



# 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](http://www.lcd.state.or.us)

## AMENDED NOTICE OF ADOPTED AMENDMENT

November 2, 2007

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

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



The Department of Land Conservation and Development (DLCD) received the attached notice of adoption. 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: November 15, 2007**

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  
John Renz, DLCD Regional Representative  
Mark Bernard, Douglas County

<paa> ya/

FORM 2

# DLCD

## Notice of Adoption

THIS FORM **MUST BE MAILED** TO DLCD  
**WITHIN 5 WORKING DAYS AFTER THE FINAL DECISION**  
PER ORS 197.610, OAR CHAPTER 660 - DIVISION 18

In person  electronic  mailed

DEPT OF

OCT 25 2007

LAND CONSERVATION  
AND DEVELOPMENT

For DLCD Use Only

Jurisdiction: **Douglas County**

Local file number: **07-132**

Date of Adoption: **10/24/2007**

Date Mailed: **10/25/2007**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 6/1/2007

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other: **Non-Resource Determination**

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

Christa Hansen, request for a Plan Map Designation change from (FFT) Farm/Forest Transitional to (RR5) Rural Residential-5 acre and a Zone Change from (FF) Farm Forest to (5R) Rural Residential-5 Acre, on a 12.34 acre parcel provided for in the Comprehensive Plan, together with a determination that the property is non-resource land and not subject to the Agricultural (Goal 3) and Forest (Goal 4) Land Goals.

Does the Adoption differ from proposal? No, no explanation is necessary

Plan Map Changed from: **FFT**

to: **RR5**

Zone Map Changed from: **FF**

to: **5R**

Location: **Lockwood Road southwest of the Tenmile RUC**

Acres Involved: **12**

Specify Density: Previous: **1 DU/12 AC**

New: **1 DU/5 AC**

Applicable statewide planning goals:

1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?

Yes  No

If no, do the statewide planning goals apply?

Yes  No

If no, did Emergency Circumstances require immediate adoption?

Yes  No

DLCD 006-07 (16147)



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**DLCD file No.** \_\_\_\_\_

Please list all affected State or Federal Agencies, Local Governments or Special Districts:

ODOT, Douglas Fire Protection Assn., Tenmile Volunteer Fire District, Qwest, Douglas Electric, Winston-Dillard School District No. 116

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Local Contact: **Mark Bernard**

Phone: (541) 440-4289 Extension:

Address: **Room 106, Justice Building**

Fax Number: **541-440-6266**

City: **Roseburg**

Zip: **97470-**

E-mail Address: **mabernar@co.douglas.or.us**

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### **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 Complete Copies (documents and maps) 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. Electronic Submittals: At least **one** hard copy must be sent by mail or in person, but you may also submit an electronic copy, by either email or FTP. You may connect to this address to FTP proposals and adoptions: **webserver.lcd.state.or.us**. To obtain our Username and password for FTP, call Mara Ulloa at 503-373-0050 extension 238, or by emailing **mara.ulloa@state.or.us**.
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 now access these forms online at **http://www.lcd.state.or.us/**. Please print on **8-1/2x11 green paper only**. You may also call the DLCD Office at (503) 373-0050; or Fax your request to: (503) 378-5518; or Email your request to **mara.ulloa@state.or.us** - ATTENTION: PLAN AMENDMENT SPECIALIST.

PD

**BEFORE THE BOARD OF COMMISSIONERS  
OF DOUGLAS COUNTY, OREGON**

AN ORDINANCE ADOPTING AMENDMENTS TO THE )  
DOUGLAS COUNTY COMPREHENSIVE PLAN MAP AND )  
ZONING MAP BASED UPON A NONRESOURCE )  
DETERMINATION FOR GOALS 3 AND 4, AND ON A )  
DEMONSTRATION OF CONSISTENCY WITH THE COUNTY'S )  
5 ACRE DESIGNATION. )  
PLANNING DEPARTMENT FILE NO. 07-132. )

**ORDINANCE NO. 2007 10 02**  
DOUGLAS COUNTY, OREGON  
FILED

OCT 24 2007

RECITALS

BARBARA E. NIELSEN, COUNTY CLERK

- A. Christa Hansen, request for a Comprehensive Plan Amendment from (FFT) Farm/Forest Transitional to (RR5) Rural Residential - 5 Acre and a Zone Change from (FF) Farm Forest to (5R) Rural Residential - 5 Acre, based upon a Determination that the property is non-resource land and is not subject to Agricultural and Forest Land Goals, and on a demonstration of consistency with the County's 5-Acre Designation, on a 12± acre portion of a 12.34 acre parcel to allow development at the 5R density. The property is located off of Lockwood Road southwest of the Tenmile Rural Community, and is described as Tax Lots 2300 & 2400 in Section 36D of T28S, R8W, W.M., Property I.D. Nos. R52255, R52423 & R52549. Planning Department File No. 07-132.
- B. The Douglas County Planning Commission held a hearing to consider the matter on July 19, 2007, and subsequently recommended for approval of the request in a Findings and Decision document dated September 20, 2007.
- C. The Board of Commissioners considered the matter on October 24, 2007, at a hearing held pursuant to Section 6.900.2 of the Douglas County Land Use & Development Ordinance. We affirmed the Planning Commission decision and ordered that the request be granted.

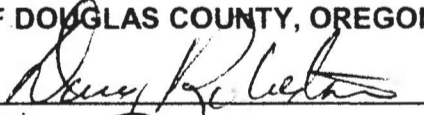
**THE DOUGLAS COUNTY BOARD OF COMMISSIONERS ORDAIN AS FOLLOWS:**


SECTION ONE: The requested Comprehensive Plan Map Amendment, Zone Map Amendment, Nonresource Determination and Exception are GRANTED.


SECTION TWO: The "Findings of Fact and Order" of the Board (attached, dated October 24, 2007) and the "Findings of Fact and Decision" of the Douglas County Planning Commission (attached, dated September 20, 2007), are ADOPTED and by reference made part of this Ordinance.

DATED this 24<sup>th</sup> day of October, 2007.

**BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, OREGON**

  
Chair

  
Commissioner

  
Commissioner



**BEFORE THE BOARD OF COMMISSIONERS  
OF DOUGLAS COUNTY, OREGON**

Christa Hansen, request for a Comprehensive Plan )  
Amendment from (FFT) Farm/Forest Transitional )  
to (RR5) Rural Residential - 5 and a concurrent )  
Zone Change from (FF) Farm Forest to (5R) Rural )  
Residential - 5 Acre, based upon a Determination )  
that the property is non-resource land and is not )  
subject to Agricultural and Forest Land Goals, )  
and a demonstration of consistency with the County's )  
5-Acre Designation, to allow development at the 5R )  
density on a 12.34 acre parcel located off Lockwood )  
Road, southwest of the Tenmile Rural Community. )  
The property is described as Tax Lots 2300 & 2400 )  
in Section 36D of T28S, R8W, W.M., Property I.D. )  
Nos. R52255, R52423 & R52549. )  
Planning Department File No. 07-132. )

**FINDINGS OF FACT  
AND ORDER**

**INTRODUCTION & PROCEDURAL FINDINGS**

1. This matter came before the Board of County Commissioners ("the Board") at a public hearing on October 24, 2007, in Room 216 of the Douglas County Courthouse, Roseburg, Oregon, pursuant to Section 6.900.2 of the Douglas County Land Use and Development Ordinance.
2. The matter originally came before the Douglas County Planning Commission on application filed by Christa Hansen. The Planning Commission hearing was held on July 19, 2007, at which time the Commission recommended approval of the application.
3. The Planning Commission memorialized its decision in a Findings and Decision document dated September 20, 2007. No appeals of that Decision were filed.
4. At the Board meeting on October 24, 2007, the public hearing on this matter was opened and parties were given an opportunity to speak on the record. The Board subsequently deliberated to affirm the Planning Commission decision at the October 24, 2007 public meeting.

**FINDINGS**

1. Upon considering evidence and exhibits entered as part of the Planning Commission record, including the written submittals from the applicant and parties, the written Staff Report and the Findings and Decision approved by the Planning Commission on September 20, 2007, and in consideration of evidence considered at the October 24, 2007 Board hearing, the Board finds that the applicable decision criteria, as established in the Staff Report dated July 12, 2007, have been adequately addressed by the applicant.

ORDER/Hansen  
October 24, 2007  
Page 2

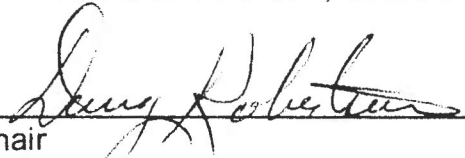
2. The Board finds that the relevant facts raised in this matter support the conclusions and decision reached by the Planning Commission in their Findings and Decision, dated September 20, 2007.
3. The Board adopts the Planning Commission Findings and Decision as its own.

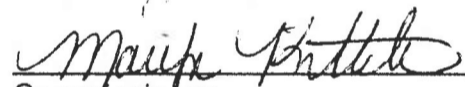
**ORDER**

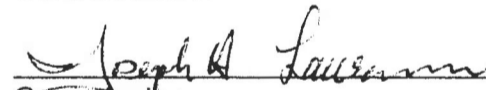
Based on the foregoing, it is hereby ordered by the Board of Commissioners that the Planning Commission decision is affirmed and the application is GRANTED.

DATED this 24<sup>th</sup> day of October, 2007.

BOARD OF COUNTY COMMISSIONERS  
OF DOUGLAS COUNTY, OREGON

  
Chair

  
Commissioner

  
Commissioner



**BEFORE THE DOUGLAS COUNTY PLANNING COMMISSION  
DOUGLAS COUNTY, OREGON**

In the matter of the application of Christa Hansen for a )  
Comprehensive Plan map amendment from (FFT) )  
Farm/Forest Transitional to (RR5) Rural Residential – 5 )  
Acres together with a concurrent Zone Change from )  
Farm Forest (FF) to Rural Residential – 5 Acre (5R), )  
based upon a determination that the property is non- )  
resource land and is not subject to the Statewide )  
Agricultural and Forest Lands Goals, together with a )  
determination of conformance with the County’s )  
acknowledged Goal 14 Exception for New 5 Acre )  
Designations on a 12.34 acre parcel located at the south )  
end of Lockwood Road in the Ten Mile/Reston area of )  
Douglas County, and described as Tax Lots 2300 & )  
2400 in Section 36D of T28S, R08, W. M., Douglas )  
County, Oregon. Property I.D. Nos. R52255, R52549 & )  
R52423; Planning Department File No. 07-132. )

**FINDINGS OF FACT  
AND DECISION**

**INTRODUCTION & PROCEDURAL FINDINGS**

This matter came before the Douglas County Planning Commission for public hearing on July 19, 2007, in Room 216 of the Douglas County Courthouse, Roseburg, Oregon. The purpose of the hearing was for the Planning Commission to receive testimony and other evidence related to the subject matter, and to render a decision in response to the applicant’s request. The applicant, Christa Hansen, was present at the public hearing and was represented by her land use consultant, Ron Schofield of Schofield & Associates.

The Planning Commission members who were present and participated in the hearing are David Jaques, David Leonard, Rick Barnes, Ed Stratton, James Mast and Rich Raynor. None of the Commission members present disclosed any ex parte contacts or potential conflicts of interest in the subject matter and all were found to be qualified to participate in the hearing.

No written statements in response to the applicant’s request were received by the Planning Department prior to the hearing and no other parties appeared during the hearing.

The written staff report issued on July 12, 2007, together with numerous exhibits, was presented to the

Planning Commission. The staff report describes the nature of the application, the applicable criteria to be applied to the request, and numerous proposed Findings of Fact. The written report and the exhibits entered into the record are on file with the Planning Department.

The Planning Commission takes official notice of the following:

1. The Douglas County Comprehensive Plan, including the implementing Douglas County Land Use and Development Ordinance (LUDO), adopted by the Douglas County Board of Commissioners December 31, 1980, effective April 1, 1981, and as subsequently amended and acknowledged by the Land Conservation and Development Commission.
2. The records of the Douglas County Planning Department concerning the publication and mailing of notice of the hearing.

#### **SUBSTANTIVE FINDINGS OF FACT**

1. This matter came before the Douglas County Planning Commission on application filed by Christa Hansen, 1070 Lockwood Road, Roseburg, Oregon, 97470, hereinafter referred to as the applicant. The applicant is also the owners of the property. The subject property is a 12.34 acre parcel located at the south end of Lockwood Road (County Road No. 250) about one-half mile northwest of the unincorporated rural community of Tenmile. The property is identified in the Douglas County Assessor's records as Tax Lots 2300 & 2400 in Section 36D, Township 28S, Range 08W, W. M; Assessor's I.D. Nos. R52255, R52423 and R52549.
2. Lockwood County Road ends just north of the northwest corner of the property. A paved private extension of Lockwood Road continues south about 270 feet to the northwest corner of the applicant's property, where it terminates in a paved turn-around or cul-de-sac, from which a short driveway serves the applicant's residence located at the north end of her property. Beyond the paved turn-around, Lockwood Road continues another one-quarter mile as a narrow gravel lane providing access to several other properties further to the south. Most of this southerly extension of the road lies within a narrow strip of land owned by the applicant (Tax Lot 2400), although it is not used by the applicant. This long and narrow tax lot, which contains 0.34 acres, is presently designated and zoned as Rural Residential – 5 Acres, while the 12 acre balance of the applicant's land is zoned Farm Forest.
3. The subject property is located in an area that is developed with numerous residential parcels containing non-resource related dwellings, including about thirty dwellings that are within a one-quarter mile radius of the applicant's parcel. The nearest dwelling is about 100 feet from



the parcel's north boundary, while another is about 200 feet from the applicant's northeast corner. Another dwelling is situated about 300 feet south of the southeast corner, and another about 300 feet to the east. Nine dwellings are located within the 5.22 acre Lockwood Mobile Home Park which adjoins the applicant's west boundary. A 20 acre parcel which also adjoins the applicant's west boundary was recently approved to be partitioned into three smaller residential parcels.

4. The applicant's property is situated in an area of the County that is composed of a variety of mixed uses, including small rural residential properties developed with single-family dwellings on parcels ranging in size from one-half acre to ten acres, together with larger parcels that are used to varying degrees for farm and forest use, including the raising of livestock and small woodlot management. The westerly boundary of the Tenmile-Porter Creek Rural Community lies about one mile to the east of the applicant's property. Most of the land within the nearby rural community is zoned for rural residential use at a two acre density, while much of the land lying between the rural community and the applicant's property is designated and zoned for rural residential use at a five acre density. Properties adjoining the applicant's north and west boundaries are all presently zoned Rural Residential – 5 Acres (5R). All together, there are about thirty residential parcels within one mile of the applicant's property along both sides of Lockwood Road from its intersection with Reston Road to the applicant's property that are all zoned Rural Residential – 5 Acres. As already noted, a 9-unit mobile home park (also zoned 5R) adjoins the applicant's west property line.
5. The applicant is requesting a Comprehensive Plan map amendment and zone change in order to allow her to partition the 12.34 acre property into two separate parcels of not less than five acres each. The northerly parcel will contain the applicant's existing residence, while the new southerly parcel will accommodate a new dwelling some time in the future. The property consists of a long narrow strip of land that occupies a gentle north-facing slope. From the north end of the parcel, where the applicant's dwelling is located, the parcel gains about 100 feet of elevation at the south end, about 1,700 feet away. The property consists of open unimproved pasture, with a few scattered conifers and hardwood trees. A small seasonal creek runs south to north through most the property's length. The applicant operates a small dog breeding and kennel business on the property adjacent to her house (Hansen Kennels). The property is not employed in farm use, nor is it receiving farm use assessment. The land is classified as "residential land" (Class 100 and 101) by the Douglas County Assessors Office.
6. The proposed Plan amendment and zone change is predicated on certain facts which demonstrate that the twelve acre property is not subject to the policies contained within Statewide Goals 3 and 4 because the land does not fall within the Goals' definitions of farm land and forest land due to the

types of soils and other limitations on the site which preclude farm and forest uses.

7. The Douglas County Land Use and Development Ordinance (LUDO) establishes three basic standards, or criteria, which must be addressed in any proposal to amend the Comprehensive Plan. The applicable criteria are listed under LUDO Section 6.500(2) as follows:

- a. *That the Amendment complies with the Statewide Planning Goals and applicable Administrative Rules (which include OAR 660-12, the Transportation Planning Rule) adopted by the Land Conservation and Development Commission pursuant to ORS 197.240 or as revised pursuant to ORS 197.245.*

- (1) *The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the County Transportation System Plan.*

- (a) *The applicant shall cite the identified Comprehensive Plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the County Transportation System Plan.*

- (b) *That the amendment provides a reasonable opportunity to satisfy a local need for a different land use. A demonstration of need for the change may be based upon special studies or other factual information.*

- (c) *That the particular property in question is suited to the proposed land use, and if an exception is involved, that the property in question is best suited for the use as compared to other available properties."*

In the course of addressing these three basic standards, or criteria, the Commission has adopted specific Findings of Fact and conclusions which demonstrate that the Comprehensive Plan Amendment and Zone Change conform to the local amendment criteria and do not conflict with any of the applicable statewide planning goals. Further, the Commission herein adopts findings demonstrating that the subject twelve acre property is not farm or forest land, as those terms are defined by the Statewide Agricultural Goal (Goal 3) and the Statewide Forest Lands Goal (Goal 4), and is therefore eligible for a non-resource land use designation and zoning classification. The Findings of Fact set out in the balance of this document are sufficient to allow the County to grant the Plan Amendment and Zone Change without necessitating an exception to any of the Statewide Planning Goals, including specifically Goals 3 and 4.



8. Douglas County has provided written notice of the requested Comprehensive Plan amendment, zone change and non-resource determination to property owners within 500 feet of the subject property not less than forty-five days prior to the scheduled date of the first public hearing, and has caused public notice of the applicant's request and the scheduled public hearing to be published in the local newspaper pursuant to the requirements of LUDO Section 2.065. Notice was also given to the Douglas Planning Advisory Committee, as well as to affected state and local agencies, and other individuals and organizations that are entitled to such notice. These various forms of individual and public notice assure that local citizens have an opportunity to become informed about, and participate in, the public hearing process. The Commission concludes that the Comprehensive Plan amendment, zone change and non-resource determination was processed in a manner that assures full compliance with Statewide Goal No. 1.
  
9. Douglas County has established policies and procedures which require a detailed evaluation of proposals to amend the Comprehensive Plan. Specific criteria and standards have been set forth against which the applicant's amendment request must be evaluated in the light of relevant Findings of Fact. The Commission's decision in this matter is based on the weight of the Findings of Fact articulated within this Findings & Decision document. Douglas County has established policies and procedures which require a detailed evaluation of any proposal to amend its Comprehensive Plan. Specific criteria and standards have been set forth against which the applicant's amendment request must be evaluated in the light of relevant Findings of Fact. The County's ultimate decision in this matter will be based on the weight of those relevant Findings. As was noted in the introduction section of this document, the proposed Plan Amendment and Zone Change involves the conversion of twelve acres of land from a farm and forest land use designation to a rural residential designation. Goal 2 requires that conversion of land from a resource use to a non-resource use, such as residential, follow the applicable criteria and procedures prescribed for goal exceptions as codified under OAR Chapter 660, Division 4. However, as noted above, the applicant presented evidence that is sufficient to demonstrate the subject site is neither farm land nor forest land as defined by the Statewide Agricultural Goal (Goal 3) and the Statewide Forest Lands Goal (Goal 4), as well as by the Douglas County Comprehensive Plan. Consequently, the Commission finds that the proposed Plan Amendment and Zone Change can be approved without an exception to Goals 3 and 4. The Comprehensive Plan Amendment and Zone Change have been evaluated in a manner that assures full compliance with the review and approval standards set out under Statewide Goal 2. The Commission concludes that the requested amendment is being evaluated in a manner that assures full compliance with Statewide Goal 2.

10. It is the policy of the State of Oregon to preserve and maintain agricultural lands by restricting the type of development that can occur on land designated for farm use. In Western Oregon, agricultural lands are defined as those of predominately Class I, II, III and IV soils. Goal 3 also applies to other lands which are suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes, as well as to lands of lower value which are considered necessary to permit farm practices to be undertaken on adjacent or nearby lands. The Planning Commission has set out Findings in this document which demonstrate that the subject twelve acre property is not farmland as defined under Goal 3 and OAR 660-033-0020(1)(a).
  - a. According to the official soils maps produced by the Natural Resources Conservation Service (NRCS), most of the northerly two-thirds of the applicant's property, along with other nearby properties, was not included in the published inventory of soils because the agency apparently was unable to obtain access to the area. Consequently, an area encompassing several properties at the south end of the Lockwood Road is designated with a DA (Denied Access) symbol on the official soil map. The southerly one-third of the parcel, together with a narrow strip along the west edge of the applicant's parcel was, however, mapped by NRCS, and the published soil map shows those portions of the property being composed entirely of soil in the "Windygap" series (NRCS No. 263E). Windygap soil is described by NRCS as clay soil that occurs on broad ridges and side slopes. It is a fairly deep, but well drained soil with moderate water-holding capacity. The soil has an agricultural capability rating of Class IV and a Forest Site Index of 88 for Douglas fir. Predominate uses of Windygap soils include woodlands, pastures and home sites.
  - b. As noted, most of the soils on the applicant's property were not mapped by NRCS and no official soil information is published by NRCS for the site. On the portion that was mapped, however, it appears it was included in a very broad and generalized map unit that encompasses a wide area with a great deal of topographic variability. For example, large portions of the southerly one-third of the property are mapped by NRCS as being composed of Windygap soil, which is supposed to be characterized as a moderately deep (60 inches) clay loam; yet much of that part of the applicant's land actually consists of both fractured and consolidated shale rock within two or three inches of the surface, or is otherwise covered by only an inch-thick layer of moss over exposed bedrock.
  - c. In view of the fact that the soil on as much as two-thirds of the property was never mapped by NRCS, and also recognizing there is a great discrepancy between the way NRCS characterizes the mapped portion and what is actually known about soil conditions



on the portion that was mapped, the applicant elected to have an independent soil survey conducted on her property by an ARCPACS-certified consulting soil scientist. In the fall of 2006, the applicant's soil consultant conducted a detailed Order I survey and prepared soil descriptions for the soils found throughout the entire property. A copy of the consultant's report was submitted to the record as part of the applicant's Plan amendment and zone change application.

- d. One of the principal findings from the Order I survey is that the soils on the property are far more complex than is suggested by the earlier Order III NRCS mapping. While the southerly one-third of the property was previously mapped by NRCS as consisting of only one soil type (Windygap) contained within one large contiguous polygon, Mr. Kitzrow's Order I survey revealed that there are at least three distinct soil types which he was able to differentiate between thirteen separate mapping polygons. Where the previously identified Windygap soil occurs on the property, the Order I survey shows that it is broken up into relatively small and isolated polygons that are surrounded by other more predominate soil types. Altogether, the Windygap soil series only occupies about one-third of the parcel, while most of the remaining two-thirds of the property was found to be composed of soils in the Atring-Larmino Complex (NRCS No. 10E) series. Since these latter two soils occur most predominately on the portion of the parcel that was not previously mapped by NRCS, it is not surprising that they are not depicted on the published NRCS soils map of the area. Furthermore, the high level of detailed mapping permitted by an Order I survey permitted Mr. Kitzrow to differentiate the two constituent components of the complex. Therefore, the distribution of the soils on the property, as depicted on the map accompanying Mr. Kitzrow's written report, reveals that while more than two-thirds of the 12.34 acres falls within the Atring-Larmino Complex, approximately 60% of the property actually consists of the Larmino series alone, with the Atring component representing a much smaller percentage. According to published NRCS data, both Atring and Larmino soils have an agricultural capability rating of Class VI, although where the Larmino soils occurs on more confined areas of steeper slopes on the applicant's land, it is categorized as a Class VII soil.
- e. According to the soil descriptions published by NRCS, the Larmino component of the 10E complex is a very shallow and "extremely gravelly" soil that is more gravel (fractured shale) than it is an actual soil. Consequently, it is also extremely dry, with a water-holding capacity of less than 1.5 inches. As previously noted, large portions of the applicant's property that appear on an aerial photograph to be open pasture, are actually areas of surface bedrock covered by a carpet of moss, with little or no actual soil being present. A detailed description of the soils occurring on the applicant's property is contained in the

soil expert's written report and other supporting documentation included with the application. On the basis of his survey and analysis of the soils on the subject property, the applicant's soil expert was able to conclude that, with the exception of the few isolated pockets of Farm Class IV Windygap soil, approximately two-thirds of the property consists of Class VI and Class VII nonfarm soils.

- f. As previously noted, Goal 3 also applies to other lands of lower value that may be suitable for farm use taking into consideration soil fertility, suitability for grazing, climatic conditions, existing and future availability of water for farm irrigation purposes. As described in Mr. Kitzrow's written report, with the exception of the isolated pockets of Windygap soils, most of the soils on the property are very shallow and for the most part consist of fractured shale with little actual soil, or in some areas, moss-covered rock with no soil at all. Natural soil fertility on the site is quite limited because it comes from a relatively small amount of naturally-occurring organic matter and biological activity in the shallow soils. This natural limitation is a direct consequence of the underlying geology, and the excessively dry and extremely rocky character of the site. Attempts to improve fertility via land management would likely prove counter-productive because cultivation or livestock grazing on the shallow soils that occur on the site would accelerate displacement of the very thin surface layer, thus promoting erosion and further degrading the already limited fertility of the soil. The large amount of extremely shallow or exposed surface rock further precludes the use of farm equipment necessary to modify the soil and improve its fertility, or to otherwise enhance the land's agricultural capability.
- g. The property has no source of water for farm irrigation. Even if water for irrigation were available, the extremely shallow soil layer over surface rock renders irrigation of the site impracticable. Very shallow soils of an extremely gravelly character, including significant areas of surface rock with no overlying soil, together with limited natural fertility and an inability to correct this condition through the application of agronomic inputs, including the lack of water for irrigation, are all major factors that make the property unsuitable for any kind of farm use. These factors are sufficient for the Planning Commission to conclude that the land does not fall within the Goal 3 definition of farm land.
- h. The applicant's property is situated in an area of mixed uses where the predominate surrounding land use pattern consists of relatively small residential parcels with nonresource dwellings. There are some two dozen existing dwellings within a one-quarter mile radius of the subject property, most of which are on parcels already zoned Rural Residential – 5 Acres (5R). In fact, properties adjoining portions of the applicant's north, west and east boundaries are presently zone 5R, including a nine-unit mobile home park that adjoins the west boundary. These



surrounding and nearby parcels range in size from about one-quarter acre up to fifteen acres, resulting in an overall average parcel size of about five acres, which is roughly the same development density that would be permitted as a consequence of the applicant's requested zone change on her 12.34 acre parcel. On the basis of the surrounding land use pattern, the Commission further concludes that the subject property cannot be used for farm or forest use in conjunction with other properties in the area, nor is the subject property needed in order to permit farm or forest uses on other adjacent or nearby properties.

- i. Although certain kinds of technology and energy inputs represent the potential for improving farm productivity on lands having soils that are conducive to cultivation techniques, such inputs cannot overcome significant natural factors such as steep slopes, high clay content, and lack of water for irrigation. The Planning Commission finds that the interaction of all of these features on the subject property limits its potential for farm use, including grazing and crop production. The Commission further finds that the individual and combined effects of existing site conditions are so severe that technology and energy inputs cannot overcome the limitations that exist on the site. These factors are sufficient for the Planning Commission to conclude that the land does not fall within the Goal 3 definition of farm land.

On the basis of the foregoing findings, the Planning Commission concludes that the subject property is not farmland as defined by Goal 3. Conversion of the site to a nonresource use will not conflict with the statewide policy of conserving farm land for farm use because the property is not farm land. An exception to Goal No. 3 is not a prerequisite to converting the subject site to a nonresource use via the proposed Plan Amendment and Zone Change.

11. The Statewide Forest Lands Goal is intended to conserve forest lands and protect the state's forest economy by making possible economically efficient forest practices. When a Plan Amendment involving forest land is proposed, Goal 4 defines forest lands as those lands which are suitable for commercial forest uses. Goal 4 also applies to adjacent or nearby lands which are necessary to permit forest operations, as well as to other forested lands that are necessary to maintain soil, air, water and fish and wildlife resources. It is the policy of the State of Oregon to preserve and maintain forest lands by restricting the types of uses can occur on land designated for forest use. Although the term "commercial forest uses" is not specifically defined in any of the Statewide Planning Goals, statute or administrative rules, the Douglas County Comprehensive Plan does set out criteria for determining whether a site is subject to the policies contained in the Statewide Forest Lands Goal. As set forth in the Comprehensive Plan, the single-most important determinate of a particular site's suitability for commercial forest use is the type of soil found on the site, together with its corresponding "cubic foot site class" or "tree height site index" numbers which represent the soil's tree-growing potential as expressed respectively by the average annual increase

in cubic foot volume of wood fiber per acre for fully stocked stands and by the average height, in feet, that dominate and codominate trees of a given species attain in a specified number of years. The Comprehensive Plan establishes a minimum site index threshold of 80 for the delineation of commercial tree-growing sites in Douglas County. The Plan also classifies commercial forest lands by their respective "cubic foot site class". In central Douglas County where the applicant's property is located, soils with a cubic foot site class of I through IV are defined by the Comprehensive Plan as prime forest land.

- a. As noted in the preceding discussion under Goal 3, more than two-thirds of the applicant's property consists of soil in the Atring-Larmino Complex series (NRCS No. 10E), although most of the soil actually falls within the Larmino component of the complex as depicted on the Order I soils map accompanying the report prepared by the applicant's consulting soil scientist.
- b. NRCS has published an inventory and description of the soils found throughout Douglas County (Soils Survey of Douglas County Area, Oregon) which is based on a county-wide survey completed by the US Soil Conservation Service (now NRCS) in 1993. The published inventory document contains various tables describing the physical and geographic characteristics of each soil type, including a table entitled "Forestland Productivity" (Table 8). The publication explains that the Forestland Productivity table includes productivity data for those soils that are known to support the growth of commercial tree species. The table includes such information as 50-year and 100-year site index, annual growth expressed in cubic feet of fiber per acre per year, and potential yield expressed in board feet per acre. Each of these sets of data is intended to express the productivity level and the relative suitability of each listed soil type for growing commercial tree species. For purposes of the NRCS forestland productivity table, the two predominate soils found on the applicant's property (Atring and Larmino) are listed as an undifferentiated complex. Consequently, the taxonomically-pure Larmino soils described in the Order I survey do not appear on Table 8 of the NRCS Soil Survey of Douglas County, thus indicating their general unsuitability for growing commercial tree species, including Douglas fir.
- c. The applicant's consulting soil scientist conducted a representative sampling of borings from a range of conifer trees growing on the property to determine growth rates and calculate an average "site index" for the site. On the basis of his field work as described in his supplemental written report which was entered into the record and incorporated here by reference, the property was determined to have an average site index for Douglas fir of 72. As previously noted, the Comprehensive Plan establishes a minimum site index threshold of 80 for the delineation of commercial tree-growing sites in Douglas County.



- d. On the basis of published NRCS productivity data, as correlated to the detailed soils descriptions contained in the Order I soil survey and report prepared for the applicants, and specifically taking into account the poor soils quality, low timber production capability and lack of economic viability from a commercial standpoint, the subject site cannot be considered as "forest land", either within the broader context of Statewide Goal 4, or by the specific criteria established in the Douglas County Comprehensive Plan for designating forest land.
- e. Goal 4 also applies to other forested lands that maintain soil, air, water and fish and wildlife resources. This part of the definition applies to lands that are "forested lands", and therefore does not apply to the subject property because it is not "forested lands". Further, the identified resources (soil, air, water and fish and wildlife resources) are not present on the subject property. The minimal tree cover on the site is not needed to maintain the quantity or quality of any water resources. There are no fishery resources on the property. Neither is there any apparent relationship between the minimal tree cover and air quality. The soil characteristics of the subject property have been described in detail in the attached soil report. The minimal existing tree cover is not necessary to maintain soil quality on the site. Wildlife resources appear to be uniform throughout the surrounding area in terms of the range of species and their occurrence, without differentiation between vacant and developed land. The circumstances do not suggest that the limited tree cover on the subject property is necessary to maintain the wildlife population.

Based on the foregoing findings, the Planning Commission finds that the subject property is not forest land as defined by either Statewide Goal 4 or the Douglas County Comprehensive Plan. The subject property is not commercial forestland, maintenance of the current resource zoning is not necessary to permit forest operations or practices to occur on other forest lands in the area, nor to maintain soil, air, water and fish and wildlife resources in the area. Consequently an exception to Goal No. 4 is not required as a prerequisite to converting the subject site to a nonresource use via the proposed Plan Amendment and Zone Change.

12. Statewide Goal 5 addresses a variety of resources not specifically covered in other goals and sets out a process requiring inventory and evaluation. Steps in the process require the level of significance of resources to be determined, and if an identified resource appears to be significant, further evaluation is required. Such evaluation may lead to alternative courses of action, including fully protecting the identified resource. The Planning Commission finds that all of Douglas County, including the subject twelve acre site, has previously been subjected to extensive surveys and analysis intended to inventory and evaluate Goal 5 resources. These inventories, which are incorporated into the Douglas County Comprehensive Plan, have

previously received acknowledgment of compliance with Statewide Goal 5. Based on the facts contained in the record, the Planning Commission finds that the subject property has not been included in any inventory of needed open space or scenic areas, nor has it been identified in the Comprehensive Plan as having any historic, cultural or significant natural resources which need to be preserved and/or protected. The subject property has not been included in any inventory of needed open space or scenic areas as defined by Goal 5, nor has it been identified in the Comprehensive Plan as having any historic, cultural or natural resources which need to be preserved and/or protected.

13. The Commission finds that Statewide Goal 6 requires that air, land and water resources of the State be maintained and improved by assuring that future development, in conjunction with existing development, does not violate applicable state and federal environmental quality standards, and does not exceed the carrying capacity of local air sheds, degrade land resources or threaten the availability of such resources. Any future land use activities on the property will be required to comply with all local, state and federal environmental regulations, thus assuring that the proposed Comprehensive Plan Amendment and Zone Change will not adversely impact the carrying capacity of local air sheds, degrade land and water resources or threaten the availability of such resources. Although the proposed rural residential land use designation on the property may result in at least some potential for environmental impacts if not properly monitored and regulated, both Douglas County and the State of Oregon have sufficient regulatory measures in place so as to ensure that subsequent development will not produce any unanticipated impacts. The proposed Plan Amendment and Zone Change have been evaluated in a manner that assures full compliance with Statewide Goal No. 6.
14. The subject property has not been identified in any inventory of areas which have the likely potential to be subjected to natural disasters and hazards. The elevation of the site puts it well above the flood plain and any danger of flooding. Any future development activity on the property will be required to comply with all applicable standards established under state and local development regulations, thus assuring compliance with Goal 7.
15. The Commission finds that there has been a legislative determination by Douglas County through its comprehensive planning process that the subject property is not needed for recreational facilities or opportunities. Identified recreational needs have been provided for on other sites in the surrounding urban and rural areas. The Commission concludes that the proposed amendment will not conflict with Statewide Goal No. 8.
16. The Statewide Economic Development Goal requires that local land use plans "provide for at least an adequate supply of sites of suitable sizes, types, locations, and service levels for a



variety of industrial and commercial uses consistent with plan policies". Goal 9 is intended to be applied on a County-wide basis and requires that future economic growth be accommodated, in part, by ensuring that there is sufficient suitable land planned and zoned for commercial and industrial uses. The Planning Commission finds that the subject Plan Amendment and Zone Change do not involve, or otherwise impact, the inventory of lands in Douglas County needed for economic development. The proposed Plan Amendment and Zone Change will not conflict with the Statewide Economic Development Goal.

17. The primary purpose of Goal 10, within the context of amending the Comprehensive Plan, is to ensure that sufficient buildable land is available to allow for the full range of housing needs within the County to avoid creating shortages of residential land which would artificially restrict market choices in housing type, price range or location. The Douglas County Comprehensive Plan requires that population growth be monitored and assessed for impacts on previous estimates of needed housing and the availability of sufficient land for residential use. As previously noted, the subject property is presently developed with one single-family dwelling. No existing housing will be displaced as a consequence of the proposed Plan Amendment and Zone Change. The proposed 5R zoning will, however, permit the property to be divided to create one additional residential home site containing not less than five acres. Based on the foregoing, the Commission finds that the proposed Plan Amendment and Zone Change will have some positive affect on the rural residential housing stock in Douglas County, but will not directly result in population growth or increase the demand for housing beyond previous projections, or otherwise result in a conflict with the purpose and requirements of Goal 10.
  18. Statewide Goal No. 11 concerns the public facilities and services aspects of amending the Comprehensive Plan designation on the subject property from resource use to residential use, and requires consideration of a system or plan that ensures the proper coordination of the types, locations and delivery of public facilities and services that best support existing and proposed land uses. The applicant's property is situated in a rural area where public facilities and services are relatively limited, compared with the broad ranges of services that are available in urban areas. There are no public sanitary sewers available to the property. However, the relatively low density of development permitted by the proposed rural residential designation and zoning on the subject property and other surrounding rural properties facilitates the use of individual subsurface septic systems subject to standards enacted by the Oregon Department of Environmental Quality. There is no public water service in the vicinity of the applicant's property; consequently, existing dwellings in the area are served by either private wells or on-site spring sources. The relatively low density of development permitted by the proposed 5R zoning is appropriate for single-family dwellings
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to be provided domestic water from on-site sources. Fire protection in the area is provided by Douglas County Fire District No. 4. The demand for other utilities and services, including electricity and communications, will be no greater than that resulting from the historic use of other adjoining and nearby properties.

On the basis of the foregoing facts, the Planning Commission finds that the subject property will be provided with an adequate level of public facilities and services, and that those facilities and services will be delivered in a timely, orderly and efficient manner consistent with the purpose of Statewide Goal No. 11. The Commission concludes that the proposed Plan Amendment and Zone Change will not adversely impact the present or future provision of public facilities and services in the surrounding area. This conclusion is based on consideration of the existing public service delivery systems and plans that are in effect within the surrounding area, and which are intended to ensure proper coordination of the types, locations and delivery of the public facilities and services necessary to support existing and proposed land uses in the area.

19. The Statewide Transportation Goal is intended to provide a safe, convenient and economic transportation system. Specific transportation-related policies and development standards are included within Douglas County's Comprehensive Plan and land use ordinances to assure that the intent of the statewide transportation goal is implemented through the application of both state and local policies and standards at the time of development. The intent of Goal 12 is also implemented by the State Transportation Planning Rule (OAR 660, Division 12). OAR 660-12-060(1) requires that "amendments to functional plans, acknowledged comprehensive plans, and land use regulations which significantly affect a transportation facility shall assure that allowed land uses are consistent with the identified function, capacity, and level of service of the facility."

In order to ensure that a proposed land use change complies with the requirements of the Transportation Planning Rule, Douglas County has adopted the following standard for Plan amendment applications.

*"(2) The applicant shall certify the proposed land use designations, densities or design standards are consistent with the function, capacity and performance standards for roads identified in the County Transportation System Plan.*

*(a) The applicant shall cite the identified Comprehensive Plan function, capacity and performance standard of the road used for direct access and provide findings that the proposed amendment will be consistent with the County Transportation System Plan."*

Access to the subject property is via an existing private drive that extends from the southerly terminus of Lockwood County Road (County Road No. 250). The functional classifications of



transportation facilities within Douglas County, including Lockwood Road, are identified in Table 13-1 of the Transportation Element of the Comprehensive Plan. County Road No. 250 is classified as a "Minor Collector". The Douglas County Transportation System Plan states that "*Minor collectors are intended to distribute local traffic onto other minor collector, major collector or arterial streets. Property access onto minor collectors is often allowed. . . . In rural areas, minor collectors also connect rural residential areas. Traffic volumes generally can range up to 5,000 vehicles per day.*"

The most recent published count of daily vehicle trips on Lockwood Road was conducted by the Douglas County Public Works Department in November of 2001. That count, which was taken at the road's intersection with Reston County Road about one mile east of the subject property, shows an average of 367 vehicle trips per day, which represents a little more than seven percent of the functional classification of the road (according to information provided by the Douglas County Public Works Department).

Estimates of the average number of daily vehicle trips generated by a specific land use can be obtained from a number of reliable sources; however, the most commonly referenced source for such data is Trip Generation, published by the Institute of Transportation Engineers (ITE). Average daily trip generation rates published in the ITE's 5<sup>th</sup> Edition of Trip Generation (1991) are based primarily on field data obtained from direct observation of actual land use activities. Trip generation rates are reported as an average of the often wide-ranging vehicle counts taken at numerous sites having the same classification of land use. Trip generation rates are often broken down into 24-hour time frames, and reported as "Average Daily Trips (ADT)". For most land use activities, including single-family rural dwellings, ITE defines an "average daily trip" as a one-way vehicular movement between a single origin and a single destination. For a single-family dwelling, trip generation rates are reported as a ratio of 9.5 vehicle trips per day per dwelling unit. Based on the maximum potential development density permitted by the requested rural residential zoning, the subject property will accommodate only one additional single-family dwelling over what is currently permitted on the site. The subject property can therefore be expected to generate less than 10 ADT, which represents less than one percent of the functional reserve capacity for Lockwood Road.

New developments generating fewer than 300 ADTs are generally considered to have no significant impact on local transportation facilities that serve the development site. Lockwood Road is designated as a Minor Collector road, which is constructed and maintained to a standard sufficient to handle higher volumes of traffic than currently exists (according to traffic count data provided by the Douglas County Public Works Department). Other public roads in the area are also adequate to accommodate both existing and potential future traffic volumes likely to be generated as a

consequence of the requested Plan Amendment and Zone Change. Due to the very low volume of additional traffic associated with the requested amendment, no special traffic controls or other mitigation measures will be required. The existing access point serving the property will be subject to review and approval by the Douglas County Public Works Department to ensure public safety. Access to the subject property is via an existing private drive that extends south from its intersection with Lockwood Road (County Road No. 250) at a point about one-half mile westerly of its intersection with Reston Road. As part of any future development of the subject property, the applicant will be required to improve the existing road and construct new roads to the standards prescribed by Douglas County for the number of parcels to be served by those roads.

On the basis of the foregoing facts, the Planning Commission finds that the proposed residential land use designation, when taking into consideration the densities or design standards prescribed for uses permitted in the requested 5R zone, is consistent with the function, capacity and performance standard established for Lockwood Road and other nearby transportation facilities by the Douglas County Transportation System Plan. Furthermore, the Douglas County Transportation System Plan has received acknowledgement of compliance with the Statewide Transportation Goal and the Transportation Planning Rule (OAR Chapter 660, Division 12) by the Land Conservation and Development Commission. Therefore, the Commission concludes that the facts set out above demonstrate that the land use change is consistent with both Goal 12 and the Transportation Planning Rule.

20. The statewide energy conservation goal is intended to be applied on both a county-wide basis through the adoption of local energy conservation goals contained within the Comprehensive Plan, and on a site specific basis through the implementation of those Plan policies via property development standards intended to require land and uses developed on land to be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principals. The site is free of any significant physical constraints that would otherwise require more energy to develop and use the property than would other property in the general area. Furthermore, specific energy conservation policies and development standards are included within the Douglas County Comprehensive Plan, as well as in the County's land use ordinances, to ensure that the statewide energy conservation goal is implemented on a site-specific basis at the time of property development. The proposed Plan amendment and zone change will not conflict with Statewide Goal No. 13.
21. Statewide Goal 14 requires local governments to establish urban growth boundaries that separate urban lands from rural lands. The Commission finds that the subject property is situated in a rural area well beyond the nearest urban growth boundary. The proposed Plan Amendment and Zone Change do not involve the conversion of rural land to urban use, nor does it change or otherwise



involve an established urban growth boundary. The requested five acre zoning has been acknowledged as permitting a rural level of development, consequently no urban development can result from the proposed land use change. The Commission concludes that the Plan Amendment and Zone Change do not conflict with Goal 14.

In 2003, Douglas County adopted a county-wide Goal 14 Exception which was acknowledged LCDC through the post-acknowledgement exception process, and subsequently affirmed by the Oregon Land Use Board of Appeals (Friends of Douglas County vs. Douglas County, Great American Properties, LUBA No. 2005045, September 8, 2005.) The acknowledged Goal 14 Exception is judicially noted and incorporated here by reference. On the basis of the following facts, the Planning Commission has determined that the proposed land use change conforms to the criteria set out in the County's Goal 14 Exception for New 5 Acre Designations.

- a. **Septic Suitability:** The subject property is in an area that was not mapped by NRCS when soils mapping was conducted for Douglas County. Consequently, the applicant retained the services of a private consulting soil scientist who conducted a detailed Order I survey of the property's soils. The Order I survey found that most of the property is composed of very shallow soil over decomposed shale. Portions of the property composed of these soils are presumed to be unsuited for septic drainfield use. However, the soil survey also identified several isolated pockets of much deeper soil that are of sufficient size and character to likely accommodate the one additional septic system that will be required for the one new dwelling site to be created as a consequence of the proposed Plan amendment and zone change. The relatively low density of development permitted by the proposed rural residential designation and zoning on the subject property and other surrounding rural properties facilitates the use of individual subsurface septic systems subject to standards established by the Oregon Department of Environmental Quality. Future septic systems will be installed in accordance with the provisions and standards of the DEQ thus assuring suitability to accommodate the one additional dwelling contemplated by the applicants proposed land use change.
  - b. **Water Availability:** There are several developed and undeveloped year-around spring sources of the property. Preliminary monitoring and testing of these sources suggest that there is adequate water to supply the domestic needs of the one additional dwelling contemplated by the applicant's proposed Plan amendment.
  - c. **Access:** Access to the property is from the southerly terminus of Lockwood Road (County Road No. 250). The applicant intends to create a private access easement through the northerly proposed parcel to serve the proposed southerly parcel. The functional classifications of transportation facilities within Douglas County, including Lockwood
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Road, are identified in the Transportation Element of the Comprehensive Plan for the county. Lockwood Road is classified as a "Minor Collector" which will be adequate to accommodate the one additional dwelling resulting from the proposed land use change.

- d. Energy: The subject property is located within one mile of an established rural residential area where its future development will promote the efficient energy-related use of existing and planned public facilities and services. The property is also within ten miles of the City of Winston and needed services including commercial, medical, gasoline and employment. The subject property is nearly surrounded by other properties that are already zoned to allow rural residential development or are otherwise developed with residential uses. The proposed land use change will not result in the introduction of a new kind of land use into the area, but instead will allow the efficient utilization of existing service infrastructure to promote efficient energy utilization.
- e. Effect on Agricultural or Forest Land: The subject property is located at the southerly terminus of Lockwood County Road in an area of mixed uses, including small rural residential properties developed with single-family dwellings on parcels ranging in size from one-quarter acre to forty-five acres, together with a few larger parcels that are used to varying degrees for farming and/or small-scale woodlots. The westerly boundary of the Porter Creek-Tenmile Rural Community lies about one mile to the east of the applicant's property. Most of the land within the nearby rural community is zoned for rural residential use at a two acre density. Properties adjoining the applicant's north and west boundaries are presently zoned Rural Residential – 5 Acres (5R). In fact, there are about thirty residential parcels within one-quarter mile of the applicant's property along both sides of Lockwood Road from its intersection with Reston Road to the applicant's property that are all presently zoned Rural Residential – 5 Acres. Also, a nine unit mobile home park (also zoned 5R) adjoins the applicant's west property line. A 20 acre parcel adjoining the applicant's southwest boundary was recently approved to be partitioned into three rural residential parcels via the Measure 37 Claim process. On the basis of the surrounding land use pattern, it can be concluded that the subject property will not result in the introduction of a new type of land use into the area, nor will it otherwise create a conflict with farm or forest uses in the area.
- f. Effect on Goal 5 Resources: The subject property has not been included in any inventory of needed open space or scenic areas, nor has it been identified in the Comprehensive Plan as having any historic, cultural or significant natural resources which need to be preserved and/or protected



- g. Fire Protection: The property is within Tenmile Rural Fire District.
- h. Slope and Other Hazards: All slopes on the subject property are less than 12 percent. The topographic characteristics of the property do not represent significant physical constraints to its intended use. There is no evidence of unstable soils or geology. Any future development activity on the property will be required to comply with all applicable standards established under state and local development regulations.
- i. Extension of Services: The subject property is situated in a rural area where public facilities and services are relatively limited, compared with the broad ranges of services that are available inside urban areas. There are no public sanitary sewers available to the property. However, the relatively low density of development permitted by the proposed rural residential designation and zoning on the subject property and other surrounding rural properties facilitates the use of individual subsurface septic systems subject to standards established by the Oregon Department of Environmental Quality. There is an existing on-site source of water to serve the proposed use of the property. Fire protection in the area is provided by Douglas County Fire District No. 4. The demand for other utilities and services, including electricity and communications, will be no greater than that resulting from the historic use of other adjoining and nearby rural residential properties.
- j. Environmental, economic, social and energy benefits:
- Environmental: Any future land use activities on the property will be required to comply with all local, state and federal environmental regulations, thus assuring that the proposed Comprehensive Plan Amendment and Zone Change will not adversely impact the carrying capacity of local air sheds, degrade land and water resources or threaten the availability of such resources.
- Economic: The proposed amendment will help to promote the goal of ensuring an adequate supply of sites of suitable sizes, types, locations, and service levels for a variety of residential uses consistent with Plan policies. The future division and associated residential development of the one new parcel to be created as a consequence to the proposed land use change will also provide jobs in the construction industry and associated services.
- Social: This proposed amendment to Rural Residential 5 Acre will provide for low density residential development in an open space environment in order to encourage the continued existence of rural family home life in Douglas County. The proposed amendment also provides transition from rural residential development to resource areas
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of the county.

Energy: The subject property is located immediately adjacent to an established rural residential area where its future development will promote the efficient energy-related use of existing and planned public facilities and services.

- k. Compatibility: There are about two dozen residential parcels within a quarter mile radius of the subject property. These surrounding and nearby parcels range in size from about one-quarter acre up to forty-five acres, although only the average parcel size is about five acres, which is roughly the same development density that would be permitted as a consequence of the applicants' requested zone change. Nearly all of these nearby properties are developed with single-family dwellings. In addition, the majority of these surrounding properties are presently zoned for residential use under the Rural Residential – 5 Acre zone, the same zone designation proposed by the applicant for her property. As previously noted, 5.22 acre property adjoining the applicant's west boundary is developed as a nine-unit mobile home park, resulting in a residential density on that one property of less than one and three-quarter acres per dwelling. The subject property is nearly surrounded by properties that are dedicated to rural residential uses, with a surrounding residential development density of less than five acres per dwelling unit. On the basis of the surrounding land use pattern, it can be concluded that the subject property will not conflict with farm or forest uses in the area.

22. LUDO Section 6.500(2) requires Comprehensive Plan amendment proposals to demonstrate that the requested land use change will provide a reasonable opportunity to satisfy a local need for a different land use. LUDO further provides that a demonstration of need for the change may be based upon special studies or other factual information. Addressing these criteria, the Planning Commission makes the following findings.

- a. The Planning Commission notes that it is the policy of the State of Oregon to preserve and maintain designated resource lands for farm and forest use. This policy is also articulated in the Douglas County Comprehensive Plan and is implemented with a variety of land regulations, which discourage or prohibit the establishment of additional nonresource-related development in rural areas of the county. At the same time, the Comprehensive Plan also recognizes that there is a public need to provide opportunities for nonresource-related residential uses in rural areas. Both statewide planning policy, and local planning regulations, establish standards and procedures which enable the County to strike a reasonable balance between the policy of preserving farm and forest land and the recognized need to provide opportunities for residential uses in rural areas.



- b. The Planning Commission has set out Findings of Fact in preceding sections of this document which demonstrate that the subject twelve acre site does not meet the definition of either farm land or forest land as those terms are defined in Statewide Goals 3 and 4 and the Douglas County Comprehensive Plan. The Commission's Findings, which are based on facts which justify excepting the applicant's property from the restrictions of the statewide agricultural and forest lands goals, are consistent with both statewide and local planning policy which recognizes that there is a public need to facilitate rural residential development in rural areas of Douglas County where resource related uses are not practicable. The adoption of findings which justify excepting the applicant's property from the restrictions of the statewide agricultural and forest lands goals is consistent with both statewide and local planning policy which recognizes that there is a public need to facilitate rural residential development in rural areas of Douglas County where resource related uses are not practicable.
  - c. The predominate use in the surrounding area is rural home sites on relatively small nonresource parcels. There are more than two dozen parcels within a quarter mile radius of the subject property. These surrounding and nearby residential parcels range in size from one-quarter acre up to ten acres, resulting in an overall average parcel size of about five acres, which is the same development density that would be permitted as a consequence of the applicant's requested zone change on her 12.34 acre property. Nearly all of these nearby properties are developed with single-family dwellings. On the basis of the surrounding land use pattern, it can be concluded that the request Plan amendment and zone change will be consistent with the County's policy which recognizes that there is a public need to facilitate rural residential development in rural areas of Douglas County where resource related uses are not practicable.
  - d. The Commission further finds that approval of the requested Plan Amendment and Zone Change on the subject property, as compared with other properties in rural areas, will mitigate future public need to convert other higher value resource land to non-resource use through the introduction of Rural Residential zoning and the subsequent increase in the amount of non-resource residential uses in resource areas. Based on the facts set forth in this document the Planning Commission concludes that conversion of the subject property to a rural residential designation will provide a reasonable opportunity to satisfy a local need for the requested and use and that the property is suited to the proposed.
23. In addition to the criteria to be addressed when proposing an amendment to the Comprehensive Plan, the Land Use and Development Ordinance (LUDO) also establishes criteria that must be considered when a change in zoning is proposed. The criteria for a zone change is found in LUDO at Section 3.38.100, and requires the Planning Commission to find that:
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- a. *The rezoning will conform with the applicable sections of the Comprehensive Plan;*
- b. *The site is suitable to the proposed zone; and,*
- c. *There has been a conscious consideration of the public health, safety and welfare in applying the specific zoning regulations.*

On the basis of the facts contained in the record, the Planning Commission finds that the requested change in zoning from FF to 5R on the subject property is predicated on a concurrent request to amend the Comprehensive Plan map designation from Farm Forest Transitional to Committed Residential – 5 Acres. If the Plan Amendment request is approved, the Zone Change will conform to the amended Comprehensive Plan map. Findings demonstrating that the requested change in zoning will conform to applicable policies found throughout the Comprehensive Plan are included in preceding sections of this document. The Planning Commission therefore concludes that the rezoning will conform to the applicable sections of the Comprehensive Plan.

Findings addressing the suitability of the subject site for the proposed zone and the intended use are set out in preceding sections of this document. Those earlier findings demonstrate that the subject property is well suited for the proposed 5R zoning with respect to the physical characteristics of the property, availability of necessary and appropriate public facilities and services, adequate access and accessibility to local transportation facilities, absence of potential hazards to the site from unstable geology, etc., and compatibility with adjacent and nearby land use activities. The Commission therefore concludes that the site is suitable for the requested 5R zoning and its intended use.

Specific findings addressing the public health, safety and welfare aspects of changing the zoning on the subject property are set out in preceding sections of this document. Those findings demonstrate that there is a sufficient level of public services and facilities available to the property; that the zone change will not adversely impact the carrying capacity of local air sheds, degrade land and water resources or threaten the availability of such resources; that the subject property has not been identified as having the potential to be subjected to natural disasters and hazards; that the subject property is not needed for public recreational facilities; that the zone change will not significantly impact the existing housing stock in the surrounding area, result in population growth or increase the demand for housing beyond previous projections; that the Zone Change will not adversely impact the present or future provision of public facilities and service in the surrounding area; that the full range of services appropriate for the type of land use activity contemplated is available and can be provided in a timely, orderly and efficient manner and that public roads in the area are adequate to accommodate the potential additional traffic resulting from the Zone Change.



On the basis of the foregoing findings, the Planning Commission ultimately concludes that the proposed amendment complies with the applicable statewide planning goals, that there is a public need for a change of the kind in question, and that such need will be best served by changing the Plan designation and zone on the subject property as compared with other available property.

### DECISION

The Planning Commission deliberated to a decision on July 19, 2007. Commissioner Raynor moved for approval of the proposed Comprehensive Plan amendment. Commissioner Mast seconded the motion. A vote was taken and the motion passed.

On the basis of the Findings of Fact enumerated herein, the applicant's request for a Comprehensive Plan map amendment from Farm Forest Transitional to Committed 5-Acres together with a concurrent Zone Change from Farm Forest (FF) to Rural Residential – 5 Acre (5R), based upon a determination that the property is non-resource land and is not subject to the Statewide Agricultural and Forest Lands Goals, together with a determination that the land use change is consistent with the County's Goal 14 Exception for New 5 Acre Designations, is hereby **APPROVED** subject to the condition that the applicant/property owner shall record with the Douglas County Clerk, a "Resource Management Covenant," waiving their rights, and the rights of any heirs, successors or assigns, to object to standard, legal resource management activities on adjacent and nearby lands, in accordance with LUDO §3.5 160.3.

Dated this 20<sup>th</sup> day of September, 2007.

DOUGLAS COUNTY PLANNING COMMISSION

  
Chair