

**PASSED**

**BEFORE THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON**

**ORDINANCE NO. PA 1155 ) IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE  
 ) PLAN TO REDESIGNATE LAND FROM "RURAL" TO "COMMERCIAL",  
 ) REZONE THAT LAND FROM "RR-5/RURAL RESIDENTIAL" TO  
 ) "CR/SR" ("RURAL COMMERCIAL with SITE REVIEW"); AND  
 ) ADOPTING SAVINGS AND SEVERABILITY CLAUSES (file PA 98-5302;  
 ) PINNELL)**

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 November 1998, application no. PA 98-5302 was made for a minor amendment to redesignate tax lot 3500 of map 17-05-11.2, from "Rural" to "Commercial" and concurrently rezone the property from "RR-5/Rural Residential" to "CR/Rural Commercial"; and

WHEREAS, the Lane County Planning Commission reviewed the proposal in public hearings of January 11, and public meetings on February 15 and June 6, 2000, and on June 6 recommended approval of the proposed amendment and rezoning; 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 as follows:

Section 1. The Lane County Rural Comprehensive Plan is amended by the redesignation of tax lot 3500 of map 17-05-11.2, from "Rural" to "Commercial", such territory depicted on Plan Plot 237 and further identified as Exhibit "A" attached and incorporated herein.

Section 2. Tax lot 3500 of map 17-05-11.2, is rezoned from "RR-5/Rural Residential" (Lane Code 16.231) to "CR/SR Rural Commercial with Site Review" (Lane Code 16.223 with Lane Code 16.257), such territory depicted on Rural Zoning Plot 237 and further identified as Exhibit "B" attached and incorporated herein. The Site Review is to be used to insure that the following condition is implemented:

1. Testimony has been received concerning the potential for adverse impacts from future traffic circulation, driveway location, and the possible need for road improvements. As such, the applicant will specifically address these issues under a Site Review process per LC 16.257(4), prior to issuance of any building permit.
2. Testimony has been received concerning alleged past sales and storage of vehicles at the market site. The Board finds this use not appropriate in the Rural Commercial Zone, and that such use, at any volume, is not sanctioned on the subject property under this approval.

FURTHER, although not a part of this Ordinance, the Board of County Commissioners adopts Findings as set forth in

ORDINANCE NO. PA 1155 -- IN THE MATTER OF AMENDING THE RURAL COMPREHENSIVE PLAN TO REDESIGNATE LAND FROM "RURAL" TO "COMMERCIAL", REZONE THAT LAND FROM "RR-5/RURAL RESIDENTIAL" TO "CR/SR" ("RURAL COMMERCIAL with SITE REVIEW"); AND ADOPTING SAVINGS AND SEVERABILITY CLAUSES (file PA 98-5302; Pinnell)

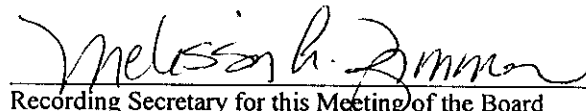
Exhibit "C" attached, in support of this action.

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 3<sup>rd</sup> day of January, 2001.

  
Chair, Lane County Board of County Commissioners

  
Recording Secretary for this Meeting of the Board

APPROVED TO FORM

Date 12-26-2000 Lane county

  
OFFICE OF LEGAL COUNSEL

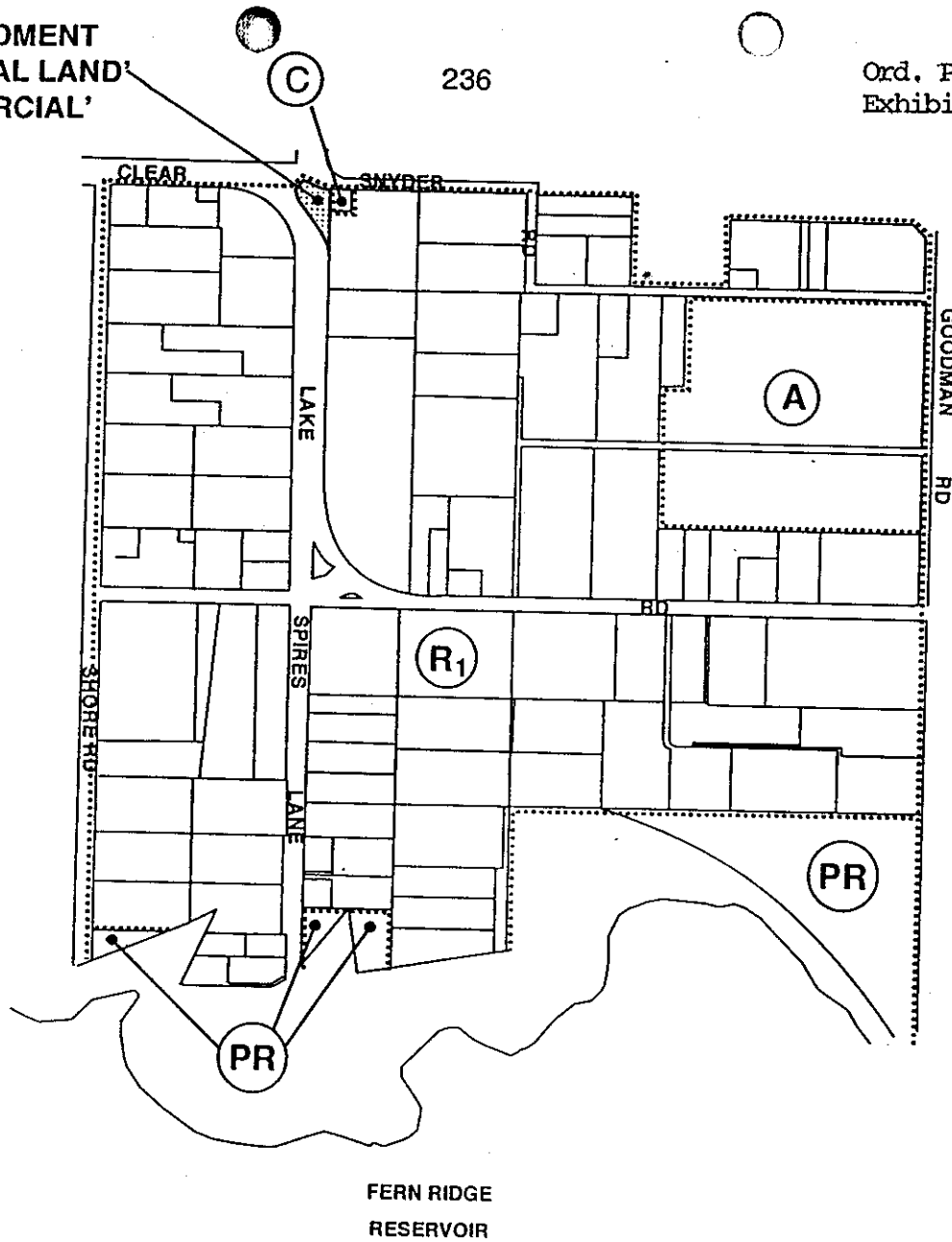
PLAN AMENDMENT  
FROM 'RURAL LAND'  
TO 'COMMERCIAL'


236

Ord. PA 1155  
Exhibit "A"

223

251



	lane county		<b>OFFICIAL PLAN MAP</b>		<b>PLOT #237</b>	
	Twship Range Section		17 05 11		17 02 03	
ORIGINAL ORD. #	PA 884	DATE	2/29/1984	FILE #		
REVISION #	ORD#	DATE		FILE #		

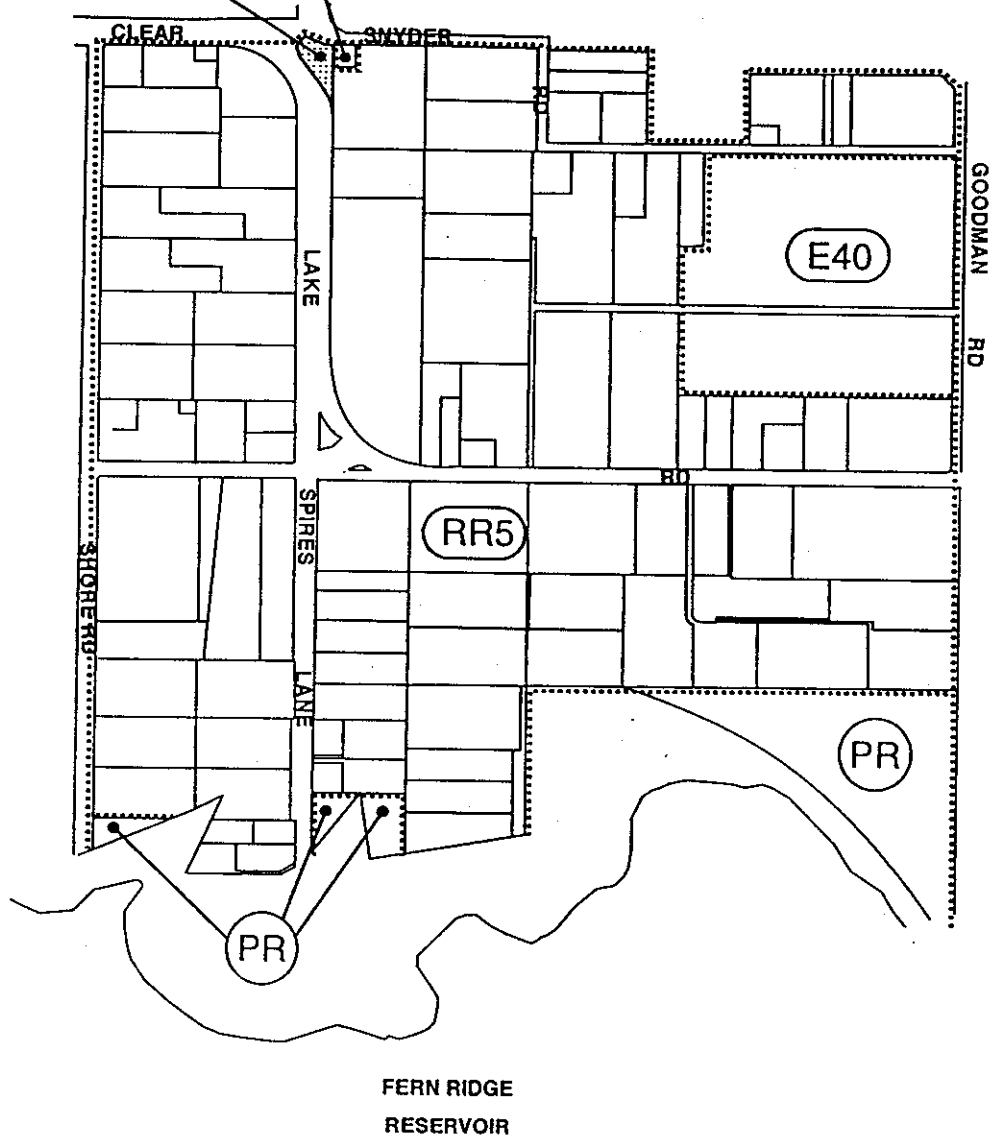
REZONE FROM  
RR5 TO CR  
WITH SITE REVIEW

CR

236

Ord. PA 1155  
Exhibit "B"

223



251

lane county



**OFFICIAL ZONING MAP**

**PLOT #237**

Twship Range Section

17 05 11

ORIGINAL ORD. # PA 884 DATE 2/29/1984 FILE # \_\_\_\_\_

REVISION # \_\_\_\_\_ ORD# \_\_\_\_\_ DATE \_\_\_\_\_ FILE # \_\_\_\_\_

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**  
**FILE NO. PA 98-5302**

The following findings of fact support a decision by the Lane County Board of Commissioners to approve a minor amendment to the Rural Comprehensive Plan and a concurrent zone change from RR-5 Rural Residential to CR Rural Commercial.

**GENERAL FINDINGS**

- Finding 1. Subject property is 1.07 acres located on Clear Lake Road at the intersection with Alvadore Road in Lane County, Oregon (Map T17-R05-S11.2, Tax Lot 3500).
- Finding 2. Subject property is owned by Mr. Charles Thomas Pinnell, a resident of Lane County, who owns and operates the adjacent Fern Ridge Market (TL 1300). The Fern Ridge Market has been in operation since 1937. It was purchased by Mr. Pinnell in 1989. Mr. Pinnell has owned and operated the market since that time.
- Finding 3. Subject property is bounded by roads on three sides (Snyder Road to the north, Alvadore Road to the west, and Clear Lake Road to the south) and by the Fern Ridge Market property on the east, which is zone CR Rural Commercial. Surrounding land use is predominantly Rural Residential, RR-5. Most of the land is already in five-acre parcel sizes and is developed. The only non-residential zoning near the property is the Rural Commercial parcel where the Fern Ridge Market now stands. The nearest Resource land is an EFU-40 parcel located approximately 1/2 mile to the southeast of the property.
- Finding 4. In 1995, Lane County re-aligned Clear Lake Road to allow a more gradual turn and improve banking and grading of the road. The relocation moved the road approximately 200 feet away from the market. The change has reduced the visibility of the market from Clear Lake Road and has made access less convenient for motorists.
- Finding 5. When Clear Lake Road was re-aligned, the subject property (a one-acre parcel identified as tax lot 3500) was created in front of the Fern Ridge Market. This parcel was vacated by Lane County and purchased by Mr. Pinnell in 1995. Mr. Pinnell proposes to build a new market on this site to replace the existing market and therefore seeks the appropriate Rural Commercial zoning designation.
- Finding 6. The zone change and associated Plan amendment will enable the Fern Ridge Market to better serve its rural customers.
- Finding 7. Planning Commission held a public hearing on January 11, 2000 and recommended approval of the application with a Site Review suffix in a public meeting on June 6, 2000.

## FINDINGS RELATED TO APPROVAL CRITERIA

Finding 8. This application is a minor plan amendment, according to LC 16.400(8)(a)(i), because it involves only a change to the plan diagram and does not require any exceptions to Statewide Planning Goals. The land is zoned RR-5 and therefore is already within a developed and committed exception area.

According to LC 16.400(6)(h)(iii), the proposed RCP amendment must be at least one of the following:

- (i-i) necessary to correct an identified error in the application of the Plan; OR*
- (ii-ii) necessary to fulfill an identified public or community need for the intended result of the component or amendment; OR*
- (iii-iii) necessary to comply with the mandate of local, state or federal policy or law; OR*
- (iv-iv) necessary to provide for the implementation of adopted Plan policy or elements; OR*
- (v-v) otherwise deemed by the Board, for reasons briefly set forth in its decision, to be desirable, appropriate or proper.*

Finding 9. The Board finds that the proposed amendment meets LC 16.400(6)(h)(iii)(ii-ii) above since it is necessary to fulfill an identified community need. The role of the Fern Ridge Market is well established in the community. The need for the market is indicated by the fact that it has been in operation and serving the needs of the community since 1937.

Finding 10. The Board finds that the proposal also complies with LC 16.400(6)(h)(iii)(v-v) above, in being a desirable, appropriate and proper zone change to allow the continuation of an existing commercial business in a more-suitable location. The proposed amendment enables the market to continue to operate profitably by relocating in a more visible and accessible location.

Lane Code 16.252(2) states that "*...rezonings shall be consistent with the specific purposes of the zone classification proposed,...*" The zone classification sought through this application is defined in LC 16.223 for the Rural Commercial zone as cited below:

### ***16.223 Rural Commercial Zone (C-R, RCP).***

***(1) Purpose. The purpose of the Rural Commercial Zone (C-R, RCP) is:***

- (a) To provide goods and services needed by rural residents.***

***(b) To provide services and facilities for tourists and travelers.***

***(2) Permitted Uses. The following uses and activities are permitted subject to the general provisions and exceptions specified by this Chapter of Lane Code. Uses listed below may be subject to Site Review Procedures as specified in LC 16.257, and verification of whether or not this is required must be made prior to development of a permitted use:***

***(a) Retail trade of food.***

***(b) Retail trade of new general merchandise.***

Finding 11. The proposed land use is a rural market providing goods and services to local residents, travelers, and recreational visitors to the area. The Board finds that this land use is appropriate for the *Rural Commercial* zoning designation.

LC 16.400(6)(h)(iii)(aa) requires compliance with Statewide Planning Goals and applicable Oregon Administrative Rules.

Finding 12. During the Public Hearing process Lane County Transportation Staff requested that the applicant demonstrate compliance with the Transportation Planning Rule (OAR 660, Division 12). The applicant retained a professional engineer to perform two studies according to staff specifications. These studies showed that, even under a worst-case scenario the zone change would have a minimal effect on the transportation system and would not affect level-of-service on country roads over the next 20 years. The Board finds that this proposal will have no significant effect on local transportation facilities as defined in OAR 660-012-0060(2) and therefore complies with Statewide Goal 12 (Transportation Planning) and the Oregon Administrative Rules that implement it. Concerns such as traffic circulation, driveway location, and the potential need for road improvements can be evaluated during the Site Review process per LC 16.257, and implemented with the addition of the /SR suffix.

According to LC 16.400(6)(h)(iii)(cc),

***For Minor Amendments... the Plan amendment or component does not conflict with adopted Policies of the Rural Comprehensive Plan, and if possible, achieves policy support.***

RCP Urbanization Goal #2, Policy 11(b) states that:

***A commercial designation shall be applied to existing uses and/or tracts presently zoned for commercial activities addressing the same criteria as listed for the Rural***

***Residential designation [Policy 11(a)].***

A commercial designation is properly applied so as to accommodate the necessary expansion and relocation of the existing market. The zoning criteria contained in Goal #2, Policy 11(a) are cited below and additional clarification is included with Board of Commissioners Orders 88-2-10-14 and 95-9-20-4. Policy 11(a) requires that the zoning designation be evaluated by the following criteria:

***i. Existing development pattern and density;***

Finding 13. The area surrounding the property is zoned RR-5 with the exception of the adjacent parcel owned by the applicant. This .57-acre parcel is zoned Rural Commercial and is the current location of the market. Existing development patterns have historically supported, and been shaped by, a small commercially-zoned area at the intersection of Clear Lake Road and Snyder Road for more than six decades.

***ii. On-site sewage disposal suitability, or community sewerage;***

Finding 14. The property is suitable for an on-site septic system. The existing septic system on adjoining lot 1300 may also be suitable for accommodating the sewage from a new market.

***iii. Access;***

Finding 15. The subject property fronts on three public roads: Clear Lake, Alvadore, and Snyder Roads. Frontage on these roads constitutes legal access. Actual proposed points of ingress/egress will be evaluated under the Site Review process.

***iv. Public services;***

Finding 16. All necessary public services are available to the property. Police protection is provided by the County Sheriff and State Police, telephone by US West, power by the Emerald People's Utility District, and fire coverage by Lane Rural Fire & Rescue. The property is within the Bethel school district #52.

***v. Lack of natural hazards;***

Finding 17. There are no natural hazards or wetlands on the property.

***vi. Effect on resource lands.***

Finding 18. There will be no effect on resource lands. The property and the adjoining Rural Commercial parcel are surrounded by Rural Residential RR-5 land. The nearest

resource land is an EFU-40 parcel approximately 1/2 mile to the southwest of the property.

RCP Economy Goal #9, Policy #1 states that "*... the county shall encourage the diversification and growth of the local economy.*"

Finding 19. The application supports the diversification and growth of the local economy. The approval of this proposal will allow future expansion of commercial facilities to respond to growing market demand.

RCP Goal #9, Policy #8 states that land uses which are zoned commercial "*...shall be zoned to allow for continued operation and routine expansion commensurate with their character, provided significant conflicts with other land uses (existing or planned) do not result.*"

Finding 20. This proposal will not create any significant conflicts with other existing or planned land uses in the area.

RCP Goal #9, Policy #9 states: "*Tourism shall be considered as a base industry having high potential for growth throughout the County. Development of facilities oriented towards tourists shall be given maximum support within the framework of these policies.*"

Finding 21. Fern Ridge Reservoir has become one of the state's most used lake by a wide variety of users. The application supports tourism by providing convenient goods and services to the recreational users of the popular Fern Ridge Lake area.

RCP Public Facilities and Services Goal #11, Policy #1 states that "*Designation of land into any given category either initially or by subsequent plan amendment, shall be consistent with the minimum level of services established for that category.*"

Finding 22. Service levels for Rural Commercial are defined under Policy #6(g) and include schools, on-site sewage disposal, individual water supply, electrical service, telephone service, rural level of fire and police protection and reasonable access to solid waste disposal facility. All of these services are available to this property.

## CONCLUSION

The Board concludes that based upon the factual information submitted within the applicant's report (incorporated by reference as part of these findings); evidence received at public hearings and made a part of the public record; and findings included within this document, action approving the plan amendment and zone change of the 1.07 acres subject property from RR-5/RCP to CR/SR/RCP, conforms with:

- a. All applicable State law criteria including Statewide Planning goals and Oregon Administrative Rules.
- b. The standards set forth within Lane code 16.400 to allow a plan amendment from Residential land to Rural Commercial.
- c. And the standards set forth within Lane Code 16.252 enabling a zone change from Rural Residential (RR-5) to Rural Commercial with Site Review (CR/SR).