

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE PA 1085 (IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN (TO REDESIGNATE LAND FROM "INDUSTRIAL" TO "RESIDENTIAL" AND (REZONING THAT LAND FROM "M-2/LIGHT INDUSTRIAL" TO "RR-5/ (RURAL RESIDENTIAL", AND ADOPTING SAVINGS AND SEVERABILITY (CLAUSES (files PA 0388-96 and PA 0389-96; Public Works)

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

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

WHEREAS, in January 1996, application no. PA 0388-96 and PA 0389-96 were made for a minor amendment to redesignate tax lot 1901, map 18-02-35, from "Industrial" to "Residential" with a concurrent request to rezone the property from "M-2/Light Industrial" to "RR-5/Rural Residential"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal at public hearing on March 5, 1996, and recommended denial of the proposed amendment; and

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

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

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

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lot 1901, map 18-02-35, from "Industrial" to "Residential," such territory depicted on Plan Plot 484 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 1901, map 18-02-35, is rezoned from "M-2/Light Industrial" (Lane Code 16.225) to "RR-5/Rural Residential 5" (Lane Code 16.231), such territory depicted on Rural Zoning Plot 484 and further identified as Exhibit "B" attached and incorporated herein.

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

The prior designation and zone repealed by this Ordinance remain in full force and effect to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

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

ENACTED this 1st day of May, 1996

Handwritten signature of Chair, Lane County Board of County Commissioners

Handwritten signature of Recording Secretary for this Meeting of the Board

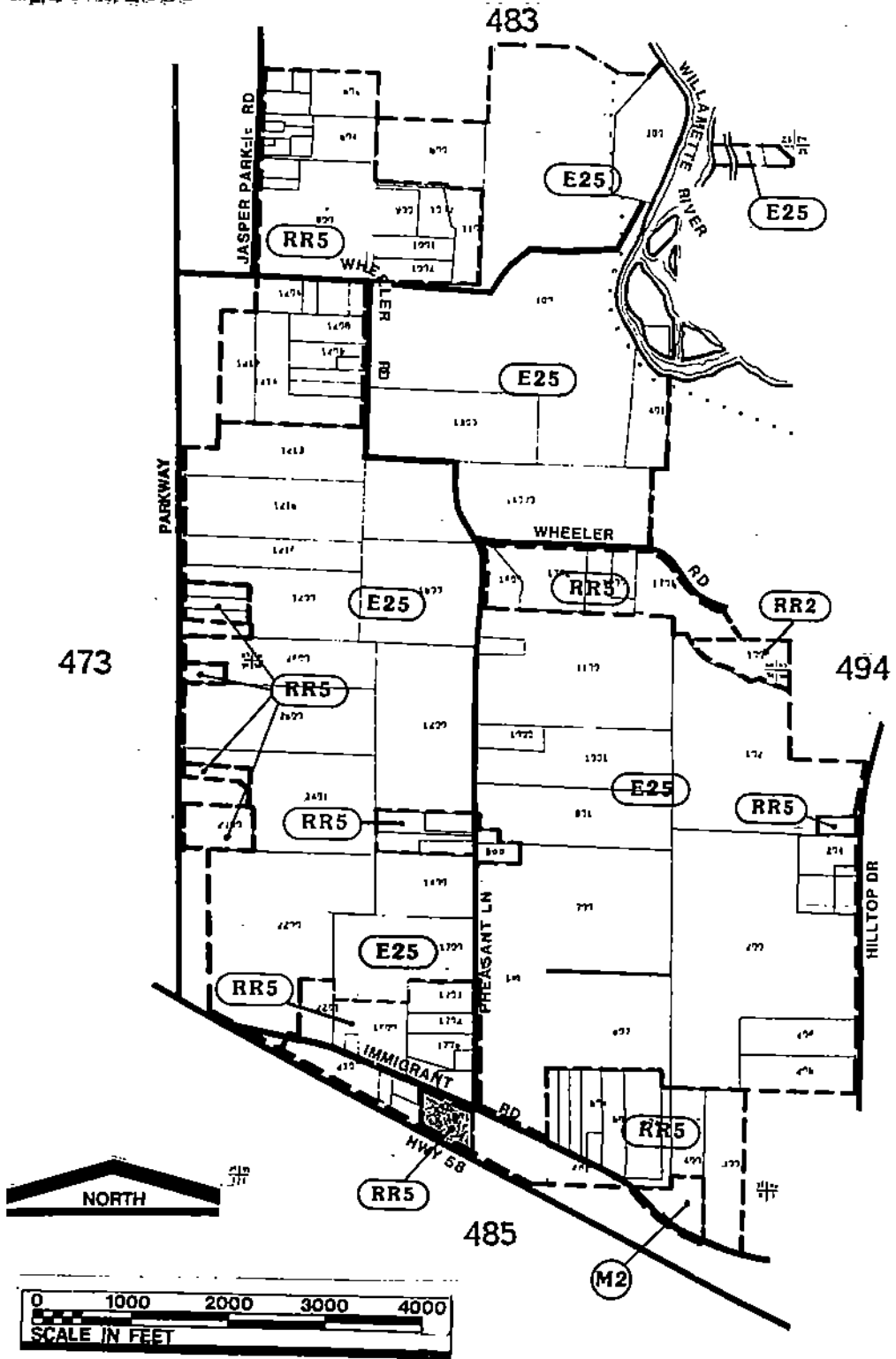
APPROVED AS TO FORM

Date 4-2-96 and county signature of Office of Legal Counsel

FILED stamp

MAY 07 1996 stamp

COUNTY CLERK stamp



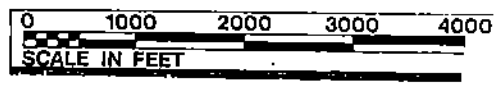
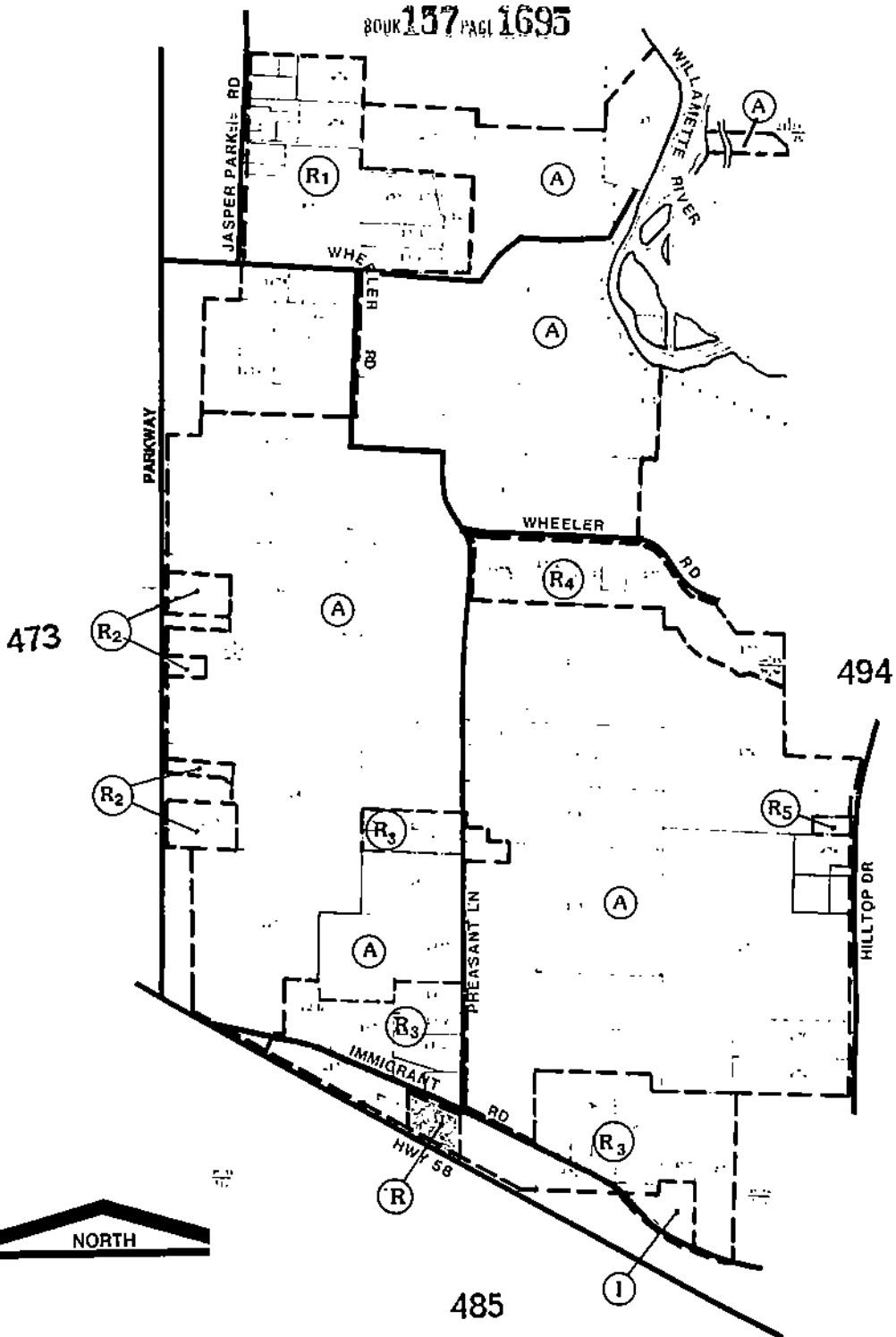
OFFICIAL ZONING MAP

PLOT # 484

Township Range Section
 18 02 26 / 18 02 35

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # _____
 REVISION # 2 ORD. # PA 992 DATE 1/18/91 FILE # _____

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lane county



OFFICIAL PLAN MAP

PLOT # 484

Twship Range Section	
18 02 26	18 02 35

ORIGINAL ORD. # _____ PA 884 _____ DATE 2/29/1984 FILE # _____
 REVISION # 1 ORD. # _____ PA 992 _____ DATE 1/18/91 FILE # _____

EXHIBIT "C"

ORDINANCE PA 1085

I. General Background Information

A. Nature of the Application

This application is for a plan diagram amendment and zone change from Light Industrial/M-2 to Rural Residential/RR-5 for County owned property at the intersection of Pheasant Lane and Highway 58. In 1994, the Lane County Public Works Department attempted to develop this property for a zone shop and received staunch neighborhood opposition to a site review application for the proposal. The neighbors believed that the proposed zone shop, and other uses permitted by the M-2 zone, would not be compatible with the predominantly rural residential character of this area. As a result of the opposition to the zone shop at this location, the Public Works Department acquired and is developing a zone shop site in Dexter.

The Lane County Public Works Department requested approval of this plan amendment and zone change application to resolve the compatibility concerns raised by the neighbors concerning the M-2 zone and potential conflicting industrial uses of this property. The surrounding property is zoned mostly RR-5 and is in residential use. The requested RR-5 zoning would permit a single family residence or duplex to be located on the subject parcel and would be compatible with the surrounding properties and uses.

Lane County's current plans for this property are, if the plan amendment and zone change are approved, to sell this property through normal channels for disposing of excess county owned lands.

B. Statement of Criteria

Lane Code 16.400(8)(a) 'Major' and 'Minor' Amendments

Lane Code 16.400(6)(h) Method of Adoption and Amendment.

Lane Code 16.400(8)(c) Additional Rural Comprehensive Plan Amendment Provisions

Lane Code 16.252 Procedures for Zoning, Rezoning and Amendments to Requirements

OAR 660-04-018 Planning and Zoning for Exception Areas

Statewide Planning Goals

Lane County Rural Comprehensive Plan

II. FINDINGS OF FACT

1. The property which is the subject of this application, hereafter referred to as the "subject property," has a street address of 84304 Pheasant Lane, Pleasant Hill, Oregon. It can also be referred to as Tax Lot 1901, Assessors Map 18-02-35. The subject property is shaped much like a parallelogram, and contains approximately 5.0 acres. It is located on the west side of Pheasant Lane on the north side of Highway 58 and the south side of Immigrant Road. This area is southeast of the rural community of Pleasant Hill, but is considered part of that community.
2. The subject property is in a lowland area compared to its surroundings, and is comparatively level. Its southern boundary is lower than the surface of Highway 58 to the south. A creek, which dries up in the summer months, crosses the western side of the subject property. The subject property was previously developed as a shake mill, but has not been used for a shake mill for several years. The Lane County Public Works Department removed the buildings associated with the shake mill. The property is now vacant. Site improvements include graveled areas, an existing septic tank and a well.
3. The subject property is designated Industrial in the Lane County Rural Comprehensive Plan (the "Plan") and is zoned M-2 (Light Industrial) consistent with that designation. It is the only M-2 zoned property in the area. The parcel to the northeast of the subject property is zoned E-25 (Exclusive Farm Use, 25 acre minimum parcel size). The parcel to the south of the subject property, across Highway 58, is zoned F-2 (Impacted Forest Lands). The parcels to the east of the subject property across Pheasant Lane, to the west of the subject property, and to the north of the subject property across Immigrant Road, are all zoned RR-5 (Rural Residential, 5 acre minimum parcel size). Rural residential is the predominant land use in the area, and most of the area's RR-zoned parcels are improved with residences and outbuildings, some well maintained and others in need of repair.

The subject property is located within a developed and committed area (Plot #484-3). This exception area was acknowledged by the Land Conservation and Development Commission on December 7, 1989 (89-ACK-608). It has 30 parcels and contains 128 acres, for an average parcel size of 4.2 acres.

4. Lane Code 16.225(1) permits a wide range of industrial uses to occur on M-2 zoned property. During Lane County's review of the special use permit for the Public Work's site review application for the zone shop, Lane County received

testimony from persons living in the vicinity of the subject property that the zone shop and other industrial uses allowed by LC 16.255 would not be compatible with the residential uses in the vicinity. Lane County has acknowledged and responded to these concerns with this plan amendment and rezone application. Lane Code 16.231(2) permits a narrow range of residential uses to occur on RR-5 zoned property and does not permit the industrial uses of the M-2 zone to occur. Because the RR-5 zone does not permit industrial uses, it would be a more compatible zone with the surrounding zoning and uses.

5. **Lane Code 16.400(8)(a)** defines a 'Minor Amendment' as, "An amendment limited to the Plan Diagram only and, if requiring an exception to Statewide Planning Goals, justifies the exception solely on the basis that the resource land is already built upon or is irrevocably committed to uses not allowed by the applicable goal." This plan amendment application is for a minor amendment. As mentioned in Finding 3 above, Lane County has already adopted an exception for the subject property and gotten acknowledgment of the exception. Because this amendment would be "limited to the Plan Diagram", it constitutes a 'minor amendment' as this term is defined by LC 16.400(8)(a).
6. **Lane Code 16.400(8)(c)**. Based upon the following facts and reasoning, this application complies with the criteria in Lane Code 16.400(8)(c):

LC 16.400(8)(c)(iii)(aa). The subject property is located in a developed and committed area that is near the community of Pleasant Hill as designated by the Rural Comprehensive Plan. Even though this property is not designated in the Rural Comprehensive Plan as part of the Pleasant Hill Community, it is unofficially considered by many people to be part of the Pleasant Hill community because of its nearness and inclusion in the Pleasant Hill School and Fire Districts. Uses in this exception area are primarily residential and limited farming. There are 128 acres, 30 properties and an average parcel size of 4.2 acres for the exception area where the subject property is located. A more detailed assessment of the land use and ownership patterns is contained in the acknowledged developed and committed findings for exception area Plot 484-3 which are included in the record for this application.

LC 16.400(8)(c)(iii)(bb). The subject property is in the Pleasant Hill Fire Protection District and the Pleasant Hill School District. Lane County provides sheriff services for this area. Access to Pheasant Lane and Immigrant Road is excellent. On December 1, 1992, Rainbow Pump Company and the Analytical Laboratory & Consultants analyzed the water in the well on the subject property. A copy of their report is included in the record for this application. The report indicated that the well pumped thirty gallons of water per minute over a four hour period and that certain contaminants were not present or within acceptable Environmental Quality Control levels. Sewage Disposal on the property would be via an on site sewage disposal system. There are no records

of a septic system on the property that would comply with current DEQ standards. County Sanitarian, Stan Petrasek, indicated in a conversation with Jim Mann, that a site feasibility report must be applied for and processed to determine septic suitability. And, Stan Petrasek believes that a sand filtration system would be required and limited to a certain location on the subject property.

LC 16.400(8)(iii)(cc). A seasonal creek runs through the subject property and is not designated by the Department of Fish and Wildlife inventory maps as a class 1 or fish bearing stream. Therefore, this creek was not considered by Lane County to be significant enough to protect as a goal 5 resource. The creek channel does have importance as a local storm drainage way and should not be impeded by future residential development. Since the subject property is in a built upon and committed area, it must be considered an impacted big game range property. However, no compliance with impacted big game range criteria is required. As noted in the findings of the Hearings Official for the site review, PA 2881-93, there are no other Goal 5 resources on this site.

LC 16.400(8)(iii)(dd). There subject property is absent of any natural hazards to development. The subject property is not in a mapped floodplain area and does not have steep slopes.

LC 16.400(8)(iii)(ee), (ff) and (gg). These policies do not apply, because the proposed amendment is to a residential designation.

7. **Lane Code 16.400(6)(h)**. The applicant has submitted substantial evidence to support affirmative findings for each of the factors set forth in the above referenced Code provision. These findings include the following:
 - a. Lane Code 16.400(6)(h)(iii)(aa) requires compliance with the Statewide Planning Goals and applicable Oregon Administrative Rules.

The Goals. With the exception of Goal 14, the Goals are not particularly relevant to this application. Goal 1, Citizen Involvement, is satisfied by Lane County's use of Quasi-judicial hearing procedures that have previously been acknowledged. Goal 2, Land Use Planning, is addressed, in part, by the fact that the subject property is in a developed and committed exception area that has been acknowledged by the Land Conservation and Development Commission, LCDC, to be consistent and in conformity with the Statewide Planning Goals. Because of the exception, Goal 3, Agricultural Land, and Goal 4, Forest Land, are not applicable. This site has not been inventoried for any Goal 5 resource and therefore Goal 5 is not relevant. Goals 6, Air, Water and Land Resources has been met via intended compliance with DEQ requirements for approval of an on-site sewage disposal system. Goal 7 is not applicable, because there are no natural disasters or hazards that apply to the

subject property. Goal 8 is not applicable, because the amendment will not directly affect recreational needs and opportunities of the residents of Lane County. Goal 9 does not apply, because the residential development of the subject property would have no direct impact on economic development. Goal 10, Housing would be met, because the residential use of the property would provide for the housing needs of the people in Lane County. Goal 11, Public Facilities and Services, would be met because the property has the minimum level of services to it needed for residential development: access, on site water, on site sewage disposal subject to DEQ approval, the Pleasant Hill school and water district services, and Lane County sheriff service. Goal 12, Transportation, has been met, because the property has excellent access onto Pheasant Lane and Immigrant Road. Goal 13, Energy Conservation, would be met at the time of compliance with the Uniform Building Code and the energy conservation measures within it. Goal 14 is not applicable, because the use would not create the need for urban services and is for a dwelling on a five acre parcel.

The OARs. OAR 660-04-018, adopted by LCDC and entitled "Planning and Zoning for Exception Areas" must be addressed, because this application involves property that is located in a developed and committed exception area. Subsection (2)(a) requires plan and zone designations to limit uses to, "Uses which are the same as the existing types of land use on the exception site." There is no current use of the subject property which is a vacant 5 acre parcel. The proposed plan and zone designation of Rural Residential/RR-5 would limit the use of the subject property to residential use similar to what occurs on other parcels within the same exception area. Subsection (2)(b)(A) requires that, "The rural uses are consistent with all other applicable Goal requirements" This application complies with (A) as demonstrated with the findings under compliance with the Statewide Planning Goals. Subsection (2)(b)(B) requires, "The rural uses will not commit adjacent or nearby resource land to nonresource use as defined in OAR 660-04-028." This application complies with this requirement, because this property is surrounded by developed and committed property and separated from resource land to the northeast by Pheasant Lane and Immigrant Road. The separation and surrounding uses will minimize the impact of a residence on the nearby resource land such that it would be difficult to demonstrate it would create any impacts to convert the nearby land to nonresource use. Subsection (2)(b)(C) require that, "The rural uses are compatible with adjacent or nearby resource uses." This application complies with Subsection (2)(b)(C) and would be compatible with adjacent or nearby resource use for the same reasons mentioned under (2)(b)(B). The change in zoning from M-2 to RR-5 would eliminate industrial uses which may now occur on the property and substantially limit the uses to those allowed in the RR-5 zone. Fore the reasons mentioned above, the proposed application complies with OAR 660-04-018.

8. **Lane Code 16.400(6)(h)(iii)(bb).** This criterion requires a proposed plan amendment to address and satisfy one of five factors ((i-i) to (v-v)). Subsections. The applicant has submitted substantial evidence to support affirmative findings for subsections (iv-iv) and (v-v).

Subsection (iv-iv) authorizes approval of a plan amendment if it is “necessary to provide for the implementation of adopted Plan policy or elements.” The proposed plan amendment and zone change complies with applicable Goal 2 Policy 11.a. which include the following criteria:

- “i. existing development pattern and density” The existing development pattern of the exception area is primarily single family residences on parcels averaging 4.2 acres in size. The proposed residential use of the vacant 5 acre parcel would be consistent the existing pattern of residential uses and average 4.2 acre parcel size or density for the area. The existing industrial designation and zoning is not consistent with the existing pattern of residential uses. Therefore, the change from Industrial/M2 to Rural Residential/RR-5 is necessary for compliance of the zoning with this policy.
- “ii. on-site sewerage disposal suitability, or community sewerage;” The development of the subject property for a residence would be contingent upon the property owner obtaining approval from DEQ for the installation of an on-site sewage disposal system.
- “iii. domestic water supply availability;” The subject property has a well on it which has been tested by Rainbow Pump Company and Analytical Laboratory & Consultants and found suitable for domestic use. Therefore, the application complies with this criterion.
- “iv. access;” The subject property has excellent access to Pheasant Lane and Immigrant Road.
- “v. public services;” Adequate public services are available to the subject property as demonstrated in above in Finding 6.
- “vi. lack of natural hazards;” There are no natural hazards on the subject property as demonstrated above in Finding 6.
- “vii. effect on resource lands.” The proposed plan amendment and zone change would not adversely affect resource lands as demonstrated above in finding 7.
- “densities of 1, 2, 5 or 10 acres shall be applied to represent existing development patterns.” The proposed 5 acre density most closely represents the 4.2 acre parcel size or development pattern for this exception area. The RR-5 zoning would not allow the property to be divided to create additional dwellings parcels.

Subsection (v-v) authorizes approval of a plan amendment if it is found “to be desirable, appropriate or proper.” The proposed plan amendment is desirable from the perspective of the neighbors and for eliminating the adverse impacts that industrial uses authorized by the existing M-2 zoning would have on

surrounding properties. The proposed plan amendment is appropriate, because it complies with Goal 2 Policy 11 a. and with the Statewide Planning Goals and Rule.

9. **Lane Code 16.400(6)(h)(iii)(cc).** This criterion requires a proposed plan amendment to not be in conflict with the policies of the adopted and acknowledged Rural Comprehensive Plan (the "RCP") and, if possible, to implement those policies. Goal 2 Policy 11.a. specifically supports this plan amendment, has already been discussed, and that discussion is incorporated into the findings and conclusion under this criterion. Other policies are relevant and should be addressed in this discussion of the RCP.

Goal 11, Public Facilities and Services, Policy 6.e. describes the minimum amount of services and facilities that should be provided to residentially designated property: "Schools, on-site sewage disposal, individual water supply system, electrical service, telephone service, rural level fire and police protection, reasonable access to solid waste disposal facility." Some of the services provided to the subject property have already been identified and discussed Finding 6, and discussion is incorporated into the findings and conclusion under this criterion. Other services available to the property are electrical service by EPUD from an existing pole located on Pheasant Lane; telephone service from existing poles located on Pheasant Lane; and a solid waste disposal facility is within 15 miles of the subject property at the Glenwood solid waste disposal facility. Because all of the minimum services are available to the subject property, the proposed residential designation and zoning would comply with this criterion.

10. **Lane Code 16.400(6)(h)(iii)(dd).** As discussed in the previous section, this plan amendment is supported by policies in the RCP. There are no policies that conflict with the RCP amendment requested. Since this is a plan map amendment, the text and structure of the RCP are unaffected.
11. **Lane Code 16.252(2)).** This criterion requires a rezoning to comply with the criteria mentioned below, which are not set forth in traditional format. For the reasons mentioned under each criterion, this application complies with the applicable criteria.

The rezoning must achieve the purpose of LC Chapter 16 and not be contrary to the public interest. The "purpose" of Chapter 16 is specified in Lane Code 16.003, which is actually a list of 14 broadly-worded goals and policy statements. It is difficult for a specific zone change application to address most of these purpose statements because of the general nature. Many of the purpose statements have no direct relevance to this application. The first purpose statement appears to be the most clearly relevant, "(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." This proposed rezoning would be commensurate with the character and physical limitation of the land as demonstrated above in Finding 6. It would also be commensurate with the zoning of the other developed and committed properties located within the same developed and committed exception area.

The rezoning must be consistent with specific purposes of the zone proposed. The specific purposes of Lane Code 16.231, Rural Residential Lands Zone, are to provide opportunities for people to live in a rural area, to allow primary and accessory residential uses which may be compatible with primary residential uses, to implement the policies of the RCP and to provide protective measures for riparian vegetation. The applicant has submitted substantial evidence to support the affirmative findings mentioned above concerning the compatibility of the RR-5 zone and its compliance with the RCP policies. The intent of the rezoning is to allow the use of the subject property to be primarily for residential purposes. The use of the RR-5 for residential purposes is therefore consistent with the purposes of the zone.

The rezoning must be consistent with the RCP. As discussed in the above Finding 9, the proposed plan amendment and rezoning is consistent with the RCP. Therefore the rezoning complies with this criterion.

The rezoning must be consistent with the Statewide Planning Goals for any portion of the RCP which is not acknowledged. Since the RCP is acknowledged, this criterion does not need to be addressed.

FINDINGS OF FACT

The following findings of fact and conclusions of law support an affirmative decision by the Board to approve the proposed plan amendment and concurrent zone change. These findings are divided into the following three parts:

- I. General Findings Relating to the Property and Application.
- II. Findings and Conclusions Related to the Lane Code 16.400 Plan Amendment Criteria.
- III. Findings and Conclusions Relating to the Lane Code 16.252 Rezoning Criteria.

I. General Findings Relating to the Property and Application.

1. This application is a plan amendment redesignating 20 acres of land from Forest Land to Nonresource Land with concurrent rezoning from Impacted Forest Land (F-2) to Rural Residential (RR-10). These findings provide factual support for the proposed redesignation.

2. The subject property is designated as Forest Land as a Goal 4 resource. The findings provided herein represent findings that support a Nonresource Land designation and therefore do not require exceptions to the statewide planning goals.

3. The subject property is identified as tax lot 107 on Assessor's map no. 16-03-34, and located on county Zoning Plot No. 394A. It is a 20 acre parcel and located on the north side of Van Duyn Road and approximately 1.2 miles east of Interstate 5 and the City of Coburg.

4. The subject property is a legal lot, created as Parcel 1 of land partition M 225-80. It is improved with one single-family dwelling, accessory structures, and individual on-site water and sanitation facilities. The acreage consists of open field/meadow with a gradual north slope.

5. The subject property is provided the following public services:

Fire:	Coburg Rural Fire Protection District
Police:	Lane County Sheriff
School:	Eugene School District 4J
Sewer:	Individual septic system
Water:	Individual well
Access:	Van Duyn Road (county)
Electricity:	Emerald P.U.D.
Telephone:	U.S. West Communications
Solid Waste:	Glenwood Solid Waste Disposal Site

These services are with consistent with the level of service required by RCP Goal 11 Policy 6 k for nonresource Rural Residential zoned lands outside a Community designation.

6. The subject property is bordered on the north and east by Country View Estates subdivision which consists of 10 acre parcels improved with dwellings and zoned RR-10. To the north is Triple Oaks Road, an asphalt surfaced private road. To the west is Oak Crest Road, an asphalt surfaced private road. Further west are two 10 acre parcels improved with dwellings and zoned RR-10. To the south, across Van Duyn Road, are three tracts of 123, 208 and 386 acres zoned E-40 and F-2. These parcels are not enrolled in a farm tax deferral program and are used primarily for limited seasonal cattle and horse grazing.

7. There are no commercial farm or forest activities immediately adjacent to the subject property.

8. No historic, archaeological or sensitive wildlife habitat sites have been identified on or near the subject property.

9. The subject property is not located within any identified hazardous area.

10. The subject property is surrounded by land uses which isolate the subject property and preclude its consolidation with any resource lands.

11. The National Wetlands Inventory Map Coburg 4 indicates a PSSA jurisdictional wetlands crosses the northeast corner of the subject property. This wetland will not be impacted by the proposed amendment.

12. The Soil Survey for Lane County Area, Oregon, map sheet #45 indicates the subject property is composed of two soil units:

a) 43E Dixonville-Philomath-Hazelair complex, 17.2 acres (86 percent), agricultural class VIe and 0 forest capability;

b) 102C Panther silty clay loam, 2.8 acres (14 percent), agricultural class VIw and 0 forest capability.

13. The subject property is not wooded nor does it exhibit any historically evidence of forest characteristics. It does not have any agricultural Class I-IV soils nor is it