



**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**

07/11/2011

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

**FROM:** Plan Amendment Program Specialist

**SUBJECT:** Jackson County Plan Amendment  
DLCD File Number 001-08R

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:** Wednesday, July 27, 2011

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 Acknowledgment or Appeal Deadline is based upon the date the decision was mailed by local government. A decision may have been mailed to you on a different date than it was mailed to DLCD. As a result, your appeal deadline may be earlier than the above date specified. NO LUBA Notification to the jurisdiction of an appeal by the deadline, this Plan Amendment is acknowledged.

**Cc:** Craig Anderson, Jackson County  
Jon Jinings, DLCD Community Services Specialist  
Ed Moore, DLCD Regional Representative

<paa> YA/I

PROP **2**

# DLCD

## Notice of Adoption

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

In person  electronic  mailed

DATE  
STAMP

**DEPT OF**  
**JUL 08 2011**  
**LAND CONSERVATION  
AND DEVELOPMENT**

For DLCD Use Only

Jurisdiction: **Jackson County**

Local file number: **LRP2007-00008 Remand**

Date of Adoption: **6/29/2011**

Date Mailed: **7/5/2011**

Was a Notice of Proposed Amendment (Form 1) mailed to DLCD? **Yes** Date: **3/11/2011**

- |   |   |
|---|---|
| <input checked="" type="checkbox"/> Comprehensive Plan Text Amendment | <input type="checkbox"/> Comprehensive Plan Map Amendment |
| <input type="checkbox"/> Land Use Regulation Amendment                | <input type="checkbox"/> Zoning Map Amendment             |
| <input type="checkbox"/> New Land Use Regulation                      | <input type="checkbox"/> Other:                           |

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

**Goal 11 exception to allow urban level water service to be extended and connected to the Siskiyou Safety Rest Area.**

Does the Adoption differ from proposal? Please select one

No

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

Zone Map Changed from: **N/A** to: **N/A**

Location: **Interstate 5 Right of Way between MP 12-13.**

Acres Involved: **18**

Specify Density: Previous: **N/A**

New: **N/A**

Applicable statewide planning goals:

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

Was an Exception Adopted?  YES  NO

Did DLCD receive a Notice of Proposed Amendment...

45-days prior to first evidentiary hearing?  Yes  No

If no, do the statewide planning goals apply?  Yes  No

If no, did Emergency Circumstances require immediate adoption?  Yes  No

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

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

**DLCD, City of Ashland, Jackson County Roads and Parks**

DLCD File No. 001-08R (16636) [16703]



---

Local Contact: **Craig Anderson**

Phone: (541)774-6918 Extension:

Address: 10 S. Oakdale

Fax Number: 541-774-6791

City: Medford

Zip: 97501

E-mail Address: [anderscm@jacksoncounty.org](mailto:anderscm@jacksoncounty.org)

---

## **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, or by emailing [larry.french@state.or.us](mailto:larry.french@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 [larry.french@state.or.us](mailto:larry.french@state.or.us) - **Attention: Plan Amendment Specialist**.

Updated March 17, 2009



## NOTICE OF ADOPTION

Pursuant to Oregon Revised Statutes (ORS) 197.615, you are hereby being notified that the Jackson County Board of Commissioners adopted Ordinance No. 2011-9 at a properly advertised public hearing on May 11, 2011, at 1:30 p.m., in the City of Medford's Chamber, 411 W. 8<sup>th</sup> St., Medford, Oregon 97501.

The ordinance will go into effect on August 28, 2011 (60 days from the date of adoption). A description of the ordinance follows:

Ordinance No. 2011-9 amends the Jackson County Comprehensive by taking a "reasons" goal exception to Goal 11 to allow urban level water service to be extended and connected to the Siskiyou Safety Rest Area/Welcome Center, located on an approximately 18 acre property described as Township 39 South, Range 1 East, Section 24 (right of way), between mileposts 12 and 13 within the interstate 5 right of way (east side), approximately 500 feet south of the City of Ashland Urban Growth Boundary (UGB). File LRP2007-00008.

This notice is being mailed to you on July 5, 2011, which is within five working days after the adoption date of the ordinance(s) as required by ORS 197.615. If you have any questions on the effect of this ordinance, please contact **Craig Anderson** at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501. Telephone: Medford 774-6918; Jackson County residents outside of Medford's local calling area 1-800-452-5021 and enter the next four digit extension 6918.

You may review this ordinance, or you may purchase a copy for \$.25 for the first page and \$.10 for each additional page, at Development Services, Room 100, County Offices, 10 South Oakdale, Medford, Oregon 97501, between the hours of 8:00 a.m. and 4:00 p.m., Monday, Tuesday, Thursday and Friday; and 11:00 a.m. to 4:00 p.m on Wednesday.

The Board of County Commissioner's Ordinances are the final decisions on this action. Pursuant to State law, Jackson County is hereby notifying all persons who participated in the hearings, either in writing or orally. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on July 5, 2011, and the LUBA appeal period will expire on July 26, 2011. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.

Attachments: Notary Packet




NOTARY PAGE

STATE OF OREGON    )  
                                  )  
COUNTY OF JACKSON )

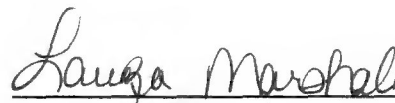
I, Patricia A. Guida, being first duly sworn, depose and say that on behalf of Jackson County Development Services, I gave notice of Board of Commissioners Ordinance No. 2011-9 by mailing a copy of the Notice of Adoption by regular mail to each of the following named persons at their respective last known addresses, to wit: (as attached)

Each of said copies of the Notice were enclosed in a sealed envelope addressed to the persons at the addresses above set forth, with postage thereon fully prepaid and was deposited in the post office at Medford, Oregon, on July 5, 2011.

  
\_\_\_\_\_  
Signature

Personally appeared before me this 5th day of July, 2011, the above named Patricia A. Guida who acknowledged the foregoing affidavit to be her voluntary act and deed.



  
\_\_\_\_\_  
Notary Public for Oregon  
My Commission Expires: 2.16.2012

NOTICE OF ADOPTION SENT TO: APPLICANT, AGENCIES AND INTERESTED PERSONS.

APPLICANT NAME: OR DEPT. OF TRANSPORTATION  
FILE NO: LRP2007-00008 - Remand

FILE NO. LRP2007-00008  
NOTICE OF ADOPTION  
MAILING LIST  
APPLICANT: ODOT

APPLICANT LRP2007-00008  
ODOT  
SHIRLEY ROBERTS  
PO BOX 3275  
CENTRAL POINT OR 97502

STAFF LRP2007-00008  
KELLY MADDING  
DEVELOPMENT SERVICES  
DIRECTOR

STAFF LRP2007-00008  
CRAIG ANDERSON  
PLANNER

STAFF LRP2007-00008  
FRANK HAMMOND  
COUNTY COUNSEL

BOC LRP2007-00008  
DON SKUNDRICK  
BOARD OF COMMISSIONERS

BOC LRP2007-00008  
DENNIS "C.W." SMITH, CHAIR  
BOARD OF COMMISSIONERS

BOC LRP2007-00008  
JOHN RACHOR  
BOARD OF COMMISSIONERS

DLCD LRP2007-00008  
ATTN: PLAN AMEND. SPECIALIST  
635 CAPITOL ST NE STE 150  
SALEM OR 97301

IP LRP2007-00008  
MARK GREENFIELD  
14745 NW GILLIHAN RD  
PORTLAND OR 97231

IP LRP2007-00008  
KAREN LEITNER  
3274 E EVENS CR RD  
ROGUE RIVER OR 97537

IP LRP2007-00008  
CONNIE FOLAND  
500 REITEN DR  
ASHLAND OR 97520

IP LRP2007-00008  
D.E. PISTORES  
1060 OAK KNOLL DR  
ASHLAND OR 97520

IP LRP2007-00008  
DAN FOLLIARD  
1032 OAK KNOLL DR  
ASHLAND OR 97520

IP LRP2007-00008  
NOREEN TUBBS  
792 ST ANDREWS  
ASHLAND OR 97520

IP LRP2007-00008  
SUZANNE FREY  
ALLEN BAKER  
1042 OAK KNOLL DR  
ASHLAND OR 97520

IP LRP2007-00008  
JERRY/KAY STEIN  
806 CYPRESS PT LOOP  
ASHLAND OR 97520

IP LRP2007-00008  
GINNY PORTER  
1033 OAK KNOLL DR  
ASHLAND OR 97520

IP LRP2007-00008  
MURDOCK LACHANCE  
950 CYPRESS PT LOOP  
ASHLAND OR 97520

IP LRP2007-00008  
MICHAEL FAUGHT  
3685 COLEMAN CR RD  
MEDFORD OR 97501

IP LRP2007-00008  
SCOTT WEST  
16121 SE OATFIELD RD  
MILWAUKIE OR 97267

IP LRP2007-00008  
THEODORE SHERBOW  
741 SALISHAN CT  
ASHLAND OR 97520

IP LRP2007-00008  
CATIE FARYL  
716 1<sup>ST</sup> ST  
PHOENIX OR 97535 97535

IP LRP2007-00008  
SHARON MIRANDA  
488 CROWSON RD  
ASHLAND, OR 97520

IP LRP2007-00008  
CHRIS SKREPETOS  
4424 HWY 66  
ASHLAND OR 97520



Adopted: 6/29/11  
Effective: 8/28/11

BEFORE THE BOARD OF COMMISSIONERS  
STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF A REMAND FROM THE OREGON )  
COURT OF APPEALS OF ORDINANCE NO. 2009-7, AN )  
ORDINANCE AMENDING THE JACKSON COUNTY )  
COMPREHENSIVE PLAN BY TAKING "REASONS" )  
GOAL EXCEPTIONS TO GOALS 3, 11 AND 14 FOR )  
THE SISKIYOU SAFETY REST AREA/WELCOME )  
CENTER AND CONNECTION TO AN EXISTING )  
SANITARY SEWER LINE. ON REMAND, THE )  
CURRENT PROPOSAL IS TO AMEND THE JACKSON )  
COUNTY COMPREHENSIVE PLAN BY TAKING A )  
"REASONS" GOAL EXCEPTION TO GOAL 11 TO )  
ALLOW URBAN LEVEL WATER SERVICE TO BE )  
EXTENDED AND CONNECTED TO THE SISKIYOU )  
SAFETY REST AREA/WELCOME CENTER, LOCATED )  
ON AN APPROXIMATELY 18 ACRE PROPERTY )  
DESCRIBED AS TOWNSHIP 39 SOUTH, RANGE 1 )  
EAST, SECTION 24 (RIGHT OF WAY), BETWEEN )  
MILEPOSTS 12 AND 13 WITHIN THE INTERSTATE 5 )  
RIGHT OF WAY (EAST SIDE), APPROXIMATELY 500 )  
FEET SOUTH OF THE CITY OF ASHLAND URBAN )  
GROWTH BOUNDARY (UGB). OREGON )  
DEPARTMENT OF TRANSPORTATION, OWNER. )  
FILE NO. LRP2007- 00008. )

ORDINANCE NO. 2011-9

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The standards justifying minor or quasi-judicial amendments to the Jackson County

Comprehensive Plan are contained in the Jackson County Comprehensive Plan (JCCP) and in the Jackson County Land Development Ordinance (JCLDO).

3. JCLDO Section 3.7.3 states that a minor map amendment must conform to the Statewide Planning Goals, Oregon Administrative Rules, and the Comprehensive Plan as a whole.
4. On November 24, 2010, the Oregon Court of Appeals issued an opinion in *Foland et al v. Jackson County*, upholding the Land Use Board of Appeals' (LUBA's) decision remanding Ordinance No. 2009-7. LUBA's remand required Jackson County to take an exception to Goal 11 in order to permit the extension of an urban water source to the uses approved in that Ordinance.
5. Subsequent to the Oregon Court of Appeals' opinion upholding LUBA's remand, applicant (ODOT) submitted findings to Jackson County in support of a minor map amendment to the Jackson County Comprehensive Plan (Goal 11 exception), as required by LUBA's remand.

***Now, therefore,***

*The Jackson County Board of Commissioners finds and concludes as follows:*

**SECTION 1. FINDINGS OF FACT:**

Based upon the evidence and argument presented, the Board of Commissioners makes the following findings of fact with respect to this proposal. Where factual conflicts arose, the Board of Commissioners has resolved them consistent with these findings.

- 1.1 The Board of Commissioners finds that a notice of the proposed amendment was provided to the Department of Land Conservation and Development (DLCD) on March 11, 2011, 61 days prior to the first evidentiary hearing.
- 1.2 The Board of Commissioners finds that proper legal notice was provided to the applicant, affected property owners and affected agencies on April 21, 2011 for a first evidentiary hearing on this proposal. Legal notice was published in the Sunday, May 1, 2011 edition of the Medford Mail Tribune.
- 1.3 On Wednesday, May 11, 2011, the Board of Commissioners held a properly advertised first evidentiary hearing to consider the evidence and testimony on ODOT's proposed Goal 11 exception. The public hearing was continued to May 25, 2011. A second public hearing was held on May 25, 2011. After considering the evidence and testimony submitted, the Board of Commissioners, by motion and vote, approved the proposal.

**SECTION 2. LEGAL FINDINGS:**

- 2.1 The Board of Commissioners finds that this proceeding is appropriately limited to the determination of whether a Goal 11 exception should be approved to extend an urban



level of water to the approved Siskiyou Safety Rest Area/Welcome Center ("Rest Area") and that issues not on remand concerning the Board's previous approval of the Rest Area are irrelevant. The Board further finds that notice to this effect was verbally provided to both ODOT and opponents on numerous occasions during the course of both public hearings on this issue.

- 2.2 The Board of Commissioners finds that testimony and evidence addressing the terms, interpretation and application of Ordinance 2009-7's Condition #27 has been accepted into the record. Such testimony and evidence is irrelevant to these proceedings and has not been considered by the Board in the rendering of this decision. The Board also notes that ODOT's requests to modify Condition #27 were formally withdrawn at the public hearing held on May 25, 2011.
- 2.3 The Board of Commissioners finds that testimony and evidence has been accepted into the record that includes:
- A copy of the Ashland City Council minutes with a proposed decision and conditions to approve the extension of water to the Rest Area;
  - Testimony from the City of Ashland's Public Works Director Mike Faught regarding the terms of the City's proposed decision;
  - A copy of a writ of review to the Circuit Court that challenges the City's authority to extend water to the Rest Area;
  - Testimony that the City of Ashland's decision and conditions to extend water should be reconsidered and that the conditions imposed by the City cannot be met by ODOT;
  - A letter from ODOT indicating that it is negotiating with the Talent Irrigation District (TID) to obtain water for irrigation at the Rest Area;
  - Testimony that water from TID is not available and cannot be relied upon and the extension of that water from the TID would be contrary to policy and could impact other water rights in the area; and
  - Testimony challenging the validity of the approval of the Rest Area.

Consistent with findings 2.1 and 2.2 above, this testimony and evidence is irrelevant to these proceedings and has not been considered by the Board in the rendering of this decision.

- 2.4 The Board of Commissioners hereby adopts, as its own, the findings contained in the Staff Report, incorporated herein and attached as Exhibit "A."
- 2.5 With regard to the criteria under LDO Section 3.7.3 (C)(A) addressing the adequacy of public utilities and facilities, the Board of Commissioners finds that letters in the record from the City of Ashland, including a letter dated April 3, 2008, add to the evidence in the Staff Report that support a finding that public facilities exist that are adequate to serve the Rest Area.
- 2.6 The Board of Commissioners finds that the extension of an urban level of water service will not adversely affect farm or forest practices and that using urban water for the Siskiyou Safety Rest Area/Welcome Center assures that no impact will occur to adjacent farm and forest practices.

- 2.7 The Board of Commissioners hereby adopts the condition of approval contained in the Staff Report. This condition of approval states as follows:

**Connection Limitations to Water System:** *Extension of and connection to an urban water system shall be permitted solely for the purpose of serving the uses authorized in the previously adopted goal exceptions for the Siskiyou Safety Rest Area/Welcome Center. Connections to serve lands outside the subject property, or connections to serve uses other than those associated with the Siskiyou Safety Rest Area/Welcome Center, shall not be permitted unless a new "reasons" exception to Goal 11 and any other applicable Goal is approved.*

**SECTION 3. CONCLUSIONS:**

- 3.1 The Board of Commissioners concludes that proper public notice was given.
- 3.2 The Board of Commissioners concludes that this application for a Goal 11 exception, with the findings and condition of approval as specified in Exhibit "A" (attached) and in Section 2 above, is in compliance with the applicable Statewide Planning Goals, Oregon Administrative Rules, the applicable policies in the Jackson County Comprehensive Plan, and the applicable sections of the Jackson County Land Development Ordinance.

**SECTION 4. DECISION:**

***Now, therefore,***

*The Board of County Commissioners of Jackson County ordains as follows:*

- 4.1. Based on the evidence and testimony in the record of these proceedings, the Board of Commissioners hereby approves an amendment to the Jackson County Comprehensive Plan by taking a "reasons" goal exception to Goal 11 to allow urban level water service to be extended and connected to the Siskiyou Safety Rest Area/Welcome Center. The subject property is approximately 18 acres and legally described as Township 39 South, Range 1 East, Section 24 (right of way), located between mileposts 12 and 13 within the Interstate 5 right-of-way (east side), approximately 500 feet south of the City of Ashland Urban Growth Boundary (UGB). Oregon Department of Transportation, owner. File No. LRP2007-00008.




APPROVED this 29th day of June, 2011, at Medford, Oregon.


**JACKSON COUNTY BOARD OF COMMISSIONERS**

  
Dennis C. W. Smith, Chair

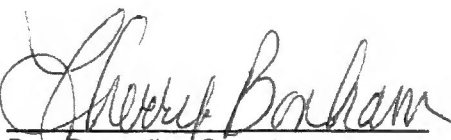
  
Don Skundrick, Commissioner

  
John Rachor, Commissioner

**APPROVED AS TO  
LEGAL SUFFICIENCY:**

  
County Counsel

**ATTEST:**

  
By: Recording Secretary

The Board of County Commissioner's Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on July 5, 2011, and the LUBA appeal period will expire on July 26, 2011. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.



**JACKSON COUNTY  
DEVELOPMENT SERVICES  
COMPREHENSIVE PLAN AMENDMENT  
STAFF REPORT**

**APPLICANT/** Oregon Dept. of Transportation      **FILE:** LRP2007-00008 Remand  
**OWNER:** 155 N. First Street  
Central Point, OR 97502

**LEGAL DESCRIPTION:** Township: 39S Range: 1E Section: 24 (Interstate 5 Right-of-Way)

**PROPOSAL:** To amend the Jackson County Comprehensive Plan by taking a "reasons" goal exception to Goal 11 to allow urban level water service to be extended and connected to the Siskiyou Safety Rest Area/Welcome Center ("Rest Area").

**LOCATION:** Between mileposts 12 and 13 within the Interstate 5 right-of-way (east side), approximately 500 feet south of the City of Ashland Urban Growth Boundary (UGB).

**BACKGROUND:** This matter is before Jackson County on remand from the Court of Appeals which upheld Goal 3, 11 and 14 exceptions for the Rest Area and a Goal 11 exception to connect to public sewer. The proposal is scheduled before the Jackson County Board of Commissioners for a May 11, 2011 first evidentiary hearing.

**KEY ISSUES:**

- Determine if a "reasons" exception to Goal 11, Public Facilities and Services, is warranted in order to connect the Rest Area to urban level water service;
  
- Determine compliance with all other applicable Statewide Planning Goals, Oregon Administrative Rules, Comprehensive Plan Elements, and sections of the Jackson County Land Development Ordinance



## I. APPLICABLE APPROVAL CRITERIA:

In order to approve this amendment to the Comprehensive Plan, the County must find:

1. Compliance with Statewide Planning Goals 1, 2 and 11
2. Compliance with Oregon Administrative Rules: OAR 660-004-0018(4), OAR 660-004-0020, OAR 660-004-0022
3. Compliance with the following policies of the Jackson County Comprehensive Plan:
  - Map Designations Element: Limited Use Map Designation – Criteria A
  - Agricultural Lands Element: Policy 3
  - Public Facilities and Services Element: Policies 4, 6 and 8
4. Compliance with the Jackson County Land Development Ordinance (LDO), Section 3.7.3(C)

## II. COMPLIANCE WITH STATEWIDE PLANNING GOALS:

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

**FINDING:** The procedures followed by Jackson County to process this application serve to implement Goal 1.

2. **Goal 2, Land Use Planning:** *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. Goal 2 also provides an exceptions process in Part II.*

**FINDING:** Goal 2 (Land Use Planning), Part I requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties. The proposed amendment's consistency with the applicable provisions of the Jackson County Comprehensive Plan is demonstrated below. It is further noted that the goal exceptions taken to allow the Rest Area and its connection to urban sewer service also included findings of compliance with both the Statewide Planning Goals and the Jackson County Comprehensive Plan. All challenges to those findings were rejected by LUBA and the Court of Appeals. The only sustained assignment of error related to something the applicant and County did not do, namely take a Goal 11 exception to allow the provision of an urban level of water service at the site.

Goal 2, Part I also requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base. In preparing the goal exceptions to allow the Rest Area, significant discussions occurred with Jackson County and City of Ashland planning officials, with representatives of the Department of Land Conservation and Development, and with Travel Oregon. As relevant to this Goal 11 exception application, the record also contains correspondence from the City of Ashland directly addressing the provision of city water service to the site and indicating that the City of Ashland has both adequate collection and treatment facilities for water services and adequate capacity to provide water service to the Rest Area. This satisfies Goal 2's coordination requirement.

ODOT's goal exception application addresses why it is appropriate to allow an urban level of water service to be extended and connected to the site. Evaluation of alternatives was previously done in connection with the underlying uses. At issue here is the provision of water services (which are not uses) to the site. The exception, together with the supporting documents and evidence submitted as part of this remand provide an adequate factual base to support the plan and land use regulation amendments. For these reasons, this Goal 11 exception complies with Goal 2, Part I.

Goal 2, Part II addresses reasons exceptions. Compliance with Goal 2, Part II is demonstrated below in findings addressing compliance with Oregon Administrative Rules.

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

**FINDING:** An exception to Goal 11 is proposed through this application. Findings for this exception are demonstrated below.

### III. COMPLIANCE WITH OREGON ADMINISTRATIVE RULES:

1. **OAR 660-004-0018 Planning and Zoning for Exception Areas (4) "Reasons" Exceptions:**

(a) *When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*

(b) *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;*

**FINDING:** The subject application is a "reasons" exception to Goal 11 to allow for an urban level of water service and urban water facilities to be extended and connected to the Rest Area.



Under the Jackson County Comprehensive Plan and Land Development Ordinance, a Limited Use Plan Map and Zoning Map designation is placed upon areas for which "reasons" exceptions have been approved. The County adopted such a Limited Use designation when it approved the exceptions for the Rest Area and the extension of urban sewer service to the Rest Area site. That designation limits uses, densities, public facilities and services and activities on affected lands to those justified in a comprehensive plan amendment goal exception.

The initially approved exceptions did not anticipate a need for a Goal 11 exception to allow extension of urban water service to the Rest Area site. Consequently, the Limited Use designation permitted that extension without an exception. However, the Court of Appeals has held that a Goal 11 exception is required for this purpose. Approval of this exception will permit both urban sewer and water services to be extended to the Rest Area under the Limited Use designation. A condition of approval identified in Section VI of this staff report will prohibit the water connection to be used for any uses other than those authorized in the acknowledged Rest Area exception.

2. **660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c):**

*An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:*

*(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:*

*(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either*

*(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or*

*(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

**FINDING:** First, allowing an urban level of water service to be extended and connected to the Rest Area should be permitted because: (1) Urban development, in the form of a rest area and welcome center, has been approved on the subject property through exceptions to Goals 3, 11 and 14; (2) Goal 11 directs local governments to provide a timely, orderly and efficient arrangement of public facilities and services "to serve as a framework for urban and rural development"; (3) Goal 11 defines "a timely, orderly and efficient arrangement" to mean "a system that coordinates the types, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses"; and (4) An extension of and connection to urban water services is the type and delivery of water service that "best supports" the approved urban uses at the subject site. Stated another way, because "urban" uses are now authorized at the subject site, the extension of and connection to "urban" water services becomes appropriate to serve the urban needs and requirements of the site. An objective of Goal 11 is "to coordinate development levels with service and facility levels." Because Jackson County approved a Goal 14 exception that authorizes Rest Area uses on the subject property that are deemed "urban" in scale, "coordination" of service and facility levels with development levels requires that the facilities and services serving those urban Rest Area uses be at an "urban" level as well.

Second, because the Rest Area will receive many hundreds of thousands of visitors annually, the use is considered "urban" in scale and therefore required a Goal 14 exception. A Goal 11 exception was approved to allow this urban scale use to connect to urban sanitary sewer service on the property. That exception was upheld on appeal despite the Goal 11 guideline discouraging urban services on rural lands and Goal 11's prohibition against extending city sewer services onto rural lands. This exception is to extend urban water service to the same property to serve the approved urban Rest Area uses. It is logical that if urban sewer services are appropriate for a use, in part, because that use has been determined to be "urban," then urban water services should also be appropriate for that use.

Finally, connecting to an urban water supply provides a reliable and efficient means to serve the water needs of the Rest Area and its visitors, while not conflicting with the water needs of surrounding agricultural operations dependent on well water. In addition, City of Ashland water lines exist along Crowson Road adjacent to ODOT's Interstate 5 right-of-way and the Rest Area site and the City of Ashland has indicated an ability and willingness to serve the Rest Area. The City's water lines could be easily extended and connected directly to the site without having to cross other rural lands.

In conclusion, the Rest Area is an urban use for which, under Goal 11, the most "orderly and efficient" types and levels of facilities and services, and the types and levels most "appropriate," include not just urban sewer service, but also urban water service. This Goal 11 exception is taken to permit that to happen. It provides the coordination and balance recognized in Goal 11 - that urban level development be served with urban scale services. Because the Rest Area has been approved as an urban scale development, such development is best and most appropriately and efficiently served by an urban level of water service. For all of these stated

reasons, allowing an urban level of water service to be extended and connected to the Rest Area is justified, and this application complies with OAR 660-004-0022(1).

3. **OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements:**

*(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.*

*(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:*

*(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;*

*(b) "Areas which do not require a new exception cannot reasonably accommodate the use":*

*(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;*

*(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:*

*(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*

*(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?*



*(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*

*(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*

*(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.*

*(c) The long-term environmental, economic, social and energy consequences resulting from the use at 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 other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site 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. Such reasons shall include but are not limited to, 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. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;*

*(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

**FINDING:** Consistent with OAR 660-004-0020(1), this application is in the form of an exception to be made part of Jackson County's Comprehensive Plan.

The reasons justifying why the state policy in Goal 11 should not apply to extending and connecting an urban level of water service to the Rest Area are set out in the previously approved exceptions for locating this facility at this now approved location and the provision of sewer service to this approved location, both incorporated herein by this reference, and in the above findings and reasons addressing compliance with OAR 660-004-0022. These facts and reasons demonstrate compliance with OAR 660-004-0020(2)(a).

Regarding OAR 660-004-0020(2)(b), the exception justifying the Rest Area explains and justifies why areas that do not require new exceptions cannot reasonably accommodate the use. To the extent that this provision applies to alternative methods of water service, ODOT potentially could install a well on the site. However, findings adopted by the Board of Commissioners for the previous goal exceptions approving the Rest Area have concluded that the use of well water to serve the Rest Area may impact surrounding agricultural operations. Consequently, while ODOT is asking County approval to allow the subject property to be provided with an urban level of water service, ODOT is not asking the County to authorize this by means of installing a well on the site.

Regarding OAR 660-004-0020(2)(c), the long term economic, social, environmental and energy consequences of potentially reasonable alternative locations also requiring exceptions to accommodate the "use" were addressed in the acknowledged exception approving the Rest Area. This standard is met for the reasons set out in that exception. As noted above, extension of and connection to urban level water service also avoids potential economic consequences to agricultural operations associated with pumping from an on-site well to provide for the urban water needs of the Rest Area.

Finally, with regard to OAR 660-004-0020(2)(d), the compatibility of the Rest Area use with adjacent uses was addressed in the acknowledged exception approving the Rest Area. That exception identified a number of measures aimed at ensuring that the Rest Area is compatible with adjoining resource and non-resource uses, recognizing that "compatibility" is not an absolute term. To ensure continued compatibility with adjacent uses, and consistent with the Limited Use designation for the property, a condition of approval limiting the uses to be served

by extending urban level water service to the Rest Area property is identified in Section VI of this staff report.

#### **IV. COMPLIANCE WITH THE JACKSON COUNTY COMPREHENSIVE PLAN:**

##### **1. Map Designations Element – Limited Use (LU):**

###### Purpose

*The Limited Use designation limits uses, densities, public facilities and services, and activities to only those justified in a Comprehensive Plan Amendment goal exception statement adopted by the County and acknowledged by the State pursuant to ORS 197.732 and as required by OAR 660 004 0018, where no other Plan designation or zoning district is available to appropriately limit uses to those justified in the goal exception statement. It is intended that uses and activities permitted will be those specified in the ordinance adopting the LU designation, together with other similar, related, accessory and supplemental uses consistent with the acknowledged ordinance adopting the designation for the property.*

###### Map Designation Criteria:

- A) *The subject area is land for which an exception for the specified use(s) may be approved under applicable Statewide Planning Goals, pursuant to ORS 197.732 and OAR 660, Division 4; and,*

**FINDING:** A Limited Use (LU) map designation was previously approved for the subject property in connection with the "reasons" goal exceptions taken for the Rest Area. The LU designation limits uses on that property to those justified in the reasons exceptions. This Goal 11 exception, upon adoption, will become part of Jackson County's Comprehensive Plan. As such, it provides the necessary authority for extending urban water services to the uses within the LU designation.

##### **2. Agricultural Lands Element - Policy 3:**

*Conflicts between agricultural and nonagricultural land uses shall be minimized...*

**FINDING:** Compliance with policies to protect agricultural lands was previously demonstrated for the Rest Area. Connecting the Rest Area to urban level water service furthers the above policy by avoiding potential conflicts with irrigation rights if the Rest Area were to otherwise rely on on-site wells to meet its urban water needs.

##### **3. Public Facilities and Services Element – Policy 4:**



*Within Jackson County water service may be provided through the creation or expansion of a water system as defined in Statewide Planning Goal 11. However, the establishment or the expansion of a water system may not be used as the basis for zone changes to increased densities.*

**FINDING:** This proposal would allow for the extension of urban level water service to the Rest Area property. The Limited Use designation on the site will prevent the expansion of water to be used as a basis for increasing densities.

**4. Public Facilities and Services Element – Policy 5:**

*Connections to sewer or water lines in areas located outside acknowledged urban growth boundaries, unincorporated community boundaries or destination resorts may be permitted only pursuant to state law and the Jackson County Land Development Ordinance.*

**FINDING:** ODOT's application for a Goal 11 exception to allow the Rest Area to connect to public water service is in accordance with state law as determined through the Court of Appeals. Compliance with the Jackson County Land Development Ordinance is met for reasons addressed below.

**5. Public Facilities and Services Element – Policy 8:**

*The absence or presence of public facilities should be weighed and evaluated against other development concerns so it does not receive disproportionate emphasis.*

**FINDING:** This proposal is to allow the Rest Area to connect to urban level water service. Urban level water service is needed for the reasons stated in the Goal 11 exception findings above. These reasons justify the extension and connection of urban level water service to the Rest Area and go beyond the fact that water lines currently exist near the site.

**V. COMPLIANCE WITH THE LAND DEVELOPMENT ORDINANCE:**

**1. Land Development Ordinance – Section 3.7.3 (C):**

*All proposed minor map amendments will be reviewed for compliance with the criteria set forth below and with all other applicable provisions of this Ordinance and the Comprehensive Plan:*

- A. *Adequate public safety, transportation, and utility facilities and services can be provided to the subject property. In the case of a minor zoning map amendment, adequate transportation facilities must exist or be assured.*

- B. *The minor map amendment will not prevent implementation of any area of special concern or restrictions specified for that area in Chapter 7 or the adopting ordinance creating it, or both.*
- C. *On resource zoned lands outside urban growth boundaries, the entire parcel is included in the minor Comprehensive Plan Map unless the purpose of the amendment conforms with the criteria of Policy 1 of the Comprehensive Map Designations Element.*
- D. *Map amendments outside urban growth boundaries and urban unincorporated communities that will result in a minimum residential lot size smaller than 10 acres meet the requirements for an exception to Statewide Planning Goal 14.*
- E. *Any minor Zoning Map amendment is consistent with the Comprehensive Plan Map designation.*
- F. *In the case of a minor Comprehensive Plan Map amendment, community benefit as a result of the minor map amendment is clearly demonstrated.*
- G. *In determining the appropriateness of the proposed redesignation, the White City or Jackson County Planning Commission and Board of Commissioners will consider any factors relevant to the proposal, which may include: topography, geology, hydrology, soil characteristics, climate, vegetation, wildlife, water quality, historical or archaeological resources, scenic resources, noise, open space, existing site grading, drainage, adverse impacts on other property in the vicinity, and any other factors deemed to be relevant to the application.*

**FINDING:** This proposal is for the single purpose of authorizing the extension and connection of urban level water service to the Rest Area. The previously approved goal exceptions for the Rest Area involved Comprehensive Plan Map and Zoning Map amendments to place a "Limited Use" (LU) designation on the subject property. At that time, it was understood that the LU designation would allow the Rest Area to connect with urban level water service without need for a Goal 11 exception. However, the Court of Appeals has determined otherwise and remanded this proceeding to the County to take a Goal 11 exception to authorize that connection.

With regard to the Rest Area uses, findings addressing the appropriateness of a map amendment and demonstrating compliance with Section 3.7.3(C) were adopted in conjunction with the exception application. Those findings, which remain part of the record on remand, are incorporated herein by this reference. Except as they relate to the provision of adequate water service to the site under Section 3.7.3(C)(1), supplemental findings addressing this section are not required because a connection to urban level water service is not something that, in itself, would otherwise require a map amendment. As to the more general provisions in Section 3.7.3 stated above, this application complies with the Statewide Planning Goals, Administrative Rules

and Jackson County Comprehensive Plan policies for the reasons mentioned in previous sections of these findings.

As demonstrated in the findings of Goal 11 compliance above, City of Ashland water service can reasonably be extended to the Rest Area site. This is because city water is available along Crowson Road, which adjoins ODOT's Interstate 5 right-of-way serving the Rest Area site. ODOT can connect directly to the existing water line within its public right-of-way to provide service to the Rest Area. This minimizes any disturbance to adjoining lands and assures a reliable, high quality water supply. And as explained in the Goal 11 exception above, the extension of and connection to city water helps to minimize issues of possible impacts to other properties in the form of affected water rights and irrigation.

Because the proposed Goal 11 exception is a reasons exception, it will apply only to the subject property and will not establish a planning or zoning policy of general applicability in Jackson County pursuant to ORS 197.732(8). The exception is limited to authorizing the provision of urban level water service to the Rest Area property.

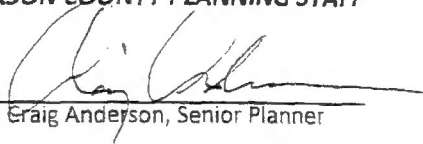
#### **VI. CONDITIONS OF APPROVAL:**

1. *Connection Limitations to Water System:* Extension of and connection to an urban water system shall be permitted solely for the purpose of serving the uses authorized in the previously adopted goal exceptions for the Siskiyou Safety Rest Area/Welcome Center. Connections to serve lands outside the subject property, or connections to serve uses other than those associated with the Siskiyou Safety Rest Area/Welcome Center, shall not be permitted unless a new "reasons" exception to Goal 11 and any other applicable Goal is approved.

#### **VII. CONCLUSION:**

Staff finds that the proposed Comprehensive Plan Amendment for a "reasons" exception to Goal 11 satisfies the relevant approval criteria and should be approved by the Board of Commissioners.

**JACKSON COUNTY PLANNING STAFF**

  
BY: Craig Anderson, Senior Planner

Date: 4-29-11

I:\ZONING\WP\Comp Planning\LRP2007-00008 ODOT Rest Area Remand\Staff\_Report\_LRP2007-00008-RM.docx



Adopted: 6/29/11  
Effective: 8/28/11

BEFORE THE BOARD OF COMMISSIONERS  
STATE OF OREGON, COUNTY OF JACKSON

IN THE MATTER OF A REMAND FROM THE OREGON )  
COURT OF APPEALS OF ORDINANCE NO. 2009-7, AN )  
ORDINANCE AMENDING THE JACKSON COUNTY )  
COMPREHENSIVE PLAN BY TAKING "REASONS" )  
GOAL EXCEPTIONS TO GOALS 3, 11 AND 14 FOR )  
THE SISKIYOU SAFETY REST AREA/WELCOME )  
CENTER AND CONNECTION TO AN EXISTING )  
SANITARY SEWER LINE. ON REMAND, THE )  
CURRENT PROPOSAL IS TO AMEND THE JACKSON )  
COUNTY COMPREHENSIVE PLAN BY TAKING A )  
"REASONS" GOAL EXCEPTION TO GOAL 11 TO )  
ALLOW URBAN LEVEL WATER SERVICE TO BE )  
EXTENDED AND CONNECTED TO THE SISKIYOU )  
SAFETY REST AREA/WELCOME CENTER, LOCATED )  
ON AN APPROXIMATELY 18 ACRE PROPERTY )  
DESCRIBED AS TOWNSHIP 39 SOUTH, RANGE 1 )  
EAST, SECTION 24 (RIGHT OF WAY), BETWEEN )  
MILEPOSTS 12 AND 13 WITHIN THE INTERSTATE 5 )  
RIGHT OF WAY (EAST SIDE), APPROXIMATELY 500 )  
FEET SOUTH OF THE CITY OF ASHLAND URBAN )  
GROWTH BOUNDARY (UGB). OREGON )  
DEPARTMENT OF TRANSPORTATION, OWNER. )  
FILE NO. LRP2007- 00008. )

ORDINANCE NO. 2011-9

RECITALS:

1. Pursuant to Chapter 197 and 215 of the Oregon Revised Statutes, and in conformance with the Statewide Planning Goals, Jackson County's Comprehensive Plan and implementing ordinances have been acknowledged by the Oregon Land Conservation and Development Commission (LCDC).
2. The standards justifying minor or quasi-judicial amendments to the Jackson County

Comprehensive Plan are contained in the Jackson County Comprehensive Plan (JCCP) and in the Jackson County Land Development Ordinance (JCLDO).

3. JCLDO Section 3.7.3 states that a minor map amendment must conform to the Statewide Planning Goals, Oregon Administrative Rules, and the Comprehensive Plan as a whole.
4. On November 24, 2010, the Oregon Court of Appeals issued an opinion in *Foland et al v. Jackson County*, upholding the Land Use Board of Appeals' (LUBA's) decision remanding Ordinance No. 2009-7. LUBA's remand required Jackson County to take an exception to Goal 11 in order to permit the extension of an urban water source to the uses approved in that Ordinance.
5. Subsequent to the Oregon Court of Appeals' opinion upholding LUBA's remand, applicant (ODOT) submitted findings to Jackson County in support of a minor map amendment to the Jackson County Comprehensive Plan (Goal 11 exception), as required by LUBA's remand.

***Now, therefore,***

*The Jackson County Board of Commissioners finds and concludes as follows:*

**SECTION 1. FINDINGS OF FACT:**

Based upon the evidence and argument presented, the Board of Commissioners makes the following findings of fact with respect to this proposal. Where factual conflicts arose, the Board of Commissioners has resolved them consistent with these findings.

- 1.1 The Board of Commissioners finds that a notice of the proposed amendment was provided to the Department of Land Conservation and Development (DLCD) on March 11, 2011, 61 days prior to the first evidentiary hearing.
- 1.2 The Board of Commissioners finds that proper legal notice was provided to the applicant, affected property owners and affected agencies on April 21, 2011 for a first evidentiary hearing on this proposal. Legal notice was published in the Sunday, May 1, 2011 edition of the Medford Mail Tribune.
- 1.3 On Wednesday, May 11, 2011, the Board of Commissioners held a properly advertised first evidentiary hearing to consider the evidence and testimony on ODOT's proposed Goal 11 exception. The public hearing was continued to May 25, 2011. A second public hearing was held on May 25, 2011. After considering the evidence and testimony submitted, the Board of Commissioners, by motion and vote, approved the proposal.

**SECTION 2. LEGAL FINDINGS:**

- 2.1 The Board of Commissioners finds that this proceeding is appropriately limited to the determination of whether a Goal 11 exception should be approved to extend an urban

level of water to the approved Siskiyou Safety Rest Area/Welcome Center ("Rest Area") and that issues not on remand concerning the Board's previous approval of the Rest Area are irrelevant. The Board further finds that notice to this effect was verbally provided to both ODOT and opponents on numerous occasions during the course of both public hearings on this issue.

- 2.2 The Board of Commissioners finds that testimony and evidence addressing the terms, interpretation and application of Ordinance 2009-7's Condition #27 has been accepted into the record. Such testimony and evidence is irrelevant to these proceedings and has not been considered by the Board in the rendering of this decision. The Board also notes that ODOT's requests to modify Condition #27 were formally withdrawn at the public hearing held on May 25, 2011.
- 2.3 The Board of Commissioners finds that testimony and evidence has been accepted into the record that includes:
- A copy of the Ashland City Council minutes with a proposed decision and conditions to approve the extension of water to the Rest Area;
  - Testimony from the City of Ashland's Public Works Director Mike Faught regarding the terms of the City's proposed decision;
  - A copy of a writ of review to the Circuit Court that challenges the City's authority to extend water to the Rest Area;
  - Testimony that the City of Ashland's decision and conditions to extend water should be reconsidered and that the conditions imposed by the City cannot be met by ODOT;
  - A letter from ODOT indicating that it is negotiating with the Talent Irrigation District (TID) to obtain water for irrigation at the Rest Area;
  - Testimony that water from TID is not available and cannot be relied upon and the extension of that water from the TID would be contrary to policy and could impact other water rights in the area; and
  - Testimony challenging the validity of the approval of the Rest Area.

Consistent with findings 2.1 and 2.2 above, this testimony and evidence is irrelevant to these proceedings and has not been considered by the Board in the rendering of this decision.

- 2.4 The Board of Commissioners hereby adopts, as its own, the findings contained in the Staff Report, incorporated herein and attached as Exhibit "A."
- 2.5 With regard to the criteria under LDO Section 3.7.3 (C)(A) addressing the adequacy of public utilities and facilities, the Board of Commissioners finds that letters in the record from the City of Ashland, including a letter dated April 3, 2008, add to the evidence in the Staff Report that support a finding that public facilities exist that are adequate to serve the Rest Area.
- 2.6 The Board of Commissioners finds that the extension of an urban level of water service will not adversely affect farm or forest practices and that using urban water for the Siskiyou Safety Rest Area/Welcome Center assures that no impact will occur to adjacent farm and forest practices.

- 2.7 The Board of Commissioners hereby adopts the condition of approval contained in the Staff Report. This condition of approval states as follows:

**Connection Limitations to Water System:** *Extension of and connection to an urban water system shall be permitted solely for the purpose of serving the uses authorized in the previously adopted goal exceptions for the Siskiyou Safety Rest Area/Welcome Center. Connections to serve lands outside the subject property, or connections to serve uses other than those associated with the Siskiyou Safety Rest Area/Welcome Center, shall not be permitted unless a new "reasons" exception to Goal 11 and any other applicable Goal is approved.*

**SECTION 3. CONCLUSIONS:**

- 3.1 The Board of Commissioners concludes that proper public notice was given.
- 3.2 The Board of Commissioners concludes that this application for a Goal 11 exception, with the findings and condition of approval as specified in Exhibit "A" (attached) and in Section 2 above, is in compliance with the applicable Statewide Planning Goals, Oregon Administrative Rules, the applicable policies in the Jackson County Comprehensive Plan, and the applicable sections of the Jackson County Land Development Ordinance.

**SECTION 4. DECISION:**

***Now, therefore,***

*The Board of County Commissioners of Jackson County ordains as follows:*

- 4.1. Based on the evidence and testimony in the record of these proceedings, the Board of Commissioners hereby approves an amendment to the Jackson County Comprehensive Plan by taking a "reasons" goal exception to Goal 11 to allow urban level water service to be extended and connected to the Siskiyou Safety Rest Area/Welcome Center. The subject property is approximately 18 acres and legally described as Township 39 South, Range 1 East, Section 24 (right of way), located between mileposts 12 and 13 within the Interstate 5 right-of-way (east side), approximately 500 feet south of the City of Ashland Urban Growth Boundary (UGB). Oregon Department of Transportation, owner. File No. LRP2007-00008.

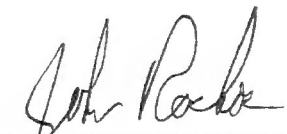


APPROVED this 29<sup>th</sup> day of June, 2011, at Medford, Oregon.

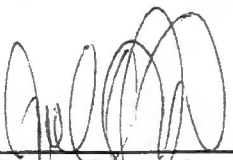
**JACKSON COUNTY BOARD OF COMMISSIONERS**

  
Dennis C. W. Smith, Chair

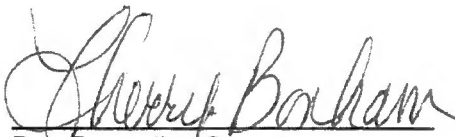
  
Don Skundrick, Commissioner

  
John Rachor, Commissioner

**APPROVED AS TO  
LEGAL SUFFICIENCY:**

  
County Counsel

**ATTEST:**

  
By: Recording Secretary

The Board of County Commissioner's Ordinance is the final decision on this action. This decision may be appealed to the Oregon Land Use Board of Appeals (LUBA). You must appeal this decision within 21 days of the date it is mailed. This decision is being mailed on July 5, 2011, and the LUBA appeal period will expire on July 26, 2011. Please contact LUBA for specific appeal information. They are located at 550 Capitol Street N.E. Suite 235, Salem, Oregon 97301-2552. They can be reached at (503) 373-1265.



**JACKSON COUNTY  
DEVELOPMENT SERVICES  
COMPREHENSIVE PLAN AMENDMENT  
STAFF REPORT**

**APPLICANT/** Oregon Dept. of Transportation                      **FILE:** LRP2007-00008 Remand  
**OWNER:** 155 N. First Street  
Central Point, OR 97502

**LEGAL DESCRIPTION:** Township: 39S Range: 1E Section: 24 (Interstate 5 Right-of-Way)

**PROPOSAL:** To amend the Jackson County Comprehensive Plan by taking a "reasons" goal exception to Goal 11 to allow urban level water service to be extended and connected to the Siskiyou Safety Rest Area/Welcome Center ("Rest Area").

**LOCATION:** Between mileposts 12 and 13 within the Interstate 5 right-of-way (east side), approximately 500 feet south of the City of Ashland Urban Growth Boundary (UGB).

**BACKGROUND:** This matter is before Jackson County on remand from the Court of Appeals which upheld Goal 3, 11 and 14 exceptions for the Rest Area and a Goal 11 exception to connect to public sewer. The proposal is scheduled before the Jackson County Board of Commissioners for a May 11, 2011 first evidentiary hearing.

**KEY ISSUES:**

- Determine if a "reasons" exception to Goal 11, Public Facilities and Services, is warranted in order to connect the Rest Area to urban level water service;
  
- Determine compliance with all other applicable Statewide Planning Goals, Oregon Administrative Rules, Comprehensive Plan Elements, and sections of the Jackson County Land Development Ordinance

## I. APPLICABLE APPROVAL CRITERIA:

In order to approve this amendment to the Comprehensive Plan, the County must find:

1. Compliance with Statewide Planning Goals 1, 2 and 11
2. Compliance with Oregon Administrative Rules: OAR 660-004-0018(4), OAR 660-004-0020, OAR 660-004-0022
3. Compliance with the following policies of the Jackson County Comprehensive Plan:
  - Map Designations Element: Limited Use Map Designation – Criteria A
  - Agricultural Lands Element: Policy 3
  - Public Facilities and Services Element: Policies 4, 6 and 8
4. Compliance with the Jackson County Land Development Ordinance (LDO), Section 3.7.3(C)

## II. COMPLIANCE WITH STATEWIDE PLANNING GOALS:

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

**FINDING:** The procedures followed by Jackson County to process this application serve to implement Goal 1.

2. **Goal 2, Land Use Planning:** *To establish a land use planning process and policy framework as a basis for all decision and actions related to use of land and to assure an adequate factual base for such decisions and actions. Goal 2 also provides an exceptions process in Part II.*

**FINDING:** Goal 2 (Land Use Planning), Part I requires that actions related to land use be consistent with acknowledged comprehensive plans of cities and counties. The proposed amendment's consistency with the applicable provisions of the Jackson County Comprehensive Plan is demonstrated below. It is further noted that the goal exceptions taken to allow the Rest Area and its connection to urban sewer service also included findings of compliance with both the Statewide Planning Goals and the Jackson County Comprehensive Plan. All challenges to those findings were rejected by LUBA and the Court of Appeals. The only sustained assignment of error related to something the applicant and County did not do, namely take a Goal 11 exception to allow the provision of an urban level of water service at the site.

Goal 2, Part I also requires coordination with affected governments and agencies, evaluation of alternatives, and an adequate factual base. In preparing the goal exceptions to allow the Rest Area, significant discussions occurred with Jackson County and City of Ashland planning officials, with representatives of the Department of Land Conservation and Development, and with Travel Oregon. As relevant to this Goal 11 exception application, the record also contains correspondence from the City of Ashland directly addressing the provision of city water service to the site and indicating that the City of Ashland has both adequate collection and treatment facilities for water services and adequate capacity to provide water service to the Rest Area. This satisfies Goal 2's coordination requirement.

ODOT's goal exception application addresses why it is appropriate to allow an urban level of water service to be extended and connected to the site. Evaluation of alternatives was previously done in connection with the underlying uses. At issue here is the provision of water services (which are not uses) to the site. The exception, together with the supporting documents and evidence submitted as part of this remand provide an adequate factual base to support the plan and land use regulation amendments. For these reasons, this Goal 11 exception complies with Goal 2, Part I.

Goal 2, Part II addresses reasons exceptions. Compliance with Goal 2, Part II is demonstrated below in findings addressing compliance with Oregon Administrative Rules.

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

**FINDING:** An exception to Goal 11 is proposed through this application. Findings for this exception are demonstrated below.

### III. COMPLIANCE WITH OREGON ADMINISTRATIVE RULES:

1. **OAR 660-004-0018 Planning and Zoning for Exception Areas (4) "Reasons" Exceptions:**

(a) *When a local government takes an exception under the "Reasons" section of ORS 197.732(1)(c) and OAR 660-004-0020 through 660-004-0022, plan and zone designations must limit the uses, density, public facilities and services, and activities to only those that are justified in the exception;*

(b) *When a local government changes the types or intensities of uses or public facilities and services within an area approved as a "Reasons" exception, a new "Reasons" exception is required;*

**FINDING:** The subject application is a "reasons" exception to Goal 11 to allow for an urban level of water service and urban water facilities to be extended and connected to the Rest Area.



Under the Jackson County Comprehensive Plan and Land Development Ordinance, a Limited Use Plan Map and Zoning Map designation is placed upon areas for which "reasons" exceptions have been approved. The County adopted such a Limited Use designation when it approved the exceptions for the Rest Area and the extension of urban sewer service to the Rest Area site. That designation limits uses, densities, public facilities and services and activities on affected lands to those justified in a comprehensive plan amendment goal exception.

The initially approved exceptions did not anticipate a need for a Goal 11 exception to allow extension of urban water service to the Rest Area site. Consequently, the Limited Use designation permitted that extension without an exception. However, the Court of Appeals has held that a Goal 11 exception is required for this purpose. Approval of this exception will permit both urban sewer and water services to be extended to the Rest Area under the Limited Use designation. A condition of approval identified in Section VI of this staff report will prohibit the water connection to be used for any uses other than those authorized in the acknowledged Rest Area exception.

2. **660-004-0022 Reasons Necessary to Justify an Exception Under Goal 2, Part II(c):**

*An exception under Goal 2, Part II(c) can be taken for any use not allowed by the applicable goal(s). The types of reasons that may or may not be used to justify certain types of uses not allowed on resource lands are set forth in the following sections of this rule:*

*(1) For uses not specifically provided for in subsequent sections of this rule or in OAR 660-012-0070 or chapter 660, division 14, the reasons shall justify why the state policy embodied in the applicable goals should not apply. Such reasons include but are not limited to the following:*

*(a) There is a demonstrated need for the proposed use or activity, based on one or more of the requirements of Goals 3 to 19; and either*

*(A) A resource upon which the proposed use or activity is dependent can be reasonably obtained only at the proposed exception site and the use or activity requires a location near the resource. An exception based on this subsection must include an analysis of the market area to be served by the proposed use or activity. That analysis must demonstrate that the proposed exception site is the only one within that market area at which the resource depended upon can reasonably be obtained; or*

*(B) The proposed use or activity has special features or qualities that necessitate its location on or near the proposed exception site.*

**FINDING:** First, allowing an urban level of water service to be extended and connected to the Rest Area should be permitted because: (1) Urban development, in the form of a rest area and welcome center, has been approved on the subject property through exceptions to Goals 3, 11 and 14; (2) Goal 11 directs local governments to provide a timely, orderly and efficient arrangement of public facilities and services "to serve as a framework for urban and rural development"; (3) Goal 11 defines "a timely, orderly and efficient arrangement" to mean "a system that coordinates the types, locations and delivery of public facilities and services in a manner that best supports the existing and proposed land uses"; and (4) An extension of and connection to urban water services is the type and delivery of water service that "best supports" the approved urban uses at the subject site. Stated another way, because "urban" uses are now authorized at the subject site, the extension of and connection to "urban" water services becomes appropriate to serve the urban needs and requirements of the site. An objective of Goal 11 is "to coordinate development levels with service and facility levels." Because Jackson County approved a Goal 14 exception that authorizes Rest Area uses on the subject property that are deemed "urban" in scale, "coordination" of service and facility levels with development levels requires that the facilities and services serving those urban Rest Area uses be at an "urban" level as well.

Second, because the Rest Area will receive many hundreds of thousands of visitors annually, the use is considered "urban" in scale and therefore required a Goal 14 exception. A Goal 11 exception was approved to allow this urban scale use to connect to urban sanitary sewer service on the property. That exception was upheld on appeal despite the Goal 11 guideline discouraging urban services on rural lands and Goal 11's prohibition against extending city sewer services onto rural lands. This exception is to extend urban water service to the same property to serve the approved urban Rest Area uses. It is logical that if urban sewer services are appropriate for a use, in part, because that use has been determined to be "urban," then urban water services should also be appropriate for that use.

Finally, connecting to an urban water supply provides a reliable and efficient means to serve the water needs of the Rest Area and its visitors, while not conflicting with the water needs of surrounding agricultural operations dependent on well water. In addition, City of Ashland water lines exist along Crowson Road adjacent to ODOT's Interstate 5 right-of-way and the Rest Area site and the City of Ashland has indicated an ability and willingness to serve the Rest Area. The City's water lines could be easily extended and connected directly to the site without having to cross other rural lands.

In conclusion, the Rest Area is an urban use for which, under Goal 11, the most "orderly and efficient" types and levels of facilities and services, and the types and levels most "appropriate," include not just urban sewer service, but also urban water service. This Goal 11 exception is taken to permit that to happen. It provides the coordination and balance recognized in Goal 11 - that urban level development be served with urban scale services. Because the Rest Area has been approved as an urban scale development, such development is best and most appropriately and efficiently served by an urban level of water service. For all of these stated

reasons, allowing an urban level of water service to be extended and connected to the Rest Area is justified, and this application complies with OAR 660-004-0022(1).

3. **OAR 660-004-0020 Goal 2, Part II(c), Exception Requirements:**

*(1) If a jurisdiction determines there are reasons consistent with OAR 660-004-0022 to use resource lands for uses not allowed by the applicable Goal or to allow public facilities or services not allowed by the applicable Goal, the justification shall be set forth in the comprehensive plan as an exception.*

*(2) The four factors in Goal 2 Part II(c) required to be addressed when taking an exception to a Goal are:*

*(a) "Reasons justify why the state policy embodied in the applicable goals should not apply": The exception shall set forth the facts and assumptions used as the basis for determining that a state policy embodied in a goal should not apply to specific properties or situations including the amount of land for the use being planned and why the use requires a location on resource land;*

*(b) "Areas which do not require a new exception cannot reasonably accommodate the use":*

*(A) The exception shall indicate on a map or otherwise describe the location of possible alternative areas considered for the use, which do not require a new exception. The area for which the exception is taken shall be identified;*

*(B) To show why the particular site is justified, it is necessary to discuss why other areas which do not require a new exception cannot reasonably accommodate the proposed use. Economic factors can be considered along with other relevant factors in determining that the use cannot reasonably be accommodated in other areas. Under the alternative factor the following questions shall be addressed:*

*(i) Can the proposed use be reasonably accommodated on nonresource land that would not require an exception, including increasing the density of uses on nonresource land? If not, why not?*

*(ii) Can the proposed use be reasonably accommodated on resource land that is already irrevocably committed to nonresource uses, not allowed by the applicable Goal, including resource land in existing rural centers, or by increasing the density of uses on committed lands? If not, why not?*

*(iii) Can the proposed use be reasonably accommodated inside an urban growth boundary? If not, why not?*

*(iv) Can the proposed use be reasonably accommodated without the provision of a proposed public facility or service? If not, why not?*

*(C) This alternative areas standard can be met by a broad review of similar types of areas rather than a review of specific alternative sites. Initially, a local government adopting an exception need assess only whether those similar types of areas in the vicinity could not reasonably accommodate the proposed use. Site specific comparisons are not required of a local government taking an exception, unless another party to the local proceeding can describe why there are specific sites that can more reasonably accommodate the proposed use. A detailed evaluation of specific alternative sites is thus not required unless such sites are specifically described with facts to support the assertion that the sites are more reasonable by another party during the local exceptions proceeding.*

*(c) The long-term environmental, economic, social and energy consequences resulting from the use at 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 other areas requiring a Goal exception. The exception shall describe the characteristics of each alternative areas considered by the jurisdiction for which an exception might be taken, the typical advantages and disadvantages of using the area for a use not allowed by the Goal, and the typical positive and negative consequences resulting from the use at the proposed site with measures designed to reduce adverse impacts. A detailed evaluation of specific alternative sites is not required unless such sites are specifically described with facts to support the assertion that the sites have significantly fewer adverse impacts during the local exceptions proceeding. The exception shall include the reasons why the consequences of the use at the chosen site 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. Such reasons shall include but are not limited to, 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. Other possible impacts include the effects of the proposed use on the water table, on the costs of improving roads and on the costs to special service districts;*



*(d) The proposed uses are compatible with other adjacent uses or will be so rendered through measures designed to reduce adverse impacts. The exception shall describe how the proposed use will be rendered compatible with adjacent land uses. The exception shall demonstrate that the proposed use is situated in such a manner as to be compatible with surrounding natural resources and resource management or production practices. Compatible is not intended as an absolute term meaning no interference or adverse impacts of any type with adjacent uses.*

**FINDING:** Consistent with OAR 660-004-0020(1), this application is in the form of an exception to be made part of Jackson County's Comprehensive Plan.

The reasons justifying why the state policy in Goal 11 should not apply to extending and connecting an urban level of water service to the Rest Area are set out in the previously approved exceptions for locating this facility at this now approved location and the provision of sewer service to this approved location, both incorporated herein by this reference, and in the above findings and reasons addressing compliance with OAR 660-004-0022. These facts and reasons demonstrate compliance with OAR 660-004-0020(2)(a).

Regarding OAR 660-004-0020(2)(b), the exception justifying the Rest Area explains and justifies why areas that do not require new exceptions cannot reasonably accommodate the use. To the extent that this provision applies to alternative methods of water service, ODOT potentially could install a well on the site. However, findings adopted by the Board of Commissioners for the previous goal exceptions approving the Rest Area have concluded that the use of well water to serve the Rest Area may impact surrounding agricultural operations. Consequently, while ODOT is asking County approval to allow the subject property to be provided with an urban level of water service, ODOT is not asking the County to authorize this by means of installing a well on the site.

Regarding OAR 660-004-0020(2)(c), the long term economic, social, environmental and energy consequences of potentially reasonable alternative locations also requiring exceptions to accommodate the "use" were addressed in the acknowledged exception approving the Rest Area. This standard is met for the reasons set out in that exception. As noted above, extension of and connection to urban level water service also avoids potential economic consequences to agricultural operations associated with pumping from an on-site well to provide for the urban water needs of the Rest Area.

Finally, with regard to OAR 660-004-0020(2)(d), the compatibility of the Rest Area use with adjacent uses was addressed in the acknowledged exception approving the Rest Area. That exception identified a number of measures aimed at ensuring that the Rest Area is compatible with adjoining resource and non-resource uses, recognizing that "compatibility" is not an absolute term. To ensure continued compatibility with adjacent uses, and consistent with the Limited Use designation for the property, a condition of approval limiting the uses to be served

by extending urban level water service to the Rest Area property is identified in Section VI of this staff report.

#### IV. COMPLIANCE WITH THE JACKSON COUNTY COMPREHENSIVE PLAN:

1. **Map Designations Element – Limited Use (LU):**

Purpose

*The Limited Use designation limits uses, densities, public facilities and services, and activities to only those justified in a Comprehensive Plan Amendment goal exception statement adopted by the County and acknowledged by the State pursuant to ORS 197.732 and as required by OAR 660 004 0018, where no other Plan designation or zoning district is available to appropriately limit uses to those justified in the goal exception statement. It is intended that uses and activities permitted will be those specified in the ordinance adopting the LU designation, together with other similar, related, accessory and supplemental uses consistent with the acknowledged ordinance adopting the designation for the property.*

Map Designation Criteria:

- A) *The subject area is land for which an exception for the specified use(s) may be approved under applicable Statewide Planning Goals, pursuant to ORS 197.732 and OAR 660, Division 4; and,*

**FINDING:** A Limited Use (LU) map designation was previously approved for the subject property in connection with the "reasons" goal exceptions taken for the Rest Area. The LU designation limits uses on that property to those justified in the reasons exceptions. This Goal 11 exception, upon adoption, will become part of Jackson County's Comprehensive Plan. As such, it provides the necessary authority for extending urban water services to the uses within the LU designation.

2. **Agricultural Lands Element - Policy 3:**

*Conflicts between agricultural and nonagricultural land uses shall be minimized...*

**FINDING:** Compliance with policies to protect agricultural lands was previously demonstrated for the Rest Area. Connecting the Rest Area to urban level water service furthers the above policy by avoiding potential conflicts with irrigation rights if the Rest Area were to otherwise rely on on-site wells to meet its urban water needs.

3. **Public Facilities and Services Element – Policy 4:**

*Within Jackson County water service may be provided through the creation or expansion of a water system as defined in Statewide Planning Goal 11. However, the establishment or the expansion of a water system may not be used as the basis for zone changes to increased densities.*

**FINDING:** This proposal would allow for the extension of urban level water service to the Rest Area property. The Limited Use designation on the site will prevent the expansion of water to be used as a basis for increasing densities.

**4. Public Facilities and Services Element – Policy 5:**

*Connections to sewer or water lines in areas located outside acknowledged urban growth boundaries, unincorporated community boundaries or destination resorts may be permitted only pursuant to state law and the Jackson County Land Development Ordinance.*

**FINDING:** ODOT's application for a Goal 11 exception to allow the Rest Area to connect to public water service is in accordance with state law as determined through the Court of Appeals. Compliance with the Jackson County Land Development Ordinance is met for reasons addressed below.

**5. Public Facilities and Services Element – Policy 8:**

*The absence or presence of public facilities should be weighed and evaluated against other development concerns so it does not receive disproportionate emphasis.*

**FINDING:** This proposal is to allow the Rest Area to connect to urban level water service. Urban level water service is needed for the reasons stated in the Goal 11 exception findings above. These reasons justify the extension and connection of urban level water service to the Rest Area and go beyond the fact that water lines currently exist near the site.

**V. COMPLIANCE WITH THE LAND DEVELOPMENT ORDINANCE:**

**1. Land Development Ordinance – Section 3.7.3 (C):**

*All proposed minor map amendments will be reviewed for compliance with the criteria set forth below and with all other applicable provisions of this Ordinance and the Comprehensive Plan:*

- A. *Adequate public safety, transportation, and utility facilities and services can be provided to the subject property. In the case of a minor zoning map amendment, adequate transportation facilities must exist or be assured.*

- B. *The minor map amendment will not prevent implementation of any area of special concern or restrictions specified for that area in Chapter 7 or the adopting ordinance creating it, or both.*
- C. *On resource zoned lands outside urban growth boundaries, the entire parcel is included in the minor Comprehensive Plan Map unless the purpose of the amendment conforms with the criteria of Policy 1 of the Comprehensive Map Designations Element.*
- D. *Map amendments outside urban growth boundaries and urban unincorporated communities that will result in a minimum residential lot size smaller than 10 acres meet the requirements for an exception to Statewide Planning Goal 14.*
- E. *Any minor Zoning Map amendment is consistent with the Comprehensive Plan Map designation.*
- F. *In the case of a minor Comprehensive Plan Map amendment, community benefit as a result of the minor map amendment is clearly demonstrated.*
- G. *In determining the appropriateness of the proposed redesignation, the White City or Jackson County Planning Commission and Board of Commissioners will consider any factors relevant to the proposal, which may include: topography, geology, hydrology, soil characteristics, climate, vegetation, wildlife, water quality, historical or archaeological resources, scenic resources, noise, open space, existing site grading, drainage, adverse impacts on other property in the vicinity, and any other factors deemed to be relevant to the application.*

**FINDING:** This proposal is for the single purpose of authorizing the extension and connection of urban level water service to the Rest Area. The previously approved goal exceptions for the Rest Area involved Comprehensive Plan Map and Zoning Map amendments to place a "Limited Use" (LU) designation on the subject property. At that time, it was understood that the LU designation would allow the Rest Area to connect with urban level water service without need for a Goal 11 exception. However, the Court of Appeals has determined otherwise and remanded this proceeding to the County to take a Goal 11 exception to authorize that connection.

With regard to the Rest Area uses, findings addressing the appropriateness of a map amendment and demonstrating compliance with Section 3.7.3(C) were adopted in conjunction with the exception application. Those findings, which remain part of the record on remand, are incorporated herein by this reference. Except as they relate to the provision of adequate water service to the site under Section 3.7.3(C)(1), supplemental findings addressing this section are not required because a connection to urban level water service is not something that, in itself, would otherwise require a map amendment. As to the more general provisions in Section 3.7.3 stated above, this application complies with the Statewide Planning Goals, Administrative Rules



and Jackson County Comprehensive Plan policies for the reasons mentioned in previous sections of these findings.

As demonstrated in the findings of Goal 11 compliance above, City of Ashland water service can reasonably be extended to the Rest Area site. This is because city water is available along Crowson Road, which adjoins ODOT's Interstate 5 right-of-way serving the Rest Area site. ODOT can connect directly to the existing water line within its public right-of-way to provide service to the Rest Area. This minimizes any disturbance to adjoining lands and assures a reliable, high quality water supply. And as explained in the Goal 11 exception above, the extension of and connection to city water helps to minimize issues of possible impacts to other properties in the form of affected water rights and irrigation.

Because the proposed Goal 11 exception is a reasons exception, it will apply only to the subject property and will not establish a planning or zoning policy of general applicability in Jackson County pursuant to ORS 197.732(8). The exception is limited to authorizing the provision of urban level water service to the Rest Area property.

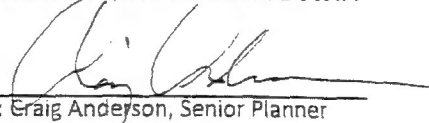
#### **VI. CONDITIONS OF APPROVAL:**

1. *Connection Limitations to Water System:* Extension of and connection to an urban water system shall be permitted solely for the purpose of serving the uses authorized in the previously adopted goal exceptions for the Siskiyou Safety Rest Area/Welcome Center. Connections to serve lands outside the subject property, or connections to serve uses other than those associated with the Siskiyou Safety Rest Area/Welcome Center, shall not be permitted unless a new "reasons" exception to Goal 11 and any other applicable Goal is approved.

#### **VII. CONCLUSION:**

Staff finds that the proposed Comprehensive Plan Amendment for a "reasons" exception to Goal 11 satisfies the relevant approval criteria and should be approved by the Board of Commissioners.

**JACKSON COUNTY PLANNING STAFF**



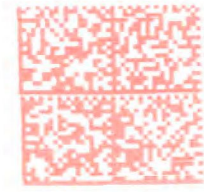
BY: Craig Anderson, Senior Planner

Date: 4-29-11

I:\ZONING\WP\Comp Planning\LRP2007-00008 ODOT Rest Area Remand\Staff\_Report\_LRP2007-00008-RM.docx

**Development Services**

10 South Oakdale Ave., Room 100  
Medford, Oregon 97501-2902



016H26515385  
**\$02.080**  
07/06/2011  
Mailed From 97501  
**US POSTAGE**

**DEPT OF**

**JUL 08 2011**

**LAND CONSERVATION  
AND DEVELOPMENT**

LRP2007-00008

DLCD  
ATTN: PLAN AMEND. SPECIALIST  
635 CAPITOL ST NE STE 150  
SALEM OR 97301