



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



NOTICE OF ADOPTED AMENDMENT

02/20/2009

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

FROM: Mara Ulloa, Plan Amendment Program Specialist

SUBJECT: Tillamook County Plan Amendment
DLCD File Number 005-08

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: Thursday, March 05, 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: Valerie Soilihi, Tillamook County
Doug White, DLCD Community Services Specialist
Laren Woolley, DLCD Regional Representative

<paa> YA

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



Jurisdiction: **Tillamook County**

Local file number: **OA-08-02**

Date of Adoption: **2/11/2009**

Date Mailed: **2/12/2009**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: 7/10/2008

☒ 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".

Approval of an exception to Goal 4 for the purpose of identifying a corridor for construction of a primary access road to serve a 53-acre tract of land located within the Pacific City/Woods Unincorporated Community Growth Boundary.

Does the Adoption differ from proposal? Please select one

No, no explanation is necessary.

Plan Map Changed from:

to:

Zone Map Changed from:

to:

Location: **Pacific City**

Acres Involved: **7**

Specify Density: Previous:

New:

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 # 005-08 (17008)

DLCD file No. _____

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

Oregon Department of Forestry, DLCD

Local Contact: Valerie Soilihi

Address: 201 Laurel Avenue

City: Tillamook

Zip: 97141-

Phone: (503) 842-3408 Extension: 3375

Fax Number: 503-842-1819

E-mail Address: vsoilihi@co.tillamook.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 COMMISSIONERS

OF TILLAMOOK COUNTY, OREGON

In the matter of a request by Aspen Pacific City, LLC to amend the Tillamook County Comprehensive Plan Ordinance No. 32, adopting an Exception to Goal 4, Forest Lands, for the purpose of identifying a corridor for construction of a primary access road to serve a 53-acre tract of land located within the Pacific City/Woods Unincorporated Community Growth Boundary.

OA - 08-02

FINDINGS & DECISION

**AMENDING
COMPREHENSIVE PLAN
ORDINANCE NO. 32**

This matter came before the Tillamook County Board of Commissioners at the request of the applicant, Aspen Pacific City, LLC.

The Board of Commissioners being fully apprised of the representations of the above-named applicant, records, reports and files in this matter finds as follows:

- (1) The files and reports in this proceeding can be found in the office of the Department of Community Development under Ordinance Amendment OA-08-02.
- (2) Notice of the proposed action was submitted to the Department of Land Conservation and Development on July 10, 2008.
- (3) The Tillamook County Planning Commission held a public hearing on this matter on August 28, 2008. The hearing was noticed in accordance to the requirements of ORS 197 and 215. The Planning Commission deliberated on the matter at their October 9, 2008 meeting, and after reviewing the staff reports containing findings of fact and conclusions, testimony and the file for OA-08-02, the Planning Commission found the application met the applicable criteria and recommended that the Tillamook County Board of Commissioners adopt Ordinance Amendment OA-08-02 with the following motion:
 - a) Commissioner Jones moved in the matter of OA-08-02 based on findings of fact, public testimony, staff report, supplemental staff report, testimony received at the August 28, 2008 hearing, and discussion this evening to recommend to the Tillamook County Board of Commissioners recommendation of OA-08-02 with the four mitigation measures listed.
- (4) The Board of County Commissioners opened a de novo public hearing on the proposed Ordinance Amendment on January 21, 2009. The hearing was properly noticed according to the requirements of ORS 197 and 215.

- (5) Oral and written testimony was received at the hearing, both in opposition and in favor of the request. After hearing all who wished to present testimony on the matter, the hearing was closed and the Board deliberated on the request.
- (6) After reviewing the Planning Commission's recommendation, the staff report and supplemental staff report containing findings and conclusions and a summary of issues raised in testimony, and recommended mitigation measures related to construction of the proposed primary access road, and consideration of additional testimony received before and during the January 21, 2009 hearing, the record and file pertaining to OA-08-02, the Board made the following motion:

a) Commissioner Labhart moved as follows:

Based on the findings of fact, conclusions and other relevant information contained within the August 21, 2008 staff report and supplemental staff report dated October 2, 2008, consideration of the record of Planning Commission proceedings and recommendation on this matter, and additional testimony received by the Board of Commissioners, I move **APPROVAL** of Ordinance Amendment Request OA-08-02 with the following mitigation measures:

- mitigate potential impacts on the pond that straddles the boundary between the Ruby property and property owned by Aspen PC, LLC, through provision of a vegetated buffer between the pond and the proposed roadway;
- mitigate safety concerns through provision of a new driveway for the Killam property and address storm drainage and vegetative screening along the access road when constructed adjacent to the Killam property;
- prior to road construction, safety improvements for the Resort Drive/Highway 101 intersection and the intersection of the new road with Resort Drive, and to Resort Drive to be determined by Public Works and ODOT during the major partition and subdivision reviews and road approach permitting processes;
- mitigate potential impacts to Portwood Road by closing off Portwood Road at its intersection with the proposed road to prevent traffic from the future subdivision from using Portwood Road, and through provision of a turn-around on tax lot 301 (owned by Aspen PC), or other solution agreed upon by affected property owners and the county during subdivision review.

The motion carried unanimously, all three voting in favor.

NOW THEREFORE, THE BOARD OF COUNTY COMMISSIONERS OF TILLAMOOK COUNTY, OREGON, ORDERS AS FOLLOWS:

The Tillamook County Comprehensive Plan is hereby amended as shown in Exhibit A. The record shall identify these changes as described herein by the Tillamook County Department of Community Development as OA-08-02.

DATED THIS 11th DAY OF February, 2009.

BOARD OF COUNTY COMMISSIONERS

FOR TILLAMOOK COUNTY, OREGON

Aye Nay Abstain/Absent

Tim Josi
Tim Josi, Chair

✓ _____ 1

Mark Labhart
Mark Labhart, Vice-Chair

✓ _____ 1

Charles J. Hurliman
Charles J. Hurliman, Commissioner

✓ _____ 1

ATTEST: Tassi O'Neil,
County Clerk

Simon L. Beckett
Special Deputy

APPROVED AS TO FORM:

William K. Sargent
William K. Sargent, County Counsel





Land of Cheese, Trees and Ocean Breeze

DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

201 Laurel Avenue
Tillamook, Oregon 97141

Building (503) 842-3407
Planning (503) 842-3408
On-Site Sanitation (503) 842-3409
FAX (503) 842-1819
Toll Free 1 (800) 488-8280

EXHIBIT 'A'

ORDINANCE AMENDMENT REQUEST

**OA-08-02: Aspen Pacific City, LLC, Post Acknowledgement Plan
Amendment & Statewide Goal 4 Exception for a Primary Access Road**

STAFF REPORT DATE: August 21, 2008

PLANNING COMMISSION HEARING DATE: August 28, 2008

BOARD OF COUNTY COMMISSIONERS HEARING DATE: September 24, 2008

Prepared by: Valerie Soilihi, AICP, Coastal Resource Planner

I. GENERAL INFORMATION:

Request: A request to amend the Tillamook County Comprehensive Plan Ordinance No. 32 and to adopt an Exception to Statewide Planning Goal 4 Forest Lands to identify a corridor for construction of a primary access road to serve a 53-acre tract of land located within the Pacific City-Woods Unincorporated Growth Boundary

Location: The subject properties of the Goal Exception are located generally southeast of the Unincorporated Community Growth Boundary of Pacific City-Woods, north of Brooten Mountain Road and southwest of Resort Drive, and are further identified on the Tillamook County Assessor's map as Tax Lots 200 & 700 in Township 4S, R 10W, Section 32, and Tax Lots 801 and 1200, in Township 4S, R 10W, Section 29.

Zone: Small Farm & Woodlot (SFW-20)

Applicant & Owner: Aspen Pacific City, LLC, ATTN: Tim Kerr, c/o Kerr Contractors, Inc., P.O. Box 1060, Woodburn, OR 97071

Description of Request: The applicant requests approval of a Post Acknowledgement Plan Amendment (PAPA) to the Tillamook County Comprehensive Plan, and more specifically the Pacific City /Woods Unincorporated Community Plan to identify and allow construction of a new road corridor to serve a 53-acre tract of land currently designated Pacific City/Woods Medium Density Residential (PCW-R2), and located within the unincorporated community growth boundary. The proposed PAPA requires an exception to Statewide Planning Goal 4,

Forest Lands to allow creation and construction of road across the subject properties, currently zoned SFW-20 and deemed to be forest lands. The goal exception is requested pursuant to applicable provisions of OAR 660 Division 12, Transportation Planning. The requested PAPA considers only the goal exception to allow identification of the primary access road corridor. Actual creation of the road corridor requires subsequent approval of a Major Partition, pursuant to the Tillamook County Land Division Ordinance (TCLDO). Development of the 53-acre tract of land identified as Tax Lot 1100 on Tillamook County Assessor's Map 4S 10 30 will require subdivision approval pursuant to the TCLDO. Approval of the requested comprehensive plan amendment to allow the goal exception will not change the zoning of the subject properties, which will remain SWF-20.

Materials submitted:

- Application narrative dated February 2008 (with supplemental information dated June 2008); including appendices and exhibits, prepared by HLB/OTAK, Inc.
- State Planning Goal Exception Application, Supplement No. 1, dated August 14, 2008, Aspen Pacific City, LLC
- Sutton Way Evaluation

II. APPLICABLE STATE LAW, ORDINANCE AND COMPREHENSIVE PLAN PROVISIONS:

1. Oregon Administrative Rules (OARs) Chapter 660, Division 006, Goal 4, Forest Lands.
2. Oregon Administrative Rules (OARs) Chapter 660, Division 012-0065, Transportation Improvements on Rural Land
3. Tillamook County Land use Ordinance, Section 3.004
4. Tillamook County Comprehensive Plan & Statewide Planning Goals
5. Tillamook County Land Use Ordinance, Article IX, Amendment Process

III. ANALYSIS

1. *Oregon Administrative Rules (OARs) Chapter 660, Division 006, Goal 4, Forest Lands.*

OAR 660-006-0000(1) identifies that the purpose of the Forest Lands Goal is to conserve forest lands and to carry out the legislative policy of the Oregon Revised Statutes, ORS 215.700. Uses authorized in the Forest Zone are listed under 660-006-0025.

Findings: The subject properties of this application are zoned Small Farm & Wood (SFW-20). The Tillamook County Land Use Ordinance does not reflect current state rules and regulations pertaining to Forest Zones, therefore OAR Chapter 660, Division 006, Goal 4, Forest Lands is the prevailing regulatory document providing guidance for uses that may be allowed in the SFW-20 zone.

The applicant is proposing to create a roadway that will be used to access land which is located within the Unincorporated Community Boundary of Pacific City-Woods and zoned Pacific City/Woods Medium Density Residential (PCW-R2). Three thousand (3,000) feet of the

proposed 7,000 foot long roadway affecting resource land would be located on an existing logging road. The first 1,500 feet of the proposed roadway extending in a westerly direction from Resort Drive is located on properties zoned Rural Residential (RR).

Within OAR 660-006-0025, the proposed use is not specifically identified as an allowed use. During pre-application meetings with County and state Department of Land Conservation & Development staff, the applicants were advised that a goal exception could be applied for pursuant to OAR 660-012-0065, Transportation Improvements on Rural Land as a method to gain legal access to their urbanizable land located within the Pacific City/Wood Community Growth Boundary.

Conclusions: Based upon the findings above, staff concludes the proposed roadway is not listed as an Authorized Use in the Forest Zone. The applicant has applied for comprehensive plan amendment including an exception to the Statewide Goal 4, pursuant to OAR 660-012-0065, Transportation Improvements on Rural Land, in order to identify a roadway corridor through resource lands in which a primary urban residential access road can be constructed.

2. Oregon Administrative Rules (OARs) Chapter 660, Division 12, Transportation Planning

OAR 660-012-0065 (1), identifies transportation facilities, services and improvement which may be permitted on rural lands consistent with Goals 3, 4, 11 and 14 without a goal exception.

Findings: Primary access roads for urban residential lands are not listed as a permitted use under this division.

Conclusion: Based on the findings above, staff concludes that a Goal 4 exception is required to permit the proposed primary access road for urbanizable land to cross resource land.

OAR 660-012-0070 Exceptions for Transportation Improvements on Rural Land
(1) Transportation facilities and improvements which do not meet the requirements of OAR 660-012-0065 require an exception to be sited on rural lands.

(a) A local government approving a proposed exception shall adopt as part of its comprehensive plan findings of fact and a statement of reasons that demonstrate that the standards in this rule have been met. A local government denying a proposed exception shall adopt findings of fact and a statement of reasons explaining why the standards in this rule have not been met. However, findings and reasons denying a proposed exception need not be incorporated into the local comprehensive plan.

(b) The facts and reasons relied upon to approve or deny a proposed exception shall be supported by substantial evidence in the record of the local exceptions proceeding.

Findings: A goal exception is required to locate the proposed access road on resource land. The materials submitted by the applicant, including the narrative, exhibits, appendices and supplemental information; along with other evidence in the record, provide adequate information to support findings that the standards in this rule have been met.

Conclusion: Based on these findings, staff concludes that adequate findings supporting the requested amendment of the comprehensive plan to include this goal exception can be made by the local governing body.

(2) When an exception to Goals 3, 4, 11, or 14 is required to locate a transportation improvement on rural lands, the exception shall be taken pursuant to ORS 197.732(1)(c), Goal 2, and this division. The exceptions standards in OAR chapter 660, division 4 and OAR chapter 660, division 14 shall not apply. Exceptions adopted pursuant to this division shall be deemed to fulfill the requirements for goal exceptions required under ORS 197.732(1)(c) and Goal 2.

Findings: An exception to Goal 4 is required to locate a transportation improvement on the rural lands that are the subject of this comprehensive plan amendment request. The goal exception is proposed to be adopted pursuant to the requirements of Division 12, Transportation Planning, and as such is deemed to fulfill the requirements for goal exceptions required under ORS 197.732(1)(c) and Goal 2.

Conclusion: Based on the above findings, staff concludes that it is appropriate to take the proposed goal exception pursuant to the provisions of Division 12, Transportation Planning, and that in so doing, the requirements for goal exceptions required under ORS 197.732(1)(c) and Goal 2 are met.

(3) An exception shall, at a minimum, decide need, mode, function and general location for the proposed facility or improvement:

(a) The general location shall be specified as a corridor within which the proposed facility or improvement is to be located, including the outer limits of the proposed location. Specific sites or areas within the corridor may be excluded from the exception to avoid or lessen likely adverse impacts. Where detailed design level information is available, the exception may be specified as a specific alignment;

Findings: As described in the application materials, the applicant, also owner of the 53 acres of urbanizable land within the Pacific City/Woods Community Growth Boundary, is challenged with identifying suitable primary access as a result of past public and private actions, agreements, restrictions and existing Pacific City/Woods Community Plan and Transportation Plan policies. A primary access road is needed as a prerequisite to the applicant's ability to submit a subdivision application for the 53-acre parcel. The proposed residential access road would be

designed to accommodate residential automobile traffic and would function as a local road. The general location of the proposed road improvement has been identified as a corridor approximately 5,600 feet long with a width of 200 feet (100 feet on each side of the roadway centerline). The outer limits of the proposed corridor are shown on Exhibits 7 & 8 of the application materials.

Conclusion: Based on these findings, staff concludes that the minimum requirements with respect to need, mode, function and general location for the proposed access road have been addressed.

(b) The size, design and capacity of the proposed facility or improvement shall be described generally, but in sufficient detail to allow a general understanding of the likely impacts of the proposed facility or improvement and to justify the amount of land for the proposed transportation facility. Measures limiting the size, design or capacity may be specified in the description of the proposed use in order to simplify the analysis of the effects of the proposed use;

Findings: The proposed road is preliminarily designed as a local road intended to serve the proposed future development of the 53-acre site located within the Pacific City /Woods Community Growth Boundary. As described in the application narrative, and displayed in Exhibits 7 & 8, the minimum width for the roadway and cut/fill slope easements will vary between approximately 60 feet and 140 feet. The length of the proposed road is 7,000 feet in total. That portion of the road within the resource zone and which is subject to this goal exception is 5,500 feet long with a corridor width of 200 feet, being 100 feet on each side of the proposed road centerline. That portion of the proposed road that lies in the Rural Residential (RR) zone is not calculated in the exception area. The total area of the proposed roadway corridor within the resource zone is approximately 1,100,000 square feet or 25.2 acres. The total area of the proposed roadway impact (disturbed area with an average width of 60 feet for a length of 5,500 feet) within the resource zone is approximately 330,000 square feet or 7.6 acres.

Conclusion: Based on the above findings, staff concludes that the size, design and capacity of the proposed road are described in sufficient detail in the materials submitted by the applicant to allow adequate analysis of the effects of the proposed road.

(c) The adopted exception shall include a process and standards to guide selection of the precise design and location within the corridor and consistent with the general description of the proposed facility or improvement. For example, where a general location or corridor crosses a river, the exception would specify that a bridge crossing would be built but would defer to project development decisions about precise location and design of the bridge within the selected corridor subject to requirements to minimize impacts on riparian vegetation, habitat values, etc.;

Findings: Should the comprehensive plan be amended to incorporate the requested goal

exception, the detailed design of the road will require review and approval as part of the major partition and subdivision review processes pursuant to the Tillamook County Land Division Ordinance, and provisions of the Tillamook County Land Use Ordinance, as applicable. The County's Public Works Department submitted comments dated August 19, 2008 (see attached copy) on the goal exception request, stating that Alternative D3 (as shown in Exhibits 7 & 8 of the application materials) is a reasonable route that can be constructed to meet the Tillamook County Road Standards. As a condition of subdivision approval, the developer would be required to comply with any and all permitting requirements prescribed by the County and State in constructing the proposed road.

Conclusion: Based on the above findings, staff concludes that the precise design and location of the road within the corridor will be subject to review and approval during the subsequent subdivision review process to ensure the roadway meets applicable standards, should the comprehensive plan be amended to incorporate the requested goal exception.

(d) Land use regulations implementing the exception may include standards for specific mitigation measures to offset unavoidable environmental, economic, social or energy impacts of the proposed facility or improvement or to assure compatibility with adjacent uses.

Findings: If this application is approved, subsequent applications for a major partition to create the road right-of-way, and for subdivision approval to create residential building lots on the 53-acre tract to be served by the goal exception request, will be submitted to the County for review and approval. The appropriate implementing regulations, including the Tillamook County Land Division Ordinance, Tillamook County Land Use Ordinance and Tillamook County Road Standards include standards which address mitigation of adverse impacts of the proposed road. Conditions of approval may be attached to major partition, subdivision and other land use approvals as needed to ensure adherence to applicable development standards and mitigate adverse impacts associated with development activities.

Conclusion: Based on these findings, staff concludes that appropriate land use regulations are in place in Tillamook County that include standards intended to implement goals, policies and provisions of the Tillamook County Comprehensive Plan. Additionally, conditions of approval are customarily imposed on land use approvals to ensure conformance with applicable standards, and to specifically mitigate adverse impacts associated with development activities and potential consequences.

(4) To address Goal 2, Part II(c)(1) the exception shall provide reasons justifying why the state policy in the applicable goals should not apply. Further, the exception shall demonstrate that there is a transportation need identified consistent with the requirements of OAR 660-012-0030 which cannot reasonably be accommodated through one or a combination of the following measures not requiring an exception:

- (a) Alternative modes of transportation;*
- (b) Traffic management measures; and*

(c) Improvements to existing transportation facilities.

Findings: Pacific City has an unincorporated Community Growth Boundary (CBG). The subject property of the future subdivision is located within the CGB and is zoned for medium density residential development (PCW-R2). The application narrative states that Pacific City has been developed over a number of years by a mixture of minor land partitions and small subdivisions. The streets serving the subdivisions were generally constructed to meet the immediate needs of the respective development with little consideration for future development on adjacent lands.

The subject residential site, a 53-acre trapezoid shaped tract located on the west side of Brooten Mountain within the Pacific City Unincorporated Community Boundary, is located directly east of and adjoining the Pacific Seawatch Phase I subdivision. The Pacific Seawatch Phase I subdivision was approved by the Tillamook County Planning Commission with a condition requiring one of the lots within the development to be reserved to provide emergency access to the subject site. During the proceedings on the Seawatch subdivision, there were concerns raised by the public about adding traffic to the existing street system, specifically the intersection of Solita Blvd. and Salal Lane with Fisher Road, and the intersection of Fisher Road with Brooten Road which serves as a major through street within Pacific City. Neighbors cited concern with the amount of traffic on the street system, the narrowness of the existing streets, the limitations of the topography and with safety at those intersections.

To address these concerns, the Tillamook County Planning Commission determined that access from Pacific Seawatch to the undeveloped 53-acre would be provided only for emergency access purposes, but not as a primary road connection with the existing street system for public access. In reviewing the decision, it was apparent that the impacts of traffic to the intersections listed above were found to be unsafe, and that no future traffic should be directed to the intersection until it is corrected.

In addition, the Pacific City/Woods Transportation Plan contains a policy (as previously quoted) that specifically requires that the subject property (Tax Lot 1100, 4S 10 30) "*should have street connections to Brooten Road and/or Resort Drive. A connection to the Pacific City Heights subdivision should not occur until a direct, more convenient, primary access is provided to Brooten Road.*"

Alternative modes of transportation are not available at the present or in the foreseeable future that could reasonably be expected to provide access to the 53 acre parcel. There are immediate obstacles to primary access through adjoining properties to the west and north of the site that override the feasibility of accommodating traffic generated by future residential development through traffic management measures or improvements to the existing street system. The applicant submitted *Supplement No. 1* to the application, and an evaluation of Sutton Way demonstrating the substantial challenges of achieving access through adjoining properties to the north, west and south.

Conclusion: Based on the above findings, staff concludes that existing development, topographic constraints, previous land use decisions, existing comprehensive plan policies, and inadequacies of the existing substandard roadway system, for which no remedies or funding have

been identified, severely limit the opportunities available to reasonably accommodate the needed access on non-resource lands adjacent to the subject property.

- (5) To address Goal 2, Part II(c)(2) the exception shall demonstrate that non-exception locations cannot reasonably accommodate the proposed transportation improvement or facility. The exception shall set forth the facts and assumptions used as the basis for determining why the use requires a location on resource land subject to Goals 3 or 4.*

Findings: The stated purpose of this goal exception would be to provide primary access to a 53-acre tract of land currently located within the Pacific City unincorporated CGB. Prior development on adjacent properties, also within the unincorporated CGB precludes the connection of this property for a variety of reasons described in the application materials. Safety issues, topographic constraints, previous land use decisions, and explicit comprehensive plan policies pertaining to the subject property are described in the application narrative, dated June 2008, and Supplement No. 1, dated August 14, 2008.

Conclusion: Based on these findings, staff concludes that the applicant has provided an adequate analysis of several alternatives, both on resource and non-resource lands, demonstrating that there are substantial impediments to gaining a primary access road on non-resource lands to accommodate the needs of land that is within the CGB and zoned for residential development.

- (6) To determine the reasonableness of alternatives to an exception under sections (4) and (5) of this rule, cost, operational feasibility, economic dislocation and other relevant factors shall be addressed. The thresholds chosen to judge whether an alternative method or location cannot reasonably accommodate the proposed transportation need or facility must be justified in the exception.*
- (a) In addressing sections (4) and (5) of this rule, the exception shall identify and address alternative methods and locations that are potentially reasonable to accommodate the identified transportation need.*
- (b) Detailed evaluation of such alternatives is not required when an alternative does not meet an identified threshold.*
- (c) Detailed evaluation of specific alternative methods or locations identified by parties during the local exceptions proceedings is not required unless the parties can specifically describe with supporting facts why such methods or locations can more reasonably accommodate the identified transportation need, taking into consideration the identified thresholds.*

Findings: The application narrative states that in considering alternatives potentially reasonable to accommodate the proposed road, safety and cost were the two relevant factors in deciding to pursue this exception for the preferred alternative. Safety was determined to be the primary reason for the proposed exception. In order to construct a road to meet county standards, minimum slope, dimensional and geometric requirements are needed to provide safe access to the proposed future subdivision. The application materials include an analysis of seven alternative routes that would cross the resource land zoned SFW-20. Upon staff request, the applicant evaluated three additional alternatives: 1) A road to the north through the Caine

property to connect with Summit Road; 2) a road to the west through the Pacific SeaWatch subdivision; and 3) a road to the south through an easement over Sutton Way to connect with Brooten Road. Each of these three additional alternatives affects non-resource lands.

The Tillamook County Public Works Department submitted a letter dated August 19, 2008 stating that the applicant's preferred alternative, Alternative D3, as presented in the application materials is a reasonable route that can be constructed to meet the county's road standards. The letter also states that many of the other alternatives considered could potentially be viable emergency routes, and should be further evaluated for that purpose.

Conclusion: Based on these findings, staff concludes that an adequate evaluation of reasonable alternatives, seven on resource land, and three additional alternatives on non-resource land, has been performed, thereby meeting the minimum requirements demonstrating reasonableness of alternatives to meet the expressed need for a primary access road to serve urban residential development without requiring a goal exception.

(7) To address Goal 2, Part II(c)(3), the exception shall:

(a) Compare the long-term economic, social, environmental and energy consequences of the proposed location and other alternative locations requiring exceptions. The exception shall describe the characteristics of each alternative location considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the location for the proposed transportation facility or improvement, and the typical positive and negative consequences resulting from the transportation facility or improvement at the proposed location with measures designed to reduce adverse impacts;

(b) Determine whether the net adverse impacts associated with the proposed exception site, with mitigation measures designed to reduce adverse impacts, are significantly more adverse than the net impacts from other locations which would also require an exception. A proposed exception location would fail to meet this requirement only if the affected local government concludes that the impacts associated with it are significantly more adverse than the other identified exception sites. The exception shall include the reasons why the consequences of the needed transportation facility or improvement at the proposed exception location are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed location. Where the proposed goal exception location is on resource lands subject to Goals 3 or 4, the exception shall include the facts used to determine which resource land is least productive; the ability to sustain resource uses near the proposed use; and the long-term economic impact on the general area caused by irreversible removal of the land from the resource base; and

(c) The evaluation of the consequences of general locations or corridors need not be site-specific, but may be generalized consistent with the requirements of section (3) of this rule. Detailed evaluation of specific

alternative locations identified by parties during the local exceptions proceeding is not required unless such locations are specifically described with facts to support the assertion that the locations have significantly fewer net adverse economic, social, environmental and energy impacts than the proposed exception location.

Findings: Seven separate alternatives were considered for the proposed primary access road as described in the application narrative. At staff's request, three additional alternatives were evaluated as described in Supplement No. 1, dated August 14, 2008. The alternatives are listed below followed by an analysis of the impacts of each alternative. All seven alternatives were determined to generally meet the purpose and need for the project (i.e., provide primary access, able to accommodate roadway section requirements, and eliminate traffic volume and traffic impacts to the unsafe intersections). A comparative analysis of the impacts and an ESEE (Environmental, Economic, Social and Energy) consequences of allowing a road to be constructed on resource lands is included in the application narrative. Based on this alternatives analysis, the applicant has adequately demonstrated their preferred alternative, Alternative D3, which would take advantage of the existing logging roadway, would have the least overall impact of the seven alternatives evaluated.

Conclusion: Based on these findings, staff concludes that the applicant has provided an adequate analysis of alternatives meeting the minimum requirements of this section.

(8) To address Goal 2, Part II(c)(4), the exception shall:

(a) Describe the adverse effects that the proposed transportation improvement is likely to have on the surrounding rural lands and land uses, including increased traffic and pressure for nonfarm or highway oriented development on areas made more accessible by the transportation improvement;

(b) Demonstrate how the proposed transportation improvement is compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses; and

(c) Adopt as part of the exception, facility design and land use measures which minimize accessibility of rural lands from the proposed transportation facility or improvement and support continued rural use of surrounding lands.

Findings: The proposed road could increase the number of vehicular conflicts with farming and logging equipment traveling on or across Resort Drive. The proposed road could also be inviting to people who would illegally dump along the corridor. At this time there are no proposed mitigation measures to offset the impacts to traffic, but it would be possible to gate or control access to the proposed road for residents of the 53-acre tract and the owners and workers who would access the resource lands. Mitigation measures can be included in Conditions of Approval of subsequent partition and/or subdivision approvals related to the proposed future development. The goal exception is explicitly requested to provide primary access only to the proposed urban

residential development that lies within the Pacific City/Woods CGB. This limitation can be included in the goal exception that is incorporated in the comprehensive plan.

Conclusion: Based on the above findings, staff concludes that measures are available through the county's implementing regulations to mitigate conflicts associated with additional traffic that would be funneled onto Resort Drive which is used by farming and logging vehicles. Specific conditions to mitigate these and other traffic related impacts may be imposed on subsequent partition and/or subdivision approvals. The goal exception that is added to the comprehensive plan can be explicitly limited to providing primary access for the stated need. These measures are consistent with the requirements of this section.

(9)(a) Exceptions taken pursuant to this rule shall indicate on a map or otherwise the locations of the proposed transportation facility or improvement and of alternatives identified under subsection (4)(c), sections (5) and (7) of this rule.

Findings: The location of the proposed road and the alternatives considered in this proposal are identified on Exhibits 4 through 7 in the application materials. Additional alternatives on non-resource lands are addressed in *Supplement No. 1* and the *Sutton Way Evaluation* submitted by the applicant.

Conclusion: Based on the above findings, staff concludes that the requirements of this section are met.

(b) Each notice of a public hearing on a proposed exception shall specifically note that a goal exception is proposed and shall summarize the issues in an understandable manner.

Findings: Notice of the public hearings on OA-08-02 specifically noting that a goal exception is proposed and summarizing the issues in an understandable manner were published in the *Headlight Herald* on August 6th, 2008, and mailed to property owners within 750 feet of the exterior boundaries of the subject properties on August 7th, 2008.

Conclusion: Based on the above findings, staff concludes this noticing requirement has been met.

(10) An exception taken pursuant to this rule does not authorize uses other than the transportation facilities or improvements justified in the exception.

(a) Modifications to unconstructed transportation facilities or improvements authorized in an exception shall not require a new exception if the modification is located entirely within the corridor approved in the exception.

(b) Modifications to constructed transportation facilities authorized in an exception shall require a new exception, unless the modification is permitted without an exception under OAR 660-

012-0065(3)(b)-(f). For purposes of this rule, minor transportation improvements made to a transportation facility or improvement authorized in an exception shall not be considered a modification to a transportation facility or improvement and shall not require a new exception.

(c) Notwithstanding subsections (a) and (b) of this section, the following modifications to transportation facilities or improvements authorized in an exception shall require new goal exceptions:

- (A) New intersections or new interchanges on limited access highways or expressways, excluding replacement of an existing intersection with an interchange.*
- (B) New approach roads located within the influence area of an interchange.*
- (C) Modifications that change the functional classification of the transportation facility.*
- (D) Modifications that materially reduce the effectiveness of facility design measures or land use measures adopted pursuant to subsection (8)(c) of this rule to minimize accessibility to rural lands or support continued rural use of surrounding rural lands, unless the area subject to the modification has subsequently been relocated inside an urban growth boundary.*

Findings: The corridor for the proposed road is identified on Exhibit 7 in the application materials. That portion of the road within the resource zone and which is subject to this goal exception is 5,500 feet long with a corridor width of 200 feet, being 100 feet on each side of the proposed road centerline. Details of the proposed road corridor are identified on Exhibits 8 and 9. Should any modifications outside of the identified road corridor be required that are not addressed in this exception, a new exception will be sought. No other uses of the resource land that would require a Goal 4 exception have been requested as part of this comprehensive plan amendment. The requested goal exception is limited to only the roadway corridor as proposed. Subsections (10)(b) and (10)(c) are not applicable to this goal exception request.

Conclusion: Based on the above findings, staff concludes that the applicable portions of the requirements in this section have been met.

3. Tillamook Land Use Ordinance

Tillamook County Land Use Ordinance

SECTION 3.006: SMALL FARM AND WOODLOT 20 ACRE ZONE (SFW-20)

The Small Farm Woodlot – 20 (SFW-20) Zone of Tillamook County Land Use Ordinance does not reflect all the current requirements of the Oregon Revised Statutes, 215 or Oregon Administrative Rules, Chapter 660, Division 06 or Division 33. In a case where the Land Use Ordinance and the State Law are in conflict the stricter of the two takes precedence

PURPOSE: *The purpose of the SFW-20 zone is to protect and promote farm and forest uses much in the same way as the Farm and Forest zones, on lands which have resource*

value, but which are not suited for the F-1 or the F zones because of smaller parcel size, conflicting adjacent uses, adverse physical features, or other limiting factors.

Findings: Because the TCLUO is not consistent with current state statutes and OARs pertaining to forest zones, it is necessary to review a Goal 4 exception under the state law. In this case, it was determined most appropriate to review the requested exception pursuant to OAR 660 Division 12, Transportation Planning as previously described.

Conclusion: Based on the above findings, staff concludes that it is appropriate to review the requested comprehensive plan amendment and Goal 4 exception in accordance with the provisions of OAR 660, Division 12.

4. Tillamook County Comprehensive Plan & Statewide Planning Goals

The goals of the Tillamook County Comprehensive Plan are consistent with the statewide planning goals. All statewide goals and Tillamook County Comprehensive Plan goals are addressed in the application narrative.

Goal 1 - Citizen Involvement

Statewide Planning Goal 1 requires governing bodies charged with preparing and adopting a comprehensive plan to adopt and publicize a program for citizen involvement that clearly defines the procedures by which the general public will be involved in the on-going land use planning process.

Findings: In Tillamook County, the Planning Commission reviews and makes recommendations to the Tillamook County Board of Commissioners concerning proposed amendments to the Comprehensive Plan.

In the instance of a Comprehensive Plan Ordinance Amendment, notice of the application and hearing is provided within a newspaper of general circulation, and to the Pacific City-Woods Community Planning Advisory Committee (PC/W CPAC). The PC/W CPAC is a Planning Advisory Committee that encourages broad citizen participation on land use matters within the Pacific City – Woods Unincorporated Community Growth Boundary and is permitted to provide formal recommendations to the Tillamook County decision makers. Notice is also sent to property owners within 750 feet of the exterior boundaries of the subject site and to other departments, districts and agencies having jurisdiction or interest in the proposal.

These notices are published and sent prior to the Planning Commission's and Board of County Commissioners' hearings on this type of application, thereby providing an opportunity for citizens of the area to comment on the proposal either in writing in advance of the hearing or orally at the public hearing. This process allows for citizens to communicate their input into the land use review process conducted by the County.

The PC/W CPAC held several public meetings on this request and submitted a letter, dated August 18, 2008 recommending denial of OA-08-02. A copy of this letter is attached. A minority statement was also sent to express the views of those who did not vote to recommend

denial. In addition, several letters from citizens have been submitted and are attached to the staff report.

Conclusion: Based on the above findings, staff concludes that notice has been given as required and ample opportunities for citizen involvement and input into the review process have been provided related to OA-08-02.

Goal 2 - Land Use Planning

Statewide Planning Goal 2, Land Use Planning requires that city, county, state and federal agency and special district plans and actions related to land use be consistent with the comprehensive plans of cities and counties and regional plans adopted under ORS Chapter 268.

A local government may adopt an exception to a goal when:

(c) *The following standards are met:*

- (1) *Reasons justify why the state policy embodied in the applicable goals should not apply;*
- (2) *Areas which do not require a new exception cannot reasonably accommodate the use;*
- (3) *The long-term environmental, economic, social and energy consequences resulting from the use of the proposed site with measures designed to reduce adverse impacts are not significantly more adverse than would typically result from the same proposal being located in areas requiring a goal exception other than the proposed site; and*
- (4) *The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts.*

Findings: The criteria in this section have been addressed under the applicable provisions of OAR 660 Division 12 as documented above in this staff report.

Conclusion: Based on this finding, staff concludes that the application materials and supplementary materials adequately address these criteria.

Goal 3 - Agricultural Lands

Statewide Planning Goal 3, Agricultural Lands requires that counties to inventory such lands and to "preserve and maintain" them through farm zoning.

Findings: This application does not involve any proposed use of agricultural lands. The first 1,500 feet of the proposed primary access road is located on lands that are zoned RR (Rural Residential). The closest agricultural lands are located on the north side of Resort Drive. Stormwater runoff from the proposed road will eventually drain across those agricultural lands in established drainage channels and ditches. A stormwater control plan and an erosion control plan will be required as a part of the future road construction. The stormwater control plan and the erosion control plan will be required to meet existing standards so as to not adversely affect those

agricultural lands. Therefore, there are no apparent conflicts with Goal 3.

Conclusion: Based on the above findings, staff concludes that the requested goal exception has no direct impacts on agricultural lands. The county has the ability to mitigate potential impacts related to stormwater runoff and traffic conflicts through imposition of conditions on future partition and/or subdivision approvals.

Goal 4 - Forest Lands

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

Findings: The proposed comprehensive plan amendment and Goal 4 exception would serve to identify a road corridor on properties zoned SFW-20 from the west side of Brooten Mountain running generally easterly to connect with Resort Drive. In this case, the goal exception has been requested pursuant to Division 12, Transportation Planning of OAR 660; therefore, the review criteria set forth in Division 4 of OAR 660 are not applicable. The application narrative addresses the criteria in OAR 660 660-012-0070, Exceptions for Transportation Improvements on Rural Land. For consistency with State Law, the primary documents relative to the requested comprehensive plan amendment and Goal 4 exception are the Oregon Administrative Rules and the Tillamook County Comprehensive Plan.

A letter dated February 23, 1989 (see attached copy), written by Vic Affolter, former Tillamook County Community Development Director, addresses the long-term potential for change to a zone on the subject properties that would further recognize the limited resource value, and permit more dense development than was allowed at that time by SFW-20 zoning. He noted that a goal exception would be required to rezone the property, and that the applicant would bear a substantial burden of justification. The letter further states that the relative isolation of the subject site from other large forest ownerships would be a favorable justification factor.

The current proposal is not to rezone the property, but only to allow a road corridor to be created that can accommodate a primary access road. An intention to develop the property with any uses other than those allowed in forest zones would require a separate goal exception and zone change approvals.

Conclusion: Based upon the findings listed above, staff concludes that the applicant has adequately demonstrated that identification of a corridor on SFW-20 resource land to accommodate a primary access road to urbanizable land within the Pacific City/Wood CGB is consistent with the Tillamook County Comprehensive Plan and will have relatively minor impacts upon Forest related uses and activities.

Goal 5 - Open Spaces, Scenic and Historic Areas and Natural Resources

Statewide Planning Goal 5, Open Spaces, Scenic and Historic Areas and Natural Resources

requires counties to inventory such lands. If a resource or site is found to be significant, a local government has three policy choices: preserve the resource, allow proposed uses that conflict with it, or strike some sort of balance between the resource and the uses that would conflict with it.

Findings: Goal 5 of the comprehensive plan contains a 1981 map of Big Game Habitat indicating that the subject properties may be located in what was identified as peripheral big game habitat at that time. Transportation facilities, including access roads, are not listed as permitted or conditional uses allowed in the SFW-20 zone that would potentially conflict with big game habitat. Under the comprehensive plan Goal 5 provisions, the county is required to notify the Department of Fish and Wildlife of any proposed comprehensive plan change or rezone of SFW-20 property to a more intensive use zone, e.g. Rural Residential. This goal exception request does not include a rezone or change to a more intensive use; however, the Department of Fish & Wildlife has been notified and given opportunity to provide input. Currently, none of the properties included within this proposal are known to be designated as open space, cultural, historic, or natural area by the Tillamook County Comprehensive Plan.

Conclusion: Based on these findings, staff concludes that the requested comprehensive plan amendment and Goal 4 exception are not in conflict with Goal 5.

Goal 6 – Air, Water and Land Resources Quality

Statewide Planning Goal 6, Air, Water and Land Resources Quality requires local comprehensive plans and implementing measures to be consistent with state and federal regulations on matters such as waste and process discharges from development that might adversely affect groundwater, air sheds and river basins.

Findings: Development of the proposed road would comply with the adopted design and construction standards of Tillamook County. Erosion control would be provided throughout construction, and disturbed areas would be reseeded and stabilized once the construction is complete. A complete storm drainage analysis will be included in the construction plans. As shown on the exhibits for the proposed roadway corridor, more than half of the entire road length is essentially located on the ridge top of Brooten Mountain. As such, there is very little upslope drainage that will be affected by this proposal.

Stormwater runoff from the proposed road will eventually drain across those adjacent lands in established drainage channels and ditches which discharge into the Nestucca River or the Nestucca Bay. A stormwater control plan and an erosion control plan will be required as a part of the future road construction. The stormwater control plan and the erosion control plan will be required to meet existing standards, including county, state and federal, so as to not adversely affect those downstream drainage basins.

In general, storm drainage directly from the roadway improvements will be collected by a number of independent drainage ditches, catch basins and storm drainage culvert pipes which will then dispose of the collected storm water into natural drainage areas, ravines and swales that are adjacent to the road and located upon the applicant's property. All vehicles that would use the proposed road are required to meet State of Oregon emission requirements. Therefore, there are

no apparent conflicts with Goal 6.

Conclusion: Based on the above findings, staff concludes that appropriate measures can be imposed by the county as conditions on future partition and/or subdivision approvals to ensure applicable standards and requirements relative to Goal 6 associated with road construction will be met.

Goal 7 – Hazards

Statewide Planning Goal 7, Areas Subject to Natural Disasters and Hazards requires jurisdictions to apply "appropriate safeguards" when planning for development in such areas.

Findings: This goal requires that Cities and Counties identify areas that would be subject to natural disasters such as floods (coastal and riverine), landslides, earthquakes and related hazards, tsunamis, coastal erosion, and wildfires, and adopt regulations to mitigate any development impacts within areas prone to such events. The proposed exception is not in conflict with this state planning goal and it is not in conflict with the seven Hazards Policies in the County's Comprehensive Plan. The Natural Disasters that are most likely to occur on this site include landslides, earthquakes or related hazards, and wildfires. Tillamook County has adopted ordinances pertaining to geohazard areas, (see LUO Section 4.070 Development requirements for Geologic Hazard Areas). Fire services in the Pacific City area are provided by Nestucca Rural Fire Protection District. The proposed road will be located and constructed in compliance with the applicable design standards of the Tillamook Land Use Ordinance and the Tillamook County Road Standards. The proposed road will also be designed and constructed in compliance with the applicable requirements of the Nestucca Rural Fire Protection District.

Tillamook County has identified potential hazard areas throughout the county with the implementation of the Geologic Hazard Overlay Zone. Portions of that zone apply to the subject property and to the proposed road corridor. A Preliminary Engineering Geologic Hazard Reconnaissance Report has been prepared for this project and is included in Appendix F. In addition to that report, a Geotechnical Design Report has been prepared for this project and is also included in Appendix F. Both of the reports address the subject of the natural hazard of slope instability and landslides. Both reports conclude that the construction of the proposed road is feasible within the parameters set forth in the design recommendations. Therefore, there are no apparent conflicts with Goal 7 and the seven Hazards Policies in the County's Comprehensive Plan.

Conclusion: The county has adopted appropriate safeguards in its implementing regulations which can be imposed as conditions of future partition and/or subdivision approval(s) prior to actual road construction to mitigate the identified hazards on the site.

Goal 8 – Recreation Element

State Planning Goal 8, Recreation Needs, calls for each community to evaluate its areas and facilities for recreation and develop plans to deal with the projected demand for them. It also sets forth detailed standards for expedited siting of destination resorts.

Findings: The entire site, which is zoned SFW-20, has not been planned for specific recreational

use. The requested amendment requested of the site will, therefore, not result in a reduction in land planned or reserved for recreational use. The vast majority of the recreational lands in the Pacific City area are focused upon the beaches of the Pacific Ocean. Bob Straub State Park is a major recreation area on the Nestucca Spit and provides unique recreational opportunities in the Pacific City Area. The property through which this roadway corridor is planned is not located within and does not have any affect upon any recreational lands in the Pacific City area. There are no recreational lands that are close to the roadway corridor associated with this application; therefore, this application is not in conflict with this goal.

Conclusion: Based on these findings, staff concludes that the requested comprehensive plan amendment and goal exception are not in conflict with Goal 8.

Goal 9 – Economy of the State

State Planning Goal 9 calls for diversification and improvement of the economy. This Goal asks communities to inventory commercial and industrial lands, project future needs for such lands, and plan and zone enough land to meet those needs.

Findings: The property through which this roadway corridor is planned is not located within and does not have any affect upon any commercial or industrial lands in the Pacific City area. While not immediately apparent, the proposed amendment should result in development that contributes to the state and local economy by providing for housing and the need for off site commercial activities that would help the Pacific City grow economically. This application and the proposed amendment are supportive of this Goal.

Conclusion: Based on the above findings, Goal 9 is not directly applicable to the requested comprehensive plan amendment and goal exception.

Goal 10 – Housing

State Planning Goal 10, Housing, specifies that each city must plan for and accommodate needed housing types, such as multifamily and manufactured housing. It requires each city to inventory its buildable residential lands, project future needs for such lands, and plan and zone enough buildable land to meet those needs.

Findings: The Pacific City/Woods Community Plan includes policies and statements addressing the housing needs of the Pacific City/Woods area. Tillamook County has planned for needed housing types through the zoning designations of buildable lands within the Community Growth Boundary of Pacific City/Woods. The 53-acre tract of land that is owned by the applicant is planned and zoned for medium density residential development. The road corridor would provide the needed primary access that is a requirement for future development of housing on the subject property.

The Tillamook County Comprehensive Plan includes the goals and policies of the Pacific City/Woods Community Plan and the Pacific City/Woods Transportation Plan, both of which include the following policies:

Conclusion: Based on the above findings, staff concludes that the request is consistent with the

provisions of Goal 10.

Goal 11 – Public Facilities

State Planning Goal 11, Public Facilities and Services, calls for efficient planning of public services such as sewers, water, law enforcement, and fire protection.

Findings: This goal exception application does not contain any provision for the extension of sewer or water within or along side of the proposed road corridor. No sewer lines or water lines are associated with this road corridor. Therefore, with respect to the public facilities of sewer and water systems, this road corridor application is not in conflict with those portions of Statewide Planning Goal 11 to the extension of sewer and water systems, nor with the 10 Public Facilities Policies in the comprehensive plan.

Conclusion: Based on the above findings, staff concludes that the proposed goal exception is not in conflict with Goal 11 policies.

Goal - 12 Transportation

To provide and encourage a safe, convenient and economic transportation system.

Findings: Of the seven separate alternatives considered, the preferred alternative (D3) is the safest, most convenient, and most economic route based on the criterion used in the alternatives analysis discussed previously herein.

The need for the road corridor of this application was a result of the public planning process of the Pacific City/Woods community and Tillamook County. The need for this road is explicitly called out in the policies of the Pacific City/Woods Comprehensive Plan and the Pacific City/Woods Transportation Plan. This road corridor application complies with both of those plans as noted below.

With respect to transportation facilities as addressed in State Planning Goal 12, this road corridor application is in compliance. Tillamook County has adopted a plan for transportation facilities in the Pacific City area that specifically and directly addresses the transportation requirements for the specific road corridor that is the subject of this application.

The Tillamook County Comprehensive Plan includes the goals and policies of the Pacific City/Woods Community Plan and the Pacific City/Woods Transportation Plan, both of which include the following policies:

Policy 3.20 of the Pacific City/Woods Comprehensive Plan and Policy 20 of Pacific City/Woods Transportation Plan. “Ensure that future development has adequate and safe transportation connections without adversely affecting established developed areas.”

Projects/Strategies

20A. Street System

“When developed, the land south and east of Pacific City Heights, within the Community

Growth Boundary, should have street connections to Brooten Road and/or Resort Drive. A connection to the Pacific City Heights subdivision should not occur until a direct, more convenient, primary access is provided to Brooten Road."

The road corridor that is the subject of this application will provide the described street connection to Resort Drive from the land that is south and east of Pacific City Heights (the 53-acre tract now owned by Aspen PC, LLC). This road corridor will provide a direct, more convenient, primary access road that will connect to Resort Drive. The proposed road will also provide an important new primary access road that will be extremely useful for the Pacific City heights area in the event of a natural disaster. Both Brooten Road and Resort Drive are located at a relatively low elevation and are subject to flooding during a tsunami. In the event of a tsunami, those two roads may become impassable, which would dramatically affect the ability of emergency services to provide access to and from Pacific City and Pacific City Heights. Together with an emergency access road that will connect this road to the Pacific City Heights subdivision (through the subdivision proposed for the 53-acre tract of land now owned by Aspen PC, LLC). Therefore, this road corridor will provide a direct, more convenient, primary access road that will not be subject to flooding that will allow additional emergency access to the Pacific City Heights subdivision in the event of a natural disaster. The proposed road corridor (the preferred alternative, D3) is the safest, most convenient, and most economic route, based on the criterion used in the alternatives analysis for the various road corridor options. Therefore, this application is in compliance with the transportation goals as set forth in State Planning Goal 12 and in the Tillamook County Comprehensive Plan.

Goal 12 relates to transportation facilities and implementation of the State Transportation Planning Rule which essentially requires that local system plans be consistent with those of the State. The proposed subdivision will put additional traffic onto Resort Drive which intersects with the Oregon Coast Highway, a State highway. A traffic study prepared by DKS & Associates, Inc. has been provided with this application in Appendix E. This study evaluates potential impacts of the proposed development to the County and State transportation system. The analysis also provides recommended mitigation measures to ensure that the proposed development is consistent with the Transportation Planning Rule. Therefore, this application is not in conflict with this goal.

Conclusion: Through its implementing regulations, the county has the ability to impose conditions of future partition and/or subdivision approval(s) prior to actual road construction to mitigate the identified impacts to the State and County transportation systems.

Goal 13 – Energy

State Planning Goal 13, Energy, declares that "land and uses developed on the land shall be managed and controlled so as to maximize the conservation of all forms of energy, based upon sound economic principles."

Findings: As described above in the findings under Goal 12, Tillamook County has adopted a plan for transportation facilities in the Pacific City area that specifically and directly addresses the transportation need and requirements for the specific road corridor that is the subject of this application. Strategy 20A of the PC/W Transportation Plan is quoted above under the response to

State Planning Goal 12. This application narrative has demonstrated that the proposed road corridor (the preferred alternative) is the safest, most convenient, and most economic route, based on the criterion discussed below in the alternatives analysis for the various road corridor options.

Upon initial consideration, this road corridor might appear to be inefficient in that the proposed road is quite long, potentially resulting in a lack of energy savings. Theoretically, a shorter and more direct road from the 53-acre property to the core area of Pacific City would result in less energy consumption for travelled vehicle miles. However, the alternatives analysis considered a wide variety of options on how to meet all of the criteria required for connectivity, safety, economy and energy. In the final analysis, a longer road that uses flatter slopes with broader curves to meet the requirements of Tillamook County Road Standards may result in an energy efficient road that is required to meet the road design and safety standards of Tillamook County.

The proposed road corridor (the preferred alternative) is the safest, most convenient, and most economic route, based on the criterion discussed in the alternatives analysis for the various road corridor options submitted by the applicant.

Conclusion: Based on these findings, this application is not in direct conflict with the energy goals as set forth in Goal 13.

Goal 14 – Urbanization

State Planning Goal 14, Urbanization, aims to provide for an orderly and efficient transition from rural to urban land use.

Findings: Policy 2.3 of the Community Growth section in the Pacific City/Woods community plan indicates that, "If expansion of the CGB is considered in the future, the Pacific City/Woods Citizen Planning Advisory Committee (CPAC) will first consider the Brooten Mountain Reserve." The proposed location of the road for which this exception is requested is within the Brooten Mountain Reserve. While it is not ideal to extend transportation infrastructure serving urbanized lands into resources lands, in this instance, the area has been preliminarily identified in the acknowledged Comprehensive Plan as a reserve area for future growth. Reserve areas are the first areas considered for future expansions for growth.

Approval of this goal exception application would not allow for the expansion of the other infrastructure components related to urbanization, such as sewer and water. Those infrastructure components are not included in this application. Therefore, the existing transition between rural and urban land uses that now exists at the Community Growth Boundary will remain unchanged for residential uses and utilities such as sewer and water.

Conclusion: Based on the above findings, the requested goal exception is not in conflict with the urbanization goals as set forth in State Planning Goal 14, since this road corridor will help maintain the orderly and efficient transition from rural to urban land use.

Goal 15 – Willamette Greenway

State Planning Goal 15 sets forth procedures for administering the 300 miles of greenway that protects the Willamette River.

Findings: The property that is the subject of this planning application is not located on the Willamette River. There are no Willamette Greenway resources that are a part of the roadway corridor associated with this application

Conclusion: Based on the above findings, Goal 15 is not applicable to this application.

Goal 16 – Estuarine Resources

State Planning Goal 16 requires local governments to classify Oregon's 22 major estuaries in four categories. It then describes types of land uses and activities that are permissible in this "management units."

Findings: The Nestucca Bay estuary is located to the south of Broton Mountain. This estuary is more than one half mile south of the road corridor that is associated with this application. Similar to the agricultural lands that are located to the north of Broton Mountain, the Nestucca Bay estuary and drainage basin to the south of Broton Mountain will be protected from potential adverse affects of stormwater drainage by the implementation of an approved stormwater control plan and an approved erosion control plan. Stormwater runoff from the proposed road will eventually drain into those estuarine lands by means of established drainage channels and creeks. A stormwater control plan and an erosion control plan will be required as a part of the future road construction. The stormwater control plan and the erosion control plan will be required to meet existing standards so as to not adversely affect those estuarine lands.

Conclusion: Based on the above findings, staff concludes that there are no direct conflicts with Goal 16; however, potential indirect impacts can be mitigated through the county's implementing regulations and conditions imposed on future partition/subdivision approvals.

Goal 17 – Coastal Shorelands

State Planning Goal 17 defines a planning area defined by the ocean beaches to the west and the coast highway (State Route 101) to the east. The Goal specifies how certain types of land and resources in this planning area are to be managed: major marshes, for example, are to be protected. The Goal also requires that sites best suited for unique coastal land uses (port facilities, for example) are reserved for "water-dependent" or "water-related" uses.

Findings: The property through which this roadway corridor is planned is located within the coastal Shorelands planning area defined in this state planning goal. All of Broton Mountain is, in fact, located within this planning area west of the Oregon Coast highway. However, there are no lands that are reserved for water-dependent or water-related uses that are a part of the roadway corridor associated with this application.

Conclusion: Based on the above findings, staff concludes that there are no direct conflicts with

Goal 17 associated with this application.

Goal 18 – Beaches and Dunes

State Planning Goal 18 sets planning standards for development on various types of dunes. The goal also deals with dune grading, groundwater drawdown in dunal aquifers, and the breaching of foredunes.

Findings: There are no beaches and dunes in the vicinity of the proposed roadway corridor associated with this application.

Conclusion: Based on this finding, staff concludes that Goal 18 is not applicable to this application.

Goal 19 – Ocean Resources

State Planning Goal 19, Ocean Resources, aims "to conserve the long-term values, benefits, and natural resources of the nearshore ocean and the continental shelf." It deals with matters such as dumping of dredge spoils and discharging of waste products into the open sea. Goal 19's main requirements are for state agencies rather than cities and counties.

Findings: The property that is the subject of this planning application is not oceanfront property. There are no ocean resources that are a part of or are affected by the proposed roadway corridor associated with this application.

Conclusion: Based on this finding, staff concludes that Goal 19 is not applicable to this application.

4. Tillamook County Land Use Ordinance, Article IX, Amendment Process

The Tillamook County Land Use Ordinance (LUO) Section 9.030 subsections (2) and (3) require that an application for ordinance amendment be submitted at least 45 days prior to Commission hearing, and that notice of the proposed action is provided according to the provisions of Land Use Ordinance, Section 10.060. This section requires notice to property owners within 750 feet of the property and publication in a newspaper of general circulation at least 10 days prior to the first meeting.

Findings: The procedures for ordinance text amendments are found in Article IX of the Land Use Ordinance. No specific procedures are governing amendment of the Comprehensive Plan have been adopted by the County. Staff finds the procedures of Section 9.030 for amendments to the zoning ordinance text are the most appropriate for this type of application, and these procedures have been followed to process previous comprehensive plan amendment requests. All necessary information must be included to satisfy the state goal exception criteria. The zoning map will not be changed on approval of this request.

Notice of the public hearing on this action was printed in the August 6, 2008 issue of the Headlight-Herald and 94 notices were sent to property owners within 750 feet of the subject parcel and to agencies and interested parties. Several letters have been received and are attached

to the staff report. DLCD was notified of the proposal on July 10, 2008.

1. Section 9.030(4) and (5) requires the Department and Commission consider the proposed amendment and the intent of the applicable Comprehensive Plan policies; the intent of the provisions being amended; the affect on the land use patterns in the County; administration and enforcement; and the benefits or costs to Departmental resources resulting from the proposed amendment. The Commission shall recommend that the Board of Commissioners adopt, adopt with modifications, or not adopt the proposed amendment.

Findings: The Tillamook County Comprehensive Plan provides language to accomplish Goal Exceptions that is consistent with State law. It is therefore reasonable to assume that if the exception complies with the criteria set out in State law, it meets the intent of the Comprehensive Plan policies. The intent of the proposed goal exception is to create a roadway that will be used to serve the 53-acre parcel zoned PCW-R2. No other provisions of the Comprehensive Plan will be amended as a result of taking this goal exception. The affect of the Exception on land use patterns will be negligible in that this proposal will not be used to access the resource zone land and that no more than 7 acres of SFW-20 resource zone land will be disturbed. There does not appear to be any impact on County administration or enforcement as a result of this request, nor is there any related cost or benefit. The Department of Community Development has received a recommendation from the Pacific City/Woods recommending denial of the request, an accompanying minority statement from those who did not vote for a recommendation to deny, and several letters from citizens. A letter was also received from the Pacific City Heights Neighborhood Association that neither opposes nor supports the request, but opposes any traffic plan that would flow through Pacific City Heights Neighborhoods, excepting emergency vehicles. In addition, a letter was received from the Tillamook County Public Works Department in support of the preferred alternative D3 corridor route.

Conclusion: The findings above demonstrate the procedural requirements, which must be met to designate an Exception area in the Comprehensive Plan ordinance, are met with the notifications, and hearings provided. The substantive requirements to allow an exception are also met and are further addressed in the report.

IV. CONCLUSIONS: Staff concludes that the requested comprehensive plan amendment and associated Goal 4 exception meets the minimum requirements of OAR 660, Division 12, Transportation Planning, and applicable provisions of the Tillamook County Land Use Ordinance and Comprehensive Plan. Therefore, staff concludes: the applicable criteria have been satisfied by the applicant, the proposed use is reasonable; and that potentially adverse impacts related to road construction and connection with the existing county and state transportation system as proposed can be mitigated through conditions imposed on future land use approvals.

VII. RECOMMENDATION: Based on the findings of fact, conclusions and other relevant information contained within this report, Staff recommends **APPROVAL** of Ordinance Amendment Request OA-08-02.

VIII. EXHIBITS:

- Exhibit I: Application Narrative & Exhibits
- Exhibit II: State Planning Goal Exception Application, Supplement No. 1, August 14, 2008
- Exhibit III: Sutton Way Evaluation Map submitted by Applicant
- Exhibit IV: DCD letter, February 13, 1989
- Exhibit V: Public Works Department Letter, August 19, 2008
- Exhibit VI: Public comment letters



DEPARTMENT OF COMMUNITY DEVELOPMENT
BUILDING, PLANNING & ON-SITE SANITATION SECTIONS

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ORDINANCE AMENDMENT REQUEST

**OA-08-02: Aspen Pacific City, LLC, Post Acknowledgement Plan
Amendment & Statewide Goal 4 Exception for a Primary Access Road**

SUPPLEMENTAL STAFF REPORT DATE: October 2, 2008

Prepared by: Valerie Soilihi, AICP, Coastal Resource Planner

I. GENERAL INFORMATION:

Request: A request to amend the Tillamook County Comprehensive Plan Ordinance No. 32 and to adopt an Exception to Statewide Planning Goal 4 Forest Lands to identify a corridor for construction of a primary access road to serve a 53-acre tract of land located within the Pacific City-Woods Unincorporated Growth Boundary

Location: The subject properties of the Goal Exception are located generally southeast of the Unincorporated Community Growth Boundary of Pacific City-Woods, north of Brooten Mountain Road and southwest of Resort Drive, and are further identified on the Tillamook County Assessor's map as Tax Lots 200 & 700 in Township 4S, R 10W, Section 32, and Tax Lots 801 and 1200, in Township 4S, R 10W, Section 29.

Zone: Small Farm & Woodlot (SFW-20)

Applicant & Owner: Aspen Pacific City, LLC, ATTN: Tim Kerr, c/o Kerr Contractors, Inc., P.O. Box 1060, Woodburn, OR 97071

Description of Request: The applicant requests approval of a Post Acknowledgement Plan Amendment (PAPA) to the Tillamook County Comprehensive Plan, and more specifically the Pacific City/Woods Unincorporated Community Plan to identify and allow construction of a new road corridor to serve a 53-acre tract of land currently designated Pacific City/Woods Medium Density Residential (PCW-R2), and located within the unincorporated community growth boundary. The proposed PAPA requires an exception to Statewide Planning Goal 4, Forest Lands to allow creation and construction of road across the subject properties, currently zoned SFW-20 and deemed to be forest lands. The goal exception is requested pursuant to applicable provisions of OAR 660 Division 12, Transportation Planning. The requested PAPA considers only the goal exception to allow identification of the primary access road corridor. Actual creation of the road corridor requires subsequent approval of a Major Partition, pursuant to the Tillamook County Land Division Ordinance (TCLDO). Development of the 53-acre tract

of land identified as Tax Lot 1100 on Tillamook County Assessor's Map 4S 10 30 will require subdivision approval pursuant to the TCLDO. Approval of the requested comprehensive plan amendment to allow the goal exception will not change the zoning of the subject properties, which will remain SFW-20.

II. SUMMARY OF PROCEEDINGS

The Planning Commission held a public hearing on this request on August 28, 2008, and after receiving testimony, passed a motion to close the hearing, but to leave the record open for receipt of additional written testimony through 5:00 pm September 4, 2008, with the deadline for the applicant's rebuttal set at 5:00 pm September 11, 2008.

Additional written testimony was submitted by the following parties prior to the September 4th 5:00 pm deadline:

- 1) Wesley Hill, Attorney, representing Steve & Kim Killam, September 4, 2008
- 2) James M. & Grace E. Mick, September 2, 2008
- 3) Mary J. Jones & Jeff Schons, September 4, 2008
- 4) Christine & Dennis Dirks, September 4, 2008
- 5) Donna & Peter Schuller, September 4, 2008
- 6) Anne Price, letter dated August 28, 2008 that was read into the record at the hearing, received September 4, 2008

The applicant's rebuttal addressing testimony presented at the August 28th hearing, and additional written testimony submitted by September 4th, was received September 11, 2008. Copies of the additional testimony and the rebuttal are attached for the Commissioners' review.

As the public hearing was closed on August 28, 2008, no additional testimony may be taken at the October 9th meeting. The Commission can proceed to deliberate on the matter and determine whether to recommend approval or denial of the request to the Board of Commissioners. A public hearing will be scheduled for the Board of Commissioners after a Planning Commission decision and recommendation have been rendered.

III. SUMMARY OF ISSUES

Primary issues raised in the testimony received during and after the hearing may be summarized as follows: 1) adequacy of identification and analysis of reasonable access alternatives; 2) potential impacts on the SFW-20 zoned resource land through which the proposed road would pass; 3) potential adverse impacts on the existing rural residential properties adjacent to or near the proposed road alignment; 4) potential adverse impacts on existing neighborhoods inside the Pacific City Community Growth Boundary if the primary access road were to connect to the existing street network to the north or west (through the Caine property or Pacific SeaWatch subdivision); 5) safety issues associated with Resort Drive; 6) potential for the requested goal exception to facilitate a future zone change of the subject property.

The issues listed above are addressed at length in the submitted testimony, the staff report dated August 21, 2008 and the applicant's rebuttal received on September 11, 2008.

In the rebuttal, the applicant proposes several mitigation measures to address potential impacts associated with the proposed location and function of the roadway.

- On page 2 of the rebuttal, the applicant proposes to mitigate potential impacts on the pond that straddles the boundary between the Ruby property and property owned by Aspen PC, LLC, through provision of a vegetated buffer between the pond and the proposed roadway. The rebuttal states that a 15 foot riparian setback is required for the pond.

Staff notes, however, that no riparian setback is required for ponds/lakes/reservoirs of less than one acre pursuant to Tillamook County Land Use Ordinance Section 4.080: Requirements for Protection of Water Quality and Streambank Stabilization. The pond in question is estimated to cover less than one acre. The rebuttal also cites the ODFW comments submitted following a site visit to the subject property, amending their earlier letter of August 20, 2008, stating that there are "No fish passage requirements for stream-road crossings", and "No sensitive resources located within the project boundary." In the interest of enhancing and protecting the pond, staff concurs with the applicant's proposed planting of a vegetated buffer.

- On page 12 of the rebuttal, the applicant states a willingness to provide a new driveway for the Killam property to address the safety concerns described in the September 4, 2008 letter from the Killams' attorney, Wes Hill. As specified in the rebuttal, storm drainage and vegetative screening can also be provided adjacent to the Killam property to mitigate adverse impacts associated with runoff, and with projected traffic from the future subdivision on the proposed road.
- On page 15 of the rebuttal, the applicant responds to safety issues related to Resort Drive, referring the Traffic Impact Analysis prepared by DKS Associates that was submitted with the application. (Staff notes that there is a typographical error in the fourth paragraph, pg. 15 – it should read "...50% of the peak traffic...", not "450%".) The rebuttal acknowledges that they will be required to make roadway improvements at the intersection of Resort Drive with Highway 101.

Staff notes that since the August 28th hearing, a meeting with the applicant, ODOT, Public Works and Community Development staff was held at which safety improvements for the Resort Drive/Highway 101 intersection were discussed. Safety issues in the vicinity of the intersection of the proposed road with Resort Drive will be evaluated with the final intersection design and required improvements on Resort Drive determined by Public Works during the major partition and subdivision reviews.

- On page 16 of the rebuttal, the applicant offers solutions to mitigate potential impacts to Portwood Road raised by Christine and Dennis Dirks in their September 4, 2008 letter. Portwood Road provides access to properties in the Portwood Subdivision. The applicant suggests closing off Portwood Road at its intersection with the proposed road to prevent traffic from the future subdivision from using Portwood Road. The applicant

offers building a turn-around on tax lot 301 (owned by Aspen PC). As noted in the rebuttal, this would require consent of the owners of tax lots 1600 and 1700 (*please note that there is a typographical error in the rebuttal identifying lot 1700 as lot 1500*), undeveloped properties located west of the Portwood Road/new road intersection. The applicant proposes to grant an easement over the 1,200 feet of the proposed road to the owners of these two tax lots subject to their giving up their rights to use the Portwood Road easement to the east of the proposed intersection.

- On page 17 of the rebuttal, that applicant responds to the issue raised in testimony of potential upzoning of the SFW-20 property once the road corridor is approved. The applicant notes that existing rules and regulations will govern future zoning decisions.

Staff adds that a request for upzoning would require a subsequent exception to Goal 4, with a substantial burden of proof placed on the applicant to demonstrate need for the zone change. Because the SFW-20 property is outside the Pacific City/Woods Community Growth Boundary (CBG), a zone change request to allow residential development would be limited to Rural Residential with a 10-acre minimum lot size under current regulations. Expansion of the Community Growth Boundary to include any portion of the SFW-20 property and allow for more intensive upzoning could only be accomplished by demonstrating a need based on a shortage of buildable land within the existing CGB.

Staff further notes that there are no known instances of a Goal 4 exception being taken in the county to allow for an access road to be built to accommodate urban development that resulted in subsequent upzoning of the affected resource land. The only Goal 4 exception taken for an access road in recent institutional memory was approved in September 2005 (OA-05-01, Kowalski). There were no mitigation measures or conditions attached to the approval of that Goal 4 exception.

OAR 660-004-0005(1)(a) affirms that a goal exception "*Is applicable to specific properties or situations and does not establish a planning or zoning policy of general applicability;*"

Staff finds that granting a goal exception is specific to the request, and the circumstances associated with a particular property. Approval of an Exception does not establish a precedent for other types of land use approvals or what might be permitted in the future on the affected property, or on any other property in the county. Each situation and land use request, e.g. a zone change, must be considered on its own particular merits and must meet the applicable criteria and/or requirements governing that type of application.

- The letter dated September 4, 2008, submitted by Mary Jones and Jeff Schons, recommends the following condition be placed on any recommendation the Planning Commission makes to the Board of Commissioners:

If approval is obtained for the road through resource land, any secondary access that may be gained through the Pacific City Heights

area and utilizing any of the existing roads, including, but not limited to Fisher Road, South Lane, Solita Blvd, Brooten Mountain Loop, Summit Drive, etc., shall be for emergency use only, with gates operable only by emergency personnel.

Ms. Jones and Mr. Schons indicate their concerns regarding the potential for secondary access through Pacific City Heights becoming the *de facto* primary access would be alleviated by this condition.

Staff agrees that this condition would serve to avoid adverse impacts from additional traffic being funneled through the substandard street network in Pacific City Heights. However, staff has concerns that this is not the appropriate land use approval for this condition, as no traffic is yet being generated as a result of approval of the goal exception. The appropriate time to impose this condition would be upon approval of the tentative subdivision plat for the 53 acres for which primary access is being sought. At that point there would likely be a clear nexus between the traffic generated by the new subdivision and resultant impacts on the existing street network to justify a condition such as that recommended.

IV. **AMENDED RECOMMENDATION:** Based on the findings of fact, conclusions and other relevant information contained within the August 21, 2008 staff report and supplemental staff report dated October 2, 2008, testimony received during and after the August 28, 2008 hearing, and the applicant's rebuttal received on September 11, 2008, staff recommends **APPROVAL** of Ordinance Amendment Request OA-08-02 with the following mitigation measures:

- mitigate potential impacts on the pond that straddles the boundary between the Ruby property and property owned by Aspen PC, LLC, through provision of a vegetated buffer between the pond and the proposed roadway;
- mitigate safety concerns through provision of a new driveway for the Killam property and address storm drainage and vegetative screening along the access road when constructed adjacent to the Killam property;
- prior to road construction, safety improvements for the Resort Drive/Highway 101 intersection and the intersection of the new road with Resort Drive, and to Resort Drive to be determined by Public Works and ODOT during the major partition and subdivision reviews and road approach permitting processes;
- mitigate potential impacts to Portwood Road by closing off Portwood Road at its intersection with the proposed road to prevent traffic from the future subdivision from using Portwood Road, and through provision of a turn-around on tax lot 301 (owned by Aspen PC), or other solution agreed upon by affected property owners and the county during subdivision review.

VI. EXHIBITS:

Exhibit I: Additional written testimony
Exhibit II: Applicant's rebuttal

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