



Oregon

Theodore R. Kubongoski, 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



NOTICE OF ADOPTED AMENDMENT

12/31/2008

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 007-08

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: Friday, January 16, 2009

This amendment was submitted to DLCD for review 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 THAT IT WAS MAILED TO DLCD. AS A RESULT, YOUR APPEAL DEADLINE MAY BE EARLIER THAN THE ABOVE DATE SPECIFIED.

Cc: Rafael Sebba, Lane County
Doug White, DLCD Community Services Specialist
Dave Perry, DLCD Regional Representative

<paa> YA/l

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

DEC 28 2008

LAND CONSERVATION AND DEVELOPMENT

DATE
STAMP

For DLCD Use Only

Jurisdiction: **Lane County**

Local file number: **PA 08-5485**

Date of Adoption:

Date Mailed:

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 5/27/2008

Comprehensive Plan Text Amendment

Comprehensive Plan Map Amendment

Land Use Regulation Amendment

Zoning Map Amendment

New Land Use Regulation

Other:

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

To amend the Rural Comprehensive Plan to redesignate 5 lots totaling 5 acres in size from "Commercial (C)" to "Residential (R)" and to change the zoning of those parcels from "Rural Commercial (RC)" to "Rural Residential (RR-5)".

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

Plan Map Changed from: **Commercial**

to: **Residential**

Zone Map Changed from: **Rural Commercial (RC)**

to: **Rural Residential (RR-5)**

Location: **Approx. 5 mi. north of Florence, east side of Hwy**

Acres Involved: **5**

Specify Density: Previous: **1 ac. ave. lots**

New: **1 ac. ave. lots**

Applicable statewide planning goals:

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19
<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

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 # 007-08 (16924)

DLCD file No. _____

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

DLCD

Local Contact: **Rafael Sebba**

Phone: **(541) 682-4620** Extension:

Address: **125 E. 8th Avenue**

Fax Number: **541-682-3947**

City: **Eugene**

Zip: **97401-**

E-mail Address: **Rafael.Sebba@co.lane.or.us**

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.

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1254

) IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE
) PLAN TO REDESIGNATE LAND FROM "COMMERCIAL" TO "RESIDENTIAL"
) AND REZONING THAT LAND FROM "RC/RURAL COMMERCIAL" TO
) "RR-5/RURAL RESIDENTIAL"; AND ADOPTING SAVINGS AND
) SEVERABILITY CLAUSES (file PA 07-5485: Oregon Land LLC)

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

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

WHEREAS, in April 2007, application no. PA 07-5485 was made for a minor amendment to redesignate tax lots 3900, 4000, 4100, 4200, and 4300 of map 17-12-15, from "Commercial" to "Residential" and concurrently rezone the property from "RC/Rural Commercial" to "RR-5/Rural Residential"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearing of July 15, 2008, and on August 5, 2008, recommended approval of the proposed plan designation amendment and rezoning; and

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

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

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

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lots 3900, 4000, 4100, 4200, and 4300 of Assessor's Map 17-12-15, also identified as lots 1-5 of Kamrin Court platted subdivision, from "Commercial" to "Residential", such territory depicted on Official Lane County Plan Map 1712 and further identified in Exhibit "A" attached and incorporated herein.

Section 2. Tax lots 3900, 4000, 4100, 4200, and 4300 of Assessor's Map 17-12-15, also identified as lots 1-5 of Kamrin Court platted subdivision, is rezoned from "RC/Rural Commercial" (Lane Code 16.291) to "RR-5/Rural Residential" (Lane Code 16.290), such territory depicted on Official Lane County Zoning Map 1712 and further identified in Exhibit "B" attached and incorporated herein.

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

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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

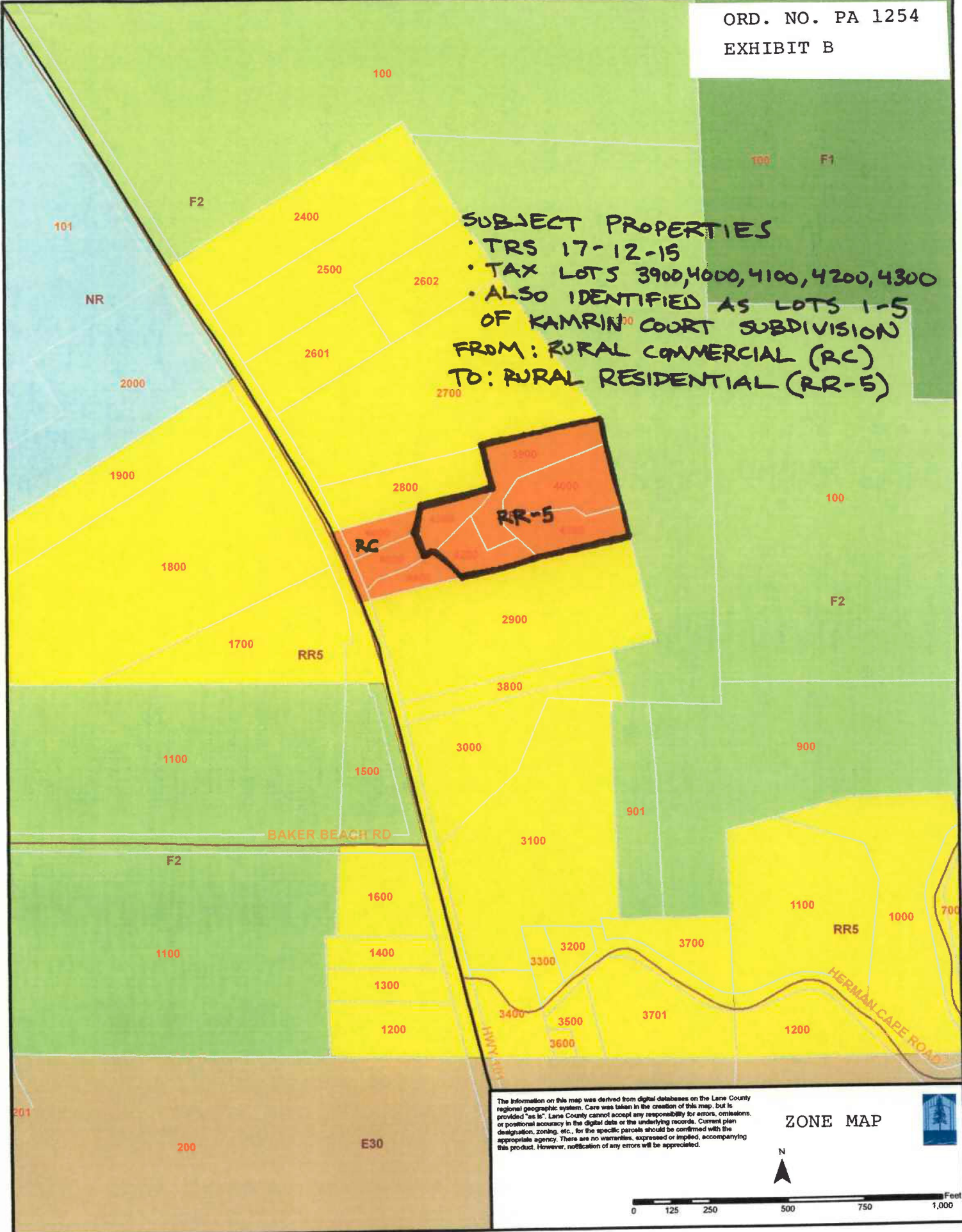
ENACTED this 17th day of December 2008.

APPROVED AS TO FORM	
Date <u>11/25/08</u>	Lane County
<u>[Signature]</u>	
OFFICE OF LEGAL COUNSEL	

[Signature]
Chair, Lane County Board of County Commissioners

[Signature]
Recording Secretary for this Meeting of the Board

SUBJECT PROPERTIES
• TRS 17-12-15
• TAX LOTS 3900, 4000, 4100, 4200, 4300
• ALSO IDENTIFIED AS LOTS 1-5
OF KAMRIN³⁰ COURT SUBDIVISION
FROM: RURAL COMMERCIAL (RC)
TO: RURAL RESIDENTIAL (RR-5)



The information on this map was derived from digital databases on the Lane County regional geographic system. Care was taken in the creation of this map, but is provided "as is". Lane County cannot accept any responsibility for errors, omissions, or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for the specific parcels should be confirmed with the appropriate agency. There are no warranties, expressed or implied, accompanying this product. However, notification of any errors will be appreciated.

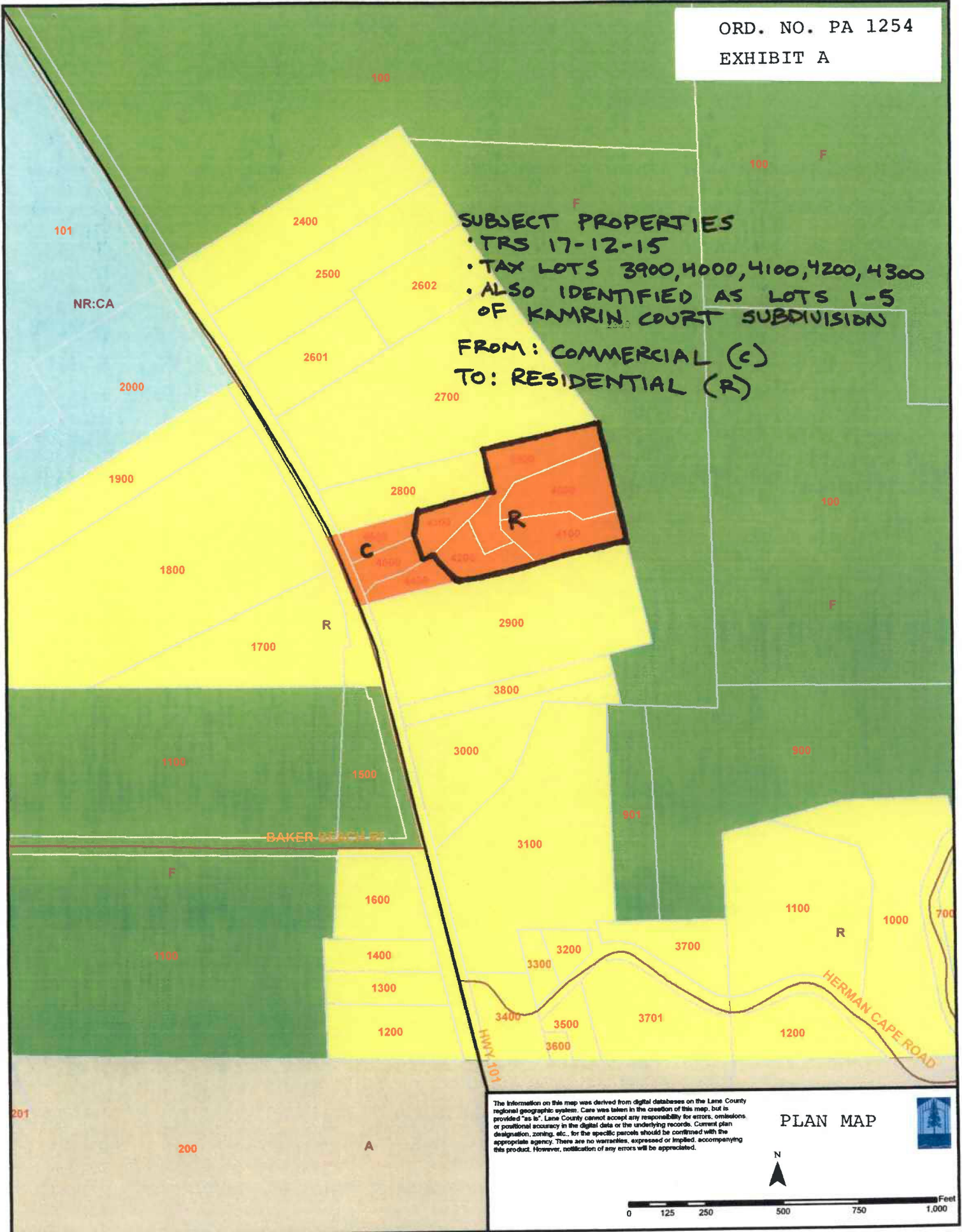
ZONE MAP



SUBJECT PROPERTIES

- TRS 17-12-15
- TAX LOTS 3900, 4000, 4100, 4200, 4300
- ALSO IDENTIFIED AS LOTS 1-5 OF KAMRIN COURT SUBDIVISION

FROM: COMMERCIAL (C)
TO: RESIDENTIAL (R)



The information on this map was derived from digital databases on the Lane County regional geographic system. Care was taken in the creation of this map, but is provided "as is". Lane County cannot accept any responsibility for errors, omissions or positional accuracy in the digital data or the underlying records. Current plan designation, zoning, etc., for the specific parcels should be confirmed with the appropriate agency. There are no warranties, expressed or implied, accompanying this product. However, notification of any errors will be appreciated.

PLAN MAP



**LANE COUNTY BOARD OF COMMISSIONERS
MINOR PLAN AMENDMENT AND ZONE CHANGE
F R O M
RURAL COMMERCIAL (RC, RCP)
TO
RURAL RESIDENTIAL (RR-5/RCP)
MAP 17-12-15-00-D001
TAX LOTS 3900, 4000, 4100, 4200 & 4300**

FINDINGS

Application Summary

This application, PA 07-5485, is made by Oregon Land L.L.C. 92601 Pioch Lane, Springfield, OR 97478 for approval of a minor Rural Comprehensive Plan Diagram Amendment from Rural Commercial to Rural Residential concurrent with a Zone Change Map Amendment from RC/RCP to RR-5/RCP for tax lots 3900, 4000, 4200 & 4300, map 17-12-15-00-D001.

Parties of Record

Land Planning Consultants
Oregon Land, L.L.C.

Application History

The Lane County Planning Commission held a public hearing on July 15, 2008, and voted to keep the record open through July 22, 2008 and to deliberate and make a decision at their next regular meeting on August 5, 2008. At their August 5, 2008 meeting the Commission voted 5 to 1 to recommend approval of the request to the Board of County Commissioners.

Statement of Criteria

OAR 660-04-018
Lane Code 16.400
Lane Code 16.252

GENERAL FINDINGS OF FACT

The Board of Lane County Commissioners adopts the following General Findings of Fact relating to this application:

1. The property subject to this application is identified as Tax Lots 3900, 4000, 4100, 4200 and 4300 on Assessor's Map No. 17-12-15-00-D001 (Lots 1, through 5 of Kamrin Court Subdivision, County Survey File No. 39668). The property lies on the East side of Hwy 101 and opposite of Lily Lake, on Surf View Lane, about 5 miles North of the City of Florence. The committed lands area where the property is located (Plot 007 Exception Area 1) is acknowledged by the Land Conservation and Development Commission.

2. On January 1, 1980 the Lane County Board of Commissioners enacted Ordinance No. 754 which zoned the subject property and other contiguous property as Rural Commercial, CA. At that time, the property was part of a larger ownership which included an operating grocery store on the front portion next to Hwy 101.

3. When acknowledged in 1988, the developed and committed exception area where this property is located contained 21 other parcels. 11 of those are less than 2 acres and 7 are less than 1 acre. (See exhibit 13 of application – D&C Exception Area 1, Plot 007) The subject property includes two lots with less than an acre and three with more than one acre. These lot sizes are compatible with the other residential parcels in the exception area where half (11) are less than two acres and a third (7) are less than one acre.

4. On February 29, 1984 the Lane County Board of Commissioners enacted Ordinance No PA 884 which adopted the Rural Comprehensive Plan, designated the subject property and other property in the same tract as Rural Commercial, and zoned it as Rural Commercial, CR. This designation and zoning was done consistently with RCP Goal 2 Policy "11.b." which provided, "A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities". As indicated, above, the primary reasons for the CR zoning of the subject property were to recognize the existing store on the front portion of the property and to apply CR zoning to the entire tract or contiguous property in the same ownership even though the property also included three residential structures.

5. On April 17, 2002, the Lane County Board of Commissioners enacted Ordinance No. PA 1173 which revised several RCP Goal Two policies and the Rural Commercial, CR zoning of rural properties located outside of communities. The zoning of the property was changed in name from Rural Commercial, CR, to Rural Commercial, RC. Lane County Official Zoning Map Plot 7, incorporated in Ordinance PA 1173, is correct and reflects the current RC zoning of the subject property.

6. The property consists of a total of 5 acres which includes five lots in the platted subdivision of Kamrin Court. All lots front Surf View Lane, a private easement road which intersects Hwy. 101 about 270 feet to the west, which is constructed with a gravel travel surface width of 20 feet. All lots are subject to a grant of easement and maintenance agreement for Surf View Lane. Lot 4 (TL 4200) has a 1974 Gibraltar manufactured dwelling on it. Lots 1-3 and 5 are vacant. Wells exist on Lots 1, 2 and 3.

7. Lot 4 contains a sewage disposal system that supports an existing mobile home. Lots 1, 2, 3 and 5 each have site inspections that approve a location and standards for installation of individual sewage disposal systems for those lots.
8. Lot one contains a 107 foot deep well that produces 100 gallons per minute, Lot 2 contains a 200 foot deep well that produces 40 gallons per minute and Lot 3 contains a 180 foot deep well that produces 40 gallons per minute. Adequate water is available in any of the wells to be shared with Lots 4 and 5, or new wells could be drilled on these lots.
9. The property has three soils types which are shown on the RLID soil map and are described in the RLID property statements as follows: 74B Lint silt loam 0 to 7 percent slopes, 74C Lint silt loam 7 to 12 percent slopes, and 3G Astoria variant silt loam 30 to 60 percent slopes. The predominant soil type is the 3G Astoria soil type with 30 to 60 percent slopes.
10. The property slopes upward in an easterly direction from Hwy 101. Vegetation consists of grasses, brush, and mixed conifers and hardwoods.
11. The property was originally part of a larger tract which contained a house, duplex and a general store that all fronted Hwy 101 and was zoned for commercial purposes. The portion of the original tract which had the general store, house and duplex (in Map 17-12-15-00-D001 Tax Lot 4400, 4500, 4600) is now in a different ownership. The property contains a mobile home and has never been used for commercial purposes but has been used for residential purposes.
12. A letter from the Department of Land Conservation and Development dated June 17, 2008 states that the proposal is reasonable and the Department found no conflicts with applicable requirements.
13. Available services are:
Schools: Siuslaw School District 97J, Lane ESD, Lane Community College
Fire: Siuslaw RFPD 1
Police: Lane County Sheriff and Oregon State Police
Sewer: On-site SDS
Water: On-site wells
Access: Surf View Lane
Power: Central Lincoln Peoples Utility District
Phone: US Qwest
Solid Waste: franchised haulers

I. LANE CODE 16.400 PLAN AMENDMENT CRITERIA

A. Planning Commission Review and Recommendation:

Pursuant to procedures set forth in Lane Code 16.400(6) (a) to (d), the Lane County Planning Commission has reviewed this application and has made a recommendation of approval of the request to the Board of Commissioners.

B. Plan Amendment Criteria at LC 16.400(6) (h) Method of Adoption and Amendment.

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

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

A minor amendment is one that amends only the Plan Diagram. A major amendment is any other Plan amendment. The change sought by this request is a minor amendment to the RCP designation for the Subject property from Rural Commercial to Rural Residential. The Board finds that this application provides substantial evidence that addresses the applicable requirements of Lane Code, RCP policies, and the Statewide Planning Goals. Specific findings are set forth below.

“(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”

RCP Goal Two, Policy 11(a), for residential designations, policy 11(b) requires, in part, *“A Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential designation.”*

For residential designations, Policy 11(a) requires, in part, *“A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:*

- i. existing development pattern and density;*
- ii. on-site sewage disposal suitability, or community sewerage;*
- iii. domestic water supply availability;*
- iv. access;*
- v. public services;*
- vi. lack of natural hazards; and*
- vii. effect on resource lands.”*

The subject property was once part of a tract which included a general goods store. A commercial designation and zoning was applied to the entire tract in 1980 and again in 1984, because of the existing commercial use on a portion of the tract. The commercial designation and zoning did not reflect the existing residential use of a portion of the tract and the fact that a large portion of the tract was not used for commercial purposes. It would have been more consistent with Goal 2 Policy 11(a) and (b) to have applied two designations to the subject property, commercial and residential, in order to reflect the two different, existing uses. However, the County

seldom applied a split zoning on a single ownership. Therefore, the Board finds this request to change the designation and zoning of the subject property from commercial to residential is “necessary to correct an identified error in the application of the Plan.” The subject property includes an existing residential use and is no longer part of the tract which included the developed commercial use. The requested residential designation and RR5 zoning is a reflection of the existing residential use on the subject property and of the residential designations and RR5 zoning of abutting properties to the North, Northwest and South of the subject property.

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

Not applicable.

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

Not applicable.

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

The Board finds that the plan amendment is necessary to recognize the existing rural residential use of the property. See discussion, above, under (i-i).

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

The Board finds that the proposed request is consistent with past and current planning practice. As noted above, the planning and zoning history of the subject property has been tied to the historic use of the grocery store located on the property, originally known as the “Alderwood Store” then later as “Wheel in Groceries”. Beginning with the 1980 subarea plan and zoning, the property was designated for commercial use in recognition of the existing store which was consistent with applicable policies for that portion of the property.

The portion of the property that is the subject of this application, however, was never used commercially and is now in separate ownership from the store building. Throughout this history, most of the adjacent and nearby property has remained designated for residential use. Approval of this application would not change the commercial zone and plan designation on the property fronting Highway 101 that contains the store building.

The Board finds that the proposed request will not adversely affect the commercial viability of the area. The commercial zone and plan designation will remain on the property that fronts Highway 101 and contains the original store building. The

property proposed for Residential designation and zoning contains a mobile home that is not related to commercial use, has steeper topography and is set back approximately 270 feet from Highway 101. In addition, current provisions in the Rural Residential zone allow home occupations within dwellings that would enable limited commercial activities that would be consistent with the property's location.

Based on these factors, the inventory of lands available for commercial uses in this area will not change. This area with highway frontage and containing the store building will continue to be zoned Commercial. The subject property is not well suited to standard commercial uses because of topography, its existing residential use and lack of highway frontage.

For all of the above reasons, and because most of the surrounding properties are zoned for residential use, the Board finds that it is appropriate to re-designate the subject parcels to residential use.

“(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.”

The Board finds this plan amendment application is supported by the following RCP policies. No policies have been identified that conflict with this request.

Goal 2, Policy 11(a) states:

“A Rural Residential designation shall be applied to developed and committed exception areas which are devoted to rural housing uses as evaluated by the following criteria:”

“i. existing development pattern and density”

The subject property is adjacent to Rural Residential, RR5 zoned properties to the North, South and West across Highway 101. The area of the existing development pattern and density which includes the subject property is developed and committed exception area Plot 007, Exception #1. A copy of the “Supplemental Findings in Support of Ordinance No. PA 884” which Lane County adopted in 1988 and 1989 was included with this application. According to these findings, the development pattern of Plot 7, Exception area 1 is described as follows:

“The acreage of the exception area is 83.42 acres. The exception area contains 22 parcels with an average parcel size of 3.79 acres and containing 22 residences. The development is clustered in a large group.”

Since the adoption of the above information, in 1988 and 1989, the tract which included the subject property was subdivided into 8 lots by Kamrin Court subdivision. This lowers the average parcel size in the exception area from 3.79 acres to 2.87 acres. The RR5 zoning of the subject property will not allow any divisions of the subject property and will therefore maintain the existing parcel size of the exception area.

The Board finds that commercial use is normally considered to be a more intensive use of property than residential use. Therefore, a change in the zoning from commercial to residential will decrease the potential intensity of use on the site and will more accurately reflect the surrounding land uses which are predominantly residential.

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

The subject property includes 5 platted subdivision lots which each have from Lane County an approved sewage disposal site evaluation or existing septic tank: Lot 1 – S.I.#04910, Lot 2 – S.I.#049116, Lot 3 –S.I.#049117, Lot 4 – has an existing septic system with the Gibraltar mobile home, Lot 5 – S.I.#049118. Copies of the approved site investigation reports, mentioned above, are included with this application. The Board finds that adequate sewage disposal is therefore available.

“iii. domestic water supply availability”

Each of the five platted lots in the subject property will have use of water from an existing well. Lot 1 has an existing well on it which according to State of Oregon water supply well report L71543 produces 100 gallons per minute. Lot 2 has an existing well on it which according to State of Oregon water supply well report L71542 produces 40 gallons per minute. Lot 3 has an existing well on it which according to State of Oregon water supply well report L71541 produces 40 gallons per minute. Copies of these well reports are included with this application. The subject property is not located within a water quantity or quality limited area as identified by Lane Code 13.010. The Board finds that an adequate domestic water supply is therefore available.

“iv. access”

All lots front Surf View Lane, a County approved private easement road which intersects Hwy. 101 about 270 feet to the west, and which is constructed with a gravel travel surface width of 20 feet. All lots are subject to a grant of easement and maintenance agreement for Surf View Lane.

The Board finds that according to Table 1 – Generation by Use on Page 13, the traffic volumes associated with residential use will be less than if the property were to be developed with commercial uses as allowed under the current Commercial zoning.

“v. public services”

The subject property is accessed to Hwy 101 via Surf View Lane and has access to the full range of public services specified for developed and committed areas in RCP Goal 11: Public Facilities and Services, Policy 6.f. Each of the subject lots has an approved individual septic site as well as an existing or available source of water supply. The Board finds that adequate public services exist to support residential use.

“vi. lack of natural hazards”

The subject property does not include areas located within a designated flood hazard area. Each of the 5 lots fronts an existing, constructed road and has adequate area for the installation of a septic system, well and construction of a dwelling. The Board finds that there are no known hazards at the site.

“vii. effect on resource lands.”

The subject property lies within developed and committed area 1 of Plot 007. There is resource land adjacent to the subject property on the East side which is designated as forest land and zoned F-2. The Board finds that because the use will change from commercial to residential, the proposed change would have no foreseeable adverse effect on the adjacent F2 zoned property. Streams are located near the North and South property boundaries that are not identified as Class I streams.

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

The Board finds that this amendment is consistent with the RCP policies that provide for designating lands for residential use and approval of this amendment is consistent with unamended portions or elements of the Plan.

C. Lane Code 16.400(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:

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.”

This application requests a plan amendment and zone change within developed and committed exception area 1 of Plot 007. It only affects the Plan Diagram for the subject property. No text change to the RCP is proposed. No exception from the Statewide Planning Goals is required, because, this exception area is already an acknowledged exception area. The Board finds that this amendment is limited to the Plan Diagram and is, therefore, a minor amendment.

“(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.”

The Board finds that the required description is provided in the prior portions of these findings. The proposed use of the property is for rural residential purposes consistent with the density and other standards of Lane Code Chapters 13 and 16. The Plan amendment will change the Plan Designation from Rural Commercial to Rural Residential.

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

The Board finds that the required analysis is provided by previous findings.

“(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;”

The subject property is adjacent to Rural Residential, RR5 zoned properties to the north and south as well as to the west, directly across Highway 101. The area of the existing development pattern and density which includes the subject property is developed and committed exception area Plot 007, Exception #1. The discussion regarding the existing development pattern and density of the area is located on page 6 of these findings.

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

The Board finds that the Subject property is served by all of the basic facilities and services described in RCP Goal 11, Policy 6. f. for rural residential land. These include schools, on-site sewage disposal, electrical service, telephone service, rural level fire and police protection and reasonable access to solid waste disposal services.

“(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;”

The Subject property lies within developed and committed area 1 of Plot 007. There is resource land adjacent to the subject property on the East side which is designated as forest land and zoned F-2. The Board finds that because the use will change from commercial to residential, the proposed change would have no foreseeable adverse effect on the adjacent F2 zoned property. The subject property is not adjacent to or near any identified Goal 5 resource.

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

The Board finds that the subject property does not include areas located within a flood zone or other designated hazard area.

“(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;”

The Board finds that this standard does not apply because the proposed amendment is for a residential designation.

“(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;”

The Board finds that this standard does not apply because the proposed amendment is for a residential designation.

II. FINDINGS AND CONCLUSIONS RELATING TO THE STATEWIDE PLANNING GOALS

The Oregon Land Conservation and Development Commission Goals and Guidelines are incorporated herein by reference, except as noted. The following applicable statewide goal statements have been summarized.

Goal 1 - Citizen Involvement:

Goal 1 requires that citizens and affected public agencies be provided an opportunity to comment on the proposed amendment and zone change. Public notification in the form of mailed public notice has been sent by Lane County to affected agencies, including the Department of Land Conservation and Development and owners of record within 250 feet of the site. No public testimony was provided in writing or at the public hearing held by the Planning Commission. The Board finds that this application provided adequate opportunity for citizen involvement.

Goal 2 - Land Use Planning:

Goal 2 establishes a land use planning process and policy framework as a basis for all land use decisions, and requires development of an adequate factual base to support these decisions. A minor change is one that does not have significant effects beyond the immediate area of change, and is based on special studies or information. The justification for the specific change must be established by substantial evidence in support of the conclusion that the criteria have been met.

Lane County has adopted a comprehensive land use plan amendment process with specific standards that must be addressed to justify a minor change. Substantial

compliance with the plan amendment criteria in LC 16.400 constitutes compliance with the applicable provisions. The Board finds that this application provides substantial evidence upon which the Planning Commission gave its recommendation for approval and the Board concludes that the criteria have been met.

Goal 3 - Agricultural Lands:

Goal 3 strives to preserve and maintain agricultural lands. The subject property is part of developed and committed exception area 1 of Plot 007. The Board finds that it is in an approved exception area and is no longer available for resource use.

Goal 4 - Forest Lands:

Goal 4 requires the preservation and conservation of forest land for forest uses. The subject property is part of developed and committed exception area 1 of Plot 007. The Board finds that it is in an approved exception area and is no longer available for resource use.

Goal 5 - Open spaces, Scenic and Historic Areas and Natural Resources:

Goal 5 requires the conservation of open space and protection of natural and scenic resources that include cultural, historic, and scenic and wilderness area characteristics. The goal, as amended by OAR 660-23-000, contains policies and procedures for a variety of resources listed in Goal 5. This administrative rule requires evaluation of these resources. OAR 660-23-10 and -20 include definitions, standards and specific rules applicable to each Goal 5 resource.

Of the Goal 5 resources currently inventoried as part of the RCP, the Board finds that none of those are present on the subject property.

The subject property is located within an acknowledged "developed or committed" exception area. According to RCP Goal 5, Flora and Fauna Policy 10, such areas are treated as "Impacted Big Game Range." Neither the RCP nor Lane Code contains any special requirements for wildlife protection within exception areas. The Board finds that neither the subject property nor the adjacent lands are inventoried by Lane County as part of a critical quantity or quality groundwater area pursuant to Lane Manual 13.010 and groundwater supplies are adequate to serve the intended residential uses.

Goal 6 - Air, Water and Land Resource Quality:

Goal 6 is intended to maintain and improve the quality of the air, water and land resources of the State. As it pertains to site-specific development, it requires that adequate protection measures be taken to assure the retention of air, water and land quality. Generally this means that development will be subject to the air and groundwater regulations promulgated by the State Department of Environmental

Quality as administered by the Lane County Environmental Health Department and the Lane Regional Air Pollution Authority. The Board finds that redesignation from Commercial to Residential will not impact air, water or land resource quality.

Goal 7 - Areas Subject to Natural disasters or Hazards:

Goal 7 is intended to protect life and property from natural hazards. The Board finds that there are no identified potential hazards on the Subject property.

Goal 8 - Recreational Needs:

This goal addresses the recreational needs of the State including visitors. The Board finds that it is likely that the subject property will be developed with full-time or seasonal residences that are related to the scenic and recreational characteristics of the site.

Goal 9 - Economy of the State:

Goal 9's purpose is to diversify and improve Oregon's economy. This goal is primarily applicable to commercial and industrial development. Approval of this application will change the designation of the subject property from Rural Commercial to Rural Residential. The portion of the original tract historically used for commercial purposes will retain its Rural Commercial designation. Also, there is an inventory of commercial zoned property in the Florence UGB, situated to the South. The Board finds that approval of this request will not impact the economy in a negative manner.

Goal 10 - Housing:

Goal 10 is intended to provide for the housing needs of Oregon's citizens. The Board finds that this plan amendment and zone change request will facilitate the placement of housing on the site, which is otherwise not appropriate for commercial use.

Goal 11 - Public Facilities and Services:

The purpose of Goal 11 is to provide for the planning and development of public facilities and services in a timely, orderly and efficient manner in order to support rural and urban development.

The Board finds that the subject property has access to the full range of public services specified for rural residences in RCP Goal 11: Public Facilities and Services, Policy 6. f. and that no additional public facilities and services will be required beyond the present level.

Goal 12 - Transportation:

Goal 12 is intended to provide and encourage a safe, convenient and economical

transportation system. This goal does not address specific land use actions, such as this proposal, but is implemented at the comprehensive planning stage on an area-wide basis. The Goal 12 administrative rules identify an additional aspect that comes into play if an amendment to an acknowledged comprehensive plan "significantly affects" a transportation facility. (OAR 660-012-0060) A transportation facility is any physical facility that moves or assists in the movement of people or goods. (OAR 660-012-0005[24]) The relevant transportation facility for this application is Hwy 101 to the west. The Board finds that this amendment will not have a significant effect on the transportation system as demonstrated by the following responses to the criteria set forth in the administrative rule at OAR 660-012-0060(2)(a-d):

"(2) A plan . . . amendment significantly affects a transportation facility if it:

- (a) Changes the functional classification of an existing or planned transportation facility;*
- (b) Changes standards implementing a functional classification system;*
- (c) Allows types or levels of land uses which would result in levels of travel or access which are inconsistent with the functional classification of a transportation facility; or*
- (d) Would reduce the performance standards of the facility below the minimum acceptable level identified in the TSP."*

In response to (2)(a) and (b), no changes in either the functional classification of the street system or the standards implementing the functional classification system are proposed by this application. In response to (2)(c) and (d), this change will replace the current commercial land use designation with one that allows only residential use. A comparison of trip generation factors as described in the trip generation manuals produced by the Institute of Transportation Engineers indicates that the residential designation will have far less traffic impact than the commercial uses currently allowed. See Table 1, below, which compares typical residential trip generation with uses allowed under the current zoning. The data demonstrates that there would be a decrease in the levels of potential travel or access, and the performance standards of the facility would not be altered.

Table 1 – Trip Generation by Use

Use	Average Daily Trips	Peak	
		AM	PM
Rural Residential	10*		
Clinic/Medical Office	31.45	3.6	5.8
Video Rental	31.54		
Sit-down	89.95	9.27	10.86

Restaurant			
Bank	156.48	4.07	33.15
Convenience Store with Service Station	162.778**	10.64**	13.19**
Min-mart	737.99	65.39	53.73

* Trips per dwelling

**Trips per pump

Source: Institute of Transportation Engineers, Trip Generation, 6th edition (1997)

Based on evidence that the proposed amendment will not significantly affect a transportation facility and that no further Goal 12 consideration is required, the Board finds that the amendment will not significantly affect a transportation facility.

Goal 13 - Energy Conservation:

This goal requires that land uses maximize conservation of all forms of energy based on sound economic principles. It is implemented by local plans and regulations that control location, orientation and density of development to minimize net energy consumption. Any development on the subject property will be subject to those rules. The Board finds that this amendment will have no negative impact upon energy conservation.

Goal 14 - Urbanization:

The purpose of Goal 14 is to provide for the orderly and efficient transition from rural to urban land use. Exception area 1 of Plot 007 has been designated and acknowledged as a rural residential area through the comprehensive planning process. As such, the Board finds that it is an appropriate location for the type of development proposed by this request.

Goals 15-19 - (Willamette Greenway and Coastal Resources):

The Board finds that Goals 15 -19 are not applicable to this plan amendment and zone change request because they are geographically oriented to specific areas not located on the site. Lane County Official Coastal Zones Plot 007 does not display any coastal overlay zoning for the Subject property.

III. FINDINGS AND CONCLUSIONS RELATING TO OAR 660-04-018

“The proposed amendment will facilitate only rural uses, densities and public facilities and services that maintain the land as rural.”

Lane County Rural Comprehensive Plan (RCP) Policy 11, Goal 2 states that “a Rural Commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural Residential

designation”.

Therefore, the Board finds that the Rural Residential designation is qualified within the developed and committed exception area under the same standards as the Rural Commercial designation.

RCP Goal 11, Policy 6f establishes the service levels required for the Rural Residential designation and are; schools, on-site sewage disposal, electric service, rural level fire and police protection and reasonable access to solid waste disposal services.

As described in Finding 13 of this document, all of these services exist to serve the property. Each of the five existing parcels has an existing sewage disposal system (Lot 4) or has a site inspection approval from Lane County to install a system (Lots 1, 2, 3, & 5). There are three on-site wells capable of providing adequate potable water; two with yields of 40 gallons per minute and one at 100 gallons per minute.

The Board therefore finds that the facilities and services existing at the property are appropriate for rural residential use consistent with RCP Policies and no urban levels of services are needed for that use.

“The change would authorize rural uses, densities, and public facilities and services that are compatible with, and do not otherwise commit adjacent or nearby resource land to non-resource uses.”

The “change” is from a Rural Commercial designation to a Rural Residential designation within a defined exception area acknowledged by LCDC. At the time of acknowledgement there were 21 residential parcels in addition to the subject commercial parcel. 11 of those were less than 2 acres and 7 were less than 1 acre. The change to a Residential designation will not convert resource lands to non-resource uses because the property is already planned and zoned for non-resource use. Strict residential use of the property is obviously less intensive than uses that could occur under a commercial designation. The Board finds that the change to Rural Residential is therefore compatible with the Impacted Forest Lands zoned property to the East and will not commit that land to non-resource uses. All other adjacent lands are already designated as residential, a non-forest use.

The Board adopts the following specific findings for this application.

1. The proposed amendment essentially allows continuation of existing types of development in the exception area.
2. The proposed amendment will facilitate only rural uses, densities, and public facilities and services that maintain the land as rural.
3. The change would authorized rural uses, densities, and public facilities and services that are compatible with, and do not otherwise commit adjacent or nearby resource land to non-resource uses.

IV. FINDINGS AND CONCLUSIONS RELATING TO LANE CODE 16.252 ZONE CHANGE CRITERIA

Lane Code 16.252 provides:

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

Consistency with the General Purpose of LC Chapter 16 and not Contrary to the Public Interest’

For the reasons mentioned below, the Board finds that this application is consistent with the general purposes of LC Chapter 16 as set forth below from LC 16.003.

- 1) In conformity with various development rules discussed above, the property will be developed commensurate with the character and physical limitations of the land and will thus promote the public health, safety and general welfare of the area.
- 2) It will provide home construction opportunities that will aid the economy.
- 3) It will conserve farm and forest lands by locating residential opportunities within a designated developed and committed exception area.
- 4) It will aid the provision of affordable housing that allows reasonable selection for a place to live.
- 5) By its location within an acknowledged developed and committed area, it will not affect or inhibit the orderly and efficient transition from rural to urban lands use and the efficient provision of public facilities and services.
- 6) By the use of Surf View Lane, (a private road intersecting Highway 101) and by eliminating the opportunity for traffic-intensive commercial land uses, it will maintain the safety of the transportation system.
- 7) By virtue of regulations discussed above, it will protect the quality of the land, air and water of the county and will protect life and property in areas subject to flooding.

- 8) Because it provides a potential for recreation homes, it may meet an incremental part of the recreational needs of the County.
- 9) Because it is consistent with the policies of the RCP and Statewide Planning Goals, it is not contrary to the public interest.

“Consistency with the Purposes of the Rural Residential Zoning District”

For the reasons mentioned below, the Board finds that this application is consistent with the general purposes of LC Chapter 16.

- 1) It provides opportunities for people to live in a rural area;
- 2) It will allow any of the uses permitted in the Rural Residential zoning district; and,
- 3) It is consistent with the intent of the RCP to guide development onto lands committed to non-resource use.

“Consistency with Statewide Planning Goals for Unacknowledged Portions of Lane County.”

Because there are no unacknowledged portions of Lane County, the Board finds that this criterion is not applicable.

CONCLUSION:

Based on the substantial evidence presented above, the Board finds that the subject applications for plan amendment and zone change meet and satisfy all of the relevant criteria.

LIST OF ATTACHED EXHIBITS:

1. Original applicant’s application with Exhibits
2. July 8, 2008 staff report
3. June 17, 2008 letter from the Oregon Department of Land Conservation and Development
4. Applicant’s July 22, 2008 supplemental submittal

WORKS DEPARTMENT
MANAGEMENT DIVISION
188TH AVENUE
SALEM, OREGON 97401

SHUTTLE
TO
SALEM

DEPT LAND CONSERVATION & DEV
ATTN: PLAN AMENDMENT SPECIALIST
635 CAPITOL STREET NE, SUITE 150
SALEM OR 97301-2540