



Oregon

Kate Brown, Governor

Department of Land Conservation and Development

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NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

Date: November 13, 2015

Jurisdiction: Linn County

Local file no.: BC15-0005

DLCD file no.: 005-15

The Department of Land Conservation and Development (DLCD) received the attached notice of adopted amendment to a comprehensive plan or land use regulation on 11/12/2015. A copy of the adopted amendment is available for review at the DLCD office in Salem and the local government office.

Notice of the proposed amendment was submitted to DLCD 54 days prior to the first evidentiary hearing.

Appeal Procedures

Eligibility to appeal this amendment is governed by ORS 197.612, ORS 197.620, and ORS 197.830. Under ORS 197.830(9), a notice of intent to appeal a land use decision to LUBA must be filed no later than 21 days after the date the decision sought to be reviewed became final. If you have questions about the date the decision became final, please contact the jurisdiction that adopted the amendment.

A 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).

If the amendment is not appealed, it will be deemed acknowledged as set forth in ORS 197.625(1)(a). Please call LUBA at 503-373-1265, if you have questions about appeal procedures.

DLCD Contact

If you have questions about this notice, please contact DLCD's Plan Amendment Specialist at 503-934-0017 or plan.amendments@state.or.us



NOTICE OF ADOPTED CHANGE TO A COMPREHENSIVE PLAN OR LAND USE REGULATION

FOR DLCD USE

File No.: 005-15 {23971}

Received: 11/12/2015

Local governments are required to send notice of an adopted change to a comprehensive plan or land use regulation **no more than 20 days after the adoption.** (See [OAR 660-018-0040](#)). The rules require that the notice include a completed copy of this form. **This notice form is not for submittal of a completed periodic review task or a plan amendment reviewed in the manner of periodic review.** Use [Form 4](#) for an adopted urban growth boundary including over 50 acres by a city with a population greater than 2,500 within the UGB or an urban growth boundary amendment over 100 acres adopted by a metropolitan service district. Use [Form 5](#) for an adopted urban reserve designation, or amendment to add over 50 acres, by a city with a population greater than 2,500 within the UGB. Use [Form 6](#) with submittal of an adopted periodic review task.

Jurisdiction: Linn County

Local file no.: **BC15-0005**

Date of adoption: 11/10/2015

Date sent: 11/12/2015

Was Notice of a Proposed Change (Form 1) submitted to DLCD?

Yes: Date (use the date of last revision if a revised Form 1 was submitted): 8/19/2015

No

Is the adopted change different from what was described in the Notice of Proposed Change? Yes No

If yes, describe how the adoption differs from the proposal:

The table was modified to adjust formatting.

Local contact (name and title): Alyssa Boles, Assistant Planner

Phone: 541-967-3816

E-mail: aboles@co.linn.or.usStreet address: 300 SW 4th Street, Rm 114

City: Albany

Zip: 97321

PLEASE COMPLETE ALL OF THE FOLLOWING SECTIONS THAT APPLY

For a change to comprehensive plan text:

Identify the sections of the plan that were added or amended and which statewide planning goals those sections implement, if any:

Comprehensive Plan text amendment to adopt a Goal 14 exception to recognize a site on rural land as land physically developed to urban levels of development. The amendment would add the property to a list in LCC 905 Appendix 2.

For a change to a comprehensive plan map:

Identify the former and new map designations and the area affected:

Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this
change.			
Change from	to	acres.	A goal exception was required for this change.

Location of affected property (T, R, Sec., TL and address): 10S-03W-28-1900

The subject property is entirely within an urban growth boundary

The subject property is partially within an urban growth boundary

If the comprehensive plan map change is a UGB amendment including less than 50 acres and/or by a city with a population less than 2,500 in the urban area, indicate the number of acres of the former rural plan designation, by type, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

If the comprehensive plan map change is an urban reserve amendment including less than 50 acres, or establishment or amendment of an urban reserve by a city with a population less than 2,500 in the urban area, indicate the number of acres, by plan designation, included in the boundary.

Exclusive Farm Use – Acres:	Non-resource – Acres:
Forest – Acres:	Marginal Lands – Acres:
Rural Residential – Acres:	Natural Resource/Coastal/Open Space – Acres:
Rural Commercial or Industrial – Acres:	Other: – Acres:

For a change to the text of an ordinance or code:

Identify the sections of the ordinance or code that were added or amended by title and number:

Code text amendment to add the property and use "contractor office, shops, and storage yard" to a list of urban exceptions on Limited Industrial land (LCC Section 929.340)

For a change to a zoning map:

Identify the former and new base zone designations and the area affected:

Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:
Change from	to	Acres:

Identify additions to or removal from an overlay zone designation and the area affected:

Overlay zone designation:	Acres added:	Acres removed:
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Location of affected property (T, R, Sec., TL and address):

List affected state or federal agencies, local governments and special districts: DLCD

Identify supplemental information that is included because it may be useful to inform DLCD or members of the public of the effect of the actual change that has been submitted with this Notice of Adopted Change, if any. If the submittal, including supplementary materials, exceeds 100 pages, include a summary of the amendment briefly describing its purpose and requirements.

Resolution & Order 2015-339 and Ordinance 2015-340



LINN COUNTY PLANNING AND BUILDING DEPARTMENT

Robert Wheeldon, Director

Room 114, Linn County Courthouse
PO Box 100, Albany, Oregon 97321
Phone 541-967-3816 Fax 541-926-2060
www.co.linn.or.us

NOTICE OF ADOPTION

RESOLUTION AND ORDER NO. **2015-339**
ORDINANCE NO. **2015-340**
FILE NO. **BC15-0005**
APPLICANT **Vic Mitchell**

PROPOSAL

An application by Vic Mitchell for a Comprehensive Plan text amendment, including an exception to Goal 14, to recognize a 3.92-acre parcel of rural land as irrevocably committed to urban levels of development. The amendment proposes to add the property, with the irrevocably committed use of "contractor office, shops, and storage yard," to the list maintained in Linn County Code (LCC) Chapter 905, Appendix 2 of adopted Goal 14 exception sites in Linn County. Also, an application for a Code text amendment to add the property and irrevocably committed use to the urban exceptions list in LCC Section 929.340 (Limited Industrial uses permitted outright through an urban exception). The property is identified as T10S, R03W, Section 28, Tax Lot 1900 and is zoned Limited Industrial (LI). The applicable decision criteria are contained in LCC 921.824, LCC 921.872, and LCC 921.876, Oregon Administrative Rules (OAR) 660-004-0000 through 660-004-0040 and OAR 660-014-0030, and the Oregon Statewide Planning Goals.

BOARD ACTION: Resolution and Order 2015-339

On November 10, 2015, the Linn County Board of Commissioners (Board) voted 3-0 to approve Resolution and Order No. 2015-339 to: (1) Approve the Findings and Conclusions supporting the Board decision; (2) Order that the text to Linn County Comprehensive Plan Chapter 905, Appendix 2 – Exception Areas, Goal 14 Exceptions, be amended to read as follows: "U-8 10S-03W-28-1900 Ordinance 2015-339 BC15-0005 Contractor office, shop, and storage yard"; and order that the text to the exceptions table at LCC 929.340(C) be amended to read as follows: "I-49 Contractor office, shop and storage yard T10, R3W, S28, TL 1900"; and (3) Order that the above text and list be placed in ordinance format for formal adoption in compliance with ORS Chapter 215 by the Board of County Commissioners for Linn County.

BOARD ACTION: Ordinance 2015-340

On November 10, 2015, the Linn County Board of Commissioners voted 3-0 to approve Ordinance 2015-340 to: (1) Amend Linn County Comprehensive Plan Chapter 905, Appendix 2 – Exception Areas, Goal 14 Exceptions to add "U-8 10S-03W-28-1900 Ordinance 2015-339 BC15-0005 Contractor office, shop, and storage yard"; and to amend the exceptions table at LCC 929.340(C) to add "I-49 Contractor office, shop and storage yard T10, R3W, S28, TL 1900".

If you wish to appeal this decision, an appeal must be filed with the Land Use Board of Appeals (LUBA) within 21 days from the date this notice is mailed. Appeals to LUBA must be filed in accordance with ORS 197.830. If you have any questions about this process, contact LUBA in Salem at (503) 373-1265.

Resolution and Order No. 2015-339 and Ordinance No. 2015-340 may be reviewed at the office of the Linn County Clerk, Room 205, Linn County Courthouse. That office is open from 8:30 a.m. to 5:00 p.m., Monday through Friday, except legal holidays. A copy of the ordinance is available in the office of the Linn County Clerk. A fee to cover copying costs will be charged.

Robert Wheeldon
Robert Wheeldon
Director

11/10/15
Date

cc: DLCD
Ed Schultz
Tim Fitzpatrick

BEFORE THE BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY OREGON

IN THE MATTER OF PLAN TEXT)
AND CODE TEXT AMENDMENTS)
TO ADOPT A GOAL 14 EXCEPTION)
AFFECTING 3.92 ACRES)

RESOLUTION & ORDER
NO. 2015-339
(Planning and Building Department)
(BC15-0005)
(Findings and Conclusions)

WHEREAS, Vic Mitchell filed applications requesting that the County approve a Comprehensive Plan (Plan) text amendment adopting an exception to Statewide Planning Goal 14 (Land Physically Developed to Other Uses), affecting 3.92 acres of land; to add the property, with the use "contractor office, shop, and storage yard," to a list maintained in Linn County Code (Code) Chapter 905, Appendix 2 of adopted Goal 14 exception sites in Linn County; and adopt a Code text amendment identifying the property on the urban exceptions list found in Code Section 929.340(C). The affected land is identified on Linn County Assessor maps as Tax Lot 1900, in T10S, R3W, Section 28, Linn County, Oregon;

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on October 28, 2015, to consider testimony on the proposed amendments;

WHEREAS, The proposed amendments had been previously considered by the Linn County Planning Commission at a duly advertised meeting on October 13, 2015, and who voted 7-0 to recommend approval to the Board;

WHEREAS, The Board, after considering all testimony and evidence submitted, reached a consensus to adopt the proposed Plan text amendment and Code text amendment, as presented herein; and

WHEREAS, The findings in support of the proposed Plan text amendment and Code text amendment are attached hereto as Exhibit 1 (Decision Criteria, Findings and Conclusion); and now therefore, be it

RESOLVED, That the Board of County Commissioners for Linn County approve the Findings and Conclusions set forth in Exhibit 1 (BC15-0005 Decision Criteria, Findings and Conclusions) as the basis of Resolution and Order No. 2015-339 and Ordinance No. 2015-340; and

RESOLVED, That the Board of Commissioners for Linn County approve the Comprehensive Plan text amendment and Code text amendment; and

ORDERED, That LCC Chapter 905, Appendix 2 – Exception Areas, Goal 14 Exceptions, be amended to read as follows:


U-8 10S-03W-28-1900 Ordinance 2015-339 BC15-0005 Contractor office, shop, and storage yard

ORDERED, That the exceptions table at Linn County Land Development Code (LCC) Section 929.340(C) be amended to read as follows:

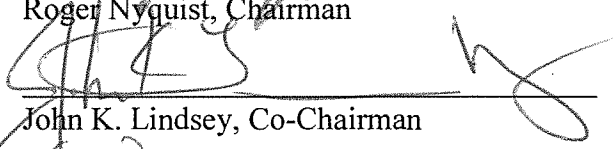
I-49 Contractor office, shop, and storage yard T10, R3W, S28, TL 1900

Resolved this 10th day of November, 2015.

BOARD OF COUNTY COMMISSIONERS
FOR LINN COUNTY



Roger Nyquist, Chairman

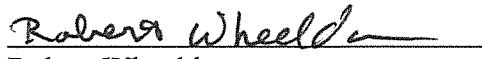


John K. Lindsey, Co-Chairman



William C. Tucker, Commissioner

APPROVED AS TO CONTENT:



Robert Wheeldon
Director, Linn County Planning and Building

APPROVED AS TO FORM:



Deputy County Attorney for Linn County

EXHIBIT 1
DECISION CRITERIA, FINDINGS, AND CONCLUSION
RESOLUTION & ORDER NO. 2015-339

BC15-0005

I. Application, Hearing Process, and Decision Criteria

BC15-0005: Application by Vic Mitchell, represented by attorney Ed Schultz, for a Comprehensive Plan text amendment, including an exception to Goal 14, to recognize a 3.92-acre parcel of rural land as irrevocably committed to urban levels of development. The amendment proposes to add the property, with the irrevocably committed use of "contractor office, shops, and storage yard," to the list maintained in Linn County Code (LCC) Chapter 905, Appendix 2 of adopted Goal 14 exception sites in Linn County. Also, an application for a Code text amendment to add the property and irrevocably committed use to the urban exceptions list in LCC Section 929.340 (Limited Industrial uses permitted outright through an urban exception). The subject property is identified as T10S, R03W, Section 28, Tax Lot 1900 and is zoned Limited Industrial (LI).

The Planning Commission (Commission) held a public hearing on this matter at 7:00 p.m., October 13, 2015. After considering the written and oral testimony presented at the Commission hearing, the Commission voted 7-0 to recommend that the Board adopt the Goal 14 Exception, approve the Plan Text amendment to add the property, with the irrevocably committed use of "contractor office, shops, and storage yard," to the list maintained in Linn County Code (LCC) Chapter 905, Appendix 2, and approve the Code Text amendment to add the property and irrevocably committed use to the urban exceptions list in LCC Section 929.340(C).

On October 28, 2015, the Board conducted a duly advertised public hearing on the proposed Goal 14 exception, the Plan text amendment, to be codified at Title 9, Chapter 905, Appendix 2, and the Code Text Amendment, to be codified at Title 9, Section 929.340(C) – Limited Industrial (LI) Zoning District - LI uses permitted outright through an urban exception. After the close of the public hearing, the Board voted 3-0 to adopt a motion to approve the Goal 14 exception, Plan text amendment and Code text amendment.

The adopted Plan text amendments add the following language to the table of Urban Exception sites maintained in Linn County Comprehensive Plan Chapter 905, Appendix 2.at Title 9, Chapter 905, Appendix 2:

“U-8 10S-03W-28-1900 Ordinance 2015-339 BC15-0005 Contractor office, shop,
and storage yard”

The adopted Land Development Code (LCC) text amendment adds the following language to the table of urban exception sites in LCC Section 929.340(C):

“I-49 Contractor office, shop, and storage yard T10, R3W, S28, TL 1900”

The Board by consensus directed County staff to prepare Ordinance documents for adoption of the proposed Plan text amendments and Code text amendment.

The applicable decision criteria are contained in LCC Sections 921.824, 921.872, and 921.876, Oregon Administrative Rules (OAR) 660-004-0000 through 660-004-0040 and OAR 660-014-0030, and the Oregon Statewide Planning Goals.

II. Decision Findings

Criterion: LCC 921.824(A)(1): The amendment is consistent with the intent and purpose statement of the affected Chapter or subchapter of the Land Development Code; and

Findings: The applicant’s representative submitted findings to address this criterion. The Board adopted the findings submitted by the applicant as addressed below:

“The use is specifically authorized within the content of the Limited Industrial Zone. The statement of purpose of the limited industrial zone is that the zoning district is to permit the continuation and expansion of existing industrial land uses, to provide for new rural-scale industrial uses. LCC 929.310(A). The text amendment will allow the continuation of the contractor services use that has been in existence on the property for over 20 years. Alternatively, the text amendment will allow a new rural-scale industrial use for the property. As discussed above, the contractor use is consistent with the farm and other rural uses adjacent to the property. The use will be contained within the parcel and be predominately indoors. The use will consequently be of “rural-scale”. Therefore, the amendment is consistent with the intent and purpose statement of the limited industrial zone.

The use is specifically authorized in the limited zoning district. LCC 929.340 provides a list of uses permitted outright through an urban exception. That includes “Contractor office, shop and storage yard.” LCC 929.340(C). The proposed use is the same. Therefore, the use is specifically authorized in the limited zoning district.”

Department staff analysis provides additional clarification and analysis of this criterion and the applicant statement. The proposed use (contractor office, shops, and storage yard) is not permitted in the Limited Industrial zoning district nor is the subject property listed in the urban exception table in LCC 929.340(C).

The subject property is currently listed as an Industrial exception site (I-49) [Ordinances 2005-034 and 2005-036, adopted by Board on February 2, 2005]. Land use action BC04-0006 included the applications for the Comprehensive Plan Map amendment and Comprehensive Plan text amendment to change the Comprehensive Plan designation of the subject property from Agricultural Resource to Industrial and the Zoning Map Amendment change the zoning of the subject property from Exclusive Farm Use to Limited Industrial. An exception to Statewide Planning Goal 3 (Agricultural Lands) was included as part of

those applications. The Goal 3 exception was for “Land Physically Developed to Other Uses.” A Goal 14 exception for urban uses or for the specific use of “Contractor office, shop and storage yard” on the subject property was not included as part of that review. A Goal 14 exception to recognize an urban use in included as part of this application.

The Urban Development (UD-II) zoning district, which has a Comprehensive Plan designation of Industrial, is the only zoning district in Linn County that allows “construction and contractor uses” outright. The Limited Industrial zoning does not allow for a "contractor office, shops, and storage yard" as a permitted or conditional use. Pursuant to LCC 929.340(C), two specific properties in rural Linn County have adopted urban exceptions for "contractor office, shops, and storage yard" as a use permitted outright (Exception Sites I-13 and I-46). The subject property is not included on the list of properties in LCC 929.340(C) for which the proposed use is approved. The subject property would be added to the list in LCC 929.340(C) with an urban exception for "contractor office, shops, and storage yard" as an allowed urban exception use once the ordinance adopting the proposed amendments is approved by the Board.

The applicant notes that the proposed amendment is consistent with the statement of purpose of the Limited Industrial zoning because it would allow for the continuation of rural-scale industrial uses that have existed on the property, as well as new rural-scale industrial uses. Although "contractor office, shops, and storage yard" is not considered a rural use, the use is consistent with other uses located within a mile of the subject property and along Century Drive. Existing development on the subject property, which includes an existing office building, two outbuildings, and improved parking areas, is rural in scale.

One of the purposes of the Limited Industrial zone is the expansion and replacement of certain existing urban industrial uses identified in LCC 929.340 and described in detail in the Comprehensive Plan. The Board determined that the Goal 14 exception criterion is met, as addressed in the findings below, and that the site is physically developed to an urban use of “contractor office, shops, and storage yard.” The subject property is consistent with this purpose.

Based on the facts and analysis provided by the applicant’s representative, Department staff analysis and testimony received at the public hearing, the Board finds the text amendments are consistent with the intent and purpose statement of the Limited Industrial zoning district.

Criterion: LCC 921.824(A)(2): The amendment is consistent with the intent of the policies within the applicable section(s) of the Comprehensive Plan.

Findings: The applicant’s representative submitted findings to address this criterion. The Board adopted the findings submitted by the applicant as addressed below:

“The Comprehensive Plan designation of Industrial has already been placed on the property.”

The text amendment to allow the contractor use is consistent with the intent and purpose statement of the limited industrial zone as provided in the Comprehensive Plan. One purpose of the industrial zoning is to permit Industrial uses include not only those that serve rural areas, but those that serve urban areas due to the “proximity to . . . Key transportation networks . . .” LCC 905.550(N). The subject property has ready access to Interstate 5 and is near both Highway 34 and Highway 20, which serves much of Linn County. The proposed contractor service serves most of Linn County, Benton County, Lane County, Marion County, and Polk County. Proximity to transportation networks is a necessary component of the contractor’s proposed use. The zoning recognizes that access to transportation networks means that “it is not always feasible or desirable to locate industrial uses within an urban growth boundary.” LCC 905.550(N). The use is consistent with the intent of the industrial zone in providing land for industrial uses near key transportation activities.

The industrial zone also recognizes that some uses cannot be classified as rural. LCC 905.550(O). Over 320 acres in Linn County have already been identified as urban exception areas under Goal 14 for areas developed or committed to urban type uses. The subject area has already been identified in the comprehensive map as an urban use. The text amendment merely identifies by text the use permitted on the property for what has been previously recognized as an excepted area under the comprehensive plan map. Under LCC 905.550(O), the text amendment is consistent with the intent and purpose of the zone, which is to recognize and allow development of previously recognized and excepted urban uses.

The text amendment advances the goal of the industrial zoning which is to “Provide opportunities for diverse rural economic development.” LCC 905.560(C). Contractor services will provide a new use to the rural economic development. The particular location near major traffic facilities means the use is well suited to serve the entire Linn County and surrounding counties. The use will provide diversity to the otherwise limited industrial uses permitted in the zone, which are generally tied to resource extraction and manufacturing such as timber and mining. The use is consistent with the intent and purpose of the industrial goals by providing a new rural economic development opportunity.

It is a policy of the industrial zone to permit industrial uses “dependent upon an isolated location because of operational characteristics.” LCC 905.570(B)(5). In this case the contractor services which serves Linn County and the surrounding region is dependent on the proximity to traffic facilities as a key operational characteristic of the proposed use. The site has ready access to I-5, Highway 20, and Highway 34. This access is necessary for the particular contractor services for the proposed site. The policy of the industrial zoning is to accommodate the proposed industrial use because of the unique operational characteristic of the site.”

Department staff analysis provides additional clarification and analysis of this criterion and the applicant statement. The applicant representative states: “The subject area has already been identified in the comprehensive map as an urban use. The text amendment merely

identifies by text the use permitted on the property for what has been previously recognized as an excepted area under the comprehensive plan map.”

The subject property is not identified in the Comprehensive Plan or the Land Development Code as an urban use. The purpose of this application is to designate the property as built and committed to an urban use. The subject property is currently listed as an Industrial exception site (I-49) [Ordinances 2005-034 and 2005-036, adopted by Board on February 2, 2005].

Land use action BC04-0006 included the applications for the Comprehensive Plan Map amendment and Comprehensive Plan text amendment to change the Comprehensive Plan designation of the subject property from Agricultural Resource to Industrial and the Zoning Map Amendment change the zoning of the subject property from Exclusive Farm Use to Limited Industrial. An exception to Statewide Planning Goal 3 (Agricultural Lands) was included as part of those applications. The Goal 3 exception was for “Land Physically Developed to Other Uses.” A Goal 14 exception for urban uses on the subject property was not included as part of that review. A Goal 14 exception is proposed as part of this land use application.

Policies in the Comprehensive Plan addressed by the applicant include LCC 905.550(N), LCC 905.550(O), 905.560(C), and 905.570(B)(5).

The following sections of the Comprehensive Plan also apply to the proposed amendments:

905.600(C) Urbanization; background

The urbanization process (transition from rural to urban land use) does not mean that all residential, commercial, and industrial activity will occur inside UGBs or city limits. Most intensive land uses requiring public facilities will be located within city limits or UGBs. Residential, commercial, and industrial activities outside of UGBs will be sited on the basis of locational and need criteria. These criteria are directed toward preservation of resource lands for resource uses and maintaining a scale of development consistent with rural land use.

This section summarizes that there is a process in place for siting residential, commercial, or industrial activities outside of UGBs, subject to applicable criteria. Oregon Statewide Planning Goals allow local jurisdictions to adopt exceptions to Statewide Planning Goal 14 (Urbanization) to allow specific urban uses on rural lands when certain criteria are met. The applicable criteria for Goal 14 Exceptions are found in ORS 197.732; Goal 2, Part II; OAR Chapter 660, Division 4; and OAR Chapter 660, Division 14. The Urbanization Land Use Element of the Comprehensive Plan is the applicable section for any proposed Goal 14 Exception.

The amendments include a Goal 14 exception to recognize the subject property as land physically developed to other uses. The amendment proposes to add the property, with the physically developed use of "contractor office, shops, and storage yard," to a list of properties in Linn County that have an adopted Goal 14 Exception to allow specific urban

uses on rural land, which is maintained in Chapter 905, Appendix 2. The Goal 14 Exception criteria are addressed in 921.872(B) below. The Board determined that the amendments satisfy the criteria in LCC 921.824, LCC 921.872, and LCC 921.876, Oregon Administrative Rules (OAR) 660-004-0000 through 660-004-0040 and OAR 660-014-0030, and the Oregon Statewide Planning Goals; therefore, the intent of this policy is met.

905.610(F) Policies and policy implementation for urbanization

Oregon Statewide Planning Goals allow local jurisdictions to adopt exceptions to Statewide Planning Goal 14 to allow specific urban uses on rural lands when certain criteria are met. The Statewide Planning goal exception standards are set out at ORS 197.732; Goal 2, Part II; OAR Chapter 660, Division 4; and OAR Chapter 660, Division 14. Linn County will maintain a list of properties for which a Goal 14 exception is adopted to allow specific urban uses on rural lands. The list of Goal 14 Exception properties is contained in Appendix 2 of this chapter.

The subject property will be added to the list maintained in Chapter 905, Appendix 2 in accordance with this policy.

Based on the facts and analysis provided by the applicant's representative, Department staff analysis, and testimony received at the public hearing, the Board finds the text amendments are consistent with the applicable sections of the Comprehensive Plan.

Criterion: LCC 921.872(A): The amendment is consistent with the intent of the applicable section (s) of the Comprehensive Plan; and

Findings: The application includes a Comprehensive Plan text amendment and Code text amendment. Pursuant to LCC 921.876, the decision criterion is addressed above.

Criterion: LCC 921.872(B): The amendment is consistent with the statewide planning goals.

Findings: The applicant's representative submitted findings to address this criterion. The Board adopted the findings submitted by the applicant as addressed below:

"Linn County's Comprehensive Plan, including the Industrial section, has already been acknowledged. Linn County's Zoning Ordinance, including the section for the Limited Industrial Zone, has already been acknowledged. The very narrow issue of this application is to complete an urban exception to continue historic use of the property as a contractor's facility, as an outright use allowed under LCC 929.340.

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

Opportunities for citizen involvement historically have been allowed in the formulation and adoption of the Linn County Comprehensive Plan and Development Code. In addition to the various local hearings, the Oregon Land Conservation Development Commission held

appropriate hearings that lead to the acknowledgment that Linn County's Comprehensive Plan and Development Code were in compliance. As part of the quasi-judicial proceedings to be conducted by Linn County, the Linn County Code sets forth the notice provisions which are to be given to the general population and surrounding property owners. For these reasons, the public notice and input required by Goal 1 have been met.

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 establishes a standard process for complying with the statewide planning goals and allows for exceptions. OAR 660-04-0020 sets the general guidelines for addressing the exception to Goal 14. This criterion has been met.

Goal 3, Agricultural Lands: To preserve and maintain agricultural lands.

Previously, Linn County applied the appropriate process and found an exception for this property. For the last 10 years, the property has not been under the protection of Goal 3.

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

Goal 4 does not apply because Linn County has applied an exception when the property was rezoned in 2005. This criterion has been met.

Goal 5, Natural Resources, Scenic and Historic Areas, and Open Spaces: To protect natural resources and conserve scenic and historic areas and open spaces.

The exception to Goal 5 was taken when the property was rezoned in 2005.

There are no riparian corridors, fish habitat, wetlands, wildlife habitat, wild or scenic river, state scenic waterways, groundwater resource restriction area, approved recreation trails, natural areas, wilderness areas, mining and aggregate resources, energy sources or cultural areas on the property. There are no historical resources, open space designation or scenic views and sites designated on the property. This criterion has been met.

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

The subject property is not located in a Non-Attainment or Maintenance Area as determined by Oregon Department of Environmental Quality, according to the 2009 Oregon Air Quality Data Summaries, published June 2010. The proposed amendment will not increase the number of vehicles on state highways. Therefore the proposed amendment

will not affect air quality in accordance with Goal 6. Because the property is fully developed and has been part of a previous exception, none of the other elements of Goal 6 apply, this criterion has been met.

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

There are no existing or proposed recreational areas designated on the property. The property is subject to a previous exception. Goal 8 does not apply to this property. This criterion has been met.

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

This is an existing property which provides for the economic development of Oregon. The continuation of this property as a contractor will continue to assist the Oregon economy. This criterion has been met.

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

This property is Industrial zoned and housing does not apply. This criterion has been met.

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.*

As indicated above, this property does not have any demand on public services that are going to increase with the proposed change with this application.

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

This property abuts Century Drive. Century Drive is within the jurisdiction of ODOT. An exception to the statewide goals was taken when the zoning was changed to this property. The proposed use does not increase significantly the amount of traffic that will be on Century Drive. No new access points will be created on Century Drive. The access point is currently under a permit from ODOT. There is no adverse impact and this criterion is met.

Goal 13, Energy Conservation: *To conserve energy.*

The amendment is intended to continue a primary use of the property for the past 20 years. The contractor's location allows the contractor to address work locations throughout Linn County in an efficient manner and to service communities in the rural area east of I-5 in an

efficient and cost effective manner. No energy will be spent reconfiguring the site as all of the necessary facilities currently exist. There is sufficient area to add the plan for new areas to broaden the base of the business to provide contractor services to rural areas for pole barns and barns which will help maintain the contractor business year round rather than just during the construction season. The amendment will meet the goal of energy conservation.

Goal 14, Urbanization: To provide for an orderly and efficient transition from rural to urban land use, to accommodate urban population and urban employment inside urban growth boundaries, to ensure efficient use of land, and to provide for livable communities.

Goal 14 requires "an orderly and efficient transition from rural to urban use." The property has already been rezoned in 2005. Linn County previously took an exception to statewide goals and amended the comprehensive plan to rezone the property to Industrial for the subject property. The notice of the adoption was received by the Land Conservation and Development Department on February 4, 2005, and was set into DLCD File No. 004-04(13961).

The use contemplated in the text amendment is a use permitted under the limited industrial zone. Linn County is requiring an exception to statewide goals in order to modify the chart that exists at the end of LCC 929.340 and specifically to add to the chart, the following: I-49 Contractor's Office, shop and storage yard T10, R3W, S28, TL 1900. For purposes of this application all findings regarding the urbanization exception contained in DLCD File No. 004-04(13961) for the subject property are incorporated herein by reference.

Rural Lands Irrevocably Committed to Urban Levels of Development.

(1) A conclusion, supported by reasons and facts, that rural land is irrevocably committed to urban levels of development can satisfy the Goal 2 exceptions standard (e.g., that it is not appropriate to apply Goals (sic) 14's requirement prohibiting the establishment of urban uses on rural lands). If a conclusion that land is irrevocably committed to urban levels of development is supported, the four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

Linn County previously took an exception to statewide goals and amended the comprehensive plan to Industrial for the property and changed the zoning designation to Limited industrial. The notice of the adoption was received by the Land Conservation and Development Department on February 4, 2005, and was set into DLCD File No. 004-04(13961). No appeal was taken from the final decision of Linn County. At that time, Linn County did add this site to the list of Industrial sites as item I-49 (Century Drive). However, Linn County did not amend LCC 921.340(2) to permit the contractor use existing on the property.

The property has already been found to be irrevocably committed to urban levels of development. The four factors in Goal 2 and OAR 660-004-0020(2) need not be addressed.

(2) A decision that the land has been built upon at urban densities or irrevocably committed to an urban level of development depends on the situation at the specific site. The exact nature and extent of the areas found to be irrevocably committed to urban levels of development shall be clearly set forth in the justification for the exception. The area proposed as the land that is built upon at urban densities are irrevocably committed to an urban level of development must be shown on a map or otherwise described and keyed to the appropriate finding of fact.

The 3.92 acres was specifically described in the application that was approved in 2005, DLCDC File No. 004-04(13961). The notice that went to DLCDC referred to above, identified the location as 10T, 10S, R3W, Section 21, TL 4902. The property is now identified as T10S, R3W, Section 28, TL 1900 due to a change in identification by Linn County Assessor's Office since 2005. The property is shown on a map as designated for limited industrial. The designation remains identified as Limited Industrial on the Linn County Zoning Ordinance and other than the change of tax lot for taxing purposes only, the boundaries of the property remain unchanged.

(3) A decision that land is committed to urban levels of development shall be based on findings of fact, supported by substantial evidence in the record of the local proceeding, that address the follows:

(a) Size and extent of commercial and industrial uses.

This is a 3.92 acre property which with the exception of a small lawn area in the northwest corner of the property is fully developed for contractor use. The property is hard surfaced, contains existing industrial buildings, driveways, parking, and well and septic system.

The property began its life as a taxidermy shop and was converted to a contractor's site approximately 20 years ago. The site size was modified to reflect the adjacent property owners understanding of where the property lines were. The site is fully fenced and the lot line adjustment in 1996 reflected the fencing which reflected the adjacent property owners understanding of the property line location. The property is completely utilized for industrial use.

There are no other Limited Industrial zoned properties within 5 air miles of the subject site. North of the parcel there is an auto repair shop, a motorcycle repair shop, and a motorcycle track, all of which is located outside of the LI Zone. The nearest Commercial and Industrial properties are located inside the city limits of Millersburg which is located at the west. Interstate 5 and Century Drive both under the jurisdiction of ODOT separate the subject property from the City of Millersburg. The site is relatively small compared to other industrial uses nearby.

(b) Location, number and density of residential dwellings.

There are no residential dwellings on the property. There are five residences to the north and northeast with an approximate density of one residence per 70 acres. To the north, there are two residential dwellings. To the northeast there is one residential dwelling. In summary, there are no residential dwellings on the subject property and only the subject property is zoned Limited Industrial.

- (c) *Location of urban levels of facilities and services; including at least public water and sewer facilities.*

The public water system for the City of Albany runs through the western edge of the property from north to south through an existing easement. There are no sewer facilities located east of I-5. Century Drive is an existing road that is a paved two-lane roadway which will have no additional adverse impact as a result of the contractor use.

The drainage ditch on the side of Century Drive carries the storm water from any necessary facilities on site to the next drainage system of Murder Creek.

- (d) *Parcel sizes and ownership patterns.*

The subject property is 3.92 acres and the only parcel that is zoned LI or Limited Industrial.

The surrounding properties to the east and south are zoned EFU and are in common ownership. The two properties to the north that are south of Berry Drive are 4.4 acres and 3.97 acres respectively in size and are separately owned. The property to the northeast is a 2.05 acre parcel in residential use but zoned EFU. The property north of Berry Drive which contains the residence and motorcycle track is 27.71 acres and is zoned Farm Forest. There is a separate ownership to the east that is 195 acres in the EFU zone. The owner of the 3.97 acre parcel north of the subject site is also the owner of the 27.71 acre parcel in the Farm Forest zone.

- (4) *A conclusion that rural land is irrevocably committed to urban development shall be based on all of the factors listed in section (3) of this rule. The conclusion shall be supported by a statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development rather than a rural level of development.*

The previous decision to change the comprehensive plan and to change the zoning ordinance and to take an exception to the statewide goals was based on the premise that the property was irrevocably committed. DLCD File No. 004-04(13961) The statement of reasons explaining why the facts found support the conclusion that the land in question is committed to urban uses and urban level development. Those facts and findings are hereby

incorporated herein by reference. That land use decision was approved and was not appealed.

The property is already converted to urban uses and has been that way for decade. The purpose of this application is to correct the failure of include contractor services as a use for the subject property which was omitted when the exception to zone the property to Limited Industrial in 2005 occurred. This application is intended to correct that oversight.

The property is already developed and has been developed for more than 20 years for industrial use. It has been used for contractor services for approximately 20 years. The property is developed with buildings and hard surfaces to provide a contractor to operate a business and with the space to park his equipment to provide onsite parking for the employees and customers. The buildings provide space to store his equipment and supplies. The hard packed and improved surface is designed to accommodate new structures to house the material storage and partial assembly for pole buildings, barns, and other home improvement services provided by the contractor. The current contractor is a painting and home improvement contractor who will provide services to the urban and rural community. The application is for a specific text change to a single parcel of ground which has already been designated to meet the urbanization exception. This text amendment merely affirms the use already developed and irrevocably committed to the site.

Because contractor services are an “urban” use, the property has always been utilized for urban use. The parcel’s design, layout, and improvements are tailored for contractor services and not for other rural uses. The property is best utilized for contractor services.

(5) More detailed findings and reasons must be provided to demonstrate that land is committed to urban development than would be required if the land is currently built upon at urban densities.

For the majority of the last 20 years, this property has been used as a contractor facility. The densities of the contractor are different than density of the number of housing units per acre. The contractor needs space in order to meet the various projects he is hired to complete. Every piece of equipment he owns will be used for every project. As a result, the storage areas must be larger. He must also have areas where he can store materials that are used on various project.

A contractor in Oregon must be able to have a variety to his business. A painting contractor has limited opportunities during most of the year. This is the reason why the contractor would be adding pole buildings and barns in order to provide a broader economic base for the business and to provide a more even cash flow through the year. In addition, it allows the contractor to keep qualified employees, which he otherwise could not obtain if they only have seasonal employment.

Linn County has included, through the exception process, other contractor sites. The development of those sites, the sizes of those sites, and the operating characteristics of those sites are consistent with the proposed site.

For all of the above reasons, the criterion in OAR 660-014-0040 have been met.

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

The proposed property is not in the Willamette River Greenway. This criterion is met.

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

This property is not in estuarine. This criterion is met.

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

This property is not at the Oregon coast. This criterion has been met.

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

This property is not at the Oregon coast. This criterion has been met.

Goal 19, Ocean Resources: To conserve marine resources and ecological functions for the purpose of providing long-term ecological, economic, and social value and benefits to future generations.

This property is not at the Oregon coast. This criterion has been met."

Department staff analysis provides additional clarification and analysis of this criterion and the applicant statement. The applicant statement says: "The purpose of this application is to correct the failure to include contractor services as a use for the subject property which was omitted when the exception to zone the property to Limited Industrial in 2005 occurred. This application is intended to correct that oversight."

The subject property is currently listed as an Industrial exception site (I-49) [Ordinances 2005-034 and 2005-036, adopted by Board on February 2, 2005]. Land use action BC04-0006 included the applications for the Comprehensive Plan Map amendment and Comprehensive Plan text amendment to change the Comprehensive Plan designation of the subject property from Agricultural Resource to Industrial and the Zoning Map Amendment change the zoning of the subject property from Exclusive Farm Use to Limited Industrial. An exception to Statewide Planning Goal 3 (Agricultural Lands) was included as part of those applications. The Goal 3 exception was for "Land Physically Developed to Other Uses." A Goal 14 exception for urban uses on the subject property was not included as part of that review.

A Goal 14 exception is included as part of the text amendment application. The applicant statement above includes findings addressing OAR 660-004-0000 through 660-004-0040 and OAR 660-014-0030, which contain the criteria for a Goal 14 exception to recognize the subject property as land physically developed to an urban level of use.

The Urban Development (UD-II) zoning district, which has a Comprehensive Plan designation of Industrial, is the only zoning district in Linn County that allows "construction and contractor uses" outright. The Limited Industrial zoning does not allow for a "contractor office, shops, and storage yard" as a permitted or conditional use. Pursuant to LCC 929.340(C), two specific properties in rural Linn County have adopted urban exceptions for "contractor office, shops, and storage yard" as a use permitted outright (Exception Sites I-13 and I-46). The subject property (Exception Site I-49) is not included on the list of properties in LCC 929.340(C). If the proposed amendments are adopted, the subject property would be added to the list in LCC 929.340(C) with an urban exception for "contractor office, shops, and storage yard" as an allowed urban exception.

The applicant statement indicates that exceptions to Goals 4 and 5 were taken as part of land use action BC04-0006 and are not applicable to the proposed amendments. An exception to Statewide Planning Goal 3 was included as part of land use action BC04-0006. No exceptions were taken to Goal 4 or 5. Statewide Planning Goal 4 is not applicable to the proposed amendments because the property is designated as Industrial land. Statewide Planning Goal 5 is not applicable because, as the applicant states, "there are no riparian corridors, fish habitat, wetlands, wildlife habitat, wild or scenic river, state scenic waterways, groundwater resource restriction area, approved recreation trails, natural areas, wilderness areas, mining and aggregate resources, energy sources or cultural areas, historical resources, open space designation or scenic views and sites designated on the property."

The applicant statement does not address Statewide Planning Goal 7 (Areas Subject to Natural Hazards). Statewide Planning Goal 7 does not apply to the proposed amendments because the subject property is not located in a mapped area of flood hazard or area of mass movement, and is not located in an area required to comply with Linn County structural siting standards to minimize wildfire risk.

Based on the facts and analysis provided to the Board, Department staff analysis, and testimony received at the public hearing, the Board finds the text amendments are consistent with statewide planning goals.

III. Conclusion

Based on the record of the hearing before the Board of County Commissioners for Linn County (Board), and the Decision Findings identified above, the Board finds and concludes that the proposed Comprehensive Plan text amendments and Code text amendment satisfy the applicable decision criteria in LCC 921.824, 921.872, and 921.876, Oregon Administrative Rules (OAR) 660-004-0000 through 660-004-0040 and OAR 660-014-0030, and the Oregon Statewide Planning Goals. The Goal 14 exception, Comprehensive Plan text amendment and Code text amendment are approved.

BEFORE THE BOARD OF COUNTY COMMISSIONERS

FOR LINN COUNTY

IN THE MATTER OF AN ORDINANCE)
AMENDING THE LINN COUNTY)
COMPREHENSIVE PLAN TEXT AND)
THE LINN COUNTY CODE TEXT)

ORDINANCE NO. 2015-340
(Amending the Plan Text and Code Text)
(Planning and Building Department)
(BC15-0005)

WHEREAS, Vic Mitchell filed applications requesting that the County approve a Comprehensive Plan (Plan) text amendment adopting an exception to Statewide Planning Goal 14 (Land Physically Developed to Other Uses), to add a property to a list maintained in Linn County Code (Code) Chapter 905, Appendix 2 of adopted Goal 14 exception sites in Linn County; and adopt a Code text amendment identifying the property on the urban exceptions list found in Code Section 929.340(C) with the use "contractor office, shops, and storage yard". The affected property is identified on Linn County Assessor maps as Tax Lot 1900, in T10S, R3W, Section 28, Linn County, Oregon;

WHEREAS, The Board of County Commissioners for Linn County (Board) conducted a duly advertised public hearing on October 28, 2015, to consider testimony on the proposed amendments;

WHEREAS, The proposed amendments had been previously considered by the Linn County Planning Commission at a duly advertised meeting on October 13, 2015, and who voted 7-0 to recommend approval to the Board;

WHEREAS, The Board having read the proposed ordinance and having received and considered the oral and written public testimony presented prior to and at the hearing; and

WHEREAS, The findings in support of this Ordinance are attached to Resolution and Order No. 2015-339 as Exhibit 1 (Decision Criteria, Findings and Conclusions); and now, therefore, be it

Ordained by the Linn County Board of Commissioners, That:

Section 1. Comprehensive Plan Text Amendment. LCC Chapter 905, Appendix 2 – Exception Areas, Goal 14 Exceptions, be amended to read as follows:

U-8 10S-03W-28-1900 Ordinance 2015-339 BC15-0005 Contractor office, shop, and storage yard

Section 2. Code Text Amendment. The exceptions table at LCC 929.340(C) be amended to read as follows:

I-49 Contractor office, shop and storage yard T10, R3W, S28, TL 1900

Section 3. Savings Clause. Repeal of a code section or ordinance shall not revive a code section or ordinance in force before or at the time the repealed code section or ordinance took effect. The repeal shall not affect a punishment or penalty incurred before the repeal took effect, nor a suit, prosecution, or proceeding pending at the time of the repeal for an offense committed under the repealed code section or ordinance.

Section 4. Severability. Invalidity of a section or part of a section of this ordinance shall not affect the validity of the remaining sections or parts of sections.


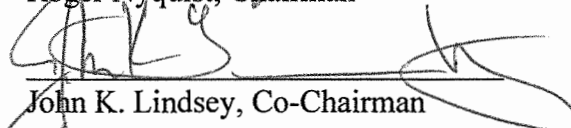
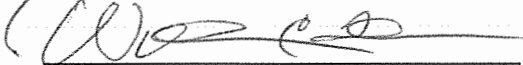
Section 5. Effective Date. To protect the health, safety, and welfare of the citizens of Linn County, this ordinance shall take effect following adoption.

Section 6. Codification. Following adoption, this ordinance shall be codified pursuant to LCC Chapter 120.

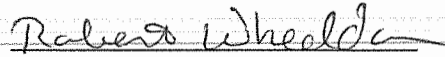
Public reading held November 10th, 2015.
Adopted and passed November 10th, 2015.
The effective date of this Ordinance shall be November 10th, 2015.

BOARD OF COUNTY COMMISSIONERS FOR LINN COUNTY

Signed November 10th, 2015

		Voting	
		For	Against
		X	
Steve Druckenmiller, Linn County Clerk Recording Secretary	Roger Nyquist, Chairman		
		X	
	John K. Lindsey, Co-Chairman		
By _____		X	
	William C. Tucker, Commissioner		

APPROVED AS TO CONTENT:



Robert Wheeldon
Linn County Planning and Building Director

APPROVED AS TO FORM:



Deputy/County Attorney for Linn County