under state law for the County to exact an avigational easement from surrounding property owners.

Additionally, such an exaction would constitute an unlawful taking of private property by the governing body without just compensation. An unlawful taking because there is no legitimate public interest to be served by requiring a conveyance of a private easement between parties; and because, even if there were, there is not the required nexus connecting neighbors applications for land use decisions or building permits on adjoining properties with dedicating an easement for air traffic above their property whose terms can be dictated by the airport owner. As this provision is both unnecessary and unlawful, the County should not adopt the proposed Safety Overlay.

Conclusion

For all the foregoing reasons, the Lane County Planning Commission should recommend denial of both the proposed Private Use Airport Zone and Private Use Airport Safety Overlay.

Very Truly Yours,

HUTCHINSON, COX, COONS,
DUPRIEST, ORR & SHERLOCK, P.C.



Zack P. Mittge

ZPM/arc
Enclosure: RLID Report for Map & Tax Lot #16-04-08-00-00503
cc: Clients (w/Enc.)

Attachment "e"

AGENDA COVER MEMO (SUPPLEMENTAL)

DATE: November 5, 2007 (Date of Memo)
October 16, 2007 (Date of Original Public Hearing)
November 20, 2007 (Date of Continued Public Hearing)

TO: LANE COUNTY PLANNING COMMISSION

FROM: Public Works Department/Land Management Division

PRESENTED BY: Keir Miller, Associate Planner

AGENDA ITEM TITLE: 1) ORDINANCE NO PA1245 – IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) BY REVISING GOAL-2, POLICY 25; TO ESTABLISH PROVISIONS FOR A PRIVATE USE AIRPORT OVERLAY ZONE; BY ADOPTING AN OFFICIAL PRIVATE USE AIRPORT OVERLAY ZONE MAP; BY APPLYING THE OVERLAY ZONE TO FIVE PRIVATE USE AIRPORTS AND SURROUNDING PROPERTIES AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES.

2) ORDINANCE __-07- IN THE MATTER OF AMENDING THE LANE COUNTY RURAL COMPREHENSIVE PLAN (RCP) AND LANE CODE CHAPTER 16 TO ESTABLISH A PRIVATE USE AIRPORT OVERLAY ZONE. (LC16.012, LC16.296)

I. REQUESTED MOTION

A. Motion 1

The Lane County Planning Commission recommends that the Board of County Commissioners approve Ordinance No. PA 1245. This motion would:

- a. Amend The Rural Comprehensive Plan, Goal 2, Policy 25 to include provisions for a private use airport overlay zone.
- b. Adopt an Official Private Use Airport Overlay Zone Map
- c. Apply the Private Use Airport Overlay zone to the properties or portions of properties listed in Section 3 of Attachment "A".

B. Motion 2

The Lane County Planning Commission recommends that the Board of County Commissioners approve Ordinance No. 1245-07. This motion would:

- a. Amend Lane Code Chapter 16.012 (Zone Classifications) to include the Private Use Airport Overlay Zone (PUAO-RCP) into the list of established zones.
- b. Amend Lane Code Chapter 16 to include section .296 (Private Use Airport Overlay Zone)

II. AGENDA ITEM SUMMARY

The Planning Commission is being asked to recommend to the Board of Commissioners amendments to the Rural Comprehensive Plan that will bring Lane County into compliance with state laws pertaining to private airport planning and protection. The proposed amendments would establish a private use airport overlay zone ordinance and an official zoning map and would apply the zone to four existing private use airports and one existing private use heliport and surrounding properties.

III. BACKGROUND/ PREVIOUS PLANNING COMMISSION HISTORY

This item was originally discussed with the Planning Commission at a work session on July 10, 2007. An additional work session and public hearing on the proposed amendments was held on October 16, 2007. The October 16 public hearing was continued until November 20, 2007, to provide staff and the Planning Commission an opportunity to review challenges raised by an attorney representing Lloyd and Edna Amundson, a party in opposition to the proposed amendments.

IV. ANALYSIS

A. Challenges

Several challenges to the proposed amendments were submitted into the record. The substantive challenges can be categorized as follows:

- Issues with notice
- Problems with application of a base zone
- Problems with the identified boundaries of the airport base zone
- Uses prohibited within the base zone
- Uses allowed within the base zone
- Required Goal exceptions have not been taken
- Base zone is inconsistent with the Rural Comprehensive Plan
- Private use airport safety overlay zone is unclear
- Avigation easement unlawful

Staff has made a number of modifications that clarify and improve the original proposal and address the challenges that have been raised. A synopsis of the applicable modifications follows each challenge, below.

Issues with notice

A re-notice of the continued public hearing was mailed on October 29, 2007. The notice (included as Attachment "C") meets all requirements of state and local law.

Application of a base zone

A change of the base zoning for each private use airport is no longer being proposed. The requirements of state law can be met without rezoning the base zones of each airport. Staff has researched successful private use airport overlay zones in use by other counties and has drafted a similar ordinance. The new ordinance (LC 16.296, Private Use Airport Overlay Zone /PUAO-RCP) combines provisions of the previously proposed LC 16.296 (base zone) and LC16.297 (safety overlay) and is included as Exhibit "A" to Attachment "B" of this memo.

Problems with the identified boundaries of the airport base zone

The correct boundaries of the private use airports have been clearly identified by the airport sponsors. A reduced scale copy of the new proposed Official Private Use Airport Overlay Zone map is included as Exhibit "B" to Attachment "A". Larger scale maps are also included in the re-notice materials provided as Attachment "C".

Uses prohibited within the base zone

The new Private Use Airport Overlay zone will not prohibit any of the underlying uses permitted within the base zones of properties to which it is applied.

Uses allowed within the base zone

All uses permitted within the proposed Private Use Airport Overlay zone are appropriate types of uses at private airports. These uses are identified within the statutes, administrative rules and the language of SB 1113. Staff has added language to the description of permitted "aeronautic recreational and sporting activities" to clarify additional requirements of state law related to parachutes businesses.

Required Goal exceptions have not been taken

The modified proposal will not alter the base zoning of any properties; therefore no Goal exceptions are required.

Base zone is inconsistent with the Rural Comprehensive Plan

A base zone is no longer being proposed; therefore this challenge is no longer applicable.

Private use airport safety overlay zone is unclear

As discussed above, the boundaries of the new Private Use Airport Overlay zone have been clearly mapped. The properties to which the zone will be applied were included in the re-notice that was mailed on October 29, 2007 and are included in the proposed adopting ordinance language included as Attachment "A".

Avigation easement unlawful

While it is unclear if the application of an avigation easement requirement is actually unlawful, it is not a requirement of state law. The avigation easement provision has been removed from the proposed ordinance.

B. Clarifications

During the October 16 work session, Commissioners Arkin and Dignam asked staff to provide clarification concerning lighting requirements, or lack thereof, under the proposed ordinances. Chair Becker asked staff to clarify which parties or agencies would need to approve height variance requests.

Lighting

Navigational aids, including lighting, are not regulated by the proposed private use airport overlay zone. Placing limitations on use of navigational lighting would run counter to the purposes of the proposed overlay zone. The intent of the zone is to provide for the continued operation and vitality of private use airports and to provide for the safety of those using them and living nearby. Limits on navigational lighting would prohibit use of the airfields during low light conditions and their absence would potentially create a greater risk to pilots and neighboring residents. Furthermore, it appears unlikely that any navigational lighting employed at the private use airports in Lane County would create a major nuisance to neighboring property owners. Navigational lighting is generally low intensity and oriented in such a way as to be seen from the sky.

Variance Requirements

LC 16.296 (10) (b) states:

Height variances may be permitted when supported in writing by the airport sponsor and the Department of Aviation. Applications for height variances shall comply with LC 16.256(1) and (2), and shall be subject to such conditions and terms as recommended by the Department of Aviation.

A literal reading of the code is appropriate. Under the proposed ordinance individuals seeking a height variance would need to submit supporting statements from **both** the airport sponsor and the Oregon Department of Aviation. This requirement is intended to ensure that any structures permitted in excess of the ordinance standards have been considered by both state agency staff and by a user of the airport who is knowledgeable of the terrain, conditions, typical flight patterns, activities and routines at the airport or heliport in question.

C. Other Issues

The following language was added to the ordinance to address concerns raised John Henderson, airport sponsor for the Meadowview Heliport:

LC 16.296 (2) (c)

If any airport or heliport to which this overlay zone has been applied is removed from the State's list of airports in a manner described in ORS 836.610, the county will no longer apply and enforce the safety overlay zone that corresponds to the removed airport or heliport.

This language will automatically terminate the application of the overlay zone to any properties that are removed from the State's official inventory. Adding this language will alleviate the need for property owners to apply for a zone change to remove the overlay zone should airport or heliport operation cease to exist on site.

V. ACTION

A. Alternatives/Options

Option 1: Recommend that the Board adopt Ordinance Number PA 1245 and Ordinance No __-04

Option 2: Recommend that the board not adopt Ordinance Number PA 1245 and Ordinance No __-04

B. Recommendation

Staff recommends Option 1.

C. Follow Up

Staff will forward the recommendation of the Planning Commission to the Board of Commissioners.

VI. ATTACHMENTS

A. Ordinance PA 1245

Exhibit A: Proposed Amendments to RCP Goal 2, Policy 25

Exhibit B: Official Private Use Airport Safety Overlay Zone Map (scale reduced)

Exhibit C: Findings in Support of Ordinance PA 1245

B. Ordinance No. No. 1-07

Exhibit A: Lane Code 16.296 Private Use Airport Overlay Zone (/PUAO - RCP)

Exhibit B: Proposed Amendments to Lane Code 16.012

C. Legal notices mailed for continued LCPC hearing on November 20, 2007 and BCC public hearing on December 5, 2007.



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Attachment "D"

November 19, 2007

Lane County Planning Commission
c/o Keir Miller, Associate Planner
Lane County Land Management
Public Service Building
125 E. 8th Ave
Eugene, OR 97401-2926

Via E-mail keir.miller@co.lane.or.us, Hand Delivery and First Class Mail

Re: Private Use Airport Overlay
Our Clients: Lloyd and Edna Amundson
Our File No.: 10607

Dear Planning Commission Members:

Our firm represents Lloyd and Edna Amundson, neighbors of the property designated as "Strauch Field" and owners of property that would be subject to the proposed safety overlay.

We applaud the planning staff's flexibility in making modifications to proposed code provisions that more closely conform to the state requirements. We write to support most of the revisions to the proposed overlay recommended by County Planning staff, and to propose some limited additional clarifications to the proposed zoning.

1. Airport Overlay.

The revised County overlay eliminates the proposed private use airport base zone and appears to replace it with a combined "Private Use Airport Overlay Zone." However, the nature of the "overlay" zone remains unclear from the proposed text. In particular, although designated as an "overlay" zone, the "applicability" statement refers to both a "private use airport operation district and a safety overlay zone." See proposed LC 16.296(2).

The purpose of the combined overlay is to "not prohibit any of the underlying uses permitted within the base zones of properties to which it is applied" and thereby eliminate the need for exceptions to the Statewide Planning Goals. See Staff Report, p. 3. For the sake of clarity and consistency with this purpose, it would be useful to include a statement in LC 16.296(1) and/or (2) that:

"The provisions of the overlay zone supplement those of the applicable base zone. Where the overlay zone and base zone conflict, the more restrictive requirement applies."

This should remove any doubt that the proposed overlay does not bar uses permitted by the base zone, except to the extent of the height restrictions imposed by the overlay.

2. Permitted Uses

The revised LC 16.296(5)(j) refers to "[s]earch and rescue operations." As discussed in our prior submittal, ORS 836.616(2) is the exclusive list of uses that may be approved for private use airports. See OAR 660-013-0155(8). "Search and rescue operations" are not among these uses.

It appears that, as planning staff notes, "[s]earch and rescue" operations were originally included in Senate Bill 1113 in 1995. However, the current version of statute does not recognize these uses as being permitted for private use airports.

It may be that "[s]earch and rescue operations" were omitted when the law was amended in 1997, for some unknown reason. In any case it is not on the list of approved uses under the state statute, and Lane County should not include it on its list until such time as the legislature modifies the statute.

The revised LC 16.296(5)(q) does make reference to the drop zone requirements for parachute businesses set forth in OAR 660-013-0100(8). However, we would recommend that this provision be revised to include the express requirement in the administrative rule that:

"Parachuting businesses may be allowed only where they have secured approval to use a drop zone that is at least 10 contiguous acres. A local government may establish a larger size for the required drop zone where evidence of missed landings and dropped equipment supports the need for the larger area. The configuration of 10 acre minimum drop zone shall roughly approximate a square or circle and may contain structures, trees, or other obstacles if the remainder of the drop zone provides adequate areas for parachutists to safely land."

This will make the revised provision more easily accessible for Lane Code users, who will not need to refer to the administrative rules to ensure compliance with the Code.

It will also eliminate any risk associated with typographical errors or renumbering of the Oregon Administrative Rule. This need is highlighted by the fact that the current draft omits a zero and refers to this provision as "OAR 660-013-010(8)." Thus, in its current form the

provision would refer users to an administrative rule provision that does not exist. Inserting the text would largely eliminate this risk in future drafts.

3. Nonconforming Structures.

Again, County staff has done an effective job in the proposed revisions of removing references to limitations on "uses, activities [or] facilities" that are not structures restricted by ORS 836.608(8). However, LC 16.296(12) still refers to nonconforming structures as "Nonconforming Uses" both in its caption and in subsection (c) which refers to "a nonconforming use or structure."

ORS 836.608(8) and OAR 660-013-0070(1) refer only to structures and "trees and other object of natural growth." Thus, to clarify what is required, LC 16.296(12) should be modified to refer to "Nonconforming Structures."

4. Property Development Standards

The "Private Use Airport Zone" discussed at the public hearing in October included property development standards for new or expanded airport uses in the proposed airport based zone. These included provisions related to setbacks, riparian setbacks, maintenance and removal of riparian vegetation, signage and parking requirements. These provisions were not challenged before the County, but were nevertheless removed by planning staff. These are reasonable provisions that should apply to new uses and expanded airport uses under LC 16.296(6) and (7).

5. Delineation of the Safety Overlay.

The County planning staff has provided a clearer and much more effective notice to neighboring property owners regarding the size and extent of the proposed safety overlay on their property, and what portions of the property are considered to be in the private airport "district" portion of the overlay. As is apparent from this delineation, the district portion of the "Strauch Field" overlay has been removed from the Amundson property.

However, one aspect of the safety overlay that remains unclear is the extent of the primary surface area. The safety overlay is defined by the "airport imaginary surface" – including the "primary surface" and the "approach surface." The primary surface is effectively a 200-foot wide area that is centered on the runway and "ends at each end of the runway." The "Approach surface" begins where the "primary surface" ends (the ends of the runway), and extends up at a slope of 20:1, and out to 450 feet at a distance of

Lane County Planning Commission
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2,500 feet. *See* 16.296(3). As the end of the runway signifies the end of the primary surface and the beginning of the approach area, it is also the point where the elevation of the safety overlay increases.

With regard to Strauch Field, the primary surface should not extend beyond the south side of Culver Lane. As one can see from the attached materials, a corridor of real property extending from Prairie Road between the Strauch (lot 510) and Palmer (lot 900) properties has been dedicated to the use of the public for road purposes. The initial dedication predates Mr. Strauch's ownership of his property, and the registration of "Strauch Field" by Robert Palmer in 1987. Accordingly, County staff have prudently removed Culver Lane from the area identified as a private airport district.

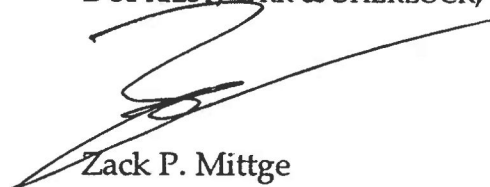
Although it is unclear, due to the scale of the map, at what point the County's Overlay zone changes from the "primary surface" to the "approach surface," airplanes taxiing across the dedicated Culver Lane would be a substantial interference with the public easement. Accordingly, County staff in consultation with the surveyors office (who have confirmed the existence and extent of the public road easement) have confirmed that they are recommending the termination of the primary surface south of Culver Lane. We respectfully request that the County adopt its staff recommendations and hold that the primary surface ends south of Culver Lane to avoid an unreasonable interference with the public right-of-way.

Conclusion

For all of the foregoing reasons, we support the staff's recommended changes and request that County adopt the proposed airport overlay zone with the recommended modifications set forth herein.

Very Truly Yours,

HUTCHINSON, COX, COONS,
DUPRIEST, ORR & SHERLOCK, P.C.



Zack P. Mittge

ZPM/arc
Enclosure
cc: Clients (w/Enc.)

Attachment "E"

PRIVATE USE AIRPORT OVERLAY ZONE (/PUAO, RCP) RURAL COMPREHENSIVE PLAN

16.296 Private Use Airport Overlay Zone (/PUAO, RCP).

(1) Purpose. The purpose of the Private Use Airport Overlay Zone is to recognize the locations of certain private use airports and heliports and to provide for their continued operation and vitality consistent with state law. It also provides for standards to promote air navigational safety at these airports, and to reduce the potential safety hazards to persons living, working or recreating on lands near such airports.

(2) Applicability. The Private Use Airport Overlay Zone consists of two elements: a private use airport operation district and a safety overlay zone.

(a) The private use airport operation district applies to private use airports and heliports in rural Lane County that were the base for three or more aircraft on December 31, 1994, as shown in the records of the Oregon Department of Transportation. The boundaries of the private use airport operation district are delineated on the Official Private Use Airport Overlay Zone Map. The identified private use airports and heliports in Lane County include:

- (i) Crow-Mag Airport;
- (ii) Jasper Ridge Airport;
- (iii) Meadowview Heliport;
- (iv) Strauch Field Airport; and
- (v) Walker Airport.

(b) The safety overlay zone applies to those lands encompassed by the airport and heliport surfaces set forth and defined in LC 16.296(3), delineated in LC 16.296(8) and diagramed LC 16.296(13).

(c) If any airport or heliport to which this overlay zone has been applied is removed from the State's list of airports in a manner described in ORS 836.610, the county will no longer apply and enforce the safety overlay zone that corresponds to the removed airport or heliport.

(3) Definitions.

Aircraft. Includes airplanes and helicopters, but not hot air balloons or ultralights.

Airport. The strip of land used for taking off and landing aircraft, together with all adjacent land used in connection with the aircraft landing or taking off from the strip of land, including but not limited to land used for existing airport uses.

Airport Elevation. The highest point of an airports' usable runway, measured in feet above mean sea level.

Airport Imaginary Surface. Imaginary areas in space or on the ground that are established in relation to the airport and its runways. Imaginary areas for private use airports are defined by the primary surface and approach surface.

Airport Sponsor. The owner, manager, or other person or entity designated to represent the interests of an airport or heliport.

Approach Surface. A surface longitudinally centered on the extended runway centerline and extending outward and upward from each end of the primary surface. An approach surface is applied to each end of a runway. The inner edge of the approach surface is the same width as the primary surface and it expands uniformly to the width of 450 feet for that end of a private use airport with only visual approaches. The approach surface extends for a horizontal distance of 2,500 feet at a slope of 20 feet outward for one foot forward.

Department of Aviation. The Oregon Department of Aviation, formerly the Aeronautics Division of the Oregon Department of Transportation.

Height. The highest point of a structure or tree, plant or other object of natural growth, measured from mean sea level.

Heliport. An area of land, water, or structure designated for the landing and take-off of helicopters or other rotorcraft.

Heliport Imaginary Surface. Airport imaginary surfaces as they apply to heliports.

Heliport Approach Surfaces. The approach surface beginning at each end of the heliport primary surface and has the same width as the primary surface. The surface extends outward and upward for a horizontal distance of 4,000 feet where its width is 500 feet. The slope of the approach surface is 8 to 1 for civil heliports and 10 to 1 for military heliports.

Heliport Primary Surface. The area of the primary surface that coincides in size and shape with the designated takeoff and landing area of a heliport. This surface is a horizontal plane at the established heliport elevation.

Heliport Transitional Surfaces. Surfaces extending outward and upward from the lateral boundaries of the heliport primary surface and from the approach surfaces at a slope of 2 to 1 for a distance of 250 feet measured horizontal from the centerline of the primary and approach surfaces.

Obstruction. Any structure, or tree, plant or other object of natural growth that penetrates an imaginary surface.

Primary Surface. A surface longitudinally centered on a runway. The primary surface ends at each end of a runway. The elevation of any point on the primary surface is the same as the elevation on the nearest point on the runway centerline. The width of the primary surface is 200 feet.

Runway. A defined area on an airport prepared for landing and takeoff of aircraft along its length.

Structure. For the purposes of LC 16.296, "structures" means any constructed or erected object which requires location on the ground or is attached to something located on the ground. Structures include but are not limited to buildings, decks, fences, signs, towers, cranes, flagpoles, antennas, smokestacks, earth formations and overhead transmission lines. Structures do not include paved areas.

(4) Existing Uses within the Private Use Airport Operation District. Operation of existing uses listed in LC 16.296(5) that existed at any time during 1996 may be continued at their current levels as of the effective date of this ordinance (January 1, 2008). The uses that existed during 1996 are specific to each airport and heliport and are on file with the Land Management Division. In response to citizen complaints related to requests for building permits or other expansions pursuant to LC 16.296(6), the Director will make a determination regarding the existence of the use in 1996 that is being proposed for expansion. The determination of an existing use shall be based upon a review of evidence provided by the airport sponsor, a review of the historical property file records, Land Management inventory and historical aerial photos. The determination is subject to submittal of an Airport Use Determination application pursuant to LC 14.050 and review and approval of the Airport Use Determination pursuant to LC 14.100 with the options for the Director to conduct a hearing or to provide written notice of the decision and the opportunity for appeal.

(5) Continued Operation of Existing Uses. Operation of the following uses may be continued within the airport operation district at their current levels as of the effective date of this ordinance upon determination that the use existed at the airport or heliport at any time during 1996.

(a) Customary and usual aviation-related activities, including but not limited to take-offs and landings.

(b) Aircraft hangers and tie-downs.

(c) ~~Construction and~~ Ongoing maintenance of airport facilities.

(d) Fixed based operator facilities.

(e) One single family residence per airport for either: an airport caretaker, operator or security officer, but not a residence for each.

(f) Other activities incidental to the normal operation of an airport. Except as provided elsewhere in Lane Code 16.296, "customary and usual aviation-related activities" do not include residential, commercial, or industrial uses provided for in other sections of Lane Code Chapter 16.

(g) Air passenger and air freight services and facilities, at levels consistent with the classification and needs identified in the Oregon Department of Aviation Airport System Plan.

(h) Emergency medical flight services, including activities, aircraft, accessory structures, and other facilities necessary to support emergency transportation for medical purposes. Emergency medical flight services include search and rescue operations but do not include hospitals, medical labs, medical equipment sales, and other similar uses.

(i) Law enforcement and firefighting activities, including aircraft and ground-based activities, facilities and accessory structures necessary to support federal, state or local law enforcement or land management agencies engaged in law enforcement or firefighting activities. Law enforcement and firefighting activities include transport of personnel, aerial observation, and transport of equipment, water, fire retardant and supplies.

(j) Search and rescue operations, including aircraft and ground based activities that promote the orderly and efficient conduct of search or rescue related activities.

(k) Flight instruction, including activities, facilities, and non-residential accessory structures located at airport sites that provide education and training directly related to aeronautical activities. Flight instruction includes ground training and aeronautic skills training, but does not include schools for flight attendants, ticket agents or similar personnel.

(l) Aircraft service, maintenance and training, including activities, facilities and accessory structures provided to teach aircraft service and maintenance skills and to maintain, service, refuel or repair aircraft or aircraft components. "Aircraft service, maintenance and training" includes the construction and assembly of aircraft and aircraft components for personnel use, but does not include activities, structures or facilities for the manufacturing of aircraft or aircraft-related products for sale to the public.

(m) Aircraft rental, including activities, facilities and accessory structures that support the provision of aircraft for rent or lease to the public.

(n) Aircraft sales and the sale of aeronautic equipment and supplies, including activities, facilities and accessory structures for the storage, display, demonstration and sales of aircraft and aeronautic equipment and supplies to the public but not including activities, facilities or structures for the manufacturing of aircraft or aircraft-related products for sale to the public.

(o) Crop dusting activities, including activities, facilities and structures accessory to crop dusting operations. Crop dusting activities include but are not limited to, aerial application of chemicals, seed, fertilizer, defoliant and other chemicals or products used in a commercial agriculture, forestry or rangeland management setting.

(p) Agricultural and forestry activities, including activities, facilities and accessory structures that qualify as a "farm use" as defined in ORS 215.203 or "farming practice" as defined in ORS 30.390.

(q) Aeronautic recreational and sporting activities, including activities, facilities and accessory structures at airports that support recreational usage of aircraft and sporting activities that require the use of aircraft or other devices used and intended for use in flight, are permitted subject to the acceptance of the airport sponsor. Aeronautic recreation and sporting activities include, but are not limited to, fly-ins; glider flights; hot air ballooning; ultralight aircraft flights; displays of aircraft, aeronautic flight skills contests; gyrocopter flights; flights carrying parachutists; and parachute drops onto an airport. As used herein, parachuting and parachute drops include all forms of skydiving. Parachuting businesses may only be allowed where the business has ~~secured a drop zone in accordance with the requirements of OAR 660-013-0100(8)~~ approval to use a drop zone that is at least 10 contiguous acres in size. A larger drop zone may be required where evidence of missed landings and dropped equipment supports the need for the larger area. The configuration of 10 acre minimum drop zone shall roughly approximate a square or circle and may contain structures, trees, or other obstacles if the remainder of the drop zone provides adequate areas for parachutists to safely land.

(6) Expansion of Existing Uses. The expansion of uses identified in 16.296(5)(a)-(q) that existed at any time during 1996, are permitted as provided in this section.

(a) Expansions Allowed Outright. The following expansions of existing uses are permitted outright:

(i) Construction of additional hangars and tie-downs by the owner of the airport or heliport.

(ii) Basing additional aircraft at the airport or heliport.

(iii) Increases in flight activity.

(b) Other Expansions of Existing Uses.

(i) Growth of existing uses that require building permits, other than those existing uses identified LC 16.296(6)(a) shall be permitted as an administrative decision without public hearing, unless the growth:

(A) Cannot be supported by existing public facilities and services and transportation systems authorized by applicable statewide land use planning goals.

(B) Forces a significant change or significantly increases the costs of conducting existing uses on surrounding lands; or

(C) Exceeds the standards of ORS 215.296(1) if the airport is adjacent to land zoned for exclusive farm use.

(ii) Growth of an existing use for which a public hearing is required shall be permitted only upon demonstration of compliance with the standards for new uses set out in LC 16.296(7).

(7) New Uses. Uses identified in LC 16.296(5) are permitted following a public hearing before the Director upon demonstration of compliance with the following standards. An applicant may demonstrate that these standards will be satisfied through the imposition of clear and objective conditions.

(a) The use is or will be supported by adequate types and levels of facilities and services and transportation systems authorized by applicable statewide land use planning goals;

(b) The uses do not seriously interfere with existing land uses in areas surrounding the airport or heliport; and

(c) For airports or heliports adjacent to land zoned for exclusive farm use, the use complies with the requirements in ORS 215.296.

(8) Safety Overlay Zone Surface Delineation. The location of the imaginary surfaces defined in LC 16.296(3) for each private use airport and heliport subject to this overlay zone are depicted on the Official Private Use Airport Overlay Zone Map. All lands, waters and airspace, or portions thereof that are located within these surfaces are subject to the requirements of this overlay zone. The dimensional standards and slope profiles for these surfaces are diagramed in LC 16.296(13).

(9) Notice of Land Use and Permit Applications within the Safety Overlay Zone.

(a) The county shall provide written notice of applications for land use decisions or administrative approvals, including comprehensive plan or zoning amendments, affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation pursuant to LC 14.070 and 14.100 in the same manner and within the same timelines as notice is provided to property owners entitled by law to written notice of land use decisions or administrative approvals.

(b) The County shall provide notice of decision on a land use or administrative approval application affecting land within the safety overlay zone to the airport sponsor and the Department of Aviation within the same timelines that such notice, pursuant to LC 14.100, is provided to parties to a land use or limited land use proceeding.

(10) Height Limitations within the Safety Overlay Zone. All structures permitted by the underlying zone shall comply with the height limitations in LC 16.296(10)(a) and (b), below. When height limitations of the underlying zone are more restrictive than those of this overlay zone, the underlying zone height limitations controls.

(a) Except as provided in LC 16.296(10)(b) below, no structure, tree or other object of natural growth shall penetrate an airport imaginary surface.

(b) Height variances may be permitted when supported in writing by the airport sponsor and the Department of Aviation. Applications for height variances shall comply with LC 16.256(1) and (2), and shall be subject to such conditions and terms as recommended by the Department of Aviation.

(11) Procedures. An applicant seeking a land use or administrative approval in an area within this overlay zone shall provide the following information in addition to any other information required in the permit application:

(a) A map or drawing showing the location of the property in relation to the airport or heliport imaginary surfaces. The Director shall provide the applicant with appropriate base maps upon which to locate the property.

(b) Elevation profiles and a site plan, both drawn to scale, including the location and height of all existing and proposed structures, measured in feet above mean sea level.

(c) If a height variance is requested, letters of support from the airport sponsor and the Department of Aviation.

(12) Nonconforming Uses Structures.

(a) These regulations do not require the removal, lowering or alteration of any structure not conforming to these regulations. These regulations do not require any change in the construction, alteration or intended use of any structure for which construction was begun or land use permits were been applied for or the construction or alteration of which was begun prior to the effective date of this overlay zone.

(b) Notwithstanding LC 16.296(12)(a), the owner of any existing structure that has an adverse effect on air navigational safety as determined by the Department of Aviation shall install or allow the installation of obstruction markers as deemed necessary by the Department of Aviation, so that the structures become more visible to pilots.

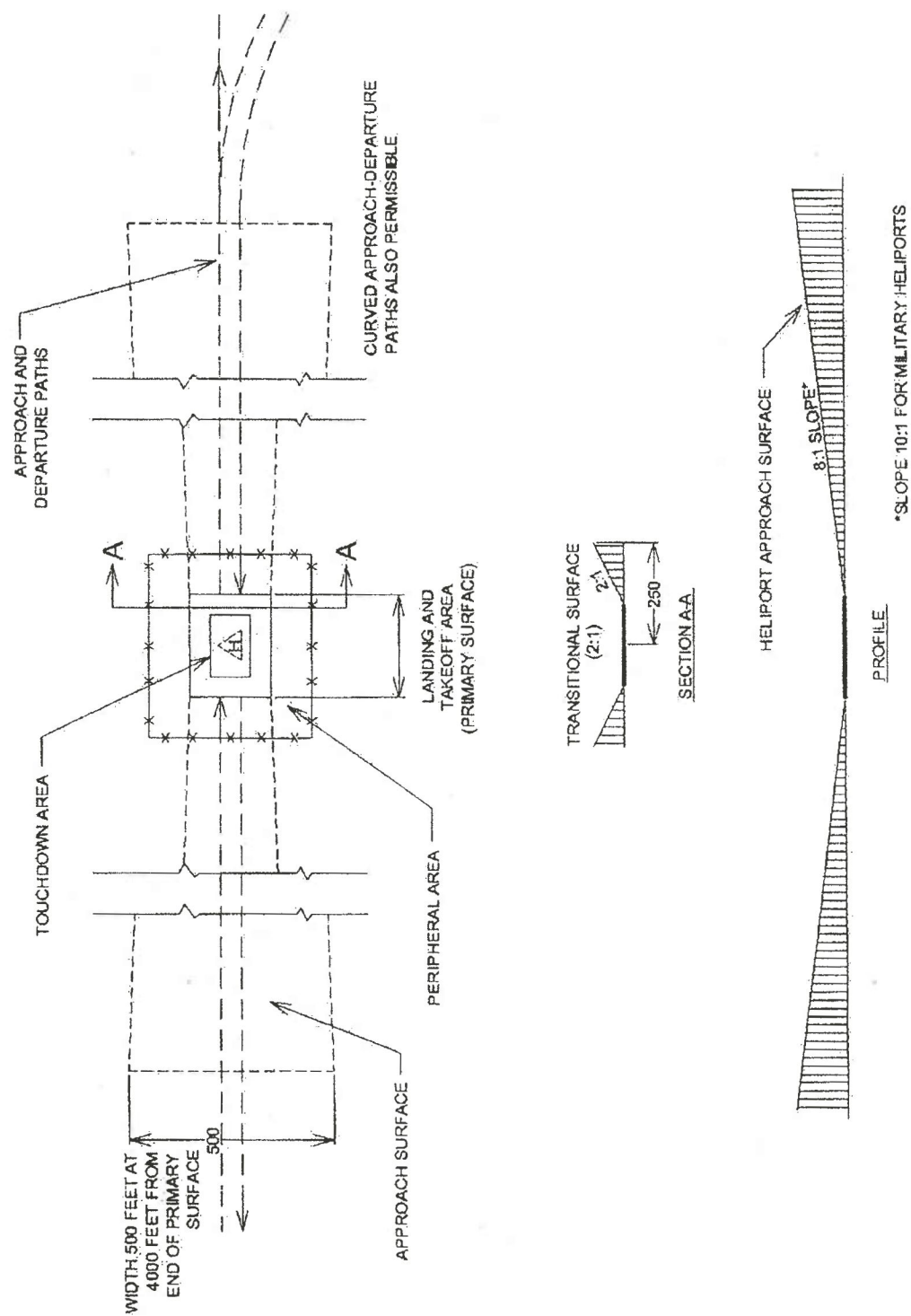
(c) No land use decision, administrative approval or other permit shall be granted that would allow a nonconforming ~~use of~~ structure to become a greater hazard to air navigation than it was on January 1, 2008.

(13) Surfaces Diagramed. The airport surfaces delineated in LC 16.296(8), above are as diagramed in Figure 1.1, below. The heliport surfaces delineated in LC 16.296(8) above are as diagramed in Figure 1.2, below. In addition to the diagrams below, these surfaces have been mapped on the Official Private Use Airport Overlay zone map.



DIM	ITEM	DIMENSIONAL STANDARDS IN FEET
A	WIDTH OF PRIMARY SURFACE AND APPROACH SURFACE WIDTH AT INNER END	200
B	APPROACH SURFACE WIDTH AT THE END	450
C	APPROACH SURFACE LENGTH	2500
D	APPROACH SLOPE	20:01

LC 16.296 (13) Figure 1.1: Private-Use Airport Surfaces



LC 16.296 (13) Figure 1.2: Heliport Surfaces

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