

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDINANCE NO. 11-84

- ) IN THE MATTER OF REVISING CHAPTER 16  
) THE RURAL DEVELOPMENT CODE OF LANE  
) COUNTY TO:  
)  
) 1. MAKE CERTAIN HOUSEKEEPING RE-  
) VISIONS TO THE HEARINGS OFFICIAL  
) SPECIAL USE APPROVAL CRITERIA OF  
) THE EXCLUSIVE FARM USE (E) ZONE  
) TO ADOPT THE GREENWAY DEVELOP-  
) MENT PERMIT APPROVAL CRITERIA  
) FOR AGGREGATE EXTRACTION, AND  
) NOT TO APPLY ANY OTHER CRITERIA  
) FOR AGGREGATE EXTRACTION, FOR  
) LANDS ZONED E AND IN THE GREEN-  
) WAY.  
)  
) 2. MAKE NUMEROUS REVISIONS TO THE  
) DEVELOPMENT CODE TO BRING IT  
) INTO COMPLIANCE WITH THE RE-  
) QUIREMENTS OF THE DLCD STAFF  
) REPORT DATED JULY 26, 1984.  
) THESE REVISIONS INCLUDE:  
)  
) A. ADDING A SUBSECTION TO LC  
) 16.005 TO PROVIDE STANDARDS,  
) PROCEDURES AND CRITERIA FOR  
) THE PROTECTION OF AREAS DE-  
) SIGNATED BY THE RURAL COM-  
) PREHENSIVE PLAN AS SENSI-  
) TIVE BIRD HABITAT.  
)  
) B. ADDING THE DEFINITION OF  
) "HISTORIC STRUCTURE OR  
) SITE."  
)  
) C. REVISING THE DEFINITION OF  
) "WETLAND" IN ORDER TO BE  
) CONSISTENT WITH THE STATE-  
) WIDE PLANNING GOAL DEFINI-  
) TION OF THAT TERM.  
)  
) D. REVISING THE SITING REQUIRE-  
) MENTS IN THE IMPACTED  
) FOREST, F-2 ZONE TO PROVIDE  
) FOR CLUSTERING OF RESIDENCES  
) ON EXISTING TRACTS.  
)  
) E. REVISING THE PROPERTY DE-  
) VELOPMENT STANDARDS OF THE  
) EXCLUSIVE FARM USE, E, ZONE  
) TO ADD REQUIREMENTS FOR  
) CLUSTERING OF RESIDENCES ON  
) EXISTING TRACTS.  
)  
) F. ADDING RIPARIAN SETBACK AND  
) MAINTENANCE STANDARDS TO THE  
) NATURAL RESOURCE, NR, ZONE.  
)  
) G. REVISING THE GREENWAY DE-  
) LOPMENT PERMITS TO:



(3) Conditions. The following conditions may be imposed at the time of approval of a development for which a permit or application is required and for which a finding has been made as required in LC 16.005(2) above in order to ensure site and area stability:

(a) Maintain vegetation and eliminate widespread destruction of vegetation.

(b) Carefully design new roads and buildings with respect to:

(i) Placement of roads and structures on the surface topography.

(ii) Surface drainage on and around the site.

(iii) Drainage from buildings and road surfaces.

(iv) Placement of septic tank disposal fields.

(c) Careful construction of roads and buildings:

(i) Avoid cutting toeslopes of slump blocks.

(ii) Careful grading around the site, especially avoiding oversteepened cut banks.

(iii) Revegetating disturbed areas as soon as possible.

(d) Certification by a geologist or engineer that the above conditions have been complied with and/or that a hazard does not exist.

(4) Sensitive Bird Habitat Protection Standards and Criteria. All uses or activities permitted or conditionally permitted within the zones identified in LC 16.005(4)(a) below shall be subject to the additional procedures and requirements in LC 16.005(4)(b)-(g) below, provided such uses are located on property identified as a sensitive bird habitat area via Rural Comprehensive Plan Flora and Fauna Policy 18 and LM 11.400.

(a) Applicable Zones.

<u>Zone Classification</u>	<u>Abbreviation</u>	<u>Section No.</u>
Nonimpacted Forest Lands	F-1, RCP	16.210
Impacted Forest Lands	F-2, RCP	16.211
Exclusive Farm Use	E-RCP	16.212
Natural Resource	NR-RCP	16.213
Marginal Lands	ML-RCP	16.214
Park and Recreation	PR-RCP	16.215
Sand, Gravel and Rock Products	SG-RCP	16.217
Sand, Gravel and Rock Products Combining Processing	SG-CP-RCP	16.218
Public Facility	PF-RCP	16.219
Limited Commercial	C-1, RCP	16.220
Neighborhood Commercial	C-2, RCP	16.221
Commercial	C-3, RCP	16.222
Rural Commercial	C-R, RCP	16.223
Limited Industrial	M-1, RCP	16.224

- F. Adding riparian setback and maintenance standards to the Natural Resource, NR, Zone.
- G. Revising the Greenway Development Permit requirements to:
  - i. Eliminate all the language following the phrase "or personal noncommercial use" in LC 16.254(2)(k).
  - ii. Ensure that only water-dependent and water-related uses are exempt from the 100-foot Greenway setback requirement.
  - iii. Provide notice of Department actions for a Greenway Development Permit to ODOT.
  - iv. Require a Greenway Development Permit for development in designated "urban" areas.

OR IN THE ALTERNATIVE

- H. Adopt a new Greenway Permit section.

If any section, subsection, sentence, clause, phrase of 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 affect the validity of the remaining portions thereof.

The application of Chapter 16 to rural Lane County repealed by this Ordinance shall remain in force to authorize prosecution of persons in violation thereof prior to the effective date of this Ordinance.

While not part of this Ordinance, we adopt the attached Exhibit "A" as findings in support of this decision.

Enacted this 12<sup>th</sup> day of Sept., 1984.

  
\_\_\_\_\_  
Chair, Lane County Board of  
Commissioners

  
\_\_\_\_\_  
Recording Secretary for this  
Meeting of the Board

(a total of one page)	(a total of two pages)
16-44 (a total of one page)	16-44 to 16-44a (a total of two pages)
16-56 (a total of one page)	16-56 to 16-56a (a total of two pages)
16-58 to 16-60 (a total of three pages)	16-58 to 16-60 (a total of three pages)
16-62 (a total of one page)	16-62 to 16-62b (a total of three pages)
16-241 to 16-245 (a total of five pages) or in the alternative	16-241 to 16-244 (a total of four pages)
16-239 to 16-245 (a total of seven pages)	16.239 to 16.245 (a total of seven pages)

Said pages are attached hereto and incorporated herein by reference. The purpose of these substitutions is to:

1. Make certain housekeeping revisions to the Hearings Official Special Use Approval Criteria of the Exclusive Farm Use (E) Zone to adopt the Greenway Development Permit Approval Criteria for aggregate extraction, and to not apply any other criteria for aggregate extraction, for lands zoned E and in the Greenway.
2. Make numerous revisions to the Development Code to bring it into compliance with the requirements of the DLCDD staff report dated July 26, 1984. These revisions include:
  - A. Adding a subsection to LC 16.005 to provide standards, procedures and criteria for the protection of areas designated by the Rural Comprehensive Plan as sensitive bird habitat.
  - B. Adding the definition of "Historic Structure or Site".
  - C. Revising the definition of "wetland" in order to be consistent with the Statewide Planning Goal definition of that term.
  - D. Revising the siting requirements in the Impacted Forest, F-2, Zone to provide for clustering of residences on existing tracts.
  - E. Revising the property development standards of the Exclusive Farm Use, E, Zone to add requirements for clustering of residences on existing tracts.

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Light Industrial	M-2, RCP	16.225
Heavy Industrial	M-3, RCP	16.226
Suburban Residential	RA-RCP	16.229
Garden Apartment Residential	RG-RCP	16.230
Rural Residential	RR-RCP	16.231
Destination Resort	DR-RCP	16.232

(b) Development Plan Submittal. The person proposing the development shall submit plans to the Department which sufficiently identify the location, nature and scope of the proposed use or activity.

(c) Referral. Upon receipt of the plans identified in LC 16.005(4)(b) above, the Department shall refer a copy of the plans to the Oregon Department of Fish and Wildlife (ODFW).

(d) ODFW Review. Upon receipt of the plans identified in LC 16.005(4)(b) above, the ODFW shall review the proposed use of activity and make a determination of whether or not the use or activity would affect a sensitive bird habitat. In making this review and determination, the ODFW shall consult with the affected landowner(s) and appropriate state agencies, and shall address the standards in LC 16.005(4)(d)(i) and (ii) below. The basis for the determination shall be stated in writing, completed within seven working days of receipt, and then submitted to the Department (Lane County).

(i) A sensitive bird habitat will be considered affected by a use or activity if the use or activity is located within 660 feet of an eagle or osprey site or within 300 feet of a heron rookery or pigeon mineral spring.

(ii) A sensitive bird habitat may also be considered affected by a use or activity if the use or activity is located a greater distance than specified in LC 16.005(4)(d)(i) above, considering unique conditions of topograph or the individual habits of the bird(s).

(e) No Affects Determined. If the ODFW determines that the sensitive habitat area will not be affected, then the ODFW will give the Department written notice of its determination, and Lane County may proceed with authorization of the use or activity, or with the processing of any other required applications.

(f) Affects Determined and Protection Plan. If the ODFW determines that the sensitive habitat area will be affected, the ODFW shall work with the affected landowner(s) in the development of a site specific habitat protection plan. The plan shall consider the proposed use or activity and its interrelationship to and

affects upon nesting trees, perch trees, critical nesting period roosting sites and/or buffers for wind, vision and noise. The plan must contain a statement of reasons, supported by facts, explaining why the sensitive bird habitat would not be adversely affected by the proposed use or activity. The plan shall then be submitted to the Department.

(g) Director Approval. The proposed uses or activities identified in the habitat protection plan shall be reviewed by the Director pursuant to LC 14.100 and shall be allowed if in conformance with the following approval criteria:

(i) The proposed use or activity would not adversely impact a sensitive wildlife habitat.

(ii) Conditions placed upon the approval of the habitat protection plan would avoid or eliminate any adverse impacts upon a sensitive wildlife habitat. Conditions may include setbacks, limitations upon the time period for the operation of the use or activity and/or prohibition of conflicting uses.

(h) LC 16.005(4)(a)-(g) do not apply to the protection of sensitive bird habitat from forest practices as regulated by the Forest Practices Act and as regulated by the COOPERATIVE AGREEMENT BETWEEN OREGON STATE BOARD OF FORESTRY AND OREGON STATE FISH AND WILDLIFE COMMISSION as adopted by Lane County in Rural Comprehensive Plan Goal 5 Flora and Fauna Policy 17.

**16.006 Compliance Required.**

(1) No person shall engage in, or cause to occur, a development which does not comply with the Lane County Land Use and Development Chapter.

(2) A development shall be approved by the Director, or other Approving Authority, according to the provisions of this Chapter.

(3) Unless appealed, a decision on any application shall be final upon expiration of the period provided for filing an appeal or, if appealed, upon rendering of the decision by the reviewing body.

**16.007 Compliance With Rural Comprehensive Plan.** In the event of any conflict between any provision of this Chapter and provisions of the Rural Comprehensive Plan of Lane County, or duly adopted portions, elements or amendments of such Plan, the more restrictive provisions shall prevail.

**16.008 Interpretation.** When in the administration of this Chapter there is doubt regarding the intent of the Chap-

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Yard, Front. A yard between the front line of the building (exclusive of steps) and the front property line.

Yard, Rear. An open, unoccupied space on the same lot with a building, between the rear line of the building (exclusive of steps, porches and accessory buildings) and the rear line of the lot.

Yard, Side. An open, unoccupied space on the same lot with a building, between the sidewall line of the building and the side line of the lot.

(j) A dwelling or mobile home not provided in conjunction with farm use provided:

(i) The dwelling or mobile home is situated upon a legal lot with soils predominantly in capability classes IV through VIII as determined by the Agricultural Capability Classification System in use by the United States Department of Agriculture Soil Conservation Service on Oct. 12, 1983.

(ii) The dwelling or mobile home, or the activities associated with the dwelling or mobile home, will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use

(iii) The dwelling or mobile home is situated upon generally unsuitable land for the production of farm crops and livestock, considering the terrain, adverse soil or land conditions, drainage and flooding, location and size of the tract. A lot or parcel shall not be considered unsuitable solely because of its size or location if it can reasonably be put to farm use in conjunction with other land.

(iv) The approval of a dwelling or mobile home shall comply with the provisions of ORS 215.236, 1983 Replacement Part, regarding establishment of the nonfarm residence; procedures; disqualification for farm use valuation; and additional tax or penalty.

(k) A transmission tower over 200 feet in height.

(5) Hearings Official Special Use Approval Criteria.

(a) Compatibility of the use or activities associated with the use with the Agricultural Lands Policies of the Rural Comprehensive Plan Policies, ORS 215.243 and the purpose of this zone.

(b) The use, or activities associated with the use, will not force a significant change in or significantly increase the cost of accepted farming practices on nearby lands devoted to farm use.

(c) The use, or activities associated with the use, complies with other conditions considered necessary by the Approval Authority in order to meet the applicable approval criteria.

(d) The above criteria shall not be applicable to uses identified under LC 16.212(4)(b) above if such uses are also subject to review under Willamette Greenway requirement LC 16.254(3).

(6) Farm Operations.

(a) A farm operation is all agricultural activities occurring under a single management. For purposes of this section, it is immaterial whether the activities occur on a single parcel of land, on contiguous parcels of

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(ii) Sufficient water outlets, together with serviceable hose not less than three-quarter inch inside diameter and a nozzle to reach the dwelling and nearby improvements.

(iii) The water supply, pump, hose and nozzle shall be maintained as a connected, operating unit ready for immediate use during period of fire danger.

(d) Shall have a spark arrestor on any chimneys and a fire retardant roof.

(8) Siting and Fire/Safety Standards for Dwellings.

All dwellings and mobile homes conditionally permitted above:

(a) The Approval Authority shall balance the setback standards of LC.211(8)(a) with the siting requirements and application approval criteria specified elsewhere in LC 16.211 in order to minimize adverse impacts upon forest uses and to assure optimal siting of proposed residences consistent with the purposes of the F-2 zone.

(i) Residences to be sited upon tracts located within a big game range as designated by the Department of Fish and Wildlife shall be sited as follows:

(aa) Near residences on other tracts.

(bb) With minimal intrusion into forest areas undeveloped by nonforest uses.

(cc) Where possible, when considering LC 16.211(8)(a)(i)(aa) and (bb) above and the .. dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.

(ii) Residences to be sited upon all other tracts shall be sited as follows:

(aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.

(bb) On the least valuable farm or forest areas of the tract or located near residences on other tracts.

(b) Shall maintain a fuel break of 50 feet around the residence. Fuel breaks shall be free of hazardous fuels in the form of native vegetation. Irrigation or fire resistant vegetation shall be planted within the fuel break to prevent undue soil erosion. Fuel breaks shall be continually maintained and may contain individual tree specimens, however plant material shall not provide a means of readily spreading fire. Fuel breaks shall comply with the riparian vegetation protection standards of LC 16.211(9)(b) and (c) below.

(c) Shall provide an adequate fire suppression system. Unless otherwise authorized by the local fire official, the minimum acceptable system shall include the following:

(i) A water supply such as a pond, stream, tank, well, sump or any combination thereof, together with a delivery system capable of sustaining a volume of 20 gallons per minute for not less than 20 minutes.

a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

**Tract.** A lot, parcel or unsubdivided or unpartitioned land under the same ownership. Contiguous units of unsubdivided or partitioned land under the same ownership shall be considered a single tract.

**Urban.** Those places which must have an incorporated city. Such areas may include lands adjacent to and outside the incorporated city and may also: (a) have concentrations of persons who generally reside and work in the area, and (b) have supporting public facilities and services.

**Urbanizable.** Those lands within an urban growth boundary and which are identified and (a) determined to be necessary and suitable for future urban use areas, and (b) can be served by urban services and facilities, and (c) are needed for the expansion of an urban area.

**Use.** The purpose for which land, submerged or submersible lands, the water surface or a building is arranged, designed or intended, or for which either land or building is or may be occupied or maintained.

**Veterinary Clinic.** Synonymous with the definition of "animal hospital".

**Water Dependent Use.** A use or activity which can be carried out only on, in or adjacent to water areas because the use requires access to the water body for waterborne transportation, recreation, energy production or source of water.

**Water Related Use.** Uses which are not directly dependent upon access to a water body, but which provide goods or services that are directly associated with water dependent land or waterway use, and which, if not located adjacent to water, would result in public loss of quality in the goods or services offered. Except as necessary for water dependent or water related uses or facilities, residences, parking lots, spoil or dump sites, roads and highways, restaurants, businesses, factories and trailer parks are not generally considered dependent on or related to water location needs.

**Wetlands.** Land areas where excess water is the dominant factor determining the nature of soil development and the types of plant and animal communities living at the soil surface. Wetland soils retain sufficient moisture to support aquatic or semiaquatic plant life. In marine and estuarine areas, wetlands are bounded at the lower extreme by extreme low water; in freshwater areas, by a depth of six feet. The areas below wetlands are submerged lands.

**Width.** The horizontal distance between the side boundary lines measured in the mean direction of the front and rear boundary lines.

**Yard.** An open space on the same lot with a building unoccupied and obstructed from the ground upward, except as otherwise provided herein.

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Historic Structure or Site. Property which had been identified by Lane County in its adopted Rural Comprehensive Plan findings as:

- (1) Historically significant.
- (2) In need of protection in order to preserve its historical significance, and for which the means of protection shall be the application of the Historic Structures or Sites Combining (/H-RCP) Zone.

The above sites are also identified separately in LM 11.300.

ter or the suitability of uses not specified, the Director shall request an interpretation of the provision by the Board of County Commissioners. The Board shall issue an interpretation to resolve the doubt, but such interpretation shall not have the effect of amending the provisions of this Chapter. Any interpretation of the Chapter shall be deemed an administrative action and shall be based on the following considerations:

(1) The Lane County Comprehensive Plan.

(2) The purpose and intent of the Chapter as applied to the particular section in question.

(3) The opinion of the County Counsel.

Copies of such interpretations shall be indexed and kept on file in the Department and may be reviewed by the public upon request.

16.009 Restrictiveness. Where the conditions imposed by a provision of this Chapter overlap, the provisions which are more restrictive shall govern.

16.010 Severability. If any section, paragraph, subsection, clause, sentence or provision of this Chapter shall be adjudged by any court of competent jurisdiction to be unconstitutional or invalid, such judgment shall not affect, impair, invalidate or nullify the remainder of this Chapter, and the effect thereof shall be confined to the section, paragraph, subsection, clause, sentence or provision immediately involved in the controversy in which such judgment or decree shall be rendered, it being the intent of the governing body to enact the remainder of this Chapter notwithstanding the parts so declared unconstitutional or invalid. Further, should any section, paragraph, subsection, clause, sentence or provision of this Chapter be judicially declared unreasonable or inapplicable to a particular premises or to a particular use at any particular location, such declaration or judgment shall not affect, impair, invalidate or nullify such section, paragraph, subsection, clause, sentence or provision as to any other premises or use.

16.011 Introductory Provisions. In order to achieve the purposes outlined in LC 16.003, and to assure that the development and use of land in Lane County conforms to the Rural Comprehensive Plan, zone classifications have been established for all unincorporated areas outside of adopted urban growth boundaries and within Lane County. These zones specify regulations for the use of land and property development standards, and use applied by boundaries indicated on the Lane County Rural Comprehensive Plan Zoning Maps.

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land or on separate parcels of land. It is also immaterial if the operator has less than fee interest in the land on which the agricultural activity occurs.

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dwelling has been approved pursuant to the above LC 16.212(4)(j) above and if the division would not conflict with the purpose of this zone.

(e) Divisions pursuant to LC 16.212(7)(a),(b),(c) or (d) above are subject to the applicable application procedures of LC Chapter 13 and the applicable review procedures of LC Chapter 14. Divisions under LC 16.212(7)(a) and (b) above shall also require that a statement be placed on the face of the map for the partition disclosing that a dwelling or mobile home is not guaranteed unless the provisions of this zone for obtaining a dwelling or mobile home are met.

(f) A person who sells or otherwise transfers real property zoned Exclusive Farm Use (E) may retain a life estate in a dwelling or mobile home on that property and the tract of land under and around the dwelling or mobile home. Partition approval is not required for the creation of such a life estate.

(8) Property Development Standards. All uses or activities permitted or conditionally permitted above, except farm use, shall be subject to the following development standards:

(a) The Approval Authority shall balance the setback standards of LC 16.212(8)(a) with the siting requirements and application approval criteria specified elsewhere in LC 16.212 in order to minimize adverse impacts upon forest uses and to assure optimal siting of proposed residences consistent with the purposes of the E zone.

(i) Residences to be sited upon tracts located within a big game range as designated by the Department of Fish and Wildlife shall be sited as follows:

(aa) Near residences on other tracts.

(bb) With minimal intrusion into forest areas undeveloped by nonforest uses.

(cc) Where possible, when considering LC 16.212(8)(a)(i)(aa) and (bb) above and the dimensions and topography of the tract, at least 500 feet from the adjoining lines of property zoned F-1 and 100 feet from the adjoining lines of property zoned F-2 or EFU.

(ii) Residences to be sited upon all other tracts shall be sited as follows:

(aa) Where possible, in consideration of the dimensions and topography of the tract, at least 500 feet from adjoining lines of property zoned F-1 and 100 feet from adjoining lines of property zoned F-2 or EFU.

(bb) On the least valuable farm or forest areas of the tract or located near residences on other tracts.

(iv) The following uses and activities are excepted from the above standards:

(aa) Commercial forest practices regulated by the Oregon Forest Practices Act.

(bb) Vegetation removal necessary to provide water access for a water dependent use.

(cc) Removal of dead or diseased vegetation that poses a safety or health hazards.

(dd) Removal of vegetation necessary for the maintenance or placement of structural shoreline stabilization.

(e) Signs.

(i) Signs shall not extend over a public right-of-way or project beyond the property line.

(ii) Signs shall not be illuminated or capable of movement.

(iii) Signs shall be limited to 200 square feet in area.

(9) Residence Maintenance, Repair and Replacement Standards.

(a) Maintenance and repair of lawfully existing residences shall be permitted in the Exclusive Farm Use (E) zone.

(b) Replacement of any residence lawfully existing, occupied, suitable for occupancy or in the process of being constructed shall be permitted. The replacement need not be in kind (i.e., a mobile home may replace a dwelling or vice versa). Any replacement authorized under this subsection shall be for a residence to be located on the same site as the previous residence and such replacement shall commence within one year of the date of removal of the previous residence.

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(b) Property Line Setbacks. No structure other than a fence or sign shall be located closer than 20 feet from the right-of-way of a County or local access-public road and 10 feet from all other property lines except as provided below.

(c) Class I Stream Setbacks. No structure other than a fence or sign shall be located closer than 100 feet from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A lesser setback may be allowed if:

(i) The Department of Fish and Wildlife is consulted by the Department at least 10 days prior to issuing a permit for a structure; and

(ii) The riparian vegetation does not actually extend all the way into the 100-foot setback to the location of the proposed structure, and the riparian vegetation has not been removed in violation of the below riparian vegetation maintenance standards; or

(iii) An application for a variance to the above setback standard has been approved pursuant to LC 16.256 with findings of compliance to the Rural Comprehensive Plan policies for the protection of Class I streams and riparian vegetation.

(d) Maintenance Removal and Replacement of Riparian Vegetation. The following standards shall apply for the maintenance, removal and replacement of riparian vegetation along Class I streams designated for riparian vegetation protection by the Rural Comprehensive Plan:

(i) No more of a tract's existing vegetation shall be cleared from the setback and adjacent area than is necessary for a permitted use, accessory buildings, necessary access, septic requirements and fire safety requirements.

(ii) Construction activities in and adjacent to the setback area shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that required for the facilities indicated in LC 16.212(8)(c)(i) above. Where vegetation removal beyond that allowed in LC 16.212(8)(c)(i) above cannot be avoided, the site shall be replanted during the next replanting season to avoid water sedimentation. The vegetation shall be of indigenous species in order to maintain the natural character of the area.

(iii) A maximum of 25 percent of existing natural vegetation may be removed from the setback area.

(b) Class I Stream Setbacks. No structure other than a fence or sign shall be located closer than 100 feet from a wetland or from the ordinary high water of a Class I stream designated for riparian vegetation protection by the Rural Comprehensive Plan. A lesser setback may be allowed if:

(i) The Department of Fish and Wildlife is consulted by the Department at least 10 days prior to issuing a permit for a structure; and

(ii) The riparian vegetation does not actually extend all the way into the 100-foot setback to the location of the proposed structure, and the riparian vegetation has not been removed in violation of the below riparian vegetation maintenance standards; or

(iii) An application for a variance to the above setback standard has been approved pursuant to LC 16.256 with findings of compliance to the Rural Comprehensive Plan policies for the protection of wetlands, Class I streams and riparian vegetation.

(c) Maintenance, Removal and Replacement of Riparian Vegetation. The following standards shall apply for the maintenance, removal and replacement of riparian vegetation within wetlands or along Class I streams designated for riparian vegetation protection by the Rural Comprehensive Plan:

(i) No more of a tract's existing vegetation shall be cleared from the setback and adjacent area than is necessary for a permitted use, accessory buildings, necessary access, septic requirements and fire safety requirements.

(ii) Construction activities in and adjacent to the setback area shall occur in such a manner so as to avoid unnecessary excavation and/or removal of existing vegetation beyond that required for the facilities indicated in LC 16.213(6)(b)(i) above. Where vegetation removal beyond that allowed in LC 16.213(6)(b)(i) above cannot be avoided, the site shall be replanted during the next replanting season to avoid water sedimentation. The vegetation shall be of indigenous species in order to maintain the natural character of the area.

(iii) A maximum of 25 percent of existing natural vegetation may be removed from the setback area.

(iv) The following uses and activities are excepted from the above standards:

(aa) Vegetation removal necessary to provide water access for a water dependent use.

(b) Fish and wildlife habitat management and the propagation of fish and wildlife.

(3) Special Uses - Director Approval. The following uses are subject to approval by the Director pursuant to LC 14.100:

(a) Single-family dwelling(s) or mobile home(s) for residential purpose for watchman, caretaker or operator in conjunction with use permitted in the district.

(4) Special Uses - Director Official Approval. The following uses are subject to approval by the Hearings Official pursuant to LC 14.300:

(a) Piers and boat houses.

(b) Single-family dwelling or mobile home and accessory structures.

(c) Farm uses as defined by ORS 215.203(2), and any accessory uses.

(d) Forest uses and any accessory uses.

(5) Conditional Use Criteria. Uses conditionally permitted under LC 16.213(4) above are subject to compliance with the following criteria:

(a) (i) Evidence is provided supporting reasons why the proposed use should be sited in a natural resource area.

(ii) That the proposed site is on land generally unsuitable for natural resource uses.

(b) That the proposed use will not significantly impact natural resource uses on adjacent and nearby natural resource lands, and will not significantly impact natural resources on the site of the proposed uses;

(c) That the proposed use will not significantly increase the costs of natural resource management on adjacent and nearby natural resource lands.

(d) That the site is limited in size to that area suitable and appropriate only for the needs of the proposed use;

(e) That, where necessary, measures are taken to minimize potential negative impacts on adjacent and nearby NR zoned lands, and these measures may be established as conditions of approval; and

(f) That the proposed use is consistent with the policies contained in the Rural Comprehensive Plan and the purpose of the NR zone.

(6) Property Development Standards. All uses or activities permitted or conditionally permitted above, shall be subject to the following development standards:

(a) Property Line Setbacks. No structure other than a fence or sign shall be located closer than 20 feet from the right-of-way of a County or local access-public road and 10 feet from all other property lines, except as provided below.

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(bb) Removal of dead or diseased vegetation that poses a safety or health hazard.

(cc) Removal of vegetation necessary for the maintenance or placement of structural shoreline stabilization.

proposed for lands within the boundaries of the Willamette River Greenway adopted and as revised from time to time by the Oregon Land Conservation and Development Commission, except as provided below:

(a) Customary dredging and channel maintenance conducted under permit from the State of Oregon.

(b) Seasonal increases in gravel operations as provided under permit from the State of Oregon.

(c) The placing by a public agency of signs, markers, aids, etc. to serve the public.

(d) Activities to protect, conserve, enhance and maintain public lands, except that a substantial increase in the level of development of existing public recreational, scenic, historical or natural uses on public lands shall require review as provided by this section.

(e) Erosion control operations required in emergency situations for the safety and protection of property.

(f) Construction or use of a building other than a dwelling whether or not within 150 feet of the ordinary low waterline when the building is customarily provided in conjunction with a farm use; provided the structure does not exceed 12 feet in height nor exists for longer than six months.

(g) Farm use.

(h) Reasonable emergency procedures necessary for the safety or protection of property.

(i) Maintenance and repair usual and necessary for the continuance of an existing use. Landscaping, construction of driveways, modification of existing structures or facilities adjacent to a residence as are usual and necessary to such use and enjoyment.

(j) The propagation of timber or the cutting of timber which is done for public safety or personal noncommercial use.

(k) Irrigation pumps and water intakes and other utility lines in conjunction with an agricultural use.

(l) Uses which are pursuant to one of the following Lane County Land Development actions when such action has been approved or adopted consistent with the Greenway Development Permit approval requirements of 16.254(4) below and notification requirements of LC 16.254(7) below.

(i) Planned Unit Developments, as provided in 10.700.

(ii) Unzoned Area Development Permits, as provided in LC 9.700.

(4) Greenway Development Permit Approval. A decision to approve a Greenway Development Permit shall require findings that the proposed intensification, change of use or development conforms to the following criteria, and setback requirements:

Lane Code

(dd) Protection, conservation or preservation of areas along the alluvial bottomlands and lands with severe soil limitations from intensive development.

(ee) Consideration of the impacts from consumptive uses of water (i.e., domestic, agriculture, industrial) and nonconsumptive uses (i.e., recreation and natural resources) in efforts of maintaining sufficient flows to support water users.

(ff) Sustenance and enhancement of water quality by managing or controlling sources of water pollution from uses, such as domestic and industrial wastes, agricultural and timber runoff, septic tank seepage, gravel operations and other intermittent sources.

(gg) Maintenance and sustenance of natural riparian vegetation found upon the lower alluvial bottomlands and upper terraces bordering the river for the following reasons: provide habitat, food and shade for wildlife; protect natural areas; anchor river bank soils and protect agricultural land from seasonal erosion; ensure scenic quality and screening of uses from the river; control trespass; and to control pollution sources to the river.

(hh) Protection from erosion.

(ii) Protection and conservation of lands designated as aggregate resources within the adopted Willamette Greenway Plan.

(b) Setback Requirement; Exceptions. New intensifications, developments and changes of use shall be set back 100 feet from ordinary high waterline of the river, except for a water related or water dependent use.

(5) Conditions. Reasonable conditions may be imposed in connection with a Greenway Development Permit as necessary to meet the purposes of this section. Guarantees and evidence may be required that such conditions will be or are being complied with. Such conditions may include, but are not limited to, requiring:

- (a) Special yards and spaces.
- (b) Fences and walls.
- (c) Special off street parking and loading requirements.
- (d) Street and road dedications and improvements (or bonds).
- (e) Control of points of vehicular ingress and egress.
- (f) Special provisions on signs.

(a) Criteria.

(i) The development protects or enhances the existing vegetative fringe between the activity and the river. Where such protective action is shown to be impractical under the circumstances, the maximum landscaped area or open space shall be provided between the activity and the river and the development provides for the reestablishment of vegetative cover where it will be significantly removed during the process of land development.

(ii) Public access to and along the river either is not necessary or the necessary access will be provided by appropriate legal means.

(iii) Preservation and <sup>maintenance</sup> ~~of~~ land inventoried as "agriculture" in the adopted Willamette River Greenway Plan for farm use and minimize interference with the long-term capacity of lands for farm use.

*as provided for in Goal 30*

(iv) Protection, conservation or preservation of significant scenic areas, viewpoints and vistas.

(v) Harvesting of timber in a manner that wildlife habitat, riparian and other significant vegetation and the natural scenic qualities of the Greenway will be preserved, conserved or restored and otherwise result in only the partial harvest of timber beyond the vegetative fringe.

(vi) Minimize vandalism and trespass.

(vii) Location of development away from the river to the greatest possible degree.

(viii) Protection of significant fish, wildlife habitat and natural areas.

(ix) Is compatible with the Willamette River Greenway based upon the following considerations:

(aa) A development which is a mining or a mineral extraction and/or processing operation must include mining or extraction and/or processing methods which are designed to minimize adverse effects upon water quality, fish and wildlife, vegetation, bank stabilization, stream flow, visual quality, noise, safety and to guarantee necessary reclamation.

(bb) Protection, preservation, rehabilitation, reconstruction or restoration of significant historic and archeological resources.

(cc) Preserve areas of annual flooding, floodplains and wetlands.

Lane Code

- (g) Landscaping and maintenance thereof.
- (h) Maintenance of grounds.
- (i) Control of noise vibration, odors or other similar nuisances.
- (j) A time period within which the proposed use shall be developed.
- (k) A limit on total duration of use.
- (l) Control of scale, bulk and coverage of proposal.

(6) Application and Review Procedure. Application for a Greenway Development Permit shall be made as provided by LC 14.040 and reviewed by the Hearings Official as provided by LC 14.300.

(7) Additional Notice. Immediate notice of an application shall be given the State Department of Transportation by certified mail, return receipt requested, and provision shall be made to provide notice to any individual or group requesting notice in writing. Notice of the action taken by Lane County on an application shall be furnished by regular mail to the State Department of Transportation.

(8) Conflicting Provisions. In the case of any conflict between the provisions of this section and other provisions in Lane Code, the more restrictive provisions shall apply.

(9) Nonauthority for Public Use of Private Property. Nothing in this section is intended to authorize public use of private property. Public use of private property is a trespass unless appropriate easements and access have been acquired in accordance with law to authorize such use.

(10) Nonconforming Uses. Except as modified in this section, LC 16.251(1) to (8) shall apply to properties within the Willamette Greenway Boundaries. Any change or intensification as those terms discussed in LC 16.254(2)(f) and (g) above of a nonconforming use shall be prohibited unless a Greenway Development Permit is issued for it.

Legislative Findings in Support of Ordinance No. 11-84  
Exhibit A

The Board of County Commissioners of Lane County finds that it is necessary to make the following changes in Lane Code Ch 16 to bring it to an acknowledgeable standard:

1. Make certain housekeeping revisions to the hearings official special use approval criteria of the Exclusive Farm Use (E) zone to adopt the greenway development permit approval criteria for aggregate extraction, and not to apply any other criteria for aggregate extraction, for lands zoned E and in the greenway.

This change insures that, for all areas within the Willamette River Greenway and zoned Exclusive Farm Use (E), the more stringent requirements of Goal 15 sections C.3.d. will be applied to aggregate extraction. Unlike Exclusive Farm Use lands not within the Willamette River Greenway, those within the greenway require protection of water quality, fish and wildlife habitats, vegetation, bank stabilizaiton, streamflow, visual quality, noise, safety and required reclamation. Section C.3.d. requirements are necessary to insure protection of those areas within the greenway.

2A. Adding a subsection to LG 16.005 to provide standards, procedures and criteria for the protection of areas designated by the rural comprehensive plan is sensitive bird habitat.

These changes to Lane Code require the County to submit development plans for uses located on property identified as a sensitive bird habitat area to the Oregon Department of Fish and Wildlife (ODFW) for evaluation as to the impact the development will have on the habitat. It also deems habitats to be affected if development occurs in close proximity thereto. If the ODFW determines that the habitat will be affected, the changes call for cooperation between the landowner and ODFW to avoid or eliminate those adverse impacts. Only then is the plan taken under advisement by the Director. These changes, providing a two step process and coordination among the landowner, ODFW and the County, insure that sensitive bird habitats will be protected. It bears noting that, for activities regulated by the Forest Practices Act, the requirements of the Cooperative Agreement Between the Oregon State Board of Forestry and the Oregon State Fish and Wildlife Commission as adopted by Lane County in its Goal 5, Flora and Fauna policy 17, prevail.

E. Revising the property development standards of the Exclusive Farm Use, E, zone to add requirements for clustering of residences on existing tracts.

This change to LC 16.212(8) mimics the change reviewed, supra, for LC 16.211(8) and is inserted into the Code for the same reasons. Small groupings of residences will have less of an adverse impact on wildlife and resource uses in the big game range than would more scattered residences. However, if not within the big game range, mitigation of possible adverse effects on the resource uses of neighboring properties is a more important consideration. In any given case, either clustering the residences or scattering them somewhat may be preferable, given the characteristics both of the property upon which the development is proposed and the characteristics and uses of the surrounding properties. This balancing test will ensure a mitigation of adverse impacts to wildlife as well as resource uses.

F. Adding riparian setback and maintenance standards to the Natural Resource, NR, zone.

The Natural Resource Zone (NR-RCP) (Lane Code, Section 16.213) which is, in part, intended to protect aquatic and other wildlife habitat areas. Although major development in the NR zone is not anticipated, the NR zone permits a variety of structures which should be required to be set back in order to protect riparian vegetation just as they are in other zoning districts. For this reason, riparian setback and vegetation maintenance standards have been added to the NR zone. These provisions require cooperation between the County and the Department of Fish and Wildlife for Class I stream setbacks, and closely parallel the riparian requirements to be applied in other zones.

G. Revising the Greenway Development Permits to:

i. Eliminate all the language following the phrase "or personal noncommercial use" in LC 16.254(3)(k)

ii. Ensure that only water-dependent and water-related uses are exempt from the 100-foot greenway setback requirement.

iii. Provide notice of department actions for a greenway development permit to ODOT, and

iv. Requiring a greenway development permit for development in designated "urban" areas.

B. Adding the definition of "Historic Structure or Site".

This change is basically a housekeeping measure as historic structures and sites were referred to in the Code, Working Papers and Policies, but that term was not defined. In addition, (2) makes it clear that the application of the Historic Structures or Sites Combining zone shall be the means of protection of these sites.

C. Revising the definition of "wetland" in order to be consistent with the state-wide planning goal definition of that term.

This is also a housekeeping measure, designed to clearly establish in the implementing measures a definition of "wetlands" which is consistent with the Statewide Planning Goal definition of that term.

D. Revising the siting requirement in the impacted forest, F-2 Zone to provide for clustering of residences on existing tracts.

Under Lane Code Ch. 16 as amended here, residences in the Impacted Forest zones (F-2) which are also located within a designated big game range will be required to be sited near existing residences and with minimal intrusions into forest areas undeveloped by non-forest uses. Setback dimension guidelines (balanced with lot dimensions, proximity to other residences and intrusions into forests area) are also set forth. Notwithstanding the fact that the property is zoned F-2, a concerted effort should be made to locate new residences so as to avoid adversely impacting resource uses and big game habitats. This change in LC 16.211(8) will, on the whole, provide for siting criteria which will protect those interests.

For properties zoned F-2 which are not within a designated big game range, the first criteria to be addressed is that of the suggested setback requirements, taking into account the particular dimensional characteristics of the property. Once a range of possible locations for the dwelling is established, a particular spot should be chosen based on location of the areas in the tract of areas of least natural resource value or in closest proximity to existing residences. Proximity to existing residences is less important for parcels not within designated big game ranges for the reason that wildlife will not be adversely affected by a scattering of residences in these areas.

These changes in the Code are direct results of the requirements of the DLCD staff as outlined in their July 19, 1984, staff report. Excerpts from that report which explain why these changes are made follow:

"...(S)ubsection (k), which exempts certain kinds of timber harvest activities, is inappropriate. That subsection is consistent with the Greenway Interim Order, but the Goal itself does not exempt such activities from local Greenway review. It has been the Commission's practice to allow propagaation of timber or cutting of timber for public safety or personal non-commercial use to be exempt from local Greenway permit review. To that extent, the first part of subsection (k) is acceptable. However, the second part (which exempts harvest activities if consistnet with an approved permit under the FPA, for a farm woodlot less than 20 acres, or if consistent with recomen-dations of ODOT to DOF), is not." page 91

"...(A)ccording to the Goal, only water-dependent and water-related intensifications, developments, or changes of use themselves are exempt from Greenway setback requirements. However, Lane County also exempts uses in conjunction with water-related and water-dependent uses. As noted in a number of other reviews, this is inconsistent with the Goal, since it would allow a number of uses to be exempt from the setback which are not envisioned by the Goal. The County's ordinances also identify two ways in which exceptions to the 100-foot setback are permitted: One of these is if a proposal would provide better protection of Greenway values, and the other is if such protection is not applicable to the proposal. The Goal does not permit exceptions to the setback, except for water-dependent and water-related uses, even if a proposal might enhance Greenway values. This is because the intent of the Goal is to keep structures separated from the river and to protect areas immediately adjacent to the river for water-dependent and water-related uses. For example, a restaurant, including landscaping and other amenities may, in the opinion of a Hearings Officer, enhance Greenway values. However, it is not, by definition, a water-related or water-dependent use and therefore, is not permitted within the established Greenway setback." pages 85 and 86

"Section 16.254(6) requires the County to notify the Department of Transportation when an application is made. The ordinance does not require the County to also notify that agency of actions taken on an application. This is required by Goal 15 (Section G)." page 86

"Section 16.254(2) of the Lane Code lists those uses and activities that do not require a Greenway Development Permit. All are consistent with Goal 15 except subsections (a) and (k). Subsection (a) exempts uses "where the location is within areas designated as 'urban' on Greenway maps adopted by the Oregon Land Conservation and Development Commission and is beyond 150 feet of the ordinary low waterline." As noted in the 1981 denial order for Lane County, and intensification, change of use or development in "urban" Greenway areas, as defined in Goal 15, and as designated in the ODOT Greenway Plan, is subject to local Greenway review. (Note: The term, 'urban' as used in the context of Goal 15 is not the same as that used in Goal 14. In this case, 'urban' refers to designations in the ODOT Greenway Plan)." page 83

The changes listed in 2G of this ordinance are designed to alleviate the concerns of DLCDC staff, noted above, and to bring the Lane Code into compliance with Goal 15.

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER 84-9-12-3

) IN THE MATTER OF ADOPTING  
) A SUPPLEMENTAL FINDING IN  
) SUPPORT OF PA 883

WHEREAS, in PA 883, the Rural Comprehensive Plan Ordinance that adopted the plan policies, 28 working papers, while not part of the Ordinance itself, were adopted in support thereof, and

WHEREAS, since PA 883's adoption, it has come to our attention that certain soils information in Appendix I to the Forest Lands Working Paper is not entirely accurate, now, therefore, be it

ORDERED, that the following supplemental finding is hereby adopted in order to identify the correct soils information to use when determining commercial forest soils.

"Appendix I of the Forest Lands Working Paper was intended as an example of commercial forest soils and their corresponding CFSC ratings. However, these soils and ratings are not complete and are not entirely accurate. Therefore, Appendix I should not be utilized when determining commercial forest soils. Instead, the most current soils Data and Soils Interpretations as utilized by the U.S. Dept. of Agriculture soil Conservation Service should be relied upon in conjunction with the definition of "commercial forest land" (50 CFSC) as adopted by the Board of Commissioners in Ordinance No. PA 889, Exhibit "C".

Dated this 12<sup>th</sup> day of Sept., 1984.

  
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Chair, Lane County Office of Legal Counsel

IN THE BOARD OF COUNTY COMMISSIONERS OF LANE COUNTY, OREGON

ORDER 84-9-12-4

) IN THE MATTER OF ADOPTING.  
) A SUPPLEMENTAL FINDING IN  
) SUPPORT OF PA 889

WHEREAS in PA 889, we amended the Rural Comprehensive Plan policies established in PA 883, and

WHEREAS, in PA 889 we adopted four findings supporting the 40 acre minimum lot size in the F-1 Non-Impacted Forest Land Zone, and

WHEREAS, based upon evidence already in the record, DLCD staff have asked that an additional finding be made in support of that lot size, now, therefore, be it

ORDERED, that supplemental finding No. 5, set forth below, is adopted, and added to Exhibit D to PA 889.

"5.) Commercial Forest representatives in Lane County ~~requested~~ <sup>submitted</sup> 40 acres as a ~~minimum~~ <sup>lot size</sup> lot size in the F-1 zone based upon 40 acres being a commonly acquired, managed and exchanged unit of commercial forest land in Lane County."

Dated this 12<sup>th</sup> day of Sept., 1984.

  
Chair, Lane County Board of Commissioners