

PASSED

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. PA 1225 [**IN THE MATTER OF ADOPTING A CONFORMITY
[DETERMINATION AMENDMENT PURSUANT TO RURAL
[COMPREHENSIVE PLAN - GENERAL PLAN POLICIES,
[GOAL 2, POLICY 27. a. iii., AMENDING THE PLAN
[DESIGNATION FROM AGRICULTURE (A) TO FOREST
[(F) AND THE ZONING DESIGNATION FROM
[EXCLUSIVE FARM USE (E40) TO IMPACTED FOREST
[LAND (F2) FOR A PORTION (26 ACRES) OF TAX LOT 201
[OF LAND COUNTY ASSESSOR MAP 19-04-14, AND
[ADOPTING SAVINGS AND SEVERABILITY CLAUSES.
[(File: PA 05-5060 Walsh).**

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

WHEREAS, the Board of County Commissioners of Lane County, through enactment of Ordinance No. PA 1192 and amended thereafter, has adopted the Conformity Determination Amendment process as Goal 2, Policy 27 of the General Plan Policies which is a component of the Lane County Rural Comprehensive Plan; and

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

WHEREAS, on January 18, 2005, a Conformity Determination Amendment application (PA 05-50606 Walsh) was submitted to Lane County proposing a plan amendment from Agriculture (A) to Forest (F) and a zone change from Exclusive Farm Use (E40) to Impacted Forest Land (F-2, RCP) for a 26-acre portion of tax lot 201 of Assessor Map 19-04-14, pursuant to RCP General Plan Policies - Goal Two, Policy 27.a.iii; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in a public hearing on September 20, 2005; and

WHEREAS, the Lane County Planning Commission on November 1, 2005, recommended approval of the proposed zone change; and

WHEREAS, the proposal was reviewed at a public hearing with the Lane County Board of Commissioners on January 18, 2006; and

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

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

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

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IN THE MATTER OF ADOPTING A CONFORMITY DETERMINATION AMENDMENT PURSUANT TO RURAL COMPREHENSIVE PLAN - GENERAL PLAN POLICIES, GOAL 2, POLICY 27. a. iii., AMENDING THE PLAN DESIGNATION FROM AGRICULTURE (A) TO FOREST (F) AND THE ZONING DESIGNATION FROM EXCLUSIVE FARM USE (E40) TO IMPACTED FOREST LAND (F2) FOR A PORTION (26 ACRES) OF TAX LOT 201 OF LAND COUNTY ASSESSOR MAP 19-04-14, AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES. (File: PA 05-5060 Walsh).

Section 1. Twenty-six acres of tax lot 201 of Lane County Assessor Map 19-04-14 are re-designated from Agriculture (A) to Forest (F), such territory as depicted on Official Plan Plot No. 323 and further identified as Exhibit "A" attached and incorporated herein; and


Section 2. Twenty-six acres of tax lot 201 of Lane County Assessor Map 19-04-14 are rezoned from Exclusive Farm Use E40-RCP (Lane Code 16.212) to Impacted Forest Land F-2, RCP (Lane Code 16.211), such territory depicted on Official Zoning Plot No. 323 and further identified as Exhibit "B" attached and incorporated herein.

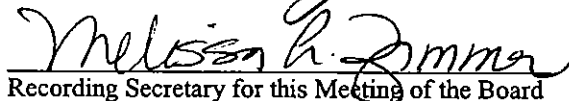
FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts the findings in support of this action as set forth in the attached Exhibit "C".

The prior policies, zoning base designations and plan diagram base designations repealed or changed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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

ENACTED this 16th day of JANUARY, 2006.


Chair, Lane County Board of Commissioners


Recording Secretary for this Meeting of the Board

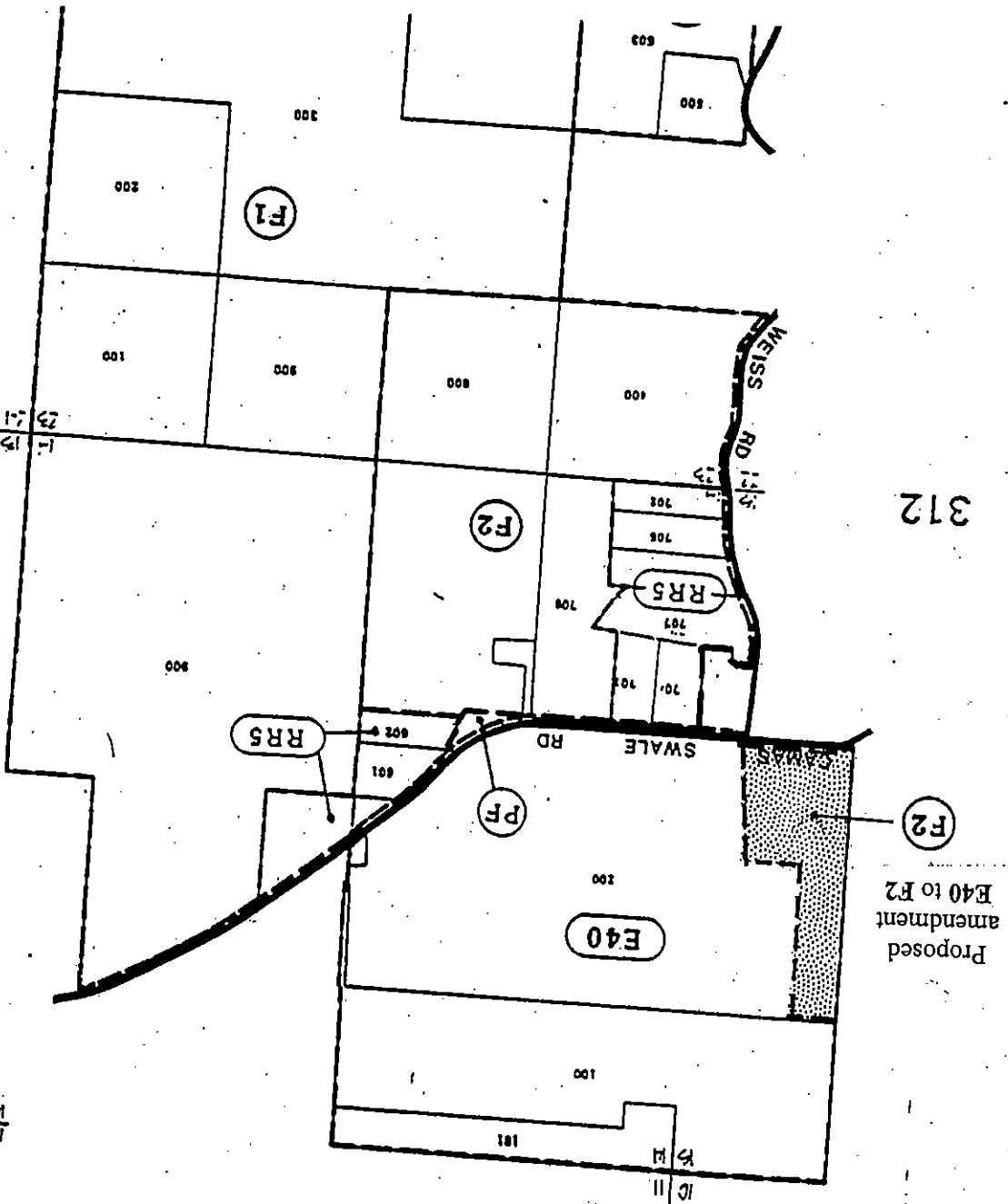
APPROVED AS TO FORM

Date 12-28-2005, Lane County


OFFICE OF LEGAL COUNSEL

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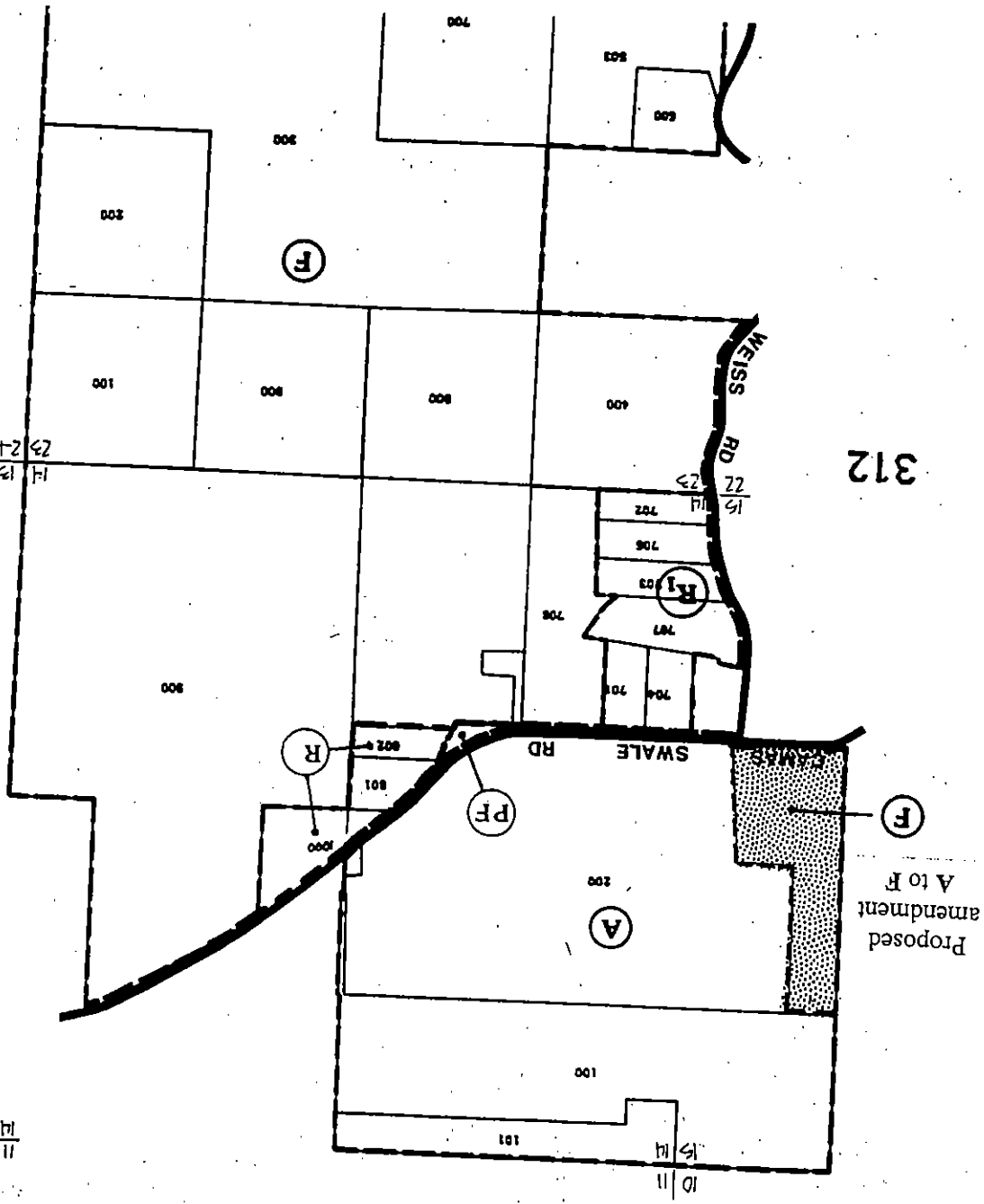


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Ordinance No. PA 1225
Exhibit "C"
Findings of Fact

Finding 1. Rural Comprehensive Plan – General Plan Policies: Goal Two, Policy 27 provides a conformity determination amendment process for the correction of identified plan or zoning designations in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots. **Goal Two, Policy 27.a.iii** provides for amendment of a Plan and Zoning Designation if: *A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.*

Finding 2. Lane Code 16.252(1): This section of Lane Code requires that as the Rural Comprehensive Plan for Lane County is implemented, changes in zone and other requirements of this chapter will be by ordinances. Ordinance No. PA 1225 complies with this policy and requirement.

Finding 3. Lane Code 16.252(2) requires that rezoning shall be consistent with the specific purposes of the zone classification proposed and Statewide Planning Goals. Based on the findings below, Ordinance No. PA 1225 complies with applicable state laws and Statewide Planning Goals.

- a. Statewide Planning Goal 2 requires, "Opportunities shall be provided for review and comment by citizens during the preparation, review and revision of plans and implementation ordinances." Lane County provided the opportunities identified below for citizens to review and comment on the preparation and review of Ordinance No. PA 1225. These opportunities were adequate to comply with Goal 2.
- On August 8, 2005, LMD mailed to the Oregon Department of Land Conservation and Development (DLCD) a notice of the first evidentiary hearing and pending adoption, and two copies of the proposed Conformity Determination Amendment (Ordinance No PA 1225).
 - On August 31, 2005, a legal ad was published in *The Register Guard*, providing notice of the Lane County Planning Commission public hearings in Harris Hall of the Lane County Public Service Building on September 20, 2005.
 - On September 20, 2005, the Lane County Planning Commission (LCPC) conducted a public hearing on the proposed Conformity Determination Amendment (Ordinance No. PA 1225) requesting a Plan amendment from Agriculture (A) to Forest (F) and a zone change from Exclusive Farm Use (E40) to Impacted Forest Land (F2) for a 26-acre portion of tax lot 201 of Assessor's Map 19-04-14, pursuant to the qualifying criterion of Goal Two, Policy 27.a.iii.:
 - a. *Circumstances qualifying for consideration by the Board of Commissioners under the Conformity Determinations Policy may include one or more of the following:*
 - iii. *A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.*
 - On December 6, 2005, the Lane County Planning Commission deliberated and unanimously (7-0) approved a recommendation to the Board of County Commissioners to adopt the

requested amendments pursuant to Goal Two, Policy 27.a.iii.: *The Lane County Planning Commission finds that the preponderance of evidence in the record of PA 05-5060 supports the applicant's request for amendment of the Plan designation from Agricultural (A) to Forest (F) and the Zoning designation from Exclusive Farm Use (E40) to Impacted d Forest Land (F2) for the 29-acre subject area of the 198.63-acre portion of the subject parcel, which was primarily in forest management in 1984 and currently is managed primarily as a forest management unit.*

- On December 14, 2005, a legal ad was published in *The Register Guard* providing notice of the Board of County Commissioners public hearing in the Commissioners Conference Room of the Lane County Public Service Building at 1:30 PM on January 18, 2006.
 - On January 18, 2005, the Board of County Commissioners conducted a public hearing on the proposed Conformity Determination Amendment - Ordinance No. PA 1225 (PA 05-5060 Walsh).
- b. Ordinance No. PA 1225 acknowledges the written testimony and documentation, and citizen comments received during the LCPC public hearings on September 20, 2005, and written testimony submitted into the official record thereafter.
- c. Ordinance No. PA 1225 acknowledges the deliberations of the LCPC on December 6, 2005, and their findings of fact, conclusions, and recommendation to the Board of County Commissioners.
- d. Ordinance No. PA 1225 acknowledges citizen testimony received during the Lane County Board of Commissioners public hearing on January 18, 2006.

Finding 4: Specific Findings of Fact

- a. The lawfully-created parcel subject to Ordinance No. PA 1225, hereinafter referred to as the "subject parcel" is identified as Parcel #2 of the approved and recorded partition M638-78 (Geoffrey L. Walsh) which received final land use approval from the Land Development Review Committee and was recorded in Lane County Deeds and Records on March 16, 1979.
- b. Partition M638-78 created two parcels. The subject parcel, Parcel #2, was created as a 323.7-acre metes and bounds description and was designated by Lane County Assessment & Taxation Department as two tax lots with a contiguous tax lot boundary line aligned north to south along the section line between eastern one-half of Section 15 and the western one-half of Section 14. The two tax lots can be identified as TRS 19-04-15, tax lot 300 (approximately 172.63 acres in size) and TRS 19-04-14, tax lot 201 (approximately 151.4 acres in size). Parcel #1 of partition M638-78 was created as a 20-acre parcel and can be identified as TRS 19-04-14, tax lot 200, (approximately 20.85 acres in size).

The 323.7 subject parcel (Parcel #2) and the 20.85-acre parcel (Parcel #1) are managed as the "Walsh Ranch". In the Planning Director's approval of the family farm help dwelling on tax lot 201 in 2000, the record indicates that "approximately 207 acres are planted with fir trees, 97 acres are in livestock (cattle), 20 acres are in hay production, 20 acres are planted with poplars, and 10 acres are in residential use." The current record indicates that the 172.68 acres of tax lot 300 and approximately 26 acres of tax lot 201 are managed as a 198.68-acre conifer plantation.

- c. The subject parcel (Parcel #2 of M38-78), tax lots 300 and 201, received Plan and Zoning designations when Lane County adopted the Lane County Rural Comprehensive Plan and Official

Plan and Zoning Maps – Plots No. 312 and No. 323, which were acknowledged by Oregon Land Conservation and Development Commission in 1984. The western portion of the subject parcel (tax lot 300) within Section 15, received a Plan designation of Forest (F) and a Zoning designation of Impacted Forest Land (F2) on Official Plan and Zoning Maps, Plot No. 312, respectively. The eastern portion of the subject parcel (tax lot 201) within Section 14, received a Plan designation and a Zoning designation of Agriculture (A) and Exclusive Farm Use (E40) on Official Plan and Zoning Maps, Plot No. 323, respectively. Parcel #1 of M638-78, tax lot 200, within Section 14, received a Plan designation and a Zoning designation of Agriculture (A) and Exclusive Farm Use (E40), on Official Plan and Zoning Maps, Plot No. 323, respectively.

By these adopted and acknowledged Plan Map and Zoning Map designations, the subject parcel, approximately 323.7 acres, was split zoned Impacted Forest Land (F2) and Exclusive Farm Use (E40) in Ordinance No. PA 884 on February 29, 1984. The Plan and Zoning designations for the subject parcel were not appealed and became a final land use decision on March 29, 1984.

- d. The applicant's have requested that the common line between the Impacted Forest Land (F2) and the Exclusive Farm Use (E40) zoning designations to be moved to the east so that the F2 designation includes the actively managed stand of trees within tax lot 201. The area proposed for amendment from E40 to F2 is approximately 26 acres in size as depicted in the record of PA 05-5060, Exhibit 1 – PA 05-5060 Application for a Conformity Determination, Illustrations 3 and 4, page 3. The stand of trees within the 26-acre site consist of maturing conifers in excess of 30 years in age as depicted in the 1979 aerial photograph and the 2000 aerial photograph included in Exhibit 1, Attachment E, pages 1 and 2 of the official record (PA 05-5060)
- e. Tax lot 300 of the subject parcel and the proposed 26-acre site are heavily forested as depicted in the 1979 and 2000 aerial photographs referenced in Finding 4.d. above, and the 2004 aerial photograph in Exhibit 13 Staff Report to LCPC, page 2, September 9, 2005, of the PA 05-5060 record and actively managed as a forest management unit by contract between the applicant and Golden Eagle Forestry, Inc. Photographs of the forested 26-acre area proposed for re-designation are included in Exhibit 1 – PA 05-5060 Application for a Conformity Determination, Attachment F – The Walsh Ranch Photographs 1-4, pages 1 and 2. The forest management practices from 1979 to 2005 included commercial thinning, replanting under the Forest Practices Act (FPA), abatement of competitive species within the plantations, and management of the unit for fiber production under the FPA. Current forest management practices as attested to in the PA 05-5060 record by the contractor, Golden Eagle Forestry, Inc., include “Our plan and work (already in process) is to do a third thin on the 150 acres of timber by harvesting the dead, dying, defective and overripe trees for a healthy, attractive forest with skid (clean) trails for horsebacking, ATV’s and walking.” (PA 05-5060, Exhibit 4, March 23, 2005). Ongoing forest management practices are attested to in Exhibit 1, Attachment I, 10-20-04.

LMD staff (Bill Sage, Associate Planner) inspected the subject parcel on September 1, 2005 and confirmed that commercial thinning and competitive understory clearing were underway and log decks were present within the 26- acres of tax lot 201 that is proposed for re-designation from E40 to F2.

- f. Lane Code Chapter 16 provides for residential development on the subject parcel in both the E40 zoning designation on tax lot 201, as implemented by Lane Code 16.212, and the F2 zoning designation on tax lot 300, as implemented by Lane Code 16.211.

Tax lot 201 is developed with a primary residence constructed in 1979 per building permit LC 358-79. Tax lot 201 is also developed with a Family Farm Help Dwelling per a special use

permit PA 00-5878 approved on September 14, 2000 in compliance with LC 16.212(2)(1) and (8) criteria and standards and constructed per building permit BP 01-1809 in 2001.

Tax lot 300 of the subject parcel is vacant. The applicant's seek to develop the F2 portion of the subject parcel with a residence for a family member to manage the forest resources of the subject parcel. A family member of the Kaikilani K. Walsh Trust could qualify for a residence on tax lot 300 of the subject property within the F2 zone under the provisions of LC 16.211(7) Large Tract Dwelling. If the Trust transfers tax lot 300 to a single family member, then under land use law the "tract" limitation is lifted and subsection (7) provides for one single-family dwelling or manufactured dwelling on a tract of 160 acres or larger in size. The subject parcel already includes 172.68 acres (RLID calculation) in the split zoned, F2 portion, tax lot 300. Adding the proposed 26 acres to the 172.68 represents a consolidation of the forest management unit into a 198.68-acre tract. It would not provide an opportunity to develop the forest land with a residence that the applicant's do not already have. Adding the proposed 26 acres to the F2 designation does not provide any division opportunity to the applicants that they do not already have as a right under State law and Lane Code. The minimum parcel size for land division in the F2 zone is 80 acres. The current 172.68 acres allows for two parcels to be created out of the acreage under the minimum density standard. Adding the 26 acres to the 172.68 acres does not increase the number of potential parcels.

- g. As attested to in the oral record at the LCPC public hearing, the applicant's seek to conserve the forest management acreage to the greatest degree possible without impacts from the construction of access roads, driveways, and fuel breaks around a residence and accessory buildings. The applicant's preferred choice is to site the large-tract forest dwelling within the 26-acre area proposed for the F2 designation. This complies with the Siting Standards for Dwellings, Structures and other Uses in Lane Code 16.211(8)(a)(i) and (ii):

(a) Setbacks. Residences, dwellings or manufactured dwellings and structure shall be sited as follows:

- (i) Near dwellings or manufactured dwellings on other tracts, near existing roads, on the most level part of the tract, on the least suitable portion of the tract for forest use and at least 30 feet away from any ravine, ridge or slope greater than 40 percent;*
(ii) With minimal intrusion into forest areas undeveloped by nonforest uses; . . .

Under the applicant's preferred siting option within the rezoned 26 acres, the large tract dwelling would utilize the access road that currently serves the two dwellings on tax lot 201; be sited near the two existing dwellings; and allow overlap of the required primary and secondary fuel breaks with the developed residential sites reducing the amount of forested area required for those purposes in a more isolated site to the west in tax lot 300.

- h. The Board of County Commissioners acting as the elected officials of the citizens of Lane County had the authority in 1984 to conclude whether resource lands should be designated Farm or Forest and the level of development that was considered to be appropriate for the land being reviewed and the surrounding lands. The County Commissioners exercised their discretion in 1984 under the criteria and standards of current Goal 4, Policy 15 for the subject parcel and the surrounding forest land parcels and designated the western 172 acres of the subject parcel as Impacted Forest Land (F2). The Board of County Commissioners also exercised their discretion in designating 29 tax lots and 681.38 acres of land as Impacted Forest Land (F2) in a block of properties on the Official Zoning Maps – Plot No. 312 and Plot No. 323. In Exhibit #22 (Goal One Coalition) and Exhibit #28 (James A. Mann LLC) of the Official Record of PA 05-5060, the record includes references to nineteen tax lots in the vicinity of the subject parcel. An overview of the Board of

Commissioners discretionary action in 1984 can be further understood by viewing the lands as a whole in the configuration that was designated as Impacted Forest Land (F2) at the time. The western portion of the subject parcel is the northwestern corner of the F2 block which extends south across Hamm Road, east across Weiss Road and Napper Road and south of Camas Swale Road, and continues south 2,800 feet along the western right-of-way and 4,200 feet along the eastern right-of-way. The configuration of F2 land extends east of Weiss Road for a distance of 1,800 feet and envelopes a developed & committed exception area composed of Rural Residential RR5 properties. The block of F2 land includes properties in four sections: 19-04-14, 19-04-15, 19-04-22 and 19-04-23. They are identified below:

TRS	Tax Lot	Acreage	Zoning	Address	Developed
19-04-14,	706	25.53	F2	30394 Camas Swale Road, Creswell	-unk-
19-04-14,	800	100.44	F2	30420 Camas Swale Road, Creswell	-unk-
19-04-14,	801	21.49	F2	30426 Camas Swale Road, Creswell	1968
19-04-15,	300	172.68	F2		
19-04-15,	500	4.96	F2	29907 Hamm Road, Creswell	2000
19-04-15,	700	4.75	F2	29983 Hamm Road, Creswell	1950
19-04-15,	701	1.66	F2		
19-04-15,	702	6.34	F2	29926 Hamm Road, Creswell	1973
19-04-15,	703	4.71	F2	29908 Hamm Road, Creswell	1957
19-04-15,	801	4.65	F2	30047 Hamm Road, Creswell	1990
19-04-15,	802	31.93	F2	30112 Hamm Road, Creswell	1998
19-04-15,	900	0.85	F2	30133 Hamm Road, Creswell	1979
19-04-15,	1100	9.96	F2	82920 Weiss Road, Creswell	1993
19-04-15,	1200	7.00	F2	82864 Weiss Road, Creswell	1977
19-04-15,	1201	8.08	F2	82900 Weiss Road, Creswell	1973
19-04-15,	1300	20.32	F2	83036 Weiss Road, Creswell	1995
19-04-15,	1400	5.09	F2	83021 Weiss Road, Creswell	1975
19-04-22,	102	12.24	F2	82818 Weiss Road, Creswell	1998
19-04-22,	103	11.44	F2	82786 Weiss Road, Creswell	1959
19-04-22,	104	11.32	F2	82744 Weiss Road, Creswell	1992
19-04-22,	500	78.01	F2	82732 Weiss Road, Creswell	1976
				82631 Weiss Road, Creswell	1977
19-04-22,	601	1.05	F2	82592 Napper Road, Creswell	1940
19-04-22,	602	1.61	F2	82566 Napper Road, Creswell	1972
19-04-23,	400	46.19	F2		
19-04-23,	500	9.35	F2	82571 Weiss Road, Creswell	1997
19-04-23,	502	18.62	F2		
19-04-23,	503	30.47	F2	82535 Weiss Road, Creswell	1977
19-04-23,	600	10.24	F2	82385 Weiss Road, Creswell	1973
19-04-23,	701	20.40	F2		
Total acreage					681.38
Properties					29
Residences					25

The subject parcel is adjacent to or separated by a road from the properties (tax lots) listed below:

TRS	Tax Lot	Acreage	Zoning	Address	Developed
• To the north of E40 portion of subject parcel:					
19-04-14	100	70.36	E40	30549 Camas Swale Road, Creswell	1994
19-04-14	400	0.81	E40	30545 Camas Swale Road, Creswell	1973

- To the north of the F2 portion of the subject parcel:
19-04-15 100 112.36 F1 (Seneca Jones Timber Co.)
- To the west of the F2 portion of the subject parcel:
19-04-00 500 604.76 F1 (Guistina Land and Timber Co.)
- To the southwest of the F2 portion of the subject parcel:
19-04-15 600 120.00 F1 (US Bureau of Land Management)
- To the south of the F2 portion of the subject parcel:
19-04-15, 500 4.96 F2 29907 Hamm Road, (north side-Hamm) 2000
19-04-15, 700 4.75 F2 29983 Hamm Road, (north side-Hamm) 1950
19-04-15, 701 1.66 F2 (north side-Hamm)
19-04-15, 702 6.34 F2 29926 Hamm Road, (south side-Hamm) 1973
19-04-15, 703 4.71 F2 29908 Hamm Road, (south side-Hamm) 1957
19-04-15, 801 4.65 F2 30047 Hamm Road, (north side-Hamm) 1990
19-04-15, 802 31.93 F2 30112 Hamm Road, (south side-Hamm) 1998
19-04-15 900 0.85 F2 30133 Hamm Road, (north side-Hamm) 1979
- To the south of the 26-acre area of subject parcel proposed for zone change:
19-04-15, 1300 20.32 F2 83036 Weiss Road, (south side-Hamm) 1995
19-04-15, 1400 5.09 F2 83021 Weiss Road, (south side-Hamm) 1975
- To the south of the E40 portion of the subject parcel:
19-04-14, 701 5.22 RR5 30356 Camas Swale Road, (south-Camas) 1993
19-04-14, 704 5.26 RR5 30306 Camas Swale Road, (south-Camas) 1970
19-04-14, 706 25.53 F2 30394 Camas Swale Road, (south-Camas) -unk-
19-04-14, 801 21.49 F2 30426 Camas Swale Road, (south-Camas) 1968
- Further to the east of the E40 portion of the subject parcel:
19-04-11 106 184.64 E40 30701 Camas Swale Road, (north-Camas) -unk-
19-04-14 400 0.55 E40 30545 Camas Swale Road, (north-Camas) 1973
19-04-14 2000 1.29 E40 (access road panhandle)
- To the southeast of the E40 portion of the subject parcel:
19-04-14 600 1.39 RR5 30538 Camas Swale Road, (south-Camas) 1987
19-04-14 601 5.36 RR5 30498 Camas Swale Road, (south-Camas) 1979
19-04-14 602 4.28 RR5 30494 Camas Swale Road, (south-Camas) 1993
19-04-14 1100 1.23 RPF 30450 Camas Swale Road, (south-Camas) -unk-
*Creswell Rural Fire Protection District station.

A composite of the Official Zoning Maps Plot No. 312 and Plot No. 323 is attached as Attachment "D" to Exhibit #35 (Staff Report to LCPC) of the Official Record PA 05-5060, depicting the subject parcel and the surrounding area within Sections 14, 15, 22 and 23 of Township 19S Range 04W.

- i. Goal One Coalition (Jim Just), in written testimony dated September 30, 2005 (Exhibit # 22, official record PA 05-5060), claimed that designating the 26 acres of the subject parcel from E40 to F2 requires review under the Rural Comprehensive Plan General Plan Policies, Goal 4, Policy 15 to determine whether the 26 acres should be rezoned F1 Nonimpacted Forest Land or F2 Impacted Forest Land.

The Board of County Commissioners has no obligation to review Goal 4, Policy 15 in the exercise of moving a common line between the Impacted Forest Land Zone (F2) and the Exclusive Farm Use Zone (E40). That level of evaluation was already completed by the Board of County Commissioners in 1984 and the evaluation resulted in the subject parcel being split zoned with 172.68 acres designated F2 and 151.02 acres designated as E40. There is no rationale for

assuming or requiring that the movement of a zoning line to the east across the forested 26 acres of the subject parcel would warrant the questioning of that evaluation. The Board acted, notice was provided to interested parties including 1,000 Friends of Oregon, the evaluation and designation were not challenged in 1984, and the designations became final decisions on the 323.7-acre, subject parcel. The Board of County Commissioners and the citizens of Lane County have a common understanding that final decisions that have been evaluated under a specific policy such as Goal 4, Policy 15 in 1984, remain as final decisions under the protection of state law and local ordinances unless the property owner were voluntarily to request or consent to an amendment. The applicant has not requested an amendment to the more restrictive Nonimpacted Forest Land (F1) designation which does not provide for an owner/caretaker dwelling to manage the large tract of timber. The applicant has simply requested an adjustment of the common zoning boundary between the F2 forest management unit and the E40 farm management unit to reflect the true extent of the two units.

The 26-acre forested area of the subject parcel proposed for inclusion in the F2 zoned portion is bordered by E40 Exclusive Farm Use land to the east (tax lot 201 of TRS 19-04-14) and north (tax lot 100 of TRS 19-04-15), F2 land to the west (tax lot 300 of TRS 19-04-15), and F2 land to the south (tax lots 1300 and 1400 of TRS 19-04-15). The northwestern corner point of tax lot 201 and the northern boundary of tax lot 300 of the subject parcel are adjacent to F1 Impacted Forest Land (tax lot 100 of TRS 19-04-14).

The Board of County Commissioners accept the applicant's request for relocation of the common boundary between the F2 Impacted Forest Land acreage and E40 Exclusive Farm Use acreage of the subject parcel as a rational exercise in making a determination of where the forest and agricultural management units of the subject parcel actually existed in the 1979, 2000 and 2004 aerial photographs in the record and conforming the zoning districts to those resource uses as a practical application of the zoning designations rather than an arbitrary division along the north-south line of Section 14-15.

- j. The applicant's consultant, James Mann LLC, felt compelled in his final rebuttal in Exhibit #28 to the Official Record PA 05-5060, to address Goal One Coalition's (Jim Just) analysis and conclusions in Exhibit #22 to the Official Record PA 05-5060, regarding Goal 4, Policy 15 criteria and standards. Mr. Mann's rebuttal has referenced Goal One Coalition's data, added pertinent facts, provided supporting documentation, and drawn conclusions in support of the applicant's request for adjusting the F2 zoning boundary to the east within the subject parcel.

Goal 4, Policy 15 includes four criteria or standards that were applicable in 1984 to determine whether a lot or parcel with a Forest plan designation was zoned F1 Nonimpacted Forest Land or F2 Impacted Forest Land.

15. *Lands designated within the Rural Comprehensive Plan as forest land shall be zoned Non-Impacted Forest Land (F-1, RCP) or Impacted Forest Land (F-2, RCP). A decision to apply one of the above zones or both of the above zones in a split zone fashion shall be based upon:*
 - a. *A conclusion that characteristics of the land correspond more closely to the characteristics of the proposed zoning than the characteristics of the other forest zone. The zoning characteristics referred to are specified below in subsections b and c. This conclusion shall be supported by a statement of reasons explaining why the facts support the conclusion.*

- b. *Non-impacted Forest Land Zone (F-1, RCP) Characteristics:*
- (1) *Predominantly ownerships not developed by residences or nonforest uses.*
 - (2) *Predominantly contiguous, ownerships of 80 acres or larger in size.*
 - (3) *Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses.*
 - (4) *Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management.*
- c. *Impacted Forest Land Zone (F-2, RCP) Characteristics:*
- (1) *Predominantly ownerships developed by residences or nonforest uses.*
 - (2) *Predominantly ownerships 80 acres or less in size.*
 - (3) *Ownerships generally contiguous to tracts containing less than 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.*
 - (4) *Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences.*

The applicant's documentation in the record and staff evaluation support the findings and conclusions of the applicant as expressed on pages 2 and 3 in the applicant's final rebuttal (Exhibit # 28 in the PA 05-5060 record) dated October 11, 2005, and presented below as findings of fact and conclusions.

The analysis of the Goal 4, Policy 15 characteristics for determining whether forested land is Nonimpacted (F1) or Impacted (F2) forest land requires four decisions based on (1) the level of development on the subject ownership, (2) acreage of the subject ownership, (3) acreage of the surrounding tracts generally contiguous to the subject ownership and proximity to developed and committed exception areas, and (4) the level of available public facilities and services.

These four general factors are paired below from corresponding criteria or standards from subsections "b." and "c." of Goal 4, Policy 15, and followed by findings of fact from the applicant's final rebuttal and documentation in the official record.

- Factor 1:** b. *(1) Predominantly ownerships not developed by residences or nonforest uses. (F1),*
or
c. *(1) predominantly ownerships developed by residences or nonforest uses. (F2)*

Finding of Fact:

The applicants' ownership consists of two parcels created as "Parcel #1" and "Parcel #2" of Partition M638-78 recorded in Lane County Deeds and Records on March 16, 1979 (Reel 980R, Inst. 7915364. "Parcel #2" is the 323.7-acre metes and bounds description of the subject parcel consisting of two tax lot 201 of TRS 19-04-14 (172.63 acres) and tax lot 300 of TRS 19-04-15 (151.4 acres). Parcel #1 of partition M638-78 was created as a 20-acre parcel and can be identified as TRS 19-04-14, tax lot 200, (20.85 acres). Tax lot 200 is enveloped by tax lot 201 on the western, northern and eastern boundaries and abuts Camas Swale Road to the south.

The subject parcel (Parcel #2) is developed with two lawfully existing residences. The primary residence constructed in 1979 per building permit LC 358-79 and has an assigned rural address of 30257 Camas Swale Road, Creswell, OR 97426. The second residence was constructed in 2001 per building permit BP 01-1809 as a Family Farm Help Dwelling authorized by special use permit PA 00-5878 on September 14, 2000, and has an assigned rural address of 30255 Camas

Swale Road, Creswell, OR 97426. Both of the residences are located in the E40 zoning district and neither is located within the 26-acre area that is subject to this conformity determination application. Parcel #1 of M638-78 has been developed with residential use in 1942 with the current residence constructed 1970 with an assigned rural address of 30311 Camas Swale Road, Creswell, OR 97405.

Conclusion:

The Board of County Commissioners finds that the subject ownership is developed with three lawfully existing residences and finds in favor of a designation of Impacted Forest Land (F2) for the 26-acre subject area pursuant to Policy 15.c. (1) criterion.

Factor 2: b. (2) *Predominantly contiguous, ownerships of 80 acres or larger in size.* (F1), or
c. (2) *Predominantly ownerships 80 acres or less in size.* (F2)

Finding of Fact:

As documented in the finding of fact above, the subject ownership including both the subject parcel (Parcel #2) and the contiguous parcel (Parcel #1) is 343.68 acres in size.

Conclusion:

The Board of County Commissioners finds that the subject ownership is a contiguous ownership over 80 acres in size and finds in favor of a designation of Nonimpacted Forest Land (F1) for the 26-acre subject area pursuant to Policy 15.b.(2) criterion.

Factor 3: b. (3) *Predominantly ownerships contiguous to other lands utilized for commercial forest or commercial farm uses.* (F1), or
c. (3) *Ownerships generally contiguous to tracts containing less than 80 acres and residences and/or adjacent to developed or committed areas for which an exception has been taken in the Rural Comprehensive Plan.* (F2)

Finding of fact:

Goal One Coalition identified 10 properties on page 4 of its written testimony dated September 30, 2005 (Exhibit # 22, official record PA 05-5060) that it considered “contiguous” to the subject parcel. In the applicant’s final rebuttal (Exhibit #28, official record PA 05-5060), the applicant provided additional data on the ten properties and concluded that six of the 10 were less than 80 acres in size. The applicant also found that five of the six were developed with a residence.

The subject parcel is located along the northern right-of-way of Camas Swale Road and directly across the right-of-way from two developed and committed (D&C) exception areas identified as Plot No. 323-1 and Plot No. 323-2 in the Rural Comprehensive Plan.

Using only the results of the analysis for the 10 selected properties would indicate that application would qualify under Policy 15 c. (3) above for designation as Impacted Forest land (F2). However, other “tracts” are “generally contiguous” to the subject parcel and have been omitted from the analysis because they are located across the public right-of-way of Camas Swale Road. Goal One Coalition interprets “contiguous” to have the same meaning as “generally contiguous” when an obvious distinction must exist between the two. Lane Code 16.090 includes a definition for “contiguous” to mean “*Having at least one common boundary line greater than eight feet in*

length. Tracts of land under the same ownership and which are intervened by a street (local access, public, County, State or Federal street) shall not be considered contiguous.” This limited definition was adopted by Lane County to determine when an ownership pattern qualified as a “tract” to identify which lots or parcels qualified for or were limited in development provisions of zoning regulations. For that specific purpose, Lane County adopted the standard in LC 16.090 for establishing the yardstick for contiguous ownership of subject properties. For example, identical legal owners on the deeds for two parcels sharing eight feet of common boundary line constitute a “tract” for development purposes. If a particular use was restricted under Lane Code to only one per tract and one of two parcels was developed with the use, the other parcel could not be approved for the same use as long as both parcels were in the identical legal ownership. The term “generally contiguous” goes beyond the “eight-foot” yardstick and this intent is clear in the criterion which includes “*and/or adjacent to developed or committed areas*” as a determining factor in Policy 27 c. (3) as to whether an ownership would qualify as F2 or F1. The “generally contiguous” wording indicates a broader meaning than provided for in LC 16.090 and points to “*and/or adjacent*”. A common sense interpretation would be “adjacent” with the definition of “adjacent properties may or may not be in actual contact with each other and they may be separated by a public road, but they are not separated by an intervening property.” Thus the analysis would look across the 60-foot right-of-way of Camas Swale Road and identify the 11 properties along the southern boundary of the subject parcel to conclude the cumulative impacts of the development pattern to or from the management of the subject parcel resources. It seems illogical or perhaps unreasonable to not include these properties aligned from west to east along the southern right-of way of Hamm Road and Camas Swale Road in the analysis of Policy 15.c.(3). The complete listing of the 23 properties “adjacent” to the subject parcel are identified below:

TRS	Tax lot	Acreage	Zone	Address	Developed
19-04-14	100	70.36	E40	30549 Camas Swale Road, Creswell	1994
19-04-15	100	112.36	F1	(Seneca Jones Timber Co.)	
19-04-00	500	604.76	F1	(Guistina Land and Timber Co.)	
19-04-15	600	120.00	F1	(US Bureau of Land Management)	
19-04-15,	500	4.96	F2	29907 Hamm Road, (north side-Hamm)	2000
19-04-15,	700	4.75	F2	29983 Hamm Road, (north side-Hamm)	1950
19-04-15,	701	1.66	F2	(north side-Hamm)	
19-04-15,	801	4.65	F2	30047 Hamm Road, (north side-Hamm)	1990
19-04-15,	802	31.93	F2	30112 Hamm Road, (south side-Hamm)	1998
19-04-15	900	0.85	F2	30133 Hamm Road, (north side-Hamm)	1979
19-04-15,	1300	20.32	F2	83036 Weiss Road, (south side-Hamm)	1995
19-04-15,	1400	5.09	F2	83021 Weiss Road, (south side-Hamm)	1975
19-04-14,	701	5.22	RR5	30356 Camas Swale Road, (south-Camas)	1993
19-04-14,	704	5.26	RR5	30306 Camas Swale Road, (south-Camas)	1970
19-04-14,	706	25.53	F2	30394 Camas Swale Road, (south-Camas)	-unk-
19-04-14,	801	21.49	F2	30426 Camas Swale Road, (south-Camas)	1968
19-04-14	600	1.39	RR5	30538 Camas Swale Road, (south-Camas)	1987
19-04-14	601	5.36	RR5	30498 Camas Swale Road, (south-Camas)	1979
19-04-14	602	4.28	RR5	30494 Camas Swale Road, (south-Camas)	1993
19-04-14	1100	1.23	RPF	30450 Camas Swale Road, (south-Camas)	-unk- *Creswell Rural Fire Protection District station.
19-04-11	106	184.64	E40	30701 Camas Swale Road, (north-Camas)	-unk- *property extends north into Section 11.
19-04-14	400	0.55	E40	30545 Camas Swale Road, (north-Camas)	1973
19-04-14	2000	1.29	E40	(access road panhandle)	

Four of the 23 identified properties are over 80 acres in size and *utilized for commercial forest or commercial farm uses* under the criterion of Policy 15.b.(3). Nineteen of the 23 identified properties are less than 80 acres in size and 14 of the 19 are developed with residences and one is developed with a rural fire station.

Two developed and committed exception areas (Plot No. 323-1 and Plot 323-2) are adjacent along the southern boundary of the subject parcel.

Tax lots 701 and 704 of Assessor's Map TRS 19-04-14 within D&C Exception Area No. 323-1 abut Camas Swale Road to the north and tax lots 702, 703, 705, 707 and 709 within D&C Exception Area No. 323-1 abut Weiss Road to the west. In 1989, the Board of County Commissioners adopted the boundaries of D&C 323-1, which in turn were acknowledged by Oregon Land Conservation and Development Commission to include six parcels and seven dwellings with a total acreage of 39.9 acres and an average parcel size of 6.65 acres. All of the parcels are zoned Rural Residential (RR5).

Tax lots 600, 601, 602, 1000 and 1100 of Assessor's Map TRS 19-04-14 within D&C Exception Area No. 323-2 abut Camas Swale Road to the north. In 1989, the Board of County Commissioners adopted the boundaries of D&C 323-2, which in turn were acknowledged by Oregon Land Conservation and Development Commission to include five parcels and three dwellings with a total acreage of 20.6 acres and an average parcel size of 4.12 acres. Four of the parcels are designated Rural Residential (RR5) and the fifth parcel, tax lot 1100, had been conveyed to the Creswell Fire Department in 1988, was designated Rural Public Facility (RPF) by Board Order 88-7-13-24, and the fire station was constructed per building permit BP 1943-88 in 1988.

Conclusion:

The Board of County Commissioners finds in favor of a designation of Impacted Forest Land (F2) for the 26-acre subject area pursuant to Policy 15.c.(3) criterion.

- Factor 4:
- b. (4) *Accessed by arterial roads or roads intended primarily for forest management. Primarily under commercial forest management. (F1), or*
 - c. (4) *Provided with a level of public facilities and services, and roads, intended primarily for direct services to rural residences. (F2)*

Finding of Fact:

Camas Swale Road is classified as a "Rural Major Collector (Fed)" (County Road No. 695) and extends approximately 6.25 miles from the City of Creswell UGB, west to the intersection with Weiss Road on the southern boundary and at midpoint along the subject parcel. At that point it assumes the name, Hamm Road, and continues approximately four miles to the southwest to an intersection with Territorial Highway. It provides access for one fire station and 18 residential driveways to properties aligned along the southern boundary of the subject parcel. It passes through five developed and committed exception areas between Creswell and Territorial Highway and is the east-west collector for traffic from Weiss Road, Tolman Road, Clayton Road, Mickelson Road, Sher Khan Road, Danville Road, DeBerry Road, Howe Lane, and Florence Avenue, all of which service rural residential development. It has an average daily volume of 2,950 trips.

The subject parcel receives electrical services from Emerald Peoples Utility District and fire and emergency ambulance service from Cottage Grove Fire & Ambulance Department and the Creswell Fire Department. It receives police protection from the Lane County Sheriffs Department and is within the Creswell School District 40.

Development of the two residences on the subject parcel utilize individual, onsite wells and subsurface sanitation disposal systems.

Conclusion:

The Board of County Commissioners finds in favor of a designation of Impacted Forest Land (F2) for the 26-acre subject area pursuant to Policy 15.c.(4) criterion.

- k. 1,000 Friends of Oregon's written testimony submitted into the record on October 6, 2005 (Exhibit #24, official record PA 05-5060) raised the following challenges to the authority of Lane County Board of Commissioners to amend Rural Comprehensive Plan and Zoning designations:

"I. Applicable Criteria" (Exhibit #24, official record PA 05-5060, pages 1-2)

- 1,000 Friends' statements: The 1,000 Friends' testimony raised the question as to whether Goal 4, Policy 15 is applicable to the applicant's request for adjustment of the common line between the F2 and E40 district boundaries.

Response: This subject is addressed in Findings of Fact No. 4.i. and 4.j., above.

"II. Procedural requirements" (Exhibit #24, official record PA 05-5060, pages 2-3)

- 1,000 Friends' statement: "This application is not part of and does not result from an annual Lane County initiated review process. Therefore it is not appropriate to use the standards and procedures of Goal 2 Policy 27 to review this application." (Exhibit #24, official record PA 05-5060, page 2)

Response: The applicant's request for a conformity determination amendment was submitted on January 18, 2005 and designated for processing as PA 05-0560. The applicant's agent was notified on January 24, 2005, that through an apparent scrivener error, a portion of the submitted findings was incomplete and required attention. The applicant supplemented the record on June 1, 2005. The application, PA 05-5060, complied with the submittal standards, was deemed complete by LMD staff, and after compliance with the formal notice requirements, was scheduled for public hearing before the Lane County Planning Commission on September 20, 2005. Under the Board's direction, staff shall continue to process conformity determination applications pursuant to Goal 2 Policy 27 as expeditiously as possible.

- 1,000 Friends' statement: "This application is incomplete. This is because the requirements of Goal 4 Policy 15 have not been identified or addressed. As such, the application should be rejected." (Exhibit #24, official record PA 05-5060, page 3)

Response: This subject is addressed in Findings of Fact No. 4.i. and 4.j., above.

"III. Substantive standards and criteria" (Exhibit #24, official record PA 05-5060, pages 3-4)

- 1,000 Friends' statement: "The only basis for invoking Goal 2 Policy 27 is that the 1984 zoning did not recognize a lawfully existing use." (Exhibit #24, official record PA 05-5060, page 3).

Response: The opponent apparently paraphrases the opening statement in Policy 27: *Conformity Determinations. Lane County will annually initiate and process applications to correct identified plan or zoning designations in the RCP Official Plan and Zoning Plots resulting from the Official Plan or Zoning Plots not recognizing lawfully existing (in terms of the zoning) uses or from inconsistencies between the Official Plan and Zoning Plots.*

Goal 2, Policy 27 a. i.-viii. provides for eight circumstances under which a Conformity Determination application could be filed by a property owner for review by the Board of County Commissioners. Only three of the eight circumstances include any reference to a specific date, time period, or time line for consideration. Policy 27 provides equal opportunity for a private citizen or public agency to seek amendment of a zoning designation for a number of reasons in an attempt to insure that the Rural Comprehensive Plan remains a dynamic plan capable of responding to circumstances that warrant action. The circumstance within Policy 27 a. iii., which the applicant has applied under, states: *A property was actively managed primarily as either an agricultural or forestry operation in 1984 and since, and a resource designation other than the primary use was adopted on an Official Plan or Zoning Plot in 1984.* A "property" is not the same thing as a "lot" or "parcel" which have a narrower definition reflecting the manner of creation. This property is a specific piece of land or real estate. The land, in this case, is the 198.63-acre forest management unit that includes the subject 26 acres. Documentation in the record of PA 05-5060 has established the forest management practices in 1979, prior to 1984, and over a 26-year period of time into 2005.

Consideration under Policy 27 is not restricted to just recognizing "a lawfully existing use". The Policy's eight circumstances review the status of "structural development" and "use of the structure" (a. i.); amendment of a forest zoning designation (a. ii.); amendment of farm to forest designations (a. iii.); correction of scrivener errors (a. iv.); recognition of survey boundary line errors (a. v.); compliance with deed restrictions (a. vi.); inconsistencies between text and diagrams (a. vii.); and finally, another a circumstance not provided for in a. i.-vii., the LCPC can review a unique request and elect to forward a favorable recommendation to the Board of County Commissioners (a.viii).

- 1,000 Friends' statement: "The unit of inquiry for this application should be the subject parcel. In fact, Goal 2 Policy 27 asks if '[a] property was actively managed primarily as either an agricultural or forestry operation in 1984 and since [.]' This establishes that the parcel is the unit of inquiry. State law also requires a full-parcel rather than a sub-parcel analysis." (Exhibit #24, official record PA 05-5060, page 3).

Response: The subject parcel was created as a lawful parcel, Parcel #2, 323.7 acres in size, in a recorded partition M638-78 (1979). The subject parcel was split zoned by the Board of County Commissioners in 1984 with the western 172.63 acres being designated as Impacted Forest Land (F2) and eastern 151.4 acres being designated as Exclusive Farm Use (E40). The application requests that the 1984 rationale recognizing the forest management unit to the west and the grazing unit to the east be amended to reflect the actual boundaries of the documented forest unit from 172.63 acres to approximately 198.63 acres and the grazing unit be reduced from 151.4 acres to 125.4 acres. The requested amendment of the 26 acres of forested land from E40 to F2, in essence from one resource management unit to another within the subject parcel, is a full-parcel analysis of the resource uses.

The amending of the acreages between the zones would not provide any additional opportunity to create new parcels in either of the two zoning designations. The F2 zone has a minimum division standard of 80 acres with the creation of two parcels under either 172.63 or 198.63 acres. The E40 zone has a minimum division standard of 40 acres with the creation of three parcels under either the 151.4 acres or the 126.4 acres. Fifty-three percent of the subject parcel is currently designated as Forest and zoned F2. The applicant is requesting that the F2 portion of the subject parcel be expanded to 60.7 percent encompassing the entire forest management unit.

- 1,000 Friends' statement: "OAR 660-033-0030(2) does not allow portions of existing parcels that are predominantly class I-IV soils to be analyzed on a sub-parcel basis. Although it is not possible to tell from the available information whether TL 201 is predominantly agricultural soils or forest soils, it is clear that it is the entirety of the tax lot that is the proper subject of the required inquiry." (Exhibit #24, official record PA 05-5060, page 4).

Response: The review of the amendment request is not solely based on subsection (2) of OAR 660-033-0030 or the definitions for Agricultural Land found in OAR 660-033-0020 that it references. More than one resource zone was considered in 1984 and one than one resource zone is subject to review in this application. The second resource zone is of course, Forest Land, which is implemented in OAR 660-006. Neither OAR, or Goal 3 or 4 for that manner, trump the other. The purpose of both Goals and their implementing administrative rules is to conserve resource land. OAR 660-0033 addresses the conservation of agricultural land. OAR 660-006 addresses the conservation of forest land. In fact in the *Purpose* statements, OAR 660-006-0000(3) clearly reads:

This rule provides for a balance between the application of Goal 3 "Agricultural Lands" and Goal 4 "Forest Lands", because of the extent of lands that may be designated as either agricultural or forest land.

OAR 660-006 charges the "governing body" at the local level to make the determination on whether the land is agricultural or forest. To this end, OAR 660-006-0000(2) states:

- (2) *To accomplish the purpose of conserving forest lands, the governing body shall:*
 - (a) *Designate forest lands on the comprehensive plan map as forest lands consistent with Goal 4 and OAR Chapter 660, Division 6.*

The subject parcel, known as the Walsh Ranch, included two sizable resource management units and the Board of County Commissioners in 1984, initially drew the line between the two designations of F2 and E40 down the section line between Sections 14 and 15. The applicant has requested an amendment and the Board has the right under Goal 3 and Goal 4 to amend that line to reflect the well-defined management units within the subject parcel as they were in 1979-1984 and continue to be in 2005-2006.

OAR 660-006-0015(2) addresses the issue of which resource designation to apply:

- (2) *When lands satisfy the definition requirements of both agricultural and forest land, an exception is not required to show why one resource designation is chosen over another. The plan need only document the factors that were used to select an agricultural, forest, agricultural/forest, or other appropriate designation.*

- I. This conformity determination application is a Minor Amendment pursuant to Lane Code 16.400(6)(h) and involves a zone change subject to Lane Code 16.252. No exception to any Goal,

resource or otherwise is necessary. This application simply requests a Plan diagram amendment from Agricultural to Forest and a Zoning diagram amendment from Exclusive Farm Use (E40) to Impacted Forest Land (F2). The applicant's documentation in the PA 05-5060 official record [Exhibit #1 -- Application PA 05-5060 (Walsh)] supports the following findings of fact:

- A.. The 1979, 2000 and 2004 aerial photographs in "Attachment E" to Exhibit #1 and Exhibit #13 (LMD staff report 9-9-05) of the official record PA 05-5060, show that the subject 26 acres of tax lot 201 (TRS 19-04-14) of the subject parcel were primarily managed for forestry in 1984 in conjunction with the 172.63 acres of tax lot 300 (TRS 19-04-15) of the subject parcel, and have been primarily managed for forestry since 1984.
- B. The photographs in "Attachment F" to Exhibit #1 show that 198 acres of the subject parcel including the 26-acre area subject to this amendment request are currently being managed for forest-fiber production as evidenced by the maturing stands of conifer trees.
- C. The NRCS soil map and soil data in "Attachment G" to Exhibit #1 shows the 26-acres subject to the PA 05-5060 amendment request are predominately underlain with Bellpine soils (11D with 12-20% slopes and 11F with 30-50% slopes) with a site index of 115 and 163 cubic feet per acre per year forest rating. The northeastern corner of the 26-acres also includes Rock outcrop – Witzel complex soils (116G with 10-70% slopes), which do not have a site index or productivity rating. Soils in the southwestern corner of the 26-acres are underlain with Chehulpum soils (28C with 3-12% slopes and 28E with 12-40% slopes), which do not have a site index or productivity rating. Approximately 95% of the 26 acres are covered with a closed canopy of mature conifers. An estimated 60% of the 26 acres is underlain with Bellpine soils with approximately half being in 11C and half in 11F.
- D. The NRCS soil map and soil data in "Attachment G" to Exhibit #1 shows the 26-acres subject to the PA 05-5060 amendment request are predominately underlain soils with an Agricultural Capability Class of 6. The analysis by soil type is: Bellpine (11C) – Class 3; Bellpine (11F) – Class 6; Chehulpum (28C) – Class 6; Chehulpum (28E) – Class 6; Rock outcrop/Witzel complex (116G) – Class 8. Only the Bellpine (11C) soils which compose approximately 30% (7.8 acres) of the 26 acres have Capability Class of higher than 6.
- E. "Attachment Q" of Exhibit #1 is a copy of the "Assessment and Taxation Agricultural Rent Zones" Map 2 and page 25 from the Lane County Agricultural Lands Working Paper. The subject parcel is located in an Agricultural Rent Zone 3 area. Agricultural uses in Rent Zone 3 consist primarily of range land based on three factors: water availability, predominant soil type, and distance to market. Lane County General Plan Policy, Goal 3: Agricultural Lands, Policy 2 states:
 2. *In Agricultural Rent Zones 1 and 2 preference will be given to Goal 3. In Rent Zone 3, unless commercial agricultural enterprises exist, preferences will be given to Goal 4.*The 26-acre area of the subject parcel is in forest use and a Rent Zone 3 Area. The connectivity of the 26 acres with the 172.63 acres under common forest management supports amendment of the zoning boundary and is consistent with this Plan Policy.
- F. Lane County General Plan Policy, Goal 4: Forest Lands, Policy 2 states:
 2. *Forest lands will be segregated into two categories, Non-impacted and Impacted and these categories shall be defined and mapped by the general characteristics specified in the Non-Impacted and Impacted Forest Land Zones General Characteristics.*

The record has established the fact that 198.63 acres of the 323.7-acre subject parcel are forested and under forest management. 172.63 acres of the forested area were designated Impacted Forest Land (F2) by the Board of County Commissioners in compliance with *Impacted Forest Land Zones General Characteristics* and acknowledged by LCDC in 1984. This request for a conformity determination would add approximately 26 acres to the existing 172.63 acres to bring the entire forested land of the subject parcel into the F2 designation. The applicant's request is consistent with this Plan Policy.

G. The *General Purpose* statements of Lane Code 16.003(1), (4) and (10) are applicable to this application request:

- (1) *Insure that the development of property within the County is commensurate with the character and physical limitations of the land and, in general, to promote and protect the public health, safety, convenience and welfare.*
- (4) *Conserve farm and forest lands for the production of crops, livestock and timber products.*
- (10) *Protect the quality of the air, water and land resources of the County.*

The applicant's proposal recognizes the current resource management practices and the conservation of significant natural resources present on the subject parcel. Based on the record of PA 05-5060, the Forest Land Designation is more consistent with the existing onsite land uses. To ensure compatibility with surrounding lands, recording of a "Farm/Forest Management Agreement" would be required by the subject parcel owner as a condition of approval for any development authorized by a Special Use Permit decision. The applicant's amendment request is compatible with the *General Purpose* statements of Lane Code 16.003(1), (4), (10).

The *Purpose* statements of the Impacted Forest Land Zone (F2) in Lane Code 16.211(1) states:

- (1) *The purposes of the Impacted Forest Lands Zone (F-2, RCP) are:*
 - (a) *To implement the forest land policies of the Lane County Rural Comprehensive Plan and the forest land policies of the Eugene/Springfield Metro Plan Area General Plan; and*
 - (b) *To conserve forest land for uses consistent with Statewide Planning Goal #4, OAR 660-006 and ORS 215.700 through .755.*

Statewide Planning Goal 4 requires that forest lands be conserved for forest uses. Lane County's Rural Comprehensive Plan Policies and Impacted Forest Land Zone (F2) are acknowledged to be in compliance with Goal 4. Based on the supporting documentation in the record of PA 05-5060, the proposed designation and zoning of the 26-acre area in the subject parcel as Forest Land and Impacted Forest Land Zone (F2) is consistent with Goal 4, OAR 660-006 and ORS 215.700 through .755.

Final Conclusion

The Lane County Board of Commissioners finds that the preponderance of evidence in the record of PA 05-5060 supports the applicant's request pursuant to RCP Plan, Goal Two, Policy 27.a.iii., for amendment of the Plan designation from Agricultural (A) to Forest (F) and the Zoning designation from Exclusive Farm Use (E40) to Impacted Forest Land (F2) for the 26-acre subject area of the 198.63-acre portion of the subject parcel, which was primarily in forest management in 1984 and currently is managed primarily as a forest management unit.

The Lane County Board of Commissioners adopts the above Findings of Fact 1 through 4 in support of Ordinance No. PA 1225 amending the Official Plan Designation (Plot 323) for the subject 26-acre area of tax lot 201 of Lane County Assessor Map TRS 19-04-14 from Agriculture (A) to Forest (F).

The Lane County Board of Commissioners adopts the above Findings of Fact 1 through 4 in support of Ordinance No. PA 1225 amending the Official Zoning Designation (Plot 323) for the subject 26-acre area of tax lot 201 of Lane County Assessor Map TRS 19-04-14 on Plot 323 from Exclusive Farm Use E40-RCP (Lane Code 16.212) to Impacted Forest Land F-2, RCP (Lane Code 16.211).
